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PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, FIRST SESSION

SENATE—*Thursday, November 10, 1983*

(Legislative day of Monday, November 7, 1983)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable GORDON J. HUMPHREY, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

** * * the scorner is an abomination to men.*—Proverbs 24: 9.

*A scorner seeketh wisdom and findeth it not * * **—Proverbs 14: 6.

Cast out the scorner, and contention shall go out; yea, strife and reproach shall cease.—Proverbs 22: 10.

God of truth and justice, our Nation is suffering from an acute case of cynicism—cynicism among the people, the press, higher education, business and the professions, even in the Senate. The massacre in Lebanon and the military engagement in Grenada seems to have evoked a spirit of cynicism rare to American life.

God of light and wisdom, reveal cynicism for what it is—pessimistic, derisive, scornful, contemptuous, antisocial, and counter-productive. Grant us to see that the cynic is a detractor who contributes nothing but futility.

God of love, in these critical times, awaken us to faith in ourselves which can come only from faith in Thee, Thy sovereignty in history, Thine integrity, and Thy trustworthiness. Forgive us for our indifference to Thee, our secularism, our unbelief, and quicken in us the hope in a providential God who loves unconditionally and forsakes not. In the name of Him whose unrelenting love took Him to the cross. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 10, 1983.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GORDON J. HUMPHREY, a Senator from the State of New Hampshire, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, following the two leaders, there is a special order, then a period for the transaction of routine morning business. At 10 a.m., the Senate will resume consideration of House bill H.R. 2230, the Civil Rights Commission reauthorization. Senator BIDEN has an amendment pending, a perfecting amendment to Senator SPECTER's amendment.

When we have disposed of the Civil Rights Commission reauthorization, the Senate will then resume consideration of the pending business, which is Senate Joint Resolution 194, the continuing resolution. Senator DENTON has an amendment pending to that which is an amendment to his own amendment.

If we are able to dispose of the continuing resolution, we shall then resume the unfinished business, which is the natural gas bill, S. 1715. On that measure there is a Johnston amendment to a McClure amendment pending.

Senators should be aware that with the continuing resolution expiring tonight and the Senate being in recess tomorrow, according to the present schedule for Veterans Day, we expect a very late night. We are hopeful that we can avoid that. I personally believe we can avoid that if Senators would realize the number of times we have voted on the issues that are before the Senate.

Mr. President, I do hope that Members of the Senate will consider the impact not only on themselves but on the staff and the families of the staff who are looking forward to this Veterans Day weekend. We could finish at a reasonable hour today if Senators would cooperate with one another to achieve that objective.

Mr. President, I ask unanimous consent that if the majority leader has a statement to make, it appear in the RECORD at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I reserve the remainder of the leadership time on both sides.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF SPECIAL ORDER FOR SENATOR MOYNIHAN

Mr. STEVENS. Mr. President, I ask unanimous consent that the special order reserved for Senator MOYNIHAN be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRANBERRY WILDERNESS

Mr. BYRD. Mr. President, last December as part of the legislation establishing the Cranberry Wilderness within the Monongahela National Forest in West Virgina, the Congress authorized the payment of $2.2 million to Pocahontas and Webster Counties in my State. The authorized moneys are to be provided in compensation for revenues foregone as a result of the wilderness designation. These funds were subsequently appropriated this summer in the fiscal year 1983 supplemental appropriations bill.

I would like to clarify the congressional intent on this matter with Senator McCLURE, who is the distinguished chairman of the Energy and Natural Resources Committee which recommended authorization of these funds, and who is the equally distinguished chairman of the Appropriations Subcommittee on the Interior which recommended the appropriation of $2.2 million for these two counties. Is it the understanding of the Senator from Idaho that these funds were to be distributed in the amount of $2 million for Pocahontas County and $200,000 for Webster County?

Mr. McCLURE. The minority leader is correct on the distribution of these funds.

Mr. BYRD. Is there any reason why these appropriated funds should not be provided to the two counties immediately?

Mr. McCLURE. I am unaware of any reason to delay the transfer of these funds.

Mr. BYRD. I thank the Senator for confirming my understanding on this matter.

ROUTINE MORNING BUSINESS.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with the statements therein limited to 2 minutes each.

THE NUCLEAR FREEZE AND THE 1984 PRESIDENTIAL ELECTION

Mr. PROXMIRE. Mr. President, for many months I have been discussing on the floor of the Senate every day the threat of nuclear war and what we can and should do to prevent it. I have pleaded for this body to follow the action of the House and pass the nuclear freeze resolution. On Monday night, October 31, the Senate defeated a nuclear freeze resolution. It was a setback but far from a final action. After all, the House defeated the freeze in its first vote on the issue. It turned around a few months later and passed the same resolution by a resounding 2-to-1 margin. In the course of my floor speeches on the freeze, I have discussed the risks involved in such a treaty. I have examined the prospects and problems of verification. And I have discussed in detail how we can cope more effectively with the problem of nuclear proliferation. But until now I have not devoted a speech to the conditions necessary to bring about a successful consummation of the nuclear freeze treaty.

What are those conditions? The one quintessential condition for the adoption of a major policy in this democracy is public support. Does the nuclear freeze meet the first condition? Does it have public support? Yes, indeed. The American public has rarely, if ever, been so supportive of a major controversial issue as they are of the nuclear freeze. Never in my memory has the public been so faithful in support of a military policy when it has been opposed by the President of the United States, and especially by a President who is both popular and as eloquent and persuasive a President as we have had in many years. The fact that 3 out of 4 Americans support the freeze in opposition to the President speaks volumes for the solid American public support for ending the nuclear arms race with no ifs, ands, or buts.

So what is the problem with winning adoption of the freeze? After all, is not this country a democracy? And does not the very definition of democracy mean rule by the people? So why do we not forthwith adopt this policy which is so central to the life and survival of our people since support for it is so conspicuous and emphatic? How does democracy work its will under these circumstances? It works as it has always worked through the election process. One year from now the American people will elect a President of the United States. The central issue in that campaign will, in my judgment, be the nuclear freeze. But as in all elections other issues will also sway the electorate and in the aggregate may overwhelm the freeze. Above and beyond the issues of that campaign and perhaps more important than any of the substantive issues will be the judgment of the American people on the character and capability of the candidates.

It is virtually certain that the Democratic Party will nominate a candidate who will be enthusiastically committed to the negotiation of a nuclear arms freeze treaty with the Soviet Union. It is also virtually certain, whether President Reagan runs for reelection—which seems highly likely—or he does not, the Republican candidate will very probably oppose the freeze.

It is rare in American political history that a foreign policy issue, other than actual participation by this country in a war, has dominated a Presidential election. But growing public awareness of the hideous tragedy of nuclear war may change that.

With the tragic deaths of our marines in Beirut and our invasion of Grenada dominating television, radio, and newpapers, the American public that had focused so sharply on the nuclear arms race has undergone a jarring distraction in the last few days. Will this drama of these military episodes dim the American public's concern with the nuclear threat? I do not think so. The deaths in Beirut and Grenada may even deepen public awareness of the fragility of world peace and the constant prospect that conventional war may somehow lead to nuclear war.

THE GENOCIDE TREATY—A SYMBOL OF PEACE

Mr. PROXMIRE. Mr. President, yesterday, a stunning new exhibit opened at the Smithsonian Institution. The exhibit consists of precious Jewish worship and ornamental treasures from Czechoslovakia, dating from the 16th through the 20th centuries.

These treasures were confiscated by the Nazis from Jewish families who were sent to concentration camps. Amazingly enough, the Nazis did not destroy these articles, but ordered curators from the Jewish Museum in Prague to assemble the most valuable and interesting objects into a single collection. Following World War II the collection reverted to the Czech Government. The exhibit, which is being displayed at the National Museum of Natural History through January 2, 1984, serves as a reminder of struggle, courage, and faith—unvanquished by Nazi oppression.

When viewing these priceless objects we are forced to remember the tragedy of Jewish persecution in war torn Czechoslovakia. And we are also forced to commend the spirit of these people—many of whom will only be remembered through the personal treasures they left behind.

Many individuals have criticized the West for not doing enough to spare those imprisoned and murdered by Nazi war criminals. Sadly, we cannot go back and erase that black mark on world history; but we can contribute to the future security of the world's people.

Ratification of the Genocide Treaty would do just that. The treaty defines genocide and establishes a legal system of punishment against the perpetrators of genocide. Yet it also symbolizes both our disgust at past atrocities, and our commitment to the future safety and peaceful co-existence of mankind.

Some may debate the depth of Western commitment to stopping the Holocaust of World War II. Since the United States has not ratified the

Genocide Treaty, critics would certainly be correct in claiming that we are not currently doing enough to prevent future Holocausts.

I urge the Senate to silence this appropriate criticism. Ratify the Genocide Treaty and let it be our symbol of struggle for human rights, courage against it foes, and faith in world peace—just as the exhibit of Judaic treasures symbolizes the struggle, courage, and faith of a brutally slaughtered people.

We must never forget that dark tragedy. We must act to prevent its recurrence. We must ratify the Genocide Treaty.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR RANDOLPH HONORED FOR AVIATION AND ENERGY EFFORTS

Mr. FORD. Mr. President, a Monday article from the Morgantown, W. Va. Dominion Post has been brought to my attention and I want to share it with my colleagues today.

The article tells of tribute paid to our colleague, Senator JENNINGS RANDOLPH, last weekend, when Morgantown officials renamed an airport terminal building for him. It seems that our distinguished fellow Senator, along with pilot Arthur C. Hyde, made a 125-mile flight on November 6, 1943, from that Morgantown airport to Washington National Airport.

What made our colleague's 1943 flight in a Fairchild 24 historic, was that the airplane flight was the first in the United States to be powered by liquid fuel derived from coal.

Senator RANDOLPH took a brief flight last weekend over Morgantown to commemorate his historic one and, more important, to point out the sad fact that we have yet to develop a synthetic fuels industry in this Nation.

I commend our colleague for reminding us of this national necessity and I ask unanimous consent that this newspaper article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dominion Post (Morgantown, W. Va.) Nov. 7, 1983]

SENATOR HONORED FOR AVIATION EFFORTS

(By Sharman Peters)

The airplane flight Sen. Jennings Randolph made Sunday at Morgantown Airport was much shorter than the historic flight he made 40 years ago, but his purpose was the same—to focus on the need to develop the synthetic fuels industry.

Earlier Sunday Randolph was heralded as the "elder statesman of aviation" at a luncheon at the airport hosted by Morgantown city government officials who have renamed the airport terminal building the "Sen. Jennings Randolph Airport Terminal Building."

On Nov. 6, 1943 Randolph and pilot Arthur C. Hyde made a 125-mile flight from the Morgantown Airport to Washington National Airport in a Fairchild 24 airplane powered by gasoline produced from coal.

It was the first airplane flight in the United States that was made with the coal-derived liquid fuel.

"This afternoon I will circle the field to symbolize the flight. Again, unfortunately, it is to highlight the need to create a domestic synthetic fuels industry in this nation," he said.

Randolph said the development of the synthetic fuels industry was stunted in the 1950s when the decision was made to eliminate all government involvement in the alternative energy projects.

"I will use my last months before my retirement to try to develop support to revitalize this industry."

Mayor Harold Lipscomb told Randolph the photo taken of him and Hyde before their 1943 flight will be hung in the terminal building lobby.

Council member Florence Merow presented Randolph with a plaque from the city and highlighted his many contributions to aviation, including the National Federal Aid to Airports Act which he authored in 1945 and the legislation he introduced in 1970 which became the Airport and Airway Development Act.

"This plaque is one small way to say thank you. It is a reminder of your dedication and devotion to aviation," Merow said.

Robert M. Jimeson, who processed the fuel for the 1943 flight in a laboratory outside Pittsburgh, was on hand for the ceremony.

"It was only by coincidence that I found out that I had processed the fuel for the flight. Sen. Randolph was speaking at the Washington Coal Club last year and he talked about the flight. I realized that I was the person who blended the fuel," he said.

Randolph spoke briefly about Hyde who was ill and not able to attend the ceremony.

"Early in life he talked about his desire to fly. He would be up at daybreak to take flying lessons and then do a full day's work. He was an inspiration to so many and trained hundreds of World War II pilots," he said.

Randolph, Jimeson and Dr. Sun Chun, the director of the Pittsburgh Energy Technology Center, and pilot Don McClane circled Hart Field twice in an exact replica of the Fairchild 24.

Officials were able to obtain a half gallon of the coal-derived fuel from the Electric Power and Research Institute for the flight. The Wilsonville, Ala., facility is the largest remaining devoted to coal liquifaction development, Randolph said.

"We must not take a step backward again in our national commitment to synthetic fuels. The money spent on these efforts is an investment in our future," he said.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SOVIET MILITARY OCCUPATION OF AFGHANISTAN

Mr. BYRD. Mr. President, the Soviet occupation of Afghanistan holds important lessons for the United States, lessons about Soviet attitudes and goals. But these lessons may be more important for the many nonalined countries, because Soviet actions speak much louder than words. The Soviets are not interested in developing traditional relationships with non-Communist nations. They assign no value to normal diplomatic and economic ties with the Third World. The only objective the Soviet Union has is military dominance over other countries in the long run.

A recent New York Times article, dated November 6, 1983, reviews Soviet military expansion in Afghanistan. It points out that the Soviets have used the occupation of Afghanistan to gain a foothold in the region. They understand that they cannot hope to dominate the hearts of the people of Afghanistan, so they content themselves with exploiting their geographic advantage in the country. Let me say from my own knowledge of the situation there that the Soviet position is nowhere near as problem free as the article suggests. On the contrary, the courageous Afghan freedom fighters have made the Soviet occupation a very costly exercise. But the Soviet military digs itself into a key location, and hides behind barbed wire and mine fields.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOVIET'S GRIP ON AFGHANS CALLED TIGHT

(By Drew Middleton)

Western intelligence evaluations suggest that the Soviet intervention in Afghanistan has provided Moscow with solid strategic gains and valuable lessons in training and tactics. However, this impression, from intelligence reports and analyses, must be set against reports from Pakistan and India depicting an effective resistance by Afghan guerrillas to Soviet rule exercised through the client Government in Kabul.

The Russians have given no indication that they intend to withdraw their forces.

"This is not an in-and-out operation like America's in Grenada," a senior British officer said this week. "The Russians are there and they mean to stay there. Possibly they'll make Afghanistan a Soviet Socialist Republic and incorporate it into the union. Whatever they do, the West has to face the prospect of a Soviet military presence in the heart of Southwest Asia."

PERIODIC FORAYS AGAINST REBELS

The Russians are engaged, intelligence services say, in periodic operations against centers of guerrilla resistance. Last month fighter-bombers and helicopters carried out raids at a point 40 miles north of Kabul, and ground forces carried out punitive operations in seven provinces.

The insurgent operations that prompted these actions have not shaken the Soviet grip on cities and towns. Supply columns, while harassed, usually reach their destinations, and the buildup of Soviet air power has reached the point where bases in Afghanistan could provide Soviet naval forces in the Indian Ocean with air cover where they already enable the Russians to monitor American activities in the area.

Although some weapons have reached the insurgents through Pakistan, the number and quality are below what the insurgents expect. A NATO military source who has visited Afghanistan three times in the last six months saw only two SA-7's, a Soviet-made surface-to-air missile, during his visits.

PAKISTAN SAID TO SKIM OFF

These weapons, which are indispensable against Soviet helicopters, are reported to come from Egypt via Pakistan. This source believes the Pakistanis are "skimming the cream" off the arms shipments either for their own use of for sale elsewhere.

Yossef Bodansky, an Israeli expert on the Soviet military, believes that the strategic gains that the Soviet Union has derived from its intervention in Afghanistan, as seen in the context of the chaotic situation in Southwest Asia, are significant.

He says Soviet planes are now 200 miles closer to the Persian Gulf and Soviet forces are established in considerable strength on the eastern border of Iran. The Russians have also established a firmer base for political manipulation in the Middle East, particularly for efforts to undermine Pakistan and Iran internally.

All this has been accomplished, Mr. Bodansky says, at a minimum cost.

Soviet troop strength in Afghanistan is estimated at 110,000 to 120,000 men compared to the half a million or more Americans that were in Vietnam. Troops are rotated on a six-month basis and, in periods of overlap, there may be an additional 20,000 to 40,000 troops.

FEW IN ANTI-INSURGENCY RAIDS

According to analysts, only a small proportion of these troops are engaged in operations against the insurgents. Mr. Bodansky puts the figure at 12,000 to 15,000 men, all drawn from the 201st Motorized Rifle Division, which has its headquarters at Bagram. Other sources put the figure at 20,000. Western analysts believe that the other Soviet forces are free to train in a new environment.

The consensus of intelligence experts is that Soviet losses have been comparatively light. Estimates vary from 1,000 to 1,500 dead a year. Some are the results of insurgent action, but most are from disease, food poisoning and training and traffic accidents.

In most operations the Russians employ troops of the Afghan Army. If an operation goes wrong, Soviet helicopters and fighter-bombers are sent to restore the situation.

The Soviet forces have built or improved seven air bases, at Herat, Shindand, Farah, Kandahar, Kabul, Bagram and Jalalabad. These are believed to be all-weather bases from which planes can operate throughout the year. The base at Jalalabad is used for helicopter operations but would be open to jet planes in an emergency.

SHINDAND IS MOST IMPORTANT

Shindand is the most important base. An Afghan insurgent leader said this year that he and his band had approached it, but had been unable to penetrate its defenses.

No friendly Afghans are allowed on the base, which is protected by minefields, miles of barbed wire and dug-in tanks and field guns.

This is intended to protect the electronic warfare equipment, spare part stocks and maintenance installations. According to Mr. Bodansky, Soviet reconnaissance planes flying from Shindand routinely monitor the United States Navy squadron in the Indian Ocean.

Helicopters have been the most effective Soviet weapon, largely because the insurgents lack surface-to-air missiles. Attacks on insurgent strongholds in the mountains and patrols over highways have been major roles for the helicopters. They also land infantry on high ground to support forces advancing along the roads and, when necessary, provide fire power to assist ground forces.

SOVIET PRISONERS OF AFGHAN INVASION

Mr. BYRD. Mr. President, the Wall Street Journal of November 9 carries an article which describes one of the many humiliations of the Soviet occupation of Afghanistan. There are 200—maybe more—Soviet prisoners now held by the Afghan freedom fighters. Any number of others have defected to the Afghans, but the prisoners represent a special problem for the Soviet regime. Soviet military practice does not accept the possibility that loyal soldiers ever could be forced to surrender. By Soviet reasoning, anyone who surrenders is a traitor and should be dealt with accordingly. The 5.5 million Soviet prisoners taken during World War II were either sent to concentration camps in Siberia or shot.

Soviet captives in Afghanistan face the same fate, and they know it. The Wall Street Journal article relates that a few of these men have been held, by agreement, in Swiss prisons. For good reasons, most are not eager to return to their homeland. What we see in their case is a problem which will cripple the Soviets in any military venture, anywhere in the world. They need to watch their own army as closely as they must guard against attacks by subjugated people. The fear and hatred within their own ranks is as great a threat to them as is any adversary.

In the case of Afghanistan, this is just one more reason for the Soviets to leave that country to its own people. As more prisoners are taken and more defections occur, the pressure will build.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CLOCK IS TICKING ON SEVEN RUSSIANS

LONDON.—In a well-guarded but comfortable internment camp in Switzerland, seven Red Army soldiers remain isolated from the outside world. Bewildered pawns in the Cold War being waged unremittingly by the Soviet Union against the West since 1945, their existence is barely known in the West and totally ignored by the Soviet press. Yet their plight is of great symbolic significance. It is a potential means of restoring the imbalance between the North Atlantic Treaty Organization and the Soviet bloc, and to an intangible but arguably decisive degree it is capable of increasing the chances of peace in our time.

The seven men are Russian prisoners captured by Afghan resistance forces, and shipped out to Switzerland via Pakistan. Under an agreement arranged with extreme tact and skill by the Red Cross, the Swiss agreed to hold all such captives during the course of hostilities, or alternatively for a maximum of two years. As the Soviet Union characteristically doesn't consider the war as a war (only once in its history has the U.S.S.R. actually declared war on a country it has invaded, Japan in 1945) the second proviso applies. The men have about a year left.

Of the seven prisoners, five have expressed an urgent desire not to be repatiated. An eighth has already escaped and is seeking asylum in West Germany. Their motives are personal and doubtless complex, but high among them is a justified fear of retribution from their own government. The Soviet legal position (insofar as such a concept exists in the U.S.S.R.) is unclear. Traditionally, prisoners of war have been considered as traitors, a state of affairs made official by numerous government orders issued during World War II. Of the 5.5 million Soviet prisoners who returned home after World War II, a minority was executed, while the majority was sent to Siberian labor camps.

Besides the handful held by the Swiss, there are between 50 (the Red Cross count) and 200 (a Central Intelligence Agency estimate) more Russians held by the Afghans within areas of Afghanistan controlled by various resistance groups. But because of the hostilities, it is difficult to judge exactly what their situation is. A few have willingly joined the resistance to fight a regime they consider as much an occupying power in their own country as in other countries conquered by Soviet power. Others are dragged about hither and thither by their highly mobile captors, who understandably regard them at worst with suspicion or resentment, at best as an embarrassment.

Basic humanity demands that these unfortunate men should receive the minimum protection accorded prisoners of war under The Hague and Geneva conventions: A protecting power must oversee the prisoners' interests and the prisoners should be safe from ill-treatment. This war's nature makes application of that principle difficult.

The Swiss government is not, strictly speaking, a protecting power. Acting purely out of humanitarian concern, the Swiss accepted the Russian prisoners on an interim basis. To induce the U.S.S.R. to accept this arrangement, Switzerland regrettably undertook to accept prisoners only on condition that they sign an agreement to return home at the end of the stipulated two years.

In fact, the Soviets regarded the agreement in the only way consistent with their (not unreasonable) interpretation of Marxist doctrine. No agreement can be allowed to impede the objective nature of the class struggle; an agreement usually isn't valid if it doesn't coincide with the requirements of Soviet policy.

This interpretation certainly applies to the Soviet-held prisoners of war in Afghanistan. The Red Cross has not been permitted to check the conditions of Afghan resistance fighters captured by Soviet occupation forces. The Swiss government might therefore legitimately regard the repugnant principal of forcible repatriation (to which they presumably consented in the first place only to secure Soviet agreement) as no longer applicable or needed.

Few Swiss can feel proud of their government's role in 1945, when with none too subtle or gentle pressures they induced most of the 9,000 Russian refugees on their soil to return to the predictably grim fate. Fewer still can wish to see such an event repeated, on however small a scale.

But it would be unfair to upbraid the Swiss, whose intentions have clearly been honorable throughout, when much more powerful Western countries have so far shown themselves unprepared to do anything for captured Russian soldiers. The British Foreign Office, true to its contemptible role in 1945, has refused adamantly to offer asylum to Russian prisoners. Others in NATO appear no more eager to help.

If the appeal of humanitarian instincts is falling on deaf ears, perhaps one may appeal to self-interest. When war broke out in Eastern Europe in 1941, whole units of the Red Army declined to fight, surrendered and even willingly went over to the enemy. Wthin five months, some 3.8 million Soviet troops were actually serving in the Wehrmacht. Desertions on that scale again are not envisioned if the handful now in Swiss hands are given asylum, but fear of even small-scale defections must surely provide a greater nightmare to a Soviet regime planning war than cruise or Pershing missiles. It is this deterrent, almost free and virtually without risk, on which the NATO powers have apparently turned their backs.

THE LATEST ACT OF TERRORISM IN LEBANON

Mr. BYRD. Mr. President, I want to take this opportunity to extend my deepest sympathy to the Government of Israel and to the families of the reported 29 Israeli soldiers who were killed November 4 by a terrorist attack in southern Lebanon.

A truck packed with a half-ton of explosives leveled the Israeli military headquarters in Tyre, killing at least 29 Israeli soldiers and an estimated 10 Arab civilians as well.

Some 38 or more Israeli wounded were rushed to Rambam Hospital in Haifa where they quickly had access to the most modern medical care available anywhere.

I take note of the fact that it took only 20 minutes to transport the Israeli wounded to Rambam. On the other hand, by rejecting an offer by the Israeli Government to treat our marines wounded in the October 23 terrorist raid on our compound at the Beirut Airport, it took hours to transport our wounded to facilities with similar medical capabilities.

In an editorial which appeared in the November 4 edition of the Baltimore Sun, it was pointed out that after the Israelis made the offer:

> Wounded men were taken from the Beirut airport to the U.S.S. *Iwo Jima* off shore for emergency treatment. They were shuttled back to the airport to wait for large transport aircraft to arrive from distant points. Finally, they were carried to Cyprus, Italy and West Germany, arriving 9, 13 and 20 hours, respectively, after the Beirut explosion for the kind of treatment available 30 minutes away in Haifa.

As a result of the totally inadequate explanations offered by the administration concerning our refusal to take advantage of the offer to use the Rambam Hospital, I have written the Secretary of Defense requesting answers to two questions I have regarding that decision.

In last Friday's Washington Post, it was reported that Capt. Lewis Mantel, a division director in the office of the Navy Surgeon General, testified that:

> The military followed longstanding contingency plans which involved first taking the wounded offshore to the U.S.S. *Iwo Jima*, a ship with two medical operating rooms. If that provided inadequate, the plans called for evacuation of wounded by aircraft to U.S. military hospitals in Italy and West Germany.

Captain Mantel stated further:

> This is the system we train to use . . . and just like anything else, if you have a disaster or a crisis you don't change horses in midstream. You continue to do what you've been drilled to do.

However, as Washington Post ombudsman Robert J. McCloskey wrote in a column November 4:

> Evidently the testimony did not take into account that some 20 Marines were flown to a British military hospital on Cyprus.

Therefore, my first question to the Defense Secretary was why, if we were able to change horses in midstream—to use Captain Mantel's words—and fly wounded marines to Cyprus for treatment, we could not have done the same in the case of the offer from Israel?

Perhaps more disturbing to me is the fact that we apparently did not take an inventory of medical facilities in the area which could provide timely and quality care for any wounded we might have in Lebanon.

My second question to the Secretary of Defense addresses this aspect of the incident. I ask why we failed to make a request of the Israeli Government to make its excellent facilities available to us to treat our wounded if the need ever arose. Israel is the most trusted ally we have in the Middle East. Why would we have to wait until the Israeli Government made the offer following this tragic incident to make a decision as to whether or not we should transport our wounded to Rambam? I am sure had we exhibited the foresight and made the request ourselves, the Israelis would have been more than happy to have made preparations and to have made accommodations. I am just very amazed that somehow it never occurred to anyone to explore this possibility as a measure to insure that timely and high quality medical care was available to our soldiers and our marines should disaster befall them in Lebanon.

I want answers to these questions. I know many of my colleagues share the same concerns. I just hope the Secretary of Defense will be more forthcoming in response to these deeply held concerns than administration officials have been thus far. We are either confronted with bureaucratic bungling at its worst, or a decision which was based upon political considerations. In either case, the lives of our marines and other military personnel apparently were secondary. Therefore, I think we have a right to demand better answers than it was an operational decision at the field level.

I ask unanimous consent that the Baltimore Sun editorial, the Washington Post article, and Robert McCloskey's column be printed in the RECORD, together with a copy of my letter to the Secretary of Defense.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Nov. 4, 1983]

ISRAEL'S OFFER OF HELP FOR THE WOUNDED

(By Robert J. McCloskey)

Among the many incomplete stories surrounding American military forces in recent days, an important one is why an Israeli offer of hospital and other materiel assistance following the atrocity at Marine headquarters in Beirut was turned down by the Reagan administration. It was conveyed by Israeli Defense Minister Moshe Arens in a telephone call to Secretary of Defense Caspar Weinberger. Subsequent news accounts in The Post and elsewhere have portrayed Israeli government officials and private citizens as bewildered and hurt because the offer was spurned.

The administration has appeared reluctant to discuss the matter at the political level, perhaps in view of published reports attributed to unnamed Pentagon officials that the offer was declined "because accepting it would have infuriated Arab nations." In a television interview last Sunday, Deputy Secretary of State Kenneth Dam would say only that he understood it "was an operational decision made on the ground because of plans we had for our wounded," without addressing whether the offer was appreciated or not.

That line, as a Post story by reporter Mike Getler today illustrates, was followed in testimony Wednesday before the House Armed Services Committee by Capt. Lewis Mantel, a director in the Navy Surgeons General office and other military officers. It was maintained that established military plans embraced arrangements for transporting wounded troops to American military hospitals ashore and afloat. Evidently the testimony did not take account that some 20 Ma-

rines were flown to a British military hospital on Cyprus.

The first published report of the Israeli offer of hospital assistance appears to have been in The New York Times Oct. 24. That and a collateral offer of "heavy equipment with Israeli crews" to send "to the shattered military headquarters" in Beirut were included in a Post story from Jerusalem the following day. Readers criticized the paper for subordinating the information in a long report headlined "Israelis Fear U.S. Backlash After Bombing." Some faulted the story also for a statement that "it did not seem surprising that the Marines—who went through weeks of tension with the Israeli army earlier this year—would turn down the offer [of hospital aid] and prefer instead the superior medical facilities available at U.S. military bases. . . ."

With few exceptions, news organizations have not pursued this story as actively as some in Congress. Four House Democrats—James Scheuer (N.Y.), Thomas Downey (N.Y.), Tom Harkin (Iowa) and Marty Russo (Ill.)—are demanding an investigation. In a letter, the congressmen allege "we subjected our wounded to an 1,800-mile flight . . . which ultimately took nearly 13 hours . . . at least two Marines died enroute. . . ." The Israeli hospital, they said, is "approximately 15 minutes' flying time." On Oct. 25, The Post reported from Wiesbaden that one Marine died while in transport to West Germany and another before reaching Cyprus.

We may never know whether lives would have been saved or permanent injury avoided had Israeli facilities been used. We know that French authorities accepted a separate Israeli offer of assistance after devastation at its Beirut headquarters only to have political obstacles placed in the way by Lebanese officials. We need to know more about whether similar considerations, as some members of Congress suspect, were involved in the American response. And the news media ought to demand an answer.

[From the Baltimore Sun, Nov. 4, 1983]

WEINBERGER'S SELF-INDICTMENT

We didn't reject the offer; we didn't accept it. I passed it through channels.

With these words, Defense Secretary Caspar Weinberger indicts himself for the failure of U.S. authorities to use Israeli medical facilities in treating marines wounded in the Beirut bomb tragedy. Whether any servicemen died needlessly as a result of this decision is a matter that both Congress and the administration must determine as a matter of urgency.

This much we know: Soon after the explosion, the State Department in Washington and the American embassy in Tel Aviv received an Israeli offer making the superbly equipped Rambam Hospital in Haifa available. Helicopters would have needed only 30 to 40 minutes to carry wounded personnel from the site of the bomb blast to waiting Israeli doctors. The offer included the use of disaster equipment kept at the ready by Israelis all too accustomed to such attacks.

There was no U.S. response; only a word of thanks from the State Department the next morning. As far as can be determined from the Weinberger comment cited above, the State Department relayed the Israeli offer to the Pentagon, where it disappeared into "channels."

And what was happening in the meantime? Wounded men were taken from the Beirut airport to the USS Iwo Jima off shore for emergency treatment. Then they were shuttled back to the airport to wait for large transport aircraft to arrive from distant points. Finally, they were carried to Cyprus, Italy and West Germany, arriving 9, 13 and 20 hours, respectively, after the Beirut explosion for the kind of treatment available 30 minutes away in Haifa.

This chilling sequence of events is as demanding of a full-fledged inquiry as the security lapse that permitted the Marine barracks to be blown up in the first place. The American people have a right to know whether panic misjudgment or policy considerations led the government to spurn a humanitarian offer from a trusted ally. If it was the former, then it becomes part of the larger military problem represented by the whole Beirut catastrophe. If it was the latter, then Mr. Weinberger's repeated pattern of holding aloof from Israel deserves probing examination.

It is no secret that the administration has been torn between Mr. Weinberger's approach and the more traditional close links with Israel advocated by Secretary of State George P. Shultz. It is reassuring that Mr. Shultz's hand seems to have been strengthened by the appointment of Robert McFarlane as national security adviser and of Donald Rumsfeld as special presidential envoy to the Middle East. If the Shultz model prevails, we would hope for the kind of close American-Israeli cooperation in an emergency that was so grievously missing at Beirut.

[From the Washington Post, Nov. 4, 1983]

REJECTION OF ISRAELI AID CALLED MEDICAL DECISION

(By Michael Getler)

Navy medical officers say the decision to send Marines wounded in the terrorist bomb attack in Beirut to U.S. military hospitals in Germany rather than to Israeli hospitals that were much closer was made by U.S. field commanders on the advice of American military doctors.

The question of whether Israeli facilities should have been used has become touchy in the two weeks since the attack on Marine headquarters that killed at least 230 U.S. servicemen.

The Israeli government reportedly is upset that its offer of medical facilities and special rescue equipment to lift rubble off victims was not accepted.

The Israeli hospitals were a 15-minute helicopter trip away from the scene.

Four congressional Democrats last week called for an investigation, asking whether the lives of any wounded Marines were jeopardized by the 13-hour flight to Germany and whether the decision was made in part for political rather than technical reasons, meaning to avoid offending Arab nations.

At the House Armed Services Committee on Wednesday Navy Capt. Lewis Mantel, a division director in the office of the Navy surgeon general, was asked by Rep. Norman Sisisky (D-Va.) if the decision not to use Israeli facilities was political.

"To the best of my knowledge, this was a field decision made by the field commander made on the best advice of his senior staff surgeon," Mantel said.

Mantel said the military followed longstanding contingency plans, which involved first taking the wounded offshore to the USS Iwo Jima, a ship with two medical operating rooms. If that proved inadequate, the plans called for evacuation of wounded by aircraft to U.S. military hospitals in Italy and West Germany.

"This is the system we train to use," Mantel said, "and just like anything else, if you have a disaster or a crisis you don't change horses in midstream. You continue to do what you've been drilled to do."

One Marine reportedly died en route to a hospital, but officials suggested that this was not due to lack of care, because the medical evacuation aircraft carry medical staffs.

The Israeli offer was made by Israeli Defense Minister Moshe Arens to Defense Secretary Caspar W. Weinberger and, according to Rep. G. V. (Sonny) Montgomery (D-Miss.), was relayed within four or five hours to the U.S. task force commander in Beirut, Navy Capt. Morgan M. France.

Pentagon officials say Weinberger forwarded the Israeli offer to Beirut as an option. However, officials also say it was felt that in the turmoil of the Beirut bombing it might have made a bad situation more complicated by switching to Israeli hospitals or inviting Israeli rescue teams to Beirut, which the Lebanese government reportedly opposed.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, D.C., November 7, 1983.

Hon. CASPAR WEINBERGER,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: There remains a number of unanswered questions surrounding the refusal of our government to accept the offer of Defense Minister Moshe Arens to treat wounded U.S. Marines in Israel following the terrorist raid at Beirut Airport on October 23.

You are quoted as saying: "We didn't reject the offer; we didn't accept it. I passed it through channels."

According to published accounts, soon after the explosion both your office and our Embassy in Tel Aviv received an offer from the Israelis to have our wounded treated at the Rambam Hospital in Haifa. That hospital is particularly well equipped, with the most modern techniques and equipment, to treat casualties of war. At a maximum, it would have taken only 30 minutes to transport our wounded by helicopter to the hospital at Haifa.

Once again, citing from published reports, our wounded were taken from the Beirut airport to the USS Iwo Jima offshore for emergency treatment. Then they were shuffled back to the airport to wait for large transport aircraft to arrive to take them to Cyprus, Italy and West Germany. These aircraft arrived 9, 13 and 20 hours, respectively, after the explosion.

The official rationale offered for rejecting the Israeli offer is as follows:

It "was an operational decision made on the ground because of plans we had for our wounded," according to Deputy Secretary of State Kenneth Dam in a television interview on October 30.

Captain Lewis Mantel, a director in the office of the Navy Surgeon General, testified at the House Armed Service Committee on November 2, that our military followed longstanding contingency plans which involved first taking the wounded offshore to the USS Iwo Jima and if that proved inadequate, the plans called for evacuation of wounded by aircraft to U.S. military hospitals in Italy and West Germany.

"This is the system we train to use" Mantel was quoted as saying, "and just like anything else, if you have a disaster or crisis you don't change horses in midstream. You continue to do what you've been drilled to do."

However, it is my understanding that some 20 Marines were flown to a British military hospital on Cyprus.

Quite frankly, I do not accept any of the arguments put forward by the Administration for rejecting an offer which was clearly designed to provide our wounded with the best possible medical care in the shortest period of time.

The most serious question raised by the handling of this incident is why did our government not take an inventory of medical facilities in the region which could be used, in a very short period of time, to provide our wounded with the best possible medical care? Obviously, a decision to deviate from the original disaster plan was made in regards to sending some 20 U.S. Marines to a British military hospital on Cyprus.

Why was this assessment not undertaken when our Marines were redeployed as part of the Multinational Peacekeeping Force last fall? We are dealing with the lives of Americans where minutes can make all the difference in a life and death situation.

Certainly, one could understand the rejection of such an offer if it were made by a country which was not a trusted ally of the United States. However, Israel is a trusted ally.

Therefore, I have two questions to which I would appreciate receiving a response.

First, if our disaster plan called for the evacuation of our wounded by aircraft to U.S. military hospitals in Italy and West Germany, why were we able to shift "in midstream" and fly wounded to Cyprus for treatment and not Israel for treatment?

Second, the Lebanon deployment certainly was one which was not without risk when it came to the safety of our Marines. This was particularly so following the killing of four Marines on September 30. Therefore, why did we fail to make a request of the Israeli government to make its excellent facilities available to us to treat our wounded if the need ever arose? Are our bureaucratic and political imperatives such that it never occurred to anyone in our government to explore every avenue to ensure that we did everything possible to provide timely and high quality medical care for any of our soldiers who might suffer serious wounds in Lebanon?

In conclusion, it is my hope that in light of the continuing danger to our military personnel in Lebanon, consideration will be given to accepting the offer of the Israeli government to assist in treating our wounded should the need ever arise again. Thank you very much for your response to my questions.

Sincerely,

ROBERT C. BYRD.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are a few items of routine business that I believe ought to be taken care of before we resume consideration of the pending business. Therefore, I ask unanimous consent that the time for morning business be extended by 10 minutes and that Senators may be permitted to speak without limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of matters in my folder which appear to be ready for action by unanimous consent. I say to the minority leader that there are 14 measures on the General Orders Calendar today which are cleared for action on this side. I am prepared to do those if the minority leader wishes to consider them.

Mr. BYRD. Mr. President, this side is ready to consider. I have requested and authorized Senator FORD to respond in my behalf, so if the majority leader will proceed with him, I would appreciate it.

Mr. BAKER. If the acting minority leader is agreeable, I shall identify these measures and we shall do them thereafter.

Mr. FORD. I am agreeable, Mr. President.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to consider and adopt the following items: calendar orders No. 511, 512, 524, 526, 530, 531, 532, 535, 541, 542, 543, 544, 545, and 548.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR PRINTING OF FOURTH ANNUAL REPORT TO CONGRESS—HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

The resolution (S. Res. 178) authorizing the printing of the report entitled, "Fourth Annual Report to Congress—Highway Bridge Replacement and Rehabilitation Program" as a Senate document was considered, and agreed to as follows:

S. RES. 178

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(i), chapter 1 of title 23, United States Code entitled, "Fourth Annual Report to Congress—Highway Bridge Replacement and Rehabilitation Program" be printed as a Senate document.

SEC. 2. There shall be printed three hundred additional copies of such document for use of the Committee on Environment and Public Work.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was a agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL PRINTING OF SENATE ELECTION LAW GUIDEBOOK

The resolution (S. Res. 259) authorizing the printing of a revised edition of the "Senate Election Law Guidebook" as a Senate document was considered, and agreed to as follows:

S. RES. 259

Resolved, That a revised edition of Senate document numbered 97-22, entitled "Senate Election Law Guidebook", be printed as a Senate document, and that there be printed eight hundred additional copies of such document for the use of the Committee on Rules and Administration.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

The Senate proceeded to consider the resolution (S. Res. 239) relative to expenditures by the Select Committee on Indian Affairs, which had been reported from the Committee on Rules and Administration with an amendment.

Insert at the beginning of the resolution:

Resolved, That S. Res. 76, section 2, line 7, be amended by striking out "$44,937,945" and inserting in lieu thereof "$45,059,643"; and be it further

The resolution, as amended, was considered and agreed to; as follows:

S. RES. 239

Resolved, That S. Res. 76, section 2, line 7, be amended by striking out "$44,937,945" and inserting in lieu thereof "$45,059,643"; and be it further

Resolved, That S. Res. 76, section 21, paragraph (A) Ninety-eighth Congress, be amended by striking out "January 2, 1984" and inserting in lieu thereof "February 29, 1984"; and be it further

Resolved, That S. Res. 76, section 21, paragraph (B) Ninety-eighth Congress, as amended by S. Res. 111, Ninety-eighth Congress, be amended by striking out "$620,990" and inserting in lieu thereof, "$745,188".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRESSIONAL GOLD MEDAL TO HONOR LEO J. RYAN

The bill (H.R. 3348) to honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MEAT WEEK

The resolution (S. Res. 238) to express the sense of the Senate that January 22, through January 28, 1984, should be observed as "National Meat Week." was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 238

Whereas the term "meat" comprises a broad category of food products, including beef, pork, lamb, and veal;

Whereas meat is a wholesome and nutritious food, one of the most valuable sources of vitamins and minerals in the human diet, and a high-quality source of protein;

Whereas the meat industry's annual sales of $70,000,000,000 make it the largest single component of United States agriculture;

Whereas the meat industry provides jobs for thousands of United States citizens; and

Whereas during the week of January 22, 1984, the meat industry will conduct educational programs to highlight the positive contribution of meat to the American diet: Now, therefore, be it

Resolved, That it is the sense of the Senate that January 22 through January 28, 1984, should be observed as "National Meat Week", and that all citizens should be encouraged to observe such week with appropriate ceremonies and activities.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President and the Secretary of Agriculture.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DISABLED VETERANS WEEK

The joint resolution (H.J. Res. 283) designating the week beginning November 6, 1983, as "National Disabled Veterans Week" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE EXPRESSION OF THANKS TO AMERICAN EDUCATORS

The resolution (S. Res. 268) to express the thanks of the Senate to America's educators, was considered and agreed to.

The preamble was agreed to.

The resoluton, with its preamble, is as follows:

S. RES. 268

Whereas America's schools and personnel play a significant role in helping families ensure their children's growth and development;

Whereas America's teachers contribute significant effort to encouraging the intellectual development of American citizens;

Whereas America's schools help youngsters acquire important and positive social skills that help them survive the vagaries of change and of chance;

Whereas America's tremendously productive and imaginative work force are products of the country's universal education system;

Whereas America's scientists and inventors, the harbingers of our future, are educated in America's schools;

Whereas American education has been and remains the crucible for encouraging the collaboration of our ethnic and cultural diversity; and

Whereas America's schools have consistently provided an informed citizenry who have been willing to work for a free nation and a free world: Now, therefore, be it

Resolved, That as the week of November 13-19 is designated American Education Week, 1983, the Senate of the United States, while fully recognizing the difficulties currently facing America's educational system, extends its thanks to America's teachers and other educational personnel for the many positive contributions American education has made to the quality of our lives. Further, the Senate calls on all Americans to join together in working for the restoration of America's educational system to its rightful place of preeminence among America's other great cultural institutions.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EARTHQUAKE IN TURKEY

The resolution (S. Res. 271) deploring the loss of life in the earthquake in Turkey, was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 271

Whereas a major earthquake struck the mountainous region of eastern Turkey on October 30, killing more than one thousand three hundred persons, and

Whereas this earthquake has caused widespread destruction, as well as anguish and suffering for the survivors: Now, therefore, be it

Resolved, That the Senate of the United States extends its condolences to the Government of Turkey and to its people on the loss of life and the destruction of property; and be it further

Resolved, That it is the sense of the Senate that the Government of the United States provide assistance to the Turkish Government and to the people of Turkey in this time of need.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL THEATRE WEEK

The joint resolution (S.J. Res. 113) to provide for the designation of the week beginning June 3 through June 9, 1984, as "National Theatre Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 113

Whereas many Americans have devoted much time and energy in advancing the cause of theatre; and

Whereas the theatres of America have pioneered the way for many performers and have given them their start in vaudeville and stage; and

Whereas theatre is brought to Americans through high schools, colleges, and community threatre groups as well as through professional acting companies; and

Whereas citizens of America have been called upon to support the theatre arts in the Nation's interest; and

Whereas many individuals and organizations are hailing the strength and vitality of the theatres of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 3 through June 9, 1984, shall be proclaimed "National Theatre Week" throughout the country, and that the President of the United States is authorized to issue a proclamation calling upon the citizens to support this effort with assistance to theatres throughout the country.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MEALS-ON-WHEELS AND CONGREGATE MEAL WEEK

The joint resolution (S.J. Res. 183) to recognize the second week of November 1983 as "National Meals-on-Wheels and Congregate Meal Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 183

Whereas over two hundred thousand volunteers—70 percent of whom are themselves elderly—deliver over one hundred and fifty

thousand meals daily to homebound frail older persons;

Whereas over one hundred and ninety five thousand volunteers—90 percent of whom are over sixty years of age—provide in excess of five hundred seventy thousand meals per day in congregate settings where senior participants have an opportunity for socialization and fellowship in addition to having their nutritional needs met;

Whereas the dedication of volunteers to helping people receive hot nutritious meals each day ensures the continued well-being of many needy persons;

Whereas community based home-delivered and congregate meal programs make possible the joint use of public and private funds and resources to serve older people;

Whereas nutritious food is an essential ingredient to the maintenance of life; and

Whereas the aged are revered members of our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second week of November, beginning on November 6, 1983, be declared "National Meals-on-Wheels and Congregate Meal Week" in affirmation of the dedication and value of the contributions and commitment of volunteers and others who work to ensure the well-being of older persons.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CARRIER ALERT WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 141) to designate the week of September 25, 1983, through October 1, 1983, as "Carrier Alert Week," which was reported from the Committee on the Judiciary with an amendment as follows:

On page 2, beginning on line 6, strike "September 25, 1983, through October 1, 1983", and insert "December 4, 1983, through December 10, 1983"

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read "Joint resolution to designate the week of December 4, 1983, through December 10, 1983, as "Carrier Alert Week."

The joint resolution, with its preamble, is as follows:

S.J. RES. 141

Whereas the National Association of Letter Carriers and the United States Postal Service, recognizing their unique presence in the neighborhoods of America, and further recognizing the needs of a special segment of postal customers, the homebound, the elderly, and the handicapped, and resolving to encourage joint support of local community social service agencies in a program called Carrier Alert;

Whereas under Carrier Alert, the local sponsoring social service agency notifies the local post office of customers who wish to participate in this program, and the letter carrier of the customer, in the performance of daily rounds, will be alert to an accumulation of mail which might signify a sudden illness or accident, and through locally developed procedures, the accumulation of such mail will be reported to the social service agency for appropriate followup; and

Whereas Carrier Alert, an all volunteer program, is a natural extension of the care which individual letter carriers traditionally have exhibited for customers, not just in the delivery of mail, but in a genuine concern for the well being of such customers, and it has been customary for letter carriers to show particular consideration for customers whose health or advanced age required a little extra special attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Congress commends the effort and concern of the National Association of Letter Carriers and the United States Postal Service for the elderly, the homebound, and the handicapped, and that the week of December 4, 1983, through December 10, 1983, is designated as "Carrier Alert Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Amend the title so as to read: "Joint resolution to designate the week of December 4, 1983, through December 10, 1983, as 'Carrier Alert Week'.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILD ABUSE PREVENTION MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 161) to designate the week of April 15, 1984, through April 21, 1984, as "National Child Abuse Prevention Week," which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 3, line 1, strike "week of April 15, 1984, through April 21, 1984", and insert "month of April 1984";

On page 3, line 3, strike "Week' ", and insert "Month' ";

On page 3, line 6, strike "week", and insert "month".

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The joint resolution, as amended, with its preamble, as amended, is as follows:

S.J. RES. 161

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated two million children become victims of child abuse in this Nation each year;

Whereas an estimated two thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous, the National Committee for the Prevention of Child Abuse, American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations, such as the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous and other members of the National Child Abuse Coalition are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1984, is designated as "National Child Abuse Prevention Month" and the President of the United States is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Amend the title so as to read: "Joint resolution to designate the month of April 1984, as 'National Child Abuse Prevention Month'.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NORTH KOREAN BOMBING IN RANGOON

The resolution (S. Res. 270) expressing the sense of Senate with respect to the North Korean bombing in Rangoon, was considered and agreed to, as follows:

S. RES. 270

Whereas the Government of Burma has announced the results of its investigation into the October 9 assassination in Rangoon of high-level Republic of Korea officials;

Whereas the investigation has found that members of the North Korean Army were responsible for the attack which resulted in

the deaths of seventeen Koreans and at least three Burmese;

Whereas this North Korean barbarism is not only a national and personal tragedy for the people of Korea and Burma but also an assault on the entire international community;

Whereas the brutal massacre has demonstrated once again the total disregard of the North Korean Government for human life as well as the norms and laws governing the international community of nations: Now, therefore, be it

Resolved, That it is the sense of the Senate that it—

(1) finds that the Government of Burma has courageously conducted a thorough and complete investigation of this heinous act perpetrated by a foreign power within its sovereign territory;

(2) condemns the North Korean Government for having carried out an act of terrorism and cold-blooded murder; and

(3) calls upon the international community to unite in condemnation of this act, to censure North Korea for its part in the criminal attack, and to punish North Korea through economic and diplomatic means.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FLORENCE CRITTENTON MISSION WEEK

The Senate proceeded to consider the joint resolution (H.J. Res. 383) to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week."

Mr. WILSON. Mr. President, I am requesting today that the Senate grant its consent to passage of House Joint Resolution 383, a joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week."

This resolution coincides with activities marking the centennial anniversary of this worthy organization. The mission was initiated by Charles Crittenton of New York in 1883 and was granted a congressional charter in 1898, the first agency of its kind to be so recognized.

The Florence Crittenton Mission has served thousands of young women during its distinguished 100 year history. Today, it continues to service women and society through 39 agencies in 26 States. These services range from residential care to career counseling.

Mr. President, I send my congratulations to the many people who continue the work of this mission, especially those who were assembled in Los Angeles to mark the mission's centennial. It is my hope that the future of this organization will be as successful as its first 100 years.

Finally, I want to thank Members on both sides of the aisle for making this special consideration possible, in particular those 17 colleagues who offered their cosponsorship in this effort.

The joint resolution (H.J. Res. 383) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 2727 PLACED ON CALENDAR

Mr. BAKER. Mr. President, I have a measure which appears to be cleared on both sides. I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 2727, a bill to codify without substantive change of recent laws related to money, finance, and transportation and to improve the United States Code, and I ask that it be placed on the calendar.

Mr. FORD. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF S. 1808

Mr. BAKER. Mr. President, next, I say to the acting minority leader that I intend to ask for a star print of S. 1808 if there is no objection.

Mr. FORD. There is no objection, Mr. President.

Mr. BAKER. I ask unanimous consent that S. 1808 be star printed to reflect the changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is one other—perhaps more than one, but there is at least one other matter that I understand the minority leader wishes to be heard on, so I will not call it up at this point. Instead, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ADULT CONTINUING EDUCATION WEEK

Mr. BAKER. Next, Mr. President, I would propose to ask the Chair to lay before the Senate, Senate Joint Resolution 160, which is Calendar Order No. 529, if the minority leader has no objection.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 529, Senate Joint Resolution 160.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 160) to designate the week of October 17, 1983 through October 24, 1983, as "National Adult Continuing Education Week."

amendment no. 2536

Mr. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 2536:

On page 2, line 3 and line 4, omit the words "October 17, 1983 through October 24, 1983," and insert in lieu thereof "October 15, 1984 through October 21, 1984,".

Amend the title so as to read: "To designate the week of October 15, 1984 through October 21, 1984, as 'National Adult Continuing Education Week'."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2536) was agreed to.

The joint resolution (S.J. Res. 160) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 160

Whereas adult continuing education is increasingly important as a means of mastering the rapidly increasing body of knowledge, enriching life through informed appreciation, enlivening personal growth, and improving skills and work performance;

Whereas adult continuing education is important to all segments of society; and

Whereas adult continuing education associations give leadership to the development and implementation of continuing education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 15, 1984 through October 21, 1984, is designated "National Adult Continuing Education Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate activities to recognize the advantages to be gained from continuing education at the adult level, and to acknowledge adult educators and adult students in private and public institutions in contributing daily to the economic, civic, and cultural advancements of the Nation.

The title was amended so as to read "To designate the week of October 15,

1984, through October 21, 1984, as 'National Adult Continuing Education Week'."

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I am pleased that the Senate has passed Senate Joint Resolution 160, a resolution to designate the week of October 15, 1984, through October 21, 1984, as Adult Continuing Education Week.

As I indicated when I introduced this resolution, there are currently 21 million adults enrolled in continuing education programs—displaced workers learning new skills, teachers going back to school to gain understanding of new technologies, adults returning for high school diplomas.

As I have also indicated previously, I am a strong supporter of adult continuing education. Education is a lifelong process. We have reached a point in this Nation when education is no longer a luxury, but a necessity if we are to meet the challenges of ever changing technologies. Adult continuing education has become even more important with the decline of our smoke stack industries and the rising numbers of unemployed workers whose skills are obsolete.

The passage of this resolution, which designates a special Adult Continuing Education Week, focuses attention on the need for and emphasizes the importance of adult continuing education.

Mr. BAKER. Mr. President, I thank the distinguished minority leader for his contribution.

COMMITTEE ASSIGNMENTS FOR SENATOR DANIEL J. EVANS

Mr. BAKER. Mr. President, there is one other matter that is, I believe, of a housekeeping nature. It relates to the committee assignments for newly-elected colleague Senator DANIEL J. EVANS. By Senate Resolution No. 226, which was adopted on September 22 of this year, Senator EVANS was given certain temporary committee assignments. I have discussed this matter with the distinguished minority leader and, of course, in my own caucus, and my caucus believes and Senator EVANS agrees, I agree, and I believe the minority leader may view the arrangement favorably, that the better part of discretion would be to simply continue the present temporary committee assignments until early next year so we do not have to reopen the whole committee process at least on this side of the aisle.

So if the minority leader does not object, I would like to submit a resolution to the Senate which would amend the previous resolution by changing the length of time for the present temporary committee assignments from November 11 and insert in lieu thereof February 10, 1984.

Mr. BYRD. Mr. President, there is no objection from this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 274) relative to the committee assignments for Senator Daniel J. Evans.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 274) was agreed to.

The resolution reads as follows:

S. RES. 274

Resolved, That Senate Resolution 226, adopted September 22, 1983, be amended as follows:

Strike November 11, 1983 and insert in lieu thereof, February 10, 1984.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEATH PENALTY WILL DETER PRISON MURDERS

Mr. DIXON. Mr. President, I recognize that we have a lot of legislative business to complete before we recess later this month. Because of time pressures and other constraints, some of that business is, obviously, going to fall by the wayside as we move to the conclusion of our activities here in this Chamber.

I wish, however, to call to the attention of my colleagues two dastardly acts which occurred October 22, 1983, at the maximum Federal security facility in Marion, Ill. Two correctional officers were brutally murdered in separate incidents that day by inmates who stabbed their victims to death. Two other correctional officers were seriously injured. These assaults were unprovoked, which makes their tragic result even more demanding of our attention.

When a prisoner is serving all of the time he can serve under a life sentence, no deterrent exists at all to keep him from harming or killing other inmates or correctional officers or staff. As our law now exists, prisoners can kill with impunity on the Federal penitentiary grounds at Marion and elsewhere without fear of reprisal.

This situation is intolerable, Mr. President. There are on our calendar two major crime bills pending. I earnestly urge our Senate leadership to call these bills for our consideration prior to our recess. This is a matter of the highest priority. The lives of our Federal employees are at stake.

Mr. President, the Chicago Tribune carried a powerful editorial on November 5, making the case for the imposition of the death penalty when a convicted killer, already imprisoned in a Federal correctional institution, murders again.

That editorial provides solid reasoning to support proposed section 1118 of title 18 of the United States Code, which is contained in S. 1765. That legislation is intended to establish constitutional procedures for the imposition of capital punishment. It was reported favorably by the Committee on the Judiciary earlier this year.

Although there is a great deal of controversy surrounding S. 1765, and the issue of capital punishment in general, I strongly believe that the Tribune editorial makes a great deal of sense, and I commend it to the attention of my colleagues. I ask unanimous consent that the editorial be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. Mr. President, I also ask unanimous consent, that excerpts from two statements submitted to the Subcommittee on Criminal Law of the Senate Committee on the Judiciary likewise be printed in the RECORD at the conclusion of my remarks. These statements were presented this morning by D. Lowell Jensen, Associate Attorney General, and Norman A. Carlson, Director of the Federal Bureau of Prisons.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. DIXON. Mr. President, while I am not a member of the Judiciary Committee, I am especially interested in calling the attention of my colleagues to the content of these remarks. Both of the statements deal with the reprehensible murders which occurred at the maximum security facility in Marion, Ill., on October 22, 1983.

Mr. Carlson summarized the situation succinctly, when he said:

In my opinion, cases like the ones I have described graphically illustrate the need for a federal death penalty.

In light of what has transpired at Marion, I urge my colleagues to give careful consideration to this situation which cries out for a remedy. Wanton murder by inmates who think they have nothing to lose must be halted.

EXHIBIT 1

A CASE FOR THE DEATH PENALTY

If there is a case for imposing the death penalty, in spite of the moral anguish, revulsion and legal complications involved, it can best be made for convicted killers already in maximum security prisons who murder yet again.

For example, two inmates of the U.S. penitentiary in Marion are suspected of stabbing to death two correctional officers apparently "for sport," according to a Marion official. The suspects have already been convicted of killing four other prison inmates and are under investigation for the death of a fifth who was stabbed 67 times. Both are already serving life sentences in the disciplinary section of the toughest prison in the country.

Because the Marion prison is under federal jurisdiction and there is no federal death penalty, there isn't anything else the courts can do to these men, even if they are convicted of murder once again. Legally, the most dangerous, unremorseful killers can get away with murder.

The Reagan administration has tried unsuccessfully to prod Congress into establishing a federal death penalty and included one in a proposed anticrime bill. But the Senate Judiciary Committee cut the provision out of the legislation and it remains unpassed. It's easy to understand why members of Congress have shied away from the issue: It is almost impossible to write laws on capital punishment that can survive the inevitable court challenges. Millions of voters still strongly oppose the death penalty no matter how terrible the crime. And like most of us, legislators don't want to be responsible in any way for causing the deliberate death of any other human being.

But the absence of a federal death penalty is a clear danger to the correctional officers who must work in penitentiaries like Marion. The exaggerated concern for the lives of convicted murderers who kill for excitement or sport becomes, in fact, a lack of concern for their past and future victims.

It is unfortunate that the nation needs a federal death penalty. But it clearly does in this instance. The sooner Congress passes the necessary legislation, the less dangerous places like Marion will be.

EXHIBIT 2

STATEMENT OF D. LOWELL JENSEN, ASSOCIATE ATTORNEY GENERAL

Mr. Chairman and Members of the Subcommittee, the brutal murders Director Carlson has described are an outrage. But also outrageous is the fact that a decade's inaction has left current federal law in a state where it is likely that our criminal justice system will be powerless to impose any meaningful sanction for these vicious crimes.

The consequences of these murders are serious and tragic, for the victims and their families, for the inmates at Marion, and for the federal officers charged with the difficult responsibility of maintaining safety and security at the prison. Yet, if it is established that those who committed these crimes are inmates already serving life sentences, they alone, of all those touched by these despicable crimes, will suffer no consequences, for our law offers no penalty more severe than that to which they are now subject—a life sentence.

Under current federal law, no matter how reprehensible a murder may be, a judge or jury may not even consider application of the death penalty. This is because federal law has never been amended to provide procedures for imposition of the death penalty which the Supreme court, in a series of decisions beginning with the 1972 case of *Furman* v. *Georgia*, has determined are required under the Constitution.

Thus, for the most heinous federal crimes—assassination of the President, treason or espionage with devastating results for the nation's security, or brutal murders, such as those of the Marion prison guards—the most severe penalty now available is imprisonment for life. And imposition of a life sentence for such crimes is no assurance that a life sentence will in fact be served. A person sentenced to life imprisonment is eligible for parole within ten years, as is a person sentenced to a term of more than thirty years (18 U.S.C. 4205(a)), and after serving thirty years of a life sentence, parole release is mandatory unless the Parole Commission makes an affirmative finding of serious prison misconduct or of a probability that the offender will commit another crime if released (18 U.S.C. 4206(d)). Moreover, the ten year parole eligibility date and thirty year mandatory release date are interpreted to apply equally to persons serving a single life sentence and those serving multiple, consecutive life sentences.

We are confident that the Parole Commission would not permit the early release of an inmate already under a life sentence who murdered again and again while incarcerated. But what we are faced with in such a situation is a complete inability, absent the availability of the death penalty, to assess any additional penalty to punish or deter these prison murders. The inmate who has committed multiple murders knows he is likely to spend all or most his days in prison, and so, by precluding the ultimate sanction of death, current law in effect gives the offender carte blanche to continue to murder as opportunity and his perverse motives dictate.

The fact that the most monstrous federal offenders are effectively insulated from further punishment can only contribute to the terror and violence to which our corrections officers and prison inmates are daily subjected. The murders of the Marion officers are by no means isolated incidents in our prison system. In the Control Unit at Marion, the most secure unit within our highest level security facility, are more than twenty inmates who have killed while in federal prison. Until the murders of officers Clutts and Hoffman, all the victims of these murders had been other prisoners.

To date, more than two-thirds of the States have enacted death penalty laws designed to meet the Supreme Court's decisions over the last ten years. Ironically, one of these States is Illinois, where the Marion penitentiary is located. But because Marion is an enclave over which there is exclusive federal jurisdiction, there is not even the opportunity for a State prosecution which could result in imposition of the death penalty. This situation is not unique to Marion. Five other penitentiaries, those in Atlanta, Leavenworth, Terre Haute, Lewisburg, and Lompoc, California, as well as nineteen other federal correctional facilities, are subject to exclusive federal jurisdiction.

The fact of exclusive federal jurisdiction at Marion and other facilities is not the problem, however. It simply means that we cannot abdicate to the States our responsibility to provide a just and proportionate punishment for the most egregious crimes committed by the most incorrigible offenders. Federal criminal laws are enacted to allow the vindication of important federal interests. These interests include protecting the lives of federal correctional officers and federal prisoners. We have a grave responsibility to these persons and others who are victims or potential victims of the most serious federal crimes. But it cannot be met if our criminal sanctions are inadequate as punishments and deterrents. It would be ludicrous to suggest that the federal government avoid its responsiblities by calling on the States whose legislatures have had the courage and resolve to enact death penalty laws to prosecute the worst federal crimes.

The investigation of the Marion murders raises the possibility that the offenses were committed by prisoners already serving consecutive life sentences. These cases are examples of the most compelling circumstances justifying the death penalty. For inmates serving life sentences, the most severe penalty current law can offer, imposition of yet another life sentence, is meaningless in terms of punishment and deterrence. Moreover, such offenders are hardly "incapacitated" by prison sentences. They merely find their victims among the inmates and prison guards who surround them. But the need for an available death penalty is not confined to only these cases.

In April of 1981, I appeared before the Judiciary Committee to voice the Administration's strong support for enactment of constitutional procedures that would allow, in appropriate circumstances, the imposition of the death penalty for the most serious federal crimes. My testimony was part of extensive hearings the Committee held on the death penalty. The product of the Committee's efforts, S. 114, however, was never acted upon by the full Senate.

Again in this Congress, the Judiciary Committee has approved a bill to restore the availability of the death penalty at the federal level. This bill, S. 1765, is a further refinement of the carefully drafted legislation of the last Congress. Indeed, among the amendments to the bill adopted by the Committee were provisions based on legislation introduced by Senator Specter to address specifically the very problem we are discussing today: the commission of murders by federal inmates already under life sentences.

This pending death penalty legislation includes among the specific aggravating factors that may be considered at the death penalty hearing, the circumstances that the victim of a homicide was a federal correctional officer and that the defendant was an inmate serving a life sentence. In certain respects, we believe the bill's provisions concerning prison murder could be further strengthened. But even in its present form, this legislation would, if enacted, for the first time in a decade allow imposition of the death penalty in those compelling situations in which imposition of an additional life sentence on an inmate would be nothing more than a meaningless gesture.

Enactment of legislation to reinstate the availability of the death penalty in the federal criminal justice system is long overdue. Society has a right, one confirmed repeatedly by the Supreme Court, to exact a just and proportionate punishment on those who deliberately flout its laws; and there are some offenses which are so harmful and so reprehensible that no sanction other than the death penalty, not even life imprisonment without the possibility of parole, would represent an adequate response to

the defendant's conduct. In the federal system, these offenses may include not only brutal murders such as those committed at Marion, but also offenses of treason and espionage that may put at risk the very security of the nation.

S. 1765 would provide constitutional procedures whereby the death penalty could once again be applied to these offenses, under appropriate circumstances. This carefully crafted legislation assures stringent safeguards against arbitrariness, disproportionality, and the influence of prejudice in assessing this most severe sanction. The need for restoration of the death penalty in the federal system can no longer be ignored. The Administration recommends, in the strongest terms, the enactment of S. 1765 to achieve this result.

STATEMENT OF NORMAN A. CARLSON, DIRECTOR FEDERAL BUREAU OF PRISONS, DEPARTMENT OF JUSTICE

Mr. Chairman, I welcome the opportunity to appear before your Committee and discuss a critical problem we face in the management of the Federal Bureau of Prisons. Simply stated, the issue is a lack of adequate sanctions to deal with the small number of dangerous and violent criminals who continue to prey on others while they are incarcerated.

My testimony today relates directly to the tragic incidents that occurred at the U.S. Penitentiary, Marion, Illinois, on October 22, 1983. Those incidents dramatically illustrate the problems we have in attempting to cope with criminals for whom there is no meaningful deterrent. In my opinion, the lack of a federal death penalty makes a mockery of the Federal Criminal Justice System when we attempt to deal with multiple murderers who continue to prey on innocent victims, both staff and inmates.

MARION PENITENTIARY

The U.S. Penitentiary, Marion, Illinois is the most maximum security facility of the 43 institutions comprising the Federal Prison System. With an inmate population of 330, Marion was opened in 1963 to replace Alcatraz. Inmates sent to Marion are the most volatile and dangerous of the 30,400 offenders confined in federal custody. In addition to the 200 federal inmates currently at Marion, there are 93 state prisoners and 29 District of Columbia inmates housed under reimbursable agreements.

Contained within Marion is a prison within a prison—the Control Unit. This small, self-contained housing unit is the end of the road for those inmates who, by their continued assaultive behavior toward staff and other inmates, have demonstrated their inability to function in the general population of any prison, including Marion. The majority of inmates presently in the Control Unit have been involved in fatal or near-fatal assaults on staff or inmates in state or federal prisons.

CORRECTIONAL OFFICER MURDERS

On Saturday, October 22, 1983, two experienced, highly regarded correctional officers were brutally murdered and two others seriously injured during separate, totally unprovoked assaults that occurred in the Control Unit at Marion. The first officer was murdered shortly after 10:00 a.m. while he and two other officers were returning an inmate to his cell from a shower. The inmate apparently used a knife to inflict approximately 40 stab wounds. The officer died as a result of the injuries he received. This senseless act was committed in full view of and without regard to staff and inmate witnesses present. The second correctional officer was brutally stabbed at approximately 8:30 p.m. on the same date while he and two other officers were returning an inmate to his cell from the recreation area. While being escorted, an inmate was apparently able to slip off his handcuffs and use a homemade knife to stab one officer. The other unarmed staff members rushed to the aid of the injured officer. One of these staff members was injured and another stabbed to death while attempting to aid their fallen comrades. The investigation into these incidents is presently ongoing.

NEED FOR DEATH PENALTY

In my opinion, cases like the ones I have described graphically illustrate the need for a federal death penalty.

Recent events at Marion have been a tragic experience—not only for the families involved and the slain officers' friends and co-workers, but for all of us in federal law enforcement. What could make these tragedies even more appalling would be a determination that those responsible were already serving life sentences and are in effect immune from any further sanction for their acts. They could then sit back and scoff at a Criminal Justice System which is powerless to deal with their actions. Nothing short of total and complete isolation could prevent them from striking out again at inmates or officers for the rest of their lives. That degree of isolation is of questionable practical or constitutional validity.

Where assailants are already serving multiple consecutive life sentences, they can act with impunity since a life sentence is the most severe penalty that the Federal Criminal Justice System presently authorizes as punishment for murder. One more life sentence means absolutely nothing to them.

Without debating the arguments justifying the various theories of criminal sanctions—retribution, deterrence or incapacitation—individuals serving life sentences are immune from further punishment. Repeated, barbaric acts against both staff and inmates demonstrate that they are not deterred from further violence. Another life sentence adds nothing to the scales of justice. They are already incapacitated to the maximum extent which our system allows.

What we have at present, Mr. Chairman, is a situation of capital punishment which rests in the hands of the most vicious prisoners. We in the Criminal Justice System are powerless to act. It is they who choose to execute others while society remains silent. It is that sense of powerlessness which frustrates those of us involved in the administration of the Federal Prison System. For the multiple murders they have committed and for their victims, there is no justice because the assailants are not punished. For those who must come in contact with these individuals for the rest of their lives, there is no safety because there is no deterrence.

While I have not come to my conclusion quickly or without considerable soul searching, I believe that society can demand the death penalty for the repeated taking of human lives. The tragic murders of the correctional officers at Marion dramatically illustrates the need for that ultimate sanction. In my opinion, inmates who murder, then murder again, must be held accountable for their violent actions.

Mr. PERCY. Mr. President, will the Senator yield for a comment?

Mr. DIXON. I am delighted to yield to my distinguished colleague, the senior Senator from Illinois.

Mr. PERCY. Mr. President, I read with great interest the Tribune editorial, and it stated a position that I have long held.

I have in the past taken positions against the death penalty because murder so many times involves an emotional response. Sometimes it is within families. I think we have to be extremely careful about the State imposing a death penalty.

But in the case of someone in prison for life what has he to lose? He can make attempt after attempt after attempt and take life after life after life of prison guards and still his penalty would not be any worse than he now has.

So these prisoners have no incentive not to move forward and commit murder.

I strongly support the Senate enacting legislation along the lines that has been proposed in the Tribune editorial and I commend the editorial board on reaching that conclusion.

Mr. DIXON. I thank my senior colleague for his remarks and point out how correct he is.

Mr. President, one of the murders that took place took place in view of dozens of witnesses in broad daylight. The inmate simply stabbed to death a guard, stabbed him 40 times in the presence of dozens of witnesses. I think it is just shocking and outrageous, and what my colleague and dear friend, the senior Senator, said is certainly correct. Those folks have no deterrent of any kind to prevent them from killing, killing, and killing.

I again urge my colleagues in the Senate to bring up this crime package before we go home.

Mr. BYRD. Will the distinguished Senator from Illinois yield?

Mr. DIXON. I am delighted to yield to my distinguished friend, the minority leader.

Mr. BYRD. I compliment the Senator for his statement. We had talked about it earlier. I fully support what he is saying.

I am for capital punishment. There was a time in my legislative career that I was opposed to it. But I am for it.

I would not confine it just to prisoners who kill one another or who kill prison guards. I am for due process. I want the Constitution to be observed. But we are a little soft on people who are convicted of selling or giving away vital technological secrets to the Soviet Union. As far as I am concerned, they ought to be executed.

That may sound a little harsh, but we are talking about our country and its security and about letting these people off too easily.

Also, I would include premeditated murder in that. I witnessed an execution and it, as much as anything, changed my mind from having been formerly against capital punishment.

There are just some deeds that go unpunished and, because of some technicalities, the murderers are let go. I remember the Amidon case.

I remember other cases that occurred here in this area, one instance in which a man confessed to killing his wife, told the police where he had murdered her, went with the police and said, "This is the place," and, in truth, there is where he had buried his wife.

But, because he was not told by the police that he had a right not to answer questions, or whatever his constitutional rights were, as far as I know, he went scot-free. I cannot verify that today. This happened several years ago. It appeared to me at that time as a clearcut case. The man admitted he killed his wife. Why not execute him for such a heinous and premeditated murder?

Other cases come to mind. I could take quite a long time to talk about them, such as the case of Amidon, who took his wife down to a restaurant, told her he loved her, and then walked out with her to the car and he was seized by two burly men and tied up with a cord or something, thrown in the car, and his wife was taken down under one of the bridges here in Washington and raped and killed. It later turned out he had hired these two persons to do all this. I think executing him in any way—it does not make any difference to me—is just too light a punishment for a person who does such a wanton, inhuman act as Amidon did. And there are others.

I compliment the Senator.

Mr. DIXON. I thank the minority leader.

DISABLED VETERANS WEEK

Mr. WARNER. Mr. President, on November 11, with the anguish of recent battle still fresh in our minds and hearts, this Nation will observe Veterans Day. The recent events in Lebanon and Grenada serve as stark reminders of the price we pay in the defense of freedom. Several hundred of our country's finest young men have just made the ultimate sacrifice in support of the ideals on which this Nation was founded. Still many others now bear the scars and pain of wounds suffered in service to their country. They join over 2 million of their comrades who bear the burden of disabilities received in previous wars, conflicts, hostilities, and incidents.

This year, we are honoring this very special group of Americans in conjunction with our observance of Veterans Day. The week beginning November 6 has been proclaimed "National Disabled Veteran's Week." During this week, it is appropriate for us to honor the special debt we owe to those who not only served their country, but also continue to endure the pain and penalties of disabilities they received as a result of their service. Their continuing and visible bravery serves as an inspiration to all our citizens in the struggle to reject tyranny and the repression of freedom.

This special group of veterans knows full well the cost of liberty. Many have experienced the terrifying hell of combat to protect us. They have endured the hardships of separation from loved ones. They have served in times when such service was less than popular in many eyes. For that, they suffered a unique torment, defending those who failed to see the need for defense, let alone the price at which it comes. Through all this, they have been faithful and steadfast in their devotion to our liberty and the ideals of our Nation.

Though we have singled out disabled veterans, it is important that we not dwell on the adjective, "disabled." Every human being, regardless of disabilities or other disadvantages, has much to offer. There have been many examples of giants in history, who incidentally also suffered from war-inflicted, accidental or congenital handicaps. Names such as Admiral Nelson, Helen Keller, Thomas Edison, and Robert Louis Stevenson are familiar to us all. Each bore his or her disability and continued to make outstanding contributions to mankind. Our disabled veterans should be recognized not only for the special price they have paid, but also for the continuing contributions they are making.

Rudyard Kipling, about the turn of the century, wrote of the British soldier in his poem "Tommy;"

For it's Tommy this, an' Tommy that, an' "Chuck 'im out, the brute!"
But it's "Savior of 'is country" when the guns
begin to shoot.

A nation cannot, during peacetime, forget the sacrifices of its defenders. If it does, it, too, will soon be forgotten. Each Veterans Day is living testimony that America still cherishes the sacrifices of its heroes. National Disabled Veterans Week is testimony to the very special respect we have for those whose painful sacrifice will continue through all their lives.

TRIBUTE TO ANNA GEAR—NATIONAL PRESIDENT OF THE AMERICAN LEGION AUXILIARY

Mr. TRIBLE. Mr. President, my friend and constituent, Anna Gear of Hampton, Va., was recently elected to the office of "National President of the American Legion Auxiliary." This is an important national organization of over 1 million mothers, wives, sisters, daughters, and granddaughters of Legionaires and deceased veterans.

I applaud the good work of the American Legion Auxiliary and I am proud of Anna Gear. Let me quote from the Auxiliary's National News introduction of Anna Gear:

For Anna, the Auxiliary is an extended family where she has been involved since joining as a bride and finding a place where she and her husband could work as partners for something they both believed in—the family and America.

Tall and stately, she has great respect for the traditions and pagentry of the Auxiliary but she doesn't stand on ceremony. She has vowed that she will be "Anna Gear, Auxiliary member first and National President, second" this year.

A native of Virginia with a soft Tidewater accent, she has a keen sense of humor and her eyes often telegraph her feelings, twinkling before she breaks into a smile or fills with compassion.

I cannot think of a finer description of Anna Gear and I cannot think of a more important theme for our life and times than the family and America.

If we are going to recapture the spirit of ardent patriotism, joyous adventure and religious zeal that mark the beginning of America, it must begin at home with our families. It is there that our children must learn to love God and country, to honor our responsibilities of citizenship, and to meet the challenges of our day.

America! Today we gather at a solemn time in our national experience. Around the world—from the mountains of Afghanistan, to the streets of Warsaw, to the steaming jungles of Central America—freedom is under assault. We live in a hard world and America must be strong and vigilant. That is the price we must pay, if we are to remain free and insure a safe and secure world for our children and our children's children. Peace is what we seek. Peace in our time and peace for all times.

The family and America! Mr. President, as a fellow Virginian and friend of Anna and Tommy Gear, I applaud her election, take pride in her accomplishments, and pray that God will grant her strength and purpose as she undertakes her important duties as National President of the American Legion Auxiliary.

FARMERS NEED THE IMF

Mr. HATFIELD. Mr. President, I would call the attention of the Senate to an article written by Senator MARK ANDREWS and published in the New York Times, November 7, 1983. The article is titled, "Farmers Need the IMF."

Senator ANDREWS has skillfully woven the complex issues of international trade, Federal deficits and the survivability of American agriculture into a well-reasoned and compelling argument for supporting increased

U.S. participation in the International Monetary Fund.

Senator ANDREWS, a leading voice for the American farmer has been a critic of the growing budget deficits. His support for the International Monetary Fund is consistant with his stand to decrease the Federal deficit, decrease the balance-of-trade deficit and keep the United States on the road to a sustained economic recovery.

As Senator ANDREWS stated:

The severity of the problems and the necessity to resolve them are too important to leave to chance and random events.

I ask unanimous consent that the Senator's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FARMERS NEED THE I.M.F.

(By Mark Andrews)

WASHINGTON.—I've usually opposed an increase in United States contributions to the International Monetary Fund, and voted against one last June. Many of us did not want to vote for what looked like an increase in foreign aid funding when vital domestic programs were suffering funding cutbacks. But when the House-Senate conference committee proposal reaches the Senate floor, I will support increased participation. My primary reason can be summed up in one simple sentence: American agriculture needs the I.M.F.

There is no question that our economy is increasingly dependent on world trade. Healthy levels of agricultural exports are essential to close the disturbing balance-of-trade deficit, which was $5.8 billion for September alone. Once we take action to shrink that deficit—once we increase the gross national product by increasing the demand for American goods and services abroad—we will be well on the way to lowering the national debt, shrinking the overall Federal deficit and bringing interest rates down.

The United States exports 20 percent of what it produces. Of that, 29 percent goes to less-developed countries. But the market for exports has fallen dramatically since the onset of the less-developed countries' debt crisis. We will suffer perhaps the equivalent of a $20 billion loss in the gross national product this year because such countries no longer can afford to buy our products. This loss translates into a $7 billion increase in the Federal deficit, which continues to undermine the prospects for our economic recovery.

The high price of oil, skyrocketing interest rates, unprecedented inflation, declining world export prices for primary products and the industrial world's worst recession since the 1930's have contributed to the liquidity crisis of most less-developed countries that are borrowers. This crisis is doubly hard on our farm belt.

First, farmers must deal with increased costs of production. Second, developing countries are unable to buy our food products. From 1981 to 1982, Argentina, Mexico, South Korea and Brazil—the four largest debtors among the less-developed countries—cut back purchases of our agricultural goods from $6 billion to $3.2 billion.

Agricultural exports to Mexico alone fell by $1.3 billion in 1982. This is estimated to have cost 31,000 jobs. Sales to Mexico of malt and barley, of which North Dakota is the largest producer, fell 99 percent from fiscal years 1981 to 1982; those barley exports returned almost to pre-crisis levels after a special I.M.F. program for Mexico took effect in 1982.

Many critics argue that increasing the quota and credit line to the I.M.F. simply bails out big banks. While this is an easy political position, it is simply not accurate. Of the $650 billion of less-developed countries' debt, about a third is owed to banks around the world and less than a sixth to American banks. Robert Solomon, a Brookings Institution economist, notes that when private banks first made these loans, the countries were excellent credit risks because of impressive 10-year economic records.

The Bank for International Settlements, in Switzerland, recently reported that during the second quarter of 1983 there was an increase in private bank lending to third world nations that are not oil exporters: Loans increased from $1.6 billion in the first quarter to $4.2 billion in the second. The bank warned that hope for world economic recovery might be punctured later this year if private banks refuse to continue lending to debt-burdened developing nations. This refusal would force those nations to further reduce imports from the industrialized world, preventing any revival in world trade. But private banks can hardly be persuaded to make the necessary loans without the I.M.F.'s providing bridge loans to help carry those nations through periods of financial strain.

Increased funding for the I.M.F. would not come from tax revenues. Nor would the funding increase the Federal deficit. But the funding would help support, in conjunction with private lenders, the development of projects necessary to increase the standard of living—including food, education and health care—for millions of people. Too often, poverty leaves developing nations open to military exploitation.

Our 20 percent share of the International Monetary Fund's capitalization is only a small part of the total world share. By increasing our participation in concert with other industrialized nations that are increasing theirs, including the oil-producing states, we all will seek a solution to the world's monetary, trade and resource problems. The severity of those problems and the necessity to resolve them are too important to leave to chance and random events.

LESSONS TO LEARN FROM JAPANESE INTERNMENT

Mr. INOUYE. Mr. President, the Christian Science Monitor published an article which I believe is an excellent summary of the lessons to be learned from one of our Nation's most tragic errors—the internment of thousands of Japanese American citizens and resident aliens during World War II.

As the author of the article points out, the decision to intern was not made in a vacuum. It cannot be dismissed as a justifiable response to wartime hysteria, and the evidence clearly shows that Japanese Americans living on the west coast at the time comprised no military or security threat.

Professor Irons' book and the report of the Commission on Wartime Relocation and Internment of Civilians both support the conclusion that the decision to forcibly relocate approximately 120,000 Japanese Americans was made solely on the basis of race. As such it is indeed an "ugly blot on U.S. constitutional democracy," and, lest we repeat this tragic error, we must take all the necessary steps to insure that prejudice never again obscures our commitment to upholding the constitutional rights of all our people. One of the steps is the enactment of legislation to redress the injustice suffered by the former internees, which some of my colleagues and I will be introducing in the next few weeks.

I ask unanimous consent that the article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Nov. 11, 1983]

RACISM IN THE U.S.: LESSONS TO LEARN FROM JAPANESE INTERNMENT

(By Curtis J. Sitomer)

Fred Toyosaburo Korematsu has been legally vindicated. It took almost 41 years. But the US Department of Justice has now asked that Mr. Korematsu's 1942 conviction for violation of wartime evacuation orders be set aside.

A native-born American of Japanese ancestry, Mr. Korematsu—along with 100,000 other Japanese-Americans—was ordered by the United States government to leave his home and report to a relocation camp. Korematsu, then a shipyard welder living in San Leandro, Calif., refused. He moved to Oakland, where he was eventually apprehended and convicted of breaking federal law. Along with two others, he appealed. But the US Supreme Court upheld the conviction.

Today that forced relocation of Americans, solely on the basis of their ethnic backgrounds, is seen as an ugly blot on US constitutional democracy. In recent years there have been efforts to make amends for it. Commissions were set up to investigate the circumstances and injustices of the relocation. The Executive Order that called for internment was rescinded by presidential proclamation in 1976. In 1980, Congress prohibited the detainment of any citizen without a specific act of Congress. Financial compensation was awarded to some of the aggrieved. And last month the Justice Department, in its request that the Korematsu conviction be dropped, affirmed the "inherent right of each person to be treated as an individual."

But there's still the matter of reversing the Supreme Court ruling.

Peter Irons, a University of California political scientist and practicing lawyer, feels there are grounds to do so. He has been looking into the internment cases. He's uncovered a possible government cover-up that may have involved suppression of evidence and other high-level misdeeds related to the relocation decision. He has written a book about it—"Justice at War: The Story of the Japanese American Internment Cases" (Oxford University Press).

Professor Irons was instrumental in the reopening of the Korematsu and other cases. Now he's seeking a court order acknowledging that the original Executive Order and attending military orders which

led to the internment were, in fact, unconstitutional.

If this ruling comes, a not-so-just chapter in American history will be closed. Or will it?

Regardless of the court's final ruling, there's the unfinished business of combating racism in America. Its ugly head popped up 40 years ago in the flurry over Japanese-Americans. Since then it has shown itself repeatedly—during the Iranian hostage crisis, for instance, when some observers suggested that Iranian-Americans be taken into custody in retribution for the acts against Americans in Iran, and today in disputes regarding the rights of blacks and Mexican-Americans.

Arguments of the 1940s sound uncannily current: you can't tell a Japanese-American from a Japanese national; in a crisis, they're sure to be loyal to their ethnic roots; surely some Japanese-Americans are part of spy networks transmitting US security data to Tokyo.

Even such noted liberals and civil libertarians as Franklin D. Roosevelt, Tom C. Clark (later a Supreme Court justice), columnist Walter Lippmann, and then-California Attorney General Earl Warren expressed these views.

Yet Professor Irons's research and the testimony of government officials have pierced the disloyalty balloon. Wartime FBI and Justice Department reports indicated no such espionage efforts, Irons contends, but this information was kept from the decision-makers, the public, and the courts. Resentment and suspicion against Japanese-Americans were regarded as useful for military and political purposes.

Could these events recur today? Unfortunately, yes. People who look "different" are still potential targets. It's just too easy—on the flimsiest of evidence—to stereotype groups or identify individuals with political movements and regimes.

The ultimate solution, of course, is to stop seeing color, race, or nationality as automatically divisive factors. One strength of America is its diversity. Racism, fear, and hysteria are counterproductive in its free system. They only serve to contaminate it.

The United States deserves credit for making legal amends to Fred Korematsu. Justice came late—but it did come. In many parts of the world, it would not have come.

But full vindication for the Japanese-Americans will arrive only when we learn that, even in times of crisis, we must guard against prejudice and keep uppermost our commitment to law and justice.

CARDINAL BERNARDIN RECEIVES 1983 ALBERT EINSTEIN PEACE PRIZE

Mr. KENNEDY. Mr. President, today Joseph Cardinal Bernardin, Archbishop of Chicago, was awarded the 1983 Albert Einstein Peace Prize. As the chairman of the Ad Hoc Committee on War and Peace of the National Conference of Catholic Bishops, Cardinal Bernardin directed the preparation of historic pastoral letter of the American Bishops, "The Challenge of Peace: God's Promise and Our Response." I can think of no more fitting recipient of this award by the Albert Einstein Peace Prize Foundation, and I request that the text of Cardinal Bernardin's eloquent and preferred acceptance address, delivered today in Washington, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ACCEPTANCE ADDRESS, 1983 ALBERT EINSTEIN PEACE LAUREATE

(Joseph Cardinal Bernardin, Archbishop of Chicago)

It is a high honor and a distinct privilege to receive the Albert Einstein award. The honor is to be measured by the genius and humanity of the man in whose name the award is given and by the goal of peace to which the award is dedicated. The privilege is to be associated with the previous recipients of the Einstein award. For the honor and the privilege I express my deepest gratitude. I accept this award in the name of the National Conference of Catholic Bishops and particularly in the names of the other bishops who served on the drafting committee: Bishops George Fulcher, Thomas Gumbleton, John O'Connor and Daniel Reilly.

I am grateful, too, for the opportunity to give this address, even though preparing for it proved to be a rather difficult assignment. This was so for two reasons. First, I am acutely conscious of the contributions which previous Einstein award addresses have made to the public debate. Second, the audience which assembles annually for this ceremony represents a distinguished body of wisdom and experience on questions of war and peace in the nuclear age.

Nevertheless, I appreciate the opportunity to reflect upon the message of the pastoral letter, "The Challenge of Peace: God's Promise and Our Response." It is meant to have long-term value, but this requires that its contents be reviewed and related to changing issues.

I shall address three themes: the pastoral letter after six months; arms control after twenty years; and the public, politics and morality—the next twenty years. Throughout, I shall examine the relationships of public opinion, policy, and morality.

I. THE PASTORAL AFTER SIX MONTHS

The pastoral letter was passed by the Bishops by a vote of 238-9 last May 3. Its purpose was to make a moral/religious assessment of the challenge of the nuclear age. We wrote as bishops within the Catholic moral tradition and as citizens within the American political tradition. The political and strategic complexity of the nuclear age beggars our intellect and imagination. The effort to examine this complexity within the structure of moral reason, informed by the light of the Christian gospel, stretches the resources of faith and reason. Neither the peril of the nuclear age nor the paradoxes of nuclear strategy are lessened when the perspective is moral analysis rather than political or technical.

In many ways both the dangers and the dilemmas are magnified when the assessment is cast in terms of what we ought to do morally rather than in terms of what we can do technically. In essence, the question pervading the entire analysis of the pastoral letter is a product of the technological character of the age: When we can do almost anything, how do we decide what we ought to do?

The pastoral pursues this theme through the arcane logic of the nuclear argument. Its position can be sketched in a series of propositions. Strategically, it classifies nuclear weapons in a category qualitatively distinct from other weapons. One reason for this distinction is the radical skepticism expressed throughout the letter about the ability to control nuclear weapons within morally meaningful limits.

The pastoral proceeds to state a series of moral judgments about these unique instruments of destruction:

On the basis of principle, it forbids directly intended attacks on civilian populations even in retaliation for attacks on our own civilian centers;

On the basis of prudential judgment; it opposes any first use of nuclear weapons;

While expressing the most extreme skepticism about morally acceptable uses of nuclear weapons, the letter provides a carefully defined justification for the strategy of deterrence. The terminology—"strictly conditioned moral acceptance" of deterrence—is meant to acknowledge the significance of deterrence in a world of nuclear superpowers and to specify the inadequacy of this strategy as a long-term basis for peace. The conditional acceptance of deterrence is designed to challenge the idea that it promises a secure future and yet to give space for that challenge to be worked out. A previous Einstein award recipient, McGeorge Bundy, caught the sense of our moral analysis when he commented: "In our current debate (the Bishops') strict conditions may be more significant than their approval."

Having sketched the strategic and moral character of the era of deterrence, the Bishops propose a political response. They advocate a broad range of arms control measures designed to cap, contain, and reverse the quantitative and qualitative growth of nuclear arsenals. The objective is not simply standard pursuit of arms control, but a larger effort to displace the deterrence dilema with a more secure basis, morally and politically, for national and international security.

The pastoral was written to address both the general public and the specific forum of the policy debate. At the level of the general public, it is now being communicated through the normal channels of the Catholic Church's diocesan, parish, and educational system. In the long run, such activity may be our most significant contribution, for the letter addresses Catholics as citizens, parents, and professionals in many walks of life. While the Bishops expected a substantial response to the letter within the Church, a surprise awaited us in the widespread public interest shown by other Christian churches, sectors of the Jewish community, the scientific and university worlds, and the national media. Attention in these circles does not mean universal agreement, but, rather, serious consideration of the arguments made in the letter.

In the policy community, the letter's fundamental contribution has been to open space in the policy debate for explicit analysis of the moral dimension of policy. As many of you know, during the writing of this letter we had a series of public exchanges with the U.S. Government. This kind of church/state examination of the moral quality of public policy is crucial to test the moral status of prevailing policy. We profited from the exchange even though several substantial areas of difference emerged—from "no-first-use" through the comprehensive test ban treaty.

It does seem to me that in the last year the rhetoric surrounding nuclear policy has been significantly restrained and the emphasis placed on arms control has increased.

While many factors, I am sure, contributed to both of these developments, it seems that public pressure—not least in its moral assessment of policy—has been a crucial catalyst.

The deeper dilemma of deterrence remains, however, and the pastoral urges that the very structure of the deterrence relationship be addressed. Hence, I wish to leave the assessment of the pastoral and concentrate on where the past twenty years have brought us and where the next twenty may take us.

II. ARMS CONTROL AFTER TWENTY YEARS

I use the period from 1963-1983 for two reasons. First, the twentieth anniversary of the Limited Test Ban Treaty is significant because the treaty is properly regarded as the fruit of serious arms control policy and it was seen as the first of several steps to reverse the nuclear arms race. Second, in 1963 Pope John XXIII wrote the encyclical "Peace on Earth," a document which has had a profound effect within the Catholic community on issues of war and peace. The firm "no" to nuclear war found in the American Bishops' pastoral is prefigured in the argument of that encyclical.

Twenty years of effort on arms control have not produced startling results. It would be all too easy to disparage both the process and its basic concepts. The pastoral letter itself is not expansive about arms control; it places primary emphasis on the need to go beyond anything yet accomplished. Nonetheless, our expectations of arms control are themselves a tribute to its success. We need periodically to think about the kind of competition we would have if arms control negotiations had not been pursued over the past twenty years.

Our problem, therefore, is not that nothing has been done. It is the gap between what has been done and what must still be done for the clear and present danger to be replaced by a more stable peace. The hope which accompanied the Limited Test Ban Treaty and the moral imperative stated by John XXII—"that the arms race should cease" and "that nuclear weapons should be banned"—have not been realized. Why have the hopes not been fulfilled?

One factor, not sufficiently emphasized in my view, is the fact that the general public has given only sporadic attention to arms control and disarmament. In the pastoral letter the Bishops described a "new moment" in the nuclear age, marked by the increased public awareness of these questions. They called attention to Pope John Paul II's statement that a vigorous public opinion is central to a morally enlightened public policy. We must, however, be especially conscious just now, when the public is acutely sensitive to the nuclear issue, that previous periods of public interest have been followed by long stretches of public apathy. When apathy prevails, policy lacks both the discipline and the support afforded by public opinion.

Unscrutinized policy decisions are among the costs of public apathy. In reviewing the last 20 years, few decisions appear more fateful for arms control than the deployment of MIRVed missiles by both superpowers. Questions remain even to this day about why the U.S. failed to seek a ban on MIRVing when we had the technology and the Soviets did not. Without trying to solve the historical question, I simply want to use the MIRVing decision to exemplify why arms control is not today at the point one might have hoped.

The decision was taken without widespread public interest. Indeed, by comparison with the intense debate of the last several years surrounding deployment of the MX, the relative silence about MIRVs in the 1970s is all the more striking. If an earlier Scowcroft Commission had aired the implications of MIRVed missiles, the 1983 Scowcroft Report might not have had to call for retreat from a 10-year buildup of MIRVed missiles.

Public apathy and policy mistakes are complemented by a third factor: the U.S.-Soviet relationship. There is a fundamental connection between the political level of superpower relations and their strategic content. It was a common experience during SALT II to find 75% of the American public in favor of arms control and an equally high number profoundly skeptical of our ability to deal with the Soviets. This pervasive mistrust—identified in 1963 by Pope John XXIII as a root cause of international tension—is fueled by objective events and subjective perceptions. Events like the destruction of the Korean airliner give anyone pause about the capacity for cooperation. But our own policy definitions—like a comprehensive doctrine of linkage as a test for any progress on arms control—can also set standards virtually impossible to meet. Such a doctrine ties the pre-eminent aspect of U.S.-Soviet relations—their need to curb their military competition in their own interests and the interests of the world at large—to issues which, though no doubt important in themselves, are nevertheless peripheral by comparison.

While these three factors do not constitute an exhaustive explanation of why the hopes of 1963 remain frustrated in 1983, they do provide some criteria for assessing where we have been.

This sketch brings us, of course, to the chapter of arms control entitled START (Strategic Arms Reduction Talks) and INF (Intermediate-range Nuclear Forces). One can readily sympathize with the great difficulty of carrying these talks forward in the present climate. At the same time, we need to evaluate INF and START in 1983 in terms of the overall priority accorded them in U.S.-Soviet relations. Although we are now deep in the negotiating process, precious time was lost in getting to this point. The larger issue is the priority given arms control on a sustained basis in U.S. policy. Obviously, our political differences with the Soviets fuel the strategic competition. But the complex task of moderating and reversing the dynamic of the strategic dimension must be pursued consistently as a priority across administrations. Arms control should be insulated from the multiple factors which make the superpower political relationship volatile and unpredictable.

III. PUBLIC, POLICY AND MORALITY—THE NEXT TWENTY YEARS

The last twenty years have been a mix of success and failure; nuclear weapons have not been used, but the nuclear relationship has grown more dangerous. Speculating on the next two decades from the perspective of the pastoral letter, my concerns are: (1) nuclear politics and public understanding; (2) nuclear technology and policy choice; and (3) nuclear nations and the needs of others.

A. Nuclear politics and public understanding

The Bishops describe their perspective on the U.S.-Soviet relationship as one of "cold realism." At first that may not sound appropriate for pastors of the Christian gospel. But one function of theology has been to teach us how to read history soberly—not devoid of hope, but not deceived by easy optimism. The cold realism of the letter has particular relevance for the way policymakers and the public understand our political situation in a deeply divided world under the nuclear threat.

Cold realism recognizes the divided character of our international life and the ever-present possibility of open conflict. Indeed it affirms, sadly but surely, that some use of force in international relations can be justifiable. But then it makes some distinctions.

Cold realism rules out crusades and definitions of the world which lead to a crusading mentality. It resists, therefore, simplistic definitions of the world cast in terms of unqualified good or evil. From the perspective of this kind of cold realism the pastoral acknowledges the depth of U.S.-Soviet division, based on differences of history, philosophy, and ideology, and then affirms the existence of a narrow band of common interests upon which efforts to contain the nuclear arms race should be based.

This cold realism is very much in line with Pope John XXIII's encyclical which encouraged Catholics to work with others whose worldview is not ours but who share our nuclear fate and future.

This reflection speaks directly to nuclear politics and public understanding. Realism today requires that we understand our divisions but not be blind to our mutual interests. Realism requires the capacity to recognize hard facts and to make fine distinctions. It calls us to face the dual truth that nuclear conflict would be irrational, but all conflict is not therefore impossible. We can cooperate with the Soviets where we share common ground and dispute with them on other grounds. Realism would be served if these other grounds were precisely and wisely defined so that all conflict in the world is not seen as superpower conflict. But that is a topic for another time.

Realism in our public understanding of the nuclear age should not seek to establish a detailed consensus in the United States on all aspects of the U.S.-Soviet relationship. It should instead seek a narrow but firmly held set of shared convictions which could undergird a coherent arms control policy over the long-term. Such a consensus might seek support for the following prepositions:

The use of nuclear weapons is not a rational moral goal; Deterrence is, but as a transitional strategy.

Arms control is not a function of trust nor a favor to others; it serves mutual interests in avoiding the use of nuclear weapons.

Negotiation is hardly the only form of risk-taking in a nuclear age; we may risk much more by refusing to give arms control a consistent priority.

B. Nuclear technology and policy choice

I began by suggesting that the relevant moral question concerns the tension between what we can do technologically and what we ought to do morally. The relationship of technology, politics, and moral choice is a central theme in the pastoral letter. It is also the way in which John Paul II defines the challenge of the nuclear age. How is political choice to direct technology—and moral choice to direct politics?

I have already noted the decision to proceed with MIRVing in the 1970s. The decisions of the 1980s involve similar questions of politics and technology. These decisions are undoubtedly shaped and driven by the

wider political atmosphere of superpower relations.

We define MX as a response to Soviet 18s and 19s; we describe Pershing IIs as a response to SS-20s. The political logic of these decisions is clear; the strategic logic is widely debated. Some see in the MX a dangerous response to a bad decision by the Soviets to deploy weapons with first-strike characteristics. Others focus on the Pershing II deployment as more dangerous than MX in its impact on Soviet perceptions and plans.

In the pastoral letter we accorded a real but narrow justification to deterrence. That justification hangs almost totally on the role of the deterrent in preventing the use of nuclear weapons in a politically divided world. But marginal justification of deterrence is contingent upon containing the character of the deterrent to the specific function of preventing nuclear war. Every increment to the deterrence arsenal must be tested by this question. Additions which may have political utility or allow us to match the other side symmetrically, but which increase the danger of the deterrence relationship should not escape very careful public scrutiny. I will not engage here in a detailed discussion of these proposed deployments, but I wish to set them in the context of what we have learned from the MIRVing decision of the 1970's. We should not have to recoup in the 1990's what might be salvaged for arms control by a decision in the 1980's.

C. Nuclear nations and the needs of others

A final theme of the pastoral must be mentioned here in light of the next 20 years. The nuclear dilemma is so dangerous and so devilishly complex that it can mesmerize us. It is a central aspect—perhaps the central aspect—of superpower relations. But much of our increasingly interdependent world lives daily with other challenges, some no less stark.

Avoiding nuclear war is a central moral and political task of our time. It is not the only moral and political challenge. Part three of the pastoral letter addresses the question of building the peace under conditions of interdependence. The recently released estimates on global military and social expenditures described a world in which $660 billion is spent on armaments in a world marked by grinding poverty and injustice.

I do not wish to make this point as a footnote to an address on the nuclear question. I am simply saying that many in the world live close to death, but the potential destructiveness of nuclear arms is not the only reason. We cannot forsake the quest for nuclear peace, but neither can we confine our foreign policy to that alone. While the specifics of the non-nuclear challenge are a matter to be considered another time, they are to central simply to be ignored here.

I close, however, on a more personal note. I come to accept this award as a bishop—a person of faith entrusted with the teaching and preaching of Catholic faith. The experience of drafting the pastoral letter opened a whole vista of problems for me that tested my capacity for understanding, imagination, and insight. Many of you have spent your lives struggling with these questions, seeking to contain and control power through the resources of reason. I stand in admiration of your efforts; the entire Catholic tradition respects this use of the resources of reason.

But the experience of the last two years has constantly forced me to draw on the resources of faith as well—on trust in a God Who so loved the world He sent His Son to save it, on the power of prayer which sustains us when the resources of reason are stretched to their limit. Perhaps the most significant aspect of faith in this process has been the need I have experienced to rekindle in myself and others the virtue of hope. The danger, size, and complexity of the nuclear question tend to paralyze us. Hope gives us the capacity to sustain courage, conviction, and constancy in the face of issues which transcend our individual capabilities. Several themes sustain my hope; my faith is the principal source, but the spirit of a man like Einstein is also a beacon of hope. May the universal day of prayer to which the Einstein Foundation has called all the religious communities of the world, and which I personally and wholeheartedly commend, be itself a source of the hope we all need in the pursuit of world peace.

NAVY ANTIDRUG EFFORTS

Mrs. HAWKINS. Mr. President, in recent years, we have been following the unfolding story of illicit drug use by members of the military. We have all seen the headlines and heard the stories about drug abuse that are frightening. We are living in a time when military readiness and national defense are of paramount concern. According to a 1980 DOD survey, the incidence of drug abuse had risen to shocking levels.

The Navy's genuine concern for this unsatisfactory situation was the impetus for an aggressive, multifaceted campaign, embarked on in 1981, to combat the negative effects of drug abuse. Navy literally declared "War on Drugs" and focused efforts in a comprehensive 10-point program designed to improve their ability to control drug abuse through strengthened actions in the areas of preventive education and training, aggressive detection and deterrence, expanded assessment and evaluation, and improved treatment and rehabilitation for those with potential for continued useful service. This program provides help for those on drugs who want to get off, and provides assistance for those unit commanders who want the intractable drug users and drug sellers detected and punished as they ought to be. The twin actions of enlightened leadership and peer responsibility have been key to the success of the Navy program.

The effectiveness of the Navy program is reflected in the results of the most recent DOD worldwide survey of nonmedical drug use and alcohol use, conducted in 1982 and recently released. Mr. President, I ask permission to enter two statistical tables into the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 31.—COMPARISON OF ANY NONMEDICAL DRUG USE DURING THE PAST 30 DAYS FOR 1980 AND 1982 WORLDWIDE SURVEYS

Pay grade/survey	Service								Total DoD	
	Army		Navy		Marine Corps		Air Force			
	Percent	Error	Percent	Error	Percent	Error	Percent	Error	Percent	Error
E1–E5:										
1980 survey	41		48		48		21		38	
1982 survey	34.3	(2.2)	20.9	(3.1)	25.3	(1.5)	18.1	(1.4)	25.6	(1.3)
t_q	−1.81		[1] −5.02		[1] −8.98		−1.28		[1] −5.66	
E6–E9:										
1980 survey	6		6		5		2		5	
1982 survey	8.5	(.8)	3.1	(.7)	3.1	(1.0)	2.2	(.4)	4.8	(.4)
t_q	[1] 2.23		[1] −2.21		−1.13		.33		−.32	
W1–W4:										
1980 survey	5		0		[2]		[2]		3	
1982 survey	4.1	(1.6)	0	[4]	[2]	[2]	[2]	[2]	3.5	(1.3)
t_q	−.31		[3]		[3]		[3]		.26	
O1–O3:										
1980 survey	5		3		5		2		4	
1982 survey	4.4	(1.1)	2.8	(1.1)	4.7	(1.9)	1.6	(.4)	2.9	(.5)
t_q	−.32		−.12		−.10		−.61		−1.28	
O4–O6:										
1980 survey	0		0		2		1		1	
1982 survey	2.0	(1.3)	.1	(.1)	0	[4]	.7	(.5)	.8	(.4)
t_q	1.54		1.00		[3]		−.38		−.31	
Total:										
1980 survey	29		33		37		14		27	
1982 survey	26.2	(1.8)	16.2	(2.2)	20.6	(2.0)	11.9	(1.5)	19.0	(1.0)
t_q	−.95		[1] −4.26		[1] −4.84		−.87		[1] −4.75	

[1] $p < .05$. [2] Less than 20 respondents. [3] Not applicable. [4] Informative standard error not available.

Note.—Tabled values for the surveys are percentages and represent prevalence estimates. Standard errors for the 1982 survey are shown in parentheses. 1980 data are taken from Burt and Biegel (1980), table 111–82. Statistical significance is evaluated by a quasi t statistic, t_q. Details of the computation of this t test are contained in the main report.

Source: Worldwide survey of nonmedical drug use and alcohol use among military personnel.

TABLE 32.—COMPARISION OF MARIHUANA/HASHISH USE DURING THE PAST 30 DAYS FOR 1980 AND 1982 WORLDWIDE SURVEYS

Pay grade/survey	Service								Total DOD	
	Army		Navy		Marine Corps		Air Force			
	Percent	Error	Percent	Error	Percent	Error	Percent	Error	Percent	Error
E1–E5:										
1980 survey	40		47		47		20		37	
1982 survey	31.7	(2.1)	17.5	(2.8)	21.3	(1.2)	15.0	(1.1)	22.5	(1.2)
t_q	[1] −2.33		[1] −5.78		[1] −12.22		[1] −2.74		[1] −6.99	
E6–E9:										
1980 survey	5		6		5		2		4	
1982 survey	6.6	(.5)	2.4	(.6)	2.2	(2.0)	1.3	(.5)	3.6	(.3)
t_q	[1] 2.25		[1] −2.92		−.74		−.80		−.85	
W1–W4:										
1980 survey	5		0		[2]		[2]		3	
1982 survey	3.7	(1.6)	0	[4]	[2]	[2]	[2]	[2]	3.1	(1.3)
t_q	−.44		[2]		[2]		[2]		.05	
O1–O3:										
1980 survey	5		2		5		2		3	
1982 survey	3.5	(1.2)	.8	(.8)	.3	(.3)	.7	(.3)	1.6	(.5)
t_q	−.69		−.73	[1] −3.34		−1.97			−1.47	
O4–O6:										
1980 survey	0		0		2		1		1	
1982 survey	1.7	(1.2)	.1	(.1)	0	[4]	0	[4]	.4	(.3)
t_q	1.42		1.00		[2]		[2]		−.99	
Total:										
1980 survey	28		32		36		14		26	
1982 survey	23.9	(1.7)	13.4	(2.0)	17.1	(2.0)	9.6	(1.1)	16.5	(.9)
t_q	−1.45		[1] −4.94		[1] −5.34		[1] −2.33		[1] −6.09	

[1] $p < .05$.
[2] Less than 20 respondents.
[3] Not applicable.
[4] Informative standard error not available.

Note.—Tabled values for the surveys are percentages and represent prevalence estimates. Standard errors for the 1982 survey are shown in parentheses. 1980 data are taken from Burt and Biegel (1980), table III–1. Statistical significance is evaluated by a quasi t statistic, t_q. Details of the computation of this test are contained in the main report.

Source: Worldwide survey of non-medical drug use and alcohol use among military personnel.

Mrs. HAWKINS. By far the Navy has achieved the most dramatic results in reducing drug abuse levels. This reduction in the levels of drug abuse comes at a time when Navy is also achieving increases in overall unit operational readiness, personnel readiness, retention, and recruiting. Let me note that there is solid evidence that firm steps are being taken to identify and separate those people who seek profit by preying on their friends who wear the same uniform. The enthusiasm and concern expressed by commanders in eliminating this threat to our sailors' health and the readiness of personnel, is commendable. This is a consistent opinion—from the leading petty officer to commanding officer—that the Navy program is working; drug use is down. The peer responsibility in attacking the problem of drug abuse cannot be underestimated, it is indicative of the fine Navy traditions of pride and professionalism and of shipmates taking care of shipmates.

I call on all Members to applaud these efforts. We need to make it clear that our support for these great and dedicated people serving their country is unswerving in their fight to rid the service of drug abuse.

NOMINATION OF DR. WILLIAM E. MAYER TO BE ASSISTANT SECRETARY OF DEFENSE FOR HEALTH AFFAIRS

Mr. KENNEDY. Mr. President, on November 9, 1983, the Senate unanimously confirmed the nomination of Dr. William E. Mayer, M.D., to be the Assistant Secretary of Defense for Health Affairs. Dr. Mayer is exceptionally well-qualified to serve in this important post after a long and distinguished career in public health. I want to share with my colleagues a letter from the medical director of the American Psychiatric Association, supporting the nomination of Dr. Mayer.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

November 2, 1983.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The American Psychiatric Association, a medical specialty society representing over 28,000 psychiatrists nationwide, is pleased to support the nomination of William E. Mayer, M.D., to be the Assistant Secretary of Defense for Health Affairs.

Dr. Mayer has experience which spans both physical and mental health care, and military service, all of which make him an ideal candidate for this position. Most recently Dr. Mayer has served as Administrator of the Alcohol, Drug Abuse and Mental Health Administration where he demonstrated strong national leadership in research, training and services in each of the Institutes—Mental Health, Alcohol Abuse and Alcoholism and Drug Abuse—represented by ADAMHA. As chief executive officer of the APA, I had the privilege to have worked closely with Dr. Mayer during his ADAMHA tenure and it is clear that he has been largely responsible for translating multiple research breakthroughs into practical applications for treating the devastating national problems of mental illness, alcoholism and drug abuse.

Also, Dr. Mayer has a long and distinguished history of public service in the health field, including Director of the Department of Health and Mental Hygiene for the State of California and Medical Director of the San Diego County Department of Health Services, and specifically in the military health care field as Director of the Alcoholism Treatment Facility, U.S. Army Hospital, Bad Cannstatt, Germany, and Associate Chief of Staff, Veterans Army Hospital, Long Beach, California. Dr. Mayer also had a distinguished military background—with several Bronze stars and commendation medals.

The nomination of Dr. Mayer as Assistant Secretary of Defense for Health Affairs is an excellent one and I have every confidence that he would be extremely effective in this capacity. The APA would support and urge your efforts to expedite Senatorial consideration of the confirmation of Dr. Mayer's nomination. His confirmation will be greatly appreciated by all Americans.

Sincerely,

MELVIN SABSHIN, M.D.
Medical Director.

VETERANS DAY

Mr. SASSER. Mr. President, 65 years ago today, on the 11th hour of the 11th day of the 11th month, a great war was ended.

Armistice Day was established to commemorate that historic occasion. Now known as Veterans Day, it is the event we use to honor all the Americans who have fought and died for their country.

The day was chosen with care, and for good reason. We chose not the anniversary of a great battle, but the anniversary of a day of peace. All veterans understand the horrible price of war, and thus, the high value of peace. And so on Veterans Day we do not glorify war; rather, we give tribute to those who have served, and particularly to those who have died, in the cause of freedom.

Just a year ago on Veterans Day, the Vietnam Veterans Memorial was dedicated to those who so bravely fought and died for their country in Southeast Asia. Those veterans are justly honored with a list of more than 58,000 names etched in cold black stone.

At this time last year, Mr. President, we were able to hope never again to read a list of the names of American fighting men killed in action. Because of the recent tragedies in Lebanon and Grenada, we are confronted once more with those lists, and with the grim reality of the battlefield. Of those listed so far as dead, wounded or missing in action, 11 have come from my home State of Tennessee.

In the best tradition of the Volunteer State, these men were volunteers in the service of their country. I deeply appreciate and respect their willingness to make the ultimate sacrifice in the never-ending effort to bring peace to a troubled world.

Earlier this week I attended the funeral of 1st Sgt. Tandy W. Wells of Spring Hill, Tenn. Sergeant Wells was a victim of the tragedy of Beirut which took the lives of 228 other American servicemen. A man who had been his basketball coach called Sergeant Wells our newest hero. Mr. President, these men should all be honored as heroes.

Today I want to pay tribute to those gallant men from Tennessee who have recently given their lives for our country. In Lebanon and in Grenada, the blood of brave young Americans has been shed, not in vain, but in the noble cause of peace and freedom.

We are grieved by the loss of these men, but we are edified by the example of their courage.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it would appear that we are not in a position at this moment to complete action on the Civil Rights Commission reauthorization bill. I have consulted with the principals involved in that measure as well as those involved in the measure I am about to refer to in a moment. I have talked to the minority leader about the request I am about to put.

Mr. President, this is the request: I ask unanimous consent that the Senate temporarily lay aside the Civil Rights Commission reauthorization bill, which is the pending business, and proceed to the consideration of Calendar Order No. 221, S. 608, which is a bill——

Mr. BYRD. Mr. President, I cannot hear what the majority leader is saying. May we have order in the Senate?

The PRESIDING OFFICER. Those Senators conversing please take their seats.

Mr. BAKER. Let me restate the request, Mr. President, from the beginning.

Mr. BYRD. I wish the majority leader would do that.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending business, which is the Civil Rights Commission reauthorization bill, and proceed to the consideration of Calendar Order No. 221, S. 608, which is a bill to amend the Arms Control and Disarmament Act, as amended, and that there be 1 hour of consideration on that measure.

I further ask unanimous consent, Mr. President, that the control of the time be in the usual form.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object——

Mr. PERCY. Reserving the right to object, and I shall not object at all, I would like all Senators to be on notice of the intention of the managers of the bill. The Arms Control and Disarmament Agency authorization was voted out unanimously, by voice vote, by the Foreign Relations Committee. It should not raise any objection on either side. We will ask first the adoption of the committee amendments, to which I know of no objection. We will then offer an amendment promoting the current negotiator for intermediate-range nuclear forces, Paul Nitze. This amendment gives him comparable status to our representative in the strategic arms reduction talks. We will then offer an amendment to report to Congress on Soviet compliance to arms control agreements, to which I know of no objection. Then I will offer an amendment to add at the end of the bill the foreign aid bill. The Foreign Relations Committee is anxious to have this passed. The chairman of the subcommittee of the Appropriations Committee is anxious to have an authorization bill passed. But if for any reason there is protracted delay and we might not have the chance to pass the ACDA authorization, I would withdraw that amendment so that we can move ahead within the hour and adopt the ACDA bill. We may ask for a rollcall vote. I have no objection to the majority leader's unanimous-consent request. In fact, I appreciate very much the way he is proceeding.

Mr. BYRD. Mr. President, reserving the right to object, for the record, as I understand the request of the majority leader, it does not place a time limit on the bill, ACDA, or on any amendments thereto. It simply says that temporarily the Civil Rights Commission measure will be laid aside for 1 hour, during which hour consideration of the ACDA bill and any amendments thereto will be had. But the majority leader is stating that at the end of that hour, regardless of what happens, up or down, the Senate will return to the consideration of the Civil Rights Commission bill, and very definitely he is not setting an hour time limitation on the bill itself or any amendments thereto. Am I correct?

Mr. BAKER. Mr. President, that is my interpretation.

I inquire of the Chair: Is that the interpretation of the Chair?

The PRESIDING OFFICER. That is correct.

Is there objection?

Mr. BYRD. Mr. President, I withdraw my reservation, after having heard the majority leader respond.

Mr. BAKER. I thank the minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I point out to the majority leader that we have a pending unanimous-consent understanding that we would lay aside the gas deregulation bill in order to take up the continuing resolution. Then we have laid that outside on a unanimous-consent agreement in order to take up the Civil Rights Commission matter. Now we are putting that aside in order to take up the arms control matter.

I say to my good friend that I hope that those of us who want to proceed with the gas deregulation bill will have an opportunity to do so and that we at least find the window. There has been discussion among the managers of the gas deregulation bill—Senator MCCLURE, Senator KASSEBAUM, Senator JOHNSTON—with reference to having some time agreement.

I take this means of saying to the majority leader, "Don't forget. I want to remind you that this is on the minds of some of us."

I have no objection.

Mr. BAKER. Mr. President, I say to my friend from Ohio that I am ever mindful of the fact that we are stack-

ing up matters here, and I will not forget the natural gas bill. I might like to forget it, but I will not forget it. [Laughter.]

Mr. PERCY. Mr. President, I have an inquiry of the distinguished majority leader.

I did indicate that there may be a rollcall vote. Because of the time pressures, we think probably it would be best that we pass it by voice vote. In any event, it must be acted on, and I should like the majority leader's agreement that we have a vote on ACDA.

Mr. BAKER. I encourage the chairman to proceed in that fashion. This is our opportunity, and I hope we can get on with it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if I understood the chairman correctly, he would hope for a voice vote on the foreign aid matter. Is that it?

Mr. BAKER. On ACDA, too.

Mr. President, I ask unanimous consent that this time not run against the hour just provided for.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. BAKER. Mr. President, I have one other matter that I mentioned to the minority leader and that I neglected to take care of until now.

We have a message from the House on the Federal physicians comparability allowance amendments. I should like to proceed to appoint conferees on that matter, if the minority leader has no objection.

Mr. BYRD. I have no objection.

FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2077.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2077) entitled "An Act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes", with the following amendment:

In lieu of the matter inserted by said Senate amendment, insert:

That (a) section 5948(d) of title 5, United States Code, is amended—

(1) by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1985"; and

(1) by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1987".

(b) Section 3 of the Federal Physicians Comparability Allowance Act of 1978 is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1987".

SEC. 2. (a) The Office of Personnel Management shall study and, within 12 months after the date of enactment of this Act, submit to each House of the Congress a report on the effect which section 5383(b) of title 5, United States Code (relating to the maximum aggregate amount payable to a member of the Senior Executive Service in a fiscal year) has had with respect to recruitment, retention, and morale of career appointees in the Senior Executive Service.

(b) Section 3135(a)(7) of title 5, United States Code, is amended to read as follows:

"(7) for the preceding fiscal year, by agency—

"(A) the number of performance awards, and the number of ranks, conferred, as well as the respective aggregate amounts paid for such awards and ranks;

"(B) the percentage of career appointees in such agency who received any such award, and the percentage who received any such rank; and

"(C) the name of each individual who received any such award or rank, the award or rank received, and a brief summary of the reasons why such individual was selected;".

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment to the House amendment to the Senate amendment, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. STEVENS, MATHIAS, and BINGAMAN conferees on the part of the Senate.

ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 608) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments, as follows:

On page 2, line 3, strike $21,385,000 and insert $20,888,000.

On page 2, line 4, strike $21,675,000 and insert $21,932,000.

On page 2, after line 9, insert:

"(2) of the sums authorized to be appropriated for fiscal years 1984 and 1985, not less than $200,000 shall be available in each year only for the purpose of initiating and supporting a program for visiting scholars in the field of arms control and disarmament.

On page 2, after line 16, insert:

SEC. 2. The Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended by adding the following section:

"PROGRAM FOR VISITING SCHOLARS

"SEC. 28. A program for visiting scholars in the field of arms control and disarmament shall be established by the Director in order to obtain the services of scholars from the faculties of recognized institutions of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer. Fellows in the program shall be appointed for a term of one year, with a one-year extension permitted. Fellows shall be chosen by a board consisting of the Director, who shall chair, and all former Directors of the Agency.".

SEC. 3. The Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended by adding the following section:

"SPECIALISTS FLUENT IN RUSSIAN LANGUAGE

"SEC. 51. The Director is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in Soviet foreign and military policies, arms control, or strategic affairs, who also demonstrate fluency in Russian.".

So as to make the bill read:

S. 608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 49(a) (22 U.S.C. 2589(a)) of the Arms Control and Disarmament Act, as amended, is further amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1984, $20,888,000 and for the fiscal year 1985, $21,932,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctations in foreign currency exchange rates).

"(2) of the sums authorized to be appropriated for fiscal years 1984 and 1985, not less than $200,000 shall be available in each year only for the purpose of initiating and supporting a program for visiting scholars in the field of arms control and disarmament.

Amounts appropriated under this subsection are authorized to remain available until expended.".

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"PROGRAM FOR VISITING SCHOLARS

"SEC. 28. A program for visiting scholars in the field of arms control and disarmament shall be established by the Director in order to obtain the services of scholars from the faculties of recognized institutions of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer. Fellows in the program shall be appointed for a term of one year, with a one-year extension permitted. Fellows shall be chosen by a board consisting of the Director, who shall chair, and all former Directors of the Agency.".

SEC. 3. The Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended by adding the following section:

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"SEC. 51. The Director is authorized to create up to eight additional permanent personnel positions at both junior and more senior levels for specialists in Soviet foreign and military policies, arms control, or strategic affairs, who also demonstrate fluency in Russian.".

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the U.S. Arms Control and Disarmament Agency is among the smallest agencies of the U.S. Government. It has a small staff and a limited budget. The cost to the American taxpayer of ACDA is about the same as the cost of a single low-priced fighter aircraft.

Despite its size, ACDA is a key factor in arms control policy. No other single issue is as important to the American people and the people of the world. If we are to assure that nuclear weapons are never used and that this threat to mankind is reduced, ACDA must be given the resources it needs to do its job effectively.

ACDA is today engaged in several key negotiations. In the nuclear area, it is deeply engaged in the START and INF talks. ACDA is also involved in discussions on conventional force reductions in Central Europe, and it is working on solution to the threat posed by chemical and toxin warfare. Early next year, the Agency will be a key player at the Conference on Disarmament in Europe, a new negotiation concerned with confidence building measures for the entire European continent, from Atlantic to the Urals.

Mr. President, I need only refer to today's newspapers to emphasize the importance of this measure. In the key talks President Reagan has had with Prime Minister Nakasone in Japan, one of the major items taken up on their agenda was to make certain that as we negotiate in the talks in Geneva, we take into account the security and safety of the Pacific area, as we have in the past.

We must make certain that Soviet nuclear weapons are not just moved from Europe to Asia but are destroyed. The policy of destroying nuclear weapons is also the key element of the build-down we are attempting to negotiate at the START talks. This offers a way to reduce substantially the number of nuclear weapons.

I also point to the fact that, yesterday, a statement was made by Prime Minister Thatcher and Chancellor Kohl of West Germany, pointing out the impact on the world as we approach the start of missile deployments. They drew attention of the Soviet Union to the fact that the Soviets, and only the Soviets, now have the ball in their court. The Soviets can decide that they will take measures that will deter and discourage our deployment of those additional weapons in Europe, the Pershing II and the cruise missiles. But it is up to them to take positive action and forget about the French and British weapons and concentrate on NATO's new weapons. If they take those positive steps, they have it in their power to limit or indefinitely postpone or cancel deployment. So it is up to them.

Negotiations are only part of the Agency's responsibilities. For its planning to be effective, the Agency requires an active research program to deal with today's strategic problems and to those that may arise in the future.

In amending the administration's authorization request, the committee believed that an increase in funding levels for fiscal years 1984 and 1985 is warranted. The Agency must not be shortchanged in resources if it is to serve our interests in avoiding nuclear war. Therefore, the committee moved to provide $20,888,000 for fiscal year 1984 and $21,932,000 for fiscal year 1985. This amount may be greater than that originally requested by the administration, but it is consistent with authorization levels in previous years. The only increases are those making provision for inflation.

It is heartening to note that since its original request, the administration has moved toward the committee's recommendation and has called for an increase of $2,095,000 to its request. The committee's authorization provides for this increase. Indeed, it provides additional amounts that will free the Agency to effectively assist in negotiations and to conduct a thorough research program.

Mr. President, the committee's other two amendments will also aid ACDA in its vital efforts. The first amendment creates a program for visiting scholars. This will allow the Agency to bring specialists into the Agency in the physical science and other disciplines from colleges and universities, on a temporary basis. We believe that this program will provide ACDA with access to specialized knowledge relevant to its mission.

The last amendment authorized ACDA to hire specialists, at both junior and senior levels, with both fluency in Russian and demonstrated skills in military policy, arms control, or strategic affairs. It is the committee's view that the U.S. negotiating posture would benefit from hire specialists with this combination of skills. It has been noted that while Soviet negotiators are skilled in English, our negotiators often must rely on translators who lack an understanding of the issues themselves.

Mr. PELL. Mr. President, our chairman has very eloquently and well expressed the thoughts of all of us on the committee with regard to the Arms Control and Disarmament Agency.

Mr. President, I support S. 608, the Arms Control and Disarmament Agency authorization for fiscal years 1984 and 1985. As amended in committee, this bill would continue the strong financial support which Congress has given the Agency in the past.

The administration intends to spend $18,500,000 on ACDA in fiscal year 1984. I should note that, even with increases proposed by the President in August, the administration will be spending less for ACDA in fiscal year 1984 than the Carter administration budgeted 3 years ago. By comparison, the committee bill would authorize $20,888,000 in fiscal year 1984 and $21,932,000 in fiscal year 1985. This represents a modest increase of about $1,000,000, or 5 percent, in each of the 2 fiscal years. The committee was concerned that support of the critically important arms control negotiations would strain ACDA's financial resources at the levels proposed by the administration. The committee wanted to be certain that ACDA has sufficient funds to continue or expand additional arms control initiatives.

The committee also unanimously approved an amendment I sponsored establishing a program for visiting scholars in the field of arms control and disarmament. Under this program, the Director would obtain for the Agency the services for 1 year or more of scholars with the background and expertise to contribute to the Agency's work.

This program would give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the work of the Agency. The Agency would benefit tremendously from the specific efforts of fellows in the program and as well as from the closer ties with various academic institutions such a program would encourage.

The program would be bipartisan in nature, since it would be overseen by the present Director and all former Directors. The Director would chair the oversight board.

The authorization level for the Agency is more than ample to provide for such a program, which would cost $500,000 or so a year.

Mr. President, I would like to commend the Senator from South Dakota (Mr. PRESSLER) for his worthwhile amendment encouraging the Agency to seek additional employees able to speak Russian.

Mr. President, I support an amendment being offered by the chairman of the Committee on Foreign Relations which would create a second position in the Agency of Special Representative for Arms Control and Disarmament Negotiations. I expect that Ambassador Paul Nitze would be nominated to fill this position. Ambassador

Nitze has done a fine job in trying to achieve an agreement in INF. It is important to create this position to insure that the chairman of the U.S. INF delegation can serve in a senior ACDA position.

Mr. President, ACDA has gone through some very rough times in the past several years. It very much needs now to be encouraged and supported by the Congress and the administration.

The distinguished former Director of the Agency, Ambassador Gerard Smith, made a compelling case for a strong ACDA in testimony in June before the Committee on Foreign Relations:

I do not think it is too much to say that we cannot expect to have sound, strong, and vigorous arms control policies until ACDA's position in the bureaucracy is restored to something approximating that of the past. It is too much to expect that arms control programs engineered by Pentagon people whose main and, I would add, proper responsibilities are for weapons programs will be sufficient to meet the arms control needs of the country, which are now being recognized as essential, not just possibly useful.

Mr. President, I could not agree more with Ambassador Smith's sentiments. I believe this bill gives the support which is necessary for ACDA to meet its statutory responsibilities.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The first committee amendment.

Mr. PERCY. How much time remains?

The PRESIDING OFFICER. The Senator from Illinois has 25 minutes, and the Senator from Rhode Island has 26 minutes.

Mr. PERCY. Mr. President, I move the adoption of the committee amendments.

Mr. BYRD. Mr. President, there is no such motion in the Senate as to move the adoption of an amendment. I would like to know what the amendment does.

The Senator could ask unanimous consent, but what do the amendments contain? I am not against the bill, but I do not see any of my colleagues on the floor, except two, Mr. PELL and Mr. STENNIS. I would like to know what is in it.

I am not per se opposed to any amendment or anything in the bill. But this was brought up on sudden notice. I would like to have an explanation of the amendment we are talking about.

Mr. PERCY. Mr. President, the minority leader is quite right.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill, as amended, be considered as original text for the purpose of further amendment, with the understanding that points of order shall not be waived, and further only floor amendments offered by the managers on behalf of the committee shall be in order and no other amendment shall be in order.

Mr. BYRD. Reserving the right to object, I do not mean to interrupt the Senator. I thought he had finished.

Mr. PERCY. In explaining the committee amendments, I refer Senators to my opening statement. With regard to funding, the administration has moved toward the committee's recommendation on funding and has called for an increase of $2,095,000 to its original request. The committee's authorization provides for this increase. Indeed, it provides additional amounts that will free the agency to effectively assist in negotiations and conduct a thorough research program.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Yes; I object momentarily; not on my personal part, but on the part of Senators who may be interested in this matter, who may be in committee meetings, who were not alerted that the matter was to come up at this point. I think I am correct in having said this. I hope my friends, the two managers, will understand the predicament I am in.

Mr. PERCY. Mr. President, would it be in order for the floor managers to ask unanimous consent that the Senate proceed to the committee amendments?

Mr. BYRD. The Chair would automatically do that.

The PRESIDING OFFICER. The regular order is to proceed amendment by amendment.

Mr. PERCY. So we do not need unanimous consent.

FIRST COMMITTEE AMENDMENT

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

On page 2, line 3, strike $21,385,000 and insert $20,888,000.

Mr. PERCY. Mr. President, I would ask for the adoption of the committee amendments en bloc.

Mr. BYRD. I have to object. I hope my dear friend will understand that I am not objecting on my part, but I just want to make sure that Senators who have an interest in the amendments know that they are up and may be able to come over and talk to them, oppose them, support them, or whatever.

The PRESIDING OFFICER. The question now occurs on the first committee amendment.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. PERCY. Mr. President, it is the intention of the managers of the bill, because time is running very short, to limit our amendments only to those pertaining to ACDA, and not to take up as an amendment to this bill the foreign aid authorization. However, I would like to put Senators on notice that at every opportunity the ranking minority member and the chairman of the committee have an obligation to our committee. We have worked for months on the foreign aid bill. We have worked out such controversial items as El Salvador military and economic assistance, and having worked it out in such a way that we voted on it 15 to nothing, with every Senator, agreeing to that compromise. It was not totally satisfactory to everyone, but it was a compromise. Having done that kind of work, the committee really urges the leadership to allow us to proceed at some appropriate time. This is not the appropriate time. There is not time to do it.

I ask unanimous consent, Mr. President, that the committee amendments be considered en bloc, that they be agreed to en bloc, and that they be made original text for purposes of further amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, as I understand it, and for the record, the distinguished chairman of the committee has indicated that the only amendments will be the committee amendments, and that the foreign aid bill will not be called up as an amendment to this bill.

Mr. PERCY. That is correct.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. PELL. Mr. President, I would like to support my chairman in what he said. I think if we do not consider the authorizing legislation in this session, it really renders moot the whole purpose of having authorizing committees. We are left with the Appropriations Committee and the Budget Committee, playing the decisive roles, while the authorizing committees are ignored. I hope the leadership will understand what we as managers feel, how the committee feels, that there is no point in us working like dogs to get

a bill out and then have the politburo, the Appropriations Committee, take control and block our actions.

Mr. PERCY. And particularly when the administration is anxious to have this authorization bill. We made a commitment to Secretary Shultz when he called from Europe that we would adopt this bill sometime this summer. We have broken that commitment simply because we have not been able to take it up. In this case, the chairman of the Subcommittee on Appropriations for Foreign Assistance urges that we have an authorization bill. The Senate will have a stronger position in conference on the appropriations with an authorization bill behind it.

Mr. President, I move the adoption of the committee amendments en bloc.

Mr. BYRD. Mr. President, that has to be done by unanimous consent.

Mr. PERCY. I previously asked unanimous consent on that.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. They have already been agreed to en bloc.

AMENDMENT NO. 2537

(Purpose: To add provisions relating to the appointment of two Special Representatives for Arms Control and Disarmament Negotiations)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2537.

Mr. PERCY. I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I object. It is a short amendment. I would like to have it read.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the bottom of page 3, add the following:

SPECIAL REPRESENTATIVES FOR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS

SEC. 4. (a) Section 27 of the Arms Control and Disarmament Act (22 U.S.C. 2567) is amended by striking out "a Special Representative" and inserting in lieu thereof "two Special Representatives".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2)."

Mr. PERCY. Mr. President, this amendment promotes the current negotiator for intermediate range nuclear forces, Mr. Paul Nitze. Mr. Nitze has done an outstanding job under very difficult circumstances. I hope that adoption of this amendment will be a clear signal to the Soviets that the United States is committed to and wishes to continue the INF talks past the missile deployment deadline.

With this amendment, his authority would increase in general. It would also give him equal status as an ambassador to handle the INF as is currently confined on the U.S. START negotiator. I think it would be reassuring to our allies in Europe who are very anxious for the INF negotiations to go forward.

Mr. PELL. I would agree, Mr. President, with this view. With this amendment, both negotiators are on an even basis. It means that if we combine the START and the INF negotiations, as personally I hope we do some day, that Ambassador Nitze, with his years of experience, might be in line to be in charge of both.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2537) was agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2538

(Purpose: Requires report on Soviet compliance with arms control agreements)

Mr. PERCY. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2538.

Add the following new section at the appropriate place in the bill:

REPORT TO CONGRESS OF SOVIET COMPLIANCE TO ARMS CONTROL AGREEMENTS

SEC. . The President shall prepare and transmit to the Congress a report on the record of Soviet compliance or noncompliance with existing arms control agreements to which the Soviet Union is a party.

Mr. PERCY. Mr. President, this amendment calls upon the President to report to Congress on Soviet compliance with existing arms control agreements.

Mr. PELL. We have no objection to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2538) was agreed to.

Mr. PERCY. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2906.

Mr. BYRD. Reserving the right to object, Mr. President.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I know of no other amendments to the pending business, the ACDA authorization, and I believe we are ready for third reading.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments?

Mr. PERCY. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PERCY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2906, the House-passed ACDA bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The bill will be stated by title.

The bill clerk read as follows:

A bill (H.R. 2906) to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations.

Mr. PERCY. Mr. President, I move to strike all after the enacting clause of H.R. 2906 and to substitute therefor the text of S. 608, as amended.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2906) was passed.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Now, Mr. President, I move that the Senate insist upon its amendments and request a conference with the House on H.R. 2906, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Messrs. PERCY, HELMS, LUGAR, MATHIAS, PELL, BIDEN, and CRANSTON conferees on the part of the Senate.

Mr. PERCY. Mr. President, I ask unanimous consent that S. 608 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the chairman of the committee, Senator PERCY, and the ranking minority member, Senator PELL, for managing this bill at this time and doing so in a relatively brief period. It is an important piece of legislation. It is one that should require our attention, and I wish to express my personal gratitude to both of them for their handling of this matter.

Mr. BYRD. Mr. President, I hope I am not interrupting the majority leader.

Mr. BAKER. I am happy to yield to the distinguished minority leader.

Mr. BYRD. Mr. President, I join the majority leader in congratulating the distinguished manager of the bill, Mr. PERCY, and the distinguished ranking manager, Mr. PELL.

I apologize to both for being a burr under the saddle, but I felt that certain duties were incumbent upon me to protect my colleagues who might have something to say about the foreign aid matter.

Mr. PERCY. Mr. President, I should like to express to the minority leader and the majority leader my deep appreciation for allowing us to move ahead with dispatch on this measure.

I wish to indicate that we fully understand that the majority leader and the minority leader are diligent in protecting the interests of Senators. Both Senator PELL and I have been protected many, many times by them, and we fully understood why the delays were necessary. It is done in accordance with the fine procedures that both the majority leader and the minority leader have maintained, in accordance with the highest traditions of the Senate.

Mr. BYRD. I thank the Senator.

Mr. PELL. Mr. President, I thank the majority leader and the minority leader. I completely understand their problems.

I only urge—plead—that the foreign aid bill be taken up sometime this year, because otherwise it really renders absolutely needless the committee process.

I seriously ask myself, as I said earlier, why should we have Foreign Relations Committee consideration of a bill if, in the end, it is the politburo, the Appropriations Committee, that really considers it and makes decisions oblivious of our consideration?

So I hope that these thoughts will be considered.

Mr. PERCY. Mr. President, as I have said, in this case the Appropriations Committee subcommittee chairman, Senator KASTEN, is very anxious to have the authorization bill. When the majority leader was not on the floor, I reminded the Senate that we had discussed this after a call from Secretary Shultz in Europe this spring, assuring him, after I talked to the leadership and the majority leader, that we would adopt an authorization bill for military assistance around the world and foreign aid sometime before the end of the summer. This is a long summer.

I thank my distinguished colleague for his cooperation. We speak with one mind on many things—not always, but on many things—in protecting the rights of Senators and protecting the committee system, by working in an orderly procedure.

I know that the majority leader and the minority leader will do the best they can to accommodate the Foreign Relations Committee.

Mr. BAKER. Mr. President, has the hour expired?

The PRESIDING OFFICER (Mr. MCCLURE). The time for consideration of the bill has expired.

Mr. BAKER. I thank the Chair.

What is the pending business?

CIVIL RIGHTS COMMISSION ACT OF 1983

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the pending business, H.R. 2230, which will be stated by title.

The bill clerk read as follows:

A bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. METZENBAUM. Mr. President, on the hotline we just heard that there is a proposal to take up some other measure that I had not heard was a part of the must legislation package.

Civil rights legislation is pending. I think we should dispose of it up or down. I think we should move on that subject and not delay any further.

If we do not do that, then I think we should go to gas deregulation, because there are many of us in this body who would like to get that issue resolved, and I do not think it would take as long as some think but I get the feeling that every time I hear another hotline request, something new has been added.

I say that with no disrespect to my friend, the majority leader. I just urge upon him that the hour is drawing close when we are going to be crowded on the continuing resolution. Why do we not use this time to see if we really cannot pass a Civil Rights Commission measure? If we do not have the votes we do not have it.

I understand the Specter amendment is pending. I think we should vote on it and either vote it up or down. If that does not work try something else.

But just putting it aside for a measure that I gather my friend from Vermont would wish to move on is not something I am objecting to as far as his proposal, but I only wish to deal with some of those measures that were on the majority leader's must list, and that included civil rights, gas deregulation, health benefits for the unemployed, and it involves action on trying to balance the budget with the budget reconciliation measure.

But instead of that we are getting into a lot of other extraneous issues.

I guess that the distinguished majority leader has solid reasons as to why he wishes not to go forward with the civil rights matter. Since I feel strongly we need such legislation, I wonder if he could sort of indicate to this Senator why we should go off civil rights in order to take up this public buildings issue.

Mr. BAKER. Mr. President, I thank the Senator. Were he not on the minority side, I would be afraid he would run against me for majority leader. But since he is not on the majority, I do not expect he will do that. Under the circumstances, I am greatly reassured.

I do appreciate his suggestion, but I am sure he understands, as well, that with this job goes a heavy duty and responsibility to try to accommodate the wishes of the greatest number of Senators that we could possibly do.

Now, I do feel that we should go on with the Civil Rights bill. But there is a nice distinction here of whether we

go on with it for the sake of going on with it, or whether we really try to pass it. And my objective is to pass it.

I will say, in all candor, that I am not sure that what I am doing will produce a bill, but I think it is the best chance of producing a bill. And what I am doing is giving Republican and Democratic Members of the Senate a chance to try to work out their differences and to forge a compromise that will be acceptable here, at the White House, and actually become law. Now I think there is a good chance that will happen. But it has not happened yet.

Five minutes ago I talked to Senator DOLE, a little while before that I talked to some Democratic Members, and I am convinced for my part that there is a good reason to try to invest some more time of the Senate in their efforts to try to reach a compromise on the Civil Rights Commission reauthorization. Therefore, I am sure, as my friend from Ohio knows and as the minority leader knows, what I am doing is precisely what the Senator says, that is, I am filling time, I am finding other measures that we can deal with while these people have an opportunity to try to work it out.

In all candor, we may not be able to do that until the first of the week. It may be Monday or Tuesday before we could finally decide that we could pass a bill, that we can compromise it, or we have just got to fight it out. But the Civil Rights Commission is important enough to me so that I am going to stick with it until I am convinced that we cannot do it. I think we can.

So, Mr. President, in the meantime, what I plan to do, instead of just wasting the time of the Senate, is to try to take up other matters that may be brought before us.

Now, Mr. President, I do not have before me the list of items that Senator BYRD gave me that he wanted added to the list. But as I recall—is this one of the items that was on the Byrd list? Now I will check that and make sure. But I believe that was one of the items that was on Senator BYRD's list that was to be taken up, was public buildings. I may be mistaken.

But, in any event, it is on the list that has been circulated to the minority leader for some time of items that should be taken care of, such as export administration, the FTC authorization, public buildings, health insurance for the unemployed, a Finance Committee bill, debt limit, reconciliation, TV in the Senate, continuing resolution, Treasury-Postal, Defense supplemental, State Department conference report, State-Justice appropriation conference report, IMF conference report, DOJ conference report, and revenue sharing.

Mr. BIDEN. Is that all?

Mr. BAKER. That is probably not all. But those are the items we have been exchanging, the minority leader and I have, for some time. These are the ones we have agreed we are going to try to work on. I have not fully agreed to take up all the things on the minority leader's list. I rather expect he would not agree that he would gladly take up all those on my mind.

I am mistaken. I have here the list of Senator BYRD's original suggestions. The public buildings was not part of his list, but it was part of mine in the original list that was submitted.

Mr. President, I admire the Senator from Ohio in many ways—in every way—and he is my friend. He is my next-door neighbor across the hall in the Capitol. He and I both suffered grievous damage when our doors were almost blown down by the recent explosion, so we are buddies in combat.

But, Mr. President, I hope he will understand that I have to do what I have to do. And in this case, I am convinced that what I must do is maximize our opportunity to pass the civil rights reauthorization bill. I am committee to that.

In order to do that, I am convinced that I need to give the parties who are now negotiating an opportunity to try to work it out. And I want to try to do that.

But, by the same token, I am not going to try to waste the time of the Senate with useless debate or with useless quorum calls. I am going to try to run in other things that are on these lists and must be dealt with.

So I hope this long-winded explanation will explain to the Senator from Ohio, who came into the Chamber just a moment ago and indicated that he was concerned about the Civil Rights Commission as to why we would go to other matters, and reassure him on the prospect that I am as devoted as he is to trying to see that the civil rights bill is reauthorized.

I hope he will recall that it did not take me but 10 seconds to respond to a question from the Senator from Texas, Senator BENTSEN, that I indeed am going to do this; that is, I am going to try my darnedest to get the reauthorization bill passed, and to respond to my friend from Delaware to the same effect. Senator BIDEN asked me the question, "Are you going to do it?" And I told him I was.

Mr. BIDEN. Will the Senator yield for one brief comment?

Mr. BAKER. Yes.

Mr. BIDEN. I am absolutely confident that the leader is going to get to the bill. I have no doubt about that.

The one thing I want to just let you know, from one side of the negotiating process, is that I am of the view that, although I am perfectly willing to wait—I am not willing, I understand that it may be wise to wait—just so you understand, Mr. Leader, that there is, from my perspective, and I think a negotiating process, notwithstanding the negotiations between Senator DOLE and the White House, from those who share the opposite view, I think it is essentially over.

For my purposes, I would be willing—and I am not suggesting that you do it now, but just so you know—I am willing to agree to a half an hour, equally divided, an hour, equally divided, and get a vote up or down on it.

So, from our standpoint, there is no need for extended debate at all. Whenever the time comes that the leader wishes to go, I can assure him, on the issue of the congressional Commission or anything that follows on from that, that we are, on this side of the aisle and those who are cosponsors of that proposal, prepared to vote as they come.

Mr. BAKER. I thank the Senator. I am somewhat more optimistic than he appears to be.

But, in any event, Mr. President, I wish to say that I think it is my duty to try to manage the schedule as best I can. I do plan to try to give these Senators who are still trying to negotiate a settlement additional time.

Mr. BIDEN. I support that. I am not suggesting I do not. I just want the Senator to understand and not be under any false impressions that it was as likely as it appeared he might think it is. But I am prepared for that. I am not suggesting that the leader not do that. I just wanted you to know that I am very doubtful, although maybe I have just been hardened and am becoming doubtful after 5½ months of trying this. But I am prepared to do whatever the leader wishes.

Mr. BAKER. I thank the Senator.

Mr. METZENBAUM. So the leader understands my thinking on the subject, as the leader knows, on the last unanimous-consent request to lay aside the pending business in order to go to the arms control measure, I indicated to the leader that I was hopeful we would get back to the natural gas deregulation bill. Now we are on civil rights.

The leader is understandably attempting to fashion a compromise. I will not stand in the way of his laying this aside provided that we do have some assurance that we will get back to it. If we are not able to fashion a compromise, that under those circumstances the Members of this body will have an opportunity to vote—and I am not suggesting there be a time certain to vote, because I have to check back with all of the Members of the body. But I just want to be certain that the issue will be back on the floor, at least an effort will be made by those of us who want it, and that includes the majority leader, that we will not be in a worse position than we are right now with reference to trying to bring the matter to a vote.

Mr. BAKER. Mr. President, I fully expect the natural gas bill to be back. But I must have, I believe, the latitude to try to work this schedule in these last days as best I can.

I hope Senators will understand that there is no effort on my part, I cannot remember a single time—and this is self-serving and I apologize for it—I cannot remember a single time when I have tried to use the power of the leadership to schedule or the right of recognition to further a particular legislative initiative of my own.

Mr. METZENBAUM. I have no quarrel with the leader, and the leader knows I have never bucked him and I have tried to accommodate him in every way possible. I intend to do so at the moment. I am asking, if the Civil Rights Commission matter is laid aside, then will it be brought back to the floor if a compromise is not effected?

Mr. BAKER. Yes.

Mr. METZENBAUM. I thank the leader.

Mr. BAKER. Mr. President, let me see if we have the players on board.

Mr. BIDEN. May I ask one more question of the leader?

Mr. BAKER. Yes, I yield.

Mr. BIDEN. My concern is that whatever compromise is being suggested or being talked about, that the major players, Mr. Meese and the President of the United States, are not in the country.

Is the Senator considering the prospect of us seeing whether or not we could reasonably reach a compromise and bringing this back up today, or is the Senator suggesting it is more likely that it will not come back again until next week, until the major players are back?

Mr. BAKER. Let me answer in a little different way. I think it is likely that we will finish this next week, Monday or Tuesday. But let me say absolutely it is not because of the return of the President and his staff. There are other compelling reasons for wishing to do that. I will be glad to converse further with the Senator on that subject informally.

Mr. BIDEN. I thank the majority leader.

Mr. BAKER. Mr. President, I understand that we are not quite ready to go to the public buildings matter. The manager on the minority side is not on the floor yet but is expected shortly. Once again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as I indicated earlier, I would like to once again lay aside the pending business temporarily, in this case the Civil Rights Commission reauthorization bill, and go to another bill that I do not think will be terribly controversial and should not take very long. I am referring to the public buildings bill, which is Calendar Order No. 510. After we finish that bill, under the formulation I intend to propound, we would be back on the Civil Rights Commission reauthorization bill. I anticipate that we would resume debate on that measure at that time.

I might say also that I have just been talking to the minority leader of the House about the status of the CR debate. He indicates to me that he thinks they will have a CR to us sometime shortly, meaning in the next hour or thereabouts. So when that gets here, we will try to do that as soon as possible.

But in any event, when we finish this bill, we would automatically be back on the Civil Rights Commission reauthorization bill, and those who are managing that matter might take note of that situation.

Now, Mr. President, I will state a unanimous-consent request for the benefit of the minority leader, the managers, and all other Senators.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending business, which is the civil rights legislation reauthorization bill, and proceed to the consideration of Calendar Order No. 510, S. 452.

Mr. BYRD. Mr. President, reserving the right to object, I have not raised this question with the majority leader. Would he be willing to put a time limit, not on the bill or all amendments thereto, but a time limit for the window under which this bill would be considered?

Mr. BAKER. Yes. Mr. President, could I inquire of the distinguished chairman of the Environment and Public Works Committee, would he be agreeable to a time of 1 hour for the consideration of this measure?

Mr. STAFFORD. That would certainly be adequate in the view of the Senator from Vermont, yes. And I see my colleague, the ranking minority member of the committee (Mr. RANDOLPH), is here. I think an hour would be fully adequate for our discussion.

Mr. RANDOLPH. That would be adequate.

Mr. BAKER. Very well. Then, Mr. President, I add to my request that the time for the consideration of this measure shall not exceed 1 hour, the control of the time to be in the usual form.

Mr. President, once again, that does not mean an hour and then a vote. It does not limit debate on the bill, does not limit amendments or any debate on amendments. It simply means that we are creating an opportunity within an hour to debate and act on this measure if we can.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC BUILDINGS ACT OF 1983

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 452) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The Senate proceeded to consider the bill (S. 452) to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes, which had been reported from the Committee on Environment and Public Works with amendments, as follows:

On page 2, line 12, strike "SEC. 101. The" and insert "SEC. 101. (a) Except as provided in subsection (b), the".

On page 2, after line 19 insert:

(b) The provisions of subsection (a) do not supersede any specific authority granted by statute prior to the date of enactment of this Act to the head of a Federal agency with respect to the acquisition, design, construction, leasing, management, maintenance, repair, renovation, or assignment and reassignment of space in buildings of that agency.

On page 6, line 14, strike "(D) income derived for the Federal Buildings Fund".

On page 6, line 16, strike "(E) and insert (D)".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Buildings Act of 1983".

SEC. 2. It is hereby declared to be the policy of the Congress that the public buildings of the United States Government shall be located, designed, furnished, and maintained so as to ensure the highest productivity and efficiency of Federal agencies and their employees and, further, to provide Government services throughout the United States in locations convenient to the people, to preserve and advance the Nation's legacy of architectural excellence, and to enhance commercial and cultural conditions in the vicinity of public buildings.

TITLE I—GENERAL AUTHORITIES

SEC. 101. (a) Except as provided in subsection (b), the Administrator of General Services, acting through the Public Buildings Service, in conformance with the policies and provisions of this Act, shall have sole authority to acquire, design, construct, lease, manage, maintain, repair, renovate, and assign and reassign space in, buildings and sites to meet the public buildings needs of the Government.

(b) The provisions of subsection (a) do not supersede any specific authority granted by

statute prior to the date of enactment of this Act to the head of a Federal agency with respect to the acquisition, design, construction, leasing, management, maintenance, repair, renovation, or assignment and reassignment of space in buildings of that agency.

SEC. 102. There is hereby established in the General Services Administration a Public Buildings Service. There shall be at the head of the Public Buildings Service a Commissioner of Public Buildings who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5332).

SEC. 103. There shall be within the Public Buildings Service a Supervising Architect who shall be appointed by the Administrator of General Services and shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5332). The Supervising Architect shall supervise all design activities of the Public Buildings Service and shall perform such other duties as the Commissioner of Public Buildings may designate.

SEC. 104. Any authorities described in section 101 of this Act that have been delegated by the Administrator to another Federal agency prior to the date of enactment of this Act shall be revoked and vested in the Administrator on the one-hundred-and-twentieth day after the effective date of this Act unless, prior to said day, the Administrator has delegated such authority in accordance with section 105 of this Act.

SEC. 105. Notwithstanding the provisions of section 205 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator may delegate all or a portion of his authorities under this Act to the head of another Federal agency, but only with respect to the public buildings needs of that agency.

SEC. 106. The head of any Federal agency delegated authorities pursuant to section 105 of this Act, shall exercise those authorities in conformance with the provisions of this Act; however, the head of any such agency shall not submit the report required in section 107 but shall submit the information required in section 107 to the Administrator for inclusion in his records and reports.

SEC. 107. (a) The Administrator shall submit a report to the Congress on or before February 1 of each year describing activities undertaken, directly by him, or under authorities delegated pursuant to section 105 of this Act, to meet the public buildings needs of Federal agencies in the preceding fiscal year. Such report shall include, but is not limited to—

(1) an inventory of all public buildings, including for each building its location and the amount of space and number of employees assigned to each Federal agency;

(2) an inventory of locations of Federal agency offices in leased buildings, including for each leased location its annual leasing costs, total expected leasing costs over the remaining term of the lease, and the amount of space and number of employees assigned to each Federal agency;

(3) a list of all construction and renovation projects completed and in progress and the degree of progress toward the completion of each;

(4) a list of all leases and lease renewals executed;

(5) a list of construction, acquisition, and renovation projects the cost of which have exceeded, or are expected to exceed, the maximum cost set forth in any annual authorization under this Act, whether or not such projects meet the criteria established in section 806 of this Act;

(6) a list of all delegations of authority made by the Administrator pursuant to section 105 of this Act;

(7) a report on activities undertaken pursuant to—

(A) titles IV and V of this Act;

(B) section 210(a)(6) of the Federal Property and Administrative Services Act of 1949, as amended, or by transfer of funds from any Federal agency; and

(8) a discussion of achievements and problems in carrying out provisions of this Act and in meeting the public buildings needs of the Government.

(b) The Administrator shall collect and maintain such information as may be necessary to keep the Congress fully and currently informed of the conduct of the Public Buildings Service and to manage activities required under the provisions of this Act. Within one year after enactment of this Act, the Administrator shall assure that information is available on—

(1) for each public or leased building—

(A) the amount of vacant space,

(B) the amount of space leased under section 102 of the Public Buildings Cooperative Use Act of 1976, as amended,

(C) building operations costs,

(D) needed repairs and renovation,

(E) energy consumed,

(F) the extent to which it is fully accessible to physically handicapped persons in accordance with the Architectural Barriers Act of 1968, as amended,

(G) the percent of the building leased by the Government,

(H) the total amount of funds that have been expended in improvements or alterations to each leased building, and

(I) the term of any leases in effect and their expiration dates.

(2)(A) All contracts in effect for architectural, engineering, construction, maintenance, protection, research and other services, including for each the name of the contractor, the services performed, and contract term and price, and

(B) the space utilization rate for each Federal agency.

(c) By February 1 of each year, each head of a Federal agency exercising authority pursuant to section 101(b) shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives describing the activities conducted by the agency pursuant to that authority to meet the public buildings needs of the agency in the preceding fiscal year.

SEC. 108. (a) The Administrator shall require, prior to executing any lease or other contract which would obligate funds in excess of $10,000 authorized pursuant to this Act, a certification from the owner of the space to be leased or the contractor. Any owner or contractor who fails to complete such certification required under this subsection shall not be eligible to receive a lease or contract award. Such certification shall include, but need not be limited to, statements, declaring under penalty of law provided under section 1001 of title 18, United States Code, or elsewhere:

(1) that such owner or contractor, or any of his officers or principal employees—

(A) has no business or employment relationship or interest or holding which constitutes a conflict of interest with his capacity as a lessor or contractor with the United States; and

(B) has not offered or promised anything of value to a public official, in connection with the lease or other contract under consideration, with the intent to influence any official act or to induce the official to perform, or to omit to perform, any act in violation of his lawful duties or to offer or give anything of value to a public official for performing an official act.

(2) whether such owner or contractor, or any of his officers or principal employees has been debarred or suspended from the award of public contracts;

(3) whether such owner or contractor, or any of his officers or principal employees has had a public contract terminated for default; and

(4) whether such owner or contractor, or any of his officers or principal employees has been convicted of, or is currently under indictment for or otherwise charged with—

(A) a criminal offense incident to obtaining or attempting to obtain a public (Federal, State, or municipal) or private contract, or subcontract thereunder, or in the performance of such a contract or subcontract;

(B) a violation of the Organized Crime Control Act of 1970;

(C) a violation of Federal antitrust statutes arising out of the submission of bids or proposals or;

(D) embezzlement, theft, forgery, bribery, falsification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

(b) In the event an owner or contractor replies in the affirmative to any of the certifications required pursuant to clauses (2), (3), or (4) of subsection (a), then the Inspector General of the General Services Administration shall be notified, and no lease or contract award shall be made to that owner or contractor:

(1) until the Inspector General of the General Services Administration advises the contracting officer on the suitability and integrity of the owner or contractor;

(2) until the contracting officer submits a written report as to why the lease or contract may be awarded notwithstanding the affirmative certification; and

(3) unless the appropriate Regional Administrator for the General Services Administration, or an equivalent official, approves in writing the lease or contract award notwithstanding the affirmative certification.

(c) Such written approval required under clause (3) of subsection (b) may not be delegated to a subordinate official.

(d) The Administrator shall provide in the annual report required under section 107(a) of this Act, the name of each principal owner of blocks of space exceeding fifty thousand square feet which are leased during the fiscal year covered by the report.

SEC. 109. (a) The Administrator shall keep the Congress fully and currently informed of policies and activities of the General Services Administration within the purview of this Act. In addition, he shall make available to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on request, and in such manner as may be necessary to safeguard individual rights or the conduct of criminal investigations, any document, material, information, or report under his jurisdiction.

(b) Such reports as are required to be transmitted to appropriate committees of the Congress by the Administrator in accordance with sections 5(b) and 5(d) of Public Law 95-452 that pertain to problems, abuses, or deficiencies arising under this Act, shall be transmitted simultaneously to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 110. When he deems it to be in the public interest, the Administrator may relinquish to a State, Commonwealth, territory, or possession of the United States, such legislative jurisdiction over lands or public buildings as is necessary to establish concurrent jurisdiction between the Federal Government and the State, Commonwealth, territory, or possession concerned. Such partial relinquishment of legislative jurisdiction shall be accomplished by filing a notice of relinquishment with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned to take effect upon acceptance thereof, or as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

SEC. 111. (a) The Administrator shall be responsible for the interpretation of all contracts entered into on behalf of the United States Government to carry out the purposes of this Act, and shall be responsible for the approval of materials, workmanship, and services supplied pursuant to such contracts, approval of changes in contracts, certification of vouchers for payments due contractors, and final settlements.

(b) The Administrator may conduct research and postoccupancy evaluation to determine and improve the effectiveness of existing and planned public buildings in providing productive, safe, healthful, economical, conveniently located, energy efficient, and architecturally distinguished accommodations for Federal agency offices.

SEC. 112. Nothing in this Act shall be construed to affect the authorities granted in section 403f, 403g, or 403j of title 50, United States Code.

SEC. 113. As used in this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Federal agency" means any department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation, and any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and activities under his direction).

(3) The term "office" means any organizational component of a Federal agency or other public or private enterprise and also means the physical space in which the work of the component is conducted.

(4) The term "officers and employees of the Government" means all persons included under sections 2104 and 2105 of title 5 of the United States Code.

(5) The term "locality" means a city, county, town, parish, village, or other area governed by a general purpose political subdivision of a State.

(6) The term "geographical area" means an area encompassing a population of no less than one million persons, except that in the case of a State or territory having a population of less than one million persons, it means the State or territory.

(7) The term "acquire" or "acquisition" includes purchase, payment for an option to purchase, condemnation, donation, and exchanges of real property, or interests therein, excluding leaseholds.

(8) The term "renovation" means alteration, addition, partial demolition, and other such actions that significantly enhance or change the use or architectural design of a public building.

(9) The term "major construction and acquisition project" means construction or acquisition of a building of ten thousand gross square feet of floor space or the acquisition of a site at a total cost of one million dollars or more.

(10) The term "major renovation, alteration and repair project" means such a project having a total cost of one million dollars or more.

(11) The term "historic, architectural, or cultural significance" includes, but is not limited to buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(12) The term "physically handicapped person" means any individual with a physical impairment that precludes such person's use of a building to the same extent that an individual with unimpaired mobility can use such building.

(13) The term "fully accessible" means the absence or elimination of physical and communications barriers to the ingress, egress, movement within, and use of a building by handicapped persons and the incorporation of such equipment as is necessary to provide such ingress, egress, movement, and use and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.

(14) The term "public building" means any building along with its grounds, approaches, and appurtenances, owned by the United States Government or the subject of a contractual or other agreement under which it may be owned by the United States Government at some certain date in the future, that accommodates, did accommodate, or is intended to accommodate Federal agency offices, and includes, but is not limited to office buildings, courthouses, border stations, garages and warehouses, and any other building or construction project the inclusion of which the President may deem to be in the public interest, but does not include buildings or installations of the United States Postal Service, except as provided for under section 2002(d) of the Postal Reorganization Act, or buildings or installations of the Tennessee Valley Authority, or buildings of the Government Printing Office, or buildings: on the public domain (including that reserved for national forests and other purposes), on properties of the United States in foreign countries, on Indian and Native Eskimo properties held in trust by the United States, on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, on or used in connection with river, harbor, flood control, reclamation or power projects, chemical manufacturing or developing projects, or for nuclear production, research, or development projects, on military installations (including any fort, post, airbase, proving ground, supply depot, school or similar facility of the Department of Defense), on Veterans' Administration installations used for hospital, nursing home, or domiciliary purposes, on or used in connection with housing and residential projects, or on the United States Capitol grounds delineated in section 193(a) of title 40, United States Code.

(15) The term "public buildings needs" means the requirements of Federal agencies for suitable space, whether or not in a Government-owned building, to accommodate offices that may be located in a public building as defined in subsection (14) of this section, and includes requirements for space in accordance with section 102 of the Public Buildings Cooperative Use Act of 1976, as amended.

(16) The term "National Capital region" has the same meaning that it bears in section 71(b) of title 40, United States Code.

SEC. 114. The Public Buildings Act of 1959, as amended, is repealed.

TITLE II—LOCATIONS FOR FEDERAL AGENCY OFFICES

SEC. 201. (a) The headquarters offices of each department and major independent establishment in the executive branch shall be located within the National Capital region in conformance with the comprehensive plan prepared and adopted pursuant to the National Capital Planning Act of 1952, as amended, unless otherwise specified by Act of Congress.

(b) Regional, district, area, or local offices of Federal agencies shall be located so as to be centrally located with respect to, in proximity to, or within easy transportation access of, residential populations they serve or other governmental and private offices with which they must maintain continuing and frequent physical communication.

(c) Federal agency offices other than those that are located pursuant to subsection (a) or (b) of this section, or that otherwise must be located close to specific governmental or private offices or in specific geographic locations in order effectively to carry out their responsibilities, shall be located throughout the United States generally in proportion to the geographic distribution of the Nation's population.

SEC. 202. After conforming with section 201, the Administrator shall, in consultation with local officials, take into account the following factors in locating Federal agency offices—

(1) the costs, including relocation and operating costs, of proposed locations;

(2) in the case of any office located in a standard metropolitan statistical area, the feasibility and desirability of a location in the central business district of a city within that area;

(3) the proximity of existing or planned public transportation facilities;

(4) the proximity of public amenities and commercial facilities; and

(5) the availability, nearby or within reasonable public transportation commuting distance, of existing or planned housing adequate to the needs of present and prospective Federal employees and available on a nondiscriminatory basis.

SEC. 203. In responding to the public buildings needs of Federal agencies and in planning for future such needs, the Administrator shall first comply with sections 201 and 202 and shall—

(1) review needs to determine if they can be met in whole or in part through more productive use of existing space;

(2) prior to acquiring, constructing, or leasing space in any other building, locate Federal agency offices—

(A) in existing public buildings, giving first priority to utilizing fully, by renovating

if need be, those public buildings of historic, architectural, or cultural significance; and if public building space is not available, then

(B) in buildings of historic, architectural, or cultural significance acquired by the Administrator, and renovated if need be, unless use of such space would not prove feasible and prudent (taking into account cost, expected date of occupancy, and the potential for the conservation of energy) compared with construction of a public building, and if such building space is not available, then

(C) in existing buildings acquired by the Administrator and renovated if need be, or in new buildings constructed by the Administrator under the provisions of this Act, and if such building space cannot be made available in time to meet urgent public buildings needs, then

(D) in building space leased by the Administrator in accordance with the provisions of title VII of this Act, giving first priority to leasing space in buildings, of historic, architectural, or cultural significance, unless such leasing would not prove feasible and prudent compared with the cost and with the potential for the conservation of energy of leasing at another location.

SEC. 204. Federal agency offices in a locality may be consolidated to the extent justified by the need for immediate physical proximity and by anticipated cost savings—

(A) first, within and among the offices of a single Federal agency,

(B) second, within and among the offices of Federal agencies carrying out related functions, and

(C) third, within and among other Federal agency offices, and

generally so that resulting public buildings needs may, to the maximum extent possible, be met by using existing public buildings, by constructing or acquiring buildings of a scale similar to the predominant scale of buildings existing in or planned for their surroundings, or by acquiring two or more reasonably proximate buildings, particularly buildings of historic, architectural, or cultural significance.

SEC. 205. (a) In the event that the head of a Federal agency determines that the location assigned to any office of fifty or more employees of that agency by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the agency head may appeal the decision of the Administrator to the Director of the Office of Management and Budget. The Director shall review the Administrator's decision within thirty days in accordance with the provisions of this title, and shall nullify the decision only if the Director finds the Administrator's decision not reasonably supported by the facts. The Director shall report the findings of any review undertaken pursuant to this section within ten days to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) Notwithstanding the provisions of subsection (a) of this section, in the event that the Director of the Administrative Office of the United States Courts determines that the location assigned to an office of the judicial branch by the Administrator would be deleterious to the efficient accomplishment of the office's responsibilities, the Director shall report such determination to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 206. (a) Noncompliance with the provisions of this title of this Act on the date of enactment shall not be construed to require the relocation of any Federal agency office.

(b) Any action to locate or relocate any Federal agency office subsequent to the date of enactment of this Act shall be undertaken in conformance with the provisions of this Act.

TITLE III—DESIGN AND MANAGEMENT OF PUBLIC BUILDINGS

SEC. 301. The Administrator shall design and maintain public buildings in such manner that they bear visual testimony to the dignity, enterprise, vigor, and stability of the American Government, embody the finest contemporary American architectural thought, and where appropriate, reflect regional architectural traditions.

SEC. 302. Except as provided in section 303, public buildings shall be of such design and construction as to approximate the costs, durability, and ratio of net usable space to gross space of commercial buildings that serve similar purposes. In any case in which the Administrator, pursuant to section 801 of this Act, requests authorization for appropriations for a public building that would exceed the cost, durability, or space standards of this section, he shall explain the amount and cause of such excess in the list required pursuant to section 801(a)(2).

SEC. 303. Whenever the Administrator designs and constructs—

(1) a general purpose office building expected to attract significant public use in any locality that serves as a center of its geographical area, or

(2) a headquarters building for any Federal agency,

such public building shall be designed and constructed to higher standards of quality than that provided for in section 302 of this Act and such design and construction shall symbolize the dignity of the United States Government through the quality or scale of some or all of its architectural details, materials, and public areas: *Provided*, That this section shall not apply to public buildings described in clause (1) of this section whenever the Administrator determines that there already exists in the locality a public building of the quality described in this section.

SEC. 304. In the design, construction, acquisition, renovation, and management of public buildings, the Administrator shall assure that, to the extent possible, and consistent with minimizing costs, such buildings—

(1) conform to or complement the scale of existing or planned surrounding buildings;

(2) conserve energy;

(3) provide efficient and attractive interiors, including public reception areas;

(4) provide parking space for Government motor vehicles and handicapped employees as necessary, and such other parking space for visitors and employee vehicles as is consistent with a general policy of transportation efficiency and energy conservation; and

(5) contain architectural details and hardware that are an integral part of the structure or fixtures and that are designed and fabricated so as to enhance the function and appearance of the public building and to reflect regional architectural traditions or Federal agency functions. Artisans and craftsmen expert in the creative use of such materials as stone, brick, metal, wood, and stained glass may be employed to carry out the purposes of this paragraph. To the extent that items designed and fabricated pursuant to this paragraph exceed the ordinary cost of such items, funds allocated pursuant to section 503(c) of this Act shall be used to defray the additional cost.

SEC. 305. The Administrator shall provide sheltered and secure locations and equipment for parking bicycles, and may provide suitable support facilities, at each new public building as necessary to facilitate bicycle use by employees and visitors. He shall provide similar bicycle parking and facilities at existing public buildings and leased buildings where he determines bicycle use is, or may become of sufficient magnitude to warrant the expenditure required.

SEC. 306. (a) Public buildings shall be maintained at all times at a high level of appearance, cleanliness, and mechanical and structural fitness so as to maintain the dignified appearance of Federal offices and the health, safety, and efficiency of Federal employees, and to minimize major repair and replacement expenditures.

(b) Each public building shall be maintained and renovated so as to promote efficient Federal agency and public use and to preserve those portions or features that are significant to the building's historic, architectural, or cultural values.

SEC. 307. (a) Nothing in this Act (except for the provisions of this section) shall affect the applicability of the provisions of the Act of August 12, 1968, as amended, commonly known and hereinafter referred to as the Architectural Barriers Act of 1968, as amended, to any building or facility.

(b) The Architectural Barriers Act of 1968 is amended—

(1) in clause (1) of the first section, by striking out "constructed or altered" and inserting in lieu thereof, "constructed, altered, or acquired";

(2) in sections 2, 3, 4, and 4a, by striking out "physically handicapped persons will have ready access to, and use of, such buildings" and inserting in lieu thereof "such buildings are fully accessible to physically handicapped persons";

(3) in section 5, by inserting before the period a comma and "and any contract for all or any part of the design, construction, or alteration involved shall so provide"; and

(4) in section 6—

(A) by inserting "(a)" before "The";

(B) by inserting "(hereinafter in this section referred to as the 'standard-prescribing agency head concerned)" after "section 4a of this Act";

(C) by striking out "the Administrator or Secretary, as the case may be" and inserting in lieu thereof "the standard-prescribing agency head concerned"; and

(D) by adding a new subsection as follows:

"(b) No action may be taken under this section to modify or waive a standard issued under this Act unless—

"(1) in the case of a waiver, the waiver pertains to a building to be leased (other than a building to be constructed for lease) and the waiver is necessary to meet an emergency situation, or

"(2) in the case of a modification (A) the modification is no broader than necessary, and (B) in the case of a building to be constructed or altered, (i) the need for such modification was not reasonably foreseeable when the design for such construction or alteration was approved, or (ii) the standard-prescribing agency head concerned determines, pursuant to regulations prescribed by such agency head, that such modification is essential to achieving the purposes of the construction or alteration."; and

(5) by inserting at the end the following new section:

"SEC. 8. As used in this Act—

"(1) the term 'physically handicapped person' means any individual with a physical impairment that precludes such person's use of a building to the same extent that an individual with unimpaired mobility can use such building, and

"(2) the term 'fully accessible' means the absence or elimination of physical and communications barriers to the ingress, egress, movement within, and use of a building by handicapped persons and the incorporation of such equipment as is necessary to provide such ingress, egress, movement, and use and, in a building of historic, architectural, or cultural significance, the elimination of such barriers and the incorporation of such equipment in such a manner as to be compatible with the significant architectural features of the building to the maximum extent possible.".

SEC. 308. (a) The Administrator is authorized, pursuant to subsection (b) of this section, and upon the request of appropriate local and State officials, to name any public building after, and establish a memorial in any public building in honor of, any person who has made notable contributions to government, science, industry, education, the arts, or other fields of human endeavor. Such person, if living, must be at least seventy years of age. No public building shall be named for a sitting Member of Congress or for a former Member of Congress who holds any other elective public office.

(b) The Administrator is authorized to expend, out of any funds available to him in any fiscal year, an amount equal to but no greater than contributions provided by State or local governments or private entities or individuals, and in no event greater than the sum of $10,000, for the design and construction of a memorial to a person designated pursuant to subsection (a) of this section, or designated by an Act of Congress.

(c) The Administrator, in consultation with appropriate local and State officials and other interested citizens, shall determine the form and location of such memorials. The memorials shall be fountains, gardens, walks, stained glass windows, or other building appurtenances visible and accessible to visitors, and in harmony with the architectural and landscape design of such building. The Administrator shall provide maintenance for such memorials.

(d) The Administrator may conduct a competition to select a designer for the memorial authorized by this subsection. Such competition shall be open to landscape and other architects, artists, artisans, and designers.

SEC. 309. (a) The Administrator shall study the efficiency and economy of the use of space in public buildings by Federal agencies and shall employ appropriate means, including consolidation, reassignment, relocation and cancellation of leases, to increase the cost-effectiveness of space utilization by the Government.

(b) Whenever the Administrator finds, pursuant to subsection (a), space in public buildings or leased buildings which is vacant, underutilized, or otherwise inefficiently or uneconomically utilized, he may lease or outlease such space, as the case may be, upon terms and conditions deemed to be in the public interest, without regard to section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484). To assist in carrying out this section, the Administrator may utilize the services of private real estate brokers, notwithstanding the provisions of section 3709, Revised Statutes.

SEC. 310. In order to reduce Government expenditures and promote the maximum utilization of space of Federal agencies, and subject to section 202 of the Federal Property and Administrative Services Act of 1949, the head of each Federal agency shall furnish to the Administrator, by April 1, 1984, and at frequent intervals thereafter, an inventory of all excess and underutilized space under the custody and control of the agency which is generally suitable for reassignment to other Federal agencies. The President shall promulgate rules and regulations regarding the inventory and space reassignments pursuant to it.

SEC. 311. Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)), the Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House in writing before disposing of any public building or site, suitable for the construction of a public building, by sale, exchange, transfer, or other type of disposal for cash, credit, or other property. The disposal may be carried out only at the end of the 30-day period beginning on the date the notification is received by such committees.

TITLE IV—MIXED USE AND ADAPTIVE USE IN PUBLIC BUILDINGS

SEC. 401. This title may be cited as the "Public Buildings Cooperative Use Act Amendments of 1983".

SEC. 402. (a) Section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"(2) encourage the location of commercial, cultural, educational, and recreational activities as tenants primarily on major pedestrian access levels, courtyards, and rooftops of public buildings, and design, construct and lease space suitable for such activities: *Provided*, That the amount of space so leased in any public building—

"(A) shall be determined by the Administrator in light of the market for such activities or the need and potential for promoting commercial or cultural activity in the vicinity of the building or serving the employees and visitors in the building; and

"(B) shall not exceed 15 per centum of the occupiable space in the public building, except in instances where the Administrator determines that the configuration of pedestrian access levels in the building justifies the leasing of a greater amount of space;".

(b) Section 102(a)(4) of the Public Buildings Cooperative Use Act of 1976 is amended to read as follows:

"(4) encourage the public use of public buildings for occasional cultural, educational, and recreational activities and design, construct, and maintain space and equipment in public buildings suitable for such activities, including activities described in section 503(a) of the Public Buildings Act of 1983.".

SEC. 403. Section 103 of the Public Buildings Cooperative Use Act of 1976 is repealed and sections 104 and 105 are redesignated as sections 103 and 104, respectively.

SEC. 404. Section 103(a) of the Public Buildings Cooperative Use Act of 1976, as amended, and the first sentence of section 210(a)(16) of the Federal Property and Administrative Services Act of 1949 are amended to read as follows:

"(16) to enter into leases of space in public buildings, in accordance with section 102(a)(2) of the Public Buildings Cooperative Use Act of 1976, as amended, with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 104 of the Public Buildings Cooperative Use Act of 1976, as amended).".

SEC. 405. Section 104 of the Public Buildings Cooperative Use Act of 1976, as amended, is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The terms 'public building' and 'Federal agency' have the same meaning as are given them in section 113 of the Public Buildings Act of 1983.".

TITLE V—EXHIBITIONS AND WORKS OF ART

SEC. 501. This title may be cited as the "Federal Buildings Enhancement Act of 1983".

SEC. 502. (a) The Congress hereby finds and declares that—

(1) the efficient use of Federal buildings can be increased, and public satisfaction with Federal buildings will be improved, by insuring that such buildings not only provide a congenial work environment but also function attractively for public service;

(2) Federal buildings should enrich the social, commercial, and cultural resources of the communities they serve; and

(3) Federal buildings will be enhanced by temporary exhibitions of art works and of the Nation's cultural heritage, as well as by suitable permanent works of art incorporated as an integral part of the architecture of Federal buildings.

(b) It is, therefore, the policy of the Congress to encourage and secure Federal building design which is distinguished, which expresses the dignity, enterprise, and stability of the American Government, and which enriches the quality of life in the communities served by such buildings. It is the purpose of this Act to contribute to such design by incorporating permanent installations of suitable works of art into Federal buildings. It is the further purpose of this Act to enhance existing Federal buildings by providing for temporary exhibitions of art and history to be circulated among Federal buildings.

SEC. 503. (a)(1) The Administrator, with the advice and assistance of the Chairman of the National Endowment for the Arts, shall acquire by loan, or by lease at nominal fees, works of art by living American artists. Works of art loaned or leased under this subsection shall be organized into exhibitions and circulated by the Administrator among Federal buildings throughout the United States. Such works of art shall be selected from artists representative of the different regions of the United States and its territories, and shall include diverse artistic media.

(2) The Administrator, in conjunction with the Secretary of the Smithsonian Institution, and with other not-for-profit traveling exhibition services shall utilize existing exhibitions and develop new exhibitions which reflect the artistic, cultural, social, scientific, and industrial heritage of the United States or the continuing development of the Nation's art, culture, society, science, and industry.

(A) The Administrator shall circulate and show exhibitions developed under this subsection in Federal buildings throughout the United States. Preference shall be given to Federal buildings in communities that otherwise do not have convenient access to museums of art and history.

(B) The Administrator shall reimburse the Smithsonian Institution and other traveling services an amount not less than the cost to the Institution or to such other services of carrying out the provisions of this subsection.

(b)(1) The Administrator, with the advice and assistance of the Chairman acting in cooperation with the appropriate arts agencies at State and local levels, shall commission suitable works of art by American artists to be purchased and installed in Federal buildings. The preliminary planning and design of each new Federal building shall include planning for such commissions, which may include a variety of compatible works. The Administrator shall insure that Federal buildings selected for the installation of such commissioned works of art are equitably distributed within the United States and its territories, and shall consider a diversity of artistic media in commissioning such works of art. The Administrator shall provide for necessary services to maintain and preserve such works of art.

(2) Whenever the Administrator commissions a work of art for a new Federal building pursuant to paragraph (1) of this subsection, he shall instruct that such work shall be an integral part of the architectural design. In the case of an existing public building, such work shall be appropriate to the setting and space available. The administrator shall seek to avoid the development of an official style either in architecture or associated works of art. Federal commissions should give expression to the vitality and diversity of American life.

(3) In carrying out the provisions of this subsection, the Administrator, with the advice and assistance of the Chairman acting in consultation with the appropriate arts agencies at State and local levels, shall establish such procedures as may be necessary to commission suitable works of art, with or without competition, and shall give full consideration to the participation of local artists.

(c)(1) For the purpose of this section, the Administrator is authorized to utilize one-half of 1 per centum of the total sums available in fiscal year 1985 and each fiscal year thereafter for the design, construction, repair, renovation, alteration, and acquisition of public buildings.

(2) Funds available under this subsection shall be available, without fiscal year limitation, to the Administrator for the purposes set forth in subsections (a) and (b) of this section and in subsection 304(5): *Provided,* That not to exceed 25 per centum of such funds shall be expended for purposes set forth in subsection (a) of this section, and not to exceed 75 per centum of such funds shall be expended for purposes set forth in subsection (b) of this section and for purposes set forth in subsection 304(5).

(d) For the purpose of this title—

(1) the term "Federal buildings" means public buildings, under the jurisdiction of the Administrator of General Services, that attract, or are expected to attract, significant public use;

(2) the term "Chairman" means the Chairman of the National Endowment for the Arts; and

(3) the term "works of art" includes, but is not limited to, paintings, sculptures, crafts, works on paper, and environmental works.

TITLE VI—ARCHITECTURAL SERVICES

SEC. 601. The Administrator shall employ professionally trained architects, engineers, landscape architects, interior and graphic designers, and urban planners to prepare, under the supervision of the Supervising Architect, plans, drawings, and specifications for such public building construction and renovation projects as the Commissioner of Public Buildings may designate, but in any case to provide the kind and number of projects necessary annually to enable such employees to utilize their professional skills and training.

SEC. 602. (a) Those architectural services not provided pursuant to section 601 shall be procured in accordance with title IX of the Federal Property and Administrative Services Act of 1949, as amended, and the Administrator shall conduct a design competition among no fewer than three qualified architectural firms to select the architects for a substantial portion of the public building construction and renovation projects each year, including particularly—

(1) renovation projects involving extensive architectural changes or additions to buildings of historic, architectural, or cultural significance;

(2) construction projects for buildings of high public use or visibility, including, but not limited to any building provided pursuant to section 303 of this Act; and

(3) projects presenting special design problems or opportunities related to structure, function, or compatibility with surroundings.

(b) The Administrator shall indicate each year, in the program submitted pursuant to section 801 of this Act, those public building construction and renovation projects with respect to which he proposes to conduct design competitions.

(c) With respect to a significant portion of the competitions conducted each year, the competitions shall last no longer than sixty days from the date the Administrator provides the firms with a competition program and the competitions shall elicit from each firm preliminary design concepts only.

(d) The Administrator shall negotiate first with the firm judged at the conclusion of each competition to have demonstrated the best design approach to the project. The Administrator shall make public and provide to the competing firms at the time a selection is announced under any of the provisions of this section, a brief report describing the reasons for the selection made.

(e) The Administrator shall provide, in total stipends or prizes to all of the firms that take part in any one competition conducted under this section, a sum equal to no more than one-half of 1 per centum of the expected cost of the design and construction of the project, and shall conduct each competition under such rules and procedures as will assure that fair compensation for work required from the firms does not exceed that amount.

(f) The Administrator is authorized to acquire the services of privately employed architects, engineers, and other citizens on a temporary basis to serve on panels to assist in selecting and judging architectural firms under the provisions of this section. Persons so employed shall not be considered special Government employees under the provisions of section 201(a) of the Ethics in Government Act of 1978.

TITLE VII—LEASING

SEC. 701. It is the policy of the United States to house Government offices in public buildings. Space shall be leased to accommodate the emergency or temporary requirements of the Government, to accommodate Government activities of insufficient scale to warrant providing a public building, and to take account of conditions that make Government construction or acquisition of necessary public building space economically infeasible or disadvantageous.

SEC. 702. (a) In recommending projects and actions to accommodate the public building needs of the United States in accordance with section 801 of this Act, the Administrator shall provide realistic comparisons of the long-term costs and benefits of construction, acquisition, and leasing. Such comparisons shall consider, as necessary, assumptions of present and future inflation, interest rates, and operating and other expenses of the various alternatives. In any case in which the Administrator recommends a project or action other than that for which the long-term costs are lowest, he shall explain the basis for his alternative recommendation.

(b) Within nine months of the date of enactment of this Act, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Administrator shall jointly submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report detailing methods to be used in computing the long-term comparisons of costs and benefits required pursuant to this section. The report may be prepared in cooperation with experts from private industry and shall include a comparison of the methods proposed with those used in private industry.

(c)(1) It is the sense of the Congress that long-term economies would be realized by providing, within ten years of the date of enactment of this Act, offices in public buildings to no fewer than 75 per centum of the officers and employees of the Government whose offices are provided under this Act.

(2) In order to attain the percentage of offices to be provided in public buildings pursuant to paragraph (1) of this subsection, the Administrator shall reduce the average amount of space assigned to each officer and employee of the Government, acquire or construct public buildings, or utilize any combination of these actions, as necessary.

(3) To the extent possible, the percentage of offices to be provided in public building space pursuant to paragraph (1) of this subsection shall be attained uniformly throughout the Nation: *Provided,* That, in attempting to attain this percentage, the Administrator shall take into account comparative local vacancy and rental rates for office space, and other market conditions and program considerations in such manner as to maximize the economic benefit to the Federal Government and to minimize economic disruption to localities throughout the Nation.

SEC. 703. Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment that will cause the construction of any building other than a Government-owned building unless before so agreeing or undertaking—

(1) the Administrator establishes specifications for the building identical to the criteria established pursuant to section 302 of this Act for the construction of public buildings;

(2) the Administrator secures the option to purchase the building at any time during or at the conclusion of the lease term, unless the Administrator provides the Committee on Environment and Public Works of the Senate and the Committee on Public

Works and Transportation of the House of Representatives an explanation of his reasons for not securing such an option; and

(3) the Administrator has conformed with the provisions of section 706 of this Act.

SEC. 704. Except as may be necessary to meet temporary and urgent requirements that cannot be met in public buildings, it is the policy of the United States not to lease space to accommodate, and no additional space shall henceforth be leased to accommodate—

(1) major computer operations;

(2) offices that conduct secure or sensitive activities related to the national defense or security, except to the extent that it would be inappropriate to locate such offices in public buildings or in other facilities identified with the United States Government;

(3) offices, the nature of which would require major alterations in the structure or mechanical systems of the building to be leased; or

(4) permanent courtrooms, judicial chambers, or administrative offices for any United States court.

SEC. 705. (a) For the purposes of this Act, sections 321 and 322 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932, shall not apply.

(b) No lease may be negotiated for a rental exceeding the current commercial rates and charges for space and services of nearest comparable quality in that locality.

SEC. 706. (a)(1) The Administrator shall publicly solicit sealed bids or competitive proposals to procure leased space for the Government. Each such solicitation shall specify any special requirements including building design, configuration, or location without unnecessarily impairing competition among responsible bidders or offerors.

(2) Sealed bids shall be opened at a time and place specified in the solicitation and shall be evaluated without discussions with the bidders. A contract shall be awarded with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the Government, considering the price and the factors included in the solicitation.

(3) Competitive proposals shall be submitted by a time and at a place specified in the solicitation and shall be evaluated through discussions with the offerors. A contract shall be awarded with reasonable promptness to the responsible offeror whose proposal is most advantageous to the Government, considering price and the factors included in the solicitation.

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, all sealed bids and competitive proposals received in response to a solicitation may be rejected if the Administrator determines that such action is in the public interest.

(b)(1) Notwithstanding the requirements of subsection (a) of this section, the Administrator may award a lease on a noncompetitive basis if the space needed by the Government is available from only one source and no other space will satisfy this need, if the need for space is of such urgency that the Government would be seriously injured by the delay involved in using competitive procedures, or if the disclosure of the need for space by public advertisement would compromise the national security.

(2) Except when disclosure of the need for space would compromise the national security, the Administrator shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives regarding the award of any lease contract without full use of competitive procedures.

SEC. 707. No option to purchase a building shall be included in a lease unless the cost of exercising such option is identified separately from any lease payment and unless the estimated total cost of the lease and the exercise of the option to purchase has first been authorized under the provisions of title VIII of this Act.

SEC. 708. The Administrator shall provide a copy of the lease agreement between the Government and the owner of each leased building, and a copy of subsequent additions or revisions to the lease agreement, to the highest ranking official in the leased building of each Federal agency occupying space in the building.

TITLE VIII—CONGRESSIONAL AUTHORIZATION

SEC. 801. (a) The Administrator shall submit to the Congress, not later than the fifteenth day after Congress convenes each year, a program of projects and actions for the next succeeding fiscal year which the Administrator deems necessary in carrying out his duties under this Act. Such program shall include but is not limited to—

(1) a five-year plan for accommodating the public building needs of the United States,

(2) a list, in priority order, of construction, renovation, and acquisition projects for which authorizations for appropriations are requested for the next succeeding fiscal year, including a description of the project and the number of square feet of space involved *and the estimated annual and total cost of each project,*

(3) a list, in priority order, of lease and lease renewals for which authorizations for appropriations are requested for the next fiscal year *and the estimated annual and total cost of each lease,*

(4) a list of all public buildings proposed to be vacated in whole or in part, to be exchanged for other property, or to be disposed of,

(5) a proposed budget for the repair and maintenance of public buildings,

(6) a year by year program that would meet the provisions of section 702(c) of this Act and an analysis of the costs and benefits of the program, together with an analysis of costs and savings of alternative programs,

(7) a description of how the projects and leases included in the program, separately and together, conform to the provisions of this Act, and

(8) a list of construction, renovation, and design projects proposed, pursuant to section 802(c) of this Act, to commence in the next succeeding fiscal year.

(b)(1) The Administrator shall certify in the annual program submitted in accordance with subsection (a) that locally elected officials have been afforded the opportunity for a public hearing in the locality or proposed locality of each major construction, renovation, or acquisition project included in the annual program. Such hearing shall consider the economic and social effects of the project, its impact on the environment, its consistency with the goals and objectives of such urban planning as has been promulgated by the community, and its conformance with titles II and III of this Act: *Provided,* That, only such facts and issues as can reasonably be adduced during the planning and preliminary design of a project shall be considered at such hearing.

(2) The Administrator shall provide, along with each certification regarding a public hearing, the final environmental impact statement prepared pursuant to the National Environmental Policy Act, and a report which indicates the consideration given to facts and issues concerning the project and various alternatives which were raised during the hearing or which were otherwise considered.

LIMITATIONS ON AUTHORIZATIONS AND APPROPRIATIONS

SEC. 802. (a) No appropriation shall be made by the Congress or obligated by the Administrator to carry out the purposes of this Act, unless it has been authorized by the Congress in accordance with section 803 of this Act.

(b) No public building construction, renovation, or acquisition shall be commenced unless an appropriation has first been made for the estimated cost of completion of such construction, renovation, or acquisition in the fiscal year for which such appropriation is authorized. Beginning in fiscal year 1985, no lease shall be entered into unless an appropriation has first been made for the estimated maximum cost of such lease over its entire term, including future cost escalations pursuant to contract.

(c) Notwithstanding subsection (b) of this section, the Congress may make an appropriation and the Administrator may obligate funds for design of any construction or renovation project which has been included in the five-year plan submitted to the Congress pursuant to section 801 of this Act and is scheduled for construction in the next or second succeeding fiscal year: *Provided,* That such design project and funds have been authorized in accordance with section 803 of this Act. The authority of this subsection shall expire at the end of fiscal year 1987.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 803. (a) In order to carry out the purposes of this Act and commensurate with the Congressional Budget and Impoundment Control Act of 1974, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives shall report to the Senate and the House of Representatives, respectively, by May 15 of each year, a bill authorizing appropriations for the Public Buildings Service for the fiscal year beginning on October 1 of that year.

(b) The bill reported pursuant to subsection (a) of this section by the Committee on Environment and Public Works of the Senate shall, and the bill reported pursuant to subsection (a) of this section by the Committee on Public Works and Transportation of the House of Representatives may, specifically authorize the location and amount of any major construction and acquisition project, and any major renovation, alteration and repair project.

(c) The committee of conference on authorization bills committed to conference in accordance with this section may include in its report major construction and acquisition projects and major renovation, alteration and repair projects approved by resolutions of the Committee on Public Works and Transportation of the House of Representatives prior to May 15 of the year preceding the beginning of the fiscal year for which the bill authorizes appropriations: *Provided,* That the aggregate monetary au-

thorization in the report of the committee of conference may not exceed the higher of the aggregate authorizations contained in the bills committed to conference.

SEC. 804. Funds which are appropriated in accordance with section 803 of this Act for a construction, renovation, repair, acquisition, or alteration project or for shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided*, That such funds have been appropriated pursuant to section 802(b) of this Act, and that the construction, renovation, or acquisition project has commenced during the same fiscal year such funds are appropriated.

SEC. 805. Ten per centum of the funds made available to the Public Buildings Service for construction, renovation, alteration, and repair of public buildings shall be available for repair or alteration projects and leases not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from emergency building conditions or changing or additional programs of Federal agencies not anticipated at the time the program required by section 801 of this Act was submitted. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

SEC. 806. (a) When the cost of a project exceeds the estimated maximum cost authorized in accordance with section 803 of this Act, the Administrator is authorized to either (A) increase expenditures by an amount equal to the percentage increase in the cost of the project, or (B) decrease the number of gross square feet to be constructed in the project. In no event shall the total increase in expenditures authorized by clause (A) of this paragraph exceed 10 per centum of the estimated maximum cost of the project. In no event shall the total decrease in square feet authorized under clause (B) of this paragraph exceed more than 10 per centum of the gross square feet stated in the approved authorization.

(b) If the Administrator determines that the cost of a project exceeds the estimated maximum cost authorized under section 803 of this Act to such an extent that action under subsection (a) of this section is not sufficient to meet such excess cost, the Administrator shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives concerning the project. Such report shall include recommendations by the Administrator as to appropriate action to enable the continuance of the project. The Administrator may not take any action to continue the project, other than the action authorized by subsection (a) of this section, unless such action has been authorized by the Congress in accordance with section 803 of this Act.

TITLE IX—PUBLIC BUILDINGS FINANCING

SEC. 901. (a)(1) Subsections (f), (j), and (k) of section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490) are repealed.

(2) Subsections (g), (h), and (i) of such section are redesignated as subsections (f), (g), and (h), respectively.

(3) Subsection (a) of such section is amended by striking out "fund established by subsection (f) of this section" and inserting in lieu thereof "general fund of the Treasury".

(b)(1) Except as provided in paragraph (2), any amounts remaining in the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 on the day before the effective date of this section shall revert to the general fund of the Treasury on such effective date.

(2)(A) Any amount in the fund for which, prior to the effective date of this section, obligations have been made but have not been liquidated, shall be transferred into an appropriate account of the General Services Administration established under section 1552(a)(1) of title 31, United States Code, for the payment of unliquidated obligations.

(B) Any amount in the fund which has been appropriated prior to the effective date of this section, but for which obligations have not been made prior to such effective date, shall remain available until expended.

(c) Any reference in any law enacted before the date of enactment of this Act to deposits into the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be deemed to refer to deposits into the general fund of the Treasury.

(d) Notwithstanding section 1001, this section shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

TITLE X—MISCELLANEOUS

SEC. 1001. This Act shall become effective on January 1, 1984.

Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works unanimously reported S. 452, the Public Buildings Act of 1983. Basically, the thrust of the bill is to establish a national buildings policy and to bring some order to the congressional authorization process for the public buildings program of the General Services Administration.

It is now 4 years since the committee started its work to reform the public buildings statutes. This bill is substantially the same as legislation passed by the Senate in the 96th Congress and again in the 97th Congress.

In the 96th Congress, S. 2080 was cosponsored by every member of the committee and passed the Senate 71 to 8. The House of Representatives passed legislation encompassing only one provision of S. 2080 and requested a conference; however, Senate and House conferees were unable to resolve their differences. The major unresolved issues were those related to congressional authorization procedures for the public buildings program.

In the 97th Congress, S. 533 was unanimously reported by the committee. After extensive discussions with the then-new administration it received the strong, formal endorsement of the administration, except for section 307, and subsequently passed the Senate by a vote of 93 to 0. No conference was called but I was encouraged by informal discussions with interested Members of the House.

Mr. President, in the judgment of this Senator, the most important reforms in this legislation would replace the "hit or miss" prospectus system for authorizing projects with an annual authorization procedure based upon sound planning. In the past, the committee received prospectuses for major construction and repair projects throughout the year. Their arrival has been unscheduled and unanticipated. A pro forma declaration in each prospectus asserts its importance, but the committee is provided no information on the relative priorities among the proposals.

Given the ad hoc nature and unpredictable timing of prospectus proposals, it is next to impossible for either the executive branch or the Congress to devise rational public buildings budgets. In fact, some projects go unfunded for years. Project-by-project approval procedures prevent establishment of priorities and prohibit judicious analysis of alternative approaches to meeting program objectives. Furthermore, since current law requires GSA to submit prospectuses only for major projects, two-thirds of the budget for the Federal buildings program escapes congressional authorization altogether. Only through an authorization that encompasses the entire public buildings budget can congressional oversight and control be effectuated.

Finally, under the current practice, authorizations by committee resolutions do not have to be defended on the floor of either the Senate or House. Nor does any Member who is not a member of one of the Public Works Committees have the opportunity to participate in the decisions on public buildings authorizations, as they do in almost every other program of Government. There is no conference committee to resolve the differences between the two Houses and no Presidential action on authorizations.

This bill would replace the prospectus method of piecemeal authorizations with an annual authorization bill. It would require GSA to prepare and submit to the Congress each year a program for the coming year along with a 5-year plan. These documents would constitute a basis for an annual bill, similar to that for military construction in the Armed Services Committee, and similar to the practice of other Federal programs. It would link the authorization, budget, and appropriations processes and enable the Congress to better assess project priorities.

The major unresolved issue between the Senate and the House has been, I believe, the congressional authoriza-

tion procedures. The House has been committed to retaining the procedure requiring committee approval of prospectuses. S. 452 is notably changed from the predecessor bills in an endeavor to meet the concerns of the House while also adhering to the goals of the Senate.

Under the new provision, the annual authorization bill reported by the House committee to the floor need not contain line item projects. Only aggregate sums for construction, repair or other activities need be included in the bill on the floor of the House. Specific projects could continue to be approved by House Committee resolutions as in the past. Those projects approved in this manner by May 15 would be deemed germane to conference. Of course, the conference report would contain line item projects, but under the rules of both Houses, conference reports may not be amended. Under this process, specific building project amendments could not be considered on the floor of the House.

Mr. President, I will not take the time of my colleagues at this busy season to describe each provision of the bill.

I refer Members to the Senate report (No. 98-289) which contains a detailed summary and discussion of every section. I will take only a few minutes to summarize some changes in S. 452 from the previous legislation in the 96th and 97th Congresses. At the request of the General Services Administration, and following discussions with officials of GSA, several amendments were made in S. 452 which I would characterize in general terms as "management amendments" as opposed to policy revisions. That is, they are designed to facilitate carrying out the agency's management responsibilities under the act.

The most significant change in S. 452 would repeal the Federal buildings fund and its associated system of standard level user charges. In its place, direct appropriations would be made each year for the program of the public buildings service as is the case with the programs of most other Federal agencies.

This amendment would have the effect of putting the Federal buildings program "back on budget." That the total annual budget of the public buildings service is approximately $2 billion may be one of the better kept secrets in Government. The general lack of awareness of the size of the program is, in part, the consequence of the technical accounting means used to record revenues and expenditures in the Federal buildings fund. Revenues are disaggregated among the budgets of every agency of Government in GSA controlled space. A return to direct appropriations would permit the display of the whole buildings program budget where it can be evaluated on its own merits and against other programs of government.

Mr. President, I commend the bill to my colleagues.

Mr. RANDOLPH. Mr. President, the constructive commitment of our chairman, Senator STAFFORD, to this and other legislation that comes before us in the Committee on Environment and Public Works provides at this moment the opportunity to express appreciation to him for his understanding of the measures, including the present one, with which our committee attempts to provide leadership in the Congress of the United States.

Sometimes there is perhaps a lack of knowledge by the American people as to the ownership of public buildings. The Capitol, as it was just a few days ago, is shattered by a bomb, and then the people think for a moment as they realize—"That is our Capitol."

They certainly have a right to believe that it is their Capitol Building. All Federal buildings of the United States, wherever they are located, in all the States of the Union, are the property of the citizens of the United States.

Mr. President, in my hometown of Elkins, W. Va., we have a Federal building and courthouse of which we are extremely proud. This beautiful building was opened in the summer of 1976. The Federal Plaza in Elkins has become the focal point of a wide variety of community activities. It is, in short, a living building—used for purposes beyond the conduct of important government business.

On a regular basis the Elkins structure is host to music and drama programs, art exhibits, agricultural displays, children's programs, Christmas and Easter programs, Labor Day rallies, and many other events in which the total community can participate. Thousands of men and women and children enjoy and participate in these community programs. The use of the Federal Plaza has strengthened the feeling that it is their building.

When the committee first developed public buildings legislation in 1980, the Elkins experience inspired me to offer language to expand and facilitate further public use of Federal buildings. An important breakthrough was made with enactment of the Public Building Cooperatives Use Act in 1976, but I felt and continue to believe that further encouragement is needed in this area.

Language similar to that I proposed in 1980 is included in the bill before us today. I believe it to be one of many features of this legislation which will enhance the public buildings program of the United States.

Mr. President, I strongly support enactment of S. 452, the Public Buildings Act of 1983, as reported from the Committee on Environment and Public Works.

This legislation has had a high priority in our committee for three Congresses. It is intended to revise and modernize an important activity of the Federal Government, the basic authority which has not been substantially amended since 1959.

I am pleased to have been an original cosponsor of this bill and to have worked with other committee members in its refinement. Our chairman, Senator STAFFORD, has moved the committee forward with his determination to bring about the reform that he recognizes is so necessary.

We continue to benefit from the considerable experience and energy of Senator DANIEL PATRICK MOYNIHAN. He has been deeply involved in the quest for an improved physical presence of the Federal Government in communities across our land, an effort he has actively pursued since he was a member of the administration of President Kennedy 20 years ago.

We also are appreciative of the contributions of Senator ALAN SIMPSON whose desire for order and fiscal responsibility in the public buildings program is reflected in provisions of this legislation.

The Public Buildings Service of the General Services Administration provides housing and facilities for a large proportion of the Federal work force. Programs of the public buildings service now amount to more than $2 billion annually and there is virtually no congressional oversight. Instead, projects are authorized on a piecemeal, ad hoc basis and funds for ongoing activities are provided through the appropriations process with only minimal scrutiny.

The absence of a rational ongoing buildings program has resulted in recent years in rapid escalation of leasing to meet Federal space needs. The yearly rent payments of the Federal Government now total more than $800 million and could top $1 billion in the next 2 years.

Mr. President, the Public Buildings Act of 1983 is intended to bring order out of chaos in a basic government program. It repeals and completely replaces the Public Buildings Act of 1959, the statute under which the program currently operates. The most important feature of this legislation is its provision for an annual authorization and appropriation process for the public buildings program. Virtually every other activity of the Federal Government is subject to such a process and there is no logical reason why public buildings activities should not also be reviewed on an annual basis.

In addition to this key provision, S. 452 addresses a number of other important issues. It establishes a precise legal foundation for the public buildings program by competent professional management subject to Senate con-

firmation. It attacks the growing cost of leasing by providing for an orderly construction program intended to house more Federal activities in federally owned structures. The legislation emphasizes quality in architecture and the need to integrate Federal facilities into the general community life.

Mr. President, S. 452 also addresses an issue which was not considered in previous legislation on this subject. Title IX of the bill repeals the Federal buildings fund and the associated system of standard level user charges. Funding for the public buildings program would be returned to a system of direct annual appropriations relieving individual agencies of the necessity to budget for annual "rent" payments.

Mr. President, legislation similar to S. 452 was passed by the Senate in the 96th and 97th Congresses. In 1980 there were only seven dissenting votes and in 1981 it was adopted unanimously. On neither occasion, were we able to secure enactment into law. This effort to reform the public buildings program began in the spring of 1979 when the Committee on Environment and Public Works imposed a moratorium on all nonemergency public buildings projects. That moratorium remains in effect and we are determined to press for enactment of reform legislation during the 98th Congress. The public buildings program has drifted for too long. It urgently needs to be brought within the scope of the regular congressional process. I am encouraged that at long last this goal can be achieved and urge ever Member of the Senate to support this measure.

Members of the committee staff have assisted us greatly in review of the issues and the development of this bill. They are knowledgeable in this field, and I express our thanks to John Yago, Robert Peck, Ann Underwood, Elizabeth Thompson, and Helen Kalbaugh of the minority staff; to Bailey Guard, Steve Swain, Sheldon Kravitz, and Carolyn Streeter of the majority staff. All of them work together in a cooperative and bipartisan manner to serve our committee.

I thank you, Mr. President, for allowing me to join with Senator STAFFORD and Senator MOYNIHAN in a discussion of this legislation, not attempting to pass it quickly, to treat it lightly, but to fit ourselves into the program that has been discussed by the majority and minority leaders earlier today.

Mr. MOYNIHAN. Mr. President, it is a singular but accustomed honor to be able to rise in this Chamber and to follow our revered and distinguished chairman and our beloved chairman-emeritus with respect to the Public Buildings Act of whatever year it happens to be.

As time has gone by we feel we have refined this legislation and we certainly have become more committed to it.

Mr. President, the distinguished chairman of the Committee on Environment and Public Works has stated as well as it can be stated why we need this legislation. He and I have worked together on this bill for over 4 years. Twice before, we have brought it to the floor of the Senate, and it passed overwhelmingly both times. This year it was favorably reported by a 16-to-0 vote of the Environment and Public Works Committee. I urge my colleagues to support it once again.

In my opinion, the Public Buildings Act we now present to the Senate is needed more than ever. We need more than ever to establish the Public Buildings Service in law and to make the Commissioner of Public Buildings a post appointed by the President and confirmed by the Senate. We have recently found out, to our surprise, that the GSA Administrator has delegated nearly all significant decisionmaking responsibility to his regional administrators. The Commissioner is thus bypassed, and seems relegated to a role as an isolated policymaker, without the authority to influence actual public buildings projects or operations in the field.

We need more than ever to require GSA to produce and present to Congress a plan to meet the public buildings requirements of the Government. I am distressed over the failure of the General Services Administration this year to provide us with a complete public buildings management plan for fiscal year 1984 and the succeeding 4 years. In 1981 and 1982, we received professional-looking plans shortly after Congress convened. This year we received nothing until April 12, and then only after the chairman and ranking member sent a strongly worded letter. And what we received was not a plan. It was nothing but a list of projects, with no explanation of their relative urgency or any other justification.

S. 452 would require that an annual and 5-year plan be submitted to Congress no later than 15 days after Congress convenes each year. It would also require the GSA to submit a detailed annual report on its activities by February 1 of each year. I trust that a statutory mandate would bring us results.

We need, more than ever, full congressional authorization of major public buildings projects. Several times in the past year, the GSA has announced it is unilaterally canceling projects approved under the current, flawed public buildings "prospectus" procedure. For example, GSA recently informed me that it might renege on the renovation of the U.S. Custom House in Manhattan, a project approved by prospectus in 1979 and reaffirmed by unanimous passage of Senate Resolution 498 last December. The NRC headquarters building, which we approved by prospectus in 1980, was unilaterally canceled last year.

A look at the fiscal year 1984 budget provides other urgent reasons for enacting the planning and authorization provisions of S. 452. Once again, we see the budget for leasing scheduled for a significant increase, from $806 million in 1983 to $880 million. What makes this increase even more dramatic is that it comes in a year when the total amount of space leased is expected to decline by nearly 1 million square feet. Admirable as that decrease is—and the GSA is to be commended for it—the fact that it is accompanied by an increase in expenditures points up the problem of locking ourselves into leased office space arrangements.

At the same time, we see that funding for significant construction, purchase, and major repairs is like the ever-receding horizon: It is always just ahead, but we never reach it. Let me give you an example. Here are the figures for fiscal year 1984 construction and major repairs and alterations as proposed by the current management of GSA first in June 1981, then in February 1982, and finally in April of this year. In less than 2 years, proposed budgets have declined nearly 90 percent in each of the two categories:

Fiscal year 1984	June 1981		February 1982		April 1983	
	Projects	Dollars	Projects	Dollars	Projects	Dollars
Major construction	22	[1] $1.1	14	[2] $315.7	6	[2] $132.5
Major repair and alteration	47	[2] 202	33	[2] 176.7	11	[2] 21.8

[1] Billion.
[2] Million.

At least 11 major construction projects that the February 1982 plan proposed for later in the decade have disappeared completely from the long-range project list submitted on April 12. Others have been deferred.

At least some of the decline is accounted for by the decline in revenues available to the GSA for the public

buildings program. The Federal buildings fund, launched in 1972 with great optimism for bringing businesslike discipline to the public buildings program, has been a failure. Each time it verges on accumulating the funds necessary to build up and maintain an adequate public building inventory, its revenues are confiscated, either by the Office of Management and Budget, the Congress, or by both working in concert.

The theory of the fund is that Federal agencies will make annual rent payments to the GSA equivalent to prevailing commercial rental rates. Last year, GSA began to impose long-overdue rent increases to reflect conditions in the private rental market. But Federal agencies, faced with stringent budgets, balked at the increases and persuaded the appropriations committees to impose a form of rent control on GSA. GSA's rental revenues were frozen at fiscal year 1982 levels, and the Federal buildings fund consequently lost $337 million in fiscal year 1983 revenues; the Appropriations Committees have now approved rent freezes that will cost the fund nearly $280 million in fiscal year 1984.

That means there is no money with which to construct, acquire, and renovate needed Federal buildings. More seriously it means that we are deferring major maintenance on Federal buildings. We will pay for that deferral in the end, just as we are paying for past maintenance neglect of our highways, bridges, sewers, and water systems.

Exacerbating the rent freezes, the administration pulled a sleight of hand with the $125 million in fiscal year 1983 jobs bill money allocated to GSA in March. OMB ordered GSA to cut a commensurate $125 million from its proposed fiscal year 1984 budget. Under the Federal buildings fund arrangement, we are powerless to stop this flouting of the intent of Congress.

We held a hearing on the fund in the fall of 1979 and raised it as an issue every year since. The GSA was not able to produce a legislative or administrative solution to this problem. And so, with title IX of S. 452, we have produced the logical solution: We abolish the buildings fund and the GSA rental charges and return to a system of regular appropriations. No more will the $2 billion-plus public buildings program be an off-budget footnote in the Federal budget.

We need that reform in the public buildings program. And we need the reforms embodied in this bill that establish building location and design standards and that improve the way in which GSA selects architects.

We need this legislation no less than when we first proposed it, in the midst of the front-page exposures of malfeasance in the GSA. We need this legislation to implant permanently in the Public Buildings Service efficiency, pride and integrity.

As the years go gently—or otherwise—by, the case we began to make 4 and 5 years ago becomes more impressive in terms of our concerns that the Federal Government was incurring rental obligations that would one day reach $1 billion. We are getting closer every year.

Last year we paid $806 million in rent. This year $880 million. My rough calculation is that 2 years hence we will see the $1 billion mark passed unless we do something about it.

Just as rents go up, the actual construction of Federal buildings go down. We are using up our inventory.

In 1981, the major construction projects that were anticipated for the coming fiscal year, and this is going back in our 3-year budget projections, were projected at $1.1 billion and then in 1982 $315.7 million, and now in the current projection $132 million. We have dropped by almost 85 percent the actual building we had planned to do.

This is all an artifact of the budget images that Presidents have to deal with. It began in the 1960's when the President did not wish to have the full cost of new buildings put in their budgets. So they began renting.

This is an easy thing. In renting a building you have to provide for 1 year's rent in your budget. In building a building you provide for the whole cost but you end up with the building as against rent checks. And anyone who was raised in Manhattan as a youth knows the difference.

Something else may have happened, Mr. President. I do not know that we could say this with any certainty, but I wonder if our capacity to build buildings has not begun to decline as we have effectively ceased to do so. That is something to be considered.

I do not want to discourse on this at any great length, but architecture is the necessary public art. To do it well or do it badly remains the single most visible record of the quality of Government, and increasingly we do not do it at all. What will be said of the public architecture of the 1970's? Nothing will be said. It is all on K Street and owned by someone else.

The consequences over time could be very considerable. But what I said today I could have said last year and the year before. As I say, these trends have been very steady, and no one knows this better than our chairman who first spotted them and first began to get concerned about them.

Mr. President, I speak now not to Members in this Chamber but to our friends in the other place who have been resistant to our legislation. Something important has happened in the interval between last year's bill and this year's bill, and that is the great—or the momentous decision—I will leave to historians the judgment of whether or not it is great—known as Immigration and Naturalization Service against Chadha, which was handed down by the Court across the park there just this year.

And the essence of the Court finding was that the Constitution provides very direct provisions by which laws are made or unmade; that is, a bill comes to the floor of this body and the House of Representatives, is passed on the floor, and there is nothing in the Constitution about the conference committees, I do not believe, but at one point or another, an identical bill is passed and the bill goes to the President. He signs it. That is the only way government can act.

This causes great inconvenience to those who have helped enact the legislative veto so-called.

The Court said:

> We are sorry. It may be a convenience, but if you like it enough you can amend the Constitution to make it constitutional because as the Constitution reads it is not provided for and, therefore, cannot be done.

And that is the great service the Court does us from time to time. They read the Constitution. And the implications of this go very much beyond simply the provisions of what is known as the legislative veto.

Mr. President, I have here a letter from the Deputy Assistant Attorney General, the Office of Legal Counsel, the Honorable Larry Simms, to Ms. Allie B. Latimer, the General Counsel of the General Services Administration.

I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, D.C., September 27, 1983.

MS. ALLIE B. LATIMER,
General Counsel, General Services Administration, Washington, D.C.

DEAR MS. LATIMER: Thank you for your letter of September 2, 1983, regarding legislative vetoes contained in statutes relevant to the operation of the General Services Administration. We appreciate your drawing our attention to the legislative veto mechanisms contained in §§ 7(d) and 11(b) of the Public Buildings Act of 1959, as amended, 40 U.S.C. §§ 606(d), 610(b). We will include these sections in the revised version of our July 15, 1983 compilation of statutes that contain legislative veto devices, which we are now preparing.

For your information, we believe § 11(b) contains an unconstitutional legislative veto device insofar as it would allow one committee of either House to require the Administrator of GSA and the Postmaster General to make particular building project surveys. We do not believe a committee of Congress can be authorized by statute to direct the Administrator of GSA to make particular investigations, any more than such committees could require GSA to begin construction of any particular building, without

compliance with the plenary legislative process. Such action would clearly have "the purpose and effect of altering the legal rights, duties, and relations of persons, including . . . the Executive Branch," *INS* v. *Chadha*, 103 S.Ct. 2764, 2784 (1983), and therefore could be accomplished only "in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President." Id. at 2787.

We understand from your letter that as a matter of practice Congress would treat a resolution by both committees approving a report transmitted by the Administrator to Congress pursuant to § 11(b) to be an approval of a prospectus under § 7(a) of the Public Buildings Act, and therefore an authorization for appropriations for the project. As you are aware, we have consistently taken the position, with respect to the approval mechanism in § 7(a), that the committees' failure to approve a prospectus is without any legal significance, because if Congress in fact appropriates funds for a project, the Executive Branch may legally expend those funds notwithstanding the failure of the committees to approve that project prior to the appropriation. For that reason, we have not included § 7(a) in our compilation of legislative veto statutes.

If you have additional comments or questions, please let us know.

Sincerely,

LARRY L. SIMMS,
Deputy Assistant Attorney General,
Office of Legal Counsel.

Mr. MOYNIHAN. Mr. President, although the letter will be printed in the RECORD, let me read a part of it.

It says:

For your information, we believe § 11(b) contains an unconstitutional legislative veto device insofar as it would allow one committee of either House to require the Administrator of GSA and the Postmaster General to make particular building project surveys. We do not believe a committee of Congress can be authorized by statute to direct the Administrator of GSA to make particular investigations, any more than such committees could require GSA to begin construction of any particular building, without compliance with the plenary legislative process.

I believe the term "plenary legislative process" is the way the Court's decision is being described: that there is a legislative process prescribed in the Constitution and only that can bring about actions that have legislative effect.

Now, Mr. President, we are now presenting to the Senate a bill which meets the constitutional requirements the Supreme Court lays down. So far as I am aware, and I would assert with large confidence that although we did not set out to comply with the Supreme Court decision, the bill we have before the Senate today and which we had on two previous occasions does exactly do that. I would leave the thought that Congress has no choice but to adopt legislation of the kind we have before us.

I wonder if I could inquire of our distinguished chairman, given this view of the Justice Department, would it not be his thought that we have to act; that we did not start out to do this because of the Supreme Court decision but we in a sense anticipated it?

Mr. STAFFORD. If the distinguished Senator will yield, yes, it would be the opinion of the Senator from Vermont that it is imperative now that we so act.

Mr. MOYNIHAN. I do not know anything more could be said or could be said more succinctly.

Mr. President, I yield the floor.

Mr. STAFFORD. Mr. President, I am unaware of any other Senators who might wish to speak on this bill, nor am I aware of any Members who might wish to offer amendments to it.

That being the case, unless my colleague is aware of someone that excapes me, I would be prepared to move the bill to a vote.

Mr. MOYNIHAN. Mr. President, my understanding is precisely that of the chairman's, and I am happy to see us move to a vote.

Mr. STAFFORD. I see our colleague, the ranking Member, Senator RANDOLPH, has come in. It is my attempt to move a vote on the bill unless the Senator is aware of someone who wants to speak who is not here.

Mr. RANDOLPH. Mr. President, to the chairman of our committee, Senator STAFFORD, and Senator MOYNIHAN, I say I have been checking to see if there was any reason why others of the committee might wish to comment. I believe that we are at that point where we should go ahead and pass the legislation. There is a unanimity within our committee, and we hope approval here in the Senate.

I thank the Senator.

A voice vote, I would suggest, but whatever the chairman would decide.

Mr. STAFFORD. Mr. President, I would like the record to show that Senator SIMPSON of Wyoming has been a very interested party to our deliberations on this legislation in past Congresses and in this one and that if he were able to be here he would undoubtedly wish to make a statement in connection with this legislation.

Mr. President, in view of what my colleagues have said, my two colleagues with whom it is always a great pleasure to work on this committee, I would now move the question on the bill pending before the Senate.

The PRESIDING OFFICER. The Chair would advise the Senator that there are some committee amendments that must be acted on before he yields back the time to act on final passage of the bill.

Without objection, the committee amendments will be agreed to en bloc, if that is the wish of the managers.

Mr. STAFFORD. That is the wish of the managers.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

If there be no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time on the bill on both sides?

Mr. STAFFORD. The Senator from Vermont understood there was an hour in total and no particular division of it. Whatever time remains on this side, I yield back.

Mr. MOYNIHAN. Whatever time remains on this side, I yield back.

The PRESIDING OFFICER. All time having been yielded back, the bill having been read the third time, the question, is shall it pass?

The bill (S. 452) was passed.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

The majority leader is recognized.

CIVIL RIGHTS COMMISSION ACT OF 1983

Mr. BAKER. Mr. President, I assume that now, the Civil Rights Commission reauthorization bill recurs as the pending business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will state the pending business.

The bill clerk read as follows:

A bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission and for other purposes.

AMENDMENT NO. 2533, AS MODIFIED

(Earlier in the day the following occurred:)

Mr. SPECTER. Mr. President, I ask unanimous consent that I may be permitted to modify my amendment.

The PRESIDING OFFICER. We are still in morning business.

Mr. BAKER. Mr. President, the unanimous-consent request that the Senator makes, notwithstanding that we are in morning business, is that he may be permitted to modify his amendment, on which the yeas and nays have not yet been ordered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPECTER. Mr. President, I send to the desk that modification.

The PRESIDING OFFICER. The amendment is so modified.

The text of the amendment, as modified, is as follows:

At the end of the bill insert the following:

"Notwithstanding any other provision of the Act, this Act may be cited as the Congressional Commission on Civil Rights Authorization Act.'"

SEC. 2. (a) Section 101 of the Civil Rights Act of 1957 is amended to read as follows:

"ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

"SEC. 101. (a) There is created in the legislative branch of the Government a Commission on Civil Rights (hereafter in this Act referred to as the 'Commission').

"(b) The Commission shall be composed of eight members as follows:

"(1) four shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority Leader and the Minority Leader, no more than two of whom shall be of the same political party; and

"(2) four shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader of the Senate, no more than two of whom shall be of the same political party.

Not more than four of the members shall at any one time be of the same political party.

"(c) The Commission shall select a Chairman and a Vice Chairman from among its members annually. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(d) Members of the Commission shall be appointed for a term of eight years, except that as designated by the Speaker of the House of Representatives and the President pro tempore of the Senate the first and second Commissioners appointed shall serve two-year terms, the third and fourth Commissioners appointed shall serve four-year terms, and the fifth and sixth Commissioners appointed shall serve six-year terms. A Commissioner may be reappointed.

"(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

"(f) A member of the Commission may continue to serve until his successor has taken office as a member of the Commission.

"(g) A majority of the Commission shall constitute a quorum.

"(h) The Speaker of the House of Representatives and the President pro tempore of the Senate jointly may remove a member of the Commission only for neglect of duty or malfeasance in office.".

"(b) Section 102 of the Civil Rights Act of 1957 is amended by adding at the end thereof the following new subsection:

"(m) The provision of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.".

(c) Section 104(c) of the Civil Rights Act of 1957 is amended to read as follows:

"(c) The Commission shall submit reports to the Congress at such times as the Commission or the Congress shall deem desirable.".

(d) Section 105(a) of the Civil Rights Act of 1957 is amended to read as follows:

"(a)(1) There shall be a full-time staff director for the Commission who shall be appointed by majority vote of the Commission.

"(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the Director, the members of the Commission and the special assistances thereof) of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of the Commission on Civil Rights Authorization Act of 1983.

"(B) Upon application of any individual (other than the Director, a member of the Commission or a special assistant thereof) who was an employee of the Commission on Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are comparable to the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

"(C) Any employee transferred under subparagraph (A) or appointed under paragraph (B) shall be deemed to have been employed by the Government without a break in service for purpose of chapter 35 (retention preference), 55 (pay administration), 63 (leave), 81 (insurance) and 89 (health insurance) of title 5, United States Code.

"(3) Within the limitations of its appropriation, the Commission may appoint such other personnel as it deems advisable.

"(4) The Commission shall, not later than 90 days after the date of enactment, establish by regulation a personnel management system for the Commission which shall be consistent with the personnel management system established under section 732 of title 31, United States Code.".

(e) Section 106 of the Civil Rights Act of 1957 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated $12,180,000 for each of the fiscal years 1984, 1985, 1986, and 1987.".

SEC. 3. (a) Effective thirty days after the date of enactment of this Act, files, records, and balances of appropriations of the Commission on Civil Rights are transferred to the Commission established by the amendment made by section 2(a) of this Act.

(b) To the extent not inconsistent with the amendments made by this Act, the Commission established by the amendment made by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(Conclusion of earlier proceedings:)

Mr. BAKER. Mr. President, the managers are not here, so I urge Members who have something to say or to offer to wait until the players are on deck.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I apologize to the clerk, but I should report that the House of Representatives has now acted on the continuing resolution. I am advised that it should be here and available to the Senate in about an hour. It is the intention of the leadership on this side, after consulting with the minority leader, to ask the Senate to go to that measure sometime shortly after it arrives. In the meantime, I anticipate that we shall be on the Civil Rights Commission reauthorization bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is an amendment offered by the Senator from Delaware to the amendment offered by the Senator from Pennsylvania to H.R. 2230.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes on an unrelated subject without interrupting the proceedings.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

OIL AND GAS LEASES ON U.S. LANDS

Mr. BUMPERS. Mr. President, I want to speak for just a few moments on a subject that is near and dear to my heart, and one that I have been intending to speak on during the morning hour for some time.

Recently, the Senate, in its collective good judgment, decided after about a 7- or 8-year battle to terminate the Clinch River breeder reactor project, thereby saving the country's taxpayers something in the vicinity of $8 billion. I led much of the fight during that period of time and at times I have felt that the project was going to be a Rasputin which would always survive. It seemed that every time we thought we had it down, suddenly new life would be breathed into it. I would like to think that project is finally and eternally dead. But there is another matter of great interest to me which I have also been pursuing since 1979.

That is the outrageous practice of the Bureau of Land Management in leasing onshore lands belonging to the United States for oil and gas.

This came to my attention in 1979 because of a lease which was executed on Fort Chaffee, Ark. Fort Chaffee is a military reservation of 74,000 acres. Until 1976, there was an outright prohibition against leasing acquired military reservations for oil and gas. In 1976, Congress decided to allow military installations to be leased for exploration and designated the Bureau of Land Management as the agent to do such leasing.

Now, Fort Chaffee happens to be 2 miles from my home. I practiced a little oil and gas law during the 18 years that I was a lawyer in the small community of Charleston, Ark.

Strangely enough, this 74,000-acre military reservation is surrounded on four sides by producing gas wells. Probably 300 to 400 gas wells surround Fort Chaffee. The only reason the fort was not in production is that it had never been available for lease.

In 1979, the Texas Oil & Gas Co. went to the Bureau of Land Management and said, "We should like to lease 33,000 acres of land in Fort Chaffee." The Bureau of Land Management said, "Well, if you will just trot yourself down to Tulsa, Okla., and get the U.S. Geological Survey down there to say that this 33,000 acres you want is not ever what is known as a known geological structure, you can have it for a dollar an acre."

The agent of the Texas Oil & Gas Co. promptly hopped on a plane, went to Tulsa, and talked to a USGS representative who said, "No, this land is not over a known geological structure." He said that despite the fact that there was within eyesight of that 33,000 acres probably 200 producing gas wells.

Now, Mr. President, the Texas Oil & Gas agent went back to Washington and to the Bureau of Land Management with his little USGS certification that the Fort Chaffee land was not a known geological structure, gave the Bureau of Land Management $1 an acre, or $33,000, and proceeded happily back to Houston with his 33,000-acre lease.

Now, that is sort of a long story to tell you how I got interested in this subject, but I immediately raised Cain about the lease. The Secretary of the Interior at that time, Cecil Andrus, checked into it and canceled the lease.

That is all history, but that matter is now on appeal to the eighth circuit in St. Louis. The District Court for the Western District of Arkansas ruled the lease was in error and invalidated it.

The following year, simply because I had made so much noise about the 33,000-acre lease, BLM leased another 24,000 acres in Fort Chaffee. But rather than go through these hearings and all the criticism again, the BLM decided to get this 24,000 acreas competitively. They put it up for competitive bids right beside the 33,000 acres that had gone for $1 an acre. What do you think it brought? Exactly $1,705 an acre. Mr. President, if the Supreme Court ultimately rules that the Texas Oil & Gas lease is invalid, there are estimates by oil and gas people in my State that that 33,000 acres will bring somewhere between $4,000 and $5,000 per acre.

Every time I sit in the cloakroom or in the dining room and tell Senators what is going on in this leasing business, they say, "I cannot believe that. How long has this been going on?"

Well, it has been going on ever since 1920, but it never really made any difference until 1973, when the oil embargo hit, because nobody really cared.

But now it is still going on and there are 33,000 acres in Arkansas that would easily bring $100 million today that has already been leased for $33,000. Why am I upset? No. 1, the State of Arkansas lost $50 million, because we get half the money. No. 2, I am upset because the BLM's leasing system is the most outrageous violation and travesty of the people's faith in Government that I know anything about.

In August, the Bureau of Land Management put up 18 tracts of land near Casper, Wyo., by lottery. Now, if you want to engage in the lottery, you send the Bureau of Land Management $75 with your name and address, and you tell them which tracts you are interested in. They will put your name in the bingo squirrel cage and every other month they turn the squirrel cage. I do not know who actually draws out the names. Usually, if I am the speaker at a chamber of commerce banquet, when they give away the door prizes they ask me to draw out the number. I do not know who does it for the BLM. But if you happen to be one of the lucky winners out in Casper, Wyo., and they draw your name, as they did on those 18 leases just 2 months ago, you get yourself a nice lease within eyesight of the rigs drilling oil on the biggest oil find in America in the past 5 years.

Twelve of those eighteen leases have already been relet.

Understand, you do not have to be an oil and gas man to win. All you have to have is submit $75 to get your name in the pot.

One of the 12 winners who reassigned his lease gave $75 to the U.S. Government for it and truned around 2 weeks later and sold it for $7.6 million.

"NBC News" did a little segment about the Wyoming leases. Apparently, no Senator watches "NBC News." NBC did a little segment on the situation the other night, and pointed out that the 12 leases that had been reassigned, and for which the U.S. Government got only $75 each, have been resold by the winners for somewhere between $50 million and $100 million.

That is not the total loss to the United States, because if those tracts had been put on a competitive basis to begin with, they would have brought a lot more than that. The fact that they brought only $50 million to $100 million means that someone went to one of these poor winners and offered him $1 million for his lease, and because that is more money than he ever expected to see, he sold it. But had that same lease been put on a competitive basis, it could have brought $10 million.

Mr. President, this noncompetitive leasing system is the bane of the Nation. Last year, the Bureau of Land Management put up a couple of thousand acres of land for lease in the Ouachita National Forest in my State. This time, the land was offered on a first-come, first-served basis. Somebody called in and said, "I'll take it." They gave $2,000, and they walked off with a 2,000-acre lease.

I want you to know that the State of Arkansas has better sense than that. We do not lease our lands on any such outrageous basis.

Right in the middle of this 2,000-acre tract was a little 80-acre tract for which the mineral rights belonged to the State of Arkansas. Arkansas law requires competitive bids on everything.

Good Lord, when I was Governor of that State, I assumed that I would go to the slammer if we did not put things out on a competitive bid basis. I thought that was the law everywhere until I got up here.

Do you know what Arkansas got for its 80 acres? It got $103 an acre. And people think Arkansas is backward. [Laughter.]

Arkansas could teach these people around here a lot of tricks about how to improve their position. We got $103 an acre for our land because we do not give it away, and we do not buy all those specious arguments about how noncompetitive leasing helps the little mom-and-pop operators.

Since James Watt has been Secretary of the Interior, $1 an acre leases have increased by 63 percent. We now have 187 million acres of the public domain under lease that have been leased for $1 an acre, and only 2.3 percent of that land has been leased competitively.

Shocking? Why, it ought to jar people right out of their shoes.

Every time it comes up on the floor of the Senate, every time it comes up in the Energy Committee, supporters of the lottery say, "If we didn't let this land out on a lottery basis and if we didn't let it out on a first-come, first-served basis for $1 an acre, the little

old independent wouldn't have a chance."

More than 80 percent of all the leases that have been let in this country on a competitive basis have gone to independent producers, so do not let anybody smokescreen that argument for you.

The truth of the matter is that it is a bird's nest on the ground for the industry, and it is going to be, until this body and the House come to their collective senses and do something about it.

Right after the Fort Chaffee lease scandal occurred, I talked to the U.S. District Attorney in Denver. He said, "Senator, you cannot repair that system. We have seen so much scandal, so much fraud out here associated with this system, that I have had to put new chairs in my office to take care of the plea bargainers."

Back in those days, just 5 years ago, you could put your name in the pot for $10. James Watt raised the application fee to $25, and then he raised it to $75. I do not care if they raise it to $1,000—you cannot correct this system, you cannot prevent the fraud and the abuse in the leasing system, until it is an all-competitive system.

The U.S. attorney's office in Denver took a lot of pleas, and the grand juries indicted people. They looked through BLM's squirrel cages and found hundreds of names in there of dead people, fictitious people. When you can get your name put in the pot for $10 and maybe get a lease worth $1 million, why would you not put your name in 100 times?

The other day, after the Amos Draw leases near Casper, Wyo., were publicized, the Bureau of Land Management said, "We are embarrassed. This is a terrible thing that has happened, and we are declaring a moratorium for 6 weeks on this kind of leasing."

What happens at the end of 6 weeks? We go right back to the square 1, giving away the people's resources for $1 an acre to whoever gets there first with it.

Mr. President, there is not one State left in the Nation that leases its lands by lottery. The State of Wyoming was the last State to give up. Just last July, Wyoming discontinued its lottery leasing, and now all 50 States require competitive leasing for nearly all leases. There is only one government entity in this country that gives its resources away for $1 an acre, and that is the U.S. Government.

Mr. President, this is just a simple case in which the States are way ahead of the Federal Government. This system will never work. I cannot, for the life of me, understand why anybody would resist a change in the law to simply require that anybody who wants to bid on a tract of land is free to do so. Then you would know we would collect fair market value for leases, and that everybody out there who wanted them had a fair shot at them.

I have a bill pending in Congress right now, and I promise that this body will soon get a chance to vote on it one way or another. I cannot get hearings held on the bill. I cannot even get a markup on it in the committee. The last time we had a vote in the Energy Committee, it was 9 to 8. Right now, it probably would be about 10 to 8, so I cannot get it out of the committee.

This is just the first of several speeches I am going to treat you to on this subject, until this matter is finally resolved. I am not going to sit still and see the people of my State, who have a very direct interest in this, take 50 cents for every dollar the Government gets, when we could be getting as much as $5,000 or $50,000.

If this system helped the consumers, as it is often argued, I would not criticize it. Do you think Texas Oil & Gas—because it got 33,000 acres for $1 an acre which was worth $100 million—is going to cut the price of that gas because they found a bird nest on the ground? Of course it is not. It is going to charge every crying dime it can get for it.

All I am saying is that the people of this country deserve a lot better shake than that. My State needs the 50 percent we get, and your State does, too.

So I hope that everybody within earshot of my voice and who reads the RECORD tomorrow will ponder this matter.

Incidentally, the attorney general of Maine was in my office yesterday afternoon. He persuaded the State attorneys general of this country to endorse a resolution which, in effect, endorses my bill, and the National Governors' Conference is going to do the same.

One other little thing, and then I will conclude. As a matter of fact, I will quite any time this bill is ready to be considered by the floor managers. But there is another little item in this that everybody should understand.

There are 250 leasing service corporations that have sprung up in this country in the past few years. You see their ads in the paper. One starts off by saying: "Would you like to compete with Exxon and Shell? You can. Just send us $200, and we will bid on these tracts for you."

What they do is they take your $200, they put $125 in their pocket, and they send the Bureau of Land Management $75.

Last week the attorney general of Florida suspended the operations of two service corporations that were charging their customers $2,000 and alleging that they did geological studies of all these tracts. The attorney general found that they only had one or two geologists. The companies were not doing any studies. What they were doing was taking $1,925 and putting it in their pocket and sending $75 to the Bureau of Land Management.

That will never stop. That will never cease until we go to an all-competitive system. That is the only remedy, the only solution to one of the remaining egregious practices of the U.S. Government.

Mr. President, I yield the floor.

CIVIL RIGHTS COMMISSION ACT OF 1983

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JEPSEN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 2230.

Mr. JEPSEN. What is that bill?

The PRESIDING OFFICER. It is a bill to amend the Civil Rights Act of 1957, to extend the life of the Civil Rights Commission, and for other purposes.

Mr. JEPSEN. I thank you, Mr. President.

Mr. President, "There is no cause more important for preserving—freedom than affirming the transcedent right to life of all human beings, the right without which no other rights have any meaning." With that emphatic declaration, President Reagan concluded his remarkable manifesto against abortion in the Human Life Review.

Common sense affirms his assertion. All the civil rights we cherish, all the rights we have sought to protect with a panoply of legislation, mean nothing unless the right to life is secure.

That is why I will offer the substance of S. 467, the Respect Human Life Act, as an amendment during the Senate's consideration of legislation concerning the Civil Rights Commission.

The enactment of civil rights laws has seldom been easy. In the bad old days when racism was widespread and intolerance was socially acceptable, the Senate was repeatedly faced with threats of filibuster. On several historic occasions, this Chamber remained in session, day and night, day after day, while the force of reason and justice confronted the waning power of discrimination.

Yes, there were profound constitutional issues at stake; and men and women of good will and personal decency could disagree about the way our country's civil rights problems should be handled. The civil rights

record should not be seen as a matter of victors and villains, but as a difficult and often heroic process by which Americans forged, out of disagreement and diversity, a stronger and more noble national identity for us all.

But what does it all mean if we fail to protect the right to life, or if we abandon those whose fundamental civil right is violated with impunity?

It was not enough for an earlier Senate to be opposed to lynching, to deplore voting rights violations, to disapprove the denial of public accomdations to members of minority groups. Action was required, and legislative action was taken. In the same way, it is not enough for us today to be personally opposed to abortion. It is not enough to deplore more than a million instances a year in which the right of life is treated with contempt.

What consolation is it to the premature baby—let us say a seven- or eight-month child—to have her right to vote protected on the condition that she survive a saline abortion? What justice is there in guaranteeing her equal protection of the laws on the condition that she escape the razor-sharp curette that dismembers with flicks of the abortionist's wrist?

A generation ago, Congress broke through obstructionism and delays to help our black citizens who were on the wrong end of shotguns, cattle prods, and firehoses. It is now time to rescue our boys and girls—and what else does anyone think unborn children are—our boys and girls whose only crime is to be on the wrong end of an umbilical cord.

Much has changed in our country since the Civil Rights Commission was created in 1957, and much of it has been for the better. In one vital respect, however, there has been a tragic retrogression in the protection of civil rights.

At the founding of the Civil Rights Commission in 1957, abortion was illegal in every State. It was a crime, a particularly heinous crime, and abortionists were rightly considered loathsome. Preying upon women in trouble, wantonly taking human life, they were on a par with child molesters and drug pushers. Today, abortionists flaunt their barbaric practice, and their victims—the boys and girls who will never get a chance to exercise any civil right—are officially nonpersons, like anti-Stalinists in the Soviet textbooks. Their victims are found by the score in plastic garbage bags at some of our most reputable hospitals. In some communities, their victims are found on the city dumps, or awaiting incineration along with cats and dogs from the pound. In France, though not yet in the United States, their victims are purchased by cosmetic companies for processing into expensive face creams.

If anyone finds this catalog of horrors indelicate, I would draw an analogy with the way some people refused to read about the Nazi death camps. They did not want to look at the photographs, the lamp shades made from human skin, the pictures that kept us awake at nights wondering how it could happen, the film clips that made audiences cry, the scenes that made General Eisenhower and the liberators physically ill.

And there were times when we did not want to read the sickening accounts of lynchings: how victims were tortured and beaten and roasted and skinned before being hanged. We did not want to see—and newspapers certainly did not want to publish—photographs of the victims of our unconcern. Respectable people just did not talk about such things. It might upset their complacency. It might disturb their slumber.

Times have not changed. Today, many refuse to even look at the photographs of aborted children. We are told that that graphic evidence is out of place in public debate; that it is a "shock tactic," as if it is wrong to be shocked by a massacre. No wonder the proponents of abortion object to the pictures of dead babies. If the SS had been able to hide all the evidence of its activities, there would have been no judgment at Nuremburg.

It is time for the Senate to consider the provisions of the Respect Human Life Act.

On other occasions over the past year, Senators have proposed to bring that legislation to a vote. Repeatedly they have forgone those opportunities in deference to other business at hand and to avoid unnecessary disruption of the legislative calendar. Repeatedly they have faced the unfocused assertion that their legislation would surely be subjected to extended debate.

It is time to ascertain whether that is true.

Some may see that as a challenge. It is not. It is an opportunity: a chance for the Senate to act in its best tradition by confronting, and deciding, the most important civil rights issue of our day.

If we face a filibuster, well, proponents of civil rights have faced filibusters before and have usually overcome them. They set up cots in the Senate and worked in relays around the clock, because the issue confronting them was of such importance that it overrode other considerations.

It was more important than partisanship or party loyalty. It was more important than reputation or the esteem of their colleagues. It outweighed personal considerations. It made political considerations unworthy.

I hope that has not changed and at the appropriate time I will offer the text of the Respect Human Life Act as an appropriate, fitting, proper, coherent, complementary amendment to legislation concerning the Civil Rights Commission.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there is a messenger at the door from the House of Representatives. I yield so that the Chair may admit him.

MESSAGE FROM THE HOUSE

At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the amendments of the Senate to the bill (H.R. 3385) to provide equity to cotton producers under the payment in kind program; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that the following are appointed as conferees, for consideration of all, except for section 131 of the Senate amendment, and modifications thereof committed to conference: Mr. DE LA GARZA, Mr. FOLEY, Mr. JONES of Tennessee, Mr. BROWN of California, Mr. ROSE, Mr. WEAVER, Mr. HARKIN, Mr. WHITLEY, Mr. COELHO, Mr. THOMAS of Georgia, Mr. MADIGAN, Mr. JEFFORDS, Mr. COLEMAN of Missouri, Mr. HOPKINS, and Mr. SKEEN; for consideration soley of section 131 of the Senate amendment, and additional conferees for consideration of section 213 of the Senate amendment, and modifications thereof committed to conference: Mr. GIBBONS, Mr. JONES of Oklahoma, Mr. JENKINS, Mr. VANDER JAGT, and Mr. FRENZEL.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

THE CONTINUING RESOLUTION

Mr. BAKER. Mr. President, the message just delivered from the House of Representatives is the continuing resolution that was passed by that body a few moments ago. This is one of the two absolutely essential items that must be dealt with in the next few days; the debt limit is the other.

Mr. President, the continuing resolution presently in effect expires at midnight tonight. I believe it is urgently important that we address this issue as soon as possible.

Therefore, in a moment, I will suggest the absence of a quorum so Members may be fully aware of how we are going to try to proceed. But it will be the intention of the leadership on this side to ask the Senate to turn to the consideration of the House continuing resolution as soon as or shortly after the presence of a quorum is established.

This will be a live quorum, Mr. President.

I suggest the absence of a quorum.

Mr. BUMPERS. Will the majority leader withhold?

Mr. BAKER. Yes, I withhold.

Mr. BUMPERS. What is the pending business once we return to the continuing resolution? Is there an amendment pending?

Mr. BAKER. Mr. President, the business before the Senate will be, if consent is given to do this, will be resumption of debate on the reauthorization for the Civil Rights Commission.

Mr. BUMPERS. Is that the majority leader's consent request now, to ask that that bill be set aside to take up the continuing resolution?

Mr. BAKER. Yes, Mr. President, it is.

Mr. BUMPERS. My question was, and perhaps it should have been addressed to the Parliamentarian. If we go back to the continuing resolution, then is there a pending amendment on the continuing resolution?

Mr. BAKER. I am sorry, Mr. President, I misunderstood the Senator.

Mr. President, the leadership on this side does not propose to go back to the Senate continuing resolution. We are going to go to the House bill.

Mr. BUMPERS. I see. That answers my question. I thank the majority leader.

Mr. METZENBAUM. During this interim period, does the majority leader have any objection if we address ourselves to the civil rights issue?

Mr. BAKER. We are going to try for this immediately. What I propose to do, with the consent of the minority leader, is to suggest the absence of a quorum which will go live so we will have the maximum number of Senators on the floor, so they will know how we are proposing to proceed, and report to our colleagues in the House our plans for the rest of this day, this evening, and tomorrow.

Mr. METZENBAUM. I thank the Senator.

CALL OF THE ROLL

Mr. BAKER. Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Secretary of the Senate proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[QUORUM No. 17 LEG.]

Baker	Hatfield	Pryor
Bumpers	Matsunaga	Rudman
Byrd	Metzenbaum	Stennis
DeConcini	Packwood	

The PRESIDING OFFICER. A quorum is not present.

Mr. HATFIELD. Mr. President, I suggest that the Chair instruct the Sergeant at Arms to request the attendance of absent Senators.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. HATFIELD. Mr. President, I should have said I move that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct the Sergeant at Arms to compel the presence of absent Senators. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. NICKLES). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 86, nays 4, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—86

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Gorton	Moynihan
Baker	Grassley	Nickles
Baucus	Hart	Nunn
Bentsen	Hatch	Packwood
Biden	Hatfield	Pell
Bingaman	Hawkins	Percy
Boren	Hecht	Pressler
Boschwitz	Heflin	Pryor
Bradley	Heinz	Randolph
Bumpers	Helms	Riegle
Burdick	Huddleston	Roth
Byrd	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Kassebaum	Specter
Cohen	Kasten	Stafford
Cranston	Kennedy	Stennis
D'Amato	Lautenberg	Stevens
Danforth	Laxalt	Symms
DeConcini	Leahy	Thurmond
Denton	Levin	Trible
Dixon	Long	Tsongas
Dodd	Lugar	Wallop
Dole	Mathias	Warner
Durenberger	Matsunaga	Wilson
Eagleton	Mattingly	Zorinsky
East	Melcher	

NAYS—4

Garn	Proxmire
Johnston	Quayle

NOT VOTING—10

Domenici	Hollings	Tower
Evans	McClure	Weicker
Glenn	Murkowski	
Goldwater	Simpson	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. I thank the Chair.

Mr. President, the House-passed resolution making continuing appropriations has now arrived in this Chamber. Shortly, it will be the intention of the leadership on this side to ask that the Senate give its consent to proceed to the consideration of that measure. What we decide in that regard will determine to a large extent how long we will be in today and whether we will be in tomorrow. It cannot be finally dispositive of that, because we do not know the outcome of the debate on that measure.

It is my hope, Mr. President, that we will proceed now to the consideration of House Joint Resolution 413, which is the House-passed continuing resolution.

Mr. President, I believe it is important that we take up the House-passed measure instead of resuming consideration of the Senate-passed continuing resolution, simply because it is in the ordinary course of events that continuing resolutions making appropriations—or other appropriations bills—traditionally are House measures.

Our effort to consider this matter on a Senate-passed continuing resolution was unusual and out of the ordinary and was necessary in consideration of the fact that it was hoped that we could get a good part of our own debate out of the way before we reached the House-passed continuing resolution, and thus facilitate the consideration and passage of the House-passed continuing resolution. We did not do a very good job of that, because we soon were embroiled in a filibuster, and it was necessary, in the view of the leadership, to go to some other measure.

In any event, it is still necessary to complete action on a continuing resolution. It is by far the better part of discretion and, in my view, certainly much easier and more desirable to take up now the House-passed measure.

Mr. President, I am going to some lengths to explain this, because I wish

to acknowledge that the measure we have is a House-passed measure. It is a House joint resolution. It will require consent of the Senate to proceed to that measure. But I hope that consent will be given. If it is not given, and if we are required to take other measures—there are other measures that can be taken, but they are awkward at best and certainly difficult, and almost surely will slow down the proceedings of the Senate, which we can ill afford, considering the fact that the continuing resolution expires at midnight tonight.

I hope, then, that consent will be given to proceed to this measure, that the Senate will consider it promptly, that it will work its will, that we can go to conference with the House of Representatives, and that we can produce a measure that can be dealt with yet tonight.

I have talked to the Speaker of the House, who has indicated to me that he is willing to ask the House to remain in session as long as there is some possibility that we can complete action on this measure in both Houses this evening and prior to the hour of midnight. That was not the original plan, as I understand it, on the House side. They had at least tentatively scheduled a session for tomorrow.

If we can do this, if we can pass this House joint resolution with our modifications, as we may choose to make them, and go to conference, and adopt the conference report this evening and send it on its way to the President, I think we will have done a great deal; and it may be possible that we will not be in session tomorrow and that we will have discharged our obligation and duty.

However, I would not be totally accurate and complete in my report on the status of things if I did not recite that the joint resolution as passed by the House is unacceptable, in my view and judgment, to the President, and probably will be vetoed, because of the Wright amendment and perhaps other amendments and provisions that are contained in the measure. But that is not something with which we can deal. That is a matter that directs itself to the President of the United States. That is not a matter we can affect, except as we can affect it by the content of this joint resolution.

So I do not exclude the possibility that at some point tomorrow, Saturday, Monday, whenever, we might have to deal with a veto message. But that is a possibility. There is the certainty that we will have to be here tomorrow if we do not deal with the continuing resolution in some form this evening because at least as far as the leadership on this side is concerned—and I really believe I am speaking for virtually every Senator—we recognize our responsibility to deal with this matter before the expiration by statute of the authority to spend money this evening.

With that, Mr. President, I will be happy to answer questions if Members have questions.

I am prepared now to ask unanimous consent, or I will in a moment, to go to a matter which was sent us by the House of Representatives.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield to the minority leader.

Mr. BYRD. Mr. President, I hope we will grant the request. If it is not granted, the leader has certain options he can take, which are awkward, time-consuming, circuitous, and it could be Monday or Tuesday, or longer, before we ever get to this and because of the urgency of the matter, and in this instance it is not the fault of the majority of the Senate; the House of Representatives is late in getting the matter over to the Senate, and the majority leader has done the best he could to speed up action in that regard.

I hope there will not be any objection to his taking this matter up. What the Senate's will is as it debates the matter is up to the Senate. But I join with the majority leader in hoping that there be no objection.

Mr. BAKER. Mr. President, so we have the request before the Senate and, of course, Senators may reserve their right to object and remark as they wish or ask questions as they wish, I now ask unanimous consent that the Senate temporarily put aside the pending business and turn to the consideration of House Joint Resolution 413, a resolution making further continuing appropriations for fiscal year 1984.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. WEICKER. Mr. President, I object.

Mr. DENTON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Very well.

Mr. President, let me say that one way or the other we are going to try to deal with the continuing resolution, and I urge Senators to consider that we will be in as long as necessary tonight, tomorrow, and perhaps the remainder of the weekend in order to get that done.

I will be glad to consult with any Senator who wishes to be consulted with and to make any arrangements that reasonably seem required.

Mr. President, there is no choice in this matter. One way or another we have to deal with the CR.

Mr. WEICKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. I yield the floor, Mr. President.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, in response to the majority leader, I am more than willing to consult with the majority leader. It is not my intention to go ahead and delay the continuing resolution. There are some problems in it that have to be resolved.

Mr. PERCY. Mr. President, I wish to just simply confirm on the floor the conversation I had with the majority leader and the minority leader and Senator PELL. We wish to be as cooperative as we possibly can in this endeavor. I think it is absolutely crucial that we do move ahead. However, we also feel it is a deep obligation to the Foreign Relations Committee and to the Senate procedures that we do so in such a way that we protect our right to see that we do try to make every effort to get an authorization bill for the crucial foreign and military aid programs.

So, therefore, I wish to offer an amendment to the continuing resolution that would allow the waiver of the foreign aid authorization to remain in effect until April 15, 1984. During that period, not more than half of the appropriated funds could be obligated, with the exception of aid programs for Israel and Egypt. After April 15, 1984, the waiver would no longer be in effect. I hope that any unamimous consent agreements will protect my right to offer this amendment. I appreciate a reaction from the distinguished majority leader to the reasonableness of that request.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. PERCY. I yield.

Mr. BAKER. Mr. President, I have not asked any Senator to forgo offering an amendment to the resolution. I might like that idea. I think I may come to that later. But right now, all I am trying to do is get the House-passed bill up and after that I fully expect that amendments will be offered and dealt with in due course.

I say to my friend from Illinois, I do not anticipate making any requests that would prevent him from offering that amendment in due course.

Mr. PERCY. I thank the majority leader.

Mr. HATFIELD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. PERCY. I yield.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, may I just suggest a game plan that I think can expedite this whole process and

get us out of here perhaps at a reasonable hour.

What the majority leader has requested here today is fundamental in order for us to really get to the test vote. Foreign aid, abortion, all the other issues really are a waste of time, if we spin our wheels on a vehicle that is a guaranteed veto.

What has been my hope was, if we could get the unanimous-consent agreement, as a manager of the bill, in conjunction with the ranking minority member of our committee, Senator STENNIS, we would get before this body a test vote, the key test vote on the Wright amendment which added approximately $1 billion in domestic spending in the field of education.

Once we got that test vote on the Wright amendment, then we would know precisely where we are going. We can spend up until midnight and still not accomplish one thing until we get to that test vote. If the Wright amendment is retained in this, and I have not counted heads—I have no way of knowing how it will turn out—then we might as well move it as quickly as possible, get to the conference, if we have to, with the House of Representatives, and get it down and have it vetoed because that is what is going to happen. If, by chance, the Wright amendment is removed from the bill, then we have a viable vehicle. Then everything is relevant. Abortion is relevant. Foreign aid is relevant. All these things are relevant in the sense that at least we have a vehicle that we can work out some compromise with the House of Representatives and the White House.

But I do not think really it is very practical for us to waste our time here arguing and debating on great issues that will have no relevance if we do not have a vehicle to put them on.

That is why it is so fundamental to get to the test vote on the Wright amendment as quickly as possible to know where we are headed.

Mr. LEAHY. Mr. President, I wish that the distinguished Senator from Illinois would not be under any illusions on this. Before and if any requests are made for time limitations on the foreign aid part of the continuing resolution, I will be asking for a specific time for an amendment on mine or I will be objecting to any time limits on that part, especially in light of the more than 80-percent increase in one aspect of foreign aid at a time when we are cutting everyone else. I will be proposing an amendment to make a very substantial cut in foreign aid, and I will be prepared to spend some considerable period of time going over the reasoning for that.

So I would not want my good friend—and he is my good friend—from Illinois or my good friend from Rhode Island to feel that something came out of nowhere. When we start making agreements about an 80-percent increase in the area of foreign aid at a time when everything else is getting cut, that touches at the frugal sense of this Vermonter in any regard.

Mr. PERCY. Mr. President, will the Senator from Vermont yield for a question?

Mr. LEAHY. Certainly I yield for that purpose.

Mr. PERCY. The amendment I was discussing would not involve authorization for a new foreign aid bill. It simply protects the rights of the authorizing committee.

Mr. LEAHY. I understand.

Mr. PERCY. I say to the distinguished Senator that we would much prefer to put an amendment on this bill that would provide for authorization for fiscal year 1984 in the light of all of the months of debate that we had in the committee and get a new bill approved.

Would the Senator look with favor on doing that on this bill if it provided that the committee bill would be cut by 5 percent?

Mr. LEAHY. No, I would not be. I would be happy to talk with the Senator from Illinois at greater length and not tie our colleagues up here in the Chamber doing it. I am afraid the proposal he makes, as I understand it, would not solve my problem.

The PRESIDING OFFICER. The Senator will withhold. There will be order in the Senate. Persons conducting conversations kindly take those conversations to the cloakroom or outside of the Senate Chamber, including staff. There will be order in the Senate.

The Senator may proceed.

Mr. LEAHY. I thank the Chair.

As I was saying, the proposal, as I understand it, from the distinguished chairman of the Foreign Relations Committee, who is no longer here, I believe, but apparently perhaps his proposal is, is not satisfactory. I am sorry I did not have a chance to discuss one way out of it with the distinguished Senator, but he apparently has other things of more importance.

So I just simply put the Senate on notice that I will object to any time agreement regarding anything to do with foreign aid.

I yield the floor.

Mr. DENTON. Mr. President, certain actions were taken yesterday in the Senate and it is my intention not to abrogate those actions by any procedural practice. I do not wish to hold up the business of the Senate. I did not wish to hold it up yesterday. It was those who disagreed with a motion I made who embarked on the delaying tactics. Today, I do not want to hold up action, either.

I believe the Senate expressed a certain will yesterday by refusing to table the underlying amendment and the perfecting amendment regarding the Ashbrook situation. And now, because of the parliamentary situation before us, I have been forced into a position of objecting to consideration of the House-passed measure.

The majority leader, in all sincerity, told me what he knew of the matter. So I have consulted with him. He referred me to another Senator. I consulted with him. My questions are not yet answered nor resolved. I have consulted with the Parliamentarian. I hope that we can clear it up in 2 minutes.

I just do not want to see the will of the House and the will of the Senate abrogated by anything that might take place this afternoon or this evening. I want to be in Birmingham tomorrow as much as anybody else wants to be out of here.

Mr. SPECTER. Mr. President, reserving the right to object, I would inquire of the majority leader if he would include in the unanimous-consent agreement what I understand to be his intent to return to the legislation on the Civil Rights Commission once the continuing resolution is concluded, if, in fact, it is concluded.

Mr. BAKER. Mr. President, there is no request pending. It got shot down. But the way it was before it got shot down would have produced that result; that is, the request was that the pending business be temporarily laid aside and that we go to the CR from the House.

I would inquire of the Chair, would the effect of that not be to return us to the Civil Rights Commission reauthorization bill after disposition of the CR?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. SPECTER. I thank the majority leader.

Mr. BAKER. I thank my friend from Pennsylvania.

Mr. DENTON. Mr. President, I just wanted to make sure the Chair is aware that an objection was registered.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I do not know whether we can work this out or not in the next little bit, but, believe me, one way or the other, we are going to work it out if it is possible to do so, and I wish very much to do that.

So, I think the best thing to do at the moment is to continue with debate on the civil rights bill. In the meantime, if any Senators have a change of heart, we should confer and commune with each other.

But in the meantime, I will ask the Secretary of the Senate to arrange to keep the dining room open tonight and there will be a session tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Let there be order in the Senate. Will Senators kindly take their conversations to the cloakroom? There will be order in the Senate.

The Senator from Alabama.

Mr. DENTON. Mr. President, I wish to announce, after consultation with the majority leader and the distinguished chairman of the Appropriations Committee, they have assured me that the Ashbrook language is indeed included in the House continuing resolution.

Mr. STENNIS. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. Will the Senator suspend for a moment?

There are a lot of conversations in the Chamber. Senators will please take their conversations to the cloakrooms. Staff will conclude their conversations so the Senator may be heard.

Mr. DENTON. Mr. President, I say that after discussions with the majority leader and the distinguished chairman of the Appropriations Committee, I have been assured that the Ashbrook language is included in the House continuing resolution.

I would simply ask affirmation of the chairman as to whether that is correct.

Mr. HATFIELD. The Senator is correct.

Mr. DENTON. I do not intend to enter an objection when the request is made to proceed to the consideration of the House joint resolution.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I have conferred with a number of Senators on this side of the aisle, and I wish to express my gratitude to those who have conferred with me on this subject.

I can report to the Senate that I believe the difficulties have been worked out, and I hope there will not now be an objection to the request.

I ask unanimous consent that the pending business be temporarily laid aside—that is, the Civil Rights Commission bill—and that the Senate proceed to the consideration of House Joint Resolution 413, the joint resolution making further continuing appropriations for fiscal year 1984.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, our people on both sides of the aisle were put on notice that such a request would be made. If any Senators wanted to object, they certainly knew they could remain and be here when the request was put, and knew they could call through the Democratic cloakroom and indicate an objection, and I would protect them before they got here.

I have had no call, and Senators who want to object are here, and they can speak for themselves.

I hope there will be no objection, realizing that if there is, the majority leader can keep us in tonight or he can move to adjourn. He can make a motion at a point. It may be a nondebatable motion, if he is lucky enough, or it could be a debatable motion, in any other event. The Senate would win nothing except chew a lot of time, delaying the majority leader from getting to the continuing resolution. I do not think we should do that.

Whatever the will of the Senate is in respect to the provisions contained in the resolution is something else. The Senate can work its will on that, and I hope there will not be an objection.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader and the managers on both sides. I thank a number of Senators who have special concerns about this, including the Senator from Connecticut, the Senator from Alabama, the Senator from Oregon (Mr. PACKWOOD), Senator HELMS, and many others, as well as those who wish to be reassured that we are going to get back to the Civil Rights Commission bill, as indeed we are.

The formulation of this request provides that the Civil Rights Commission bill will return as the pending business when the CR is disposed of.

Once again, I express my appreciation to all Senators.

FURTHER CONTINUING APPROPRIATIONS, 1984

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2540

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2540:

On page 17, strike out line 20 through page 26, line 9, inclusive.

Mr. HATFIELD. Mr. President, I have sent to the desk a committee amendment and asked for its immediate consideration.

At this time, I ask for the yeas and nays, and I will then give an explanation.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and mays were ordered.

Mr. HATFIELD. Mr. President, this matter was one I referred to briefly when a quorum call was put in for the Members of the Senate to come to the floor, in order to get some kind of signal of where the Senate is going to go in the next steps of completing its responsibility of the continuing resolution.

This amendment would strike the portion of the so-called Wright amendment dealing with the add-ons for domestic programs. It does not strike—let me emphasize, it does not strike—the portion of the Wright amendment dealing with foreign operations in the Treasury bill. It is in the Treasury bill that the controversial item known as the Ashbrook amendment appears. So it does not disturb those components of the bill.

The domestic programs for which increased funding is provided in the Wright amendment are education, health, job training, shelter for the homeless, nutrition, and low-income energy assistance.

Let me emphasize again that the reason for this particular procedure is that there is no question in the leadership's mind and in my mind that in talking to Mr. Stockman and other representatives of the administration, senior White House officials, the Wright amendment makes the continuing resolution unacceptable for the President, and that we can rely on the inevitability of a veto on such a continuing resolution with this incorporated.

As this issue concerns us, it is not as a question of preference or personal feeling that I present this amendment today; because, frankly, I think all these programs are very worthwhile. I would be very supportive, perhaps, of expanding and including additional appropriations. But that is not the issue.

The issue is that we have until midnight to make a final determination on this continuing resolution question,

and I want to get about the business of doing that and get out of here before 4 o'clock tomorrow morning.

After we finish our own work on this resolution, Senator STENNIS and I and other members of the Senate Appropriations Committee will have to meet in conference with the House conferees and come out with some kind of compromise and bring those reports back to our respective bodies.

So I offer this amendment for that reason: to get a test vote, to see which way we are going.

I yield at this time to the ranking minority member of our committee, the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Mr. President, I thank the Senator for yielding. I will try not to repeat what he has said. He has made a statement that covers the entire situation about the procedural matters. They are the matters that have to be met by everyone giving a little.

I highly commend the membership. I know that many of them have gone a good piece in yielding to the situation, to get this legislation moving. This resolution affects every agency of the Federal Government. Time has already run out on what we have, and this could really stop the wheels.

I think we are very fortunate to have come this far. In the same spirit of cooperation, I am going to vote for this amendment in connection with the extra billion dollars. Some parts of it are matters in which I have a special interest and which I have been following in the regular committees.

I hope that by giving a little, we can gain a lot. In that spirit, I join in submitting this amendment.

Mr. HATFIELD. Mr. President, I thank the Senator. He has been a real stalwart in this rather tedious procedure, and I am very grateful for the constancy of his support.

Again, I emphasize the simple point that this is an amendment dealing with more of a procedure than the substance of the amendment, even though we cannot ignore the substantive part of the amendment. The point to be emphasized is that we are trying to determine a direction at this point, as to which way the Senate will move between now and midnight.

I yield the floor.

Mr. METZENBAUM. Mr. President, I rise to speak in opposition to this amendment and I do so because what we are being told is that we have to take out $1 billion, I gather that is the figure, although I am not certain as to the exact amount, that the House has added for some very worthwhile programs. As I understand it, the programs are in the field of vocational education, adult education, community services, education for the handicapped, rehabilitation services and handicapped research, education for immigrant children, higher education, community health centers, technical institute for the deaf, Gallaudet College, job training, emergency shelter for the homeless, and I am not sure what else.

The argument that is being made is that if we do not take it out the fellow down the street may veto the bill. I think we should give him that opportunity to veto it. I think he should have that privilege. We are not talking about billions upon billions upon billions of dollars. We are not talking about balancing the budget because of a billion dollars. If you want to balance the budget then he has to accept the responsibility that he fails to accept and recognize that you cannot balance a budget unless you bring in some dollars as well as cut the expenditures. But he says oh, no, no new taxes.

The President ought to understand that closing some of the tax loopholes that exist in this country that make it possible for the wealthy and the largest corporations in the country to wind up paying no taxes at all is part of his responsibility, too, rather than trying to cut back on funding for the deaf, for the handicapped, and for educational purposes.

If we have to stand here and knuckle down, give up the amendment, all of a billion dollars, because the President says, "Otherwise, I will veto it," let him veto it. What is so terrible about that? Maybe we do not have the votes to override the veto.

But some of the very people who are prepared to support the President in the event of a veto are those who come here with special water projects for their community, with special programs for their communities, and they say, "Oh, we have plenty of money for that." They do not want to do anything about closing any tax loopholes either.

Oh, no, Heaven forbid, do not close any of those loopholes that the rich and many of the fancy corporations of this country use where they are selling tax loopholes one to the other. I just saw where one airline, I think it was Air Wisconsin, just sold its tax loopholes to Merrill Lynch. What a wonderful idea that is. We trade in tax loopholes now.

But for $1 billion we are told we cannot include it in this bill because if we do the President may veto it. What kind of a Senate is this? Is this the Senate that knuckles down every time the President threatens a veto, or do we accept our responsibility to the people that we represent? We can cut $1 billion off the Department of Defense like falling out of bed. We just eliminate some of the wasteful practices. We spend $100 million a year for military bands. No one ever talks about that. We have more limousines for the military than we have for all the rest of Government combined. No one ever talks about that. The military does not use competitive bidding. It is worth billions of dollars. No one worries about that and the President does not threaten to veto any bills if we do not do something about that. And the military buys replacement parts at prices that are unbelievable—$1,100 for an item worth about $35. And the President does not do anything about that.

But, no, he rides his white horse and tells us if we are doing anything for emergency shelters for the homeless, he is going to veto the bill. He is going to save the country.

I think we ought to give him that privilege. I think he ought to have that opportunity. This President did not develop a reputation of being unfair without there being some substance to it. He did not create the reputation that he has no concern for the poor of this country without there being some reality about it. He does not. He could not care less about the fact that there are people who are hungry at this very moment in this country.

All we hear about are programs that are wasteful of food stamps. Someone got food stamps in a Cadillac. Tell him to come to Cleveland or Youngstown or Toledo or Dayton or any one of a number of other cities in my State or States throughout the country, where the Republican mayors of those cities are saying, "We do not have the food to put in the mouths of our people." And the President does not do anything about that.

There may be the votes to knock out this amendment that involves, I think it is $1 billion, and if my figure is incorrect I stand corrected, but that is the one I read in the paper as of this morning.

But it does not make sense.

And we are not meeting our responsibilities. The President has the right to take such action as he wants. The President has the right to do that which he thinks is right or wrong.

But we have an obligation to be more than people who just roll over and play dead because the President may veto $1 billion of additional spending for human service needs. Does anyone in his right mind claim that these are wasteful projects? Does anyone claim that spending money for meals under the National School Lunch Act is something that we should not be spending money for? Does anyone claim that spending money under the Child Nutrition Act is wasting the dollars of the American people?

Does anyone claim that an increase in the income guidelines for determining eligibility for reduced-price meals for children should not be included in the law?

But all of that we are told should be thrown out. We ought to vote not on the merits, and with all due respect to the maker of the motion, my good friend from Oregon, he indicates that he very well could support many of these programs himself, but he is saying the President may veto it, if we include it in.

This Senator is prepared to return to Washington or stay in Washington or do whatever is necessary in order to give the President the opportunity to veto this legislation. But I do not think that we ought to just roll over, roll over and do that which the President wants or is threatening to do if we do not act in accordance with his wishes. Either we have some independence, we have the courage of our convictions and will stand up for what is right as compared to what is wrong, or we do not. And, therefore, I think the amendment should be defeated.

Mr. BYRD. Mr. President, I support the Wright amendment. It is called that because it is the amendment offered by the House majority leader, Mr. WRIGHT of Texas. This amendment, added to the continuing resolution, does one simple thing. It fulfills our commitment—a commitment made by both Chambers, the House and the Senate, when we passed the budget resolution—to fund vitally needed education and social programs. We are not, if we vote to keep this amendment in the resolution, breaking any new ground here today. We are not busting the budget. We are not, with this vote, adding to the budget deficit as approved in the budget we adopted. We are merely voting to spend money for programs at a level we have already agreed to in June.

The amendment includes additional funds for vocational education. How many of us, if any, can say that our constitutents have not benefited by the vocational education program? I know there are many, many people in West Virginia today who are not on welfare or public assistance because of the educational opportunities afforded to them by this program.

The Wright amendment also includes the adult education program; it includes education for the handicapped; it includes higher education programs—specifically, college work study programs and opportunity grants for college students; and, it includes the title I program for disadvantaged students. Mr. President, these education programs are the very cornerstone of our commitment at the Federal level to education in this country. Providing adequate funding for these programs is an important step toward meeting our responsibilities to address the crisis in education we all acknowledge we are facing in America today.

The Wright amendment also includes funding for job training; it includes funding for community service block grants; it includes funding for women, infants, and children's program. It includes funding for low income energy assistance, as well as a few other important programs. It also includes funding for the school lunch and school breakfast programs. Mr. President, these are all programs our constituents need.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing items and dollar amounts which would be sticken by the amendment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Wright amendment (education and nutrition)

	Millions
Title I compensatory education	+165
Vocational education	+81.4
Adult education	+12
Community service block grants	+30
Low income energy assistance	+195
Education for the handicapped	+143
Rehabilitation services	+43.9
Education for immigrant children	+145
Higher education	+30
Community health centers	+20
Institute for the Deaf	+1.7
Gallaudet College	+2
Job training	+75.4
Shelter for the homeless	+10
WIC (women, infant and children nutrition)	+300
School lunch and school breakfast	+105

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Oregon.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. EVANS), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 53, nays 36, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—53

Abdnor	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Baucus	Hatfield	Proxmire
Boren	Hawkins	Quayle
Boschwitz	Hecht	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Stennis
D'Amato	Humphrey	Stevens
Danforth	Jepsen	Symms
DeConcini	Kassebaum	Thurmond
Denton	Kasten	Tower
Dole	Lugar	Trible
Durenberger	Mathias	Wallop
East	Mattingly	Warner
Exon	McClure	Wilson
Ford	Nickles	Zorinsky
Garn	Nunn	

NAYS—36

Andrews	Eagleton	Metzenbaum
Bentsen	Hart	Mitchell
Biden	Heflin	Moynihan
Bingaman	Huddleston	Pell
Bradley	Johnston	Randolph
Bumpers	Kennedy	Riegle
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Chiles	Levin	Specter
Cohen	Long	Stafford
Cranston	Matsunaga	Tsongas
Dixon	Melcher	Weicker

NOT VOTING—11

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Evans	Inouye	Simpson
Glenn	Laxalt	

So the amendment (No. 2540) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2541

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2541:

On page 26, strike out all following line 9, through the end of the joint resolution.

Mr. HATFIELD. Mr. President, this committee amendment strikes the Hoyer amendment to House Joint Resolution 413.

The Hoyer amendment provides that funding for the agenices covered in the regular Treasury appropriation bill—we are talking about the House-passed bill—will be at the levels of and under the terms and conditions of the fiscal year 1984 Treasury appropriations bill. As I say, it was passed by the House—I want to emphasize that point, because this is basically the abortion issue.

The so-called Ashbrook language on abortion is thereby incorporated by reference. Another committee amendment which I shall propose later will provide for the Treasury bill at the current rate with certain exceptions as

referred in Senate Joint Resolution 1294.

What we are trying to do at this point in the procedure, Mr. President, is get to the next controversial issue, which is the Ashbrook amendment. It is incorporated, as I say, in the Treasury-passed bill of the House. There will be other amendments later related to the referencing of that part of the continuing resolution. But I have worded this amendment in such a way that we can now deal with that issue that has to be dealt with before we can complete the CR tonight. That is the Ashbrook issue.

That is where we are with this amendment, Mr. President. Now the stage is set for the discussion.

Mr. BUMPERS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from Oregon is the pending business.

Mr. DENTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

Mr. SARBANES. Will the manager of the bill yield for a question?

Mr. HATFIELD. Yes, Mr. President.

Mr. SARBANES. Is the only copy of the continuing resolution available the one at the clerk's desk?

Mr. HATFIELD. That is correct.

Mr. SARBANES. Is the manager arranging to give Members copies?

Mr. HATFIELD. I should be very happy to give the Senator from Maryland my copy except I do not even have a copy. We shall have to get a copy from the desk for the Senator.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

Mr. DENTON. Mr. President, I acknowledge that the floor manager, the distinguished chairman of the Appropriations Committee, made it clear, but it has not yet been written up in here; I want to repeat for the benefit of my colleagues who might want to support what the Ashbrook language is: The effect of this motion to strike will be to delete the Ashbrook amendment from the House bill. Therefore, I oppose this amendment and ask those of my colleagues who believe as I do to vote the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizonia (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wyoming (Mr. SIMPSON), are necessarily absent.

On this vote, the Senator from Washington (Mr. EVANS) is paired with the Senator from Minnesota (Mr. DURENBERGER).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 44, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—43

Andrews	Hatfield	Riegle
Baker	Heinz	Roth
Baucus	Kassebaum	Rudman
Bentsen	Kennedy	Sarbanes
Bingaman	Lautenberg	Sasser
Bradley	Leahy	Specter
Bumpers	Levin	Stafford
Burdick	Mathias	Stennis
Byrd	Matsunaga	Stevens
Chafee	Metzenbaum	Tower
Chiles	Moynihan	Tsongas
Cohen	Nunn	Wallop
Cranston	Packwood	Weicker
Gorton	Pell	
Hart	Percy	

NAYS—44

Abdnor	Ford	Mattingly
Armstrong	Garn	Melcher
Biden	Grassley	Mitchell
Boren	Hatch	Nickles
Boschwitz	Hawkins	Pressler
Cochran	Hecht	Proxmire
D'Amato	Heflin	Quayle
Danforth	Helms	Randolph
DeConcini	Huddleston	Symms
Denton	Humphrey	Thurmond
Dixon	Jepsen	Trible
Dole	Johnston	Warner
Eagleton	Kasten	Wilson
East	Long	Zorinsky
Exon	Lugar	

NOT VOTING—13

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	
Glenn	McClure	

So Mr. HATFIELD's amendment (No. 2541) was rejected.

Mr. DENTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the motion of the Senator from Alabama to reconsider the vote by which the amendment of the Senator from Oregon was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. HUDDLESTON (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Ohio (Mr. GLENN). If he were present and voting, he would vote "nay." If I were a liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), Senator from Minnesota (Mr. DURENBERGER), Senator from Washington (Mr. EVANS), Senator from Arizona (Mr. GOLDWATER), Senator from Nevada (Mr. LAXALT), Senator from Idaho (Mr. MCCLURE), Senator from Alaska (Mr. MURKOWSKI) and the Senator from Wyoming (Mr. SIMPSON).

I further announce that, if present and voting, the Senator from Washington (Mr. EVANS), would vote "nay."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 43, nays 43, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—43

Abdnor	Ford	Melcher
Armstrong	Garn	Mitchell
Biden	Grassley	Nickles
Boren	Hatch	Pressler
Boschwitz	Hawkins	Proxmire
Cochran	Hecht	Quayle
D'Amato	Heflin	Randolph
Danforth	Helms	Symms
DeConcini	Humphrey	Thurmond
Denton	Jepsen	Trible
Dixon	Johnston	Warner
Dole	Kasten	Wilson
Eagleton	Long	Zorinsky
East	Lugar	
Exon	Mattingly	

NAYS—43

Andrews	Hatfield	Riegle
Baker	Heinz	Roth
Baucus	Kassebaum	Rudman
Bentsen	Kennedy	Sarbanes
Bingaman	Lautenberg	Sasser
Bradley	Leahy	Specter
Bumpers	Levin	Stafford
Burdick	Mathias	Stennis
Byrd	Matsunaga	Stevens
Chafee	Metzenbaum	Tower
Chiles	Moynihan	Tsongas
Cohen	Nunn	Wallop
Cranston	Packwood	Weicker
Gorton	Pell	
Hart	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Huddleston, for

NOT VOTING—13

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	
Glenn	McClure	

So the motion to lay on the table was rejected.

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment, this vote and similar votes are always among the most difficult votes that Members cast because of conflicting requirements on the one hand, on the one hand to express clear and in most cases a consistent view on an issue of great work and some moment, and, on the other hand, to try to assist the managers of the bill in trying to get the thing passed, and trying to comply with the requirement that we do the country's work and do it in a timely way in this case before midnight tonight.

The reason I say that, Mr. President, is because I honestly believe this is the time to get on with this bill. There are Members who have always supported the language incorporated in this bill who voted for the amendment to strike that language simply because they understand, as I am sure the distinguished manager of the bill understands, that we have an obligation to do the country's work.

I am not asking any Senator to do anything that is contrary to their conscience and their own personal convictions. All I am saying, Mr. President, is this is not the final vote you will ever cast on this issue. This is not the last time you are going to have an opportunity to make your mark on this issue.

But this may be the last opportunity you get to pass this CR. I am very much afraid this matter will not pass tonight before the midnight deadline, or maybe not at all, if we do not get on with the leadership being provided and the examples being set by the two managers of this bill.

Mr. President, I yield to the distinguished chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, I cannot improve upon the statement just given by the majority leader. I just want to make one or two brief observations because we are at a point in the parliamentary situation where a motion to reconsider will be the next vote.

I do not think I would be willing to take a back seat to anyone in the Chamber on the matter of my view about the sanctity of human life. I am just as concerned about the life that occurs after birth, though, as I am about the life within the womb.

I try to express that in my concerns for the hungry of the world, my concerns about the horrendous weapons known as the nuclear weapons, and the chemical weapons, which would deny life to people on this globe.

I am just as concerned about the poor, the old, and the elderly, about the maternal care and child care, and so forth.

I am opposed to capital punishment and always have been.

But in this bill there are a lot of programs who involve the living of today, not those who will be conceived tomorrow but the living of today. I think we have an obligation to conserve and preserve life that has already been born.

I am not going to get into the technicalities because I can only say I have voted for every Hyde amendment issue that has come before this Chamber and I will continue to vote for the Hyde amendment. But the Ashbrook amendment can be distinguished because of the fact that it puts the Federal Government into the business of telling Federal employees how they can spend their compensation. Even though we may oppose, as I do, the use of abortion, except in the case of the life of the mother, I do not see why we should put the Federal Government into the business of saying, in effect, how someone who has earned compensation—that is what this program is, equivalent to compensation—how they can spend their money while there is a legal action abortion available to them.

I do not think we ought to confuse the Ashbrook amendment with the Hyde amendment. I feel just as strong about the Hyde amendment as I always have. I have supported the Hyde amendment. I have introduced it. I support the constitutional amendment to abolish abortion and I will continue to do so. But I also have an obligation to the living in this world.

We have to get on with the business of this continuing resolution. I plead with the Senate to give us an opportunity to go on and complete this business.

I happen to be in a catch-22. Whichever way it turns out, I have a choice of a filibuster with Mr. DENTON on one hand or Mr. PACKWOOD on the other. Do not put me in that situation, having to choose which I prefer to listen to. [Laughter.]

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield to the floor.

Mr. HELMS. Mr. President, I ask unanimous consent that the motion to reconsider be withdrawn.

The PRESIDING OFFICER. Is there objection.

Mr. BAKER. Mr. President——

Mr. HELMS. Mr. President, I have the floor.

Mr. BAKER. Mr. President, I object.

Mr. HELMS. Mr. President, I move that the motion to reconsider be withdrawn and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. Mr. President, on numerous occasions this Senator has been backed up against the wall by the calendar on various issues, and this Senator has listened attentively and with appreciation to the entreaties of the leadership, to back up and back down. I think the distinguished majority leader will say that I have done my best to cooperate on many occasions.

Here we have the anomaly in the Senate where the Senate has spoken three times on the question of right to life, three times. And they will not quit. I say this with all due respect to Senator WEICKER and Senator PACKWOOD. If they really want to proceed with this important bill, let us withdraw the motion to reconsider and go about the legislation. Two times you were defeated yesterday and one time you were defeated today. Does it take four times, five times, six times? How many times?

Sure, the vote was close, but I implore Senators to give me a sufficient second, if you will not give me unanimous consent, and let us vote to withdraw the motion to reconsider and let the vote stand. After all, this provision is in the House bill. There will be no problem. The administration favors this provision. So what is the problem?

I ask unanimous consent again, Mr. President, that the motion to reconsider be withdrawn.

Mr. STEVENS. I object.

Mr. HELMS. Mr. President, I move that the motion to reconsider be withdrawn.

The PRESIDING OFFICER. The motion is already pending.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HELMS. I will never hesitate to raise my hand no matter how strongly I feel against the proposition.

The PRESIDING OFFICER (Mr. COCHRAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the

Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. COCHRAN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 41, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—45

Abdnor	Ford	Mattingly
Armstrong	Garn	Melcher
Biden	Grassley	Mitchell
Boren	Hatch	Nickles
Boschwitz	Hawkins	Nunn
Cochran	Hecht	Pressler
D'Amato	Heflin	Proxmire
Danforth	Helms	Quayle
DeConcini	Huddleston	Randolph
Denton	Humphrey	Symms
Dixon	Jepsen	Thurmond
Dole	Johnston	Trible
Eagleton	Kasten	Warner
East	Long	Wilson
Exon	Lugar	Zorinsky

NAYS—41

Andrews	Hart	Percy
Baker	Hatfield	Riegle
Baucus	Heinz	Roth
Bentsen	Kassebaum	Rudman
Bingaman	Kennedy	Sarbanes
Bradley	Lautenberg	Sasser
Bumpers	Leahy	Specter
Burdick	Levin	Stafford
Byrd	Mathias	Stennis
Chafee	Matsunaga	Stevens
Chiles	Metzenbaum	Tsongas
Cohen	Moynihan	Wallop
Cranston	Packwood	Weicker
Gorton	Pell	

NOT VOTING—14

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	

So the motion to withdraw the motion to reconsider the vote was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Now, Mr. President, we have spoken three or four times on this issue tonight, and a position on this bill has now been established. I am afraid it will make the bill more difficult to pass, but notwithstanding we have to pass this bill. It is time to move on now to other things. I urge Senators to consider that we have to finish this bill tonight, and do so, if possible, before 12 o'clock. If we cannot do it before 12 o'clock, Mr. President, we are going to be asked to stay past 12 o'clock and do it. But one way or the other, we have to pass a continuing resolution and send it to the House of Representatives. So I urge Senators to consider that this chapter is finished and that we have to get on with the business at hand. I urge Senators to do so.

Now, Mr. President, I yield to the distinguished chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, I only want to correct the RECORD on one point a while ago when I said that I did not want to be forced to have to choose between my good friend, the Senator from Alabama (Mr. DENTON) and the Senator from Oregon (Mr. PACKWOOD) on a filibuster. I should not have included the Senator from Alabama. It should have been a choice between my friend from Connecticut (Mr. WEICKER) and my friend from Oregon (Mr. PACKWOOD). So I want to correct the RECORD in that regard.

Mr. BAKER. Mr. President, I hope that the managers of the bill will go forward with amendments.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 2542

Mr. HATFIELD. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MELCHER. Mr. President, will the chairman yield before the amendment is reported?

Mr. HATFIELD. I yield.

MR. MELCHER. Does the amendment contain the conference committee's action on Commerce-State-Justice appropriations bill?

Mr. HATFIELD. We have not yet proposed that amendment.

Mr. MELCHER. Is this amendment en bloc?

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2542.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

"SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $247,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983.

Mr. HATFIELD. Mr. President, this is a committee amendment which references the Defense spending level at the current CR level that is expiring tonight.

As Senators will recall, the Senate passed a Defense appropriations bill. They expect to go to conference very shortly. Of course, when that conference is completed, we will vote on that conference report; and if we adopt the conference report and the President signs the measure, this whole matter drops out from the CR.

However, in order to bridge the time required between now and the time we act on the Defense appropriations measure, we are asking that our CR here be referenced at the current CR level, which is $247 billion.

I yield to the ranking minority member of the committee.

Mr. STENNIS. Mr. President, I think that is a correct statement of fact as to where it leaves us unless some remedy is provided. It is just intolerable. We must move forward.

Mr. EXON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. EXON. If I understood the explanation, which I seem to agree with—and I congratulate the chairman of the Appropriations Committee for the statement—is it true that the

CR portion of this for the Department of Defense budget would be at last year's level? Or does it include the higher level we passed? In other words, there is no add-on at all? It is simply continuing it at last year's level, as is customary with a CR?

Mr. HATFIELD. Really, it is a level in between. It is not last year's level and it is not the other level. It is actually somewhere in between. It is what is in the current CR that we are operating under now, which is expiring tonight.

Mr. EXON. The Senator is saying that we have raised the defense spending, which includes that, but none of the increased expenditures we included in the Defense Department authorization bill that we passed earlier this week.

Mr. HATFIELD. That is correct.

Mr. EXON. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Mr. President, I believe the chairman of the Defense Appropriations Subcommittee, Mr. STEVENS, wants to be in a position to offer an amendment to this committee amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2543

(Purpose: Increase Defense spending rate to conform to Senate-passed Defense appropriations bill)

Mr. STEVENS. Mr. President, I have a substitute for the committee amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2543.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by Sec. 101(a) of the Committee on Appropriations amendments, insert the following:

SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $252,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements, except for the B-1B program, utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further*, That, except for Peacekeeper MX missile production, no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983.".

Mr. STEVENS. Mr. President, this amendment is designed to bring the spending rate and authority of the continuing resolution in line with the Senate-passed appropriations bill we passed this week. It would propose the same spending rate that is in that bill. It is slightly below the final amount in our Senate bill. It is $252 billion, and we were slightly above that.

It permits the initiation of the items that are not in conference to continue. There is nothing in this amendment that was not approved by the Senate. As a matter of fact, as I say, it is slightly below the Senate level.

Incidentally, we do not approve the things that are not in the House bill. For example, the chemical amendment is not in the House bill, and therefore it is not approved by this amendment. This amendment would approve only those things which are not in conference, plus the money level of the Defense bill, which is a level slightly below the bill we just passed.

If any Senator has any questions, I will be happy to answer them.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. EXON. Mr. President, I ask the Senator from Alaska: What is the possible reason for the amendment he has offered? It seems to me that, as a key member of the Appropriations Committee, he would want to keep this as simple as possible, which he has been dealing with for hours.

It seems to me that a continuing resolution should be maintained at the level of last year. That was the point of the question I asked the chairman of the committee a moment ago.

Can the Senator from Alaska explain to the Senator from Nebraska what possible legitimate reason there can be for the amendment he has offered?

Mr. STEVENS. I say to the Senator that the level we are operating under now is above last year's level already. We will go to conference with the House on Wednesday under the bill that was just passed. But if there is not this change, there is no reason for us to get out of conference, because the level of the existing continuing resolution is approximately the level of the House bill, and there is no reason to go to conference.

The House put its level in the continuing resolution, and we are putting slightly below our level into it. In conference, I am sure we will come out somewhere near what we intend.

This is not a complicated amendment. It is a numbers amendment, and it does preserve our options in conference to get a solution to this matter of a continuing resolution.

Mr. EXON. I inquire of the chairman of the Appropriations Committee: Does he agree with and support the amendment that has been offered by the Senator from Alaska?

Mr. HATFIELD. What we have done here is that I have, of course, as chairman of the committee, to offer the committee amendments. I offered the committee amendment which was at the time the committee marked up the CR we cited or we referenced the current CR level for the Defense bill. We have acted, of course, on the Defense appropriations matter here in the Senate. As the Senator from Alaska says, they are going to conference.

We wanted to figure out the best parliamentary way to get to that particular point we wanted to get to, and I had to present the committee amendment, and now he is offering this amendment as a substitute to raise that level.

I voted against the Defense appropriations bill itself. I am just merely acting here as a conduit from the committee to the floor.

Mr. STEVENS. Mr. President, if the Senator will yield for just one further response to the Senator's question, it is a good question. When this continuing resolution was before the Appropriations Committee the defense bill was still on the floor. I could not frame this amendment then. So I asked the committee to put in the bill the last continuing resolution level until we passed this bill on the floor to see what that result would be.

We are not putting the result of the Senate's deliberations in the bill. It

will go to conference as it has in the past.

Had we passed that bill before we finished the continuing resolution I would have put the level in in the committee.

Mr. EXON. Mr. President, if the Senator will yield for a further question, if I understand the procedure then that is taking place now it is that the chairman of the Appropriations Committee although he did not say it, he indicated in his response to my last question that he likely would not be in support of the amendment offered by the Senator from Alaska due to the fact that the chairman of the Appropriations Committee voted against the Department of Defense authorization bill. Is that correct?

Mr. HATFIELD. The Senator is correct, but let me say that to go to conference with the House of Representatives on this CR we should be as accurate in reflecting the Senate's position as possible, and the substitute of the Senator from Alaska updates the position of the Senate.

What I presented as a committee bill, as the Senator said, was action taken before the Senate passed the Defense bill on the floor. I voted against it then. I voted against the current level that is in the CR.

That is not the point. The point is we have to get in position to go to conference with the most accurate representation of the latest Senate position.

Mr. EXON. Mr. President, will the Senator yield for one further question?

Mr. HATFIELD. I yield.

Mr. EXON. That may clarify that for a lot of Members of the Senate. If the Members of the Senate remember how they voted on the defense authorization bill, and I was one of them who voted for it, then to be consistent I assume that from that ground of consistency I would support the amendment that has been offered by the Senator from Alaska. Is that a fair assumption?

Mr. HATFIELD. No; that is not correct. The Senator perhaps misspoke himself. He said the Senate authorization bill. It was not the defense authorization.

Mr. EXON. I am sorry.

Mr. HATFIELD. It was a Senate appropriation bill.

Mr. EXON. An appropriations bill, that is right.

Mr. HATFIELD. Then if the Senator did misspeak himself he would be correct. If he voted for the defense appropriation bill then he, of course, would support it.

Mr. EXON. Would it be consistent to support the amendment of the Senator from Alaska?

Mr. HATFIELD. That is right.

Mr. STEVENS. Mr. President, this is slightly lower than the bill the Senator voted for and it presents our option.

I might also say we intended originally to be through the defense bill before this continuing resolution came up. When the Members with whom we would have had to confer were tied up on the floor of the House when the continuing resolution over there was defeated we were not able to go to conference. We do not go to conference until next Wednesday now.

Mr. EXON. I thank the Senators from Oregon and Alaska.

Mr. STENNIS. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield to my good friend from Mississippi.

Mr. STENNIS. The Senator proposes in here, as I read it, to increase from $247 billion to $252 billion and, as I understand, this is based upon a multiyear contract provision on the B-1 and the MX. Is that correct?

Mr. STEVENS. No; we just exempt from this the problems of the B-1 and MX. They are in both bills, both the House bill and the Senate bill. They are not in conference. So we have not changed that by virtue of this amendment.

Mr. STENNIS. Yes.

Mr. STEVENS. The money item is the $252 billion.

Mr. STENNIS. Why is the need here now when it is only a few days until it will all be settled in conference in what I call the big appropriations bill? Why burden this bill now that is limping along here with plenty of trouble when in just a few hours we would be delinquent? Why burden this bill with these matters here that are going to be settled in permanent law within just a few days or within a week perhaps? We are already set for a conference next Wednesday.

I do not want to take up time. But why do this? Why call on the membership to pass it?

Mr. STEVENS. The old rate in the old continuing resolution is the rate in the House bill. There is no incentive for them to come to conference when we go to conference with them next week if we have already passed a bill that says that is the rate of spending until next April. We have to raise it up to approximately our level in order to get to conference. We are approximately $5 billion above the House. If we put in the $247 billion figure we have no incentive for the House to really confer with us. We want to see a figure come out of the conference which is approximately where we will agree to.

I tell the Senator I think it is going to be somewhere around $249.5 billion. That is a normal reaction of conferees.

Mr. STENNIS. This is not intended to sound blunt. But did the Senator from Alaska originate this amendment or did the Department of Defense originate it? The Senator from Alaska is an expert in his field. I trust him and his judgment on it.

Mr. STEVENS. This is my amendment.

Mr. STENNIS. I know. But who originated the idea of presenting this now?

Mr. STEVENS. I did.

Mr. STENNIS. Yes. All right.

Mr. STEVENS. Because I told the committee when in committee to use the old figure and when we got to the floor I would attempt to put on the floor the result of the action of the Senate in the Senate-passed defense bill, and this is what we are doing, what we said we would do at the time. I made that request to the committee when we were in committee on the continuing resolution.

Mr. STENNIS. All right. That is good enough. The Senator from Alaska originated it. All right. That satisfies me.

Mr. STEVENS. I did originate it.

Mr. LEVIN. Mr. President, will my friend from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. LEVIN. I understand the theory of this which makes good sense to me to update the position to the latest Senate statement of sentiment on this question. The Senator made an exception on that, as I read his amendment, for the B-1 and MX.

Mr. STEVENS. They are not in conference.

Mr. LEVIN. There are a lot of other items in the House bill that are not in conference either. Why use these two items?

Mr. STEVENS. Because if we do get stuck and do not get a bill, this will govern us through the period of the continuing resolution and there are substantial savings involved in those two items.

Mr. LEVIN. There are a lot of other things that we do not want to jeopardize besides those two items. I know those two items have a lot of support around here.

Mr. STEVENS. The House resolution prohibits those two. We had to change the House resolution to comply with the Senate bill. The House resolution which was just passed prohibits the multiyear contracts, and the B-1 is already by virtue of the defense bill both in the House and the Senate and not subject to that restriction. So we are carrying out the intent of both bills in that provision.

Mr. LEVIN. Is that true also with the MX exception which is written in here?

Mr. STEVENS. Yes; that is correct.

Mr. LEVIN. Are those the only two items which are so specified in the House bill?

Mr. STEVENS. Yes; that is correct.

Mr. LEVIN. All right.

I thank the Senator.

Mr. STEVENS. They are not the only two items prohibited. They are the only two items in current bills, both the House and Senate and the House appropriations bill that will affect the exemption restriction in the continuing resolution.

I will be happy to show them to the Senator if he wishes.

Does any other Senator have a question?

Again, Mr. President, this is merely carrying out the action of the Senate in passing the defense bill just 2 days ago. I will not ask for the yeas and nays. I consider it to be a technical amendment to the bill.

The PRESIDING OFFICER. If there be no further debate on the amendment of the Senator from Alaska, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2543) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay this motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended, of the Senator from Oregon.

The amendment (No. 2542), as amended, was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2544

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2544.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, for an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 5,310,800,000 Special Drawing Rights, to remain available until expended: *Provided,* That such funds may be made available for obligation only upon enactment of authorizing legislation.

(b) Notwithstanding any other provision of this joint resolution, for an increase in loans to the International Monetary Fund under the General Arrangements to Borrow, the dollar equivalent of 4,250,000,000 Special Drawing Rights less $2,000,000,000 previously appropriated by the Act of October 23, 1962 (Public Law 87-872, 76 Stat. 1163), pursuant to the authorization contained in section 17 of the Bretton Woods Agreement Act and merged with this appropriation, to remain available until expended: *Provided,* That such funds may be made available for obligation only upon enactment of authorizing legislation: *Provided further,* That official United States Government debt reschedulings of debtor countries shall be submitted to the Appropriations Committees of both Houses of Congress.

Mr. HATFIELD. Mr. President, this committee amendment provides for $8.4 billion for the International Monetary Fund, IMF.

I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, this is the IMF funding amount which the committee had put in with the understanding that the authorizing conference was nearly completed. We now, unfortunately, have been informed the authorizing conference is not only not completed but it is falling apart. Therefore, the amendment is not appropriate.

I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

AMENDMENT NO. 2545

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2545.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

(c) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law: *Provided,* That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts: *Provided further,* That reprograming notices shall be as required under the provisions of section 523 of Public Law 97-121: *Provided further,* That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $138,423,983 for payment to the "Inter-American Development Bank", of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $1,230,964,704 in callable capital subscriptions; $700,000,000 for payment to the "International Development Association"; $13,232,676 for payment to the "Asian Development Bank"; and not to exceed $251,377,943 in callable capital subscriptions; $147,116,170 for payment to the "Asian Development Fund"; $17,986,678 for payment to the "African Development Bank" and not to exceed $53,960,036 in callable capital subscriptions; $285,136,000 for "International Organizations and Programs", except that such funds shall be made available only in accordance with the Report accompanying this joint resolution; $212,231,000 for "Population, Development Assistance"; $133,405,000 for "Health, Development Assistance": *Provided further,* That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund" in accordance with the provisions of section 405 of S. 1347, as reported: $25,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $39,316,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $2,912,000,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $37,000,000 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $22,000,000 for "Trade and Development"; $46,645,000 for "International narcotics control"; $12,000,000 for the "Inter-American Foundation"; not to exceed $15,000,000 for gross obligations for the amount of direct loans and not to exceed $150,000,000 of contingent liability for total commitments to guarantee loans for the

"Overseas Private Investment Corporation"; $113,500,000 for the "Peace Corps"; $339,500,000 for "Migration and Refugee Assistance"; $5,000,000 for "Anti-Terrorism Assistance" in accordance with the provisions of title VI of S. 1347, as reported; $697,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, of which not less than $230,000,000 shall be available only for Turkey; $56,532,000 for "International Military Education and Training"; $1,395,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel and not less than $545,000,000 shall be available for Egypt, for which each recipient shall be released from its contractual liability to repay the United States Government with respect to any such credits and participations in credits so provided ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel, not less than $528,500,000 shall be available only for Greece, and not less than $525,000,000 shall be available only for Turkey); $4,356,000,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales" and under the authority of section 209 of S. 1347, as reported: *Provided further,* That of the total aggregate credit sale ceiling made available to Israel, not less than $300,000,000 shall be made available for research and development activities in the United States for the Lavi program and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel; not to exceed $325,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $4,400,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That of the amounts made available in this subsection for "International disaster assistance", which amounts shall remain available until expended, $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 102 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President, shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds appropriated by this subsection may be available during the fiscal year in which payments are made out of the Treasury of the United States or any fund of a Government corporation, after the date of enactment of this joint resolution, under loan guarantees or credit assurance agreements with respect to loans made or credits extended to Poland in the absence of a declaration of default of Poland with respect to such loans or credits.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter, *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

Of the funds appropriated or otherwise made available directly pursuant to this joint resolution for El Salvador, 30 per centum shall be set aside and may not be expended until Salvadoran authorities have substantially concluded all investigative actions in the case of the national guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the State Department, including letters dated July 8 and September 23, 1983, and Salvadoran authorities have brought the accused to trial and have obtained a verdict.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

Mr. HATFIELD. Mr. President, this is the committee amendment that deals with foreign operations.

I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, the question here is: Does the Senate accept the Senate appropriations passed mark or the House appropriations passed mark? The committee feels we should have the Senate appropriations mark as we go to conference. I hope this amendment will be adopted.

The PRESIDING OFFICER. Is there further debate of the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2545) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2546

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2546.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

(d) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1983, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1983, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

National Research Service Awards authorized by section 472(d) of the Public Health Service Act;

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501(a) and (b) of the Refugee Education Assistance Act of 1980: *Provided,* That such funds may be expanded for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof: *Provided further,* That none of the funds made available under this joint resolution may be used to implement any administratively proposed block grant, per capita grant, or similar consolidation of the Refugee Resettlement Program, or to distribute any funds under any such administrative proposal;

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Activities of the Department of Defense, Army National Guard and Army Reserve Operation and Maintenance and National Guard and Reserve Equipment Procurement.

Mr. HATFIELD. Mr. President, when we passed the Labor-HHS appropriation bill, there were certain programs at that time which were not authorized. What we are doing in the committee amendment just read is to provide for current level funding for such programs that are now subsequently authorized. That is the committee amendment, to keep those programs going.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2546) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2547.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

(e) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1984 (H.R. 3223), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-450), filed in the House of Representatives on October 27, 1983, as if such Act had been enacted into law.

Mr. HATFIELD. Mr. President, this committee amendment is to reference in the CR the agriculture appropriation measure at the conference reported level. As you know, the Senate and the House have both passed an agriculture appropriations measure. The House and the Senate have gone to conference on that. That conference has not been completed, or at least it has not been brought back to report because there has not been an agreement reached with the executive branch of Government. So what we are doing is we are referencing in this CR the conference level on the agricultural appropriations bill.

Mr. EAGLETON. Mr. President, the continuing resolution now before the Senate will support the activities funded by the agriculture, rural development and related agencies appropriations bill at the level provided for in the conference agreement on H.R. 3223, House Report 98-450. I would like to take this opportunity to discuss a few of the details of that agreement.

I should preface my remarks, however, by noting that the administration has indicated that they do not support the conference agreement, that it busts the budget, and that it provides too much for the programs funded by that bill.

Mr. President, my colleagues should know that the conference agreement is not a budget buster. In fact, the conference agreement reflects a reduction of $7.6 billion below the level appropriated for the activities of the Department of Agriculture and related agencies in fiscal year 1983. Even taking into account all of the later requirements the Senate Budget Committee could come up with for the bill, the conference agreement is $200 million in budget authority below our allocation under the budget resolution. What President Reagan wants, Mr. President, is that we enact his budget request, which would be a disaster for many programs.

In case my colleagues have forgotten what the President's budget called for, let me illustrate with a few highlights and then describe how the conference approached these issues. We have heard time and time again from the Secretary of Agriculture that this administration has placed a high priority on stemming soil erosion on our Nation's farms. The President's budget called for a 74-percent reduction in the conservation cost share programs of the Agricultural Stabilization and Conservation Service and a substantial reduction in the programs of the Soil Conservation Service. No one who is serious about getting the soil erosion problem on our farms under control could possibly support the President's budget levels.

The conference agreement provides a total of $813,056,000 to fund the conservation programs of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. This represents a reduction of $118,998,000 from the fiscal year 1983 program level and a slight 2-percent increase over fiscal year 1982 level. I should point out that the jobs bill significantly increased the funding of the soil conservation programs in fiscal year 1983 over their traditional levels. The conference agreement basically freezes these programs at the level originally appropriated for fiscal year 1983.

Mr. President, as you well know, U.S. agriculture is preeminent in the world. This preeminence is due mostly to the dedication of our family farmers, but the excellent agricultural research and extension programs which develop new technologies and extend those technologies to farmers have given our family farmers an edge that most farmers in the world envy. Under the President's budget, funding for the science and education activities of USDA would have been cut by almost $50 million. The President is asking that we endorse this reduction in funding for agricultural science and education activities. I, for one, think such proposals are shortsighted, especially if we have any hope of continuing to be the breadbasket of the world or any desire to return profit to our farms. The conference agreement provides a 4.5-percent increase for the science and education activities of the Department of Agriculture.

I am pleased that the conference agreement provides $5 million to initiate a graduate fellowship grant program. This program will assist in the training of the scientists of the future and will help insure that the human resources necessary to continue the advancement of U.S. agriculture will continue to be available.

About 3 months ago, President Reagan pronounced his concern over the problem of hunger in America. The President stated:

I am fully committed to feeding the poor people of this Nation.

However, if one were to look at the President's budget for the nutrition programs, which he is insisting that we support, one would quickly see that his budget is devoted more to the dismantlement of the nutrition programs than to feeding the poor of our Nation.

Let us just look at the special supplemental feeding program for women, infants, and children (WIC) as an example of this. The President's budget proposed supporting a 2.1 million participation level in this program which provides food supplements for pregnant women, infants and children who have been determined to be at nutritional risk. If the Congress were to accept the President's proposal, almost 900,000 participants—and again these are people who have been determined by a health professional to be at nutritional risk—would have to be removed from the program. If the President is sincere in his concern over the nutritional status of the poor, why is he asking that the Congress approve the removal of 900,000 pregnant women, infants, and children from the WIC program?

I am pleased that the conference agreement provides an appropriation level sufficient to maintain the fiscal year 1983 year-end WIC caseload. The $1.06 billion is appropriated for WIC for the period through July 10, 1984, representing an annual appropriation level of $1.36 billion. The remaining $300 million of the full-year appropriation will be provided in a supplemental.

Reports from USDA and the States now show that the year-end WIC caseload is about 2.95 million persons—and that approximately $1.4 billion in total funding will be needed to sustain this caseload level throughout fiscal year 1984. The appropriation of $1.36 billion, plus funds carried over from fiscal year 1983, should be sufficient to meet this need. As we noted in the Senate committee report on H.R. 3223, the Secretary is required to recover and reallocate carry-over funds as expeditiously as possible and to distribute these funds in addition to the $1.36 billion annual appropriation level that is anticipated. Any attempt to delay the distribution of carry-over funds, which should begin to be redistributed as soon as they can be recovered, would be in violation of the clear intent of the legislation and of the Senate and the House Committees on Appropriations.

At the time the Senate considered this legislation, it was estimated that the end-of-fiscal year 1983 participation would be about 2.8 million. The Senate bill included language requiring that no less than 2.8 million persons be served by the program. Because participation now exceeds that level, the conferees dropped the Senate language and will expect that participation will be maintained as close to the end-of-fiscal year 1983 level as would be possible utilizing $1,360,000,000 of appropriated funds plus carry-over funds from fiscal year 1983.

Finally, I would reiterate the directive in the Senate committee report that the full $1.06 billion is intended for use in the October 1 to July 10 period. Any action by USDA, OMB, or States to reduce participation and spread these funds beyond July 10, 1984 would be contrary to the intent of this legislation.

The conference report fully funds the food stamp program through September 6, 1984. If a supplemental is needed to maintain full funding through the end of the fiscal year, which will depend largely on what happens to the unemployment rate in the months ahead, then we will provide it.

Both the Senate and the House Appropriations Committees clearly intend to maintain full funding in the food stamp program. We recognize how unfortunate further reductions in food stamps would be at this time. To this end, I would like to reemphasize a key passage in the Senate Committee report:

The Committee is concerned about reports of growing problems of hunger in cities and other areas and by reports of large increases in the number of persons seeking aid at soup kitchens and food pantries. Recent reports indicate that many of those seeking aid are persons whose food stamps are running out before the end of the month. The Committee directs the Secretary not to make changes in the procedures for calculating household food stamp allotments that would reduce the amount of food stamps that eligible households are provided.

This directive is of considerable importance. The Secretary is clearly directed not to reduce benefits. This means, for example, that the Secretary is not to reduce benefits for households of various sizes by altering the economy-of-scale factors used in calculating household allotment levels. In addition, it means that the Secretary is not to make such changes as counting a portion of State and local energy assistance payments as income and thereby reducing the calculated allotments for some households receiving this aid.

I was disturbed, as I am sure many other Senators were, to read press reports recently that the Department is considering radical revisions in food stamp regulations that would have the effect of reducing benefits for numerous households while potentially increasing administrative costs and paperwork at the same time. The regulations, as they have been presented in the recent press accounts, would conflict with the directive of the Appropriations Committee. I trust the Secretary will take this into account and that he will not proceed with plans to issue these regulations.

Earlier this year, the President endorsed congressional efforts to insure that additional Government-owned surplus commodities were distributed to the poor throughout our Nation. Public Law 98-92 extended the Temporary Emergency Food Assistance Act of 1983 and authorized additional support for the costs of local commodity distribution efforts. The conference agreement provides $50 million, the same as fiscal year 1983, to support commodity distribution efforts. However, these funds will become available only when the President submits a budget request for the commodity distribution program. If the President truly supports surplus commodity distribution, as he has indicated that he does, he will request these funds.

Mr. President, the conference agreement is basically a current services approach to the nutrition programs. Fully funding this current services approach results in an actual decline in the funding required for nutrition programs by over $800 million below the fiscal year 1983 budget. I hasten to add that should the employment picture improve as the President keeps indicating it will, the funding require-

ments of the nutrition programs will decline even further.

The hit list of the President's budget goes on and on, Mr. President—virtual elimination of the FmHA rural housing program, cutting the rural electrification and telephone programs, reducing the animal and plant health inspection programs—this is what President Reagan has asked that we endorse when he asks that we reject the conference agreement and accept his budget for fiscal year 1984 for the programs funded in the agriculture bill.

As I said before, Mr. President, the conference agreement is $7.6 billion below the fiscal year 1983 funding level for this bill. We are under our allocation for budget authority by about $200 million. We have not come close even to keeping up with inflation. That is not enough for the President—cut research, cut extension, cut soil conservation, cut nutrition programs—that is what the President wants.

I believe it is unfortunate that the Reagan administration has decided to make this its policy. Certainly with a vote of 77 to 18 in favor of the agriculture bill in the Senate, it is clear that this is not the policy of the Congress on these issues.

I am pleased that we have folded the conference agreement into this continuing resolution for the full fiscal year and I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2547) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2548

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2548.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

(f) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984 (H.R. 3222), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-478), filed in the House of Representatives on November 3, 1983, as if such Act had been enacted into law.

Mr. HATFIELD. Mr. President, this does precisely the same thing for the Commerce appropriations bill. Action on that bill has not been completed, and we are referencing that in the CR at the conference level.

Mr. MELCHER. Will the chairman yield?

Mr. HATFIELD. I am happy to yield to the Senator from Montana.

Mr. MELCHER. Does the amendment contain Commerce-State-Justice appropriations as passed by the Senate; and what is the status of the conference report?

Mr. HATFIELD. I would say to the Senator from Montana that we are going to have a conference report on the Commerce bill before the Senate next Tuesday. At that time, the Senator will have an ample opportunity to handle this matter relating to the legal fees—I believe that is what the Senator from Montana is concerned about—in New Mexican Indian cases.

Mr. MELCHER. If the chairman will yield further, does not the reference to the conference report in the amendment reference it as it was reported to the House?

Mr. HATFIELD. That is correct.

Mr. MELCHER. And has not the conference report been acted upon by the House and passed and the papers are now at the desk?

Mr. HATFIELD. That is correct.

Mr. MELCHER. Is there some reason, then, for referencing as reported to the House rather than the conference as it lies on the desk?

Mr. HATFIELD. The CR that each body acts on attempts to reflect the most recent action of that particular body. What we are doing here is merely reflecting the most recent action of the Senate. Then that matter, of course, if there are differences in that with the House, we will have to negotiate that out in conference with the House on the CR vehicle.

But, in all cases where the Appropriations Committee organizes and orchestrates a CR, we diligently follow the principle of trying to reflect the Senate's most recent action.

Mr. MELCHER. I thank the chairman for that comment. It is consistent with what the chairman had responded in presenting other amendments. So I compliment him on that.

Yesterday on this floor we were discussing the question of the conference committee report with regard to a matter of only $450,000 which is to be appropriated for expenditure by the Justice Department to pay attorneys in New Mexico to represent private litigants in a water case in New Mexico.

Is it the feeling of the chairman that the matter would be better addressed at that point, as far as the Senator from Montana is concerned, in objecting to that appropriation?

Mr. HATFIELD. It would be better dealt with on the conference agreement we negotiate out. Yes, that would be the better place.

Mr. MELCHER. I note that the chairman has stated that the conference report will be called up on Tuesday. Is that a certainty?

Mr. HATFIELD. It is a privileged matter. It can be called up anytime. That would be the plan, to do so, yes. That is the leadership prerogative. All I am saying is that as chairman of the committee I have urged the leadership and they have been very responsive to make any appropriations matter the pending business, to get it up and get it acted upon so we can keep the appropriations process moving.

Mr. MELCHER. I would not object, and, as a matter of fact, I would agree that the debate on that single item of $450,000 would be more appropriate at that time.

Might I ask the chairman if he would have any objection to removing that item from this continuing resolution?

Mr. HATFIELD. Yes, I would say I would. Do you mean as the chairman would I object?

Mr. MELCHER. To be more precise, would the chairman accept an amendment removing the $450,000 item from the continuing resolution until we have the conference report on Tuesday?

Mr. HATFIELD. I would say to the Senator no, I could not do that. I do not believe I could unilaterally agree to that after the Senate has worked its will. I am in a position now of trying to reflect the Senate's position, not to recreate a new position.

Mr. MELCHER. I thank the chairman. If I could inquire further, do I understand that it is the intent of the majority leader that the chairman will be allotted time to call up the conference report on the Commerce, State, Justice appropriations bill by Wednesday?

Mr. HATFIELD. That is my understanding of the timing of that appropriations matter, that it will be called up on Tuesday of next week. It may be Wednesday. Certainly, it will be early next week. One of the reasons we could not call it up earlier is because the Appropriations Committee is going to conference with the House on Monday on the supplemental. The leadership indicated to me that they would call it up on the very next day possible to work it into our schedule.

Mr. MELCHER. I thank the Senator.

Mr. President, the question I am concerned with in the appropriations conference report on Commerce, State, Justice is the item of $450,000 to be paid from Justice Department funds without any guidelines, without any authorization by Congress, to pay attorneys in Albuquerque for their fees for representing some private citizens in a water lawsuit.

The Justice Department noted at the time of the consideration of the matter in the conference committee that it was an unusual procedure—and that is putting it, I might add parenthetically, very mildly—it is a very unusual procedure.

The Justice Department further recommended that guidelines be established if such amounts were to be appropriated, instructing them on how they were to be expended and under what terms and conditions. That was not done.

The Justice Department further noted that there was some question as to whether or not the U.S. Government should be paying these private attorneys to represent private litigants in this lawsuit.

The PRESIDING OFFICER. If the Senator from Montana will suspend, the Senate is not in order. The Senate will please come to order.

The Senator from Montana.

Mr. MELCHER. They further noted in this Justice Department letter signed by the Attorney General that there was some question whether or not the State of New Mexico should pay these fees, if not paid by private parties.

In sum and substance, what the Justice Department has noted is that this is a highly unusual appropriation, to pay attorneys representing private litigants in a lawsuit where the United States is involved, and also paying the fees for the necessary defense of the rights of the four pueblos who are involved in this lawsuit on the other side. The Justice Department, of course, is only reflecting a requirement that the trust responsibility placed on the United States be carried out with regard to rights involving these Indian pueblos.

I think, Mr. President, it is a matter worth further discussion in the Senate before the adoption of the conference report on that appropriations bill. With the assurance of the chairman of the Appropriations Committee of the Senate that the conference report will be called up on a privileged motion next Tuesday or Wednesday, I shall not delay this continuing resolution with further arguments against the practicality and legality and propriety of appropriating such money to pay attorneys fees.

I do note that this continuing resolution, by referencing that conference report on the appropriations for the Justice Department, does indeed put the Senate in the position of again endorsing what I consider to be the very inappropriate appropriation.

Mr. President, I shall, at the time the conference report is called up on the State, Justice, Commerce appropriations bills, renew my argument against it. I will no longer utilize time in this discussion on this bill. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 2548) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2549

Mr. STEVENS. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2549.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment is dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike out all following "SEC. 102." page 17, line 19 inclusive.

Mr. STEVENS. Mr. President, this takes out the old foreign operations language of the House. We have already adopted the Senate provision. Therefore, it really is a technical question. I assume my friend from Wisconsin would agree.

Mr. KASTEN. Mr. President, I agree with the Senator from Alaska. This amendment is really a technical wrap-up to what we have already done by a previous amendment.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2549) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2550

Mr. STEVENS. Mr. President, I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, we have adopted the Senate version. I ask unanimous consent that it be in order to amend the Senate version having to do with the technical language of one of the sections of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes an amendment numbered 2550.

On Page 5, line 1, strike the word "for" and all that follows through the word "Israel" and before the semicolon on line 3, and insert in lieu thereof: "and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program".

Mr. KASTEN. Mr. President, in a sense, what we are doing is substituting the language "and not less than $250 million shall be made available for the procurement of defense articles," and so on, specifying that it be for a particular program.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2550) was agreed to.

Mr. KASTEN. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2551

Mr. STEVENS. Mr. President, I send to the desk the next committee amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2551.

At the end of the joint resolution insert:

Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 10, 1983, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1984, whichever first occurs.

Mr. STEVENS. Mr. President, this is an amendment intended to put the Senate date in the resolution as opposed to the House date.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2551) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2552

Mr. STEVENS. Mr. President, I send to the desk a committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2552.

At the end of the joint resolution, insert:

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriation Act for the fiscal year 1984 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Mr. STEVENS. Mr. President, this is the boilerplate language of past bills and continuing resolutions from the Senate going into conference.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2552) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2553

Mr. STEVENS. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2553.

At the end of the joint resolution, insert:

SEC. 106. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be the rates at step 15 of the rate phasing schedules as they existed on September 1, 1982: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level.

Mr. STEVENS. Mr. President, this is the language of the previous continuing resolution, carried on into the next resolution.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2553) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2554

Mr. STEVENS. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2554.

At the end of the joint resolution, insert:

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. STEVENS. Mr. President, this is a similar provision to what the Senate has insisted on in the past dealing with the protection of life and property in the normal wind-down of programs, notwithstanding the continuing resolution. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2554) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2555

Mr. STEVENS. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2555.

At the end of the joint resolution insert:

SEC. 108. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-items projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed by the House or as reported to the Senate.

Mr. STEVENS. Mr. President, this takes care of the GSA building fund according to the line items in the House-passed or the Senate-passed bill. It is a normal provision in the Senate bill. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2555) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2556

Mr. STEVENS. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2556.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert:

SEC. 109. Section 110 of Public Law 98-107 is amended by (a) amending subsection (a) to read as follows:

(a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal years ending September 30, 1984, or September 30, 1985, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title, in an amount—

(1) during the period from October 1, 1983, until the first day of the first applicable pay period that begins not less than ninety days after the date that the next applicable wage survey adjustment would have become effective were it not for this paragraph, which exceeds the rate which was payable for the applicable grade and step of the applicable wage schedule on September 30, 1983, in accordance with section 107(a) of Public Law 97-377; and

(2) during the period consisting of the remainder, if any, of the fiscal year ending September 30, 1984, and that portion of the fiscal year ending September 30, 1985, which precedes the normal effective date of the applicable wage survey adjustment, effective in that fiscal year, which exceeds, as a result of a wage survey adjustment referred to in paragraph (1) of this age of the adjustment in the General Schedule during the fiscal year ending September 30, 1984.

(b) striking "the date of enactment of this Act" in subsection (b) and inserting in lieu thereof "October 1, 1983";

(c) striking "fiscal year ending September 30, 1984" in subsection (c) and inserting in lieu thereof "period beginning on October 1, 1983, and ending on the normal effective date of the applicable wage survey adjust-

ment effective in the fiscal year ending September 30, 1985";

(d) striking "after the date of enactment of this Act" in subsection (e) and inserting in lieu therof "on or after October 1, 1983; and

(e) inserting the following new subsection at the end thereof:

(h) Notwithstanding the delay in adjustments of wage schedules and rates imposed as a part of the limitations imposed by this section, if the adjustment in General Schedule rates of pay for the fiscal year ending September 30, 1984, takes effect in October of 1983, the adjustment in rates and schedules limited by this section shall take effect on the date they would have taken effect under section 5344 of title 5, United States Code, were it not for this section.

Mr. STEVENS. Mr. President, the effect of this amendment is to treat the blue collar employees the same as the civil service employees as far as the wage increases are concerned. It does hold those wage increases in abeyance until the same time as the others would be paid. It also has a provision concerning the arrangements under the Bretton Woods Act that was similar to the provision in the last continuing resolution.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2556) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2557

Mr. STEVENS. Mr. President, I send to the desk an amendment for section 110 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2557.

Mr. STEVENS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert:

SEC. 110. Notwithstanding any other provision of this joint resolution, there is appropriated an additional $193,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance.

Mr. STEVENS. I am advised that although we are directed to submit this amendment, since this amendment was one of the provisions in the Wright amendment that has been defeated by the Senate, it would be either proper to withdraw the amendment or to ask that it be tabled. I think the easiest way to do it is to make the RECORD as directed by the committee, and now, Mr. President, I ask that the amendment be withdrawn.

Mr. BYRD. Mr. President, what is this amendment about?

Mr. STEVENS. The amendment is for the low-income energy assistance, and it is at a level that was higher than in the existing continuing resolution. It is my understanding that the level will continue at the existing level.

This was an add-on by the committee of $193 million above the existing level. That was defeated in the Wright amendment and the instructions that I have from the committee chairman would be to withdraw that. We still have the level at the existing level. The continuing resolution would continue the assistance at the existing level without the add-on which was proposed by the Wright amendment and by the committee previously.

Mr. STENNIS. Mr. President, if the Senator will yield, I was not there but up here on duty. This was actually approved by the committee?

Mr. STEVENS. It was approved by the committee at the time of a similar approach to the Wright amendment. That Wright amendment having been defeated, I was requested on behalf of the committee chairman to withdraw this amendment, which would leave in the continuing resolution the existing level of the appropriation.

This is the first issue of this type that has been raised, I might add, and I would be pleased to discuss it with the ranking member, my former chairman, whatever the Senate wishes to do. But this, to be consistent, would have to be withdrawn. All of the other similar items were contained in the overall Wright amendment and have not been offered.

Mr. STENNIS. What does the Senator want to do about it? It has an application and it has need. The matter was passed. While the House amendment was defeated, now that amendment, one like it, has been passed.

Mr. STEVENS. I am told that the Senator who sponsored this amendment in the committee, Senator WEICKER, has now reached an understanding with OMB, and it is in this letter of November 9 that I have in my hand, which I would be pleased to place in the RECORD. The understanding of the OMB is if the additional funds are needed, the OMB will reapportion funds from the third and fourth quarter money to meet those needs but that the increased level of expenditures is not required. With that understanding, the Senator from Connecticut wishes to withdraw his amendment also. He is the one who offered it in committee. I would be happy to have this letter read or to read it to the Senate.

Mr. STENNIS. No.

Mr. STEVENS. But as chairman of the subcommittee involved, he now has instructed the chairman, and I am carrying out that request, to not present this amendment because of the understanding that has been reached on the subject, and with the prior action of the Senate on the Wright amendment it would be consistent.

Mr. STENNIS. This is certainly satisfactory to me. I thank the Senator very much.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, so that we can continue, I ask that the amendment be temporarily set aside, not be withdrawn yet until it has been cleared whether or not we should withdraw that amendment.

Mr. SARBANES. Would the manager yield for a question?

Mr. STEVENS. Yes.

Mr. SARBANES. It is my understanding that the defeat of the Wright amendment would necessarily entail that any part of it which might have been included in the committee bill would no longer be offered or approved. The Wright amendment was, of course, an overall amendment, an omnibus amendment, that was turned down by the Senate. But there might be pieces of it which might be embraced in the committee recommendations, and I do not think it necessarily follows that they would no longer be considered.

Mr. STEVENS. This was the only one that was so impacted by the dual action of the request of the chairman and the defeat of the Wright amendment. It was the chairman's position that it should be withdrawn under the circumstances. This is the only one that is so affected. The Wright amendment has not led to our failure to offer any other amendment, and we want to offer this and make the RECORD. So it was not something that was done without consent of the Senate but with the understanding of the subcommittee chairman and the defeat of the Wright amendment, this amendment should not be offered, in our opinion.

Mr. SARBANES. I take it there are not other smaller amendments that are not going to be offered because the omnibus Wright amendment was defeated; is that correct?

Mr. STEVENS. The Senator is correct, and the next amendment demonstrates that.

I am waiting for a ruling on my unanimous consent request.

The PRESIDING OFFICER. Is there objection to the request to temporarily lay aside the amendment?

Mr. STEVENS. I yield to the Senator from Connecticut.

Mr. WEICKER. On the matter of low-income energy assistance, which is of just as great concern to me and to Connecticut as anybody in this Chamber, in the course of my negotiations with the administration on the Labor-Health and Human Services bill which we passed, I had $193 million in my presentation. Budget Director Stockman suggested that we remove that in the sense that the moneys would be available by virtue of the Exxon case. It is clear that those moneys are not immediately available. Therefore, I had passed in the committee the addition of $193 million to this bill.

After we did that, I received a call from the Budget Director saying—and that was the nature of the background of the letter read by the distinguished Senator from Alaska—that either by virtue of surplus moneys or a supplemental the moneys would be available; that we are going to do quarter by quarter.

That is fair enough in terms of flexibility to get this continuing resolution passed. If we see any problems, then the money will be allocated. But I want to assure everyone of my colleagues on this floor that I will hold myself personally accountable to see that every State is funded at last year's level of effort. That was what I envisaged in my original negotiations on Labor-HHS, in the meeting of the subcommittee, and in the subsequent discussions with the Budget Director.

That is my response. Not one penny short of that—in other words, not one penny short of what the committee did would be acceptable to this Senator as we progress with the dispensing of these moneys.

Mr. SARBANES. If the Senator would yield, that is reassuring on this issue. But I was addressing a somewhat broader issue which was that I thought a principle was being established, which I was questioning, that the defeat of the Wright amendment, the omnibus amendment, would then in effect lead to the conclusion that any amendment that contained any part of the Wright amendment would either not be offered or would be rejected. Of course, that does not follow, although in this instance——

Mr. WEICKER. I voted for the Wright amendment also, so I am just trying to explain low-income energy assistance.

Mr. SARBANES. This issue I understand in effect has been taken care of by the Senator's communications with OMB.

Mr. STEVENS. Mr. President, again while we are awaiting the clearance, I renew my request to temporarily set aside this amendment and proceed to another series of amendments. I have four or five. We will come back to this one when we do get the clearance.

The PRESIDING OFFICER. The amendment is temporarily laid aside.

AMENDMENT NO. 2558

Mr. STEVENS. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2558:

At the end of the joint resolution insert:

SEC. 112. Notwithstanding any other provision of this joint resolution, within available funds not to exceed $100,000 is available to the Federal Law Enforcement Training Center and may be used for plans, major maintenance, and improvements to Center lands and facilities, to remain available until expended.

Mr. STEVENS. Mr. President, this makes funds available within available funds for the Federal Law Enforcement Training Center. It is another of the amendments that the committee has presented to the Senate. I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2558) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2559

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2559:

At the end of the joint resolution insert:

SEC. 113. The General Services Administration shall equip all appropriate air-conditioned vehicles in its motor pool fleet with energy-conserving devices that have been certified by the Environmental Protection Agency to both save on fuel consumption and to have no negative impact on fuel emissions.

Mr. STEVENS. Mr. President, this is another amendment we consider to be noncontroversial, and we offer it to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2559) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2560

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2560:

At the end of the joint resolution insert:

SEC. 114. Notwithstanding any other provision of law, none of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expanded after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, custodians, and Public Buildings Service mechanics, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

Mr. STEVENS. Mr. President, this is the DeConcini amendment which has been adopted previously in similar continuing resolutions. It deals with the subject of sheltered workshop and performance of services in the position of guards.

Mr. President, I will be pleased to answer any questions. If there are none, I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2560) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2561

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2561:

At the end of the joint resolution insert:

SEC. 115. For the purpose of providing recreation development on the Ocoee River, $7,400,000 is appropriated to the Tennessee Valley Authority, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water.

Mr. STEVENS. Mr. President, this is an amendment, as has been stated, which provides $6.4 million to the TVA electric power program to reimburse the TVA for the operating costs

associated with recreational water releases for the people of the area of TVA.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2561) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2562

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2562.

Mr. STEVENS. Mr. President, I am informed that there are two Senators who wish to have a discussion on this amendment. They are on their way to the floor. We have a last committee amendment. I ask unanimous consent that this amendment be temporarily set aside so that we may proceed with the last amendment, and then we will return to this amendment, which will be addressed by Senator HUDDLESTON and Senator NICKLES.

I ask that the staffs notify them that we are about ready to consider that amendment.

The PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

AMENDMENT NO. 2563

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2563:

At the end of the joint resolution, insert:

SEC. 117. (a) Chapter 25 of title 18, United States Code, is amended by adding the following new section:

"§ 510. Forging endorsements on Treasury checks or bonds or securities of the United States

"(a) Whoever, with intent to defraud—

"(1) falsely makes or forges any endorsement or signature of a Treasury check or bond or security of the United States; or

"(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States that in fact is stolen or bears a forged or falsely made endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $500, in any of the above-mentioned offenses, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

(b) Section 3056(a) of title 18, United States Code, is amended by inserting in the fifth clause the number "510," after "509,".

(c) The analysis of chapter 25, of title 18, United States Code, immediately preceding section 471 of such title, is amended by adding at the end thereof the following:

"510. Forging endorsements on Treasury checks or bonds or securities of the United States.".

Mr. STEVENS. Mr. President, this is a provision that deals with the forging of Treasury checks or bonds or securities of the United States. It is a revision of the existing section. It was suggested by the Senator from Arizona (Mr. DECONCINI). It has been accepted by the committee, and we ask the Senate to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2563) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I understand that the situation automatically reverts to the amendment I submitted previously, the Huddleston amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. That is now pending, and I suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, will the manager withhold that request?

Why do we not take an amendment that is acceptable to the floor managers while we are waiting?

Mr. STEVENS. The only request I have to make to my friend is to allow me to carry out the request made to me by the chairman and those managing the bill, that we complete action on the committee amendments prior to getting to the individual amendments. That will be soon. We have a series of amendments Senators wish to offer. We have two we need to dispose of.

Mr. KASTEN. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. KASTEN. I inform the Senator that there is one technical amendment to which the chairman had agreed. It involves the Senator from Illinois. It has to do with the relationship between the authorizing and the appropriating committees. It will take about 1 minute. If the Senator from Illinois will be recognized, the chairman of the committee is aware of this amendment and supports. We were just waiting for the Senator from Illinois to appear on the floor.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. STENNIS. The parties could not be here, so I did not say anything at the time, but I want to ask a question with respect to the amendment about forgeries.

My question is why does it have a standing and why is it brought in here in this bill to be enacted the whole page here of forgery law? That is criminal law.

Mr. STEVENS. If the Senator would look on page 11 of the committee report, the explanation was that this has been requested by the administration which clarifies the jurisdiction of the Secret Service in the area of investigation of forged Government securities and checks. Forgeries are a major responsibility for the Secret Service and the Secret Service needs a clarification of law to allow them to tighten up existing law regarding forged Government checks, bonds, and securities.

For example, under current law it is possible for a thief to steal a Treasury check, endorsed by a payee, endorse his own name and obtain the proceeds without violating the law. This language would among other things, close that loophole.

As I said, the language has been requested by the administration and is included by the committee.

Mr. STENNIS. Mr. President, as a feeble lawyer I cannot believe that statement is true, that that is not a violation of the law already.

Mr. STEVENS. It would be a violation of the law, I might say, to steal the check, but not be a violation to add his own endorsement to a check that was already endorsed by the payee.

Mr. STENNIS. My point is while we have a little break here we just should not use these bills to just cram legislation in here of a permanent nature with little chance to do anything about it.

When this was before our committee the committee was downstairs here just one step away almost, but I did not get to go to any of that sitting because of matters that the Senator from Alaska and I had up here on another bill.

Mr. STEVENS. The Senator is correct.

Mr. STENNIS. So I just protest as a Member of the body. I just protest the administration coming in or anyone unless there is some stronger reason than we have seen of cramming all this into these emergency bills.

I have had my say. I yield the floor.

Mr. STEVENS. Mr. President, I appreciate the Senator's statement. I am informed that members of the subcommittee, in this instance it was Senator DECONCINI, who were involved in the area believed that there was an urgency and asked the committee to approve this.

Mr. STENNIS. All right. I thank the Senator very much.

I know his purpose is very high and good.

Mr. STEVENS. Mr. President, will the Chair restate the amendment that is before the body now so there will be no misunderstanding. It is the amendment we call the Huddleston amendment that has been presented by the committee. It was adopted in committee at the request of the Senator from Kentucky.

AMENDMENT NO. 2562

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment No. 2562.

At the end of the joint resolution insert:

SEC. 116. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1984 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

Mr. STEVENS. Mr. President, I see the distinguished Senator from Oklahoma is here. We have offered this amendment on behalf of the committee, section 116.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield to my friend.

Mr. NICKLES. Mr. President, I wish to thank my good friend, the Senator from Alaska for holding the amendment up so I could ask a question.

I saw this amendment as it was passed in the Senate concurrent resolution. Quite frankly I was a little bit concerned about it because it looked to me like it was an amendment that was going to force the administration to possibly lend money to quite frankly those maybe of questionable need.

Can the Senator tell me how much, what agencies, or what departments have some of these funds that we are going to require that they lend those out?

Mr. STEVENS. I have to apologize to the Senator and tell him I was trying to read the amendment. Will he restate his question, please?

Mr. NICKLES. Again I will ask the Senator, that section, as I read it in the Senate bill, and I ask the Senator am I correct, is trying to insert the same language, that of section 116, that was in the Senate continuing resolution.

Mr. STEVENS. That is correct.

Mr. NICKLES. Again, I ask how much money are we talking about? I think we are going to obligate those agencies to lend out the entire maximum amount that Congress has authorized them to lend. I personally feel like that is an unnecessary provision, one that is going to cost the taxpayers a lot of money. Those loans are going to come from the available pool of capital that again is very short and we are going to be requiring by this amendment those agencies have to lend out every single dollar that has been authorized.

Mr. STEVENS. It is my understanding that the amendment has two impacts. One, it does require that such loans that are guarantees be made only to qualified applicants and the limitation within the Appropriations Act, but it is to prevent the impoundment of funds through failure to make those guarantees or to provide the insurance if the funds are contained in the Appropriations Act and the applicants are qualified. There is still, I might say, a matter of discretion as to whether or not the applicant is qualified.

Mr. NICKLES. If the Senator will yield further, as I read it, we take away almost all the discretion away from the administration and basically require them under this language, which I do not see in front of me right now, but being familiar with it, basically would mandate that they would have to lend out whatever funds are there if there were suitable applicants, which I am trying to think of the circumstances where that might apply. But, for example, under the Small Business Administration they have had loan authority and in the years past quite possibly have not lent out all that money. We are going to be mandating the SBA give all this money out in loans.

The same thing could be said for VA or FHA. We could be talking about several billions of dollars that we are mandating those agencies, yes, you have to get rid of it, if there is someone suitable as an applicant seeking those loans.

I think it is an undue restriction on the administration, an unnecessary one that is ultimately going to cost us a lot of money.

Would the Senator agree?

Mr. STEVENS. It is our feeling on the Appropriations Committee that if there is to be restrictions on these programs, they should be done in terms of the amount that is available. Once the amount is made available, if there are qualified applications for loan guarantees of this type, or insurance of this type, the impoundment of such funds is improper and the restrictions should be in the limitation on the amounts of moneys that are there.

The Senator realizes that we have gone to a new concept of requiring backup for these guarantees. In days gone by we made guarantees and then we funded them when they defaulted. Now the moneys are provided in advance and there is the spending of money. The guarantees involve the earmarking of money in the Treasury to meet the guarantees if there is a default.

Having had this funding behind the guarantees, we see no reason now why they should refuse to make the guarantees and thereby in effect frustrate the effort that has been made.

We have gone the full measure with the administration in meeting the requirements of funding guarantees, which was something that was not done in the past.

We think that the physical control is in requiring the moneys to back up the guarantee and in limiting that amount if there has been an excessive amount committed in the past.

Now we feel we have made reasonable limitations. They are funded. They are not just guarantees against future funding. They are funded now.

Believe me, many of these programs have never had any defaults. Many of them have very low default rates, but we are funding those guarantees as though a loan was being made. We think that the reasonable way is to have the limitations in the appropriations process and then state those moneys are available through the form of guarantees to qualified applicants.

Mr. NICKLES. If the Senator will yield, by this amendment are we not mandating to those agencies that have loanmaking authority that they have to loan out every single dollar that is authorized them by Congress?

Mr. STEVENS. They are guarantees in the first place, I say to my friend.

A similar provision was included in the fiscal year 1982 continuing resolution and again in the fiscal year 1983 continuing resolution. The provision assures——

And I am reading from the report—

that loan guarantee levels provided in law or in appropriation acts for loan guarantee programs are not arbitrarily restricted by administrative actions.

Again, I call my friend's attention to the fact that they are not loans of money, they are guarantees that, under our process, we now fund as though there has been a complete loss. It is not spending until there is a loss.

We are controlling it now through the requirement that they be funded before the guarantees are made. This provision has been passed by the Senate on at least two and perhaps three previous occasions.

Mr. NICKLES. Mr. President, I ask the Senator, what was the administration's position on the amendment last year?

Mr. STEVENS. The bill was signed.

Mr. NICKLES. I understand the bill was signed. But what was the administration's position on the amendment? It is my understanding they were opposed to it, and I can see why. You are basically mandating to those agencies that they have to loan the money and have the loan guarantees available, which I think, again, you are forcing the administrator of the SBA, the administrator of the FHA to loan all the dollars available and have those guarantees available, which is taking away a lot of their discretion. If the demand is not there, we are still telling them that if there are suitable applicants you have to have the money and you have to spend it, or you have to at least loan it.

It is also my understanding—and I do not have the letter from OMB—that OMB was opposed to it last year and possibly the year before. Maybe this is now becoming more of a ritual.

But I am afraid we are in the process of requiring those agencies to loan every single dollar that is authorized. I question how successful we have been in appropriations in limiting the amount of loans that we put out.

Mr. STEVENS. Mr. President, the Senator continues to refer to loaning out money. These are guarantees. The money stays in the Treasury. It only is paid out if there is a default.

Having met the administration in terms of the requirement that the guarantees be funded, the Senator is suggesting now a catch 22, that since the moneys are funded and earmarked in the Treasury that we should stop making guarantees because it might require the expenditure of money in the future.

Again, I call the Senator's attention to the loan loss as far as these guarantees are concerned. They are loan guarantees, not loans. They are not direct loans of money. They are guarantees by the Federal Government that if the borrower defaults, the Federal Government will pay. We believe that we have met the requirements of the administration by funding the guarantees.

I understand OMB did not like the guarantees in the first place. But I do not believe Congress ought to listen to the objection that would, in effect, kill the program.

There are several programs. One of them is the loan guarantee program for fishing vessels. In most areas, there is no lending institution for fishing vessels because of the great risks involved unless the Federal Government guarantees those loans. But there is a very, very low rate of loss on the fishing vessel guarantees. Yet, under this bill, we fully fund the amount of guarantees as though the money is being taken out of the Treasury and being loaned to the fishermen.

The Federal Government is not loaning them a dime. It is guaranteeing the loan, and because of that guarantee, if there is a default, the Federal Government will pay and leave in the Treasury, I might add, whatever amount is there for all those loans in the commerical world. There is borrowing and repayment, and the Federal Government is not involved in any way except entering the guarantee.

The insurance is a similar proposition. The insurance is primarily on the subjects that are covered by the guarantee. If you borrow money for a fishing boat, the Federal Government will guarantee the payment of the premiums on the insurance on the fishing boat, which is what anyone in their right mind would do, see that it is guaranteed against loss.

So it has, in effect, hedged its bet by having an insurance policy and all it will really have to pay is the premium on the insurance policy if there is a loss. We have gone through many years of argument about guarantees. But it is a program that is now under control, unless you are opposed to the Government guaranteeing loans at all, as the OMB is, because they say it is an allocation of capital. It is not a fiscal matter. It is a matter of principle, as I understand the OMB, on the allocation of capital question.

Mr. NICKLES. Will the Senator yield for one further qualification?

Mr. STEVENS. Yes.

Mr. NICKLES. So, basically, all we are doing is saying the money has to be there to back up the guarantee, but we are not issuing mandates to the agency heads that they have to loan out whatever the total maximum amount of dollars is there; is that correct?

Mr. STEVENS. No; we are telling them that they have qualified applicants for guarantees and the funding is there to back it up, and, subject to limitations in the Appropriations Act, we will not allow them to refuse to guarantee loans on the basis of an impoundment concept because the money is actually not being spent. It is staying in the Treasury.

Mr. President, I thank the Senator from Oklahoma for allowing me to clarify this matter. If there are any other Members of the Senate who wish to ask a question about it, I would be happy to discuss it.

I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment (No. 2562) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2557

Mr. STEVENS. Mr. President, we revert back to the other amendment, which is the amendment that deals with the subject matter addressed by the Senator from Connecticut. I might inquire whether there is any further objection to withdrawing the amendment as has been requested by the committee.

Mr. LEAHY. Mr. President, I am deeply concerned about the deletion of $193 million in additional funds for the low-income energy assistance program. As the Appropriations Committee stated in its report to accompany the appropriation of the additional $193 million, "the full amount of $2.068 billion is necessary to offset the higher cost of energy projected by the Congressional Budget Office to at least maintain the existing level of assistance provided by this program."

Virtually all the fiscal year 1983 funds, which totaled $2.193 billion, were exhausted despite the mildness of the last winter. We also know from survey data collected by the Department of Health and Human Services on last year's program that many States could not even meet the demand from clients covered by their program plans, much less from the hundreds of thousands of households excluded by virtue of reduced eligibility. At least 19 States had no assistance available for households receiving shut-off notices this past spring for overdue winter utility bills. Only 13 States planned any form of cooling assistance. Sixteen States used oil overcharge funds to resume their program during the winter.

A total of 6,731,555 households were served by the program in fiscal year 1983, compared to 6 million in the prior fiscal year, and over 300,000 households were added to the crisis assistance rolls.

Mr. WEICKER. As the distinguished Senator from Vermont, Mr. LEAHY knows, I share his concern about adequate funding for the low-income energy assistance program. It was my amendment in committee which added the $193 million in additional funds. I am willing to accept the deletion of that amount only on the basis of an assurance from the Office of Management and Budget that should the States need additional funds in the winter months, the OMB will provide a deficient apportionment for immediate availability to the States and request a supplemental appropriation.

I ask unanimous consent that the text of OMB Director Stockman's letter dated November 9 stating this agreement be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 9, 1983.

Hon. LOWELL WEICKER,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN WEICKER: This is to clarify our understanding with regard to the appropriation for the low-income energy heating assistance program.

The Administration believes that additional resources will be forthcoming for this program upon disposition of the Exxon case. The government has won this case and no government appeal of the remedy has been entered.

As per our previous understanding, should it become apparent later this fiscal year that a) the states require additional funding; and b) the funds expected from the Exxon case will not be available on a timely basis, we will request a supplemental appropriation in the amount of the shortfall.

For the interim let me stress that $1.951 billion is available for the low-income energy program in FY 1984 as a result of a $76 million carry-over of FY 1983 funds and the $1.875 billion provided in the Labor-HHS appropriation bill. This is precisely the amount obligated in FY 1983 after adjustments for carryover and the $115 million transferred to other block grants.

We have apportioned $241 million of the 1984 amount for the third and fourth fiscal quarters (April through September). If it becomes evident during the heavy heating months beginning in December that states need additional funds for the winter period, we will re-apportion the third and fourth quarter money for immediate availability to meet these needs.

Should it also be evident in this event that the Exxon case funds will not be available to the states for the third and fourth fiscal quarter, we will promptly seek a 1984 supplemental sufficient to restore the existing third and fourth quarter apportionments and thereby maintain program levels throughout the remainder of the year.

I hope this provides a clear statement of our mutual understanding and commitments, and an explanation as to why a supplemental appropriation is not needed at the present time.

Sincerely,

DAVID A. STOCKMAN.

Mr. LEAHY. I appreciate the distinguished subcommittee chairman's assurances on this matter. However, I remain concerned as to how the OMB will measure additional need of the States.

Under this program, States have, within broad Federal guidelines, the authority to set eligibility criteria and to establish benefit levels within the State. Thus, no prudent State will "run out" of money in midwinter, or intentionally overspend on a wish and a promise from Mr. Stockman. Rather, States will lower benefits and restrict access as they have in the past. States will plan their programs to meet only the need that can be covered by the $1.875 billion appropriation. It will not become apparent that the States require additional funding during the heavy heating months of winter.

Mr. WEICKER. I appreciate the problem the Senator from Vermont identifies, and I assure him that it is my intent, as chairman of the Appropriations Subcommittee, to provide the necessary funds for this program. If States are forced to cut benefits, restrict eligibility, or close their doors during the winter months, and if Mr. Stockman's proposed reapportionment presents insurmountable technical difficulties because of the formula under the program, I will do everything humanly possible to get an emergency supplemental appropriation moving through this Congress at the end of January or early February. Obviously, the compromise the OMB has put forward is not ideal, but again, I assure my colleague it is my intent to reduce the 1983 level of effort for the energy assistance program, and to the best of my ability, I will see that such a reduction does not take place.

Mr. STEVENS. Mr. President, as I understand it, that does complete the committee amendments. I thank Senators for their considerations.

I now yield to my friend from Illinois, who has a technical amendment dealing with a matter that has already been covered.

The PRESIDING OFFICER. The Senator has not yet withdrawn the amendment. Does he wish to withdraw the amendment?

Mr. STEVENS. I do renew my request to withdraw that last amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment. The amendment is withdrawn.

AMENDMENT NO. 2564 TO AMENDMENT NO. 2545

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2564.

Mr. PERCY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 of the amendment number 2545, on line 9, immediately before the colon, add the following, ", except that the waivers provided by this paragraph shall cease to be effective on April 15, 1984, and with the exception of funds made available for Israel and Egypt, not more than one half of the funds made available by this subsection for each account under the Foreign Assistance Act of 1961 or the Arms Export Control Act shall be obligated prior to April 16, 1984.".

Mr. PERCY. This amends a previously adopted amendment No. 2545. This has been cleared on both sides. As I understand, it meets with the approval of the managers of the bill.

This amendment would allow the waiver of the authorization contained in the continuing resolution for fiscal year 1984 foreign aid programs to remain in effect until April 15, 1984. During that period, not more than half of the appropriated funds could be obligated. Israel and Egypt are exceptions because of the historic practice of front-end loading funds for these two countries.

If there is no fiscal year 1984 foreign aid authorization by April 15, the waiver would no longer be effective.

Mr. President, this amendment takes into account the jurisdiction of the Foreign Relations Committee and the dedicated, hard work of its membership over many months in fashioning a balanced, fair military assistance and foreign aid bill for fiscal year 1984, and will not hold up any vital programs in this area.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Appropriations Committee I would like to say to the Senate we endorse and urge the adoption of this amendment. All of us want to work with the Senator from Illinois, the chairman of the Foreign Relations Committee, in getting a foreign relations authorization bill. I am hopeful this will lead to that result.

Mr. STEVENS. Mr. President, I know of no objection from the committee on this matter.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2564) was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. The Senator from Montana wants to present an amendment for himself and Senator DOMENICI.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2565

(Purpose: To appropriate $100,000 for the payment of a reward for information leading to an arrest and criminal conviction for the bombing of the Senate wing of the U.S. Capitol on November 7, 1983)

Mr. MELCHER. I send an amendment to the desk which I offer on behalf of Senator DOMENICI and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself and Mr. DOMENICI, proposes an amendment numbered 2565.

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes information which leads to an arrest and criminal conviction for the bombing of the Senate wing of the United States Capitol on November 7, 1983, to be paid by the Attorney General. Any officer or employee of the Untied States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

Mr. MELCHER. Mr. President, I seek to offer this amendment for and on behalf of the Senator from New Mexico, Senator DOMENICI, and myself. I commend Senator DOMENICI for his alertness in drafting this amendment. I am very pleased to join with him in proposing it tonight.

On November 7, just a few feet from where we stand in this Chamber, a violent explosion occurred in the hallway of the Senate wing of the Capitol. Because it was late at night, 11 o'clock, and no one was here, no one was injured. Whatever person or persons caused the explosion should be apprehended as quickly as possible and brought to justice. The blast would have very likely killed people in the hall or in the near cloakroom and possibly in the other cloakroom more removed from the blast site.

The swift apprehension and punishment of the person or persons guilty of this terrorist bomb explosion that maim and kill persons in the Nation's Capitol could deter further like attempts.

The risk and threat is not only to the continuity of the Senate as part of the legislative function of this country, but it is also a grave risk to all the visitors who stream through the Capitol every day.

If we can encourage or bring about a quicker apprehension of whoever caused the explosion by adopting this amendment offering the reward of $100,000 for apprehending the person or persons and bringing them to justice and obtaining a conviction, the money would be well spent.

I hope the Senate will agree. I think the function of the legislative process in the U.S. Senate, plus the availability of the Capitol Building itself for visitors from all over the country and from abroad, should not be terrorized or victimized by violent acts of people who want to express their dissatisfaction with government by causing an explosion in a public building.

By request of Mr. MELCHER, the following statement was ordered to be printed in the RECORD:

● Mr. DOMENICI. Mr. President, I offer this amendment, which I feel is of the utmost importance in view of the recent bombing which took place just a few feet from this Chamber. By accepting this amendment, Congress would be offering a reward for the capture and conviction of the persons responsible for last week's violence. I always felt that justice should be swift. When the crime is terrorism, I believe expeditious justice is essential both as a deterrent and as an affirmation to law-abiding citizens that our judicial system functions fairly.

This act of terrorism strikes at the very fiber of our domestic heritage. The Capitol is a symbol of our legislative process. Our Federal laws have been authored under this dome throughout most of our country's history. Thousands of Americans visit the Capitol every day on business, for education, and/or pleasure. Congress, comprised of the elected representatives of our democracy, work in this building. All of us who have ever set foot in this building were targeted victims last Monday night. We were very fortunate that no one was killed or wounded. This act of violence will undoubtedly mean stricter security and possibly restricted access for the countless visitors who come here. This is unfortunate, but necessary.

The extreme seriousness of this incident is such that I propose this amendment. It would provide for a $100,000 reward for information leading to the arrest and conviction of the culpable individual or individuals. This appropriation would be placed at the discretion of the Attorney General, to be awarded to such persons as the Attorney General feels provided substantial and essential information or evidence leading to the conviction of the criminals responsible for the damage.

Initially, the thought of offering a reward conjured up mental images of wanted posters from the days when gun-slinging outlaws rode throughout the Wild West. I would have thought that, as a civilized society, we had progressed beyond that point. However, one need only smell the smoke and see the devastation from this explosion to recognize that such reckless behavior demands decisive action. Any legal means of bringing the responsible criminals to trial is imperative. History bears me out that rewards are incentives that bring the guilty to justice and make law and order mean something.

The echoes of other recent terrorist bombings in other parts of the world and the cries of those killed and wounded by fanatics still reverberate as I speak. Mr. President, we should not allow the perpetrators of this act to escape. Passing this amendment would be a declaration on the part of the U.S. Senate that we will not tolerate terrorism. The intimidation and fear which these terrorists seek must not be allowed to linger. Instead, let us combat this behavior with a reward. Let us see to it that the culprits are apprehended and brought to justice.●

Mr. STENNIS. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. STENNIS. Mr. President, I have looked over this amendment. It seems to me like the matter should be left to some kind of discretion in the Attorney General's hands, and also as drafted it seems to me that if it is just the smallest kind of evidence that would entitle the person to $100,000. I would merely suggest that the Senator redraft his amendment, using terms like substantial contributions to the arrest and conviction. This payment would not be made until the Attorney General has made a finding of fact.

Mr. MELCHER. Mr. President, I thank the senior Senator from Mississippi for his suggestion. I ask that the amendment be temporarily laid aside.

Mr. STENNIS. I believe the language could be inserted in just a few minutes.

The PRESIDING OFFICER. Is there objection to laying aside the amendment? If not, the amendment will be temporarily laid aside.

Mr. STEVENS. I understand the Senator from New York and the Senator from New Jersey have an amendment.

AMENDMENT NO. 2566

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an amendment numbered 2566.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert:

Notwithstanding any other provision of law, the ban on the use of U.S. Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1984; *Provided*, That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York are exempted from such ban; *Provided further*, That the exemption established herein is subject to reevalution for safety by the five member U.S. Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

Mr. D'AMATO. Mr. President, the amendment I send to the desk will extend for 1 year a much-needed commission to study the transportation and safety requirement of a three-State border area of New York, New Jersey, and Pennsylvania. It concerns route 209, which has had a history of heavy truck traffic. Last August we passed a bill which will expire on December 31 which calls for this commission and which also sets a ban on traf-

fic so that heavy truck traffic which imperils 209 would be diverted from this road. My amendment would extend this ban and the commission for 1 year. This gives the commission, a tripartite commission of the three States, an opportunity to study the problem.

In essence, what we are asking is that the life of this commission be extended and that, in addition, 150 vehicles per day be allowed to traverse 209 to Orange County, New York, 150 trips north and 150 trips south, and that the commission study the effects and impact on route 209.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would ask the distinguished floor manager if the regional commission established last year, and the statement of managers accompanying the public law, should be extended for 1 year as in the statement of the managers on this bill.

Does the distinguished floor manager agree?

Mr. STEVENS. The answer is yes.

Mr. BRADLEY. I thank the Senator. This commission was set up as a regional solution for the safety and management problems on route 209 in Pennsylvania, New York, and New Jersey. The representatives of the three affected States believe strongly that its life should be extended so it can complete its work. The Senator said yes, the commission would have its life extended and the statement of the managers would reflect that fact. Is that correct?

Mr. STEVENS. The Senator from New Jersey gives me such a complex role in this dialog. The answer again is yes.

● Mr. LAUTENBERG. Mr. President, I support the D'Amato amendment, which extends the life of the Route 209 Commission established by Public Law 98-63. This Commission was established to study the impact of banning trucks on Route 209, a road heavily used by trucks which runs along the border of New Jersey and Pennsylvania. The Commission was charged with recommending a regional solution to a broadly recognized safety problem related to the heavy truck traffic.

The Commission is due to expire on December 31 of this year. The Bradley-Lautenberg amendment would extend its life for 1 year. In addition, I support the D'Amato amendment which would maintain the current partial ban on trucks on Route 209 and would include Orange County, N.Y., within the area impacted by Public Law 98-63.

It is at this point uncertain as to what impact this winter's weather will have on truck traffic on noninterstate roads in New Jersey. Route 209 was often preferred by truckers because the impact of severe winter weather was greater on the interstates. A more long-term look at this situation is required.

Mr. President, while there remain some points of disagreement among the States affected by the partial ban on Route 209, progress has been made toward a regional approach to the problem. This amendment will further that progress.●

ROUTE 209

Mr. SPECTER. Mr. President, in July, the Congress authorized the National Park Service to implement a partial ban of trucks from Route 209 in the Delaware Water Gap National Recreation Area. This partial ban responded to both the safety needs of residents along the route and the economic interests of the region.

The five-member Route 209 Commission, also authorized as part of Public Law 98-63, has studied the impact of the ban. It has tentatively concluded that the partial ban has been largely successful. It has reduced the number of trucks on the route from more than 2,000 each day to less than one-fourth that amount.

The amendment extends the ban, and at the insistence of Senator D'AMATO, seeks to provide equity for those commercial vehicles serving businesses in Orange County, N.Y., by allowing not more than 150 trucks in each direction access to the route. I am concerned about the impact this exemption may have on the safety of people living along U.S. 209. For this reason, we have included language in this amendment which directs the Commission to evaluate this impact and make recommendations to the National Park Service for modifications in the exemption for Orange County if these additional trucks pose a safety problem.

This amendment also extends the ban, which excludes those commercial operations in Pike, Monroe, and Northampton Counties, for 1 year past the current December 31, 1983 deadline. This extension should provide sufficient time for the Commission, which is authorized for this same 1-year period in the statement of the managers of this continuing resolution, to finish its analysis of transportation needs of the Delaware Water Gap-Route 209 area, and propose recommendations to the Congress.

I thank the Chair and yield the floor.

Mr. BRADLEY. Mr. President, do I understand that the amendment is acceptable?

Mr. STEVENS. As the staff points out, Mr. President, we shall do the best we can in conference on this matter.

Mr. BRADLEY. The amendment is acceptable?

Mr. STEVENS. I am informed the amendment has been cleared on both sides, Mr. President. We have no objection to this amendment.

Mr. D'AMATO. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2566) was agreed to.

AMENDMENT NO. 2565

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Montana.

Mr. MELCHER. Mr. President, I send a modification to my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The clerk will state the modification.

The assistant legislative clerk read as follows:

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes substantial information which leads to an arrest and criminal conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

Mr. MELCHER. Mr. President, these modifications are recommended by the senior Senator from Mississippi. I believe they do clear up the matter that he referred to and does make it a much tighter amendment. I hope the Senate can accept it.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. ARMSTRONG). The question is on agreeing to the amendment.

The amendment (No. 2565) as modified was agreed to as follows:

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes substantial information which leads to an arrest and criminal conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

AMENDMENT NO. 2567

Mr. ABDNOR. Mr. President, I send an amendment to the desk in behalf of myself and Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR), for himself and Mr. DECONCINI, proposes an amendment numbered 2567.

Mr. ABDNOR. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 213, after "for in such Act" insert the following: ", except that the rate for operations established by this subsection shall be that which is provided in S. 1646, the Treasury, Postal Service and General Government Appropriation bill, 1984, as reported to the Senate (S. Rpt. 98-186) on July 20, 1983".

Mr. ABDNOR. Mr. President, when the Senate voted this evening, we accepted the House-passed Treasury bill in toto.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. If the Senator will suspend for a moment while the Chair attempts to restore order to the Senate.

Mr. BYRD. Mr. President, the Senate ought to be paying attention. We are passing important amendments here. I doubt that very many Senators, including myself, know what is going on and what these amendments contain.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. ABDNOR. I thank the minority leader.

Mr. President, this is a necessary amendment because, when the Senate voted earlier this evening, we accepted the House-passed Treasury appropriations bill in its entirety. Because of that vote, the Senate-reported Treasury bill will not be a part of this bill and therefore, it is not a conferenceable item. In order to make it so, I am asking the approval of this amendment, which references the Senate-reported rates for operations for the functions in the bill. It refers, and I emphasize this, only to spending levels of the various accounts. It does not reference the general provisions.

I urge the Senate to adopt this amendment, not only on behalf of myself, but on behalf of the ranking minority member of the committee (Mr. DECONCINI) so that, when we go to conference, we can refer to our own levels of spending.

Mr. HATFIELD. Mr. President, the Senator has stated the proposition correctly. I emphasize again for the RECORD that this does not get into language matters. Specifically, this does not raise the abortion question, so everyone can be very certain that what we are doing is only referencing Senate levels of expenditure to negotiate with the House. Otherwise, we have adopted automatically all House levels. I think the Senate ought to be in a position to negotiate with the House on every part of this continuing resolution.

Mr. SARBANES. Will the manager yield for a question?

Mr. ABDNOR. Yes, I yield.

Mr. SARBANES. Aside from the abortion language, it does not affect other language, either, does it?

Mr. ABDNOR. No, Mr. President, it makes no reference to that language other than the figures and the dollars in the bill.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2567) was agreed to.

Mr. ABDNOR. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the majority leader.

Mr. BAKER. Mr. President, I thank the manager of the bill. While we have a good group of Members on the floor, let me give a report on the situation as I see it at this moment.

I have consulted with the managers of the bill and spoken informally with the minority leader. I advised him of this situation just now.

I think we can finish this bill pretty fast. By that, I mean in the next couple of hours.

I also urge that we consider that we go ahead and go to conference on this bill tonight and wait here and try to finish. That may mean staying until 1:30, or 2, or 2:30 in the morning. I really believe we are going to do this faster and better if we stay and finish it and not come in tomorrow than we are if we try to pass the bill and come back tomorrow for the purpose of acting on the conference report.

I urge the distinguished managers of the bill, first, to move as fast as they can, and second, I ask the chairman if it is possible, in his opinion, to finish and go to conference tonight and yet to act on a conference report before, say, 2 or 3 o'clock in the morning.

Mr. HATFIELD. Mr. President, I would not put the hour at 2 or 3, but I think we can do it before sunrise.

I can only say I have been in contact with the chairman of the House Appropriations Committee (Mr. WHITTEN). He indicates that he is ready to go to conference the minute we are ready to go to conference. I have assured him I plan to go to conference and the conferees will be appointed shortly after passing this CR.

If the leader will yield for a question, has the leadership of the House, namely, the Speaker, indicated his willingness to work with us on that, keeping the House in for us to do this?

Mr. BAKER. Mr. President, in answer to the chairman, I have not talked to the Speaker in the last hour or so and I have not talked to him at all about this particular suggestion. Earlier tonight, however, he indicated that the House would remain in session long enough to appoint conferees.

I have sent word to the Speaker that it is our hope that we can finish this bill tonight, including action on the conference report. I have not yet had a reply.

Mr. STENNIS. Will the majority leader yield to me for this two-point observation?

Mr. BAKER. Yes, I yield.

Mr. STENNIS. Mr. President, I think we can do better and save time if our floor managers stay with us as much as they can. I know they have other matters, too. And all the rest of us can be briefer, maybe, in our presentation or our comments.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, Mr. President, let me yield now to the minority leader.

Mr. BYRD. Mr. President, I understood the majority leader to say the Speaker had assured the majority leader that the House would stay in until conferees were appointed. That does not tell us that the House will stay in long enough to agree to the conference report. Can the majority leader enlighten us?

Mr. BAKER. Yes, Mr. President, that query is in process now. Of course, if the House will not stay in, there is no point in our staying in. But it is my hope that the House would agree to that. I have indicated to the Speaker—not personally but through an intermediary—that that is our wish, that the managers of the bill want to finish tonight.

Mr. HATFIELD. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HATFIELD. I would just like to clarify my own thinking on one point. Would the leader not agree that regardless of what the House does tonight, the Senate would complete its work on the CR? Because it seems to me if we do not do that and we are on into tomorrow, tomorrow afternoon, we still have to do the conference.

Mr. BAKER. Mr. President, I agree. I think we can finish this bill. I think we can appoint conferees and get a conference report and act on this measure tonight. I urge Senators to try to do that.

AMENDMENT NO. 2568

(Purpose: To amend title 5, United States Code, to revise the authority to reimburse Federal employees for certain moving expenses incurred by such employees in connection with a transfer or reassignment in the interest of the Government from one official station or agency to another for permanent duty)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposed an amendment numbered 2568.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . (a) (1) Section 5723(a)(1) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "travel expenses";

(B) by striking out "manpower shortage or" and inserting in lieu thereof "manpower shortage, (B)"; and

(C) by inserting ", or (B) of any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16" after "Senior Executive Service".

(2) Sections 5724(a)(2) and 5726(b) of title 5, United States Code, are each amended by striking out "11,000" and inserting in lieu thereof "18,000".

(3) Section 5724(b)(1) of title 5, United States Code, is amended by striking out "not in excess of 20 cents a mile".

(4) Section 5724 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable.".

(5) Section 5724a(a)(3) of title 5, United States Code, is amended—

(A) in the first sentence thereof, by striking out "30 days" and inserting in lieu thereof "60 days"; and

(B) by striking out the second and fourth sentences thereof and inserting after the first sentence the following: "The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupancy of temporary quarters.".

(6) Section 5724(a)(4) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "(4)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B)(i) In connection with the sale of the residence at the old official station, reimbursement under this paragraph shall not exceed 10 percent of the sale price or $15,000, whichever is the lesser amount.

"(ii) In connection with the purchase of a residence at the new official station, reimbursement under this paragraph shall not exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

"(iii) Effective October 1 of each year, the respective maximum dollar amounts applicable under clauses (i) and (ii) shall be increased by the percent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest one-tenth of 1 percent. For the purpose of this clause, 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor.".

(7)(A)(i) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding after section 5724a the following new sections:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the Federal, State, and city income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee, or the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purpose of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5726(c) of this title.

"§ 5724c. Relocation services.

"Each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.".

(ii) The chapter analysis at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724a the following new items:

"5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred.

"5724c. Relocation services.".

(B) Section 5724(i) of title 5, United States Code, is amended by striking out "5724a" and inserting in lieu thereof "5724a, 5724b,".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

(c)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Not later than thirty days after the date of the enactment of this Act, the President shall prescribe the regulations required under the amendments made by subsection (a). Such regulations shall take effect as of such date of enactment.

Mr. WARNER. Mr. President, I am sponsoring this amendment along with my distinguished colleague, Senator TRIBLE, in order to correct—at no cost to the Treasury—major inequities that occur when Federal employees are relocated from one geographical area to another to meet the needs of their Federal agency.

Internal Revenue Service figures show that, under current practices, Federal employees end up paying an average of $8,000 worth of moving expenses out of their own pockets. This happens to many Federal employees each year because agencies such as the FBI, the Secret Service, the IRS, and Defense, must move many of their middle- and high-level employees in order to staff their field offices with high quality managers.

Everyone is losing in the current situation. Federal employees are faced with undergoing financial hardship or leaving the Federal service. Agencies are hampered in their ability to recruit and retain well-qualified professionals, managers, and executives. The taxpayers lose when these practices lower Government productivity and effectiveness.

This amendment will go a long way toward relieving these problems. It has no negative impact on the budget because agencies will be using existing appropriations to make fewer, better, and more equitable moves.

The House leadership has indicated that they will accept this amendment in the conference if we include it in the Senate version of the continuing resolution.

I request that my distinguished colleagues join me in supporting this badly needed reform.

The PRESIDING OFFICER. Is there further discussion on the amendment? Does the Senator from Ohio seek recognition on the amendment?

Mr. METZENBAUM. I do not.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 2568) was agreed to.

AMENDMENT NO. 2569

(Purpose: To provide for termination and extension of certain timber sales contracts)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 2569.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, add the following new section:

SEC. . (a)(1) The Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to terminate, at the request of the purchaser, up to 10,000,000 board feet of the timber volume specified in any purchaser's timber sales contracts bid prior to January 1, 1982.

(2) Contracts terminated by the appropriate Secretary pursuant to this subsection shall require the purchaser to pay the Secretary holding the contract a sum equal to $3.00 per 1,000 board feet or equivalent measure for the costs which will be incurred by such Secretary in terminating such contracts and for reoffering the timber terminated for resale. All funds collected pursuant to this paragraph shall be available to the appropriate Secretary to the extent necessary for termination and resale of such timber.

(b)(1) Excluding any contracts terminated pursuant to subsection (a), if the loss of a purchaser on any timber sales contracts bid prior to January 1, 1982, as determined by subtracting the current log value from the delivered log cost based on the original bid price of any such contracts (as determined by the Forest Service or the Bureau of Land Management), is—

(A) in excess of 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sale contracts subject to an assessment of $3 per thousand board feet on the volume terminated;

(B) in excess of 80 per centum up to 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 5 per centum of the contract bid value of the volume terminated;

(C) in excess of 60 per centum up to 80 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 10 per centum of the contract bid value of the volume terminated;

(D) in excess of 40 per centum up to 60 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 15 per centum of the contract bid value of the volume terminated;

(E) in excess of 20 per centum up to 40 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 20 per centum of the contract bid value of the volume terminated; and

(F) in excess of a 0 per centum up to 20 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 25 per centum of the contract bid value of the volume terminated.

(2) No firm may terminate more than 65,000,000 board feet of timber volume under this subsection.

(3) For purposes of this subsection, the term "net worth" does not include the value of any outstanding uncut timber sales contracts.

(c)(1) Subject to the assessment as provided in paragraph (2), the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands are further authorized and directed to adjust, at the written request of the purchaser, the termination dates of any contracts for the purchase of timber not otherwise terminated in subsection (a) or (b), that were bid prior to January 1, 1982, but not earlier than January 1, 1975, for a period not exceeding five years from the termination date in effect on the date of enactment of this Act, or from such earlier dates as the purchaser elects.

(2)(A) For the first year of any adjustment authorized pursuant to paragraph (1), the purchaser shall pay interest on the outstanding contract value of the contract volume of one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such timber contract obligation adjusted to the nearest one-eighth of one per centum.

(B) Beginning with the fourth operating season after any adjustment authorized by paragraph (1), the purchaser shall pay the full rate of interest specified in subparagraph (A) on the outstanding balance of the contract value.

(d) A purchaser granted termination of a contract pursuant to this section shall not, if otherwise eligible, be prevented on account of the termination from bidding on and resale of timber included in a termination contract.

(e)(1) Contracts to be terminated pursuant to this section under which no harvest has taken place shall be terminated in full.

(2) Contracts terminated by the appropriate Secretary pursuant to this section under which harvest has begun, shall be terminated conditionally with the termination becoming final after the purchaser has completed all contractual obligations, including completion of sections of roads where construction has begun, for the units on which harvest has begun. All remaining unharvested units must be terminated.

(3) The appropriate Secretary may not terminate a contract if he determines, in his discretion, that the remaining unharvested units or a logical unit as determined by the Secretary are not representative of all units that were to be harvested on the contract areas in terms of species and logging methods.

(f) Timber from terminated contracts shall be offered for resale in an orderly fashion as part of the normal congressionally authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from terminated contracts shall be given preference for resale in the 1984 timber sales program.

(g) The Secretary of the Interior and the Secretary of Agriculture shall publish procedures for the implementation of this section in the Federal Register within 90 days after the date of enactment of this Act.

(h)(1) Any firm that was not engaged in logging or manufacture of timber or that did not own a plant or equipment for that purpose within six months of the contract bid date for a timber sales contract shall not be entitled to terminate or adjust such contracts pursuant to that Act.

(2) As used in this subsection, a firm was engaged in the logging of timber sales when it had the capability to perform that function with its own equipment or when in the regular course of its business it retained the services of another entity to perform that function on its behalf and to deliver the logs so developed to an entity controlled by one or more members of the same family that in the regular course of its business manfactured or was equipped to manufacture those logs into wood products with its own plant or equipment.

(i)(1) For purposes of this section where a corporation owns more than 50 per centum of any other corporation and the other corporation owns a timber sales contract eligible for termination or adjustment under this section, the contracts of such other corporation shall be deemed to be owned by the parent.

(2)(A) For purposes of this section, where a family owns more than fifty per centum of more than one corporation and each of those corporations owns one or more timber sales contracts eligible for termination or adjustment under this section, the contracts of such corporations shall be deemed to be owned by one corporation, and not entitled to be considered as separate corporations in determining the amount of relief permitted under this section.

(B) As used in this paragraph, the term "family" means the father, wife, all the sons and daughters and all the brothers and sisters who are related to each other.

(3) This subsection shall not be deemed to extend the liability for a timber contract from the contract holder to its affiliate.

(j) The Secretary of Agriculture and the Secretary of the Interior shall not take any actions relating to the extension of certain Federal timber contracts as provided in the President's Memorandum of July 27, 1983 and implemented by the Department of Agriculture in 48 Fed. Reg. 38862-63 and the Department of the Interior in BLM Instructional Memorandum 83-743.

Mr. METZENBAUM. Mr. President, this amendment is the result of long and protracted negotiations having to do with the situation that developed as far back as 1 year ago as pertains to the timber industry. As a matter of fact, a number of timber contracts were let by public bidding. Then they found that the price came down as far as timber was concerned, and the timber industry came to the Congress and asked for relief. Now, anyone would agree that asking to be let out

of a contract that has been legally entered into is quite an unusual procedure.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. If the Senator will suspend, the Chair will seek to restore order.

The Senator may proceed.

Mr. METZENBAUM. The history of this matter is that there was legislation proposed last year. The legislation came out of the Energy Committee over the objections of the Senator from Ohio. Then we were able to block it in the closing days of the session. Thereafter, the timber industry concluded that they could solve their problem by going to the White House and, indeed, the White House provided them with a real bailout because they permitted them to extend the contracts for 5 years with no interest.

Now, we are not talking about a few dollars; we are talking about a lot of dollars. We are talking about $5 billion in contracts. If you can extend those for 5 years and if the interest rate is 10 percent—and actually, the Government interest rate is higher than that—you are talking about $2½ billion.

But the President of the United States did not care about that. He can talk about saving money and cutting expenses, but when it comes to the timber industry, he was prepared and has indicated, has made it a rule, which has not as yet been implemented, that the timber contracts could be extended for a period of 5 years with no interest.

Now, Mr. President, that does not make sense. That is not good business in the good old American way. If you enter into a contract between two corporations or two business people, you are expected to live up to that contract. But not so with Ronald Reagan. Ronald Reagan said, "Forget it. You do not need to pay any interest. A lot of you fellows are my friends and as far as I am concerned, you can postpone the implementation of those contracts for 5 years."

Now, nobody forced the companies to bid these prices. They made a conscious business decision that the timber was worth $300 or $400 per 1,000 board feet, and when the economy went into a nosedive, what did they do? They did what so many business corporations who constantly say the Government ought to stay out of their hair; they came to Uncle Sam and said, "Give us relief."

I do not think that is the free enterprise way. I do not think that is the American way. I do not think that is the way it should be done in this country.

As a consequence of that, on several earlier occasions, on the supplemental appropriations bill and on a continuing resolution that was previously before the Senate, I came before this body and offered an amendment. I was prevailed upon by my good friend, who is the chairman of the Appropriations Committee, to hold off and not to push the issue until final conclusion to see whether we could not work matters out.

Now, let me make it clear that I have always taken the position I was willing and am willing to provide relief for the small timber companies, for the timber companies that need relief, and I did not want to force any company, small or large, into bankruptcy. So as a consequence of that, Senator HATFIELD and I, his staff and mine, have been negotiating back and forth—the U.S. Forest Service has been involved—trying to work out an adequate solution that is fair to the entire industry and is also fair to the U.S. Government.

I am proud to say that is what this amendment represents at the moment. It is a compromise. It provides that there can be termination of some of these contracts within limits and it provides that those limits are decided by the net worth of the company as related to the amount of its exposure on these contracts. It provides an overall maximum as to what can be terminated. It provides that the Government will get a certain portion of their money as interest up front and that if the contracts are not fulfilled after 3 years, interest will be paid regularly at the rate that the Government pays. It is not all that I might like, but I think that it is far superior to that which the administration has agreed to. It is imperative, therefore, that we enact this amendment, that it be a part of the continuing resolution, and that it become the law of the land.

I think that the Nation's best interests will be served. I think it is a fair and equitable proposal, and I hope that the Members of this body will see fit to accept it.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. I do not necessarily associate myself with all the remarks made by the Senator from Ohio on the interpretation of the reasons behind this amendment. Before I make my own remarks, I ask unanimous consent to introduce into the RECORD on behalf of the Senator from Idaho (Mr. MCCLURE), who does not support this amendment, a letter addressed to Senator MCCLURE from John Crowell, the Assistant Secretary for Natural Resources of the Department of Agriculture, and a letter from the Comptroller General of the United States.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 9, 1983.

HON. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that legislation in the form of an amendment is being considered that would provide for Forest Service and Bureau of Land Management (BLM) timber sale contract termination and extension. The amendment may be offered as an addition to other pending Senate legislation.

The Administration is opposed to this timber contract relief proposal.

As we understand it, the amendment would allow purchasers of Federal timber to terminate up to 10 million board feet of timber contracts dated prior to January 1, 1982, at a cost of $3 per thousand board feet. In addition, companies would "buy out" of an additional 75 percent of their Federal timber contract volume, up to a limit of an additional 65 million board feet, by paying a percentage of the contract value. The "buy out" percentage would vary depending on the estimated loss a company would experience as compared to the company's net worth.

Under the amendment, contracts not terminated could have their expiration date extended for 5 years with two conditions: (1) an interest payment on the unpaid purchase price at a rate for the first year equivalent to one-half of the current Treasury borrowing rate, and (2) an interest payment for the fourth and fifth years equal to the current Treasury rate. Whether any interest is to be charged on the unpaid purchase price in the second and third years is unclear.

By implication, firms not engaged in logging or manufacture of timber, or firms not owning equipment for logging or manufacture of timber within 6 months of the contract bid date, would not be entitled to terminate or extend a contract.

Significantly, if it were enacted, the amendment would compel the Forest Service to withdraw the pending administrative action that already proposes to grant interest-free 5 year extensions.

The Administration is opposed to the amendment for the following reasons:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

2. The 5-year contract extension program offered by the Administration gives significant relief that is appropriate for the circumstances and has been well accepted as equitable by a broad cross-section of the forest products industry and the public. The Administration's 5-year extension package was never intended to prevent all potential firm bankruptcies. A Forest Service analysis projects that, if a modest housing recovery continues, most firms would be able to work their way out of trouble by averaging new sales against existing contracts. There is no doubt, though, that a few firms that bid the most irresponsibly may have difficulty surviving, but this is as it should be in the free-market competitive system. The amendment would disrupt the ongong extension program.

3. The Forest Service estimates that under the 10 million board feet "free" termination provision alone, about 1.3 billion board feet

of timber under contract could be terminated for $3 per MBF—far less than the contract price for such volume. This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

4. It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner. The objective of establishing uniform net worth calculations for eligibility for relief carries with it the potential for confusion and the inadvertent manipulation of asset worth, particularly among nonpublicly owned firms.

5. Denying the relief to purchasers without mill facilities or who were not engaged in logging could be a constitutionally impermissible denial of equal protection of the laws.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

This letter is also being sent to the Chairman, Committee on Agriculture, Nutrition, and Forestry.

Sincerely,

JOHN B. CROWELL, Jr.,
Assistant Secretary for Natural Resources and Environment.

[B-207165]

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 29, 1983.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METZENBAUM: This is in response to your August 15, 1983, inquiry regarding the Department of Agriculture's (Agriculture) decision to extend certain forest timber sales contracts for up to 5 years. The Secretary of Agriculture (the Secretary) has determined, pursuant to section 14(c) of the National Forest Management Act of 1976 (NFMA), 16 U.S.C. § 472a(c) (1976), that a "substantial overriding public interest" justifies the extensions. You inquire whether the extensions are at odds with our decision in Department of Agriculture—Request for Advance Decision, B-207165, May 3, 1982, 82-1 CPD 416. You also ask the following three questions:

"1. Do depressed economic conditions in the timber industry meet the 'substantial overriding public interest' text for extensions contained in 16 U.S.C. Section 472a(c) (1976)?

"2. Is it legal to extend contracts for a period of five years?

"3. Is it legal to extend timber sale contracts without requiring interest payments?"

We have received a legal memorandum of September 28, 1983, from the Acting General Counsel for the Department of Agriculture in regard to the proposed extensions.

Our May 3, 1982, decision was in response to the Secretary's request for an advance decision. As background, we were advised that on May 24, 1980, the Chief of the Forest Service, in Interim Directive 64 (copy enclosed), authorized contract term extensions for timber sale contracts entered into prior to April 1, 1980, and due to terminate prior to April 1982. Interim Directive 64, in support of the decision to extend contracts pursuant to 16 U.S.C. § 472a(c), stated: "This decision was based on an impact assessment that found the action to be in the substantial overriding public interest in view of the unprecedented decline in demand for lumber and plywood." The original contracts required deposits to be made shortly before timber is actually cut. Contracts extended under Interim Directive 64 were required to incorporate contract clause C4.251 (6-80), copy enclosed, which required purchasers to make equal monthly "deposits" (payments) during the first normal operating season under the extension so that all timber would be paid for by the last day of that operating season, whether or not timber was actually cut and removed.

In the Secretary's request for an advance decision in 1982, he stated that economic conditions had not improved and requested our opinion as to the Forest Services' authority to waive the clause C4.251 requirement for equal monthly payments during the first season after the extension. These contracts would instead be governed by the contract's original agreement that timber payments be made only slightly in advance of cutting. In return for the government waiving clause C4.251, the Forest Service proposed to require the contractor to pay interest on the payments that would have been made under clause C4.251, for the period from the payment due dates until payment is actually made (when timber is cut). The Secretary recognized that no officer or agent of the government has authority to release vested contractual rights without consideration. However, the Secretary argued that the "beneficial effect of future competition" that would result from the modification, together with interest payments, constituted sufficient consideration for the waiver of clause C4.251.

Our decision noted that the contractual right in question was the right to the payments on the dates that they are due. We approved of the proposed modification, reasoning that although the government would lose use of the money involved for the deferred payment period, the receipt of interest, at a fair market value, constituted legal consideration for the time payment would be deferred.

On August 26, 1983, a Notice of Interim Policy was published by Agriculture at 48 Fed. Reg. 38862-63 which would extend timber contracts bid on or before January 1, 1982, for up to 5 years. Purchasers requesting extensions will be required to bear the cost of remarking and other additional costs of the government associated with the delay in harvesting. Purchasers applying for extensions will be required to submit a plan showing how the applicant intends to meet his contractual commitments. The operating schedule set forth in the approved extension plan will be incorporated into individual contracts in the form of a payment-cutting schedule designed to pay off the contract price in 5 years or less. We understand the new 5-year extension policy will apply to some previously extended contracts requiring interest payments, some which still require the monthly payments under contract clause C4.251, and other contracts never before extended. The Notice of Interim Policy indicates that purchasers with previous extensions who request conversion to extensions under the new policy must be current in their payments under the terms of the extensions being replaced. It does not provide, however, for the current payment requirements to continue under the new extensions.

Regarding your first and second questions, concerning whether depressed economic conditions meet the "substantial overriding public interest" requirement and justify a 5 year extension, section 14(c) of the National Forest Management Act of 1976, codified at 16 U.S.C. § 472a(c), provides:

". . . Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531] will result, sales contracts shall be for a period not to exceed ten years. Provided, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser . . . The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan (B) that the substantial overriding public interest justifies the extension."

The legislative history of the act indicates that some consideration was given to whether contracts could be extended on the basis of market conditions. *See* 122 Cong. Record 27645-46 (August 25, 1976) (remarks of Senators McClure and Humphrey) and House Committee on Agriculture, Business Meetings in National Forest Management Act of 1976, 94th Cong. 2d Sess. 182-183 (Comm. Print 1976) (meeting of Subcommittee on Forest, August 2, 1976). In this regard, we have reviewed the Congressional Research Service's July 29, 1983, memorandum to you concerning the Secretary's authority to extend timber sales contracts which concludes that based on the legislative history resolution of the issue is not free from doubt. Based on the language of the statute, however, we think that the Secretary may conclude that depressed economic conditions meet the "substantial overriding public interest" test of the statute. Our office has recognized that the Secretary has broad discretion to administer the public forests. Little River Lumber Company, B-191906.2, March 13, 1979, 79-1 CPD 174. We find no basis for questioning the Secretary's determination, pursuant to 16 U.S.C. § 472a(c), that a substantial overriding public interest justifies the up to 5-year extensions.

In this regard, we note that when faced with a problem of statutory construction, great deference is given to the interpretation of the statute by the officers or agency charged with its administration. *Udall* v. *Tallman*, 380 U.S. 1, 16, 85 S.Ct. 792, 801 (1965).

However, with regard to the third question concerning whether it is legal to extend timber sales contracts without requiring interest payments, it is the longstanding position of this Office that no officer or agent of the government has the authority to waive contractual rights which have accrued to the United States or to modify existing contracts to the detriment of the government without legal consideration. 44 Comp. Gen. 746, 749 (1965); 19 Comp. Gen. 903 (1940); 5 Comp. Gen. 605 (1926). This rule is premised on the absence of any specific statutory authority that would allow such a surrender or waiver. Economic Development Administration—Compromise Authority, 62 Comp. Gen. (B-210998, June 22, 1983); 41 Comp. Gen. 134 (1961); 22 Comp. Gen. 260 (1942); 20 Comp. Gen. 703 (1941). Although 16 U.S.C. § 472a(c) (1976) provides statutory Authority for the Secretary to extend the harvesting schedule of timber sales contracts if there is a substantial overriding

public interest, we are unaware of any express or implied statutory authority for the Secretary waiving the vested contractual rights which the government previously obtained as a condition for the waiver under Interim Directive 64 and the waiver of contract clause C4.251. As noted above, in return for the government waiving the latter clause the Forest Service required the payment of interest on the payment that would have been made under clause C4.251 for the period from the payment due dates until payment is actually made (when timber is cut).

Once the contracts were modified to require monthly payment of deposits or the payment of interest, consideration is required to delete or modify these contractual requirements.

While it has been suggested that the waiver of these vested contractual rights would advance public policy by benefiting timber dependent communities and the public in general and thereby provide valuable consideration, we have rejected similar "policy consideration" arguments. Our decision in 46 Comp. Gen. 874 (1967) involved a request for contract modifications to alleviate the economic burden placed on contractors due to increased labor costs under the Service Contract Act of 1965 (41 U.S.C. § 351, et seq. (1976)). The agency argued that the public policy forming the basis of the statute would constitute valuable consideration to support a modification to compensate the contractor for adherence to, and compliance with, the requirements of the act. We disagreed, stating:

". . . While we feel that the Government in its capacity as law maker would receive measureable benefits from the contractors in the form of advancement of the policy objectives of the referenced act, we fail to see how the Government, as a contractor, could be said to obtain such consideration as would support modification of the contracts as a matter of law. In cases where this Office has held there was sufficient consideration present to support modification of a contract, such consideration arose from the particular contract in question and benefited the Government in its contractual capacity. . . ."

Similar "policy consideration" arguments were rejected in B-1811432, March 13, 1974; 40 Comp. Gen. 684 (1961); and 35 Comp. Gen. 56 (1955).

Here, however, we find that the Secretary is obtaining adequate consideration in exchange for deleting the interest requirement. As noted above, while the Secretary has authority to grant an extension of the harvest schedule, consideration would have to be obtained for the waiver of a vested contractural right (interest). In exchange for deleting the interest requirement, a contractor must agree to have several new clauses, terms or conditions added to the existing contracts.

A contractor must submit and have approved a Multi-Sale Extension Plan (Plan) which includes an operating schedule demonstrating how much timber the contractor plans to harvest in a manufacturing area during each year of the Plan. The Plan must provide for removal of a proportionate volume of National Forest timber sales under extensions each year of the Plan. The harvesting schedule in the Plan will be incorporated in the individual contracts and the contractor is obligated to pay for timber in accordance with the schedule whether or not it is harvested. This will allow a mix of profitable and unprofitable contracts to be harvested by the contractor. More importantly, the government will receive payment for the timber on a yearly basis rather than at the end of the contract term.

Access roads must be substantially completed within the first year of the extension rather than at the end of the contract period as now required. The completion of these roads is necessary for future sales which have been disrupted because of the lack of harvesting.

A payment of $2 per thousand board feet will be required of the contractor to cover the government's cost in remarking trees and restaking roads necessitated by the delay in performance. Additional provisions for calculating damages in the event of a default will also be added to the existing contracts.

Accordingly, in response to the third question, we believe the imposition of these contract requirements constitutes adequate consideration for the deletion of the interest and/or monthly payment requirements.

Sincerely yours,

MILTON J. SOCOLAR,
(For Comptroller General
of the United States).

Mr. HATFIELD. Merely to make the record at this point, the Senator from Idaho (Mr. MCCLURE) does not support the amendment.

Mr. President, I am a cosponsor of this amendment with Senator METZENBAUM. As many Senators know, I have been involved in this issue for more than 2 years now. The problem of high-priced Federal timber contracts has decimated and divided the wood products industry.

I originally proposed an administrative program whereby the price for Federal timber contracts be rolled back to current market prices. That proposal met with a great deal of opposition from segments of the wood products industry outside of western Oregon. Then, with the help of Senator MCCLURE, I embarked on a legislative proposal to allow a percentage of Federal timber contracts to be terminated and returned to the Government, and to allow other timber contracts to be extended for up to 5 years. This proposal also was met with opposition from segments of the wood products industry outside of the West. This legislation was reported from the Energy and Natural Resources Committee last year, but it received no further consideration. That bill, S. 916, has been introduced into this session of Congress, with 20 cosponsors. Two additional hearings have been held this year.

Not very long ago, Senator METZENBAUM approached me and asked why this legislation could not be tailored to benefit those timber purchasers who are in trouble and really need help. I agreed with him that his was a noble concept, but one that had been looked at by both the timber industry and the administration. I might add at this point that the administration has proposed a 5-year timber contract extension program that, in my opinion, is only a partial answer to the problem—a half a loaf.

Because the administration's program was lacking, and because Senator METZENBAUM showed a genuine interest in helping to solve this problem, I decided to work with him in designing a timber relief program that is geared toward those who need it. Unfortunately, I cannot report that the timber industry is unanimously behind this proposal either. Many of the larger timber companies in my State and others have told me that this amendment is unfair and discriminatory. My answer to that is: What have they done to genuinely help solve this problem? Everytime I have tried to come forward with a solution, I have been met with cries of foul and alternative suggestions that benefit only selected companies. I am the first to admit that this amendment is not perfect. But I would suggest to my colleagues that it does benefit smaller struggling wood products companies that have come to me and asked for help. Mr. President, I have received over 50 telegrams from my State indicating support for this amendment, and these telegrams are from small timber companies. I would add that many other timber companies in Washington and northern California have also wired their support for this amendment.

Every timber purchaser would be able to terminate up to 10 million board feet under this amendment by paying a modest charge to cover administrative fees. In order to terminate additional volumes of timber, a needs test would have to be met by comparing outstanding timber contract liabilities to net worth. The amendment further provides that up to 5 years of contract term adjustment would be allowed if the purchaser pays interest charges on the timber to be extended.

By and large, the wood products companies which oppose this amendment are companies that are able to absorb the high-value timber they have under contract and which have the ability to make payments as proscribed under this amendment. The smaller companies benefited by this amendment would not be able to survive under the measly program the administration has adopted, and they will end up defaulting on their contracts, thus creating chaos and losses to local communities and to the Government.

Mr. President, the main reason I have supported and pushed the idea of timber contract relief is my sincere desire to keep the smaller independent segment of the wood products industry intact. It is my belief that this amendment accomplishes that goal, and for that reason, I support it.

Section (a)(1) provides that any Federal timber purchaser who possesses timber contracts that were bid prior to January 1, 1982, may terminate up to 10 million board feet of those contracts. In the case of a purchaser who wishes to terminate one contract that totals more than 10 million board feet, it is my intention to allow that purchaser to terminate the 10 million board feet, as allowed under this section, and to terminate the remaining volume under that contract, depending where that particular purchaser comes under the needs test criteria as allowed in (b) (A) through (F). It would be my intention to give the respective Secretary the flexibility to terminate the remaining units of that particular contract as provided in (e).

Section (a)(2) provides that a purchaser that chooses to terminate contracts pay the the appropriate Secretary $3 per thousand board feet to cover administrative costs of terminating and reselling the timber. This section provides that the funds collected be used to the extent necessary to cover these administrative costs. It is my desire that the appropriate congressional committees be notified if funds collected are in excess of those needed to terminate and resell those contracts.

Section (c)(1) provides that a purchaser who wishes to adjust the termination dates of contracts bid prior to January 1, 1982, but not before January 1, 1975, be allowed to do so, and provides that certain interest payments be made. It is my hope that the appropriate Secretary provide as much flexibility as possible to the purchaser in making the first interest payment, by spreading it out over the first year in a fair and equitable manner.

Section (2)(A) provides that the interest charge be one-half of the rate determined by the Secretary of the Treasury, taking into account current average market yield on marketable obligations. It is my intention here that the Secretary of Agriculture and Secretary of the Interior peg the interest charge to the 5-year Federal Treasury borrowing rate, or a rate that best reflects the time the purchaser elects to adjust the contract.

Section (2)(B) provides that at the beginning of the fourth operating season, the purchaser is obligated to make further interest payments on the outstanding volume of timber he wishes to continue under contract term adjustment. It is my intention here to again provide the necessary flexibility to the appropriate Secretary in determining the period of time necessary to make this payment. However, in no case should the payment, as provided in this section, be spread over 1 calendar year. I would further note that this amendment provides that no interest payments are provided for during the second and third year of the contract term adjustment, and none are intended.

Sections (h) and (i) provide direction to the appropriate Secretaries in determining which timber purchasers are entitled to terminations and adjustments. It is my intention here to give the appropriate Secretary clear direction in establishing who actually owns and operates a wood products company seeking terminations and adjustments of timber contracts, and provides that purchasers are entitled to terminate and adjust contracts as a whole. By this, I mean that affiliates and holding companies are to be treated as part of the firm in determining which companies do and do not receive terminations and adjustments of contracts.

Mr. President, the committee will accept the amendment.

Mr. METZENBAUM. Mr. President, is the name of the Senator from Oregon listed as a cosponsor?

The PRESIDING OFFICER. The name of the Senator from Oregon is listed as a cosponsor.

Mr. HATFIELD. I thank the Senator from Ohio for the long hours he has put into the matter. We started at fairly opposite ends of the pole, and it illustrates what can happen when men of good faith get together and work out their differences. I thank the Senator from Ohio for that effort.

I will say that this does not carry the unanimous support of the industry. It will help, as the Senator from Ohio indicated, the small operators. That does not mean the large operators do not have economic problems because of this changing market and the changing appraised values of the timber. But I will not go into that at this time, and I thank the Senator from Ohio for his help.

(By request of Mr. SYMMS, the following statement was ordered printed in the RECORD:)

● Mr. McCLURE. Mr. President, I want to commend Senator METZENBAUM for his interest in this matter and for helping to keep the issue alive. Although I must strongly oppose adoption of this amendment, I am pleased to note that the Senator from Ohio has recognized that timber sales contract termination authority is critical to dealing with the short- and long-range problem of timber volume under contract.

However, the proposal he is offering today is froth with inequities and would be a nightmare to administer. The volume of timber allowed to be terminated under this approach is far too small to be of significant help to most companies or to deal effectively with the overburden of timber under contract. The heart of the Northwest timber problem is the overburden of timber contracts that are currently outstanding. This overburden is the volume of Federal timber under contract that is in excess of the market requirements for logs. It is the volume above historic levels for uncut timber under contract which, in combination with the yearly government sales program, is in excess of the market for the manufactured products. Even if the problem of high-priced timber contracts did not exists, this overburden would pose problems for the Federal Government's timber management program. If this overburden is not removed, the market in lumber will remain in chaos, to the detriment not only of the Northwest timber operators and the Northwest economy, but to the detriment of the struggling housing industry and our hopes for a sustained recovery.

Some of the problems I have with this proposal are as follows:

First, the emphasis on net worth presents two major problems. First, as the administration has noted, it would be difficult to administer the eligibility formula based on company net worth. Second, it does not treat competitors equitably, giving far better treatment to companies which were most imprudent, and minimal assistance to others who may be operating side by side for the same raw materials and the same markets. This proposal distorts the competitive situation; it does not restore competition as S. 916 would have done.

The premium or interest payment that would be imposed on purchasers who, unable to terminate contracts, would be eligible for additional time to operate them, is excessive under the circumstances. It is based on the falacy that the Government's timber assets are worth what was bid for them several years ago. That is not true. The Government's assets are claims against companies which are liable to default on their contracts over the next few years. Collecting on those claims will be a tough, expensive exercise unless legislation similar to S. 916 is enacted to deal with the real problems and restore the vitality to the Federal timber purchasers.

The proposal does not deal with the needed improvement of the purchaser credit concept under which much national forest road mileage is constructed annually S. 916 dealt with that situation.

The proposal does not recognize the fact that many companies are multiplant companies and necessarily have a larger volume of timber under contract than those companies with only one facility.

In closing, I want to make it very clear that I support legislation dealing effectively and equitably with the problems of large volumes of Federal timber under contract at high bid rates. I am a cosponsor of S. 916, along with MARK HATFIELD and 19 other Senators.

Senator METZENBAUM opposed our efforts to pass S. 916 on the basis that it was a bailout measure. Since that time he has obviously taken a much closer look at the situation and has himself come to the conclusion that termination of these high-priced contracts is indeed a necessary and responsible way of addressing this problem.

It is my hope that we can work together over the next few months to fine tune this proposal.●

Mr. SYMMS. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMMS. Mr. President, this is very inequitable. The senior Senator from Idaho opposes it, and I oppose it.

I am sure that any Senators from the intermountain region who have looked at this amendment will say that is is inadequate to the problem. The problem we have out there is an excess of timber sales that have been made in the past, during inflationary times, where people were constantly bidding up the price of timber, when the Government sales agency—the Forest Service, in this case—was encouraging that we could always pay this high price for timber sales because there would be no tomorrow, and there would always be a higher price.

So a great many companies overbid what they could actually get out of the sale of that timber.

This particular solution, if I understand it correctly, only takes care of a few mills in the west of the Cascade region. All those people east of the Cascades and in the intermountain region have a problem because the cost of the roads, due to Government regulations, in many cases becomes as excessive as the price of the timber—equal to or higher than the cost of the roads in some cases.

I should like to make it very clear that this is a solution that I do not believe is practical. It does not solve the problem we have in the intermountain region. The administration has already made an administrative decision on this.

I think the proper way to solve this problem is to let stand the solution that the White House and the Interior Department have made administratively, to delay some of these timber sales for 5 years, until Congress can hold hearings on this problem and make a solution of the problem that is equitable to all parties. This is not an equitable solution.

This does not solve the problem in the State of the Presiding Officer, the Senator from Colorado (Mr. ARMSTRONG). It does not solve the problem in Wyoming. It does not solve the problem in Idaho. It does not solve the problem in Montana.

I do not know if the distinguished Senator from Montana has been informed that this amendment was coming up. My colleagues should realize that this amendment does not solve the problem. It should not be adopted in my opinion, at this point.

Mr. President, I suggest the absence of a quorum,

Mr. HELMS. Mr. President, will the Senator withhold that?

Mr. SYMMS. I withhold that, and I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I seek the floor in my own right.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am very much opposed to the timber contract relief measure offered by the Senator from Ohio. It would result in a direct bailout by the Federal Government for a relative few companies in one section of the country, at the expense of the timber industry in the rest of the United States.

This measure would reward companies who exercised poor judgment, while penalizing those who made better business decisions. It would send a clear signal to companies that contracts with the Federal Government can be circumvented.

This amendment would also penalize those firms who do not purchase Federal timber, but who depend on timber from private lands. These firms would not have the same recourse available to them and so would be placed at a disadvantage relative to firms allowed to terminate timber contracts.

This amendment also contains no provision to limit the amount of terminated timber that would come back on the market from Forest Service sales in region 6. Under this proposal, large volumes of terminated timber could come immediately back on the market at much lower prices. For other regions of the country, this could adversely affect other timber firms by flooding their markets with low-priced timber.

The potential for such severe disturbance of the existing market equilibrium by Government fiat would result in a transfer of misfortune and unemployment from Oregon to other areas of the country. This would be grossly unfair to timber-producing regions such as the Southeast, who have already taken their economic licks.

During the recent recession, while timber companies in Oregon were having their Federal timber contracts extended not once but twice, firms in the Southeast were going out of business. As a result of reorganization and restructuring, firms in most other parts of the country are profitable again. The failure of the timber industry in Oregon to do the same has prolonged the agony and resulted in a very unnatural economic situation for all firms in that region.

Some will argue that this is an issue of large companies versus small companies. This is not the case. Timber contract relief that benefits one section of the country at the expense of others is a bad idea—no matter how it is constructed. Small timber companies in North Carolina are not for this proposal, nor do they support any of the timber contract relief proposals advanced thus far.

I ask unanimous consent to have printed in the RECORD a letter I have received from the Department of Agriculture.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 9, 1983.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that legislation in the form of an amendment is being considered that would provide for Forest Service and Bureau of Land Management (BLM) timber sale contract termination and extension. The amendment may be offered as an addition to other pending Senate legislation.

The Administration is opposed to this timber contract relief proposal.

As we understand it, the amendment would allow purchasers of Federal timber to terminate up to 10 million board feet of timber in timber contracts dated prior to January 1, 1982, at a cost of $3 per thousand board feet. In addition, companies could "buy out" of an additional 75 percent of their Federal timber contract volume, up to a limit of an additional 65 million board feet, by paying a percentage of the contract value. The "buy out" percentage would vary depending on the estimated loss a company would experience as compared to the company's net worth.

Under the amendment, contracts not terminated could have their expiration date extended for 5 years with two conditions: (1) an interest payment on the unpaid purchase price at a rate for the first year equivalent to one-half of the current Treasury borrowing rate, and (2) an interest payment for the fourth and fifth years equal to the current Treasury rate. Whether any interest is to be charged on the unpaid purchase price in the second and third years is unclear.

By implication, firms not engaged in logging or manufacture of timber, or firms not owning equipment for logging or manufacture of timber within 6 months of the contract bid date, would not be entitled to terminate or extend a contract.

Significantly, if it were enacted, the amendment would compel the Forest Service to withdraw the pending administrative action that already proposes to grant interest-free 5 year extensions.

The Administration is opposed to the amendment for the following reasons:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

2. The 5-year contract extension program offered by the Administration gives significant relief that is appropriate for the circumstances and has been well accepted as equitable by a broad cross-section of the forest products industry and the public. The Administration's 5-year extension package was never intended to prevent all potential firm bankruptcies. A Forest Service analysis projects that, if a modest housing recovery continues, most firms would be able to work their way out of trouble by averaging new sales against existing contracts. There is no doubt, though, that a few firms that bid the most irresponsibly may have difficulty surviving, but this is as it should be in the free-market competitive system. The amendment would disrupt the ongoing extension program.

3. The Forest Service estimates that under the 10 million board feet "free" termination provision alone, about 1.3 billion board feet of timber under contract could be terminated for $3 per MBF—far less than the contract price for such volume. This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

4. It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner. The objective of establishing uniform net worth calculations for eligibility for relief carries with it the potential for confusion and the inadvertent manipulation of asset worth, particularly among nonpublicly owned firms.

5. Denying the relief to purchasers without mill facilities or who were not engaged in logging could be a constitutionally impermissible denial of equal protection of the laws.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

This letter is also being sent to the Chairman, Committee on Energy and Natural Resources.

Sincerely,

JOHN B. CROWELL, Jr.,
Assistant Secretary for Natural Resources and Environment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ANDREWS. Mr. President, it is my hope that we can move along. I understand that the Senator from Oregon, a timber producing State, has accepted the amendment.

Those of us on the farm understand. If I buy 1,000 bushels of corn to feed my steers and the price goes down a buck, I do not come in, hat in hand, and say I want that dollar back.

A compromise has been worked out, and I think it is in the best interests of the Senate to move ahead on this. I understand that if this amendment is not adopted—and that is probably why the chairman of the committee is in favor of it—the Government will lose $500 million to $600 million this year.

Mr. METZENBAUM. Each year.

Mr. ANDREWS. That is half of the cost of the Wright amendment, which we just had a sharp debate on.

We are trying to balance the budget and trying to move ahead, and I hope we can vote on this compromise amendment, which has a number of cosponsors, and which I understand has support from the people who know the timber industry best in the Northwest part of the country.

This is not parochial from my standpoint, I say to the Senator. In North Dakota, the State tree is a telephone pole. But we think a deal is a deal.

I want to back the chairman of the committee, the senior Senator from Oregon, and I think we should vote on the issue.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Does the Senator reserve his right to object?

Mr. METZENBAUM. Mr. President, I reserve my right to object.

I am certain the Senator from Connecticut intends to indicate that it be temporarily set aside and it retain its position and that immediately upon the conclusion of the next amendment that the pending amendment would be the pending business.

Mr. WEICKER. Mr. President, the Senator from Ohio is correct.

By way of explanation, it would be my intention to take up a noncontroversial amendment to be introduced by the distinguished Senator from Maine. Upon the completion of that amendment and if indeed if it is noncontroversial, then we will return to the amendment of the Senators from Oregon and Ohio.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. HEINZ. Mr. President, reserving the right to object, I wish to find out why the manager of the bill has decided to recognize everyone on that side of the aisle.

Mr. WEICKER. Mr. President, I say to the distinguished Senator from Pennsylvania the manager of the bill has been in this chair exactly 2 minutes and this is the first Senator he has recognized on either side of the aisle.

Mr. HEINZ. Mr. President, I wish to accommodate my friend from Maine and we both I think have short memories.

Mr. WEICKER. Indeed as the Senator from Pennsylvania knows no one will move this bill faster than the Senator from Connecticut. Indeed, I will be glad to set aside this amendment while we do others if that is possible and if it is possible and if it is with agreement of the sponsors of the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut that the pending amendment be temporarily laid aside?

Without objection, it is so ordered.

AMENDMENT NO. 2570

Mr. MITCHELL. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL) proposes an amendment numbered 2570.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert:

SEC. . (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Mr. MITCHELL. Mr. President, I want to thank the chairman of the Committee on Appropriations, Senator HATFIELD, and ranking Democrat, Senator STENNIS, for their help on this amendment. I also recognize the assistance of Senator JOHNSTON, ranking member of the Appropriations Subcommittee on Energy and Water Development.

My colleagues on the Committee on Environment and Public Works, Senators STAFFORD and RANDOLPH, chairman and ranking Democrat of the full committee, and Senators ABDNOR and

MOYNIHAN, chairman and ranking Democrat on the Water Resources Subcommittee, have also been most accommodating. I very much appreciate their aid in facilitating favorable and timely considerations of this measure.

This amendment would deauthorize a Corps of Engineers navigation project in Eastport, Maine, and transfer title to the project to Eastport. The measure has broad-based support. I first learned of the need for the amendment from the State representative from the area, Harry Vose, and the chairman of the Eastport Port Authority, Bob Keezer. The Maine Department of Transportation and the Army Corps of Engineers also support the legislation. The amendment is noncontroversial, would require no Federal funds, and should receive early and favorable consideration.

Eastport, Maine is a depressed area with 30 percent unemployment. The town has taken the initiative to improve its economic status and its efforts include port development. In order to proceed with port improvements it is necessary to strengthen the Eastport breakwater, a Corps of Engineers navigation project authorized in 1960, and dredge its berth. This would provide a more competitive ship handling operation, increasing cargo exports from 50,000 to 80,000 tons per year.

A 1980 Corps of Engineers evaluation found that there was insufficient economic justification for future Federal maintenance or improvements to Eastport Harbor. Accordingly, the corps will not provide assistance to Eastport to modify the breakwater. Eastport would like to finance—through a State bond issue which is expected to be approved in early November—and conduct the work itself. All of the necessary permits and licenses have been approved and Eastport is very eager to begin work in November when financing is obtained. However, it is precluded from doing so by the River and Harbor Act which prevents it from making permanent alterations to a facility under corps authority. To resolve this problem it is necessary to congressionally transfer authority for the breakwater from the corps to Eastport.

It is important that the Eastport project be deauthorized as soon as possible so that work can begin in November. Eastport will have funding for the improvements by then and must either begin winter weather or wait until spring. I again stress, that the deauthorization measure would require no Federal funds and is noncontroversial. I urge my colleagues to give it favorable consideration.

Mr. President, this is a noncontroversial amendment which has been cleared with both the manager from the majority and the ranking minority member. It involves a deauthorization of a navigation project in Eastport, Maine. It will cost the Federal Government no money. It will indeed save the Federal Government money and, if I could briefly explain it, there is a breakwater project in Eastport, Maine. The Army Corps of Engineers owns the project and decided that there is insufficient economic justification for further Federal maintenance or improvement of that project.

Accordingly, the corps supports the State and community efforts to have the breakwater transferred to the community so that the State and community can pay for improvement of the breakwater project.

It is necessary to do this promptly so that the work can begin before the winter sets in.

This has been cleared on both sides of the authorizing committee and the chairman and ranking minority member of the Appropriations Committee.

Mr. President, I ask that this amendment be approved.

Mr. WEICKER. Mr. President, the majority of the committee has no objection.

I ask my colleague from Maine has this also been cleared with his colleague, Senator COHEN?

Mr. MITCHELL. Mr. President, it previously was. It was indeed attached to earlier legislation and the Senator from Maine (Mr. COHEN) stated standing right where the Senator from Connecticut is that he had no objection to it and indeed supported the effort.

Mr. WEICKER. I have no objection.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 2570) was agreed to.

Mr. WEICKER and Mr. HEINZ addressed the Chair

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WEICKER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. HEINZ. Mr. President, may I inquire of the Senator from Connecticut what he wishes to do?

Mr. WEICKER. Mr. President, I wish to ask the Chair if that is the ruling of the Chair that the manager of the bill is seeking recognition, and the pending business is the amendment of the Senators from Oregon and Ohio, and I now wish to have unanimous consent, which I expect to do, to go to the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator is correct. The pending business is the amendment of the Senator from Ohio and the Senator from Oregon.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment of the Senators from Oregon and Ohio be temporarily set aside, so that we might consider the amendment of the distinguished Senator from Pennsylvania, at the termination of which we return to the pending business which is the amendment of the Senators from Oregon and Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2571

(Purpose: To require that part of the appropriation to the United States Customs Service be used to investigate steel import fraud and to purchase 4 spectrometers.)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and Mr. BYRD, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. SARBANES, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, Mr. MELCHER, Mr. GRASSLEY, Mr. LEVIN, and Mr. DENTON proposes an amendment No. 2571.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) In addition to any other amounts appropriated to the United States Customs Service by this joint resolution, there are hereby appropriated $1,000,000 for salaries and expenses.

(b) Notwithstanding any other provision of this joint resolution, of the funds appropriated by this joint resolution to the United States Customs Service—

(1) at least $4,240,000 shall be used to provide direct investigatory manpower positions which are to be devoted to the enforcement of those customs laws against fraud that involve the importation of steel, and

(2) at least $260,000 shall be used to purchase 4 mobile chemical spectrometers.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. BYRD, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. SARBANES, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, Mr. MELCHER, Mr. GRASSLEY, Mr. LEVIN, and Mr. DENTON.

Mr. President, the amendment that I have sent to the desk addresses a matter of serious concerns not only to our ailing steel and support industries in the United States but also to our entire Nation. This amendment pro-

vides increased resources for the Customs Service's efforts to deter steel import fraud. An investigation conducted by my staff as well as a separate and independent 1½-year-long investigation by the House Energy and Commerce Oversight Subcommittee revealed the same conclusion: Massive amounts of steel import fraud committed primarily by large overseas trading houses and a grossly inadequate Customs effort to stop the practice.

There are presently over 60 major cases open, some dating back 5 to 7 years. Penalty notices on several cases currently open involve potential fines approaching one-half billion dollars. Without additional resources devoted to steel import fraud, the caseload will continue to increase without sufficient resolution of the current backlog and future discoveries will be limited and incomplete. Additionally, steel import fraud will likely increase due to present worldwide steel overcapacity, depressed world steel demand, the massive international debt problem of several steel exporters, and the recent quota restrictions on specialty steel and the EEC quota agreement. All of these conditions have led to fierce competition with a significant amount of illegal sales to the U.S. market.

Therefore, a minimum of $4.2 million should be directed solely to the investigation of steel import fraud. This represents only $1.4 million more investigatory funds over that projected for fiscal year 1984 by Customs. Additionally a minimum amount of $260,000 should be provided to purchase four mobile chemical spectrometers for steel analysis at major steel importing ports. This will give Customs a reasonable tool to detect fraudulent misclassification of steel type.

Given the tragic state of the U.S. steel industry, this potential amendment only serves to enhance our ability to enforce one of our present trade laws which is being flagrantly violated. Customs' lack of devoted resources to this problem encourages further transgressions.

It is a cruel injustice that many a job has been lost to fraudulently imported foreign steel. A strong Government effort at deterring fraud will certainly not alleviate all the problems of the industry, but it will be a significant help. It is also worth noting that such an action is not a protectionist measure. It is simply a matter of justice, of enforcing our present laws.

Of course it is a matter of revenue, since the Customs officials generally take in $19 for every dollar spent. One steel fraud case—the infamous Mitsui investigation—netted the U.S. Treasury $11 million.

It is generally recognized that steel import fraud has and is being committed on a massive scale. Treasury and Customs themselves have admitted as much. In written responses to the Senate Finance International Trade Subcommittee hearing on March 17, 1983, by Customs, it was asserted that:

> Customs learned that violations like those committed by Mitsui . . . had undoubtedly been committed by other large steel importers and that . . . fraud was perhaps even an industry wide problem.

At the House Energy and Commerce oversight hearings on steel import fraud on September 21 and 23, 1983, Chairman JOHN DINGELL stated that:

> . . . the schemes employed by Mitsui were not exceptional. Indeed there was evidence to believe that many other companies and countries had their industries utilize similar or identical services.

Steel import specialists testifying at these hearings also related that other exporters would employ similar schemes that Mitsui utilized. The domestic steel industry has expressed similar sentiments. The Mitsui fraud case cited here was settled in 1982 and involved various illegal fraud schemes conducted at numerous U.S. ports. Fraudulent steel imports of $100 million were uncovered. Five other cases under active investigation involve potential fraudulent steel imports of nearly $0.5 billion.

The size of many others is unknown due to criminal law secrecy requirements. It is, however, apparent that these illegalities occur on a very large scale.

The majority of present steel cases involve Far Eastern countries. Many involve large oriental trading houses which export hundreds of millions of dollars worth of steel to the United States each year in addition to many other commodities.

Given this overwhelming evidence of the alarming size of the illegal practice, the administration response has been to offer only token resistance. The Customs Service's fiscal year 1984 estimate of direct investigatory resources for steel import fraud is $2.8 million. There are currently over 60 open cases of major steel fraud under active investigation. Some of these cases date back 5 to 7 years. While the extreme complexity and seriousness of some of these cases necessitate a lengthy investigation, many have been drawn out excessively long due to a lack of resources.

The backlog of cases has been steadily growing with new cases initiated each month without resolution of a similar number of open cases. This is troublesome because Customs could resort to superficial case development to reduce the growing backlog.

At the House Energy and Commerce oversight hearings on steel import fraud Chairman JOHN DINGELL expressed his frustration:

> The evidence reports that the Federal Government has given import fraud a low priority. There has been a tremendous failure on the part of one administration after another to enforce the trade laws on the books. Coupled with lax enforcement, there have been administrative reductions in personnel.

Mr. President, this amendment would increase the amount that Customs devotes to direct investigatory manpower resources for steel import fraud to a minimum of $4.2 million. This represents only $1.4 million more than Customs' fiscal year 1984 estimated for this purposes; that is, $2.8 million. I would hope that they could allocate even more than $4.2 million, but I would prefer to review their performance with this added amount before suggesting other measures.

The second part of my amendment addresses the need for equipment resources at the ports. Physical resources at the ports are practically nonexistent. Currently no ports except New Orleans possess on site chemical analysis equipment, which greatly inhibits fraud detection as confirmed by dedicated import specialists testifying at Congressman DINGELL's hearings. The steel industry has complained that steel grade misidentification is a presently used fraud scheme. In that steel's grade type is indistinguishable by sight, exporters can lower their duties or circumvent quotas by undergrading the material. Mobile spectrometers would uncover this form of fraud at the port. The New Orleans unit recently detected a chemical misclassification which resulted in $23,000 of additional duties. Given the apparent value of these machines to enhance our fraud detection capabilities as well as their payback prospects, and future deterrant effects, I believe that the acquisition of five of these units at a cost of $260,000 is a necessary investment if this Government is serious about combating fraud.

Finally, we should all recognize that the likelihood of steel import fraud is greater today than it has ever been. The worldwide recession coupled with persistent steel oversupply and overcapacity has led to fierce competition, much of which is illegal, to push steel through the path of least resistance; that is, the open U.S. market. Moreover, the October 1982, Steel Agreement and the recent specialty steel import restraints offer ingenious exporters many opportunities for fraudulent circumvention such as misdesignating the country of origin, grade misidentification, and so forth. I understand that Secretary of Commerce Baldrige has stated that aggressive enforcement of our trade laws could limit steel imports to 15 percent of the U.S. market. I look forward to that aggressive effort. Meanwhile, we must continue our efforts to tighten up fraud detection prosecution, and deterrence in the face of these increased import pressures.

Mr. President, we have chosen to concentrate our investigation and sub-

sequent amendment on only one commodity—steel—due to time constraints. Let me summarize by saying that I am appalled at the magnitude of this problem of which many of us including myself had been unaware. The effort Customs is giving to fraud is simply not going to measurably deter future fraudulent steel imports. Customs has declared fraud to be a new area of emphasis, but they must now follow through.

Frankly, this condition could exist on other commodities as well—although probably not involving the huge dollar amounts of fraudulent steel imports. I am not familiar with the facts involving other commodities but I would suspect that Customs should additionally reappraise its efforts in other areas as well.

I urge my colleagues to adopt this amendment to alert Customs of our dissatisfaction, to alleviate our inadequate resource problems, and to deter future fraud.

Mr. President, the amendment I have sent to the desk addresses a matter of serious concern not only to our ailing steel and support industry in the United States but also to the entire Nation.

What we do in this amendment is provide increased resources to combat and deter the growing problem of steel import fraud. This is something the Customs Service is desperately trying to do, but it does not have adequate resources to do so.

I would only add for the sake of keeping this debate brief that on investigation conducted by my staff as well as a separate 1½-year-long investigation by the House Energy and Commerce Oversight Committee all came to the same conclusion; namely, that the American public is being ripped off by massive amounts of steel import fraud committed primarily by large overseas trading houses, trading companies, and a grossly inadequate Customs effort to stop the practice.

Lest anyone worry about the financial aspects of this amendment, Mr. President, they are modest. We think we can do most of this by redirecting existing resources.

The fact is that any additional resources that we have would indeed repay us handsomely. It is a fact that since the Customs Service generally takes in about $19 in recoveries for every $1 spent and just for one steel fraud case, again this is the infamous Mitsui investigation, netted the Treasury $11 million on that case alone.

So, Mr. President, I hope the managers of the bill can accept this amendment.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

ENFORCE AMERICA'S TRADE LAWS

Mr. BYRD. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Pennsylvania, Mr. HEINZ. The purpose of this amendment is to provide the minimum resources necessary for the enforcement of the trade laws of the United States.

I have spoken on several occasions on the subject of this country's trade laws. I have stated that our trade laws are ineffective, and that foreign nations have taken full advantage of every weakness in those laws. That is particularly true of steel imports, which have cost West Virginia jobs.

Steel imported into the United States arrives in large volumes, usually in container ships. It is difficult for the Customs Service to fully verify the exact nature of each incoming cargo. The pending amendment would help provide the Customs Service with some of the manpower it needs to check incoming cargoes with greater precision.

The amendment also earmarks funds for the purchase of devices that measure the quality and composition of steel. Current agreements with our European trading partners provide limits on specific types of steel. The new devices will be used to insure compliance with those limits.

Mr. President, this is the least we can do to bolster enforcement of our relatively weak trade laws. I urge the adoption of the amendment.

STATEMENT OF SENATOR SPECTER

● Mr. SPECTER. Mr. President, I support the amendment offered by my distinguished colleague from Pennsylvania, Mr. HEINZ, to add $1,000,000 to the appropriation of the U.S. Customs Service for the purpose of combating steel customs fraud, through increased manpower and the purchase of four mobile chemical spectrometers.

The evasion of import quotas, the falsification of customs documents and other violations of present civil and criminal statutes all pose a grave threat to the stability of our Nation's steel industry. This industry is already plagued by intolerably high unemployment, low capacity utilization, and unfair foreign competition from subsidized and dumped imports. This amendment will help assure that it is not prey to unscrupulous foreign producers who willfully violate our customs laws.

The proposed amendment, which would add $1,000,000 to the budget of the U.S. Customs Service, also stipulates that $4,240,000 of the total amount appropriated be used for direct investigatory manpower devoted specifically for the enforcement of steel customs fraud. I believe that this targeted appropriation, along with the provision requiring the purchase of four mobile chemical spectrometers, is a sorely needed reform, as well as a cost-effective expense. I have stated repeatedly that free trade is desirable as long as it is fair trade, and I feel that this amendment takes an important step toward insuring the strict enforcement of our customs statutes to guarantee this end. I urge my colleagues to adopt this amendment.●

Mr. WEICKER. Mr. President, the committee has no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2571) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is the Senator from Utah seeking recognition?

Mr. HATCH. Yes, Mr. President.

Mr. President, I wonder if I could ask the Senator from Connecticut and Ohio if I could call up an amendment while they are still negotiating?

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Ohio.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if it is all right with the distinguished Senator from Connecticut and it is all right with the distinguished Senator from Ohio that I could proceed with an amendment to try to resolve a bankruptcy problem that presently exists and should be resolved. So I ask to be able to proceed to do so.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the pending amendment be temporarily set aside?

Mr. HATCH. Yes.

Mr. WEICKER. I object.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may present this amendment.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment of the distinguished Senators from Ohio and Oregon be temporarily set aside in order to permit presentation of an amendment by the distinguished Senator from Michigan at the conclusion of which we return to the pending business, which is the amendment of the Senators from Ohio and Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2572

(Purpose: To propose funds for a program of health care for unemployed workers)

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself, Mr. KENNEDY, and Mr. CRANSTON proposes an amendment numbered 2572.

At the end of the resolution, insert the following:

SEC. . Department of Health and Human Services.

HEALTH CARE BENEFITS FOR THE UNEMPLOYED

For payments for health care benefits for the unemployed, $500,000,000 to be available only if a program is enacted into law providing for such benefits.

Mr. RIEGLE. Mr. President, I thank the clerk for reading the amendment.

This is an amendment that has been worked out on the basis of a bipartisan agreement of Members on both sides. What this amendment would do would be to provide the money in this bill pending a later authorization of this legislation. It is anticipated that this legislation will be coming to the floor on the basis of the bipartisan agreement within a matter of hours, probably on Monday or very close to it.

The indication that we have from the administration is that they are prepared to accept this amendment because the authorizing legislation we will soon be considering provides funding to offset the cost of this program. There is a revenue provision that has been worked out with Senator DOLE so that this is budget neutral with respect to its impact on the deficit.

I might just say one other thing before yielding to the Senator from Pennsylvania, Senator HEINZ, who has been a very active leader in this effort, and that is to acknowledge, as well, the leadership of Senator SPECTER, who is very interested in this issue and is on his way to the floor at this time. This opening came in the schedule. I just wanted to acknowledge his efforts as well as Senator KENNEDY's and many others.

Mr. HEINZ. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. HEINZ. First of all, Mr. President, I commend the Senator from Michigan for his determined interest in this subject. He has worked very closely with many other Senators, not only those he just mentioned but Senator QUAYLE, Senator HATCH, and other Senators on both sides of the aisles.

I have asked him to yield to me just so I may explain to my colleagues that the representations on behalf of the Senator from Kansas are indeed as I understand them to be; that is to say that it is my understanding that the chairman of the Finance Committee has agreed, first of all, to this amendment; second, that he has made a commitment to bring the authorizing legislation up next week; and, third, that this amendment has indeed been carefully worked out with Senator HATFIELD and other members of the Appropriations Committee.

I would only add that it has been a very long haul to get this far. But I want to pay my compliments and thanks to the Senator from Kansas who came to this floor about 6 months ago when a number of us were trying to offer a similar amendment and said that he felt it would be a better idea if we did not just press ahead and try and get legislation through that might be vetoed. But we found a way to pay for it.

Indeed, the Finance Committee has agreed among themselves on a way to pay for this through an adjustment, closing loopholes and income averaging, and we can present to both the other body and the President a program that does a very important job in serving the needs of our unemployed who do not have access to health care but also will not increase the budget deficit. Any time you can help people without increasing the budget deficit, Mr. President, you have indeed done a good thing.

So I just wanted to say to my colleagues on this side of the aisle that we believe this is a responsible amendment. I want to commend again the Senator from Michigan for offering it. And I ask that he include me as a cosponsor if he has not already done so.

Mr. RIEGLE. I thank the Senator very much.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania, Mr. HEINZ, and the Senator from Michigan, Mr. LEVIN, be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join again with the Senator from Michigan and other colleagues on the other side of the aisle in urging the Senate this evening to consider this proposition. This is the fifth time this year that the Senate will have had an opportunity either to vote on this issue or to address it. It is a recommendation to address the needs of more than 6½ million Americans who have both lost their jobs and lost their health insurance. It leaves maximum flexibility up to the States to prepare such a program, and it does it without impacting the budget.

Mr. President, I am pleased to join with Senator RIEGLE in offering this amendment to provide $500 million in fiscal year 1984 for health care for unemployed Americans.

We have made a strong bipartisan effort in this area involving members of both the Finance and Labor and Human Resources Committees, and I am pleased to say that authorizing legislation should come to the floor within a few days. It is vital that we include the necessary funding in this continuing resolution, because there will be no other appropriate funding vehicle before the end of the session. Unemployed workers and their families have already lived far too long with the fear and anxiety that they will not be able to afford needed medical care because they lack health insurance. Further delay would be unconscionable.

I raised this issue on the floor on October 4 when the Labor-HHS appropriations was being considered. At that time the Senator from Connecticut, who I know is deeply committed to making funds available for this purpose, assured us that he would support including funds for health insurance for the unemployed in a suitable vehicle. I raised it again when we considered the supplemental. Senator RIEGLE and I withdrew our amendment on Senator HATFIELD's assurance that he would include it in the bill we are discussing today. I hope that in view of the imminence of the authorizing legislation these members of the Appropriations Committee will support this amendment. Unemployed workers and their families cannot afford to wait any longer.

Mr. President, let me review the history of this legislation and the need for quick action.

The Senate is strongly on record in support of this program. In the spring, the Senate voted 90 to 9 in favor of including health care for the unemployed in the budget resolution. Last June, we voted 75 to 23 for a supplemental appropriations for fiscal year 1983. The House has already passed authorizing legislation. As I indicated, a bipartisan authorizing bill will come to the floor within the next few days.

With this strong bipartisan commitment in both Houses, I believe that enactment of this crucial legislation is possible before adjournment. By adopting our amendment, we can assure the prompt implementation of this much-needed program.

The dimensions of the problem are enormous. The United States has just suffered through the worst recession since the Depression—unemployment remains at over 9 percent.

One of the worst consequences of this deep recession is the loss of health insurance that too often compounds the tragedy of unemployment.

The Congressional Budget Office estimates that almost 9 million Americans and their dependents are unemployed and without health insurance. Millions are forced to go without es-

sential health care because they face the cruel choice between paying the bill for food and rent, or paying the doctor's bill. Infant mortality is rising in hard-hit States, where the number of women who receive no prenatal care has tripled.

But these are only the bare statistics. The real human tragedies are even more compelling. I told some of the stories of these individual cases on October 4. I will not repeat these cases in detail today, but they included an infant death that could have been avoided and individuals who lost life savings because they happened to get sick while they were temporarily unemployed.

I assure the Senate that these stories are tragic—and doubly tragic because they could have been avoided if the legislation that we are considering today had been on the books.

Only by reversing the administration's reactionary economic policies can we truly offer hope to the struggling families of America.

But it is not enough to wait for the recovery. Health care is too important to be sacrified on the altar of supply-side economics. No pregnant woman should be denied prenatal care because she and her husband are unemployed and cannot pay the doctor's bill. No workers should lose their health insurance because they lost their job. No families should lose their access to health care because they have become casualties of the administration's unfair war against inflation.

The amendment before us would provide $900 million for fiscal year 1984, the amount in the authorizing legislation we will consider today. Its expediture is dependent on enactment of that legislation, which includes sufficient tax funds to finance it. It is well below the $2 billion authorized by the budget resolution. I urge my colleagues to adopt this amendment.

Mr. RIEGLE. Mr. President, I ask unanimous consent to add Senator SPECTER as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I just want to say a word about Senator DOLE on this. He was on the floor a moment ago. He is not here at the moment. He really has done an outstanding job in shepherding the effort to reach an understanding, a bipartisan understanding, with respect to the mechanics of this bill.

This amendment, of course, only provides the funding on the basis of a later authorization which we will be taking up next week. But his willingness to be a leader, along with many others, has been an important part of our ability to come here at this time.

The funding here is only for half the year, and for the remainder to be picked up in the supplemental later on.

Mr. MOYNIHAN. Mr. President, one of the most dire consequences of the recent recession, the worst in postwar history, has been the loss of health care coverage for the families of millions of unemployed workers. According to the Congressional Budget Office, prolonged high unemployment left nearly 11 million Americans without health coverage by the close of 1982. With unemployment projections continuing to run high through the end of 1984, this state of affairs promises to worsen.

One of the more emphatic bipartisan acts of the 98th Congress was the vote of 90 to 9 by which this body endorsed the proposal of the Senator from Kansas to provide $225 million in fiscal year 1983 and $900 million in fiscal year 1984 for health care benefits for the unemployed. When the fiscal year 1983 supplemental appropriations bill first came before the Senate, however, it recognized the problem but failed to include any funds for the remainder of fiscal year 1983. I therefore offered an amendment, approved by this body by a vote of 75 to 23, providing $225 million to the States over the last months of fiscal year 1983 to continue to provide basic health care for unemployed workers and their families.

In the same spirit, I rise in support of this amendment to appropriate $500 million for health care benefits for the unemployed, and their families, during the first half of fiscal year 1984. Without maintaining such assistance, these same victims of the recession will be in danger of losing all health care. As supporters of this legislation pointed out during the effort to secure benefits in fiscal year 1983, these unemployed workers and their families can barely feed themselves and pay the utility bills, let alone pay the high cost of medical care. At the same time, the hospitals and clinics to which these individuals flock will not continue to absorb the costs of care for so many millions of uncovered, nonpaying patients—they will not, because they cannot. The loss of employment will lead to the loss of good health, unless this body acts decisively in favor of the amendment.

Estimates of the extent of this recession's damage are, at best, tenuous; but the Congressional Budget Office has reported more than 10.7 million persons, since December 1982, have lost their health insurance as a result of unemployment; 7.4 million of these victims actually lost their jobs, the remainder are their dependents. In New York State, over 673,000 citizens are currently without work, with 153,000 of these individuals having gone without employment for 26 weeks or more. These jobs have been lost in the greatest recession since the Second World War.

I therefore regard the action we are advancing today as a necessary and humane response. All 50 States would share equitably in the $500 million of Federal benefits. Supplementing these benefits, if we accept, in future authorizing legislation, the most equitable formula, would be State contributions equivalent to between 5 percent and 25 percent of the Federal grant. Under this proposed formula, New York State would receive $31.1 million; in turn, it will put up $6.2 million in State funds.

A word about the formulas is also necessary. Under the proposed formula (which we will discuss next week), the matching amount required of each State would be based primarily, and appropriately, on the number of citizens unemployed for over 26 weeks, who therefore are no longer eligible for unemployment insurance. Under the formula, long-term unemployment would receive a two-thirds weighting, while the insured unemployment rate would receive only a one-third weighting. Thus, the emphasis would be placed properly on aiding the chronically unemployed, who have exhausted all benefits and are nearing the end of their resources. New York State, with nearly 153,000 long-term unemployed citizens, desperately needs such a formula; considerations of equity for those most in need suggest that the Senate accept this formula. I strongly urge my colleagues to do so; but as a first and essential step, we must accept the package to provide $500 million in health care benefits during this next fiscal year.

Mr. GRASSLEY. Mr. President. I oppose using income averaging as a financing mechanism for health benefits for the unemployed. Income averaging was the subject of debate recently before the Senate Committee on Finance. At that meeting, proponents of the change in this provision argued that modifying income averaging would not be harmful to taxpayers since the tax brackets are now indexed. These individuals argue that income averaging was instituted in the mid-1960's to permit taxpayers to mitigate the adverse effects of inflation. Since income tax indexing has now been enacted and taxpayers need no longer fear being pushed through the rate structures by cost of living increases, the proponents of change argue that this alteration of current law will not be harmful.

During the 1960's the United States had a very low rate of inflation. The purpose of income averaging when enacted was to prevent individuals with erratic income from facing a heavy tax burden in the year they received that income. Many taxpayers do not enjoy the luxury of a regular paycheck. In

recent years, farmers have been among the class of taxpayers with vastly fluctuating incomes. In my home State of Iowa, 10 to 15 percent of the tax returns prepared by the Iowa Farm Bureau in any given year use income averaging. In fact, 80 percent of Iowa farmers have used the income averaging provisions at one point in time.

As my colleagues are aware, farmers and small businessmen are often unable to control the factors which affect the amount of income they will earn in a particular year. Interest costs, drought, energy costs, and other vagaries of the economy have a particularly harsh impact on the incomes of these taxpayers. In a sense, they are a victim of factors beyond their control as are the unemployed. To me, it is particularly illogical to finance health insurance for the unemployed with a measure which helps individuals weathering hard times to distribute their tax burden over more prosperous years.

To conclude, I oppose any alteration to the current income averaging provision and encourage my colleagues to do likewise.

Mr. SPECTER. Mr. President, the widespread loss of health care benefits for the unemployed is a potentially devastating catastrophe. Millions of unemployed workers and their families face serious long-term health risks unless affordable health care insurance is restored to them.

The unemployed find themsleves in an impossible financial bind. Premiums for individual policies cost at least twice as much as the group policy they joined at work. These higher premiums could consume up to one-half of each monthly unemployment compensation check. And by accepting unemployment benefits, or taking a part-time job, they become ineligible for welfare medical assistance.

Faced with so many competing bills for basic needs, jobless workers are passing up health care. According to press reports, pregnant women are foregoing prenatal medical care, surgery is being postponed, and prescriptions are being ignored because they are just too costly. The tragic result will almost certainly be that minor health ailments will become serious, and simple health problems will reappear as traumatic medical emergencies that might have been avoided with timely, routine health care.

This is a national problem requiring a national solution.

Senator HEINZ and I have been working together since January to ease the health care problems of the unemployed. Since the fall of last year, we began to hear consistent reports of problems caused by the loss of employer-based health insurance. In January of 1983, when Representative Joseph Pitts (Chester County) introduced his Pennsylvania House bill 55 making the State's unemployed eligible for basic health insurance, we began to collaborate with him, Congressman MCDADE and Governor Thornburgh on how the Federal Government could assist the State with such a program.

After much research, we decided that the block grant concept would be the most efficient and expeditious way to assist States experiencing high unemployment rates. It was estimated that health insurance could cost as much as $75 to $100 per month, or 13 to 18 percent of the average unemployment compensation check. It became obvious to us that assistance from the Federal Government to the States in a block grant would not only provide the needed funds to offset the high cost of insurance, but also provide them with the flexibility to set up a program which suited the special needs of each State.

On March 5, Senator HEINZ and I held an open house in Midland. Midland is a town where the major employer, Crucible Steel, had closed down, and the unemployment rate was 50 percent. We had a high school auditorium full of people who emphasized that health care coverage for the unemployed was their number one concern. This meeting convinced us even more that action could wait no longer.

On March 15, 1983, Senator HEINZ and I introduced the Health Care for Displaced Workers Act of 1983 (S. 811). Under this legislation eligibility would be extended to unemployed workers who, one, were entitled to regular, extended or Federal supplemental compensation as of the date of enactment or who lost entitlement within the 12-month period preceding the date of enactment because of the exhaustion of their compensation benefits, and two, were participants in a group health plan contributed to by their employers. Family members of qualifying individuals would include the worker's spouse and worker's children 18 years of age or younger or a maximum of 22 years of age if they were full-time students.

Benefits under this program would be established by the State, but are defined as a program providing health care directly or through insurance.

The allocation of those Federal dollars would be based on a three-part formula targeting the funds to States of high unemployment: One, number of unemployed, two, number of unemployed individuals in excess of 6 percent of the civilian labor force, and three, number of individuals unemployed for 15 weeks or more.

When the social security bill was pending before the Senate on March 23, Senator HEINZ and I pressed Senator DOLE, chairman of the Finance Committee, to add our measure to that bill. Senator DOLE was very interested in our concept but urged us not to proceed at that time because of the complexities of the social security bill and a possible veto threat by the administration, which had reservations about passage of such legislation without prior, indepth review of it. However, because of his intense interest, Senator DOLE did collaborate with us in developing the concept in similar legislation, S. 951. He also set up a meeting with the administration on March 25 where we discussed the proposal with David Stockman of the Office of Management and Budget, Secretary of Health and Human Services Margaret Heckler, and Senator DURENBERGER, chairman of the Finance Subcommittee on Health.

On April 6, President Reagan had occasion to travel to Pittsburgh. Senator HEINZ, Governor Thornburgh, and I took the opportunity to inform the President that one of the issues most likely to be raised would be health care for the unemployed. The President did, in fact, receive such a question and expressed his concern about this serious problem. It was his first public comment on the issue.

The momentum continued to build as both the Finance Committee and Committee on Labor and Human Resources planned to hold hearings regarding the bills before them, on April 21 and May 3, respectively. The Finance Committee was looking at S. 951, which we had coordinated with some of its members, and the Subcommittee on Employment of the Labor and Human Resources Committee was reviewing S. 811, our original bill which had been referred to it.

I testified at both hearings, urging prompt action and explaining that the need for health care coverage for the unemployed could no longer be overlooked. We cannot afford risking the tragic irony of having the health of unemployed workers so neglected that they may be unable to return to work once the economy finally recovers.

Shortly after those hearings, which did indeed point out the desperate need for such a health care program, the Senate was considering its budget resolution for fiscal year 1984. In an encouraging move, the Senate voted 90 to 9 to include $1.8 billion of funding for a program, provided that matching revenues could be raised.

On June 15, the Senate had before it the fiscal year 1983 appropriations supplemental bill. At that time, it voted to appropriate $225 million for health care for the unemployed for the remainder of fiscal year 1983. This was the recommended figure in the budget resolution and was to be available when a program was enacted into law.

A week later, the Labor and Human Resources Committee reported out a bill authorizing a program for health

care coverage for the unemployed. The basic concept of the program had been taken from S. 811, which had been referred to that committee.

In the meantime, Congress was getting closer to a joint agreement on this issue in June when the budget conferees from the House and Senate compromised on a budget authority for this kind of program.

The Senate Finance Committee reported out legislation on July 14. The committee recommended financing for the program—which was a requirement in the budget resolution—by (a) making permanent the existing temporary provision which fixes the proportion of the part B medicare costs financed by enrollees at 25 percent of program costs and by (b) freezing for the 9-month period of October 1, 1983, to June 30, 1984, the prevailing limits for all physician services.

This type of financing for health care for the unemployed was not acceptable to many members, including myself. It was obvious that another source would have to be found.

On August 3, the House of Representatives voted by 252 to 174 on its version of a block grant program which is similar to the Senate bill in concept.

After recess, Dave Stockman, Director of the Office of Budget and Management, and Senators DOLE, DURENBERGER, HEINZ, HATCH, QUAYLE, and I met to discuss a more acceptable means of funding for the program, since the administration is adamant about including financing in the actual legislation. The group agreed that a change in income averaging would be the best source for funding. Income tax rates will now be indexed to the rate of inflation. Unless the 120 percent of base requirement is increased to 140 percent, people who income average will become "double dippers" and will receive an unnecessary windfall from the Government. It is estimated that changing this formula will raise revenues by approximately $2.8 billion over a 3-year period.

It will take a tremendous commitment from the U.S. Congress and the citizens of this country to help those people who have lost their health benefits through no fault of their own. Millions of men, women, and children, and even unborn children, are being exposed to the hazards of poor health care due to unemployment.

Mr. NICKLES. Will the Senator yield?

Mr. RIEGLE. Yes, I yield to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, do I understand the funding being requested is half a billion dollars to cover one-half of the year?

Mr. RIEGLE. That is correct. The authorizing legislation we will soon be considering has with it a funding source, the income-averaging provisions, so this is neutral with respect to its effect on the budget.

Mr. NICKLES. If the Senator will yield further, he says this is neutral, but would this not result in the appropriation of a half a billion dollars before the tax increase has been enacted?

Mr. HEINZ. Will the Senator yield?

Mr. NICKLES. I do not have the floor.

Mr. HEINZ. Will the Senator from Michigan yield to me?

Mr. RIEGLE. Yes, I am prepared to answer it, but I am happy to have the Senator from Pennsylvania respond.

Mr. HEINZ. I thank my friend from Michigan for yielding. I know he could answer it, but perhaps, as a member of the Finance Committee, I am in the best position to answer it.

The amendment offered by the Senator from Michigan is thoroughly conditioned upon authorizing legislation being enacted. Therefore, no money will be spent until the authorizing legislation is brought to the floor, passed by the Senate, passed by the House, and signed into law by the President.

The authorizing legislation that the Senator from Kansas has committed to bring to the floor next week is legislation from the Finance Committee that contains revenues sufficient to pay for the entire program, together with the authorization of an appropriation which we, if we pass that legislation, would hereby be appropriating in fact.

This appropriation, if you will, will make money available if, and only if, the entire legislative package goes through the legislative process and is signed by the President.

Now, we have been told that the President will accept this package as long as the means of paying for it is with it. That is exactly what the Finance Committee will bring to the floor next week.

Mr. NICKLES. Will the Senator from Michigan yield further?

Mr. RIEGLE. Yes.

Mr. NICKLES. The amendment reads: "to be available only if a program is enacted." This indicates that the "program" includes authorizing legislation which has not yet passed and a tax increase to cover its cost. This tax increase, which would be initiated by the Senate Finance Committee would be unconstitutional since revenue measures are supposed to be initiated in the House; is that correct?

Mr. RIEGLE. Well, the first part is correct, and that is that money cannot be spent unless an authorizing bill passes. It is the stated intention of the chairman of the Finance Committee to bring this legislation to the floor next week and to provide a financing mechanism.

That was the requirement of the White House in their acceptance, that that would be done. So it will be presented as a package. Unless the Senate accepts it, unless it survives a conference and unless it receives the President's signature, not 1 cent can be expended.

Mr. NICKLES. If the Senator will yield further, the language says a program. If we pass language that would authorize a program, but for some reason, there were objections by Senators on the tax portion of the bill—and we all realize that such portions have a hard time—and the tax portion does not go through, will we have authorized a program providing for health insurance for the unemployed without approving the tax portion. Or will the entire bill fall?

Mr. RIEGLE. I will be very blunt about that. The entire understanding is based on the notion that this will be financed by tax provisions.

Mr. HEINZ. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. HEINZ. If the legislation does not go through as a package, with the revenue to pay for the expenditure, there is not going to be an authorization; it will not pass. It will not pass this body and it will not be signed by the President.

Mr. NICKLES. I thank my colleague.

Mr. President, I wish to be heard on the amendment after my colleague completes his remarks.

Mr. RIEGLE. I am told that Senator DOLE intends to use the passed House bill.

I ask unanimous consent that Senator RANDOLPH and Senator LAUTENBERG be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair. I reserve the remainder of my time.

Mr. NICKLES. Mr. President, I rise in opposition to this amendment. I hope the majority of our colleagues will not support it. Time and time again we hear Senators and we hear Congressmen state, "Yes, these budget deficits are too high." We have heard the statement that this is questionable. First, I question whether or not we will pass the tax increase. Second, I question what kind of a tax increase it is. Some say we will reduce the amount of income averaging that will be allowed. It remains to be seen, Mr. President, whether or not we will or will not do that. But one thing is sure, if this program is initiated, the financial demands on this program will greatly exceed what the Finance Committee and what this Senate will be able to appropriate to pay for it.

The pressure to increase coverage and expand the program will be tremendous. And before long, this will be close to having national health insurance. This is called "health insurance for the unemployed." Initially, if this is passed, it will cost a half billion dol-

lars for 6 months. If my math is correct, that means it will be $1 billion for 12 months.

Quite frankly, that will not even come close—Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oklahoma.

Mr. NICKLES. I thank the Chair.

Quite frankly, $1 billion a year will not come close to providing the amount of funds that will be demanded or requested for this. In other words, you will have a lot of people who are unemployed who will say, "Wait a minute. I did not get this. My neighbor is unemployed and he was able to receive health insurance." Health insurance is very, very expensive. If you go out in the market for family coverage, you are probably talking in the neighborhood of approximately $170 or $200 a month, over $2,000 a year that we are talking about. Right now we have around 10 million people who are unemployed. If that is families, you are talking about a $20 billion a year program. And there are many people who are employed who do not have health insurance. Once they are brought into the program its cost will increase by several billion more dollars annually.

This is a brand new entitlement program. It has never been funded. Somebody decided that we need to have a new program. So they said, "Let us have health and accident insurance for the unemployed." It sounds like we will be performing a great service for the unemployed. But the program will be funded by taxes paid by those who are employed. This is simply one more scheme that will increase deficits. And the taxes called for in this resolution or contemplated by the Finance Committee will not come close to paying for the total cost for this program.

Mr. SYMMS. Will the Senator yield?

Mr. NICKLES. I yield.

Mr. SYMMS. I appreciate my colleague from Pennsylvania, Senator HEINZ, commenting. As another member of the Finance Committee, I might point out that the suggested idea to pay for this, income averaging, is going to have a very detrimental effect on agriculture in this country. All those Senators who come from agricultural States should recognize that farmers, who live with the whims of the weather, the markets, and so forth, make money 1 year and lose money the next 2 years, and then make money and have their incomes averaged, will be directly affected by this suggestion.

I question seriously whether or not income averaging, as proposed to pay for this, can actually pass this Senate when finally it is recognized that what it is amounting to is that we are going to raise taxes for the people who are working in this country so we can take more of their money and transfer it over to other families. It is another entitlement program.

The Senator pointed out 74 entitlement programs.

Mr. NICKLES. Seventy-four that automatically increase without any new authorization.

I see the majority leader is seeking the floor. I will be happy to yield to him.

Mr. BAKER. Mr. President, I thank my colleague from Oklahoma and my colleague from Idaho.

Mr. President, I have just come from a meeting with the Speaker of the House of Representatives on the question of their schedule and our schedule for the rest of the evening.

Mr. President, I reported to the Speaker and the chairman of their Appropriations Committee that I believed we could finish this bill in the next couple of hours. That may be a "tad" optimistic but I hope not. In any event, the Speaker agreed that the House would remain in session and agreed to appoint conferees tonight and agreed to go to conference tonight.

However, it is by no means certain that the conference documents, even assuming a conference report is agreed to, can be prepared for presentation to the House, which must act first, before the early morning hours or perhaps midmorning of tomorrow.

I am sorry to report that because what that means is that both the House and Senate will be in session tomorrow, unless there is some break that I do not now anticipate.

Rather than delay reporting that to the body, I wanted Members to know that as hard as we are trying and as late as we have to stay in order to finish this bill in the Senate tonight, we must do that. My announcement earlier was that I hoped we could also act on the conference report tonight. That apparently has been dashed. It will be tomorrow, I am afraid, before we can act on the conference report.

So, Mr. President, the plan for this evening will be to continue on this bill until we finish it, and to message the bill over to the House of Representatives with the request for a conference. It is my understanding then that the Speaker tonight will appoint conferees, as will we, and that the conferees will go to conference tonight, perhaps working most of the night in order to complete their action. The staff will then prepare the conference documents for presentation to the House of Representatives first, as must be the case, and that will be no earlier than tomorrow morning.

Therefore, I see no way to escape a session on Friday. I regret to give that advice to the Senate but I thought it better to do it now rather than later.

I thank the Senator for yielding.

Mr. NICKLES. Mr. President, I make a point of order, that this amendment appears to violate rule XVI, paragraph 4.

The PRESIDING OFFICER. Does the Senator bring a point of order against the amendment?

Mr. NICKLES. That is correct.

The PRESIDING OFFICER. The amendment of the Senator from Michigan, which provides that certain appropriations will be available only in the event of subsequent passage of legislation, is, in fact, a legislative proposal and, therefore, violates the provisions of rule XVI, paragraph 4.

Mr. RIEGLE. Mr. President, I assert that this is a proper time to do this. We have discussed this before in previous legislative initiatives on the floor. We have discussed it with the chairman of the committee. In fact, there were earlier agreements that if we got to this final stage and we had not reached a point where this matter has been acted upon, it would be acted upon in this way at this time. As a matter of fact, the RECORD will show that, in those earlier instances, we withdrew other amendments to providing funding at that point in deference to the requests from the managers of the bill before us.

I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Is there further debate on that question? If not, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. JEPSEN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 36, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—47

Abdnor	Grassley	Percy
Andrews	Hatch	Pressler
Armstrong	Hatfield	Proxmire
Baker	Hawkins	Roth
Bentsen	Hecht	Rudman
Boren	Helms	Stafford
Boschwitz	Humphrey	Stennis
Chafee	Jepsen	Stevens
Cochran	Johnston	Symms
D'Amato	Kassebaum	Thurmond
Danforth	Kasten	Trible
Denton	Long	Warner
East	Lugar	Weicker
Exon	Mattingly	Wilson
Garn	Nickles	Zorinsky
Gorton	Packwood	

NAYS—36

Baucus	Eagleton	Metzenbaum
Biden	Ford	Mitchell
Bingaman	Heflin	Moynihan
Bradley	Heinz	Nunn
Bumpers	Huddleston	Pell
Burdick	Kennedy	Quayle
Byrd	Lautenberg	Randolph
Chiles	Leahy	Riegle
Cohen	Levin	Sarbanes
DeConcini	Mathias	Sasser
Dixon	Matsunaga	Specter
Dole	Melcher	Tsongas

NOT VOTING—17

Cranston	Goldwater	Murkowski
Dodd	Hart	Pryor
Domenici	Hollings	Simpson
Durenberger	Inouye	Tower
Evans	Laxalt	Wallop
Glenn	McClure	

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the judgment of the Chair was upheld.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The question before the Senate at this point is the amendment of the Senator from Ohio, concerning timber sales contracts.

The Chair advises the manager of the bill that the Chair will recognize him, but the Senator from Minnesota asked for recognition first.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay aside the Metzenbaum-Hatfield amendment which is pending, so that we may consider other amendments.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object—and I do not intend to object—I do not think that the Senator from Oregon meant it in this way.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair asks that the Senate please be in order. The Chair advises the staff that if we cannot conduct business in an orderly manner, the Chair will ask the Sergeant at Arms to clear the Chamber.

Mr. HATFIELD. Mr. President, may I restate my request, now that we have a little more order.

I have asked unanimous consent to set aside the Metzenbaum-Hatfield amendment temporarily, in order that we may consider the next amendment—singular.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I ask Senators at this time to help us to handle this matter as expeditiously as possible by giving us some indication of amendments that Senators have plans to offer.

We are trying to set up a list here in order to know how long it is going to take. We have to get information to the House as quickly as possible as to when we expect to go to conference.

I say to Senators that I think we can handle almost any amendment, possibly with one or two exceptions, without a rollcall vote. I do not think we have to have rollcalls. We are in a position to accept a number of amendments and will be reasonable in accepting them. I am not saying how long they will stay on the measure when we get to conference.

We are trying to get to conference and not continue this self-flagellation. I do not think this idea of forcing ourselves until 3 or 4 o'clock in the morning is necessary.

We are going to conference on the supplemental on Monday. I reemphasize—we are going to conference on the supplemental on Monday. A lot of Senators want now to redraft the continuing resolution in the image of the supplemental. We do not really have to do that. We are going to have the supplemental back here for consideration next week. So I urge Senators not to try to bring everything out of the supplemental and piggyback it on the continuing resolution.

I ask Senators who have amendments to so indicate, so that we can put down their names. I am not controlling the order of worship, but I am trying to get some order so that we can move this matter along rapidly.

AMENDMENT NO. 2573

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an amendment numbered 2573.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . Funds appropriated or otherwise made available for fiscal year 1984 pursuant to Section 101(f) of this joint resolution or the enactment into law of H.R. 3222 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

Mr. BOSCHWITZ. Mr. President, this amendment has been cleared on both sides.

It is an amendment that would waive for 8 days the necessity to pass the State Department authorization bill. The State Department authorization bill is presently in conference. There were 96 issues, and they are down to 1 issue. We expect the conference to be resolved shortly, but they need an 8-day window for such authorization.

I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The Chair hears none. Therefore, the question is on agreeing to the amendment.

The amendment (No. 2573) was agreed to.

Mr. BOSCHWITZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent to set aside the Metzenbaum-Hatfield amendment in order that the Senator from Utah may offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2574

(Purpose: To amend the Bankruptcy Act regarding the referees salary and expense fund.)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD addressed the Chair.

Mr. HATCH. Mr. President, I believe I have the floor.

Mr. BYRD. Mr. President, the Senator does not have the floor. He has offered an amendment. Once he offers an amendment, he loses the floor. He may have the floor, so far as I am concerned.

Mr. FORD. The minority leader is correct.

The PRESIDING OFFICER. The amendment sent to the desk is not considered reported until the clerk reports it.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself and Mr. HEFLIN, proposes an amendment numbered 2574.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following:

SEC. . (a) This section may be cited as the "Referees Salary and Expense Fund Act of 1983".

(b) Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. FORD. Without the Senator losing his right to the floor.

Can the manager of the bill or the Chair advise this Senator about the procedure? Is it the procedure that whoever gets the eye of the Chair is able to call up the next amendment?

The Senator from Oregon was trying to get a list a few moments ago.

Mr. HATFIELD. Mr. President, I respond to the Senator by indicating that the Senator from Ohio (Mr. METZENBAUM) and I have agreed to set aside our amendment temporarily, on a one-by-one basis, rather than on a blanket basis.

I asked for a list of names, and I would like to alternate on both sides of the aisle, so that we can follow down a list, and Senators will have an idea of when they are going to be able to offer their amendment. That is the plan we will follow, unless there is an objection.

Mr. FORD. It suits me fine. I just wanted information. I thank the distinguished Senator from Oregon.

Mr. STENNIS. Mr. President, I commend the Senator from Oregon. A little system here will save hours.

We are running a contradiction. The so-called managers of the bill and others want to hear what is going on and what is said and what is in these amendments.

The contradiction is the turmoil and talking and walking and everything else here to the extent that we cannot hear what is being said even from the Chair or from the one who is speaking.

If that is the will of the Senate, I can live with it. But we are just making ourselves look very odd to the public the way we carry on here without a chance to hear each other and understand at least and transmit it on.

I thank the Senator for yielding to me.

I am not personally complaining, but it is a terrible situation we have to work in.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Mr. President, the amendment I have sent to the desk simply places a cap on fees charged to bankrupt estates to support the referee's salary and expense fund. This fund was eliminated in 1978. Therefore, it only mades sense to place a cap on fees going into the fund from liquidation proceedings pending in 1978 and extend the present cap on reorganization proceedings.

I might mention that this exact language has passed the Senate twice. It is noncontroversial. It passed the House of Representatives last year.

S. 1013, the Senate-passed bankruptcy bill, is ensnarled in the processes over there in the House of Representatives, It does contain this language, but there seems to be little chance that the House of Representatives will get any time soon to remedy the situation created by the Supreme Court Marathon decision and the 1978 Bankruptcy Act.

While this legislation languishes in the House of Representatives, some bankruptcy estates are being drained by an oversight because of the 1978 act. If we do not address this simple amendment, creditors are deprived of their due because of the needless drain.

This has been basically accepted by the distinguished chairman of the Judiciary Committee, the chairman of the appropriate subcommittee here.

The purpose of this amendment is to correct an oversight in the Bankruptcy Reform Act of 1978, in which the Congress eliminated an anachronism known as the referees' salary and expense fund.

The referees' fund had been in existence since the 1940's. Its purpose was to impose fees on certain bankrupt estates in order to pay the cost of supporting the bankruptcy court system. In 1978 the fund was recognized as an oddity which no longer had any sound rationale, and the decision was made to have the bankruptcy court system supported by the General Treasury, just like the other Federal courts. In so doing, Congress decided that it should be the goal of the bankruptcy laws to insure maximum return to the creditors of the bankrupt. Thus, in 1978 the referees' fund was eliminated.

The problem this amendment attempts to correct is the very uneven way in which Congress dealt with bankruptcies which had already begun and were still pending on the effective date of the 1978 act. Prior to the 1978 act, the referees' fund fees had been levied only on estates in chapter VII liquidation proceedings, chapter XI reorganization proceedings and wage-earner plans; they were not levied in chapter X reorganizations or in chapter IX or chapter XII cases. The 1978 Reform Act wiped out the fees for all future cases. For bankruptcies which were still pending, the 1978 act put a $100,000 ceiling on the fees for chapter XI reorganization cases but provided no such cap or other relief for chapter VII liquidation or wage-earner cases.

The discriminatory difference in treatment of pending chapter XI cases and pending liquidation cases is obvious and should be eliminated, as this amendment seeks to do by placing a $200,000 cap on fees charged to pending liquidation cases. There is no acceptable rationale for the difference. The amendment also extends the ceiling of $100,000 on administrative fees payable in chapter XI reorganization proceedings.

One of the laudable goals of the 1978 act, after all, was to insure that an estate's assets went to the creditors who were due them rather than to the Government which had no logical claim against them. But through inadvertence that purpose has been frustrated in pending liquidation cases. It makes no sense to have any bankrupt estate pay a substantial portion of estate assets to the Federal Government for a fund which is no longer in existence, particularly on the discriminatory basis where all other types of bankruptcy proceedings are either exempted altogether or protected by a ceiling on the charge.

The House Judiciary Committee report on a House bill passed last Congress identical to this amendment:

"A fee ceiling in Chapter VII cases is consistent with the underlying rationale of present Section 403(e) and with Congressional action in eliminating the fee for all cases brought after September 30, 1979. The fees which are assessed in these cases and paid into the now-abolished Referees' Salary and Expense fund should be limited to some reasonable amount in order to maximize the return of the assets of the estate to the creditors." (House of Representatives Report No. 97-415, p. 3)

If pending chapter XI bankruptcies deserve relief by way of a ceiling, as the Congress recognized in 1978, then pending liquidation bankruptcies are even more deserving of relief because,

unlike chapter XI debtors that survive, liquidated companies are unable to make use of net operating loss carryforwards. For example, the W. T. Grant estate now has an unused net operating loss carryforward substantially in excess of $300 million, almost all of which will still be unused when the estate is closed and which under the tax laws can never be used.

Moreover, since the 1978 abolishment of the referees' fund, the W. T. Grant estate has paid to the Internal Revenue Service approximately $30 million in back income taxes to which the net operating losses could not be applied.

Finally, the bank creditors of W. T. Grant have lost some $250 million of their $641 million in loans to Grant—as staggering loss—not counting lost interest on the loans—the effective recovery by the banks in light of recent interest rates is actually about 40 percent. The clear intent of the 1978 act was to insure maximum return of an estate's assets to such creditors.

Both the House and Senate have separately recognized the inequities inherent in this situation and both have approved bills containing provisions identical to the one now under consideration. On September 22, 1980, the House passed its version of the bankruptcy technical amendments bill (S. 658) containing just such a provision with a $100,000 cap of fees. The provision moved through the Judiciary Committee and the House floor without objection. However, there were serious differences between the House and Senate on other, unrelated aspects of S. 658, which prevented the bill from becoming enacted in the 96th Congress.

During the current 97th Congress, the Senate passed on July 17, 1981, without objection, another version of the bankruptcy technical amendments bill (S. 863), which contained a provision identical to this amendment. Because members of the House Judiciary Committee objected to other, unrelated features of S. 863, however, a separate House bill, H.R. 5116, separate measure by representatives EDWARDS of California, RODINO of New Jersey, RAILSBACK of Illinois and EVANS of Georgia. The bill was favorably reported and recommended for passage by the House Judiciary Committee and subsequently was passed by the full House of Representatives on December 16, 1981. Thus, both Houses of Congress have independently passed measures which recognize and correct the inequity created by oversight when the 1978 act was enacted.

During the 97th Congress, the House passed H.R. 5116 which placed a $200,000 cap on fees charged to pending liquidation cases and the Senate passed a similar provision in S. 863. The Senate again in this Congress approved the same provision when it passed S. 1013. None of these bills were enacted into law because of difficulties with other provisions, but both the Senate and the House were in agreement on the need to remedy the discriminatory treatment of liquidation proceedings. Each time that the Senate has approved this provision, Mr. President, it has been without objection and without controversy.

The amendment to the continuing resolution I am introducing today addresses this inequity in exactly the same way as H.R. 5116 and S. 863 by placing a $200,000 cap on fees assessed in liquidation proceedings which were pending on the effective date of the 1978 act. I believe that Congress recognizes the basic unfairness of the current situation and is willing to accept the responsibility of correcting this injustice as evidenced by our actions during the 97th Congress as well as during the current Congress.

This amendment, Mr. President, has been cleared by the chairman and ranking member of the Senate Judiciary Committee, and by the chairman and ranking member of the courts subcommittee which has jurisdiction over bankruptcy matters.

● Mr. HEFLIN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Utah (Mr. HATCH). The text is drawn from a provision contained in S. 1013, the Bankruptcy Court and Federal Judgeship Act, which passed the Senate earlier this year. As Members are aware, this bill is stymied in the House of Representatives over an issue unrelated to this amendment—that is, the restructuring of our Nation's bankruptcy courts.

This technical amendment would remedy two drafting errors in the 1978 Bankruptcy Reform Act which need to be corrected this year. Under the old Bankruptcy Act, a percentage of the estate assets in liquidation and corporate reorganization cases had to be paid into the referee's salary and expense fund for the purpose of offsetting the operating costs of the bankruptcy system. In 1978, Congress abolished the fund, which had only generated a small percentage of the total bankruptcy operating costs, and placed a cap on payments that would be required to be made to the fund by bankruptcy trustees in cases under the old act.

The drafters of the 1978 Reform Act, however, made two drafting errors. First, they neglected to include a provision placing a limit on payments under the old act in liquidation cases. Second, the limitation on payments on chapter XI corporate reorganization cases inadvertently failed to include certain pending cases.

This amendment remedies both problems. It places a $200,000 cap on payments in liquidation cases filed under the old act. The amendment also would amend the 1978 Bankruptcy Act so as to insure that fees in excess of $100,000 will not be charged under section 40(c)(2)(b) of the Bankruptcy Act in a case in which the final determination as to the amount of the fee is made after September 30, 1979, notwithstanding an earlier confirmation date.

The 1978 Bankruptcy Act provided that all cases commenced under the former Bankruptcy Act would continue to be governed by the prior law. However, section 403(e) of the 1978 act placed a $100,000 limit on fees charged under the old law in chapter XI cases where the plan was confirmed after September 30, 1978. The cap was designed to limit the extraordinarily high fees in one or more very large asset chapter XI cases which were pending at the time and which were brought to Congress attention.

Inadvertently, Congress failed to include within the fee limitation a chapter XI case in which the plan had been confirmed prior to September 30, 1978, but the final fee had not been determined until after September 30, 1979. Thus, this amendment is intended to correct this technical oversight in the 1978 act and to insure that similarly situated cases receive the same treatment.

Under the amendment, it is intended that the $100,000 fee cap would apply to a chapter XI case, where the confirmation order was entered prior to September 30, 1978, but the court order fixing the precise amount payable to the fund is entered by the court after September 30, 1979. The amendment would cover a case brought in the U.S. Bankruptcy Court for the Southern District of New York (Lifetime Communities—formerly in re Fidelity Mortgage Investors), and any other pending cases where the plan had been confirmed prior to September 30, 1978, but the final determination as to the exact amount of the fee is made after September 30, 1979.

Mr. President, I ask unanimous consent that parts of the report accompanying H.R. 5116 from the 97th Congress be printed in its entirety to give further explanation for my colleagues on parts of this amendment.

Mr. President, I urge my colleagues to support passage of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[97th Congress, 1st Session, House of Representatives, Report No. 97-415]

FEES CHARGED UNDER THE BANKRUPTCY ACT

(December 15, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed)

(Mr. Rodino, from the Committee on the Judiciary, submitted the following)

The Committee on the Judiciary, to whom was referred the bill (H.R. 5116) to amend

the Act of November 6, 1978, with respect to certain fees charged under the Bankruptcy Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE OF H.R. 5116

H.R. 5116 would place a $200,000 ceiling on the fees required to be paid into the now-defunct Referees' Salary and Expense Fund in Chapter VII liquidation cases brought under the former Bankruptcy Act, the Bankruptcy Act of 1898, and pending under such Act after Septemer 30, 1979.

The Referees' Salary and Expense Fund was abolished by Congress in 1978, as an anachronism. The bill is consistent with prior Congressional policy that these administrative fees in bankruptcy cases should be limited to a reasonable amount, especially in light of the fact that Congress abolished the fee for all cases commenced after September 30, 1979.

II. SUMMARY OF REPORTED BILL

H.R. 5116 would amend Section 403(e) of the 1978 Bankruptcy Act (92 Stat. 2683; Public Law 95-598) to set a limit of $200,000 on the Referees' Salary and Expense Fund fees assessed in Chapter VII liquidation cases brought under the Bankruptcy Act of 1898 and pending under such Act after September 30, 1979.

III. BACKGROUND

H.R. 5116 would place a ceiling on administrative fees paid into the now-abolished Referees' Salary and Expense Fund in certain large-asset cases pending under the former bankruptcy law, the Bankruptcy Act of 1898.

The Referees' Salary and Expense Fund was established long ago in an era when the bankruptcy courts were supposed to be self-supporting. Under the 1898 bankruptcy law, the bankruptcy court system was intended to be financed by filing fees and by additional fees assessed on the bankrupt estate and paid into the Referees' Salary and Expense Fund. The Referees' Fund was established to reimburse the bankruptcy court for expenses incurred in connection with bankruptcy proceedings and was until 1946 the source of the bankruptcy referees' compensation. Under Section 40c(2) of the old Bankruptcy Act, a fee was levied on estates in Chapter VII liquidations, Chapter XI reorganizations, and Chapter XIII wage-earner plans and was assessed in accordance with a graduated fee schedule determined by the Judical Conference.

In 1978, Congress abolished the Referees' Salary and Expense Fund and eliminated the percentage fee for all cases brought under the new Bankruptcy Code. The Fund had been running a large deficit for a number of years, and there was general agreement that the bankruptcy court system should be funded from the general revenues of the Treasury, just as the remainder of the judicial system is funded.

On several earlier occasions, the Judicial Conference had recommended to Congress that the Fund be abolished in recognition of the fact that the bankruptcy court system could not be self-supporting without placing an inordinate burden on bankrupts through increased filing fees and on creditors through increased percentage charges on the assets of the estate.

The burden of the percentage fees assessed on the bankrupt estate fell on the creditors since the fees were simply deducted from what would otherwise go to them in repayment of the amounts owed.

Thus, the Fund and the percentage fee system were eliminated as to all cases commenced after September 30, 1979.

The 1978 Bankruptcy Act provided that all cases commenced under the former Bankruptcy Act would continue to be governed by the prior law (Public Law 95-598, Section 403(a)), but Section 403(e) of the 1978 Act placed a $100,000 limit on fees charged under the old law in Chapter XI cases where the plan was confirmed after September 30, 1978 (Public Law 95-598, Section 403(e)). The cap was designed to limit the extraordinarily high fees in one or more very large-asset Chapter XI cases, which were pending at the time (but had not yet been confirmed) and which were brought to Congress' attention.

Congress was not aware of any such extraordinarily high fee cases under Chapter VII. No large-asset Chapter VII cases were brought to Congress' attention at the time of the 1978 legislation, and Chapter VII liquidation cases generally do not generate extremely large fees. Chapter XI reorganization cases are usually larger than straight bankruptcy cases and therefore generally produce much higher fees.

H.R. 5116 would amend Section 403(e) of the 1978 Bankruptcy Act to set a limit of $200,000 on the Referees' Salary and Expense Fund fees assessed in Chapter VII liquidation cases brought under the former Bankruptcy Act and pending under such Act after September 30, 1979. The bill would place a $200,000 cap on the fees owing in at least three Chapter VII liquidation cases pending under the old Bankruptcy Act—*In re W. T. Grant* (involving fees of $20 million), *In re Associated Transport, Inc.* ($1.5 million in fees), and *In re Eastern Freight Ways, Inc.* ($500,000 in fees). The reduction in the fees payable to the now-defunct Referees' Salary and Expense Fund will result in more money being available to pay creditors.

A fee ceiling in Chapter VII cases is consistent with the underlying rationale of present Section 403(e) and with Congressional action in eliminating the fee for all cases brought after September 30, 1979. The fees which are assessed in these cases and paid into the now-abolished Referees' Salary and Expense Fund should be limited to some reasonable amount in order to maximize the return of the assets of the estate to the creditors.

An identical provision placing a $200,000 cap on Chapter VII cases pending under the former Bankruptcy Act passed the Senate on July 17, 1981 as part of S. 863, the Bankruptcy Amendments Act of 1981. Legislation similar to H.R. 5116, but involving a $100,000 cap was passed by both the House and Senate in the 96th Congress as part of the so-called bankruptcy technical amendments bill, S. 658. However, other unrelated provisions of that bill differed in the House and Senate versions, and it was not enacted into law.●

Mr. HATCH. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2574) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the pending amendment of Mr. METZENBAUM and mine in order that we may have a colloquy and then take up an amendment by the Senator from Illinois (Mr. DIXON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Appropriations Committee.

I had intended to offer an amendment on behalf of myself, and Senator SIMPSON, Senator CRANSTON, Senator DECONCINI, and Senator MITCHELL, relating to funding for an agent orange study because that funding is very necessary to have the appropriate testing on that subject.

But the funding issue is in the supplemental appropriations bill, and I have had a discussion with the distinguished Senator from Utah (Mr. GARN) who has given me appropriate assurances the matter would be handled in the supplemental appropriation, and I wish to engage in a colloquy with the distinguished Senator from Utah at this time on that subject.

Mr. GARN. I thank the distinguished Senator from Pennsylvania.

Mr. President, I do support this amendment. It is already part of the supplemental. The chairman of the Appropriations Committee has mentioned that we will go to conference on Monday, and I know of no opposition to that amendment. I certainly will be there as part of that conference to defend the amendment that will not be offered on this bill tonight, but I assure him I will do everything I can to see that it stays in the conference in the supplemental appropriations bill.

Mr. SPECTER. I thank the distinguished Senator from Utah (Mr. GARN), and I say it is unnecessary to take up additional time of the Senate at this time.

I thank the chairman of the Appropriations Committee. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

AMENDMENT NO. 2575

(Purpose: To provide for the sale of uncirculated coins)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON) proposes an amendment numbered 2575.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. 621. Section 5132(a)(1) of title 31, United States Code, is amended by inserting after the second sentence thereof the following: "The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins, and shall solicit such sales through the use of the customer list of the Bureau of the Mint.".

Mr. DIXON. Mr. President, my amendment has a simple purpose: It requires the Bureau of the Mint to resume the production of mint sets. Until 1982, the Mint produced both proof sets and mint sets. These sets are extremely popular with coin collectors. In 1981, for example, the Mint sold a combined total of nearly 7 million of these sets.

However, last year the Office of Management and Budget ordered personnel cuts at the Mint as part of a Government-wide reduction in personnel. The result was that the Mint ceased producing mint sets.

Now, I am not urging the Senate to require the Mint to resume production of mint sets simply because they are popular with the public. I believe this amendment is important and necessary because mint sets are profitable to the U.S. Government and will help make a small contribution toward reducing our budget deficits.

In fact, it should be pointed out that OMB's personnel reductions at the Mint did not save the Government money; they cost the Government money. Mint set production and sale is profitable. Resuming mint set production would result in an annual profit of at least $9 million to the United States over and above any additional costs. In fact, if the seigniorage on the coins is included—that is, the difference between the face value of the coins and the cost to manufacture them—the combined annual profit would be in excess of $20 million.

Ordinarily, I would not be offering an amendment of this kind to an appropriations measure. A provision requiring the Bureau of the Mint to resume production of mint sets was included in the House-passed Mint authorization bill by my distinguished Illinois colleague, Representative FRANK ANNUNZIO. My preference would be to attempt to include the matter in the Senate version of the bill, which was reported by the Senate Banking Committee, on which I serve, in May of this year.

However, I have been informed by Senator GARN, chairman of the Senate Banking Committee, that there are no longer any plans to bring the Mint authorization bill to the Senate floor for action, since fiscal 1984 has already begun. Therefore, this resolution, which includes appropriations for the Mint, is the only vehicle available.

There are some who may argue that we should not place this requirement on the Mint, that private coin dealers are assembling mint sets themselves, and that it is appropriate to leave this matter to the private sector. I believe that argument is wrongheaded in both its logic and its facts. Coinage is a responsibility of the U.S. Government, not of the private sector, and the production of both mint and proof sets, therefore, should be at the U.S. mints.

Let me conclude, Mr. President, by reiterating the principal reason for this amendment: It does not cost the Treasury money; it makes money for the Treasury. I am not proposing adding one dollar in cost to this appropriations bill, but adoption of my amendment will result in at least $9 million in net new revenues for the Government. That may not sound like much in comparison to annual deficits of over $200 billion, but if we are ever to reduce and finally eliminate these terrible deficits, we must take every step we can. I urge the Senate to adopt the amendment.

This amendment has been agreed to by the chairman of the appropriate jurisdictional subcommittee, Senator ABDNOR, and by the chairman of the committee. It is an agreed amendment. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2575) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Chair will advise the Senate that it will be the procedure of the Chair for the remainder of this time to recognize the Senator from Oregon who has a list of amendments that he asked that they do that in order that they may do it in any orderly procedure for presenting them.

Is there objection to that?

Mr. BYRD. Mr. President, I object to that.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Hatfield-Metzenbaum amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. HATFIELD. Mr. President, I am sorry. I was taken from the floor momentarily.

I wish to ask unanimous consent, but we have a list here that we are alternating between the two sides as we indicated a little bit earlier.

Mr. BUMPERS. I am sorry.

Could the Senator give us that order so we would know when we are going to be called up?

Mr. HATFIELD. Yes.

Mr. President, at this time I ask——

Mr. BYRD. Mr. President, who has the floor.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS. Mr. President, I am happy to yield to the minority leader.

Mr. President, has there been an order agreed to by the Senator that Senators will be recognized only on the basis of when they appear on the list?

The PRESIDING OFFICER. There has been no such order.

Mr. BYRD. Then I will object.

I ask that the Chair follow the Rules of the Senate in the recognition of Senators. The Chair may be challenged but I am against pursuing calling up of amendments by virtue of a list that has been drawn. I prefer to go by the rules and treat everyone alike.

Mr. BUMPERS. Mr. President, I have a request pending to temporarily set aside the Hatfield-Metzenbaum amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. HATFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, I suggest that further proceedings under the quorum call be dispensed with at this time, and I ask that I may proceed as in morning business.

The PRESIDING OFFICER. Is there objection to lifting the quorum call? Without objection, it is so ordered.

The Senator from West Virginia.

VETERANS DAY, NOVEMBER 11, IS A TIME FOR TRIBUTE TO THE VETERANS OF OUR ARMED FORCES

Mr. RANDOLPH. Mr. President, tomorrow throughout the United States of America, there will be programs on Veterans Day to express special tribute for the service and sacrifice of those individuals who have served in the Armed Forces of our Republic.

We know that there are approximately 30 million veterans living in the United States who have fought in our wars and on duty in peacetime.

These men and women have served in the Army, the Navy, the Air Force, the Marines, and the Coast Guard. Many of them have served well at home and gallantly overseas. They are the survivors, I emphasize, of the Spanish-American War era and through the conflicts in which we are engaged at the present hour.

Veterans Day, as we know, is observed on November 11, tomorrow, and there is a reason. It is not another Monday holiday. Veterans are observing this day, and the people of America are observing it, because it is the day that the armistice was signed ending World War I.

We are a grateful Nation, and I repeat that the courage and sacrifice of these approximately 30 million veterans are worthy of our attention, before we leave here tonight or early in the morning. I am appreciative of my colleagues who have allowed me to speak.

There are approximately 235,000 of these veterans who are West Virginians.

We say thanks to these men and women. We say thanks to their wives, to their children, to their families, who lost a father or a parent in the conflicts in which America has not been the agressor but fought to preserve, hopefully, the peace of the world and the understanding of humankind.

FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Let me say to the floor manager that if we are going to have a system to recognize Senators, I think Senators should know where they are on the list. I do not want to be obstreperous, but I do think there ought to be a list with the time requests so that everyone would know when their amendment should be offered.

Mr. HATFIELD. There is no system. Every Senator will be on his own in terms of being here ready to offer his amendment, to seek recognition.

I had another request to try to set up a way where Senators could know a little bit ahead of time when they would have their turn at bat, so to speak.

We got into the situation where the Senator from Ohio has an amendment pending which they are working on, trying to resolve. He asked that we not set aside his amendment other than one at a time, rather than make it a blanket request for further amendments. I was trying to accommodate him.

Someone on the minority side suggested that the Chair was recognizing mostly those on the majority side. The minority manager and I tried to put together an alternating system. We did not have unanimous consent for that. Consequently, we are back now to the basic rules of the Senate as requested by the minority leader. I am only saying that we are ready to consider any amendment at any time. There will have to be a unanimous-consent agreement to set aside Mr. METZENBAUM's amendment one at a time.

Mr. BUMPERS. I asked a moment ago that his amendment be set aside so we could proceed. I did that because you were off the floor. Are we now going to stay on the Hatfield-Metzenbaum amendment?

Mr. HATFIELD. The Senator from Ohio is not ready to take up his amendment, so we would have to set aside his amendment.

Mr. BUMPERS. Can the Senator from Oregon make that request?

Mr. HATFIELD. I am happy to make that request.

I ask unanimous consent, Mr. President, that we set aside the Metzenbaum amendment for the purpose of someone offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2577

Mr. BUMPERS. Mr. President, I send an amedment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself, Mr. COCHRAN, Mr. PRYOR, Mr. DECONCINI, Mr. MELCHER, Mr. HEFLIN, Mr. BENTSEN, Mr. SASSER, and Mr. EXON proposes an amendment numbered 2577.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No funds appropriated under this Act shall be available to the Secretary of Agriculture to implement or enforce that portion of any regulation, ruling, policy, or administrative determination which allows the inclusion of projected production determinations from payment-in-kind or land diversion program participation, or any source other than actual production, in making a single enterprise production loss determination for the 1983 crop year under section 1970 of Title 7, U.S.C.

Mr. BUMPERS. Mr. President, this was discussed in the committee meeting the other day and it was agreed that it would be presented on the floor rather than in the committee.

In order for a farmer in this country to qualify for disaster relief, he has to prove that he lost 30 percent of his crop.

Secretary Block has now said that in order for a farmer to qualify for disaster relief, he has to not only show 30-percent loss on the crop that he grew, but he also has to include the PIK lands that he set aside. The best way to explain it is to give a hypothetical case.

Let us assume that a farmer had 200 acres of land that he normally planted corn on. Assume that he set half of his corn land aside and put it in the PIK program. Then the drought came along this past summer and he lost 50 percent of the 100 acres that he planted.

Under the Block formula, he would not qualify because he puts the extra 100 acres of PIK land in, and a 50-percent loss on 100 acres only represents a 25-percent loss on 200 acres. It is unfair, it is inequitable, it is something that the Senate and the Congress never intended. It is unfair.

This amendment simply says that none of the funds herein may be expended to carry out that kind of a formula in determining whether or not a farmer suffered a drought disaster and is entitled to disaster relief.

Mr. President, I do not want to take undue advantage of the floor manager. I assume this is agreeable to everybody, and I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, is there any estimate on what the cost of it would be?

Mr. BUMPERS. I can only tell you this, Mr. President, that about 95 percent of the farmers in this country participated in the PIK program. Of the 413 million acres of land that we normally have under cultivation, 86 million acres were set aside and not planted with anything.

Nobody said to those farmers:

If you set this land aside and you have a flood, a drought, or anything else, and lose part of your crop, you are going to be ineligible for disaster relief because you are setting the land aside.

Under the illustration I gave a moment ago, a farmer would have to lose 60 percent of his crop in order to be eligible for disaster relief. I am saying that that was never intended. In other words, there would not have been any point in a farmer setting his land aside, if he had known he was

going to be penalized like that. It is a penalty. It makes no sense whatever.

I cannot tell you the cost, but I know this, that the Congress appropriates money for disaster relief, and we intend for farmers, when they have a disaster in the respective States, to get relief.

What the Secretary has done here is to try to crowd out as many farmers as he can in this country and make them ineligible.

In every State across this country farmers suffered unbelievable damage this year because of drought.

To come along and change the rules in the middle of the game to try to save that money and try to deprive farmers of the relief Congress intended them to have is palpably unfair.

Mr. HELMS. Mr. President, I wonder if I may ask the distinguished sponsor of the amendment a couple of questions.

Has the Senator computed the cost of this amendment?

Mr. BUMPERS. I have not, Mr. President. The Senator from Mississippi (Mr. COCHRAN), had this in the conference. This is a Bumpers-Cochran amendment, and we have several cosponsors. Senator COCHRAN held hearings all across Tennessee and Mississippi on this matter, and I believe he does have an estimate of the cost. I do not have, I am sorry. I do believe the Senator from Mississippi is here.

Mr. HELMS. The information I have is that the computed cost of this amendment would be $133 million in direct cost due to the subsidy, the 5-percent loan. Another $11 million would be spent in administration costs and an additional $650 million in loans would be involved.

I wonder if we could wait until Senator COCHRAN can be here. Maybe he has figures to verify or contradict the information available to me.

Mr. BUMPERS. I did not understand the Senator.

Mr. HELMS. I was wondering if the Senator from Arkansas would be willing to wait until we could request Senator COCHRAN to come to the floor so we could discuss the cost. I think that ought to be part of the RECORD.

Mr. BUMPERS. I shall be happy to do that, Mr. President.

Let me make one other point. Not only has the Secretary chosen to include PIK lands in drought relief to farmers, he has chosen to include any paid diversion lands. This is a different situation from what it has been. Last year, we had paid diversion lands included, but not PIK lands. Last year, the farmers who were entitled to drought or any kind of disaster relief were never made accountable for any paid diversion land. This is the first time it has been done and my position is it is being done in opposition to the full intent of Congress to give disaster relief to farmers.

Mr. EAGLETON. Mr. President, I would like to voice my support for the pending amendment.

Many farmers in my State are in a desperate financial situation. They survived a drought in 1980, 2 years of miserable prices in 1981 and 1982 and then were hit with another drought this year. It has been estimated that losses due to this year's drought alone may reach $1.4 billion in Missouri.

The response from the Reagan administration to this situation has been tepid at best. They have reluctantly declared counties eligible for emergency loans from the Farmers Home Administration using a process that is contrary to the intent of current law and which may arbitrarily deny farmers access to this program. They have refused to release surplus commodities for use by livestock producers to maintain their breeding stock even though these commodities are costing taxpayers millions of dollars to continue to store. And they have redefined the PIK program so that it should now be viewed as the most generous drought relief effort ever carried out rather than the least expensive acreage diversion program as it was once portrayed.

The pending amendment is intended to correct an inequity in the manner in which the administration is carrying out the emergency loan program of the Farmers Home Administration. What we intend is that eligibility for emergency loans and, consequently, loan amounts be determined based upon actual planted acreage. Farmers should not be penalized because they have taken part in the PIK program.

The Farmers Home Administration, in determining a farmer's eligibility, is assuming the farmer produced a normal crop on all the acreage he set aside from production in 1983. This is just plain unfair. If a farmer set aside 50 percent of his acreage under the 1983 farm program, he received no PIK or diversion payment for 20 percent of his acreage and received a PIK payment on the remaining 30 percent of his land equal to only 80 percent of his normal production on that acreage. However, in making its eligibility determinations, Farmers Home is assuming the farmer produced a normal crop on all of his set-aside acreage. This policy is not only unfair; it is absurd.

The amendment before us will correct the inequity of the current policy. I urge my colleagues to support this amendment.

FAIRNESS NEEDED IN DISASTER RELIEF

● Mr. BENTSEN. Mr. President, I am pleased to join the Senator from Arkansas (Mr. BUMPERS) as a cosponsor of this amendment to require the U.S. Department of Agriculture to provide disaster assistance to farmers in a fair and equitable manner. I urge the Senate to adopt this amendment.

This provision will simply provide that USDA must determine disaster eligibility for individual farmers in the same manner that they use for determining disaster eligibility for counties. This would seem to be a very reasonable and fair thing to do, but USDA has not chosen to do it this way.

USDA has announced the PIK acreage would not be considered in determining whether a county was eligible for disaster assistance. Disaster assistance eligibility standards require a 30-percent loss, and USDA has determined county eligibility by excluding PIK acreage, since this acreage was not farmed. However, USDA has since announced that individual eligibility would be determined by including the PIK acreage, and the payments for not farming that acreage, as if the farmer had farmed that land.

This double standard has the practical effect of allowing USDA to make a disaster declaration, with attendant publicity, and then refuse disaster aid to the farmers from that county who apply. It is entirely possible that a county could be declared eligible for disaster assistance, but that not a single farmer in that county would be able to qualify for a disaster loan.

Fairness and equity should be a basic part of our Government. But this administration believes in a government of magic tricks and mirrors. These now-you-see-it-now-you-don't shenanigans with Federal disaster programs make a mockery of the very purpose of these programs.

These programs are supposed to help farmers who are in trouble due to natural disasters, not generate favorable press releases for the administration and its political party. Yet the Senator from Kentucky (Mr. HUDDLESTON) has recently pointed out that even the initial disaster declarations are made on the basis of partisan politics.

He pointed out that the State of Illinois, which has a Republican Governor and is the home State of Agriculture Secretary Block, got disaster designations approved in 3 days with only a telephone call. USDA procedures require written requests with supporting documentation to substantiate the amount of the loss.

By contrast, my home State of Texas has a Democratic Governor. Governor White and I have both been critical of USDA's refusal to use their existing authority to provide needed livestock feed assistance during this drought. Not only did Texas have to submit written requests instead of telephone requests, but it took 54 days, not 3 days, to get the first of these designations approved for Texas.

These partisan political games with our disaster relief programs must stop. If the USDA will not use their vast discretionary powers to administer

these programs fairly, then the Congress must exercise its oversight authority to force them to correct inequities such as the one addressed by this amendment.

I believe that one fair standard should be used for all in making Farmers Home Administration disaster loans and I urge the adoption of this amendment to require USDA to meet that simple standard of fairness.

Mr. HELMS. Mr. President, I ask unanimous consent that this amendment be laid aside temporarily so we may consult with Mr. COCHRAN.

The PRESIDENT OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 2578

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from Ohio? Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Kentucky.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 2578.

At the appropriate place in the bill, insert the following:

"SECTION —. Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

Mr. FORD. Mr. President, the amendment I am offering will make it easier for Congress to consider deficit reduction legislation while giving President Reagan a chance to match his repeated public statements with concrete action to reduce Federal budget deficits.

This amendment requires the President to submit a balanced Federal budget to Congress in his annual February budget submission.

Mr. President, this Nation is in a perilous economic condition. Outwardly, the economic statistics have been improving: Inflation has moderated, the economy is growing, and unemployment figures have been falling. But these economic figures are encouraging only because this Nation is in the early stages of a large, budget-deficit-induced recovery from a deep recession.

The underlying story is alarming: Skyrocketing budget deficits, an overvalued dollar, high interest rates.

Everyone is talking about high Federal budget deficits but nothing—absolutely nothing—is being done by the President or Congress to take the tough action that is necessary to reduce budget deficits. We are facing a budgetary impasse. With the upcoming election year, Congress is unable to display the courage to take tough budget reduction action. This situation is made worse by a President who not only fails to provide the necessary leadership to reduce deficits, but who makes things worse by riding the high horse of rhetoric against congressional budget-writing efforts.

Mr. President, the administration of Ronald Reagan is responsible for the largest budget deficits in history.

The facts show that responsibility for the fiscal nightmare currently confronting this Nation rests squarely on the shoulders of the Reagan administration. Those facts show that current and projected deficits are primarily the result of the administration's grossly unbalanced budget policies.

In July 1981, prior to enactment of the Reagan economic and budget programs, the Congressional Budget Office—CBO—forecast that, based on the economic trends and budget policies in place at that time, the Federal Government would accumulate a budget surplus of $212 billion during the 4 years from fiscal year 1982 through fiscal year 1985. In February of this year, CBO forecast that, rather than building up a surplus, the Federal Government would instead accumulate a record-breaking deficit of $706 billion between fiscal year 1982 and fiscal year 1985. In other words, principally as a result of the economic and budget policies implemented during the first 2 years of the Reagan administration, a staggering $918 billion of red ink was added to the projected budget for fiscal years 1982–85, erasing the surplus originally forecast in 1981 and replacing it with a record-breaking deficit. Yet, President Reagan continues to assault Congress with charges of fiscal irresponsibility and economic treason.

We have witnessed in the last 2 weeks a commendable effort by members of the Senate Finance Committee to work on a significant deficit reduction package. This effort has included liberals and conservatives, Democrats and Republicans, in a politically courageous effort to reduce Federal budget deficits. But those efforts have been shot down by the rhetorical flourishes of President Reagan.

The President is scoring political points by ambushing Congress on defense spending, on cost of living adjustments, on tax increases. He is standing in the way of deficit reductions while continuing to blame Congress and past administrations for deficit spending.

Something needs to be done: Congress needs the leeway to be able to reduce deficits without being ambushed by the President of the United States.

This amendment does that: It requires the President to go on record and make the difficult recommendations on how to balance the Federal budget.

This amendment requires the President to provide the leadership that is necessary for real action on the budget—not just empty talk but real action to reduce the Federal budget deficits.

The amendment does not give the President increased powers. It does not necessarily mean that the budget will be balanced. But by putting the President on the record on how he would arrive at a balanced budget, it will give Congress leadership and the guidance to work toward deficit reduction. It will prevent, Mr. President, exactly what is going on right now—the undercutting by the President of the very difficult, politically courageous efforts of the Senate to put together a budget reduction package.

I offered this same amendment during Senate consideration last year on a constitutional amendment to balance the budget. My amendment was narrowly defeated at that time because it got caught up in the strategy over how best to pass a constitutional amendment to balance the budget. In my opinion, this amendment should have widespread support now. It should have the support of every Senator who is truly concerned about deficit spending. True, it does not actually reduce the deficit, but by putting the President on record in support of specific changes to achieve a balanced budget, it will make it much easier for Congress to make progress on deficit reduction efforts.

I should add also, Mr. President, that this does not straitjacket the President. If he cannot come up with a program to balance the budget, he may submit a deficit budget if he includes a detailed statement specifying the reasons why he believes the budget should not be balanced.

Mr. President, I urge my colleagues to support this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Will the Senator yield?

Mr. FORD. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Arizona without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DECONCINI. Mr. President, I commend the Senator from Kentucky for offering an amendment that was offered during the time that we had the balanced budget constitutional amendment on the floor of the Senate which was not approved, although it was an excellent amendment. It was only not approved because of a lot of commitments on the existing amendment reported out of the Judiciary Committee. This amendment does nothing but require the President of the United States to stop talking balanced budget and submitting the biggest deficits that this country has ever seen. It requires that the President submit a balanced budget or a detailed explanation of why it is unbalanced, instead of blaming the Congress and past administrations. We have seen an administration for 3 years now submit the biggest deficits ever. We do not talk about deficits anymore from the White House. Those days seem to have passed us by.

It used to be, you will remember, Mr. President, the President-elect, former Governor Reagan, talked about a balanced budget. When Jimmy Carter came into office, he had a deficit of $28 billion, and he left with $60 billion the last year he was President. I took the floor and objected, and I daresay my colleagues on both sides of the aisle stood up and said, "We cannot continue with these kinds of deficits today." This was 3½ years ago.

Today we are faced with a deficit for 1983 of $196 billion. Where is the President taking his share of the blame for submitting the absolutely most radical economic program that has ever been approved and implemented and then going ahead and trying to finger the deficits toward someone else?

Mr. President, I hope that via this amendment we will have an opportunity to express a view that the President should prove to the American public that he wants a balanced budget. He has had an opportunity for 3 years now to submit a balanced budget. As we know, the budget that we approved in this body called for a $184 billion deficit. That was the President's budget. The Budget Committee reported a deficit of $23 billion less. I think it is long overdue, Mr. President, and I compliment the Senator from Kentucky on bringing forth an amendment that lays out where it is. If we are talking about deficits, let us have some leadership from the President of the United States instead of campaign rhetoric.

I thank the Senator.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. FORD. Mr. President, I thank the distinguished Senator from Arizona for his kind remarks.

Mr. President, there is just one additional point I wanted to emphasize, and then I will yield the floor.

I think the chairman of the Finance Committee, along with, as I said, radicals and conservatives, Democrats and Republicans, is making an honest effort to come up with a budget deficit reduction package. Then we hear that any increase in taxes is going to be vetoed, any change in anything is going to be vetoed. And so, if we are going to be placed in that position when we make an honest effort, we cannot get it done. If that is the way it is going to be, let the shoe fit on the other foot and let that budget, when it is presented to us, be balanced. If it cannot be balanced, let the President tell us why not. Let Mr. Stockman write his statement and then we will know.

I have talked to my friends on the other side. There are more of them up for reelection next year than on this side, and they face people the same as I do and they talk about those deficits. When we look at $900 billion short, then I think it is time that we begin to look at what can be done. There ought to be teamwork at both ends of Pennsylvania Avenue. The President should not send a budget up here that has a $200 billion deficit and then point the figure at Congress because they cannot balance the budget.

I yield the floor, Mr. President.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I realize the hour is late, and I will be very brief. My colleagues are entitled to their own opinions, but there is one central fact, and that is the President recommends the budget. He can plead for it, he can yell, scream, shout, threaten, and veto it. But no President of the United States, from George Washington to Ronald Reagan, has ever spent one dime that was not appropriated by the Congress of the United States because the Constitution says so.

So whatever Ronald Reagan or Jimmy Carter or anybody else sends up here, we have the power to change it if we really do not like deficits. Nobody in this country except the Congress, given the right of appropriation by the Constitution, has any right to change it. So let us quit passing the buck, whether it is this President or any other, and remember that fact from the Constitution. Stop the rhetoric, and let us vote in the House and the Senate. That is where the people ought to look. That is who has appropriated the money and no one else.

The PRESIDING OFFICER. Is there any further discussion?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. DECONCINI. I want to respond to the Senator from Utah.

It is also Congress that cuts the taxes, and this Senator voted with the Economic Recovery Act that the President proposed because I thought he was entitled to an opportunity. Only 10, I believe, or maybe 11 Senators did not join in that. After you see the disaster and the radical economic effects of this effort to balance the budget, you can see that you want to change it. The Senator from Utah wants to lay the blame on Congress, and I will take plenty of that blame along with the Senator from Utah, but the President of the United States has not brought up to us even a recommendation of a balanced budget for the 3 years that he has been in office.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I will just take a minute because I know there are a lot of other important things—and this is important—to indicate to my colleagues that we have not given up in the Senate Finance Committee on trying to figure out some approach, but there are a few roadblocks around, some down on 1600 Pennsylvania Avenue, some across in the House of Representatives. Unless we have the two giants in this town, Ronald Reagan and TIP O'NEILL, on board we can stand up all night and offer resolutions and make speeches but nothing is going to happen.

I say to my colleagues on both sides, in my view it has to be a balanced package. I do not think anybody wants to vote to balance the budget all with taxes. There are plenty of areas where we can reduce spending, and it ought to be a 50-50 proposition at least. Even though we have had a few reversals the past few days, or at least a few indications of less than enthusiastic support from the Speaker, from the President, and from others, we still have an obligation to try to put it together, and I hope that by next week we will do something.

Mr. FORD. Mr. President, I complimented the distinguished chairman of the Finance Committee in his effort to put together a package that would reduce the deficit. But I think his work and that of our colleagues is for naught, when the President says that he is going to veto any package that comes to his desk, any legislation that comes to his desk that has any increase in taxes.

The distinguished Senator from Kansas knows that he has to put together a package that contains some sort of increase in taxes or to reduce

or to close loopholes. That is what the chairman has to do.

If we get a package up here that the President of the United States—and there are 55 of his party on that side of the aisle, and most of the time they go along with him in lockstep. It appears to me that if the President sends a budget up here that is balanced or gives a reason why, it makes it a lot easier for you to do your job. Knowing that you are going to have a veto, you do not have the enthusiasm to try to put together something that will work.

So, Mr. President, I hope we can go ahead and take this to a vote and that my colleagues will support this amendment. If not, at least it will give them an opportunity.

SEVERAL SENATORS. Vote! Vote!

Mr. FORD. Mr. President, I have the floor, and I have not given it up.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

AMENDMENT NO. 2579

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 2579.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The amendment will be stated.

The assistant legislative clerk read as follows:

Strike all after the word "Section —." and add the following:

Prior to the next three fiscal years, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, this amendment merely changes the amendment in the first degree from forever to the next 3 years. I think that will give us an opportunity to see if it works.

Then, at the end of the 3-year period, if it works, if we get on that track, I think we will have teamwork. At least, we will have two of the three big hitters. I hope my colleagues will help in this.

I am willing to ask to vitiate the order for the yeas and nays on the amendment in the second degree, if that will be acceptable and helpful, and we could go ahead and have a vote on the original amendment as amended.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Is there further debate?

SEVERAL SENATORS. Vote! Vote!

Mr. HELMS. Mr. President, I suggest that the Senator ask to vitiate the order for the yeas and nays and let the Senate vote on it by voice vote.

Mr. RANDOLPH. Mr. President, I cannot hear.

The PRESIDING OFFICER. The Chair asks the Senator from North Carolina to use his microphone.

The Senator from North Carolina is recognized.

Mr. HELMS. I suggest that the Senator ask to vitiate the order for the yeas and nays and let the matter be considered on a voice vote. I believe he offered to do that.

Mr. FORD. On the second-degree amendment.

Mr. HELMS. Yes.

Mr. FORD. May I check with the Parliamentarian?

Mr. HELMS. The Senator may want to check with the Parliamentarian.

Mr. FORD. The Senator from North Carolina has been here a little longer than I have.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I want to be fair to the Senator from Kentucky, because while he was still Governor of Kentucky, I was on the second floor pleading for a balanced budget, and I think my record will show that I have a voting record to support my position in that regard.

I know that the Senator from Kentucky is a little concerned about the second-degree amendment I will offer, and I do not believe I ought to engage in any concealment. I want him to know what my second-degree amendment will be. It reads as follows:

At the end of the amendment—

That is to say, the amendment offered by the distinguished Senator from Kentucky.

At the end of the amendment, add the following:

All Senators voting for this amendment affirm that they will support the necessary reductions in entitlement programs and other governmental programs sufficient to achieve the ends sought by this amendment.

If that is not a fair proposition, I cannot imagine one; and at the proper time, I will get the floor and I will offer this amendment.

If we are going to play games about who did what to whom over the past 35 years, we could embark on a great deal of discussion. But I think the facts are very clear about who the big spenders are and have been in the Senate.

Here it is, 10:29 at night, and we have an amendment with which I do not disagree. But I think we should have a little more to it and put Senators on record tonight as to what they are willing to do—not just complain about what the President has done or has not done, or what Congress has done or is doing, but put ourselves on record as to what we are willing to do. That would be the most refreshing development in the Congress of the United States in a long time.

The Senate of the United States should go on record and show that we have the guts to do the cutting in Federal spending that is necessary to achieve the purpose which the Senator from Kentucky says he wishes to achieve by his amendment.

So, at the proper time, I will offer the amendment, and I want to give the Senator fair warning as to what I am going to do.

The PRESIDING OFFICER. Is there further debate?

Mr. FORD. Mr. President, I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I was listening on the squawkbox to the debate and then came to the floor and heard the comments of the Senator from North Carolina.

I know, Mr. President, when we are facing a serious national problem as I think most of us recognize we are with these large deficits, there is a strong tendency to want to find someone else to blame, and it is easy to blame the President, it is easy to blame Members of Congress, but I would suggest that there are 536 people in America who are responsible for the situation—the President and every Member of Congress.

And I think if we are going to solve the problem, it is going to take a degree of cooperation which other than in the Finance Committee I have seen very little of, and it is going to require bipartisanship. It is going to require an increase in revenues. It is going to require some control of the growth of the size of the entitlement programs. All of these are very, very difficult questions.

I think if we are going to face them and do so in a responsible way, it means that the note of partisanship and the note of one-upmanship which

can be very easily expressed in what amounts to kind of a sense-of-the-Senate proposition, which this is on an appropriation bill, it is going to require something more than that. It is going to require a real degree of cooperation.

So, Mr. President, I think that it is inappropriate at this time, 10:30 in the evening, for us to get involved in what is in essence a finger-pointing contest on the size of the deficit.

I inquire of the Chair whether the underlaying amendment and the amendments to the amendment do not constitute legislation on an appropriations bill.

The PRESIDING OFFICER. Is the Senator making a point of order?

Mr. DANFORTH. The Senator does make the point of order that the underlying amendment, together with Senator HELMS' proposed amendment, would be legislation on an appropriations bill.

The PRESIDING OFFICER. The underlying amendment affects the duties of the President and, therefore, constitutes legislation. The point of order is sustained.

Mr. FORD. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Does the decision of the Chair stand as the judgment of the Senate. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 42, nays 40, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—42

Abdnor	Gorton	Percy
Andrews	Grassley	Pressler
Armstrong	Hatch	Quayle
Baker	Hatfield	Roth
Boschwitz	Hawkins	Rudman
Chafee	Hecht	Specter
Cochran	Heinz	Stafford
Cohen	Humphrey	Stennis
D'Amato	Jepsen	Stevens
Danforth	Kassebaum	Thurmond
Denton	Kasten	Trible
Dole	Lugar	Warner
East	Mattingly	Weicker
Garn	Packwood	Wilson

NAYS—40

Baucus	Ford	Mitchell
Bentsen	Heflin	Nickles
Biden	Helms	Nunn
Bingaman	Huddleston	Pell
Boren	Johnston	Proxmire
Bradley	Kennedy	Randolph
Bumpers	Lautenberg	Riegle
Burdick	Leahy	Sarbanes
Byrd	Levin	Sasser
Chiles	Long	Symms
DeConcini	Mathias	Tsongas
Dixon	Matsunaga	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NOT VOTING—18

Cranston	Goldwater	Moynihan
Dodd	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	Wallop

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HATFIELD. Mr. President, may I make an inquiry?

The PRESIDING OFFICER. The amendment of the Senator from Ohio is the pending business.

Mr. HATFIELD. Mr. President, may I make an inquiry of the Chair? What is the status of the Bumpers amendment?

The PRESIDING OFFICER. Unanimous consent was granted that that amendment be set aside in order that an amendment could be presented by the Senator from Mississippi.

Mr. HATFIELD. I wonder if the Senator from Pennsylvania would withhold for a moment.

Mr. President, I believe the Senator from Arkansas has worked out his amendment. I would like to see if we can dispose of that at this point and not let amendments pile up, as we seem to be beginning to do. Is that correct?

Mr. BUMPERS. The Senator is correct.

The Senator from Mississippi wanted to speak on this.

AMENDMENT NO. 2577

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the Metzenbaum amendment in order to clear the way for the resolution of the Bumpers amendment that would then be pending.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2577) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I renew my request to temporarily lay aside the Metzenbaum amendment so that another amendment may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2580

(Purpose: To provide funding for the Joint Study Panel on the Social Security Administration)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. DOLE, proposes an amendment numbered 2580.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there are hereby appropriated $165,000 for the Joint Study Panel on the Social Security Administration for purposes of carrying out the study required by section 338 of the Social Security Amendments of 1983, to remain available until September 30, 1984.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself and Senator DOLE. This amendment will appropriate funds in the amount of $165,000 to institute the work of the Joint Study Panel on Social Security Administration, which panel has been commissioned by the Congress to study the necessity of and the nature of an independent agency for social security.

I might point out to my colleague, Senator HATFIELD, that the original House social security bill, H.R. 1900, contains appropriations out of the

trust fund, but at the request of the chairman of the Appropriations Committee it has been changed and would require an appropriation from the general fund of the Treasury.

Mr. HATFIELD. That is correct. I would say to the Senator, this is one of those very necessary amendments that we will accept.

Mr. HEINZ. I thank my colleague.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2580) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, could I inquire, is the Metzenbaum amendment the pending business?

The PRESIDING OFFICER. That is correct.

Mr. MATHIAS. Mr. President, would the chairman be willing to lay it aside temporarily so that I may offer an amendment?

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Metzenbaum amendment be temporarily laid aside so that another amendment can be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2581

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself, Mr. LEAHY, Mr. PELL, Mr. SARBANES, Mr. PROXMIRE, Mr. SASSER, Mr. ANDREWS, and Mr. HATFIELD, proposes an amendment numbered 2581:

At the end of the joint resolution, add the following new section:

"Notwithstanding any other provision of this joint resolution, not more than $421,000,000 shall be made available by this joint resolution to carry out the provisions of section 503 of the Foreign Assistance Act."

Mr. MATHIAS. Mr. President, this amendment in its simplest form, reduces the military assistance program from the amount specified in the bill, $697 million, to $421 million.

The amount in the bill represents an 81-percent increase over the current year. It is more than the Foreign Relations Committee had recommended as an authorized figure.

The figure that I have recommended in this amendment is an increase over the current amount for military assistance. It is a 10-percent increase over the current level of expenditures.

I believe that is a reasonable amount of growth. If you figure 3 percent for inflation, that allows for 7 percent of real growth in the military assistance program.

Very simply, that is my case. I believe that the figure that we propose in this amendment, an amendment in which I am joined by a number of other Senators, will be adequate to carry out the objectives of the military assistance program.

Mr. SARBANES. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. SARBANES. Is it not correct that this amendment runs to grants, not to loans? In other words, this deals only with grant military assistance.

Mr. MATHIAS. That is correct, Mr. President.

Mr. SARBANES. Mr. President, I support the amendment. I think it permits a reasonable growth. There is larger growth than this on the loan side of the military budget. The figure in the amendment is significantly above the figure which the Foreign Relations Committee reported for this area. I think it represents a reasonable approach to the situation.

Mr. LEAHY. Mr. President, would the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. LEAHY. Mr. President, I am pleased to join as a cosponsor to this amendment, along with Senators HATFIELD, PELL, ANDREWS, SARBANES, SASSER, and PROXMIRE. I think it is a good amendment. It is a bipartisan attempt to practice the budget restraint that we are all preaching. It gives us a chance to actually use some budget restraint here on the floor, not just in the Rotary Club speeches back home.

This amendment would provide for a 10-percent increase over the 1983 levels for the grant military assistant program. In fact, even with our amendment—they are asking for an 80-percent increase in the bill. We are cutting that back to a 10-percent increase. Even that 10-percent increase is a larger increase than we just voted for our own, for the U.S. defense budget.

Some may even wonder how a 10-percent increase could be a cost-cutting proposal. I think that is a good question. It is a lot better than the level of the spending in the bill before. Ten percent is a lot better than the 81 percent we had before.

We may hear how this country or that country needs a doubling or a tripling of their aid. I am not sure how I could explain my voting for doubling or tripling of their aid to my farmers back in counties in Vermont, for example, and explain why we are cutting a number of domestic programs that involve them.

I am sure all of these countries would like more funds, but we are not cutting them off. We are giving them 10 percent more than they had before. That should be enough.

As I listened to last week's debate on the debt ceiling bill, I could understand some Senators' concern about runaway spending. This addresses it.

We all have our favorite programs. Some of us appear even to have our favorite countries. Both those favorite programs and those favorite countries are going to have to show a little restraint.

One of my favorite programs happens to be, in this country—the United States—the dairy program. I think our Vermont dairy farmers are hardworking citizens who deserve our support. But I also know we cannot live with a $200 billion deficit, so we have to cut. We did even there in the dairy program. We cut that one by 51 percent. We are talking here about foreign aid increasing by 10 percent.

I would say that to my good friend from West Virginia and my other friends that I could support a 10-percent increase in this bill but not an 81-percent increase.

This is just one program in the total foreign aid budget. There are a lot of other programs that have already gone up. Foreign military sales loan guarantees have already gone up 75 percent in the last 3 years. The distinguished Senator from Maryland (Mr. SARBANES) alluded to that a few minutes ago.

While we have held the development assistance levels of spending level, the total military aid budget authority has gone up by 179 percent over the past 3 years.

We have a sensible and reasonable amendment here. I think that budget discipline should apply to all Federal programs. Budget discipline ought to apply to foreign aid, too. If we are going to apply it to our domestic programs, let us apply it to foreign aid as well. So let us take a close look at it. I know it is late.

I say to my good friend, the senior Senator from Maryland, I imposed further on his time than I intended to. I apologize for that. I think it is a good amendment and it should be supported.

Mr. MATHIAS. Mr. President, I think the point of the Senator from Vermont is a valid one. I remind my colleagues that we have, since 1980, increased the military assistance program by 100 percent. So we have, in the past 3 years, made very substantial increases in this program. We are, by this amendment, permitting a further 10-percent increase.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, Senator INOUYE, who is the ranking minority member of this Foreign Operations Subcommittee, is not here tonight. But the Kasten number, which is $679 million, was worked out very carefully between Senator INOUYE and Senator KASTEN. According to Senator INOUYE and according to the views of our Foreign Operations Subcommittee, this amount is absolutely essential. Let me explain very briefly to my colleagues why this is so.

We have a number of $679 million in the Kasten-Inouye number. Of this, Turkey has been earmarked for $230 million. That is earmarked already in the bill that has gone through tonight.

That would leave, if the Leahy number, which is $421 million, were adopted and we subtract from it the Turkey number of $230 million already earmarked, that would only leave $189 million for the rest of the world.

To be covered in the rest of the world are areas where we have a whole proliferation of base rights. For example, the Portuguese Azores is an absolutely essential American commitment. We have $60 million. It would endanger that.

Morocco, where we have access to base rights. That is a very key part of the world.

Tunisia, on the border with Libya, with Colonel Qadhafi, we have $50 million.

The Sudan, which is also on the border with Qadhafi, where you have an impoverished country subject to coups frequently, $60 million.

Honduras, where we have all the American troops, we have $40 million.

That is not the whole list, Mr. President, but if you just add up those I have just mentioned—I did not add it up, but I can tell you it is more than $189 million.

Senator INOUYE is not known as a spendthrift in this area. I think we all have confidence in him. I hope we have confidence in the Foreign Operations Subcommittee. I think he and Senator KASTEN have done an excellent job. I urge my colleagues on behalf of Senator INOUYE, on behalf of myself, on behalf of our subcommittee, to reject this amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. JOHNSTON. Yes, I yield.

Mr. STENNIS. Would the Senator explain in some more detail, if he will, just what this money goes for, what is done with it? I do not believe that is known outside of the committee.

Mr. JOHNSTON. This is cash grants for military equipment, for military goods.

Mr. STENNIS. Spent right there, where we inhabit and use it—they give us certain rights.

Mr. JOHNSTON. Yes, for training and that whole range of military uses.

Mr. LEAHY. Mr. President, will the Senator yield on that?

Mr. JOHNSTON. Yes, I yield.

Mr. LEAHY. Do we not have a separate program for training, which is not touched at all by this amendment, I ask the Senator from Louisiana?

Mr. JOHNSTON. There is a separate program for training; the Senator is correct.

Mr. LEAHY. I advise the Senator from Louisiana that this amendment, the Mathias-Leahy-et al. amendment, does not go to that training.

If I could just finish that point, Mr. President, I advise the Senator from Louisiana that this is not a cut; it is a 10-percent increase, the same numbers, incidentally, that Representative KEMP had recommended in the House of Representatives.

Mr. JOHNSTON. The Senator would agree with me, would he not, Mr. President, that it would surely be a cut—if you took the highest 429 number, took off the 230 already earmarked for Turkey, it would indeed be a cut and a drastic one from the numbers I just read off. In other words, you could not have $60 million for Portuguese Azores, $30 million for Morocco, $50 million for Tunisia, $60 million for the Sudan, $40 million for Honduras, and so on.

Mr. LEAHY. I also say to my friend from Louisiana that we could also not have $20 billion for these countries if we wanted. You could take any pie-in-the-sky number you wanted and say, with these numbers, you could not have $50 billion for Tunisia, you could not have $60 billion for Azores, you could not have $40 billion for Honduras, $20 billion for El Salvador.

Look at Zaire, for example. You ask where these funds go. The Chief of State of Zaire recently spent $2.5 million to go on a trip to Disney World. Is that where our money is going to go?

Is that what our money is going to do? Is that what we are spending money on?

Mr. JOHNSTON. That is a better place to spend it than a lot of others I can think of.

Mr. LEAHY. I would like to have him spend his money. Where do we send him next? Do we give him $5 million because he might want to go to Disneyland on the west coast?

I have always supported money for Turkey, but I wonder if we should go an enormous increase when they would not even allow our planes landing rights during the crisis in Beirut when we had hundreds of Americans dying.

Mr. JOHNSTON. It was not Turkey's fault. By the way, we have already earmarked the money for Turkey.

Mr. LEAHY. But if these are our great friends we are giving this money to, I say to my good friend from Louisiana, I wonder just how much extra flying we did trying to get our wounded out of there as a result of it.

We are not cutting. We are adding 10 percent on this. We are adding more in this foreign giveaway than we are giving in our own defense budget for our U.S. forces.

Mr. JOHNSTON. I say to the Senator that Senator INOUYE and Senator KASTEN very carefully worked this out, and if you cut as deeply as this amendment would, I think it very, very seriously hurts our whole program.

Zaire, by the way, is the largest country in Africa. It is on the border of Angola. It has tremendously important strategic materials. All of those MAP funds are spent in the United States.

Mr. LEAHY. At Disney World.

Mr. JOHNSTON. Well, a small part on Disney World.

Mr. LEAHY. Only $2.5 million at Disney World, I will grant.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I know we are talking about Disney World and making jokes, but I want the Members of the Senate to understand, even at this late hour, that this is probably the most dangerous amendment that we have seen put forth tonight. We are talking about programs which have been established by our Government over a period of more than one administration with the people who are our best friends in the world. We are talking about Turkey, we are talking about Greece, although they are not directly affected. Without doubt, because of the 7 to 10 ratio that we have achieved between Turkey and Greece, the result of this amendment would make it necessary to reduce funds to Greece as well because we maintain that rough 7 to 10 ratio. We are talking about Portugal. We are talking about Morocco. We are talking about Somalia. We are talking about Sudan. We are talking about our friends in the world.

This is the guts of our overall foreign assistance program, which allows us to allow other countries to work with us. The first and major example is Turkey, which while earmarked in the bill, obviously that earmark would have to be waived. It would leave, as the Senator from Louisiana pointed out, $100 million left for all of the rest of the world if this amendment were to pass.

As I said before, it would then directly affect upon Greece, because of the relationship between the Greeks and Turks with the 7 to 10 ratio.

Mr. LEAHY. Will the Senator yield for a question?

Mr. SARBANES. Will the Senator yield for a question?

Mr. KASTEN. Let me finish my remarks, and I will yield for a question on that point.

MR. LEAHY. I wonder if the Senator would yield on just Turkey alone.

Mr. KASTEN. This amendment would cause us not to be able to meet up to our commitments in Portugal. It is not the fault of the Congress that those base agreements have been upped. In fact, they have been increased. We have to keep with the integrity of the agreements that we have made with Portugal. They are a friend,

We have just recently signed those base rights agreements, and I think everyone knows that the Portuguese Azores play a key role, an important role in nearly every single military contingency plan that we have. In other words, that particular change for Portugal would jeopardize North Africa and the Middle East. We cannot jeopardize that access.

The program for Morocco, once more a friend—we are trying to develop an effort there—would have to be reduced without doubt, a country that not only has been very helpful to the United States in African matters, once more the beginning of our base in Africa, but also in the Mediterranean and the Middle East. We recently signed a new access and transit agreement with Morocco and that country requesting the MAP program is part of this agreement and would be violated if this amendment were to succeed.

Somalia is one of the poorest countries in the world located in a strategic location, the entrance to the Red Sea adjacent to the Arabian Peninsula. Soviet and Libyan-backed Ethiopia has occupied Somalia territory, a sizable military superiority. Somalia, by providing us with use of a port and airfield facilities directly, supports the United States and the free world in our security assistance in that area but more importantly southeastern Asia.

The Sudan, everyone is aware of what is happening there, defense is critically important to Egypt and continues to face a direct threat from Libya. Sudan permitted the United States developments in response to Libya's invasion of Chad. It strongly supports the Camp David Agreements. It strongly worked for moderation in Africa. Sudan is also an impoverished country which needs this kind of help and assistance.

Kenya would be affected by this amendment, a country which continues to provide access to our Navy in that part of the world. It is another country which provides moderate leadership in Africa, the kind of leadership that we are trying to develop.

Now, these are not Third World countries that have no concern. These are our allies. They are where our Navy, our bases, our agreements are.

I point out to the Senator from Maryland and the Senator from Vermont the administration request is more, not less, than what we brought forward. Senator INOUYE and I pared $50 million off the administration request. There is a possibility because of an amendment of the Senator from Nebraska that another $20 million may be cut. We need this money to live up to the agreements that this administration and the previous administration have been working for. It would be a terrible mistake if we were to adopt this amendment which would cut basically the teeth out of the program that we have, which is trying to assist people help defend themselves in the free world.

I would be pleased now to yield to the Senator from Maryland for a question.

Mr. SARBANES. Mr. President, I simply want to make the observation that what is at issue is whether we should make grants, not loans. What is happening is with these requests, there is a marked shift toward an increase in grants and away from the use of loans. What the Members have to ask themselves is whether, in the range of priorities that we have been experiencing, that makes sense. Most of the commitments that are being talked about can be met on a military loan basis rather than a grant basis. What this amendment is seeking to do is to get the grant part of the military aid program back into a reasonable perspective. It will not alter the ratios that were talked about because those can be met through the use of loans or a combination of loans and grants. So what is at issue is simply whether you want to markedly increase grants instead of, as we have been doing in the past, relying on loans.

Now, I know the argument will be made with respect to some of these countries that they face difficult economic circumstances. That is quite true. But a lot of people at home face difficult economic circumstances.

Mr. KASTEN. Let me respond to the Senator's question. He is correct, but as he pointed out in his concluding sentence or two, what kind of a favor are we doing by loading up Turkey, Morocco, Sudan, Somalia with even more loans? They cannot turn over and pay the loans that they have right now. So the question is: Can we reach the level of aid that they need to defend their interests and defend our interests and the free world's interests with more loans and do we have to match it off with grants? The answer is we have cut the administration requests, and that is the direction that we are going in, but we cannot cut a third out of this program.

I yield to the Senator from Vermont for a question.

Mr. LEAHY. Will the Senator yield for a question?

How much total aid have we given Sudan in the past 5 years?

Mr. KASTEN. I cannot answer that question.

Mr. LEAHY. Has it not been one of the largest amounts of aid given any country in the world?

Mr. KASTEN. I think it has been a significant amount, but it certainly has not been one of the largest amounts given to any country in the world. I do not think that is relative. I think we have to look instead at what is going on in Sudan right now.

Mr. LEAHY. Would the Senator say it is in the top five for foreign aid?

Mr. KASTEN. What is the Senator's question?

Mr. LEAHY. I am asking. I do not know.

Mr. KASTEN. I do not know the answer to the Senator's question, but I do not think the answer to his question is significant in terms of the amendment.

Mr. LEAHY. I think it is significant for this reason: In fiscal year 1982, in this program, the budget was $178 million. It jumped considerably in 1983, between the continuing resolution and the supplemental, and in today's bill it is $697 million. In 2 years it has gone from $178 million to $697 million.

Nobody is asking that these people be cut out. But when we are holding everywhere else to a 10-percent increase, it seems to me more than fair.

Yemen—how is their money going to be spent?

Mr. KASTEN. Let me respond to the Senator's question briefly, because I know others want to speak.

Let us take the example of the Sudan. Four or five years ago, we did not see an armed Libya. Four or five years ago, we did not see the threat to Egypt. Four or five years ago, we did not see the threat to the Sudan.

In response to the threat, in response to the Qadhafi's of this world, in response to the problems, we have two choices. Do we act ourselves or do we act with security assistance money so they can help themselves? We should act.

In the Sudan, we saw French fighters. The fact is that there is a problem there. It was not there 4 or 5 years ago. They need the additional money.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. KASTEN. I yield.

Mr. MATHIAS. The Senator has stated his case in a very able way, but he has neglected several items here, one of which is the item for Costa Rica. What are we thrusting that military aid program on Costa Rica for, when it is well known that they do not have an army? They take some pride in not having an army.

Mr. WILSON. Mr. President——

Mr. BOSCHWITZ. Mr. President——

Mr. MATHIAS. I wonder if the distinguished chairman of the subcommittee can respond.

Mr. KASTEN. I yield to the Senator from California.

Mr. WILSON. I will be happy to respond.

To my good friend from Maryland I say that if he would visit Costa Rica and speak to members of the government and speak to members of the opposition and speak to those in the private sector, they will give him assurance that they are terrified by the fact that there is a fifth column operating in Costa Rica.

It is quite true that they have no Army, they have no Navy, and they have no Air Force. They do have need of internal security against foreign subversion. Foreign subversion is coming from the Sandinista regime. They are threatened, and that is the need.

Mr. MATHIAS. I thank the Senator. As he suggests, I have spoken to officials of Costa Rica. I spoke recently with the President of Costa Rica, and I am aware of the internal problems they have. I think we should do something to assist them, but I question whether the military assistance program is the avenue to assist them.

This is a program to help countries that have Armed Forces and need some technical assistance. It is upgrading their Armed Forces. With a country that has no Army, it seems to me there is some question as to whether it is an appropriate recipient.

Let us look at the figures: Between 1970 and 1980, the total value of arms imported by developing countries grew 500 percent, from $3.9 billion to $19.5 billion.

During the same period, the populations of these countries grew by 25 percent.

So if you really want to ask what is causing the insecurity in the world, look at that statistic: 25 percent growth in population at a time when arms importation is growing by 500 percent.

What is our response to that? Let us look it in the face.

The Senator from Wisconsin has suggested that we would be dismantling a program that has developed over three administrations. Oh, come on! Let us look at the record. Dismantling a program: Since 1980, we have increased the military arms program by 100 percent. That is hardly my definition of dismantling a program.

Whatever is done on aid to developing nations, whatever is done in the area of humanitarian aid which addresses the problem of enormous growth, that population is a strain on resources, which is causing the real insecurity and the real instability.

At a time when we have increased the military assistance program by 100 percent, we have increased humanitarian development aid by 10 percent.

If you want to look at the root of instability and insecurity, there it is.

It seems to me that we can address this problem by some restraint in the military program.

We are going along with the administration, with the need for an increase.

I agree with the Senator from Wisconsin that our friends in Portugal deserve assistance, and I think we should give it, and the room is here to give it. But there are some items here that can be trimmed or eliminated, and I have great confidence that the Senator from Wisconsin, as a conferee, will be able to do justice and equity.

Mr. KASTEN. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. KASTEN. I yielded to the Senator from Maryland for a question, and I now am in a position to answer the question specifically.

The funds for Costa Rica are going to be used this year to continue furnishing border patrol groups with uniforms, border patrol groups with certain technical communication and personal field equipment, to buy a small number of tactical vehicles, and to purchase up to three fixed-wing observation aircraft. That is where the money is going.

As the Senator from California pointed out, I think that is important, and I think that is worthwhile.

Mr. MATHIAS. It may be important, but is it proper to be included in a military assistance program?

Mr. KASTEN. I hope it is.

Mr. BOSCHWITZ. Mr. President, looking at the list of nations we are seeking to help in this appropriation bill, and that the Senator from Maryland would cut so decisively, makes me think of where this Nation's real military aid is going. It is not in this budget. It is not in the foreign aid budget. Rather, it is in the Defense budget.

The distinguished Senator from Maryland may recall that Under Secretary of State Eagleburger came before our Committee on Foreign Relations and talked about the amount of aid we give—not to Costa Rica or Botswana or Kenya or Liberia. That is peanuts. The real money is going to Europe, in conformance with our NATO obligations, where Under Secretary Eagleburger pointed out we are not spending $2 million or $4 million but $4.6 billion.

If the Senator wants to save some money—and I say this to my good friend from Vermont—if he wants to talk to the Rotary about saving money, why do we not cut some of the aid we give to countries that can really afford to pay for it—Germany, Italy, England, France?

Germany spends 3.1 percent of its gross national product on defense. We spend 6.7 or 6.8 percent.

Then, we can go to the other end of the world, where we are also spending a great deal of money, and that is Japan. No wonder they are such active traders. It is no wonder they are able to come into our economy with such force. They spend less than 1 percent of their gross national product on defense. There is no reason why they should spend more.

We are over there with 80,000 troops, and many more in Korea and the Philippines. We are spending real money. If we spent 1 percent of our gross national product on defense, as Japan does, we would have a balanced budget. We are subsidizing their economy with our defense expenditures.

But the Senator from Vermont and the Senator from Maryland want to take a couple million dollars away from Costa Rica. Why do we not take the $22 billion the Senator is talking about and take it from Japan?

Or we should ask them to help pay for some of the defensive forces that we maintain in their area. They spend so very little on defense.

I submit that these figures, the money proposed in this bill, should go forward for countries of the world that either are able to repay us, as the Senator from Wisconsin has said, or are countries of the world where small amounts of money make a meaningful difference in their relationship with us and their ability to maintain their free institutions, and maintain their reliance and alliances with us.

If we really want to save some money, get the Germans to pay out of their economy.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. BOSCHWITZ. No, I will not yield.

Let them pay from their economy for the defenses that we help provide them. There we are spending real money, $40 billion or more in Europe.

Let the Japanese pay. They are invading our marketplace, and subsidizing their economy through our defense expenditures that are billions of dollars compared with the $230 million in the case of Turkey, which borders the Soviet Union and faces substantial potential jeopardy. It has a small economy by comparison with the economies of which I speak.

So I share Senator MATHIAS' desire and the desire of the Senator from Vermont not only to save money but to perhaps reduce arms traffic around the world. No one has a stronger feeling about that than I.

But if we want to get at the real root of foreign aid or at the real expenditures of foreign aid, do not look in the Subcommittee on Foreign Operations of the Appropriations Committee.

Look instead in the Department of Defense authorization and appropriations bills. That is where the money is spent.

There really is no good purpose in reducing these small amounts to these countries that really need the money. We should get at some real money and get at people who can afford to pay it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

Mr. President, there is a certain irony at play in this Chamber and it is surely the 11th hour and figuratively the 11th hour.

The Senator from Louisiana and the Senator from Wisconsin, I think, have quite eloquently indicated that what is before us is a well-intended but misguided effort to undo the very careful craftsmanship of Senator INOUYE and Senator KASTEN. The cuts proposed by this amendment are too broad and too deep.

Mr. President, the irony of which I speak is this: My good friend from Vermont suggested that some have favored countries. I assume that I am not alone in this Chamber in saying that my favorite country is the United States. Because of that, the irony that occurs to me is that many who appear to favor this have I suspect been among those who in recent days have said that the United States cannot be policemen to the world. That is quite true.

But the interesting thing is that this program which is under attack is one that allows those who wish to defend themselves when their freedom is threatened without U.S. forces and in virtually every instance what we are talking about is providing to a nation whose freedom is threatened the opportunity to exercise a restraint upon those who would threaten it.

Nowhere, Mr. President, is that of more immediate impact to the United States perhaps than in our own hemisphere where our lifelines, our shipping lines are threatened and where in recent weeks even the most casual reader of newspapers could not help but find abundant evidence to certify that there is a regime in Nicaragua which is seeking by subversion and occasionally by overt violence to undermine the governments of its neighboring states. These neighboring states are quite disposed, quite highly motivated to defend themselves to resist the efforts to bring down their governments.

But, Mr. President, for them to succeed in this effort when they are not asking for American troops but simply for American military assistance, it is necessary that they receive it.

Four or five years ago no one perceived this threat. Indeed, they thought with high hopes that the Sandinista revolution would be true to its stated ideals.

Not only has that proved a false hope, but in fact that regime is seeking to export its revolution by violence beyond its borders.

If we were to approve the amendment proposed by the Senator from Maryland, we would be sending exactly the wrong signal not only to those who are eager to defend themselves but to those who are eager to export that violent revolution from Nicaragua to Honduras, to El Salvador, to Guatemala, and to Costa Rica.

Mr. President, it would be the most tragic mistake that we could make if in fact we wish to allow those with the motive to defend their own freedom the means to do so, and this 40 percent proposed cut would be a tragic error.

So, Mr. President, I urge those Senators who share a concern for the freedom and for the safety of those in Central America, as I am sure all do, to not prevent those who are neighbors to the Sandinista regime to lose heart, to in fact confirm a suspicion which many of us who have visited that area have found, a suspicion that the United States is not a reliable ally, that we are not even a reliable supplier of military assistance.

We are not policemen to the world but whether we like it or not we are cast in the position of being the leader of the free world and of certainly being the major supplier to those who would defend their freedom who lack the economic means to do so.

To my friend from Maryland I would say I take his point about the need for economic progress in those nations. But I will say this, Mr. President, there will be no safety for economic progress, no safety for humanitarian reforms if within the next 6 months those nations which are threatened with armed force or armed subversion within their borders find themselves unable to resist it. Then, all the good intentions in the world, all the economic aid, all the encouragement to humanitarian reforms will come too late.

That, Mr. President, is the reason that this amendment should be defeated.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, have the yeas and nays been requested on this amendment?

The PRESIDING OFFICER. No, they have not been.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I will not go anywhere near at great length as the Senator from Minnesota and the Senator from California have, but I will ask that they take a chance to read the amendment prior to voting on it because they seem to be suffering under a misconception of the amendment. They have both referred to it as a cut. There may be an amendment coming down here with a cut in this area. I am not aware of one. I am not a cosponsor of one. I am a cosponsor of Senator MATHIAS' amendment for a 10-percent increase.

The Senator from California and the Senator from Minnesota kept talking about cuts, cuts, cuts. It is not so at all.

I, too, am a member of the Subcommittee on Foreign Operations of the Appropriations Committee and I know that this adds 10 percent. It does not cut 10 percent. What it does is say we should not have an 81-percent increase.

I have asked, incidentally, CRS to give me a list of every domestic program that had an 81-percent increase in it like this has. I have left the telephone number here, and I have been waiting for calls. We are getting kind of late now waiting for several days for them to call. But apparently they have not found one.

So this is not a cut, I tell my good friend from Minnesota. The dairy program was a cut. That was a 51-percent cut. This is not a cut. This is a 10-percent increase. Ten percent should be enough. It will give enough money, I should say to my good friend from California, who is concerned with Central America. It leaves enough money in there to continue to pay for those bodyguards that we need to protect Salvadoran citizens who are working with our Embassies, bodyguards that we pay to protect them from some of the same element within the Government that we are now supporting in El Salvador. We will still have the money to protect people from being killed by some of the same people in the Government that we support. So that money will still be there and in fact we will have 10-percent more if they want to use it in this area or transfer the funds in this area. They can even hire 10-percent more bodyguards and considering the number of deaths from the various death squads down there that might not be a bad idea.

Mr. STENNIS. Mr. President, I will be quite brief. This has been thoroughly and ably argued. A few years ago, 10 or 12 years ago, we got crossed up and misunderstood Greece and Turkey, and had serious trouble with them. We cut off all of this aid. That is really what started the trouble. It took us 3, 4, 5 years, or maybe more, and many, many more millions of dollars to ever get that area straightened out and restore those relations.

I consider this, in my opinion, some of the most valuable things that we do

in foreign countries, particularly the so-called smaller ones. In spending this money, the return is real and immediate. So that is the reason it so thoroughly convinces me that we should not disturb this now. I, therefore, cannot support the amendment.

Mr. MATHIAS. Mr. President, I think everyone has got a firm grasp now of what we are talking about here.

I want to thank the Senate for the careful consideration that has been given to this amendment. I want to thank in particular the Senator from Wisconsin and the Senator from California for the careful analysis that they have given. But what we come down to in the final analysis is a question of judgment.

I will say that the considerations that were laid before us by the Senator from Wisconsin and the Senator from California were before the Committee on Foreign Relations on the very same questions. And the judgment of the Committee on Foreign Relations was that the amount that should be invested in military assistance programs was $387 million.

The House Appropriations Committee reviewed the same considerations and their judgment was that the investment should be $421 million, the figure which the amendment lays before you. So you have careful consideration, and you have different judgments. I would urge that an 81-percent increase is unjustified, that a 10-percent increase contemplated by the amendment is in fact a reasonable increase at this time.

Mr. BAKER. Mr. President, I see no other Senator now seeking recognition. I agree with the Senator from Maryland, it has been an exhaustive debate.

I now move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER) to table the amendment of the Senator from Maryland (Mr. MATHIAS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 37, as follows:

1[Rollcall Vote No. 354 Leg.]

YEAS—46

Abdnor	Hatch	Packwood
Armstrong	Hawkins	Percy
Baker	Hecht	Quayle
Boschwitz	Heinz	Roth
Chafee	Helms	Rudman
Chiles	Huddleston	Specter
Cochran	Jepsen	Stennis
Cohen	Johnston	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
DeConcini	Long	Trible
Denton	Lugar	Wallop
Dole	Matsunaga	Warner
East	Mattingly	Wilson
Garn	Nickles	
Gorton	Nunn	

NAYS—37

Andrews	Ford	Pell
Baucus	Grassley	Pressler
Bentsen	Hatfield	Proxmire
Biden	Heflin	Randolph
Bingaman	Humphrey	Riegle
Boren	Kennedy	Sarbanes
Bradley	Lautenberg	Sasser
Bumpers	Leahy	Stafford
Burdick	Levin	Tsongas
Byrd	Mathias	Weicker
Dixon	Melcher	Zorinsky
Eagleton	Metzenbaum	
Exon	Mitchell	

NOT VOTING—17

Cranston	Goldwater	Moynihan
Dodd	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	

So the motion to lay on the table amendment No. 2581 was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the motion was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[The following proceedings occurred after midnight:]

AMENDMENT NO. 2582

(Purpose: To provide funding for the Emergency Veterans' Job Training Act of 1983)

Mr. GARN. Mr. President, I have an amendment at the desk, one of two. Both of them have been cleared and will be accepted. The first amendment on behalf of myself and Senators HUDDLESTON, SIMPSON, CRANSTON, DOMENICI, DECONCINI, THURMOND, MITCHELL, and PRESSLER, is at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. HUDDLESTON, Mr. SIMPSON, Mr. CRANSTON, Mr. DOMENICI, Mr. DECONCINI, Mr. THURMOND, Mr. MITCHELL, Mr. PRESSLER, and Mr. LEVIN proposes an amendment numbered 258.

For payments to defray the costs of training and provision of incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time as authorized by law (the Emergency Veterans' Job Training Act of 1983, Public Law 98-77), $150,000,000, to remain available until September 30, 1986: *Provided,* That not more than $25,000,000 of the amount appropriated shall be available for transfer to the "Readjustment benefits" appropriation for educational assistance payments under the provisions of section 18 of Public Law 98-77. Any unused portion of the amount so transferred may be returned to this appropriation at any time, but not later than December 31, 1984.

Mr. GARN. Mr. President, this amendment provides $150 million to fund an on-the-job training program for unemployed veterans. This program has recently been authorized and the administration has submitted a request for the $150 million proposed in the amendment. I am offering this amendment in order to fufill a prior commitment to my colleagues and to insure the timely implementation of the program.

I am not aware of any objection to this amendment and I move its adoption.

VETERANS' JOBS ACT APPROPRIATIONS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs and as an original cosponsor of the pending amendment, I am pleased to rise in support of this amendment offered by the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies (Mr. GARN) on behalf of himself and my colleague from the Veterans' Affairs Committee, who serves on the Committee on Appropriations as well (Mr. DECONCINI), the very able chairman of the Veterans' Affairs Committee (Mr. SIMPSON), and myself.

This amendment would add to the second continuing resolution for fiscal year 1984 $150 million for full funding of the Emergency Veterans' Jobs Training Act of 1983, Public Law 98-77. The veterans' jobs training measure authorizes the appropriation of $150 million in each of fiscal years 1984 and 1985 for an emergency program of job training assistance for unemployed Korean conflict and Vietnam-era veterans.

Mr. President, I am concerned that we have still not reached the final hour in terms of getting this emergency jobs training program started during this calendar year. Efforts to secure funding under this new public law, which was enacted on August 15, 1983, began nearly 5 months ago.

On August 20, the distinguished Senator from Arizona (Mr. DECONCINI) offered a motion in committee to add the $150 million to the HUD-Independent Agencies Appropriations Act, 1984. That amendment was approved by a vote of 14 to 7. The Senate subsequently concurred on June 21 when it passed that appropriations measure. Unfortunately, at the request of Office of Management and Budget Director Stockman, the $150 million was deleted in conference and thus was not included in the regular appropriations measure as it was signed into law as Public Law 98-45.

However, during the Senate's consideration of the conference report on that measure on June 29, assurances were given to Senator SIMPSON and me by Senators HATFIELD and GARN that funding would be considered in the context of the first available appropriations measure after final enactment of the authorizing legislation—CONGRESSIONAL RECORD pages 9433-34.

In the Senate, that first available measure was the first continuing resolution for 1984. That measure came before this body on September 29. At that time, in response to the express and strong desires of those who wished to keep that measure clean and to prevent it from being Christmas-treed, I and others refrained from offering an amendment to add the $150 million. However, in lieu of our pursuing an amendment to the first continuing resolution, certain commitments were made in a colloquy on the Senate floor on September 29 regarding funding for the veterans' job program—CONGRESSIONAL RECORD pages 26307-08.

First, the Senator from Utah (Mr. GARN) assured me that he would support the funding of the program in the supplemental appropriations measure that was then under consideration by the House of Representatives, H.R. 3959.

Second, I raised with Senator GARN and the very able chairman of the Appropriations Committee, the Senator from Oregon (Mr. HATFIELD), my concerns that the supplemental would not be approved or would have been vetoed by the time that the second continuing resolution would come before the Senate and that any delay beyond that point would be intolerable. They each responded with the assurance that they would support the inclusion of funding for the program in the supplemental measure or, if that legislation is not enacted by the time we take up the next continuing resolution for fiscal year 1984, in that second continuing resolution.

Mr. President, the first commitment has been kept. The $150 million—which was officially requested by the administration in a budget amendment transmitted on October 3—was approved by both the House and the Senate in the context of the supplemental appropriations measure, H.R. 3959. However, that measure has been stalled in the legislative process.

Thus, we have reached the point of making good on the second assurance, and that is what the pending amendment would do. Any further delay in enacting this appropriation will be intolerable. If this funding is not included in this pending measure, funding could possibly not be made available until well into the next calendar year. In that event, we would not see a single penny of assistance being made available for the benefit of veterans under the new authority for job training until at least February of next year. At the very best, if the supplemental bill, H.R. 3959, clears the Congress this month, the normal process of engrossment, transmission to the White House, preparation of executive branch analysis, and Presidential consideration would delay enactment for a number of weeks. In contrast, this process is telescoped to a number of hours rather than weeks in the case of a continuing resolution.

That, Mr. President, would be most unfortunate. It would be totally unacceptable to me and, I know, to many others. In that regard, Mr. President, I ask unanimous consent that a letter to me from the American Legion strongly supporting this amendment, be printed in the RECORD at the end of my remarks.

I want to stress, Mr. President, that the funds we are proposing to add to the pending measure are not in dispute. They have been approved twice by the Senate and once by the House and have been requested by the administration. I know of no person or agency opposing the appropriation of these funds on the merits. The only thing that stands in our way is a desire to enact a clean resolution into law, and I do not believe my colleagues will allow any such abstraction to delay further the implementation of this vitally important effort to enable long-term unemployed veterans who need and want jobs to reenter the work force.

The day after tomorrow is Veterans' Day. How can we expect to celebrate that solemn occasion if we have failed to approve the funding needed for this new program? How can we honor our Nation's veterans when we have denied them the funding needed to put back to work so many of them who are out of work?

Let us not delay any further. Let us put this program into operation now and put thousands of veterans on their feet. Let us make sure that those who have defended this Nation and kept it free and strong have every opportunity we can provide to participate productively in the bounty of our Nation that they fought so courageously to preserve.

That is how we can best honor the service and sacrifices of those who have given so much to our Nation.

Mr. President, I urge all of my colleagues to support the pending amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., November 9, 1983.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: The American Legion strongly supports the immediate appropriation of sufficient funds in fiscal year 1984 to carry out the Emergency Veterans Jobs Training Act. Implementation of the program cannot be delayed any longer. We, therefore, urge the Senate to include this funding in the continuing appropriations resolution now under consideration.

The training initiatives authorized under this act have been in effect since October 1 and there are thousands of veterans from across the country who have expressed their desire to take advantage of the program. Unfortunately, they must wait for Congressional approval of appropriations to put the program in motion. Likewise, the administering agencies—Department of Labor and Veterans Administration—are posed to move forward, waiting only for implementation funding.

We understood the requirement to move quickly on the continuing appropriations resolution and we appreciate the Senate's concern over any controversial amendment that would encumber the consideration process. However, the Retraining Act is not a controversial matter. It enjoys the Administration's support and its approval in the Senate on June 15 was by voice vote, following House approval one week earlier by a vote of 407-10.

When considering the very real need to immediately implement the Act and when further considering its popularity in Congress, we see no reason why necessary funding should not be included in the continuing appropriations resolution. In our opinion the integrity of the resolution will not be violated by including a Training Act amendment. We, therefore, support Senate adoption of such an amendment.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

Mr. THURMOND. Mr. President, I am in strong support of this amendment which would include in the continuing resolution $150 million for the Emergency Veterans' Job Training Act of 1983.

Mr. President, the appropriation that is proposed by this amendment has been previously approved by the Senate and by the House as part of the supplemental appropriations bill. It is offered out of the concern that the supplemental appropriation bill will not receive final passage until January. I believe that it is important that the funds be appropriated for this important program prior to the upcoming recess.

In passing the Emergency Veterans' Job Training Act, Congress recognized that unemployment and underemployment problems among veterans need to be addressed quickly. We now must back up our commitment by making these funds available at the earliest possible time.

I, therefore, strongly support this amendment and urge the support of my colleagues.

STATEMENTS RELATING TO GARN AMENDMENT NO. 2582

Mr. DECONCINI. Mr. President, I am pleased to be a cosponsor of Senator GARN'S amendment to include $150 million in the continuing resolution for fiscal year 1984 to fund the Emertency Veterans' Jobs Training Act, Public Law 98-77.

Let me take a moment to review the strong bipartisan support which exists for an emergency veterans' jobs training program. In its recommendations to the Budget Committee, the Senate Veterans' Affairs Committee unanimously voted to include $150 for a jobs program. The first concurrent budget resolution for fiscal year 1984. House Concurrent Resolution 91, as passed by the Senate, made provision for $150 million for a jobs training program specifically targeted on veterans. The conference report, as adopted by both Houses of Congress held $150 million in reserve for this program, pending enactment of authorizing legislation. On June 7, the House overwhelmingly passed the Emergency Vietnam Veterans' Jobs Training Act by a vote of 407 to 10, and the Senate passed a companion measure by voice vote on June 15. Finally, the President signed the legislation at the Veterans' of Foreign Wars Convention on August 15.

I first attempted to include funding for the jobs training measure in the HUD-independent agencies appropriations bill, H.R. 3133, during the Senate Appropriations Committee markup of that legislation on June 14. My amendment was adopted by a vote of 15 to 7. Unfortunately, the amendment was dropped during conference since the Senate had not, as yet, completed action on the authorizing legislation. As noted above, the authorizing legislation passed the Senate the following day.

While funding for the Emergency Veterans' Jobs Training Act was included in the supplemental appropriations bill, H.R. 3959, which passed the Senate on October 27, it now appears that final action on that measure may not be completed prior to the adjournment of Congress sine die. Since our veterans anticipated that this program would be available to them on October 1, 1984—the beginning of the fiscal year—I believe it is imperative that funding for the program be included in the pending measure. Veterans unemployment remains a serious national problem. Funding for a training program is needed, and it is needed now.

The Emergency Veterans' Jobs Training Act represents a positive first step toward putting our veterans back to work. It is a carefully crafted measure and targets benefits on the long-term unemployed. It provides training for veterans who have been unemployed for 15 out the last 20 weeks. It provides training in growth industries in an effort to insure that the veteran will have the best possible chance to find permanent employment. It represents a partnership between Government and the private sector and includes important safeguards by prohibiting employers participating in the program from laying off or firing current employees.

I commend Senator GARN for taking the initiative to include funding for this program in the pending measure and urge my colleagues to support it.

Mr. SIMPSON. Mr. President, I am pleased to lend my strong support to the amendment offered by the distinguished chairman of the Subcommittee on HUD and Independent Agencies, to provide full fiscal year 1984 funding for the Veterans' Emergency Jobs Training Act of 1983, Public Law 98-77.

This bill was signed into law by President Reagan on August 15 of this year. Since that time, it has generated a tremendous amount of interest within the veterans' community and a great many veterans of the Vietnam era and the Korean war have made their applications or taken other appropriate steps to participate in the program. In addition, it now seems that both the Veterans' Administration and the Department of Labor, which are responsible for the administration of the program, have completed most of the necessary training and paperwork, and that all that is lacking now to get this program off the ground is the adequate funding.

Mr. President, I do not feel that it is necessary at this point to engage in a repetitive discussion of the merits of the program. Both the President—in submitting a formal request that the program be fully funded for fiscal year 1984—and both Houses of Congress—in approving such a provision in the context of the fiscal year 19845 supplemental appropriations bill, H.R. 3959—appear to have warmly embraced the program on its merits, so that the issue before us today is not so much whether the money should be appropriated, but only when.

On this point, Mr. President, I would stress the emergency nature of the jobs training program authorized in Public Law 98-77. I am most reluctant to take the chance that this funding provision, if left in the supplemental might not clear the conference process, be passed by both Houses, and be signed by the President, in time for enactment to occur anytime before January 1984.

To those of my colleagues who are concerned, as indeed I am, that this continuing resolution should not become another Christmas tree measure, I would simply emphasize that this provision which we are today proposing to move from the supplemental to the continuing resolution has already been approved by both Houses of Congress, and thus need not serve as a precedent for the attachment of the usual bevy of nongermane, never-before-considered amendments.

Mr. President, I urge my colleagues to join me in supporting this important amendment.

Mr. HUDDLESTON. Mr. President, as the ranking member of the HUD-Independent Agencies Appropriations Subcommittee, which has jurisdiction over funding for the Veterans' Administration, I am pleased to cosponsor the amendment offered by the distinguished chairman of the subcommittee (Mr. GARN).

The amendment would provide $150 million to fund the Emergency Veterans' Jobs Training Act of 1983, Public Law 98-77. This program had not been authorized when we passed the regular fiscal 1984 HUD-independent agencies appropriation bill in July; consequently, funding was deferred without prejudice. The program has now been authorized and there is a budget request for funding. I believe we should provide the necessary funding promptly.

The program will provide on-the-job training for Korean and Vietnam era veterans who have been unemployed for 15 of the previous 20 weeks. Under the program, an employer could receive up to 50 percent of a veteran's starting salary for up to 9 months of training.

A large number of Korean and Vietnam era veterans remain unemployed. There is a particularly severe problem in the 25 to 29 year age group. Some are still suffering from readjustment problems, in some cases resulting from unemployment and underemployment.

Surely we need to assist these Americans who have done so much and surely the time has come to do so.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BYRD. Mr. President, I ask for regular order. The manager of the bill on the majority side is not present.

Mr. DENTON. Mr. President, will the Senator yield for 30 seconds?

Mr. GARN. I shall be happy to yield in just a moment. If we could get the managers of the bill, this amendment was talked about in committee. It has broad support on both sides, many cosponsors. It was requested by the administration. If we could have a little

understanding that that has been agreed to, we could move on rather rapidly.

Mr. HATFIELD. Mr. President, we are willing to accept it.

Mr. President, if the Senator will yield——

Mr. GARN. I am happy to yield to the distinguished chairman of the Committee on Appropriations.

Mr. HATFIELD. Mr. President, as the Senator from Utah has said, both sides of the aisle have studied this amendment and find it acceptable.

Mr. STENNIS. Mr. President, we approve of the amendment.

Mr. FORD. Mr. President, will the Senator add me as a cosponsor?

Mr. GARN. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2582) was agreed to.

AMENDMENT NO. 2583

(Purpose: To continue funding of households under the Experimental Housing Program and further extend the deferral of reserve funds until March 31, 1984)

Mr. GARN. Mr. President, I have an amendment at the desk which has been cleared. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 2583.

The heading "Annual contributions for assisted housing" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1984 (Public Law 98-45) is amended by inserting before the period at the end thereof (97 Stat. 219, 220) the following: *": Provided further,* That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Apropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199): *Provided further,* That the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading".

Mr. GARN. Mr. President, simply stated, the amendment accomplishes two purposes. First, it continues the housing assistance to an estimated 9,400 families participating in HUD's experimental housing demonstration program, thus avoiding the need to dislocate these people from their homes during fiscal year 1984. The second part of the amendment extends the legislative deferral established in Public Law 98-45 of $1.5 billion in housing funds.

This extension will give the Appropriations Committees the time necessary to review any newly authorized programs before the funds are released.

Mr. President, Representative ST GERMAIN, the distinguished chairman of the House Banking Committee, and I have been in negotiation on the housing bill. We do expect to have a housing authorization bill to present to the Senate next week.

I ask unanimous consent that a table updating the table contained in the fiscal year 1984 HUD conference report (House Report No. 98-264) be printed, at this point in the RECORD, with an accompanying explanation.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS

[Use of carryover]

	Units	Cost	Contract authority	Term	Budget authority
Carryover	NA	NA	$56,989,998	NA	$1,464,822,394
Recaptures	NA	NA	102,393,000	NA	2,500,000,000
Permanent authority	NA	NA	19,397,609	NA	19,397,609
New authority	NA	NA	636,336,000	NA	9,912,928,000
Total available	NA		815,116,607		13,897,148,003
Public housing:					
Public housing	5,000	$6,000	30,000,000	30	900,000,000
Indian housing	2,500	5,565	13,912,000	28	389,550,000
Amendments	NA	NA	6,666,000	NA	200,000,000
Sec. 23 (EHAP owners)	(4,200)	NA	6,000,000	5	30,000,000
Lease adjustments	NA	NA	22,300,000	1	22,300,000
Interest rate adjustments	NA	NA	6,666,000	NA	200,000,000
Modernization	NA	NA	77,500,000	20	1,550,000,000
Subtotal, public housing	7,500		163,044,000		3,291,850,000
Section 8: Section 202	14,000	6,880	96,320,000	20	1,926,400,000
Existing housing:					
From carryover	7,179	4,548	32,650,092	15	489,751,380
Other	27,821	4,548	126,529,908	15	1,897,948,620
Subtotal, existing	35,000		159,180,000		2,387,700,000
Moderate rehabilitation	5,000	4,800	24,000,000	15	360,000,000
Loan management	5,000	3,600	18,000,000	5	90,000,000
Property disposition	10,000	4,900	49,000,000	15	735,000,000
Conversions:					
Section 23:					
EHAP	5,200	4,212	22,000,000	5	110,000,000
Regular	3,000	2,850	8,550,000	15	128,250,000
Rent supplement/RAP	40,000	3,225	129,010,000	15	1,935,153,000
Subtotal, conversions	48,200		159,560,000		2,173,403,000
Deferred authority	NA	NA	100,000,000	15	1,500,000,000
Amendments:					
New/rehabilitated:					
Preconstruction	NA	NA	10,000,000	23	230,000,000
Project reserves	NA	NA	15,000,000	5	75,000,000
Existing housing:					
Regular	NA	NA	14,012,607	3	42,037,821
Loan management	NA	NA	5,000,000	10	50,000,000
Moderate rehabilitation	NA	NA	2,000,000	10	20,000,000
Subtotal, amendments	NA		46,012,607		417,037,821

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS—Continued

[Use of carryover]

	Units	Cost	Contract authority	Term	Budget authority
Subtotal, section 8	117,200		652,072,607		9,589,540,821
Total, public housing and section 8	124,700		815,116,607		12,881,390,821
Unutilized			0		1,015,757,182

The accompanying table differs from the program appearing in the Conference Report No. 98-264 to the HUD-Independent Agencies Appropriation Act, 1984 (Public Law 98-45) in the following respects:

(1) The current table amends the Conference Report table to incorporate actual carryover of unutilized authority from 1983 and actual permanent authority becoming available for use in 1984.

(2) $6,000,000 of contract authority and $30,000,000 of budget authority has been added to reflect amendments extending the assistance provided to 4,200 homeowners under the Section 23 Experimental Housing Allowance Program (EHAP).

(3) Per unit cost changes based on latest Department estimates are as follows:

(a) Section 8 Existing—from $4,000 to $4,548.

(b) Section 8 Moderate Rehabilitation—per unit cost is increased from $4,381 to $4,800.

(c) Section 8 Loan Management—increased from $3,000 to $3,600.

(d) Section 8 Property Disposition—increased from $4,700 to $4,900.

(4) Conversions under the Section 23 program have been changed to reflect the conversion of renters currently participating in the Section 23 EHAP program to the Section 8 program.

(5) Section 8 amendment requirements have been increased by $2,000,000 of contract authority and $20,000,000 of budget authority to reflect amendments in the Section 8 Moderate Rehabilitation program.

(6) Section 8 Existing amendment requirements have been increased by $2,012,607 of contract authority and $6,037,821 of budget authority.

In addition, the $100,000,000 of contract authority and $1,500,000,000 of budget authority deferred by Public Law 98-45 remains deferred and undesignated and Bill language is recommended to extend the deferral of this authority to March 31, 1984.

Mr. GARN. Mr. President, I know of no objection to this amendment and ask that it be adopted.

Mr. HATFIELD. Mr. President, there is no objection on this side.

Mr. STENNIS. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2583) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2584

(Purpose: To permit the acquisition of no more than four foreign-built vessels for operation under U.S. flag)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is a pending amendment which must be laid aside.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Metzenbaum amendment be set aside for the consideration of another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Louisiana.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. LONG, proposes an amendment numbered 2584.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the end of the joint resolution, insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

Mr. JOHNSTON. Mr. President, this amendment has been cleared with Senator PACKWOOD, the chairman of the Commerce Committee, Senator LAXALT, the Appropriations Subcommittee chairman, and I believe I can say over the last 2 days with everybody at interest. This amendment, Mr. President, costs the Federal Treasury nothing. As a matter of fact, it would make the Treasury money. What it would do is allow the Lykes Steamship Co., to purchase four used ships outside of the United States and bring them into this country. The reason Lykes is in a special circumstance is because the window of 1 year in length expired on September 30, 1982, whereby domestic steamship companies could purchase ships or build ships, construct ships outside of the country. However, at that time, Lykes was a subsidiary of LTV, and LTV's banking arrangements did not permit the incurring of any debt outside the country.

Lykes is now, even though they are the largest domestic steamship company in the country, on the edge of bankruptcy, having lost $21 million last year. If they are able to exercise the option, which expires on November 16 of this year, to pick up these four ships and refurbish them outside the country, it will allow them to get their foot in the door to keep themselves in the container trade.

What this amendment does is to permit Lykes to do that. It does not grant section 607 subsidies to them. It simply allows them to purchase these ships which are already under contract and bring them into the country.

Mr. NICKLES. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. NICKLES. Will the Senator inform the Senate, if they are to build these four ships and they build them overseas, would they still be receiving the construction subsidies from the U.S. taxpayers? Would they be able to take that subsidy and spend those dollars overseas to have some foreign shipyard do the work on these ships?

Mr. JOHNSTON. No, they would not, and that is a good question. They would not be able to do so.

Mr. NICKLES. So they would not receive construction subsidies. Would they still receive operating subsidies from the U.S. taxpayers for those ships that were built overseas?

Mr. JOHNSTON. The answer is no.

Mr. NICKLES. The answer is no. So for those four ships——

Mr. JOHNSTON. Actually the four ships are not being constructed. They have already been built. They would simply be purchased and brought in here. All it would do is permit them to utilize those ships on coastwise trade. That is what it permits.

Mr. NICKLES. Would they receive Federal Government operating subsidies for those ships on their operations?

Mr. JOHNSTON. I am advised that they could get operating subsidies, but they would be less than if they would use U.S.-built ships—actually, $10 million less I am advised than if they used U.S.-built ships.

Mr. NICKLES. Will the Senator tell us how much of an operating subsidy we are going to be giving this one company? I guess that the Senator's amendment would only benefit one

company. Could he tell us how much of an operating subsidy they would be receiving?

Mr. JOHNSTON. I do not know. The purpose of this is not to get the operating subsidy but to allow them to bring in the ships, because otherwise they are bankrupt, and, frankly, we lose 1,200 jobs in Louisiana. It is just as simple as that.

Mr. NICKLES. Could the Senator give us how much of an operating subsidy they are receiving today so we have an idea how big a stake the taxpayers have involved in this?

Mr. JOHNSTON. The taxpayers would save $10 million by this amendment as compared to having American ships—$10 million less subsidy. I am sorry, I do not know the amount of the subsidy. As a matter of fact, I did not, frankly, realize there was any subsidy at all. It is a small subsidy for foreign ships, but I cannot tell the Senator the amount. I am sorry.

Mr. NICKLES. If the Senator will yield, if you have one company and this amendment is going to mean that the subsidy will be $10 million less, you are talking about pretty substantial subsidies in this Senator's opinion. I would be interested in knowing how much of a subsidy they would be receiving. I have a little problem, in having ships built or repaired overseas, in them continuing to receive operating subsidies. That concerns me to some degree.

Mr. JOHNSTON. Actually, all it does for this company is allow them to take advantage of the same window everybody else could take advantage of earlier, but the reason that they could not was because they were controlled by a parent company, LTV, that had banking arrangements that did not permit them to do so.

Mr. TRIBLE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes, I yield.

Mr. TRIBLE. As my distinguished friend from Louisiana knows, I have serious reservations about this amendment. In fact, I am constrained to oppose the amendment at the appropriate time. But my question is this: Why this extraordinary procedure at this extraordinary hour? We have a formal hearing process. If this is a matter of such great urgency, why was it not presented to the Congress before this late hour? Why were hearings not held? What evidence is there that this steamship company is in serious financial straits?

Mr. JOHNSTON. I am glad the Senator asked that question. First of all, hearings were held on the House side. The administration does support this proposition. The reason for the urgency is that Lykes has an option to purchase four ships which expires November 16. They are four small used ships that would be refurbished and brought into the coastwise trade.

Mr. TRIBLE. Will the Senator yield for one further question? Is it not a fact that this is the first time this matter has been debated and discussed in the Senate; that although it may have been addressed by the other body, this question has not been brought to the attention of the appropriate committees of the Senate and to date no inquiry has been made.

Mr. JOHNSTON. The Senator may be correct on that. I can tell him that the administration does support the proposition.

I plead with my colleagues. We have 1,200 jobs—actually, 3,000 jobs for Lykes, 1,200 of them in Louisiana. It is the largest steamship company in the country. They lost $21 million last year. They simply go under if they do not get this. I wish I could tell the Senate chapter and verse about every jot and tiddle of the regulations. I know that they go under. I know we lose 1,200 jobs. If you turn this down, you may say, "Well, the process is not served because the Senate has not had any hearings," but when 1,200 Louisianans and 3,000 Americans lose their jobs, and they say, "What was the Senate thinking of," we say, "Well, sorry, old fellow, you lost your job. We did not have hearings in the Senate. I can tell you it is not my fault. I would have had them if they left it up to me."

I plead with my colleagues, it is a lot of jobs.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. President, may I say to the Senator that there was a time, and I can recall the time very well because I was the chairman of the Merchant Marine Subcommittee at that time on the Commerce Committee, and it was my privilege to help pass the bill—that the Senate passed this ship construction fund money. At that time, you could build the ships domestically because it only cost about twice as much to build them here as it did elsewhere. Now it is four times as much. It is just impossible to do it. So now it is not a matter of building them in some other shipyard. They are not in position to do that. They cannot pay the difference, nor can anybody else. So that it is not a matter of losing any jobs. It is a matter of saving jobs for Americans, because if this company goes out of business, those jobs, I would ask my friend, is it not true, will not go to American seamen; they will go to seamen somewhere else?

Mr. JOHNSTON. That is exactly right. The competition is foreign, principally, and we just lose the jobs to, I do not know, Japan or wherever.

Mr. LONG. It would not be as though those jobs went to Virginia or North Carolina somewhere; they are just lost to Americans?

Mr. JOHNSTON. That is exactly right.

Mr. President, I plead with my colleagues to think about jobs.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the proceedings we are about to have may appear at the conclusion of the amendment and not at the point where I have interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, the reason for this unusual procedure is that we have an unusual opportunity.

We have been working with the Civil Rights Commission reauthorization bill for days—indeed, for weeks—and I am happy to report to the Senate that I believe we have a compromise that has been reached by the principals involved in the Senate which appears to be agreeable to major civil rights groups who have been actively involved in the negotiations and with the White House. Frankly, I should like to do that agreement before it slips away from us. So let me now propound a unanimous-consent request.

Mr. President, I ask unanimous consent that the Senate now temporarily lay aside the continuing resolution and proceed to the consideration of the Civil Rights Commission reauthorization bill for 10 minutes—the matter to be considered for just 10 minutes—and that during that 10 minutes, only one amendment will be in order. That will be an amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. THURMOND, Mr. BIDEN, Mr. DOMENICI, and others; and the amendment, if adopted, will be considered as original text for the purpose of further amendment.

Mr. President, before the Chair puts the request, may I explain that there is another amendment that will be offered, I am told, by the Senator from Iowa (Mr. JEPSEN). It will not be offered tonight. It will be offered when we resume consideration of the Civil Rights Commission reauthorization bill, which I assume will be on Monday, after we have finished action on the continuing resolution. That is the reason for the request.

I further ask unanimous consent that the control of those 10 minutes be in the usual form.

Mr. BYRD. Mr. President, reserving the right to object, may I approach the bench?

I have no objection.

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not know whether I can read the body correctly or not, but I was hoping that we had the debate on our amendment

about wound down and that in view of the support of the various subcommittee chairmen, we might have been able to adopt our amendment.

I wonder if the majority leader would let us complete action, if it would not take too long.

I ask the Senator from Virginia if he would be ready to let us have a vote on it.

Mr. BAKER. Mr. President, it will not take long. I amend the request so that it is 5 minutes, equally divided.

Mr. JOHNSTON. The majority leader said something about an amendment.

Mr. BAKER. That is on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, reserving the right to object, I wish to understand what the unanimous-consent request is.

Mr. BAKER. I will state the unanimous-consent request for the Senator from North Carolina and other Senators.

Mr. President, I ask unanimous consent that the Senate temporarily lay aside the continuing resolution and proceed instead to the consideration of the Civil Rights Commission reauthorization bill, for a period of not to exceed 10 minutes, to be equally divided, and the control of that time to be in the usual form.

I further ask unanimous consent that during that time, only one amendment be in order, and that will be the amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER), which is the so-called compromise amendment arrived at over a period of time. But if the Specter amendment is adopted, it will be considered as original text for the purpose of further amendments when we resume consideration of the Civil Rights Commission reauthorization bill—which, I say parenthetically, will not be tonight nor tomorrow. I expect that it will be on Monday.

Mr. EAST. As I understand the majority leader's request, we are going to spend——

The PRESIDING OFFICER. Will the Senator from North Carolina please use the microphone?

Mr. EAST. Mr. President, as I understand the majority leader's request, then, we are simply laying aside the continuing resolution to take up the reauthorization for 10 minutes and the sole purpose of that 10 minutes is to consider the Specter amendment.

Mr. BAKER. That is correct.

Mr. EAST. And the time is evenly divided.

Mr. BAKER. That is correct.

Mr. EAST. I will not object because the majority leader simply is saying we shall then continue the matter again on Monday, although I do think as regards the Specter amendment I will not object to what the majority leader is requesting for purposes of expediting the matter, but I would like myself to be able to speak on this matter, and it occurs to me for such an important matter at a very late hour that 10 minutes on a Specter amendment, which is a very important amendment as regards the Civil Rights Commission, very critical and fundamental, is an unusually short period of time.

Mr. BAKER. Mr. President, may I say that the Specter amendment may not be the same amendment now that the Senator from North Carolina has in mind.

Mr. EAST. I beg the Senator's pardon.

Mr. BAKER. It may not be the original Specter amendment that the Senator has in mind. This is an amendment that has been worked out with great care as a compromise between the original Specter-Biden amendment, the original reauthorization proposal, the White House and a number of other groups.

I invite the Senator from Kansas who has been so instrumental in negotiating this compromise to converse further with the Senator from North Carolina if he wishes to explain it but, Mr. President, may I say that when we resume consideration of this bill the Specter-Biden-Thurmond-Domenici amendment will be subject to further amendment on Monday and further debate at that time.

So I hope the Senator will let us go ahead with what I believe is an agreement that has been arrived at in a painstaking and careful way and which can be modified further when the Senate resumes consideration of this bill on Monday.

Mr. EAST. Mr. President, could I ask for a very brief description? I understood what the earlier Specter amendment is. What is the current Specter amendment as agreed to?

Mr. BAKER. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, as the Senator from Pennsylvania will explain, this amendment would establish an eight-member Commission, with four members appointed by the President, two Democrats and two Republicans, and four members appointed by Congress, two Democrats and two Republicans. Specifically, the President pro tempore of the Senate and the Speaker of the House would each appoint two members, upon the recommendations of the congressional leadership of both parties. It is a 6-year authorization, with fixed 6-year staggered terms for commissioners, and removal of commissioners only for cause. The President appoints the staff director, chairman and vice-chairman, with the concurrence of the Commission. The personnel who are there now, stay there and keep all of their current rights and benefits.

It is sort of a hybrid Commission. It is one that has been, I might say to the Senator from North Carolina, cleared with the President's representative as recently as 30 or 40 minutes ago in Tokyo and discussed with the President's Counsel, Mr. Fielding, and that is in essence the compromise.

Mr. EAST. Mr. President, I wish to speak in opposition to the amendment, and I will accede to the majority leader's request in order to expedite matters this evening. I do think the Specter amendment represents a very fundamental change in the Civil Rights Commission and for a 10-minute debate on it is a very limited time for a very fundamental change in this very controversial Commission. But I am willing to accede to that and I wish to be able to——

Mr. STEVENS. It will be subject to amendment.

Mr. EAST. I understand that, but I understand also by making it an integral part of the change that will be difficult to make, and I think to make that change by this body which generally prides itself upon some degree of deliberation, to make that change in a period of 10 minutes is a pretty fundamental change at the hour of 12:30 in the morning.

But I am willing to proceed without objection and wish to be able to hear the description of the amendment which would seem to me then will take only 5 minutes to describe it, which leaves us 5 minutes to oppose it. That is really in effect what we are saying.

Mr. BAKER. Yes, Mr. President.

Mr. THURMOND. Mr. President, we are not going to vote on it tonight.

Mr. EAST. No, but we are voting on a very fundamental amendment which would make a very substantive change in the Civil Rights Commission. And as a member of the Judiciary Committee seeing this thing thrashed around for weeks on end, I am a little bit troubled about doing it over a period of 10 minutes at 12:30 in the morning because it is going to shift again very fundamentally the form, the nature, the character of this Commission from what it is now to a new form. It means then on Monday granted we can amend it, but it means we start then with a very fundamentally different kind of Commission if this amendment is passed than we currently have.

I regret that it has to be taken up at such a late hour. But I will accede to the majority leader's request and wish the opportunity to repair to my own desk up there and be part of the 5-minute opposition for what it may be worth.

All right.

Mr. BAKER. Mr. President, first I amend my request so that at the conclusion of the 10 minutes the Senator from Virginia will be once more recognized to continue his debate.

Next, Mr. President, I say to the distinguished Senator from North Carolina, and he is a most distinguished and contributing Member not only to the Judiciary Committee but the Senate, I am certain that the managers will give him whatever time he reasonably requires to discuss the matter, and I am personally sorry that he was not involved more fully in the deliberations over the last several weeks.

But it is not a question really of doing it in the next 10 minutes. This has been, to my certain knowledge, in negotiation for days, and it is in the nature of things, I suppose, that when you get involved in negotiations that a great number of people are involved you forget other people who should be involved, and I apologize for that. But that is, I suppose, the way we have to conduct ourselves.

So, Mr. President, I hope the request will be acceded to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the control of the time. First I yield to the distinguished chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

CIVIL RIGHTS COMMISSION ACT OF 1983

The Senate resumed consideration of the bill, H.R. 2230.

Mr. THURMOND. Mr. President, this has been a very arduous and long drawn out matter.

Under present law the President appoints the members of the Civil Rights Commission but some Members of the Senate and of the House of Representatives, also, felt that Congress should have a more active part in selecting these Commissioners, and that has been the bone of contention. It is whether the President should be allowed to keep that power entirely or share it with Congress.

This has been a stalemate in the Judiciary Committee for weeks and weeks, as the able Senator from North Carolina said. Finally there has been a compromise worked out. It is not the compromise that I prefer, because I think under our tripartite system of government that Congress makes the law, the executive branch administers in the law, and the Supreme Court interprets the law. However, I cannot have my way about everything and I feel that the time has come when we have to compromise and get the——

The PRESIDING OFFICER. If the Senator from North Carolina will withhold, how much time has the Senator yielded for himself? He is on the time now that was allotted to this measure.

Mr. STEVENS. It has not been granted yet.

Mr. THURMOND. He yielded to me for a few minutes to explain the matter.

The PRESIDING OFFICER. The time is now running.

Mr. BAKER. Mr. President, I am afraid so.

Mr. President, I am afraid that in order to accommodate this we are going to need a little extra time also so the Senator from North Carolina can be heard.

Mr. BIDEN. Mr. President, I will be happy to yield to him all the time.

Mr. BAKER. All right.

I withhold any further request.

The PRESIDING OFFICER. All right.

The Senator from South Carolina is recognized.

Mr. THURMOND. So, Mr. President, in order to bring this thing to a head, because it seemed to be irreconcilable, but finally we have gotten all sides to reach an agreement. Both sides have had to give and take, and after all I guess that is what legislation is about. Most legislation is a compromise.

At this time I wish to pay tribute to the ranking minority member of the Judiciary Committee, who has cooperated so well in this matter, Mr. JOE BIDEN; to Senator ARLEN SPECTER, of Pennsylvania, who had the amendment here to provide for the members of the Civil Rights Commission to come from Congress; to Mr. BOB DOLE, who has worked untiringly on this matter for a number of days; to Mr. OREN HATCH, who has done likewise; to Senator BAKER, who has been in touch with the White House in Tokyo and has rendered a magnificent service in bringing about this compromise; to Senator PETE DOMENICI and Senator TED KENNEDY and Senator MAC MATHIAS, all who have contributed to this matter; also to Mr. Ed Meese, who has worked on this for the President, and the President himself has approved it; Mr. Fred Fielding, in the White House, who has worked on it; Mr. Ken Duberstein, the chief liaison from the White House; Miss Pam Turner, who is the liaison to the Senate from the White House; and Miss Debbie Owen, the acting chief counsel of the Judiciary Committee here, who has worked on it hard and so has Miss Sheila Bair and Mr. Mark Gitenstein and other staff members.

We feel that, to overcome this stalemate and bring an end to this matter, this is the only logical way it can now be handled.

As I said, it is not my preference, but, on the other hand, I feel it is the way to solve it and I think we better go forward with it. Therefore, I favor it.

Mr. President, I now yield to the distinguished Senator from Pennsylvania who will briefly explain the amendment.

Mr. BAKER. Mr. President, I yield control of the balance of the time to the Senator from Pennsylvania, who will offer an amendment.

Mr. SPECTER. I thank the distinguished majority leader, and I thank the distinguished chairman of the Judiciary Committee.

Mr. President, I ask the distinguished Senator from Delaware, Mr. BIDEN, if he will modify his amendment and accept my amendment.

Mr. BIDEN. I have no objection; yes.

AMENDMENT NO. 2586

(Purpose: To establish a Commission on Civil Rights)

Mr. SPECTER. Mr. President, on behalf of Senators BIDEN, DOLE, THURMOND, DOMENICI, MATHIAS, KENNEDY, METZENBAUM, CHAFEE, GORTON, and myself, I send to the desk an amendment and ask for its immediate consideration.

I further ask unanimous consent that, in light of the fact that there are 50-odd more additional Senators, who sponsored Senate Concurrent Resolution 78, and have not had a chance to know the contents of this amendment, but who would likely wish to be cosponsors, that they may have an opportunity to add their names as cosponsors at the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

(The names of Mr. PERCY, Mr. RANDOLPH, Mr. CRANSTON and Mr. MELCHER were added as cosponsors.)

The PRESIDING OFFICER. Does the Senator withdraw his original amendment?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. BIDEN, Mr. DOLE, Mr. THURMOND, Mr. DOMENICI, Mr. KENNEDY, Mr. MATHIAS, Mr. METZENBAUM, Mr. CHAFEE, and Mr. GORTON, proposes an amendment numbered 2586.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendment is as follows:

Strike out all after line 2 on page 1 and insert in lieu thereof the following:

That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(c) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

* * * * *

file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000 or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such

times as the Commission, the Congress or the President shall deem desirable.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7 (6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission) of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

(B) Upon application of any individual (other than the staff director or a member of the Commission) who was a employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

(c)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law, the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights established by the Civil Rights Act of 1957 was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GA-15 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of section 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i)(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.

TERMINATION

SEC. 8. The provisions of this Act shall terminate 6 years after its date of enactment.

Mr. SPECTER. Mr. President, I shall be brief. As outlined by the distinguished majority leader, the distinguished Senator from Kansas, and the distinguished chairman of the Judiciary Committee, this is a compromise that has been worked out after very substantial negotiations. It combines in equal measure two proposals: The first, a Civil Rights Commission appointed by the Congress and the second, a Civil Rights Commission appointed by the President. It is done in order to accommodate a variety of interests and to permit a Commission which may retain those who have served on the Commission.

The PRESIDING OFFICER. All of the time of the Senator from Pennsylvania has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent that the time be extended for a period not to exceed 10 additional minutes.

The PRESIDING OFFICER. Is there objection? Is this time equally divided?

Mr. LONG. I object.

Mr. JOHNSTON. Reserving the right to object, what was the request?

Mr. SPECTER. The request is for unanimous consent for 10 additional minutes.

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, has the time expired?

The PRESIDING OFFICER. The time has expired; 5 minutes has expired.

Mr. BAKER. Mr. President, I wonder if the Senator from Delaware would yield some time?

Mr. BIDEN. I want to make sure that the Senator from North Carolina gets some time. I am impressed with the explanation so far. I think it has been fully explained. I would like to hear the opposition and move on is what I would like to do.

I yield all my time to the Senator from North Carolina because he is such a good fellow.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I appreciate the kind remarks of the Senator from Delaware.

How much time do we now have?

The PRESIDING OFFICER. The Senator has 4 minutes and 53 seconds.

Mr. EAST. Time moves on quickly and the hour is late. I shall state my objections to this as quickly as I possibly can.

First, I would simply point out to my colleagues that this is a very fundamental change in the structure and organization of the Civil Rights Commission. There is no question about it.

First of all, the question of staggered terms and removal only for cause, that has not been made clear at all what removal for cause would be. So what you are going to be doing is creating really here a perpetual Commission for purposes, apparently, I guess, of advising both the Senate and the White House on civil rights matters. It appears to me that with the removal for cause, which has not been explained as to what that would be, that in effect these persons would be locked in for a period of at least, I do not know what the term is as I understand it.

I question the whole concept of the need to do this. I think the Civil Rights Commission—and many things are done in the name of civil rights that do not necessarily serve the cause of civil rights, just like many things are done in the name of national defense which do not necessarily serve the end of national defense. I am not opposed to a sound, progressive civil rights policy in this country. Clearly, good comes from it, from the Civil Rights Commission, generally.

I think what we are doing here in the few minutes that I have to speak to it is making a fundamental alteration in the construction of the Commission which will further politicize it between the President and Congress. I think to create a bureaucracy for 6 years, that we will be funding, the Federal Government will funding, really is unnecessary, to begin with. It is unnecessary. Certainly, the President has plenty of advisers on the matters that he can utilize. Lord knows, we have plenty of staff that we can utilize. As you remember, this Commission now is purely advisory in character, purely advisory.

And the fundamental cause of this whole dispute is that the current membership of that Commission does not want to be dismissed for cause or for any other reason. They want to hold these jobs permanently, well nigh indefinitely, I gather for life, somewhat like Supreme Court appointees, and like any organizational change, the fundamental problem at heart here is this question of busing, forced busing, and quotas.

Now, the President has made a recommendation for three outstanding nominees to serve on this Commission. That started the rub. In order to head that off, we have seen a lot of backroom backing and filling, trying to restructure, reorganize this Commission so the President cannot do that.

Now if he has consented to do it, it is probably simply because he has been advised that he does not any longer have the votes and the support in the Senate or the House. And that may be correct. But I do not think on the merit and the principle of the thing it is a sound move and in the proper direction.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. EAST. I intend to indicate that I should be voting——

The PRESIDING OFFICER. Will the Senator withhold? Will the Chamber please be in silence so the Senator's remarks can be heard?

The Senator from North Carolina.

Mr. EAST. Well, the majority leader is requesting that we not have a record vote on it. He taxes the great patience of the Senator from North Carolina beyond that to which he normally likes to be taxed. I presume it will go through, then, without a record vote, which I would like to have, perhaps it will, and we should start from scratch then next Monday.

I will consent to the majority leader's request because of the late hour, but I would like to indicate that in this voice vote I would like to be recorded as in opposition to this amendment, and of course when the issue arises again on Monday, we can pursue the matter in other forms of amendment.

Mr. DOLE. Mr. President, as the Members of the Senate are aware, the Senate Judiciary Committee spent several weeks seeking to develop a consensus proposal on the reauthorization of the Civil Rights Commission. It was apparent that there was widespread agreement on the committee that the life of the Commission should be extended. Unfortunately, the controversy surrounding the President's efforts to replace three of the sitting Commissioners with his own appointees created considerable disagreement with regard to the form the reauthorization legislation should take.

During committee negotiations, we explored every conceivable alternative in an effort to break the impasse. We discussed seven-member Commissions, eight-member Commissions, nine-member Commissions. We discussed giving the President two of his nominees, all three of this nominees, or two now, and one next year. None of the alternatives could attract consensus support.

The President tried to break the impasse by firing the three Commissioners. Yet this body remained deeply divided. The nominees proponents then wanted to pass the House-passed bill, as is, which would permit the President to fill the three vacancies resulting from the firings. The nominees opponents, in response to the firings, wanted to remove the Commission entirely from the executive branch and make it a Congressional Advisory Committee, permitting congressional leaders to decide who shall sit on the Commission.

Earlier this week, it seemed highly unlikely that the Senate would be unable to break the impasse and reauthorizing legislation, with the result that both sides would lose. The Commission's voice would be silenced and none of the President's nominees would be given the opportunity to serve.

But we stuck with the negotiations, and finally came up with a proposal which has garnered consensus support. Under the proposal, the President would appoint four members: The Commission would consist of eight members. The President pro tempore of the Senate and the Speaker of the House, upon the recommendations of the congressional leadership of both parties, would each appoint two members. Commissioners would be given fixed staggered 6-year terms, and could be removed only for neglect of duty or malfeasance in office. The Commission would be authorized for a 6-year time period.

Mr. President, this is a meticulously crafted compromise, the culmination of literally hundreds of hours of effort by many Members on both sides of the aisle. It has been cosponsored by Senators DOMENICI, BAKER, and THURMOND, whose efforts during the negotiation process were particularly instrumental in the development of the proposal. It has been agreed to by Senators BIDEN and SPECTER, the principal sponsors of the legislative Commission proposal, who have devoted much time and effort to this issue.

Moreover, I have recently spoken to the President's representatives on this matter and they have indicated that the compromise is acceptable to the White House. And it is my understanding that the compromise has virtually unanimous support in the Civil Rights Community also.

So it seems that at last we have broken the impasse which has threatened the continued life of an agency which has secured for 25 years as the Nation's civil rights conscience. I urge all of my colleagues to support the compromise.

Mr. President, one final note. In developing this compromise proposal, some questions were raised concerning whether permitting Congress to appoint half of the Commission's members was consitutional. On the basis of a legal memorandum prepared by the Senate office of legal counsel, the sponsors concluded that the appointment process provided for in the compromise does not violate the powers of the President under article II of the

Constitution, as construed by the Supreme Court in Buckley against Valeo.

Buckley involved a challenge to the 1974 legislation creating the FEC. As originally constituted, of the six voting members on the FEC, two were appointed by the President, two by the President pro tempore, and two by the Speaker of the House.

The Buckley court held that most of the powers conferred on the Commission could be exercised only by officers of the United States who were appointed in accordance with article II.

However, the Court explicitly refused to invalidate those powers which were essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them.

This ruling applies directly to the Civil Rights Commission. As the Supreme Court recognized in Hannah against Larche, the Commission's functions are purely investigative and fact-finding. The only purpose of its existence is to find facts which may subsequently be used as a basis for legislative or executive action.

In addition, the Commission's subpena powers do not undermine the constitutionality of the appointment process. It is true that the Court in Buckley struck down the FEC's authority to bring civil actions to enjoin acts or practices which violated the campaign law. However, the Court specifically noted that the Commission's authority to bring such civil action does not require the concurrence of participation of the Attorney General. In contrast, the Commission can enforce its subpenas only through application to the Attorney General. It has no powers of its own to bring a civil action for enforcement.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. EVANS) would vote "yea."

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON) would vote "yea."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 79, nays 5, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—79

Abdnor	Gorton	Nunn
Andrews	Grassley	Packwood
Armstrong	Hatch	Pell
Baker	Hatfield	Percy
Baucus	Hawkins	Pressler
Bentsen	Hecht	Proxmire
Biden	Heflin	Quayle
Bingaman	Heinz	Randolph
Boren	Huddleston	Riegle
Boschwitz	Jepsen	Roth
Bradley	Johnston	Rudman
Bumpers	Kassebaum	Sarbanes
Burdick	Kasten	Sasser
Byrd	Kennedy	Specter
Chafee	Lautenberg	Stafford
Chiles	Leahy	Stennis
Cochran	Levin	Stevens
Cohen	Long	Thurmond
D'Amato	Lugar	Trible
Danforth	Mathias	Tsongas
DeConcini	Matsunaga	Wallop
Denton	Mattingly	Warner
Dixon	Melcher	Weicker
Dole	Metzenbaum	Wilson
Eagleton	Mitchell	Zorinsky
Exon	Moynihan	
Ford	Nickles	

NAYS—5

East	Helms	Symms
Garn	Humphrey	

NOT VOTING—16

Cranston	Goldwater	Murkowski
Dodd	Hart	Pryor
Domenici	Hollings	Simpson
Durenberger	Inouye	Tower
Evans	Laxalt	
Glenn	McClure	

So the amendment (No. 2586) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I rise to support the compromise agreement just reached on the legislation to reauthorize the Civil Rights Commission. The entire Senate owes a tremendous debt of gratitude to Senators DOLE, SPECTER, BIDEN, BAKER, and the others involved in reaching this agreement. Negotiations took place all day today in order to put together a package which was acceptable to the coalition of civil rights organizations who cared so deeply about this matter, the White House, and the various concerns of those here in the Senate.

The Civil Rights Commission is an invaluable institution in this country. It serves to remind us constantly of the progress which still needed to be achieved in our Nation in the area of discrimination and civil rights. We have come a long way in a short period of time, but until all vestiges of racial discrimination are eliminated we cannot rest. We learned last year during the reauthorization of the Voting Rights Act that there were still areas in the United States where people—citizens—are discouraged and indeed, prevented from exercising that most fundamental of American rights—the right to vote.

The Civil Rights Commission constantly served to remind our collective conscience that this discrimination still exisited despite our best efforts to outlaw it. The Civil Rights Commission has had a regional office in Chicago. I know those people to be dedicated public servants.

They have performed their duties and responsibilities in a manner which brings great credit to the Commission. I am obviously pleased to see these good people retained in their jobs.

Frankly, Mr. President, I deeply regret that there was ever a question about the future of the Civil Rights Commission. The divisiveness and politicalization which developed over this issue was, I believe, avoidable. The fact that we have been able to come back from all that and still craft a measure acceptable to all of those who had an interest is, as I said previously, a great tribute to the people most actively involved. I was a sponsor of the Specter bill and was prepared to support an independent congressional commission. However, I always felt that that was the least desirable alternative.

I urge all my colleagues to support this legislation.

● Mr. DOMENICI. Mr. President, I am pleased to be a principle coauthor of the compromise offered tonight by the Senator from Kansas, Senator DOLE, Senator BIDEN, and others.

This delicate compromise was forged after many hours of consultation with members of the civil rights community, the White House, and Members of Congress. I believe it is a good compromise, one that offers full hope that the great work of the Civil Rights Commission can continue uninterrupted.

The compromise offered tonight establishes an eight-member Commission, with four members to be appointed by the President and four members by the Congress. Both the President and Congress can appoint no more

than two members of the Commission from the same political party. In addition, in the Congress, equal input will come from the majority and minority leaders in the Senate and the House, as well as the Speaker of the House and the President pro tempore of the Senate.

The measure provides a 6-year authorization and staggered terms for Commissioners, with removal only for cause. This should establish clear ground rules for the Commission in the future.

In addition, the President will appoint the Staff Director, Chairman, and Vice Chairman of the Commission, with majority concurrence of the Commission membership. Finally, the compromise provides protection for current Commission personnel and their benefits.

I congratulate all who were party to this compromise. It took literally hundreds of hours of negotiation. In the final analysis, I believe that this compromise will serve the cause of civil rights to which all of us are committed.●

Mr. KENNEDY. Mr. President, for months, the Senate has struggled to save the Civil Rights Commission from a President who has seemed determined to destroy it. Time and again the President has blocked efforts to achieve a reasonable compromise that would assure an independent, functioning, and effective Commission. Finally, the President attempted to fire three Commissioners, a slap in the face of all those in Congress who have labored to find an acceptable approach to continuing the Commission as well as the 25-year history of independence under Presidents of both parties.

Tonight, at last we have reached agreement on a proposal that will preserve the integrity and independence of the Commission. I applaud the effort of the many Senators who worked to make this possible.

An independent Commission is a vital component of our national civil rights effort—undertaking factfinding and oversight of Federal agencies and the President, and making forwarding thinking recommendations that will help shape and advance civil rights in the years to come.

I am pleased that, with the adoption of this amendment, the Commission's essential work can continue to go forward.

Mr. BIDEN. Mr. President, for more than 5 months, Members of this body, expecially those of us on the Judiciary Committee, have been at work attempting to forge a bipartisan consensus on the best and most widely acceptable way to extend the life and independence of the Civil Rights Commission. Although there have been times during the last few months when we all were discouraged, throughout, I felt that such a consensus would be essential to preserve an independent Commission and that that consensus would eventually emerge. I am gratified that it has come to pass this evening.

The consensus we have reached will create a Commission that will be constituted as follows:

Eight Commissioners, four from the Congress and four by the President equally divided by party.

The four appointed by Congress will be equally divided by party with two appointed by the Speaker upon the recommendation of the majority and minority leaders of the House and two appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate.

The Commission will have a 6-year authorization and Commissioners will serve in staggered terms, eventually for 6-year terms.

The President may only remove Commissioners for cause and the President will appoint the Staff Director, Chairman and Vice Chairman subject to the concurrence of the majority of the Commissioners.

The Commission will retain all of the powers and duties of the current Commission which is now in its 60-day wind-down period and which will expire on November 29.

Throughout the past 5 months, those of us who have been attempting to reach an accommodation have been searching for the correct balance between the need for independence on the one hand and the President's desire to create greater balance. Unfortunately that process was set back several weeks by the firings, but I believe that the amendment we will vote on this evening strikes the correct balance and in essence re-creates a commission with both independence and balance which is every bit as good as the proposal the Judiciary Committee was about to adopt on the morning of the firings.

In the end none of this would have been possible without the help of many of my colleagues both on and off the committee. First, the Senator from Pennsylvania has been tireless in his labors to keep this effort alive throughout the past few months. The Senator from Maryland has provided me with wise counsel. The chairman of the committee has patiently worked with us to keep the possibility of compromise alive in the committee. The majority leader did the same for us here on the floor of the Senate. The Senator from Kansas was critical to our finally forging an arrangement acceptable to the White House.

On the Democratic side none of this would have been possible without the support of the Senator from Massachusetts, the Senator from Ohio and the Senator from Texas.

FURTHER CONTINUING APPROPRIATIONS, 1984

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 2585

Mr. WILSON. Mr. President, I send an amendment to the desk amending the amendment of the Senator from Louisiana and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2585.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

In lieu of the language proposed, insert:

"Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon application by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within the two years preceding the date of enactment of this Act, the Secretary of Transportation shall permit the acquisition of no more than two foreign-built vessels for operation under U.S. flag. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code. Section 607 of the Merchant Marine Act, 1936, as amended, shall not apply to the vessels acquired or converted under this Act."

Mr. WILSON. Mr. President, what I am seeking to do is bring about a certain amount of equity. I rise not to oppose the amendment offered by the Senator from Louisiana.

I understand the problem that is faced by his constituent industry in Louisiana. In California, the American President Line is in a similar position as that of the Lykes Co. in connection with the window of opportunity, and in the same fashion as others.

What we are asking now is that two foreign-built vessels be permitted to be purchased by the American President Line; that they be subject to whatever restrictions the Senator from Virginia and others may offer who are concerned with the well-being of U.S. shipyards.

The simple equity I am seeking here has to do with the fact that by acquisition of foreign vessels, other similar carriers in competition with Lykes and

with the American President Line gain a competitive advantage. It necessarily affects their rates. I am suggesting that there should be simple equity and that in accordance with the opportunity being sought by the Senator from Louisiana for the Lykes Co., we are seeking a similar opportunity for the American President Line.

Mr. TRIBLE. Mr. President, I am not unsympathetic to the concerns of the Senator from Louisiana about the employment of his constituents. But this is not the hour to discuss this amendment, and this is not the proper vehicle for such a discussion.

Once you make that exception for one company then you open the door for everyone to run through. Quite properly, the Senator from California rises in support of his own constituents interests and proposes an amendment to the amendment.

Let me take just a moment to put this matter in perspective. The cornerstone of American maritime policy has been that shipping companies that receive operating subsidies must build ships in the United States. There was an exception made to this longstanding policy during fiscal year 1982 and companies receiving operational subsidies from the Federal Government were permitted to go outside the United States and build or buy ships. That window of opportunity has now passed.

Regrettably, the shipping interests represented by these amendments did not take full advantage of that window of opportunity, and we are now being asked to give them special treatment. This is private legislation and ought to be rejected.

Mr. President, companies such as Lykes, which have ODS contracts with the Government, have agreed to build new vessels in American shipyards. No one forced them to make that agreement, but they have done so, in return for the taxpayers' dollars that have flowed into their corporate coffers for many years. Now we are being asked to make an exception for them.

Mr. President, I am advised that the majority leader would like to have the floor, and I yield to him for that purpose.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The Chair states that if we can keep the sound down, it will be a blessing, so that we can hear.

Mr. BAKER. Not always a blessing.

The PRESIDING OFFICER. Almost always.

(At this point proceedings relating to the Civil Rights Commission Act occurred, which we printed earlier in today's RECORD.)

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. TRIBLE. I thank the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TRIBLE. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I believe the Senator from Virginia and I have worked out our differences with respect to the underlying amendment. I ask unanimous consent that I be permitted at the end of the phrase "United States flag", which is in the sixth line, to strike the period and add the following: "and may require the conversion of two vessels in a U.S. shipyard".

The rest of it remains the same.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, if he will send the modification to the desk.

Mr. TRIBLE. I say to the Senator that I am troubled with the word "may." It has to be stronger than that.

Mr. JOHNSTON. I am troubled by the two ships as well. I think we have to compromise.

The PRESIDING OFFICER. Will the Senator from Louisiana please send the modification to the desk?

Mr. JOHNSTON. Yes, Mr. President.

The PRESIDING OFFICER. The amendment is so modified.

Mr. TRIBLE. Mr. President, I yield to my distinguished colleague from Virginia.

Mr. WARNER. Mr. President, when I had the opportunity to discuss this possible compromise with our two distinguished colleagues from Louisiana, it was my impression that it would be a requirement on behalf of the Secretary and the word "shall," was my understanding and the one that I communicated to my colleague from Virginia. If that is not the case, then I was mistaken in transmitting to him the possibility of a compromise.

Mr. JOHNSTON. Mr. President, when I spoke to the distinguished Senator, he first said, "We ought to work this out. Gives us anything, give us one ship."

I said, "OK, I do not think we ought to, because my people are out there. They cannot afford it. They lost $21 million last year."

He said "OK, one ship." Came back and said, "No, we need two ships." I wrote down the word, "may." This gives authority to the Secretary of Transportation.

The Secretary of Transportation can require it if they can afford it, and I think that is sufficient. I hope the Senators will take that.

Mr. TRIBLE. Mr. President, reclaiming my time, I must oppose the amendment in its present form. I apologize to my colleagues for the extended debate on this particular issue, but let me reframe this issue because of the interruption of the floor.

Mr. JOHNSTON. Mr. President, if the Senator will yield, if the Senator insists on "shall," I will make it "shall." I hope he will not insist.

Mr. TRIBLE. I insist, and the Senator is a gentleman to agree to the word "shall."

Mr. JOHNSTON. Mr. President, I ask that the amendment be changed to "shall."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the joint resolution, insert:

SEC. . Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag and shall require the conversion of two vessels in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act and Chapter 37 of Title 46, United States Code.

Mr. TRIBLE. Now, Mr. President, there is one other unfinished piece of business, and I would yield to the Senator from California.

Mr. WILSON. I thank my friend from Virginia.

Mr. President, the amendment that I have at the desk is one which I now modify, having not yet asked for the yeas and nays.

The effect of the amendment would be to add to my perfecting amendment the same language to which the Senator from Louisiana has just agreed as an addition to his. It is the phrase "and shall require the conversion of such ships in a U.S. shipyard."

The PRESIDING OFFICER. The amendment is so modified.

Mr. WILSON. Let me add one other thing. In order to accord with the underlying amendment offered by the Senator from Louisiana, the amendment at the desk contains one sentence which has been stricken from his, that is, the last sentence beginning with "Section 607 of the Merchant Marine Act" and ending with "concerted under this act." That final sentence should be stricken.

The PRESIDING OFFICER. Would the Senator please send the modification to the desk?

The amendment, as modified, is as follows:

In lieu of the language proposed, insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within the two years preceding the date of enactment of this Act, the Secretary of Transportation

shall permit the acquisition of no more than two foreign-built vessels for operation under U.S.-flag, and *shall* require the conversion of such ships in a U.S. shipyard. Upon acquisition and/or construction and documentation under the laws of the United States, those vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

Mr. TRIBLE. Mr. President, I am pleased that my colleagues have shown a willingness to meet the concerns that I have expressed about this amendment. I am troubled about any exception to the law of the land that requires shipping companies operating ships and receiving subsidies to build their ships in American shipyards. However, given the special circumstances outlined here, it seems appropriate to grant an exception where that exception is conditioned on the requirement that ships be refitted in American shipyards. That requirement has now been agreed to by the Senators from Louisiana and California. We have struck an agreement that is fair to the taxpayers, the shipping companies, and, most importantly, to America's struggling shipbuilding industry.

So, Mr. President, I am no longer opposed to this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

So Mr. WILSON'S amendment (No. 2585), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Louisiana, as amended.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, as chairman of the Merchant Marine Subcommittee, I kept out of the recent dialog. I just want to point out to the Members that this is not a very good way to write merchant marine legislation, and I do not consider what has just happened as a precedent in any way. The Defense bill we have just passed has poured billions and billions of dollars of taxpayers' money into the shipyards. I think it was not proper to require the foreign-built ships that have to be purchased in an emergency to be repaired in this country in order to have the quid pro quo to save a dying steamship line. I want to serve notice that as far as I am concerned it is not going to happen in connection with other matters, and I am going to remember that in terms of the allocation of funds recommended by the Defense Subcommittee in terms of succeeding years.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator is for the amendment, though?

Mr. STEVENS. Yes.

So Mr. JOHNSTON'S amendment (No. 2584), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2569

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Ohio.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, this amendment of the Senator from Ohio has been before us for some time. I think it was around 8 o'clock that it was presented.

After consultation with the chairman of the Appropriations Committee and others on both sides of the aisle, I believe it is time to clear the air on just where this amendment is going to end up.

The timber contract termination involved in this amendment is an extremely complicated arrangement. There is no simple way to describe this amendment except that the termination of percentages of contract by various companies in various positions throughout the United States is not one that can be quickly understood and comprehended on this Senate floor. We are at a great disadvantage. The amendment has not had hearings before any committee in the Senate. The amendment deals with timber contracts for an ailing industry that varies from one region to the other across a whole spectrum of sizes of companies involved.

Now, I did not believe the amendment would be offered this evening. In fact, I scoffed at the idea that a complicated timber contract termination would be thrown out on the floor on a bill that must be passed tonight or this morning. I advised the timber industry in the State of Montana when they voiced opposition to it that I could not see any possibility of such a bill.

The PRESIDING OFFICER. Will the Senator withhold?

Will Senators please cease their conversations? It is difficult to hear the Senator from Montana.

Mr. MELCHER. I advised the timber industry in the State of Montana, when they sent word to me that they would oppose such an amendment if it were offered, that I could not see it being added to a continuing resolution, a bill that would have to be passed in a matter of hours, resolved in conference quickly, and hopefully the President would sign it.

Well, here it is before us, and it has been here before us since 8 o'clock. There has been precious little debate on it and, frankly, I do not recommend debate on this floor on such a complicated matter unless we have the opinion of a committee and figures before us from both the administration and the Congressional Budget Office that have been thoroughly worked out and thoroughly understood. It is fair to say the administration does not like the bill at all. They do say it is rather complicated. They are not too sure of what it would do. They think it would cost $130 million for the first year and some additional moneys thereafter.

Now, I do not want to apply such a procedure on some form of dealing with these high-priced timber contracts that the forest products companies cannot afford to harvest the timber on.

I wish it were packaged in a way that I could thoroughly understand it and that I would have the judgment of not just the administration but the candid and personal examination and opinion of the U.S. Forest Service. We do not have that in this instance. We do not have any of it.

I want to remind all Senators that a complicated method of terminating these contracts as is proposed in this amendment would be chaotic for the Forest Service, and I have a great deal of sympathy for them.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. SYMMS. I ask the Senator if he does not think and agree—and I know that the administration thinks this—that this particular amendment is going to be very complicated to administer.

For one example, who is going to determine what the net worth of a company is?

I think the Senator is right. If we are trying to solve that question here, late at night, I think it would be much more appropriate to go ahead with what the administration has done with respect to the 5-year delay on this question.

There is no question that those timber sales contracts that were bid on are not worth today what they were worth the day they were bid on. The Senator from Ohio agrees that there is a problem there, and I think it would be unfortunate to try to solve this complicated problem here tonight. I hope this amendment will be tabled.

Mr. MELCHER. Mr. President, what the Senator from Idaho has said is true regarding how complicated it is.

I repeat that I am not adverse to consideration and passage of a solution for the forest products industry, which is saddled with these high priced contracts. But I do not believe that I could possibly accept this proposal tonight.

I said that I thought it was time to clear the air and that I had consulted with the people on both sides of the aisle, and I want to serve notice that I do intend to offer an amendment to table, to see if we can resolve this and put it aside and go on with rest of the continuing resolution. I should like to see that happen. I do not want to foreclose anybody from mentioning whatever they want to say on this issue.

I yield the floor at this time.

Mr. METZENBAUM. Mr. President, I appreciate the courtesy of the Senator from Montana, who could have made a motion to table and foreclosed debate.

I will not speak extensively, but I think we should get the picture as I see it.

There was legislation last year which was not enacted. That legislation came about by reason of the fact that there were a number of timber companies which were having difficulty in meeting their responsibilities, and it was claimed that some of them would go bankrupt.

As a consequence of that and that legislation, which I felt went too far—it was not passed—therefore, an effort was made to solve the problem by negotiation. When that did not occur, the White House agreed to delay these contracts for a priod of 5 years, with no interest.

We are talking about contracts that are worth $5 billion. You do not have to be a great mathematician to know that $5 billion at about 10 percent interest in $500 million a year. The contracts were to be delayed for 5 years.

In all fairness, there was some pushing to get 20 percent taken each year, so there may have been less than the $500 million a year.

The Senator from Ohio has taken the position that for those timber companies that need some relief, I have no objection to giving them relief. But the administration's program of delaying the contracts does not help the small contractors. It does help the big timber companies.

I attempted to offer an amendment to foreclose the administration's program from being implemented on the supplemental appropriations bill, and I was asked to back off that, to see if we could work out something. I then offered it on the continuing resolution, and I was asked to back off that. The administration agreed that it would not implement its regulations, as a consequence, until we had an opportunity to deal with this matter.

The Senator from Montana is not wrong in saying that it is difficult to comprehend why it is on this bill. It is on this bill because there is a time element. If some action is not taken, the administration's program will go into effect. It would already be in effect if we had an agreement, which we do not have, and it would have meant that the Government would have been carrying $5 billion for the timber industry, with no interest, for 5 years.

What we are saying here is that we will give some relief to those companies that need it. There is a formula provided for in the legislation, and we will charge interest—not full interest, but a half-year's interest at the inception, and then there will be interest in the fourth and fifth years, none in the second and third years. That provides a pressure mechanism to get timber companies to take the timber and cut it. That is in the Government's interest.

As to the question of whether or not this is or is not acceptable to the timber industry, let me point out that the Western Wood Products Association, which operates in Oregon and Washington, has indicated its overwhelming support for this amendment; and the Intermountain Timber Council, which operates in Montana, Idaho, and Wyoming, has indicated its support for this legislation.

So I believe that there will be some giveaway by permitting termination of contracts, but it is permitted only to those companies that are in financial distress.

The PRESIDING OFFICER. Will the Senator withhold? It is difficult for Members to hear what the Senator is saying, there is so much noise in the Chamber. Will those Members who are conducting discussions please take their discussions into the cloakroom? The Senator from Ohio is entitled to be heard. Will the staff please remain quiet at the rear of the Chamber.

The Senator from Ohio may proceed.

Mr. METZENBAUM. I thank the Chair.

Mr. President, there are concerns about the regional aspects. There is a specific paragraph in this measure providing that the Forest Service, in connection with the matter of terminated contracts, is to give concern to the very issue of the regional impact, of what will occur by reason of this amendment.

I believe that Senator HATFIELD and I were in total disagreement before this matter came to the negotiating table.

I am not going to tell you that I got everything I think I should have gotten in order to protect the Government's interests. I do not think that Senator HATFIELD would say that he got everything he felt he would like to have in order to protect the timber interests of his area. It is a compromise. It may not be the greatest compromise that was ever fashioned, but the timber industry feels that they can live with it.

I have not heard that the administration is opposed to it; and, in all fairness, I do not speak for the administration.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I yield.

Mr. SYMMS. Did the Senator say it would cost $500 million to the taxpayers in the administration's program?

Mr. METZENBAUM. Yes.

Mr. SYMMS. The U.S. Forest Service study in May said $195 million.

Mr. METZENBAUM. I have seen those figures, and I must confess that I do not understand how they arrive at those figures, because I point out that if there is $5 billion in contacts out there and you have a 1-year delay, the value of that money for 1 year at 10 percent, in simple mathematics, is $100 million.

Mr. SYMMS. The question is whether people default and then go through a legal process, and they will not get their money.

Mr. METZENBAUM. The Senator from Idaho may have a point there. I do not want them to default. I do not want companies to go bankrupt. I want the industry to be viable. I want to keep as many companies in business as is possible.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. METZENBAUM. I only yield for that question.

Mr. SYMMS. It is past midnight. I admit there is a great deal of difference. But the people in my State do not want this.

Mr. METZENBAUM. I yielded to the Senator for one question. I wish to give back the floor. The hour is late.

I see the Senator from North Dakota in the Chamber and I ask unanimous consent that I be permitted to yield to the Senator from North Dakota.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. ANDREWS. Mr. President, the hour is late and we are talking about a continuing resolution on an appropriation bill where we have heard a lot of mention bandied about about various figures, I wish to ask the chairman of our committee, the chairman of the Appropriations Committee, how much money he feels this amendment now pending, the Hatfield-Metzenbaum amendment, will save the Treasury of the United States. Does this save money to the Treasury, or is this a spending measure?

I think that obviously our chairman has done a great deal of work with his staff and can shed some light on it.

Mr. HATFIELD. Mr. President, I would say in answer to the Senator from North Dakota that we have about 5 billion dollars' worth of contracts that were made in time when they averaged 44 percent higher in appraised value than what they would average today in the same timber sale appraisal. That means that out of that $5 billion of contracts, considering the fact that a major portion of them are owned by small- and medium-sized timber operators who have a total dependence on Federal timber, it would be an estimate of about 20 percent that would face contract default. That would mean about $800 million to $1 billion that otherwise be available if they are in a position to perform on the contracts which means money to local governments who gain percentage of those Federal timber and receipts to the Federal Treasury also.

Consequently, contract termination is not going to take one dollar or one dime out of the Federal Treasury, but rather it means putting money into the Federal Treasury and into local governments who share in those Federal timber receipts.

I only wish to say, Mr. President, as the Senator from Ohio said, this amendment is certainly not what I would like to have it as a final product. No compromise ever is. I do support it and I feel that it will help. It is not a bailout; not one dime of Federal money is going to be taken out of the Treasury and given to any timber purchaser. But it does provide opportunity to create revenue for the Federal Government.

Mr. NICKLES. Mr. President, I rise in opposition. I know the Senator from Montana has been leading the opposition to this amendment and I would not preempt him. But this certainly is legislation on an appropriations bill without any doubt. The hour is late.

I am on the Energy and Natural Resources Committee, along with Senator MCCLURE. We did have hearings on this problem. We did not have hearings on the particular proposal that is before us.

I can tell the Senate that the proposal that is before us, and I compliment the managers for their efforts in trying to come up with a program, though, is opposed by a lot of people, including the administration.

Mr. President, I ask unanimous consent that a letter from the administration to Chairman MCCLURE be printed in the RECORD at this point.

Mr. HATFIELD. Mr. President, I do not wish to pursue that but point out that it has already been printed in the RECORD.

Mr. NICKLES. I withdraw that request.

Mr. President, just for a real quick comment for a few of our colleagues, I do not wish to take up any more time than is necessary, but the administration is opposed to this proposal.

It is extremely complicated. It varies the amount of contract abrogation, and that is basically what we are doing. We are abrogating some contracts here that were entered into that quite frankly now the prices that were entered into are higher than the market is now and there are a lot of companies no doubt that are having some financial problems, so it is a degree of what type of abrogation and the schedule that is in the proposal of the Senator from Ohio, which is extremely complicated. Actually, the greater the problem that one has the more abrogation is allowed and the less net worth that you have the greater the abrogation.

Mr. HATFIELD. Mr. President, will the Senator yield for a question at this point?

Mr. NICKLES. I am happy to yield.

Mr. HATFIELD. Does the Senator support the abrogation of natural gas contracts?

Mr. NICKLES. The Senator is probably aware that I do not support the abrogation of contracts and I actually plan on having an amendment along with Senator WEICKER and some others that would eliminate that abrogation of contracts in natural gas, and I am trying to be consistent. I do not agree with abrogating timber contracts.

I might just read a couple of statements from the Assistant Secretary for Natural Resources and Environment, Mr. Crowell, in their opposition to this amendment. It says:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

It says further:

. . . This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

It also says:

It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

Mr. President, again I do not think we need to debate this at length. It is legislation on an appropriations bill, and I will leave it up to the Senator from Montana who had led the opposition whether he wants to make that motion or a motion to table. But it is extremely complicated. I would hope we would not try to legislate this late in the evening on this program.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. NICKLES. I yield.

Mr. SYMMS. I thank the Senator for yielding. And I thank him for the points he brought out in answer to the question our distinguished friend from North Dakota brought out about the Forest Service's own estimate. This amendment would cost an additional $230 million. The administration's proposal that is now under way is $195 million cost to the Treasury. So there is a cost involved with this, and I think we should understand that.

I think the Senator from Oklahoma made the case very well.

Mr. ANDREWS. Mr. President, the point is there is a lot of money here involved. What happened is the White House itself abrogated these timber contracts.

If I am on the farm and I buy 10,000 bushels of corn to feed my cattle and the price goes down a buck no one bails me out for bidding the wrong price in the first place.

Senator METZENBAUM pointed out that it cost the Federal Government, cost the taxpayers $500 million a year out of the till of the Department of Agriculture, $500 million a year that could be used for the nutrition of schoolchildren in this country, and I think these figures are significant.

Mr. MELCHER. Mr. President, will the Senator yield on that?

Mr. ANDREWS. The Senator should look at the figures on the basis of justice and contract equity. The package the Senator from Oregon has put together makes a good deal of sense and should be voted on on that basis or if the sanctity of the committee process wishes to be protected, perhaps the Senator from Idaho and the Senator from Montana would go along with the suggestion that we hold in abeyance the White House action until committee action has been taken.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. ANDREWS. I am glad to yield on that.

Mr. SYMMS. Mr. President, I thank the Senator for yielding.

I am sure the Senator does not want to leave the impression here that the White House abrogated those contracts, because that is not true.

Mr. ANDREWS. I do not want to leave that impression. That is exactly what happened.

Mr. SYMMS. That is not what happened.

Mr. ANDREWS. I am amazed the press has not shed more light on it.

Mr. SYMMS. That is not what happened. Those contracts have been extended and there is a great deal of difference in that so that these companies if we continue to have a recovery

can blend in some of that timber and manage to sell it.

I point out they cannot default on them. There is a way to do that and then there is no return to the Treasury. There is no return. These companies have to go ahead and take that timber. The Senator knows that will be tied up for years in court, and I think there is a process under way and there may be a way out of it.

I compliment the Senator from Oregon and the Senator from Ohio for their efforts.

But I think it would be inappropriate to try to solve this here tonight.

Mr. MELCHER. Mr. President, first of all, I do not want anybody to keep in their mind the $500 million figure per year, a half a billion dollars per year. That is not what the Senator from Oregon said at all. That is not what the facts are. Timber sales, timber contracts are not all upfront money the first year. It is based on where the timber is cut, and it is spread over a number of years. So you cannot multiply $500 million times the rate of interest and get an annual figure because that is not where the money would come in anyway.

I think what the Senate sees here is a complication of the problem that has not been thoroughly thrashed out in the committee, and you have all these reports in front of you. I think we are at a disadvantage in trying to move this amendment at this time tonight.

There is one point about why some of our people dislike this very much, probably most of them do, and it is shared around the country because there is an element of competitive advantage in termination of contracts. It has to be carefully weighted and carefully meted out. And you cannot do that, I am sorry to say, this evening with this particular amendment.

I think I would like to have all the western timber folks together and the western Senators representing timber folks together. We are not that way tonight. I am sorry we are not.

Mr. STEVENS. Mr. President, small timber companies in Alaska bid for short-term timber sale contracts which have no timber rate redetermination. Consequently, in a soft market, these companies have contracts which are not close to the market clearing price.

Unfortunately, the long-term contract in Alaska, which can last for 30 years sometimes, does have a rate redetermination clause, which allows the timber price to adjust to a soft market. For purchasers of timber in the national forests in Alaska, long-term contract rates are redetermined, but the short-term contract—which faces the same market price changes—are not redetermined. The inequity of this will force the shorter term timber purchaser out of the market.

The purpose of this amendment is to allow the shorter term timber contract rate to be redetermined in order to reach parity with the long-term contract. This will enable the small independent timber companies of Alaska to compete also.

Mr. HELMS. Mr. President, during the past 3 years the forest products industry has drastically changed—primarily because of a dramatic drop in home construction brought about by high mortgage interest rates.

In almost every area of the country, except for Oregon, timber companies have gone out of business in response to the reduced demand for lumber. According to Dunn & Bradstreet, in 1980, 98 firms went out of business nationwide; 172 firms followed in 1981. And for the first 7 months of 1982, 301 mills went belly up. Over this 2½-year period, a total of 571 timber mills in the United States closed their doors.

But, Mr. President, the numbers for Oregon are vastly different. Over roughly the same period, October 1981 through October 1983, according to Forest Service records, only four firms went bankrupt in the Pacific Northwest. Now I do not want to see even one firm go out of business, not in North Carolina, not in Oregon. But I do suggest that these statistics should be instructive to Members of the Senate as to why their constituents may not like the idea of the termination, or buy out, of Federal timber contracts. The plain fact is that most of the country has already made the painful adjustment to a lower demand for timber. Firms in Oregon, which purchase timber almost exclusively from the Federal Government, have not had to make the hard business decisions that the timber industry in the rest of the country has already made.

Mr. President, firms in Oregon have largely been protected because the majority of their timber contracts—which are Federal timber contracts—were extended for 5 years. In August of this year, the President proposed to allow an additional 5-year extension on these contracts. However, recognizing that there are costs to the Federal Government in allowing these contracts to be held for this additional period—and recognizing that good forest management requires that these timber sales be operated within the next 5 years—the administration required that these companies begin to make payments to the Federal Government for this timber, some of which was purchased almost 10 years ago and is still standing.

Some companies object to this procedure because they might have to operate some of these sales at a loss. Although no one enjoys this prospect, the fact is that the rest of the country has already suffered through it. These folks are not vindictive, they cannot afford to allow their friends, who are also their competitors, in the Northwest to gain a competitive advantage through a bailout from their Federal contracts. Federal timber, under contracts that are terminated or bought out, would come back on the market at a reduced price. This would, of course, help some companies, but inasmuch as timber from the Northwest is sold across the country, basic economic analysis suggests that some of this lower priced timber from the Northwest, will displace timber from other areas in markets across the United States.

Mr. President, although it appears from the earlier vote that Senators favoring this amendment may carry the day, I feel obliged to oppose this amendment and to point out that this proposal is not just a bailout for a few companies in Oregon and, therefore, isolated in its effects, but that such legislation will have detrimental effects on the economies of many communities throughout this country.

Mr. MELCHER. I do not think we should belabor this any longer. I hope we can move on promptly. For that reason, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. MELCHER. Mr. President, I ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana (Mr. MELCHER) to table the amendment of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado, (Mr. HART), the Senator from South Carolina, (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas, (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 31, nays 50, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—32

Armstrong	Hatch	Melcher
Baucus	Hawkins	Nickles
Bentsen	Hecht	Nunn
Boren	Heflin	Roth
Byrd	Helms	Sasser
Cochran	Huddleston	Symms
DeConcini	Jepsen	Thurmond
Denton	Johnston	Trible
East	Kasten	Warner
Garn	Lugar	Wilson
Grassley	Mattingly	

NAYS—50

Abdnor	Ford	Percy
Andrews	Gorton	Pressler
Baker	Hatfield	Proxmire
Biden	Heinz	Quayle
Bingaman	Humphrey	Randolph
Boschwitz	Kassebaum	Riegle
Bradley	Kennedy	Rudman
Bumpers	Lautenberg	Sarbanes
Burdick	Leahy	Specter
Chafee	Levin	Stafford
Chiles	Mathias	Stennis
Cohen	Matsunaga	Stevens
D'Amato	Metzenbaum	Tsongas
Danforth	Mitchell	Wallop
Dixon	Moynihan	Weicker
Eagleton	Packwood	Zorinsky
Exon	Pell	

NOT VOTING—18

Cranston	Glenn	Long
Dodd	Goldwater	McClure
Dole	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower

So the motion to lay on the table amendment No. 2569 was rejected.

The PRESIDING OFFICER. The question recurs on the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDENT NO. 2587 TO AMENDMENT NO. 2569

Mr. STEVENS. Mr. President, I have discussed this amendment with the two sponsors.

Mr. MELCHER. Will the Senator yield? Is the Senator amending the amendment before us?

Mr. STEVENS. Yes.

I have discussed the amendment with the two sponsors and I have an amendment which I understand will be adopted and the pending amendment modified. The small timber companies in Alaska did not have the same kind of timber redetermination.

We have long-term contracts in Alaska which would not be affected by this amendment that I am offering. Only the short-term contracts which are for the small timber purchasers, the small operations, the small independent operations in Alaska, would be affected by it.

Mr. President, I send an amendment to the desk and ask the sponsors of the amendment if they will modify their amendment to accept my amendment.

Mr. HATFIELD. The Senator is correct.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2587.

Mr. STEVENS. I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6 of amendment No. 2569, following line 3, add the following:

(k)(1) Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981 and five years from the effective date of this legislation.

(2) In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of bid premium, in order to provide rates which will permit the holders of short-term contracts to be competitive with other purchasers of National Forest timber.

(3) The Secretary, when considering a purchaser's application for emergency rate redetermination as provided under sub-section (a), shall base the decision to grant such a rate redetermination upon the determination that current stumpage rate no longer reflect the market and other economic conditions in Alaska, and that the revision is needed in order for the holders of these contracts to remain competitive with other purchasers of National Forest Timber in Alaska.

Mr. STEVENS. I ask the two sponsors of the amendment if they will modify their amendment to accommodate this amendment.

Mr. METZENBAUM. If the Senator from Oregon is agreeable, I am certainly agreeable, because there is no point in pitting the two regions against one another.

Mr. HATFIELD. Mr. President, I agree with accepting the amendment.

The PRESIDING OFFICER. The amendment is so modified.

ORDER OF BUSINESS

Mr. HATFIELD. Mr. President, I wonder if we could have a reading of what amendments are still to be offered. Could we have a show of hands as to how many more amendments?

About eight—I think we have a few more, so there are probably around 12 or 15.

As you know, Mr. President, the House has gone out. They will be coming in at 9:30 in the morning, appointing conferees at that time, according to Mr. WRIGHT, the majority whip. We have scheduled the conference at 10 o'clock in the morning with the House of Representatives. That means that we have no choice but to continue until we complete the continuing resolution, whatever hour that may be.

We do need a few hours to put the documents in order so the conference may have the proper documents to confer upon at 10 a.m.

I urge the Senators at this time, if possible, to restrict their explanations as far as long comments are concerned and make them as brief as possible. We shall be as reasonable as we can be in accepting them, hopefully thereby avoiding rollcalls.

This particular amendment, of course, is the unfinished business. I understand from the Senator from Montana that he expects to continue some debate on this amendment if it is not tabled.

Does the Senator from Montana have any idea how long he may wish to take on this amendment?

Mr. MELCHER. Mr. President, if the chairman will yield.

Mr. HATFIELD. Yes, Mr. President, I am happy to yield.

Mr. MELCHER. I can say I do not want to take any time. But it is in the bill. If we have a voice vote or a record vote, apparently, we cannot afford that. So I guess there will be some time needed to work out something else than this amendment.

I thank the chairman for yielding.

Mr. HATFIELD. I ask the Chair to put the question.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, this is an unfortunate thing. To get into what we ought to do in our forest management practices, we often have difficulty getting together and getting an understanding by the Senators from other parts of the country in order to pass legislation. We have before us an amendment that was not tabled a few moments ago. Looking at the raw numbers in the vote, I assume the amendment will probably stay in the continuing resolution.

This is an amendment that those of us in the inner mountain region who have to deal with forest products and the jobs that are involved have to resist. There is a competitive angle that cannot be ignored. Many of the timber contracts are in very productive areas of the West, particularly on the west slope, the Pacific slope, and those are bid rather high, because there is good timber there. The problem is that the companies that operate there are companies that have more timber available and they can afford to bid higher on the timber sales. Naturally, they are the ones where, when lumber prices drop, the timber contracts are the highest.

In that part of the country, a tree grows rather fast. In our part of the country, in the inner mountain areas, it grows rather slowly. So in trying to work out accommodation over the course of the past several years to

hope the forest products industry, we tried to keep a balance between those interests—those in the Pacific slope where the growth is very good and those, like my own, in our State of Montana, the inner mountain area, where it takes twice as many years to grow trees the same size. This disadvantage that is found if this amendment becomes law would be a question of how competitive our forest products industry in the inner mountain area would be compared to those on the western slope. We would be disadvantaged. This is why most of our people are very much against this amendment.

There have always been ways of attempting to work out accommodations for all the States that are involved in national forest lands and national forest legislation, but it has never come easily. The Timber Management Act of 1976, the Forest Products Management Act of 1976 for national forests, and the comprehensive revision of all the forest planning and forest practices took a good deal of time before they were finally hammered out by the House and the Senate and signed into law.

We had a bill before us where the lead author was Senator HATFIELD, that attempted to deal in an evenhanded way with forest timber sale redeterminations to make some attempt to compromise among all the various groups that have interests in those timber contracts. Most of us from the West joined in sponsorship of that bill and we reported it out of the committee in the last Congress, but were not successful in getting it out of the Senate.

In this Congress, the chairman of the Appropriations Committee, Senator HATFIELD, introduced a similar bill again——

Mr. SYMMS. Will the Senator from Montana yield?

Mr. MELCHER. I would be delighted to yield.

Mr. SYMMS. I thank the Senator for yielding. I would just like very briefly to say to my colleagues and the Senator from Montana, who yielded to me for the purposes of making a point of order that this is legislation on an appropriations bill, there is a problem. I think the Senator from Ohio and the Senator from Oregon have spoken to this. We who come from the western timber-producing States know that there is a problem with timber contracts purchased that are now not worth what the people bid for them 4 or 5 years ago. The administration extended those contracts for 5 years so we could work them out.

This amendment that we are working on tonight makes a further grant to those companies who somehow can demonstrate that they had a low net worth, meaning that they bid for more contracts, being the big speculators, and lets them off the hook.

Would the Senator from Montana agree with what I have said so far?

Mr. MELCHER. That is true. The more they bid on it, the higher the contract, the more they reaped from the relief.

Mr. SYMMS. Those companies that bid the highest on the timber and got in the most trouble, the amendment pending before the Senate will let those people off the hook.

Mr. MELCHER. That is correct.

Mr. SYMMS. But will do nothing for the companies who were more frugal and more careful. Under the plan that is underway, there is a 5-year extension that covers all people. This amendment speaks specifically to people that qualify.

So if the Senator from Montana has no objection, Mr. President, I make a point of order that this is clearly legislation on an appropriations bill.

The PRESIDING OFFICER. Does the Senator from Montana yield for that purpose?

Mr. MELCHER. Yes; I yield for that purpose.

The PRESIDING OFFICER. The amendment places new duties on the Secretary of Agriculture and the Secretary of the Interior and is, therefore, legislation on an appropriations bill.

Mr. STEVENS. Mr. President, I appeal the ruling of the Chair.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 43, nays 37, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—43

Armstrong	Hatch	Nunn
Baker	Hawkins	Percy
Baucus	Hecht	Quayle
Bingaman	Heflin	Roth
Boren	Heinz	Rudman
Bumpers	Helms	Stafford
Byrd	Huddleston	Symms
Chafee	Humphrey	Thurmond
Cochran	Jepsen	Trible
Danforth	Johnston	Wallop
DeConcini	Kasten	Warner
Denton	Lugar	Weicker
East	Mattingly	Wilson
Garn	Melcher	
Grassley	Nickles	

NAYS—37

Abdnor	Ford	Pell
Andrews	Gorton	Pressler
Bentsen	Hatfield	Proxmire
Biden	Kennedy	Randolph
Boschwitz	Lautenberg	Riegle
Bradley	Leahy	Sarbanes
Burdick	Levin	Sasser
Chiles	Mathias	Specter
Cohen	Matsunaga	Stevens
D'Amato	Metzenbaum	Tsongas
Dixon	Mitchell	Zorinsky
Eagleton	Moynihan	
Exon	Packwood	

NOT VOTING—20

Cranston	Goldwater	McClure
Dodd	Hart	Murkowski
Dole	Hollings	Pryor
Domenici	Inouye	Simpson
Durenberger	Kassebaum	Stennis
Evans	Laxalt	Tower
Glenn	Long	

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, I have three very short amendments. They all pertain to the bill and we can rapidly dispose of them.

AMENDMENT NO. 2588

Mr. ABDNOR. Mr. President, I send the first amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) proposes amendment No. 2588.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of law, $1,000,000 of the unobligated funds as of September 30, 1983 from the appropriation for closeout activities of the Community Services Administration shall remain available through September 30, 1988.

Mr. ABDNOR. Mr. President, approximately $10 million of the appropriation for the Community Service Administration closeout activities lapsed on September 30, 1983 under section 139 of the first continuing resolution for fiscal year 1983, Public Law 97-276. This section extended the period of availability of the unobligated funds from the fiscal year 1982 appropriation through 1983. In order to provide funds to complete settlement of CSA complaints and related overhead costs, this language proposes to extend the availability of $1 million of the September 30, 1983 unobligated funds through September 30, 1988. In the event these cases are closed prior to this time the unobligated balance will be returned to the Treasury * * *

I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment?

The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2588) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2589

Mr. ABDNOR. Mr. President, I send the second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) proposes an amendment numbered 2589.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution $2,650,000 is appropriated for the repair of the Pension Building in Washington, D.C.

Mr. ABDNOR. Mr. President, this amendment will add $2.65 million to the bill in the GSA repair and alterations account. As you are aware the pension building here in Washington, D.C. has been designated as the "National Buildings Museum." Neglect through the years has caused extensive damage to this stately building. Work will soon be finished on the roof. The next step is to repair the great hall, as directed by the Congress in 1980. Moneys would be included for this purpose in next year's budget, but I believe acting now will save money and will also insure the great hall's renovation will be complete by January 1985 to celebrate the President's Inaugural Ball, the centennial year of its first use for that purpose.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2589) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2590

Mr. ABDNOR. Mr. President, I send a third amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) for Mr. SPECTER proposes amendment No. 2590.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert the following new section:

SEC. —. Notwithstanding any other provision of this joint resolution $14,000,000 is appropriated for purchase, design, repairs and alterations of purchased building in the Wilkes-Barre, Pennsylvania area.

Mr. ABDNOR. Mr. President, this amendment I am offering on behalf of Senator SPECTER.

The Senate Treasury bill has funding totaling $14,000,000 for repairs and alterations of a building in Wilkes-Barre, Pa. This amendment will allow use of some of this total for the purchase of the property. The amendment is intented to clarify any question which might arise.

● Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Appropriations Subcommittee on the Treasury and Postal Service for offering the amendment on the Social Security Administration data processing center in Wilkes-Barre, Pa.

The chairman has been most helpful in trying to solve this problem, which has been going on for 6 years.

In the fiscal year 1984 bill reported out by the full committee, there is $14 million appropriated for "renovation of a purchased building." The intent was for GSA to use these funds to renovate an existing building which was to be purchased by GSA this past summer. Unfortunately, to date GSA has not proceeded with the purchase. To rectify this problem of overcrowded and insufficient space which is of national interest, since this Social Security Administration data processing center is one of only three facilities in the Nation which process the earnings information from 5 million employers and maintain files for the retirement and survivors' insurance, disability insurance, and supplemental security income programs, the distinguished chairman was going to offer an amendment to appropriate the $14 million for purchase, design, and renovation of a purchased building in the fiscal year 1984 bill (S. 1646) on the floor.

Now that the House version of the Treasury bill has become part of the continuing resolution. It is important that this amendment be added.

Again, I thank the distinguished chairman for his assistance in this matter.●

The PRESIDING OFFICER. If there be no further discussion, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2590) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, although I can understand how sometimes it is difficult to keep track of all the directives, recommendations, and instructions contained in reports accompanying legislation, I believe that the agencies and departments have an obligation to follow the specific recommendations and directives contained in appropriations bill reports. Conscious disregard for congressional instructions regarding how appropriated funds are to be spent should not be tolerated.

Mr. DECONCINI. Mr. President, I agree completely with the distinguished chairman of the Treasury Appropriations Subcommittee. We spend a lot of time crafting these appropriation bills and writing the reports and if the committee directs the use of appropriated funds in a certain way, the agency involved should follow those instructions.

Mr. ABDNOR. I thank the Senator from Arizona. The Customs Service has apparently proceeded with some

end of year 1983 spending that has a direct effect on instructions we have made in the fiscal 1984 Treasury bill. Customs had requested funding for a low flyer detection net. Although we have reshaped the total air interdiction request within the President's budget, Customs has apparently ignored our instructions that up to $2 million be obligated for the purchase of specific digitizers at a price not to exceed $100,000 per unit, including support. Customs has apparently gone out and contracted on the last day of fiscal 1983, for digitizers costing $435,000 per unit. The contract would extend into fiscal 1984. In other words, Customs knew full well as early as July 1983 of the committee's directives yet in September 1983 they awarded an open-end contract at a unit cost four times the committee guidelines. I consider this to be an end run around the committee.

Mr. DECONCINI. Mr. President, I concur with my friend from South Dakota and join him in expressing my concern over this matter. I believe that the Customs Service owes the committee an explanation and that the Commissioner of Customs should send us a letter immediately, to reconcile this end-of-year action by Customs with the directives contained in our committee report, Senate Report 98-186 on page 24. Senator ABDNOR, does that seem like a reasonable request to be made to Customs?

Mr. ABDNOR. Yes; I believe that a written explanation from the Commissioner is appropriate and should be done. Furthermore, I would hope that his letter would also include his assurances that his agency will not, in the future, disregard committee instructions or recommendations in its reports and that they will follow our directives in fiscal 1984 and other fiscal years.

Mr. BOSCHWITZ. Mr. President, will the distinguished chairman of the Treasury, Postal Service and General Government Appropriations Subcommittee yield for a question?

Mr. ABDNOR. I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Is it correct that OMB has sought to review some marketing orders for fruits and vegetables, but that it has not sought review of milk marketing orders?

Mr. ABDNOR. The Senator is correct.

Mr. BOSCHWITZ. Is it true that the provision barring OMB review of marketing orders for 1 year will not restrict the normal review and oversight functions that USDA performs on the orders?

Mr. ABDNOR. This is correct.

Mr. BOSCHWITZ. I thank the distinguished floor manager. As he well knows, our home States of South Dakota and Minnesota are not affected by fruit and vegetable marketing orders. They are, however, influenced by milk marketing orders.

Mr. President, the milk marketing orders provide some very useful protection for dairy farmers, before they were instituted, unscrupulous milk processors were able to take unfair advantage of farmers. The marketing orders helped to establish equity in what had been a somewhat chaotic marketplace.

The milk-marketing orders are not above reproach, however. In some instances they have contributed to uneconomic developments within the industry. The arbitrary basing of the price for fluid milk in much of the country on the Minnesota-Wisconsin price series makes little sense in today's market. The fact that a higher price is paid for fluid milk as one moves farther from Eau Claire, Wis., has encouraged milk production in areas that do not have a comparative advantage. They are able to produce milk because they are paid a higher price under the orders. In many areas, they have expanded their production much more rapidly than has been the case in the upper Midwest.

I may yet be in favor of making changes in the milk-marketing orders which would lead to greater economic efficiency. During the recent debate on the dairy compromise many Senators from other regions of the country supported cutting the price supports to reduce production. I would argue that that end could be more fairly achieved by a change in the milk-marketing orders. However, because the provision in this bill does not prevent USDA from making changes through normal administrative process, I will support it. I hope, though, that USDA will take a careful look at the milk-marketing orders and affirmatively address the issues I have raised.

AMENDMENT NO. 2591

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) for himself, Mr. PELL and Mr. PERCY proposes an amendment numbered 2591.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution insert: "Notwithstanding any other provision of this joint resolution, not more than $677,000,000 shall be used for the Military Assistance Program."

Mr. ZORINSKY. Mr. President, 2 years ago I introduced an amendment earmarking the administration's request for $20 million in aid to the private sector in Nicaragua. My purpose at that time was to avoid the creation of a foreign aid slush fund. At that time I was extremely skeptical that the administration would ever be able to spend that money given the internal situation in Nicaragua. Consequently, my amendment would have allowed the money only to be spent in Nicaragua or not spent at all. The distinguished chairman of the Senate Foreign Relations Committee, Senator PERCY, and officials from the Department of State prevailed upon me to consider the possibility of an emergency. I agreed with their concern and Senator PERCY, Senator PELL, and myself engaged in a colloquy here on the Senate floor, the purpose of which was to give the President authority to use this money for other purposes provided there was "an unforeseen emergency situation in which the vital national security interests of the United States were threatened." Senator PERCY, speaking for himself, and with the foreknowledge and agreement of the Department of State, made that commitment to Senator PELL and myself, and also promised to insure that I would be consulted in advance of any such request.

Last year my skepticism about the administration's ability to use this money for the private sector in Nicaragua proved well-founded when the administration sought to reprogram the funds for other purposes. At that time the administration was unable to demonstrate an unforeseen emergency or one affecting the vital national security interests of the United States. I suppose in retrospect that we should have fought this battle then, but in an effort to be cooperative and reasonable, we allowed the reprograming to go through and sent a letter to Secretary Haig noting our expectation that this situation would not be repeated in the future. I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 26, 1982.

Hon. ALEXANDER M. HAIG, Jr.,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: We have recently received notification of the President's intent, under special authority of Section 614(a)(1) of the Foreign Assistance Act, to reprogram $14.9 million in earmarked Economic Support Funds from Nicaragua to Liberia for fiscal year 1982. Undoubtedly, consultations on this proposed reprogramming will follow shortly. However, both as background for those consultations and also as a guide for future reprogrammings, we would like to note the committee's particular concern with the authorization for this action.

The ESF earmark for Nicaragua has an extensive legislative history, particularly in

the Senate. During last year's debate on assistance for Nicaragua, Senator Zorinsky argued that funds requested and authorized for Nicaragua should "not be used as a slush fund." To that end, Senator Zorinsky proposed earmarking language which would have precluded even special Presidential waivers under the Foreign Assistance Act. After consultations with Senator Zorinsky and with the Administration, Senator Percy offered the following compromise from the Senate floor on the Nicaragua earmark: "I propose that the legislative history of the earmark, which would be maintained, would indicate that the earmark could not be waived by Section 614 of the FAA and the funds earmarked for the Nicaragua private sector could not be reprogrammed unless: First, there is an unforeseen emergency situation in which the vital national security interests of the United States are threatened; and second, Senator Zorinsky is consulted through a memorandum in advance of the official notice."

The Senate agreed to this proposal and earmarked $20 million in ESF funds for Nicaragua in fiscal year 1982, to be spent in support of the private sector. In conference on the International Security and Development Cooperation Act of 1981, spending restrictions for the Nicaraguan private sector were dropped. However, the $20 million ESF earmark for Nicaragua was retained and extended for an additional fiscal year.

This $20 million ESF earmark would now provide the source of funds for the Administration's reprogramming proposal. Before notifying Congress, Administration officials did meet with Senator Zorinsky to outline the proposal. However, despite the legislative history, no written memorandum was submitted to Senator Zorinsky or to the Committee prior to the official notification.

More serious questions surround the Administration's use of Section 614 authority in this reprogramming request. Liberia's importance to the security interests of the United States is not at issue here. However, the President's powers under Section 614 are intended to be reserved as "special" reprogramming authorities, and not as a means to circumvent the regular Congressional authorization process. In the case of the Nicaragua earmark, the "special" nature of Section 614 authorities is particularly clear, since the Senate legislative history stresses that these funds would not be reprogrammed unless "there is an unforeseen emergency situation in which the vital national security interests of the United States are threatened."

Whatever the merits of aid to Liberia, the need for that aid does not come as an emergency and is not unforeseen. Since early 1981, the U.S. has been assisting Liberia, through balance-of-payments support, in meeting that country's oil import bills and debt service obligations. The present reprogamming would extend budget support of this type. As early as last summer, Committee staff visiting Liberia were told that the Administration would require approximately $35 million in ESF funds for Liberia in FY 82. In fact, a 1981 IMF agreement with Liberia was negotiated on the assumption that the United States would make available this volume of assistance.

Substantial aid for Liberia has already been furnished in the past eighteen months through other reprogamming and defense stock draw-down requests. Thus, this latest reprogramming proposal represents a further, predictable increment in an expanding program that has never been presented in a way which allows full and prior Congressional review.

The proposed reprogramming raises significant questions about the integity of the authorization process and the scope of the President's Section 614 authorities. We hope that these questions will be addressed in upcoming consultations, and that future reprogrammings will reflect more carefully the intent of Congress.

With best wishes,

Ever sincerely,

CHARLES H. PERCY,
Chairman.
CLAIBORNE PELL,
Ranking Minority Member.
EDWARD ZORINSKY,
Ranking Minority Member, Subcommittee on Western Hemisphere Affairs.

Mr. ZORINSKY. Mr. President, despite the clear intent of my amendment and the colloquy with Senators PERCY and PELL concurred in by the administration, and despite our notice to the State Department last year, the administration this year informed the committee literally hours before the end of the fiscal year that once again it was seeking to reprogram the earmarked money. Not only was the consultation inadequate, but the reprogramming took place before it was completed, and the administration once again failed to demonstrate an unforeseen emergency in which the vital national security interests of the United States were threatened. Consequently, Senator PERCY, Senator PELL, and I wrote to Under Secretary of State Schneider objecting to the reprogramming. I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 30, 1983.

Hon. WILLIAM SCHNEIDER,
Under Secretary of State for Coordinating Security Assistance Programs, Department of State, Washington, D.C.

DEAR MR. SECRETARY. Pursuant to your letters to Senator Zorinsky of September 29 and 30, we regret to inform you that on behalf of the Committee on Foreign Relations, we must object to any reprograming of Economic Support Funds from Nicaragua to Sudan and the Dominican Republic.

We want to emphasize that we make this objection despite our belief that both proposed recipients are worthy of additional economic aid on the basis of U.S. security interests and on the basis of need. Unfortunately, as the colloquy between Senators Pell, Zorinsky and Percy on October 20, 1981, indicated, the use of Section 614 waiver authority for the Nicaragua earmark would have to meet a higher standard than need for U.S. security interest. The justification, established in the colloquy, would have to be predicated on an "unforeseen emergency" in which "vital national security interests of the U.S. are threatened." This higher standard was agreed to in order to persuade Senator Zorinsky to delete the "notwithstanding" clause contained in his original earmark for Nicaragua—an earmark, we hasten to note, that was designed to prevent the use of this $20 million as a "slush fund."

Regrettably, this higher standard has not been met; nor has ample time been provided for a suitable consultation between your office and our Committee members, especially with Senator Zorinsky. Consequently we must register our objection to this proposed reprogramming, submitted to us, as it is, at the eleventh hour. In the future, we would expect the Department to provide us sufficent advance notice which would allow us to consider such requests in a timely fashion.

Sincerely,

CHARLES H. PERCY,
Chairman.
CLAIBORNE PELL,
Ranking Member.
EDWARD ZORINSKY,
U.S. Senator.

Mr. ZORINSKY. The Department of State ignored its commitment to the terms of the colloquy in making the reprogramming, and then proceeded to ignore for 1 month our letter objecting to this action. The response when it came was disheartening and disingenuous. For that reason: acting to preserve integrity to the process the chairman and ranking member of the Senate Foreign Relations Committee and I have no recourse but to move to delete $20 million in funding for security assistance for next year, and that is precisely the purpose of my amendment, cosponsored by Senators PERCY and PELL, now before the Senate.

Mr. President, it is hard for me to fathom how economic difficulties in the Dominican Republic and the Sudan constituted an unforseen emergency, and the fact is they did not.

This was simply the old bureaucratic game of "spend it before you lose it." We will never solve our deficit problems until Washington breaks such habits. It is time that Federal agencies learn to live by the same budget rules as the rest of us—and one of them is that you do not spend money simply because it is there, simply for the sake of spending it. The Treasury and the taxpayers deserved that $20 million since it was not spent on what it was appropriated for. My amendment today simply assures that the money will be returned to the Treasury.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Appropriations Committee, I wish to say that the Senator from Nebraska has, I think, a rather legitimate concern. I have sometimes found myself in similar situations and too often we allow the executive branch to get out from under commitments it has made.

Therefore, I am going to recommend that we accept his amendment, which I hope will not only send a signal to the Department of State on his particular problem, but likewise it should be a warning to the executive branch that such conduct will not be tolerated in the future.

I am going to recommend that we accept his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 2591) was agreed to.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2592

(Purpose: To prohibit the General Services Administration from using any appropriated funds for selling or otherwise transfering the Hickam Air Force Base Administrative Annex to anyone other than the State of Hawaii or its agencies for airport development purposes)

Mr. MATSUNAGA. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) for himself and Mr. INOUYE proposes amendment No. 2592.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

No funds made available by this or any other Act may be expended by the General Services Administration to sell, dispose, transfer, donate, or lease the real property and improvements known as the Hickam Air Force Base Administrative Annex (identified by the General Services Administration control number 9-D-HI-477-B) unless such sale, disposal, transfer, donation, or lease is to the State of Hawaii or any agency thereof for use for airport development purposes.

Mr. MATSUNAGA. Mr. President, this is an amendment I am offering in behalf of Senator INOUYE and myself. It has been cleared by Senator DECONCINI and Senator ABDNOR on both sides, the ranking minority member and the chairman of the subcommittee of jurisdiction, and it has also been accepted by the floor managers on both sides.

It is an amendment to prohibit the expenditure of funds for use by the GSA for the sale or disposition of the Hickam Air Force Base administrative annex unless such sale and transfer is made to the State of Hawaii for airport development purposes only.

This is in accordance with the master plan which was designed for the Honolulu International Airport and has been approved by the FAA.

Property owned by the Navy has already been transferred. This is the last piece of property, 3.4 acres, and which will complete the master plan for the development of the airport and Honolulu International Airport is one of only two airports which provides joint use for military and civilian purposes.

This is a good amendment. I urge its adoption.

Mr. President, I urge my colleagues to take favorable and expeditious action on this amendment which I have offered in behalf of Mr. INOUYE, and myself.

Our amendment would prohibit the expenditure of funds for use by the General Services Administration (GSA) for the sale or disposition of the Hickam Air Force Base Administrative Annex, unless such sale or transfer is made to the State of Hawaii for airport development purposes.

The State of Hawaii has, for some time, sought to gain title to this property for development of a new inter-island terminal complex at Honolulu International Airport. In 1968, the State completed a master plan for airport development at Honolulu International Airport. Since that time, the State has been able to secure the transfer of several parcels of land necessary for the planned development. The sole remaining parcel of land is the 3.41 acres, which is the subject of this amendment. This parcel is critical to the completion of the proposed inter-island airport expansion.

Accordingly, in 1981, the State submitted an application to the Federal Aviation Administration (FAA) for a cost-free transfer of the Hickam Annex. This application was made in compliance with the provisions of the Airport and Airway Development Act of 1970 which specifically mandates the transfer of unneeded Federal lands to appropriate public agencies for airport development. In this case, the FAA did, in fact, approve Hawaii's application and requested that the land be conveyed to the State at no cost.

In spite of FAA approval, the GSA, which now has control of the land, has persistently refused to give Hawaii title to the property. The GSA maintains that, by virtue of the 1949 Surplus Property Act which gives GSA discretion in determining the terms of conveyance of surplus Federal lands, it is not bound by the terms of the 1970 Airport and Airway Development Act.

Mr. President, the entire Hawaii congressional delegation has supported the State in its attempt to secure title to this property so as to complete the new airport terminal complex. The delegation is in agreement that the use of this property for the inter-island terminal complex is the best possible use of the property. Moreover, it is clearly congressional intent, as expressed in the Airport and Airway Development Act, that the cost-free or discounted transfer of excess Federal land for airport development is appropriate and desirable if there is an apparent need for such development.

Mr. President, the need clearly exists in Hawaii. I believe that GSA has not acted in a reasonable manner with respect to the Hickam property. In fact, the State has been forced to seek court action on this matter. Our amendment will give the State of Hawaii more time to seek an equitable resolution of this matter and I urge my colleagues to adopt the amendment.

Mr. INOUYE. Mr. President, I rise to speak in favor of an amendment I am offering with my colleague from Hawaii, Mr. MATSUNAGA, to the measure before us which would prohibit the General Services Administration (GSA) from selling or otherwise disposing of the Hickam Air Force Base administrative annex except to the State of Hawaii for airport development purposes.

The Hickman administrative annex is a 3.4-acre parcel of surplus Federal property which the State of Hawaii requires for the expansion of the Honolulu International Airport. The airport is one of two joint military-civilian use airports in the United States and since 1956 has been subject to an agreement between the military and the government of Hawaii providing for the cooperative exchange of land to facilitate the orderly growth of necessary air transportation facilities. Pursuant to this agreement and the Airport and Airways Development Act, which expressly embodies a legislative commitment to the utilization of excess Federal property for local and State airport development, the State has developed a federally approved airport master plan which anticipates the receipt of excess Federal lands and accommodates Federal needs and concerns.

Pursuant to this plan, in February of 1981, the State made application to the Federal Aviation Administration (FAA) for a cost-free transfer of the Hickman property pursuant to the Airport and Airways Development Act of 1970, which provides that Federal agencies are "authorized and directed" to transfer excess Federal lands reasonably necessary for airport development. In September of that year, the FAA approved Hawaii's application and requested that the U.S. Air Force, the agency then in control of the land, convey the title to the State "without consideration other than the benefits to accrue to the public and the United States by virtue of the use of the land for public airport purposes."

The Air Force, however, pursuant to the direction of the General Services Administration (GSA), transferred control of the parcel to the GSA. Significantly, the U.S. Navy, understand-

ing itself to be bound by the Airport Act, has, in the identical circumstances, transferred excess property to the State of Hawaii rather than the GSA.

Since its receipt of the Hickman property, the GSA has repeatedly refused requests by the State and the FAA that Hawaii be given title to the property. Instead, it asserts that it is not subject to the Airport and Airways Act and that the parcel is not an appropriate object of any discounted conveyance despite express Federal recognition of the State's need, the appropriateness of the proposed use, the Federal benefit, and the existing statutory mandate.

It is currently the posture of the GSA that the parcel is to be sold at public auction or for its fair market value through negotiation. Despite protests by Hawaii's congressional delegation, an initial attempt at a public sale was made and failed only for want of a satisfactory bid. The State of Hawaii has since filed a suit seeking to compel a cost-free or discounted transfer.

Regardless of the outcome of the court action, it is my conviction that the GSA, in its zeal to obtain maximum profit from the sale of surplus lands, has wrongfully ignored the express intent of Congress and violated the reasonable and honest expectations of the State of Hawaii. I do not believe that this should be permitted and, therefore, request the support and approval of this body for the proposed amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2592) was agreed to.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2593

(Purpose: To prohibit the implementation of changes to the executive remuneration disclosure requirements which were in effect prior to September 23, 1983)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 2593.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds appropriated by this joint resolution or any other Act shall be available to the Securities and Exchange Commission to implement the amendments adopted on September 23, 1983 (48 F.R. 44467), with respect to forms and regulations pertaining to the disclosure of executive remuneration, or to otherwise amend or revise the forms and regulations pertaining to the disclosure of executive remuneration which were in effect immediately prior to such amendments.

This provision shall remain in effect through September 30, 1984.

Mr. METZENBAUM. Mr. President, this is an amendment that has to do with some rules and regulations at the SEC that the SEC has indicated they intend to put out having to do with the question of providing lesser amount of information to stockholders in corporations.

I have discussed the subject with the Member of the Senate who has jurisdiction over this matter. To the best of my information and knowledge he has no objection to it.

I hope that the managers of the bill will see fit to accept it.

The PRESIDING OFFICER. If there be no further discussion of the amendment, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2593) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 2594

Mr. WILSON. Mr. President, thank you.

Mr. President, I hope to not detain the Senate but briefly.

I have two quick matters.

First, I ask unanimous consent to offer a technical amendment that will accommodate the concern of the Senator from Virginia that the language be clarified in the amendment that I offered earlier to the perfecting amendment of the Senator from Louisiana. The effect of this would be simply to make clear that what was intended was the acquisition by the American Presidents Line of existing foreign-built vessels and extends the time which applications might be made to June 1 rather than January 1, 1984.

This language has been agreed to by the Senator from Louisiana.

As I say, it is at the request of the Senator from Virginia. I know of no opposition.

I ask unanimous consent that the amendment may be offered.

The PRESIDING OFFICER. Is there objection to amending the agreed upon amendment?

Mr. DECONCINI. Mr. President, I am sorry. We have not been briefed on the amendment. May the Senator send it?

Mr. JOHNSTON. Mr. President, will the Senator from Arizona yield?

Mr. DECONCINI. I am glad to yield.

Mr. JOHNSTON. Mr. President, the amendment drawn at the request of the Senator from Virginia makes no substantive change. I believe it is a technical change to put in a date in the second paragraph where one did not previously exist. It puts the word existing in. I think it carries out the intent of the original amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2594 to the Johnston amendment numbered 2584, previously agreed to.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase, executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than four existing foreign-built vessels for operation under U.S. flag, and shall require conversion of two such vessels in a U.S. shipyard. Upon application prior to June 1, 1984, by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within 2 years preceding the date of enactment of this Act, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under U.S. flag, and shall require conversion of one such ship in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2594) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2595

Mr. WILSON. Mr. President, the second matter is one that I ask the Senate to support in the interest of

honoring a request from the city of San Francisco for emergency relief. The nature of the relief that they are seeking is this: Members will recall, I am sure, that last winter California was battered by rather cruel storms up and down the coast, including the bay area. The need for a breakwater——

Mr. HATFIELD. Will the Senator yield?

Mr. WILSON. Certainly.

Mr. HATFIELD. Mr. President, this amendment has been reviewed on both sides of the committee and we are willing to take it to conference.

The PRESIDING OFFICER. The amendment has not yet been reported. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2595.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place in the resolution add the following:

The project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area: is hereby authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

The PRESIDING OFFICER. The question is on the amendment.

Mr. METZENBAUM. Mr. President, I do not have any objection to dispensing with the reading of the amendments, but we have had the first amendment and now the second amendment, and the Senator has not told us what is in the amendment. If he would just let us have some advice on it.

Mr. WILSON. Mr. President, I am happy to tell my friend from Ohio that the purpose is to allow what is contained in other legislation, notably the authorization bill by Senator ABDNOR, in which his committee could go forward at this time in order to achieve an advance in the date of construction of a breakwater for which the funding is contained in another appropriations measure. What we are trying to avoid is a situation which occurred last year when the storms in California brought great damage. This is to authorize a breakwater for which funding is contained in companion legislation.

Mr. METZENBAUM. I thank the Senator from California.

Mr. WILSON. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DECONCINI. Mr. President, I would like to address a question to the Senator from California. Is this the Fisherman's Wharf amendment?

Mr. WILSON. Yes.

Mr. DECONCINI. And it is a breakwater that has come under damage because of the recent storms there?

Mr. WILSON. It is a breakwater that has been required to prevent future damage.

Mr. DECONCINI. Is there a cost on this?

Mr. WILSON. Yes; $18 million. That is not contained in this legislation.

Mr. DECONCINI. How much is in this legislation?

Mr. WILSON. Not 1 penny.

Mr. DECONCINI. It is the authorization?

Mr. WILSON. It is the authorization.

Mr. JOHNSTON. Mr. President, we have reviewed this in the Energy and Water Subcommittee on the minority side. Even though it is an authorization, we think it is a worthy one and ought to be approved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2595) was agreed to.

Mr. WILSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have an amendment at the desk which has been sitting there since last evening that I now call up and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, I wonder if the Senator would yield for two technical amendments?

Mr. HELMS. Yes; I would be happy to yield.

Mr. HATFIELD. I thank the Senator.

AMENDMENT NO. 2596

Mr. HATFIELD. Mr. President, I send to the desk the first of two technical amendments and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2596.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 after line 6 insert the following: "(f) Such amounts as may be necessary for continuing the activities, not otherwise specifically provided for in this joint resolution, which were provided for in H.R. 4139, the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed the House of Representatives on October 27, 1983, to the extent and in the manner provided for in such Act, and at a rate for operations as was provided for in S. 1646, the Treasury Postal Service and General Government Appropriation Bill, 1984, as reported to the Senate (S. Rept. 98-186) on July 20, 1983."

Mr. HATFIELD. Mr. President, what this amendment does is simply to move the language around within the bill. There is no change in the bill whatsoever. Because we have adopted the House Treasury bill and the Senate Treasury bill as matters for conference, we have to move some language around within the bill in order to put it in the proper sequence.

Mr. SARBANES. Does this have to do with the figures?

Mr. HATFIELD. This is on the matter of rate of operations for the Treasury-Postal Service.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2596) was agreed to.

AMENDMENT NO. 2597

Mr. HATFIELD. Mr. President, I send a second technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2597.

On page 1, strike out lines 3 through 6, inclusive.

Mr. HATFIELD. Mr. President, what this does is change the date for the continued resolution from the House date, which is in February, to the end of the fiscal year. This has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2597) was agreed to.

Mr. HATFIELD. I thank the Senator from North Carolina.

Mr. HELMS. The Senator is quite welcome.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2598

(Purpose: To protect the liberty of citizens in maintaining religious and private schools against bureaucratic and judicial encroachments)

Mr. HELMS. Mr. President, the purpose of this amendment, the religious liberty amendment, is to respond to the continuing and unwarranted harassment of nondiscriminatory Christian schools.

The PRESIDING OFFICER. The Senator will please withhold. The clerk has not reported the amendment.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. DENTON, proposes an amendment numbered 2598.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the joint resolution, add the following:

SEC. . None of the funds made available under this joint resolution may be used to carry out such provisions as are found in proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, Februray 13, 1979, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296, through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

SEC. . None of the funds made available under this joint resolution may be used to carry out any regulation, requirement, policy, procedure, or court order that, on account of the date of a church's or school's establishment or expansion or of its geographical location, creates a legal inference or presumption of racial discrimination by any church or any religious, church-operated, or private school having a racially nondiscriminatory policy as to students, as defined in Revenue Ruling 71-447.

Mr. HELMS. Mr. President, let me stress at the outset that we are not talking about any school that has had the first vestige of a suggestion that it has been discriminatory in any way.

This amendment represents a new version of the Ashbrook-Dornan amendment of past years which became the law of the land. The pending version, however, contains significant changes to insure that the decision of the Supreme Court in the Bob Jones case will not—and I repeat for emphasis—will not be affected. Although I disagree with the Supreme Court's majority opinion in that case and share the dissenting opinion of Mr. Justice Rehnquist, I carefully designed the pending amendment to avoid any conflict with the holding of the Supreme Court's majority.

Now I am perhaps repeating this to the point of being boring, but I want to make clear the legislative history as to the intent of the pending amendment.

The religious liberty amendment would do two things. First, as in past versions of Ashbrook-Dornan, the amendment would prevent funding of the proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, February 13, 1979, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296, through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

The proposed IRS procedures are clearly affirmative action regulations and effective quotas that place tax-exempt schools under a presumption of guilt, requiring them to prove their innocence. These regulations are so harsh and unfair that churches and schools could lose their tax exemption even though they may have never turned away even one minority student.

Second, the amendment would prevent the funding of any IRS activity to deny tax exemptions to schools merely because they were established or expanded at a certain time or in a certain locality. Such a blanket presumption of guilt is alien to American concepts of due process of law, yet we have seen resort to such draconian measures in the Green and Wright cases in recent years.

The decisions in those cases failed to recognize that the time when most school districts were being desegregated was also the time when the Supreme Court outlawed Bible reading, prayers, and religious practices in public schools. Sociological reports and university studies show that most of the church schools established in the past 20 years were founded in direct response to these decisions of the Supreme Court.

Those who automatically assume that these schools were founded for discriminatory purposes simply fail to take into account how disturbed many parents were when the Federal courts effectively secularized the public schools. Many of these parents strongly believe that education is, by its nature, inherently religious. In response to the court decisions they founded schools that reflect their views—schools that are primarily religious in nature—schools that are, more often than not, attended by pupils from the same church, and where the doctrines and belief systems of that particular church are inculcated.

To require religious academies of this type to engage in affirmative action would be like requiring Hebrew schools or Jewish yeshivas to recruit Baptist students in proportion to the local population. No matter how actively they might attempt to recruit such students and faculty, or how much money they might spend on recruitment campaigns, they would be unlikely to find enough prospective students or faculty members willing to submit to their religious beliefs. That being the case, the only way for such schools to comply with affirmative action guidelines would be to water down their religious requirements and lose their identities as religious schools.

Mr. President, my amendment assures that for schools with a nondiscriminatory policy as to the students, as defined in Revenue Ruling 71-447, the IRS will not be able to apply a blanket presumption of guilt as a convoluted excuse for denying a nondiscriminatory school a tax exemption.

Mr. President, the question is relevant as to which came first, the wholesale breakdown of moral values in our society or the collapse of these values in our schools? Millions of Americans pray every day for a rebirth of the spiritual values that made us a nation in the first place. If the spirit of God were to rouse 200 million Americans to action, there is no describing the greatness in store for this country, or the blessings forthcoming to nations now held captive—if and when, once again, our Nation is rededicated to the cause of freedom under God's law.

Mr. President, religious schools and church-operated schools across this land seek to foster in their young students the spiritual and moral values which made the United States a leader of nations. Sadly, Mr. President, our Nation's private, religious, and church-operated schools have come under constant attack from the Federal bureaucracy.

The Internal Revenue Service first launched its full-scale attack on our Nation's private schools and religious schools in 1978. In its proposed revenue procedure of August 22, 1978, the IRS placed thousands of innocent private and religious schools across the Nation under a presumption of guilt of racial discrimination. These schools were required to prove their innocence by implementing such as racial quotas and affirmative action programs.

After a nationwide protest erupted, the IRS responded in February 1979, with a proposal that was still more vague and arbitrary. It was hardly reassuring to the American public when the IRS announced that it alone would determine the guilt or innocence of schools based on all the facts and circumstances. The standards set forth were wholly subjective and capricious leaving private schools and religious schools to the whim of IRS bureaucrats.

Mr. President, the verdict was in before the investigations began. The IRS moved to establish Federal controls over private, religious schools, and churches. Who can say that the motives of those who conspired to implement this unconstitutional scheme were none other than to cynically vio-

late the civil rights of religious minorities, parents, churches, and schools.

With justification, the IRS bears its full share of the blame for the present crisis which it helped to create. Yet, the full story of this sordid matter is a darker and more complicated chapter on bureaucratic and judicial abuse of power than even the sharpest critics of the IRS have revealed. What unfolds is a story of collusive litigation, a sweetheart suit in which the IRS was the defendant. Instead of defending, the agency worked to support the interests of the plaintiffs who were suing the agency.

A review of the history of the well-known Green and Wright cases is instructive. The plaintiffs asked for court orders which would have required the IRS to implement quotas and affirmative action guidelines for tax-exempt schools that were established or expanded during periods of desegregation of nearby public schools. The IRS defended its position only during the early phases of this litigation, and by 1978, the agency was actively promoting the cause of its supposed adversaries, the Green and Wright plaintiffs.

This became sweetheart litigation at its worst. Those participating at one time included IRS officials, attorneys from the Tax Division of the Justice Department, the U.S. Commission on Civil Rights, the old Department of Health, Education, and Welfare, the Lawyers Committee for Civil Rights, and other attorneys who use the Federal judiciary as a tool for radical activism. To this must be added the names of judges from the U.S. district court and the U.S. Court of Appeals for the District of Columbia who have also participated in the sweetheart litigation.

Mr. President, I now want to go through briefly what is a long and complicated history of the Green and Wright litigation.

CHRONOLOGY OF GREEN AND WRIGHT CASES

What follows is the sequence of the most significant developments in the Green and Wright litigation:

In 1971—The U.S. Supreme Court upheld the U.S. district court ruling in Green against Connally that tax exemptions for private segregated schools in Mississippi violate Federal public policy. IRS had already made the provisions of this order apply to the entire Nation in Revenue Ruling 71-447.

July 23, 1976—The original Green plaintiffs reopened the case asking for a drastic, new order prohibiting tax exemptions to schools that were established or expanded during periods of desegregation in nearby public school districts.

July 30, 1976—The Wright plaintiffs from six States outside Mississippi filed an almost identical suit. The cases were later consolidated and caused the crisis which exists today.

May 10, 1977—The IRS strongly defended against the arguments of the Green and Wright plaintiffs. The IRS noted that there were many valid reasons that a school could be established or expanded other than an intent to discriminate.

June 28, 1978—The IRS reversed its position and began to advocate the same position as the Green and Wright plaintiffs, that is, that the IRS should adopt new regulations. The litigation became a sweetheart suit at this time. The IRS reached an agreement with the plaintiffs in unethical secret meetings in which the only third party intervenor in either case was neither notified of nor allowed to participate in the lengthy out-of-court settlement.

August 22, 1978—The IRS published proposed revenue procedure on tax-exempt schools in the Federal Register in an attempt to settle the sweetheart suit; 150,000 letters of protest were received by the IRS. The IRS held hastily called hearings, but totally disregarded arguments pointing out its total absence of statutory authority, constitutional problems, and unfair presumptions of guilt which require harsh quotas and affirmative action requirements in order for a school to prove its innocence.

February 13, 1979—The IRS published its revised proposed revenue procedure for tax-exempt schools in the Federal Register. It was generally considered to be worse than the original proposal because it was more subjective and vague, and it indicated a total disregard for the legal arguments that were presented against it.

September 29, 1979—The Treasury Appropriations Act containing the Ashbrook and Dornan amendments became law. The amendments prohibited funds for implementation of any parts of the proposed revenue procedures.

October 25, 1979—The IRS filed a memorandum aimed at getting the Wright case dismissed so that it could lose in Green. The IRS suggested that the court might either declare the Ashbrook and Dornan amendments to be unconstitutional or interpret them narrowly, to permit the implementation of new, more stringent rules. The IRS argued that the difficult issues should be more properly addressed in the Green litigation where the question of standing had been decided. Note: This was the key to the IRS scheme to get the court to order the agency to violate the amendments. The IRS wanted to have the Wright case dismissed because it has a troublesome intervenor, and it would excite too much public opposition if an order were immediately handed down which applied to the entire Nation. The Wright case was consolidated with the Green case at this time, and the IRS was especially desirous of having the Wright case dismissed in order to lose the Green case. The IRS plan was apparently to get precedent established in Mississippi in the Green case which would provoke less national opposition. After precedent could be established in Mississippi, the standards set for that State would be applied to the entire Nation as the IRS did following the 1971 Green against Connally decision.

November 26, 1979—Judge George Hart followed the IRS suggestion and dismissed the Wright case. The Wright plaintiffs appealed, but the IRS was not free to proceed to the Green case.

November 27, 1979—The IRS filed its legal memorandum in the Green case that clearly showed its desire to lose. This is the smoking gun of the sweetheart suit. The IRS defense argued that defendants strongly believe that additional guidelines in this area was needed. Furthermore, the IRS claimed that compliance with the restrictions may raise serious constitutional questions. Again the IRS argued that the amendments may be overcome by a court either declaring the riders unconstitutional, or interpreting the riders narrowly, to permit the implementation of new, more stringent rules. These incredible arguments were made so that the IRS would lose its case. The evidence is clear that the IRS actively promoted the interests of the Green plaintiffs at the expense of Government interests.

May 5, 1980—Judge George Hart ruled against IRS in the Green case. Yet, the IRS made no effort to appeal because it had wanted to lose.

June 12, 1980—Judge Hart clarified his order of May 5.

July 9, 1980—Judge Hart denied a motion to intervene by First Presbyterian Church of Jackson Miss. This was extremely unfair because neither the IRS nor the Green plaintiffs had anything to lose in the lawsuit, and the church could lose its tax exemption because of their sweetheart suit.

July 10, 1980—Assistant IRS Commissioner S. Allen Winbourne filed an affidavit in U.S. district court describing IRS enforcement of the Green order. All the activities that he described were prohibited by the Ashbrook and Dornan amendments, and they involved substantial illegal expenditure of funds.

May 14, 1981—After lenghty and inexcusable refusals to allow church schools to intervene in the Green case, Judge Hart finally allowed Clarksdale Baptist Church to intervene—another church remains unfairly excluded. Judge Hart is only allowing "discovery," however.

June 18, 1981—The U.S. Court of Appeals for the District of Columbia

ruled 2 to 1 that the Wright plaintiffs have standing to sue the IRS. This reversed Judge Hart's decision of November 1979, and it means that a court order for the entire Nation is now distinctly possible.

Currently—The Wright case is pending before the Supreme Court on the issue of the plaintiffs' standing.

The civil rights of parents, churches, and schools were clearly violated in the sweetheart suit by the IRS, Justice Department, the Green attorneys, and the Federal judges who sanctioned the staged litigation. It is beyond dispute that the Green case was collusive, not adversarial, litigation. Judge Hart himself acknowledged this in the almost identical case of Wright against Miller. Hart wrote on October 25, 1979 that the IRS and Wright plaintiffs seemed closely allied.

It is equally true that the IRS and the Green plaintiffs were closely allied. When the House Ways and Means Subcommittee on Oversight held hearings in February 1979, there was no difference on any major points in the testimony of the IRS Commissioner and the Lawyers Committee for Civil Rights who were suing the agency on behalf of the Green plaintiffs.

The ranking minority members of the House Ways and Means Subcommittee on Oversight with jurisdiction over the IRS gave five incontrovertible reasons why the Green case was a collusive sham. Congressman PHILIP CRANE noted:

> It is beyond dispute that the litigation was collusive, not adversarial. The evidence is clear from court records and public statements by IRS officials.
>
> First. The IRS publicly advocated the same position as the Green and Wright plaintiffs; namely, that the IRS should adopt the new regulations.
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> Second. The IRS agreed to implement the proposed revenue procedure in secret meetings with the Green and Wright plaintiffs. The only third party intervenor was unethically excluded, indeed, he was not even notified of these closed meetings to which the IRS admitted to having spent "many hundreds of hours." No disciplinary action has yet been taken against those attorneys who participated in this abuse of the intervenor's rights.
>
> Third. The IRS lobbied against the Ashbrook and Dornan amendments.
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> Fourth. Instead of defending the amendments, the IRS suggested legal interpretations that would lead the Federal court to ignore the amendments, and cause the IRS to lose its case. The IRS lost.
>
> Fifth. The IRS made no effort to appeal its loss in the Green case because it desired the results obtained by losing.
>
> When like-minded plaintiffs and defendants use the Federal judiciary to obtain mutually desired results, it should attract the attention of Congress. Whenever such sham litigation is used to usurp the legislative authority of Congress, strong action is required.

After the IRS first published its proposed revenue procedure for tax-exempt schools on August 22, 1978, voices were raised appealing to Congress to halt this grab for power. Congress responded in 1979 with the passage of the Ashbrook and Dornan amendments which prohibited funds for implementation of the proposed regulations. This should have ended the problem.

In utter contempt of Congress, the IRS made sweetheart arguments in the D.C. District Court so that it could lose in the Green case and be ordered to violate both the Ashbrook and Dornan amendments.

A Federal court of appeals said that the Ashbrook amendment was not intended to restrict IRS authority to carry out court orders. *Wright* v. *Regan*, 656 F.2d 820 (1981). In this the appeals court was in error. Nonetheless, in order to make it clear that the Ashbrook amendment blocked IRS from carrying out such orders, an express prohibition to that effect was added in 1981 and again is included in my amendment today.

Article I, section 9, clause 7 of the Constitution vests the appropriation power of the Federal Government in the Congress, and in the Congress alone. The Constitution thus clearly denies to the courts the power to order the expenditure of Federal funds where Congress had forbidden that expenditure. Congress, by these amendments, is serving notice on the courts that it is exercising its constitutionally conferred appropriation power in order to deny the Internal Revenue Service the authority to impose unnecessarily burdensome requirements upon tax-exempt schools.

These amendments provoke no constitutional crisis between the branches of Government. To the contrary, the Constitution has already settled the matter most explicity: Congress is to have exclusive power over the purse. If the courts will but respect the Constitution, the crisis evaporates. As James Madison stated in the 58th Federalist:

> The power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into-effect every just and salutary measure.

Mr. President, in passing my amendment, Congress will again be asserting its authority as the only branch of Government that has the power to legislate and appropriate funds. Passage of these amendments reaffirms the principle that Congress, not the Federal courts, has exclusive power of the purse.

Mr. President, Thomas A. Bovard, a fine young attorney who serves as counsel to the Judiciary Subcommittee on Separation of Powers, has written an informative article on the Christian schools movement. Mr. Bovard graduated from Yale University in 1975 and earned his law degree from the University of Virginia in 1978. He is a member of the Virginia Bar.

Mr. President, I ask unanimous consent that the Bovard article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CHRISTIAN SCHOOL MOVEMENT AND ITS CONFLICT WITH THE INTERNAL REVENUE SERVICE

(By Thomas A. Bovard)

Particularly since 1976, controversy has raged about tax exemptions for private religious schools. In 1976 the plaintiffs in *Green* v. *Connally* sought to broaden the scope of an earlier court decision by demanding that the IRS start denying tax exemptions to schools merely because they were established or expanded at the time nearby public school districts were desegregating.

Lengthy court battles followed that court decision, but in August 1978, the IRS proposed a set of regulations incorporating the demands of the plaintiffs for affirmative action guidelines and quotas. These regulations would have not only made it virtually impossible for affected schools to maintain their religious identities, but they were also so burdensome that implementing them would have been beyond the financial resources of most Christian schools. Schools would have been subject to these regulations even though there was no direct evidence of racial discrimination.

For a number of years, Congress prevented these 1978 regulations from being implemented, but Judge George L. Hart, Judge of the United States District Court for the District of Columbia, in a 1980 court ruling has attempted to put them in effect through the back door, as it were, ruling that Christian schools established during periods of desegregation have to submit to cumbersome affirmative action requirements or lose their exemptions. Under this ruling, the Clarksdale Baptist Church of Clarksdale, Mississippi, which operates a Christian school, and which by religious conviction does not practice racial discrimination, now faces loss of its tax-exempt status simply because it was founded at the wrong time. No one has attempted to show that the school actually discriminates.

In the past, a number of parties have suggested that the only religious schools threatened by the *Green* case and the IRS regulations were just "segregation academies" or "white-flight" schools that use religion as a cloak for racism. What they fail to recognize is that the time that most school districts were being desegregated was also the time when the Supreme Court outlawed Bible reading, prayers, and religious practices in public schools.

Thoughtful and informed discussion of this matter is critical because of its profound implications for all religious private schools. I hope, therefore, to set the record in this area straight and shed some light on the discussion by showing the real nature of the Christian School movement and its conflict with the IRS.

I. THE BIRTH OF THE MOVEMENT: A RESPONSE TO THE INCREASING SECULARIZATION OF THE PUBLIC SCHOOLS

The organizations that run religious schools adversely affected by the IRS regu-

lations are not the simple white-flight schools they are so often protrayed to be. Overbroad IRS regulation has in fact threatened a huge number of religious schools of every denomination and faith. In recent years, with the advent of what many view as conscious hostility toward religion and religious values in the public schools, parents, in increasing numbers, have been removing their children from public schools and placing them in newly created or expanded religious schools. Removal of the Bible and prayer from public schools was, for many religious groups, the final impetus for choosing an alternative system of education.

Several articles and studies undercut the popular equation of "Christian" schools with "white-flight" schools. In 1979 William Lloyd Turner published a doctoral dissertation on this issue at the University of Wisconsin at Madison entitled, "Reasons for Enrollment in Religious Schools: A Case Study of Three Recently Established Fundamental Schools in Kentucky and Wisconsin." Later, writing for the February 1980 issue of Phi Delta Kappa, with Virginia Davis Norden, professor of Law and Higher Education, Turner summarized the results of his study in an article entitled, "More than Segregation Academies: The Growing Protestant Fundamentalist Schools." He found that, while some of the Kentucky schools appeared to have profited by widespread opposition to racial integration, similar growth of fundamentalist schools in rural Wisconsin, where integration was not a factor, indicated that "Christian" education was a national, not a regional, phenomenon.

Turner noted that "Christian" schools in both states, unlike the "segregation academies" that sprang up in some areas of the South, appeared not to attract students from a cross section of the community. Instead parents who enrolled their children in these schools tended to come from churches of the sponsoring denomination or from churches holding similar doctrinal positions. Even more significantly the percentage of students in the two fundamentalist schools who were subject to busing during the current school term was smaller than the percentage of such students in the general population. Turner found that only one of the 68 families surveyed in the Louisville fundamentalist schools was using the non-public schools as a "haven" to avoid busing for one year.

The schools surveyed were geographically distant and had differing cultural backgrounds, two in Louisville, Kentucky and one in Madison, Wisconsin. In both cities, however, fundamentalist parents gave the same reasons for withdrawing their children from public schools:

"Most frequently they alleged poor academic quality of public education, a perceived lack of discipline in public schools, and the fact that public schools were believed to be promulgating a philosophy of secular humanism that these parents found inimical to their religious beliefs."

In both communities the respondents did oppose interracial marriage, but, Turner concluded, the real motivation for founding and maintaining the schools appeared to be the belief held by many evangelical Protestants that public schools now espouse a philosophy that is completely secular, perhaps even antireligious. Turner want on to elaborate on the philosophical differences between fundamentalist and public schools and to describe the practical consequences stemming from these philosophical differences:

"Fundamentalist educators perceive a basic philosophical difference between themselves and the leaders of public education. Like the seventeenth-century Puritans, they believe in the 'innate depravity of man.' Because they believe that the corrupt nature of humanity can be changed only through a supernatural infusion of Divine grace, religious 'conversion' becomes the basis of all education. Furthermore, since human nature is utterly depraved, children require strict supervision and authoritarian guidance if they are not to be overcome by Satin and the evil within their own nature.

"Fundamentalists see public education, by contrast, as proceeding on John Dewey's conviction that human nature is basically good, that students will naturally seek the highest and best if left to themselves, and the adversary is therefore not Satan or an evil nature but poverty, ignorance, and prejudice. Fundamentalists try to approach the educational task from a different philosophical perspective, using different methodology and pursuing different goals.

"Because they perceive that the Protestant ethnic has disappeared from public education philosophy, fundamentalists have voiced an increasing nostalgia and a desire to return to the practices of former days. One hears frequent references to the 'old-time religion,' 'old-fashioned' virtues, and the 'faith of our fathers.' This has produced schools that attempt to create the environment of past generations. 'Rock' music, movies, and most television programs are forbidden; hair and clothing styles resemble those of a bygone era; textbooks stress 'traditional' concept in math, while education gets 'back to the basics.' Sex roles are sharply defined, and school policies are enforced through the administration of corporal punishment by an authoritarian teacher or principal."—Phi Delta Kappa, supra at 392-93.

Peter Skerry, who for 17 days during February 1979, visited Christian schools scattered across the central Piedmont region of North Carolina made a similar analysis in an article in the fall 1980 issue of Public Interest entitled "Christian Schools Versus the IRS." His conclusion from his experience was that "skepticism toward the religious orientation of these schools is altogether unwarranted, and furthermore, that the effort is altogether unwarranted, and furthermore, that the effort to reduce their emergency to a matter of racism is a gross oversimplification." (Skerry, "Christian Schools versus the I.R.S.," Fall 1980, at 19).

In his article he described the religious orientation of those largely Independent Baptist schools and how they are run by the same officers as those of the sponsoring church. Generally too poor to hire sufficient outside help, they rely on parental initiative and sacrifice to keep both the church and its school ministry functioning. Parents not only pay what for them is a budget-straining tuition; they work in the schools often serving as teacher aides, secretaries, cafeteria workers, or bus drivers. Skerry then summarized the reasons why these parents reject the public school system:

"When asked specifically why they reject the public schools, parents make it clear they need the Christian schools as much as the schools need them. Most frequently cited is the Supreme Court's 1963 school-prayer ban. A few parents mention a recent controversy over the singing of Christmas carols in public school assemblies. Many complain of the virtual disappearance of the pledge of allegiance from the public schools. A few are troubled by sex education. Such changes are seen by fundamentalist parents as direct assaults on God and country, the pillars of their universe.

"On another level, parents are displeased with what they've seen or experienced as the declining academic standards of the public schools. They recite the familiar litany of open classrooms, curriculum fads, widespread social promotion, declining test scores, and illiterate high school graduates. Neither products of higher education themselves nor especially concerned that their children be, the salesmen, millworkers, and auto mechanics who send their children to Christian schools are particularly incensed that the public system does such a poor job of teaching the basics, and they point with pride to the impressive record of the Christian schools in teaching reading and math skills. In every school I visited, four-year-olds were prepared so that by the first grade most were reading above grade level."

Typical of the situation that brought most of the parents to enroll their children in Christian schools was the situation that faced one family:

". . . One young mother in Charlotte explained why, after two and a half years in the public schools, she had decided to change to a Christian school. She had been quite pleased with the desegregated public school her son had gone to for first and second grade, but the following year the family moved, and he had to attend a different school—which she felt was academically inferior and rife with petty thievery and vandalism. But the last straw, she told me, was when she discovered that each day the children were allowed to play records for an hour, and her 9-year-old son had become infatuated with a rock group specializing in ghoulish costumes, demonic lyrics, and vomiting blood on its fans. Over the Christmas holidays she and her husband placed the child in a Christian school."—Id. at 27.

According to Skerry none of the schools he visited displayed the least evidence that racist attitudes are taught. All had open admissions policies and in several schools black children were enrolled. He contrasted with the Christian schools the segregation academies that appeared in response to the first southern desegregation orders and that were supported by direct tuition grants, textbooks, and transportation supplied by the states. The Christian schools, by contrast, exist solely through the voluntary efforts of the congregation that supports them, and are part not of resistance to segregation but of a general resurgence of conservative and fundamentalist churches throughout the country.

II. THE CHRISTIAN SCHOOL MOVEMENT COMES INTO CONFLICT WITH THE INTERNAL REVENUE SERVICE

The unprecedented movement to found religious private schools in the past decades has been accompanied by a growing number of lawsuits testing the government's right to regulate or impose standards on religious schools in a multitude of areas including curriculum, labor relations, unemployment insurance and zoning. (See *State* v. *Wisner*, 351 N.E. 2d 750 (1976); *NLRB* v. *Catholic Bishop*, 440 U.S. 490 (1979); *Grace Brethren Church* v. *California*, No. 79-93 (C.D. Cal. Sept. 24, 1979); and *City of Concord* v. *New Testament Baptist Church*, 118 N.H. 56, 382 A. 2d 377 (1978)).

Perhaps no controversy has received so much attention, however, as that involving the proposed guidelines that were supposed to determine "whether certain private schools have racially discriminatory policies as to students and therefore are not qualified for tax exemption under the Internal Revenue Code." The guidelines stated:

"A prima facie case of racial discrimination by a school arises from evidence that the school (1) was formed or substantially expanded at or about the time of desegregation of the public schools, and (2) has an insignificant number of minority students. In such a case, the school has the burden of clearly and convincingly rebutting this prima facie case of racial discrimination by showing that it has undertaken affirmative steps to secure minority students. Mere denial of a discriminatory purpose is insufficient."

The IRS went on to define "an insignificant number of minority students" as "less than twenty percent of the percentage of the minority school age population in the community served by the school." Schools against which such a prima facie case had been established—the so-called "reviewable schools"—would lose not only their exemption from Federal taxes (including social security and unemployment contributions), but, of more critical importance, the right of individual donors to deduct charitable contributions to the schools from their federal income taxes. With these regulations the IRS proposed to remove tax exemption not after detailed inquiry and formal proceedings, but through summary administrative action triggered by an arbitrarily established quota.

Assuming in advance the guilt of reviewable schools, the agency placed the full burden on the schools to prove innocence of discrimination. Small and struggling institutions like those described by Peter Skerry, supra, would have been forced not only to undergo the expense of litigation, but to do so while deprived of the special tax status on which their existence substantially depends. In brief, these proposals posed a mortal threat to Christian schools (*Christian Schools* v. *The IRS*, supra, at 31-32) and proponents of Christian education did not stand by silently. The furor these guidelines raised compelled the IRS to hold hearings in Washington in December of 1978. The agency received over 120,000 letters of protest, as one agency official put it "more than we've ever received on any other proposal." (Id. at 19).

In response to this outcry, the IRS in February 1979 issued "revised proposed guidelines." These softened the more abrasive aspects of the original guidelines, but the fundamental thrust remained—the agency still assumed the guilt of schools not meeting its affirmative action quotas. The revised guidelines offered six examples of the kind of "affirmative steps" reviewable schools would need to take to regain their special tax status:

—Active and vigorous minority recruitment programs;

—Tuition waivers, scholarships, or other financial assistance to minority students;

—Recruitment and employment of minority teachers and other professional staff;

—Minority members on the board or other governing body of the school;

—Special minority-oriented curricula;

—Participation with integrated schools in sports, music, and other events and activities.

Even these revised guidelines created a program of government oversight that burdened many more institutions than those that were clearly guilty of racial discrimination. Perhaps the most egregious requirement was the requirement that schools give financial assistance to minority students. As Skerry pointed out in his article, the families who send their children to Christian schools are of modest means and the schools themselves live a hand-to-mouth existence relying on tuition payments to cover operating expenses. Requiring such schools to award such financial aid would be tantamount to requiring them to close down. How effective such an assistance program would be even if it were economically feasible, would, moreover, be open to question. The nations traditional preparatory schools which can afford to offer significant amounts of aid have been able to attract only enough black students to account for 4 percent of their total enrollment. (Id. at 32).

Also misguided is the requirement that Christian schools recruit minority teachers. Academic qualifications are of secondary importance to the schools. Their first concern is that the teachers believe in accordance with the congregation's doctrinal statement. (Id. at 25). Most of these schools furthermore, adopt a "principle of separation" that requires teachers to reject such worldly habits as tobacco, alcohol, drugs, card playing, gambling, dancing, coed swimming, listening to rock music, going to movies, and in some cases, watching television. (Id. at 23). Skerry observed that the typical salary in the schools he visited was around $6000 for the academic year, easily half of public school salaries. Not only that, the schools offer their faculty no benefits such as medical or life insurance or retirement plans. (Id. at 25). It seems highly doubtful that many educated minority teachers would consent to the strictures Christian schools place on their staff or would accept the low salaries these institutions offer.

Finally, the idea of requiring Christian schools to place minorities on their boards is wrongheaded. As a rule the boards of these schools consist of members of the congregation, usually the pastor and his deacons. (Id. at 33). To require minorities to be included would mean that individuals who have not participated in and contributed to the activities of the congregation must now be granted the status and prerogatives of its most respected members.

Congress responded to the controversy over the proposed revenue procedures by acting to prevent the IRS from enforcing its proposed regulations and from devising any additional procedures for enforcing its policy of denying tax-exempt status to religious or private schools. The Dornan Amendment, Section 615 of the 1980 Treasury Appropriations Act, Public Law No. 96-74, 93 Stat. 559, 577, provided that the funds made available by the Act could not be used to carry out the 1978 and 1979 proposed revenue procedures. The Ashbrook Amendment, Section 103 of the 1980 Treasury Appropriations Act, 93 Stat. at 562, specified that the funds appropriated could not be used "to formulate to carry out any . . . procedure, guideline . . . or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under Section 501(c)(3) of the Interal Revenue Code of 1954 unless in effect prior to August 22, 1978."

III. SUMMARY AND CONCLUSION

Sociological reports and studies have thus indicated that many of the church schools established in the last twenty years were founded directly in response to these decisions of the Supreme Court. Those who assume that these schools were founded for discriminatory reasons simply fail to take into account how disturbed many parents were when the federal courts effectively secularized the public schools. Many parents strongly believed that education is, by its nature, inherently religious, and, in response to the court decisions they founded schools that reflect their views—schools that are primarily religious in nature—schools that are, more often than not, attended by pupils from the same church and where the doctrines and belief systems of that particular church are inculcated. To require religious academies of this type to engage in affirmative action would be like requiring Hebrew schools or Jewish yeshivas to recruit black students in proportion to the surrounding population. No matter how actively they might attempt to recruit minority students and faculty, or how much money they might spend on recruitment campaigns, they would be unlikely to find enough prospective minority students or faculty members willing to submit to their religious strictures. That being the case, the only way for them to comply with affirmative action guidelines would be to water down their religious requirements and lose their identities as religious schools.

Mr. HELMS. Mr. President, I do hope that the manager of the bill will accept this amendment. If not, I will ask for the yeas and nays.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. As I understand the amendment, it is essentially similar to one he offered last year, in 1982. The Senate did agree to a tabling motion offered by Senator MOYNIHAN 61 to 29. This is yet another attempt to deny the Internal Revenue Service the right to enforce antidiscrimination provisions of the law. Senator MOYNIHAN is on the floor and I think it would be appropriate that we referenced that vote.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to table the amendment.

Mr. THURMOND. Can the Senator withhold that for a few moments?

Mr. MOYNIHAN. Certainly. I ask that I be permitted to retain my right to the floor after the speakers have completed.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of the religious liberty amendment proposed by the distinguished Senator from North Carolina, Mr. HELMS. This amendment will prevent the IRS from using guidelines that are unreasonable and unduly burdensome in determining which private schools may be entitled to tax exempt status.

Mr. President, let me make my point perfectly clear so as to avoid any confusion about the intent of this amend-

ment. This amendment in no way restricts the IRS from denying or revoking a tax exemption for any school which is found to practice racial discrimination. I am opposed to racial discrimination. The issue here is not whether private schools with racially discriminatory policies should be entitled to tax exempt status. Under the law, as it has been decided by the U.S. Supreme Court, they are not entitled to such benefits, and this amendment has no bearing on that fundamental issue.

What is at issue here is a question of fairness and due process in administering the law. What is of concern here is the unjustified imposition of extremely onerous affirmative action regulations and racial quotas on private religious schools, based on an inference of guilt derived solely—and I repeat, derived solely—from the date a private school was established or expanded and its location.

Mr. President, such a presumption of guilt is contrary to the basic guarantees of due process and equal protection of the laws which underpin our society and our Government. Private and religious schools with explicit, nondiscriminatory policies should not be cloaked by the IRS or by the courts with a dark cloud of guilt, simply because the time and location of establishment or expansion appears to bear some relationship to public school desegregation. As the distinguished Senator from North Carolina has correctly pointed out, the period of active public school desegration was also the time period in which Supreme Court decisions banning prayer and Bible reading in public schools were handed down. These far-reaching decisions caused many parents who strongly desired that their children be educated in a religious environment to form or support private, Christian schools.

Mr. President, it is simply wrong and unjust to presume, without any evidence, that these schools engage in some form of illegal discrimination, despite their stated open enrollment and other nondiscriminatory policies. Similarly, it is wrong and unnecessarily punitive to require these schools to undertake elaborate affirmative action requirements, including the satisfaction of racial quotas, as a prerequisite to obtaining or keeping their tax exemption.

Mr. President, this is a good amendment, and a most reasonable proposal. It will not interfere in any way with the ability of the IRS to carry out its responsibilities under the law. It will, however, provide some measure of protection to innocent, nondiscriminatory private and religious schools from the heavy hands of the Federal bureaucracy.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to table the amendment and I ask for the yeas and nays.

Mr. DECONCINI. Will the Senator wait a moment while I ask a question of the sponsor?

Mr. MOYNIHAN. Yes.

Mr. DECONCINI. Will the Senator explain to me how the amendment differs, if at all, from the amendment offered last year? Are they the same? Is it the same as this amemdment? Was there something about a contribution?

Mr. HELMS. Let me be sure I answer correctly.

The first part is identical. The second part takes into consideration the Bob Jones decision by the Supreme Court and some other changes. I do not know how much detail the Senator wants. We can put in a quorum call and get a copy of each of them.

Mr. DECONCINI. I thought the amendment we had last time had something to do with contributions. Am I incorrect?

Mr. HELMS. We do not have a general purpose contributions provision in the amendment this time.

Mr. DECONCINI. I thank the Senator.

Mr. BRADLEY. I believe they are the same.

Mr. MOYNIHAN. That is the same.

Mr. LEVIN. Will the Senator from New York yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. LEVIN. Is it not correct, I ask my friend from North Carolina, that this amendment not only prohibits the implementation of the IRS regulation, but also prohibits the implementation of court orders of certain types?

Mr. HELMS. Only as to nondiscriminatory schools.

Mr. LEVIN. It goes beyond prohibiting the IRS from implementing the regulation by terms of its second paragraph; is it not true that it also prohibits the implementation of certain types of court orders?

Mr. HELMS addressed the Chair.

Mr. MOYNIHAN. Mr. President, I have the floor and the distinguished Senator asked me to yield for a question. If I may answer, yes, it does prohibit the implementation of court orders.

Mr. LEVIN. Mr. President, the amendment goes for beyond prohibiting implementation of an IRS regulation. It also prohibits implementation of court orders, it would thereby breed disobedience to the chair. I cannot support it although I believe that the IRS has in the past overreached it authority.

Mr. HATFIELD. I thank the Senator. I would like to make an observation if I could.

I have a great deal of sympathy for the problem I think the IRS, wittingly or otherwise, has raised in relation to private schools, religious private schools particularly. I think there is a question of possibility of having overreached their authority and trying to regulate in what I think is an attempt to thwart the right of people to associate themselves together in that kind of educational purpose. But I must say to the Senator from North Carolina that I have to carry this bill beyond the floor of the Senate to confernece in the morning. This is clearly a question of legislation, in my opinion. I am not going to raise that question for the Chair, but I think it is pretty well considered as such.

The House will not accept that in conference unless they take it back in technical disagreement.

It is more than a technical disagreement. It is really more just basic procedural disagreement. Consequently, I can just foresee now, as much as one can foretell the future, that this amendment, if adopted, would have a short life.

I would like to ask if the Senator from New York will yield to the leader to see if there is any possibility of getting a thorough airing on this subject on a proper vehicle that does not get us off into the thicket of procedural technicalities and so forth that we would be in on appropriations matters.

Mr. BAKER. Will the Senator from New York yield to me?

Mr. MOYNIHAN. I am happy to yield for that purpose while retaining my right to the floor.

Mr. BAKER. Mr. President, I thank the Senator from New York.

I, too, have a degree of sympathy for the Senator from North Carolina. I have seen at first-hand what I think is an excess of zeal, at least, and perhaps more than that, from the Internal Revenue Service in respect to private schools, church schools, and other schools, that I am convinced do not discriminate and have no intention of discriminating.

However, I agree with the chairman of the Appropriations Committee. I hope we do not have to deal with that issue on this bill.

Indeed, if the Senator from North Carolina will permit me, I am perfectly willing to join with others who, I believe, may have a similar view to see that we have a full and thorough examination of this issue and that, indeed, there is an opportunity for the Senate to speak on this issue on some other vehicle.

I am not trying to con the Senator, if he will permit me to use that phrase.

Mr. HELMS. I know that, Mr. President.

Mr. BAKER. I simply say I know what he is driving at. I also know how

complex and difficult it would be to deal with it on this bill.

I must say, Mr. President, I shall vote to table this amendment but I shall do so with reluctance, because I think there is much merit in what the Senator says and what the amendment proposes. I do hope we will not have to deal with it here.

I assure my friend from North Carolina that I shall do my part to see that the issue is addressed in a timely way and a way that I think will be agreeable.

Mr. MOYNIHAN. Mr. President, I believe I have the floor. I shall be happy to yield to the Senator from North Carolina for a question or with the understanding that I continue to have the floor after the Senator from North Carolina has finished.

Mr. HELMS. I thank the Senator.

Mr. President, I am very encouraged by and appreciative of the comments by my friend from Oregon and my friend from Tennessee. I wonder if the Senator will allow me to ask unanimous consent to lay this amendment aside temporarily and let the manager of the bill proceed with whatever other amendments they may have at this time.

Mr. MOYNIHAN. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

The PRESIDING OFFICER (Mr. JEPSEN). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 51, nays 28, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—51

Andrews	Eagleton	Moynihan
Baker	Exon	Nunn
Baucus	Ford	Packwood
Bentsen	Gorton	Pell
Biden	Hatfield	Percy
Bingaman	Heinz	Pressler
Boschwitz	Huddleston	Proxmire
Bradley	Johnston	Riegle
Bumpers	Kennedy	Rudman
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Chafee	Levin	Specter
Chiles	Mathias	Stafford
Cohen	Matsunaga	Stevens
D'Amato	Melcher	Tsongas
Danforth	Metzenbaum	Weicker
Dixon	Mitchell	Wilson

NAYS—28

Abdnor	Hawkins	Quayle
Armstrong	Hecht	Randolph
Boren	Heflin	Roth
Cochran	Helms	Symms
DeConcini	Humphrey	Thurmond
Denton	Jepsen	Trible
East	Kasten	Warner
Garn	Lugar	Zorinsky
Grassley	Mattingly	
Hatch	Nickles	

NOT VOTING—21

Cranston	Goldwater	McClure
Dodd	Hart	Murkowski
Dole	Hollings	Pryor
Domenici	Inouye	Simpson
Durenberger	Kassebaum	Stennis
Evans	Laxalt	Tower
Glenn	Long	Wallop

So the motion to lay on the table Mr. HELMS' amendment (No. 2598) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wish to update the Senate, to indicate where we are at the moment.

From the list that the minority and majority have been keeping, we have the following amendments remaining to be acted upon: one by the Senator from Ohio (Mr. METZENBAUM), one by the Senator from Massachusetts (Mr. KENNEDY), one by the Senator from Vermont (Mr. LEAHY), one by the Senator from Tennessee (Mr. SASSER), and I have one final amendment. That makes a total of five amendments, and I have not found that there is any controversy surrounding any one of the five. We have checked them on both sides of the aisle, and they will be accepted.

I have also looked around and asked about anyone who wants a rollcall vote on final passage, and I have not been able to ascertain that anyone desires to have a rollcall vote on final passage. So if I can make a general assessment at this time, I think we can handle these five remaining amendments in a relatively short period of time and voice vote final passage. I am not saying that is a final decision, but I say that appears to be where we are, and then we will go to conference.

AMENDMENT NO. 2599

(Purpose: To prohibit the availability of funds to lay up hopper dredges under certain circumstances)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. LEVIN, and Mr. RIEGLE, proposes an amendment numbered 2599.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act may be obligated or expended within six months after the date of enactment of this Act to remove from operational readiness, or to relocate from a home port, any hopper dredge so as to reduce the number of Federally-owned hopper dredges which are available for use on the Great Lakes to less than two.

Mr. METZENBAUM. Mr. President, this amendment would prevent the retirement of two Government-owned hopper dredges based on the Great Lakes for an additional 6 months.

I am offering this amendment to gain time so that we can determine whether the private dredging industry is capable of taking over this dredge work.

Mr. President, this amendment would cost the Government no additional funds. The Federal Government pays the cost of dredging harbors regardless of who actually does the work.

This amendment is necessary because of action announced earlier this year by the Assistant Secretary of the Army for Civil Works, William Gianelli, to reduce the Federal hopper dredge fleet.

Mr. Gianelli's plan flies in the face of recommendations submitted to Congress by the Army Corps of Engineers. In April 1982, the Corps of Engineers submitted a study outlining the minimum Government dredge fleet that would be needed to provide the national defense and emergency needs of this Nation. That report clearly stated that the Government must have eight hopper dredges, and two of these dredges should be based on the Great Lakes.

But the administration chose to ignore the Corps of Engineers' recommendation. Mr. Gianelli decided the

Government could get by with only four hopper dredges, and the Great Lakes could get by with none at all.

The Assistant Secretary notified Congress in a letter dated March 11, 1983, that the so-called excess Government dredge equipment would be decommissioned by the end of this calendar year.

Since that time, there have been no hearings, no investigations and little thought about who would do the dredge work on the Great Lakes, or about what the cost would be.

According to Mr. Gianelli, a new organization, the so-called Corps of Engineers Reserve Fleet (CERF), made up of privately owned dredges, could be called upon in the event of an emergency. Supposedly, the CERF concept was successfully tested in mobilization exercises.

But the fact is, the whole test was conducted on paper.

Mr. President, I am not opposed to a wider role for the private dredging industry on the Great Lakes. We have been heading consistently in that direction for several years. According to a 1981 GAO report:

> Private industry's share of the corps' Detroit district's (dredge) work on the Great Lakes has increased from about 12 percent in fiscal year 1977 to about 66 percent in fiscal year 1981.

This share has continued to increase since 1981.

But I am not certain that the private dredging industry can perform all the work now handled by the corps dredges. In addition, many questions remain about the increased costs that could be incurred by the Government due to the lack of competition in the private dredging industry.

There is only one Great Lakes based company that operates hopper dredges, and its two dredges are frequently performing work outside the lakes.

This company has already obtained through the Freedom of Information Act, corps cost records, which enable it to predict Government estimates for dredging jobs. The company can then bid within the required 25 percent of that amount, guaranteeing an automatic 25-percent increase in dredging costs out of the taxpayer's pockets.

This company recently increased its daily operating cost estimate from $19,000 to $26,000 even though audits disclosed daily costs as low as $16,000 per day.

The rental rate for the *Markham*, one of the two corps dredges, is only $17,000.

Mr. President, actions ordered by Mr. Gianelli have contributed to the appearance that Government dredging costs are higher than they actually should be.

For instance, the workweek of the corps hopper dredges was ordered reduced from 6 to 5 days. Due to the high proportion of fixed costs, the corps was forced to substantially increase the daily rental rate, further reducing its competitive position vis-a-vis the private dredging contractors.

Mr. President, it is clear that further investigation is required before we can permit Mr. Gianelli to implement this fleet reduction plan. There are too many unanswered questions involving the availability of privately owned hopper dredges, and the potential cost to the Government.

I urge my colleagues to support this amendment so that we can get some answers to these questions. We should have full knowledge of the facts before going forward.

Mr. LEVIN. Mr. President, I am pleased to cosponsor this amendment with the Senator from Ohio.

This amendment is an important one for the Great Lakes region as the Corps of Engineers begins a transition from the use of federally owned and operated hopper dredges to private industry dredges to meet the Federal Government's responsibility to navigation and commerce on the Great Lakes. Under the amendment, the corps is prohibited from using any funds during a period of 6 months after enactment for the purpose of removing from readiness or relocating from their home ports the two corps hopper dredges currently in operation on the Great Lakes.

Pursuant to Public Law 95-269, the Chief of Engineers completed in April 1982 a report entitled the "Minimum Dredge Fleet Study." It recommended that the corps operate a federally owned minimum fleet of eight hopper dredges to perform emergency and national defense work, and other dredging work intended to keep the minimum fleet efficiently utilized. The *Hains* and *Markham*, with home ports in Grand Haven, Mich., and Cleveland, Ohio, respectively, were designated as part of the minimum fleet to be stationed in the Great Lakes.

However, subsequent to the approval of the Chief of Engineers report by the Assistant Secretary of Army for Civil Works, the administration directed the corps to evaluate a "reserve fleet" concept, which involves using the dredging industry as a reserve to be called upon by the corps when the need arises. In March 1983, the administration decided that the corps' minimum fleet should be reduced to four hopper dredges, none of which would be based in the Great Lakes. The effect of this decision for the Great Lakes is that the reserve fleet is the only fleet for dredging work.

The reserve fleet plan is untried and untested, with many unknowns. Its implementation could ultimately increase costs to the Government for hopper dredge work.

To remove the *Hains* and *Markham* from their home ports on the Great Lakes is premature given the uncertainties surrounding this plan. The amendment offered here today would allow the Congress and the corps to review and evaluate whether the dredging industry has the ability to perform the work previously undertaken by the corps hopper dredges at a reasonable cost and in a timely manner.

I should like to indicate one additional concern about this plan.

Over the past several years, only one company with hopper dredge capability has been awarded contracts for major dredging work on the Great Lakes previously accomplished by the corps hopper dredges. In addition, only one other company with hopper dredge capability bid on several contracts offered by the corps during the industry capability program (ICP), which was designed to increase the amount of dredging work contracted to industry. Without hopper dredge competition, it is possible that the cost for dredge work may escalate once the corps dredges are retired, since the corps dredges will no longer compete against the industry hopper dredge for work as they did during the ICP.

This concern and others should be carefully evaluated by the Congress, and I would urge the Environment and Public Works Committee to undertake such a review to insure that what the corps has proposed will actually satisfy the Federal Government's responsibility to navigation and commerce in the entire Great Lakes region.

Again, Mr. President, I want to indicate my support for this amendment and urge Senate passage. i also want to especially thank Senator METZENBAUM for accepting my suggestion to modify this amendment so that the corps hopper dredges remain stationed at their home ports. This action will benefit the city of Grand Haven, where the *Hains* has been stationed for a number of years.

And finally, Mr. President, I want to express my appreciation to Senators ABDNOR and DURENBERGER for their help in this matter.

Mr. METZENBAUM. Mr. President, it is my understanding that the amendment is acceptable to the managers of the bill; and if it is, I have nothing further to add.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2599) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2600

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an amendment numbered 2600.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate point in the bill, add the following:

No funds in this or any other Act shall be used to process or grant oil and gas lease applications on any federal lands outside of Alaska that are in units of the National Wildlife Refuge System, except where there are valid existing rights or except where it is determined that any of the lands are subject to drainage as defined in 43 C.F.R. 81002, unless and until the Secretary of the Interior first promulgates, pursuant to section 553 of the Administrative Procedure Act, revisions to his existing regulations so as to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement with respect thereto.

Mr. LEAHY. Mr. President, I think we could probably cover this in less than a couple of hours of debate or, from the look on the face of the chairman of the Appropriations Committee, possibly 30 seconds.

It is a consensus amendment, involving the controversial issue of oil and gas leasing in national wildlife refuges. It is the same language that Senator MCCLURE, Senator JOHNSTON, and I worked out in the supplemental, holding up leasing until an environmental impact statement is done.

My only concern, of course, is the first supplemental may never become law.

So I urge its inclusion in this. But it has been cleared as near as I can tell by everyone who has looked at it.

Mr. HATFIELD. The Senator is correct. It is already in the supplemental. We are merely taking it from the supplemental and putting it on the CR. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2600) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2601

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER) for himself and Mr. THURMOND proposes an amendment numbered 2601.

Mr. SASSER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of this joint resolution, $300,000 is appropriated for the Capital Children's Museum."

Mr. SASSER. Mr. President, we propose that $300,000 be provided toward the support of maintenance costs of the Capital Children's Museum.

This museum is one of the Nation's best models of innovative education, of ways to spur math and science achievement, and of how to use the computers and other new communications technologies.

The museum serves 250,000 people each year including many teachers who come there to be trained in new and better ways to teach. The museum also serves hundreds of children and youth from its immediate neighborhood, a neighborhood which is made of slums in the shadow of the U.S. Capitol and keep these children off the streets of an impoverished, urban ghetto. The museum has thousands of visitors who are handicapped, and it has a corps of 160 senior volunteers in a model program, emulated throughout the country, by people who are interested in helping the elderly.

The Children's Museum is only 4 years old, but in that short time, it has developed sources of income to support almost half its budget. That is, it earns over $750,000 annually toward support of its $2 million operating costs.

The increased demand by visitors, requests from 41 States for technical assistance by other museums and by educators, and regular delegations from the Department of State have made this a prominent institution. It is a unique demonstration of the kind of innovation for which the United States is admired throughout the world.

This small support is required to help close the museum's funding gap to guarantee that it can stay open to continue its outstanding work.

Mr. President, I urge the adoption of the amendment.

Mr. President, I offer this amendment on behalf of myself and Senator THURMOND. It has been cleared with the managers of the bill on both sides.

Mr. HATFIELD. Senator THURMOND is a cosponsor?

Mr. SASSER. Senator THURMOND is a cosponsor.

Mr. President, this is a sole support for the Washington Children's Museum. It is a small amount of funding to keep this worthwhile institution open.

Mr. President, I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, I am pleased to join with the distinguished junior Senator from Tennessee, Mr. SASSER, in sponsoring this amendment which would appropriate $300,000 for the support and maintenance of the Capital Children's Museum, located in Washington, D.C.

The Children's Museum is the result of much innovative thinking and hard work by volunteers and professionals in the field of early childhood education. Since its inception as a three-room facility in 1977, the Children's Museum has flourished, and now occupies a full city block in northeastern Washington, D.C.

Mr. President, this is much more than a museum. It is an education workshop, which provides "hands-on" exhibits for children who reside in or visit their Nation's Capital, training for over 1,000 teachers per year, and internships for 70 to 100 youths working in the education field. The museum and its staff, which includes some 350 volunteers, also provide technical assistance to schools and school boards throughout the country, as well as information on innovative education techniques in answer to requests from many foreign countries.

Those who operate the museum have done an exceptionally fine job of using services of volunteers, contributions from the private sector, and earned income from museum programs to help defray operating expenses. In order to encourage the continuation and expansion of this worthwhile program, which benefits the entire Nation, it is both appropriate and necessary that some financial support be provided by the Federal Government. For this season, I join Senator SASSER in asking that the sum of $300,000 be appropriated for the Capital Children's Museum. I hope that our colleagues on both sides of the aisle will support this amendment, which will help one of the finest educational endeavors anywhere in the world continue its excellent work and benefit even more children.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be named as a cosponsor of this amendment. It is an excellent amendment and has been cleared on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2601) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SASSER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we have on our list remaining one amendment that I shall offer shortly and also one that we expected the Senator from Massachusetts (Mr. KENNEDY) to offer.

I do not see the Senator from Massachusetts in the Chamber at this time.

AMENDMENT NO. 2602

(Purpose: To appropriate funds for construction of a Federal Building Courthouse in Newark, N.J. and for design necessary for repair of the Customhouse-Courthouse in St. Louis, Missouri)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2602.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, there is hereby appropriated $39,000,000 from the Federal Building Fund, for construction of a Federal Building-United States Courthouse in Newark, New Jersey, and $550,000 from the Federal Building Fund, for design necessary for repair of the Customhouse-United States Courthouse in St. Louis, Missouri.

Mr. HATFIELD. Mr. President, this amendment I offer with the clearance of the authorizing committee, the Senator from Vermont (Mr. STAFFORD) and the ranking minority member, the Senator from New York (Mr. MOYNIHAN), and on behalf of the Congressman from New Jersey, Mr. HOWARD, who has requested this with the support of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New Jersey (Mr. BRADLEY).

It is to provide for the funding of a courthouse in Newark, N.J., and for the design to begin on a customs house-courthouse located in St. Louis, Mo.

This matter has been cleared on both sides of the aisle, and we wish to take it to conference.

● Mr. LAUTENBERG. Mr. President, I rise in support of the Hatfield amendment to provide funding for the construction of a badly needed Federal building and courthouse in Newark, N.J. This building will cost $39 million and provide 290,000 square feet of space.

GSA acknowledged the need for this facility since fiscal year 1981. Because of the small amount GSA has for construction, funding for this building was eliminated in fiscal year 1984.

Mr. President, the tenants scheduled to be located in this facility, with the exception of the courts are currently occupying expensive leased space. The courts also have need of expansion.

I commend the distinguished chairman of the Appropriations Committee for offering this amendment and urge its adoption by my colleagues.●

Mr. BRADLEY. Mr. President, I thank the chairman for offering the amendment. The need is great for the construction of a Federal building and courthouse in Newark, N.J. As Members of the Senate may be aware, the General Services Administration in its public buildings service management plan for fiscal years 1981–87, dated June 1, 1981, recommended construction of a Federal building and courthouse in Newark, N.J., in fiscal year 1984 containing 408,000 occupiable square feet of space at a cost of $89,500,000. The GSA management plan for fiscal years 1982–88, dated February 16, 1982, recommended construction of a Federal building-courthouse containing 309,000 square feet at an unidentified cost. Construction was then identified to begin in fiscal year 1989. Currently, all of the tenants scheduled to be located in the building, with the exception of the courts, are located in expensive leased space. The courts have a need for expansion and since their requirements are special purpose, it is the policy of GSA and the Congress to locate them in federally owned space. The building is justified; however, due to GSA's small amount of funds for construction, the proposed construction of the building in Newark in fiscal year 1984 was eliminated.

Mr. President, recently the chairman of the House Committee on Public Works and Transportation and many other New Jerseyans had brought to my attention the continued need for this facility, and I therefore recommend construction of a new Federal building-courthouse containing 290,000 square feet of space at a cost of $39 million. Of this amount, $3.8 million will be necessary for design of the facility.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2602) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wonder if I could inquire of the minority leader at this point if they have any information concerning the amendment of the Senator from Massachusetts that he had indicated he would like to offer because we are now ready to go to third reading.

Mr. LEAHY. Mr. President, if I could have just a moment, I know the Senator from Massachusetts was in the Chamber about 3 minutes ago. Someone is checking with him.

Mr. President, I have been informed by Senator KENNEDY's office that he will not be offering that amendment and if the distinguished chairman will indulge me just for a moment let me make absolutely sure there are not other amendments.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I am prepared to offer an amendment addressing a problem in the Hill-Burton program. The Hill-Burton program gave financial assistance to health care facilities in exchange for a promise to provide a reasonable amount of uncompensated care for the poor. In 1979, the Department of Health and Human Services promulgated regulations intended to improve hospital compliance in the program. However, these same regulations also apply to not-for-profit nursing homes participating in the program. On several occasions, the Department of Health and Human Services has admitted that it did not consider the effect these regulations would have on participating not-for-profit nursing homes. And in fact, these regulations pose a serious threat to the financial integrity of many Hill-Burton nursing homes.

Since 1980, the Department has said that it would address the nursing home's problems under the 1979 regulations. It is now late 1983, and the Department has taken no formal action. My amendment simply calls for new regulations which distinguish between hospitals and nursing homes for purposes of complying with their obligations under the Hill-Burton Act.

Mr. WEICKER. Mr. President, I understand the concern of the Senator from Nebraska. However, I would urge him to consider introducing his amendment on another piece of legislation. It is crucial that the Senate pass this continuing resolution in very short order. The Labor and Human Resources Committee has jurisdiction in the Hill-Burton area and I would hope that the chairman of that committee could address this matter.

Mr. HATCH. Mr. President, I join with the Senator from Connecticut. I believe that the Senator's amendment would be more appropriately consid-

ered on another piece of legislation. If the Senator will choose not to offer his amendment, I will pledge that I will assist the Senator from Nebraska in seeing that his amendment is considered in the very near future.

Mr. EXON. Mr. President, I appreciate the offers of my colleagues from Connecticut and Utah. I, too, believe that it is important for the Senate to act quickly on the continuing resolution. Therefore, based on the assurances of my colleagues, I will not offer my amendment at this time.

Mr. RUDMAN. Mr. President, I rise to express my concern regarding the report language in the committee report on Senate Joint Resolution 193 pertaining to the so-called gray market. That language directs the Department of the Treasury "to publish forthwith the proposed customs regulations" pertaining to the gray market. It further states that "the committee believes that a very serious problem involving the rights of trademark owners exists and that the Customs Service should no longer delay the publishing of these regulations which are designed to address these critical matters."

By way of background, Mr. President, this issue involves the right of a variety of small American businesses to import a wide variety of genuine trademarked products such as watches and electronic goods. Because many foreign manufacturers attempt to charge artificially high prices for their products in the United States, these small businesses can purchase the genuine goods abroad and resell them here at prices lower than those charged by the foreign manufacturer's American subsidiary or controlled distributor. The benefits of this to the American consumer in the form of greater competition and lower prices are obvious. For example, when the independent distributors introduced price competition, the prices for Seiko watches, Nikon cameras, and Canon cameras all dropped by about one-third. I should stress, at this point, that we are talking about genuine goods, not counterfeit products which is an entirely separate issue.

Under longstanding Federal law, the American owner of a U.S. trademark registration has been allowed to prevent the import of goods bearing that trademark. However, for the last 50 years, first by common practice and by formal regulation for over a decade, the Customs Service has recognized a limitation to that. When the foreign and American trademark rights are owned by the same company or companies under common ownership or control, the foreign manufacturer or its controlled subsidiary may not exclude the imports of its products.

For reasons that escape me, the Customs Service recently proposed regulations to the Treasury Department which would repeal the current regulations and force these small American businesses to stop competing with the foreign manufacturers. The Treasury Department has yet to act on Customs proposal and the language in the Appropriations Committee report on Senate Joint Resolution 193. It is my understanding that my colleague indicated that he was intending to offer a sense of the Senate amendment with the same effect of the report language, but, to conserve the time of the committee and the Senate, would settle for the report language. For the record, I should note that I would have vigorously opposed a sense of the Senate amendment had it been offered and would also have opposed the report language had I known it was going to be offered. Unfortunately, report language cannot be amended on the floor of the Senate and so there is no action I can take at this time.

Mr. President, it should be noted that neither the regular fiscal 1984 Teasury-Postal appropriations bills, both the version passed by the House and the version approved by the Senate Committee on Appropriations, nor the accompanying reports, contain any similar report or bill language. In addition, it is my understanding that there is considerable opposition to changing the existing Customs regulations in both the House and Senate authorizing committees. Given the fact that the legislative history is mixed at best and that Senate Joint Resolution 193 fell to a filibuster, admittedly on an unrelated matter, it is my belief that the report language in question is in no way binding on the Department of the Treasury.

In conclusion, Mr. President, let me state that I believe that the gray market issue is relatively simple. Should large foreign manufactures be permitted to reverse existing policy and be allowed to charge artifically high prices for their product by prohibiting small American businesses from importing their products in competition with them? Should Federal regulations be altered in such a manner that American consumers have to pay more for a product than consumers overseas have to pay when there is not even a suggestion that that is necessary to protect American industry? I suggest that the answer to both those questions is a resounding no and that the wisest course of action is for the Treasury Department to let the Customs Service's misguided regulations die a quite death.

BRUNSWICK HARBOR STUDY, GEORGIA

Mr. HATFIELD. Mr. President, during the markup on Senate Joint Resolution 194, the continuing resolution, the Appropriation Committee agreed to include report language which directed the Corps of Engineers to update and reevaluate data on the Brunswick Harbor study in Georgia.

However, due to a printing error that language was inadvertently omitted.

As I have indicated, the committee had approved the language for inclusion in Senate Report 98-304.

Therefore, I ask unanimous consent to include in the RECORD at this point, the language on Brunswick Harbor which should have been included in the committee report.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

BRUNSWICK HARBOR, GA. STUDY

The committee is aware that since completion of the Phase I study of Brunswick Harbor in 1980, the Georgia Ports Authority has completed a navigation channel connecting Colonels Island with the existing Federal navigation channel. The Authority is presently constructing extensive, new cargo terminal facilities on Colonels Island, with cargo shipments expected to begin in 1985. This will result in an increased use of the channels which are already constricted for newer, longer vessels. Within available funds, the committee expects the Corps of Engineers to resume the study and reevaluate and update the economic data from the earlier reconnaisance.

Mr. LEVIN. Mr. President, as most of our colleagues know, Senator COHEN and I have been working with Senator DOLE, the distinguished chairman of the Finance Committee, on legislation to reform the disability program of the Social Security Act. Our bill, S. 476, which is pending before the Finance Committee, presently has 33 cosponsors. It includes several basic reforms which would make the current continuing disability reviews fairer and bring some administrative stability to the program. There are some 21 States which are flouting SSA's required standards and procedures for conducting these reviews.

Our staffs—that of Senator COHEN and myself and that of Senator DOLE along with the staffs of other concerned Members—have been working for the past 2 weeks to develop a compromise package which all three of us can support. We are very close. But, our time is running out; we may have only one week left.

Senator COHEN and I are prepared at this point to offer our bill as an amendment to the continuing resolution. In our discussions with Senator DOLE, he has advised against it but has promised on previous occasions a vehicle to which we could attach our disability provisions.

Mr. President, I would like to ask the distinguished Senator from Kansas if he would help us reach an agreement on a vehicle for raising the disability issue.

Mr. COHEN. Would the Senator yield?

Mr. LEVIN. I would be happy to yield to my good friend from Maine, Senator COHEN.

Mr. COHEN. I join Senator LEVIN in making this request to the Finance Committee chairman. And I want to emphasize that both Senator LEVIN and I applaud the efforts that Senator DOLE has made on behalf of this legislation. He has been willing to meet with us on numerous occasions to discuss these issues and answer our inquiries.

We are, however, under the 2-minute warning for this legislation because its benefits can be felt only if it is passed before we recess. Senator LEVIN and I have refrained from offering this bill on other legislation because of our sincere interest in reaching a compromise with Senator DOLE. I don't think that interest has waned; I just think time is running out. That is why I join Senator LEVIN in asking my good friend, the Senator from Kansas, if he can work with us on reaching an agreement on a vehicle for offering our amendment to reform the disability program.

Mr. DOLE. Will the Senator yield so that I may respond?

Mr. LEVIN. Of course.

Mr. DOLE. As my colleagues both know, I am sincerely interested in bringing to the floor for the Senate's consideration legislation to amend the current practices and procedures of the social security disability program. That is why I have joined them in trying to achieve a compromise package. I, too, think we are very close, but I recognize their concern that time is running out. I appreciate their willingness to forgo offering their amendment to the continuing resolution. As my colleagues are aware, there will be other vehicles for the disability amendment, and I will work with them to find a suitable one. In the meantime, I hope we will continue to work through our staffs to eliminate the remaining points of difference, so we can achieve a final compromise proposal.

Mr. LEVIN. We would certainly continue to seek an acceptable compromise during the next few days. I thank the Senator from Kansas for his cooperation, and I yield the floor to Senator COHEN.

Mr. COHEN. I too want to thank the Senator from Kansas for his commitment, and I want to express my continued interest in working for a compromise proposal.

KEEPING MONTANA'S TRADE DOORS OPEN

● Mr. BAUCUS. Mr. President, few Montanans come in contact with the U.S. Customs Service. But for Montana businesses that depend on imported goods and tourism, that Federal agency is vitally important. I am very pleased that this appropriations bill contains language that will protect those businesses from unwarranted cutbacks in Customs office services.

The Customs Service operates a series of border stations. These stations process all kinds of imports. For example, Montana's 21 border stations process imports of ore concentrates, roofing materials, lumber, fertilizer, farm machinery, field seed, and oil field equipment. Many of these imports are critical to Montana's economy.

The border stations are organized into districts. In each district, some of the key employees are the import specialists. They review import documents, classify imported products, and assure that correct duties are paid. To accomplish this, they often work closely with both importers and customs brokers representing importers.

Sometime last year, Customs decided to devote more resources to drug interdiction. However, Customs did not ask Congress for more money; instead, it began shifting resources over from import processing. Overall, this shift would have reduced the number of Customs employees by about 2,000.

Phase I of the planned shift apparently was the implementation of a centralized duty appraisement system. Phase II apparently was the closure of about 34 border stations. In early 1983, phase I—centralized appraisement—began. According to Customs, this involves centralizing the current import specialist function from various field offices to fewer and more efficient administrative centers located throughout the country.

Sounds reasonable. Unfortunately, it was not, because Customs had not carefully evaluated the impact centralized appraisement would have. For example, a preliminary GAO report I commissioned found that "Customs officials * * * have not prepared an official cost/benefit study for the proposed centralization," that "Customs has not prepared an official estimate of savings," that "the total cost to Government will be unknown until a cost/benefit study is prepared," that "[t]he impact of centralized appraisement activities is unknown," and that Customs "did not conduct an analysis regarding the impact of removing import specialists from a given location."

The absence of any careful evaluation became especially clear when centralized appraisement hit Montana.

For example, Customs transferred two import specialists from Great Falls, Mont. to Pembina, N. Dak. Two major problems, at least beset their transfer. First, Pembina is remote: While the Great Falls area has a population of about 80,000 and is served by five commercial airlines and a bus system, the Pembina area has a population of about 600 and is served by no commercial transportation whatsoever. Therefore, it would be extremely difficult for importers and customs brokers to reach Pembina to discuss complicated import processing problems.

Second, Pembina is in a different Customs district than Montana. Import specialists reviewing District 33 imports under the ostensible supervision of the District 33 Director would be located hundreds of miles away in another district; therefore, it would be extremely difficult for the District Director to adequately supervise them.

Mr. President, I am very pleased that the Senate Appropriations Committee has included language in the Treasury appropriations bill that requires the Customs Service to give the committee 6 months notice before closing, consolidating, or transferring any Customs offices. Last April, I testified on this situation before the Appropriations Subcommittee on Treasury, Postal Service, and General Government, and asked the committee to take action to preclude the proposed reorganization.

The Senate Finance Committee adopted my amendment requiring similar advance notification to the Customs Service authorization bill. That bill, which has been reported by the Finance Committee, should be considered by the Senate next year.

Mr. President, efficient import processing is critical to the economy of Montana and many other States, and promotes friendly relations with our major trading partners. Therefore, it is critical that any proposed reorganization be carefully conceived and implemented. We should be doing everything in our power to foster and develop trade with other countries, and Customs offices play a vital role in those relationships.

With advance notice of future reorganization plans, Congress will have a chance to pass legislation that would block any changes that are not in the public interest.●

AGRICULTURAL MARKETING ORDERS

● Mr. BENTSEN. Mr. President, I regret that the Senate Appropriations Committee has not seen fit to include in this continuing resolution language that restores to the U.S. Department of Agriculture the responsibility for reviewing agricultural marketing orders and the activities and regulations pertaining to them. Due to the need for prompt passage of this legislation and the desire of the managers to keep this bill clean to expedite its passage there will be no attempt to add this language as a floor amendment. However, this provision is still in H.R. 4139, the Treasury appropriations bill, so there will be another opportunity to consider this issue on the Senate floor and I will urge the Senate to approve this restriction at a later date.

Mr. President, I strongly support this needed clarification. A similar provision was included in the House version of the Treasury appropriations

bill at the request of my distinguished colleague from Texas, House Agriculture Committee Chairman KIKA DE LA GARZA.

Agricultural marketing orders by law are supervised by the Secretary of Agriculture. The Agricultural Marketing Agreement Act of 1937 requires the Secretary to administer these agreements for the benefit of both producers and consumers. These marketing orders are subject to the approval of the growers who participate in them, and they can be voted out of existence by those growers at any time.

Texas growers of oranges, grapefruit, lettuce, onions, melons, and tomatoes have and use marketing orders. They are used to control such things as the size and quality of fruit going to market. By assuring that Texas fruits and vegetables are of uniformly high quality when they go to market, they are building a reputation for quality and reliability. Such a reputation is vital if advertising and promotion programs are to work effectively to build markets for these products.

These marketing orders have worked well for many years. However, under this administration there has been a power grab by the Office of Management and Budget. David Stockman, who has long been a vocal opponent of all farm programs, has attempted to take the administration of these marketing orders away from the USDA and to use that administrative authority to hamper the working of these marketing orders.

I opposed that attempt to undermine the Federal marketing order system, and the problem has lessened considerably. I ask that a copy of an earlier letter on this issue be printed following my remarks. Without this amendment, however, there is no guarantee that the problem will not arise again whenever Mr. Stockman feels like taking another swipe at marketing orders.

Chairman DE LA GARZA and I both grew up in the Rio Grande Valley of Texas, where we produce the finest grapefruit in the world. We have seen the good that these marketing orders do in assuring consumers a reliable supply of high quality products. We have also seen the harm that OMB interference can do. I am told that a routine package of minor regulatory changes was submitted by valley growers in July, and approval was just received about the first of November. If this delay had come during the harvest season for such perishable crops it could have caused massive disruption.

Mr. President, I am glad to work with the Appropriations Committee to expedite passage of the continuing resolution at this time. However, this does not eliminate the need for passage of the provision to block OMB from interfering with the administration of agricultural marketing orders. This is an ongoing problem which we need to respond to in order to prevent future losses to agricultural producers due to bureaucratic infighting.

The letter follows:

U.S. SENATE,
Washington, D.C., July 21, 1982.

Hon. DAVID STOCKMAN,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. DIRECTOR: Many Texas farmers have expressed concern about the application of the Paperwork Reduction Act to agricultural marketing orders. As a cosponsor of this legislation, I authorized the section setting specific targets for burden reduction, and I want to make sure that this law is now being properly implemented.

The intent of this law is to reduce the unwanted and unneeded burden which has been imposed on our economy by federal paperwork. Your office has a major responsibility in reducing federal paperwork. Requiring your approval of all federal forms was done specifically to ensure an independent, outside review of agency decisions.

In the case of marketing orders, the paperwork is imposed by choice through a vote of the membership of the marketing order. As a farmer, I can assure you that the producer-members of these marketing orders have little tolerance for paperwork which is not essential.

I would also point out that the burden reduction goals are suggested, not mandated. Thus, the law should not be construed as requiring cutbacks in activities necessary to the operation of the marketing order.

However, marketing order forms are uniquely subject to direct review by those who are burdened by them. Additionally, the highly perishable nature of fruits and vegetables dictates speedy approval of this paperwork. Provisions for such emergencies are included in this law, and your expeditious handling of these approvals will be appreciated.

The Paperwork Reduction Act is a virtually important tool that should not be destroyed through misuse. This law specifically prohibits its use as a back door means to circumvent other statutes. Care must be taken to avoid even the appearance of misuse, such as the current perception of a threat to federal marketing orders. I am aware that there is opposition to marketing orders, but such battles must be fought in other arenas.

Thank you for your attention to this important issue, and I would appreciate having your comments on the points which I have raised.

Sincerely,

LLOYD BENTSEN.●

GREAT PLAINS GASIFICATION PROJECT

● Mr. METZENBAUM. Mr. President, the committee report on the continuing resolution contains report language on the Great Plains coal gasification project. It should be clear to the Synthetic Fuels Corporation that the report language merely expresses the intent of a majority of the Appropriations Committee. It should not, nor does it, reflect the sentiment of the Senate Energy Committee, which has jurisdiction over the SFC, or the Senate as a whole. In fact, I strongly believe that both the Senate and the House would refect any proposal to extend price guarantees to Great Plains and thus the committee report represents a minority view of the Congress.

I would also note that the report language violates both the spirit and intent of a colloquy which took place between Senator MCCLURE and myself during Senate consideration of H.R. 3383, the Department of Interior and Related Agencies Appropriations Act for 1984.

In the colloquy, Senator MCCLURE stated that language contained in the report accompanying H.R. 3363 is not intended to pressure or influence the SFC's evaluation of the Great Plains project and/or its application for price guarantees. Senator MCCLURE stated that "the board is free to make its own judgment on whether the conditions required by law for direct negotiations with Great Plains have been met."

Nothing has occurred to change those assurances. The SFC remains free to act in accord with its own judgment on the merits of the Great Plains project.

The AFC should realize that, notwithstanding the nonbinding report language, Congress has clearly prohibited DOE from issuing price guarantees without first obtaining congressional approval—nonnuclear R&D Act. Further, the board should realize that Congress has specifically barred the transfer of the Great Plains project to SFC—Pub. L. 97-100.

It is my belief that Great Plains has not met the conditions for price guarantees and that any action by SFC to provide it with such guarantees would violate the law and carry with it serious consequences for the board.

It is also my belief that if an effort to authorize price guarantees for Great Plains were brought to Congress it would be soundly defeated.

The Appropriations Committee report is not the committee with jurisdiction over the project and its opinion on the future of Great Plains should not be given any weight.

The committee report also contains language directing the Treasury Department to publish certain customs regulations severely restricting the importation of genuine foreign-made goods at a discount. This regulation would undo a 50-year-old customs' practice of allowing such importation in certain cases.

The committee's directive does not appear in the text of the continuing resolution, and, as such, has no force of law. In my view, the Treasury Department is acting properly in moving cautiously on this proposed regulation. The proposal will make it easier for foreign manufacturers to control resale prices, which will result in a significant increase in the price of these imports, to the detriment of consumers. Insofar as no hearings have been

held on this issue, Treasury need not consider itself obligated in any way to proceed with this regulation.●

Mr. HUDDLESTON. Mr. President, I voted against the amendment offered by the distinguished chairman of the Senate Appropriations Committee (Mr. HATFIELD) that struck from the resolution language that would, among other things, make needed improvements in the school lunch and other child nutrition programs.

It is my understanding that the language in question is identical to H.R. 4091, as passed by the House. H.R. 4091 passed the House by a vote of 306 to 114 and has been placed on the calendar.

H.R. 4091 is the House companion bill to S. 1913, a bill I introduced on September 30. Fifty Senators have joined me in cosponsoring that bill. Seventeen of the Senators supporting the bill sit on the Senate Appropriations Committee.

S. 1913 stays within the budget established under the first concurrent budget resolution for fiscal year 1984. In that resolution, Congress allocated an additional $150 million for child nutrition programs for fiscal year 1984. CBO estimates that S. 1913 will add only $125 million to the fiscal year 1984 child nutrition budget.

The purpose of S. 1913 is not to make changes in the programs just because the money is budgeted. Rather, it is intended to respond to what I believe is a deplorable situation; that is, the high dropout rate in the reduced-price categories of the school lunch and breakfast programs. Approximately 400,000 children who once were receiving reduced-price meals are no longer participating in the school lunch and breakfast programs. In addition, children were forced from the free category to the reduced-price category because the income eligibility levels were changed for free meals. It was particularly devastating for these children because their cost of a meal went from free to 40 cents.

Although I am encouraged by the Senate's support of my bill, I am perplexed by the critical letterwriting campaign over my bill and the House bill.

The major criticism appears to be that my bill, as well as the House companion bill (H.R. 4091), would restore benefits to nonneedy children instead of needy children. Let me address this issue. The beneficiaries of my bill are not wealthy children as some would lead you to believe. They are the children of the working poor. These are children from families that do not qualify for a free meal because their income is over the free meal eligibility level. These are children whose families may not be eligible for food stamps or other welfare programs but whose income may be as low as $12,871 for a family of four. I would not for a moment assume that a family of four with an annual income of $12,871, before taxes, is having an easy time trying to make ends meet.

As to the criticism that only 30 percent of my bill is targeted to those children from families whose incomes are below $12,870 per year, I would point out that the 1981 Reconciliation Act did not cut the subsidies for free meals. Do critics suggest that we restore funding for programs that were not cut?

The fact of the matter is that the 1981 act cut too much from the reduced-price meal category. The doubling of prices for lunches and the tripling of prices for breakfasts hurt children of the working poor. And, I believe that the reality of the situation calls for our action now, not possibly sometime next year.

It is my intention that the children who should be helped now are those who were hurt the most by the budget cuts—that is, children who come from working poor families. The very poor children are allowed to receive a free breakfast and lunch if they are in a child care food program or school. Children coming from families that make $12,871 per year must pay, and, in 1981, Congress doubled the price of those meals. It is obvious, based on the drop in participation, that the increased price for a lunch or a breakfast is difficult to meet for many of the families with limited incomes.

I believe that the action by Congress on the budget resolution earlier this year, the recent vote in the House on H.R. 4091, and the number of cosponsors to my bill, S. 1913, show that both the House and Senate are determined to see that a majority of the 1 million low-income children who stopped participating in the school lunch program because of budget cuts are again able to participate in the program.

I ask unanimous consent that a list of the organizations supporting S. 1913 be printed at the end of my remarks.

It is my hope that, in the conference on the continuing resolution, we will be able to reach agreement on statutory changes to make needed improvements in the school lunch and other child nutrition programs.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONAL SUPPORTERS OF S. 1913

American Federation of State, County and Municipal Employees.
American Public Health Association.
American School Food Service Association.
Bread for the World.
Camp Fire.
Center on Budget and Policy Priorities.
Children's Defense Fund.
Coalition on Block Grants and Human Needs.
Community Nutrition Institute.
Council of Great City Schools.
Council of Jewish Federations.
Dairymen, Inc.
Food Research and Action Center.
Friends Committee on National Legislation.
Lutheran Councils in the USA.
National Association of Wheat Growers.
National Black Child Development Institute.
National Consumers League.
National Education Association.
National Farmers Union.
National Grange.
National Milk Producers Federation.
National PTA.
National Rural Housing Coalition.
National School Boards Association.
National Turkey Federation.
Public Voice for Food and Health Policy.
Rural Coalition.
Society for Nutrition Education.
United Church of Christ Office of Church and Society.
United Egg Producers.
U.S. Catholic Conference.
U.S. Conference of Mayors.
World Hunger Education Service.

PIK AND EMERGENCY LOAN PROGRAM AMENDMENT OFFERED BY SENATOR BUMPERS

Mr. COCHRAN. Mr. President, I have joined Senator BUMPERS in introducing a bill to correct the injustice of a decision made by USDA regarding procedures for operating the FmHA emergency loan program. In announcing the payment-in-kind program the administration indicated the purpose was to use the Government's large inventory of commodities to pay for a land diversion program that would significantly reduce production and the size of surplus stocks. At the same time, such a program would also reduce Government costs of storing large inventories of surplus commodities. Secretary Block has indicated the PIK program was a success in terms of these stated objectives.

However, I understand USDA now, after the production season has ended, after considerable flooding in my State and other parts of the Nation, and after the worst drought in over 50 years that seriously affected many farmers, has decided to expand the role of the payment-in-kind program. USDA now, after the fact, has decided the PIK program was also a natural disaster assistance program.

If USDA continues this decision, it in effect will require a farmer to consider the acres idled by the PIK program as having not only been in production this year but as having produced a normal income. The significance of this decision is the impact it will have on what percentage of loss a farmer will have to sustain on acres "actually" planted in order to qualify for assistance under the farmers home emergency loan program.

Normally a farmer would have to suffer a 30-percent loss in production during the disaster period. The practical effect of USDA's decision for a farmer who placed half his acres in diverted and PIK acreage is that he will

have to incur a 60-percent loss, not over 30 percent, on the acres he actually planted to qualify for an Emergency Production Loan.

According to all previous procedures, as indicated by FmHA instruction 1945-D for processing emergency loans, no authority was granted for considering PIK acreage since the emergency loan program was written to make production loss loans for losses as a result of natural disaster. FmHA has never given consideration to any payments received from ASCS on diverted acreage under these programs. Only ASCS program dollars, which compensate farmers for production losses as a result of a natural disaster and which do not have to be repaid, have been considered in determining whether a farmer has suffered a 30-percent production loss and therefore whether he qualifies for emergency loan assistance.

There are numerous farmers in Mississippi, and I am sure elsewhere, that have suffered substantial losses as a result of adverse weather this year. The emergency loan program, in a substantial number of cases, will be the only source of credit available to farmers to prevent them from facing a liquidation situation. Furthermore, in many cases, these farmers have been placed in this position as a result of depressed commodity prices, natural disaster, and other reasons beyond their control. It is a substantially unfair decision on the part of USDA to change rules of the assistance program after a natural disaster has occurred and very possibly leaving many farmers without adequate assistance.

There is no doubt that weather conditions this year have been severe. Over 1,400 counties across 31 States have requested disaster status. Many of these counties have received a disaster declaration but in doing so USDA has not considered PIK acres in this determination.

If USDA does not consider diverted and PIK acres when making county determinations, they should not use these acres in making individual farmer determinations.

USDA's decision is completely irrational and has the effect of allowing liberal consideration of county requests but restricted consideration of individual farmer requests for disaster status.

Mr. President, I urge my colleagues in the Senate to support this amendment.

Mr. LEVIN. Mr. President, as most of our colleagues know, Senator COHEN and I have been working with Senator DOLE, the distinguished chairman of the Finance Committee, on legislation to reform the disability program of the Social Security Act. Our bill, S. 476, which is pending before the Finance Committee, presently has 33 cosponsors. It includes several basic reforms which would make the current continuing disability reviews fairer and bring some administrative stability to the program. There are some 21 States which are flouting SSA's required standards and procedures for conducting these reviews.

Our staffs—that of Senator COHEN and myself and that of Senator DOLE along with the staffs of other concerned Members—have been working for the past 2 weeks to develop a compromise package which all three of us can support. We are very close. But, our time is running out; we may have only 1 week left.

Senator COHEN and I are prepared at this point to offer our bill as an amendment to the continuing resolution. In our discussions with Senator DOLE, he has advised against it but has promised on previous occasions a vehicle to which we could attach our disability provisions.

Mr. President, I would like to ask the distinguished Senator from Kansas if he would help us reach an agreement on a vehicle for raising the disability issue.

Mr. COHEN. Would the Senator yield?

Mr. LEVIN. I would be happy to yield to my good friend from Maine, Senator COHEN.

Mr. COHEN. I join Senator LEVIN in making this request to the Finance Committee chairman. And I want to emphasize that both Senator LEVIN and I applaud the efforts that Senator DOLE had made on behalf of this legislation. He has been willing to meet with us on numerous occasions to discuss these issues and answer our inquiries.

We are, however, under the 2-minute warning for this legislation because its benefits can be felt only if it is passed before we recess. Senator LEVIN and I have refrained from offering this bill on other legislation because of our sincere interest in reaching a compromise with Senator DOLE. I do not think that interest has waned; I just think time is running out. That is why I join Senator LEVIN in asking my good friend, the Senator from Kansas, if be can work with us on reaching an agreement on a vehicle for offering our amendment to reform the disability program.

Mr. DOLE. Will the Senator yield so that I may respond?

Mr. LEVIN. Of course.

Mr. DOLE. As my colleagues both know, I am sincerely interested in bringing to the floor for the Senate's consideration legislation to amend the current practices and procedures of the social security disability program. That is why I have joined them in trying to achieve a compromise package. I, too, think we are very close, but I recognize their concern that time is running out. I appreciate their willingness to forgo offering their amendment to the continuing resolution. As my colleagues are aware, there will be other vehicles for the disability amendment, and I will work with them to find a suitable one. In the meantime, I hope we will continue to work through our staffs to eliminate the remaining points of difference, so we can achieve a final compromise proposal.

Mr. LEVIN. We would certainly continue to seek an acceptable compromise during the next few days. I thank the Senator from Kansas for his cooperation, and I yield the floor to Senator COHEN.

Mr. COHEN. I too want to thank the Senator from Kansas for his commitment, and I want to express my continued interest in working for a compromise proposal.

Mr. HATFIELD. Mr. President, I know of no other amendments on our side. I am told by the minority side there are no other amendments.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 413) was passed.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments and ask for a conference with the House of Representatives on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. KASTEN, Mr. RUDMAN, Mr. STENNIS, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, and Mr. DECONCINI conferees on the part of the Senate.

Mr. BAKER. Mr. President, I shall not take but only a moment.

I think the two managers of this joint resolution, Senator HATFIELD and Senator STENNIS, and those who assisted them, are due a special note of thanks for handling this measure in the way they have and in the time they have.

I offer them my congratulations for it.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, I associate myself with the remarks of the majority leader with respect to the two managers of the joint resolution. They are to be complimented and I think that we are all in their debt.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there will be no more votes tonight.

VETERANS DAY, 1983

Mr. CRANSTON. Mr. President, tomorrow, November 11, this Nation will celebrate Veterans Day.

It is not trite to say that tomorrow is a special day.

It is a day we have set aside to pay honor and tribute to those brave men and women who have defended this great Nation.

It is a day when we pause and reflect on the significance of the many contributions of our Nation's veterans.

It is a day when we recognize that it is because of the service and sacrifice of millions that the torch of liberty still burns brightly over our land.

It is a day when we give thanks to America's veterans for our enjoyment of the gifts of peace, freedom, and security we so greatly treasure.

Once again, less than 3 weeks ago, our Marines and Rangers were called upon to serve.

Once again, young Americans have responded with valor, shouldering the heaviest of all burdens of citizenship.

Regardless of how we may feel about the recent deployment of our troops, I believe all Americans must agree on one thing: That in risking life and limb for their country, our service personnel and the families of those who made the ultimate sacrifice have earned—just as veterans from prior conflicts earned—our everlasting gratitude, respect, and admiration.

Mr. President, throughout my nearly 15 years in the U.S. Senate, it has been my privilege to serve in positions of responsibility for veterans' programs. I believe—and I know that the American people fully share my conviction—that the costs of freedom must continue to be paid for long after the sounds of battle subside.

Adequate compensation must be provided for those with service-connected disabilities.

Health care must be provided to heal the wounds of war.

Educational support, counseling, and employment assistance are needed to help with the readjustment to civilian life.

Programs to assist the survivors are essential to help reduce their enormous losses in the limited ways we can.

The serious casualties being suffered by our Armed Forces in the Caribbean and the Middle East are a grim reminder of the vital importance of our veterans' program and of the Veterans' Administration. In addition to providing for disabled veterans, the VA has a statutory mission to backstop Department of Defense medical resources in time of war or hostilities. This is a function the VA has already been fulfilling for over 2 weeks with respect to the Grenada hostilities. A 21-year-old Army Ranger, who was shot within hours of his unit's parachute drop on Grenada, is now receiving treatment for a spinal cord injury at the VA Medical Center in Memphis, Tenn.

More than 39 million American patriots have served this country in uniform in time of war. These brave men and women—more than 25 million of whom are still living—as well as the more than 4 million peacetime veterans deserve the American people's total gratitude for their unselfish service.

We have a national obligation to them and their survivors that can never fully be repaid. Meeting that obligation has been and always will be a top priority with me.

Mr. President, I am particularly pleased, therefore, to note today that Congress has approved two very important measures—ones we have been working on throughout this year. I have been honored to play a major role in both of these achievements.

First, we are on the brink of getting the appropriations—the full $150 million authorized—to begin the new emergency veterans employment program that was enacted on August 15.

Second, we have sent the President for signature the Veterans' Health Care Amendments of 1983. This very timely measure will help maintain and improve the quality, scope, and effectiveness of VA health care. It focuses especially on meeting the needs of veterans who defended our national security in all of this century's conflicts. This new law will improve VA programs for service-connected disabled veterans, for Vietnam veterans, for elderly veterans, and for veterans exposed to nuclear radiation.

Tomorrow, as we pause to remember and to express our thanks to those who have kept our Nation free and strong, let us rededicate ourselves to making it more than just a few moments or hours of commemoration. Let us make our commitments a continuing reality in the minds and hearts of all Americans.

Let us show those commitments through effective and compassionate programs to meet the needs of veterans and their survivors.

And let us carry out those commitments by continuing our efforts to secure and maintain the lasting peace for which so many millions of Americans have taken up arms and made such great sacrifice.

As we mark this Veterans Day, 1983, I pledge my continued support for each of those goals. I ask that each of my colleagues and all Americans join with me in a renewal of our commitment to repaying the debts we owe—the debt to help those who served and the debt of unending service to the cause of freedom and the cause of peace.

Mr. President, as I said at the outset, tomorrow is a special day set aside for reflection, recognition, and remembrance. In that context, I believe it is most fitting that we pay special tribute to those who have most recently died in hostile situations. An article by Dan Rodricks, which appeared in the Baltimore Evening Sun on Friday, November 4, speaks in simple eloquence and with great tenderness and beauty of the burials of two young marines killed in Beirut. I ask unanimous consent that the text of the article, entitled "A Final Resting Place, 'Fitting and Proper,'" be printed in the RECORD at the conclusion of my remarks. I urge each of my colleagues to read it. I believe they will be as deeply moved by it as was I.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Evening Sun, Nov. 4, 1983]

A FINAL RESTING PLACE, 'FITTING AND PROPER'

(By Dan Rodricks)

The morning had begun in fog and rain but now, as the hour of the first burial approached, the sun appeared in the autumn sky and ignited the crimson and orange in the leaves on the oak and wild cherry trees in Baltimore National Cemetery.

This day of sorrow—when the United States Marine Corps would bury two lance corporals, and two mothers would bury two sons—had become a warm, bright day.

Twenty-four hours earlier, graves had been prepared for both Lance Cpl. Jeffrey James and Lance Cpl. Ulysses Parker, Baltimore boys, at the foot of a grassy knoll in a special section of the cemetery on Frederick Road.

"Section O," said Wilbur Page, a member of the cemetery's field crew. He stood by a truck with a canvas-covered trailer. He wore work clothes and a yellow hard hat. Page, a young, lean friendly man, has worked at the cemetery for three years. This was the first time he performed his chores for American servicemen killed in the line of duty. It hasn't happened here since Vietnam days.

Now Page pointed to Section O, where a Marine honor guard waited for the arrival of the hearse bearing the casket of Jeffrey James, age 20.

"Over there," Maurice Page said. "It's like a memorial section. The flagpole's there, and there's a Medal of Honor veteran buried there. He'll be in the front row."

Maurice Page said he had a special feeling as he went about his work this week. He's dug burial places before. He's maintained the grounds around graves of veterans who died of natural causes, the wives and children of veterans and servicemen who died while on active duty. But this day he and the other members of the field crew—Thomas Allen, Jesse Bagley, Gerald Skrine, John Law Jr., Louis Hite—knew that something special was about to take place. And they knew they could trace it all back to a truck-bomb in Beirut. They knew. Everyone knew.

"I feel for him," Page said of Jeffrey James, whom he knew only from news ac-

counts. "I'm sorry it had to happen. I consider what I do a service for him."

The flag at the center of Section O hung at half staff and it flapped when the breeze picked up. This is a special time of year for leaves of trees, a fragile time. So, whenever the breeze stirred, there was a rain of leaves to the ground. And the leaves already on the ground crackled as they fluttered across the road at the foot of the grassy knoll.

In this special place you can find the grave of Laddie Stupka, a Navy man who won the Medal of Honor while in service to his country during World War II. The letters on his stone are etched in gold. The stone stands under a wild charry tree, its leaves burned by the season.

In this special place, where they would bury Jeffrey James and Ulysses Parker, you can find a large plaque with the words of Lincoln at Gettysburg: "We have come to dedicate a portion of that field as a final resting place for those that gave their lives that this nation might live. It is altogether fitting and proper that we should do this."

In this special place are the graves of men who performed a distinguished service: David R. Cook, corporal, 319th Artillery, Vietnam, Aug. 8, 1950–Nov. 7, 1969; Michael Steffe, specialist, 319th Artillery, Vietnam, Nov. 23, 1948–Nov. 3, 1969. There is another plaque beyond the flagpole, inscribed with the words of the commander of the Grand Army of the Republic, May 5, 1868. The words command that the nation remember its war dead each May by "decorating graves of comrades who died in defense of their country . . . and whose bodies now lie in almost every city, village and hamlet churchyard in the land."

It was just about 11 a.m. and the men from the field crew took off their hard hats and held them against their chests. They directed traffic with their free hands.

Cars came up the smooth, winding road around Section O. The honor guard, led by a young Marine captain named John Bower, stood at attention. There is, of course, a precise method for the burial of an American soldier. And this day, all the parts were in place: six Marine pallbearers and a sergeant to give them orders, then a Marine firing detail for the 21-gun salute. The only missing piece was the Army bugler from Fort Meade; because of a mixup, he never showed at Jeffrey James' burial. But the burial went on. Not a single politican was present.

The pallbearers faced each other by the open door of the hearse. They side-stepped toward the flag-draped coffin, then each man carefully reached under the flag. White gloves grasped the handle of Jeffrey James' coffin. On command, the pallbearers turned and carried the coffin to the grave, under a temporary tent, and placed it on the straps of the lowering device. Then the family and friends of Jeffrey James gathered close. His mother sat about 4 feet from her son's coffin.

The minister spoke. He said Jeffrey's mother and grandparents had raised him, that he was loved and that he loved them back. He came out of Northwestern High School and, three months later, joined the Marines. "It was something he wanted to do, that he looked forward to," the minister said. He said Jeffrey was a "jovial, warm and friendly lad."

The pallbearers lifted the flag and held it over the gray coffin, and a woman from the funeral home placed four red carnations on the lid.

Then came the rite that is by now old and familiar in America, a rite that has been around for as long as mothers and widows have sat by graves in special places.

Three of the pallbearers—Staff Sgt. Francis Daugherty, Sgt. Roy Johnson, Cpl. Anthony Cole—folded the flag into a triangular stack. Gunnery Sgt. David Goode handed it to the young Captain Bower. Bower stepped up under the tent, bowed and handed the folded flag to the mother of Jeffrey James, saying softly that this was a gift "from a grateful nation . . . in honor of the honest and faithful service of your son."

There were so many people, ordinary people, standing there now and staring at the coffin after the honor detail marched away. They were crying and holding each other. Women came up and touched the coffin. Men looked at the ground as they walked away. The breeze stirred and leaves fell through the warm air.

When everyone had gone, the cemetery men lowered the coffin into the vault in the grave.

Then they prepared for the burial of Ulysses Parker at 2 p.m.

An older workman, Thomas Allen, pulled iron stakes out of the ground and walked the distance of 12 burial plots to the front-row grave that had been prepared for Ulysses Parker. Allen rammed the stakes into the ground. They were hammered into the ground. And then the four hollow aluminum tubes that hold up the tent were placed over the iron stakes.

"I knew him," Jesse Bagley, one of the cemetery workers, said of Ulysses Parker. "We called him Greg. We came from the same area. I lived on Etting. He's from McCulloh Street. I knew him from playing ball in the neighborhood."

When it was 2 o'clock, Jesse Bagley removed his hard hat and held it against his chest in honor of the young man who was once a boy playing ball in the neighborhood.

Another hearse, another funeral procession, another weeping mother, another crowd of tears and somber faces, another folding of the flag. The minister said to reflect on the joys and happiness that Ulysses Parker brought his family and friends. This time, there was a bugler and when he played taps those who mourned for the young lance corporal mourned extra hard, embraced each other and held carnations in their hands.

The breeze came over the knoll again and, above the tent, the leaves of a tall oak tree rustled, then sprinkled into the air one by one, then fell to the earth, onto the grass of the very special grave.

NATURAL GAS LEGISLATION

Mr. JEPSEN. Mr. President, natural gas prices have gotten completely out of hand under the Natural Gas Policy Act of 1978 (NGPA). The chaos in the gas marketplace has resulted in prices which are far too high, and imposed hardships on Iowans. As winter approaches, some people in Iowa are finding themselves having to choose between being hungry and being cold.

This state of affairs is unacceptable, and it is time the Senate stopped dodging the issue. This is a situation that can be remedied. Nearly everbody knows what needs to be done to alleviate gas prices. The "fix" is being held hostage by those who seek the profits of premature old gas decontrol, while my constituents worry about paying their gas bills.

Today, I am joining in offering a remedial solution, the Natural Gas Fair Marketing Act of 1983, the Danforth-Jepsen amendment (No. 2576) to fix the mess.

Mind you, all this happened unexpectedly and unintentionally under the Natural Gas Policy Act of 1978 (NGPA). In 1982, the price of gas purchased by major interstate pipelines—including those serving my State—rose 34 percent. If you read the pricing provisions of NGPA's title I, you are left with the impression that gas prices should have only gone up by the rate of inflation plus a percent or two. The reality of the situation is that only about one-fourth of the price increase can be attributed to NGPA's pricing provisions.

Most of the increase in gas prices has to do with the unintended fallout of NGPA—chaos in gas markets characterized by high prices for consumers and shut-in gas reserves for producers. No one is happy, and rightly so. We have the worst of all worlds—regulations and very high prices.

What is the remedy? It is not S. 1715, reported to the Senate without recommendation. S. 1715 is an incredibly complex measure whose ultimate outcome is absolutely impossible to forecast. It would decontrol natural old gas, and result in the abrogation of all supply arrangements in 3½ years. In all likelihood, it would result in more confusion, and still higher prices than the status quo.

Why not remedy what is wrong with NGPA and its fallout, rather than throw out a regulatory format that is simply in need of a tuneup. NGPA is not broken and we should not try to fix it. It just needs a retuning—we do not have to create a whole new regulatory system.

I have cosponsored the Danforth-Jepsen amendment, which is a NGPA tuneup. Rather than throw the baby out with the bathwater, it will address what needs to be addressed in today's gas markets and make the current system work.

Specifically, our amendment offers real world, predictable solutions to problems that have been painfully inflicted on our constituents in the past year. These are:

Take-or-pay: Not only have gas pipelines been paying for gas that they are not taking, but take-or-pay has been fingered in virtually all legislation as a chief culprit causing price increases far in excess of what was expected. This is because pipelines have taken expensive gas and passed the cost on directly to consumers. They reject lower price gas, because deficiency payments are smaller, and it is more economic for the pipeline company to pay for cheap gas and pass on the ex-

pensive stuff. But the consumer gets it in the neck, and ends up paying for a much higher cost mix of gas because pipelines are buying something far different than the least cost mix of gas available.

To some extent, pipelines are renegotiating what contracts can be redone. They are also unilaterally breaking contracts, and it is no surprise that producers are suing them. It is quite possible that some of the price letup we have seen in 1983 will be lost as judgments in the courts in favor of producers are passed along up the pipe to consumers.

This is an absurd situation. Let us fix it. Let us end the economic chaos or at least limit it for 3 years—of having consumers pay for expensive gas that they may never get, having pipelines reject cheap gas and leave it unproduced, and let us clear up a potential legal mess. Let us address take-or-pay here, and legislate a permanent reduction in mandatory takes to 50 percent.

Prudence: Let us expand the Natural Gas Act (NGA) and NGPA's fraud and abuse criteria for automatic gas cost pass through for pipelines. Let us make blatantly imprudent gas acquisition decisions by pipelines—which has resulted in taking of something far different than the cheapest mix of gas. Let us not let this overpriced mix of gas be forced on and passed along to captive residential consumers and industrial users who are fleeing gas pipelines because their gas has gotten more expensive than oil.

Indefinite pricing: Let us eliminate fuzzy pricing language in gas contracts. Let us cap indefinite price escalators (IPE's) at their last price under NGPA. If the parties to those contracts feel that that price is not right, they can renegotiate a new price that does not involve an IPE. Let us not have contract language that provides above market price supports.

Contract carriage: No one has any idea what the outcome of the contract carriage provisions of S. 1715 might be. Let us use contract carriage where it is necessary—to allow producers to sell gas rejected under take reductions. Let us not lock it in and make producers carry inventories for pipelines without compensation. Let us move gas at market prices, but let us not permanently deprive pipelines of reserves they worked hard to line up.

These are the ingredients of a sound reform of natural gas policy. Basically, this proposed reform cut through the Gordian knot of redtape by adjusting the natural gas market to reality instead of the disarray that led us to this debate.

I invite the support of other Members of the Senate for the Danforth/Jepsen substitute. It represents a combination of remedial measures aimed at fixing current problems. It represents thousands of hours of research and work by the combined staffs of the sponsoring Senators and has resulted in widespread agreement on the items contained in the amendments. I recommend we now end the seemingly endless debate on gas pricing and fix what needs to be fixed.

Mr. President, I ask unanimous consent that the Jepsen analysis that recomputes the NGSA's savings from S. 1715 be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

JEPSEN RECOMPUTES THE NGSA'S SAVINGS FROM S. 1715

NGSA—The Natural Gas Supply Association—has brought forward a study claiming that S. 1715 would save gas consumers an average of 71 cents per Mcf in the first year after enactment. Not surprisingly, this conclusion has been promulgated by the largest producers of old gas, who have the most to gain from decontrol.

I have refigured the NGSA's figures for national savings. During the first year after enactment, S. 1715 would result in prices above other bills. Both S. 1715 and a 50-percent take-or-pay limit result in similar 1985 savings relative to the present situation. But, the big difference comes not in 1985 but in later years, after the short-lived benefits of S. 1715 are far offset by the cost of old gas decontrol.

The bottom line of this critique is to point out that old gas decontrol is costly beyond the offset of S. 1715's beneficial aspects, which stem mostly from the take-or-pay cut. Further, all of the beneficial aspects of S. 1715 are contained in other legislation that does not decontrol old gas.

Average price of gas one year after enactment: NGPA status quo extended—$3.00/Mcf; remedial legislation lowering take-or-pay requirements—$2.75; S. 1715, first year price—$2.76; difference between S. 1715 and other remedial legislation—$0.01; and cost of doing nothing—$0.25 per Mcf.

JEPSEN RECOMPUTES THE NGSA'S CLAIM OF SAVINGS FROM S. 1715

Assumptions

With take reductions to 50 percent, the early 1985 gas mix acquired by pipelines nationwide changes from 42 percent old and 58 percent new (and Sec. 107) to 47 percent and 53 percent respectively.

Old gas prices rise by a 6 percent annual inflation rate.

New gas prices stabilize at $3.32, the average of the Sec. 103 and current average wellhead price. These are currently $3.10 (August PGA data) and $2.96 (July Form 11 data) respectively, and are assumed to rise at the rate of inflation.

Under a continuation of present market forces, which have driven Sec. 107 prices down by $1.00 during the past year, the average price of this gas will be $5.50/Mcf in one year—regardless of legislative initiatives.

I have relied on the FERC Form 11 data for wellhead prices and PGA data for the breakdown by price class. The latter data were used because they are the only place where prices and quantities are estimated by NGPA class.

AVERAGE PRICE OF GAS AT BEGINNING OF 1985—3 SCENARIOS

(1) Status Quo: Old gas—42 percent at $2.13; new gas and Sec. 107—53 percent at $4.07; volume weighted average—$3.00.

(2) S. 1715: Old gas—47 percent at $2.13; new gas and Sec. 107—53 percent at $3.32; volume weighted average—$2.76.

(3) 50 percent take-or-pay: Old gas—47 percent at $1.53; new gas and Sec. 107—53 percent at $3.83; volume weighted average—$2.75.

THE JEPSEN FACT SHEET ON THE NGSA ANALYSIS OF S. 1715

What is the NGSA, anyhow?

The Natural Gas Supply Association is an organization composed of the largest owners of old gas reserves. For the most part they happen to be the major oil companies, but this is secondary to the fact that they have much to gain from decontrol of old gas.

The study

The NGSA has promulgated a study purporting to demonstrate the questionable proposition that decontrol under S. 1715 would lower gas prices by a national average of 14 percent or 71 cents per Mcf, in 1985. They show the state by state breakdown of these figures, ranging from a 95 cent reduction in California to 30 cents in Utah.

The NGSA's lobbyists have visited every Senate office with this seemingly impressive report. It has already been used intensively in early floor debate, and promises to be a major factor in further discussion of S. 1715 and substitute legislation.

What's wrong with the NGSA study?

A number of obvious data problems with the NGSA study raise questions about its conclusions. The Federal Energy Regulatory Commission employs two series of data to characterize the wellhead prices paid by pipelines to domestic gas producers. The NGSA study assumptions are based on Purchased Gas Adjustment filings of the major pipelines with FERC.

The problem is that these data represent the aggregate of pipelines forecasts of which category of gas they will take at what price during the ensuing six month period. The forecasts often differ substantially from reality. The projections are portrayed by NGSA and others as historic data but never retrospectively.

The price assumptions that I have used for my projections are based primarily on the monthly Form 11 filings with FERC of the largest pipeline companies and comprises most interstate gas purchases. These data, are not perfect either. They tend to commingle prepayments for undertaken gas, (take-or-pay penalties) for example. These data, however, appear to be the most accurate description of gas transactions prices, since they are based on actual payments to producers by pipeline companies.

I believe the PGA projections used in the NGSA study are speculative at best, due largely to the fact that these figures are never recalculated to reflect true market trends. The Form 11 filings, which incorporate the most recent pipeline payments to producers, are as close to an accurate representation of the gas market as is available.

There are similar concerns about the target price for ramp-up/ramp-down of the Free Market Price Indicator (FMPI). Here NGSA has estimated a price midway between the NGPA Sec. 103 price, which they estimate at $2.83/Mcf for September and an average wellhead purchase price of $2.76/Mcf based on August filings. The NGSA

study averages these two price indicators to estimate a FMPI of $2.80/Mcf for 1985. And it is this price that serves as the basis for their analysis. These data present a picture of the current and projected gas markets which is favorable toward their desired conclusions.

The average wellhead purchase price, based on actual payments to producers as reported on Form 11, stood at $2.96/Mcf in July. The difference in this data account alone could account for about 20 cents of the 71 cents the NGSA claimed as savings for 1985. The PGA data—upon which the NGSA bases the bulk of its analysis—shows a Sec. 103 price in August, 1983, of $3.10/Mcf. Allowing for a 6 percent annual increase in the GNP deflator, this target would be $3.40/Mcf in early 1985, a 60 cents difference from the NGSA target FMPI price of $2.80/Mcf.

Although there is no general agreement on which data series are accurate, and the figures differ widely, it is clear that the NGSA study may not be based on solid ground. The NGSA itself has recognized this problem and included a three pipeline example in their analysis of what would happen if the FMPI was $3.30 in 1985, instead of $2.80. This example shows the savings due to S. 1715 to be 30 cents less than base projection, or nearly half of the savings.

Analytic problems

I see a whole range of analytic problems in the NGSA study which has the effect of turning what, in reality are price hikes, into an illusion of savings. While these are very complex issues, I have tried to characterize them simply here. Among the analytic difficulties are:

Efficiency Gains: These certainly exist, and are relevant considerations. They are, however, most relevant for economics textbooks. To attempt quantification in the context of a legislatively orientated study, and suggest that they might accrue to consumers as tangible savings, presses theory very hard. These are not monies with which people can pay their bills.

Gas imports

NGSA includes price reductions due to repricing of gas imports. This is a matter not even dealt with in S. 1715. It is hard to attribute savings here.

Commingling of price increases and decreases

The area where statistics really mislead lies in the commingling of effects of the major provisions of S. 1715. S. 1715 contains several major concepts, many of which are in nearly every remedial bill offered in the past year. For example, mixing the effects of take-or-pay reductions, which lowers the price of the gas mix acquired by pipelines with ramp-up—which raises gas prices—can give the false illusion of a price decline which really is 40 percent increase, and 60 percent decrease. This masks the price increase component. The net effect is a price decline—at least in the near term. But future (unmeasured in the NGSA paper) price rises from ramp-up decontrol are inevitable. Further, the only major price reducing element is the take-or-pay cut, and this is an item proposed in nearly all legislation.

Lower cost mix of gas

NGSA claims a lower cost mix of gas would be achieved under S. 1715. This is indeed true, because it chiefly results from reduced takes of high priced supply under take or pay cuts. These same benefits would accrue under many other legislative vehicles containing take-or-pay reductions; they are in no way unique to S. 1715.

The commingling of price increases resulting from old gas decontrol with a variety of other factors that lower prices is a characteristic of the legislation, much of which embodies the price ameliorating provisions of S. 1715 while not decontrolling old gas.

Use of 1-year analytic timeframe

NGSA looks at S. 1715 after its first year of operation. This is a snapshot of the point at which it looks best. In later years, adverse price impacts begin to add up, and the picture will look a lot different.

Here are some down-stream factors that NGSA side-steps by only looking at the beginning of 1985:

Take-or-pay

S. 1715 take reductions are 50 percent in the first year, 60 percent in the second and 70 percent in the third. The analytic snapshot NGSA uses, the start of 1985, shows maximum benefits from take reductions. These phase out after the picture is taken.

Prepayments

Take reductions may have the effect of zeroing out prepayment penalties pipelines have made for undertaken gas. This is a one-time benefit, which is shown for the first year in the NGSA's figures. It would not be a factor in later years.

Incremental decontrol

S. 1715 provides that gas released under take-or-pay reductions, or from renegotiated contracts, become decontrolled. It is very hard to predict actually how much gas would be involved, but the cost from this form of secondary decontrol would begin to build up in later years. In any case, in the one year after enactment snapshot, NGSA does not even include this cost component. Again, this is a cost item which would expand over time. An early look would understate its long-term impact.

Northern Natural Gas looks at NGSA

One good example of the inaccurate impression NGSA's study gives is shown by contrasting NGSA's characterization of how Northern Natural Gas, one major pipeline with substantial old gas, fares under S. 1715 with Northern's own estimate.

NGSA AGAINST NORTHERN NATURAL'S OWN CALCULATIONS

	FMPI (target price for ramp-up/ ramp-down	Northern	NGSA's "reduction" for Iowa
	$3.40	$2.80	$2.80
1984:			
Price increase	+16	+12	
Price decrease	−15	−21	
Total	−.01	−.09	
1985:			
Price increase	+51	+37	+22
Price decrease	−12	−38	−67
Total	+.38	−.01	−45
1986:			
Price increase	−1.04	+75	
Price decrease	−11	−40	
Total	+93	+35	

This comparison shows several things. Even apart from the issue of the target market price, NGSA's estimates of the benefits are far higher than Northern's. An appraisal made internally by a pipeline with a first hand look at its own gas acquisition profile shows a far different picture than NGSA's view. And extending NGSA's snapshot of 1985 to 1986 illustrates the downstream liabilities of S. 1715. Note that Northern—which holds $3.40 FMPI/price target based on FERC Form 11 data as accurate—estimates S. 1714 costing it 93¢/mcf in 1986 in contrast to NGSA's saving of −45¢ in 1985.

NATURAL GAS PRICES

Mr. DANFORTH. Mr. President, 1 year ago I joined with the Senator from Kansas (Mrs. KASSEBAUM) in calling for immediate action on the skyrocketing price of natural gas. The Senate, however, set aside our arguments at that time, awaiting committee action, and the citizens of my State suffered through enormous increases in their natural gas bills—despite an unusally mild winter.

Now winter is approaching again, and this time it might be a cold one. And once again we face the discouraging possibility that we might fail to complete action on urgently needed legislation to address the disarray in the natural gas markets.

It is said that Nero fiddled while Rome burned. Well, Mr. President, I would not want it said that Congress fiddled while Missouri froze. I believe we should act now, before we adjourn, to bring some relief to the beleaguered consumers of natural gas.

The program, very simply, is S. 1715. The Energy Committee has reported a bill that would not improve the situation, but would worsen it.The central feature of S. 1715 is the complete deregulation of old natural gas, our cheapest source of supply. Compared to current law, such as step would cost consumers an additional $40 billion in the next 6 years, according to the Energy Information Administration. For this reason alone, S. 1715 is fundamentally unacceptable.

The Senator from Kansas (Mrs. KASSEBAUM) is prepared to offer an amendment in the nature of a substitute—an amendment that incorporates the provisions of S. 996. I am an original cosponsor of that bill, and I believe it would provide the most relief to consumers of any natural gas legislation I have seen to date. I will strongly urge its adoption.

But, Mr. President, I am also a realist. The votes are probably not there to pass S. 996, any more than they are there to pass S. 1715. And we must get on to legislation that we can pass. It is for this reason that today I am offering an additional amendment in the nature of a substitute, for myself and Senators JEPSEN, METZENBAUM, CRANSTON, and PROXMIRE.

The cosponsors of this bill represent a broad coalition of philosophies and approaches to this issue. But we are united in our opposition to the decon-

trol of old gas, and we are determined to offer constructive legislation.

This amendment will not do as much to help consumers as S. 996. But it will provide significant relief, and it does so in a limited and narrowly focused way. This amendment addresses contractual clauses that are distorting the operation of the natural gas market. It requires pipelines to be prudent in their gas purchases. And it suspends the import of Algerian liquefied natural gas that is driving prices sky-high throughout the Midwest.

I believe that most people will agree that these are actions that need to be taken. Some will want to do much more. To them I say, "Fine. Offer an amendment and let the Senate work its will." But let us start with this core package of consensus items, and let us build on that toward final passage of a bill. Let us not rely any more on the rickety and irreparable S. 1715, a bill that is fundamentally unacceptable to many of us in the Senate. Let us turn instead to a substitute encompassing areas of agreement and try to accomplish what we failed to accomplish last year—enactment of natural gas legislation that will help the Nation's consumers. Let us act before winter arrives. Let us act now.

Mr. President, I ask unanimous consent that a summary of the provisions of my amendment be printed in the RECORD.

Mr. President, I would particularly like to call attention to two of the cosponsors of this amendment. They have put considerable work into the attempt to find a consensus on this issue, and that should be noted.

The Senator from Iowa (Mr. JEPSEN) is the author of S. 823, legislation addressed to these same problems, and a bill that was endorsed by the National Association of Regulatory Commissioners. The interest of the Senator from Ohio (Mr. METZENBAUM) in this issue is also well known to the Members, and he, too, has joined in the search for common ground. We have all worked together to meld our approaches to this issue and move the debate forward.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE DANFORTH AMENDMENT

The amendment provides relief from take-or-pay clauses, minimum commodity bills, and indefinite price escalators, and extablishes a "prudent purchase rule" for pipeline gas purchases. It also suspends for 18 months the import of Algerian liquefied natural gas by Trunkline LNG Company.

Take-or-pay: Pipelines would be released from their obligation to take any more than 50 percent of the gas committed to them under a contract. With 30 days' notice, a pipeline could inform a producer of its intention to reduce the volumes it would take. Any reduction would last for a one-year period; it could be renewed or altered for additional one-year periods, but could not extend past the third year after enactment.

Only contracts entered into after passage of the NGPA (for new gas) or contracts amended after NGPA would be covered. This would restrict relief mainly to high-priced gas.

If a pipeline reduced its "take," the producer would be free to sell that gas elsewhere, and the pipeline would be obligated to carry the gas for the producer at a "just and reasonable" rate (cost plus reasonable rate of return).

A pipeline could not reduce its "take" below the level needed to keep the producer's gas field operating properly—i.e., prevent drainage into another field. A pipeline could not favor one producer over another (e.g. and affiliated producer) except on the basis of price. A contract covering different categories of gas would not have to be reduced uniformly, but could be reduced in volume differently according to category.

If a pipeline had to pay for more gas than it could take at a particular time, it would have the right to get the gas at a later date. This last provision would become permanent law, not just a three-year fix.

Minimum Commodity Bills: Just as take-or-pay clauses require pipelines to pay for a certain amount of gas whether or not it is needed, minimum commodity bills require distribution companies (and pipelines in pipeline-to-pipeline transactions) to pay for a certian amount of gas whether or not it is needed. As with take-or-pay, this amendment would limit the maximum "take" that could be required to 50 percent, and makeup rights would be assured.

Indefinite Price Escalators: These clauses, which tie the price of gas at one location to the highest price in the area or to the price of fuel oil, would be limited to the price paid on December 31, 1984. Only contracts for gas that is decontrolled by the NGPA would be covered. Area rate clauses would not be affected.

Purdent Purchase Rule: The Federal Energy Regulatory Commission currently may deny pipelines recovery of the cost of their gas only if the Commission finds that "the amount paid was excessive due to waste, fraud, or similar grounds." The amendment would add "imprudence" to those grounds, FERC would evaluate purchases based on at least five criteria: the pipeline's need for the gas; the price and availability of gas; the amount of gas involved; the relationship between the pipeline and the producer; and contractual limitations on the pipeline. The prudence test would apply only to gas acquisition costs after the date of enactment.

Algerian LNG: Trunkline's license to import liquefied natural gas from Algeria would be suspended for 18 months. These extremely expensive imports are currently distorting natural gas prices throughout the Midwest. The Commission would have there authority after 18 months to reinstate the license if it found that resumption of the imports would be consistent with the public interest.

DAVID RODERICK SPEAKS ON THE U.S. STEEL INDUSTRY IN THE INTERNATIONAL MARKET AND THE SOUTH WORKS PLANT IN CHICAGO

Mr. PERCY. Mr. President, David Roderick, the chairman of United States Steel Corp., spoke today at the National Press Club here in Washington.

Mr. Roderick, who joined United States Steel in 1959 and has risen to become chairman of the board of the largest American steelmaker, gave a thorough and lucid analysis of the U.S. steel industry and its strengths and weaknesses. His points about steel imports and how they should be dealt with are, I think, well taken, and should be noted by all of my colleagues.

I am particularly pleased to see that United States Steel has decided to keep its South Works plant in Chicago on line, and, in fact, has announced today that it plans to build an ultra-modern steel rail mill there. This is great news for the company, for the steelworkers at the plant and for the city of Chicago. A new rail mill will bring total employment at the plant to between 1,800 and 2,100.

I issued a statement in Chicago on this hopeful development, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks today.

Over the past few months I have been exploring all options with United States Steel and the United Steelworkers of America, as well as with the city of Chicago and the State of Illinois. United States Steel's plans for South Works depend on a Federal urban development action grant, or UDAG. I have assured both United States Steel and the USW that I will do all I can to get approval for a UDAG from the Department of Housing and Urban Development, and I have talked to HUD Secretary Pierce about this. South Works must be kept open as a healthy and productive part of the Illinois steel industry and State economy.

I believe that David Roderick's remarks today are timely and an important contribution to the current national debate about industrial policy and America's place in the international marketplace. Mr. President, I ask unanimous consent that Mr. Roderick's statement be placed in the RECORD, and I urge my colleagues to read and reflect upon it.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PERCY ON SOUTH WORKS

I am delighted that U.S. Steel has decided to go ahead and complete the steel rail mill facility at Chicago's South Works. This is terrific news not only for the workers at the plant, but also for the entire South Chicago community.

Yesterday, I phoned Secretary of Housing and Urban Development Sam Pierce who assured me that HUD stands ready to receive a UDAG application from the City of Chicago for South Works. Secretary Pierce said that HUD will give the application every consideration.

I am especially pleased that since my meeting with South Works Steelworkers' Local 65 in August, my office has been able to work with the City and the State of Illi-

nois in helping U.S. Steel explore every alternative for government assistance in keeping the plant open.

I have maintained an ongoing dialogue with U.S Steel Chairman David Roderick about South Works. Likewise, I have been in touch with USW Local 65 President Don Stazak. Both U.S. Steel and the Steelworkers are to be congratulated for their efforts to find a solution to keeping South Works open. Furthermore, state and local officials should be commended for their extensive work on this problem. Certainly, I know that the entire Illinois Congressional delegation will work together to get this UDAG for U.S. Steel.

Today I wrote to Secretary Pierce, offering my full cooperation in putting together a grant for South Works. I would like to host the City of Chicago and U.S. Steel in meetings with high-level HUD officials—whenever they are ready—to begin serious discussion on a UDAG. The next date for submission of UDAG is January 31, 1984, with disposition and approval of projects in that round expected as early as April 1 of next year.

Urban Development Action Grants are economic development grants given to certain communities which can show need for them. These grants are then loaned out by the communities to specific private sector enterprises at low interest rates. A UDAG for South Works, which would be channeled through the City of Chicago, would be the most recent award in a string of successful Illinois UDAG applications. These grants have generated over $1 billion in private investment and have helped create over 23,000 new permanent private sector jobs which our state would otherwise not have received. In fact, Illinois is consistently one of the top UDAG recipient states.

The UDAG program works. It has worked for Illinois, and it can work for South Works. My offices and I stand ready to see that this project receives the full attention of the Department of Housing and Urban Development, and I will do all I can to see that it is approved.

A MOST INGENIOUS PARADOX—AN ADDRESS BY DAVID M. RODERICK

Thank you, Don, for your introduction. I feel privileged to have this renowned forum as a platform for stating the case for our nation's steel industry—its plight and the importance of its survival.

I just hope this issue is not too drab when compared to your two most recent luncheon presentations by gourmet James Beard and economist Arthur Laffer—pie on the plate and pie in the sky. And now steelmaking.

Certainly what happens to the nation's fourth largest industry has to be important. Its demise would certainly be news—bad news for almost everyone. I think, then, its struggle to survive and regroup and prosper should be equally newsworthy.

There have been so many issues labeled crucial to the steel industry, so many scenarios advanced, and so many cures proposed that it's little wonder that there is substantial confusion about just what is at stake, what the problems are and what can be done, if anything, to solve them.

Overshadowing that is the larger question—is it all really worth the effort in the long run?

And what's worse on surface—and a public relations nightmare—is that so many of the issues and correctives seem to contradict one another.

One Gilbert and Sullivan song sums up our predicament in the steel industry in a verse . . . "a paradox, a paradox, a most ingenious paradox."

It has not escaped me—and I say this before you might—it has not escaped me that there are seeming contradictions in what we say we need, what we want and the actions we endorse to achieve those ends. While I can't promise to dispel every supposed inconsistency, I do want to suggest that our actions are more consistent than appear at first blush. While seemingly contradictory to some, they are coherent approaches—a most ingenious paradox, if you will.

The most obvious area of concern to us in the domestic steel industry is trade. It's almost the wrong word anymore, for trade implies a two-way exchange. In steel, it's mostly in and very little out. And the reasons—well known to you—cannot be dismissed simply because they are well known to all of us.

The importation of foreign steel into the U.S. market has reached dangerous levels. In the 1950's, imports accounted for 2.3 percent of the market, 9.9 percent in the Sixties, 15 percent in the Seventies, and now imports capture a fifth of the domestic market.

Labor costs account for some of the problem. Ours are too high, too out of touch with the reality of the work place and the marketplace to allow us a full measure of competitiveness.

And here let me pay a word of tribute to Lloyd McBride. We didn't always agree on the issues or the approaches, but Mac came to grips with the fact that if labor continued to overreach, it would put its members and us out of business. His members will miss his hard-headed realism.

But labor cannot be the scapegoat. There's more to it.

World steel capability is being added to at a pell-mell pace without regard to demand, to cost and price, and without the necessary penalties of the marketplace for failure.

In 1950, 32 countries were steel-producing nations. By 1982, their number had jumped to 85. And their own domestic needs were not the principal reason for these nations to enter the world steel market. National pride and easy money were the real culprits!

It's said that every developing nation wants its own steel industry and its own airline—even if it's only one mill and one plane—and even if they suffer losses ad infinitum. They seemingly serve the purpose of national identity. And all the while some of us in the steel industry thought a flag and a national anthem could serve that purpose with much less anguish for everyone.

But it is the easy money that allows folly to become fact. International lending agencies have made it easy—too easy—for Third World nations especially, to get loans to build steel mills, and other industrial complexes, whether market demand is there or not, or whether the project is economically viable. The mechanism of the marketplace is ignored and sensible lending practices are suspended. The decisions to lend are often more political than economic.

Yet I believe foreign aid and foreign trade are not identical issues. One is government policy, the other is a commercial function. Corporations capitalized by private investors cannot be expected to forego profitable enterprise simply to further State Department objectives. And they can't be expected to compete successfully when the competition is unfair—or should I say impossible.

Loans to build state-of-the-art steel mills in developing countries at low or really no interest rates—rates certainly not within our reach—encourage nations to get into the act—regardless of need . . . or expertise . . . or any prospect for success without ongoing total market protection and direct government aid and subsidies.

Little wonder then that steel shipments from developing countries accounted for 43 percent of imports into our domestic market in September. Most of it from steelmakers who are totally government owned and government financed and who enjoy almost unlimited access to their national treasury. Imports from developing countries now outstrip those from Japan and the European Community countries.

And these uneconomic loans have now become part and parcel of the international debt crisis. Loans made for unnecessary enterprises where repayment is almost out of the question have shaken the international banking community—but the loans . . . and the losses . . . go on.

We need to call a halt to this now! Internatinal lending agencies have not been prudent in their loan practices, maintaining a double standard for access to capital and its cost.

This nation's steelmakers can never be truly competitive if such powerful international forces are permitted to work in our disfavor and domestic policies are not tailored to counter such policies.

To offer our continued resistance to unfair trade, United States Steel Corporation is today filing suits against Argentina, Brazil and Mexico.

Our countervailing duty suit against Argentina charges an average margin of subsidy for hot and cold rolled sheet to be about 55 percent. Argentina requires import licenses for all flat rolled products—licenses almost impossible to get. So while their government-owned mills unfairly shove their subsidized steel into our market, they totally forbid the importation of our steel.

The Vice President of the Argentine Steel Industry Centre has publicly admitted that if this government freely permitted steel imports, it "would certainly wipe the Argentine industry off the map."

Our countervailing duty suit against Mexico covers six major products and charges a combined average margin of subsidy of 35 percent. Mexico also enforces a very restrictive import licensing scheme. As reported recently in Industry Week, Mexican steel mills are operating at near capacity because the Mexican government arbitrarily slams the door on most steel imports, except for sizes and grades not made locally. In other words, if they make it you can't export it into their market.

We are filing a countervailing duty suit against Brazil covering plate and hot and cold rolled sheet that charges a weighted average margin of subsidy to be around 50 percent. In addition, an antidumping suit charging the sale of below-cost hot and cold rolled sheet estimates the margin of subsidy at 80 percent.

Brazil, with an inflation rate of 200 percent and interest rates of 140 percent, is a classic example of one-way trade.

They have a novel policy—"The Law of Similars" they term it—that translated into a few no-nonsense words, means that anything that is made in Brazil cannot be imported without permission, regardless of the sufficiency of domestic production. And those products that are imported carry tariffs of between 45 and 205 percent.

The decision to penalize Brazil for exporting subsidized steel by making a government-owned steel company pay the duties to its own government is ludicrous.

It is as if my wife were caught speeding and fined $100 and then permitted by the judge to pay me rather than the court. The money never leaves the family coffers and deterrence goes by the boards.

From the fourth quarter of 1982 to the first quarter of 1983, imports of Brazilian steel to this market doubled. When you encourage people to cheat, they do . . . and our government has encouraged them.

Also, we will soon pursue legal remedies against Rumania, Spain, South Korea and South Africa.

It is not trade that we would inhibit, it is trade abuse that we would prevent. The continued flagrant defiance of our trade laws mandates vigorous action on our part.

It is why I suggest that a temporary quota on imported steel is now justifiable. Today the members of the House Steel Caucus are introducing a bill to be known as the "Fair Trade in Steel Act of 1983." That bill would limit foreign steel imports to an average 15 percent of the domestic market for a five-year period.

I salute the members of the House Steel Caucus for introducing this bill. In an election year as Members of Congress are running for reelection and as presidential candidates campaign, we expect that they will hear more and more from the American people that this kind of legislation needs enactment.

Let me declare here that any arrangement United States Steel Corporation might make with British Steel Corporation for the supply of semi-finished slabs will conform to any quota legislation that is enacted.

We in the steel industry do not want bailouts, and we accept an interim quota arrangement only as a way toward salvaging the domestic industry which we believe is worth saving.

We haven't supported quotas before. We have resisted such action, hoping that our trade laws would be enforced. This has not materialized, and so we proceed reluctantly with quota legislation as our only recourse to achieve the intent of our trade laws. As Third World steel pours into our market without regard for our laws or fair play in the marketplace we are left with no choice.

It is our last resort toward redressing a trade situation artificially weighted against us, so that we can reshape and retool our industry without further erosion of our market share. It does not guarantee our viability, but supplies breathing space so urgently needed.

Protectionist nations who trumpet free trade will cite it as a protectionist measure. Meanwhile, their hypocrisy is made manifest in their trade practices. They espouse open trade . . . subsidize their own mills . . . practice dumping . . . and totally protect their home markets.

American steel producers must have time to adjust to import flows caused by irreversible structural changes in the world steel industry. Foreign government ownership, subsidies and dumping have become the norm, and a major cause of the domestic industry's problems. There is overwhelming evidence that the market mechanism has been dismantled in international steel trade.

Excess capacity is the key problem facing the world steel industry. The U.S. has the only major steel industry in the world which has not overbuilt its capacity. However, the U.S. industry is the only major world steel producer that cannot fully supply domestic needs during a period of strong domestic demand for steel.

The dismantling of the market mechanism in the international steel market is the fundamental challenge confronting the U.S. Government's steel trade policy. The worst possible public policy response to the present steel trade crisis would be to act as if the world market were functioning properly. To pretend that the market is functioning as it should—allocating capital and rewarding the relatively efficient with profits and employment, when it is not—would signal the decline of the American steel industry.

We are not seeking to prevent competitive trade, but rather to promote fair competition. When our trade laws are flaunted—and they are, and when we forego enforcement of our trade laws—which we do all too often, we encourage the wholesale entry of every steelmaking nation into our domestic market without fear of penalty or even embarrassment.

Such weakening of the substance of our trade laws weakens the national stature in the process.

Other factors contribute to the trade imbalance. The chronic weakness of the yen against the dollar adds a 20 percent distortion to the price of a ton of steel. That, coupled with the Japanese practice of forgiving certain taxes and providing low-cost capital for industrial development at rates as low as 2.25 percent and 4.5 percent, build in a structural advantage that is hard for us to overcome.

Concurrently, our immense federal deficits persist, putting pressure on interest rates and driving up the cost of money. Capital that is too expensive simply prevents investment and eliminates growth. This phenomenon has hit steel particularly hard since the capital goods market is the mainstay of the steel industry.

Reducing the deficits and reversing the upward spiral of spending must be the number one priority of the federal government.

Another deficit that is alarming is the trade deficit—over $31 billion in 1982—and rising. We are looking at a $60 billion imbalance in trade this year. Some projections point to a $100 billion deficit before the decade is out! An appalling prospect! And that prospect can only be avoided if we insist that the dollar be kept properly aligned with the currencies of our major trading partners, and that our trade laws be enforced so that the unfair advantage accruing to dumped and subsidized imports is negated.

And writing off steel and other basic industries in favor of microchips won't brake the slide. We need the cooperation of government in creating an atmosphere equally as friendly to basic industry as to emerging industries.

America's basic industries generally, and steel specifically, are not sentimental relics. In 1981, the most recent relatively normal year, shipments of our basic industries provided $823 billion to the U.S. economy, employed 10 percent of the entire U.S. labor force, and accounted for 12.6 percent of total compensation.

And their economic importance is matched by their importance to our national security. Reliance on offshore sources for key defense materials would be a contradiction in terms. And this applies to all our basic industries.

Given some deserved time to get into fighting shape once again without having to do battle on two fronts at once, we can be truly competitive in cost as well as quality.

If our trade laws are enforced—and their rationale recognized by our governmental policymakers, we can compete vigorously in the world market. We do not want assured success, but we've become very weary of guaranteed failure. Our dumping and countervailing duty suits should telegraph the message that our patience has run out. We are primed for an aggressive trade posture in a fair marketplace.

We are not reduced to wringing our hands and pointing the finger of blame elsewhere. We are doing that we can to trim overhead, cut costs, improve production facilities and continually upgrade the quality of our products.

Two-thirds of this nation's steelmaking facilities are world-competitive. The other third requires modernization and we are moving in that direction. Steel industry capital expenditures in the past three years total $6 billion—a substantial commitment. But that's far from enough.

This afternoon I can make a substantial addition to that commitment. United States Steel Corporation, contrary to rumors, is not closing down its South Works in Chicago. Rather, we intend, subject to the full cooperation of labor and local state and federal governments, to proceed with the construction of a rail mill there.

The feasibility study is continuing, and we are hopeful that we will be able to put together the necessary elements to make South Works competitive once again. It will be smaller, but with the addition of the rail mill we can save jobs, turn a loss operation into a profitable one, and keep South Works as a vital part of the economy of Chicago and Illinois.

I foresee a stronger demand for steel soon, and we are going to be ready to share in that market.

The steel industry is changing. If we can settle our thorny trade matters, continue to resolve our labor issues and return stability to our capital markets, we will be able to move ahead, but in new forms.

Steel is regrouping—some of it lost perhaps in the transformation—but we'll continue to exist and we'll be tougher than ever.

In closing, let me affirm my conviction that this nation can't really do without its steel industry. Even when we feel like we are a jilted or a taken-for-granted suitor, we know there's still love there.

We'd just like to have that affection expressed a little more often . . . and a little more convincingly.

We'd really like to be more than America's most ingenious paradox.

INTERNATIONAL FINANCING

Mr. LONG. Mr. President, last week, Mr. Hans Angermueller, vice chairman, CitiBank/CitiCorp, delivered a speech at a meeting of the Florida Bar Association at Miami, Fla. His speech was on the topic "International Lending: Trade, Not Aid."

Mr. Angermueller's remarks on the delicate and complicated banking problems facing the world today are perceptive. I believe they would be of interest to every member of this body as well as others who may be fortunate enough to read the speech. I,

therefore, ask unanimous consent for his remarks to be printed in the CONGRESSIONAL RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

INTERNATIONAL LENDING: TRADE, NOT AID

(Hans H. Angermueller)

Although it seems eons ago, it has only been slightly more than a year since all hell seemed to be breaking loose in the debt situation of the less developed countries. Mexico had run out of money and had just declared to the world that it couldn't meet its debt service payments. Within a short time, the number of nations in arrears in their international debt had risen to 34. Then came the IMF conference in Toronto in October of 1982. There the world's central and commercial bankers looked down the black hole and couldn't see any bottom.

Since then, lots of things have happened. Some $100 billion of international debt of some 15 countries has been, or is in the process of being, restructured—10 times more than the amount restructured in any previous year. Further, the IMF has signed $15.6 billion of loan agreements with over 30 countries, and various borrower governments have accepted austerity programs promulgated by the IMF while stretching out payments on official and private debt. In words often used by Winston Churchill, the year has been "not entirely uneventful."

Yet, with all this, the world is still trading. The global recession seems to be ending. Some recovery has started. And, most importantly, the world's financial system is still operating. While no one suggests that our problems are behind us, the void into which the bankers peered a year ago does not seem bottomless anymore.

There's no question that one year ago the health and stability of the international financial system was threatened. The external forces of the two oil shocks, one in 1974, another in 1979; a major global recession; the internal economic mismanagement in certain countries; and a significant decline from previous patterns in international lending by banks all posed a considerable risk to the world's financial system. That risk has not disappeared, but its gravity has abated. And, the reasons for this are quite easy to identify.

First, there has been no further oil shock. Indeed, the combined impact of global energy conservation; a recession-motivated drop in demand; and a certain fraying of OPEC's internal cohesion have combined to push the price of oil from $34 to $29 or less per barrel. These developments will not last forever, but they have certainly come at an opportune time.

Second, the industrial nations' efforts to combat inflation have produced results. While interest rates are still high by historical standards, they have dropped and a sound recovery is under way in the United States, the world's largest economic engine. That recovery is spreading and will in due course reach the developing world.

Third, there has been a remarkable degree of coordination among the IMF, the major central banks, and a handful of large commercial banks in addressing two of the problems that created the crisis. They have done this by: (a) persuading various borrower countries to adopt internal adjustment programs to correct the effects of economic mismanagement as a precondition to further loans; and (b) persuading a few official agencies and a very large number of private commercial banks throughout the world to continue to lend to problem countries.

That job is not complete. The continuing problems of Brazil, Venezuela, and Argentina still have to be addressed, and new problems in different countries may arise. But the process is working. Yet, a real, critical weakness in the process is the risk of losing the continuing endurance and enthusiasm of the critical handful of people in the debtor countries and in the leading creditor institutions who are overseeing the process. It is noteworthy that, contrary to the prophesies, no individual or collective repudiation of debt has occurred. No radical debt reform proposals involving the vountary or forced conversion of market-rate, short-term debt into below-market-rate, very-long-term debt, has occurred or has even been requested by the borrower countries. The process which is under way is admittedly larger in magnitude and in complexity than at any time in the past, but traditional principles are being applied.

Mexico's remarkable example illustrates the process. Beginning in December of 1982, Mexico instituted an austerity program. Ten months later, Mexico's public sector deficit as a percentage of GNP had been cut in half; its inflation rate was cut by almost one half; and it is now showing a trade surplus large enough to cover its interest and other current payments. Further, its private sector external debt will be current by year-end.

Economic forecasting is a hazardous pastime which I try to avoid as much as I can. Yet I have consistently maintained that the world's debt problems are manageable. That isn't a forecast. It's an expression of basic confidence that, given the will to cooperate and a perception of what is at stake for all parties concerned, solutions will be found. I still believe that. And I base that belief on Adam Smith's "invisible hand," the occasionally unfashionable idea that enlightened self-interest is the keystone of any agreement, be it a cross-border loan or any other business arrangement.

A somewhat subtle form of self-interest may occur when a borrower, whether sovereign or private, encounters an unexpected, but essentially temporary, liquidity problem. In such situations it may well be in the enlightened self-interest of the lender to forgo rigorous insistence on compliance with existing payment terms. Instead, it may be appropriate to show some flexibility—even to the extent of advancing new funds to help the troubled borrower bridge the liquidity problem. Such flexibility is particularly desirable in cross-border loan situations where an immediate resort to legal remedies—however emotionally satisifying that path may be—results in expensive and protracted proceedings with results that are unpredictable.

There is also a strong purely selfish argument for support of developing debtor nations. Rather than looking at a rescheduling of existing debt and the extension of new credit as an indication of desperation and imprudence, it might behoove our politicians to recognize that the continued viability of debtor nations will, in the long run, act to create industrial jobs—lots of jobs—in the United States. Twelve years ago, U.S exports to the rest of the world totaled $25 billion a year. Today the figures stand at eight times as much—$200 billion a year, of which about one-quarter flows to the third world. Of all the new jobs created in the U.S. over the past twelve years, 80 percent are export related. In a world where the industrial nations are evolving into service and high technology economies and where developing countries are evolving into industrial economies, does it really help to stifle the developing country markets for our dwindling volume of manufactured goods?

There are those critics who contend that the IMF-mandated austerity programs in the developing debtor countries in fact create a counterproductive force—that they are too tough and that they reduce imports and thus do not create industrial country export jobs. In the short run, they may be right, but there are no instant solutions to problems that have been a decade in the making. Only by tiding the developing nations over their current liquidity bind will be restart the flow of world trade that prevailed for so long and to the betterment of all.

The most practical way the industrialized countries can serve their own enlightened self-interest is to accelerate their own economic recovery which is already under way. We can do this by getting better control over the forces that precipitated the late, unlamented recession. That means taking steps to control deficits, fight inflation, increase productivity and foster capital formation. By doing these kinds of things we can enhance the prosperity of our own people and thus provide markets for the raw material and addedd value exports of the third world which, in turn, will spread recovery to the peoples of the debtor nations.

The sooner this is done, the sooner our own export markets will open up and the economic chain reaction will resume. Admittedly, it's not going to happen overnight. It will take time.

This close interrelationship between the developing countries, their debts, world trade and industrialized country jobs, is not always fully grasped by the some of media, the politicians, or even the general public. Today's real problem is in great part a case of too little lending, not too much. The major public and private financial intermediaries, in their own enlightened self-interest, have to help the developing countries to remain viable until the economic recovery which is now well under way in the U.S. reaches into their internal economies. We believe that if the world economy grows at a real rate of about 3 percent annually from 1984 through 1986, then the current account deficits of developing countries will quickly return to normal. When that happens, debt and debt-service ratios will drop sharply, approaching where they were in the very early 1970's—before the 1974 and 1979 oil shocks so disrupted the world economy. A 3 percent world economic growth is not, by any means, unattainable. Since the end of World War II through the end of the 1970's when our current deep global recession began, the real growth rate of the world economy averaged about 4 percent per year.

As the world's recovery progresses over this period, we must also focus on how the developing world will thereafter find its future long-term development capital.

When the oil shocks began in the early 1970's, the private commercial banks, with the encouragement of the governments of the industrialized countries, substantially stepped up the pace of their cross-border lending to the developing world. The funding for this increase in lending was, of course, the enormous multi-billion dollar transfer of wealth to the OPEC countries which resulted from the 1974 quadrupling of crude oil prices.

In many cases, the loans, viewed with the clarity of hindsight, may not all have been appropriate for commercial banks to make. Yet the money lent did not just flow through the developing countries to pay for more oil. The developing world, by and large, put the funds to good use. Their export earnings grew at a compound annual rate of 20.6 percent from 1974 to 1981. That rate is virtually identical to the 21.3 percent annual growth rate of their long-term external debt.

Historically, the current account deficits of the developing world have been financed to the extent of one-third by non-debt creating transfers such as grants and direct equity investment; one-third by loans from official agencies; and one-third by loans from commercial banks. After the second oil shock in 1979, the commercial bank share increased to over one-half until mid-1982 when Mexico ran out of dollars.

Then, not surprisingly, the commercial banks overreacted and virtually slammed shut the lending window. The third world countries had no alternative but to stop external spending and to drain their hard currency reserves. As it looks right now, the third world's aggregate current account deficit which peaked at $108 billion at the end of 1981 will be less than $65 billion at the end of this year. That's a crunching 40 percent cut in twenty-four months! That's real adjustment and austerity!

Today and for the near future, there is no real alternative to solving the current third world liquidity problem except through the private commercial banking system, working with the IMF, continuing to make loans to the debtors countries.

You should understand that the private commercial bankers in doing this will be acting out of self-interest—enlightened self-interest in my judgment. They want to get their earlier loans back and to do so they have to decide to make new loans. That decision process—whether to put more money in or to cut and run—is as old as banking itself.

But as we look forward, we must begin to think about a better, more formal and less ad hoc arrangement to enhance long-term development and the promotion of world trade.

Private commercial banks have traditionally financed trade and short-term projects. The IMF has traditionally provided short- to medium-term funds to finance temporary payments imbalances. The World Bank and the accumulators of long-term obligations such as insurance companies and pension funds have traditionally been providing long-term credit for development projects. Entrepreneurs, corporate and individual, have traditionally provided direct equity investment. Each group plays its own role to satisfy its own risk/reward objectives.

In the crunch of the two oil shocks and the global recession and some perhaps less than enlightened self-interest, the commercial banks may have stepped beyond their traditional roles in extending what, in retrospect and to their surprise, has turned out to be long-term development credits. They are now paying a price for their excursion into this involuntary long-term financing. They are paying through low price/earnings multiples on their stock, higher levels of non-performing loans and a fair amount of publicity and criticism.

But the critical thing to remember is that the vast preponderance of investment in the developing countries comes from the savings of its own citizens and institutions. Net capital inflow from cross-border lending and direct investment, even though it runs into the billions of dollars, probably doesn't on average amount to much more than 10 percent of total third world domestic investment.

I personally doubt that either official institutions or private commercial banks will, in light of recent developments, step up their lending to the developing world for the next few years at the rates that prevailed in the late 1970's. But as I indicated earlier, the cooperative efforts of the IMF and the commercial banks will probably bridge the gap for this near-term period. However, better solutions must be found for the longer run.

Two alternatives present themselves:

One is to increase the flow of external direct investment. That will involve third world countries creating hospitable and fair climates for foreign investment. It will involve resisting the always present temptations of economic nationalism. The rules will have to benefit both the host country and the private foreign investors. These are politically, and maybe even culturally, difficult decisions, but they represent a course of action.

The other alternative is to improve domestic savings rates and the efficiency, reward and integrity of local capital markets. Historically, an increase in domestic savings has been associated with a reduction of current account deficits, although not necessarily on a 1-to-1 basis. Accordingly, a relatively small percentage increase in domestic savings will likely be accompanied by a large percentage reduction in external financing needs.

I have a further suggestion that, I think, would bring a greater degree of order and stability to the financing of long-term development. It stems from the realization that The World Bank has so far played rather a modest role in the great initiative launched in the summer of 1982 to save the international banking system. The IMF suddenly became the central actor in the rescue effort and its funds were involved in a manner which would have been unthinkable only a few months earlier.

There was no equivalent call to arms for The World Bank. Its capital was not reinforced. None of the rescue packages put together for heavily indebted countries stressed that The World Bank would be involved alongside the IMF in the debtors' economic management.

I would suggest that The World Bank can play a key leadership and coordinative role in promoting improved environments in the developing world to attract long-term loans and direct investment from external sources. I would suggest that it, together with the commercial and investment banks of the industrial world, can furnish ideas on how to enhance the efficiency and volume of the internal capital resources of the developing world.

To summarize the LDC debt situation, let me restate that mistakes have been made in the past, on all sides. However, massive corrective measures involving the troubled debtor countries, the private commercial banks and the official institutions—particularly the IMF—are under way. And, as this process moves forward, our energies should at the same time be focused on the future and a search for new answers. The past year has proven that obstacles which are perceived to be insurmountable are actually exaggerated shadows of the real issues and that men and women of competence, endurance and courage can deal with these issues. They have done so in the past and will continue to do so in the future.

Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 2, 6, 18, 19, 20, 22, 24, 37, 38, 39, 40, 44, 47, 68, 77, 84, 98, 107, 109, 111, 112, 114, 116, 117, 118, 119, 121, 122, 124, 125, 126, 127, 128, 129, 130, 138, 143, 144, 147, 148, and 151 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 5, 7, 8, 11, 15, 21, 23, 33, 36, 41, 42, 46, 50, 51, 53, 54, 58, 61, 76, 91, 100, 101, 105, 108, 110, 115, 120, 123, 134, 136, 139, 140, 141, 142, 145, 150, and 153 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and it insists upon its disagreement to the amendment of the Senate numbered 102 to the bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2211. An act to exempt electric and telephone facilities assisted under the Rural Electrification Act from certain right-of-way rental payments under the Federal Land Policy and Management Act of 1976;

H.R. 2250. An act to provide a moratorium until June 1, 1984, on changes to the Federal Communications Commission rules regarding network television syndication, network television financial interests, and prime time access;

H.R. 2629. An act to direct the Administrator of Veterans' Affairs to modify the reversionary interest of the United States in certain lands previously conveyed to the State of California for the use of the University of California;

H.R. 2982. An act to exempt irrigation conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes;

H.R. 3851. An act to amend the Federal Food, Drug, and Cosmetic Act to remove the prohibition against stating in the labeling and advertising of a drug that it has been approved under that act; and

H.R. 4294. An act to name the Veterans' Administration Medical Center in Altoona, Pa., the "James E. Van Zandt Veterans' Administration Medical Center", and to name the Veterans' Administration Medical Center in Dublin, Ga., the "Carl Vinson Veterans' Administration Medical Center".

At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the amendments of the Senate to the bill (H.R. 3385) to provide equity to cotton producers under the payment in kind program; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that the following are appointed as conferees, for consideration of all, except for section 131 of the Senate amendment, and modifications thereof committed to conference: Mr. DE LA GARZA, Mr. FOLEY, Mr. JONES of Tennessee, Mr. BROWN of California, Mr. ROSE, Mr. WEAVER, Mr. HARKIN, Mr. WHITLEY, Mr. COELHO, Mr. THOMAS of Georgia, Mr. MADIGAN, Mr. JEFFORDS, Mr. COLEMAN of Missouri, Mr. HOPKINS, and Mr. SKEEN; for consideration solely of section 131 of the Senate amendment, and additional conferees for consideration of section 213 of the Senate amendment, and modifications thereof committed to conference: Mr. GIBBONS, Mr. JONES of Oklahoma, Mr. JENKINS, Mr. VANDER JAGT, and Mr. FRENZEL.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

At 4:25 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 82. Concurrent resolution expressing sympathy and condolence on the tragic killing of Koreans in Burma.

The message also announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H.J. Res. 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day" in honor of the League's seventieth anniversary.

HOUSE MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2211. An act to exempt electric and telephone facilities assisted under the Rural Electrification Act from certain right-of-way rental payments under the Federal Land Policy and Management Act of 1976; to the Committee on Energy and Natural Resources.

H.R. 2250. An act to provide a moratorium until June 1, 1984, on changes to the Federal Communications Commission rules regarding network television syndication, network television financial interests, and prime time access; to the Committee on Commerce, Science, and Transportation.

H.R. 2629. An act to direct the Administrator of Veterans' Affairs to modify the reversionary interest of the United States in certain lands previously conveyed to the State of California for the use of the University of California; to the Committee on Veterans' Affairs.

H.R. 2982. An act to exempt irrigation conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3851. An act to amend the Federal Food, Drug, and Cosmetic Act to remove the prohibition against stating in the labeling and advertising of a drug that it has been approved under that act; to the Committee on Labor and Human Resources.

H.R. 4294. An act to name the Veterans' Administration Medical Center in Altoona, Pa., the "James E. Van Zandt Veterans' Administration Medical Center", and to name the Veterans' Administration Medical Center in Dublin, Ga., the "Carl Vinson Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

HOUSE MEASURE HELD AT THE DESK

The following joint resolution was ordered held at the desk by unanimous consent:

H.J. Res. 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day" in honor of the League's seventieth anniversary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

On November 9, 1983:

By Mr. GOLDWATER, from the Select Committee on Intelligence, with an amendment in the nature of a substitute:

S. 1324. A bill to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency (with additional views) (Rept. No. 98-305).

On November 10, 1983:

By Mr. STAFFORD, from the Committee on Environment and Public Works, with an amendment:

S. 912. A bill to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes (Rept. No. 98-306).

Mr. STEVENS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes (Rept. No. 98-307).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of substitute:

H.R. 3398. A bill to change the tariff treatment with respect to certain articles, and for other purposes (Rept. No. 98-308).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 168: Joint resolution to designate the week beginning May 29, 1984, as "National Tourism Week."

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute:

H.J. Res. 290. Joint resolution to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States in 1984.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 275. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2173; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and an amended preamble:

S.J. Res. 132. Joint resolution to designate the week beginning August 7, 1983, as "National Correctional Officers Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Vincent Fechtel, Jr., of Florida, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Audrey A. Kaslow, term expiring.

W. Eugene Davis, of Louisiana, to be U.S. circuit judge for the Fifth Circuit vice Robert A. Ainsworth, deceased.

Stanley S. Harris, of Maryland, to be U.S. district judge for the District of Columbia vice John Lewis Smith, Jr., retired.

Lenore Carrero Nesbitt, of Florida, to be U.S. district judge for the Southern District of Florida vice C. Clyde Atkins, retired.

G. Kendall Sharp, of Florida, to be U.S. district judge for the Middle District of Florida vice Ben Krentzman, retired.

George E. Woods, of Michigan, to be U.S. district judge for the Eastern District of Michigan vice Patricia J. Boyle, resigned.

Elizabeth V. Hallanan, of West Virginia, to be U.S. district judge for the Southern District of West Virginia vice Dennis R. Knapp, retired.

Joseph E. diGenova, of the District of Columbia, to be U.S. attorney for the District

of Columbia for the term of 4 years, vice Stanley S. Harris.

Jane A. Restani, of Virginia, to be a judge of the U.S. Court of International Trade vice Herbert N. Maletz, retired.

Helen G. Corrothers, of Arkansas to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Robert D. Vincent, resigned.

Paula A. Tennant, of California, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Cecil M. McCall, term expiring.

Frank Henry Habicht II, of the District of Columbia, to be an Assistant Attorney General, vice Carol E. Dinkins, resigned.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Daniel Oliver, of Connecticut, to be General Counsel of the Department of Agriculture;

Susan Meridith Phillips, of Iowa, to be Chairman of the Commodity Futures Trading Commission; and

William E. Seale, of Virginia, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1988.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

The following-named officer to be Deputy Judge Advocate General, U.S. Air Force, and to the grade of major general, under the provisions of title 10, United States Code, sections 8072 and 624:

Brig. Gen. Robert W. Norris, 417-44-5019FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Edward A. Burkhalter, Jr., 423-20-4762/1120, U.S. Navy.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Brig. Gen. Robert W. Norris, U.S. Air Force, to be major general and deputy judge advocate general, U.S. Air Force, and Rear Adm. Edward A. Burkhalter, Jr., U.S. Navy to be vice admiral. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force Reserve there are 25 promotions to the grade of lieutenant colonel from the Air National Guard (list begins with James N. Hagenson), in the Army there are 21 promotions to the grade of lieutenant colonel and below (list begins with William H. Adams), in the Army there are 9 permanent promotions to the grade of colonel and below (list begins with Lawrence L. Tracy), in the Army there are 160 appointments to the grade of colonel and below (list begins with Alfred M. Allen), in the Navy there are 1,806 permanent appointments from the Naval Reserve to the grade of commander and below (list begins with Frank O. Barret III), and in the Marine Corps there are 521 permanent appointments to the grade of chief warrant officer (list begins with Lauren D. Ayers). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD of October 31 and November 3, 1983, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 2079. A bill to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1983; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 2080. A bill to make permanent a tax provision to encourage employers to provide legal services for their employees; to the Committee on Finance.

By Mr. McCLURE (for himself and Mr. WEICKER) (by request):

S. 2081. A bill to reduce costs and the public reporting burden of the Energy Information Agency; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 2082. A bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself, Mr. STEVENS, Mr. TRIBLE, Mr. MATHIAS, Mr. GOLDWATER, Mr. SASSER, Mr. BINGAMAN, Mr. TSONGAS, Mr. PELL, Mr. SARBANES, Mr. INOUYE, Mr. LEVIN, Mr. LUGAR, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CHAFEE, Mr. EAGLETON, Mr. NUNN, Mr. PRYOR, Mr. CRANSTON, Mr. CHILES, Mr. THURMOND, Mr. JOHNSTON, Mr. NICKLES, Mr. ABDNOR, and Mr. HEINZ):

S.J. Res. 196. Joint resolution to designate January 16, 1984, as "Public Employees Appreciation Day"; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. DENTON, Mrs. HAWKINS, Mr. NICKLES, Mr. HUMPHREY, Mr. RIEGLE, Mr. PELL, and Mr. RANDOLPH):

S.J. Res. 197. Joint resolution to designate the week beginning November 20, 1983, as "National Adoption Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER:

S. Res. 274. Resolution relative to committee assignments for Senator DANIEL J. EVANS; considered and agreed to.

By Mr. THURMOND, from the Committee on the Judiciary:

S. Res. 275. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2173; to the Committee on the Budget.

By Mr. PELL (for himself, Mr. ARMSTRONG, Mr. BINGAMAN, Mr. MELCHER, Mr. BOSCHWITZ, Mr. RANDOLPH, Mr. SYMMS, Mr. BENTSEN, Mr. CHILES, Mr. SARBANES, Mr. LEVIN, Mr. METZENBAUM, Mr. HUDDLESTON, Mr. SASSER, Mr. TSONGAS, Mr. LAUTENBERG, Mr. PERCY, Mr. GLENN, Mr. DODD, Mr. BUMPERS, Mr. INOUYE, and Mr. HART):

S. Con. Res. 85. Concurrent resolution expressing the sense of Congress on allowing Vladimir Feltsman freedom to travel; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 2079. A bill to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975; to the Committee on the Judiciary.

EXTENSION OF ELIGIBILITY FOR MEMBERSHIP IN AMVETS

Mr. THURMOND. Mr. President, I rise today to introduce legislation that would amend the Federal charter of AMVETS, the American Veterans of World War II, Korea and Vietnam, by extending their eligibility for membership.

Under current law those who served in the Armed Forces of the United States after May 8, 1975 are not eligible for regular membership in AMVETS. The legislation that I am introducing today would expand eligibility to those who have served since May 8, 1975, and to those who serve for an indefinite future period. Additionally, this legislation would make eligible for membership in AMVETS those veterans of any future armed conflicts in which the United States may be involved. This legislation would conform the AMVETS charter to action taken at their 39th national convention in New Orleans this year, amending their constitution to permit this expanded membership.

Mr. President, AMVETS is an excellent veterans' organization which provides many fine services, not only to the Nation's veterans, but to many other individuals and communities throughout the country. All of us will benefit from an expansion of the membership of this fine organization.

Mr. President, I therefore send this bill to the desk and urge the support of my colleagues.

By Mr. PACKWOOD:

S. 2080. A bill to make permanent a tax provision to encourage employers to provide legal services for their employees; to the Committee on Finance.

PREPAID LEGAL PLANS

● Mr. PACKWOOD. Mr. President, today I am introducing legislation to make permanent a tax provision enacted in 1976 and extended in 1981 which is designed to encourage employers to provide legal services for their employees. The purpose of this bill is to help assure the continued existence and growth of legal services, especially preventive services, provided by employers for employees.

The National Resources Center for Consumers of Legal Services estimates that the number of employer-related legal service plans grew from 75 in 1975 to 700 today. The National Resource Center also estimates that there are about 2 million employees now benefiting from these plans. If plans now operating are able to keep operating, and if the number of plans can continue to grow, we will have succeeded in improving the access to the legal system. We will have succeeded in helping more people of all income levels get legal problems resolved.

Federal legislation has played an important part in establishing a climate for the growth of prepaid legal service plans. The first important step came in 1973 when Congress amended the Taft-Hartley Act to allow the use of employee benefit trusts to provide legal services.

In 1976, Congress enacted two tax provisions to encourage employers to provide group legal services for their employees. These changes were enacted with the Tax Reform Act of 1976.

One of these provisions, Internal Revenue Code section 120, was enacted for 5 years, then extended in 1981 for 3 more. This section makes the value of legal services benefits provided by an employer tax-free for employees. This income tax exclusion is available if the legal service program complies with numerous detailed requirements. For example, legal service benefits must be provided to workers without discriminating in favor of highly paid employees, officers, or shareholders. The bill I am introducing today makes this section permanent.

The other tax section enacted in 1976 was Internal Revenue Code section 501(c)(20). It exempts from tax the funds that are used to hold contributions to be used for qualified group legal service plans. That section was made permanent in 1976. However, the Technical Corrections Act of 1982 provided a December 31, 1984, sunset for this provision, corresponding to the termination date for section 120. This bill also makes section 501(c)(20) permanent.

Mr. President, section 120 was made temporary in 1976 in order that we would have an opportunity to review it to see whether it was stimulating the growth of legal service plans without costing the Treasury too much in forgone revenue. I believe it is now quite clear that section 120 has succeeded on both counts. As I mentioned, the number of plans has increased nearly tenfold since 1975. The number of people covered by a legal service plan of some sort has increased from 0 to 10 million in 12 years. Yet the revenue loss associated with section 120 was just $20 million in 1982, according to the Joint Committee on Taxation.

The reason this loss is so small is that plans are quite inexpensive, typically less than $100 a year per employee. It is not the prepayment so much as the advance arrangements, made on a group basis, that are the key to the efficiency of legal service plans. These advance arrangements dramatically reduce the time, cost and uncertainty involved in selecting and consulting a lawyer when a legal question arises. Thus people covered by a plan contact a lawyer more often, but at an earlier point in the course of a problem. More people receive legal advice, about more matters, but problems are handled at lower cost and in a way that minimizes disputes and litigation.

Mr. President, nearly everybody thinks legal service plans are good for our society. Unfortunately, the Internal Revenue Service has been very slow in issuing regulations under section 120. Their proposed substantive regulations, issued 3½ years after section 120 was enacted, contained needless restrictions unjustified by the legislative history or public policy. Those regulations have not been changed or made final. I am optimistic that the service will eliminate many of their proposed regulatory excesses, but I am concerned that the delay in providing guidance may be inhibiting the establishment of legal service plans, and if necessary I will suggest appropriate statutory changes to assure that the original congressional intent behind section 120 can be realized. But now, Mr. President, I hope Congress can act quickly to make the section permanent.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 120 of the Internal Revenue Code of 1954 is amended by striking out subsection (e).●

By Mr. McCLURE (for himself and Mr. WEICKER) (by request):

S. 2081. A bill to reduce costs and the public reporting burden of the Energy Information Agency; to the Committee on Energy and Natural Resources.

ENERGY INFORMATION ADMINISTRATION REPORTS ELIMINATION ACT

● Mr. McCLURE. Mr. President, on behalf of myself, as chairman of the Committee on Energy and Natural Resources, and Senator WEICKER, as chairman of the Subcommittee on Energy Conservation and Supply, we introduce, at the request of the administration, the Energy Information Administration Reports Elimination Act. This proposed measure was transmitted to the Senate by the Department of Energy on April 30, 1983, as Executive Communication 881, which was referred to the Committee on Energy and Natural Resources. I ask unanimous consent that the text of the letter of transmittal and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Energy Information Administration Reports Reduction Act".

SEC. 2. Section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. § 796) is amended—

(a) by striking the last sentence of subsection (a); and

(b) in subsection (c)—

(1) by striking "(1)" immediately following "(c)"; and

(2) by striking paragraphs (2) and (3).

SEC. 3. Section 25 of the Federal Energy Administration Act of 1974 (15 U.S.C. § 784) is repealed, and its catchline is stricken.

SEC. 4. Section 205 of the Department of Energy Orgnization Act (42 U.S.C. § 7135) is amended by striking subsection (h).

SEC. 5. (a) Section 801 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. § 8481) is repealed.

(b) Section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. § 8301 note) is amended by striking the item in the table of contents relating to section 801.

SEC. 6. (a) Section 242 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. § 8532) is repealed.

(b) Section 101(b) of the Emergency Energy Conservation Act of 1979 (42 U.S.C. § 8501 note) is amended by striking the item in the table of contents relating to section 242.

SEC. 7. Section 54(b)(4) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 790c.(b)(4)) is amended by striking "short- and long-term" preceding "relationships" and inserting "for future periods" following "relationships".

SEC. 8. Section 57(a)(2) of the Federal Energy Administration Act of 1974 (15

U.S.C. § 790f.(a)(2)) is amended by striking "short-, medium-, and long-term" and inserting in its place "a summary of".

SEC. 9. This Act takes effect 30 days after enactment.

DEPARTMENT OF ENERGY,
Washington, D.C., April 13, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is proposed legislation "[t]o reduce costs and the public reporting burden of the Energy Information Administration." This proposal is part of the Department of Energy (DOE) legislative program for the 98th Congress. The Office of Management and Budget advises that there is no objection to the presentation of this legislation for the consideration of the Congress and that its enactment would be in accord with the President's program.

PURPOSE OF THE LEGISLATION

The purpose of the proposal is to reduce costs and the public reporting burden of the Energy Information Administration (EIA) and thereby further the President's overall program of reducing the Federal budget. The proposal enables the EIA to reduce costs and eliminate burdensome, duplicative public reporting requirements by eliminating several unnecessary reporting requirements.

The bill would amend section 11 of the Energy Supply and Environmental Coordination Act of 1974, Pub. L. No. 93-319, to eliminate the requirement to gather information quarterly and produce reports quarterly for the Congress on domestic reserves and production; imports; and inventories of crude oil, residual fuel oil, refined petroleum products, natural gas and coal; and report on energy company finances. This amendment is intended to reduce the reporting burden on persons from whom information is obtained and to reduce the administrative burden on the EIA. The reporting of information on a quarterly basis is needlessly detailed and excessively burdensome, as well as duplicative of other EIA data series.

The bill also would repeal several statutory provisions that mandate detailed, expensive, and burdensome reports:

Repeal of section 25 of the Federal Energy Administration Act of 1974 (15 U.S.C. § 784) (FEA Act) would eliminate a required system for tracking and reporting every transaction, sale, exchange or shipment involving exports of coal and oil. Continuation of the requirement is unjustifiable because sufficiently detailed data on the export of oil and coal currently is collected by the Department of Commerce and made available to the Energy Information Administration.

Section 205(h) of the Department of Energy Organization Act (42 U.S.C. § 7135(h)) (DOE Act), which requires establishment of a Financial Reporting System (FRS) containing detailed information on the structure of the energy industry, would be repealed by the bill. The FRS involves a high reporting burden. The availability of related information from other sources within and outside the Government, coupled with the extensive burden associated with the FRS reporting form, justifies the ending of this mandatory requirement.

Section 801 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. § 8481) also would be repealed, in order to eliminate the requirement for an annual report on coal reserves disclosure. The report, to carry out the requirement fully, would entail detailed information gathering at the individual mine level. This expense would be unwarranted, particularly in view of the fact that United States coal reserves are estimated to last in excess of 300 years.

Section 242 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. § 8532) would be repealed to eliminate the requirement to develop a State-level middle distillate monitoring system. This requirement conflicts with the Administration's intent to direct EIA efforts away from State-level toward national-level reporting.

Finally, sections 54(b)(4) and 57(a)(2) of the FEA Act (15 U.S.C. §§ 790c.(b)(4) and 790f.(a)(2) respectively) would be amended to modify the requirements for EIA to prepare forecasts of energy consumption and supply trends. The current requirements are overly specific in stipulating mid- and long-term forecasts, and those forecasts prepared by EIA and others in the past have been found to be speculative and unreliable particularly in the long term.

COST AND BUDGET DATA

Continuation of the requirements to be eliminated through enactment of this bill would impose increased budgetary requirements on the DOE of $133 million over the next five fiscal years.

Sincerely,

ERIC J. FYGI,
Acting General Counsel.●

● Mr. WEICKER. Mr. President, I rise today to introduce by request an act to address a basic problem confronting the Energy Information Administration (EIA). Over the years, Congress has required that the EIA produce vast quantities of reports, studies, and analyses of energy issues. Unfortunately, we have not been as generous in providing the EIA with funding necessary to conduct these studies. The result is that the legislation introduced today reflects an unacceptable reality: EIA has elected to fulfill some congressional mandates and ignore others. Hence, the agency has now requested this legislation that would discharge EIA of its responsibility to conduct six reports previously mandated by Congress.

This situation was brought home earlier this year when litigation was needed to get the administration to agree to produce the Financial Reporting System (FRS). The FRS was mandated in the Department of Energy Organization Act under section 205(h), yet EIA felt constrained to avoid conducting another FRS study and publication cycle because of its budgetary problems. Now, the EIA has requested in the legislation introduced today, that we relieve it of the obligation to produce the FRS study. I very clearly recall the reasoning behind Congress mandate that this study be done. We wanted someone, some independent source, to review the structure of the energy industry. The need for this information is no less important today. So I am not at all sure that we should agree to eliminating this report. But, we will hold hearings and see what the intent of Congress is now. I strongly suggest that if we want to continue the FRS study we had best prepare to appropriate adequate funds.

In July of this year, the Energy Conservation and Supply Subcommittee, which I chair, conducted budget oversight hearings which indicate that EIA needs a minimum of $5 million to provide very basic quality maintenance of its product. For 2 years in a row, the administration has requested no funding for such quality maintenance which means that very soon now some people may begin to raise questions about the accuracy of EIA's data. That is a risk we cannot afford. Ironically, the administration has seen fit to increase the amount of money it charges EIA for routine administrative matters. During the fiscal years 1981 through 1983, when EIA's budget fell from $91 million to $56 million, the Department of Energy charged EIA between 7 percent and 9 percent for administration and overhead. Then suddenly the Department, for 1984, decided that with its smallest budget in years—some $55 million—EIA should be charged 15 percent to 16 percent for this Department—provided administrative support. I simply note this act in passing so that Members will have some idea of the difficulties that EIA confronts in attemping to perform its congressionally mandated tasks.

Last, Mr. President, let me note that except for the FRS study to which I referred earlier, none of the studies that EIA seeks to be discharged from conducting is currently under production. Indeed, the data these reports were to have provided is generally available through other EIA publications. But, the larger issue will remain: Can the EIA decide to ignore laws Congress has written? I, for one, cannot accept any agency of Government deciding which laws to obey and which to ignore. The EIA is legally obliged to produce its reports until Congress changes the law. Equally, Congress has an obligation to insure that we provide adequate funding to produce those reports. That is really what this bill is all about, and I welcome other Senators' interest in this matter.●

● Mr. JOHNSTON. Mr. President, I am pleased to see that Senator WEICKER and Senator MCCLURE are introducing the administration's proposed legislation addressing required reporting to the Energy Information Administration. Many of these reporting requirements have been in existence for a number of years, and it may be time that we reviewed their usefulness.

The matter of these reporting requirements has been controversial. During the past year some representatives of the administration have at times asserted the right of EIA to ter-

minate programs for the collection and analysis of energy information that are specifically required by law on the grounds that sufficient funds have not been provided by Congress. This position was advanced even though EIA intended to use some of its appropriations for discretionary activities and general requirements. Specific requirements would have been ignored.

I protested the administration's plans to terminate one of these programs in particular, the financial reporting system, required by section 205(h) of the Department of Energy Organization Act. In April, I wrote to the Secretary of Energy about the FRS, and a long series of formal and informal communications began that ultimately resulted in litigation and a decision by the administration to operate the FRS after all, as required by law.

My point throughout this controversy has been that, if the Department of Energy wants to be relieved of the requirements Congress has enacted by law, the Department ought to submit legislation that would be referred to the jurisdictional committees of the House and Senate, so that the proposed changes can be reviewed thoroughly and, if meritorious, enacted. This is the proper procedure to change requirements of law. The administration had been proposing a kind of repeal of law by financial strangulation, using the executive control of the expenditure of funds to operate programs the administration likes while denying funds to other programs the administration does not like. It was my strong belief that it was our duty to challenge the latter strategy as an infringement on congressional prerogatives.

With the introduction of this legislation, the administration will have the opportunity to make the case for the changes in law it is recommending. I intend to follow what they have to say. I am pleased that the administration has agreed to address this matter through the established and traditional procedures.

Mr. President, I ask unanimous consent that a copy of my letter of April 13, 1983, to Secretary of Energy Donald Paul Hodel be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C. April 13, 1983.

HON. DONALD PAUL HODEL,
Secretary, U.S. Department of Energy, Washington, D.C.

DEAR SECRETARY HODEL: I am writing to you to express my deep concern about the plans of the Department of Energy with respect to the statutory requirements imposed on the Department by Congress for collection, analysis and dissemination of energy information. I understand that you intend to carry out some required activities and ignore others. In particular, your plan to terminate the Financial Reporting System, the energy information program required under section 205(h) of the Department of Energy Organization Act, raises very serious questions about the responsibility of officials of the executive branch to carry out the laws enacted by Congress.

As you know, section 205(h)(4) directs the Administrator of the Energy Information Administration to establish and maintain a program essentially identical to the FRS. The language of the statute is unequivocal. In the absence of subsequent statutory expressions of Congressional intent to the contrary, there is simply no excuse for a failure on the part of the Administrator to seek to comply with these requirements of law.

The administration's preferences in the matter of this program are well known. In the 97th Congress the administration transmitted proposed legislation entitled "The Energy Information Administration Amendments of 1981". This bill would have repealed section 205(h). It did not pass either House of Congress. The bill was not even regarded important enough by the jurisdictional Congressional Committees to warrant hearings.

In view of this history, I find it inexplicable that the Department feels justified in telling the major energy producing companies that comprise the universe of respondents under the FRS program that they need not assemble data for the next FRS report to Congress required by section 205(h). The proper procedure for removal of statutory requirements is not the arbitrary exercise of the inherent, but extra-legal, power of any administrator to ignore the law. The proper procedure is the one the Department followed in the 97th Congress: namely, the submission of substantive legislation to repeal the objectionable requirements. Unless and until such substantive legislation is adopted, you must devote a portion of your available resources to carrying out the statutory mandate.

I assume that the Department feels that the reasons for termination of this program are compelling. If this is so the Department's case ought to withstand the rigors of the normal Congressional process for amendment of substantive law. You should adhere to that process. Any attempt to terminate legislatively mandated programs by administrative discretion must be challenged as illegal and an affront to the system of government we are both sworn to uphold.

I would like to see this matter resolved. I would be quite willing to help in obtaining a fair hearing for any legislative proposal you have with respect to this matter. In the meantime, however, I think you should comply with the law.

With kindest personal regards,
Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority Member.●

By Mr. MOYNIHAN:

S. 2082. A bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes; to the Committee on Energy and Natural Resources.

LANDSCAPES OF FREDERICK LAW OLMSTED

● Mr. MOYNIHAN. Mr. President, today I am introducing the Olmsted Historic Landscapes Act, a bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, St. Olmsted, who lived from 1822 to 1903, is considered the father of landscape architecture in the United States. His sons, associates, and professional descendants carried out his philosophy and designs well into the 20th century.

The bill, which is being introduced in the House by Representative JOHN SEIBERLING of Ohio, would build upon current State, local, and private efforts to identify and preserve the Olmsted legacy. The bill would essentially provide a means through which existing Federal programs relating to parks, recreation, and historic preservation could coordinate efforts to commemorate Olmsted's staggering achievements.

Olmsted is best known for his design of Central Park (along with Calvert Vaux) beginning around 1854. He later designed the Mall here in Washington and his design, a romantic landscape of curving drives and wooded glades, survived into the first few decades of this century. All told, Olmsted, his sons and associates designed over 2,000 parks, parkways, college campuses, cemeteries, and public and private estates in 37 States and the District of Columbia.

Olmsted was Executive Secretary of the U.S. Sanitary Commission, the Civil War forerunner of the Red Cross. He was a founder of the National Park Service and U.S. Forest Service.

In the past decade, a number of private societies have sprung up to bring attention to and improve the condition of Olmsted parks in various cities. At my suggestion, in 1980 a National Association for Olmsted Parks was formed.

The cost of the bill would be negligible and I urge my colleagues to cosponsor and support it. I ask that a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2082

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That this Act may be cited as the "Olmsted Historic Landscapes Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

(1) Frederick Law Olmsted, Sr., was the premier American landscape architect during the 19th and early 20th centuries and is considered the father of landscape architecture in the United States.

(2) Olmsted's philosophy and designs influenced the development of landscapes

throughout the Nation, including national, State and local parks, forests, parkways, college campuses, cities and planned communities, and publicly and privately owned estates, institutions, cemeteries and recreation areas.

(3) Olmsted's sons, associates, and professional descendants carried out his philosophy and designs well into the 20th century and, coupled with the achievements of Olmsted himself, have left a tremendous legacy of historic landscapes and a philosophy that continues to benefit the American people and people throughout the world.

(4) Olmsted's social responsibility, ecological sensitivity and landscape design creativity have inspired the development of large urban parks for public benefit in urban areas throughout the United States, creating a legacy of parks which today constitute a singular feature of the urban experience and serve as an inspiration for park and recreation work.

(5) Age, overuse, deteriorating infrastructure, inadequate maintenance and inappropriate developments threaten these historic landscapes and many may be damaged or destroyed without a coordinated program to protect them.

(6) Although voluntary, private efforts have been initiated to identify, commemorate, restore, and preserve the Olmsted legacy, the enormity and complexity of the task and the diverse ownerships of the sites throughout the country require the assistance and cooperation of all levels of government and the leadership and support of the Federal Government.

(7) Existing Federal programs relating to parks, recreation and historic preservation can be better coordinated and more effectively utilized to preserve the Olmsted legacy for the use and enjoyment of present and future generations.

DEFINITIONS

SEC. 3. As used in this Act, the term:

(1) "Secretary" means the Secretary of the Interior.

(2) "Olmsted" includes Frederick Law Olmsted, Sr., his sons and associates (including such designers as Calvert Vaux and Warren Manning).

(3) "State Outdoor Recreation Liaison Officer" means the State officer designated as such under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-49—4601-11).

(4) "Olmsted historic landscape" includes any Olmsted-designed landscape, park, forest, parkway, college campus, planned community, estate, institution, cemetery or recreation area (including, on a case by case bais, Olmsted-influenced sites indentified by the Advisory Committee established under section 8).

(5) "Inventory" means the inventory of Olmsted historic landscapes prepared under section 4.

(6) "Documentation" includes blueprints, drawings, photographs and other available records.

As used in this Act, the terms "Preservation", "State Historic Preservation Officer", "State," and "local government" have the same meaning as when used in the National Historic Preservation Act (16 U.S.C. 470-470t).

INVENTORY

SEC. 4. (a)(1) The Secretary, acting through the Director of the National Park Service, shall prepare an inventory of Olmsted historic landscapes. The Secretary shall publish notice in the Federal Register of each item included in the inventory and shall also submit notice of such inclusion to the Congress. Not less than one-third of the inventory shall be completed within three years after the date of the enactment of this Act, not less than two-thirds within five years of enactment of this Act, and the remainder within seven years of enactment of this Act.

(2) The inventory shall be prepared in consultation with the Advisory Council on Historic Preservation, and with participation of State Historic Preservation Officers, State Outdoor Recreation Liaison Officers, organizations representing local elected officials and local governments, concerned private and public organizations, academic institutions, professional associations, and interested individuals. In the preparation of the inventory, the Secretary shall use existing data, to the maximum extent possible.

(b) The inventory shall be compiled on State-by-State basis. Copies shall be deposited in the Library of Congress and access provided at the Fredrick Law Olmsted National Historic Site, Massachusetts, at National Park Service regional offices, and at appropriate State offices.

(c) For each Olmsted historic landscape the inventory shall include at least the following—

(1) a description of the landscape's location and history of ownership;

(2) documentation on the design intention of the landscape, including its purpose, philosophical base, social and physical aspects;

(3) documentation on the means by which the design intention was carried out, including horticulture, mechanical aspects (such as topographical alternations, roads, drainage, sewage systems, and structures), and other means;

(4) documentation of the current status and condition of the landscape;

(5) documentation of changing circumstances which could adversely affect the landscape (including potential incompatible developments and physical, social, and biological alterations) and recommendations for alleviating those adverse effects;

(6) evaluation of the landscape's physical or philosphical influence on other sites and landscape designs;

(7) an evaluation of the landscape's national and international significance, if any; and

(8) specific criteria for preservation of the landscape to assure safeguarding of its historic integrity.

(d)(1) All properties on the inventory prepared under this section shall be part of an Olmsted Historic Landscape System. Any property identified in such inventory as nationally significant by a State Historic Preservation Officer or State Outdoor Recreation Liaison Officer shall be studied by the Secretary for possible designation as a national landmark and, if internationally significant, for the World Heritage List.

(2) Any property on the inventory which meets the criteria for the National Register of Historic Places shall be determined eligible for the National Register and, following the procedures in the National Historic Preservation Act, nominated within two years by the appropriate nominating authority for listing on the National Register.

(3) The inventory shall be periodically updated by the Secretary (but not less frequently than every 10 years) after the consultation and participation referred to in section 4(a)(2). Summaries of any changes in the inventory shall be printed for public distribution.

FEDERAL ASSISTANCE

SEC. 5. (a) The Secretary of the Interior shall—

(1) in consultation with Advisory Council on Historic Preservation, promulgate general standards for preservation of historic landscapes (including but not limited to Olmsted historic landscapes);

(2) provide technical assistance to other Federal agencies, State and local governments, private organizations and interested individuals, on the identification, commemoration, and preservation of Olmsted historic landscapes;

(3) conduct and submit to Congress, within 3 years after the enactment of this Act, a thematic study of historic landscapes to identify landscapes (other than Olmsted historic landscapes) which would qualify as national historic landmarks and to make findings and recommendations regarding their status and the need for any special assistance, including funding, maintenance, or capital investment needs;

(4) establish a compatible program for the use of the Frederick Law Olmsted National Historic Site, Massachusetts, as a center for research, fellowships, and related activities, and establishment of an appropriate advisory committee for the site; and

(5) develop appropriate international activities related to Olmsted historic landscapes.

The study under paragraph (3) shall be conducted in consultation with State historic preservation officers and other concerned individuals and organizations.

(b) The Secretary shall take such steps as may be necessary to provide for, and encourage, the coordination of applications for grants from the Historic Preservation Fund, Land and Water Conservation Fund and the Urban Park and Recreation Recovery Program for the preservation of Olmsted historic landscapes.

(c) Each State and local government to which Federal funds are made available may use such funds for the preservation of any inventoried Olmsted historic landscape, subject to the requirements for meeting the Secretary's standards under paragraph (1) and the specific criteria for preservation of the landscape under section 4(b)(8) and except to the extent other legislation expressly provide otherwise.

PUBLIC AND PRIVATE COOPERATION

SEC. 6. (a) The Secretary (and State and local governments receiving assistance under this Act) shall—

(1) provide for maximum public participation in all aspects of the program established under this Act, including the identification, commemoration, and preservation of any Olmsted historic landscape;

(2) assist local initiatives and encourage joint projects and the use of volunteers and internships at all levels of government and in the private sector;

(3) encourage projects that will leverage increased private support;

(4) coordinate activities with other public and private agencies, institutions, and organizations.

(b) The Secretary may enter into contracts and cooperative agreements with States, local governments, corporations, associations, nonprofit organizations and other institutions to carry out the purposes of this Act.

COMMEMORATION

SEC. 7. In order to commemorate the Olmsted achievements and influence on

American life, the Secretary, in consultation with the Librarian of Congress, the Secretary of the Smithsonian Institution and the Advisory Council on Historic Preservation, and with participation of other government agencies, concerned public and private organizations, academic institutions, professional associations, and interested individuals shall conduct appropriate activities during the decade of 1985 to 1995, including—

(1) the conduct of a study on the influence of Olmsted's philosophy and designs on American life and as part of such study, the conduct of a symposium in 1985 and publication of the proceedings of such symposium;

(2) the development of an exhibit and film (and related informational materials) on Olmsted's legacy, copies of which shall be distributed upon request to interested museums, academic institutions, organizations and government agencies throughout the United States;

(3) provision of technical and financial assistance to national nonprofit organizations and professional associations in developing and implementing other programs throughout the decade to commemorate Olmsted; and

(4) the conduct of appropriate activities at the Frederick Law Olmsted National Historic Site, Massachusetts, including the opening of completed archives at the site.

ADVISORY COMMITTEE

SEC. 8. (a) There is hereby established the Advisory Committee on Olmsted Historic Landscapes (hereinafter referred to as "the Committee"). The Committee shall assist the Advisory Council on Historic Preservation (hereinafter referred to as "the Council") in carrying out those of its duties under the National Historic Preservation Act that relate to Olmsted historic landscapes, including but not limited to—

(1) reviewing the priorities, process, and product of the inventory conducted by the Secretary of the Interior under section 4 of this Act;

(2) reviewing the priorities, criteria and standards for the identification, evaluation, restoration, and preservation of Olmsted historic landscapes;

(3) assisting in the development of appropriate public participation and information dissemination plans;

(4) assisting the Council in evaluating undertakings that may affect Olmsted historic landscapes, during the Council's consultation processes under the National Historic Preservation Act (including section 106 and section 110 of that Act) and under section 402 of the National Historic Preservation Act Amendments of 1980 (94 Stat. 2987);

(5) providing advice to the Secretary on any other landscape that may qualify, because of its Olmsted influence, as an Olmsted historic landscape under section 3; and

(6) making other recommendations to the Secretary and the Council concerning the implementation of this Act.

(b) The Committee shall be composed of nine members, to be appointed by the Chairman of the Council, as follows—

(1) two members to be appointed from recommendations submitted by national organizations concerned with Olmsted parks and historic landscapes, Olmsted papers, and other Olmsted memorabilia;

(2) two members to be appointed from recommendations submitted by national organizations concerned with landscape architecture, historic architecture, architectural history, and historic preservation;

(3) two members to be appointed from recommendations submitted by national park, conservation, and recreation organizations; and

(4) three members representing other related disciplines such as history, architecture, horticulture, archaeology, geography, urban ecology, and planning, who have a demonstrated interest in Olmsted historic landscapes.

Each member of the Committee shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed shall serve for terms of one to four years, as designated by the Chairman of the Council at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. A member may not serve more than two terms. A member whose term has expired shall serve until that member's successor has been appointed. The Chairman of the Council shall designate one member of the Committee as Chairman, and shall fill vacancies in the same manner as original appointments were made.

(c) Members of the Committee shall serve without compensation as such, but may receive reimbursement for necessary travel and subsistence expenses reasonably incurred in carrying out their responsibilities under this Act.●

By Mr. WARNER (for himself, Mr. STEVENS, Mr. TRIBLE, Mr. MATHIAS, Mr. GOLDWATER, Mr. SASSER, Mr. BINGAMAN, Mr. TSONGAS, Mr. PELL, Mr. SARBANES, Mr. INOUYE, Mr. LEVIN, Mr. LUGAR, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CHAFEE, Mr. EAGLETON, Mr. NUNN, Mr. PRYOR, Mr. CRANSTON, Mr. CHILES, Mr. THURMOND, Mr. JOHNSTON, Mr. NICKLES, Mr. ABDNOR, and Mr. HEINZ):

S.J. Res. 196. Joint resolution to designate January 16, 1984, as "Public Employees Appreciation Day"; to the Committee on the Judiciary.

PUBLIC EMPLOYEES APPRECIATION DAY

● Mr. WARNER. Mr. President, recently, the U.S. Postal Service issued a commemorative stamp recognizing the centennial of the Pendleton Act, which established the Civil Service in 1883. I wish to take this opportunity to introduce a Senate Joint Resolution designating January 16, 1984, as "Public Employees Appreciation Day."

I believe it is fitting and proper to set aside one day each year to recognize the contributions of the millions of our fellow citizens who have served and are serving the country in local, State, and Federal service.

Career civil servants often bear the brunt of undue criticism. While we all know there is a need for improvement in some areas, the great majority of career government employees are dedicated individuals who are committed to serving the public the best way they can.

Everyone who works, whether for themselves or for someone else, recognizes the need and value of praise and appreciation for their contributions. Public employees are not different. This resolution is meant to acknowledge the past service of these citizens and to convey the Nation's trust in their continued best efforts.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 196

Whereas public employees at all levels of government have made contributions deserving of national recognition and national trust in the continued best efforts of such employees: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1984, is designated "Public Employees Appreciation Day" and the President is authorized and requested to issue a proclamation inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the day with appropriate ceremonies and activities.●

● Mr. SASSER. Mr. President, I rise in support of Senate Joint Resolution 196, the joint resolution designating January 16, 1984, as "Public Employees Appreciation Day." This marks the date in 1883 when President Chester A. Arthur signed the Civil Service Act that created a professional corps to administer the responsibilities of the Federal Government.

Over the past 30 years, the number of these Federal workers as a percentage of the country's population as a whole has declined by 24 percent. One reason for this relatively slow growth at the Federal level is that many services and activities have been shifted to the State and local governments. In 1952, there were just 4 million State and local government workers. Now, there are 14 million.

The responsibility for essential public services to protect and enhance the health, welfare, and safety of local communities is shared by Federal, local and State employees.

Setting this appreciation day will give an opportunity to honor the letter carriers, policemen, schoolteachers, agricultural agents, firefighters, hospital workers, and others who provide vital and dependable public service.

Those who enter Government service are chosen competitively at the Federal level. Often, workers at the State and local level must also meet the highest standard of merit to be selected for their jobs.

These individuals provide the expertise necessary for the administration of the laws passed and the policies set by elected officials. Those who choose to make public service their career provide continuity and stability to the Government.

So, I am pleased to cosponsor this legislation which gives us the opportunity to congratulate our Nation's dedicated public employees at every level of government.●

By Mr. HATCH (for himself, Mr. DENTON, Mrs. HAWKINS, Mr. NICKLES, Mr. HUMPHREY, Mr. RIEGLE, Mr. PELL, and Mr. RANDOLPH):

S.J. Res. 197. Joint resolution to designate the week beginning November 20, 1983, as "National Adoption Week"; to the Committee on the Judiciary.

NATIONAL ADOPTION WEEK

Mr. HATCH. Mr. President, during the past few years, we as legislators and Americans in general have felt a need to reestablish traditional values, especially those pertaining to the family institution. Official recognition of Thanksgiving week as National Family Week has resulted from this trend. Traditionally, adoption as an important function of families has been incorporated into this celebration. Now, considering the even greater need for adoption awareness in America, it seems an appropriate time to propose a joint resolution formally designating this same week, Thanksgiving Week, as "National Adoption Week," thereby assigning due eminence and importance to this issue.

As Senators and Representatives of all Americans, we have an obligation to address the needs of all segments of the population, including those children pleading for a permanent home and family. In this country, this land of promise and opportunity, there resides an estimated 100,000 adoptable children—children who are legally free for adoption but who remain in foster care and institutions due to various public and private barriers and a lack of awareness on the part of potential parents. The majority of these children are children with special needs. They are children with physical, emotional, and mental handicaps; they are children who have already reached school age; they are children of varied races; and they are children with brothers and sisters. But they are children. And as children, they have a basic right as well as a fundamental need for a permanent, secure, and loving home.

A recent national survey conducted by George Gallup revealed that the great majority of Americans place a good family life at the very top of their list of social values. Sociologists also tell us that the most basic need of humans, no matter what age group or race, is love. And second to love is security. These adoptable children with special needs require this same security and love that you and I need in order for them to grow into healthy, happy, secure people.

Our Nation's youth are our most important national resource. Today, this august body can commend the many individuals throughout our society who are all working toward the placement of these children. The North American Council on Adoptable Children (NACAC) is to be commended for their efforts in making information available on activities highlighting this week's activities. Furthermore, the Department of Health and Human Services, under the wise direction of Assistant Secretary Dorcas Hardy, has joined with NACAC in planning multiple initiatives during that week. And I quote: "HDS (the Department of Human Development Services) has set up a committee to plan for the observance of 'National Family Week and National Adoption Week,' cosponsored by NACAC.

"An exhibit and activities are scheduled for November 21-23 in the Great Hall of the Hubert Humphrey Building in Washington, D.C., under the theme 'Children Grow Better in Families,' the slogan of the winning poster in NACAD's poster contest. Regional offices may have similar activites. The goal is to reach employees within the Department and in other Federal agencies, as well as the general public, to promote awareness of special needs adoptions and to recruit prospective adoptive parents. For details contact Pat Wood, Special Projects Coordinator, Immediate Office of the Assistant Secretary, (202) 245-6084." We in Congress need to join with these efforts. I encourage my colleagues and staff to join in these activities.

Each of you can lend your support to "National Adoption Week," which would focus attention on adoption and commend those public and private institutions working to find permanent homes for all adoptable children.

I urge you to join Senators DENTON, HAWKINS, NICKLES, HUMPHREY, RIEGLE, PELL, RANDOLPH, and I by cosponsoring and adopting this joint resolution. I ask unanimous consent that the complete text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 197

Whereas the week of November 20 has been privately commemorated as National Adoption Week for the past 8 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving, permanent family as every child's basic right;

Whereas approximately 100,000 children who have special needs—school age, in sibling groups, members of minorities or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas as the public and prospective parents must be informed of the availability of adoptable children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children;

Whereas the recognition of Thanksgiving week as National Adoption Week is in the best interest of adoptable children and the public in general; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 20-26, 1983, hereby is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

● Mr. DENTON. Mr. President, I am pleased to join my colleague, the junior Senator from Utah (Mr. HATCH), in cosponsoring a Senate joint resolution to designate the week of November 20 through November 26, 1983, as National Adoption Week. I believe that the designation would provide us with the opportunity to bring attention to the efforts of millions of American families, as well as public and private organizations, who support adoption as a loving option for thousands of American children.

Adoption can make a difference for the futures of many Americans. Most often we think of the joy of a young, married couple who are unable to have children of their own and who have the opportunity to adopt an infant. Adoption fulfills their desire to become a family with children. But we must not think only of those couples. Infants and children who are waiting for loving, permanent families to adopt them have the most to gain from the adoption process.

Unfortunately, there are thousands of children waiting to be adopted. Many of those children have been abandoned by their parents and relatives, whether because of abuse or neglect. Other children have run away from their families and need supportive adults and families to welcome and care for them. Some children have brothers and sisters who also need to be placed in a single home. Older children who have bounced from one foster home to another, or who are now living in institutions, also need adoptive homes. Many of the children who wait for adoption are black. Many infants and children with physical or mental handicaps also are waiting to be adopted.

Although the futures of those children can be brightened by adoption, there are also great benefits for their adoptive families. On November 18, the Subcommittee on Family and Human Services, which I chair, will be holding a "Forum for Families." The witnesses will include adoptive parents and their children, who will discuss with us what a positive difference adoption has made in their lives. I urge my colleagues on the subcommittee, as well as members of the Senate Caucus on the Family, the Children's Caucus, and other Senators to join with me in listening to those fine families.

I would also like to mention that an observance of National Adoption Week is being planned by the Department of Health and Human Services. The Department will make available information about the adoption process, and there will be recruitment efforts for prospective adoptive parents. An exhibit and activities are scheduled for November 21 through 23 in the Great Hall of the Hubert Humphrey Building, 200 Independence Avenue SW., here in Washington. I encourage those who are interested in adopting a child, as well a those who support adoption, to consider attending those activities.●

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 52, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

S. 563

At the request of Mr. CHILES, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 563, a bill to reform the laws relating to former Presidents.

S. 591

At the request of Mr. INOUYE, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 591, a bill to amend the Internal Revenue Code of 1954 to provide a mechanism for taxpayers to designate $1 of any overpayment of income tax, and to contribute other amounts, for use by the U.S. Olympic Committee.

S. 1691

At the request of Mr. ARMSTRONG, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1691, a bill to amend the Social Security Act to recognize effective program administration in the financing of State programs of child support enforcement, to improve the ability of States to collect child support for non-AFDC families, and otherwise strengthen and improve such programs and for other purposes.

S. 1817

At the request of Mr. MATSUNAGA, the names of the Senator from Hawaii (Mr. INOUYE), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 1817, a bill to provide equitable rules for the tax treatment of fringe benefits.

S. 1870

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1870, a bill to amend title 18 of the United States Code to provide penalties for credit and debit card counterfeiting and related fraud.

S. 1880

At the request of Mr. BURDICK, the names of the Senator from Montana (Mr. MELCHER), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1880, a bill to amend title 10, United States Code, to include chiropractic care in the health care that may be provided to members and certain former members of the uniformed services their dependents and to authorize chiropractors to be appointed as commissioned officers in the Armed Forces to provide such chiropractic care.

S. 1913

At the request of Mr. HUDDLESTON, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1913, a bill to provide for improvements in the school lunch and certain other child nutrition programs.

S. 2009

At the request of Mr. EAST, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 2009, a bill to amend the Fair Labor Standards Act of 1938 to exempt tire dealers and retreaders under section 13(b)(10) of that act in the same manner as certain automobile service and automobile selling establishments.

S. 2013

At the request of Mr. BUMPERS, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2013, a bill to amend the level of funding authorized for the maternal and child health services block grant for the purpose of insuring no less than the current level of services for fiscal year 1984.

S. 2014

At the request of Mr. SPECTER, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2024

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2024, a bill to amend the Public Health Service Act to revise the system under which communities pay the United States for the services of National Health Service Corps personnel.

S. 2041

At the request of Mr. MOYNIHAN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2041, a bill to require the disposal of certian lands at Montauk Air Force Station, East Hampton Township, N.Y., for park and recreation purposes.

S. 2058

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2058, a bill to require the disposal of certain lands at Montauk Air Force Station, East Hampton Township, N.Y., for park and recreation purposes.

SENATE JOINT RESOLUTION 5

At the request of Mr. HATCH, the name of the Senator from Nevada (Mr. HECHT) was added as a cosponsor of Senate Joint Resolution 5, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures.

SENATE JOINT RESOLUTION 132

At the request of Mr. RIEGLE, the name of the Senator from Mississippi (Mr. COCHRAN), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Senate Joint Resolution 132, a joint resolution to designate the week beginning August 7, 1983, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. CHAFEE, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to designate the week of April 15, 1984, through April 21, 1984, as "National Child Abuse Prevention Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. STENNIS, the name of the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Senate Joint Resolution 171, a joint resolution for the designation of July 20, 1984, as "National POW/MIA Recognition Day."

SENATE JOINT RESOLUTION 181

At the request of Mr. BENTSEN, the names of the Senator from Missouri (Mr. EAGLETON), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her hu-

manitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE JOINT RESOLUTION 182

At the request of Mr. SASSER, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 181, a joint resolution designating the week beginning February 12, 1984, as a time to recognize those volunteers who give of their time to become "Big Brothers" and "Big Sisters" to single parent youth.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. DOLE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for the other purposes.

SENATE RESOLUTION 74

At the request of Mr. PELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Resolution 74, a resolution expressing the sense of the Senate concerning the future of the people of Taiwan.

SENATE RESOLUTION 225

At the request of Mr. BAUCUS, the names of the Senator from Michigan (Mr. RIEGLE), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of Senate Resolution 225, a resolution relating to the dismantling of nontariff trade barriers of the Japanese to the import of beef.

SENATE CONCURRENT RESOLUTION 85—RELATING TO TRAVEL FOR VLADIMIR FELTSMAN

Mr. PELL (for himself, Mr. ARMSTRONG, Mr. BINGAMAN, Mr. MELCHER, Mr. BOSCHWITZ, Mr. RANDOLPH, Mr. SYMMS, Mr. BENTSEN, Mr. CHILES, Mr. SARBANES, Mr. LEVIN, Mr. METZENBAUM, Mr. HUDDLESTON, Mr. SASSER, Mr. TSONGAS, Mr. LAUTENBERG, Mr. PERCY, Mr. GLENN, Mr. DODD, Mr. BUMPERS, Mr. INOUYE, and Mr. HART) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 85

Whereas Vladimir Feltsman is an internationally acclaimed award-winning pianist;

Whereas Mr. Feltsman has been invited to perform in the United States on December 30, 1983 at the John F. Kennedy Center for the Performing Arts in Washington, D.C.;

Whereas Mr. Feltsman, in direct consequence of his expressed desire to emigrate to Israel with his family, has had his basic human rights of freedom of travel and cultural expression routinely violated and suppressed by the Soviet Union;

Whereas Mr. Feltsman's basic human rights, as guaranteed by the Final Act of the Conference on Security and Cooperation in Europe signed at Helsinki, August 1, 1975, to which the Soviet Union is a party, have consistently been violated;

Whereas Mr. Feltsman and his family have continually been harassed as a result of their having applied for exit visas from the Soviet Union, which have been denied each time;

Whereas the United States was born with a tradition of respect for human rights and freedom of cultural exchange; Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Government of the Soviet Union should allow Vladimir Feltsman freedom to travel, with his family, to the United States to perform.

● Mr. PELL. Mr. President, today I am submitting a concurrent resolution expressing the sense of Congress that the Government of the Soviet Union should grant Vladimir Feltsman, the internationally acclaimed Soviet pianist, freedom to travel with his family in order to perform in the United States.

Vladimir Feltsman enjoyed an enormously successful concert career and won many coveted awards in international competitions until May 1979, when he and his wife, Anna, applied to emigrate to Israel. Immediately, all his performances were canceled; his best-selling tapes and records were removed from the shelves of record stores; radio stations were forbidden to play his recordings or mention his name; and his travel permits were withdrawn. Hours before Mr. Feltsman's scheduled performance with the Moscow Philarmonic in the Great Hall of the Moscow Conservatory, he was warned not to attend and his name was blocked out of the posters that had widely advertised his appearance.

Since that time, he has been denied the right to work and has been continually harassed by the Soviet authorities. Every 6 months he reapplies for permission to emigrate to Israel, and every 6 months he is refused. Meanwhile, his prodigious talent is going to waste. His only concert hall is the one room apartment that he shares with his wife and infant son, Daniel.

In June 1982, the National Conference of Soviet Jewry and the Greater New York Conference on Soviet Jewry, among others, organized a benefit performance at Lincoln Center in Feltsman's honor. In spite of this commitment under the Helsinki Final Act to facilitate travel by its citizens for professional reasons, the Soviet Union prohibited Vladimir Feltsman from attending. Support for his right to do so, however, was strongly demonstrated by a number of well-known personalities such as actress Helen Hayes, pianist Misha Dichter, and dancers from the American Ballet Theatre, who participated in the benefit.

Once again, Vladimir Feltsman has been invited to perform in the United States—this time at the Kennedy Center on December 30, 1983. As a member and former cochairman of the Commission on Security and Cooperation in Europe, I am outraged that the Soviet Government refused to allow Mr. Feltsman to perform in New York in 1982. In view of our country's long tradition of personal and professional freedom, we have a duty to demonstrate our support for Vladimir Feltsman and to demand that the Soviet Union fulfill its obligations under the final act with respect to travel for its citizens. The resolution that I submit today sends these signals and I urge all of my colleagues to support it.●

SENATE RESOLUTION 275—WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 275

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 2173. Such waiver is necessary because H.R. 2173, as reported, authorizes the enactment of new budget authority which would first become available in Fiscal Year 1984, and such bill was not reported on or before May 15, 1983, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations. This bill was sent from the House of Representatives to the Senate and was referred to the Senate Committee on the Judiciary on May 11, 1983. Even with the eight day extension allowed by the Budget Committee to report out new authorizing legislation, there was not sufficient time for the Judiciary Committee to take responsible action prior to the deadline.

The budget waiver will allow Senate consideration for H.R. 2173 which reauthorizes the Administrative Office of the United States Courts to contract for drug treatment services, and drug abuse monitoring services for probationers and parolees for Fiscal Years 1984 through 1986.

H.R. 2173 authorizes the appropriation of $5 million for Fiscal Year 1984, $5.5 million for Fiscal Year 1985, and $6 million for Fiscal Year 1986.

AMENDMENTS SUBMITTED

NATIONAL ADULT CONTINUING EDUCATION WEEK

BYRD AMENDMENT NO. 2536

Mr. BYRD proposed an amendment to the joint resolution (S.J. Res. 160) to designate the week of October 19, 1983, through October 24, 1983, as "National Adult Continuing Education Week"; as follows:

On page 2, line 3 and line 4, omit the words "October 17, 1983 through October

24, 1983," and insert in lieu thereof "October 15, 1984 through October 21, 1984,".

Amend the title so as to read: "To designate the week of October 15, 1984 through October 21, 1984, as 'National Adult Continuing Education Week'."

AUTHORIZATION OF APPROPRIATIONS FOR THE ARMS CONTROL AND DISARMAMENT AGENCY

PERCY AMENDMENTS NOS. 2537 AND 2538

Mr. PERCY proposed two amendments to the bill (S. 608) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, as follows:

AMENDMENT No. 2537

At the bottom of page 3, add the following:

SPECIAL REPRESENTATIVES FOR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS

SEC. 4. (a) Section 27 of the Arms Control and Disarmament Act (22 U.S.C. 2567) is amended by striking out "a Special Representative" and inserting in lieu thereof "two Special Representatives".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2).".

AMENDMENT NO. 2538

Add the following new section at the appropriate place in the bill:

REPORT TO CONGRESS OF SOVIET COMPLIANCE TO ARMS CONTROL AGREEMENTS

SEC. . The President shall prepare and transmit to the Congress a report on the record of Soviet compliance or noncompliance with existing arms control agreements to which the Soviet Union is a party.

SOLID WASTE DISPOSAL ACT AMENDMENTS

CHAFEE (AND OTHERS) AMENDMENT NO. 2539

(Ordered to lie on the table.)

Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. MITCHELL) submitted an amendment intended to be proposed by him to the bill (S. 1283) to amend the Solid Waste Disposal Act to authorize funds for fiscal year 1984, as follows:

Amend the title by inserting ", 1985, 1986, 1987, and for other purposes" immediately after "1984".

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Solid Waste Disposal Act Amendments of 1983".

AUTHORIZATION

SEC. 2. Section 2007(a) of the Solid Waste Disposal Act is amended by striking "and" immediately following "1981," and by inserting immediately before the period at the end thereof ", $43,628,000 for the fiscal year ending September 30, 1983, $45,000,000 for the fiscal year ending September 30, 1984, $47,000,000 per fiscal year for the fiscal years ending September 30, 1985, September 30, 1986, and September 30, 1987".

SEC. 3. Section 3011(a) of the Solid Waste Disposal Act is amended by striking "and" immediately following "1981" and by inserting immediately following "1982" the following: "$45,000,000 for the fiscal year 1983, $47,000,000 for the fiscal year 1984, $50,000,000 for fiscal year 1985, and $52,500,000 per fiscal year for fiscal years 1986 and 1987".

SMALL QUANTITY GENERATOR REGULATION AND STUDY

SEC. 4. Section 3002 of the Solid Waste Disposal Act is amended by inserting "(a) STANDARDS.—" after "SEC. 3002." and by adding the following new subsection:

"(b) HAZARDOUS WASTE FROM SMALL QUANTITY GENERATORS.—(1) Beginning two hundred and seventy days after the enactment of the Solid Waste Disposal Act Amendments of 1983, any hazardous waste listed or identified under section 3001 which is part of a total quantity generated by a generator generating greater than one hundred kilograms but less than one thousand kilograms during one calendar month and which is shipped off the premises on which such waste is generated shall be accompanied by a copy of the Environmental Protection Agency uniform hazardous waste manifest form signed by the generator. This form shall contain the following information:

"(A) the name and address of the generator of the waste;

"(B) the United States Department of Transportation description of the waste, including the proper shipping name, hazard class, and identification number (UN/NA), if applicable;

"(C) the number and type of containers;

"(D) the quantity of waste being transported; and

"(E) the name and address of the facility designated to receive the waste.

If subparagraph (B) is not applicable, in lieu of the description referred to in such subparagraph (B), the form shall contain the Environmental Protection Agency identification number, or a generic description of the waste, or a description of the waste by hazardous waste characteristic. Additional requirements related to the manifest shall apply only if determined necessary by the Administrator to protect human health and the environment. The Administrator is authorized to apply the requirements of this paragraph to hazardous waste which is part of a total quantity generated by a generator generating less than one hundred kilograms during one calendar month.

"(2)(A) Any hazardous waste identified in accordance with section 3001 on the basis of the characteristic of ignitability, reactivity, or corrosivity or listed under section 3001, which is part of a total quantity generated by a generator generating greater than one hundred kilograms but less than one thousand kilograms during one calendar month when such waste is transported off the premises on which such waste is generated, shall be placed in suitable, sound, nonleaking containers as follows:

"(i) off-specification materials, residual materials, and materials from spill cleanup may be placed in the original containers of such materials, or in equivalent containers labeled with the same information as the original containers and suitably constructed to contain such materials;

"(ii) a waste may be placed in a Department of Transportation specification hazardous material container with prescribed labeling in compliance with the Hazardous Materials Transportation Act; and

"(iii) other wastes may be placed in a container or otherwise handled by a method (including a method of identification or labeling consistent with this subparagraph) mutually agreed by the generator and the transporter of such wastes.

Wastes that are not incompatible may be aggregated in such suitable containers. For the purpose of this subparagraph, aggregation means the mixing of two or more types of wastes within the innermost container.

"(B) Except as provided in paragraph (7) or under State law, a generator generating waste subject to this paragraph shall not be subject to additional requirements for manifesting, recordkeeping, or reporting beyond those in regulations promulgated prior to January 1, 1983.

"(3) Until the effective date of regulations promulgated under paragraph (7), or as specified in paragraph (7)(C), any hazardous waste identified or listed under section 3001 generated by any generator during any calendar month in a total quantity less than one thousand kilograms, which is not treated, stored, or disposed of at a hazardous waste treatment, storage, or disposal facility with a permit under section 3005, shall be disposed of only in a facility which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

"(4) The provisions of paragraphs (2) and (3) shall take effect on the date two hundred and seventy days after the enactment of the Solid Waste Disposal Act Amendments of 1983.

"(5) Requirements under section 3004 for storage of hazardous waste identified or listed under section 3001 which is generated by any generator during any calendar month in a total quantity less than one thousand kilograms shall provide for onsite storage in tanks and containers of such hazardous waste for up to one hundred and eighty days, unless the generator must ship or haul such waste over two hundred miles in which case such requirements shall provide for onsite storage for up to two hundred and seventy days of up to six thousand kilograms of such hazardous waste.

"(6) Nothing in this subsection shall be construed to affect, modify, or render invalid any requirements applicable to any acutely hazardous waste identified or listed under section 3001 which is generated by any generator during any calendar month in a total quantity less than one thousand kilograms, in regulations promulgated prior to January 1, 1983. Any additional acutely hazardous waste listed under section 3001 after January 1, 1983, shall be subject to all regulations applicable to acutely hazardous wastes.

"(7)(A) The Administrator in cooperation with the States shall conduct a study of hazardous waste identified or listed under section 3001 of this Act which is generated by individual generators in total quantities for each generator during any calendar month of less than one thousand kilograms. The Administrator may require from such generators information as may be necessary to conduct the study. Such study shall in-

clude a characterization of the number and type of such generators, the quantity and characteristics of hazardous waste generated by such generators, State requirements applicable to such generators, the individual and industry waste management practices of such generators, the potential costs of modifying those practices and the impact of such modifications on national treatment and disposal facility capacity, and the threat to the protection of human health and the environment and the employees of transporters or others involved in solid waste management posed by such hazardous wastes or such management practices. Such study shall specifically address whether the requirements of paragraph (2) should apply to hazardous wastes identified on the basis of the characteristic of extraction procedure toxicity or additional characteristics promulgated under section 3001(b)(5). Such study shall be submitted to the Congress not later than March 31, 1985.

"(B) Based upon the study required by subparagraph (A) and other information available to the Administrator and after consultation with the States, the Administrator shall promulgate not later than March 31, 1986, additional regulations establishing such requirements under this section and sections 3003, 3004, and 3005 of this Act for hazardous waste identified or listed under section 3001 which is generated by a generator during any calendar month in a total quantity less than one thousand kilograms, as may be necessary to protect human health and the environment. Such requirements may supplement the requirements of paragraphs (1) through (5) of this subsection and may distinguish among classes and categories of generators or waste, and may vary from the requirements applicable to hazardous waste generated in quantities greater than one thousand kilograms during any calendar month, to the extent the Administrator determines such standards are adequate to protect human health and the environment. The Administrator shall consider State requirements applicable to generators of hazardous wastes which generate such wastes in a total quantity less than one thousand kilograms per month in promulgating such regulations and shall explain differences between State requirements and regulations promulgated under this subparagraph. Except as provided in paragraph (5), regulations promulgated under this paragraph shall provide that treatment, storage, or disposal of a hazardous waste identified or listed under section 3001 generated by a generator during any calendar month in a total quantity less than one thousand kilograms occur only at a treatment, storage, or disposal facility with a permit under section 3005. The Administrator may establish in such regulations a total quantity of wastes generated by a generator during any calendar month, not to exceed one hundred kilograms, for which disposal may occur in compliance with paragraph (3) rather than the preceding sentence, if the Administrator determines that such compliance will be adequate to protect human health and the environment. Such quantity may vary for different wastes or classes of wastes.

"(C) In the case no regulations in accordance with subparagraph (B) of this paragraph have been promulgated prior to March 31, 1986, after such date—

"(i) all treatment, storage, or disposal of any hazardous waste identified or listed under section 3001 generated by a generator during any calendar month in a total quantity greater than one hundred kilograms but less than one thousand kilograms shall occur only at a treatment, storage, or disposal facility with a permit under section 3005;

"(ii) generators of such waste shall file manifest exception reports as required of generators producing quantities greater than one thousand kilograms per month except that such reports shall be filed by January 31, for any waste shipment occurring in the last half of the preceeding calendar year, and by July 31, for any waste shipment occurring in the first half of the calendar year; and

"(iii) generators of such waste shall retain for three years a copy of the manifest signed by the designated facility that has received the waste.

"(D) The Administrator shall undertake activities to inform and educate waste generators of their responsibilities under this section during the period after enactment to help assure compliance.".

LAND DISPOSAL LIMITATIONS

SEC. 5. (a) Section 3004 of the Solid Waste Disposal Act is amended by inserting "(a) STANDARDS.—" after "SEC. 3004." and by adding the following new subsections:

"(b) LAND DISPOSAL LIMITATIONS.—(1) The Congress finds that certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes, and that to avoid substantial risk to human health and the environment, reliance on land disposal should be minimized and land disposal, particularly landfill and surface impoundment, should be the least favored method for managing hazardous wastes. Therefore, the Administrator shall, after notice and opportunity for hearings and after consultation with appropriate Federal and State agencies, promulgate regulations prohibiting the land disposal of hazardous wastes, except for methods of land disposal of one or more such wastes which the Administrator determines will be protective of human health and the environment. If the Administrator determines that a method of land disposal of a hazardous waste will be protective of human health and the environment, he shall promptly publish in the Federal Register notice of such determination together with an explanation of the basis for such determination. The Administrator shall take into account the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous waste, and the potential effect of such waste on the integrity of containment mechanisms.

"(2) For the purposes of this subsection, if a specified waste contains significant concentrations of one or more hazardous constituents that is highly toxic, highly mobile, or has a strong propensity to bioaccumulate, a method of land disposal may not be determined to be protective of human health and the environment for such specified hazardous waste, unless upon application by an interested person it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of such constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(3) A prohibition in regulations under this subsection shall be effective immediately upon promulgation, unless the Administrator establishes another effective date with respect to a specific hazardous waste on the basis of the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available, which shall in no event be later than two years after the date of promulgation. The Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may grant an extension of such effective date on a case-by-case basis for up to one year, renewable for no more than one additional year, where the applicant demonstrates that there is a binding contractual commitment to construct or otherwise provide such alternative capacity but due to circumstances beyond the control of such applicant such alternative capacity cannot reasonably be made available by such effective date.

"(4) Not later than July 1, 1985, the Administrator shall promulgate regulations in accordance with paragraph (1) for dioxin-containing hazardous wastes and those hazardous wastes numbered F001, F002, F003, F004, and F005 in regulations promulated by the Administrator under section 3001 (40 C.F.R. 261.31), as those regulations are in effect on July 1, 1983;

"(5) Not later than thirty-two months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate regulations in accordance with paragraph (1) for the following hazardous wastes:

"(A) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l.

"(B) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following dissolved metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

"(i) arsenic and/or compounds (as As) 500 mg/l;

"(ii) cadmium and/or compounds (as Cd) 100 mg/l;

"(iii) chromium (VI and/or compounds (as Cr VI)) 500 mg/l;

"(iv) lead and/or compounds (as Pb) 500 mg/l;

"(v) mercury and/or compounds (as Hg) 20 mg/l;

"(vi) nickel and/or compounds (as Ni) 134 mg/l;

"(vii) selenium and/or compounds (as Se) 100 mg/l; and

"(viii) thallium and/or compounds (as Th) 130 mg/l.

"(C) Liquid hazardous waste having a pH less than or equal to two (2.0).

"(D) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm.

"(E) Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1,000 mg/kg.

When necessary to protect human health and the environment, the Administrator shall substitute more stringent concentration levels than the levels specified in subparagraphs (A) through (E).

"(6)(A) Not later than twelve months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall publish a schedule for deciding whether or not to prohibit in accordance with paragraph (1) the land disposal of each hazardous waste listed under section 3001. Such schedule shall require that the Administrator must make such decisions for at least one-third of all such listed wastes by

the date thirty-two months after the date of such enactment, for at least two-thirds of all such listed wastes by the date forty-two months after the date of such enactment, and for all such listed wastes by the date fifty-two months after the date of such enactment.

"(B) Not later than the date specified in subparagraph (A) for each waste on the schedule published under such subparagraph, the Administrator shall promulgate regulations in accordance with paragraph (1) for each such waste.

"(C) Not later than fifty-two months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate regulations in accordance with paragraph (1) for each hazardous waste identified on the basis of any toxicity characteristics.

"(D) Not later than thirty-two months after the listing of a hazardous waste listed after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate regulations in accordance with paragraph (1) for such waste.

"(7) Simultaneously with the promulgation of regulations under paragraph (1) prohibiting one or more methods of land disposal of a particular hazardous waste, and as appropriate thereafter, the Administrator shall, after notice and an opportunity for hearings and after consultation with appropriate Federal and State agencies, promulgate regulations specifying those methods of treatment, if any, which are necessary before such method or methods of disposal of such hazardous waste would be protective of human health and the environment. Notwithstanding the provisions of subsection 3010(b), immediately upon the promulgation of regulations under this paragraph, the disposal of such hazardous waste by such method or methods is allowed if such hazardous waste has first been treated by a method specified in regulations promulgated under this paragraph.

"(8)(A) Any hazardous waste prohibited under this subsection from disposal in a surface impoundment may be treated or stored in a surface impoundment only if that impoundment is equipped with at least one liner.

"(B) For the purposes of this section, 'disposal' shall include the placement of hazardous waste in a surface impoundment or a waste pile for a period of more than six months, regardless of whether it is intended that the hazardous waste will be removed before closure of the facility.

"(9) If the Administrator fails to promulgate regulations under paragraph (1) with respect to a waste referred to in paragraph (4) or in paragraph (5) by the deadline specified in such paragraph, effective six months after such deadline, and until the Administrator promulgates regulations under paragraph (1), such waste may be disposed of in a landfill or a surface impoundment only if such facility is in compliance with the requirements of section 3004(f)(1) of this Act. This paragraph shall not apply to contaminated soil and debris from the cleanup or removal of any release of a hazardous substance.

"(c) LIQUIDS IN LANDFILLS.—Not later than one year after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate final regulations which minimize the disposal of liquid containerized hazardous waste in landfills (including the minimization of free liquids by other means than the addition of absorbent material, where technologically feasible), and which prohibit the disposal of bulk or noncontainerized liquid hazardous wastes in landfills. Prior to the promulgation of such final regulations, the requirements in regulations under this section respecting the disposal of landfills of liquid hazardous waste and free liquids contained in hazardous waste in effect as of October 1, 1982, shall remain in effect.

"(d) BAN ON DUST SUPPRESSION.—The use of waste or used oil or other material, which is contaminated or mixed with dioxin or any other hazardous waste identified or listed under section 3001 (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

"(e) BAN ON CERTAIN WELLS.—Effective one hundred and eighty days after the enactment of the Solid Waste Disposal Act Amendments of 1983, no hazardous waste may be disposed of by underground injection into or above any formation which contains, within one-half mile of the well used for such underground injection, an underground source of drinking water.

(b) Section 3005(e) of the Solid Waste Disposal Act is amended by adding the following: "The owner or operator of a waste pile qualifying for the authorization to operate under this subsection shall be subject to the same requirements for liners and leachate collection systems or equivalent protection provided in regulations promulgated by the Administrator under section 3004 before October 1, 1982, or revised under section 3004(f), for new facilities receiving individual permits under subsection (c) of this section, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under this section, and with respect to waste received beginning six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983. The owner or operator of a landfill or surface impoundment qualifying for the authorization to operate under this subsection shall be subject to the requirements of section 3004(f), with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under this section, and with respect to waste received beginning six months after such date of enactment. The owner or operator of each such unit shall notify the Administrator (or the State, if appropriate) at least sixty days prior to receiving waste. The Administrator (or the State) shall require the filing of a completed permit application within six months of receipt of such notice, for each facility submitting such notice. In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of this subsection and in good faith compliance with the Administrator's regulations and guidance documents governing liners and leachate collection systems, no liner or leachate collection system which is different from that which was so installed pursuant to this subsection shall be required for such unit by the Administrator when issuing the first permit under this section to such facility. The Administrator may, under section 3004, amend the requirements for liners and leachate collection systems required under this subsection as may be necessary to provide additional protection for human health and the environment.".

(c) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(g) The standards concerning ground water monitoring, unsaturated zone monitoring, and corrective action, which are applicable under section 3004 to new landfills, surface impoundments, land treatment units, and waste-pile units required to be permitted under subsection (c) shall also apply to any landfill, surface impoundment, land treatment unit, or waste-pile unit qualifying for the authorization to operate under subsection (e) which receives hazardous waste after July 26, 1982.".

MINIMUM TECHNOLOGICAL REQUIREMENTS AND PERMIT LIFE

SEC. 6. (a) Section 3004 of the Solid Waste Disposal Act is amended by adding the following additional new subsection:

"(f) MINIMUM TECHNOLOGICAL REQUIREMENTS.—The regulations under subsection (a) of this section shall be revised from time to time to take into account improvements in the technology of control and measurement. At a minimum, such regulations shall require, and a permit issued after the date of enactment of the Solid Waste Disposal Act Amendments of 1983 by the Administrator or a State shall require—

"(1) for each new landfill or surface impoundment, each new landfill or surface impoundment unit at an existing facility, each replacement of an existing landfill or surface impoundment unit, and each lateral expansion of an existing landfill or surface impoundment unit, for which a completed application for a permit under section 3005(c) is received after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, with respect to all waste received after the issuance of such permit, the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners (unless the owner or operator demonstrates to the Administrator, and the Administrator finds for such landfill or surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as such liners and leachate collection systems), together with ground water monitoring; and

"(2) for each incinerator which receives a permit under section 3005(c) after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, the attainment of the minimum destruction and removal efficiency required by regulations in effect on June 24, 1982.

In addition, such regulations shall specify criteria for the acceptable location of new and existing treatment, storage, or disposal facilities as necessary to protect human health and the environment. The Administrator shall determine whether to modify the requirements of paragraph (1) for liners and leachate collection systems in the case of landfills or surface impoundments receiving solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore, if such solid waste is subject to regulation under this subtitle, and shall, if he so determines, so modify such requirements to the extent such modified requirements assure protection of human health and the environment.".

(b) Section 3005(c) of the Solid Waste Disposal Act is amended by adding the follow-

ing: "Any permit under this section shall be for a fixed term, not to exceed ten years in the case of any land disposal facility, incinerator or other treatment facility. Each permit for a land disposal facility shall be reviewed five years after date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of this section and section 3004. Nothing in this subsection shall preclude the Administrator from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued under this section shall contain such terms and conditions as the Administrator (or the State) determines necessary to protect human health and the environment.".

CONTINUING RELEASES AT PERMITTED FACILITIES

SEC. 7. Section 3004 of the Solid Waste Disposal Act is amended by adding the following additional new subsection:

"(g) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Solid Waste Disposal Act Amendments of 1983 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.".

LISTING/DELISTING MODIFICATIONS

SEC. 8. Section 3001(b) of the Solid Waste Disposal Act is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The regulations promulgated under paragraph (1) shall provide that, when evaluating a petition to exclude a waste generated at a particular facility from being regulated as a hazardous waste, the Administrator shall consider criteria, constituents, or other related factors, other than those for which the waste was listed, if the Administrator has a reasonable basis to believe that such additional criteria, constituents, or other related factors could cause such waste to be listed as a hazardous waste. The Administrator shall grant or deny such petitions only after notice and opportunity for public hearing. If the basis for denial of such petition is the presence of additional constituents which could cause such waste to be hazardous, the Administrator shall amend the basis for the listing of such waste to indicate the additional constituents.

"(B) The temporary granting of such a petition prior to the enactment of the Solid Waste Disposal Act Amendments of 1983 without the opportunity for public comment and the full consideration of such comment shall not continue for more than twelve months after the date such petition is granted or six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, whichever is later. If a final decision to grant or deny such a petition has not been promulgated after notice and opportunity for public comment within the time limit prescribed by the preceding sentence, any such temporary granting of such petition shall cease to be in effect.

"(C) Any petition to exclude from regulation a waste generated at a particular facility shall be accompanied by adequate information to evaluate such petition, including information on samples of such waste determined to be representative on the basis of guidelines for the development and submission of such information published by the Administrator. Such information shall be certified by a responsible official of such facility (as determined under regulations promulgated under section 3005) to be accurate, complete, and representative, within the knowledge of employees or contractors of such facility.

"(5) For the purpose of assuring the timely completion of regulations identifying the characteristics of hazardous waste and the listing of additional particular hazardous wastes, as required by paragraph (1) of this subsection, the Administrator shall—

"(A) not later than six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, identify those particular wastes for which the Agency intends to decide whether to list as hazardous waste within two years after such date of enactment, and those particular wastes for which the Agency intends to decide within five years after such date of enactment;

"(B) not later than six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, promulgate regulations listing chlorinated dioxin- and dibenzofuran-containing wastes as hazardous wastes in accordance with paragraph (1) of this subsection; and

"(C) not later than two years after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, (i) promulgate regulations identifying additional characteristics of hazardous waste, including measures or indicators of toxicity; and (ii) reach decisions on all wastes identified in accordance with subparagraph (A) for decision within two years and for each such waste either promulgate regulations listing such particular hazardous waste or publish a statement as to why such waste should not be listed as hazardous waste; and

"(D) not later than six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, determine the appropriateness of using the extraction procedure toxicity characteristic for evaluating petitions to exclude a waste generated at a particular facility from being regulated as a hazardous waste, and, not later than two years after such date of enactment, make such changes as are necessary in the extraction procedure toxicity characteristic to predict the leaching potential of wastes upon exposure to leaching media more aggressive than the media utilized in the regulation in effect as of such date of enactment.

"(6) The Administrator, in cooperation with the Agency for Toxic Substances and Disease Registry and the National Toxicology Program, shall also identify or list those hazardous wastes which shall be subject to the provisions of this subtitle solely because of the presence in such wastes of certain constituents (such as identified carcinogens, mutagens, or teratogens) at levels in excess of levels which endanger human health.".

BURNING AND BLENDING OF HAZARDOUS WASTES

SEC. 9. (a) NOTICE.—(1) Section 3010 of the Solid Waste Disposal Act is amended by inserting the following after the first sentence thereof: "Not later than twelve months after the date of the enactment of the Solid Waste Disposal Act Amendments of 1983—

"(1) the owner or operator of any facility which produces a fuel (A) from any hazardous waste identified or listed under section 3001, (B) from such hazardous waste identified or listed under section 3001 and any other material, (C) from used oil, or (D) from used oil and any other material;

"(2) the owner or operator of any facility (other than a single- or two-family residence) which burns for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001; and

"(3) any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001

shall file with the Administrator (and with the State in the case of a State with an authorized hazardous waste program) a notification stating the location and general description of the facility, together with a description of the identified or listed hazardous waste involved and, in the case of a facility referred to in paragraph (1) or (2), a description of the production or energy recovery activity carried out at the facility and such other information as the Administrator deems necessary. For purposes of the preceding sentence, the term 'hazardous waste listed under section 3001' also includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel. Notification shall not be required under the second sentence of this subsection in the case of facilities (such as residential boilers) where the Administrator determines that such notification is not necessary in order for the Administrator to obtain sufficient information respecting current practices of facilities using hazardous waste for energy recovery. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). Nothing in this subsection shall affect regulatory determinations under section 3014 (as amended by the Used Oil Recycling Act of 1980).".

(2) Section 3010 of such Act is amended by striking out "the preceding sentence" each place it occurs and substituting "the preceding provisions".

(b) STANDARDS.—(1) Section 3004 of such Act is further amended by adding the following at the end thereof:

"(h) HAZARDOUS WASTE USED AS FUEL.—(1) Not later than two years after the date of the enactment of the Solid Waste Disposal Act Amendments of 1983, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing such—

"(1) standards applicable to the owners and operators of facilities which produce a fuel, (A) from any hazardous waste identified or listed under section 3001, or (B) from any hazardous waste identified or listed under section 3001 and any other material;

"(2) standards applicable to the owners and operators of facilities which burn, for purposes of energy recovery, any fuel produced as provided in paragraph (1) or any fuel which otherwise contains any hazard-

ous waste identified or listed under section 3001; and

"(3) standards applicable to any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001

as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (7) of subsection (a) as may be appropriate. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). For purposes of this subsection, the term 'hazardous waste listed under section 3001' includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (A) produced for use as (or as a component of) a fuel, (B) distributed for use as a fuel, or (C) burned as a fuel.

"(2)(A) This subsection, subsection (i), and subsection (j) shall not apply to petroleum refinery wastes containing oil which are converted into petroleum coke at the same facility at which such wastes were generated, unless the resulting coke product would exceed one or more characteristics by which a substance would be identified as a hazardous waste under section 3001.

"(B) The Administrator may exempt from the requirements of this subsection, subsection (i), or subsection (j) facilities which burn de minimis quantities of hazardous waste as fuel, as defined by the Administrator, if the wastes are burned at the same facility at which such wastes are generated; the waste is burned to recover useful energy, as determined by the Administrator on the basis of the design and operating characteristics of the facility and the heating value and other characteristics of the waste; and the waste is burned in a type of device determined by the Administrator to be designed and operated at a destruction and removal efficiency sufficient such that protection of human health and environment is assured.".

"(i) LABELING.—(1) Notwithstanding any other provision of law, until such time as the Administrator promulgates standards under subsection (h) specifically superceding this requirement, it shall be unlawful for any person who is required to file a notification in accordance with paragraph (1) or (3) of section 3010 to distribute or market any fuel which is produced from any hazardous waste identified or listed under section 3001, or any fuel which otherwise contains any hazardous waste identified or listed under section 3001 if the invoice or the bill of sale fails—

"(A) to bear the following statement: 'WARNING: THIS FUEL CONTAINS HAZARDOUS WASTES', and

"(B) to list the hazardous wastes contained therein.

Beginning ninety days after the enactment of the Solid Waste Disposal Act Amendments of 1983, such statement shall be located in a conspicuous place on every such invoice or bill of sale and shall appear in conspicuous and legible type in contrast by typography, layouts, or color with other printed matter on the invoice or bill of sale.

"(2) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from petroleum refining waste containing oil if (A) such materials are generated and reinserted onsite into the refining process; (B) contaminants are removed; and (C) such refining waste containing oil is converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Industrial Classification Manual.

"(3) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from used oil, resulting from normal petroleum refining production and transportation practices, if (A) contaminants are removed; and (B) such used oil is converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Classification manual.

"(j) RECORDKEEPING.—Not later than twelve months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate regulations requiring that any person who is required to file a notification in accordance with subparagraph (1), (2), or (3), of paragraph 3010(a) must maintain such records regarding fuel blending, distribution, or use as may be necessary to protect human health and the environment.".

(2) Section 3003 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(c) FUEL FROM HAZARDOUS WASTE.—Not later than two years after the date of the enactment of the Solid Waste Disposal Act Amendments of 1983 and after opportunity for public hearing, the Administrator shall promulgate regulations establishing standards, applicable to transporters of fuel produced (1) from any hazardous waste identified or listed under section 3001, or (2) from any hazardous waste identified or listed under section 3001 and any other material, as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (4) of subsection (a) as may be appropriate.".

MANDATORY INSPECTIONS

SEC. 10. Section 3007 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (a) and by redesignating succeeding subsections accordingly:

"(b) MANDATORY INSPECTIONS.—(1) Beginning twelve months after the enactment of the Solid Waste Disposal Act Amendments of 1983, every facility for the treatment, storage, or disposal of hazardous waste for which a permit is required under section 3005 of this title shall be thoroughly and regularly inspected no less often than every two years as to its compliance with this subtitle and the regulations promulgated thereunder. The Administrator shall, after notice and opportunity for public comment, promulgate regulations governing the minimum frequency and manner of such inspections, including the manner in which records of such inspections shall be maintained. The Administrator may distinguish between classes and categories of facilities commensurate with the risks posed by each class or category.

"(2) Not later than six months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall submit to the Congress a report on the potential for inspections of hazardous waste treatment, storage, or disposal facilities by nongovernmental inspectors as a supplement to inspections conducted by officers, employees, or representatives of the Environmental Protection Agency or States having authorized hazardous waste programs or operating under a cooperative agreement with the Administrator. Such report shall be prepared in cooperation with the States, insurance companies offering environmental impairment insurance, and independent companies providing inspection services, and other such groups as appropriate. Such report shall contain recommendations on provisions and requirements for a program of private inspections to supplement governmental inspections.".

FEDERAL FACILITIES

SEC. 11. (a) Section 3007 of the Solid Waste Disposal Act, as amended by section 10 of this Act, is further amended by adding the following new subsections:

"(d) FACILITIES OPERATED BY A FEDERAL AGENCY.—Beginning twelve months after enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall, and the State, in the case of a State with an authorized hazardous waste program, may undertake no less often than every two years a thorough inspection of each facility for the treatment, storage, or disposal of hazardous waste which is operated by a Federal agency as to its compliance with this subtitle and the regulations promulgated thereunder. The records of such inspections shall be available to the public as provided in subsection (c).

"(e) STATE-OPERATED FACILITIES.—The Administrator shall undertake a thorough inspection of every facility for the treatment, storage, or disposal of hazardous waste which is operated by a State or local government for which a permit is required under section 3005 of this title. The records of such inspection shall be available to the public as provided in subsection (c).".

(b) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section:

"INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

"SEC. 3015. (a) FEDERAL AGENCY INVENTORY.—Each Federal agency shall, within one year after the enactment of the Solid Waste Disposal Act Amendments of 1983, undertake a continuing program to compile, publish, and submit to the Administrator and the State (in the case of States having an authorized hazardous waste program) an inventory describing the location of each site which the Federal agency owns or operates where hazardous waste has at any time been treated, stored or disposed of. Such inventory shall contain—

"(1) a description of the location of the sites at which any such treatment, storage, or disposal has taken place before the date on which permits are required under section 3005 for such storage or disposal;

"(2) such information relating to the amount, nature, and toxicity of the hazardous waste at each such site as may be practicable to obtain and as may be necessary to determine the extent of any health hazard which may be associated with such site;

"(3) the name and address and responsible agency for each such site, determined as of the date of preparation of the inventory;

"(4) an identification of the types or techniques of waste treatment, storage, or disposal which have been used at each site; and

"(5) information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated, stored, or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

"(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any Federal agency under subsection (a) is not adequately providing information respecting the sites referred to in subsection (a), the Administrator shall notify the chief official of such Agency. If within ninety days following such notification, the Federal agency has not undertaken a program to adequately provide such information, the Administrator shall carry out the inventory program for such agency.".

FEDERAL ENFORCEMENT

SEC. 12. (a) Section 3008(d) of the Solid Waste Disposal Act is amended as follows:

(1) in paragraph (1)—

(A) insert after "knowingly transports" the following: "or causes to be transported", and

(B) strike out "section 3005 (or 3006 in the case of a State program)" and substitute "this subtitle";

(2) in paragraph (2)—

(A) strike out "either";

(B) strike out "section 3005 (or 3006 in the case of a State program)" and substitute "this subtitle"; and

(C) strike out subparagraph (B) and substitute:

"(B) in knowing violation of any material condition or requirement of such permit; or

"(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;"; and

(3) strike out all after paragraph (2) and substitute:

"(3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(4) knowingly generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(5) knowingly transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by regulations promulgated under this subtitle (or by a State in the case of a State program authorized under this subtitle) to be accompanied by a manifest

shall upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed two years (five years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.".

(b) Section 3008(e) of the Solid Waste Disposal Act is amended to read as follows:

"(e) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subtitle in violation of paragraph (1), (2), (3), (4), or (5) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than fifteen years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000.".

EXPORT OF HAZARDOUS WASTE

SEC. 13. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section:

"EXPORT OF HAZARDOUS WASTE

"SEC. 3016. (a) GENERAL.—Beginning twenty-four months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, no person shall export any hazardous waste identified or listed under this subtitle unless (1) such person has provided the notification required in subsection (c) of this section, (2) the government of the receiving country has consented to accept such hazardous waste, (3) a copy of the receiving country's written consent is attached to the manifest accompanying each waste shipment, and (4) the shipment conforms with the terms of the consent of the government of the receiving country required pursuant to subsection (e), or (5) the United States and the government of the receiving country have entered into an agreement as provided for in subsection (f).

"(b) REGULATIONS.—Not later than twelve months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate the regulations necessary to implement this section. Such regulations shall become effective one hundred and eighty days after promulgation.

"(c) NOTIFICATION.—Any person who intends to export a hazardous waste identified or listed under this subtitle beginning twelve months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, shall, before such hazardous waste is scheduled to leave the United States, provide notification to the Administrator. Such notification shall concern the following information:

"(1) the name and address of the exporter;

"(2) the types and estimated quantities of hazardous waste to be exported;

"(3) the estimated frequency or rate at which such waste is to be exported; and the period of time over which such waste is to be exported;

"(4) the ports of entry;

"(5) a description of the manner in which such hazardous waste will be transported to and treated, stored, or disposed in the receiving country; and

"(6) the name and address of the ultimate treatment, storage or disposal facility.

"(d) PROCEDURES FOR REQUESTING CONSENT OF THE RECEIVING COUNTRY.—Within thirty days of the Administrator's receipt of a complete notification under this section, the Department of State, acting on behalf of the Administrator, shall—

"(1) forward a copy of the notification to the government of the receiving country;

"(2) advise the government that United States law prohibits the export of hazardous waste unless the receiving country consents to accept the hazardous waste;

"(3) request the government to provide the Secretary with a written consent or objection to the terms of the notification; and

"(4) forward to the government of the receiving country a description of the Federal regulations which would apply to the treatment, storage, and disposal of the hazardous waste in the United States.

"(e) CONVEYANCE OF WRITTEN CONSENT TO EXPORTER.—Within thirty days of receipt by the Department of State of the receiving country's written consent or objection (or any subsequent communication withdrawing a prior consent or objection), the Administrator shall forward such a consent, objection, or other communication to the exporter.

"(f) INTERNATIONAL AGREEMENTS.—Where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, only the requirements of subsection (g) shall apply.

"(g) REPORTS.—After the date of enactment of the Solid Waste Disposal Act Amendments of 1983, any person who exports any hazardous waste identified or listed under this subtitle shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year.

"(h) OTHER STANDARDS.—Nothing in this section shall preclude the Administrator from establishing other standards for the export of hazardous wastes under section 3002 or section 3003 of this subtitle.".

(b) PENALTIES.—Section 3008(d) of the Solid Waste Disposal Act, as amended by section 12(a) of this Act, is amended by adding after paragraph (5) ", or" and the following new paragraph:

"(6) knowingly exports a hazardous waste identified or listed under this subtitle without the consent of the receiving country".

SUBTITLE D IMPROVEMENTS

SEC. 14. (a) Section 4004(a) of the Solid Waste Disposal Act is amended by inserting "(1)" after "LANDFILLS.—" and by adding the following new paragraph:

"(2) Not later than twenty-four months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate revisions of the criteria promulgated under paragraph (1) and section 1008(a)(3) to reflect improvements in the state of control and measurement technology and the need to protect human health and the environment. Such revisions shall take into account the potential receipt by such facilities of hazardous waste in household waste and from small quantity generators under section 3002(b), and the possibility of illegal dumping of hazardous wastes in such facilities. At a minimum such revisions for facilities potentially receiving such wastes should require groundwater monitoring, and provide for corrective action as appropriate.".

(b) Section 4004(c) of the Solid Waste Disposal Act is amended by striking all after "subsection (a)" through "later".

(c) Section 4005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(c) CONTROL OF HAZARDOUS DISPOSAL.—Not later than forty-two months after the enactment of the Solid Waste Disposal Act

Amendments of 1983, each State shall adopt and begin to enforce a permit program or other system of prior approval and conditions, to assure that each solid waste management facility within such State which may receive hazardous waste in household waste or due to the provisions of section 3002(b) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005 of this Act) will comply with the criteria revised under section 4004(a)(2). In any State which does not adopt such a program for such facilities by the date forty-two months after the enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall use the authorities available under sections 3007 and 3008 of this title to enforce the prohibition in subsection (a) of this section with respect to such facilities. For purposes of this paragraph, the term 'requirement of this subtitle' in section 3008 shall be deemed to include criteria promulgated by the Administrator under sections 1008(a)(3) and 4004(a) of this title, and the term 'hazardous wastes' in section 3007 shall be deemed to include solid wastes received at such facilities.".

BIENNIAL REPORT

SEC. 15. Section 2006 of the Solid Waste Disposal Act is amended by inserting "(a) ACTIVITIES OF THE OFFICE.—" after "SEC. 2006." and by inserting at the end thereof the following new subsection:

"(b) HAZARDOUS WASTE.—(1) The Administrator shall transmit to the Congress and the President, periodically but no less often than every two years a report describing quantities and types of hazardous waste generated, stored, treated, and disposed of. The Administrator shall compile and update such information comparable to that required under section 3002(a)(6) and section 3004(a) (1) and (2).

"(2) States with authorized programs under section 3006 shall make available those reports they have received or compiled to assist the Administrator in preparing such report for Congress. The first such report shall cover calendar year 1983 and shall be transmitted to the Congress no later than March 31, 1985.

"(3) The authority of section 3007 of this Act shall be available in the implementation of this subsection.".

AWARD OF FEES

SEC. 16. Section 7002(e) of the Solid Waste Disposal Act is amended by inserting "prevailing or substantially prevailing" before "party" in the first sentence thereof.

JUDICIAL REVIEW

SEC. 17. Section 7006 of the Solid Waste Disposal Act is amended to read as follows:

"SEC. 7006. (a) REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.—A petition for review of the promulgation of final regulations under this Act and the Administrator's denial of any petition for the promulgation, amendment, or repeal of any regulation under this Act may be filed in the United States Court of Appeals for the District of Columbia or in any United States Court of Appeals for a circuit in which the petitioner resides or transacts business which is directly affected by such promulgation or denial, and such petition shall be filed within one hundred and twenty days from the date of such promulgation or denial, unless such petition is based solely on grounds arising after such one hundred and twentieth day. Any action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(b) REVIEW OF CERTAIN ACTIONS UNDER SECTIONS 3005 AND 3006.—A petition for review of the Administrator's action (1) in issuing, denying, modifying, or revoking any permit under section 3005, or (2) in granting, denying, or withdrawing authorization or interim authorization under section 3006, may be filed by any interested person in the United States Court of Appeals for a circuit in which the petitioner resides or transacts business which is directly affected by such action, and such petition shall be filed within one hundred and twenty days from the date of such issuance, denial, modification, revocation, grant, or withdrawal, or after such date only if such petition is based solely on grounds which arose after such one hundred and twentieth day. Any action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(c) In any judicial proceeding brought under this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper; the Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

"(d)(1) If petitions for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of the first such petition more than thirty days before receiving written notice of the filing of the second petition, then the record shall be filed in that court in which the first petition was filed. If petitions for review of the same agency action have been filed in two or more United States Courts of Appeals and the Administrator has received written notice of the filing of one or more petitions within thirty days or less after receiving written notice of the filing of the first petition, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that petitions have been filed in two or more United States Courts of Appeals, and shall identify each court for which he has written notice that such petitions have been filed within thirty days or less of receiving written notice of the filing of the first such petition. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the Administrator, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the United States Courts of Appeals which remanded such action.

"(2) Where petitions have been filed in two or more United States Courts of Appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such petitions have been filed shall promptly transfer such petitions to the United States Courts of Appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a petition has been filed may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed.

"(3) Any court in which a petition with respect to any agency action has been filed, including any court selected pursuant to subsection (d)(1), may transfer such petition to any other United States Court of Appeals for the convenience of the parties or otherwise in the interest of justice.

"(e) In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

CITIZEN SUITS

SEC. 18. (a) Section 7002(a)(1) of the Solid Waste Disposal Act is amended by—

(1) inserting "prohibition," immediately after "requirement,";

(2) inserting "(A)" immediately after "(1)"; and

(3) inserting the following at the end thereof:

"(B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or".

(b) Section 7002(a) of the Solid Waste Disposal Act is amended by—

(1) inserting "or the alleged endangerment may occur" immediately after "the alleged violation occurred" in the first sentence following paragraph (2); and

(2) striking "to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be" in the portion following paragraph (2) and inserting in lieu thereof the following: "to enforce the permit, standard, regulation, condition requirement, prohibition, or order, referred to in paragraph (1)(A), to restrain any person who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (1)(B), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 3008 (a) and (g).".

(c) Section 7002(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) ACTIONS PROHIBITED.—No action may be commenced under subsection (a)(1) of this section—

"(1) prior to sixty days after the plaintiff has given notice of the violation or prior to one hundred and twenty days after the plaintiff has given notice of the endangerment (A) to the Administrator; (B) to the State in which the alleged violation occurs or in which the alleged endangerment may occur; and (C) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order, or any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(1)(B) of this section, *except* that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act; or

"(2) with respect to an action under subsection (a)(1)(A) of this section, if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order: Provided, however, That in any such action in a court of the United States, any person may intervene as a matter of right; or

"(3) with respect to an action under subsection (a)(1)(B) of this section, if the Administrator has commenced and is diligently prosecuting an action under section 7003 of this Act or has settled such action to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment, or if the State has commenced and is diligently prosecuting an action under subsection (a)(1)(B) of this section: Provided, however, That in any such action in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the Administrator or the State shows that the applicant's interest is adequately represented by existing parties. No action may be commenced under subsection (a)(1)(B) by any person (other than a State or local government) with respect to the siting of a hazardous waste treatment, storage, or a disposal facility, nor to restrain or enjoin the issuance of a permit for such facility".

IMMINENT HAZARD

SEC. 19. Section 7003(a) of the Solid Waste Disposal Act is amended by—

(1) inserting "past or present" after "evidence that the";

(2) striking "to immediately restrain any person" and inserting in lieu thereof "against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is";

(3) striking "to stop" and inserting in lieu thereof "to restrain such person from"; and

(4) striking "or to take such other action as may be necessary" and substituting ", to order such person to take such other action as may be necessary, or both".

PUBLIC PARTICIPATION IN SETTLEMENTS

SEC. 20. Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(c) Whenever the United States or the Administrator proposes to covenant not to sue or to forbear from suit or to settle any claim arising under this section, notice, and opportunity for a public meeting in the affected area, and a reasonable opportunity to comment on the proposed settlement prior to its final entry shall be afforded to the public. The decision of the United States or the Administrator to enter into or not to enter into such Consent Decree, covenant or agreement shall not constitute a final agency action subject to judicial review under this Act or the Administrative Procedure Act.".

COMPATIBILITY OF RECYCLING AND ENERGY RECOVERY

SEC. 21. (a) Section 4001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In developing such comprehensive plans, it is the intention of this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

(b) Section 4003 of such Act is amended by adding the following new subsection at the end thereof:

"(d) SIZE OF WASTE-TO-ENERGY FACILITIES.—Notwithstanding any of the above requirements, it is the intention of this Act and the planning process developed pursuant to this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION

SEC. 22. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(d) CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION.—A resource recovery facility recovering energy from the mass burning of municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if such facility—

"(1) receives and burns only (A) household waste (from single and multiple dwellings, hotels, motels, and other residential sources) and (B) solid waste from commercial or industrial sources that does not contain hazardous waste identified or listed under this section, and

"(2) such facility does not accept hazardous wastes identified or listed under this section and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.".

REQUIREMENTS IN AUTHORIZED STATES

SEC. 23. Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(f) IMMEDIATE IMPLEMENTATION.—The requirements of sections 3002(b)(1), 3002(b)(7)(C), 3004 (b), (d), (e), (f), (g), and (i), 3005 (c) and (e), and 3007(b)(1) shall apply directly in all States, including each State with a program authorized under this section, until the program of such State is authorized to operate in lieu of the Federal program with respect to such requirement.".

AIR EMISSIONS FROM LAND DISPOSAL FACILITIES

SEC. 24. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(k) AIR EMISSIONS.—Not later than thirty months after the date of enactment of the Solid Waste Disposal Act Amendments of 1983, the Administrator shall promulgate such regulations for the monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including but not limited to open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment.".

GROUND WATER MONITORING

SEC. 25. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(l) GROUND WATER MONITORING.—The standards under this section concerning ground water monitoring which are applicable to surface impoundments, waste piles, land treatment units, and landfills shall apply to such a facility whether or not—

"(1) the facility is located above the seasonal high water table;

"(2) two liners and a leachate collection system have been installed at the facility; or

"(3) the owner or operator inspects the liner (or liners) which has been installed at the facility.".

WASTE MINIMIZATION

SEC. 26. (a) Section 1003 of the Solid Waste Disposal Act is amended by adding "AND NATIONAL POLICY" to the title, by inserting "(a) OBJECTIVES.—" after "SEC. 1003.", and by adding the following new subsection:

"(b) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.".

(b) Section 3002 of the Solid Waste Disposal Act is amended as follows:

(1) by adding the following new subsection:

"(c) WASTE MINIMIZATION.—Effective September 1, 1984, the manifest required by subsection (a)(5) shall contain a certification by the generator that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment."; and

(2) by amending subsection (a)(6) to read as follows:

"(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out a permit program pursuant to this subtitle) at least once every two years, setting out—

"(A) the quantities and nature of hazardous waste identified or listed under this subtitle that he has generated during the year;

"(B) the disposition of all hazardous waste reported under subparagraph (A);

"(C) the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

"(D) the changes in volume and toxicity of waste actually achieved during the year in question in comparison with previous years, to the extent such information is available for years prior to enactment of this subparagraph.".

(c) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(h) WASTE MINIMIZATION.—Effective September 1, 1984, it shall be a condition of any permit issued under this section for the treatment, storage, or disposal of hazardous waste on the premises where such waste was generated that the permittee certify, no less often than annually, that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.".

(d)(1) Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(r) MINIMIZATION OF HAZARDOUS WASTE.—The Administrator shall compile, and not later than October 1, 1986, submit to the Congress, a report on the feasibility and desirability of establishing standards of performance or of taking other additional actions under this Act to require the generators of hazardous waste to reduce the volume or quantity and toxicity of the hazardous waste they generate, and of establishing with respect to hazardous wastes required management practices or other requirements to assure such wastes are managed in ways that minimize present and future risks to human health and the environment. Such report shall include any recommendations for legislative changes which the Administrator determines are feasible and desirable to implement the national policy established by section 1003.".

(2) Section 301(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking out "four years" and inserting in lieu thereof "forty-two months".

TECHNICAL CORRECTIONS

SEC. 27. (a) Section 3012 of the Solid Waste Disposal Act, entitled "Restrictions on Recycled Oil," shall be redesignated as section 3014 of such Act, together with all references thereto, and relocated after section 3013 of such Act.

(b) Subsection (b) of section 4003 of the Solid Waste Disposal Act, entitled "Discretionary Plan Provisions Relating to Recycled Oil," shall be redesignated as subsection (c) of such section, together with all references thereto.

(c) Section 303 of Public Law 96-510, 94 Stat. 2808, is amended by inserting after "conferred by this Act" the phrase "(other than under section 4681 of the Internal Revenue Code"). Section 232(c) of such public law is amended by inserting after "223" the phrase "(other than section 223(c)(2)(D))".

REPORT TO CONGRESS

SEC. 28. Part C of the Safe Drinking Water Act is amended by adding at the end thereof a new section as follows:

"UNDERGROUND INJECTION OF HAZARDOUS WASTE

"SEC. 1426. (a) The Administrator, in cooperation with the States, shall compile and, not later than March 15, 1984, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, an inventory of all wells in the United States which inject hazardous wastes. The inventory shall include the following information:

"(1) the location and depth of each well;

"(2) engineering and construction details of each, including the thickness and composition of its casing, the width and content of the annulus, and pump pressure and capacity;

"(3) the hydrogeological characteristics of the overlying and underlying strata, as well as that into which the waste is injected;

"(4) the location and size of all drinking water aquifiers penetrated by the well, or within a one-mile radius of the well or within two hundred feet below the well injection point;

"(5) the location, capacity, and population served by each well providing drinking or irrigation water which is within a five-mile radius of the injection well;

"(6) the nature and volume of the waste injected during the one-year period immediately preceding the date of the report;

"(7) the dates and nature of the inspections of the injection well conducted by independent third parties or agents of State, Federal, or local government;

"(8) the name and address of all owners and operators of the well and any disposal facility associated with it; and

"(9) such other information as the Administrator may, in his discretion, deem necessary to define the scope and nature of hazardous waste disposal in the United States through underground injection.

"(b) In fulfilling the requirements of subsections (a)(3)-(5), the Administrator need only submit such information as can be obtained from currently existing State records and from site visits to at least twenty facilities containing wells which inject hazardous waste.

"(c) The States shall make available to the Administrator such information as he deems necessary to accomplish the objectives of this section.".

COMMUNITY RELOCATION

SEC. 29. (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provisions of the assistance authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974;".

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) is amended by inserting before "authorized by subsection (b) of this section," the phrase "for permanent relocation or".

● Mr. CHAFEE. Mr. President, I send to the desk an amendment to S. 1283, a bill to amend the Solid Waste Disposal Act to authorize funds for fiscal year 1984, Calendar No. 144, and ask unanimous consent that it be printed.

On May 16, 1983, the Committee on Environment and Public Works reported S. 1283 to the Senate. That bill contained a simple 1-year reauthorization of the Solid Waste Disposal Act and was reported by the committee to comply with the requirements of the Congressional Budget Act. A more extensive bill was developed and, on October 28, 1983, the committee reported S. 757 to the Senate, Calendar No. 500. As stated on page 1 of the report accompanying S. 757, Senate Report No. 98-284, it is the intention of the committee of offer the text of S. 757 as a committee-sponsored amendment to S. 1283. When the Senate adopts the committee-sponsored amendment to S. 1283, the legislative history of S. 1283 shall then include Report No. 98-284 and S. 1283, as amended, will be known as the Solid Waste Disposal Act Amendments of 1983.●

FURTHER CONTINUING APPROPRIATION, 1984

HATFIELD AMENDMENTS NOS. 2540 AND 2541

Mr. HATFIELD proposed two amendments to the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year ending September 30, 1984, and for other purposes; as follows:

On page 17, strike out line 20 through page 26, line 9 inclusive.

AMENDMENT NO. 2541

On page 26, strike out all following line 9, through the end of the joint resolution.

HATFIELD AMENDMENT NO. 2542

Mr. HATFIELD proposed an amendment to the joint resolution, House Joint Resolution 413, supra; as follows:

On page 1, after line 2, insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for

the fiscal year 1984, and for other purposes, namely:

SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $247,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements utilizing advance procurement funding appropriated later: *Provided further*, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority was not available during the fiscal year 1983.

STEVENS AMENDMENT NO. 2543

Mr. STEVENS proposed an amendment to amendment No. 2542 proposed by Mr. HATFIELD to the joint resolution House Joint Resolution 413, supra; as follows:

In lieu of the language proposed to be inserted by Sec. 101(a) of the Committee on Appropriations amendments, insert the following:

SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate of new obligational authority of $252,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements, except for the B-1B program, utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further*, That, except for Peacekeeper MX missile production, no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983.

HATFIELD AMENDMENTS NOS. 2544 THROUGH 2548

Mr. HATFIELD proposed five amendments to the joint resolution (H.J. Res. 413), supra, as follows:

AMENDMENT NO. 2544

At the end of the joint resolution insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, for an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 5,310,800,000 Special Drawing Rights, to remain available until expended: *Provided*, That such funds may be made available for obligation only upon enactment of authorizing legislation.

(b) Notwithstanding any other provision of this joint resolution, for an increase in loans to the International Monetary Fund under the General Arrangements to Borrow, the dollar equivalent of 4,250,000,000 Special Drawing Rights less $2,000,000,000 previously appropriated by the Act of October 23, 1962 (Public Law 87-872, 76 Stat. 1163), pursuant to the authorization contained in section 17 of the Bretton Woods Agreement Act and merged with this appropriation, to remain available until expended: *Provided*, That such funds may be made available for obligation only upon enactment of authorizing legislation: *Provided further*, That official United States Government debt reschedulings of debtor countries shall be submitted to the Appropriations Committees of both Houses of Congress.

AMENDMENT NO. 2545

On page 1, after line 2, insert the following:

(c) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of Law: *Provided*, That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts: *Provided further*, That reprograming notices shall be as required under the provisions of section 523 of Public Law 97-121: *Provided further*, That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $138,423,983 for payment to the "Inter-American Development Bank", of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $1,230,964,704 in callable capital subscriptions; $700,000,000 for payment to the "International Development Association"; $13,232,676 for payment to the "Asian Development Bank" and not to exceed $251,377,943 in callable captial subscriptions; $147,116,170 for payment to the "Asian Development Fund"; $17,986,678 for payment to the "African Development Bank" and not to exceed $53,960,036 in callable capital subscriptions; $285,136,000 for "International Organizations and Programs", except that such funds shall be made available only in accordance with the Report accompanying this joint resolution; $212,231,000 for "Population, Development Assistance"; $133,405,000 for "Health, Development Assistance"; *Provided further*, That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund" in accordance with the provisions of section 405 of S. 1347, as reported; $25,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $39,316,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $2,912,000,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $370,000,000 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $22,000,000 for "Trade and Development"; $46,645,000 for "International narcotics control"; $12,000,000 for the "Inter-American Foundation"; not to exceed $15,000,000 for gross obligations for the amount of direct loans and not to exceed $150,000,000 of contingent liability for total commitments to guarantee loans for the "Overseas Private Investment Corporation"; $113,500,000 for the "Peace Corps";

$339,500,000 for "Migration and Refugee Assistance"; $5,000,000 for "Anti-Terrorism Assistance" in accordance with the provisions of title VI of S. 1347, as reported; $697,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, of which not less than $230,000,000 shall be available only for Turkey; $56,532,000 for "International Military Education and Training"; $1,395,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel and not less than $545,000,000 shall be available for Egypt, for which each recipient shall be released from its contractual liability to repay the United States Government with respect to any such credits and participations in credits so provided ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel, not less than $528,500,000 shall be available only for Greece, and not less than $525,000,000 shall be available only for Turkey); $4,356,000,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales" and under the authority of section 209 of S. 1347, as reported: *Provided further,* That of the total aggregate credit sale ceiling made available to Israel, not less than $300,000,000 shall be made available for research and development activities in the United States for the Lavi program and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel; not to exceed $325,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $4,400,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That of the amounts made available in this subsection for "International disaster assistance", which amounts shall remain available until expended, $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 102 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall tansmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds appropriated by this subsection may be available during the fiscal year in which payments are made out of the Treasury of the United States or any fund of a Government corporation, after the date of enactment of this joint resolution, under loan guarantees or credit assurance agreements with respect to loans made or credits extended to Poland in the absence of a declaration of default of Poland with respect to such loans or credits.

None of the funds heretofore appropriated or otherwise made available to Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter, *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

Of the funds appropriated or otherwise made available directly pursuant to this joint resolution for El Salvador, 30 per centum shall be set aside and may not be expended until Salvadoran authorities have substantially concluded all investigative actions in the case of the national guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the State Department, including letters dated July 8 and September 23, 1983, and Salvadoran authorities have brought the accused to trial and have obtained a verdict.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

AMENDMENT No. 2546

On page 1, after line 2, insert the following:

(d) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1983, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1983, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

National Research Service Awards authorized by section 472(d) of the Public Health Service Act;

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980: *Provided,* That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof: *Provided further,* That none of the funds made available under this joint resolution may be used to implement any administratively proposed block grant, per capita grant, or similar consolidation of the Refugee Resettlement Program, or to distribute any funds under any such administrative proposal;

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Activities of the Department of Defense, Army National Guard and Army Reserve Operation and Maintenance and National Guard and Reserve Equipment Procurement.

AMENDMENT No. 2547

On page 1, after line 2, insert the following:

(e) Nothwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1984 (H.R. 3223), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-450), filed in the House of Representatives on October 27, 1983, as if such Act had been enacted into law.

AMENDMENT No. 2548

On page 1, after line 2, insert the following:

(f) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984, (H.R. 3222), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-478), filed in the House of Representatives on November 3, 1983, as if such Act had been enacted into law.

STEVENS AMENDMENTS NOS. 2549 THROUGH 2563

Mr. STEVENS submitted 14 amendments to the joint resolution House Joint Resolution 413, supra; as follows:

AMENDMENT No. 2549

On page 2, strike out all following "SEC. 102." page 17, line 19 inclusive.

AMENDMENT No. 2550

On page 5, line 1, strike the word "for" and all that follows through the word "Israel" and before the semicolon on line 3, and insert in lieu thereof: "and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program".

AMENDMENT No. 2551

At the end of the joint resolution insert:

Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 10, 1983, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1984, whichever first occurs.

AMENDMENT No. 2552

At the end of the joint resolution insert:

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriation Act for the fiscal year 1984 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

AMENDMENT No. 2553

At the end of the joint resolution insert:

SEC. 106. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be the rates at step 15 of the rate phasing schedules as they existed on September 1, 1982: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at the 1983 level.

AMENDMENT No. 2554

At the end of the joint resolution insert:

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

AMENDMENT No. 2555

At the end of the joint resolution insert:

SEC. 108. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-items projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed by the House or as reported to the Senate.

AMENDMENT No. 2556

At the end of the joint resolution insert:

SEC. 109. Section 110 of Public Law 98-107 is amended by—

(a) amending subsection (a) to read as follows:

"(a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal years ending September 30, 1984, or September 30, 1985, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title, in an amount—

"(1) during the period from October 1, 1983, until the first day of the first applicable pay period that begins not less than ninety days after the date that the next applicable wage survey adjustment would have become effective were it not for this paragraph, which exceeds the rate which was payable for the applicable grade and step of the applicable wage schedule on September 30, 1983, in accordance with section 107(a) of Public Law 97-377; and

"(2) during the period consisting of the remainder, if any, of the fiscal year ending September 30, 1984, and that portion of the fiscal year ending September 30, 1985, which precedes the normal effective date of the applicable wage survey adjustment, effective in that fiscal year, which exceeds, as a result of a wage survey adjustment referred to in paragraph (1) of this age of the adjustment in the General Schedule during the fiscal year ending September 30, 1984.";

(b) striking "the date of enactment of this Act" in subsection (b) and inserting in lieu thereof "October 1, 1983";

(c) striking "fiscal year ending September 30, 1984" in subsection (c) and inserting in lieu thereof "period beginning on October 1, 1983, and ending on the normal effective date of the applicable wage survey adjustment effective in the fiscal year ending September 30, 1985";

(d) striking "after the date of enactment of this Act" in subsection (e) and inserting in lieu thereof "on or after October 1, 1983"; and

(e) inserting the following new subsection at the end thereof:

"(h) Notwithstanding the delay in adjustments of wage schedules and rates imposed as a part of the limitations imposed by this section, if the adjustment in General schedule rates of pay for the fiscal year ending September 30, 1984, takes effect in October of 1983, the adjustment in rates and schedules limited by this section shall take effect on the date they would have taken effect under section 5344 of title 5, United States Code, were it not for this section.".

AMENDMENT No. 2557

At the end of the joint resolution insert:

SEC. 110. Notwithstanding any other provision of this joint resolution, there is appropriated an additional $193,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance.

AMENDMENT No. 2558

At the end of the joint resolution insert:

SEC. 112. Notwithstanding any other provision of this joint resolution, within available funds not to exceed $100,000 is available to the Federal Law Enforcement Training Center and may be used for plans, major maintenance, and improvements to Center

lands and facilities, to remain available until expended.

AMENDMENT NO. 2559

At the end of the joint resolution insert:

SEC. 113. The General Services Administration shall equip all appropriate air-conditioned vehicles in its motor pool fleet with energy-conserving devices that have been certified by the Environmental Protection Agency to both save on fuel consumption and to have no negative impact on fuel emissions.

AMENDMENT NO. 2560

At the end of the joint resolution insert:

SEC. 114. Notwithstanding any other provision of law, none of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, custodians, and Public Buildings Service mechanics, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

AMENDMENT NO. 2561

At the end of the joint resolution insert:

SEC. 115. For the purpose of providing recreation development on the Ocoee River, $7,400,000 is appropriated to the Tennessee Valley Authority, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water.

AMENDMENT NO. 2562

At the end of the joint resolution insert:

SEC. 116. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1984 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

AMENDMENT NO. 2563

At the end of the joint resolution insert:

SEC. 117. (a) Chapter 25 of title 18, United States Code, is amended by adding the following new section:

"§ 510. Forging endorsements on Treasury checks or bonds or securities of the United States

"(a) Whoever, with intent to defraud—

"(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

"(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States that in fact is stolen or bears a forged or falsely made endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $500, in any of the above-mentioned offenses, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

(b) Section 3056(a) of title 18, United States Code, is amended by inserting in the fifth clause the number "510," after "509,".

(c) The analysis of chapter 25, of title 18, United States Code, immediately preceding section 471 of such title, is amended by adding at the end thereof the following:

"510. Forging endorsements on Treasury checks or bonds or securities of the United States.".

PERCY AMENDMENT NO. 2564

Mr. PERCY proposed an amendment to the joint resolution (H.J. Res. 413), supra; as follows:

On page 1 of the amendment No. 2545, on line 9, immediately before the colon, add the following: ", except that the waivers provided by this paragraph shall cease to be effective on April 15, 1984, and with the exception of funds made available for Israel and Egypt, not more than one half of the funds made available by this subsection for each account under the Foreign Assistance Act of 1961 or the Arms Export Control Act shall be obligated prior to April 16, 1984.".

MELCHER (AND DOMENICI) AMENDMENT NO. 2565

Mr. MELCHER (for himself and Mr. DOMENICI) proposed an amendment (which was subsequently modified) to the joint resolution (H.J. Res. 413), supra, as follows:

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes substantial information which leads to an arrest and criminal conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

D'AMATO AMENDMENT NO. 2566

Mr. D'AMATO proposed an amendment to the joint resolution (H.J. Res. 413), supra; as follows:

At the end of the joint resolution insert:

Notwithstanding any other provision of law, the ban on the use of U.S. Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1984: *Provided*, That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York are exempted from such ban: *Provided further*, That the exemption established herein is subject to reevaluation for safety by the five member U.S. Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

ABDNOR (AND DECONCINI AMENDMENT NO. 2567

Mr. ABDNOR (for himself and Mr. DECONCINI) proposed an amendment to the joint resolution (H.J. Res. 413), supra; as follows:

In section 213, after "for in such Act" insert the following: ", except that the rate for operations established by this subsection shall be that which is provided in S. 1646, the Treasury, Postal Service and General Government Appropriation bill, 1984, as reported to the Senate (S. Rept. 98-186) on July 20, 1983.".

WARNER (AND TRIBLE) AMENDMENT NO. 2568

Mr. WARNER (for himself and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 413), supra; as follows:

At the end of the joint resolution add the following new section:

SEC. . (a)(1) Section 5723(a)(1) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "travel expenses";

(B) by striking out "manpower shortage or" and inserting in lieu thereof "manpower shortage, (B)"; and

(C) by inserting ", or (B) of any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16" after "Senior Executive Service".

(2) Sections 5724(a)(2) and 5726(b) of title 5, United States Code, are each amended by striking out "11,000" and inserting in lieu thereof "18,000".

(3) Section 5724(b)(1) of title 5, United States Code, is amended by striking out "not in excess of 20 cents a mile".

(4) Section 5724 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable.".

(5) Section 5724a(a)(3) of title 5, United States Code, is amended—

(A) in the first sentence thereof, by striking out "30 days" and inserting in lieu thereof "60 days"; and

(B) by striking out the second and fourth sentences thereof and inserting after the first sentence the following: "The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupancy of temporary quarters.".

(6) Section 5724a(a)(4) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "(4)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B)(i) In connection with the sale of the residence at the old official station, reimbursement under this paragraph shall not exceed 10 percent of the sale price or $15,000, whichever is the lesser amount.

"(ii) in connection with the purchase of a residence at the new official station, reimbursement under this paragraph shall not exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

"(iii) Effective October 1 of each year, the respective maximum dollar amounts applicable under clauses (i) and (ii) shall be increased by the percent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest one-tenth of 1 percent. For the purpose of this clause, 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor.".

(7)(A)(i) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding after section 5724a the following new sections:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the Federal, State, and city income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee, or the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purpose of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5726(c) of this title.

"§ 5724c. Relocation services

"Each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.".

(ii) The chapter analysis at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724a the following new items:

"5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred.

"5724c. Relocation services.".

(B) Section 5724(i) of title 5, United States Code, is amended by striking out "5724a" and inserting in lieu thereof "5724a, 5724b,".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums authorized to be appropriated for such agencies.

(c)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Not later than thirty days after the date of the enactment of this Act, the President shall prescribe the regulations required under the amendments made by subsection (a). Such regulations shall take effect as of such date of enactment.

METZENBAUM (AND HATFIELD) AMENDMENT NO. 2569

Mr. METZENBAUM (for himself and Mr. HATFIELD) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the appropriate place in the resolution, add the following new section:

SEC. . (a)(1) The Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to terminate, at the request of the purchaser, up to 10,000,000 board feet of the timber volume specified in any purchaser's timber sales contracts bid prior to January 1, 1982.

(2) Contracts terminated by the appropriate Secretary pursuant to this subsection shall require the purchaser to pay the Secretary holding the contract a sum equal to $3.00 per 1,000 board feet or equivalent measure for the costs which will be incurred by such Secretary in terminating such contracts and for reoffering the timber terminated for resale. All funds collected pursuant to this paragraph shall be available to the appropriate Secretary to the extent necessary for termination and resale of such timber.

(b)(1) Excluding any contracts terminated pursuant to subsection (a), if the loss of a purchaser on any timber sales contracts bid prior to January 1, 1982, as determined by subtracting the current log value from the delivered log cost based on the original bid price of any such contracts (as determined by the Forest Service or the Bureau of Land Management), is—

(A) in excess of 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sale contracts subject to an assessment of $3 per thousand board feet on the volume terminated;

(B) in excess of 80 per centum up to 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 5 per centum of the contract bid value of the volume terminated;

(C) in excess of 60 per centum up to 80 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 10 per centum of the contract bid value of the volume terminated;

(D) in excess of 40 per centum up to 60 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 15 per centum of the contract bid value of the volume terminated;

(E) in excess of 20 per centum up to 40 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 20 per centum of the contract bid value of the volume terminated; and

(F) in excess of 0 per centum up to 20 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 25 per centum of the contract bid value of the volume terminated.

(2) No firm may terminate more than 65,000,000 board feet of timber volume under this subsection.

(3) For purposes of this subsection, the term "net worth" does not include the value of any outstanding uncut timber sales contracts.

(c)(1) Subject to the assessment as provided in paragraph (2), the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands are further authorized and directed to adjust, at the written request of the purchaser, the termination dates of any contracts for the purchase of timber not otherwise terminated in subsection (a) or (b), that were bid prior to January 1, 1982, but not earlier than January 1, 1975, for a period not exceeding five years from the termination date in effect on the date of enactment of this Act, or from such earlier dates as the purchaser elects.

(2)(A) For the first year of any adjustment authorized pursuant to paragraph (1), the purchaser shall pay interest on the outstanding contract value of the contract volume of one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such timber contract obligation adjusted to the nearest one-eighth of one per centum.

(B) Beginning with the fourth operating season after any adjustment authorized by paragraph (1), the purchaser shall pay the full rate of interest specified in subparagraph (A) on the outstanding balance of the contract value.

(d) A purchaser granted termination of a contract pursuant to this section shall not, if otherwise eligible, be prevented on account of the termination from bidding on and resale of timber included in a terminated contract.

(e)(1) Contracts to be terminated pursuant to this section under which no harvest has taken place shall be terminated in full.

(2) Contracts terminated by the appropriate Secretary pursuant to this section under which harvest has begun, shall be terminated conditionally with the termination becoming final after the purchaser has completed all contractual obligations, including completion of sections of roads where construction has begun, for the units on which harvest has begun. All remaining unharvested units must be terminated.

(3) The appropriate Secretary may not terminate a contract if he determines, in his discretion, that the remaining unharvested units or a logical unit as determined by the

Secretary are not representative of all units that were to be harvested on the contract areas in terms of species and logging methods.

(f) Timber from terminated contracts shall be offered for resale in an orderly fashion as part of the normal congressionally authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from terminated contracts shall be given preference for resale in the 1984 timber sales program.

(g) The Secretary of the Interior and the Secretary of Agriculture shall publish procedures for the implementation of this section in the Federal Register within 90 days after the date of enactment of this Act.

(h)(1) Any firm that was not engaged in logging or manufacture of timber or that did not own a plant or equipment for that purpose within six months of the contract bid date for a timber sales contract shall not be entitled to terminate or adjust such contracts pursuant to that Act.

(2) As used in this subsection, a firm was engaged in the logging of timber sales when it had the capability to perform that function with its own equipment or when in the regular course of its business it retained the services of another entity to perform that function on its behalf and to deliver the logs so developed to an entity controlled by one or more members of the same family that in the regular course of its business manufactured or was equipped to manufacture those logs into wood products with its own plant or equipment.

(i)(1) For purposes of this section where a corporation owns more than 50 per centum of any other corporation and the other corporation owns a timber sales contract eligible for termination or adjustment under this section, the contracts of such other corporation shall be deemed to be owned by the parent.

(2)(A) For purposes of this section, where a family owns more than fifty per centum of more than one corporation and each of those corporations owns one or more timber sales contracts eligible for termination or adjustment under this section, the contracts of such corporations shall be deemed to be owned by one corporation, and not entitled to be considered as separate corporations in determining the amount of relief permitted under this section.

(B) As used in this paragraph, the term "family" means the father, wife, all the sons and daughters and all the brothers and sisters who are related to each other.

(3) This subsection shall not be deemed to extend the liability for a timber contract from the contract holder to its affiliate.

(j) The Secretary of Agriculture and the Secretary of the Interior shall not take any actions relating to the extension of certain Federal timber contracts as provided in the President's Memorandum of July 27, 1983 and implemented by the Department of Agriculture in 48 Fed. Reg. 38862-63 and the Department of the Interior in BLM Instructional Memorandum 83-743.

MITCHELL AMENDMENT NO. 2570

Mr. MITCHELL proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the joint resolution insert:

SEC. . (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

HEINZ (AND OTHERS) AMENDMENT NO. 2571

Mr. HEINZ (for himself, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. SARBANES, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, Mr. MELCHER, Mr. GRASSLEY, Mr. LEVIN, Mr. BYRD, and Mr. DENTON) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) In addition to any other amounts appropriated to the United States Customs Service by this joint resolution, there are hereby appropriated $1,000,000 for salaries and expenses.

(b) Notwithstanding any other provision of this joint resolution, of the funds appropriated by this joint resolution to the United States Customs Service—

(1) At least $4,240,000 shall be used to provide direct investigatory manpower positions which are to be devoted to the enforcement of those customs laws against fraud that involve the importation of steel, and

(2) at least $260,000 shall be used to purchase 4 mobile chemical spectrometers.

RIEGLE (AND OTHERS) AMENDMENT NO. 2572

Mr. RIEGLE (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. HEINZ, Mr. LEVIN, Mr. RANDOLPH, and Mr. LAUTENBERG) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the resolution insert the following:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE BENEFITS FOR THE UNEMPLOYED

SEC. . For payments for health care benefits for the unemployed, $500,000,000, to be available only if a program is enacted into law providing for such benefits.

BOSCHWITZ AMENDMENT NO. 2573

Mr. BOSCHWITZ proposed an amendment to the joint resolution House Joint Resolution 413, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . Funds appropriated or otherwise made available for fiscal year 1984 pursuant to Section 101(f) of this joint resolution or the enactment into law of H.R. 3222 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

HATCH AND HEFLIN AMENDMENT NO. 2574

Mr. HATCH (for himself and Mr. HEFLIN) proposed an amendment to the joint resolution House Joint Resolution 413, supra, as follows:

At the end of the resolution add the following:

SEC. . (a) This section may be cited as the "Referees Salary and Expense Fund Act of 1983".

(b) Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $220,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

DIXON AMENDMENT NO. 2575

Mr. DIXON proposed an amendment to the joint resolution House Joint Resolution 413, supra, as follows:

At the end of the joint resolution, add the following:

SEC. 621. Section 5132(a)(1) of title 31, United States Code, is amended by inserting after the second sentence thereof the following: "The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins, and shall solicit such sales through the use of the customer list of the Bureau of the Mint.".

NATURAL GAS POLICY ACT

DANFORTH (AND OTHERS) AMENDMENT NO. 2576

(Ordered to lie on the table.)

Mr. DANFORTH (for himself, Mr. METZENBAUM, Mr. JEPSEN, Mr. CRANSTON, Mr. PROXMIRE, and Mr. BOSCHWITZ) submitted an amendment to the bill S. 1715 to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regu-

lation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Natural Gas Fair Marketing Act of 1983".

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings; purposes.
Sec. 3. Take-or-pay clauses; minimum commodity bills.
Sec. 4. Indefinite price escalators.
Sec. 5. Limitation on guaranteed pass-through.
Sec. 6. Algerian liquefied natural gas.

FINDINGS; PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) natural gas consumers face excessively high prices;

(2) natural gas prices have risen more rapidly than anticipated at the time of enactment of the Natural Gas Policy Act of 1978; and

(3) certain contract provisions have distorted the market.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect natural gas users from excessively high prices; and

(2) to ensure adequate supplies of natural gas.

TAKE-OR-PAY CLAUSES; MINIMUM COMMODITY BILLS

SEC. 3. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by inserting after section 315 the following new sections:

"SEC. 316. IMPOSITION OF TAKE-OR-PAY LIMITS.

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section, the purchaser may elect on a yearly basis not to be obligated to take delivery of, or pay for, any volume in excess of 50 per centum of deliverability during a period of 3 years from the date of enactment of this section.

"(b) NOTICE REQUIREMENT.—Any purchaser electing pursuant to this section to reduce the volumes purchased shall provide the seller with written notice no less than thirty days prior to the date on which delivery of such volumes is to be reduced.

"(c) CONTRACTS SUBJECT TO SECTION.—This section shall apply to any contract for the first sale of natural gas entered into or amended on or after April 20, 1977.

"(d) RELEASE OF VOLUMES NOT TAKEN.—Upon receipt of the notice provided for in subsection (b), the seller shall have the right to sell volumes not taken and not paid for by reason of this section. If the seller elects to sell such volumes in accordance with this section, the purchaser shall tender to the seller full and unconditional release from all duties and obligation in contract or in law with respect only to volumes not taken. The purchaser, if a transporter of natural gas, shall be required to provide the seller with transportation respecting any of such volume of natural gas sold. The consideration for transportation provided under this section, and the terms and conditions of such transportation, shall be just and reasonable within the meaning of the Natural Gas Act. Nothing in this subsection shall be construed as releasing underlying reserves already dedicated to the purchaser.

"(e) DRAINAGE SITUATIONS.—This section shall not apply to the extent the production of the volume for which delivery is required to be taken would either cause drainage or be necessary in order to prevent drainage. For purposes of this section, the determination of whether delivery is required to be taken in order to prevent drainage will be determined by the drainage provision in the applicable gas sales contract. In the absence of a contractual provision, the determination will be made by the State or Federal agency having regulatory jurisdiction with respect to the production of natural gas.

"(f) PROHIBITION AGAINST NONPRICE DISCRIMINATION BY PURCHASERS.—Nothing in this section shall be construed as allowing any purchaser to discriminate against any one seller or class of sellers of natural gas on any basis other than the price of natural gas.

"(g) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of this section, any contract establishing two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate for each such category.

"(h) MAKEUP RIGHTS.—In the case of deliveries of natural gas on or after the date of enactment of this section under any contract for the first sale of natural gas, any obligation to pay for natural gas volumes which are not taken is declared to be against public policy and unenforceable to the extent that such obligation fails to provide for makeup, in cash or in kind, of all gas volumes which are paid for but not taken.

"SEC. 317. MINIMUM COMMODITY BILL LIMITATION.

"(a) GENERAL RULE.—In the case of any contract for the sale of natural gas other than the first sale of natural gas, the purchaser may elect not to be obligated to take delivery of, or pay for, any volume in excess of 50 per centum of the maximum annual volume to which the purchaser is entitled under the contract.

"(b) MAKEUP RIGHTS.—In the case of deliveries of natural gas on or after the date of enactment of this section under any contract for the sale of natural gas other than the first sale of natural gas, any obligation to pay for natural gas volumes which are not taken is declared to be against public policy and unenforceable to the extent that such obligation fails to provide for makeup, in cash, or in kind, of all gas volumes which are paid for but not taken.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by inserting in the appropriate place the following:

"Sec. 316. Imposition of take-or-pay limits.
"Sec. 317. Minimum commodity bill limitation.".

SEC. 4. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by inserting after section 317 (as added by section 3 of this Act) the following new section:

"SEC. 318. LIMITATION ON INDEFINITE PRICE ESCALATOR CLAUSES.

"(a) GENERAL RULE.—Any indefinite price escalator clause of any contract for the first sale of natural gas shall not be construed to allow the price applicable to the first sale of natural gas to exceed the price applicable as of December 31, 1984, multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

"(b) DEFINITION OF INDEFINITE PRICE ESCALATOR CLAUSE.—For purposes of this section, the term 'indefinite price escalator clause' means any provision of any contract (except an area rate clause)—

"(1) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to prices (established by other contracts or otherwise) for natural gas, for crude oil, for refined petroleum products, or for any other commodity, or

"(2) which the Commission determines is comparable in form and result.

"(c) DEFINITION OF AREA RATE CLAUSE.—An area rate clause is a clause which establishes a contract price for the sale of gas by reference to a federally established rate, including, without way of limitation, a clause referencing a just and reasonable rate established by order of the Commission.

"(d) CONTRACTS SUBJECT TO SECTION.—This section shall apply to any contract in effect on the date of enactment of this section for the first sale of natural gas which is exempted by section 121 from the wellhead price controls specified in subtitle A of title I.

"(e) EFFECTIVE DATE.—The provisions of this section shall be effective on January 1, 1985.".

"(b) CONFORMING AMENDMENT.—Section 105(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3315(b)) is amended by striking out paragraph (3).

"(c) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by inserting in the appropriate place the following:

"Sec. 318. Limitation on indefinite price escalator clauses.".

LIMITATION ON GUARANTEED PASSTHROUGH

SEC. 5. (a) Section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)) is amended by inserting "imprudence," after "fraud, abuse," and before "or similar grounds".

(b) Section 601(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)) is amended by adding the following new subsection:

"(3) PRUDENT PURCHASE RULE.—In determining imprudence, the Commission shall consider all the relevant factors including (1) the purchaser's long- and short-term need for gas, (2) the price and availability of other readily accessible gas supplies, (3) the amount of gas available under the contract or contracts, (4) the relationship between the purchaser and seller or sellers, and (5) contractual or other limitations on the purchaser's ability to adjust to changing supply and market conditions. If the amounts paid are prudent pursuant to this section, then such amounts shall be deemed to be just and reasonable for purposes of sections 4 and 5 of the Natural Gas Act.".

(c) Section 315(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375 (c)) is amended to read as follows:

"(c) FILING OF CONTRACTS AND ANCILLARY AGREEMENTS.—The Commission shall require that all contracts and ancillary agreements for the first sale of natural gas be filed with the Commission and made available by the Commission to the public in an orderly

manner within 60 days after the later of the date of enactment of this section or the execution of the contract.".

(d) The amendments made by this section shall apply only to any gas acquisition costs incurred on or after the date of enactment of this section. In determining imprudence in accordance with amendments made by this section, the Commission shall not take into consideration the decision of a purchaser to enter into or amend a contract prior to the date of enactment of this section.

ALGERIAN LIQUEFIED NATURAL GAS

SEC. 6. Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by—

(a) inserting "(a)" before "After six months"; and

(b) adding at the end thereof the following:

"(b)(1) For purposes of this section, the import of liquefied natural gas (LNG) from Algeria by Trunkline LNG Company shall be considered not consistent with the public interest. Notwithstanding any other provision of law, within ten days after the date of enactment of this subsection, the Commission shall issue a supplemental order suspending the authorization to import this LNG of Trunkline LNG Company.

"(2) On or after the date eighteen months after the date of enactment of this subsection, the Commission may lift the suspension of the authorization to import imposed by paragraph (1) if the Commission, in accordance with the procedures set forth in subsection (a) of this section, finds that the resumption of imports of this LNG would be consistent with the public interest.".

FURTHER CONTINUING APPROPRIATIONS, 1984

BUMPERS (AND OTHERS) AMENDMENT NO. 2577

Mr. BUMPERS (for himself, Mr. COCHRAN, Mr. PRYOR, Mr. DECONCINI, Mr. MELCHER, Mr. HEFLIN, Mr. BENTSEN, Mr. SASSER, and Mr. EXON) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No funds appropriated under this Act shall be available to the Secretary of Agriculture to implement or enforce that portion of any regulation, ruling, policy, or administrative determination which allows the inclusion of projected production determinations from payment-in-kind or land diversion program participation, or any source other than actual production, in making a single enterprise production loss determination for the 1983 crop year under section 1970 of Title 7, U.S.C.

FORD AMENDMENT NO. 2578

Mr. FORD proposed an amendment to the joint resolution, House Joint Resolution 413, supra; as follows:

At the appropriate place in the bill, insert the following:

"SEC. . Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

FORD AMENDMENT NO. 2579

Mr. FORD proposed an amendment to amendment No. 2578 proposed by him to the joint resolution, House Joint Resolution 413, supra; as follows:

Strike all after the word "Section—." and add the following:

"Prior to the next three fiscal years the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

HEINZ (AND DOLE) AMENDMENT NO. 2580

Mr. HEINZ (for himself and Mr. DOLE) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there are hereby appropriated $165,000 for the Joint Study Panel on the Social Security Administration for purposes of carrying out the study required by section 338 of the Social Security Amendments of 1983, to remain available until September 30, 1984.

MATHIAS (AND OTHERS) AMENDMENT NO. 2581

Mr. MATHIAS (for himself, Mr. LEAHY, Mr. PELL, Mr. SARBANES, Mr. PROXMIRE, Mr. SASSER, Mr. ANDREWS, and Mr. HATFIELD) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the joint resolution, add the following new section:

"Notwithstanding any other provision of this joint resolution, not more than $421,000,000 shall be made available by this joint resolution to carry out the provisions of section 503 of the Foreign Assistance Act."

GARN (AND OTHERS) AMENDMENT NO. 2582

Mr. GARN (for himself, Mr. HUDDLESTON, Mr. DOMENICI, Mr. DECONCINI, Mr. SIMPSON, Mr. CRANSTON, Mr. THURMOND, Mr. MITCHELL, Mr. PRESSLER, Mr. FORD, Mr. BOSCHWITZ, and Mr. LEVIN) proposed an amendment to the joint resolution House Joint Resolution 413, supra; as follows:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time as authorized by law (the Emergency Veterans' Job Training Act of 1983, Public Law 98-77), $150,000,000, to remain available until September 30, 1986: *Provided*, That not more than $25,000,000 of the amount appropriated shall be available for transfer to the "Readjustment benefits" appropriation for educational assistance payments under the provisions of section 18 of Public Law 98-77. Any unused portion of the amount so transferred may be returned to this appropriation at any time, but not later than December 31, 1984.

GARN AMENDMENT NO. 2583

Mr. GARN proposed an amendment to the joint resolution, House Joint Resolution 413, supra; as follows:

Insert the following at the appropriate place in the bill:

The heading "Annual contributions for assisted housing" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45) is amended by inserting before the period at the end thereof (97 Stat. 219, 220) the following:

"*Provided further*, That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public law 98-45, 97 Stat. 219) are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199): *Provided further*, That the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading"

JOHNSTON (AND LONG) AMENDMENT NO. 2584

Mr. JOHNSTON (for himself and Mr. LONG) proposed an amendment which was subsequently modified to the joint resolution House Joint Resolution 413, supra; as follows:

At the end of the Joint Resolution, insert:

SEC. Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag and shall require the conversion of two vessels in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

WILSON AMENDMENT NO. 2585

Mr. WILSON proposed an amendment (which was subsequently modified) to amendment No. 2584, proposed by Mr. JOHNSTON (and Mr.

LONG) to the joint resolution, House Joint Resolution 413, supra; as follows:

In lieu of the language proposed, insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon application prior to January 1, 1984, by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within the two years preceding the date of enactment of this Act, the Secretary of Transportation shall permit the acquisition of no more than two foreign-built vessels for operation under U.S. flag and shall require the conversion of such ships in a U.S. shipyard. Upon acquisition and/or construction and documentation under the laws of the United States, those vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

CIVIL RIGHTS COMMISSION AUTHORIZATION

SPECTER (AND OTHERS) AMENDMENT NO. 2586

Mr. SPECTER (for himself, Mr. BIDEN, Mr. DOLE, Mr. THURMOND, Mr. DOMENICI, Mr. MATHIAS, Mr. METZENBAUM, Mr. CHAFEE, Mr. GORTON, Mr. PERCY, Mr. RANDOLPH, Mr. CRANSTON, Mr. MELCHER, and Mr. KENNEDY) proposed an amendment to the bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes; as follows:

Strike out all after line 2 on page 1 and insert in lieu thereof the following:

That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(C) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

* * * * *

file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000 or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve with-

out compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such times as the Commission, the Congress or the President shall deem desirable.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7 (6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission) of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

(B) Upon application of any individual (other than the staff director or a member of the Commission) who was a employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

(c)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law, the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights established by the Civil Rights Act of 1957 was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GA-15 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of section 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i)(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.

TERMINATION

SEC. 8. The provisions of this Act shall terminate 6 years after its date of enactment.

FURTHER CONTINUING APPROPRIATIONS, 1984

STEVENS AMENDMENT NO. 2587

Mr. STEVENS proposed an amendment to amendment No. 2569 proposed by Mr. METZENBAUM (and Mr. HATFIELD) to the joint resolution (H.J. Res. 413), supra, as follows:

On page 6 of amendment No. 2569, following line 3, add the following: (k)(1) Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981 and five years from the effective date of this legislation.

(2) In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of bid premium, in order to provide rates which will permit the holders of short-term contracts to be competitive with other purchasers of National Forest timber.

(3) The Secretary, when considering a purchaser's application for emergency rate redetermination as provided under sub-section (a), shall base the decision to grant such a rate redetermination upon the determination that current stumpage rate no longer reflect the market and other economic conditions in Alaska, and that the revision is needed in order for the holders of these contracts to remain competitive with other purchasers of National Forest Timber in Alaska.

ABDNOR AMENDMENTS NOS. 2588 AND 2589

Mr. ABDNOR proposed two amendments to the joint resolution (H.J. Res. 413), supra, as follows:

AMENDMENT No. 2588

At the appropriate place in the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of law, $1,000,000 of the unobligated funds as of September 30, 1983 from the appropriation for closeout activities of the Community Services Administration shall remain available through September 30, 1988.

AMENDMENT No. 2589

At the appropriate place insert the following new section;

SEC. . Notwithstanding any other provision of this joint resolution $2,650,000 is appropriated for the repair of the Pension Building in Washington, D.C.

SPECTER AMENDMENT NO. 2590

Mr. ABDNOR (for Mr. SPECTER) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the end of the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution $14,000,000 is appropriated for purchase, design, repairs and alterations of purchased building in the Wilkes-Barre, Pennsylvania area.

ZORINSKY (AND OTHERS) AMENDMENT NO. 2591

Mr. ZORINSKY (for himself, Mr. PELL, and Mr. PERCY) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the end of the joint resolution:

"Notwithstanding any other provision of this joint resolution, not more than $677,000,000 shall be used for the military assistance program."

MATSUNAGA (AND INOUYE) AMENDMENT NO. 2592

Mr. MATSUNAGA (for himself and Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the appropriate place insert the following:

No funds made available by this or any other Act may be expended by the General Services Administration to sell, dispose, transfer, donate, or lease the real property and improvements known as the Hickam Air Force Base Administrative Annex (identified by the General Services Administration control number 9-D-HI-477-B) unless such sale, disposal, transfer, donation, or lease is to the State of Hawaii or any agency thereof for use for airport development purposes.

METZENBAUM AMENDMENT NO. 2593

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds appropriated by this joint resolution or any other Act shall be available to the Securities and Exchange Commission to implement the amendments adopted on September 23, 1983 (48 F.R. 44467), with respect to forms and regulations pertaining to the disclosure of executive remuneration, or to otherwise amend or revise the forms and regulations pertaining to the disclosure of executive remuneration which were in effect immediately prior to such amendments.

This provision shall remain in effect through September 30, 1984.

WILSON AMENDMENT NO. 2594

Mr. WILSON proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

In lieu of language insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than existing foreign-built vessels for operation under U.S. flag, and shall require conversion of two such vessels in a U.S. shipyard. Upon application prior to June 1, 1984 by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within two years preceding the date of enactment of this act, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under U.S. flag, and shall require conversion of one such ship in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

WILSON (AND CRANSTON) AMENDMENT NO. 2595

Mr. WILSON (for himself and Mr. CRANSTON) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

In the appropriate place in the resolution add the following:

The project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area: is hereby authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

HATFIELD AMENDMENTS NOS. 2596 AND 2597

Mr. Hatfield proposed two amendments to the joint resolution (H.J. Res. 413), supra, as follows:

AMENDMENT No. 2596

On page 1 after line 6 insert the following:

"(f) Such amounts as may be necessary for continuing the activities, not otherwise specifically provided for in this joint resolution, which were provided for in H.R. 4139, the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed the House of Representatives on October 27, 1983, to the extent and in the manner provided for in such Act, and at a rate for operations as was provided for in S. 1646, the Treasury Postal Service and General Government Appropriation Bill, 1984, as reported to the Senate (S. Rept. 98-186) on July 20, 1983."

AMENDMENT No. 2597

On page 1, strike out lines 3 though 6, inclusive.

HELMS (AND DENTON) AMENDMENT NO. 2598

Mr. HELMS (for himself and Mr. DENTON) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At an appropriate place in the joint resolution, add the following:

SEC. . None of the funds made available under this joint resolution may be used to carry out such provisions as are found in proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 thorugh 9455, February 13, 1989, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296, through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

SEC. . None of the funds made available under this joint resolution may be used to carry out any regulation, requirement, policy, procedure, or court order that, on account of the date of a church's or school's establishment or expansion or of its geographical location, creates a legal inference or presumption of racial discrimination by any church or any religious, church-operated, or private school having a racially nondiscriminatory policy as to students as defined in Revenue Ruling 71-447.

METZENBAUM (AND OTHERS) AMENDMENT NO. 2599

Mr. METZENBAUM (for himself, Mr. LEVIN, and Mr. RIEGLE) proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the appropriate place, add the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act may be obligated or expended within six months after the date of enactment of this Act to remove from operational readiness, or to relocate from a home port, any hopper dredge so as to reduce the number of Federally-owned hopper dredges which are available for use on the Great Lakes to less than two.

LEAHY AMENDMENT NO. 2600

Mr. LEAHY proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the appropriate point in the bill, add the following:

No funds in this or any other Act shall be used to process or grant oil and gas lease applications on any federal lands outside of Alaska that are in units of the National Wildlife Refuge System, except where there are valid existing rights or except where it is determined that any of the lands are subject to drainage as defined in 43 CFR 3100.2, unless and until the Secretary of the Interior first promulgates, pursuant to section 553 of the Administrative Procedure Act, revisions to his existing regulations so as to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement with respect thereto.

SASSER (AND THURMOND) AMENDMENT NO. 2601

Mr. SASSER (for himself and Mr. THURMOND) proposed an amendment to the joint resolution (H.J. Res. 413), as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of this joint resolution, $300,000 is appropriated for the Capital Children's Museum."

HATFIELD AMENDMENT NO. 2602

Mr. HATFIELD proposed an amendment to the joint resolution (H.J. Res. 413), supra, as follows:

At the appropriate place, insert the following:

SEC. Notwithstanding any other provision of this joint resolution, there is hereby appropriated $39,000,000 from the Federal Building Fund, for construction of a Federal Building-United States Courthouse in Newark, New Jersey, and $550,000 from the Federal Building Fund, for design necessary for repair of the Customhouse-United States Courthouse in St. Louis, Missouri.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

Mrs. HAWKINS. Mr. President, as chairman of the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture, Nutrition, and Forestry, I wish to announce that the subcommittee hearing scheduled for Thursday, November 17, 1983, at 9:30 a.m. in 328-A, Senate Russell Office Building, has been canceled. A new date will be set soon, and I anticipate the hearing will be held early in the next session.

The purpose of the hearing was to receive testimony on S. 1300, the Rural Electrification and Telephone Revolving Fund Self-Sufficiency Act of 1983.

Inquiries for further information should be addressed to Senator PAULA HAWKINS, U.S. Senate, Washington, D.C. 20510, attention: Mr. Stuart Sweet.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a markup of pending legislation on Wednesday, November 16, at 9:30 a.m. in room SD-342 of the Dirksen Senate Office Building. For further information, please contact Mr. Link Hoewing at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a nomination hearing for Robert Morris to be Deputy Director of the Federal Emergency Management Agency on Monday, November 14, at 2 p.m. in room SD-342 of the Dirksen Senate Office Building. For further information, please contact Ms. Margaret Hecht at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, November 10, at 10 a.m., to receive testimony on the Department of Defense planning, programing, and budgeting system in conjunction with the committee's hearings on defense reorganization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, November 10, to hear William L. Mills, nominated to be a member of the Council on Environmental Quality; Joseph A. Cannon, to be an Assistant Administrator, Air, EPA; Samuel W. Speck, Jr., to be an Assistant Director of the Federal Emergency Management Agency; and Brig. Gen. Jerome B. Hilmes, to be a member of the Mississippi River Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, November 10, to consider the nomination of Helmuth Merklein to be Assistant Secretary of Energy for International Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, November 10, to report out the nominations of Susan Phillips to be Chairman of the Commodity Futures Trading Commission; William E. Seale, to be a member of the Commodity Futures Trading Commission; and Daniel Oliver, to be General Counsel of the Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SECRETARY REGAN'S VIEWS ON INDUSTRIAL POLICY

● Mr. DOLE. Mr. President, on October 14 I had the pleasure of joining Treasury Secretary Don Regan as he addressed the University of Kansas on the subject of a national industrial policy and the proper path to economic development. As the Secretary of the Treasury rightly pointed out in his speech at Lawrence, the real key to growth and prosperity is for Government to foster a stable economic environment that will allow the private sector to do its job, combined with reasonable cooperation between public and private sectors on matters of regulation, taxes, and investment strategy and sensible incentives for forward-looking growth strategies.

Don Regan's remarks were very well received by the University of Kansas community, and I believe they will be of considerable interest to Members of the Senate and the public in general.

Mr. President, I ask that the text of Secretary Regan's remarks at the University of Kansas be printed in the RECORD.

The remarks follow:

ADDRESS BY DONALD T. REGAN

THE J. A. VICKERS LECTURE SERIES

Thank you very much for that kind introduction.

As great an honor as it is to be asked to deliver this year's Vickers lecture, it is not without pitfalls. As a literature major in my own undergraduate days, I was well-acquainted with W. H. Auden's definition of a professor. A professor, he said, is a man who talked in someone else's sleep. In my career, I have moved from the groves of academe to Wall Street for thirty-five years and then to the thickets of Washington. And along the way I have encountered some politicians who simply talk their audiences to sleep. Today I will try to avoid both extremes.

I would like to talk to you today in that essential spirit of a university: a kind of informed skepticism more often found in the classroom than the executive suite or the congressional hearing room. This skepticism requires that theories be tested against the real world.

This brings me to my subject today: industrial policy. It is a proposal which requires a great deal of skepticism.

In the June, 1983, issue of Harper's, Robert Samuelson wrote an insightful and devastating review of industrial policy proposals entitled "The Policy Peddlers." The implication of the title is clear: industrial policy is a cure in search of a disease, a nostrum being pushed without evidence as to its efficacy for various misdiagnosed or imagined illnesses.

Dr. Charles Schultze, former Chairman of the Council of Economic Advisors under President Carter calls it "a dangerous solution to an imaginary problem."

Industrial policy is an idea supposedly designed to make it easier for people to cope with a changing economic environment. While superficially appealing and plausible, it does not stand up to careful examination.

There can be no doubt that our economy is forever changing. Even within a growing economy, resources must be continually reallocated. Some industries will grow faster than others; some will arrive while others disappear. The automobile replaces the horse-drawn carriage; the hand calculator replaces the adding machine as technology improves. The same is true internationally. Nations go through stages of development.

These changes are natural and desirable from a global viewpoint. However, they can lead to dislocations and distress for individuals and communities, even in the best of times when new jobs are opening up in other industries. In times of recession, the problems become more acute, and intensify protectionist pressures to freeze the process.

There are two sorts of economic policies which could have an important influence on the economy's long-term ability to grow and adapt.

The first would be a general pro-growth policy, involving economy-wide measures such as tax and spending reduction, designed to increase the nation's rate of saving and investment and to lower the cost and raise the supply of both labor and capital. There would be no attempt to guide the increased flow of savings toward one industry or another through controls or credit allocation. This is the sort of incentive-oriented free market policy the Administration has carefully designed and implemented.

The second would be what is generally meant by an industrial policy. Dr. Schultze defines industrial policy as "a series of systematic governmental policies designed to produce an industrial structure different from what the market would have produced." Professor Paul Krugman, of MIT, defines industrial policy as "selective promotion of particular industries as a way of accelerating economic growth."

Neither man is a fan of industrial policy. Each feels that key assumptions of those who propose an industrial policy are open to serious question.

Those who would support an industrial policy would point to a supposed "de-industrializing" of America. Manufacturing is said to be declining as a share of GNP, and heavy industry is declining absolutely. The U.S. is losing its technological edge, and cannot compete in world markets. These are assumed to be structural problems which general measures to promote growth will not cure. The free market is not directing investment funds to where they are most needed. This makes it harder for labor to switch from old declining industries to high-tech growth industries with high value added per worker. U.S. management is too short-sighted to break the pattern.

Second, some other countries—notably Japan—are said to have developed a set of government policies which ensure industrial growth. Government agencies supposedly identify industries which are "potential winners," and foster them with tax credits and low cost loans. These industries are assisted in their efforts to penetrate foreign markets. Meanwhile, workers in older, declining industries are protected as their industries adapt or retrench.

The first premise is dramatically set forth by Robert Reich, whose book "The Next American Frontier," is the most widely-quoted proposal for a U.S. industrial policy.

"Since the late 1960s," according to Reich, "America's economy has been unraveling. The economic decline has been marked by growing unemployment, mounting business failures, and falling productivity."

Lester Thurow of MIT, is more emphatic still. He writes:

"American industry is being beaten up by its international competition. And business and labor are both afraid that American industry is going down for the count."

In other words, we are being told American industry cannot succeed on its own. U.S. business is accused of being insufficiently adaptive, indifferent to research and development, and desperately in need of some strong paternal discipline. If you listen closely enough you can almost hear the arteries of free enterprise hardening all around you.

Those who favor an industrial policy for the U.S. advocate a wide range of government programs to deal with the situation as they see it. These include more of some programs the government already supports, such as retraining, education, and expanded tax credits and expenditures for research and development. However, most would go further. They would have the government pick "winners" and channel private investment into the selected industries, assisted by tax, loan, trade, regulatory and other policies. Government would also intervene in "losing industries": forcing wage reductions, work rule changes and changes in management methods in exchange for subsidized loans, tariffs, quotas or other forms of protection.

Two further conditions must be met if these policies are to succeed in raising growth rates, the U.S. government must be technically able to pick "winners" and "losers" better than the market, arriving at a better industrial structure than would result from natural selection. And the political process must permit this technically optimal solution to be put in place, without political considerations overriding economic ones. This is highly unlikely.

Let us examine the case for such a policy. As near as I can tell from the literature, there are four major points on which the premise rests.

First, that because it's portion of our GNP is declining, we are a nation turning away from manufacturing. At the same time it is believed that Japan's success in it's export of manufactured goods is due to it's industrial policy. Because of Japan's success, our Government is being urged to devise an industrial policy also. Third, Washington can somehow make better business decisions than business. And finally, once there was an overall plan, government bureaus would assist the industries that show the greatest promise; while propping up those having difficulties.

None of these suppositions can stand the test of reality in my judgment. Let's examine each so I can make my point.

Point No 1: The deindustrializing issue

It is certainly true that the U.S. economic growth since the 1970s has been severely depressed. It is also true that we could have done better. But, these problems can be traced quite clearly to the combination of inflation, rising tax rates, and increased government spending and regulation during these period, and the subsequent recessions. These are factors related to general government monetary and fiscal policies affecting the whole country across-the-board, and must be addressed across the board.

In any event, these problems were not confined to the U.S. They struck most developed nations as worldwide inflation led to worldwide recession. In fact, the U.S. economy performed relatively well in the area of job creation. Between 1973 and 1983, the unemployment rate in each of Germany, France, Italy, the Netherlands, Belgium and the United Kingdom rose more than in the United States.

It is true that U.S. manufacturing output during the 1970s and early 1980s grew more slowly than overall GNP. The same pattern repeated itself throughout the industrial world—helped along the way by a worldwide recession in the middle of the decade and another recession recently. Correcting for the business cycle (manufacturing rises more during expansions and falls more during recessions than total GNP), manufacturing roughly held its share of GNP during the 1970s.

It is in the employment figures, not in output, where manufacturing has slipped relative to other sectors. Productivity gains have been freeing up labor for the dramatic expansion of employment and output in the service sector.

Nevertheless, prior to the recession in the U.S., total manufacturing employment rose slightly in the 1970s. At the same time, it fell in most major industrial nations. Thus, what we have been seeing is a restructuring—rather than a contraction—of the U.S. industrial sector.

In fact, the astonishing thing is this: U.S. manufacturing held its own during a period which saw an explosion of federal involvement in the economy, a quantum leap in taxation, regulation, and social tinkering with market forces.

Point No. 2: The case of Japan

Industrial policy advocates will also remind us of the menacing image of "Japan, Inc."—that economic superpower flexing its muscles and threatening to devour the global marketplace. "Japan has an industrial policy. So we should too." The supposed agent of Japan's success is MITI. (Even in Japan, government agencies have to have an acronym.) Japan's Ministry of International Trade and Industry—MITI—has had its successes. But it has also made some serious errors, and I think the Japanese would be the first to acknowledge this.

For example, MITI tried unsuccessfully to prevent Honda from entering the automobile industry for fear the market would not support more than two companies. MITI also advised a little company called SONY many years ago that vacuum tubes were the wave of the future and that new American invention, the transistor, was a passing fad. These firms ignored MITI and prospered without assistance, as did a number of other major industries such as consumer electronics.

In the past, far more than today, Japan did intervene to protect its developing industries. The major beneficiary of Japan's industrial policy was its steel industry which received the bulk of government support in the 1950s and 1960s. It is on this supposed success story that the reputation of MITI and industrial policy largely rest.

Japan encouraged expansion in the steel industry primarily by reducing the industry's cost of capital. Low interest loans, subsidies on interest, special depreciation allowances and other methods were employed to make capital artificially cheap for Japanese steelmakers.

The result was remarkable growth. Japanese steelmakers built ultramodern plants from scratch, while other nations made do with relatively less efficient additions to older plants. Productivity, output and exports soared.

All this sounds like a great success story, but was it? When a nation allocates scarce capital to a particular use, that capital is no longer available for other projects. The important question is, where would it have done the most good? The question is not whether the investment in steel was productive, it is whether it was more productive than the same amount of funds invested elsewhere would have been. The answer seems to be "no"!

Japan achieved very high labor productivity in steel by providing enormous amounts of capital. By the late 1960s, Japan was using nearly twice the capital per ton of steel as in the U.S., Professor Krugman notes. "This figure has been quoted approvingly as an indication of the modernity of the industry, but it can equally well be read upside down: capital was only half as productive in Japan's steel industry as in the U.S. Only if one views capital as free, does it make sense to emphasize labor productivity and ignore capital productivity. Of course, from the point of view of Japan's steel industry, capital was, if not free, at least artificially cheap."

Because of the over-utilization of capital in the steel industry its yields were less than yields on capital in the U.S. steel industry, and less than in other potential uses in Japan.

If that same capital had been used to equip more workers in alternative occupations, it would have done more to increase Japanese GNP and employment than it did in the steel industry. It appears as though the most famous example of a successful industrial policy reduced the income of the country which employed it.

Japanese consumers pay heavily for such centralized planning. The country's agricultural sector is generously subsidized as a result of farmers' political clout. Even the most ardent supporters of the MITI-approach admit that much, if not most, of the credit for the Japanese resurgence is actually rooted in the nation's high rate of savings and investment and the ingenuity of private entrepreneurs. The heart of the Reagan economic program is already aimed precisely at encouraging these qualities in the American economy.

Point No. 3: The Government's role

Even with all the good will in the world, a forswearing of political considerations and a pledge to conduct itself in a strictly scientific fashion, government would not to able to have the necessary information to outguess the market.

I spent 35 years on Wall Street. I have seen countless securities analysts poring over charts and earnings statements, talking to corporate executives, talking to middle management, talking to retailers, talking to each other and talking to themselves, all in an effort to stay on top of the stocks they were assigned to follow. But they couldn't know as much about the companies they studied as the people who ran them. And the people who ran them were risk takers in an uncertain world. Even they could be caught by surprise by swings in consumer sentiment, by competitors, by technological breakthroughs and by erratic government policies affecting all industries. And both could be undone by erratic market behavior.

I cannot conceive how a Federal bureaucrat at a reincarnated Reconstruction Finance Corporation could possibly outperform those whose livelihoods were tied to various firms and industries. Either that or else those on Wall Street and executive suites are overcompensated for what they are doing—which might be the subject of another entire lecture.

But let me quote Nolan Bushnell, the founder of Atari, Incorporated: "I guarantee you," he said, "that no government agency can target the right industry. In fact, I'll almost guarantee they'll target the wrong one. The targeting role belongs to the entrepreneurs. The problem is that these Atari Democrats would never have targeted Atari."

One of the most common recommendations of those who favor an industrial policy is a move to direct capital from low value added to high value added jobs—that is, from the low wage, labor intensive industry to the high wage, high capital intensive industry. This is the same misplaced objective as in the case of the over-investment in steel in Japan. So much capital would be tied up supporting relatively small output that total employment and output would fall.

Indeed, how could the U.S. government be expected to participate in this sort of activity under any circumstances? Carried to extremes, it would transform many promising, job-creating industries into heavily roboticized high-tech mutations. The displaced labor would be forced to crowd into the remaining low-tech, low-wage jobs that industrial policy advocates would ignore.

To some extent, this is already happening in the new high-tech textile industry. Modernization does help to retain some jobs that would otherwise be lost. But a subsidy would displace additional workers. It would be a waste of capital. It would be a waste of labor. Growth would suffer.

Any move by the bureaucracy to reallocate capital would undoubtedly reduce growth. Capital allocated to one use must become unavailable for alternative uses. The only excuse for directing capital is to see to it that it would flow to the most rewarding project. Otherwise, the lost output in the alternative use would be more valuable than the output in the directed use.

But that is exactly the function of the free market, to send capital to its most efficient use. The market, which is more sensitive than any computer, determines the prices and rates of return that give consumers, producers, savers and investors the proper signals.

I think the final word on the good intentions of the bureaucracy may have been spoken by Professor Paul McCracken: "A government which built the Washington subway out to the airport, and then carefully located the station beyond walking distance to the terminal, would not seem to have the clairvoyance required to blueprint the whole economy."

Point No. 4: Policy in a political atmosphere

Even at its best, an industrial policy in a political setting would promote growth only by sheerest luck. But it would not be at its best.

Industrial policy most certainly would be subjected to the logrolling and special interest pleading which is part of political life in a democracy. There is no way around it. Protection for one would become protection for all. A tax deduction or subsidy for one on the grounds of economic efficiency would become a tax deduction or subsidy for all on the grounds of equity.

Even if the policy were entrusted to a commission or council, problems would remain. The most favored device seems to be some sort of three-way council composed of government, business and labor. Theoretically this would be a smoothly working partnership to translate admirable motives into beneficial results. But what criterion would actually govern such a board? The maximization of financial return? The humanization of the workplace? Or the shouting match between advocates of this steel mill over here and that fiber optics plant over there?

By last count, there are some 15,000 lobbyists plying their trade in the corridors and in the cloakrooms of Washington. If substantial authority for economic planning is turned over to some group other than Congress and the President, does it make sense to assume that its decisions will be any more insulated from outside pressure? Do we really believe that either waste or greed can be abolished by good men and women sitting around a conference table in Washington? It is the kind of scene that makes "Utopia," by comparison, seem like a rough and tumble operation.

WHAT DO WE HAVE ALREADY?

We already have an enormous array of government programs which build infrastructure, support education and retraining, and direct investment funds to favored areas. Many of these areas are worthwhile. Many are not. Criticism concerning the overgrown size of federal lending activities, complexity of the tax code, and waste and inefficiency in Federal spending are legion. What is the basis for the presumption that an industrial policy—which, stripped of jargon, would merely be more of the same—would work any better?

In 1983, budget spending for education, training, housing, energy, transportation, community and regional development, public works and commercial and agriculture subsidies exceeded $50 billion.

Federal credit programs (mostly off-budget) made available for these same purposes direct loans of about $47 billion and loan guarantee commitments of about $84 billion. Differential tax treatment of various sources of income or types of investment for the above-mentioned purposes are estimated to amount to over $115 billion. Of course, the total amount of resources and GNP influenced by these programs is many times the size of the subsidies or tax incentives themselves.

I believe that it is reasonable to remain skeptical as to the efficacy of these programs. Do they promote growth and efficiency, or foster inefficiency and complacency? Can their costs be contained, or is the pressure for more spending too great?

All of which leads me to argue that the entire premise of industrial policy—at least as currently understood in the mass media—is a gross distortion of recent economic history and age old human motivation.

The economic problems of recent years, I would contend, are not the result of any fundamental deterioration in our own determination to compete or the competence of the private sector. We are still and will continue to be the pre-eminent economic power in the world.

What has really been happening is that our economic capability and the economic outlook in general have been damaged by contradictory policies hatched in Washington.

Recent history has demonstrated that the State itself has become the single biggest obstacle in the path of economic growth: Feeding the fires of inflation, raising tax rates to stifle initiative, attempting to redistribute rather than expand wealth, regulating the domestic economy out of billions of dollars that might otherwise be invested in new plants and new jobs, and trying vainly to promise security without acknowledging risks. We have to return this economy to the private sector if we are to get the country moving again.

The marketplace is not a tribunal in Washington or a government agency. It is the dynamic interaction of millions of traders, customers, investors, business people. And it is, I can assure you, the most knowledgeable judge of economic winners and losers known to man.

Now there is a second point where my philosophy diverges from the modern-day industrial policymakers. In reading their proposals, I come away with a sense that theirs is a rather static view of our economy. Indeed, they play on people's fears of change, growth and progress. There is, woven through their thinking, a feeling that America's resources and potential are limited. That somehow the name of the game is to redirect or reallocate what there is today. Their emphasis is to ensure that the limited American economic pie is distributed equitably.

I have a much more dynamic view, placing more emphasis not on rearranging resources, but on expanding them. Rather than rearranging the elements in a static economy, I say let's expand a potentially dynamic economy.

The Reagan Administration has adopted a very activist approach in its own economic prescription. Our objectives are clearcut, like the program proposed to attain them. And our methods are real-world methods based on well-known laws of economic behavior.

Reducing the tax rates on individuals and businesses, we set out to restore incentives to work, save and invest. Accelerated depreciation on plant and equipment means much more in the long run for ailing companies than any set of directives from a tripartite council in Washington. You can invest dollars. You can't invest directives.

By the same token, regulatory reform is already reducing federal intrusion in the marketplace and relinquishing additional funds to both investors and consumers.

We can already see some of the early fruits of such policies: the dramatic increase in equity formation, the generation of venture capital, the sharp reduction in both inflation and interest rates, and a corresponding surge in jobs. All these have come about through something of a paradox—through the imaginative use of less government to undo the damage imposed by earlier bureaucratic excesses.

However, the Administration is not a passive by-stander in the area of industrial development. While the President steadfastly opposes any formal "industrial policy" as antithetical to the market forces that are creating jobs and increasing wealth, he has appointed a Commission on Industrial Competitiveness. Among other subjects, this body will review research and development, education and job training, and the advisability of tailoring Federal policies to make maximum use of the world's most talented labor force.

More immediately, the Justice Department has embarked on a significant new course in the field of anti-trust policy making clear that it will not prosecute cooperative research and development efforts by companies in the same industry.

Federal job training programs have been revised, shifting away from the public works emphasis of earlier days, and targeting assistance on the long-term unemployed for whom the private sector might well find jobs.

We are taking important steps to promote growth. But please recognize the critical, qualitative difference here. We are not putting the Federal Government into the business of business. We do not intend to get Washington more involved in allocating resources, in directing research or in making other decisions that properly belong in the private sector.

We are, in contrast, working to provide the kinds of policy framework and incentives that will allow for economic growth, sharpen the competitive skills of U.S. business and challenge foreign manufacturers in the global marketplace. The difference is between directing economic development and giving people the freedom and the incentive to make it happen—their way.

Equally important, the Federal government must get on with the business of imposing some self-discipline on its own fiscal appetites. We simply must reduce the government spending and budget deficits that threaten our prosperity down the road.

In the end, it all comes down to this: what this country needs is not new agencies to direct the course of future investment, but new attitudes toward work and competition and the rewards carried by both.

In essence, the choice between the Reagan Administration's industrial policy and the Democratic candidates' industrial policy is this: a choice between having economic allocation decisions made by 230 million Americans acting in the free marketplace, or 20-30 government planners acting collectively in a political arena. I would certainly choose the former—and I hope most of you would, too.

Ours is the truest industrial democracy in the world. The challenge we confront is how to keep it that way. The free market is already meeting that challenge. It isn't always neat. It rarely lacks for controversy. But that is the essence of popular rule, the promise of a diverse people and the heart of American greatness.

Thank you.●

WEAPON FOR PEACE

● Mr. EAST. Mr. President, the Rockford Institute in Rockford, Ill., is a nonprofit research center that devotes itself to the study of the cultural dynamics of a free society. It publishes three exemplary intellectual periodicals, Chronicles of Culture, The Rockford Papers, and Persuasion at Work, as well as occasional special papers and monographs.

One such recent publishing effort is a provocative essay called "Has the Church Forgotten Its Primary Weapon for Waging Peace?" It is written by Dr. John A. Howard, who serves as the president of the Rockford Institute.

Mr. President, Dr. Howard reports to me that the Rockford Institute's studies indicate that the most significant factor in building public support for the "nuclear freeze" proposal and other such "peace initiatives" has been the leadership of the clergy. Dr. Howard says that if the only reasons that are offered for opposing these activities are those that will be perceived as "the self-serving pronouncements of the military-industrial complex," then the battle to offset their influence will be lost.

Dr. Howard believes that a real balance in public debate can be restored only by analyses that provide a religiously based perspective. In short, he is convinced that the pro-"freeze" clergy must be challenged on their own grounds.

Dr. Howard's article offers just such an argument, I commend it to my colleagues and ask to have it printed in the RECORD.

The article referred to follows:

[Occasional papers from the Rockford Institute]

HAS THE CHURCH FORGOTTEN ITS PRIMARY WEAPON FOR WAGING PEACE?

(By Dr. John A. Howard, President, the Rockford Institute)

There has been strife among peoples since the beginning of recorded history. Pacifism and organized efforts to prevent war also have had a long career. Four centuries before Christ, Aristophanes dramatized one technique for discouraging war in one of his plays. In our day the destructive power of the weapons and the range and speed of weapons-delivery systems have moved peace to the top of the agenda for innumerable organizations in many countries, including the two national bodies of Presbyterian Church-

es in the United States. The urgent yearning for peace is probably more widespread than ever before, but how to deliver on that desire remains a complex and troublesome question, contested by statesmen, military strategists, philosophers, new analysts, social critics, clergy, and theologians. The role for those of us who enlist in the peace effort is, I suggest, to probe as deeply as possible into the matter so that whatever course we choose will be based on the soundest judgment we can make.

My commentary this morning is directed to some aspects of the peace dilemma which have not figured prominently in the public discussions, but which seem to me fundamental to any lasting progress toward a more peaceful world. I believe a logical starting point is to examine the processes by which we attend to controversial issues and reach decisions about public matters. To sharpen the focus, let us consider first how a totalitarian society determines its policies. The officials at headquarters make the decisions about what the people will do and will not do, including whether worship is permitted, and those edicts stand fast, impervious to the desires, complaints, pleas, or demonstrations of the people. By contrast, in the free society which is attentive to the ideals of human dignity and equality before the law, the just resolution of conflicts requires a full and fair hearing for both sides and a calm, reasoned, objective judgment of all the facts, interests, and arguments that have been adduced.

FROM LOGIC TO SLOGANEERING

In our day, that principle of a full and fair hearing and impartial judgment is falling into disuse in the consideration of controversial issues. Increasingly, both the advocates and the opponents of a given course of action are resorting to the tactics of argumentation used so effectively by the radical leaders of the campus disturbances of the 1960's. The technique is not to set forth calmly a logical brief for one's position, but rather to kindle public passions, to mobilize sentiment against those who disagree, to contrive slogans that will make the opponents seem unreasonable, to turn them into objects of scorn and fear so that the public will tend to disregard their statements, to mount public demonstrations and display placards and bumper stickers and create a bandwagon psychology. To the extent that such a campaign is successful, it becomes the equivalent of the totalitarian method of resolving issues, wherein the reasons and claims of the other point of view are simply foreclosed from consideration. You will recognize that this method of persuasion has become prevalent in our society on a wide range of issues.

Apart from the critical damage this technique inflicts on the most rudimentary processes of justice in a free society, it raises another concern for the Christian or Jew who takes his religion seriously. God has given us a primary set of instructions for living this life in a manner that would fulfill His purposes, which also happens to be a pattern of conduct that minimizes frictions and promotes peace. One of the Ten Commandments, the injunction against false witness, bears directly on this technique of orchestrating public sentiment against one's opponent. False witness, we should remember, applies to all erroneous claims against another, regardless of whether the claims are based on ignorance or intentional deceit. It is a sobering thought. It goes without saying that decisions based on fear or anger or inadequate knowledge are not likely to be good decisions.

DO CHRISTIANS BELIEVE IN "RIGHTS"?

In addition to the problem of the techniques of resolving issues, there is another difficulty. That is the shallowness of the general understanding about what is being discussed. Consider, for example, a recent pronouncement by one of the most visible champions of peace. On July 10th, Petra Kelly, the dynamic young woman who heads the Green Party in Germany and is one of the principal figures in the European peace movement, was in the United States and was interviewed on one of the major television news networks. She proclaimed, with great conviction, that all people have a right to health, a right to life, and a right to peace. This is the kind of irrational sloganeering that stirs the passions and confuses the issues. In the first place, among the few certainties of this world are the precise opposites of her three claims: all of us will suffer ill health, all of us will die, and mankind, in his fallen state, will engage in conflicts. Her statement is pure demagoguery, but demagoguery is in vogue now on both sides of the Atlantic.

The truly troublesome element of her assertion, however, is the matter of rights. More and more rights are being discovered or invented and then declared with great fanfare. The very term, rights, captures the high ground for whoever utters it and commands a certain level of unthinking respect. And once you have proclaimed some rights, you are then free to redefine justice to incorporate them. It is a very clever tactic and one that is difficult to withstand. If you study your concordance, you will find a surprising scarcity of references to rights in the Bible. Indeed, there is only one such listing for the New Testament, and that, Hebrews 13:10, refers to the Old Testament entitlement of eating meat from sacrificial animals. I would like to suggest that if the individual is genuinely dedicated to the cause of peace, he would do well to ponder this matter of claimed rights. I would even suggest the possibility that all wars are caused by the assertion of rights that conflict with one another. It is of interest that in the Marxist-Leninist state, the leaders have comprehensive rights, including the right to decide on what grounds they will take the lives of their own citizens, as well as the lives of trespassers from foreign nations. By contrast, the American Constitution, the primal document which defines the role of our government, is very cautious in the matter of rights. The Bill of Rights, which was appended later, speaks only of rights which protect the citizens against their government. The woof and warp composing the fabric of the free society are ideals and duties. And that is true of Christianity as well—ideals and duties, not rights. We will return to this point later on because of its overarching importance.

What do you suppose has happened to Western society and to the Church that we could have woven the concept of rights so deeply into the formulation of what we suppose to be virtue when the primary source of our knowledge of virtue, the Holy Bible, gives us no such authorization? One answer to that disquieting question was set forth in a book called "Ideas Have Consequences," written by Richard Weaver, a professor of English at the University of Chicago. The book was published in 1948 and with each passing year is more evidently one of the most accurate and powerful and intelligent critiques of Western civilization that modern scholarship has produced.

Weaver's thesis is that for several centuries, Western society has been not on a progressive course toward higher and higher levels of civilization, as has been presumed, but on the road to degradation because, over the years, we have increasingly subordinated transcendent concerns to immediate ones. God and the eternal verities have been receding from the human consciousness, replaced by individual judgments based on whatever fears and desires and clichés are paramount at the moment. As Weaver says, "For four centuries every man has been not only his own priest, but his own professor of ethics, and the consequence is an anarchy which threatens even that minimum consensus of value necessary to the political state." [1] Weaver points out that we are frequently unable "to make appropriate response to perversions of truth and acts of bestiality." [2] In other words, we are unable to distinguish between good and evil, or unwilling to do so, which amounts to the same thing. We find it difficult to say of anything that it is evil or corrupt or wicked. We want to believe that the most depraved act has some acceptable justification; we cannot unequivocally label it an abomination.

UNDERSTANDING EVIL

Isn't this really what we have been told repeatedly by the one commanding Christian voice of our age that speaks with authority rendered profound by intense and prolonged persecution? I refer, of course, to Aleksandr Solzhenitsyn. His recent address on the occasion of receiving the Templeton Award is devoted to the theme that men have forgotten God. Listen to his words.

"The failings of human consciousness, deprived of its divine dimension, have been a determining factor in all the major crimes of this century . . . [T]he flaw of a consciousness lacking all divine dimension, was manifested after World War II when the West yielded to the satanic temptation of the nuclear umbrella. It was the equivalent of saying: Let's cast off our worries, let's free the younger generation from its duties and obligations . . . let's stop our ears to the groans emanating from the East, and let us live instead in the pursuit of happiness . . . Only the loss of that higher intuition which comes from God could have allowed the West to accept calmly, after World War I, the protracted agony of Russia as she was being torn apart by a band of cannibals, or to accept after the World War II, the similar dismemberment of Eastern Europe." [3]

Solzhenitsyn will not allow us to forget that the Christian cannot, in conscience, labor for a peace which secures and entrenches a tyrannical political system which by definition enslaves and oppresses its people and which institutionalizes what, for the Christian, must be the uttermost manifestation of evil, the suppression of the worship of God. The Marxist-Leninist determination to eradicate religion is something from which many Christians wish to avert their eyes. Let us look at it now.

In the May 1982 issue of Commentary magazine, there is an article by Vladimir Bukovsky which every serious devotee of peace ought to study. Bukovsky spent many

[1] Richard M. Weaver, "Ideas Have Consequences," University of Chicago Press, 1948, p. 2.
[2] Weaver, op. cit., p. 10.
[3] Aleksandr Solzhenitsyn, "Men Have Forgotten God," National Review, July 22, 1983, p. 873.

years in Soviet prisons, work camps, and psychiatric hospitals, and understands the full implications of his subject, which is entitled "The Peace Movement and the Soviet Union." He notes that in 1922 while the Soviet delegate to the international peace conference in Genoa, Italy, "was appealing to the entire world for total and immediate disarmament, crowds of bewildered people in the Soviet Union were marching to the cheerful song:

We'll fan the worldwide flame,
Churches and prisons we'll raze to the ground.
The Red Army is strongest of all
From Moscow to the British Islands."[4]

Here is peace being proclaimed to the outside world, while the citizens are chanting the intent of the Revolution to fan the worldwide flame and dismantle the churches.

Solzhenitsyn dwells at length in his Templeton address on the Soviet policy toward religion.

"It was Dostoevsky . . . who drew from the French Revolution and its seething hatred of the Church the lesson that 'revolution must necessarily begin with atheism.' That is absolutely true. But the world had never known before a godlessness as organized, militarized and tenaciously malevolent as that practiced by Marxism. Within the philosophical system of Marx and Lenin, and at the heart of their psychology, hatred of God is the principal driving force, more fundamental than all their political and economic pretensions.

"The 1920's in the USSR witnessed an uninterrupted procession of victims and martyrs among the Orthodox clergy. Two metropolitans were shot . . . Scores of archbishops and bishops perished. Tens of thousands of priests, monks and nuns, pressured by the Chekists to denounce the word of God, were tortured, shot in cellars, sent to camps, exiled to desolate tundra of the far north, or turned into the streets in their old age without food or shelter . . ."[5]

Later he notes that for geopolitical reasons Stalin feigned a tolerance of the churches, and Brezhnev, with contrived showcase publications and elaborate deceptions, played the same game which has been taken at face value in the West. Perhaps you read in the August 15 issue of Time magazine the interview with the Cuban poet Armando Valladares, who told of the unspeakable persecution and execution of prisoners who would not renounce their Christian faith in today's Cuban prisons, from which Valladares has recently been released after 22 years.

DO WEAPONS, OR GOVERNMENTS, CAUSE WARS?

Even if we can somehow subdue our conscience and negotiate an arms-limitation agreement with the Soviet Union, do we really suppose the treaty will be anything more than a fragile and temporary stopgap? After all, weapons don't cause wars. It is governments that cause wars. We all have ample opportunity to observe and form judgments about our own government and its intentions, but for most of us our knowledge of the Soviet system is fragmentary and impressionistic. We can react in stark horror to the willful elimination of a commercial airliner loaded with innocent passengers, and a few days later we can listen in astonishment to a broadcast as a Russian military expert tells his people a flat and readily refutable lie that the outline of the Korean 747 is identical with that of a U.S. intelligence plane, but all too few of us have any real comprehension of the political system for which the judgment to kill and lie is the only logical response to the circumstances. The mind-set of a Westerner simply cannot comprehend the Marxist system. We are given glimpses of what takes place behind the Iron Curtain, but the mind boggles. It cannot perceive that those glimpses reflect, not just the aberrations of a demented Soviet official here and there, but the day-to-day operations of a whole political system that is depraved. Leopold Tyrmand, who escaped from Sovietized Poland, has observed that the Westerner cannot comprehend what it is to live under Marxism. When the Westerner is told that under the Soviet judicial system anyone who is officially accused of a crime will be found guilty, that information can be pondered by the Westerner, but he can never know what it is to live under the daily fear of what the Soviets choose to call justice.

In precisely the same way, the general populace of America seems incapable of understanding what the Soviet system designates as peace. We delude ourselves into supposing the word means to them what it means to us. Well, Lenin said, "As an ultimate objective, peace simply means Communist world control." [6] That Soviet concept of peace as the triumph over the world remains unchanged today. Vladimir Bukovsky spells this out for us.

"According to Communist dogma, wars are the 'inevitable consequence of the clash of imperialist interests under capitalism,' and therefore will continue to be inevitable as long as capitalism exists. The only way to save humanity from the evils of wars, then, is to 'liberate' it from the 'chains of capitalism.' Accordingly, there is a very precise distinction to be made between 'just wars' and 'unjust wars.' 'Just wars' are those fought 'in the interests of the proletariat.' It is perfectly simple and perfectly clear: just wars are absolutely justifiable because they lead to the creation of a world in which there will be no more wars, forevermore." [7]

Because "everywhere" will be ruled by a unitary Marxist-Leninist totalitarianism. For the Western nations to try to negotiate a lasting peace with a political system which defines peace in that fashion is an awesome task. Or, let's face it, probably an impossible task. There is extensive and repeated evidence that Soviet Russia disregards the treaties it does sign. Recently, for example, it has been reported that photographs taken by a United States surveillance satellite showed a new Soviet radar system constructed in violation of the 1972 Salt I Anti-Ballistic Missiles Treaty.[8] If a person truly wished to understand such a government, he would spend some time learning about the nature of authoritarian governments, and certainly would study Montesquieu's monumental work, "The Spirit of Laws." In the eighth chapter of Book Three, Montesquieu has a subtitle, "That Honor Is Not The Principle of Despotic Government." He writes: "As honor has its laws and rules . . . it can be found only in countries in which the constitution is fixed, and where [the nations] are governed by settled laws. . . . Honor [is] a thing unknown in arbitrary governments, some of which have not even a proper word to express it." [9] When we negotiate a treaty, we expect to give some ground and to have them do the same. And we expect to honor the treaty. What about them? Since honor, as Montesquieu noted, is only possible where there are objective and abiding standards of right conduct for the individual, and Marxist-Leninist theory acknowledges no such standards except total subservience to the state, what does such a treaty accomplish other than to give us a false sense of security?

There is a passage in the sixth chapter of Second Corinthians that seems to apply to this circumstance. "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness?" The Apostle Paul is reminding us that virtue conjoined with evil serves only to contaminate virtue, and Solzhenitsyn has specified how that scriptural passage applies to any pact we might sign which has the effect of entrenching, dignifying, and legitimating the status quo in Russia. In summary, some earnest thought must be given to the wisdom of concentrating the Church's efforts in behalf of peace to such objectives as arms treaties.

SO WHAT'S TO BE DONE?

Well, where does that leave us? Is there nothing to be done? Do we stand by and simply watch the fearful drama play itself out hastening toward the day of Armageddon? No, certainly not. If one believes in God, he knows that God has given us sufficient healing power and sufficient instructions for even this day. Our role is to labor to understand and deliver on those instructions. Before offering my thoughts about that agenda, let me return to our point of departure. You will recall I spoke of the damage done to processes by which we judge public issues when an advocate labors to mobilize public passions against his opponents. It may seem that this is precisely what I have just done with regard to the Soviet Union. But that is not the case. I have tried to present objectively verifiable facts, pertinent quotations, authoritative reports, and rational as well as biblically supported analyses to sketch what I believe to be an accurate picture of wickedness-compounded in the Soviet system. The target of these remarks is the sin, not the sinners.

What then must we who serve the cause of peace do to try to contain a powerful and aggressive governmental system that unilaterally declares peace to be its own hegemony over the whole world, and unilaterally legitimizes deceit, lies, subversion, forged documents, terrorism, elaborate propaganda schemes, the fomentation of strife and proxy wars as weapons to accomplish its twisted and evil notion of peace? First, I suggest that short of a providential miracle, a credible military defense capacity is the only historically valid means of containing an aggressive, expansionist despotism. I would then ask: Is it naive for church bodies to make judgments about our government's defense and arms-control policies, when they, as judges, are only superficially informed about the facts of relative armaments and the intelligence reports concerning Soviet covert actions and Soviet intentions, and when many members of the church bodies making the judgments are not well versed in the historical precedents

[4] Vladimir Bukovsky, "The Peace movement and the Soviet Union," Commentary, May 1982, p. 25.
[5] Solzhenitsyn, op. cit., p. 874.
[6] Quoted in Bukovsky, op. cit., p. 25.
[7] Bukovsky, op. cit., p. 26.
[8] Reported in Executive Memorandum, The Heritage Foundation, August 5, 1983.
[9] Robert M. Hutchins, ed., Great Books of the Western World, Vol. 38, p. 12.

of despotic conquest? Should they proclaim and press hard for the priorities which they believe, according to their lights, must receive attention? Of course! But make judgments about a specific course of action for defense or arms control? I wonder.

I further suggest that the free world's vast expenditures for armaments may not be a vile offense against all the principles of Christianity, as is so often proclaimed, if those funds actually prevent the spread of the consummate evil of Marxist-Leninism and its systematic suppression of worship. It's a tough call, but Solzhenitsyn's cry of anguish over our unconscionable indifference to the plight of millions of persecuted people rings in the ears.

Ultimately, nobody can deny that sufficient defense weaponry is nothing more than a holding action to try to give us time to find the means to uncoil the deadly vicious circle of international hostilities. And that uncoiling, it seems to me, should be the primary object of the prayers and deliberations and energies of the Church—to find more effective ways to activate the spirtual dimension of mankind toward amity and unity.

Any objective observer must admit that religious bodies, as numerous as they are, and the multitudes of their parishioners have not been very effective in tipping the balance of human actions toward generous and kindly impulses. Selfishness, protection of privileges, rationalizations for one's own waywardness and aggression are in the ascendent in our nation and elsewhere. I have suggested that the fixation in our thinking about the importance of rights, however well-intentioned, is probably one of the primary reasons for religion's less-than-satisfactory performance. The very concept of rights inclines people to focus on their own well-being and to demand their due, instead of focusing on the well-being of all humanity.

Just as the Church has too often inadvertently contributed to the underlying causes of aggression by its support for various rights, it has by its increasing inattention to the obligations which religion places upon the individual, failed to promote the most powerful force in behalf of peace. We seem to have forgotten that Christianity proclaims to us not only a meaning for life far greater than the sum of our daily experiences, a meaning that provides hope and joy and fortitude sufficient to whatever tribulations beset us. Christianity also specifies how we must live that life in order to strive toward the fulfillment of the Christian promise. The second half of that formula, how we must live, is only dimly heard in many Christian churches, and that failure is evident throughout the public and private activities of our own populace.

I have mentioned the general lapse with regard to false witness and the reluctance to identify and condemn evil. The Ten Commandments identify righteous conduct. It might be a productive exercise for a clergyman to discover how many of his parishioners can even name the Ten Commandments or locate them in the Bible. I am unaware of any serious effort to consider how a failure to observe these Commandments bears on the matters of peace and war. Consider, for example, the progress toward a more peaceful world that might result if all Christian churches everywhere were to devote six months to the earnest study of the Commandment against covetousness and how this human failing is related to the insistence upon various rights.[10]

Of course, the Christian Church must strive diligently for peace. What I have tried to suggest here is that the worldwide threats which force peacemaking onto our agenda reflect, at least in part, a failure of the Church to deliver very well on its own primary mission. The Church has, as Pastor Neuhaus notes, tended to become secularized in its involvement in secular matters, rather than serving to inform and elevate the discussion of difficult issues by infusing that discussion with the perspective of revealed and transcendent truth. Perhaps the greatest contribution the Church can make to a more peaceful world is to concentrate its efforts on what religion prescribes to us as a righteous life, striving to proclaim and cherish and live by the Ten Commandments as well as by the commandments of Christian love and Christian charity, for that kind of righteous life is also the life which spreads peace.

Let me conclude with two quotations.

The first is from Paul's Epistle to the Ephesians:

"Put on the whole armour of God, that ye may be able to stand against the wiles of the devil. For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places. Wherefore take unto you the whole armour of God, that ye may be able to withstand in the evil day, and having done all, to stand. Stand therefore, having your loins girt about with truth, and having on the breastplate of righteousness; and your feet shod with the preparation of the gospel of peace; above all, taking the shield of faith, wherewith ye shall be able to quench all the fiery darts of the wicked."

And finally, let us contemplate an heroic person of our own time who exemplifies the strength, the humility, and the assurance that comes from heeding the Apostle Paul's admonition, Mother Teresa. You will recall that when she was asked if she did not get discouraged with the seemingly endless poverty, hunger, and misery in the cities of India where she labors, she responded, "Oh, my job is not to succeed, but to be faithful to my mission."●

[10] Author's note: The Commandment against covetousness in no way contradicts or diminishes the Christian's obligation to be charitable. When that obligation is met, the objectives of many of the asserted rights will be attended to, but the charitable method of achieving that result benefits both donor and recipient, while the enforced method, inherent in rights, tends to cause resentment on the part of the provider as well as encourage covetousness on the part of the recipient.

THE 125TH ANNIVERSARY OF THE SISTERS OF CHARITY

● Mr. DOLE. Mr. President, I extend congratulations and reverent appreciation to the Sisters of Charity of Leavenworth, Kans., upon their celebration of 125 years of service on November 11, 1983.

In 1858, before Kansas was a State of the Union, this dedicated order was founded in Leavenworth. During those tumultuous days when Kansas was at the center of our Nation's struggling history, a group of American women formed the Sisters of Charity as a shining star in the midst of a Union soon to be ravaged by war. In the many years since, the Sisters of Charity have continued to spread light through an often dark and turmoil-ridden world.

The Sisters of Charity serve much of the western part of the United States and, 20 years ago this month, extended their service to the poverty-stricken areas of central America. The order is dedicated to those in need, with work in education and housing for the handicapped, the elderly, the orphaned, and others who call for help.

Among their myriad services, the Sisters of Charity currently maintains the only college for women in the State of Kansas. The college aspires to cultivate leadership among women.

Assuredly, the dedication of the Sisters of Charity is an inspiration and a blessing for which we are all grateful. As the order celebrates this glad anniversary, I extend my warm congratulations and best wishes for continued successes.●

SALTONSTALL-KENNEDY FUNDS FOR WESTERN PACIFIC REGION

● Mr. INOUYE. Mr. President, inasmuch the activities of the National Oceanic and Atmospheric Administration are to be funded through the continuing resolution for a while longer, it is important that we now make a little legislative history that I intended to make when the conference report on the Commerce, Justice, State, The Judiciary and Related Agencies Appropriations Act (H.R. 3222) was considered.

As the distinguished senior Senator from Nevada (Mr. LAXALT) will recall, on page 13 of our report No. 98-206, we noted that committee's interest in having the increase we provided in the Saltonstall-Kennedy (S-K) program reflected in the share of those grants going to the Western Pacific region. The report noted that:

This region has not yet attained the level of infrastructure and program development of the other regions and has unique and compelling needs. Indeed, this region's continuing need for special attention was confirmed last year when the Central, Western, and South Pacific Fisheries Development Act was reauthorized through fiscal year 1986, providing a source of funding for the Pacific Fisheries Development Foundation to use for the development of fisheries in the Western Pacific. This act, the only one of its kind, has not received appropriations in the past since, until recently, S-K grants were sufficient to fund Western Pacific fisheries development programs. In the past 3 years, however, S-K grants for the region have declined rapidly, imposing limitations on the abilities of the Pacific Fisheries Development Foundation to achieve its objectives.

The committee urged that a level of S-K funding necessary to promote fisheries development in the Western

Pacific be made available to the region in fiscal year 1984. It was my understanding that the conferees agreed that sufficent S-K funds would be available to provide the necessary funds for a fisheries development program in the Western Pacific. However, this is not stated in the statement of the managers, and I would appreciate having the chairman's assurances that adequate funding for Western Pacific fisheries development is contained in the conference agreement.

Mr. LAXALT. The distinguished senior Senator from Hawaii is absolutely correct that the conference agreement provides sufficient Saltonstall-Kennedy funds for fisheries development in the Western Pacific. In our discussions with our House counterparts, we turned down a further transfer of S-K funds to NOAA's basic account in order to keep a sufficient level in the S-K account for the Western Pacific program.

Mr. INOUYE. Mr. President, I thank our chairman for his assistance on this matter which is of vital importance to developing a viable Western Pacific fishery. With this expression of our joint intentions with regard to the Saltonstall-Kennedy funds, there should be no confusion in NOAA that S-K support was approved for the Western Pacific region.●

PRESENTATION BY MOSHE FOX ON CURRENT SITUATION IN LEBANON

● Mrs. HAWKINS. Mr. President, I recently had the privilege of attending a testimonial dinner honoring two fellow Floridians for their distinguished service to the State of Israel and the Jewish people. At that dinner we heard an insightful presentation by Mr. Moshe Fox, an official at the Israeli Embassy, on the current situation in Lebanon.

With this issue on everyone's mind so much these days, and rightly so, I believe that the Senate might benefit from Mr. Fox's observations and comments. As a result, I ask that Mr. Fox's remarks be printed at this point in the RECORD.

The remarks follow:

PRESENTATION BY MOSHE FOX ON CURRENT SITUATION IN LEBANON

It is a special pleasure to be with you tonight. It is a pleasure to return to Jacksonville to be with my family and relatives. My first trip to Jacksonville was in 1981 when I attended my brother and sister-in-law's wedding. And it is a pleasure to address the Bond Organization.

We, my family and all Israelis, are very proud of the Bonds work. My wife's grandfather, the late Al Joffe of New York, was among the Bonds first supporters. He hosted the first Bond dinner in the United States. The guest of honor was the first Prime Minister of Israel, David Ben-Gurion, and this dinner launched the Bond sales.

It is also a pleasure to greet staunch and devoted friends of Israel, Richard and Sharon Browdy and our distinguished friend in the U.S. Senate, Senator Paula Hawkins.

Tonight, the topic on everyone's mind is the terrible loss of life in Lebanon. The Israeli Cabinet, reacting to the terrorist bombing of the American and French troops in the multinational force in Beirut, has condemned the murderous action. Please allow me to read you the Prime Minister's statement to the Cabinet today . . .

"There is no doubt that this crime was carried out by those who look to prevent any peace for Lebanon and seek to increase bloodshed there. We sympathize deeply with the grief of the people of America and its Government."

A question you, your friends, and certainly the media may be asking tonight is how did the marines get into Beirut in the first place. Some have claimed that the marines came in to help the Israelis out of a tight spot. This is not true. Israel has always maintained—and made its position crystal clear on this point—that it is capable of defending itself, without the benefit of foreign military intervention from any source. America's military involvement in Lebanon came and is being maintained in response to a clear-cut Lebanese need and an explicit Lebanese request for such involvement, and not at Israel's request or to foster any Israeli objectives. That this is the case is evident from the following authoritative U.S. statements:

President Ronald Reagan wrote in a letter to Congress, on August 30, 1983 the following: "On September 29, 1982, I reported to you concerning the introduction of United States Armed Forces in Lebanon participate in the multinational force (MNF) requested by the Government of Lebanon. The presence of this force was designed to facilitate the restoration of Lebanese Government sovereignty and authority . . .

"I believe that the continued presence of these U.S. forces in Lebanon is essential to the objective of helping to restore the territorial integrity, sovereignty and political independence of Lebanon."

Lebanon's troubles did not begin with Israel's military campaign in the summer of 1982. Internal warfare in Lebanon goes back hundreds of years, and certainly for the past 8 years or more that country has been in a State of constant warfare suffering and chaos involving its various communities, Christian, Moslem and Druze, as well as the incendiary influence of the PLO terrorists and the Syrian troops that invaded Lebanon in 1976. Let's remember that nearly 100,000 Lebanese lost their lives and an estimated million persons were made homeless before Israel found itself forced to act to put a stop to PLO aggression directed against Israel from its bases in southern Lebanon. On June 6, 1982, the Israel defense forces followed a long tradition of protecting Jewish life. On that day the Israel defense forces launched their offensive against the Military stronghold the PLO had established in Lebanon and which had become a state within a state and served as a base for international terror.

Israelis were not the only victims of this terror. Every Jew, Jewish institution, and school became a target. The killers were not only Arabs anymore. The PLO became the godfather of international terror. The PLO perpetrated terrorist attacks on Israel from Lebanese territory. These attacks were never against military targets but rather, against defenseless civilians.

The murder of children in Maalot and the coastal road massacre were typical of the PLO modus operandi. The vicious attempt on June 3 on the life of Israel's Ambassador in London, Shlomo Argov, was only the last in a long series of violations, including the mining of roads, shootings and bombings in market places, schools and kindergartens.

These violent acts were not directed solely against Israelis. Jews who came to the Portuguese synagogue in Antwerp to celebrate Simchat Torah, their brethren in Brussels, who joined the Rosh Hashana services and other innocent worshippers in Paris, Vienna, and Rome were murdered by the same hatred because they were Jews. No sovereign state could tolerate such a situation. The crippling attack on Ambassador Argov was merely "the last straw" which led to "operation peace" for Galilee.

The operation aimed at destroying the PLO's reign of terror in Lebanon and bringing peace and tranquility to our citizens in the Galilee. It is the United States and Israel's common objectives to see the emergence of a revived independent Lebanon, free of all foreign forces, its sovereignty restored and its territorial integrity preserved.

To reach these goals, Israel and Lebanon entered into intensive negotiations with the help of the talented Secretary of State Shultz and with the good offices of Ambassadors Habib and Draper. An Agreement was concluded on May 17, 1983.

Despite previous statements, Syria refused to withdraw its troops from Lebanese soil and rejected the Agreement ending the state of war between Lebanon and Israel. This reflects Syria's aspirations in Lebanon. By the fall of 1976 Lebanon had ceased to exist as an independent state. The Syrian army which invaded Lebanon on June 1, 1976 under the guise of an 'Arab deterrent force' was never recalled. Right now Syrian troops control 57% of Lebanon. This fulfills the long-standing ambition of Damascus to impose its hegemony over what it has always considered to be a part of "Greater Syria". Ahmed Iskandar, Syrian Minister of Information, recently made it clear in an interview in June 1983 to the Beirut weekly Monday Morning. He stated:

"The present and future historical and geographical bonds between the Syrian and Lebanese twins are too strong to allow anyone to step between them. Lebanon and Syria are one people in one country who were coerced into partition by the British and the French. The relationship between lebanon and Syria is not a relationship between two men or two parties to allow for any form of protocol. It is a relationship of history, of present and of future—a relationship of destiny." For this same reason Syria never recognized the Lebanese state or established diplomatic relations with it.

U.S. Secretary of State George Shultz, appearing on September 21, 1983 before the House Foreign Affairs Committee in Washington, D.C., put the blame for the current Lebanese war squarely on the shoulders of Syria and the Soviet Union. He said:

"Our policy, and that of Lebanon, has had two tracks: Foreign troop withdrawal and national reconciliation. Both these tracks have been blocked by Syria, which has been heavily rearmed by the Soviet Union since last summer . . . Syria, unlike Israel, has been unwilling to negotiate with Lebanon over how to reconcile its security concerns with Lebanon's sovereign right to follow its own path. The question arises whether Syria's aim is to assure its security or to assure its domination of Lebanon.

At the same time, Syria is using its leverage within Lebanon to obstruct the process

of national reconciliation. Indeed, Syria has instigated and organized political opposition within Lebanon and has armed several factions engaged in military actions against the legitimate government."

Syria's vehement oppositon to the Lebanese-Israeli agreement should not be allowed to continue with impunity. President Reagan, in his press conference Wednesday, reacted to Syria's refusal to evacuate its forces from Lebanon as "foot dragging." That is an understatement. The fact that Syria occupies more than half of Lebanon's soil should be decried in every international forum.

The international community should raise its voice against this occupation which blocks the only chance of restoring a central government that can exercise its sovereignty over the whole country. Diplomatic pressure and sanctions should signal Syria that the free world cannot tolerate foreign forces tearing apart Lebanon and its citizens from the basic right to rule themselves independently.

Israel has decided to begin its part of the general withdrawal by redeploying its own forces further south along the Awali River. There is an understanding with all parties concerned that the area being evacuated by the Israel Defense Forces will be taken over by the Lebanese army. The Israeli redeployment, therefore, is by no means a step towards the partition of Lebanon between Israel and Syria but exactly the contrary—it is an attempt to help the Lebanese army expand the area under its control. It is Israel's fervent desire to complete the withdrawal to behind the international borders as soon as the threat posed to Israel's citizens by the continued presence of Syrian forces and PLO terrorists on Lebanese soil is removed.

Two weeks ago Prime-Minister Yitzak Shamir in his address announcing his new cabinet made it absolutely clear. He stated "since we destroyed the terrorist infrastructure in Lebanon, there is no need for our military presence on its soil, and we would be willing to return to our borders the moment the security of the Gallilee is assured."

SENATE JOINT RESOLUTION 194, THE FURTHER CONTINUING RESOLUTION, FISCAL YEAR 1984

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. DOMENICI. Mr. President, I rise in support of Senate Joint Resolution 194, the further continuing appropriations resolution for fiscal year 1984, as reported by the committee.

Senate Joint Resolution 194 provides appropriations through the end of fiscal year 1984 for activities funded in five appropriation bills. These are: Agriculture; Commerce-State-Justice; Defense; Foreign Assistance; and Treasury-Postal Service-General Government.

Conferences recently have been completed on two of these measures—the Agriculture and Commerce-State-Justice bills. This resolution incorporates those conference agreements. The resolution also provides funds for a few programs normally funded in other appropriation bills.

I would like to commend my distinguished colleague and chairman, Senator HATFIELD, for offering a joint resolution which is below the Appropriations Committee's 302(A) allocation under the budget resolution by $8.3 billion in budget authority and $0.3 billion in outlays in fiscal year 1984, when outlays from prior-year budget authority, action already taken on enacted bills, and possible later requirements are taken into account.

However, I must stress the fact that the committee is quite close to its outlay allocation under the budget resolution only 5 weeks into the fiscal year. We still have to act on a number of supplemental appropriation bills for fiscal year 1984.

I therefore urge my colleagues to support Senate Joint Resolution 194, as reported by the Appropriations Committee, and to oppose amendments that would cause the committee to exceed its allocation under the budget. I will oppose any such amendments.

Mr. President, I ask that a table showing the relationship of Senate Joint Resolution 194, as reported by the committee, together with outlays from prior-year budget authority and other actions already completed—including enacted regular appropriation bills, possible later requirements, and adjustments to keep mandatory programs at the levels assumed in the budget resolution, to the Appropriations Committee's 302(A) allocation under the budget resolution be printed in the RECORD.

The table follows:

PRELIMINARY ESTIMATE: SENATE-REPORTED FISCAL YEAR 1984 2D CONTINUING RESOLUTION, DETAIL OF ACTION TO DATE PLUS OTHER REQUIREMENTS[1]

[In billions of dollars]

Appropriations subcommittee	Enacted to date, 2d continuing resolution and other actions[2]		Possible later requirements		Mandatory adjustment		Total action to date, adjusted		Senate 302(b) allocation[3]		Action to date compared to 302(b)	
	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay	Budget authority	Outlay
Agriculture	34.4	22.7	0.8	0.5	0.1	0.2	35.4	23.3	35.6	23.1	−0.2	0.2
Commerce	10.6	11.4	.2	.1		.1	10.7	11.4	10.9	11.4	−.2	
Defense	247.0	222.0	5.3	5.3	−.1	−.1	252.2	227.1	254.2	227.9	−2.0	−.8
District of Columbia	.6	.6					0.6	0.6	0.6	0.6		
Energy-Water	14.5	14.7				−.1	14.5	14.6	14.9	14.7	−.4	−.1
Foreign Operations[4]	20.6	9.8	−8.5				12.1	9.8	12.1	9.8		
HUD-Independent	55.8	57.9	.2	.3	.4	.4	56.3	58.6	57.8	58.2	−1.4	.4
Interior	8.4	9.3	.1	.1		−.1	8.5	9.3	8.3	9.3	.2	
Labor-HHS	104.8	108.2	.5	1.0	1.5	1.3	106.8	110.5	109.0	110.5	−2.2	
Legislative Branch	1.5	1.5					1.5	1.5	1.5	1.5		
Military Construction	7.1	7.1					7.1	7.1	7.3	7.1	−.2	
Transportation	10.9	25.4					10.9	25.4	10.9	25.4		
Treasury	11.7	11.6	.2	.2			11.9	11.8	11.9	11.8		
Subtotal	527.8	502.3	−1.2	7.4	1.9	1.4	528.5	511.2	534.9	511.3	−6.4	−.2
Unassigned to subcommittees			1.0	1.0	.1	.1	1.1	1.2	2.9	1.3	−1.9	−.1
Total	527.8	502.3	−.2	8.5	2.0	1.5	529.6	512.3	537.9	512.6	−8.3	−.3
Supplemental appropriations:												
H.R. 3959, Senate-passed	.4	.3	−.2	−.2			.2	.2			.2	.2
Total with H.R. 3959	528.2	502.6	−.4	8.3	2.0	1.5	529.8	512.5	537.9	512.6	−8.0	−.1
H.R. 3958, Senate reported	.1	.1					.1	.1			.1	.1
Total with supplemental	528.3	502.7	−.4	8.3	2.0	1.5	529.9	512.5	537.9	512.6	−7.9	−.1

[1] This table has been prepared by the staff of the Senate Budget Committee based on their interpretation of the Senate-reported 2d continuing resolution.
[2] Includes enacted appropriation bills or the 2d continuing resolution, and other prior actions.
[3] Includes reserve fund allocations made on Sept. 14 and Oct. 27, 1983.
[4] Possible later requirement reflects adjustment for International Monetary Fund/General Agreement to Borrow appropriation, which was assumed in the budget resolution for fiscal year 1983.

Note: Details may not add to totals due to rounding.

AGEISM IN THE CARE OF THE FRAIL AND ILL ELDERLY

● Mr. GRASSLEY. Mr. President, as a member of the Special Committee on Aging and chairman of the Aging Subcommittee of the Labor and Human Resources Committee, I have had the opportunity to hear numerous witnesses from the fields of gerontology and geriatrics recount the employee attitude problems they face in providing quality care for the frail and ill elderly.

Recently I read a short piece in the November 11, 1983, issue of the Journal of the American Medical Association which movingly points out this ageism problem. Mr. President, I ask that this short piece by Dr. Paul E. Ruskin, be printed in the RECORD at this point.

The material follows:

[From JAMA, Nov. 11, 1983]

AGING AND CARING

(By Paul E. Ruskin, M.D.)

I was invited to present a lecture to a class of graduate nurses who were studying the "Psychosocial Aspects of Aging." I started my lecture with the following case presentation:

The patient is a white female who appears her reported age. She neither speaks nor comprehends the spoken word. Sometimes she babbles incoherently for hours on end. She is disoriented about person, place, and time. She does, however, seem to recognize her own name. I have worked with her for the past six months, but she still does not recognize me.

She shows complete disregard for her physical appearance and makes no effort whatsoever to assist in her own care. She must be feed, bathed, and clothed by others. Because she is edentulous, her food must be pureed, and because she is incontinent of both urine and stool, she must be changed and bathed often. Her shirt is generally soiled from almost incessant drooling. She does not walk. Her sleep pattern is erratic. Often she awakens in the middle of the night, and her screaming awakens others.

Most of the time she is very friendly and happy. However, several times a day she gets quite agitated without apparent cause. Then she screams loudly until someone comes to comfort her.

After the case presentation, I asked the nurses how they would feel about taking care of a patient such as the one described. They used words such as "frustrated," "hopeless," "depressed," and " annoyed" to describe how they would feel.

When I stated that I enjoyed taking care of her and that I thought they would, too, the class looked at me in disbelief. I then passed around a picture of the patient: my 6-month-old daughter.

After the laughter had subsided, I asked why it was so much more difficult to care for a 90 year old than a 6-month-old with identical symptoms. We all agreed that it is physically easier to take care of a helpless baby weighing 15 pounds than a helpless adult weighing 100, but the answer seemed to go deeper than this.

The infant, we all ageed, represents new life, hope and almost infinite potential. The demented senior citizen, on the other hand, represents the end of life, with little potential for growth.

We need to change our perspective. The aged patient is just as lovable as the child. Those who are ending their lives in the helplessness of old deserve the same care and attention as those who are beginning their lives in the helplessness of infancy.●

S. 1739—DAVID STOCKMAN DISCUSSES THE PARAMETERS OF AN ACCEPTABLE BILL

● Mr. ABDNOR. Mr. President, I am very gratified that the Committee on Environment and Public Works earlier this week ordered reported S. 1739, the Water Resources Development Act of 1983. This is very important legislation, a bill that must pass during the next session of Congress.

I know that some of my colleagues continue to have questions over exactly how the bill will work, particularly in title V, Inland Navigation, and title X, Harbor Development.

To assure that we have as much information as possible, the Subcommittee on Water Resources will hold oversight hearings on January 24 and 25, 1984, to take testimony on those two titles. These issues are difficult ones. With the budget problems our Nation faces, we must address the issue of partial cost recovery. If it can be shown that our proposals fail to strike a responsible middle course, recognizing the budget problems confronting this Nation, I shall be the first to seek to amend S. 1739.

I urge anyone wishing to testify to contact the committee as soon as possible.

To help clarify the issue, I recently wrote to Director David A. Stockman of the Office of Management and Budget to seek the views of the administration on various aspects of the bill. I ask that a copy of my letter, together with Mr. Stockman's reply, be printed at this point in the RECORD.

The letters follow:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., October 6, 1983.

Hon. DAVID A. STOCKMAN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR DAVE: For the past 2½ years, the Committee on Environment and Public Works has been working with the Administration on legislation to augument the Federal water resource development programs. On October 19, the Committee will begin its mark-up of S. 1739, as reported by the Subcommittee on Water Resources.

This legislation includes provisions relating to cost-sharing for water project development, a proposal to control spending on the inland navigation system, as well as a number of other initiatives. While it does not include a provision on port development, such a proposal is likely to be considered soon after the 19th, then possibly married to S. 1739 in conference with the House.

To help me and our Committee, it would be valuable to have the Administration's views on a number of critical water policy issues:

What are the minimum components that must be included in any water resource development bill in order to obtain the President's signature?

Are cost-sharing reforms necessary? To what degree?

Does the inland navigation title of S. 1739, evolving toward a system of cost-sharing, produce a framework the Administration can accept? Will the Administration accept indexing of the Federal payment to inflation?

Does the Administration believe a resolution on the port development legislation needs to be obtained?

How is the new-starts appropriations bill compatible with consideration of S. 1739?

It would be particularly helpful to have your views on these points in time for our Committee's meeting on October 19.

Sincerely,

JAMES ABDNOR,
Chairman,
Subcommittee on Water Resources.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., October 7, 1983.

Hon. JAMES ABDNOR,
Chairman, Subcommittee on Water Resources, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR JIM: I am pleased to respond to your request for the Administration's views on water resources legislation.

Your letter raised a number of specific questions relating to S. 1739, as reported by the Subcommittee on Water Resources. Before I respond to the policy questions relating to features of the bill, however, I would like to make an important procedural point.

Just yesterday, the House of Representatives passed and sent to the Senate an FY 1984 supplemental appropriations bill that provides funding for 43 "new starts." Among the projects funded under the House bill are several major navigation improvements and a large number of irrigation, flood control, and recreational projects that have not been authorized by prior law.

The Administration cannot support initial construction funding for projects that have not been authorized because we believe that the authorization process provides an irreplaceable opportunity to review the merits of each project. In addition, we believe that the Congress must determine the final shape of our nation's policies on construction cost-sharing and user fees for inland waterways and port development before directing funds to new projects. For these reasons, as I informed Chairman Whitten earlier this week, the Administration opposes enactment of any "new start" appropriation until after enactment of authorizing legislation that addresses these policy issues.

To answer the other questions your letter raised:

We believe that authorizing legislation must at a minimum address construction cost-sharing, inland and port user fees, and select for authorization those new projects that generate very favorable benefit/cost ratios.

The inland navigation title of S. 1739 represents an interesting new approach to this difficult issue. The Administration's willingness to accept this concept will depend on the degree to which we conclude that it will lead over time to significantly greater cost-sharing with waterway users. Because indexing the Federal payment would tend to prolong the period in which the Federal

Government had virtually total responsibility, we would not support this change.

The Administration looks forward to working with you and your Committee over the weeks ahead to bring a successful conclusion to our mutual effort to enact these important water resource policy changes.

Sincerely,

DAVID A. STOCKMAN,
Director.●

TRIBUTE TO FRANCIS M. MULLEN—ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION

● Mrs. HAWKINS. Mr. President, today Francis M. Mullen was sworn in as Administrator of the Drug Enforcement Administration. This is a great day for America's parents, youth, and all concerned about youth drug abuse and drug related crime. Under his leadership, the Drug Enforcement Administration has been a model for effective and aggressive action.

Mr. President, I ask that remarks of the Honorable William French Smith, Attorney General of the United States be printed in the RECORD.

The remarks follow:

REMARKS OF THE HONORABLE WILLIAM FRENCH SMITH

Ordinarily, at ceremonies of this kind, I welcome the audience to the swearing-in of an officer I refer to as "new." But Francis M. Mullen, Jr., already qualifies as a veteran of sorts—he has been acting administrator of the Drug Enforcement Administration since July 13, 1981. So let me instead welcome all of you here this afternoon to the oath-of-office ceremony for the long-time administrator of the Drug Enforcement Administration—a ceremony that in my mind took place two years ago.

DEA has offices throughout the nation and in 42 foreign countries. It is the lead federal agency in enforcing narcotics and controlled substances laws and regulations. The agency's primary responsibilities include the investigation of major narcotics violators; enforcement of regulations governing the legal manufacture, distribution, and dispensing of controlled substances; management of a national narcotics intelligence system; coordination with other law enforcement authorities both at home and abroad; and training, scientific research, and information exchange in support of drug traffic prevention and control.

DEA is crucial to this administration's effort to strengthen our defense against drug trafficking, now a multi-billion dollar business. The eventual immobilization of the major drug traffickers depends significantly upon the efforts of DEA, and thus of its leadership.

Bud Mullen, a native of Connecticut and a graduate of Central Connecticut State College, has devoted his career to the enforcement of law. He has served as a local police officer, a Special Agent of the FBI, an Assistant Special Agent in Charge, and a Special Agent in Charge. He has worked in various administrative capacities for the FBI, most recently before his appointment to DEA as the Executive Assistant Director of Investigations in that capacity, Mr. Mullen, as one of the three top management officials of the FBI, supervised all of the bureau's intelligence and criminal operations.

For the past two years Mr. Mullen has served with distinction as acting administrator of the DEA. Today, I am very pleased that now, finally, we can drop the word "acting" and refer officially to Bud as Administrator Mullen.

Chief Justice of the United States Warren Burger is with us today to administer the oath of office. Mr. Chief Justice.

(Chief Justice Warren E. Burger administered the oath of office to Mr. Mullen.)

This year the drug enforcement administration marks its tenth anniversary. The occasion offers an opportunity for us to appreciate more fully the significant law-enforcement role of the agency at a time when more and more crime is drug-related.

After Prohibition, organized crime sought to find other sources of income to make up for the millions of dollars formerly gained through the illicit trade in liquor. These included gambling, loan-sharking, prostitution and—for the first time on the large scale—narcotics.

When organized crime is mentioned, a traditional syndicate such as La Cosa Nostra, a confederation of 25 families, immediately springs to mind. Today, however, dangerous traditional syndicates like the LCN have competition. In the past two decades new organized criminal enterprises have emerged—all in primary pursuit of the drug business that had previously been monopolized by the conventional syndicates. These new enterprises include outlaw motorcycle gangs, prison gangs, and still others such as the Cocaine Cowboys, who operate out of Colombia.

As organized crime has evolved in this country, it has meanwhile reached out and made common cause with equivalent crime networks abroad, in order to produce and distribute illegal drugs. Thus the drug business today is a domestic enterprise that has significant organized connections overseas.

This illegal business is, of course, extremely lucrative, with profits annually running into the tens of billions. These profits are used to finance many other illegal activities including gambling, pornography, prostitution, extortion, loansharking, fraud, weapons trafficking, and the corruption of public officials.

These are not the only crimes related to drug trafficking. A study by the Bureau of Justice Statistics shows that at the time of their offenses, one third of all prisoners incarcerated in 1979 were under the influence of drugs. Many who commit predatory street crimes take drugs on a regular basis.

And then there is the matter of what drugs do to the individual who uses them. Some years ago it was fashionable to distinguish between drug use and drug abuse. Now we know that such a distinction bears little relationship to the world we experience. Drug use results all too frequently in body and particularly mind abuse. The lives of too many of our young people have been impoverished by drug use. Those actors, athletes, politicians, and other high-profile figures of our time who roll from high to high are communicating a message of devastating impact to our youth, our most valuable resource. By encouraging demand, they are aiding the drug cartels.

Every law-abiding citizen should be pleased that there exists a federal agency with principal authority for enforcing the drug laws. Those of us involved in law enforcement are pleased that there is a Drug Enforcement Administration—and we are immensely proud of its accomplishments.

DEA averages about 1,000 arrests per month and about half as many convictions per month. The agency is dramatically increasing its seizures of illegal drugs. DEA doubled its seizures of heroin from 1981 to 1982, and for the first half of 1983 the amount seized is already 80 percent of that in 1982. The story is almost the same in regard to cocaine.

As a supplement to the ongoing federal drug enforcement effort, the FBI was given concurrent jurisdiction with DEA over drug offenses in January, 1982. The teamwork already is paying huge dividends, and promises to pay more. The number of joint DEA/FBI cases jumped from a total of 12, in 1981, to 600, at the end of October. The number of Title III wiretaps increased during the same period by 178 percent. The information and intelligence bases of the two agencies have been expanded, and forensic laboratory support increased, DEA and FBI have cross-trained their agents in order to enhance their already improved effectiveness in the field.

As the lead agency for drug enforcement, DEA has played a crucial role in other areas of this administration's unprecedented effort to handcuff organized crime and slow the flow of illegal drugs between and across our borders.

DEA has joined the FBI, Customs, ATF, IRS, and other federal agencies to make the South Florida Task Force a recognized success. That task force, instituted last year, is the model for the organized crime/drug enforcement task forces that now blanket the nation. These 12 task forces, each assigned to a geographical region, are directing their efforts against the uppermost levels of the drug cartels. Although they only recently have become fully staffed, they already are scoring notable achievements. The task forces have secured 145 indictments involving more than 800 defendants and have more than 400 investigations underway. DEA has been involved in substantially more than half of all the cases to date, devoting some 250,000 hours to the work of the task forces.

Now I know some have said that recent increases in the availability of drugs mean that we are failing and that, in any event, the fight is hopeless. There are two points that should be made. One is that there is no question that this administration has vastly improved the drug enforcement and interdiction efforts of the federal government—and we have the DEA to thank for much of that improvement. Second, the increased supply of drugs—despite our greater seizures of drugs—is due to the fact that criminals today are trying to bring substantially greater amounts of drugs into the country than ever before.

The current situation underscores how necessary it was for this administration to take new steps to combat the drug problem—both at home, where we have increased the funding and heightened the efficiency of our law enforcement efforts, and abroad, where we have systematically sought to enlist the cooperation of foreign source and transit countries. With so great a problem, we have had to institutionalize our efforts against it—just as we have done against organized crime with the strike forces. And we have had to work to reduce not only the supply of drugs but also, to the extent we can, the demand.

In this regard, DEA and the FBI are providing advice on illegal drugs and drug trafficking to the professional football, baseball, and basketball leagues. Others, including First Lady Nancy Reagan, are working to make children of all ages aware of the dan-

gers of drugs. I am heartened by a recent study indicating that drug use among high school students has declined.

We are making steady progress in the battle against illegal drugs. We will not give up. We cannot give up. To say we should throw down our weapons and surrender because of the increased supply of drugs is like saying police should disband when a town's crime rate goes up. The many dangers posed by illicit drugs tell us we must continue the battle. It will not be won today or tomorrow or the next day. This is a long-term engagement, and it will require the cooperative efforts of federal law enforcement agencies both among themselves and with state and local governments, and also with foreign governments. It will also require the labors of concerned citizens to alert their neighbors and neighborhoods to the tragic consequences of drug use.

Today I am proud to stand beside the administrator of the Drug Enforcement Administration. Bud Mullen has served his country well throughout his career. I have every confidence that he will continue to do so, and that DEA will remain a most aggressive law enforcement agency, one that continues to lead the fight against illegal drugs.●

VETERANS DAY

● Mr. LAUTENBERG. Mr. President, the press of business here in the Senate may keep many of us from special ceremonies at home tomorrow to honor American veterans. I want to take this opportunity to note the observance of Veterans Day and the congressional commitment to veterans of our armed services.

On Veterans Day, we pay tribute to those who have served the people and the principles of the United States by donning the uniform of military service. We honor and recognize them for their courage and their sacrifice, in war and in peace.

Our tribute this year is made more compelling by events of recent weeks. Among the marines dead in Lebanon were five young men from New Jersey. Among the marines and soldiers dead in Grenada were three young men from New Jersey. Four others from my State suffered wounds in action there. We honor their courage, their patriotic spirit, and their devotion to duty. We hope for the safe and timely return of our other soldiers and sailors and marines still in action.

Those of us who served in World War II remember a unity of purpose and a clear national commitment to preserve the freedoms that have been the hallmark of America's history. Though our Armed Forces have fought in other, more controversial conflicts since then, there is no doubt in my mind that younger veterans share the same commitment to freedom.

When we returned home from Europe and the Pacific almost 40 years ago, as veterans, we joined together in building the United States into the most powerful nation on Earth. Veterans returning from other conflicts and service in the decades since joined us in this effort. The leadership that veterans have provided in their communities and to our society have boosted our standard of living and broadened opportunities for all people to share in our prosperity.

The commitment of the Government of the United States to veterans, beginning with the landmark GI bill of 1944, has been part of this effort. We received assistance with education, loans for homes and businesses, and insurance. I, myself, graduated from college under the GI bill. For those with special needs, basic medical, disability and pension programs have eased the way.

Preference in Government employment, attention to special problems like radiation and agent orange exposure, and improved levels of veterans services and medical care are continuing evidence that this commitment will never be abandoned. In fact, our commitment must grow to accommodate the new problems our veterans face. The return by our Government of the loyalty given in military service is the foundation of our commitment.

Our Democratic institutions, our economic strength, our technological and scientific drive, and our vigor as a free people are all vital to our future and that of our world. To keep the peace in which we thrive requires, too, a strong national defense. We are taking great steps to increase our military capabilities and readiness. We are working to insure that our men and women in uniform are equipped, trained and motivated. I know we all share a commitment to those who now serve our country.

I stand behind our Government's commitment to veterans. And I pledge to see that commitment continued for those serving in our Armed Forces today and for those who will serve in the future.

I am convinced veterans can look to the future with confidence. While veterans have left military service, each continues to serve his or her country and communities in many ways. The loyalty and sense of responsibility instilled in us by our military service and the spirit and sacrifice of those we honor on Veterans Day demand no less.●

S. 2058—DISPOSAL OF CERTAIN LANDS AT MONTAUK AIR FORCE STATION

● Mr. D'AMATO. Mr. President, I am pleased to join with my distinguished colleague, the senior Senator from New York in cosponsoring S. 2058, a bill to require the disposal of certain lands at the Montauk Air Force Station in the Town of East Hampton N.Y., for park and recreation purposes.

The former air station, initially owned by the Army and known locally as Camp Hero, has served as a radar site since World War II. The approximately 320-acre Montauk facility was closed in 1978 and declared surplus property in 1981. When local officials came to me then to outline a housing plan by which the town of East Hampton would acquire the 27 vacant military housing units on 25 acres, a 2-year effort ensued to convince the U.S. General Services Administration and the U.S. Department of Housing and Urban Development to convey the property to the town for resale as low- and middle-income family housing.

Finally, last June, the town of East Hampton took title to the parcel. After rehabilitation of these units, they will be sold to low- and middle-income year-round residents in the area. This eastern Long Island town recognized the acute shortage of affordable year-round housing in a region dominated by expensive second homes and created a viable program to address that problem.

Mr. President, now an even greater threat to this ecologically delicate region remains. Plans by the GSA to offer for public sale 278 acres of the former air station must be dissuaded. Surrounded on three sides by State parkland, this pristine acreage must remain in public, not private, ownership and free from the pressures of development.

Montauk's source of drinking water depends on a shallow, sole source aquifer that, over the years, has seen a dramatic increase in saltwater intrusion. Development of this site can only make a bad situation worse. Additionally, these extensive freshwater wetlands presently provide a habitat for many species of wildlife. They are in the direct line of the Atlantic flight path for migratory birds. For these reasons, the National Park Service, State, county, and local officials have unanimously recommended against the public sale of this parcel.

I, therefore, respectfully urge favorable consideration of S. 2058, which will prevent the additional sale.●

ADDRESS OF HANS ANGERMUELLER ON FOREIGN LENDING

● Mr. CHILES. Mr. President, I ask that the text of a speech given recently by Mr. Hans Angermueller, vice chairman, Citibank/Citicorp., before the Florida Bar Association be placed in the RECORD. Mr. Angermueller's remarks focus on the much debated issue of foreign lending. His presentation is both interesting and informative.

The speech follows.

INTERNATIONAL LENDING: TRADE, NOT AID

(Hans H. Angermueller)

Although it seems eons ago, it has only been slightly more than a year since all hell seemed to be breaking loose in the debt situation of the less developed countries. Mexico had run out of money and had just declared to the world that it couldn't meet its debt service payments. Within a short time, the number of nations in arrears in their international debt had risen to 34. Then came the IMF conference in Toronto in October of 1982. There the world's central and commercial bankers looked down the black hole and couldn't see any bottom.

Since then, lots of things have happened. Some $100 billion of international debt of some 15 countries has been, or is in the process of being, restructured—20 times more than the amount restructured in any previous year. Further, the IMF has signed $15.6 billion of loan agreements with over 30 countries, and various borrower governments have accepted austerity programs promulgated by the IMF while stretching out payments on official and private debt. In words often used by Winston Churchill, the year has been "not entirely uneventful."

Yet, with all this, the world is still trading. The global recession seems to be ending. Some recovery has started. And, most importantly, the world's financial system is still operating. While no one suggests that our problems are behind us, the void into which the bankers peered a year ago does not seem bottomless anymore.

There's no question that one year ago the health and stability of the international financial system was threatened. The external forces of the two oil shocks, one in 1974, another in 1979; a major global recession; the internal economic mismanagement in certain countries; and a significant decline from previous patterns in international lending by banks all posed a considerable risk to the world's financial system. That risk has not disappeared, but its gravity has abated. And, the reasons for this are quite easy to identify.

First, there has been no further oil shock. Indeed, the combined impact of global energy conservation; recession-motivated drop in demand; and a certain fraying of OPEC's internal cohesion have combined to push the price of oil from $34 to $29 or less per barrel. These developments will not last forever, but they have certainly come at an opportune time.

Second, the industrial nations' efforts to combat inflation have produced results. While interest rates are still high by historical standards, they have dropped and a sound recovery is under way in the United States, the world's largest economic engine. That recovery is spreading and will in due course reach the developing world.

Third, there has been a remarkable degree of coordination among the IMF, the major central banks, and a handful of large commercial banks in addressing two of the problems that created the crisis. They have done this by: (a) persuading various borrower countries to adopt internal adjustment programs to correct the effects of economic mismanagement as a precondition to further loans; and (b) persuading a few official agencies and a very large number of private commercial banks throughout the world to continue to lend to problem countries.

That job is not complete. The continuing problems of Brazil, Venezuela, and Argentina still have to be addressed, and new problems in different countries may arise. But the process is working. Yet, a real, critical weakness in the process is the risk of losing the continuing endurance and enthusiasm of the critical handful of people in the debtor countries and in the leading creditor institutions who are overseeing the process. It is noteworthy that, contrary to the prophesies, no individual or collective repudiation of debt has occurred. No radical debt reform proposals involving the voluntary or forced conversion of market-rate, short-term debt into below-market-rate, very-long-term debt, has occurred or has even been requested by the borrower countries. The process which is under way is admittedly larger in magnitude and in complexity than at any time in the pass but traditional principles are being applied.

Mexico's remarkable example illustrates the process. Beginning in December of 1982, Mexico instituted an austerity program. Ten months later, Mexico's public sector deficit as a percentage of GNP had been cut in half; its inflation rate was cut by almost one half; and it is now showing a trade surplus large enough to cover its interest and other current payments. Further, its private sector external debt will be current by year-end.

Economic forecasting is a hazardous pastime which try to avoid as much as I can. Yet I have consistently maintained that the world's debt problems are manageable. That isn't a forecast. It's an expression of basic confidence that, given the will to cooperate and a perception of what is at stake for all parties concerned, solutions will be found. I still be that. And I base that belief on Adam Smith's "invisible hand," the occasionally unfashionable idea that enlightened self-interest is the keystone of any agreement, be it a cross-border loan or any other business arrangement.

A somewhat subtle form of self-interest may occur when a borrower, whether sovereign or private, encounters an unexpected, but essentially temporary, liquidity problem. In such situations it may well be in the enlightened self-interest of the lender to forgo rigorous insistence on compliance with existing payment terms. Instead, it may be appropriate to show some flexibility—even to the extent of advancing new funds to help the troubled borrower bridge the liquidity problem. Such flexibility is particularly desirable in cross-border loan situations where an immediate resort to legal remedies—however emotionally satisfying that path may be—results in expensive and protracted proceedings with results that are unpredictable.

There is also a strong purely selfish argument for support of developing debtor nations. Rather than looking at a rescheduling of existing debt and the extension of new credit as an indication of desperation and imprudence, it might behoove our politicians to recognize that the continued viability of debtor nations will, in the long run, act to create industrial jobs—lots of jobs—in the United States. Twelve years ago, U.S. exports to the rest of the world totaled $25 billion a year. Today the figures stand at eight times as much—$200 billion a year, of which about one-quarter flows to the third world. Of all the new jobs created in the U.S. over the past twelve years, 80 percent are export related. In a world where the industrial nations are evolving into service and high technology economies and where developing countries are evolving into industrial economies, does it really help to stifle the developing country markets for our dwindling volume of manufactured goods?

There are those critics who contend that the IMF-mandated austerity programs in the developing debtor countries in fact create a counterproductive force—that they are too tough and that they reduce imports and thus do not create industrial country export jobs. In the short run, they may be right, but there are no instant solutions to problems that have been a decade in the making. Only by tiding the developing nations over their current liquidity bind will we restart the flow of world trade that prevailed for so long and to the betterment of all.

The most practical way the industrialized countries can serve their own enlightened self-interest is to accelerate their own economic recovery which is already under way. We can do this by getting better control over the forces that precipitated the late, unlamented recession. That means taking steps to control deficits, fight inflation, increase productivity and foster capital formation. By doing these kinds of things we can enhance the prosperity of our own people and thus provide markets for the raw material and added value exports of the third world which, in turn, will spread recovery to the peoples of the debtor nations.

The sooner this is done, the sooner our own export markets will open up and the economic chain reaction will resume. Admittedly, it's not going to happen overnight. It will take time.

This close interrelationship between the developing countries, their debts, world trade and industrialized country jobs, is not always fully grasped by the some of media, the politicians, or even the general public. Today's real problem is in great part a case of top little lending, not too much. The major public and private financial intermediaries, in their own enlightened self-interest, have to help the developing countries to remain viable until the economic recovery which is now well under way in the U.S. reaches into their internal economies. We believe that if the world economy grows at a real rate of about 3 percent annually from 1984 through 1986, then the current account deficits of developing countries will quickly return to normal. When that happens, debt and debt-service ratios will drop sharply, approaching where they were in the very early 1970's—before the 1974 and 1979 oil shocks so disrupted the world economy. A 3 percent world economic growth is not, by any means, unattainable. Since the end of World War II through the end of the 1970's when our current deep global recession began, the real growth rate of the world economy averaged about 4 percent per year.

As the world's recovery progresses over this period, we must also focus on how the developing world will thereafter find its future long-term development capital.

When the oil shocks began in the early 1970's the private commercial banks, with the encouragement of the governments of the industrialized countries, substantially stepped up the pace of their cross-border lending to the developing world. The funding for this increase in lending was, of course, the enormous multi-billion dollar transfer of wealth to the OPEC countries which resulted from the 1974 quadrupling of crude oil prices.

In many cases, the loans, viewed with the clarity of hindsight, may not all have been appropriate for commercial banks to make. Yet the money lent did not just flow through the developing countries to pay for more oil. The developing world, by and large, put the funds to good use. Their export earnings grew at a compound annual

rate of 20.6 percent from 1974 to 1981. That rate is virtually identical to the 21.3 percent annual growth rate of their long-term external debt.

Historically, the current account deficits of the developing world have been financed to the extent of one-third by one-debt creating transfers such as grants and direct equity investment; one-third by loans from official agencies; and one-third by loans from commercial banks. After the second oil shock in 1979, the commercial bank share increased to over one-half until mid-1982 when Mexico ran out of dollars.

Then, not surprisingly, the commercial banks over-reacted and virtually slammed shut the lending window. The third world countries had no alternative but to stop external spending and to drain their hard currency reserves. As is looks right now, the third world's aggregate current account deficit which peaked at $108 billion at the end of 1981 will be less than $65 billion at the end of this year. That's a crunching 40 percent cut in twenty-four months! That's real adjustment and austerity!

Today and for the near future, there is no real alternative to solving the current third world liquidity problem except through the private commercial banking system, working with the IMF, continuing to make loans to the debtors countries.

You should understand that the private commercial bankers in doing this will be acting our of self-interest—enlightened self-interest in my judgment. They want to get their earlier loans back and to do so they have to decide to make new loans. That decision process—whether to put more money in or to cut and run—is as old as banking itself.

But as we look forward, we must begin to think about a better, more formal and less ad hoc arrangement to enhance long-term development and the promotion of world trade.

Private commercial banks have traditionally financed trade and short-term projects. The IMF has traditionally provided short- to medium-term funds to finance temporary payments imbalances. The World Bank and the accumulators of long-term obligations such as insurance companies and pension funds have traditionally been providing long-term credit for development projects. Entrepreneurs, corporate and individual, have traditionally provided direct equity investment. Each group plays its own role to satisfy its own risk/reward objectives.

In the crunch of the two oil shocks and the global recession and some perhaps less than enlightened self-interest, the commercial banks may have stepped beyond their traditional roles in extending what, in retrospect and to their surprise, has turned out to be long-term development credits. They are now paying a price for their excursion into this involuntary long-term financing. They are paying through low price/earnings multiples on their stock, higher levels of non-performing loans and a fair amount of publicity and criticism.

But the critical thing to remember is that the vast preponderance of investment in the developing countries comes form the savings of its own citizens and institutions. Net capital inflow from cross-border lending and direct investment, even though it runs into the billions of dollars, probably doesn't on average amount to much more than 10 percent of total third world domestic investment.

I personally doubt that either official institutions or private commercial banks will, in light of recent developments, step up their lending to the developing world for the next few years at the rates that prevailed in the late 1970's. But as I indicated earlier, the cooperative efforts of the IMF and the commercial banks will probably bridge the gap for this near-term period. However, better solutions must be found for the longer run.

Two alternatives present themselves:

One is to increase the flow of external direct investment. That will involve third world countries creating hospitable and fair climates for foreign investment. It will involve resisting the always present temptations of economic nationalism. The rules will have to benefit both the host country and the private foreign investors. These are politically, and maybe even culturally, difficult decisions, but they represent a course of action.

The other alternative is to improve domestic savings rates and the efficiency, reward and integrity of local capital markets. Historically, an increase in domestic savings has been associated with a reduction of current account deficits, although not necessarily on a 1-to-1 basis. Accordingly, a relatively small percentage increase in domestic savings will likely be accompanied by a large percentage reduction in external financing needs.

I have a further suggestion that, I think, would bring a greater degree of order and stability to the financing of long-term development. It stems from the realization that The World Bank has so far played rather a modest role in the great initiative launched in the summer of 1982 to save the international banking system. The IMF suddenly became the central actor in the rescue effort and its funds were involved in a manner which would have been unthinkable only a few months earlier.

There was no equivalent call to arms for The World Bank. Its capital was not reinforced. None of the rescue packages put together for heavily indebted countries stressed that The World Bank would be involved alongside the IMF in the debtors' economic management.

I would suggest that The World Bank can play a key leadership and coordinative role in promoting improved environments in the developing world to attract long-term loans and direct investment from external sources. I would suggest that it, together with the commercial and investment banks of the industrial world, can furnish ideas on how to enhance the efficiency and volume of the internal capital resources of the developing world.

To summarize the LDC debt situation, let me restate that mistakes have been made in the past, on all sides. However, massive corrective measures involving the troubled debtor countries, the private commercial banks and the official institutions—particularly the IMF—are under way. And, as this process moves forward, our energies should at the same time be focused on the future and a search for new answers. The past year has proven that obstacles which are perceived to be insurmountable are actually exaggerated shadows of the real issues and that men and women of competence, endurance and courage can deal with these issues. They have done so in the past and will continue to do so in the future.

Thank you.●

FINANCIAL SYSTEM CHANGES UNDER FEDERAL AND STATE LAW

● Mr. GARN. Mr. President, within the past few weeks, increased attention has been focused on changes occurring within our financial system under Federal and State laws. The Banking Committee has held numerous days of oversight and legislative hearings on such changes this year.

Several bills have been introduced in the past 11 months to expand bank holding company powers, impose moratoriums against nonbank bank activities, restrict the activities of State-chartered bank subsidiaries of holding companies, and apply the Glass-Steagall Act to nonmember State banks.

The powers bill is S. 1609, developed by the Treasury Department as a way of expanding services available from bank holding companies in a manner conductive to competition and to a safe and sound banking system. A few weeks ago, I stated my intention to introduce a broader financial services reform bill with a revised version of the Treasury bill as the centerpiece. Substantial progress has been made in drafting a broader package, although it has been slowed down because of other legislative priorities. I will introduce a bill before this congressional session ends.

It is my strong belief that congressional action on legislation to rationalize the confusing state of Federal banking statutes should be undertaken without statutory moratoriums being imposed affecting specific areas of the financial system. If the process does not result in overall legislative action next year, then perhaps the only option left would be a short-term moratorium. But, as I have repeatedly stated, moratoriums tend to be extended and serve principally as release valves. Thus, they should only be last resorts, when all else fails.

This week, two additional bills were introduced, one redefining the term "bank" in the Bank Holding Company Act in order to prohibit nonbank banks, sponsored by Senator HEINZ, and the second subjecting State bank subsidiaries of holding companies to the nonbanking activities restrictions of the Bank Holding Company Act, cosponsored by Senators HEINZ and DODD. Besides these bills, Senators have received letters from all sides urging or opposing enactment of the various moratorium proposals. While I may agree with some of the underlying purposes of these bills, such as the one aimed at the South Dakota law which permits banks in that State to engage in broader insurance activities out of State than in State, I remain convinced that the overall process would not be served by enactment of any of these proposals at this time.

For the past 6 months, we have seen a temporary slowing in the number of nonbank banks and other similar financial system innovations. This is due in large part to the Comptroller's moratorium on nonbank charters, the introduction of the various moratorium and divestiture bills, and the bank board's policy statement that investment banking firms will not be permitted to acquire thrift institutions. Few business managers, not knowing whether they would be permitted to acquire or retain operations under regulatory moratoriums or potential moratorium legislation, would take the risk of investing their organization's funds in a venture facing possible closure.

Moreover, with regard to insurance activities permitted under South Dakota law, it is my view that if Congress decides next year that such laws should be preempted to some extent, organizations utilizing such statutes are already on notice that Congress may be unwilling to declare them grandfathered. In sum, such organizations assume the risks of congressional action precluding the activities or the manner in which they are conducted under State law.

In view of my interest, and the interest of other Senators, in insuring that Congress be able to consider changes to our banking laws without them being outdated before enactment, I have asked the Comptroller of the Currency what he intends to do with his Office's nonbank bank moratorium. I have just received Comptroller Conover's response indicating that he will extend the moratorium until March 31, 1984. As he stated when he established the moratorium last April, Mr. Conover said that he is doing so in order that Congress have the opportunity to consider broad financial system issues. This extension will assist in that process just as it has helped for the past several months.

I would repeat that the imposition of a statutory moratorium would be counterproductive to congressional consideration of important banking legislation. A statutory moratorium would tend to be much more final than a regulatory moratorium and very difficult, if not impossible, to end.

Thus, I believe that the type of action taken by the Comptroller is appropriate and will provide Congress with additional time in which to pursue a legislative resolution to the issues confronting our financial system.

I request that the Comptroller's letter to me be included in the RECORD.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, D.C., November 10, 1983.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your recent letter, I am pleased to inform you of my intentions with respect to this Office's moratorium on the chartering of nonbank banks.

On April 6, 1983, the OCC imposed its moratorium. As you are aware, our intent at that time was to move the focus of attention from nonbank banks to the discussion of the broader issues. Only one new application to charter a nonbank bank has been filed since April 6, 1983. Clearly, the moratorium has had a dampening effect.

I fully support your efforts to introduce comprehensive legislation to deal with the major deregulatory issues facing the financial services industry. I share your belief that a moratorium imposed by Congress would be counterproductive to the objective of enacting comprehensive financial legislation. Under these circumstances, I think it is important for Congress to have sufficient time to consider the broader issues. Therefore, I plan to extend the OCC's moratorium on the chartering of nonbank banks for an additional three months. It would then expire on March 31, 1984.

Sincerely,

C. T. CONOVER,
Comptroller of the Currency.

THE DAIRY DILEMMA

● Mr. BAUCUS. Mr. President, yesterday the House of Representatives passed a dairy bill. This bill, similar to one the Senate passed last month, is yet another attempt to reduce the growing surplus of dairy products.

And, like the Senate bill, the House bill could be an economic disaster for dairy and livestock producers in Montana and other States.

All of us are concerned about the dairy surplus. This surplus is depressing prices for producers and causing confusion in the marketplace.

But the cure proposed in the Senate- and House-passed measures is worse than the disease. These bills will force dairy producers out of business and drive down the price of livestock.

S. 1529

The Senate bill is S. 1529. I opposed this bill when the Senate passed it October 7, even though it repeals the two 50-cent-per-hundredweight assessments on milk production that have so unfairly affected dairy producers.

S. 1529 would replace the dairy assessment with three steps designed to reduce dairy production and surpluses of dairy products:

The Federal support price of $13.10 would be reduced 50 cents;

A dairy diversion program would be established to pay dairy producers $10 per hundredweight to reduce production; and

A dairy sales promotion campaign would be undertaken supported by a 15 cent contribution from producers.

I opposed this bill because it does not recognize that milk prices vary State by State. The Senate rejected my amendment that would have corrected this flaw by exempting non-Federal marketing order areas from the diversion program.

The diversion program just does not make sense in States like Montana. In these areas, where there is no surplus, a diversion would cause enormous disruption of the marketplace.

Dairy producers would be forced to sell off part of their herds to meet the production reduction requirements. These sales, in turn, would increase the supply of cattle on the market and thereby depress the price of cattle.

Earlier this year, at the request of the Montana Dairymen's Association, I testified before a House committee. I noted that Montana dairymen do not unanimously endorse my position.

But, in view of the effect of a dairy diversion program on beef, poultry, and pork producers, I concluded that a reduction in the price support is a better approach.

The House yesterday made some improvements in S. 1529. The Secretary of Agriculture would have the authority to suspend the diversion program if he finds that dumping of milk cows on the market is adversely affecting the other livestock markets.

The diversion program also would be extended to 21 months from 15 months to facilitate more orderly marketing of culled dairy cows.

CONCLUSION

I will look closely at the final version of this bill before I vote. The dilemma for me is that if we do not pass a compromise dairy bill, Montana's dairy producers will be worse off because assessments once again would be in effect.

I have worked hard this year to help enact a fair, commonsense dairy program. I am still optimistic that this can be accomplished. I urge the Senate to make the changes needed to accomplish that goal.●

IN OPPOSITION TO THE DEFENSE APPROPRIATIONS BILL

● Mr. BAUCUS. Mr. President, I wish to go on record as being against approval of the appropriations bill for the Defense Department.

I am taking this action for two reasons: the priorities this bill sets for defense spending and its impact on the Federal deficit.

DEFENSE PRIORITIES

None of us want America to be weak militarily. We must be willing to spend what it takes to make America strong. But, despite the fact that this bill appropriates $251.6 billion for defense, I do not believe it will help us achieve this goal.

I support the nuclear triad: land-based missiles, submarines carrying ballistic missiles, and strategic bombers. I support moderate growth of these forces and just this week voted for two additional nuclear attack submarines.

These systems can survive an enemy first strike and can, in turn, inflict massive damage to an enemy. That makes them a strong deterrent.

But strategic forces are only a part of our national defense and their cost is very high. If it were our only or best defense then, perhaps, no price would be too high.

But that is not the case. Our conventional forces—the tactical nonnuclear weapons operated by soldiers in the field—are our first line of defense and our best hedge against the use of nuclear weapons.

Rescue missions like Iran, peacekeeping efforts in Lebanon, or actions like Grenada demonstrate the need for our conventional forces to act swiftly and effectively.

They must be able to respond at a moment's notice wherever they are needed—whether it is the Middle East, Central America, or Southeast Asia.

They must be prepared to fight new kinds of battles with appropriate tactics and weapons.

This year's budget increases our commitment to nuclear forces and I believe that is exactly the opposite of what we should do.

U.S. tactical forces are not in good shape. Since the Korean war, the number of tanks, ships, and fighters has declined sharply. Today the U.S. Navy is outnumbered 3 to 1 in attack submarines by the Soviet Union.

U.S. production of tanks has dropped tenfold since 1950, even though we are spending the same amount of money today. That is why I supported the M-1 tank.

The Pentagon has been following a misguided policy of funding new weapons systems at the expense of maintenance and training. The Pentagon's present plan would call for a drop in the budget for operation and maintenance over the next 5 years.

The Pentagon has been following a policy of buying new and expensive high-tech weapons while neglecting the personnel, readiness, and tactics.

We can have a strong military, but this is not the way to accomplish that goal.

FEDERAL DEFICITS

I oppose this bill for a second reason: Its impact on Federal deficits.

Last spring we made a big deal about the budget resolution. We debated long and hard about spending and taxes, entitlements, deficits—and defense.

We agreed, after all that, on a 5-percent real growth increase in defense spending. Simply stated: This bill exceeds that goal. This bill increases defense spending by more than 8 percent.

We set limits and ceilings and boasted at home about our firm resolve to hold to them. But the Senate has no discipline. If we approve this appropriation, we will be breaking our own promise.

The deficit needs to be dealt with now. It cannot be put off for even another year; it is becoming uncontrollable.

All of the debt accumulated by this Nation in its 200 year history will double in the next 6 years. The interest on this debt alone is 10 percent of the entire Federal budget.

By the end of next year, we will be $1.6 trillion in the red.

In closing, Mr. President, I simply wish to remind my colleagues that unless we begin to deal with uncontrolled spending and Government deficits, our demise will not come from military weakness, but from economic collapse.●

S. 128—THE EQUAL OPPORTUNITY RETIREMENT ACT OF 1983

● Mr. WARNER. Mr. President, I rise today to announce my cosponsorship of S. 128, the Equal Opportunity Retirement Act of 1983.

This important legislation, introduced earlier this year by the distinguished Senator from Delaware (Mr. ROTH), would allow spouses who have chosen to work in the home to establish their own individual retirement account, and contribute up to a maximum $2,000 per year to this account for tax deduction purposes.

Under current law, a spouse who has chosen to work in the home—referred to in the law as a nonworking spouse—is eligible for a deduction equivalent of only $250.

Although there are more and more women working outside the home, many married women are not paid members of the labor force and thus, under present law, are not eligible for full retirement protection.

Surely, Mr. President, reasonable people cannot possibly believe that it is fair to discriminate against a spouse who has decided to work at home to raise a family, rather than work outside the home for a taxable income?

Without this measure, the woman or man who stays at home to raise the family will continue to be financially dependent on whatever protection their spouses provide them, whatever social security benefits they may be entitled to as a surviving spouse, or as a result of what quarters of paid work they may have performed outside the home before or after their children were raised.

Mr. President, this is no way for America to treat those who have labored to provide good homes and proper upbringing for our Nation's future leaders.

These Americans deserve equity and the opportunity to earn for themselves financial security.

Under this bill, which I am today cosponsoring, the nonworking spouse would be entitled to her or his own IRA, independent of their spouse.

It is a matter of tax equity, a matter of equal opportunity, that access to this savings vehicle be extended to those who work in the home.

I am pleased to add my name to the growing list of supporters of this legislation which now includes our President.

I urge other Senators to do the same.●

S. 499—RELATING TO INDUSTRIAL DEVELOPMENT BONDS

● Mr. D'AMATO. Mr. President, on February 17, 1983, I introduced S. 499, legislation to allow continued use of industrial development bonds (IDB's) in the Small Business Administration's (SBA) section 503 program. This bill became necessary because of an Office of Management and Budget directive prohibiting the use of IDB's in the 503 program. The OMB erroneously contends that IDB's are a Government handout, which accomplish nothing that would not otherwise be achieved in the private sector.

IDB's used in the 503 program create jobs and spur economic development. Without the use of IDB's in this program, explicit congressional intent would be circumvented. Worse yet, economic development would falter and jobs would be lost. Since its inception on July 2, 1980, over 33,000 jobs have been created through the 503 program—at a cost-per-job figure lower than for any other job creating program run by the Federal Government.

Mr. President, for these reasons, the Senate Small Business Committee unanimously reported out S. 499. Since then, the Finance Committee has held hearings on the bill. It is my hope that the committee will promptly markup S. 499 so that the issue can be deliberated on the Senate floor.

Mr. President, now a new threat exists to the 503 programs. A little known provision of the Small Business Act prohibits total SBA 7(a) and 503 loans from exceeding $500 thousand. Though this provision was promulgated several years ago—prior, in fact, to the establishment of the 503 program—only recently has SBA realized that 503 program loans—as well as other SBA economic development programs—are calculated in the $500 thousand aggregate limit. This has severe implications for SBA's economic development activities.

For this reason, I am proud to join with my distinguished colleague on the Small Business Committee, Senator Pressler, as a cosponsor of S. 2069, legislation to exempt SBA economic development activities from the $500 thousand loan cap. Without this bill, legitimate development activities will be stifled. At this stage of the recovery, the Nation can ill-afford to restrict programs that create jobs.

Mr. President, I urge the Small Business Committee to hold hearings on S. 2069 at the earliest possible date.●

DEATH OF RABBI MORDECHAI M. KAPLAN

● Mr. LEVIN. Mr. President, 50 years ago next month, Rabbi Mordechai M. Kaplan, in the preface to a book he was about to have published, wrote about what he saw as the gravest danger to Judaism in America. It was not the danger of some outside force, but rather what he called the deadening acquiescence of apathy, and, at another point, with some irony, the peace of stagnation. Little could he know that at that very time the worst external threat against Jews in history—the Nazi Holocaust that ultimately took the lives of 6 million Jews in Europe and wiped out centuries-old centers of Jewish life—was building to explosive force. In America, Judaism—secure but somnolent—faced what Kaplan saw as a potentially destructive internal crisis. Kaplan declared:

> This spiritual stagnation (among Jews) in America must be disturbed Kaplan declared: and if some of the views expressed in this book will produce the slightest ripple in American-Jewish thinking, the book will have served a useful purpose.

The book that Rabbi Kaplan wrote half a century ago was entitled "Judaism as a Civilization—Toward a Reconstruction of American-Jewish Life." It created a great deal more than a slight ripple. It became, in effect, a blueprint for a new movement in American Jewry, and the Bible of what Rabbi Kaplan called a consistent and integrated philosophy of Jewish life in America—with the emphasis on life rather than on philosophy. The impact of that book, of subsequent writings by Kaplan, and—even more so—of Rabbi Kaplan himself has been felt well beyond the movement that came to be known as reconstructionism. The changes that have been wrought in American Jewry in the past half century as a result of Rabbi Kaplan's influence will stand as an enduring monument to this committed and dynamic leader, who died Tuesday at the age of 102.

Mr. President, it is perhaps not too sentimental to imagine that God gave Mordechai Kaplan the remarkable span of years that he enjoyed so that he might live to see—and then die happy—just how incredibly far reaching his impact had been. Just last week, a historic development occurred in the American Jewish community which few would have prophisied 50 years ago. It was an overwhelming vote by the faculty of The Jewish Theological Seminary of America to ordain women as rabbis. This is the seminary of conservative Judaism. It is the seminary that ordained Rabbi Kaplan, and which later employed him—for some five decades—as a professor of philosophy and homiletics, and where he influenced countless other rabbinical students, but where he always remained something of a maverick. From the beginning, Reconstructionsts accorded women complete equality and influenced the conservative movement, over the years, to give women certain rights—to be counted in a minyan for congregational worship, and to be honored at the reading of the Torah in the synagogue. The Reconstructionist Rabbinical College that Rabbi Kaplan and his son-in-law, Rabbi Ira Eisenstein, established 15 years ago, ordained women from the start. But to be alive to see this ultimate in religious equality being provided by the conservative seminary—that surely must be considered a rare wonderful reward. Even Moses was not allowed to see the promised land.

A visionary advocate of Jewish peoplehood, an ardent preacher of the centrality of Israel to Jewish life, a vibrant inspirer of creativity in Jewish music, art, liturgy, and education, a contemporary prophet enjoining his people to pursue the traditional ethical values of justice and peace—this was Rabbi Mordechai M. Kaplan, the quintessential American rabbi. May his memory be a blessing.●

ORDER FOR RECESS UNTIL 1 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this morning, it stand in recess until the hour of 1 p.m. this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are no more matters to be taken up that I am aware of that require our attention.

ORDER TO HOLD AT DESK—HOUSE JOINT RESOLUTION 408

Mr. BAKER. Mr. President, I have one request that appears to be cleared on both sides.

I ask unanimous consent that House Joint Resolution 408 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. BAKER. Mr. President, if there be no other Senators seeking recognition, and I see none, I move in accordance with the order previously entered that the Senate now stand in recess until the hour of 1 p.m., today.

The motion was agreed to, and at 3:39 a.m., the Senate recessed until 1 p.m.; today whereupon, the Senate reassembled when called to the order by the Presiding Officer.

NOMINATIONS

Executive nominations received by the Senate November 10, 1983:

THE JUDICIARY

James Harvie Wilkinson III, of Virginia, to be U.S. circuit judge for the fourth circuit, vice John D. Butzner, Jr., retired.

John R. Hargrove, of Maryland, to be U.S. district judge for the district of Maryland vice Shirley B. Jones, resigned.

HOUSE OF REPRESENTATIVES—*Thursday, November 10, 1983*

The House met at 10 a.m.

The Reverend Dr. Ralph W. Loew, Holy Trinity Lutheran Church, Buffalo, N.Y., offered the following prayer:

God of all ages and of our age, we thank You for all who have blessed us in the search of truth and justice.

Today we remember Martin Luther, whose birth we mark, whose life we celebrate, whose teachings open for us new understandings of the freedom we cherish.

Enliven us when we grow tired or complacent in the search for peace. Remind us of the faith which grants courage and alerts consciences.

Steady us, center us, quiet us as we deal with tough urgencies in this Chamber, enable us to be aware of Your presence.

We yearn for that faith which enables us to say here we stand: We can do no other, God helping us. We pray in the name of our Lord and Saviour. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. NIELSON of Utah. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

Mr. NIELSON of Utah. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. The Chair will postpone the vote until after we have sworn in the new Member from Georgia.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *November 10, 1983.*
Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from the Honorable Joe Frank Harris, Governor of the State of Georgia, indicating that the Honorable George (Buddy) Darden was elected to the Office of Representative in Congress from the Seventh District of Georgia in a Special Election held on November 8, 1983.

With kind regards I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

SWEARING IN OF THE HONORABLE GEORGE (BUDDY) DARDEN AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-elect kindly step forward with the dean of the Georgia delegation and the members of the Georgia delegation?

Mr. DARDEN appeared at the bar of the House and took the oath of office.

The SPEAKER. The gentleman is now a Member of the Congress of the United States and we welcome you.

THE JOURNAL

The SPEAKER. The question now is on the approval of the Journal.

Those in favor will vote "aye"; those opposed will vote "no." Voting will be by electronic device, and the gentleman from Georgia (Mr. DARDEN) is entitled to vote.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that following the vote we will go directly to consideration of the continuing resolution. Following the completion of the continuing resolution, we will then take the 1-minute addresses for the day.

The vote was taken by electronic device, and there were—yeas 351, nays 31, answered "present" 5, not voting 47, as follows:

[Roll No. 484]

YEAS—351

Ackerman	Bliley	Coleman (MO)	Eckart	Lehman (CA)	Rangel
Addabbo	Boehlert	Coleman (TX)	Edgar	Lehman (FL)	Ratchford
Akaka	Boland	Conable	Edwards (AL)	Leland	Ray
Albosta	Boner	Conte	Edwards (CA)	Lent	Regula
Alexander	Borski	Conyers	English	Levin	Reid
Anderson	Bosco	Cooper	Erdreich	Levine	Richardson
Andrews (NC)	Boucher	Corcoran	Erlenborn	Levitas	Ridge
Andrews (TX)	Boxer	Courter	Evans (IL)	Lewis (CA)	Rinaldo
Annunzio	Breaux	Coyne	Fazio	Lewis (FL)	Ritter
Anthony	Britt	Crane, Daniel	Feighan	Lipinski	Robinson
Archer	Brooks	D'Amours	Ferraro	Livingston	Rodino
Aspin	Broyhill	Daniel	Fiedler	Loeffler	Roe
AuCoin	Bryant	Dannemeyer	Fields	Long (LA)	Rogers
Badham	Burton (CA)	Darden	Fish	Long (MD)	Rose
Barnard	Campbell	Daub	Flippo	Lowery (CA)	Rostenkowski
Barnes	Carney	Derrick	Florio	Lujan	Roth
Bartlett	Carper	DeWine	Foglietta	Luken	Roukema
Bateman	Carr	Dicks	Foley	Lundine	Rowland
Bates	Chandler	Dixon	Ford (TN)	Lungren	Roybal
Bedell	Chappell	Donnelly	Fowler	Mack	Rudd
Bennett	Chappie	Dorgan	Frank	MacKay	Russo
Bereuter	Cheney	Downey	Franklin	Madigan	Savage
Bethune	Clarke	Dreier	Frost	Marlenee	Sawyer
Bevill	Clinger	Duncan	Fuqua	Marriott	Schaefer
Biaggi	Coats	Dwyer	Gaydos	Martin (IL)	Scheuer
Bilirakis	Coelho	Dyson	Gekas	Martin (NY)	Schneider
			Gephardt	Matsui	Schumer
			Gibbons	Mavroules	Seiberling
			Gilman	Mazzoli	Sensenbrenner
			Gingrich	McCain	Shannon
			Glickman	McCandless	Sharp
			Gonzalez	McCloskey	Shaw
			Gore	McCollum	Shelby
			Gradison	McCurdy	Shumway
			Green	McDade	Shuster
			Gregg	McEwen	Siljander
			Gunderson	McGrath	Sisisky
			Hall (IN)	McHugh	Skeen
			Hall (OH)	McKernan	Skelton
			Hall, Ralph	McKinney	Smith (FL)
			Hall, Sam	McNulty	Smith (IA)
			Hamilton	Mica	Smith (NE)
			Hammerschmidt	Michel	Smith (NJ)
			Hansen (ID)	Mikulski	Smith, Robert
			Hansen (UT)	Miller (CA)	Snowe
			Harrison	Mineta	Snyder
			Hartnett	Minish	Spence
			Hatcher	Moakley	Spratt
			Hefner	Mollohan	Staggers
			Hertel	Montgomery	Stangeland
			Hightower	Moody	Stark
			Hiler	Moore	Stenholm
			Hillis	Moorhead	Stokes
			Holt	Morrison (CT)	Stratton
			Hopkins	Morrison (WA)	Studds
			Horton	Mrazek	Stump
			Howard	Murtha	Sundquist
			Hoyer	Myers	Swift
			Hubbard	Natcher	Synar
			Huckaby	Nelson	Tallon
			Hughes	Nichols	Tauke
			Hunter	Nielson	Tauzin
			Hutto	Nowak	Taylor
			Hyde	Obey	Thomas (CA)
			Ireland	Olin	Thomas (GA)
			Jeffords	Ortiz	Torres
			Johnson	Owens	Torricelli
			Jones (NC)	Oxley	Towns
			Jones (OK)	Packard	Traxler
			Jones (TN)	Panetta	Udall
			Kaptur	Pashayan	Valentine
			Kastenmeier	Patman	Vander Jagt
			Kazen	Patterson	Vandergriff
			Kennelly	Pease	Vento
			Kildee	Penny	Volkmer
			Kindness	Pepper	Vucanovich
			Kogovsek	Perkins	Walgren
			Kolter	Petri	Watkins
			Kostmayer	Pickle	Waxman
			Kramer	Porter	Weaver
			Lagomarsino	Price	Weber
			Lantos	Pritchard	Weiss
			Latta	Pursell	Wheat
			Leach	Quillen	Whitehurst
			Leath	Rahall	Whitley

Whittaker	Wolf	Yates
Whitten	Wolpe	Yatron
Williams (MT)	Wortley	Young (FL)
Williams (OH)	Wright	Young (MO)
Wirth	Wyden	Zablocki
Wise	Wylie	Zschau

NAYS—31

Beilenson	Evans (IA)	Mitchell
Brown (CO)	Forsythe	Murphy
Byron	Frenzel	Roberts
Clay	Goodling	Roemer
Coughlin	Gray	Sabo
Craig	Guarini	Schroeder
Daschle	Harkin	Sikorski
Dickinson	Hawkins	Solomon
Durbin	Hayes	Walker
Edwards (OK)	Markey	
Emerson	Miller (OH)	

ANSWERED "PRESENT"—5

Dymally	Oakar	St Germain
Jacobs	Oberstar	

NOT VOTING—47

Applegate	Early	Martinez
Berman	Fascell	Molinari
Boggs	Ford (MI)	Neal
Bonior	Garcia	O'Brien
Bonker	Gejdenson	Ottinger
Broomfield	Gramm	Parris
Brown (CA)	Hance	Paul
Burton (IN)	Heftel	Schulze
Collins	Jenkins	Simon
Crane, Philip	Kasich	Slattery
Crockett	Kemp	Smith, Denny
Davis	LaFalce	Solarz
de la Garza	Lloyd	Wilson
Dellums	Lott	Winn
Dingell	Lowry (WA)	Young (AK)
Dowdy	Martin (NC)	

□ 1010

Mr. DYMALLY changed his vote from "nay" to "present."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4185. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4185) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. D'AMATO, Mr. ANDREWS, Mr. KASTEN, Mr. RUDMAN, Mr. WEICKER, Mr. HATFIELD, Mr. STENNIS, Mr. JOHNSTON, Mr. CHILES, Mr. HUDDLESTON, Mr. INOUYE, Mr. EAGLETON, Mr. PROXMIRE, Mr. HOLLINGS, and Mr. BUMPERS to be the conferees on the part of the Senate.

The message also announced that the President pro tempore, pursuant to Executive Order No. 12169, dated October 26, 1979, appointed Mr. LAUTENBERG as a member, on the part of the Senate, of the U.S. Holocaust Memorial Council.

□ 1020

FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 367 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 367

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984, the first reading of the joint resolution shall be dispensed with, and all points of order against the consideration of the joint resolution are hereby waived. After general debate, which shall be confined to the joint resolution and to the amendment made in order by this resolution and which shall continue not to exceed thirty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except one amendment in the nature of a substitute, if offered by Representative Wright of Texas, consisting of the text of H.J. Res. 403 as engrossed on November 8, 1983, said substitute shall be debatable for not to exceed forty minutes to be equally divided and controlled by Representative Wright and a Member opposed thereto, all points of order against said substitute are hereby waived, said substitute shall be considered as having been read, and said substitute shall not be subject to amendment except one amendment printed in the Congressional Record of November 9, 1983, by, and if offered by, Representative Hoyer of Mayland, said amendment shall be debatable for not to exceed twenty minutes, equally divided and controlled by Representative Hoyer and a Member opposed thereto, and all points of order against said amendment are hereby waived and said amendment shall not be subject to a demand for a division of the question. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with any amendment which has been adopted, and the previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate, I yield 30 minutes to my able friend, the gentleman from Mississippi (Mr. LOTT), and to myself such time as I may consume.

Mr. Speaker, House Resolution 367 makes in order House Joint Resolution 413, providing continuing appropriations for the fiscal year 1984. This is a modified open rule providing 30 minutes of general debate on the continuing appropriations resolution to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

As my colleagues know, this House is under considerable pressure to pass a continuing appropriations resolution since funding for a number of agencies of the Federal Government will cease as of midnight tonight. There are some six appropriations bills that have yet to be signed into law. These appropriations measures provide funding for a number of departments and agencies.

Due to the considerable time constraints under which this House is operating and the previous debate which has occurred on this measure, the Rules Committee has recommended that only one amendment be made in order to the continuing appropriation resolution. That amendment may be offered by Representative WRIGHT of Texas as an amendment in the nature of a substitute and would consist of the text of House Joint Resolution 403 as engrossed on November 8, 1983.

In other words, Mr. WRIGHT would be able to offer as a substitute the text of the joint resolution as amended in the Committee of the Whole and reported back to the House last Tuesday. This substitute will be debatable for 40 minutes with the time equally divided between Mr. WRIGHT and a Member opposed. All points of order are waived against the substitute, and it is considered as having been read.

Mr. WRIGHT's substitute would only be amendable by one amendment printed in the CONGRESSIONAL RECORD of November 9, 1983, if offered by Representative HOYER of Maryland. Mr. HOYER's amendment would update the status of the Treasury/Postal appropriations bill in the continuing resolution to reflect the fact that the House has passed a Treasury/Postal appropriations bill since the last continuing resolution was enacted by the Congress. Mr. HOYER's amendment will be debatable for 20 minutes, again with the time equally divided and controlled by Mr. HOYER and a Member opposed. All points of order against Mr. HOYER's amendment are waived and the amendment is not subject to a demand for a division of the question.

I would also point out to my colleagues that the Wright substitute would not be divisible. Unlike the last time this House considered the Wright amendment, Mr. WRIGHT will offer a motion to strike and insert and that question, in this instance, is not divisible.

Mr. Speaker, I would also point out that the rule allows one motion to recommit with or without instructions.

Mr. Speaker, as my colleagues well know, this Congress has been roundly criticized for its inability to enact appropriations bills on time. There are many reasons for this particular problem. I would submit to my colleagues that perhaps we all share, to a certain extent, the responsibility for this unfortunate tardiness.

We have an opportunity to act today and, hopefully, we will be able to meet the deadline which we set for ourselves on September 30 when we enacted the last continuing resolution. We all share the responsibility for the actions of this body and I would urge my colleagues to act in a reasonable and expeditious manner. First, by passing this rule and second, by passing House Joint Resolution 413 so that the Federal Government might continue its operations without a costly disruption in the service it provides to our citizens.

□ 1030

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida and I yield myself such time as I may consume.

Well, my colleagues, we are going to go through the drill again. I do not know why, but as in the past, many years on many occasions we use the continuing resolutions to play games, and the game goes on.

The distinguished majority leader came before the Rules Committee yesterday, and talked about how he recalled a football game in which one of the players from Rice University was going for a touchdown, and got blindsided as he was tackled by one of the players on the other team's bench. They gave that player the touchdown anyway.

Mr. WRIGHT feels he was blind sided, only the players came off his bench. He wants us to give him the touchdown, go through this whole exercise again, but in the end we are all going to lose this game, because what we are really playing with is not footballs but political balls.

We are trying to have a good time continuing this resolution, making points here and there, and when all is said and done, we will be back tonight, or tomorrow or Monday, and we will have a clean resolution at some point.

Let me tell my colleagues what probably will happen in the scenario. If we pass the rule and do not vote down this continuing resolution, it will go to conference, and who knows what will happen out of that. Sometime late this afternoon we may or may not have a conference, and then at that point we decide whether we stay around here tonight or tomorrow; or maybe our distinguished leaders on the Appropriations Committee will give us a bobtail, 6-day continuing resolution, and it will take us over until next week. Maybe next Thursday, a week from tonight, we will get serious, and get a continuing resolution and get a debt ceiling increase, and we can leave this craziness and go back and listen to our constituents, because they are going to have a message or two for us, I am convinced. But we are going to go through this exercise and the likelihood is this continuing resolution will be vetoed if it is not a clean continuing resolution. I have been assured that by the administration in writing and verbally, but yet we are going to go ahead and replay this ball game for the distinguished majority leader from Texas.

Let me talk about the rule. I urge you to look at this rule. This is really a good one. If you want to see the most closed rule in history, look this one over. It is a masterpiece. Everything is waived, as a matter of fact. There will not be any divisions this time. That causes too much difficulty. Members would be on record; we could vote for or against it and get all over the barnyard and in the end do what is right, vote against it. We are going to take our lumps up or down.

We have a 200-year precedent that we are waiving too, in this particular instance. Traditionally, historically, in the Jefferson Manual, the rules of the House, we do not have another vote on the same issue. Once you vote something down in this body, it is dead. You do not have recapitulation on the floor of the House.

Mr. Speaker, the rule before us violates the spirit if not the letter of a very important parliamentary principle laid down in Jefferson's Manual which is just as controlling on this body as our adopted rules. Let me quote from section 515 of the House Rules and Manual:

> A bill once rejected, another of the same substance can not be brought in again the same session.

To quote further from the Parliamentarian's footnote to that section:

> In the House of Representatives, with its rule for reconsideration, there is rarely, if ever, an attempt to bring forward a bill once rejected at the same session.

While that provision is from Jefferson's Manual, it is incorporated in House Rules by Rule 42 of the House which states, and I quote:

> The rules of parliamentary practice comprised in Jefferson's Manual . . . shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.

So make no mistake about it, the rule we are now considering not only poses some very practical problems for the continuing operation of our Government, it also flouts a central provision of parliamentary law governing this body which is rarely, if ever, set aside according to historic precedent.

We are going to have recapitulation this time. We are going to vote again on the same issue and ignore that 200-year precedent that is in our rules, because our leader from Texas wants this play over again, because he got tackled by 26 of his own players. So we are going to brush all of that aside and close everything, and we are going to bring this rule up, closed rule. We are going to waive all points of order to anything now, in the past, or ever again in the future that might in any way apply to the continuing resolution, that is waived.

We have heard all the garbage on this bill. Only 30 minutes of general debate—when was the last time you remember we had 30 minutes general debate? OK, maybe we have all heard it. Shove it on through, get it over to the Senate, let us get the veto, and we can have some more mileage out of this thing. Forty minutes of debate on the so-called Wright substitute, and buddy, this is not the right stuff. This is the wrong stuff—not amendable, not divisible, waives all points of order. The Wright amendment includes Wright as amended by Perkins. It includes Long-Kemp as amended by Zablocki. But the gentleman from Massachusetts (Mr. BOLAND) who probably had the only amendment really that should be included, that is not made in order. We did not make that in order. His own colleagues from his side of the aisle in the Rules Committee voted not to make Boland in order.

The heat was on a little bit, so the Rules Committee said, well, we better do a little fancy footwork here, and we gave 20 minutes to the Hoyer amendment, nonamendable, nondivisible, waives all points of order. And that Hoyer amendment is the Treasury-Postal Service appropriations that will be attached to the continuing resolution.

The abortion language is in there, do not worry about it. The abortion language is in the Hoyer amendment. I want everybody to know they will be making another record on that issue.

There will, thankfully, be one motion to recommit with or without instructions. I do not know why they got so generous and gave us that one opportunity. Well, you get 5 minutes on that. Well, the gentleman from Massachusetts, I am sure, will put 1 hour of general debate in his 5 minutes, so get ready. He may even bring out his hat with the hog ears again, because this is pork. Some of our junior Members on both sides of the aisle, they are tough. They put pressure on us to do the right thing, and the junior Members on that side of the aisle saw the light. They voted right the first time, and I want to

know, after having voted against the motion to recommit, and then against the passage of this continuing resolution just 2 days ago, are they going to switch around and say we were worried about deficits 2 days ago but not now. I do not want to have to defend that record, no.

You showed courage. You are worried about deficits. Now, I may not agree how you want to deal with the deficits. You want tax increases. Good luck on going back home and defending that. You showed courage 2 days ago. Let us defeat this rule right now, and the Rules Committee would have a fit of responsibility and maybe bring back a clean continuing resolution with a closed rule. We can do the job, go home and talk to our veterans.

Ladies and gentlemen, defeat this "bodacious" rule that the Rules Committee has stuck on us.

Mr. Speaker, a strong leader follows, and I will yield 5 minutes at this time to the distinguished gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I am not often at a loss for words. But I must say it is not easy to describe the events of the past 48 hours. Perhaps this House is simply fated to demonstrate that history repeats itself, first as tragedy, then as farce.

Certainly the events of this week have been tragic enough. This House has been used as a captive political audience for a political three ring circus with only one ringmaster, one performer, and one act.

We have been led around in circles for 48 hours, and as expected, we are right back where we began.

But the ringmaster persists.

And it is time for this House to demonstrate once and for all that the national interest in the continuing operation of the Federal Government is more important that the political ambitions of any one individual or any political party.

Tragedy does not have to repeat itself today as farce. If we vote down this rule, the Speaker can then recognize the chairman of the Appropriations Committee for a motion to suspend the rules and pass a straight extension.

That would be the courageous and consistent course to follow. I implore this House, and particularly Members of independent and courageous judgment on the Democratic side, vote no again, but his time on the rule.

The country should know that those Members temporarily saved this Congress from a contrived political confrontation with the President, which might have been a thrilling act for our ringmaster, but which would have been a tragedy for everyone else.

And finally, the country should know that those Members gave a vote of confidence to one of the most respected Members of the House in history, and one of the best friends of education in this House, BILL NATCHER of Kentucky.

The continuing resolution will expire at midnight tonight. A large part of the Government will run out of funds. And this House has yet to take action.

In fairness, I must recognize that there have been heroes in this tragedy. Those heroes have been the members of the majority party who on Tuesday voted no in protest against this private political circus.

The country should know that those Democratic Members who voted no on final passage of the continuing resolution on Tuesday showed great courage.

□ 1040

And now emblazoned in the RECORD, I want to read those men of profile in courage; hear this: ANDREWS of Texas, BATES, BRITT, CARPER, COOPER, DURBIN, ERDREICH, FEIGHAN, KAPTUR, LEVIN, MCKAY, MCCLOSKEY, MOODY, MORRISON, of Connecticut, OLIN, PENNY, RAY, REID, RICHARDSON, SISISKY, SLATTERY, SPRATT, STAGGERS of West Virginia, and VANDERGIFF.

Let the world know men of courage and if they all stick by their guns today, read the RECORD tomorrow.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. LOTT. Mr. Speaker, I have a couple of requests. It is so good, we hate to quit at this point.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MICHEL), our distinguished minority leader.

Mr. MICHEL. Mr. Speaker, this is one for the political scientists; it is democracy in inaction. I am angered and I guess embarrassed that we have even the substitute before this body again today. The continuing resolution was defeated by this body on Tuesday. What that usually means in a democratic government is that the majority in this body did not like it and something else ought to be offered in its place.

Defeat of one bill signals the need for compromise on another in its place; but not here, not where the arrogance of power prevails over procedure and principle and propriety. It is the majority leadership in this House that yells and screams about deficits and politicizes them with silly commercials. Yet while the majority rails against deficits they persist in adding to them.

It is obviously the intention of the majority leadership to ram all this budget busting spending down our throats again and again and again until we either swallow it or choke on it.

Now, the political scientists are going to have a field day analyzing the votes as outlined by Mr. CONTE of Massachusetts on Tuesday and those we will have today.

Let us see now, reviewing a bit: Tuesday many on the majority side voted for the individual components of the Wright amendment so they would not be vulnerable politically on the individual items. Then they voted against the motion to recommit so they would not have to side with we Republicans. Then they voted against the bill on final passage so they could maintain a phony fiscal austerity voting record.

Now I understand today we are going to have some of those same Members voting for the substitute and for the bill on final passage because they cannot take the heat from on high.

What a great example we set for young Americans learning the in's and out's of democratic government.

I see my two distinguished friends, Mr. WHITTEN and Mr. NATCHER, with whom I served for so many years on that Appropriations Committee. Look at the record they have built over a long period of time trying to hold down Federal spending. Now they get run over with the old rollercoaster here. There has been no thought whatsoever to good rhyme and reason on why the Appropriations Committee was conceived for and what they ought to be doing by taking the heat off the other Members by doing the job that has to be done from time to time, to keep a rein on Federal spending.

We are going to just throw all that caution to the wind again today. I will tell you, this is a sorry day for us. I do not know whether we ought to even have a vote on the rule and all the procedural things that go up to final passage. We might as well move right on to it, get it over and done with so we can get it vetoed and then finally people will wake up to the fact that what we are doing here is not going any place anyway.

We are 101 votes behind on this side. Procedurally there is no way we can carry the day; procedurally we know that. So go ahead and have your day, get it over with and done with; the sooner the better. The longer you prolong it the longer it is going to take for us to have the normal recess we are due.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, today happens to be a very fortuitous occasion because it happened to be the 500th anniversary of the birth of Martin Luther.

Martin Luther led the reformation in the Western World. He was known in his lifetime to make some observations about the government which existed when he wrote his articles. Now, when analyzing "Romans" this is what he said in part:

Today we may apply the apostles' words found in Romans II, verse 23, first to those rulers who by changing and devaluating the currency robbed the people while at the same time they accuse their subjects of being greedy and avaricious.

How apropos for our day.

There was a man named Tetzel, who lived in Luther's time. Tetzel sold indulgences. The indulgences were sold to the people whereby they could buy their way into heaven. Luther objected to that.

Those of us living today I think have to examine history and read its lessons and apply them to our world today.

Tetzel has been dead for almost 500 years but the spirit of Tetzel controls the House of Representatives today. We are selling indulgences to our world and we are promising, by the sale of indulgences, which we call deficits, we will bring to the people of our world not life in heaven but heaven here on Earth. "Just give us your vote and send us your money."

The rule we should be considering today is not one to continue this irresponsible level of spending that we are foisting on future generations by deficits; the rule we should be considering is one that cuts spending by at least $100 billion which, if we had the guts, we could do in 30 days.

Instead we are going through this charade of shifting around trying to say who is accountable for deficits.

Congress is the agency that creates deficits. Presidents can only spend what Congress appropriates. We can stop them when we have the guts to do it.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, we probably should be congratulating the gentleman from Florida. He has succeeded in bringing to us perhaps the most closed rule in the history of the House. He has succeeded in abusing free debate in a parliamentary democracy in almost an unprecedented way. He has waived all applicable rules which protect the minority in order to shove a budget busting bill down the throats of the taxpayers of this country. He has gone so far as to even discard the rule which allows individual Members of Congress the ability to divide a question so that we at least know what it is we are voting on.

The rule is a tribute to legislative dictatorship and the gentleman from Florida should probably be congratulated for so blatant a contribution. But not by me.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MACK).

Mr. MACK. Mr. Speaker, I want to take this opportunity to address a couple of remarks to my freshmen colleagues on the other side of the aisle. And I want to do this in seriousness, not in poking fun.

A number of us had the opportunity to meet and get to know each other in the early part of this year up at Harvard and we talked about the concerns that we saw facing the country in the year to come and the years beyond that.

We realized that we were going to have to stand up and be counted and I realize you wanted to make a statement several days ago and I think you succeeded so far in making that statement. But I would suggest to you if you do not stick by your guns that the statement that you made may very well be lost and could be used against you.

I would encourage you to stick with your position. I would also ask this question of you: Is the $1.4 billion so important that the leadership is willing to risk your political futures, individuals who were willing to stand up and say things have got to be done differently here?

Again, I admire what you have done. I admire what you are trying to do. I would encourage you then to vote as you did on Tuesday evening, vote to hold the line on spending.

□ 1050

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the able gentleman from Wisconsin (Mr. MOODY), for purposes of debate.

Mr. MOODY. Mr. Speaker, I did not intend to speak on this, but I was prompted to do so by the comments of the gentleman from Illinois (Mr. MICHEL).

First, let me thank the gentleman from Massachusetts (Mr. CONTE) for describing us as men of profiles of courage.

But we did not vote against passage for the reason that the gentleman from Illinois (Mr. MICHEL) suggests.

We did not vote for the components of the bill as they were voted upon to pander to special interests, as he suggested.

We did not vote against recommital to avoid siding with the Republicans, as he suggested.

We did not vote against passage to posture for fiscal conservatism, as he suggested.

It was not a vote on this particular set of spending that we were concerned about, because this is a very minor part of the deficit picture. And, in fact, it is particularly ironic that we should have to make a statement on those items which were cut so badly under GOP leadership in the last session.

But we voted against passage to make a simple statement, a very narrow statement. And we voted against our leadership more in sorrow than in anger. We wanted to make the simple statement that the budget deficit has got to be addressed and addressed soon. It is getting much more serious, and growing much more rapidly, than I think any of the new Members had expected when we arrived here. The overall deficit must be addressed. That is the simple message we are trying to convey.

We are not asking our colleagues, our freshmen colleagues, to vote "no" on this specific issue, because these restorations are probably well in order. Many of them are meritorious and should be adopted.

We have decided as a group to go our own way and take our individual votes today and not vote as a group, and that is what we will be doing.

But unless the President and unless the GOP participate in the deficit reduction process and face the fact that revenues are going to have to be forthcoming, as well as some spending cuts included in the military area, then we are, none of us, going to solve this problem.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BARTLETT).

Mr. BARTLETT. Mr. Speaker, as a member of the class from whom we have heard so much this morning, I rise in strong opposition to the rule, which allows, in fact, mandates that this House reconsider this set of budget-busting amendments.

It has been less than 48 hours since a majority of the Members of this House defeated essentially the same measure which is forced before us again today.

Now it was defeated for a whole series of reasons, but I concur with the gentleman from Wisconsin that it is going to take all of us, freshmen and senior Members alike, and it is going to take the courage of every Member of this House to find some ways to reduce the deficits, reduce the deficit we must, so that the American people can continue in the recovery to which they are entitled, so that Americans can once again get jobs and buy homes and be able to go to buy noninflated groceries with their earnings and to be allowed to start and keep a family savings account.

Apparently the leadership of the other side has chosen to ignore the message which the House gave on Tuesday. That message was a clear signal expressing the will of Congress and that of the Nation that Federal spending must be controlled and the deficits must be reduced if this Nation is to survive.

Now, I rise as a member of the Committee on Education and Labor and the ranking member of the Select Committee on Education because I was one of the first to see this set of amendments. They first came to us in the form of title IV to the Rehabilitation Act. And I went to my committee,

to the Rules Committee, and to the floor of this House and I said that if you add this set of amendments to the act primarily for the rehabilitation of disabled Americans, then you will kill the authorization of rehabilitation for this year.

And, Mr. Speaker, it did. And the Rehabilitation Act was never reauthorized as a result of these amendments.

And then I came this week and I said if you put it on the continuing resolution, you will kill the continuing resolution and shut down the Government. And that is exactly what happened on Tuesday night.

And now for the third time I come and say again, that these amendments have been dressed up in fancy new clothing, but it is the same old rag doll. We have gone from 10 Federal programs of increasing spending without so much as a committee hearing and not we have doubled it to 20 Federal programs, but it is the same old rag doll in new clothes. It is the same title IV which killed rehabilitation and it is the same set of budget-busting amendments which will shut down this Government and ultimately, but for the courage of the freshmen on the other side of the aisle, would lead this Nation back to high interest rates and high unemployment and double digit inflation.

I call on the Members of my class to demonstrate today this same courage that they demonstrated Tuesday night. I notice in the morning paper that the majority leader has called them stupid and embarrassing. And I do not believe they are stupid or embarrassing at all. I believe that they are a credit to the courage of their convictions.

Mr. PEPPER. Mr. Speaker, I yield 4 minutes to the able gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN of Michigan. Mr. Speaker, let me say something to my colleagues on the minority side as well as to the Members of the House generally.

I am a new Member. I am proud to be a Member of this House. I am proud of its institutions. I am proud of the capabilities and the integrity of its Members.

I know it is easy to make an entertaining speech, but I suggest that we also respect the integrity and the motivations of everybody on both sides and I mean this very seriously. Do not make light of motivations here. Our motivations were real and they remain so.

I voted for the Wright amendment on Tuesday. The provisions within that amendment are within the budget resolution, and it was entirely consistent for us to vote for the Wright amendment and then not vote for the continuing resolution.

What we were trying to do was to send a message that we wanted the budget resolution and procedures to the fullest extent followed in this House and followed in the other House.

It was difficult for us to vote against that continuing resolution. We thought it was our best opportunity to send that message. Do not say a word about browbeating, because the next morning we told the leadership of the House, on our side, that if it came to a choice between a stripped down continuing resolution and a resolution as had been brought up that day, we favored the latter resolution with the Wright amendment and with the Long-Kemp amendment as we had voted for the day before. We made that entirely clear, on our own initiative to our leadership.

□ 1100

We were trying on Tuesday to send a message in the best of faith that this House should not be tied up in our own procedures and should try to unlock the revenue bill that was in the Rules Committee.

We also were trying to send a message to the White House which has been stonewalling any efforts within the Senate or the House to take action on the deficit.

I do not believe what was said in the newspapers, perhaps in a fit of frustration, represents the attitude of our leadership toward the new Members who voted against the resolution. I think there is a great deal of respect on their parts for what led us to that vote, and I suggest that there should be the same modicum of respect by the minority. Do not twist the reason why we so voted on Tuesday.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Speaker, I congratulate the gentleman for his comments with respect to the integrity of the House, but we are circumventing and violating a basic institutional rule here. We are adopting a proposal that is above authorization levels. We are also doing something else. We are circumventing the appropriation process in which we are doing an end-around on an outstanding House subcommittee led by your chairman, the gentleman from Kentucky (Mr. NATCHER).

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. LEVIN) has expired.

Mr. PEPPER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan.

Mr. PURSELL. If the gentleman will yield further, those are practices which I uphold quite dearly with respect to this House and the integrity of this House, and I think you ought to look at what we are doing here as violating those basic rules of the House.

Mr. LEVIN of Michigan. Let me comment on that. First of all, the money that is within this bill is within the budget resolution that was passed earlier by the House and passed by the Senate.

Second, as the majority leader made so clear, it was within his understanding when the appropriation bill was passed that we would have a second crack at the items that are now in the Wright amendment.

Mr. PURSELL. If the gentleman will yield further, are you not violating the authorization process, the integrity of the House?

Mr. LEVIN of Michigan. Well, I will tell you. I sit on the Housing Authorization Committee, on the subcommittee, and we have voted for a number of bills, and there have been votes on the Republican side, too, for appropriation bills before we passed authorization bills. You were here before me.

Mr. PURSELL. Then I suggest that we have lost the discipline of the House when we do that on a frequent basis, and you are in the majority.

Mr. LEVIN of Michigan. To my good colleague from Michigan, I will go back to 1981 and 1982 and see how many bills were passed in this House with the help of the minority without there first having been bills that went through the authorization process.

Mr. McHUGH. Mr. Speaker, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Speaker, I think there are some crocodile tears being shed here.

I have been in the House for almost 9 years, and the greatest abuse of power that I have seen since I have been here was in 1981, when the Republican Party had an effective majority, with a small minority of Democrats supporting them. And that abuse of power related to the reconciliation bill of 1981. That bill affected hundreds of programs in very substantive ways. There was no opportunity under the rule controlled by the Republicans to challenge the substance of that reconciliation bill, and we are living with the problems ever since.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. LEVIN) has again expired.

Mr. PEPPER. Mr. Speaker, I yield 3 additional minutes to the gentleman from Michigan.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman from New York brought up a very good point. The gentleman from

Michigan mentioned 1981. I do not think we should talk about the integrity of the procedures. We can just reflect on what happened in 1981, in the wee hours of the night, in adopting the reconciliation bill. Let us point out that if that program the Gramm-Latta program, has not been adopted, we could have balanced the budget in 1981.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Speaker, frankly, I am a bit confused by this discussion. It seems to me that TIP O'NEILL was Speaker in 1981. It seems to me that you control all of the committees by overwhelming majorities. Indeed, it seems to me that you established the rules. If you are going to change the rules, proceed in a different fashion, that is one thing; but to establish the rules, control the House and violate those rules willy-nilly, to say the least, that is not acceptable.

Mr. LEVIN of Michigan. Let me take back my time. The only point that the gentleman from New York and the gentleman from Oklahoma were making and that I was making is that no one here, members of the Appropriations Committee on the minority side, should stand up and criticize us voting for the Wright amendment because there was no authorization for it. You violated that rule in the House in 1981, in 1982, before I came here, and you are the last people who ought to be raising that on the floor of the House today.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, I have heard of faulty memories. I remember 1981, and I remember the minority, coupled with a few misguided Members on our side, joining together to defeat the rule, joining to defeat the rule that came out of the Rules Committee, so you could not have six separate votes, you rolled all of that package into one single up or down vote, you repealed God knows how many bills, you cut $40 billion out of social welfare programs, the committees had not seen any of it in advance, you had handwritten notes as part of that legislation, and now you dare to talk about this rule as violating the legislative process? Shame on you. Shame on you.

Mr. LEVIN of Michigan. I want to finish. Our heads are very high. I want everybody here to know that. We had the courage to say something on Tuesday. We had the courage to say something, in an excruciatingly difficult situation, to this House and to the leadership. You should have the same courage to say to the President of the United States, "You stop stonewalling on the issue of the deficit that faces the United States."

Unlike Tuesday, today is the deadline for passage through the House of a continuing resolution. No one here wants to shut down crucial parts of the Government, and I believe that the continuing resolution which contains the Wright amendment is the best available alternative.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, maybe it has not occurred to the gentleman, but there is a difference between raising spending above levels that are authorized and reducing spending below levels that are authorized.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I cannot restrain myself. As to the comments of the gentleman from New York, I remember 1981, too. I remember how and why we defeated the rule with the help of a lot of Democrats who realized that it was an unfair, blatant abuse of the rules.

We asked for a substitute, and we were told, "You can have this part and that part of your substitute but not the entire substitute." As a matter of fact, had the chairman of the Rules Committee in 1981 not cut off the minority's opportunity with an arrogant abuse of power, we probably would not have defeated that rule and we would probably have not won the key vote if it has not been for this same type of arrogant rules that we have here today.

The fact is that the minority presented its substitute in writing to the Rules Committee prior to its hearing on the bill. However, instead of making that substitute in order, the Rules Committee had the audacity to only make in order certain portions of that substitute while deleting other portions under the rule. In short, the majority of the Rules Committee took it upon itself to attempt to dictate to the minority what amendments it could offer.

As a result of that presumptuous act, the minority fought the previous question on the rule on the floor and managed to defeat it, and then passed a substitute rule making in order the Gramm-Latta amendment in the form the minority would present it. It is true that the substitute underwent some further changes since the Rules Committee, though it was still largely the version presented to the Rules Committee. That version was presented for printing the night prior to its consideration, and was delayed on route to the printer's office by a majority attempt to obtain and copy the document. In the process, the document's pages were shuffled and some were reinserted improperly.

The important thing to keep in mind, though, is that the minority made every attempt to comply with the prior availability and printing requirements yet was twice interfered with by the majority. Had the majority been fair to the minority in the first place by making in order in the rule the substitute that was originally presented to the Rules Committee, we would not have had the problems about which some now complain. However, in attempting to be clever, the majority party was hoist on its own petard and reversed by a majority of this House on the floor.

And as far as the courage of your vote 2 days ago, the question is: Are you going to have the courage to vote the same way again today?

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. HUCKABY), who has been waiting very patiently on that side of the aisle to comment.

Mr. HUCKABY. I thank the gentleman for yielding.

Mr. Speaker, I would like to refocus the debate to the issue at hand today and bring out something that concerns me that has not been discussed.

We are going to set a very bad precedent, in my opinion, with the Wright amendment by passing an authorization and an appropriation for foreign aid in one amendment to a continuing resolution. This has never been done before in the history of this House, I have been informed.

Now, we only have 40 minutes to discuss the Wright amendment, so we will not even get to talk about what is in this foreign aid package. It is more than $11 billion. Ask yourselves: Do you know where that $11 billion is going? Oh, you know a few billion dollars are going to Israel, you know a few billion dollars are going to Egypt. What about the rest of it?

Do you know that we are increasing the amount of money to a Marxist country in Africa that supports the Cuban troops in Angola, that refused to vote with us in the United Nations in condemning the Russians for downing a U.S. plane, that not only voted against us but introduced a resolution condemning the United States for its actions in Grenada?

I suggest to you that there is not one American in a million who wants his taxpayers' dollars to go to that type of a country.

I would like to be able to offer an amendment to take that money and to give it to a country in Africa such as Kenya, which is a strong friend of ours, an ally of ours, and a democracy.

We do not even have an opportunity to discuss this bill, let alone offer amendments.

For this reason alone, I think we should come back and start over.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I think the gentleman is absolutely correct in his statements. For example, I have an amendment here which would delete $30 million of the $75 million allocated for Zimbabwe, that country that refused to condemn Russia for their shooting down of the Korean airliner, that country which condemned our invasion of Grenada to rescue hundreds of American citizens, that country that would not let our Embassy even to memorialize the dead marines.

If this were an open rule, I could offer this amendment and then allocate the money to the Republic of Grenada to restore and repair the infrastructure damage in the rescue operation. Unfortunately, under this rule I cannot offer such an amendment; therefore Zimbabwe will get all the money and Grenada nothing.

Mr. HUCKABY. The gentleman is absolutely right. So much has been said here about the almost $1 billion that the gentleman from Texas is trying to increase. At least we are spending that money on Americans. Here we are spending $11 billion we are not even talking about in foreign aid.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to my able colleague, the gentleman from Florida (Mr. MACKAY).

□ 1110

Mr. MACKAY. Mr. Speaker, I was one of several freshman Democrats who voted against the continuing resolution last Tuesday. We did so not because of opposition to the Wright amendment or the Zablocki-Long amendment. Most of us support these amendments.

We voted "no" to show our concern over the lack of progress on the issue of budget deficits, which we consider to be a problem of overriding importance. The passage of a continuing resolution is not an indication that we succeeded, but that we have failed to achieve a sensible fiscal policy.

We passed a temporary continuing resolution in September, to allow additional time. We said we would concentrate on budget issues between September 30 and November 10, and we would achieve $15 billion of deficit reductions, through spending cuts, tax increases, or some combination of both. And now, here we are at November 10. We have not met the reconciliation targets in the budget resolution. Worse yet, we have not even tried.

This vote today is a vote to give up the effort. To go home without achieving reconciliation. To go home without even trying. It we cannot vote on a tax bill, is it unthinkable to go back and cut spending across the board? That is what happens everywhere else in the world when you run out of money.

We are told with a straight face that the President will veto any spending cuts that are across the board, because that would include the defense budget. Does anyone believe the security of America would be in jeopardy if the defense budget was included in a 2-percent across-the-board cut? They might have to start buying nuts and bolts at the hardware store, like everyone else.

What we are really talking about is fiscal policy. The fiscal policy of the Reagan administration does not make sense. The only reason the American people put up with it is that the alternative offered by the Congress is even worse.

Three things should be said about Tuesday night's vote:

First, the vote Tuesday night was not an attempt to be cute. The vote Tuesday night was a statement by a number of Democratic freshmen that we want to see a change in priorities. We do not want to call it quits on the question of budget deficits until we have at least tried to achieve reconciliation.

Second, Tuesday night's vote was not the only statement by the Democratic freshmen. We spoke out in July on capping the third year of the tax cut, and we spoke out on the vote to include the Miller pay-as-you-go amendment. In both cases, we were unsuccessful but we were right. Taken together, these three positions by the freshmen Democrats would have put Congress, and our country a long way down the road toward sensible fiscal policy.

Finally, Tuesday night's vote will not be the last statement from the Democratic freshmen on the issue of budget deficits and fiscal policy.

When the budget cycle starts again next year, we expect to continue the effort to strengthen the budget process and to move both the President and the Congress toward sensible fiscal policy.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the able gentleman from Pennsylvania (Mr. HARRISON).

Mr. HARRISON. I thank the distinguished chairman for yielding this time to me.

Mr. Speaker, I asked for this time because I think someone has to respond to the remarks of the gentleman from Texas with whom I sit on the Committee on Education and Labor. He came to this floor a few minutes ago and he said, "You cannot pass the provisions of the Wright amendment. Those provisions are so terrible that this administration and this political party let the Rehabilitation Act expire and handicapped Americans go without help, rather than have these provisions enacted into law. These provisions are so terrible that this administration and this political party will close down the Government of the United States rather than have these provisions enacted into law."

Well, what are these provisions that are so terrible? What sedition would they work?

They would increase the school lunch program. They would increase funding of vocational rehabilitation, of adult education, of community medical centers, and of emergency shelters for the homeless.

These things are so terrible that rather than do them, this administration and this party would close down the Government. Look at that record, and let it speak.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. I thank the gentleman for yielding this time to me.

Mr. Speaker, some days, and I think today is one of those days, when I sit on the floor and watch what goes on, it reminds me somewhat of about a fourth or fifth grade class. Today we see an example of the classic "I gotcha." We are playing the game of "I gotcha."

I gotcha with my rule. I gotcha on the other side. I gotcha you with this and I gotcha with that. Who is smarter than I am?

Well, we have a lot of important issues to settle here. We have an immense responsibility to the public and the most important thing that we can do is to try to do it in a responsible way. We get so caught up in the process that we forget that we are affecting people's lives, we are affecting the lives of the people who are involved in receiving the benefits from various programs, but we are also affecting the lives of those taxpayers who are going to have to finance the programs.

I would hope that as we make our decisions on these issues, as we talk about our commitment to the various issues that we deal with, that we remember that we are advocates for a position trying to help people and not get tootied up in the game of "I gotcha."

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to read just one passage from the almost sacred Jefferson Manual. It says:

> The right of reconsideration is a right to waste the time of the House in repeated agitations of the same question so that it shall never know when a question is done with.

That is what we have here—repeated agitations. If we do not do it the way

the distinguished majority leader from Texas would like to have it now, we will have to do it again in some other variation of what he wants, but at least maybe it will be a little different. In this case, we are voting on the same thing we voted on 2 days ago.

Mr. Speaker, I yield the balance of my time to the distinguished gentleman from New York (Mr. KEMP).

The SPEAKER pro tempore. The gentleman from New York (Mr. KEMP) is recognized for 2 minutes.

Mr. KEMP. I thank the gentleman for yielding this time to me.

Mr. Speaker, I reluctantly must rise in opposition to this rule even though I testified with Chairman Long in favor of the original Whitten rule. After protracted negotiations, conducted in a spirit of good will and cooperation, Mr. LONG, chairman of the Subcommittee on Foreign Operations, and I, along with our colleagues, reached a true bipartisan agreement on foreign aid for this fiscal year. Our compromise is contained in the Wright substitute to the continuing resolution. The freshmen Democrats are not talking about courage they are talking about raising taxes.

I strongly support the Long-Kemp amendment for foreign assistance. We cannot meet the urgent security needs of key U.S. allies at the meager level of funding available under the present continuing resolution.

The Long-Kemp amendment, now contained in the Wright substitute, would provide $373 million in new budget authority over the levels available in the continuing resolution, $315 of which would be for military and economic aid for Israel and Egypt. In addition, $515 million in additional off-budget FMS loan guarantees would be made available to meet the most urgent needs of base countries such as Turkey, Greece, South Korea, and Portugal and this rule jeopardizes these critical foreign policy goals.

If the amendment now under consideration were limited to meeting these urgent national security needs, I would support it. However, the Wright amendment also includes some $1 billion in new budget authority for domestic agencies above the current levels. This is in addition to the $104.4 billion already passed by the Congress in the regular fiscal year 1984 Labor/HHS/Education appropriations conference agreement.

The domestic programs funded by the Wright amendment already have received $2.5 billion more in fiscal year 1984 funding than the President requested in his budget. These programs already will receive $16.9 billion this year under the regular fiscal year 1984 bill. Yet, for some inexplicable reason, some Members of this body find it necessary to increase spending for these activities by 6 percent above the levels that they found adequate less than 2 weeks ago when voting on the conference agreement to the fiscal year 1984 bill. These programs which are justified should be part of a supplemental, not a part of a continuing resolution.

As worthy as some of these extra educational programs might be that so concern Mr. WRIGHT, I cannot see how they are more urgent or worthy of a higher funding priority, than our most fundamental needs to keep our Government in operation. On this basis, I will vote against the rule.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the able gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I deeply resent my colleague from New York using the word "renegade" on those of us nonfreshmen Members of this body who 2 years ago voted our convictions and our districts in regard to the needed reductions on the expenditure side of our budget.

To be called a renegade for voting what one believes is right, I think, is wrong on the floor of this House. The record clearly shows, by CBO, that we have reduced our deficit by some $50 billion as a result of Gramm-Latta I and Gramm-Latta II. I do not apologize for those votes. They were not perfect. We have made mistakes, but I do not make apologies for it.

I disagree very strongly with the leadership of my party in what we are doing today. I do it honestly. I do not think I should be called a renegade for saying it.

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the able gentleman from Connecticut (Mr. MORRISON).

Mr. MORRISON of Connecticut. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like first to rise in support of the rule and to commend my Democratic freshmen colleagues who have already spoken and to associate myself with their remarks.

Mr. Speaker, I am in favor of the rule because I am in favor of the merits of the continuing resolution on which we are going to have the opportunity to vote, including the substitute of the gentleman from Texas.

I voted with my other freshmen colleagues on Tuesday night to defeat the continuing resolution, after having voted for the amendments, and I have no shame in having done that and having sent the message that we think must be sent.

Budget reconciliation ought to occur. It ought to be a first priority in this House. We ought to have a revenue measure to vote on and we ought to have it soon, before we adjourn. The budget deficits are too big. During the four budget cycles of the Reagan administration our national debt will grow by $886 billion—almost as much as the debt incurred by all the other previous administrations put together. By 1985 the interest charges alone on the debt will rise to $119 billion—an amount equal to three quarters of all discretionary nondefense spending. Every month we let that national debt increase we reduce the amount of revenue that will be available in future years to pay for our country's needs. We are mortgaging the futures of our children to pay for this administration's tax giveaways and defense spending excesses.

There are those on the other side of the aisle who say that my colleagues and I have been bullied by the Democratic leadership into supporting the programs that are included in the substitute offered by the gentleman from Texas. That is nonsense. On Tuesday we made it clear that we were not voting against those programs. We voted for them on Tuesday, program by program. We have voted for them in the past, time after time. We will vote for them again today.

Mr. Speaker, my colleagues and I made it clear that we voted against the continuing resolution on Tuesday to send a message. I think that message is clear. I hope that it will be heeded.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to our able majority leader, the gentleman from Texas (Mr. WRIGHT).

□ 1120

Mr. WRIGHT. Mr. Speaker, I had not initially intended to speak on the rule, but so much has been said about its being an arrogant rule that I think I must respond. We do not seek by means of this rule to dictate the variety of choices that would be available to the Members of the House. We seek simply to give to the Members of the House the opportunity to ratify the choices they made on the day before yesterday.

Nothing contained in the substitute will be anything that a majority of the Members failed to vote for. Two days ago Members had the opportunity to divide some 18 component parts of an amendment. They worked their will. The Members rejected one of those parts. That part is not included in this substitute. All we are doing is offering to the Membership the opportunity to vote once again upon those precise things, word for word, that a majority embraced 2 days ago.

So surely there is no arrogance in that. Surely that is an appropriate rule.

The gentleman on the other side have spoken about the arrogance of the Rules Committee in limiting in 1981 to six separate votes on substantive matters the proposals that they would have made, and they rejected that rule on the ground that it was arrogant, that it limited their choice. They then, gaining control of the rule,

limited it to one vote on something that none of us had ever seen. Here it is. I dare say that most of us still have not read all of it. Forty-six pages are repeated. There are handwritten, scrawled notes in it. It was not written in the Congress; it was written in the Office of Management and Budget by David Stockman and other appointees of the executive branch, and we surrendered our legislative prerogatives that day and bought it, lock, stock, and barrel.

Now, if you want to talk about arrogance, the arrogance of power when it passed to the other side was exerted in so brutal a way that, without our knowing it, 235 major acts of Congress bearing the hallmark of such legislative giants as Rayburn and LaFollette and Norris and Wagner were trampled under foot, and we did not know we were doing it. Now, we know what we are doing today.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. No, I do not think I have time to yield. I can talk to the gentleman later. I have 5 minutes, and I have something I want to say.

Mr. Speaker, I want to suggest to the Members that my friend, the gentleman from Texas (Mr. STENHOLM), is probably right, that the cuts that were made in this bill probably did reduce the cost of Government by as much as $50 billion a year, and they all came out of domestic programs. So for all the crocodile tears that are shed about the deficit, let my friends recognize that we have made substantial reductions in spending on the domestic side. And it is not just books that are causing the deficit; it is bombs and armaments. It is not intellectual pursuit but interest rates. It is not schools and shelters that are causing the deficit; it is subsidies for the wealthiest of the people of our country. Let us just acknowledge these incontrovertible facts.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I just wonder if the gentleman is aware that $135 billion of that deficit this year, according to his Secretary of the Treasury, Mr. Regan, is directly attributed to the 1981 tax cut. Is the gentleman aware of that, or does the gentleman dispute that?

Mr. DANNEMEYER. Does the gentleman yield?

Mr. WRIGHT. I yield for the answer to that question.

Is the gentleman aware that $135 billion of the deficit this year is due to the 1981 tax cut?

Mr. DANNEMEYER. The question is, When did you stop giving it away? Does the gentleman yield for my question?

Mr. WRIGHT. I yield for the gentleman's answer.

Mr. DANNEMEYER. Does the gentleman yield for my question?

Mr. WRIGHT. Is the gentleman aware of that?

Mr. DANNEMEYER. Does the gentleman yield for my question?

Mr. WRIGHT. I yield for the gentleman's answer.

Mr. DANNEMEYER. I will hear the gentleman's question.

Mr. WRIGHT. Is the gentleman aware that $135 billion of this year's deficit, according to Secretary Donald Regan is attributable directly to the 1981 tax cut, most of which is——

Mr. DANNEMEYER. You do not add or subtract very well, $35.5 billion of the deficit in 1983 is attributable to the tax cut.

Mr. WEAVER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will suspend. The House will be in order.

Mr. WRIGHT. Mr. Speaker, I just wonder if the gentleman would answer my question. I would be glad to yield to the gentleman from Florida to answer if he is aware that Secretary of the Treasury Donald Regan estimated to our Budget Committee, in response to my request for his estimate, that $135 billion of this year's $200 billion deficit is attributable to that tax cut. Is the gentleman aware of that?

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

The gentleman from Florida (Mr. PEPPER) has 2 minutes remaining, and the Chair recognizes the gentleman from Florida.

REQUEST FOR GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 367.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I have reserved the right to object just so I may make about a 30-second statement here in response to my dear friend, the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WEAVER. Regular order, Mr. Speaker.

Mr. WEISS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. YOUNG of Florida. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. An objection was heard to the request.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the gentleman from Florida (Mr. YOUNG) be given 30 seconds.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for that, and I just want to ask the gentleman from Texas if that stack of papers he held up was the same document that was pilfered on the way to the printer last year, and that is the reason the pages all got out of order?

Mr. WRIGHT. Mr. Speaker, this is the Gramm-Latta bill that the gentleman sent to the floor last year. I do not know if it was pilfered, but whoever did it sure messed it up in an awful bad way.

Mr. YOUNG of Florida. That is the one that is pilfered on the way to the printer by somebody on the gentleman's side of the aisle.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. YOUNG) has expired.

The Chair recognizes the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before we conclude, with all becoming modesty, on behalf of the Rules Committee, I want to express my appreciation for the historically enviable compliments that have been bestowed upon this rule this morning by the Republican side of the aisle.

Mr. Speaker, I could only add that one time I heard of a politician who was speaking and his opponent, after he concluded, said, "If the honorable gentleman had turned his talents to the ministry instead of to politics, my God, what a power he would have been at a camp meeting."

I thought that of so many of my Republican friends this morning. What a wonderful performance they would have given at a camp meeting. However, they might have been a little discouraged if they were attacking a member of the congregation who had been trying to help the children of the community.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

GENERAL LEAVE

The SPEAKER pro tempore. Is there objection to the unanimous-consent request of the gentleman from Florida (Mr. PEPPER) that all Members have 5 legislative days to revise and extend their remarks on the resolution?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 177, not voting 19, as follows:

[Roll No. 485]

YEAS—238

Ackerman	Garcia	Oberstar
Addabbo	Gaydos	Obey
Akaka	Gejdenson	Olin
Albosta	Gephardt	Ortiz
Alexander	Gibbons	Ottinger
Anderson	Glickman	Owens
Andrews (NC)	Gonzalez	Panetta
Andrews (TX)	Gore	Patterson
Annunzio	Gray	Pease
Anthony	Guarini	Penny
Aspin	Hall (IN)	Pepper
AuCoin	Hall (OH)	Perkins
Barnes	Hamilton	Pickle
Bates	Harkin	Price
Bedell	Harrison	Rangel
Beilenson	Hatcher	Ratchford
Bennett	Hawkins	Reid
Berman	Hayes	Richardson
Bevill	Hefner	Rodino
Biaggi	Hertel	Roe
Boland	Hightower	Rose
Boner	Howard	Rostenkowski
Bonior	Hoyer	Rowland
Bonker	Hubbard	Roybal
Borski	Hughes	Russo
Bosco	Hutto	Sabo
Boucher	Jones (NC)	Savage
Boxer	Jones (OK)	Scheuer
Britt	Jones (TN)	Schroeder
Brooks	Kaptur	Schumer
Bryant	Kastenmeier	Seiberling
Burton (CA)	Kazen	Shannon
Byron	Kennelly	Sharp
Carper	Kildee	Shelby
Carr	Kogovsek	Sikorski
Chappell	Kolter	Simon
Clarke	Kostmayer	Sisisky
Clay	LaFalce	Skelton
Coelho	Lantos	Slattery
Coleman (TX)	Leath	Smith (FL)
Collins	Lehman (CA)	Solarz
Conyers	Lehman (FL)	Spratt
Cooper	Leland	St Germain
Coyne	Levin	Staggers
Crockett	Levine	Stokes
D'Amours	Levitas	Stratton
Darden	Lipinski	Studds
Daschle	Long (LA)	Swift
Dellums	Long (MD)	Synar
Derrick	Lowry (WA)	Tallon
Dicks	Luken	Thomas (GA)
Dingell	Lundine	Torres
Dixon	MacKay	Torricelli
Donnelly	Markey	Towns
Dorgan	Martinez	Traxler
Downey	Matsui	Udall
Durbin	Mavroules	Valentine
Dwyer	Mazzoli	Vento
Dymally	McCloskey	Volkmer
Dyson	McCurdy	Walgren
Eckart	McHugh	Watkins
Edgar	McNulty	Waxman
Edwards (CA)	Mica	Weaver
English	Mikulski	Weiss
Erdreich	Miller (CA)	Wheat
Evans (IL)	Mineta	Whitley
Fascell	Minish	Whitten
Fazio	Mitchell	Williams (MT)
Feighan	Moakley	Wilson
Ferraro	Mollohan	Wirth
Flippo	Moody	Wise
Florio	Morrison (CT)	Wolpe
Foglietta	Mrazek	Wright
Foley	Murphy	Wyden
Ford (MI)	Murtha	Yates
Ford (TN)	Natcher	Yatron
Fowler	Neal	Young (MO)
Frank	Nelson	Zablocki
Frost	Nichols	
Fuqua	Nowak	

NAYS—177

Applegate	Bereuter	Brown (CO)
Archer	Bethune	Broyhill
Badham	Bilirakis	Campbell
Barnard	Bliley	Carney
Bartlett	Boehlert	Chandler
Bateman	Breaux	Chappie
Cheney	Ireland	Quillen
Clinger	Jacobs	Rahall
Coats	Jeffords	Ray
Coleman (MO)	Johnson	Regula
Conable	Kasich	Ridge
Conte	Kemp	Rinaldo
Corcoran	Kindness	Ritter
Coughlin	Kramer	Roberts
Courter	Lagomarsino	Robinson
Craig	Latta	Roemer
Crane, Daniel	Leach	Rogers
Crane, Philip	Lent	Roth
Daniel	Lewis (CA)	Roukema
Dannemeyer	Lewis (FL)	Rudd
Daub	Livingston	Sawyer
Davis	Lloyd	Schaefer
DeWine	Loeffler	Schneider
Dickinson	Lott	Sensenbrenner
Dreier	Lowery (CA)	Shaw
Duncan	Lujan	Shumway
Edwards (AL)	Lungren	Shuster
Edwards (OK)	Mack	Siljander
Emerson	Madigan	Skeen
Erlenborn	Marlenee	Smith (IA)
Evans (IA)	Marriott	Smith (NE)
Fiedler	Martin (IL)	Smith (NJ)
Fields	Martin (NY)	Smith, Robert
Fish	McCain	Snowe
Forsythe	McCandless	Snyder
Franklin	McCollum	Solomon
Frenzel	McDade	Spence
Gekas	McEwen	Stangeland
Gilman	McGrath	Stenholm
Gingrich	McKernan	Stump
Goodling	McKinney	Sundquist
Gradison	Michel	Tauke
Green	Miller (OH)	Tauzin
Gregg	Montgomery	Taylor
Gunderson	Moore	Thomas (CA)
Hall, Ralph	Moorhead	Vander Jagt
Hall, Sam	Morrison (WA)	Vandergriff
Hammerschmidt	Myers	Vucanovich
Hansen (ID)	Nielson	Walker
Hansen (UT)	Oakar	Weber
Hartnett	Oxley	Whitehurst
Hiler	Packard	Whittaker
Hillis	Parris	Williams (OH)
Holt	Pashayan	Wolf
Hopkins	Patman	Wortley
Horton	Petri	Wylie
Huckaby	Porter	Young (AK)
Hunter	Pritchard	Young (FL)
Hyde	Pursell	Zschau

NOT VOTING—19

Boggs	Gramm	Paul
Broomfield	Hance	Schulze
Brown (CA)	Heftel	Smith, Denny
Burton (IN)	Jenkins	Stark
de la Garza	Martin (NC)	Winn
Dowdy	Molinari	
Early	O'Brien	

□ 1140

The Clerk announced the following pairs:

On this vote:

Mr. Brown of California for, with Mr. O'Brien against.

Mr. Heftel of Hawaii for, with Mr. Denny Smith against.

Mr. Hance for, with Mr. Broomfield against.

Mr. Stark for, with Mr. Schulze against.

Mr. LENT changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 367 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 413.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984, with Mr. FOWLER in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from Mississippi (Mr. WHITTEN) will be recognized for 15 minutes and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, I am looking for the Wright substitute that we are about to take up in the continuing resolution. Is that available to the membership this morning?

The CHAIRMAN. The amendment in its printed form is available.

Mr. SOLOMON. Is it available to the membership?

The CHAIRMAN. It is available to the membership, and the majority leader will deliver it.

Mr. SOLOMON. I thank the Chair.

The CHAIRMAN. The gentleman from Mississippi (Mr. WHITTEN) is recognized.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

□ 1150

I think it may be helpful for my colleagues if we reviewed how we arrived at the present situation. On October 27, I introduced a simple date extension of the existing continuing resolution until February 29, 1984. I did this for a number of reasons:

First, it looks like only one bill will be affected for the duration of the continuing resolution—foreign aid,

Second, the President has already signed this bill once before; this is a mere extension of an existing public law, and

Third, most important, it is my sincere hope that we avoid legislative fights we should not be involved in.

I need not remind my colleagues about the mess we got into over the last continuing resolution. We adopted 19 separate amendments in committee including invoking of the War Powers Act. This latter action caused the bill to be referred to the Foreign Affairs Committee for an unspecified period. I told my friend CLEM ZABLOCKI, that I was going to write him a letter and ask

him what he was going to do with our resolution (H.J. Res. 367) which has been before his committee since then. But, of course, I was kidding.

So, when the committee met on November 2, I called attention to these facts in an effort to recall what happened before. In the past we have had to meet virtually around the clock in order to reach conference agreements so the Government would not have to shut down. In the interest of orderly procedure, I introduced a separate resolution, a continuing resolution (H.J. Res. 403). This was a continuing resolution, continuing the programs for bills not yet enacted until those regular annual bills are signed into law, or until February 29, 1984, whichever occurs first.

Notwithstanding the past history of problems which can befall a continuing resolution if it is used as a vehicle for issues better addressed elsewhere, in full committee we adopted nine amendments to the resolution I had introduced which covered the waterfront. Many of these were legislative in nature, and should be considered more properly by the legislative committees.

Now, I do not say that critically. Each member strongly believes in what he offered in committee, and knew that here is a train that has to reach its destination.

I asked the committee, since we saw that we could not get anywhere like we were, having had this experience before, to separate those nine amendments and put them in the supplemental appropriation. They did not belong on the continuing resolution. They are more supplemental in nature. The supplemental bill (H.R. 4293) will follow the regular order, and its provisions will be considered on their merits.

So we reported a separate supplemental appropriations bill and a continuing resolution which merely extended the date of the existing continuing resolution (Public Law 98-107) which the President has already signed. I realize, of course, that the proponents of the amendments offered to House Joint Resolution 403 in committee, and subsequently placed in the supplemental (H.R. 4293), would prefer them in the continuing resolution so that the likelihood of closing down a significant part of the Government would aid in getting them accepted. It was my belief that in fact they would make conference with Senate on the continuing resolution much more difficult and if agreed to in conference might not be acceptable to the President.

After the failure of House Joint Resolution 403 on Tuesday, I introduced two new continuing resolutions. House Joint Resolution 413, which we are considering today, is identical to House Joint Resolution 403. This was introduced at the request of the leadership. The other resolution I introduced is House Joint Resolution 414. That resolution reflects the more recent actions of the committee and the House. It would provide for the Defense and Treasury bills as passed the House, the Agriculture and Commerce-Justice bills at the conference level, and the Foreign Operations bill as agreed to by the House on Tuesday in the form of the Long amendment.

A continuing resolution may be both on authorization and appropriation. It is critical that this resolution be signed by midnight tonight. Under the opinion of the Attorney General of the United States if funds are not available to an agency, the only expenditures which are allowed are those providing for the orderly shutdown of activities. There were exceptions made for some defense activities and for protection of life and property.

So we face at 12 o'clock tonight a cessation of most of the activities of the Government which are funded in the five appropriation bills that are not yet enacted into law. The regular annual bills which are provided for by this resolution are Defense; Agriculture; Commerce, Justice, State; Treasury, Postal Service and General Government; and foreign operations.

My colleagues are familiar with the amendment that will be offered by the gentleman from Texas (Mr. WRIGHT). After House Joint Resolution 403 failed of passage, I was asked by the leadership to introduce this resolution (H.J. Res. 413) in addition to the resolution I had worked out which reflected the committee's actions and the House's actions (H.J. Res. 414). I was glad to do so. They are the leadership. They are entitled to have it considered and they are entitled to have it considered here as an amendment to this resolution.

So I am saying to you that it is absolutely essential that we pass a resolution and when we go to conference I will do my best to reflect whatever the House does. But it also is important that we recognize we have got to have some agreement and the quicker the better. It may be that this will stretch over the weekend. I do not know. So let us pass this resolution, amended if that is the will of the House. But we have to go to conference and work it out with our colleagues as quickly as possible.

I just have to tell you that our committee, or the representatives in that conference will do the best we can. But I want to tell you again we must move this bill through the House today.

Mr. CHAIRMAN. The gentleman from Mississippi (Mr. WHITTEN) has consumed 7 minutes.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not need to go into the history of this measure we are about to vote on. It is the same measure that we defeated 2 nights ago.

It contains the foreign aid package that 150 Members voted against. I favor the foreign aid package, incidentally, but I was opposed to the procedure on that.

It contains the Wright amendment which contains about $1 billion in education spending. It is the same package that we voted down two nights ago.

Mr. Chairman, I would like to go back to a time when the majority leader and I fought together for an educational bill. It was over the President's veto in fiscal year 1982 in the supplemental, just after Labor Day last year.

Member will remember we overrode that veto which turned the corner in cuts in spending for education.

But I would like to recall with you the speech of the majority leader. Seventy Members of my party had voted for the supplemental and the question was, would they stay with their vote and override the veto or would they change their vote and sustain the President's veto.

This is what the fearless majority leader said at that time, and I quote:

> In a very few minutes we are going to find out how many of the Members meant it, how many are going to back their own convictions, how many are going to let the White House lead them around with a ring in their nose like a prize bull at a country fair.

I love those words. Those are my kind of words and my party members stayed true to their conviction and we overrode that veto.

□ 1200

Today we find ourselves in the same situation. Two night ago the House voted down the exact same package that is now before us.

The Speaker was quoted as saying that both Houses most likely will pass a clean continuing resolution.

Yet here we are with the substitute meant to provoke a political confrontation and bring many agencies to a halt. And the question is the same for those 67 Members on the Democratic side who voted against the bill 2 nights ago because of their concern for the deficit.

In a very few minutes we are going to find out how many of those Members really meant it, how many are serious about it, how many are going to go back home and explain their own convictions; or how many are going to let the majority leader lead them around by the nose like a prize bull at a country fair.

Oh, I love those freshmen coming down here like they were going to confession, to the pastor and saying, "Look, constituents, forgive me, for-

give me but you know what I done here." Oh, I love those freshmen, they must be so naive: "I did this to send a message to lower the deficit and, folks back home, you are so stupid. We are going to add another billion dollars on that deficit here today." Can you imagine that? Can you imagine that? Can anybody be that naive?

"I am going to add another billion dollars here today, folks back home, because I want to reduce the deficit." Can anybody explain that?

But, you know why they are changing their vote? They have been whiplashed. I have been so busy the last few days with my anniversary and my birthday; I was going to go out and buy them some salve to heal those poor scars. They have been whiplashed to death in the last 48 hours. Their backs are burning.

I was just reading the great President's book, "Profiles in Courage." I recommend it to those freshmen. Read it, "Profiles in Courage."

You had the courage 48 hours ago and do not go whimpering out of here changing your vote. You will never live it down.

Be men of courage, stand up to your leader. You said he was wrong 2 days ago. He is wrong today.

Vote this bill down.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) has consumed 5 minutes.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. RICHARDSON).

Mr. RICHARDSON. Mr. Chairman, I am one of those 24 freshman Democrats who voted against the continuing resolution. I am somewhat amazed by the explanations everyone is giving as to why we voted that way. Here are my reasons.

While I would ordinarily favor these programs, I felt it was way past time to send a clear signal to the Republicans in the White House to get deadly serious about reducing—or in this case, not increasing—the massive debt load this administration has saddled the country with.

The administration got us into this deficit mess, and they quite properly, ought to take the initial steps in getting us out of it. But by this vote, we indicated to all sides, that there are a good number of freshman Democrats who are determined not to take a bad situation and make it worse.

Mr. Chairman, my vote was cast not to undermine the leadership in my party. It was a message that we should be dead serious about the deficit—that continuing resolutions are not the way to run a country.

I believe our message has been heard, for this reason, along with other dissident freshmen I am voting today for the continuing resolution—not because I am caving to the Democratic leadership—as the Republicans will undoubtedly say after the continuing resolution passes. I could not possibly be caving to pressure from the Democratic leadership anyway since they have refused to talk to me since the vote.

Mr. Chairman, the message has been heard to reduce the deficit.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the other day I said that no matter how many bottles of Chanel No. 5 you put on the Wright amendment, it still smells.

You remind me of the chief of police at Casablanca during World War II. He was with the French, he was with the Germans, he was with everybody.

You cannot get out of this thing. There is no way you are going to get out of it. You have sent the message to whom? The tax bill is locked up in the Rules Committee. You sent the message. What did you do with your message? Nobody is listening to you.

The reason you voted against this bill is because you wanted to reduce the deficit and you are right. And the second reason you voted against this bill was you thought it was the wrong place to put it on.

Now, you are going to be doing a lot of explaining back home, believe me. If you want to reduce the deficit, you vote against the Wright amendment.

How can you go home in good conscience and tell your people that you want to reduce the deficit when you vote the same day to increase the deficit by a billion dollars? Do you think your constituents are stupid?

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. PENNY).

Mr. PENNY. Mr. Chairman, the gentleman from Massachusetts knows full well that votes on the Democratic side against the continuing resolution the other evening were not primarily in opposition to the Wright amendment. The Wright amendment offered some additional funding for education programs for America. And in most of those cases those funding levels were not even as high as the funding levels for 1983. And surprisingly, in many of those cases they were not even as high as they were back in 1981.

Now you tell me whether that is busting the budget. Every one of those appropriation levels was included in the budget resolution this House voted for earlier this year.

Yes; that vote a couple of nights ago was a vote to bring attention to the deficits that this country is experiencing. But the freshmen Democrats understand who created this deficit. For example, people on that side of the aisle who voted against the $2.5 billion budget cut amendment on the military bill that I offered the other day have helped create this deficit. The administration and its policies of more and more and more for the military and less and less and less for the women and the children and the elderly of our Nation have helped create this deficit.

Someone has to try to focus attention on this issue.

Tuesday night we tried to do that. Tonight, however, the Government comes to a stop if we do not pass a continuing resolution. A sense of responsibility says we must vote "yes."

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have never had more fun in the 25 years I have been here. Let me answer this freshman.

I love to see those freshmen swimming upstream the way they are today. This is beautiful, they are really squirming.

He says that this Wright amendment provides funds where there were less education funds last year. Let me tell you that under the Natcher-Conte appropriation bill that was signed by the President there is $723 million more, more than last year in education funds for the discretionary education programs.

Now you say you have got to vote for this because you want to continue running the Government. But you are actually going to stop the Government because, with this amendment, the President is going to veto this bill. You are going to stop the Government, and we are going to have to come back here with a clean resolution.

Now I suggest, as I said in the well earlier, that we defeat the Wright amendment, pass a clean resolution and you can get out of here.

We did it once before. We did it last time. The last continuing resolution was a clean resolution and we walked out of here in the daytime. The first time since I have been here we walked out of here in the daytime.

You are going to walk out of here, if you pass the Wright amendment, 3 or 4 o'clock Sunday morning and that is no way to run a government.

I know as a freshman Congressman you do not want to run the Government that way.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes, if he desires, to the gentleman from New Mexico (Mr. RICHARDSON).

□ 1210

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from Illinois (Mr. DURBIN).

Mr. DURBIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this morning I heard the gentleman from Massachusetts speak and mention my name and I certainly appreciate that very much. To be lauded for courage this early in one's congressional career is rather heady, but I might suggest to the gentleman that the seat which I now

occupy in Congress was once occupied by a young lawyer from my same hometown named Abraham Lincoln.

And in his early career he was chided because he changed his vote on an issue. And Mr. Lincoln countered by saying, "I would rather be right some of the time than wrong all of the time."

I think what we have today before us in considering this important matter is a question relating to the Wright amendment. We still have a commitment as freshmen to the deficit question, but I do not want to allow my vote or action to be used to continue to savage those groups that have already been hit so unfairly by this administration.

We will continue our fight on the deficit, but there are many of us who will look for another opportunity. Tomorrow is another day.

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. MOODY).

Mr. MOODY. Mr. Chairman, I think it is ironic that the Republican Party is asking us to make a stand on the deficit now on social programs when if you look at the outlays for fiscal 1982-85 major domestic programs have already been cut by $75 billion; defense increased by $90 billion; and with interest at $32 billion upper; and the tax cut has taken away revenues of $135 billion; it is great to stand here and posture about $1 billion for women and children and the homeless. But let us face it, that is not where the numbers really are.

If my colleagues really want to show they are serious about the deficit, let us get busy on revenues and on military.

Mr. RICHARDSON. Mr. Chairman, I yield to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN of Michigan. Mr. Chairman, let me just respectfully suggest that it is not anyone on the Democratic side——

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. RICHARDSON) has expired.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. Mr. Chairman, I yield to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN of Michigan. Mr. Chairman, it is not anyone on the Democratic side, I might say respectfully to the gentleman from Massachusetts, who is making a circus out of it. It is someone on the Republican side.

We want the budget resolution followed. The Wright amendment, I say to the gentleman from Massachusetts, is within the budget resolution. That is why we voted for the Wright amendment in the first place and that is why we are going to vote for the Wright amendment in the second place.

Mr. SMITH of Florida. Mr. Chairman, if I may reclaim my time, I wanted to rise because I unfortunately did not have an opportunity to speak during the debate on the rule. If I had, I would have said and will say now, if hypocrisy were revenue, then the Republicans, by the debate today on the rule, could have covered the deficit without any problem.

And while right now on the main bill they will send up speakers who will preach, and send up speakers who will be humorous, and have speakers who will obfuscate, where are the speakers who will tell the truth? The truth is that the deficit is not coming, has not come, and will not come from any increases in domestic spending during the course of this administration. The revenue deficit, the budget deficit, comes from what this administration has done in increasing its outlays, its expenditures, for the military and in reducing revenues. No speaker on that side of the aisle has ever said anything about that.

If you are so honest with America, stand up. Do not joke. Tell the truth. Why is it that you continually will vote for billions, billions in additional military spending? Why you vote for billions in reductions of revenue? Why? Yet on this amendment, you will assail small increases for women and children and the aged and the elderly and the disadvantaged and the poor. Tell the truth to the people of America. Right now.

Mr. CONTE. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I never heard so much garbage in all my life.

Mr. Speaker, the gentleman knows where I stand on defense. Who in the world is controlling this House of Representatives? Is it this side of the aisle or is it that side of the aisle? You outnumber us. You had better strike that from the record what you said. You want to condemn anybody? Condemn the Democratic Party. Why did they not cut defense?

You can do anything you want with the Rule Committee as shown right here—why have they not reported out a tax revenue bill?

Offer a tax revenue bill. Garbage, I say.

President Lincoln once said, "If the good Lord had given a man a cowardly pair of legs, it is hard to keep them from running away with him."

And that is what is happening on this bill here.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, we all get a kick out of cutting defense. Where are you going to cut it? I know where you want to cut it. You want to cut the nuclear out, freeze the nuclear, get rid of all the nuclear.

What are you left with then? Conventional. Study it and you will find that conventional costs a lot more than nuclear. You will find that we pay—we do not have a draft—we have to pay comparable salaries to train and retain these people. So we will follow your advice. We will abandon nuclear and pray that the Soviets do the same thing or wish for it, or negotiate for it and then double our conventional. And what do you think that will cost? Or are you going to introduce legislation reinstating the draft?

So culling defense is not so easy. You are always for cutting spending, but not this bill. It is some other bill. But the one that is in front of you, you want to spend. Add on, add on. It is like the alcoholic who says, "We'll sober up tomorrow, but meanwhile, pass the booze."

Now, you want to talk about courage. I watched the 180-degree turn of the Democratic freshmen and then listened while they drape themselves in the mantle of courage. That is called a political pirouette. That is what that is. You have gone up in the air and spun around and came back.

Now, the gentleman from Massachusetts says they have been whipsawed and whiplashed. That may well be. That is called making a virtue of necessity. Coming down there and claiming courage for doing what your leaders tell you to do.

Now, the last thing you people want is a balanced budget amendment. That might get rid of the deficit. So fight it, fight it, fight it.

Another thing you do not want is a line item veto. The President then might cut out some of the pork. So fight it, fight it, fight it.

The rhetoric is against the deficit, but the action is to pile it on.

Now the gentleman from Massachusetts referred to the Wright amendment in terms of Chanel No. 5. The Italians have another saying, equally appropriate. It says: The shepherd, when dressed in silk, still smells of the goat.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I have been listening with great interest to my Democrat colleagues talk about who is responsible for the deficit.

This Member offered an alternative budget resolution, or attempted to in March of this year, and your Rules Committee prevented me from even having an opportunity to give each of us a chance of voting as to whether or not we wanted to cut spending by $100 billion.

We have reposing in the Judiciary Committee right now a proposed constitutional amendment which will mandate a balanced budget which we get by cutting spending, not raising taxes.

Now if you are truly interested in cutting spending and telling the American people we want to balance the budget, how about supporting that proposed constitutional amendment.

And I challenge any of you in the chamber right now that would be interested in doing that to stand up and say, "I will support that constitutional amendment." Because I think the American people would like to hear you say that.

In my home State of California, by polls, 68 percent of the Republicans and 59 percent of the Democrats support the constitutional amendment. An extraordinarily high percentage, but something happens to the Democrats who get here, they do not want to give life to the views of their own constituents back home.

□ 1220

Mr. CONTE. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, all I would like to say is, I would like our colleagues to think about those of us who may be sitting up for 2 or 3 nights reaching agreement in conference. We better get on with the show.

Mr. Chairman, I yield the balance of by time to the gentleman from California (Mr. BATES).

The CHAIRMAN. The gentleman from California (Mr. BATES) is recognized for 1 minute.

Mr. BATES. Mr. Chairman, I had not planned on speaking. I am not nearly as skilled as the speakers I have heard from Massachusetts and other areas today, and I do not even have all the facts. But I am a freshman who voted "no," who will continue to vote "no" on the continuing resolution, because I think it is bad policy. But not out of great courage. I think that this House has not demonstrated courage on either side of the aisle. I think we are going to adjourn without addressing the deficit problem. I am disheartened to see what has taken place this morning with the attacks on the parties. I think if we can set aside these partisan differences, as we almost to a fault do with foreign policy, I think we should address the deficit, which, to me, is the No. 1 problem in this country, and that we should not leave until the President and the leadership of both parties have worked out a plan that will deal with the deficit.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, 1984 is still a few months away, but I for one am ready to hand out the George Orwell prize for political doubletalk. It goes to my big-spending colleagues on the liberal side of the aisle in recognition of their recent pronouncements on the continuing resolution now before this Congress.

One leading member of the Democrat freshman class rebels who helped defeat this budget-buster the first time told the New York Times, and I quote:

> Yesterday's vote was intended to call attention to Reagan's budget deficits. Many Members feel they've made their point and would like to have another chance.

Another chance at what, Mr. Chairman? Adding $1 billion to the deficit and then blaming the President? That is called "Having your cake and eating it too." Actually, it's more like telling the taxpayer: "Let'em eat cake."

But the undisputed champ has to be my distinguished colleague, the majority leader. He was asked to square his proposal for $997 million in new domestic spending with his professed concern about the deficit.

His answer was that more money spent on higher education would close the deficit in the long run. Heck, using that logic, why do we not just quadruple our social spending? That way we will close the deficit even faster, that is, if you believe in tooth fairies.

The CHAIRMAN. Pursuant to House Resolution 367, the joint resolution is considered as have been read for amendment under the 5-minute rule. No amendments are in order except one amendment in the nature of a substitute, if offered by Representative WRIGHT, consisting of the text of House Joint Resolution 403, as engrossed on November 8, 1983, which shall be debatable for not to exceed 40 minutes, equally divided and controlled by Representative WRIGHT and a Member opposed thereto, shall be considered as having been read, and shall not be subject to amendment except one amendment printed in the CONGRESSIONAL RECORD of November 9, 1983, by, and if offered by, Representative HOYER, which shall be debatable for not to exceed 20 minutes, equally divided and controlled by Representative HOYER and a Member opposed thereto.

The text of House Joint Resolution 413 is as follows:

H.J. RES. 413

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of October 1, 1983 (Public Law 98-107), is hereby amended by striking out "November 10, 1983" and inserting in lieu thereof "February 29, 1984".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Chairman, I offer my amendment in the nature of a substitute made in order under the rule.

The CHAIRMAN. Pursuant to House Resolution 367, the amendment in the nature of a substitute is considered as having been read.

The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute is as follows:

An amendment in the nature of a substitute offered by Mr. Wright: Strike all after the resolving clause and insert the provisions of H.J. Res. 403 as engrossed November 8, 1983:

That section 102(c) of the joint resolution of October 1, 1983 (Public Law 98-107), is hereby amended by striking out "November 10, 1983" and inserting in lieu thereof "February 29, 1984".

SEC. 102. (a) Section 101(e) of such joint resolution is amended by striking out: "*Provided,* That" and all that follows through the end of said paragraph and inserting in lieu thereof the following: ": *Provided,* That notwithstanding any other provision of this joint resolution except section 106, or the provisions of this paragraph making amounts available or otherwise providing for levels of program authority, the following amounts only shall be available and the following levels of authority only shall be provided for the following accounts or under the following headings: $127,380,983 for payment to the "Inter-American Development Bank" and not to exceed $806,464,582 in callable capital subscriptions; $79,720,549 for payment to the "International Bank for Reconstruction and Development", to remain available until expended, and not to exceed $983,220,105 in callable capital subscriptions; $61,604,261 for payment to the "Asian Development Bank", to remain available until expended, and not to exceed $251,377,943 in callable capital subscriptions; $314,164,000 for "International Organizations and Programs", including the provisions of section 103(g) of the Foreign Assistance Act of 1961 except that $160,000,000 shall be available only for the United Nations Development Program and $52,500,000 only for United Nation's Children's Fund; $725,213,000 for "Agriculture, rural development and nutrition, Development Assistance", of which $5,100,000 shall be available only for Botswana; $244,600,000 for "Population, Development Assistance"; $100,656,000 for "Health, Development Assistance"; $121,477,000 for "Education and human resources development, Development Assistance", of which $4,000,000 shall be available only for scholarships for South African students in accordance with the last sentence of section 105(a) of the Foreign Assistance Act of 1961, and $4,900,000 shall be available only for Botswana; $150,000,000 for "Energy and selected development activities, Development Assistance", and not to exceed $20,000,000 of the funds appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for obligation until September 30, 1985, for the Private Sector Revolving Fund, authorized by section 108 of the Foreign Assistance Act of 1961 (as added by the International Security and Development Assistance Authorizations Act of 1983), except that amounts hereafter deobligated from the Private Sector Revolving Fund are hereby continued available for reobligation for the purposes of such fund; $30,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development pro-

gram"; $36,537,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $1,100,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; $2,894,500,000 for the "Economic support fund", of which not less than $910,000,000 shall be available for Israel, $750,000,000 for Egypt, $40,000,000 for Portugal; $353,066,500 for "Operating Expenses of the Agency for International Development"; $10,500,000 for "Trade and development"; $116,000,000 for the "Peace Corps"; $41,200,000 for "International Narcotics Control"; $3,000,000 for the "African Development Foundation"; $14,000,000 for the "Inter-American Foundation"; $323,000,000 for Migration and Refugee Assistance"; $420,400,000 to carry out the provisions of section 503 of the Foreign Assistance Act, of which $60,000,000 shall be available only for Portugal and not more than $33,500,000 shall be available for El Salvador; $46,000,000 for "International Military Education and Training"; $1,315,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act of which not less than $850,000,000 shall be allocated to Israel ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the current fiscal year shall be allocated only to Israel), and not less than $465,000,000 shall be allocated to Egypt; $4,446,500,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit", of which $45,000,000 shall be available only for Portugal and $900,000,000 only for Egypt and not more than $30,000,000 for El Salvador; and not to exceed $3,865,000,000 of gross obligations for the principal amount of direct loans and $9,500,000,000 of total commitments to guarantee loans and $16,007,000 for administrative expenses under "Export-Import Bank of the United States": *Provided further*, That such terms and conditions shall be applied without regard to the earmarkings, ceilings, or transfer of funds contained in such Acts except that all terms and conditions of title V of Public Law 97-121 shall apply: *Provided further*, That the amounts made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985, and that 50 percent of the amount made available for "International disaster assistance" shall remain available for obligation until expended: *Provided further*, That no funds in this paragraph shall be available for Guatemala except for economic development projects through private voluntary organizations: *Provided further*, That of the total aggregate credit sale ceiling made available to Israel up to $300,000,000 may be made available for research and development activities in the United States for defense articles to be produced in the United States for the Lavi program and up to $250,000,000 may be made available for the procurement of defense articles and defense services in Israel: *Provided further*, That none of the funds appropriated or otherwise made available to the Agency for International Development shall be used to fund projects or programs where comparable American private enterprise funding is available: *Provided further*, That the Secretary of the Treasury and the Secretary of State are directed to submit to the Committee on Foreign Affairs and the Committee on Appropriations, by February 1, 1984, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations: *Provided further*, That reprogramming notices shall be transmitted as required under the provisions of section 523 of Public Law 97-121.

(b) Section 101(e) of the joint resolution of October 1, 1983 (Public Law 98-107), is further amended by striking out ", notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law".

TITLE II—INTERNATIONAL SECURITY AND DEVELOPMENT ASSISTANCE AUTHORIZATION PROVISIONS

SHORT TITLE

SEC. 201. This title may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 202. (a) There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

(b) There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.

(2) $244,600,000 to carry out section 104(b).

(3) $133,400,000 to carry out section 104(c).

(4) $121,477,000 to carry out section 105.

(5) $160,000,000 to carry out section 106.

(6) $103,000,000 to carry out section 121.

(7) $30,000,000 to carry out section 214.

(8) $266,214,000 to carry out chapter 3 of part I, of which $160,000,000 shall be for the United Nations Development Program, $52,500,000 shall be for the United Nations Children's Fund, $17,500,000 shall be for the International Atomic Energy Agency, $15,000,000 shall be for the Organization of American States development assistance programs, $10,000,000 shall be for the United Nations Environment Program, $2,300,000 shall be for the World Meterological Organization, $2,000,000 shall be for the United Nations Capital Development Fund, $1,000,000 shall be for the United Nations Education and Training Program for Southern Africa, $500,000 shall be for the United Nations Voluntary Fund for the Decade for Women, $150,000 shall be for the Convention on International Trade in Endangered Species, $2,000,000 shall be for the World Food Program, $500,000 shall be for the United Nations Institute for Namibia, $343,000 shall be for the United Nations Trust Fund for South Africa, and $50,000 shall be for the United Nations Voluntary Fund for Victims of Torture.

(9) $47,000,000 to carry out section 481.

(10) $25,000,000 to carry out section 491.

(11) $3,074,000,000 to carry out chapter 4 of part II.

(12) $639,700,000 to carry out section 503.

(13) $56,452,000 to carry out chapter 5 of part II.

(14) $46,200,000 to carry out chapter 6 of part II.

(15) $22,000,000 to carry out section 661.

(16) $370,000,000 to carry out section 667.

(c) There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

(d) There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 for the fiscal year 1984.

(e) Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98-107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT

SEC. 203. (a)(1) Section 31(b)(3) of the Arms Export Control Act is amended to read as follows:

"(3) Of the aggregate total of credits (or participations in credits) extended under section 23 of this Act and of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $1,700,000,000 for the fiscal year 1984 shall be available only for Israel, of which not less than $850,000,000 shall be credits under section 23. Of the total aggregate credit ceiling made available for Israel for the fiscal year 1984, up to $300,000,000 may be made available for research and development activities in the United States for defense articles to be produced in the United States for the Lavi program and up to $250,000,000 may be made available for the procurement of defense articles and defense services in Israel.".

(2) Section 31(c) of such Act is amended—

(A) in the first sentence by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984"; and

(B) in the last sentence—

(i) by striking out "$550,000,000" and inserting in lieu thereof "$850,000,000 for the fiscal year 1984"; and

(ii) by striking out "for each such year".

(b) Section 31(b)(6) of such Act is amended to read as follows:

"(6) Of the total amounts of credits (or participations in credits) extended under section 23 of this Act, not less than $465,000,000 for the fiscal year 1984 shall be available only for Egypt, and Egypt shall be released from its contractual liability to repay the United States Government with respect to such credits (and participations in credits). Of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $900,000,000 for the fiscal year 1984 shall be available only for Egypt.".

(c) Section 31(b)(5) of such Act is amended—

(1) by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984"; and

(2) by inserting "Korea," immediately after "Greece,".

(d) Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 532. EARMARKING FOR ISRAEL AND EGYPT.—Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1984, not less than $910,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt.".

TERMINATION OF ASSISTANCE PROGRAMS FOR SYRIA

SEC. 204. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 540A. TERMINATION OF ASSISTANCE PROGRAMS FOR SYRIA.—(a) After the enactment of this section, funds available to the Agency for International Development may not be used for any payment or reimbursement of any kind to the Government of Syria or for the delivery of any goods or services of any kind to the Government of Syria.

"(b) The Administrator of the Agency for International Development shall deobligate all funds which have been obligated for Syria under this Act prior to the enactment of this section, except that—

"(1) such funds may continue to be used to finance the training or studies outside of Syria of students whose course of study began before the enactment of this section;

"(2) the Administrator may adopt as a contract of the United States Government any contract with a United States or third-country contractor which would otherwise be terminated pursuant to this subsection, and may assume in whole or in part any liabilities arising under such contract, except that the authority provided by this paragraph may be exercised only to the extent that budget authority is available to meet the obligations of the United States under such contracts; and

"(3) amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated for Syria under this chapter shall continue to be available until expended to meet necessary expenses arising from the termination of assistance programs for Syria pursuant to this subsection.".

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

SEC. 205. (a) Not more than 70 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

(b) Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would modify, alter, suspend, or terminate the land reform program promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

SEC. 206. Not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

SEC. 207. None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

SEC. 208. (a)(1) It is the sense of the Congress that for the fiscal year 1984—

(A) up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and

(B) up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act,

should be made available for development assistance for Haiti, subject to the limitation in subsection (b).

(2) To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

(b) Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years);

(3) is continuing to comply with the fiscal performance targets set by the International Monetary Fund; and

(4) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

(c) Six months after the date of the enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each paragraph of subsection (b).

(d) Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

SEC. 209. The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.

ANTITERRORISM ASSISTANCE PROGRAM

SEC. 210. The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted, except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

SEC. 211. (a) Notwithstanding any other provision of this joint resolution, the following amounts are hereby made available, in addition to funds otherwise available, for the following purposes:

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For an additional amount for carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, $165,000,000 to become available on July 1, 1984, and remain available until September 30, 1985.

VOCATIONAL EDUCATION

For an additional amount for carrying out the Vocational Education Act of 1963, $81,400,000 to become available on July 1, 1984, and remain available until September 30, 1985.

ADULT EDUCATION

For an additional amount for carrying out the Adult Education Act, $12,000,000 to become available on July 1, 1984, and remain available until September 30, 1985.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for carrying out the Community Services Block Grant Act, $30,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low income home energy assistance, $195,000,000.

EDUCATION FOR THE HANDICAPPED

For an additional amount for carrying out the Education of the Handicapped Act, $143,000,000 to remain available until September 30, 1985.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For an additional amount for carrying out section 100(b)(1) of the Rehabilitation Act of 1973, $43,900,000.

EDUCATION FOR IMMIGRANT CHILDREN

For carrying out emergency immigrant education assistance under title V of H.R. 3520 as passed the House of Representatives September 13, 1983, $145,000,000.

HIGHER EDUCATION

For an additional amount for work-study programs under title IV of the Higher Education Act of 1965, $20,000,000.

For an additional amount for supplemental educational opportunity grants under

title IV of the Higher Education Act of 1965, $10,000,000.

COMMUNITY HEALTH CENTERS

For an additional amount for carrying out titles III and XIX of the Public Health Service Act with respect to community health centers, $20,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For an additional amount for carrying out the National Technical Institute for the Deaf Act, $1,700,000.

GALLAUDET COLLEGE

For an additional amount for carrying out the Act of June 18, 1954 (68 Stat. 265), relating to Gallaudet College, $2,000,000.

JOB TRAINING

For an additional amount for carrying out part A of title II of the Job Training Partnership Act, $70,800,000.

For an additional amount for carrying out section 401(j) of the Job Training Partnership Act relating to Native American programs, $2,336,400.

For an additional amount for carrying out section 402(f) of the Job Training Partnership Act relating to migrant and seasonal farmworker programs, $2,265,600.

EMERGENCY SHELTER FOR THE HOMELESS

(a) For carrying out the Emergency Shelter for the Homeless activities under section 101(L) of H.R. 1, as passed the House of Representatives on July 13, 1983, $10,000,000.

(b) Notwithstanding any other provision of this joint resolution, for carrying out the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966, there are authorized to be appropriated for fiscal year 1984, $1,360,000,000.

(c) Notwithstanding any other provision of this joint resolution, no part of any of the funds appropriated or otherwise made available by this or any other Act may be used to implement mandatory monthly reporting-retrospective budgeting for the food stamp program during the period beginning on January 1, 1984, and ending October 1, 1984.

SHORT TITLE

SEC. 212. (a) This section may be cited as the "School Lunch and Child Nutrition Amendments of 1983".

Increase in Federal Reimbursement for Reduced Price Meals

(b)(1) Section 11(a)(2) of the National School Lunch Act is amended by striking out "40" and inserting in lieu thereof "25".

(2) Section 9(b)(3) of the National School Lunch Act is amended in the third sentence by striking out "40" and inserting in lieu thereof "25".

(3) Section 4(b) of the Child Nutrition Act of 1966 is amended—

(A) in paragraphs (1)(B) and (1)(C) by striking out "30" and inserting in lieu thereof "15"; and

(B) in paragraph (2)(C) by striking out "thirty" and inserting in lieu thereof "fifteen".

Increase in Income Guidelines for Determining Eligibility for Reduced Price Meals

(c) Section 9(b)(1)(A) of the National School Lunch Act is amended in the fourth sentence by striking out "185" and inserting in lieu thereof "195".

Additional Funding To Improve School Breakfast Program Meal Pattern

(d)(1) Section 4(b) of the Child Nutrition Act of 1966 is amended by inserting at the end thereof the following paragraph:

"(3) The Secretary shall increase by 6 cents the current adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act to assist States in improving the nutritional quality of such breakfasts, to the extent feasible.".

(2) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the school breakfast program to improve the nutritional quality of such meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local school food service authorities. Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement such revisions.

Change in Tuition Limitation for Private Schools

(e)(1) Section 12(d)(5) of the National School Lunch Act is amended—

(A) in the first sentence by striking out "$1,500" and inserting in lieu thereof "$2,500"; and

(B) by inserting at the end thereof the following new sentence: "On July 1, 1984, and on each subsequent July 1, the Secretary shall prescribe an annual adjustment in the tuition limitation amount in the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent twelvemonth period for which such data is available.".

(2) Section 15(c) of the Child Nutrition Act of 1966 is amended—

(A) in the first sentence by striking out "$1,500" and inserting in lieu thereof "$2,500"; and

(B) by inserting at the end thereof the following new sentence: "On July 1, 1984, and on each subsequent July 1, the Secretary shall prescribe an annual adjustment in the tuition limitation amount in the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent twelvemonth period for which such data is available.".

Addition of One Meal and One Snack to the Child Care Food Program

(f) Section 17(f)(2)(B) of the National School Lunch Act is amended by striking out "two meals and one supplement" and inserting in lieu thereof "three meals and two supplements".

Increase in Authorization for Nutrition Education and Training

(g) Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by inserting at the end of the first sentence ", except that for fiscal year 1984, there shall be authorized to be appropriated $7,500,000".

Exclusion of Certain Medical Expenses From Income of Household

(h) Section 9(b)(3) of the National School Lunch Act is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by inserting at the end of such paragraph the following new subparagraph:

"(B) For purposes of determining eligibility under subparagraph (A), 'household income' does not include unusually high medical payments which (i) could not be reasonably anticipated or controlled by the household and (ii) were not recoverable through public or private sources.".

Elimination of Reference to Food Stamp Program Eligibility Standards

(i) Section 9(b)(1)(A) of the National School Lunch Act is amended—

(1) by striking out in the second sentence "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The"; and

(2) by striking out the third sentence.

Restoration of Certain Kindergartens to Special Milk Program

(j) Section 3(a) of the Child Nutrition Act of 1966 is amended in the first sentence immediately before ", and (2)" by inserting "(except that the preceding limitation shall not apply to kindergarten programs in such schools)".

Effective Dates

(k)(1) Except as otherwise provided, the provisions of this section shall take effect on the date of the enactment of this joint resolution.

(2) The amendment made by subsection (c) shall take effect on the date of the enactment of this joint resolution, except that each school food authority may elect to delay implementation of such amendment to a date not later than July 1, 1984.

(3) Not later than sixty days after the date of the enactment of this joint resolution, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (h). The amendments made by subsection (h) shall take effect upon issuance of such final regulations, except that each school food authority may elect to delay implementation of such amendments to a date not later than July 1, 1984.

(4) The amendment made by subsection (b) shall take effect on the first day of the first month following the date of the enactment of this joint resolution.

The CHAIRMAN. Pursuant to House Resolution 367, the gentleman from Texas (Mr. WRIGHT) will be recognized for 20 minutes, and a Member opposed, the gentleman from Massachusetts (Mr. CONTE), will be recognized for 20 minutes.

The CHAIR recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. COLEMAN).

Mr. COLEMAN of Texas. Mr. Chairman, I rise in strong support of the Wright substitute and request unanimous consent to revise and extend my remarks. Mr. Speaker, now is the time to reinstate the bare minimum of the over $47 billion that has been cut out of social programs since 1980. The administration's budget cuts have impacted our population disproportionately and the dangerous trend that started in 1981 must be reversed unless we want to drastically change the distribution of income in this country.

Let us look at the simple facts. At the end of the most recent fiscal year, 1983, 52 percent of the cuts in Government benefit programs fell on 23 per-

cent of the population, those households earning less than $10,000 a year. Moreover, for the same fiscal year, 79 percent of the cuts in Government benefit programs fell on 48 percent of the population, those households with incomes under $20,000 per year. The inequitability of those cuts is obvious. But, when you combine those cuts with the personal income tax reductions, a massive income shift in favor of the wealthy is evident. In a CBO study earlier this year, it was determined that in calender 1983 the average household with under $10,000 in income would lose $240 after the tax and budget cut effects were netted out. By contrast, the average household with over $80,000 income would have a net gain of $15,130.

There is no doubt that this administration is not balancing the budget, but their actions indicate that any movements will be made on the backs of the poor. The result of their actions has been an unprecedented $200 billion deficit. The effects of that program on the poor have resulted in obliterating the upward mobility of the 1960's and 1970's. In 1978, 61 percent of the poor had incomes 25 percent below the subsistence level defined by the official poverty line. By 1982, 68 percent did. In 1980, 13.2 percent of our population was considered poor. In 1982, 15 percent of our population was poor. That is 5 million additional poor people.

The House leadership should be heralded as the champion of the poor for these minimal efforts to replace some of the cuts that have dramatically reduced incomes over the past 2 years. The theme of this 98th Congress has been jobs, employment and training. Yet when the appropriations bills come to the floor of the House, we see a hypocritical change in rhetoric that cites the $200 billion deficits and the need to keep a rein on social spending. Let us take a look at the consequences of reduced spending in the areas cited in the majority leader's substitute.

Education prepares our citizens for future employment. If we deny educational opportunities like compensatory education, vocational education, and even more important for the immediate future, adult education, then we cannot expect to have an employed population in the next several decades. Our trading partners who invest in the education and training of their own populaces will far outstrip our efforts to remain competitive on the world market.

Do we want to continue the trend of reducing community services block grants? Today, projected Federal funding under this block grant program is 39 percent lower for 1982-85 than the revised 1981 baseline for the programs it replaced. The major role of this program is to coordinate the various Federal, State, and local resources that could be used to improve the circumstances of the poor in all our communities. So, while we are ignoring the education of our society are we also to insure that the poor have no means to improve their opportunities for a better life? To deny funding for the community services block grant is to deny that there is an economic recession and to ignore the condition of urban, low-income areas. One fact that is often forgotten is that rectifying these problems in the long-run will cost far more than an investment today.

All of the 15 social and education programs included in the Wright amendment are necessary expenditures that have been budgeted for in this Congress. As the attached chart shows (chart not printed in the RECORD) domestic spending is not the culprit causing the deficit. Those expenditure growths have been reduced. But the Reagan tax policies and the insatiable Pentagon demand for dollars are driving the deficit to new and damaging highs.

The citizens of this country are my legislative priority. Their health and well-being is of the utmost importance. A vote for the Wright amendment is a reaffirmation of our commitment to the people of America that have suffered long enough under the disproportionate impact of a lopsided economic policy.

Mr. WRIGHT. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky (Mr. PERKINS), the distinguished chairman of the Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, first, let me state that I have no quarrel with what the Appropriations Committee did. In fact, I have always complimented the Appropriations Committee, particularly the gentleman from Kentucky (Mr. NATCHER), the gentleman from Mississippi (Mr. WHITTEN), and the gentleman from Massachusetts (Mr. CONTE). They appropriated $3,480,000,000 for title I or chapter 1. They raised it about $200 million over last year. But we felt that that was not high enough. And this amendment offered by the gentleman from Texas (Mr. WRIGHT) increases it by another $165 million. This amendment also increases vocational education by $81 million. We are well within the budget that both Chambers considered here. In fact, take chapter 1, for example. We are $200 million under the House budget assumption for that program. And I do not see why there should be all of this controversy on the left side of the aisle, when the Members on the left side of the aisle overwhelmingly passed the bill—H.R. 3520—that we brought to the House in September, increasing the authorizations for these same programs. We are well within the budget resolution adopted by both the House and the Senate, and I cannot understand this threat for a veto when we are well under.

I would think that the President of the United States would grab the opportunity to support these increases. The $165 million in title I, $81 million for vocational education, and all of these other programs.

Let me again remind the membership of this body that we could not get to conference on H.R. 3520, and that is why we are amending the continuing resolution. There is nothing wrong with putting all of these items in a continuing resolution. It has been done ever since we have had a continuing resolution the last 4 or 5 years, and the only recourse we have is this method, this vehicle. What else can a committee do, when we cannot get a conference with the Senate, when a Senator writes letters to his colleagues saying they are not going to conference? That is one Senate committee.

As for the Committee on Agriculture, we expect no action there on legislation to increase the child nutrition funding. The Senator wrote a four-page letter condemning a bipartisan nutrition bill. So this is the only recourse we have. I cannot believe that your President will veto a bill of this type, a resolution with all of the military money in there, when we only put in a little money for nutrition and a little money for the poorest of the poor children in the country so they can hire some additional teachers aides, some better teachers, and have a little better nutrition.

Now, as for the insinuation here today about the freshmen, it was their intent to vote for this provision, the Wright amendment, all together. And anyone, because of foreign aid or something else, has a right to reconsider his vote. Since we have not had the opportunity to go to conference with the Agriculture Committee on the nutrition program, and we have been refused and refused on the educational issues, if we did not have this vehicle we would really be deprived of any opportunity. I would hope that everybody would support the Wright substitute.

Let me explain a little further why you should support this amendment.

All of us have made speeches over the last 6 months urging an improvement in education. If we are serious about this, we must enact this amendment raising by minimal amounts funding for the basic Federal education programs.

First, thousands of the poorest and most needy are being denied education and nutrition due to our budget cuts of the last 3 years.

For example, chapter 1, which provides remedial reading and writing for poor children, had an appropriation of $3.5 billion in 1981. By 1983 its appro-

priation was $3.2 billion. The 800,000 fewer poor children are receiving remedial reading and writing today compared to 1981.

In vocational education, the appropriation was $779 million in 1981. By 1983 it was $729 million—a cut of $50 million. As a result, 600,000 fewer students are in class and 7,000 fewer vocational teachers are employed.

In the school lunch program, 35 percent of the funds were cut out in 1981—$1.5 billion—and today 3½ million fewer children are receiving lunch as a result.

Let me point out that simply to stay even with the same level of services as were provided in 1980 chapter 1 should have had an appropriation of $4.1 billion—not the $3.4 billion provided in the regular appropriations bill. So, these programs are far below where they should be.

We are in a bind. That is why we are here today. The budget resolution permits this higher funding, but we can not get it because the Senate refuses to go to conference on a bill making it a reality. This amendment is our only recourse.

The last point I want to make is that our amendment is reasonable. It does not even go as high as the appropriations permitted by the budget resolution. It does not even restore these programs to the full effectiveness they had in 1980 or 1981. All it does is to begin to undo the harm caused to our poorest and most disadvantaged students.

We cannot lose sight of the fact that even increased appropriations this year will not restore many of these programs to their prior effectiveness.

For instance, chapter 1 in 1980 had an appropriation of $3.2 billion. Under the new 1984 Appropriation Act it goes up to $3.4 billion. But even with that increased appropriation in 1984, the program will lose 15.8 percent of its effectiveness from 1980.

Vocational education will be down 26.3 percent even with its slightly increased appropriation. Adult education will be down 36.5 percent. College work study will be down 22 percent.

So these slightly increased appropriations in 1984 help us to reverse the harm but that in no way returns these programs to their prior effectiveness.

[By fiscal years; dollar amounts in millions]

	1980 appropriation, actual	1984 need based on inflation [1]	1984 appropriation bill	Percent difference
Chapter I	$3,215.6	$4,133.5	$3,480.0	−15.8
Education of the handicapped	1,049.1	1,348.6	1,214.4	−9.9
Vocational education	772.1	992.5	731.4	−26.3
Adult education	122.6	157.6	100.0	−36.5
Supplemental opportunity grants	370.0	475.6	370.0	−22.2
Work-study	550.0	707.0	550.0	−22.2
College construction	39.0	50.1	24.5	−51.1
National Technical Institute for the Deaf	17.3	22.2	26.3	18.3
Gallaudet College	48.3	62.1	52.0	−16.2
Employment and training assistance	7,957.3	10,228.8	[2] 3,483.6	−65.9
Rehabilitation State grants	829.3	1,066.0	993.9	−6.8
Community Services Block Grant	547.3	703.5	352.3	−49.9
Low-income energy assistance	1,600.0	2,056.7	1,875.0	−8.8
WIC	771.8	992.1	1,360.0	37.1
Total	17,889.7	22,996.5	14,613.4	−36.5

[1] Fiscal year 1980 is the base year. Inflation rates used are GNP deflator of 9.7 percent in fiscal year 1981, 7.1 percent in fiscal year 1982, 4.5 percent in fiscal year 1983 and 4.7 percent in fiscal year 1984.
[2] Annualization of 9-mo. period appropriation.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. BROWN).

Mr. BROWN of Colorado. Mr. Chairman, I would like to make some observations concerning our heated debate this morning. I know each side feels strong pride in the contribution they make to this House and to our country. But I think we have missed the point here this morning.

I have heard Members on that side of the aisle suggest that it is the Republicans who have forced upon this country major increases in defense spending. I must tell the chairman and the Members of this House that I for one agree the increases in defense spending have been beyond what I believe this country can afford. I have cast my vote against those defense appropriations, not because I am antimilitary, but because I think our country would be far stronger if we brought our budget into balance.

□ 1230

To suggest that the large increases in defense spending are the responsibility of the Republicans and not the Democrats is not accurate. I hope my colleagues do not mean to indicate that.

I have taken a look at the record of the votes. We had a vote on the defense appropriation bill here just a few days ago. Perhaps my colleagues who have spoken in such strong terms about priorities have not bothered to look at that record, but the record is very clear.

First of all, there are more than 100 Democrats in this body than there are Republicans. If you want to claim that the Republicans are responsible for designing the defense bill, you might want to recheck the number of votes Republicans cast in this Chamber.

Second, you might want to check the vote on that defense appropriations bill. If there were not a single Republican in this body, that bill would have passed on Democratic votes alone. It would not have even been close. Democrats approved that defense appropriation bill by a better than 2-to-1 margin.

The point is this: That in the last 4 years spending has increased by over $300 billion. Domestic spending has gone up twice as much as military spending—twice as fast as military spending. There is no one who is totally pure in this Chamber, or at least very few. We need to balance the budget, but I hope the Members in this Chamber will not go out and tell the American people that one party is pure and the other is not, because the facts belie that.

I hope the Members of this body will remember that we all must pull together to bring this budget in line. That includes programs that our side likes, just as it includes programs that your side prefers. I do not think there is a single Member that I have talked to in this Chamber who honestly and sincerely does not realize we are heading this country toward a disaster unless we face up to the budgetary problem.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. BROWN) has expired.

Mr. CONTE. Mr. Chairman, yield 1 additional minute to the gentleman from Colorado.

Mr. BROWN of Colorado. I thank the gentleman for yielding this additional time to me.

Mr. Chairman, the point I would hope we could make here is this: First of all, it has not been the Republican Party who has been responsible for the enormous increases in the defense spending; it has been both parties.

Second, I would hope we could all agree that it is essential for us to apply controls on spending in all areas, not military alone and not domestic spending alone.

Third, I would hope we would realize when we talk about the subject that domestic spending has gone up twice as much as has military spending.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN of Colorado. I would be glad to yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I imagine the gentleman has heard all these freshmen come down here and say this is within the budget resolution, the Wright amendment. But what they fail to tell their people back home is that the budget resolution provides for $73 billion in new revenue and there is a bill up in the Committee on Rules which is $9 billion. That is a far cry from $73 billion. It is a whimper.

Mr. BROWN of Colorado. Mr. Speaker, does the gentleman mean to suggest that the majority of this body is suggesting going ahead with enormous spending, but not going ahead with the revenue-raising measures?

The CHAIRMAN. The time of the gentleman from Colorado (Mr. BROWN) has again expired.

Mr. CONTE. Mr. Speaker, I yield 1 additional minute to the gentleman from Colorado.

If the gentleman will yield further, no, I am suggesting that we cut spending, we also come in for some additional revenue. I am foursquare with you, but they are all coming here on the floor and saying the Wright amendment is within the budget resolution. What they fail to say, they are keeping very quiet, is that that budget resolution provided for $73 billion in revenue and the Committee on Ways and Means has only reported out $9 billion in revenue.

Do not say anything about that. Keep it quiet.

Mr. WRIGHT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me just again point out to the Members of this House what the Wright amendment does. It tries to keep us current with a minimal investment in the children of this country, a minimal investment in the poorest of the poor of this country, and a minimal investment among the elderly of this country.

If you look at the list of programs, and the gentleman from Massachusetts is well aware of this since he sat on the Committee on Appropriations, we are talking about programs that, in fact, have been audited, have been reviewed by this administration, past administration, by outside organizations, that many of these programs have, in fact, returned benefits to the Federal Government far in excess of their cost.

The Rehabilitation Act is estimated to return to us $10 in benefits for every dollars we spend. The WIC program, according to a number of audits, returns to us a savings of $3 in Federal hospital costs alone for every dollar we invest. The children who participate in compensatory education, they read better, they compute better, and they retain it longer than the children who have not.

The question is: Do we want to invest in our children? Do we want to help the low-income pay for their energy this year? Do we want to help those children who do not speak English, who are handicapped, secure an educational opportunity in this country?

What happened? It was said during the rule that we cut domestic programs, we did the $50 billion. But what happened was that any semblance of a social safety net was shredded in this country and that became apparent in the elections of the last midterm when the country looked and said, "What has this man done to defenseless children, to women, to the poor, to the elderly of this country?" They turned around 2 short years after Reaganomics. They decided not to make Reaganomics Faganomics. Let us not take the economic policies of this administration to the detriment of the children and the poor. Let us not have people in the poorhouse.

The Wright amendment is a bare reinvestment of a modest amount of money in the poor, the children, and the elderly of this country.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. WRIGHT. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GRAY. I thank the gentleman for yielding.

Mr. Chairman, several times we have heard the statement that the bill contains more money for education, for nutrition programs, above the 1983 level. We have heard that several times here this morning.

As one who has been deeply concerned about young people and the elderly and nutrition programs and education programs, could the gentleman give us his view on that statement of $700 million additional above 1983 is added to 1984? Does that bring us nearly up to where we should be in terms of serving the needs of our children, our elderly, and our educational programs?

Mr. MILLER of California. It in no way brings us near what we need to serve the needs of those people and those populations that have nowhere else to turn. Mind you, absent the Wright amendment, the poor do not go to their savings, the children do not cash in their war bonds, the elderly do not get young, and the unemployed do not get a job.

This is the only hope for these people as we start to see the snows fall in this country. If they are going to pay their energy bills, they are going to pay it with the help of this amendment. If they are going to feed their children, they are going to feed them with the help of this amendment. That is the only choice, and the choice is for this body to make. I would hope that my colleagues would support the Wright amendment.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. MCCAIN).

Mr. MCCAIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, there are over 80 Members who are freshmen on both sides of the aisle who have joined this body for their first term. I believe that those 80 Members have been provided with a unique opportunity to change the course of political history in this body.

First, I would like to address something that has come up in this debate earlier, and that is a questioning of the motives or the courage of Members on both sides of the aisle who are freshmen. I speak, I believe, for the majority of the freshman class of Republicans who not only do not question their motives, but we admire and respect the activities and efforts that have been made to try and get a handle on the problems that are facing this Nation.

□ 1240

I believe, though maybe lacking in experience, that the freshmen Members of this body are best qualified to interpret the mandate of the 1982 election more than any others, and one of those mandates has been that we must get these deficits under control. That, I believe, is best interpreted by the activities and the signal that was sent less than 48 hours ago. I believe we have another opportunity in the vote that is coming up to send a signal to Republicans, to Democrats, to all administrations, and to all the people in this country that we can make a dedicated and sincere effort to get these deficits under control for the betterment of this entire Nation.

Mr. WRIGHT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BRITT).

Mr. BRITT. Mr. Chairman, I rise in support of the Wright amendment, being one of the freshmen who voted against the continuing resolution.

I think it is important to clarify what that vote was. It was not a vote against the Wright amendment. Twenty-four of the 26 voted in favor of the Wright amendment. It was not a vote against the continuing resolution. Twenty of us or more will vote in favor of that resolution today. There is not much change here.

There was a message to be sent, but let me say this about where the source of the deficit lies. I think we have heard it before today. Let us look at an administration that cuts $750 billion from revenues, that proposes that we spent $1.7 trillion on defense and then somehow come up with a balanced budget that they ran for office on. That was voodoo economics in 1980, and we are suffering from the curse of that today in our economic policy and what we are seeing in the deficits.

We talk about courage. There is a Republican President, and there is a Republican Senate. We see what the deficits are doing, and we see no one rising to address it on that side. There was a chance to do something about a tax cap. This House passed a tax cap, with no response on the other side.

Those of us in the freshman class ran in the worst recession since the Great Depression. We have been on

the unemployment lines, we have seen the people who cannot find jobs, we have seen the people who lost their jobs, we have talked to farmers who no longer own their family farms, and we are going to see in 1985 a development in our economy, if we do not take steps, that will make that last recession caused by this administration a cake walk.

I say, let us have the courage to have the President stand forward, to have the Senate stand forward, and, yes, to have the Members on our side stand forward and take action on it.

The gentleman from Massachusetts said that the freshmen suffer from whiplash. I suggest that this economy is suffering from a whiplash caused by the disastrous economic policies perpetrated by this administration.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope they have C-Span down in North Carolina and they are watching me and listening to me.

Is this a Republican House, I ask you once again, or is this a Democratic House? And I ask the gentleman from North Carolina (Mr. BRITT), "What have you done today on November 10th, and what has this House of Representatives done to reduce the deficit?"

Mr. Chairman, I now yield 3 minutes to the gentleman from Texas (Mr. BARTLETT).

Mr. BARTLETT. Mr. Chairman, this is a serious day for this House, and we have a serious decision to make that could in fact have an impact on the direction of this House and the direction of the country for the rest of the decade.

My class in particular came here at the beginning of this session with the conviction that we had to change something. We came here with the knowledge and the certainty that we had to help this House find a new day and to begin doing things differently. We also knew it was going to take all of us to vote in the best interests of the country to keep this country from falling back into the depths of recession and unemployment and high interest rates. It is going to take all of us to break out of that mold or that box we had ourselves in.

Tuesday night my class and this House as a whole demonstrated some courage and made us all proud. We demonstrated some courage in that we said we do not have to be locked into those deficits, we do not have to be locked into high interest rates, and we can break out.

What has changed since Tuesday night? Well, there has been talk about a message received and a message sent. I would contend that a message was sent but no message has been received. The only message I read of in the morning newspaper has been that some Members were, according to the leadership, downright stupid and embarrassing. I do not believe that is true, and I do not think that is the message we have sent.

What else has changed? The runaway train of Federal spending and deficits is still going down the track, and I will tell the Members what has changed since Tuesday. Since Tuesday, at the rate of $170 billion a year of deficits that this country has added, this Congress has added $490 million a day to the deficit, or $980 million, almost $1 billion of new deficits since Tuesday night without the Wright-Perkins amendment, which would add another $1 billion.

I have heard a lot about education. I have been very involved in education. I would remind this House that there is already $16.9 billion of spending in these 19 programs, and all but one are already funded, and that one has never had an authorization and never had a hearing.

I would remind the House that on a per capita basis, per capita spending for education has increased since 1972 by 50 percent.

There has been a lot of talk about sayings and expressions, the sayings of the Chanel No. 5 and the Shepherds. We have a saying in south Texas: Algo huela y no a rosus, meaning that "something smells but it is not roses."

We have another saying in south Texas, and that saying goes like this: El valor se mide en sus resultados, meaning "courage is measured by its results."

Mr. Speaker, I ask the Members to give the Nation some courage and give us some results on the vote today.

AMENDMENT OFFERED BY MR. HOYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WRIGHT

Mr. HOYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HOYER to the amendment in the nature of a substitute offered by Mr. WRIGHT: At the end thereof insert the following new section:

SEC. . Section 101(d) of Public Law 98-107 is hereby amended to read as follows:

"(d) Such amounts as may be necessary for continuing the activities, not otherwise specifically provided for in this joint resolution, which were provided for in H.R. 4139, the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed the House of Representatives on October 27, 1983, at a rate for operations and to the extent and in the manner provided for in such Act.".

Mr. HOYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 367, the gentleman from Maryland (Mr. HOYER) will be recognized for 10 minutes, and a Member opposed, the gentleman from Massachusetts (Mr. CONTE), will be recognized for 10 minutes.

Is the gentleman from Massachusetts (Mr. CONTE) opposed to the amendment offered by the gentleman from Maryland (Mr. HOYER)?

Mr. CONTE. No, I am not opposed, Mr. Chairman.

The CHAIRMAN. Is any Member opposed to the amendment offered by the gentleman from Maryland (Mr. HOYER)?

Mr. HILER. I am opposed to it, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana (Mr. HILER) then, will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Maryland (Mr. HOYER) for 10 minutes.

Mr. HOYER. Mr. Chairman, I yield myself such time as I may consume, and I yield at this time to the majority leader.

Mr. WRIGHT. Mr. Chairman, I certainly would be most anxious to accept the amendment offered by the distinguished gentleman from Maryland (Mr. HOYER). I think it has genuine bipartisan support, and I see no reason why it should not be accepted.

Mr. HOYER. Mr. Chairman, at this time, I would yield to the ranking minority member.

Mr. CONTE. Mr. Chairman, I am not going to speak. We have no opposition. This whole bill is going to get vetoed, so what is the difference? Throw everything in it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. HOYER) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. WRIGHT).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. FERRARO).

□ 1250

Ms. FERRARO. Mr. Chairman, I rise in support of the Wright amendment, and I ask unanimous consent to revise and extend my remarks.

The opponents of this amendment talk about budget busting. They say the additional funds for education programs and social programs and job training in this bill will bust the budget. But they do not say whose budget.

This amendment does not bust the only budget this Congress has passed. The budget we passed—the budget passed by the Republican Senate—accommodates the funds provided in this amendment. There is no other budget for fiscal year 1984.

The fiscal year 1984 congressional budget restored, to a limited extent, the damage that had been done by the two previous budgets. Funding for domestic programs, including most of those in this amendment, had been at best frozen and at worst sharply reduced. We could not undo all the damage. But we tried to undo some of it.

This amendment makes the provisions of the budget real. There are small addbacks for successful education programs that have been cut.

The amendment provides $165 million for education of disadvantaged kids. This program works. At current funding levels, it does not reach most of the children who are eligible for help and who need it. $165 million means that many more children will get help.

The amendment provides $143 million for education of handicapped children. States and local governments are unable to meet the needs of these kids alone. This $143 million opens the door to opportunity for more handicapped children.

The amendment provides small amounts of additional funding for job training and community services, both of which are being funded at drastically reduced levels.

There is one provision of the amendment I especially support. The authorization for the WIC program is increased $234 million. I believe we should support WIC because we should care about the health needs of low-income pregnant women and infants who have been found medically at risk.

If that is not enough, though, WIC is also tremendously cost effective. Each dollar of WIC funding saves $3 in future hospital costs. Providing pregnant women adequate nutrition costs only hundreds of dollars. Intensive care in a hospital neonatology unit costs $1,000 a day.

Let me speak very briefly about another aspect of this amendment. The foreign aid provisions with respect to Central America are controversial, and I share the concerns of those who opposed this continuing resolution because of the El Salvador funding.

But I would hope that those Members who have taken that position and who opposed the entire resolution because of those provisions would reconsider their vote. I would hope they would be persuaded that the importance of the social and education programs funded by this bill outweigh the foreign aid provisions, and vote for the resolution.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the question on the Wright amendment is this. Are we going to pursue education funding in a way that may result in actual increases in education funding, or are we going to pursue education funding in a way that will, from everything we have heard, send any chance for increasing education funding down the drain?

Do not let the Wright amendment fool you. It has been presented as a way to increase education funding. In fact, it is a way to guarantee that education funding will not be increased. Its true intent is to give the leader on the other side an issue, an issue for next November, that he has been looking for months now. Its true intent is to provoke a veto, which it may very well do. Its true intent is to be able to say we tried.

But what will be the result? Once the majority leader sets up this political issue, and creates lines in the sand, how do the longtime friends of education go back to obtain the cooperation from the opposing forces, to reach an agreement, later in the year, in a supplemental?

Let me tell you what cooperation can achieve. A number of Members on both sides have expressed their concern over low-income energy assistance. Mr. Chairman, in working with the Director of Office of Management and Budget, the young slasher, I have obtained a statement that he will submit a supplemental for low-income energy assistance of $200 million when the budget comes up in February, And I will fight to obtain that amount.

Mr. Chairman, through bipartisan cooperation, we can obtain an increase in that program, and probably in many now in the Wright amendment.

But if this body insists in using the issue of education funding for blatantly political purposes, what will ultimately suffer is education funding. By insisting on all, and by ramrodding it through on a continuing resolution, where it does not belong, we may very well end up with nothing, nothing but a political issue. Personally, I would rather have a shot at education funding. I will work with the Members, I will work with the administration, I will work with anybody who wants to work with me, to achieve results.

But I warn you, if you use education funding to provoke a political confrontation, you will be hurting the very programs you are trying to help, ones that I have been working to help for 25 years here in Congress.

I urge you to act responsibly, to vote down the substitute, as the responsible way to protect education. Leave the door open to seek bipartisan cooperation for education in a supplemental.

A supplemental is where this amendment should have been considered in the first place. I submit you are being led astray by a Member very smart in the art of politics, willing to sacrifice the best interests of the programs he says he is fighting for, in order to gain an issue to raise in his high pulpit.

Mr. WRIGHT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I am certainly not going to be able to display the kind of oratorical splendor that some of my colleagues have displayed, nor will I be as dramatic as some of those have been.

I am the freshest of the freshmen. In fact, I am 434 on the list of Members of this House. As soon as the gentleman from Georgia gets certified and installed, I will still be 434 and he will be 435.

I am one of the freshmen who voted for the continuing resolution. I was persuaded to vote for it more by the Wright amendment than anything else. This, I think, was at least an approach to address ourselves to some of the problems that people face.

In my district, there are 160,000 people living below the poverty line and 60,000 unemployed. Anything I can do to help them would be vital.

Mr. WRIGHT. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Subcommittee on Foreign Operations, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Texas (Mr. WRIGHT), the distinguished majority leader. His substitute includes what this House adopted Tuesday on foreign assistance by a vote of 262 to 150, the so-called Long-Kemp amendment, which was amended by the gentleman from Wisconsin (Mr. ZABLOCKI) to give it the legislative stamp of approval. That vote, 162 to 150, was an overwhelming vote for foreign assistance and is concrete proof of the widespread bipartisan support which the amendment has.

The foreign assistance portion of the Wright substitute is fiscally conservative. It is below the 302(b) allocation and thus conforms to the budget resolution and is some $340 million below the President's budget request, and we are all interested in keeping our spending down.

The foreign assistance amendment will provide increased funding for Israel and Egypt; increased funding for economic development in such areas as agriculture, population and education; and increased security assistance for key allies, such as Turkey, Spain, Greece, Portugal, Korea, and Pakistan.

There are many here who are very discontented, very unhappy, and I am one of them, with the role that Syria has played. In past years, Syria has re-

ceived over $60 million, which is presently unspent, and this amendment would deobligate those funds, period. They would no longer have it to spend, and if you want to have Syria keep on having money to spend, then vote against the Wright amendment, because that is a good way to give Syria that money.

Furthermore, this amendment would force the El Salvador Government, give it a strong incentive, to bring those killers of the nuns to trial. For 3 years, even when one of the killers has confessed, but for 3 years no one has been brought to a trial. This amendment would insist that a verdict be reached there before certain portions of this money could be released.

□ 1300

I support the Wright amendment on its merits. Education has made this country great. It is the thing in the end we are all fighting for. In the long run, that is the defense of this country.

I urge support for the Wright amendment.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. I thank the gentleman for yielding me this time.

Mr. Chairman, in just a moment I will be asking unanimous consent to offer an amendment which will reduce the amount of economic aid that we give to Zimbabwe by $30 million and give that money in economic support funds to the Republic of Grenada to replace the damage that we have done there in the way of roads, et cetera.

The amendment would simply reduce the amount that is provided for in this continuing resolution by $30 million, leaving $45 million for Zimbabwe, the country that voted against us when the Korean airliner was shot down, the country that condemned us for our invasion of Grenada, and who boycotted our memorial services for our dead marines in Beirut.

I could think of nothing more fitting than to take this $30 million and transfer it over to the Republic of Grenada.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

I would like to commend the gentleman for what he is attempting to do here and I would like to suggest to the chairman of the Appropriations Subcommittee, he referred to the overwhelming vote that his amendment received the day before yesterday. I would urge him, let us bring this bill to the floor, so that we can discuss amendments such as what the gentleman from New York is proposing to offer, and that is, let us reduce the amount of money going to a country like Zimbabwe.

Mr. SOLOMON. Mr. Chairman, I ask unanimous consent to offer the following amendment.

Mr. HUCKABY. Mr. Chairman, reserving the right to object, is it my understanding that there is $75 million that is earmarked for Zimbabwe in the Wright amendment, and that Zimbabwe is also the country that has consistently supported the Cuban troops in Angola?

Mr. LONG of Maryland. Mr. Chairman, reserving the right to object——

The CHAIRMAN pro tempore. Does the gentleman from New York have a unanimous-consent request before the Committee?

Mr. SOLOMON. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair would have to ascertain from the gentleman from Massachusetts if he yielded to the gentleman from New York for that purpose.

Mr. CONTE. For what purpose, Mr. Chairman?

The CHAIRMAN pro tempore. Of offering an amendment.

Mr. CONTE. Yes.

The CHAIRMAN pro tempore. Or did he yield to him for debate only?

Mr. CONTE. Mr. Chairman, I yielded to him for anything he wanted to do.

Mr. LONG of Maryland. Mr. Chairman, reserving the right to object, I will object if I cannot get time to speak on this.

Will the gentleman yield on this?

Mr. SOLOMON. I yield to the gentleman from Maryland.

The CHAIRMAN pro tempore. The Chair would inform the Members that the debate on the reservation will have to come out of allotted time which is controlled by the gentleman from Massachusetts.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I only have a few minutes.

Mr. LONG of Maryland. I object then, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, can the record show who objected? I did not hear anybody object.

The CHAIRMAN pro tempore. The gentleman from Maryland, Mr. LONG, objected.

Mr. SOLOMON. That clarifies it. I thank the Chair.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. CONTE) has 3½ minutes remaining, and the gentleman from Texas (Mr. WRIGHT) has 5 minutes remaining.

Mr. WRIGHT. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I thank the gentleman for yielding me this time.

It is my understanding that the House has unanimously adopted the Hoyer amendment. If I had been on the floor at the time it was taken up, I did not want to speak against it, but if this bill should pass, it is my hope that if it goes to conference, certain restrictive language now contained in the Hoyer amendment will be withdrawn which deals with some necessary changes that have come about with respect to implementing needed changes in the executive branch of our Government.

These recommendations of OPM were worked out beginning earlier this year and a few of them are as follows: First, OPM has agreed to permit agencies to set up grievance proceedings for employees who disagree with performance ratings; second, OPM has permitted employee unions a large role in eight merit pay demonstration projects; and third, the new performance appraisal system is phased in over 3 years.

The Hoyer amendment precludes these needed changes from being implemented. I believe that is unfortunate, and in conference we should strike this out.

I want to retain the provision of the Hoyer amendment which precludes the use of Federal medical insurance premiums to finance abortions. The inclusion of this provision has prevented me from attempting to strike the Hoyer amendment from the bill.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Indiana.

Mr. MYERS. In examining the Wright amendment, I do not see anything on prohibition on moneys being used for abortion. Is there anything in the Wright amendment on such a prohibition?

Mr. CONTE. Not the Wright amendment. In the Hoyer amendment, the Post Office and Treasury and executive branch, does contain a provision which would prevent any money for abortion.

Mr. MYERS. Then the Wright amendment as amended by Mr. Hoyer would contain the prohibition on any funds being spent for abortion?

Mr. CONTE. The so-called Asbrook amendment is in the Hoyer amendment.

Mr. MYERS. I thank the gentleman.

Mr. CONTE. Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. I thank the gentleman for yielding me this additional time.

Mr. Chairman, it is difficult to rise in opposition to an amendment that has so many good things in it, because I think most of us support what the Wright amendment is attempting to do.

The problem is, this is not the time and place to place this amendment when our backs are to the wall trying to get a continuing resolution passed that will get us out of here. There is a supplemental appropriation bill that is presently before the Rules Committee that can take care of all of these things that could come up next Monday or Tuesday whenever the Rules Committee would allow that rule to come out. The freshman Members who have so eloquently taken the well today and defended themselves, I can understand that. We have all been in that posture before, they are concerned, I hope, about getting this country running and are not trying to prove to us their motives. It is the voters back home they will have to go home and satisfy when they increase spending, and probably hang up Government tonight at midnight.

We can get to the issues next week very early with a rule by the Rules Committee, and reject this in all good conscience today because most of us do support those programs, but this is not the time and place. Let us keep the Government running and take up the issues at the proper time next week.

The CHAIRMAN. All time of the gentleman from Massachusetts (Mr. CONTE) has expired.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate has been bombastic at times, and at times acrimonious.

Let me simply say at the outset that I have the utmost respect for all of my colleagues, for their opinions, and for their right to express those opinions. Particularly I should like to express my personal regard for the distinguished gentleman from Kentucky (Mr. NATCHER) who has so ably and actively served as chairman of the Subcommittee on the Appropriations Committee and whose conduct has been exemplary in every respect as a Member of this body and which reflects such credit upon the body as a whole.

This is not a confrontation with the President or with anyone else. We do not seek to provoke a confrontation but rather to give to the President an opportunity to balance his priorities a bit more fairly.

This bill contains some $10 billion in foreign assistance that the President wants and desires. I am told that the Senate, the other body, intends to attach to their version of this bill an $8 billion International Monetary Fund authorization and program. Surely it would be straining at a gnat and swallowing camels if the President of the United States insists upon $8 billion for the International Monetary Fund and $10 billion for foreign aid, including foreign weapons sales, and strains at the gnat and hinges a veto as has been threatened by the gentleman from Massachusetts, upon our desire to provide $1 billion for the women, infants, and the children, for the handicapped and for the homeless.

□ 1310

Science tells us that the intelligence quotient of an adult is determined by more than any other one thing, his or her capacity for knowledge is determined by the amount of protein ingested by that person's mother while she was carrying that child during pregnancy.

Would we deny $300 million to the program to provide adequate nutrition for pregnant mothers?

Science tells us that young children in school learn far better if they are not gnawed at by the pangs of hunger. Their minds work better, are more resilient, are more receptive. Would we deny to millions of children in our school systems for want of a few million dollars the right to have one nutritious meal a day?

Because of the cuts that have been made, some of which we would restore, 2,700 schools throughout this country have had to close down their feeding programs. Is that a rightful set of priorities and does it provoke a confrontation with our President because we want those little children to have one warm, nutritious meal a day?

We have learned that there are some 2 million young Americans for whom it has been made more difficult by the reductions in student aid programs to attend college. Surely we do not provoke a confrontation with our President simply because we want to make it possible for young Americans to get better education.

Job training is something which the President has embraced in his rhetoric. This bill provides money to make it a reality. When there are approximately 3 million Americans, both middle aged and young, who are said to be unemployed for the express reason that they lack the marketable skills that would allow them to claim jobs that exist in the marketplace, do we provoke a confrontation with the President when we provide a relatively little bit of money for the job training, for the adult education, for the vocational education programs that make it possible for those people to earn a living and not draw unemployment compensation?

Surely those things ought not to be provocative of a confrontation with a President of good will.

With winter approaching and millions of homes faced with the stark necessity of high utility bills, do we provoke a confrontation with our President when we make it possible for homes of modest circumstances adequately to heat their homes in winter?

Oh, surely no. Surely no.

The gentleman from Massachusetts has waved like a Damoclean sword the President's veto pen and has said if we do these modest things for the American people on this bill, which gives to the President his $10 billion for foreign aid, and which probably will wind up giving him his $8 billion for the International Monetary Fund, just to do these things for people? Surely not, not a humane President.

We would not provoke a confrontation with him by doing these things for the American people.

I know that it is with that confidence that we vote aye on this amendment.

● Mr. KASTENMEIER. Mr. Chairman, my vote today against the Wright substitute to House Joint Resolution 413, the continuing appropriations bill for fiscal 1984, should not be construed as a vote against the funding provided in that substitute for the several social programs, including education, rehabilitation, nutrition, energy assistance and WIC. In fact, the RECORD will show that on Tuesday, November 8, I supported the Wright amendment and the Perkins amendment which provided increased funding for those programs, programs which I strongly feel have suffered greatly at the hands of this administration and which are in need of greater funding.

However, the Wright substitute today was not the same as the Wright amendment of Tuesday. The substitute today, while providing a bit more than $1 billion extra for these social programs, also provided $11.30 billion in new budget authority for foreign aid programs, the bulk of which is for military and security support assistance. I have long opposed the heavy emphasis we have placed on military aid to foreign countries and voted against the Wright substitute to affirm that opposition.

In the final analysis, however, I did not feel that we should hold the various Federal agencies hostage to the inability of the Congress to provide appropriations in a timely fashion and voted for final passage of the resolution so that the business of the Federal Government may continue beyond midnight tonight.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in support of the Wright substitute.

I would like to preface my remarks about the substance of the substitute by expressing my profound admiration and respect for the gentleman from Kentucky (Mr. NATCHER), the chairman of the Appropriations Subcommittee on Labor-HHS-Education. The gentleman from Kentucky is one of this body's most effective legislators and one of the best friends of Federal programs that serve the people, particularly education. I know that the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, joins me in expressing our appreciation for the efforts of the gentleman from Kentucky which have extended over many years. It is only the chance of circumstance and timing that places the gentleman from Kentucky in the awkward position of not being able to bring to this House the increases for important programs that are included in the amendment. I hope that the gentleman will not regard my support for the Wright substitute as reflecting any lack of appreciation for the gentleman's magnificent efforts.

The Wright substitute provides for a total increase for education of nearly $600 million. These increases for education were essentially already approved by the House when it adopted H.R. 3520, the Reauthorization of the Vocational Rehabilitation Act, on September 13. That bill included a title IV which raised the authorization levels for these education programs. That bill was passed by the overwhelming margin of 324 to 79. In fact, an amendment to strike title IV lost by better than a 2-to-1 margin.

The other body has refused to go to conference on the vocational rehabilitation bill. Therefore, the increased authorizations for the education programs have not yet been enacted. In the absence of the increased authorizations, the recently enacted Labor-HHS-Education appropriations bill for fiscal year 1984 could not include additional appropriations for these education programs. Thus, this amendment provides, in effect, for both the increased authorization and the appropriations for these education programs.

I should also point out that the increases for education provided by this amendment fall within the assumptions of the first budget resolution.

In short, the House has already endorsed these increases for education in three previous votes—the adoption of the first budget resolution, the adoption of the vocational rehabilitation reauthorization, and the defeat of the amendment to strike title IV. This is an opportunity to prove that the House was really serious in those three votes for increased funding for education. This amendment involves the real money.

I have noticed that in response to the new found concern for education there has been a great deal of breast-beating, hand-wringing and finger-pointing. What we have frequently heard is a lot of political rhetoric about education and the interest and concern that we have for it. This amendment is the chance to show that we are willing to put some real resources behind that rhetoric, that we are really committed to improving American education.

Among the increases for education programs included in this amendment is an increase of $165 million for the chapter 1 program. The chapter 1 compensatory education program and the programs for migrant education and education of the handicapped have a long track record of success in aiding the disadvantaged in improving their educational achievement. The amendment includes an increase of $81.4 million for vocational education, a vitally needed program in a time of rapid economic and technological change. The amendment also provides for a $20 million increase for college work study and a $10 million increase for the supplemental educational opportunity grant program. These increases will provide approximately 50,000 work and grant opportunities for needy students in postsecondary education.

I would also like to express my strong support for the provisions increasing funds for the child nutrition programs. Among the most drastic and unwise cuts in education programs made by the Omnibus Reconciliation Act of 1981 were those affecting the child nutrition programs. In 1981, the school lunch and child nutrition programs were cut by 35 percent, and as a result, 3.5 million fewer children are now participating in these programs.

The specific provisions are:

It increases the Federal subsidy for reduced-price lunches and breakfasts by lowering the price to students for lunch from 40 cents to 25 cents and for breakfast from 30 cents to 15 cents.

It increases the gross income eligibility guidelines for determining participation in the reduced-price meal program from 185 to 195 percent of poverty.

It raises the current tuition limit from $1,500 to $2,500 per year for private school eligibility to participate in the programs.

It allows one additional meal and snack to be added to the two meals and one snack currently provided in the child care food program.

It excludes unusually high medical expenses from household income for the purpose of determining program eligibility.

It increases the authorization for the nutrition education and training (NET) program from $5 to $7.5 million.

It restores the special milk program for kindergarten children attending schools with a breakfast or lunch program.

It eliminates the provision of current law which automatically ties free meal eligibility for the school lunch program to the food stamp eligibility levels.

This amendment restores $105 million to the child nutrition programs in fiscal year 1983, $160 million in fiscal year 1984 and $165 million in fiscal year 1985. There are four important facts to remember about these increases.

First, the 1981 reconciliation cut the child nutrition programs by $1.5 billion. Therefore, without even taking inflation into account, these increases restore only about 10 percent of the 1981 cuts.

Second, in no case does any one of these increases restore the child nutrition programs to their pre-1981 status. With respect to every benefit increase or modification in the eligibility standards, the programs will still remain more restrictive than they were prior to 1981.

Third, this substitute simply implements the increases for the child nutrition programs that were provided for and assumed in the first budget resolution for fiscal year 1984.

Fourth, just 2 weeks ago this House by a margin of 306 to 114 adopted a bill (H.R. 4901) which is identical to this amendment. The refusal of the other body to take timely action on this measure requires that we affirm our commitment to the child nutrition programs through this substitute.

I must mention, Mr. Speaker, that I am concerned about part of the substitute we are considering today. Although I voted for the Long-Zablocki amendment, which the House agreed to by vote on November 8, I must question whether it is in the best interest of the United States to allow a foreign government to use U.S.-appropriated funds to pay for defense items which would be produced in a foreign country for its own use. It is my understanding that hearings were not held on this matter in the Appropriations Committee and I think this action sets a bad precedent.

I have always supported foreign aid. After all, goods and agricultural products totaling over $30 million were purchased in Michigan last year for the U.S. foreign assistance overseas program by the Agency for International Development. Michigan farmers and food processors receive millions of dollars for grain and other agricultural commodities provided in the Food for Peace Program administered over-

seas by AID. One other important reason for supporting foreign aid is that the programs provide jobs for more than 200,000 American workers.

But when we specifically allocate $250 million for procurement of defense articles and defense services in Israel I must disagree. I cannot imagine that the time will ever come when the United States would turn its back on our great democratic ally, Israel. We must continue to have a strong foreign aid commitment to that country. It is not right, however, to give this foreign aid in a new way like we are doing here today. By giving Israel dollars to spend in its own country on the Lavi fighter and its defense industry, we are starting a bad habit that will take jobs and money away from Americans.

The Hoyer amendment contains a fiscal year 1984 postal appropriation of $879 million. This is the amount necessary to provide much needed postal rate stability to schools, libraries, churches, charities, and other preferred mailers who have incurred onerous rate increases during the past 18 months because of cuts in postal appropriations.

Because of reductions in these appropriations during the past 2 fiscal years, these mailers—many of whom perform the most essential public service tasks in our society—have had to use increasing amounts of their limited funds to pay higher postage costs rather than to pay for performance of their services. According to the Postal Reorganization Act, preferred rate mailers should presently be at step 12 of a 16-step phasing schedule designed to gradually bring preferred rates up to the full rate level. Instead, because of appropriation cuts for fiscal year 1982 and fiscal year 1983, these mailers are now at step 14.

Since January 10, 1982, for example, second-class nonprofit mailers—a church bulletin or a veterans' magazine—are paying 69 percent more in postage; the library rate has risen 42 percent; and the third-class rate for a nonprofit fundraising letter has risen 48 percent.

If the President's budget request for fiscal year 1984 were to be followed—he is asking for only $400 million—these rates would climb enormously yet again. For example, the rate for a nonprofit fundraising letter would go up another 77 percent, and the library rate would go up another 55 percent.

In March, the Committee on Post Office and Civil Service voted to recommend to the Budget Committee a level of $879 million for the fiscal year 1984 postal appropriation. Appropriating this amount would have the effect of freezing nonprofit and other preferred rates at step 14 through fiscal year 1984, thus giving these mailers a period of stability and allowing them to adjust their operations to the staggering increases they have suffered already. I am gratified that the budget resolution which ultimately emerged is in agreement with our recommendation, and will accommodate the appropriation of $879 million.

Under the false banner of fiscal intergrity this administration has seriously damaged the social fabric of America. One by one the great advances we have made as a nation since the days of the New Deal are being swept away as part of an economic program tailored for the rich.

Our schools are suffering. The working people of America are seeing their hard-won gains eroded. The elderly are losing their security. Across the board we are going backwards.

At some point we have to stand up and say, enough is enough. And we have reached that point.●

The CHAIRMAN. All time for debate on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. WRIGHT) has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. WRIGHT), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 181, not voting 18, as follows:

[Roll No. 486]

AYES—235

Ackerman	Cooper	Gore
Addabbo	Coyne	Gray
Akaka	Crockett	Green
Albosta	D'Amours	Guarini
Alexander	Daschle	Hall (IN)
Anderson	Davis	Hall (OH)
Andrews (NC)	Dellums	Hamilton
Andrews (TX)	Derrick	Harkin
Annunzio	Dicks	Harrison
Anthony	Dingell	Hatcher
Aspin	Dixon	Hawkins
Barnes	Donnelly	Hayes
Beilenson	Dorgan	Hefner
Berman	Downey	Hertel
Bevill	Durbin	Horton
Biaggi	Dwyer	Howard
Bilirakis	Dymally	Hoyer
Boehlert	Dyson	Hutto
Boggs	Eckart	Jeffords
Boland	Edgar	Johnson
Boner	Edwards (CA)	Jones (NC)
Bonior	Erdreich	Jones (OK)
Bonker	Evans (IL)	Kaptur
Borski	Fascell	Kazen
Bosco	Fazio	Kennelly
Boucher	Feighan	Kildee
Boxer	Ferraro	Kogovsek
Britt	Florio	Kolter
Brooks	Foglietta	Kostmayer
Bryant	Foley	LaFalce
Burton (CA)	Ford (MI)	Lantos
Carper	Ford (TN)	Leach
Carr	Fowler	Leath
Chandler	Frank	Lehman (CA)
Chappell	Frost	Lehman (FL)
Clarke	Fuqua	Leland
Clay	Garcia	Levin
Coelho	Gaydos	Levine
Coleman (TX)	Gejdenson	Levitas
Collins	Gephardt	Lewis (FL)
Conyers	Gonzalez	Lipinski
Long (LA)	Ottinger	Spratt
Long (MD)	Owens	St Germain
Lowry (WA)	Panetta	Staggers
Luken	Patterson	Stokes
Lundine	Pease	Stratton
MacKay	Penny	Studds
Markey	Pepper	Swift
Martinez	Perkins	Synar
Matsui	Pickle	Tallon
Mavroules	Price	Thomas (GA)
Mazzoli	Pritchard	Torres
McCloskey	Ratchford	Torricelli
McCurdy	Reid	Towns
McGrath	Richardson	Traxler
McHugh	Ridge	Udall
McKernan	Rinaldo	Vento
McNulty	Rodino	Walgren
Mica	Roe	Watkins
Mikulski	Rose	Waxman
Miller (CA)	Rowland	Weaver
Mineta	Roybal	Weiss
Minish	Russo	Wheat
Mitchell	Sabo	Whitley
Moakley	Savage	Whitten
Mollohan	Scheuer	Williams (MT)
Morrison (CT)	Schneider	Williams (OH)
Morrison (WA)	Schroeder	Wilson
Mrazek	Schumer	Wirth
Murphy	Seiberling	Wise
Murtha	Shannon	Wolpe
Natcher	Sharp	Wright
Neal	Sikorski	Wyden
Nelson	Simon	Yates
Nowak	Sisisky	Yatron
Oberstar	Skelton	Young (MO)
Obey	Smith (FL)	Zablocki
Olin	Smith (NJ)	
Ortiz	Solarz	

NOES—181

Applegate	Gilman	Michel
Archer	Gingrich	Miller (OH)
AuCoin	Glickman	Montgomery
Badham	Goodling	Moody
Barnard	Gradison	Moore
Bartlett	Gregg	Moorhead
Bateman	Gunderson	Myers
Bates	Hall, Ralph	Nichols
Bedell	Hall, Sam	Nielson
Bennett	Hammerschmidt	Oakar
Bereuter	Hansen (ID)	Oxley
Bethune	Hansen (UT)	Packard
Bliley	Hartnett	Parris
Breaux	Heftel	Pashayan
Brown (CO)	Hightower	Patman
Broyhill	Hiler	Petri
Byron	Hillis	Porter
Campbell	Holt	Pursell
Carney	Hopkins	Quillen
Chappie	Hubbard	Rahall
Cheney	Huckaby	Ray
Clinger	Hughes	Regula
Coats	Hunter	Ritter
Coleman (MO)	Hyde	Roberts
Conable	Ireland	Robinson
Conte	Jacobs	Roemer
Corcoran	Jones (TN)	Rogers
Coughlin	Kasich	Rostenkowski
Courter	Kastenmeier	Roth
Craig	Kemp	Roukema
Crane, Daniel	Kindness	Rudd
Crane, Philip	Kramer	Sawyer
Daniel	Lagomarsino	Schaefer
Dannemeyer	Latta	Sensenbrenner
Darden	Lent	Shaw
Daub	Lewis (CA)	Shelby
DeWine	Livingston	Shumway
Dickinson	Lloyd	Shuster
Dreier	Loeffler	Siljander
Duncan	Lott	Skeen
Edwards (AL)	Lowery (CA)	Slattery
Edwards (OK)	Lujan	Smith (IA)
Emerson	Lungren	Smith (NE)
English	Mack	Smith, Robert
Erlenborn	Madigan	Snowe
Evans (IA)	Marlenee	Snyder
Fiedler	Marriott	Solomon
Fields	Martin (IL)	Spence
Fish	Martin (NY)	Stangeland
Flippo	McCain	Stenholm
Forsythe	McCandless	Stump
Franklin	McCollum	Sundquist
Frenzel	McDade	Tauke
Gekas	McEwen	Tauzin
Gibbons	McKinney	Taylor

Thomas (CA)	Walker	Wylie
Valentine	Weber	Young (AK)
Vander Jagt	Whitehurst	Young (FL)
Vandergriff	Whittaker	Zschau
Volkmer	Wolf	
Vucanovich	Wortley	

NOT VOTING—18

Broomfield	Gramm	Paul
Brown (CA)	Hance	Rangel
Burton (IN)	Jenkins	Schulze
de la Garza	Martin (NC)	Smith, Denny
Dowdy	Molinari	Stark
Early	O'Brien	Winn

□ 1330

The Clerk announced the following pairs:

On this vote:

Mr. Brown of California for with Mr. O'Brien against.

Mr. Hance for with Mr. Broomfield against.

Mr. Rangel for with Mr. Denny Smith against.

Mr. Stark for with Mr. Paul against.

Mr. GEKAS changed his vote from "aye" to "no."

Mr. MURPHY and Mr. DAVIS changed their votes from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FOWLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984, pursuant to House Resolution 367, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. CONTE. I certainly am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit House Joint Resolution 413 to the Committee on Appropriations, with instructions to that committee to report the resolution back to the House forthwith, with the following amendment: Strike out all after the resolving clause, and insert in lieu thereof:

Section 102(c) of the joint resolution of October 1, 1983 (Public Law 98-107), is hereby amended by striking out "November 10, 1983" and inserting in lieu thereof "February 29, 1984".

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, in order to expedite time I will not take the 5 minutes and neither will I ask for a rollcall.

But I just want to leave this little message with the House.

At one time I knew a woodcarver and he carved some of the most beautiful wooden horses that I think I ever saw in my lifetime. He lived in a little hamlet up in the Berkshires.

And I said, "How do you carve these beautiful horses?"

He said, "Well, I take a block of wood, I take a hammer and a chisel, and then I cut out anything that doesn't look like a horse."

This is exactly what I am trying to do with this motion to recommit. I am trying to cut out everything that does not look like a continuing resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I urge the Members to vote against the motion to recommit. It is, as best I can determine, the same kind of motion that was offered yesterday and was rejected yesterday.

At that time it was variously described as a clean amendment, and a barebones amendment, and a naked amendment, and a good amendment by the gentleman who offered it.

It cuts out those things that help the aged, it cuts out those things that help the handicapped, it cuts out those things that help the homeless, it cuts out those things that help the children learn better in school, it cuts out the nutrition programs, it cuts out those programs that we have just voted for.

It is the same recommital motion that we rejected 2 days ago. And I would urge my colleagues to reject it again today.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was not objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 189, not voting 21, as follows:

[Roll No. 487]

YEAS—224

Ackerman	Gephardt	Ortiz
Addabbo	Glickman	Ottinger
Akaka	Gonzalez	Owens
Albosta	Gore	Panetta
Alexander	Gray	Patterson
Anderson	Green	Pease
Andrews (NC)	Guarini	Penny
Annunzio	Hall (IN)	Pepper
Anthony	Hall (OH)	Perkins
Aspin	Hamilton	Pickle
Barnes	Harkin	Price
Bellenson	Harrison	Pritchard
Berman	Hatcher	Rangel
Bevill	Hawkins	Ratchford
Biaggi	Hayes	Reid
Boehlert	Hefner	Richardson
Boggs	Heftel	Ridge
Boland	Hertel	Rinaldo
Boner	Horton	Rodino
Bonior	Howard	Roe
Bonker	Hoyer	Rose
Borski	Hutto	Rostenkowski
Bosco	Jeffords	Rowland
Boucher	Jones (NC)	Roybal
Boxer	Jones (TN)	Sabo
Britt	Kastenmeier	Savage
Brooks	Kazen	Scheuer
Bryant	Kennelly	Schroeder
Burton (CA)	Kildee	Schumer
Carr	Kogovsek	Seiberling
Chandler	Kolter	Shannon
Chappell	Kostmayer	Sikorski
Clarke	LaFalce	Simon
Clay	Lantos	Sisisky
Coelho	Leath	Skelton
Coleman (TX)	Lehman (CA)	Smith (FL)
Collins	Lehman (FL)	Smith (IA)
Conyers	Leland	Smith (NJ)
Cooper	Levin	Solarz
Coyne	Levine	Spratt
D'Amours	Lipinski	St Germain
Daschle	Long (LA)	Staggers
Davis	Long (MD)	Stokes
Dellums	Lowry (WA)	Stratton
Derrick	Luken	Studds
Dicks	Lundine	Swift
Dingell	Markey	Synar
Dixon	Martinez	Tallon
Donnelly	Matsui	Thomas (GA)
Dorgan	Mavroules	Torres
Downey	Mazzoli	Torricelli
Durbin	McCloskey	Towns
Dwyer	McGrath	Traxler
Dymally	McHugh	Udall
Dyson	McKernan	Vento
Eckart	McNulty	Walgren
Edgar	Mica	Watkins
Edwards (CA)	Mikulski	Waxman
Evans (IL)	Miller (CA)	Weiss
Fascell	Mineta	Wheat
Fazio	Minish	Whitley
Feighan	Mitchell	Whitten
Ferraro	Moakley	Williams (MT)
Florio	Mollohan	Williams (OH)
Foglietta	Morrison (CT)	Wilson
Foley	Morrison (WA)	Wirth
Ford (MI)	Mrazek	Wise
Ford (TN)	Murphy	Wolpe
Fowler	Murtha	Wright
Frank	Natcher	Wyden
Frost	Neal	Yates
Fuqua	Nowak	Yatron
Garcia	Oberstar	Young (MO)
Gaydos	Obey	Zablocki
Gejdenson	Olin	

NAYS—189

Andrews (TX)	Gregg	Oakar
Applegate	Gunderson	Oxley
Archer	Hall, Ralph	Packard
Badham	Hall, Sam	Parris
Barnard	Hammerschmidt	Pashayan
Bartlett	Hansen (UT)	Patman
Bateman	Hartnett	Petri
Bates	Hightower	Porter
Bedell	Hiler	Pursell
Bennett	Hillis	Quillen
Bereuter	Holt	Rahall
Bethune	Hopkins	Ray
Bilirakis	Hubbard	Regula
Bliley	Huckaby	Ritter
Breaux	Hughes	Roberts
Brown (CO)	Hunter	Robinson
Broyhill	Hyde	Roemer
Byron	Ireland	Rogers
Campbell	Jacobs	Roth
Carney	Jones (OK)	Roukema
Carper	Kaptur	Rudd
Chappie	Kasich	Russo
Cheney	Kemp	Sawyer
Clinger	Kindness	Schaefer
Coats	Kramer	Schneider
Coleman (MO)	Lagomarsino	Sensenbrenner
Conable	Latta	Sharp
Conte	Leach	Shaw
Corcoran	Lent	Shelby
Coughlin	Levitas	Shumway
Courter	Lewis (CA)	Shuster
Craig	Lewis (FL)	Siljander
Crane, Daniel	Livingston	Skeen
Crane, Philip	Lloyd	Slattery
Crockett	Loeffler	Smith, Robert
Daniel	Lott	Snowe
Dannemeyer	Lowery (CA)	Snyder
Darden	Lujan	Solomon
Daub	Lungren	Spence
DeWine	Mack	Stangeland
Dickinson	MacKay	Stenholm
Dreier	Madigan	Stump
Duncan	Marlenee	Sundquist
Edwards (AL)	Marriott	Tauke
Edwards (OK)	Martin (IL)	Tauzin
Emerson	Martin (NY)	Taylor
English	McCain	Thomas (CA)
Erdreich	McCandless	Valentine
Erlenborn	McCollum	Vander Jagt
Evans (IA)	McCurdy	Vandergriff
Fiedler	McDade	Volkmer
Fields	McEwen	Vucanovich
Fish	McKinney	Walker
Flippo	Michel	Weaver
Forsythe	Miller (OH)	Weber
Franklin	Montgomery	Whitehurst
Frenzel	Moody	Whittaker
Gekas	Moore	Wolf
Gibbons	Moorhead	Wortley
Gilman	Myers	Wylie
Gingrich	Nelson	Young (AK)
Goodling	Nichols	Young (FL)
Gradison	Nielson	Zschau

NOT VOTING—21

AuCoin	Gramm	O'Brien
Broomfield	Hance	Paul
Brown (CA)	Hansen (ID)	Schulze
Burton (IN)	Jenkins	Smith (NE)
de la Garza	Johnson	Smith, Denny
Dowdy	Martin (NC)	Stark
Early	Molinari	Winn

□ 1350

The Clerk announced the following pairs:

On this vote:

Mr. Stark for, with Mr. Jenkins against.

Mr. Brown of California for, with Mr. O'Brien against.

Mr. Hance for, with Mr. Broomfield against.

Mr. COATS changed his vote from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of House Joint Resolution 413, and that I may include extraneous and tabular matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SENSE OF CONGRESS RESOLUTION ON INTERNATIONAL OLYMPIC COMPETITION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 366) expressing the sense of the House of Representatives that the United States supports and encourages the goals and ideals of international Olympic competition, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 366

Expressing the sense of the-House-of Representatives that the United States supports and encourages the goals and ideals of international Olympic competition.

Whereas the modern Olympic games were revived in 1896 with the goal of encouraging the organization and development of sport and sports competition and promoting and strengthening friendship between the sportsmen of all countries;

Whereas the Olympic creed states that "the most important thing in the Olympic games is not to win but to take part";

Whereas the success of the Olympic games depends on the full participation of the best qualified amateur athletes from around the world;

Whereas the Olympic games are contests between individuals and teams and not between countries;

Whereas the honor of hosting the Olympic games is entrusted to a city and not to a country or area;

Whereas the Los Angeles Olympic Organizing Committee is charged by the International Olympic Committee with operating and staging the 1984 Olympic games to be held in Los Angeles, California; and

Whereas the United States Olympic Committee, incorporated under the laws of the United States, is charged with protecting, by all lawful means at its disposal, the right of every individual eligible under the rules of the International Olympic Committee to participate in the games of the XXIII Olympiad to be held in Los Angeles, California: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States supports and encourages the goals and ideals of international Olympic competition;

(2) the United States Government reaffirms its commitment to abide by the Olympic Charter; and

(3) the people of the United States extend their good will to the hundreds of American athletes who will participate in the Los Angeles 1984 Olympic games.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the resolution now before the House which expresses the sense of the House of Representatives that the United States supports and encourages the goals and ideals of international Olympic competition.

At the outset, I would like to commend the sponsors of the resolution, Hon. SILVIO CONTE, Hon. JIM WRIGHT, and Hon. BOB MICHEL.

Mr. Speaker, the resolution recognizes the significance of the quadrennial Olympic games in promoting and strengthening international sports competition and friendship. Symbolic of these goals is the Olympic insignia of five interlocking rings. The logo represents the joining of continents and athletes from around the globe to participate in sports competition.

The Olympic games have a magical, charismatic quality with a unique appeal. Little else can envelop and inspire as Olympic events can. When Olympics are held, the world's audiences are rapt.

As individuals, Olympic athletes can be truly inspirational. Their achievements, not only a source of tremendous national pride, can, in a more universal sense, provide a focal point for what man, through persistence and dedication, is able to accomplish. Certainly, it is a source of pride to one's country when a native athlete excels, but it is a source of inspiration to the world when an athlete performs with unparalleled dexterity or speed.

The essence of competition is exemplified by the Olympic creed which states that "the most important thing in the Olympic games is not to win but to take part." Somehow, the sense of achievement for mankind as a whole transcends national identities. It is this sense of sport and competition, with a pervasive aura of universality, which is the attraction of the Olympic games.

It is a great source of pride to the United States to host the summer Olympics in Los Angeles next summer. Our Nation is pleased for the opportunity to encourage sports competition and amity, among nations and individuals.

Mr. Speaker, I urge the adoption of the resolution.

Mr. CONTE. Mr. Speaker, I rise today to urge my colleagues to support this resolution expressing the sense of the House that the United States supports and encourages the goals and ideals of international Olympic competition.

Since the revival of the modern Olympic games in 1896, global enthu-

siam for international sports competition has increased tremendously. From the first Olympiad held in Athens, Greece, to the XXIII Olympiad to be held in Los Angeles next year, the number of Olympic sporting events has grown fivefold. Similarly, the number of participating athletes has increased enormously over this period. In 1896 at the Athens games, there were 311 participants from 13 countries while some 10,000 athletes from over 100 nations are expected to participate in the Los Angeles games.

This steady development has not only made the Olympics a major international sports event but has cast a political shadow over the games as well. Over the years, some men and governments have attempted to use the Olympic games as a political tool; they have attempted to redefine the focus of this international sports event. Recent examples illustrate this politicization:

In 1936, the Nazi regime in Germany used the Berlin games as a propaganda showcase;

In 1952, in 1956, in 1960, in 1964, in 1968, and in 1972, the People's Republic of China did not participate in the games because the International Olympic Committee refused to bar the participation of Taiwan;

In 1972, the Olympic games were marred by political terrorism which Israeli athletes were held hostage and murdered;

In 1976, Taiwan did not participate in the games because the Republic of China participated;

In 1980, the United States organized a boycott of the Moscow games because of the invasion of Afghanistan;

It is idealistic to believe that these political overtones will not continue, but we can minimize the politics and emphasize the sports competition if the original focus of the Olympics is stressed.

As stated by the founders, the primary goal of the modern games is to encourage the organization and development of sport and sports competition. To some extent this attempt has been successful. As was mentioned earlier, the number of official Olympic sports has grown significantly. More importantly, several sports, once particular to one country or continent, have now been accepted worldwide. Non-Olympic, international sports competition has also increased.

I cannot, Mr. Speaker, overstate the primary purpose of the modern Olympics. The games were created to encourage sports among amateur athletes, not to foster peace among nations. The promotion of international cooperation between governments is a political function, not a sports activity. This distinction is extremely important to consider in light of what the games should represent.

The Olympic games—as defined by the International Olympic Committee—are contests between individuals and teams and not between countries. The games are intentionally scored to reflect this important distinction. For example, the official Olympic records do not contain scoring by countries.

I will not downplay the positive effects that can result from Olympic competition. The games are designed to promote and strengthen friendship between sportsmen of all countries. With this motivation in mind, international amity and good will may be one of the positive results.

As a host country, the United States has certain responsibilities and obligations to fulfill. The selection of qualified candidates is not one of those responsibilities. In fact, the honor of hosting the Olympic games is entrusted to a city and not to a country or area. The Los Angeles Olympic Organizing Committee is charged by the IOC with operating and staging the 1984 Olympic games. To abide by the Olympic charter, the United States must admit all qualified athletes.

I am pleased that the administration has agreed to honor this obligation. Let me take this opportunity to include for the RECORD a letter from our former colleague Edward J. Derwinski, the present counselor at the State Department. He clearly states the administration's intention, specifically mentioning that—

President Reagan has confirmed to the President of the International Olympic Committee that the United States will welcome athletes from all nations to participate in the Games and that we will abide by the Olympic Charter.

The following is the full text of Mr. Derwinski's letter:

THE COUNSELOR,
DEPARTMENT OF STATE,
Washington, D.C., October 5, 1983.

Hon. SILVIO O. CONTE,
Rayburn House Office Building,
Washington, D.C.

DEAR SILVIO: Since the KAL airliner was shot down by the Soviets, there have been calls to bar Soviet athletes from participating in the 1984 Olympic Games in Los Angeles. Such a move would be in direct conflict with the obligations the Los Angeles Olympic Committee has undertaken as host for the '84 Games.

The Olympic Games were awarded to Los Angeles by the International Olympic Committee on the condition that all national participants recognized by the IOC be admitted to the Games.

The Los Angeles Olympic Organizing Committee is striving to assure full participation in the 1984 Games and must oppose any efforts to bar athletes for political purposes.

President Reagan has confirmed to the President of the International Olympic Committee that the United States will welcome athletes from all nations to participate in the Games and that we will abide by the Olympic Charter.

As State Department Coordinator for the Olympics, I am calling your attention to these points so that you can respond to inquiries from constituents on the issue.

Sincerely yours,

EDWARD J. DERWINSKI.

Let me mention in closing that this resolution is not designed to eradicate suddenly the politics associated with the Olympic games. We must, however, take positive steps toward "depoliticizing" the focus of the Olympics. Let us start today.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SENSE OF CONGRESS RESOLUTION ON KILLING KOREANS IN BURMA

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 82) expressing sympathy and condolence on the tragic killing of Koreans in Burma, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I will not object, I want to join the chairman in support of this resolution.

The October 9 terrorist attack in Rangoon, Burma, which took the lives of several prominent leaders of the Republic of Korea was received with shock and outrage by decent people everywhere. These men who were killed were talented and patriotic Koreans whose services were of immense value to their country. Several of them lived and worked here and studied here in the United States and had a wide circle of friends, including some Members of Congress.

So I think it is appropriate under these circumstances that the Congress pass this resolution extending its sympathy to the families of the victims and to their countrymen.

We should also condemn this shameful act and make clear our determination that Korean-American cooperation, which has benefited both of our countries, will continue to expand and thereby strengthen the ties of friendship between our two peoples.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, I certainly would like to support the remarks that the gentleman from California has made. This despicable terrorist attack is similar to, almost identical to, that which took so many American lives in the bombing of our Embassy in Lebanon. It is also similar to the devastating bombing that took so many of American marine lives, the members of the peacekeeping force. It is similar to the bombing that took place right next door, over near the Senate Chamber which fortunately did not result in injury or death.

Ladies and gentleman, I do not have to tell any of my colleagues the value of the friendship between ourselves and South Korea. If it had not been for the South Koreans, today this whole free world might have been overrun by communism back in the early 1950's. Thank God, because of their friendship, we are still a free people.

I want to thank the gentleman for bringing this resolution before the House.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. GIBBONS. Mr. Speaker, reserving the right to object, and I certainly shall not object, I only want to do this to commend the Committee on Foreign Affairs for this very appropriate and very timely resolution.

In my travels around the world, I have had an opportunity to visit Korea on a number of occasions. Mrs. Gibbons and I have visited in the homes of many of the people who lost their lives in this barbaric act. The Subcommittee on Trade has entertained them on this very floor of the Capitol.

They were men of peace. They were men of good will. They were men trying to heal the problems of the past. This senseless act only made it more difficult for people of intelligence and good will to get together to solve our many problems.

Mr. Speaker, I withdraw my reservation of objection.

□ 1400

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 82

Whereas the people of Korea have recently suffered a grave tragedy through a terrorist attack on October 9, 1983, in Rangoon, Burma, which took the lives of seventeen Koreans, including senior members of the Government of the Republic of Korea; and

Whereas the victims of that attack included several individuals who had lived and studied in the United States, who had wide circles of friends here, and who were known and admired by a number of Members of Congress of the United States for their lasting contributions to the strong relationship between our two countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses its most profound sympathy and condolence to the families of the Koreans who were the victims of the tragic killing in Burma and to the Korean people;

(2) reaffirms the lasting friendship and solidarity between the people of the United States and the people of Korea; and

(3) condemns this outrageous terrorist act and calls upon the international community to redouble its efforts to combat terrorism and to isolate, censure, and punish the perpetrators of such acts.

The SPEAKER. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of Senate Concurrent Resolution 82. This resolution is identical to House Concurrent Resolution 207 introduced by Representative SOLARZ, chairman of the Subcommittee on Asian and Pacific Affairs, with 29 cosponsors. This resolution has the support of a bipartisan group of Members of the House, including myself, Mr. BROOMFIELD, the ranking minority member of the Foreign Affairs Committee, and other members of the committee.

Both the Senate and House resolutions express sympathy and condolence to the families of victims of the tragic bombing that occurred in Rangoon about a month ago.

The dispicable terrorist act in Rangoon killed talented and respected Korean Government leaders. These individuals represented some of the best and most forward looking Koreans, men responsible for the national administration, economic development and foreign relations of their country. The Foreign Minister and a former Ambassador to the United States were among those slain. Most of them received advanced educational training in the United States. They were among the best friends of so many Americans, including many Members of this Congress.

After the horrible terrorist incidents so recently in Lebanon, we can well understand how much suffering is caused by such a premeditated, cowardly terorist act. It is therefore entirely appropriate that we join in mourning with our friends in Korea.

I urge the adoption of Senate Concurrent Resolution 82.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just adopted.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

H.R. 3348. An act to honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan;

H.J. Res. 283. Joint resolution designating the week beginning November 6, 1983, as "National Disabled Veterans Week"; and

H.J. Res. 383. Joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2906. An act to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations.

The message also announced that the Senate insists upon its amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 2077) entitled "An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. MATHIAS, and Mr. BINGAMAN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2906) entitled "An act to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PERCY, Mr. HELMS, Mr. LUGAR, Mr. MA-

THIAS, Mr. PELL, Mr. BIDEN, and Mr. CRANSTON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 183. Joint resolution to recognize the second week of November 1983, as "National Meals-on-Wheels and Congregate Meal Week."

NATIONAL RETIRED TEACHERS DAY

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 20) designating November 13, 1983, as "National Retired Teachers Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I will not object, and I rise to indicate that I stand in strong support of the joint resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

Mr. FUQUA. Mr. Speaker, reserving the right to object, I rise in strong support of House Joint Resolution 20, a proposal I first introduced to designate November 13, 1983, as National Retired Teachers Day. I want to take this occasion to thank the 218 Members of this body who joined me in cosponsoring the resolution and making this day a reality.

There are over 1½ million retired teachers in the United States today. They live in every State, every county in the country. These are the men and women who in their lifetime have made such a valuable contribution to our way of life. As the saying goes, "if you can read this, thank a teacher."

We can all remember a particular teacher or two who made a most memorable impression on us in our youth and guided our lives. These people deserve special recognition.

The National Commission on Excellence in Education has highlighted some of the problems facing education today and there are many. I am convinced, however, that this new awareness and emphasis on the role of education does not detract from the performance of teachers but, rather, serves to remind us of what excellent teachers we have had and the need to continue to encourage bright young people to come into the field.

This special day calling attention to their contributions is most timely and I urge my colleagues to give House Joint Resolution 20 overwhelming support as a demonstration of our commitment to quality education in America.

Mr. Speaker, I thank the gentlewoman from Indiana (Mrs. HALL) for the expeditious manner in which she has handled this joint resolution.

Mr. FUQUA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 20

Whereas education is the surest foundation for the prevention of freedom, justice, and happiness in our American democracy;

Whereas education transmits not only knowledge but the values of a society;

Whereas America has always placed its major hopes for the future on education as a means of improving and developing the potentialities of the individual and the society;

Whereas, as Henry Adams said, "a teacher affects eternity; no one can tell where his influence stops";

Whereas the approximately one million five hundred thousand retired teachers of America chose what should be recognized as the most important profession in the world, dedicating their working lives to the battle against prejudice, greed, and ignorance and receiving in return very little material remuneration for their dedication; and

Whereas it is fitting to acknowledge a debt of gratitude to these former teachers, who gave the country the most important gift of all, the instruction of its youth: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 14, 1982, is designated as "National Retired Teachers Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANTI-DEFAMATION LEAGUE DAY

Mrs. HALL of Indiana. Mr. Speaker, notwithstanding the policy of the Committee on Post Office and Civil Service that any proposal concerning a commercial enterprise or specific project of a fraternal, political, or sectarian organization shall not be reported, I hereby ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 408) designating November 12, 1983, as "Anti-Defamation League Day" in honor of the 70th anniversary of the founding of the Anti-Defamation League of the B'nai B'rith, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

Mr. COURTER. Mr. Speaker, reserving the right to object, I rise in support of House Joint Resolution 408, which recognizes the 70th anniversary of the Anti-Defamation League on November 12. I believe this is a very important resolution, commending an extremely worthy organization.

Throughout this century, we have made great strides in appreciating the complex ethnic, racial, and religious differences between citizens of this Nation. The Anti-Defamation League has been a leading force here, with a tremendous impact on this growing tolerance and understanding. I applaud the league for its courage and leadership.

Unfortunately, there continues to be evidence of racial and religious prejudice and bias in this country. For this reason, it is worthwhile to dwell for a moment on the activities of a single office of the Anti-Defamation League to illustrate the organization's ongoing efforts to fight ignorance and intolerance in our society.

New Jersey houses a regional office of the Anti-Defamation League which is currently working with the State government on three significant projects. First, the league, together with the New Jersey Department of Education, has designed a curriculum and trained 400 teachers to instruct high school students on the Holocaust, its message and its implications. The curriculum was introduced in New Jersey schools this fall and has been well received by parents, students, and teachers.

An additional achievement of the league has been its program to sensitize law enforcement officers throughout the State as to the implications of bias crimes. This activity has proved extremely beneficial to officers in deterring and understanding crimes of this nature. Finally, the Anti-Defamation League of New Jersey is currently working with the attorney general's office on a program entitled "A Leadership Call to Action." The purpose of this program is to call upon the leaders of our State to address the day-to-day problems associated with racial, ethnic, and religious bias. All of these ambitious and successful activities are contributing enormously to New Jersey residents' appreciation of the destructive nature of racial, religious, and ethnic intolerance.

The Anti-Defamation League deserves our highest commendation for all it has done to increase our understanding of the diversity of mankind. I

thank all who have participated in this most important organization.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from California (Mr. PATTERSON) and the gentleman from New Jersey (Mr. COURTER) for their efforts in bringing this noteworthy measure to the floor at this time. It is an appropriate commendation for an organization that has accomplished a great deal in promoting brotherhood, in helping to root out intolerance and bigotry throughout our Nation.

House Joint Resolution 408 commemorates the 70th anniversary of the founding of the Anti-Defamation League (ADL) of B'nai B'rith on November 12, 1983. Such a long and illustrious history is worthy of congressional recognition.

As a cosponsor of House Joint Resolution 408, and as one who has worked with the ADL over the years, I have come to recognize, as have so many others, the importance of the work of the Anti-Defamation League. Tirelessly, they have combatted anti-Semitism, intolerance, and racism over the years, contributing to a clearer understanding of the ethnic and religious differences which are part of the lustrous fabric of our Nation. Their efforts to foster cooperation among diverse groups has led to increased harmony among ethnic, racial, and religious groups.

The ADL membership endeavors to uphold human rights, both in this country, and abroad. Their cohesive and thoughtful analyses of human rights violations in other countries have been of great assistance to many of us in the Congress.

Mr. Speaker, I applaud this 70th anniversary of the Anti-Defamation League's contributions to our Nation. I hope that the ADL will continue its good works for many years to come.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his comments.

Mr. PATTERSON. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from California.

Mr. PATTERSON. Mr. Speaker, I would like to thank the subcommittee chairman, the gentlewoman from Indiana (Mrs. HALL) and the chairman of the committee, the gentleman from Michigan (Mr. FORD), for their special efforts in bringing this commemorative resolution to the House floor today. In the words of Walt Whitman, "Whoever degrades another, degrades me, and whatever is done or said, returns at last to me."

In only 8 legislative days since I introduced House Joint Resolution 408, we have enlisted the cosponsorship of over 230 members of this body. This is a strong statement by House Members of their respect for the Anti-Defamation League and its programs. By designating November 12 to honor the 70th anniversary of the ADL, Members of the House join to acknowledge the valuable contributions which the league has made during the course of this century, as one of this Nation's oldest human relations agencies.

Founded in 1913, the ADL sought to eradicate deeply imbedded prejudices against people of the Jewish faith. The group volunteered time and talent to awaken a new spirit in America, one which upheld in practice the principles of our Constitution and our Bill of Rights.

The ADL has fostered positive images of Jews, their history and heritage, even during times when they were being defamed and mocked by bigotry. Through education and strong community involvement, members of the ADL transformed the attitudes of American society. The ADL accomplished many of its goals slowly, with its members and its principles often becoming the victims of tragic moments in history. During world wars and in periods of civil strife, the ADL was present and struggling for unpopular but honest objectives.

After seven long decades, the progress of the ADL is readily apparent. The ADL continues to fight for democracy at home and abroad. It believes in a world standard of human rights, and its international network provides an accurate picture of violations from which many important recommendations have been made.

In its campaign against anti-Semitism, the ADL has embraced an even larger role in American society. It has moved to the forefront of civil rights organizations and has become active in promoting fair and effective public policy. In issues relating to discrimination in housing, education, or employment, the Anti-Defamation League has made positive contributions in the courts, in the legislature, and in society.

In each and every community throughout the United States, the Anti-Defamation League is respected for its "intergroup relations" programs which provide today's youth with an understanding of prejudice and the destruction which can be caused by discrimination.

Our tribute to the ADL on its 70th anniversary is only one small note of honor to an organization which has served our Nation so well, for so long. On November 12, let us all review our American history and recall the lessons we have learned from the Anti-Defamation League.

Mr. Speaker, I thank the gentleman from New Jersey (Mr. COURTER) for yielding.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his comments.

● Mr. RODINO. Mr. Speaker, I am very proud to join my colleague, Mr. PATTERSON, in paying tribute to the Anti-Defamation League by setting aside November 12 in honor of the league's 70th anniversary.

Since its founding in 1913, the Anti-Defamation League of the B'nai B'rith has struggled against anti-Semitism. The progress that we have made in human relations in the past 70 years is a testimony to the ADL's effectiveness. The league has expanded its mission and shifted its focus as times have changed, but still remains committed to the fight against discrimination in all forms.

Perhaps the most important contribution the ADL has made to our society has been in the area of educating the public. The league's founders wisely recognized the danger that results from lack of understanding and communication between people of different ethnic backgrounds. If anti-Semitism is fueled by misconceptions and fear, then it must be combated with truth and trust. And so the ADL set about teaching the truth about the Jewish religion, and fostering positive images of Jewish people. The league's initial statement of purpose pledged to fight discrimination and defamation "by appeals to reason and conscience, and if necessary, by appeals to law."

The ADL has been a tremendous positive force in this country wherever these appeals have been made—in the courtroom and in the classroom. The extensive educational programs of the ADL include inter-group relations for young people, the Center for Studies on the Holocaust, and a variety of visual and printed materials that provide accurate and useful information about racial and ethnic minorities.

In the educational arena, in the civil rights movement, and as a champion of human rights abroad, the ADL is an example of the best this country has to offer. For 70 years, the ADL has worked to make us a better society, and I am honored that this Congress can give something back to this outstanding organization by recognizing Anti-Defamation League Day on November 12.●

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 408

Whereas the Anti-Defamation League of the B'nai B'rith since its inception has worked to strengthen the democratic underpinnings of American society and to establish a harmonious unity of friendship and

understanding amidst this Nation's religious, racial, and ethnic diversity;

Whereas the Anti-Defamation League has combated, counteracted, and educated against anti-Semitism, racism, and the extremists of totalitarianism;

Whereas the Anti-Defamation League represents the special concerns and interests of the American Jewish community in upholding human rights and civil liberties in this country and throughout the world;

Whereas the Anti-Defamation League is an effective advocate for friendship and alliance with Israel;

Whereas the Anti-Defamation League, and its leaders and supporters, set an example of leadership and participation in events and programs to affect the well-being and future of all people; and

Whereas the Anti-Defamation League, in purpose and program, espouses and fulfills the highest ideals and aspirations of Americans of all faiths, races, and cultural origins: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the seventieth anniversary of the founding of the Anti-Defamation League of the B'nai B'rith, November 12, 1983, is designated "Anti-Defamation League Day". The President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MRS. HALL OF INDIANA

Mrs. HALL of Indiana. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. HALL of Indiana: On page 1, in the second paragraph, first line, strike "Whereas the Anti-Defamation League of the B'nai B'rith since" and insert in lieu thereof "Whereas the Anti-Defamation League since," and

On page 2, line 4, strike "of the Anti-Defamation League of the B'nai B'rith, Novem-" and insert in lieu thereof "of the Anti-Defamation League, Novem-".

The SPEAKER. The question is on the amendment offered by the gentlewoman from Indiana (Mrs. HALL).

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MRS. HALL OF INDIANA

Mrs. HALL of Indiana. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mrs. HALL of Indiana: Amend the title of the joint resolution so as to read: "Joint resolution designating November 12, 1983, as 'Anti-Defamation League Day' in honor of the League's seventieth anniversary."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. HALL of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolutions just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

PROPOSED IMPEACHMENT PROCEEDINGS AGAINST PRESIDENT REAGAN

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I have introduced today with six other Members of the House a resolution calling for the impeachment of President Ronald Reagan on grounds that he violated the Constitution of the United States when he ordered the invasion of Grenada. Joining me in cosponsoring this resolution are my colleagues, Congressmen JOHN CONYERS, JULIAN DIXON, MERVYN DYMALLY, HENRY GONZALEZ, MICKEY LELAND, and PARREN MITCHELL.

The framers of the Constitution provided for impeachment in order to defend the country against what James Madison referred to in debate at the constitutional convention as "the incapacity, negligence or perfidy" of the Executive. To guard against the danger of too much power concentrated in the hands of a single person, as the American colonists had already experienced under the King of England, the framers included gross abuses of power and violations of the Constitution as impeachable offenses.

By his actions in Grenada, the President has usurped the warmaking powers of Congress, contrary to the very constitutional framework of our Government. It is now left to Congress to resort to the one option provided for in the Constitution which can truly rein in the actions of President Reagan: Impeachment.

I realize that this action does not fit the current mood of most Americans. But the Constitution of the United States was not meant to apply only when its provisions enjoy majority support.

I invite Members of the House to join as cosponsors of the impeachment resolution.

THE 500TH ANNIVERSARY OF THE BIRTH OF MARTIN LUTHER

(Mr. HARKIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, today marks the 500th anniversary of the birth of Martin Luther. Like other historical giants of religion and philosophy, Martin Luther means different things to different people.

Some things, however, are clear and not open to question. He was a brilliant and prolific writer. He began the process of bringing the Bible and Scriptures to the general populace. He wrote beautiful hymns that still stir our souls 500 years later.

There was another aspect of Martin Luther which he would not want forgotten: He was human, terribly human, with all the frailties, conflicts, and inner doubts that go with being human.

Martin Luther means many things to me, but above all, it was his unwillingness to blindly accept the dictates of those placed in authority over him. When it came to matters of conscience to Martin Luther, no temporal power had any legitimate authority over the individual.

So when I think of Martin Luther, I am reminded of a refrain written by a Baptist minister during the American war for independence. He wrote this:

Tax all things, water, air, and light. If need be, tax the night.
But let our minds move freely as celestial winds.
Let vice and folly feel your rod.
But leave our consciences to God.

□ 1410

BAGHDAD-BY-THE-BAY SAYS NO TO BILINGUAL BALLOT

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, ever since the 96th Congress, this gentleman from California has introduced legislation to remove the mandatory requirement of bilingual ballots. Last Tuesday help was received from an unexpected source, the voters of the city and county of San Francisco.

That is right. Mr. Speaker, Baghdad-by-the-Bay held an advisory election, and guess what? Over 60 percent said "no" to the bilingual ballot.

Mr. Speaker, bilingual ballots are misguided public policy and a needless Government expense.

For example, in San Francisco last November, general election materials in Chinese and Spanish, as mandated, cost over $8 per copy, and as usual, they had materials left over.

Mr. Speaker, it is heartening to know that in the city where you left your heart, they have not lost their head.

Mr. Speaker, where little cable cars climb halfway to the stars, they have their feet on the ground.

Mr. Speaker, in perhaps the most liberal city in America, even San Franciscans say "no" to bilingual ballots.

HOUSE SHOULD NOT STONEWALL A JUSTICE DEPARTMENT INVESTIGATION

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, some weeks ago a number of us asked the FBI and the Department of Justice to begin the process of investigating the matter of the altered transcripts in the House of Representatives. We felt that while the Ethics Committee was proceeding with this investigation, that it was necessary for the Justice Department also to become involved, because there may be criminal violations of law.

In this morning's paper, we read that under the guise of separation of powers in the speech and debate clause, that this House may be attempting to cover up that investigation and to stop that investigation from going forward. We read that the General Counsel of the House has said that the speech and debate clause may protect the guilty party and may keep him from being prosecuted.

I say this as a warning to the Members of this body. If in fact that goes forward, what that means is that a member of the staff can change your remarks and you will have no recourse under law, even though he has committed a criminal act.

I think that is a disturbing kind of trend that we have developing here and I would hope that the General Counsel will not pursue that course and will allow the FBI to continue its investigation and prosecute any party who is found to perhaps be guilty.

SUPPORT FOR STUDENTS DISPLACED IN GRENADA

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, this week I introduced a concurrent resolution calling on American medical schools to accept the medical students recently displaced by U.S. actions in Grenada. Although arrangements have been made for these students to attend schools in New York, New Jersey, and St. Vincent for the duration of this semester, the great majority will have nowhere to study when their second semester begins in January.

My bill, House Concurrent Resolution 211, urges the medical schools in this country to depart from their traditional policy of not accepting midyear transfer students. Since these students cannot return to St. George's Medical School campus in Grenada, an exception needs to be made to this policy. Accepting several students each would not be a hardship for our American schools. The displaced students have informed me that they would be willing to take an examination to determine their level of ability for study here, or even repeat a semester of study if it was required.

Accordingly, I urge my colleagues to support this resolution, so that together we may solve the dilemma these students now face.

IN SUPPORT OF H.R. 4102, UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT OF 1983

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, I would like to join with the managers of H.R. 4102, the Universal Telephone Service Preservation Act, in urging my colleagues to support our one chance for the continued availability and affordability of basic telephone service to all Americans. For 50 years, the Federal Government has pursued a policy of promoting universal service in recognition of the fact that the telephone is a vital necessity in modern society that unites us as a nation. Industry restructuring and regulatory decisions place that principle in jeopardy unless we adopt this carefully crafted and fair approach.

Probably the most startling example of what would happen to what is known as a high-cost area such as my own community, the U.S. Virgin Islands, is the projected increase in monthly costs per line. Without this bill that increase would be $19.69. I ask my colleagues, can most of the people in your own district afford such an increase? I can assure you that the people of the U.S. Virgin Islands who already have some of the highest costs of living in addition to some of the highest telephone rates cannot.

H.R. 4102 will minimize proposed increases in local telephone rates by requiring those who benefit from the availability of the telephone network to pay a fair share of its service costs. Consistent with this principle, the bill:

Modifies the FCC's access charge decision, eliminating flat monthly charges on residential consumers and small businesses;

Insures that State and territorial regulatory commission have sufficient authority to regulate telephone rates;

Establishes a universal service fund to assure that service remains affordable in rural and other high-cost areas; and

Requires public utility commissions to establish lifeline rates for low-income residential users.

This legislation represents a fair mechanism for allocating the costs of maintaining public telephone networks and insures that those costs are equitably shared. I urge the adoption of H.R. 4102

TRIBUTE TO NAVY PO3C ROBERT S. HOLLAND

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with sadness but with great pride that I pay tribute today to Navy PO3c Robert S. Holland of Briensburg, Ky.—a small town in my western Kentucky congressional district.

Bob Holland was one of the American servicemen killed on October 23 in the terrorist bombing of the Marine Headquarters building at the Beirut, Lebanon, airport.

Bob Holland was an outstanding 28-year-old young man who clearly saw his duty to his country as a Navy hospital corpsman and did it. When ordered to Beirut by his Commander in Chief, he packed his gear and left his family and friends with the quiet resolve to do his very best.

Bob's funeral is today at the Kennedy Funeral Home in Paducah, Ky. He was the son of Charles and Rosemary Holland of the Cambridge Shores area of Marshall County and was married to the former Donna Puckett of Graves County.

He is also survived by two sons, James Robert Holland and Chad Phillip Holland; three brothers, Richard Holland of Lovelaceville, Ky., Keith Holland of Briensburg, and Pat Holland of Murray; and his grandmother, Mrs. Bernice Holland of Calvert City.

I extend my sympathy to the family and friends of this outstanding young Kentuckian who was truly an inspiration to those who knew and loved him.

Robert S. Holland, we salute you.

UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT OF 1983

The SPEAKER. Pursuant to House Resolution 363 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4102.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4102) to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes, with Mr. GIBBONS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Colorado (Mr. WIRTH) will be recognized for 30 minutes and the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 50 years ago, the Congress committed itself to the goal of universal telephone service in order to bind a sprawling Nation together. Today, that goal has been largely achieved. Ninety-three percent of the homes in this Nation enjoy telephone service—the best telephone service in the world.

That achievement is threatened, however, by a misguided and grossly unfair ruling by the FCC that will saddle residential telephone customers with up to a $7 monthly "access charge" to the interstate network by 1990, while eliminating the historic contribution by long distance to local telephone companies for the joint facilities they use. Each of our constituents will pay this access fee, even if they never make a long-distance call.

This is being done under the slogan of "efficient pricing," by an administration enamored with theoretical approaches to telecommunications pricing strategies.

The ruling by the FCC ignores two fundamental principles that should guide our national telecommunications policy: First, basic telephone service should remain reasonable and affordable to all Americans; and second, everyone who uses and benefits from the public telecommunications networks should bear an equitable share of the cost of those facilities.

Long distance has always made a contribution to local service because it uses the facilities jointly with the local companies—the poles and wires—that are used to originate and terminate long-distance calls via the local loops.

AT&T should pay its share for those poles and wires it needs and uses to connect a long-distance call from the local loop in Denver to the local loop in Detroit.

For the past 6 years I have argued that long distance's present contribution is too large. But the FCC has gone to an extreme by reducing that contribution to zero, and loading all the costs onto local customers.

H.R. 4102 strikes a balance by reducing the long-distance contribution to local companies by $2.8 billion in the first year.

AT&T is not thrilled with this approach, and is waging one of the most extensive and expensive lobbying efforts I have witnessed in my 9 years in Congress.

No longer burdened with having to provide local telephone service after divestiture, AT&T stands to pocket a windfall of more than $2 billion under the FCC's plan. Why? Under the FCC's plan, AT&T will realize a savings in the cost of providing long-distance service of over $4 billion. Yet they only filed a rate decrease of $1.75 billion with the Commission in October.

If AT&T's lobbyists are successful in defeating this legislation, the consequences will extend well into the future, for our economy is in rapid transition from one that is industrially based to one that is increasingly information based.

A key to access to our changing economy is the telephone. If people are unable to afford telephones we will be encouraging a society of information haves, and information havenots. That is not only bad social policy, it is bad economic policy.

Businesses will lose if the poor, without telephones, are unable to dial those 800 numbers to order a product.

What about the aged, so many of whom live a very lonely existence? Are we going to make their lives even more lonely because they cannot reach out and talk to a friend or a relative, a doctor or a druggist? Do we want to turn what is today a necessity for millions of older Americans into a luxury item? I think not.

As we debate this bill, I think the issues are very basic.

Either you believe that we should pursue the goal of universally affordable telephone service, or you do not.

Either you agree that long distance should pay its fair share for jointly used facilities, or you do not.

Either you believe that the largest users of long distance—principally big businesses—should pay their fair share, or you do not.

This legislation only seeks to modify the FCC decision by prohibiting a flat monthly charge on residential customers, and by establishing a universal service fund to guarantee continued service for the poor, and those in traditionally high-cost rural areas at reasonable rates.

But let us recognize what we cannot do in this bill. We cannot stop local rates from going up. The Congress has no authority to act on the unprecedented rate increases being filed at the State level, nor intrastate access charges being filed with the State PUC's. We can only hope the State PUC's do their job.

An argument has been advanced in recent days that this bill is anticompetitive, and will slow the growth of new and innovative technology. That simply is not true.

This bill is entirely consistent with my philosophical commitment to increasing competition in the telecommunications marketplace. I have been fighting for competition in this industry ever since I came to Congress. My record in that regard is well known. As I mentioned before, I have long argued that the contribution by long distance to the local telephone companies for the joint facilities they use is too high. That is why the bill reduces that contribution by over $2 billion next year.

And my commitment to the development of new technologies, and the application of those new technologies in all parts of our economy is no secret to my colleagues.

I believe that H.R. 4102 is the single most important piece of consumer legislation to reach the Congress in this session. I urge its passage.

Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I rise in strong support of H.R. 4102, the Universal Telephone Service Preservation Act of 1983.

Mr. Chairman, H.R. 4102 would insure that local telephone ratepayers across the country are not burdened with unfair rate increases. No legislation can or should prevent legitimate rate increases attributable to normal operating and capital costs of prudently managed utilities.

Nor can we turn back the clock and refuse to acknowledge the realities of the technological explosion in telecommunications and the introduction of competition into what was a monopoly environment dominated by Ma Bell. Fair, robust competition will produce long term benefits for the American economy and ultimately for all of us. Divestiture is one consequence of this technological revolution. As such, it is a fact of life that is here to stay.

But in encouraging the development of new services, we must not lose sight of the need to preserve affordable telephone service for all of our citizens. Unfortunately, the FCC, mesmerized by the glamour of new technologies, has done just that.

The FCC's access charge decision shifts $6.5 billion of the costs of telephone poles and wires used to provide both long-distance and local service from long-distance companies to local customers for access to interstate long-distance service. As a result, local telephone customers will be burdened with extra charges of $7 or $8 per line per month when the FCC's system is fully in place. They are likely to face additional charges of $4 to $5 per line per month for access to intrastate long-distance service when a substantial portion of more than $5 billion of similar intrastate costs is also shifted to local customers. The net effect of the FCC's decision is a massive transfer of wealth from the ordinary ratepayer to big business which accounts for the overwhelming volume of long-distance calling.

In denouncing the FCC's access charge decision, U.S. District Court Judge Harold Greene, who is overseeing the AT&T divestiture, acidly observed:

> . . . over 50 percent of the residential subscribers make only nominal use of long distance and 15 percent make no use of that service at all. Yet under the FCC policy all of them must pay for that access (to the long-distance network). It should be noted in this connection that 91 percent of all households now have telephones. As the FCC's access fee reaches $7, as it will in a few years, this is estimated to drop to 60 percent for very poor blacks, 65 percent for very poor living in rural areas, and 58 percent for very poor young people. That hardly sounds like universal service.

Although Judge Greene has charged that this decision "undermines one of the assumptions underlying the court's approval of the decree—that there would be no impairment of the principle of universal service," he has acknowledged that he is without power to overturn or modify this decision.

In 1984 alone the decision would transfer more than $4 billion from the pockets of local ratepayers to AT&T at the same time that the local access costs of its long-distance competitors are more than doubled. AT&T alleges that these savings would be passed back to customers in the form of reduced long-distance charges. AT&T has proposed to reduce long-distance rates by only 10.5 percent or $1.75 billion: Less than one-half of the amount the corporation realizes as a result of the FCC's decision. As the beneficiaries of a special interest windfall in excess of $2 billion under the FCC's decision, it is clear why AT&T is pulling out all the stops to kill H.R. 4102, which allocates costs equitably.

The additional charges imposed by the FCC are both unnecessary and unfair. There has been no showing by anyone that the threat of bypass of the local exchange by large users is of such a magnitude to warrant loading almost all joint and common costs on captive residential and small business customers. The committee bill prohibits the imposition of access charges on residential and small business customers. It addresses the bypass issue by providing for a significant reduction in toll charges and establishes an equitable system of access charges, including bypass charges, so that all who impose costs on the public telephone network pay a fair share of the costs of maintaining that network. Of particular note, the $2.8 billion reduction in long-distance access costs provided under the committee bill would be passed through to consumers in the form of lower long-distance rates, insuring against any unfair windfall.

It has been charged that the system of charges under H.R. 4102 is unworkable and unenforceable. I would simply observe, however, that the committee bill provides for a system of charges that is virtually identical to that established by the FCC. The sole difference is that the committee bill requires all who use and benefit from the network to contribute in some measure to the costs of maintaining local facilities used for both long-distance and local service. In particular, it imposes charges on bypassers who do not presently connect to the network but rely, and impose costs, on it as a backup to their private systems.

Mr. Chairman, H.R. 4102 creates a universal service fund to insure that basic telephone service remains affordable in high-cost rural areas and for low-income Americans in all regions. This fund, and other provisions of the bill, have also been the subject of considerable misinformation in regard to alleged interstate revenue transfers. I would note, however, that the structure and uses of the fund reflect a consensus of committee members from urban and rural regions that the cost of providing service in rural areas is inherently more costly than in urban areas and that special protections are necessary to insure that lower income citizens in all areas of the country have access to basic telephone service. State commissions will have both reasonable incentives and regulatory flexibility to structure lifeline service to meet the needs of their lower income citizens.

H.R. 4102 contains a number of other important provisions to maintain reasonable rates and encourage competiton. It restores State authority to establish reasonable depreciation schedules for local plant. The bill also preserves competition in the long-distance market by preventing the local access costs of AT&T's competitors from doubling, as they would under the FCC's decision, without any improvement in the inferior quality of local access they currently receive. This issue was at the very heart of the antitrust litigation that led to the consent decree and Secretary of Commerce Baldrige has recently supported the position of the competitors on this crucial issue.

In the 1934 Communications Act the Nation committed itself to the goal of providing every American with affordable access to the telecommunications service essential to full participation in the Nation's commercial, political, and social life. This legislation contained a prescient recognition of the tremendous benefits universal service would confer on all Americans by unifying the diverse elements of our society through an integrated communications network. H.R. 4102 would reaffirm the national commitment to universal service during the tumultuous transition to a fully competitive telecommunications environment. It is a balanced bill that deals fairly with urban and rural interests and protects all of our constituents from unfair and unnecessary rate increases. It is supported by a broad coalition of State public utility commissioners, consumer, senior citizen and minority groups and labor organizations, including the CWA and IBEW, which represent AT&T's own employees.

AT&T has launched a massive multimillion dollar media and lobbying campaign to reach out and touch every one of us to try to prevent any telephone rate legislation from being enacted. Its motivation is clear: The corporation reaps a multibillion-dollar windfall under the FCC access charge decision. If past is prologue, there should be no doubt that AT&T will pull out all the stops to kill this legislation.

Mr. Chairman, I urge the Members to reject this special interest plea, resist weakening amendments, and support this legislation.

Mr. BROYHILL. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Chairman, I have no quarrel with what this bill attempts to do.

I support universal telephone service. In the Information Age, the telephone has become the lifeline to the world.

For many of our elderly, it has become the only method of communicating with their doctors, the police, children, and grandchildren. For this Nation's poor who have suffered the most from increased gasoline prices, the telephone has become the alternative to distant trips to friends and relatives.

I also believe that we must have assurances that the basic operating companies are indeed financially viable after divestiture.

Like the sponsors of this legislation and many others on the Energy and Commerce Committee, I questioned whether an access charge to be levied against residential consumers and single line businesses is warranted at this time.

That is why I support a moratorium until 1985.

I believe that we should assess the results of the first year of divestiture, and then require the FCC to make an independent determination as to whether or not it is needed.

The approach that was taken by the majority on the Energy and Commerce Committee is totally shortsighted.

Despite the fact that the Energy and Commerce Committee did not review the more than 150,000 pages of filings before the FCC, and despite the fact that the FCC with its legions of technical experts have had to delay their final decision on this matter until April 1985 because of their inability to wade through these documents, the

Energy and Commerce Committee in its infinite wisdom came to the conclusion that we had all the answers. We did not have to wait until divestiture took place in January, and we had some actual facts and figures upon which to base our decision.

That is why a 1-year moratorium is needed.

The policy of the sponsors of this legislation is shortsighted, and will ultimately lead to higher telephone rates for local residential customers, as more and more large users of the telephone system leave the network to avoid paying large long distance overcharges. The new result is that the small businessperson and the residential consumer will end up paying for all of the fixed costs of the telephone system.

Opposition to the Dingell-Wirth legislation comes from many places. Many of this Nation's leading newspapers have come out against this legislation, including the Washington Post, the New York Times, the Detroit Free Press, the Chicago Tribune, and the Wall Street Journal. Many of these papers do not normally support the positions of those on this side of the aisle.

Many of us that come from the Northeast, Midwest, and other mature States are quite concerned that this legislation will result in huge outflows of money from our States. For example, the Dingell-Wirth bill will cause New Jersey consumers to send out over $200 million to subsidize telephone users in other parts of the country.

To be sure, there are some good features of this legislation which I enthusiastically support. In particular, the section of the bill which provides for the portability of pensions for those workers who are transferred from AT&T to the basic operating companies is inherently fair. It assures that those persons who are responsible for creating the world's best telephone system are not the pawns of divestiture.

I also support the lifeline service fund which will guarantee this Nation's poor persons continue to enjoy telephone service. The lifeline service fund will provide a subsidy for their telephone service, and will be supported in part by an assessment against the long distance telephone users.

Yet, on balance, this legislation is shortsighted and will ultimately cause the deterioration of the world's finest telephone network. I urge my colleagues to join in opposition to this bill as written and in support of the Rinaldo amendment for a 1-year moratorium to January 1, 1985.

□ 1440

Mr. BROYHILL. Mr. Chairman, I yield 6 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. I thank the gentleman for yielding me this time.

Mr. Chairman, the issue before us today is how we protect telephone consumers. Although there is a lot of discussion about the ENFIA charges, access fees, and end user charges, and a variety of other terms which must leave most Members of the House befuddled, I think there are some relatively clear economic and philosophical principles which most Members understand.

If the issue is how we protect consumers, then I think we can say that there are two ways in which consumers can generally be protected.

Either they can be protected through a regulated monopoly, or otherwise, they can be protected through competition in an unregulated marketplace.

Either do one or the other. You have Government regulation of a monopoly or you have strong competition in an open marketplace. In the telephone industry, we are now going through a transition from a monopoly, a regulated monopoly, to a competitive marketplace, and as in any transition, this one is not easy. It is difficult, and it is difficult for us as Members of Congress to know how to protect consumers during that transition.

The legislation that is before us, the bill that is before us, attempts to go through that transition by freezing into place permanently a variety of the attributes of a regulated monopoly. Yet, at the same time, the proponents of this legislation suggest they will be able to establish a competitive marketplace. It simply is not going to work. In order to have a competitive marketplace in our telephone system, one needs to have price of the service based on the cost of the service, and yet, the thrust of H.R. 4102 is to distort that and to continue a system that was established under the monopoly, regulated monopoly, where the price of the service had virtually nothing to do with the cost of the service.

When you attempt to disassociate price from cost, and you do that in a so-called competitive marketplace, a variety of things happen. The most serious of these things is that those who are major users of the overpriced services are going to find another service, another alternative to that service, and that is what could happen to our telephone system.

The major users of our integrated telephone system will flake off the system and build their own private systems because they will have every economic incentive to do that. When they flake off the system, we are not going to be holding down the cost to residential consumers. Instead, we will be raising the cost to residential consumers, because the fixed costs of the system will be borne by a shrinking rate base consisting of the small users.

In addition to that problem of a shrinking rate base, the refusal to base the price on the cost of the service diminishes chances for competition.

Obviously, if you are a competitor who is going to develop a new kind of technology to extend telephone service to people at a cheaper cost, you are going to look at what is happening in the current system. If the current system, with its old technology, is being subsidized in order to hold down the cost of the service, even though the old technology is being used, you are going to lose all incentive as a developer of new technology to develop that new, cheaper service for individuals.

You reduce competition, the competition that comes from new alternative services, and you also thwart technological development. By reducing competition and thwarting technological development, you do not help consumers at the local level but instead you increase the cost for consumers, because they will not receive the benefits of competition and technological development.

There is a third problem, and that third problem is that when we reduce the incentive for developing new technology and we make it virtually impossible for that new technology to be marketed in our own country, we also undermine one of our most important industries, an industry that is going to be vital to us in the world marketplace in the years ahead.

□ 1430

That, of course, is our telecommunications industry. It is critical that we as a nation recognize that we are going to have to be leaders in the telecommunications or high tech arena in the years ahead because we are not going to be leaders in the world marketplace in things like textiles and some of our other industries that currently employ many people.

This piece of legislation, by destroying the incentives to develop new technologies and making it virtually impossible to market those technologies in this country, is going to substantially undermine our ability to take our rightful place in the world's economy.

I know many Members are concerned about this legislation or they are interested in this legislation despite the philosophical and economic problems that it presents because they are concerned about providing assistance to those in high-cost areas and those who are low-income individuals. They are concerned about providing assistance to those people because they want to keep them on the telephone system.

The proponents of this legislation have marketed it as a Universal Telephone Service Act and, indeed, all of us support the concept of universal

service, keeping not only residential consumers on it, but those of us who are supporting my substitute also trying to keep the major users on the system.

Let me just assure you that in the substitute that I will be offering during the course of this debate on this legislation we will provide not only as much money as the base bill does for rural telephone users, we will be providing more assistance to the people who live in high cost areas. We will be providing not just as much money to those who are low-income individuals to keep them on the system, but we will be providing more assistance.

The reason we can provide more assistance to the low-income individuals, and those who live in high-cost areas, is because we target our assistance. We are not in the position of providing massive subsidies from one service to another regardless of the needs for those subsidies.

I believe that the substitute that we are offering first of all permits a smoother transition from a monopoly marketplace to a competitive marketplace. Second, it adequately protects those who need protection to insure that they stay on the system; and third, it provides the kind of healthy, vibrant marketplace which will develop the technology and bring about the competition that will in the long run hold down costs for quality telephone service for our customers.

Mr. BROYHILL. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. First of all, Mr. Chairman, I want to thank my friend and colleague from North Carolina for yielding me this time.

Second, Mr. Chairman, I think it would be well for the committee to have in some correct perspective how we got to this point this afternoon. During the interesting debate yesterday on the rule for the consideration of this legislation there were repeated references to the consideration by the Energy and Commerce Committee in the 97th Congress of the infamous legislation known as H.R. 5158. Those references suggested dilatory tactics killed H.R. 5158. Not so. The authors of H.R. 5158 killed it because when the members of the committee learned what was in H.R. 5158, they changed it substantially.

I know from my recollection, although I have rather been busy lately, Mr. Chairman, and I have not had an occasion to reread George Orwell's famous treatise "1984," but, nonetheless, as I remember it there was the reference from time to time about "big brother" and the "the big lie" and how if you repeated that big lie often enough people came to believe it.

I would like to suggest, Mr. Chairman, that in 1982 and in 1983 there are some of my colleagues who apparently believe that if you take a big lie and repeat it often enough that eventually people come to believe it as the accurate picture. So it is with that in mind, Mr. Chairman, that I think we ought to review for just a moment or two what actually happened in connection with that unfortunate legislation, that ill-advised bill known as H.R. 5158.

Fortunately it never became law. But when there were discussions as recently as yesterday, and I suspect that we may even visit that aspect of the question again after the gentleman from Illinois concludes his remarks, and in the general debate portion of our consideration of the legislation before us there was reference to the fact that it took quite a while to consider that legislation, even some reference to dilatory tactics.

You know, Mr. Chairman, I think it was well that we did take the time to very carefully and very clearly come to an understanding of what actually was being provided in H.R. 5158.

Two things stand out in my recollection of H.R. 5158. First, we took the time, under the rules of this House and under the rules of the Energy and Commerce Committee, we properly took adequate time to evaluate and to educate the members of that committee on what was contained in H.R. 5158. And, of course, what we came to learn after we took the time was that this was an attempt by its authors to legislate some special favors for some corporate friends of the authors of this legislation.

The interesting thing is that after the majority of the members of our committee, to their credit, and to the everlasting embarrassment of the authors of the legislation, learned what was in the legislation, they decided to substantially change it.

So the second thing I recall about H.R. 5158 was that as the Committee on Energy and Commerce worked its will on that legislation, there were major changes made to it. In fact, it was substantially rewritten such that there was the desire on the part of the original authors of H.R. 5158 to pull the bill and to wait for another day, perhaps.

But the fact is that on July 14 and on July 15 we had the final round of consideration for H.R. 5158 and it was because of the adoption of an amendment authored by the gentlewoman from Maryland (Ms. MIKULSKI) and coauthored by the gentleman from Illinois, that with the adoption of that amendment we took away the special favors that were granted to the resellers of long-distance service. It was at that point that the original authors decided that they did not want to move forward with H.R. 5158.

So much for past history. Now I would like to touch just briefly, and I know we will have time later on in the course of the 5-minute rule to explore other aspects of this legislation before us which is contained in H.R. 4102 soon to become, I suspect, H.R. 4295. What we are dealing with here is an attempt to give the impression that we are going to hold down local telephone rates and that we are going to do something to stop the pending rate cases that the operating companies have filed across the 50 States. As I have said before, Mr. Chairman, nothing could be further from the truth.

What will instead happen is should this legislation go forward without the amendments that are being offered by the gentleman from Iowa and numerous other members of this committee, is that instead there will be imposed upon the long-distance consumers of this country a substantial surcharge, a substantial tax which in many instances will mean that they will be paying a good deal more for telephone service than they are now.

Mr. Chairman, last year as you know I took a very active role in opposing telecommunications legislation that was not in the best interests of Illinois. It was not in my State's best interests because the legislation had adverse impacts upon Illinois' ability to build its future in developing a high-tech environment for its citizens. Then and now I am concerned about the creation of legislation that enables each citizen to participate in the products and services of the information age and for businesses to develop and grow in inventing, producing and manufacturing, and distributing those new information-age products and services in Illinois. The issue is clearly well beyond Illinois and goes at the heart of our Nation's ability to develop a high technology attitude and environment that meets our Nation's global challenges.

Imagine that at the dawn of the industrial age, Congress had developed legislation that provided subsidies from one manufacturer to another. Imagine requiring a new automobile manufacturer to subsidize the buggy whip producer. Imagine asking that each new industrial age process for metal forming or a new assembly line technique would have to pay a special subsidy to insure that the old craft shop would continue to make products at higher prices than the costs justified. Would such subsidies on the simple technologies of that time or the distribution of legislated marketplace subsidies to keep artificial prices on the products of that day helped the industrial age? Clearly, it would not.

But now in the early stages of the technological revolution in communications and computer technologies, Congress is attempting to legislate the information age. The very same information age that Business Week recently referred to as the "global economic

war of the future." I want Illinois and this Nation to develop the legislative intiatives that will allow us to win this battle for the high-technology information age products and services.

This is not a partisan political desire, but one that is concerned about legislation that creates opportunities for new industries, new jobs, new incomes for our citizens. I simply believe H.R. 4295 is yesterday's thinking. Clearly, parts of the legislation are well meaning and we need to assure that all citizens have the opportunity for affordable telephone service. But we also need to be sure that it is tomorrow's information age communications services and appliances that are stamped "Made in USA" that are available and affordable.

The Japanese understand the importance of information age products and services. Certainly the Germans, the French, the English all understand the opportunities of this high technology world. Supporting yesterday's monopoly approaches and subsidies will not serve to meet our future. My major concern has been and remains the economic future of my State and how we get out of the shadows of the silent smoke stacks of industry and move into building a high technology information age environment that encourages growth of developing new products and services. It is those same new communication/computer age services that offer the best opportunities for improved smoke stack industry productivity and for improving options for the home in visual, data, or voice products and services.

H.R. 4295 holds onto yesterday's technology as surely as an artificial subsidy on automobiles to support buggy whip manufacturers would have in 1910.

To pretend that creating legislation that causes subsidies to artificially increase prices of some services to support other services owned by a different company is wrong. That is what the impact is on long-distance pricing.

To manipulate costs of providing services below their cost by one company to subsidize another company is anticompetitive. That is what the ENFIA provisions of this legislation will do.

To design or continue a passing era's monopoly pricing procedures that result in massive subsidies from one area of the country to another is penalizing major parts of the country's telephone users. That is what H.R. 4295 does in transferring massive subsidies from one geography to another.

To allow these subsidies to continue to be added on to both the local service charges and the long-distance charges of the major cities' urban users is an unusual social policy. That is what the redistribution policy of this legislation achieves—the urban user pays a premium on what could be in a competitive marketplace both lower priced local and long-distance services.

To purport to help the rural user through a host of subsidy mechanisms only achieves an illusion. That is what this legislation does in significantly reducing the funds from even the FCC universal fund and by adding amendments that increase the small companies' costs in serving the OCC's.

To create bypass options that exclude major users throughout the legislation further questions even the intent of H.R. 4295. Was it truly to provide revenues to support the residential user in these changing times or is it seeking some allies to support anticompetitive legislation.

To permit a nation to believe that this legislation will reduce their rates and control rate cases is the cruelest hoax of all. That very same artificial subsidy system placed on one communications product or another, or on one separate company to another, or on one part of the country to another, will only result in increasing rate cases across the country in both local and long distance services.

None of the above impacts of this legislation will serve to meet the Nation's need to prepare for the global economic war for the information age. Artificial, anticompetitive and even unfair prices for large segments of our population will not prepare my State or this country for the opportunities of the new information age.

I hope the Members of this Congress look very carefully at the prices your constituents will pay in your urban and rural areas. I hope that my colleagues will carefully weigh this legislation in light of the Nation's need to move to a high-technology information age society and economy. I am convinced that H.R. 4295 is not the proper approach—in fact, it is dangerous to my constituents in Illinois for the prices they will pay for telephone service and for the prices they will pay in losing future businesses and jobs. I can assure my colleagues that I plan to oppose this legislation in an active and vocal manner. I hope you will join me.

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Just one brief note. I would hope as we conduct ourselves through the next 10 hours of this debate that the level of discussions will go beyond accusations that individuals may be involving themselves in "the big lie."

I am sure that the gentleman from Illinois (Mr. CORCORAN) is not accusing the gentleman from Iowa (Mr. TAUKE) of the gentleman from Virginia (Mr. BLILEY) or the gentleman from Washington (Mr. SWIFT) or myself of being involved in that, and I would hope that there would be some discipline in the rhetoric that flows over the next 10 hours.

Mr. Chairman, I now yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. BROYHILL. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Chairman, I understand why the gentleman from Colorado (Mr. WIRTH) did not want to yield time to the gentleman from Massachusetts to have a discussion of the theatrics of the gentleman. The gentleman does offer a very interesting and entertaining scenario. But I am sure the gentleman from Massachusetts (Mr. MARKEY) would not want me to let some of the facts, which he has presented, go unchallenged.

He bases his scenario and his theatrics on the assumption that there is a $4 billion transfer from long distance to local, and yet there is only a $1.75 billion reduction in long distance rates.

First of all, I think it is important to note that the reductions asked for by AT&T are $2 billion, not 1.75.

But what is more important is that the gentleman does not want to talk about is that the FCC has required AT&T to pay an additional $1.4 billion to the local telephone companies for increased access charges to that local telephone system.

So that $1.4 billion represents about 8 or 9 of those dollars that the gentleman wanted to transfer from one box to another. That is part of the formula.

That leaves us with about $600 million which is in question. We know that the Federal Communications Commission is currently reviewing the AT&T ratemaking request. We know that, as is customary in ratemaking cases, the companies come in with higher rates than they anticipated receiving because they want to maximize their profits. It happens at the Public Utilities Commission at the State level, and it happens with the FCC at the Federal level.

What the gentleman from Massachusetts asks us to believe is that the Federal Communications Commission is going to ignore all of its ratemaking responsibilities and is not going to hold AT&T to the 12.75 percent rate of return which it has required that AT&T have in order to maintain a stockholder base.

It seems to me that the gentleman from Massachusetts would not want to mislead people into believing that somehow the Congress is going to be the great ratemaking body in the sky. It is still the Federal Communications Commission which will determine what the rates should be that will get a rate of return of 12.75 percent to AT&T.

But perhaps what is more interesting and which I cannot resist talking about is that in the substitute which I

am offering, which does permit the establishment of some end user charges, in order to have a cost-based telephone pricing system, I am following the model set forth by the gentleman from Massachusetts, just a couple of months ago, when he proposed his legislation to deal with the telephone problem.

At that time he called for a slow phase-in of access charges, the very access charges which he sought to demonstrate to you today.

I, too, support a slow phase-in of those access charges, but we understand that those access charges are needed to have a cost-based pricing system and they are needed in order to maintain the development of strong technology and in order to keep on the system the major long distance users so that both can hold down consumer rates in the weeks and months ahead.

□ 1450

So I urge the Members to understand that the little demonstration that was brought before us a few minutes ago did not reflect the facts, because it ignores the increase of $1.4 billion in payments from AT&T to the local companies. It ignores the responsibility of the Federal Communications Commission to set rates and it ignores the demand by the Federal Communications Commission that there be a 12¾ percent rate of return for AT&T.

None of those things will be changed by H.R. 4102.

Mr. BROYHILL. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise in opposition to the passage of the Dingell-Wirth bill, but at the outset I would just like to comment for a minute on the question that has been raised about the fate of H.R. 5158 in the last Congress.

Anyone who wants to can read the record of the Energy and Commerce Committee on which I serve and will see that that bill was pulled last year by the gentleman from Colorado and it was not pulled because of any dilatory tactics. It was pulled because of changes that had been made in that legislation by the actions of the committee, and particularly, the adoption of an amendment offered by the gentlewoman from Maryland (Ms. MIKULSKI), on July 15, 1982.

Mr. Chairman, I would like to yield to the gentleman from Illinois (Mr. CORCORAN) on that point.

Mr. CORCORAN. I thank my colleague from New York for yielding.

He is absolutely correct. It was not dilatory tactics, as I pointed out earlier in the debate on the pending legislation, that killed H.R. 5158. It was the substantial restructuring of it, particularly, I think, typified by the adoption on July 15, 1982, of the so-called Mikulski amendment.

At that point, the coalition that was supporting H.R. 5158 no longer did so because the resellers were no longer getting their special legislated favors as provided for them in the original H.R. 5158.

Mr. LENT. Mr. Chairman, this legislation spells disaster for our telecommunications system which up until now has been the best in the world. The only thing that is understandable about the bill is its politics. Members supporting the bill can go back to their districts and claim, tongue in cheek, that they voted to save their constituents $24 a year.

But how many are going to go back and talk about the real issues facing the telecommunications industry today? How many of us are going to go back and admit that if this bill becomes law, long-distance rates are going to remain artificially high; how many are going to admit that major long-distance users will be spurred to bypass the system; that prominent legal authorities have laughed at this bill and said that the bypass mechanism on which the continued subsidization of local operating companies is based is unconstitutional? How many of us from the low-cost States are going to proudly tell our constituents that in voting for Dingell-Wirth we voted to establish a universal service fund that in every populous State in the Northeast is going to result in a net outflow running to over $100 million in my State of New York, $200 million a year in my neighboring State of New Jersey? How many are going to quote from today's New York Times where Dr. Henry Geller, a Democratic telecommunications expert, who served as Director of NTIA during the Carter administration, reviewed this legislation and concluded with a warning I think all of us, both Republicans as well as Democrats, ought to heed.

He said that this legislation will create "a substantial risk of undermining the local telephone systems of the United States."

So my question is, After reading this quote from Dr. Geller, do we want to be party to destroying our telecommunications system in this country?

Now, the supporters of Dingell-Wirth exhort those of us in opposition to lay aside our differences and think of the national interest. Now there is nothing wrong in thinking national. We all take the national interests to heart and support the idea of universal telephone service, but we also have a responsibility, equally important, to represent the needs of our constituents and see that they are treated fairly. And by that test, this legislation fails miserably insofar as New York telephone customers are concerned.

I urge my colleagues to defeat this legislation.

Mr. WIRTH. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, I just could not believe that my colleague could say with a straight face and that my colleague from Illinois could agree with a straight face that there were no dilatory tactics on the bill last year. That is just a complete misreading of the record. I am sure it is unintentional.

But the fact is we had every amendment forced to be read, the bill was forced to be read. On one occasion my colleague from Illinois introduced the same amendment four times the same day.

The number of amendments at the desk grew larger and larger each day during the committee's consideration of the bill.

And in statements to the press, including a newspaper in Washington, as recently as in the last 2 weeks, my colleague from Illinois conceded the fact that delaying tactics were used.

So, none of the Members of this body should be under the impression that there were no dilatory tactics in preventing the Commerce Committee from acting on this legislation last year. That is in fact the principle reason why we were unable to act on the legislation last year.

Mr. Chairman, I yield back the balance of my time.

Mr. WIRTH. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BRYANT).

Mr. BROYHILL. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ZSCHAU).

Mr. ZSCHAU. Mr. Chairman and Members of the Committee, the proponents of this legislation claim that it will hold down what your constituents pay for telephone service. Let us examine that claim.

This legislation maintains artificially high long distance rates rather than letting them come down to a level based on cost as they would under the current FCC ruling. That will not lower your constituents' telephone bills.

This legislation creates new taxes on alternative telecommunications systems in a yet undefined and perhaps unenforceable manner. If that scheme could be implemented, it would discourage new telecommunications technology development and application. That will not lower your constituents' telephone bills.

Keep in mind: Throughout our history it has been new technology and innovation that has resulted in reduced consumer prices. Price controls and new taxes never have and never will.

Mr. Chairman, I urge my colleagues to defeat H.R. 4102. If we do, we will stimulate the development and application of the technologies needed to provide more and better telecommunications service for less money. That will lower your constituents' telephone bills—now and in the future.

□ 1500

Mr. BROYHILL. Mr. Chairman, I yield myself such time as I have remaining.

Mr. Chairman, this is a complex bill. There are a lot of difficult issues in this legislation. What we do here today will affect the telephone industry, the consumers that benefit from that industry, also the high technology industry that services the telephone-telecommunications industry, and the thousands of jobs that may and can be created in that great industry.

The whole host of court and communications decisions since the 1950's has been bringing increasing competition into the industry that, up until now, has been a regulated monopoly, and, of course, most of it still is. But a whole host of telecommunications products and services are now marketed to the American consumers as a result of FCC-sanctioned competition.

I have in my hand, Mr. Chairman, an advertisement that appeared in our local paper. It says, "Own your own telephone for $7.98." This was not possible just a few short years ago. People were paying per month almost as much as this in order to rent their telephone from the telephone company. But now the benefit of competition has been earned by the consumers as a result of these court and Commission decisions that bringing about a measure of competition in this industry.

Under the present system, long distance rates have been artificially high, maintained artificially high in order to subsidize local telephone rates; and, as a result, in the last few years we have witnessed large companies who have the incentive and the ability to avoid paying that subsidy, and they do so by bypassing the national and local systems. And then when have seen the growth in recent years of providers of discount long-distance service who are undercutting the regular rates and thus siphoning off revenues that otherwise would be used to subsidize local rates.

So one of the major concerns that we have in opposition to this bill is that the committee bill freezes the present system in place and provides incentives for people who are larger users to bypass the system. And that means, of course, that the revenues to the system will be lost, and that poses a long-range threat to the average residential consumer, as they have to pick up the cost of maintaining the system.

Mr. Chairman, I do not think there is any disagreement, in general, over two of the major issues that we have been and will be debating. One is what we do to help low-income people or low-income families to maintain telephone service, because both bills do that. The second issue is: What do we do to subsidize those areas where there is a high cost of providing telephone service, such as in rural areas? Both bills have a provision which takes care of those concerns.

The major debate has been from the very beginning of what you do about the cost subsidies where you have one group of consumers subsidizing other groups of consumers.

As to the FCC decision, there are many of us who feel that that decision went too far. What the Tauke substitute would do is to remand that decision back to the FCC under certain strict guidelines.

Now, I want to repeat that the competition that has been brought about in this industry has resulted in consumer benefits, and if we are going to have and say that there should be competition within this industry, they should be able to price their goods and services based on the cost of doing business, replace this system of cost subsidy with a cost-based system.

Mr. WIRTH. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. I thank the gentleman for yielding. I rise to strenuously urge my colleagues to support this legislation. I believe the bill we are considering today will go a long way toward solving many of the problems presented by the breakup of AT&T and heightened by the FCC's access charge decision.

Residential telephone users in my home State of Texas face the possibility of enormous increases in local rates in the next few months. Without some sort of relief from the access charge decision, Texas phone users, and telephone users across the country, are certain to face a doubling and possibly a tripling of residential rates. More importantly, a large number of this Nation's residential users, perhaps in excess of 10 percent, stand to fall off the system altogether.

I believe the legislation we are considering today is the best vehicle for insuring this Nation maintains its historical commitment to universal and affordable telephone service. The lifeline provision contained in this legislation will insure that the poor, the handicapped, the economically disadvantaged, the elderly, the unemployed, and other similarly situated individuals and households will not be without telephone service. It is clear to all of us that in modern society telephone service is not a luxury but a necessity. For many Americans, the telephone is the principal or only communications link to the outside world.

It would be unconscionable for this Congress to sit back while millions of Americans, principally those most in need of telephone service, fall off the system. The lifeline provision contained in H.R. 4102 grants State commissions the authority to provide local telephone service at a discounted rate for low-income residential customers. This provision reflects the reality that many of the poor live outside of rural and high-cost areas and are not covered by the high cost rural fund. Poverty is not constrained by geographic or demographic considerations; and universal service is not a rural or urban problem, but rather a national concern.

I believe that under this legislation the costs of maintaining the telephone service will be allocated in a fair and equitable manner. Under many of the proposals considered the past few months, the residential user, our constituents, would have been stuck with an enormous cost increase, while heavy users of long distance, commercial users, and other special interests would have benefited greatly.

The legislation before us recognizes the value of universal service to commercial and business users, and provides for a just and equitable distribution of the costs associated with maintenance of that system. It also provides for a competitive marketplace in the long-distance marketplace. Contrary to the overblown rhetoric of opponents of this legislation, its passage will not preclude lower long-distance rates. Its defeat would, however, stifle or eliminate meaningful competition in the long-distance marketplace. A competitive marketplace in long distance, with its resultant technological innovations, benefits all Americans. I believe competition will be enhanced by this legislation.

Finally, I would like to commend Chairman DINGELL and Chairman WIRTH for insuring that this legislation was considered in a timely fashion. This legislation is the result of painstaking deliberation and consensus building. Without the leadership demonstrated by Chairman DINGELL and Chairman WIRTH on this issue, this bill would not be before the House today. This legislation is the most important consumer issue the Congress will consider this year. It crosses geographic, demographic, and party considerations because of the importance of universal telephone service to all Americans. I urge my colleagues to support this vitally important issue.

● Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of H.R. 4102, the Universal Telephone Service Preservation Act of 1983. Not only will this legislation insure the continuation

of universally available telephone service to almost all Americans, it will also prevent undue increases in the phone rates of residential and small business users which would result from the Federal Communications Commission (FCC) access charge decision.

The real issue in this debate is local phone rates and who will pay for the nontraffic sensitive costs such as telephone poles and outside wires connecting telephone users and local phone companies. Under the current system, which will end when AT&T is officially divested on January 1, these costs are shared by customers on their local bills and by long-distance companies through a small charge included in each long-distance call.

Under the FCC's plan, all nontraffic sensitive costs would gradually be shifted to local users through the imposition of monthly access charges. The effect of this decision is to transfer over $6 billion annually in costs from large long-distance users to the residential subscribers. I fail to see why long-distance companies should be able to receive significant financial benefits by using these poles and wires without paying any of the costs associated with this equipment. The FCC decision would add up to $12 per month to the phone bills of local customers by 1990 regardless of whether customers actually use the long-distance system. This has the potential to price telephone service beyond the reach of many Americans.

H.R. 4102, on the other hand, insures that local phone companies will recover approximately the same percentage of their costs from long distance revenues as under the current system. In addition, this measure also establishes a universal service fund that will include both a high-cost account to assist phone companies in rural and other hard-to-reach areas and, more importantly, a lifeline account to subsidize the cost of telephone service to the poor and the elderly who would otherwise be excluded from the phone system. Half of all Americans over 64 years of age believe that they could not afford a phone if the cost of local telephone service doubled as predicted under the FCC plan. Phone service is literally a matter of life and death for many older Americans who depend on a telephone as their only contact with the outside world.

In my State, Michigan Bell recently requested a $450 million rate increase. Fortunately for consumers in Michigan, the Public Service Commission approved only $182 million of this requested increase. This is still a substantial increase of over 11 percent in the cost of local phone service. Should the FCC's access charge decision be implemented, an additional $140 million per year in nontraffic sensitive costs would be shifted to Michigan consumers from long-distance companies. If the financial burden of the FCC decision was added on top of this local tariff increase, many residents of my State would have little option but to go without a telephone. The Michigan Public Service Commission estimates that if local rates doubled, anywhere from 8 to 14 percent of all phone customers would drop off the phone network. This drop in phone use would also create a ripple effect in which the fixed costs would have to be shared by fewer phone users, resulting in further rate increases and still more residents forced to do without a telephone.

H.R. 4102 also contains several other provisions designed to assist and protect consumers by allowing meaningful public participation in the ratemaking process before State utility commissions. H.R. 4102 establishes voluntary associations of consumers in each State to be funded through voluntary contributions by consumers. In addition, these groups would have the authority to place inserts in phone bills to attempt to gain consumer support for their positions. This measure also establishes funding at the FCC for groups that would not otherwise be able to effectively participate in FCC proceedings.

This bill also provides protection for current employees of AT&T by allowing those employees who shift among the divested companies to take their hard-earned pension and seniority rights with them. Under the current divestiture agreement, there are no such protections for Bell System employees.

I would, however, like to raise one important issue. I am concerned about the effects of recent telecommunication developments on libraries, which provide universal access for all our citizens to information-age technology. Preliminary analysis indicates an average increase of over 60 percent in the cost of private leased telephone lines used by libraries for data communications as a result of FCC's policy and recently proposed private line tariffs.

The problem this causes for libraries is immediate and severe. Though not opposed to either technology or competition, libraries have limited resources. They are typically publicly supported and funded and operate on fixed budgets, often on a biennial or longer cycle. Library managers have no way to pass additional unbudgeted expenses on to their patrons. Parent organizations of libraries are simply not prepared to pay 60 percent more for telecommunications without reducing the book budget, public services, or staff.

Libraries are linked through networks of private phone lines which they use to gain access to computerized data bases, to receive and contribute cataloging information, and to determine which libraries own which items for interlibrary loan purposes. The Federal Government encourages libraries to share resources through programs such as the Library Services and Construction Act, the Higher Education Act, and the library postal rate. Much of this progress will be reversed if, through disproportionate and unanticipated cost increases for telecommunications, libraries must discontinue their automated services or choose between paying data communication bills or buying new books.

One segment of this system of library networks for sharing bibliographic data over leased lines is the Michigan Library Consortium. MLC faces an increase next April of 73 percent. That is $9,500 in additional charges every month that Michigan libraries will have to pay for the same private lines they are using today.

As computer terminals decrease in cost, MLC is reaching out to the smaller libraries in communities, colleges, and schools who have just recently been able to afford automated systems. Even the smallest library members of MLC already pay more in telecommunications line charges than they do in transaction costs on the system. A 73-percent increase will cause many of these small libraries to disconnect their terminals.

I believe that we are just now beginning to understand the effects on libraries of the proposed tariffs recently filed with the FCC. The unintended impact on libraries of these actions should be considered further by the Congress. In addition, the FCC should allow itself enough time in its analysis of the private line tariff to thoroughly investigate its impact on libraries. Such huge increases should be revised or phased in, or new tariffs should be considered.●

● Mr. STARK. Mr. Chairman, the campaign against H.R. 4102, the Universal Telephone Service Preservation Act of 1983 has been very disturbing. Our constituents have been misled, by a billion dollar lobbying effort into opposing this bill that provides for the necessary and fair transition required under the AT&T divestiture decision.

My decision on this bill was locked up after a statement by a representative from California's local operating company, Pacific Telephone. I was told, "We don't care where the money comes from, just as long as we get ours." Well, Mr. Chairman, I care where the money comes from and I know my colleagues care as well. We care that the money will come disproportionately from our senior citizens if this bill fails. We care that the money will come unfairly from the rural citizens and from those with low and fixed incomes if this bill fails. And we care that the consumers will be with-

out an effective collective voice in future rate decisions if this bill fails. You can be sure we care where the money comes from. And this legislation insures that it comes from all those who will use the new telephone network, with some equity and with some fairness. If we care where the money comes from, we must support this legislation.

Mr. Chairman, I deeply regret that I have a longstanding commitment to chair a Ways and Means subcommittee hearing in California at 10 a.m. tomorrow, and that I will soon need to leave. Thus, I will miss some votes, but I do want to urge my colleagues to support the very clear consumer interest contained in this bill.●

● Mr. FIELDS. Mr. Chairman, I rise in opposition to H.R. 4102, the Universal Telephone Service Preservation Act of 1983.

Mr. Chairman, there is no doubt that all of us here in this Chamber support the concept of universal telephone service for all Americans. None of us would deny any of our constituents the right to affordable telephone rates. The telephone has proven to be a "lifeline" for the elderly, the low-income and the homebound individuals of our country and I believe we all have an obligation to continue the guarantee of telephones to all Americans.

Further, the telephone system in our country has developed into one of the most technologically advanced and efficient communications network in the world. The development of technologies in the telecommunications field has contributed significantly to the betterment of our national economy and has enabled America to remain in the forefront of telecommunications development. Unfortunately, the legislation before us today seriously threatens the continued development of an advanced telecommunications industry and more importantly undermines the competitive deregulation concept embodied in the divestiture decision handed down by Judge Greene last year.

Although many of us would like to waive the magic wand and return to the days before divestiture when life was simple and we only had one major telephone company to deal with, this is just not going to happen and we do not, unfortunately have such a luxury. The reality of the situation is that we have divestiture and the question before us today is where do we go from here? We can as many of my colleagues on the Energy and Commerce Committee advocate, pass H.R. 4102 so that we can return home to our constituents and tell them we saved them from the throes of AT&T and from any residential access charge for long-distance use. Certainly, this is the easiest and most politically expedient thing to do.

Unfortunately we would not only be cheating our constituents, we would also be deluding ourselves. By protecting our constituents from any modest access charge we would be perpetuating the days of past when long distance subsidized local telephone rates. Of further significance is the fact that as long-distance users who under this legislation are left to foot the bill for the entire long-distance network begin to jump off the system and build their own bypass system, our residential users who cannot build their own bypass system will still end up paying the heavy remaining fixed costs of the system.

Unfortunately, when these long distance rate increases hit our constituents, we in Congress will have absolutely no control over such rate hikes. This legislation purports to "protect" residential users from the cost of long-distance access charges. What the proponents of this legislation fail to provide for in their legislation is the protection needed when residential phone rates go through the roof and Congress will have the power to control those rate increases.

Mr. Chairman, this is only one of the many concerns I have about this legislation as reported from the Energy and Commerce Committee. I could go on ad infinitum about the flaws of this legislation and what we can do to correct these flaws. However, the major point I would like to make here today is that this legislation is not, in any way, in the long-term best interest of any telephone consumers. What has been attempted here is a return to monopoly rules for a game which is now deregulated. This legislation runs directly counter to the very intent of the divestiture consent decree; moving toward a more cost based telecommunications system.

These two mutually exclusive concepts of subsidization and deregulation cannot and never will be compatible or consistent. If this legislation were to pass it would force the continued subsidy of local telephone rates all over again, effectively destroying the promised new competition in long distance rates.

Mr. Chairman, I urge the defeat of H.R. 4102 and adoption of the Tauke substitute when it is offered.●

● Mr. FISH. Mr. Chairman, we are debating today an extremely important piece of legislation. Our votes will affect the future of the telephone industry and the entire field of telecommunications. H.R. 4102 will have an impact on the competitive environment in this area for many years.

While I share my colleagues' interest in the maintenance of universally affordable telephone service, I continue to believe that H.R. 4102 raises a number of vital antitrust issues which the Judiciary Committee had an affirmative obligation to review. Unfortunately, my request for sequential referral was unsuccessful.

Mr. Chairman, I would remind my colleagues, as we debate this measure, that H.R. 4102, as presently drafted, substantially recasts and could possibly threaten the effectiveness of the largest antitrust divestiture ever secured by the United States. This is the basis for the Justice Department's efforts to reverse the Federal Communications Commission's 3-month delay in imposing access charges. The Department stated that the delay "unnecessarily and inordinately complicates" the January 1, 1984, divestiture. Further, the Department cited the uncertainty that would be rife in the industry if the access charges are delayed.

As my colleagues are aware, the modified final judgment in U.S. against AT&T is premised on two very critical expectations. First, it presupposes the Nation's telecommunications needs will be better served in a competitive market environment. Second, it assumes that if competition is to work over the long haul, rates charged for all types of telecommunications products and services must bear a more reasonable relationship to underlying costs than is currently the case. Failing that, there is no obvious or effective method of guaranteeing that prices charged for local and long-distance telephone service will remain nondiscriminatory and generally fair.

It is equally apparent that unless all competitors are allowed to set prices at cost there is no way of telling who is best equipped to satisfy customer demand at the lowest possible cost. It is this concept that lies at the heart of the AT&T consent decrees and one that must be satisfied if the public is to enjoy long-term benefits that effective competition in the telecommunications industry is expected to bring about.

With all due respect to the members of the Commerce Committee, H.R. 4102 is at odds with the thrust of the modified final judgment and the fundamental principle of cost-based pricing. Indeed, the bill is expressly designed to mandate that the telephone industry maintain a system of toll subsidies that local exchange companies have traditionally relied on to underwrite the cost of local telephone service. While these subsidies have served the Nation well in making telephone service available to all, it is nonetheless apparent that cross subsidization of one group of phone subscribers by another is both inconsistent with the disposition of the Government's case against AT&T and the day-to-day workings of a truly competitive environment.

In raising these points, I do not wish to suggest that the Congress should promote competition for competition's sake. If the elimination of toll subsi-

dies promises to result in unreasonable increases in local phone rates, Congress can and should take whatever steps are necessary to preserve universal telephone service. I do not believe, however, that we have reached that point.●

● Mr. CORRADA. Mr. Chairman, I join my colleagues in expressing my strong support for H.R. 4102, the Universal Telephone Preservation Act.

The breakup of AT&T and the tremendous impact it will have on all telephone users throughout the Nation is of great concern to me. The concept of universal telephone service is one deeply engrained in our everyday lives. We do not think twice about using the phone in the realization that the service will be swift and clear regardless of whether we are making a local or long distance call. However, we also recognized that the need for competition in the communications industry justified the divestiture agreement reached between the Justice Department and AT&T. We need to act thoughtfully and with great deliberation as we enter this new era of communications.

I believe that H.R. 4102 strikes a reasonable balance between the two objectives of competition and continued reliability of service. Of particular concern to me and my constituents in Puerto Rico was the $2 residential monthly access charge for long-distance service and $6 for businesses. That charge would represent, on its first year of operation, a $12 million increase in telephone costs in Puerto Rico. This cost is anticipated will increase 600 percent by 1990 under the proposed FCC monthly charge of $12 in that year.

While many of my colleagues fear that the imposition of a $2 access charge would force consumers to drop service, I am concerned that it would stifle the growth of service to my constituents in Puerto Rico where the goal of universal service has not yet been reached. Although a total of 80 percent of households throughout the United States have telephone service, in Puerto Rico that figure is 27 percent, just one-third of nationwide service.

In Puerto Rico our goal is still one of being able to reach all our residents to provide them with basic services. To the extent that an additional charge of $2 a month would discourage consumers for obtaining even this basic service, I think that this charge should be eliminated.

I urge my colleagues to support H.R. 4102 to insure that affordable telephone service will be available to all our citizens.●

● Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 4102, the Universal Telephone Service Preservation Act of 1983. As chairman of the Select Committee on Aging, I must emphasize the importance that this bill represents to the lives of not only the elderly, but all low-income and rural persons.

The proposed increase in telephone rates as outlined by the Federal Communications Commission (FCC) will eliminate phone service for those who need it the most—the rural, low-income, and elderly who are forced to rely on fixed incomes for their existence. Almost 4 million persons 65 years of age and older are below the poverty line in this country. For these individuals, the projected long-term increase of as much as $16 per month in some rural areas will cause a serious hardship. A CBS/New York Times news poll, shows that approximately 50 percent of those persons age 64 years believe they will no longer be able to afford phone service if rates are doubled. Local charges make up the majority of telephone costs for this age group, most of whom spend under $10 a month on long-distance service. The cost of phone service has already begun to rise and the projected flat rate residential increase, due to go into efect April 3, 1984, casts pessimistic shadows over universal availability.

Anticipated phone rate increases can be attributed to a variety of complex factors. One of the most controversial, the FCC ruling on access charges, will unfairly shift the cost of accessing long-distance lines to consumers. In the past, long-distance companies have contributed to a share of this cost. The transfer to consumers is unfair. Such an action will increase the profits of long-distance companies while putting basic telephone service beyond the means of—the rural, low income and elderly. For them, phone service represents a vital connection to emergency services, family and friends.

H.R. 4102 would establish a universal service fund, supported through a surcharge on long distance telephone calls, this would be used to minimize rate increases in high-cost, rural areas and to subsidize the cost of telephone service for the poor and elderly.

The divestiture of AT&T was meant to restrict a powerful monopoly, not to abuse those persons most in need of telephone service. A measured service option, one in which the user pays based on the number of calls made, is inadequate to meet the needs of senior citizens who may rely on the telephone for contact with the outside world.

I urge the passage of H.R. 4102, the Universal Telephone Service Preservation Act of 1983. It is my firm belief that this bill will preserve the affordability and universality of our Nation's telephone system.●

● Mr. HARKIN. Mr. Chairman, I rise in support of the Universal Telephone Service Preservation Act of 1983.

I support this legislation, because it marks a renewed commitment to a principle that has existed in the United States for over half a century—the implicit agreement that through a shared equity of sacrifice the greatest number of Americans possible will enjoy the benefits of affordable telephone services.

As their elected representative, I must concern myself with how this legislation impacts on my constituents in Iowa.

Over 15 percent of my constituents are over the age of 65 and for these people, especially in the rural areas, telephone service is not a luxury. One of my constituents wrote:

> We need our telephone very badly. How can we get emergency help, call our doctor and druggist? Most of us have children and relatives living many miles from us.

Another Iowan raised the specter of increased phone rates:

> My husband has a breathing problem, so we have to run the air conditioner . . . if we have to choose between the two, the telephone will have to go!

Without this legislation, we face major increases in the costs of maintaining basic phone service. The Federal Communications Commission wants to charge a $2 a month fee starting in April for every phone line. That fee will rise to $6 a month or more in the coming years. The fee is for the cost of all the equipment that allows interstate long-distance calls to be made from the local phone system. Those charges represent billions of dollars that will not have to be paid by those who make most of the calls. It is true that most people make some long-distance calls. However, about a third of all households spend less than $5 a month for long-distance calls. Only a small minority of households make enough calls to other States to find any reduction in long-distance phone call rates that would occur if the FCC plan goes into effect.

Who does benefit? It is the heavy phone users—usually large businesses—that are the heavy long-distance callers. They would be the ones that gain under the FCC plan.

Four percent of the long-distance callers account for 62 percent of all long-distance charges. Exactly 25 of our largest corporations account for 15 percent of all the long-distance calls in the entire Nation. They would be the big gainers if the plan fails and the FCC plan goes through.

This bill removes the access charge from all residential consumers and it removes the access charge from small businesses—all of those businesses which have only one phone.

This bill benefits the vast majority of the citizens of our country and places the burden of supporting the long-distance telephone system where it belongs—on the users.

Some would have us believe that the FCC has decided on the natural way

of doing things and this bill disrupts that pattern. It is the FCC proposal that is a radical departure.

The FCC system is like saying that those who use a product will not pay for the cost of the product. They should only pay for the actual wear and tear that they cause when they use the product. It is like saying that someone who rents a car can only be charged for the gas and the oil that they use. That in order to have cars available for rent, everyone with a drivers license is going to have to pay a fee to cover the costs because they have the opportunity to rent a car. Now, that is an absurd concept, yet it is the concept that the FCC is proposing and that is the concept that this bill defeats.

All over America, increased gas rates are forcing people to make the stunning choice between heating and eating. Similarly, electric rates are going up. And now, the FCC is levying an access plan that will benefit heavy long-distance users. This, I might add, is in addition to billions of dollars of other phone rate increases that are currently under consideration.

Relief must be provided, and the Universal Telephone Service Preservation Act is the opportunity to extent such relief.

This bill also includes a special lifeline provision. It allows low-income families to receive a minimum of phone service at a reduced price. This country needs a rate system that allows for universal service—for everyone to have the ability to have a phone and this brings that goal closer to reality.

For rural Iowa, the bill has a provision which allows the small rural phone company which has high operating costs because it has only a few customers per mile to receive assistance from a special fund. Without this provision, some small companies would find that their rates would have to go up very sharply. Many of the small companies in Iowa—and Iowa has more local telephone companies than any other State—will be able to receive assistance.

Mr. Chairman, a vast telecommunications network of phones, wires, and all the rest exists in our country. Currently, the people who derive the greatest usage from that system pay for that privilege. But if this House fails to pass this bill, and lets the proposed FCC access charge become law, the big companies and the few heavy long-distance users will not be paying their fair share for universal phone service.

On the other hand the millions of residential and small business users in our country will be asked to pay for everything else, even if they never make a long-distance phone call.

This is not fair, Mr. Chairman, and that is why I support this bill because it seeks to remedy that unfairness.●

● Mr. MINETA. I rise in strong support of the Universal Telephone Preservation Act of 1983.

As Members well know, we have been inundated with information and persuasive arguments from all concerned with this legislation. The problem is, however, that this divestiture process is an enormous and unprecedented undertaking. We simply have no foolproof or scientific way of guaranteeing that we will accomplish all that we set out to do. We know only that a great deal is at stake here and therefore, this body must act wisely and prudently as it ventures into new and far-reaching telecommunciations policy.

In reaching my own decision to strongly favor this bill, I have been guided by some very basic principles. It seems essential that all those who use long-distance services contribute to the aggregate cost associated with the construction and maintenance of telephone facilities. In addition, these costs should be apportioned to different kinds of consumers in a manner that reflects the level and intensity of the services they require. It is patently unfair that any one consumer—whether it be an individual residential customer or a large multinational corporation—to absorb costs far in excess of his fair share.

Regrettably, these were not the principles ascribed to by the Federal Communications Commission—the authority originally charged with resolving interstate long-distance issues. Consequently, we are here today to recast the decision of the FCC Commissioners to bring a greater degree of fairness and equity to the interstate issues that have legitimately fallen within our purview.

I am also proud to support legislation which takes into consideration the special needs of the elderly, the infirm, and the low-income population. Telephone service is not a novelty reserved for a lucky few. Telephones have become a fundamental part of virtually everyone's household; for some, telephones are nothing short of a lifeline. A court order to dissolve the AT&T monopoly does not give the Government the right to withdraw universal telephone service nor does it give us the right to make such service unaffordable. I believe the universal service fund was designed with great care and sensitivity.

Finally, it is perfectly natural to view long-distance service as a cooperative effort among all States. Therefore, within reason, a universal service fund that draws its revenue from all States and in turn is shared among all eligible parties regardless of location, is a desirable and fundamental aspect of this type of interstate linkage. I would therefore, dispel the myth that any one State is paying to offset any undue expense incurred within any other State.

I wish to thank all those who so patiently and intelligently worked to craft this difficult and complex piece of legislation. I urge that the Congress act favorably and enact this bill into law.●

● Mr. DASCHLE. Mr. Chairman, I rise in strong support of H.R. 4102, the Universal Telephone Preservation Service Act. For 40 years it has been a national policy that every household should possess affordable and reasonable telephone service. As has been stated many times, universal service binds our Nation together and promotes commerce. Unfortunately, the Federal Communications Commission (FCC) has attempted an end-run around the goal of universal service and sought to initiative a new system of charges which would cost all telephone subscribers $2 a month beginning April 1, 1984, and rise to between $8 and $12 a month by 1990. This action, known as the access charge decision, would transfer the costs of long-distance telephone service to local customers, whether or not they even made long-distance calls. It is estimated that the FCC decision would cost American households $9 billion over the next several years. Mr. DINGELL, Mr. WIRTH, and their supporters on the Energy and Commerce Committee should be complimented for reporting a balanced and responsible legislative effort which will prevent this arbitrary and capricious regulatory decision from taking place.

The primary thrust of this legislation is to allocate costs of long-distance service to those who presently utilize long-distance service the most, big businesses. Surveys have shown that 3.9 percent of business users account for over 60 percent of all long-distance calls. The 25 largest business users alone account for fully 15 percent of all long-distance traffic. It is thus appropriate and consistent for these large users to pay their fair share of the costs associated with long-distance service.

Revenues from payments made by these large users will then be deposited in funds to assist telephone companies which operate in high cost areas, such as South Dakota, and for basic telephone—lifeline—services for the elderly and poor who might othewise have to give up their telephone; 50 percent of Americans over 64 years of age and 72 percent of those with low incomes believe that they would no longer be able to afford phone services should costs increase significantly.

Exempt from access charges are all residential customers and small businesses with only a single telephone line. I am most pleased with the addi-

tion of the small business exemption which will assist that element of our economy which has been most adversely affected by the recent recession, yet most responsible for providing jobs and new innovation in our economy. Over 3 million small businessmen will be spared this additional expense.

Another provision in the legislation I approve of is the prohibition on charging phone customers for the first six interstate directory assistance calls. AT&T recently stated that a 50 cent charge would be assessed for every directory assistance call. I believe this policy would violate the concept of universal service by unfairly limiting access to the national phone system network for many lower and middle-class Americans.

H.R. 4102 also provides pension protection for present AT&T employees who may lose their jobs as a result of the AT&T divestiture. Such protection is a minimum step for a person who may soon be without employment.

The bill importantly recognizes the need for local input and participation by allowing State utility commissions to administer access charges within a State and providing funds so that groups not otherwise able to participate in FCC ratemaking proceedings can do so.

I wish to emphasize that this legislation can only address the FCC access charge decision. Citizens in every State may soon be assessed costs that only State Public Utility Commissions can address, such as increased costs for local service, for divestiture, and even depreciation. Nevertheless, farmers, ranchers, small businessmen and all residential phone customers will be spared the unfair and unnecessary costs associated with implementation of the FCC access charge proposal upon adoption of the Universal Telephone Service Protection Act. I thus urge my colleagues to oppose any amendments which would weaken this legislation and vote in favor of final passage.●

● Mr. MATSUI. Mr. Chairman, over the past two decades we have been privileged to witness the opening of a new chapter in the communications revolution. Competitive forces have been injected into a communications marketplace formerly dominated by ATT's regulated monopoly. This new direction, in fact, is underscored by the impending divestiture by ATT of its local operating companies next January as well as recent Federal decisions deregulating certain portions of the communications industry.

During this chaotic period of transition, it is incumbent upon the Congress to protect the ratepayers from bearing a disproportionate share of the burden of deregulation. We must examine questions of how to apportion fairly the cost of maintaining the telephone network between all users without risking the affordability of basic telephone service for millions of low-income Americans.

The proposal which we are considering today responds to a number of these concerns. H.R. 4102 reaffirms our national commitment to providing all Americans access to reasonable and universally available telephone service. Indeed, our telephone system has been hailed as the finest in the world and without question binds our country together. We cannot allow the principle of universal service, which serves as the hallmark of this system, to be abandoned.

The bill preserves this goal, in part, by modifying the FCC's access charge decision. this plan, crafted after 5 years of study, sought to revise the manner in which long-distance carriers compensate local telephone companies. The decision shifted to residential ratepayers a major portion of the responsibility for supporting the costs and maintenance of facilities which are jointly used to provide local- and long-distance telephone service.

Specifically, the plan sought to move the costs of our national phone system from "per minute" charges on long-distance calls to flat charges on all phone system subscribers. Consumers currently pay an extra charge on each minute of long-distance calls to subsidize local phone service. The FCC plan would replace this add-on pricing scheme with a flat charge of $2 per month in 1984 with fees rising to $8 per month in 1989.

I concur with critics who argue that the FCC plan places too much burden, too quickly, on residential customers. While changes in the pricing structure can make our phone system charges more equitable and accelerate technological development in the telecommunications industry, the cost of these charges should not be borne disproportionately by consumers. H.R. 4102 addresses this concern by prohibiting the FCC from imposing access charges on residential customers or small business customers with a single telephone line. In California, the State public utility commission estimates this change will save the State's ratepayers $300 million in 1984 alone.

While H.R. 4102 contains many progressive, important provisions, it leaves unanswered questions raised by divestiture and the new competitive spirit in the communications industry. These are issues which the Congress will need to revisit at some time in the future.

A major question concerns bypass and how it will affect local telephone companies' ability to provide service. The Congress has received extensive, and often conflicting testimony on this matter. It would appear that the growth of technological alternatives has enabled wider use of bypass by large users of telecommunications services. Should the phenomenon accelerate, local telephone companies may be forced to provide service to a decreasing customer base. This situation shifts an ever growing burden of financing universal telephone service to a dwindling population. This translates into higher rates borne by fewer people. My reservations point to the need for a thorough review and examination of this matter by the Congress so that the full implications of what we are doing here today can be understood and evaluated.

In addition, H.R. 4102 seeks to provide lifeline service rates to assist low income persons to protect themselves against rate increases. Lifeline service protections are a critically important part of this bill. I am concerned, however, that State regulators are provided with too much discretion in ascertaining who should receive these reduced rates. Such aid must be tailored to those who are in need, and we must question the appropriateness of providing help to individuals able to afford fully telephone service. Perhaps a more concise definition of who should receive help would allay this concern.

Even with the passage of H.R. 4102, we still have opportunities to look at these and other questions and attempt to fashion reasonable solutions. The Senate has not yet passed a bill and once the Senate does act, both Houses will need to resolve their differences through a conference. As another alternative, the Commerce Committees can monitor the effectiveness of this legislation and suggest modification should problems arise.

In conclusion, I urge my colleagues to support H.R. 4102. In doing so, we will be taking an important step toward preserving the concept of universal service for all Americans.●

● Mr. ALEXANDER. Mr. Chairman, I rise in support of the Universal Telephone Service Preservation Act of 1983.

I believe the title of this bill reflects its purpose.

Universal phone service means all Americans, whatever their income, however they make a living, and wherever they live, should be able to afford a phone.

In the modern world, telephones bind people and communities together.

They help consumers find the goods they want to buy.

They help businesses and farmers market the products they want to sell.

They strengthen the American family and the American economy.

Yet universal phone service is in danger.

Phone companies around the Nation have been seeking astronomical rate increases. And the FCC's proposed

access charge would raise phone rates even more.

I believe phone service should be available to all, not just those with larger incomes.

The poor, the elderly, struggling farmers, and rural Americans must not find themselves unable to afford a telephone. They must not be priced out of the market. They must not be the victims of deregulation.

The Federal Communications Commission has approved an access charge. Residential phone users would be charged an additional $2 a month in 1983, $3 in 1985, $4 in 1986, and somewhat between $8 and $12 a month by 1990.

These access charges will hurt America's phone users, adding up to $9 billion a year to their phone bills by 1990.

Moreover, all across the Nation, phone companies are seeking dramatic rate increases.

According to a study by the House Energy and Commerce Committee, rate increase requests had already reached $7 billion in recent months.

In Arkansas, Southwestern Bell is seeking a rate increase of $138 million.

Mr. Chairman, this bill will help put some limit on these rate increases.

This is especially important to the people I represent in the First District of Arkansas.

We have one of the lowest income levels in the Nation.

One-third of our people live at or close to the poverty level. Almost 14 percent of our people are 65 years old or more. Our farmers have been devastated by the drought—agricultural losses in Arkansas may reach a half-billion dollars.

These people must not be asked to shoulder the additional burden of outrageous phone bills. They cannot afford it. They should not be forced to tolerate it.

I have received over 400 letters in favor of the universal phone service bill.

One of those letters is from members of the Public Service Commission of Arkansas. Mrs. Pat Qualls of Lake City is from my district. She would not mistate the case. The letter stated that in Arkansas, universal phone service is in jeopardy. Let me quote from it.

> The PSC is deeply concerned that this fundamental policy is in jeopardy due to various Federal regulatory decisions. . . . The cumulative effect of these actions will be to cause local telelphone rates to increase to a point where many citizens will be forced to give up their telephone service. In addition, these federal policies have handicapped state regulators in their ability to effectively combat future telephone rate hikes.

Mr. Chairman, we must not allow this to happen.

We must not allow people, in the America of 1983, to be forced to give up their telephones.

We must not allow fundamental fairness to be sacrificed.

The average phone user cannot afford a $2 million lobbying program.

Today, they must rely on us, on our judgment and fairness, to protect them from rate hikes that are unfair, unjustified, unwise and unreasonable.

I urge support for the universal telephone bill.●

● Mr. BOUCHER. Mr. Chairman, today we are considering important legislation which will have a major effect on the telephone industry and its consumers.

H.R. 4102 is necessary to protect consumers from rapidly increasing telephone bills. As a member of the Select Committee on Aging, I am particularly concerned for the elderly and low-income families who will be adversely affected if the FCC is allowed to impose the access charge on residential telephones. We in this body must act to insure that people are not forced to give up their telephones due to unaffordable telephone charges.

I have received thousands of letters supporting my decision to vote for H.R. 4102, and I am sure that many of my colleagues have also received large quantities of mail from their constituents who fear increasing rates.

The FCC access charge decision is unfair. Historically, long-distance charges were used to help subsidize the cost of local telephone service. Under the FCC plan, local rate payers would pay the entire cost of providing their telephone service. The FCC would allow AT&T to lower its long distance charges, benefiting large volume long-distance users to the detriment of residential and small business users.

Unless Congress acts, people in rural and sparsely populated areas will suffer particular injury after the AT&T divestiture due to the unusually high cost of providing telephone service in rural areas. Our constituents should be protected from higher charges which could force them to surrender their telephones. I urge your support for H.R. 4102.●

● Mr. ROGERS. Mr. Chairman, I want to commend the gentlemen from Colorado (Mr. WIRTH) and the gentleman from North Carolina (Mr. BROYHILL) for their fine leadership in the handling of this bill on the floor.

I believe H.R. 4102 contains the basic elements of an effective consumer-oriented law which will help deal with the rapidly rising costs of providing telephone service.

Our senior citizens and other rural residents and businesses simply cannot afford to pay added charges on top of their already high telephone bills. I am confident that with the passage of H.R. 4102, this telephone user and others will be spared from needlessly higher telephone rates.

Mr. Chairman, let the record show that I am in full support of H.R. 4102, and I believe it to be a fair solution to the complicated problems which we face with the impending break-up of AT&T and the changing telecommunications industry.●

● Mr. BONKER. Mr. Chairman, I am supporting H.R. 4102, the Universal Telephone Preservation Act, because its enactment will assure the continued availability of telephone service at a reasonable price to all Americans.

Congressman WIRTH is to be commended for his masterful crafting of H.R. 4102. The success of his efforts can be measured by the fact that the bill has the support of virtually every major consumer group, labor, State regulatory commissions, senior citizens, and the long-distance telephone companies who are in competition with AT&T for business.

As every Member of the House knows by now, AT&T does not support H.R. 4102. They have launched a massive and expensive lobbying campaign against the bill. The enormous financial resources AT&T has at its disposal make its opposition formidable.

The strength of the AT&T lobby is of serious concern to me as chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests. Defeat or substantial revision of H.R. 4102 would have an adverse impact on every older American in this country. It would have a devastating impact on the 15 percent of our elderly living on below-poverty incomes.

When requests for large rate increases were made in several States throughout the country earlier this year my subcommittee held hearings and gathered information about the impact that rising telephone rates would have on senior citizens. We learned several things that each Member of the House should be aware of when considering H.R. 4102 and offered amendments.

First, the FCC's access charge decision inequitably divides the cost of maintaining the long-distance telephone network among local ratepayers, long-distance customers, and the long-distance carriers. This decision, in its present form would require local customers to pay an additional $6.5 billion annually—an increase of between $5 and $6 on the average monthly phone bill. This new charge, in combination with other anticipated cost increases could cause local telephone rates to double or even triple in some parts of the Nation. If this were to happen half of our senior citizens believe they could no longer afford a phone.

Second, the telephone is not a luxury item for our Nation's 27 million aging citizens. It is a special necessity

for those who rely heavily on it for contact with the outside world. Without it they would be isolated from family, friends, news, community involvement and even assistance in case of emergency.

Minnie Lingreen, a senior citizen activist from my district, shared with my subcommittee the fears of many older Americans that steep rate increases would impose severe hardships upon low-income elderly when she stated:

If the cost of phone service doubles, what shall women with a marginal income do? What shall they give up so that they may keep a telephone? Shall she do with less heat? Less light? Or less adequate food? We know that some of these deprivations have already taken place here in this community.

Third, low-cost telephone service is essential to not only the well-being of individual senior citizens but to the volunteer and other nonprofit organizations that serve these people. Major increases in the price of local telephone service could severely restrict their activities. Senior citizen centers, Meals On Wheels programs, the Foster Grandparents, RSVP and Senior Companion programs, and home health agencies, just to name a few, are all dependent upon the telephone system.

H.R. 4102 would reverse the FCC's access charge decision for residential consumers and require those who benefit most from the availability of the telephone network to pay their fair share of its service costs. To further guarantee the availability of telephone service in rural and other high cost areas, the bill would establish a universal service fund. From the fund local telephone companies could receive compensation for 50 percent of any discount they provide to low-income individuals. The remaining 50 percent could be recovered from other local customers.

The provisions of H.R. 4102 are essential for the protection of America's elderly population. On Tuesday, I held a press conference to announce the organized support of the senior citizen constituency for this legislation. The Nation's 13 major senior citizen organizations are endorsing the bill. Three of them, the National Council of Senior Citizens, the Gray Panthers, and the American Association of Retired Persons, spoke at yesterday's event. The plight of many older citizens was eloquently described by Bill Hutton of the NCSC when he said:

Hundreds of thousands of older Americans in this country are desperately hanging by a thread for their very survival. It would be a cruel trick to allow telephone rates to increase beyond their reach.

I urge my colleagues to carefully weigh the decision before them today. Senior citizens need a yes vote on H.R. 4102. They need the protection against soaring telephone rates that only this bill can guarantee.●

● Mr. WALGREN. Mr. Chairman, since the beginning of the telephone industry in this country, we have had a telephone system guided by the principle that telephone service be available to everyone. This was a basic policy developed in the 1930's and embodied in Federal law to insure that people have access to the telephone, recognizing the needs of people to communicate.

Human contact, the ability to communicate and to receive communication, is critical to human survival. It is life sustaining. For many people—those whose circumstances find them living alone, the telephone is truly a lifeline to the outside world. Nineteen million Americans live alone; 7.5 million of those are over 65. In addition, 1.2 million people in nursing homes; 22 million are disabled; one out of every 500 persons is blind. Access to telephone service at reasonable cost is essential.

Two specific events have created real fear that telephone bills are going to rise dramatically. First was the "break-up" of AT&T under the supervision of a Federal court. The second was the decision by the Federal Communications Commission to impose an access fee on all residential telephone customers that will start at a flat $2 per month and rise to as much as $12 per month down the road.

In response to these developments, local phone companies have now applied to State public utility commissions for unprecedented rate increases totaling $7 billion nationwide. Bell of Pennsylvania asked for a $378 million increase. This would raise residential rates by 62 percent and business rates by 38 percent. If this request were approved, the average monthly cost for the most common residential service in the Pittsburgh area would increase from $9 to $16.50 effective January 1. On a yearly basis, residential telephone bills would increase $90 per year.

Clearly, my constituents should not suffer this kind of an increase if it is avoidable in any way. Although no one can say telephone costs can be prevented from increasing, the increases represented by the FCC's access charge is clearly not necessary and clearly avoidable. The bill before us today would prevent access charges from being imposed and deserves to be supported.

I would be the first to recognize that we cannot prevent rising costs by passing a law against them. But these regulatory increases in residential phone bills come not from increased costs—but from a redistribution of costs that are now paid only by long-distance users.

To understand how these costs are being shifted from long-distance to local phone bills, we have to stop and think about how the present telephone system works. Local telephone costs have always received a contribution from long-distance charges. This is because long-distance calls must use the local phone network to be received—and long distance has always paid something for that service. The FCC has now proposed that long-distance charges pay nothing for using the local network—and that every local telephone pay a fee for access to the long-distance network instead.

In my view, this access fee turns the concept of fairness upside down. First it completely ignores the fact that long-distance calls will now be using the local network for free. Second, every residential phone would have to pay the additional access fee regardless of whether they ever even made a long-distance call.

So while, on the one hand, AT&T gets free service and, on the other, consumers are forced to pay for something most do not use, the net result is to provide a massive benefit to the new, private AT&T corporation. Every dollar paid by residential customers in access fees represents $1 AT&T's long-distance service traditionally contributed to keep local phone rates low. It is understandable that AT&T's management would like to have these assets in their corporation. But it is fundamentally unfair.

AT&T has argued they must be free of these charges to compete with other companies using new technology to provide long-distance service. the answer to that argument should not be to give AT&T a free ride on the local network, but to require all long-distance services to contribute fairly for their use of the local network. This bill does just that.

No consumer issue before the Congress, in my memory, has had so much money from so many individual citizens at stake. I urge support for the Universal Telephone Preservation Act.●

● Mr. BEDELL. Mr. Chairman, I rise in support of the Universal Telephone Service Preservation Act. I believe this legislation is essential if Americans are to have affordable telephone service.

We all know that this is a complicated issue. Many of us, in studying this legislation, have been introduced to new terms and techology. We have experienced great advances in communication technology, but we cannot allow these advances, and other changes in the telecommunications industry, to be an excuse for shifting costs to local ratepayers.

Local telephone facilities are used by both local subscribers and long-distance customers. Both classes of customers should share the cost of these facilities. The Federal Communications Commission's access charge decision would require local telephone customers to bear all costs for local tele-

phone facilities—even those costs associated with long-distance service. Local customers would pay those costs in a flat monthly charge, whether or not the local customer made long-distance calls.

This shift in cost, Mr. Chairman, is simply unfair. It would place many of our constituents, the elderly in particular, in a position of choosing between telephones and other necessities. According to information obtained during hearings by the Subcommittee on Housing and Consumer Interests, 50 percent of Americans over 64 years of age and 72 percent of those with low incomes believe they could not afford a telephone if the cost of local service doubled, as in many areas it is expected to do.

Critics of this bill have suggested that the shift in cost would reduce long-distance rates, thus resulting in savings for many customers. But, Mr. Chairman, many of our constituents do not make enough long-distance calls to realize the promised savings. For them, the cost of telephone service would rise, and rise sharply. In addition, these customers would be paying, through the access charge, for services they would seldom use, and in cases of highly sophisticated switching equipment, would never use because the services benefit only certain types of customers.

Critics also have raised the issue of "bypass" and the possibility it could erode the rate base. The legislation recognizes the potential problem and makes adjustments in the long-distance share of local costs to allow for some reductions in long-distance rates.

The bill also establishes a Universal Service Fund to help defray the high costs of telephone service in rural areas of the country like my district. The fund also would subsidize a portion of the costs of providing discounted "lifeline" service for low-income Americans. These provisions are essential because, even with the legislation before us, other pressures may push rates up. Rural and low-income Americans need this help.

Mr. Chairman, our constituents have told us they want us to hold down the costs for local telephone service. They are pleased with the present system that provides for long-distance customers to pay a share of local telephone costs.

This bill would keep that system in place and at the same time would adjust telecommunication policies to deal with the technological and economic changes taking place in the industry. I believe this bill is a responsible compromise, taking into account the many interests who have a stake in what we do here today.

Mr. Chairman, I urge my colleagues to adopt H.R. 4102, the Universal Telephone Service Preservation Act of 1983.●

● Ms. FERRARO. Mr. Chairman, I rise in support of H.R. 4102, the Universal Telephone Service Preservation Act.

Mr. Chairman, for nearly half a century we have subscribed to the basic principle that telephone service should be accessible and affordable. Surely no one can doubt the enormous benefits we all have realized because of our national commitment to universal service.

Today, however, we are at a crossroads. The divestiture of AT&T is less than 2 months away. If this Congress fails to act, our long-standing national commitment to universal service may be in jeopardy.

The bill before us today, H.R. 4102, responds to the problems posed by the FCC's access charge decision in a reasonable and responsible way. It does not stop the divestiture process. It will not retard technological innovation. It will modify the FCC decision to insure that long distance companies continue to pay their fair share of the cost of jointly used equipment and facilities.

Now I know there are some people who say, "The access charge is only $2 a month. Why are you making such a big production over such a small charge?" But to the senior citizen, to the person on a fixed income, an additional $2 a month, an additional $24 a year is a major expense.

Mr. Chairman, I have met with scores of elderly residents in my district. They are deeply concerned about the pending breakup of the phone company. They are all wondering how they will cope with the enormous increases in local telephone rates that have been projected. They need our help, and one thing we can do for the elderly, and for all residential and small business customers, is to bar the imposition of the FCC-mandated access charge.

Mr. Chairman, I urge all my colleagues to vote for fairness, to vote for universal telephone service, to vote for H.R. 4102.●

● Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of H.R. 4102, the Universal Telephone Service Preservation Act of 1983. Furthermore, I am proud to be a cosponsor of this legislation that addresses certain deficiencies inherent in the Federal Communications Commission ruling on access charges. By largely voiding that FCC decision, I believe that the majority of Americans will be guaranteed affordable telephone service and that the major targets of the FCC action—the poor, elderly, and those Americans living in rural locales—are protected by passage of this measure.

H.R. 4102 does several things which should be carefully reviewed by this body as it considers this legislation.

By requiring all long distance carriers and customers to contribute to the costs and maintenance of facilities which are shared to provide long distance and local telephone service, this bill would modify the FCC's access charge decision to insure that basic telephone service remains reasonable as well as affordable throughout the entire Nation.

This bill would expressly overturn the FCC's imposition of the flat monthly charges on residential and single line business users for access to the long distance network, and requires all long distance carriers to shoulder an equal, although substantially reduced, share of the costs of jointly used facilities.

In its present form, the FCC decision would require local telephone users to pay an additional $6.5 billion annually; or an increase of between $7 and $8 on the average monthly telephone bill—all this for access to a long distance network regardless of whether the customer ever does use long distance services.

Requires State public utility commissions to establish lifeline rates for low-income residential customers.

Establishes the universal service fund to preserve and reaffirm our national objective to provide affordable, nationwide telephone service. Small local telephone companies whose costs exceed the national average would be eligible for payments from the fund, to assure that service to rural and other high cost areas remains affordable. Additionally, any company providing lifeline service would be able to receive payments from the fund to defray a portion of that expense.

Requires privately owned and operated telephone systems that bypass the local telephone company network to contribute to the local telephone company's costs.

Prohibits telephone companies from using revenues from regulated services to defray costs associated with their unregulated activities.

Returns to the State public utility commissions the authority to set depreciation methods and rates for telephone company equipment used for local service.

My decision to support this bill is not one that has been made lightly. One of the subcommittees on which I serve, the Government Operations Subcommittee on Justice, Agriculture, and Information, recently completed a series of extensive hearings on the manner in which the FCC reached its now infamous access charge decision. I would commend the report of our subcommittee to the Members of this House for a rather illuminating look at how the FCC approached what many experts within the telecommunications industry regard as perhaps the most complex and controversial decision ever handed down by that agency.

What the subcommittee learned was that the FCC, although it spent a tre-

mendous amount of time on devising the access charge decision, failed to adequately investigate many of the overriding issues involved such as cross-subsidization, the bypass phenomenon, impact of access charges on the concept of universal service, and the consequences of its previous actions regarding the expensing of station equipment or the setting of depreciation rates, just to name a few. One point realized throughout the duration of these hearings is that the FCC relied on theories, assumptions, and preconceptions—often simply mirroring AT&T's positions and suppositions—without really bothering to take the time to research these complex issues thoroughly.

I submit to you, Mr. Chairman that the FCC decision, as currently written, places a disproportionate financial burden on the local telephone consumer—those who can least afford it—since the bulk of the traffic on the Nation's telephone lines are interstate calls made by large businesses. Moreover, statistical evidence, some even supplied by AT&T's own local Bell operating companies, shows that 62 percent of all long distance tolls are paid by major corporations who compromise the top 4 percent of all long distance users. This same evidence also reveals that as many as 1 in 6 residential users make no long distance calls in a given month—although under the FCC access charge decision these same people would pay for the long distance network despite the fact that they never use it.

There are two particular points that should be kept in mind as we consider this particular bill—points that should interest all residential and small business telephone users.

One is that under the present FCC decision, AT&T stands to save almost $4 billion in the amount it is now required to pay local Bell operating companies. AT&T has announced plans to reduce long distance rates by 10 percent, which would result in a savings to customers of $1.75 billion. As far as many experts and economists can determine, AT&T plans to simply keep the remaining $2.25 billion windfall as a profit. It would appear that AT&T possesses a very real economic interest in maintaining the FCC's decision—to the tune of an extra $2.25 billion.

Second, we need to remember that the divestiture and the FCC access charge decision are two very different actions taking place concurrently. With any sort of restructuring of such a major industry as telecommunications going on, it is obvious that telephone rates will increase. What this bill guarantees is that those rates will not rise so dramatically as to cause significant dropoff on the part of low-income, elderly, and rural customers. More importantly, this bill assures that those same segments of society, along with residential and single line business users, will not have to pay the cost of a competitive long distance industry that benefits large commercial interests only. In conclusion, the central question surrounding this issue is who must eventually pay for the maintenance of the wires, cables, poles, and other equipment with the telephone system that are used jointly for local and long distance calls. The FCC decision seeks to shift the entire cost to local residential and single line business telephone customers on the premise that local service cannot exist without this restructuring.

I believe this bill will benefit the consumer, all long distance carriers, and the overall telecommunications industry. More importantly, I know that by passing this necessary piece of legislation, vital segments of my constituency in west Texas—those living in rural locales, the elderly, and low-income families—will still be able to afford telephone service.●

● Mr. FRENZEL. Mr. Chairman, affordably priced telephone service is a goal that all of us share. But many Members including myself, question whether consumers will actually benefit from H.R. 4102. While this bill is being sold by its supporters as a consumer protection proposal, it is difficult to determine who, except politicans and State utility boards, will be better off due to thee efforts.

Residential customers will lose the lower long-distance rates that would have otherwise been possible. Businesses, who will have to pay both a flat access fee as well as higher long distance rates will suffer. As a result, many bigger companies will probably choose to bypass to bypass the phone network, and establish private systems.

Not only will this skim off the biggest share of revenues for the local phone companies, but subsidy revenues will also be lost. Without these revenues and subsidies, local phone companies will be forced to raise residential rates even higher.

Those businesses that do not bypass the system will surely pass much of the extra phone costs on to their customers through higher priced products and services. Finally, studies show that rural phone users make a disproportionately high number of long distance calls so it is likely that any local rate savings may be more than offset by higher long distance fees.

Another problem with this bill is that there is strong evidence that it will harm the development of the telecommunication industry in the United States. Currently, we are a leader in telecommunication technology, and most major innovations in this industry have come from our country.

It is essential that we maintain this strong export market by encouraging cost-based pricing and the free market competition. This bill does neither. Past experience has shown repeatedly that protected industries are never able to compete effectively in the world marketplace.

Finally, I am concerned about the provisions in this bill that impose fees on users that directly or indirectly interconnect with a local telephone system. Revenues from these fees are deposited into a universal service fund, and redistributed to other telephone users. Exactly how the fees will be collected, and who will do the distributing is unclear, and is certain to lead to confusion and controversy.

These so-called fees, are, in essence, a tax, and should be treated legislatively as such. Like all tax legislation, such provisions should be subject to review by the Committee on Waves and Means.

This House ought to be concerned by the proliferation of legislation in the House of Representatives which proposes the imposition of fees, tariffs, charges, or other revenue measures without Ways and Means referral. The House rules are quite clear that jurisdiction of revenue measures be reviewed by Waves and Means, and the committee should have been given the opportunity to address these aspects in H.R. 4102 or any similar revenue-raising proposals.

The central fact is that this legislation is surely premature and probably unnecessary. Rarely have I seen the press so unanimous in opposing congressional action. Editorial after editorial argues, correctly I believe, that this legislation will undermine universal service, and result in higher overall telephone rates.

That analysis is correct. This bill is anticonsumer and antiuniversal service. It should be returned to committee or simply voted down.●

Mr. WIRTH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to House Resolution 363, the text of H.R. 4295 shall be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce printed in the bill. Each section shall be considered as having been read. At the expiration of 10 hours, no further amendments to the bill or to the amendment in the nature of a substitute are in order.

The Clerk will designate section 1 of the amendment in the nature of a substitute.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Universal Telephone Service Preservation Act of 1983".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Statement of findings and purposes.
Sec. 3. Definitions.
Sec. 4. Access charges.
Sec. 5. Universal Service Fund.
Sec. 6. Universal Service Board.
Sec. 7. Depreciation.
Sec. 8. Provider of last resort.
Sec. 9. Lifeline telephone service.
Sec. 10. Prohibition against cross subsidy.
Sec. 11. Shared use of telephone facilities.
Sec. 12. Public participation.
Sec. 13. Employee protection.
Sec. 14. Effective date.

Mr. WIRTH. Mr. Chairman, I have an amendment at the desk to section 4, and I ask unanimous consent that that amendment be considered at this time.

The CHAIRMAN. Is there objection to the request of the gentlemen from Colorado?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, I do so in order to state my reasons.

I had understood that we were going to proceed through this bill in the regular order, and it was the intention of the gentleman from Iowa to offer a substitute at the beginning of the bill, at the end of the reading of section 1.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that the gentleman from Colorado is going to ask unanimous consent to offer this amendment, which is simply a clarification of the amendment I had offered in the committee.

It is also my understanding, which the gentleman from Colorado may wish to clarify, after quickly disposing of this agreed upon amendment, then we would move to section 1 and I would then be recognized to offer the substitute.

Mr. WIRTH. Mr. Chairman, if the gentleman will yield, that is precisely our agreement.

The amendment which I am offering only clarifies certain numbers that were in the Tauke amendment offered in the full committee which were incorrect, and we are offering this amendment.

Mr. BROYHILL. Mr. Chairman, further reserving the right to object, I understand the amendment. I just want to protect the rights of the gentleman from Iowa to offer his amendment. I was concerned that going ahead to section 4 would undermine the gentleman's rights.

Mr. WIRTH. I understand the gentleman.

Mr. BROYHILL. Mr. Chairman, if there is assurance from the Chair that the rights of the gentleman from Iowa are protected, I will withdraw my reservation of objection.

The CHAIRMAN. That is the way the Chair understands the unanimous-consent request of the gentleman from Colorado (Mr. WIRTH).

Without objection, the unanimous-consent request of the gentleman from Colorado (Mr. WIRTH) is agreed to.

There was no objection.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Page 9, line 13, strike out "may not be greater than 25 per centum." and insert in lieu thereof "may not be greater than the percentage of non-traffic-sensitive costs apportioned to the interstate jurisdiction as of December 31, 1983.".

Mr. WIRTH. Mr. Chairman, the reason we are offering this amendment at this point is simply to clarify a provision in the bill. The gentleman from Iowa (Mr. TAUKE) had offered an amendment establishing a cap of 25 percent on the allocation of costs to interstate service which we believed at the time was the existing practice. The practice is 26.5 percent.

Mr. BROYHILL. Mr. Chairman, if the gentleman will yield, we will agree with the amendment. There is no problem with the amendment.

Mr. WIRTH. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL. Mr. Chairman, does the time for votes come out of the 10 hours?

The CHAIRMAN. That is correct. The total time is 10 hours.

Mr. BROYHILL. I thank the Chair.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. TAUKE: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Universal Telephone Service Preservation Act of 1983".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Statement of findings and purposes.
Sec. 3. Definitions.
Sec. 4. Access charges.
Sec. 5. Universal Service Fund.
Sec. 6. Universal Service Board.
Sec. 7. Depreciation.
Sec. 8. Provider of last resort.
Sec. 9. Lifeline telephone service.
Sec. 10. Prohibition against cross subsidy.
Sec. 11. Shared use of telephone facilities.
Sec. 12. Employee protection.
Sec. 13. Foreign exchange service.
Sec. 14. Effective date.

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the fifty-year effort to bring affordable and universally available telephone service to the public has served the Nation well;

(2) universal telephone service has contributed to the Nation's economic, social, and political integration and development;

(3) the public benefits from universal telephone service because each telephone subscriber receives a more valuable service when virtually anyone else in the country can be called;

(4) significant rate increases will threaten universal service by forcing many Americans, especially the poor, the elderly, the handicapped, and those living in high-cost urban and rural areas, to discontinue their telephone service; and

(5) the national interest demands telephone service that continues to be universally available at affordable rates.

(b) The purposes of this Act are—

(1) to assure the availability to all the people of the United States, affordable, reliable, efficient communication services which are essential to full participation in the Nation's economic, political, and social life;

(2) to assure that the costs of maintaining such availability of services, including interstate directory assistance, are equitably allocated among all users and providers of communication services who benefit from the availability of such services;

(3) to assure that the States have sufficient regulatory authority to maintain universally available and affordable telephone service; and

(4) to assure that the economy, general welfare, and national security of the United States will benefit from continuing improvements in telecommunications technology and the continued development of a competitive telecommunications industry.

DEFINITIONS

SEC. 3. Section 3 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(hh) 'Exchange access' means the provision of facilities, services, or related functions by an exchange common carrier, to a carrier or other person providing interstate service, for the origination or termination of interstate communication.

"(ii) 'Direct interconnection' means the obtaining of exchange access through facilities specifically designated for such purpose by the exchange carrier involved.

"(jj) 'Indirect interconnection' means the obtaining of exchange access from an exchange carrier by any means other than direct interconnection.

"(kk) 'Exchange area' means the geographic area within a State designated by the State as the area within which telephone exchange service is provided.

"(ll) 'Exchange carrier' and 'exchange common carrier' mean a carrier authorized to provide telephone exchange service on a universal basis within an exchange area.".

ACCESS CHARGES

SEC. 4. (a)(1) The provisions of the system of access charges established under the decision and orders of the Federal Communications Commission in C.C. docket numbered 78-72 (phase I) shall not be affected by this Act, except as provided by section 221A of the Communications Act of 1934, as added by subsection (b) of this section.

(2) To assure that each exchange carrier recovers all costs of providing exchange access during the period beginning January 1, 1984, and ending on the date the system referred to in paragraph (1) takes effect, the methods and procedures applicable on July 1, 1983, for allocating revenues from interstate telephone toll service among carriers shall apply during such period. The Commission shall prescribe such additional procedures as it determines to be necessary for proper allocation and timely distribution of such revenues among such carriers.

(b) The Communications Act of 1934 is amended by inserting after section 221 the following new section:

"TELEPHONE EXCHANGE ACCESS CHARGES

"SEC. 221A. (a) Any system of charges for exchange access established by the Commission shall be in accordance with this section.

"(b)(1) An end-user common line charge shall not be assessed on—

"(A) any subscriber of lifeline telephone service (as provided for in section 201(e)), or

"(B) any subscriber of an exchange carrier (i) which has 50,000 or fewer subscriber lines within the State in which the service is being provided and (ii) for which there is in effect a determination by such carrier, in its discretion, that this subparagraph should apply.

Any determination (or revocation of a prior determination) under subparagraph (B) shall be in writing and filed with the Commission.

"(2) Subject to paragraph (1), in the case of—

"(A) any residential subscriber of telephone exchange service, or

"(B) any business or other subscriber of telephone exchange service who does not have more than one subscriber line,

an end-user common line charge may not be assessed in any amount during calendar year 1984, and during calendar year 1985 or thereafter may be assessed only if the charge does not exceed the limits under paragraph (3).

"(3)(A) The charges under paragraph (2) shall be established by the Commission and (2) shall not exceed—

"(i) during calendar year 1985, $1 per month; and

"(ii) during any calendar year after 1985, a monthly rate equal to $1 plus the monthly rate applicable at the close of the preceding calendar year.

"(B) In any calendar year before January 1, 1992, the charges permitted under paragraph (2) shall not exceed $4 per month.

"(c)(1) A special access charge shall be assessed with respect to any line that has indirect interconnection with the exchange facilities of an exchange carrier, including any dedicated unswitched line, whether or not such line is provided by an exchange carrier.

"(2) The Commission shall provide for an exemption from such charge for any line that by the nature of its operating characteristics (including technical or geographic service characteristics) could not make use of exchange access as a reliable and commercially valuable alternative or be used to avoid charges for exchange access.

"(d)(1) Any non-traffic-sensitive costs apportioned to the interstate jurisdiction, to the extent not recovered under the end-user common line charges, or special access charges, shall be recovered through carrier common line charges. The Commission shall establish procedures to assure that exchange common carriers receive timely recovery of such costs.

"(2) For calendar year 1984 and any calendar year thereafter, the national aggregate percentage of non-traffic-sensitive costs (including any costs recovered by any surcharge established under section 225) apportioned to the interstate jurisdiction pursuant to actions taken under section 410 may not be greater than 25 percent.

"(3) The Commission may permit the aggregation of that portion of non-traffic-sensitive costs collected through carrier common line charges if and to the extent the Commission determines that such aggregation is necessary to achieve the purposes of this Act. The Commission may require that each exchange carrier recover such costs directly from carriers providing interstate services.

"(4) The Commission shall assure, to the maximum extent practicable, that any reduction in carrier common line charges taking effect after December 31, 1983, which is attributable to the imposition of end-user common line charges, or special access charges, shall be reflected in reductions in the charges for interstate telephone toll service which are subject to carrier common line charges.

"(5)(A) Notwithstanding subsection (c), any charges under such subsection may be reduced in accordance with a schedule of reductions established by the Commission by order.

"(B) The schedule of reductions shall be for the same period as provided for the phase-in of end-user common line charges under subsection (b)(3).

"(e)(1) In the case of any interexchange carrier which did not participate in the system of jurisdictional separations of carrier property and expenses on July 1, 1983, the charge by an exchange carrier, per switched access line, for exchange access by the interexchange carrier in any calendar year shall be the rate per access minute charged during such year to a participating carrier multiplied by the appropriate access factor.

"(2)(A) For purposes of paragraph (1), the appropriate access factor for any such interchange carrier—

"(i) for calendar year 1984, shall be the average 1983 access factor plus an adjustment factor of .10; and

"(ii) for calendar year 1985, and any calendar year thereafter, shall be a factor which the Commission shall determine under paragraph (B).

"(B) As used in subparagraph (A)(i), the average 1983 access factor shall be—

"(i) the average charges per access minute paid during calendar year 1983 by all interexchange carriers described in paragraph (1), divided by

"(ii) the average charge per access minute paid during such year by all participating carriers.

"(C) The factor determined by the Commission for any calendar year under subparagraph (A)(ii) shall be based on the extent to which equal interconnection has been made available to all such interexchange carriers in the preceding year, measured as a proportion of the total originating interexchange traffic to which such equal interconnection has been made available, in a manner so that the factor increases to $1 at such time as the Commission determines that equal interconnection has been made available to substantially all originating interexchange traffic.

"(3) Notwithstanding paragraph (2), effective beginning at such time as the Commission determines that equal interconnection has been made available at an end office to an interexchange carrier, such interexchange carrier shall pay the full costs of the exchange access it actually receives at that end office.

"(4) For purposes of this subsection:

"(A) The term 'access minute' means that usage of exchange facilities in interstate or foreign service for the purpose of calculating chargeable usage. On the originating end of an interstate or foreign call, usage shall be measured from the time the originating end user's call is delivered by the exchange carrier and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interstate or foreign call, usage shall be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interstate or foreign call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges, as applicable.

"(B) The term 'end office' has the same meaning as such term has under the modified final judgement (as defined in section 221(e)(3)(B)).

"(C) The term 'participating carrier' means any carrier which participated in the system of jurisdictional separations of carrier property and expenses on July 1, 1983.

"(5) In addition to the preceding requirements of this subsection, the total amount recovered by an exchange carrier from interexchange carriers which have direct interconnection with the exchange carrier shall not be less than the total costs of providing and making available exchange access to interexchange carriers.

"(f)(1) Effective beginning 90 days after the effective date of this section, any person who owns or operates facilities to originate or terminate interexchange service other than through direct interconnection and who is subject to charges under this section shall promptly notify the appropriate exchange carriers, the Commission, and the appropriate State commissions. Such notification shall be made by means of a summary form which the Commission shall prescribe by rule.

"(2) Any person who fails to comply with paragraph (1) shall forfeit to the United States the sum of $50,000. Any such forfeiture shall be in addition to any other penalty or forfeiture under this Act.

"(g)(1) The Commission shall, upon the request of a State commission, delegate to such State commission, effective beginning July 1, 1985, the authority to administer the system of access charges, conditioned upon the compliance of the State commission with the requirements of this section, and with rules and procedures promulgated by the Commission under this section.

"(2) Any interexchange carrier or interexchange customer which alleges that any charge for exchange access is not justified by cost, or is inconsistent with subsection (d), may petition the Commission for review of the relevant portions of any tariff filed with the State commission, whether or not

such carrier or customer was a party to the tariff proceeding before the State commission involved. Any carrier or customer filing such a petition shall concurrently submit a copy of the petition to the State commission. The Commission may proceed to review the relevant portions of the tariff only if the State commission renders an adverse decision or fails to render a final decision with respect to such alleged violations before the end of the 60-day period following the submission of such petition to the Commission. The State commission, in connection with rendering a decision, may conduct such hearings, and accept or require the submission of such testimony and other information, as the State commission considers necessary or appropriate. The Commission may exercise its authority under this Act with respect to the relevant portions of such tariff (including the authority to affirm, remand, or modify the relevant portions of the tariff), taking into full account the views of, and record developed by, the State commission. This paragraph shall not apply (A) to any charge to the extent the charge is necessary to maintain the carrier differential required under subsection (e), or (B) to any surcharge established under section 225.

"(i) For purposes of this section—

"(1) The term 'special access charge' means a charge established by the Commission to recover the costs attributable to indirect interconnection, as provided under section 69.115 of title 47, Code of Federal Regulations (as adopted July 27, 1983). Such charge shall be based on the Commission's reasonable estimate of the costs of indirect interconnection, until such time as the Commission adopts by order a method of computing such charge based on techniques developed by the Commission which more accurately measures such costs.

"(2) The term 'end-user common line charge' means a charge assessed upon any customer of telephone exchange service to recover the interstate portion of non-traffic-sensitive costs, as provided in section 69.104 of title 47, Code of Federal Regulations (as adopted as of July 27, 1983).

"(3) The term 'carrier common line charge' means a charge assessed upon any interexchange carrier to recover the interstate portion of non-traffic-sensitive costs, as provided in section 69.105 of title 47, Code of Federal Regulations (as adopted as of July 27, 1983).

"(4) The term 'non-traffic-sensitive costs' means facilities and equipment costs which do not vary with usage, as determined under practices and procedures established by the Commission or, after July 1, 1985, by the Universal Service Board.

"(5) The term 'interexchange service' means the services or facilities provided as an integral part of interstate communications, except services or facilities used for the provision of exchange access.

"(6) The term 'interexchange carrier' means any carrier which provides interexchange service.

"(7) The term 'person' includes the United States, any State, and any agency or instrumentality thereof.".

(c) The Federal Communications Commission shall consider revising the decision and orders of the Commission in C.C. docket numbered 78-72 (phase I) as such decision and orders affect users of centrex-type services. In considering such revision, the Commission shall take into account the impact of such decision and orders on—

(1) non-governmental tax-exempt entities which use centrex-type services; and

(2) recovery of costs associated with such services and corresponding adjustments in the charges for telephone exchange service.

(d) Section 201 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) No exchange carrier may impose any charge on any residential subscriber for terminal equipment not leased from such carrier.".

(e) Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2), no carrier may impose any charge for interstate directory assistance.

"(2) Paragraph (1) shall not apply to restrict—

"(A) the recovery by any carrier for the costs for such assistance in the manner provided for as of October 1, 1983;

"(B) the recovery by any carrier from interconnecting interstate carriers for the costs of such assistance; and

"(C) the imposition by any carrier of charges on any subscriber for such assistance to the extent that more than 6 calls are made from any subscriber line during any month."

(f) The preceding provisions of this section shall take effect on the date of the enactment of this Act.

UNIVERSAL SERVICE FUND

SEC. 5. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following:

"UNIVERSAL SERVICE FUND

"SEC. 225. (a)(1) To assure to all the people of the United States the continued availability of telephone service at reasonable and affordable charges, there is hereby established the Universal Service Fund. On an annual basis, the Universal Service Board shall determine uniform surcharges on the charges for exchange access recovered from carriers and other persons directly or indirectly interconnecting with an exchange carrier, such that the Fund is sufficient beginning January 1, 1986, to make the payments under this section.

"(2) Until January 1, 1986, the Universal Service Board shall permit the aggregation of costs and the division of revenues among exchange carriers to the extent the Universal Service Fund is not sufficient to make payments required under section 225.

"(b)(1) An exchange common carrier is entitled to receive payments from the Universal Service Fund based on the amount that its average costs for all non-traffic-sensitive facilities per subscriber line exceeds the national average of such costs, as provided in paragraph (2). Any such carrier shall submit certification of such costs to the Universal Service Board.

"(2)(A) In the case of any exchange carrier with 100,000 or fewer subscriber lines within a State, the carrier shall be entitled to receive—

"(i) 85 percent of the amount by which such average costs of the carrier exceed 110 percent, but do not exceed 115 percent, of such national average;

"(ii) 90 percent of the amount by which such costs exceed 115 percent, but do not exceed 200 percent, of such national average;

"(iii) 95 percent of the amount by which such costs exceed 200 percent, but do not exceed 250 percent, of such national average; and

"(iv) 100 percent of the amount by which such costs exceed 250 percent of such national average.

"(B) In the case of any exchange carrier with more than 100,000 subscriber lines within a State, the carrier shall be entitled to receive—

"(i) 75 percent of the amount by which such average costs of the carrier exceed 115 percent, but do not exceed 160 percent, of such national average;

"(ii) 85 percent of the amount by which such average costs of the carrier exceed 160 percent, but do not exceed 200 percent, of such national average;

"(iii) 95 percent of the amount by which such average costs of the carrier exceed 200 percent, but do not exceed 250 percent, of such national average;

"(iv) 100 percent of the amount by which such costs exceed 250 percent of such national average; and

"(v) such additional amounts available under procedures which the Universal Service Board shall establish in order to minimize disparities between the average subscriber charges assessed by such carrier, compared to those assessed by other carriers in such State, for telephone exchange service in rural or remote areas where the costs of providing such service are substantially higher than the national average.

"(c)(1) An exchange common carrier is entitled to receive payments from the Universal Service Fund if it certifies to the Universal Service Board that it is offering lifeline telephone service consistent with the provisions of section 201(d).

"(2) The amount of the payments under paragraph (1) in the case of any eligible exchange carrier shall be equal to 65 percent of—

"(A) the amount by which—

"(i) the carrier's average charges per residential customer for providing telephone exchange service (other than lifeline telephone service) exceeds

"(ii) the charge then in effect for lifeline telephone service (other than under section 201(e)(4)), multiplied by

"(B) the number of subscribers certified by the carrier to be receiving lifeline telephone service (other than under section 201(e)(4)).

"(3) In addition to payments under paragraph (2), an exchange carrier shall be paid an amount equal to 65 percent of—

"(A) the amount by which—

"(i) the carrier's average charges per residential customer for providing telephone exchange service (other than lifeline telephone service) exceeds

"(ii) the rate then in effect for telephone service for low-income elderly subscribers under section 201(e)(4), multiplied by

"(B) the number of such subscribers certified by the carrier to be receiving likeline telephone service under section 201(e)(4).

"(d)(1) The Universal Service Board shall establish and oversee an exchange access board (consisting of representatives of exchange common carriers, carriers providing interstate communications, and other customers directly obtaining exchange access) to administer the Universal Service Fund. The exchange access board shall administer the Universal Service Fund in a manner which expedites the crediting of payments to exchange common carriers through the use of rules and procedures which eliminate burdens or delays in the certification or application process to the maximum extent practicable, and which permit decisions to be made on the basis of uniform, general,

simplified standards of eligibility which are readily applied to the information and other data included in each application.

"(2) Payments from the Universal Service Fund to any exchange carrier shall be subject to audit and adjustment by the Universal Service Board to ensure that—

"(A) any certification or application is valid and based upon proper allocation of costs in accordance with guidelines established by the Universal Service Board under section 410;

"(B) such payments are used to maintain reasonable rates or charges;

"(C) such payments do not remove incentives for the efficient provision of exchange service, except that any adjustment based upon the factor established in this subparagraph shall be effective ony on a prospective basis; and

"(D) such payments do not unreasonably impede the entry and operation of competitive suppliers of exchange services.".

UNIVERSAL SERVICE BOARD

SEC. 6. Section 410 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(d)(1) Not later than thirty days after the effective date of this subsection, the Commission shall establish a Universal Service Board for the purpose of—

"(A) ensuring equitable and efficient economic treatment of users of common carrier services and exchange services and carriers providing such services;

"(B) providing for an orderly transition to the system of charges for exchange access; and

"(C) achieving cooperation between the Federal Government and the States in carrying out the purposes of this title.

"(2) The Universal Service Board shall be composed of—

"(A) five commissioners of the Commission; and

"(B) four State commissioners nominated in accordance with subsection (c) and approved in accordance with subsection (a).

"(3) The Universal Service Board—

"(A) shall establish and maintain formulas consistent with the purposes of section 225 for defining and comparing national average costs and charges and uniform practices for determining the payments required by the Universal Service Fund, and shall oversee the distribution of funds from the Universal Service Fund by the exchange access board in accordance with section 225;

"(B) shall establish, and may from time to time revise, practices and methods to ascertain and fully apportion the cost of services, facilities, and other factors used jointly or in common to provide exchange services and exchange access, which practices and methods shall be exercised in a manner which reflects differences in the size and relevant characteristics of carriers and which is consistent with the requirements of the system of charges for exchange access, as described in section 4 of the Universal Telephone Service Preservation Act of 1983;

"(C) shall make such changes and modifications in the system of jurisdictional separation of carrier property and expenses in force on the effective date of this section as may be necessary or appropriate for the orderly transition to the system of charges for exchange access, as described in section 4 of the Universal Telephone Service Preservation Act of 1983; and

"(D) shall take such actions as are necessary to minimize any unreasonable disparity for interstate service to or from rural or other remote exchanges which may arise from the greater costs of connecting lines (as defined by the Board) to and from such exchanges.

"(4) Any decision of the Federal-State Joint Board under subsection (c) pending on October 1, 1983, shall be submitted to the Universal Service Board (in lieu of the Commission) for review and action.

"(5) In establishing practices and methods under paragraph (3)(B), the Universal Service Board shall—

"(A) encourage reliance upon exchange common carriers as distributors of interstate communications, and promote continued universal availability of transmission services provided by exchange common carriers at reasonable and affordable rates; and

"(B) take into account—

"(i) the cost of capacity or special characteristics prudently invested and essential to the provision of exchange service and exchange access;

"(ii) investment and associated costs (including depreciation and maintenance) needed to provide plant availability to meet demand (including peak demand) for exchange service and exchange access; and

"(iii) the use of exchange facilities for exchange service and exchange access.

"(6) The Universal Service Board may, in accordance with title 5, United States Code, appoint such staff as it considers necessary to carry out its functions under this Act.

"(7) The Universal Service Board may permit exchange common carriers which serve not more than 50,000 subscriber lines to use statistical cost data representative of such class of carriers to support tariffs for exchange access in lieu of individual cost studies.

"(8) Any determination made by the Universal Service Board under this section shall be considered a final action subject to judicial review under section 402(a), and subsections (c) through (j) of section 402.".

DEPRECIATION

SEC. 7. Section 220 of the Communications Act of 1934 is amended by redesignating subsection (b) as subsection (b)(1) and by inserting after subsection (b)(1) (as redesignated) the following new paragraphs:

"(2)(A) Each State commission shall have authority (i) to establish classifications for exchange facilities and the portion of facilities used jointly for interstate and intrastate services assigned to the States by the Universal Service Board under section 410, and (ii) to prescribe the methods by which exchange carriers shall recover investments in such facilities.

"(B) Such methods shall provide for recovery of investments in such classes of facilities in a manner which promotes the economic viability of the exchange carriers involved.

"(C) The methods specified in subparagraph (A) shall provide for the full recovery of any unrecovered amount prudently invested in property, and no greater amount. Such methods shall be construed to recover such amount not later than the end of the remaining useful life of the property involved.

"(3) Any determination under this subsection of the useful life of invested property shall reflect changes in technology and the impact of such changes upon the economic viability of the property.".

PROVIDER OF LAST RESORT

SEC. 8. The Communications Act of 1934 is amended by inserting after section 225 (as added by this Act) the following new section:

"STATE AUTHORITY TO REQUIRE BASIC ONE-LINE TELEPHONE

"SEC. 226. (a) A State commission may require any exchange common carrier to lease and maintain on request a single basic one-line telephone instrument, and associated inside wiring, to any subscriber (or group of subscribers at a single premise) within such State on the basis of a tariff that includes all costs of providing and maintaining such instrument and wiring.

"(b) For purposes of this section, the term 'basic one-line telephone instrument' means the type of basic two-way switched telephone instrument which the State commission determines to be generally available to the public and in use on the date of the enactment of this section, or which the Commission determines by rule to be generally recognized as essential for basic participation in nationwide telecommunications. In taking any such determination, the Commission may not reduce the quality of the type of basic one-line telephone instrument available on the effective date of this section.".

LIFELINE TELEPHONE SERVICE

SEC. 9. Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following new subsection:

"(e)(1) Each State commission shall establish rules for the provision of lifeline telephone service by exchange carriers. Such rules shall provide that—

"(A) lifeline service may only be provided for the principal residence of a household,

"(B) a household may not have more than one lifeline telephone service line, and

"(C) any household receiving such service may not receive any other exchange telephone service.

"(2) Any charge for lifeline telephone service shall not be based on time of day of any local call placed, or the duration or distance of such call.

"(3)(A) For purposes of this subsection, the term 'lifeline telephone service' means telephone service for any residential subscriber which is offered for a single, discounted charge and under which a subscriber can make a limited number of calls within the exchange area in which such service is offered.

"(B)(i) A State commission may restrict eligibility for such service on the basis of low-income criteria prescribed by the State commission. In establishing such criteria, the State commission shall take into account the composition of the low-income population of the State, and specifically consider the needs of the elderly, single heads of households, the unemployed, and the disabled.

"(ii) A State commission may not make ineligible for such service individuals who are obtaining benefits under part A of title IV of the Social Security Act (relating to aid to families with dependent children). or title XVI of such Act (relating to supplemental security income for aged, blind, and disabled), or the Food Stamp Act of 1977.

"(4)(A) Rules prescribed under paragraph (1) by any State commission shall provide that a low-income elderly subscriber shall be entitled to be provided lifeline telephone service under this paragraph.

"(B) Notwithstanding paragraph (3)(A), any limitation on the number of calls which a subscriber may make within an exchange area shall not apply to a low-income elderly subscriber receiving lifeline telephone service under this paragraph.

"(C) For purposes of this subsection, the term 'low-income elderly subscriber' means any individual—

"(i) who is 60 years of age or older; and

"(ii) who is obtaining benefits under part A of title IV of the Social Security Act (relating to aid to families with dependent children), or title XVI of such Act (relating to supplemental security income for aged, blind, and disabled), or the Food Stamp Act of 1977.

"(5)(A) Subject to subparagraph (B), any charge for lifeline telephone service shall recover not less than 33 percent and not more than 50 percent of an exchange carrier's average charges per residential subscriber of providing telephone exchange service to residential subscribers.

"(B) In the case of any lifeline telephone service provided under paragraph (4) to any low-income elderly subscriber, the charge for such service shall be equal to 70 percent of the exchange carrier's average charges per residential subscriber of telephone exchange service.".

PROHIBITION OF CROSS SUBSIDY

SEC. 10. Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following:

"(f)(1) No carrier or exchange carrier may use revenues from regulated communications services to defray any costs associated with its entry into or engaging in commercial activities the prices for which are not regulated by the Commission or any State commission.

"(2) Neither the Commission nor any State commission may consider the revenues or profits derived from the offering of any unregulated products or services (other than printed directory advertisements) by any carrier or exchange carrier in determining the revenue requirements of any common carrier service of such carrier.".

SHARED USE OF TELEPHONE FACILITIES

SEC. 11. The Communications Act of 1934 is amended by inserting after section 226 (as added by this Act) the following new section:

"SHARED USE OF TELEPHONE FACILITIES

"SEC. 227. (a) Nothing in this Act shall operate to impair or diminish the rights of telephone subscribers to use and to share the use of telephone facilities and services in such a manner as may be privately beneficial without being publicly detrimental (as set forth in orders and decisions of the Federal courts and the Commission issued before the date of the enactment of this section).

"(b) Any tariff, rule, regulation, or other action shall not be valid to the extent that it prohibits or restricts the rights of a telephone subscriber or group of telephone subscribers to use or share the use of telephone facilities and services in any manner which does not harm, or interfere with the rights of others in their use of, such facilities and services.

"(c) Nothing in any system of charges for exchange access shall be construed to impose a charge upon shared users (as defined by the Commission as of July 1, 1983) solely on the basis of their shared use of communications facilities."

EMPLOYEE PROTECTION

SEC. 12. Section 221 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(e)(1) The recognition after December 31, 1983, of creditable service, and the treatment after such date of associated accrued benefits and assets, in the case of any transfer of any qualifying employee between any entity subject to the modified final judgment shall be governed by the provisions of the modified final judgment as such provisions applied during calendar year 1984 with respect to transfers to or from the divesting corporation and any divested exchange carrier.

"(2) A qualifying employee, for purposes of this subsection, is an individual who is an employee of an entity subject to the modified final judgment, who is serving in a covered position, and who, on December 31, 1983, was an employee of any such entity serving in a covered position.

"(3) For purposes of this subsection—

"(A) the term 'covered position' means any position (i) which is not a supervisor position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152 (11)) or (ii) the annual base pay rate for which is not more than $50,000, adjusted by the percentage increase in the consumer price index since December 31, 1983;

"(B) the term 'modified final judgment' means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, No. 82-0192, as modified;

"(C) the term 'entity subject to the modified final judgment' means any carrier divested as a result of such judgment, the corporation owning such carrier before divestiture, and any affiliate of any such carrier or corporation; and

"(D) the term 'consumer price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(4) Nothing in this subsection shall be construed to limit benefits which would otherwise be provided under the modified final judgment or under applicable law.".

FOREIGN EXCHANGE SERVICE

SEC. 13. Section 201 of the Communications Act of 1934 (as amended by this Act) is further amended by adding at the end thereof the following new subsection:

"(g)(1) A State commission may provide that foreign exchange service be available—

"(A) to any subscriber with respect to exchange areas which are within the same standard metropolitan statistical area; and

"(B) to any subscriber who was provided foreign exchange service on the date of the enactment of this subsection, notwithstanding that the exchange areas involved are in different standard metropolitan statistical areas.

"(2) As used in this subsection—

"(A) the term 'foreign exchange service' means service under which a subscriber within one exchange area may elect, for all purposes, to receive telephone service as if that subscriber were located within another exchange area designated by the subscriber; and

"(B) the term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more as defined by the Office of Management and Budget.".

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect on the date of the enactment of this Act.

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order.

Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, during the course of the discussion of telephone legislation, it is sometimes difficult to focus our attention on the real issues, the issues that separate us and the issues which will have great meaning to consumers.

I think virtually everyone in this Chamber recognizes the desirability of having a telephone system which is universal, meaning that everybody has access to that system. Obviously, my phone is worth more if everybody else has a phone into their residence or into their business, because then I can reach those people. If individuals do not have phones into their residences or into their businesses, then my phone is worth less.

□ 1510

So all of us desire that goal. In the substitute that I am offering, we attempt to maintain that goal and focus our attention on achieving that goal. At the same time, we are attempting to move to a cost-based pricing system in the telephone network, a pricing system which we believe will hold down costs to consumers in the long term and also encourage the development of new technology.

In order to emphasize this point, I want to bring to the attention of the membership the three major issues that face us.

The first major issue is whether or not there should be a subsidy for low-income individuals. In H.R. 4102, there is a subsidy for low-income individuals. So is there a subsidy for low-income individuals in the substitute that I am offering.

The subsidy for low-income individuals, incidentally, in H.R. 4102 totals $679 million. In the substitute which I am offering, that amount of money is $883 million. In other words, we do better for the low-income individuals.

The next question is: Should we have a subsidy for high-cost areas or rural areas? Again, H.R. 4102 includes a subsidy for the rural areas, and that subsidy totals $544 million. In the legislation that I am offering, we do have a subsidy for the rural areas, and all of the companies which serve rural areas would receive that subsidy and, consequently, it is something in excess of $1 billion.

So we both provide subsidies for low-income and the rural areas, and my substitute provides more money for

both categories. Where we differ is whether or not there should be a permanent subsidy from long distance to local. There H.R. 4102 says yes, we should have permanent subsidy from long distance to local. Yet in our legislation, we suggest that that is the wrong policy, and that is what I want to focus attention on, whether or not that permanent subsidy from long distance to local service should continue.

There are some good points to having a permanent subsidy from long distance to local. I have to admit, and I have to concede to the proponents of this legislation, that temporarily it holds down the cost of local service—temporarily. It also sounds very good on the homefront. It really sounds terrific to be able to say we are going to hold down your local phone rates by holding up the interstate long-distance rates.

But the problems with this kind of subsidy far outweigh the benefits. I think it is important for us to recognize that those problems are borne by H.R. 4102. They are not borne by the substitute that I am offering. The problems with the permanent subsidy fall into four categories.

The first is that the permanent subsidy promotes bypass. It promotes bypass because it overprices certain telephone services, in this case interstate long-distance service. By overpricing long-distance service, it encourages the major users of long-distance service to do exactly what they are doing today, and that is, build private networks to bypass the telephone network. When they build private systems that bypass the telephone network, that shrinks the local rate base. They are not then contributing to the local rate base in the way they are today.

When we shrink the local rate base, that automatically increases phone rates for consumers, increases that your consumers and my consumers are going to end up paying for both their long distance and their local telephone services.

The second problem with the permanent subsidy is that it is antihigh technology. A permanent subsidy results in a tendency to underprice certain telephone services at the local level. One of the reasons we have seen great developments in telephone service at the interstate level and we have outmoded technology at the local level is because we have been unduly subsidizing costs at the local level.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has expired.

(By unanimous consent, Mr. TAUKE was allowed to proceed for 5 additional minutes.)

Mr. TAUKE. When we subsidize that cost at the local level, we face a serious problem. That problem is that the cost is held down artificially and, therefore, those who would be developing new technologies that could provide service at cheaper costs are discouraged from developing those new technologies.

That is bad for us in a variety of ways. It means a loss of jobs in the high-tech industries because they are not able to sell those new technologies. It means a loss of our competitive edge in the world marketplace, which results again in the loss of jobs.

I think we need to recognize that, in an era when some of our industries are not as competitive as they could be in the world marketplace, we need to strengthen those industries in which we have a competitive edge. If we discourage the development of new technology in the telecommunications arena, I can assure you that we are going to be discouraging the devleopment of this very important new industry, the high-tech telecommunications industry.

The third problem with a permanent subsidy is that it requires higher long distance phone rates. The fact is, ladies and gentleman, the dollars have to come from someplace. Today when we make a long distance call, about 23 cents per minute of that long distance call goes to support the local telephone system. Under the legislation that is being considered today, both approaches, we are going to continue to send about 10 cents per minute from every long distance call to the local telephone system.

Now we are arguing about how much of the 13 cents per minute that remains should go to the local telephone system. When we reduce the subsidy to the local telephone system, that means that, of course, the interstate costs are going to come down and local costs are going to come up. We are going to have the cost picked up by somebody. In the case of H.R. 4102, it means higher long distance rates for all of our consumers.

Finally, the fourth major problem with the permanent subsidy is that it provides a subsidy to those who do not need it. Every telephone user, regardless of their income status, regardless of the number of calls they make, receives a subsidy under H.R. 4102. That untargeted subsidy is the source of many problems. It is a subsidy that could work at a time when we had a monopoly in the telephone business and we could shift costs from one service to another. It is a subsidy that does not work and is patently unfair in a competitive marketplace.

Mr. Chairman, I hope that you will give strong consideration to the substitute that I am offering. In many respects it is identical to H.R. 4102. In many respects it is very similar to provisions of H.R. 4102. But in a very important area, the question of providing a permanent subsidy from long distance to local, there are significant differences.

I believe that the approach that I am offering insures universal service, encourages high technology, and insures that the FCC will handle rate cases in the future in a fair way and maintain our basic telephone network.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding. I conclude that whereas the legislation without the gentleman's amendment prevents the imposition of this access charge, the gentleman's amendment would permit the reimposition of an access charge on every local ratepayer, residential and business. The only significant difference would be that it would wait until after the election for the first access charge to be levied and there would be a cap of $4 per month until 8 years have passed, and then the cap would be removed and it could go as high as the FCC wanted it to go.

Am I correct in that interpretation?

Mr. TAUKE. The gentleman is basically correct.

Mr. GORE. I thank the gentleman.

Mr. TAUKE. I think it is fair to say that H.R. 4102 prevents any access charge or end-user charge for the local customer. The legislation that I am offering remands that decision to the Federal Communications Commission, and it says to the Federal Communications Commission that it cannot impose any access charge in 1984, it can impose $1 in 1985, up to $2 per month in 1986, 1987, and 1988, until we get to a $4 cap.

□ 1520

The FCC would have to make that judgment within those guidelines. This is the way to ease the transition from a situation where we have a permanent subsidy to a situation where we do not have a subsidy from long distance to local service.

Mr. GORE. Now, that access charge would be paid regardless of whether or not a customer actually used long distance. Is that correct?

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has expired.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have the greatest respect for my colleague, the gentleman from Iowa (Mr. TAUKE), but no Member of this body should have any misunderstanding about the fact that this amendment is the key amendment, and this represents the key vote on this entire bill.

If Members vote for this amendment, they are voting to completely

gut the effort to stop as much of the telephone rate increase as this Congress is capable of stopping.

Now, let us be candid: Because of many events, some of them starting long ago and just concluded by this Department of Justice and some in the FCC developed by this administration's appointees to the Federal Communications Commission; for a lot of reasons, it will be impossible for all of the proposed rate increases to be avoided. But if we want to do the best we can to avoid as much of the rate increases as possible, we should vote against this amendment and vote in favor of the pending legislation.

If, on the other hand, Members vote in favor of this amendment and vote to gut this legislation, then they will bear responsibility for the telephone rate increases which are going to come next year. If they want to do something about those increases, then they should support the legislation and should by all means defeat this amendment.

Mr. Chairman, what is the issue here? The issue here is really something called joint cost allocation. That sounds complicated, but it really is not complicated. Let me give the Members a simple illustration.

If the gentleman from Iowa and I together bought an automobile and he was going to use it 4 days a week and I was going to use it 3 days a week and we decided that we would share the payments to the bank, we would have allocated the joint cost of that automobile between us because we were both using the automobile. Now, if, after a year or so, the pattern of usage changed and I found that I was using the automobile only 2 days a week, on weekends, and the gentleman from Iowa was using it 5 days a week, if I then went to my friend and said, "Look, I am not using this car as much as I used to, and you are going to need it anyway. Why do not you pay all of the bank payments, 100 percent, and let me pay nothing and let me keep using the car 2 days a week for free?" That would not seem fair and just.

But that is exactly what AT&T is trying to say to the local telephone companies. Together, the long distance business and that local telephone business jointly built a telephone system which has been and remains the greatest in the world. An essential part of that system is that local telephone loop. Always in the past the cost of that total telephone loop has been shared both by local customers and by long-distance customers. Both of them use the local telephone loop. After all, we cannot make a long-distance telephone call unless we first originate it on local telephone lines and poles and then take it through the long-distance system and then complete the call through another extensive set of local telephone lines and poles.

At the current time long-distance callers pay a share of the cost of that equipment and those lines and poles that they use. Now, for years there have been arguments that long distance was paying too much of that cost. The word, "subsidy" has been used.

Well, of course, the percentage that they pay is going to come down in any event. Under the legislation, it is going to come down. But I wonder how many of my colleagues realize how radical and extremist a plan the FCC has come up with that this legislation is trying to prevent. The FCC, incredibly, has decided that 100 percent of those local costs for lines and poles ought to be paid by the local ratepayers, and that the long-distance business and long-distance callers ought to use all of those lines and poles for free without paying anything for the use of those lines and poles.

Now, tell me about the word "subsidy." What that plan would result in is a subsidy by local ratepayers for the long-distance businesses. That would let the long-distance businesses use these lines and poles for free.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. GORE) has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 4 additional minutes.)

Mr. GORE. Mr. Chairman, that would let them use these local lines and poles for free and force the local ratepayers to pick up 100 percent of the cost.

Now, it gets even more incredible because a local ratepayer who does not even use any long distance—and a lot of them do not—and a local ratepayer who uses long distance maybe once or twice a month—and there are a lot more in that category—would also be forced to subsidize the long-distance business.

Mr. Chairman, what is fair about that?

We hear a lot of talk about competition. Yes, we want to move toward a more competitive system, but let us face facts. We are not creating a totally competitive telephone system. We are creating a system that is partly competitive and partly exploitive. What my colleague's amendment would do and what the FCC would do is force those local ratepayers who are chained to a single provider of local service to subsidize all of this fancy new competition in the long-distance market.

What is fair about that? Nothing is fair about that. That is why this legislation is so important, and that is why this legislation must be passed.

The access charge would be removed by this legislation, and that is one reason it is so important. The pending amendment would reimpose the access charge.

I say to the Members, if you vote for this amendment, I want you to go back and tell every single one of your constituents—and do not overlook the small business constituents with only a single telephone line, because they would not pay the access charge under this legislation—if you vote for this amendment, I want you to go back and tell every single one of your residential local telephone customers and your small business customers, "I voted to make you pay at least $4 a month, and after 1992 the sky is the limit, folks. That is $4 a month to subsidize long-distance businesses regardless of whether or not you even use long distance."

Now, what is fair about that?

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. GORE. I am glad to yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I appreciate the gentleman's yielding.

I think the gentleman from Tennessee has said it very well. What the gentleman from Iowa really offers is a slowed down version of the Federal Communications Commissions access change approach. If we adopt it, we would be on our way to supply side telephone service, where we give all the rate breaks to those who are financially well off, based on the theory that by giving them discounts we can create a revenue base so that some benefits might trickle down to the rest of us.

That did not work when we tried to do it with income taxes, and it will not work for telephone service.

Mr. Chairman, I thank the gentleman from Tennessee for yielding and I wish to associate myself with my colleague's remarks.

Mr. GORE. Mr. Chairman, I thank the gentleman from Oregon.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Iowa, with whom I have just purchased an automobile.

Mr. TAUKE. Well, I say to the gentleman, as long as you pay most of the costs.

Mr. Chairman, I thank the gentleman for yielding.

First of all, I want to say to the gentleman that I have appreciated his contribution to the debate on this issue, and I think much of what the gentleman said has considerable merit. But I have a couple of differences with him, as he might suspect.

First, I agree with the gentleman that all the cost of the local plant should not be borne by the local customer in the local rate base. Instead, some of that cost should be borne by the long-distance customer.

Mr. TAUKE. He is relying on some fancy words to be acted upon later on.

Mr. WIRTH. If the gentleman would yield back, I am only reacting to the language that was offered by the gentleman from Louisiana (Mr. TAUZIN), who had that particular problem and where adjoining States, particularly large, rural Southern States, have the problem, and that problem was so very well taken care of by the Tauzin amendment.

The goal is the same.

Mr. TAUKE. The goal is the same.

Mr. WIRTH. No question about that.

Mr. TAUKE. The goal is the same, no question about that.

Mr. WIRTH. We both took care of rural America.

Mr. TAUKE. The second issue is the ENFI.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mr. WIRTH) has expired.

(On request of Mr. TAUKE and by unanimous consent, Mr. WIRTH was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for again yielding.

The second question relates to the ENFIA charge, and that is most confusing for most Members and the gentleman did a good job of explaining that that is the charge the long-distance companies now make to interconnection with the local system. And I agree with the gentleman, at the current time there is a fairly substantial difference in the charge made by the other common carriers such as MCI or Sprint than is made by AT&T when they hook up to the local system.

Mr. WIRTH. There is great difference in the interconnection which they receive.

Mr. TAUKE. Right, and the reason there is a difference in charges, the gentleman is absolutely correct, there is a difference in the quality of connection. We both agree also that as we get improved quality of connection, that there should be closer equity in the charges paid by the companies.

I want to point out that while the gentleman in his discussion attacked the FCC ENFIA charge decision which I also disagree with, in my amendment we do not have the FCC spike of substantially higher cost suddenly thrust upon the MCI's and Sprints of the world.

At the current time there is a 75-percent difference between AT&T and the other common carriers and their interconnection charges. We think the current FCC decision, if it went into effect, would provide a 35-percent differential which would substantially undermine the competitive nature of the long distance system of those other common carriers. It would go in my legislation, if it is currently 75 percent to a 65 percent differential, and I wanted to clarify that and I thank the gentleman.

Mr. WIRTH. What we have heard here, in the rural area and in the interconnection area is that there is substantial agreement on the goals. But there are major differences between the legislation and the most significant difference is the Tauke access charge and the whole concept of whether long distance should help to pay.

I urge you to vote down the Tauke substitute.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, we should address the fairness issue, since it was brought up by the chairman of the subcommittee, and talk about fairness. Is it fair, in fact, for my constituents and all Ohioans to ship $67 million in funds to other States to help support their local telephone systems? I do not consider that fair to my constituents. I do not consider it fair to the constituents of the chairman of the full committee from Michigan, $30 million outflow that they will never get back; New Jersey, $239 million. My friend from North Carolina will be sending $35 million to other States to take care of their local telephone system.

□ 1550

I do not consider that fair and I think it is very important that the Members take a very, very good look at how the Tauke substitute affects that basic unfairness and addresses that unfairness problem.

I think that it is very important.

I know it is easy for the gentleman from Tennessee to talk about those subsidies. But what we have done in essense by this legislation is lock in the old cross subsidies that we had under the past law. What we want to do is get away from that old system, go to a cost based system, allow people that want to pay that, that do not want to pay that extra cost for long distance, that they will not have to pay it.

We can talk a lot today about saving the consumer $2 a month. I see the gentleman from Washington gearing up, and we have talked about this in committee, and I can tell by the smile on his face that he is ready with an answer. But the fact is that if we vote for this legislation and we do not vote for the Tauke amendment, and then we go back to our constituencies and say to them, "Look at all the money we saved you," and "Look what the Congress of the United States has done in the way of local telephone rates," we will not have told the truth. We would have made a great deception on our constituents and the entire constituency of this country.

I do not think we should get into the area of determining local telephone rates. This is really what we are doing. We are talking about a giant step here in the Congress of the United States to try to convince our constituents that we can somehow regulate local telephone rates.

I do not think we want to be in that position. I do not think we want to make that effort.

The Tauke amendment, for example, provides savings in my area in Ohio, rural telephone companies, over $6 million a year to the average of rural phone companies, high-cost telephone companies in my district that would not be available to them under that bill.

I think that the Members who will be voting on this important amendment should take a very serious look at what this bill does compared to the Tauke amendment and determine what kind of an effect it is going to have on your home State before you cast a vote against the Tauke amendment and for the legislation.

Mr. SWIFT. Will the gentleman yield?

Mr. OXLEY. I am glad to yield to my friend from Washington (Mr. SWIFT).

Mr. SWIFT. I thank the gentleman very much for yielding.

First of all, the gentleman is using some figures that AT&T has put out. They are several weeks old.

Mr. OXLEY. If I could reclaim my time for a second, those figures are from the Department of Commerce.

Mr. SWIFT. That is the same thing. They are figures which assume that there are some costs that are not contained in the bill, basically poles and wires, and so forth. These figures are inaccurate.

If the gentleman would like, I would be happy to share with him some figures with regard to his State of Ohio.

Mr. OXLEY. Where did the gentleman get his figures?

Mr. SWIFT. These figures are from AT&T and from FCC. Under this bill the gentleman is correct, there will be an outflow of $11 million from Ohio.

Under the Tauke substitute, which the gentleman is supporting, there will be an additional $6 million that will flow out of the State of Ohio.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I will reclaim my time and yield to the gentleman from Iowa on that point.

Mr. TAUKE. I thank the gentleman from Washington (Mr. SWIFT) and I am glad that he raised this issue, because it was raised by the gentleman from Colorado also in his earlier

answer to the gentleman from New Jersey.

I will concur with the gentleman that if you take into account only the figures used or the amount of money used in the universal service fund for low-income individuals in rural areas, in States like New Jersey and Ohio, there is going to be a greater outflow because they provide more assistance to low-income and to rural areas.

But what the gentleman does not talk about in these figures is the overall subsidy that is demanded from interstate to local, and who is paying the interstate costs that are going to be transferred to the local. The gentleman's figures, if I may be so bold as to suggest this, only tell half the story, and that is the half of the story that is contained in the universal service fund.

The CHAIRMAN pro tempore (Mr. McHUGH). The time of the gentleman from Ohio (Mr. OXLEY) has again expired.

(On request of Mr. TAUKE and by unanimous consent Mr. OXLEY was allowed to proceed for 1 additional minute.)

Mr. OXLEY. I yield to the gentleman from Iowa.

Mr. TAUKE. The figures do not include the amount of money paid by consumers into the long-distance system which then comes back to the local system when the access charge is prohibited.

Mr. SWIFT. Will the gentleman yield?

Mr. OXLEY. I yield what time I have left to the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. The gentleman from Iowa and I, I suppose, are at one of those situations in which we are dealing with lies, damned lies and statistics. There have been more figures floating around here for the last few months for those of us who have been dealing with this in months than we can keep up with.

The figures we have, however, come from the very sources the gentleman is talking about. And according to what I have here, for example, the Tauke substitute indicates certain flows of figures.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. OXLEY) has again expired.

Mr. SWIFT. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio (Mr. OXLEY) may proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ANDREWS of North Carolina. Mr. Chairman, reserving the right to object, this is one of the most intelligent discussions I have heard. I have learned much from it and I appreciate it all.

Everybody keeps asking for additional time and I certainly do not want to object. However, I understand that there is a 10-hour provision here that began at about 3 o'clock and that would end at around 1 o'clock tomorrow morning. If we just keep on now with this additional time being granted, is that coming from the 10 hours or is this all in addition to the 10 hours?

The CHAIRMAN pro tempore. The Chair would advise the gentleman that it is included within the 10 hours.

Mr. ANDREWS of North Carolina. I thank the Chair and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. If the gentleman will continue to yield, I certainly compliment the gentleman from North Carolina for clarifying that. It is important to all of us.

The point I am trying to make is that the Tauke substitute offers figures that show how these flows go to the various States.

What is very interesting about the chart is that they flow into every State. There is no outflow from any State and so, for example, taking the gentleman's State of Ohio as an example, there is an $11 million outflow under our bill. The Tauke substitute would claim a $10 million outflow, but when you realize that in every State money flows in and out, and you take the net, it turns out that under the Tauke substitute, using the same figures so you have apples and apples and apples, Ohio is $6 million worse off than it is under the legislation.

In addition to that, and this is what is really important, in addition to losing that, they then proceed to lose $173 million in the access charge.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. I thank the gentleman for yielding.

But let me say to my good friend on the other side of the aisle that your figures are correct.

But you are only telling half the story.

You are giving part of the picture only. The fact is that the size of the universal service fund accounts for only a tiny part of that problem and you have got to add all the parts to get the correct outflow of dollars.

The real reason that H.R. 4102 would force telephone customers in all of the States mentioned to send massive amounts of funds to telephone customers in other States and to subsidize people in other States is that the bill would require interstate telephone calls to be permanently overpriced.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. OXLEY) has again expired.

(By unanimous consent Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. I yield to the gentleman from New Jersey.

Mr. RINALDO. It would require interstate calls to be permanently overpriced by a substantial amount. It is the overpricing that is going to create a pool which would subsidize every telephone customer in the country regardless of the need for assistance, and that is the key. We are not giving this money, this assistance, the $239 million that is flowing out of New Jersey to the poor only. It is not going to the disadvantaged. It is going to the rich, to everyone regardless of their wealth, and that is the flaw; that is the defect in the bill.

The gentleman stated that he has AT&T figures. I have the same figures from the FCC, and they indicate massive outflows from the Northeast and the Midwest. That is one of the main reasons why I am opposed to the legislation.

Mr. OXLEY. Reclaiming my time, if I may, I think that points out the problem that the money has to come from somewhere and it is going to come from Ohio.

As a matter of fact, it is going to come from Tennessee, and I appreciate the statesmanlike approach of the gentleman from Tennessee in supporting a bill that would provide a massive outflow from that State.

The money is going to have to come from somewhere.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. I thank the gentleman. I think the gentleman from New Jersey (Mr. RINALDO) made a very fine statement and I want to commend him for that.

I think it is critically important to understand that there are several ways in which you can look at the figures. You can look at the figures solely in terms of the subsidy for the low income, which obviously means flows of money into States with low-income needs.

You can look at it solely from the standpoint of subsidies for rural areas, which flows money into States with rural areas.

You can look at it solely from the standpoint of permanent subsidies from long distance to local, who is paying the long-distance costs and who gets it locally.

But it is not fair to look at them from any one of those individual standpoints. You have to look at the whole picture.

I think the gentleman would agree with me that 23 cents per minute now goes from long distance to local, and that under the FCC decision, under H.R. 4102, or under my amendment the 10 cents per minute for the traffic sensitive aspects of the local system would still be going to the local ratepayer.

Mr. GORE. Mr. Chairman, if my colleague will allow me to reclaim my time, I will yield further in just a moment.

Under the legislation, the long-distance businesses would have to pay a share of the costs for the local telephone lines and poles.

Mr. TAUKE. Right.

Mr. GORE. Under the gentleman's substitute, they would not.

□ 1530

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GORE. I am pleased to yield.

Mr. TAUKE. But we are talking now about the nontraffic-sensitive cost. For the traffic-sensitive cost, let us start with the switching system; the interstate system would contribute to that under any of the plans.

Mr. GORE. Let us talk about the telephone lines and poles, that the long-distance callers and long-distance businesses use, but would not pay any share of under the gentleman's amendment. Does the gentleman agree with that?

Mr. TAUKE. No; I do not. That is what I want to point out.

Mr. GORE. Tell me why not.

Mr. TAUKE. It seems to me that it is fair to say and under the figures we have been operating under today, that currently there is about $6.5 billion of payments from long distance to local for these nontraffic-sensitive costs, like poles and lines.

Under the legislation that I am offering, we will have about $3 billion being paid from long distance to local for those same nontraffic-sensitive costs. Part comes in the subsidy for low income, part comes in the subsidy for the rural areas.

Mr. TAUKE. And part comes from the cap on the access charge from long distance to local.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

(At the request of Mr. TAUKE, and by unanimous consent, Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Mr. Chairman, would the gentleman yield, so I could continue?

Mr. GORE. Yes.

Mr. TAUKE. We believe that at the current time that about 8 percent of the minutes of usage of the local plant can be attributed to long distance. About 8 percent of the minutes are long distance calls, 92 percent are local.

Under our bill, about 8 percent of the cost will be paid by the long distance system.

The problem with H.R. 4102 is that it has 20 percent of the cost being paid by the long distance system, even though it has only 8 percent of the minutes of usage.

Mr. GORE. Well, let me reclaim my time to respond.

I cannot agree with my colleague's point of view, because my colleague is talking about indirect mechanisms, many of which I think, with all due respect, are somewhat illusory, I honestly do; for example, the gentleman talks about the high cost areas and the universal service fund, but in fact the gentleman's approach would penalize the very telephone companies that are most in need of that particular assistance, the small companies under 100,000 loops and rural co-ops.

You do not calculate either the effect of your forcing States to levy additional access charges, which would send the rate even higher, and this cap, which the gentleman says is something of continued payments for the nontraffic sensitive costs.

I cannot accept that, either, because under the gentleman's amendment, it is delayed until after the election, and then the cap is taken completely off and make the sky the limit within 8 years after enactment.

Now, that does not help them. I am concerned about this, not just in the next 8 years. In fact, there would be a temporary cap, but after 8 years, then the sky is the limit.

Now, as a matter of principle, I believe that the long-distance businesses ought to pay for a portion of the equipment and the lines and poles that the long-distance businesses use. That is a principle that this legislation upholds.

Mr. Chairman, I urge defeat of the amendment.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am pleased that we have the Tauke amendment in front of us at this point, as it does focus the issues that the House is going to be voting on this afternoon and this evening.

Let me, if I might, briefly run through those and make very clear why it is that we as sponsors of H.R. 4102 oppose the Tauke substitute.

The first and major part of the Tauke substitute relates to the Tauke access charge. The Tauke access charge assumes that there is written into the phone system a subsidy and the charts point out very clearly over and over again the word subsidy.

The Tauke access charge may talk about a subsidy. What we are talking about is the need for there to be a realistic contribution by long distance to the cost of the telephone system. Everybody has a wire that runs from their house out to a pole and down the street, a lot of poles and a lot of wires. What we are talking about is who pays for that wire and those poles.

Currently, it costs the country about $25 billion a year to pay for those wires and poles, to upkeep the wire, upkeep the poles, keep the trees away from the wires and so on, upgrade them, and all the things necessary to keep in service the best telephone service in the world.

What we are talking about is who pays that $25 billion? Historically in the United States, there has been a contribution made to the payment of that telephone service from long distance and a contribution paid by local consumers. Why?

The contribution is paid by long distance because long distance has to use that local loop in order to distribute its call. It does not do any good for me to call from Washington, D.C. to Iowa unless I can distribute that call within a town in Iowa. It does not do any good to have a long distance service unless you can distribute that call to your mother-in-law, or whoever it may be.

That is why, as the gentleman from Tennessee (Mr. GORE) pointed out, a contribution is made by long distance to the upkeep of that local wire and that local pole.

What the Tauke access charge would do and what the FCC wants to do is to replace that contribution by long distance with an access charge, a flat charge on the consumer. Allegedly, the rationale is that the consumer needs to have that pole and those wires anyway, whether or not that consumer makes a long-distance phone call. Therefore, the consumer ought to pay for it, neglecting entirely that the long distance caller also has to use the pole and the wire. That is one basic nature of the difference between us.

We believe it is only fair that long distance pays its fair share. The access charge notion would load the total cost off on to the consumer.

The Tauke access charge, I would submit, is not fair. The approach that we have in the bill is fair. Basic fairness is a dominant and important theme running through this legislation.

A second issue raised in the Tauke amendment relates to a rural subsidy. We have had an enormous amount of discussion over the years on how we make sure that rural America is tied

into the system. I do not think any of us disagrees with the need to make sure that rural America is involved. We have done that in a very carefully balanced and judicious fashion, in particular with the amendments crafted by the gentleman from Louisiana (Mr. TAUZIN) and with the help of the gentleman from Oklahoma (Mr. WATKINS).

A third issue that is raised by the Tauke amendment which I think is important for us to focus on, is the lifeline and fairness issue. Who should pay for long distance access, and how much? The gentleman from Oklahoma (Mr. ENGLISH) will address that in some detail shortly.

A fourth major issue which ought to be understood and exploded is the alleged bypass argument made by the proponents of the amendment. They suggest that if their amendment does not pass, we are going to see an enormous amount of bypassing of the system.

Let me give you a few facts. Under the Tauke amendment, an access charge could be imposed for example, on railroad companies, who have set up a mechanism for counting railroad cars. That impresses us as being nonsense.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. WIRTH was allowed to proceed for 5 additional minutes.)

Mr. WIRTH. Mr. Chairman, in addition, the Tauke substitute would permit private systems that rely on the local telephone company as a backup to avoid paying a fair share of the cost. What does that mean? If there is a company that has its own private system and there is an act of God, a hurricane, a fire, whatever it might be, and their own private system goes down, we go to those companies and we say, "What happens if your private phone system goes down?"

To which they reply, "Oh, we would return to AT&T."

In other words, AT&T is providing them with an insurance policy. Well, if AT&T is providing them with an insurance policy, they ought to pay for that insurance policy and not get it for nothing. That is eliminated in the Tauke substitute and involved in ours.

Again, in H.R. 4102, the theory is very clear. You pay for what you get. If you get that insurance policy effectively written by AT&T using AT&T as your backup system, pay for it.

□ 1540

A final and extremely important point has been of concern particularly to the gentleman from Texas (Mr. BRYANT), and that is the interconnection charge.

It has been suggested by the opponents of 4102 that somehow the competitors to AT&T and long lines, MCI, Sprint and others, are getting away with a free ride or are not operating on a level playing field.

Today, MCI and Sprint pay their own access charge, and they will pay a complete, a 100-percent access charge when they receive 100 percent of the terms and conditions of interconnection.

Mr. BRYANT later will explain the technicalities of what this is called, the ENFIA.

We require in the legislation that all long distance carriers, AT&T, MCI, Sprint and all of the others pay the same access charge for the same conditions of interconnection. They pay the same when they get the same, and that is the kind of equity.

They do not pay more for less; they do not get less for paying more. There is equity involved in the system. We have to be very careful not to permit the real issues to be obfuscated with discussion about level playing field when, in fact, the long distance competitors are not receiving equal access to the system.

I point out those five issues, Mr. Chairman, as the key issues in the Tauke substitute and, in fact, the key issues in the legislation. One, the Tauke access charges which raises the subsidy versus contribution issue. Second, the rural subsidy question that Mr. TAUZIN and Mr. WATKINS and others who have been so invovled with. Third, the lifeline subsidy, and the equity issues with which Mr. ENGLISH, Mr. LELAND, Mrs. COLLINS, and others have been so involved. Fourth, the bypass issue which we will hear a great deal about and which is well taken care of in the legislation, and finally, the equal interconnection issue.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New Jersey.

Mr. MINISH. There is so much propaganda going around about this bill and how it affects the State of New Jersey that I am privileged to represent.

My question to the gentleman is this: Will this bill result in $243 million paid by the telephone subscribers in the State of New Jersey to go to another area of the country, or better said is it possible for $243 million to leave the State to go to our State of Colorado?

Mr. WIRTH. The answer to that is no, and let me give the gentleman the figures.

Under the Tauke substitute, the flow of money out of the State of New Jersey will be $73 million. The reason for that predominantly is, not only the access charge, but more importantly, the fact that New Jersey makes a lot of long distance telephone calls; that money goes into a pot. The Tauke substitute costs the State of New Jersey $22 million more than our legislation, but the real issue in this legislation is not between States. The issue is between classes of consumers within a State, the little guy versus the big user.

Under the Tauke substitute and the FCC decision, the little guy in the State of New Jersey is going to be socked to the tune of $225 million, or an average monthly increase after all his access charges of $5.21. We in our legislation do not have that $5.21. The final insult in this whole package for the State of New Jersey, I would suggest, is the ratepayor contribution to the AT&T windfall addressed earlier by the gentleman from Massachusetts, (Mr. MARKEY).

Consumers in the State of New Jersey are going to gratuitously be subsidizing AT&T for whatever purpose.

The CHAIRMAN pro tempore (Mr. DORGAN). The time of the gentleman from Colorado (Mr. WIRTH) has expired.

(On request of Mr. TAUKE and by unanimous consent, Mr. WIRTH was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

I am not going to take time now to repeat my earlier comments about the windfall issue and about the access charges and certain other issues, but there are two issues that I do want to clarify.

The one is the subsidy for the rural areas. I am sure the gentleman will agree with me that both of us have in our various proposals the same program for those companies with fewer than 100,000 subscribers.

Mr. WIRTH. I thought we were all in agreement and have been for years on the need to tie in rural America?

Mr. TAUKE. We have the same program for those subscribers of under 100,000. The proposal that I offer we simply have more benefits for those companies with more than 100,000 subscribers who serve rural areas. In other words, they get to choose whichever deal is better for them, either the FCC rural fund, or the rural fund that was established in 4102.

Mr. WIRTH. If the gentleman will yield back, I think the gentleman would also agree that under the legislation, the amendment offered by the gentleman from Louisiana (Mr. TAUZIN), coming from a State that has rural telephone companies of more than 100,000 representing Louisiana, Mississippi and others like that, that that same problem was taken care of under the Tauzin amendment in 4102.

Frankly, from the whole picture standpoint, what happens is States with mature telephone systems generally are subsidizing those States with developing telephone systems.

Now, I cannot say to you that this is a major issue. Obviously it is one about which all of us who are political animals are concerned.

□ 1600

But is is not the major issue here. We need a national telephone system. What the major issue is, however, is whether or not you should continue to have this transfer of funds going to people who do not really need subsidy.

That is a problem we have today, massive amounts of money going to provide subsidies to those who do not need it and in so doing creating all of these problems that we have already articulated earlier.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. OXLEY) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Let me give three points. The first is short and most important. The State of Tennessee would have an outflow of money 80 percent larger under the Tauke substitute and under the bill the ratepayers in the State of Tennessee would not be assessed the $4.43 per month access charge. Clearly, Tennesseans benefit from the bill.

The second point: We have been talking about outflows from States and inflows into States. What we have ignored, and it is true in the case of Ohio as well, under the FCC plan that this legislation is trying to prevent, your Ohio customers would be paying another $74 million, not to some other State, but directly into the coffers of AT&T as part of an enormous windfall going to AT&T.

My colleague from New Jersey stipulated the accuracy of these figures.

The third point, and this is an important, even critical point: The gentleman talked repeatedly about cost-based pricing and the need to prevent long distance from paying money to local systems. The fact of the matter is that in accounting no one can say with scientific certainty what is the fair allocation of joint costs.

When you have jointly-used equipment and two parties use it, you have to use judgment in allocating the costs and to some extent you have to make a political judgment.

The classic example in the accounting textbooks is when you have a steamshovel, mining both diamonds and coal and you sell diamonds to one market and coal to another, how do you allocate the cost of that shovel which brings up both in each shovelful, as between diamonds and coal?

It is irrational to put all of the cost on the gravel and none on the diamonds. Yet, that is what this FCC plan would do.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the Tauke amendment. During the discussion of the rule, the impression was given that the FCC had conducted extensive studies into the key questions leading to its access charge decision—that their decision was based on facts. It was not only on theory.

The reason I am opposed to the Tauke amendment is because it is an outgrowth of the same concept and, therefore, built on the same faulty foundation as the FCC decision itself.

The Committee on Energy and Commerce is not the only House committee that has been working on the access charge issue. The Committee on Government Operations has also examined the FCC's decision through a series of hearings held by the Subcommittee on Government Information, Justice, and Agriculture, which I chair. Last week, the Committee on Government Operations issued an investigative report on the FCC's access charge decision.

The committee's basic conclusion is well summarized by the title of the report: "Leap Before You Look." The committee found that the FCC did not do enough research, studying, and analyzing before it jumped to its conclusion. The FCC relied too much on economic theory and not enough on the facts. As a result, there are a lot of unanswered questions surrounding the FCC's access charge decision.

The result of our investigation shows all too clearly that the FCC did a poor job in designing the access charge plan. The FCC outlined four factors that it considered to be important to the development of an equitable plan. Of the four, two stand out as critical—the prevention of uneconomic bypass of the public telephone network and the preservation of universal telephone service. These factors are extremely important considerations in the formulation of a well-balanced access charge plan. Yet, by its own admission, the FCC did not conduct an indepth analysis of the bypass threat, and it did not thoroughly consider the impact of its plan on the continuation of universal telephone service.

The committee formally found that the FCC does not have an adequate factual basis for its access charge plan. The FCC does not know to what extent bypass will occur. It does not know if the increased local telephone rates will cause subscribers to drop off the public network. It does not know how its decision will affect the telephone network or society as a whole.

The committee found that the FCC failed to determine to what extent, if any, there are subsidies in the current rate structure. The FCC does not know the extent to which current telephone users are using private telecommunications facilities to bypass the public telephone network.

The FCC simply has not made a sufficient effort to gather the facts. Furthermore, the committee found that the FCC's failure to collect basic factual data or to give adequate consideration to the effects of its access charge plan led the FCC to reject or give insufficient consideration to alternatives to the plan it selected. In the absence of relevant information, the FCC based its decision on an unproved and untested economic theory that is highly controversial.

In light of these findings, the committee recommended that the FCC rescind the access charge decision and reopen the hearing process. The committee also recommended that, before proceeding to make significant changes in the telephone rate structure, that the FCC collect and analyze information that will permit it to determine the exact nature of the bypass threat; the extent to which bypass is expected to occur; what areas will be most affected by bypass; the expected financial impact on local telephone companies; and the impact of its recent access charge decision on universal telephone service.

In recent weeks, much has been said about the need to simply allow the FCC plan to go into effect. Given the chaos now affecting the telephone industry, I can understand this point of view although I do not agree with it. The FCC has been less than prompt in issuing its written decisions. The committee found that while the FCC reached its access charge decision on December 22, 1982, the order was not published until February 28, 1983—over 2 months later. In a related decision establishing a universal service fund to provide financial assistance to high-cost predominantly rural areas, a Federal-State joint board—under the auspices of the FCC—reached its decision on the basic terms of the fund April 15, 1983. Yet, the decision did not appear in the Federal Register until October 17, 1983—more than 5 months later. Given the magnitude of the changes brought about by the access charge decision, the committee stated in its report that such delays are unwarranted and should be prevented in the future. These delays have done nothing to minimize the confusion within the telephone industry. The committee recommended that the FCC issue formal and complete

written opinions promptly after a decision is announced.

It is unfortunate that the FCC did such a poor job on access charges. I believe it would be a serious mistake to let the FCC plan take effect.

The CHAIRMAN pro tempore. The time of the gentleman from Oklahoma (Mr. ENGLISH) has expired.

(On request of Mr. LENT and by unanimous consent Mr. ENGLISH was allowed to proceed for 1 additional minute.)

Mr. LENT. Mr. Chairman, will the gentleman yield to me?

Mr. ENGLISH. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I understand the gentleman in the well indicated that a committee or subcommittee on which he serves inquired of the FCC decision and came to certain conclusions.

Mr. ENGLISH. That is correct.

Mr. LENT. Did the committee have the Tauke substitute under consideration?

Mr. ENGLISH. No; the committee did not. But as the gentleman knows, as Mr. TAUKE stated, and several of us have stated here in the well, the Tauke amendment stands on the cost-based principle which is the same principle that the FCC based its earlier decision. It is the same concept.

Mr. LENT. If the gentleman would yield further, I would like to make the point that the Tauke substitute is not the same as the FCC decision and I think it might be a mistake to talk about the Tauke substitute which is considerably different from the FCC decision.

Mr. ENGLISH. I would make the point, and I think the gentleman would agree, that certainly the Tauke substitute is based on the same cost-based philosophy that the FCC decision was based on and the FCC decision is not based on fact but only theory.

The CHAIRMAN pro tempore. The time of the gentleman (Mr. ENGLISH) has expired.

(On request of Mr. WYDEN and by unanimous consent Mr. ENGLISH was allowed to proceed for 2 additional minutes.)

Mr. WYDEN. Mr. Chairman, would the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Oregon.

Mr. WYDEN. I thank the gentleman for yielding.

I would like to say that we are discussing an important point because the Tauke substitute, just like the FCC, reaches into the consumer's pocket, takes out just the same amount, it just takes effect a little bit later.

We have been listening to this debate for quite a while and the point is already clear, either you are for the access charge or you are against it. The Tauke amendment offers an access charge that we could take home to our constituents and we would be faced with rate increases from $5 to $11 a month, rate increases which would probably be mirrored by the States.

The point of all this is clear: The Tauke amendment offers a slow stomping of the consumer rather than an immediate stomping of the consumer.

I commend the gentleman from Oklahoma because he has made it very clear that the Tauke amendment is exactly like the FCC access charge decision, a little bit slowed down.

Mr. Chairman, I thank the gentleman for yielding.

□ 1610

Mr. ENGLISH. There is one other point that I would like to follow up on. I think it is one thing to consider the different alternatives when they are based on fact, when we have indepth study, when we know that experts have gone to great lengths to collect information on which to base their decisions.

But what our committee found—and there was no dissention within our committee with regard to this finding—is that the FCC simply did not carry out that act. They did not have the facts. They did not bother to collect the facts. They did not have the study.

And so I think that one can only arrive at the conclusion that assumptions which were made only on theory as they were in the access charge decision and any philosophy based on that theory would have to be found faulty.

Mr. Chairman, I yield back the balance of my time.

Mr. WHITTAKER. Mr. Chairman, I move to strike the requisite number of words and I rise in favor of the amendment.

Mr. Chairman, I note as we are getting into the early hours of this debate, and we are likely to be into it until 1 or 2 o'clock this morning, that we have very little participation here on the floor. I only hope that maybe some of the Members who are listening, particularly if they represent rural areas, will pay attention to some of the comments that are being made.

I would like to narrow my comments to rural concerns. I represent a district that is very definitely rural, an area served by many high-cost telephone companies because of the fact that when you have fewer subscribers or customers per square mile it is logically going to cost more to provide them telephone service.

What I am concerned with beyond any other point is that H.R. 4102 is harmful to rural areas. In my tenure in Congress, I have seen demonstrated time and again how very, very easy it is for this House to do something that is politically expedient. Something that looks good, maybe because the title of the bill sounds good, but has, in fact, the very opposite effect. And that is exactly the case with H.R. 4102. H.R. 4102 does not guarantee universal telephone service for rural telephone customers.

We are being asked to vote on something that looks good, looks great, but in truth is only skin deep. And though the blush will wear off in a year, those of us who represent rural areas will be paying for that mistake for probably the next 20 years. That is, however, unless Congress comes back, as was suggested in an editorial today, and admits its mistake, maybe next year or the year after, and goes about correcting it.

Let me suggest to my colleagues that what we are doing here, by continuing to grossly overcharge for long distance telephone service, is driving anyone with the ability to get out of the system to bypass the long-distance network, to do so.

I suggest to my colleagues that unlike past years when only the very large corporations or governmental units found it economical to get out of the system, the price of bypass technology is becoming less and less expensive almost by the day. And more and more people will be bailing out. And we are going to be left with a very precariously small base. Not necessarily in numbers per se, but in terms of volume of calls and of long-distance revenue. Because the big spenders have taken a walk. They have gone and put their own long-distance systems in, leaving the average consumer holding the bag and footing the bill.

Even more disconcerting is the exemption that has been provided, as a compromise, in H.R. 4295 that allows bypassers to avoid paying the so-called bypass charge. A charge which proponents of H.R. 4102 argued in committee would protect consumers, my rural consumers, from long-distance bypassers. Where is this protection tonight?

When considering this issue, I would remind my colleagues of what we saw when the Congress allowed certain groups to exempt themselves from the social security system, to bypass the system. We allowed municipalities, we allowed hospital units for example, to bail out of the social security system. And what did thay do? They did the predictable. They bailed out. They bailed out in droves. And it only took a matter of months before this Congress realized that the solvency of the social security system was dependent upon that financial base, very dependent upon that base. We had committed a very serious mistake, one which we attempted to correct in the legislation passed earlier this year.

I could use the same example in a number of other areas. We are going to be deliberating in the committee, maybe on the floor, in a matter of days, the natural gas issue. And we will be looking at contract carriage.

I suggest to my colleagues the same dilemma is going to be facing us then. The more you erode the user base, the more you destroy the very system that those who have no other alternative depend on. In other words, those with big volume can find economical alternatives. Those without, and the telephone consumer would fall in that category, and the rural phone systems would fall into that category, have no defense. And thus they come out the loser.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WHITTAKER. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

I want to point out to the gentleman that it is just for that reason that the Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO), which represents the smallest of the telephone companies that serve our areas, that they are supporting our substitute. They believe that it is the best way to insure reasonable service, actual service, to those who they represent. And also extending that service at reasonable cost.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. WHITTAKER) has expired.

(By unanimous consent, Mr. WHITTAKER was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. If the gentleman will yield further, I want to point out that the gentleman has done terrific work in this whole legislation to attempt to insure that the rural areas are taken care of by having them receive quality service at a reasonable price.

And it is in part because of the gentleman's concern that we have fashioned a program for the rural areas that targets almost 100 percent more money to those rural areas where you have high cost of service.

I want to thank the gentleman for his contribution.

Mr. WHITTAKER. I appreciate the gentleman's comments.

But again, I emphasize to my colleagues, do not do the expedient, do not do superficially what looks and sounds good. Look beyond the rhetoric of a 1984 political campaign. Look beyond and see that this bill will negatively affect consumers and rural customers in the late 1980's and 1990's.

We may try to save them money tomorrow, but we are going to pay for it dearly the next 20 years if we continue down the path and not accept the Tauke substitute.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WHITTAKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

I think the gentleman makes a good point about looking at the long range. It is interesting, the Democratic Party is the party that took the lead on issues like trucking deregulation, airline deregulation, railroad deregulation and even Jimmy Carter moved first toward deregulating oil.

The only area where the Democratic Party has not chosen to deregulate corporate America is in the area of natural gas. And look at how we have suffered under this system of natural gas deregulation while surpluses were in the pipelines, while demand was falling the price was rising.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas (Mr. WHITTAKER) has again expired.

(At the request of Mr. RITTER and by unanimous consent, Mr. WHITTAKER was allowed to proceed for 1 additional minute.)

Mr. RITTER. If the gentleman will continue to yield, the fact remains that this deviates from the past economic successes of the Democratic Party. This 4102 flies in the face of achievements that the Democratic Party has brought to the American economy. And it sort of diminishes those achievements and in a sense optimizes the failure.

□ 1620

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute.

Mr. Chairman, I would be very happy to yield to the gentleman from Kentucky (Mr. PERKINS), the chairman of the Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, I would like to compliment the gentleman from Colorado (Mr. WIRTH), the gentleman from Michigan (Mr. DINGELL), the gentleman from Tennessee (Mr. GORE), and all of the other Members who made possible this legislation here today.

Mr. Chairman, I rise today to support H.R. 4102, the Universal Telephone Service Preservation Act of 1983. I am proud to say that I am a cosponsor of this proposal. It is a timely and reasoned response to a problem which threatens the free and equal access of citizens to telephone service.

The decision of the Federal Communications Commission to require a flat "access fee" from residential and small business customers would have a particularly bad effect on rural and low-income customers. The plan to raise residential phone bills by $8 to $12 a month by 1990 would simply make a telephone too expensive for many families. Additionally, these administratively created increases would be on top of the increases being sought by at least some of the local phone companies.

For example, Southern Bell Co., the local phone company that will serve the Commonwealth of Kentucky, has already requested a rate increase for each home that will average almost $15 per month. To add $12 more per month to this amount will make the phone a luxury not attainable by many Kentuckians.

We all agree that there must be an equitable division of costs among local and long-distance telephone companies and among consumers. However, this division must not divide us into a nation of have and havenots with relation to this vital service.

That is why I support this compromise package. I would particularly like to commend the gentleman from Colorado, the sponsor of this measure and the committee chair, the gentleman from Michigan. They have crafted a good solution to a thorny problem, one that will guarantee both fiscal strength for the suppliers and equal continued access to all consumers. For this reason, I urge its swift adoption.

Mr. SWIFT. Mr. Chairman, I thank the gentleman for his addition to the debate.

Mr. Chairman, I would be happy to yield to the gentleman from Tennessee (Mr. JONES), the chairman of the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture.

Mr. JONES of Tennessee. I thank my dear friend, the gentleman from Washington, for yielding.

Mr. Chairman, I would like to also associate myself with what the gentleman from Kentucky (Mr. PERKINS) said concerning the gentleman from Michigan (Mr. DINGELL), the gentleman from Tennessee (Mr. GORE) and all others who have had something to do with this bill. In my opinion, a real job has been done, and I want to give them credit where credit is due because it has not been an easy job.

Mr. Chairman, I rise in support of H.R. 4102 and in opposition to the Tauke substitute. There has already been much said about telephone rates in this Chamber, but I think it is important to say that this legislation represents what I feel is a fair and equitable way of distributing the increased costs of telephone service that will result from the court ordered breakup of AT&T and various companion orders of the Federal Communications Commission.

Among its most important features is its commitment to the continued concept of universal telephone service at an affordable price, a concept that has been the cornerstone of the development of our Nation's telecommuni-

cations system. While court orders and FCC orders seem to have put most of the burden of the increased costs on the hundreds of millions of telephone users in this country, this bill offers some balance to the court and FCC approach.

This bill is going to be especially helpful to rural people and the telephone companies that serve them. In many of these cases, the telephone company serves relatively sparsely populated areas. Their operating costs are higher than those companies operating in highly populated urban centers. In addition, the bill will retain affordable telephone service to those people who depend upon the telephone for not just their social activities, but many of their basic needs as well.

I want to commend the Committee on Energy and Commerce for its work on this difficult and complex subject, and urge my colleagues to support H.R. 4102.

Mr. SWIFT. I thank my colleague for his contribution.

Mr. Chairman, one of the standard AT&T lines that they use is that the same people who broke up the telephone company are now trying to prevent the consent decree from going into effect.

I never broke up the phone company; the gentleman from Colorado (Mr. WIRTH) never tried to break up the phone company; the gentleman from Iowa (Mr. TAUKE) never tried. No one in Congress tried to break up the phone company. It is not true. The phone company was broken up at the Justice Department.

But the root problem we are faced with here today did not even start that recently. It goes back to 1969 when decisions were made at the FCC and in the Federal courts to introduce competition into what had previously been a regulated monopoly.

You are not going to put Humpty-Dumpty back together again. That has been done. And what we are trying to do is to deal with the resulting problem. The resulting problem is this: All during the years that the telephone industry was a regulated monopoly there was a flow of subsidy from long distance to local systems to provide them with revenue. The moment you introduced competition into long distance, the days of that subsidy were numbered. Clearly, AT&T could not continue to compete with now MCI and now Sprint and others if in fact it had to pay a subsidy and its competitors did not. Clearly, that subsidy had to end; and with the consent decree, it was finally said it will end on January 1, 1984.

What the issue is about is how do we replace that local revenues that are lost when the subsidy disappears.

The FCC says this is the way we are going to do it.

The CHAIRMAN pro tempore. (Mr. DORGAN). The time of the gentleman from Washington (Mr. SWIFT) has expired.

(On request of Mr. WIRTH and by unanimous consent, Mr. SWIFT was allowed to proceed for 5 additional minutes.)

Mr. SWIFT. What we are arguing about today are two ways of skinning that cat, of finding those revenues to replace the subsidies that used to flow to the local system. And what the FCC way is doing is saying, essentially, the local customer will pick up the whole tab.

Now, it has been argued, it has certainly been presented, that what the FCC did was the normal economic way of handling things. This is the typical way business is done. The natural way that one would expect this to occur. And that is absolute nonsense, because what the FCC has done is said that the long-distance companies—all of them, AT&T and all the rest—can use the local system virtually free. Oh, you charge for those things you have to measure, how many times a switch clicks. But the basic installed base of a local telephone company they can charge nothing for. It is very analogous to this: If you happen to own a vacant lot and you spread some gravel over it and you say, "This is a parking lot." If the FCC were telling you what you could charge, they would say, "All you can charge, however, for anybody who wants to park in that parking lot, is for the wear and tear on the gravel."

It is the typical way in the American society that when you own a property right you can charge someone a reasonable fee for using it. And the FCC says, "No, no, no, the long-distance companies do not have to pay anything for using your telephone poles, they do not have to pay anything for using your wires, for the building in which it is housed. They get to use that free."

Now, is that the typical American way? Or is that the radical economic approach that is offered? The answer is obvious. That is the unusual; that is the rare; that is the radical approach.

We in the committee said there are more ways to skin this cat. There is another way, and that way is that the long-distance companies will pay a fair charge—on a regulated basis; it will be set—to use the local system, and in that fashion replace the revenues that are otherwise lost. That is the difference that goes on here.

Now, the Tauke access charge substitute is presented as being significantly different from the FCC proposal. Well, it does not stop the FCC's flat-rate charge of increases on residential ratepayers. It slows them down, it prolongs the agony, but it does, ultimately, exactly the same thing. The Tauke access charge decision and the FCC access charge decision are, in the end result, exactly the same.

Mr. TAUKE. Mr. Chairman, will the gentleman yield on that point?

Mr. SWIFT. I will be happy to yield on that point to my good friend, the gentleman from Iowa, the author of the Tauke access charge decision.

Mr. TAUKE. Mr. Chairman, I think my name was being used in vain, and I wanted to clarify what I think is the difference between that aspect of my amendment that relates to access charges, and the FCC decision.

Essentially, today we have about $6.5 billion flowing from long distance to local to pay for the non-traffic-sensitive costs. Under the FCC decision, that was limited to $1 billion. Under H.R. 4102, that is limited to $5 billion. We are targeting it at about $3 billion.

We have a longer phase-in, as the gentleman knows. First a moratorium, and then a phase-in of access charges. We have a cap of $4, and we have substantially more in the universal service fund, including money for low-income assistance, and it is in those areas that there is a difference.

I will agree that, philosophically, we are both trying to move to a cost-based system, but there is a substantial difference in the way the balance is struck between the FCC order and my amendment.

Mr. SWIFT. I thank the gentleman. I would like to ask the gentleman, however: The cap is permanent?

Mr. TAUKE. If the gentleman will yield, no, the cap is not permanent. The cap expires in 1992, and it seems to me that it is appropriate to say that in another 9 years, the FCC and the Congress should take a look at the issue.

□ 1630

Mr. SWIFT. But the gentleman would not disagree with the gentleman from Washington saying that you start it later, you spread it out over a longer period, you cap it for a while, but when that is all over, you are in exactly the same place that the FCC access charge decision would have you. Is that an inaccurate statement?

Mr. TAUKE. I think it is an inaccurate statement, and I guess we have a difference of viewpoint on the issue, but first of all, we specifically reject the FCC decision, and we remand it back to the FCC to take another look.

Then we set guidelines for that decision, which does include a moratorium first and then a longer phase-in. Then we put a cap on it.

But in addition, suppose the gentleman is correct and we can foresee 10 years down the road and the same FCC wants to do the same thing. There is a permanent difference, and that is the universal service fund and the way that is structured.

The CHAIRMAN. The time of the gentleman from Washington (Mr. SWIFT) has expired.

(On request of Mr. TAUKE and by unanimous consent, Mr. SWIFT was allowed to proceed for 1 additional minute.)

Mr. TAUKE. If the gentleman will yield further, while there is some parallel philosophy, it would seem to me it really is inaccurate to suggest that for the next 10 years there is identity between the FCC decision and my amendment.

Mr. SWIFT. I thank the gentleman for making the distinctions that he sees. It is extraordinarily difficult for me to see those differences. In fact, I am afraid that the Tauke access charge substitute to the FCC access charge has done about as good a job of wrapping the FCC charge as prettily as that particular package of damaged goods can be wrapped, and I compliment the gentleman.

But it is still damaged goods on the bottom line. The American ratepayer, I think, deserves better than that. Our bill is better, and I urge the defeat of the Tauke access charge substitute.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Washington, our good friend, Mr. SWIFT, in talking about fairness said the Tauke substitute stomped on the backs of the consumers. I advised my friend, the gentleman from Iowa (Mr. TAUKE), to put on some soft-soled shoes as he goes about his onerous task. Seriously, I think most people are looking hard at this question of fairness, and I think it should be addressed.

First, the idea of low-income subsidies is shared by both bills, except low-income consumers in the Tauke substitute receive $883 million; whereas, in H.R. 4102 they receive $679 million. Low-income consumers make out better under the Tauke substitute.

In the high-cost rural areas, under the Tauke substitute they get $1 billion 63 million, and under H.R. 4102 they receive $544 million, approximately twice as much.

In terms of fairness, the Tauke substitute is much fairer. Why? Because under 4102, we continue to transfer vast amounts of money from long distance to local service, but consumers also pay long distance. The money that is going to be saved by avoiding access charges is simply coming from somewhere else, coming from other consumers, coming from long-distance users.

Urban Systems Design put together a study where they examined 22 urban areas of minorities, Hispanics, blacks, and nonurban areas where there were rural whites, and it turned out, particularly in the Hispanic and black communities, there was a substantially higher use of long-distance service than in other communities.

So if you take a look at low-income people, if you take a look at high-cost rural areas, if you take a look at minorities, the Tauke substitute is fairer.

Is it fair that the industrial States of the Northeast and the Midwest should export vast millions of dollars to the newer States in the United States? I do not think so. We are having our problems in Pennsylvania and we are an exporter of some $71 million, New Jersey is up to $209 million. There will be an amendment on this, and I am sure other Members on the opposite side of the aisle will be interested in this amendment. Is it fair to tax the older States in this country simply because they have more developed telephone systems and have their long-distance calls subsidize the State where my good friend, Mr. SWIFT, comes from? Of course that is not fair.

The Northeast and Midwest should not be subsidizing middle and upper income people in the Sun Belt, and that is what this bill is doing. So to low-income people, in high-cost rural areas, on minorities, on some of our older industrial States, H.R. 4102 is unfair.

Mr. GORE, Mr. Chairman, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, of course we quarrel with the figures that the gentleman is using, but let me ask the gentleman about a point of logic.

Is the gentleman saying that 4102 is bad because it subsidizes groups, or is the gentleman saying it is bad because it does not subsidize them as much as the substitute?

Mr. RITTER. Mr. Chairman, if I may reclaim my time, what I am saying is that 4102 is bad because it subsidizes the middle class and the upper middle class, and why should we be doing that?

Mr. GORE. But that is not what it does. My point is, the gentleman is saying that the Tauke substitute has huge subsidies for this group and that group and another group, and yet, on the other hand, the gentleman is saying that he does not like deviations from cost-based pricing. Which is it? You cannot have it both ways.

Mr. RITTER. I think what we are trying to do is allocate trends to those who really need the subsidies not scatter gun them to every body including the rich.

Mr. WATKINS. Mr Chairman, I move to strike the requisite number of words, and I rise in opposition to the Tauke amendment.

Mr. Chairman, I rise in opposition to the substitute and ask my colleagues in the House, and maybe those in their offices who may be viewing this debate, to do likewise.

Someone asked me if I was going to speak today as chairman of the Congressional Rural Caucus. I would like to make sure the RECORD shows that I am not speaking as chairman of the Congressional Rural Caucus, because out of respect and honor to those who differ among us in that particular group, and there is a difference in what we feel on this particular bill, I am speaking as an individual. However, I probably on more occasions than any other Member, stand in this House and plead to the people who I work with, my colleagues, from throughout this great country of ours, not to forget the people who have been forgotten more than any others the individuals who live and work and reside in the small, rural communities, and in the rural countrysides of this great Nation.

I rise in opposition to this substitute. I rise because the substitute claims to provide a better universal service fund for the high-cost rural areas but, in fact, it penalizes the very telephone companies most in need of this assistance, the small, under-100,000 loops, and the rural cooperatives. Those people who live out in that distant area of the rural countrysides of America are going to be penalized the most by this substitute.

□ 1640

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I do not have that much time. I will yield later.

Mr. Chairman, the substitute would send the local rates higher by forcing States to levy additional access charges for interstate services. The substitute will add the FCC access charges to our constituents' telephone bills even though most of these customers make few or no interstate calls. This access charge would probably be at least $4 per month on every local telephone customer even if the customer makes no long-distance telephone calls.

These are the elderly people in the rural areas that have to place a long distance call for health care. I do not think we want to place that additional burden, this additional threat to their lifeline on top of all the other problems these elderly have in the small rural areas of this great Nation. At the same time allowing the large companies, the long-distance companies, to be able to get off scot-free, free of charge, for using the wire services and the telephone poles linking these great companies to the outer areas.

I am deeply concerned. Yes; I have to admit that both of these particular bills are trying now to address the rural areas problems, but let me state something that I hope all my col-

leagues realize. I have been looking into this particular problem for several weeks, and the gentleman from Colorado has been willing to sit down and try to work out compromises for the rural people of this country; AT&T has not. I think AT&T felt that the court decision and the FCC would take care of them and sold that to the Bell systems.

It was shocking to me this morning to realize that AT&T had hired away, if you please, the attorney representing the rural companies. I told some individuals just yesterday that AT&T had never come to me to talk about a compromise for rural America. It was only until the last moment, when they realized they were in trouble, that they were willing to come and say, "Hey, come to our aid. Come to our assistance, we are willing to help rural areas.

Let me assure the Members that I do not think AT&T understands how this House works. I think most of us are honorable, and when we sit down to work out the differences and the problems that might confront our constituents, we work those out in good faith. AT&T had not approached us, trying to work out these differences earlier. Their choice was to ignore any workable compromise to the eleventh hour. A person just does not walk out on an agreement.

I think that my colleagues and I should reflect upon the jingle that is used, and, yes, it is one of my favorite telephone companies, even though I may disagree with them this time. That jingle says: "Reach out and touch someone." I like that jingle, but I say to the Members that I cannot buy this substitute because it is going to reach out and touch every ratepayer across America, especially those in rural America. It is going to reach out and take something out of their pockets and put it over into the pockets of AT&T. I think that is wrong and unfair to the people of this country.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. WATKINS) has expired.

(By unanimous consent, Mr. WATKINS was allowed to proceed for 1 additional minute.)

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. Let me finish this first.

Mr. Chairman, I am truly thankful that even at a late date, people have become concerned with what was going to happen to the rural people. I am pleased that in both instances they have started to try to address this problem. But let me say that I really question whether some individual came at this late hour in good faith.

I would like to thank the gentleman from Colorado (Mr. WIRTH) and his committee members who were willing to work in good faith early as we tried to work out something that would be fair and equitable to the people across America in the small rural areas.

For that reason, Mr. Chairman, I stand in opposition to the substitute and in support of H.R. 4102.

Mr. NIELSON of Utah. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. Mr. Chairman, is the gentleman aware that the FCC decision would give more money to the rural areas than either the Tauke amendment or H.R. 4102?

Mr. WATKINS. I think the FCC, from what I see as to what they are willing to do, was willing to help AT&T and ignore the rural areas.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. WATKINS) has expired.

Mr. TAUKE. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma (Mr. WATKINS) be allowed to proceed for 1 additional minute.

The CHAIRMAN. Does the gentleman desire the time?

The Chair will state to the gentleman that it does not appear that the gentleman wants the time.

For what purpose does the gentleman from Utah (Mr. NIELSON) rise?

Mr. TAUKE. Mr. Chairman, I made a unanimous-consent request.

The CHAIRMAN. The Chair will repeat that it did not appear to the Chair that the gentleman wanted the time.

Mr. NIELSON of Utah. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair recognizes the gentleman from Utah (Mr. NIELSON).

Mr. NIELSON of Utah. Mr. Chairman, I wish to speak just for a moment to try to correct the statement made by the gentleman from Oklahoma.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I would say to the gentleman from the Congressional Rural Caucus that if he really wants to help the rural areas, he should abandon this bill entirely. The Tauke amendment does more than H.R. 4102, and the FCC does more than either one.

Mr. Chairman, I now yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from Oklahoma (Mr. WATKINS) is correct in saying that the subcommittee chairman and the subcommittee staff have been very cognizant of the interests of the rural areas, and many of us on the subcommittee have been grateful to the chairman and the staff for that support. But I think it is important to recognize that while the support is appreciated, the facts are what count.

In this case, the facts are these: The subcommittee measure, H.R. 4102, provides assistance to those companies with 100,000 or fewer subscribers, while basically ignoring those subscribers in rural areas that have in excess of 100,000.

In the legislation we are offering, we give the best of both worlds, if you will. We say to the rural companies, "You can either have the FCC plan if that serves you better or you can have the H.R. 4102 plan if that services you better," which means, of course, that we are providing over $1 billion in subsidies to the high-cost rural areas while H.R. 4102 provides only $544 million

Second, let me point out again that the small rural telephone companies are supporting my substitute. They recognize they need help, and they appreciate what is offered in H.R. 4102, but the bottom line is that they are concerned that H.R. 4102 will encourage bypass of that local system, and if you have a major user on a small company, that major user can be most of that local system. And they are concerned that they have got to keep the rate base as big as possible. That is especially true in rural areas.

So as a result, those smallest of the telephone companies are appreciative of the support of the subcommittee and the support the gentleman from Oklahoma mentioned, but I think, looking at the merits of the cases presented, they are willing to back the substitute that I am offering.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Chairman, I think this is an important point because a customer in a rural area can fall under three different categories. There is a rural category, there is a local customer category, and there is a low-income category.

Now, if we take all three of those categories into account, there is no doubt and, I hope, no dispute about the fact that the committee bill is far superior in the amount of money going to rural areas than either the substitute or the FCC.

Let me make one other point, if my colleague will continue to yield. I do not want the impression to be left that rural customers or rural telephone companies are supporting the substitute, because the National Telephone Cooperative Association, the National Rural Electric Telephone Association, and others are strongly supporting the legislation rather than the substitute.

Mr. NIELSON of Utah. Mr. Chairman, I wish to reclaim my time so I may read this list of companies.

Crockett Telephone Co., Friendship, Tenn.; Englewood Telephone Co., Englewood, Tenn.; Humphreys County Telephone Co., New Johnsonville, Tenn.; Loretto Telephone Co., Loretto, Tenn.; Millington Telephone Co., Millington, Tenn.; Ooltewah-Collegedale Telephone Co., Chickamauga, Ga.; United Telephone Co., Chapel Hill, N.C.; and so forth—all these companies are supporting the Tauke substitute.

Mr. GORE. Is the gentleman reading a list of OPASTCO members?

Mr. NIELSON of Utah. Yes.

Mr. GORE. Then let me say this.

Mr. NIELSON of Utah. My point is this—and this is the only reason I got on my feet, I did not intend to, originally—that the gentleman from Oklahoma spoke very impassionately of the need to take care of rural areas, and I merely pointed out that if he really wants to do that, he should abandon H.R. 4102, if that is his sole purpose, because H.R. 4102 does not do as well as either the Tauke substitute or the original FCC decision.

□ 1650

Mr. GORE. Mr. Chairman, will the gentleman yield again?

Mr. NIELSON of Utah. Yes.

Mr. GORE. All the companies that the gentleman just referred to are opposed to the substitute and supporting this legislation. It is true they are members of OPASTCO; but as recently as yesterday, we were in touch with every single one of the OPASTCO members in Tennessee and they are 100 percent behind the bill and opposed to the substitute, and you will find across the country that that is true in many, if not most places, of OPASTCO members.

Mr. NIELSON of Utah. Mr. Chairman, reclaiming my time, is the gentleman saying these companies in Tennessee have abandoned the position of the organization to which they belong?

Mr. GORE. Oh, absolutely, as has almost every other member of OPASTCO because as was referred to by my colleague, the gentleman from Oklahoma, they feel they have been led down the primrose path. OPASTCO's chief legislative adviser signed a contract to go to work for AT&T next week and even though that was agreed to more than a month ago, she has continued to advise OPASTCO as the principal legislative adviser—even in areas where AT&T's interests were involved and where OPASTCO's interests were in conflict. That is why the OPASTCO membership is so outraged at what their national office has done.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I think the gentleman from Tennessee would agree with me that in any organization there are some who are, I am sure, going to disagree with the decisions of the organization. I do not want to disagree with the decisions of the gentleman on the decisions made by the companies in Tennessee.

The CHAIRMAN. The time of the gentleman from Utah has expired.

(At the request of Mr. GORE, and by unanimous consent, Mr. NIELSON of Utah was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. Mr. Chairman, will the gentleman yield further?

Mr. NIELSON of Utah. I yield to the gentleman from Iowa.

Mr. TAUKE. I think it is also fair to say that there are a variety of other organizations that have endorsed various aspects of the legislation because they want to do something about the FCC decision, and try as you might to suggest that the FCC decision is what we are debating here, that is not it.

We are doing more for rural and more for low income than the FCC decision or H.R. 4102 and the reason we can target more money in subsidies is because we do not have this broad based general subsidy to everybody from long distance to local.

I am not sure that we want to spend our time arguing who does more for rural. I think the facts are on my side. The gentleman apparently thinks the facts are on his side.

The bottom line is that the issue is whether or not there should be the broad based subsidy from interstate long distance to local and how that plays out.

Mr. BRYANT. Mr. Chairman, one aspect of the ENFIA provisions of the bill has been the subject of inquiry by some independent local telephone companies. These companies inquire about how the so-called ENFIA freeze would apply to them. In particular, the inquiry results from the fact that not all these companies are concurring carriers or parties to the ENFIA agreement.

In the case of independent telephone companies who are concurring carriers under ENFIA, the ENFIA tariffs will be frozen under the bill. Interexchange carriers will continue to pay these companies for exchange access based upon ENFIA rates. In the case of independent telephone companies who are not concurring carriers under ENFIA, OCC's will continue to pay for exchange access under the noncurring carrier's tariffs which are also frozen under the bill. New hook-ups for OCC's will be covered either by the local exchange carrier's frozen ENFIA tariffs or, in the case of a nonrecurring carrier which is not party to the ENFIA agreement, under that carrier's non-ENFIA tariffs. Nothing in the bill subjects nonconcurring carriers to ENFIA or requires these carriers to charge for exchange access at ENFIA rates.

Mr. LENT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Tauke substitute for H.R. 4102.

Mr. Chairman, at the outset I want to commend the gentleman from Iowa (Mr. TAUKE) for his leadership in proposing this middle ground between the FCC order and Dingell-Wirth, H.R. 4102.

The Tauke substitute is a real improvement over both approaches in many ways. As was noted during the general debate, targeted subsidies to the truly needy are preferable over subsidies for all regardless of need.

The Tauke substitute uses the rifle shot approach as opposed to the scatter gun approach employed in the Dingell-Wirth amendment.

We all support universal service but universal service can be maintained without the massive untargeted subsidies contained in H.R. 4102.

What is the goal of the Tauke substitute? The goal of the Tauke substitute is universal service. Under this substitute, universal service would be maintained through a system of very carefully targeted subsidies to low income individuals and to high-cost areas that are predominantly rural.

In fact, as has been pointed out before, the substitute provides more money for those needy individuals in high-cost areas than does H.R. 4102. The Dingell-Wirth bill provides $679 million for lifeline rates for the elderly and other low-income subscribers who rely on the telephone for their only regular communication with the outside world.

The Tauke substitute provides $883 million a year for this same group, over $200 million more.

The Dingell-Wirth bill provides a mere $544 million to high-cost rural areas. The Tauke proposals provides nearly twice that amount, more than $1 billion to sparsely populated areas where telephone service is so very critical.

Furthermore, and this is perhaps the most important aspect of the substitute for those of us who represent areas in the Northeast and the Midwest, the Tauke substitute targets these necessary subsidies and in larger amounts without regional discrimination.

□ 1710

The proposal embodied in the Tauke substitute provides for an equitable national solution to the question of how to maintain universal service and it achieves this without having one region of the country throw a party for everyone else.

The substitute is more equitable, it is more efficient, and it sends the

money where it is really needed. And the substitute does more. It removes the perverse incentive that is contained in the Dingell-Wirth bill that is going to cause high volume long-distance users to build their own network and bypass the local switchboard by keeping long-distance rates artificially high.

There are many of my constituents who are residential customers, who are small businesses, who have no choice but to remain on the telephone network. They cannot afford to build and operate their own bypass system.

As this bypass phenomenon occurs, those customers who must remain on the telephone network, both residential and small business customers, are going to have to pay more and more and more for telephone service. And as these costs go higher and higher, more and more big customers are going to become bypassers.

This is a death spiral that will ultimately result in the deterioration of the rate base and the telephone network and will leave residential customers footing higher bills for poorer service. When this occurs, those of you who vote today for the Dingell-Wirth bill are going to have to answer to your constituents who will be forced to pay telephone bills that will be much higher than $2 a month. You are going to have to respond to them and explain as to why you voted for the Dingell-Wirth bill.

The Dingell-Wirth bill encourages bypass and then attempts to restrain the monster it has created by assessing an unconstitutional tax on the bypasser.

Is it not more logical to just eliminate the bypass incentive altogether? The Tauke substitute would do just this.

Mr. RITTER. Will the gentleman yield on that point?

Mr. LENT. I am happy to yield briefly.

Mr. RITTER. The gentleman talked about an unconstitutional tax. There have been some changes in H.R. 4102 on the way to the Rules Committee.

The CHAIRMAN. The time of the gentleman from New York (Mr. LENT) has expired.

(On request of Mr. RITTER and by unanimous consent Mr. LENT was allowed to proceed for 3 additional minutes.)

Mr. RITTER. Prior to those changes the gentleman from Illinois (Mr. ROSTENKOWSKI), chairman of the Ways and Means Committee, asked that H.R. 4102 be sequentially referred to his committee. He mentioned in that letter that—

It is our continuing belief that a federally mandated uniform "charge" or "fee" on individuals which is unrelated to their usage of a particular service is a revenue raising measure.

This is true whether the "charge" or "fee" is directly collected by the Federal Government and distributed to various components of the industry or whether the collection and distribution is indirect, as under the bill. While the Committee on Ways and Means would prefer to address this aspect of the legislation, the length of time available to the committee would preclude an adequate consideration of the issues involved.

He goes on to say:

While I have withdrawn my request for referral, I continue to maintain that significant aspects of H.R. 4102, as noted above, are within the jurisdiction of the Committee on Ways and Means. Consequently, I would expect in the future that bills involving "fees," "surcharges," or other revenue raising mechanisms relating to the telephone industry or any other industry would be referred to the Committee on Ways and Means and I would further expect that this committee will consider such bills at that time.

I think what has not come out yet in discussing the Tauke substitute and will come out later is this whole issue of bypass and the levying of a brand-new form of taxation that could conceivably be, as the gentleman states, unconstitutional, that is looked at most askance by the chairman of the House Ways and Means Committee.

I thank the gentleman for yielding and I think his point is extremely well taken.

Mr. LENT. I thank the gentleman for his contribution and his point is certainly well taken.

During the committee deliberations there was introduced in the record a memorandum of law prepared at the request of the mayor of the city of New York which made it abundantly clear that this bypass fee, so called, is in reality a tax on bypass. It therefore constitutes an unconstitutional delegation of the taxing authority by Congress.

The distinguished New York law firm of Sullivan & Cromwell also looked into this matter and rendered an opinion which cast doubt on the constitutionality of this bypass tax.

So I think when you add all of these shortcomings together, Members have more than ample reason to vote for the Tauke substitute. Tauke is the commonsense approach. I intend to vote for the Tauke substitute and would urge my colleagues to do the same.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, as I look at this bill from the customer's perspective, I cannot understand why we are rushing to pass what is clearly anticonsumer legislation. If the single line business and residence customer access charge is abolished, the local telephone companies will experience a significant revenue shortfall. There are only two ways that revenue can be made up, and both of them not only strike at the viability of the local phone company, but more importantly, will have a negative impact on those customers we are trying to protect. If the local phone company is forced to raise its rates to recover the loss, the consumer is obviously forced to pay higher rates. On the other hand, if the shortfall is placed on the long distance carriers, this will greatly increase their incentive to bypass the local network. With fewer and fewer customers and less and less revenue, the local company's only choice is to increase the rates for those customers who can afford to remain on the phone company's network.

While I support the Tauke amendment, if it does not pass—then I see no logic in voting for a bill that will raise rates for my constituents.

Mr. ECKART. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, during the course of this debate, a wide range of figures, numbers, and charts have been bandied about. Just a few minutes ago, I retired to the cloakroom and dialed the national AT&T information number, 411. No one here will be surprised to hear that all I got was a busy signal because they are so busy divining all new numbers, new charts, and new strategies.

By the time I finally got through on that AT&T information number all they gave me was more of what I have heard this afternoon already: A wrong number.

It is quite clear that the strategy of AT&T on this issue is to spread misinformation and that strategy is designed to confuse and mislead not only the Members of the Congress but the American people, too.

The opponents, and there is just really one opponent to this legislation, AT&T, are trying to set up a kind of economic civil war by pitting the urban against the rural, and the Northeast and Midwest against the South and West.

It is an attempt to balkanize the Congress. Make no mistake about it, it is a strategy of divide and conquer.

Now, they tell the rural Members of Congress: Do not support the Tauke amendment, hold out for the FCC decision. But then they tell the urban Members of Congress: Do not gamble on the FCC; support the Tauke amendment. Then they tell another group that neither alternative will give them a deal that we can make any sense of.

Very simply, this divide and conquer strategy is designed, as my friend from Washington said so eloquently in committee the other day, to focus our attention on pennies, on little, bitty pieces of this legislation and distract us from the main thrust of their strategy, which is to redirect tens of mil-

lions of dollars to AT&T and to big business from rural areas, and from the other groups that AT&T has exhibited so much concern for over the years—the poor, the elderly, the disabled, and all of rural America.

This divide and conquer strategy, getting you and I to focus on $10 million from this State and $11 million from that State may be politically effective, but I would ask each of you during this debate to call your public utility commission in your State and find out how many telephones you have in your district, then multiply that number by the access charge to find the cost of access charges in your district.

For the small mom and pop phone company in Ohio known as Ohio Bell, I found that under the FCC provision, and indeed even under the provisions of the Tauke amendment that we are debating, the residential customers served by Ohio Bell are going to pay $50,400,000 more next year under the provisions of the FCC order. And if instead of that sudden death, we choose the slow death of the Tauke amendment, the difference in cost would be negligible.

If you carry this calculation through to the final stages, the residential customers of Ohio are going to pay $86,436,000 more under access charges than if we pass the Dingell-Wirth bill.

Those are the real dollars in Ohio, not the pennies of 10 million here or 11 million there, used like a persistent busy signal, with wrong numbers, and misinformation designed to mislead the Congress while AT&T pours tens of thousands of dollars into a last-minute media blitz campaign which will return billions of dollars in profit to them if we pass this amendment.

You cannot be for the Tauke amendment and be against increasing local residential rates. It just will not work.

If you are truly concerned about the dramatic increase of local phone rates, if you are truly concerned about individuals who are going to have access charges foisted upon them, then the Tauke amendment offers only a slow death instead of a sudden death.

□ 1720

Let us not be fooled, let us not listen to that AT&T busy signal; let us not believe the wrong numbers that their information is giving us. Let us try to make sense out of this confusing situation.

Do not focus on the pennies; look at the dollars. Let us not be divided and conquered by a massive corporate strategy, the goal of which is to force us to do nothing so that they can profit exorbitantly.

Mr. DORGAN. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from North Dakota.

Mr. DORGAN. I thank the gentleman for yielding.

I want to associate myself with the gentleman's remarks. There has been a lot of talk about access fees on the floor of the House. My guess is that access fee discussions matter only to those who can afford a telephone. I recall the REA opinion a while back on what would happen to the cost of independent telephones around the country because of the FCC, what is going to happen is $30 to $40 a month in some of the rural areas of the country particularly; unless this Congress takes some action to stop it.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ECKART) has expired.

(By unanimous consent, Mr. ECKART was allowed to proceed for 2 additional minutes.)

Mr. DORGAN. Mr. Chairman, will the gentleman yield further?

Mr. ECKART. I yield further to the gentleman from North Dakota.

Mr. DORGAN. I thank the gentleman again.

Mr. Chairman, that $30 to $40 a month basic telephone cost in some of the rural areas of the country is a cost that a lot of folks cannot afford. They simply will be priced out of the ability to have a telephone. Access fees do not mean much to them. If you cannot afford to have a telephone I guess the discussion about access fees is really academic.

I would like to just refer for a moment the gentleman's discussion about the lobbying that is going on around here. Certainly everybody has a right to try to influence opinion in this body. Here is an example. It is a letter to the editor in the hometown paper today from an employee of AT&T. He is saying that Congress was ignorant for breaking up the telephone system in the first place. Well, Congress did not break up the telephone system, it was the Federal courts, the Justice Department, and the FCC decisions that resulted in the problems we have today.

Again AT&T has every right to have its employees writing letters to the editor, has every right to put full page ads in the newspaper, has every right to blizzard this body with letters. But we have a lot of folks out in the country who have telephones and probably will not be able to afford them in the future unless this body does the right thing, and those folks cannot afford to put a full page ad in the Washington Post or the Wall Street Journal; those folks cannot afford to send lobbyists to Washington, D.C., to prowl these Halls; they cannot afford to run the kind of an organized mail campaign that is going on in this town.

But, those folks cannot afford $30 or $40 a month basic telephone service charge either. Those folks will not be able to afford to have a telephone. I think that would be a giant step backward.

What this is, is regulation gone haywire. I think the committee bill is going to fix it. I think the Tauke substitute is a mirage. The committee bill is what we ought to pass to deal with this problem that confronts so many people in rural areas in this country.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to my friend from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, I want to underscore the point that my colleague (Mr. DORGAN) makes because I think it is a very important point. It was not the Congress that broke up AT&T and it was not the Congress that came up with this cockamamy FCC access charge scheme. It was the Justice Department that broke up AT&T.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ECKART) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. ECKART was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, will the gentleman yield further?

Mr. ECKART. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman once again.

Although the plan to break up AT&T started years ago, it was Assistant Attorney General William Baxter, appointed by this President, in this administration, that presided over the breakup of AT&T and pushed it through to conclusion. And it was the FCC, headed by Mr. Fowler, appointed by this President in this administration, that came up with this radical and extremist plan to charge every consumer $2 going up to $6 or, actually, $4 in the version that we have before us now, whether or not they even use long distance. So it was not this Congress that did it. We are going to fix it.

Mr. DORGAN. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from North Dakota.

Mr. DORGAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman (Mr. ECKART) and I come from vastly different districts. I come from a rural district. The gentleman comes from a city district. The fact is the consumers in both of our districts are going to be gouged by the substitute that is now before us. In North Dakota's case there are 8 million reasons for us to take the action that the committee asks us to take. Each one of those is represented by a dollar bill. That is our portion of the windfall profit that is going to go to the AT&T and out of

the pockets of the North Dakota consumers, and I think that is wrong.

Mr. TAUKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inquire of the gentleman from Colorado (Mr. WIRTH) if he knows how many additional speakers may want to talk on this amendment.

As you know we have a 10-hour time limit. We have gone over 3 hours on this amendment already, 3½ hours. Some of my colleagues are getting nervous that they may be precluded from offering their amendments.

Would the gentleman clarify?

Mr. WIRTH. Would the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Colorado.

Mr. WIRTH. As the gentleman knows, AT&T has made this their major issue. This has become the centerpiece of the whole debate. The membership on our side has believed that defeating this legislation might provide an incentive to the minority to move more quickly through its 86 pages of amendments.

Is that the case?

Mr. TAUKE. Reclaiming my time, I did not ask the gentleman for a political statement. What I asked the gentleman was a relatively straightforward question and that is how much time do you think we are going to need to finish this amendment? I am trying to help the gentleman organize debate in a way that allows the Members to move to a decision.

Mr. WIRTH. I could not agree more with the gentleman that we do want to expedite the procedure as much as possible. That is what we tried to do in limiting the debate on the rule which so many of our brethren on the other side voted against.

We currently have six individuals who would like to speak in opposition to the Tauke amendment. I cannot define who else might come who would like to speak in opposition to the Tauke amendment.

I know Mr. TAUZIN, Mr. WYDEN, Mr. BOSCO, Mr. DORGAN, Mr. BONKER, and Mr. WISE have all indicated their concern in opposition to the amendment.

Mr. TAUKE. I think perhaps the gentleman (Mr. WIRTH) and I might concur that if we are getting on to 6 o'clock and it looks like we are getting more and more people who want to talk on the amendment, at that time we may want to confer again and see if some kind of limitation is reasonable.

Mr. WIRTH. Why do not the gentleman and I get together again at 6 o'clock. I would hope that we could be well on our way to having a vote by 6 o'clock.

Mr. TAUKE. I thank the gentleman.

Mr. WIRTH. If the gentleman would yield further, perhaps the gentleman between now and 6 o'clock might give us a sense of what amendments are considered important and will be offered on the minority side, and which of the 89 pages printed in the RECORD will be offered and which will not be offered.

Mr. TAUKE. If I had the wisdom that the gentleman attributes to me in making that suggestion, I would be happy to comply. But I doubt if even I could figure out which amendments are going to be offered.

Mr. WIRTH. If the gentleman would yield further, the only wisdom that I have is that there is such overwhelming opposition on our side to the Tauke amendment that many people feel that it is very important to speak on that subject. Perhaps we could come to some accommodation by 6 o'clock. I will try to find out how many Members on our side want to speak further and you could tell us how many pages of the 80 some odd pages printed in the RECORD your side is going to offer.

Mr. TAUKE. Well, I thank the gentleman.

I can assure the gentleman that we have a lot of people who would like to speak in favor of my amendment, but we are not interested in precluding those people on the gentleman's side of the aisle who have amendments to H.R. 4102 which they believe will improve the legislation. We do not want to deny them an opportunity to present the case.

I thank him and maybe we will get to discuss this a little later.

Mr. WIRTH. I would anticipate talking further to the gentleman at a later hour.

The CHAIRMAN. The Chair would like to observe that we have only until 1:05 a.m. on this amendment and all amendments to the bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

I thank the gentleman.

Mr. Chairman, just today I was speaking to a colleague about H.R. 4102, suggesting to him that I thought it was a good product. This colleague said to me, "Well now, wait a minute, BILLY. Are you asking me to vote for a bill sponsored by the folks that are trying so desperately hard to break up AT&T and have done such a great job encouraging the demise of Ma Bell, which has done such a good job for our country?"

Now I have heard that line repeated several times. I think it bears some discussion again.

Congress did not break up AT&T. Neither did the sponsors of this legislation ever attempt to break up AT&T.

On the contrary, last year through many arduous months we debated legislation that attempted to deal with the problem of allowing AT&T to compete in nonregulated telecommunication areas in a fashion that would be fair to other competitors.

□ 1730

We were trying, if you will, to work out a scheme by which that could be accomplished without the necessity of breaking up Ma Bell.

It was only because the Justice Department insisted on an anticompetitive practice action against Ma Bell that a consent decree was eventually reached that now the AT&T system is going to be dismembered.

I want to repeat, AT&T entered a consent decree in order, I think, to avoid a judgment against them for anticompetitve practices.

Now, it is in that consent decree that we see the events flowing come January and come next year. The most important event that will occur will be that the local Bell operating companies will be on their own.

Now I want my colleagues to think for a second about the wisdom of AT&T's entering that consent decree from an AT&T position; from their perspective, if you will.

What AT&T did in the consent decree was to keep unto itself the most income productive assets in the Ma Bell umbrella. It kept the long distance rates, it kept the beautiful Western Electric facilities, and it kept Bell labs, all of which are incredibly productive assets of AT&T.

And what did it spin off? It spun off the local Bell operating companies. Now it just so happens the local operating companies are the most difficult to administer, of course, because they deal directly with local customers. It also happens to be the part of the system that has to go to all the diverse public utility commissions and seek advances in local customer rates in order to justify service or extension or improvements of service to those customers. It is the part of the system that is closest to the customer and therefore customer related. It is the part of the system that is clearly the least income-productive for the system.

So what AT&T did was to spin off the least productive assets and to keep unto itself the most productive assets.

Now, is that going to cost the American consumer? You bet it will. A very tightly controlled monopolistic system, that produced great telephone service for America, at efficient rates, is now being broken up. That is going to cost us.

In Louisiana alone, Bell South has just applied to our public service commission for rate increases of 100 percent.

And I challenge my colleagues to go back to their own home State and see if it is not happening in your own State.

The local operating companies, because of divestiture, are going to have

to ask for enormous rate increases from the customers of American telephone service because those local Bell companies are on their own now. The most productive assets of AT&T are gone from them.

What we are doing today is simply an effort at damage control. If Americans in Louisiana and Colorado and New Jersey and across the Nation are going to be asked to come up with great increases in their rates because of this divestiture, the least we can do for those customers is to prevent any add-ons—surcharges, if you will.

The FCC decision, which again is neatly wrapped in the Tauke amendment, is an add-on; it is a surcharge to those same local customers who are going to have to pay a great deal more because of divestiture.

And what this bill H.R. 4102 does is to say, no, we will not allow this surcharge in the face of added costs to customers across the Nation. We will make sure, in effect, that local rates need not be increased by at least that much.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. And in the process perhaps we can maintain a universal telephone system so that your and my telephone is worth more because all Americans are able to afford one. And H.R. 4102 does it in numerous ways.

One way is, indeed, to extend the lifeline service to those poor low-income, and elderly citizens who need a phone, but will not use it much and therefore should pay a lower rate.

And one of the other ways—and for which I am very grateful to the chairman and the Members who put this bill together—is that we provided in H.R. 4102 a very sound system for aiding the rural areas with high-cost service.

And I want to focus on that for just a second. My good friend from Iowa recently commented in this debate that it is arguable whether H.R. 4102 presents a more equitable relief for rural areas than does his own substitute.

I will say to him that I think H.R. 4102 does a better job. It does a better job because it does not have to give more to assist rural rates because it does not take more to begin with from those local customers. If local rates are held down, as H.R. 4102 does, there is less need to subsidize those rates through the universal fund.

But let me say what we did in subcommittee and explain it thoroughly to the Members. The bill as originating in committee provided for a different schedule of subsidy to high-cost rural areas—one for those rural areas served by large companies, such as the Bell Co., and one for those served by smaller companies, and it provided a larger minimum amount to those customers in rural areas served by small companies.

Seeing that, and realizing that there were other States like my own, where 70 percent of the rural customers are served by Bell South, I recognized that something had to be provided in the bill to give the Universal Service Board authority to help those customers served by larger companies to remedy the disparity in costs in those rural areas. An amendment was therefore added which mandated that the Universal Service Board devise a system by which those rural customers, served by large companies, be assisted in order to avoid the disparity between their costs and the national average.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has again expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. Now that is in the bill. We are going to come with a technical amendment, I believe in section 5, to clarify that that action by the board is not subject to the 25-percent cap. In other words, the board can do the maximum necessary to avoid the disparities in rural areas, whether or not they are served by a big company or a small company.

So to say that H.R. 4102 does not adequately address the needs of rural America is simply not true. It is adequately addressed. And more importantly, we address the needs of rural America without first taking away from rural America, and all of America for that reason, an added surcharge of some $4 billion in access charges that the FCC and the Tauke amendment would place upon them.

So I think that it is the wisest course for those of us who represent those parts of the country to gather around this vehicle. It is the best way to assure the Americans we represent that, although they will pay higher costs because of the divestiture ordered by that judicial consent decree, at least they will not have to pay this extra surcharge access fee. I therefore urge the defeat of the Tauke amendment and passage of H.R. 4102.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to commend the gentleman from Louisiana (Mr. TAUZIN) for his remarks.

Mr. Chairman, as one who has opposed the FCC access charge decision, I rise in support of the committee bill H.R. 4102 and against the Tauke substitute.

H.R. 4102 modifies the FCC access charge decision which would raise telephone rates dramatically over a transition period. The high cost factor proposed by the Federal/State joint board would allow excessive increases in rates for telephone service in rural areas, which would result in a serious decline in the quality and availability of telephone service.

The committee bill repeals the FCC access charge that would have been imposed on residential and small business users. It creates a much-improved universal service fund, targeted to high-cost areas.

I believe that this legislation is needed to insure universal telephone service for all Americans.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

As the gentleman knows, we have been concerned about the rural areas and the rural co-ops which the bill takes care of. The gentleman's amendment, if I understand correctly again, concerning Southern Bell and Southwestern Bell, large companies serving rural areas, they are worked out in an acceptable agreement there, also an affordable agreement.

Mr. TAUZIN. Absolutely. The amendment clearly says that in rural areas served by companies with more than 100,000 customers, those companies shall be entitled to whatever sum it takes to end the disparities between their high-cost service and the national average. That is specific in the bill and we are going to very clearly say that it is not subject to the 25-percent cap.

Mr. WATKINS. That is a very good move. I realized that, but I just wanted the gentleman to state it one more time.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask my friend from Louisiana and perhaps from Oklahoma as well to perhaps explain to me—I do not quite understand how they can be in such firm support of a bill like this which overlays an extraordinary amount of regulation on a kind of national flowing commodity—messages and communication—while at the same time be in strong support of the removal of the kind of legislation that we had or the lessening or reduction of the kind of legislation that we had that regulated the transfer of another national commodity—gas.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has again expired.

(At the request of Mr. RITTER and by unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. Very simply: There are 12,000 companies producing natural gas in the country, 12,000 companies out there exploring for and producing gas for America.

There is no need to regulate the wellhead price of gas in my opinion. Competition is there.

There is only one phone company in my town. I suspect there is only one in the gentleman's town. That is the problem. It must be a regulated utility.

Mr. RITTER. If the gentleman will yield further, that is exactly why divestiture came about. And the whole idea behind divestiture was to bring competition into the telecommunications industry. And ever since, even in the last several years, there has been a virtual explosion of competitors. Somebody was talking about the ENFIA discount for the other common carriers had poorer quality service and therefore they needed this great big discount. Somebody should point out that MCI has trebled its revenues in the last 3 years, up to $1 billion. And I do not deny them the ability to make a profit.

□ 1740

I guess what I am saying is that there is an awful lot of high tech competition out there ready to pounce on these markets as divestiture comes into play, and we have seen it in a number of cases already.

Mr. TAUZIN. Well, I happen to agree with the gentleman that competition in telecommunications is a desirable goal. That is why, for example, I supported the ENFIA decision amendment sponsored by the gentleman from Texas under the bill. But I point out to the gentleman that that competition is in areas other than simple teleco services. It is in the high tech computer services, data transmission, and those areas, that AT&T wanted to compete, which is a nonregulated, nonutility area.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has expired.

(On request of Mr. RITTER and by unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. RITTER. The fact is, in my district there happened to be three other small telephone companies, and I think we can all agree that GTE, SPRINT, and MCI have done wonders by their shareholders, and the whole system is opening up incredibly. As a matter of fact, there are vast numbers of competitors with private communication systems out there right now which will now be taxed by H.R. 4102.

I do not think you can look at Ma Bell and say, "Hey, this is the great big monopoly that it once was, say, 10 years ago." And even if there are, in today's terms, remnants of that, the directions are vastly different and they point in competitive directions.

Mr. TAUZIN. The gentleman centers in on companies that are competing with AT&T long distance, and indeed they have made some remarkable gains in advancing on the monopolistic strength of AT&T. But AT&T still occupies better than 95 percent of that long distance market. The gentleman has, I think, supported an amendment that would do away with the ability of those companies that you say are competing with AT&T long lines, do away with their ability to compete completely. They would almost be out of business tomorrow, as I understand it.

Let me be specific. If the gentleman is supporting an amendment that provides that the competitors of AT&T long lines would have to pay in advance of equal access to the local systems, the full ENFIA charge, then I suggest to the gentleman that those companies are not going to be able to compete.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I am sure the gentleman does not want to mislead anybody. That is not what is contained in my substitute. We substantially change the FCC decision on ENFIA, and what we attempt to do is to take the current ENFIA charge and look several years down the road. At the time an OCC gets 100 percent of access, it would pay 100 percent of the ENFIA charge.

I do not want to do anything that is going to substantially undermine any of the other competitive common carriers. We have got to keep them in business, as the gentleman realizes.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I certainly do not want to mislead, and the gentleman is correct, his amendment is not the same as the FCC. But the fact remains that the problem is that the competitors of AT&T long lines under the gentleman's amendment are likely to be paying a larger ENFIA fee before they get total equal access than under the guaranteed provisions of H.R. 4102 where they are not charged the full ENFIA fee until they actually have complete 100 percent equal access.

Mr. TAUKE. If the gentleman will yield, I just want to assure the gentleman that under the amendment that I am offering, the other common carriers will not pay the full ENFIA charge until they get 100 percent of equality of access. In fact, we are assuring that those who are currently receiving a reduction in ENFIA charge benefits will continue to receive a very substantial reduction in ENFIA charge estimates, we think 65 percent from what AT&T now pays.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has again expired.

(On request of Mr. WATKINS and by unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I would like to make one thing clear, and I think the gentleman agrees with me here. Let me say this: I think that the Bell Systems have gotten a raw end of the deal from AT&T. AT&T in the divestiture has the best and most profitable situation. I was in business for about 11 years. If I would have had an opportunity to divest certain phases of my business, of my companies, I would make sure that I kept the most lucrative part and I would make sure that I kept the most profitable part and let the customers who have the problems, owning the companies, let them have those.

Let me say that I have sympathy for the Bell Systems because I think AT&T intended for the FCC to take care of the Bell System and to put it back on the shoulder of the users or the ratepayers out there. But fortunately, in this great democracy that we have, we have the legislative body, the people's body, that is going to try to look after the people. The FCC sure was not going to look after them.

But let me say that AT&T took the pants off of the Bell Systems. Where were they? They were in a very awkward position anyway. They were basically employees of AT&T. How are they going to negotiate a better deal? The had to take what they could. It was a bad circumstance they were under. But I think we need to try to protect the people out in rural America, the ratepayers, the people out there on the line, and make sure that the FCC does not do that to them.

Mr. TAUZIN. The gentleman makes a good point. I think it is also fair to remind the Members that last year when this divestiture decision was in the making, AT&T made every effort possible to take away even the benefits of the Yellow Page system from the local Bell Systems, because it is an income producer. It wanted to leave those local systems with the only option available, and that is to go to

the public utility commissions and get higher and higher rates from consumers.

Mr. WATKINS. That is a very good point. That is exactly what happened.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has again expired.

(On request of Mr. RITTER and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I understand what the gentleman is saying when he mentions that there are many producers and shippers of natural gas. But it is interesting that a lot of the supporters of this bill and a lot of the organizations that support this bill are also taking another tack on natural gas, and as they did in the course of oil deregulation, which has been successful. I mean, we heard about the big monopolistic oil companies. Today we hear about the great big energy companies, the gas companies. And I think the rhetoric is the same. I think the regulatory approach is the same. I think it is the kind of regulatory approach that the Democratic Party over many years has tried to get away from, and I think they are smack dab in the middle of it over this bill.

Mr. TAUZIN. There is a great difference between regulating commodities in the marketplace and regulating utilities such as phone service, where there is only one provider in everybody's home. There is a great deal of difference. If you want to regulate the pipelines that deliver gas to your home, I can understand that. They ought to be regulated. What I am concerned about is the regulation of the commodity at its source, and that is quite a different thing.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Tauke substitute.

Mr. Chairman, I think that the Tauke substitute is deserving of our support, for a number of reasons. I think that it clearly cures some of the problems that are contained in H.R. 4102.

For example, as has been, I think, substantially documented in the debate thus far, it is very clear that under the Tauke substitute the impact on rural America will be much better for our ratepayers and for our consumers because all telephone companies and their consumers will benefit as participants and be candidates for the support that would be available in the universal service fund. The bill, as presently drafted, discriminates against rural areas that are served by large telephone customers like Illinois Bell. The Tauke substitute does not.

Second, I think that, as has been pointed out also in debate, it is critical to certain regions of this country that we move forward to make a change in the way in which the subsidy which now obtains in the internal system that has a subsidy built into the long-distance rates for local rates. This subsidy cannot be sustained because we are moving away from a monopoly era to a more competitive marketplace.

□ 1750

No. 1, in that regard, the pending Tauke substitute discourages bypass, much more so than would the legislation in its original form, which I have argued previously would provide an economic incentive for consumers to create their own private companies and to, in effect, cause much more of a breakup of the integrated system than the divestiture itself would cause.

More importantly, however, I think from the standpoint of those of us who represent constituents in the Northeast and in the Midwest, there is an important value to be gained with the adoption of the Tauke substitute. It reduces those money flows that go from the Northeastern States and the Midwestern States as a result of the surcharge that would be imposed and the tax that would be levied, in effect, on the long-distance telephone users.

This is important to our State, particularly a State like Illinois, Mr. Chairman, because we have a low-cost plant for telephone service. We have not had the same kind of growth in our States that has obtained in the so-called Sun Belt States, and as a result, the cost of providing telephone service in a State like Illinois, New York, New Jersey, and other similarly situated States, is much lower than the national average and that is why it is so important for us to recognize that the Tauke substitute moves very, very well in changing the current, as provided for in the legislation's subsidy approach, to a different kind of approach.

It might be of interest to hear what the city of Chicago's assistant corporation counsel, Richard Means, had to say about this in talking about the way in which the current long-distance subsidies impact on the citizens of the city of Chicago. He said, and I quote:

> I am Assistant Corporation Counsel for the City of Chicago. We represent the consumer interest of the people of the City of Chicago, both residential ratepayers and business ratepayers. Far too long have cross-subsidies made the telephone industry less than fully regulatable. Far too long have urban low cost ratepayers subsidized the cost of service of ratepayers who are much more expensive to serve. Far too long has the telephone network been inefficiently utilized by the encouragement of uneconomic behavior caused by a rate structure which was not based on cost-causation principles.

That was from the assistant corporation counsel of the city of Chicago in a hearing on the divestiture matter before the Illinois Commerce Commission.

So I think that those whose responsibility it is to protect, and on the record to testify on the impact of these subsidies on low-income, urban residents from a city like the city of Chicago, I think have made it pretty clear that there is, with these subsidies, a very, very negative impact on their communities and on their consumers.

Also, in terms of the various problems that unfortunately H.R. 4102 presents to us, there is the problem that also is addressed, and I think rather effectively addressed, by the pending Tauke substitute, and that is the problem that also has been a matter of some discussion here this afternoon, and that is the question of access charges, that is the question of equal interconnection.

The CHAIRMAN pro tempore (Mr. KAZEN). The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. The point I was attempting to make is that in terms of interconnection for local exchange facilities, the legislation that has been reported out of the Committee on Energy and Commerce provides a very obvious advantage to some common carriers at the expense not only of other common carriers but also of other local telephone companies, particularly those who are participants in the so-called separations and settlement formula that has been approved by the Federal Communications Commission.

What the Tauke substitute attempts to do is to develop an equal or level playing field so that as we move away from the monopoly era of heavy regulation to a relatively competitive marketplace, we gradually change the access charge so that it gets to the point of equal price for equal interconnection. When we do ultimately reach a point where there is competition, active competition, and equality of interconnection among the long-distance carriers, the consumer will be far better served under the provisions of the Tauke substitute than would be the case if the legislation in its original form were adopted.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(On request of Mr. WISE and by unanimous consent, Mr. CORCORAN was allowed to proceed for 1 additional minute.)

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from West Virginia.

Mr. WISE. I thank the gentleman for yielding.

Mr. Chairman, we have been talking for the last few days about these regional transfers and I just wanted to ask if the gentleman were aware that under H.R. 4102 it is estimated that Illinois will transfer or lose $27 million. Calculations show that under Tauke, Illinois will lose $52 million and at the same time will switch $256 million in access charges to consumers.

Mr. CORCORAN. Mr. Chairman, if I may reclaim my time, we have heard so many misstatements on this legislation that I just could not continue to tolerate that.

There has been a considerable discussion about the outflow. We have had all kinds of reputable organizations who do not have a vested interest in this matter examine the question. The Illinois Commerce Commission has done so. They have found that the legislation would cost, on a yearly basis, not just a one-time cost, but on a yearly basis the consumers of our State almost $100 million a year as it would leave and benefit other ratepayers in other States.

We have had the Commerce Department, the Assistant Secretary who is the head of the National Telecommunications and Information Agency, evaluate the impact of H.R. 4102. They have come to a relatively similar conclusion.

We have had any number, as this debate has demonstrated, of reputable, independent organizations evaluate the legislation, and what they find, as would be expected if you objectively analyze the impact of the subsidy, is that when there is a subsidy there are some winners and there are some losers.

Mr. Chairman, there never has been and there never will be a free lunch.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words for the purpose of engaging in a colloquy with the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from Iowa (Mr. TAUKE) related to this amendment.

Mr. Chairman, we have five members on our side who have requested to speak on the Tauke amendment.

Mr. BROYHILL. If the gentleman will set a time, we will divide the time equally.

Mr. WIRTH. The gentleman from Iowa (Mr. TAUKE) and I had just come to an agreement.

Mr. BROYHILL. I would suggest 30 minutes and divide the time equally.

Mr. WIRTH. Well, let us just proceed, then, if you want to try to work it out. We had, I thought, arranged an agreement earlier.

Mr. BROYHILL. I am sorry. I thought that was the agreement, that we would divide the time equally.

Mr. TAUKE. If the gentleman will yield, it had been my hope that those four Members on your side and the gentleman from North Carolina (Mr. BROYHILL) and myself on our side, who were interested in time, that would have been six people and each one could have had 5 minutes. That was the thought.

Mr. BROYHILL. I am sorry. I thought that we were talking about dividing the time equally, but if that is the agreement, that is all right with me, if you want to do it with six people for 30 minutes.

Mr. WIRTH. We can do 20 minutes and 10 minutes, if that is all right, and we can be finished with this amendment. Is that all right with the gentleman from North Carolina?

Mr. BROYHILL. Certainly. The gentleman can make the unanimous consent request.

Mr. WIRTH. Mr. Chairman, I ask unanimous consent that we vote on the Tauke amendment at 6:30 and that the 30 minutes will be allocated with the first 10 minutes on our side, the next 5 minutes to your side, 10, and then you close with the final 5.

The CHAIRMAN pro tempore. Is the unanimous consent request for debate time only, excluding voting time?

Mr. WIRTH. We will then vote at 6:30 on the Tauke amendment.

The CHAIRMAN pro tempore. The Chair cannot entertain a request for a vote at a time certain. The Chair will entertain a motion for the debate time to terminate.

Mr. WIRTH. The debate time on the Tauke amendment would terminate at 6:30.

The CHAIRMAN pro tempore. And all amendments thereto.

Mr. BROYHILL. All amendments thereto.

Mr. WIRTH. Yes.

Mr. Chairman, I ask unanimous consent that all debate on the Tauke amendment and all amendments there to end at 6:30, with the time to be divided 10 minutes to this side, 5 minutes to the other side, then 10 minutes to this side, and then 5 minutes for the other side to close.

□ 1800

The CHAIRMAN pro tempore. As the Chair understands it, the gentleman is asking for 30 additional minutes for debate on the amendment and all amendments thereto, with 20 minutes going to the gentleman from Colorado (Mr. WIRTH) and 10 minutes going to the gentleman from North Carolina (Mr. BROYHILL)?

Mr. WIRTH. That is correct, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Chairman, this has been a long debate and a complicated debate, and I just want to make a couple of points very briefly.

For many Americans this is clearly going to be the pocketbook issue of the year, and the vote on the Tauke substitute, it seems to me, presents us with a very simple issue.

If we like access charges, if we want to heap millions of dollars of extra charges on the backs of consumers like senior citizens who want to get access to the long distance system, then we can go ahead and vote for the Tauke substitute. If a Member does not like access charges, if they agree, for example, with the American Association of Retired Persons, the National Council of Senior Citizens, and the Gray Panthers that access charges are wrong, and that we should not force people to pay for access to the long distance system even if they do not make a single call, then they should vote against the Tauke substitute.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield at that point?

Mr. WYDEN. I will not yield at this point. I will yield later.

Mr. Chairman, we have had a lot of interesting debate about regional inflows and outflows, and we are all breaking our eyeballs staring at the charts with the charges involving our States. The fact is that the amount going in and out of regions is puny compared to the staggering amounts involved in the FCC access charge decision which the Dingell-Wirth legislation eliminates and the Tauke amendment and the FCC access charge decision retain.

Let me use Florida as an example. We all know that the universal service fund does not go in operation until 1986. By that time Florida consumers would have already paid roughly a half billion dollars in access charges imposed by the FCC's decision. Any amount returned to the State would literally be a drop in the bucket, according to the Florida Public Service Commission.

The same is true in my own State of Oregon, for when the FCC access charge goes into effect, local consumers would pay $100 million per year, again just to get access to long distance telephone service.

What amazes me is that if the Tauke FCC access charge substitute is so good for consumers, why are there not any consumers here supporting the Tauke amendment? We are getting

lots of letters from consumers. The American Association of Retired Persons, the Gray Panthers, and the National Council of Senior Citizens are flooding our mailboxes with support for H.R. 4102, but no Member is hearing from consumer groups advocating the Tauke substitute. The fact is that the consumers know the Tauke substitute is basically a kissing cousin to the FCC access charge decision, and the consumers do not want it.

So, Mr. Chairman, I hope my colleagues understand what this issue is all about, after we set aside the technical jargon of bypass and the like. The issue before us when we vote on the Tauke substitute is pretty simple. If we like access charges, if a Member wants people like the senior citizens to pay to get access to long-distance even if they do not make a call, then they must vote for the Tauke substitute. If a Member does not like the access charges imposed by the FCC and the Tauke substitute, then a Member needs to vote against the Tauke substitute.

Mr. WIRTH. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, every major piece of legislation that comes to the House floor generally has an amendment that guts that bill, and for H.R. 4102, that moment has arrived. The Tauke amendment, if it is adopted, will in effect gut this legislation that we are now debating.

I think the issue is not over how much money is going to be involved in the direct access fee, whether it begins at $2 or whether it is delayed for a while and it begins at $1. The debate ought to be over the concept of direct access. Should we have one at all? Because once it is in place, believe me, it is going to have an escalating path of increases and increases and more increases. What this debate is about is how we block the idea of direct access and how we maintain some semblance of the present system.

But, Mr. Chairman, my presence on the floor this afternoon is in behalf of senior citizens. As chairman of the Select Committee on Aging, and the Subcommittee on Housing and Consumer Affairs, I am vitally interested in how this amendment will adversely impact senior citizens. The gentleman for Oregon (Mr. WYDEN) has made reference to various senior citizens organizations. I can underscore that by saying that every single major senior citizens organization in this country fully supports the Wirth bill. The National Council of Senior Citizens, the American Association of Retired Persons, the Grey Panthers—all of them—know that this is an important consumer issue, and if we look at the statistics, we can easily see why.

Close to 15 percent of this Nation's elderly live in poverty. Over 10 percent more have incomes that fall between the official poverty line. Eighty percent of the elderly who live alone are women. They are going to be the victims of this amendment if it is adopted.

In a recent CBS poll, it was found that 42 percent of all Americans believe they might be forced to discontinue telephone service if local rates double, which they most assuredly would do if the Wirth bill is not passed in its present form. Over half of those, over 64 percent, believe that they might be forced to discontinue service if rates are doubled, and, finally, 72 percent of low-income persons might be forced to discontinue service if local rates are doubled.

Mr. Chairman, what this debate is about and what is so vital in the Wirth legislation is that if it does not pass, many of this country's senior citizens will be without the direct service of telephones in the future.

I would like to quote just a few statements that have been made before my subcommittee, which has been conducting hearings on this issue. This is from Bill Hutton of the National Council of Senior Citizens:

> The National Council fully supports H.R. 4102 because it would overturn the residential access charge.

That is exactly what the Tauke amendment would attempt to do. It would impose a direct access fee but over a longer period of time.

> Tragically, unless H.R. 4102 is passed, soaring telephone rates will force thousands of senior citizens to give up their telephone—their lifeline to the world.

That is from Bill Hutton of the National Council of Senior Citizens.

In my district, where we also had hearings on this subject, Minnie Lingreen stated this before the committee:

> This is essential to understanding our country, to be a part of a community, a State, or our Nation. Wise men believed this, when in 1912, Congress passed laws which made it possible to send letters for the same price nationwide—rather than differentiating between rural and urban areas.

Mr. Chairman, we ought to have that same right and that same privilege with telephones. I urge opposition to the Tauke amendment.

Mr. WIRTH. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. BOSCO).

Mr. BOSCO. Mr. Chairman, I commend Chairmen DINGELL and WIRTH on H.R. 4102 because it is the only opportunity the Congress will have to reverse a misguided FCC policy that will hurt millions of Americans and that is based purely on textbook assumptions that have no basis in fact. I oppose the amendment before us because it would impose the FCC provisions simply taking a longer period of time.

The question before us is who should pay for some $25 billion worth of wires, poles, and equipment, much of which is outdated and rapidly becoming technologically obsolete. The FCC argues that local phone users should pay these costs because for years they have been subsidized by long-distance ratepayers and it's now time to end the subsidies and properly allocate costs. Moreover, were the large corporate long-distance users forced to pay even a part of this bill, they would purchase available technology and simply bypass the telephone system altogether leaving the rest of us to pay a larger share of capital costs.

Both FCC arguments are unsupported by facts or experience.

First, as Judge Greene, who presided over the AT&T case, observed, there is no evidence that long-distance ratepayers have subsidized local users. It is more accurate to say that telephone rate structures have always been a hodge-podge of subsidies and cross subsidies designed by AT&T itself to erect barriers to entry of competitors. Because AT&T has controlled the separation of rates for years with almost no FCC scrutiny, it has responded to long distance competition by consistently lowering rates and loading costs onto the local side of the ledger. Keep in mind that no one has ordered AT&T to subsidize either local or long-distance usage, but ratemaking has rather been more a matter of legerdemain than one of true cost allocation for any type of usage. Since 75 percent of the territory of our country receives phone service constructed by independent companies and financed largely through rural electrification loans and grants, one could just as well argue that the taxpayers have subsidized both local and long-distance service. Moreover, since local telephone equipment is designed for long-distance usage and over-designed for simple local use, this, too, is a subsidy. The technology developed by Bell Laboratories over the years is 90 percent paid for by local subscribers, yet another subsidy. There are also claims that business has subsidized residential use, terminal equipment subsidizes local service, and yellow pages contribute to local costs as well.

Relative to the threat of by-pass, the FCC is also off base. By-pass has existed as a threat and a reality throughout the entire history of the telephone. Telegraph, radio, microwave, and satellite are some examples, and there are many more to come. Special services, such as WATS, private lines, telpak, and others are ways that AT&T itself has bypassed the basic phone system. Most by-pass today will be incurred for noneconomic reasons—reasons that include efficiency and high speed data transmission. By-pass on the part of substantial users will occur whether or not they are forced

to pay their fair share of the capital costs. The FCC has foolishly bowed to this technological blackmail by imposing access fees on average residential users. Yet this charge will create a new type of widespread bypass—that which occurs when people drop off the system for financial reasons and thus do not bear a share of the fixed costs.

The bill before us honestly apportions the costs of the telephone system among all who benefit from it. It is imperative that Congress repudiate the FCC for its faulty logic and poor judgment, and this is our opportunity to do it.

□ 1810

The CHAIRMAN. The time of the gentleman from California (Mr. Bosco) has expired.

Mr. BROYHILL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of the Tauke substitute.

I want to make clear to those who are listening that the Tauke substitute is proconsumer. It gives more assistance to people who are threatened by an increase in telephone rates, for lifeline subsidy, and also for the rural telephone subsidy than H.R. 4102 does.

It gives substantially more assistance to rural telephone companies in 33 States than does H.R. 4102.

This bypass question has just come up again, and it is a serious problem. The fact is that under the present system the long-distance rates are kept artificially high and there is incentive for large users to get off the system and to build their own.

H.R. 4102 freezes in the present system. Let me give you the dollars that we are talking about here. At the present time some $6.5 billion is transferred from long distance to local. Under the FCC decision, that transfer would be brought down to $1 billion. Under H.R. 4102, that transfer is $5 billion. Under Tauke, it is $3 billion.

What we are concerned about is that if long distance rates remain artificially high, there is going to be an incentive to bypass.

I would like to read a letter from the chairman of the FCC. He says that the bypass charges in H.R. 4102 "will not deter large users from leaving the public network."

He goes on to say that—

> The bypass tax for a privately built "pure" bypass system, (assuming that the bypasser does not opt out from paying bypass charges under the H.R. 4295 revisions) is set at a maximum of 10 percent of the private line surcharge, or about $2.50 per line per month. A conservative estimate of usage-based charges which might be avoided through these bypass systems is 15 cents per minute per MTS calling.

It goes on to say that—

> Therefore, the crossover point to bypass is less than 20 minutes of calling per month. It is obvious that this will make uneconomic bypass attractive to any reasonably large customer, solely to escape the subsidies connected with use of the public network.

Also, according to the FCC figures, the top 100 users of long-distance service in this country utilize 20 percent of the system. We can see if those 100 largest users were to get off the public system, then the little users are the ones that are going to pick up the extra cost, as they have to pay for the greater costs of a system that is less utilized.

Mr. RITTER. Mr. Chairman, will the gentleman yield on that point?

Mr. BROYHILL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I think the gentleman from North Carolina is hitting on an extraordinarily important point.

The fact is that the major by-passers in this country are dead set against this bill because they fear being taxed.

Now, if the by-pass does not touch the sysem at all under this self-certification mechanism, they will not be taxed.

Now, what that says is that the future construction of by-pass systems is going to attempt to completely avoid any connection with the old system.

I say, where is the $1.6 billion in taxes going to come from in order to support the local service that has been factored into this bill? Some other consumers are going to pay it. It is not the big corporate long-distance users. It is going to be long-distance users in neighborhoods, minorities, poorer people who do use an enormous amount of long distance.

I might add, if the gentleman will yield further, the high-tech companies, the gentleman from California (Mr. Basco) stated that they are going to by-pass anyway. The high-tech companies are against this bill. They are just not as organized as some of the more favored recipients of benefits in this bill; but California, Massachusetts, the State where the gentleman from Massachusetts (Mr. Markey) comes from, he is going to suffer.

Mr. WIRTH. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. Richardson).

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 4102, the Universal Telephone Service Act of 1983, of which I am an original cosponsor. I think it is imperative that the House act quickly on this legislation because our Nation faces a crisis.

For more than five decades, it has been our Nation's policy that a universal telephone service network should be created through affordable local telephone rates. It has been our Government's view that our society and our economy are better off when all Americans are able to communicate with each other through their telephones.

During the past 20 years, we have made great strides toward achieving that goal. Achieving a comprehensive telephone network in urban areas and mid-sized cities was relatively easy, but in the rural, sparsely populated areas of the Southwest, such as my district in northern New Mexico, it has been a continuing struggle. In many areas of my district, Ma Bell did not want to provide service becasue the cost of placing poles and wires for long distances is very costly and less profitable. The farmers, and ranchers, and shopowners living in these areas had to set up rural telephone cooperatives or wait for a smaller company to come in and provide service. Many of these areas still have pockets where telephone service is not available or where low income families cannot afford it. But, Mr. Chairman, until recently we have been making progress.

Now this administration wants to turn back the clock on universal telephone service through an administrative order that is unwarranted, unfair, and unbelievable. The Federal Communications Commission's long distance access charge decision would saddle local residential telephone users with a $24-a-year fee beginning January 1. By 1990, this fee would soar to almost $100 a year. And what is this fee for? According to the FCC, residential telephone customers would be assessed a monthly fee solely for the right to receive long distance telephone service, regardless of whether the customer makes any long distance calls, and even though statistics show that 40 percent of residential telephone customers do not use long distance.

The impact of this fee on the future of universal telephone service is quite clear. The imposition of this fee, if Congress fails to stop it, will be a disaster. By American Telephone & Telegraph's own admission, approximately 10 percent of the residential customers across the Nation will be forced to disconnect their telephones because they will not be able to afford this access fee. And, of course, the impact will be felt quickest and most severely among senior citizens, blacks, Hispanics, those on low and fixed incomes and those living in rural high cost of service areas such as northern New Mexico.

But, Mr. Chairman, the ramifications of the FCC's order are far greater than simply placing a regressive fee on the backs of local, residential, telephone customers. The FCC also plans to impose a $6-a-month fee on local business telephone customers, and, at the same time, reduce AT&T's contribution to the cost of constructing and operating the local poles and wires, or jointly used facilities, by a commensurate amount. Under the FCC plan, by the end of the decade AT&T will not pay 1 cent for the cost of maintaining

jointly used facilities, even though AT&T needs those jointly used facilities to complete its long-distance calls.

Mr. Chairman, I think the FCC's plan is outrageous. Local telephone customers already pay a hefty portion of the cost of maintaining these jointly used facilities through their intrastate and local tariffs. To ask them to be saddled with all of the costs for jointly used facilities is totally unfair, particularly when my colleagues realize that the only beneficiaries of this order will be AT&T and its large corporate long-distance telephone customers.

AT&T claims that the FCC's order is fair. They have argued that although local telephone rates will rise, there will be a commensurate drop in long-distance tariffs. They have claimed it would all be a wash. But to date, Mr. Chairman, it has been anything but a wash.

Under the FCC's order, AT&T's costs will drop next year by approximately $4 billion. Yet, to date, AT&T has announced that it plans to reduce long-distance telephone rates by only $1.75 billion. What will happen to the remaining $2.25 billion? Apparently AT&T plans to keep this whopping sum for itself and its stockholders.

I do not believe the administrative actions of the FCC or any Federal agency should be used by a regulated industry such as AT&T to earn a massive windfall. To make certain this does not happen, I offered an amendment, which was approved by a wide margin in the Energy and Commerce Committee, to require the FCC to insure to the maximum extent practicable that AT&T and any other long-distance carrier passes through to its local customers all savings under the FCC's order.

Mr. Chairman, my amendment is important for two reasons. First, it obviously will thwart AT&T's attempt to exploit the confusion surrounding the impending divestiture of AT&T's local operating companies by sneaking a curve ball administrative order by the Congress. But, second, and equally important, my amendment will lay to rest much of the Bell local operating companies' claims that without the long-distance access fees, large business long-distance customers will have an economic incentive to install private telecommunications systems and bypass the local companies. The bypass issue is real. If there is large exodus from the local operating companies, the local companies will lose needed revenue and rates for the consumers remaining on the system will invariably go up. But the best way to prevent this is to keep long distance rates as low as possible by passing all of AT&T's cost savings on local customers. $2 billion in reduced long-distance rates will do more to prevent bypass than anything else.

As I mentioned earlier, Mr. Chairman, the FCC plans to place a $6-a-month access fee on local business telephone customers. Reasonable minds may disagree about the wisdom of placing any additional costs on the backs of businesses in the current economic climate. However, I think we can all agree that small businesses can not shoulder the $72 a year the FCC would ask them to pay.

H.R. 4102, as introduced would exempt residential local telephone customers from the monthly long-distance access fee because of the inequities it creates for many consumers and the retreat it would bring to our national effort to achieve universal telephone service. During the committee's markup of H.R. 4102, Congressmen WYDEN, GORE, and I offered an amendment to create a similar exemption for small business telephone users. Under our amendment those businesses with one telephone line would not be required to pay the $72 a year envisioned under the FCC's order. For the millions of service station dealers, restaurant owners, and other small businesses across the country who have been struggling to stay afloat during the economic downturn we have experienced during the past 3 years, this exemption will bring much needed relief.

Finally, Mr. Chairman, as someone who represents a largely rural, sparsely populated district, I want to underscore the importance of the universal telephone service preservation fund. These areas are the most costly to provide service and the least profitable. Yet, they are also the areas where a telephone is most vital. Many of my constituents live on farms or ranches where the nearest neighbors is more than 1 mile away, where the nearest grocery store or gas station is 5 miles away, and where the nearest hospital is more than 75 miles away. These people must have affordable local telephone service because a telephone is a necessity for them, not a luxury.

Obviously, the long-distance access charges in the FCC order are totally unacceptable for their situation. But they will also need special help beyond the elimination of the access fees for residential users, as provided in the bill. That help will come in the form of the funds which will be made available to the States through the universal telephone service preservation fund. This fund will help defray the cost of providing local telephone service in rural and high cost of service areas. In many areas of my district, the fund's resources literally may make the difference in whether or not a family will be able to continue to afford a telephone. If we are still committed to the concept and principle of universal telephone service, then we will support the fund wholeheartedly and not let debate degenerate into a petty fight over which region of the country gets more money.

In summary, Mr. Chairman, this is an important piece of legislation. Indeed, it is one of the most important pieces of legislation effecting the telecommunications industry and consumers that this House has considered in many years. This is not a punitive measure against any company, nor is it a measure to benefit any political political party. Rather this is an amendment which simply restores some balance to our Nation's policy toward the use of jointly used facilities. This bill simply asks that all users pay their fair share. In doing so, we will go a long way toward realizing our goal of universal telephone service that is affordable and accessible for all Americans.

I commend the gentleman from Colorado, the distinguished chairman of the Telecommunications Subcommittee, and the gentleman from Michigan, the chairman of the Energy and Commerce Committee, for their superb work in shepherding this legislation to the floor. I urge my colleagues to vote in favor of this legislation which is urgently needed to modify the FCC's terribly misguided long-distance access order.

Mr. WIRTH. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in opposition to the Tauke substitute, but I say, while doing that, that the Tauke substitute is not without merit. It is a very finely crafted and well thought out document which he has put together. But it is not as good as the document which the gentleman from Michigan (Mr. DINGELL), the gentleman from Colorado (Mr. WIRTH) and the members of the Energy and Commerce Committee have put together over the past several months.

We have tried to carefully balance the interests of the residential, of the competitors, of the small business people of this country, in a way that makes it possible for all to have a piece of the pie without one having a disproportionate share of it. That is why this is a better bill.

As we come down to the final moments of this debate, we have a decision to make. Either we are going to be with AT&T and their million dollar campaigns and full page ads, or we are going to be with every consumer, labor, and senior citizen group in this country that want to see this amendment defeated. That is what this issue is all about, a company that cannot be satisfied with anything less than the entire pie, which still comes in and demands to extract those last small number of dollars out of the small users of phones in this country.

I hope the Tauke amendment is defeated.

Mr. WIRTH. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS. Mr. Chairman, I rise in opposition to the Tauke amendment.

I, too, think it is a finely crafted piece of legislation; however, the big issue here is whether or not there are going to be access charges. The author of this amendment made some meritorious remarks about the flow of money that will go from one State to another. I have an amendment that will correct that problem; that is, an amendment to more fairly equalize the contributions made by each State to the rural fund.

However, inasmuch as H.R. 4102 has no access charge at all, I think it is far superior to the Tauke amendment and I hope we will vote the Tauke amendment down.

□ 1820

Mr. WIRTH. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding me this time.

Mr. Chairman, universal telephone service has been a national policy and practice ever since the Communications Act of 1934. Congress will demonstrate the continuing commitment to that policy by passing H.R. 4102, the Universal Telephone Service Preservation Act.

In many of the presentations that I have read and heard over the last several weeks about this legislation, what I have seen is that the provisions of this bill distort it so as to divide State against State and region against region. The resulting confusion has had the effect of obscuring the real issue, and that is the transfer of billions of dollars of telephone costs from long distance services and customers to local, residential, and small business customers.

H.R. 4102 does not create regional conflict. Under the current telephone system customers in certain States pay more than the actual cost of providing telephone service. Customers in New York, for example, pay a premium on their phone bills to lower the costs of customers in high-cost areas such as Oregon, for example. Those tradeoffs have made universal telephone service possible.

The FCC plan moves away from the universal telephone service concept and sets up a new pricing system, that flat monthly access charge. That is what the Tauke amendment does. Despite a 1-year delay, it has a long distance access charge of $4 a month for every local telephone customer, even if the customer makes no long distance calls and with inflation, that could rise as high as $11 a month, not counting inflation. That does not make a lot of sense, to go back to something that people fear.

Under the FCC plan, there is assistance for high-cost areas through a rural fund, makes payments to local companies with high costs, but H.R. 4102 provides service for high-cost and low-income persons through a universal service fund, but it does it in a way that minimizes the interstate transfers.

Because of the differences among States, some may gain from the USF in H.R. 4102 because telephone customers in these States will contribute less to the USF than they receive. It is important to recognize that unlike the FCC plan, H.R. 4102 minimizes those interstate transfers by requiring the FCC to average "nontraffic sensitive costs" on a national basis, only as necessary to preserve universal telephone service.

I urge my colleagues to carefully consider the national impact of H.R. 4102, and that is the preservation of universal telephone service—and to recognize the so-called regional issue as both a distortion and misrepresentation of the thrust of H.R. 4102.

H.R. 4102 is not a rural-issue. The USF contains funding for both low-income persons, wherever they live, and high cost rural areas. The high cost fund will provide direct payments to small telephone companies in rural areas, where telephone service is expensive to provide. Local telephone companies—both rural and urban—will receive "lifeline" funds for providing State-approved lifeline service to low-income citizens to help defray the costs of this service.

Both the FCC plan and H.R. 4102 provide assistance to rural areas, but it is important to note that H.R. 4102 also provides further assistance to low-income persons, recognizing that poverty is not limited to rural areas.

Rural and senior citizen groups—such as the National Farmers Union, the National Council of Senior Citizens, the National REA Telephone Association and the American Association of Retired Americans—support H.R. 4102 because of its strong lifeline and rural funds.

For our Nation's elderly and rural persons, the telephone is a vital link to medical, police and emergency services. Congress has the opportunity today to assure access to these crucial communications for our neediest citizens and for our rural areas. H.R. 4102 would protect small independent telephone companies and cooperatives from disproportionate increases in costs. Targeted assistance from the Universal Service Fund will enable these companies to provide phone service at reasonable cost to remote and rural areas.

Individuals receiving SSI, AFDC or food stamps, would qualify for lifeline service. States would be given discretion to broaden these criteria to take into account their special needs such as unemployment. Those receiving lifeline service would pay from one-third to one-half of the actual cost of service with the State and Federal Government paying for the remainder. The cost of the Universal Service Fund is small to maintain telephone service at a reasonable cost for rural areas and the needy.

H.R. 4102 is a fairness issue. The real issue in our debate should be who will pay for interstate non-traffic-sensitive plant—the poles, wire and cable which make up our telephone system, which must be recovered by each State annually. These costs are currently borne by long-distance companies and customers and must be paid regardless of whether the FCC plan or H.R. 4102 is implemented. The amount a State may gain or lose under the USF is small in comparison to the hundreds of millions of dollars in non-traffic-sensitive plant costs.

Instead of scrutinizing the dollars a State may gain under the Universal Service Fund contained in H.R. 4102, we must focus on the allocation of these NTS costs within each State. Under the FCC plan, the cost of non-traffic-sensitive plant, which is now recovered from interstate long-distance companies will be placed disproportionately through a flat monthly access charge on local residential and small businesses customers who use far less long distance. The FCC plan places an inordinate and inequitable burden on these customers, since their use of long-distance service is relativley small.

The average residential customer, saddled with a $2 access charge in the first year of the FCC plan, would have to make 2 hours of long-distance calls before he would start to benefit from lower rates. Those who use long distance frequently—big businesses mostly—would profit most from the proposed rate decreases.

Consumer groups—such as Congress Watch, Consumers Federation of America, Consumers Union, and the National Consumers League—also recognize the inequities of the FCC plan in placing disproportionate fixed costs on residential consumers.

H.R. 4102 represents a fair mechanism for allocating the costs of maintaining public telephone networks by requiring long-distance companies and customers who use it most to pay for it. H.R. 4102 insures that these costs are equitably shared by those who use and benefit from the public telephone network.

I urge my colleagues to support H.R. 4102.

Mr. WIRTH. Mr. Chairman, I yield 5 minutes to the gentleman from West Virginia (Mr. WISE).

Mr. WISE. I thank the gentleman for yielding me this time.

Mr. Chairman, I have been sort of befuddled around here the last few days with the numbers that are flying around. This whole thing is a big numbers game. I have checked with the Tauke substitute, looked at the numbers, and the numbers say that West Virginia, and I am from a rural State, and that is important, because rural States are the ones that are supposed to benefit.

Heaven help us from these kinds of benefits. Please do not help me any more like this, because I look at the Tauke substitute and what I see on paper is, there is supposed to be some kind of interregional transfer of several million dollars, 8 or 10 or something, but that sounds good. You know, that is what the long-distance users, and of course, you know, a lot of folks do not call long distance, but that is the difference between what the long-distance users put into the universal fund versus what we get back.

To get that kind of benefit, I have to vote to charge all consumers in West Virginia $41 million in access fees, so to get $10 or $11 million, I have to charge them $41 million.

Even in the mountains, that is not good math, and we never really liked that kind of thing. That does not make any sense, and then I start looking at the other statistics and it looks good. Yes, certain States will pick up money from this transfer but the only problem is to get it, all their consumers have to pay three times whatever it is they are getting.

The way I look at it is the universal service fund lifeline rate says fine, we need to help those people, but I want to make sure the system is right from the beginning and then you do not need to help them. That is an important point to make.

Let us face what the Tauke substitute is. It is the son of access. You had access, and that was not palatable and even the FCC has backed off of access, so now you got the son of access. I lived in a neighborhood, and the father and son looked just alike. He was much bigger and mean, and there was a 10-year old kid. He looked just like the dad, but the one thing was, he was small.

As I have said, remember, you got the big father and the little kid, and you kind of want to side with the kid, because he is not as big as the father.

That kid grows up, and one day the son of access is as big as access. That is important. Talk about numbers, I would like to talk about numbers. Here are 211 people that have written me and asked me not to do anything this year.

All right, now, I would like to put these in front of you. We want to talk about numbers. Here are 81,000 people from the Third Congressional District that have signed coupons, sent petitions, letters, whatever and said, "Please do something."

They do not want access or the son of access. They want H.R. 4102. I hope that all of us in all our districts listen to the people just like in my district. You can see where the numbers lie.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Does the gentleman from Iowa (Mr. TAUKE) wish to yield time for the gentleman from North Carolina (Mr. BROYHILL).

Mr. TAUKE. Yes, Mr. Chairman.

The CHAIRMAN. How much time does the gentleman want?

Mr. TAUKE. Mr. Chairman, I expect to use the remainder of the time.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. TAUKE. Mr. Chairman, we are coming to the conclusion of a long debate over this substitute. Listening to the debate, one might think that it is AT&T versus the world. I feel a little sorry and regretful to tell the people that AT&T does not even support my substitute.

This issue is a question of a telecommunications system of the past versus a telecommunications system of the future. We attempt to establish a telecommunications system for the future by building a system which targets assistance to those areas which need it, to those individuals which need it in order to be part of that integrated universal telephone service system.

We provide, as a result, more dollars for the rural high-cost areas and more dollars for low-income users than is provided in H.R. 4102.

We do have a difference of opinion, however, as to how we should handle end user charges, how we should handle the shift of money from long distance to local.

At the current time the long-distance system contributes about $6.5 billion to support fixed costs at the local level. Under the FCC decision, that figure would have dropped from $6.5 billion to $1 billion coming from long distance to local to support the fixed costs of that system.

Under the amendment that I am offering, we go to $3 billion that will come from long distance to local to support the fixed costs in the local system.

We believe that strikes a fair balance between trying to insure that there is reasonably priced local service while at the same time insuring that we do not have all the disadvantages of a permanent massive subsidy from long distance to local.

What do we do when we refuse to permit cost-based pricing in this telephone system? First, we artificially hold up long-distance rates; and when we artificially hold up long-distance rates, we encourage major users who will depart the system, thus causing a shrinking of the rate base. That shrinking of the rate base means that the average local residential consumer is going to have to pick up a bigger share of the fixed costs.

Second, it discourages the development of technology by refusing to encourage new technology, and in fact, subsidizing the old technology making it possible for new technology to compete.

That, of course, means that the cheaper rate service, rates that would be available to consumers with that new technology will not be available to them so as a result, this effort to subsidize local service actually results in higher local service costs in the long run.

Ladies and gentleman, there is an old saying that a politician looks to the next election and a statesman looks to the next generation. In supporting this substitute, I ask you to look to the next generation, the next generation which is going to need a strong communication system, the next generation which is going to need a strong telecommunications industry promoting new technology giving us an edge in the world marketplace and providing jobs for our people, the next generation which is going to need an integrated communications system so we can all be one nation, thinking and talking and communicating together.

□ 1830

In a sense, that is what we are asking you to do. Support the next generation and the technology of the future rather than clinging to the monopoly and the old technology of the past.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROYHILL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 264, not voting 28, as follows:

[Roll No. 488]

AYES—142

Archer	Carper	Crane, Philip
Badham	Chandler	Daniel
Barnard	Chappie	Dannemeyer
Bartlett	Cheney	Daub
Bateman	Clinger	Davis
Bereuter	Coats	DeWine
Bethune	Conable	Dreier
Bliley	Conte	Duncan
Boehlert	Corcoran	Edwards (AL)
Brown (CO)	Coughlin	Edwards (OK)
Broyhill	Courter	Emerson
Campbell	Craig	Erlenborn
Carney	Crane, Daniel	Evans (IA)

Fiedler	Loeffler	Robinson
Fields	Lott	Rogers
Fish	Lowery (CA)	Roth
Forsythe	Lujan	Roukema
Franklin	Lungren	Rowland
Frenzel	Mack	Rudd
Fuqua	Madigan	Schaefer
Gekas	Marriott	Schneider
Gilman	Martin (IL)	Sensenbrenner
Gingrich	Martin (NC)	Shaw
Goodling	McCain	Shumway
Gradison	McCandless	Shuster
Green	McCollum	Siljander
Gregg	McEwen	Skeen
Hammerschmidt	McGrath	Smith (NJ)
Hansen (ID)	McKinney	Solomon
Hansen (UT)	Michel	Spence
Hartnett	Miller (OH)	Stump
Hiler	Moore	Sundquist
Hillis	Moorhead	Tauke
Holt	Morrison (WA)	Taylor
Hopkins	Myers	Thomas (CA)
Horton	Nielson	Thomas (GA)
Huckaby	Oxley	Vander Jagt
Hyde	Packard	Vucanovich
Johnson	Parris	Walker
Kasich	Pashayan	Whitehurst
Kemp	Porter	Whittaker
Kindness	Pritchard	Wolf
Lagomarsino	Quillen	Wortley
Latta	Ray	Wylie
Leach	Regula	Young (AK)
Lent	Rinaldo	Zschau
Lewis (CA)	Ritter	
Livingston	Roberts	

NOES—264

Ackerman	Dowdy	Jeffords
Addabbo	Downey	Jones (NC)
Akaka	Durbin	Jones (OK)
Albosta	Dwyer	Jones (TN)
Alexander	Dymally	Kaptur
Anderson	Dyson	Kastenmeier
Andrews (NC)	Eckart	Kazen
Andrews (TX)	Edgar	Kennelly
Annunzio	Edwards (CA)	Kildee
Anthony	English	Kogovsek
Applegate	Erdreich	Kolter
Aspin	Evans (IL)	Kostmayer
AuCoin	Fascell	LaFalce
Barnes	Fazio	Lantos
Bates	Feighan	Leath
Bedell	Ferraro	Lehman (CA)
Beilenson	Flippo	Lehman (FL)
Bennett	Florio	Leland
Berman	Foglietta	Levin
Bevill	Foley	Levine
Biaggi	Ford (MI)	Levitas
Bilirakis	Ford (TN)	Lipinski
Boggs	Fowler	Lloyd
Boland	Frank	Long (LA)
Boner	Frost	Long (MD)
Bonior	Garcia	Lowry (WA)
Bonker	Gaydos	Luken
Borski	Gejdenson	Lundine
Bosco	Gephardt	MacKay
Boucher	Gibbons	Markey
Boxer	Glickman	Marlenee
Breaux	Gonzalez	Martinez
Brooks	Gore	Matsui
Bryant	Gray	Mazzoli
Burton (CA)	Guarini	McCloskey
Byron	Gunderson	McCurdy
Carr	Hall (IN)	McDade
Chappell	Hall (OH)	McHugh
Clarke	Hall, Ralph	McKernan
Clay	Hall, Sam	McNulty
Coelho	Hamilton	Mikulski
Coleman (MO)	Harkin	Miller (CA)
Coleman (TX)	Harrison	Mineta
Collins	Hatcher	Minish
Conyers	Hawkins	Mitchell
Cooper	Hayes	Moakley
Coyne	Hefner	Mollohan
Crockett	Heftel	Moody
D'Amours	Hertel	Morrison (CT)
Darden	Hightower	Mrazek
Daschle	Howard	Murphy
Dellums	Hoyer	Murtha
Derrick	Hubbard	Natcher
Dicks	Hughes	Neal
Dingell	Hunter	Nelson
Dixon	Hutto	Nichols
Donnelly	Ireland	Nowak
Dorgan	Jacobs	Oakar
Oberstar	Savage	Torricelli
Obey	Sawyer	Towns
Olin	Scheuer	Traxler
Ortiz	Schroeder	Udall
Ottinger	Schumer	Valentine
Owens	Seiberling	Vandergriff
Panetta	Shannon	Vento
Patman	Sharp	Volkmer
Patterson	Shelby	Walgren
Pease	Sikorski	Watkins
Penny	Sisisky	Waxman
Pepper	Skelton	Weaver
Perkins	Slattery	Weber
Petri	Smith (FL)	Weiss
Pickle	Smith (IA)	Wheat
Price	Smith, Robert	Whitley
Pursell	Snowe	Whitten
Rahall	Snyder	Williams (MT)
Rangel	Spratt	Williams (OH)
Ratchford	St Germain	Wilson
Reid	Staggers	Wirth
Richardson	Stangeland	Wise
Ridge	Stokes	Wolpe
Rodino	Stratton	Wright
Roe	Studds	Wyden
Roemer	Swift	Yates
Rose	Synar	Yatron
Rostenkowski	Tallon	Young (FL)
Roybal	Tauzin	Young (MO)
Sabo	Torres	Zablocki

NOT VOTING—28

Britt	Kramer	Schulze
Broomfield	Lewis (FL)	Simon
Brown (CA)	Martin (NY)	Smith (NE)
Burton (IN)	Mavroules	Smith, Denny
de la Garza	Mica	Solarz
Dickinson	Molinari	Stark
Early	Montgomery	Stenholm
Gramm	O'Brien	Winn
Hance	Paul	
Jenkins	Russo	

□ 1840

The Clerk announced the following pairs:

On this vote:

Mr. O'Brien for, with Mr. Mica against.

Mr. Martin of New York for, with Mr. Stark against.

Mr. Lewis of Florida for, with Mr. Simon against.

Mr. Winn for, with Mr. Hance against.

Mrs. Smith of Nebraska for, with Mr. Solarz against.

Messrs. SAWYER, MURPHY, and YOUNG of Missouri changed their votes from "aye" to "no."

Mr. HANSEN of Idaho and Mr. HORTON changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1850

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the gentlewoman from Maryland (Mrs. BYRON) be recognized out of order for the purpose of offering an amendment to section 4.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. CORCORAN. Mr. Chairman, reserving the right to object, I would like to yield to the distinguished chairman of our committee to inquire whether or not this is one exception to regular order or whether or not we are changing regular order.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

The gentlewoman from Maryland (Mrs. BYRON) has to catch a plane for Lebanon tonight. And it is for that reason that I have made the unanimous-consent request so that she can do so.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Chairman, I have agreed to the amendment.

My only problem is that the gentleman from New Jersey is going to offer an amendment in a few minutes. And I am concerned now, since I find that this is an amendment to section 4, it may preclude the gentleman from New Jersey from offering his amendment.

Is there any way that we can take care of that?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, I do not know what amendment the gentleman from New Jersey has.

I can only tell the gentleman that it is not intended to preclude the gentleman from New Jersey from offering an amendment and if we can share the amendments, back and forth, we can try to see to it that the gentleman is not precluded.

That is not, I tell the gentleman, our intention.

Mr. CORCORAN. Mr. Chairman, further reserving the right to object, as I understand it the gentleman from Michigan is requesting one exception to regular order.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

The gentleman is correct. We are following regular order with the exception of this unanimous-consent request which goes to a different section of the bill because of the committee travel plans of the gentlewoman from Maryland.

I think the gentleman for his understanding.

Mr. CORCORAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL)?

Mr. RINALDO. Mr. Chairman, reserving the right to object, we will accept the amendment and allow the gentlewomen to proceed with the understanding that it will not preclude

the offering of my amendment to that section.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I would love to make that statement. I have to tell the gentleman that I cannot tell the gentleman what the rules of the House would dictate.

But certainly it is not our intention to have misled the gentleman and it is not the intention of this gentleman or the chairman of the subcommittee to preclude the gentleman. We will try to work with him and see to it that he is not precluded from his amendment.

Mr. RINALDO. Mr. Chairman, then at this point I will ask unanimous consent that following the Corcoran amendment I be allowed to offer my amendment to sections 4 and 5 en bloc.

The CHAIRMAN. The Chair will advise the gentleman that we can only have one request for unanimous consent pending at one time.

Does the gentleman from Michigan modify his unanimous-consent request at this time?

Mr. DINGELL. Mr. Chairman, I do not have the floor. I have made a unanimous-consent request which is the business of the House. After that if I can get recognized I will certainly yield to the gentleman.

The CHAIRMAN. The gentleman from New Jersey has reserved the right to object to the gentleman's request that the gentlewoman from Maryland be allowed to proceed out of order for her one amendment.

The Chair is trying to expedite the business here.

Mr. DINGELL. Mr. Chairman, will the gentleman from New Jersey yield?

Mr. RINALDO. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman.

I have not had a chance to review his amendments with the care that I would like. But staff has reviewed them in a hasty fashion and they advise me that the gentleman would not be precluded by the amendment offered by the gentlewoman from Maryland.

And I tell the gentleman I would not object to his offering them en bloc.

Mr. RINALDO. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL)?

There was no objection.

AMENDMENT OFFERED BY MRS. BYRON

Mrs. BYRON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRON: Page 17, after line 22, insert the following:

(f) Section 201 of the Communications Act of 1934 (as amended by this Act) is further amended by adding at the end thereof the following new subsection:

"(e)(1) A State commission may provide that foreign exchange service be available—

"(A) to any subscriber with respect to exchange areas which are within the same standard metropolitan statistical area; and

"(B) to any subscriber who was provided foreign exchange service on the date of the enactment of this subsection, notwithstanding that the exchange areas involved are in different standard metropolitan statistical areas.

"(2) As used in this subsection—

"(A) the term 'foreign exchange service' means service under which a subscriber within one exchange area may elect, for all purposes, to receive telephone service as if that subscriber were located within another exchange area designated by the subscriber; and

"(B) the term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more as defined by the Office of Management and Budget.".

Page 17, line 23, strike out "(f)" and insert in lieu thereof "(g)".

Mrs. BYRON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. BYRON. Mr. Chairman, I offer this amendment today which I believe will prevent a serious inequity from occurring in the outlying suburban and rural areas because of the divestiture which is to take place.

Mr. WIRTH. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentlewoman for yielding.

Mr. Chairman, this amendment is acceptable to the subcommittee and the full committee. I think it is a valuable contribution to the legislation. We hope it will be accepted.

Mr. RINALDO. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentlewoman for yielding.

Mr. Chairman, on this side we would be pleased to accept the amendment. I commend the gentlewoman for offering the amendment.

Mrs. BYRON. I thank the gentleman.

Mr. DYSON. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Maryland.

Mr. DYSON. I thank the gentlewoman for yielding.

Mr. Chairman, this is something peculiar to our region in Maryland and in some parts of Virginia.

Mr. Chairman, I rise in support of the amendment offered by Representative BEVERLY BYRON of Maryland. This amendment would preserve the vital telephone service between adjacent telephone exchange areas currently provided small businesses and residents in surrounding metropolitan areas.

Presently, customers in telephone exchange areas may purchase foreign exchange service from the local telephone company. This service allows an unlimited number of calls—calls which would otherwise be long distance or toll service—between two exchange areas.

Under the divestiture agreement that has been formally approved by Judge Harold Green, the Nation was divided into 160 local access transport areas (LATA) which are designed to correspond with standard metropolitan statistical areas.

However, in the State of Maryland these LATA's do not always correspond with the SMSA's and if not modified through this amendment, will result in very serious disruptions to many areas with traditional community and commercial ties to metropolitan areas.

In Maryland's First Congressional District, the loss of foreign exchange service will adversely impact the commercial and community activities of hundreds of residents from Calvert County. This problem, Mr. Chairman, is not peculiar to my district or to the State of Maryland. It is, in fact, a problem that will affect every congressional district in the country.

The amendment offered by Representative BYRON will not modify the divestiture. It will simply permit the State public service commissions to retain the existing foreign exchange service to those areas that fall within the same standard metropolitan statistical area. In addition, the State public service commission will be given the discretion to continue existing foreign exchange service to those customers who are not within the same SMSA. The amendment will not alter the LATA boundaries, nor will it place the local phone company in competition for long-distance, interexchange traffic since the FX service would be offered on a split exchange basis by extending local phone lines into the eligible areas.

Mr. Chairman, I urge all of my colleagues to support this important amendment and protect the interests of our constituents in every corner of this Nation.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to join my colleagues in commending the gentlewoman from Maryland and the gen-

tleman from Maryland for their offering this amendment.

It is a meritorious amendment. They have worked very hard to get it in proper shape. The committee is very happy to accept it and commend them.

I believe that a word of congratulations to the gentleman from Virginia (Mr. BLILEY) is also in order. And I would include him in my commendation.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. BYRON).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 1? If not, the Clerk will designate section 2.

The text of section 2 is as follows:

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the fifty-year effort to bring affordable and universally available telephone service to the public has served the Nation well;

(2) universal telephone service has contributed to the Nation's economic, social, and political integration and development;

(3) the public benefits from universal telephone service because each telephone subscriber receives a more valuable service when virtually anyone else in the country can be called;

(4) significant rate increases will threaten universal service by forcing many Americans, especially the poor, the elderly, the handicapped, and those living in high-cost urban and rural areas, to discontinue their telephone service; and

(5) the national interest demands telephone service that continues to be universally available at affordable rates.

(b) The purposes of this Act are—

(1) to assure the availability to all the people of the United States, affordable, reliable, efficient communication services which are essential to full participation in the Nation's economic, political, and social life;

(2) to assure that the costs of maintaining such availability of services, including interstate directory assistance, are equitably allocated among all users and providers of communication services who benefit from the availability of such services;

(3) to assure that the States have sufficient regulatory authority to maintain universally available and affordable telephone service; and

(4) to assure that the economy, general welfare, and national security of the United States will benefit from continuing improvements in telecommunications technology and the continued development of a competitive telecommunications industry.

AMENDMENTS OFFERED BY MR. CORCORAN

Mr. CORCORAN. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. CORCORAN: Page 3, at line 17, insert the following new subparagraph:

(5) to require the Commission and state commissions to deregulate telecommunications services to the full extent possible whenever and wherever a service or facility is subject to effective competition.

Page 42, at line 20, insert the following new section:

SEC. 14. The Communications Act of 1934 is amended by inserting the following new section:

"SEC. 230. The Commission, every state commission and the Universal Service Board shall deregulate telecommunications services and facilities to the full extent possible wherever and whenever a service, facility or market is subject to effective competition."

POINT OF ORDER

Mr. WIRTH (during the reading). Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WIRTH. Mr. Chairman, we have not seen the amendment.

The CHAIRMAN. Does the gentleman reserve a point of order against the amendment?

Mr. WIRTH. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Colorado reserves a point of order.

The Clerk will continue to read the amendment.

The Clerk continued the reading of the amendment.

□ 1900

Mr. CORCORAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. WIRTH. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will continue to read the amendment.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. CORCORAN) that the amendments be considered en bloc?

Mr. WIRTH. Mr. Chairman, I reserve the right to object, and I reserve a point of order.

Mr. Chairman, we do not know what these amendments are. We have not seen these amendments, we do not know what is being considered en bloc, or whatever.

With all due apologies to the gentleman from Illinois, we have had a very orderly process in which we have all understood what amendments there are. If the gentleman is going to come and offer a variety of amendments that we have not seen, I will reserve the right to object, Mr. Chairman.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, first of all, I want to thank my colleague, the gentleman from Colorado, for yielding; and, second, let me say that 2 or 3 hours ago I did provide both the majority staff and the minority staff a list of the seven or eight amendments which I am planning to offer.

We are in the process now of making a copy of this amendment.

Mr. WIRTH. I understand the gentleman is now making a copy of the amendment, and that is very appropriate. We will have an opportunity now to look at the amendment.

The CHAIRMAN. Before the gentleman from Illinois (Mr. CORCORAN) can proceed further, there must be a disposition of the unanimous consent request to consider the amendments en bloc.

Is there objection to the request of the gentleman from Illinois?

Mr. WIRTH. Mr. Chairman, I will not object. We now have a copy of the amendment.

The CHAIRMAN. The reservation of objection is withdrawn.

Without objection, the amendments will be considered en bloc.

There was no objection.

The CHAIRMAN. The gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes in support of his amendments.

Mr. CORCORAN. Mr. Chairman, I appreciate the consideration of the chairman of the subcommittee. I regret that the appropriate materials were not provided to him. We did try to do that earlier in the day. We have had a long and orderly debate, with an unfortunate conclusion on the so-called Tauke substitute. I do think, though, that we can, at this point, proceed to consider some of these amendments which do not have the breadth and scope that the Tauke amendment had. I think they raise important issues as we for the first time in 50 years attempt to modify the Communications Act of 1934.

Mr. Chairman, one of the consequences of the divestiture agreement that is at issue, to a large extent, in the debate on H.R. 4102, is the question of what will happen with regard to the providers of long-distance service. The amendment that is pending addresses the question of when will we ever get to the point of an unregulated free market with respect to the provision of long distance telephone services.

This amendment would provide the means whereby we would give a legislative direction to the Federal Communications Commission that when they find—and that would include not only, of course, the Federal Communications Commission at the Federal level, but the 50 State public utility commissions as well—that effective competi-

tion among the various companies that provide long-distance service exists, when that obtains, then we ought to allow competition to work, we ought to allow the free market to exercise and to begin the unfettered, unregulated provision of long-distance services.

Now, under current law and under current court orders, that would be wrong, because we are still, at least until January 1 of next year, within a regulated monopoly era.

However, after divestiture takes place, after the Congress works its will on the question of telecommunications policy, I suggest that at some point in the future we will have very effective competition for the provision of long-distance telephone services.

Simply stated, what this amendment does is create a new section to direct the Federal Communications Commission and the State public utility commissions that when they make an appropriate finding, when they go through all of the administrative procedure to determine what the facts are, to determine what the revenues involved are for the various companies that provide long-distance services, when they determine the number of competitors that are providing long-distance services and the nature and extent of that competition, that on the basis of a public hearing, on the basis of that procedure, we would give them the direction to make a decision at some point in time to go ahead and deregulate the telecommunications industry with respect to the provision of long-distance services.

One final point I would make is that earlier in the debate, Mr. Chairman, there was some reference to the impact of deregulation of the airlines. Let me say that the effect of our amendment, the pending amendment, would be quite different from what occurred relative to the deregulation of the airline industry. We are not talking about a flash-cut point, we are not talking about a sudden deregulation. We are giving the regulators the time, the transitional direction to determine when it would be appropriate, when in fact effective competition obtains in the telecommunications industry, to go ahead and fully deregulate the provision of long distance services.

I would hope that my colleagues would support the amendment.

The CHAIRMAN. Does the gentleman from Colorado (Mr. WIRTH) insist upon is point of order?

Mr. WIRTH. No, Mr. Chairman, I do not insist upon the point of order. I withdraw the point of order.

The CHAIRMAN. The gentleman withdraws his point of order.

The question is on the amendments offered by the gentleman from Illinois (Mr. CORCORAN).

The amendments were rejected.

□ 1910

The CHAIRMAN. Are there any further amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

DEFINITIONS

SEC. 3. Section 3 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(hh) 'Exchange access' means the provision of facilities, services, or related functions by an exchange common carrier, to a carrier or other person providing interstate service, for the origination or termination of interstate communication.

"(ii) 'Director interconnection' means the obtaining of exchange access through facilities specifically designated for such purpose by the exchange carrier involved.

"(jj) 'Indirect interconnection' means the obtaining of exchange access from an exchange carrier by any means other than direct interconnection.

"(kk) 'Exchange area' means the geographic area within a State designated by the State as the area within which telephone exchange service is provided.

"(ll) 'Exchange carrier' and 'exchange common carrier' mean a carrier authorized to provide telephone exchange service on a universal basis within an exchange area.".

The CHAIRMAN. Are there any amendments to section 3?

The Clerk will designate section 4.

The text of section 4 is as follows:

ACCESS CHARGES

SEC. 4. (a)(1) The provisions of the system of access charges established under the decision and orders of the Federal Communications Commission in C.C. docket numbered 78-72 (phase I) shall not be affected by this Act, except as provided by section 221A of the Communications Act of 1934, as added by subsection (b) of this section.

(2) To assure that each exchange carrier recovers all costs of providing exchange access during the period beginning January 1, 1984, and ending on the date the system referred to in paragraph (1) takes effect, the methods and procedures applicable on July 1, 1983, for allocating revenues from interstate telephone toll service among carriers shall apply during such period. The Commission shall prescribe such additional procedures as it determines to be necessary for proper allocation and timely distribution of such revenues among such carriers.

(b) The Communications Act of 1934 is amended by inserting after section 221 the following new section:

"TELEPHONE EXCHANGE ACCESS CHARGES

"SEC. 221A. (a) Any system of charges for exchange access established by the Commission shall be in accordance with this section.

"(b) No end-user common line charge shall be assessed on any residential subscriber of telephone exchange service, or on any business or other person that is a subscriber of telephone exchange service and does not have more than one subscriber line.

"(c)(1) A special access charge shall be assessed with respect to any line that has indirect interconnection with the exchange facilities of an exchange carrier, including any dedicated unswitched line, whether or not such line is provided by an exchange carrier.

"(2) The Commission shall provide for an exemption from such charge for—

"(A) any line that by the nature of its operating characteristics (including technical or geographic service characteristics) could not make use of exchange access as a reliable and commercially valuable alternative or be used to avoid charges for exchange access; and

"(B) any line all the facilities for which are located on any single unit or contiguous units of real property leased, owned, or under the control of a person if such line is used solely for internal communications of such person.

"(d)(1)(A) Effective no later than July 1, 1985, any such system of charges for exchange access shall include a charge on any carrier or other person who, without direct or indirect interconnection with the exchange facilities of an exchange carrier, and for commercial or governmental purposes, makes available (for others or for its own use) facilities, services, or related functions for exchange access, comparable to those available from the exchange carrier. Such charge shall—

"(i) reflect the otherwise uncompensated availability of the exchange carrier's facilities for exchange access as a reliable and commercially valuable alternative for the facilities of such person, and

"(ii) allow for recovery of an equitable share of the costs of services, facilities, or other factors that are maintained in order to be able to provide, upon request, exchange service (including exchange access) to those who are covered by this subsection.

"(B) The charge, per line, under this subsection shall not exceed 10 per centum of the special access charge assessed, per line, under subsection (c) on those who have indirect interconnection with the facilities of the exchange carrier, until such time as the Commission prescribes a method of calculating such charge which more accurately reflects the costs imposed upon exchange carriers by persons, or classes of persons, subject to the charge under this subsection. The Commission shall prescribe such method, by rule, as soon as practicable after the date of the enactment of this subsection.

"(2) Any amounts recovered by an exchange carrier under this subsection shall be used to defray the revenue requirements associated with providing residential service in such carrier's exchange area.

"(3)(A) Charges under this subsection shall not apply to any line which by the nature of its operating characteristics (including technical or geographic service characteristics) could not make use of exchange access as a reliable and commercially valuable alternative or be used to avoid charges for exchange access.

"(B) Charges under this subsection shall not apply to any line all the facilities for which are located on any single unit or contiguous units of real property leased, owned, or under the control of a person if such line is used solely for internal communications of such person.

"(C)(i) Charges under this subsection shall not apply to any line used by a person who certifies to the Commission that after the date of such certification such person will not use the facilities, services, or related functions available from an exchange carrier for exchange access as a substitute or supplement for the line covered by the certification.

"(ii) Any certification under clause (i) shall be subject to terms and conditions prescribed by the Commission which provide that if the person thereafter so uses such facilities, services, or related functions of the carrier, such carrier shall be entitled to receive from that person amounts in addi-

tion to the charges which otherwise apply for such use. The additional amounts shall be determined in a manner which is prescribed by the Commission and which reflect the costs imposed upon such carrier in making available facilities, services, or functions.

"(4) Any carrier or other person who is subject to charges under this subsection and who evades, or attempts to evade, such charges by fraud or misrepresentation shall forfeit to the United States not more than $100,000 for each violation, or not more than $500,000 for each violation in the case of any corporation.

"(e)(1) Any non-traffic-sensitive costs apportioned to the interstate jurisdiction, to the extent not recovered under the end-user common line charges, special access charges, and charges assessed under subsection (d), shall be recovered through carrier common line charges. The Commission shall establish procedures to assure that exchange common carriers receive timely recovery of such costs.

"(2) For calendar year 1984 and any calendar year thereafter, the national aggregate percentage of non-traffic-sensitive costs (including any costs recovered by any surcharge established under section 225) apportioned to the interstate jurisdiction pursuant to actions taken under section 410 may not be greater than 25 per centum.

"(3) The Commission may permit the aggregation of that portion of non-traffic-sensitive costs collected through carrier common line charges if and to the extent the Commission determines that such aggregation is necessary to achieve the purposes of this Act. The Commission may require that each exchange carrier recover such costs directly from carriers providing interstate services.

"(4) The Commission shall assure, to the maximum extent practicable, that any reduction in carrier common line charges taking effect after December 31, 1983, which is attributable to the imposition of end-user common line charges, special access charges, or charges under subsection (d), shall be reflected in reductions in the charges for interstate telephone toll service which are subject to carrier common line charges.

"(f)(1) In the case of any interexchange carrier which did not participate in the system of jurisdictional separations of carrier property and expenses on July 1, 1983, the charge by any exchange carrier, per access line, for exchange access by the interexchange carrier shall be—

"(A) during the period beginning on the date of the enactment of this subsection and ending on June 30, 1985, equal to the charge in effect on July 1, 1983, adjusted by the Commission under paragraph (3);

"(B) effective beginning July 1, 1985, a percentage of the charge applicable for any participating carrier which is equal to the carrier differential;

"(C) notwithstanding subparagraphs (A) and (B), the applicable charge for any participating carrier where the interexchange carrier involved is determined, under rules and procedures established by the Commission, to be receiving from the exchange carrier an equivalent type and quality of exchange access as provided to a participating carrier; and

"(D) notwithstanding subparagraphs (A) and (B), the full costs of exchange access received by the interexchange carrier where, under rules and procedures established by the Commission, exchange access equivalent in type and quality to the exchange access provided to a participating carrier is determined to be available to, but not taken by, such interexchange carrier.

"(2) For purposes of this subsection—

"(A) The term 'participating carrier' means any carrier which participated in the system of jurisdictional separations of carrier property and expenses on July 1, 1983.

"(B) The term 'carrier differential' means the percentage that—

"(i) the charge for exchange access applicable on July 1, 1983, assessed to an interexchange carrier described in paragraph (1), is of

"(ii) the charge for such access applicable on such date assessed to a participating carrier.

If at any time after June 30, 1985, the Commission changes the method for calculating the minutes of use for purposes of determining charges for exchange access, the carrier differential shall thereafter be determined as if the new method was in effect on July 1, 1983.

"(3) On January 1 and July 1 of each year beginning after the date of the enactment of this subsection, the Commission shall adjust charges prescribed under paragraph (1) to account for any change in the implicit deflator of the gross national product, as published by the Department of Commerce.

"(4) During the period beginning on the date of the enactment of this subsection and ending on June 30, 1985, persons obtaining exchange access directly from an exchange carrier for purposes of resale shall pay an amount equal to the amount paid carriers pursuant to any agreement to provide exchange access covered by this subsection for similar services and related functions, except that, if the amount, which a reseller pays for any service to be resold, indirectly covers payments made for exchange access, then the reseller shall not be required to pay any additional amount for the exchange access for which payments have already been made indirectly.

"(5) In addition to the preceding requirements of this subsection, the total amount recovered by an exchange carrier from interexchange carriers which have direct interconnection with the exchange carrier shall not be less than the total costs of providing and making available exchange access to interexchange carriers.

"(g)(1) Effective beginning ninety days after the effective date of this section, any person who owns or operates facilities to originate or terminate interexchange service other than through direct interconnection and who is subject to charges under this section shall promptly notify the appropriate exchange carriers, the Commission, and the appropriate State commissions. Such notification shall be made by means of a summary form which the Commission shall prescribe by rule.

"(2) Any person who fails to comply with paragraph (1) shall forfeit to the United States the sum of $50,000. Any such forfeiture shall be in addition to any other penalty or forfeiture under this Act.

"(h)(1) The Commission shall, upon the request of a State commission, delegate to such State commission, effective beginning July 1, 1985, the authority to administer the system of access charges, conditioned upon the compliance of the State commission with the requirements of this section, and with rules and procedures promulgated by the Commission under this section.

"(2) Any interexchange carrier or interexchange customer which alleges that any charge for exchange access is not justified by cost, or is inconsistent with subsection (d) or (f), as the case may be, may petition the Commission for review of the relevant portions of any tariff filed with the State commission, whether or not such carrier or customer was a party to the tariff proceeding before the State commission involved. Any carrier or customer filing such a petitioin shall concurrently submit a copy of the petition to the State commission. The Commission may proceed to review the relevant portions of the tariff only if the State commission renders an adverse decision or fails to render a final decision with respect to such alleged violations before the end of the sixty-day period following the submission of such petition to the Commission. The State commission, in connection with rendering a decision, may conduct such hearings, and accept or require the submission of such testimony and other information, as the State commission considers necessary or appropriate. The Commission may exercise its authority under this Act with respect to the relevant portions of such tariff (including the authority to affirm, remand, or modify the relevant portions of the tariff), taking into full account the views of, and record developed by, the State commission. This paragraph shall not apply (A) to any charge to the extent the charge is necessary to maintain the carrier differential required under subsection (f), or (B) to any surcharge established under section 225.

"(i) For purposes of this section—

"(1) The term 'special access charge' means a charge established by the Commission to recover the costs attributable to indirect interconnection, as provided under section 69.115 of title 47, Code of Federal Regulations (as adopted July 27, 1983). Such charge shall be based on the Commission's reasonable estimate of the costs of indirect interconnection, until such time as the Commission adopts by order a method of computing such charge based on techniques developed by the Commission which more accurately measures such costs.

"(2) The term 'end-user common line charge' means a charge assessed upon any customer of telephone exchange service to recover the interstate portion of non-traffic-sensitive costs, as provided in section 69.104 of title 47, Code of Federal Regulations (as adopted as of July 27, 1983).

"(3) The term 'carrier common line charge' means a charge assessed upon any interexchange carrier to recover the interstate portion of non-traffic-sensitive costs, as provided in section 69.105 of title 47, Code of Federal Regulations (as adopted as of July 27, 1983).

"(4) The term 'non-traffic-sensitive costs' means facilities and equipment costs which do not vary with usage, as determined under practices and procedures established by the Commission or, after July 1, 1985, by the Universal Service Board.

"(5) The term 'interexchange service' means the services or facilities provided as an intergral part of interstate communications, except services or facilities used for the provision of exchange access.

"(6) The term 'interexchange carrier' means any carrier which provides interexchange service.

"(7) The term 'person' includes the United States, any State, and any agency or instrumentality thereof.

"(j) Exchange access charges and the surcharge established in section 225 shall not apply to any person or carrier engaged in

providing mobile service pursuant to license issue by the Commission, except to the extent that such person or carrier is providing interexchange communication.".

(c) The Federal Communication Commission shall consider revising the decision and orders of the Commission in C.C. docket numbered 78–72 (phase I) as such decision and orders affect users of centrex-type services. In considering such revision, the Commission shall take into account the impact of such decision and orders on—

(1) nongovernmental tax-exempt entities which use centrex-type services; and

(2) recovery of costs associated with such services and corresponding adjustments in the charges for telephone exchange service.

(d) Section 201 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(c) No exchange carrier may impose any charge on any residential subscriber for terminal equipment not leased from such carrier.".

(e) Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following new subsection:

"(d)(1) Except as provided in paragraph (2), no carrier may impose any charge for interstate directory assistance.

"(2) Paragraph (1) shall not apply to restrict—

"(A) the recovery by any carrier for the costs for such assistance in the manner provided for as of October 1, 1983;

"(B) the recovery by any carrier from interconnecting interstate carriers for the costs of such assistance; and

"(C) the imposition by any carrier of charges on any subscriber for such assistance to the extent that more than six calls are made from any subscriber line during any month.".

(f) The preceding provisions of this section shall take effect on the date of the enactment of this Act.

AMENDMENTS OFFERED BY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, could the gentleman identify the bloc of amendments that are being offered?

Mr. RINALDO. These are the amendments to sections 4 and 5 that impose a moratorium.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. RINALDO: Page 5, strike out line 11 and all that follows through line 15 and insert in lieu thereof the following:

"(b)(1) An end-user common line charge shall not be assessed on—

"(A) any subscriber of lifeline telephone service (as defined in section 201(e)(3)), or

"(B) any subscriber of an exchange carrier (i) which has 50,000 or fewer subscriber lines within the State in which the service is being provided and (ii) for which there is in effect a determination by such carrier, in its discretion, that this subparagraph should apply.

Any determination (or revocation of a prior determination) under subparagraph (B) shall be in writing and filed with the Commission.

"(2) Subject to paragraph (1), in the case of—

"(A) any residential subscriber of telephone exchange service, or

"(B) any business or other subscriber of telephone exchange service who does not have more than one subscriber line,

an end-user common line charge may not be assessed in any amount during calendar year 1984, and during calendar year 1985 or thereafter may be assessed only if the charge does not exceed the limits under paragraph (3).

"(3)(A) The charges under paragraph (2) shall be established by the Commission and shall not exceed—

"(i) during calendar year 1985, $1 per month; and

"(ii) during any calendar year after 1985, a monthly rate equal to $1 plus the monthly rate applicable at the close of the preceding calendar year.

"(B) The charges permitted under paragraph (2) shall not exceed $4 per month.

Page 19, strike out line 22 and all that follows through line 3 on page 20 and insert in lieu thereof the following:

"(B) In the case of any exchange carrier with more than 100,000 subscriber lines within a State, the carrier shall be entitled to receive—

"(i) 75 percent of the amount by which such average costs of the carrier exceed 115 percent, but do not exceed 160 percent, of such national average;

"(ii) 85 percent of the amount by which such average costs of the carrier exceed 160 percent, but do not exceed 200 percent, of such national average;

"(iii) 95 percent of the amount by which such average costs of the carrier exceed 200 percent, but do not exceed 250 percent, of such national average;

"(iv) 100 percent of the amount by which such costs exceed 250 percent of such national average; and

Page 20, line 4, strike out "(iii)" and insert in lieu thereof "(v)".

Page 20, beginning on line 18, strike out "50 per centum" and insert in lieu thereof "65 per centum".

Mr. RINALDO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RINALDO. Mr. Chairman, this amendment is far more generous to the Nation's poor and rural citizens than the legislation reported out of the Committee on Energy and Commerce.

My amendment would impose a 1-year moratorium on any access charge for single-line businesses and residential customers in 1984. It has been changed somewhat from the amendment I offered in the full committee, but I should say this in all fairness to everyone who is interested, and I hope the other Members are watching their TV sets because it is a particularly important amendment.

It would give the FCC the authority to impose an access charge of up to $1 in 1985, but only—and I repeat—only after they have made an independent determination that an access charge is warranted to preserve universal service, and only for that reason.

I believe that a moratorium is needed so that we can see the results of divestiture and determine what, if any, changes are needed to the complex FCC decision. Admittedly the amendment is a compromise. I think everyone recognizes that. And I want to also say I do not possess a crystal ball and cannot say, as other people have purported to say, what divestiture will bring.

In the final analysis, the bottom line is that there is no one in this country who knows what is going to happen after January 1, 1984, when AT&T gets separated from the local BOC's.

I might also add this: that I do not believe that telephone users should be saddled with any access charge until we know with certainty whether or not the revenue is needed. My amendment would stop the access charge.

The FCC has over 150,000 pages of filings of telephone rates, and they seem to be having difficulty in making a decision. They have asked for an extended period of time. They removed the access charge that was to go into effect on January 1. They said they will probably come up with a decision by April. All I am saying is: Let us give them 9 more months. Let us make sure they have enough data to do the job right. Let us make sure we have the data to understand what we are doing.

The legislation we have before us was drawn up in a vacuum, and I believe that my compromise affords strong protection for consumers while at the same time assuring that our method of determining rates is based on actual experience and not star gazing.

The other provision of my amendment improves the lifeline and rural subsidy provisions and the universal service fund. It increases the size of the lifeline fund. It increases the size of the rural subsidies. The lifeline subsidy legislation provision in the bill reported out of the Committee on Energy and Commerce requires that one-half of the lifeline subsidy be paid by the long distance telephone companies, while the other half would be derived from the local telephone companies.

I am concerned, and I feel properly so, that this might put an onerous burden on the local operating companies and propose with my amendment

to reduce their share of the subsidy from 50 to 35 percent. Correspondingly, the portion assessed against the long distance carriers would rise from 50 to 65 percent. This will do much to assure that the long distance carriers pay their equitable portion of the costs needed to sustain universal telephone service.

H.R. 4102 has been labeled a proconsumer bill, and for many consumers it probably is. There are many telephone users in the country, particularly in the Sun Belt, who stand to gain if the legislation is enacted into law. But many residential users will not gain a thing, and mark my words, they are going to be net losers and they are going to pay higher telephone bills next year, and the people who vote for this legislation the way it is currently written will have to pay for that.

Many residential phone customers, in other words, are going to gain nothing. I am not going to stand here and say that there are no worthwhile provisions in H.R. 4102 because there are, but the fact is that this bill discriminates by requiring all telephone users in 22 States, including the elderly, including minorities, including low-income people, to pay higher telephone rates to subsidize telephone service in other parts of the country. I believe that is wrong. It is fundamentally and basically unsound. I do not believe telephone users in New York State should pay an extra $109 million to protect local rates somewhere else.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RINALDO) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. RINALDO was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I would be pleased to yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Correct me if I am wrong in my understanding of your amendment. This, again, would reimpose the access charges that we just voted down.

Mr. RINALDO. May I respond? That is not the fact of the matter. The fact of the matter is that my amendment has been changed, if the gentleman would read the amendment. It does not impose any access charges whatsoever unless the FCC reviews the data and determines that an access charge is necessary to preserve universal service.

And then, and only then, can they impose an access charge up to a maximum of $1 in 1985.

Mr. GORE. And then $1 in each additional year after that?

Mr. RINALDO. No, sir, $1 up to a maximum of $4, and then it is permanently capped. But at any point along the way, if we feel that based on the 150,000 pages of filings and the testimony given to the FCC, who admittedly has the expertise in this area, that we want to change it, we can cut if off.

Mr. GORE. If the gentleman will yield further just briefly, I respect my colleague's intent and his ability, but I do not think we need to spend a great deal of time on the amendment because the issue is very simple. If you are for the access charges, vote for the amendment; if you are against the access charges, then vote against the amendment.

Mr. RINALDO. Mr. Chairman, if I can reclaim my time, I respect the gentleman, but he is misstating the amendment. If you are against the access charge, if you are for a moratorium, then vote for my amendment.

Mr. GORE. If the gentleman will yield further, if by moratorium you mean prevent the access charge from going into effect until after the congressional elections in November, is that what the gentleman means by a moratorium?

Mr. RINALDO. No; I do not mean that at all.

Mr. GORE. Well, you delay it until the November 1984 election, do you not?

Mr. RINALDO. You have said that. Maybe some people think that is a good idea, to delay it until 1985.

Mr. GORE. Well, just tell me. Is that not what the gentleman's amendment does?

□ 1920

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RINALDO) has expired.

(On request of Mr. GORE, and by unanimous consent, Mr. RINALDO was allowed to proceed for 1 additional minute.)

Mr. GORE. Mr. Chairman, I ask the gentleman again, is that not what it does?

Mr. RINALDO. No; I will reclaim my time and answer the question. It does not do that at all. What it does—and I will repeat it very simply and very slowly—it stops any access charges whatsoever.

Mr. GORE. Until when?

Mr. RINALDO. Unless and until the FCC acts.

Mr. GORE. Until what date?

Mr. RINALDO. It could stop it forever.

Mr. GORE. But what is the date in the amendment?

Mr. RINALDO. The moratorium goes into effect for 1 year.

Mr. GORE. And the FCC can impose access charges as of what date under the gentleman's amendment?

Mr. RINALDO. If they decide to do it?

Mr. GORE. If they decide to do it, which they have already decided.

Mr. RINALDO. They can impose them up to a maximum of $1 in 1985.

Mr. GORE. January 1, 1985?

Mr. RINALDO. Any time in 1985 that they want to.

Mr. GORE. But beginning January 1?

Mr. RINALDO. That is correct.

Mr. GORE. Mr. Chairman, I thank the gentleman.

Mr. RINALDO. Now, Mr. Chairman, I would like to reclaim my time.

I want to point to a chart there, and I hope everyone looks at it. It lists the States and the amount of money that they would lose. I guess we do not have that chart here showing the States and the amount of money they would lose, so let me point out that Connecticut would lose $27 million; Oregon, $29 million; Kentucky, $10 million; Massachusetts, $81 million; North Carolina, $35 million; Rhode Island, $17 million; Virginia, $47 million; the District of Columbia, $10 million.

I point out to the Members that it is right there in the middle chart.

Delaware would lose $21 million; Illinois, $42 million; Louisiana, $16 million.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RINALDO) has again expired.

(By unanimous consent, Mr. RINALDO was allowed to proceed for 2 additional minutes.)

Mr. RINALDO. To continue, Mr. Chairman, New Jersey would lose $209 million; Ohio, $67 million; South Carolina, $41 million; West Virginia, $3 million; Georgia, $73 million; Indiana, $12 million; Michigan, $30 million; New York, $109 million; Pennsylavnia, $71 million; and it goes on and on and on.

Mr. Chairman, I say to the Members that, quite frankly, it is up to you and me right now. Let us get right down to the fact of the matter. For 3 hours we have been arguing over a highly controversial bill, a bill that is tremendously complex. No one has all the answers. There is no one in this body with the expertise and the knowledge and the crystal ball to predict with accuracy what is going to happen.

So the final measure boils down to this: We can vote for the Rinaldo amendment for a 1-year moratorium and stop any FCC action until divestiture takes place, until the actual facts and figures are available to be analyzed and a determination can be made, or we can vote against the Rinaldo amendment; and, as the gentleman said, next year is an election year, and we can go back to an election campaign and explain to our constituents why we voted for higher telephone rates.

I defy any of the sponsors of the bill to tell me that they can stand up and guarantee to the American people that under that piece of legislation tele-

phone rates are not going to go up. Telephone rates are going to be increased, despite the purported aims of the legislation.

So let me say this to my colleagues: It is our choice. We can vote for the elderly, we can vote for the poor, we can vote for the consumers in our districts and our States, or we can vote for my amendment to keep low phone rates for the elderly consumers in those districts. And I think it is in everyone's best interest to vote for a moratorium.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to my colleague, the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank my colleague, the gentleman from New Jersey, for yielding.

Earlier in the discussion between the gentleman from New Jersey and the gentleman from Tennessee, there was the question of whether or not the access charge was theoretically a good idea. As a matter of fact, I would refer to the practice of the chairman of the subcommittee.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RINALDO) has again expired.

(On request of Mr. CORCORAN, and by unanimous consent, Mr. RINALDO was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield further?

Mr. RINALDO. I am pleased to yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank my friend and colleague for yielding.

As I was starting to say, the question of access charges and the FCC decision or, rather, its proposed decision was discussed by the chairman of the Subcommittee on Telecommunications, Consumer Protection, and Finance, the gentleman from Colorado (Mr. WIRTH), here in Washington at the Neruth Conference, and he said, and I quote:

> As written, the access charge order may provide the means for balancing the demands for affordable rates with the need to adjust prices to reflect an increasingly competitive environment. The FCC's plan minimizes the threat from bypass; it gives carriers the flexibility to formulate their access tariffs based on local conditions. It does not dictate huge local rate increases. The precise combination and amount of usage-based and flat charges imposed on local customers will be set by the local telephone company, subject to approval by the FCC.

So not everybody, I would say to my friend, the gentleman from New Jersey, thinks that access charges in and of themselves are bad.

Mr. RINALDO. Mr. Chairman, I want to say to the gentleman that he makes a good point. What he is really pointing out is the complexity of the legislation and the difficulty everybody is having with it. I think the Members in their offices watching on television can recognize this fact, and that is why it is so important to have this moratorium so we can get the facts.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. RINALDO) has expired.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman's time has expired.

Mr. WIRTH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is simply the Tauke access charge revisited. We have been through the debate before.

If I might just ask this question of the gentleman from New Jersey, Is this not just the same as the gentleman from Iowa (Mr. TAUKE) had in his amendment? Is that right?

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from New Jersey.

Mr. RINALDO. No; that is absolutely false. I think I said that in my statement.

Mr. WIRTH. I will reclaim my time.

Mr. Chairman, if this is absolutely false, then all the facts used by the gentleman are incorrect.

Mr. RINALDO. No; Mr. Chairman, if the gentleman would yield, that is wrong also.

Mr. WIRTH. All of the figures up there refer to the Tauke amendment, and if this is absolutely not the Tauke amendment, then I would ask if we might have the charts removed since they have no relevance.

Mr. RINALDO. Mr. Chairman, will the gentleman yield so I can explain that point?

Mr. WIRTH. It is my time, and I will finish my statement first. Then I will be happy to yield.

The CHAIRMAN. The gentleman from Colorado (Mr. WIRTH) has the time.

Mr. WIRTH. We debated access charges overall. I am not sure that there is any need to go further on this.

What the gentleman from New Jersey (Mr. RINALDO) has done in his amendment is simply to say that we are going to freeze it until right after the election, and then on the first of the year in 1985 we are going to add a dollar a year up to $4.

Mr. Chairman, the problem also that the Rinaldo amendment has and that all of these amendments coming from the Republican side have had is that they act as if there was never a Florio amendment. The gentleman from New Jersey (Mr. FLORIO) offered that amendment, and what the Florio amendmet has done is it has destroyed the myth that pervades a number of crunchers at AT&T that all the pole and wire costs across the country are going to be averaged. In other words, the gentleman's State of New Jersey poles and wires have been depreciated over a long period of time and, therefore, are at a much smaller amount in the rate base. In my State of Colorado they are all mostly relatively new, and they are at a higher number in the rate base.

Now, were New Jersey and Colorado to be averaged together, that, of course, would be a problem for New Jersey, but the Florio amendment has taken care of that. All of the specious numbers that have been passed around by our colleagues from the Republican side, every one that I see, related to access charges forgets the Florio amendment and assumes that there is nationwide averaging of these costs. The Florio amendment moves far beyond that, recognizes this problem, and moves dramatically away from the north-south, east-west, sunbelt-frostbelt battle that AT&T would like to turn this bill into.

It is not that kind of an issue. It is an issue of who is going to pay overall for telephone service, people who are average ratepayers in this country, or are they going to get socked with a set fee or this access charge? That is the issue.

Mr. WYDEN. Mr. Chairman, will the gentleman yield.

Mr. WIRTH. I am happy to yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, I appreciate the gentleman's yielding, and I want to associate myself with his remarks, because the fact is that if the Rinaldo amendment were passed, it would just be a matter of time before the FCC access charge were to rear its ugly head again. Those Members who want to banish the FCC access charge decision completely will have to vote against the Rinaldo amendment and stay with the legislation, H.R. 4102.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I am happy to yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I want to say this: I have a lot of respect for the distinguished chairman of the subcommittee. I understand what he is trying to do, but there is a world of difference between the gentleman's description and the description of the gentleman from Oregon (Mr. WYDEN) of my amendment and what the amendment does.

The fact of the matter is that I respectfully want to correct the gentleman's impression of the Florio amendment. We all take it upon ourselves here to be experts. I have in my possession a letter from Jack Smith, the chief of the Common Carriers Bureau, and if I may be permitted to, I would like to read just one little paragraph from it. He says this:

> The Florio amendment is intended to authorize the Commission to allow the interstate allocation of NTS exchange costs from each state to be recovered from subscribers through surcharges on toll calls originating

in that state alone. Such an approach would basically end interregional transfers, although—

Mr. WIRTH. Mr. Chairman, I would reclaim my time.

Mr. RINALDO. Mr. Chairman, would the gentleman just let me finish the paragraph?

Mr. WIRTH. Mr. Chairman, if I may reclaim my time, the point the gentleman is making is coming from the exact same economist in the FCC that the gentleman does not agree with in his amendment, and we on this side do not agree with it in any way, shape, or form.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I have difficulty believing the gentleman would put a lot of credibility into the developers of an access charge that the gentleman's own amendment is attempting to overturn.

□ 1930

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(At the request of Mr. RINALDO, and by unanimous consent, Mr. WIRTH was allowed to proceed for 1 additional minute.)

Mr. RINALDO. Mr. Chairman, if the gentleman will yield further, the problem is, and the gentleman knows this very well because we have gone over this time and time again, when the figures from the FCC and AT&T or anybody else bolsters the gentleman's argument, the figures are good figures. When the figures and the letters bolster my argument, they are bad figures. The gentleman cannot have it both ways.

Mr. WIRTH. Mr. Chairman, I do agree with the gentleman, we have been over this again and again, debating it up one side and down the other.

Does the gentleman suppose we could bring this particular amendment to a vote?

Mr. RINALDO. I would be willing to bring it to a vote, because I think anybody with commonsense will go for a 1-year moratorium.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey (Mr. RINALDO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RINALDO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 270, not voting 42, as follows:

[Roll No. 489]

AYES—122

Addabbo	Bateman	Boehlert
Archer	Bereuter	Bonior
Barnard	Biaggi	Brown (CO)
Bartlett	Bliley	Broyhill
Campbell	Hiler	Myers
Carney	Hillis	Nielson
Carper	Holt	Oxley
Chandler	Horton	Packard
Clinger	Huckaby	Parris
Coats	Hughes	Pashayan
Conable	Hyde	Porter
Corcoran	Johnson	Pritchard
Coughlin	Kasich	Quillen
Courter	Kemp	Rinaldo
Craig	Kindness	Ritter
Crane, Daniel	Kramer	Roberts
Crane, Philip	Latta	Robinson
Daniel	Leach	Roth
Dannemeyer	Lent	Roukema
Daub	Lewis (CA)	Rudd
DeWine	Livingston	Schaefer
Dickinson	Lott	Schneider
Dreier	Lowery (CA)	Shaw
Edwards (AL)	Lujan	Shumway
Edwards (OK)	Lungren	Shuster
Erlenborn	Mack	Siljander
Evans (IA)	Madigan	Smith (NJ)
Fields	Marriott	Solomon
Fish	Martin (IL)	Spence
Forsythe	Martin (NC)	Stump
Franklin	McCain	Tauke
Frenzel	McCandless	Thomas (CA)
Gekas	McCollum	Vucanovich
Gilman	McDade	Walker
Goodling	McEwen	Whitehurst
Green	McGrath	Whittaker
Gregg	McKinney	Wolf
Hall, Sam	Michel	Wortley
Hansen (ID)	Miller (OH)	Wylie
Hansen (UT)	Moorhead	Zschau
Hartnett	Morrison (WA)	

NOES—270

Ackerman	Dorgan	Hubbard
Akaka	Dowdy	Hunter
Albosta	Downey	Hutto
Alexander	Duncan	Ireland
Anderson	Durbin	Jacobs
Andrews (NC)	Dwyer	Jeffords
Andrews (TX)	Dyson	Jones (NC)
Annunzio	Eckart	Jones (OK)
Anthony	Edgar	Jones (TN)
Applegate	Edwards (CA)	Kaptur
Aspin	Emerson	Kastenmeier
AuCoin	English	Kazen
Barnes	Evans (IL)	Kennelly
Bates	Fascell	Kildee
Bedell	Fazio	Kogovsek
Beilenson	Feighan	Kolter
Bennett	Ferraro	Kostmayer
Berman	Fiedler	LaFalce
Bethune	Flippo	Lagomarsino
Bevill	Florio	Lantos
Bilirakis	Foglietta	Leath
Boggs	Foley	Lehman (CA)
Boland	Ford (MI)	Leland
Boner	Ford (TN)	Levin
Bonker	Fowler	Levine
Borski	Frank	Levitas
Bosco	Frost	Lipinski
Boucher	Fuqua	Lloyd
Boxer	Garcia	Loeffler
Breaux	Gaydos	Long (LA)
Brooks	Gejdenson	Long (MD)
Bryant	Gephardt	Lowry (WA)
Burton (CA)	Gibbons	Luken
Carr	Gingrich	Lundine
Chappell	Glickman	MacKay
Chappie	Gonzalez	Markey
Cheney	Gore	Marlenee
Clarke	Gradison	Matsui
Clay	Gray	Mazzoli
Coelho	Guarini	McCloskey
Coleman (MO)	Gunderson	McCurdy
Coleman (TX)	Hall (IN)	McHugh
Collins	Hall (OH)	McKernan
Conte	Hall, Ralph	McNulty
Conyers	Hamilton	Mikulski
Cooper	Hammerschmidt	Miller (CA)
Coyne	Harkin	Mineta
Crockett	Harrison	Minish
D'Amours	Hayes	Mitchell
Daschle	Hefner	Mollohan
Davis	Heftel	Moody
Dellums	Hertel	Moore
Derrick	Hightower	Morrison (CT)
Dicks	Hopkins	Mrazek
Dingell	Howard	Murphy
Donnelly	Hoyer	Murtha
Natcher	Rogers	Tallon
Neal	Rose	Tauzin
Nelson	Rostenkowski	Taylor
Nichols	Rowland	Thomas (GA)
Nowak	Roybal	Torres
Oakar	Sabo	Torricelli
Oberstar	Savage	Towns
Obey	Sawyer	Traxler
Olin	Scheuer	Valentine
Ortiz	Schroeder	Vandergriff
Ottinger	Schumer	Vento
Owens	Seiberling	Volkmer
Panetta	Sensenbrenner	Walgren
Patman	Shannon	Watkins
Patterson	Sharp	Waxman
Pease	Sikorski	Weaver
Penny	Sisisky	Weber
Pepper	Skeen	Weiss
Perkins	Skelton	Wheat
Petri	Slattery	Whitley
Pickle	Smith (FL)	Whitten
Price	Smith (IA)	Williams (MT)
Pursell	Smith, Robert	Williams (OH)
Rahall	Snowe	Wirth
Rangel	Snyder	Wise
Ratchford	Spratt	Wolpe
Ray	St Germain	Wright
Regula	Staggers	Wyden
Reid	Stangeland	Yates
Richardson	Stokes	Yatron
Ridge	Stratton	Young (AK)
Rodino	Studds	Young (FL)
Roe	Sundquist	Young (MO)
Roemer	Swift	Zablocki

NOT VOTING—42

Badham	Hatcher	Russo
Britt	Hawkins	Schulze
Broomfield	Jenkins	Shelby
Brown (CA)	Lehman (FL)	Simon
Burton (IN)	Lewis (FL)	Smith (NE)
Byron	Martin (NY)	Smith, Denny
Darden	Martinez	Solarz
de la Garza	Mavroules	Stark
Dixon	Mica	Stenholm
Dymally	Moakley	Synar
Early	Molinari	Udall
Erdreich	Montgomery	Vander Jagt
Gramm	O'Brien	Wilson
Hance	Paul	Winn

□ 1940

The Clerk announced the following pairs:

On this vote:

Mr. Lewis of Florida for, with Mr. Moakley against.

Mr. O'Brien for, with Mr. Solarz against.

Mr. Martin of New York for, with Mr. Stark against.

Mr. STRATTON and Mr. REGULA changed their votes from "aye" to "no."

Mr. SHAW changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1950

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment to section 4?

Mr. MORRISON of Connecticut. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 16, line 18, before the period, insert the following: "and shall complete such consideration prior to the effective date of the system of charges for exchange access".

Page 16, line 21, after the word "entities", insert the following: "and state and local governmental entities".

Mr. MORRISON of Connecticut (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in support of my amendment. Mr. Chairman, a provision of this bill requires the Federal Communications Commission to reconsider the effect of its access charge decision on entities with centrex telephone systems.

Over the years, many State and local governments, nonprofit groups and businesses have used centrex systems rather than purchase internal switchboards because they have found them to be more economical for their purposes.

The essence of a centrex system is that it requires a separate trunkline for each telephone, unlike a switchboard which uses a smaller number of trunk lines to service a large number of telephones.

The FCC's line-by-line access charge on centrex is unfair because centrex users do not place enough of a demand on telephone systems to justify the substantially higher charges they will pay than entities with switchboards which make and receive a comparable number of telephone calls.

For example, a government, business or nonprofit entity with 50 telephones serviced through an internal switchboard might have as few as five trunk lines. They would pay $30 per month at $6 per line or $10 per month at $2 per line under the FCC access charge approach.

A comparable centrex system would have 50 lines and therefore would pay $300 per month at $6 per line or $100 per month at $2 per line. Such a proportionate charge does not reflect the relative level of demand on the telephone system by centrex user.

There is a need for an appropriate access charge for centrex users, but it ought to be based on the actual access demands which are much more similar to an internal switchboard system than to individual lines. Therefore, there is a need for the FCC to reconsider the impositions of a line-by-line access charge on centrex users. The bill now requires the FCC to do so.

My amendment requires them to reconsider their action in a timely fashion. The amendment requires that the reconsideration be accomplished before the access charge system goes into effect, which is at this time scheduled to occur at the beginning of April.

Second, the current provision in the bill requires that in the reconsideration, the FCC pay special attention to the impact of its access charge decision on nonprofit entities. State and local governments are also substantial users of centrex systems. They should not bear on unreasonable burden that will ultimately have to be passed through to local taxpayers, which is unfair.

The amendment requires that the FCC give special attention to the effect of its access charges decision on State and local governments with centrex systems. This should protect local taxpayers as well as nonprofit entities, such as schools, universities and hospitals, which are all large centrex users.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the chairman of the subcommittee.

Mr. WIRTH. I thank the gentleman for yielding.

The amendment the gentleman has offered makes a significant contribution and clarification in the legislation, particularly for State, county, local government, nonprofit institutions, and so on.

It is extremely important that Members should understand what this amendment does in terms of withdrawing the ability of the FCC to charge excessive amounts of money to State, county, local governments, universities, and so on, and the gentleman is to be commended for this very, very important and valuable clarification. I thank the gentleman for offering the amendment.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Connecticut. I yield to the gentleman from North Carolina.

Mr. BROYHILL. The gentleman's amendment amends a section of the bill that was accepted in the committee and that has to do with the Federal Communications reconsideration of the so-called Centrex-type services order, and it is a clarifying amendment, and we accept the amendment on this side.

Mr. MORRISON of Connecticut. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. MORRISON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CORCORAN

Mr. CORCORAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment to section 4?

Mr. CORCORAN. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. CORCORAN: Page 10, at line 7, delete ", per access line, for" and insert in lieu thereof "for switched".

Page 10, at line 16, after the ";" insert the word "and".

Page 10, at line 21, delete the words "be receiving" and insert in lieu thereof "have available to it at any serving end-office".

Page 10, at line 23, delete "; and" and insert in lieu thereof a ".".

Page 10, delete lines 24 through page 11, line 6.

Page 11, delete lines 19 through 24.

Page 12, at line 6, after the word "Commerce" insert "and to recover an equitable amount of support for the Universal Service Fund that would have been generated by the interexchange carrier through direct interconnection.".

Mr. CORCORAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CORCORAN. Mr. Chairman, let me say that in my judgment, of the remaining amendments which may be proferred to H.R. 4102, this is probably the most important one which remains for the consideration of the Committee of the Whole.

What we are trying to do with respect to this amendment, Mr. Chairman, is to bring equality to H.R. 4102 with respect to the relationship that all of the competitive carriers would have in the provision of long distance telephone services.

This amendment addresses the argument that competitive carriers should not be charged for equal interconnection if it is not available. It, however, clarifies that no carrier will be required to pay for each equal interconnection until it is available and in the serving office where the interconnection occurs.

But it also clarifies that any discount which was provided because of the unavailability of equal interconnection ends when equal interconnection becomes available.

This pending amendment also clarifies that the discounts which are involved here would apply to switched services and ties equitable support requirements with interim price adjustments during the period of less than universal equal interconnection.

Mr. Chairman, to put this in a little perspective, what we have to bear in mind is that when the divestiture agreement occurred there was an agreement between the Justice Department and AT&T and the company which would require the company to spend several billions of dollars in order to reengineer the local telephone network, so that they would reach the point, and as a matter of fact, Mr. Chairman, as you know, there has been a considerable amount of discussion on this point already,

that we would as quickly as possible reach the point of equal interconnection. And on that I think there is agreement among the Members of Congress and those other interested parties in this particular question.

However, where the dispute occurs and where the rub is whether or not all of the common carriers, AT&T, MCI, GTE, SPRINT, ITT, and all of the others at the point of equal interconnection when it is available, whether or not they will all on an equitable basis have to pay the same access charge in order to participate in the use of the local telephone network.

So what we are trying to do, Mr. Chairman, is to put some equity into H.R. 4102. What we want to accomplish is a level playing field so that all of the carriers, whether it be AT&T or GTE, SPRINT, or MCI, or any of the others who have as their business and have the responsibility, subject to the regulation of the Federal Communications Commission, to provide long distance telephone service, that they all pay the same amount when they are all getting the same service.

We do not quarrel with the fact, and I am sure the chairman does not quarrel with the fact that when you are getting something less you should not have to pay as much as someone else. But, on the other hand, when we reach the point where there is indeed equal interconnection, I think we have to clarify H.R. 4102 to make sure that it is not just a question of whether or not it is available to the other common carriers but also that when it is available they have to take it or not enjoy the discount. You simply cannot have it both ways.

What we have seen over time is that the other common carriers have petitioned the FCC asking for equal interconnection. What is happening today as a result and pursuant to the divestitute agreement is that billions of dollars are being spent in order to reengineer the local switching offices so that there can be equal interconnection.

□ 2000

Mr. Chairman, I realize along with every other of my colleagues that there is a desire to conclude action on this bill, and I share that objective.

But I do think that this is a very important amendment because, without the adoption of this amendment, we clearly would have a circumstance where some common carriers would have a permanent advantage, a permanent discounted advantage, with respect to the provision of telephone services.

The AT&T system, as a result of the divestiture agreement, does not have the option. They participate and they pay the actual price for the equal interconnection that they are getting. My point is, and the amendment that is pending before the Committee of the Whole, seeks to address this problem by providing equality, by providing that when we do have equal interconnection, that everybody plays by the same rules.

Mr. BRYANT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to my colleague, the gentleman from Michigan.

Mr. ALBOSTA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I represent the 10th Congressional District of Michigan, a rural district with many senior citizens on fixed incomes. Accordingly, I am very concerned about maintaining affordable telephone service—reasonable rates and reliable service are particularly important for the elderly and those who live in rural areas far from emergency services, stores, and neighbors. H.R. 4102, the Universal Telephone Service Preservation Act, provides the best assurances that universal service will not become a thing of the past.

The access charge on residential and small business customers is a threat to universal service. Instead of placing this flat fee on everyone regardless of their use of the long-distance network, long-distance customers and companies who use and benefit from the public telephone network the most, should contribute the most for its maintenance. Under the FCC's proposed plan, AT&T has been relieved of its responsibility to contribute to the local telephone network—upon which it is dependent to originate and complete its long-distance calls—yet has refused to pass this savings on to customers through an equitable reduction in its long-distance rates. In fact, AT&T has been holding its proposed rate reduction hostage to the approval of legislation favorable to it. Under H.R. 4102, AT&T stands to receive a healthy windfall profit from the access charges on multiline businesses which it could pass on in discounted rates, thus eliminating any fears of extensive bypass due to too-high long-distance rates.

Another point I would like to make is that this is not a State or regional issue, but a national one. Every State and region benefits from the opportunity to call friends and relatives across the country, so everyone has a vested interest in nationwide affordable telephone service. I come from a State which, according to some calculations, would either break even or would contribute to the universal service fund than it would receive back. The fund would, however, help to insure that universal service is maintained, which is of benefit to my constituents. The issue which should receive our closest attention, however, is that of the extreme unfairness of the access charge. Every State stands to lose out under the residential access charge because our constituents would pay a disproportionately high fee for long-distance service compared to the fee for its biggest users. Universal service would be undermined.

In closing, I urge my colleagues to consider the issue of fairness as we debate our national telecommunications policy. It has long been our Nation's goal to achieve universal service—affordable telephone service for Americans. We should not turn away from that goal now when the Nation is entering a rapidly developing communications era, by imposing unfair fees that will deprive many of our constituents of even minimum participation in this era. I urge your support of H.R. 4102.

Mr. BRYANT. Mr. Chairman and Members, this is simply a rehash of the previous attempts that have been made by the minority, both in committee and at least one other time on the floor of the House tonight, to put an end to attempts of the committee bill to breath some equality and guarantee equality and ability to compete in the long-distance market in America today.

Briefly, as I stated before, we are here tonight dealing with the issue of long-distance and local telephone rates because of divestiture, which is a result not of this committee's work, not of the subcommittee's work, not of Congress, but a lawsuit filed by the Justice Department under a Republican administration carried on through a Democratic administration and brought to fruition under this Republican administration, which resulted in a finding by the Federal Court of the District of Columbia that AT&T was guilty of anticompetitive practices for contriving to keep its competitors out of the long-distance market. If we were to adopt the amendment Mr. CORCORAN proposes tonight, we would make totally futile every effort that has been made by the Federal court and every effort that has been made in the drafting of this legislation to guarantee competition in the long-distance markets.

The effect of this amendment is simply to do what is proposed, what has been proposed in the past, and that is to make it impossible for the long-distance competitors who have competed effectively with AT&T in the last 5 years, to prevent them from being able to continue doing that.

If you notice, there is also a clever twist to it. It says in section (c), page 10, line 21, it changes the definition of "payment" to a term that includes a connection at any serving end office.

Now that is more complicated than most Members want to take the time to study tonight.

But let me just say simply this: The effect of this would be that if AT&T or its Bell local company offered some limited form of equal access, that any serving end office in the system, any one single end serving office in the system, even if it did not offer it anywhere else in the system, its competitor would have to pay the same price for access that AT&T does. It is a destructive amendment, it is designed to limit competition, it is designed to achieve the ends of AT&T's very significant lobbying campaign in the last several weeks.

Mr. CORCORAN. Mr. Chairman, will the gentlemen yield?

Mr. BRYANT. I will yield shortly.

Finally, it provides that if AT&T happens to finally make available to any of its competitors equal access, that is the long-distance competitor that chooses to compete with AT&T in that area, will not be able to do as AT&T does, and that is offer Chevrolet service and Cadillac service for long-distance users and business users and private users as well; they will only be limited to offering one type of long-distance service. And, therefore, once again they will have their ability to compete restricted.

I would remind the House that we are here tonight because of anticompetitive practices in this very area that were carried out by AT&T over a period of years that caused them to be found guilty in court of just these anticompetitive practices and caused the Court to devise this very difficult and drastic remedy of divestiture which has resulted in our being here today to deal with the prospect of increased telephone rates across the country.

I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank my friend and colleague from Texas for yielding.

Mr. Chairman, I would like to raise one point with the gentleman, and that is the question of who actually will be paying this money if the discounted service continues for the other common carriers? My own judgment is it would not be AT&T, it would be their customers, and it would be primarily their customers in the small rural towns.

The reason I say that is that, for instance, one of the other common carriers, MCI, in its advertisements, makes the point that they are only interested in those customers who have more than a $25-per-month bill for long-distance service.

Therefore, everybody who is below that level, that would be the small rural customer, that would be the customer who is just on a residential basis and not on a business basis and needs to make that kind of utilization, those are the kinds of people who have to pay this, and I would just call that to the attention of my friend.

Mr. BRYANT. If I may reclaim my time, I would wish to totally dispute and beg issue with the statement the gentleman just made. I simply disagree with it. The staff of the committee disagrees with it, the committee disagrees with it.

I would just reiterate that House Resolution 4102 does one simple and fair thing with regard to long-distance competition, and that is, it says to the competitors of AT&T, "When you receive equal access, equal to that which AT&T with 97 percent of all the long-distance business" and that is what AT&T has, "if you receive equal access to what they receive, then you will pay the same thing they pay for access. But until you receive equal access, those of you who share only 3 percent of the market out there will not have to pay as much as AT&T, who has 97 percent of the market out there."

I urge you to vote against the Corcoran amendment and stay with House Resolution 4102.

The CHAIRMAN. The time of the gentleman (Mr. BRYANT) has expired.

(On request of Mr. CORCORAN and by unanimous consent, Mr. BRYANT was allowed to proceed for 1 additional minute.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman.

Mr. CORCORAN. I thank the gentleman for yielding.

I want to say that I agree with the assertion the gentleman has made with respect to the current condition as to the markets here in long-distance service. But of course, after divestiture, those percentages will change dramatically.

Mr. BRYANT. I would simply respond by saying to the gentleman (Mr. CORCORAN), that we are simply keeping in effect in this bill for the time being an agreement that was entered into by AT&T with its competitors. They wrote the agreement, they agreed to it; we are simply saying for the time being we will keep it in effect, and as AT&T's Bell operating companies grant equal access, equal to what AT&T has, then AT&T's long-distance competitors will begin to pay the same thing that AT&T does for its access, but not before.

Mr. CORCORAN. That is an agreement which ends in April of 1984, and the bill would carry it beyond that point.

Mr. BRYANT. The bill does not carry it beyond that point.

The CHAIRMAN. The time of the gentleman (Mr. BRYANT) has again expired.

(By unanimous consent, Mr. BRYANT was allowed to proceed for 30 additional seconds.)

Mr. BRYANT. The bill says very simply this, as AT&T's long-distance competitors are granted equal access, they will begin to pay equal access charges. It is a fair bill, it was put together with a great deal of consideration by this committee, and I urge all Members to vote against the Corcoran amendment.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Corcoran amendment.

Mr. Chairman, there is not such a great difference between what the gentleman from Texas has been saying about H.R. 4102 and the Corcoran amendment.

The essential difference is that the gentleman from Texas (Mr. BRYANT), to him equal access means equal access in the whole region. The gentleman from Illinois (Mr. CORCORAN) is saying that when there is equal access in a given local exchange somewhere in that region, then you pay the equal charge. Now what is the matter with that? I will tell you what is the matter with that.

Those companies that are competitive with AT&T would like to retain as much advantage going into the post-divestiture period as humanly possible.

Mr. BRYANT. Mr. Chairman, would the gentleman yield?

Mr. RITTER. I yield to the gentleman from Texas.

Mr. BRYANT. I thank the gentleman for yielding.

Mr. Chairman, may I ask the gentleman to show me where in the amendment it says that if you get equal access in one exchange area you have to pay equal access charges. What the amendment specifically says is that if you make it available to them at any serving end office, you have to pay equal throughout the system. That would mean if you made it available to them in one locale of one State of the Union, they would have to pay the same charges throughout the United States; meaning, my phone ratepayers in Texas would have to pay the same thing that a phone ratepayer in Washington State does even though we might not have the same service.

Mr. RITTER. If I may reclaim my time, as I understand the amendment, it says in that end office, if the access is equal, then the charge is equal.

Mr. BRYANT. Mr. Chairman, I beg to differ with the gentleman, and I present the gentleman his own amendment to show him that he is mistaken.

I would also ask the gentleman what is wrong with a simple system that says, as this bill does, that the Bell competitors will pay equal access charges when they are granted equal

access and not before? Is that not a fair concept?

Mr. RITTER. As I understand it, we are not disagreeing with that.

Mr. BRYANT. Then surely there is no purpose for the amendment.

Mr. RITTER. What we are saying is that in the individual exchange or the end office where the access is equal, then the charge is equal.

What is the definition of the gentleman's region? Can he define it?

Mr. BRYANT. Simply put, I would ask the gentleman to show me in the bill where it says what he just said. It does not say that.

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Mr. RITTER. On page 10, line 17:

(C) notwithstanding subparagraphs (A) and (B), the applicable charge for any participating carrier where the interexchange carrier involved is determined, under rules and procedures established by the Commission, to have available to it at any serving end office from the exchange carrier an equivalent type and quality of exchange access as provided to a participating carrier.

Mr. BRYANT. So you would pay for that which you do not take; is that correct?

Mr. RITTER. Equal in that end office. That is exactly what the amendment says.

The difference here is the definition between what you call the region and what this amendment calls the end office. And there are so many different potential end offices within a region where access could be unequal at one point and equal in another.

Mr. BRYANT. If the gentleman will yield further, I would simply point out to you what you just read to me. It says, "at any serving end office." Now, there is a definition section of this bill. If you turn to the definition section of the bill, you will find that there is no definition for any serving end office. What it must be taken to mean is that if you get equal access at one serving end office, you must pay the same access charge throughout the system. And, of course, that would be manifestly what it does.

Mr. RITTER. That is not what it means.

Mr. BRYANT. And anticompetitive.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CORCORAN).

The amendment was rejected.

Mr. BROYHILL. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute is as follows:

UNIVERSAL SERVICE FUND

SEC. 5. Title II of the Communications Act of 1934 is amended by adding at the end thereof the following:

"UNIVERSAL SERVICE FUND

"SEC. 225. (a)(1) To assure to all the people of the United States the continued availability of telephone service at reasonable and affordable charges, there is hereby established the Universal Service Fund. On an annual basis, the Universal Service Board shall determine uniform surcharges on the charges for exchange access recovered from carriers and other persons directly or indirectly interconnecting with an exchange carrier, such that the Fund is sufficient beginning January 1, 1986, to make the payments under this section.

"(2) Until January 1, 1986, the Universal Service Board shall permit the aggregation of costs and the division of revenues among exchange carriers to the extent the Universal Service Fund is not sufficient to make payments required under section 225.

"(b)(1) An exchange common carrier is entitled to receive payments from the Universal Service Fund based on the amount that its average costs for all non-traffic-sensitive facilities per subscriber line exceeds the national average of such costs, as provided in paragraph (2). Any such carrier shall submit certification of such costs to the Universal Service Board.

"(2)(A) In the case of any exchange carrier with 100,000 or fewer subscriber lines within a State, the carrier shall be entitled to receive—

"(i) 85 per centum of the amount by which such average costs of the carrier exceed 110 per centum, but do not exceed 115 per centum, of such national average;

"(ii) 90 per centum of the amount by which such costs exceed 115 per centum, but do not exceed 200 per centum, of such national average;

"(iii) 95 per centum of the amount by which such costs exceed 200 per centum, but do not exceed 250 per centum, of such national average; and

"(iv) 100 per centum of the amount by which such costs exceed 250 per centum of such national average.

"(B) In the case of any exchange carrier with more than one-hundred thousand subscriber lines within a State, the carrier shall be entitled to receive—

"(i) 80 per centum of the amount by which such average costs of the carrier exceed 150 per centum, but do not exceed 250 per centum, of such national average;

"(ii) 100 per centum of the amount by which such costs exceed 250 per centum of such national average; and

"(iii) such additional amounts available under procedures which the Universal Service Board shall establish in order to minimize disparities between the average subscriber charges assessed by such carrier, compared to those assessed by other carriers in such State, for telephone exchange service in rural or remote areas where the costs of providing such service are substantially higher than the national average.

"(c)(1) An exchange common carrier is entitled to receive payments from the Universal Service Fund if it certifies to the Universal Service Board that it is offering lifeline telephone service consistent with the provisions of section 201(d).

"(2) The amount of the payments under paragraph (1) in the case of any eligible exchange carrier shall be equal to 50 per centum of—

"(A) the amount by which—

"(i) the carrier's average charges per residential customer for providing telephone exchange service (other than lifeline telephone service) exceeds

"(ii) the charge then in effect for lifeline telephone service, multiplied by

"(B) the number of subscribers certified by the carrier to be receiving lifeline telephone service.

"(d) Any exchange common carrier shall also be entitled to receive transition payments from the Universal Service Fund if needed to ensure that the amount such carrier recovers under the system of charges for exchange access and under this section is not less than the total revenues such carrier received for the equivalent of exchange access in 1982, reduced by the value of terminal equipment and inside wiring which the Commission orders removed from the revenue requirements (multiplied by any applicable subscriber plant factor in effect on January 1, 1982).

"(e)(1) The Universal Service Board shall establish and oversee an exchange access board (consisting of representatives of exchange common carriers, carriers providing interstate communications, and other customers directly obtaining exchange access) to administer the Universal Service Fund. The exchange access board shall administer the Universal Service Fund in a manner which expedites the crediting of payments to exchange common carriers through the use of rules and procedures which eliminate burdens or delays in the certification or application process to the maximum extent practicable, and which permit decisions to be made on the basis of uniform, general, simplified standards of eligibility which are readily applied to the information and other data included in each application.

"(2) Payments from the Universal Service Fund to any exchange carrier shall be subject to audit and adjustment by the Universal Service Board to ensure that—

"(A) any certification or application is valid and based upon proper allocation of costs in accordance with guidelines established by the Universal Service Board under section 410;

"(B) such payments are used to maintain reasonable rates or charges;

"(C) such payments do not remove incentives for the efficient provision of exchange service, except that any adjustment based upon the factor established in this subparagraph shall be effective only on a prospective basis; and

"(D) such payments do not unreasonably impede the entry and operation of competitive suppliers of exchange services.".

UNIVERSAL SERVICE BOARD

SEC. 6. Section 410 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(d)(1) Not later than thirty days after the effective date of this subsection, the Commission shall establish a Universal Service Board for the purpose of—

"(A) ensuring equitable and efficient economic treatment of users of common carrier services and exchange services and carriers providing such services;

"(B) providing for an orderly transition to the system of charges for exchange access; and

"(C) achieving cooperation between the Federal Government and the States in carrying out the purposes of this title.

"(2) The Universal Service Board shall be composed of—

"(A) five commissioners of the Commission; and

"(B) four State commissioners nominated in accordance with subsection (c) and approved in accordance with subsection (a).

"(3) The Universal Service Board—

"(A) shall establish and maintain formulas consistent with the purposes of section 225 for defining and comparing national average costs and charges and uniform practices for determining the payments required by the Universal Service Fund, and shall oversee the distribution of funds from the Universal Service Fund by the exchange access board in accordance with section 225;

"(B) shall establish, and may from time to time revise, practices and methods to ascertain and fully apportion the cost of services, facilities, and other factors used jointly or in common to provide exchange services and exchange access, which practices and methods shall be exercised in a manner which reflects differences in the size and relevant characteristics of carriers and which is consistent with the requirements of the system of charges for exchange access, as described in section 4 of the Universal Telephone Service Preservation Act of 1983;

"(C) shall make such changes and modifications in the system of jurisdictional separation of carrier property and expenses in force on the effective date of this section as may be necessary or appropriate for the orderly transition to the system of charges for exchange access, as described in section 4 of the Universal Telephone Service Preservation Act of 1983; and

"(D) shall take such actions as are necessary to minimize any unreasonable disparity for interstate service to or from rural or other remote exchanges which may arise from the greater costs of connecting lines (as defined by the Board) to and from such exchanges.

"(4) Any decision of the Federal-State Joint Board under subsection (c) pending on October 1, 1983, shall be submitted to the Universal Service Board (in lieu of the Commission) for review and action.

"(5) In establishing practices and methods under paragraph (3)(B), the Universal Service Board shall—

"(A) encourage reliance upon exchange common carriers as distributors of interstate communications, and promote continued universal availability of transmission services provided by exchange common carriers at reasonable and affordable rates; and

"(B) take into account—

"(i) the cost of capacity or special characteristics prudently invested and essential to the provision of exchange service and exchange access;

"(ii) investment and associated costs (including depreciation and maintenance) needed to provide plant availability to meet demand (including peak demand) for exchange service and exchange access; and

"(iii) the use of exchange facilities for exchange service and exchange access.

"(6) The Universal Service Board may, in accordance with title 5, United States Code, appoint such staff as it considers necessary to carry out its functions under this Act.

"(7) The Universal Service Board may permit exchange common carriers which serve not more than fifty-thousand subscriber lines to use statistical cost data representative of such class of carriers to support tariffs for exchange access in lieu of individual cost studies.

"(8) Any determination made by the Universal Service Board under this section shall be considered a final action subject to judicial review under section 402(a), and subsections (c) through (j) of section 402.".

DEPRECIATION

SEC. 7. Section 220 of the Communications Act of 1934 is amended by redesignating subsection (b) as subsection (b)(1) and by inserting after subsection (b)(1) (as redesignated) the following new paragraphs:

"(2)(A) Each State commission shall have authority (i) to establish classifications for exchange facilities and the portion of facilities used jointly for interstate and intrastate services assigned to the States by the Universal Service Board under section 410, and (ii) to prescribe the methods by which exchange carriers shall recover investments in such facilities.

"(B) Such methods shall provide for recovery of investments in such classes of facilities in a manner which promotes the economic viability of the exchange carriers involved.

"(C) The methods specified in subparagraph (A) shall provide for the full recovery of any unrecovered amount prudently invested in property, and no greater amount. Such methods shall be constructed to recover such amount not later than the end of the remaining useful life of the property involved.

"(3) Any determination under this subsection of the useful life of invested property shall reflect changes in technology and the impact of such changes upon the economic viability of the property.".

PROVIDER OF LAST RESORT

SEC. 8. The Communications Act of 1934 is amended by inserting after section 225 (as added by this Act) the following new section:

"STATE AUTHORITY TO REQUIRE BASIC ONE-LINE TELEPHONE

"SEC. 226. (a) A State commission may require any exchange common carrier to lease and maintain on request a single basic one-line telephone instrument, and associated inside wiring, to any subscriber (or group of subscribers at a single premise) within such State on the basis of a tariff that includes all costs of providing and maintaining such instrument and wiring.

"(b) For purposes of this section, the term 'basic one-line telephone instrument' means the type of basic two-way switched telephone instrument which the State commission determines to be generally available to the public and in use on the date of the enactment of this section, or which the Commission determines by rule to be generally recognized as essential for basic participation in nationwide telecommunications. In making any such determination, the Commission may not reduce the quality of the type of basic one-line telephone instrument available on the effective date of this section.".

LIFELINE TELEPHONE SERVICE

SEC. 9. Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following new subsection:

"(e)(1) Each State commission shall establish rules for the provision of lifeline telephone service by exchange carriers. Such rules shall provide that—

"(A) lifeline service may only be provided for the principal residence of a household,

"(B) a household may not have more than one lifeline telephone service line, and

"(C) any household receiving such service may not receive any other exchange telephone service.

"(2) Any charge for lifeline telephone service shall not be based on time of day of any local call placed, or the duration or distance of such call.

"(3)(A) For purposes of this subsection, the term 'lifeline telephone service' means telephone service for any residential subscriber which is offered for a single, discounted charge and under which a subscriber can make a limited number of calls within the exchange area in which such service is offered.

"(B)(i) A State commission may restrict eligibility for such service on the basis of low-income criteria prescribed by the State commission. In establishing such criteria, the State commission shall take into account the composition of the low-income population of the State, and specifically consider the needs of the elderly, single heads of households, the unemployed, and the disabled.

"(ii) A State commission may not make ineligible for such service individuals who are obtaining benefits under part A of title IV of the Social Security Act (relating to aid to families with dependent children), or title XVI of such Act (relating to supplemental security income for aged, blind, and disabled), or the Food Stamp Act of 1977.

"(4) Any charge for lifeline telephone service shall recover not less than 33 per centum and not more than 50 per centum of an exchange carrier's average charges per residential subscriber of providing telephone exchange service to residential subscribers.".

PROHIBITION OF CROSS SUBSIDY

SEC. 10. Section 201 of the Communications Act of 1934 (as amended by this Act) is amended by adding at the end thereof the following:

"(f)(1) No carrier or exchange carrier may use revenues from regulated communications services to defray any costs associated with its entry into or engaging in commercial activities the prices for which are not regulated by the Commission or any State commission.

"(2) Neither the Commission nor any State commission may consider the revenues or profits derived from the offering of any unregulated products or services (other than printed directory advertisements) by any carrier or exchange carrier in determining the revenue requirements of any common carrier service of such carrier.".

SHARED USE OF TELEPHONE FACILITIES

SEC. 11. The Communications Act of 1934 is amended by inserting after section 226 (as added by this Act) the following new section:

"SHARED USE OF TELEPHONE FACILITIES

"SEC. 227. (a) Nothing in this Act shall operate to impair or diminish the rights of telephone subscribers to use and to share the use of telephone facilities and services in such a manner as may be privately beneficial without being publicly detrimental (as set forth in orders and decisions of the Federal courts and the Commission issued before the date of the enactment of this section).

"(b) Any tariff, rule, regulation, or other action shall not be valid to the extent that it prohibits or restricts the rights of a telephone subscriber or group of telephone subscribers to use or share the use of telephone facilities and services in any manner which does not harm, or interfere with the rights of others in their use of, such facilities and services.

"(c) Nothing in any system of charges for exchange access shall be construed to impose a charge upon shared users (as defined by the Commission as of July 1, 1983) solely on the basis of their shared use of communications facilities.".

PUBLIC PARTICIPATION

SEC. 12. The Communications Act of 1934 is amended by inserting after section 227 (as added by this Act) the following new sections:

"PUBLIC PARTICIPATION

"SEC. 228. The Commission may provide financial assistance for the direct costs of participation, including reasonable fees for attorneys and expert witnesses, by any person in any proceeding under this title (including any proceeding of any joint board under section 410) if—

"(1) the person applying for assistance represents an interest—

"(A) which would not otherwise be represented adequately in the proceeding; and

"(B) representation of which is necessary for a fair disposition of the proceeding; and

"(2) the person applying for assistance does not have sufficient resources available to participate effectively in the absence of assistance.

"REPRESENTATION OF RESIDENTIAL TELEPHONE CONSUMERS

"SEC. 229. (a) To ensure effective and democratic representation of residential telephone consumers in the implementation of the policy established in section 2 of the Universal Telephone Service Preservation Act of 1983, there is hereby authorized to be created in each State a nonprofit association of residential telephone consumers. Each such State association shall have as its purpose the representation of such consumers within such State before telephone carriers and governmental bodies. Any State association—

"(1) shall not be an agency or establishment of the Federal Government or of any State government,

"(2) shall be subject to the provisions of this section, and

"(3) shall, to the extent consistent with this section, be subject to the laws of the State in which it is incorporated regarding nonprofit corporations, and shall have the usual powers conferred upon such a nonprofit corporation under such State laws.

"(b) The membership of the State association for a State for any calendar year shall consist of all residential telephone consumers who are residents of such State, who are sixteen years of age or older, and who have contributed for such year to the association a minimum membership fee of $5 or a higher amount if determined appropriate by the Board of Directors of the State association.

"(c)(1) Any State association which meets the requirements of subsection (d) may intervene as of right as a party or otherwise participate in any State or Federal civil action or administrative proceeding (including any action or proceeding for judicial or administrative review or enforcement of any decision of any Federal agency or State agency) which the association reasonably determines may affect the interests of residential telephone consumers within that State.

"(2)(A) Subject to subparagraph (B), any State association which meets the requirements of subsection (d) may prepare and furnish to any telephone carrier in the State informational material to be mailed in or attached to the periodic customer billing of such telephone carrier to be mailed (or transmitted electronically) to residential telephone consumers in that State. Such informational material shall consist of a preprinted enclosure concerning the organization and activities of the State association and other matters of interest to residential telephone consumers.

"(B) Each telephone carrier furnished with any informational material by a State association in accordance with subparagraph (A) shall print or otherwise include or enclose such material within or attached to each periodic customer billing with respect to which such enclosure is furnished by the association if the material was furnished to the carrier not less than fourteen calendar days, and not more than one year, before the mailing of such billing.

"(C) In the case of two billings per calendar year (as designated by the State association) for which informational material was timely submitted under subparagraphs (A) and (B), the telephone carrier may not print or otherwise include or enclose other statements or enclosures which do not relate to telephone matters.

"(D) The State association of a State promptly shall reimburse each telephone carrier for all reasonable costs incurred by the telephone carrier, for inclusion of the association's informational material in periodic customer billings, except that—

"(i) the State association shall not be required to reimburse the telephone carrier for any postage costs if the weight of the enclosure furnished by the association does not exceed thirty-five one-hundredths ounce avoirdupois; and

"(ii) the association may postpone reimbursement of any costs incurred plus interest before the first election of the Board of Directors under subsection (d) until the end of the twelve-month period following such first election.

"(d)(1) The general management of the property, affairs, and activities of each State association shall be vested in a Board of Directors. The Board of the State association shall consist of not less than fifteen nor more than twenty-one Directors, as the Board shall from time to time determine.

"(2) No officer, employee, consultant, contractor, attorney, accountant, or real estate agent of any telephone carrier doing business in the United States, or any employer of such individual, or any member of the immediate family of any such individual, shall be eligible to serve as a Director of any State association.

"(3) Except for members of the interim Board of Directors, who shall be appointed under subsection (e), Directors of any State association shall be elected by and from among the membership of that association, and such Directors, except as necessary for the first elected Board of Directors to meet the conditions established under paragraph (6)(A), shall serve for staggered terms of three years and without compensation. Directors may be reimbursed for actual, reasonable expenses incurred by them in the performance of their duties.

"(4) The State association shall not have any power to issue any shares of stock, or to declare or pay any dividends, and no part of the income or assets of such association may inure to the benefit of any director, officer, or employee of the association, or any other individual, except (in the case of individuals other than directors) as salary or reasonable compensation for services, and any State association may not contribute to or otherwise support any political party or candidate for elective public office.

"(5) The Board of Directors of the State association shall—

"(A) formulate the policies of the association with respect to the functions and activities of the association;

"(B) prepare an annual report, for public distribution, no later than ninety days after the end of each fiscal year, indicating the financial and other operations of the association;

"(C) require all candidates for election to the association Board of Directors to submit to the association comprehensive financial disclosure statements which shall be available to all members;

"(D) employ an Executive Director to manage the association and direct and supervise the activities of the Executive Director;

"(E) establish the bylaws of the association; and

"(F) select a Chairman of the Board of Directors.

"(6) The Board of Directors of each State association shall—

"(A) develop election procedures that assure representation from the various geographic areas of the State (determined on the basis of State legislative districts or groups of districts in comparable areas), with no more than one-third of the Board elected each year; and

"(B) select one individual to serve on the Board of Directors of the National Consumer Telephone Resource Center.

"(e) The Governor of each State shall appoint, within three months after the enactment of this section, nine individuals to serve as incorporators of the State association and as an interim Board of Directors for such State association until the first elected Directors are installed in office. Such appointments shall be made from among individuals who are well known representatives of consumer's interests in State public policymaking proceedings. Such appointments shall be made after consultation with appropriate State regulatory commissions and with organizations that have represented residential consumers interests in the State.

"(f) The incorporators under subsection (e) shall take whatever actions are necessary to establish the association under State law.

"(g) Members of the interim Board of an association may not seek election to the Board of Directors of that association or any other association until two years after their term expires.

"(h)(1) There is hereby authorized to be created a nonprofit organization to be known as the National Consumer Telephone Resource Center. The National Consumer Telephone Resource Center shall—

"(A) meet the standards established under subsection (a) and be subject to the provisions of subsection (d), except that the association shall be incorporated in the District of Columbia by representatives of State associations when at least eight State associations have been incorporated, have selected representatives to the Center, established election procedures in compliance with this section, and have passed resolutions calling for the establishment of such Center;

"(B) be under the direction of a Board of Directors composed of one representative of each State association;

"(C) provide technical information for the use of each State association; and

"(D) represent the collective interests of the State associations to the same extent as

authorized in subsection (c)(1), in Federal policy and ratemaking proceedings.

"(2) Effective beginning one year after its incorporation, each State association may make a contribution from the revenue collected as membership fees to create and maintain the National Consumer Telephone Resource Center.

"(3) Directors of the Resource Center shall serve for a term of three years, without compensation, except that they may be reimbursed for actual expenses incurred by them in the performance of their duties.

"(i)(1) Any telephone carrier, directly or through any employee, agent, or affiliate of a telephone carrier may not—

"(A) prevent, interfere with, or hinder the activities of the association or the Center; or

"(B) interfere or threaten to interfere with or cause any interference with a State association or the Resource Center, or penalize or threaten to penalize or cause to be penalized any person who contributes to the State association or participates in any of its activities, in retribution for such contribution or participation.

"(2) Any person who willfully violates paragraph (1) shall forfeit to the United States an amount of not more than $5,000.

"(j) For purposes of this section:

"(1) The terms 'Board of Directors' and 'Board' mean the Board of Directors of a State association.

"(2) The term 'State association' means a nonprofit residential telephone consumer corporation authorized to be created under subsection (a).

"(3) The term 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

"(4) The term 'periodic customer billing' means a demand for payment for telephone exchange or toll service made by telephone carrier to a residential telephone consumer on a monthly or other regular basis.

"(5) The term 'residential telephone consumer' means any resident of the United States whose residence is furnished with telephone exchange or toll service by a telephone carrier.

"(6) The term 'telephone carrier' means any person which provides any exchange communication service in or affecting interstate commerce.

"(7) The term 'State' means each of the fifty States, the District of Columbia, and Puerto Rico and Guam.".

EMPLOYEE PROTECTION

SEC. 13. Section 221 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(e)(1) The recognition after December 31, 1983, of creditable service, and the treatment after such date of associated accrued benefits and assets, in the case of any transfer of any qualifying employee between any entity subject to the modified final judgment shall be governed by the provisions of the modified final judgment as such provisions applied during calendar year 1984 with respect to transfers to or from the divesting corporation and any divested exchange carrier.

"(2) A qualifying employee, for purposes of this subsection, is an individual who is an employee of an entity subject to the modified final judgment, who is serving in a covered position, and who, on December 31, 1983, was an employee of any such entity serving in a covered position.

"(3) For purposes of this subsection—

"(A) the term 'covered position' means any position (i) which is not a supervisor position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152(11)) or (ii) the annual base pay rate for which is not more than $50,000, adjusted by the percentage increase in the consumer price index since December 31, 1983;

"(B) the term 'modified final judgment' means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, numbered 82-0192, as modified;

"(C) the term 'entity subject to the modified final judgment' means any carrier divested as a result of such judgment, the corporation owning such carrier before divestiture, and any affiliate of any such carrier or corporation; and

"(D) the term 'consumer price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(4) Nothing in this subsection shall be construed to limit benefits which would otherwise be provided under the modified final judgment or under applicable law.".

EFFECTIVE DATE

SEC. 14. The amendments made by this Act shall take effect on the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment to section 5.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Page 20, after line 11, insert the following: "Amounts paid under clause (iii) shall not be included with non-traffic-sensitive costs under section 221(e).".

Mr. TAUZIN. Mr. Chairman, the amendment is a simple one in nature. What it does is what we indicated we would do by technical amendment later in the bill, and that is to provide that those revenues that are provided in the bill for rural exchanges of large telephone companies, that in those cases those sums would not be subject to the 25-percent cap that is on the interstate allocation of non-traffic-sensitive costs in the bill.

This amendment is necessary to carry out the intent of the committee which was, in fact, not to subject this additional help to the rural areas to this 25-percent cap.

Mr. TAUKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Louisiana characterizes this as a simple little amendment that will serve as a technical correction to implement the rural fund. I have mixed emotions about the amendment, but I know it is not just a simple little amendment.

What it does is it worsens the significant problem that we already have of overpricing long-distance telephone service in order to hold down local costs.

One of the major difficulties that we have discussed during the course of the day is that every time we add a little bit more to long distance in order to push a little more money someplace else, we increase the incentives for major users to leave the long distance system.

Now, I understand that in order for the rural section of this proposal to work, we have to adopt the Tauzin amendment, and I certainly want the rural section to work. But, on the other hand, I want to alert my colleagues to the fact that while we are making the rural section work, we are causing the problem that we have discussed earlier to be only worse.

So I suppose this points out some of the problems with the legislation before us. Recognizing the will of my colleagues on this issue, I will let it go, and I will wish the gentleman from Louisiana luck. I just hope that somewhere through the process we can figure out how to strike this balance a little better.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, I only want to point out that under the FCC order, the entire amount of the universal service fund is added on top of the cap. As this bill will proceed with this amendment, only that portion covered by the large telephone needs in rural areas will be added on top of the cap, and so it is a lot less of a burden on interstate charges than the current FCC order.

Mr. TAUZIN. I thank the gentleman for that observation. Of course, the FCC handles that money in a much different way, and so we do not have the same difficulty that we do under this proposal. But all of that beside the point, I think in order to keep this whole thing afloat, we probably have to go with the Tauzin amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TAUZIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. COLLINS

Mrs. COLLINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. COLLINS: Page 20, after line 11, insert the following new subparagraph:

"(C) In the case of any exchange carrier serving any high-density metropolitan area, the carrier shall be entitled to receive under subparagraph (A) or (B) an amount equal to the portion of the surcharges which are imposed with respect to that area for payment under this subsection. As used in this subparagraph, the term 'high-density metropolitan area' means any exchange area in effect on the date of the enactment of this section which has a population of at least 1.5 million.".

Mrs. COLLINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considerd as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. COLLINS. Mr. Chairman, I offer this amendment because I have consistently opposed the export of millions of dollars from my State of Illinois, which has a lower local plant cost and is more efficient to subsidize small rural telephone companies in other States. That export provision, which allows for massive transfer of funds from low-cost, high-density States like Illinois to other States is contained in the rural or high-cost fund established under H.R. 4102.

Under this mechanism which derives money from surcharges added to long distance calls, Illinois will contribute $27 million and receive less than one-half million dollars in return. This is a loss of $26.5 million.

As a Member concerned about, first, enhancing and protecting my State's growth in high technology areas, second, attracting new jobs and industry, and third, maintaining dependable and affordable service for low-income families, I am compelled to take this action to lessen the gross disparity between what Illinois and other high-density States contribute.

Under the present policy, States contributing to low-density, high-cost areas, like Illinois—Illinois, itself, in fact—lose approximately $138 million. Under the FCC's rural fund scheduled to go into effect next year, Illinois would contribute close to double the amount required under this bill.

And although we fare much better under H.R. 4102, there is a definite need to reduce that loss even further. A $26.5 million loss to my State is still too much. That is why this amendment will allow my State and others like Illinois, such as California, New York, New Jersey, Maryland, et cetera, to receive an amount equal to the portion of the surcharges imposed and collected for deposit into the rural fund.

This amendment, if adopted, would correct the inequity of a system which in effect penalizes the more cost effective systems at the expense of cushioning rural, inefficient companies.

It is my contention that continued subsidies to the universal telephone service fund which targets money for small rural telephone companies will continue to have an adverse impact upon my constituents' opportunities for future high technology jobs. I firmly believe this inequity will not serve the future needs for our country.

As a matter of fact, if we look at this chart, we see States such as Illinois making vast contributions, and I am concerned when I see that the major benefactors of contributions such as we are making in the State of Illinois are States like Alaska and Texas and Arkansas and Wyoming, and others, which have very high per capita income.

□ 2020

It seems to me there is no reason for the ratepayers in my district to contribute money to a fund that would benefit States with those higher per capita incomes. I think it is wrong to take the money out of the pockets of constituents in, say, New York or California, Illinois, and other States who are high contributors and send it to people who are certainly financially able to take care of their own needs.

Mr. WIRTH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will be very brief. We had the debate on this issue in the full committee. A very substantial number of the members of the full committee voted against this amendment for the same reasons as were discussed in voting against the Tauke amendment earlier.

This is not a bill that relates to divisions between urban-rural, North-South, and so on. That is not the thrust of the legislation. This misses the mark. I understand what the gentlewoman from Illinois is attempting to do. I appreciate the approach, but I think that was taken care of in the Florio amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Mrs. COLLINS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 5, line 11, insert "(1)" after "(b)".

Page 5, after line 15, insert the following new paragraph:

"(2) No end-user common line charge shall be assessed on any subscriber of telephone exchange service which is a qualified orphanage.".

Page 16, after line 8, insert the following new paragraph:

"(8) The term 'qualified orphanage' means any private, non-profit organization the principal function of which is the operation and maintenance of facilities for the care, comfort, maintenance, or education of orphaned, handicapped, neglected, or dependent children under the age of 18.".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, proposed end-user access fees would have a negative impact on many members of our society, and the Universal Telephone Preservation Act seeks to redress some of that impact. The legislation exempts residential and certain small businesses from the access fee; this amendment which is an extension of that spirit of fairness.

My amendment would exempt private, nonprofit child care agencies from the end-user access charge.

The need here is quite specific and narrowly drawn: most orphanages, of necessity, have more than one phone line, so they would not qualify for the single-line business exemption. Moreover, under the relevant definitions, these institutions are not considered to be residents, so that avenue of exemption is closed.

Private, nonprofit child care agencies provide a valuable service for dependent and neglected children, and that service demands extensive use of the telephone. Constant calls are necessary as resident children maintain contact with their families. Home administrators must report to families, social agencies, and the courts on the child's progress. Emergency 24-hour-a-day phone service is necessary.

The need is clear: these institutions need the best phone service available, and they must have it at the most affordable rate.

Fifteen hundred child care institutions will be effected by this amendment. Each institution has an average of four lines, so a failure to enact this amendment will cost each institution an average of $288 to $360 per year in additional phone expenses.

That might not seem like a large amount of money, but where will the cuts be made?

In recreation programs?

In the heating budget?

In food expenditures?

Another consideration: these agencies cannot pass these increased costs along to the young people in their care. These children are the poorest of the poor, the neediest of the needy, so relief must come from another source.

My amendment seeks to offer that bit of relief—that expression of concern—to those homes that are engaged in the noble enterprise of sheltering and assisting those young people who are denied the care and protection of a family. By passing this amendment, this House can enhance the loving care that these homes extend to dependent and neglected children.

SUPPORTING MATERIAL

Almost a quarter of these institutions receive no public aid, some of them for religious purposes. Rather they operate as voluntary organizations.

These institutions are facing difficult times: Economic conditions have reduced the contributions that are the lifeblood of these homes. Also, those institutions that do receive public aid for items like nutrition medical assistance and education have suffered from the budget cuts imposed by government agencies.

Why should this group receive this benefit to the exclusion of others? First, consider the nature of these institutions. These places are literally homes, because a lot of these kids do not have anyplace else to go. They cannot check in and out like hospital patients, for example.

Second, unlike some institutions, these homes cannot pass added costs along to their clients. These children are the neediest of the needy, the poorest of the poor, so standard ways of recouping expenses are not an option.

Third, the residence situation, combined with the assistance work done underlines the need for the phones.

That earlier figure was an average. Access fees would cost the Christian Home Association in Council Bluffs an additional $470 a year in telephone expenses. Again, what cuts should be made?

Somebody must take the lead in lending these kids a hand, because theirs is not a powerful lobby. How often do orphaned and neglected children send us letters? How often do they appear in our offices? They are silent, vulnerable, and dependent.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman would permit, the hour is very late and in the interest of accommodating the gentleman and moving expeditiously toward the time when the House can adjourn, I have consulted with my colleagues on the committee and we have no objection to the amendment.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I would be delighted to yield to my colleague, the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, it is not that I do not accept at face value all of the things that the gentleman from Michigan supports, but I kind of wondered what it was that you were trying to do here.

Mr. HARKIN. All I am doing is exempting private, nonprofit, child-care agencies, that is, orphanages, from any end-user access charges. It exempts private, nonprofit orphanages from end-user charges, period. Pure and simply.

Mr. TAUKE. I certainly would not have objection to that. We have tried to accommodate every special interest we can find and I think if we missed one, we sure ought to get that in.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHELBY

Mr. SHELBY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHELBY: Page 31, line 17, strike out "sections" and insert "section".

Page 32, insert close quotation marks at the end of line 7 and strike out line 8 and all that follows through line 3 on page 41.

Mr. SHELBY. Mr. Chairman, I offer this amendment on my behalf and on behalf of the gentleman from Virginia (Mr. BLILEY). We do this together because we believe that this amendment has a lot of merit. I know the night is moving on and a lot of people want to go, and I am one of them, but I think this is an important amendment.

Mr. Chairman, economists often speak of a point of diminishing returns—the point where an additional factor of capital or labor produces one less final product. Unfortunately, Mr. Chairman, section 12 of this bill contains a misguided public participation provision that clearly crosses the point of diminishing returns, to the detriment of the very people it is trying to protect.

Formed under the auspices of each State's Governor, the consumer associations authorized by this provision merely add another layer of bureaucratic veneer where the need is clearly not apparent. Consumers already have protection from their local utilities in the form of State public utility commissions, established offices of State utility consumer advocates, offices of public counsels, and scores of citizen lobbies and coalition groups throughout this country.

At least 29 States have established offices of State utility consumers' advocates financed from general State revenues while many more have established offices of public counsels with budgets ranging from $124,000 to over $7 million annually. In fact, in every State, consumers are sufficiently represented by groups in addition to their State regulatory agencies, who are either elected or appointed.

The public participation provision provides preferential treatment for a group that will represent only a small portion of consumers—only those who are willing and able to pay to join. By giving a vote on each association's makeup only to those who pay the $5 fee, this provision, in effect, is saying that only those who pay $5 have a say in what the consumer's interests are. For example, if 1,000 people in a State with a population of 5 million join these associations, we will be confronted with a situation where 1,000 people are supposedly representing the interests of almost 5 million who have expressed their satisfaction with the status quo by not joining. Granted, many may not join because of the $5 fee, or perhaps because they have no interest, but a large number of consumers will simply have no desire to be represented by these associations before the public service commissions.

Mr. Chairman, if this is not an example of a modern-day poll tax, that we abolished years ago, I don't know what is.

We are not arguing about the concept of consumer protection. I think all of us subscribe to that. Accordingly, our amendment seeks only to delete the unneeded "public participation" provisions of section 12, not the provision authorizing the FCC to provide financial assistance for those who cannot afford to appear before the FCC or the commission's joint board that stays. Consumer participation is vital to the efficient operation of our telephone network. But when another layer of unneeded bureaucratic intervention unnecessarily lengthens the regulatory process and increases costs, the only ones who stand to gain are the public interest lawyers who rarely live up to their name.

Most State legislatures have already considered proposals to create, at the State level, organizations similar to those which would be authorized by section 13 of this bill. Not surprisingly, these have overwhelmingly been voted down by the State legislatures; 18 States considered the need for citizens utility boards last year also known as CUB's; only one was approved. Thus, we see no reason why Congress should substitute its judgment for that of the State legislatures in what is a completely State matter.

Mr. Chairman, this provison smacks of the Nader syndrome—a disease that turns normally well-meaning men and women into self-appointed consumer advocates who have little regard for what the majority of the people really want. Accordingly, we urge our colleagues to support our amendment to remove this antidemocratic "public participation" provision that would only benefit a lot of people and give them money to travel on.

I urge support for the amendment.

□ 2030

Mr. BLILEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I realize the hour is late, and I will not trespass too long on the time of my colleagues tonight.

Congress should not mandate the establishment of State consumer organizations for residential telephone customers. The State should decide it for themselves.

As my colleague, the gentleman from Alabama (Mr. SHELBY), said, 18 States last year considered this matter, and only 1 adopted this proposal. Fifty States have some form of consumer advocates today, either consumer counsels or public advocates. The State public utility commissions themselves were created to represent

the consumers. Private consumer and public interest groups are active in all States.

Special interest consumer groups will most likely serve the interests of those who run them and not necessarily the ratepayers who foot the bill.

Mr. Chairman, lastly, the most important element is that telephone companies should not be required to include information from State consumer organizations in their customers' bills. In other words, we have the telephone company required to send information out advertising for people to join for $5 a group who will come with a stick to beat them on the head before the public utility corporations.

Mr. Chairman, I urge the Members to give favorable consideration to this amendment.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, with all respect to my two good friends who have offered this amendment, it is a bad amendment.

Mr. Chairman, the bill deals with two questions. First, are current events and circumstances which are taking place on the Federal level by reason of FCC action? Those are the access charges, depreciation, and the other matters.

The other provisions the bill would deal with are stricken by this amendment.

The amendment is a rather modest one. What it does, it allows consumer utility boards to be set up by voluntary action in all of the States. It permits those to be supported by checkoff and by contributions from ratepayers on a voluntary basis. The associations and boards that would be formed by this voluntary action by American citizens would then be able to deal with rate questions before the different State and Federal agencies charged with that responsibility.

That is, I think, a desirable step from the standpoint of the consumer. It gives him a voice in the State capital and in the public utility commission, and it gives him a voice here—something which many people think they are lacking.

This is an action which will affect the affairs of consumers long into the future. I believe it is important that it should be there. So if this is stricken, it is my view that it would have a very deleterious effect upon the concerns of consumers.

Mr. Chairman, I urge the rejection of the amendment.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the bill.

Mr. Chairman, H.R. 4102, in my opinion, will be extremely destructive to the orderly divesture of AT&T and will be harmful to the telephone consumers of this country. H.R. 4102 bans the FCC's local service access charges by requiring all long distance companies and customers to contribute to a universal service fund. If this legislation passes, the heavy subsidizing of long distance telephone calls will continue, thereby destroying the competition in long distance rates that was one of the intended benefits of divesture of this industry.

Under the universal service fund, small local telephone companies with costs above the national average would be eligible for payments from the fund, which would keep service in rural and other high-cost areas affordable. This money would be distributed among the local telephone operating companies on the basis of need, which means that the least efficient or developed companies will receive the greatest subsidies.

My own State of Illinois would lose up to $90 million in higher long distance bills and receive back an estimated $288,000 in defrayed local service costs. Why should any populous or urban area, which receives lower cost service due to an established and efficiently managed local telephone system, subsidize high cost areas?

I would ask my colleagues in the Congress to allow the judicial decision, arrived at after years of litigation and negotiation, to stand. If legislation is needed after we have seen the new system shakeout, there will be ample time to address the matter then. To rush to legislative judgment now before we can have any realistic understanding of the implications of what we are doing would be a plain act of irresponsible posturing for political purposes and ignoring sound public policy. The Congress should leave the matter stand, watch the transition carefully, and only consider legislation if and when otherwise insoluable problems occur in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. SHELBY).

The question was taken, and on a division (demanded by Mr. SHELBY) there were—ayes 38, noes 48.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to the bill?

Mr. TAUKE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to enter into a colloquy with the chairman of the subcommittee.

Mr. Chairman, I want to clarify the committee's intent concerning the universal service fund. The recent Federal/State joint board recommendation is illogical and unfair to many rural Americans. It abandons the traditional method of determining costs of interstate telephone service. Instead, it combines an industry average for costs of equity with a company's specific cost of debt. This is mixing apples and oranges. You should use either industry averages for both or company specifics for both. Traditionally, industry averages have been used, largely because of administrative feasibility. Changing to an inconsistent mismatch systematically discriminates against small, rural companies and their customers. Surely, this is not the intention of the committee or the legislation before us.

Mr. WIRTH. Mr. Chairman, if the gentleman will yield, that is correct. It is the central purpose of the legislation to maintain affordable local rates for all Americans and thereby to insure a universal telephone service.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. GIBBONS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4102) to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes, pursuant to House Resolution 363, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 2040

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4102, UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT OF 1983

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 4102) to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes, the Clerk be authorized to conform designations, correct any errors in spelling, punctuation, or cross references, and make any necessary typographical or clerical changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 370

Mr. LELAND. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of the resolution, House Resolution 370.

The SPEAKER pro tempore (Mr. FRANK). Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME UNTIL NOON MONDAY, NOVEMBER 14, 1983, SUBJECT TO THE CALL OF THE CHAIR

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses at any time until noon on Monday, November 14, 1983, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LOTT. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Mississippi reserves the right to object.

Mr. LOTT. Mr. Speaker, under my reservation, I would be glad to yield to the distinguished majority leader if we could get more information on the schedule for the balance of the night, what information do we have for tomorrow or what can we expect the Senate to do? Are we going to have votes tomorrow? What is the legislative schedule for tomorrow? What is going on? Can somebody clue us in on this?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the distinguished majority leader.

Mr. WRIGHT. I have just come from a meeting which still may be in progress with the majority leader of the Senate and the chairman of the Appropriations Committee in the Senate, the Speaker, the minority leader, the gentleman from Illinois (Mr. MICHEL) and others.

It is my understanding that the other body expects to be able to complete action upon the continuing resolution within another 2 hours. For that reason, we are asking that the House may have the privilege of being in recess subject to the call of the Chair in order that all of us do not have to sit around here and that the Speaker might recall the House and appoint conferees, which he may not do until such time as we receive the Senate version of the continuing resolution.

At that time, it would be hoped that the conferees themselves might be able to sit down and get as far as they could get on agreements of substance this evening, or what remains of tonight, or even into the wee hours of the morning; but the expectation would be that the Members of the House would not need to be awake and sitting around, because even if we were able to reach a conclusion in the conference, it would take a considerable amount of time for the paperwork to be drafted with the precision that is necessary for us to have some certitude that we have not made a mistake.

Therefore, the expectation would be that we might look forward to recessing subject to the call of the Chair as this unanimous consent request would permit us to do and that we might expect to come back tomorrow.

Mr. LOTT. The unanimous-consent request is that the Speaker be able to declare recesses at any time until noon on Monday, November 14?

Mr. WRIGHT. That is correct, and that would permit us the flexibility that would let the Speaker accommodate the convenience of Members, instead of our having a rigid time, all of us coming back in here only to discover that we were not needed.

The Speaker actually believes it may not be necessary for us to assemble back in the Chamber until maybe noon tomorrow.

Mr. LOTT. Pursuing that point, assuming we might come in at noon tomorrow, would it be anticipated that we would have votes on other matters tomorrow?

Mr. WRIGHT. Well, I think having completed the telephone service bill, there is no necessity for us to act on any other legislation tomorrow. There is precious little that is even available for our consideration. That has been scheduled for next week, much of it on suspension of the rules.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the distinguished gentleman from Illinois.

Mr. MICHEL Mr. Speaker, I think there is no question but that the Speaker would like to get us out of here as quickly as he can and that also goes for the majority leader of the other body.

I would certainly remind members of the Appropriation Committee on our side who may be called as conferees, and I know on the gentleman's side the gentleman from Mississippi (Mr. WHITTEN) wants some flexibility, not knowing what will be in the other body's bill, as to who his conferees will be and who ours will be, depending on what matters are to be resolved in that conference. So I think with a bit of warning to our Appropriation Committee members who might be likely conferees, that they be available, so that if it is feasible to wrap this thing up or to go to conference immediately, that we can gain that much time.

I have no objection personally, Mr. Speaker, to the unanimous-consent request.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington (Mr. FOLEY)?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 413, FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report and amendments in disagreement on House Joint Resolution 413 subject to the availability of said conference report and amendments in disagreement for at least 1 hour, that all points of order be waived against the conference report and amendments in disagreement, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Illinois reserves the right to object.

Mr. MICHEL. Mr. Speaker, under my reservation of objection, my first reaction to that request would be that I wonder if the gentleman could withhold on the request so that we might have just a little better idea of what is going to happen when those conferees get together.

Mr. WRIGHT. Well, of course, if the distinguished minority leader had some objection, his objection would most surely vitiate any such acceptance of a unanimous-consent request.

This is boiler plate procedure, as I understand it. No effort is attempted herein to do other than has been done in the past.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes.

Mr. LOTT. I did not catch all of the unanimous-consent request, but the gentleman's request would waive scope, and, as I understood all those requests, it would not even require that we have copies of the conference report.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I believe I can satisfy his question.

It would anticipate and require that the amendments in disagreement and the conference report itself be available for at least 1 hour in order that Members might examine and know its contents; but it also would provide, as is common and general when we are involving ourselves in the consideration of a continuing resolution, that all points of order be waived.

□ 2050

Mr. MICHEL. If I might respond to the majority leader, I would have no objection to the gentleman's request, if he cut it off after the "at least 1 hour."

It is beyond that that gives me trouble: "that all points of order be waived against the conference report and amendments in disagreement, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration."

Now, we will be operating on a fast track and in a pretty dark room, so to speak, and I have a little problem with that.

If the gentleman would simply limit his unanimous-consent request now up through to "at least 1 hour," I would say at this point——

Mr. WRIGHT. If the gentleman would yield on that point, I think the gentleman from Illinois is rightly trying to protect the rights and prerogatives of the House, but surely the gentleman does recall that resolutions of this type have been subject to a waiver of points of order.

If it is necessary to go to the Rules Committee and obtain a rule, that simply takes more time, and if it can be done by this good faith manner among us in a unanimous-consent request, it would obviate the delay of having to go to the Rules Committee.

Mr. MICHEL. We have also been able to get permission from the Rules Committee to report on the very same day.

We have some very serious differences in that conference report. In our continuing resolution here on the House side, it only runs through February 29. The other body has it running through the balance of the fiscal year. Then, there are a number of other items in there that will be quite controversial. If the conferees are able to iron them all out, that is fine, but there may very well be some brought back in disagreement.

I just want to protect ourselves. I am certainly not trying to slow things down here.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the distinguished minority leader for yielding.

Mr. Speaker, since most of us are actually in the dark, we do not know what is or will be or even what the Senate has pending, I would like to know if the majority leader has any knowledge as to what is happening with respect to IMF. As the majority leader knows, some of us are interested in housing and have been trying to get the Senate to act on housing, and understand that the Senate is trying to append to the continuing resolution an IMF decision.

Does the gentleman know if that is so?

Mr. WRIGHT. If the gentleman from Illinois would yield for my purposes of responding to the question propounded by the gentleman from Texas?

Mr. MICHEL. Yes.

Mr. WRIGHT. It is my understanding after talking with the chairman of the Appropriations Committee of the Senate and the majority leader of the Senate, that the question of the IMF has been put aside, and not made a part of this continuing resolution, and that the majority leader of the Senate does not expect it to become a part of this continuing resolution.

That information is as recent as 15 minutes ago.

Mr. GONZALEZ. Thank you very much. Thank you, sir.

Mr. MICHEL. If I might further respond, Mr. Speaker, if the gentleman would just delete that "all points of order be waived against the conference report and amendments in disagreement", the balance of the request would be agreeable to the gentleman.

Mr. WRIGHT. Mr. Speaker, in deference to our colleague, and distinguished leader of the minority, I should like to withdraw the request earlier made and restate a request which will not include the language which is questionable in the mind of the minority leader.

Therefore, Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report and amendments in disagreement on House Joint Resolution 413 subject to the availability of said conference report and amendments in disagreement for at least 1 hour.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL TO COMMEMORATE 20TH ANNIVERSARY OF DEATH OF PRESIDENT JOHN FITZGERALD KENNEDY ON NOVEMBER 16, 1983

Mr. BOLAND. Mr. President, I offer a concurrent resolution (H. Con. Res. 214) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 214

Resolved by the House of Representatives (the Senate concurring), That the Rotunda of the United States Capitol is hereby authorized to be used on November 16, 1983, in such a manner as the Speaker and minority leader of the United States House of Representatives and the majority leader and minority leader of the United States Senate may deem appropriate to commemorate the twentieth anniversary of the death of President John Fitzgerald Kennedy. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. JOHNSON. Mr. Speaker, I was unavoidably absent and did not vote on rollcall 487, final passage of the continuing resolution. Had I been present, I would have voted in the affirmative.

FURTHER LEGISLATIVE PROGRAM

(Without objection, Mr. LOTT was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I yield to the distinguished majority leader for the purpose of giving the Members the benefit of the schedule that is now planned for next week.

Mr. WRIGHT. Well, if the gentleman would yield, the schedule for the remainder of this week, of course, is to await the availability of the concurrent resolution conference committee report.

We do not know exactly what time that would be ready. We presume that it probably would not be available for consideration on the floor earlier than late morning or noontime tomorrow, at the earliest.

That is our business for tomorrow and for the remainder of this week. We believe we would meet again at noontime tomorrow, just as a matter

of guidance. The Speaker will let us know if there would be any change.

Then on Monday, we meet at noon. There will be a special Consent Calendar. There are 26 bills scheduled for our consideration under suspension of the rules. We would want to vote on those bills Monday after the debates on all of them.

Then on Tuesday, there are 20 other bills following the Private Calendar and those bills would be up for consideration under suspension of the rules. Again, we will have our recorded votes on them after all debates.

The remainder of that day, there are two other bills for the consideration of the House: H.R. 3435, involving education for the handicapped, and H.R. 2900, concerning the Atmospheric, Climatic and Ocean Pollution Act of 1983. Each of them would be coming to us under an open rule with 1 hour of general debate.

□ 2100

Mr. MICHEL. If the gentleman will yield further, I notice that on the back side of the schedule there is some more on the program for the balance of the week. I assume that everything mentioned, those 26 bills for Monday and the 20 bills on Tuesday, plus the two individual ones beyond that, will be printed in the RECORD.

Mr. WRIGHT. The bills will indeed be printed in the RECORD.

The distinguished minority leader is absolutely right.

Legislation to be considered under suspension of the rules on Monday, November 14, 1983:

H.R. 3635: Sexual exploitation of children (pornography).

H.R. 3729: Authorizations for domestic settlement (refugees).

S. 376. Debt Collection Act amendments.

H.R. 3922: Postal savings system limitation on claims for unpaid accounts.

H.R. 1095: Federal Charter for 369th Veterans' Association.

H.R. 29: Polish Legion of American Veterans, U.S.A. recognition.

H.R. 3249: National Academy of Public Administration, charter.

H.R. 3969: Panama Canal proxy bill.

H.R. 3486: Maritime safety bill.

H.R. 3968: NOAA health bill.

H.R. 4252: Nutrition assistance program for Puerto Rico.

H.R. 3867: Perishable Agricultural Commodities Act amendments.

H. Con. Res. 168: Weather satellites.

H. Con. Res. 190: Global position satellites.

S. Con. Res. 76: Congratulating Lech Walesa.

H. Con. Res. 111: Commemorating Ukrainian famine.

H. Con. Res. 63: Soviet Union compliance with human rights.

H. Con. Res. 177: Vladimir-Felzman bill.

H. Con. Res. 100: Calling on Soviet Union to end forced labor and exploitation.

H.J. Res. 289: International efforts to further child health.

H. Res. 136: Commending Dominican Republic for efforts to achieve democracy.

H. Res. 328: Name Central American Commission for late Senator Jackson.

H. Con. Res. 194: Support for democratic institutions in Costa Rica.

H. Con. Res. 196: United States-Mexican People-to-People Program.

H. Con. Res. 197: Supporting Contadora peace initiatives in Central America.

H. Con. Res. 213: Support return of democratic processes in Argentina.

Legislation to be considered under suspension of the rueles on Tuesday, November 15, 1983:

H.R. 3622: Credit Care Protection Act.

H.R. 4278: Extend ban on credit card surcharges.

H.R. 4325: Child Support Enforcement Amendments of 1983.

H.R. 2644: Cape Hatteras National Seashore.

H.R. 4198: Vermont Wilderness.

H.R. 3960: North Carolina Wilderness.

H.R. 3578: Wisconsin Wilderness.

H.R. 807: Amend Boundaries of Cumberland Island National Seashore.

H.R. 3921: New Hampshire Wilderness.

H.R. 2838: Tree Seedlings on Public Lands.

H.R. 3903: Colorado River Basin Salinity Act.

H.R. 4201: Rescheduling Methaqualone to schedule I of controlled substances.

H.R. 3649: National Health Service Corps personnel amendments.

H.R. 4336: Civil service miscellaneous amendments.

S. 450: Mail fraud bill.

S. 974: Military Justice Act.

H.R. 1264: Commission to examine voluntary service issues.

H.R. 4350: Emergency Loan Consolidation Act of 1983.

H. Res. 190: Sense of House to retain guidelines for equal opportunity in education.

H.R. 2751. Amendments to Foundation on Arts and Humanities Act.

Mr. WRIGHT. For Wednesday and the balance of the week we would be meeting at 10 a.m. and we have a number of bills that could be considered, they being: the Health Research Extension Act, the Wheat Improvement Act of 1984, the Communications Commission authorization, the Small Business Act, the Panama Canal authorization, and the Department of Justice authorizations for fiscal year 1984. We hope to adjourn by the end of next week.

Mr. MICHEL. I would assume, as the gentleman indicates, that all of these measures will be printed in the RECORD so that Members on the minority side, particularly ranking members of the committees from which these measures come, will be alerted to that fact. In addition, all Members should be aware that on Monday we will not only consider these bills but votes will be taken on Monday rather than spun over until Tuesday as we have done in previous weeks.

Mr. WRIGHT. The gentleman is exactly correct.

Mr. LOTT. I would like to ask the majority leader if we have any idea when the adjournment resolution might be considered?

Mr. WRIGHT. It is as it has been all along. Our intention and our expectation is to adjourn on the 18th. The close of business on the 18th.

Mr. LOTT. Friday; is that correct?

Mr. WRIGHT. That is correct.

Mr. LOTT. I thank the gentleman and yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CALL OF A SPECIAL CONSENT CALENDAR ON MONDAY, NOVEMBER 14, 1983

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that there may be a special Consent Calendar on Monday, November 14, 1983.

The Speaker. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT SATURDAY, NOVEMBER 12, 1983 TO FILE VARIOUS REPORTS

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight Saturday, November 12, 1984, to file reports on H.R. 4252, extension of cash nutrition assistance program in Puerto Rico; H.R. 3869, the Perishable Agricultural Commodities Act amendments; H.R. 2838, assistance to volunteers to plant tree seedlings on public lands; H.R. 3903, the Colorado River basin agricultural conservation program; and H.R. 4072, the Wheat Improvement Act of 1984.

My understanding is that all of these requests have been cleared with the minority.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

there was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PACKARD) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of New Jersey, for 30 minutes today.

Mr. MILLER of Ohio, for 10 minutes today.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. COYNE for 5 minutes, today.

Mr. MAZZOLI for 5 minutes, today.

Mr. ANNUNZIO for 5 minutes, today.

Mr. GONZALEZ for 30 minutes, today.

Mr. NELSON for 5 minutes, today.

Mr. LAFALCE for 30 minutes, today.

Mr. MILLER of California for 5 minutes, today.

Mr. GAYDOS for 60 minutes, on November 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. JOHNSON, immediately following the vote on continuing resolution.

(The following Members (at the request of Mr. PACKARD) and to include extraneous matter:)

Mr. PURSELL.
Mr. FORSYTHE.
Mr. TAUKE.
Mr. DANIEL B. CRANE.
Mr. DAUB.
Mr. FRENZEL in five instances.
Mr. SHUSTER.
Mr. WEBER.
Mr. HILLIS.
Mr. KEMP.
Mr. GILMAN in three instances.
Mr. RINALDO in two instances.
Mr. GINGRICH.
Mr. HYDE.
Ms. SNOWE.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. RICHARDSON.
Mr. SMITH of Florida.
Mr. PEPPER.
Mr. GAYDOS.
Mr. FOLEY.
Mr. MAZZOLI.
Mr. WEISS.
Mr. FASCELL.
Mr. WALGREN in two instances.
Mr. LANTOS in two instances.
Mr. DORGAN.
Mr. BERMAN.
Mr. SISISKY.
Mr. HARRISON.
Mr. LELAND.
Mr. OTTINGER.
Mr. JACOBS.
Mr. HOYER.
Mr. BRITT.
Mr. BEILENSON.
Mr. STARK in two instances.
Mrs. BOXER.
Mr. CONYERS in two instances.
Mr. FLORIO.
Ms. KAPTUR in two instances.
Mr. RODINO.
Mr. MORRISON of Connecticut.
Mr. HAWKINS in two instances.
Mr. EDGAR.
Mr. LIPINSKI in two instances.
Mr. AUCOIN.
Mr. BOUCHER.
Mr. CLARKE.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 183. Joint resolution to recognize the second week of November 1983, as "National Meals-on-Wheels and Congregate Meal Week"; to the Committee on Post Office and Civil Service.

A BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on November 9, 1983, present to the President, for his approval, a bill of the House of the following title:

H.R. 2920. An act to amend title 38, United States Code, to extend and improve various health-care and other programs of the Veterans' Administration; and for other purposes.

RECESS

The SPEAKER. Pursuant to the order of the House agreed to earlier today, the Chair intends to declare the House in recess subject to the call of the Chair.

The Chair expects to call the House back into session sometime between 11 o'clock and 12 o'clock for the sole purpose, and no other business, but the sole purpose of naming the conferees. At that time, after the conferees are named, we will go into recess again subject to the call of the Chair, and the Chair does not expect to call until 12 o'clock noon tomorrow.

If any other change after 9 o'clock in the morning were to come about, the Chair would advise Members and suggests that they may keep in touch with their Whip office.

The House is in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 9 minutes p.m.), the House stood in recess subject to the call of the Chair.)

EXECUTIVE COMMUNICATIONS, ETC.

2117. Under clause 2 of rule XXIV, a letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the unclassified PMS documentation function at the Naval Sea Center, Atlantic, Portsmouth, Va., pursuant to section 502(b) of Public Law 96-342, was taken from the Speaker's table and referred to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee Merchant Marine and Fisheries. H.R. 3486. A bill to promote maritime safety on the high seas and navigable waters of the United States, and for other purpose; with an amendment (Rept. No. 98-525). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3968. A bill to authorize the Secretary of Commerce to budget for medical and dental care for personnel of the National Oceanic and Atmospheric Administration entitled to that care (Rept. No. 98-526). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4325. A bill to amend part D of title VI of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; with amendments (Rept. No. 98-527). Referred to the Committee of the Whole House on the State of the Union.

Mr. MITCHELL: Committee on Small Business. H.R. 4209. A bill to amend section 15 of the Small Business Act; with amendments (Rept. No. 98-528). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 807. A bill to amend the boundaries of the Cumberland Island National Seashore. (Rept. No. 98-529). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3765. A bill to declare that the United States holds certain lands in trust for the Las Vegas Paiute Tribe; with an amendment (Rept. No. 98-530). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3578. A bill to establish the wilderness areas in Wisconsin (Rept. No. 98-531, Pt. I). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3960. A bill to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System; with an amendment (Rept. No. 98-532, Pt. I). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4198. A bill to designate certain national forest system lands in the State of Vermont for inclusion in the National Wildnerness Preservation system and to designate a national recreation area; with an amendment (Rept. No. 98-533, Pt. I). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4201. A bill to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes (Rept. No. 98-534). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3649. A bill to amend the Public Health Service Act to revise the system under which communities pay the United States for the services of National Health Service Corps personnel; with an amendment (Rept. No. 98-535). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES. Committee on the Judiciary. H.R. 3635. A bill to amend chapter 110 (relating to sexual exploitation of children) of title 18 of the United States Code, and for other purposes; with an amendment (Rept. No. 98-536). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEE ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAZZOLI: Committee on the Judiciary. H.R. 1865. A bill for the relief of Nery De Maio; (Rept. No. 98-521). Referred to the Committee of the Whole House.

Mr. SAM B. HALL JR.: Committee on the Judiciary. H.R. 440. A bill for the relief of Frederick Francisco Akers; Susan Freniz Akers, spouse; Christopher Ferniz Akers, son; and Christina Ferniz Akers, daughter; with amendments (Rept. No. 98-522). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 936. A bill for the relief of Mountaha Bou-Assali Saad (Rept. No. 98-523). Referred to the Committee of the Whole House.

Mr. SAM B. HALL JR.: Committee on the Judiciary. H.R. 1932. A bill for the relief of Mireille Laffite; with an amendment (Rept. No. 98-524). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SIMON (for himself, Mr. FORD of Michigan, Mr. KOGOVSEK, Mr. HARRISON, Mr. ACKERMAN, Mr. OWENS, Mr. ERLENBORN, and Mr. COLEMAN of Missouri):

H.R. 4350. A bill to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. BILIRAKIS:

H.R. 4351. A bill to amend title II of the Social Security Act to provide increases in primary insurance amounts to account for depressed replacement rates; to the Committee on Ways and Means.

By Mr. GAYDOS (for himself, Mr. MURTHA, Mr. REGULA, Mr. APPLEGATE, Mr. NOWAK, Mr. HILLIS, Mrs. HALL of Indiana, Mr. O'BRIEN, Mr. MOLLOHAN, Mr. RITTER, Mr. BEVILL, Mr. FORD of Michigan, Mr. RAHALL, Mr. MITCHELL, Ms. MIKULSKI, Mr. ECKART, Mr. FORSYTHE, Mr. WILSON, Mr. DINGELL, Mr. WILLIAMS of Montana, Mr. MATSUI, Mr. SAM B. HALL, JR., Mr. STAGGERS, Mr. TOWNS, Mr. MCEWEN, Mr. GEKAS, Mr. WALGREN, Mr. YATRON, Mr. HARRISON, Mr. KOLTER, Mr. TALLON, Mr. MURPHY, Ms. OAKAR, Mr. COYNE, Ms. KAPTUR, Mr. KILDEE, and Mr. BROOKS):

H.R. 4352. a bill to reduce unfair practices and provide for orderly trade in certain carbon, alloy, and stainless steel mill products, to reduce unemployment, and for other purposes; to the Committee on Ways and Means.

By Mr. HEFTEL of Hawaii:

H.R. 4353. A bill relating to the tariff classification of salted and dried plums, and for other purposes; to the Committee on Ways and Means.

By Mr. MACKAY:

H.R. 4354. A bill to designate the Federal Building in Ocala, Fla., as the Golden-Collum Memorial Federal Building; to the Committee on Public Works and Transportation.

By Mr. MONTGOMERY (by request):

H.R. 4355. A bill to give veterans who have received a Purple Heart additional points on the civil service examination, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING:

H.R. 4356. A bill to identify, commemorate, and preserve the legacy of historic landscapes of Fredrick Law Olmsted, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 4357. A bill to amend the Internal Revenue Code of 1954 to insure stockholder protection with respect to the treatment of amounts received in certain corporate acquisitions, and for other purposes; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. FORSYTHE, and Mr. YOUNG of Alaska):

H.R. 4358. A bill to amend title 46, United States Code, to establish penalties for the operation of a vessel by a person who is intoxicated and to provide for better reporting of accidents involving vessels in which the use of alcohol is a cause of the accident; to the Committee on Merchant Marine and Fisheries.

By Mr. WATKINS:

H.R. 4359. A bill to amend title 18 of the United States Code to provide the sentence of death for certain kidnapings and to establish constitutional procedures for the imposition of the sentence of death in those cases, and for other purposes; to the Committee on the Judiciary.

By Mr. LAFALCE (for himself, Mr. ST GERMAIN, Mr. LUNDINE, Mr. VENTO, Ms. OAKAR, Mr. MINISH, Mr. FAUNTROY, Mr. COYNE, Mr. COOPER, Ms. KAPTUR, Mr. LEVIN of Michigan, Mr. TORRES, Mr. ANNUNZIO, Mr. BONIOR of Michigan, Mr. GUARINI, and Mr. PEPPER):

H.R. 4360. A bill to improve the industrial competitiveness of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAFALCE (for himself, Mr. ST GERMAIN, Mr. LUNDINE, Mr. VENTO, Ms. OAKAR, Mr. MINISH, Mr. FAUNTROY, Mr. COYNE, Mr. COOPER, Ms. KAPTUR, Mr. LEVIN of Michigan, Mr. TORRES, and Mr. ANNUNZIO):

H.R. 4361. A bill to promote the commercial application and diffusion of advanced technology within industrial sectors; jointly, to the Committees on Banking, Finance and Urban Affairs and Science and Technology.

By Mr. LAFALCE (for himself, Mr. ST GERMAIN, Mr. LUNDINE, Mr. VENTO, Ms. OAKAR, Mr. MINISH, Mr. FAUNTROY, Mr. COYNE, Mr. COOPER, Ms. KAPTUR, Mr. LEVIN of Michigan, Mr. TORRES, Mr. ANNUNZIO, Mr. BONIOR of Michigan, Mr. GUARINI, and Mr. PEPPER):

H.R. 4362. A bill to establish a Council on Industrial Competitiveness and a Bank for Industrial Competitiveness; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAFALCE (for himself, Mr. SCHUMER, Mr. ST GERMAIN, Mr. VENTO, Ms. OAKAR, Mr. MINISH, Mr. FAUNTROY, Mr. COYNE, Mr. COOPER, Ms. KAPTUR, Mr. LEVIN of Michigan, and Mr. TORRES):

H.R. 4363. A bill to expand the availability of long-term capital for industrial mortgages; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES (for himself, Mr. FORSYTHE, Mr. HOWARD, Mr. D'AMOURS, Mrs. SCHNEIDER, Mrs. BOXER, Mr. YOUNG of Alaska, Mr. BONKER, Mr. LENT, Mr. SAWYER, Mr. MCKERNAN, Mr. CARPER, and Mr. STUDDS):

H.R. 4364. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 regarding the ocean dumping of municipal sludge, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LANTOS:

H.R. 4365. A bill to require that the U.S. Embassy in Israel be located in the city of Jerusalem; to the Committee on Foreign Affairs.

By Mr. LIPINSKI (for himself, Mr. NOWAK, and Mr. OBERSTAR):

H.R. 4366. A bill to prohibit diversions of Great Lakes water, except as approved by all the Great Lakes States and the International Joint Commission, for use outside of a Great Lakes State and to prohibit federally sponsored studies involving the feasibility of diverting Great Lakes water; to the Committee on Public Works and Transportation.

By Mr. WALGREN:

H.J. Res. 415. Joint resolution designating the week beginning April 8, 1984, as "National Mental Health Counselors Week"; to the Committee on Post Office and Civil Service.

By Mr. BARNES (for himself, Mr. GLICKMAN, and Mr. LAGOMARSINO):

H. Con. Res. 213. Concurrent resolution expressing the sense of the Congress in support of the return to democratically elected government in Argentina; to the Committee on Foreign Affairs.

By Mr. BOLAND:

H. Con. Res. 214. Joint resolution authorizing the Rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the 20th anniversary of the death of President John Fitzgerald Kennedy; considered and agreed to.

By Mr. McCOLLUM (for himself, Mr. YOUNG of Alaska, Mr. MCNULTY, Mr. WALGREN, Mr. HARTNETT, Mr. BENNETT, Mr. MARLENEE, Mr. TAUZIN, Mr. HUTTO, Mr. DANIEL B. CRANE, Mr. LAGOMARSINO, Mr. ANNUNZIO, Mr. BEREUTER, Mr. BATEMAN, Mr. YOUNG of Florida, Mr. WEBER, Mr. KINDNESS, Mr. NICHOLS, Mr. WHITEHURST, Mr. SHAW, Mr. REID, Mr. SAM B. HALL, JR., Mr. MACKAY, Mr. FASCELL, Mr. MICA, Mr. WALKER, Mr. WYLIE, Mr. RITTER, Mr. HATCHER, Mr. ZSCHAU, Mr. ARCHER, Mr. GRADISON, Mrs. LLOYD, Mr. MOLLOHAN, Mr. DAUB, Mr. WILSON, Mr. LIVINGSTON, Mr. HYDE, Mr. BADHAM, and Mr. DORGAN):

H. Con. Res. 215. Concurrent resolution to express the sense of Congress regarding the return to Cuba of certain Cuban nationals who arrived in the Mariel boatlift and are currently incarcerated in the United States; to the Committee on the Judiciary.

By Mr. WEISS (for himself, Mr. CONYERS, Mr. DIXON, Mr. DYMALLY, Mr. GONZALEZ, and Mr. MITCHELL):

H. Res. 370. Resolution impeaching Ronald Reagan, President of the United States, of the high crime or misdemeanor of ordering the invasion of Grenada in violation of the Constitution of the United States, and other high crimes and misdemeanors ancillary thereto; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. ST GERMAIN.

H.R. 881: Mr. PETRI, Mr. HEFTEL of Hawaii, Mr. WALGREN, Mr. BOUCHER, Mr. SIMON, Mr. RINALDO, Mr. YATRON, and Mr. WHEAT.

H.R. 1016: Mr. GILMAN and Mrs. HALL of Indiana.

H.R. 1219: Mr. THOMAS of Georgia and Mr. BETHUNE.

H.R. 1250: Mr. MORRISON of Washington, Mrs. BURTON of California, Mr. DOWNEY of New York, Mr. DICKS, Mr. ROSE, Mr. RAY, Mr. ACKERMAN, and Mr. CLARKE.

H.R. 1400: Mr. DYMALLY.

H.R. 2053: Mr. HAYES.

H.R. 2107: Mr. EMERSON.

H.R. 2126: Mrs. HALL of Indiana.

H.R. 2127: Mrs. HALL of Indiana.

H.R. 2151: Mr. PACKARD.

H.R. 2374: Mrs. HALL of Indiana.

H.R. 2486: Mr. JACOBS, Mr. SMITH of Florida, Mr. KINDNESS, Mr. WON PAT, Mr. FAZIO, and Mrs. HALL of Indiana.

H.R. 2495: Mr. CLARKE.

H.R. 2497: Mr. HERTEL of Michigan, Mr. MITCHELL, and Mr. ROSE.

H.R. 2645: Mr. DARDEN.

H.R. 2715: Mr. ACKERMAN.

H.R. 2817: Mr. SUNIA.

H.R. 2978: Mr. RAHALL.

H.R. 3028: Mr. EDWARDS of Oklahoma, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. PATMAN, and Mr. THOMAS of California.

H.R. 3094: Mr. VANDER JAGT.

H.R. 3240: Mr. ROYBAL and Mr. WOLPE.

H.R. 3282: Mr. MOAKLEY, Mr. SMITH of New Jersey, Mr. BERMAN, Mr. HARKIN, and Mr. WYDEN.

H.R. 3482: Mr. HAYES, Mr. SEIBERLING, Mr. MINETA, Mr. GLICKMAN, Mr. SOLARZ, Mrs. BURTON of California, Mr. FASCELL, Mr. BARNES, Mr. SAVAGE, Mr. DELLUMS, Mr. MCCLOSKEY, and Mr. ADDABBO.

H.R. 3591: Mr. MOAKLEY and Mr. SOLARZ.

H.R. 3641: Mr. DOWNEY of New York and Mr. MOORE.

H.R. 3728: Mr. FORD of Michigan, Mr. YOUNG of Missouri, Mr. MITCHELL, Ms. MIKULSKI, Mr. ECKART, Mr. KINDNESS, Mr. FORSYTHE, Mr. WILSON, Mr. GONZALEZ, Mr. DINGELL, Mr. WILLIAMS of Montana, Mr. TALLON, Mr. MATSUI, Mr. BROOKS, Mr. SAM B. HALL, JR, Mr. STAGGERS, Mr. KOGOVSEK, Mr. KILDEE, Mr. TOWNS, Mr. ROE, Mr. MCEWEN, and Mr. GEKAS.

H.R. 3763: Mr. ADDABBO, Mrs. SCHNEIDER, and Mr. VENTO.

H.R. 3867: Mr. THOMAS of Georgia.

H.R. 3984: Mr. ST GERMAIN.

H.R. 4075: Mr. FRANK, Mr. MURPHY, Mr. STOKES, Mr. ROE, Ms. KAPTUR, Mrs. JOHNSON, Mr. MARTIN of North Carolina, Mr. MITCHELL, Mr. RATCHFORD, and Mr. SIMON.

H.R. 4078: Mr. GAYDOS.

H.R. 4114: Mr. FORD of Tennessee and Mr. DUNCAN.

H.R. 4140: Mr. PENNY, Mr. LEVIN of Michigan, Mr. MORRISON of Washington, Mr. WEISS, Mr. KOGOVSEK, Mr. MINETA, Mr. LEHMAN of California, Mr. MORRISON of Connecticut, and Mr. SIMON.

H.R. 4150: Mr. LEHMAN of Florida, Mr. WYLIE, Mr. ROE, Mr. HORTON, Mrs. COLLINS, Mr. APPLEGATE, Mr. FORSYTHE, Mr. PATMAN, and Mr. FASCELL.

H.R. 4325: Mrs. SCHROEDER, Ms. SNOWE, Ms. FERRARO, Ms. KAPTUR, Mrs. HALL of Indiana, Mr. FLIPPO, Mr. ANTHONY, Mr. WHEAT, Mr. SHANNON, Mr. DOWNEY of New York, Mr. LELAND, Mr. HEFTEL of Hawaii, Mrs. ROUKEMA, Mrs. BOXER, Mrs. JOHNSON, Mr. GUARINI, Mr. SWIFT, and Mr. CONABLE.

H.J. Res. 1: Mr. HAYES.

H.J. Res. 103: Mr. HERTEL of Michigan and Mr. WILSON.

H.J. Res. 120: Mr. MCKERNAN.

H.J. Res. 343: Mr. WALGREN, Mrs. BOXER, Mr. HUGHES, Mr. MARKEY, Mr. JENKINS, Mr. ANNUNZIO, Mr. RODINO, Mr. SOLARZ, Mr. BARNES, Mr. LEHMAN of Florida, Mr. SMITH of Florida, Mr. ACKERMAN, Mr. ROE, Mr. LELAND, Mr. VANDERGRIFF, Mr. MCNULTY, Mr. SIMON, Mr. TALLON, Mr. UDALL, Mr. LAFALCE, Mr. FAZIO, Mr. WIRTH, Mr. COELHO, Mr. BONIOR of Michigan, Mr. DELLUMS, Mr. GEJDENSON, Mr. LEVIN of Michigan, Mr. WAXMAN, Mr. AUCOIN, Mr. WYDEN, Mr. PANETTA, Mr. TOWNS, Mr. LANTOS, Mr. BROWN of California, Mr. EDGAR, Mr. FOGLIETTA, Mr. ANTHONY, Mr. MINETA, Mr. LONG of Maryland, Mr. LIVINGSTON, Mr. O'BRIEN, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. EDWARDS of Alabama, Mr. FRENZEL, Mr. WOLF, Mr. FORSYTHE, Mr. PRITCHARD, Mr. CORCORAN, Mr. SHUMWAY, Mr. LEACH of Iowa, Mr. CONABLE, Mrs. SCHNEIDER, Mr. HORTON, Mr. BATEMAN, Mr. SUNIA, Mr. FAUNTROY, and Mr. CORRADA.

H.J. Res. 356: Mr. FEIGHAN, Mr. MINETA, Mr. DUNCAN, Mr. HUGHES, Mr. MATSUI, Mr. DWYER of New Jersey, Mr. BEVILL, Mr. LANTOS, Mr. MOLLOHAN, Mr. FAZIO, Mr. MINISH, Mr. SOLARZ, Mr. HORTON, Mr. LEVIN of Michigan, Mr. SAM B. HALL, JR., Mr. GOODLING, Mr. MRAZEK, Mr. DAVIS, Mr. SMITH of New Jersey, Mr. EDGAR, Mr. GREEN, Mrs. BOXER, Mr. MOORE, Mr. RUDD, Mr. EVANS of Iowa, Mr. ERDREICH, Mr. BATEMAN, Mr. OTTINGER, Mr. KOSTMAYER, Mr. TAUKE, Mr. STUMP, Mr. DYMALLY, Mr. WYDEN, Mr. YOUNG of Alaska, and Mr. ARCHER.

H.J. Res. 384: Mr. KASTENMEIER, Mr. WEAVER, Mr. FAUNTROY, Mrs. SCHNEIDER, Mr. MARTINEZ, Mr. LEHMAN of California, Mr. STUDDS, Mrs. BURTON of California, and Mr. HALL of Ohio.

H.J. Res. 388: Mr. LEWIS of California, Mr. WINN, Mr. SHELBY, Mr. VANDERGRIFF, Mr. EMERSON, Mr. MCEWEN, Mr. DYSON, Mrs. LLOYD, Mr. OLIN, Mr. BRITT, Mr. LOWERY of California, Mr. HIGHTOWER, Mr. DICKS, Mr. KASTENMEIER, Mrs. SCHNEIDER, Mr. ZABLOCKI, Mr. OBEY, Mr. ROBERTS, Mr. SILJANDER, Mr. SHANNON, Mr. PATTERSON, Mr. TAUZIN, Mr. HANSEN of Idaho, Mr. RICHARDSON, Mr. LENT, Mr. SOLARZ, Mr. WORTLEY, Mr. EDWARDS of California, Mr. RATCHFORD, Mr. WALGREN, Mr. HAWKINS, Mr. HUTTO, Mr. FOGLIETTA, Mr. KILDEE, Mr. LELAND, Mr. LAFALCE, Mr. KINDNESS, Mr. HORTON, Mr. DENNY SMITH, Mr. BROWN of California, Mr. HYDE, Mr. MAVROULES, Mr. LANTOS, Mr. DREIER of California, Mr. GREEN, Mr. MAZZOLI, Mr. MADIGAN, Mr. SMITH of Florida, Ms. MIKULSKI, Mr. FAUNTROY, Mr. BEVILL, Mr. OBEY, and Mr. WHITTAKER.

H.J. Res. 407: Mrs. ROUKEMA, Mr. SABO, Mr. ROE, Mr. COLEMAN of Texas, Mr. QUILLEN, Ms. KAPTUR, Mr. LAGOMARSINO, Mr. WON PAT, Mr. LELAND, Mr. HARKIN, Mr. WORTLEY, Mr. TOWNS, Mr. LEVIN of Michigan, Mr. DWYER of New Jersey, Mr. KASICH, Mr. MOORE, Mr. VANDERGRIFF, Mr. LANTOS, Mr. EDWARDS of California, Mr. RATCHFORD, Mr. SIMON, Mr. LEWIS of Florida, Mr. FAZIO, Mr. RANGEL, Mr. KILDEE, Mr. FRENZEL, Mr. HAMMERSCHMIDT, Mr. HORTON, Mr. ADDABBO, Mr. BROWN of California, Mr. MADIGAN, Mr. BARNES, Mr. GREEN, Ms. MIKULSKI, Mr. FORD of Tennessee, Mr. RICHARDSON, Mr. SMITH of Florida, and Mr. DAUB.

H.J. Res. 408: Mr. GORE and Mr. DUNCAN.

H. Con. Res. 100: Mr. KOGOVSEK, Mrs. VUCANOVICH, Mr. MINISH, Mr. CARNEY, Mr. HAWKINS, Mr. FRANK, Mr. HUTTO, Mr. BERMAN, Mr. O'BRIEN, Mr. EVANS of Iowa, Mr. DAUB, and Mr. LEWIS of California.

H. Con. Res. 150: Mr. BIAGGI, Mr. ROBERTS, Mr. ROBERT F. SMITH, Mr. CRAIG, Mr. MARLENEE, Mr. LIVINGSTON, Mr. ROGERS, Mr. WEBER, Mrs. VUCANOVICH, Mr. DUNCAN, Mr. LEWIS of Florida, Mr. BEDELL, Mr. DONNELLY, Mr. YOUNG of Alaska, Mr. EMERSON, Mr. GARCIA, and Mr. RINALDO.

H. Con. Res. 207: Mr. ECKART.

H. Res. 281: Mr. CLARKE.

EXTENSIONS OF REMARKS

RUTH HARDIN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HOYER. Mr. Speaker, I rise to pay tribute to a loyal servant of this House.

Ruth Hardin is winding up 23 years of hard work, long hours, and devoted service as an expert transcriber in the Office of Official Reporters.

This followed a career in the private sector where she garnered the skills she brought to bear here for the House.

We wish her well in her richly deserved retirement, in the company of her children, Kathy, Mitzi, and Gary, along with her grandchildren and friends.

All her colleagues here in the House join me in saying to Ruth, "Remember us; come back to see us."

I thank the Speaker.●

THE BUILDING OF A CROSS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. PEPPER. Mr. Speaker, one of the most beautiful stories of devotion of a parent to a child is a story of Gen. Sumter L. Lowry about the building of a cross by General and Mrs. Lowry of Tampa, Fla., and Waynesville, N.C. in memory of their daughter Lyn who died at the age of 15. The cross is situated on top of 6,280 foot Mount Lyn Lowry in Waynesville, N.C., and is illuminated so that it can be seen from some 40 miles away.

Major General Lowry, U.S. Army (Retired), holds 14 decorations from the two world wars. In addition, he served for some 14 years in the Florida National Guard, entering as a captain in 1914 and attaining the rank of brigadier general by the time he left the Guard in 1934. This service was interrupted by a period of Federal service in the border patrol and overseas national service.

General Lowry has told the inspiring story of the building of this cross in honor of his and Mrs. Lowry's beautiful daughter Lyn in a little pamphlet, "The Cross of Christ—Mount Lyn Lowry—I Believe in Miracles." That beautiful story of parental devotion and reverence for God and devotion to Christianity is one of the most moving stories I have ever read. I had the privilege of visiting General Lowry for a second time recently on his 90th birthday with a group of admiring friends at General and Mrs. Lowry's lovely home near Waynesville in the latter part of August of this year and General Lowry, still mentally keenly alert and active at 90, gave me this little pamphlet telling this moving story.

Mr. Speaker, I submit General Lowry's story for the CONGRESSIONAL RECORD to appear immediately following my remarks because all who read it will be better Christians and better parents and will share my esteem and affection for this great American who has done so much for his country, Gen. Sumter L. Lowry.

I BELIEVE IN MIRACLES

(By Sumter L. Lowry)

WE BUILD A CROSS ON A MOUNTAIN TOP

I believe in miracles. Yes, I believe in miracles because they have happened to me. This is a story of a series of miracles which occurred before, during and after the building of the Cross on Mt. Lyn Lowry. Each miracle was related to and had a direct bearing on this project.

Some things in life just happen without any reason. Some things happen by accident. But, other things happen by divine purpose and direction. The building of the Cross on Mt. Lyn Lowry in Waynesville, North Carolina was surely done by divine direction.

First, let me tell you why it all started. When the good Lord decided that He needed another angel in heaven and took our little daughter, Lyn, to be with Him, we felt that we had suffered a loss from which we could never recover. For Lyn was truly an unusual girl. She was a dedicated Christian with complete faith. She was beautiful and smart, tender and loving—yet she had a great deal of courage and fire. Lyn was an inspiration to all who knew her. We were so proud of her.

But, as time went on we realized that the only thing we could do was to accept the loss as the Lord's Will and be grateful for the fifteen years we had her. We also felt that she must have been put on this earth for some particular purpose. Because she was such a great Christian, we wanted to do something which would glorify Jesus, our Lord and Savior, perpetuate Lyn's memory and spread joy throughout the land.

After considering a great many projects, we decided that we would put a lighted Cross on top of a high mountain in North Carolina. We would build this Cross large enough to be seen for thirty or forty miles around, both day and night. This Cross would be a symbol of faith and would radiate Christian influence to all who saw it. As the project took shape in our minds we felt that the Lord would bless our efforts and let us complete this difficult task. So Lyn's mother, Ivilyn, and I made plans for the building of a steel cross on top of this beautiful and majestic mountain.

The record of each miracle as it happened now follows:

WE GET IN THE STEEL BUSINESS

The story begins in Jacksonville, Florida before Lyn was born in a way that I did not realize at the time would later prove to be a key incident contributing to the erection of the Cross as ninety percent of the material that went into the building of the Cross was steel. In 1940 I was living in that city and my office was in the heart of the downtown area. One day I had to go to the bank which was several blocks away. On my way it was necessary for me to cross one of the crowded streets which had a four-way pedestrian crossing at one of the main intersections. In the middle of the street which was crowded with people coming from four directions I ran into an old friend of mine who was crossing the same street from a different angle. We met in the center of the street. Both of us were surprised. I asked him how he was getting along, to which he replied that he was very unhappy. I said "What's the trouble?" And he answered, "It is too long a story to tell here." I suggested, "Let's go back to the sidewalk and talk about it. Maybe I can help you out." He told me this story.

He was the owner of a steel fabricating company in Jacksonville. Certain interests in Miami were building a twenty-story skyscraper in that city and my friend had the contract to fabricate and erect the steel. It turned out that his plant had made an error in calculation and all the holes bored in the steel beams and colums were ⅛" off line and when the steel was fabricated and shipped down to the building site in Miami, it would not fit together. This error had cost him a lot of money. My friend said he was tired of trying to operate this plant with incompetent personnel. I said to him "Why don't you do something about it?" He answered that he would like to sell the plant and get it off his hands. I asked "How much do you want for it?" He told me and it was a sum much larger than I was capable of handling alone. I had no possible use for a steel plant but I had a strong feeling that I ought to buy the plant anyway. For what reason I did not know.

Without further conversation I told him "All right, I will buy the plant." This decision and my association with the steel industry made it possible to take the first step in the building of this steel cross.

As soon as we had taken over the plant I realized that we needed a competent man with experience in the steel business to operate it. The Lord led me to a friend who at that time was a successful operator of a steel plant in another city. This friend immediately agreed to join forces with me and provide the practical experience necessary for the operation of a steel plant.

I did not realize at that time but this occurrence was certainly the first miracle. Everything fell into place. The Lord provided the meeting place with the man who owned a steel plant. He made the climate right for me to buy it. I did not have the money to

buy it yet, God provided me with the instinct to go ahead anyway and made it possible for me to raise the money. He gave me a capable man to operate the plant. A steel mill was the most necessary ingredient in building the Cross and I solved that problem twenty years ahead of time without even knowing it.

GOD LEADS ME TO WAYNESVILLE, N.C.

The second miracle concerned the place to put the Cross and how God's Hand was revealed in this problem. This is how it happened.

During the summer of 1953, my wife, Ivilyn, and I wanted to take a short vacation somewhere in North Carolina. We got in the car and headed north. When we reached Waynesville we decided we would spend a few days to look around. As a result of this stop we liked the area so well we bought a small lot and started building a house on it. During the winter while it was being built I made a trip back to North Carolina to check on the progress. I stopped at a motel which belonged to a family who had lived in Waynesville for four generations and owned a great deal of property in the area.

It was very cold and one night as we sat around a big roaring fire I commented to the owner how much we liked this neighborhood. After a few minutes conversation, right out of the blue he said, "General Lowry, why don't you buy one of my mountains?" I replied, "Why in the world would I want to buy a mountain? Living 600 miles away from Waynesville, I would not have the slightest interest in or use for a mountain."

For some unknown reason I asked him how much he wanted for the mountain and where was it located. He quoted me a price and said the mountain was just west of Waynesville. I casually said to him that I would check with some friends of mine who lived here and would talk to him about it tomorrow. The next morning I did talk to my friends. They urged me to go ahead and buy the mountain. I contacted the owner and with very little difficulty made the deal and bought the mountain. This turned out to be the present location of the Cross. At that time I did not understand why I took this action as I certainly did not need a mountain. This was years before Lyn's death and we, of course, did not know what God had in mind. We now realize that it was all part of His plan.

After we lost Lyn, when Ivilyn and I were considering a memorial for her, God put the thought in my mind that this would be the place for a memorial and a cross was the proper symbol. This mountain proved to be the ideal spot. Later, the United States government and the state of North Carolina named this magnificent 6,280 foot peak Mt. Lyn Lowry. We did not realize it then but we had acquired the two major ingredients needed—the land on which to put the Cross and the steel to make it out of. All of this came about by two miracles which the Lord had worked.

GRIZZLY BEAR

Up to this time God has selected the material to be used to build the Cross and the mountain on which to put it. One other major ingredient now needed was a man to carry out God's wishes and it was my good fortune to have been selected to do this job for Him. I will tell you the story of the miracle of the encounter with a grizzly bear in the mountains of Canada.

In 1957 Ivilyn and I were taking a trip throughout Canada and stopped at Lake Louise for a short visit. Lake Louise is at the base of the beautiful Victoria Glacier. It was formed ages ago by glacier action. It is a very deep lake with the mountains coming almost down to the water's edge on three sides. There was, however, a path about four feet wide which circled the lake and followed the stream which led to the glacier cliff.

Ivilyn and I thought we would take a walk down this trail and perhaps get all the way up to the base of the glacier. It was late in the year and very few people were in our hotel and only a few tourists were out on the trails leading from the hotel. After a short walk on the trail we realized that the glacier ahead was too far away so we turned around and started back.

We were about half way around the lake and as I was walking a little bit faster I had gotten about 200 yards ahead of Ivilyn on the narrow path with the lake on one side and the steep incline of the mountain on the other. I looked up and about 100 yards ahead of me coming down the trail was a huge grizzly bear standing on its hind legs. I didn't know what to do but I hollered to Ivilyn "Come up here quickly. There is a bear on the trail." I started back to meet her. I didn't want to run because I knew that this was the wrong thing to do.

In a short time I met her about half way. I looked around to see what we could do to get off the trail. The mountain side was too steep to climb but fortunately there was a large rock in the lake which was separated from the trail by about 3 feet of water. I jumped out on this rock and told her to jump to me. She did and I caught her and pulled her up on the rock.

We looked down the trail again and instead of one bear there were three bears on it. There was the huge Papa bear, the big Mama bear, and a baby bear behind her. The bears came right up to us within ten feet of the rock. The big bear was swaying backwards and forwards with his mouth wide open and his tongue hanging out—a fearsome looking thing. I didn't know what to do. I had a little light walking stick in my hand which, of course, would not have been of any value at all. We were practically frozen with fear.

To show you how the good Lord takes care of people whether they deserve it or not, just at the crucial moment the little bear came up behind the Papa bear and bit him on the leg. With that, the Papa bear swiped at him with his paw and knocked him head over heels down the path. The cub yelped and bellowed then picked himself up and ran up the steep side of the mountain. The Mama and Papa bears turned around and followed him and we were saved from disaster by the Lord and out friend, the little bear cub. It was really a close call.

To me this story was without a doubt a miracle performed here to save Ivilyn and me from harm and make it possible for us to carry out God's wishes. There is no question whatsoever that God instructed that baby grizzly bear to bite his papa on the leg. For it was the only thing that stopped the big bear and turned him away from us. This was truly a miracle, for 3 foot baby bears don't usually bit 7 papa bears unless motivated by God to do so.

This miracle together with the purchase of the steel plant and the selection of the mountain happened before Lyn's death and was all part of God's long term Plan to put a cross on the mountain. Of course, Ivilyn and I knew nothing about it at the time.

GOD GIVES US A SIGN FROM HEAVEN

The Cross was actually built at the Jacksonville, Florida steel plant which God had made available for our use. It was constructed laying flat on the ground and after completion cut up into five parts, loaded on trucks and carried to the base of the mountain where it was then dragged by bulldozer to the top of the mountain for assembly. During this stage of the operation the exact spot on which to place the Cross had to be determined. I made a very careful study of the terrain and the viewing area and after deciding on a general area on the mountain where it would be placed, I took a group of five men up there for a ground reconnaisance.

In this group was the construction foreman and other key men who had to do with the actual erection of the Cross. It was a long and tough struggle to reach the top of the mountain, especially the last 2 or 3 hundred feet which meant virtually climbing the face of a cliff. We finally made it and after careful ground review I decided just where we would put the Cross so that it would be seen by as many people as possible from Waynesville and surrounding valleys.

The top of the mountain was covered with a thin layer of humus from 12 to 24 inches deep. When I was ready to give the word as to the exact spot, I told our construction foreman "Miller, drive a stake right here. This spot will be the center of the Cross."

When the actual building of the Cross began that spot was excavated down to the bare rock and exactly under this stake where the Cross was to be placed—What did we find? A RUSTY HORSE SHOE!! To me, this was a sure sign that God had given his stamp of approval and would make it possible for us to complete the assembly of the Cross on the mountain top. All through the Bible there are references to signs from Heaven. There is no doubt that this was a sign from Heaven which said "Go ahead full steam. The job can be done."

MEN AND EQUIPMENT

Another miracle wrought in the building of the Cross is the face that the job was done without any modern equipment or technical help.

The only equipment we uses in this undertaking was; a powerful truck, a bulldozer, a portable concrete mixer, a gin pole, a portable welding machine, four World War II jeeps and plenty of dynamite.

We had no trained engineer or building expert to direct the work and make critical decisions. I was the nearest thing to an engineer we had. It had been the artillery officer of a division in the army and had had experience in moving heavy equipment over difficult ground. Perhaps the Lord felt we would just have to get along the best we could with me to fill the place of an engineer.

We were very fortunate in securing the assistance of a small but dedicated group of mountain men—all from this section of North Carolina. The erection of the Cross soon became a crusade for them and obstacle after obstacle was overcome by the hard work and dedication of this crew of fine mountaineers.

When the Cross was finished our crew was bursting with pride to see the result of their labor in the sight of this beautiful white cross standing where they had put it. It took a little better than a year to build the Cross and not one single injury occurred during that time. Surely, God was watching over His people.

THE MIRACLE OF THE ROCK

The devil was naturally very much displeased to see this Cross erected on Mt. Lyn Lowry and did everything he could think of to put obstacles in our way. But, God being on our side, took counteraction to offset and thwart the plans of the devil.

To illustrate—the devil threw a rock at me and caused it to land on top of the jeep I was driving. This happened during a dynamite blast while cutting the road out of the rock cliff near the top of the mountain.

When I approached the spot where the blast was to occur one of my men was standing on the path. He stopped me and said there was to be a dynamite explosion in just a few minutes and that I had better get out of the jeep and behind a tree on account of rock fragments which would be flying in the air. I did not think this was necessary but this man insisted. So, I finally got out and stood behind a big balsam tree. Just at that moment the blast was ignited and a huge rock was thrown into the air. It landed on the top of my jeep going through the canvas cover knocking a hole entirely through the seat where I had just been sitting.

There is no doubt in my mind that the Lord was watching over me so that I could complete this job which He had appointed me to do. This was surely a divine miracle. No doubt about it.

WE LIGHT THE CROSS

While the details of the Cross were being worked out, the problems of lighting was a very important one and one that was difficult to understand because there were no experts on outdoor lighting in this small rural community. I had made considerable effort to find the right man to help me with this problem but had had no success. About that time, the Lord stepped in and made the job easy.

I suddenly remembered that fifty years before I had a classmate during my college days who became head of the lighting department of one of the largest electrical companies in the United States. I immediately contacted him and asked if he would help us. He was glad to do so, putting at our disposal one of his lighting engineers. This man designed a lighting system so that the Cross could be seen from forty miles away.

This may not have been a miracle but it sure was a big help in solving our lighting problem. God had me firmly by the hand and led me every step of the way. With His Help, nothing could stop us and nothing did.

LIGHTNING STRIKES THE CROSS

After the Cross was completed the devil took out after us in the form of lightning bolts. Over and over again lightning struck all around the Cross and actually struck the Cross on one or two occasions. But, no damage was ever done. The ground where the lead off lightning wires are located was torn up but no damage has been done to the Cross. Dozens of electrical storms have passed over the Cross during the last twenty years but under God's loving care the Cross still stands unharmed.

GEORGE WASHINGTON'S SPIRIT STANDS GUARD

After we had completed the Cross on top of Mt. Lyn Lowry, I was roaming around up there one day and just at a certain point I was able to see a large rock lying on the ground between two trees. I happened to glance at it at just the right angle and to my astonishment there was the head of George Washington looking like it had been formed in stone. I was so amazed that I thought maybe it really was a carving but when I went over and looked at it from another angle, it did not have the likeness at all. But, viewed at a particular point it is really a good profile of Washington.

It so happens that this rock is located on the old Indian trail joining Balsam Gap to Soco Gap. History tells us that before the Revolutionary War, George Washington was commissioned to survey parts of the unsettled territory of the Colonies; and, it is entirely possible that he could have visited this area and seen this rock himself.

Everyone knows that George Washington was a true Christian and our number one patriot. Perhaps the Lord put that rock there as a sign that our country's great national hero is there in spirit to stand guard over the Cross.

I am sure that this rock has some significance but we will just have to be patient about God revealing the meaning.

BILLY GRAHAM DEDICATES THE CROSS

When the Cross on top of Mt. Lyn Lowry was completed Ivilyn and I were so pleased with the results that we wanted to have a dedication ceremony which would be in keeping with the great importance of the Cross and its spiritual meaning. We felt that the one man we would particularly like to dedicate the Cross would be the famous evangelist, Billy Graham.

He is one of the most consecrated Christians in the world and it would be an honor and give it great spiritual prestige and dignity if we could persuade him to come. I had known Dr. Graham casually for several years but we felt that for the invitation to be accepted it would have to come from some person close to Dr. Graham. This problem was quickly solved when the Lord led me to talk to a friend of mine in Waynesville who, as it turned out, was a very close friend of Billy Graham's. The invitation was extended personally by this man and without hesitation Billy said he would be glad to come as he felt it was of sufficient religious importance for him to give of his busy time. The speedy acceptance of this invitation was in itself a miracle directed by God for, as you know, Billy Graham is one of the most sought after speakers in the world and we were so fortunate to have him agree to come to the mountain.

DEDICATION CEREMONY

August 9, 1965 was the date set for the dedication. Let me tell you of the miracle which happened at the actual ceremony. We did not care to make the dedication a public affair. But, together with our family and close friends we did want to include all the men who actually took part in the building of the Cross. Also, we wanted to invite those state and county officials who had been kind, and helpful in the building of the Cross along with the religious leaders who had been interested in the project.

On the day of the dedication Billy Graham and the rest of the party, about 75 people, assembled at the base of the mountain and were transported in 4-wheel drive vehicles which were necessary to get them to the top of the mountain. I drove Billy in my personal jeep and had an opportunity to talk to him about the importance of the project. He expressed the opinion that it would be one of the great Christian memorials anywhere in the United States.

Now when we left the base of the mountain, the weather was very threatening. In fact, there was a black cloud all over the mountain; and, by the time we reached the half-way point the clouds were so thick that we could hardly see to drive. But, we were determined that we would go on through with the dedication no matter what the weather held. When all of the people were in place and the introductory speeches had been made, the beautiful hymn, "How Great Thou Art" was sung and prayers offered. It was now time to introduce Billy Graham to make the dedication.

The huge black cloud still hovered over the top of the mountain and it looked like it was going to rain any minute. Then a miracle took place! Just as Dr. Graham got up to speak the clouds overhead parted and a shaft of sunlight came through the opening in the clouds and rested on Billy's head. It was just as if the Lord had opened the clouds and sent this ray of light as a beacon of hope for all to see and to let us know that he was pleased and happy that we had erected this Cross to His Glory on this high mountain.

I am sure everyone has seen the famous picture of Christ kneeling with the shaft of light coming through the clouds and resting on his head. Well, this was just like it—certainly an inspiring spectacle which will never be forgotten by those who saw it. When Billy Graham's speech was over, the clouds came back together. There was no sunlight. The mountain was dark again. But, there was the beautiful Cross pure white and shining even in the dark clouds which covered the mountain.

EVERY CHRISTIAN CAN DO HIS PART

By hard work, with a series of related miracles and with God's help the job was done.

The Cross now stands on Mt. Lyn Lowry in all its glory. But, it is going to require continued effort and attention to keep the road open, the Cross standing and the light burning. I quote from the closing lines of my book OLE 93:

"A special message to my children and grandchildren. I want you children to remember one thing. The Cross that we erected on Mt. Lyn Lowry is the living symbol of our Christian faith. I charge each of you to make it one of the first duties of your life to keep the road open and the light burning on the Cross that stands at the summit of Mt. Lyn Lowry. This light as it shines over the mountains and valleys of this beautiful country must never go out."

My hope is that every Christian in this community who loves this Cross will share the responsibility with my family and join in the love and care necessary to keep the lights on the Cross burning.

It has given me great joy personally to know that I had a part in carrying out God's directive in the building of the Cross. I shall be ever grateful to God for allowing me to do so. I am sure that in the future it will give each person who helps to keep the light shining great joy and happiness.●

CREATION OF THE INTER-AMERICAN INVESTMENT CORPORATION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. FASCELL. Mr. Speaker, it gives me great pleasure to advise our colleagues of the creation of a new investment corporation aimed at promoting

growth and prosperity in Latin America and the Caribbean. The United States and other member nations of the Inter-American Development Bank [IADB] have established the Inter-American Investment Corporation which will focus on providing assistance to small- and medium-sized enterprises in the region.

The initial investment fund totals $200 million, with 55 percent of the corporate shares to be held by Latin American nations. The United States and other industrialized member nations of the IADB will hold the remainder of the shares. Although the new corporation will work with the Inter-American Development Bank when necessary, it will operate as an independent institution promoting the establishment, expansion, and modernization of private and market-oriented, mixed enterprises through equity investments and other financial support and specialized services.

The creation of this new institution is an encouraging step toward international ccoperation and economic integration among nations. It is efforts such as this that will assist in the peaceful development of the Latin American and Caribbean economies and in the establishment of stable, democratic institutions in the region. I know that all of our colleagues will join me in wishing all of those involved in the Inter-American Investment Corporation a great deal of success and a prosperous future.●

BRINGING RECOGNITION TO MENTAL HEALTH COUNSELORS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. WALGREN. Mr. Speaker, I am honored today to introduce a resolution on behalf of the American Mental Health Counselors Association, a professional division of the American Association for Counseling and Development. These thousands of mental health counselors assist individuals in communities throughout our country in dealing with a variety of personal and adjustment problems. As part of the health care team, mental health counselor provide direct services to clients in a variety of public and private settings. For too long we have neglected the contribution of these trained professionals, in spite of the fact that they provide up to 50 percent of all direct counseling services. Through their national association and 37 State branches, mental health counselors are striving to improve the quality of mental health counseling in the Nation. They are advocates of certification for clinical mental health counselors and licensure by the States.

Designating April 8, 1984, through April 14, 1984, as "National Mental Health Counselors Week" is a fitting way to bring attention to the contributions of mental health counselors across the country. The text of the resolution follows:

DESIGNATING THE WEEK BEGINNING APRIL 8, 1984, AS "NATIONAL MENTAL HEALTH COUNSELOR WEEKS"

Whereas mental health counselors work in a specialized field of counseling which emphasizes the developmental and adjustive nature of mental health services;

Whereas mental health counselors utilize individual and group counseling techniques oriented toward assisting individuals, with methods of problem solving, personal and social development decision-making, and the complex process of developing self-understanding and making life decisions;

Whereas mental health counselors work in conjunction with other helping professionals, such psychiatrists, psychologists and social worker to determine the most appropriate counseling for each client;

Whereas mental health counselors work in psychiatric hospitals, community mental health agencies, private clinics, college campuses, rehabilitation centers, and private practice providing almost 50 per centum of direct delivery of mental health services;

Whereas mental health counselors are individuals upon whom, by virtue of their education and extensive training, have been conferred masters or doctor of philosophy degrees in mental health counseling or community mental health counseling, or similar degree titles having a focus on mental health; and

Whereas mental health counselors, after having earned such degrees, have performed at least two years of supervised clinical counseling, and are licensed or certified as such in the State of their residence, or are certified by the National Academy of Certified Clincial Mental Health Counselors: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 8, 1984, is designated "National Mental Health Counselors Week". The President is requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe that week with appropriate ceremonies and activities.●

TO HONOR VETERANS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. SMITH of Florida. Mr. Speaker, this year's Veterans Day comes at a time when many families are just beginning to mourn the loss of our brave young servicemen. Recent events should serve to remind us of our debt to the men and women who serve in our Nation's Armed Forces.

Whether or not a person agrees on the correctness of specific military conflict in which our Nation has engaged, we should not forget that the brave men and women who joined in the Armed Forces did so that you and I and our children may enjoy our freedoms. Because they have served us, we must serve them.

This Congress has set about an excellent legislative program of services and benefits for veterans and their families. We must remain vigilant and insure that this effort does not disipate as we move on to other issues.

Many issues concern veterans. One of the primary issues is health care. This is an issue we have addressed, but we will need to review continually veterans health care as the veteran population ages, and as their needs change and increase.

On this Veterans Day, I hope that all of us will take time to remember and honor those who have served and are now serving in our Nation's Armed Forces.●

NEW YORK BIGHT APEX RESTORATION

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. FORSYTHE. Mr. Speaker, I am pleased to join with the Honorable WILLIAM J. HUGHES in introducing, along with other cosponsors, amendments to the Marine Protection Research and Sanctuaries Act, which will address the severe problems of pollution in the New York Bight Apex.

The New York Bight Apex is a 1,100-square-nautical-mile area of the Atlantic Ocean adjacent to the entrance to New York Harbor and bordered on the north by Long Island, and on the west by New Jersey. The apex is recognized as one of the most heavily contaminated coastal areas of the United States due to multiple sources, including municipal and industrial waste water discharges, combined sewer overflows, ocean dumping, and urban and rural nonpoint source runoff. The land adjacent to the New York Bight Apex contains not only New York City, but the heavily populated urban centers of northern New Jersey and western Long Island. This area serves as a major center of commercial and recreational activity. In addition to providing a major path of access for international trade, the waters of the New York Bight support an important fisheries industry and provide a focal point for some of our Nation's most beautiful and widely used beaches.

The Committee on Merchant Marine and Fisheries has held a number of hearings over the 11-year period since the passage of the Marine Protection Research and Sanctuaries Act, all of which addressed the specific problem of contamination of the existing municipal sludge dumpsite located in the New York Bight Apex—commonly known as the 12-mile site. The most

recent hearing which expressly addressed this problem was held on May 25, 1983. At that hearing, Federal officials from EPA and NOAA confirmed that the 12-mile site is heavily contaminated and that a deepwater dumpsite would provide a number of important advantages as follows:

First, the 12-mile site is located in the heavily trafficked entrance to New York Harbor. Maritime interests have expressed serious concern over potential hazards to navigation resulting from dumping activities in these busy traffic lanes. A deepwater dumpsite could be located away from major shipping lanes.

Second, valuable living marine resources are associated with the 12-mile site and nearby areas. These resources are utilized by commercial and recreational fishing industries and the public. Living marine resources associated with a deepwater dumpsite are reported by NOAA to be far less valuable.

Third, the 12-mile site is less dispersive than are sites located further offshore, resulting in elevated levels of bacteria and viruses in the water column and bottom sediments, and increases in normal ambient levels of toxic metals and organohalogens in the bottom sediments. Changes in relative abundance and diversity of species in areas effected by the existing sludge discharges have been observed. The much greater depth of a deepwater dumpsite would provide for more dispersion and dilution of the wastes, and present low probabilities of any permanent harm to marine resources, including bottom organisms.

Fourth, the Marine Protection Research and Sanctuaries Act expresses a preference for sites located off of the Continental Shelf where feasible.

Fifth, the 12-mile site is located considerably closer to coastal beaches and resorts of New Jersey and Long Island. While monitoring of beach quality has not shown any degradation which can be directly attributable to sludge dumping, indentifiable waste constituents have been observed at above-normal levels in bottom sediments within 5 nautical miles of the Long Island coastline. Therefore, concern for potential future impacts remains. Available technical information indicates that no waste would be transported from a deepwater dumpsite to impact upon the coastal beaches of New York, New Jersey, Delaware, Maryland, or Virginia.

The cumulative effects of current and previous discharges and dumping in the New York Bight Apex have resulted in increases in the occurrence of fish and shellfish disease, decreases in catches of bony fish, increases in the prevalence of phytoplankton blooms, periods of depressed oxygen levels, and fish and shellfish kills. Similar cumulative impacts are not expected at a deepwater dumpsite.

EPA witnesses also indicated that had the 12-mile site not been historically used for ocean disposal, it probably would never have been designated as an ocean disposal site—based on the criteria in the Ocean Dumping Act.

The bill which we introduced today takes a number of steps in addressing the problems of the New York Bight Apex.

First, we have included several general provisions which will improve the operation of the Environmental Protection Agency's ocean dumping permit program. Hazardous wastes, which have been identified and listed by the administration in accordance with the listing procedures of the Resource Conservation and Recovery Act of 1976, will be banned from ocean disposal, unless those wastes will be incinerated at sea in an acceptable manner, or neutralized rapidly in the marine environment. There is ample evidence to demonstrate that incineration of hazardous materials in ocean-going vessels, when properly regulated, can be a prudent and feasible alternative to similar disposal techniques on land. Certain hazardous wastes which are composed of acid or alkaline solutions with low toxicity have, likewise, been demonstrated to be effectively neutralized in the marine environment and cause little or no permanent harm to the ecosystem.

Anyone wishing to use the ocean to dispose of municipal sludge after December 31, 1986, will be required to be in compliance with the Clean Water Act regarding effective and comprehensive pretreatment programs for industrial waste discharged into the municipal waste treatment facility. Applicants will also be required to obtain certification that suitable land-based alternatives to ocean disposal are not currently available from the Governor of the State in which their treatment works are located. This requirement will encourage the States to become more actively involved in the review and development of alternative technologies.

In order to support the Environmental Protection Agency's (EPA) ocean dumping program in a fair and equitable manner, the Administrator will be required to collect fees at levels sufficient to recover the reasonable costs that the Agency will incur for the processing activities directly associated with the issuance of the permits, designating a site, surveillance and compliance monitoring, and the assessment of the direct effects of the ocean dumping on the marine environment. We believe that those who take advantage of the availability of the ocean for disposal of their waste should at least pay for the reasonable costs associated with regulating that activity.

There are three major provisions which deal directly with the problems of contamination of the New York Bight Apex.

First, municipal sludge dumping in the apex is foreclosed after December 31, 1986, at the latest, unless the Administrator makes a conclusive finding that the use of that site is less harmful to human health, welfare, and the marine environment than the use of any other site which is either designated or being considered for designation.

Second, until closure, those who continue to use the 12-mile site will be assessed a special disposal fee based on the amount of sludge to be dumped. Up to 75 percent of the special fees could be used by the dumpers to identify, develop, and implement long-term alternatives, and for improvements in pretreatment, treatment, and storage techniques for municipal sludge. EPA may also use 25 percent of these fees to carry out a comprehensive assessment of the feasibility, costs, environmental impacts, human health risks, and other important factors relating to the development of alternatives—both land-based and ocean to the disposal of municipal sludge within the apex. The assessment would be prepared in consultation with the Governors of New Jersey and New York, and the sewage authorities in the New York metropolitan region.

Testimony at our hearings has also made it absolutely clear that the problems of the apex cannot be laid entirely at the feet of ocean dumping. Estimates of the contribution of marine pollutants introduced by ocean dumping indicate that this source of contamination accounts for between 3 and 15 percent of the contaminants of concern. While ocean dumping is a significant source of contamination, especially in the areas immediately impacted by such ocean activities, it is readily apparent that the apex cannot be restored to anywhere near its former levels of water and marine resource quality unless the other sources of contaminants are also addressed. Unfortunately, the various sources of pollutant inputs which end up, either directly or indirectly, in the apex are controlled by a number of different environmental statutes, making a coordinated effort to address the overall problem difficult to implement.

Therefore, the legislation which we have introduced today requires the Administrator to prepare, within 3 years, a "New York Bight Apex Restoration Plan." The purpose of this plan will be to:

First, identify and assess the impact of all pollutant inputs—such as treated and untreated sewage discharges, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, and ocean dumping—that are affecting the

water quality and marine resources of the apex;

Second, identify those uses in the apex that are being inhibited because of the multiple contaminant inputs;

Third, determine the fate of the contaminants and their effects on the marine environment;

Fourth, identify technologies and management practices, and determine the costs necessary, to control these inputs;

Fifth, identify impediments—technical, fiscal, and administrative—to the cleanup of these inputs;

Sixth, devise a schedule of economically feasible projects to implement the controls identified under the plan and to remove the impediments; and

Seventh, develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects.

The legislation authorizes $2 million for each of fiscal years 1985 and 1986, and $1 million for fiscal year 1987 to accomplish this ambitious planning program.

The Hughes-Forsythe bill offers a reasonable but ambitious path for our country to take in solving the pollution problems of this highly stressed portion of the Atlantic Ocean's marine environment. The scientific data supporting a move of existing ocean dumping of municipal sludge to a deepwater dumpsite is conclusive. A complete and comprehensive review of all alternatives for the disposal of municipal sludge generated in the New York metropolitan region is necessary and long overdue. I believe that the technologies are available to make a comprehensive assessment of the causes of the high levels of marine contamination in the New York Bight Apex, and to develop reasoned solutions which can be efficiently implemented. We can no longer afford to wait before taking action. I would urge my colleagues to carefully review the legislation which we have introduced today and to support the passage of these much needed programs.●

A TRIBUTE TO MR. WAYNE D. FLOREA

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. McEWEN. Mr. Speaker, I would like to commend Mr. Wayne D. Florea of Milford, Ohio, for his outstanding achievements that merited his recent nomination as the Ohio Association of Realtors 1983 Salesman of the Year. Mr. Florea received this award on the basis of his professional achievements, his contribution to the local board of realtors and the National Association of Realtors, his service to Ohio, his business and educational background, and his activity.

A member of the Clermont County Board of Realtors since 1961, Mr. Florea received the board's Associate of the Year Award in 1967. From 1975 to 1982, he served on the arbitration committee and acted as its chairman, treasurer, president and director of the board. On the State level, Mr. Florea is presently a district vice president, serving on the executive committee for 2 years. In addition, he was the chairman of the State land use committee in 1980 and 1981 and was appointed by the leadership of the Farm and Land Institute to discuss financial and farm land opportunities with the Ohio Farm Bureau this year.

Nationally, Mr. Florea has been a member of the land used committee, legislative committee, political action committee, and a voting delegate at the national convention in Miami in 1981. His sincere dedication to civic service has been demonstrated for 20 years. He has served as president of the Milford Area Chamber of Commerce and has been a member since 1963. He has served on numerous committees including the East Fork Reservoir Committee, the board business management committee for Clermont College, the economic development committee of the chamber of commerce, the transportation committee, the Milford Miami Township Bicentennial, and the Miami Township Milford Community task force. Furthermore, he was chairman of the Red Cross Business Group and supports the Boy Scouts of America, the Milford B and Boasters, the Northeastern Band Boosters and the Milford and Goshen Athletic Association.

I congratulate Mr. Florea for his sustained effort to be of service to his community, district, State, and Nation.●

IMPEACHMENT RESOLUTION STATEMENT OF INTRODUCTION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. WEISS. Mr. Speaker, the deployment of American troops in Grenada was a deliberate act of war undertaken by President Reagan without the advance approval of Congress as required by the Constitution of the United States. It is because of the President's abuse of power—and his violation of the Constitution—that I am introducing today a House resolution calling for the impeachment of the President of the United States. Joining me in introducing the resolution are Congressmen, JOHN CONYERS, JULIAN DIXON, MERVYN DYMALLY, HENRY GONZALEZ, MICKEY LELAND, and PARREN MITCHELL.

The power to initiate war, which the framers of the Constitution gave Congress—and Congress alone—was violated on October 25, 1983, when U.S. Armed Forces invaded Grenada at the instruction of President Ronald Reagan. It is that violation which today I and my colleagues are attempting to redress.

The framers of the Constitution provided for impeachment, according to James Madison, in order to defend the country "against the incapacity, negligence, or perfidy" of the Executive. This argument was made by James Madison during debates before the Constitutional Convention. They were well aware of the abuses of power resulting from too much authority concentrated in the hands of a single person; the American colonists, after all, had just lived through the injustices perpetrated by the King of England. By including the charge "high crimes and misdemeanors" among the grounds for impeachment, the framers intended to include gross abuses of power and violations of the Constitution as impeachable offenses. Alexander Hamilton clarified this interpretation in The Federalist Papers when he defined as impeachable actions:

> Those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated *political*, as they relate chiefly to injuries done immediately to the society itself.

The President's invasion of Grenada is immoral, illegal, unconstitutional, and, I am convinced, an impeachable offense. By ordering the invasion of Grenada on October 25, Mr. Reagan violated article I, section 8 of the Constitution of the United States. He also violated article VI of the Constitution by breaching treaty obligations of this country, under the charters of the United Nations and the Organization of American States, which prohibit the use of force against any other sovereign state. Further, he abrogated the constitutional rights of the American public and press provided for in the first amendment by preventing members of the news media from covering the war in Grenada.

This resolution is being introduced only after serious research and deliberation and after Congress has exhausted other remedies. I have concluded that impeachment is the only option with which we are left. By his actions in Grenada, the President has usurped the warmaking powers of Congress, contrary to the very constitutional framework of our Government. It is now left to Congress to resort to the one option provided for in the Constitution which can truly rein in the actions of President Reagan: Impeachment.

As Members of Congress, we took the same oath as did the President to "preserve, protect, and defend the Constitution of the United States." Because the President has chosen to ignore his oath of office makes it all that much more urgent that we keep faith with ours.

Perhaps as distressing as the constitutional violations engaged in by Mr. Reagan is the seeming acceptance of his actions by so many Americans. I hope that introduction of the impeachment resolution will help to stir a broad public debate on the constitutional prinicples on which America is founded. We urge students, scholars, and all citizens to take up these issues in the elementary and secondary schools, colleges, universities and law schools, in newspapers, magazines, on radio and television, in our homes and community meetings.

Nothing less than the constitutional framework of our Nation has been placed in jeopardy by the invasion of Grenada. If the Constitution can be violated with impunity, the very survival of our democracy comes under threat. It has been said that the price of liberty is eternal vigilance. That vigilance must be exercised not only against would-be external aggressors but also against those elected to high office who recklessly trample the Constitution.

A copy of the resolution follows:

H. RES. —

Resolution Impeaching Ronald Reagan, President of the United States, of the high crime or misdemeanor of ordering the invasion of Grenada in violation of the Constitution of the United States, and other high crimes and misdemeanors ancillary thereto

Resolved, That Ronald Reagan, President of the United States, is impeached of the high crime or misdemeanor of ordering the invasion on October 25, 1983, of Grenada, a foreign state at peace with the United States, in violation of that portion of section 8 of article I of the Constitution of the United States which confers war powers on the Congress, and in violation of treaty obligations of the United States, including obligations under the Charter of the United Nations and the Charter of the Organization of American States, and the said Ronald Reagan, President of the United States, is further impeached of the high crime or misdemeanor of preventing news coverage of that invasion, thereby impairing the first amendment rights of those seeking to provide news coverage and of the American public in general●

RECOGNIZING CLEARY COLLEGE'S 100 YEARS OF EXISTENCE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. PURSELL. Mr. Speaker, I rise today to salute an institution that celebrated its 100th year of existence this year. Cleary College is an independent 4-year college of business administration organized and recognized as a nonprofit educational corporation in the State of Michigan.

It was founded in 1883 by Patrick R. Cleary, an Irish immigrant, as a school of penmanship, in a room over a shoestore in downtown Ypsilanti, Mich. The initial enrollment was two students. The school was moved 2 years later to an upper storefront suite on Ypsilanti's Old Union block, to accommodate increased enrollment.

In its early years, Cleary offered a curriculum consisting of typing, shorthand, bookkeeping, business arithmetic, penmanship, and English. The first graduate, William Beach of Howell, earned a business diploma in 1885 and went on to teach business in the public school system, the first Michigan teacher trained to do so.

In 1981, a new building was completed for P. R. Cleary's growing college, then named the Cleary Business College. Two years later, a tornado inflicted massive damage to the building, but the Ypsilanti business community rallied together to finance its reconstruction. The college remained at that location, at the corner of Michigan and Adams, until 1960.

The Cleary family turned over all the physical assets in the college to a board of trustees in 1933, establishing a nonprofit trustee institution of class A standing. At that time, the name was changed to the present Cleary College.

P. R. Cleary died in 1948 at the age of 90, and his son, Owen Cleary, took over his role at the college. Owen Cleary was president of the college until 1960, and served as the Michigan secretary of state from 1953–54. He was responsible for the planning and construction of the present Ypsilanti campus building at the corner of Hewitt and Washtenaw.

Cleary was accredited as a senior college of business by the Association of Independent Colleges and Schools (AICS) in 1970, and retains that accreditation today. Also in that year, the Donald M. Silkworth Center, which contains a 1,200-seat auditorium was added to the campus. The addition was named after the college's third president, Donald M. Ellsworth, who served as Cleary's trustee from 1935 to 1970.

In 1979, Cleary expanded into Livingston County, when classes were offered out of Brighton High School while the search began for a branch campus site. One year later, classes began in a new building on the present Livingston campus just east of Howell.

Cleary College is now celebrating its centennial year. Enrollment has been increasing steadily since 1979 and the college boasts of a well-rounded and experienced faculty. Although student numbers are up, the student/faculty ratio remains high, enabling Cleary to continue its tradition of individual attention and guidance for each student. The college has a good reason to celebrate—100 years of excellence in business education. Cleary has maintained its fine reputation in an area where competition from large State universities and community colleges is keen.

The college values its heritage of 100 years of expertise for business education and service as a foundation for progress in reaching 21st century goals. Cleary's primary mission is to educate men and women for careers in business, including related opportunities in government, health care, and other professions, with emphasis on the importance of the free enterprise system.

I offer my heartfelt congratulations to Cleary College, its president, Harry Howard; president-emeritus, Gilbert Bursley; students, faculty, alumni, and friends on reaching this milestone, and wish you all continued success in the next 100 years.●

PERSONAL EXPLANATION

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. TAUKE. Mr. Speaker, yesterday I voted to support the dairy compromise plan and to oppose the Conable substitute to H.R. 4196, the Dairy Production Stabilization Act. This was not an easy decision, nor do I believe the dairy compromise is the best solution to the milk surplus problems which face us. I do know, however, that given the choice between the compromise plan and the Conable substitute, the compromise is clearly the preferable approach.

Congress must act to deal with the surplus of milk production. Federal taxpayers are now buying up excess milk and milk products to the tune of $425,000 an hour. The dairy price support program will costs us nearly $2.5 billion this year alone, with millions more to store the goods we have purchased. At the same time, we have imposed an unfair assessment on our dairy producers which is forcing many of them to increase their production levels. Obviously, we cannot go on this way.

After months of bipartisan negotiations between Members of the House and Senate, with representatives of the Department of Agriculture, the dairy compromise plan was formulated. By slowly reducing the price support subsidy level, while assessing a small amount to be used to encourage producers to reduce their production levels, the plan would reduce Federal expenditures on the price support pro-

gram, while decreasing the amount of milk being produced. The Federal Government could then buy less surplus milk and save us all some money. The plan is carefully crafted, and seems to be a comprehensive and reasoned approach designed to benefit taxpayers, consumers, and producers.

Representative CONABLE's substitute plan was to simply cut the price support level by $1.50 per hundredweight. The simplicity of this approach is appealing, but misleading.

Independent studies by the Congressional Budget Office, and further analysis by the Department of Agriculture, indicate that the compromise plan will do a far better job of reducing the surplus, at a lower cost to the taxpayer than the Conable substitute. In fact, the compromise plan will cost $800 million less than the more expensive Conable substitute. Moreover, while the Government inventories of surplus milk now totals the equivalent of 20 billion pounds of milk, the compromise plan will reduce that level to just 0.6 billion pounds.

In addition, the Conable substitute would endanger most of America's dairy families, creating even greater supply problems down the road. In fact, it has been estimated that the Conable approach could eliminate up to 80 percent of Iowa's family owned and operated dairy farms.

The dairy compromise plan, besides affecting production levels, will also deal with the consumption side of the equation. By imposing up to a 15-cent assessment per hundredweight, dairy farmers will be paying to promote and commercially market more of their product. This marketing effort alone is expected to increase commercial demand and reduce Government purchases by 0.5 to 2.5 billion pounds of milk.

The House also approved an amendment to the compromise plan to give the Secretary of Agriculture the opportunity to promote an orderly flow of cull cows to slaughter during the diversion period in order to minimize the impact of the program on the red meat markets.

This plan is not a perfect solution; it is a compromise. While being the least costly of all the alternatives, it is by no means cheap. It was, however, the best option presented to the House. My vote was not enthusiastically cast for the compromise plan, but I am confident that it was correctly cast. I now look forward to working with all the involved parties in implementing the dairy compromise plan.●

THE REALITY OF UNEMPLOYMENT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. WALGREN. Mr. Speaker, every once in a while we all receive an especially telling letter from a constituent. I urge all in the Congress to consider the following letter in that view.

The economic recovery structured by the policies of this administration is extremely selective, leaving many people behind. People like Mr. Bush will not just go away. If this is all the opportunity present high interest rate policies are providing for people who are obviously good and sincere workers, then those policies should be changed.

DEAR DOUG OR WHOEVER FILES THIS UNDER GARBAGE: It is true that all elected officials try to open their eyes and realize that there is a real problem in this country that was caused by all of them and their decisions on what they think is best for me and really know is best for them and their rich buddies. I have been laid off for one year, during that time I have filled out over 100 applications for employment and to date have received not one job offer.

For the year I was laid off I was a statistic that made them look bad, so they decided I could go to hell. If my unemployment compensation was cut off I was no longer a statistic. I just didn't exist so that made them look better immediately.

But if you have read this far you realize that I do exist and am not too happy that, with a stroke of a pen, the government of the people for the people and by the people has just said I am no longer one of the people. . . . If you check the real records you will see that there is a hell of a lot of us.

As of right now my unemployment has been cut off by my friends in Washington. I have just returned from Pittsburgh where I was trying to get welfare and food stamps, so I could get something for my family to eat. I was told to fill out some papers and come back next week to prove I exist and really need help.

Right now I have $40.00 in the bank and $.78 in my pocket. . . . I served two years in the army so the government I helped to protect could stick me when I need help. If I was a foreign government I could ask for millions and get it but I am an American and ask for crumbs and am told to go to hell and wait till next week—maybe.

If you took the time to read this far, thank you. I know this letter will fall on deaf ears, but I feel better knowing someone knows how I feel. Thanks, Dallas W. Bush.●

WHY THE SIMPSON/MAZZOLI BILL DESERVED TO DIE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. BERMAN. Mr. Speaker, while the recent decision not to bring the Simpson-Mazzoli immigration bill to the floor aroused a storm of criticism, there are some who maintain the bill deserved to die. The following article takes the position that immigration reform cannot be accomplished solely by changes in domestic policy. We must also take into account the international flow of capital and the impact this has on the movement of labor across our borders. The article also outlines the flaws in the bill which prevented members such as myself from lending it our support. I urge my colleagues to take a moment to consider the arguments raised in this article by Peter Schey, director of the National Center for Immigrants' Rights.

WHY THE SIMPSON MAZZOLI BILL DESERVED TO DIE [1]

Senator Alan Simpson's Immigration Reform and Control Act, already passed by a 76 to 18 vote in the Senate earlier this year, and on the verge of a vote in the House of Representatives, appears to have met an unexpected death last week. Much to the surprise of supporters and opponents of the bill, House Speaker Thomas P. O'Neill, having heard rumors that President Reagan intended to veto the bill in order to win Hispanic votes, called a press conference and said that the bill had "no constituency," that it would cause "discrimination" against minorities, and that he would fight to keep the bill from coming to the floor of the House for a vote.

While Democrats and Republicans publicly blamed each other for the apparent demise of the bill which would have made the most sweeping changes in the nation's immigration laws in thirty years, privately many joined in a collective sigh of relief. Recognizing the emotional issues raised by illegal immigration and the influx of refugees from Central America and Haiti, and the complexity of coming up with a coherent reform package, most of our representatives in Congress are willing to put their heads in the sand for another year or more. However, as stated by Congressman Leon E. Panetta, who represents growers in California's Carmel Valley where many undocumented workers are employed, "At some point, we'll have to face up to [the problem]."

Senator Simpson, taken completely by surprise at the demise of his two-year effort, quickly called Speaker O'Neill's move a "bum rap." Rushing to the press in a last ditch effort to save what he called his "fragile package," he announced that it had been "bashed around on the shoals of partisan politics." He said that "Latino organizations," which violently opposed the bill, do not speak for the "unfortunate aliens" living in this country.

In fact, the Simpson immigration bill deserved to die. While having a certain superficial appeal, attracting some liberals and some conservatives, a closer examination of the legislative package show it to be one of the most repressive and ill-conceived measures ever considered by the U.S. Congress. As recently stated in a letter to members of Congress signed by religious leaders in Southern California, this legislation would

[1] Peter A. Schey, the author, is the Director of the National Center for Immigrants Rights, Inc. He has travelled throughout the country talking and writing about the Simpson legislation.

have led to "massive increases in the importation and inevitable exploitation of [foreign] temporary workers," "significant increases in the existing back-log of visa applications," "cutbacks in the already minimal due process rights in [deportation and refugee] proceedings," "an ineffective 'amnesty' program which [would] deny legalization to the great majority of undocumented workers . . . [while] threatening thousands of families with mass deportations," "reduction of lawful immigration . . . simply increasing the number of immigrants entering the U.S. without documents," and "discrimination against minorities . . ."

The legislation's radical break with existing law was premised on Senator Simpson's notion that "uncontrolled immigration" is "one of the greatest threats to this country . . ." He often spoke publicly of immigrants and refugees bringing with them "the social, political, and economic problems which exist in [the] countries" from which they come. Using this rhetoric, the bill was postured as one aimed at reducing the flow of immigration into the United States. In fact, the bill had nothing to do with stemming the flow of immigrants into this country. Instead, it was an innovative effort at "supply-side" immigration theory: how to continue and institutionalize access to cheap foreign labor.

The bill sought to "streamline" the existing "H-2" foreign temporary worker program. Under this program approximately 30,000 temporary workers are currently imported into the United States each year to perform labor for which, employers claim, no U.S. citizen workers can be found. These "H-2" workers come cheap, they place no upward pressure on wages, they are difficult to unionize, and they have virtually no access to protective labor legislation. In short, they in many ways exemplify a "model" work force for agri-business and urban industries; a supply-side type of workforce guaranteeing high profits and minimal government interference. By "streamlining" the H-2 program, the Simpson legislation sought to make it far easier for employers to establish that U.S. workers were not available to fill jobs. The geographical area in which employers would have to search for available U.S. workers, and the length of time that the search would have to be conducted in, were to be significantly reduced. Some experts estimate that under the bill as many as 500,000 "temporary" workers could be imported into the United States.

The reasons to oppose the bill's proposed "streamlining" of the H-2 program are many. Under the H-2 program, employees are virtually a captive workforce totally subject to the unilateral demands of their employers. Exploitation of these workers is rampant. The Department of Labor has often concluded that the use of "temporary" foreign labor lowers prevailing wage rates. Former Secretary of Labor Raymond Marshall states that expansion of this program "can only lead employees to prefer such workers, to the detriment of low-skilled U.S. workers." In addition to concerns over the impact on the labor market of an increased H-2 program, it should also be known that when the U.S. previously imported large numbers of "temporary" workers under the "bracero" program (1942-1964), millions of the workers developed community and family ties here and never returned home. The national interest would not have been served by enactment of these proposals.

Senator Simpson claims that his legislation responded to "the pleas of 3 to 10 million illegal aliens" for an "amnesty." However, even the General Accounting Office and the Immigration Service estimate that at most 300,000 undocumented immigrants would receive permanent immigrant status under the legislation. The so-called "amnesty" provisions of the bill would be better described as a "trap" for undocumented families. The eligibility requirements are draconion in nature. Immigrants who have received government social services, such as pre-natal or childbirth care, would face deportation rather than legalization after surrendering to the Immigration Service. Any person who might become a "public charge" in the future would be deported rather than legalized. Persons previously deported—and many fall within this category—would be ineligible. Assuming the middle estimate that there are approximately 6 million undocumented people in the U.S. today, fewer than 5 percent would qualify for the bill's "amnesty" program. As Senator Simpson recognizes that these workers live in the United States "in a fearful subculture . . . subject to exploitation," why does his legislation only allow about 5 percent to emerge from this underground existence?

The "amnesty" provision passed by the Senate contains a "temporary" resident provision. Immigrants not qualifying for permanent immigrant status, but who have lived in the U.S. since 1980, may qualify for "temporary" resident status. The General Accounting Office estimates that 600,000 people would qualify for this "benefit." In fact, the so-called "amnesty" provisions of this law are no more than a thinly disguised temporary worker program. In the name of granting amnesty, the bill sought to create an additional pool of between 500,000 and 1 million cheap, exploitable workers. After a number of years some of these workers would become eligible for "permanent" status, others would be deported, and the majority likely revert back to an undocumented and underground existence.

Finally, the bill professed to make it illegal to employ immigrant workers not in possession of authorization to work in the United States, the so-called "employer sanctions" provision. Aside from the enormous cost of administering this program, estimated at more than $100 million per year, it was intentionally or unwittingly designed, under intense pressure from growers, not to work. Twelve states already have employer sanctions laws on their books, many far more stringent than the Simpson bill. They have had no perceptible impact on the hiring practices of employers. The penalties for violation of the Simpson employer sanctions provisions are so light as to insure no voluntary compliance. Even with an appropriation of $100 million per year, the Immigration Service would only be able to inspect a minuscule number of worksites employing undocumented workers. Employers who have not paid federal taxes for many years because their workforce is undocumented would have a particular interest in joining in pacts with their workers to hide their status from the authorities. The due process protections provided to employers charged under the law are so thorough that few employers would ever receive even a small fine. Those who did, would simply pass these costs of doing business on to their workers in the form of production speed-ups or decreased wages. Finally, Senator Simpson's "employer sanctions" contain "phase-out" program whereby employers who have previously used undocumented workers can automatically obtain certificates from the Department of Labor allowing them to continue such practices for the next three years, but in decreasing numbers. This provision would simply encourage employers to use easily exploitable "temporary" foreign workers, subject to immediate deportation if they lose their jobs. In short, the so-called "employer sanctions" provision of the law has so many loopholes it seems to have been written by those employers who it is supposed to sanction.

National immigration reform is critically needed. However, we must recognize the task is extraordinarily difficult. International migration is a global phenomena which has characterized the behavior of populations for millennia. There are no easy answers to the influx of undocumented immigrants and refugees into this country. Any realistic and sincere reform efforts must take into account that the United States, as an advanced capitalist country, is experiencing massive movements of capital, assets and labor across international boundaries. For different reasons, multinational corporations have no more respect for our national borders than the migrants crossing the deserts and mountains late at night in Arizona. Comprehensive reform must address not only the movement of labor, but also the movement of capital. U.S. laws concerning the investment practices of multinational corporations in developing nations impact on mechanization and unemployment in those countries and the subsequent migratory streams. The flight of capital likewise results in the loss of jobs for U.S. citizens. U.S. support of repressive and undemocratic regimes abroad often leads to refugee flows ending in this country. Congressional failure to evaluate these difficult issues throws into serious question the assumption that migration into the United States will ever be controlled through domestic policy.

While Congress ponders these global issues, emergency legislation should be enacted to immediately alleviate the social, political and economic problems created by the exploitation of undocumented immigrants living in the United States. Emergency measures could provide the immigrant community with greater access to protective labor legislation without fear of exposure to deportation. Equalizing their status in the work place would obviously decrease employers' preference for undocumented labor. Access to vital government services, such as health care, should be available to all persons regardless of immigration status. The U.S. citizen children of undocumented parents should not be denied services essential to their health, education and well-being. And, Congress should immediately adopt a broad and clearly defined amnesty program to resolve much of the present crisis.●

VOTE ON THE DAIRY BILL

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. DORGAN. Mr. Speaker, the vote I cast yesterday for the dairy compromise bill was not an easy one. I did it because, after studying the two alternatives, I decided that the compromise plan was the best way to solve the enormous problem of our dairy surpluses—costing the U.S. Govern-

ment over $2½ billion this year—with the least harm to either the dairy or the livestock industries.

One of my biggest questions about the compromise bill was what its impact on livestock markets would be. A number of North Dakota stockmen let me know about their concern on this issue as well. They reminded me that many livestock producers, who are part of no price support system, are already struggling under harsh circumstances over which they have no control—the drought and stubbornly high interest rates being among the worst.

So, I looked at the two alternatives—the compromise bill and the Conable substitute—very carefully. Both have the basic goal of reducing the enormous dairy surpluses that have built up because this country produces 10 percent more milk than it uses each year. There is no doubt that in order to get that production into line, a lot of dairy cows are going to hit the market as hamburger, no matter what plan is used. The question is, will they hit it all at once, or is there a way to provide more orderly marketing of culled dairy cows?

As proponents of the Conable solution admit, its immediate $1.50 reduction in the milk price support would force thousands of dairy farmers—mostly small, family-sized dairy farms—out of business. In other words, the Conable approach culls whole farms, and therefore whole herds, not just selected dairy cows.

The compromise plan, especially after the addition of the Harkin amendment—which I strongly support—gives livestock producers protection against their markets going bust. It will allow dairy farmers to gradually reduce their production, both by culling and by simply feeding their cows less, over a 15-month period. They will not be forced to cull by putting their farms up for auction.

I do not like making decisions that have been described as setting one farm group against another—a tactic nonfarm interests have tried to foster in this debate. Some livestock spokesmen have said they can live with the bill, now that it contains the Harkin amendment. Those of us in Congress who represent farm States are going to do our best to make sure that the dairy compromise bill is administered fairly, so that no farm group has to shoulder more than its share of the burden in solving the dairy surplus problem.●

THE SYRIAN REALITY IN LEBANON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LANTOS. Mr. Speaker, with his characteristically insightful and accurate perceptions of Middle East realities, George Will has provided an excellent analytical insight into Syria's current role in Lebanon and the surrounding region.

His column, "Syrian Reality," was published in today's Washington Post. I wish to share this fine column with my colleagues in the House.

[From the Washington Post, Nov. 10, 1983]

SYRIAN REALITY

(By George F. Will)

A tape of a Syrian television broadcast, which I unwisely played while having breakfast in my sun room, shows Syrian ceremonies last month commemorating the tenth anniversary of the Yom Kippur war. Assorted civilian and military officials attended. There is martial music on the tape, but no narration. None is needed.

Girls in uniform stand in a row holding live snakes. Suddenly the girls begin killing the snakes by biting through the snakes' heads. Snakes are sinewy, and the biting is not easy, and the girls, although eager, do not seem to enjoy this. The audience of older men does. Sigmund Freud, call Damascus.

Next, young soldiers tumble out of moving trucks, pounce upon puppies and stab them repeatedly. One soldier seems to drink a puppy's blood, perhaps symbolizing the drinking of an enemy's blood, as the PLO gunman did in Cario in 1971 after shooting Jordan's prime minister.

Few Americans have seen any of the Syrian tape (a portion of which was shown at an early hour by NBC). Networks should not invariably show such stuff. They certainly should not while many children are awake.

But this glimpse of Syrian reality would be a useful antidote to a liberal society's sentimental belief in the efficacy of split-the-difference negotiations in places like the Middle East. It would drive another stake through the heart of the notion that the world is run by people "just like us" and that the path to peace is through "understanding" them.

It would dash cold water on the recurrent nonsense about Israel's being an impediment to peace because it is insufficiently forthcoming in dealing with neighbors like Syria.

Long after Grenada is just a pleasant memory, Syria will be threatening vital American interests, including Israel's security and a region's stability. Hence, Americans must disenthrall themselves. The conjunction of the attack on the Marines in Beirut and the Grenadian invasion could mean that the invasion soon will not be seen as an unambiguous signal of strength

In Beirut, America suffered a serious military defeat, the significance of which is growing as the weeks pass without an American response. Against the background of Beirut events, the Grenada operation may be construed as evidence that the United States is just a regional power, prepared to act vigorously only in its front yard.

Now, the perception of the United States as a regional power would be an improvement over the perception of U.S. weakness that spread during the late 1970s. And it might even serve some U.S. interests if Nicaragua were to perceive the United States as ready to act only in this region. But that perception would be disastrous elsewhere, and it is encouraged by the failure of the United States to respond to the attack on the Marines.

Gen. John W. Vessey Jr., chairman of the Joint Chiefs of Staff, says "justice" will be administered to "those who directed" the attack. Senate Majority Leader Howard Baker says there may be retaliation if the persons responsible can be identified "with precision and exactness."

What is this, the Warren Court conducting foreign policy? Who will read the suspects their Miranda rights? This is the scrupulosity and individualism of our criminal justice system misapplied to power relations between collectives—between nations. It would be proper and cathartic to administer retribution to the individuals directly involved in the attack. But catharsis should not be a controlling aim of policy, and great nations are not obsessed with meting out justice to persons who are instruments of other nations' interests.

Israeli aircraft rose on retaliation raids against some of Syria's clients almost before the dust had settled at the site of the attack on Israelis. The aircraft rose before Israel found out who drove or loaded the truck or bought the explosives, because all that is beside the point. The point is that the attack on the Israelis, like the attack on the Marines, serves Syria's interests; such attacks probably could not have occured without the knowledge of Syria, which controls the road by which the truck had to approach the attack sites; Syrian occupation of Lebanon is a necessary precondition for such attacks.

Syrian President Hafez Assad today resembles Michael Corleone at the moment in "The Godfather" when Michael decides to hit all his rivals simultaneously. Assad is striking at the multinational force, Israel, the Lebanese government and the portion of the Palestine Liberation Organization that is not entirely subservient to Syria. The United States and Israel must make Assad an offer he can't refuse.●

NATIONAL CONGREGATE AND MOBILE MEALS ON WHEELS WEEK

HON. C. ROBIN BRITT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. BRITT. Mr. Speaker, I want to thank my colleagues for joining with me in voting to pass House Joint Resolution 386 designating the second week of November 1983, as National Congregate and Mobile Meals on Wheels Week.

The congregate and mobile meals program is an enterprise carried out by devoted and compassionate volunteers, most of them older adults themselves, who provide hot, nutritious meals to millions of senior Americans

throughout the United States. It is indeed fitting that Congress recognize the contribution that these volunteers are making.

Currently, there are more than 195,000 volunteers—90 percent of them over 60 years of age—who provide in excess of more than 570,000 meals per day in congregate settings where senior participants have an opportunity to socialize in addition to having their nutritional needs met.

There are also more than 200,000 volunteers—70 percent of whom are themselves older Americans—who deliver more than 150,000 meals daily to homebound older persons.

Mr. Speaker, beyond the numbers, it is vital that we understand the value of these meals to those who receive them. In many instances, we are talking about the difference between independence and institutionalization for senior citizens.

All of those involved in the congregate and mobile meals program deserve our warmest thanks and our deepest support.●

OLMSTED HISTORIC LANDSCAPES ACT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. SEIBERLING. Mr. Speaker, I am pleased to introduce today the Olmsted Historic Landscapes Act, a bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted. The premier American landscape architect during the 19th and early 20th centuries, Frederick Law Olmsted, Sr., is considered the father of landscape architecture in the United States and his philosophy and designs influenced the development of landscapes throughout the Nation. His sons, associates, and professional descendents carried out his philosophy and designs well into the 20th century.

The bill, which is also being introduced by Senator MOYNIHAN, would build upon current State, local, and private efforts to identify, commemorate, and preserve the Olmsted legacy by providing needed leadership and support from the Federal Government. Rather than create an entirely new program, the bill would essentially provide a means by which existing Federal programs relating to parks, recreation, and historic preservation can be better coordinated and more effectively utilized.

Before describing the bill itself, I would first like to provide some background on the Olmsted legacy itself and to indicate why it is so important for us to do what we can to protect it.

The material follows:

BACKGROUND

Frederick Law Olmstead, the father of landscape architecture in the United States, was a man of many dimensions. Today we think of him, along with his sons and associates, primarily for designing over 2,000 parks, parkways, institutions, planned communities, college campuses, cemeteries, and privately and publicly owned estates in 37 states and the District of Columbia. But to remember Olmstead himself only as an artist and designer is to overlook the breadth of his impact on this country, for he was well known to American historians for his reports on the physical, economic and social conditions in the South before the Civil War. He is also remembered for his tireless efforts as Executive Secretary of the United States Sanitary Commission, which was the fore-runner of the American Red Cross, and for being one of the founders of the National Park Service and the Forest Service.

The concepts of environmental planning which were inherent in Olmstead's designs and those of his associates and professional descendents, were the result of certain ideas and attitudes about human relationships to nature and the city. They also reflected the intellectual climate in which they were conceived. Olmstead shared with his contemporaries a belief in the salutary effect of nature upon people, believing that the future health of society and our cities depended on the physical and spiritual health of the residents. This could only be insured by re-establishing the link with nature that had been strained by the nation's rapid growth and industrialization.

Moreover, Olmsted and his followers believed that it was not only desirable, but the obligation of a democratic society to provide the facilities which would encourage the re-establishment of such a link. In this context, parks were seen as vitally necessary, for it was parks that were to bring relief from the worst conditions of the urban environment for the many city dwellers who were unable to escape to the country.

OLMSTED'S LEGACY

Frederick Law Olmsted's legacy of public design stretches from one end of this country to the other. There are Olmsted designed and Olmsted influenced landscapes in 37 states and the District of Columbia. In Alabama there is the Alabama State Capitol in Montgomery and 6 parks in Birmingham; in California there are 23 projects, not including the Stanford University campus, and Golden Gate Park, for which a report was written although the park was designed by John McLaren, a Scotsman working with the same design vocabulary. In Colorado, Denver has 18 Olmsted designs, while in Washington state Seattle boasts 33 parks, parkways, and playgrounds designed by the Olmsted firm.

In the Mid-west, Ohio has Olmsted designs in Cleveland, Columbus, Dayton, Lebanon and Youngstown—to mention only those which are considered public properties. The grounds of Stan Hywet Hall in Akron, were planned by Warren C. Manning, a former associate of Olmsted's; the house and its gardens, now a museum, are included on the National Register of Historic Places and designated as a national historic landmark.

In Illinois much of the park system of Chicago was designed by Frederick Law Olmsted, Sr., including Jackson Park (the site of the Columbian Exposition in 1893) and Washington Park, which with Jackson Park and the Midway Pleasance, constituted the South Park system. Drexel Boulevard, Jackson Boulevard, Grand Boulevard, and Lake Shore Boulevard were all part of the system of parkways which Olmsted used to link his parks to one another.

In Kentucky there are 6 Olmsted designs in Lexington, while Louisville has 21 projects listed. One of these, Cherokee Park, was devastated by a tornado some years ago and restored using the Olmsted plans.

Maine and Maryland have Olmsted parks, as does Louisiana, Minnesota, Missouri and New Hampshire. New Jersey's entire Essex Country Park System is Olmstedian, while Newark's Branch Brook Park retains much of the Olmsted firms design. There are Olmsted designs in New Mexico, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Wisconsin, as well as enormous bodies of work in New York State and Massachusetts.

It should be noted that to date with only one exception, this listing includes only the public properties, and makes no attempt to list the many, many private designs executed by Frederick Law Olmsted, Sr., his sons, or associates. What the list reveals, however, is that Olmsted and his legacy live on. His philosophy and designs influenced the development of a school of landscape architecture which has spread throughout the country. The work done by his sons, partners, associates and professional descendents continues to be used by millions of people every year. It is a legacy which, if lost, can never be replaced. It is essential that we preserve and effectively utilize this legacy for the use and enjoyment of present and future generations. It is a trust we cannot fail to keep.

Overview of Legislation

The short title of the bill is the "Olmsted Historic Landscapes Act."

Section 2 provides Congressional findings of the significance of Olmsted's legacy and the need for legislation.

Section 3 defines terms used in the Act; most are identical to those in existing historic preservation and recreation law. "Olmsted" includes Frederick Law Olmsted, Sr., his sons and associates (including such designers as Calbert Vaux and Warren Manning). "Olmsted historic landscape" includes any Olmsted-designed landscape, park, forest, parkway, college campus, planned community, estate, institution, cemetery or recreation area (including, on a case-by-case basis, Olmsted-influenced sites identified by an Olmsted advisory committee established under section 4 of the Act).

Section 4 directs the National Park Service to prepare an inventory of Olmsted historic landscapes, to be done in three stages over a seven year period. The inventory would be done in consultation with the Advisory Council on Historic Preservation and with the participation of state historic preservation and recreation officers and other interested organizations and individuals. The inventory would be done on a state-by-state basis and minimum requirements are outlined. All properties on the inventory would be part of an Olmsted Historic Landscape System, and other directions are provided for nationally and internationally significant properties. The inventory would be updated at least every 10 years.

Section 5 requires the Secretary of the Interior to make general standards for preserving historic landscapes, provide techni-

cal assistance, to submit to Congress a thematic study of other historic landscapes that might qualify as national historic landmarks, to establish a compatible program for the use of the Frederick Law Olmsted National Historic Site, Massachusetts, and to develop appropriate international activities related to Olmsted historic landscapes. The Secretary is also directed to take steps to coordinate applications from existing grant programs to preserve Olmsted historic landscapes and authorizes use of other Federal funds for such preservation where that is possible.

Section 6 requires the Secretary of Interior (and assisted State and local governments) to provide for maximum public participation in all aspects of the program, to assist local initiatives and encourage the use of volunteers and internships, leverage increased private support, and coordinate activities with others. The Secretary is authorized to enter into contracts and cooperative agreements with States, local governments and other entities to carry out the purposes of the Act.

Section 7 directs the Secretary of the Interior, in consultation with certain other federal agencies and participation by other government agencies and private entities, to conduct appropriate activities during the decade of 1985 to 1995—which coincides with the centennial of the decade of Frederick Law Olmsted Sr.'s most productive period. Activities would include a study on the influence of Olmsted's philosophy and designs on American life; development of an exhibit and film on Olmsted's legacy; provision of technical and financial assistance to commemorate Olmsted; and the conduct of appropriate activities at the Frederick Law Olmsted National Historic Site, Mass.

Section 8 establishes an Advisory Committee on Olmsted Historic Landscapes to assist the Advisory Council on Historic Preservation in Olmsted-related activities, including various professional reviews, assistance in developing public participation and information plans and evaluation of Federal undertakings that could affect Olmsted historic landscapes. The Committee would have nine members, appointed by the Chairman of the Advisory Council, from recommendations of various organizations. The Members would serve without pay except for reimbursement for travel expenses; their terms would be for not more than two four-year periods. The Committee would, unless otherwise extended, terminate in 1995.

Section 9 authorizes the appropriation of funds, effective October 1, 1984, to carry out the purposes of the Act. Contract authority would be subject to the general availability of appropriations.●

THE TRAGIC EARTHQUAKE IN TURKEY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LANTOS. Mr. Speaker, while our attention has been occupied by events in the Middle East and the Caribbean, an unfortunate and tragic situation in Turkey has been overlooked. Last Sunday, the Ezrum and Kars provinces in eastern Turkey were shaken by a major earthquake. More than 1,200 people were killed, and more than 33,000 were left homeless.

The villages and towns that were struck are high in the mountains near the Soviet border. Temperatures were hovering around freezing, with snow falling, as those who survived struggled to dig out and make a start at putting their lives back together. About 44 villages were destroyed or badly damaged. In Muratbagi, almost half of the 900 residents were killed.

I am pleased to report, Mr. Speaker, that the United States put forth a major contribution to the relief efforts in eastern Turkey. The Agency for International Development (AID) in the State Department is coordinating a U.S. response that includes about $1 million in U.S. assistance. That total includes tents, blankets, heaters, water purifiers. The U.S. military has been active in transporting the material and supplies to Turkey, and assisting with its distribution.

Other countries and the United Nations are assisting Turkey in coping with the devastating effects of the earthquake.

I hope that we will continue to provide all that we can in this time of crisis for Turkey.●

DANGER—UNLABELED INGREDIENTS IN DRUGS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. OTTINGER. Mr. Speaker, on October 6, 1983, I introduced H.R. 4126 which would require that all active and inactive ingredients be listed on the label of all drugs. In most cases, only active now must be labeled.

I believe it is critical that all drug ingredients be labeled so that doctors and patients can make informed choices regarding the drugs they use; patients with known allergies to specific ingredients can avoid them and the additives can be monitored for toxicity, carcinogenicity, and possible birth-defect potential.

Sulfiting agents are among the FDA-approved inactive ingredients now in use. However, the Food and Drug Administration has reported that the use of sulfiting agents in foods and drugs has been a source of growing concern. As of July 1, 1983, the agency had received reports of approximately 90 cases of adverse reactions, including one death. While most of these cases occurred in asthmatics, about 30 percent of the reactions occurred in nonasthmatics with no known allergies.

I would like to include in the RECORD an article from the August 1983 FDA Bulletin, "Sulfites in Food and Drugs." I think it is interesting to note that the last paragraph advises that "Physicians may want to remind asthmatics and patients who are or may be sensitive to sulfites to read the labels of packaged food to see if the product contains sulfites and to ask before ordering at a restaurant if the establishment has treated the food with sulfiting agents." No mention of drugs is made, because without passage of H.R. 4126, it is impossible to find out if a particular drug contains a sulfiting agent.

Our policy relating to the labeling of pharmaceuticals needs to be corrected. I hope you will join me in supporting this simple drug-labeling legislation.

Text of article follows:

[From FDA Bulletin, August 1983]

SULFITES IN FOODS AND DRUGS

The use of sulfiting agents in foods and drugs has been a source of increasing concern due to recent reports of adverse reactions to these substances.[16]

Sulfiting agents are used in a number of drug products and foods as antioxidants. Because the chemicals' antioxidant properties keep fruits and vegetables looking fresh, their use in restaurants has increased in the last few years due to the increasing popularity of salad bars. The chemicals are also used in many other restaurant foods, expecially seafood and fried potatoes. In addition, sulfites are used in many processed foods, including fruit drinks, beer, wine, baked goods, dried fruits and vegetables, and in the processing of some food ingredients, including gelatin, beet sugar, corn sweeteners, and food starches.

Since 1959, six sulfiting agents have been listed as Generally Recognized as Safe (GRAS) for use in food: sulfur dioxide, sodium sulfite, sodium and potassium bisulfite, and sodium and potassium metabisulfite. FDA is currently reviewing their GRAS status.

As of July 1, 1983, FDA had received reports of approximately 90 cases of adverse reactions, including one death, reportedly caused by ingestion of sulfites in foods. Reactions have included nausea, diarrhea, anaphylactic shock, acute asthma attacks, or loss of consciousness. They occurred soon after eating restaurant salads or other foods, eating certain processed foods, or drinking wine or other beverages. FDA has also received a few reports of adverse reactions experienced by food service personnel who handle sulfites, and by persons taking prescription medications.

While most of these cases occurred in asthmatics, about 30 percent of these reactions occurred in nonasthmatics with no know allergies. The number of people at risk for reactions is not known but may be large.

FDA ACTION

FDA estimates suggest that fresh fruit and vegetable salads are likely to present higher exposure levels of sulfiting agents than other sulfited restaurant foods. FDA has advised companies operating interstate conveyances and catering points that consumers must be notified of the company's use of sulfiting agents on foods intended for raw consumption. The Agency has also notified state officials who supervise restaurants, groceries, and other retail food establishments that users of sulfiting agents

[16] Footnotes at end of article.

should so inform customers by posting conspicuous and easily readable signs, placards, labels, or menu statements. The Agency is also contacting retail food trade associations to tell them that their members should either stop using sulfiting agents or inform consumers of such use by appropriate labeling.

FDA is working with drug manufacturers to explore the feasibility of substituting other antioxidants, and the Agency is considering a requirement for labeling statements on drugs that do contain sulfites. Medications currently containing sulfiting agents include antiemetics, cardiovascular preparations, antibiotics, psychotropic drugs, I.V. solutions, analgesics, anesthetics, steroids, and nebulized bronchodilator solutions. Clinicians should note that although present in the bronchodilator nebulizer solutions, sulfites are *not* present in the metered dose inhalers.

DIAGNOSIS

Symptoms that may represent an adverse reaction to sulfiting agents include: flushing, angioedema, hives, laryngeal edema, hypotension, cyanosis and wheezing, generalized itching, anaphylaxis, and respiratory arrest; loss of consciousness; and contact dermatitis.

Some reactions appear to be dose-dependent and others, which appear similar to the classical IgE-mediated acute allergic reaction, are not dose-related. For the dose-dependent reactions, available data are insufficient to show what doses are likely to produce reactions in sensitive people.

Reactions have been produced by challenges of orally administered sulfites as low as 5 mg, and 1 ppm of sulfur dioxide in inhaled air over a 10-to-30-minute period has caused bronchospasm in asthmatics.[7, 8] When exercising, sensitive asthmatics may experience bronchospasm when given 0.1 ppm sulfur dioxide.[9] Nonasthmatic individuals may develop bronchospasm at a level of 6 ppm.[7]

The presence of sulfites in bronchodilator solutions has the potential for posing a problem in the treatment of asthmatics. The clinician could have difficulty determining whether the asthmatic patient is having a paradoxical reaction to the sulfiting agent or is not responding to the medication. It is also possible that the bronchodilator medication may give some protection against the effects of the sulfites, and that asthmatics could be at greater risk from other sulfite-containing drugs.

FDA invites practitioners who know of confirmed or suspected reactions to sulfiting agents to report these reactions to FDA by using the form included on the last page of this *Drug Bulletin*.

Physicians may want to remind asthmatics and patients who are or may be sensitive to sulfites to read the labels of packaged food to see if the product contains sulfites and to ask before ordering at a restaurant if the establishment has treated the food with sulfiting agents.

FOOTNOTES

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[5] Prenner BM, Stevens JJ: Anaphylaxis after ingestion of sodium bisulfite. *Ann Allergy* 1976; 37: 180-182.

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[7] Sheppard D, Wong WS, et al: Lower threshold and greater bronchomotor responsiveness of asthmatic subjects to sulfur dioxide. *Am Rev Resp Dis* 1980; 122: 873-878.

[8] Koenig JQ, Pierson WE, et al: Acute effects of inhaled SO_2 plus NaCl droplet aerosol on pulmonary function in asthmatic adolescents. *Environ Res* 1980; 22: 145-153.

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BREAKING UP AT&T

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HILLIS. Mr. Speaker, I would like to bring to the attention of the Members, this letter to the editor which was in the Washington Post this morning. This commentary on H.R. 4102 comes from a respected member of the telephone industry who has been closely involved with the many versions of this legislation.

The letter follows:

[From the Washington Post, Nov. 10, 1983]

BREAKING UP AT&T

(By Charles Wohlstetter)

On Oct. 26, Reps. John Dingell and Timothy Wirth published something entitled "The Great Phone Robbery" [op-ed]. I must confess that rarely have I read such a disingenuous and misleading reporting of the facts.

I am accustomed to the many ironies of the political process, but I am overwhelmed by the apparent ease with which the authors characterize the deregulatory actions of the FCC over the last decade. They refer to them as "a course of untested economics embodying a radical reversal of telephone industry pricing practices."

I have sat in congressional hearing rooms testifying before these worthy gentlemen and can tell you that they are the ones who staunchly supported these very deregulatory actions. They did so in the face of clear warnings from every major spokesman in the telephone industry that this would produce considerably higher rates for the residential customer.

The article also chastises AT&T for supporting the FCC policies despite the fact that AT&T, along with other responsible people of the telephone community, fought that policy during the period when Reps. Dingell and Wirth were defending it.

These gentlemen tend to delude the public with their air of innocence in the curiously named legislation that suggests that they are preserving low-cost universal service by their legislative efforts. I direct your attention to the fact that this nation was distinguished by providing the best communications system in the world to 96 percent of the country—it was indeed universal service. The American telephone industry accomplished this at prices that were affordable to businesses and residential customers. I suppose the thing that upset the legislators was that we did this profitably although tightly regulated.

The new legislation purports, then, to recreate that which we had in practice: the best in the world, the most reliable, least-cost telecommunications system.

During the years since the FCC unilaterally decided that competition was desirable, we were unable to make the Congress understand that the consumer would pay. Now that it is evident this was a mistake and billions of dollars have been spent so that the industry can live in a new environment, we are asked to believe that it was all a major plot on the part of American Telephone.

An analysis of the legislation itself is too painful to recount here, but I don't know how many free countries of the world dictate that companies must sell to their competitors a service at a discount of 50 percent from their costs.

What I do know is that if this legislation is passed in anything like its present form, there will be bypass of the networks, higher fixed costs and absurdly different depreciation rates in different states for the same equipment. It will encourage exactly the obverse of what the subcommittee presumably wants. As usual the consumer will "get it in the neck," and these very congressmen will innocently look skyward and say, "Who me?"

COMMODITY FUTURES TRADING COMMISSION

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. FOLEY. Mr. Speaker, the 1982 authorization bill for the Commodity Futures Trading Commission (CFTC) lifted the ban on the trading of agricultural options—a prohibition that had been in effect since 1936.

The present status of the efforts of CFTC to implement these new provisions was outlined in a speech given yesterday to the Commodity Club of Washington, D.C., by CFTC Commissioner Fowler C. West.

In addition, Commissioner West addressed the question of commodity frauds and the role of the CFTC in addressing this problem stressing his strong conviction "That it is in the best interest of the legitimate commodity futures business to warn the public about scam operators."

Because of the interest in these issues, I insert Commissioner West's remarks in the RECORD at this point:

FOWLER C. WEST, COMMISSIONER, COMMODITY FUTURES TRADING COMMISSION

I am gratified to be here with you today.

Since many of you are very interested in our agency from an agricultural standpoint, let me discuss a subject that I know you have heard a great deal about recently—agricultural options. In the 1982 reauthorization bill, the Congress lifted the ban on the trading of agricultural options, which has been in effect since 1936. In view of the very poor history of the trading of agricultural options back in the 1920's and 1930's and considering the potential importance of agricultural options to American farmers and agribusiness, Congress was aware it was

taking an historical step. The Commission's immediate and appropriate reaction was that we move forward with a pilot program in agricultural options, but with sufficient caution. Accordingly, the Commission plotted what I feel has been a very sound course of action. We have succeeded in getting as much input as possible from all interested parties and have made progress to the point where we now are well on the way to resuming the trading of agricultural options.

The Commission first sought public comment last February, through a Federal Register notice, on general issues involved in agricultural options. Next, in March, the Commission initiated a series of eleven meetings around the country to get comments from the field. Commissioner Kalo Hineman took on the bulk of the responsibility for conducting these meetings on the road, with Commissioner Phillips and me filling in for him at one session in Iowa. As a result of these field meetings and the Federal Register notice we received a great number of comments from which we detected a very strong interest in resuming the trading of agricultural options, particularly among farm and agribusiness organizations as well as individual farmers.

In order to continue to receive as much guidance as possible from the agricultural industry on the scope of the program, the Commission in June of this year authorized the appointment of a special Agricultural Options Advisory Committee and named Commissioner Hineman to chair that group. The Committee's membership represents a wide spectrum of agricultural interests, commodity professionals and bankers. I might add that all these individuals have served without pay or travel reimbursement, which gives you an idea of their dedication. So far there have been three meetings of this Advisory Committee at which the members have reviewed the comments that were collected in the field as well as those that were solicited through the initial Federal Register release.

The results of the many comments the Commission has received and the Committee's hard work were evident in the proposed rules package the Commission adopted on October 4. These rules were put in the Federal Register for a sixty day comment period which began on October 14 and will end on December 13. Some of the high points of this rule proposal are: (1) each exchange would be permitted to trade two agricultural options contracts; (2) in order to trade an agricultural options contract the exchange must trade the underlying future; (3) there only will be options on futures and not options on physical agricultural commodities at this stage of the game; and (4) the options proposal will include only domestic agricultural commodities and not world commodities such as cocoa or coffee.

The Commission will review the comments on these proposed rules upon the close of the comment period and hopefully will approve a final rules package shortly thereafter. These final rules will be sent to the House and Senate Agriculture Committees for thirty days, in accordance with the provisions of the options pilot program, before becoming effective. At that point, the Commission will be free to consider contract applications from the exchanges. The Commission will give each contract careful examination, and, as part of the designation process, the Commission will review the adequacy of the rule enforcement program of each exchange applying for designation before permitting these options to trade. I personally would not feel comfortable about entrusting an agricultural options contract to an exchange that has not been enforcing its rules.

I don't believe we will be seeing the trading of agricultural options until the second half of next year, which may disappoint some of the exchanges. There has been no trading in agricultural options for over 40 years. It makes very little sense, in my judgment, to try to bobtail the process by a couple of months when implementing a program as important as agricultural options.

Once our Commission approves agricultural options contracts, most of the burden of assuring the success of the program will rest on the exchanges and the National Futures Association, the newly chartered self-regulatory organization.

In general, the Commission has been following the philosophy of self-regulation as much as possible. That simply means that most of the day-to-day regulation of the futures industry rests with the exchanges and more and more with the National Futures Association. Our Commission oversees this self-regulation.

When the Commission, almost two years ago, instituted the options pilot program, of which agricultural options will become an integral part, it placed self-regulatory duties and responsibilities on exchanges that exceed those that apply to regular futures contracts. As a condition of options designation, an exchange must adopt and enforce written rules which require each of its member futures commission merchants to adopt and enforce written procedures. These procedures require the futures commission merchant to supervise each option customer's account; to give immediate notification of any disciplinary action taken against themselves or their employees; and to comply with pilot program's rules on disclosure requirements, promotional literature, discretionary trading, and sales communications. The National Futures Association will be responsible for the same oversight on those FCM's and introducing brokers who sell options and who are not members of an exchange.

These requirements have been in place and enforced by the exchanges and NFA in the existing options pilot program. From the written reports we have received on the pilot program thus far, it appears to be working well. But at present there are a limited number of public customers holding contracts in options on futures. Agricultural options may attract a much larger number of public customers, and the exchanges' role in protecting public customers will be put to the test.

Therefore, as you can see, the success of the program will depend a great deal on how well self-regulation works.

As we move toward approval of agricultural options, it is absolutely essential that those entities that will be involved in the trading and in the solicitation of customers make a maximum effort to comply with the rules. It is my personal view that we cannot afford to have any serious problems develop in the trading of these new instruments if we are to expect them to become a valuable tool for American farmers and American agribusiness. Congress expects this of all of us who will be involved in this project.

Suffice it to say that I have great hopes for agricultural options, I think there is virtually no limit to how these options, if handled properly, can be used as a tool to help American agriculture in the future. This is why we must use every precaution to assure that this program gets off to a good start.

Now having talked probably more than you wanted me to about agricultural options, let me turn to another subject that I have been particularly interested in since I came to the Commission just over a year ago. As many of you know, our agency deals primarily in regulating the trading of futures contracts, but the title of our agency is the Commodity Futures Trading Commission and there is some confusion over what we regulate because of the term "commodity." The CFTC oversees the trading of futures contracts, or as our legislation states, "contracts of sale of a commodity for future delivery." Our act specifically states that this does not include any sale of any cash commodity for deferred delivery (forward contracts) or cash commodity transactions.

Sadly, there is that area just outside the Commission's specific jurisdiction about which all of us need to be concerned. I refer to commodity frauds and scam operations, involving the cash sale of commodities. We have recently read so much about operations that have declared bankruptcy or have gone broke, leaving thousands and thousands of customers without anything to show for the millions they have invested. There was a recent company in Ft. Lauderdale known as the International Gold Bullion Exchange that collapsed, leaving some 20,000 customers stranded. They thought they had purchased gold only to find out that the company vaults were empty except for gold painted blocks of wood. It is estimated that this firm alone cost customers some $50 million.

More recently there was an operation in the Los Angeles area called Bullion Reserve of North America. It collapsed and its president tragically committed suicide. Again, some 30,000 customers, most of whom had no notice whatsoever that their investment was in danger, were left without anything to show for the millions of dollars they put into that firm. Reports indicate that up to $60 million is unaccounted for.

For every big operation like these there are scores of small operators that set up shop in a town; put in a large telephone bank; and hire as many characters, often scam veterans, as they can to make cold calls to people all over the country. They often use lists of names purchased from legitimate firms—often Wall Street firms.

The idea is to promise a great return on the investment and collect the money as fast as possible. As soon as the money is accumulated, the scam operator will likely take off, leaving the customers with nothing.

It was estimated last year by the Senate Permanent Subcommittee on Investigations that as much as $200 million a year is taken from our citizens by this type of operation. Clearly, something has to be done and has to be done soon.

On October 25th, the Senate Permanent Subcommittee on Investigations announced that it was going to conduct a probe into just which Federal Agency, if any, has jurisdiction to deal with the type of operation I have just described. At that press conference a State Attorney General accused our agency and the Securities and Exchange Commission of falling down on the job when it comes to these scam operations. The Federal Trade Commission was also implicated. Senator Roth, the Chairman of that Subcommitee, said he did not want to prejudge whether any Federal Agency has appropriate authority and that one of the purposes of the investigation is to determine if additional authority is needed at the Fed-

eral level. Senator Roth also stated that the states' jurisdiction in this area would be reviewed. Our Commission will cooperate in every way with that Subcommittee as it conducts its inquiry.

I think it is clear that there is enough for all of us to do, and it is essential that the proper roles be sorted out so that we can proceed more effectively against these operations.

During the one year I have been at the Commission I have seen a new spirit of cooperation between the states and the Commission. The Commission worked in good faith with representatives of the states and the staffs of Senators Roth and Rudman to implement changes in our legislation to increase the roles of the states in regulating those entities that are not registered with the CFTC. We have established new CFTC-State information sharing procedures, and we are operating comprehensive state enforcement seminars, one of which was held just last month. All of us at the Federal level have the obligation to keep the lines of communication open between ourselves and the states. We Federal Agencies must work to better communications among ourselves in the areas of cloudy jurdisdiction. We can help each other and the states.

Realistically the task of controlling fraud is far too large for any one group be it a Federal Agency, a local municipality, or a State Securities Administrator. United we will have more impact.

While there is great need for a comprehensive State and Federal enforcement program, the best way to wipe out this kind of "commodity" crime through good consumer education programs.

While the CFTC has published several publications to alert citizens about what to watch out for in the area of commodity scams, I think we can do more. I have begun speaking to groups about how to avoid being bilked by these operators. I also will be urging the commodity exchanges, the National Futures Association, the Futures Industry Association, State securities officials, and any other interested group to find ways to alert the public to be wary of the hard sells used by these scam operations. We need more seminars; we need more public service advertisements; and we need more people willing to talk in public forums about ways to detect "commodity" scams.

I strongly believe that it is in the best interest of the legitimate commodity futures business to warn the public about scam operators. The industry should alert the public about what high professional qualities should be expected from those in the legitimate futures business. For the most part, those people who are properly registered with us and who are affiliated with legitimate brokerage firms and exchanges and supervised by them are highly qualified and honest commodity professionals. However, the entire industry is given a black eye by these scam operators.

Some of you represent groups that have a very large membership. I would urge you to consider running your own consumer education program. No one is immune. As a matter of fact, I received a call at the Commission, soon after I became a Commissioner, from someone in New York wanting me to invest in a cash gold deal. I wonder what list they bought that had my name on it!

When I speak to groups on this issue, I distribute a copy of ten guidelines I recently prepared that consumers can follow whenever they are considering putting money into a commodity operation. I have taken the liberty of bringing with me copies of these guidelines along with appropriate CFTC brochures. I hope you will take a copy of these points and brochures with you and make good use of them.●

TARGETING AMERICAN STYLE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. FRENZEL. Mr. Speaker, today, the Washington Post printed an excellent editorial which reminds us that our own country targets industries in a similar manner to what occurs in Japan. Our policy of late seems to be to ignore greatly increased Defense Department R&D expenditures to develop the next generation of computers—which I support—while we complain that Japan has unfairly targeted some of its industries, particularly its high tech industry.

A few of our House colleagues are convinced that we need an industrial policy which would incorporate the same targeting concepts that we protest in Japan, to regain our admitted lack of competitiveness.

Along with all of this, the Trade Subcommittee of Ways and Means is considering a trade remedy bill which, among other things, would permit U.S. industries to obtain countervailing duties on products that receive targeting benefits. The subcommittee is moving to provide remedies for the same kinds of policies we are establishing in this country. Our actions are beginning to attract protests from our trading partners, and suggestions are being made that they will pass legislation similar to, or perhaps even tougher than, the Trade Subcommittee proposal.

As the trade remedy bill progresses, I hope that colleagues will be attentive to the warnings of the press and of our trading partners. It will be difficult, and ultimately harmful, to demand both trade remedies, and the same policies the remedies we are supposed to cure.

The Post editorial follows:

TARGETING, AMERICAN STYLE

Targeting, according to the Reagan administration and most of the Congress, is what Japan does to promote its exports. The term indicates vigorous government support for certain products aimed at foreign competition. It's unfair, according to the American trade negotiators, because the United States doesn't do it. Of course not.

The Japanese have sometimes observed that the very large American defense budget frequently helps pay for the technology that produces highly competitive American exports. The American negotiators stiffly reply that, as everyone knows, defense spending has nothing whatever to do with civilian industry.

But before you decide that targeting is an exclusively Japanese custom, you might want to take a look at the rising scale of the Pentagon's support for the development of advanced computers. There's nothing at all wrong with the Pentagon's putting money into computer science. Nor is there anything wrong with its comment that there are large implications for civilian industry, since the point is obvious. What is wrong—and worse, foolish—is the American habit of saying one thing to Congress to justify the appropriations and the opposite to the Japanese in the trade negotiations.

Last spring the Pentagon's Defense Advanced Research Projects Agency announced that it was going to spend about $50 million in this fiscal year, and nearly twice as much next year, on the development of more intelligent machines. Last week the agency published the report that sets out the full scale of this undertaking. It is to cost about $600 million over its first five years, through 1988.

"If the United States aggressively competes to develop these systems," the report observes, "it will gain access to enormous new commercial markets. . . . Spinoffs from a successful Strategic Computing Program will surge into our industrial community." Let's hope so. But the Defense Department is proposing to put money into this project at roughly twice the rate at which the Japanese government and industry together apparently will fund the famous fifth-generation project there.

There's a strong case for devoting defense money to computer development. It's a useful and, for that matter, traditional way to support science. But it could also be called targeting, since computers are among this country's largest exports. The important thing to note is that there's not much difference between the American practice and the Japanese—except that government support for the computer industry is now on a substantially larger scale in the United States than in Japan.●

CONGRESSMAN SISISKY ON FIVE ROLLCALL VOTES

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. SISISKY. Mr. Speaker, public service requirements compelled me to be in my district last evening. As a result, I missed the voting on five rollcall votes.

Had I been present on rollcall vote No. 479 to pass H.R. 3222, the Commerce-Justice-State-Judiciary appropriations, fiscal year 1984, I would have voted aye.

Had I been present on rollcall No. 480, on an en bloc technical amendment by Mr. SMITH of Iowa to H.R. 3222, the Commerce-Justice-State-Judiciary appropriations for fiscal year 1984, I would have voted aye.

Had I been present on rollcall vote No. 481 on the Levitas-Broyhill motion to H.R. 3222, the Commerce-Justice-State-Judiciary appropriations for fiscal year 1984, to prohibit the Federal Trade Commission from issuing final regulations until an authorization is enacted, I would have voted aye.

Had I been present on rollcall No. 482 on the Smith motion to recede and concur in the Senate amendment with an amendment that provided $11.9 million for the Commission on Civil Rights in fiscal year 1984, I would have voted no.

Had I been present on rollcall vote No. 483 on the motion to approve House Resolution 363, the rule providing for the consideration of H.R. 4102, the Universal Telephone Preservation Service Act, I would have voted aye.●

ANALYSIS OF RECENT U.S. MILITARY ACTION

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. BEILENSON. Mr. Speaker, I would like to bring to the attention of other Members a thoughtful analysis of recent U.S. military action written by a friend and colleague, the Honorable TOM DOWNEY. This article, which appeared on November 6 in the Washington Post, discusses the limited efficacy of military force in resolving international conflict and points out that we must clearly define our objectives and carefully assess all potential consequences before committing U.S. servicemen to combat. In addition, Congressman DOWNEY stresses the importance of attempting to settle bilateral or multilateral disputes through negotiations before resorting to armed force.

Mr. Speaker, this article presents a point of view that we should all heed, and I hope that Members will take a few minutes to read it.

DO WE KNOW WHAT WE'RE DOING WITH MILITARY FORCE?

(By Thomas J. Downey)

Just since 1980, two attempts by the United States to use its military force to achieve delicate objectives have led to disasters. The first came in April 1980 when a rotor blade of a Sea Stallion helicopter sliced through the fuselage of a C-130 at "Desert One" in Iran. Eight American servicemen died in that moment that symbolized the failure of our mission to rescue the Ayatollah Khomeini's 53 American hostages.

The second came as a Mercedes-Benz truck loaded with explosives and driven by a single man swerved around a barbed wire fence and smashed into the entrance of the U.S. Marine headquarters in Beirut, killing 234 American servicemen.

Closer to American shores, the U.S. military now talks of a military success—the invasion of Grenada. But their assessment may be premature. Already, the cost of the invasion is mounting, and there are signs that the military operation did not proceed smoothly. We may have escaped a moment of tragedy, but we may still face a far-less-than-heroic outcome. Civilians have been killed as bombs hit a hospital instead of an army base, our own forces suffered many of their losses from friendly fire, and our closest allies have condemned our actions.

Examining Desert One, Lebanon and Grenada may seem like comparing apples, oranges and pears, but the three are not unrelated. All point out problems with our military system—problems that are unrelated to the money we spend on defense. We now have a defense establishment that seems more interested in procurement of weaponry than in efficient military operations.

But these three incidents have a wider significance than that. All three highlight the tendency to overplay military force and underplay diplomatic initiative. And all three are useful case studies when considering the future use of U.S. military force.

Every potential use of our military force needs to be thoughtfully assessed in realistic terms. We have to make a clear-headed appraisal of objectives, consequences, planning, readiness and military limits of any interventionist use of force. In my view, if we do that, we will usually conclude that the use of force is counterproductive to foreign policy objectives and enormously expensive in human lives and national prestige. This is especially true when the force is strong but not shrewd.

In the Iranian hostage mission, the objective was obvious: rescue the 53 hostages held in the embassy in Tehran to show the world America will not be held hostage. The consequences of the mission were less clear, especially the consequences of failure. If the captives of the Ayatollah had been liberated the result would have been different, but not necessarily better. At the time of the raid, Americans still lived in Iran, as did hundreds of Europeans. All would have been targets of an embarrassed, paranoid regime. The results of the failure as it did occur are now, however, clear enough. American prestige was battered. The hostages' release was probably delayed.

In fact, the country and the 53 hostages are more than lucky that the consequences of the failed raid did not also include retribution against the hostages themselves.

Plans for the mission were marked by fantastic intricacy by a notable lack of preparation for the unpredictable. The force was too small. The Sea Stallion helicopters were too few. During the first phase of the assault, pilots failed to maintain radio silence.

The Pentagon itself said afterwards readiness was a problem. And while the limits of our power to send an armed force deep into enemy territory were recognized—each additional mile adding new complications—this recognition did not dissuade the mission's planners from going ahead.

Its failure traumatized the country, and we were soon pouring more money into the defense budget. Spending for weapons alone increased 109 percent from 1980 to 1983—in real dollars.

Three years later, after a real growth in defense spending of 21 percent, it was time once again to show the flag—now financially fortified.

In Lebanon the objective has never been clear. U.S. forces are there as "peacekeepers." To keep the peace they must be visible. But being visible, for American forces, is not in this case an effective way of peacekeeping. It is, however, an effective way of becoming a target. Because the mission is unclear, security is compromised.

As for the consequences, neither the military nor the political impact has been well thought out. Politically, U.S. Marines represent Amin Gemayel, who leads a minority government for a minority religion. It's a risky position and it generates antagonism. Militarily, the situation is tragic. After the terrorist's bombing, we are left with two unsatisfactory alternatives; increase the force and go on the attack, or withdraw. But whom could we attack, and to what benefit? But if we left, that would create the impression that we had buckled to terrorism.

The presence of American forces elicits strong emotions, especially in the Middle East and Third World. The United States is often identified with imperialism and with backing unpopular governments. Right or wrong, that is the perception and it is not hard to see why our forces are the first target of dissatisfied segments of a population. These segments will strike the U.S. presence in unconventional ways because more formal military avenues of confrontation are closed to them. They will drive car bombs, invade embassies and take hostages.

As for readiness of our force in Lebanon, the Marine Commandant has switched his position. First, he said he was "totally satisfied" that security was "adequate;" now he says security was "not adequate." In any case, we were not ready for a truck loaded with explosives, at least not at the back gate of the compound. The front gate, was, and remains, barricaded. But it seems the Marines themselves rarely use the back gate and considered it less of a priority.

The limit of our power as peacekeepers was not a subject of great debate when we went in, but it should have been. Is it ever a good idea to use U.S. troops as peacekeepers instead of a more neutral force—United Nations troops contributed by smaller powers, for instance? Is it smart to put American troops in situations where they could come up against Soviet surrogates like the Syrians when there is a possibility of broader conflict? The fact is, superpowers make poor peacekeepers because if they fail in that role the consequences can be profound.

So far, the utility of using U.S. force for rescue and peacekeeping work seems limited. What about invading?

In Grenada, the short term objectives seem clear: save American lives, deny the Soviets and Cubans a base for Latin American adventurism. The long term objectives are less obvious. With 3,000 U.S. troops in an area twice the size of Washington, D.C., we face a nagging question: what do we do now? One answer is to face the consequences. We may have violated a host of international laws, including the Principles of Non-Intervention of the United Nations Charter and Article 18 of the Charter of the Organization of American States. Now we face a major credibility problem in the world community. After all, who trusts an individual—or a nation—that operates under law selectively, that breaks a law and says, "just this once"? We gave up the moral high ground we occupied after the Soviets invaded Afghanistan and shot down the South Korean airliner. We have strained the Atlantic Alliance, alienated our closest allies and brought home a condemnation from the U.N. General Assembly.

The planning for the invasion has come under fire. Sen. Sam Nunn (D-Ga.) has charged that we had a foolishly divided command structure atop our invasion force. Journalists report that some of our invading troops had to rely on tourist maps. And chaos, in the face of *limited* resistance, took a significant toll of U.S. equipment and lives. Moreover, the Grenadians probably knew of the invasion three days beforehand. But because the military restricted observation by the press, we still can't be sure if we have the truth.

I am sure of one thing, though. Our soldiers are professionals and they are brave. I know because I've talked personally to medical students they evacuated. Our men interposed themselves between the students and enemy fire. They could not have been braver.

The very success of the invasion, despite planning problems, raises an interesting point about the limits of military force. Our quick victory is due substantially to the absence of conviction among soldiers of the Grenadian Revolutionary Army. Most Grenadians, in fact, seem pleased that we invaded.

Grenada demonstrates the critical importance of properly assessing the ideological or nationalistic opposition to a potential use of American force. With a strong belief in country or cause, even a small opposing force can be fearsome. Without believers any force is weak. The North Vietnamese were believers. So are the Nicaraguans.

What is the best use of force? Military force functions best as a foundation for diplomacy (as it helped Israelis and Egyptians in the Camp David accords) and to check illegal use of force by another (the British in the Falklands.)

One of the shortcomings of military force is its power to create strong, often opposite reactions. The use of force polarizes situations. And more often than not, destruction in a country puts resolve into her people. That was true during the London Blitz, during the Israeli War of Independence and during our bombardment of North Vietnam.

Today even Third World forces are now well equipped and highly motivated, a fact that presents even greater obstacles and steeper costs to any decision to use force. It is no longer a case of Western guns against primitively armed Third World nations.

The fact that our military forces often don't seem ready to fight effectively cannot be blamed on a lack of money. We were spending a great deal on the military in 1972 when we left Vietnam and even more in 1980 when the rescue mission failed. Now we are spending $24 million an hour, $576 million a day, almost $210 billion a year on our defense. Fully a fourth of that total is spent on procuring weapons, but the problems at Desert One, in Beirut and in Grenada had little to do with weaponry. Shortcomings in readiness, command structure and intelligence are more to blame.

Nevertheless, of the vast increases in defense spending since 1980, five times more has been spent on procuring weapons than on operations and maintenance and personnel—an accurate reflection of Pentagon priorities. Even the $322 billion the Pentagon would like to be spending by 1985 would not address the real problems. The Pentagon and the Congress are more interested in fighting (or acquiring) systems than in fighting forces—and this has created a cult of procurement.

The cult is based on a military structure that emphasizes the purchase of weapons over effective training for the prosecution of war. Field commanders are still primarily concerned with their unit's fighting effectiveness, but their leadership, the Pentagon brass, with help from a contracts-conscious Congress, has confused the objective of national security with continued procurement of new weapons. The result: America has one of the technologically best-equipped but most haphazardly prepared armies in the world.

The North Vietnamese who faced American armed forces during a decade of war have a disturbing assessment of our capabilities. According to one North Vietnamese soldier interviewed for the Public Broadcasting Service's series on the war, U.S. forces were deadly from a distance—but not close-up, when advanced weaponry no longer helped. "To fight the Americans you must cling to their belts," he said.

We tend to believe there is a technological solution to every problem. Our military believes that tactical and strategic problems of warfare are also amenable to technological solutions. But weapons alone seem ineffective against political or religious spirit. And no amount of weaponry can substitute for good intelligence, training and commanders.

Yet, in Iran we were told there was a secret weapon to defeat the numerically superior "student" terrorists guarding our hostages at the embassy. In Lebanon, nothing high tech could have stopped that truck as well as an old fashioned cement barricade of "dragon teeth"—what the British use to foil IRA terrorists. In Grenada, we again witnessed the vulnerability of high-priced, high technology. In one week of fighting we lost eight helicopters, including the sophisticated and expensive Blackhawks and Cobras.

The American hostages were returned with agreements worked out over a table, not at the end of a gun. Diplomacy, if given a little more time in 1975, probably would have gotten the 39 crewmen of the Mayaguez out of Cambodia without the loss of 41 U.S. soldiers. Diplomacy, ultimately, gave Egypt the Sinai back. Diplomacy has worked to turn China from an adversary to a trading partner. Diplomacy holds the only hope for resolution of the Lebanon situation. Diplomacy supported by strong military, combined with economic aid, can be an exact and effective tool to protect and improve national interests.

Diplomatic solutions are also a bargain compared to military ones. The Lebanon deployment has already cost more than $60 million in treasure, plus the 234 lives. The invasion of Grenada, just days old has already cost tens of millions. It turns out to be a lot cheaper to build things like runways than to unleash forces to occupy them.

Grenada was particularly fertile ground for diplomatic initiative and success. It's unfortunate that diplomatic victories don't excite us the way military victories do.

It is equally unfortunate that America has not learned it is unique in this world, that our ideology, our rights and wrongs are frequently different from other people's. We assume instead that others think as we think, are motivated as we are, and dream as we might.

This is a mistake we seem to make again and again. In 1965, President Johnson thought he could avoid war in Vietnam by offering Ho Chi Minh a pork barrel deal that would have made an old-time politician drool. Johnson offered to turn the MeKong Delta into the TVA of Vietnam if Ho would stop his drive South. To Johnson's surprise, the leader of North Vietnam turned him down. Ho was not looking for a political deal. He considered himself a committed nationalist, communist and idealogue. For Johnson, the familiar ways did not work.

We will be more successful at the negotiating table and on the battlefield if we underestimate the capabilities of our technology and overestimate the resourcefulness of other people. By doing so, the price of force becomes clearer, and so does the promise of diplomacy. We have been a lion, blinded both by our own strength and rigid view. If there were more of the fox in us we would see that intervention in most cases is a trap to avoid.

The costs of military force—socially, politically and economically—are huge. If we can be as shrewd and patient at the bargaining table as we have been on the battlefield, just think how much we can save.●

WELCOME TO 1984

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. OTTINGER. Mr. Speaker, public opinion seems to have swung behind the President and his decision to invade Grenada. So strong is this cry of victory that even some of the strongest opponents of this action have decided that the invasion of Grenada is, at worst, the exception that proves the rule. But judging from the information, ever changing, that has been provided about the invasion, I can see it as no more than an example of a new American principle: that the ends justify the means.

As we approach the new year, I wonder how many people will include the invasion and political management of Grenada in their assessment of our proximity to Orwell's prophetic novel. Today's New York Times provides welcomed insight:

GRENADA, BY O'NEILL, BY ORWELL

With the surrender of Speaker O'Neill, President Reagan's triumph in Grenada seems complete. The evacuated students kissed American soil and cheered at the White House. Grenadians express relief, even delight. Most Americans not only approve but feel positively invigorated; they are furious at a press that wanted to witness the action or question its premises. Although 1984 is at hand, hardly anyone dares confront the Orwellian arguments by which this grave action has been justified.

To Save the Students. The testimony that American medical students in Grenada felt endangered comes either from students most frightened by the invasion itself or from officials who need to justify it. Contrary testimony, from the school's management, has been revised under the tutelage of officials who now control the school's assets. No hard evidence has been produced.

But assume, like a delegation of Congressmen did, that the students faced a "potential" risk of being harmed or taken hostage. Why would the Marxists who had just seized power from other Marxists want to threaten Americans? The only reason could be to protect themselves from a feared American invasion. The pretext for the invasion, then, was a presumed danger posed by invasion.

Even so, grant the danger; assume diplomacy failed and a rescue was needed. Could 1,000 troops not have seized the school or brought the students out fast? Rescue did not require occupation.

To Liberate Grenadians. Many Grenadians surely wanted liberation, and for a decade, from dictators of the right as well as left. If this invasion yields them a more legitimate regime, they'll certainly benefit.

But that raises a startling new standard of international conduct. No American Government ever declared a policy of invasion to implant democracy in Grenada, or anywhere else. What other people now qualify for benign invasion?

To Stop the Cubans. The fear that Cubans would help Marxists entrench themselves in Grenada and use the island for Cuban-Soviet purposes was, of course, the real reason. It was denied at first because the extent and purpose of Cuban involvement were not known in Washington. That the Cubans and the weapons finally counted in Grenada were a danger to the United States is far from proved. If they were, then the motive for invasion was a good hunch—and a quest for evidence to justify invasion.

Cuban aggression to promote "the export of terror" would indeed justify a vigorous response. A great power that wants respect for its values as well as its power would have marshaled its diplomatic and economic might to contain the threat. It would look upon force as a desperate last resort. And it would prove its case for military action instead of hiding behind transparent pretexts.

Without such a record of proof and warning, people around the world who do not automatically assume American virture are left to conclude that the United States is either a bully or a paranoid—quick to attack where it can do so safely or when it feels compelled to demonstrate muscle.

That's why Speaker O'Neill's final judgment may be the most shamefully motivated of all. "Public opinion is what's behind things here," explained Representative Torricelli of New Jersey. "Years of frustration were vented by the Grenada invasion. I hardly get a call in my office about Grenada where people don't mention the Iranian hostage situation. So people feel their frustration relieved, and members of Congress sense that."

So the invasion is finally justifed because Americans needed a win, needed to invade someone. Happy 1984.●

BREAD VERSUS GUNS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mrs. BOXER. Mr. Speaker, I would like to submit this article from the Economist of August 13, 1983.

NOT BY CHEESE ALONE

Is there really hunger in America while government storehouses are bursting with surpluses of food? According to the country's mayors, there is: hunger is "the most prevalent and insidious problem facing the cities", they say. Mr. Reagan himself can look out of his White House windows and see a soup kitchen in Lafayette park. In some other cities the queues at soup kitchens are said to have risen by 400-500%. All occasionally run out of food; some organisers say that they always do. Miss Carol Bellamy, the head of New York's council, says that the city has seen nothing like it since the great depression of the 1930s.

Yet 22 million Americans receive food stamps worth $12 billion a year and there have been large donations, mainly of dried milk and cheese, from government stores—admittedly a monotonous diet. Mr. John Block, the secretary of agriculture, recently viewed that he and his family would eat—and eat well—on $58 for a week; this was the value of food stamps given to the poor, he said. But the effect of his sacrifice was deflated when it was pointed out that only complete down-and-outs receive this much; the top stamp value is usually $39 a week for a family of four, or 47 cents a meal.

Professing himself saddened and perplexed, President Reagan has announced that he will appoint a task force to find out, and tell him within three months, whether many Americans are really going hungry and why, given so much federal aid. The president says he wants the truth, but the people first chosen by the White House to man the task force seemed almost certain to produce a soothing report. Now there seems to have been a change of its members, who are yet to be announced.

Not one American child should go to bed hungry, declared Mr. Reagan in what was seen as yet one more attempt to erase the view that he is unfair to the poor. And he can point out that spending on food program in 1982 was twice as great as it was in 1972, in constant dollars, in spite of his cuts.

Some of the answers to Mr. Reagan's questions need not cause much trouble to the task force. Despite July's sharp drop in the rate of unemployment, from 10 percent to 9.5 percent, there were still 10.6m people out of work last month; nearly 2.6m of them had been out of work for six months or longer. Nearly 1.7m were too discouraged to look for jobs and are therefore not officially numbered among the unemployed. The unemployment rate for adult men fell only from 9 percent to 8.8 percent; for women, from 8.6 percent to 7.9 percent.

For the 10 months ending in June the rate had stayed above 10 percent; one in five of American workers had some experience of joblessness in 1982. The figures for blacks and hispanics were much higher: 33 and 27 percents respectively. Yet the government has provided less help than in the last severe recession, in 1975–76. According to the Brookings Institution, just over a third of the unemployed have received unemployment benefits, compared with almost two thirds in 1975–76.

Another cause of hunger, which should come as no surprise to Mr. Reagan, is his own reduction in food aid in 1981. Nearly 900,000 people lost their right to receive food stamps, the programme that is credited with ending gross malnutrition in the United States. Mr. Jean Mayer, a well-known nutritionst, commented: "We are seeing hunger reappear in the United States. . . . There is a danger that the one social problem that we had eliminated may be coming back." Only about two thirds of those who are officially poor receive food stamps.

Federal money for child nutrition was also cut, by $1 billion. Officials at the agriculture department agree that 2m-3m children poor enough to be eligible for free school lunches are not receiving them. This year congress has refused to accept the further cuts in food aid that the administration has requested. Both chambers are moving to demand more generous donations from government stocks when they return next month.

None of this is to say that the states, which distribute food stamps and food donated by the federal government, are peerlessly efficient. Some say they lack the money, or the refrigerated trucks to distribute food. A frightening example comes from Maryland, within a stone's throw of the capital. The state health department there, which runs a special food programme for women and children, dropped 6,300 recipients from its lists this year, yet returned $240,000 to the federal government, which provides the money.

The reason, state officials said, was that they did not have enough clerks to make sure that the claimants deserved the help. In 1982 the state had returned $1 million of the $15 million provided. In 1980 Maryland provided money to fewer than a third of the eligible women and children. Over the country as a whole the record for this programme is not much better.

According to the census, the number of Americans living in poverty rose in 1982 to 15 percent of the population, over 34 million people and the highest percentage since the mid-1960s. Sadly, children seem the worst affected; in the past three years the numbers of poor children have risen to almost 20 percent of the total as unemployment and the number of single-parent households have increased. Old people, however, are no worse off than the average.

Blacks had the highest proportion of poverty, nearly 36 percent; hispanics came close behind, at 30 percent. A striking consequence of the industrial collapse of the midwest is that blacks living there suffered more poverty—40 percent—than blacks living in the southern states. Still, the south remained the poorest region, with 18 percent of its people living in poverty.

The American definition of poverty is admittedly rather hit-or-miss. Poverty levels are defined as three times the cost of a plain but allegedly sustaining diet. Allowances are made for the size of family, though not for regional variations. Many families outside America would be happy to live on $10,000 a year—the poverty level for a family of four. But poverty is relative.●

GREATER WILKES-BARRE PAYS TRIBUTE TO HORACE E. KRAMER

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HARRISON. Mr. Speaker, on Wednesday evening November 16, the Greater Wilkes-Barre community will pay tribute to an outstanding citizen, Horace E. Kramer.

For the 22 years of its existence, Mr. Kramer has been chairman of the Wilkes-Barre Redevelopment Authority. In that capacity, he has been the driving force behind the renovation of the old city of Wilkes-Barre, replete with vestiges of coal mining, into the "newest old city in America." That process began in the late 1950's and continued, at a steady pace, for better than a decade. Then, in June 1972, Hurricane Agnes struck the city of Wilkes-Barre with devastating force.

The post-Agnes flood recovery marked a turning point in redevelopment. Properties that had been damaged beyond repair were acquired: The parcels on which they stood were

resold to private developers who erected new homes.

Businesses were encouraged to come into the downtown; the whole public square took on a new face. In addition to all of this, redevelopment work continued in the neighborhoods.

Throughout all of this time, Horace E. Kramer gave of himself unselfishly to oversee the multiple aspects of the authority's work. He was reappointed to successive 4-year terms on the authority by every mayor who has served in Wilkes-Barre and under all three forms of municipal government which have existed over the past quarter century. He worked without compensation and, on a daily basis, was actively involved in the authority's affairs.

What he has accomplished stands today as one of the truly remarkable feats of urban redevelopment in American history.

Its work done, the Wilkes-Barre Redevelopment Authority is now going out of business. The few parcels which it still holds will now be turned over to the city to finish the last few details of the mammoth job the redevelopment authority has successfully completed.

And so, Mr. Speaker, it is particularly appropriate that his colleagues on the redevelopment authority and all of us in the city of Wilkes-Barre take this time to pay tribute to a remarkable man, Horace E. Kramer, as he completes a quarter century of public service. And I can think of no better way to do it than in the words with which his colleagues on the redevelopment authority noted his service in a recent resolution: "In deepest appreciation for 22 consecutive years of community service above self, his leadership and dedication to the ideals of urban renewal are the foundation upon which Wilkes-Barre will meet the challenge of the 21st century. Giving of himself for the betterment of his community, Horace E. Kramer's vision in the pursuit of the goals of urban renewal changed the lives of Wilkes-Barreans as well as the face of the city."

It is my pleasure to join in this salute to my friend and associate in so many endeavors and to bring his accomplishments to the attention of my friends and colleagues here in the House.●

LARGEST PRO-LIFE ORGANIZATION IN COUNTRY MAKES POSITION CLEAR ON ABORTION NEUTRAL AMENDMENT TO THE ERA

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. WEBER. Mr. Speaker, the National Right to Life Committee, the largest pro-life organization in this country, has made its position known on the upcoming debate on the equal rights amendment. I think their recently released fact sheet makes their concerns clear. It should be reviewed by Members concerned with the abortion/ERA connection.

The material follows:

ABORTION AND THE EQUAL RIGHTS AMENDMENT—IS THERE A CONNECTION?

There is compelling evidence that the proposed Equal Rights Amendment (ERA), as currently worded, would invalidate the Hyde Amendment and would have other pro-abortion effects. For this reason, NRLC is opposed to passage of ERA unless ERA is rendered neutral with respect to abortion. This can only be accomplished through adoption of an amendment such as that proposed by Rep. F. James Sensenbrenner, Jr. (R-Wis.), which reads:

Section 2. Nothing in this Article [the ERA] shall be construed to grant or secure any right relating to abortion or the funding thereof.

If the Sensenbrenner Amendment is added to ERA, then ERA will have no effect (positive or negative) on law relating to abortion or abortion funding. NRLC would be neutral on passage and ratification of such an "abortion-neutral" ERA.

The Sensenbrenner Amendment is not an attempt to "mix two separate issues." As demonstrated below, ERA (as currently worded) will have a drastic impact on abortion law. The Sensenbrenner Amendment is intended to separate the ERA and abortion issues.

ERA'S IMPACT ON ABORTION FUNDING

According to prominent ERA advocates in Congress and elsewhere, the main legal effect of ERA would be to make sex-based classifications into "suspect classifications" under the Constitution—just as race-based classifications now are. Thus, under ERA sex-based classifications would receive the same so-called "strict judicial scrutiny" which race-based classifications now receive.

Testifying before the Senate Constitution Subcommittee on May 26, 1983, Rep. Henry Hyde (R-Il.) said:

Since 1970, the ERA advocates have emphasized that the Amendment's principal legal effect would be to make sex a "suspect classification" under the Constitution. The most important "suspect classification" at present is race. If sex discrimination were treated like race discrimination, government refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races. Suppose the Federal Government provided funding for procedures designed to treat most diseases, but enacted a special exclusion for sickle-cell anemia (which affects only black people). The courts would certainly declare that exclusion unconstitutional.

On October 20, 1983, the Congressional Research Service (a branch of the Library of Congress) issued a legal analysis of the ERA-abortion connection. The CRS report included this conclusion: . . . if strict scrutiny, the most active form of judicial review, is the standard applied [under ERA], then the answer to the question whether pregnancy classifications are sex-based classifications would seem to be affirmative. It would then follow that the ERA would reach abortion and abortion funding situations. It is very difficult for the government to meet the burden of showing that the classification in question serves a compelling state interest, thus, classifications subjected to active review are almost always invalidated as being violative of the Constitution. (pp. 61-62)

REFUTING A HALF-TRUTH

Opponents of the Sensenbrenner Amendment argue that the Supreme Court has treated abortion only as a "Privacy right" and not as an equal protection issue, and that ERA would therefore have no effect on abortion funding restrictions. But they are telling only half of the story.

It is true that the Supreme Court based the "right to abortion" itself on the "right to privacy," which the Court believes emanates from the Due Process Clause of the 14th Amendment. It is also true that the Court ruled that this "right to abortion" does not include a right to a publicly funded abortion. But opponents of the Sensenbrenner Amendment fail to mention that in Harris v. McRae (1980) the Supreme Court also scrutinized the Hyde Amendment under the Equal Protection Clause (having been urged to do so by some of the very same organizations which now disavow any link between ERA and abortion).

In McRae, the Court concluded (5-4) that the Hyde Amendment did not violate equal protection principles—but only because the Hyde Amendment did not disadvantage a "suspect class." Clearly, (1) women would become a "suspect class" under ERA, and (2) the Hyde Amendment and similar state laws single out a female-only "medical procedure" (abortion) for non-funding, thus disadvantaging this new suspect class.

Therefore, the Supreme Court need not "reverse itself" in order to invalidate the Hyde Amendment under ERA. On the contrary, if the Court applied the same analysis as it applied in McRae, but with the added factor of the "strict judicial scrutiny" required by ERA, then the Hyde Amendment would be invalidated. The Court has already ruled in numerous decisions that the state has no "compelling interest" in discouraging abortion—and under ERA, no lesser interest could protect the Hyde Amendment.

In testimony before the House Civil and Constitutional Rights Subcommittee on Oct. 26, Paige Comstock Cunningham, executive director of the Americans United for Life Legal Defense Fund, noted:

Since, in accord with Supreme Court decisions, there exists no compelling interest that justifies significant regulation of abortion, at least until the point of viability, abortion laws and funding restrictions must fail [under ERA].

PRO-ABORTION USE OF STATE ERAS

In at least three states (Massachusetts, Hawaii, and Pennsylvania), affiliates of the American Civil Liberties Union (ACLU) have argued in court that state ERAs mandate funding of abortion on demand. One such argument was contained in a brief filed by the Civil Liberties Union of Massachusetts in Moe v. King (1980):

By singling out for special treatment and effectively excluding from coverage an operation which is unique to women, while including without comparable limitation a wide range of other operations, including those which are unique to men, the statutes constitute discrimination on the basis of sex, in violation of the Massachusetts Equal Right Amendment.

In the Massachusetts and Hawaii cases, the courts ruled in favor of the pro-abortion side without specifically addressing the

ERA arguments. the Pennsylvania suit has not yet gone to trial. But the ACLU's briefs are ominous harbingers of attacks on the Hyde Amendment under a federal ERA. No one familiar with the general disposition of the federal courts regarding abortion-related issues can predict with any confidence that such arguments will be rejected. Prof. John T. Noonan, Jr., of the University of California-Berkeley Law School has written:

The chief problem about ERA and abortion is that ERA would be interpreted by federal judges who in a great number of cases have shown tremendous sympathy for the ideology of abortion. With this amendment in force, these judges might well go on to, say, compel the funding of abortion.

THE SENSENBRENNER AMENDMENT IS ESSENTIAL

NRLC, representing the 50 state right-to-life organizations, will oppose passage and ratification of ERA unless the Sensenbrenner Amendment is adopted. All other major prolife organizations also support the Sensenbrenner Amendment.

On November 3, 1983, the bipartisan Executive Committee of the Congressional Pro-Life Caucus adopted a resolution which reads in part: . . . the Executive Committee of the Congressional Pro-Life Caucus strongly urges all members of Congress who oppose federal funding of abortion, or who believe that the several States should continue to have the power to refuse to fund abortions, to support adoption of the "abortion neutral" amendment.

BEYOND ABORTION FUNDING

Aside from ERA's impact on abortion funding restrictions, there is good reason to fear that ERA would reinforce and expand the "right to abortion" itself, and would invalidate the few types of abortion-related laws which the courts today regard as constitutional. One important example would be the federal and state "conscience" laws which currently protect the right of medical facilities and personnel to refuse to cooperate in abortions. Prof. Henry C. Karlson of the Indiana University School of Law testified before the House Civil and Constitutional Rights Subcommittee on Oct. 20. He said:

It [ERA] would in all probability prohibit states from imposing on abortions any restrictions more severe than those placed upon sexually neutral operations. A physician or nurse employed by a public hospital, or in light of the Supreme Court's recent decision in Bob Jones University v. Regan perhaps any hospital granted special tax consideration, could be compelled to participate in or perform abortions. Conscience laws which have been enacted by various jurisdictions to protect the religious freedom of choice by nurses and physicians called upon to participate in or perform abortions will probably not pass constitutional muster under the ERA.

In his testimony before the Senate subcommittee, Rep. Hyde said that under ERA, "conscience" laws "would be treated like laws giving state officials the right to deny services to blacks but not to whites." Prof. Grover Rees III of the University of Texas Law School and Prof. Charles Rice of Notre Dame Law School, among others, have reached the same conclusion on this point.

THE RESPONSIBILITY OF CONGRESS

Thus, there is strong evidence that ERA would expand abortion rights and mandate abortion funding. Any intellectually honest investigator must conclude, at the very least, that a pro-abortion result is quite possible. The burden of proof is on those who deny that ERA would expand abortion rights. They have not met and cannot meet that burden.

On Sept. 14, 1983, AFL-CIO President Lane Kirkland testified in favor of ERA before the House subcommittee. Kirkland said:

Finally, while we recongize that a few substantive issues have been raised [regarding ERA]—such as the effect, if any, of the ERA on the right to an abortion . . . we believe Congress may, and should, provide authoritative guidance to the courts in these areas.

It is indeed the responsibility of Congress to clarify what effect it intends ERA to have on abortion law. In order for congressional guidance to be truly authoritative, it must be in the form of an amendment to the text of ERA. Mere "legislative history" will not suffice. The courts need not consult legislative history unless an enactment is ambiguous on its face, but ERA is sweeping, unequivocal, and admits of no exceptions.

Furthermore, it is already evident that some leading ERA advocates do not desire a forcefully anti-abortion legislative history. When Sen. Orrin Hatch, chairman of the Constitution Subcommittee, asked chief ERA sponsor Sen. Paul Tsongas about ERA's impact on the Hyde Amendment, Tsongas responded that "that issue would be resolved in the courts" (May 26, 1983). Another leading ERA sponsor, Sen. Bob Packwood, testified that he doubted ERA would compel abortion funding, "but I'm not sure how a court would come out on it." Packwood said he could "guarantee" that the Hyde Amendment would be challenged on the basis of ERA. He also promised to fight any abortion-neutralizing amendmnent to ERA (Nov. 1).●

A RESOLUTION TO IMPEACH THE PRESIDENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. CONYERS. Mr. Speaker, today I joined Congressman TED WEISS and five other colleagues in introducing a resolution to impeach President Ronald W. Reagan for violations of the Constitution in ordering the invasion of Grenada.

The invasion and occupation of Grenada, coupled with the unprecedented press censorship, violates constitutionally mandated congressional warmaking powers, other Constitutional requirements, as well as international treaties and charters to which the United States is constitutionally bound.

The genius of the Constitution is that it provides for the remedy of impeachment in the event that the Executive violates the duties and the oath of office. An abrogation of powers by the Executive that belong to the Congress subverts the integrity of the Office.

After careful thought and study, it is my position that the President's military actions in Grenada constitute an abrogation of the duties which he is sworn to uphold.

First, article I, section 8 of the Constitution requires that the Congress, not the President or the CIA, determine if and when the Nation goes to war.

Second, article 6 provides that all treaties and charters to which the United States is a signatory shall be the "supreme law of the land." The Grenadian invasion violates article 15 of the Organization of American States Charter, article 2, paragraphs 3 and 4 of the United Nations Charter, as well as U.N. resolutions. Even the legal instrument under which the President waged war in Grenada, the Treaty of the Organization of Eastern Caribbean States, requires that decisions involving collective security can only be undertaken when the signatory States are unanimous. Three of the signatory States refused to call for or support the U.S. invasion of Grenada.

Third, the unprecedented restrictions on, and censorship of, the news media prior to, during, and after the Grenadian invasion are in violation of the first amendment providing for "the freedom of speech, or of the press."

Finally, the President's manipulation of the War Powers Act, in failing to notify, and consult with, Congress in introducing American military forces into a situation of "imminent hostilities," is in flagrant disregard of congressional prerogatives.

Worse still is a continuing pattern of conduct in Nicaragua, the Caribbean, and in Central America in which the administration will stop at nothing, including, far-reaching CIA covert operations, to overturn governments whose only offense is to have a different ideology from our own. These actions are illustrative of a pattern of administration lawlessness across a broad spectrum of policy.

The President's compliance with the laws of the land is fundamental to the integrity of the Executive Office. Public approval of the President's military actions does not diminish the basic constitutional and legal issues at stake. To the contrary, current public silence in and outside of Congress makes it doubly important to scrutinize the President's conduct. Impeachment is a final congressional remedy for judging this pattern of action and for generating broad public debate on questions that lie at the heart of American democracy.●

"SEA TO SHINING SEA" 1984 MARATHON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. RICHARDSON. Mr. Speaker, I want to share with you and my colleagues in the Congress the excitement brewing in my home State of New Mexico over an effort to revive the world's ultimate marathon foot race. Mr. Barry Ward, president of Vision Sports, Inc., in Albuquerque, N. Mex., has joined hands with American Federal Savings & Loan Association to launch the "Sea to Shining Sea" marathon in 1984. The transcontinental race would kick off on September 3, 1984, in Runnemeade, N.J.—span 12 States—and conclude on October 30, 1984, in Pasadena, Calif. The "Sea to Shining Sea" marathon is timed to coincide with the conclusion of the Olympic games in Los Angeles. New Mexico promoters say their research indicates that as many as 5,000-plus runners across the country will be interested in entering the race.

Mr. Speaker, I would like to draw my colleagues attention to an article that ran in the September 1983 edition of Running Times, which outlines the plans afoot in New Mexico to launch a 1984 coast-to-coast foot race. I hope my colleagues will take the time to read this thoughtful piece.

PROMOTER PLANS TRANSCONTINENTAL RACE

For the third time in the past three years, we have received news of a plan to revive the famous Bunion Derby—a professional foot race across the continental U.S. last conducted in 1928, when New Jersey policeman John Salo ran 3,685 miles in 78 days to beat out Englishman Peter Gavuzzi by three minutes for the $35,000 first prize. In the half century since then, a number of solo runs across the continent have been made, but no organized race has taken place—possibly because the extraordinary costs of participation made such an undertaking prohibitive to serious competitors without the incentive of large cash prizes. Throughout that half century, the rules of amateurism were strictly enforced by the Amateur Athletic Union, and anyone who ran for money risked being banned for life. When the new Athletics Congress took over control of organized running from the AAU in the 70s, however, the rules prohibiting cash prizes were relaxed—opening the way for major "professional" events of a kind which have not been seen in this country since the Great Depression. Three years ago, a New York promoter announced a transcontinental race to take place in 1982, with $6 million in prize money. The grandiose plan turned out to be a pipe dream (the promoter seemed unaware of the differences between ultradistance racing and track, and made up an advisory board of sprinters, pole vaulters, and decathletes), and not surprisingly, the race never took place. The following year another group announced a similar plan for a coast-to-coast race to be sponsored by Converse shoes. Again, the promoter was stronger on hype than on organizational expertise, and the plan flopped.

Now a third group, Vision Sports, Inc., of Albuquerque, has announced its plan for a race to be called the "Sea to Shining Sea 1984 Marathon", to be run from Atlantic City, N.J. (or possibly from New York), to Los Angeles starting in September, 1984. Headed by Albuquerque attorney Barry Ward, Vision is planning both individual and team competition (8-person relay teams) in a "stage"-type race with a total purse of $3 million. The race will consist of 50 daily segments averaging 55 miles in length, to be run on consecutive days. Winners will be determined on the basis of total elapsed time. The advertised prices range from $150,000 for first place to $20,000 for 20th place in individual competition, and $250,000 for first to $10,000 for 25th in the team division. Entry fees are $1,000 for individuals and $1,500 for teams. According to Ward, all entry fees will be placed in an escrow account at American Federal Savings and Loan of Albuquerque, "to be used solely and exclusively for payment of the purse and cash awards to the contestants." A warranty on the entry form stipulates that, should the race not be run for any reason, the entry fees will be refunded with interest.

We will be watching the preparations for this event with considerable interest, and we'll keep you posted on any new developments.●

RICHARD A. MORROW, USMC, HE DIED FOR FREEDOM

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. GAYDOS. Mr. Speaker, on October 12, 1962, in a radio and television address, the President of these United States told the world:

The cost of freedom is always high, but Americans have always paid it. . . . Our goal is not the victory of might, but the vindication of right; not peace at the expense of freedom, but both peace and freedom here in this hemisphere, and, we hope, around the world. . . .

That President was John F. Kennedy. Less than 14 months later he paid the full price for his belief in freedom. He died at the hands of an assassin in Dallas, Tex.

Today I deem it appropriate the Congress of the United States recognize the death of another who died for freedom at the hands of an assassin half way around the world: Lance Cpl. Richard A. Morrow of the U.S. Marine Corps.

Less than 14 months after going on active duty, Corporal Morrow, as a member of the 24th Marine Amphibious Unit, Company A, First Battalion, Second Marine Division, was among the more than 250 marines killed in the October 23 bombing in Beirut, Lebanon. The former Clairton, Pa., resident was just 21 years old.

Married in June 1982, and with his wife, the former Mary Crislip, expecting their first child next month, Corporal Morrow was in the first contingent of marines sent ashore in Lebanon last May. His tour of duty there was to have ended this past Monday, November 7.

His family, of course, grieves but recognizes the risk of military service for it is a military family with strong ties to our armed services.

Corporal Morrow's father, the late Elmer E. Morrow Sr., was a Marine and served in Korea. His stepfather, the late Ernest R. Schwamberger, was an Army veteran of World War II. A brother, PO2c Elmer E. Morrow Jr., is on submarine duty with the Navy, and two brothers-in-law also are in uniform: SSgt. Charles Frankert with the Marines at Cherry Point, N.C., and SSgt. Gary Odenthal, with the Air Force on Guam.

Mr. Speaker, today, November 10, the Marine Corps is observing its 208th anniversary as an elite branch of our Nation's fighting forces, and tomorrow, November 11, the entire Nation will pause and pay respect to its military veterans.

Therefore, on behalf of my colleagues in the Congress of the United States, I believe it proper to extend our heartfelt sympathies to the family of Corporal Morrow: His mother, Mrs. Patricia Morrow Schwamberger; his brother, Elmer; and his sisters, Colleen Odenthal, Phyllis Sands, Karen Sosnicki, Debra Frankert and Mary Schwamberger.

May they find some comfort in the words of President Kennedy and some solace in the realization that Corporal Morrow and his comrades did indeed die so that freedom might live here and around the world.●

A DEAL WITH SYRIA?

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LANTOS. Mr. Speaker, Benjamin Netanyahu, the deputy chief of mission of the Israeli Embassy, and brother of the hero of Entebbe, Col. Jonathan Netanyahu, has written a powerful opinion piece in today's edition of the New York Times on the role Syria is currently playing in the Middle East.

I commend the article, "A Deal with Syria" to my colleagues as singularly worthy of their attention and study.

[From the New York Times, Nov. 10, 1983]

A DEAL WITH SYRIA?

(By Benjamin Netanyahu)

WASHINGTON.—Cui bono? Who profits, the Romans would ask whenever the perpetrators of an act refused to step forward. Of the recent attacks on American, French and Israeli servicemen, we may ask: Who would benefit if Western forces were pushed out of Lebanon, indeed out of the Middle East al-

together? They are Syria, and, looming behind it, the Soviet Union. Syria has repeatedly demanded the ouster of "United States and NATO" forces. Besides local proxies, Syria has at its disposal fanatical Iranians deliberately imported for suicidal missions.

Damascus has both motives and means to wage a systematic campaign of terrorism—in fact, long experience in doing so.

Yet some continue to promote a "deal" with Syria. By giving President Hafez al-Assad what they claim he wants from Israel (the Golan Heights), he would presumably become more flexibile in Lebanon: He may be ruthless, but he is also "a man one can deal with." America should now "talk" with Syria, as if Washington has not sent diplomat after diplomat to Damascus. The assumption here is that Syria can be wooed and won, or at least that Syrian goals are limited and can be met.

Such a prescription can be based only on a complete misunderstanding of the real Syria and its political objectives. This is why some confidently predicted that Syria would withdraw its troops when Israel agreed to do so. Instead, Syria moved in more men and matériel. Then it was suggested that what Syria really wanted was to have a "say" in Lebanon because of "legitimate security interests." It soon became clear that Syria's aim—methodically pursued for decades—remains the incorporation of Lebanon into a Greater Syria.

Syria regards Jordan and Israel as also belonging to Greater Syria. But Israel prevents Syria from devouring the rest of Lebanon and from swallowing Jordan (in 1970, an Israeli warning stopped such a Syrian attempt cold). The Syrians must therefore overcome Israel. Of course, first they would like to repossess the strategic Golan; the Syrians went to war against Israel twice, in 1948 and 1967, when the Golan was firmly in their hands. Further, Syria does not want creation of another Arab state; as Mr. Assad has said, "Palestine is merely part of Southern Syria." Thus, Israel must be destroyed so that its territory may be absorbed so that Syria may dispose freely of Lebanon and Jordon.

Neither the obsession with Greater Syria nor the fanticism of the regime are fully grasped in the West. With his bland exterior, Mr. Assad is not good copy compared to his ally the Ayatollah Ruhollah Khomeini. But in cold-blooded murder, he is his equal. In the Syrian city of Hamma, Mr. Assad's army reportedly killed as many as 20,000 civilians and turned "half the town into a parking lot," according to The New York Times.

Even more telling, the regime inculcates brutality as a social good. After Syrian soldiers murdered and mutilated Israeli P.O.W.'s in the Yom Kippur War, Syrian Defense Minister Mustafa Tlas glowingly awarded the Medal of the Republic to "the outstanding recruit from Aleppo who slaughtered 28 Jewish soldiers like sheep. He butchered three of them with an ax and decapitated them. He broke the neck of another and devoured his flesh." (The full speech was reprinted in The Official Gazette of Syria on July 11, 1974.)

More recently, the Syrian Government observed the 10th anniversary of the Yom Kippur War. On Oct. 5, it broadcast on Syrian television a program that a Western audience would find unbelievable. As Mr. Assad and his colleagues looked on approvingly; girls from the Baath Youth Militia held up live snakes. Then the girls bit the snakes and ate them, as he applauded enthusiastically. This was followed by militiamen who stabbed puppies and drank their blood.

What kind of "deal" can be struck with such people, for whom truck-bomb massacres are standard operating procedure? The Syrians reneged on their promise to leave Lebanon (like the Palestine Liberation Organization, which left Beirut under the peacekeepers' protection, then reinfiltrated and joined attacks on these forces). Such adversaries will honor agreements only with those whose strength and resolve are not in doubt. People who counsel appeasement of Syria in the coin of Lebanese sovereignty or Israeli security would weaken the only local power Syria fears, and one that is an unshakable American ally—Israel.

In the 1930's, Britain was counseled to weaken its ally France in the belief that this would appease an increasingly powerful Germany. Winston Churchill replied: "We go on perpetually asking the French to weaken themselves. I cannot imagine a more dangerous policy. There is something to be said for isolation; there is something to be said for alliances. But there is nothing to be said for weakening the power with whom you would be in alliance."●

SELECTED CISPES ACTIVITIES

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. DANIEL B. CRANE. Mr. Speaker, elsewhere in Extension of Remarks in today's CONGRESSIONAL RECORD is part of a report on the Committee in Solidarity with the People of El Salvador (CISPES), a Communist front organization which is promoting a rally in Washington, D.C., on November 12 (this Saturday) against the U.S. effort to keep El Salvador out of the Communist camp. So that the Members will have some background on CISPES, I am requesting that this part of a report put out by the United Students of America Foundation be printed. This section of the report, "CISPES: A Guerrilla Propaganda Network," by J. Michael Waller, is entitled, "Selected CISPES Activities."

The report follows:

SELECTED CISPES ACTIVITIES

1. DISTRIBUTION OF A STATE DEPARTMENT FORGERY ON EL SALVADOR

At times when State Department personnel disagree with official United States foreign policy, they may voice their opinions through the "dissent channel" established for that purpose. Frequently, dissent papers are written by foreign policy officers for distribution throughout the media and government.

Soon after being founded in 1983, CISPES disseminated a supposed reprint of a State Department "Dissent Paper on El Salvador and Central America." This unsigned document outlined concerns of many "current and former analysts and officials" in the National Security Council, State Department, Defense Department, and Central Intelligence Agency, and admitted that a "key objective" of American foreign policy toward Central America "is to limit Cuban and Soviet bloc influence throughout the region." The paper warned that further military aid to El Salvador would eventually force the United States to intervene militarily in the region. At the same time, however, it noted that "a consensus in favor" of the Marxist Democratic Front (FDR) had emerged in Salvadoran public opinion. The FDR, it will be recalled, is the political front of the FMLN guerrillas, and was portrayed by this document as "a legitimate and representative political force in El Salvador," and as a moderate, non-Marxist organization with wide popular support. It recommended official American recognition of the FDR.[1]

This document was pronounced a forgery by the State Department, and has been traced to Service A of the First Directorate of the Soviet KGB, the division responsible for "active measures." [2]

Active measures is a Soviet term describing the use of disinformation, provocation, forgery, and other activities designed to frustrate, mislead, and confuse the Western public and Western policymakers. The intent is to influence the policies of nations outside the Soviet bloc. Initially, this particular forgery, which was distributed to news agencies by CISPES, met with some success, as journalists accepted it as genuine. (For a detailed description of active measures and of CISPES' function as a part of Soviet active measures, see John Barron's newest book, "KGB Today—The Hidden Hand," New York: Reader's Digest Press, 1983).

Before making the national headlines, the CISPES forgery appeared in the November-December 1980 newsletter of the Religious Task Force on El Salvador, a pro-Marxist organization which is a member of the CISPES national board; a December 1980 issue of Revolution Worker, the newspaper of the Revolutionary Communist Party; and the December 1980 CISPES newsletter.

Anthony Lewis of the New York Times was the first nationally syndicated columnist to be duped by the CISPES forgery, according to Accuracy in Media.[3] A second New York Times writer, Flora Lewis (no relation) quoted the forgery in her March 6, 1981 column as though it was an authentic dissent paper. The next day, the Times reported the State Department's denunciation of the CISPES forgery; Flora Lewis apologized to her readers on March 9, admitting that she had been fooled. However, the pro-Castro Institute for Policy Studies treated the forgery as genuine in the March 18 edition of its newspaper, In These Times.

Testimony before the House Intelligence Committee stated that "There are certain similarities of this operation with other forgeries. It is known that the Soviets attempted to surface this document in Central America through clandestine means." CISPES was mentioned by name in this context.[4]

This forgery continued to be advertised in CISPES' newsletter El Salvador Alert! as for sale from the national office. On the same page, one can order the political platform of the FDR; a publication by Counter-spy contributor Philip Wheaton on agrarian reform; copies of Counter-spy's sister publication, Covert Action Information Bulletin, which "exposes" alleged United States actions in Central America; and issues of NACLA Report on the Americas.

Footnotes at end of report.

The North American Congress on Latin America (NACLA), for the record, is the product of the Tricontinental Conference of 1966 in Havana, Cuba. NACLA is described in a book co-authored by Latin America expert L. Francis Bouchey as an offshoot of Tom Hayden's Students for a Democratic Society, a radical, violent, pro-Hanoi organization of the 1960s. "NACLA specializes in the preparation of reports on Latin American affairs from a decidedly Marxist perspective," whose material "finds its way into the hands of journalists and government policy formulators," according to Bouchey's book. NACLA, it states, "has come to be known as the 'intelligence-gathering arm of the movement,' a movement dominated by groups and organizations of Marxist-Leninist persuasion who are part of the Tricontinental revolutionary support apparatus." [5] NACLA activists were credited by CIA defector Philip Agee (of Counter-spy) with helping him undermine the CIA.[6]

Such is the literature promoted by CISPES.

2. MAY 3, 1981 MARCH ON THE PENTAGON

"An anti-war movement similar to that which compelled the U.S. military withdrawal from Vietnam" is how the Communist Party USA newspaper Daily World announced the May 3, 1981 March on the Pentagon.[7] CISPES was there, with a banner proclaiming, "Support the FDR-FMLN."

Mentioned by the radical Guardian as one of the "main support groups" for the FMLN-FDR, CISPES was part of the "broad mobilization" taking place "within the organized left" against American aid to El Salvador. The Guardian noted in the same article that "The Workers Party played a major role in building the May 3 demonstration, and both the Communist Party and the Socialist Workers Party have been involved in support work for some time. Marxist-Leninist forces have also been stressing El Salvador work, usually on the local level." Three lines below; appears the CISPES address and telephone number.[8]

The Peoples Anti-War Mobilization (PAM), a front group of the Communist Workers World Party (WWP), organized the March on the Pentagon, as noted by both the Guardian and the conservative Human Events. Larry Holmes, a 1980 WWP candidate for vice president of the United States, co-chaired the march, according to the New York Times.[9]

Heidi Tarver of the national CISPES office was "the other emcee"; Tarver is also a member of the Executive Secretariat of the World Front in Solidarity with the People of El Salvador, as noted earlier. Another speaker was Rafael Cancel Miranda, described in the program as a "Puerto Rican nationalist and former longtime prisoner in the U.S." What the program did not say is why Cancel-Miranda was in prison; in 1954, he was part of the terrorist group that shot five U.S. Congressmen in a submachine gun attack from the House of Representatives visitors gallery. He was imprisoned until released by President Jimmy Carter in 1979.[10]

CISPES noted in its newsletter how the march helped the guerrilla cause: "The turnout didn't go unnoticed by the Democratic Revolutionary Front (FDR), the political coalition of opposition forces in El Salvador. Arnoldo Ramos of the FDR told the protestors that '. . . the greatness of this march will fill the hearts of my compatriots with hope and enthusiasm to continue their struggle.' "

The report also mentioned the classic Marxist-style diversity of the groups making up the march, saying that "Blacks, trade unionists, religious workers, anti-war organizers, gay rights groups, representatives of third world movements [i.e., Marxist terrorist and guerrilla groups] and solidarity organizations were all present. Each sector had previously turned out for demonstrations organized around a particular issue or cause. But seldom in the past had a successful basis of unity freed the work of these sectors together."

Credited for this large turnout was "the successful effort made by the People's Anti-War Mobilization, the organizers of the demonstration, to tie together U.S. domestic and foreign policy issues." CISPES then quoted some of the chants made during the march: "Money for jobs, not war, U.S. out of El Salvador," and "Stop the Atlantic murders, down with the junta." [12]

The following Saturday, in spite of the "No more Viet Nams" chants, CISPES cosponsored a "Viet Nam-El Salvador Rally" in New York, to "celebrate the 6th anniversary of the liberation of Viet Nam" and to "support struggle of El Salvadoran people." A flyer promoting the event—in which members of CISPES, the FDR, and the "Permanent Mission of Socialist Republic of Viet Nam to the United Nations" and "other U.N. missions" participated—proclaimed:

The heroic people and government of Vietnam have set an example for the oppressed people of the world by their courageous struggle and defeat of U.S. imperialism on April 30th, 1975. That victory inspired national liberation struggles around the world, many already victorious. . . . We also support the heroic people of El Salvador, led by the Democratic Revolutionary Front, for their courageous struggle for self-determination. The Reagan Administration. . . . also threatens Cuba, Nicaragua, Grenada and Angola. . . .[13]

3. CISPES DECERTIFICATION CAMPAIGN

In compliance with a new law passed by Congress, the President must certify every six months that El Salvador's government is making progress in the area of human rights. Congress must receive this certification before it will permit any military aid to the embattled Salvadoran government. In addition, the President must certify that the land reform program is moving forward, and that the Salvadoran military is sufficiently controlled by the civilian government. CISPES, in anticipation of these regular certification reports, holds "educational" events, press conferences in conjunction with other organizations, and meetings with congressional staffs.

In addition, CISPES members perform acts of civil disobedience. On January 24, 1983, for example, CISPES organized a "Decertification Blockade Task Force" in front of the State Department in Washington. Of the more than 700 protestors at the event, 126 were arrested. CISPES national coordinator Heidi Tarver spoke at the beginning of the demonstration, as did a speaker from the so-called South Africa Support Project and from the National Network in Solidarity with the People of Guatemala.[14] Two U.S. congressmen participated in a pro-CISPES news conference that evening.

Anti-certification events also took place in New York City, Tallahassee, Detroit, and Boulder.

As one journalist noted,

"The CISPES demonstrations indicate a shift in both its political and tactical policies. Support for the FMLN in El Salvador has been broadened to a regional concept with the revolutionary movements of Nicaragua, Guatemala and Honduras presented as 'targets of U.S. imperialism.' Tactically, the demonstration showed that CISPES could mobilize a significant group on a working day (Monday) prepared to take part in a direct illegal, although peaceful, protest. . . . Obviously, fanaticism either by U.S. FMLN supporters or by Salvadorean (sic) FMLN members legally or illegally in the U.S. could be escalated to non-peaceful actions." [15]

Six months after these protests, a group of "Salvadoran refugees" marched for 17 days from New York to Washington "against repression and war in Central America." A pro-FMLN flyer issued by "Salvadoran Refugees Against Certification," a CISPES front group, cried, "No to the lie of certification!" and urged people to "Join Salvadoran refugees in protest against U.S. intervention in Central America." [16]

A march and rally at the White House was followed by an ecumenical service on July 21; the next day, the "Day of Certification," a press conference was held by the "refugees."

"U.S.-sponsored terror" was blamed for their status as refugees, according to the flyer, which echoed the FMLN-FDR line that "elections held during a state of civil war are unacceptable." Again, this is an example of CISPES disinformation, as the March 28, 1982 elections—in which over 80 percent of the electorate voted—repudiated the numerically insignificant 7,000-man guerrilla forces.

CISPES activists intend to pursue decertification by misinforming the public with half-truths and distortions, and by pressuring Members of Congress through demonstrations, letter-writing campaigns, and direct lobbying.

4. JULY 2, 1983 MOBILIZATION

The Viet Nam War memorial in Washington was exploited politically for the first time during the "July 2nd Demonstration to Stop the U.S. War Against Central America and the Caribbean."

Organized by the New York-based Ad-Hoc Committee for July 2 Mobilization, the theme of the rally and march was "No More Viet Nam Wars." Other concerns, according to the Committee literature, were:

"Stop U.S. aid to El Salvador; U.S. troops out.

"Stop the U.S. war against Nicaragua.

"No military bases in Honduras.

"End all aid to Guatemala.

"Stop war threats against Cuba and Grenada.

"U.S. military out of Puerto Rico and Panama.

"End racism, sexism and lesbian/gay oppression at home."

"Let's unite to build a broad and powerful rebuff to the Reagan Administration's attempt to launch a new Viet Nam war," cried the official Committee literature. "Dramatize that the vast majority of people don't want another Viet Nam type U.S. intervention in Central America." [17]

The event was organized from the office of People's Anti-War Mobilization (19 West 21st Street, 7th floor, New York, NY 10010, tel. 212-741-0633), the front group of the Communist Workers World Party. Thus, the WWP, and not the more orthodox Communist Party USA, was the driving force behind this rally and march. CISPES was a prominent participant, however.

The collection of speakers was diverse, including Tom Soto, a WWP activist representing the People's Anti-War Mobilization;

Gwendolyn Rogers, of the Lesbian and Gay Task Force of PAM; former U.S. attorney general Ramsey Clark; Arnoldo Ramos, the Salvadoran "unknown" representing the FDR; Serge Mukende, of the Congolese National Liberation Front; Sonny Marks, representing the ambassador to the UN from the People's Republic of Grenada; Larry Holmes, 1980 WWP candidate for US vice president; Michael Ratner, president of the Communist front National Lawyers Guild; a representative of the African National Congress, a Marxist terrorist group in South Africa; and, of course, a representative of CISPES. Radical religious figures were also present.

Other groups participating in the rally, but not necessarily official sponsors, included:

Armenian People's Movement, identified by the Turkish Embassy as "the legal transit for ASALA," the Armenian Secret Army for the Liberation of Armenia, a terrorist group that seeks to annex eastern Turkey to Soviet Armenia. ASALA has claimed responsibility for the bombing and assassination of Turkish diplomats in the United States and other Western nations.

Organization of Iranian People's Fedaii Guerrillas, another Marxist-Leninist group, also participated in the rally, distributing a "solidarity message" to the FMLN. The top of the literature displays a clenched fist and machine gun flanked by the hammer-and-sickle.

The Marxist-Leninist Party of the USA also participated, as did the pro-Castro Puerto Rican Socialist Party; the Committee in Solidarity with the People of Guatemala, whose literature sported a picture of Che Guevara and hammers-and-sickles; and the Bolshevik League.

Obviously, this coterie of activists had more than just the "liberation" of El Salvador in mind. One is reminded of the Marxist international revolutionary movement—as well as of Arafat's "We have connections with all the revolutions" remark mentioned earlier in this paper.

5. CISPES ASSOCIATIONS WITH FOREIGN DIPLOMATS

Many CISPES-affiliated functions include foreign diplomats and other embassy officials as guest speakers. As a support committee for the Marxist guerrillas in El Salvador, CISPES works with support groups of other "national liberation" movements, as has been detailed.

CISPES involvement with foreign diplomats at protest rallies is demonstrative of its sympathy with these governments, and could point to a possible—although as yet unsubstantiated—collaboration between CISPES and foreign embassies.

A brief perusal of CISPES and CISPES-affiliated demonstration flyers shows that officials from the Embassy of Nicaragua, the Permanent Mission of "the People's Republic of Grenada" to the United Nations, and the Permanent Mission of the Socialist Republic of Viet Nam were guest speakers at the rallies.

A blatant example of possible CISPES collaboration with hostile embassies took place on October 27, 1983, when CISPES organized a demonstration in Washington against the US military action in Grenada. The protest was held in front of the Nicaraguan Embassy, and the Sandinista First Secretary and Cultural Attache was a featured speaker. District of Columbia CISPES activists were reportedly observed going in and out of the embassy during the rally, using the side door.

[1] "Dissent Paper on El Salvador and Central America," Forgery circulated by CISPES dated November 6, 1980, and available from the CISPES national office.

[2] New World Dynamics. Foresight. Special Bulletin, May 27, 1983.

[3] Accuracy in Media. AIM Report. March 1981.

[4] O'Malley testimony, Op. Cit., page 230.

[5] Stefan T. Possony and L. Francis Bouchey, International Terrorism—The Communist Connection (Washington: American Council for World Freedom, 1978) pp. 104-105.

[6] John Barron, KGB Today—The Hidden Hand. p. 246.

[7] Cindy Hawes, "National peace demo set for May 3," Daily World, April 3, 1981, p. 3.

[8] "Salvador's diverse support mushrooms," Guardian, Spring 1981 El Salvador supplement, p. S-2.

[9] Council for Inter-American Security. West Watch, June 1981.

[10] Ibid. Cancel-Miranda has participated in several CISPES-sponsored events, including the July 19, 1981 March and Solidarity Fair to "Celebrate the 2nd Anniversary of the Nicaragua Victory!" in New York. He was listed on flyers promoting the events as one of the guest speakers.

[11] El Salvador's ambassador to the United States, Ernesto Rivas-Gallont, told this writer that no one in El Salvador has ever heard of Arnoldo Ramos, and that there is doubt that Ramos has ever been a Salvadoran citizen.

[12] CISPES. El Salvador Alert!, monthly newsletter, June 1981.

[13] Committee in Solidarity with Viet Nam, Kampuchea and Laos flyer, undated, for May 9, 1981 rally at Washington Square Methodist Church, New York City. CISPES was prominently listed on the flyer as a participant.

[14] Personal observation of author. National Network in Solidarity with the People of Guatemala shares office space with CISPES.

[15] John Rees, Information Digest, January 28, 1983.

[16] CISPES flyer re Salvadoran "refugees," for July 5-22 walk from New York to Washington.

[17] "Program for July 2 Rallies," distributed by the Ad Hoc Committee for July 2 (1983) mobilization, Washington, D.C.●

CONGRESS MUST HELP STATES AND CITIES ON ENTERPRISE ZONES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. KEMP. Mr. Speaker, Justice Louis Brandeis once said "* * * a single courageous State may * * * serve as a laboratory and try novel social and economic experiments * * *". That famous remark is especially relevent now because a quiet revolution is taking place in our States and localities—one inspired by the concept of enterprise zones. The successful experiments now being conducted reinforce the viability of our system of federalism and the performance of free markets.

In the past, we have frequently tended to view and attempt to solve unemployment and inner-city decay on a macroeconomic level—disregarding the fact that each pocket of unemployment and each blighted city block is a result of a particular and unique set of circumstances. Individual decisions to open a business, move or shutdown are made on the basis of prevailing local conditions. State and local tax rates, regulations and zoning ordinances all play a vital role in either creating or destroying a viable atmosphere for productive job creation and livable neighborhoods. The enterprise zone concept recognizes the necessity of granting those closest to the problem—State and local officials and citizen groups—the freedom to design their own individual packages of incentives—ones that best fit their needs and capabilities.

Preliminary results from the first comprehensive survey of operational enterprise zones in the United States indicate that approximately 17,000 jobs have been generated, are committed to be created or have been saved by zone-based firms to date. The incentive packages vary from State to State, but the results of the various enterprise zone efforts are very impressive.

For instance, when the south side section of Norwalk, Conn., was initially designated as a zone 3 years ago, the area was not much more than vacant storefronts and fading tenements. Now, thanks to an enthusiastic commitment from the State and local authorities, this once blighted section of town is undergoing large-scale historic rehabilitation encouraging chic restaurants, art galleries, and an explosion of entrepreneurial activity.

A major manufacturing firm had considered closing up shop and moving but decided to remain in the zone area and invest over $4 million in its building thanks to the economic incentives offered. In all, there are currently 62 projects underway in this one zone, resulting in $18 million in new investment and credited with saving over 1,200 jobs and creating another 350 new jobs.

In Topeka, Kans., the Goodyear Tire & Rubber Co. has cited the local enterprise zone incentives as crucial in their decision to engage in a $60 million expansion which will create between 350 and 400 new jobs, This expansion comes on the heels of 1,500 layoffs in 1980. The Santa Fe Railroad had threatened to move its offices out of Kansas, but instead used enterprise zone incentives to construct a $40 million office complex saving 2,000 jobs. The enterprise zone designation was also influential in the decision of the Frito Lay Co. to expand its Topeka plant adding 150 to 200 new jobs.

Nineteen hundred jobs could have been lost in Chicago, Ill., where the Speigel Corp. was seriously considering shutting down its major mail order/service center warehouse. The firm decided to stay because of the zone incentives and in addition will be investing $20 million in new plant and equipment.

In Decatur, an interesting reversal of the typical march to the suburbs has occurred with the local Sears store reversing a decision to move to a mall

and investing $3 million in its downtown store. This was a major shot in the arm for Decatur from the standpoint of retaining their sales tax base.

These are just a few of the documented enterprise zone success stories thus far. I am confident that as the news continues to spread about enterprise zones, we will be seeing even more activity at the State and local level and I am hopeful that we in Congress can put aside our differences on this issue and give it a chance to work nationwide by passing the Federal enterprise zone bill. We must now allow our desperate inner cities and poor rural areas to be held hostage in partisan politics—they deserve the opportunity to become economically viable once again.

I would like to share with my colleagues a recent article by Howard Kurtz on the success the enterprise zone initiative which appeared in the November 5 edition of the Washington Post.

ENTERPRISE ZONES WITHOUT REAGAN—CITIES ARE GOING AHEAD WHILE CONGRESS STALLS HIS PLAN

(By Howard Kurtz)

On a main thoroughfare in Norwalk, Conn., you can see the first signs of what the city fathers hope will be a 1980s-style rebirth: a row of chic restaurants, fancy shops and renovated condominiums brightening up a generally deteriorating urban landscape.

This urban oasis is part of Norwalk's "enterprise zone," a local and state project. It shows what can be done with tax breaks and other incentives to help rebuild an American city.

Ronald Reagan has been advocating just this kind of enterprise zone for 2½ years, but ironically the president cannot take credit for Norwalk's efforts. So far, his own much-publicized plan has been bogged down in a seemingly endless debate in Congress, which has yet to approve a measure that would create 75 federal enterprise zones. Like many policy disputes in Washington, this one has revolved around abstract theories, economic estimates and a sizable dose of partisan politics.

Few federal officials have bothered to visit Norwalk. Nor have they journeyed to New Orleans (where the experiment is being tried in 94 census tracts and already has snagged a couple of high-tech firms) or taken up an invitation to visit Baltimore's Park Circle Industrial Park.

Had any policymakers ventured to Norwalk, an old industrial city on Long Island Sound, they would have discovered one of the more promising urban initiatives of recent years.

Although state and local tax incentives have done little to attract new business from other areas, they have been remarkably successful in keeping more than a dozen existing firms from leaving town. City officials credit the program with convincing a leather factory, a medical equipment manufacturer and a furniture warehouse to remain in South Norwalk's aging retail core when they decided to expand.

"It was enough to get them to sit down at the table and get out their calculators," said Norwalk councilman Michael Lyons, the zone's leading advocate. The lesson seems to be that while enterprise zones may not attract new business to burned-out areas such as the South Bronx, they can keep neighborhoods with some industry from slipping over the edge.

The Norwalk city government has barely noticed the missing tax revenue. "When you look at the revenues that aren't coming in, the flip side is that's the amount that was invested in an abandoned building or storefront," says Gregory Dunne of the Norwalk Redevelopment Land Agency. "If that blighted lot stays vacant, you're not getting anything for it anyway."

There's another lesson for Washington in that: Opponents who complain about the potential tax drain on the federal treasury (which the Treasury Department estimates will be at least $1.5 billion by 1987) are missing the point.

Tax breaks are fine, but Norwalk planners recognize that they don't help new businesses that aren't yet earning profits. A key to Norwalk's program has been making offers of cash grants to businesses for training poor or disadvantaged workers, or for initial investments by small "mom and pop" concerns. But the Reagan plan does not include outright grants because conservatives want to keep the costs down.

Another important lesson from Norwalk is that good roads, good public service and more traditional urban programs are also needed for enterprise zones to succeed. In the heart of Norwalk's industrial district is a four-lane highway that literally stops in midair because the city ran out of funding a decade ago. It was supposed to speed transportation in and out of the industrial area. Instead, trucks have to fight their way through traffic in crowded streets. It's clear that tax breaks aren't much benefit if delivery trucks can't get through to loading docks.

Yet none of this is being discussed in Washington, where the administration bill has passed the Senate twice but languishes in the House. Congress has been busy playing the "formula" game. The bill has been rewritten to reserve one-third of the planned zones for rural areas, even though no reason has been offered to justify this—other than congressional politics. This is the kind of congressional tinkering that reshaped the Great Society's Economic Development Administration until 80 percent of the country (read congressional districts) were eligible for antipoverty grants.

The Reagan plan would provide tax credits for investments, construction and expansion in designated zones chosen in a national competition. Businesses in the zones also would get a break on capital gains taxes and receive a tax credit of up to $525 for each low income worker hired.

Housing and Urban Development Secretary Samuel R. Pierce Jr. says that one man is responsible for holding up the program—Rep. Dan Rostenkowski (D-Ill.), chairman of the House Ways and Means Committee. Rostenkowski only recently agreed to hold the first House hearing, and no date has been set.

But the larger problem is that there's no real constituency for enterprise zones. Many Democrats say they're afraid the program will cost too much and accomplish too little, but they also don't want to let Reagan take credit for a new urban initiative. Mayors give the idea lukewarm support; they prefer federal programs that send large checks rather than less visible, indirect aid. And conservatives say the original concept of breaking the regulatory shackles for selected districts has been buried, ironically, in a sea of paperwork.

It's hardly surprising that the states have been forced to take the lead in luring business. Local officials have learned the futility of waiting for Washington to act. Some of the most innovative ideas of recent years—such as controlling hospital costs, upgrading high school standards, curbing drunk driving and easing prison overcrowding—have taken shape in state capitals.

Back along the Potomac, however, liberals and conservatives probably will hire a couple of Washington consulting firms to study the problem, the General Accounting Office will conduct a lengthy review, Reagan will blame Congress for being obstructionist—and no one will check out what is actually happening on the streets of Norwalk.●

CAUTION: HIGH JOBLESSNESS PREVAILS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HAWKINS. Mr. Speaker, administration officials, rejoicing over the 0.5 percent drop in the unemployment rate over the past month, paint a rosy picture of a strong labor force and a dynamic economic recovery. I would caution the general public against prematurely joining in the shouts of elation without viewing the true employment picture in its proper perspective.

Fact: The overall unemployment rate for October 1983 was 8.8 percent with approximately 9.9 million persons out of work. This remains a persistently high level of joblessness.

Fact: The drop in the unemployment rate last month is due, in large part, to a statistical fluke because of the way figures are adjusted to compensate for seasonal variation in the job market. In fact, the October labor force actually declined by about a half million. This was due to the fact that people were dropping out of the labor force, not because the unemployed were finding jobs. BLS Commissioner Janet Norwood, in appearing before the Joint Economic Committee last week to discuss the current employment situation, herself admits that the Government has been overstating the employment count over the past several months. Therefore, the sharp drop in the jobless rate from 9.3 percent in September to 8.8 percent in October is largely due to a technical correction in reporting techniques, and not necessarily to a sustained economic recovery.

Fact: In October 1983, there were 9.9 million people officially counted as unemployed by the Government. In addition, there were approximately 5.7 million persons who were working part time for economic reasons but would prefer to work full time to support

themselves and their families. Another 1.6 million individuals were so discouraged about the joblessness in the Nation that they had given up looking for jobs and were no longer counted as unemployed. Therefore, approximately 17.2 million Americans could be viewed as either unemployed or underemployed for the month of October.

Fact: The unemployment rate last month for certain groups continues to remain unconscionably high. For example, unemployment for blacks is currently about 18.1 percent, still more than double the rate for whites. Teenage unemployment continues to hover at 21.6 percent; for black teenagers, the rate is 48.3 percent which translates into the fact that almost every other black teenager is without a job. Likewise, there was no significant improvement in the employment gains for Hispanics over the last month. The harsh reality for these target groups is that the economic recovery, which this administration purports will benefit all, has not filtered down to these groups to significantly improve their livelihood.

Fact: In October, there were 2,250,000 individuals without a job for 6 months or longer, compared to 2,216,000 long-term unemployed 1 year ago. This means that one out of every five unemployed person has been jobless for relatively long periods of time.

These and other stark realities about the impact of the current economic recovery reinforce the fact that the unemployment rate remains unacceptably high, and that we need to continue to focus on this persistent problem, and to enact programs to get our people back to work and to get our country back on the right track.●

SOLVING THE SOVIET MAIL INTERRUPTION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. GILMAN. Mr. Speaker, the staff of the House Post Office and Civil Service Committee has done an outstanding job in documenting the problem of Soviet interruption of the international mail. We have surveyed violations affecting 13 different countries and the evidence indicates that not only are the Soviets in gross violation of the Universal Postal Union Convention standards, but the evidence is rather convincing that the U.S. Postal Service has to date been less than firm in dealing with these violations.

One of the key witnesses at our recent hearing was Vladlen Pavlenkov, who served 7 years in Soviet prisons and who is now general manager of Freedom of Communications. Mr. Pavlenkov was a school principal in the Soviet Union and was jailed for political reasons.

He is perhaps the leading authority on Soviet mail interruption and tactics of the KGB utilized in their scheme to evade international agreements.

Mr. Pavlenkov has just published a book on this issue which he will be distributing to the Members of both Houses very shortly. I am inserting his testimony at this point in the RECORD, so that Members will be able to provide some additional pertinent information to the constituents who have written on this important issue:

TESTIMONY OF VLADLEN PAVLENKOV

Freedom of Communications has submitted to the Hearings a detailed and complete report on the USA-USSR postal relations, featuring real life facts of Soviet postal malfeasance.

The Report incorporates information the FC project has monitored on Soviet postal malfeasance. It does not cover all the methods used by the Soviet authorities to interrupt normal functioning of international mail. As you may know, the Soviet tendency is to blatantly disregard compliance to the norms of international cooperation. (The Korean Air Lines massacre certainly proves this point.) It is necessary to say that postal communications between individuals living in the USA and the USSR, according to FC studies, has only deteriorated in the last several years.

Mr. Chairman, I am here representing the Freedom of Communication Project of the Committee for the Absorption of Soviet Emigrees, (C.A.S.E.), a non-profit organization devoted to advocating the rights of Soviet dissidents and refuseniks, as well as ordinary emigrees from the Soviet Union.

My name is Vladlen Pavlenkov and I am the general manager of the Freedom of Communications project founded 18 months ago as part of the Committee for the Absorption of Soviet Emigrees in Jersey City, New Jersey.

I came to the USA from the USSR as refugee nearly four years ago. In my native country I was a high school teacher and a principal. I spent seven years of my life in Soviet labor camps and prisons for political reasons.

Freedom of Communications began as a project of C.A.S.E. in early 1982. Its mandate was to collect and disseminate information concerning the infringement of international postal agreements by both the Soviet postal and customs authorities. It has been successful in making this information known and in aiding senders of mail to the USSR in cases of loss or baseless return to receive compensation from the USSR.

Freedom of Communications assists one of C.A.S.E.'s basic goals—that of disseminating information concerning the Soviet Union. In addition, C.A.S.E., a multifaceted organization, provides important aspects of the emigre's resettlement process. It sponsors a museum of Soviet unofficial art, a federal credit union, a Russian language weekly newspaper, and a community development corporation.

The information accumulated in our Report which will be subsequently distributed, permits me not to go into specific detail at this time. Rather, I will tell this Committee how C.A.S.E. attempts to fight Soviet postal violations.

No person or public body can do it alone. The United States Postal Service (USPS) is the entity with the power to enforce corrective measures. Unfortunately, the USPS has, to all intents and purposes, avoided confrontation with the Soviet postal authorities and with the KGB, which really stands behind the Soviet postal administration. The USPS neither uses the means, which are available to it, nor strives to expand those means. Very often it virtually condones the Soviet actions by its own inactions. Let me cite one specific example. The Soviet Union improperly returns thousands of parcels to their senders in the USA: some of them, by false pretext; others, with no explanation whatsoever. How does the USPS deal with this fact? USPS returns such parcels to the sender in the USA and charges them for the return postage. Incredibly, it then sends part of the monies collected to the Soviet Union. (See supplement to this Testimony) An interesting question arises as to how much subisidy America is giving to the USSR through this technique? Many similar examples about the unwillingness of the USPS to combat the Soviets are given in the FC report.

We also list some suggestions for improvement of the situation but I believe that nothing can be changed without a reorientation of the USPS. They are the key. As the supplement sets forth, the USPS needs to present claims to the USSR, not be their agent for collection here. The roles need to be reversed.

As an alternative to the USPS, an international effort might work. The Year Nineteen Eighty Four is the year of the next regular United Postal Union Congress. The Madrid Conference rules that the Vienna Conference on East-West human contacts should take place in 1985.

I suggest that the years 1984–1985 should be declared the years of law and order in international communications. If the United Nations is too busy to participate, I think an international cooperative effort involving free world countries would be sufficent. If this cannot be arranged, then it is essential that this Committee assure the straightening out of priorities within the USPS. Without the latter no improvement in postal communications between individuals living in the USSR and the USA will be possible.

Those of you who watch news reports from the Soviet Union are aware that the average Soviet citizen has no knowledge of the true facts behind the Korean Air Lines massacre. Why? Because communication with the free world is prohibited. However, postal communication is supposed to be free. Imagine how international relations could change if Soviet emigres in the free world could communicate with their relatives in the Soviet Union the real facts of the massacre or of any other aspect of real life.

Mr. Chairman and members of this Committee, I am honored to be here. For a refugee from the Soviet Union to be permitted to petition this Government is an example of the beauty of American democracy. Believe me, if I tried to state this case in my native land, I'd face at least another 7 years in Soviet labor camps.●

THE STOCKHOLDERS PROTECTION ACT OF 1983

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. STARK. Mr. Speaker, today I am introducing a bill to change the tax treatment of amounts received in certain corporate transactions. My bill will affect two areas of abuse: First, the preferential treatment given to certain shareholders at the expense of the other shareholders and second, the golden parachutes that protect people in top management at the expense of the rest of the corporate organization.

My concern in the area of corporate abuse was raised when I read about the deal the Kaiser Steel Corp. cut with a group of shareholders known as the Jacobs group. In brief, Kaiser had an offer from the Jacobs group to buy Kaiser. When Kaiser got a better offer from another group of investors, the Jacobs group proposed to block the sale unless they got a better deal on 1,181,100 of the shares it owned.

The bottom line is that Kaiser's board of directors agreed to give a much sweeter deal to one group of shareholders than to all the other shareholders of the same class. Much to my dismay, I have learned that Kaiser is not the only corporation giving sweeter deals to some investors at the expense of other shareholders. And the Jacobs group is not the only group around boasting that it does not have any discomfort whatsoever about getting better terms than the rest of the shareholders.

Mr. Speaker, this is a gross abuse of the corporate obligation to treat all shareholders in a class equally. We should not allow the gain which some officers and shareholders receive from these transactions to receive favorable capital gains treatment. Nor should we legitimize with a business deduction any expenses which a corporation incurs when it schemes to give one group of shareholders preferential treatment at the expense of the other shareholders of the corporation. Therefore, my bill treats as ordinary income any gain realized in such a transaction by a shareholder or an officer and disallows all corporate deductions attributable to the transaction.

With this bill, corporations, officers and shareholders devising transactions which give preferential treatment to a few shareholders at the expense of the rest of the shareholders will feel some financial discomfort to replace the moral discomfort which was missing in the first place.

The second part of the bill deals with a phenomenon known as the Golden Parachute. Corporate officials have devised another way to get a better deal for themselves at the expense of the other shareholders—the golden parachutes. Management groups who see a corporate change on the horizon have established the practice of creating golden parachutes to ease their fall from corporate power. Before the rest of the shareholders can anticipate the corporate change, these officials use their power to get one last piece of the rock before they are ejected from the seat of corporate power.

The components of these management protection agreements are limited only by the imagination of the players involved. And the players are very imaginative. There is a new book out, entitled "Book of Perks," by James R. Baehler. Mr. Baehler describes some of the incredibly rich "parachutes" that are being offered to corporate executives involved in the games of corporate PAC-man acquisitions and mergers. The following examples are from this funny-sad book:

In the Age of Merger and the Era of Leveraged-Buyout, the life expectancy of top managers often seems akin to that of a Mayfly. With corporate raiders like Victor Posner and Carl Icahn riding the range, and acquisition addicts like Charley Bluhdorn and Saul Steinberg ever on the prowl for another "hit," it behooves managers of likely takeover targets to protect themselves. Prudent executive teams are fashioning "golden parachutes" in the event their company is taken over or merged into another.

When Conoco became a takeover prize, the company quickly provided protection from peril for Ralph Bailey, the chairman, and eight other officers. Their "parachutes" were designed to snap open as soon as more than 20 percent of Conoco stock was acquired by someone else. Should thereafter one of the officers leave either through termination or resignation, he would be paid a lump sum equal to his next seven years' compensation, less 9 percent. The day after du Pont acquired its controlling interest in Conoco, Mr. Bailey could have decided that he could "no longer discharge" his duties and walk away with a check for more than $5 million.

Mr. Bailey stayed, but four top executives at Mohasco Corporation decided to cash in their chips even though Gulf and Western's takeover attempt was thwarted. According to the assistant to the president at Mohasco, the four decided to "head for greener hills" and packed $829,000 in their picnic basket.

When Martin Marietta Corporation found itself being ardently pursued by Bendix Corporation, the company quickly granted long-term salary protection to twenty-nine of its executives and then called upon United Technologies for assistance. United Technologies already had sixty-four of its officers equipped with golden parachutes and promptly made an offer for Bendix. William Agee, CEO of Bendix, appealed to his board for reassurance and the board promptly granted $16 million in salary guarantees to the company's top sixteen officers (Agee's share was $4 million) and called upon Allied Corporation to live up to its name and serve as their ally. Allied leaped into the fray, having already provided its CEO, Edward Hennessey, with a 24-karat parachute worth $3.9 million. None of those ripcords has yet been pulled but the betting is that Agee will be the first to hit the silk.

Brunswick, Control Data, Phillips Petroleum and Superior Oil are among the companies providing "Special Termination Agreements" in the event of a takeover. The number of executives covered ranges from four or five to twenty-five and the payouts for the CEOs start at $870,000 and go up to $5.6 million. Kimberly-Clark Corporation must feel like a homecoming queen at a fraternity toga party; to ward off unwanted suitors, K-C has guaranteed the salaries of eighty of its executives for far into the future. If all the executives at Beneficial Corporation use their "parachutes," it will look like a NATO airborne landing; 234 of Beneficial's executives are covered, which must include everyone down to the mailroom supervisor. So far, no payments have been made at these companies, but those involved sleep better each night.

The text of the bill is as follows:

H.R. 4357

A bill to amend the Internal Revenue Code of 1954 to ensure stockholder protection with respect to the treatment of amounts received in certain corporate acquisitions, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part IV subchapter P of chapter 1 of the Internal Revenue Code of 1954 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. TREATMENT OF AMOUNTS RECEIVED BY CERTAIN SHAREHOLDERS IN CERTAIN CORPORATE ACQUISITIONS.

"(a) GENERAL RULE.—If—

"(1) the consideration per share of stock in any corporation to be received by any 1-percent shareholder in any transaction (or series of transactions), exceeds

"(2) the otherwise prevailing market price for such stock (as of the time the transaction is entered into), notwithstanding any other provision of this subtitle, any gain realized by such shareholder from such transaction (or series of transactions) shall be recognized and included in gross income as ordinary income.

"(b) DISALLOWANCE OF DEDUCTIONS ATTRIBUTABLE TO TRANSACTION.—No amount otherwise allowable as a deduction under this chapter to the corporation referred to in subsection (a) shall be allowed as a deduction to the extent that such amount is attributable to the transaction (or series of transactions) referred to in subsection (a).

"(c) TREATMENT OF CERTAIN AMOUNTS PAYABLE TO MANAGEMENT.—

"(1) IN GENERAL.—In the case of a management protection agreement—

"(A) no deduction shall be allowed under this chapter for any amount paid or incurred (or property transferred) pursuant to such agreement, and

"(B) the present value of the aggregate amount (including property) to be received under such agreement by any person shall be included in the gross income of such person as ordinary income for his taxable year in which the employment relationship is terminated.

"(2) MANAGEMENT PROTECTION AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'management protection agreement' means any agreement to make one or more payments (or transfers

of property) to an employee of a corporation if such employee's employment with the corporation is terminated within a specified period after a change (of a kind specified in the agreement) in the ownership or control of the corporation.

"(B) EXCEPTION FOR NONDISCRIMINATORY AGREEMENTS.—The term 'management protection agreement' does include any agreement if the benefits provided under such agreement do not discriminate in favor of employees who are officers, shareholders, or highly compensated.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CONSIDERATION.—The term 'consideration' means—

"(A) the fair market of the stock, securities, or other property, and

"(B) the amount of cash, to be received in the transaction (or series of transactions).

"(2) 1-PERCENT SHAREHOLDER.—The term '1-percent shareholder' means any person who owns (directly or through the application of section 318) stock possessing 1 percent or more of the total combined voting power of all classes of stock entitled to vote."

(b) The table of sections for such part IV is amended by adding at the end thereof the following new items:

"Sec. 1257. Treatment of amounts received by certain shareholders in certain corporate acquisitions."

(c) The amendments made by this section shall apply to transactions after November 10, 1983, in taxable years ending after such date.●

STUDY ON EFFECT OF NUCLEAR WAR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Ms. KAPTUR. Mr. Speaker, a dramatic new study has been released on the devastating effects of nuclear war. An international coalition of scientists and researchers, led by Dr. Carl Sagan, anticipates a cold, dark, nuclear winter in the aftermath of a moderate, not major, nuclear exchange. A recent article in the Chronicle of Higher Education focuses on the results of their work and provides the stark and horrifying details of a virtually lifeless world after a nuclear war.

There are those who say that nuclear war is survivable. I would ask them, is it worth living on a planet devoid of warmth, sunlight, the beauty of flora and fauna, and the fellowship of our loved ones? I ask my colleagues to take a moment to read this article and reflect on its implications for congressional decisionmaking.

The article follows:

[From the Chronicle of Higher Education, Nov. 9, 1983]

AMERICAN AND SOVIET SCIENTISTS PREDICT "NUCLEAR WINTER" IN WAKE OF BLAST

(By Ellen K. Coughlin)

WASHINGTON.—The long-term atmospheric effects of a large-scale nuclear exchange could include subfreezing temperatures, protracted darkness, and greater exposure to radioactivity than had previously been projected, according to new findings presented at a conference here last week.

A group of researchers led by Carl Sagan, professor of astronomy and space sciences at Cornell University, told approximately 600 scientists, government officials, and activists that the projected "nuclear winter" could also spread to the Southern Hemisphere, where the potential effects of nuclear war had been thought to be minimal.

Addressing the conference via satellite, a group of Russian scientists, led by Evgeny P. Velikhov, vice-president of the Soviet Academy of Sciences, presented evidence from studies conducted in their country that confirmed the Americans' major findings. According to a spokesman for the conference organizers, the teleconference was believed to be the first such meeting between American and Soviet scientists.

For their study, Mr. Sagan and his colleagues ran computer models of a variety of nuclear-war scenarios, including cases ranging in explosive power from 100 to 10,000 megatons. Among other things, they calculated how much dust and smoke would be generated by a nuclear blast, how much sunlight the dust and smoke would absorb, and how much temperatures would change as a result.

For example, based on a hypothetical 5,000-megaton nuclear exchange, with 20 per cent of the explosive power expended over cities or industrial targets, Mr. Sagan and his colleagues found that:

Smoke particles from nuclear fires and soil dust from surface explosions could absorb enough light to create an unbroken pall of darkness lasting for several weeks. Beyond that time, light filtering through the cloud cover could be inadequate to sustain photosynthesis, severely limiting plant growth and thus disrupting the food chain.

The lack of sunlight caused by the nuclear cloud would cause temperatures to drop suddenly to subfreezing levels. The abrupt onset of cold could damage or kill crops, depending on the season in which the blast occurred. Many animals could die of thirst, since surface water would be frozen over.

The large quantities of fission debris released into the atmosphere could result in greater levels of long-term radioactive fallout—in some areas approaching lethal doses for humans—than have been predicted thus far.

Contrary to previous assumptions that the effects of a nuclear war on the Southern Hemisphere would be minor, disturbances in global circulation patterns could rapidly transport large amounts of smoke, dust, and other nuclear debris to that part of the world.

EXTINCTION 'INEVITABLE'

"The extinction of a large fraction of the earth's animals, plants, and microorganisms seems inevitable. The population size of *Homo sapiens* conceivably could be reduced to prehistoric levels or below, and the extinction of the human species itself cannot be excluded," wrote Paul R. Ehrlich, professor of biological studies at Stanford University, Mr. Sagan, and others in a paper prepared for the conference.

Their projections were based largely on a study conducted over the last two years by Richard P. Turco, a researcher at R&D Associates in Marina del Rey, Calif.; Owen B. Toon, Thomas P. Ackerman, and James B. Pollack of the National Aeronautics and Space Administration's Ames Research Center in Moffett Field, Calif.; and Mr. Sagan.

Their conclusions, presented at the conference by Mr. Sagan and Mr. Ehrlich, were reviewed by approximately 100 leading physicists, biologists, and atmospheric scientists from around the world at a series of meetings held in Cambridge, Mass., last April.

The Conference on the Long-Term Worldwide Biological Consequences of Nuclear War was sponsored by more than 30 organizations, including the Federation of American Scientists and the Union of Concerned Scientists.●

END U.S. SUPPORT FOR SOUTH AFRICA

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. MORRISON of Connecticut. Mr. Speaker, I rise today to commend my colleague Mr. GRAY from Pennsylvania for his strong and determined efforts to end U.S. support for South Africa and its repressive apartheid regime. On Thursday, October 27, Mr. GRAY's amendment prohibiting any new U.S. industrial investment in South Africa passed the House. This substantive amendment will be a meaningful step forward toward the end of the United States hypocritical support of South Africa.

It is imperative, in the wake of the passage of the new South African Constitution, that we not be confused and that we not give up the fight against apartheid. The new Constitution offers absolutely no concession to the 22 million black citizens of South Africa, and sets up impotent and segregated houses of parliament for Indians and coloreds, or people of mixed race. These bodies will have jurisdiction over their own "community concerns," but matters of mutual concern to whites and nonwhites will be subject to passage by both the white and nonwhite chambers. In every issue of any importance, the built-in white majority in parliament will assure a victory for the policies of apartheid.

Do not be deceived. New Constitution or not, the 75-percent black majority of South Africa is still subject to the institutionalized, inhumane repression that is apartheid. Blacks continue to be banned from government, denied equal legal treatment, and forcibly "resettled" against their will. This treatment should not be allowed to continue, and must not be condoned and supported with further U.S. investment.

We profess to believe and uphold the concept that all the people of the world should be allowed free and equal access to their nation's political and legal institutions. Yet we continue to pour ever-increasing amounts of money into the economy of apartheid—an economy controlled by a

white minority dedicated to withholding the most basic human rights from the 80 percent nonwhite majority. In the past three decades, direct United States investments in South Africa have climbed from $410 million to over $2.6 billion in 1981. The past three decades have also seen an equal and no doubt related rise in the tyrannical reign of apartheid.

Mr. GRAY's amendment will prohibit all new investment in South Africa, and establish penalties for individuals and corporations who violate this prohibition. While it will not in any way force previously committed individuals or corporations to divest, I believe it will help to bring our hypocritical support of apartheid to an end. I applaud Mr. GRAY for his clear sight and hard work in sponsoring this amendment and seeing it through the House.●

CLOSE TAX LOOPHOLES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of my colleagues what appears to be a loophole of major dimensions. The national news media have recently been carrying stories about a relatively new tax scheme—the royalty trust. A royalty trust is a device in which appreciated royalty income-producing properties are distributed by the corporation to a trust for the benefit of its shareholders.

Because the trust seems to eliminate corporate taxes, I believe it represents a potentially limitless revenue loss, particularly if the royalty trust is expanded to be used for other natural resources.

Consequently, I have today written to Rudolph G. Penner, Director of the Congressional Budget Office, to ask that he investigate further the budget and revenue impacts of royalty trusts.

The text of the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 9, 1983.

Mr. RUDOLPH G. PENNER,
Director, Congressional Budget Office, Washington, D.C.

DEAR RUDY: As a member of the House Budget Committee, I am writing to request that you investigate and produce a corresponding cost analysis of a matter which has recently been called to my attention.

Recent articles in the national media have indicated that States which have productive oil and gas properties stand to lose a royalty trust. These articles have branded this device as a mechanism used by big oil companies for purposes of tax avoidance through a distribution of royalty-income producing properties to a trust for the benefit of its shareholders.

Royalty trusts have been increasingly used to make such a corporate distribution and provide trust unit holders with income equal to a predetermined percent of revenues less certain expenses generated from specific oil and gas (or other) royalty property. The trust units are sold and traded to the public and listed on the national stock exchanges. While the grantor corporation normally holds the working interest and continues to be responsible for the operation of the properties, the trustee assumes the responsibility for collecting revenue from the property, paying trust obligations and distributing net revenue to those parties holding a beneficial interest in the form of a trust unit or certificate.

While it has come to my attention that States with producing properties stand to lose state revenue from corporate and individual income taxes, property and other taxes caused by the distribution of state public and private lands into a royalty trust device, I believe that the royalty trust device should be explored for its potential tax avoidance at the federal level as well.

For example, the placement of royalty income-producing properties in a trust would appear to bypass the potential collection of corporate taxes. Royalty trusts may also contravene present tax policy with regard to individual income taxes, the depletion allowance, dividends and capital gains transactions and corporate distribution and liquidations.

Recognizing that both the Administration and Congress are intent on reforming our tax code, I am writing to request that you investigate and study the impact of the royalty trust device on the Federal budget. Indeed, I would suggest that at least the following questions be addressed in such a study:

1. What is the impact of the royalty trust device on our domestic economy and the federal budget?

2. What is the impact of royalty trusts on the collection of federal revenues? Is revenue collection increased or decreased? To what extent does use of the royalty trust avoid federal taxation of property at the corporate level and decrease the collection of revenues?

3. To what extent does the use of the royalty trust device contravene present tax policy with regard to corporate and individual income taxes, capital gains transactions, the depletion allowance, trusts, the payment of dividends, and distributions or liquidations?

4. To what extent does the use of royalty trusts impact upon the oil depletion allowance and the public policy behind the depletion allowance?

5. What is the extent of the impact of an increased use of royalty trusts on the federal spending portion of our budget? To what extent does their use mean increased spending for government regulation and support staff for oversight in the securities area?

6. To what extent do royalty trusts come within the jurisdiction and surveillance of our present securities laws and are changes in record-keeping, securities transactions, recording and disclosure requirements required by their increased use? Furthermore, if such changes were made and a program to monitor foreign investment and ownership in these trusts was set up, what would be the cost to the government to operate such record-keeping and monitoring programs?

7. What would be the revenue and spending impact if federally leased lands were part of such trusts? What if use of the royalty trust device was extended to coal or other resources? Will corporate incentives for development of new reserves and maximum utilization of existing ones be substantially reduced?

8. Will foreign interests in such trusts allow the direct payment of income to such foreign interests while avoiding U.S. taxes altogether, or avoiding substantial amounts of U.S. tax?

In conclusion, concerns about the federal budget deficit and foreign investment in our energy and natural resources have led me to believe an investigation into all aspects of royalty trusts is merited at this time. Recognizing your role in advising the Congress and members of the House Budget Committee on matters related to federal revenues and spending, I would be most interested in hearing your thoughts regarding the budgetary impact on royalty trusts vis-a-vis the questions I have raised.

Thank you for your time and consideration, and I look forward to hearing from you in the near future.

With kind regards, I remain

Sincerely,

BUD SHUSTER,
Member of Congress.●

VETERANS DAY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. DYSON. Mr. Speaker, John F. Kennedy once said, "A nation reveals itself not only by the men it produces but also by the men it honors, the men it remembers."

Tomorrow we pause to pay tribute to those Americans who have honorably and bravely served our country in the armed services. Honoring those who faced unbearable conditions, experienced the misery of war halfway around the world, and who gave their lives in pursuit and protection of our most cherished national asset—our freedom—is an important step in recognizing the debt we owe.

It is fitting that we should honor our veterans with parades and ceremonies and a special day of recognition. Yet the Nation owes more than 1 day to its veterans. The best thanks which a grateful nation can extend to its veterans is the opportunity for them to resume their lives at home.

Despite budget constraints this year, the Congress has approved significant legislation to expand services to veterans and maintain disability payments. Two major bills seem particularly noteworthy.

On May 23, the House passed the Veterans Administration Health Programs of 1983. This measure extends for 3 years, the veterans readjustment counseling program to Vietnam era veterans at community based vet centers. Currently, these vet centers, in over 136 locations around the country, provide critical services to tens of thousands of Vietnam era veterans who are seeking assistance. It also calls for a comprehensive study of the readjustment of Vietnam era veterans to civilian life which would aid the re-

adjustment counseling program in maximizing efforts in this area. This study will include a survey of the prevalence of post traumatic stress disorder.

Another important provision of the measure establishes an Advisory Committee on Women Veterans within the VA in order to better assess the needs of women veterans and how we can best address them. As the armed services attract more and more women, their ultimate welfare as veterans is an important priority.

In addition, this legislation provides for a sorely needed increase in per diem rate payments for the care of eligible veterans in State extended care facilities, hospitals, and nursing homes.

It also extends for 1 year the VA's authority to contract out hospital and health care services for eligible veterans living in Puerto Rico and the Virgin Islands.

On May 24, the House passed the Veterans Housing Benefits Amendments of 1983. The measure provides mortgage assistance to veterans who have been unable to meet their monthly mortgage payments for 6 months or more because they are unemployed, underemployed, or seriously ill. Assistance under this new temporary program could not exceed $8,400 per eligible veteran. This assistance would not be a grant, but a loan which the veteran would have to repay within 48 months of the date of the last advance.

Additionally, it expands the availability of loans guaranteed by the VA for the purchase of manufactured homes that are permanently affixed to a lot, under conditions currently applying to loans on conventionally built homes.

Finally, it extends for 5 years, the grant-in-aid program under the State cemetery grant program, to encourage States to establish new State veterans cemeteries and to expand or improve existing cemeteries so that veterans can be buried near their homes.

Both of these measures represent significant improvements in veterans programs for those in special need of assistance. I was proud to lend my fullest support in securing passage of these important legislative efforts.

How we treat our veterans in their struggle to gain jobs, education, health care, and social acceptance, is a measure of our character as a nation.

America owes a debt to every man and woman who served in the Armed Forces when asked to do so. They met their obligations. Now we must meet ours. We in Congress must continue our pledge to work for ongoing progress in solving the problems of the U.S. veterans.●

MYTHS THAT DISTORT THE FIRST WORLD'S VIEW OF THIRD WORLD DEBT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Ms. KAPTUR. Mr. Speaker, I would like to share with my colleagues an article from the International Herald Tribune, regarding Third World debt. I urge my colleagues to consider seriously the views of Mr. Elio Gaspari, the deputy director of the newsmagzine Veja of Sao Paulo. I believe that the policy implication of his position is that the international financial institutions presently in place are not properly constituted to result in the type of Third World development that touches the majority of people in the host countries.

The article follows:

MYTHS THAT DISTORT THE FIRST WORLD'S VIEW OF THIRD WORLD DEBT

(By Elio Gaspari)

SAO PAULO.—The foreign debt crisis of the developing countries is the Vietnam of the international financial system.

Both the debt crisis and the Vietnam War arose from the same basic error: a belief that it is possible to change the course of developing countries' history with a little help from developed friends—even if this change of course is not exactly what the people in those countries want.

Since the early 1950s, the developed world has believed in a set of myths that supposedly can help regenerate countries. First is faith in miraculous economic indexes. Brazil, Argentina and India learned fast to produce tons of statistics every year—some with rosy figures, others with somber forecasts—to fit any need. In the 1970s, encouraged by the performance of Brazil's average growth rate, 10 percent a year, the banking community gave it several loans.

Since the growth of a gross national product is a kind of bible to believers of the panfinancial religion, it would have been in poor taste to remind the lending banks that at that very time São Paulo, a megalopolis thriving on the blessed GNP, was plagued by a meningitis epidemic. Why shed doubts on the optimistic figures, and why shed light on darker curves—like the infant-mortality rate, which, at that time, reached record heights—if it was widely believed that children could be saved from death by a miracle of the GNP?

A second myth is that analogies between countries work. Consider the theory of the economic takeoff in developing countries. It holds that if you have a sound capital accumulation, plus solid GNP growth, takeoff inevitably will occur. It sounds nice but does not always work that way. Brazil accumulated capital, boasted an impressive GNP, but, instead of the economy taking off, the country developed a $90-billion foreign debt.

The banking community believed in another myth—that an enlightened native elite might solve most problems. According to that fantasy, all would be simpler in developing countries if, instead of political disputes and elections, there were more governments with a team of the best and toughest in command, acting freely to bring about progress.

The international order based on the flow of money to governments ruled by military officers with medals and civilian technocrats with doctorates—and committed basically to GNP growth—failed. It collapsed for the same reason that the Vietnam venture did: the association (through sophisticated disguises) with dictatorial regimes. Strong regimes, it was believed, were a good remedy for the indolent people of the Third World. In the end, the dictatorships harmed not only the countries themselves but also the bankers who gave them loans. Instead of producing economic stability, they created social instability and a global foreign debt of $500 billion.

Over the last decade, the American public has not perceived the scope of an important political phenomenon in Latin America: Brazil's gradual political democratization. It is understandable that the United States worries about what is happening in Central America, but if one considers that El Salvador's gross national product is smaller than the deficit in Brazil's social security program, one may wonder whether the scope of what is happening in Brazil is not being underrated.

Today, Brazil is called the "world's biggest debtor." Not long ago, the "Brazilian miracle" was being praised. Soon, Brazil may be singled out as the "biggest default in financial history." Those superlatives mean little. What matters in Brazil is not so much the size of its foreign debt but the depth of its democratic experience.

The International Monetary Fund and the lending banks expect Brazil to follow a strict recessionist policy. This policy, however, led crowds to sack 252 food stores in one month. The IMF and banking community may feel political questions do not interest them. But they cannot deny the undeniable: 20 years of investment in authoritarian regimes, through idealization of local elites and official statistics, led the international financial system to disaster.●

GRENADA—QUESTIONS REMAIN

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LEVINE of California. Mr. Speaker, in yesterday's Wall Street Journal, Arthur Schlesinger, Jr., made some perceptive comments about the U.S. invasion of Grenada. His article appears at a time when little criticism of this illegal action can be heard.

Despite the swell of support for this invasion, I respectfully commend Mr. Schlesinger's article to my colleagues. It is a sobering assessment of the rationale behind the Reagan policy toward Grenada and the costs to our Nation of the invasion.

When the cheering stops, and the euphoria dies, we will be faced with a world with a new and different view of the United States. Only then will we fully begin to understand the price to be paid for the President's display of force.

GRENADA, WITHOUT WARNING

(By Arthur Schlesinger, Jr.)

During the Cuban missile crisis 21 years ago, the joint chiefs of staff advocated a surprise attack to take out the missile bases. Robert Kennedy opposed the idea as a "Pearl Harbor in reverse." "For 175 years," he said, "we had not been that kind of a country. A sneak attack was not in our traditions. . . . We were fighting for something more than just survival. . . . Our heritage and our ideas would be repugnant to such a sneak military attack."

How we have progressed since 1962! Now we launch a sneak attack on a pathetic island of 110,000 people, with no army, navy or air force, and claim a glorious victory. "Grenada Proves We'll Fight" was the headline of one self-congratulatory piece. The fact that we have shown ourselves mighty enough to defeat Grenada will no doubt make the Russians think twice. Or will it?

It certainly should make Americans think twice.

The sneak attack on Grenada was undertaken without declaration of war or specific congressional authorization. It was undertaken in violation of the charters of the United Nations and of the Organization of American States, as well as of nonintervention pledges constantly made (if too often forgotten) by the U.S. to the Western Hemisphere ever since the Montevideo conference of 1933, when we first subscribed to the declaration that "no state has the right to intervene in the internal or external affairs of another."

The sneak attack was undertaken without any effort to determine what the real situation in Grenada was or where the new regime was headed. It was undertaken against the counsel of even such faithful friends of Mr. Reagan as Margaret Thatcher. The U.N. resolution deploring the attack encountered no opposition save our own in the Security Council. The attack produced dismay and indignation throughout Latin America.

NO EVIDENCE

At a time when a prudent administration planning to deploy new nuclear missiles would have been doing its best to still European fears, the attack renewed the picture of the U.S. as an irresponsible and bellicose ally, galvanized anti-American sentiment in Western Europe, undermined our case against the Soviet invasion of Afghanistan and handed Moscow a potent new propaganda weapon.

The various pretexts advanced by the administration for the sneak invasion have been flimsy in the extreme. The first pretext was to rescue American medical students in Grenada. There was no evidence that these students were in danger or were detained against their will. The Grenada Military Council had offered explicit assurances that American lives and property would be protected and guaranteed. Nor did our government call in the Red Cross or other intermediaries to arrange evacuation. It did not want evacuation. It wanted a pretext for war. Evacuation of citizens in real or supposed danger does not ordinarily require the invasion of a country and the overthrow of its government.

The next pretext was that the sneak invasion was necessary to avert chaos. But no evidence has been submitted that there was chaos in Grenada, beyond the fact that one set of Marxist thugs had murdered another set some days before. The chaos argument is all too reminiscent of the wild stories that accompanied President Johnson's invasion of the Dominican Republic in 1965—thousands killed, streets running with blood, beheadings and so on, all in due course disproved. President Reagan himself has admitted that the invaders "had little intelligence information about conditions on the island."

The third pretext is that we had to intervene because six members of the Organization of Eastern Caribbean States asked us to do so. No doubt neighboring islands felt threatened by events in Grenada. But the U.S. does not ordinarily form its foreign policy on the importunings of panicky states. Again, we wanted the pretext. The prime minister of Barbados even said that the idea of military intervention first came from "a U.S. official," though later, perhaps after hearing from Washington, he took the statement back. Whoever had the original idea, "the formal request," according to the New York Times, ". . . was drafted in Washington and conveyed to the Caribbean leaders by special American emissaries."

The fourth pretext is our determination, in the president's words, "to restore order and democracy in Grenada." This proposition would have a little more plausibility if we showed an equal determination to restore order and democracy in, say, Haiti or Chile.

The fifth pretext for the sneak invasion arose because of the unexpected resistance met by the invasion force (which soon amounted in size to more than 5% of Grenada's total population). One is reminded of Salvador de Madariaga's remark: "Look! The beast is dangerous. When attacked, it bites." Surprised by the resistance, we readily found in it a new excuse: The Cubans were about to take Grenada over. This is entirely a post-invasion pretext. Members of the Senate Select Committee on Intelligence were given no prior information about a planned Cuban seizure of the island. It was well after the fact when President Reagan described Grenada as "a Soviet-Cuban colony being readied as a major military bastion to export terror and undermine democracy. We got there just in time"—just like those old westerns in which our president once played.

There is something very odd about this. Grenada has in fact been under Marxist control ever since Maurice Bishop came to power four years ago. Up to the moment he was deposed, Washington officials regularly declared him a Soviet or Cuban stooge. He was a particular pal of Castro, and the Cuban government vigorously condemned his murder—which hardly suggests that it had plotted it. Having spurned Mr. Bishop when he was alive, the Reagan administration suddenly presented his murder as a tragedy. Poor old Mr. Bishop could hardly have suspected how much we cared.

What happened in Grenada was simply that one Marxist faction overthrew and killed another—hardly an edifying event but also hardly one on which the fate of the U.S. depends. There is some indication indeed that, if the struggle for control of Grenada was more than internal gang warfare, it was between Cuba and the Soviet Union and that the overthrow of Mr. Bishop may have been a pro-Soviet coup. If so, then another Reagan gain has been to bring Castro and Moscow back together.

Behind the parade of phony pretexts lies the simple fact that our president wanted to prove American power by mounting a sneak attack on a nuisance regime so weak and isolated that it could be assaulted with impunity. By thus demonstrating that the U.S. is mightier than Grenada, President Reagan is hardly going to impress the Kremlin. His action demeans our great republic. And his setting up his administration as a law unto itself in world affairs has the most ominous implications.

WAS THERE DANGER?

"I do believe in the right of a country," he said at a press conference the other day, "when it believes its interests are best served to practice covert actitity . . . and you can't let your people [i.e., the American Congress and the people] know without letting the wrong people know." In Grenada he extended this doctrime to embrace military invasion.

And he extended his lust for secrecy to the unprecedented point of forbidding reporters to accompany the sneak invasion. Had they been permitted to come, they might, after all, have written that the medical students were not in danger, or that Grenada was not in chaos, or that President Reagan's arms warehouses "stacked almost to the ceiling" included such menacing items as Marlin 30-30 rifles made in the 1870s, or that the airport has been constructed according to civilian, not military, specifications.

The Reagan Doctrine is infinitely extensible. If Grenada today, the world is bound to wonder, why not Nicaragua tomorrow? Under the Reagan Doctrine, what government in the hemisphere that incurs Washington's disapproval will be safe? Making the U.S. a law unto itself legitimizes the ancient Soviet policy—the policy we have so long denounced—of invading Hungary or Czechoslovakia or Afghanistan ad lib.

Unquestionably there are occasions when nations, their security mortally endangered, are justified in acting beyond the law: *salus populi supreme lex est.* But to violate international law casually, on the basis of ideological obsessions and hypothetical fears, is to reduce the U.S. to the moral level of the Soviet Union and to destroy international confidence in the sobriety and responsibility of our leadership.

For the moment, the polls tell us, Americans are rallying to the flag, however flagrantly sneak invasions abuse our best traditions. But reason will soon return. Far from increasing public faith in his leadership, Mr. Reagan will more probably reestablish the national impression that he is a trigger-happy president: not precisely what we need in a world filled with nuclear weapons.

As usual Shakespeare put it best:

O! It is excellent
To have a giant's strength, but it is tyrannous
To use it like a giant.●

A TRIBUTE TO OUR VETERANS

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. MORRISON of Connecticut. Mr. Speaker, November 11 is Veterans Day. It marks a time when the Nation stops and remembers the sacrifices that many brave men and women have made for our country in war and in peace. All have given precious years of their lives in service of the United

States. Many have sacrificed their lives.

Tragically, these sacrifices are very much in our minds today because of recent events. Over 250 young men, one from New Haven, Conn., in my own district, have been killed in Lebanon and Grenada. Others, including one from Milford, Conn., in my district have been injured. Their comrades continue to face grave danger every day.

Our Nation has a proud tradition of honoring and compensating its veterans. Most veterans from our past wars came home to a grateful nation, a nation that created this holiday for them. Sadly, veterans from the Vietnam conflict came home to a different sort of welcome. Their war had been conducted by a dividend nation. But these men and women gave of themselves with as much courage and devotion as any others who have served our country. Regardless of the difference of opinion that existed and still exists over the propriety of the war in Vietnam, these veterans deserve as much recognition and assistance as all those others.

I am proud that this 98th Congress has taken steps toward those goals. Earlier this year the Congress passed the Emergency Veterans Job Training Act of 1983, which provides funding for vocational training for those who served in both the Korean and Vietnam conflicts. The bill also designates funds for studies on the health effects of agent orange, one of the most tragic legacies of the Vietnam war. And in just the last month the House has again honored Vietnam veterans by passing the Vietnam Veterans National Medallion Act. The medals will be offered at cost to the public, a way of letting the people show their gratitude for those who selflessly served in a controversial war.

There are other important steps that this Congress should take to meet the needs of our veterans. We should enact legislation to provide for judicial review of decisions of the Veterans Administration. We should extend the psychological readjustment counseling program for Vietnam-era veterans. We should extend the time period during which Vietnam veterans may use education benefits under the GI bill. We should recognize and compensate the health conditions resulting from agent orange. I have cosponsored measures pending before the House to accomplish these goals, and I hope that the House will take action soon to enact them.

Veterans Day is one day of the year on which we parade and salute our veterans. But we must continue that spirit throughout the year. We must honor and compensate those who served without thought of compensation. We must above all treat all our veterans with the respect and honor that their dedication deserves.●

ON VETERANS DAY, WE HONOR AND PRAISE OUR VETERANS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LIPINSKI. Mr. Speaker, with the events in Lebanon and Grenada still burning brightly in our memories, tomorrow's Veterans Day tributes are particularly appropriate. The efforts of our military men in the Middle East and Caribbean underscore the high price that our veterans, both alive and dead, have paid so often so that we may live in freedom.

November 11 is a day for us to not only pay tribute to the over 28 million surviving veterans of our country, as well as those who are no longer with us, but to give thanks for the freedom and security which our servicemen have brought to this country. In how many countries of the world can citizens freely advance any idea, at any time, in any place? How many nations can boast of truly free elections? In how many countries is the dignity of the common man not only presumed, but guaranteed by the government? Unfortunately, the answer to all of these questions is, precious few.

We in the United States enjoy all of these freedoms, and more. However, we must remember that we owe the existence of our liberties to the men and women who have taken arms to defend America. Liberty may be a right, but it is by no means a certainty. We enjoy our freedom only because we have been willing to fight for it. Democracy is fragile, and we must defend it every day. For over 200 years, brave Americans have fought and sacrificed so that we may continue to speak freely, worship as we please, and publicly voice our opinions of government, without fear of retaliation.

On November 11 we praise our veterans for their efforts on behalf of liberty. We enjoy the benefits of freedom every day, however. If we publicly honor our veterans only 1 day of the year, let us pause for a moment each other day, and give thanks to those who have fought and struggled to insure that Americans will always live in freedom.●

BURNS BINTLIFF MAKES MUD MATTER TO MAJOR LEAGUERS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. FLORIO. Mr. Speaker, I was pleased to read a recent article about a truly unique American, Mr. Burns Bintliff of Willingboro, N.J. Mr. Bintliff, a retired New Jersey Turnpike maintenance carpenter, has for the past 15 years provided an unheralded but important service that many of us can appreciate.

He is the sole supplier to major league baseball teams of mud to use to rub the gloss and slickness off baseballs. Modern technology has not been able to reproduce the quality resulting from Mr. Bintliff's careful processing of this substance whose location in south Jersey is known only to the Bintliff family. It is comforting to know that in this era of baseball, with modern gadgets like computers helping teams to devise strategies, the game lives on because of one man's efforts to continue a unique family tradition.

The article follows:

[From the American Association of Retired Persons News Bulletin, October 1983]

MUM'S THE WORD FOR RETIRED NEW JERSEY CARPENTER; HE DOESN'T MIND MUDMAN TITLE

Even though his name could be said to be mud, Burns Bintliff is proud that he helps America's favorite pastime keep a grip on itself.

So what in the world does Bintliff do? He supplies gobs of the mysterious river mud that the major leagues—and several others—use to rub the gloss and slickness off baseballs.

Bintliff, 63, has been at his dirty business for 15 years, but he says he'll never come clean about its origins. "Where it comes from is a secret," says the retired New Jersey Turnpike maintenance carpenter who lives in Willingboro, N.J.

For years, baseball lore has had it that the mud could be found in only one magical spot on the Delaware River. But Bintliff has shattered that myth. "It isn't the Delaware. It's in south Jersey, and that's all I can say."

Actually, Bintliff can say plenty, and usually does, because he's delighted to be carrying on a tradition that spans more than 40 years.

"I spend about four-to-six hours one day each summer digging up what's needed for the following season," he says. "That's about 400 pounds. It's infinitely superior to everyday mud—substitutes have been tried, and they just don't work. The mud contains an ultrafine abrasive that strips off the factory gloss but doesn't damage the cover of the baseball."

Bintliff then spends hours carefully processing the mud (another operation he's equally mum about) packing it and distributing it in one-pound coffee cans that contain two and a half to three pounds of the gooey substance at about $20 a can.

Bintliff is the properly reverent custodian of a practice that began almost by accident in 1938, when Russell Aubrey "Lena" Blackbourne, then the third base coach of the Philadelphia Athletics (now Oakland A's) of the American League, saw an umpire mixing water with playing field dirt for rubbing up baseballs.

"It scratched the covers, though," Bintliff says, passing on a legend, "and pitchers could throw trick pitches with them. So Blackbourne went out and found this mud,

experimented with it, and the umps liked it."

And thus was born Lena Blackbourne's Baseball Rubbing Mud, which its discoverer supplied for nearly 30 years. He had a friend who helped—Bintliff's father-in-law—and it was he who passed the business down to Bintliff and his wife, Betty. Modern technology is not likely to make Bintliff's business obsolete. "One company tried to come up with a process," Bintliff says, "but they gave it up."

So the secret and success of the mud should stay with the Bintliff clan for some time to come. "I've got nine children and five grandchildren, so the odds are pretty good," the AARP member says with a laugh.

That should please Lena Blackbourne, except . . .

He was a temperamental sort," Bintliff says, "and he was an American Leaguer all the way—it was 10 or 15 years before he would sell his mud to the National League."

Which means that, to the late Blackbourne, his successor's name may indeed be mud.

Because Burns Bintliff roots for—dare it be said?—the Philadelphia Phillies of the National League.●

PERSONAL EXPLANATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. EDGAR. Mr. Speaker, on November 8, 1983, I left Washington at approximately 6 p.m. in order to return home to Springfield, Pa., to vote in State and local elections. Unfortunately, I was compelled to miss the final votes on the continuing resolution, H.J. Res. 403. Had I been present, I would have voted for final passage of the resolution and against the motion to recommit. I also would have supported the Wright amendment, which provided funds for 16 important educational and social programs.

The next day, November 9, I was delayed on my return to Washington by heavy fog at the Philadelphia International Airport. If I had been present early in the day, I would have joined the majority of my colleagues in voting for the Harkin amendment to the dairy bill (H.R. 4196). This amendment will require the Agriculture Department to take into account the impact of the diversion program on the meat, pork, and poultry industries.●

STATEMENT OF CONGRESSMAN RONALD V. DELLUMS FOLLOWING HIS RETURN FROM HOUSE LEADERSHIP INSPECTION TRIP OF GRENADA

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HAWKINS. Mr. Speaker, our Government's recent invasion of Grenada has caused me a great deal of consternation. For this reason, I would like to share with you some remarks prepared by our colleague, the Honorable RONALD V. DELLUMS, that reflect views on this grave matter other than those of the administration.

The prepared remarks follow:

STATEMENT OF CONGRESSMAN RONALD V. DELLUMS, FOLLOWING HIS RETURN FROM HOUSE LEADERSHIP INSPECTION TRIP OF GRENADA

I was appalled by the U.S. invasion of Grenada, which I considered an undeclared act of war in violation of the Constitution, the U.N. and O.A.S. charters. My participation on the House Leadership trip not only confirmed my initial assessment but in fact raised many new questions. Moreover, the answers to these questions are to be found here in Washington, and not in Grenada. We must have a full Congressional investigation so that we may better understand the events surrounding the invasion.

"Among the more important questions still unanswered these four deserve full investigation: 1. What were the real objectives—as opposed to the President's publicly stated rationales—for this invasion? 2. Were other, peaceful alternatives ever considered or proposed and, if so, what were they—and why were they rejected? 3. What are the larger implications—diplomatically, militarily and politically—as a consequence of this overwhelming use of military force? 4. Is this militarization of American foreign policy an indication that, for this Administration, the military option is the preferred solution in resolving international disputes?

"My own investigation is still incomplete, but I can say the following with virtual certainty. The safety of the students was never the primary concern of either the policymakers or the commanders of the U.S. forces in their planning for this mission. At best, they were a secondary or ancillary goal of the invasion. Further, in a 2½ hour meeting with the Prime Ministers from the Eastern Caribbean states, the question of the students' safety was never once raised.

"What they did raise was their concern about a leftist government in the Eastern Caribbean and their repeated desire that the region would have more leaders that reflected their 'moderate' views. However, this desire surely can not serve as the basis for the policy of the U.S. invasion of Grenada.

"The Administration used the presence of the students as a convenient excuse to launch the invasion because the Administration wanted to strike out against the leftist government in Grenada and its Cuban advisers. However, our delegation could find not one confirmed instance in which an American was threatened or endangered before the invasion.

"If the U.S. mission was to rescue Americans on Grenada, the mission has been accomplished and the troops should be immediately withdrawn. Each additional day alters their role. They are now being perceived—and in some instances acting—as an occupying, rather than as a peace-keeping, force even to the extent of tracking alleged subversives and determining what books and other reading materials are considered legitimate. This is not the proper role of the American military in a free society.

"I am deeply concerned that this may be the forerunner of worse to come. This Administration may now seek to impose its political will by brute force, in the name of a continuing anti-Communist crusade, which appears to be the real justification for the invasion.

"Is this to be the fate of other Third World nations seeking to find their own way in a world in which the nuclear superpower confrontation overrides all other considerations in offers of American aid? For example, the Grenadian people were being directly assisted by the Cubans in the areas of health care, basic literacy and education, and public works projects. Is the U.S. government now willing to step into the void created by their forced departure, to continue these assistance programs?

"We are experiencing a great tragedy. The great danger is that Americans will believe that the invasion proves that military force could be effective in places like Nicaragua or Lebanon. But in Lebanon we are flirting with World War III and if we introduced military force in the same way in Central America we would cause civil strife that would result in the deaths of tens of thousands of people.●

IN MEMORY OF LT. JOHN R. HUDSON, U.S.N.

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. GINGRICH. Mr. Speaker, I was deeply saddened to learn that U.S. Navy Reserve Lt. John R. Hudson was among the 236 outstanding young men who died in the disgraceful terrorist bombing attack on our Marine headquarters in Beirut, Lebanon.

Lieutenant Hudson, of Fayette County, Ga., was the only naval doctor attached to our marine force in Beirut. Lieutenant Hudson was reared by Drs. Patrick and Rebekah Anders, of Fayette County.

I would like to pay tribute to Lieutenant Hudson and the 200-plus Americans who gave their lives for their country and freedom-loving people everywhere. These men did not forget that freedom demands a lot from those who would keep it.

The ultimate sacrifice made by these brave men should reinstill in each and every one of us a sense of the importance of national unity and greatness. To this era when the national good is sacrificed at the altar of self- and group-interest, the deaths of Lieutenant Hudson and his comrades stand in sharp relief. Their deaths serve to remind us that without self-sacrifice

for national goals, the self-indulgent wouldn't have a free society in which to indulge themselves. That's a truth we forget at our own peril.

So, to Lieutenant Hudson, his family, and to each of the other servicemen who died in Lebanon and Grenada, and their families, we owe our thanks and prayers. God speed them all.●

THE SYRIAN ROLE IN THE MIDEAST

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LEVINE of California. Mr. Speaker, the most recent casualty figures place the death toll in the bombing of the U.S. Marine's headquarters building in Beirut at 237. Despite threats that action will be taken against the perpetrators of this attrocity, the Reagan administration has done nothing in any international arena or policy area.

A column by George Will in today's Washington Post raises important questions about the lack of a response by the United States to the bombing. In addition, he illustrates graphically the folly of the Reagan administration's efforts to find favor with Syrian President Hafez Assad.

When will we learn that the thugs who perpetrate crimes such as this will only be emboldened in their efforts if we do not respond quickly to their attacks? When will we recognize Assad for what he is? At a time when he is encouraging attacks against Yasser Arafat because he is too "moderate," it should be obvious that there is not common ground between the beliefs upon which this Nation was founded and the views of a terrorist like Assad.

I commend Mr. Will's comments to my colleagues and ask that the text of his column be reprinted in the CONGRESSIONAL RECORD.

[From the Washington Post, Nov. 10, 1983]

SYRIAN REALITY

(By George F. Will)

A tape of a Syrian television broadcast, which I unwisely played while having breakfast in my sun room, shows Syrian ceremonies last month commemorating the tenth anniversary of the Yom Kippur war. Assorted civilian and military officials attended. There is martial music on the tape, but no narration. None is needed.

Girls in uniform stand in a row holding live snakes. Suddenly the girls begin killing the snakes by biting through the snakes' heads. Snakes are sinewy, and the biting is not easy, and the girls, although eager, do not seem to enjoy this. The audience of older men does. Sigmund Freud, call Damascus.

Next, young soldiers tumble out of moving trucks, pounce upon puppies and stab them repeatedly. One soldier seems to drink a puppy's blood, perhaps symbolizing the drinking of an enemy's blood, as the PLO gunman did in Cairo in 1971 after shooting Jordan's prime minister.

Few Americans have seen any of the Syrian tape (a portion of which was shown at an early hour by NBC). Networks should not invariably show such stuff. They certainly should not while many children are awake.

But this glimpse of Syrian reality would be a useful antidote to a liberal society's sentimental belief in the efficacy of split-the-difference negotiations in places like the Middle East. It would drive another stake through the heart of the notion that the world is run by people "just like us" and that the path to peace is through "understanding" them.

It would dash cold water on the recurrent nonsense about Israel's being an impediment to peace because it is insufficiently forthcoming in dealing with neighbors like Syria.

Long after Grenada is just a pleasant memory, Syria will be threatening vital American interests, including Israel's security and a region's stability. Hence, Americans must disenthrall themselves. The conjunction of the attack on the Marines in Beirut and the Grenadian invasion could mean that the invasion soon will not be seen as an unambiguous signal of strength.

In Beirut, America suffered a serious military defeat, the significance of which is growing as the weeks pass without an American response. Against the background of Beirut events, the Grenada operation may be construed as evidence that the United States is just a regional power, prepared to act vigorously only in its front yard.

Now, the perception of the United States as a regional power would be an improvement over the perception of U.S. weakness that spread during the late 1970s. And it might even serve some U.S. interests if Nicaragua were to perceive the United States as ready to act only in this region. But that perception would be disastrous elsewhere, and it is encouraged by the failure of the United States to respond to the attack on the Marines.

Gen. John W. Vessey Jr., chairman of the Joint Chiefs of Staff, says "justice" will be administered to "those who directed" the attack. Senate Majority Leader Howard Baker says there may be retaliation if the persons responsible can be identified "with precision and exactness."

What is this, the Warren Court conducting foreign policy? Who will read the suspects their Miranda rights? This is the scrupulosity and individualism of our criminal justice system misapplied to power relations between collectives—between nations. It would be proper and cathartic to administer retribution to the individuals directly involved in the attack. But catharsis should not be a controlling aim of policy, and great nations are not obsessed with meting out justice to persons who are instruments of other nations' interests.

Israeli aircraft rose on retaliation raids against some of Syria's clients almost before the dust had settled at the site of the attack on Israelis. The aircraft rose before Israel found out who drove or loaded the truck or bought the explosives, because all that is beside the point. The point is that the attack on the Israelis, like the attack on the Marines, serves Syria's interests; such attacks probably could not have occurred without the knowledge of Syria, which controls the road by which the truck had to approach the attack sites; Syrian occupation of Lebanon is a necessary precondition for such attacks.

Syrian President Hafez Assad today resembles Michael Corleone at the moment in "The Godfather" when Michael decides to hit all his rivals simultaneously. Assad is striking at the multinational force, Israel, the Lebanese government and the portion of the Palestine Liberation Organization that is not entirely subservient to Syria. The United States and Israel must make Assad an offer he can't refuse.●

TRIBUTE TO MAYNARD BERNSTEIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. BERMAN. Mr. Speaker, I rise today in order to pay tribute to Maynard Bernstein, esteemed president of California's Camp Ramah. Mr. Bernstein will be honored on December 10, 1983 at a dinner dance marking Camp Ramah's 27th anniversary.

Mr. Bernstein is certainly deserving of this tribute. He is a unique individual, a man of many fine attributes, a loyal friend and an active member of the Jewish community in Los Angeles. Mr. Bernstein has had a long significant career of service to the Jewish community.

As president of Camp Ramah, vice president of the National Ramah Commission, National Youth Commissioner of United Synagogue Youth, a member of the executive committee on the University of Judaism's Board of Directors, member of the board of directors of the Jewish Federation Council of Greater Los Angeles, and director of Temple Beth Shalom For the Deaf, among other significant positions, Mr. Bernstein is an important force in our Jewish community. His efforts continue to provide our community with inspiration.

I have first-hand knowledge of just how valuable Maynard Bernstein's work is on behalf of Camp Ramah and our Jewish community. I spent two summers there myself, and have returned there for many weekends since. The time that I spent at Camp Ramah was very important to me; it was an inspirational part of my Jewish education, and contributed greatly to the formation of my own personal values.

I would like to extend my personal congratulations to Maynard Bernstein and to his family on receipt of this honor, and wish him the best of luck in the future.●

H.R. 4342—UNFAIR TAX ON TIPS: REPEAL MANDATORY TIP ASSUMPTIONS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. PATTERSON. Mr. Speaker, I take this opportunity to draw the attention of my colleagues to an inequitable provision in our Tax Code which has severely cut the income of waiters, waitresses, and bartenders. I have introduced legislation to repeal this burdensome provision which was included in President Reagan's tax bill. This unique revenue code section requires employers to report additional employee tip income based on the allocation of 8 percent of a restaurant's gross receipts. Many waitresses and waiters in my district have provided me with proof that clearly shows their weekly wages are virtually offset by this required tip credit assessment. The saddest part of this story is that this withholding may occur on money which is never actually earned. In many family-style restaurants, a tip greater than 10 percent is the exception to the rule, with 5 to 10 percent being the norm. For the Federal Government to assume all waiters and waitresses receive "windfall" tips which go unrecorded is presumptuous and unfair. I also do not believe that applying another layer of bureaucratic redtape, with the employer acting as the IRS's collection agent, is the most efficient manner of improving compliance and raising revenues.

Our Federal tax laws were founded on the doctrine of fairness but over the years have evolved to the point where unfairness has undermined the public's trust and willingness to voluntarily comply. I believe writing unfairness into the law, as this tax does, will have an even greater adverse effect on the American citizen's willingness to contribute their fair share. Never before has a withholding tax been based on assumed income and I see no reason to establish a precedent for such an onerous type of taxation now. A tip or gratuity is intended to be a gift of money given over payment due for a service rendered. If Webster's definition still stands, then perhaps restaurant tips should be taxed as gifts. If this were the case, I think no waiter or waitress would ever have to worry about being taxed on this income again, for current IRS regulations allow an individual to make a monetary gift to another person of up to $10,000.

Mr. Speaker, I wholeheartedly support the goals of improving fair compliance and enhancing revenues. I do not, however, support the unjust provision of section 314 of the Tax Equity and Fiscal Responsibility Act of 1982. Waiters and waitresses work hard for their money. They do not have the big tax loopholes of the rich and powerful. I urge my colleagues to support the legislation I recently introduced which would repeal this provision and eliminate the hardship it creates on both employers and employees.●

H.R. 4093 PROVIDES SOCIAL SECURITY TRANSITIONAL FORMULA

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. RINALDO. Mr. Speaker, in recent days, a number of questions have arisen over legislation I and a number of my colleagues are sponsoring to eliminate the social security "notch." This bill, H.R. 4093, has generated considerable bipartisan support, and I wish to bring to the attention of my colleagues a table prepared by the staff of the Aging Committee in consultation with the Social Security Administration which compares the constant dollar value of social security benefits under three different systems: existing law, H.R. 4093, and the old overindexed law.

As the table below demonstrates, H.R. 4093 completely eliminates large "notches" in social security benefits. H.R. 4093 does not repeat the errors of the old law formula which caused the real value of benefits to increase beyond the ability of the system to pay. Instead, it deflates the previous overindexing by stabilizing future benefits at 1982 levels and thereby gradually reduces the historically high replacement rates of the early 1980's. When the current law's permanent benefit formula produces higher benefits in the late 1990's or early in the next century, H.R. 4093's transitional formula will no longer apply.

This legislation in effect establishes a "hold harmless" provision, which retains the sense of equity in the system while allowing average benefit levels to return gradually to about 42 percent of immediate preretirement earnings, just as under current law. However, it does so without creating the sizable "notches" found under current law. In fact, under the often-cited worst-case example—not shown in the tables—the current law notch of $110.60 is reduced to $8.40 under H.R. 4093.

Mr. Speaker, I believe it is important to remind my colleagues that double-digit inflation is not the major reason for the up-to-$1,300-a-year difference in benefits for 65-years-olds retiring only days apart. The primary reason is that the post-age-62 earnings of people born after 1916 are excluded in the computation of benefits for individuals born in the transitional "notch" years; that is, 1917–21. This exclusion of earnings is a clear disincentive to individuals who wish to work past the age of 62. Ignoring the taxes paid by persons who could have retired early is especially difficult to justify given the long-term goals of recent legislation to encourage continued work and raise the retirement age.

I especially want to congratulate Chairman ROYBAL of the Aging Committee for taking the leadership on this critical issue. He and his staff have worked tremendously hard to develop a solution that is equitable, economical, and which addresses the legitimate concerns of millions of American retirees and workers. The chairman should be commended for his efforts and for providing Congress with a legislative solution to the "notch" problem.

The attacks on social security that have taken place over the last 2 years have caused many workers to believe that the system will not be there to pay their benefits when they retire. The "notch" problem has worsened this situation by calling into question the fundamental equity of the program, and it has established the disturbing precedent of discriminating against individuals purely on the grounds of their year of birth.

I do not believe the system can continue to receive the historically high public support it has received in the face of such assaults. It is imperative that Congress take action to address the concerns of millions of workers who have become disillusioned as a result of the "notch" problem.

The table referred to follows:

COMPARISON OF ACTUAL AND PROJECTED MONTHLY BENEFITS FOR AGE 65 AVERAGE AND MAXIMUM EARNERS UNDER PRESENT LAW, H.R. 4093, AND OLD LAW [1]

[All figures are in constant 1983 dollars]

Year of attainment of age 65	Present law [2]	H.R. 4093	Old law
1981	636	.....	636
1982	575	660	660
1983	553	656	682
1984	520	650	699
1985	504	652	713
1986	516	652	729
1987	525	670	747
1988	527	679	761
1989	521	689	775
1990	524	699	788
1995	561	737	870
2000	604	758	990
2005	649	[3] 752	1124
2010	697	716	1275
2015	749	[4] 647	1429
Maximum earner:			
1981	809	.....	809
1982	730	839	839
1983	709	839	871
1984	674	827	893
1985	659	822	918
1986	681	826	951
1987	698	828	980
1988	704	831	1010
1989	700	831	1036
1990	708	831	1060
1995	777	831	1203
2000	[4] 870	[4] 831	1392

[1] Present law is the 1977 amendments; old law is the 1972 amendments.

[2] Figures in the present law column for 1982–86 are the higher of the current transition formula or the permanent 1977 amendment formula. All figures after 1986 are for the permanent formula.

[3] Benefits begin declining under the H.R. 4093 transition based on the assumption that persons reaching age 65 after 2005 (i.e., born after 1940) reached age 18 after 1957 and, therefore, have fewer years of earnings prior to 1979 than the 22 which are allowed under the H.R. 4093 transition.

[4] H.R. 4093's transition phases out by 2012 for the average worker and 1998 for the maximum worker since benefits under the current law's permanent formula produce benefits which exceed the H.R. 4093 transition.

Prepared by Allen Johnston, House Select Committee on Aging, in consultation with the SSA based on the 1983 Social Security Trustee's intermediate IIB assumptions.●

FIRST WOMAN GOVERNOR OF KENTUCKY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. MAZZOLI. Mr. Speaker, I am proud to be a Kentuckian and I am proud that yesterday Kentucky elected its first woman Governor—Martha Layne Collins.

I have known Martha Layne for many years. She is a bright, capable, hard working, effective administrator who has proven herself time and time again over the years as she has worked tirelessly in behalf of the Democratic Party, and more recently during her term as Lieutenant Governor.

Kentucky is honored to be represented by such a qualified Governor and I look forward to a productive 4 years under her leadership. Martha Layne is a credit to our State and to all who know her.●

THE AMERICAN COWBOY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. RUDD. Mr. Speaker, it has been brought to my attention by the National Cowboy Hall of Fame that a recently published book titled, the "American Cowboy," does not reflect a thorough understanding of the American cowboy nor accurately portray what he has done for the West.

Mr. Dean Krakel, the distinguished historian and executive vice president of this organization, has vigorously objected to the portrayal of the American cowboy in this publication.

Specifically, Mr. Krakel points out two denigrating passages in the book, which he has cited for me, and I will now read:

> The cowboy is a laborer—a common, ignorant, ditch-digger-type laborer. The only difference between the cowboy and other laborers is that he often must ride a horse out to where he is to do his labor. And many times his boss, having better things to do, allows the cowboy to work unsupervised, which allows him to drink on the job . . .
>
> Added to the fact that he is half drunk, allows this ignorant poltroon to indulge himself in cavalier fantasies of integrity and independence, when in fact, he is naught but a social misfit, and an insecure one at that.

Without whiskey, he (our American cowboy) is uncomfortable in any society, since he represents the dregs.

Mr. Speaker, let us not forget that it was the cowboy who helped win the West and it is the cowboy who is a true American hero to many, many people.

I speak with some authority on this subject, having been raised among cowboys and cattlemen in Arizona. In fact, my grandfather led a wagon train filled with settlers to what was to become the State of Arizona.

I commend Mr. Krakel's efforts to provide a fairer, more accurate picture of our Western heroes.

Particularly, Mr. Speaker, I am gratified that Mr. Krakel and the National Cowboy Hall of Fame have extensively documented the history and heritage of the cowboy in the West and his wonderful Americanness.●

CARLUCCI COMMISSION READIES REPORT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HYDE. Mr. Speaker, for the past few months, I have been privileged to serve as a member of the Commission on Security and Economic Assistance. The Commission was named by Secretary of State Shultz to untangle the problems facing America's foreign assistance program. It has a large membership; nearly 75 percent are Members of Congress. To date there have been six full Commission meetings and 2 days of public hearings.

Interest and participation has been high. This is a tribute to the excellence of Commission Chairman Frank C. Carlucci, Jr. People in Washington know Mr. Carlucci well, since he has served in a succession of high Government posts, most recently as Deputy Secretary of Defense. Mr. Carlucci is also a career U.S. Foreign Service officer who has attained the rank of Ambassador. His most recent ambassadorial post was in Portugal. Since leaving the executive branch, Mr. Carlucci has been serving as president of the newly founded Sears World Trade, Inc. The accomplishments of the Commission are, in large measure, due to Frank Carlucci's active leadership, and his good judgment in selecting a talented and dedicated staff.

One of the interesting things about this Commission is that it is truly bipartisan. Several members have been very active, notably Mr. JONES of Oklahoma and Mr. MCHUGH of New York, as well as Senators KASTEN and SARBANES. Because the Commission is an unstacked deck, I joined other participants in expecting a useful result from the challenging task presented.

Mr. Speaker, U.S. economic and security assistance programs are in deep trouble. The failure of the United Nations to adequately support us on the Korean airline massacre and the almost universal condemnation of our actions in Grenada do not make for a warmer feeling toward the international community. Those of us who have supported foreign aid need help from the Carlucci Commission report.

The Carlucci Commission, as it has come to be known, has had to deal with a subject of great complexity. Foreign assistance has, unfortunately, become negatively charged with partisan politics since the United States pulled out of Vietnam. Basically, we have to emphasize how foreign economic and security assistance can better serve vital U.S. foreign policy interests. Congressional and public support does not and is unlikely to exist for an economic assistance program that aims to end the scourge of world poverty without allowing private enterprise, profitmaking businesses to take the lead in institution building overseas. Disaster relief is always important in the case of earthquakes and other natual cataclysms. Like many Americans, I believe that assistance to unfriendly, sometimes Communist, countries does not deserve support. Finally, the only way to help our friends improve the lives of their people is to encourage economic growth. This means we ought to try and influence countries with highly centralized policies. The models for world economic growth: Singapore, the Republic of China, and the Republic of Korea, to name a few, should be our examples.

In conclusion, I would like to commend John Wilhelm, the executive director of the Carlucci Commission, for his ability to walk through a minefield of differing views and produce a document that can bring answers to problems.

I commend to my colleagues the work of the Carlucci Commission. Our final meeting will be held on November 14, 1983, in the House Argiculture Committee room We are looking for great and helpful things from the Commission. I expect to continue to keep my colleagues informed on the Commission's report as it is released.●

GREAT LAKES WATER PRESERVATION ACT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. LIPINSKI. Mr. Speaker, today I am introducing legislation that is of great importance in maintaining the quality of life for the citizens of the

Great Lakes States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin. This legislation, the Great Lakes Water Preservation Act will prohibit diversion of Great Lakes water for use outside of a Great Lakes State and would prohibit federally sponsored studies involving the feasibility of diverting Great Lakes water.

This legislation is crucial to maintaining one of our regions's most precious resource—fresh water. Lakes Michigan, Huron, Superior, Ontario, and Erie, comprise the largest body of fresh water in the world. We must do all that we can to insure that this resource is preserved and maintained for our future generations.

At the present time there are no concrete proposals to divert Great Lakes water to other regions of the country. However, this subject has been discussed periodically. Projects to divert Great Lakes water from coal slurry pipeline developments, and to supplement drinking water supplies in other regions of the country have been discussed.

I feel that the Congress must take the initiative now, and start to develop policies that govern interbasin transfers nationwide. The Federal Government must establish a national policy on the use of a region's fresh water supplies, before a crisis arises that will exert pressure for a Great Lakes diversion or any other diversion of water to a water poor area. In the absence of this policy at the present time, we must take steps first, to insure that Great Lakes water is not diverted.

While the Great Lakes region has traditionally had plentiful supplies of water, no one can be sure if this will be the case in future years. The lakes face serious problems of controlling acid rain, maintaining adequate water supplies for hydropower production, and increasing shipping and economic growth.

At the Great Lakes Water Resources Conference in June 1982, the Governors of the Great Lakes States and premiers of three Canadian provinces passed a resolution objecting to any new diversion of Great Lakes water. The resolution further stated that lowered lake levels and reduction of flows in connecting channels could result in serious losses in water supply, navigation, and recreational values. My legislation states that any future decision regarding Great Lakes diversions be made only with concurrence of the Great Lakes States and provinces and the Federal Government of Canada and the United States.

Representative HENRY NOWAK, the cochairman of the Water Resources Task Force, of the Northeast-Midwest Congressional Coalition is an original cosponsor of this bill. Similar legislation has been introduced in the other body by Senator PERCY, as well as one Senator from each of the Great Lakes States. I urge my colleagues to cosponsor this legislation to insure our regions fresh water supplies and future economic growth.●

DISTINGUISHED SERVICE AWARD BESTOWED ON FATHER BAGATIN AND FATHER BORDIGNON

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. MORRISON of Connecticut. Mr. Speaker, on October 16, the New Haven Women's Division of the American Committee on Italian Migration celebrated its 12th annual Foglie D'Autonno luncheon and musical in my district. The committee bestowed its Distinguished Service Award on Father Tarcisio J. Bagatin and Father Mario Bordignon. I would like to extend my deepest thanks to them for their selfless devotion to a variety of important causes in the New Haven area.

Rev. Tarcisio (Terry) J. Bagatin, C.S., is a missionary priest of the Society of St. Charles Borromeo, popularly known as Scalabini Fathers from the name of the founder, Bishop John Baptist Scalabrini. The scope of the society is the care of the immigrants around the world.

Father Terry was born April 5, 1928, in northern Italy, in the town of Thiene (Vicenza), the seventh child of Elisa and Francesco Bagatin. His vivid and imaginative mind, open to venture and challenge, qualified him to enter the seminary of the Scalabrini Fathers in Bassano del Grappa not too far from his hometown. It was high school time—he was 12 years old—and World War II was in full swing with its devastating power.

Preparation to priesthood was long and arduous. School, study, strict discipline, and determination took Father Terry through high school, novitiate, college, teaching, and 4 years of theology in various seminaries in the northern part of Italy. He was ordained a priest in Piacenza (near Milan) on March 19, 1954.

After a brief period of ministry in the port of Genova, Father Terry was assigned to parish work among the Italian communities of United States and Canada. He was assistant pastor of Our Lady of All Souls in Hamilton, Ontario; in St. Anthony, Fredonia, N.Y., in St. Anthony's, New Haven, Conn. He was also involved in establishing new mission centers in Montreal, P.Q. (Canada), and introduced a popular radio program to reach the many new Italian immigrants in the city and surrounding towns. In 1967 he was named pastor of St. Anthony's Church in Buffalo, N.Y., and there he was deeply involved with the problems of the urban renewal of the city, he remained there for almost 9 years. In 1975 he was asked to go back to Canada as pastor of St. Anthony's Church in Hamilton, Ontario. For 2 years there Father Terry had his own weekly TV show of 30 minutes.

After a brief assignment in Puerto Rico and New York City, on November 4, 1978, Father Terry was named pastor of St. Michael's Church in New Haven, Conn., known as the first Italian Church in Connecticut. Here he has dedicated most of his time and efforts to the restoration of the church which stands now on the green of Wooster Square in all its beauty and splendor, the pride of the Italian community. Fond of Italian traditions, he has contributed in strengthening the folkloristic spirit of the existing societies encouraging cooperation and unity under the banner of faith, religion, and country. He is cofounder of the Italian American Historical Society, member of the National Italian American Foundation, and for the past 5 years, he was also the spiritual adviser of the ACIM.

Rev. Mario Bordignon, C.S., is also a member of the Society of St. Charles Borremeo.

Father Bordignon was born in Cassola, Vicenza, Italy. He entered the seminary at 13 and studied 13 years at various seminaries in northern Italy. After his ordination in June 1950, he was assigned to a parish in Rome, where he worked under guidance of the renowned Father Leonardo Quaglia.

The chance to minister to Italian born in a new land came in May the next year when he was assigned to St. Anthony's in New Haven as assistant pastor. During the next 9 years Father Mario devoted himself to working with the youth of the parish, and established the largest Catholic Youth Organization in the diocese of Hartford.

In 1959 Father Bordignon was appointed pastor of Our Lady of Mount Carmel Church in Bristol, R.I., where in 5 years he spearheaded a major renovation and expansion of church properties.

Then in 1964 began some traveling which took Father Mario away from New Haven. First it was California where he worked with the Italian Catholic Federation, an organization of 16,000 members spread across the State.

Two years later he was called to New York City. After surveying the prevailing conditions of Italian seamen in New York Harbor and working directly with them, Father Bordignon was appointed chaplain of the S.S. *Oceanic*, a luxury liner that sponsors cruises to the Bahamas and West Indies, and

carries 1,100 passengers and 500 crewmembers.

On February 3, Father Bordignon officially opened the Italian Seamen's Club at 352 West 44th Street. "It is a home away from home," Father Mario said, "providing counseling, dining, and small retail facilities."

Because of that experience Father Mario was sent to San Juan, Puerto Rico, to organize the International Seamen's Center there, and also serve as port chaplain, the chaplain to International Airport.

He returned to New Haven on August 1977 as assistant pastor of St. Michael's Church, Wooster Square, where he found many of the 1,100 parishioners sharing his Italian heritage. In March 1978 he was appointed pastor of St. Anthony's Church.

During the past 5 years Father Mario has employed the use of all the media tools such as: TV, radio, and newspaper coverage to spread the word of church activities to the outside community.

Beside the existing church organizations two more new organizations have been formed, through Father Mario's efforts, St. Anthony Society and St. Anthony School Alumni Association.●

PERSONAL EXPLANATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. AuCOIN. Mr. Speaker, due to an unavoidable conflict today, I was unable to vote on final passage of House Joint Resolution 413. Two days ago, when a virtually identical bill was voted upon, I voted "nay." Had I been present today, I would again have voted "nay."●

THE U.S. MUST BACK RAUL ALFOSIN'S ARGENTINA

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. BEREUTER. Mr. Speaker, I believe it is important that Americans understand and recognize the giant step toward democracy recently taken in Argentina. The decisive victory of Argentina's Dr. Raul Alfosin in October 30's democratic elections is, indeed, a beacon of hope that constitutional processes are at work in a continent often fraught with the violence of nondemocratic institutions.

Dr. Alfosin's victory over the Peronistas by 52-40 percent should constitute a clear mandate for change from the 30-year shifts of power between the Peronista party and the military. Strong backing of Dr. Alfosin's government by the United States would be well deserved. Military leaders in surrounding southern cone countries will surely note our Nation's support for democratic elections in Latin America. Mr. Speaker, I believe that all informed and interested Americans would like to extend a friendly, congratulatory hand to the new democratically elected government. The following article in the Omaha World-Herald of November 3, 1983 expresses this thought. I commend it to my colleagues.

ARGENTINA: BETTER DAYS AHEAD?

Argentina deserves better leadership than it has received in the 40 years during which the Peronistas have been the dominant political party. This week's elections—in which the party of Juan and Evita Peron suffered a major defeat—may have provided such leadership.

The Peronistas—and the military dictatorships that were interspersed with Peronist governments during the past 40 years—have managed to bring Argentina close to ruin.

As a result of disastrous mismanagement, what should be a prosperous land suffers from one of the cruelest inflations on the globe. Unemployment remains high and production low. The foreign debt of $40 billion puts severe strains on the economy and the government. Human rights eroded under the generals who have been in charge for the past seven years. The unnecessary Falklands War drained the country, both economically and spiritually.

The Peronistas have long had strong emotional appeal among the working class. Until this week, the party had never lost a free national election.

The decisiveness of Raul Alfosin's win—52 percent to 40 percent for the Peronistas—should constitute a mandate for changes by him and his party, which has been described as middle-class and left-of-center.

His first moves have been encouraging. He has said he would try to improve relations with the United States. He has promised to try to reach an agreement with Chile over a border dispute. During his campaign, he spoke forcefully for cutting back military spending.

Still, the important thing now is whether he has the ability and will to make good on his promises. Other Argentine leaders have come to power with fine words, only to become disappointments once in office.

If Alfosin continues in the direction he has started, the United States should be ready to extend a friendly hand.●

NO DEALS WITH SYRIA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. KEMP. Mr. Speaker, Benjamin Netanyahu, Deputy Chief of Mission at the Israeli Embassy, is a talented and dedicated representative of his Government. He is also an astute observer of the Middle East, and the problems that Israel and the United States face in common in the region.

The most immediate of these problems today is Syria backed by the Soviet Union. Were it not for Syrian intransigence, the tragedy-laden disarray in Lebanon would have been settled long ago. Were it not for Syrian links with the Soviet Union, the West would not now be faced with an ominous military buildup that threatens not only Israel but NATO's forces in the eastern Mediterranean as well. And were it not for Syrian support and complicity, the marines and French troops who were killed in Beirut would almost surely be alive today.

How then should the United States deal with Assad? Mr. Netanyahu's article in today's New York Times provides sobering insight into the nature of the Syrian regime. I want to echo his warning: "People who counsel appeasement of Syria in the coin of Lebanese sovereignty or Israeli security would weaken the only local power Syria fears, and one that is an unshakable American ally—Israel."

I ask that the full text of Ben Netanyahu's article be reprinted in the RECORD, and I commend my colleagues' attention to it.

A DEAL WITH SYRIA?

(By Benjamin Netanyahu)

WASHINGTON.—Cui bono? Who profits, the Romans would ask whenever the perpetrators of an act refused to step forward. Of the recent attacks on American, French and Israeli servicemen, we may ask: Who would benefit if Western forces were pushed out of Lebanon, indeed out of the Middle east altogether? They are Syria, and, looming behind it, the Soviet Union. Syria has repeatedly demanded the ouster of "United States and NATO" forces. Besides local proxies, Syria has at its disposal fanatical Iranians deliberately imported for suicidal missions.

Damascus has both motives and means to wage a systematic campaign of terrorism—in fact, long experience in doing so.

Yet some continue to promote a "deal" with Syria. By giving President Hafez al-Assad what they claim he wants from Israel (the Golan Heights), he would presumably become more flexible in Lebanon: He may be ruthless, but he is also "a man one can deal with." America should now "talk" with Syria, as if Washington has not sent diplomat after diplomat to Damascus. The assumption here is that Syria can be wooed and won, or at least that Syrian goals are limited and can be met.

Such a prescription can be based only on a complete misunderstanding of the real Syria and its political objectives. This is why some confidently predicted that Syria would withdraw its troops when Israel agreed to do so. Instead, Syria moved in more men and materiel. Then it was suggested that what Syria really wanted was to have a "say" in Lebanon because of "legitimate security interests." It soon became clear that Syria's aim—methodically pursued for decades—remains the incorporation of Lebanon into a Greater Syria.

Syria regards Jordan and Israel as also belonging to Greater Syria. But Israel prevents Syria from devouring the rest of Lebanon and from swallowing Jordan (in 1970, an Israeli warning stopped such a Syrian attempt cold). The Syrians must therefore

overcome Israel. Of course, first they would like to repossess the strategic Golan: the Syrians went to war against Israel twice, in 1948 and 1967, when the Golan was firmly in their hands. further, Syria does not want creation of another Arab state; as Mr. Assad has said, "Palestine is merely part of Southern Syria." Thus, Israel must be destroyed so that its territory may be absorbed so that Syria may dispose freely of Lebanon and Jordan.

Neither the obsession with Greater Syria nor the fanaticism of the regime are fully grasped in the West. With his bland exterior, Mr. Assad is not good copy compared to his ally the Ayatollah Ruholiah Khomeini. But in cold-blooded murder, he is his equal. In the Syrian city of Hamma, Mr. Assad's army reportedly killed as many as 20,000 civilians and turned "half the town into a parking lot," according to The New York Times.

Even more telling, the regime inculcates brutality as a social good. After Syrian soldiers murdered and mutilated Israeli P.O.W.'s in the Yom Kippur War, Syrian Defense Minister Mustafa Tias glowingly awarded the Medal of the Republic to "the outstanding recruit from Aleppo who slaughtered 28 Jewish soldiers like sheep. He butchered three of them with an ax and decapitated them. He broke the neck of another and devoured his flesh." (The full speech was reprinted in The Official Gazette of Syria on July 11, 1974.)

More recently, the Syrian Government observed the 10th anniversary of the Yom Kippur War. On Oct. 5, it broadcast on Syrian television a program that a Western audience would find unbelievable. As Mr. Assad and his colleagues looked on approvingly, girls from the Baath Youth Militia held up live snakes. Then the girls bit the snakes and ate them, as he applauded enthusiastically. This was followed by militiamen who stabbed puppies and drank their blood.

What kind of "deal" can be struck with such people, for whom truck-bomb massacres are standard operating procedure? The Syrians reneged on their promise to leave Lebanon (like the Palestine Liberation Organization, which left Beirut under the peackeeper's protection, then reinfiltrated and joined attacks on these forces). Such adversaries will honor agreements only with those whose strength and resolve are not in doubt. People who counsel appeasement of Syria in the coin of Lebanese sovereignty or Israeli security would weaken the only local power Syria fears, and one that is an unshakeable American ally—Israel.

In the 1930's, Britain was counseled to weaken its ally France in the belief that this would appease an increasingly powerful Germany. Winston Churchill replied: "We go on perpetually asking the French to weaken themselves. I cannot imagine a more dangerous policy. There is something to be said for isolation; there is something to be said for alliances. But there is nothing to be said for weakening the power with whom you would be in alliance."●

INTRODUCTION OF OCEAN DUMPING REFORM LEGISLATION

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. HUGHES. Mr. Speaker, in America today, our oceans are the last great dumping grounds. Off the New Jersey coast alone, over 7 million wet tons of sewage sludge are dumped each year, seriously impacting the State's coastal waters and threatening our important fishery and coastal resources.

Despite the fact that the House and Senate overwhelmingly approved legislation which I introduced in 1977 to end the ocean dumping of harmful sewage sludge, this practice continues—more than 2 years after the congressionally mandated 1981 deadline.

Although Congress has worked diligently over the past decade to end ocean dumping that degrades the marine environment, several municipalities in the New York-New Jersey area have managed to circumvent the intent of the Marine Protection, Research, and Sanctuaries Act.

Working over the past year, Congressman FORSYTHE and I have developed a legislative proposal that addresses the need to phase out sewage sludge dumping off the New Jersey coast. The legislation we are introducing today is designed to resolve the controversy surrounding the use of the 12-mile dumpsite. The proposal will provide the framework necessary to undertake long-range planning for waste disposal in the New York-New Jersey area. In addition, the bill calls for the development of a New York Bight Apex restoration plan designed to improve the overall water quality of the region by addressing the numerous pollutants that are dumped into this highly complex coastal area.

Mr. Speaker, there is no doubt that the New York Bight is one of the most severely degraded coastal areas in the country, one that clearly deserves the special attention of Congress. According to scientists who testified before the Merchant Marine and Fisheries Committee, ocean dumping in the bight apex has altered the ecology of a large area around the dumpsite and has resulted in significant degradation to the marine environment.

The New York Bight apex has reached it capacity to assimilate the tremendous amount of pollutants that find their way into these waters. Unacceptable high levels of PCB's are beginning to appear in several species of fish taken from both coastal and inland waters. Hundreds of acres of shellfish grounds have been closed due to bacterial and chemical contamination of the resources. Fin rot, gill erosion, skin tumors, parasite infestations, microbial infections, chemical contamination, and developmental abnormalities are rampant in fish and shellfish inhabiting the bight apex area.

The blame for this serious environmental problem does not rest solely with sludge dumping; ocean dumping is just one part of a very large problem, which also involves pollution resulting from runoff from agricultural and urban areas, industrial discharges, and the release of untreated sewage into the Hudson-Raritan estuary. For this reason, our proposal also lays a foundation for the regional planning and coordination necessary to improve the overall water quality of the bight apex.

Finding acceptable long-term alternatives to ocean dumping is a difficult process for several reasons. Municipalities have a built-in incentive to ocean dump—it is cheap to barge sewage sludge to a location barely out of site of land and drop it in the ocean. At the same time, the lack of Federal and State coordination has made the development and siting of alternative disposal technologies particularly difficult for those municipalities that have made an effort to find alternatives.

The proposal Congressman FORSYTHE and I have developed is geared to maximize the Federal, State, and local planning necessary to develop workable alternatives to ocean dumping. At the same time, the bill requires municipalities to pay a special ocean disposal fee as long as they continue to dump at the 12-mile site. Funds collected through this fee would be used to finance a study of environmentally acceptable disposal options in the area, and to implement suitable waste disposal options.

More than ever before, comprehensive legislation is needed to resolve this complex and controversial problem. Simply leaving this matter to the environmental protection agency will result in additional delays and protracted litigation over the future of the 12-mile dumpsite. The future of our coastal waters depends on Congress willingness to make a clear and decisive statement of policy on this matter.

Congressman FORSYTHE and I have made the commitment to resolve the longstanding problems resulting from the continued ocean dumping of harmful materials off our coasts. I hope you will join us in this effort to insure that our coastal waters and offshore resources are adequately protected from further degradation, and in beginning the process to bring them back to a healthy state.●

BANGOR, MAINE: QUEEN CITY AGAIN

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Ms. SNOWE. Mr. Speaker, with few exceptions, I believe that private sector initiatives can accomplish projects with greater efficiency and cost effectiveness than the Federal Government. And a major city in my home district is evidence of that—Bangor, Maine. When the Government provides the incentives—private enterprises will fulfill their role.

Like many other cities across this country, Bangor wanted to take advantage of the great urban renewal programs of the 1960's. And the city prepared for a renaissance in clearing away blocks and blocks of city land in preparation for new housing, office buildings, and retail establishments. For whatever reasons, the rebirth did not occur and the city was left with squares of open land in the urban area.

Studies over the ensuing years were undertaken on how the land should be developed and how that development should be funded, but little happened.

In 1981, the Tax Recovery Act was enacted and a tax credit of 25 percent of the rehabilitation costs on any historic building and a 20-percent credit on any building 40 years or older was included in the bill. It was this action that proved to be the catalyst for private individuals and groups to once again undertake a major renovation of Bangor's downtown area.

I want to share with you a recent article from the Washington Post that details what has happened in Bangor. It merits our attention and the attention of other municipalities across this Nation that want to put new life into their urban areas. The individuals cited in the article are to be commended, and all the citizens of Bangor should be very proud of their achievement.

A Queen City That Tries Again To Live up to Its Name

(By Bruce DeSilva)

Bangor, Maine.—From the highway, the town that once called itself "The Queen City" looks like a huge drive-in theater showing a bad movie.

The empty acres of parking lots and grass are scars of a 20-year-old miscalculation. More than 150 old buildings—a third of the downtown—were demolished to make way for a construction boom that never happened.

"Drive by on the highway, and you don't see anything that would make you stop," said Mel Fer, a local real estate man.

H. E. Igoe, a developer from Charleston, S.C., drove by in the fall of 1981 on the way to visit his daughter at a New England college.

He stopped, and Bangor got a new start.

Igoe, ever curious about strange cities, wound his way through the vacant lots to what was left of the downtown. He found scores of grand turn-of-the-century buildings, many of them vacant and in poor repair.

"I could have bought the whole city," he said.

He bought two buildings, and a lot of Mainers though he was crazy. They knew, or thought they knew, that downtown Bangor was dead. Igoe knew better.

Today, Bangor's streets are filled with the bangs, whines and clatter of construction work. Igoe and other developers are working so quickly that the entire city may be rebuilt in three years, Fer said. Developers are spending $11 million to transform 10 old downtown buildings into condominiums, apartments, offices and specialty shops.

Plans are in the works to rehabilitate six more buildings, many of them large structures such as the old "Sleeper's" department store.

The city, its civic pride reawakened, is responding by laying brick sidewalks and installing new streetlights.

The rehabilitation projects have spurred interest in the nearby vacant land left over from urban renewal. The city has received inquiries about construction of new office buildings, condominiums, stores and parking garages.

The Queen City is coming back because of the arrival of developers who see architectural distinction in old buildings that survived urban renewal, buildings many Bangor residents thought of as eyesores. And it is coming back because of a two-year-old federal law giving developers substantial tax breaks for rehabilitating old buildings.

The future of Bangor rests on what remains of its past.

Bangor has only 32,000 people, but accidents of history and geography give it an importance far exceeding its size.

As the northernmost city in Maine, Bangor is the center of banking, entertainment and shopping for the northern half of the state and much of the Canadian Maritime Provinces. A half-million people think of Bangor as The City.

Bangor straddles the narrow Kenduskeag Stream, where it enters the Penobscot River. Although the location seems ideal for commerce, Bangor did not have enough settlers to incorporate as a town until 1791, rather late in the colonial period.

But in the 19th century, Bangor became a boomtown. The demand was great for the timber in the vast Maine forests, and Bangor dominated the trade.

Logs floated down the Penobscot to sawmills in the Bangor area, and sailing ships docked at Bangor to take on lumber for shipment throughout the East Coast and to Europe. For much of the century, Bangor was the leading lumber exporter in the world. with as much as 200 million board feet a year moving through its port.

The lumber barons and merchants built grand houses on the three hills rising above the downtown. Distinguished architects from Boston and New York City designed many of the houses, ranging in style from Federalist to Greek revival to Italianate to Gothic to the French style with mansard roofs. Streets were lined with elm trees. Many of those houses and elms still stand.

After World War II, however, much of the accessible timber was gone and the pulp industry was dwarfed by bigger operations in the Great Lakes region. The port lay unused and waterfront warehouses decayed.

The construction of suburban shopping malls drew business away from downtown, which began looking shabby as merchants stopped making repairs. Some stores fell empty, and many of the grand old homes in the hills began to deteriorate.

Urban renewal was an effort to reverse the trend. Fourteen acres of downtown were leveled.

Merle Goff, the city manager during urban renewal, said many of the old buildings that were demolished "did not come within miles of meeting code requirements. A very serious fire hazard existed for the whole area."

Today, Goff, Rodney McKay, the city's chief planner, and the developers look wistfully at old photographs, all that remains of some of the grand old buildings that went down with the rotted warehouses and dilapidated wood-frame stores.

The city spent $11 million—most of its federal money—to knock down the old buildings and make improvements in street and sewer lines.

"There was the expectation that there would be quick redevelopment," Goff said.

At first, there was. Three new bank buildings were constructed on large lots for parking and landscaping. A small, ugly commercial strip was built on the site of the train station. But that was all. Half of the 14 acres remained empty.

Through the 1970s, several studies were done on what to do about downtown Bangor. They proposed grandiose redevelopment plans. They were placed on shelves in City Hall and forgotten.

In 1972, while one of those studies was under way, a Massachusetts tax consultant named Donald Cohen was stuck in traffic in a tunnel on Boston's Southeast Expressway. The temperature was 95, and the exhaust fumes were suffocating.

When he finally got home, Cohen told his wife: "That's it. We're going."

Cohen bought an old farmhouse outside of Bangor and began helping developers put deals together in several New England cities. Finally, he decided to try becoming a developer.

About the time Igoe was buying his two buildings downtown, Cohen bought the 71-year-old J. M. Arnold shoe factory, which had been empty since 1947. Fer, working in Cohen's behalf, made inquiries about buying the rest of the buildings on the same downtown street.

Mainers figured Cohen and Fer were nuttier than Igoe.

Igoe and Cohen, however, knew redevelopment could succeed in Bangor.

"The old eastern cities are coming back and they are coming back to stay," Igoe said. "Bangor is the last old city left to be redeveloped. It's already happening everywhere else."

Besides, the Federal Tax Recovery Act of 1981 had just been passed, making rehabilitation of old buildings economically attractive to developers. The act provides for a tax credit of 25 percent of rehabilitation costs on any historic building and 20 percent on any building 40 years old or older. Most of downtown Bangor is in a historic district, and nearly all of its buildings are more than 60 years old. The act, in effect, had turned downtown Bangor into an enormous tax shelter.

The developers worked fast.

Cohen's shoe factory opened recently as a condominium office building with oak bay windows and marble fireplaces. Its 12,000

square feet of space, rehabilitated at a cost of $700,000, were filled instantly.

Igoe, meanwhile, is spending nearly $1 million to convert the 110-year-old, five-story Viner Music Store into a 37-room inn. It may be open by the end of the year.

Construction is under way on Cohen's project to turn the Pierce Building into 20,000 square feet of office space. A greenhouse will be built next to the sidewalk, gathering sunlight into the restaurant that will be located in the basement.

Other projects, many of them innovative, are in the works.

Meanwhile, young professionals are buying and rehabilitating the old houses in the hills.

Jean Deighan, senior trust officer for Northeast Bank, is restoring a 150-year-old Greek revival house with wrought iron grillwork, pillars, winding staircases and floor-to-ceiling bay windows.

Deighan is the organizer of the Bangor Community Promotion Project, an effort to get people to have pride in their city again.

The group held a contest last year to come up with a slogan for Bangor. The winner was "Bangormania," and a lot of people did not like it. The resulting angry letters to the local newspaper delighted Deighan, and not only because they drew attention to the civic pride project.

The protesters said that the slogan is not dignified enough for their great city. Bangor, they said, should be known now and forever as the Queen City.●

CELEBRATING THE CENTENNIAL OF THE FIRST PRESBYTERIAN CHURCH OF SAN PEDRO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. ANDERSON. Mr. Speaker, 100 years ago this month seven people entered into a special convenant with God. Those people, six women and a man meeting in a hall above a tavern, founded the First Presbyterian Church of San Pedro. On November 20, I will be amongst the church's followers to celebrate its centennial.

The First Presbyterian Church bears the distinctions of being the oldest place of Christian worship in San Pedro. When it was founded in 1883, San Pedro was but a small coastal city of 1,500. Today, San Pedro boasts more than 74,000 residents and is the finest port city in the world. As is always true of a growing city, San Pedro has experienced significant change.

Change, or what we tend to politely refer to as progress, is infrequently considerate of tradition or institution. But for reasons which are clear to those who worship at First Presbyterian, growth and progress have not engendered an adversarial relationship between church and community. Like its seven founders, those who worship in this church understand the mortality of our existence; that it is because of our mortality that we should seek reminders of God's unrelenting love and welcome His divine guidance.

Ever since Rev. W. A. Waddell presided over the church as its first formal pastor, First Presbyterian has helped people who are striving to become full persons by answering their spiritual needs. As a result, much of the Christian fellowship that has characterized San Pedro for the last 100 years has been fostered by this church. First Presbyterian's present pastors, Rev. Charmian E. Goudy and Dr. Malcolm R. Lovell, continue to nurture Christian values in a manner which better enables us to understand our mortality in the context of the present day.

Mr. Speaker, my wife, Lee, joins me in extending this tribute to the First Presbyterian Church of San Pedro. I would recommend a visit to this historic place of worship, which is located at 731 South Averill Avenue, to anyone who visits San Pedro; for only then may you learn how much this church means to our city.●

PERSONAL EXPLANATION

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. CLARKE. Mr. Speaker, on October 31, 1983, I was necessarily absent for three votes. I would like to make clear my position on those measures considered in the House.

On the motion to H.R. 3222, the Commerce, Justice, State, and Judiciary Appropriations Act for fiscal year 1984, to instruct conferees to insist on the House position that $70.15 million of the funds in the bill be earmarked for juvenile justice programs, rollcall No. 431, I would have voted "yea."

On the motion to H.R. 3222, the Commerce, Justice, State, and Judiciary Appropriations Act for fiscal year 1984, to instruct conferees to insist on the House position that no more than $21.3 million of the funds in the bill be appropriated for the Endowment for Democracy, and that no endowment funds be given to any entity related to a U.S. political party or party official or employee, rollcall No. 432, I would have voted "nay."

On the amendment to H.R. 2867, the Hazardous Waste Control Act, that strikes provision empowering EPA to litigate cases if the Justice Department fails to act within 150 days, rollcall No. 434, I would have voted "nay."

Mr. Speaker, I appreciate having this opportunity to make my views known for the RECORD.●

IN RECOGNITION OF JAMES L. HEINSELMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to James L. Heinselman, outgoing honorary mayor of Wilmington, Calif. On November 30, Jim will be honored for his achievements at the annual Harbor Holidays banquet at the Los Verdes Country Club in Rancho Palos Verdes.

Jim has led an active career devoted to higher education. Starting in 1957, fresh out of the University of Northern Iowa, as a physics and math instructor at Denison Senior High School in Iowa, Jim worked his way up the ladder to become president of Los Angeles Harbor College in 1980, where he serves today. Along the way, he has served as dean of instruction at the Los Angeles Trade Technical College, the Los Angeles City College, and the College of Dupage, Illinois.

Jim received his B.A. in education from the University of Northern Iowa in 1956 and his M.A. in education in 1960. Jim continued to expand his educational background, enrolling in graduate studies at Illinois State University, Michigan State University, Northern Illinois University, and Texas A&M University.

Jim has also been actively involved with the California Association of Community Colleges, the American Association of Community and Junior Colleges, the Los Angeles Community College District, the National Science Foundation, the American Institute of Physics, and has served as chairperson of the Los Angeles Urban Consortium for Higher Education.

While pursing his successful career in education, Jim has somehow always managed to find time to devote to his community. He is the current President of the Wilmington Boys Club's Board of Directors, and chairperson of the United Way Region III Public Service Division.

My wife Lee joins me in extending our appreciation to Jim for his many contributions to our community and to wish him, his wife Shirley, and their four children, Craig, Lisa, Brian, and Liri all the best in their future endeavors.●

SHAR-ANNE ALVAREZ, OUTGOING "MISS PORT OF LOS ANGELES 1983"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 1983

● Mr. ANDERSON. Mr. Speaker, coming up on November 30 is the annual Harbor Holidays banquet sponsored by the Wilmington Chamber of Commerce. At that time, the chamber will honor Shar-Anne Alvarez, for her outstanding contributions as the outgoing Miss Port of Los Angeles 1983.

As Miss Port of Los Angeles, Shar-Anne rode in the Rose Parade, the Christmas Afloat Parade, the San Pedro Christmas Parade, and the Wilmington Parade. In addition, she attended monthly mixers for the Wilmington Chamber and numerous luncheons and dinners. It is of special interest to note that Shar-Anne was also a contestant in the Miss California USA Pageant.

Ms. Alvarez has lived in San Pedro for the past 8½ years and is a graduate of San Pedro High School. She attended Los Angeles Harbor College and majored in business management.

An avid sports enthusiast, Shar-Anne is in her 4th year as a Los Angeles Rams cheerleader, and has traveled to many cities across the Nation doing promotional work for the Rams. She is currently employed by the Auto Club of Southern California as senior traffic clerk.

During her reign as Miss Port of Los Angeles, Shar-Anne met many interesting and exciting people. It made her year as Miss Port of Los Angeles a very memorable experience. I join with my wife, Lee, in paying tribute to Shar-Anne and wish her the very best in years to come.●

SENATE—*Friday, November 11, 1983*

(Legislative day of Monday, November 7, 1983)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of grace and glory, we remember with profound gratitude the awful price which has been paid for the incalculable privileges we enjoy in this land. We thank Thee for the blessings of freedom and plenty unmatched by any other nation in history.

We thank Thee for the splendid tradition of dedication and sacrifice which has characterized the allegiance and loyalty of America beginning with our Founding Fathers who pledged their lives, their fortunes and their sacred honor.

We thank Thee for the patriotism of millions of heroic men and women who at the cost of their lives upheld that tradition and preserved our Republic. We abhor the wars which have been so costly in the finest and best of American life, but we honor their memory and we pray for Thy special grace for all who mourn the loss of a loved one in conflict. May we who reap the immeasurable benefits of their sacrifice remain true to that for which our patriots gave their all. We pray in the name of Him Who gave His life to redeem us all. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 11, 1983.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. COCHRAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I report to the Senate that the conferees on the continuing resolution are meeting; that the estimate I have received from the House side is that it will be late afternoon before they expect to be able to act. And, of course, we cannot act until after the House does.

So what I would propose to do today, if the minority leader agrees, is to put us in the time for the transaction of routine morning business, do some routine matters, and then go out until 3 p.m. We will have a further report at that time.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the two leaders have utilized or yielded back their time under the standing order, there be a period for the transaction of routine morning business of not more than 30 minutes in length in which Senators may speak for not more than 5 minutes each, with the exception of the minority and majority leaders who may require more time than that to deal with calendar items and other routine business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, may I explain that if there is a desire for more time for morning business, of course, we will provide that. And if there is anything we have today, I am afraid it is time. I will try from time to time to notify Members of progress on the conference report both through our hotline and with statements on the floor if we are in session.

Mr. PELL. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. PELL. For those of us who are anxious to leave town, is it your view there will be a rollcall vote on the conference report or will you seek to avoid such a vote?

Mr. BAKER. Mr. President, of those who are anxious to leave town, I have already put my name at the head of the list. My family is already in Tennessee and I would like to join them.

My serious answer to my friend and colleague from Rhode Island is that I do not expect to ask for a rollcall vote. Of course, we cannot guarantee there will not be one because any Senator has the constitutional opportunity to demand the yeas and nays. But I do not plan to ask for a rollcall on final passage or on any other votes associated with the final disposition of the conference report. But, once again, I warn Senators who may be listening in their offices that that is not a guarantee.

I thank the Senator from Rhode Island for making the inquiry.

Mr. PELL. I thank the majority leader for his response.

Mr. BAKER. Mr. President, there is a messenger at the door from the House of Representatives. I yield so the Chair can admit her.

MESSAGES FROM THE HOUSE

At 1:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 413), making further continuing appropriations for the fiscal year 1984; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS of Alabama, Mr. MILLER of Ohio, Mr. KEMP, and Mr. O'BRIEN as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 20. Joint resolution designating November 13, 1983, as "National Retired Teachers Day".

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the 20th anniversary

of the death of President John Fitzgerald Kennedy.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, the first evidence of the grogginess of my mind and the fatigue still accumulated in my body is I should have yielded so the minority leader could be recognized before we admitted that messenger. I apologize to him for that. But I have nothing further at this moment and I yield now.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, the majority leader is not the only Senator or person in this Chamber who is groggy. I can understand. He is very thoughtful to offer an apology. He does not owe me any.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I yield to the majority leader any time I have remaining so that we can transact routine morning business.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the time remaining to the two leaders be aggregated with the time remaining for morning business under the same terms and conditions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there are a number of things that appear cleared on this side of the aisle for action by unanimous consent.

First, Mr. President, I would propose to go to S. 338, if the minority leader is prepared to do that at this time.

Mr. BYRD. Mr President, we are so prepared.

Mr. BAKER. I thank the minority leader.

COMPETITION IN CONTRACTING ACT OF 1983

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 265, S. 338.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (S. 338) to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments, as follows:

On page 4, line 18, after "such", insert "unusual and compelling";

On page 5, line 1, strike "any agreement with", and insert "any international agreement or treaty between the United States Government and";

On page 5, line 15, strike ", for", through and including line 18, and insert the following: using noncompetitive procedures unless—

"(1) in the case of any contract other than a small purchase, a notice has been published with respect to such contact pursuant to section 313 and all bids, proposals, and quotations received in response to such notice have been considered by such executive agency; and

"(2) in the case of any contract exceeding $100,000, the use of such procedures is approved by the head of the organizational element of such executive agency which has the responsibility to enter into such contract or by a designee of the head of such organizational element who is higher in such organizational element than the contracting officer issuing the solicitation with respect to such contract.";

On page 10, line 5, strike "(a)", and insert "(A)";

On page 11, line 2, strike "(c)", through and including line 3, and insert "(c)";

On page 11, line 4, strike "enter into", and insert "solicit bids, proposals, or quotations for";

On page 11, line 6, strike "the maximum", through and including "309(c)" on line 8, and insert "$10,000";

On page 11, line 10, strike "(1)";

On page 11, line 15, after "award", insert "if there is likely to be any subcontract under such contract";

On page 11, strike line 18, through and including line 22, and insert the following:

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of bids, proposals, or quotations in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

On page 12, line 11, strike "(1)";

On page 12, line 11, after "shall", insert "include";

On page 12, strike line 13, through and including line 18 on page 13, and insert the following:

"(1) a description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name and address of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) a statement that any person may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(4) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security.

"(2) The requirements of subsection (a)(1)(A) do not apply—

"(A) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 303(e); and

"(B) in the case of any procurement for which the head of the executive agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

On page 16, line 15, strike "$500,000", and insert "$100,000";

On page 16, line 19, strike "$500,000", and insert "$100,000";

On page 17, line 2, strike "$500,000", and insert "$100,000";

On page 17, line 6, strike "$500,000", and insert "$100,000";

On page 24, line 11, after "such", insert "unusual and compelling";

On page 25, line 4, strike "any agreement with", and insert "any international agreement or treaty between the United States Government and";

On page 26, line 15, strike ", for", through and including line 17, and insert the following: using noncompetitive procedures unless—

"(1) in the case of any contract other than a small purchase, a notice has been published with respect to such contract pursuant to section 2305(c) of this title and all bids, proposals, and quotations received in response to such notice have been considered by such head of an agency; and

"(2) in the case of any contract exceeding $100,000, the use of such procedures is approved by the head of the organizational element of such agency which has the responsibility to enter into such contract or by a designee of the head of such organizational element who is higher in such organizational element than the contracting officer issuing the solicitation with respect to such contract.

On page 31, strike lines 19 and 20, and insert "subsection";

On page 31, line 21, strike "enter into", and insert "solicit bids, proposals, or quotations for";

On page 31, line 24, strike "the maximum", through and including "title" on page 32, line 1, and insert "$10,000";

On page 32, line 5, strike "the", through and including "title" on line 7, and insert "$10,000";

On page 32, line 9, after "award", insert "if there is likely to be any subcontract under such contract";

On page 32, strike line 11, through and including line 15, and insert the following:

"(B) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by subparagraph (A) of this paragraph.

"(C) Whenever a head of an agency is required by subparagraph (A)(i) of this paragraph to furnish a notice of a solicitation to the Secretary of Commerce, such head of an agency may not–

"(i) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(ii) establish a deadline for the submission of bids, proposals, or quotations in response to such solicitation that is earlier

than thirty days after the date on which such solicitation is issued.

On page 33, line 5, strike "(A)";

On page 33, line 6, after "shall," insert "include";

On page 33, strike line 7, through and including line 8 on page 34, and insert the following:

"(A) a description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(B) the name and address of the officer or employee of the agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(C) a statement that any person may submit a bid, proposal, or quotation which shall be considered by the agency; and

"(D) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(3)(A) A notice is not required under paragraph (1)(A) of this subsection if the notice would disclose the agency's needs and the disclosure of such needs would compromise the national security.

"(B) The requirements of paragraph (1)(A)(i) of this subsection do not apply—

"(i) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 2304(e) of this title; and

"(ii) in the case of any procurement for which the head of the agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation."; and

On page 38, line 10, strike "500,000", and insert "$100,000";

On page 38, line 12, strike "and";

On page 38, after line 17, insert the following:

(iv) by striking out "$500,000" each place it appears in clauses (B), (C), and (D) and inserting in lieu thereof "$100,000; and

On page 43, strike line 7, through and including line 10;

On page 43, line 11, strike "V", and insert "IV";

On page 43, line 12, strike "501", and insert "401";

And which had been reported from the Committee on Armed Services, with amendments as follows:

On page 22, line 7, strike "and", and insert "or";

On page 22, line 15, strike the comma, and insert "or";

On page 22, line 15, strike "or quotations";

On page 22, line 18, strike "award", through and including "in the" on line 19, and insert "provide for the";

On page 22, line 21, strike "of such", and insert "under this title using competitive procedures but excluding a particular source for that";

On page 22, line 25, after "increase", insert "or maintain";

On page 23, line 2, strike "or";

On page 23, line 4, strike "emergency" and insert the following: emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States.

On page 23, line 19, after "other", insert "price-related";

On page 23, line 19, strike "considered";

On page 24, line 6, strike "and", and insert "or";

On page 24, line 13, strike "involved in", and insert "associated with";

On page 24, line 16, strike "maintain", through and including "mobilization;" on line 18, and insert the following:

(A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain and essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

On page 25, line 6, after "government", insert "or international organization";

On page 25, line 12 strike "provides", insert "authorizes or requires";

On page 25, line 14, after "agency or", insert "from";

On page 25, line 14, after "source; or", insert "the agency's need is for a brand-name commercial item for authorized resale; or";

On page 25, after line 19, insert the following:

"(f) For the purposes of applying section 2304(e)(1) hereof: (A) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule, and (B) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

On page 26, line 16, strike "'(f)", and insert "'(g)";

On page 26, after line 18, insert the following:

"(1) the use of such procedures has been justified in writing;"

On page 26, strike line 21, through "purchase," on line 22, and insert "'(2)";

On page 26, line 24, strike ",", and insert "or";

On page 26, beginning on line 24, strike ", and quotations";

On page 27, line 3, strike "'(2)", and insert "'(3)";

On page 27, after line 10, insert the following:

"(h) For the purposes of the following laws, purchases or contracts made under this chapter using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) Sections 35-45 of title 41.

"(2) Sections 276a-276a-5 of title 40."

"§ 2305. Solicitation, evaluation, and award procedures; notice requirements

On page 28, line 16, after "shall", insert "at a minimum";

On page 28, line 24, after "to", insert "each of";

On page 29, line 15, after "based", insert "solely";

On page 30, line 1, after "States,", insert "solely";

On page 30, line 13, strike the period, and insert the following:

where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

On page 31, line 7, after "States,", insert "solely";

On page 31, line 14, strike "received under sealed bid procedures", and insert "or proposal";

On page 31, line 15, after "bid", insert "or proposal";

On page 31, line 21, strike "a", and insert "the";

On page 31, line 22, strike the comma, and insert "or,";

On page 31, line 22, strike "or quotations";

On page 31, line 23, after "price", insert "expected to";

On page 31, line 24, strike "exceeding", and insert "exceed";

On page 32, line 4, strike "a", and insert "the";

On page 33, line 1, after "of", insert "all";

On page 33, line 2, strike "bids,", and insert "bids or";

On page 33, line 2, strike ", or quotations";

On page 34, line 9, strike "a", and insert "an accurate";

On page 34, line 16, strike the comma and insert "or";

On page 34, line 16, strike ", or quotation";

On page 35, line 23, strike "the", through and including line 25, and insert the following:

"(i) the notice would disclose the agency's needs and the disclosure of such needs would compromise the national security; or

"(ii) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

On page 34, line 9, after "the", insert "contract";

On page 43, line 14, strike "one hundred and eighty" and insert "two hundred and seventy".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competition in Contracting Act of 1983".

TITLE I—AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 101. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by striking out section 303 (41 U.S.C. 253) and the heading of such section and inserting in lieu thereof the following:

"COMPETITION REQUIREMENTS

"SEC. 303. (a) Except as provided in subsection (e) or otherwise authorized by law, executive agencies shall use competitive procedures in making contracts for property and services. Executive agencies shall use advance procurement planning and market research and shall prepare specifications in

such a manner as is necessary to obtain effective competition with due regard to the nature of the property or services to be acquired. Executive agencies shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify its needs and solicit bids, proposals, or quotations in a manner designed to achieve effective competition for the contract.

"(b) An executive agency may award a contract under this title in the procurement of property or services in order to establish or maintain any alternative source or sources of supply of such property or services if the executive agency determines that to do so would (1) increase competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services, or (2) be in the interest of industrial mobilization in case of a national emergency.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to faciliitate making small purchases efficiently and economically.

"(d) For other than small purchases, an executive agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submission, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other factors considered;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is a reasonable expectation of receiving more than one sealed bid;

"(2) shall request competitive proposals when sealed bids are not required under clause (1) of this subsection.

"(e) An executive agency may use noncompetitive procedures only when—

"(1) the property and services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the executive agency;

"(2) the executive agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay involved in using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to maintain an essential industrial capability in the United States or to achieve national industrial mobilization;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government, or the directions of any foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute provides that the procurement be made through another executive agency or a specified source; or

"(6) the disclosure of the executive agency's needs to more than one source would compromise the national security.

"(f) An executive agency may not award a contract using noncompetitive procedures unless—

"(1) in the case of any contract other than a small purchase, a notice has been published with respect to such contract pursuant to section 313 and all bids, proposals, and quotations received in response to such notice have been considered by such executive agency; and

"(2) in the case of any contract exceeding $100,000, the use of such procedures is approved by the head of the organizational element of such executive agency which has the responsibility to enter into such contract or by a designee of the head of such organizational element who is higher in such organizational element than the contracting officer issuing the solicitation with respect to such contract.";

(2) by adding at the end of section 309 (41 U.S.C. 259) the following new subsections:

"(b) The term 'executive agency' has the same meaning as provided in section 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)), except that such term does not include the departments or establishments specified in section 2303(a) of title 10, United States Code.

"(c) The term 'competitive procedures' means procedures under which an executive agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the executive agency.

"(d) The term 'noncompetitive procedures' means procedures other than competitive procedures.

"(e) The term 'small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using the small purchase procedures."; and

(3) by adding at the end thereof the following new sections:

"SOLICITATION REQUIREMENTS

"SEC. 311. (a)(1) Each solicitation under this title shall include specifications which—

"(A) consistent with the needs of the executive agency, permit effective competition; and

"(B) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(2) For the purposes of paragraph (1), the type of specification included in any solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(A) function so that a variety of products or services may qualify;

"(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(C) design requirements.

"(b) Each solicitation for sealed bids or competitive proposals other than for small purchases shall include, in addition to the specifications described in subsection (a)—

"(1) a statement of—

"(A) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(B) the relative importance assigned to those factors;

"(2) in the case of sealed bids—

"(A) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(B) the time and place for the opening of the sealed bids; and

"(3) in the case of competitive proposals—

"(A) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(B) the time and place for submission of proposals.

"EVALUATION AND AWARD

"SEC. 312. (a) An executive agency shall evaluate sealed bids and competitive proposals based on the factors specified in the solicitation.

"(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the executive agency determines that such action is in the public interest.

"(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and shall, except as provided in subsection (b), award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, considering the price and the other factors included in the solicitation under section 311(b)(1). The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(B) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) The executive agency shall, except as otherwise provided in subsection (b), award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, considering price and the other factors included in the solicitation under section 311(b)(1). The executive agency shall award the contract by transmitting written notice of the award to such offeror and shall promptly notify all other offerors of the rejection of their proposals.

"(e) If the head of an executive agency considers that any bid received under sealed bid procedures evidences a violation of the antitrust laws, he shall refer the bid to the Attorney General for appropriate action.

"PROCUREMENT NOTICE

"SEC. 313. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids, proposals, or quotations for a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of bids, proposals, or quotations in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) a description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name and address of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) a statement that any person may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(4) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security.

"(2) The requirements of subsection (a)(1)(A) do not apply—

"(A) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 303(e); and

"(B) in the case of any procurement for which the head of the executive agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"RECORD REQUIREMENTS

"SEC. 314. (a) Each executive agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of the procurement;

"(4) the reason under section 303(e) for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the executive agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the Federal Procurement Data Center referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)).".

(b) The table of contents of such Act is amended—

(1) by striking out the item relating to section 303 and inserting in lieu thereof the following:

"Sec. 303. Competition requirements.";

and

(2) by inserting after the item relating to section 310 the following new items:

"Sec. 311. Solicitation requirements.
"Sec. 312. Evaluation of bids; awards.
"Sec. 313. Procurement notice.
"Sec. 314. Record requirements.".

COST AND PRICING DATA

SEC. 102. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current—

"(A) prior to the award of any prime contract under this title using other than sealed bid procedures where the price is expected to exceed $100,000;

"(B) prior to the pricing of any contract change or modification for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency;

"(C) prior to the award of a subcontract at any tier, where the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed $100,000; or

"(D) prior to the pricing of any contract change or modification to a subcontract covered by clause (C), for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the executive agency that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), was inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the head of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal under this chapter, pricing, or performance of the contract or subcontract.

"(4) The requirements of this subsection need not be applied to contracts or subcontracts where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation or, in exceptional cases where the head of the executive agency determines that the requirements of this subsection may be waived and states in writing his reasons for such determination.".

CONFORMING AMENDMENTS

SEC. 103. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 302 (41 U.S.C. 252)—

(A) by striking out the second sentence in subsection (b);

(B) by striking out subsections (c) and (d); and

(C) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively;

(2) by striking out the heading of section 304 and inserting in lieu thereof the following:

"CONTRACT REQUIREMENTS";

(3) in section 304 (41 U.S.C. 254)—

(A) by striking out "negotiated pursuant to section 302(c)" in the first sentence of subsection (a) and inserting in lieu thereof "awarded using other than sealed bid procedures";

(B) by striking out "negotiated pursuant to section 302(c)" in the second sentence of subsection (a) and inserting in lieu thereof "awarded after using other than sealed bid procedures"; and

(C) by striking out "negotiated without advertising pursuant to authority contained in this Act" in the first sentence of subsection (c) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(4) in section 307 (41 U.S.C. 257)—

(A) by striking out "Except as provided in subsection (b), and except" in the second sentence of subsection (a) and inserting in lieu thereof "Except";

(B) by striking out subsection (b);

(C) by striking out "by paragraphs (11)-(13), or (14) of section 302(c)," in subsection (c);

(D) by redesignating subsection (c) as subsection (b); and

(E) by striking out subsection (d);

(5) by striking out "entered into pursuant to section 302(c) without advertising," in section 308 and inserting in lieu thereof "made or awarded after using other than sealed bid procedures"; and

(6) by striking out "section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303." in section 310 and inserting in lieu thereof "the provisions of this title relating to other than sealed bid procedures.".

(b) The table of contents of such Act is amended by striking out the item relating to section 304 and inserting in lieu thereof the following:

"Sec. 304. Contract requirements.".

TITLE II—AMENDMENTS TO TITLE 10, UNITED STATES CODE

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 201. (a) Chapter 137 of title 10, United States Code, is amended—

(1) in section 2302—

(A) by inserting "the Secretary, any Deputy Secretary, any Under Secretary, or any Assistant Secretary of Defense;" after "means" in clause (1);

(B) by striking out clauses (2) and (3) of section 2302 and inserting in lieu thereof the following:

"(2) 'Agency' means any department or establishment specified in section 2303(a) of this title.

"(3) 'Competitive procedures' means procedures under which the head of an agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the agency.

"(4) 'Noncompetitive procedures' means procedures other than competitive procedures.

"(5) 'Small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using small purchase procedures.";

(2) in section 2303(a)—

(A) by redesignating clauses (1), (2), (3), (4), and (5) as clauses (2), (3), (4), (5), and (6), respectively; and

(B) by inserting before clause (2) (as redesignated by subclause (A)) the following:

"(1) The Department of Defense.";

(3) by striking out sections 2304 and 2305 and inserting in lieu thereof the following:

"§ 2304. Competition requirements

"(a) Except as provided in subsection (e) of this section or otherwise authorized by law, the head of an agency shall use competitive procedures in making contracts for property or services. The head of an agency shall use advance procurement planning and market research and shall prepare specifications in such a manner as is necessary to obtain effective competition with due regard to the nature of the property or services to be acquired. The head of an agency shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify the needs of the agency and solicit bids or proposals in a manner designed to achieve effective competition for the contract.

"(b) The head of an agency may provide for the procurement of property or services in order to establish or maintain any alternative source or sources of supply under this title using competitive procedures but excluding a particular source for that property or services if such head of an agency determines that to do so would (1) increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services, (2) be in the interest of industrial mobilization in case of a national emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to facilitate making small purchases efficiently and economically.

"(d) For other than small purchases, the head of an agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submission, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other price-related factors;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is reasonable expectation of receiving more than one sealed bid;

"(2) shall request competitive proposals from responding sources when sealed bids are not required under clause (1) of this subsection.

"(e) The head of an agency may use noncompetitive procedures only when—

"(1) the property or services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the agency;

"(2) the agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay associated with using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government or international organization, or the directions of any foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute authorizes or requires that the procurement be made through another agency or from a specified source; or the agency's need is for a brand-name commercial item for authorized resale; or

"(6) the disclosure of the agency's needs to more than one source would compromise the national security.

"(f) For the purposes of applying section 2304(e)(1) hereof: (A) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule, and (B) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

"(g) The head of an agency may not award a contract using noncompetitive procedures unless—

"(1) the use of such procedures has been justified in writing;

"(2) a notice has been published with respect to such contract pursuant to section 2305 (c) of this title and all bids or proposals received in response to such notice have been considered by such head of an agency; and

"(3) in the case of any contract exceeding $100,000, the use of such procedures is approved by the head of the organizational element of such agency which has the responsibility to enter into such contract or by a designee of the head of such organizational element who is higher in such organizational element than the contracting officer issuing the solicitation with respect to such contract.

"(h) For the purposes of the following laws, purchases or contracts made under this chapter using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) Sections 35–45 of title 41.

"(2) Sections 276a–276a–5 of title 40."

"§ 2305. Solicitation, evaluation, and award procedures; notice requirements

"(a)(1)(A) Each solicitation under this title shall include specifications which—

"(i) consistent with the needs of the agency, permit effective competition; and

"(ii) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(B) For the purposes of subparagraph (A) of this paragraph, the type of specification included in any solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(i) function so that a variety of products or services may qualify;

"(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(iii) design requirements.

"(2) Each solicitation for sealed bids or competitive proposals other than for small purchases shall at a minimum include, in addition to the specifications described in paragraph (1) of this subsection—

"(A) a statement of—

"(i) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(ii) the relative importance assigned to each of those factors;

"(B) in the case of sealed bids—

"(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(ii) the time and place for the opening of the sealed bids; and

"(C) in the case of competitive proposals—

"(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(ii) the time and place for submission of proposals.

"(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of an agency determines that such action is in the public interest.

"(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of an agency shall evaluate the bids without discussions with the bidders and shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, solely considering the price and the other factors included in the solicitation under subsection (a)(2)(A) of this section. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

"(i) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(ii) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

"(B) In the case of award of a contract under subparagraph (A)(i) of this paragraph, the head of an agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(C) In the case of award of a contract under subparagraph (A)(ii) of this paragraph, the head of an agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(D) The head of an agency shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, solely considering price and other factors included in the solicitation under subsection (a)(2)(A) of this section. The head of the agency shall award the contract by transmitting written notice of the award to such offeror and shall promptly notify all other offerors of the rejection of their proposals.

"(5) If the head of an agency considers that any bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

"(c)(1)(A) Except as provided in paragraph (3) of this subsection—

"(i) the head of an agency intending to solicit bids or, proposals for a contract for property or services at a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in paragraph (2) of this subsection; and

"(ii) the head of an agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(B) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by subparagraph (A) of this paragraph.

"(C) Whenever a head of an agency is required by subparagraph (A)(i) of this paragraph to furnish a notice of a solicitation to the Secretary of Commerce, such head of an agency may not—

"(i) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(ii) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(2) Each notice required by paragraph (1)(A)(i) of this subsection shall include—

"(A) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(B) the name and address of the officer or employee of the agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(C) a statement that any person may submit a bid or proposal which shall be considered by the agency; and

"(D) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(3)(A) A notice is not required under paragraph (1)(A) of this subsection if—

"(i) the notice would disclose the agency's needs and the disclosure of such needs would compromise the national security; or

"(ii) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

"(B) The requirements of paragraph (1)(A)(i) of this subsection do not apply—

"(i) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 2304(e) of this title; and

"(ii) in the case of any procurement for which the head of the agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation."; and

(4) by adding at the end thereof the following new section:

"§ 2316. Record requirements

"(a) Each head of an agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) of this section shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of the procurement;

"(4) the reason under section 2304(e) of this title for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the Federal Procurement Data Center referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)).".

(b) The table of sections at the beginning of such chapter is amended—

(1) by striking out the items relating to sections 2304 and 2305 and inserting in lieu thereof the following:

"2304. Competition requirements.

"2305. Solicitation, evaluation, and award procedures; notice requirements.";

and

(2) by adding at the end thereof the following new item:

"2316. Record requirements.".

CONFORMING AMENDMENTS

SEC. 202. Chapter 137 of title 10, United States Code, is amended—

(1) in section 2306—

(A) by striking out "may, in negotiating contracts under section 2304," in the second sentence of subsection (a) and inserting in lieu thereof "may in awarding contracts after using other than sealed bid procedures";

(B) by striking out "negotiated under section 2304" in the first sentence of subsection (b) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(C) by striking out "section 2304 of this title," in subsection (c) and inserting in lieu thereof "this chapter";

(D) in subsection (f)(1)—

(i) by striking out clause (A) and inserting in lieu thereof the following:

"(1) prior to the award of any prime contract under this title after using other than sealed bid procedures where the contract price is expected to exceed $100,000;";

(ii) by striking out "negotiated" each place it appears in the second paragraph;

(iii) by striking out "negotiation," in the third paragraph and inserting in lieu thereof "proposal for the contract, the discussions conducted on the proposal under this title,"; and

(iv) by striking out "$500,000" each place it appears in clauses (B), (C), and (D) and inserting in lieu thereof "$100,000; and

(E) by adding at the end thereof the following new subsection:

"(i) Except in a case in which the Secretary of Defense determines that military requirements necessitate the specification of container sizes, no contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width.";

(2) by striking out subsection (b) of section 2310 and inserting in lieu thereof the following:

"(b) Each determination or decision under section 2306(c), section 2306(g)(1), section 2307(c), or section 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that (1) clearly indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract, (2) support the findings required by section 2306(g)(1), (3) clearly indicate why advance payments under section 2307(c) would be in the public interest, or (4) clearly indicate why the application of section 2313(b) to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.";

(3) by striking out section 2311 and inserting in lieu thereof the following: "The head

of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter."; and

(4) by striking out "negotiated" in the second sentence of section 2313(b) and inserting in lieu thereof "awarded after using other than sealed bid procedures".

TITLE III—ADVOCATE FOR COMPETITION; ANNUAL REPORT ON COMPETITION

DEFINITION

SEC. 301. For the purposes of this title, the term "executive agency" has the same meaning as provided in section 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)).

ADVOCATE FOR COMPETITION

SEC. 302. (a)(1) There is established in each executive agency an advocate for competition.

(2) Each head of an executive agency shall—

(A) designate for each executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of this Act to serve as the advocate for competition;

(B) relieve such officer or employee of all duties and responsibilities that are inconsistent with the duties and responsibilities of the advocate for competition; and

(C) provide such officer or employee with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition.

(b)(1) The advocate for competition shall promote competition in the procurement of property and services.

(2) The advocate for competition in an executive agency shall—

(A) review the purchasing and contracting activities of the executive agency;

(B) identify and report to the head of the executive agency—

(i) opportunities to achieve competition on the basis of price and other significant factors in the purchases and contracts of the executive agency;

(ii) solicitations and proposed solicitations which include unnecessarily detailed specifications or unnecessarily restrictive statements of need which may reduce competition in the procurement activities of the executive agency; and

(iii) any other condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

(C) prepare and transmit to the head of the executive agency an annual report describing his activities under this section.

ANNUAL REPORT

SEC. 303. (a) Not later than September 30 of each of 1983, 1984, 1985, and 1986, each head of an executive agency shall transmit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives an annual report including the information specified in subsection (b).

(b) Each report transmitted under subsection (a) shall include—

(1) a specific description of all actions that the head of the executive agency intends to take during the next fiscal year to—

(A) increase competition for contracts with the executive agency on the basis of price and other significant factors; and

(B) reduce the number and dollar value of contracts entered into by the executive agency after soliciting bids or proposals from, or evaluating bids or proposals with discussions with, only one source; and

(2) a summary of the activities and accomplishments of the advocates for competition of the executive agency during the fiscal year in which the report is transmitted.

TITLE IV—APPLICABILITY

SEC. 401. The amendments made by this Act shall apply with respect to any solicitations for bids or proposals issued on or after the date two hundred and seventy days after the date of the enactment of this Act.

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Without objection, the amendments are agreed to en bloc.

AMENDMENT NO. 2603

(Purpose: To make conforming amendments)

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Maine (Mr. COHEN) and I ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. COHEN, proposes an amendment numbered 2603.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 17, strike out "and" and insert in lieu thereof "or".

On page 3, line 4, beginning with ", proposals," strike out all through "quotations" on line 5, and insert in lieu thereof "or proposals".

On page 3, line 7, beginning with "award" strike out all through "in the" on line 8, and insert in lieu thereof "provide for the".

On page 3, line 10, strike out "of such", and insert in lieu thereof "under this title using competitive procedures but excluding a particular source for that".

On page 3, line 11, insert "or maintain" after "increase".

On page 3, line 14, strike out "or".

On page 3, line 15, insert ", or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States" before the period.

On page 4, line 2, strike out "factors considered", and insert in lieu thereof "price-related factors".

On page 4, line 13, strike out "and", and insert in lieu thereof "or".

On page 4, line 20, strike out "involved in", and insert in lieu thereof "associated with".

On page 4, line 22, beginning with "maintain" strike out all through line 24, and insert in lieu thereof "(A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;".

On page 5, line 3, insert "or international organization" before the comma.

On page 5, line 9, strike out "provides", and insert in lieu thereof "authorizes or requires".

On page 5, line 10, insert "from" after "or".

On page 5, line 11, insert "the agency's need is for a brand-name commercial item for authorized resale; or" after "or".

On page 5, between lines 14 and 15, insert the following:

"(f) For the purposes of applying subsection (e)(1)—

"(1) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule; and

"(2) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

On page 5, line 15, strike out "(f)", and insert in lieu thereof "(g)".

On page 5, between lines 18 and 19, insert the following:

"(1) the use of such procedures has been justified in writing;

On page 5, beginning with line 19, strike out all through "purchase," on line 20, and insert in lieu thereof "(2)".

On page 5, line 22, strike out ", proposals, and quotations", and insert thereof "or proposals".

On page 6, line 1, strike out "(2)", and insert in lieu thereof "(3)".

On page 6, line 8, strike out the close quotation marks and the semicolon.

On page 6, between lines 8 and 9, insert the following:

"(h) For the purposes of the following laws, purchases or contracts made under this title using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).".

On page 8, line 2, insert "at a minimum" after "shall".

On page 8, line 10, insert "each of" before "those".

On page 9, line 3, insert "solely" after "based".

On page 9, line 15, insert "solely" before "considering".

On page 10, line 3, insert "where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices" before the period.

On page 10, line 23, strike out "received under sealed bid procedures", and insert in lieu thereof "or proposal".

On page 10, line 24, insert "or proposal" after "bid".

On page 11, line 5, strike out ", proposals, or quotations" and insert in lieu thereof "or proposals".

On page 11, line 6, strike out "exceeding", and insert in lieu thereof "expected to exceed".

On page 12, line 8, strike out "bids, proposals, or quotations", and insert in lieu thereof "all bids or proposals".

On page 13, line 19, strike out "a", and insert in lieu thereof "an accurate".

On page 14, strike out lines 9 through 11, and insert in lieu thereof the following:

if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security; or

"(B) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

On page 16, line 15, insert "contract" before "price".

On page 18, beginning with line 21, strike out all through line 24, and insert in lieu thereof the following:

(B) by striking out subsections (c), (d), and (e) and insert in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains or similar items using other than sealed bid procedures under section 303(d)(1), if the conditions set forth in section 303(d)(1) apply or the contract is to be performd outside the United States.

"(2) Section 303(d)(1) does not require the use of sealed bid procedures in cases in which section 204(e) of title 23, United States Code, applies,"; and

(C) by redesignating subsection (f) as subsection (d);

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2603) was agreed to.

AMENDMENT NO. 2604

(Purpose: To remove from the bill certain provisions enacted into law after the bill was reported to the Senate)

Mr. BYRD. Mr. President, I send an amendment to the desk in behalf of Mr. LEVIN and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. LEVIN, proposes an amendment numbered 2604.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 24, strike out "agency; and" and insert in lieu thereof "agency.' ".

On page 6, beginning with line 1 strike out all down through line 8.

On page 26, after the semicolon in line 20 insert "and".

On page 27, line 2, strike out "agency; and" and insert in lieu thereof "agency.".

On page 27, beginning with line 3 strike out all down through line 10.

● Mr. LEVIN. Mr. President, the purpose of my technical amendment is to strike from this bill certain provisions I offered as an amendment to the bill when introduced that have since been enacted into law in S. 272, the small business notice bill. S. 272 was signed into law on August 11, 1983, and it is my hope that its enactment will produce great savings from the reduced use of sole-source procurement. Events having overtaken this language, it is no longer that the Levin sole-source provisions be a part of S. 338.●

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2604) was agreed to.

AMENDMENT NO. 2605

(Purpose: To make technical corrections)

Mr. BAKER. Now, Mr. President, I send to the desk another amendment on behalf of the distinguished Senator from Maine (Mr. COHEN) and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. COHEN, proposes an amendment numbered 2605.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 27, strike out lines 16 and 17, and insert in lieu thereof the following:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2605) was agreed to.

● Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 338, the Competition in Contracting Act of 1983, which I introduced to increase the use of competition in government contracting and to impose more stringent restrictions on the awarding of noncompetitive, sole-source contracts.

This legislation was reported unanimously by the Governmental Affairs Committee on March 23 and by the Armed Services Committee on June 27. I am pleased to have Senators ROTH, LEVIN, RUDMAN, PERCY, PRYOR, PROXMIRE, HEINZ, DURENBERGER, STEVENS, DANFORTH, MITCHELL, RIEGLE, BINGAMAN, WILSON, EXON, WARNER, GOLDWATER, and HATCH as cosponsors.

Competitive procurement, whether formally advertised or competitively negotiated, is beneficial to the Government. The Competition in Contracting Act recognizes that competitive contracting takes more than one form and establishes an absolute preference for competition in the Federal procurement statutes. The legislation safeguards against unnecessary, sole-source contracting by providing limited conditions under which agencies are permitted to contract noncompetitively and by requiring agencies to publicize prospective contracts to flush the marketplace for potential competitors. As a final check on noncompetitive contracting, the bill establishes an advocate for competition and strengthens the recording and reporting requirements.

These procurement reform proposals are not new. In fact, the Armed Services Committee held hearings in 1959 on legislation to provide competitive negotiation equal status with formal advertising. The Commission on Government Procurement made similar recommendations to improve the procurement process in its 1972 report to Congress. Most recently, the Office of Federal Procurement Policy adopted the Commission's recommendations in its 1982 proposal for a uniform procurement system, which served as the basis for S. 338.

Despite this consensus over the past quarter century that procurement reform is needed, and despite the fact that the dollar value of Government contracts has almost tripled during the past decade alone—from $57.5 billion in 1972 to $158.9 billion in 1982—the laws which have governed contracting since 1947 remain intact.

Under our current contracting laws, Government agencies are required to promote the use of full and free com-

petiton in the procurement of property and services. In Government contracting, competition is a marketplace condition which results when several contractors, acting independently of each other and of the Government, submit bids or proposals in an attempt to secure the Government's business.

Currently, formal advertising is the preferred procurement procedure, with negotiation authorized by prescribed exceptions. Despite this preference for competiton through formal advertising, however, negotiated contracts account for the vast majority of government procurement dollars. Negotiated contracts can be competitive—and the legislation recognizes and encourages competitive negotiation when it is the appropriate contracting method—but more than half of all negotiated contracts are sole-sourced. According to figures compiled by the Federal Procurement Data Center, $79.2 billion of the $146.9 billion spent on property and services over $10,000 in fiscal 1982 was negotiated noncompetitively.

While not all Government contracts can be awarded competitively, too often agencies contract on a sole-source basis when competition is available. A July 1981 General Accounting Office (GAO) report, entitled "DoD Loses Many Competitive Procurement Opportunities," estimated that the Defense Department failed to obtain competition in awarding $289 million in new fiscal 1979 contract awards surveyed. Moreover, an April 1982 GAO report, entitled "Less Sole-Source, More Competition Needed in Federal Civil Agencies' Contracting," found that this problem was not confined to the DoD. According to this report, the six civil agencies reviewed, which awarded new sole-source contracts totaling $538.1 million, failed to obtain competition on an estimated 40 percent of their contract awards.

The benefits lost from awarding sole-source contracts which could have been competed are numerous. First, competition in contracting saves money. Studies have indicated that between 15 and 50 percent can be saved through increased competition. In 1977, the Defense Science Board (DSB) examined more than a dozen examples of competed contracts for weapons and found significant evidence of cost savings, with an average savings of nearly 15 percent. The DSB concluded that "competition is a powerful motivator for cost control." More recently, the GAO reported, at Senator LEVIN's request, the results of the competitive procurement for the T-3 tractor—a contract which initially was to have been awarded noncompetitively. The GAO found that the lowest bid in a competitive procurement for the T-3 tractor was 43 percent less than the cost of the contract had it been awarded on a sole-source basis.

In March 1983, the Congressional Budget Office estimated that significant savings could be achieved through the effective implementation of the Competition in Contracting Act. The CBO estimates that each 1 percent saved on new contract actions reduces costs by about $200 million per year. Since studies on the use of competitive contracting have concluded that potential savings range from 15 to 50 percent, a conservative estimate of the savings resulting from this legislation would be well over $2 billion.

In addition to potential cost savings, competition curbs cost growth. The Analytic Sciences Corporation (TASC) completed a study in April 1982 which compared cost growth between competitive and noncompetitive programs. The TASC study found that cost growth in programs during full-scale development varied from 2 percent for competitive programs to 40.2 percent for noncompetitive programs, while cost growth during production ranged from 9.65 to 12.7 percent.

The last, and possibly the most important, benefit of competition is its inherent appeal of fair play. Competition maintains the integrity in the expenditure of public funds by insuring that Government contracts are awarded on the basis of merit rather than favoritism.

I believe there are two primary shortcomings in the present procurement statutes: First, they do not recognize negotiation as a legitimate competitive procurement procedure; and second, they do not adequately restrict the use of noncompetitive negotiation. Effective implementation of S. 338 would rectify both problems.

The formal advertising requirement in present law is intended to keep the system honest and to secure the most advantageous contract for the Government. The emphasis on formal advertising, however, results in excessive justification requirements for the use of negotiation, which is more appropriate for complex procurements. If contracting officers need to consider factors other than price in making awards, or wish to have any discussions with prospective contractors, they must satisfy one of the statutory exceptions that permit negotiation. For all practical purposes, therefore, competitive negotiation lacks recognition as a bona fide competitive technique.

Our legislation removes the restriction from—and the written justification required for—competitive negotiation and places it on par with formal advertising. Together, they constitute competitive procedures, with exceptions provided for noncompetitive procedures. The objective is to establish an absolute preference for competition and to provide more flexibility in contracting. William Long, former Deputy Under Secretary for DOD Acquisition Management, testified last year at a Governmental Affairs hearing that this new approach to competitive procurement best represents the real procurement world.

Under the Competition in Contracting Act, agencies are not only required to obtain competition, but to increase its effectiveness. Agencies should be required to obtain "effective competition" through advance procurement planning, market research, and the development of specifications which are not restrictive of competition. We recognize that this extensive an effort may not be cost effective for small purchases. Therefore, this legislation provides a basis in statute for regulations to establish separate small purchase procedures for procurements under $25,000, which would allow agencies to scale down their efforts as long as they obtained reasonable competition.

The procurement statutes authorize negotiated procurement, but restrict its use to 17 conditions for defense contracts and 15 conditions for civilian contracts. While agencies are required to award negotiated contracts competitively to the maximum extent practicable, negotiation can be—and frequently is—noncompetitive. Beyond the justification for negotiated procurement, however, present law does not require further justification for noncompetitive award.

Due to this lack of direct restriction on noncompetitive contracting, the exceptions to formal advertising in present law are often used inappropriately to justify sole-source procurement, rather than negotiation. The justification most frequently invoked by the executive agencies is the "competition is impracticable" exception—an enormous loophole. The use of such broad exceptions to formal advertising as a means to sole-source contract often conceals the true reason for awarding a contract noncompetitively.

S. 338 provides six exceptions to competitive procedures which permit agencies to use noncompetitive procedures in awarding a contract when competition is not possible. In doing so, the bill shifts the emphasis from having to justify negotiation, as is presently required, to having to justify noncompetitive procurements. The intent is to place greater restrictions on the use of noncompetitive procurements without precluding its use when necessary. Awarding a contract on a sole-source basis would for the first time constitute a clear violation of statute unless permitted by one of the following six exceptions:

First, the property or service is available from only a single source and no competitive alternatives are available;

Second, the agency's need is of such unusual and compelling urgency that

the Government would be seriously injured by the delay associated with using competitive procedures;

Third, it is necessary to award the contract to a particular source in order to maintain an essential industrial capability, achieve industrial mobilization, or establish or maintain an essential research capability;

Fourth, the terms of any international agreement or treaty, or the directions of any foreign government, have the effect of requiring the use of noncompetitive procedures;

Fifth, a statute authorizes or requires that the procurement be made through another agency or from a specified source; or the agency's need is for a brand-name commercial item for authorized resale; or

Sixth, disclosure of the agency's needs to more than one source would compromise the national security.

These six exceptions parallel the conditions under which the Comptroller General has historically permitted agencies to award on a sole-source basis. Under the first exception, however, I feel there should be a "double check" for potential competition before the sole-source award is made. This legislation would generally require agencies to publish a notice of their prospective contracts over $10,000 in the Commerce Business Daily. The objective is to alert contractors, who may be capable of meeting the agency's needs but would have otherwise not known of the contract, to submit offers. For contracts over $100,000, moreover, S. 338 would require review by the head of the procuring activity, or his or her designee, before these contracts are negotiated noncompetitively.

Absent from the list of exceptions to competitive procedures are unsolicited proposals. While it may be the Government's policy to foster and encourage the submission of unsolicited proposals, the regulations specifically state that such proposals should not be merely an advance proposal for a specific agency requirement which would normally be procured by competitive methods. S. 338 therefore requires agencies to conduct a market search, without disclosing the offeror's ideas, proprietary information or solution contained in the unsolicited proposal, in order to determine whether the substance of the proposal is available from another source. If publication of an unsolicited proposal would disclose the offeror's original thoughts or proprietary information, S. 338 exempts such proposals from the notice requirement.

To facilitate oversight of noncompetitive contracts, the Competition in Contracting Act also requires agencies to maintain a record, by fiscal year, identifying all sole-sourced procurements. As proposed by Senator PRYOR, an advocate for competition in each procuring agency would be responsible for reporting the opportunities to achieve competition and any conditions which could potentially restrict competition. These new recording and reporting requirements would allow the Congress, the Office of Federal Procurement Policy, and senior agency officials to evaluate the progress of each agency in increasing the use of competitive contracting.

The Competition in Contracting Act builds on existing statutes to enhance the use of competition in Government contracting and to restrict sole-source award to only those cases where it is truly warranted. Within the new statutory framework, the evaluation and award procedures would be the same as those currently required for formal advertising and negotiation. Considering the history of Comptroller General and court decisions which have interpreted the present evaluation and award procedures, I am confident this legislation can be quickly and easily implemented. I strongly believe that the Competition in Contracting Act sets forth a workable solution to the costly problem of excessive sole-source contracting.

Mr. President, I urge the adoption of S. 338 and its conforming and technical amendments.●

● Mr. PERCY. Mr. President, I rise with an inquiry. The Competition in Contracting Act would revise the Federal Property and Administrative Services Act to broaden the requirements for competition, but the language of section 303 contains the words ". . . except as . . . otherwise authorized by law . . .," carrying forward a very important distinction made in the Brooks Act, 40 U.S.C. 541. The distinction provides that architect and engineering services, defined as "those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform," may be procured by competitive negotiation—a time-tested method for acquiring professional services of this kind. Am I correct that this important distinction will be preserved under the language of section 303?

Mr. COHEN. Yes; it would be preserved.

Mr. PERCY. I thank the Senator. I have also been concerned that the Comptroller General has given an overly restrictive interpretation to this definition of architecture and engineering services, and has decided on several occasions that surveying and mapping services are not included. However, the issue has been more recently addressed in the Supplemental Appropriations Act for 1983. The section of that act appropriating funds for the Corps of Engineers of the Department of the Army provides that "contracts for architect and engineering services, and surveying and mapping services, shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) . . .". Under this language, the Corps of Engineers will award contracts for mapping and surveying in accordance with the Brooks Act.

Mr. COHEN. That is a positive step. I think it is important to note, moreover, that this language does not only apply to the Corps of Engineers, but to all Government procuring agencies.

Mr. PERCY. Would the Competition in Contracting Act then carry forward the construction of the Brooks Act contained in that language from the Supplemental Appropriations Act?

Mr. COHEN. That is correct.

Mr. PERCY. I thank the Senator from Maine for his most helpful clarification.●

● Mr. ROTH. Mr. President, I rise in support of the Competition in Contracting Act of 1983. I am pleased to be an original cosponsor of the proposal and applaud Senator COHEN for his efforts in drafting this important piece of legislation. A similar bill was reported out of my Committee on Governmental Affairs late last year and I am very pleased that the committee was able to act quickly to report this measure. I am convinced the bill will strengthen the use of competitive practices in Government procurement activities. I would also like to commend very highly Senator TOWER, chairman of the Committee on Armed Services and Senator NUNN, the ranking member of the committee, for their strong support and expeditious action in reporting the bill out of their committee. I know that they are committed to improving the defense acquisition process and I applaud them for their leadership on this bill.

The Competition in Contracting Act of 1983, S. 338, will encourage greater levels of competition in Federal procurement and impose new restrictions on sole-sourcing contracts throughout Government. It would do this by changing the focus of the existing procurement statutes to distinguish between truly competitive contracts and those which are not awarded competitively.

Currently, the procurement statutes do not stress the competitive aspects of Government purchasing practices and instead focus simply on whether or not a particular contract was advertised or negotiated. While the use of advertising is very important in Government contracting, and remains the preferred method of procurement under our bill, it is not the only type of competitive contracting method available. Our bill will encourage broader use of other competitive contracting methods and stimulate greater levels of real competition in Gov-

ernment procurement. In addition, the bill greatly narrows the number of exceptions in current law to using competitive practices and also requires a procuring agency to publish advance notice of most large contracts, even those the agency feels should not be competed, so that potential suppliers can place bids. This provision would act as a double check on the agency and encourage the marketplace to be used for a wider variety of contracts.

Mr. President, it is true that this bill would modify the procurement practices of all Federal agencies. However, I am particularly concerned about increasing the efficiency of procurement procedures in the Defense Department because that is where 75 percent of all procurement dollars will be spent next year. Real purchases of defense goods, including R&D and procurement of major weapons systems, will grow at an estimated rate of 16 percent annually under the President's budget between 1981 and 1987. This rate of growth exceeds the 14 percent annual rate of increase that occurred during the 3 peak years of the Vietnam buildup. Weapons system procurement and development, which totaled $48.9 billion in 1980 will reach a level of cover $130 billion in the coming fiscal year. Clearly, with this magnitude of funding we must do everything possible to insure that our defense dollars are used effectively and efficiently.

My Committee on Governmental Affairs has held 4 days of hearings so far this year on the management of the defense acquisition process. We heard testimony from the administration indicating that it is trying to improve the effectiveness and reduce the costs of the procurement system. Deputy Secretary Thayer assured the committee that he is focusing his attention on a series of management initiatives which he believes would help to curb the cost of the procurement system.

Yet, one problem for years has plagued the DOD in its efforts to improve the management of massive, new weapons programs and that problem is the failure of the Department to encourage real competition in contracting. Some two-thirds of the value of all DOD procurements are noncompetitive, that is, not open to bidding or negotiation to all interested and qualified parties. Out of a total of $65 billion awarded by DOD in 1980, over $40 billion was negotiated without competition. In one study, GAO reviewed 25 contracts that it believed should have been competed and determined that contracting officers did not make required reviews to assure that competition was impossible. In 70 percent of these cases, the contracting officers placed contracts with companies their supervisors had suggested. It appears that DOD is running an auction without a caller and with only one participant who is admitted by special invitation only.

We need to insure greater competition in DOD procurement for several reasons, of which reduction in cost is just one. The fondness of DOD to sole source its goods and services may be having a serious effect on our military industrial base. The practice of sole-sourcing may contribute to reducing the number of firms willing to bid on DOD projects by shutting out innovative, smaller firms. For instance, only 25 firms currently hold approximately 50 percent of all defense contracts and only 8 firms conduct 45 percent of all defense research. Significantly, some 2,000 aerospace industry subcontractors disappeared from 1968 to 1975, many of them unique suppliers of critical defense components.

It is possible that excessive use of sole-source contracts by DOD was the final nail in the coffins of many of these contractors. By refusing to open up the DOD marketplace to competition, we may be forcing many companies to fold or refuse to contract for defense projects, thereby reducing further any opportunity for competition.

Costs too can be reduced through the use of competitive contracts by DOD. Some studies suggest that as much as 30 percent can be saved through the use of competition in the acquisition process. For example, one analyst has estimated that competition and lack of extensive specs saved $640 million on the procurement of specialized ammunition for the A-10 aircraft. The Defense Science Board found more than a dozen examples of competed contracts for weapons such as the AIM-7 missile and uncovered significant evidence of cost savings averaging nearly 15 percent. The D.S.B. concluded that, "Competition is a powerful motivator for cost control."

Yet, with all of this evidence, DOD continually fails to use the forces of the marketplace to reduce costs. DOD claims that it is difficult to use competitive contracts in many cases and yet, as the Defense Science Board noted, there is "very little definitive evaluation by DOD on the real cost value of competition." In other words, DOD cannot stand the taste of the medicine it needs even though it has not tasted it very often.

Without competition in the acquisition process, there are few incentives on the part of the contractor or the DOD to reduce costs. DOD is helping to create a new "army," one composed of a few select companies operating in the warm glow of a monopoly contract. There may be some rivalry during the initial phases of a contract award for research and development but frequently the contractors involved do not fight long enough to really challenge each other. In the end, one firm usually becomes the sole developer and producer of a weapon for a decade or more.

Competition in DOD programs is not the only cost-reducing technique available but it is one of the most important. Unnecessary costs in defense programs must be brought under control soon for the American people cannot be fooled for long. More dollars must not mean more unnecessary expenses. Congress has already begun scaling back the increases in defense spending originally proposed by the President. Without visible, effective and lasting improvements in DOD's efforts to buy more weapons systems, the clamor for more defense cuts can only get louder.

I am confident the legislation we are considering today will begin the process of insuring more effective management of procurement by using the discipline of the marketplace to control costs. I look forward to the passage of this legislation to enhance competition and I am pleased to join Senator COHEN in this initiative. I urge my colleagues to support S. 338.●

● Mr. LEVIN. Mr. President, I am most pleased today that the Senate is considering final passage of S. 338, the Competition in Contracting Act of 1983. I joined with Senator COHEN in cosponsoring this bill in February of this year. S. 338 is similar to a bill Senator COHEN and I cosponsored in the 97th Congress that was reported by the Governmental Affairs Committee but was never enacted into law.

Mr. President, I am convinced that this bill will accomplish two very important things: It will save the Federal Government large sums of money through increased competition leading to lower procurement prices; and also, it will foster the growth and health of small business and industry which is so essential to our economy and national defense.

NEED FOR COMPETITION

The way the Government spends its procurement dollars—both in the Department of Defense and in the rest of the Federal Government—has been one of my greatest interests and areas of endeavor since I came to the Senate. During these last 5 years I have been compelled to become an advocate for competition. I say compelled because I find the level of competition in Government procurement to be appalling. Although it is commonly accepted knowledge that competition can reduce the cost of procurement 25 percent or more, there is no proven commitment to increase the levels of competitive procurement.

The size of these numbers and the possible savings involved are almost beyond human comprehension. In fiscal year 1982, total Federal contract actions totaled $159 billion. Of this amount, actions within the Department of Defense accounted for $125 billion. Yet, only 37 percent of these

actions, and 35 percent of the DOD actions, were done competitively. In other words, 63 percent of the total $159 billion are spent with sole-source contracts.

Mr. President, this bill represents not only my and Senator COHEN's efforts, but is the consensus product of broad-based consideration within the Senate. S. 338 has been carefully combed, filtered, and refined by both the Senate Committee on Governmental Affairs and the Senate Armed Services Committee. Furthermore, it represents the first major effort by Congress to overhaul the Government procurement statutes since the Armed Services Procurement Act of 1947 and the Federal Property and Administrative Services Act of 1949.

One of the reasons the Government has been able to award so many contracts on a sole-source basis is because of the large number of statutory exemptions from requirements for sealed-bid procurement included in these two procurement laws that have been on the books relatively unchanged for 35 years.

The 1947 act and the 1949 act contain 17 and 15 exemptions to the sealed-bid process, respectively. Until the Congress passed a relatively unheralded bill 3 months ago, the agencies have been able to cite these exemptions as the basis for using the process of negotiation instead of sealed bids, and then shift to procuring on a sole-source basis without need for further justification.

As my colleague, Senator COHEN, ably explained, S. 338 replaces these numerous and loosely worded exemptions with six tightly drafted exemptions to competition. Upon passage of this bill, no exception need be cited to move from sealed bids to competitive negotiation but moving from competition to sole-source procurement will prove much more difficult.

LEVIN SOLE-SOURCE AMENDMENT

Included in this bill, but already signed into law as an amendment to S. 272, the Small Business Notice Act, on August 11, 1983, is language I have attempted to have enacted for several years. The Levin sole-source amendment requires that any time the Government intends to procure on a sole-source basis on the grounds that no other business is capable of producing an item, the Government must publish notice in the Commerce Business Daily stating intent to make a sole-source award, but inviting any interested party to respond to the listed office, should they believe their firm could compete for the proposed contract.

A second prong in this Levin sole-source language requires signoff on the contracting officer's decision to go sole source by the head of the procuring activity. This signoff requirement operates on all procurements in excess of a certain threshold: $1 million in the first year of operation; $500,000 in the second year; and $300,000 in the third year. At the end of that time the conferees reserved the right to look at lowering that threshold to the $100,000 level.

CERTIFICATION OF COST AND PRICING DATA

Mr. President, in addition to the tightened exemptions to competition and the Levin sole-source amendment, another item of particular interest to me is an amendment I offered in markup in the Governmental Affairs Committee that returns the threshold for DOD contractor compliance with the requirement to certify cost and pricing data as required by the Truth in Negotiations Act of 1962 (P.L. 87-653) to the same $100,000 level that must be abided by for doing business with the other procuring branches of the Federal Government. This act simply required that any contractor awarded a contract in the absence of competition for more than $100,000 must certify that—

To the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current.

Two years ago the conferees on the fiscal year 1982 DOD authorization bill accepted a House amendment that raised this threshold for certification from $100,000 to $500,000.

Mr. President, we have since learned that with the passage of this amendment the Department of Defense routinely fails to audit contracts in this $100,000 to $500,000 range. Many of the spare parts horror stories and discussions of overpricing that have been so much in the forefront during the last year have resulted from contract modifications or ordering agreements that did not breach this threshold—and thus escaped tight auditing attention. Thank goodness for the DOD Inspector General's Office as they have been instrumental in catching many of these problems, but it is imperative that we provide the DOD auditors with the tools they need to demand fair and accurate prices.

CONCLUSION

Mr. President, there are other provisions in this bill that Senator COHEN has mentioned, and the combination of these efforts should prove to be an important initiative and milestone in the annals of Government procurement law.

We are asking the American public to foot an enormous bill for Government procurement, nearly 80 percent of that amount within the Department of Defense. We owe it to the public and to American business to do no less than these two things: Spend these awesome amounts sensibly and sanely, never failing to grasp every conceivable opportunity to insure that our procurement practices are sound; and give every business in this land a meaningful opportunity to compete for these dollars, rather than funneling precious taxpayers funds to a chosen and unchallenged few.

I want to commend Senator COHEN and his staff for their work in drafting this bill, and also I want to commend the members of the Governmental Affairs and Armed Services Committees for their wise and expeditious consideration of this bill. We have before us now the product of long and thoughtful consideration that deserves the support of every Member of the Senate.●

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competition in Contracting Act of 1983".

TITLE I—AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 101. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by striking out section 303 (41 U.S.C. 253) and the heading of such section and inserting in lieu thereof the following:

"COMPETITION REQUIREMENTS

"SEC. 303. (a) Except as provided in subsection (e) or otherwise authorized by law, executive agencies shall use competitive procedures in making contracts for property or services. Executive agencies shall use advance procurement planning and market research and shall prepare specifications in such a manner as is necessary to obtain effective competition with due regard to the nature of the property or services to be acquired. Executive agencies shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify its needs and solicit bids or proposals in a manner designed to achieve effective competition for the contract.

"(b) An executive agency may provide for the procurement of property or services in order to establish or maintain any alternative source or sources of supply under this title using competitive procedures but excluding a particular source for that property or services if the executive agency determines that to do so would (1) increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services, (2) be in the interest of industrial mobilization in case of a national emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research

and development center funded by the United States.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to facilitate making small purchases efficiently and economically.

"(d) For other than small purchases, an executive agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submissions, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other price-related factors;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is a reasonable expectation of receiving more than one sealed bid;

"(2) shall request competitive proposals when sealed bids are not required under clause (1) of this subsection.

"(e) An executive agency may use noncompetitive procedures only when—

"(1) the property or services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the executive agency;

"(2) the executive agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay associated with using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government, or international organization, or the directions of any foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute authorizes or requires that the procurement be made through another executive agency or from a specified source or the agency's need is for a brand-name commercial item for authorized resale; or

"(6) the disclosure of the executive agency's needs to more than one source would compromise the national security.

"(f) For the purposes of applying subsection (e)(1)—

"(1) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule; and

"(2) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

"(g) An executive agency may not award a contract using noncompetitive procedures unless—

"(1) the use of such procedures has been justified in writing; and

"(2) a notice has been published with respect to such contract pursuant to section 313 and all bids or proposals received in response to such notice have been considered by such executive agency.

"(h) For the purposes of the following laws, purchases or contracts made under this title using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes, approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a-276a-5).".

(2) by adding at the end of section 309 (41 U.S.C. 259) the following new subsections:

"(b) The term 'executive agency' has the same meaning as provided in section 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)), except that such term does not include the departments or establishments specified in section 2303(a) of title 10, United States Code.

"(c) The term 'competitive procedures' means procedures under which an executive agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the executive agency.

"(d) The term 'noncompetitive procedures' means procedures other than competitive procedures.

"(e) The term 'small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using the small purchase procedures."; and

(3) by adding at the end thereof the following new sections:

"SOLICITATION REQUIREMENTS

"SEC. 311. (a)(1) Each solicitation under this title shall include specifications which—

"(A) consistent with the needs of the executive agency, permit effective competition; and

"(B) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(2) For the purposes of paragraph (1), the type of specification included in any solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(A) function so that a variety of products or services may qualify;

"(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(C) design requirements.

"(b) Each solicitation for sealed bids or competitive proposals other than for small at a minimum purchases shall include, in addition to the specifications described in subsection (a)—

"(1) a statement of—

"(A) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(B) the relative importance assigned to each of those factors;

"(2) in the case of sealed bids—

"(A) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(B) the time and place for the opening of the sealed bids; and

"(3) in the case of competitive proposals—

"(A) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(B) the time and place for submission of proposals.

"EVALUATION AND AWARD

"SEC. 312. (a) An executive agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the executive agency determines that such action is in the public interest.

"(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and shall, except as provided in subsection (b), award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, solely considering the price and the other factors included in the solicitation under section 311(b)(1). The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(B) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) The executive agency shall, except as otherwise provided in subsection (b), award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, considering price and the other factors included in the solicitation under section 311(b)(1). The executive agency shall award the contract by transmitting written notice of the award to such offeror and shall

promptly notify all other offerors of the rejection of their proposals.

"(e) If the head of an executive agency considers that any bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

"PROCUREMENT NOTICE

"SEC. 313. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids or proposals for a contract for property or services at a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name and address of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) a statement that any person may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(4) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security; or

"(B) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

"(2) The requirements of subsection (a)(1)(A) do not apply—

"(A) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 303(e); and

"(B) in the case of any procurement for which the head of the executive agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"RECORD REQUIREMENTS

"SEC. 314. (a) Each executive agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of procurement;

"(4) the reason under section 303(e) for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the executive agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the Federal Procurement Data Center referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)).".

(b) The table of contents of such Act is amended—

(1) by striking out the item relating to section 303 and inserting in lieu thereof the following:

"Sec. 303. Competition requirements.";

and

(2) by inserting after the item relating to section 310 the following new items:

"Sec. 311. Solicitation requirements.
"Sec. 312. Evaluation of bids; awards.
"Sec. 313. Procurement notice.
"Sec. 314. Record requirements.".

COST AND PRICING DATA

SEC. 102. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current—

"(A) prior to the award of any prime contract under this title using other than sealed bid procedures where the contract price is expected to exceed $100,000;

"(B) prior to the pricing of any contract change or modification for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency;

"(C) prior to the award of a subcontract at any tier, where the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed $100,000; or

"(D) prior to the pricing of any contract change or modification to a subcontract covered by clause (C), for which the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the head of the agency.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the executive agency that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), was inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the head of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal under this chapter, pricing, or performance of the contract or subcontract.

"(4) The requirements of this subsection need not be applied to contracts or subcontracts where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation or, in exceptional cases where the head of the executive agency determines that the requirements of this subsection may be waived and states in writing his reasons for such determination.".

CONFORMING AMENDMENTS

SEC. 103. (a) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 302 (41 U.S.C. 252)—

(A) by striking out the second sentence in subsection (b);

(B) by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using other than sealed bid procedures under section 303(d)(1), if the conditions set forth in section 303(d)(1) apply or the contract is to be performed outside the United States.

"(2) section 303(d)(1) does not require the use of sealed bid procedures in cases in which section 204(e) of title 23, United States Code, applies."; and

(c) by redesignating subsection (f) as subsection (d);

(2) by striking out the heading of section 304 and inserting in lieu thereof the following:

"CONTRACT REQUIREMENTS";

(3) in section 304 (41 U.S.C. 254)—

(A) by striking out "negotiated pursuant to section 302(c)" in the first sentence of subsection (a) and inserting in lieu thereof "awarded using other than sealed bid procedures";

(B) by striking out "negotiated pursuant to section 302(c)" in the second sentence of subsection (a) and inserting in lieu thereof "awarded after using other than sealed bid procedures"; and

(C) by striking out "negotiated without advertising pursuant to authority contained

in this Act" in the first sentence of subsection (c) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(4) in section 307 (41 U.S.C. 257)—

(A) by striking out "Except as provided in subsection (b), and except" in the second sentence of subsection (a) and inserting in lieu thereof "Except";

(B) by striking out subsection (b);

(C) by striking out "by paragraphs (11)-(13), or (14) of section 302(c)," in subsection (c);

(D) by redesignating subsection (c) as subsection (b); and

(E) by striking out subsection (d);

(5) by striking out "entered into pursuant to section 302(c) without advertising," in section 308 and inserting in lieu thereof "made or awarded after using other than sealed bid procedures"; and

(6) by striking out "section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303." in section 310 and inserting in lieu thereof "the provisions of this title relating to other than sealed bid procedures.".

(b) The table of contents of such Act is amended by striking out the lieu relating to section 304 and inserting in lieu thereof the following:

"Sec. 304. Contract requirements.".

TITLE II—AMENDMENTS TO TITLE 10, UNITED STATES CODE

COMPETITIVE AND NONCOMPETITIVE PROCEDURES

SEC. 201. (a) Chapter 137 of title 10, United States Code, is amended—

(1) in section 2302—

(A) by inserting "the Secretary, any Deputy Secretary, any Under Secretary, or any Assistant Secretary of Defense;" after "means" in clause (1);

(B) by striking out clauses (2) and (3) of section 2302 and inserting in lieu thereof the following:

"(2) 'Agency' means any department or establishment specified in section 2303(a) of this title.

"(3) 'Competitive procedures' means procedures under which the head of an agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the needs of the agency.

"(4) 'Noncompetitive procedures' means procedures other than competitive procedures.

"(5) 'Small purchase' means any purchase or contract which does not exceed $25,000. A proposed procurement shall not be divided into several procurements primarily for the purpose of using small purchase procedures.";

(2) in section 2303(a)—

(A) by redesignating clauses (1), (2), (3), (4), and (5) as clauses (2), (3), (4), (5), and (6), respectively; and

(B) by inserting before clause (2) (as redesignated by subclause (A)) the following:

"(1) The Department of Defense.";

(3) by striking out sections 2304 and 2305 and inserting in lieu thereof the following:

"§ 2304. Competition requirements

"(a) Except as provided in subsection (e) of this section or otherwise authorized by law, the head of an agency shall use competitive procedures in making contracts for property or services. The head of an agency shall use advance procurement planning and market research and shall prepare specifications in such a manner as is necessary to obtain effective competitive with due regard to the nature of the property or services to be acquired. The head of an agency shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement action and shall specify the needs of the agency and solicit bids or proposals in a manner designed to achieve effective competition for the contract.

"(b) The head of an agency may provide for the procurement of property or services in order to establish or maintain any alternative source or sources of supply under this title using competitive procedures but excluding a particular source for that property or services if such head of an agency determines that to do so would (1) increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services, (2) be in the interest of industrial mobilization in case of a national emergency, or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States.

"(c) Procurement regulations shall include special simplified procedures and forms for small purchases to facilitate making small purchases efficiently and economically.

"(d) For other than small purchases, the head of an agency, when using competitive procedures—

"(1) shall solicit sealed bids when—

"(A) time permits the solicitation, submission, and evaluation of sealed bids;

"(B) the award will be made on the basis of price and other price-related factors;

"(C) it is not necessary to conduct discussions with the responding sources about their bids; and

"(D) there is reasonable expectation of receiving more than one sealed bid;

"(2) shall request competitive proposals from responding sources when sealed bids are not required under clause (1) of this subsection.

"(e) The head of an agency may use noncompetitive procedures only when—

"(1) the property or services needed by the Government are available from only one source and no other type of property or services will satisfy the needs of the agency;

"(2) the agency's need for the property or services is of such unusual and compelling urgency that the Government would be seriously injured by the delay associated with using competitive procedures;

"(3) it is necessary to award the contract to a particular source or sources in order to (A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;

"(4) the terms of any international agreement or treaty between the United States Government and a foreign government or international organization, or the directions of any foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of noncompetitive procedures;

"(5) a statute authorizes or requires that the procurement be made through another agency or from a specified source; or the agency's need is for a brand-name commercial item for authorized resale; or

"(6) the disclosure of the agency's needs to more than one source would compromise the national security.

"(f) For the purposes of applying section 2304(e)(1) hereof: (A) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule, and (B) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period or preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

"(g) The head of an agency may not award a contract using noncompetitive procedures unless—

"(1) the use of such procedures has been justified in writing; and

"(2) a notice has been published with respect to such contract pursuant to section 2305(c) of this title and all bids or proposals received in response to such notice have been considered by such head of an agency.

"(h) For the purposes of the following laws, purchases or contracts made under this chapter using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).

"§ 2305. Solicitation, evaluation, and award procedures; notice requirements

"(a)(1)(A) Each solicitation under this title shall include specifications which—

"(i) consistent with the needs of the agency, permit effective competition; and

"(ii) include restrictive provisions or conditions only to the extent necessary to satisfy such needs or as authorized by law.

"(B) For the purposes of subparagraph (A) of this paragraph, the type of specification included in any solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(i) function so that a variety of products or services may qualify;

"(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(iii) design requirements.

"(2) Each solicitation for sealed bids or competitive proposals other than for small purchases shall at a minimum include, in addition to the specifications described in paragraph (1) of this subsection—

"(A) a statement of—

"(i) all significant factors, including price, which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(ii) the relative importance assigned to each of those factors;

"(B) in the case of sealed bids—

"(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(ii) the time and place for the opening of the sealed bids; and

"(C) in the case of competitive proposals—

"(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors but might be evaluated and awarded without discussions with the offerors; and

"(ii) the time and place for submission of proposals.

"(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of an agency determines that such action is in the public interest.

"(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of an agency shall evaluate the bids without discussions with the bidders and shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, solely considering the price and the other factors included in the solicitation under subsection (a)(2)(A) of this section. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

"(i) after discussions conducted with the offerors at any time after receipt of the proposals and prior to the award of the contract; or

"(ii) without discussions with the offerors beyond discussions conducted for the purpose of minor clarification where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices.

"(B) In the case of award of a contract under subparagraph (A)(i) of this paragraph, the head of an agency shall conduct, before such award, written or oral discussions with all responsible offerors who submit proposals within a competitive range, price and other evaluation factors considered.

"(C) In the case of award of a contract under subparagraph (A)(ii) of this paragraph, the head of an agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(D) The head of an agency shall, except as provided in paragraph (2) of this subsection, award a contract with reasonable promptness to the responsible offeror whose proposal is most advantageous to the United States, solely considering price and other factors included in the solicitation under subsection (a)(2)(A) of this section. The head of the agency shall award the contract by transmitting written notice of the award to such offeror and shall promptly notify all other offerors of the rejection of their proposals.

"(5) If the head of an agency considers that any bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.

"(c)(1)(A) Except as provided in paragraph (3) of this subsection—

"(i) the head of an agency intending to solicit bids or proposals for a contract for property or services at a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in paragraph (2) of this subsection; and

"(ii) the head of an agency awarding a contract for property or services at a price exceeding $10,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(B) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by subparagraph (A) of this paragraph.

"(C) Whenever a head of an agency is required by subparagraph (A)(i) of this paragraph to furnish a notice of a solicitation to the Secretary of Commerce, such head of an agency may not—

"(i) issue such solicitation earlier than fifteen days after the date on which such notice is published by the Secretary of Commerce; or

"(ii) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than thirty days after the date on which such solicitation is issued.

"(2) Each notice required by paragraph (1)(A)(i) of this subsection shall include—

"(A) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(B) the name and address of the officer or employee of the agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(C) a statement that any person may submit a bid or proposal which shall be considered by the agency; and

"(D) in the case of a procurement using noncompetitive procedures, a statement of the reason justifying the use of noncompetitive procedures and the identity of the intended source.

"(3(A) A notice is not required under paragraph (1)(A) of this subsection if—

"(i) the notice would disclose the agency's needs and the disclosure of such needs would compromise the national security; or

"(ii) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal.

"(B) The requirements of paragraph (1)(A)(i) of this subsection do not apply—

"(i) to any procurement under conditions described in clause (2), (3), (4), or (5) of section 2304(e) of this title; and

"(ii) in the case of any procurement for which the head of the agency carrying out such procurement makes a determination in writing, with the concurrence of the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation."; and

(4) by adding at the end thereof the following new section:

"§ 2316. Record requirements

"(a) Each head of an agency shall establish and maintain for a period of five years a record, by fiscal year, of the procurements, other than small purchases, in such fiscal year in which—

"(1) noncompetitive procedures were used; and

"(2) only one bid or proposal was received after competitive procedures were used.

"(b) The record established under subsection (a) of this section shall include, with respect to each procurement—

"(1) information identifying the source to whom the contract was awarded;

"(2) the property or services obtained by the Government under the procurement;

"(3) the total cost of the procurement;

"(4) the reason under section 2304(e) of this title for the use of noncompetitive procedures; and

"(5) the position of the officers or employees of the agency who required and approved the use of noncompetitive procedures in such procurement.

"(c) The information included in the record established and maintained under subsection (a) shall be transmitted to the Federal Procurement Data Center referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)).".

(b) The table of sections at the beginning of such chapter is amended—

(1) by striking out the items relating to sections 2304 and 2305 and inserting in lieu thereof the following:

"2304. Competition requirements.

"2305. Solicitation, evaluation, and award procedures; notice requirements.";

and

(2) by adding at the end thereof the following new item:

"2316. Record requirements.".

CONFORMING AMENDMENTS

SEC. 202. Chapter 137 of title 10, United States Code, is amended—

(1) in section 2306—

(A) by striking out "may, in negotiating contracts under section 2304," in the second sentence of subsection (a) and inserting in lieu thereof "may in awarding contracts after using other than sealed bid procedures";

(B) by striking out "negotiated under section 2304" in the first sentence of subsection (b) and inserting in lieu thereof "awarded after using other than sealed bid procedures";

(C) by striking out "section 2304 of this title," in subsection (c) and inserting in lieu thereof "this chapter";

(D) in subsection (f)(1)—

(i) by striking out clause (A) and inserting in lieu thereof the following:

"(1) prior to the award of any prime contract under this title after using other than sealed bid procedures where the contract price is expected to exceed $100,000;";

(ii) by striking out "negotiated" each place it appears in the second paragraph;

(iii) by striking out "negotiation," in the third paragraph and inserting in lieu thereof "proposal for the contract, the discus-

sions conducted on the proposal under this title,"; and

(iv) by striking out "$500,000" each place it appears in clauses (B), (C), and (D) and inserting in lieu thereof "$100,000"; and

(E) by adding at the end thereof the following new subsection:

"(i) Except in a case in which the Secretary of Defense determines that military requirements necessitate the specification of container sizes, no contract for the carriage of Government property in other than Government-owned cargo containers shall require carriage of such property in cargo containers of any stated length, height, or width.";

(2) by striking out subsection (b) of section 2310 and inserting in lieu thereof the following:

"(b) Each determination or decision under section 2306(c), section 2306(g)(1), section 2307(c), or section 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that (1) clearly indicate why the type of contract selected under section 2306(c) is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract, (2) support the findings required by section 2306(g)(1), (3) clearly indicate why advance payments under section 2307(c) would be in the public interest, or (4) clearly indicate why the application of section 2313(b) to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.";

(3) by striking out section 2311 and inserting in lieu thereof the following: "The head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter."; and

(4) by striking out "negotiated" in the second sentence of section 2313(b) and inserting in lieu thereof "awarded after using other than sealed bid procedures".

TITLE III—ADVOCATE FOR COMPETITION; ANNUAL REPORT ON COMPETITION

DEFINITION

SEC. 301. For the purposes of this title, the term "executive agency" has the same meaning as provided in sectioin 4(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(a)).

ADVOCATE FOR COMPETITION

SEC. 302. (a)(1) There is established in each executive agency an advocate for competition.

(2) Each head of an executive agency shall—

(A) designate for each executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of this Act to serve as the advocate for competition;

(B) relieve such officer or employee of all duties and responsibilities that are inconsistent with the duties and responsibilities of the advocate for competition; and

(C) provide such officer or employee with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition.

(b)(1) The advocate for competition shall promote competition in the procurement of property and services.

(2) The advocate for competition in an executive agency shall—

(A) review the purchasing and contracting activities of the executive agency;

(B) Identify and report to the head of the executive agency—

(i) opportunities to achieve competition on the basis of price and other significant factors in the purchases and contracts of the executive agency;

(ii) solicitations and proposed solicitations which include unnecessarily detailed specifications or unnecessarily restrictive statements of need which may reduce competition in the procurement activities of the executive agency; and

(iii) any other condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

(C) prepare and transmit to the head of the executive agency an annual report describing his activities under this section.

ANNUAL REPORT

SEC. 303. (a) Not later than September 30 of each of 1983, 1984, 1985, and 1986, each head of an executive agency shall transmit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives and annual report including the information specified in subsection (b).

(b) Each report transmitted under subsection (a) shall include—

(1) a specific description of all actions that the head of the executive agency intends to take during the next fiscal year to—

(A) increase competition for contracts with the executive agency on the basis of price and other significant factors; and

(B) reduce the numbers and dollar value of contracts entered into by the executive agency after soliciting bids or proposals from, or evaluating bids or proposals with discussions with, only one source; and

(2) a summary of the activities and accomplishments of the advocates for competition of the executive agency during the fiscal year in which the report is transmitted.

TITLE IV—APPLICABILITY

SEC. 401. The amendments made by this Act shall apply with respect to any solicitations for bids or proposals issued on or after the date two hundred and seventy days after the date of the enactment of this Act.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE ACT AMENDMENTS OF 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 2077 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Act of 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The ACTING PRESIDENT pro tempore. Without objection, the conference report is agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEASES AND CONTRACTS AFFECTING LAND WITHIN THE SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 2910, regarding the leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2910) to amend the act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

● Mr. GOLDWATER. Mr. President, we have before us, H.R. 2910, a bill which amends existing law to allow the Salt River Pima-Maricopa Indian community of Arizona and allotted Indian landowners to enter into lease agreements with binding arbitration clauses that could be enforced in the Federal district court.

This legislation is identical to a proposal I introduced this session, S. 1686, except for two technical amendments which the House Interior Committee made. The committee accepted an Interior Department recommendation on two technical changes in the language of the bill and the second amendment, offered by the Indian community, was of a clarifying nature.

This bill would not affect the trust responsibility of the United States or adversely affect the trust status of lands within the community's reservation or other property held in trust for the community or its members by the

United States. The Secretary of the Interior still has the authority to approve or disapprove leases or contracts affecting trust lands or resources as provided under existing law. In order to promote industry and economic development on the reservation, the Salt River Pima-Maricopa Indian community felt that binding arbitration of disputes would give potential developers and those who finance them the security of enforcement for a lease or contractual arrangement that one might have with a non-Indian entity.

The Interior Department does support this legislation and the Congressional Budget Office has indicated in its report that enactment of this bill will result in no cost to the Federal, State, or local governments.

Mr. President, this is a noncontroversial proposal, concerning only the Salt River Pima-Maricopa Indian community which has requested it, and I ask my colleagues to join me in supporting H.R. 2910.●

The ACTING PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2910) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY OF OREGON

Mr. BAKER. Mr. President, I would like now to go to H.R. 3885, if the minority leader is agreeable.

Mr. BYRD, Mr. President, that matter has been cleared on this side.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 3885.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3885) to provide for the restoration of Federal recognition of the Confederated Tribes of the Grand Ronde community of Oregon, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATFIELD. Mr. President, let me express my gratitude to the distinguished majority leader for his bringing H.R. 3885 to the floor in an expeditious fashion. In light of the fact that the House only passed this bill on November 7, the majority leader's prompt attention to my concerns and the concerns of the Grand Ronde community is all the more meaningful. The record should also reflect my sincere thanks to Senator ANDREWS and Senator MELCHER for their allowing this bill to be held at the desk, thereby permitting H.R. 3885 to be on the President's desk before the end of this year.

For the past several years, the Confederated Tribes of the Grand Ronde community of Oregon have busied themselves compiling the requisite documentation to prove the wrongfullness of their 1954 termination by the Government. They have come to my office for the past several years and I have asked them to come back after they have established a more complete record justifying a restoration of their Federal rights. Indian restoration cases are not new projects for my office. In the past several Congresses I have sponsored legislation which has restored federally recognized tribal status to the Siletz Indians and to the Cow Creed Indians. The experiences gained from these bills have given me a keen sense of when a tribe has made a credible showing justifying Federal recognition and when it has not. Mr. President, in H.R. 3885, the Grand Rondes have made such a credible showing. They have done their homework and have presented a case which leaves no doubt as to their worthiness for a restoration of their tribal rights.

Mr. President, the Grand Rondes have waited 29 years for their day in court, and I am pleased to be involved in the process of granting them their long-awaited measure of justice.

Let me briefly share with my colleagues the history of the Grand Rondes in order that the equities of H.R. 3885 can be fully manifest. The original Grand Ronde Reservation was established by Executive order on June 30, 1857. This 69,120-acre reservation diminished in size in subsequent decades, primarily due to the events of the general allotment period of the 1890's.

Like the Siletz and the Cow Creeks, the Grand Ronde Indians were terminated on August 13, 1954, by Congress for no reason other than geographic. The tribe was a western tribe and all western tribes were subjected to termination by whim of Congress. This injustice did not deflate the spirit of the Grand Ronde Indians, even though their reservation had shrunk to only 9 acres. In 1975, the tribe reorganized under a revised constitution and dedicated itself to undoing the damage inflicted by Congress ruinous Termination Act.

Mr. President, the Grand Rondes are a proud group worthy of their lofty heritage. They have persevered in the face of inequity, in the face of dire economic circumstances, and in the face of justifiable despair. Unemployment among Grand Ronde members is 37.6 percent, almost four times the State rate. Per capita income in 1981 for Grand Ronde members was $3,440, with 68 percent of all Grand Ronde families subsisting below the poverty level. I could go on by reciting more statistics which point to the full-fledged economic depression being endured by the Grand Ronde members. The few figures that I have shared with my colleagues suffice to demonstrate beyond any doubt that the Grand Rondes have been floundering financially.

The legislation being considered by this body today makes the Grand Rondes and its members eligible for Johnson-O'Malley funds, college scholarship funds, Indian Health Services, and the entire panoply of Indian programs now available to members of federally recognized tribes. More important, this legislation will enable the Grand Rondes to stand on equal footing with other Native Americans who have never known the indignity of being told by the Government that they are not Indians after all, or who no longer know the disgrace of status termination. That liberation from second-class citizenship for the Grand Ronde Indians justifies all the work Congressman LES AUCOIN and I have done on their behalf, and I ask that H.R. 3885 be approved by this body.

The ACTING PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3885) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE H.R. 726 ON THE CALENDAR

Mr. BAKER. Mr. President, I would next propose to discharge the Judiciary Committee from further consideration of H.R. 726, if the minority leader is agreeable.

Mr. BYRD. That is agreeable to this side.

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 726, a bill for the relief of James A. Ferguson, and it be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO PLACE H.R. 594 ON THE CALENDAR

Mr. BAKER. I have another discharge request, Mr. President, in reference to H.R. 594.

Mr. BYRD. Mr. President, that discharge request has been cleared on this side.

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 594, a bill to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible, and it be placed on the Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DESIGNATION OF NOVEMBER 12, 1983, AS "ANTI-DEFAMATION LEAGUE DAY"

Mr. BAKER. Mr. President, the final matter I have in my folder for action on the calendar of general orders is House Joint Resolution 408, which I would like to take up now if the minority leader can agree.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I ask unanimous consent that the Senate now turn to consideration of House Joint Resolution 408.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 408) designating November 12, 1983 as "Anti-Defamation League Day" in honor of the league's seventieth anniversary.

The joint resolution was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. I move to reconsider the vote by which the joint resolution passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, that completes my file of measures on the calendar. I wonder if the minority leader is in any position to consider any items on the Executive Calendar at this time.

Mr. BYRD. Mr. President, I am not able to clear any items on the Executive Calendar at this moment. I shall be able to later today.

There is one I hoped the distinguished majority leader could call up, which has been cleared on this side. It is Calendar Order No. 390.

Mr. BAKER. Mr. President, I shall be most pleased to do that. There are one or two others on there that I hope we can reach. I shall consult with the minority leader about that.

Why not do this one?

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering nomination No. 390 on the Executive Calendar under "New Reports," "The Judiciary."

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BYRD. Mr. President, there is not only no objection, I join with the distinguished majority leader in this particular instance in asking that this nomination be placed before the Senate.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The clerk will state the nomination.

THE JUDICIARY

The legislative clerk read the nomination of Elizabeth V. Hallanan, of West Virginia, to be U.S. district judge for the southern district of West Virginia.

Mr. BYRD. Mr. President, I take this opportunity to thank the majority leader for calling this nomination up before the Senate. I also thank Mr. THURMOND, who called a meeting of the judiciary for the particular purpose of hearing Ms. Hallanan. I thank all of the members of the Judiciary Committee, who assembled a quorum on 2 days in succession within a very short time.

I congratulate Ms. Hallanan on her confirmation, which I am sure is coming quickly, by the Senate.

Mr. BAKER. Mr. President, I shall not take more than a moment.

I do not recall that I have ever met Judge Hallanan, but I did know her father. He was Republican national committeeman from West Virginia, and he served with my father when my father was Republican national committeeman. I am delighted to join in recommending the confirmation of this nominee.

Mr. BYRD. Mr. President, I thank the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the nomination, which I state for the record, in case anybody does not understand this motion, is merely a procedural matter to prevent the nomination from coming before the Senate again. I would not want my friends in West Virginia to think I have had a change of heart.

Mr. BAKER. Mr. President, by the same token, my motion to table has nothing to do with the nomination but, rather, to complete that unique little arrangement that we go through in the Senate in order to make final the action about to occur. So now, Mr. President, I do move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I am hopeful that other nominees under the Department of Justice and the Department of State in particular can be cleared for action before very long. I ask the minority leader if he would be willing to consider certain additional nominations?

Mr. BYRD. There is no question about it, Mr. President. The majority leader has just done for me what I would do for him in a similar situation.

Mr. BAKER. And has done for me in the past, and I appreciate it.

Mr. BYRD. Yes; I thank the majority leader.

Mr. BAKER. Mr. President, with the expectation that we will return to executive session later in the day, I now ask that the President be immediately notified that the Senate has given its consent to this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that we have a further period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I see no Senator seeking recognition. For the truth of the matter, I wondered whether anybody was here except me and the minority leader, but I would not voice that concern——

The ACTING PRESIDENT pro tempore. And the Chair.

Mr. BAKER. And the distinguished acting President pro tempore, the Sen-

ator from Mississippi, who is always diligent in his attendance and the discharge of his duties.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

"NO" TO INDIA ON POTENTIAL NUCLEAR ARMS EQUIPMENT

Mr. PROXMIRE. Mr. President, too few Senators seem to have grasped the grim fact that we live in the most dangerous time in human history. All of us should know that a nuclear war would utterly destroy our civilization. Indeed, the latest warnings of the scientific community tell us that even a limited nuclear war involving a mini 1 percent of the megatonnage of the American and Soviet nuclear arsenal could hand us the worst environmental disaster ever. In the wake of such a disaster, sunlight would almost totally disappear. Temperatures would drop far below zero in summer throughout our country. The consequences would be so devastating for our country that most of us would die of starvation.

This is precisely the kind of war that could in the next few years easily develop without either the Soviet Union or the United States firing a nuclear weapon. We are rapidly moving into a situation where India, Pakistan, Argentine, South Africa, or one of several other nations could launch a "small" nuclear war, involving 100 or more megatons. Once such a nuclear war started, we would face two terrible risks. Risk No. 1 would come from the possibility that the war could quickly spread as a nuclear super power allied with one or the other of the combatants moved in with decisive nuclear power. Such a spreading contagion has been common in wars in the past, and a nuclear war threatening all countries prove very swiftly contagious.

Risk No. 2 would develop even if the war did not spread beyond two relatively minor nuclear powers. That risk would flow from the devastating environmental consequences charted so recently by scientists who have vividly described the worldwide devastation to the Earth's plants and animals as the result of a small nuclear war.

Mr. President, some commentators have criticized the attention given by the press to these latest scientific findings. Some vigorously protest the plans by ABC to show a television documentary, as only television can show it, on the consequences if nuclear war comes to this country. Well, this Senator thanks the good Lord for these scientific findings, and I also thank heaven for ABC's sound decision to give the American people the truth about the momentous threat we all face.

I could understand opposition to spelling out the nuclear nightmare that confronts us if there were nothing we could do about it. But we can act. Our fate is still very largely within our hands. We still have time, not much, but some time. What can we do? First, we can and should strengthen the nuclear nonproliferation policy of this Government. India represents a prime example.

The Nuclear Regulatory Commission is expected to approve the export of spare parts for two nuclear power reactors that we have built in India. India tells us they need the spare parts because radiation leaks from the worn parts threaten public health. Why should we not make this sale?

Here is why:

First, India is reliably reported to be stockpiling weapons grade plutonium obtained from reprocessing at the very nuclear power reactors for which we are asked to provide spare parts.

Second, that plutonium can be used either in making nuclear weapons or providing fuel for other reactors that could provide weapons grade plutonium.

Third, India has exploded a nuclear device in 1974.

Fourth, the intelligence community has confirmed press reports that India is preparing to explode a second such device.

Fifth, there is no civilian use for the amounts of plutonium that India is reprocessing.

Sixth, the India nuclear weapons advances have provoked her traditional rival, Pakistan, to speed up its attempts to acquire nuclear weapons.

Seventh, India has refused to sign the Nuclear Nonproliferation Treaty, and will not permit international inspection of its nuclear facilities to detect whether it is diverting nuclear materials to weapons use.

Eighth, although there may be some legal dispute, it seems clear to this Senator that this country would violate the Nuclear Nonproliferation Treaty if we go ahead with the sale. That treaty prohibits any signatory from selling materials or equipment to a nonsignatory nation that can use the materials or equipment to make nuclear weapons.

Ninth, last month, by a vote of 28 to 59, the Senate defeated a Percy amendment that would have permitted this country to sell nuclear equipment to India and three other countries if the equipment were needed to protect the public health. This "protection of public health" is precisely the claim made by Prime Minister Gandhi in asking our Nuclear Regulatory Commission to approve the sale. The Senate, then, by an even more decisive 70 to 16 vote, adopted a Boschwitz amendment that was designed to express the sense of the Senate that the Commission should deny this sale.

Mr. President, some Senators have argued that we should make this sale to India because, if we do not, other countries will. In this Senator's view, we should not make the sale, and we should do everything within our diplomatic power to dissuade any other country from making the sale. The amount of money involved in this sale or any of the other nuclear materials and equipment sales we have been making is trifling, compared to the terrible risk this transaction carries. This sale would constitute a precedent that would dramatize our reckless disregard of the Nuclear Nonproliferation Treaty. We would act in the face of the recent disclosures by scientists that even a small nuclear war involving Pakistan and India might have devastating effects on the climate of the United States and the safety and life of millions of our fellow Americans. We have a special, direct, survival interest in stopping this sale.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Jed C. Snyder, research associate in the international security studies program of the Woodrow Wilson International Center for Scholars, that appeared in the November 5, 1983, issue of the New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 5, 1983]

TELL INDIA NO ON ATOMS

(By Jed C. Sndyer)

WASHINGTON.—This month, the Senate will consider legislation prohibiting the Nuclear Regulatory Commission from approving the export of sensitive nuclear materials to countries that do not have nuclear weapons and that have refused to open their nuclear facilities to international inspection. This legislation would directly affect the question of whether the United States should accede to India's urgent request for spare parts for two American-built nuclear power reactors at the Tarapur Atomic Power Station, near Bombay.

Washington is being asked to permit the supply of these parts on the ground that radiation leaks resulting from worn reactor parts at Tarapur may threaten public health. The President should use this opportunity to send Prime Minister Indira Gandhi a clear message: We will not ignore what may be a clandestine nuclear weapons program.

The Senate will consider whether to amend the Nuclear Non-Proliferation Act, Passed by Congress in 1978, it requires, as a condition of United States assistance, all countries that do not posses nuclear weapons to agree to place their nuclear activities under auspices of the International Atomic Energy Agency, whose inspection program is designed to detect the diversion of fissionable materials for explosive or military pur-

poses. India has refused to consent to such international safeguards.

India has a consistent record of noncooperation in the international control of atomic energy, including a refusal to sign the 1968 Nuclear Non-Proliferation Treaty. New Delhi has also sought nuclear self-sufficiency in ways that have alarmed nuclear-security analysts. Its choice of nuclear reactors provides an example. India uses not conventional power reactors but precisely those reactors that facilitate the manufacture of weapons-grade plutonium.

Although India's desire for nuclear self-sufficiency would not by itself be reason for great concern, this quest for independence has been linked with attempts to evade imposition of comprehensive international safeguards, deepening the suspicions that already surround India's nuclear program. In 1974, India exploded a nuclear device in the Rajasthan Desert. The intelligence community has confirmed the accuracy of recent press accounts reporting preparations for a second nuclear test.

Of even greater concern are reports that India is stockpiling plutonium obtained from reprocessing. This reprocessing is done at several facilities (including Tarapur) under only partial safeguards. As a result, India is stockpiling plutonium that may be used either in a nuclear weapon or to fuel other unsafeguarded reactors that could yield weapons-grade material. Such reprocessing activities are even more suspicious since there is no apparent civilian use for such large amounts of plutonium. For these reasons, the United States should refuse India's request for spare parts and it should press other nations to deny aid to India's nuclear program until reliable assurances are given to alleviate concern about proliferation.

The implications of a clandestine nuclear weapons program have not escaped the notice of India's neighbor, Pakistan. Pakistan's President, Mohammad Zia ul-Haq, is alarmed about the direction of India's nuclear program and has stated that concern to American officials on many occasions. The Indian reprocessing effort (which is years ahead of a similar Pakistani program) may already have accelerated Pakistan's efforts to obtain nuclear weapons.

While the Reagan Administration has expressed concern over the direction of Mrs. Gandhi's nuclear program, Washington has been reluctant to confront New Delhi directly. In 1981, the Administration began quiet discussions to alter its fuel supply relationship with India. Expediency triumphed over principle and in July 1982 the United States arranged for the French Government to replace America as the sole supplier of enriched uranium fuel for Tarapur. A commercial supply agreement between France and India was signed in March 1983. The French (who earlier helped Iraq in its efforts to acquire nuclear weapons) are evidently unconcerned about the direction of India's nuclear activities.

Unless our Government receives ironclad assurances that India will cease unsafeguarded production and use of plutonium, it would be foolish to approve shipment of spare parts for the Tarapur reactor. If the public health is really endangered by radiation leakage from Tarapur, one would hope that Mrs. Gandhi would order the reactor shut down. Indeed, Congress understands this and is willing to stand firm against the spare-parts sale. The question now is whether the Reagan Administration has the courage to say no.

THE GENOCIDE CONVENTION: A JUST CAUSE

Mr. PROXMIRE. Mr. President, for over 16 years now, virtually every day since the beginning of the 1967 session, I have risen on this floor to urge ratification of the Genocide Convention. I urged ratification, and I will continue to urge ratification, because it is a task that I believe in. I believe in the treaty, not because I think it will automatically and categorically end human rights abuses, but rather, because I know what it symbolizes. It is a signal, an indication of our resolve to stand up for the most basic of all human rights. It is the very first step we must take if we are ever to guarantee these rights to people everywhere.

If nothing else, the treaty would bring world pressure to bear on any government that would consider genocide, and therefore can serve as a concrete deterrent. Furthermore, the treaty itself is a statement of the most basic tenet of morality, a statement that must be made. For this reason alone it is a good cause, and its ratification is both right and necessary.

Mr. President, in the more than 35 years since the international community gathered, at our urging, to draft this treaty, every possible argument against it has been raised and answered. Opponents have argued that it is at once too weak and too strong, that it threatens national sovereignty and that it will have no impact on national policy. Time and time again, proponents of the treaty have responded to these arguments.

We have pointed out the mechanisms built into the convention to safeguard our national rights. We have indicated other treaties that have established precedent for creation of international law. We have turned to the very language of the treaty itself, language that very clearly demonstrates that the Genocide Convention cannot and will not infringe upon our constitutional rights. The American Bar Association has been persuaded of this, and is now among the convention's most enthusiastic supporters. The American Civil Liberties Union, a stalwart defender of our constitutional rights, has pushed for ratification since the treaty's inception.

The flip-side arguments are just as spurious. Of course, the convention alone will not protect the human rights of every person in the world. However, the convention creates a mechanism to deal with the unspeakable horror of genocide. At the very least, it will bring the pressure of world opinion to bear on those who fail to recognize the most basic of all individual rights. The weight of this pressure cannot and should not be discounted.

Mr. President, ratification of the Genocide Convention is both right and necessary. It is the correct response to our moral obligation, and I shall continue to urge my colleagues to ratify this treaty until the response is made.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 2 p.m. on the same terms and conditions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have just talked to the distinguished minority leader on the telephone, and he is occupied away from the Chamber at this moment, but he authorized me to say on his behalf that he has cleared for action three additional nominees on the Executive Calendar.

They are Calendar Order Nos. 374, 387, and Calendar Order No. 395.

I indicated to the minority leader I plan to go forward with those at this time, an action in which he concurred.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering those three nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Charles H. Price II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The legislative clerk read the nomination of Stanley S. Harris, of Maryland, to be U.S. district judge for the District of Columbia.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Joseph E. diGenova, of the District of Columbia, to be U.S. attorney for the District of Columbia.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. BOSCHWITZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I shall report on the status of the conference. I am told that they are making good progress but slow and that it is going to be a while.

It still looks like it is going to be late afternoon before the conferees have a product that they can submit to the House of Represenatives which must act first.

I have also conferred with the minority leader on this subject and he agreed as well.

RECESS UNTIL 3:30 P.M.

Mr. BAKER. Mr. President, if no other Senator is seeking recognition, and I see none, I ask unanimous consent that the Senate stand in recess until 3:30 p.m., today.

There being no objection, the Senate, at 1:49 p.m., recessed until 3:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BOSCHWITZ).

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. The conferees are still at it, and it looks as if it is going to be another hour or so at least before they can finish their work, and that may be optimistic. It will take a while after that, of course, to get the conference document ready before the House of Representatives can take it up. So it looks as if we are not near the end, Mr. President, I regret to report.

I have talked to the minority leader, who will be on the floor shortly, I understand. He is prepared to make one of his speeches on the history of the Senate, which is another of the continuing series of speeches on that subject which is rapidly growing into again the status of the definitive work on the history of the Senate of the United States.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not longer than an hour and a half in length in which Senators may speak for not more than 15 minutes each, with the exception of the minority leader who shall not have a limitation as to the length of time he may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 1:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS of Alabama, Mr. MILLER of Ohio, Mr. KEMP, and Mr. O'BRIEN as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 20. Joint resolution designating November 13, 1983, as "National Retired Teachers Day."

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the 20th anniversary of the death of President John Fitzgerald Kennedy.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WEICKER, from the Committee on Small Business, with an amendment in the nature of a substitute and an amendment to the title:

S. 1429. A bill to amend the Small Business Act to provide for the continuation of the small business development center program (Rept. No. 98-309).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Gwyneth Gayman, of California, to be a Member of the National Council on Educational Research for a term expiring September 30, 1984;

Joan M. Gubbins, of Indiana, to be a Member of the National Council on Educational Research for a term expiring September 30, 1985; and

David J. Armor, of California, to be a Member of the National Council on Educational Research for a term expiring September 30, 1986.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG (for himself, Mr. PRYOR, Mr. ABDNOR, Mrs. HAWKINS, Mr. GORTON, Mr. MITCHELL, Mr. HATCH, Mr. HUMPHREY, and Mr. QUAYLE):

S. 2083. A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes members of the Armed Forces of the United States who die as a result of hostile action; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. NUNN, Mr. RANDOLPH, Mr. LEVIN, Mr. ZORINSKY, and Mr. DIXON):

S. 2084. A bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas; to the Committee on Small Business.

By Mr. COCHRAN (by request):

S. 2085. A bill to amend section 3a of the Cotton Statistics and Estimates Act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2086. A bill to revise tax law relating to publisher inventories; to the Committee on Finance.

S. 2087. A bill to revise the tax treatment of retirement plans maintained by international organizations; to the Committee on Finance.

S. 2088. A bill to clarify the taxation of cooperative apartments; to the Committee on Finance.

S. 2089. A bill to extend section 167(k) of the Internal Revenue Code for 10 years; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG (for himself, Mr. PRYOR, Mr. ABDNOR, Mrs. HAWKINS, Mr. GORTON, Mr. MITCHELL, Mr. HATCH, Mr. HUMPHREY, and Mr. QUAYLE)

S. 2083. A bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes members of the Armed Forces of the United States who die as a result of hostile action; to the Committee on Finance.

EXEMPTION OF INCOME TAXES FOR ARMED SERVICES MEMBERS WHO DIE IN HOSTILE ACTION

● Mr. ARMSTRONG. Mr. President, in the aftermath of the massacre of U.S. marines in Lebanon and those soldiers who have lost their lives in Grenada, we are all painfully aware of how little we as a nation can do to relieve the anguish of the families who have lost their loved ones in hostile action overseas. There is, however, one small way in which we can perhaps relieve at least a part of the economic hardship to those families which can result from their loss.

Section 692 of the IRS Code provides for an exemption from Federal income taxes of any income earned by a deceased member of the Armed Services during the years he or she served overseas. However, this section is applicable only when the death was a result of "wounds, disease, or injury" while serving in a "combat zone" which had already been defined as a combat zone by an Executive order of the President.

No such combat zone has been so designated since the Vietnam war.

I am introducing legislation to extend this tax exemption to all members of the Armed Services who die as a result of hostile action overseas. This bill makes the change retroactively so that it will apply to all service men or women killed overseas in the tax years beginning after December 31, 1979. It will also apply to all cases in the future where American soldiers die as a result of hostile action—thereby eliminating the need for a President to designate a specific area as a combat zone for the purpose of applying this section of the Tax Code.

Certainly this is a small way, but perhaps an important one, in which we can tell the families of our service men and women that we will not allow our tax laws to add to the loss they already feel.●

By Mr. SASSER (for himself, Mr. NUNN, Mr. RANDOLPH, Mr. LEVIN, Mr. ZORINSKY, and Mr. DIXON):

S. 2084. A bill to amend the Small Business Act to restrict the authority of the Small Business Administration to deny financial assistance to small business concerns solely because the primary business operations of such concerns relate to the communication of ideas; to the Committee on Small Business.

OPINION MOLDER FINANCIAL ASSISTANCE ACT OF 1983

● Mr. SASSER. Mr. President, today with several of my colleagues, I am introducing legislation to substantially revise the Small Business Administration's opinion molder rule. This rule is used by SBA to deny financial assistance to opinion molders, firms whose primary business operations relate to the communication of ideas. Businesses which have been affected by this rule include everything from newspapers to card shops.

SBA has attempted to justify this rule on constitutional grounds. According to SBA officials, opinion molders are denied financial assistance in order to avoid Government interference, or the appearance of such interference, with the constitutionally protected freedoms of speech and press.

Yet, this argument is open to question. Numerous Supreme Court opinions have held that it is constitutionally permissible to regulate activities in these important areas. Indeed, there is a solid string of precedent holding that the press and other such opinion molders can constitutionally be subject to certain types of economic regulation without infringing on their first amendment rights. Thus, SBA's argument that the Constitution prohibits financial assistance to opinion molders is tenuous at best.

What is readily apparent to me, Mr. President, is that the opinion molder rule flies in the face of SBA's congressional mandate to aid, counsel, assist, and protect the interest of small business concerns. It is clear to me that the opinion molder rule does not encourage and develop the actual and potential capacity of small business in the United States. Instead, the rule has just the opposite effect.

This point is not lost on SBA officials. In 1980, SBA proposed altering the opinion molder rule. This action was deemed necessary as it was felt the opinion molder rule was unnecessarily inhibiting SBA's ability to assist small business and thereby directly promoting undesirable concentration. In short, SBA feared that the rule was prohibiting it from carrying out its statutory objectives, a fear I believe is well-ground, Mr. President.

Unfortunately, SBA never followed through on its intentions to revise the opinion molder rule. For whatever reasons, the proposed revisions were withdrawn and small business firms across the country continued to be denied access to the various SBA financial assistance programs.

The legislation we are introducing today picks up where SBA left off. Our bill makes several significant revisions in the opinion molder rule. Under this bill, SBA may no longer deny financial assistance in the form of loan guarantees to small firms solely because they fall within the opinion molder range. I want to emphasize that our bill limits the type of financial assistance available to opinion molders to SBA loan guarantees. Mindful of the constitutional concerns in this area, we feel loan guarantees have a firmer constitutional basis than other forms of assistance.

Our legislation would not allow the SBA to make any loans to opinion molders where such assistance would be used primarily to advance or inhibit religion, to threaten the overthrow of the Government, to engage in any illegal activity or for the dissemination of obscene materials. These proscriptions parallel the intent of similar provisions contained in the 1980 proposed revisions.

We believe this legislation addresses a serious concern in the small business community while avoiding Government interference in important first amendment areas. It is our hope that this bill will generate an indepth review of the existing opinion molder rule. We need to closely examine the rule and its justifications.

As we believe the present rule can be improved upon, we look forward to hearings in the Small Business Committee in the near future on this legislation. There are important issues and questions involved here and it is time we found some solutions to this very real problem for numerous small businesses across the country. This measure offers the first step in finding such a solution. We urge our colleagues to join with us in this effort by supporting this bill.●

By Mr. COCHRAN (by request):

S. 2085. A bill to amend section 3a of the Cotton Statistics and Estimates Act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers; to the Committee on Agriculture, Nutrition, and Forestry.

COTTON CLASSING SERVICES TO PRODUCERS

● Mr. COCHRAN. Mr. President, at the request of the Secretary of Agriculture, John R. Block, I introduce a bill to amend section 3a of the Cotton Statistics and Estimates Act to provide continuing authority to the Secretary

of Agriculture for recovering costs associated with cotton classing services to producers.

Pursuant to authority contained in the Omnibus Budget Reconciliation Act of 1981, the Department began charging fees on October 1, 1981, for cotton classing services, including administrative and supervisory costs. About two-thirds of the cost of classing for producers was financed by user fees during fiscal year 1982 and fiscal year 1983 at established rates of 60 cents and 67 cents per bale, respectively. The balance of the cost in fiscal year 1982 and fiscal year 1983 was financed by appropriated funds and by proceeds from the sale of cotton samples accumulated by USDA.

For fiscal year 1984, the Department recommended full cost recovery for the cotton classing program and, accordingly, instituted a fee of $1.15 per bale. This action in fiscal year 1984 places all agricultural commodity grading services of the Department on a comparable and full cost recovery basis.

Statutory authority for cost recovery of cotton classing services expires, however, at the end of fiscal year 1984. This bill extends authority to charge producers for cotton classing services through September 30, 1988. Also, the bill would provide for the collection of classification fees from participating producers or from agents who voluntarily agree to collect and remit the fees on behalf of producers. It would provide that the uniform per-bale classification fee in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the implicit price deflator for gross national product as indexed during the most recent 12-month period for which official statistics are available. It would provide that the uniform per-bale fee shall not be increased for any year if the accumulated reserve exceeds 20 percent of the cost of the classification program in the previous year. It would provide that special classification services performed at the request of the producer, such as high volume instrument classification, would not be subject to these restrictions.

Mr. President, I ask unanimous consent that the transmittal letter from the Secretary of Agriculture as well as the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3a of the Cotton Statistics and Estimates Act, as amended by the Omnibus Budget Reconciliation Act of 1981, 95 Stat. 373 (7 U.S.C. 473a), is further amended by deleting the first two sentences and inserting in lieu thereof the following:

"SEC. 3a. Effective for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or from agents who voluntarily agree to collect and remit the fees on behalf of producers. Such fees, together with the proceeds of sales of samples submitted under this section, shall cover as nearly as practicable the cost of the services provided under this section, including administrative and supervisory costs: *Provided,* That the uniform per-bale classification fee to be collected from producers, or their agents, for such classification service in any year shall not exceed the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which official statistics are available. Further, the uniform classification fee shall not be increased for any year if the accumulated reserve exceeds 20 percent of the cost of the classification program in the previous year. Special classification services provided at the request of the producer shall not be subject to these restrictions."

SEC. 2. The provisions of this Act shall become effective October 1, 1984.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 4, 1983.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to request your introduction of a draft compromise bill "To amend Section 3a of the Cotton Statistics and Estimates Act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services to producers."

The draft compromise is submitted for consideration in lieu of a proposal which was formally submitted to the Congress on May 11, 1983, to extend the user fee authority for cotton classing services on a permanent basis. Following the transmittal of that proposal, representatives of the cotton industry requested the Department to consider alternatives which would, in effect, cap the cotton user fee extension authority.

Representatives of the Department, working in conjunction with various segments of the cotton industry, accordingly, developed the draft compromise bill which is outlined in the enclosed statement.

Pursuant to authority contained in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 373-374), the Department began charging fees on October 1, 1981, for cotton classing services, including administrative and supervisory costs. About two-thirds of the cost of classing for producers was financed by user fees during FY 1982 and FY 1983 at established rates of 60 cents and 67 cents per bale, respectively. The balance of the cost in FY 1982 and FY 1983 was financed by appropriated funds and by proceeds from the sale of cotton samples accumulated by USDA.

For FY 1984, the Department recommended full cost recovery for the cotton classing program and, accordingly, instituted a fee of $1.15 per bale. This action in FY 1984 (1983 crop year) places all agricultural commodity grading services of the Department on a comparable and full cost recovery basis.

Statutory authority for cost recovery of cotton classing services expires, however, at the end of FY 1984. The draft compromise bill will, therefore, enable the Department to continue to recover the costs of such services and, thus, maintain equitable treatment to all users of commodity grading activities.

With enactment of this legislation, we estimate that the annual cost to be recovered, and the continued annual savings to the taxpayer, would be $12 to $14 million.

This draft compromise bill has been informally cleared by the Office of General Counsel and the Office of Management and Budget. Following its introduction, the Department will submit a formal position on behalf of the Administration.

Sincerely,

RICHARD E. LYNG,
Acting Secretary.●

By Mr. MOYNIHAN:

S. 2086. A bill to revise tax law relating to publisher inventories; to the Committee on Finance.

TAX LAW RELATING TO PUBLISHER INVENTORIES

● Mr. MOYNIHAN. Mr. President, I rise today to offer legislation to promote the availability of older, low-volume, yet often worthy books. This legislation would amend the Tax Code to correct the current bias which encourages publishers to destroy rather than store older and usually high-quality literature and academic treaties.

This unreasonable bias stems from a Supreme Court decision that has come to be known as the Thor Power Tool ruling. This ruling, issued in 1979, forced many taxpayers to change their inventory accounting practices when calculating tax liability.

Mr. Chairman, it is not my intention to argue that this decision is without merit. But the ruling's deleterious effects on the publishing industry cannot be overlooked.

It has been the practice of book publishers, in the main, to write off as losses the books they have not sold after several years. Subsequently, when the publishers sell the books they pay taxes on the full sale price. The Thor Power decision and subsequent IRS rulings prohibit taxpayers from depreciating their inventoried books. As a result, publishing houses have an incentive to destroy unsold books rather than store them. It is likely that fewer contracts will be awarded to non-best-seller books.

Perhaps the most objectionable result of the Thor Power decision is that it would make it impossible for publishers to maintain what are called back lists. The back list of a publisher consists primarily of books for which there is a relatively small demand, but a demand that continues over a long period of time. It is the nature of most scientific and technical books that they are of this kind. What is at risk, Mr. President, is an entire publishing practice which is the basis of some of

the most valuable intellectual and scholarly resources we have.

Earlier this year I introduced legislation (S. 1105) to allow a variety of small businesses to write off a portion of the value of their excess inventory. Treasury generally opposed the provisions of that bill because of the revenue cost.

The legislation which I offer today should resolve Treasury's concerns. It would exempt only the publishing houses from the onerous and unintended effects of the Thor Power decision. Under this legislation, a publisher of books or other printed materials can value any inventory, which can be reasonably expected to sell at below cost, at whatever price that publisher expects to dispose of the materials.

As put by the New York Times editorial, September 7, 1980:

> What publishers really need is legislation that provides special treatment for a truly special situation, allowing them to write off inventories after three or four years without having to dump books. Such legislation, just for publishing, would cost the taxpayers only a few million dollars a year. It would be money well spent.

Mr. President, I urge my colleagues to adopt the legislation that I offer today.

I ask that the full text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCESS PUBLICATION INVENTORIES MAY BE WRITTEN DOWN TO SCRAP VALUE.

Section 471 of the Internal Revenue Code of 1954 (relating to the general rule for inventories) is amended by adding at the end thereof the following new sentences: "A taxpayer engaged in the trade or business of publishing books or other published material may value his excess inventory at its net realizeable value. For purposes of this section, the term 'excess inventory' means that portion of the taxpayer's inventory of books or other published material which the taxpayer reasonably expects will be disposed of at less than full realization of its cost. Such portion shall be determined with respect to each group of books or other published material by age by referring to the taxpayer's most recent 5-year experience with his inventories of books or other published materials. For purposes of this section, the term 'books or other published material' includes books, maps, sheet music, monographs, periodicals and similar printed works.

SEC. 2. EFFECTIVE DATE.

This amendment shall apply to taxable years ending on or after December 31, 1979.●

By Mr. MOYNIHAN:

S. 2087. A bill to revise the tax treatment of retirement plans maintained by international organizations; to the Committee on Finance.

TAX TREATMENT OF RETIREMENT PLANS

● Mr. MOYNIHAN. Mr. President, I rise today to offer legislation to reform the tax treatment of retirement plans maintained by international organizations.

The United States is host to many international organizations, such as the United Nations, representing nations which differ widely in their tax treatments of pension plans. Many nations have not developed the broad social security system for retirement that we enjoy. This legislation arises from the responsibilities implicit in these circumstances.

Recent modifications to the Federal income tax governing retirement plans require such plans to specifically incorporate within their governing documents a number of new provisions regarding: First, limitations on the size of benefit payments; second, limitations on the period of time over which death benefits can be paid to beneficiaries other than spouses; and third, a requirement that additional technical restrictions apply to the plan in the event the plan ever becomes "top heavy" in nature—an eventuality which is impossible in the case of the larger international organization plans.

Failure to include these concepts within the plan, under current U.S. law, can result in disqualification of the plan.

The vast majority of the participants in the larger international organization plans are nonresident aliens, guests in our country, who have no connections with the U.S. income tax system and whole benefits are often paid in foreign currency and subject to cost-of-living adjustments which reflect the inflationary trends of their country of residence. The Internal Revenue Code provisions regarding benefit limitations would be impossible to apply in this situation and an attempt to inject these provisions into the plan would be rejected by other member nations. The benefits payable to U.S. citizens do not exceed current benefit limits, yet the mere absence of the required technical language in the plan will cause a disqualification.

International plans provide death benefits which reflect the fact that many member nations do not have social security systems but have developed cultural imperatives regarding fiscal responsibility for parents and siblings. The limitations otherwise required by U.S. tax law would not be accepted by member countries.

The ultimate impact of plan disqualification would be the current taxation of U.S. residents. In the case of the largest international organization plans, the U.S. citizens will be reimbursed for some or all of the resulting tax liability at the expense of the agency and, indirectly, at the expense of the U.S. Government.

When Congress approved TEFRA in 1982, we had no intention of dictating the pension policies of other nations. Yet, implicitly, that is what we do for a small group of foreign persons, for those who work in the great international organizations to which we are the host country. I urge the Congress to rectify this situation by the narrow changes I propose today.

I ask that the complete text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 401(a) of the Internal Revenue Code of 1954 is amended by adding a new paragrpah as follows:

"(25) Paragraphs (9), (10), and (16) shall not apply in respect of benefits attributable to a nonresident alien under a plan maintained by an international organization described in section 414(d).".

SEC. 2. The amendment made by this Act shall become effective January 1, 1982.●

By Mr. MOYNIHAN:

S. 2088. A bill to clarify the taxation of cooperative apartments; to the Committee on Finance.

TAXATION OF COOPERATIVE APARTMENTS

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to reform the tax treatment of cooperative housing corporations. Under current law tenant-stockholders of certain housing cooperative corporations are treated as if they own their cooperative apartments directly. For example, they may deduct their proportionate part of the real estate taxes and mortgage interest paid by such corporations. These deductions are allowable only if the corporation qualifies under section 216 of the Internal Revenue Code. Two of the requirements of that section are: First, the corporation derives at least 80 percent of its gross income from tenant-stockholders, who by definition under current law must be individuals; and second, each stockholder, with certain narrow exceptions, has the right to occupy the house or apartment associated with his stock in the corporation. The bill liberalizes both of these qualification requirements and clarifies the rules regarding the deductions allowable to persons who use their cooperative apartments for business purposes.

INDIVIDUAL TO PERSON CHANGE

A housing cooperative corporation satisfies the qualifications of section 216 of the Internal Revenue Code only if 80 percent or more of the gross income of the cooperative housing corporation is derived from tenant-stockholders. In general, tenant-stockholders are defined as individuals with limited exception for sponsors and certain lending institutions. Thus, income re-

ceived by the cooperative housing corporation from entities other than individuals owning shares in the cooperative housing corporation could potentially prevent the cooperative housing corporation from satisfying the requirements of section 216(b)(1) of the Internal Revenue Code.

Under current law, the death or bankruptcy of a tenant-stockholder may jeopardize the deductions attributable to interest and real estate taxes for all other tenant-stockholders. If a trust or estate obtains ownership of stock in a cooperative housing corporation in such a manner, the corporation may inadvertently be disqualified as a cooperative housing corporation. Such transfers of ownership do not affect the availability of tax and interest deductions for persons who own apartments under the other major form of individual apartment ownership, that is, as a unit in a condominium.

The current law which restricts the definition of tenant-stockholders to individuals encourages eviction cooperative conversions rather than noneviction cooperative conversions. In noneviction conversion plans, the sponsor retains many apartments occupied by tenants with lifetime leases at low rental rates. It is very difficult to dispose of such apartments within any reasonable period of time. This problem is exacerbated by the sponsor's inability to sell these units to investors other than individuals, without jeopardizing the cooperative's qualification under section 216 of the Internal Revenue Code.

The current law which restricts the definition of tenant-stockholders to individuals encourages condominium conversions as opposed to cooperative conversions. Sponsors of condominium conversions are under no tax pressure to dispose of the units in the condominium quickly. By contrast, sponsors of cooperative conversions must dispose of all or almost all of their units within 3 years of obtaining their shares or risk disqualifying the cooperative housing corporation and its shareholders from the benefits available under section 216 of the Internal Revenue Code.

The bill would eliminate these problems by including all persons including trusts, estates, corporations and partnerships, rather than just individuals, within the definition of tenant-stockholder.

OCCUPANCY CHANGE

A housing cooperative corporation satisfies the requirements of section 216 of the Internal Revenue Code only if each stockholder of the corporation has the right solely by reason of his ownership of stock in the corporation to occupy for dwelling purposes an apartment or house of the corporation. The corporation, however, has the right to prevent sponsors and certain lending institutions from occupying the apartments or houses associated with their stock without the corporation's prior permission. Such parties usually obtain their stock in the corporation without obtaining the prior approval of the corporation.

The bill broadens the ability of a housing cooperative corporation which satisfies the qualifications of section 216 of the Internal Revenue Code to control the identity of the people that will occupy the houses or apartments of the corporation. In the normal course of events, a person is unable to acquire stock in a cooperative housing corporation without the prior permission of the corporation. A person may, however, obtain stock without the corporation's prior approval, by death, bankruptcy or other operation of law. The bill gives corporations the right in such cases to prevent such owners of stock from occupying the apartments or houses associated with their stock if such persons do not obtain the corporation's prior permission. In addition, if a nonindividual obtains ownership of stock in a housing cooperative corporation, the corporation is permitted to impose the same kind of restriction on occupancy because there is no unambigous set of individuals associated with such entities who can be expected to occupy permanently the apartment or house in question. Thus in such cases, the corporation may wish to have the opportunity to approve changes in occupancy.

BUSINESS DEDUCTIONS

Section 216 of the Internal Revenue Code permits tenant-stockholders housing cooperative corporations who make business use of their cooperative apartments or houses to depreciate the portion of their stock allocable to the depreciable property of the corporation. The bill clarifies two features: First, a tenant-stockholder whose depreciation deduction for a portion of his stock in the corporation is disallowed in a taxable year because of insufficient basis does not lose the deduction, but instead, the tenant-stockholder is allowed the deduction at some future time when he obtains sufficient basis; and second, a tenant-stockholder who makes a payment to the corporation which is used for capital purposes is not permitted to deduct such payment, but if such a payment is used to obtain depreciable property, the tenant-stockholder will be able to depreciate his proportionate part of the corporation's payment in the same manner that he would be able to depreciate other such expenditures by the corporation.

This is worthy legislation, and I ask my colleagues to support its passage.

I ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 216 of the Internal Revenue Code is amended—

1. by striking out "an individual" in subsection (b)(2) and inserting in lieu thereof "a person";

2. by striking out "such individual" in subsection (b)(2) and inserting in lieu thereof "such person";

3. by deleting paragraph (5) of subsection (b) and inserting in lieu thereof the following new paragraph:

"(5) ENTITLEMENT OF OCCUPANCY.—If a person acquires stock of a cooperative housing corporation by operation of law, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person or his nominee may not occupy the house or apartment without the prior approval of such corporation. If a person other than an individual acquires stock of a cooperative housing corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person's nominee may not occupy the house or apartment without the prior approval of such corporation."

4. by deleting paragraph (6) of subsection (b) and inserting in lieu thereof the following new paragraph:

"(6) ORIGINAL SELLER.—If the original seller acquires any stock of the cooperative housing corporation from the corporation not later than one year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the corporation the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation. For purposes of this paragraph, the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein)."

5. by adding "(1)" at the beginning of the first paragraph of Section (c) and by adding the following new paragraph:

"(2) SUSPENSION OF DEPRECIATION DEDUCTIONS.—A tenant-stockholder shall be allowed a depreciation deduction in a taxable year for the portion of his stock allocable to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) only to the extent of the portion of the adjusted basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year in which such deduction was incurred. A tenant-stockholder's depreciation deduction in excess of the basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year will not be allowed for that year. However, any depreciation deduction so disallowed shall be allowed as a depreciation deduction at the end of the first succeeding taxable year of the tenant-stockholder, and subsequent taxable years of the tenant-stockholder, to the extent that the tenant-stockholder's adjusted basis for his stock allocable to such depreciable property at the end of any such year exceeds zero (before reduction for such depreciation deduction for such year)."

6. by adding a new subsection (d) to read as follows:

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE CORPORATION.—No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation within the taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2)) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation that are chargeable to the corporation's capital account. The stockholder's adjusted basis for his stock in the corporation shall be increased by the amount of such disallowance."●

By Mr. MOYNIHAN:

S. 2089. A bill to extend section 167(k) of the Internal Revenue Code for 10 years; to the Committee on Finance.

EXTENSION OF SECTION 167(k) OF THE INTERNAL REVENUE CODE

● Mr. MOYNIHAN. Mr. President, I rise to introduce legislation that would extend section 167(k) of the Internal Revenue Code for a period of 10 years.

Section 167(k) of the Internal Revenue Code authorizes the 5-year writeoff of expenditures incurred for the rehabilitation of rental housing for lower income families.

The provision expires as of January 1, 1984, and needs to be renewed.

Section 167(k) was initially enacted as part of the Tax Reform Act of 1969. It was renewed in 1976 and 1981. Specifically, it allows expenditures incurred in the rehabilitation of multifamily buildings to be depreciated over 5 years on a straight-line basis, provided that the tenants occupying the units meet the low-income guidelines. There is a minimum expenditure requirement of $3,000 per unit and a maximum of $20,000 per unit. Projects utilizing the provision must remain as rental housing for 15 years or a severe recapture penalty is enforced by IRS.

Historically, 167(k) has most often been used in conjunction with the production of assisted housing under HUD programs. However, it is increasingly being used with nonsubsidized housing as well, and is becoming an important tool for attracting equity investment into the existing stock of affordable rental units.

Without the continuation of this provision many older rental units will either continue to deteriorate, become mechanically obsolete and prohibitively expensive to operate, or improved and converted to condominium ownership serving a higher income clientele.

This provision, however, serves as an important rental housing preservation tool by enabling property owners and neighborhood organizations to attract outside investors who put up equity funds to upgrade the units.

With the diminution of Federal housing assistance programs, it is important to keep this Internal Revenue Code provision alive. With no new production of rental housing for lower income families, the existing stock of lesser expensive units must be preserved as viable rental housing for as long as possible.

This is worthy law, serving an important role in our effort to provide decent housing for all Americans. It is worthy law, serving an important role in our national goal to revive our cities. I ask my colleagues to join me in preserving this provision.

I ask that the full test of the proposal be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEN YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.—Subsection (k) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1984" each place it appears and inserting in lieu thereof "January 1, 1994".●

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 171

At the request of Mr. STENNIS, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 171, a joint resolution for the designation of July 20, 1984, as "National POW/MIA Recognition Day."

AMENDMENTS SUBMITTED

COMPETITION IN CONTRACTING ACT OF 1983

COHEN AMENDMENT NO. 2603

Mr. BAKER (for Mr. COHEN) proposed an amendment to the bill (S. 338) to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes, as follows:

On page 2, line 17, strike out "and" and insert in lieu thereof "or".

On page 3, line 4, beginning with ", proposals," strike out all through "quotations" on line 5, and insert in lieu thereof "or proposals".

On page 3, line 7, beginning with "award" strike out all through "in the" on line 8, and insert in lieu thereof "provide for the".

On page 3, line 10, strike out "of such", and insert in lieu thereof "under this title using competitive procedures but excluding a particular source for that".

On page 3, line 11, insert "or maintain" after "increase."

On page 3, line 14, strike out "or".

On page 3, line 15, insert ", or (3) be in the interest of national defense in establishing or maintaining an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States" before the period.

On page 4, line 2, strike out "factors considered", and insert in lieu thereof "price-related factors".

On page 4, line 13, strike out "and", and insert in lieu thereof "or".

On page 4, line 20, strike out "involved in", and insert in lieu thereof "associated with".

On page 4, line 22, beginning with "maintain", strike out all through line 24, and insert in lieu thereof "(A) maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency, (B) achieve industrial mobilization in the case of such an emergency, or (C) establish or maintain an essential research capability to be provided by an educational or other nonprofit institution or a research and development center funded by the United States;".

On page 5, line 3, insert "or international organization" before the comma.

On page 5, line 9, strike out "provides", and insert in lieu thereof "authorizes or requires".

On page 5, line 10, insert "from" after "or".

On page 5, line 11, insert "the agency's need is for a brand-name commercial item for authorized resale; or" after "or".

On page 5, between lines 14 and 15, insert the following:

"(f) For the purposes of applying subsection (e)(1)—

"(1) property or services shall be considered to be available from a source if such source has the capability to produce the property or deliver the service in accordance with the Government's specifications and delivery schedule; and

"(2) in the case of the procurement of technical or special property which has required a substantial initial investment or an extended period of preparation for manufacture, and where it is likely that production by a source other than the original source would result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property, the property may be deemed to be available only from the initial source and may be procured through noncompetitive procedures.

On page 5, line 15, strike out "(f)", and insert in lieu thereof "(g)".

On page 5, between lines 18 and 19, insert the following:

"(1) the use of such procedures has been justified in writing;

On page 5, beginning with line 19, strike out all through "purchase," on line 20, and insert in lieu thereof "(2)".

On page 5, line 22, strike out ", proposals, and quotations", and insert in lieu thereof "or proposals".

On page 6, line 1, strike out "(2)", and insert in lieu thereof "(3)".

On page 6, line 8, strike out the close quotation marks and the semicolon.

On page 6, between lines 8 and 9, insert the following:

"(h) For the purposes of the following laws, purchases or contracts made under this title using other than sealed bid procedures shall be treated as if they were made with sealed bid procedures:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).".

On page 8, line 2, insert "at a minimum" after "shall".

On page 8, line 10, insert "each of" before "those".

On page 9, line 3, insert "solely" after "based".

On page 9, line 15, insert "solely" before "considering".

On page 10, line 3, insert "where it can be clearly demonstrated from the existence of effective competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in fair and reasonable prices" before the period.

On page 10, line 23, strike out "received under sealed bid procedures", and insert in lieu thereof "or proposal".

On page 10, line 24, insert "or proposal" after "bid'.

On page 11, line 5, strike out ", proposals, or quotations" and insert in lieu thereof "or proposals".

On page 11, line 6, strike out "exceeding", and insert in lieu thereof "expected to exceed".

On page 12, line 8, strike out "bids, proposals, or quotations", and insert in lieu thereof "all bids or proposals".

On page 13, line 19, strike out "a", and insert in lieu thereof "an accurate".

On page 14, strike out lines 9 through 11, and insert in lieu thereof the following:

"if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security; or

"(B) the proposed noncompetitive procurement would result from acceptance of an unsolicited research proposal that demonstrates a unique or innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposed research or proprietary data associated with the proposal".

On page 16, line 15, insert "contract" before "price".

On page 18, beginning with line 21, strike out all through line 24, and insert in lieu thereof the following:

(B) by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using other than sealed bid procedures under section 303(d)(1), if the conditions set forth in section 303(d)(1) apply or the contract is to be performed outside the United States.

"(2) Section 303(d)(1) does not require the use of sealed bid procedures in cases in which section 204(e) of title 23, United States Code, applies."; and

(C) by redesignating subsection (f) as subsection (d);

LEVIN AMENDMENT NO. 2604

Mr. BYRD (for Mr. LEVIN) proposed an amendment to the bill S. 338, supra, as follows:

On page 5, line 24, strike out "agency; and" and insert in lieu thereof "agency.".

On page 6, beginning with line 1 strike out all down through line 8.

On page 26, after the semicolon in line 20 insert "and".

On page 27, line 2, strike out "agency; and" and insert in lieu thereof "agency.".

On page 27, beginning with line 3 strike out all down through line 10.

COHEN AMENDMENT NO. 2605

Mr. BAKER (for Mr. COHEN) proposed an amendment to the bill S. 338, supra; as follows:

On page 27, strike out lines 16 and 17, and insert in lieu thereof the following:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healey Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Monday, November 14, 1983, at 3:30 p.m., in SR-301, Russell Senate Office Building, to receive testimony on Senate Joint Resolution 177, a joint resolution introduced by Senator GOLDWATER and cosponsored by Senator GARN and Senator SASSER.

Senate Joint Resolution 177 provides for the appointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution. Mr. Johnson's appointment would fill a vacancy on the Board of Regents for a regent other than a Member of Congress. His appointment would be for a statutory term of 6 years.

Mr. Johnson is a resident of Wisconsin and has a distinguished career in the management of corporate and educational affairs. He has been a member of the National Board of the Smithsonian Associates for the past 5 years.

Members of Congress and other interested individuals who wish to testify or to submit a statement for the record should contact Ronald L. Hicks of the Rules Committee staff on 224-9078.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Monday, November 14, 1983, at 3:30 p.m., in order to receive testimony on Senate Joint Resolution 177, to provide for the appointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STRATEGIC PETROLEUM RESERVE

● Mr. BOSCHWITZ. Mr. President, my friend and colleague from Minnesota, DAVE DURENBERGER, has been a leader in the Senate in attempting to establish a Federal policy to deal with a petroleum disruption.

Recently he testified on this issue before the Senate Energy and Natural Resources Committee. As usual, his comments are insightful and I recommend them to my colleagues for their review. I ask that the statement be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR DAVE DURENBERGER

Thank you, Mr. Chairman and members of the Committee.

This is not the first time that Senator Andrews and I have sat in these chairs to discuss this subject. Back in the summer of 1981, we were the lead witnesses at a hearing that you conducted on the Standby Petroleum Allocation Act. We had joined with 14 other, primarily Midwestern Senators, to sponsor similar legislation, the Petroleum Disruption Management Act.

We had the great pleasure of working under your leadership, Mr. Chairman, as concepts in those two bills were joined and you skillfully maneuvered the package through the legislative process. We are back, of course, because the President ultimately vetoed the bill and the Senate—for reasons largely unrelated to the content of the bill—sustained his judgment.

And we're back with roughly the same message. The country still remains largely unprepared to meet the demands and prevent the havoc of an oil disruption.

We have taken one important stride toward preparedness since those days in 1981. We have a lot more oil in the Stretegic Petroleum Preserve—over 350 million barrels now, I believe. For that we can be thankful to you, members of this committee and to this administration for its determination to make progress in filling SPR.

If we figure the price of oil at roughly $30 per barrel we have now invested slightly more than $10 billion in the oil domes of SPR. A substantial commitment by any yardstick. A good insurance policy most would think. But an insurance policy, however high the premium, is only good if you can collect on it in a time of need. And if in

this respect—that is—how and when to use the SPR if we need to—then I still believe the preparedness plans of this Government are wrongheaded and sure to plunge us into panic markets if events again turn for the worse in the Mideast.

To be sure, the Administration has issued a drawdown plan as this committee required. But it's a plan that does not tell us when SPR oil will be used, for what purposes it will be used, and how rapidly it will be used. All we know is that this $10 billion insurance policy will be sold off to the highest bidder when the President so decides.

I have many times tried to convince the Senate and the Administration that this policy of selling the public's oil to the highest bidder during a crisis cannot work, would not be accepted by the American public. Suppose that the highest bidder is a foreign nation—perhaps even a current oil producer? Would the American public watch placidly from the gaslines while their oil is shipped to a foreign nation?

Suppose the highest bidder resells the oil for substantial profit in a rapidly escalating market; or suppose he hoards it hoping that prices will go even higher? Will farmers with crops rotting in the fields believe that the market-based approach is successful because some put a higher value on hoarding oil than they do on harvesting crops?

As I say, we have reviewed these arguments here and on the floor many times. But there is one piece of new evidence we can consider, today. The so-called AST-4 study led by the IEA and the Department of Energy produced a simulated economic disaster when the Administration's market-based approach was pushed to the limit.

Under disruption parameters set out by the IEA, DOE chose not to use SPR oil in this simulation despite the fact that oil prices climbed rapidly to $98 per barrel. While state government agencies and foreign nations participating in the simulation saw disaster on all sides, a DOE spokesman calmly dismissed $98 a barrel oil with the following words:

"This is a significant achievement and reaffirms the validity of President Reagan's market-based approach to energy emergencies."

I cannot believe that the American public will ever agree that the overnight tripling of oil prices in a real crisis is a significant achievement. We've been down that path twice already and the legacy of economic ruin that has resulted is the farthest thing from achievement.

The achievement is the perserverance we have shown in filling the Reserve despite difficult budget problems on other fronts. And it is in the light of that achievement that we must view the results of the recent AST-4 study as the worst kind of failure. The oil wasn't sold to the highest bidder, didn't get exported, wasn't hoarded for a profit. It got left in the ground while a simulated economy once again fell apart.

Mr. Chairman, I hope you are ready to try one more time. I am encouraged by this hearing and by the legislation that you have introduced. Senator Andrews and I once again stand ready to assist your efforts in whatever way we can. Later this week we will be introducing legislation based on the same principles that guided us in writing the Petroleum Disruption Management Act.

First, the strategic Petroleum Reserve should be used early in a crisis to prevent the rapid run up in oil prices that becomes permanent.

Second, that oil should only be sold to those who will refine it domestically and get it to the marketplace as product in a reasonable period of time.

Third, the price for that oil should not reflect the panic of the spot market but the underlying price of oil before the disruption.

Fourth, that when necessary, crude oil supply from the SPR should be targeted to ease regional supply imbalances and keep essential industries operating.

And fifth, that a consensus on a workable drawdown policy be established now so that domesic refiners can count on it as they plan production and inventories and so that Congress can largely stay out of the oil business, if and when another crisis is experienced.

Mr. Chairman, and again as I've said many times, there is a role for government in the petroleum marketplace. During good times when prices are stable or falling, private sector inventories are cut. At the beginning of a crisis they are rebuilt rapidly with skyrocket prices as a result.

This business cycle does not serve the public interest in the case of a commodity so essential as oil. To counter it we have wisely invested $10 billion in the Strategic Petroleum Reserve. We need only go one more step in our effort to be prepared. That is to lay the plans now to use the oil wisely should another crisis occur.

Thank you, Mr. Chairman.●

ORDER FOR RECESS UNTIL 6 P.M.

Mr. BAKER. I further ask unanimous consent, Mr. President, that when the minority leader concludes his statement, the Chair place the Senate in recess then until the hour of 6 p.m. this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, the minority leader is here and if there is no other matter to deal with, I am prepared to yield the floor so that he may commence.

Mr. BYRD. I thank the distinguished majority leader for his accommodation, which is characteristic of him and has been during our years of working together.

Mr. President, if any Senator wishes to have the floor or if the majority leader sees an opportunity and wishes to transact business at any time during the delivery of my speech, I will gladly yield the floor, and if such occurs I ask unanimous consent that it not appear in the RECORD as an interruption of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE

THE SENATE: 1893-1900

CURRENCY, FOREIGN AFFAIRS, AND PARTY ORGANIZATION

Mr. BYRD. Mr. President, in my recent addresses on the history of the Senate, I have taken a chronological look at the issues with which our predecessors have wrestled. And I shall continue to do so today, because during these years at the close of the nineteenth century the Senate continued to struggle with major issues such as currency and tariffs; also, for the first time in many, many years, pressing questions of foreign policy and expansion arose. But, as we leave the nineteenth century Senate for the twentieth, I think this would also be a good time to look at major changes in the evolution of the Senate's party structure on the eve of a new era. First, the issues.

I concluded my last address with the fall elections of 1892. For the first time in a third of a century the Democrats, led by Grover Cleveland, took control of the White House and both houses of Congress. While the Democratic party was luxuriating in its victory, disaster struck, seemingly out of the blue. Ten days before the end of President Benjamin Harrison's term, the Philadelphia and Reading Railroad suddenly went bankrupt. Cleveland had hardly been inaugurated in March 1983, when panic struck Wall Street. Banks called in their loans; credit dried up; businesses failed daily in spectacular fashion. The Erie Railroad went down in July, the Northern Pacific in August, the Union Pacific in October, the Atchison in December. By the end of the year, "ruin and disaster ran riot over the land." Five hundred banks and nearly 16,000 businesses had declared themselves bankrupt. Panic deepened into a dark depression, the worst the nation had experienced. Not until 1901 could the country be said to be functioning normally, and even then many areas continued to suffer from the lingering effects of the depression.[1]

No one could agree on the causes of the depression. One's explanation often depended on one's political predilections. Republicans accused Democrats of having frightened the business community with reckless talk of lowering the tariff. Democrats blamed Republicans, arguing that Republican laws were still in effect when the panic began. The leaders of the new administration were convinced that the cause lay in the decline of government credit, due to the continued purchase of silver under the Sherman Silver Purchase Act and the consequent diminution of gold in the Treasury. In June, Cleveland called the 53rd Congress into extra session to begin August 7, 1893, and flying in the face of the free silver and sourthern and midwestern agrarians and inflationists in his own party, he demanded the repeal of the Sherman Act. Cleveland announced that he would keep Congress in Washington throughout the torturous "dog days" of summer until it complied.[2]

[1] Footnotes at end of article.

Unknown to the angry Congress, President Cleveland was facing a personal as well as a political crisis. On the day following his call for a special session, Cleveland underwent an operation to remove a malignant growth from the roof of his mouth. The operation was performed in great secrecy aboard a yacht slowly cruising New York Harbor. The surgery involved the removal of Cleveland's entire left upper jaw and its replacement with an artificial jaw of vulcanized rubber. It was two months before any outsider knew what had happened. The reason for the cloak of secrecy was clear. In the terrible early days of the depression, the gold-standard men looked to Cleveland for hope. Without his support, repeal of the Sherman Act would be impossible. Vice President Adlai E. Stevenson was soft on the silver question, and even a rumor of Cleveland's illness with the possibility of a change in the chief magistracy, would raise new perils of economic uncertainty.[3]

When the extra session convened in August, the conflict in both houses over repeal was intensely bitter, opening wounds in the Democratic party and making free silver a national issue that dominated the next presidential campaign. In the House, Democrat William Jennings Bryan of Nebraska, known as "the Boy Orator of the Platte," won national prominence by thundering against the President and denouncing repeal as benefitting only Wall Street. Despite Bryan's moving orations, the House, after a long and acrimonious debate, voted 239 to 108 on August 28 to repeal the Sherman Act. The White House hadn't dared hope for such a victory, but knew the real trouble still lay ahead in the Senate which was more evenly divided.[4]

The Senate Finance Committee reported the bill in favor of repeal by a bare majority of one vote. The chairman, Daniel W. Voorhees of Indiana, dubbed by newspapermen "the Tall Sycamore of the Wabash," cast the deciding vote. His support for repeal came as a big surprise to the opposition—he was a long-time foe of the President and an inflationist. As his colleagues suspected, the President had won Voorhees' remarkable conversion only after delivering to him control of Indiana's entire federal patronage.[5]

The arrival of the issue on the Senate floor was the occasion for one of the longest and most heated filibusters of the nineteenth century. The silverites were determined to resist repeal to the end, and they had nearly enough votes to do it. The filibuster began on August 29.

Senate cleavage was primarily along sectional rather than party lines, with the West, bolstered by the recent admission of the Dakotas, Montana, Washington, Idaho, and Wyoming, in strong opposition to repeal. Isham Harris of Tennessee, Henry M. Teller and Edward O. Wolcott of Colorado, George G. Vest of Missouri, William M. Stewart and John P. Jones of Nevada, and Populists William Allen of Nebraska and William Peffer of Kansas all spoke passionately against repeal. Voorhees, Roger Mills of Texas, Edward D. White of Louisiana, John R. McPherson of New Jersey, and John M. Palmer of Illinois led the administration forces. They were joined by Republicans Williams Allison of Iowa, Nelson Aldrich of Rhode Island, Justin Morrill of Vermont, and John Sherman of Ohio, after whom the original bill was named.[6]

The silverites hoped to kill the bill by talking it to death. One stupendous speech by Jones, requiring large parts of seven days to deliver, occupies one hundred of the great double-columned pages of the *Congressional Record.* Senator Stewart boasted in his *Reminiscences* that his own speeches filled between 200 and 250 pages of the *Record.* After several days of listening to these harangues, pro-repeal senators Orville Platt of Connecticut and George F. Hoar of Massachusetts began to offer resolutions for cloture. But these proposals only evoked more stormy discussions, turning the debate away from repeal to freedom of speech. Speaking in favor of cloture, Henry Cabot Lodge of Massachusetts contended that "there is another right more sacred in a legislative body than the right of debate, and that is the right to vote." Teller retorted that Lodge was alluding to a rule laid down by the despotic Napoleon III. And so it went until, in mid-October, Senator Palmer lashed out in disgust:

> I have been kept here night after night listening to speeches, not debate, listening to speeches that it is asserted in the public prints were intended to consume time, not to inform the Senate, but to consume time. I submit that except in the methods employed, in the instruments employed, there is no difference between that and revolution, that and armed resistance. There was a time in the history of this country when men chose to take up arms to resist the will of a majority.[7]

Finally, Voorhees decided to resort to continuous session to break the deadlock. After the Senate convened at eleven o'clock on the morning of Wednesday, October 11, it remained in unbroken session for thirty-nine hours, until 1:45 on the morning of Friday the 13th. Allen of Nebraska occupied the floor for fourteen of those long hours. Disgusted, the pro-repeal senators gleefully employed dilatory motions, roll-call votes and quorum calls to torture the leaders of the filibuster. Sitting calmly in their seats, they refused to answer their names on roll-call votes. Thus, if a quorum was to be maintained, the filibuster's supporters had to stay in the chamber; if they slipped out for a rest, the quorum disappeared.[8]

The Senate found itself in a predicament. We can all imagine the scene. A senator would rise to make a minor motion and demand the yeas and nays. Duly seconded, the request would result in calling the roll for a vote. Obstructionists, including perhaps the senator who made the motion, would remain silent when their names were called. Less than half the Senate answering to the roll call, the presiding officer would announce that no quorum was present, though a quorum sat within plain sight. But, as no quorum had responded to the roll call vote, the roll would be called again merely to determine whether senators were present. This time senators would answer; a quorum was present. But once more a roll call vote would elicit only a few responses; no quorum. Joseph Dolph of Oregon sputtered in exasperation: "Mr. President, that is disorderly conduct. It is a violation of the spirit of the rules of the Senate . . . . I am myself getting very tired of this sort of thing." Imperturbable Senator Isham Harris of Tennessee, known as "the Mandarin" because of his long mustaches, replied, "I am sorry the senator from Oregon is tired, and being tired I think the best remedy would be to sit down and rest. It would be a relief to him and to the Senate."[9]

The continuous session proved too much for even Voorhees and the Senate returned to daily meetings with a night's rest in between. The filibuster continued to rage. Finally on October 24, while Stewart, "the Nevada windmill," stirred the air in the Senate chamber, several other anti-repeal Democratic senators met with administration representatives in a room of the Appropriations Committee. Responding to pressure from the White House, they agreed to surrender. When Senator Dolph heard the news, he remarked: "The jig is up." The filibuster's sudden collapse caught many supporters unaware. That very morning, James Pugh of Alabama had vowed that he would continue "until the cows" came home; and Senator Harris, who had declared that the bill would not pass until hell froze over, within a few hours "had his skates on ready to take advantage of the freshly formed sheet of ice."[10]

Finally, at 7:00 o'clock on the evening of October 30, the last speech was made and the vote taken. After a 46-day filibuster, a vote of 43 to 32, the Sherman Act was repealed. Cleveland and the gold Democrats had won but at a very high price. Their party was torn in two, and the wound would be a long time healing.[11]

The split in the Democratic party was further widened during the first regular session of the 53rd Congress,

which began in December 1893. Attention in both houses focused on the tariff. The financial panic that had begun in the east was spreading west and south. The downward spiral of farm prices had continued until corn was selling for ten cents a bushel and cotton for six cents a pound. The common man looked to Cleveland and the Congress for help. Rightly or wrongly, they expected the Democrats to live up to their platform pledge of tariff reduction, the panacea to which many clung.

Early in 1894, the House passed a bill, introduced by William L. Wilson of West Virginia, chairman of the Ways and Means Committee, that repealed the high McKinley Tariff. The House version put sugar, iron ore, and wool on the free list, drastically reduced the general level of duties, and included an amendment providing for a tax on incomes over $4,000. This last revolutionary clause was the work of the agrarians, who had long demanded that taxation be equalized.

Though it passed the House with ease, the Wilson bill encountered bitter resistance in the Senate where it was debated for five months. Forty-four Democrats, thirty-eight Republicans, and three Populists sat in the Senate; even if the Populists voted with the Democrats, the bill would still fail if only five Democrats voted against it. Defections seemed likely. Senator David Hill of New York announced that he would never vote for a bill containing an income tax. The Louisiana senators said they would never vote for a bill under which raw sugar was admitted free. The senators from West Virginia and Alabama objected to the absence of duties on iron and steel. The western Democrats, alienated by Cleveland's insistence on repeal of the Sherman Act, promised very little help.

Cleveland had removed one of his strongest allies from the Senate by naming Senator John Carlisle of Kentucky, one of its few distinguished Democratic tax experts, Secretary of the Treasury on the eve of the tariff battle. Daniel Voorhees was chosen to take his place, but, exhausted from the recent silver repeal fight, he lacked the stamina to battle for tariff reform. The other Democratic leaders divided into two factions—free traders from the South and West and moderate protectionists from the North and East. With Arthur Pue Gorman of Maryland to lead them, and with valuable assistance from influential Republicans, the protectionists held the upper hand.[12]

The divided Senate Democrats compromised. A party conference approved 408 amendments, which were reported out early in May by James Jones of Arkansas. Jones officially took responsibility for the new bill, but the administration attributed the changes to the wily Gorman, and the legislation, when it passed on July 3 by a vote of 39 to 34, became known as the Wilson-Gorman tariff.[13]

Cleveland hoped that when the bill went back to the House his forces would put up a stiff fight to eliminate the more obnoxious of Gorman's amendments. He even allowed Wilson to read from a letter in which the president charged the Gorman group with "party perfidy and party dishonor." The effort backfired. Gorman and Jones regarded the letter as a stab in the back; they believed Cleveland had accepted their changes as necessary compromise. They fought the president all the harder and urged their allies in the House to do the same. On August 13, they won: The House passed the Wilson-Gorman tariff without disturbing a single amendment. Cleveland was in a dilemma. The new tariff was indeed a slight improvement over the McKinley Tariff, but only a very slight one. It was also the best the president could hope to get from the divided Democratic ranks. Deeply disappointed, Cleveland let it become a law without his signature. (The income tax provision was included, but the next year the Supreme Court ruled it unconstitutional as a direct tax.)[14]

Throughout 1894, the economic situation remained grave. The nation's distress was highlighted by a march on Washington of Jacob Coxey's ragtag "army" of unemployed and by bitter strikes of coal miners and Pullman employees. However unjustly, the Democrats were held responsible for the depression that occurred immediately after they came into office. This fact, along with the rise of the American Protective Association—one of the many anti-foreign, anti-Catholic movements perennial in the nation's earlier history in times of popular discontent—played a considerable part in producing the Democratic debacle of 1894. In that year's election voters returned Republican majorities to both houses. The short-lived Democratic return to power had been utilized to so little purpose that the party lay condemned, without realizing it, to fifteen additional years of minority status. When the depression slowly began to lift, Republican majorities of the 54th, 55th, and 56th Congresses took full credit.

But while some significant domestic legislation emerged from these Congresses, for the first time in decades, the House and Senate became intensely preoccupied with foreign affairs. A new, imperialistic mood was afoot in the nation. It first became visible in the Senate in 1895 when, unsolicited, senators were moved to extend America's benevolent protection to Venezuela.

There is so much in today's remarks that are reminiscent of today's events.

A dispute of many years' standing between Venezuela and Great Britain over the boundary of British Guiana came to a head when the British gave signs of intending to take over the contested territory by force. An inconclusive diplomatic correspondence with Great Britan terminated in Cleveland's summary appointment of an American commission to decide the true boundary. He accompanied this action with a statement that any refusal to abide by the commission's decision would be considered by the United States to be a "willful aggression upon its rights and interests."[15]

Such blunt language was popularly interpreted as a prelude to war. A flood of loose and jingoistic talk washed over the Senate, which promptly passed the requested appropriation for the commission as well as one for three new battleships. Fortunately, the statesmen of Great Britain retained their equipoise, and after further negotiation, the danger of war in the Venezuelan jungles was averted. Since I will use the term "jingoism" elsewhere in my talk today, I would like to explain the derivation of this interesting term. It grew out of the 1876 debates in the English parliament over British intervention in Turkey to stop the alleged persecution of Christians there. Public sentiment was on the side of the Christians, and the following refrain was heard in London's music halls:

We don't want to fight, but by Jingo, if we do,
We've got the ships, we've got the men,
We've got the money, too!

"Jingoism" quickly became a synonym for bellicose remarks and national cockiness.[16]

Hard on the heels of the Venezuelan crisis came a conflict with Spain over Cuba. Tension over Cuba began to build when the latest in a series of rebellions against Spanish rule broke out on the island. Americans were aroused by a steady stream of sensational anti-Spanish stories in the yellow journals of William Randolph Hearst and Joseph Pulitzer. Cleveland opposed American military involvement and issued a proclamation of neutrality, but certain senators decided to take matters into their own hands. Senators Wilkinson Call of Florida and John Allen of Mississippi introduced resolutions for recognition; Call's, of Cuban belligerence; Allen's, of the acutal independence of the island. Encouraged by the favorable public response, other senators and representatives rushed onto the floor with equally bellicose resolutions of their own. Soon a race was on between the House and Senate for the honor of being first to pass recommendations to the President.

The House was in so great a hurry to adopt the resolutions of its Foreign

Affairs Committee, differing only slightly from those of the Senate, that it allowed only seventy minutes for debate. With each body refusing to accept the essentially identical resolutions of the other, a conference committee was appointed which recommended the House version. There followed several weeks of debate in the Senate, during which some members revealed an ignorance of Cuban affairs and a recklessness of statement barely equaled by the yellow journals. Senator Sherman confused an old insurrection in 1868 with the contemporary one; Senator Lodge quoted as an actual Spanish proclamation a newspaper guess of what it might actually be; Senator Morgan introduced as evidence a letter from an unnamed and, in fact, unknown, source whom, he assured the Senate, was "a man of good reputation." Senator Hoar was disgusted by the whole scene. Commenting on the jingoism of Sherman, he noted, that "the extraordinary excitement shown by the Senator from Ohio in this matter is no proof of any disturbance in our foreign relations, but that there is a presidential election at hand." The upshot of the lengthy debate was that the Senate refused to accept the House measure, so the conference committee met again and endorsed the Senate version which the House was persuaded to accept.[17]

Ignoring Congress entirely, Cleveland had already offered America's services to Spain to help find a peaceful solution to the Cuban question. Spain turned the offer down. The Senate demanded copies of Cleveland's correspondence, but the President refused.

Cleveland could afford to offend the 54th Congress. As Senator Hoar noted, a presidential election was at hand and Cleveland did not expect to be renominated. In fact, he was not, losing the Democratic nomination to William Jennings Bryan over the issue of silver. At the Republican convention in St. Louis, William McKinley, whose candidacy was efficiently promoted by millionaire Mark Hanna, easily defeated his chief rival, "Czar" Thomas B. Reed, Speaker of the House. McKinley triumphed in the fall elections, beginning his term of office with a Republican majority in the House and a plurality in the Senate, where a group of Populists and Independents held the balance of power. McKinley named Senator John Sherman, 74, his Secretary of State, and the Ohio legislature awarded Mark Hanna Sherman's vacant Senate seat. (Many charged that this maneuver was a "deal" struck between McKinley and Hanna in which the unwitting Sherman, whose mind was known to be failing in his old age, was the pawn.[18]

On inauguration day 1897, the Cuban situation looked promising. A new, liberal government in Spain proposed a plan for the virtual automony of Cuba without sacrificing its formal allegiance. Furthermore, the attitude of the Republican fire-eaters in Congress underwent a marked change as soon as their party actually became responsible for the conduct of foreign affairs. The war spirit might have totally subsided but for the activities of the "yellow press."

The imprisonment of Evangelina Cisneros, daughter of a prominent Cuban patriot, was reported in the New York Journal in lurid detail. On behalf of the senorita, William Randolph Hearst circulated a petition, which was signed by hundreds of sentimental American women, to the Infanta of Spain. Thus, the Cuban question was still very much alive when the 55th Congress met in December 1897.

McKinley was in a difficult position. Henry Cabot Lodge, with the influence of the Foreign Relations Committee behind him, pushed for war. He and other Republicans argued that, unless their party led the war against Spain, the Democrats would have an enormously emotional issue to use against them in the 1898 mid-term election. Nevertheless, McKinley's message to Congress in December was basically a peaceful one, counseling quiet negotiation, and expressing the hope that the situation would improve.

The situation, however, did not improve. Members of both houses refused to wait for the diplomatic talks to conclude and again introduced resolutions supporting Cuban belligerence. Congress induced McKinley to dispatch the battleship *Maine* to Havana Harbor. On the evening of February 15, 1898, a terrific explosion rocked the *Maine*, and it sank to the bottom of the harbor with the loss of 260 men. Public hysteria was aroused by the yellow press, which despite the lack of evidence, was quick to attribute the tragedy to Spanish agents. I might note here that after a great deal of study, Admiral Hyman Rickover recently came to the conclusion that the *Maine* had been blasted apart by an *internal* explosion, probably caused by its own crew's inexperience in handling incendiary devices. The American people in 1898, however, did not have the benefit of Admiral Rickover's findings and war sentiment reached fever pitch.[19]

Despite the fact that quiet negotiations were about to reach a peaceful conclusion, the House and Senate passed an emergency bill appropriating $50 million for national defense. The halls rang with Democratic resolutions demanding war. Republican leaders had a difficult time restraining the belligerency of their own members. On March 17, the militants received strong support from Republican Redfield Proctor of Vermont, who had recently visited Cuba and who confirmed the charges of those attacking Spain. The speech by Proctor, who was greatly respected by his colleagues and not regarded as a jingoist, had a great effect on those who had not yet made up their minds.[20]

Swayed by opinion in and out of Congress, McKinley planned to deliver a war message on April 4, but delayed when he learned that Spain was preparing a satisfactory reply to his ultimatum. In fact, Spain's answer, submitting to the American demands, reached Washington on April 10. By then, however, McKinley had caught the war fever. Urged on by Senators Aldrich and Lodge, who argued that the Spanish assurances could not be trusted, McKinley sent his message to Congress on April 11, recommending "forcible intervention" in Cuba. A conference committee ironed out the wording of a joint resolution, and while it was carried back and forth between the two chambers and the committee room, visitors to the galleries sang patriotic songs. At three o'clock on the morning of April 19, the two houses adopted the resolution recognizing Cuban independence, demanding Spain's withdrawl from the island, and empowering the president to use the military to enforce these objectives. A fourth point, included as an amendment by Senator Henry M. Teller of Colorado, disclaimed American intentions to assert sovereignty or control over Cuba, stating that the future government and control of the island would be left to its people. McKinley signed the resolution on April 20. On April 24, Spain declared war on the United States; on April 25, Congress responded with its own formal war declaration.[21]

War had come so fast, and, many believed, so unnecessarily. The American demands had, in fact, been met through diplomacy. As Secretary of the Navy John D. Long wrote to a friend:

> Do you realize that the president has succeeded in obtaining from Spain a concession upon every ground which he asked; that Spain had yielded everything up to the present time? If the country and Congress had been content to leave the matter in his hands, independence would have come without a drop of bloodshed, as naturally as an apple falls from a tree.

Senator Spooner accurately expressed the circumstances which had impelled the nation into war:

> I think . . . possibly the president could have worked out the business without a war, but the current was too strong, the demagogues too numerous, and the fall elections too near.[22]

Despite the fact that the army was woefully unprepared, a string of swift American land and naval victories in the Philippines and Cuba forced Spain to sue for peace by the last week of July. Since the United States had pre-

sumably gone to war to rescue the Cubans from their brutal Spanish overlords, it had come as something of a surprise when the first resort to arms took place 6,000 miles away in the Philippines; another Spanish possession. When it came time to negotiate the peace settlement with Spain in Paris in December 1898, it was the Philippines that divided the nation and the Congress in a new controversy over imperialism and moral right and wrong.

McKinley tried to pack the five-man American commission to the peace negotiations with expansionists such as Senators William Frye of Maine and Cushman Davis of Minnesota. Only one member, the lone Democrat, Senator George Gray of Delaware, was an outspoken anti-imperialist. He cabled McKinley a vigorous protest about his fellow members' stridency:

Even conceding all benefits claimed for annexation we thereby abandon the infinitely greater benefit to accrue from acting the part of a great, powerful, and Christian nation; we exchange the moral grandeur and strength to be gained by keeping our word to nations of the world and by exhibiting a magnanimity and moderation in hour of victory that becomes the advanced civilization we claim, for doubtful material advantages and shameful stepping down from high moral position boastfully assumed.[23]

This was exactly the sort of appeal that might be expected to carry weight with the president, a very religious man. But McKinley found arguments of equal moral gravity on the other side. As he later told a group of fellow Methodists:

I walked the floor of the White House night after night until midnight; and I am not ashamed to tell you, gentlemen, that I went down on my knees and prayed Almighty God for light and guidance more than one night. And one night late it came to me . . . we could not leave them /the Filipinos/ to themselves—they were unfit for self-government . . . there was nothing left for us to do but to take them all, and to educate the Filipinos, and uplift and civilize and Christianize them, and by God's grace do the very best we could by them as our fellow men for whom Christ also died. And then I went to bed and went to sleep and slept soundly.[24]

When the third session of the 55th Congress convened in December 1898, the Senate was confronted with a peace treaty that provided for the cession of the Philippines to the United States in return for a payment of $20 million. Sharp debate broke out between imperialists and anti-imperialists, the latter composed mainly of Democrats, Populists, and a few New England Republicans.

Even as the debate raged, disillusioned Filipinos rose in revolt against the United States which, they believed, had promised them independence. The ruthless suppression of natives by American troops, and the crushing of the independence movement, intensified congressional soul-searching over this latest stage of American expansionism. The most eloquent defender of the president's policy was Indiana's new Republican senator, 37-year-old Albert Beveridge, who, with his maiden speech on the Philippine question, leaped to national fame. "The Philippines are ours forever," began Beveridge.

And just beyond the Philippines are China's illimitable markets. We will not retreat from either. We will not repudiate our duty in the archipelago. We will not abandon our opportunity in the Orient. We will not reonounce our part in the mission of our race, trustees under God, of the civilization of the world . . . God . . . has marked us as His chosen people, henceforth to lead in the regeneration of the world. . . . He has made us the master organizers of the world to establish a system where chaos reigns . . . He has made us adept in government that we may administer government among savages and senile peoples.

Beveridge went on the enumerate with zest the riches of the islands: rice, coffee, sugar, coconuts, hemp, tobacco, "mountains of coal," all awaiting development by American capital. He lightly brushed aside the objections of the natives: "It is barely possible that a thousand men in the archipelago are capable of self-government in the Anglo-Saxon sense."[25]

Thunderous applause from both the Senate floor and the galleries greeted Beveridge when he concluded, but some senators questioned whether the acquiring of far-distant lands of people of different backgrounds violated American principles. George Hoar of Massachusetts, 72-years-old, rose and, in a voice quavering with rage and emotion, delivered his verdict upon Beveridge's speech:

I have listensed, delighted, as I suppose all the members of the Senate did, to the eloquence of my honorable friend from Indiana. Yet, Mr. President, as I heard his eloquent description of wealth and glory and commerce and trade, I listened in vain for those words which the American people have been wont to take upon their lips in every solemn crisis of their history. I heard much calculated to excite the imagination of youth seeking wealth, or the youth charmed by the dream of empire. But the words Right, Duty, Freedom, were absent, my friend must permit me to say, from that eloquent speech.[26]

The debate over imperialism continued into the 56th Congress. Maintaining that the "Constitution follows the flag," anti-imperialist Democrats argued that the new territorial acquisitions were an organic part of the United States and entitled to all constitutional guarantees, including the right of free trade with the rest of the nation. Republicans argued that the new possessions were dependencies, and that Congress could make rules for them in any way it chose. At issue was Puerto Rico, and the Republicans won their point. Puerto Rico was declared an unorganized territory, with a governor general and upper house appointed by the president.

In the last session of the 56th Congress, attention shifted back to Cuba, where the whole issue of imperialism had arisen. Though the Teller Amendment had disclaimed American intentions of asserting control over the island once Spain was ousted, difficulties arose when the newly liberated Cubans wrote a constitution declaring themselves a sovereign and indpendent nation. Congress now balked at a total American withdrawal, fearing the Cubans' inability to govern themselves and wishing also to protect American strategic and business interests on the island.

Republican Orville Platt of Connecticut introduced an amendment to the army's appropriation bill providing for additions to the Cuban constitution. Among them were a prohibition against that country's entering into a treaty with any foreign power that would impair its independence, a limitation on the Cuban public debt, the right of the United States to intervene in Cuba at any time to safeguard "life, property, and individual liberty"; and an agreement to sell or lease areas for American naval or coaling stations. The Platt amendment was passed in the final hours of the 56th Congress on March 2, 1901. Under American pressure Cuba added the provisions to its constitution, becoming, in effect a quasi-protectorate of the United States. The Platt amendment was, of course, in flat opposition to the promises made by the Teller amendment, but the latter had been passed before the war, the former after, amidst the intoxicating fumes of victory and national aggrandizement.[27]

Two days after the passage of the Platt amendment, William McKinley was, for the second time, inaugurated president of the United States, with healthy Republican majorities in both the House and Senate. The period following the Spanish-American War had been one of outstanding economic prosperity for everyone, even the nation's farmers, a fact that McKinley and his running mate, the exuberant Theodore Roosevelt never failed to point out. The Republicans' symbol of the "Full Dinner Pail" was a potent one. The nation entered the twentieth century prosperous and proud—a world power. The national hubris was reflected in the Senate, which, as we shall see in the second part of these remarks, entered the new era newly organized and strong, as what we might all recognize as the "modern" Senate.[28]

In 1885, when Woodrow Wilson, finishing his graduate work at Johns Hopkins University, wrote his dissertation on the American Congress, he lamented the lack of party control in the Senate. Such control, he was cer-

tain, was what made the British parliament a more effective body than its American counterpart. Senators were free to perform their duties as they saw fit. On any specific political question, they could act with impunity. "No one," said Wilson, is the senator. No one may speak for his party as well as for himself; no one exercises the special trust of acknowledged leadership. The Senate is merely a body of individual critics . . . . The weight of every criticism uttered in its chamber depends upon the weight of the critic . . . deriving little . . . gravity from connection with the designs of a purposeful party organization." [29]

So the Senate has not changed very much. That may be a startling statement to a lot of people, but not in the face of history. In 1885, party leaders within the Senate could neither discipline their Members nor drive malcontents from their party's ranks.

It is the same today.

With no single leader to encourage regularity and no caucus to formulate party consensus on major issues, there was little chance for bringing order to the business of the Senate.

In 1902, less than two decades after Wilson lamented the lack of party discipline, Russian-born, French-educated political scientist Moisei Ostrogorski declared, "The Senate of the United States no longer has any resemblance to that august assembly which provoked the admiration of the Tocquevilles." The reason, he felt, for what he considered the decline in independence of its members was obvious: the dominance of party organization. "The caucus," he concluded, "was one of the principal, if not the principal agent of the fall." [30]

What had happened in the intervening fifteen years to create such different impressions? Within these years, party organization transformed the Senate until it barely resembled its predecessors. The Senate at the turn of the twentieth century seemed to have more in common with the institution that Presidents Eisenhower and Carter confronted, than to that of the Jackson or Grant eras. In terms of party organization, it was a Senate more recognizable to me and fellow senators today than to our early predecessors, William Maclay and Oliver Ellsworth. The Senate has become "modern." One of the best analyses of how this transformation took place appears in an excellent book entitled *Politics and Power: The United States Senate, 1869-1901*, written by historian David Rothman.

On the Republican side of the aisle, the skills of such leaders as William Allison, Nelson Aldrich, and their hand-picked allies helped alter Senate practices. The dimensions of those changes and their role in bringing them about were most vividly illustrated in the 55th Congress, which convened in March 1897.

The first duty facing the Republicans, the majority party, that year was to elect a caucus chairman to succeed John Sherman, who had just entered McKinley's cabinet. Since seniority, rather than particular competence determined the decision, the choice was easy. William Allison, 68-years-old, who had served in the Senate for 25 years, longer than any of his other Republican colleagues, succeeded Sherman.

With Allison chairing the caucus, the faction he and Aldrich dominated came to power. In the course of their rule, they established and clarified the authority that party officers could wield and made the caucus crucial to the control of Senate business. They institutionalized once and for all the prerogatives of power. Would-be successors or rivals would now be forced to capture and effectively utilize the party posts if they hoped to lead the Senate. Allison outlined the new rules: "both in the committees and in the offices, we should use the machinery for our own benefit and not let other men have it." [31]

The members of the new ruling circle were a diverse and interesting group. The best place to meet them all together on a weekday night was at the home of Senator James McMillan, the Michigan shipping and manufacturing magnate. In his imposing residence on Vermont Avenue, McMillan had a handsome bronze-colored den, complete with tables for billiards and cards. This is where the "Philosophy Club," an informal group of prominent Republicans, gathered for post-dinner games of poker. These sessions had begun sometime around 1890, before the group's political supremacy, but they took on a new significance after Allison assumed the party post. [32]

McMillan was host. Allison, his closest friend, was always present, and Aldrich attended regularly, his skills at the poker table proving as outstanding as his talents in the Senate. He was "hell on jackpots" and the most frequent winner. Maine's Eugene Hale and both Connecticut senators, Joseph Hawley and Orville Platt, were members, and Ohio's Mark Hanna took a place soon after entering the Senate. George Wetmore, Aldrich's colleague and staunch supporter from Rhode Island, also joined. John Spooner, the hand-picked successor to Wisconsin's millionarie lumberman, Philetus Sawyer, looked forward to the "Club's" meetings and missed them greatly whenever he was away. Of the other "philosophers" he noted, "If I were president I think I should want them to be in the cabinet, and if either of that crowd were president I think I should want to be in the cabinet." [33]

The harmony that united McMillan's guests prevailed on the Senate floor where they joined to further each other's aims, support their favorite legislation, and to consolidate their power. In the early twentieth century, Allison, Aldrich, Platt, and Spooner would become known as the "Senate Four," and I shall speak at length about them in my next address, but they received valuable aid from their fellow "philosophers" in organizing party discipline of the Senate.

Utilizing and extending the privileges of the caucus chairman, Allison secured tight control over the Senate proceedings. One of his first duties in 1897 was to select the chairman and members of the Republican Steering Committee. Previous caucus leaders had usually appointed other senators to head that panel; Allison, however, invariably chaired the committee himself. Allison also regularized practices that predecessors had followed only erratically. Prior to 1897, members of the Steering Committee had been replaced at the start of each Congress. Allison, concentrating authority, habitually named the same senators, and those senators were always his friends. In 1902, when Ostrogorski published his comments on caucus rule, Allison, Aldrich, Hale, McMillan, Platt, Spooner, and Hanna served on the Steering Committee. [34]

After filling the Steering Committee, Allison turned to the Committee on Committees and again found places for his friends. Most Senate legislation was shaped by the working committees, and the increasing complexity and widening scope of Senate action after the Civil War increased their prominence. The Allison-selected Committee on Committees was fully cognizant of the implications of its decisions. "If we do not meet until we meet in Washington," Allison wrote to Spooner in 1899, "I hope you will be there at least some days before the opening of the session as it is of utmost importance that we should make no mistake in reorganizing the committees of the Senate." [35]

Under Allison's rule, before the first session of each new Congress, the Committee on Committees gathered in the chairman's office, immediately directing the secretary to dispatch a note to all Senate party members. "In behalf of the Republican Caucus Committee on Committees," dictated Eugene Hale when chairman, "I would be glad to learn from you what your preferences are in the matter of committee assignments. . . . An early answer will facilitate our work." Once the replies were received, the group set about its business in private meetings, without keeping minutes. The unwritten rules of seniority were recognized in determining committee chairmanships, but the committee was very careful when assigning new members to a committee; the committee as-

signments of one year would affect chairmanships ten years later.[36]

Senators learned to appreciate being asked what committee places they would like. They realized that if left to chance, they might be disappointed. But, to inform the caucus committee, as did Indiana's Charles Fairbanks in 1897, that Appropritions was his first choice, followed by Foreign Relations, Finance, and Judiciary only publicized an ignorance of realities. It was, of course, Fairbanks' freshman year and none of his requests was granted. More seasoned senators learned to concentrate on one preferred place.[37]

Success in attaining a coveted committee position ultimately depended upon winning the favor and support of the powerful leaders—a fact made plain to the youthful and popular Indiana senator Albert Beveridge. In 1899, Beveridge received Indiana's second Senate seat, despite opposition from Fairbanks, then in alliance with Aldrich and Allison. Word went out, friends informed Beveridge, "that you belong to the genus mugwump." Frantic that if the impression was not corrected he would not receive favorable committee assignments, Beveridge began a campaign to polish his tarnished image and win Allison's favor. With no attempt at modesty, he wrote the caucus chairman outlining his qualifications: the study of international affairs and a recent trip to the Philippines—that was Foreign Relations; knowledge of constitutional law—referring to Judiciary; close working relationship with Indiana bankers—Finance. Not content to let his abilities stand alone, Beveridge assured Allison of his personal loyalty and subservience,, declaring "I leave my fate in your hands." And concluding "I feel that the greatest single point is gained in the possession of your friendship . . . I will labor very hard, strive very earnestly to deserve your consideration."

For all these efforts, Beveridge did not immediately gain the committees of his choice. But he kept trying. "As I have said to you before," he continued to remind Allison, "I value your intimate acquaintance and friendship most highly. If I can have that, I feel that my opportunities for usefulness in the Senate will be increased and the probability of my mistakes lessened." Perseverence was finally rewarded; soon Beveridge was placed on the Steering Committee and on the committees he most wanted.[38]

Through exacting oversight, Allison and his supporters dominated the Senate committees as effectively as they did the party organization. Allison himself chaired Appropriations and was second on Finance. Aldrich headed Finance and also sat on Rules, Commerce, and Relations With Cuba. Platt and Spooner both served on Finance and Judiciary, while Spooner chaired the Rules Committee. Hale was a member of Appropriations and headed Naval Affairs, while McMillan occupied places on Commerce and Cuba, and chaired the District of Columbia. Seldom in the history of the Senate to that time had the major committees been so monopolized by the party leaders.

Control of the Steering Committee also strengthened the power of the Allison-Aldrich faction over the Senate's business. Arranging the legislative schedule in detail week by week, the committee extended the party leaders' authority unimpaired from the caucus to the chamber. Senators knew that they had to consult the committee before attempting to raise even minor matters.

The efficiency that marked the distribution of committee assignments was equally evident in ordering the program of business. The Steering Committee requested the chairmen of working committees to list bills warranting immediate consideration, and it carefully studied their replies. Subsequently, it informed the caucus which measures were to be taken up and the order of discussion.

The caucus meetings usually proceeded harmoniously, pointing to the effectiveness of the new Senate leaders. Meeting frequently at the start of the session, party members approved the slate presented by the Committee on Committees, no matter how decidedly it favored the ruling circle, and sanctioned the order of business. The once traditional task of voting on the distribution of Senate patronage—the secretaries, doorkeepers, and other minor officials—was now unnecessary; rather than encourage intra-party competition each senator simply received an equal share of the offices.[39]

Allison and Aldrich firmly maintained Republican unity; effectively dispensing rewards, and promoting their friends. Senators who joined the alliance soon occupied vital committee places while dissidents were excluded from influence. Those outside the circle could use the chamber as a forum and address the nation. But while the country might honor their names, the Senate barely felt their presence.

Republican ranks were not always to remain as united as they were under the leadership of Allison and Aldrich. Successors often failed to harmonize fractious or discordant members. But the opportunity for effective party control was clearly established.

"Men who have personal independence of character," complained Democratic Senator John Daniel in 1890, "when they become allied in political organizations and under the influences which are brought to bear about the great Capitol . . . bow and bend and surrender." Daniel concluded that the Senate Democratic organization, like the Republican, improperly dominated its members. Arthur Pue Gorman, however, the only Democrat comparable in stature to Allison, took more pride than Daniel in party government. In 1894 he concluded that without an effective caucus "we should have passed through the session with divisions as wide upon this side as it is possible to conceive of within a party."[40]

Gorman served in his youth as a Senate page and his early introduction to politics later helped guide him through the intricate alignements of Maryland's Democratic party. Prudently joining one faction and then moving over to its rival, Gorman chose sides so well that by 1880 he commanded the state organizations and won election to the Senate. Nine years later, he chaired the Democratic caucus.[41]

Horace Chilton, an observant Democratic senator from Texas, immediately sensed that Gorman was "the most influential man of the Democratic side." Resembling a "dignitary of the Church," with a smooth-shaven face, Gorman was extraordinarily discreet and wary. Gorman's policy decisions were often, said Chilton, "the reflex of Democratic opinion." "But," he quickly added, "it must not be supposed that he was not a powerful agent in finding the common ground and leading his colleagues to enter upon it." "He was indefatigable in his attention to all Democratic senators," invariably employing "the ingratiating influence of hospitality, favoring senators in regard to committees, helping them concerning pet measures." Chilton described Gorman's subtle tactics:

> For if a man recognized as a leader, shows interest in the personal convenience of a colleague—if he interests himself to get you a good seat, if he picks an opportunity of helping you to do something of decided importance to you, if he bestirs himself to get you a congenial committee assignment, you are sure to want to reciprocate.

Gorman rarely forgot a debt. Chilton slyly noted, "He was a well organized mind,"[42]

The practices of the two Senate parties in the 1890s were similar. Gorman chaired the Democratic caucus, and, like Allison, chaired the Steering Committee and selected its members at will. Unlike Allison, Gorman himself chaired the Committee on Committees, preferring not to delegate responsibility. Increasingly, he named the same men to help arrange the slate and determine the order of business. Thus even fewer Democrats than Republicans controlled their party's offices.

Gorman's Senate allies held the positions of influence. Francis Marion Cockrell of Missouri, who supported Gorman for president at the 1892 Democratic Convention, served on both the Steering and Appropriations

Committees. His appearance, always in a white linen duster with a well-chewed corn cob pipe in his mouth, belied his stature as one of his state's outstanding attorneys. Still, his sympathies for the rural populace were real. The Populist strength in Missouri augmented his power and Cockrell continued to win reelection after reelection without difficulty. Kentucky's Joseph Blackburn, another promoter of Gorman for president in 1892, also served on Steering and Appropriations. Son of a wealthy planter and successful politician, he practiced law and served a long and distinguished career in the House before moving to the Senate.[43]

Equally comfortable in both committee rooms was Gorman's good friend, Calvin Brice of Ohio. Beginning his career as a first-rate railroad attorney, Brice went on to head his own international railroad syndicate. Like Republican Mark Hanna, Brice served his party first as Democratic National Committee chairman and then as senator. Edward Walthall, protege of respected Mississippi Senator L.Q.C. Lamar, came to the Senate after President Cleveland appointed his patron to the Supreme Court. A loyal Gorman follower, Walthall soon received a place on Steering as well as on Finance. By the time the Democrats controlled the 53rd Congress, 1893–1895, a majority of the party's Steering Committee had worked for Gorman's nomination at the 1892 Democratic Convention.[44]

California Democrat Stephen White, hoping to achieve Senate influence, used the same tactics on Gorman that Beveridge had practiced on Allison. Appreciating the importance of valuable committee assignments, after his election in 1893, White methodically set out to fulfill his ambitions. Emphasizing to Gorman that he was "the only Democratic senator from his part of the United States," that he "had about as much experience as most men of my age in litigation" and was "capable of doing a good deal of work." White asked for places on Commerce, Foreign Relations, and Judiciary. His persistence paid off. He won seats on both Finance and Commerce during his first term, and was eventually rewarded with a place on the Steering Committee. Knowing the rules of the game obviously helped on both sides of the aisle.[45]

Although his allies were loyal, Gorman never attained the power that Allison and Aldrich wielded. The harmony shared by Republican leaders was not duplicated within the Democratic ranks. On too many substantive issues, key Democratic senators divided. Attempts to enforce a party position often met the vigorous protests of those closest to power, and Gorman could do little to instill discipline when members of his own coterie disagreed.

Perhaps if Gorman had served regularly as majority chairman, he might have strengthened his position. As minority leader, however, the Maryland senator bestowed rewards of lesser significance. Republicans, not Democrats, dominated the chamber and affected most of the changes of these years. Realizing the powers and potentialities of party unity and leadership, they transformed the character of the institution.[46]

As we have seen, the Senate experienced the most vital changes in its history, to that point, during the three decades that followed the end of Reconstruction. Both parties became firmly established, and a new concern for order and discipline accompanied their stability. The increased importance of party government sharply differentiated the institution at the opening of the twentieth century from its predecessors. The "new" Senate was a cohesive and formidable force with which future presidents would have to reckon.

NOTES TO "THE SENATE . . . 1893-1900"

[1] Harold Faulkner. *Politics Reform and Expansion.* New York: 1959, 141-143; Samuel Rezneck, "Unemployment, Unrest and Relief in the United States During the Depression of 1893-1897," *Journal of Political Economy,* LXI (August, 1953), 324-325.

[2] Ernest Bates. *The Story of Congress: 1789-1935.* New York: 1936, 308; Alvin Josephy, Jr. *The Congress of the United States.* New York: 1975, 283.

[3] Faulkner, 147-148; Franklin Burdette. *Filibustering in the Senate.* Princeton: 1940, 58-59.

[4] Faulkner, 149; Josephy, 284; *House Journal,* 53rd Congress, 1st sess., 18-22.

[5] Faulkner, 149; Josephy, 284; Harry Thruston Peck. *Twenty Years of the Republic, 1885-1905.* New York: 1907.

[6] Faulkner, 150; Burdette, 59-60.

[7] *Congressional Record,* 53rd Congress, 1st sess., 1091-2380 (Lodge speech, 1637-38); William Stewart. *Reminiscences of William M. Stewart of Nevada.* New York: 1908, 315; Burdette, 60-62.

[8] *Congressional Record,* 53rd Congress, 1st sess., 2380-2579.

[9] Ibid.; Burdette, 62-63.

[10] Burdette, 66-67.

[11] *Congressional Record,* 53rd Congress, 1st sess., 2958.

[12] John Lambert. *Arthur Pue Gorman.* Baton Rouge: 1953, 200-202.

[13] Lambert, Chapter X; Faulkner, 158-159.

[14] Josephy, 284; Faulkner, 160-161.

[15] Bates, 311-312.

[16] William Safire. *Safire's Political Dictionary.* New York: 1978, 347-348.

[17] Bates, 312-313.

[18] Faulkner, 261-262; Winfield S. Kerr. *John Sherman.* Mansfield, Ohio: 1902, II, 395-396.

[19] H. G. Rickover., *How the Battleship MAINE was Destroyed.* Washington; 1976.

[20] *Congressional Record,* 55th Congress, 2nd sess., 2916-2919; Josephy, 299.

[21] *Congressional Record,* 55th Congress, 2nd sess., 3699-3702, 4066, 4244; Josephy, 299.

[22] Faulkner, 232-234; Lawrence S. Mayo (ed.). *America of Yesterday as Reflected in the Journal of John Davis Long.* Boston: 1923, 179-180.

[23] Josephy, 300.

[24] Bates, 324; Charles S. Olcott. *William McKinley.* Boston: 1916, II, 110-111, quoted from the *Christian Advocate,* June 22, 1903.

[25] *Congressional Record,* 56th Congress, 1st sess., 704-712; Bates, 325-326; Josephy, 300.

[26] *Congressional Record,* 56th Congress, 1st sess., 712-713; Bates, 326-327.

[27] Josephy, 301; Louis Collidge. *An Old-Fashioned Senator.* Port Washington, New York: 1971 (first published in 1910), chapter XXVI.

[28] Josephy, 302.

[29] David Rothman. *Politics and Power.* New York: 1969, 11, quoting from Woodrow Wilson, *Congressional Government* (1885).

[30] Moisei Ostrogorski. *Democracy and the Organization of Political Parties.* New York: 1902, II, 542.

[31] Rothman, 43-44.

[32] Ibid., 45; Josephy, 290.

[33] Rothman, 45-46; Dorothy C. Fowler. *John Coit Spooner.* New York: 1961.

[34] Rothman, 48-49.

[35] Ibid., 49-51.

[36] Ibid., 51.

[37] Ibid., 54.

[38] Ibid., 56-57.

[39] Ibid., 58-59.

[40] Ibid., 61; *Congressional Record,* 51st Congress, 1st sess., 7059; 53rd Congress, 2nd sess., 7802.

[41] Lambert.

[42] Rothman, 62.

[43] Ibid., 63; Francis M. Cockrell II. *The Senator From Missouri.* New York: 1962, "Joseph Clay Stiles Blackburn," *Dictionary of American Biography.* New York: 1946, II, 316-317.

[44] Rothman, 64; "Calvin Stewart Brice," *Dictionary of American Biography.* New York: 1946, III, 3-32.

[45] Rothman, 64-65; Edith Dobie. *The Political Career of Stephen Mallory White.* Stanford: 1927.

[46] Rothman, 67-68.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. BYRD. Yes. Yes, indeed.

Mr. MATHIAS. I have listened with great interest to the Senator's remarks, particularly interested in the fact that he mentioned the career of Arthur Pue Gorman, who was one of the great Marylanders to serve in this body over the years. I am wondering if the Senator's research into the history of the Senate has provided any clue to the way we can work ourselves out of the problem that has developed over the past decade of relying as we are this very afternoon so heavily on the continuing resolution which has so many defects?

About the only asset that I can see to the process in which we are now engaged is that it has provided a short window in which the Senator has found time to enlighten us with his remarks on the history of the Senate. But we labored until 4 o'clock this morning, making decisions that had already been considered by the authorizing committees, in many cases arriving at conclusions different from those of the authorizing committees, in many cases ignoring the work of the authorizing committees, thereby wasting the time of Members in meeting to make those decisions, wasting the time of the staff in preparing hearings, and wasting the time of the citizens who came as witnesses in those hearings.

It seems to me we are at the moment in a very inefficient mode of operation. Has the Senator in his perusal of the history of the Senate seen anything quite like it?

Mr. BYRD. Yes. In today's statement I commented with respect to the similarities of the period to which I addressed my remarks and our own period of today. I think I would have to say it has ever been such. One way or another it has always been this way. Since the events recorded in Maclay's Journal, which I have done

more than once, I find that the same criticism of the Senate from insiders and from outsiders, has existed from the very beginning.

We in our day believe that the Senate has retrogressed, and I can point to things that would support that case. However, as we research more and more and read more and more of the Senate's history, we find, as I say, that it was always much thus, in more ways than one.

Mr. MATHIAS. Now the Senator leaves me in a quandary—whether to be an optimist or a pessimist. I could be an optimist, on the theory that the problems which seem to overwhelm us now are not pushing us to the brink of extinction.

On the other hand, I have to be somewhat pessimistic, that this kind of situation will continue into the indefinite future, to plague future generations in the Senate.

I thank the Senator.

Mr. BYRD. I thank the distinguished Senator—and he truly is quite a distinguished Senator.

As Alexander Pope once said of someone, "He is my philosopher, guide, and friend." I think this might very well be said of the distinguished Senator from Maryland.

He is a constituent of mine, in a way.

The Senator from Maryland has property in the State of West Virginia, and often goes there. Once, I believe, he broke his arm there. [Laughter.]

He is one of my constituents to all of whom I listen. He is charming. He is amiable. He has inimitable good humor. Mixed with that is a very prolific and perpetually-in-motion brain.

I marvel at his equanimity and at his sense of purpose and his fairness. He is a Republican who never—at least, not too often—lets pure partisanship get in the way. I am one of his greatest admirers.

Mr. MATHIAS. Admiration which is fully reciprocated. I appreciate the Senator's remarks.

I hasten to point out that although it is true that I broke my arm in West Virginia, that was not the fault of any West Virginian. It was, in fact, my own fault.

The Senator has been kind enough to refer to a quality of equanimity. On that occasion, I lacked the quality of equilibrium and fell from a quadruped. [Laughter.]

But that has not in any way diminished my enthusiasm either for riding horses or spending a little time in Jefferson County.

Mr. BYRD. I thank the distinguished Senator from Maryland.

RECESS UNTIL 6 P.M.

The PRESIDING OFFICER (Mr. DENTON). Does the Senator from West Virginia yield the floor?

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 6 p.m.

Thereupon, at 4:47 p.m., the Senate recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

The PRESIDING OFFICER. The acting majority leader is recognized.

Mr. LUGAR. Mr. President, it is now 6 p.m. and the status of affairs for the evening is still unclear, although plans are proceeding with the Speaker and with the majority leader.

For the moment, it would seem advisable for us to continue with a period of routine morning business.

ROUTINE MORNING BUSINESS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate now have a period for routine morning business, with speeches by Senators to be limited to no more than 5 minutes each, until the hour of 6:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, all day today we have been hoping that we could complete action on the continuing resolution conference report before this day was out, but we cannot. I have just conferred with the minority leader and advised him that I have conferred in turn with the minority leader in the House and the Speaker and with the chairman of the Appropriations Committee, and the situation is this: The conference is completed, and I wish to commend them for their good work. I believe they have a good product. But I am also convinced that it will take about 9 hours for the papers to be prepared for presentation to the House of Representatives, which must act first. The Speaker indicated to me that under those circumstances he felt he had no alternative except to ask the House to go until tomorrow, which he will do in the next few moments. They will reconvene, I am told, at 10 o'clock in the morning.

Since the House must act first, Mr. President, it seems unnecessary and I expect unwise to bring us in before that since everybody is tired and worn out. So in a moment I am going to ask that we go out until 12 noon tomorrow. As I say, I have conferred with the minority leader. He and I have discussed this many times during the day as the situation has unfolded, and he concurs in this decision. He has also indicated that there is no need for him to be on the floor when I make the request I am about to make.

ORDER FOR RECESS UNTIL 12 NOON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon tomorrow, Saturday.

RECESS UNTIL 12 NOON TOMORROW

Mr. BAKER. Now, Mr. President, if no other Senator seeks recognition, I move, in accordance with the order just entered, that the Senate now stand in recess until 12 noon tomorrow.

The motion was agreed to; and the Senate, at 6:35 p.m., recessed until tomorrow, Saturday, November 12, 1983, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 11, 1983:

DEPARTMENT OF STATE

Charles H. Price II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Great Britain and Northern Ireland.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Stanley S. Harris, of Maryland, to be U.S. district judge for the District of Columbia.

Elizabeth V. Hallanan, of West Virginia, to be U.S. district judge for the southern district of West Virginia.

DEPARTMENT OF JUSTICE

Joseph E. diGenova, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Friday, November 11, 1983*

(Legislative Day of Thursday, November 10, 1983)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WRIGHT) at 11 o'clock and 30 minutes a.m. on Friday, November 11, 1983.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of the 100th Psalm:

Make a joyful noise unto the Lord, all ye lands.

Serve the Lord with gladness: come before His presence with singing.

Know ye that the Lord he is God: it is He that hath made us, and not we ourselves; we are His people, and the sheep of His pasture.

Enter into His gates with thanksgiving, and into His courts with praise: be thankful unto Him, and bless His name.

For the Lord is good; His mercy is everlasting; and His truth endureth to all generations.

Amen.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 413) entitled "Joint resolution making further continuing appropriations for the fiscal year 1984," requests a conference with the House on the disagreeing votes of two Houses thereon, and appoints Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. KASTEN, Mr. RUDMAN, Mr. STENNIS, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, and Mr. DECONCINI to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 413, CONTINUING APPROPRIATIONS, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 413) making further continuing appropriations for fiscal year 1984, disagree to the Senate amendments, and agree to the conference asked by the Senate.

□ 1130

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I may or may not object. I am just a little bit concerned on a number of issues. The major issue for which I am rising to reserve my objection is the fact that as I understand it the authorizing language that dealt with the foreign aid bill, the so-called Zablocki amendment, was struck down by the Senate. That has very, very long-range ramifications as far as what we did in this House.

And, as I understand it, on the conferees that are about to be named, there are no members from the Foreign Affairs Committee on the conferees.

If the Members recall, in the Zablocki amendment there is language dealing with El Salvador, there is very restrictive language on a number of issues. And I am not so sure that we should not have representation from this House, from the majority side of the Foreign Affairs Committee, as well as the minority.

I would like to have somebody explain to me why we are not. Why our committee is not represented on this.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

May I say that I agree with the Zablocki provision. We had it on this side. I talked to the chairman myself and assured him that insofar as I was concerned that we would give attention to his language and do the best we could to see that it was not only reported, but that we called on them to do it.

Insofar as representation on the conference, I have been on this committee since 1943. There are 57 members. And as the gentleman can imagine, on the committee we have lots of members who are disappointed in not being on the conference. If we tried to include the legislative committees we would make it even worse.

I do agree with the gentleman from Wisconsin (Mr. ZABLOCKI). I told him so. And, insofar as we can, in this conference, we expect to point out to them that we expect them to carry out what his provision is.

I think that is the best that we can do. May I point out again, I told the chairman I was going to write him about the earlier continuing resolution which he has before his committee. He said he would hold it as long as he could. I told him I would have sent it there myself as the Speaker did.

But we are familiar with it and I shall recommend that in the report elsewhere that we recognize his provision. That it was adopted here and should be carried out.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, I can appreciate the gentleman's position. And I trust the gentleman in saying that he will follow through in support of the Zablocki amendment.

Mr. WHITTEN. I have to say so far as we can. Let there be no misunderstanding about how we feel. I do not know how far we can go.

May I say again that with this situation here where the right of the Government to operate died at 12 o'clock last night—and I was up here to see it happen, while many folks were sleeping—to hold up anything at this time just prolongs our efforts to get together. About all we can do is the best we can do. We did not seek this position that we have of having to handle the Government through a continuing resolution. But, may I say, that it has kind of been forced on us by the time that it takes our friends on legislative committees to authorize.

So we try to hold together and we would be glad to give it back anytime the gentleman wishes.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, I am not going to object in the longrun and force this House to go back for a rule and come back, which I understand we can get, I still am deeply concerned that we do not have representation. And I hope that the gentleman is going to certainly look out for that interest.

Mr. Speaker, I wonder if we could have some kind of indication for the entire membership of what is going to happen today. What is the progress now once these conferees are appointed? Could the gentleman give us some chronological expectations here for the rest of the day?

The SPEAKER pro tempore. Permit the Chair to respond to the question of the gentleman.

Immediately upon the appointment of conferees, which the Chair would propose to do upon the granting of this unanimous-consent request, it would be in order for managers on the part of the House to meet at the very earliest possible time with managers on the part of the other body.

It is my understanding that they are being assembled and will be standing by. The managers on the part of the House have been assembled and are ready to meet.

It is always the responsibility of the managers on the part of the House to uphold the position taken by a majority of the Members of the House. And I would say to the distinguished gentleman that this is no exception and the Chair fully expects that our conferees and the managers on the part of our House will, to the very best of their ability, fulfill that responsibility.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, what I was asking for was a chronological expectation of what can the membership expect today once we pass this? How long is it going to take for this to come back to this House? And when might we finish it up? If there is an override in the making, what is going to happen?

The SPEAKER pro tempore. The Chair could only make a guess. As the gentleman knows of course that is not a parliamentary inquiry in the nature of which the Chair could respond authoritatively. The members of the conference could not respond authoritatively until first they have met with the Members of the other body and ascertained the difficulties that they will confront.

The Chair would expect that we would not have a conference report before the whole Membership before mid- to late afternoon at the earliest, but that we would reasonably expect some time in the late afternoon to have a conference report. And that having acted upon that conference report, the Chair would not expect that we would have to be in session tomorrow.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi (Mr. WHITTEN)?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so primarily to make an inquiry myself.

This is Veterans Day. It is a particularly important Veterans Day, given the events of the last few weeks. And we have not had any indication at this point that this House, even though we are meeting here, is prepared to even acknowledge Veterans Day.

It seems to me that the American people are used to us playing our political games, but we do not normally do that on Veterans Day.

And I have a question as to whether or not we are going to, at some point, have an opportunity in the House to at least make some acknowledgment of the fact that our schedule has forced us into meeting on Veterans Day and that as a body, at least some of us, might like to acknowledge the fact that we are here, that it is Veterans Day, when a lot of us would otherwise be in our districts paying tribute to the veterans of this country.

Is there going to be any provision for that in the course of the day today?

The SPEAKER pro tempore. The Chair would entertain a request on the part of the gentleman from Pennsylvania or any other Member that at some time during the recess or subsequent to the next recess, one Member from each side of the aisle might be designated to make appropriate comments with respect to the importance and sanctity of this day and all that it represents to the United States, and to those who have fought and died in its defense.

□ 1140

Mr. WALKER. Mr. Speaker, I think that that is an excellent suggestion, and I would make that request at the present time, under my reservation.

The SPEAKER pro tempore. The Chair will respond that at some appropriate time during the day, in consultation with the gentleman from Pennsylvania and with the distinguished gentleman from Illinois, the minority leader, some plan will be made that one Member from each side of the aisle may be recognized for appropriate comments in that regard.

Mr. WALKER. I thank the Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. MICHEL. Mr. Speaker, reserving the right to object, the gentleman from New York was inquiring about the anticipated scenario, and the Chair responded that, hopefully, there would be a conference report by late afternoon and that Members would then promptly be free, after registering their votes, to go home.

But let me also suggest there may be another possible scenario of which Members ought to be apprised, particularly if there is not universal agreement with respect to the conference committee report.

Now, the gentleman very well knows the administration is opposed to many of the "add ons." Even though the House took a position and the majority prevailed, that does not necessarily mean that that will be agreeable with the folks downtown, particularly with the President. Ultimately, he is either going to sign this conference report on a continuing resolution or veto it.

Now, in the event that it is distasteful enough for him to have to veto, then, of course, we are going to have to take action some time before Monday or the Government will have to shut down.

The conferees will be working long and hard. I think that is an optimistic guess about their reaching an agreement by early afternoon. Here it is, 20 minutes to 12, and these things always tend to get delayed. I know, from my conversation with the chairman of the subcommittee, there are some very serious things to be discussed having to do with the foreign assistance appropriations, particularly.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, may I say that our Senate colleagues have been waiting an hour now for us to meet them to start the conference. They have adopted quite a number of amendments—I think some of them were accepted—so as to stop debate so they could go to conference. I do not know how many they will insist upon.

I do say that was the best we could hope to do, working as hard as we know how. I was here last night, and the House was kept in session. We were delayed over there longer than we thought. But there is a lot of detailed work that has to follow agreement. So if we agree, I am advised that we could not hope to be back earlier than late this afternoon. But we do expect to come back, and we expect to work hard trying to agree on a bill that the President can and will sign. How much success we have depends on how we come out in the conference. As the gentleman knows, three times this year I have introduced bills which were just continuing resolutions instead of picking up lots of other things. With time, we have had some votes by the House, and we have had some other things. So we have some problems. But the problem now is to get over there, where the Senate is waiting, so that we might get started. But the best we can hope for is to be back late this afternoon.

Mr. MICHEL. Mr. Speaker, the gentleman has laid it out very well. And, of course, the gentleman has the good wishes of the minority leader that the Members can all meet and come to an early resolution of their problem.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi? The Chair hears none and, without objection, appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, ROYBAL, BEVILL, DIXON, FAZIO, HEFNER, CONTE, MCDADE, EDWARDS of Alabama, MILLER of Ohio, KEMP, and O'BRIEN.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3797

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Kentucky (Mr. HOPKINS) be removed as a cosponsor of H.R. 3797.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, has it been decided what kind of notice Members will receive before reconvening? I am not sure whether or not late last night or sometime during the course of yesterday we had decided to give a 15-minute warning. Was that sufficient?

The SPEAKER pro tempore. The bells will be rung 15 minutes before the reconvening, and the Chair will attempt to make certain that the cloakrooms on both sides have whatever information is available at the earliest possible moment.

Mr. MICHEL. Mr. Speaker, I think the Chair's latter comment is well taken because there could be Members who would be off the Hill. It would be helpful to have the information available through our whips and cloakrooms that there has been agreement reached, it is now the time for preparation of the papers, and it is expected we would be reconvening at such and such an hour.

The SPEAKER pro tempore. The Chair will undertake to see to it that the cloakrooms are given an hour's advance notice, to the extent that that is possible, and the Chair believes that it is possible.

Mr. MICHEL. I thank the Chair.

CIVIL RIGHTS COMMISSION

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, I am pleased to advise the Members of the House that it appears that a compromise has been worked out with the other body and with the House Judiciary Committee with regard to the continued existence of the Civil Rights Commission as an independent bipartisan watchdog agency.

Apparently, this arrangement is satisfactory not only to the White House but to our friends in the other body and both Republicans and Democrats here in the House of Representatives.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New York (Mr. FISH), the ranking minority member of the Committee on the Judiciary.

Mr. FISH. I thank the gentleman for yielding.

Mr. Speaker, I would join my friend, the gentleman from California, in expressing my delight that this issue seems to be in sight of being resolved by action in the other body, a compromise agreeable to the White House, to the leadership conference on civil rights, and certainly to those of us in this body who have been seeking to continue an independent bipartisan watchdog organization.

I would like to say to my colleagues who followed our lead in what may seem strange ways in the last couple of months, particularly this week, in terms of voting down a provision in the State-Justice conference report, that those steps were needed to keep the pressure on to get the resolution we have apparently realized; and I would hope that the State-Justice conference report could be sent back to this body in disagreement and that forthwith we can undo the action we took earlier this week now that the Civil Rights Commission has been reconstituted.

Mr. EDWARDS of California. Mr. Speaker, I want to thank the gentleman from New York (Mr. FISH) for his very valuable and essential assistance in this matter.

PROPOSED CHANGES TO PRINTING AND BINDING REGULATIONS OF JOINT COMMITTEE ON PRINTING

(Mr. HAWKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAWKINS. Mr. Speaker, on behalf of the Joint Committee on Printing (JCP), I offer for publication in the RECORD proposed changes to the committee's printing and binding regulations No. 24, dated April 1977. The purpose of this notice is to solicit comments on the proposed changes from as wide an audience as possible before any formal action is taken by the committee.

Mr. Speaker, in addition to publication in the RECORD, I plan to distribute copies of the proposed changes to the heads of all Federal Government departments and agencies for their comments.

The Joint Committee on Printing recognizes that since its last regulations were issued in 1977, significant technological breakthroughs have made a sharp impact on the ways in which information is captured, edited, formated, stored, reproduced, and distributed. These technological advances offer dramatic new opportunities to "remedy neglect, delay, duplication, or waste" in Federal printing, binding, and distribution of Government publications, the primary charge vested in the committee by section 103 of title 44, United States Code. The revised regulations embrace the new technologies and seek to replace JCP micromanagement procedures with oversight and policymaking functions. In addition, the revised regulations include new provisions concerning publications' distribution, particularly as they apply to depository libraries, indexing and cataloging of Government documents, and the sales of Government publications.

Principal revisions include:

First. A redefinition of printing that eliminates the distinction between copying, duplicating, and printing, and which includes new processes and procedures for electronically capturing, reproducing, and distributing information.

Second. A new procedure for monitoring Federal printing. Departments will no longer need to seek Joint Committee on Printing approval for individual pieces of printing equipment on an ad hoc basis. Instead, they will submit to the JCP an annual printing and publishing plan enumerating equipment, printing environments, planned purchases of equipment, and titles and types of publications to be issued, and the means of their distribution. The JCP will authorize the total annual plan if it is consistent with Federal printing and publishing policy and goals as determined by the committee.

In addition, departments will be asked to provide projected plans for a second and third year. This approach will foster better departmental planning, will provide the JCP with an overview of Federal publishing and printing that will allow it to encourage interagency cooperation to eliminate costly duplications and delays, and will give to department heads greater freedom to manage their printing and publications programs. Departments will report at the end of the year the actual results of their plan, and any deviations from the approved plan during its term will require additional JCP approval.

Third. An upgrading of the Central Printing and Publications Management Organization in each Department (created by current JCP regula-

tions, paragraph 30) to the level of policymaking for all information. This approach endorses the concept of the information resources manager called for in the Paperwork Reduction Act by bringing together all information resources—automatic data processing, telecommunications, publishing, printing and distribution—under a single senior manager. This regulation will assist in the realization of that objective.

Fourth. An end to the concept of "controlled equipment". The revised approach will concentrate more on the volume and coordination of output and less on the means. The JCP believes that a merger of specializations, for example, printing and automatic data processing, aimed at achieving a common goal, is vital to a cost-effective and efficient Government information dissemination program. The intent of the new regulations is to facilitate this process.

The revised regulations are consistent with the objectives stated by private and Government-sponsored surveys, and they are meant to lend support to the provisions of existing statutes that have as their primary purpose the coordination and cost effectiveness of the dissemination of Federal information.

These proposed regulations mark a significant departure from the joint committee's current regulatory scheme and practices. We expect that this new format will provide the committee with a broader and better overview of all of the Federal Government's printing and publishing activities.

You are encouraged to submit comments regarding the proposed regulations before the close of business on December 16, 1983. Comments should be addressed to the Chairman, Joint Committee on Printing, S-151, the Capitol, Washington, D.C. 20510.

Mr. Speaker, I include the text of the proposed regulations in the CONGRESSIONAL RECORD at this point.

GOVERNMENT PRINTING, BINDING, AND DISTRIBUTION REGULATIONS (PUBLISHED BY THE JOINT COMMITTEE ON PRINTING, CONGRESS OF THE UNITED STATES)

No. 25

INTRODUCTION

These regulations are derived from, and are supplemental to, Title 44, United States Code. All who print, publish, or distribute Government publications for the Federal Government are advised to familiarize themselves with the provisions of Title 44 and with these Regulations. The Joint Committee on Printing will consider individual departmental requests for waivers to specific provisions of these regulations. For the convenience and easy reference of users of these Regulations, the applicable provisions of Title 44 are reproduced in Appendix I. (Appendix I is not included here. It will be printed in the final Regulations document.)

TITLE I: DEFINITIONS

1. *Department.*—The term "department," as used in these regulations, means each administrative unit of the Government that is so designated; including any permanent or temporary, independent agency, administration, board, commission, committee, conference, council, endowment, foundation, office, service or other such administrative unit of the three Branches of Government.

2. *Central Information Management Organization (CIMO).*—The term "Central Information Management Organization," as used in these regulations, is an establishment within a department, headed by the Information Resources Manager as defined in the Paperwork Reduction Act (Public Law 96-511), that is responsible for ensuring that the following functions are performed in the most efficient and cost effective manner:

(1) Planning and designing of Government publications;

(2) Coordination of all printing activities and programs;

(3) Management and inspection of printing environments, including monitoring of printing procurement and the submission of all required reports to the Joint Committee on Printing;

(4) Development of the overall departmental plans for publishing, printing and distribution, to be submitted to the Joint Committee on Printing (see II-3);

(5) Consultation and guidance on matters involving changes in technology or processes for printing environments;

(6) Coordination and control of distribution and indexing of Government publications, including fulfillment of statutory requirements, e.g., Depository Library and International Exchange Program; and

(7) Participation in interdepartmental working groups established by the Joint Committee on Printing to address common printing and distribution issues.

3. *Printing.*—The term "printing," as used in these regulations, means all systems, processes and equipment used to plan and to develop the form and style of an original reproducible image; and all systems, processes and equipment used to create an original reproducible image when they are capable of reproducing multiple copies of that image. This term includes all processes and equipment related to composition, platemaking, presswork and binding.

4. *Printing environment.*—The term "printing environment," as used in these regulations, means any location where printing is performed including, but not limited to, departmental printing plants, duplicating centers, copier centers, graphics facilities, computer centers, distribution centers and offices.

5. *Distribution.*—The term "distribution," as used in these regulations, means the dissemination of Government publications or information to users (Government and non-Government) through such means as sales, user fees or free dissemination programs, including the electronic transfer of an original reproducible image.

6. *Government publication.*—The term "Government publication," as used in these regulations, means any textual or graphic representation printed or otherwise reproduced, in whole or in part with appropriated funds or as authorized by law, for distribution to departments or to the public.

7. *Microform.*—The term "microform," as used in these regulations, applies to any product which is produced in miniaturized image format including, but not limited to, microfilm, microfiche and micro-opaques.

TITLE II: CONTACT AND PLANNING WITH THE JCP

1. *Correspondence with the Joint Committee on Printing.*—

(a) All official correspondence for the consideration of the Joint Committee on Printing shall be signed by the head of the department or an official designated by the head of the department with the responsibility to implement these regulations. The head of the department shall notify the Joint Committee on Printing of the official so designated, including position title, office address, and telephone number.

(b) In order to ensure prompt delivery, all official correspondence to the Joint Committee on Printing shall be addressed to: Chairman, Joint Committee on Printing, United States Senate Post Office, Washington, D.C. 20510.

2. *Liaison with the Joint Committee on Printing.*—All technical matters pertaining to printing and distribution shall be referred to the Joint Committee on Printing through specifically designated sources in each department. The head of the department shall notify the Joint Committee on Printing of the officials so designated, including position titles, office addresses, and telephone numbers.

3. *Departmental planning and Joint Committee on Printing authorization.*—

(a) Each department shall submit annually to the Joint Committee on Printing a plan outlining the full range of printing and distribution activities anticipated for the fiscal year and projections for the following two years. Each department's narrative submission should contain:

(1) A brief statement of the department's mission and the role that printing and distribution play in meeting that mission;

(2) A statement of the policies that are followed in fulfillment of printing and distribution requirements;

(3) A discussion of management strategies and tactical planning to be employed in fulfillment of specific goals;

(4) An assessment of prior years performance and accomplishments in achieving the department's goals; and

(5) Any other information considered necessary to provide a full understanding of the department's management and planning of printing and distribution activities.

(b) In drafting the plan, the following information should be included:

(1) A description of the numbers and types of printing environments at specific locations, keyed to existing departmental organizations;

(2) The volume of production anticipated, both in departmental printing environments and through the Government Printing Office;

(3) The new equipment required to meet departmental needs with appropriate justification, including purpose, location, and cost;

(4) Plans for implementation of new processes and research and development projects that affect printing;

(5) The number and types of Government publications to be published and the anticipated distribution methods to be used;

(6) The number and titles of all Government publications, e.g., monographs and journals for which a waiver is being requested under title III, paragraph 5;

(7) The number of articles for which a waiver is being requested for publication in privately published journals or compilations under title III, paragraph 5; including the

name of the journals and compilations, the number of articles to be published in each, and the total dollar amount of page charges;

(8) A description of all Government publication user fee programs; and

(9) The procedures used to notify the Superintendent of Documents of intent to publish and the procedures used to provide all required copies of Government publications to the Superintendent of Documents.

(c) The Joint Committee on Printing will review each plan to determine its conformance with the objectives of the Federal printing program. The efficiency, cost effectiveness of the plan, and the printing and distribution requirements of the department will be evaluated. With the Joint Committee on Printing's approval, a department may fully implement the plan.

(d) Departments shall continue to report annually on actual levels of printing and distribution activities in order that adherence to annual plans may be assessed. The Joint Committee on Printing will provide departments with the appropriate reporting form.

TITLE III: PRINTING OF PUBLICATIONS

1. *Printing and distribution of Government publications.*—The printing and distribution of all Government publications shall be accomplished by the Government Printing Office, unless otherwise authorized by the Joint Committee on Printing.

2. *Procurement of printing and distribution services.*—The Government Printing Office shall procure, pursuant to Joint Committee on Printing authorization, all Federal printing and distribution needs that the Government Printing Office is unable to perform and that are determined to be commercially procurable. Except for orders submitted to the Government Printing Office Central Office and those placed by departments on direct-deal contracts authorized by the Government Printing Office, all orders must be forwarded to the nearest Government Printing Office Regional Printing Procurement Office (GPO-RPPO). The GPO-RPPO will determine the area of bid competition, considering all factors, including lead-time and transportation costs. Work that originates in or is to be delivered in a geographical region should be procured in that region unless insufficient competition is available to procure products in a timely, qualitative and cost-effective manner.

3. *Procurement of items costing $500 or less.*—Individual printing and related items costing $500 or less per line item may be procured without reference to the Government Printing Office or its Regional Printing Procurement Offices, provided that:

(a) they are not of a continuing repetitive nature, and

(b) are not conducive to the establishment of an open-end indefinite quantity-type contract, and

(c) cannot be ordered against existing GPO contracts.

4. *Private or commercial work.*—No work of a private or commercial nature shall be printed in any printing environment.

5. *Publications by private entities.*—

(a) When any department uses appropriated funds to create information, the information shall not be offered for exclusive initial publication to a private party without the prior approval of the Joint Committee on Printing.

(b) A department shall not enter into contractual agreements with a private party, nor expend appropriated funds, for the purpose of publishing or facilitating the publishing of publicly funded information, without the prior approval of the Joint Committee on Printing.

(c) Camera-ready copy, printing driver tapes, publishing data bases, or information in advanced form to which printing processes have been applied shall not be made exclusively available by departments to a private party without the prior approval of the Joint Committee on Printing.

6. *Printing requirements resulting from contracts for equipment and services.*—

(a) With the exception of contracts that specifically require the delivery of printing pursuant to 44 U.S.C. 501, contractors shall not be prime or substantial sources of printing for departments. Therefore, the inclusion of printing within contracts for the manufacture or operation of equipment and for services, e.g., architectural, engineering, and research shall be prohibited unless authorized by the Joint Committee on Printing.

(b) This regulation does not prohibit:

(1) The procurement of writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of contracts; or administrative printing necessary to be used by the contractor to respond to the terms of a contract, e.g., forms and instructional material.

(2) Recording manuscript copy in digital form to create a publishing data base, provided that coding instructions have been approved by the Central Information Management Organization (CIMO). However, the printing of such material for the Government must be accomplished in accordance with printing laws and regulations.

(3) The printing of up to 50 copies of a publication, in response to a contract requirement, for the use of a department.

7. *Printing requirements resulting from grants.*—

(a) The Joint Committee on Printing does not intend that grantees shall become prime or substantial sources of printing for the use of departments. Therefore, the inclusion of printing within grants shall be prohibited unless authorized by the Joint Committee on Printing.

(b) This regulation does not prohibit:

(1) The issuance of grants by a department for the support of non-Government publications, provided that such grants are issued pursuant to an authorization of law and not made primarily or substantially for the purpose of having material printed for the use of any department.

(2) The publication of findings by grantees within the terms of their grants provided that such publication is not primarily or substantially for the purpose of having such findings printed for the use of any department.

(3) The initiation by departments of the procurement of writing, editing, preparation of manuscript copy, or preparation of related illustrative material from grantees; or the administrative printing requirements of the grantee required to respond to the terms of the grant.

(4) Recording manuscript copy in digital form to create a publishing data base provided that coding instructions have been approved by the Central Information Management Organization (CIMO). However, the printing of such material for the Government must be accomplished in accordance with printing laws and regulations.

(5) The printing of up to 50 copies of a publication, in response to a grant requirement, for the use of a department.

TITLE IV: FORMAT, STYLE AND CONTENT OF PUBLICATIONS

1. *Style for publications.*—All Government publications shall follow the "Style Manual" issued by the U.S. Government Printing Office.

2. *Identifying information for Government publications.*—Identifying elements shall be printed on all Government publications in accordance with the Government Printing Office "Style Manual" and the standards of the American National Standards Institute (ANSI).

(a) Books, pamphlets and other general publications shall contain, when appropriate: (1) title and other title information; (2) name of the department issuing or creating the Government publication; (3) name of author and editor (department or individual); (4) date of issuance; (5) availability (address of publisher or printer); (6) Superintendent of Documents' classification and stock numbers; and (7) the International Standard Book Number. See ANSI standard Z39.15, "Title Leaves of a Book."

(b) Scientific, technical and contract reports shall contain, when appropriate: (1) title and other title information; (2) report number; (3) author(s); (4) performing organization; (5) sponsoring department; (6) date of issuance; (7) type of report and period covered; (8) availability (address of publisher or printer); and (9) Superintendent of Documents' classification and stock numbers. See ANSI standard Z39.18, "Guidelines for Format and Production of Scientific and Technical Reports."

(c) Journals, magazines, periodicals and similar publications shall contain, when appropriate: (1) title and other title information; (2) volume and issue numbers; (3) date of issue; (4) publishing or sponsoring department; (5) availability (address of publisher or printer); (6) International Standard Serial Number; and (7) Superintendent of Documents' classification and stock number. See ANSI standard Z39.1, "Periodicals: Format and Arrangement."

3. *Illustrations.*—Illustrations shall be used in Government publications only when they—

(a) relate entirely to the transaction of public business and are in the public interest;

(b) relate directly to the subject matter and are necessary to explain the text;

(c) do not serve to aggrandize any individual; or

(d) are restricted to the minimum size necessary to accomplish their purpose.

4. *Credit lines.*—Courtesy credit lines are permissible only for materials contributed or loaned by non-Governmental parties. When all materials in a Government publication have come from a single, non-Governmental source, credit lines shall be given only in a single paragraph located at the beginning or the end of such publication. Credit lines shall be subordinated in size of type to that of both text and legends for illustrations.

5. *Publication by-lines.*—By-lines of Government employees in Government publications shall be permitted for authors and photographers. These by-lines shall be printed in juxtaposition to the written work or photograph, and they may also be contained in a table of contents.

6. *Signatures.*—The signatures of technical illustrators, designers, layout artists, and typographers shall not accompany the work product of such individuals in Government publications. Signatures of artists may ac-

company freehand art, but only when the size and location of the signature are in proper proportion and relation to the design. Oversize or otherwise overly conspicuous art signatures shall not be printed.

7. *Copyright notice.*—When privately copyrighted material is reprinted in a Government publication, notice of copyright shall accompany the copyrighted matter. Copyright notices shall be subordinated in size of type to that of both text and legends for illustrations.

8. *Embossed stationery.*—The Public Printer shall furnish, upon requisition, to the President of the United States, members of his Cabinet and the Department of State (for diplomatic correspondence exclusively), such quantities of embossed stationery as may be necessary for official use. The Comptroller General, the Librarian of Congress, the Public Printer, the Architect of the Capitol, the head of each permanent commission, independent establishment or board, and the judges of the United States Courts may requisition embossed noteheads or letterheads not to exceed 5,000 copies in the aggregate, and a corresponding number of envelopes, in any one fiscal year. Greater quantities than those specified may be furnished only upon the approval of the Joint Committee on Printing. The Public Printer shall not honor requests from any Government activity for embossing second sheets or other than standard-size envelopes. No embossed stationery other than listed above shall be produced or procured at Government expense unless authorized by the Joint Committee on Printing.

This regulation also applies to engraved and thermographic printing.

9. *Personalized stationery.*—The inclusion of names of officers or officials of the executive or judicial branches of the Government on official stationery and preprinted mastheads must be approved by the Joint Committee on Printing. Addresses and telephone numbers shall be omitted in order to permit the greatest flexibility and to prevent the creation of frozen stocks. No personalized second sheets shall be produced or procured at Government expense.

10. *Advertising.*—No Government publication prepared or produced with either appropriated or nonappropriated funds, or identified with an activity of the Government, shall contain any advertisement inserted by or for any individual, firm, corporation or organization; or contain material which implies in any manner that the Government endorses or favors any specific commercial product, commodity, or service. This prohibition does not extend to advertising for Government programs where the advertising fosters or promotes a specific Government purpose.

11. *Multicolor printing.*—Multicolor printing is permissible only where it contributes demonstrably to a Government publication.

(a) Examples of multicolor printing that are permissible:

(1) Maps and technical diagrams where additional color is necessary for clarity.

(2) Object identification (medical specimens, diseases, plants, flags, uniforms, etc.).

(3) Safety programs, fire prevention, savings bonds programs, and competitive areas of personnel recruiting.

(4) Areas wherein clearly identifiable savings in costs can be soundly predicated on multicolor use.

(5) Printing for programs required by law, whose relative success or failure is in direct ratio to the degree of public response, and where that response can be logically attributable to the number of colors planned and the manner in which they are proposed to be used.

(6) Color for promotional or motivational purposes such as programs concerning public health, safety, and consumer benefits; or to encourage utilization of Government facilities such as programs for social security, medicare, and certain areas of need for veterans.

(b) Examples of multicolor printing which are not permissible:

(1) Where an additional color is used primarily for decorative effect.

(2) Where additional color is used primarily in lieu of effective layout and design.

(3) Where additional color is used excessively, i.e., four colors when two or three will fulfill the need; three colors when two are adequate; two colors when one is adequate.

(4) Where the inclusion of multicolor does not reflect careful, competent advance planning that recognizes the contribution the use of color is expected to make to the ultimate end-purpose.

TITLE V: DISTRIBUTION AND ARCHIVES

1. *Preservation of Government publications.*—The Superintendent of Documents shall store and preserve all Government publications indexed in a Government Printing Office monthly catalog until such time as these publications are delivered to the National Archives for posterity.

2. *Distribution of publications to the Superintendent of Documents, the Library of Congress, and the National Archives.*—The Government Printing Office and each department shall provide a copy of each Government publication, in an archival format if available, to the Library of the Superintendent of Documents, the Library of Congress, and the National Archives' Library. This archival format may vary according to the technology used to produce such publications.

3. *Distribution of Government publications by the Superintendent of Documents.*—Departments shall use the services of the Superintendent of Documents, on a reimbursable basis, to initially and subsequently distribute all Government publications outside of a department. Whenever feasible, departments shall use the services of the Superintendent of Documents to distribute all Government publications within a department.

4. *Sale of reproducibles.*—Offset negatives, printing plates and final proofs are considered to be reproducibles and can be offered for sale at cost plus 10 percent by the Public Printer after initial publication. Printing driver tapes, data base tapes, microforms, and on-line access to Government information are not considered reproducibles and may be sold by the Superintendent of Documents in accordance with the pricing formula for publications offered for sale.

5. *Sale of Government publications by the Superintendent of Documents.*—The Superintendent of Documents shall sell all Government publications intended for sale by the initiating department and other publications deemed salable by the Superintendent of Documents or requested by the public, regardless of where produced. Classified publications are exempt from this provision. The media of publications for sale shall be determined by the Superintendent of Documents. Each department shall make every effort to notify the Superintendent of Documents at least 60 days before such publications are published.

6. *Distribution of publications to Federal depository libraries.*—

(a) All Government publications shall be distributed to depository libraries, except for those publications without public interest or educational value and those classified for reasons of national security.

(b) The Superintendent of Documents shall secure additional copies of titles produced in the main Government Printing Office and in the Government Printing Office Regional Printing Offices and through Government Printing Office contracts for distribution to depository libraries.

(c) Each department shall notify the Superintendent of Documents 60 days in advance of Government publications to be produced or procured through sources other than the Government Printing Office, including publications produced through grants or contracts. The Superintendent of Documents will inform each department of the number of copies needed for depository library distribution. These copies shall be paid for by funds appropriated to the department.

7. *Notice of public access and service for depository libraries.*—

(a) Depository libraries shall post a sign in a prominent location indicating that the library is a Federal depository and that Government publications can be used by the general public at no charge.

(b) Depository libraries shall provide service to the general public that is comparable to the service provided to the library's primary clientele, e.g., faculty, students, community residents and Government employees.

8. *Sharing collections of a regional depository library.*—A regional depository library may keep all the Government publications in its own facility or may house certain publications in other libraries. When the collection is shared, the cooperating libraries must agree in writing to provide sufficient service and access comparable to that provided by the regional depository library. Such agreements must be approved in writing by the Superintendent of Documents.

9. *Comprehensive index and catalog of Government publications.*—In order to assist the Superintendent of Documents in publishing a monthly catalog of Government publications, the Public Printer and each Central Information Management Organization (CIMO) shall deliver two copies of every Government publication issued or published by the departments, and not confidential in nature, to: Director, Library Program Services, Government Printing Office, Washington, D.C. 20401.

Departments are urged to cooperate with the Superintendent of Documents in cataloging, indexing and publishing the catalog.

10. *Distribution list management.*—Each department shall revise all distribution lists at least once a year. All periodicals shall carry a notice in each issue of where to send a change of address. Such notices will be designed jointly by the Government Printing Office and the department. See: "Federal Information Processing Standard Publication on Format of Mail Lists and Federal Information Processing Standard on Guidelines on Establishment and Management of Mail Lists," National Bureau of Standards.

TITLE VI: PAPER

1. *Standardization of paper.*—The Joint Committee on Printing sets the standards for paper for the Federal Government for printing and binding. Unless otherwise au-

thorized by the Joint Committee on Printing, the "Government Paper Specification Standards" are mandatory for use by departments in specifying paper stocks to be used in printing as defined in these regulations. Use of types, grades or weights of paper, other than those contained in these standards, is prohibited. Departments seeking revisions, additions or deletions of paper standards are encouraged to contact the Joint Committee on Printing.

The Public Printer is directed to furnish copies of these standards, and standard samples, to departments at cost. Other users of these standards may purchase the publication by contacting: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

2. *Stationery sizes, grades, weights, and color of ink and paper.*—The Joint Committee on Printing directs attention to the Federal Property Management Regulation which prescribes standards (sizes, grades and weights of paper, and colors of ink and paper) to be used for blank and printed stationery and envelopes for official Government correspondence.

3. *Purchase of paper and envelopes.*—Under the direction of the Joint Committee on Printing, the Public Printer shall procure and furnish on requisition all printing paper and envelopes (not including envelopes printed in the course of manufacture) in common use by departments of the Government in the District of Columbia National Capital Region. Purchase of such paper and envelopes from the Public Printer is mandatory.

4. *Contracts for paper and envelopes.*—Semiannual and annual contracts for paper, in general, are not in the best interests of the Government. Such procurement practices should be used only when savings in costs are clearly demonstrable.

5. *Quarterly and semiannual requirements for paper and envelopes.*—Every department in the District of Columbia National Capital Region shall furnish to the Public Printer quarterly estimates of paper and semiannual estimates of envelopes necessary for the conduct of public business. The Public Printer shall apprise departments of the timetable for these projections so that paper of the quality and quantity necessary can be competitively procured as provided by statute.

TITLE VII: MISCELLANEOUS

1. *Microform standards.*—All microforms produced by departments, including those produced under contract or grant, shall follow standards established by the Government Printing Office for production quality and header information.

2. *Business and calling cards.*—Printing or engraving of business and calling cards is considered to be personal rather than official and shall not be done at Government expense.

3. *Desk and wall calendars.*—A department shall obtain only standardized desk and wall calendars at Government expense. These calendars shall be ordered from the General Services Administration. The style, size and format of the standardized wall calendar, supplied to the General Services Administration by the Government Printing Office, shall be subject to the approval of the Joint Committee on Printing.

4. *Blank books.*—Blank books not available through the General Services Administration, but regularly carried in stock by commercial dealers and that require no printing or binding operation after receipt of order, may be procured without obtaining a waiver from the Government Printing Office, except that no order or orders for each type of blank book may exceed $500 in any one year.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of November 10, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 49 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock p.m.

IN COMMEMORATION OF VETERANS DAY

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) will be recognized for 30 minutes; and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, my colleague from Mississippi, the chairman of the Committee on Veterans' Affairs, G. V. (SONNY) MONTGOMERY, would have liked to have been here on this special day for all Americans to express his feelings on the meaning of the Veterans Day observance, but his schedule mandated that he return to his district.

I can report in his behalf, however, that the committee, the House, the Congress and the citizens of this country can be proud of the opportunities we have afforded our veteran population through legislation for job training and placement, educational advantages, quality health care, home loans and mortgage assistance, compensation, insurance and pensions. And we will do more.

In this, the 98th Congress, over 160 pieces of legislation affecting the Nation's 28.5 million veterans, the 52.2 million members of their families, and the 3.1 million survivors of deceased veterans have been introduced. Today, we extend our tributes beyond legislation, beyond tangible benefits and services. Today, we honor in spirit alone.

At 11 o'clock this morning, a wreath was placed at the tomb of the Unknown Soldier at Arlington National Cemetery, honoring over 1 million Americans who died for the cause of freedom.

Throughout the Nation today there will be parades and speeches and celebrations honoring all veterans, living and dead, for their sacrifices.

These are necessary yet humble attempts to repay the brave men and women who served with honor, met fear head-on and, in too many instances, paid with their lives to give me, to give you a future free from oppression and rich with liberty and the hope for international peace. There is no sufficient way to repay that debt. But we can begin with gratitude and a simple thank you.

Mr. Speaker, as this great body conducts the business of our country, we would do well to remember each and every day that we stand here, we argue, we agree, we legislate, we express opinions, we lecture, and we participate in a government that works for everyone, only because so many were willing to fight for our rights to do so.

I hope you will join with me on this Veterans Day as we display our pride in and our respect for America's most select group of citizens—our veterans. It is a day to face our past and make it work for a future of security and peace.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, the main feeling that I have on this occasion is one of deep gratitude to the veterans who have given so much of their lives and their activity for our great country. It is a wonderful thing that people are willing to shoulder that burden. The veterans and their ability to fight and their desire to see their country succeed is the cutting edge of democracy and of peace for the world and the future, in my opinion.

Mr. Speaker, I also have a feeling of gratitude that I, like many Members here of the House of Representatives, am a veteran. I am grateful that I had an opportunity to do something for our country, because our country is such a great country. It has stood for so many fine things through history, it has unselfishly given of its wealth, it has given of its young men and women to stand for principles which are important throughout the world to work for peace.

So I am very grateful to this country that I can be a part of this country; and I am very grateful for the opportunity to serve my country in combat. I feel that is the feeling that all of us have here today, one of gratitude, gratitude to the veterans, and those of us who are veterans, gratitude that we served such a noble country.

I thank the gentleman for yielding.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. ROWLAND).

Mr. ROWLAND. I thank the gentleman for yielding.

Mr. Speaker, I rise to pay tribute to the veterans of our country to express the gratitude that I feel. This is a group of people to whom we owe more than any other group in our society.

Were it not for our veterans, we would not be here today as we are. We should all be eternally grateful and never let it fade in our memories what we owe to this great group of people.

I thank the Speaker.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all across this Nation today, Americans have gathered to pay honor to a select group of citizens—those 28½ million men and women who proudly wore the military uniform of our country in time of war. America is saying "thank you" to them for keeping this country free.

November 11 is a day when those who have returned from war—and those who waited for them—have a multitude of memories. It is a day when literally millions of people will vividly recall the terrible costs of war.

In this century alone—in four wars—more than 600,000 of our countrymen have paid liberty's supreme sacrifice. They and those who have survived them have earned the eternal gratitude of the Nation, and this special day is set aside for them by action of the Congress of the United States.

America has a soul, and because of this, she finds nothing pleasant about war.

On the contrary, as we on the Veterans' Affairs Committee and in the Congress consider the passage of veterans laws, we deal with war's most tragic consequences—pain, heartache, and suffering; consequences not to be taken lightly.

There is a voice in our land which speaks about America to those who will hear.

It tells us that we must make a proper use of strength and that the battle of survival is not to the strong alone, but also to the vigilant and the brave.

It tells us that our forebears forged a government respectful of personal freedoms at great individual and collective cost.

It tells us that the preservation of that heritage is a responsibility bequeathed to us so that future generations of Americans may also have the priceless gift of liberty.

It tells us that throughout our past, wars have taken a heavy toll on both the youth and the resources of our Nation.

It tells us that the span of our Nation's life has become a mighty bond because of the sacrifices of its citizens, some of whom have been called to arms and who have lost their health and even their lives.

This voice is not an abstraction. It is a living, vibrant call to all who will hear it.

We would do well this day to listen to the voice and then to often repeat its truthful words.

We need not be historians to understand that every generation of Americans has owed a debt to the past and that every generation that comes after us will, in turn, inherit that debt.

The challenge of living for freedom which has been handed each of us demands a special kind of faith in the future of America. It is a faith that says we will bequeath to our children and to theirs, a full measure of that which has come to us.

The Congress of the United States, of which each of us is a proud part, has a vital role to play in the maintenance of that faith. It is one of seeing to it that our Nation does all that it should properly do for that group of our citizenry who are called veterans. I believe the Congress has a clear mandate from the people in that regard.

Nearly everyone here today would agree that no society in the history of the world has done as much for its veterans as has ours. That society, through the Congress speaking for it, will continue to do what is right. Our national honor would allow no less and that honor is a trail of our country's heritage that is very special to all of us.

Visiting Veterans' Administration medical centers has often brought home to me what it is that this Nation has done for veterans and what it must continue to do.

Across the land are 172 VA hospitals. Also across the land are over 200 outpatient clinics and 137 counseling outreach centers for Vietnam veterans.

In that vast setting, just last year alone, over 1.2 million veterans were treated as inpatients, and more than 18 million outpatient visits were made.

And in that setting, thousands of medical and paramedical employees were trained in the art of healing minds and bodies. And miracles of research took place involving gigantic efforts at conquering dread diseases and injuries.

But the question will be asked: "Is it enough?" The Congress answers by saying that its appropriation for the Veterans' Administration this year will be over $25 billion—the highest VA budget in history; thus enabling it to add over 2,000 medical employees to its current work force of over 2,700,000.

We answer by saying that the VA's construction budget—designed to keep VA medical facilities modern and up to date—will be the highest in history.

We answer by taking action to extend those 137 readjustment centers for 4 more years, and increasing per diem rates at State nursing homes; by passing laws to enable the VA to better compete in the marketplace for such employees as physiotherapists, respiratory therapists, and licensed practical and vocational nurses; by increasing compensation payments to disabled veterans.

This Nation does not and will not forget those who labored mightily in its cause, who suffered in its defense, who became disabled in its preservation.

Our Nation and her people are remarkable. The Government they have achieved is the envy of the world. It is one that often draws strength from adversity. It thrives on the impossible ideal that free people can collectively govern themselves—in order and in dignity. It dares to challenge the future with promises of that better tomorrow.

Today when I see America's veterans, I see good people who know and love America. That the ill among them might soon be healed; that the lame among them might soon no longer limp; that those who heal and that those who nurse might more quickly achieve their purpose, is my earnest prayer.

I am sure that all the Members of the House are very aware that Veterans Day 1983 comes at a time of national mourning for many of our brothers who just recently paid freedom's highest price.

The veterans of this Nation have been tried and tested on many occasions. And they have persevered. The perpetuation of America is the legacy they have left. That glory is manifest as we honor them on this—their very special day.

Thank you very much, Mr. Speaker.

□ 1810

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

I will not take time during the debate because of our limited time except to concur with the excellent remarks of my chairman on the Veterans' Affairs Committee. He has said it very, very well.

If it were not for the veterans of this country, there would be no United States of America. There would be no free world. God bless them and their families.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I rise to share with my colleagues an address I had intended to deliver to the members of my post—the American Legion Post 512, Carmel, Calif.—on the occasion of Veterans Day. I want to thank

my wife Sylvia for presenting the message in my behalf.

As all of us gathered here today are only too aware, unfinished legislative business has prevented us from participating in veterans services back home. That is not to say, of course, that our thoughts are not with America's veterans and their families. It is, therefore, only fitting that we take this moment to reflect upon the services and sacrifices rendered by generations of Americans, and to express our gratitude as a nation to the brave young men and women presently serving in our defense. I know all my colleagues join me in this special salute to our Nation's veterans.

What follows is the text I was to deliver:

VETERANS DAY

I deeply regret that my responsibilities in Congress prevent me from attending today's ceremonies in honor of our Nation's veterans.

As a Congressman and as a veteran, I am proud of the contributions that veterans, soldiers, and citizens alike have made to the security of our nation.

Veterans know best the price of peace and freedom we enjoy. Those who have made the ultimate sacrifice, or put their lives on the line for their country understand all too well that democracy is not a gift, but a challenge.

Soldiers also understand the nature of that challenge. In this community, we are fortunate to have the example of the Seventh Infantry Division and other vital elements of our Armed Forces dedicated to protecting the peace. They will be the veterans of tomorrow because they are willing to be the soldiers of today.

Citizens on this Veterans Day must pause to remember that America was born and exists because a few dared to dream that others would share their commitment to the challenge of a new nation.

During the last few weeks, we have all been witness to how difficult that challenge can be. To those who have given their lives, we pay special tribute. To their families in this moment of grief, we pray that their sacrifice will bring an unstable world closer to peace.

On this Veterans Day, let us remember, let us rededicate, let us never forget that one day, the torch will pass to others. When it does, on some distant Veterans Day in the future, let them remember as we do today that there were those who cared enough to keep the flame burning for their children and their country.

Thank you.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, regardless of our policy differences on a variety of issues like Lebanon and Grenada, we all agree that the men and women who have been called upon, wherever, have served their country loyally and with great dignity. And we owe them a deep debt of gratitude.

It is unfortunate that many of us cannot be home today, but we are, of course, doing the kinds of things that makes this country a democratic place where our veterans can feel a great deal of pride for these institutions.

The people we honor have taken the greatest of risks for their country. We owe it to them and to the people in the military today and to the entire population to do everything we can to avoid the ultimate war, which would mean we would lose everything the veterans of earlier wars have fought and given their lives for.

Gen. Omar Bradley once said that we know more about war than we do about peace. More about killing than we do about living.

Let us heed his advice so that our future veterans may never have to face the kind of holocaust that General Bradley was referring to.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Speaker, I was to have delivered these words today at the 11th day of November at the 11th hour at the veterans hospital in my hometown of Beckley, W. Va. I had to cancel due to this session of the House awaiting final action on the continuing appropriation for our Federal Government money which expired last night at midnight.

Yes, this is the time to remember. This is the time to honor. This is the time we pay special thanks to the nearly 26 million Americans, still alive, who have defended this Nation. We all remember, honor and thank these brave Americans every day of every year we live in this country, but this is their truly special day.

This special day and every day of the year is the time we pay tribute to the over 1 million service men and women who have sacrificed their lives so that this Nation may remain free.

There have been additions to these numbers in the past weeks—from Beirut, Lebanon, to the beaches of Grenada.

At this time, I would like to reaffirm a statement I made earlier this week in Charleston, W. Va. I support a strong, continued commitment to those men and women who have served their country with courage—our veterans. They deserve a fair deal for their priceless dedication, no matter what war or wars in which they were engaged.

To those parents of our deceased or wounded marines from Beirut and Grenada, many of whom from West Virginia I have talked with recently, I extend my prayers and ask for God's blessings.

Your sons have fought and are still fighting for our country's interests in Lebanon, Grenada, and throughout the world. I salute them. I salute their families, and offer the Nation's deepest gratitude.

There is no doubt in my mind, that West Virginians have paid, and continue to pay the price for peace and prosperity.

The pride I feel for those who have served, is a pride that is shared by all West Virginians and all Americans. Because of the service of those we honor and commemorate at this time of the year, we are all citizens of the greatest democracy the world has ever known.

All Americans can rest assured that their fellow countrymen who made the ultimate sacrifice in wartime, did not do so in vain. For they fought for something deeply rooted, genuine and worthwhile; they died upholding inherent individual values that transcend the politics of war. In many instances they sacrificed their own lives for the men with whom they served. And in war, as in life, there is no cause more noble.

I would like to share with you some reflections of a Korean veteran I recently came across. Many of you will clearly understand what he says:

Any person who was ever in a combat situation has seen, heard and experienced incredible trauma such as having friends killed or wounded in their presence or nearby. The intense interpersonal cohesiveness and devotion to duty and each other makes such an experience even more painful.

The words of a mother, whose only son was killed in Vietnam are likewise important to hear today:

In the hearts of mothers, the hurt will never go away. But as a mother, I say that if my son had to be taken, I thank the Good Lord that he stood up for his country.

At this time of year, this is why we remember. This is why we pay tribute.

Since 1776, this country has been engaged in nine major wars. The efforts of those who died on the these battlefields and in the service of this country and its allies were to insure that you and I could speak freely, voice our opposition and our support of government publicly without fear of retaliation, travel this country and beyond unchecked by stone walls, barbed wire, guard towers, and worship as we please.

We enjoy this freedom only because we have been willing to fight for it.

Just as there is a constant vigil maintained at the graveside of the Tomb of the Unknown Soldier at Arlington National Cemetery in tribute to the Nation's war dead, there is a vigil over the benefits and services provided our Nation's veterans and their dependents maintained by the Congress of the United States.

On October 25, the House of Representatives passed H.R. 4169, which provides a 4.1-percent cost-of-living increase in compensation for service-connected disabled veterans and in dependency and indemnity compensation for widows and children of veterans who died from service-connected causes.

I was pleased to cosponsor and vote in support of this measure.

On August 15, the President signed into law the Emergency Veterans' Job Training Act, a program geared toward placing 50,000 Korean and Vietnam veterans in good permanent jobs. I was proud to sponsor and support this measure as well.

It costs the Government approximately $7,600 to foreclose on a home. In order to reduce the amount of foreclosures and make certain that our veterans are given a reasonable chance to hold on to their homes, I have joined as a sponsor of H.R. 2948.

This legislation would provide loans to unemployed veteran homeowners facing foreclosure through no fault of their own.

All Americans can be proud of the services and benefits we are providing in honor of the tremendous contributions and sacrifices made by our servicemen and veterans. They have helped insure our strength, our freedom, and serenity. Let us continue, in turn, to afford them the opportunity for quality medical treatment, educational and job training advantages, a decent home, and hopes for a prosperous future.

They deserve the best we can offer, and more so today in these days of increased concern about the role of the United States throughout the world, and in these days of coldblooded attacks on fellow human beings, such as was the case in the downing of the Korean airliner.

Mr. Speaker, in these times of conflict . . . . we still have a purpose, a strategy. It is to continue an aggressive search for peace while maintaining our strength and image as peacemaker.

Our servicemen and our veterans are the backbone of that strategy.

I thank them.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Florida (Mr. BILIRAKIS).

Mr. BILIKARIS. Mr. Speaker, Veterans Day is a day on which to think about those Americans who are lying in unmarked graves around the world, unknown except to God. These unknown soldiers, sailors, airmen, and marines who are immortalized in Arlington Cemetery in the Tombs of the Unknown Soldiers, the first of which was commemorated on this day in 1921.

Since 1776, this country has engaged in nine major wars. More than 1 million Americans died during those conflicts. It is only fitting that we continue to preserve their memories and think about the ideals for which they so valiantly fought—and died—and the quest for worldwide human rights and dignity.

The efforts of those brave men and women still ensure that you and I can speak freely, voice our opposition and support of our Government publicly without fear of retaliation; travel freely in this country and beyond, unchecked by walls, barbed wire, and guard towers; and worship as we please.

We are an unoppressed society. But we cannot take for granted the belief that we are endowed by our Creator with certain inalienable rights. We enjoy our freedom only because we have been willing to fight for it.

Let us never forget the brave men and women who joined in that fight and made the ultimate sacrifice; let us never forget all of those who made the sacrifice on behalf of freedom and justice throughout the world and then came home; and let us not forget those, many of them our children, who today are serving this country abroad and at home.

We honor these men and women because it was their blood, their resolution, their love of country; that was—and is—the coinage with which the America we love, the America of so much promise, so much chance for greatness—was purchased.

At Gettysburg, following one of the bloodiest battles in America's Civil War, President Abraham Lincoln spoke of the need to dedicate ourselves to the "unfinished work thus far so nobly advanced."

This must be the message—the theme of Veterans Day—or else we miss the rationale for our observance. Lincoln was not speaking of dedication during a single day or a single period. He was talking about the tranquil, steady dedication of a lifetime.

So, while Veterans Day—as we observe it—often has the face of strife, of suffering and bloodshed, of horror, of destruction and mutilation, of death, we must never forget that Veterans Day is really a day of peace.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, Veterans Day should be a day of peace, a day of hope and remembering and honoring those Americans who gave their lives in the ongoing struggle for freedom. It is a day of respect and appreciation to those 30 million of our veterans who survived, to whom we owe the gratitude of liberty.

On a blustery morning some 65 years ago—the 11th hour of the 11th day of the 11th month—the bloodstained battlefields of Germany and France fell quiet. In a railroad car on a siding outside Paris, representatives from the Allied Forces and the Germans sat down to bring to a close 5 years of death and destruction; to end the "war to end all wars"; to make the world safe for democracy.

Much has changed since 1918, and much will continue to change. And as with all change, crises interrupt. The world has not been made safe for democracy; wars have not ended. But those who died in that war and all wars since did not die in vain. They gave their lives so that we could live ours free from tyranny and oppression. It was the Irish writer, John Curran, who wrote:

> The condition upon which God hath given liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt.

Veterans Day 1983 takes on a special significance; made that much more keen by recent events abroad. To the list of South Vietnam, Korea, Midway, and Normandy we can add Grenada and Lebanon as places of violence and valor. The blessings of liberty are sweet, but it is still profoundly difficult to accept that the price of liberty has cost the lives of millions of Americans. But the ideals upon which this country was founded and which have given hope to millions of people in foreign lands do not automatically sustain themselves. They must be guarded; they must be defended.

On this day, those who have given so much ask only that we remember. It was an English poet who captured the solemn and true meaning of this day:

> The tumult and the shouting dies,
> The Captains and the Kings depart,
> Still stands Thine ancient sacrifice,
> An humble and contrite heart.
> Lord God of Hosts, be with us yet,
> Lest we forget—lest we forget.

We shall never forget. Of our living we can say they willingly bore the burden of defense; they kept freedom's lonely vigil and were the guardian of the Nation's values, yet became neither oppressor nor oppressed.

Of our dead, we can say as Lincoln said in his Gettysburg Address:

> It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion.

In this House, on Veterans Day, 1983, we voice again the gratitude of liberty to all who have suffered to protect that liberty.

□ 1820

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, on this day, November 11, in our history, we pause here in this great deliberative body to honor the brave men and women, living and dead, who have fought to preserve our freedoms.

It is because of their sacrifices that we are here today. And, as we look around our great country, we can see the fruits of their labors.

We see peace. We see abundance. We see a nation second to none. We see freedom.

Over the years, our veterans' sacrifices have been great. More than 1 mil-

lion Americans have died in the service of their country.

Yet, our freedom, which is the strength of America, has never been better.

On several occasions in our history, there have been powers around the world that have wanted to take that freedom away from us. And, on each occasion, our people have been willing to go to war in order to achieve peace and preserve freedom.

Americans have been willing to sacrifice their goods, their comforts, their sons, and fathers, and brothers.

Throughout our history, sacrifices have been demanded of almost every generation of Americans to maintain our freedoms and way of life.

Each time, our veterans have come forward and defended the principles that we—as a nation—hold so dear.

But we must not be blind to the lessons of the past. Just as World War I was called the "War to end all wars," we cannot be sure there will be no more wars in the future.

To prepare ourselves as a nation and preserve our freedoms as a people, we must renew our efforts to maintain a strong military capable of protecting the cause of freedom with a minimum of sacrifice.

We must, at the same time, keep the lines of communication open with other nations to better preserve world peace and the safety of Americans abroad.

We must also continue to speak out and lead world opinion in areas important to the cause of freedom.

Today, there is one final thing we must do. We must teach our children and every future generation to value the freedoms we enjoy and know the pride of being an American.

We must instill in our children a strong sense of duty, honor, and conviction toward our country and ensure that they continue to recognize and honor the great sacrifices made by previous generations of Americans.

If we do this, then we need not worry about the future of our freedoms or the survivial of America.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Virginia (Mr. DANIEL).

Mr. DANIEL. I thank the gentleman for yielding.

Mr. Speaker, the able gentleman from California announced that Veterans Day is set aside to honor both those veterans living and dead, and I would like to take this time simply to pay tribute to those more than 1 million who did not return to enjoy the fruits of their sacrifice.

One day in every year should be at least semisacred to the American people: Veterans Day, a day that stands apart from all others, a day when Americans, with gratitude in their hearts, thankful for the blessings that have accrued to them, bow their heads in humility before the tombs of our illustrious war dead.

So let us pause on this day to commemorate the gallantry of those who fought and died and laid upon the altar of sacrifice that priceless spark of life for the building and preservation of our great and mighty Republic.

If their sacrifice has any meaning at all, it is because there are certain values, certain principles, certain eternal truths more precious than life itself. In fighting and dying, they enacted a paradox of heroism. They fought to defend man's right to freedom; they obeyed orders to defend man's right to liberty; and they gave up the comforts and the consolation of home and family and, finally, life itself to preserve another man's inalienable rights, the pursuit of happiness.

Those who have died for our country can fail only to the extent that we the living fail them. They gave their all, and we can do no less than to give our best, because when we fail them, we fail our country, we desecrate our heritage, and we betray our posterity.

So let us in these trying days of industrial strife, economic dislocation, social unrest, and clashing ideologies lift up our eyes into the eternal hills from which cometh our strength, and in so doing, rededicate our lives to God and country that our children and their children might enjoy this blessed heritage of freedom, one with the blood of so much of the flower of knighthood of America.

The SPEAKER. The Chair wishes to state that he appreciates the fact that the gentleman was to give that speech in Danville this evening. It was a beautiful speech, and the gentleman's colleagues appreciate it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, 65 years ago today, at the 11th hour of the 11th day of the 11th month, the guns were stilled in World War I, bringing to a close the "war to end all wars."

In the 65 years since, millions of Americans have had to go overseas in three major conflicts, and have loyally given of themselves in countless other military actions, most recently as part of our peacekeeping forces in Lebanon, and our rescue mission in Grenada. Let us recall the memory of those who did not return and those who are still missing in action.

Veterans Day, is not a war day, it is a peace day. There is no group in America more appreciative of the need for peace than the more than 28 million veterans who have served in our Armed Forces and who are still alive today.

Mr. Speaker, veterans throughout my 22d Congressional District of New York are marking today—the one day we set aside to honor our Nation's veterans—with appropriate ceremonies. Along with my colleagues, I regret that our legislative duties today prevent us from joining in the solemn commemorative ceremonies in our congressional districts.

As we pursue our legislative duties today, let us reflect about and be grateful for the dedication, the loyalty and the sacrifices of our Nation's veterans, and their families, and let us all rededicate ourselves to their goals of world peace.

Mr. EDWARDS of California. Mr. Speaker, I yield to the distinguished gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank my distinguished colleague, the gentleman from California, for yielding.

Mr. Speaker, I am honored to join with my colleagues in honoring our veterans around this great country of ours today. For over 200 years the American veterans have made the supreme sacrifice. They and their families have preserved for us the freedoms that we so often take for granted.

As I reflect on this Veterans Day 1983, my heart and my mind goes out to all those veterans around the world at a time when the world is very tense, very dangerous, and I ask all Americans to reflect on the peacekeeping missions that we have committed to in Lebanon and all of the missions throughout this country, and to be grateful for the great job that our veterans and their families have done all through the centuries for our great country.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. NIELSON).

Mr. NIELSON of Utah. Mr. Speaker, as a veteran of World War II, I want to report that I am very much interested in the Veterans' Administration, the things they are doing for the veterans. I am sorry that we have not done as much for the Vietnam and the Korean veterans as we did for those of World War II. I am also sorry that the patriotism that was very evident at the beginning of World War II has been on the wane, but I am grateful to say that since we have had this recent international crisis, confidence is coming back and patriotism is rearing its beautiful head again. The marine disaster is turning out to be one of the best recruiting tools we have ever had.

I am proud to have been a veteran. I am proud of the veterans that we have in this country, and I am proud of the spirit of patriotism that is now developing again.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, today is a time of national reflection for us as a

people and as a nation to thank our veterans.

The remarkable thing about our democracy is that the men and the women who protect us come from the average homes throughout our land. They volunteer, they serve because they want to protect this democracy of ours.

Even in times of war when we call on our men and women to serve and we have some kind of conscription, those persons come from the average homes across our land. No home is spared. The rich, the poor, the farmer, the rancher, the educator, the banker, all give their sons and their daughters.

Sometimes we think that perhaps our present generation does not measure up to its responsibility. But I say that is false. To each generation is given the responsibility and the privilege of defending this country. For over 200 years every generation has met that responsibility, and they have met it in a distinguished manner.

I have confidence that our generation today is just as devout in their dedication for the defense of this country as any other generation.

Today in my home city of Austin we paid honor to three veterans who lost their lives in Lebanon and in the Grenada invasion.

□ 1830

Our hearts go out to those veterans and their families. Those veterans supported our country. It is our responsibility, Mr. Speaker, to always support those veterans and their families. I think this country will always do that.

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Speaker, I thank the gentleman from California for yielding, and I want to commend him and our other colleagues for taking out this special order tonight.

I would just like to spend a couple of minutes discussing one issue in particular, and that is restoring the constitutional rights of our veterans.

Mr. Speaker, for more than 50 years our Nation's veterans have been denied one of our more basic constitutional right, the right to due process of law. For more than 50 years, these men and women who have made tremendous sacrifices to defend our country have been relegated to a legal no-man's land. A person who has been denied welfare benefits has the right to go to court to appeal such a denial. A convicted criminal has the right to appeal a verdict rendered by a jury of his peers.

Yet veterans, those individuals who have fought countless battles on foreign shores to defend and uphold our Constitution, are being denied that same basic constitutional right. If that is not a mockery of justice, I just do not know what is.

Under current law, veterans who have been denied benefits by the Veterans' Administration are not allowed to pursue their case in a court of law. What is more, veterans are effectively denied the constitutional right to counsel by the arbitrary and totally unrealistic $10 limit on fees paid to attorneys who represent veterans before the VA. It is a mockery of justice and an outrageous denial of fundamental rights.

That is why I am pleased to see that legislation that I have strongly supported for years to correct this blatant injustice is now beginning to pick up steam. Because of the efforts of Senator GARY HART, the Senate has passed legislation to give veterans who disagree with the final decision by the VA their day in court. Several similar bills are pending in the House Committee on Veterans' Affairs and I just want to commend Chairman EDWARDS and Chairman EDGAR for the tremendous support that they have given to this legislation, and in particular to single out the tireless efforts of a young man from my own hometown of Portland—Phil Cushman—who has brought tremendous concern and tremendous energy to trying to remedy this legal injustice.

I think because of the efforts of Chairman EDWARDS and Chairman EDGAR and people like Phil Cushman, soon we will have the momentum and the visibility necessary to protect veterans of this country from this injustice which today denies them the right of appeal to protect their constitutional rights.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, Vermont has a long tradition of sacrifice to this Nation. More Vermonters per capita have given their lives to this country than any other State.

This past month, the people of my home State of Vermont were deeply saddened by news that the name of U.S. Marine M. Sgt. Richard L. Lemnah was added to that honored list. His life was taken in Lebanon.

Master Sergeant Lemnah, at age 37, was recognized by all who knew him as a true hero. Fourteen years ago, early in his military career, he demonstrated his bravery by saving the lives of two men who were trapped in a blazing automobile following a collision. Later, he was decorated for distinguished service in the Vietnam war. In the best tradition of the U.S. military, he dedicated his life to service to America and Americans.

With his wife Marlys, Master Sergeant Lemnah had planned to return to his hometown of St. Albans, Vt., for well-deserved retirement from military service within the next year. His parents, Clarence and Etta Lemnah, are highly respected residents of St. Albans. Richard is well remembered by his many friends in his hometown.

Tragically, Master Sergeant Lemnah, along with so many other dedicated, courageous young Americans, was victimized by a despicable act of terrorism.

No words can express the sorrow felt by Vermonters and all Americans in the aftermath of this terrible tragedy.

Nor is it possible to adequately express our gratitude and our admiration for Master Sergeant Lemnah and the other brave men who sacrificed their lives for their country, and for the cause of peace in a very troubled part of the world.

I know that all Members of this Chamber join me in mourning the tragic death of M. Sgt. Richard L. Lemnah, and in recognizing his heroic service to our Nation and to mankind.

I was to be in St. Albans today to take part in services to honor this dedicated Vermonter. I regret that I could not be there. I am pleased that I could participate here this evening.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. I thank the gentleman for yielding to me.

Mr. Speaker and Members of the House, as a 10-year-old, I remember newsreels of Adolph Hitler and the Nazis rejoicing at the surrender of France and the glee that they displayed on the screen in the streets of Paris underneath the Eiffel Tower. I remember the Parisians lined up in the street, tears in their eyes, obviously downcast at what had happened to their country.

What made things worse was that Hitler demanded that the surrender of France take place in the very railway car where a war before, after the cessation of hostilities in World War I, the so-called armistice was signed, and it was an armistice, in that boxcar, that railway car.

I remember feeling, as that 10-year-old that this was a final abuse on the part of Adolph Hitler that freedom-loving people could no longer tolerate. That is the way it turned out.

With the might of the United States and the remainder of the free world, we restored Armistice Day to its proper position in history, and today, when we commemorate Veterans Day, we are reconfirming again that freedom will win in whatever kind of battle, domestic or foreign, that is challenging the way we want to live.

Mr. EDWARDS of California. Mr. Speaker, I yield to my fellow Californian, a gentleman who has long been interested and done very much for our veterans, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, for many Americans, today is a holiday. Some may use it to take advantage of a sale; others may spend the day working around the house, oiling a creaky door, adding insulation to the attic, or raking leaves in anticipation of winter. Californians do not have to worry as much about winter. Californians will probably be picnicking, sailing, or in some other way enjoying the Golden State. Yet I hope that each of us might pause for a moment and remember why, for so many, today is a holiday.

Today is Veterans Day. It is the one day each year when we should salute the men and women who have sacrificed something out of their lives for the good of our Nation. Many Americans have lost their lives under the banner of freedom and democracy, and we should not forget that, however regrettable the sacrifice, each American who lost his life was motivated by a deeply held belief in the virtues of the American way of life.

Veterans Day began as Armistice Day, in recognition of those who fought in World War I. It is now called Veterans Day because the United States has since felt compelled to enter many battles, some not as popular or justifiable as others. But the fact remains that the veterans of each of those engagements—of World War II, Korea, and Vietnam—should be remembered and respected as selfless patriots. I think that on this day we should also pause a moment for our marines in Lebanon and our troops in Grenada. There has been regrettable loss of life in both of those campaigns, but those who are there, and those who were there or who died there, deserve to be revered as the finest that our Nation, or any nation, can offer.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. I thank the gentleman for yielding to me.

Mr. Speaker, we in this country have inherited a great Nation. We in this generation have not built it. Others who have gone before us have made it possible for us to enjoy the many freedoms we enjoy.

This Nation did not just happen. People before us, our veterans, went all over this world to fight for freedom.

□ 1840

Back in January I was visiting the American cemetery in Manila, in the Philippines. All of a sudden it occurred to me, as I read all these names of people who fought and died during World War II, that the whereabouts of the remains of thousands upon thousands of those young men who went abroad to fight and whose names are recorded on those marble slabs remain unknown even today. They went abroad, they fought, they died, and they did not come back, as the gentleman from Virginia said, to enjoy the fruits of their fighting.

The thing that concerns me today is, what have we done on our part to preserve these freedoms that so many of our veterans have fought for over the years? Are we the same kind of people they were and are? Are we going about our job today as they went about their job, or are we sending the wrong kinds of signals to the rest of the world in our voices of weakness, which I think sometimes helps to bring on conflicts and threats to our freedom more than anything else?

Or are we standing strong, as they stood strong, to let the world know that we are free because of the sacrifices of others, and that we intend to remain free as a nation for those who come after us?

Mr. Speaker, let us resolve anew today that what our veterans have fought for over the years will not have been in vain.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Tennessee (Mr. SUNDQUIST).

Mr. SUNDQUIST. Mr. Speaker, I rise in support of this tribute by my colleagues, and as a member of the Veterans Affairs Committee, I am proud to make a brief statement on behalf of American veterans.

John Quincy Adams, the sixth President of the United States was once quoted as saying, "posterity, you will never know how much it cost my generation to preserve your freedom. I hope you will make the most of it."

President Adams could never have foreseen the number of times when succeeding generations would also be called upon to pay a high price in order to preserve freedom. During 206 years of history, Americans have made the most of their freedom, and for that reason, we have been, and will continue to be, willing to oppose tyranny at any cost.

Today is Veterans Day, a day on which we need to remember how much it has cost our generation and generations past to preserve freedom. We—like John Adams—hope that future generations will make the most of the freedom that our fathers, sons, and brothers have fought and died to preserve.

We pay tribute on Veterans Day to the more than 28 million surviving veterans of this country as well as to those who are no longer with us. I would like today to make a few observations about how we have honored our fighting men in the past, and how we honor them today.

Since 1776, this country has been engaged in nine major wars. More than 1 million Americans died while serving in those conflicts. It is only fitting that we continue to preserve their memories, the ideals for which they so valiantly fought, and the quest for worldwide human rights.

The efforts of those who served this country through our Armed Forces and its allies were to ensure that you and I could speak freely, voice our opposition and our support of government publicly without fear of retaliation, travel this country and beyond unchecked by stone walls, barbed wire, and guard towers, and worship as we please.

We are an unoppressed society, but one that has begun to take for granted the belief that we are "endowed by our creator with certain inalienable rights" We enjoy our freedom only because we have been willing to fight for it. Let us never forget the brave men and women who joined in that fight and made the ultimate sacrifice, and all who have served honorably and are still serving.

We, of course, celebrate this holiday every year. But this year, with the troubles around the world we have faced in recent months, it takes on a special significance. It has hit home for me in that military personnel who live in my district have been involved in Grenada. I cannot help but think about the Clarksville, Tenn., family of Capt. Keith Lucas, a Fort Campbell soldier who gave up his life only a few weeks ago in Grenada. My prayers are with his friends and family, as well as all the American forces who were injured in combat in Grenada.

In his address at the formation of the Constitution, Benjamin Franklin said, "The longer I live, the more convincing proofs I see of this truth—that God governs the affairs of men. And if a sparrow cannot fall to the ground without his notice, it is probable that an empire cannot rise without his aid."

Americans were willing to call upon God for help in building a Nation which upholds the greatest ideals of freedom on Earth, and I believe that it is not only proper—but necessary—that we call upon God as individuals, as families, and as a Nation for help in maintaining it.

As we remember the 1 million Americans who have fallen on the battlefield in service to their country, we can only pray today that the cause of freedom will not require as great a sacrifice in the years to come.

The one thing that stands out most clearly when we look at history is this: We are not people who pick fights. Like the classical roman "citizen-soldier," Americans have left their plowing in the field, donned uniforms and gone off to serve their country and the higher calling of freedom.

America has never sought wars of conquest. America has not produced the Khomeini's, the Castro's, and the Qadhafi's of the world today. Instead, we have produced young men who are willing, if necessary, to answer a call to

arms in order to restore peace to troubled nations of the world.

Unlike any other nation in history, America has rebuilt the homelands of her defeated enemies. We have helped their crippled economies to their feet and aided in revitalizing their industry. Then we have left them to govern themselves as free people.

The Berlin Wall stands as a stark reminder to all of us today that there are men who would sacrifice peace for wealth and power. It indicates the difference between those motivated by the desire to bring peace, and those motivated by the desire to bring others into subjection.

In that great sermon on the mount, Christ said, "blessed are the peacemakers, for they shall be called the children of God." As we stop and reflect upon the sacrifices that have been made for the preservation of liberty, we can look with pride upon the realization that America's fallen have truly been "peacemakers."

There is a thought I would like to share with you today—one that I believe has shaped the course of American history. That is: Peace without freedom is not peace.

Had the colonists been willing to accept peace without freedom, almost 7,000 men need not have died in the Revolutionary War. But the colonists were willing to defy King George of England and raised that famous battle cry, "Give me liberty or give me death."

Perhaps the greatest lie perpetrated by communism is that peace is merely the absence of war. Throughout America's history, we have been willing, if necessary, to accept freedom without peace—but we have not, and will not, be willing to accept peace without freedom.

I do not believe that Lech Walesa, if he were permitted to speak to us today, would tell us that Poland is at peace. He is leading his countrymen in a struggle for some of the basic freedoms that most Americans take for granted.

I think of a man from Romania who was recently arrested for treason in his country because he wrote, "We want milk, we want bread," on the wall of the factory where he worked. Police officials compared the handwriting with that of 10,000 employees to find out who wrote those words on the wall. A country that fears so much the words and ideas of its people cannot be at peace.

Which leads me to my final point. We need to realize that truth is the foundation and the catalyst of freedom. The great writer of the American Revolution, Thomas Paine, wrote, "for such is the irresistible nature of truth that all it wishes, and all it needs is the liberty of appearing."

It is truth that communism fears the most—for truth exposes the true nature of tyranny.

The colonists would not settle for false freedom, but were willing to sacrifice their lives and fortunes to obtain the real thing. Today, men like Lech Walesa, Andrei Sakharov, and Alexander Solzhenitsyn cannot be silenced as they pursue true freedom for their oppressed countrymen.

We honor America's veterans today because they fought and were willing to risk their lives for a true, just, and lasting peace for all people. We may never be able to repay our debt to our veterans. But to truly honor their sacrifices, we must continue to uphold the freedom for which veterans served.

We live in a troubled world. We live in a world of precarious peace, a peace which is maintained only by U.S. strength. And, to the extent that the United States appears to be weakened, peace is weakened. It is only the U.S. leadership of the free world and American power that safeguards an uneasy truce.

In these days of concern about turmoil in Central America; in these days of cold-blooded attacks on fellow human beings, such as was the case in the downing of the Korean civilian airliner; in these times of conflict in the Middle East and uncertainty worldwide; in the aftermath of the outrageous attack on our Marines in Beirut, which left more than 230 dead, and for those who fell in the line of duty during the invasion of Grenada; we still have a purpose, a strategy. It is to continue an aggressive search for peace while maintaining our strength and image as peacemaker. Our servicemen and our veterans are the backbone of that strategy.

America's greatest resource is Americans themselves. As Carl Heath Kopf said:

> As long as we all stand together, God will bless America. For whether God blesses America or not does not depend so much upon God as it does upon us Americans.

God has indeed richly blessed America—he has given us a great land and the freedom to develop it. Yet the condition upon which God has given liberty to man is eternal vigilance.

The brave men we honor on Veterans Day have paid their share of the price of freedom. So let us stand together as Americans, not only on this Veterans Day weekend but every day, and overcome our adversities in times of peace as our fighting men did in times of war.

Today our prayers are with the wounded and the families of those lost in the pursuit of freedom in recent weeks. Our hopes, I trust, will remain with that young man who was a medical student evacuated from Grenada—who, upon landing on American soil, kissed the ground, and said "God bless America."

Mr. EDWARDS of California. Mr. Speaker, I do not know of any Member of the House or perhaps of anyone in the United States who has worked more indefatiguably for the benefit of veterans of the United States than the very distinguished chairman of the Subcommittee on Hospitals and Health of the Veterans' Affairs Committee, the gentleman from Pennsylvania (Mr. EDGAR), and with great pleasure, I yield to him.

Mr. EDGAR. Mr. Speaker, since 1776 our country has been engaged in nine major wars. More than 1 million Americans have died while serving in those conflicts.

The sacrifice of those who died in service to this country have ensured the basic freedoms of our country. Along with all those who have served in our Armed Forces, they have ensured that we could speak freely amongst ourselves without the burden of recrimination or retaliation; design, shape, and constantly recraft our Government to meet our changing needs and changing times; travel this country and beyond unchecked by stone walls, barbed wire, and guard towers; and worship as we please. The foremost concept of our Constitution and our Government as originally established was this:

That we are each responsible for each other; we each share a part in the welfare and support of our fellow Americans and our society.

As America has grown over the past 200 years in strength and prosperity, the commitment we share for each other has grown with our Nation, to be a global responsibility as well.

The maintenance and defense of freedom has not stopped at our own borders.

There are 28 million American men and women living today who have served in defense of this country and freedom around the world.

We salute you on Veterans Day.

This day is set aside to pay tribute to your accomplishments. You have been always faithful. As such, this day is designed to review how our Government has attempted to keep faith with you.

As a member of the House Veterans' Affairs Committee, I share the responsibility to oversee the operations of the Veterans' Administration, the largest independent agency in the Federal Government.

This year we authorized the largest budget in the history of that Agency—$26 billion.

I also serve as chairman of the Veterans' Affairs Subcommittee on Hospitals and Health Care.

In that capacity I have jurisdiction over the largest health care provider in the world with an $8 billion budget

this year which provides medical services to millions of veterans each year.

Let me briefly describe some of the challenges we currently face on the Veterans' Affairs Committee and how we are seeking to overcome those challenges.

MEDICAL CARE

By 1990 more than one-half of all American men over the age of 65 will be veterans.

Demands on the VA medical system by that time, primarily due to 11 million World War II veterans seeking services from the VA, is expected to triple.

While demands have increased greatly over the past 10 years and will continue to increase greatly in years to come, the VA medical budget has not really increased that greatly in terms of real dollar expenditures over the same period of time.

The average VA medical facility is 35 years old and aging just as rapidly as the population it is serving.

WHAT ARE WE DOING

This year we authorized the largest construction budget in the history of the Agency.

Included in that authorization is the major renovation project for the Philadelphia VA Medical Center new outpatient clinic, new 120 bed nursing home.

This week we also dedicated the new 120 bed nursing care facility at the Coatesville Medical Center.

LEGISLATION

Last week the Congress approved and sent to the President legislation I introduced which would expand a wide variety of medical services for different segments of the veteran population.

First, 4-year extension of the Vietnam veterans readjustment counseling program; 136 centers around the country, two in Philadelphia providing services in the city and this county.

Second, mandate a major new study on the readjustment and health status of the Vietnam veteran population.

Third, Women Veterans Advisory Committee.

Fourth, Atomic Veterans study.

Fifth, major increase in the per diem rates paid by the VA to State veterans homes—will bring one-half million dollars more to support VA State homes per year.

Sixth, expanding geriatric programs; adult day health care, preventive health care, and community health care programs for veterans.

ON OTHER FRONTS: EMPLOYMENT

This year we designed the Emergency Veterans Job Training Act of 1983—the President has signed the legislation into law.

The Congress has authorized $150 million this year with plans for an additional $150 million next year to provide incentives for employers to hire and retrain unemployed Korean war and Vietnam veterans.

The program will provide up to a maximum of $10,000 paying employers 50 percent of the starting wage to provide new skills for these veterans.

HOME LOANS

It costs the Government nearly $7,600 to foreclose on a veterans home. My committee has designed and the House has approved a new program of mortgage relief for unemployed veterans facing foreclosure.

EDUCATION

The House Veterans' Affairs Committee has approved a new GI education program which I have helped to design over the past 2 years. The program would reinstitute the value and purpose of the GI bill which has served so many generations of veterans so well. It is also designed as a recruitment and retention tool to improve the quality of our defense forces in these troubled times.

COMPENSATION

Our committee has approved a 4.1 percent cost-of-living increase for service connected disabled veterans and their survivors. Each of the major veterans service organizations approved this measure which would have an effective date of April 1, 1984.

AGENT ORANGE

Two weeks ago our committee approved for the first time legislation calling for compensation for specific disabilities associated with exposure to the defoliant agent orange.

We expect the bill to go to the floor of the House in the near future.

This will be the first time any body of the Congress has taken this important step. It will be a true landmark after 10 years of pressure to secure justice for these Vietnam veterans.

This is just a brief summary of what we have been doing on my subcommittee and in the full House Veterans' Affairs Committee.

I spoke earlier about keeping faith. How you have kept faith and how we are matching that commitment.

Let me give you three examples of the complexity of our job but of the common thread which underlies our mission.

THE SPANISH AMERICAN WAR VETERAN

Several months ago, I was formally introduced to the oldest living veteran of the Spanish American War. He is 109 years old. His memories of Teddy Roosevelt—San Juan Hill—and a long and productive life were still clear in his mind.

His family had long gone before him. He was alert but alone in the world.

He was living and being cared for in a Veterans' Administration Hospital. A grateful government had provided him a home.

THE VIETNAM VETERAN

I also had the opportunity to meet a Vietnam veteran, just one of thousands who are still coping with readjustment problems from our last and longest war.

Fortunately he said he had found the services he needed in a long-term posttraumatic stress disorder combat unit in a VA hospital.

With the help of a compassionate and concerned staff, he told me that the Veterans' Administration had literally saved his life. He said:

I was on drugs, I had been in jail, I had tried to take my own life two times, if it had not been for this program I would not be talking with you right now.

THE NEW VETERANS

I have not met these men yet. There are three of them right now, seriously disabled who have already been transferred to VA hospitals. These are the new veterans. The ones we have not seen yet. But the ones we still must be ready to serve. You have been always faithful, they have been always faithful, we must be always faithful. Congratulate Harry Walters.

I spoke to him yesterday. He said to send his best to you. We are working in partnership to be advocates for the veteran. When he came into office he developed a new motto for the Veterans' Administration. I told him I would share it with you, so you can share it with the rest of the residents of Delaware County.

It says: "America is number one because of our veterans."

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield to the gentleman from Ohio (Mr. WYLIE), a member of the Committee on Veterans' Affairs.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Arkansas for yielding.

Mr. Speaker, I was to have been in Columbus on a reviewing stand to review the annual Veterans' Day parade at this very hour. It is always a very impressive and inspiring parade. It is a fine tradition, and I am just sorry I cannot be there right now.

When I was in school in Pataskala, today was known as Armistice Day. We stopped all school activities for a general assembly observance at the 11th hour of the 11th day of the 11th month to pay tribute to the men and women who had given their lives in Europe during World War I. That made a tremendous impression on me.

Since then we have adopted the custom of honoring on Veterans Day the men and women who served in all of our country's armed conflicts. Events of more recent days such as the Beirut bombing and the rescue mission in Grenada remind us how fragile our peace is and why we need to thank those men and women who serve in America's Armed Forces. It is our solemn obligation to properly

honor the memory and sacrifice made by the brave men who gave their lives in the defense of our country by being prepared to defend our country again.

Mr. Speaker, it is a privilege for me to serve on the Veterans' Affairs Committee with the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT), and I thank him for taking this time. I also thank the distinguished gentleman from California (Mr. EDWARDS), who took the time here, and the distinguished chairman of the committee, the gentleman from Mississippi (Mr. MONTGOMERY). The Veterans' Affairs Committee provides a natural forum for us to properly demonstrate our appreciation to our veterans and their families, and I am glad to be a member of that distinguished committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, may I inquire as to how much time we have left on this side?

The SPEAKER. The gentleman from Arkansas (Mr. HAMMERSCHMIDT) has 3 minutes remaining.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield the balance of my time to the distinguished and able minority leader, the gentleman from Illinios (Mr. MICHEL).

□ 1850

VETERANS DAY, NOVEMBER 11, 1983

Mr. MICHEL. Mr. Speaker, first, may I say something that needs to be said, particularly on Veterans Day, because it deals with the subject of loss of American lives on Grenada.

Reports from the British Broadcasting Co. in recent days say American casualties were over and above the figures reported by our Defense Department. There are also British reports that we lost more helicopters than originally estimated.

One American casualty or one American death in combat is a dreadful loss. But in combat situations—as those of us who have survived them know all too well—you are going to take casualties and also lose valuable equipment.

So the question remains: what are the true casualty figures and how many helicopters did we lose?

I talked with the Defense Department today and I have been assured that there is absolutely no truth to the BBC reports. After an exhaustive analysis of all available data, the Defense Department is convinced that the figures for American deaths on Grenada is 18 and American wounded is 91 as reported.

The number of helicopters lost is five.

I mention this because it is absolutely necessary to refute these rumors as soon as possible.

Having said that, I am glad to have this opportunity to join this distinguished bipartisan company in saluting American veterans.

Only a few days ago I was on the island nation of Grenada. We arrived at the Point Salinas airfield and disembarked from our military plane. There, waiting for us, were the troops of the 82d Airborne.

And as I stood there on that runway, built by the Cubans, it occurred to me that it was the 82d Airborne that shared dangers with many of us in Normandy, France, in 1944.

Here on Grenada were young men and women who may not be able to recall from memory the names of the big battles of World War II. But they were performing the same kind of patriotic duty their fathers—and in some cases, their grandfathers—did back then.

So on this Veterans Day, I have a special feeling about what it means for this country to have such dedicated young people in every generation.

As I stood there on the Cuban-built runway, I saw today's young servicemen. But also on that runway and on that island was the spirit of veterans who had gone before today's servicemen. Many of them gave their lives so that these young people would have the chance to enjoy and defend freedom.

Someone once wrote that if we know more things than our ancient ancestors did, it is because we stand on the shoulders of giants. In other words, we owe very much to those who come before us.

Nowhere is this more true than in the defense of freedom. We all stand on the shoulders of the giants who have defended our freedom and our national interests in the past.

And today, in Lebanon and in Grenada, in Korea, in Europe, wherever American servicemen and women may be, they are never alone. The servicemen and women of yesterday stand with them in spirit.

So I say God bless those who defend our freedom and help to keep us strong, yesterday and today.

You never know how precious freedom can be until you talk with people who have lost it. In my talks with Grenadians, they strengthened my conviction that, in John F. Kennedy's great words, "We must be willing to bear any burden, pay any price in the defense of freedom."

So all I want to say to our veterans is: Thanks for what you have done. We have not forgotten you or your contributions to freedom.

● Mrs. JOHNSON. Mr. Speaker, "We look upon this shaken earth, and we delcare our firm and fixed purpose—the building of a peace with justice in a world where moral law prevails." So spoke President John F. Kennedy more than 20 years ago, though his words could have been those of President Ronald Reagan less than 20 days ago as he explained recent American involvement in Grenada and Lebanon.

Mr. Speaker, the recent massacre of U.S. marines in Lebanon and loss of young American lives in Grenada reminds us that the price of seeking freedom and justice can be high. It is fitting on this day as we pay tribute to the more than 28 million surviving veterans of this country, as well as those who are no longer with us, that we examine our Nation's commitment to the men and women who have served our country and given their lives.

In this Congress alone, over 160 bills affecting this country's veterans, the 52.2 million members of their families, and the 3.1 million survivors of deceased veterans have been introduced. We have been generous to living American veterans, as well as those who survive the brave men and women who have died while serving in our Armed Forces.

Among our more notable actions thus far have been providing the Veterans' Administration with its largest budget in history, establishing a program to place 50,000 Korean and Vietnam veterans in permanent jobs, and passing a 4.1-percent cost-of-living increase in compensation for service-connected disabled veterans or their dependents.

All of this is not to say that treatment of our veterans cannot be improved. There are a variety of concerns about the quality of health care provided by the VA and its ability to address the needs of those veterans who most need aid.

Mr. Speaker, the recent developments in Lebanon and Grenada have dramatically illustrated the dangers that all men and women who serve in our Armed Forces ultimately may be required to endure. It reminds us of those living men and women who in other times risked their lives in Europe, Korea, and Vietnam. Let us now remember the commitment they have made to preserve the democratic ideals for which our great Nation stands, and at the same time renew our own commitment to provide them with an expression of our appreciation by assuring quality care and sound benefits. I think they deserve it.●

● Ms. FERRARO. Mr. Speaker, Veterans Day is a time for expressing special appreciation to the men and women who have risked—and sometimes sacrificed—their very lives in defense of our Nation's security. While we strive to be a nation of peace, we know that too often our freedom has hinged on our ability to fight to defend it.

Every Veterans Day gives us the opportunity to reflect on the bravery and the immeasurable contributions of those who have so honorably served our Nation. This Veterans Day, however, comes at a time when our aware-

ness and gratitude is heightened. For the first time in many years, on this Veterans Day, American servicemen are under fire in combat situations abroad.

Throughout our history, each time the United States has engaged in military action, there has been public debate and controversy. Even in the months leading up to U.S. involvement in World War II, when the danger posed by Hitler was so clear, a substantial minority of patriotic Americans opposed U.S. entry into the war.

The basic freedom to voice minority opinions has always been America's greatest strength. In this country's most recent foreign military campaigns, in Vietnam in the 1960's and 1970's and in Lebanon and Grenada today, the controversy has been great.

But whatever the debate over policy decisions to engage in military action has been, it must always be an article of faith that the American people have supported U.S. troops. The decision to fight may be questioned. The valor and heroism of those who do fight is never questioned. And we must always remember that our freedom to question Government policy has been insured by the efforts of those who have died in the service of their country.

As we observe this Veterans Day, let us remember that the original name for this holiday was Armistice Day. The holiday was created to celebrate the end of World War I, the "war to end all wars."

As we salute the 28 million living veterans, and the Americans now serving in our Armed Forces, we should all pray for the day when the end of war can be a reality, and America's young people will no longer be required to give their lives in defense of our ideals.●

● Mr. MACKAY. Mr. Speaker, I regret that due to the consideration of the continuing resolution here in Washington today, I am unable to be present for Veterans Day ceremonies in my district. I would like, at this point in the RECORD, to insert the remarks that I would have made had I been able to attend:

Veterans' Day—a unique holiday in a unique nation.

Sometimes it is lost on us just how unique this country really is. The great experiment. The first country in the history of the world to seriously commit itself to the proposition that free men—common citizens—can be trusted to run their own government.

When we started in 1780, knowledgeable people around the world scoffed at our ragged experiment. They said we'd never last. We had no aristocracy. No ruling class.

And in fairness, we were a pretty untidy lot.

And yet today, with all our faults, and our squabbles, and our scandals, we're still going along.

And the unique thing about us is that we're still committed to the common man, and the idea that he can be trusted to govern himself.

That really points up the challenge that Veterans' Day represents for all of us.

Two hundred years ago, although we didn't have much in the way of military strength or economic power, we had faith, and courage, and independence.

The great experiment—the republic—was then really only a small spark, but we thought we were the greatest nation in the world.

Today, the great experiment has in fact created the richest, most powerful nation in the world.

The small spark has grown to a great flame—a light to other nations.

Yet ironically we are in danger, not from threats abroad, but from apathy, and preoccupation with selfish pleasures.

The great flame cannot exist unless a majority of us are willing to tend it.

To me, the central significance of Veterans' Day is that it represents a reminder and a challenge. The flame of freedom was passed to us at great cost.

And the future of the flame, the great experiment depends on us.

Our veterans have set an example for us. Many of them paid the ultimate price to keep the flame of freedom alive. And many who survived will bear the scars of battle all the days of their lives.

I am pleased to announce that I have introduced legislation to name the Federal Building in Ocala, Florida, after the first and last soldiers from Marion County who lost their lives in Vietnam.

The Federal Building in Ocala will be designated the "Golden-Collum Memorial Federal Building." The first Marion County resident to die was PFC Harold Golden, on November 8, 1965. The last Marion County resident to die was Captain William Edward Collum, on April 23, 1971.

My hope and prayer is that the Golden-Collum Federal Building will not only be a reminder of the debt we owe our veterans, but also a challenge to continue our commitment to the flame of freedom.●

● Mr. DREIER of California. Mr. Speaker, it was 65 years ago that the guns in Europe fell silent. A war that had been fought to end all future wars, and to insure the survival of democracy, was over. It had been the largest and bloodiest of all conflicts ever seen on this planet.

History proved to mankind, however, that it was not a war to end all wars. In fact, it was not even to hold the title of "bloodiest" for more than two decades. We learned that we could never let our guard down in the defense of liberty and democracy. The United States has since turned Armistice Day into Veterans Day—a day in which we honor the men and women who so honored their country as to give their lives for her defense. In so doing, we recognize the contributions and sacrifices of those who currently serve in the U.S. Army, Navy, Air Force, and Marine Corps.

It has been almost a generation now since we have had to recognize the recent dead. This year Veterans Day is a poignant reminder that even in the most peaceful and secure society we must take a stand and defend freedom and liberty where it is being challenged. The young men who have died in Lebanon and Grenada were doing just as much for that cause as those who proceeded them at Gettysburg, Normandy, and Iwo Jima.

We pause and remember that what we have now we owe to the sacrifice of those who served before us. It is our duty to further preserve freedom for our children and all future generations. This will take our continued dedication and courage. But in so doing we tell the men and women who have died that theirs was a sacrifice to freedom. For that we honor them today and always.●

● Mr. LENT. Mr. Speaker, I rise before this distinguished body today to pay a Veterans Day tribute to our Nation's veterans—those brave men and women who have answered the call of duty to serve our country.

Those of us who are veterans ourselves know well the tremendous sacrifices our veterans have made so that all Americans might continue to enjoy our precious constitutional rights and freedoms. We must always guard them zealously.

We live in a troubled world. Democracy and human rights are being threatened by oppression and tyranny in many areas of the world. We must remember that we enjoy our freedom only because we have been willing to fight for it.

Franklin Delano Roosevelt once said:

We, too, born to freedom, and believing in freedom, are willing to fight to maintain freedom. We, and all others who believe as deeply as we do, would rather die on our feet than live on our knees.

I know my colleagues will join me on this Veterans Day in honoring our veterans for their contributions to the cause of peace and freedom.

Thank you.●

● Mr. MACK. Mr. Speaker, during the past 3 weeks, our Nation's perspective has been sharply honed by events in Lebanon and Grenada. These events have brought into focus the uncertainty of the world in which we live and the challenge that confronts our Nation today.

Today is Veterans Day. More than 1 million Americans have died while serving in our Armed Forces. None among us has done more to defend and preserve the freedoms we enjoy and take for granted than those patriotic men and women who have answered our country's call to service and sacrifice.

It is only fitting that we are observing Veterans Day at a time when every American can clearly see the sacrifices that our men and women are making and have made to preserve the freedoms that we all cherish. The efforts of those who died on the battlefield, and in service to this country and its

allies, were to insure that you and I could speak freely, voice our opposition and our support of Government publicly without fear of retaliation. The chaos and terrorism that we have recently witnessed is a grim reminder of the troubled world in which we live.

The Secretary of the Army John Marsh perhaps summed up best the dangers that today surround us:

> We live in a world of precarious peace, a peace which is maintained only by U.S. strength. And, to the extent that the U.S. appears to be weakened, peace is weakened. It is only the U.S. leadership of the free world that safeguards an uneasy truce.

In these times of conflict it is often difficult to see the larger goals contained in U.S. moves across the globe—we still have a purpose, a strategy. It is to continue an aggessive search for peace while maintaining our strength and role as a peacemaker. Our servicemen and veterans are the backbone of that mission.

Too often, American's have taken for granted many of the freedoms and rights that we enjoy. We forget, not consciously though, that these rights have been paid for by the blood and personal sacrifices of our young men and women.

As we pause this weekend to enjoy the many holiday activities and extra time you will enjoy with your families, I hope America will find time to remember our troops in Beirut and Grenada and the sacrifice that they and millions of other veterans have made so that we can live free.

I know that I will.●

AN EXPRESSION OF GRATITUDE TO AMERICAN VETERANS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I should like to join with our colleagues on both sides of the aisle in expressing our gratitude to American veterans, men and women, who have served the United States in the past and all who serve them today in the Armed Forces. All of us, every man and woman in this country, owes a deep debt of gratitude to our veterans and to our service men and women.

We are proud to take this opportunity to salute them with gratitude and appreciation.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of Veterans Day.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO HAVE CONFERENCE REPORT AND SENATE AMENDMENTS IN DISAGREEMENT ON HOUSE JOINT RESOLUTION 413 CONSIDERED AS READ WHEN CALLED UP FOR CONSIDERATION

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the conference report on the joint resolution (H.J. Res. 413) and that the Senate amendments reported from conference in disagreement be considered as read when called up for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. Does the gentleman ask that points of order be waived, too?

Mr. FOLEY. Mr. Speaker, I was going to announce that the conference report and motions in disagreement will be available at least by 9 a.m. in the Chamber tomorrow while the House is in recess to satisfy the 1-hour availability requirement in the unanimous-consent request of yesterday.

On the question of waiving points of order, Mr. Speaker, I do not know whether the gentleman from Illinois would be willing to consider that.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield, may I simply say that in view of having that conference report available for the Members, as the gentleman has announced here, by 9 o'clock in the morning, a full hour before the House would reconvene, I would certainly have no objection to the gentleman making that kind of request at this juncture.

May I simply say, while I have the microphone and the floor, that Members ought to be advised that had it been possible for those papers for the conference report to have been prepared in time here, the Speaker would have been willing to get this thing finally behind us later on this evening, rather than requiring Members to be here at 10 o'clock in the morning. I know the majority leader in the other body would have also preferred that to be the case, but conditions being as they are and quite an extensive conference report to be developed, I guess we want to be absolutely sure of what is in it. For that reason, the Clerks will require additional time and that is really the reason for our having to go over until 10 o'clock in the morning.

Further from that, while I have not been specifically advised of a return of any message from the Far East, it is my clear understanding that what the conferees have put together is consistent with what the administration will be in a position to sign; not everything the way they would like to have it. Obviously, there are going to be Members in both bodies on both sides of the aisle who frankly would have reservations about it, but I think on balance what those conferees did, the tremendous job they had to put it together, and getting the kind of signal I am getting of approval by the President, that we will all be well advised tomorrow to listen carefully to what has been prepared and hopefully to vote for the conference report and agreements.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I certainly concur in what the minority leader has had to say; but I just would like to point out that it is highly likely that there will be a vote on the conference report, at least one vote. I personally would not think of any other votes that morning, but just so the membership might be alerted, there is the possibility that there will be a vote.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for that information.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON HOUSE JOINT RESOLUTION 413

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all points of order be waived against the conference report and amendments in disagreement on House Joint Resolution 413.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WEISS. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from New York reserves the right to object.

Mr. WEISS. Mr. Speaker, I reserve the right to object only because, not having seen that conference report and having no knowledge clearly as to what the Senate portion of the continuing resolution was, it is possible that some of us may be waiving the only opportunity we have to object to some substantive matters which may be legislative in nature.

I wonder what kind of assurance the gentleman can give me that in fact there is nothing by way of legislative matters that Members would have reason to object to?

The SPEAKER. The Chair has been advised that the conferees have meticulously followed the rules.

Our only thought is that, if there were one, we would have to go to the Rules Committee and it would consume a great deal of time. We would hope that the Rules Committee would be available if somebody raised a point of order.

Mr. FOLEY. Mr. Speaker, it is my understanding that the conference

report has been signed by all the conferees.

Mr. WEISS. On the basis of the representations that the Speaker has made, I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMUNICATION FROM THE HONORABLE ELLIOTT H. LEVITAS

The SPEAKER laid before the House the following communication from the Honorable ELLIOTT H. LEVITAS:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 10, 1983.

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: On August 24, 1983, I notified you that Michael Sloan, Staff Assistant in my Decatur office, had received a deposition subpoena from the United States District Court for the Northern District of Georgia. I have determined, in consultation with the General Counsel to the Clerk of the House, that compliance with this subpoena is consistent with the rights, privileges and precedents of the House of Representatives.

Very truly yours,

ELLIOTT H. LEVITAS,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WINN (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

Mr. CAMPBELL (at the request of Mr. MICHEL), for today and the balance of the week, on account of attending a funeral.

Mr. LEWIS of Florida (at the request of Mr. MICHEL), from 2:15 today, on account of official business.

Mr. ALEXANDER (at the request of Mr. WRIGHT), for Saturday, November 12, on account of personal business.

Mr. MICA (at the request of Mr. WRIGHT), after 5 p.m. today, on account of a death in the family.

RECESS

The SPEAKER. Pursuant to the order of the House of November 10, 1983, the Chair declares the House in recess until approximately 10 a.m. on Saturday, November 12, 1983.

Accordingly (at 7 o'clock p.m.) the House stood in recess until 10 a.m., Saturday, November 12, 1983.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[November 11, 1983 (legislative day of November 10), 1983]

2118. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, a cumulative report on rescissions and deferrals of budget authority as of November 1, 1983, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 98-131); to the Committee on Appropriations and ordered to be reported.

2119. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed decision to convert to contractor performance the administrative services functions at the U.S. Army Missile Center and School, Redstone Arsenal, Ala., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

2120. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed decision to convert to contractor performance the installation support functions at the tank automotive command support activity, Warren, Mich., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[November 11, 1983 (legislative day of November 10), 1983]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2838. A bill to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes; with an amendment (Rept. No. 98-255 Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3169. A bill to amend the Energy Policy and Conservation Act to facilitate commerce by the domestic renewable energy industry and related service industries; with an amendment (Rept. No. 98-537). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3903. A bill to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin; with amendments (Rept. No. 98-538, Pt. I). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4252. A bill to repeal the noncash benefit requirement for the Puerto Rico nutrition assistance program; with amendments (Rept. No. 98-539). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[November 11, 1983 (legislative day of November 10), 1983]

By Mr. SWIFT (for himself and Mr. HAWKINS):

H.R. 4367. A bill to amend the Federal Election Campaign Act of 1971 to establish a program of Federal financial assistance to the States to encourage voter registration, and for other purposes; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Ms. FERRARO:

H.J. Res. 416. Joint, resolution to designate April 22, 1984, as "Queen Isabella I Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[November 11, 1983 (legislative day of November 10), 1983]

H.R. 225: Mr. MOLLOHAN.
H.R. 2053: Mr. DREIER of California.
H.R. 2099: Mrs. HALL of Indiana.
H.R. 2109: Mr. LEVIN of Michigan.
H.R. 3975: Mr. BADHAM.
H.R. 4016: Mr. DELLUMS, Mr. ROYBAL, and Mr. ST GERMAIN.
H.R. 4158: Mr. BLILEY, Mr. CARNEY, Mr. COATS, Mrs. HALL of Indiana, Mrs. HOLT, Mr. JEFFORDS, Mr. LEWIS of Florida, Mr. MARTIN of North Carolina, Mr. ROGERS, Mr. SKEEN, and Mr. STENHOLM.
H.R. 4324: Mr. BOLAND, Mr. WYLIE, Mr. FORSYTHE, Mr. LANTOS, Mr. LELAND, Mr. DAUB, Mr. LEVINE of California, Mr. FISH, Mr. ROE, Mr. CORRADA, and Mr. RICHARDSON.
H.J. Res. 103: Mr. HAWKINS.
H.J. Res. 268: Mr. PAUL, Mr. SMITH of New Jersey, and Mr. YOUNG of Florida.
H. Con. Res. 163: Mr. MORRISON of Washington.
H. Res. 334: Mr. PANETTA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[November 11, 1983 (legislative day of November 10), 1983]

H.R. 3797: Mr. HOPKINS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

[November 11, 1983 (legislative day of November 10), 1983]

H.R. 2350

By Mr. MADIGAN:

(Amendment to amendment in the nature of a substitute.)

In the table of contents redesignate sections 471 and 473 as sections 469 and 471, respectively, and add after the item relating to subpart 12 the following:

Subpart 13—National Institute of Nursing

Sec. 473. Purpose of the Institute.
Sec. 474. Specific authorities.

In the proposed section 401(b)(1) of the Public Health Service Act add at the end the following:

"(M) The National Institute of Nursing.".

In the proposed title IV of the Public Health Service Act redesignate sections 471 and 473 as sections 469 and 471, respectively, and add at the end of part C the following:

"Subpart 13—National Institute of Nursing

"PURPOSE OF THE INSTITUTE

"SEC. 473. The general purpose of the National Institute of Nursing (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of, and dissemination of information respecting, basic and clinical research, training, and related programs in nursing.

"SPECIFIC AUTHORITIES

"SEC. 474. (a) The Chief Nursing Officer of the Veteran's Administration and the Director of the Division of Nursing of the Health Resources and Services Administration shall be ex officio members of the advisory council to the Institute appointed under section 408. Of the members appointed to the advisory council under section 408(b)(1)(A), seven shall be professional nurses who are recognized experts in the area of clinical practice, education, or research.

"(b) To carry out section 473, the Director of the Institute, may provide research training and instruction and establish research traineeships and fellowships, in the Institute and other nonprofit institutions, in the study and investigation of the prevention of disease, health promotion, and the nursing care of individuals with and the families of individuals with acute and chronic illnesses. The Director of the Institute may provide individuals receiving such training and instruction or such traineeships or fellowships with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director deems necessary. The Director may make grants to nonprofit institutions to provide such training and instruction and traineeships and fellowships.".

Page 90, beginning in line 24, strike out "Division of Nursing of the Health Resources and Services Administration" and insert in lieu thereof "National Institute of Nursing" and in line 4 on page 91 strike out "and Division".

Page 101, beginning in line 23, strike out ", and where appropriate, the head of the Division of Nursing of the Health Resources and Services Administration (or the successor to such entity),", beginning in line 5 on page 102 strike out "(including research under programs of such Division of Nursing)", and beginning in line 9 on that page strike out "or the Division of Nursing of the Health Resources and Services Administration (or the successor to such entity)".

EXTENSIONS OF REMARKS

RACIAL VIOLENCE AGAINST ASIAN-AMERICANS

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mrs. BURTON of California. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial in today's Washington Post concerning an apparently growing number of incidents of racial violence directed at Asian-Americans.

As representative of a city, San Francisco, with a large and varied Asian-American population, I am especially concerned about this alarming phenomenon. I applaud the Justice Department's recent action in the Vincent Chin murder case and urge the administration to be vigilant in protecting the rights of Asian-Americans.

The editorial follows:

ASIAN AMERICAN CIVIL RIGHTS

The murder of Vincent Chin last year in Detroit has had repercussions beyond that single case. Mr. Chin, a 27-year-old American of Chinese descent, was out celebrating with friends two nights before he was to be married. Two white men present in the bar apparently mistook him for Japanese and began to berate him with racial slurs, charging that Japanese car sales had ruined the economy of the motor city. They followed Mr. Chin from the bar and beat him to death with a baseball bat.

The case came to national attention because of its disposition. Originally charged with second degree murder, the assailants were allowed to plead guilty to manslaughter, a crime that carries a maximum penalty of 15 years. However, the sentencing judge announced that he did not think these particular killers would ever harm anyone else, so he ordered both men to pay a $3,000 fine and placed them on probation. This so shocked observers nationally—and particularly Asian Americans who believed that the slaying had been racially motivated—that they approached the Justice Department, asking whether a charge of civil-rights violations might be brought against the men. This was a familiar tactic in the South of 20 years ago, when all-white state juries acquitted those who murdered blacks; justice was sought and won in federal courts under old civil-rights statutes that made it a crime to deny another his civil rights because of race. The Justice Department agreed to move on the Chin case, and last week a federal grand jury indicted both slayers under the civil-rights charge.

But the case has also galvanized other Asian Americans to organize to protect their rights. There have been a growing number of incidents of apparently racially motivated violance in other cities over the last few years. Some Korean businessmen, for example, believe that their small shops are at particular risk, and a number have been robbed and even killed in neighborhoods where they are a minority. This may be a simple fact of vulnerable urban life, but it may be more.

In some areas, recent immigrants who are willing to work for less money are bitterly resented; in others, their success causes the same reaction. There are often language and cultural differences, though in schools across the nation the children of this group appear to be performing extraordinarily well. But fear of these differences can reach absurd levels: The New York Times reports that in Orange County, Calif., police have received numerous complaints from dog owners claiming that Southeast Asian immigrants have stolen and eaten their pets.

These are the kind of stereotypes, isolated incidents and prejudices that should be opposed with vigor before they spread. Asian Americans are the fastest growing ethnic group in the United States, though they make up less than 2 percent of the population. Their contributions to our country far outweigh their numbers; their rights deserve respect and protection.●

HON. WAYNE N. ASPINALL—IN MEMORIAM

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 1983

● Mr. ZABLOCKI. Mr. Speaker, I appreciate this opportunity to pay my last respects to our late colleague, Hon. Wayne Aspinall of Colorado.

I took my original oath of office, as a freshman member of this body, together with Mr. Aspinall and served with him during the remainder of his tenure here. He was, as many Members have noted, a man of strong character, who left an indelible impression on this Chamber, as well as on the country at large.

He was also a fighter, throughout his public career—whether he won an election by 29 votes—as occurred in 1952—or with a sizable majority—and he was not one to avoid controversy. However, he clearly believed in the programs he espoused and never left any doubt that he was representing the best interests of his constituents and the people of Colorado—as he perceived them to be.

Wayne Aspinall in retirement was as active as in public life: He took a keen interest in the foundation which was set up in his honor in 1968 at Mesa College to give students and the general public an opportunity to learn about international affairs from experts in their respective fields. He also served for several months as a visiting political science professor at the University of Wyoming and was a tireless speaker at national civic and political events.

Known as a "plain-talking man," both as the influential chairman of the Committee on Interior and Insular Affairs and as an elder statesman, Wayne Aspinall's independent views and remarkable insights on politics and government were invariably worth listening to and he made a strong impact on his audiences until the very end of his long and productive life.

To the family and many friends of Wayne Aspinall, both in Colorado and throughout the Nation, I extend my deepest sympathy and warmest admiration.●

NO-FAULT AUTOMOBILE INSURANCE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. FLORIO. Mr. Speaker, more than 6 years have passed since the Department of Transportation issued its report, "State No-fault Automobile Insurance Experience 1971-77". At the time that report was released, there was a general consensus in Congress to permit State experimentation with no-fault laws. It was contemplated that a review would later be conducted to determine the success or failure of this experiment, and to decide what if any congressional response might be appropriate.

Recently, I wrote Secretary Dole to request that the Department update this study and report to Congress on its findings. I am pleased to report that the Department is to undertake this and I insert the Secretary's reply for the information of members.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 4, 1983.

Hon. JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation, and Tourism, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your recent letter requesting an update of the Department's report on "State No-Fault Insurance Experience 1971-77." As you noted in your letter, a number of States have amended their no-fault laws since our 1977 report was published, and an update of this report would be timely.

I have requested Dick Walsh, Director of the Office of Economics, to prepare the update you have requested. Mr. Walsh was responsible for preparing the Department's landmark 1971 study on no-fault insurance, as well as the 1977 report cited above. He

will be in contact with your subcommittee staff regarding the specific issues raised in your letter.

With best wishes.

Sincerely,

ELIZABETH HANFORD DOLE.●

NATIONAL HOME CARE WEEK—NOVEMBER 27-DECEMBER 3, 1983

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. PANETTA. Mr. Speaker, on Friday, November 4, the House approved Senate Joint Resolution 122, a resolution similar to House Joint Resolution 268 which I sponsored along with Representatives CLAUDE PEPPER and BARBER CONABLE to designate the week beginning November 27, 1983, as National Home Care Week. This resolution is an appropriate expression to commend the useful services provided by many home health care programs in our country.

As the health care delivery system in our Nation has developed, home care programs have become a very vital part of this system. The services of the many nurses, physicians, therapists, health aides, and other workers have effectively served many communities and has allowed many patients to remain at home and in their own environment. This action wisely prevents unnecessary institutionalization of many thousands of patients who would otherwise be forced to enter a nursing home or a hospital. It is widely recognized that such services offer greater compassion and independence in the delivery of care.

Moreover, the potential cost savings associated with greater home care utilization is of significant importance to the health care system. While the medicare program is being threatened with insolvency and patients are being forced to expend a larger portion of their budget on health care cost, alternatives which prove less costly must be encouraged. In this regard, home care has proven beneficial and worthy of its recognition under the Federal health care reimbursement system. As the elderly population in our country expands and begins to make up a larger part of our Nation's citizenry, home care has been and must continue to be a part of our efforts to meet the long-term care needs of this group.

Mr. Speaker, I have for a long time recognized the benefits of home health care and other health care alternatives. I think it is important that we support their further development in this industry. As the health care system faces severe tests over the next few years and as we consider major reforms in this area, let us recognize the appropriateness of home care and the role it can play in meeting the health care needs of our Nation's sick. I commend the House for the action taken on this resolution and once again applaud the services of those persons actively involved in home care programs.

Following is a copy of a letter I received from the National Association of Home Care expressing support for the National Home Care Week resolution.●

PRESERVE TELEPHONE SERVICE FOR RURAL AMERICA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. DORGAN. Mr. Speaker, 50 years ago rural telephone companies began stringing the telephone lines that finally tied North Dakota and other rural States to the rest of the Nation. Even by 1959, only 66 percent of North Dakota farms had telephones. The last farm families were just connected to the public telephone system in 1980. It costs a lot to reach these sparsely populated areas, but it paid off.

Universal telephone service has served North Dakota and the nation by improving economic performance, bolstering our national defense, providing instant emergency communications, and linking far-flung families and friends together.

The Federal Communications Commission (FCC) decision on telephone service jeopardizes the rural connection with the rest of the Nation. The FCC plan to impose potentially devastating access charges on all users including the poor, elderly, and rural users threatens the very foundation of universal telephone service. Yet, this decision was based on faulty information. As a report of the Government Operations Committee indicates: "The FCC simply failed to gather the data that is relevant to its decision." Clearly the FCC dialed the wrong number.

No sooner should we force rural America to pay more to make a phone call than we should ask them to pay more to mail a letter.

In my own state of North Dakota, the FCC ruling could cause the monthly phone bill to rise to $30 or $40. The Tauke substitute bill that the House considered yesterday, would have permitted the FCC to jack up monthly phone rates by up to $8—regardless of whether the individual customer used long-distance service or not. North Dakotans would lose $8 million as a result of the FCC action and AT&T proposals.

SHIFTING THE COST FROM AT&T TO RURAL AMERICA

These proposals would shift the cost of the public telephone system from those most able to pay—AT&T itself and a few large corporations, which account for 50 percent of all long-distance telephone traffic—to those least able to pay—the poor, elderly on fixed income, small businesses, and rural customers with high telephone service costs. I am glad the House rejected this nonsense. We must prevent the FCC from kicking rural America in its financial shins. Now, the Senate must act.

AT&T has sent an army of lobbyists swarming over Capitol Hill and blitzed newspapers with a slick $1.5 million advertising campaign to safeguard a $2 billion windfall handed them by the FCC. While AT&T would reap $4 billion in access fees, they have only cut long-distance fees by $2 billion. They pocket the rest. Meanwhile local telephone companies have asked for a whopping $9 billion in rate increases in 30 States in 1983 alone.

Unless both Houses of Congress act to preserve the universal telephone system, many of those hardest hit by rate increases—low income and rural America, plus seniors on limited fixed incomes—will have to disconnect their telephones. Likewise, many small businesses and farm families will face higher phone bills at a time of record failures for small businesses and the worst agricultural depression in 50 years.

FIXING THE FCC BLUNDER

We put all this on hold by enacting H.R. 4102, the universal telephone service bill. This bill: First, prohibits residential and small business access charges, second, promotes efficiency and competition in the public telephone network, and third, creates a universal service fund of $700 million to protect rural and low income customers.

In an interdependent economy and society we must preserve universal telephone service. We need this for reasons of economic efficiency, national security, emergency purposes, and family togetherness.

Passing the right number, H.R. 4102 was the first step in helping to insure that the FCC does not cut the telephone lifeline to rural America.●

PERSONAL EXPLANATION

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. ERDREICH. Mr. Speaker, I was unavoidably absent for one rollcall vote on Thursday, November 10, 1983, on an amendment to the bill H.R. 4102, the Universal Telephone Service Act. On this vote, rollcall No. 489, had I been present I would have voted "no".●

THE TELEPHONE BILL: SETTING THE RECORD STRAIGHT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. WYDEN. Mr. Speaker, during the debate over adoption of H.R. 4102, the Universal Telephone Preservation Act of 1983, opponents tried to paint the issue as being a contest between regions of the country as to who would have to pick up the tab for affordable telephone service.

The attached chart exposes that argument for what it is: a diversionary tactic designed to shift attention from the real issue at hand—whether the consumers of this country should be forced to pay billions of dollars to cover the cost of doing business for long-distance companies, even if they never make a single long-distance call.

As the chart shows, any regional transfer of telephone costs under H.R. 4102 is peanuts compared to the huge amounts of money ratepayers everywhere would have to contribute under the FCC's access charge decision. Put another way, any regional transfer of funds under the bill is pennies, compared to dollars each consumer would have to put on the line under the FCC's approach.

The staffs of the Energy and Commerce Committee and the Telecommunications Subcommittee are to be commended for their good work in putting this chart together. I hope it will put the specious argument of regional transfers under H.R. 4102 to rest once and for all.

AVOID TUNNEL VISION—LOOK AT THE WHOLE PICTURE

State	H.R. 4102 net inflow/outflow (rural and lifeline, millions) [1]	Tauke substitute (rural inflow only, millions)	Tauke corrected net inflow/outflow (rural and lifeline, millions) [2]	Increase in local phone rates under FCC/Tauke (millions)	Monthly per line increase under FCC/Tauke (dollars)	Ratepayer contribution to AT&T windfall (millions)
Alabama	17	45	42	83	5.34	29
Alaska	27	26	22	26	15.59	6
Arizona	10	21	2	145	10.47	34
Arkansas	27	42	40	63	7.10	19
California	−31	25	−68	771	5.23	196
Colorado	−16	7	−27	159	10.24	51
Connecticut	−19	0	−32	97	5.48	46
Delaware	−4	0	−7	20	6.04	10
Florida	−10	238	163	543	10.28	136
Georgia	6	30	10	168	6.92	54
Hawaii	−6	0	−10	25	4.93	14
Idaho	9	11	4	38	9.62	4
Illinois	−27	0	−52	256	3.97	105
Indiana	−7	5	−14	109	4.45	42
Iowa	−1	4	−6	68	5.06	23
Kansas	11	14	2	77	6.53	23
Kentucky	12	32	30	65	4.63	25
Louisiana	5	61	53	105	5.53	36
Maine	1	2	−2	30	6.20	9
Maryland	−16	0	−28	86	3.62	47
Massachusetts	−22	0	−39	140	4.36	65
Michigan	0	7	−12	140	3.00	57
Minnesota	8	14	2	104	5.13	29
Mississippi	14	53	53	66	7.43	20
Missouri	24	26	8	123	5.02	44
Montana	15	30	26	39	10.45	9
Nebraska	4	6	−1	53	6.50	15
Nevada	−6	14	−2	72	15.08	22
New Hampshire	−5	2	−10	43	9.38	16
New Jersey	−51	16	−73	225	5.21	128
New Mexico	8	17	9	55	9.55	17
New York	−34	11	−80	539	5.25	190
North Carolina	10	13	1	120	4.63	45
North Dakota	13	18	13	26	8.27	8
Ohio	−11	10	−17	173	3.37	74
Oklahoma	10	15	1	107	7.12	33
Oregon	3	9	−5	100	7.20	28
Pennsylvania	−18	5	−43	190	3.17	101
Rhode Island	−4	0	−7	23	4.57	11
South Carolina	−2	29	19	69	5.80	29
South Dakota	7	10	8	24	8.20	7
Tennessee	−1	2	−8	90	4.43	40
Texas	34	45	−4	409	5.69	126
Utah	−2	4	−5	40	6.13	15
Vermont	1	6	2	24	9.90	7
Virginia	−13	13	−20	140	5.48	61
Washington	10	18	−6	143	6.20	43
West Virginia	5	23	18	41	5.36	16
Wisconsin	4	24	8	92	4.16	33
Wyoming	17	33	25	53	22.77	11
District of Columbia	−12	0	−20	58	7.16	27

[1] Does not include amounts available, if necessary, under H.R. 4102 to "minimize disparities" in rates of rural, high cost areas of large companies.
[2] Tauke substitute column only counts receipts from rural fund. "Tauke corrected" is a net figure, reflecting payments into the rural fund, and receipts and payments from the substitute's lifeline fund.
Note: All figures in 1984 dollars. Calculations based on statistics supplied to the Committee on Energy and Commerce by AT&T and the FCC.●

GOVERNOR AND MRS. CUOMO TO BE HONORED

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. ACKERMAN. Mr. Speaker, I would like to bring to the attention of my colleagues the National Awards Dinner of the National Committee for Furtherance of Jewish Education (NCFJE), which is to occur on November 20, 1983, corresponding with the 14th day of the Hebrew month of Kislev, 5744. In addition, to commemorate 43 years of public service to the Jewish Community, the dinner will pay homage to Governor and Mrs. Mario Cuomo.

The committee has for almost the past half century been nurtured and supported by dedicated members of the Jewish-American community, and has been instrumental in strengthening Jewish faith, principles, identity, commitment and pride. This fine organization has become involved in countless efforts to promote Jewish heritage, and has created the necessary environment for the preservation of ancestral customs and traditions. Mr. Speaker, much can be learned from the experiences of this dynamic group.

The national committee has reached out to the entire spectrum of the Jewish community, from the orthodox to those with minimal Jewish back-

ground. For many children, this educational agency is their only link with a rich history and culture. The committee has promoted a "released time program" that enables youngsters in public schools, who have limited religious training, to learn and perform those tasks important to Judaism. The organization has also attracted young academics and professionals, and facilitates their religious persuits through the establishment of Hadar Hatorah and Machon L'Yadus.

The NCFJE has made a wise choice in honoring Governor and Mrs. Cuomo this year. Both have been involved in activities touching the quality of life of countless citizens in New York. They have been strong advocates for educational institutions, and have demonstrated compassion for those less fortunate members of our society. The committee could not have made a better decision in selecting its honorees.

Mr. Speaker, the National Committee for Furtherance of Jewish Education is honoring a number of other individuals for their praiseworthy efforts on behalf of the Jewish community. The distinguished honorees include Mr. Hy Hammerman, who will receive a special tribute by the committee; Mr. Irwin S. Chanin, honorary chairman of the National Committee for Furtherance of Jewish Education; Dr. Mozaffar Bakhchi, who will receive the Humanitarian Award; Dave and Esta Levinson, Couple of the Year; Mr. Sam Fox, who will receive the Josef Hirsch Chesed Award; and Mr. Martin Domansky, who will receive the Public Service Award. I also wish to note Mr. Martin Heinfling, the chairman of this annual dinner, and Rabbi Jacob J. Hecht, executive vice president of the committee, for their monumental efforts. Mr. Speaker, it is important to note the achievements of exemplary organizations and dedicated individuals, so others may emulate them. I ask the Members of the Congress of the United States to join me in lauding the noteworthy accomplishments of the National Committee for Furtherance of Jewish Education and the honorees for their outstanding efforts on behalf of the Jewish community, and for representing the ideals that have made this Nation great.●

QUEEN ISABELLA I DAY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Ms. FERRARO. Mr. Speaker, today I am introducing a resolution which proclaims April 22, 1984, as Queen Isabella I Day. A day of national honor is indeed fitting for the 533d anniversary of the birth of the Spanish Queen who played a vital role in the discovery of the New World.

Without the great faith and the generous financing of Queen Isabella, Christopher Columbus may have been unable to make his voyage into the unknown which resulted in the discovery of the New World.

Queen Isabella's great love for America was exemplified by her last words "take care of our America."

In recognition of the vital role of Queen Isabella, I hope that next year we will honor both the brave Italian sailor and the farsighted Spanish Queen who together opened up the New World.●

SENATE—*Saturday, November 12, 1983*

(Legislative day of Monday, November 7, 1983)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable ORRIN G. HATCH, a Senator from the State of Utah.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, Saturday sessions are never popular and they always bring disappointment. Plans must be changed or canceled and family expectations are blighted. We pray for those who suffer disappointment and ask that Thou will bless in unexpected ways that will compensate.

Meanwhile Father, we pray that Thou wilt enable the Senate to conduct essential business efficiently and productively. And dear Lord, help the Senate to find ways to eliminate practices which delay unnecessarily or frustrate inordinately the work to which the body is committed.

Gracious Lord, may families find opportunities to have some time together this weekend and may Senators be able to get some rest and relaxation. In the name of Him who said, "Come unto me, all ye that labor and are heavy laden, and I will give you rest." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 12, 1983.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ORRIN G. HATCH, a Senator from the State of Utah, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HATCH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. GARN. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to exceed 10 minutes in length, with statements limited therein to 2 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. GARN. Mr. President, it is the intention of the leadership to take up the continuing resolution conference report as soon as it is received from the House of Representatives and hopefully dispose of it by voice vote.

Following the disposition of the conference report and any amendments in disagreement, it is the intention of the leadership to adjourn over until Monday, November 14, at 12 noon, assuming the boilerplate routine language is granted.

ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 noon on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROPOSED BUSINESS NEXT WEEK

Mr. GARN. Mr. President, I am authorized by Senator BAKER, the distinguished majority leader, to announce the proposed business on Monday and Tuesday.

First of all, on Monday after the two leaders have been recognized under the standing order, there will be routine morning business not to extend beyond 1 p.m., with statements limited therein to 5 minutes each. After consultation with the majority leader, I am also authorized to state that it is the intention of the leadership to resume consideration of H.R. 2230, the Civil Rights Commission bill at 1 p.m. and to dispose of the bill as early as possible on Monday. It will then be the intention of the leadership to resume consideration of S. 1715, the natural gas bill.

On Tuesday, I am authorized by the majority leader to state that it is the intention of the leadership to turn to the consideration of the nomination of William P. Clark, to be Secretary of the Interior, at 10 a.m., on Tuesday and it is hoped to have the nomination confirmed by 12 noon on Tuesday.

If the nomination is not confirmed by 12 noon it will recur at 2 p.m.

ORDER FOR MIDDAY RECESS ON TUESDAY

Mr. President, I ask unanimous consent that the Senate stand in recess on Tuesday between the hours of 12 noon and 2 p.m. so the respective conferences can meet during that period of time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Also on Tuesday, it is the intention of the leadership to turn to the tuition tax credit, which I believe will be added as an amendment to calendar No. 557 (H.J. Res. 290), a joint resolution dealing with the Olympic Games.

Also, on Tuesday it is the intention of the leadership to turn to the consideration of the reconciliation bill.

Mr. President, I reserve the remainder of my time and turn to the minority leader for any comments he wishes to make.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

LORD BYRON GIVES US AN EYEFUL OF THE NUCLEAR HOLOCAUST

Mr. PROXMIRE. Mr. President, from time to time this body has been graced by the music of poetry. The present majority leader, the distinguished HOWARD BAKER, has enriched us with poetic revelations. The able minority leader, ROBERT BYRD, has also elevated our discourse with the magic of poetry. And this body is honored by the presence of a practicing published poet among us, the senior Senator from Maine, WILLIAM COHEN. Seldom has the U.S. Senate enjoyed such a sensitivity to poets and poetry as it does today. This is specially

timely because we live in an age of television that gives us pictures without poetry, terse tidbits of radio spots, spare and empty of poetic beauty and solemn newspaper articles and commentary unrelieved by the leap of the imagination that poetry brings.

On occasion poets have had an eerie, supernatural power to foresee the distant future. Consider the vision of Lord Byron who died more than 120 years before the atomic age, and 159 years before Carl Sagan and other scientists revealed a few weeks ago the consequences of nuclear war for our Earth and human life on this Earth. Carl Sagan is a superlative writer. He described vividly the terrible environmental consequences of the aftermath of nuclear war: the cold, the darkness, as well as the human consequences in starvation and death. Sagan describes the icy cold, the darkness and the starvation precisely and scientifically. But in a poem Lord Byron titled "Darkness" more than a century and a half ago that long dead poet caught the full agony and misery of the kind of world we will face with nuclear war.

Mr. President, if Lord Byron had been sitting at that meeting of 20th century scientists and had absorbed every word, he could not have penned a more precise or faithful description of the kind of miserably ugly and agonizing death we face and our beautiful world faces if we should survive a nuclear war. I will put this full, astonishing revelation into the RECORD at the conclusion of my remarks but first listen to the remarkable vision with which Byron foresaw our nuclear winter. His poem begins:

I had a dream which was not all a dream
The bright sun was extinguished, and the stars
Did wander darkling in the eternal space
Rayless and pathless, and icy earth
Swung blind and blackening in the moonless air;
Morn came and went—and came and brought no day.

Sagan reports that the scientific findings predict that a nuclear war would shut us into a darkness that would obscure all but a small percent of the Sun's rays, and reduce temperatures to 13° below zero.

In this old and almost forgotten poem, Byron recognized a human reaction that I have not seen the scientists acknowledge. What would the survivors of a nuclear war do in this cold with their utilities devastated and faced with subzero temperatures and no heat and no light anywhere? Byron foresaw a terrible answer. His poem goes on to tell us:

And they did live by watchfires—and the thrones,
The palaces of crowned kings—the huts,
The habitations of all things which dwell,
Were burnt for beacons; cities were consumed,
And men were gather'd round their blazing homes
To look once more into each other's face;
Happy were those who dwelt within the eye
Of the volcanos, and their mountain-torch;
A fearful hope was all the world contain'd;
Forests were set on fire—but hour by hour
They fell and faded—and the crackling trunks
Extinguish'd with a crash—and all was black.

The scientists now tell us that a nuclear war would destroy both plant and animal life. Survivors would starve. As Byron foresaw it—

No love was left;
All earth was but one thought—and that was death,
Immediate and inglorious; and the pang
Of famine fed upon all entrails—men
Died, and their bones were tombless as their flesh;
The meagre by the meagre were devour'd.

And finally the Byronic conclusion:

The world was void,
The populous and the powerful was a lump
Seasonless, herbless, treeless, manless, lifeless,
A lump of death—a chaos of hard clay.
The Moon, their mistress, had expired before;
The winds were wither'd in the stagnant air,
And the clouds perish'd. Darkness had no need
Of aid from them—She was the universe.

Mr. President, every American has a duty to look fully and squarely at the full consequences of nuclear war. This is not an exercise in the maudlin. We are not telling a story of ghosts and goblins to frighten people into hysteria. We are speaking the truth. I do not believe the time has come when the American people cannot stand the truth no matter how grim, or painful or discouraging that truth may be—so we must tell this story fully. We must repeat it over and over and over and over again, until this country understands the terrible consequences of the nuclear arms race. Many Americans and in fact, many U.S. Senators and widely read newspaper and television commentators have not considered the consequences of what this super nuclear power is doing. The fact is we live in a democracy. The strongest force in this country is still public opinion. It can move mountains and it can force this Government eventually to negotiate a mutual, verifiable nuclear freeze: An end to the nuclear arms race and a beginning to nuclear arms reduction.

The scientists have explained to our intellect the consequences of a nuclear war. The magic of Lord Byron's poetry can teach our heart as well as our minds what the environmental scientists mean.

Mr. President, I am indebted to Mr. Hamish Murray for calling Lord Byron's poem "Darkness" to my attention a few days ago.

I ask unanimous consent that the poem by Lord Byron to which I have referred, entitled "Darkness" be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

DARKNESS

I had a dream, which was not all a dream.
The bright sun was extinguish'd, and the stars
Did wander darkling in the eternal space,
Rayless, and pathless, and the icy earth
Swung blind and blackening in the moonless air;
Morn came and went—and came, and brought no day,
And men forgot their passions in the dread
Of this their desolation; and all hearts
Were chill'd into a selfish prayer for light:
And they did live by watchfires—and the thrones,
The palaces of crowned kings—the huts,
The habitations of all things which dwell,
Were burnt for beacons; cities were consumed,
And men were gather'd round their blazing homes
To look once more into each other's face;
Happy were those who dwelt within the eye
Of the volcanos, and their mountain-torch:
A fearful hope was all the world contain'd;
Forests were set on fire—but hour by hour
They fell and faded—and the crackling trunks
Extinguish'd with a crash—and all was black.
The brows of men by the despairing light
Wore an unearthly aspect, as by fits
The flashes fell upon them; some lay down
And hid their eyes and wept; and some did rest
Their chins upon their clenched hands, and smiled;
And others hurried to and fro, and fed
Their funeral piles with fuel, and look'd up
With mad disquietude on the dull sky,
The pall of a past world; and then again
With curses cast them down upon the dust,
And gnash'd their teeth and howl'd: the wild birds shriek'd
And, terrified, did flutter on the ground,
And flap their useless wings; the wildest brutes
Came tame and tremulous; and vipers crawl'd
And twined themselves among the multitude,
Hissing, but stingless—they were slain for food.
And War, which for a moment was no more,
Did glut himself again:—a meal was bought
With blood, and each state sullenly apart
Gorging himself in gloom:
No love was left;
All earth was but one thought—and that was death.
Immediate and inglorious; and the pang
Of famine fed upon all entrails—men
Died, and their bones were tombless as their flesh;
The meagre by the meagre were devour'd,
Even dogs assail'd their masters, all save one,
And he was faithful to a corpse, and kept
The birds and beasts and famish'd men at bay,
Till hunger clung them, or the dropping dead
Lured their lank jaws; himself sought out no food,
But with a piteous and perpetual moan,
And a quick desolate cry, licking the hand
Which answer'd not with a caress—he died.
The crowd was famish'd by degrees; but two
Of an enormous city did survive,

And they were enemies: they met beside
The dying embers of an altar-place
Where had been heap'd a mass of holy things
For an unholy usage; they raked up,
And shivering scraped with their cold skeleton hands
The feeble ashes, and their feeble breath
Blew for a little life, and made a flame
Which was a mockery; then they lifted up
Their eyes as it grew lighter, and beheld
Each other's aspects—saw, and shriek'd, and died—
Even of their mutual hideousness they died,
Unknowing who he was upon whose brow
Famine had written Fiend. The world was void,
The populous and the powerful was a lump
Seasonless, herbless, treeless, manless, lifeless,
A lump of death—a chaos of hard clay.
The rivers, lakes, and ocean all stood still,
And nothing stirr'd within their silent depths;
Ships sailorless lay rotting on the sea,
And their masts fell down piecemeal: as they dropp'd
They slept on the abyss without a surge—
The waves were dead; the tides were in their grave,
The Moon, their mistress, had expired before;
The winds were wither'd in the stagnant air,
And the clouds perish'd; Darkness had no need
Of aid from them—She was the Universe.

THE GENOCIDE CONVENTION AND INTERNATIONAL MORALITY

Mr. PROXMIRE. Mr. President, the International Genocide Convention which has for decades remained unratified by the Senate is a vital step in the development of an international moral code. Although moral restraints on nations' actions have, over time, become more widely recognized and adhered to, the influence of morality on international relations still needs strengthening. The many human rights violations and genocidal acts which I have cited through the years clearly illustrate this need.

Why should a genocide ban be needed? What could lead anyone to commit so heinous a crime? The sad truth, Mr. President, is that in times past genocide has been committed out of sheer, amoral political expediency. The distinguished scholar of international politics, Hans J. Morgenthau, writes in his "Politics Among Nations":

> Viewed as a series of technical tasks into which moral considerations do not enter, international politics would have to consider as one of its legitimate purposes the drastic reduction or even the elimination of the population of a rival nation. . .

Morgenthau notes that the Roman destruction of Carthage in 146 B.C. permanently erased the military threat to Rome which Carthage posed. The "final solution" which Hitler pursued in this century is now a more widely cited example. Yet there is an important difference between these two cases, Mr. President. In ancient times, Rome's genocidal action might be accepted as a legitimate means of pursuing political power. In the 20th century, however, the international community was shocked and repulsed by Hitler's comparable atrocities.

What has changed in the intervening centuries? Is it that nations would no longer benefit from their opponents' elimination? No, says Hans Morgenthau. Rather, world leaders have recognized that common decency and morality limit their actions:

> They refuse to consider certain ends and to use certain names, either altogether or under certain conditions, not because in the light of expediency they appear impractical or unwise but because certain moral rules interpose an absolute barrier. . . . What has changed is the influence of civilization, which makes some desirable and feasible policies morally reprehensible . . .

The international community's response to the Nazi Holocaust demonstrates the civilizing influence of morality which has grown up over the centuries. Soon after World War II ended, the United Nations drafted the International Genocide Convention, outlawing the crime of genocide. The United States took the lead in producing this treaty, yet we are not among the nearly 90 nations which have ratified it.

The Genocide Convention is important to mankind's historical progress toward a just, moral world order. The United States has led, and should continue to lead, that progress. Would any Member of the Senate aspire to less for this Nation? I think not. I suggest, then, that the Senate should strongly support ratification of the International Genocide Convention.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AUTHORITY FOR CERTAIN ACTION DURING ADJOURNMENT AND ON MONDAY, NOVEMBER 14, 1983

Mr. GARN. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday, November 14, messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred, and that the Vice President and the President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Mr. President, I further ask unanimous consent that when the Senate reconvenes on Monday, November 14, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 10 minutes each; provided further that the morning hour be deemed to have expired.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Mr. President, I have no need of additional leader time and I yield back my time at this point.

Mr. STENNIS. Mr. President, if the Senator will yield for a question, what day did he place the reconciliation in to which the Senator referred?

Mr. GARN. The majority leader would expect that to come up on Tuesday.

Mr. STENNIS. On Tuesday. I thank the Senator.

Mr. GARN. I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to last longer than 10 minutes wherein the Senators may speak for 2 minutes each.

MESSAGE FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984; it recedes from its disagreement to the amendments of the Senate numbered 20, 21, 24, 29, 36, and 43 to the joint resolution, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 3, 6, 9, 19, 23, 25, 33, 40, and 41, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

Mr. GARN. Mr. President, I know of no one seeking recognition during morning business. I ask that morning business be closed.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, 1984—CONFERENCE REPORT

Mr. GARN. Mr. President, I submit a report of the committee of conference on House Joint Resolution 413 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 413) making further continuing appropriations for fiscal year 1984, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report was printed in the House proceedings of the RECORD of today, November 12, 1983.)

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report?

Is there further debate?

Mr. COCHRAN. Mr. President, the conference report on the second continuing resolution covers five regular appropriations bills—Agriculture, Commerce, Treasury, foreign operations, and Defense. Conference reports on both Commerce and Defense will be adopted next week, at which point they will fall out from under the coverage of the continuing resolution and it will encompass only 3 of the 13 regular bills.

The expiration date of this continuing resolution is September 30, 1984, so there will be no need to renew a continuing resolution next spring.

The total spending provided under the terms of this continuing resolution amounts to $517,933,575,461, nearly $6 billion below the level passed by the Senate and some $648 million below the level passed by the House.

I say to my colleagues that officials at the White House have stated that the President will sign this bill, and Federal employees should plan on reporting to work on Monday.

Mr. President, time constrains prevented us from filing the conference report in time to have it printed in today's RECORD. The service department has duplicated copies of the conference documents for placement on Senators' desks.

Mr. President, I want to thank all the staff and others in the committee who worked so hard to get this continuing resolution complete. I am happy to yield to the distinguished Senator from Mississippi, the ranking Democrat on the committee at this time.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator for yielding to me.

Mr. President, I will be quite brief. But this is a notable bill in many ways. Excluding myself as being one who made any special contribution, I want to commend as well as thank, and I am sure all the membership does, those that really carried the workload of putting this bill together, beginning back with the fundamentals of it and coming on through the committees, whenever the items applied to committee action, and then coming on here to the floor, with the extraordinary situation of the great groups of amendments that were highly important to their authors and people in certain areas, and then to the conference.

I emphasize again, around that conference table was some of the very finest talent and experience and judgment and willpower that can be found anywhere in our Government. I do not make any exceptions. I have met with those conferees from the House of Representatives, representing their subcommittee chairmen, chairmen of the committees, their membership generally, many, many times. They are the bulwark of strength of our system and to our times. And on our own side of the table, of course, our subcommittee leaders and the leader of our Appropriations Committee, made us well represented.

I do want to make this point, though, Mr. President. I do not believe our system in the Senate, our committee system in the Senate, can very much longer stand the toll that it takes every year when we enact such a large part of the legislation through concurrent resolutions that really just have as their purpose the continuation of appropriations in being, as we call it by that abbreviated name even now.

But regardless of the merit of all these amendments that come piling in here on top of each other, many of which have had no hearings, we do not know the basic facts, have not had any authorization appealing to the Appropriations Committee. I am not referring to any particular amendment now. Our system in the Senate cannot stand resorting to those methods repeatedly and in a large way. Even though it is possible to handle it on any given year, the toll that is taken from our regular authorization committees is great, it is considerable, but more than that, it is devastating, I think, to the system of authorizations.

I have no grievance. Nothing mean has been done to me; no disappointments. I am talking about our system. I yield the floor, Mr. President.

Mr. COCHRAN. Mr. President, let me thank very sincerely the distinguished Senator from Mississippi for his cooperative leadership in getting this continuing resolution adopted. We have all benefited from his counsel and advice but particularly his leadership in the conference and in the development of this legislation.

Mr. STENNIS. If the Senator will yield, I especially thank him for his words. I am proud of his leadership and the way he has carried on.

Mr. COCHRAN. I thank the Senator.

I yield to the distinguished Senator from Utah.

Mr. GARN. Mr. President, the conference report now before the Senate contains four items falling under the jurisdiction of the HUD-Independent Agencies Subcommittee. The joint explanatory statement accurately describes the conference agreement on these items and therefore only a brief description is necessary at this point.

The conferees agreed to include $10 million for food and shelter for the needy, but rejected the House proposal to initiate a new program at the Department of Housing and Urban Development for this purpose. Instead, the conferees elected to augment the existing Federal Emergency Management Agency food and shelter program.

The House conferees accepted the Senate language on loan guarantees and commitments thereby precluding the administration from administratively restricting the availability of loan guarantees and commitments.

In the area of veterans' programs, the conferees agreed to provide $75 million to implement the Emergency Veterans Job Training Act of 1983, the conferees concluded that this was sufficient funding to initiate the program and that additional funding, making available a total of $150 million, would be provided in the supplemental appropriations bill (H.R. 3959).

In a final item the conferees agreed to extend the deferral of $1.5 billion in assisted housing funds until March 31, 1984, if a housing authorization bill is enacted between now and January 1, 1984. This extension of the deferral will allow the Appropriations Committees an opportunity to review any new programs contained in the housing authorization bill and to determine which programs should be funded. In the event that an authorizing bill is not enacted before January 1, 1984, the conferees have proposed language allocating the $1.5 billion to existing programs and providing that these funds be available for use on these programs on January 1, 1984.

Several other technical changes and cost adjustments are incorporated into the conference agreements and are reflected in tables contained in the statement of the managers. As in the past the conferees expect the Department to adhere to the funding allocation contained in the tables unless

prior reprograming approval has been granted by the committees.

Mr. COCHRAN. Mr. President, the conference report on the continuing resolution references the conference report and statement of managers which accompany H.R. 3223, the appropriations bill for Agriculture, rural development, and related agencies for fiscal year 1984 (H. Rept. 98-450). This conference report represents the culmination of long hours of negotiations with both the administration and the House of Representatives. Some very difficult compromises were required by the need and desire of our Members to come as closely as possible to the President's budget request. However, on November 2, 1983, a statement of administration policy was received by the committee which indicated the administration's strong opposition to the conference report.

Mr. President, I ask unanimous consent that the text of this statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY, NOVEMBER 2, 1983

H.R. 3223 AGRICULTURE APPROPRIATIONS CONFERENCE REPORT

The Administration is strongly opposed to the Conference Agreement on H.R. 3223, and urges that the Conference Report be defeated and returned to the Conference Committee.

As reported from Conference, the bill exceeds the President's request for funding by $3.5 billion. The Conference Agreement increases funding for annual discretionary appropriations by $956 million more than the Administration request, and increases obligations for subsidized lending by more than $2.5 billion.

The Administration believes that the needs of the agricultural sector of the Nation's economy, and legitimate rural development priorities, can be met without resort to the excesses embodied in the Conference Report.

Accordingly, if the Conference Report is presented to the President in its present form, his senior advisors will unanimously recommend that it be disapproved.

Mr. COCHRAN. Mr. President, this conference report we are referencing provides funding for numerous important activities of the Department of Agriculture, such as research and extension, conservation, rural housing and farm loans, and farmer income and price support programs. The report also provides funding for the Food and Drug Administration and the Commodity Futures Trading Commission, and establishes lending levels for Rural Electrification Administration (REA) programs.

It is my sincere wish that we could fund all of the programs in this bill to the point where research in all areas of agriculture could be operating at capacity; where agriculture and rural development loans and grants could meet the needs of rural America; where our farmers and ranchers could have stable income and our consumers could have stable prices; where conservation could be practiced adequately on our rural lands; where the nutrition needs of the poor and disadvantaged could be met both here in our country and throughout the world.

Mr. President, while I have a great deal of hope that one day all these needs will be met, I also acknowledge the reality that attempting to reach these goals through excessive Federal spending would create a serious financial burden on our Nation's taxpayers and would create an excessive amount of dependence on the Federal Government.

Mr. President, it is indeed a difficult task, especially in the wake of recent economic hardships, further complicated by the extreme weather conditions—spring floods, drought, and early frosts—to establish funding levels for the programs in our bill and to simultaneously protect our taxpayers from unnecessary, burdensome spending. Mr. President, I feel that this conference report represents a determined and commendable effort by the members of the conference committee to accomplish that task.

Mr. President, the bill for which this conference agreement was made establishes a level of new budget authority of $31.67 billion. This amount, combined with the $2.3 billion in customs receipts to be applied toward various nutrition programs, brings the total of our bill to $33.98 billion. This figure represents a decrease of $45.3 million below the House level and a decrease of $133 million below the Senate-passed bill. This figure is $99 million below the President's budget request.

However, as you may recall, Mr. President, both the House-passed and the Senate-passed versions of H.R. 3223 called for partial-year funding for the three major nutrition programs in the bill. This includes food stamps, child nutrition programs, and the women, infants, and children program (WIC). These programs were funded in this manner because the President's budget request assumed savings from legislative changes in these programs. As the Appropriations Committee, we cannot assume legislative changes; therefore, we chose to grant the Presidents' budget request and prorate that amount based on the current services level for those programs. In July when the Senate considered H.R. 3223 on the floor and approved this partial-year funding, we assumed a $1.3 billion supplemental appropriation would be needed to fund these programs for the remainder of the fiscal year. It now appears that, with slight improvements in economic conditions and with the unemployment rate falling, the funding level provided in the conference agreement for food stamps will be sufficient for the entire fiscal year. This will reduce the estimated total supplemental needs to approximately $700 million for the child nutrition programs and WIC.

If we add $700 million to the total of this bill, the total funding level would be approximately $600 million over the President's budget for fiscal year 1984.

Even with this anticipated supplemental included, our bill for fiscal year 1984 is almost $7 billion below total funding for fiscal year 1983.

This vast difference, Mr. President, was due to the fluctuations in the Commodity Credit Corporation account. During the past 2 years, the Commodity Credit Corporation, at times, faced serious liquidity problems, which the Congress acted expeditiously to remedy by providing supplemental funding at various times throughout the past year.

The conference agreement for this bill includes almost $9.7 billion for reimbursement for net realized losses of the Commodity Credit Corporation, which is the funding source for our farm programs. This represents a $500 million decrease from the President's budget. Information provided to our committee indicates not only that the $500 million will not be needed, but also that the CCC now is in the best financial condition with regard to lending capability than it has been since 1975. For this reason, we consider this $500 million decrease from the President's budget to be justified.

The funding levels provided in the conference for research and extension, as well as for the vital soil conservation programs funded by this bill, are above the President's request. However, we must maintain a commitment to these programs if we expect to have a vital agricultural sector in the future.

The total appropriation level provided in this bill falls within the subcommittee's 302(b) budget allocation for budget authority, and I have also been advised by the chairman of the Budget Committee (Mr. DOMENICI), that this bill falls within the Budget Committee's 302(b) budget allocation for budget authority.

I want to thank the members of the conference committee for their patience and courage in the deliberations of this bill. I especially want to express my appreciation to Congressman JAMIE WHITTEN, chairman of the House Agriculture Appropriations Subcommittee, and the subcommittee staff—Bob Foster, Hank Moore, and Toni Savia—for their cooperation and hard work. Also, to my colleague and friend, TOM EAGLETON, ranking minority member of the subcommittee, and the Senate subcommittee staff—Irma Hanneman, Forest Thigpen, Ken Auer, and Koni Gleason—my heartfelt thanks for their cooperation and efforts in reaching this compromise. I

believe this is a work product of which we can all be proud.

Mr. President, I ask unanimous consent that a table setting forth a comparison of new budget authority for fiscal years 1982, 1983, and 1984 for the agriculture appropriations bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

AGRICULTURE APPROPRIATIONS BILL—COMPARISON OF NEW BUDGET AUTHORITY, FISCAL YEARS 1982, 1983, 1984

[In thousands of dollars]

	1982	1983	President's budget, 1984 estimates	House bill 1984	Senate 1984	Concurrent resolution rate	Conference agreement
Title I—Agricultural programs	2,305,155	2,598,392	2,392,565	2,422,787	2,409,712	2,358,211	2,357,569
Title II—Rural development programs	1,269,877	1,599,439	987,217	1,373,523	1,363,126	1,338,135	1,338,933
Title III—Domestic food programs	13,572,951	15,370,792	13,783,956	13,813,671	13,817,546	13,863,671	[1] 13,864,546
Title IV—International programs	1,071,863	1,106,682	1,141,233	1,139,233	1,239,233	1,139,233	1,140,733
Title V—Related agencies	359,044	375,576	409,749	411,734	419,094	413,279	413,849
Program totals	18,578,890	21,050,881	18,714,720	19,160,948	19,248,711	19,112,529	19,115,630
CCC restorations	12,043,229	16,173,514	10,173,636	9,673,636	9,673,636	9,673,636	9,673,636
Fund restorations	1,219,210	2,128,104	2,881,808	2,881,808	2,881,808	2,881,808	2,881,808
Total	31,841,329	39,352,499	31,770,164	31,716,392	31,804,155	31,667,973	31,671,074

[1] A supplemental appropriation of approximately $700 million is anticipated for this title.

OCOEE/TVA PROVISION

Mr. HATFIELD. It is my understanding that the majority leader wished to engage in a colloquy to clarify the intent of a conference compromise on the continuing resolution.

Mr. BAKER. Mr. President, I thank the distinguished chairman of the Appropriations Committee for yielding for the purpose of a colloquy. The Senate-passed continuing resolution contained $7.4 million for the Tennessee Valley Authority for the purpose of providing recreation on the Ocoee River. It is my understanding that the conference report before us contains that appropriation but requires that the full amount be reimbursed by imposing fees on the users of these recreational facilities.

Mr. HATFIELD. The Senator is correct.

Mr. BAKER. Because the reimbursement requirement was not in the Senate bill, I have several questions that I hope will clarify the intent of the conferees. First, Mr. President, there are active negotiations underway between TVA, the State of Tennessee, and various interested parties to develop a contract for the use of the Ocoee River. As the reimbursement requirement has not been considered up to this point in those negotiations, it is uncertain now whether a viable contract is possible.

In the event that an agreement is not reached, I wish to insure that the language in the conference report does not obligate any of the parties of the negotiations. It is my understanding that the funds would be available if TVA chooses to use them and that the language would not obligate TVA to enter into any contract or expend the appropriations. Further, if TVA does not avail itself of the appropriation, there would be no obligation to reimburse the Treasury. I wonder if the Senator from Oregon (Mr. HATFIELD) would be willing to comment.

Mr. HATFIELD. The majority leader's understanding is essentially correct. While it is usually the case that an appropriation expresses congressional intent that the executive branch and affected agencies use the funds provided in the prescribed manner, it is not the intent of the conferees in this case to force TVA to expend any of the $7.4 million provided if an agreement cannot be worked out with the State and other interested parties.

Obviously, if TVA chooses not to utilize the appropriation, there is no obligation to the Treasury—there is nothing to reimburse. However, if an agreement cannot be reached, the committee would expect TVA to return all the appropriated funds to the Treasury.

Mr. BAKER. The second point that I would like to clarify concerns the payment of interest. The legislative language speaks only to the $7.4 million appropriation in the statement "* * * all of which shall be reimbursed," and is silent on the issue of interest charges. I therefore assume that the conferees intended that no interest charges will be assessed and that TVA is liable for only the amount of the appropriation.

Mr. HATFIELD. I must once again say to my friend from Tennessee that his presumption is correct. The language states that the appropriated amount of $7.4 million shall be reimbursed. It is only that amount that the conferees had in mind when adding the payback provision.

Mr. BAKER. Finally, Mr. President, the language is silent as to when the reimbursement should take place. While I suppose that, on the face of it, the reimbursement could be put off indefinitely, I assume that result would not conform with the intention of the conferees. Since the Senate-passed appropriation was based on a 35-year calculation, I assume that if the reimbursement occurred any time during that 35-year period, the intent of the conferees would be fulfilled.

Mr. HATFIELD. That is correct. The conferees intended only that the appropriation be reimbursed through an unspecified user fee. There was no stipulation of a repayment schedule. While I agree with the Senator from Tennessee that the language is somewhat open ended, I believe an indefinite deferral was not what we had in mind. As the appropriation is based on a 35-year calculation, it is reasonable to assume that the conferees' intention would be met if the reimbursement occurred by the end of that period. It will be up to TVA to determine when during that period to make repayment

Mr. BAKER. I thank the distinguished chairman of the committee for his usual clarity and courtesy in these matters and his assistance in making the Ocoee River a natural asset that can be utilized to its fullest. I trust that these clarifications will enhance the understanding of the parties involved in the contract negotiations and hopefully assist in an expeditious completion of their considerations.

Mr. COCHRAN. Mr. President, I move the adoption of the conference report.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. MATHIAS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. MATHIAS. I would like to join in congratulating the conferees on bringing this conference report to the Senate. They have had a very difficult job. And I must say they have had very little to work with, or maybe I should correct that or be more explicit and say they had very little of value to work with. They had a great deal of material, but not much guidance.

There is a fallacy in the conference report which is not attributable to the conferees. It is attributable to the method by which the report is arrived at.

In some respects, it is a ridiculous thing that the authorizing committees

go through the hearing process, devote hours to arriving at authorizations, call witnesses from all over the country, staffs devote themselves to the technical details, and the authorizations are totally ignored, in this continuing resolution process. In some cases, no authorization exists. In other cases, the authorizations that have been painstakingly established are simply ignored.

So I think the conferees are to be congratulated for what they have been able to achieve. It is almost doing that impossible task of making a silk purse out of a sow's ear—I say "almost." I am not sure they have quite attained that proverbial goal.

Now, I do very sincerely congratulate them. I think the Senate is in their debt. But for a number of reasons, I felt constrained to oppose the adoption or the approval of the conference report when it was before the Senate and for the same reasons, which I will not detain the Senate in enumerating in painstaking detail, I will oppose the adoption of the conference report.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been trying to decide for the last few minutes whether this Senator should ask for a rollcall vote or not on the conference report. But, on the request of the minority leader and others, I probably will not do that.

I rise, though, before we probably will voice vote this matter through, to indicate this Senator's opposition to a process that I feel has become all too routine as far as the great deliberative body of the U.S. Senate and the House of Representatives are concerned.

Now we worked here in this body until almost 4 o'clock in the morning last Friday morning, causing this Senator to cancel out a weekend of activities that would have required for me to be home in Nebraska rather than here. Even at that late hour I gave some consideration to proceeding with those plans, but decided, well, Friday could be a rather important day and if we did not pass this bill that supposedly—and I underline the word "supposedly"—it would tie up the Federal Government. I thought it was important enough for me to stay here to carry out the duties that I am assigned.

As the RECORD clearly shows, there were no rollcall votes in either the House of Representatives or the U.S. Senate on yesterday.

I thought it was rather interesting to note, though, that there was a rollcall vote, as I understand it from the news reports, in the House of Representatives this morning. And, therefore, when there is a rollcall vote in the House of Representatives, it at least gives some indication that, likewise, we should stand up, record our presence, and indicate we are here willing and able to carry out the responsibilities that we are assigned by our constitutents.

Now I recognize fully, Mr. President, that it is not possible for all Members of the House or the Senate to be on duty and call at all times. There may be some exceptions in the House of Representatives. I believe the only exception that I know of in the U.S. Senate, at least at the present time, is Senator PROXMIRE, the Senator from Wisconsin, whom I believe has a record of attending every rollcall vote since he has had the distinguished honor of serving Wisconsin in the U.S. Senate, and for that I congratulate him. I am sure that over the years that has caused the Senator from Wisconsin a great deal of hard decisionmaking, caused people back home who had expected him at a certain event to be keenly disappointed.

I congratulate him for that record that he has established.

The facts of the matter are that, for the most part, it is difficult because of press of official business elsewhere, on some occasions but not every one, to be able to make rollcall votes. I had hoped, Mr. President, that on an issue such as this, we could have had a rollcall vote. I had intended to call for a rollcall on the vote this morning. I might not have been successful in receiving a sufficient number of seconds, because I am convinced by people in a position to know that there very likely is not a quorum present, nor could a quorum be called for the enactment of this legislation on this particular Saturday afternoon. Therefore, if I were to insist on a rollcall vote, I suspect that it would force the Senate to go out, that we would not be in session, and the important matter before us, the potential closing down of the Government of the United States, would therefore be put off until, at least, Monday.

Therefore, since I suspect that discretion is the better part of valor from time to time, I shall not be asking for a rollcall vote.

I simply say to the Members of the Senate and to the leadership of the Senate that when some of us are inconvenienced to stay here to carry out our assigned duties whenever we think it is necessary, I suggest that that should spread to all of the Members of the body. To some extent, I resent the fact that there are those who went ahead with their plans to serve their own ends when some of us did not.

Mr. President, I yield the floor.

Mr. BYRD. Will the Senator yield to me, Mr. President?

Mr. EXON. I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator for not asking for a rollcall vote. We might be able to provide a second for him if he did. We would only need 11 Senators. But I have asked the Senator not to call for a rollcall vote.

We do not have a quorum, Mr. President. I doubt that we could assemble one, even by 5 or 6 o'clock today. In view of the fact that the Senate could not do business without a quorum, in the final analysis, it would mean that if the Senator asked for a rollcall vote, the Senate would go over until Monday without taking final action on this conference report and it would be Monday before final action would be taken.

I understand the Senator's strong feeling. He has stayed here at his post of duty and I congratulate him for that. I personally appreciate the fact that he has agreed not to ask for a rollcall vote on the conference report.

Mr. FORD. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. FORD. Mr. President, I shall take just a moment of the Senate's time to push a little piece of legislation, if I may use that term, that I have been interested in for some time. I have been here 10 years now. Maybe once, possibly twice, have we completed our budgetary process by the appointed hour. It seems that we are backed up to a holiday, backed up to the point of adjournment, then we go day and night, helter skelter, to try to accomplish the purpose under the law and, by virtue of the fact that we had a holiday on Friday, Veterans Day—yesterday—and a Saturday and a Sunday, we did not have to jet the piece of legislation to Japan or to Korea for the President to sign.

Now that he will be back on Monday and the indications are that he will sign it, this piece of legislation, in all probability, will not cause the closure of the Government on Monday next.

Mr. President, there is a piece of legislation that has been introduced. It was originally introduced by this Senator; then it began to increase in popularity, I guess, and now some 20 Senators have cosponsored it and some have taken it on to introduce as their own special bill. I am very hopeful that when we come back in January, possibly February, we can go to hearings and discussion for a 2-year budget.

It can work. It can give us the time that we need, at least additional time, so that we can make decisions in the light of day rather than the darkness of night, as I have seen us do here this week.

So, Mr. President, I hope my colleagues will take the opportunity during the holidays to look at the value or the possibility of a 2-year budget. It is not something that will solve all of our problems, but it is one procedure, I think, that will advance

our ability to accomplish what our constituents have sent us here to do.

Therefore, I would encourage my colleagues to look at all of the legislation which has been introduced as it relates to the 2-year budget. My distinguished neighbor to the north, Senator QUAYLE, and I have what I think is a piece of legislation which has been approved by Alice Rivlin and the GAO. Mr. Stockman says the process we are now using does not fit. When you get him to say that, I wonder a little bit. On balance, we consulted all of those dealing with the analysis, the projections, and putting the funding together, and they all seem to come down to the same place.

Maybe, Mr. President, in the year 1984, when I am advised very little legislation will come up because it is an election year, we can turn our thoughts to the improvement of this Government funding itself in 1985.

Mr. STENNIS. Mr. President, I quite agree with many of the remarks which have been made in good faith by the Members. It would be a picture of neglect and absenteeism on the part of the Senate, which would not be an accurate picture at all, as I see it. Mr. President, let me remind all that 8 of the 13 appropriation bills for this year have already been completed and have either been signed into law or are awaiting the signature of the President.

In addition thereto, the largest of all, the Defense Department appropriations bill, has been completed by both Houses and the conference has already been set for the next week. I believe it will be very promptly taken care of there.

The Agriculture appropriations bill has been completed and I believe the conference has been completed. The hearsay talk that comes from the White House is that that might be vetoed, so it is sort of lying in a status quo right now.

The Senator from Mississippi, Senator COCHRAN, contributed greatly to that bill.

Mr. President, those things are temporary. I believe I can give a fair analysis, briefly, of the things that really keeps the Senate in slow motion, in my mind.

We operate under Rules of the Senate, most of which are very valuable, which say there is no limitation whatsoever on amendments that can be offered. They do not have to be offered by a committee or by a group of Senators, but every one of the 100 Members can offer an unlimited number of amendments on whatever subjects they want and have the constitutional processes before it can be disposed of.

There are no limitations on time to be automatically imposed on a Member. It is not often abused, but it can be, and it is abused collectively, it seems to me.

Mr. President, this is not a bill of complaint I am giving, but I am trying to give a little of the other side of the picture.

I do think we have to go to 2-year appropriations for many of our departments. And, Mr. President, there are other things that will save time.

Mr. President, I do not blame anyone for not being here today. It was generally understood that we would probably not have a rollcall vote. If we are to have one, we can go over to Monday. The heavens are not going to fall if we go over to Monday, even though this bill ought to be signed today if at all possible.

I am just speaking about the work I have seen. Our two leaders have done marvelous things this year. I will not go into that now, but great volumes of work are being disposed of here.

I wish that more of the people could really get the full picture and see how we do have to carry on here to try to keep from falling behind.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. STENNIS. Yes, I am glad to yield. I yield the floor.

Mr. BYRD. Mr. President, let me assure the distinguished ranking member on the committee that my statement concerning absenteeism today was not inaccurate. Maybe I misunderstood the distinguished Senator saying that my statement concerning absenteeism was inaccurate. I do not believe he meant to say that.

Mr. STENNIS. No, I did not.

Mr. WARNER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in support of the conference report. My distinguished colleague, the Senator from Maryland (Mr. MATHIAS), and I believe we have worked to protect the interests of the many civil servants affected by this legislation.

Mr. President, each year we put a lot of emotional stress and strain on the Federal Government. Yet, we have not devised a means to prevent their being left with undue apprehension.

I am pleased to say that this legislation contains provisions which will directly benefit them. First, this resolution requires a delay in the implementation of OMB management regulations. Second, this resolution contains an amendment which the Senator from Virginia (Mr. TRIBLE) and introduced to provide authority to reimburse Federal employees for a greater share of certain moving expenses incurred as a result of a move required by the employee's agency or department.

In addition, Mr. President, I have been concerned about the necessity of adequate funding in foreign aid. I am particularly concerned about those funds which go to Israel at this critical time in the Middle East.

This resolution will provide Israel with $1.7 billion in military assistance and $910 million in economic assistance. These funds are crucial to Israel's ability to maintain the balance of power in that region of the world and to maintain the security of its people.

Mr. President, I do want the record to indicate that the Senator from Virginia (Mr. WARNER) was here for a voice vote and voted "yea."

Mr. DENTON. Mr. President, for the first time both the House and Senate have agreed to enact into law the Ashbrook amendment related to abortion funding under the Federal employees health benefit program. We would be reminded on this occasion were we not to honor the memory of the man who began the work on this amendment, Representative John Ashbrook of Ohio. Indeed, the amendment, though he is deceased, is still referred to as the Ashbrook amendment. He and all who have worked over the years in the cause of recognizing the rights and dignity of human life, both born and still within the womb, are grateful for the diligent and sensitive handling of the overall package of legislation, known as the continuing resolution, by the respective floor managers: for the majority, Senator HATFIELD and for the minority, Senator STENNIS.

I want to thank the entire Senate for its understanding and patience as we went through the debate and series of votes with respect to this restriction.

I deeply appreciate the votes of those Members of the Senate who believe, as I do, that the Federal Government should not be in the abortion business.

I want to thank particularly the distinguished senior Senator from North Carolina (Mr. HELMS) for his able advice and assistance, and the distinguished Senator from New Hampshire (Mr. HUMPHREY) for his work behind the scenes.

And I thank the distinguished Senators from Mississippi and Georgia (Mr. COCHRAN and Mr. NUNN) for their understanding and for their support.

Mr. HATCH. Mr. President, I shall vote against this continuing resolution because of its lack of spending restraint. It is about time that we in Congress become responsible and control the excessive Federal spending which is overburdening our economy.

Spending beyond our means is the cause of our huge deficits. In 1980, total Federal spending equaled 23 percent of GNP. Even with the Reagan administration's attempts to restrain it, Federal spending is estimated to be 25 percent of GNP for fiscal 1983.

President Reagan has promoted Federal spending cuts. This continuing resolution is another example of Con-

gress refusal to agree to them. Despite the President's lead, Congress has given the President only half of the spending growth reductions which he has requested.

We did not restrain spending growth sufficiently when considering the budget resolution this past spring. As a result, Federal spending in 1984 and the outyears will be excessive. We all decry the resultant massive yearly deficits and the soaring national debt, but apparently lack the will to do what is necessary to remedy the problem.

Raising taxes is not the solution to our deficit problems. Higher taxes have failed to balance the budget in the past, and there is no reason to think they will in the future. Raising taxes encourages more spending, not deficit reduction. If we continue to reduce the rate of increase in Government spending and refuse to raise taxes once again, our economy will recover and the deficits will take care of themselves.

FOREIGN ASSISTANCE

Mr. KASTEN. Mr. President, I would like to make a few comments about the foreign assistance section of the continuing resolution.

We are again providing funding for foreign assistance via a continuing resolution vehicle for the entire fiscal year, rather than enacting a regular appropriations bill. However, in actuality the provision of the continuing resolution as it pertains to foreign aid is a regular bill as can be seen by both the language, which is not strictly a formula, and by the fact that we were able to fund a number of new initiatives and programs at levels which were individually conferenced and not subject to some formula.

We are less than satisfied with the results of the conference, but as usual, it was extraordinarily difficult and nearly broke down on several points during the 5 hours of discussions yesterday. It is clear that our recommendations will require supplementals in both economic and military assistance areas, and of special interest to the Senate, we may well be facing a supplemental request for the Export-Import Bank, which the House insisted be at the lower level of $3,865,000,000 for direct loans. At any rate, I should indicate that it is clear that a supplemental will be coming in the foreign assistance area when the President's budget is submitted in January.

Mr. President, when the Senate passed this resolution, it included the language of Senate Joint Resolution 194, which was reported by the committee. The committee report on Senate Joint Resolution 194 included language on the foreign assistance section referencing the Senate report on S. 1892, which is the regular bill that was reported by the Senate committee. Obviously, Mr. President, the clear intention is that this reference also applies to the Senate-passed version of House Joint Resolution 413. I mention this in the event that the executive branch should feel it does not have to live with the directions contained in the report on S. 1892 as referenced in the report on Senate Joint Resolution 194—it clearly does.

So, Mr. President, while in effect we have a regular foreign aid appropriations bill for fiscal year 1984, we can expect that the next battle on foreign assistance will occur when a supplemental is sent up to Congress early next year.

FUNDING FOR EDUCATION AND NUTRITION PROGRAMS

Mr. BYRD. Mr. President, I must express my deep disappointment that the conference report includes only $98.7 million of the nearly $1 billion originally added to the bill in the House for vital education and child nutrition programs. These programs have been deeply cut over the last several years. It is time that we begin to repair the damage and provide more nearly adequate levels of funding for these programs. These programs are investments in our Nation's future—adult education, vocational rehabilitation, work study, to name just a few. They are programs that are central to meeting our commitment to address the crisis in our schools.

They are programs which are critical in helping tomorrow's workers to gain the skills they need to compete in an increasingly demanding job market.

It is my hope that the Senate will yet see its way to providing additional funds for these programs in the coming months.

Mr. President, I would also like to congratulate the conferees on their success in reaching an agreement and to express my appreciation for their long and difficult labors.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments in disagreement considered en bloc are as follows:

H.J. RES. 413

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(b)(1) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority: *Provided*, That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts, except that the provisions of title V of Public Law 97-121 shall apply including the provisions of section 523 of such title: *Provided further*, That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $79,720,549 for payment to the "International Bank for Reconstruction and Development", to remain available until expended, and not to exceed $983,220,105 in callable capital subscriptions; $118,423,983 for payment to the "Inter-American Development Bank", to remain available until expended, of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $806,464,582 is callable capital subscriptions; $945,000,000 for payment to the "International Development Association", to remain available until expended; $13,232,676 for payment to the "Asian Development Bank", to remain available until expended, and not to exceed $251,377,943 in callable capital subscriptions; $100,000,000 for payment to the "Asian Development Fund", to remain available until expended; $17,986,678 for payment to the "African Development Bank", to remain available until expended, and not to exceed $53,960,036 in callable capital subscriptions; $50,000,000 for payment to the "African Development Fund", to remain available until expended; $314,164,000 for "International Organizations and Programs", including the provisions of section 103(g) of the Foreign Assistance Act of 1961, except that such funds shall be made available only in accordance with the Joint Explanatory Statement of the Committee of Conference accompanying the conference report on this joint resolution (H.J. Res. 413); $715,106,500 for "Agriculture, rural development, and nutrition, Development Assistance"; $240,000,000 for "Population, Development Assistance"; $125,000,000 for "Health, Development Assistance"; $116,477,000 for "Education and human resources development, Development Assistance", of which $4,000,000 shall be available only for scholarships for South African students in accordance with the last sentence of section 105(a) of the Foreign Assistance Act of 1961; $140,288,000 for "Energy and selected development activities, Development Assistance"; $10,000,000 for "Science and technology, Development Assistance": *Provided further*, That of the funds made available to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $10,000,000 shall be available for Botswana: *Provided further*, That funds made available as loans to carry out the provisions of sections 103 through 106 of the

Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund", which shall be available for obligation until September 30, 1985, except that amounts hereafter deobligated from the Private Sector Revolving Fund are hereby continued available for reobligation for the purposes of such fund; $30,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $36,537,000 for "Payment to the Foreign Serivce Retirement and Disability Fund"; $25,000,000 for "International disaster assistance", to remain available until expended, of which $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance; $1,100,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; $2,903,250,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $361,533,250 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $16,250,000 for "Trade and Development"; $41,200,000 for "International narcotics control"; $3,000,000 for the "African Development Foundation"; $13,000,000 for the "Inter-American Foundation"; not to exceed $10,000,000 for gross obligations for the amount of direct loans and not to exceed $100,000,000 of contingent liability for total commitments to guarantee loans for the "Overseas Private Investment Corporation"; $115,000,000 for the "Peace Corps"; $323,000,000 for "Migration and Refugee Assistance"; $2,500,000 for "Anti-Terrorism Assistance"; $510,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961; $51,532,000 for "International Military Education and Training"; $1,315,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel), and not less than $465,000,000 shall be available for Egypt; $4,401,250,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales": *Provided further,* That of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program: *Provided further,* That not more than $64,800,000 of the total funds and authorities made available under this subsection for programs for military assistance shall be available for El Salvador; not to exceed $225,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $3,865,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That no funds in this subsection shall be available for Guatemala except for economic development projects through private voluntary organizations: *Provided further,* That none of the funds appropriated or otherwise made available to the Agency for International Development shall be used to fund projects or programs where comparable American private enterprise funding is available: *Provided further,* That the Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1984, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for development project assistance for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and recon-

struction activities in the Andean region: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

Section 101(b)(1) of this joint resolution may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.

(2) $244,600,000 to carry out section 104(b).

(3) $133,400,000 to carry out section 104(c).

(4) $121,477,000 to carry out section 105.

(5) $160,000,000 to carry out section 106.

(6) $103,000,000 to carry out section 121.

(7) $30,000,000 to carry out section 214.

(8) $266,214,000 to carry out chapter 3 of part I.

(9) $47,000,000 to carry out section 481.

(10) $25,000,000 to carry out section 491.

(11) $3,074,000,000 to carry out chapter 4 of part II.

(12) $639,700,000 to carry out section 503.

(13) $56,452,000 to carry out chapter 5 of part II.

(14) $46,200,000 to carry out chapter 6 of part II.

(15) $22,000,000 to carry out section 661.

(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 for the fiscal year 1984.

Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98-107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT

Section 31(b)(3) of the Arms Export Control Act is amended to read as follows:

"(3) Of the aggregate total of credits (or participations in credits) extended under section 23 of this Act and of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $1,700,000,000 for the fiscal year 1984 shall be available only for Israel, of which not less than $850,000,000 shall be credit under section 23. Of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program.".

Section 31(c) of such Act is amended—

(a) in the first sentence by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984"; and

(b) in the last sentence—

(1) by striking out "$550,000,000" and inserting in lieu thereof "$850,000,000 for the fiscal year 1984"; and

(2) by striking out "for each such year".

Section 31(b)(6) of such Act is amended to read as follows:

"(6) Of the total amounts of credits (or participations in credits) extended under section 23 of this Act, not less than $465,000,000 for the fiscal year 1984 shall be available only for Egypt, and Egypt shall be released from its contractual liability to repay the United States Government with respect to such credits (and participations in credits). Of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $900,000,000 for the fiscal year 1984 shall be available only for Egypt.".

Section 31(b)(5) of such Act is amended by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984".

Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

SEC. 532. EARMARKING FOR ISRAEL AND EGYPT.—Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1984, not less than $910,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt.".

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expanded until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trail and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (Dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITAIN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragraph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the

fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted, except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(e) Notwithstanding any other provision of this joint resolution except section 102, such amendments as may be necessary for programs, projects, or activities not otherwise specifically provided for in this joint resolution for which appropriations, funds, or other authority would be available in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984, (H.R. 3222), at a rate for operations and to the extent and in the manner that was provided for in Public Law 98-107: *Provided*, That none of the funds made available in this joint resolution for the Department of Justice and the Federal Trade Commission may be used for any activity, the purpose of which is to overturn or alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided further*, That nothing in this provision shall prohibit any employee of the Department of Justice or the Federal Trade Commission from presenting testimony on this matter before appropriate committees of the House and Senate.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid resolution, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

(g) Notwithstanding any other provision of this joint resolution, the following amounts are hereby made available, in addition to funds otherwise available, for the following purposes:

EDUCATION FOR THE HANDICAPPED

For an additional amount for carrying out section 611 of the Education of the Handicapped Act, $25,000,000 to become available on July 1, 1984 and to remain available until September 1985.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For an additional amount for carrying out section 100(b)(1) of the Rehabilitation Act of 1973, $10,000,000.

GRANTS TO SCHOOLS WITH SUBSTANTIAL NUMBERS OF IMMIGRANTS

For carrying out emergency immigrant education assistance under title V of H.R. 3520 as passed the House of Representatives September 13, 1983, $30,000,000.

HIGHER EDUCATION

For an additional amount for work-study programs under title IV of the Higher Education Act of 1965, $5,000,000.

For an additional amount for supplemental educational opportunity grants under title IV of the Higher Education Act of 1965, $5,000,000.

COMMUNITY HEALTH CENTERS

For an additional amount for carrying out titles III and XIX of the Public Health Service Act with respect to community health centers, $10,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For an additional amount for carrying out the National Technical Institute for the Deaf Act, $1,700,000.

GALLAUDET COLLEGE

For an additional amount for carrying out the Act of June 18, 1954 (68 Stat. 265), relating to Gallaudet College, $2,000,000.

FOOD DISTRIBUTION AND EMERGENCY SHELTER

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $10,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this joint resolution or any other provision of law, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The national board shall consist of seven members. The United Way of America, the Salvation Army, the Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board. The representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $10,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation. The Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 113. Notwithstanding any other provision of this joint resolution, $7,400,000 is appropriated to the Tennessee Valley Authority, to be available for the purpose of providing recreation on the Ocoee River, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water, all of which shall be reimbursed from imposition of fees for such recreation activities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 117. Notwithstanding any other provision of law, the ban on the use of United States Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1985: *Provided*, That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons to Orange County, New York are exempted from such ban: *Provided further*, That the exemption established herein is subject to reevaluation for safety by the five member United States Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 119. Notwithstanding any other provision of this joint resolution, (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this joint resolution.

(b) The Secretary of the Army shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this joint resolution. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 127. The paragraph under the heading "Housing Programs, Annual Contributions for Assisted Housing" in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), is amended by striking out the period at the end thereof and inserting a colon in lieu thereof and the following:

"Provided further, That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso of this paragraph are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199). *Provided further,* That upon enactment of this joint resolution, $2,217,150,000 of budget authority shall be used ony for the section 8 existing housing program (42 U.S.C. 1437f), $540,000,000 of budget authority shall be used only for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), and $900,000,000 of budget authority shall be used only for the development or acquisition costs of public housing other than for Indian families: *Provided further,* That, if no authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984, then the amount of budget authority to be used only for the section 8 existing housing program is increased to $3,922,650,000 as of January 1, 1984, the amount of contracts for annual contributions as provided under this heading in Public Law 98-45 is hereby increased by $23,552,393, and the $1,500,000,000 of budget authority deferred until January 1, 1984 in the second proviso under this heading in Public Law 98-45, shall, on January 1, 1984, be added to and merged with budget authority which is subject to the fourth proviso under such heading: *Provided further,* That if an authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984 then the paragraph under this heading and the amendments provided in this joint resolution are modified as follows: (1) the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in Public Law 98-45 shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading; (2) the amount of budget authority that shall only be used for the section 8 existing housing program (42 U.S.C. 1437f) would be $2,217,150,000; and (3) the $23,551,393 of additional contract authority provided in the previous proviso would not become available for contracts for annual contributions under section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c)."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 134. Upon application, prior to January 1, 1984, by a subsidized United States-flag liner company holding a written option to purchase foreign-built liner vessels executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 existing foreign-built vessels for operation under United States flag, and shall require conversion of two such vessels in a United States shipyard. Upon application prior to June 1, 1984, by a subsidized United States-flag liner company which has taken delivery from United States shipyards of new United States-built liner vessels that were introduced into subsidized service within two years preceding the date of enactment of this joint resolution, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under United States flag, and shall require conversion of one such ship in a United States shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States-built for purposes of title VI, except section 607, of the Merchant Marine Act, 1936, as amended, section 901(b) of said Act, and chapter 37 of title 46, United States Code.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 35. Notwithstanding any other provision of this joint resolution, the project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area—is hereby authorized to be prosecuted by the Secretary of the Army substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to en bloc.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. GARN. Mr. President, before we adjourn, I ask the distinguished minority leader if he has anything further he wishes to discuss.

Mr. BYRD. Mr. President, I only want to state for the record that their have been some calls today asking why the Democrats were holding up Calendar No. 396 on the Executive Calendar, message No. 589, concerning the nomination of Frank Henry Habicht II, of the District of Columbia, to be an Assistant Attorney General, vice Carol E. Dinkins, resigned.

For the record, let me state there was no hold on that nomination on this side.

This side is ready to confirm the nomination. I thought I should state that for the record. I hope someone will inform the Justice Department that there is no hold by the Democratic side on that nomination.

Mr. GARN. Mr. President, it is my understanding that that nomination is cleared on both sides, but I have no instructions to take it up today. I expect it would be cleared and acted upon on Monday, so the minority leader is correct.

Mr. BYRD. I thank the distinguished Senator. I have nothing else.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 14, 1933

Mr. GARN. Mr. President, I thank all Senators for their cooperation. I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon Monday, November 14, 1983.

The motion was agreed to and, at 12:40 p.m., the Senate adjourned until Monday, November 14, 1983, at 12 noon.

HOUSE OF REPRESENTATIVES—*November 12, 1983*

(Legislative day of Thursday, November 10, 1983)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m. on Saturday, November 12, 1983.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your blessing be with all who labor in this place and may Your good word sustain them always. We acknowledge those whose work and long hours and devotion to duty are given that the needs of our Nation are met. Continue to provide encouragement and support to staff and Members of this assembly that their actions will help provide for the security and well-being of all people. May Your protection and providence be upon us and those we love and may Your gracious benediction give us peace this day and evermore. Amen.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 413, FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984:

CONFERENCE REPORT (H. REPT. No. 98-540)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 15, 17, 26, 28, 30, 34, 38, 39, 42, 44, and 47.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 10, 11, 13, 14, 16, 31, 35, 37, and 46, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

Sec. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $247,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: Provided, That, unless approved by both the House and the Senate in H.R. 4185, no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements, utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: Provided further, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: Provided further, That, unless approved by both the House and the Senate in H.R. 4185, no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983. ; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

(c) Notwithstanding any other provision of this joint resolution, except section 102, such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1983, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1983, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

National Research Service Awards authorized by section 472(d) of the Public Health Serivce Act;

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980: Provided, That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof: Provided further, That none of the funds made available under this joint resolution may be used to implement any administratively proposed block grant, per capita grant, or similar consolidation of the Refugee Resettlement Program, or to distribute any funds under any such administrative proposal;

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Activities of the Department of Defense, Army National Guard and Army Reserve Operation and Maintenance and National Guard and Reserve Equipment Procurement. ; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

(f) Such amounts as may be necessary for continuing the activities, not otherwise specifically provided for in this joint resolution, which were provided for in H.R. 4139, the Treasury, Postal Service and General Government Appropriations Act, 1984, as passed by the House of Representatives on October 27, 1983, to the extent and in the manner provided for in such Act, and at a rate for operations as was provided for in S. 1646, the Treasury, Postal Service and General Government Appropriations Bill, 1984, as reported to the Senate (S. Rept. 98-186) on July 20, 1983: Provided, That any activity included in the Senate reported bill (S. 1646), but not included in the House passed bill (H.R. 4139), shall be continued at the rate and under the terms and conditions of the Senate reported bill (S. 1646). ; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 106. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United

States Code, shall be continued at the rates in effect on September 1, 1983 (step 14): Provided, That mail for overseas voting and mail for the blind shall continue to be free: Provided further, That six-day delivery and rural delivery of mail shall continue at the 1983 level. ; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 112. Notwithstanding any other provision of law, none of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this joint resolution for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28. ; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 116. There is appropriated to the Department of Justice a total of not more than $100,000 which shall be paid to the person or persons giving information which leads to the arrest and conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section. ; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 121. Funds appropriated or otherwise made available for fiscal year 1984 pursuant to section 101(e) of this joint resolution or the enactment into law of H.R. 3222 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended, until November 18, 1983. ; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the first sum named in said amendment insert: *"$75,000,000"* ; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 139. Notwithstanding any other provision of this joint resolution, there is hereby appropriated $9,000,000 from the Federal Buildings Fund, for design of a Federal Building-United States Courthouse in Newark, New Jersey, and $550,000 from the Federal Buildings Fund, for design necessary for repair of the Customhouse-United States Courthouse in St. Louis, Missouri. ; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 6, 9, 19, 20, 21, 23, 24, 25, 29, 33, 36, 40, 41, and 43.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
JULIAN C. DIXON,
VIC FAZIO,
W. G. (BILL) HEFNER,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
CLARENCE E. MILLER,
JACK F. KEMP,
GEORGE M. O'BRIEN,
Managers on the Part of the House.

MARK O. HATFIELD,
THAD COCHRAN,
MARK ANDREWS,
ROBERT W. KASTEN, JR.
WARREN RUDMAN,
JOHN C. STENNIS,
LAWTON CHILES,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Amendment No. 1: Deletes language proposed by the House which would have extended the expiration date of the continuing resolution of October 1, 1983 (Public Law 98-107) from November 10, 1983 to February 29, 1984.

Amendment No. 2: Inserts introductory appropriation language and provides for continuing activities pending enactment of the Department of Defense Appropriation Act, 1984. The conference agreement provides authority identical to that provided in Public Law 98-107, the current continuing resolution, with two exceptions. Multiyear procurements and new starts may be initiated if they have been approved by both the House and the Senate in H.R. 4185, the Department of Defense Appropriation Act, 1984. The overall annual rate for new obligational authority is $247,000,000,000, the same as provided in P.L. 98-107.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

(b)(1) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority: Provided, That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts, except that the provisions of title V of Public Law 97-121 shall apply including the provisions of section 523 of such title: Provided further, That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $79,720,549 for payment to the "International Bank for Reconstruction and Development", to remain available until expended, and not to exceed $983,220,105 in callable capital subscriptions; $118,423,983 for payment to the "Inter-American Development Bank", to remain available until expended, of which not more than $80,423,000 shall be available for the fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American development Bank Act, and not to exceed $806,464,582 in callable capital subscriptions; $945,000,000 for payment to the "International Development Association", to remain available until expended; $13,232,676 for payment to the "Asian Development Bank", to remain available until expended, and not to exceed $251,377,943 in callable capital subscriptions; $100,000,000 for payment to the "Asian Development Fund", to remain available until expended; $17,986,678 for payment to the "African Development Bank", to remain available until expended, and not to exceed $53,960,036 in callable capital subscriptions; $50,000,000 for payment to the "African Development Fund", to remain available until expended; $314,164,000 for "International Organizations and Programs", including the provisions of section 103(g) of the Foreign Assistance Act of 1961, except that such funds shall be made available only in accordance with the Joint Explanatory Statement of the Committee of Conference accompanying the conference report on this joint resolution (H.J. Res. 413); $715,106,500 for "Agriculture, rural development, and nutrition, Development Assistance"; $240,000,000 for "Population, Development Assistance"; $125,000,000 for "Health, Development Assistance"; $116,477,000 for "Education and human resources development, Development Assistance", of which $4,000,000 shall be available only for scholarships for South African students in accordance with the last sentence of section 105(a) of the Foreign Assistance Act of 1961; $140,288,000 for "Energy and selected development activities, Development Assistance"; $10,000,000 for "Science and technology, Development Assistance": Provided further, That of the funds made available to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $10,000,000 shall be available for Botswana: Provided further, That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the

provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund", which shall be available for obligation until September 30, 1985, except that amounts hereafter deobligated from the Private Sector Revolving Fund are hereby continued available for reobligation for the purposes of such fund; $30,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $36,537,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $25,000,000 for "International disaster assistance", to remain available until expended, of which $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance; $1,100,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; $2,903,250,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $361,533,250 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $16,250,000 for "Trade and Development"; $41,200,000 for "International narcotics control"; $3,000,000 for the "African Development Foundation"; $13,000,000 for the "Inter-American Foundation"; not to exceed $10,000,000 for gross obligations for the amount of direct loans and not to exceed $100,000,000 of contingent liability for total commitments to guarantee loans for the "Overseas Private Investment Corporation"; $115,000,000 for the "Peace Corps"; $323,000,000 for "Migration and Refugee Assistance"; $2,500,000 for "Anti-Terrorism Assistance"; $510,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961; $51,532,000 for "International Military Education and Training"; $1,315,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel), and not less than $465,000,000 shall be available for Egypt; $4,401,250,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales": Provided further, That of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program: Provided further, That not more than $64,800,000 of the total funds and authorities made available under this subsection for programs for military assistance shall be available for El Salvador; not to exceed $225,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $3,865,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: Provided further, That no funds in this subsection shall be available for Guatemala except for economic development projects through private voluntary organizations: Provided further, That none of the funds appropriated or otherwise made available to the Agency for International Development shall be used to fund projects or programs where comparable American private enterprise funding is available: Provided further, That the Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1984, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations: Provided further, That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistant Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter: Provided, That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for development project assistance for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: Provided, That the Appropriations Committees of both Houses of the Congress are noti-

fied fifteen days in advance of the deobligation or reobligation of such funds.

Section 101(b)(1) of this joint resolution may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.
(2) $244,600,000 to carry out section 104(b).
(3) $133,400,000 to carry out section 104(c).
(4) $121,477,000 to carry out section 105.
(5) $160,000,000 to carry out section 106.
(6) $103,000,000 to carry out section 121.
(7) $30,000,000 to carry out section 214.
(8) $266,214,000 to carry out chapter 3 of part I.
(9) $47,000,000 to carry out section 481.
(10) $25,000,000 to carry out section 491.
(11) $3,074,000,000 to carry out chapter 4 of part II.
(12) $639,700,000 to carry out section 503.
(13) $56,452,000 to carry out chapter 5 of part II.
(14) $46,200,000 to carry out chapter 6 of part II.
(15) $22,000,000 to carry out section 661.
(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 for the fiscal year 1984.

Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98-107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT

Section 31(b)(3) of the Arms Export Control Act is amended to read as follows:

"(3) Of the aggregate total of credits (or participations in credits) extended under section 23 of this Act and of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $1,700,000,000 for the fiscal year 1984 shall be available only for Israel, of which not less than $850,000,000 shall be credits under section 23. Of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program.".

Section 31(c) of such Act is amended—

(a) in the first sentence by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984"; and

(b) in the last sentence—

(1) by striking out "$550,000,000" and inserting in lieu thereof "$850,000,000 for the fiscal year 1984"; and

(2) by striking out "for each such year".

Section 31(b)(6) of such Act is amended to read as follows:

"(6) Of the total amounts of credits (or participations in credits) extended under section 23 of this Act, not less than $465,000,000 for the fiscal year 1984 shall be available only for Egypt, and Egypt shall be released from its contractual liability to repay the United States Government with respect to such credits (and participations in credits). Of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $900,000,000 for the fiscal year 1984 shall be available only for Egypt.".

Section 31(b)(5) of such Act is amended by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984".

Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 532. EARMARKING FOR ISRAEL AND EGYPT.—Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1984, not less than $910,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt.".

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set fourth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the Intenational Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragraph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted, except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides both authorization and appropriations for foreign assistance programs for fiscal year 1984.

When the Continuing Resolution was before the House, an amendment was offered which authorized the foreign assistance programs that were funded in the resolution. To the extent possible the managers on the part of the House and of the Senate have attempted to preserve the prerogatives and provisions of the authorizing language.

Those Members who are responsible for providing authorizing legislation in the difficult area of foreign affairs are to be commended for the efforts they have made to preserve in an orderly manner the regular authorization-appropriation process. The conferees are hopeful that the Administration and the leadership of the Congress will take the necessary steps to insure that the authorizations for foreign assistance in fiscal year 1985 will be enacted in a timely manner, and that it will not be necessary to use an appropriations measure to provide for authorizations.

COUNTRY ALLOCATIONS FOR MILITARY ASSISTANCE

The conferees have not earmarked military funds on a country by country basis in either Foreign Military Sales Credits or the Military Assistance Program, with the exception of Israel and Egypt. Thus, it will be up to the Administration to make country allocations for these two programs. Under the various rules governing this procedure, the Administration will be able to allocate funds for an individual country up to the budget request level. However, since the overall amount appropriated for these two programs is below the budget request, not every country will be able to receive the full amount requested.

The managers direct that the Administration provide to the appropriate committees of the Congress the country allocations within 30 days of enactment of this Resolution.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

In accordance with language in the resolution, the allocation for the funds provided for International Organizations and Programs is as follows:

U.N. Environment Program (UNEP)	$10,000,000
U.N. Development Program (UNDP)	160,000,000
U.N. Children's Fund (UNICEF)	52,500,000
International Atomic Energy Agency (IAEA)	14,814,000
OAS Development Assistance Programs (OAS)	15,500,000
WMO/Voluntary Cooperation Program (WMO/VCP)	2,300,000
U.N. Capital Development Fund (UNCDF)	2,000,000
U.N. Educational and Training Program for Southern Africa (UNETPSA)	1,000,000
U.N. Voluntary Fund for the Decade for Women (VFDFW)	500,000
Convention on Trade in Endangered Species (CITES)	150,000
World Food Program (WFP)	2,000,000
U.N. Institute for Namibia (UNIN)	500,000
U.N. Trust Fund for South Africa (UNTFSA)	343,000
U.N. Institute for Training and Research (UNITAR)	422,000
U.N. Fellowship Program	449,000
International Fund for Agricultural Development (IFAD)	50,000,000
Expanded Program on Immunization Revolving Fund of the Pan American Health Organization	1,686,000
Total	314,164,000

GREECE AND TURKEY

The managers direct that the traditional seven to ten ratio be adhered to in regard to military assistance programs for Greece and Turkey.

PORTUGAL

The managers direct that funds be provided to Portugal for the Foreign Military Credit Sales Program, the Military Assistance Program, and the Economic Support Fund at the levels requested in the budget.

MIGRATION AND REFUGEE ASSISTANCE

The managers have provided $323,000,000 for the Migration and Refugee Assistance Account, a reduction of $21,500,000 below the budget request. This reduction was made primarily because the budget requests of recent years have been based on erroneous estimates of refugee needs and admissions which tended to inflate the level of required funding. In addition, the managers note that over $30 million has been available for over two years in the Emergency Migration and Refugee Assistance account.

Should refugee problems and admissions in 1984 result in a real need for additional funds beyond those now available, the managers will sympathetically consider such a request.

EXPORT-IMPORT BANK

The managers are recommending for direct loans for the Export-Import Bank a level slightly higher than the budget request. While the increase is largely symbolic, it represents the managers' strong support for the Bank. However, the managers are seriously concerned about the low levels of loan commitment which occurred in the direct loan program in fiscal year 1983. Current estimates are that out of the $4,400,000,000 which the Congress provided in fiscal year 1983 only $890,000,000 will have been used. The Managers believe that part of the reason for this low level of activity is the failure of the Bank to pursue aggressively policies which would result in greater lending.

Several estimates suggest that the need for greater loan commitment will grow substantially in fiscal year 1984. If in fact demand for loans does exceed the recommended level of $3,865,000,000 the Committee will provide additional funds up to the $4,400,000,000 provided in fiscal year 1983. Because of their strong commitment to the Export-Import Bank, the Managers are prepared to do this whether or not a budget request for additional funds is forthcoming from the Administration.

Amendment No. 4: Inserts language proposed by the Senate which continues certain activities at the current rate, amended so that the provisions of Section 102 apply to the subsection. The House resolution provided for continuation of these activities by extending the termination date of Public Law 98-107. The amendment also inserts new language proposed by the Senate which provides that none of the funds made available under this joint resolution may be used to implement any administratively proposed block grant, per capita grant, or similar consolidation of the Refugee Resettlement Program, or to distribute any funds under any such administrative proposal.

DEPARTMENT OF AGRICULTURE

Amendment No. 5: Provides that funding for the Agriculture, Rural Development, and Related Agencies programs shall be at the rate of the conference agreement as proposed by the Senate. The House resolution, by extending only the date of the resolution, would have provided funding as specified in the House passed appropriation bill with certain exceptions. Both the House and Senate provision were essentially identical as to the funding level.

FARMERS HOME ADMINISTRATION

RURAL DEVELOPMENT INSURANCE FUND

Water and Waste Disposal Facility Loans

The conferees will expect the Department of Agriculture to revise the procedures for determining the interest rate to be charged borrowers for loans for water and waste disposal facilities so that such rate shall be the lower of either the rate in effect at the time of the loan approval or the rate in effect at the time of the loan closing. The law allows the Secretary to follow this procedure, and by following this procedure water and waste disposal facility loan borrowers will be treated the same as other Farmers Home Administration borrowers.

WIC PROGRAM

The conference agreement provides $1,060,000,000 for the special supplemental Feeding program for Women, Infants and Children for the period October 1, 1983 through July 10, 1984 and assumes a fiscal year 1984 appropriation level of $1,360,000,000. The appropriation of $1,360,000,000, combined with funds carried over from fiscal year 1983 which the Secretary is required to recover and reallocate as expeditiously as possible, should be sufficient to maintain the fiscal year 1983 year-end caseload.

Any action by the Secretary of Agriculture, the Office of Management and Budget, or the states to spread the $1,060,000,000 appropriated herein beyond July 10, thereby reducing participation, would be in direct violation of the intent of the conferees.

RATE OF OPERATIONS FOR COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

(e) Notwithstanding any other provision of this joint resolution except section 102, such amounts as may be necessary for programs, projects, or activities not otherwise specifically provided for in this joint resolution for which appropriations, funds, or other authority would be available in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984 (H.R. 3222), at a rate for operations and to the extent and in the manner that was provided for in Public Law 98-107: Provided, That none of the funds made available in this joint resolution for the Department of Justice and the Federal Trade Commission may be used for any activity, the purpose of which is to overturn or alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: Provided further, That nothing in this provision shall prohibit any employee of the Department of Justice or the Federal Trade Commission from presenting testimony on this matter before appropriate committees of the House and Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that although this resolution provides an annual rate of $250,000,000 for the Economic Development Administration, the Department should obligate funds at the rate ($240,000,000) and in the manner prescribed by the conference agreement (H. Report 98-478) on H.R. 3222.

The conferees are agreed that the transfer from the Disaster Loan Fund to the "Salaries and Expenses" appropriation of the Small Business Administration under this resolution shall be at an annual rate of $26,600,000 as provided for in the Senate passed bill.

The conferees are agreed that the program level under this joint resolution for Sec. 7(a) direct loans in the Business Loan and Investment Fund of the Small Business Administration shall be at an annual rate of $45,300,000 and for economic opportunity loans shall be at an annual rate of $45,000,000, and that both amounts shall be derived from FY 1983 carryover balances. The conferees are further agreed that the program levels for all other SBA direct loan programs under the resolution shall be at the annual rates provided by the Senate passed bill and that the program levels for all guaranteed business loan programs shall be at the annual rates provided by the House passed bill.

The conferees are aware that the annual rate ($942,871,000) agreed to in this joint resolution for the National Oceanic and Atmospheric Administration, "Operations, Research, and Facilities", appropriation does not provide for the following urgently needed items: Gulf oyster fishery disaster assistance ($2,500,000); the launch of the Satellite LANDSAT D' ($20,400,000); and the next generation weather radar system—NEXRAD ($10,000,000). The conferees are agreed, however, that the Appropriations Committees of the House and Senate will favorably consider a reprogramming proposal to fund these items out of the total amount provided, except that any such reprogramming proposal shall not encroach upon the annual rate of $35,000,000 designated for the Sea Grant Program.

The conferees are agreed that an annual rate of $467,853,000 shall be available under this joint resolution for the "Salaries and Expenses" appropriation of the United States Information Agency.

The conferees are aware that no funds are provided under this joint resolution for Radio Broadcasting to Cuba which was funded under the conference agreement on H.R. 3222 at $10,000,000. Therefore, the conferees direct the United States Information Agency to submit a reprogramming request to the Appropriations Committees of the House and Senate for this item from the total amount available under the resolution for the Voice of America in the United States Information Agency's "Salaries and Expenses" and "Acquisition and Construction of Radio Facilities" appropriations.

The conferees are also aware that no funds are provided under this joint resolution for the National Endowment for Democracy which was funded under the conference agreement on H.R. 3222 at $18,000,000. Therefore, the conferees are agreed that the House and Senate Appropriations Committees will favorably consider a reprogramming request for this item, subject to enactment of an authorization, from the total amount available under the resolution for the "Salaries and Expenses" appropriation of the United States Information Agency.

The conferees are further agreed that any funds reprogrammed for Radio Broadcasting to Cuba and the National Endowment for Democracy shall be restored to the appropriate accounts when the FY 1984 program and pay supplemental appropriations bill is considered.

Amendment No. 7: Provides continuing authority for activities under the Treasury, Postal Service and General Government Appropriations Act, 1984, at the rate of operations contained in the Senate reported bill (S. 1646) and under the terms and conditions provided in the House passed bill (H.R. 4139). The House version of the joint resolution provided appropriations at the rate of operations and to the extent and in the manner provided in H.R. 4139 as passed the House of Representatives on October 27, 1983. The Senate version provided appropriations at the rate of operations in S. 1646 as reported to the Senate on July 20, 1983 and to the extent and in the manner provided in H.R. 4139 as passed the House of Representatives on October 27, 1983.

The conference agreement also provides that when an activity is included in only the Senate reported bill, it shall be continued at the rate and under the terms and conditions of the Senate reported bill. The conferees are also agreed that, within the amounts made available to the U.S. Secret Service, $15,000,000 is available for payment to state and local governments for protection of missions because funds are provided to that extent and in that manner in the House passed bill.

Amendment No. 8: Deletes language proposed by the House which would have authorized and appropriated funds for foreign assistance programs for Fiscal Year 1984. These provisions are covered in amendment numbered 3.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

(g) Notwithstanding any other provision of this joint resolution, the following amounts are hereby made available, in addition to funds otherwise available, for the following purposes:

EDUCATION FOR THE HANDICAPPED

For an additional amount for carrying out section 611 of the Education of the Handicapped Act, $25,000,000 to become available on July 1, 1984 and to remain available until September 30, 1985.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For an additional amount for carrying out section 100(b)(1) of the Rehabilitation Act of 1973, $10,000,000.

GRANTS TO SCHOOLS WITH SUBSTANTIAL NUMBERS OF IMMIGRANTS

For carrying out emergency immigrant education assistance under title V of H.R. 3520 as passed the House of Representatives September 13, 1983, $30,000,000.

HIGHER EDUCATION

For an additional amount for work-study programs under title IV of the Higher Education Act of 1965, $5,000,000.

For an additional amount for supplemental educational opportunity grants under title IV of the Higher Education Act of 1965, $5,000,000.

COMMUNITY HEALTH CENTERS

For an additional amount for carrying out titles III and XIX of the Public Health Service Act with respect to community health centers, $10,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For an additional amount for carrying out the National Technical Institute for the Deaf Act, $1,700,000.

GALLAUDET COLLEGE

For an additional amount for carrying out the Act of June 18, 1954 (68 Stat. 265), relating to Gallaudet College, $2,000,000.

FOOD DISTRIBUTION AND EMERGENCY SHELTER

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $10,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this joint resolution or any other provision of law, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The national board shall consist of seven members. The United Way of America, the Salvation Army, the Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board. The representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor

or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $10,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes funding included in the House-passed resolution for the low-income home energy assistance program. The conferees take note of the letter from the Director of the Office of Management and Budget relating to this program, the text of which follows:

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 9, 1983.

Hon. LOWELL WEICKER,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN WEICKER: This is to clarify our understanding with regard to the appropriation for the low-income energy heating assistance program.

The Administration believes that additional resources will be forthcoming for this program upon disposition of the Exxon case. The government has won this case and no government appeal of the remedy has been entered.

As per our previous understanding, should it become apparent later this fiscal year that a) the states require additional funding; and b) the funds expected from the Exxon case will not be available on a timely basis, we will request a supplemental appropriation in the amount of the shortfall.

For the interim let me stress that $1.951 billion is available for the low-income energy program in FY 1984 as a result of a $76 million carryover of FY 1983 funds and the $1.875 billion provided in the Labor-HHS appropriation bill. This is precisely the amount obligated in FY 1983 after adjustments for carryover and the $115 million transferred to other block grants.

We have apportioned $241 million of the 1984 amount for the third and fourth fiscal quarters (April through September). If it becomes evident during the heavy heating months beginning in December that states need additional funds for the winter period, we will reapportion the third and fourth quarter money for immediate availability to meet these needs.

Should it also be evident in this event that the Exxon case funds will not be available to the states for the third and fourth fiscal quarters, we will promptly seek a 1984 supplemental sufficient to restore the existing third and fourth quarter apportionments and thereby maintain program levels throughout the remainder of the year.

I hope this provides a clear statement of our mutual understanding and commitments, and an explanation as to why a supplemental appropriation is not needed at the present time.

Sincerely,

DAVID A. STOCKMAN.

The conferees direct that if the judgement funds from the case *United States* v. *Exxon* are not available for the low-income home energy assistance program by early February 1984, the Office of Management and Budget will re-apportion the available 1984 funds and submit a request for supplemental appropriations for the low-income home energy assistance program in the amount of at least $200 million.

The conference agreement provides $10,000,000 for an emergency food and shelter program to be carried out by the Federal Emergency Management Agency in place of a $10,000,000 emergency shelter program to be implemented by the Department of Housing and Urban Development as proposed by the House. This action will ensure that the funds are used to provide food and shelter assistance for needy individuals during the coming winter. The conferees have taken this action because of a concern that HUD could not implement the new program in time to provide assistance during this winter.

The conference agreement deletes House language involving the WIC Program, mandatory monthly reporting-retrospective budgeting under the food stamp program and amendments to the National School Lunch Act. The intention of the conferees regarding the WIC Program has been addressed in connection with Amendment No. 5. Mandatory monthly reporting-retrospective budgeting and amendments to the National School Lunch Act have been passed over without prejudice since they are major legislative changes and should be addressed by the Committees of jurisdiction.

Amendment No. 10: Provides that authority granted pursuant to the resolution is available until September 30, 1984, as proposed by the Senate.

Amendment No. 11: Adds three provisions that are technical in nature as proposed by the Senate. The House passed resolution carried these provisions by reference.

Amendment No. 12: Inserts language proposed by the Senate amended to appropriate sufficient funds to the Postal Service Fund so that postal rates for preferred rate mailers can be continued at step 14. The Senate amendment had proposed that the rates be increased to step 15.

Amendment No. 13: Adds a provision that is technical in nature as proposed by the Senate. The House passed resolution carried this provision by reference.

Amendment No. 14: Inserts language proposed by the Senate which provides that funds in the Federal Buildings Fund of the General Services Administration may be used to initiate new projects which are included in the Treasury, Postal Service and General Government Appropriations Act, 1984 as passed by the House or reported to the Senate.

Amendment No. 15: Deletes language proposed by the Senate which would have limited blue collar pay increases. This provision is not necessary because this limitation is contained in H.R. 4139 (Section 616) and is incorporated by Amendment No. 7 in this Continuing Resolution.

Amendment No. 16: Inserts language proposed by the Senate which makes available $100,000 to the Federal Law Enforcement Training Center for plans, major maintenance and improvements to the Center's lands and facilities.

Amendment No. 17: Deletes language proposed by the Senate which would have required certain equipment in the motor pool fleet of the General Services Administration.

The General Services Administration is directed to study the use of EPA-certified energy saving devices for use on the motor pool fleet and report back to the House and Senate Committees on Appropriations with recommendations by January 15, 1984.

Amendment No. 18: Inserts language proposed by the Senate, amended to change the classes of employees covered, which provides that no funds may be made available to the General Services Administration to procure by contract certain services performed by employees of the General Services Administration. This language also provides that funds may be obligated for procurement by contract of the covered services with sheltered workshops employing the severely handicapped.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 113. Notwithstanding any other provision of this joint resolution, $7,400,000 is appropriated to the Tennessee Valley Authority, to be available for the purpose of providing recreation on the Ocoee River, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water, all of which shall be reimbursed from imposition of fees for such recreation activities.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate requiring that, during fiscal year 1984, departments and agencies make loan guarantee or insurance commitments up to the full amounts provided in law subject only to the limitations contained in appropriation acts and the availability of qualified applicatants.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends Title 18 of the United States Code with regard to forging endorsements on Treasury checks or bonds or securities of the United States.

PAYMENT OF REWARD FOR APPREHENSION OF TERRORIST

Amendment No. 22: Provides an appropriation of not more than a total of $100,000 for the Department of Justice which shall be paid to the person or persons giving information which leads to the arrest and conviction of those responsible for the bombing of the Senate wing of the United States Capitol on November 7, 1983. The Senate had proposed an appropriation of $100,000

for payment of a reward to any person who furnishes substantial information which leads to an arrest and conviction for such a bombing. The House had proposed no appropriation for this item.

NATIONAL PARK SERVICE

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 117. Notwithstanding any other provision of law, the ban on the use of United States Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1985: Provided, That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York are exempted from such ban: Provided further, That the exemption established herein is subject to reevaluation for safety by the five member United States Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The operation of commercial vehicles on U.S. Route 209 in the Delaware Water Gap NRA, Pennsylvania, was temporarily banned by Public Law 98-63. The managers have agreed to extend this ban for two years until December 31, 1985. In addition to the exemptions established in the previous legislation, one hundred and fifty trucks, in both directions, serving Orange County, New York, each day are exempted from the ban. The managers agree further that the five member commission established by the Secretary of the Interior shall continue for two years to monitor the impact of the ban and to evaluate the operation of its earlier recommendations while developing new suggestions for the use of U.S. Route 209 and neighboring roads.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment amends title 5 of the United States Code to provide increased allowances available to certain federal employees with regard to travel, transportation and relocation expenses.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 119. Notwithstanding any other provision of this joint resolution, (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this joint resolution.

(b) The Secretary of the Army shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this joint resolution. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

The managers on the part of the Senate will move to recede and concur in the amendment of the House to the amendment of the Senate.

Amendment No. 26: Deletes language proposed by the Senate which would have appropriated $1,000,000 to the U.S. Customs Service and would have mandated that at least $4,240,000 be used for investigatory manpower for the enforcement of customs laws against fraud that involve the importation of steel.

CUSTOMS INTERCEPTOR PROGRAM

The conferees are agreed that pursuant to maintaining the optimum degree of capability in the Customs Service Air Interceptor Program, the conferees recognize that the Customs low-flyer detection net is severely limited by a lack of digitizers. To this extent, the conferees direct the Customs Service to purchase up to $2,000,000 allocated to procure 20 modified AN/AQR-17 DMED's to perform the digitizer function at a price not to exceed $100,000 per unit, including support for each unit.

OBLIGATION OF FUNDS—DEPARTMENT OF STATE AND U.S. INFORMATION AGENCY

Amendment No. 27: Provides language, proposed by the Senate, with a section number change, making funds appropriated or otherwise made available for fiscal year 1984 pursuant to section 101(e) of this joint resolution or enactment into law of H.R. 3222, available until November 18, 1983, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended.

AMENDMENT OF BANKRUPTCY REFORM ACT OF 1978

Amendment No. 28: Deletes Section 122, proposed by the Senate, which would have amended Section 403(e) of the Bankruptcy Reform Act of 1978 (Public Law 95-598) to prohibit the assessment of certain fees that may be charged in certain bankruptcy proceedings and to eliminate the referees' salary and expense fund account and transfer any remaining balances to the general fund of the Treasury.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides that the Secretary of the Treasury shall annually sell to the public sets of uncirculated and proof coins and shall solicit those sales through the use of the customer list of the Bureau of the Mint.

DEPARTMENT OF AGRICULTURE

PRODUCTION LOSS DETERMINATIONS

Amendment No. 30: Deletes Senate language relating to loss determinations under the disaster program. The conferees expect that the Secretary of Agriculture will not implement or enforce that portion of any regulation, ruling, policy, or administrative determination which allows the inclusion of projected production determinations from payment-in-kind or land diversion program participation, or any source other than actual production, in making a single enterprise production loss determination for the 1983 crop year under section 1970 of title 7, United States Code.

JOINT STUDY PANEL ON THE SOCIAL SECURITY ADMINISTRATION

Amendment No. 31: Provides 165,000 as proposed by the Senate for a study, authorized by the Social Security Amendments of 1983, concerning the establishment of the Social Security Administration as an independent agency.

ARCHITECT OF THE CAPITOL

Subject to the approval of the Speaker, in order to meet requirements of House rules, provision shall be made for adequate space for the meetings of the House Committee on Appropriations preferably in the Rayburn Building.

To make such space available, the Architect of the Capitol shall provide existing space for any Committee which would be affected by any change and arrange such space to suit the Chairman and Members of the Committee.

It is the hope of the conferees that such facilities shall be ready for use by January 23rd, when the Congress is expected to return.

Amendment No. 32: Inserts Sec. 126 proposed by the Senate appropriating $150,000,000 for veterans' job training, amended to appropriate $75,000,000. The conferees fully intend that the $150,000,000 requested for veterans' job training in fiscal year 1984 will be provided. The additional $75,000,000 will be included in H.R. 3959, the Supplemental Appropriations Bill which is scheduled for conference on November 14.

In a letter dated November 10, 1983, the Director of the Office of Management and Budget stated that he would recommend the signing of the supplemental if it contained the veterans' job training funds and if that bill "was completed within the scope of the two bills". The conferees have agreed to this split funding approach in order to ensure that funding is available for this program as soon as possible. However, the conferees expect that the remaining $75,000,000 will be provided in H.R. 3959 and that such an agreement will be acted upon by both Houses and sent to the President for his signature before the end of this session.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows.

SEC. 127. The paragraph under the heading "Housing Programs, Annual Contributions for Assisted Housing" in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), is amended by striking out the period at the end thereof and inserting a colon in lieu thereof and the following: "Provided further, That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso of this paragraph are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199): Provided further, That upon enactment of this joint resolution, $2,217,150,000 of budget authority shall be used only for the section 8 existing housing program (42 U.S.C. 1437f), $540,000,000 of budget authority shall be used only for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), and $900,000,000 of budget authority shall be used only for the development or acquisition costs of public housing other than for Indian families: Provided further, That, if no authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984, then the amount of budget authority to be used only for the section 8 existing housing pro-

gram is increased to $3,922,650,000 as of January 1, 1984, the amount of contracts for annual contributions as provided under this heading in Public Law 98-45 is hereby increased by $23,551,393, and the $1,500,000,000 of budget authority deferred until January 1, 1984 in the second proviso under this heading in Public Law 98-45, shall, on January 1, 1984, be added to and merged with budget authority which is subject to the fourth proviso under such heading: Provided further, That if an authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984, then the paragraph under this heading and the amendments provided in this joint resolution are modified as follows: (1) the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984, in the second proviso under this heading in Public Law 98-45 shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading; (2) the amount of budget authority that shall only be used for the section 8 existing housing program (42 U.S.C. 1437f) would be $2,217,150,000; and (3) the $23,551,393 of additional contract authority provided in the previous proviso would not become available for contracts for annual contributions under section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c)."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

At the time the 1984 HUD-Independent Agencies Appropriation bill was in conference, concern was expressed that no action be taken that would preempt decisions made in a housing authorization bill. To address this concern, a $1,500,000,000 budget authority reserve was established pending enactment of a housing authorization bill in this session. The availabilty of these funds was deferred until January 1, 1984.

In negotiations with the Senate on the 1984 HUD-Independent Agencies Appropriation bill, an agreement was reached that no more than 100,000 incremental units of subsidized housing would be provided during fiscal year 1984. The HUD bill, as enacted, included funding for approximately 61,500 incremental units. That permitted a maximum of 38,500 additional incremental units that could be funded from within the $1,500,000,000 that was set aside in the temporary reserve. It was the intention of the conferees that the make-up and allocation of those units would be determined in subsequent appropriation legislation from within the $1,500,000,000—and would be based on provisions in a housing authorization bill—if such an authorization bill was enacted before the end of this session.

The Committee of Conference has included language in this joint resolution which addresses the question of a potential housing authorization bill on the basis of the following conceptual framework:

1. If by January 1, 1984, no housing authorization bill is enacted—the $1,500,000,000 held in reserve until that date will be used for additional section 8 existing housing units over and above the level currently carried in the 1984 HUD-Independent Agencies Appropriation Act. A table reflecting such distribution follows:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS

	Units	Cost	Contract authority	Term	Budget authority
Carryover	NA	NA	$56,989,998	NA	$1,464,822,394
Recaptures	NA	NA	102,393,000	NA	2,500,000,000
Permanent authority	NA	NA	19,397,609	NA	19,397,609
New authority	NA	NA	636,336,000	NA	9,912,928,000
Total available	NA		815,116,607		13,897,148,003
Public housing:					
Public housing	5,000	$6,000	30,000,000	30	900,000,000
Indian housing	2,500	5,565	13,912,000	28	389,550,000
Amendments	NA	NA	6,900,000	NA	250,000,000
Section 23 (EHAP owners)	(4,200)	NA	6,000,000	5	30,000,000
Lease adjustments	NA	NA	22,300,000	1	22,300,000
Interest rate adjustments	NA	NA	6,666,000	NA	200,000,000
Modernization	NA	NA	77,500,000	20	1,550,000,000
Subtotal, public housing	7,500		163,278,000		3,341,850,000
Section 8:					
Section 202	14,000	6,880	96,320,000	20	1,926,400,000
Existing	57,500	4,548	261,510,000	15	3,922,650,000
Moderate rehabilitation	7,500	4,800	36,000,000	15	540,000,000
Loan management	5,000	3,600	18,000,000	5	90,000,000
Property disposition	10,000	4,900	49,000,000	15	735,000,000
Conversions:					
Section 23:					
EHAP	5,200	4,231	22,000,000	5	110,000,000
Regular	3,000	2,850	8,550,000	15	128,250,000
Rent supplement/RAP	40,000	3,225	129,010,000	15	1,935,153,000
Subtotal, conversions	48,200		159,560,000		2,173,403,000
Amendments:					
New/Rehabilitated:					
Preconstruction	NA	NA	10,000,000	23	230,000,000
Project reserves	NA	NA	15,000,000	5	75,000,000
Existing housing:					
Regular	NA	NA	20,000,000	3	60,000,000
Loan management	NA	NA	8,000,000	10	80,000,000
Moderate rehab	NA	NA	2,000,000	10	20,000,000
Subtotal, amendments	NA		55,000,000		465,000,000
Subtotal, section 8	142,200		675,390,000		9,852,453,000
Total, public housing and section 8	149,700		838,668,000		13,194,303,000
Additional contract authority required			−23,551,393		NA
Unutilized			NA		702,845,003

2. If a housing authorization bill is enacted by January 1, 1984—the $1,500,000,000 currently held in reserve will automatically be deferred from that date until March 31, 1984. A table reflecting such distribution follows:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS

	Units	Cost	Contract authority	Term	Budget authority
Carryover	NA	NA	$56,989,998	NA	$1,464,822,394
Recaptures	NA	NA	102,393,000	NA	2,500,000,000
Permanent authority	NA	NA	19,397,609	NA	19,397,609
New authority	NA	NA	636,336,000	NA	9,912,928,000
Total available	NA		815,116,607		13,897,148,003

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS—Continued

	Units	Cost	Contract authority	Term	Budget authority
Public housing:					
Public housing	5,000	$6,000	30,000,000	30	900,000,000
Indian housing	2,500	5,565	13,912,000	28	389,550,000
Amendments	NA	NA	6,666,000	NA	200,000,000
Section 23 (EHAP owners)	(4,200)	NA	6,000,000	5	30,000,000
Lease adjustments	NA	NA	22,300,000	1	22,300,000
Interest rate adjustments	NA	NA	6,666,000	NA	200,000,000
Modernization	NA	NA	77,500,000	20	1,550,000,000
Subtotal, public housing	7,500		163,044,000		3,291,850,000
Section 8:					
Section 202	14,000	6,880	96,320,000	20	1,926,400,000
Existing	32,500	4,548	147,810,000	15	2,217,150,000
Moderate rehabilitation	7,500	4,800	36,000,000	15	540,000,000
Loan management	5,000	3,600	18,000,000	5	90,000,000
Property disposition	10,000	4,900	49,000,000	15	735,000,000
Conversions:					
Section 23:					
EHAP	5,200	4,231	22,000,000	5	110,000,000
Regular	3,000	2,850	8,550,000	15	128,250,000
Rent supplement/RAP	40,000	3,225	129,010,000	15	1,935,153,000
Subtotal, conversions	48,200		159,560,000		2,173,403,000
Deferred authority	NA	NA	100,000,000	15	1,500,000,000
Amendments:					
New/rehabilitated:					
Preconstruction	NA	NA	10,000,000	23	230,000,000
Project reserves	NA	NA	15,000,000	5	75,000,000
Existing housing:					
Regular	NA	NA	12,000,000	3	36,000,000
Loan management	NA	NA	5,000,000	10	50,000,000
Moderate rehab	NA	NA	2,000,000	10	20,000,000
Subtotal, amendments	NA		44,000,000		411,000,000
Subtotal, section 8	117,200		650,690,000		9,592,953,000
Total, public housing and section 8	124,700		813,734,000		12,884,803,000
Unutilized			1,382,607		1,012,345,003

The conferees have provided authority for the Secretary to use $6,000,000 of contract authority and $30,000,000 of budget authority to extend the annual contributions contracts and thereby continue to provide assistance for eligible homeowners participating in the housing allowance supply experiment. The continuation of such assistance, initiated under section 23, is authorized by Public Law 93-35, for those homeowners who were participating in this program. The administering agencies will be advised by the Department that no additional homeowners are to be enrolled as current participants drop out. In addition, the Secretary shall convert the assistance being provided to renters participating in the experiment to the section 8 existing housing program. The Department estimates that $22,000,000 of contract authority and $110,000,000 of budget authority will be required for these conversions. This will allow the agencies administering the housing allowance supply experiment to continue assistance to those renters who are eligible for assistance under the section 8 program.

In providing these additional funds, it is to be understood by all parties that the unit assistance being extended satisfies fully the Department's "fair share" allocation for these counties over the term of the annual contributions contracts. The conferees intend that the additional five-year assistance will be the final amendments for those individuals participating in the housing allowance supply experiment.

The conferees have provided sufficient authority to assist all participants in the housing allowance supply experiment—both homeowners and renters. The Department is expected to proceed with assistance for those participants whose contracts expire in March 1984. The conferees also expect HUD to provide cost information to the Committees on Appropriations prior to assisting those participants whose contracts expire in September 1984.

In summary, the conferees have agreed to continue the existing $1,500,000,000 reserve until at least January 1, 1984. This will give the authorizing committees the maximum opportunity to enact a housing bill before the end of the first session of this Congress.

Amendment No. 34. Deletes language proposed by the Senate which would have authorized $677,000,000 for the Military Assistance Program.

Amendment No. 35: Inserts language proposed by the Senate which prohibits the use of funds by the General Services Administration from selling or otherwise disposing of the Hickam Air Force Base Administrative Annex unless it is sold or otherwise disposed of to the State of Hawaii for airport development purposes.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $1,000,000 from unobligated funds as of September 30, 1983, from the appropriation for closeout activities of the Community Services Administration.

Amendment No. 37: Inserts language proposed by the Senate which appropriates $2,650,000 for the repair of the Pension Building in Washington, D.C.

Amendment No. 38: Deletes language proposed by the Senate which would have appropriated $14,000,000 for purchase, design, repairs, and alterations of a purchased building in the Wilkes-Barre, Pennsylvania area.

SECURITIES AND EXCHANGE COMMISSION

Amendment No. 39: Deletes language proposed by the Senate which would have prohibited the Securities and Exchange Commission from implementing changes in fiscal year 1984 to the executive remuneration disclosure requirements in effect prior to September 30, 1982.

MARITIME ADMINISTRATION

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 134. Upon application, prior to January 1, 1984, by a subsidized United States-flag liner company holding a written option to purchase foreign-built liner vessels executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 existing foreign-built vessels for operation under United States flag, and shall require conversion of two such vessels in a United States shipyard. Upon application prior to June 1, 1984, by a subsized United States-flag liner company which has taken delivery from United States shipyards of new United States-built liner vessels that were introduced into subsidized service within two years preceding the date of enactment of this joint resolution, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under United States flag, and shall require conversion of one such ship in a United States shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States-built for pur-

poses of title VI, except section 607, of the Merchant Marine Act, 1936, as amended, section 901(b) of said Act, and chapter 37 of title 46, United States Code.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 135. Notwithstanding any other provision of this joint resolution, the project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area—is hereby authorized to be prosecuted by the Secretary of the Army substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

The managers on the part of the Senate will move to recede and concur in the amendment of the House to the amendment of the Senate.

The conferees are aware that since completion of the Phase I study of Brunswick Harbor in 1980, the Georgia Ports Authority has completed a navigation channel connecting Colonels Island with the existing Federal navigation channel. The Authority is presently constructing extensive, new cargo terminal facilities on Colonels Island, with cargo shipments expected to begin in 1985. This will result in an increased use of the channels which are already constricted for newer, longer vessels. Within available funds, the conferees expect the Corps of Engineers to resume the study and reevaluate and update the economic data from the earlier reconnaissance.

Amendment No. 42: Deletes language proposed by the Senate relating to hopper dredges available for use on the Great Lakes.

UNITED STATES FISH AND WILDLIFE SERVICE

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that no funds may be used to process or grant oil and gas lease applications on any Federal wildlife refuge lands outside of Alaska unless and until the Secretary of the Interior first promulgates, pursuant to section 533 of the Administrative Procedure Act, revisions to his existing regulations to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement thereon.

CAPITAL CHILDREN'S MUSEUM

Amendment No. 44: Deletes appropriation of $300,000 proposed by the Senate for the Capital Children's Museum. The managers urge the appropriate legislative committees to authorize appropriations for the Capital Children's Museum at the earliest date possible.

ENERGY SECURITY RESERVE

The Great Plains gasification project, with a Federal Energy Regulatory Commission approved tariff, will be America's first commercial plant to convert coal into synthetic pipeline quality gas. This project has already provided a substantial amount of valuable experience to the United States about the financing, design, construction, and startup of a massive coal conversion plant, as well as experience in environmental permitting, land and water management, and community and socioeconomic planning, not available from pilot plant operations. However, the true value of Great Plains will not be achieved until the plant is completed and operated.

The managers believe that the Great Plains gasification project now under construction in North Dakota is a crucial element in our national synthetic fuels program. The managers further believe that the project is in serious jeopardy.

The managers continue to believe that the Corporation can and should go to direct negotiations for this project under section 131(b)(4) of the Energy Security Act. However, in view of the grave concern that the Great Plains project not be delayed or further jeopardized for any reason, the managers urge the Board of Directors in the strongest possible terms to open a solicitation at its December 1, 1983, meeting under which the Great Plains gasification project might apply for price guarantee assistance from the Corporation. The managers believe that this is consistent with the charter of the U.S. Synthetic Fuels Corporation.

The Synthetic Fuels Corporation must insure that the Great Plains project proceeds to construction completion and operation in order to avoid the national loss of the valuable experience that is to be gained from completion of construction, startup, and operation of the Great Plains gasification project, and in order to avoid substantial abandonment costs.

Amendment No. 45: Inserts language proposed by the Senate, amended to change amounts, which appropriates $9,550,000 from the Federal Buildings Fund of the General Services Administration for design and other work on two federal buildings. Of the amount appropriated, $9,000,000 is for design of a Federal Building—United States Court House in Newark, New Jersey and $550,000 is for design necessary for repair of the Customhouse—United States Courthouse in St. Louis, Missouri.

Amendment No. 46: Inserts section number proposed by the Senate.

Amendment No. 47: Deletes language proposed by the Senate which would have amended Section 101(d) of P.L. 98-107. The conferees are agreed that continuing authority is provided for the Treasury, Postal Service and General Government Appropriations Act, 1984 in Section 101(f) (Amendment No. 7) of this Continuing Resolution.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
JULIAN C. DIXON,
VIC FAZIO,
W. G. (BILL) HEFNER,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
CLARENCE E. MILLER,
JACK F. KEMP,
GEORGE M. O'BRIEN,
Managers on the Part of the House.

MARK O. HATFIELD,
THAD COCHRAN,
MARK ANDREWS,
ROBERT W. KASTEN, JR.
WARREN RUDMAN,
JOHN C. STENNIS,
LAWTON CHILES,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on House Joint Resolution 413, and that I may include tabular and extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of Thursday, November 10, 1983, I call up the conference report on the joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984.

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to the order of the House of November 11, 1983, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank the Members of the conference on both sides of the aisle who did a fine job. The House conferees on this difficult legislation, in addition to myself, were Mr. BOLAND, Mr. NATCHER, Mr. SMITH, Mr. ADDABBO, Mr. LONG, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS, Mr. MILLER, Mr. KEMP, and Mr. O'BRIEN. In addition, I want to thank the gentleman from New York (Mr. MCHUGH), who has been very helpful and who is one of the outstanding younger Members of this body. The chairman of the Appropriations Committee is the other body (Mr. HATFIELD) deserves special mention for his cooperation during the conference. And I also want to thank the Speaker and the leadership for their cooperation in trying to bring you a resolution that does wrap up our problems, I think, in a rather sound way. May I briefly call attention to the fact that the agreement we have here was unanimously approved by all

House conferees and all but one Senate conferee.

Mr. Speaker, this conference agreement provides continuing authority for 5 of the 13 appropriations bills for 1984. As my colleagues know, eight bills have been previously enacted into law. They are HUD-independent agencies (Public Law 98-45); energy and water development (Public Law 98-50); legislative branch (Public Law 98-51); Transportation (Public Law 98-78); military construction (Public Law 98-116); District of Columbia (Public Law 98-125); Labor-HHS and Education (Public Law 98-139); and Interior and related agencies (Public Law 98-146).

Section 102 of the resolution provides funding through September 30, 1984, or when a regular bill is enacted into law. That was done because it will be quite apparent when we get back here, with all of the new requests before us, that we will not have much time to devote to this year's business. The resolution states that when regular bills are signed into law they automatically disengage from the provisions of this resolution.

RATES OF OPERATION

Funding for the Agriculture bill is provided for at the rate of the conference agreement filed in the House on October 27, 1983.

Funding for the Defense bill is provided for at the rate of the existing continuing resolution (Public Law 98-107); this is the House position and is approximately $14 billion below the President's request. This resolution allows for new starts if an item is contained in both versions of the House and Senate passed bills. It is expected that the Defense bill will proceed through the conference stage next week and therefore will drop out from under the provisions of this resolution when the bill is signed into law.

Funding for the foreign operations bill is provided for at the rate of operations for each of the various accounts provided for under the jurisdiction of the subcommittee as specified in the conference agreement. Dr. LONG, the Subcommittee chairman, will address himself to the specifics in a moment.

The level provided for foreign assistance, while somewhat higher than the amounts in the House passed resolution, is about $650 million below the Senate recommendations. The conference agreement is also nearly $170 million below the President's budget requests.

Funding for the Commerce-Justic-State bill is provided for at the rate of operations and under the terms and conditions specified in the existing continuing resolution (Public Law 98-107; with certain exceptions).

Funding for the Treasury-Postal Service bill is provided for at the rate of operations specified in the Senate reported bill but under the terms and conditions of the House passed bill. Funding for the U.S. Postal Service is provided for at the House passed bill rate.

Mr. Speaker, as I have mentioned many, many times, our system of government has three separate branches and calls for cooperation between the executive, the judicial and the legislative. In recent years I have been somewhat disturbed at the encroachment on the legislative body because when you start administering the law by the courts, they are encroaching upon the executive, and when they start announcing law, they are encroaching upon us. But after those arguments are through, we all have got to pull in the same direction. As they say about the ancient Russian chariot with three horses, if you do not pull in the same direction, you do not get anywhere.

In the debate in the conference, most of the arguments and discussions were whether the President would sign the bill. Now, here is our situation: After midnight, November 10, under the opinion of the Attorney General, much of the Government should come to a close. That is, operators for agencies funded in those bills which have not been enacted yet must be shutdown, with certain exceptions. I hope that if this resolution is signed into law by Monday there will not be any serious program disruptions.

Now, your Committee on Appropriations does not accept the responsibility for being late with our appropriation bills. That lateness came about largely from two reasons. One is the delay in getting the budget resolution, and the other was in the delay in the legislative committees completing their work of authorizing appropriations.

That is not said critically; that is said annotatively. And I do hope that in the future, in line with the announcement by the Speaker, authorizations for the coming year will meet their deadlines so that we in turn will have time to do this work.

I want to say, too, to my colleagues that in my experience here, I have always had my own view, as all Members do, but when I am on conference I represent and do my best to support the House position. I believe we did that in this instance. We had quite a debate about education programs in connection with this joint resolution, notwithstanding the fact that those in charge of the regular Labor-HHS and Education bill had done a real good job, both the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Kentucky (Mr. NATCHER), and the Members of their committee. That bill was signed into law for the first time in 5 years. This meant that the President had compromised, to some degree. But our colleagues on this side, particularly in view of the expenditures that were made in other directions, felt very strongly that some additions should be made. The figures here are not as strong as I would have recommended, but the conferees came back with these figures in an effort to satisfy what was representative of the President's feelings. It is my own feeling that we have very little likelihood of any veto due to the action on these domestic programs.

The conferees agreed to the following level of funding for the Wright-Perkins amendment: handicapped education, $25,000,000; rehabilitation services, $10,000,000; immigrant education, $30,000,000; work study, $5,000,000; supplemental opportunity grants, $5,000,000; community health centers, $10,000,000; Technical Institute for the Deaf, $1,700,000; Gallaudet College, $2,000,000; and Emergency Shelter (FEMA), $10,000,000; for a total of $98,700,000.

So, on Saturday morning I do not care to take up more of the Member's time. But may I say that it is satisfactory to the conferees, and I wish to thank the Republican leadership and certainly my friends on the committee, as well as our own leadership on this side for their cooperation.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 4 days ago I stood in this well and I predicted that we would be dining today on a fat legislative turkey. I am pleased to report that that menu has changed. Thanks to the hard work of your conferees, and with a little luck, you can have Thanksgiving with your families. But it certainly did not look this way even yesterday morning. The bill left the House as an extension of the current continuing resolution, with the addition of a billion dollars, the Long-Kemp amendment on foreign aid, and a change in the rates for the Treasury bill. The Senate added 47 amendments. So your conferees were faced with the task of reaching a compromise on the additional money for education and the other programs and on foreign aid and on the various 47 amendments adopted by the Senate. Most of the Senate amendments were resolved through the ususal give and take between the conferees.

But the education money, the so-called Wright amendment, was a much more difficult problem. At first, the administration would not even give an inch, and we thought we would have to report the bill back in technical disagreement. But the distinguished minority leader and myself reasoned with the White House and David Stockman, we talked with our chairman, and we talked with the Speaker. The gentleman from Kentucky (Mr. NATCHER) and I worked all day yesterday on this, and the result is that we have a very delicate compromise. I am proud to say that the President will

sign. I was called last night by the White House, and he will sign this continuing resolution.

But first, of course, the conference agreement must pass the House and the Senate and, given the events of the past few weeks, we cannot take that for granted. But I hope it will, and I would like to say a few words on that subject to my good friend, the gentleman from Texas (Mr. WRIGHT).

□ 1010

A lot of words have passed between us in the past week. There has been some heat, there has been some humor, and there has been some entertainment for the House, but that is over with now. I think we have a good compromise.

Let me mention that package very briefly. We put in $25 million for education for the handicapped; $10 million for vocational rehabilitation; $30 million for grants to schools with a substantial number of immigrants; $5 million for college work study; $5 million for supplemental educational opportunity grants; $10 million for community health centers; $1.7 million for the National Technical Institute for the Deaf; $2 million for Gallaudet College; and $10 million for emergency food and shelter.

The package totals $98.7 million. Without the strong negotiation, and the persuasive abilities of the gentleman from Mississippi, our good chairman (Mr. WHITTEN), and the gentleman from Kentucky (Mr. NATCHER), the likely outcome would have been no funding for these programs. They were faced with formidable opposition from the Senate and the administration, and they performed admirably.

I know this package will be accepted by the White House and will be signed by the President. Therefore, again, I support the conference report, and I urge my colleagues to do likewise.

The conference agreement provides for a freestanding continuing resolution which is effective on November 10 and continues until September 30, 1984. This is a full year continuing resolution.

DEFENSE

The defense level is $247 billion, which is the level passed by the House for 1984.

Authority is provided to proceed with those new programs and multiyear contracts which are contained in both the House-and Senate-passed bills and, therefore, are not items which will be in conference.

The defense conferees have plans to meet next Wednesday, and there is every reason to expect that a conference report will pass both Houses before we adjourn November 18.

I assure you that agreement reached today will not allow the Defense Department to proceed with the chemical munitions program which is an item in conference on the Defense bill next week.

ENERGY AND WATER DEVELOPMENT

Mr. Speaker, as it left the House, this continuing resolution made no provision for energy and water development, since the energy and water development appropriations bill for fiscal year 1984 was signed into law last July 14.

The other body, however, added several amendments in this area, for everything from white water rafting in the Ocoee River of Tennessee to Corps of Engineers hopper dredges in the Great Lakes. As in any good conference, we compromised. Although I am not completely delighted with the outcome, it is certainly better than what we got from the other body.

The Senate provided for an appropriation of $7.4 million to reimburse the Tennessee Valley Authority for the loss of power attributable to letting additional water into the Ocoee River for white water rafting, and for the development of recreational facilities on this river. As I said in conference, I am all for white water rafting and every other form of outdoor recreation. But I cannot see how we can justify having the American taxpayers pick up the tab for this kind of activity.

I am pleased to say that we were able to compromise on this provision so that the funds dedicated to this purpose will have to be repaid out of fees generated from these recreational activities.

Another Senate amendment provided for the deauthorization of a Corps of Engineers project, a breakwater, at Eastport, Maine. This is a case where the Corps of Engineers was no longer prepared to provide maintenance funds, but the city was able to assume this responsibility.

ENERGY AND WATER DEVELOPMENT

Funds for the Eastport project are now available for much needed maintenance from a State bond issue. I am pleased to say that as a result of the deauthorization language in this resolution, work will be able to move forward on this project at no expense to the Federal taxpayers. I also want to commend my colleague, the gentlewoman from Maine, for her efforts on this deauthorization.

Another Senate amendment provided the authorization for a Corps of Engineers project at Fisherman's Wharf in San Francisco, Calif. This is one of the unauthorized projects contained in the supplemental water appropriations bill that was passed last month, with an estimated total cost of $16.9 million and a benefit/cost ratio of 1.2. That amendment was agreed to in conference.

Finally, the Senate receded on its amendment prohibiting the transfer of Corps of Engineers hopper dredges from the Great Lakes.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The conferees has agreed to continue the existing $1.5 billion reserve fund established by Public Law 98-45 until at least January 1, 1984. This reserve fund was established pending enactment of a housing authorization bill in this session of the 98th Congress.

The managers are concerned that these reserve funds would be released on January 1, 1984, without congressional guidance if no authorization bill is enacted into law by that date. Therefore, we have included language in this joint resolution which provides for this eventuality.

If no housing authorization bill is enacted by January 1, then the reserve funds will be used for additional section 8 existing housing units over and above the level currently carried in the 1984 HUD-Independent Agencies Appropriation Act. If a bill is enacted by January 1, then the $1.5 billion reserve will automatically be deferred until March 31, 1984.

VETERANS' ADMINISTRATION

To assist unemployed Korean and Vietnam-era veterans, the conferees agreed on Veterans Day 1983 to provide $75 million for emergency veterans job training. These funds were authorized in Public Law 98-77. The Emergency Veterans Job Training Act of 1983.

The administration requested $150 million for this program, and the House agreed to appropriate this amount in October, when we considered and passed H.R. 3959. This so-called supplemental appropriations bill has completed action in the Senate, and is scheduled for conference on November 14.

With this $75 million in the continuing resolution, and an additional $75 million in the supplemental, a total of $150 million will be available to unemployed veterans through September 1986.

LOAN GUARANTEES

The managers have agreed to adopt the Senate amendment on loan guarantee commitments. During fiscal year 1984, departments and agencies of the Federal Government are required to make loan guarantee commitments up to the full amounts provided in appropriation acts. These commitments are subject to the availability of qualified applicants.

DEPARTMENT OF THE INTERIOR

The conference report includes language which prohibits the use of funds for the processing or granting of oil and gas lease applications on any Federal wildlife refuge lands outside of Alaska. The managers agree that this prohibition will remain in effect unless and until the Secretary of the Interior promulgates revisions to existing regulations to explicitly authorize the leas-

ing of such lands, holds a public hearing on the proposed revisions, and prepares an environmental impact statement thereon.

GREAT PLAINS GASIFICATION PROJECT

The managers believe that the Great Plains gasification project now under construction in North Dakota is a crucial element in our national synthetic fuels program. We have included report language which urges the Board of Directors of the Synthetic Fuels Corporation to enter direct negotiations for this project.

We urge the Synfuels Board to open a solicitation at its December 1, 1983, meeting under which the Great Plains gasification project might apply for price guarantee assistance from the Corporation. We believe that the valuable experience which is to be gained from completion of construction, startup, and operation of this coal conversion plant is significant to the Nation. With a Federal energy regulatory approved tariff, the Great Plains gasification project will be America's first commercial plant to convert coal into synthetic pipeline quality gas.

NATIONAL PARK SERVICE

The managers have agreed to extend a temporary ban on the operation of commercial vehicles on U.S. Route 209 in the Delaware Water Gap NRA in Pennsylvania for 2 years.

In addition to the exemptions established in Public Law 98-63, 150 northbound and 150 southbound commercial vehicles per day serving businesses or persons in Orange County. N.Y. are exempted from such ban.

The managers also agree that the five-member Commission established by the Secretary of the Interior shall continue for 2 years to monitor the impact of the ban and to evaluate the operation of its earlier recommendations while developing new suggestions for the use of Route 202 and neighboring roads.

LABOR/HHS/EDUCATION

The conference agreement provides funding for several programs not funded under the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1984 because they lacked authorizations. These programs are funded at the fiscal year 1983 rate, and under fiscal year 1983 terms and conditions. They include: health planning; national research service awards; national arthritis advisory board, national diabetes advisory board, and national digestive diseases advisory board; medical library assistance programs; refugee and entrant assistance programs; child abuse prevention and treatment programs; and ACTION.

With respect to the refugee and entrant assistance programs, the conferees agreed to the Senate provision that would prohibit the implementation of any administratively proposed block grant or per capita grant, in place of the current assistance programs.

In addition, I would just say a word to follow up on the committee's concern with getting started a training program for people involved in running those programs. During the floor debate in the House on passage of H.R. 3913 on September 22, there was a colloquy stating that it was the committee's understanding that the department had the authority to undertake a training program within the amounts provided. Furthermore, in conjunction with a last-minute reprograming request in fiscal year 1983, the department indicated it would undertake such a training program and have a proposal out before the end of the first quarter of fiscal year 1984. I would like to state my understanding of the intent of the committee with respect to this training program. Within the amount made available for social services programs, the Office of Refugee Resettlement is expected to sponsor a pilot university program for those States that have the largest numbers of refugees, to serve as a model for regional university training programs.

With respect to the supplemental appropriations added by the House in the Wright-Perkins amendment, and deleted by the Senate, the conferees restored supplemental funding for the following programs in the following amounts:

	Millions
Education for the handicapped State grants	$25
Vocational rehabilitation State grants	10
Grants to schools with substantial numbers of immigrants	30
College work study	5
Supplemental educational opportunity grants	5
Community health centers	10
National Technical Institute for the Deaf	1.7
Gallaudet College	2
Food distribution and emergency Shelter	10

In addition, the conferees included in the statement of the managers language to make it clear that for the low income home energy assistance program, if judgment funds from the Exxon case are not forthcoming by early February, the Office of Management and Budget is directed to seek a supplemental of at least $200 million.

Mr. Speaker, the Treasury-Postal Service section of this continuing resolution contains funding for entities under that subcommittee's jurisdiction at the rate of operations contained in the Senate reported bill, and under the terms and conditions provided in the House-passed bill. Total funding for that section is $11.8 billion.

This agreement for the Treasury-Postal Service bill will insure adequate funding for the customs service, the Secret Service, the Internal Revenue and various other operating bureaus of the Treasury Department.

At this point, I would like to speak briefly on the customs service. As the Members know, the customs service has frequently been the target for various reduction proposals both as to personnel and funds. This has been the case in the last few years, despite additional responsibilities which continue to be assigned to it.

For example, the relatively new operation exodus program tasked customs with stemming the flow of high technology out of this country. In order to make that program work, it must have the funds and personnel sufficient to carry out its goal.

The special narcotics task force is another example. We all want to combat the flow of illegal narcotics into this country. With this new task force, we have what is proving to be a pretty effective initiative toward that end. If we want to continue our progress, we need to provide funding and personnel to sustain our efforts.

In short, Mr. Speaker, the customs service needs to retain personnel at the highest authorized levels to continue to be the effective organization it has been in the past. As one Member with a responsibility toward overseeing customs funding, I intend to see that is achieved.

For the Internal Revenue Service, the conferees have provided sufficient funds to allow that agency to support the necessary personnel levels to carry out the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, and to continue its data processing modernization program.

The conferees have also retained a provision I added which stipulates that taxpayer service activities are to remain at the fiscal year 1983 levels, and that positions allocated to those activities not be reduced below the fiscal year 1983 levels.

For the revenue foregone appropriation to the Postal Service, the conferees have agreed to provide funding at the step 14 level—which means at the rate of $879 million for fiscal year 1984. This appropriation funds the costs to the Postal Service that it forgoes in providing reduced rate service to nonprofit charities, publishers who mail to school libraries, rural newspapers, and veterans magazines.

The conferees have maintained the current level of support for this account because of the rate increase consequences which would come to nonprofit organizations if funding were reduced.

For the General Services Administration, the conferees have provided a $1.9 billion limitation on expenditures for the Federal buildings fund. This is the fund into which collections flow

from charges levied on Government agencies by GSA for rent.

These standard level user charges—or SLUC charges—are expended for construction, building alterations and repairs, building security, and other housekeeping activities of the Federal Government within the confines of set limitations.

For the SLUC charges for fiscal year 1984, the conferees have retained a 14-percent increase ceiling.

Hopefully, the appropriate legislative committees will, in the coming months, review the law governing these charges so that some consistent method of assessing Government rental costs may be attained.

For the Office of Personnel Management, the conferees have provided $3.9 billion in funding for the Government's payment to the civil service retirement and disability fund under a permanent indefinite authority, and $1.5 billion for funding for Government annuitants' health benefits.

These two appropriations meet the requested levels, and are important because they assure that the Government keeps up its share of maintaining the retirement and health benefits system as promised to present and past Federal workers.

The conferees have also provided for a tightening of the buy American handtool provision to give some measure of assistance to the handtool industry. That sector of our industrial economy has suffered dramatically in the past several years because of the ways which foreign competitors have found to circumvent laws and regulations of commerce in this country.

Over the years, I have sought to offset this problem, at least in the Government purchase arena, by inserting a provision in the Treasury bill which governs GSA procurement. This year, both bodies agreed with that assistance again, and in fact, agreed that the provision needed to be tightened up.

This change will be very helpful to various small, old industrial economies around the country which rely on the handtool industry for the foundation of their economies.

All in all, Mr. Speaker, I think the agreement reached by the conferees on the Treasury/Postal Service portion of this conference report is pretty reasonable, given the controversies and problems which surrounded the bill. In that sense, I think it is an agreement the House can support.

We continue the agricultural program at the rate and under the conditions provided in the conference agreement. We continue programs in the Commerce-Justice bill at the rate provided in the current continuing resolution. We continue programs in the Treasury bill at the rate in the Senate bill and under the terms and conditions of the House-passed bill. We continue Defense at the same rate as provided in the current continuing resolution, and we continue foreign aid at the current rate or the budget estimate, whichever is lower, with specific rates for some programs specified in the conference agreement.

All in all, this is a good conference report.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my friend, the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, can the gentleman give us an estimate of what the dollar figure is in this total continuing resolution?

Mr. CONTE. No, we cannot put a precise dollar figure on the rates for State-Justice, Treasury, foreign aid, and Agriculture.

Mr. DANNEMEYER. Is there any language in this continuing resolution which authorizes the Clerk of our House to enter a figure with respect to altering or raising the debt limit of the United States?

Mr. CONTE. No.

Mr. DANNEMEYER. A vote on this continuing resolution does not relate to the existing or a change in the debt limit of the United States; is that correct?

Mr. CONTE. The gentleman from California is absolutely correct.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from New York, Mr. SOLOMON.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, first of all I want to commend the minority Member for the work that he has done.

I would like to ask someone, and I do not want to put the gentleman on the spot, Mr. CONTE——

Mr. CONTE. I feel very comfortable there.

Mr. SOLOMON. Good. As far as the foreign aid portion of the bill is concerned, what happened to the Zablocki amendment? In other words, what happened to the authorizing language that was in the Zablocki amendment that I understand was struck down, and what is the difference? Could somebody talk about that?

Mr. CONTE. The Conference agreement for foreign economic and military assistance programs is $11,468,401,636. This is $169 million below the President's budget, $656 million below the Senate amount, and $171 million over the House amount.

I want to congratulate the members of the foreign operations subcommittee who worked as conferees or as helpful observers for over 4 hours yesterday to hammer out, almost literally, this compromise. Foreign aid is never an easy subject around here with the general reluctance to appropriate any funds and the more specific conflict between economic and military assistance levels. But I believe these conferees have brought back a package you can support. The fact that the compromise is much nearer the House bill than the Senate bill is evidence of their effectiveness.

In terms of specific program levels, aid to Israel was not subject to conference action, since both bills included $910 million in economic support funds and $1.7 billion in foreign military sales, half of which, or $850 million, is forgiven from repayment. Levels for Israel under the first continuing resolution which expired Thursday night were significantly lower: $785 million, or $125 million less, for economic support funds, and only $550 million, or $300 million less, of the $1.7 billion for foreign military sales was forgiven. These increases for our strong ally in the Middle East provide good reason for supporting this resolution and the foreign assistance portion of it.

Egypt, the other half of the Camp David agreement, receives $750 million in economic support funds and $1.365 billion in foreign military sales, $465 million of which is forgiven from repayment. Total aid for Egypt is $2.115 billion, or $90 million more than they received under the first continuing resolution.

The conference agreement limits military aid to El Salvador to $64.8 million, the same as under the first resolution, and retains the two restriction on such aid which were included in the House bill. The first restrictions withholds 30 percent of the military aid if verdicts are not achieved in the case of the four murdered U.S. churchwomen, and the second withholds 10 percent of the aid if the Land Reform Program is suspended or altered in a manner detrimental to the beneficiaries. El Salvador would receive up to $120 million in economic support funds under the resolution, the same as the President's request. The President's request for military assistance was $86.3 million.

While no funds in the resolution are earmarked for Greece or Turkey, language is concluded in the statement of the managers directing the administration to maintain the 7-to-10 ratio of security assistance funding to those two countries, respectively. The administration is allowed to provide amounts up to the budget requests for Greece and Turkey subject to the total amounts provided in the bill for the security assistance accounts. Those requests include: for Greece, $500 million in foreign military sales, no funds for military grant aid, and $1.7 million in military training; for Turkey, $525 million in foreign military sales, $230 million in military

grant aid, $4 million in military training, and $175 million in economic support funds. The total requests are: Greece, $501.7 million, and Turkey, $934 million.

The agreement includes $945 million for the International Development Association (IDA), the same as the House bill and $245 million over the Senate bill. The President's request was $1,095 billion, and I am hopeful that the remaining $150 million, which would complete the U.S. commitment to IDA VI, can be provided later in this fiscal year in a supplemental bill.

The conference agreement with regard to the Export-Import Bank is $3,865,000,000 for direct loans and $10,000,000,000 for loan guarantees. While the amount for direct loans is $535 million below the amount authorized for fiscal 1983, the conferees have included strong language in the statement of the managers that Congress will provide additional resources for such loans as needed in this time of world economic recovery.

I am personally pleased to note that the agreement provides $160 million for the United Nations Development Program, $52.2 million for the United Nations Children's Fund (UNICEF), and $10 million for the United Nations Environment Program. I have worked to get these levels up to the authorized amounts, and I appreciate the leadership and cooperation of the conferees in this regard. These programs do reflect American values, as noted recently by our Ambassador to the United Nations, and they deserve our support.

The resolution includes a new provision deobligating previously appropriated funds for Syria. New aid is also prohibited to that country, as well as to Angola, Cambodia, Cuba, Iraq, Libya, Laos, Vietnam and South Yemen. Other provisions continued from previous years deal with such issues as human rights, aid to Mozambique, countries which are in default to the United States, commodity production which harms U.S. producers, consulting contracts, prohibiting U.S. aid through international organizations to the Palestine Liberation Organization, the southwest peoples organization or Cuba, requiring monthly Presidential reports regarding defaults on credits extended to Poland, prohibiting lobbying for abortion, and several administrative requirements imposed on the agencies funded in the bill.

All in all, I believe all Members can support this section of the resolution.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Speaker, the Zablocki language, insofar as it put the legislative stamp of approval on this package, was sustained in the conference. We made a few technical alterations and one change with respect to Syria, where the Zablocki had simply deobligated all money for Syria, period. We thought this was essentially an appropriation measure, so we simply passed that as an appropriation, rather than as an authorization.

Mr. SOLOMON. So the funds that are being appropriated in all categories under foreign assistance are authorized, there is authorizing language in this conference report?

Mr. LONG of Maryland. That is my understanding.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I was just going to say they are authorized but not earmarked.

Mr. SOLOMON. That was going to be my second question.

As far as military sales and credits and military assistance is concerned, there are no funds earmarked in the foreign assistance portion of this bill?

Mr. KEMP. If the gentleman will yield further, other than Israel and Egypt, as I understand it, the earmarks are taken out.

Mr. LONG of Maryland. If the gentleman will yield further, El Salvador is earmarked at a level of $64.8 million for military assistance.

Mr. SOLOMON. That is earmarked in the bill.

Mr. LONG of Maryland. Yes.

Mr. SOLOMON. If the gentleman will yield further, one last question dealing with economic assistance in the various categories.

Are there funds that are earmarked there, or are all of the funds not earmarked?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

May I say, Mr. Speaker, the committee did everything it could to go along with the Zablocki provisions. They are included in the report, and also, you will notice that in the report we say this, and I quote:

> To the extent possible, the managers on the part of the House and of the Senate have attempted to preserve the prerogatives and provisions of the authorizing language. Those Members who are responsible for providing authorizing legislation in the difficult area of foreign affairs are to be commended for the efforts they have made to preserve in an orderly manner the regular authorization-appropriation process.

Mr. Speaker, I told my friend, the gentleman from Wisconsin, CLEM ZABLOCKI, that we would say this, and we have done so, and I think he is pleased with it. We were glad to do it and mean every word we said.

Mr. CONTE. There is no earmarking on economic assistance.

Mr. SOLOMON. I have one last question, if the gentleman will yield further.

Mr. Speaker, when the continuing resolution left this House, the Senate added an additional $827 million in foreign aid under those categories. Can the gentleman tell us what happened between our figure and their figure? Where are we at in this report now?

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, the total foreign aid and military assistance is $11.4 billion.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Speaker, can the gentleman tell me, is there any language in the continuing resolution that provides expenditure of Federal funds for purposes of carrying out Federal court-ordered busing?

Mr. CONTE. I do not know of any.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Massachusetts for his usual superb job under very difficult circumstances.

I do not mean in any way to derogate from that job when I say I am sure it will be next week when the Congressional Quarterly comes out that we find out all of the things that are in this bill, because the gentleman could not possibly take the time to list all of the bridges and studies and new court buildings and atriums that will be constructed. I guess the plural of that is atria.

I must say this is a textbook example of the need, the urgent need, the crying need for a line-item veto by the President, and I hope we will provide that in the next session.

Mr. CONTE. I think it is an urgent need to get rid of the budget system and go back to the old appropriations system. We would not be here with these continuing resolutions.

□ 1020

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, this bill reflects a continuation of the unbalanced set of priorities which this Nation has suffered for the past 3 years, but it also reflects a slight improvement—and for even that improvement we should rejoice.

The amount provided for education, for the homeless and the handicapped is in my judgment inadequate—but it is a little better than it would have been had the House majority not made the effort for greater improvement. Under the circumstances, it seems to be the best that we can get at this particular time.

It may seem strange that a President would suffer a $135 billion annual drain from the Treasury in tax cuts for the wealthy and threaten to veto any tax equity package that would reduce that drain.

It may seem strange that a President would sign legislation spending $247 billion for the military and $11.5 billion for foreign aid and insist that even these amounts are not enough but threaten to veto a bill if it contained a few hundred million more for schools, for job training, for health and nutrition, for shelters to protect the homeless from the cold.

But the reality is that a majority in the Senate seems to share the President's philosophy and so any effort to override a veto would be an idle gesture.

In recognition of that reality, therefore, we have no choice but to accept this conference report, to thank our House conferees for their efforts in behalf of the House position, and to resolve that on another day we shall renew the fight to resume America's march to greatness.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on Foreign Aid, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, with the able assistance of the ranking minority member, the gentleman from New York (Mr. KEMP), and the additional assistance of other Members, including the gentleman from California (Mr. DIXON), the gentleman from Illinois (Mr. YATES), the gentleman from Louisiana (Mr. LIVINGSTON), the gentleman from Florida (Mr. LEHMAN), and the gentleman from New York (Mr. MCHUGH), a strong bipartisan agreement was reached in conference.

The conference was difficult. In many key areas, the House position was substantially upheld, and I strongly urge that the House support the agreement.

In total, we agreed to $11,468 million. This number is $656.4 million below the Senate and $169 million below the President's budget request—I repeat that: below the President's budget request whereas the Senate would have been half a billion dollars above the President's request.

In the Middle East, the House levels for Israel and Egypt were maintained. The language on the Lavi program is included.

For El Salvador, the House position of $64.8 million was maintained; and, the House authorization's language of both the U.S. churchwomen and the land reform programs is included.

In other areas, funding for the U.N. Development Foundation and the U.N. Children's Fund are at the higher House levels.

The bill language provides for a 10-percent minority set-aside within the AID program.

The statement of the managers directs that Portugal be funded at the President's budget request levels, and that the 7-to-10 ratio for military assistance to Greece and Turkey be maintained.

Finally, I want to thank the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), for his constructive and supportive role in putting the legislative stamp of approval on this appropriation measure. I fully agree with his concern that the authorizations and appropriations process be followed in this difficult policy area.

Mr. Speaker, I urge the support of the Members for this continuing resolution.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding me this time, and I want to congratulate the gentleman from Massachusetts as well as the gentleman from Mississippi (Mr. WHITTEN). I strongly support the resolution, and I appreciate the hard work that went into reaching a compromise.

I particularly appreciate the efforts of the Subcommittee on Foreign Operations. I think every member of that committee, Democrat and Republican, should share in a strong bipartisan consensus for not only economic and security assistance but for meeting our obligations in those parts of the world which are so troubled.

With this bill, we have made a contribution to the vital security interests of this Nation from South America to Africa and to the Middle East, from East Asia to the southern flank of NATO. That is something all Members of this House can and should support.

The conferees reached agreement on all programs for foreign operations appropriations and authorization for the duration of the fiscal year 1984.

The grand total for foreign operations is $11.468 billion, which is $171 million above the House mark, $656 million below the Senate position, and about $260 million below the President's request.

Our most urgent funding need is in the area of security assistance. While we were not able to bring funding up to the levels I would have liked to have seen, the agreed levels are above the House position overall, and in general reflect a great improvement over last year's levels. Most importantly, we were united in our determination to meet levels of security assistance necessary for those allies who have granted us military base and access rights, including especially Turkey, Greece, Korea, and Portugal.

We have just concluded vital base agreements with Turkey and Greece, in connection with our mutual NATO responsibilities. The funds provided in the bill are necessary to meet our commitments under those agreements. Both countries need increased FMS levels to carry out modernization programs in support of NATO's deterrent.

The bill also contains vital aid for Pakistan. Pakistan directly faces Soviet troops in Afghanistan and requires U.S. support to stand firm against Soviet intimidation. Soviet planes have strafed Pakistani villages. Pakistan has unselfishly shouldered the burden of 3 million refugees.

For our strategic ally in the Middle East, the State of Israel, we provided $910 million in economic support funds and $1.7 billion in foreign military sales, half of which, or $850 million, is forgiven from repayment. Of the military funds made available to Israel, $300 million is provided for research and development in the United States and $250 million for production of the Lavi fighter aircraft. This latter provision is a reflection of Congress' strong support for a robust Israeli defense industry, and in recognition that the United States benefits thereby. Moreover, it is a strong signal of support for Camp David and for strategic cooperation with Israel.

Egypt, the other partner in Camp David, will receive $750 million in economic support funds and $1.365 billion in foreign military sales, $465 million of which is forgiven from repayment.

El Salvador was a particularly well-discussed and debated topic in the conference. All conferees recognized the need for continued U.S. military assistance for El Salvador, but the exact level was in disagreement. The House bill provided $64.8 million overall, the Senate bill was as the President's request of $85 million.

The managers decided to accept the House level of $64.8 million, but allow the administration the maximum flexibility to determine the mix of grant and loan. Moreover, it is our express expectation that the administration will be sending up a supplemental

request for El Salvador, in light of the expected resurgence of guerrilla activity with the coming of the dry season in Central America. Therefore, it is my expectation that we will be providing substantial supplemental funds for El Salvador in the coming months.

In addition, we have decided to deobligate funds now in the pipeline for Syria. These funds are the residue of appropriations made during the previous administration. Given the recent intransigence of Syria in Lebanon, and the suspected complicity of Syria in the attack on U.S. marines, on French forces, and on IDF headquarters in Tyre, this deobligation is intended as an expression of our strong disapproval of the policies of the Assad government, and our insistence that Syria recognize and respect the independence and sovereignty of Lebanon.

Of the funds deobligated for Syria, $15 million are earmarked for economic support for Grenada, to help that island nation recover from Cuban domination and rebuild its democratic government and free institutions.

I would like to draw my colleagues' attention to the fact that we removed all economic support funds earmarked—except those for Israel and Egypt—including an earmark of $75 million for Zimbabwe. I hope that the administration will take advantage of the opportunity provided to reevaluate our aid program for Zimbabwe whose Marxist government has been uniformly hostile to the interests of the United States.

In the area of bilateral development assistance, the conference report provides for creation of a private sector revolving fund which will be used directly to stimulate private sector development.

The conference report reflects increased funding for the American schools and hospitals abroad program—$30 million, versus the request level of $7.5 million—because of broad congressional support for this program, and in recognition of its tremendous success.

Reductions in funding for the hard loan window of the World Bank reflect congressional concern over the expenditure of $100 million by the World Bank for a new office building, at a time when that institution is pressuring all member governments for substantial increases in resources to meet the development needs of poor nations.

A similar reduction in resources for the Inter-American Development Bank resulted from the Bank management's insistence on providing $30 million to Marxist Nicaragua.

The Congress will consider restoration of part or all of these funds in a supplemental bill for this fiscal year provided the Bank managements have taken remedial actions.

Overall, I believe we have brought back a bill that, while imperfect, is on that merit broad bipartisan support, and that meets our key foreign policy requirements and the priorities set by President Reagan.

Let me just say to my colleagues on this side of the aisle that I know foreign aid is not popular and foreign assistance is not something that has been championed by our side of the aisle, but there has been cooperation from the Democratic side of this Chamber. The security interests of this country, from the standpoint of the administration, I believe sincerely, have been met and will continue to be met by the bipartisan consensus that this reflects.

Mr. Speaker, let me make one last point. The majority leader keeps talking about the so-called diminution of revenues available to the Government because of the tax cut in 1981. Let me just say to everybody that the net tax cut in 1983 is about $14 billion. After all the tax increases, there is a $14 billion tax cut. I am going to put some statistics in the RECORD that Members might be interested in concerning this matter.

Mr. Speaker, I strongly support the continuing resolution, and again I praise my friend, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity now to congratulate the gentleman from Maryland (Mr. LONG), the gentleman from New York (Mr. KEMP), the gentleman from Florida (Mr. LEHMAN), the gentleman from Illinois (Mr. YATES), the gentleman from California (Mr. DIXON), and the gentleman from New York (Mr. MCHUGH) for their hard work. When we met with the Senate over there in that big conference room, room 207, the foreign aid conferees went to another room and worked for 4 solid hours to hammer out this compromise, which is a good compromise. I want to congratulate them for their efforts.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. First of all, Mr. Speaker, let me thank my colleague, the gentleman from Massachusetts, for yielding this time to me to say that while I am going to vote against this resolution, I congratulate him for his efforts.

I think it is absurd that we are passing a $30 million unauthorized appropriation for educating the illegal aliens whom we cannot deal with in the bill which is not being brought up by the Speaker. Nonetheless, I want to take this time to say directly that the gentleman from Massachusetts has done an outstanding job. Faced with the fourth successive effort by the majority leader to add over $1 billion to the debt our grandchildren will be paying, the gentleman from Massachusetts showed great courage and great tenacity, and I think that the entire minority team on appropriations deserves to be commended for their work in what has been a very difficult 3 or 4 days. I just want to take a minute for my own part to say that I am proud to have worked with them, and I am very pleased with the job they have done.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. Mr. Speaker, I would like to see if I would clarify in the RECORD the intent of the conferees with respect to amendment No. 40. Amendment No. 40 in its second proviso authorizes a U.S. shipping company to acquire two foreign vessels, one of which must be converted or repaired in an American shipyard.

The point of clarification is, since the company has not identified any vessel, it is possible they might select one needing little conversion work, designate that for repair in an American yard, buy another foreign vessel needing major conversion work, and do it in a foreign yard.

□ 1030

I have discussed this with the company involved. It is their understanding and agreement that the intent of the conferees is that insofar as it is possible, given the constraints of time, technology, and shipyard availability, at least as great a value of conversion work will be done in U.S. shipyards as in foreign shipyards.

Mr. Speaker, I rise to ask if the distinguished chairman of the subcommittee, the gentleman from Iowa, would indicate that that is the intent of the conferees?

Mr. CONTE. Mr. Speaker, I yield to my good friend, the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I believe that is the intent of the conferees who dealt with this part of the bill.

Mr. BATEMAN. Mr. Speaker, I thank the gentleman. I thank the gentleman for yielding and I commend them all for the excellent work they have done.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. MCKERNAN).

Mr. MCKERNAN. Mr. Speaker, I would just like to associate myself with the remarks of the gentleman from Virginia. I think this provision in amendment No. 40 really violates the majority will of the Committee on Merchant Marine and Fisheries.

Mr. CONTE. Mr. Speaker, before yielding further, I want to commend the gentleman from Iowa (NEAL SMITH). This was a hard fought issue

and before the gentleman from Iowa (Mr. SMITH) agreed to anything, he called the authorizing committee, the chairman, the ranking minority member and others, over to discuss it because he was very concerned about this. He deserves a lot of credit.

Mr. McKERNAN. Mr. Speaker, will the gentleman yield further?

Mr. CONTE. I yield.

Mr. McKERNAN. Mr. Speaker, I also want to commend the gentleman from Iowa (Mr. SMITH), because I was over at the conference. I know that he worked very hard to make sure that this was a limited exception. I appreciate all his hard work on behalf of those who were looking for a comprehensive maritime policy.

I just think that this is one small chink in the armor. I think it is unfortunate, but I understand the good work that he did and I appreciate to his listening to our pleas.

Mr. CONTE. Mr. Speaker, I agree with the gentleman.

I yield such time as he may consume to my good friend, the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I want to join in complimenting the chairman of the committee, the gentleman from Iowa (Mr. SMITH).

I was involved in this situation. I think it was hard fought, but we did tighten it and tightened it very severely to make sure that it was a limited matter. In one of these companies involved, there are 6,000 jobs at stake. I think it is an important piece of this conference report.

Again, I thank the gentleman for yielding.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I thank all the gentlemen for those compliments, but I would rather that we had not had the subject involved than to have the compliments.

It is the kind of thing we really should not have in a continuing resolution, but since it was in the resolution, I did think it was necessary to check with the authorizing committee and not agree to the Senate amendment unless the leaders on both sides approved of it.

Mr. CONTE. Mr. Speaker, I want to associate myself with those last remarks. The gentleman is absolutely right.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I just wanted to find out whether or not some of the pork that somehow had gotten into the barrel stayed in the barrel while we were getting the continuing resolution.

There was $9 million for a Federal courthouse in Newark, did that stay in this continuing resolution?

Mr. CONTE. Yes, it did.

Mr. WALKER. Do I understand that that is $9 million that had not been approved by the Public Works Committee?

Mr. CONTE. We got a letter just before we went to conference from the Public Works Committee on this building.

Mr. WALKER. Anyhow, there is $9 million for a courthouse in Newark.

Is there $14 million for a new Federal building in Knoxville?

Mr. CONTE. That is right.

Mr. WALKER. How about $6.4 million for a white water rafting project on a river in Tennessee?

Mr. CONTE. I fought that particular item. As the gentleman knows, maybe if the gentleman read the papers this morning, however, I finally prevailed on getting user fees instead of appropriations on that. That went on the rocks.

Mr. WALKER. But nevertheless, we have got $6.4 million for a white river rafting project in here.

How about $67 million for the Bonneville Power Administration headquarters in Portland, Oreg. Did that stay in?

Mr. CONTE. That stayed in.

Mr. WALKER. In other words, we have got almost as much money for pork in here as we have in the Wright amendment that the gentleman from Texas just got up and told us how much money we had gotten for education. We got almost the same amount in pork; is that right?

Mr. CONTE. No. I would not say that. There are some piglets in here, not pork.

Mr. WALKER. Just piglets? I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I would just inquire of the gentleman from Massachusetts, now that all the important issues have been discussed by my colleague, the gentleman from Pennsylvania, can the gentleman from Massachusetts tell me what language is in here as pertains to abortion?

Mr. CONTE. Yes. The so-called Ashbrook language is in here. We prevailed on that.

Mr. HARTNETT. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding.

I just would like to clarify some funds that are stated in the conference report for the veterans job training program. We had hoped that there would be $150 million committed to that program and I see in the language of the conference report that $75 million has been committed in this conference report, with a pledge that an additional $75 million will be included in H.R. 3959, the supplemental appropriation bill which is scheduled for conference on November 14.

Mr. CONTE. The gentleman is absolutely right.

Mr. EDGAR. Is it the intention of the conferees to be fully committed to the $150 million in that program?

Mr. CONTE. The gentleman is absolutely right.

Mr. EDGAR. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, as the ranking minority member, I want to confirm that. That has been our understanding all along.

Mr. CONTE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I just would like to ask what aid is in here for El Salvador. It is my understanding that there is $225 million in defense.

Mr. CONTE. There is $64.8 million for El Salvador.

Ms. OAKAR. In military hardware?

Mr. CONTE. Yes.

Ms. OAKAR. Is there any language relative to the murderers of the missionaries?

Mr. CONTE. Exactly right, that is still in there.

Ms. OAKAR. That is still in there?

Mr. CONTE. Yes.

Ms. OAKAR. With respect to water projects, were any new projects added in to the appropriations?

Mr. CONTE. I will say to the gentlewoman that no new funds for water projects are appropriated. The conference report does authorize the Fisherman's Wharf project in San Francisco, but work on that project will be performed only from already appropriated funds.

In addition, the statement of managers directs the Corps of Engineers to resume, out of already appropriated funds, a study of the channel at Brunswick Harbor, Ga.

Ms. OAKAR. I just thought maybe the gentleman put in the Cleveland harbor project.

Mr. CONTE. No.

Ms. OAKAR. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA), a member of the committee.

Mr. AKAKA. Mr. Speaker, I rise in support of the conference on the con-

tinuing resolution. I want to commend my chairman and colleagues on the House Appropriations Committee for a job well done.

I want to briefly take the floor of the House to explain the Senate amendment No. 35 which was agreed to by the House. This amendment relates to Hickam Air Force Base in Hawaii.

This amendment would prohibit the GSA from using any funds for selling or otherwise transferring the Hickam Air Force Base Administrative Annex to anyone other than the State of Hawaii or its agencies for airport development purposes. This section of the resolution is clearly designed to prohibit the GSA from taking any steps to dispose of Hickam Annex except by public benefit discount conveyance to the State of Hawaii. The conferees intend that the GSA should neither proceed with a public sale of this land nor transfer the land to any other agency of Government, except to the State of Hawaii or its agencies.

Furthermore, the conferees intend that GSA should expeditiously proceed with negotiations with the State of Hawaii so that a public benefit discount conveyance to the State can be arranged as soon as possible. In no event should the GSA fail to complete these negotiations before September 30, 1984, the expiration date of this resolution. The Committees on Appropriations will expect GSA to keep them apprised of these negotiations so that compliance with this deadline can be monitored.

The clear goal of Senate amendment No. 35 is to arrange a no-cost conveyance to the State of Hawaii. This matter shall not be subject to review by the Property Review Board, nor shall it be subject to any of the requirements the Board has promulgated on public benefit conveyances. Among other things, this includes the Board's unpublished April 12, 1982, guidelines, and the Board's April 6, 1982, memorandum to the Administrator of General Services regarding discount conveyances of real property. These requirements are waived.

The committee has found that the State of Hawaii originally applied for this parcel of land in February 1981 under the Airport and Airways Development Act of 1970. This act provides that if land is determined by the Secretary of Transportation to be needed for airport development, under 49 U.S.C. 1723 and 2215, the Secretary is "authorized and directed to perform any acts and to execute any instruments necessary to make the conveyance requested." The Secretary's determination was made on September 11, 1981. The committee has found that the conditions for a transfer under ADAP have been satisfied and that the transfer should now be consummated.

The committee has found that, for whatever reasons, the Air Force's actions in reporting the land at Hickam Annex to the GSA as excess land was in error. Thus any actions taken by the GSA in an attempt to sell this land by public bid are likewise in error.

Furthermore, the committee has found the GSA regulations asserting that the Federal Property and Administrative Services Act of 1949 is superior to ADAP are in error and that the subsequent and more specific ADAP legislation shall govern this transfer.

In summary, Mr. Speaker, the State of Hawaii has complied with all the requirements for a public benefit conveyance. The GSA should consummate such a conveyance at no cost to the State of Hawaii at the earliest possible date, and in no event later than September 30, 1984.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the chairman for yielding. I want to commend him and the other conferees for their work on this, especially for their preservation of the emergency shelter for the homeless.

It is my understanding, Mr. Chairman, that this money was put into FEMA again because of the concern about spending the money very early, so that it be available immediately for that particular use which it is intended, that is, for the homeless. Is that accurate? It is intended for that money to go out almost immediately?

Mr. WHITTEN. Mr. Speaker, I say to my colleague, that is correct, and I quote from the report the following:

> The conferees have taken this action because of a concern that HUD could not implement the new program in time to provide assistance during the winter.

So we put that in here, explaining why we did it, as evidence that we wished them to proceed immediately.

Mr. VENTO. Mr. Speaker, if the chairman will yield further, I appreciate that clarification.

I just want to point out that this amount is far less than we provided in the past year, almost $100 million in the past year.

I hope that we can come back and still make a greater commitment in this particular area, perhaps under a supplemental.

I appreciate the chairman's explanation.

Mr. WHITTEN. Mr. Speaker, I thank my colleague.

May I say again, that when you get into the continuing resolution with all the questions, each on the other, we have to do the best we can; but I do hope the authorizing committees and the regular committees can move ahead and handle the matter in line with the gentleman's wishes.

Mr. VENTO. Mr. Speaker, I thank the gentleman.

● Mr. RALPH M. HALL. Mr. Speaker, in this day and time when we have a national debt in excess of a trillion dollars and an anticipated annual deficit in excess of $200 billion, it is very refreshing to observe the approach of the manager of the Kelly Springfield Tire Co. in Tyler, Tex., a major city in my congressional district.

I believe it is generally agreed that if we are going to address the deficit constructively, we have to do it through productivity. A good step in this direction occurred in Tyler last week at the Kelly Springfield Co. It involved manager James Borgerding, manager of Kelly Springfield, setting up a meeting with John Nash, president of local No. 746 of the United Rubber Workers Union, for a discussion on ways to achieve costs which would be competitive in the world markets. Both James Borgerding and John Nash are very capable, knowledgeable, and resourceful leaders of their respective entities. The meeting also points up the importance of a combined effort by management, employees, outside consultants, and local leaders.

Manager Borgerding pointed out the urgent need for additional production capacity for radial auto tires, setting out that it was necessary to keep pace with the rapid growing consumer preference for radials versus bias tires of the type now being manufactured by Kelly Springfield in Tyler.

His market projections indicated that the multimillion dollar investment would be required in 1984 with additional production in 1985. Obviously, both the company leaders and employees, along with the community leaders would like to see the investment made in Tyler, Tex., and would hope to see the employees, the unions, and State and local governments put on a concerted effort to attract it.

As a Member of Congress representing those who operate the company and those who make the productivity possible, I certainly want to put my shoulder to the wheel and aid this laudable undertaking.

Two of the essentials in such a plant must be the ability to turn out products of consistently high quality along with low unit production costs, Borgerding said:

> Machinery and equipment installed will be based on the latest available manufacturing technology so the ultimate decision on the location of the plant will depend on the commitment from employees to operate the facility in the manner in which it is designed.

Borgerding said major changes in present work rules and plant practices will be required to provide the labor cost efficiencies essential to making the plant effective against worldwide competition. He said Kelly Springfield will have the whole program ready for

an employee presentation implementing a decision for increased production by the end of November of this year.

Once again I laud the efforts of the Kelly Springfield operation and look forward to its successful completion.●

● Mr. HAWKINS. Mr. Speaker, it is said this conference agreement will obtain the Presidents' approval. That seems the only reason for slashing funding for basic human needs. I am strongly opposed.

Among the strong reasons for voting "no" on this conference "agreement" is its further reduction of money for employment. As I said earlier—and I quote from my remarks of November 10, 1983 as contained on page 32227 of the CONGRESSIONAL RECORD:

Mr. HAWKINS. Mr. Speaker, administration officials, rejoicing over the 0.5 percent drop in the unemployment rate over the past month, paint a rosy picture of a strong labor force and a dynamic economic recovery. I would caution the general public against prematurely joining in the shouts of elation without viewing the true employment picture in its proper perspective.

Fact: The overall unemployment rate for October 1983 was 8.8 percent with approximately 9.9 million persons out of work. This remains a persistently high level of joblessness.

Fact: The drop in the unemployment rate last month is due, in large part, to a statistical fluke because of the way figures are adjusted to compensate for seasonal variation in the job market. In fact, the October labor force actually declined by about a half million. This was due to the fact that people were dropping out of the labor force, not because the unemployed were finding jobs. BLS Commissioner Janet Norwood, in appearing before the Joint Economic Committee last week to discuss the current employment situation, herself admits that the Government has been overstating the employment count over the past several months. Therefore, the sharp drop in the jobless rate from 9.3 percent in September to 8.8 percent in October is largely due to a technical correction in reporting techniques, and not necessarily to a sustained economic recovery.

Fact: In October 1983, there were 9.9 million people officially counted as unemployed by the Government. In addition, there were approximately 5.7 million persons who were working part time for economic reasons but would prefer to work full time to support themselves and their families. Another 1.6 million individuals were so discouraged about the joblessness in the Nation that they had given up looking for jobs and were no longer counted as unemployed. Therefore, approximately 17.2 million Americans could be viewed as either unemployed or underemployed for the month of October.

Fact: The unemployment rate last month for certain groups continues to remain unconscionably high. For example, unemployment for blacks is currently about 18.1 percent, still more than double the rate of whites. Teenage unemployment continues to hover at 21.6 percent; for black teenagers, the rate is 48.3 percent which translates into the fact that almost every other black teenager is without a job. Likewise, there was no significant improvement in the employment gains for Hispanics over the last month. The harsh reality for these target groups is that the economic recovery, which this administration purports will benefit all, has not filtered down to these groups to significantly improve their livelihood.

Fact: In October, there were 2,250,000 individuals without a job for 6 months or longer, compared to 2,216,000 long-term unemployed 1 year ago. This means that one out of every five unemployed person has been jobless for relatively long periods of time.

These and other stark realities about the impact of the current economic recovery reinforce the fact that the unemployment rate remains unacceptably high, and that we need to continue to focus on this persistent problem, and to enacted programs to get our people back to work and to get our country back on the right track.●

● Mr. MOODY. Mr. Speaker, in 1980, Congress enacted legislation making monthly reporting and retrospective budgeting a State option in the administration of the food stamp program. However, in 1981 Congress reversed gears and—at the request of the administration—made the use of these systems a mandatory Federal requirement—rather than a State option—after October 1, 1983.

Today, this requirement is causing serious problems for many States across the country, making their systems cost-ineffective and expensive to administer. Recent findings from federally sponsored demonstration projects in Colorado, Michigan, and Illinois provide hard research data to confirm that monthly reporting and retrospective budgeting systems generally do not reduce errors, but do increase administrative costs and result in the denial of benefits for some needy families.

By letter, telegram and telephone, over 30 State administrators have asked their Members of Congress to make monthly reporting and retrospective budgeting a State option rather than a mandate imposed by the Federal Government. They want the flexibility to utilize monthly reporting where it would be most effective and other management techniques where other approaches may be more successful in reducing errors and costs.

As a partial response to State requests, the Congress placed a provision in the continuing resolution enacted in September which extended for 90 days the October 1, 1983 deadline upon which the mandatory Federal requirement takes effect. However, a 90-day extension will not make the basic problem disappear.

Since consideration of this issue in September, the new evidence from the Illinois pilot project has become available, particularly significant because it is the only demonstration project on monthly reporting and retrospective budgeting ever conducted on the food stamp program. The others made findings on the identical AFDC requirement, which went into effect in October of 1982.

The results show that not only did monthly reporting fail to reduce error rates or benefit costs in the food stamp program, but benefit costs actually increased by 8 percent. Even more shocking, administrative costs skyrocketed, rising 20 percent. The research notes that these high added costs associated with monthly reporting were linked to a series of implementation programs, problems that could occur in other areas as well unless these complex systems are thoroughly tested and debugged first. The study found that even if the system had operated without problems, it still would have caused increases in administrative costs, and that there is no evidence to show that any offsetting benefit savings would be realized.

This amendment would postpone the implementation of monthly reporting and retrospective budgeting until October 1, 1984. This would allow Congress sufficient time to return this requirement to a State option. Let me reiterate that after years of pilot testing these systems in the AFDC and food stamp programs, there is no evidence that they reduce errors or costs. Monthly reporting and retrospective budgeting systems are examples of management techniques to reduce errors that, although well-intentioned, simply have not worked as intended and need to be altered.●

● Mr. ECKART. Mr. Speaker, while I generally oppose continuing resolutions, I intend to support the proposal before us today. I will do so not because I agree with all that is included here, most of which this House has not even had a chance to review, but because there is no alternative. We can vote for this measure, or we can oppose it and vote for chaos and the closing down of the Federal Government.

This morning's paper detailed well the story of continuing resolutions: closed door sessions, backroom deals, barters, bargains, trades and Christmas tree ornaments. Continuing resolutions are put together in a hurried fashion, they are decorated to insure enough votes, they are exactly what the budget process was designed to prevent. In every CR, millions of taxpayer dollars are allocated to proposals that no one knows about, some that do not even have blueprints yet, some that are still in the back of someone's mind, some of which each of us individually would oppose or support based on their merits.

But after all we are legislators. We have been elected to govern and to help run a government and we ought to do our job. We have a budget process that is intended to guide the Congress and the President in making important fiscal decisions, in deciding our priorities and insuring that our dollars are targeted where they are

needed most. Yet time after time, we compromise this process and the integrity of Government as we rush through resolutions that are not well thought out, that are not, in most cases, even thoroughly reviewed.

We have a job to do and so does the President. But in that process we cannot unfairly hold hostage the ultimate operation of the Government simply because we have failed to meet our own deadlines and the White House has not held up its part of the bargain.

Millions of people depend on us today with each and every budget we pass or deadline that we miss, and while I do not want to stop the Government every time we fail to meet our deadlines, I will continue from time to time to oppose continuing resolutions simply as a protest. A protest to remind the Congress and the President that the business as usual approach of continuing resolutions does not really serve the business of Government very well.

By protesting this process, hopefully the Congress and the administration will soon realize that we must begin to deal with the real economic problems that confront this country. The way to do that is not going to be found in scapegoating, finger pointing or a long line of continuing resolutions that merely postpone the ultimate day of reckoning.

I realize the budget process is not without flaws. It is cumbersome, it is time consuming and the limits we set for completing it are often impossible ones with which to comply even under the best of circumstances. Perhaps we should review, reform, lengthen, and improve the budget process. But we cannot continue to corrupt, bypass, and thwart the process by passing continuing resolutions when our efforts pull up short.

Under the circumstances, this is the best we could get. Let us not make it a habit.●

Mr. WHITTEN. Mr. Speaker, does the gentleman from Massachusetts have any further requests for time?

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 173, nays 136, not voting 125, as follows:

[Roll No. 490]

YEAS—173

Addabbo	Green	Porter
Akaka	Guarini	Price
Annunzio	Hall (IN)	Rangel
Badham	Hamilton	Ratchford
Barnes	Harrison	Reid
Bateman	Hatcher	Richardson
Berman	Hefner	Ridge
Bevill	Horton	Robinson
Bliley	Howard	Rodino
Boehlert	Hoyer	Roe
Boner	Hunter	Rogers
Bonker	Hyde	Rostenkowski
Borski	Jeffords	Rowland
Boucher	Johnson	Rudd
Breaux	Jones (NC)	Sabo
Brooks	Jones (TN)	Scheuer
Broomfield	Kasich	Schneider
Burton (CA)	Kemp	Schulze
Carney	Kennelly	Schumer
Carr	Kolter	Shannon
Chandler	Kostmayer	Sikorski
Chappell	Lagomarsino	Sisisky
Clarke	Lantos	Smith (FL)
Clinger	Leath	Smith (IA)
Coleman (TX)	Lehman (FL)	Smith (NJ)
Collins	Levin	Solarz
Conte	Lewis (CA)	Spratt
Conyers	Livingston	Staggers
Cooper	Long (LA)	Stratton
Coughlin	Long (MD)	Studds
Coyne	Lowery (CA)	Sundquist
D'Amours	Lowry (WA)	Swift
Darden	Lujan	Synar
Daschle	Matsui	Tallon
Derrick	Mazzoli	Tauzin
Dingell	McCloskey	Thomas (GA)
Dixon	McDade	Torres
Dowdy	McHugh	Torricelli
Downey	McKernan	Towns
Duncan	McKinney	Udall
Durbin	McNulty	Vander Jagt
Dwyer	Mica	Vento
Eckart	Michel	Watkins
Edwards (CA)	Mineta	Weiss
Erlenborn	Moakley	Wheat
Fazio	Mollohan	Whitten
Feighan	Moore	Williams (OH)
Fiedler	Morrison (CT)	Wilson
Fish	Morrison (WA)	Wise
Florio	Mrazek	Wolf
Foley	Natcher	Wolpe
Forsythe	Olin	Wortley
Fowler	Ottinger	Wright
Gejdenson	Owens	Wyden
Gekas	Panetta	Wylie
Gephardt	Parris	Yates
Gilman	Penny	Young (MO)
Gray	Pepper	

NAYS—136

Andrews (TX)	Fields	Kindness
Applegate	Flippo	Kogovsek
AuCoin	Ford (MI)	Latta
Barnard	Frank	Leach
Bates	Franklin	Levitas
Bedell	Gibbons	Lloyd
Bennett	Gingrich	Luken
Bethune	Gonzalez	Lungren
Bilirakis	Goodling	Mack
Boxer	Gunderson	MacKay
Brown (CO)	Hall (OH)	Madigan
Carper	Hall, Ralph	Markey
Chappie	Hall, Sam	Marlenee
Cheney	Hammerschmidt	Marriott
Clay	Hansen (ID)	Martin (IL)
Coats	Hansen (UT)	McCandless
Coleman (MO)	Harkin	McCollum
Craig	Hartnett	McCurdy
Daniel	Hawkins	Miller (CA)
Dannemeyer	Heftel	Mitchell
Daub	Hertel	Moody
Dellums	Hightower	Moorhead
DeWine	Holt	Murphy
Dorgan	Hopkins	Murtha
Dreier	Hubbard	Nielson
Dyson	Huckaby	Nowak
Edgar	Hughes	Oakar
Edwards (OK)	Hutto	Oberstar
Emerson	Ireland	Obey
English	Jenkins	Oxley
Erdreich	Jones (OK)	Packard
Evans (IA)	Kildee	Pashayan
Patman	Shaw	Tauke
Pease	Shelby	Thomas (CA)
Petri	Shumway	Valentine
Quillen	Siljander	Vandergriff
Ray	Skeen	Volkmer
Ritter	Skelton	Vucanovich
Roberts	Slattery	Walgren
Roemer	Smith, Robert	Walker
Roth	Snowe	Weaver
Savage	Solomon	Weber
Schaefer	Spence	Whittaker
Schroeder	Stangeland	Williams (MT)
Sensenbrenner	Stokes	
Sharp	Stump	

NOT VOTING—125

Ackerman	Ford (TN)	Myers
Albosta	Frenzel	Neal
Alexander	Frost	Nelson
Anderson	Fuqua	Nichols
Andrews (NC)	Garcia	O'Brien
Anthony	Gaydos	Ortiz
Archer	Glickman	Patterson
Aspin	Gore	Paul
Bartlett	Gradison	Perkins
Beilenson	Gramm	Pickle
Bereuter	Gregg	Pritchard
Biaggi	Hance	Pursell
Boggs	Hayes	Rahall
Boland	Hiler	Regula
Bonior	Hillis	Rinaldo
Bosco	Jacobs	Rose
Britt	Kaptur	Roukema
Brown (CA)	Kastenmeier	Roybal
Broyhill	Kazen	Russo
Bryant	Kramer	Sawyer
Burton (IN)	LaFalce	Seiberling
Byron	Lehman (CA)	Shuster
Campbell	Leland	Simon
Coelho	Lent	Smith (NE)
Conable	Levine	Smith, Denny
Corcoran	Lewis (FL)	Snyder
Courter	Lipinski	St Germain
Crane, Daniel	Loeffler	Stark
Crane, Philip	Lott	Stenholm
Crockett	Lundine	Taylor
Davis	Martin (NC)	Traxler
de la Garza	Martin (NY)	Waxman
Dickinson	Martinez	Whitehurst
Dicks	Mavroules	Whitley
Donnelly	McCain	Winn
Dymally	McEwen	Wirth
Early	McGrath	Yatron
Edwards (AL)	Mikulski	Young (AK)
Evans (IL)	Miller (OH)	Young (FL)
Fascell	Minish	Zablocki
Ferraro	Molinari	Zschau
Foglietta	Montgomery	

□ 1050

The Clerk announced the following pairs;

On this vote:

Mr. Minish for, with Mr. Nichols against.

Mr. Levine for, with Mr. Rahall against.

Mrs. Boggs for, with Mr. Donnelly against.

Mr. Leland for, with Mr. Nelson against.

Mr. Young of Alaska for, with Mr. Burton of Indiana against.

Mr. Molinari for, with Mr. Hiler against.

Mr. O'Brien for, with Mr. Taylor against.

Mrs. Roukema for, with Mr. Denny Smith against.

Mr. Corcoran for, with Mr. Lewis of Florida against.

Mr. Garcia for, with Mr. Frenzel against.

Messrs. KOSTMAYER, STOKES, OBERSTAR, HARKIN, and HUTTO changed their votes from "yea" to "nay."

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment Number 3: Page 1, after line 6, insert:

(b) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law, except that the waivers provided by this paragraph shall cease to be effective on April 15, 1984, and with the exception of funds made available for Israel and Egypt, not more than one-half of the funds made available by this subsection for each account under the Foreign Assistance Act of 1961 or the Arms Export Control Act shall be obligated prior to April 16, 1984: *Provided,* That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts: *Provided further,* That reprograming notices shall be as required under the provisions of section 523 of Public Law 97-121: *Provided further,* That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $138,423,983 for payment to the "Inter-American Development Bank", of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $1,230,964,704 in callable capital subscriptions; $700,000,000 for payment to the "International Development Association"; $13,232,676 for payment to the "Asian Development Bank" and not to exceed $251,377,943 in callable capital subscriptions; $147,116,170 for payment to the "Asian Development Fund"; $17,986,678 for payment to the "African Development Bank" and not to exceed $53,960,036 in callable capital subscriptions; $285,136,000 for "International Organizations and Programs", except that such funds shall be made available only in accordance with the Report accompanying this joint resolution; $212,231,000 for "Population, Development Assistance"; $133,405,000 for "Health, Development Assistance": *Provided further,* That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund" in accordance with the provisions of section 405 of S. 1347, as reported; $25,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $39,316,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $2,912,000,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $370,000,000 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $22,000,000 for "Trade and Development"; $46,645,000 for "International narcotics control"; $12,000,000 for the "Inter-American Foundation"; not to exceed $15,000,000 for gross obligations for the amount of direct loans and not to exceed $150,000,000 of contingent liability for total commitments to guarantee loans for the "Overseas Private Investment Corporation"; $113,500,000 for the "Peace Corps"; $339,500,000 for "Migration and Refugee Assistance"; $5,000,000 for "Anti-Terrorism Assistance" in accordance with the provisions of title VI of S. 1347, as reported; $697,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, of which not less than $230,000,000 shall be available only for Turkey; $56,532,000 for "International Military Education and Training"; $1,395,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel and not less than $545,000,000 shall be available for Egypt, for which each recipient shall be released from its contractual liability to repay the United States Government with respect to any such credits and participations in credits so provided ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel, not less than $528,500,000 shall be available only for Greece, and not less than $525,000,000 shall be available only for Turkey); $4,356,000,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales" and under the authority of section 209 of S. 1347, as reported: *Provided further,* That of the total aggregate credit sale ceiling made available to Israel, not less than $300,000,000 shall be made available for research and development activities in the United States and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program; not to exceed $325,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $4,400,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That of the amounts made available in this subsection for "International disaster assistance", which amounts shall remain available until expended, $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 102 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds appropriated by this subsection may be available during the fiscal year in which payments are made out of the Treasury of the United States or any fund of a Government corporation, after the date of enactment of this joint resolution, under loan guarantees or credit assurance agreements with respect to loans made or credits extended to Poland in the absence of a declaration of default of Poland with respect to such loans or credits.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except

that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter, *Provided*, That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

Of the funds appropriated or otherwise made available directly pursuant to this joint resolution for El Salvador, 30 per centum shall be set aside and may not be expended until Salvadoran authorities have substantially concluded all investigative actions in the case of the national guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the State Department, including letters dated July 8 and September 23, 1983, and Salvadoran authorities have brought the accused to trial and have obtained a verdict.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: *Provided*, That the Appropriations Committee of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

(b)(1) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority: *Provided*, That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts, except that the provisions of title V of Public Law 97-121 shall apply including the provisions of section 523 of such title:

Provided further, That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $79,720,549 for payment to the "International Bank for Reconstruction and Development", to remain available until expended, and not to exceed $983,220,105 in callable capital subscriptions; $118,423,983 for payment to the "Inter-American Development Bank", to remain available until expended, of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $806,464,582 in callable capital subscriptions; $945,000,000 for payment to the "International Development Association", to remain available until expended; $13,232,676 for payment to the "Asian Development Bank", to remain available until expended, and not to exceed $251,377,943 in callable capital subscriptions; $100,000,000 for payment to the "Asian Development Fund", to remain available until expended; $17,986,678 for payment to the "African Development Bank", to remain available until expended, and not to exceed $53,960,036 in callable capital subscriptions; $50,000,000 for payment to the "African Development Fund", to remain available until expended; $314,164,000 for "International Organizations and Programs", including the provisions of section 103(g) of the Foreign Assistance Act of 1961, except that such funds shall be made available ony in accordance with the Joint Explanatory Statement of the Committee of Conference accompanying the conference report on this joint resolution (H. J. Res. 413); $715,106,500 for "Agriculture, rural development, and nutrition, Development Assistance"; $240,000,000 for "Population, Development Assistance"; $125,000,000 for "Health, Development Assistance"; $116,477,000 for "Education and human resources development, Development Assistance", of which $4,000,000 shall be available only for scholarships for South African students in accordance with the last sentence of section 105(a) of the Foreign Assistance Act of 1961; $140,288,000 for "Energy and selected development activities, Development Assistance"; $10,000,000 for "Science and technology, Development Assistance"; *Provided further*, That of the funds made available to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $10,000,000 shall be available for Botswana: *Provided further*, That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund", which shall be available for obligation until September 30, 1985, except that amounts hereafter deobligated from the Private Sector Revolving Fund are hereby continued available for reobligation for the purposes of such fund; $30,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $36,537,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $25,000,000 for "International disaster assistance"; to remain available until expended, of which $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 103 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance; $1,100,000 in foreign currencies for "Overseas training and special development activities (foreign currency program)"; $2,903,250,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $361,533,250 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $16,250,000 for "Trade and Development"; $41,200,000 for "International narcotics control"; $3,000,000 for the "African Development Foundation"; $13,000,000 for the "Inter-American Foundation"; not to exceed $10,000,000 for gross obligations for the amount of direct loans and not to exceed $100,000,000 of contingent liability for total commitments to guarantee loans for the "Overseas Private Investment Corporation"; $115,000,000 for the "Peace Corps"; $323,000,000 for "Migration and Refugee Assistance"; $2,500,000 for "Anti-Terrorism Assistance"; $510,000,000 for necessary expenses to carry out the provisions

of section 503 of the Foreign Assistance Act of 1961; $51,532,000 for "International Military Education and Training"; $1,315,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel), and not less than $465,000,000 shall be available for Egypt; $4,401,250,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales": *Provided further,* That of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program: *Provided further,* That not more than $64,800,000 of the total funds and authorities made available under this subsection for programs for military assistance shall be available for El Salvador; not to exceed $225,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $3,865,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That no funds in this subsection shall be available for Guatemala except for economic development projects through private voluntary organizations: *Provided further,* That none of the funds appropriated or otherwise made available to the Agency for International Development shall be used to fund projects or programs where comparable American private enterprise funding is available: *Provided further,* That the Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Foreign Affairs and the Committees on Appropriations by February 1, 1984, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Approriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for development project assistance for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

Section 101(b)(1) of this joint resolution may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

(2) Section 101(b)(2) of this joint resolution may be cited as the "International Security and Development Assistance Authorizations Act of 1983".

AUTHORIZATIONS OF APPROPRIATIONS

There is authorized to be appropriated to the President $1,315,000,000 for the fiscal year 1984 to carry out section 23 of the Arms Export Control Act. The total principal amount of loans guaranteed under section 24(a) of the Arms Export Control Act shall not exceed $4,446,500,000 for the fiscal year 1984.

There are authorized to be appropriated for the fiscal year 1984 the following amounts to carry out the following provisions of the Foreign Assistance Act of 1961:

(1) $725,213,000 to carry out section 103.

(2) $244,600,000 to carry out section 104(b).

(3) $133,400,000 to carry out section 104(c).

(4) $121,477,000 to carry out section 105.

(5) $160,000,000 to carry out section 106.

(6) $103,000,000 to carry out section 121.

(7) $30,000,000 to carry out section 214.

(8) $266,214,000 to carry out chapter 3 of part I.

(9) $47,000,000 to carry out section 481.

(10) $25,000,000 to carry out section 491.

(11) $3,074,000 to carry out chapter 4 of part II.

(12) $639,700,000 to carry out section 503.

(13) $56,452,000 to carry out chapter 5 of part II.

(14) $46,200,000 to carry out chapter 6 of part II.

(15) $22,000,000 to carry out section 661.

(16) $370,000,000 to carry out section 667.

There is authorized to be appropriated to the President to carry out the African Development Foundation Act $3,000,000 for the fiscal year 1984.

There is authorized to be appropriated to carry out the Peace Corps Act $116,000,000 for the fiscal year 1984.

Section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956 shall not apply with respect to funds appropriated for "Migration and Refugee Assistance" or for the Inter-American Foundation by the joint resolution of October 1, 1983 (Public Law 98-107), as amended by this joint resolution.

ASSISTANCE FOR ISRAEL AND EGYPT

Section 31(b)(3) of the Arms Export Control Act is amended to read as follows:

"(3) Of the aggregate total of credits (or participations in credits) extended under section 23 of this Act and of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $1,700,000,000 for the fiscal year 1984 shall be available only for Israel, of which not

less than $850,000,000 shall be credits under section 23. Of the total aggregate credit ceiling made available to Israel, up to $300,000,000 shall be made available for research and development activities in the United States and $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program.".

Section 31(c) of such act is amended—

(a) in the first sentence by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984"; and

(b) in the last sentence—

(1) by striking out "$550,000,000" and inserting in lieu thereof "$850,000,000 for the fiscal year 1984"; and

(2) by striking out "for each such year".

Section 31(b)(6) of such Act is amended to read as follows:

"(6) Of the total amounts of credits (or participations in credits) extended under section 23 of this Act, not less than $465,000,000 for the fiscal year 1984 shall be available only for Egypt, and Egypt shall be released from its contractual liability to repay the United States Government with respect to such credits (and participations in credits). Of the total principal amount of loans guaranteed under section 24(a) of this Act, not less than $900,000,000 for the fiscal year 1984 shall be available only for Egypt.".

Section 31(b)(5) of such Act is amended by striking out "for the fiscal year 1982 and for the fiscal year 1983" and inserting in lieu thereof "for the fiscal year 1984".

Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 532. EARMARKING FOR ISRAEL AND EGYPT.—Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1984, not less than $910,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt.".

CONDITIONS ON MILITARY ASSISTANCE FOR EL SALVADOR

Not more than 70 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until—

(1) Salvadoran authorities have substantially concluded all investigative actions in the case of the National Guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the Department of State (including the letters dated July 8 and September 23, 1983); and

(2) Salvadoran authorities have brought the accused to trial and have obtained a verdict.

Not more than 90 percent of the amount made available for the fiscal year 1984 for military assistance for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act may be expended until the President has determined and certified to the Congress that—

(1) the Government of El Salvador has not taken any action which would alter, suspend, or terminate the land reform program for phase I or phase III promulgated under Decree 154 (dated March 5, 1980) or Decree 207 (dated April 28, 1980) in a manner detrimental to the rights of the beneficiaries or the potential beneficiaries under those decrees; and

(2) the Government of El Salvador continues to make documented progress on implementing the land reform program.

MINORITY SET-ASIDE

Except to the extent that the Administrator of the agency for International Development determines otherwise, not less than 10 percent of the aggregate of the funds made available for the fiscal year 1984 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically Black colleges and universities, and private and voluntary organizations which are controlled by individuals who are Black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

MINORITY RESOURCE CENTER

None of the funds authorized to be appropriated for the fiscal year 1984 to carry out the Foreign Assistance Act of 1961 may be used to eliminate the Minority Resource Center as a separate and distinct entity within the Agency for International Development, including implementation of a consolidation of the Minority Resource Center with the Office of Small and Disadvantaged Business Utilization under section 133(c)(8) of the International Development and Food Assistance Act of 1977.

PROMOTING THE DEVELOPMENT OF THE HAITIAN PEOPLE AND PROVIDING FOR ORDERLY EMIGRATION FROM HAITI

It is the sense of the Congress that for the fiscal year 1984 up to $24,000,000 of the funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, and up to $10,000,000 of the funds available to carry out chapter 4 of part II of such Act, should be made available for development assistance for Haiti, subject to the limitation contained in the third paragaph of this heading.

To the maximum extent practicable, assistance for Haiti under chapter 1 of part I and under chapter 4 of part II of the Foreign Assistance Act of 1961 should be provided through private and voluntary organizations.

Funds available for fiscal year 1984 to carry out chapter 1 of part I or chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 may be obligated for Haiti, and credits may be extended and guarantees may be issued under the Arms Export Control Act for Haiti, only if the President determines that the Government of Haiti—

(1) is continuing to cooperate with the United States in halting illegal emigration to the United States from Haiti;

(2) is cooperating fully in implementing United States development, food, and other economic assistance programs in Haiti (including programs for prior fiscal years); and

(3) is making a concerted and significant effort to improve the human rights situation in Haiti by implementing the political reforms which are essential to the development of democracy in Haiti, including the establishment of political parties, free elections, and freedom of the press.

Six months after the date of enactment of this section, the President shall report to the Congress on the extent to which the actions of the Government of Haiti are consistent with each numbered provision contained in the third paragraph of this heading.

Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act for the fiscal year 1984 may be used for programs with Haiti, which shall be consistent with prevailing United States refugee polices, to assist in halting significant illegal emigration from Haiti to the United States

PRIVATE SECTOR REVOLVING FUND

The amendment contained in section 407 of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, is hereby enacted.

ANTITERRORISM ASSISTANCE PROGRAM

The amendments contained in title II of H.R. 2992, as reported by the Committee on Foreign Affairs of the House of Representatives on May 17, 1983, are hereby enacted, except that, for purposes of such enactment, section 575 of the Foreign Assistance Act of 1961 shall read as follows:

"SEC. 575. APPROPRIATIONS.—There is authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1984. Amounts appropriated under this section are authorized to remain available until expended.".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 6: Page 1, after line 6, insert: (e) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984, (H.R. 3222), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-478), filed in the House of Representatives on November 3, 1983, as if such Act has been enacted into law.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

(e) Notwithstanding any other provision of this joint resolution except section 102, such amounts as may be necessary for programs, projects, or activities not otherwise specifically provided for in this joint resolution for which appropriations, funds, or other authority would be available in the

Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984 (H.R. 3222), at a rate for operations and to the extent and in the manner that was provided for in Public Law 98-107: *Provided*, That none of the funds made available in this joint resolution for the Department of Justice and the Federal Trade Commission may be used for any activity, the purpose of which is to overturn or alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided further*, That nothing in this provision shall prohibit any employee of the Department of Justice or the Federal Trade Commission from presenting testimony on this matter before appropriate committees of the House and Senate.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 9: Page 17, strike out all after line 19 over to and including line 9 on page 26.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

(g) Notwithstanding any other provision of this joint resolution, the following amounts are hereby made available, in addition to funds otherwise available, for the following purposes:

EDUCATION FOR THE HANDICAPPED

For an additional amount for carrying out section 611 of the Education of the Handicapped Act, $25,000,000 to become available on July 1, 1984 and to remain available until September 30, 1985.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For an additional amount for carrying out section 100(b)(1) of the Rehabilitation Act of 1973, $10,000,000.

GRANTS TO SCHOOLS WITH SUBSTANTIAL NUMBERS OF IMMIGRANTS

For carrying out emergency immigrant education assistance under title V of H.R. 3520 as passed the House of Representatives September 13, 1983, $30,000,000.

HIGHER EDUCATION

For an additional amount for work-study programs under title IV of the Higher Education Act of 1965, $5,000,000.

For an additional amount for supplemental educational opportunity grants under title IV of the Higher Education Act of 1965, $5,000,000.

COMMUNITY HEALTH CENTERS

For an additional amount for carrying out titles III and XIX of the Public Health Service Act with respect to community health centers, $10,000,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For an additional amount for carrying out the National Technical Institute for the Deaf Act, $1,700,000.

GALLAUDET COLLEGE

For an additional amount for carrying out the Act of June 18, 1954 (68 Stat. 265), relating to Gallaudet College, $2,000,000.

FOOD DISTRIBUTION AND EMERGENCY SHELTER

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $10,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this joint resolution or any other provision of law, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The national board shall consist of seven members. The United Way of America, the Salvation Army, the Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board. The representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $10,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 30 minutes.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Am I correct that the amendment now before us is the modified amendment that passed the House, the Wright amendment? Is that correct?

Mr. WHITTEN. The gentleman is correct.

Mr. WALKER. Am I further correct that of the money in the amendment, $30 million is for the illegal alien education program; is that correct?

□ 1100

Mr. WHITTEN. That is correct. I believe the title as it appears is for grants for that purpose. This is a continuing resolution and the inclusion therein is in line with the rule.

Mr. WALKER. Mr. Speaker, I cannot hear the gentleman from Mississippi.

The SPEAKER. The Chair would like to inform Members that we would like to expedite the proceedings of the day so that we can finish the item, send it to the Senate and await the action of the Senate.

The gentleman from Mississippi (Mr. WHITTEN) is recognized.

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. NATCHER) for response to this question since he is more familiar with it than I.

Mr. NATCHER. Mr. Speaker, as the gentleman from Pennsylvania (Mr. WALKER) knows, at the time this amendment was adopted on the House side the amount was $145 million. The gentleman now knows that the amount is $30 million.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman.

My problem stems a little bit from the speech we just heard a little while ago about all of the good things that we were doing for education in this particular amendment.

Then when I come down and begin reading the amount I find out that $30 million, almost one-third of the entire amount is going to a program that is totally unauthorized, which does not have national application. As a matter of fact, most of the money of which will be directed toward one State, perhaps two States, and we have a situation where just the other day money had to be withdrawn from a program that was going to implement more border guards to try to solve the prob-

lem of illegal aliens. That amount was $30 million in and of itself.

Now we are putting in $30 million to educate. Some of us just have a little bit of a problem with what we are doing here in a totally unauthorized way.

Can the gentleman from Kentucky (Mr. NATCHER) tell me, do we have an authorization for this program?

Mr. NATCHER. No. The gentleman is correct, as far as the lack of authorization is concerned. The gentleman recalls at the time the rehabilitation authorization bill was on the floor in the House, this program was added at that time. However, the authorization bill has never gone to conference.

Mr. WALKER. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, may I address the statement of the gentleman from Pennsylvania (Mr. WALKER).

The reason for most of the continuing resolution is because the authorizations are not made in a timely fashion. So much of the bill has been made necessary because the authorizing committees have not completed their work. I mentioned the other day when this matter was before us that in 1982 we had 24 new annual authorizations and they do not get through in time for your Committee on Appropriations to act. If we had authorizations in place we would have our appropriation bills finished.

May I point attention of the gentleman from Pennsylvania to the fact that the House passed by a substantial vote, the $954,400,000 in the so-called Wright-Perkins amendment. We have come back with an agreement here which totals $98.7 million.

If we do not agree today you are going to have half of your Government closing.

For that reason, we had to do lots of things that you might have preferred to do otherwise and some we might have preferred also. In this instance, I thought we might have gone higher than the $98 million but I am just saying that there are plenty of things in here that we prefer to do differently.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I would like to agree with much of what the gentleman (Mr. WHITTEN) says. I just think it is a lousy procedure, and I said that many times before, that we go through and we appropriate lots of money without authorization.

I would certainly agree with the gentleman (Mr. WHITTEN) that the conferees did a good job of lowering some of those amounts of money that were so outrageous.

My question here is one of the priorities that were finally determined, that one-third of the money went to a program in education that is only going to benefit a very, very handful of States at the most. They are not broad-based educational programs.

My question is, I guess, whether or not we are going to have $98 million in spending whether or not it should not be for programs that have a total broad base to them.

Mr. WHITTEN. Mr. Speaker, all the House conferees on the gentleman's (Mr. WALKER) side and those on this side think we did the best that we can and that is about the best evidence that it is the best that we can do.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I would like to talk about priorities just a little bit.

In this bill, in behalf of David Stockman and the President there is $170 million in foreign aid. I do not think we should be denying some of the programs that we have added here in this bill for our people in order to meet the needs of President and David Stockman in foreign aid.

The SPEAKER. Does the gentleman from Massachusetts (Mr. CONTE) desire time?

Mr. CONTE. I do, Mr. Speaker.

The SPEAKER. The gentleman from Massachusetts (Mr. CONTE) is recognized for 30 minutes.

Mr. LUNGREN. Mr. Speaker, will the gentleman from Massachusetts yield to me?

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, I would just like to direct a question to the chairman of the Appropriations Committee one more time. I would just like, if he would explain to us other than suggesting that we had to work out some deals here and there, what justification we have in this same bill for taking $30 million out that this House had voted for earlier to increase the support of the Immigration and Naturalization Service, to give us a total increase of 750 positions including 400 new border patrol officers, taking that $30 million out and at the same time giving us $30 million for some new program that exists only because we do not have sufficient border patrol, and that is to educate the children of illegal aliens? Could the gentleman give us some explanation?

Mr. WHITTEN. I can do it very easily. It was necessary in order to reach an agreement and we had to reach an agreement because half the Government is technically coming to a close. That is the reason for a good many things in here. We did reach an agreement. Your conferees worked hard, and I would suggest that we approve it and go home.

Mr. LUNGREN. If the gentleman (Mr. CONTE) will yield further, I would just like to point out here that October 4, the Speaker of the House announced that we would not deal with the immigration issue because, he told us, there was no national constituency for it and there is no national problem.

I still say that we have to answer the question, if there is no national constituency for it, if there is no national problem, why start a new entitlement program to every single educational entity in this country that happens to have children who are here illegally? The gentleman from Oklahoma just got up and lambasted the President and Mr. Stockman for giving aid, foreign aid here. What do you call it when this is aid to children who are here illegally, when we are not giving enough money to the children that we have who are here? At the same time this place, this institution refused to deal with the issue of immigration.

We are playing a card game here. We are hiding from the American people. We are saying there is no national problem on the one hand, and, then, we are are starting with the back hand a new entitlement program with no authorization.

It is going to come back and haunt us.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, I would like to express my support for this particular amendment.

The gentleman from California (Mr. LUNGREN) is absolutely correct when he says that we are not properly handling our immigration law, that we are putting our heads in the sand and saying there is no problem and there is no national constituency which I think we certainly are. However, there is a national problem. The gentleman from Pennsylvania was quite correct, it is concentrated in a few of the States. However, those States do have a responsibility right now to educate these children who are there just simply by reason of geography.

I think the majority leader is absolutely correct with this particular amendment. I compliment him for it and I urge we approve it.

Mr. CONTE. Mr. Speaker, I urge my colleagues to vote aye on this proposal. This was one of the hardest fought proposals of the entire conference and no one knows how much labor has gone into this thing.

You know, Government is the art of compromise. I did not like this program. I voted against this program. But, as I say, Government is the art of compromise and we came out with a compromise.

The SPEAKER. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 144, nays 78.

So the motion was agreed to.

□ 1110

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No 19: Page 26, after line 9, insert:

SEC. 113. For the purpose of providing recreation development on the Ocoee River, $7,400,000 is appropriated to the Tennessee Valley Authority, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 113. Notwithstanding any other provision of this joint resolution, $7,400,000 is appropriated to the Tennessee Valley Authority, to be available for the purpose of providing recreation on the Ocoee River, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water, all of which shall be reimbursed from imposition of fees for such recreation activities.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 20: page 26, after line 9, insert:

SEC. 114. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1984 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will disignate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 21, page 26, after line 9, insert:

SEC. 115. (a) Chapter 25 of title 18, United States Code, is amended by adding the following new section:

"§ 510. Forging endorsements on Treasury checks or bonds or securities of the United States

"(a) Whoever, with intent to defraud—

"(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

"(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States that in fact is stolen or bears a forged or falsely made endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $500, in any of the above-mentioned offenses, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

(b) Section 3056(a) of title 18, United States Code, is amended by inserting in the fifth clause the number "510," after "509,".

(c) The analysis of chapter 25, of title 18, United States Code, immediately preceding section 471 of such title is amended by adding at the end thereof the following:

"510. Forging endorsements on Treasury checks or bonds or securities of the United States.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 21, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 23: Page 26, after line 9, insert:

SEC. 117. Notwithstanding any other provision of law, the ban on the use of United States Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1984: *Provided,* That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York, are exempted from such ban: *Provided further,* That the exemption established herein is subject to reevaluation for safety by the five-member United States Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, as follows:

SEC. 117. Notwithstanding any other provision of law, the ban on the use of United States Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1985: *Provided,* That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York, are exempted from such ban: *Provided further,* That the exemption established herein is subject to reevaluation for safety by the five member United States Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 24: Page 26, after line 9, insert:

SEC. 118. (a)(1) Section 5723(a)(1) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "travel expenses";

(B) by striking out "manpower shortage or" and inserting in lieu thereof "manpower shortage, (B)"; and

(C) by inserting ", or (B) of any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16" after "Senior Executive Service".

(2) Sections 5724(a)(2) and 5726(b) of title 5, United States Code, are each amended by striking out "11,000" and inserting in lieu thereof "18,000".

(3) Section 5724(b)(1) of title 5, United States Code, is amended by striking out "not in excess of 20 cents a mile".

(4) Section 5724 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent

duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable.".

(5) Section 5724a(a)(3) of title 5, United States Code, is amended—

(A) in the first sentence thereof, by striking out "30 days" and inserting in lieu thereof "60 days"; and

(B) by striking out the second and fourth sentences thereof and inserting after the first sentence the following: "The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupancy of temporary quarters.".

(6) Section 5724a(a)(4) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "(4)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B)(i) In connection with the sale of the residence at the old official station, reimbursement under this paragraph shall not exceed 10 percent of the sale price or $15,000, whichever is the lesser amount.

"(ii) In connection with the purchase of a residence at the new official station, reimbursement under this paragraph shall not exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

"(iii) Effective October 1 of each year, the respective maximum dollar amounts applicable under clauses (i) and (ii) shall be increased by the percent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest one-tenth of 1 percent. For the purpose of this clause, 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor.".

(7)(A)(i) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding after section 5724a the following new sections:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the Federal, State, and city income taxes incurred by an employee, or by an employee and such employees's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee, or the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purpose of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5726(c) of this title.

"§ 5724c. Relocation services

"Each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employees' residence.".

(ii) The chapter analysis at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724a the following new items:

"5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred.

"5724c. Relocation services.".

(B) Section 5724(i) of title 5, United States Code, is amended by striking out "5724a" and inserting in lieu thereof "5724a, 5724b,".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

(c)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this joint resolution.

(2) Not later than thirty days after the date of the enactment of this joint resolution, the President shall prescribe the regulations required under the amendments made by subsection (a). Such resolutions shall take effect as of such date of enactment.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 25: Page 26, after line 9, insert:

SEC. 119. (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this joint resolution.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this joint resolution. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN. Moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 119. Notwithstanding any other provision of this joint resolution, (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this joint resolution.

(b) The Secretary of the Army shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this joint resolution. Nothing is this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 29: Page 26, after line 9, insert:

SEC. 123. Section 5132(a)(1) of title 31, United States Code, is amended by inserting after the second sentence thereof the following: "The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins, and shall solicit such sales through the use of the customer list of the Bureau of the Mint.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 29, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 33: Page 26, after line 9, insert:

SEC. 127. The heading "Annual contributions for assisted housing" in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1984 (Public Law 98-45) is amended by inserting before the period at the end thereof (97 Stat. 219, 220) the following: *"Provided further,* That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of

Public Law 98-35 (97 Stat. 198-199): *Provided further,* That the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 127. The paragraph under the heading "Housing Programs, Annual Contributions for Assisted Housing" in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219, 220), is amended by striking out the period at the end thereof and inserting a colon in lieu thereof and the following:

"Provided further, That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso of this paragraph are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199): *Provided further,* That upon enactment of this joint resolution, $2,217,150,000 of budget authority shall be used only for the section 8 existing housing program (42 U.S.C. 1437f), $540,000,000 of budget authority shall be used only for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), and $900,000,000 of budget authority shall be used only for the development or acquisition costs of public housing other than for Indian families: *Provided further,* That, if no authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984, then the amount of budget authority to be used only for the section 8 existing housing program is increased to $3,922,650,000 as of January 1, 1984, the amount of contracts for annual contributions as provided under this heading in Public Law 98-45 is hereby increased by $23,551,393, and the $1,500,000,000 of budget authority deferred until January 1, 1984 in the second proviso under this heading in Public Law 98-45, shall, on January 1, 1984, be added to and merged with budget authority which is subject to the fourth proviso under such heading: *Provided further,* That if an authorization act for fiscal year 1984 for the assisted housing programs of the Department of Housing and Urban Development is enacted before January 1, 1984 then the paragraph under this heading and the amendments provided in this joint resolution are modified as follows: (1) the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in Public Law 98-45 shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading; (2) the amount of budget authority that shall only be used for the section 8 existing housing program (42 U.S.C. 1437f) would be $2,217,150,000; and (3) the $23,551,393 of additional contract authority provided in the previous proviso would not become available for contracts for annual contributions under section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c)."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed on.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 36: Page 26, after line 9, insert:

SEC. 130. Notwithstanding any other provision of law, $1,000,000 of the unobligated funds as of September 30, 1983 from the appropriation for closeout activities of the Community Services Administration shall remain available through September 30, 1988.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 36, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 40: Page 26, after line 9, insert:

SEC. 134. Upon application, prior to January 1, 1984, by a subsidized United States-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than four existing foreign-built vessels for operation under United States flag, and shall require conversion of two such vessels in a United States shipyard. Upon application prior to June 1, 1984, a subsidized United States-flag liner company which has taken delivery from United States shipyards of new United States-built liner vessels that were introduced into subsidized service within two years preceding the date of enactment of this joint resolution. The Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under United States flag, and shall require conversion of one such ship in a United States shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of title VI of the Merchant Marine Act, 1936, as amended, section 901(b) of said Act, and chapter 37 of title 46, United States Code.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 134. Upon application, prior to January 1, 1984, by a subsidized United States-flag liner company holding a written option to purchase foreign-built liner vessels executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 existing foreign-built vessels for operation under United States flag, and shall require conversion of two such vessels in a United States shipyard. Upon application prior to June 1, 1984, by a subsidized United States-flag liner company which has taken delivery from United States shipyards of new United States-built liner vessels that were introduced into subsidized service within two years preceding the date of enactment of this joint resolution, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under United States flag, and shall require conversion of one such ship in a United States shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of title VI, except section 607, of the Merchant Marine Act, 1936, as amended, section 901(b) of said Act, and chapter 37 of title 46, United States Code.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 41: Page 26, after line 9, insert:

SEC. 135. The project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area: is hereby authorized to be prosecuted by the Secretary sustantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 135. Notwithstanding any other provision of this joint resolution, the project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area—is hereby authorized to be prosecuted by the Secretary of the Army substantially in accordance with the plans and subject to the con-

ditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 43: Page 26, after line 9, insert:

SEC. 137. No funds in this or any other Act shall be used to process or grant oil and gas lease applications on any Federal lands outside of Alaska that are in units of the National Wildlife Refuge System, except where there are valid existing rights or except where it is determined that any of the lands are subject to drainage as defined in 43 C.F.R. 3100.2, unless and until the Secretary of the Interior first promulgates, pursuant to section 553 of the Administrative Procedure Act, revisions to his existing regulations so as to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement with respect thereto.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 43, and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will advise the Members that the Chair will take 1-minute requests at this particular time.

After the 1-minute requests, the Chair understands that the gentleman from Michigan (Mr. FORD) has a conference report he desires to submit.

We will also take special orders at this particular time.

The House will then be in recess subject to the action of the Senate, and the House will then be called back.

A PROTEST VOTE ON THE CONTINUING RESOLUTON

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I am opposing this resolution once again because of the way we handle foreign aid. We do not get to vote on individual projects and the thrust of the foreign aid bill is for more military hardware. We as a country are relinquishing our position as a moral force in the world. Our emphasis is on military solutions and our aid to countries reflect this.

A good case in point is El Salvador. Again we are giving more military assistance when the people there have been victimized by the military. Indeed, much of the bloodshed in the world is because of our aid. This must stop. I sincerely hope that those who oppose nuclear weapons will be consistent in their philosophy we not only need a nuclear arms control but an arms control period.

My vote then is a protest vote against our procedures. It in no way reflects on the many fine items in the continuing resolution such as the programs in education, our homeless and our unemployed, and our elderly. My vote is a protest against our becoming the arms merchant of the world. We as a superpower should stand for peace, not war. We as a nation should be the major diplomats in bringing people together. This, I am afraid, is not reflected in this continuing resolution. Therefore, I cannot support it. It is my way of protesting our grossly unfortunate procedures.

□ 1120

CONFERENCE REPORT ON H.R. 2077, FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS OF 1983

Mr. FORD of Michigan submitted the following conference report and statement on the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 98-542)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the House bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the House amendment to the Senate amendment to the House bill, insert the following:

"TITLE I—PHYSICIANS COMPARABILITY ALLOWANCE

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Federal Physicians Comparability Allowance Amendments of 1983'.

"EXTENSION OF AUTHORITY

"SEC. 102. (a) The second sentence of section 5948(d) of title 5, United States Code, is amended to read as follows: 'No agreement shall be entered into under this section later than September 30, 1987, nor shall any agreement cover a period of service extending beyond September 30, 1989.'.

"(b) Section 3 of the Federal Physicians Comparability Allowance Act of 1978 (5 U.S.C. 5948 note) is amended by striking out 'September 30, 1985' and inserting in lieu thereof 'September 30, 1989'.

"PAY OF CERTAIN FEDERAL PHYSICIANS FOR FISCAL YEAR 1982

"SEC. 103. (a) Any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of title 5, United States Code, is relieved of all liability to the United States for any amounts paid to such individual in excess of such limitation if, and to the extent that, such liability takes into account any allowance paid under section 5948 of such title.

"(b)(1) The appropriate agency head shall pay, out of any appropriation or fund available to pay allowances under section 5948 of title 5, United States Code, to any individual as to whom liability is relieved under subsection (a), an amount equal to the aggregate of any amounts paid by such individual, or withheld from sums otherwise due such individual, with respect to any liability relieved under such subsection.

"(2) A payment under paragraph (1)—

"(A) shall be made only if written application therefor is submitted to the appropriate agency head, in accordance with such regulations as the President of his designee may prescribe, within two years after the date of enactment of this Act; and

"(B) shall not be considered for purposes of applying the limitation set forth in section 5383(b) of title 5, United States Code.

"(C) For the purpose of this section—

"(1) the term 'aggregate pay', as used with respect to an individual, means the aggregate amount paid to such individual under sections 4507, 5382, 5384, and 5948 of title 5, United States Code;

"(2) the term 'appropriate agency head', as used with respect to an individual, means the head of the agency employing such individual when such individual was paid an allowance with respect to which liability is relieved under this subsection; and

"(3) the term 'agency' has the meaning given such term by section 5948(g)(2) of such title.

"TITLE II—FEDERAL EMPLOYEES' RETIREMENT ADJUSTMENT

SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983'.

"STATEMENT OF POLICY

"SEC. 202. It is the policy of the Government—

"(1) that the amount required to be contributed to certain public retirement systems by employees and officers of the Government who are also required to pay employment taxes relating to benefits under title II of the Social Security Act for service performed after December 31, 1983, be modi-

fied until the date on which such employees and officers are covered by a new Government retirement system (the design, structure, and provisions of which have not been determined on the date of enactment of this Act) or January 1, 1986, whichever is earlier;

"(2) that the Treasury be required to pay into such retirement systems the remainder of the amount such employees and officers would have contributed during such period but for the temporary modification;

"(3) that the employing agencies make contributions to the retirement systems with respect to such service in amounts required by law in effect before January 1, 1984, without reduction in such amounts;

"(4) that such employees and officers accrue credit for service for the purposes of the public retirement systems in effect on the date of enactment of this Act until a new Government retirement system covering such employees and officers is established;

"(5) that, where appropriate, deposits to the credit of such a retirement system be required with respect to service performed by an employee or officer of the Government during the period described in clause (1), and, where appropriate, annuities be offset by the amount of certain Social Security benefits attributable to such service; and

"(6) that such employees and officers who are first employed in civilian service by the Government or first take office in civilian service in the Government on or after January 1, 1984, become subject to such new Government retirement system as may be established for employees and officers of the Government on or after January 1, 1984, and before January 1, 1986, with credit for service performed after December 31, 1983, by such employees and officers transferred to such new Government retirement system.

"DEFINITIONS

"SEC. 203. (a) For the purposes of this title—

"(1) the term 'covered employee' means any individual whose service is covered service;

"(2) the term 'covered retirement system' means—

"(A) the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code;

"(B) the Foreign Service Retirement and Disability System under chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.);

"(C) the Central Intelligence Agency Retirement and Disability System under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(D) any other retirement system (other than a new Government retirement system) under which a covered employee who is a participant in the system is required to make contributions to the system in an amount equal to a portion of the participant's basic pay for covered service, as determined by the President;

"(3) the term 'covered service' means service which is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 by reason of the amendments made by section 101 of the Social Security Amendments of 1983 (97 Stat. 67); and

"(4) the term 'new Government retirement system' means any retirement system which (A) is established for officers or employees of the Government by or pursuant to a law enacted after December 31, 1983, and before January 1, 1986, and (B) takes effect on or before January 1, 1986.

"(b) The President shall publish the determinations made for the purpose of subsection (a)(2)(D) in an Executive order.

"CONTRIBUTION ADJUSTMENTS

"SEC. 204. (a) In the case of a covered employee who is participating in a covered retirement system, an employing agency shall deduct and withhold only 1.3 percent of the basic pay of such employee under—

"(1) section 8334 of title 5, United States Code;

"(2) section 805 of the Foreign Service Act of 1980 (22 U.S.C. 4045);

"(3) section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); or

"(4) any provision of any other covered retirement system which requires a participant in the system to make contributions of a portion of the basic pay of the participant,

for covered service which is performed after December 31, 1983, and before the earlier of the effective date of a new Government retirement system or January 1, 1986. Deductions shall be made and withheld as provided by such provisions in the case of covered service which is performed on or after such effective date or January 1, 1986, as the case may be, and is not subject to a new Government retirment system.

"(b) Employing agencies of the Government shall make contributions with respect to service to which subsection (a) of this section applies under the second sentence of section 8334(a)(1) of title 5, United States Code, the second sentence of section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)), the second sentence of section 211(a) of the Central Intelligence Agency Retirment Act of 1964 for Certain Employees (50 U.S.C. 403 note), and any provision of any other covered retirement system requiring a contribution by the employing agency, as if subsection (a) of this section had not been enacted.

"REIMBURSEMENT FOR CONTRIBUTION DEFICIENCY

"SEC. 205. (a) For purposes of this section—

"(1) the term 'contribution deficiency', when used with respect to a covered retirement system, means the excess of—

"(A) the total amount which, but for section 204 (a) of this Act, would have been deducted and withheld under a provision referred to in such section from the pay of covered employees participating in such retirement system for service to which such section applies, over

"(B) the total amount which was deducted and withheld from the pay of covered employees for such service as provided in section 204(a) of this Act; and

"(2) the term 'appropriate agency head' means—

"(A) the Director of the Office of Personnel Management, with respect to the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code;

"(B) the Secretary of State, with respect to the Foreign Service Retirement and Disability System under chapter 8 of the Foreign Service Retirement Act of 1980 (22 U.S.C. 404 et seq.);

"(C) the Director of Central Intelligence, with respect to the Central Intelligence Agency Retirement and Disability System under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(D) the officer designated by the President for that purpose in the case of any retirement system described in section 203(a)(2)(D) of this Act.

"(b) At the end of each of fiscal year 1984, 1985, and 1986, the appropriate agency head—

"(1) shall determine the amount of the contribution deficiency for such fiscal year in the case of each covered retirement system, including the interest that those contributions would have earned had they been credited to the fund established for the payment of benefits under such retirement system in the same manner and at the same time as deductions under the applicable provision of law referred to in section 204(a) of this Act; and

"(2) shall notify the Secretary of the Treasury of the amount of the contribution deficiency in each such case.

"(c) Before closing the accounts for each of fiscal years 1984, 1985, and 1986, the Secretary of the Treasury shall credit to the fund established for the payment of benefits under each covered retirement system, as a Government contribution, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined under subsection (b) with respect to that covered retirement system for the fiscal year involved.

"(d) Amounts credited to a fund under subsection (c) shall be accounted for separately than amounts credited to such fund under any other provision of law.

"SPECIAL DEPOSIT AND OFFSET RULES RELATING TO RETIREMENT BENEFITS FOR INTERIM COVERED SERVICE

"SEC. 206. (a) For the purpose of this section, the term 'interim covered service' means covered service to which section 204 (a) applies.

"(b)(1) Paragraphs (2) and (3) apply according to the provisions thereof only with respect to a covered employee who is employed by the Government on December 31, 1983.

"(2)(A) Notwithstanding any other provision of law, the interim covered service of such covered employee shall be considered—

"(i) in determining entitlement to and computing the amount of an annuity (other than a disability or survivor annuity) commencing under a covered retirement system during the period beginning January 1, 1984, and ending on the earlier of the date a new Government retirement system takes effect or January 1, 1986, by reason of the retirement of such covered employee during such period only if such covered employee makes a deposit to the credit of such covered retirement system for such covered service in an amount computed as provided in subsection (f); and

"(ii) in computing a disability or survivor annuity which commences under a covered retirement system during such period and is based in any part on such interim covered service.

"(B) Notwithstanding any other provision of law, an annuity to which subparagraph (A)(ii) applies shall be reduced by the portion of the amount of any benefits which is payable under title II of the Social Security Act and is attributable to the interim covered service considered in computing the amount of such annuity, as determined under subsection (g), unless, in the case of a survivor annuity, a covered employee has made a deposit with respect to such covered service for the purposes of subparagraph (A)(i) before the date on which payment of such annuity commences.

"(3) Notwithstanding any other provision of law, if a new Government retirement

system is not established or is inapplicable to such a covered employee who retires or dies subject to a covered retirement system after the date on which such new Government retirement system takes effect, the interim covered service of such covered employee shall be considered in determining entitlement to and computing the amount of an annuity under a covered retirement system based on the service of such covered employee only if such covered employee makes a deposit to the credit of such covered retirement system for such covered service in an amount computed as provided in subsection (f).

"(c) (1) Paragraphs (2) and (3) apply according to the provisions thereof only with respect to a covered employee who was not employed by the Government on December 31, 1983.

"(2) Notwithstanding any other provision of law, any annuity which commences under a covered retirement system during the period described in subsection (b)(2)(A)(i) and is based, in any part, on interim covered service shall be reduced by the portion of the amount of any benefits which is payable under title II of the Social Security Act to the annuitant and is attributable to such service, as determined under subsection (g).

"(3) Notwithstanding any other provision of law, if a new Government retirement system is not established, the interim covered service of such a covered employee who retires or dies after January 1, 1986, shall be considered in determining entitlement to and computing the amount of an annuity under a covered retirement system based on the service of such covered employee only if such covered employee makes a deposit to the credit of such covered retirement system for such covered service in an amount computed as provided in subsection (f).

"(d) If a covered employee with respect to whom subsection (b)(3) or (c)(3) applies dies without having made a deposit pursuant to such subsection, any individual who is entitled to an annuity under a covered retirement system based on the service of such covered employee or who would be entitled to such an annuity if such deposit had been made by the covered employee before death may make such deposit after the date of death of such covered employee. Service covered by a deposit made pursuant to the first sentence shall be considered in determining, in the case of each individual to whom the first sentence applies, the entitlement to and the amount of an annuity under a covered retirement system based on the service of such covered employee.

"(e) A reduction in annuity under subsection (b)(2)(B) or (c)(2) shall commence on the first day of the first month after the date on which payment of benefits under title II of the Social Security Act commence and shall be redetermined each time an increase in such benefits takes effect pursuant to section 215(i) of the Social Security Act. In the case of an annuity of a participant or former participant in a covered retirement system, of a surviving spouse or child of such participant or former participant, or of any other person designated by such participant or former participant to receive an annuity, under a covered retirement system (other than a former spouse) the reduction in annuity under subsection (b)(2)(B) or (c)(2) shall be calculated before any reduction in such annuity provided under such system for the purpose of paying an annuity under such system to any former spouse of such participant or former participant based on the service of such participant or former participant.

"(f) For the purposes of subsection (b) or (c), the amount of a deposit to the credit of the applicable covered retirement system shall be equal to the excess of—

"(1) the total amount which would have been deducted and withheld from the basic pay of the covered employee for the interim covered service under such covered retirement system but for the application of section 204(a), over

"(2) the amount which was deducted and withheld from such basic pay for such interim covered service pursuant to section 204 (a) and was not refunded to such covered employee.

"(g) For the purpose of subsections (b)(2)(B) and (c)(2), the portion of the amount of the benefits which is payable under title II of the Social Security Act to an individual and is attributable to interim covered service shall be determined by—

"(1) computing the amount of such benefits including credit for such service;

"(2) computing the amount of such benefits, if any, without including credit for such service; and

"(3) subtracting the amount computed under clause (2) from the amount computed under clause (1).

"(h) The Secretary of Health and Human Services shall furnish to the appropriate agency head (as defined in section 205(a)(2)) such information as such agency head considers necessary to carry out this section.

"TRANSFER OF CREDIT TO NEW RETIREMENT SYSTEM

"SEC. 207. (a) Any covered employee who first becomes employed in civilian service by the Government or first takes office of civilian service in the Government on or after January 1, 1984, shall become subject to such new Government retirement system as may be established.

"(b) In the case of any covered employee who is subject to a covered retirement system on or after January 1, 1984, and thereafter becomes subject to a new Government retirement system—

"(1) credit for the service of such employee to which section 204(a) applies shall be transferred from such covered retirement system to the new Government retirement system for the purposes of the new Government retirement system; and

"(2) such service shall be considered not to be creditable service for the purposes of such covered retirement system,

effective on the date on which such employee becomes subject to such new Government retirement system.

"ELECTIONS BY CERTAIN COVERED EMPLOYEES

"SEC. 208. (a) Any individual performing service of a type referred to in clause (i), (ii), (iii), or (iv) of section 210(a)(5) of the Social Security Act beginning on or before December 31, 1983, may—

"(1) if such individual is then currently a participant in a covered retirement system, elect by written application submitted before January 1, 1984—

"(A) to terminate participation in such system, effective after December 31, 1983; or

"(B) to remain under such system, as if the preceding sections of this Act and the amendments made by this Act had not been enacted; or

"(2) if such individual is then currently not a participant in a covered retirement system, elect by written application—

"(A) to become a participant under such system (if such individual is otherwise eligible to participate in the system), subject to the preceding sections of this Act and the amendments made by this Act; or

"(B) to become a participant under such system (if such individual is otherwise eligible to participate in the system), as if the preceding sections of this Act and the amendments made by this Act had not been enacted.

"(b) An application by an individual under subsection (a) shall be submitted to the official by whom such covered employee is paid.

"(c) Any individual who elects to terminate participation in a covered retirement system under subsection (a)(1)(A) is entitled to have such individual's contributions to the retirement system refunded, in accordance with applicable provisions of law, as if such individual had separated from service as of the effective date of the election.

"(d) Any individual who is eligible to make an election under subparagraph (A) or (B) of subsection (a)(1), but who does not make an election under either such subparagraph, shall be subject to the preceding sections of this Act and the amendments made by this Act.

"TITLE III—SENIOR EXECUTIVE SERVICE

"SEC. 301. (a) The Office of Personnel Management shall study and, within 12 months after the date of enactment of".

And that the Senate agree to the same.

WILLIAM D. FORD,
MO UDALL,
MARY ROSE OAKAR,
GENE TAYLOR,
BENJAMIN A. GILMAN,
Managers on the Part of the House.

TED STEVENS,
CHARLES MCC. MATHIAS, JR.,
JEFF BINGAMAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate amendment struck out lines 1 through 12 of the House amendment and inserted new matter consisting of titles I and II.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute. The differences between the House and Senate amendments and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the

conferees, and minor drafting and clarifying changes.

HOUSE AMENDMENT

The House amendment amends section 5948(d) of title 5, United States Code, and section 3 of the Federal Physicians Comparability Allowance Act of 1978 to extend the 1978 Act for two more years. The current authority to enter into contracts with physicians expired September 30, 1983. Also under current law, contracts entered into prior to September 30, 1983, cannot extend beyond September 30, 1985. The House amendment extends the authority to enter into contracts until September 30, 1985, and permits those contracts to extend until September 30, 1987.

SENATE AMENDMENT

The Senate amendment differs from the House amendment in three respects. First, the Senate amendment extends the Federal Physicians Comparability Allowance Act of 1978 for four years instead of two. Second, it relieves 13 Federal physicians of the obligation to repay certain compensation received in fiscal year 1982 which was in excess of the statutory limit on aggregate compensation set forth in section 5383(b) of title 5, United States Code. The statutory limit was exceeded when these individuals mistakenly were paid maximum physicians comparability allowances and Senior Executive Service performance awards. The amounts forgiven range from $1,455.46 to $5,988.66. Finally, the Senate amendment contains provisions addressing the problem of double coverage of Federal employees hired after December 31, 1983, (newly hired employees) under social security and other Federal staff retirement systems including, but not limited to, the Civil Service Retirement and Disability System, the Foreign Service Retirement and Disability System, and the Central Intelligence Agency Retirement and Disability System (covered retirement systems).

The retirement provisions of the Senate amendment essentially provide that Federal employees hired after December 31, 1983, (newly hired emplolyees) would be fully covered under both social security and the applicable covered retirement system during a two-year transition period ending January 1, 1986. During this period employees would pay the full social security tax and contribute 1.3 percent of pay to the applicable covered retirement system. Employing agencies would continue to make their full retirement contributions (in most cases 7 percent). The difference between the employee's normal contribution (in most cases 7 percent), and the amount actually contributed (1.3 percent) would be made up by the Treasury through amortized payments over 30 years.

If during the two-year transition period a newly hired employee becomes eligible for benefits under a covered retirement system, no retirement credit would be allowed for service during the transition period unless a deposit equal to the difference between the 1.3 percent actual contribution and the normal employee contribution rate is made. In the case of disability or survivor benefits, the deposit requirement is waived. In addition, the retirement benefits for an employee or survivor would be reduced by an amount equal to that portion of any social security benefit that is attributable to service during the transition period. Members, judges, and current employees who will be covered by social security are treated the same as newly hired employees except their service is not transferred to the new system.

At the end of the transition period, newly hired employees would be transferred to a new yet-to-be-developed supplemental retirement plan and would receive credit under that plan for their service during the transition period.

CONFERENCE AGREEMENT

EXTENSION OF THE FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE ACT OF 1978

The conference agreement follows the Senate amendment and extends the 1978 Act for four years beginning October 1, 1983.

There have been persistent reports during the last two years from agencies experiencing ongoing recruitment and retention problems with respect to Federal physician positions. Nevertheless, these agencies have chosen not to implement the Federal Physicians Comparability Allowance Act. The conferees note the intent of Congress is for this Act to be used whenever measurable recruitment and retention problems exist. In that regard, the conferees direct the Office of Personnel Management and those agencies employing civil service physicians to examine more closely the recruitment and retention problems that exist with respect to these physicians and to make more effective use of the allowances authorized by this Act where identifiable problems exist.

RELIEF FOR CERTAIN FEDERAL PHYSICIANS

The conference agreement follows the Senate amendment but extends relief to any other Federal physician similarly situated. It provides that any individual whose aggregate pay for fiscal year 1982 exceeded the limitation set forth in section 5383(b) of title 5, United States Code, is relieved of all liability to the United States for any amounts paid to that individual in excess of the limitation if, and to the extent that, the liability takes into account any physicians comparability allowance.

DOUBLE COVERAGE OF FEDERAL EMPLOYEES

The conference agreement follows the Senate amendment with several important modifications.

With respect to the applicability of social security offsets and the necessity for deposits for service during the transition period, the conference agreement provides the following:

I. Newly hired employees—

A. Any retirement benefit commencing during the transition period (1984 and 1985) will be offset by the amount of any social security benefit attributable to service during that period. No deposit is require.

B. If by the end of the transition period no new supplemental retirement plan has been established, the full contribution rate again will be applicable, and retirement credit (including credit for disability retirement) for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during that period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor will be permitted to make the deposit. There is no social security offset.

II. Current employees who will be subject to social security—

A. With respect to a retirement benefit commencing during the transition period (1984 and 1985), retirement credit for service during that period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during that period (1.3 percent). An exception is made for disability and survivor benefits. No deposit is necessary in those cases, but the benefit will be offset by the amount of any social security benefit attributable to service during the transition period.

B. If by the end of the transition period no new supplemental plan has been established, or such a plan does not apply to current employees, the full contribution rate again will be applicable, and retirement credit for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate (in most cases 7 percent) and the rate actually paid during that period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor would be permitted to make the deposit.

A second important modification permits current employees to make elections concerning coverage. Although the Social Security Amendments of 1983 (Public Law 98-21) generally provide that only Federal employees hired after December 31, 1983, will be covered by social security (and therefore face a double coverage situation), certain current officers and employees and current Members and judges will also be brought under social security effective January 1, 1984. Individuals in this affected group who are participants in a covered retirement system will be double covered effective January 1, 1984. The affected group includes the President and Vice President, Members of Congress, individuals in Executive Schedule positions (e.g., cabinet secretaries, deputy and assistant secretaries, heads and top officials of other agencies, boards and commissions, and other top officials), noncareer members of the Senior Executive Service and Senior Foreign Service, top officials in the White House, and judges.

Unlike newly hired employees who may elect whether or not to accept Government employment and face the uncertainties of a yet-to-be-established supplemental retirement program, the affected group has no election other than to resign (which in many instances would involve resignations from elected offices, lifetime judicial appointments, or presidentially appointed and Senate-confirmed positions). Also, unlike most newly hired employees, many in the affected group have made a substantial investment in, and have earned substantial credits under, their current covered retirement systems. For these individuals, the rules are being changed in the middle of the game. The conferees believe this is unfair, and the conference agreement permits certain elections by individuals in the affected group in order to mitigate the unfairness.

The conference agreement provides that an individual in the affected group who is currently participating in a covered retirement system may elect: (A) to terminate participation in the covered retirement system effective after December 31, 1983, in which case no retirement contributions to such system will be required and the individual will be required to pay only the social security tax; or (B) to remain under the current covered retirement system and make full retirement contributions to such system in addition to the social security tax. Under election (A), the individual will be covered only under social security. Under election (B), the individual participates fully in the current covered retirement system and is also covered by social security. An election must be in writing and be submitted before January 1, 1984. If no election is made, the

individual will be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset.

In the case of an individual in the affected group who is not currently participating in a covered retirement system an election is also provided. Such an individual may elect: (A) to become a participant in the appropriate covered system and be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset; or (B) to become a participant in the appropriate system and not be subject to the other provisions of the conference agreement regarding reduced contributions and a social security offset. Under election (A), the individual will be treated essentially the same as a newly hired employee and will pay the social security tax and a reduced retirement contribution. Under election (B), the individual participates fully in the appropriate covered retirement system and pays the social security tax plus a full retirement contribution. An election may be made at any time. If no election is made, the individual will continue not to participate in a covered retirement system, will not be subject to the other provisions of the conference agreement, and will be covered by social security.

The conference agreement provides that an election must be submitted to the official by whom the electing individual is paid, and that if an individual elects to terminate participation in a covered retirement system, the individual is entitled to receive a refund of contributions in accordance with the applicable provisions of law concerning the particular covered retirement system.

The final modifications relate to the deficiency contribution. This contribution represents the amount not paid by employees because of the reduction of their retirement contributions to 1.3 percent. The Senate amendment provides that an amount equal to the deficiency shall be paid to the covered retirement systems by the Treasury of the United States and that those payments shall be amortized over 30 years. The conference agreement provides the deficiency payments shall be made at the close of fiscal years 1984, 1985, and 1986 rather than amortized over 30 years. The conferees believe the amounts involved are not significant enough to warrant the administrative attention which amortization would require. In addition, the conference agreement provides the deficiency contribution shall include interest that the retirement contributions would have earned had they been made by employees during the fiscal years involved. This ensures that the covered retirement systems' funds will, in fact, be made whole.

WILLIAM D. FORD,
MO. UDALL,
MARY ROSE OAKAR,
GENE TAYLOR,
BENJAMIN A. GILMAN,
Managers on the Part of the House.

TED STEVENS,
CHARLES MCC. MATHIAS, JR.,
JEFF BINGAMAN,
Managers on the Part of the Senate.

THE CONTINUING RESOLUTION

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, today we passed the continuing resolution to keep the Government running. I joined the majority of my colleagues in voting yes because I felt it was the responsible vote. However, several provisions of this bill cause me some concern.

First, while most agencies and programs are funded at last year's level, this resolution allows a full 10 percent increase for the military.

Second, our foreign aid emphasis has been, unfortunately, shifted away from economic and developmental assistance.

Finally, I would prefer that we finish our work on schedule and avoid the necessity of a continuing resolution.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., November 11, 1983.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, the Capitol, Washington, D.C.

DEAR MR. SPEAKER. On November, 10, 1983, the Committee on Public Works and Transportation reconsidered its approval on August 3, 1983, which authorized Federal building construction in Portland, Oregon, and Knoxville, Tennessee.

The Committee met today, November 11, 1983, and has reconsidered its previous action. The Committee has now authorized the construction of the Federal buildings in Portland, Oregon, and Knoxville, Tennessee.

Every best wish.
Sincerely,

JAMES J. HOWARD,
Chairman.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., November 11, 1983.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives, the Capitol, Washington, D.C.

DEAR MR. SPEAKER. The Committee on Public Works and Transportation met today, November 11, 1983, and approved construction of a Federal Building-Courthouse in Newark, New Jersey, at a cost of $39,000,000.

Every best wish.
Sincerely,

JAMES J. HOWARD,
Chairman.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., November 10, 1983.

Hon. THOMAS P. O'NEILL,
The Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved construction of a Federal Building in Portland, Oregon, and construction of a Federal Building in Knoxville, Tennessee, on August 3, 1983.

Today, November 10, 1983, the House Committee on Public Works and Transportation moved to reconsider its previous action of August 3, 1983; then vacated that action which in effect deauthorizes the previously authorized projects for Portland, Oregon, and Knoxville, Tennessee.

Every best wish.
Sincerely,

JAMES J. HOWARD,
Chairman.

THE SPENDING PROCESS

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, we have just completed action on a continuing resolution that was brought to us in an emergency way to keep the Government running. This is typical of the action that we have taken around here time after time, that Congress cannot act in the regular manner of things but, rather, waits and acts on things in an emergency way and says, "Therefore, we have got to do things that are just outright irresponsible because if we do not do them, the Government will shut down."

I think that the American people and we ourselves ought to take a look at the process that this House uses all too often to spend the people's money. All too often the people's money gets spent without very much thought, without very much reason behind it, but, rather, in a way that says to individual Members, "If you do not vote now and take the action that we present to you now, you will not be able to catch a plane and get home and see your family."

The pressures on the Members then become very personalized pressures rather than public policy pressures.

This happens because, in many instances, these continuing resolutions contain unauthorized appropriations that have not even been considered by the appropriate authorizing committees, and in many instances contain amounts of money that go way over the authorized expenditures.

And yet we are told that we cannot consider them as individual items, vote them up and down as individual items, because the time pressures of the Federal Government shutting down are just too intense.

I think it is high time that we begin to demand, that the American people begin to demand, that this body do its business in the regular order, that we authorize the expenditures and then we appropriate the expenditures in a regular manner, rather than working under the kinds of emergency conditions that we find ourselves in time after time after time.

It used to be that these were fairly unusual kinds of circumstances. It was fairly unusual that you got supplemental appropriations and continuing resolutions. That was not the manner of running Government. If you got them at all, they tended to be very small kinds of bills targeted in particular directions. But now what we have are major bills, sometimes the most major bills we consider, brought to us through this kind of process and then passed as an emergency standard.

The other problem with that is that you get just a handful of people who thereby make the decisions. In the bill that we just considered, the final decisions were made by a handful of people who sat in the conference committee. That handful of people decided, for instance, to put projects in for expenditure of money in some people's towns based upon their own decision. There was no authorization for it, there was no particular reason why it was done. It was done to accommodate somebody by that small group of people who met in the conference committee.

Well, that is not what we were elected to do. Four hundred thirty-five Members, each representing 500,000 people, were elected to this body. We are all supposed to take responsibility for the actions that this body carries out and that the Congress carries out. And yet what we see is bills coming to us of a major nature, fait accomplis that we are supposed to vote up or down.

One reason why I voted "no" on the continuing resolution that was just passed is precisely for the reason that my input on the whole thing was negligible, that the House of Representatives acted, yes, we acted, but we acted on bills that were determined in little caucuses, we acted on amendments so immense that they encompass totally unauthorized programs, and we really did not have input. And then the bill went to the conference committee, where a small group of people decided what the spending would really be. And, once again, we were frozen out.

I do not think that anybody can really responsibly vote for a bill under those conditions. And I think it is time that we assure ourselves that the actions taken on the floor of the House are taken under the rules and under the regular order, that we do not do the business of waiving rules and waiving the whole procedures of the House in order to take things up of an emergency nature.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I think the gentleman is making some very valid observations here, and I want to associate myself with his remarks.

I also want to ask the gentleman if he does not think that maybe we go through this routine, periodically as we do, by design.

It seems that we let the crisis arrive, and then we spend 2 or 3 days of agony wading through it, and then we wind up buying a lot that very often I am afraid we do not know what we are buying.

I can say that there is a lot in this continuing resolution that I do support, but there is an awful lot that I do not support; and I think it is very unjust that we do not have the opportunity to debate these things very thoroughly in a very orderly way.

□ 1130

I think the gentleman is performing a great public service in calling these matters to the attention of the American public.

Mr. WALKER. I think the gentleman makes an excellent point. That is one of the problems I have with this. If we were doing it on a regular basis because we really did face an emergency, this gentleman could understand that and I think the response of the House should be to act very responsibly about that kind of an emergency situation.

But my feeling is that what we now have is contrived emergencies; that we come to these emergency situations precisely because we recognize that some of the most controversial things that we do as a Congress have to be done in a crisis atmosphere or they will not get done at all.

That does not speak very well for the leadership of the Congress on both sides. It does not speak very well that we can only determine matters of major importance if it is done under crisis conditions. I think the American people expect better of us. I do not think they expect us to come down here and enact legislation based upon the fact that we are under intense emergencies so, therefore, anything we do is responsible, when we know doggone well that buried in the bill that we had today was an awful lot of irresponsible garbage.

Mr. EMERSON. If the gentleman will yield further, I think the American people have every right and reason to expect better not only of this body but of the other body as well.

Looking at the vote there today, I cannot say that it was altogether a very partisan thing. I noted that it was pretty equally divided between both parties, and I think we had an opportunity here to really get down to this business of spending and to really force the issue and see who really wants to stand up and be counted for reducing the growth in spending in this government and who does not.

Somehow, by throwing enough goodies in, there was enough caving in all the way around to keep that issue from coming to a head. I think there was a great opportunity lost today.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, we have heard reports around the country of claims made by members of the Democratic National Congressional Campaign Committee assailing President Reagan for being responsible for the deficit that exists today.

In line with that statement, I would just like to ask the gentleman: How much can President Reagan spend if Congress, for instance, today had not approved this continuing resolution?

Mr. WALKER. Well, the gentleman knows, as I do, that the President cannot spend one penny, not one dime, without Congress approving the spending.

Mr. DANNEMEYER. What would have happened today, for instance, if this continuing resolution had not passed? What would we have then done?

Mr. WALKER. Well, the President would not have been able to spend the money. We would have had the Federal Government shut down. Congress might have been forced to do something more responsible next week. We might have found ways, for instance, to cut the spending and appropriate less money and then the President would have had to run the Government within the smaller amounts of money that we approved.

That is an option that is always open to Congress and one that we do not follow. Instead, what we do is come forward with bills that do not take

away from what the President wants to spend, we add to it.

When the Democrats complain about the President's deficits, I am always amazed that every appropriation bill, every authorization bill, that comes to this floor have figures way above what his budget called for.

Mr. DANNEMEYER. What is the logic in that? Why does the gentleman think they make that claim?

Mr. WALKER. I guess it is political demagoguery. I cannot come up with another explanation for it. There is no way that people who have been the biggest spenders in the history of the world can take away the onus that that spending has resulted in national deficits. It means that the interest payments on the national debt alone are the third highest spending item of the Federal Government, and that is not the fault of us who have voted time and time again to cut spending, as we did again today; it is the fault of those who vote to spend money.

That is the problem of the Federal Government—spending. We heard a statement here earlier today that was absolutely absurd. It was that somehow $135 billion of revenue has been taken away from the Government. First of all, it has not been taken away from the Government; it has been kept in the pockets of the people who earned it in the first place. The American people know that better than, evidently, people here do.

But second, we do not have less revenue coming into the Federal Government today; we have more revenue coming into the Federal Government today, even after the tax cuts. Why? Because we have had economic growth. We have had the economy moving forward, which is a lot more revenue.

Over the last few years, we have been getting about 19.1 percent of gross national product in revenue for the Federal Government. This year that figure has moved up to 19.2 percent. So that means that in terms of the total economy, we are collecting more revenue, even with the tax cuts. It is absolutely absurd to say that somehow our deficits have been brought about because we have reduced the revenue sources of the Federal Government. That is absolutely wrong.

The problem is that spending of the Federal Government has moved from 21 percent up to 25 percent. We are spending too doggone much money. That is the problem, and if we do not stop the spending we cannot stop the deficits, and the only place we can stop the spending is right here. The President cannot do it. We have to do it right here because this is where spending starts.

Mr. DANNEMEYER. If the gentleman will yield further, at one point this continuing resolution had a clause or an expiration date of February 29, 1984, next February. Somewhere along the line it was changed so that its expiration date will be September 30, 1984, which is the end of the fiscal year 1984.

Does the gentleman have any explanation? Why did we not stick with the February 29 date so we would have a chance to review this level of spending next year? Does the gentleman have any idea why that change was made?

Mr. WALKER. Once again, I think that we have a situation where they saw the ability to get a bunch of unauthorized programs put into law and they could get them in not just for a matter of a few months so we could review them, but they could get them in for the whole year.

That is a problem not just of this body; that is a problem of the other body as well. I do not care what the partisan make-up is, they are as irresponsible as we are on a lot of these things. The problem here is that they have taken a bunch of programs and they have authorized them or appropriated money for them for the entire year. I think that was, again, by design; done under emergency circumstances.

Mr. DANNEMEYER. I thank the gentleman for his contribution. I think he has made an excellent contribution for the people of this body and the country to understand truly who is responsible for the level of spending in this country; that is, the Congress of the United States and not the President of the United States.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, if we could make that point a little further on a subject that I brought up during the discussion of the Wright amendment, I mentioned the fact that we had $30 million that we had placed in the overall budget for the Department of Justice to go to the INS, the Immigration and Naturalization Service, to increase their personnel by 750 people. That is 400 new border patrol officers, and the balance for the service side.

Most Members of Congress, I think, find at least No. 1 or No. 2 among the agencies that they have complaints about from their constituents is the INS because the INS does not have adequate resources.

The President did send up a letter, OMB sent up a letter, asking us not to spend that money at this time because of the fact that the Congress has refused to act on the immigration reform package and suggesting that it could not be as well spent without the context of a new immigration reform package.

I agree with them, although I dispute their conclusion that, therefore, we should not have it now. But the point is, the administration suggested that we not spend that $30 million. We went along with that; I think wrongly, but we went along with that.

So was that a net savings of $30 million to the American taxpayer? Not at all, because Mr. WRIGHT, the distinguished majority leader, decided that on the other end of immigration we have a number of school districts that must educate children who are here illegally; that is, children who were not born in this country, who came here illegally with their parents.

□ 1140

Now, it does not seem to ever come to the mind of the majority leader as he lambastes the President for deficit spending that the President gave us an opportunity to save $30 million, and, instead of saving it, we then transferred it to a new program, a program that was never authorized, has never come to the scrutiny of authorizing committees, and has never been subjected to real serious debate in both Houses. As a matter of fact, the one argument that was made for supporting it is that originally the proposal of the gentleman from Texas (Mr. WRIGHT) was for $145 million and we brought it down to $30 million. There has been no evidence whatsoever what it should cost or would cost and how it would affect any district in this country.

I have spoken to some Members from the State that the gentleman from Texas (Mr. WRIGHT) comes from, and I suggested to them that from studying the problem of illegal immigrants, I believe most of the people who are here illegally that are of job age are working and, therefore, contributing to the economy, and they agree with me. Then I ask, "So what is the shortfall for your school districts?"

They say, "Well, in our particular State of Texas, we don't have an income tax, and many of these people don't own property"—of course, they do not talk about the contributions that would come through rent receipts, and so forth—"but because we have decided as a State not to have an income tax which would be contributed to by those who are here illegally and working, we then want the people from the entire rest of the country to pay for it through some program which we are not even going to authorize."

That is a specific example of where Congress is responsible for starting a very new program that has never been properly authorized and taking money the President suggested could be saved and not putting it in the area where he suggested it could be saved but

transferring it into an entirely new program. That is an object lesson in how the Congress is responsible for spending and for deficits promulgated by the very gentleman who came here and castigated the administration and this President for establishing the deficit.

Now, I do not know what kind of label or adjective we want to place on that sort of problem, but I somehow feel it falls short of the type of responsible leadership that the American people want, and perhaps if the American people start listening very closely to what goes on here and perhaps even have an opportunity to view it if they have a chance to come here, they might begin the realization process that we are the spenders here, that this House initiates most of the spending, that this House is the one responsible for tax levels, and that if they want to change what is happening in Washington, they are going to have to change this House, not the White House.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, I thank the gentleman from California (Mr. LUNGREN) for his statement because the gentleman is absolutely correct.

What we keep hearing from the other side is really, when they talk about deficits, that they do not want to talk about the kind of spending items the gentleman has just referred to, and that happens time and time again on issue after issue. They do not want to talk about those things. What they are really talking about is that they want to raise taxes.

The bottom line is that their deficit concern is the fact that they do not think there are enough taxes coming out of the pockets of the American people and headed to Washington, and they want to use the deficit issue as a way to get more tax revenues. It is evidently a belief on their part that the American working people of this country are fundamentally undertaxed.

I do not think that I can find very many working people in my district who think that one of their major problems is that they are paying too few taxes to the Federal Government.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, would the gentleman not say also that while they are using this deficit issue to spur on the cry for higher taxes, they do not want to use that to reduce the deficit? Does the gentleman believe they want to apply any additional revenue to reducing the deficit, or is it their object to create ever more new programs? That has been my observation.

If the application of new revenue would be put to wiping out the deficit, that would be one thing. I notice in the press around the country that we hear a lot of talk in that regard, but that does not seem to be the net effect of their actions or their intent back here in this House in Washington.

Mr. WALKER. Mr. Speaker, I guess what we ought to do is point to the most recent example. Last year, not with my vote and I doubt with the gentleman's vote, we passed a tax increase bill. There was about $100 billion in additional taxes that was going to be raised with this new tax bill.

Not one dime of it went to deficit reduction—not one dime. We ended up not with less spending but with more spending. We ended up with every penny of that tax increase being eaten up by new big spending programs, with new spending authorizations and appropriations.

The money gets spent. If they raise it in revenue, they spend it. Every dime that is sent down here they will find a way to spend, and then they will pile deficits on top of that and claim that we need even more revenues yet.

That is the problem. As long as the American people continue to send revenues here, this House will find ways to spend those revenues. The only way we can begin to cut off their tap is to cut off the tax revenues to some extent and leave the American people to determine their own priorities with the money they earn for themselves. That is the way it should be.

We hear this phony argument around here that what we are going to do is tax the rich, that that is the way we are going to do it. They say it is not going to come out of the average workingman's pocket, but we are going to tax the rich.

Well, I think there are some statistics that are constructive on that. If we taxed away every penny of income in this country over $75,000, absolutely taxed it away by confiscatory taxation, with not one dime of income being allowed to anybody over $75,000, we would come up with enough money to run the Federal Government for 14 days.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, that is an incredible statement. Is the gentleman saying that if we had a 100-percent tax rate on everybody in America above an income of $75,000, that quantity of money would only run the Government for 2 weeks?

Mr. WALKER. That is exactly what this gentleman is saying.

Mr. DANNEMEYER. That is an amazing statement.

Mr. WALKER. Mr. Speaker, the point is that the deficit that we hear so much about is a 90-day deficit. We have 90 days worth of deficits, and we could fund 14 days worth of that deficit with absolute confiscatory taxation on income over $75,000.

A lot of people will say to me, "Well, now, $75,000? That's a little too high. That is really rich. Why don't you talk about $50,000? I think most people with over $50,000 are wealthy. Let's tax away every dime of income over $50,000 in the country, and then we'll really get some money in there to run the Government."

If we taxed away every dime of income over $50,000, let me tell the Members what would happen. That includes the guy who hits it big on the lottery and gets $100,000 out of the lottery but only gets to keep $50,000 because the Federal Government takes the other $50,000 away from him; or some guy who hits it big up in Atlantic City or out in Las Vegas at the slot machines and makes over $50,000. Let us say we take it all away from him and there is no chance for accumulating great wealth in the country any more by getting lucky or by really aiming for success because we are going to take it all away over $50,000. If we did that, we would come up with enough money to run the Government for 40 days—only 40 days.

That still leaves 50 days' worth of deficit, and we have absolutely confiscated every dime of income beyond $50,000.

So what it comes down to is that when we hear these charges about the fact of tax cuts for the rich, that we are going to find ways to eliminate the tax cuts for the rich, we should understand who "the rich" are. The rich are anybody in this country making over $15,000 a year, because that is the only way they can raise enough revenue to do what it is they say they are going to do. We have got to raise taxes for everybody over $15,000 of income. Not confiscatory taxation obviously, but we have got to raise taxes for everyone over $15,000 to get that kind of revenue.

So the definition of "the rich," when we hear that term used, is anybody, any family that is earning over $15,000 a year.

I submit that there are very few families in this country who believe that with $15,000 a year they are rich. Most of them are struggling to educate their children, to get enough food, to pay for their homes, to buy a car, and to do the things that families in this country who are earning money can reasonably expect to do. They are struggling to do that at $15,000 a year, and yet the proposals that we hear about to tax the rich are specifically going to try to raise taxes on those people.

That is terribly wrong, and it is why we have got to begin the process of cutting, spending and of reducing the deficits through spending cuts around here so we do not end up with that

family further burdened by taxation that is irresponsible and unnecessary if we would simply get our fiscal house in order.

□ 1150

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I very much appreciate the gentleman from Pennsylvania taking this time, because I think the country needs to understand the levels of irresponsibility which are running rampant in this city and in this House.

I want to talk about two areas of irresponsibility. First, this House is being irresponsible, the liberal Democrats in particular being irresponsible, in that they are cheerfully spending their children's and their grandchilden's money. We are in effect guaranteeing that everybody who was born after 1940 or so is going to pay bigger and bigger bills. They are going to pay more and more interests rates, higher and higher taxes, and that after their future is going to be grimmer because nobody in the leadership in this House has the courage to say no and has the courage to set limits.

Second, we are seeing a growing irresponsibility in this city because the entire liberal welfare state is now adopting the position that you cannot do anything serious until after the 1984 elections, that the American people are too immature, too cowardly, too ignorant, too greedy to be told the truth and that, therefore, the wise men and women who have made the mess we are in are going to hide and avoid any real change until after the elections so that they can come back and try to manipulate the country without being bothered by all those people out there.

In addition to the irresponsibility over time, whether that time is 1985 or in the next generation, we saw today and I think the gentleman from Pennsylvania deserves particular applause and particular support from us and his staff deserves great credit because from the people I have talked with on the floor, the gentleman clearly best understood this and brought it to the attention of the rest of us. We saw today this House pass a $30 million education program at a time when the Speaker of this House has blocked the immigration bill.

Let me explain what this means. On the average day in America today, four illegal aliens enter the country successfully every minute; that is, every minute that we have been talking, four more illegal aliens enter the country.

Now, America has always been a land of immigration. I happen to be from a German, English, Irish, and Scottish background. All of us are immigrants in one way or another.

But the reality is that we now have a flood of people fleeing the military disruption of places like El Salvador and Vietnam, fleeing the economic disruptions in places like India and Mexico, and we have no ability in America to decide who is a citizen and who is not.

We hire more and more border guards, but the reality is that we are not going to become an armed camp. We are not going to have barbed wire. We are not going to shoot people.

What has happened is simple. The Speaker of the House has said that he is unwilling, for short term practical political reasons, to deal with one of the most serious problems in America today, which is what do we do, how do we talk honestly among ourselves about the fact that there are literally millions of illegal aliens entering the country.

At the same time, he is saying, let us now set up a brandnew unauthorized program which will, in fact, encourage more people to come to America illegally; so, with the one hand, this House is holding out a carrot and saying, "Why don't you move to America so we can take care of you?" With the other hand, this House is saying, "We are not even going to discuss how we control our own destiny."

I think it is a serious problem because I think, frankly, that the American people want to see us deal with problems today.

Let me talk to all three zones for just 1 second, and I appreciate the gentleman from Pennsylvania yielding to me this time to do so.

First of all, I think the American people have grown up enough that they want to be told the truth right now about medicare, about social security, about the welfare state, about defense, about taxes. They want to know now what the next 30 years are going to be like. They do not want to be lied to again and again.

They do not want to be scared into false decisions. They do not want politicians being demagogic. They would like in a calm, adult, systematic manner, to be given a chance to set the conditions for their own future.

Second, I think the American people are going to have disgust for any political party whose basic theme for 1984 is that, "We haven't got the guts to tell you the truth, but elect us again, and in 1985 we will find a magic cure."

I think the American people are tired of blue-ribbon panels in Washington, made up of Washington types, who serve Washington. I think they want politicians to come back home and say to them that either, "I am going to control spending or I going to raise taxes."

I think what they are tired of is politicians who come back home and say, "I haven't got the guts to control spending. I haven't got the guts to raise taxes, so I am going to dump it all on our grandchildren."

Finally, I think this country is ready for an honest and open debate on immigration. I think this country is ready for an honest and open debate on how we run the Congress, and I think any one who has watched the last 24 hours of C-Span and has seen this House in session has had a personal experience in why this country has a mess on its hands, because we have a leadership which manipulates the system for its own narrow gain.

The gentleman from Pennsylvania brought out the fact that this is bipartisan, that a Republican Member of the other body got $61 million in pork barrel for his State.

Mr. WALKER. Sixty-seven million dollars.

Mr. GINGRICH. Sixty-seven million dollars in pork barrel for his State in return for which a Democratic Member of this body got $9 million for his district. Once again the "Old Boy Network" worked and the only people that pay are the American people.

I think the time has come to make 1984 the year in which the buck stops here in this body, not at the White House, and then let the American people on election day in 1984 decide, do they want to raise taxes, do they want to control spending, do they want to dump it all on their grandchildren in an act of absolute immorality.

I think the gentleman from Pennsylvania is doing us all a great service in holding this opportunity for us to talk about the decisions we face.

I am looking forward to working with the gentleman from California, who I see is on the floor today, because he is one of the leaders in talking honestly about the challenges to us if we are going to serve our grandchildren intelligently.

Mr. Speaker, I very much appreciate this chance.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his remarks.

I think to further make the point that the gentleman has just emphasized, all we have to do is look at next week's legislative schedule. This is the last week supposedly of this session of Congress and there are literally dozens upon dozens of bills here that we are going to run through this House next week. There are 28 that day, that is 1 day now. We are going to go through 28 bills, and another day we are going to go through about another 22 bills and, of course, we are all going to give those the appropriate consideration and everybody is going to know just every detail of those bills and we are going to know just how much money is in each of those. Every Member of this House is going to be fully informed as

we go down through bill after bill early next week.

We do this at the end of the session, too, and then only as the press writes a few weeks later do we find out just how much all those bills cost us.

So once again, it is a matter of the kind of irresponsive nature of the legislative process that gets us into these spending patterns.

I think we do need to begin reassessing that which we do around here and find ways in which we can cut spending, act more responsibly and give the American people the kind of Government that they deserve and trust that they should have. If we do not bring about those kinds of reforms, I think that the American people rightly can look at this body with a great deal of disdain.

Certainly we earn much of the problem that we create. There is a television ad that says they did something the old-fashioned way, they work for it. Well, I would say around here that the disdain that Congress receives, we got the old-fashioned way, we earned it.

□ 1200

THE 500TH ANNIVERSARY OF THE BIRTH OF MARTIN LUTHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, Mr. DANNEMEYER is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, today marks an important milestone in the history of human endeavor. During the 4,000 plus years during which man has provided a written record of his accomplishments, many have followed and few have led. And of those who have led, even fewer have had a lasting impact much less an enduring one. However, today marks the 500th anniversary of the birth of a man whose impact has not only lasted but continues to endure the test of time. That man is Martin Luther.

More than a few of us share a German heritage and we have the privilege of centering our thoughts today on Martin Luther, a man chosen by God to live during a time when Western civilization was on the brink of a fundamental change; a change in which Luther played a significant role. Luther's life and teachings opened the doors to the Protestant Reformation influencing intellectual freedom, a willingness to try new forms of Government, a reduction in the barriers against free enterprise, a growing awareness of the importance of the individual, and the development of new forms of religious expression. His cultural achievements, his translation of the Bible, and exceptional literary abilities, his influence on music and art are all achievements that we credit him for today.

As a catalyst of the Reformation, Luther sought to reform the church. His efforts, however, came in direct conflict with Rome, which had dictated religious influence up until his time. When it became obvious that the Reformation was a force too strong to ignore or suppress, secular rulers seized the opportunity to shed some of the constraints and burdens imposed by Rome. These restraints, imposed by the church, were questioned thereby enlightening the secular and ecclesiastical worlds and renewing an interest in man's active role in government. Luther's thoughts influenced the writings of Hobbes, Locke, and Montesquieu, who, in turn, influenced Thomas Jefferson, the author of our "Declaration of Independence."

In promoting reform of the church, Luther touched many areas of secular life creating a renewed conception of individual freedom in the process. One of Luther's most significant acts is that he, a former monk, married a former nun. Together they produced six children. Luther's purpose for marrying was threefold: To please his father, to spite the Devil, and to carry into action his conviction that man is as free to marry as man is free to lead a life of celibacy.

Home and family were a major area of concern to Martin Luther and other Reformation leaders. To Luther, family was the foundation of society. He set this example in his own household and it has carried down to this day, particularly in nations where the Protestant ethic has become part of tradition.

Luther is known for his controversial writings as well as for his commentaries on the Bible. Nearly 400 of his works were published during his lifetime. One of his most noble achievements was a translation of the Bible into language commonly understood by the German people. There had been translations into German before his but none had the "native earthiness and the religious profundity" of Luther's. Although the initial translation was dissatisfying to him, it was printed and used during his lifetime. Luther was revising his work up to the time of his death.

Luther's translation of the Bible into the vernacular of the commonfolk had far-reaching effects. The God worshipped by Luther and his followers had no native tongue—not Greek, not Hebrew, not Latin. Every believer, in Luther's perspective, could conceivably be educated to understand the message of the Gospel and evaluate it for himself. Holy Scripture was not to be the exclusive property of the ordained. Thus, the "universal priesthood of all believers" became an important byproduct of the Reformation.

Luther also made a major contribution in the area of public worship. During his later years he translated the Latin mass into the German tongue opening wider the door of direct communication between the believer and God himself. The church became a house of prayer, praise, and instruction, commonly understood by each believer who participated in public worship services.

Another of Luther's far-reaching changes occurred in the area of church music. Luther had a special love for music, as he had a special gift for inspiring those around him to use their voices and musical ability in their worship and home life. A strong singer, he also played the flute and the lute and, with these talents, established congregational singing as a regular part of worship, wrote hymns, and worked to create a Protestant hymnal. Of music Luther wrote:

> Music is a fair and lovely gift of God which has often wakened and moved me to the joy of preaching. . . . Music drives away the devil and makes people gay. Next, after theology, I give to music the highest place and the greatest honor. My heart bubbles up and overflows in response to music, which has so often refreshed me and delivered me from dire plagues.

Just as Luther observed nearly 500 years ago, man still struggles with the forces of tyranny which seek to deprive him of his religious, economic, political, and social freedoms. These struggles of church and the state will continue. Luther believed that reform stems from wisely improving our existing conditions. He strove to make these improvements by challenging the church and by serving, throughout his lifetime, as an example of the importance of a strong moral foundation, not only in word but in truth and active response as commanded by our Lord. In this he succeeded, overwhelmingly. Today, we honor that success by celebrating the quincentennial of his birth and we hope that future generations will continue to be influenced by the outstanding example that he set.

One of the major controversies of Luther's day was his concern about the sale of indulgences. These indulgences were sold in Medieval Europe to people on the supposition that by purchasing the indulgences, the purchases of them could buy their way into heaven.

They were available not only for the living, but to be purchased by the living for the benefit of the dead. Luther contested this sale of indulgences, and it is for those of us who are living today, I think, to learn from history its lessons and apply them to our life today, and I do not think it is stretching any imagination for us to say, and even though this man Tetzel has been dead for almost 500 years, that the spirit of Tetzel is very much alive in our world. In fact, Tetzel's spirit controls the House of Representatives today.

We are as a body, this House is selling indulgences. We do not call them indulgences. We call them deficits, but it is the same thing. We are saying to the people of our country, buy these deficits, buy these indulgences, and we will give you what? We are supposedly going to give you the kingdom of God here on Earth, not a kingdom in Heaven, but a kingdom here on Earth.

Just as Luther protested that the sale of indulgences 500 years ago was an erroneous expression of his day, so today the sale of indulgences is equally offensive and erroneous to what the American people should be tolerating.

This country is in need of a reformation of its political system, and that reformation will only come when the people of this Nation will understand that if they want to put a control on runaway spending it has to come in this House, the House of Representatives.

We can change Presidents every year between now and the end of this century, and we are not going to change the spending level of this Nation until the people of this country decide that they want to change who controls the House of Representatives.

When that change is made, and by placing people in this body who will stand for balancing the budget of this country by cutting spending rather than raising taxes, by having a balanced budget for our country, when that happens, then we will bring this runaway spending under control and discontinue the temporary sale of indulgences in this country.

Mr. Speaker, I yield back the balance of my time.

LLOYD McBRIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COYNE) is recognized for 5 minutes.

● Mr. COYNE. Mr. Speaker, last weekend the American trade union movement, and the American people, lost a great leader, Lloyd McBride.

As president of the United Steelworkers of America, a strong, progressive union now facing great adversity as a result of economic changes in the Nation and the world, Mr. McBride faced enormous challenges. He did not shrink from any of them.

Mr. Speaker, Lloyd McBride knew the steel industry from the bottom up. He entered the mills at age 14. The way he obtained his job was an economic and political lesson at an early age. When his father lost his 75-cent-an-hour job at a St. Louis steel fabricating plant in the early days of Depression, young Mcbride went to work at the same plant for only 25 cents an hour.

The future president of the USWA later noted the effect of such patterns of unemployment. He said: "That was the sort of indignity that working men had to endure in those days."

Lloyd McBride's concern for the dignity of workers made him a natural for the Steel Workers Organizing Committee, an organization which later became the United Steelworkers of America. When his plant was organized in 1936, he was among the first to join, and helped lead a sitdown strike at the plant a year later.

After more union activity in the St. Louis area, he spent 2 years in the Navy during World War II. Mr. McBride then returned to union activity, eventually winning election as director of District 34 of the USWA, which includes Missouri, Kansas, Nebraska, Iowa and part of Illinois. He became the union's fourth president in 1977.

Mr. Speaker, I know members of this great union mourn the passing of a man who was there from the beginning. I share their sadness, and extend my sympathy to Delores McBride, Mr. McBride's wife of 46 years, and to his family and many friends.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for recorded votes on Friday, November 4, 1983.

Had I been present, I would have voted:

"Yea" on roll No. 454, the rule for the consideration of H.R. 4196, the Dairy Production Stabilization Act;

"Yea" on roll No. 455, passage of H.R. 2114, to authorize appropriations for fiscal year 1984 for certain maritime programs of the Department of Transportation; and

"Yea" on roll No. 456, a motion to adjourn.●

POLISH INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, 65 years ago on November 11, 1918, the proud and heroic people of Poland regained their independence and with it the long-sought privilege of determining their own fate as a free people without foreign intervention or oppression. This important date in the history of all freedom-loving peoples marked the end of over a century of political darkness and intellectual repression of the Polish people.

Late in the 18th century, one of the first democratic constitutions known to the world was established in Poland. Sadly, shortly thereafter, the Polish people saw their country invaded and divided by Russia, Prussia, and Austria, which proceeded to exploit and brutalize the Polish inhabitants until 1918, and frequently reacted with swift terrible repressive action whenever the Polish people made efforts, as they often did, to achieve some measure of self-government, freedom, and cultural integrity.

After the Polish Declaration of Independence in 1918, the Treaty of Versailles, as signed by the United States and the major European powers, recognized the national sovereignty of Poland, and this enabled Poles to reassert their own national destiny and once again develop their national, religious, and cultural institutions, without the fear of persecution.

Tragically Poland enjoyed the blessing of independence for only one generation. For in 1939, the Nazis invaded its territory, and the Polish people became victims of extreme savagery, racial persecution, and brutal enslavement. Unfortunately, the end of World War II and the defeat of the Nazis did not bring an end to the oppression. Instead the Polish people were forced to submit to a new tyranny in the form of communism imposed with force by the Red army.

Although the years of renewed liberation and self-government were shortlived for these courageous people, the struggle to achieve self-determination continues, and the Communists have failed to crush the spirit of the Poles, and their desire for human rights, human dignity, and liberty.

Mr. Speaker, I am privileged to join with Polish-Americans in the 11th Congressional District of Illinois which I am honored to represent, and with Americans of Polish descent throughout the country, as they commemorate this anniversary of their beloved country's independence, and I pray for the success of the Polish people in their dangerous struggle to overcome their Communist oppressors.●

MARINES IN BEIRUT ARE NOT A "BACK BURNER" ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, at present, the number of dead from the terrorist bombing of Marine headquarters in Beirut is given as 239 and still some marines are unidentified. To date, this year there are about 300 Americans dead in the charnel house of Beirut.

We are gathered here today on a very critical issue, the continuing resolution. As my colleagues know, it is important that we be here, but in the last few days, Beirut and the marine dead have kind of slipped back of the

front burner, and I cannot imagine a worse thing. The vast majority of these dead died in two separate suicide bomb attacks, one that destroyed in April our Embassy, the other against a Marine headquarters on October 24, but the fact is that more could be and can be held even as we are speaking here today, this morning, at any moment, by sniper, by artillery assault or even by another suicide bomb.

Every American in Lebanon is in a trap. There is no other way to describe it. They are simply stuck there until and unless the orders come to get them out. The marines are targets for terrorists and the terrorists will strike whenever they feel the urge or get the idea that such an assault might gain them some advantage.

□ 1210

There are some who say that the marines should be assigned to a more easily defended position in Beirut. But what would that position be? Would it be in the nearby hills? Let me remind you, that is the position abandoned by the Israelis last September; obviously such a move would not necessarily be a good idea. Further, if the idea is to help create security in Beirut, that is a job that can only be done in Beirut, in the final analysis. And beyond that, it would be unthinkable for the United States to abandon its position, while leaving the French and Italian forces where they are, in the downtown sectors of Beirut, if we intend to participate as part of a multinational force. Militarily, the only sane thing an occupying force can do is to take aggressive measures for its own protection. This is the whole idea of military force. But here again, aggressive tactics are out of the question, because to make such moves would transform the peacekeepers into active participants in the Lebanese civil war. Putting all this another way, it is the international politics of the peacekeeping force that requires the Marines to stay put in their assigned area. And it is the internal politics of Lebanon that keeps the Marines bottled up in the airport, unable to go out and clean up the areas held by forces that periodically sweep them with artillery attacks. They are placed in a military trap because of the politics of the situation, not because of any other consideration. To put military forces into a trap, for whatever reason, is wrong and irresponsible. There is no reason to countenance that kind of irresponsibility.

Mr. President, how many more Americans must die before you make the inescapable decision?

I have asked, Mr. President, how long? I have asked you for months. If we were each to examine our conscience, even those who did not vote that way, we would in all likelihood come to the conclusion that it was a mistake to give the President an 18-month blank check in Lebanon. It was a mistake not to look at the total lack of progress that had been made in the year previous, to see if the commitment was valid. It was a mistake not to weigh the risks. And it is a mistake today to ignore the deadly nature of the trap in Lebanon, into which our men have been cast and ensnared. It was a mistake not to understand that the rationale for the commitment of our forces had been changed in the midst of their mission—from securing the city of Beirut to allow the local government an opportunity to take over, to outright military support of the Gemayel government. With that shift, our forces became fair game for the many factions that want either to depose Gemayel or to force him to amend the country's makeshift constitution, to give them representation. I challenge anyone to give a clear definition of our mission and objective in Lebanon. Mr. President, I have been asking you for months, that question was not answered in September, and it goes unanswered today. And I challenge anyone to define how the United States proposes to achieve its goals in Lebanon, beyond the vague and general hopes that something will happen that will afford us a graceful exit.

One of those vague hopes is that Lebanese negotiators will devise some kind of new government coalition that realigns power among the various religious factions. This kind of government would be one of confessional balance in the parlance of the Secretary of State. But negotiations this week have only produced an agreement that keeps Gemayel as president, and awards the post of prime minister to someone who professes the Sunni version of Islam. That leaves out the Shia, who happen to be closely aligned to Syria and Iran, and who can create a great deal of trouble if they are not satisfied—or if their masters in Syria decide to torpedo the deals that have been made thus far. In short, it will not be enough that the factional chieftans who are trying to make a deal in Geneva reach some kind of accord; the Syrians will have much to say about the last word. So for that matter, will Israel. Neither Syria nor Israel is represented at the conference, but both are paymasters of important factions in Lebanon, and neither is about to accept a deal that it dislikes. And so, while an agreement is possible, it is the outside forces that have intervened in the civil war that may well decide the issue, and those outside powers have yet to be heard from.

The riddle of Lebanon does not end with the factions within the country, nor with the outside powers that occupy much of the country and vie, through their factional proxies, for control of the rest. It involves the shifting interests of numerous countries in the area—those who have political rivalries of their own, and those that have bitter religious disputes between them. It involves the politics of shifting alliances and sudden changes in direction. It is the politics of "the enemy of my enemy is my friend * * * maybe." It is a politics in which terrorism is an accepted and even common way of operating. It is a politics in which eternal efforts are made to drag or goad outside forces to fight your enemy of the moment. It is a politics in which there is only convenience, not a dependable word. It is a politics in which what counts is gaining the top hand, not respecting the rights of any minority. What has torn Lebanon apart has been the absolute determination of some to retain power that they could no longer legitimately lay claim to, if indeed they ever could, and the calling in by all sides of outside forces to lend muscle to their competition for power. Now those outside forces, having bled Lebanon dry, are in control of the country, and its fate. They talk one day and fight the next, through proxies, and they do not hesitate to kill even the innocent. It is in the midst of all this that the marines are trapped, without the power or authority to do anything, simply sitting, "a presence" as has been said, but a presence that is in fact simply a sitting duck.

Presently, Syria is expecting Gemayel to abrogate his agreement with Israel. If he does not succeed in getting the United States to intercede in his behalf to get some significant changes in that agreement, he is, according to his enemies, a dead duck. But if the agreement is abrogated, Israel may see no reason to continue this particular game. What is worse, the United States stands to grievously offend its close friend and ally, Israel. The question is whether all the outside forces can be satisfied—not just the internal factions. And so the division of the carcass of Lebanon is being decided, not by the marines in their tiny enclave, and not even by the warring factions elsewhere in Lebanon. It is being decided in capitals that are determined to protect their own stakes, their own investments, and to extend their own hegemony. The presence of the marines serves no purpose in these negotiations and machinations. They are only one more little piece on the chessboard, being moved about by forces that have little interest in them or their fate, and no concern at all for their safety. They are truly victims, in a place they should never have been sent to, and in a place from whence they must be freed, and the sooner the better. There have already been too many marines sacrificed on the altars of Lebanese fratricide, feudalism and treachery. Even one was too many. One diplomat was too many. One innocent clerk at the Embassy was too

many. The lives that have been wasted have bought nothing, not even real hope for a lasting peace in Lebanon. What they have bought has been an even deeper, greater and growing danger of direct U.S. involvement in confrontations that are not only endless in themselves, but that threaten to bring the whole world into a desperate struggle.

It is clear, all too clear, that Iraq would like to drag the United States into its struggle against Iran. But that would only bring the Russians into play, since they are alined with Syria, Iran's ally in Lebanon. And so the web grows and tangles. You cannot pull any side of it without disturbing all the rest. In the midst of that are the marines, and the question is whether they can be brought out of that web safely, or whether we will all be drawn in after them. The danger grows, and the trap is still there.

□ 1220

I say, Mr. President, it is a long time to get us out of that trap.

Mr. Speaker, I yield back the balance of my time.

COMPUTER-ASSISTED CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, as sponsor of H.R. 1092, The Federal Computer Systems Protection Act of 1983, I follow with great interest daily newspaper headlines which proclaim the growing problem of computer-assisted crime.

The Washington Post recently reported the story of a Los Angeles college student who allegedly gained access to more than 200 computer accounts at 14 different locations over a period of 3 months. The alleged intruder has been charged with 14 counts of maliciously accessing a computer system—a California State computer-assisted crime statute. He was also charged with one count of theft and of receiving stolen property in connection with stolen airline tickets.

The significance of this incident and prosecution is that the State of California, as my own State of Florida, has a computer crime law. If this crime were committed in any of the approximate 30 States without such protection the end result would have been much different.

I believe we must pass legislation that makes crime by computer a specific Federal offense. Damaging incursions and theft from Government computers, systems guaranted by the Federal Government, and computers operating in interstate commerce, should not go unpunished. Nor should prosecutors be compelled to create—what one recent Senate witness testified as—a "theory of prosecution" to fit the square peg of computer crime into the round hole of theft, embezzlement, or conversion of Government secrets.

Jay BloomBecker, of the National Center for Computer Crime Data, provides an estimate of the per incidence loss from computer-assisted crime to be $450,000. Obviously, the magnitude of this type of crime is tremendous relative to conventional theft and trespassing.

Therefore, I encourage careful consideration on H.R. 1092 and the issue of this new type of criminal activity. We currently have the endorsement of many major trade industry associations, including CBEMA, DPMA, American Society for Industrial Security, American Bankers Association, and others. My colleagues have also been generous in their support. We have 112 cosponsors for the bill and I urge my colleagues who have not yet joined our efforts to contact my office if they are interested in cosponsoring this legislation.

At this point in the RECORD, I insert the article, "Student Held on Computer Crime Charges," from the Washington Post, November 3, 1983:

STUDENT HELD ON COMPUTER CRIME CHARGES

(By Jan Mathews and Katharine Macdonald)

LOS ANGELES, November 2.—A college sophomore was arrested early this morning for allegedly using his home computer to collect "very sensitive" information from a Defense Department computer network linking governments, agencies, universities and private businesses in the United States and Europe, a local district attorney said.

Ronald Mark Austin, 19, a student at the University of California at Los Angeles, allegedly gained access to more than 200 computer accounts at 14 different locations over a period of three months, Los Angeles County District Attorney Robert Philibosian said.

"This is not a childish prank, but a crime, and it needs swift and severe penalties," Philibosian said, announcing the creation of a new electronic crime task force to handle the mounting load of computer fraud and vandalism in southern California.

Austin's mother and stepfather, however, said the student had told a supervisor at the Rand Corp., one of the government contractors linked to the computer network, more than five weeks ago that he had been able to break in and advised that security be improved. They said the supervisor at Rand, located in the Santa Monica area where Austin lives, thanked him for his honesty. A Rand spokesman said company logs show no visit by Austin.

Soon after, according to Austin's mother, Jessie, and her husband, Aloyzas Bubliauskas, five government investigators visited the Austins' home. They confiscated his Texas Instruments computer, the black-and-white television he was using as a video display, a dictaphone belonging to his stepfather and $800 that his stepfather had given him for expenses in a planned transfer to the University of California at Santa Barbara.

Austin's mother and stepfather said he graduated 10th in his class at Santa Monica High School and was studying physics, chemistry and mathematics with the intention of majoring in engineering and computer science. His stepfather bought the computer for $300 and gave it to him four months ago to encourage an interest in computers as a career. Austin had few friends and few hobbies until he got the computer, his mother said, but "I think he was the perfect boy."

UCLA spokesman Tom Tugend said Austin apparently learned the account number of a former user of the university's main computer and used it to plug into the Defense Department's Advanced Research Projects Agency Network, of which UCLA is a member. Austin's mother said she understood students placed such code numbers on the university bulletin board for general use by home computer enthusiasts.

Staff at the UCLA Computer Sciences Department, who first discovered the break-in, told Tugend that Austin either intentionally or through "gross carelessness" apparently destroyed research material linked to the network, although they were able to recover some of it later.

Philibosian said Austin gained access to computers at the Naval Research Laboratory in Washington, D.C., the Norwegian Telecommunication Administration in Norway and the Rand Corp. in Santa Monica.

Austin was being held this evening in the Los Angeles County jail in lieu of $10,000 bail pending arraignment in municipal court Thursday. He has been charged with 14 counts of maliciously accessing a computer system, each count carrying a maximum penalty of three years in prison and a $5,000 fine, plus one count each of theft and of receiving stolen property in connection with stolen airline tickets.●

FORGING AN INDUSTRIAL COMPETITIVENESS STRATEGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, today I am submitting a package of legislative initiatives designed to address the serious issue of this Nation's industrial competitiveness in the world economy.

Over the past several months, the Economic Stabilization Subcommittee, which I chair, has held an extensive set of hearings on the problems of American industry and the need for a public response to those problems. These hearings have disclosed deep-seated, structural problems in the American economy, problems which will hamper our ability to compete in world markets, and make it impossible to sustain the rate of growth which is essential to provide a rising standard of living and decent jobs for all American workers.

The problems of American competitiveness are revealed most clearly in trade statistics. In 1960, 10 percent of our gross national product consisted of exports and imports. Today that figure is over 25 percent. Increased trade means increasing competition. Fully 75 percent of all goods produced in this country are now subject to

international competition, up from about 25 percent two decades ago.

Increasing trade is not a problem in itself, but the data show that we are failing to keep up our competitive edge as we become more trade dependent. Imports are taking an ever increasing share of our domestic markets in a whole range of goods. In autos, steel, and machine tools, for example, there were virtually no significant foreign imports. But by 1982, over 25 percent of U.S. domestic consumption of these goods was accounted for by imports. In some high-value added areas, the import penetration problem has become acute—Japanese firms now hold 75 percent of the U.S. market for numerically controlled machine tools.

While our domestic markets have been hit with increasingly effective foreign competition, our share of the world's export maket has also deteriorated. Between 1965 and 1980, our share of the world's export market in such areas as steel, semiconductors, computers, and chemicals dropped dramatically, while foreign producers gained world market share in these critical areas.

Increased import penetration and poor export performance have combined to produce a trade deficit which sinks further into the red each year. It is this trade problem which has been the most significant factor in our recent recessions, and it will continue to retard the growth of our economy in the future.

We cannot afford to ignore the problem of industrial competitiveness, and we must focus attention on the reasons for our poor performance in this area.

In our hearings, we have identified four basic causes for our competitiveness problem:

First. We have been unwilling or unable to make the investment required to keep our basic industries competitive in world markets;

Second. We have accepted a short-term view of the economy, and have failed to provide the "patient" long-term investment needed for the development of innovative products or technologies;

Third. We have failed to support an adequate level of applied research and development to keep American goods and technologies competitive; and

Fourth. We have been unable to focus our extensive set of industry-support policies into a coherent strategy for international competitiveness.

To address these basic problems, I am today introducing the Industrial Competitiveness Act. This act deals with the issue of policy coordinating through the creation of a Council on Industrial Competitiveness, and responds to the problem of inadequate investment through the creation of a Bank for Industrial Competitiveness, the establishment of decentralized development finance institutions, and the creation of a secondary market for industrial mortgages.

The Council on Industrial Competitiveness is the centerpiece of a strategy for rebuilding the competitiveness of American industry. We presently have hundreds of specific measures designed to help industry, but each of them act in isolation from one another and there is no way to focus the myriad of separate actions into a coherent and viable competitive strategy. The Council would provide a means to realize this coordination, and mobilize a public consensus in support of a competitiveness strategy.

Better coordination of policy is a principal goal of the Council on Industrial Competitiveness, but of equal importance is providing a greater degree of conditionality to Government assistance to industry. We presently provide a wide range of assistance including tax, trade, antitrust regulation, loans, and loan guarantees, but have no means of assuring that the assistance results in improvement in the competitiveness of the aided industry. We can no longer afford to give aid without requiring competitive modernization as a result, and the proposed Council on Industrial Competitiveness would help assure that the proper conditions were attached to all forms of aid.

The Bank for Industrial Competitiveness will complement and support the activities of the Council on Industrial Competitiveness by helping to catalyze private financial assistance to industries and firms whose health is essential for a vital and competitive national economy. Our basic industries need modernizing investment, but firms by themselves cannot work out the kinds of negotiated revitalization agreements among all participants in the industry which are essential to producing a viable investment package. The Bank for Industrial Competitiveness would help arrange such packages, but would never be the primary lender. In all cases, Bank financial participation would be limited, and each package would have to bear the test of acceptance by private lenders.

In new and emerging industries, the Bank would provide "patient capital" for new product or technology development through its own direct lending, and by promoting decentralized forms of development finance. To insure maximum support for new ideas, the Bank would also assist in the formation of decentralized public financial institutions to make loans to new companies, new products, and new technologies.

We also propose to assist private commercial banks in making loans for industrial expansion by creating a secondary market for industrial mortgages. Creating a market where commercial banks could sell portions of their industrial loans would make it easier for them to lend to businesses on a long-term basis, and would increase the volume of industrial lending they could make, without providing any significant government interference with the loan decision of the banks. The Federal Government, through the Federal National Mortgage Association has for years provided this set of secondary market for housing mortgages. And I believe the time has come to give the same attention to the needs of our industrial sector.

I am also introducing today a bill to establish an Advanced Technology Foundation to support applied research in America's civilian economy. Everyone familiar with the problem recognizes that applied research is the key to international competiveness, first is new products and cost-cutting breakthrough in existing production which will allow an industry to retain the needed edge over other firms. Yet American industry systematically underinvests in applied research, both because of its great cost and because the benefits of many new innovations cannot be limited to just the firms which invents them. The Government has for years recognized the need for public support of research, yet we presently concentrate our efforts on either basic research, via the National Science Foundation, or applied research in the military sector through the Department of Defense.

There is, therefore, an important gap in public support for research. Civilian, applied research receives too little support from Government, yet it is precisely this sort of research which is essential for world competitiveness for our firms and industries.

The bill I am introducing today would create an Advanced Technology Foundation to provide our civilian industrial sector with the same type of support which NSF provides for basic research and the Defense Department provides for military applied research. The Foundation would support research in areas of industrywide significance, and would insure that new products or technologies discovered through Foundation-supported research are made available on an equal basis to all firms in the American economy. Public support for applied research, and for the dissemination of the results of that research, will help all sectors of the American economy develop and maintain a strong competitive position in the world economy.

In the coming week, I will be introducing legislation dealing with two other key issues affecting our industrial competitiveness—trade policy and credit budgeting. Our trade laws stand at the frontline of the competitiveness struggle, yet these laws are failing to

insure that American industry uses adjustment-focused relief to rebuild its competitive edge. Therefore, I will be introducing legislation to amend the trade laws to provide a more effective means of speeding up the process of competitive adjustment in the trade area, and to attach greater adjustment conditionality to trade relief.

In the credit area, it is clear that the Federal Government allocates billions of dollars each year through loans and loan guarantees, but we have no effective mechanism to monitor this process. Federal spending programs go through the normal budget process, but credit programs often escape this same sort of scrutiny. I believe credit programs deserve the same sort of realistic and tough assessment which is required for direct spending programs, and I, therefore, intend to also introduce next week legislation which would mandate the creation of a credit budget for the Federal Government, and deal with other issues concerning Federal credit programs.

The legislative initiatives I am introducing today and in the coming week, are intended to refocus the important national debate on economic policy. Improved competitiveness must be central to that debate, and it is my belief that these specific initiatives represent public actions which are essential to rebuilding our industrial competitiveness and insuring the long-run prosperity of the economy. I welcome debate and discussion of these measures. Toward this end, the Subcommittee on Economic Stabilization intends to act on these bills as expeditiously as possible, and expect to move several of these bills through our subcommittee in the near future.●

FAMILIES IN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MILLER), is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, the Crisis Intervention Task Force of the Select Committee on Children, Youth, and Families chaired by Congresswoman LINDY BOGGS recently held its first hearings.

This task force, one of three established by our Members, encompasses some of the most visible disquieting problems facing the American family. These include the questions of family violence and child abuse, homelessness, runaways, adolescent drug and alcohol dependency, and emergency food assistance. It has been the reported rise in these human tragedies that, as much as anything, prompted the creation of the committee. A comprehensive and serious investigation of these problems, in turn, became one of our first responsibilities.

We began our task by reaching out to the private sector, to the charities, the family service associations, the youth service providers, who have done so much to respond to families in crisis.

We sought, in particular, to learn what kinds of family crises they are seeing, whether and to what extent the demands on private agencies have changed, and whether they have sufficient resources to respond.

These were our objectives and I believe we met them. We heard from church sponsored agencies, as well as from national level family and children-serving agencies with distinguished traditions of community service. We heard from newer agencies providing emergency shelter services. We heard from distinguished social scientists, interpreting the most extensive data base available on the role of the American private nonprofit sector. We heard from corporate leaders who, in partnership with the public sector, have created an innovative preventive social service program. And, finally, we heard from a homeless and unemployed mother, whose family crisis was cushioned somewhat by the timely intervention of both private and public assistance, but whose continuing problems unfortunately represent those of thousands of others.

The first witness to testify before the task force was Father Thomas Harvey, executive director of the National Conference of Catholic Charities, the largest single private social service agency in the Nation. Father Harvey's testimony set a factual framework, an overview of families in crisis based on the emergency services Catholic charities provides to the abused, the homeless, and the hungry. He said:

One of the constant services provided by our agencies is emergency assistance. From 1981 to 1982, we have increased the provision of emergency meals from 496,514 to 998,685 . . . Our agencies report that in the last two years meal programs have shifted from serving almost only single adults to serving an increased number of intact families, an increased number of mothers with children . . . Many agencies, and many Catholic parishes have had requests for food triple and even quadruple, and some have had to ration food . . . Emergency shelter for single adults grew from 3,900 in 1981 to 63,000 in 1982. Emergency shelter for families and children nearly tripled in the same time to about 71,000 . . . From 1980 to 1981, the number of abused adults coming to our agencies jumped from 7,244 to 13,566. Many of our agencies have opened new shelters for abused wives and children. Many have increased their counseling to the total family involved, because most abused spouses do go back home.

And children? In 1980 our agencies served 13,312 abused children. In 1981, 19,070. And in 1982 we served 21,988 abused children.

Mr. Mr. MILLER of California. In short, the workers of Catholic charities have seen a radical shift upward in the numbers of families in crisis, and have tried to respond. Their response has been hampered by tripled caseloads and by funding cuts of nearly equal proportions. Father Harvey suggested that cuts have themselves led to some of the problems. He said in conclusion:

The voluntary sector cannot make up for government contraction in the human service field. What we see in our communities is not just the recession, but also the result of deliberate federal government contraction. It is the recession and this federal contraction which have put more families at risk.

Our next witness brought a hush to the hearing room. Janice Haynes is an unemployed, 37-year-old divorced mother of a 9-year-old handicapped boy. There is really no way to describe what she said. I will let her own words tell the story.

I have a nine-year-old son. We live on ADC, and it has not always been that way. We have been on ADC almost two years. Before that I always worked, I had always supported my son, because his father deserted us when he was seven days old.

But I was working two years ago at VA Medical Center and that time I had a car that I thought was in good condition. The transmission went out of it. I could not get it fixed because it cost $500 dollars. I did not have that, I could not get it. I could find no one to carpool with, not on any shift.

So I had no choice but to leave my job. It was almost 40 miles away. There was no way I could get to work. And so I did take a leave of absence in order to maintain a good work record and be able to give notice for my job.

There were no jobs in town that I could walk to. Every place was laying off, and we did go on ADC and we existed until this past winter.

Things got really bad with utilities and rent. We were evicted and this was on my son's birthday, on February 2nd.

I have a lot of family, but I am not close to them. They seem to think that my being on ADC is something that I could help. They just do not think there is any excuse for someone not being able to find a job. They are all lucky enough to have one and they have never been out of one.

But when I was evicted, I did not know who to go to, who to call. I did finally call my ex-husband in Columbus, Ohio, and I told him, for nine years I raised your son, you have not helped at all; just help us now. We need a place. He did come and get us and he took us to his parents' house.

We were not really wanted there. We stayed there six days and on the sixth day, you know, we had to be out. We were put out in the streets.

The first day I was there I picked up the "Columbus Dispatch" and on the front page there were headlines, Catholic Social Services were opening apartments on Warrent Street for the homeless. Well, the first thing I did was get on the phone and call, and I probably called them about ten times about this, and some of the apartments just were not open yet. That was the problem, they were opening up this week.

Well, on the day we were finally put in the streets, my son and I, the caseworker at Catholic Social Services called me as we were leaving and we did not know where we were going to go. I had already called the Salvation Army and they were filled. They had no beds, not even anything on the floor.

And a caseworker from Catholic Social Services said they had an apartment. They

had just put furniture in it, it had opened up. We got it. We did not get cold the night, we did not stay out. And that was for 90 days we could stay there. The rent was $72.60, which was really great. On ADC we received $216 a month to live on.

You know, I have looked. I thought surely in Columbia I would find something. I have found a few places, nursing homes, which I have always worked as a psychiatric aide, and they have said they would hire me. But they hire only on call-ins. They do do need that much help. And on call-in you need a telephone. Well, on ADC you cannot afford a $75 deposit to even get one.

It is kind of a vicious circle. You get on it and it is hard to get off. There is not hardly enough money to do the things that you need to do to go out and look for work.

Mrs. Haynes and her son survived with the timely help of public and private agencies. Her situation was instructive to committee members, however, not just because she wanted a job and could not find one, and wanted an apartment and could not find one, but because, while welfare provided her a meager monthly income, it would not provide a one-time emergency grant of $500 to fix her car. Had AFDC given Mrs. Haynes the money to fix her transmission, she would not have had to quit her job, lose her apartment, and use up thousands of dwindling public dollars for income support.

In light of the administration-designed policy of asking more from the private sector and less from Government, efficient use of program funds is more important than ever. For the same reason, the capacity of institutions at the State and local level to respond to families in crisis is of greater importance than it has ever been.

To address the issue of the private sector response, the task force invited Dr. Lester Salamon of the Urban Institute. Dr. Salamon's analysis is based on the best study we could find of private nonprofits in the United States. He made the following significant points:

First. That the nonprofit sector plays a far more important role in the nation's human service delivery system than is commonly acknowledged.

In support of this point, Dr. Salamon said that while the Federal Government spent $108 billion, exclusive of social security, in the delivery of human services, the nonprofit sector spent a corresponding $76.4 billion in the same general areas.

Second. That far from displacing nonprofit organizatons, as is sometimes alleged, government in this country, and particularly the Federal Government, has been a major factor in stimulating their growth, creating in the process an elaborate and generally fruitful pattern of government nonprofit partnership.

Dr. Salamon pointed out that private nonprofits receive $25.4 billion of their revenue from private sources and $40 billion, almost double, from the Federal Government. He also made it clear that the support of Government is not limited to just a few organizations. To the contrary, 55 percent of all agencies received Government support in 1982.

Dr. Salamon's third major point touched on the impact of recent budget cuts on the public/private sector partnership. He said:

Policy and budget changes in the past two years, and those proposed for the next few years, threaten, if not to dismantle this government-nonprofit partnership, then at least to curtail it significantly . . . Nonprofits are not simply an alternative to government. Rather, they are deeply involved in the delivery of publicly funded service and the operation of public programs. The same budget cuts that increase the demands for nonprofit activity therefore decrease the resources that these organizations have available to support this activity.

In short, his statistical analysis mirrored Father Harvey's extensive field reports. After providing a budget breakdown showing significant reductions in Federal support for nonprofits, Dr. Salamon offered the following interpretation:

To put these figures into some kind of context, we have attempted to assess what kind of increase in private giving would be needed to compensate nonprofit organizations for these reductions in Federal revenues and thus allow them to maintain their FY 1980 levels of activity . . . If we take into account the level of private giving as of 1981, the anticipated rate of inflation, and the revenue losses that nonprofit organizations would sustain as a result of the budget changes already enacted or proposed, private giving would have to grow by at least 22 percent in 1982, 24 percent in 1983, and in excess of 30 percent in 1984, 1985, and 1986 to allow nonprofit organizations to maintain their 1980 levels of activity. This represents a rate of increase in private giving that is two or three times greater than any that has been recorded in recent memory.

Having taken an in-depth look at the extent to which American families are in crisis, and how private agencies have responded we moved ahead, at this point, to address the specific issues of homelessness and troubled youth. To begin, we called on Ms. Verona Middleton-Jeter, of the Henry Street Urban Family Center in New York City. At her shelter, for the first time in 11 years, two-parent familes are seeking emergency shelter. Ms. Jeter told the task force members:

We too often think of the homeless population as being single adults. Homeless families are less visible because families go to great lengths to keep children from living in the streets. This is partly related to feeling responsible for protecting and caring for children and also the fear of having children taken away. Families are "doubling up" in apartments that are too small for the composition, i.e., 9 people living in a two bedroom apartment . . . Recently New York City Housing Authority estimated that about 17,000 families were doubled up in their buildings. They estimated having a waiting list of over 164,000 families. Given the fact that the Housing Authority has a policy against "doubling up", we can assume that the percentage in private housing is even higher.

New York City is now shipping homeless families into New Jersey, because there is no room for them in New York. Children in these families travel hours just to get to school, losing contact with their friends and suspending their extracurricular activities. Their families are in double jeopardy: they are homeless, and under great stress; yet, they have no community to support them; no children's centers, and no social services. Soon after this hearing, committee members traveled to New York for a site visit and spent several hours in a hotel for homeless families. Every point made by Ms. Jeter came to life before our eyes, as we sat in a cramped and dark room, home to two families for many months.

Perhaps the most gripping of Ms. Jeter's testimony concerned the homeless parents who have given their children up to foster care, to avoid living with them in the streets. She told us:

More and more families are being separated due to homelessness. After looking for an apartment for months while living in condemned, abandoned buildings, many parents are opting for foster care placements to insure a decent place for the children.

Many committee members, hearing this, were reminded of the depression period. Today, demographic changes, inadequate housing policies, a long and deep recession, and cuts in AFDC, foodstamps, and other programs have pushed thousands of families into circumstances little different. Regardless of macroeconomic improvement, these families are likely to remain outside the America that prospers.

Next we heard Dr. Alvera Stern from the Youth Services Center in Ames, Iowa. It is a center which provides comprehensive services to rural youth. Her experience is extensive, varied, and almost entirely rural. She brought to us the perspective of communities which traditionally pride themselves on self-sufficiency and independence. She said:

The past three years have been particularly hard for rural families facing economic collapse on the family farm and in the local agriculturally-based businesses. For rural youth, unemployment is reaching record proportions as youth are facing a tripple whammy of the cut-off of CETA youth funds, the change of farms to highly technical use of machinery, and the removal of areas of labor intensive crops (bean walking and seed corn production through PIK price supports.)

Most strikingly, our statistics show increasing problems in our nonmetropolitan areas with alcohol and drug-related problems, with sexual exploitation of kids including incest and prostitution for both boys and girls, an increase in runaway/homeless youth, and increases in incidence of depression, suicide and other stress-related items.

Her center has tried to respond in spite of the greater numbers and more intractable problems. However, since their programs have traditionally relied, at least initially, on Federal funds, their response has been severely restricted by cutbacks. Her testimony left no doubt that problems of family and youth extend well beyond urban America. Her experience, while in a much different setting than the other witnesses, is similar in that she is seeing more severe problems, in greater numbers of youth, and has fewer resources to deal with them.

The task force then turned to two of the committee's predominant themes: preventive services and the potential for private/public partnerships in the delivery of human services.

Mr. Gregory Coler, director of the Illinois Department of Children and Family Services, and Mr. Irving Harris, CEO of Pittway Corp., and Standard Shares, Inc., testified together. These two men are engaged in an innovative effort in Illinois designed to prevent low-birth-weight babies, high infant mortality rates, child abuse, and to interrupt the poverty cycle at the point where intervention does the most good and costs the least. Mr. Harris is a business executive with a deep commitment to working with teenage parents and their children.

Their partnership began when Mr. Harris asked Mr. Coler and the State of Illinois to match moneys contributed by Pittway for the establishment of a nonprofit self-help center.

Mr. Coler did more than accept Mr. Harris' proposition. He challenged him to set up six such programs around the State. Now there are six "Ounce of Prevention" programs, each uniquely tailored to the needs of its host community. Special focus is given to pregnant and parenting teenagers. A carefully structured evaluation component is built into each program.

The "Ounce of Prevention" pilot project is an excellent example of public/private partnership. It combines the financial resources and democratically derived priorities of Government with the flexible and efficient management resources of the private sector. This partnership is an example of the extensive Government/private sector collaboration described to the committee by Dr. Salamon.

But, as Dr. Salamon warned, this successful balance has been placed in jeopardy by recent cuts. Both Mr. Coler and Mr. Harris appealed to members of the task force to withstand additional cuts, and to stand ready, if the results of their pilot project proves positive, to fund a proliferation of similar projects nationwide. In Mr. Harris' words:

> While we expect to make a meaningful contribution in the six communities in which we are active, the problem is nationwide. Our efforts and the efforts of other private groups will be woefully inadequate to do the job on a nationwide scale.

The task force next heard from another innovative prevention program—one wholly funded by private resources, but part of a treatment center supported by a mix of public and private funding. The program is called Bright Beginning Warm Line—a free telephone service for parents of very young children. Our witness was Ms. Elizabeth Elmer, an eminent researcher into the causes of child abuse. In her program, trained volunteers cover the phones between 9 a.m. to 5 p.m., to answer questions new parents have about their new infants. The have received nearly 1,000 calls since last November from parents of all backgrounds. Ms. Elmer and her volunteers are encouraged by their early results. Their goal, of course, is to reduce the incidence of child abuse in the Pittsburg area by allowing young and inexperienced parents to get proper guidance, to reduce the stresses involved with raising a new infant.

The hearing concluded, appropriately, with testimony from two distinguished directors of Family Service Associations.

Since these associations historically handle, at the grassroots levels, problems of children, youth, and families, they are in a unique position to educate all of us regarding trends, needs, and possible innovations. Mr. Virgil Carr, president of Family Service Association in Detroit, led off. His testimony should put to rest any doubts any of us might have had about the connection between joblessness and family destructiveness. He said:

> Over the years, the staff of the agency has dealt with a variety of problems within families such as: marital discord, divorce, separation, re-married families, parent-child issues, incest, child abuse, spouse abuse, depression and the list goes on and on. In the last three and a half years, however, no one problem facing families in our community has been so troublesome, vexing and outright destructive of families as the complex issue of unemployment . . . The Detroit Metropolitan area has levels of joblessness, far in excess of the state's percentages, with youth and minority unemployment frozen at all time highs.
>
> Frustration with the economic woes in the community have triggered increases that portend untold grief for all residents, even those who are fortunate enough to be working. Recent key crime statistics for the months of January and February, when compared to the prior year, indicate that:
>
> Homicides are up 30 percent;
>
> Burglaries are up by 15 percent; and
>
> Aggravated Assaults are up by 5 percent.
>
> These trends, if continued, represent a clear reversal of progress made to contain crime over the last few years.
>
> Equally distressing is the fact, that Michigan's infant mortality rate increased from 12.8 deaths per 1,000 live births in 1980 to 13.2 deaths in 1981. This increase is also a reversal of three decades of work wherein the infant mortality was cut by 50 percent.

Mr. Carr's agency has tried to meet the growing needs of Detroit citizens. But their job, accommodating growing numbers of jobless people with a range of severe problems, has been hampered by the dropoff in public sector assistance. Mr. Carr told us that rather than raise fees to clients who cannot pay them, his agency has had to fire staff, and reduce the quality of its programs. He closed his testimony with the following statement:

> Even with all the efficiencies effected, our agency, like the rest of the community, faces a bleak future unless clear and real economic recovery takes place soon. Even if that takes place tomorrow, the lasting and permanent emotional and physical damage will take years to correct, if at all.

Mr. Carr was followed by Mr. Stephen Angell, executive director of Dutchess County, N.Y., Family Service Association. Mr. Angell is also president of the New York State Association of Family Service Agencies.

In preparing his testimony, Mr. Angell surveyed many of the 50 agencies established in communities across the State of New York. He learned that the Family Service agencies of New York State are seeing many more homeless families and families with serious emergency need for food. There have been great increases in cases of drug abuse and alcoholism, family violence, and runaway youth as well. In Dutchess County alone, a relatively affluent community, the number of runaway youth served by Family Services increased 120 percent from 1980 to 1982. In addition, Dutchess Outreach, Inc., a private voluntary agency, reported a 94-percent increase between 1981 and 1983 in the number of people receiving emergency food.

Mr. Angell then went on to say that New York's Family Service agencies have not been able to keep pace with the demand for services by families in crisis: In relating this point he stated:

> Unquestionably in times like these when we are challenged to tighten our belts and do more with less there is a benefit accrued in striving for greater efficiency. There is only so much belt tightening that can take place, however, and then the impact on services is really seen and felt. In my view we are already seeing the negative impact on services.
>
> I did not find a single agency that thought the private sector could possibly pick up and deliver the services which the federal government is cutting back on. Many agencies said that in funding they were at best standing still. Increased income, to the extent they were able to get it, was not even keeping pace with inflation. Volunteers who have been a mainstay of many agencies' services are getting much harder to recruit. Many women get looking for a paying job and are just not available to do voluntary work the way they used to.

Mr. Speaker, it is difficult to adequately summarize the information, emotion, and concern brought out at this first hearing of the Crisis Intervention Task Force of the Select Com-

mittee on Children, Youth, and Families. I have tried to summarize as best as I can, to share what we have learned with all Members.

The committee is doing the job we were asked to do. We are assessing the status of our families, we are surveying the needs of our children and youth, we are beginning to find out what programs work and what areas are in greatest need. We are relearning that timely intervention in a family crisis can help prevent an acute problem from becoming a chronic condition, with unfortunate consequences for the Nation's health bill, crime rate, and productivity.

The problems of families, youth, and children, according to every witness, whether invited by the majority or minority, have gotten much worse in the last few years, and have impacted on many more people. We have been told, without exception, that while the problems are much greater, the resources to deal with these problems are much fewer. The private sector cannot make up the slack, and, in fact, is itself hurt badly by cuts in public funds.

For anyone who wants to know what the American family crisis is all about, how communities are desperately trying to respond, and the effects of Government policies on families, the record of this hearing should be required reading.

VETERANS DAY 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MURTHA) is recognized for 15 minutes.

● Mr. MURTHA. Mr. Speaker, I had the honor of speaking today at a special ceremony commemorating the Vietnam veteran on the first anniversary of the Vietnam Veterans Memorial. It was a touching ceremony and I am enclosing for insertion in the CONGRESSIONAL RECORD the transcripts of several speeches made at the Vietnam Veterans Memorial, Washington, D.C., on Veterans Day, November 11, 1983.

The speeches were made by the following people: John Wheeler, chairman of the Memorial fund; Robert Spanogle, the National Adjutant of the American Legion; myself; William Broyles, editor-in-chief of Newsweek; and Clifford Olson, Jr., Commander of the Veterans of Foreign Wars.

Other speeches were made by the following people: Jan Scruggs; Brig. Gen. Price; Emogene Cupp, of the Gold Star Mothers; and the Honorable Elliot Richardson.

COMMENTS BY JOHN WHEELER, CHAIRMAN OF MEMORIAL FUND, NOVEMBER 11, 1983

Who among us was not touched or even wounded in some way by the Vietnam War?

The greatest hurts we see are the killed Americans named on these walls.

The walls shine like mirrors, so we begin to see hurts inside us, too when we see our own reflections in the walls.

And there are hurts among us—caused by the war—that we all only dimly see—and find it hard even to think about.

The hurts are things like anger, guilt, bitterness, and the difficulty of changing our ideas as we mature.

Among Americans the hurts and the need for healing of are greatest among the 60 million of us who came of during the Vietnam War.

Almighty God, we remember before you the Vietnam War and those who lost their lives in the war. We commend to the healing power of the Holy Spirit the wounds of the war, wounded bodies, wounded lives, and wounded countries, and we ask for grace to face our past and to show forth your love now and in all days to come. In the name of your son who was wounded and who gave his life for us. Amen.

SPEECH BY ROBERT W. SPANOGLE, NATIONAL ADJUTANT, THE AMERICAN LEGION FIRST ANNIVERSARY, VIETNAM VETERANS MEMORIAL

Today, on the first anniversary of the Vietnam Veterans Memorial, we mark a solemn day of remembrance that has been part of America's tradition longer than most of us have been alive. It's Veterans Day . . . born in the grief and gratitude our grandparents felt for those who died in World War I . . . and came to be . . . with the experience of war three times again . . . a special day set aside for us, as Americans, to revere the memory of all who died in our nation's cause.

Veterans Day has always been a day of remembrance . . . a day on which Americans can pause and consider the sacrifices of the past. Unlike other nations . . . America does not pause on this day to recall her conquests . . . to tally the spoils of war . . . or to gloat over her power. No! Today, as on every Veterans Day before . . . Americans pause to remember the men and women who fought and died for her in war.

As a veteran of the latest—and longest—of those wars . . . I find it somehow especially significant that the first anniversary of the dedication of this memorial falls on Veterans Day.

For today, the Vietnam Veteran, I believe, has finally—and fully—taken his place among the honored millions who call themselves—proudly—Veteran.

Like all veterans, the Vietnam veteran answered his country's call, without hesitation, without question.

Like all veterans, he came from every corner of America—from north and south . . . from east and west . . . from the cities and the farms.

And, like all veterans, they came from every race . . . every religion . . . and every political point of view.

Yes, they came . . . the sons and the daughters of America . . . raised in her bosom to the full flowering of their youth, and prepared to give up their lives, if necessary, in defense of but one common belief: The freedom of mankind—the fundamental right of people everywhere to be free from oppression and tyranny. They came . . . these sons and daughters of America . . . armed with a simple love of country and its laws . . . a reverence for the God of their fathers . . . and a devotion to duty.

On this day of remembrance, it is good to recall how those men and women served . . . who this somber memorial immortalizes.

At this site, we recall that nearly 9 million of them served in our nation's longest war. They served, as history will fully record, with unparalleled courage and valor. They left no dead or wounded behind on the fields of battle . . . and they brought the memories of those who died home with them.

That, ladies and gentlemen, is what many Americans are only now remembering. But I remember . . . and my fellow Vietnam veterans remember it all.

We remember the faces of our generation in induction centers throughout this country . . . where each raised his hand and took the soldier's oath to defend and uphold the constitution of the United States. The vision of those faces is etched forever on our minds . . . as surely as the names of those who never returned are etched on the granite of this memorial.

We remember the rising chorus of doubts and recriminations that struck at the heart of American resolve . . . and we recall that still we came, young Americans soon to be Vietnam veterans. We did not shirk our responsibility. When the debate surrounding the war rose in volume and demonstration . . . still we came to answer the nation's call.

Yes . . . we remember the demonstrations and the critics. We remember the trips to Hanoi and the calls for America's defeat. One always remembers the critics. But in the forefront of our memory are those who served with us.

They had faith in their country. They believed in protecting a small nation from aggression. They believed in self-determination. To them, it was more than a phrase—it was a commitment to seeing its real meaning take root in Southeast Asia. Like the nation, Vietnam veterans were not ashamed of their courage nor their resolve . . . in standing up to oppressors of the weak.

That we knew, and we recall, is the foundation of liberty.

Yes, we remember the sight of the last chopper leaving our embassy in May of 1975. We remember, too, that it was a full two years, that unforgettable day, after peace was supposed to have been restored by the Paris Peace Accords of 1973.

And we remember, too well, in the aftermath of the last chopper's departure, how ruthlessly and efficiently the oppressors have completed their job—millions of men and women in Southeast Asia, Cambodia and Laos exterminated . . . hundreds of thousands of our former allies in South Vietnam tracked down and murdered. We remember the genocide . . . and we remember it was predicted.

But, strangely, the critics of yesterday are oddly silent today.

Yes . . . the critics are silent on oppression of the weak and death and destruction by terrorists. But as we gather here today to pay homage to all veterans, it is important that we all recall that the Vietnam veteran knows and understands terrorism and what it means. It's no academic topic to him . . . no shadowy subject from a faraway land. In his bones he knows . . . and in every heartache for a fallen comrade he knows. And born of that pain he carries a resolve that America will always protect the weak and stand between oppression and liberty. For fifteen years of war that resolve was being forged . . . and for fifteen years he was a lonely sentinel in a faraway corner of the world. He was then a hero . . . and he is

today a hero. He always knew it. We must never forget it.

Today . . . as we remember the men and women for whom this memorial stands, we pledge ourselves to a new reverence for their sacrifice. We will remember them with honor and gratitude. And for them, we will remember the 2,400 who have yet to return. We pledge ourselves anew to never rest until they are returned to us and to their families who even today maintain the vigil.

We will never forget that we owe a debt to the sons and daughters . . . the mothers and fathers . . . and the friends and comrades of each of them . . . and we pledge ourselves anew to their cause . . . and to the comfort and solace of their families. Yes, in remembering what they have done for us . . . we are reminded of what we must do for them.

Here in the shadow of the Washington Monument . . . against the backdrop of the Lincoln Memorial . . . we are reminded of our commitment to those men . . . and those ideals they suffered for. These lasting symbols of man's striving for a better world . . . are symbols of the freedom each of our dead and missing sacrificed to defend.

Ladies and gentlemen . . . to have been a part of this ceremony . . . to honor the men of my generation who are no longer among us . . . and to represent The American Legion and Auxiliary who stand in the vanguard of liberty . . . is an honor I will treasure always. In the words of The American Legion's preamble, I find special meaning for a day such as this. In life and in death, we of The American Legion "sanctify our comradeship by our devotion to mutual helpfulness."

That is our reason for being. That is my reason for being here. I shall never forget them . . . and The American Legion will never forget them!

REMARKS BY JOHN MURTHA, VIETNAM VETERANS MEMORIAL

I had the honor of dedicating the first marble slab of the Vietnam Veterans Memorial. Early one Sunday morning shortly after the memorial opened, my daughter and I came to view the completed memorial.

I saw individuals searching out the names of family and friends, and touching that name etched in marble. It was clear this monument is not a collection of names on a wall, but a collection of memories—this is a monument where people remember.

Nearly nine million Americans are Vietnam-era veterans and 2.5 million served in Southeast Asia.

For these thousands who served in Vietnam they did not return together to cheering bands, but individually. They returned to their homes without fanfare. I recall meeting a young veteran who told me when he returned in 1970, wounded, with his arm in a cast, his friends asked him where he'd been.

Because of public attitudes the answer to that question for many veterans was an embarrassment. America became symbolized by the criticism of that era; the Government was criticized for what was called the first war America failed to win.

For the 17 or 18 year old—many away from home for the first time, many drafted, willing to serve their country but unsure of themselves—they felt this criticism deeply. They felt it personally. They felt it as they went about the work of war. And after they returned. And some continue to feel it today.

Years have passed, and while most men who returned have overcome the pain of battle, there still remains a psychological scar that, for some, will never fade.

Each time I come to this memorial, I sense powerful stirrings. As I look at the faces of others who come, who stand at a distance gazing at the monument, who reach out and touch a particular name, I sense that this memorial is serving for thousands of Americans as a symbol of respect. This memorial is a tribute to Americans who fought heroically and honorably.

REMARKS BY WILLIAM BROYLES

When I first came here I looked for names I knew. I was remembering my war, my time, my buddies.

It was personal and private. But then I looked up and down these long slabs of dark marble, and realized that there were tens of thousands of other names, names of people I didn't know, and would never know, even though I wished I could.

NYC VIETNAM MEMORIAL, SEPTEMBER 20, 1983

This memorial, and this ceremony, is about names, not about abstractions, but real people. It should be a reminder that in an age when patriotism and sacrifice seem out of fashion, when their country called, millions of American answered.

It was not their fault that Vietnam was an unpopular war, fought for uncertain ends, prolonged beyond hope of success. They served their country no less well than if they had fought to win our independence, to end slavery, or to defeat Hitler. They interrupted their lives, left loved ones, jobs and careers—they did their duty.

When we came home from Vietnam there were no flags and no parades. No one patted us on the backs, bought us drinks or even said thanks. Some of us were booed and spit upon. And up to a point that was fine. Up to a point. After all, we had learned that in Vietnam nothing mattered except the people around you—your buddies. No one else cared or understood. You went out on point, or down the paddies, dikes or into a tree line—not for some vague idea or because a politican said to—you did it for your buddies. It was beyond politics, it was beyond most experience. But it was real. It was a special sort of friendship, and it kept us going. It is that loyalty that built this memorial and that will provide the help many of our fellow vets still need to ease the physical and emotional injuries of the war.

And let us not forget our wives, our husbands, and parents, children and even grandchildren. The war held them hostage as we served, worrying each night about that phone call or the knock on the door. They gave as we gave, and they are part of this. And let us remember, most of all, those 58,077 of our buddies who did not return. They gave the last full measure of devotion, as honorably as those who died at Gettysburg or Guadalcanal. They deserve to be remembered, and so do the living. Twelve years ago another Viet vet named John Kern stood near here and talked about how we should set forth on one more mission to search out and destroy the last bitterness left by the war. That mission is still before us. Let us pacify our spirits. Let us win the hearts and minds, not of some distant nation, but of our own. Let us proclaim that, at long last, peace is at hand. Let us, finally, find the light at the end of the tunnel of our own memories, and be proud.●

REMARKS BY CLIFFORD OLSON, VFW

Today we honor America's veterans. Here we honor a group of America's veterans who served with honor in Vietnam.

What I say here is directed to Vietnam veterans, but applies to all veterans, for Vietnam veterans are no different from all who served their country.

They were specially selected or volunteered. They were specially trained, outfitted, equipped and subjected to special rules and regulations. They were asked to do a special service for their country and did it just as veterans have done since we became a country.

Earlier today we were involved with the ceremony at Arlington Cemetery. Now we gather in the presence of 58,000 names of those who gave their lives in our most recent war. In addition, we honor those who are alive and continue to work for a country with all its hopes, ideals and future.

We in the Veterans of Foreign Wars of the United States are proud to have well over 600,000 Vietnam veterans in an organization growing each year. They are in leadership roles and workers at all levels of our great organization.

Let us all, this Veterans Day, pause to remember the sacrifices of those who served and died in Vietnam and remember that we have a better country for their service. Let us also remember the service of those who served well and thank them on this 1983 Veterans Day.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MIKULSKI (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. LEVINE of California (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. REID) to revise and extend their remarks and include extraneous material:)

Mr. MURTHA, for 15 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAWKINS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,690.50.

(The following Members (at the request of Mr. NIELSON of Utah) and to include extraneous matter:)

Mr. GILMAN in two instances.

Mr. LENT.

Mr. DAUB.

Mr. MACK.
Mr. PARRIS.
Mr. DREIER of California.
Mrs. VUCANOVICH.
Mr. KEMP in two instances.
Mr. CLINGER.

(The following Members (at the request of Mr. REID) and to include extraneous matter:)

Mr. ERDREICH.
Mrs. BURTON of California.
Mr. DORGAN.
Mr. FLORIO.
Ms. FERRARO.
Mr. WYDEN.
Mr. ACKERMAN.
Mr. JONES of Oklahoma.
Mr. OBERSTAR.
Mr. ECKART.

RECESS

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the order of the House agreed to on November 10, 1983, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 22 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 44 minutes p.m. on Saturday, November 12, 1983.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 45 minutes p.m.), the House adjourned until Monday, November 14, 1983, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follow:

[November 12 (legislative day of November 10), 1983]

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 413 (Rept. No. 98-540). Ordered to be printed.

Mr. MITCHELL: Committee on Small Business. H.R. 2133. A bill to amend the Small Business Act; with amendments (Rept. No. 98-541). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee of conference. Conference report on H.R. 2077 (Rept. No. 98-542). Orderd to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3867. A bill to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes; with an amendment (Rept. No. 98-543). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Novemer 12 (legislative day of November 10), 1983]

By Mr. OBERSTAR (for himself, Mr. SABO, Mr. WEAVER, Mr. PENNY, Mr. KASTENMEIER, and Mr. MRAZEK):

H.R. 4368. A bill to amend the Agriculture and Food Act of 1981 to expand the limitations applicable to payments made under the Agricultural Act of 1949 to producers of certain agricultural commodities to include payments in kind made under the authority of the Commodity Credit Corporation Charter Act to such producers; to the Committee on Agriculture.

By Mr. JONES of Oklahoma:

H.J. Res. 417. Joint resolution to designate the week of January 15, 1984, as "National Jaycee Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[November 12 (legislative day of November 10), 1983]

Mr. HIGHTOWER introduced a bill (H.R. 4369) for the relief of Dorothy Nell Williams, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[November 12 (legislative day of November 10), 1983]

H.R. 2837: Mr. MCEWEN and Mrs. VUCANOVICH.

H.R. 3532: Mr. BLILEY.

H.R. 4037: Mr. HOWARD, Mr. STOKES, Mr. LEVINE of California, Mr. OTTINGER, Mr. FAUNTROY, Mr. WEISS, Mr. EDWARDS of California, Ms. KAPTUR, Mr. D'AMOURS, Mrs. KENNELLY, Mr. CROCKETT, Mr. SABO, Mr. NOWAK, Mr. ANDREWS of North Carolina, Mr. MOAKLEY, Mr. VENTO and Mr. ECKART.

H.J. Res. 394: Mr. STENHOLM, Mr. KEMP, Mr. VENTO, and Mr. COLEMAN of Texas.

H. Res. 370: Mr. CROCKETT and Mr. SAVAGE.

EXTENSIONS OF REMARKS

IMPACT OF THE BUDGET DEFICIT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. CLINGER. Mr. Speaker, recently, as chairman of the House Wednesday Group, I moderated a dinner-seminar on the Federal budget deficit attended by leading members of the business community, and economic policymakers from past and present administrations, both Democrats and Republicans.

We heard that future budgets deficits pose the most severe domestic economic crisis this country has faced since the Second World War. We heard that our major corporations are closing plants at home but building plants abroad. We also heard that this problem will only get worse as continued deficits crowd out needed investment, raise interest rates, and cause major distortions to the economy.

Mr. Speaker, this message is dramatically underscored in an October 18 letter from Peter Peterson to Elliot Richardson which I received recently. Peter Peterson is chairman of Lehman Bros., and a leading member of the Bi-Partisan Budget Appeal, which is composed of six leading former Cabinet members from previous Democrat and Republican administrations.

His comments of the impact of the budget deficit highlight the crisis our Nation now faces, and I commend this document to my colleagues, and ask for its inclusion in the RECORD.

THE BIPARTISAN BUDGET APPEAL,
New York, N.Y., October 18, 1983.

Hon. ELLIOT L. RICHARDSON,
International Square,
Washington, D.C.

DEAR ELLIOT: It has, as you know, been a number of months since we last wrote to the members of the Bipartisan Budget Appeal. They have been months punctuated by a great deal of public discussion, although not much real progress, on the fiscal problems which led to the formation of our group. My founding colleagues—Messrs. Blumenthal, Connally, Dillon, Fowler and Simon—and I have been monitoring both the discussions and the budget outlook itself. This seems like an appropriate time to put some new material before you and, more important, to solicit your views on a number of policy questions and on the role that a group like ours should play in the coming months.

Before turning to the central question—the appropriate strategy for the Bipartisan Budget Appeal in an election year—I'd like to summarize what has been happening on the fiscal front and where we see the situation going. The attached memorandum provides an in-depth look at the present situation and the various projections for what lies ahead. The first point that stands out is that the outlook for the federal budget remains alarming. Even on quite optimistic assumptions, deficits are projected to remain in the range of 5 to 6 percent of GNP through fiscal 1988. Our political system, however, seems to be devoting considerable effort either to pretending that the problem does not exist, or, blaming the Administration more or less exclusively without suggesting responsible steps necessary to reduce the deficits in any significant way. The former view manifests itself in a series of popular if ultimately untenable assertions—that the economy will "grow itself out" of deficits, that deficits don't affect the economy anyway, and that foreign capital flows will, in any event, finance U.S. deficits.

As the attached memorandum suggests, each assertion is critically flawed. As to the first, even with record growth—a repeat of the boom years in the mid-1960's—deficits would remain distressingly large. Assuming growth that is robust, but not wildly implausible, deficits will remain intolerable. As to the second, we are aware of no coherent rebuttle to the proposition that continued high deficits will inevitably confront the Federal Reserve with an unacceptable choice—monetize the deficit and stimulate rampant inflation or resist the pressure to accommodate deficits and drive real interest rates, and with them an overvalued dollar and staggering trade deficits, to unacceptable levels. The cost of high deficits, in short, can be manipulated but not avoided: The alternatives are a return to record inflation (the inevitable consequence of a combination of loose monetary policy and loose fiscal policy), or wrenchingly high interest rates and sustained underinvestment in future growth (the inevitable consequence of restrictive monetary policy and loose fiscal policy). As to the third, while substantial foreign capital is flowing into the United States, were it not for these huge budget deficits, this foreign capital could be financing new private investment. In addition, to the extent these flows of foreign savings relieve some of the domestic interest rate pressures from our unprecedented deficits, they do so at a cost of output, profits, and jobs in our export and import competitive industries. This is because these capital inflows are linked to an overvalued dollar which "overprices" our exports abroad and "underprices" foreign imports in this country. Thus, high budget deficits crowd private borrowers out of the financial markets and crowd important sectors of U.S. economy out of the international markets for manufactured goods.

We are not, in short, cassandras when we point with alarm to projected out-year deficits. On the contrary, as the attached memorandum demonstrates, in sector after sector the costs of fiscal extravagance are manifest. While those who assert the contrary can at this moment obviously point with some elation to the present recovery and the booming stock market, the long term outlook remains bleak, and nothing in today's Dow Jones average or next month's inventory or retail trade figures can obscure our current shortage of savings, our apparently uncontrollable penchant for federal spending, our inadequate federal revenue base and the consequences to which the conjunction of these factors is leading. (As to the current recovery, none of us, even those most concerned with the metastasizing long term effects of deficits, believed that big deficits had outlawed the business cycle.)

The second point that stands out from the attached memorandum is that, as ominous as the near term situation is, with continuation on the present course the long term situation is worse—far worse. Future expenditures for interest costs, old age, and health will lead to bottomless future deficits. Even under fairly optimistic assumptions, we are now primed for calamity; by the year 2000, our present course will generate budget deficits in the range of 4.2 to 7.3 percent of GNP, and by the year 2025 the deficits will have doubled—reaching 8.7 to 16.2 percent of GNP. Under somewhat more pessimistic, and unfortunately more realistic, assumptions, we project a fiscal 2000 deficit of 6.3 to 9.9 percent of GNP, and a fiscal 2025 deficit of 16.8 to 25.8 percent of GNP! Unless something is done to change the course we are now following, interest on the national debt alone is scheduled to increase from 2 percent of GNP in 1980 to between 3.6 and 4.5 percent of GNP in fiscal 2000 and to between 6.3 and 11.6 percent of GNP in fiscal 2025 (using, in each case, optimistic assumptions). We need no long term projections to remind us of the explosion in health care costs; Medicare costs increased 18.6% in 1982! We are, in other words, being swept along by a current which becomes harder to resist every year; and there exists a very real danger that we will try a little harder each year to do something about it but will steadily lose ground nonetheless.

The third inescapable message in the attached material is that to date political pressure has skewed efforts to trim federal spending in a manner which has been neither effective nor equitable. The vast edifice of nonmeans tested federal entitlement programs (most of them 100 percent indexed to CPI) has emerged unscathed from the budget cuts of the early 1980's. Supported by 35 to 40 entitlement organizations which boast 100 million members, these programs account for fully 40 percent of the budget. Their costs are projected to explode as demographic changes drive up the number of recipients and reduce the number of workers who contribute to their support and as changes in the medical sector ratchet the cost of providing medical care to the elderly steadily higher.

A final point that stands out is that even the most vigorous and politically sensible package of spending cuts cannot, standing alone, solve the problem. We are, as George Will has said, "undertaxed" given the outer limits of what is politically possible on the spending side.

In light of these disturbing dynamics, what then is an appropriate role for the Bipartisan Budget Appeal? One element of

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

such a role, we feel, is education. Through work like that underlying the attached memorandum, we can as an organization try to puncture the myths and rationalizations that our political system serves up as an excuse for inaction, to provide our leaders with fair and impartial information about the present situation and the consequences of various policy choices. By educating, we may also be able to help end the current political stalemate. For example, by urging that tax increases be *linked* to major spending reductions and that any tax increases be based on consumption rather than savings, we can perhaps help build a consensus for doing something intelligent, equitable and consequential on the revenue side. Similarly, it now seems quite clear that positive action on the spending side will require a thoughtful and humane assault on the citadel of federal entitlements for the elderly. That means shifting entitlement programs more in the direction of the needy so that precious resources aren't squandered on those who are more than able to take care of themselves. (It may well be that such an assault can not be launched too directly. Still, some combination of measures—such as putting a cap on COLA indexing, taxing all benefits above contributions, capping benefits to those with higher wage histories, and so forth—can do much toward improving the situation.) It also means providing a bipartisan counterweight to the powerful lobbying groups who have made the citadel impregnable thus far.

Prodding our political system to do something about entitlement programs will, as we have seen time and again, be a monumental task. As the attached paper suggests, we are a long way from making any progress. The message coming from Washington today is either that the Social Security problem has been resolved or that Social Security is in any event now "sacred" because it has been blessed by the Bipartisan Commission's "solution". The tag line to that message is that growth in non-Social Security entitlement programs (in particular, federal, civilian and military pensions) can on the grounds of "fairness" be reduced no further than growth in Social Security—essentially one six month delay in indexing, for a relatively trivial $1 billion or less in savings. Together, these thoughts are a prescription for inaction, and only through education can we hope to create a consensus for stronger medicine.

Beyond education, a number of suggestions have been advanced for addressing our fiscal problems. Realistically, it is not likely that significant action will be taken until after the 1984 election—on the contrary, the combination of economic recovery, a strong stock market and a presidential race can be relied upon to assure that difficult questions will be tabled for the next 12 to 18 months. Only a demonstrable crisis would be likely to accelerate this process. In a sense, then, perhaps the immediate challenge is to ensure that the President-elect be in a position to move to resolve the fiscal crisis as soon as possible after the inauguration. In this spirit, a number of suggestions have been advanced. One is to hold an "economic summit" consisting of the leadership from the executive and legislative branches. Another is to create a Bipartisan Deficit Commission similar to the Social Security Commission which was of course created to tackle another problem that was also unusually sensitive from a political point of view. A third option would be the formation of a Bipartisan Private Sector Commission on the deficit which could operate in tandem with or separate from a formal Bipartisan Commission in the public sector.

Such suggestions raise a number of important considerations. First, would a formal Bipartisan Deficit Commission be productive or counterproductive in the midst of a presidential election campaign? There are obviously a number of risks. The formation of a Bipartisan Commission might permit public candidates to ignore the deficit issue entirely on grounds it is being handled by the Bipartisan Commission. Similarly, if the commission made its report in the course of the campaign, the report itself could distort the political process and give candidates an opportunity and even an incentive to pledge not to take steps that are politically unpopular, though fiscally imperative. One response to both considerations might be to restrict such a commission to fact finding until after the November 1984 election.

Similarly, a Bipartisan Private Sector Commission would have to tread gingerly in an election year. While such a group would have the advantage of being able to meet more privately and discuss realistic, if painful, options, both the timing and tenor of its discussions would inevitably be skewed by the various members' reading of the political climate and the progress of the campaign.

While the foregoing considerations suggest that action during the election campaign would have its risks, the risks associated with doing nothing until after the election seem equally grave, if not more so. Whatever the danger that candidates would use any bipartisan commission—whether public or private—as a target for avoiding difficult choices or as a political stalking horse, the offsetting danger is one of delaying any action for as much as two more years. In light of all of our urgent concerns with the fiscal situation, it seems that at the very least the basic analytical work and the definition of options for the President-elect has got to begin before November 1984.

From a tactical viewpoint, the question which faces our Bipartisan Budget Appeal is quite simply this: What should we do to encourage the candidates to face the deficit issues forthrightly and to commit to take meaningful action upon election? Should we press for the formation of either a private sector commission or an official commission to begin work early in 1984? If such a commission extends its efforts beyond fact finding, should a report be made before the election, or only thereafter? To what extent, setting aside the commission issue, can the Bipartisan Budget Appeal attempt to influence all the presidential candidates, to urge them, for example, to set up official bipartisan commissions after the election and otherwise to address promptly the fiscal crisis? The goal, it seems to us, must be to cause the President-elect to deal with the problem in this very first budget message—in March of 1985.

I urge you to write and let us have your views on these and other options. All of us would prefer that the regular political process functions as intended, but seasoned observers in and outside the government tell us time and again that the process is paralyzed by the combination of enormous deficits and an array of vested interests which move to block every viable alternative.

Whatever the tactical choice, the founding members believe that the basic outline of our program remains valid—that cost of living indexation must be retarded, nonmeans tested entitlements *and* other subsidies reduced and reformed, real defense growth made more gradual and efficient, and revenues increased. We need to hear from you concerning the various elements of this program, those you now feel require greater emphasis, and any new elements you would like to add.

On a more personal note, you may know that I will be retiring from the chairmanship of Lehman Brothers at the end of this year to go into the merchant banking business. I hope, with your help, to continue to devote time, energy and resources to our bipartisan effort, as do our founding members.

I trust we will be hearing from you as we have so often and usefully in the past.

Warmest regards,

PETER G. PETERSON.

P.S.—I am tempted to apologize for the length of the attached document. Yet the political forces that continue to insist that there is no problem are so formidable that we have no choice but to be thorough in our research, analytical in our reasoning and, in consequence, voluminous in our output. Nonetheless, I am sorry because I know something of the magnitude of your reading burdens.●

THE 46TH ANNUAL CONGRESS OF THE JAYCEES

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. JONES of Oklahoma. Mr. Speaker, the U.S. Jaycees have been serving communities across our Nation for the past 64 years, and they will celebrate their 46th Annual Congress in my home of Tulsa, Okla., on January 15, 1984. Tulsa is proud to be the home of the U.S. Jaycees and to work with this outstanding organization. The Jaycees are a vital part of our community.

I am introducing today a joint resolution authorizing the President to designate the week beginning January 15, 1984, as "National Jaycees Week" and to ask citizens across America to give full consideration to the past and future services of the U.S. Jaycees.

As a recipient of the Jaycees Ten Outstanding Young Men in America Award, I am particularly interested in the Jaycees and believe that their fine work through the years should be recognized. I know that other Members of the House and Senate have also received the TOYM Award and have worked with the Jaycees. I hope that all Members of Congress who work with the Jaycees will join me in supporting this resolution.●

PIK PROGRAM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. OBERSTAR. Mr. Speaker, it is now clear that the payment-in-kind (PIK) program has not succeeded in accomplishing its major goal—reduced agricultural surpluses at minimal cost to the Federal Government.

PIK has become one of the most expensive farm programs ever conceived. The Government Accounting Office (GAO) estimates that the 1983 PIK program will cost approximately $11 billion. Even more disturbing is the inequity of the PIK payments. The GAO in October completed an exhaustive survey of 708 farms. Seven of these farms will receive commodities valued at more than $2 million each, and 35 farms will receive commodities valued at more than $500,000. Not one of the 708 farms will receive commodities valued at less than $175,000.

Four percent of the Nation's farmers will receive 50 percent of the PIK payments. The PIK program is a clear reflection of the basic Reagan administration philosophy of benefiting the wealthy while ignoring those who need assistance most.

Current law imposes a $50,000 limitation on the total cash payments that a farmer may receive under land diversion programs for wheat, feed grains, upland cotton, and rice. In January, Secretary of Agriculture John Block made an administrative determination that the limit did not apply to the value of commodity payments under the PIK program.

I am today introducing legislation which will make clear that the $50,000 limitation does apply to the value of commodity payments as well as cash payments for land diversion programs. This legislation will not affect the 1983 PIK payments because of existing PIK contracts between the Government and farmers for the 1983 crop year. It would insure, however, that the cost of any possible future PIK programs do not go through the budgetary roof and would eliminate further outrageous windfalls to large corporate and conglomerate farmers.

Due to the lack of any type of payment limitation, participation in the PIK program greatly exceeded administration projections and the Government did not have enough stocks of commodities available to pay farmers. As a result, the administration actually had to purchase commodities at a premium in order to meet PIK obligations. Even after purchasing these commodities, however, the administration still found that it did not have enough stocks on hand and was forced to establish a procedure called harvest for PIK under which farmers grew cotton and wheat which the Government purchased in order to meet obligations for these crops.

The Secretary of Agriculture has actually defended PIK as being "the best drought assistance ever offered." This is absolutely ridiculous. The PIK program was not designed as drought assistance. Furthermore, the administration has failed to make available the financial assistance which Congress has already authorized for and appropriated for drought and other disaster relief. The Secretary should realize that the reverse is true; the drought, even though devastating to farmers, bailed out the administration on PIK by helping to reduce crop surpluses.

I urge my colleagues to support and cosponsor my bill. We must insure that such an ill-conceived program does not cost the Government billions again in the future.●

CHARLES KEITH BAILEY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. DYSON. Mr. Speaker, yesterday, Veterans Day, I had the honor of speaking at the memorial service held aboard the Patuxtent Naval Air Station, Patuxent River, Md. Although Veterans Day is a time to honor all those who have served our country in the armed services, it has special meaning for the family of Lance Cpl. Charles Keith Bailey of Berlin, Md. Lance Corporal Bailey made the supreme sacrifice for our country. Keith, as he was known to his friends, was only 19 when he lost his life with 239 other Americans in Beirut, Lebanon. In many ways, he appeared to be a typical teenager. He played baseball and football at Stephen Decatur High School and like other teenagers, he worked on cars. But Keith was not typical. He was a marine, which means he understood better than most people the meaning of the words, "Always Faithful." Even at his young age, he understood the significance of those words in a world where the ideals of freedom and democracy are threatened on many fronts. Keith was not just a marine—he was an outstanding marine who was promoted to lance corporal soon after being sent to Lebanon and who was nominated for marine of the month several times.

Mr. Speaker, yesterday I dedicated my remarks to Lance Cpl. Charles Keith Bailey, this young man of talent and promise. Let us today think of all these soldiers who are dedicated to freedom and justice. They were sent to a strange land of rage giving unselfishly of themselves in order to bring peace to a troubled world.●

EXPORT TRADING COMPANY ACT OF 1982

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. BONKER. Mr. Speaker, I am pleased to inform my colleagues today of recent action by the Department of Commerce approving the first export trading certificates of review under the Export Trading Company Act of 1982. As many of you may recall, Congress passed this legislation in the last session to help increase exports of U.S. goods and services by encouraging and facilitating the formation and expansion of export trade associations. The legislation, which I authored, provided needed assistance to trading companies in three areas: access to financing, including investment by certain banks in export trading companies; assurances of antitrust exemption for specific export practices and activities through issuance of certificates of review; and the designation of a Federal agency, the Department of Commerce, to be responsible for trading companies. The Export Trading Company Act was designed to enable many small- and medium-sized businesses to join together to venture for the first time into the international trade arena. Passage of the act in September 1982 was an important first step toward increasing U.S. jobs by regaining U.S. export markets.

Another important step in spurring export activity was taken on October 26, 1983, when the International Trade Administration of the Department of Commerce, with the Justice Department's concurrence, issued the first Export Trade Certificates under the 1982 law. The first recipients of the certificates, two of which are small businesses and a third composed of a consortium of four individual firms and an agricultural association, are: Intex International Trading Company of Connecticut, representing several consulting engineering firms; International Marketing and Procurement Services, Inc. of Pennsylvania, a representative of U.S. manufacturers of sports and leisure equipment and services in the Middle East, Europe, Australia, and the Far East; and U.S. Farm-Raised Fish Trading Company, Inc., a Mississippi corporation engaging in the export sale of farm-raised catfish in Europe and the Far East. Of particular signifiance is the approval of the Farm-Raised Fish Trading Co. since the applicants account for nearly 90 percent of catfish production in the United States. While the case raised major antitrust questions, I am pleased that the Departments of Commerce and Justice determined that foreign competition does exist for the

United States and world catfish market, thereby reducing the likelihood that the trading company could adversely affect U.S. domestic competition and domestic prices. Approval of this particular application, as well as the others, marks a significant step for exporters.

In addition to the issuance of these three certificates, 26 applications for certificates have been filed with the Office of Export Trading Company Affairs. As chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade, I will continue to monitor the progress of these applications and will conduct subcommittee hearings early in the second session of the 98th Congress on the implementation of the Export Trading Company Act of 1982.

Mr. Speaker, once again I would like to express my support for the approval of these first export trading certificates. I expect that prompt action will be taken on the remaining applications, and that the Departments of Commerce and Justice will continue on this road of helping American exporters to more effectively compete in world export markets.●

THE 500TH ANNIVESARY OF THE BIRTH OF MARTIN LUTHER

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in commemorating the 500th anniversary of the birth of Martin Luther, one of the greatest theologians and pivotal figures in the history of Western civilization.

Martin Luther was born at Eisleben in Saxony, later to become Germany, on November 10, 1483, and soon dedicated his life to the church, as a priest and as a professor of theology. The core of his religious teachings and his theological development grew out of his inner struggle to determine the meaning of the Christian Gospel, and later, in his rediscovery of the doctrine of "justification of faith," which involved Luther in controversy for the rest of his life.

On October 31, 1517, Luther posted his famous "Ninety-Five Theses" on the door of the Castle Church in Wittenberg, where he challenged the practices and the teachings of the church, and this document, along with many other of his published treaties had far-reaching effects on the reformation and on Christianity. His deeds and writings not only led to a major theological movement, but also through his actions, he helped stimulate social, economic, and political thought and change.

This week the Lutheran Council in the United States of America is sponsoring, along with several other organizations, the Martin Luther Jubilee, in Washington, D.C., to commemorate the 500th anniversary of Martin Luther's birth. Several distinguished scholars and theologians from throughout the world are in attendance at this event, which has included lectures and discussions.

Mr. Speaker, on this occasion of the 500th anniversary of the birth of Martin Luther, I join with Lutherans in the 11th Congressional District of Illinois which I am honored to represent, and all Lutherans throughout the country, in commemorating the monumental influence and contributions that this great religious leader has had on all humanity.●

THE MAJORITY LEADER'S TERMINOLOGICAL INEXACTITUDE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. KEMP. Mr. Speaker, the Wright stuff. Thursday on the House floor, our friend, the House majority leader, JIM WRIGHT repeated variations of the following statement several times: "Secretary of the Treasury Donald Regan estimated to our Budget Committee, in response to my request for his estimate, that $135 billion of this year's $200 billion deficit is attributable to that (1981) tax cut."

He then asked if anyone wanted to challenge his statement that this deficit was caused by the tax cut. I accepted the challenge, but time ran out.

Mr. Speaker, Mr. WRIGHT is wrong.

I went back and gathered the following evidence: In the first place, the transcript of Secretary Regan's testimony reveals no such statement by Secretary Regan (Budget Committee print 98-1). It does contain an inaccurate assertion by Congressman WRIGHT to that effect—which was ignored by Secretary Regan.

In the second place, Secretary Regan has testified to Congress that the net effect of the Economic Recovery Tax Act in fiscal year 1984—after subtracting offsetting tax increases (all supported by Mr. WRIGHT)—is only $18 billion. In fact, the total net impact on the deficit over 8 years is only $77 billion—an average of less than $10 billion a year. (See table I.)

In the third place, the size of the 1981 Democratic alternative, according to the official Ways and Means Committee estimate, would have been almost exactly the same in fiscal year 1984 as these figures for ERTA—$129 billion, compared with $130 billion for ERTA. In other words, the deficit in fiscal year 1984 would be virtually unchanged under the plan proposed by the Democratic leadership in 1981. In fact, the Ways and Means estimates for fiscal year 1981-86 are larger than the above estimates for ERTA. (See table II.)

Mr. Speaker, the bottom line is Mr. WRIGHT is guilty of what Winston Churchill used to call "terminological inexactitude."

Consider the following:

TABLE I—NET TAX CHANGE SINCE 1980

[In billions of dollars]

	First year—								Total
	1981	1982	1983	1984	1985	1986	1987	1988	
ERTA		−36	−83	−130	−158	−202	−247	−282	−1,138
TEFRA			17	38	42	52	64	68	281
Gas tax			2	4	4	4	4	4	21
Bracket creep	9	17	32	43	61	83	108	135	489
Social Security (1977)	9	16	17	19	29	37	42	46	214
Social Security (1983)				8	6	9	11	22	56
Total tax hike	18	33	68	112	142	185	228	274	+1,061
Net tax cut(−)	18	−3	−14	−18	−17	−17	−19	−8	−77

Source: U.S. Treasury.

TABLE II—COMPARISON OF 1981 TAX CUT AND DEMOCRATIC ALTERNATIVE

[In billions of dollars]

	First year						Total
	1981	1982	1983	1984	1985	1986	
ERTA		−36	−83	−130	−158	−202	−609
Democrat	−1	−38	−98	−129	−160	−194	−621

Source: U.S. Treasury, Ways and Means.●

A TRIBUTE TO V. J. SKUTT

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. DAUB. Mr. Speaker, Mr. V. J. Skutt, chairman of the board of the Mutual of Omaha Co., has been named the recipient of the prestigious Manresa Medal, Creighton University's highest civic benefactor award.

This award honors an individual who consistently demonstrates ability to form community projects that have a profound and enduring benefit for the community.

Mr. Skutt, a 1923 Creighton Law School graduate, was on the university's governing board from 1954 to 1976 and has been active in its alumni groups and fundraising drives.

Civic action has been a hallmark of Mr. Skutt's career, and the Omaha area has been a major beneficiary of his leadership and concern for others. Creighton University has chosen well in naming V. J. Skutt the recipient of the Manresa Medal, and I appreciate this opportunity to call his fine achievements to the attention of my colleagues.●

LORTON AMERICAN LEGION POST NO. 162 CELEBRATES ITS 50TH ANNIVERSARY

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 12, 1983

● Mr. PARRIS. Mr. Speaker, tomorrow evening, American Legion Post No. 162 of Lorton, Va., celebrates its 50th year of exemplary and illustrious service to America and its veterans. As a member of the American Legion, I salute Post No. 162, and as our Nation honors its veterans today, I would like to commend to Congress the post's distinguished history, as reported to me by Comrade Ralph L. Nichols.

In October 1933, during a bleak and troubled period of American history, a group of young veterans, imbued with patriotism and faith in the future despite the difficult times in which they lived, met in a room over the post office in Lorton, Va., then known as Springman's Store, to form an American Legion post. The American Legion Department of Virginia approved their application, and on November 13, 1933, Pohick Post No. 162, the American Legion, began operating under a temporary charter.

Comrade E. J. Welsh was elected the first commander for the years 1933–34. Permission was obtained through the kindness of one of the members of the school board to hold the monthly meetings in the old Lorton School House. The post was later allowed to use the new school.

In July 1938, a resolution was presented and adopted to change the name of Pohick Post No. 162 to Lorton Post No. 162. A permanent charter was also applied for and granted at this time.

In the fall of 1938 a resolution was passed that the post pay $2.50 for a charter for the ladies auxiliary, and on January 9, 1939, a permanent charter was issued for the ladies auxiliary.

A resolution was passed on December 10, 1940, to change the meeting night from the last Friday to the third Thursday, because the Eastern Star met on Friday night and many members belonged to the Eastern Star.

The Lorton post home was dedicated on June 14, 1952. Therefore the original building which is now the meeting hall is 31 years old. The land was donated to the Legion by Mr. and Mrs. Bodanheiner and the right-of-way by departed Comrade Herbert Harr. Commander Fred Stevens was the first commander to hold a meeting in the new building. A mortgage-burning ceremony was held on Veterans Day, 1961. In September 1968 the post applied for and received a permit to add on to the original building.

In 1960 the Personal Property Disposal Office, U.S. Naval Weapons Plant, Washington, D.C., was contacted to procure one Torpedo Mark 15, Mod 3, equipped with a plastic loaded warhead to display in front of the post home. On June 29, 1961, it was delivered to the post from the U.S. Navy Weapons Station, Yorktown, Va.

In 1962 Post No. 162 became one of the first posts in Virginia to present all its World War I veterans a life membership. Recently, on March 11, 1982, the post honored Lenny Skutnik of Lorton for his heroism in saving one of the passengers in the Florida Airlines Flight No. 90 tragedy. When the Vietnam Veterans Memorial was dedicated, Post No. 162 provided food and lodging to Vietnam veterans from out-of-town. Commanders Dorsie Counts and Harry Graul participated in the ceremonies dedicated to our Vietnam veterans and to a national reconciliation to repair the divisiveness lingering after that war.

Post No. 162 has increased in size from a small group meeting above a post office in a small country town during the Depression to a membership of 550 with its own headquarters on Legion Drive. As America has grown and changed in the past 50 years, the American Legion and Post No. 162 in particular have grown along with it. Post No. 162 has grown with America, because the community appreciates the service and the fine example provided by the membership of the post. It has grown because of the comradeship it provides to veterans, young and old, and because in deeds and words it has furthered the ideal of patriotism which has seen this country through threats like the Depression and periods of armed conflict.

The accomplishments and contributions of Post No. 162 speak for themselves, and I appreciate this opportunity to add my words of praise for its service to America and to wish its members at least 50 more successful years.●

VUCANOVICH SPEAKS ON VETERANS

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mrs. VUCANOVICH. Mr. Speaker, no Veterans Day in recent years can be shown to possess the significance or real importance of this 1983 Veterans Day. This year, we truly celebrate the innumerable contributions our Nation's military have made to the security and freedom of this Nation.

The value of our Nation's military was demonstrated graphically by the Grenada rescue mission so successfully completed in recent weeks. Now, for the first time in many years, the United States has asserted herself, and the resolve of her people is doubted nowhere.

But, just as importantly, this Veterans Day represents another national awakening. Only now, over a decade after leaving Vietnam, have the people and Government of this Nation begun to realize and appreciate the great sac-

rifices made by our veterans in that war. Today, we can truly say that all veterans occupy the same position of national recognition, regardless of what or where their individual duties may have been or taken them.

With this in mind, and recognizing the great strides our Nation has made over the last 3 years in our efforts to rebuild our military strength and stature, let us all dedicate ourselves to a strong and free America, unafraid to defend herself and her people, wherever they may be. Let us never be ashamed of the use of our will where the peace and freedom of even the tiniest nation is concerned. And let us never allow our people, or our Government, to hold the veteran and the U.S. Armed Forces in anything but the highest of esteem.●

SENATE—*Monday, November 14, 1983*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

As the deer longs for the flowing streams, so longs my soul for Thee, O God. My soul thirsts for God, for the Living God.—Psalm 42: 1, 2.

Living God, as the psalmist describes his soul's longing for Thee, so do our souls languish for Thee. Forgive us, Lord, for starving our souls by our indifference. Help us to comprehend the emptiness we impose upon our souls when we ignore Thee, and the nourishment we give our souls when we take time for Thee.

This will be a week of pressure and frustration as the Senate attempts to adjourn Friday. Many assume this is impossible, but to Thee, O Lord, "all things are possible." Dear God, enable the Senate to do the impossible in these next 5 days. Help us to see that we waste time when we have no time for Thee and we save time when we make time for Thee. Teach us that when we are too busy for God, we are too busy! In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I hope this is the last week of our session before adjournment sine die. However, in order to do that, we have a great number of things to deal with, a heavy volume of work to discharge.

When the Senate completes morning business today, which will not extend beyond 1 p.m., the pending business will be the Civil Rights Commission reauthorization bill, H.R. 2230.

After we dispose of that bill, the natural gas bill will recur as the pending business, assuming that we have made appropriate disposition of the Senate continuing resolution, which is Senate Joint Resolution 194, the companion measure to the continuing resolution passed on Saturday, House Joint Resolution 413. It will be my intention either to indefinitely postpone that measure—that is, the Senate continuing resolution—or to put it back on the calendar, depending on how circumstances develop and after I have conferred with the minority leader as to how we will arrange that.

Today, we will do the Civil Rights Commission authorization bill and the natural gas bill. I hope we can do both and get them out of the way and not be in late today. But since this is the last week, every Member should assume that every night this week is potentially a late night. Today is the least likely to be a late night, for reasons I think are obvious, meaning that we have not yet settled in to decide how we are going to dispatch the remaining business.

After tonight, I suspect that there is a good likelihood that we will have to remain past the usual recess or adjournment hour in order to complete our business and finish the session before the close of business on the 18th of November.

Some of the things we have to do in addition to civil rights and natural gas are the Clark nomination, which will be brought up in the morning. There is a time agreement on that measure in process. It has not yet been cleared. I hope it will be cleared, so that we can do it in a fairly short period of time.

In addition, I have indicated from time to time that it is the intention of the leadership on this side to ask the Senate to proceed to the House-passed revenue bill which will serve as the vehicle, frankly, for an amendment involving tuition tax credit. Parenthetically, I do not support tuition tax credit for secondary education. I am against it, as I now perceive the situation. However, I am committed to the President and others to provide an opportunity for such an amendment to be offered on this side. So I anticipate that that will occur tomorrow.

I do not know at this time what the House-passed revenue measure is that will carry that amendment, but there is one, and I will confer with the distinguished chairman of the Finance Committee, Mr. DOLE, as to his selection of a vehicle for that.

I hope that on tomorrow, as well as the Clark nomination and tuition tax credit, we can get started on reconciliation. But I will withhold further announcement on that until I have an opportunity to talk to the minority leader and to the distinguished chairman of the Budget Committee, Senator DOMENICI.

In addition to reconciliation, we have a number of conference reports to be dealt with, as well as the Export Administration Act, the housing bill, and the IMF bill. I hope that something may be worked out on that package, the IMF/housing dilemma.

Of course, we have the debt limit. The one thing that could absolutely stop us from going out as planned is the debt limit. That has to be passed. There is no way we can go out without passing an extension of the debt limit, in my opinion, nor is it my intention to ask the Senate to adjourn until we have dealt with that. I will confer with Members on this side to see how we may maximize our strength. But at some point this week we will return to the consideration of a motion to reconsider the vote on the debt limit bill.

Mr. President, there are a number of other items that can be taken up. There are no doubt a great number of items that may be taken up and disposed of by unanimous consent or on very short time limitations. But we will make announcements on those as time and circumstances permit.

Mr. President, I believe that is all I can announce for the moment. Let me summarize briefly.

We have to do the Civil Rights Commission authorization bill, natural gas, tuition tax credit, the Clark nomination, reconciliation, a number of conference reports, export administration, housing, IMF, debt limit, as well as a number of others, such as women's pension equity, child support enforcement.

The distinguished President pro tempore, the Senator from South Carolina, has mentioned a bill he is concerned about; and of course he is ever persistent, and properly so, as chairman of the Judiciary Committee, in reminding me that we should take up the crime package if we can.

I will work with the minority leader to see if we can get an arrangement worked out to dispose of it. We should do it if we can. I hope we might be able to pass the crime package and postpone until early next year the three or four really controversial items, such as death penalty, the exclusionary rule, and habeas corpus; and there may be one other—the Federal Tort Claims Act.

If we can work that out, we will. I state my willingness to try to negotiate that.

Mr. President, that is a summary, but not an exclusive summary. There may be other items added before we go out, as hoped, on Friday.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

11-059 O-87-16 (Pt. 2)

Finally, Senators should understand that we have not finished our must list, which has debt limit reconciliation on it, in addition to these other things. I do not intend to ask the Senate to go out until we have done the debt limit. Maybe something else will happen on reconciliation. I will have to think about that a little. We have to do the debt limit.

I guess that is all I can say at the moment.

Mr. President, I guess I have used my time under the standing order.

I now yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

SCHEDULE BEYOND FRIDAY

Mr. BYRD. Mr. President, I thank the distinguished majority leader for laying out pretty clearly what the work is that lies ahead before adjournment.

Mr. President, I wish to ask the majority leader what the plans will be in the event the Senate and House of Representatives are not able to complete action, let us say, the debt limit and/or reconciliation by Friday night?

Does he anticipate a Saturday session, and whether or not that is so, if it is obvious that we cannot finish at least those two items this week, what would be his plan; to come back in the early part of next week, finish them, or wait until after Thanksgiving or is he prepared at this moment to say?

Mr. BAKER. Mr. President, I thank the minority leader for his question. It is a very pertinent question and one that I avoided because I do not have a good answer for it at this moment.

My personal preference would be to stay on Saturday and try to finish. Beyond that, it gets a little stickier because we have published the notice of a Thanksgiving recess all of next week. And I am always loath to ask the Senate to do something other than in accordance with the published schedule. I did that the past week on Veterans Day, and I sincerely regret that, but I hope that Members will agree there was no choice except to do that.

But let me do this: May I ask the minority leader if I may withhold an answer to that until after I have met with my leadership today and have had an opportunity to confer with him.

Mr. BYRD. Surely.

Mr. BAKER. Then I will try to have a further announcement during the day today.

Mr. BYRD. I thank the majority leader.

I yield the majority leader any remaining time I may have under the order.

Mr. BAKER. Mr. President, I thank the minority leader.

Mr. President, I have no further need for time, and since I was kindly yielded this time by the minority leader, I will inquire if he has any further need for time.

Mr. BYRD. Mr. President, I am informed that this side of the aisle is prepared to consent to a request to indefinitely postpone the Senate continuing resolution.

Mr. BAKER. I thank the minority leader.

Mr. President, it was not cleared on Saturday, and was not cleared until this day, and that probably may have been on this side, but regardless of that it is now cleared.

ORDER TO INDEFINITELY POSTPONE COSIDERATION OF SENATE JOINT RESOLUTION 194

Mr. BAKER. Mr. President, I ask unanimous consent that Senate Joint Resolution 194, which is the Senate continuing resolution, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Does the minority leader have any further need for time?

Mr. BYRD. I thank the distinguished majority leader. Does the Senator from Wisconsin wish time?

Mr. PROXMIRE. The morning hour time will be fine.

Mr. BYRD. I have no request, and I yield back the remainder of my time.

Mr. BAKER. I thank the minority leader.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed beyond 1 p.m. with statements limited therein to 3 minutes each.

The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Thank you, Mr. President.

SCIENTISTS TELL US PRECISELY WHY NUCLEAR ARMS CONTROL MUST TOP OUR AGENDA

Mr. PROXMIRE. Mr. President, it has been written: "Ye shall know the truth and the truth shall make ye free." Late last month eminent scientists from the NASA Ames Research Center in California, from Cornell University, and from Marine del Rey in California disclosed some bitter and terrible truths about the environmental consequences of nuclear war. Those scientists are R. P. Turco, O. B. Toon, T. P. Ackerman, J. B. Pollack, and Carl Sagan. They disclosed new findings about what a nuclear war will do to the Earth and to all of us who live on it. In the conclusion to their study these experts tell us this:

> Unlike most earlier studies we find that a global nuclear war could have a major impact on climate—manifested by significant surface darkening for many weeks, subfreezing land temperatures persisting for months, large perturbations in global circulation patterns, and dramatic changes in local weather and precipitation rates—a harsh nulcear winter in any season.

They also told us that relatively large climatic effects could result from relatively small nuclear exchanges.

Now, Mr. President, this Senator does not know what it will take to get this Congress sufficiently concerned to act on this terrible threat to the life of millions of American citizens to whom we are responsible. This truth telling by some of the most eminent scientists in this country about the consequences of even a modest nuclear war should have a profound effect on our nuclear proliferation and arms control policies. For the first time we can understand how as more and more countries develop the capability of waging nuclear war, the lives of millions of American citizens may be in greater jeopardy than ever.

Why? Because even a small nuclear war involving less than 1 percent of the nuclear megatonnage now sleeping in the world's nuclear arsenals could kick us, the United States that is, into a nuclear winter. The ensuing darkness and icy cold could ruin our crops, kill our animals, and starve our people.

How do we stop this disaster? We recognize that as more and more countries acquire nuclear arsenals the likelihood of nuclear war becomes increasingly greater. When we sell nuclear materials or equipment to South Africa or India or Argentina, and we are in the process of selling it to all of them, we not only increase the odds of nuclear war in Asia or South America or Africa, we shorten the odds for American citizens who live in this country. A small nuclear war somewhere else in the world could cause this country more casualties than any war we have ever fought in our history if the environmental scientists are right. Consider what they tell us:

> Relatively large climatic effects could result even from relatively small nuclear exchanges if urban areas are heavily targeted, because as little as 100 megatons is sufficient to devastate and burn several hundred of the world's major urban centers. The existence of such a low threshold yield for massive smoke emissions, although scenario dependent, implies that even limited nuclear exchanges could trigger severe after effects.

In the event of war the very nature of nuclear weapons in the hands of third countries calls for an attack—on the enemy's cities. On the other hand

a superpower attack by the U.S.S.R. on the United States might aim at our MX or Minuteman missiles sites or at strategic bomber locations or at nuclear submarine pens. But third countries attacking another enemy country might have no nuclear arsenal to take out, or might face an enemy with an arsenal widely scattered in which case the cities would become the most vulnerable and logical target. How would this effect our atmosphere? Listen to the scientists:

Smoke from urban fires may be more important than smoke from collateral forest fires for at least two reasons:

(1) In a full-scale exchange, cities holding large stores of combustible materials are likely to be attacked directly; and

(2) Intense firestorms could pump smoke into the stratosphere where the residence time is a year or more.

Unfortunately exposure to cold and darkness does not end the litany of disaster that would ensue from nuclear war according to these scientists. In the latest study they found:

Exposure to radiactive fallout may be more intense and widespread than is predicted by standard empirical exposure models which neglect the intermediate fallout extending over many days and weeks, particularly when unprecedented quantities of fission debris are released abruptly into the troposphere by exposions in the sub-megation yield range.

And finally the scientists put it all together. And when they do they literally find the total effect is far worse than the sum of its parts. Here is the way they put it:

Synergisms between long-term nuclear war stresses, for example, low light levels, subfreezing temperatures, exposure to intermediate timescale radioactive fallout, heavy pyrogenic air pollution, and UV-8 flux enhancements—aggravated by the destruction of medical facilities, food stores, and civil services—could lead to many addtional fatalities, and could place severe stresses on the global ecosystem.

Now, Mr. President, if you should ask could not the scientists be wrong? Yes, indeed, they certainly could be wrong and they admit it. It could be worse than they forecast. It could be less serious. They say they only have one-dimenisional models. They do not have a complete data base. And obviously they cannot experiment, they cannot try to see what would, in fact, happen.

But these are honest, responsible, highly competent professionals. They have given us the best advice and the best judgment they have and that is about as good as we can possibly get. So we have been warned. Now we know. Frankly, this Senator cannot understand how anyone can look squarely at these facts without putting nuclear arms control and the strongest possible policy to stop nuclear arms proliferation right at the top of his agenda.

Mr. President, I ask unanimous consent that the "Discussion and Conclusions" chapter of the paper on "Global Atmospheric Consequences of Nuclear War," by Turco, Toon, Ackerman, Pollack, and Sagan be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCUSSION AND CONCLUSIONS

The studies outlined here suggest severe long-term climatic effects from a 5000 MT nuclear exchange. Despite uncertainties in the amounts and properties of the dust and smoke produced by nuclear detonations, and limitations of models, currently available for analysis, the following tentative conclusions may be drawn:

1. Unlike most earlier studies [e.g., (2)], we find that a global nuclear war could have a major impact on climate—manifested by significant surface darkening for many weeks, subfreezing land temperatures persisting for months, large perturbations in global circulation patterns, and dramatic changes in local weather and precipitation rates—a harsh "nuclear winter" in any season. Greatly accelerated interhemispheric transport of nuclear debris in the stratosphere might also occur, although modeling studies are needed to quantify the importance of this effect. Rapid interhemispheric mixing would imply that the Southern Hemisphere can be subjected to large injections of nuclear debris soon after an exchange in the Northern Hemisphere. In the past, S.H. effects have been assumed to be minor. Although the climate disturbances are expected to last for several years, it seems unlikely (although still uncertain) that a major long-term climatic change, such as an Ice Age, would be triggered.

2. Relatively large climatic effects could result even from relatively small nuclear exchanges (~100 to 1000 MT), if urban areas are heavily targetted—because as little as 100 MT is sufficient to devastate and burn several hundred of the world's major urban centers. The existence of such a low threshold yield for massive smoke emissions, although scenario-dependent, implies that even limited nuclear exchanges could trigger severe aftereffects. It is much less likely that a 5,000–10,000 MT exchange would produce only minor effects.

3. The climatic impact of sooty smoke from nuclear fires ignited by airbursts is expected to be more important than dust raised by surface bursts (when both effects occur). Smoke is generally high-absorbing, whereas soil dust is typically non-absorbing. Smoke particles are extremely small, which lengthens their atmospheric residence times. There is also a high probability that nuclear explosions over cities and forest will ignite widespread fires.

4. Smoke from urban fires may be more important than smoke from collateral forest fires for at least two reasons: (1) in a full-scale exchange, cities holding large stores of combustible materials are likely to be attacked directly; and (2) intense firestorms could pump smoke into the stratosphere, where the residence time is a year or more.

5. Nuclear dust can also contribute to the climatic impact of a nuclear exchange. The dust-climate effect is very sensitive to the conduct of the war; a smaller effect is expected when lower yield weapons are deployed and air bursts dominate over surface land bursts. Multiburst phenomena might synergistically enhance nuclear dust climatic effects, but insufficient data are available to assess this problem.

6. Exposure to radioactive fallout may be more intense and widespread than is predicted by standard empirical exposure models, which neglect the intermediate fallout extending over many days and weeks, particularly when unprecedented quantities of fission debris are released abruptly into the troposphere by explosions in the submegaton yield range. Average N.H. midlatitude whole-body gamma ray doses of up to 50 rad are possible in a 5000 MT exchange, with much larger doses within the fallout plumes of radioactive debris extending hundreds of kilometers downwind of targets. These estimates neglect a likely significant internal radiation dose due to biologically-active radionuclides.

7. Synergisms between long-term nuclear war stresses—e.g., low light levels, subfreezing temperatures, exposure to intermediate timescale radioactive fallout, heavy pyrogenic air pollution, and UV-B flux enhancements—aggravated by the destruction of medical facilities, food stores, and civil services—could lead to many additional fatalities, and could place severe stresses on the global ecosystem. An assessment of the possible long-term biological consequences of the nuclear war effects quantified in this study is made by Ehrlich et al.

Our estimates of the physical and chemical impacts of nuclear war are necessarily uncertain because we have used one-dimensional models, because the data base is incomplete, and because the problem is not amenable to experimental investigation. We are also unable to forecast the detailed nature of the changes in atmospheric dynamics and meteorology implied by our nuclear war scenarios, nor the effect of such changes on the maintenance or dispersal of the initiating dust and smoke clouds. Nevertheless, the magnitudes of the first-order effect are so large, and the implications so serious that we hope the scientific issues raised here will be vigorously and critically examined.

THE LEGACY OF PAIN

Mr. PROXMIRE. Mr. President, in September I informed this body that a cultural event of special significance would take place this month in Washington. The event, an exhibition of Judaic treasures from the Czechoslovak State Collections, opened last Wednesday at the Museum of Natural History. A companion exhibit, titled "Image and Reality: Jewish Life in Terezin", opened on the same day at the B'nai B'rith Klutznick Museum. Articles in the November 9 and November 11 editions of the Washington Post describe both exhibits, and the stories behind them.

They are stories worth hearing—and remembering. The display at the Smithsonian is only a small part of the total collection. Storage for the artifacts in Prague requires seven warehouses. The museum began as a private collection, but was taken over by the Nazis, who wanted to create a "museum of an extinct race". The artifacts on display come from all across Europe, and bear mute testament to the flourishing culture that the Nazis sought to destroy. The memory of the Nazi Holocaust is an unavoidable, inte-

gral part of this exhibit. The display personalizes the tragedy of the Holocaust, and leaves us with the realization of great human loss.

Nowhere is this effect more pronounced than at the B'nai B'rith exhibit. The children's art is so familiar, so universal, that we are immediately placed on a personal level. The art itself is a testament to human spirit and optimism. For most of the children, however, the optimism was illusory—hardly a hundred of the 15,000 children sent to Theresienstadt survived the war's end. This realization forces us to view the tragedy of the Holocaust in human terms, and makes us more aware of its true horror.

Mr. President, this is what makes the exhibits that opened last Wednesday so significant. They force us to remember the reality, and to grieve for the incalcuable loss to all mankind. But I hope that this would not be the extent of our response. Coupled with our awareness of this past tragedy should be a firm-minded resolve to do everything we can to prevent the recurrence of genocide—anywhere—ever again. That resolve would be a fitting tribute to the human spirit captured in the art of Terezin, and to the vanished culture memoralized by the treasures of the Czechoslovak State Collection.

Mr. President, we have a golden opportunity to demonstrate our resolve here in the Senate. Ratification of the Genocide Convention would signal to the world that we remember the horror of the Holocaust—and that we are determined to learn from it. It would create a mechanism to prevent genocide, and be an invaluable first step toward guaranteeing all people everywhere basic human rights.

The exhibit at the Smithsonian is titled "The Precious Legacy." If we use this legacy as a catalyst for the ratification of the Genocide Convention, it will indeed be precious.

Mr. President, I ask unanimous consent that articles from the November 9 and 11 Washington Post describing the exhibits be reprinted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 9, 1983]

LEGACY OF PAIN—RECEPTIONS OPEN THE CZECH-JEWISH EXHIBITS

(By Carla Hall)

The cantor chanted the memorial prayer, El moleh rachamim, which means "God full of mercy," and, before the speeches, the woman at the microphone asked that the formally clad guests hold their applause.

This was not the usual Washington reception.

But then this was not the usual art exhibition. What was ceremoniously opened last night was a saga of an exhibit—"The Precious Legacy: Judaic Treasures from the Czechoslovak State Collections"—objects of Jewish art and life in Czechoslovakia. Most of it is at the Smithsonian's National Museum of Natural History—which is where most of the several hundred guests were.

First there was a smaller reception at the B'nai B'rith Klutznick, Museum. That is where the children's pictures are:

Butterflies on a Blossom.

Birds on a Telegraph Wire.

Sun Above a Meadow.

Undated, most of them. The astonishing art work by children of concentration camps hangs in neat rows, part of the same legacy from Czechoslovakia but titled "Image and Reality: Jewish Life in Terezin." Last night, a few hundred formally clad guests filed through the little museum on the ground floor of B'nai B'rith. They just stopped and looked, scrutinizing the details of these small but powerful pictures. There really wasn't much they could say. Beaded dresses, silks and velvets flowed silently by.

"To me it's very painful always," said Vera Weislitz, Lustig, a child survivor of one of the camps. "I will never be done with it. The pain is bigger the older I am."

"I really feel like I'm the guardian of a precious legacy," said museum director Linda Altshuler. "When we were unpacking the children's poems [also part of the exhibit], knowing they'd made the trip from Terezin [one of the Nazi camps] to Prague to Washington is very special."

An hour later, after the reception at B'nai B'rith, even more guests arrived at the Smithsonian's Museum of Natural History to view the long-awaited collection on its debut trip out of Czechoslovakia. There are 300 objects covering 500 years of Jewish art and life, the legacy of a people slaughtered by the Nazis. Ironically the collection was assembled originally by the Nazis.

"This was to be known by the Nazis as a museum of the extinct race," said Mark Talisman, who spent the past 15 years negotiating with the Czech government to bring the exhibition to the United States. "Tonight we open an exhibition to a living, vibrant people."

What the guests saw: a silver Torah crown, studded with semi-precious jewels, to decorate the staves of a Torah scroll when not in use; a silver laver and basin for ritual handwashing prior to priestly benediction in the synagogue, the basin so polished that it caught the celing lights and reflected them in a blinding shot of light across the room; a silk and velvet Torah curtain; a 19th-century shofar from Moravia in Czechoslovakia.

"I'm learning," said City Council Chairman David Clarke looking over an exhibit.

"This is a learning exhibit, a teaching exhibit," said Talisman. "It's for non-Jews as well as Jews."

"We are also a museum of man, you'll remember," said Smithsonian Secretary S. Dillon Ripley. "And it's our task to deal with all the problems of man, no matter how difficult. But this is a triumphant show."

The exhibits at the Museum of Natural History and at B'nai B'rith open today.

Present at the reception last night were officials of Jewish organizations, members of Congress, the Czechoslovakian ambassador and several other Czech officials and George Weissman, chairman of the board of Philip Morris Inc., which gave $350,000 toward the more than $1 million it cost to present the exhibit.

Then there were those besides Talisman who worked on bringing the exhibit here and setting it up—Anna Cohn (director of museum development for the Holocaust Memorial Council), Linda Altshuler and her husband David (a professor of Judaic Studies at George Washington University, who edited the book that includes the exhibition catalogue) and Peggy Loar, director of the Smithsonian Traveling Exhibition Service.

Mark Talisman's wife and mother were also there.

"This is my wife, Jill," he said. "We're still married." What he means is that she put up with him for 12 of the 15 years that he spent negotiating with the government of Czechoslovakia. "There were nights when she stayed up with me, staring at the ceiling because I couldn't sleep."

When he started negotiations, he was administrative assistant for Charles Vanik, former Democratic congressman from Ohio. When he finished, he was Washington representative of the Council of Jewish Federations and vice-chairman of the U.S. Holocaust Memorial Council. (He still holds both positions.)

"Both my wife and I felt so strongly about this," said Talisman. "No one can relate to 6 million people being killed. But when you see a grandmother's wall filled with objects from the home, then you begin to understand."

[From the Washington Post, Nov. 11, 1983]

A LEGACY OF JEWISH ART AND SUFFERING

(By Hank Burchard)

They've just opened a thousand-year time capsule at the Smithsonian, and it's packed with treasures from Czechoslovakia.

"The Precious Legacy," an exhibit of hundreds of the finest objects from the State Jewish Museum in Prague, embraces more than a millennium of the triumphs and trials of the oldest continuous Jewish community in Europe. It's the first time the items have been let out of the country, and the show took years of effort to arrange.

The Prague museum holds what this show's curators describe as the largest and finest collection of European Judaica outside Israel. Founded as a private collection, it became the pride of the city's ancient ghetto, and then was taken over by the Nazis, who meant it to be a "museum of an extinct race." The items they sent to Prague, seized from Jews sent to death camps, filled 54 warehouses and the city's synagogues by the end of World War II.

Now a national institution, the museum draws more visitors (800,000 last year) than any other in Czechoslovakia; the selections on display at the Smithsonian show why. The collection radiates beauty and affection, resonates with tradition and tragedy, and above all pulses with the love of learning.

There is also, inescapably, a pall over the exhibition because it isn't possible to forget even for a moment where most of these objects came from and how they were obtained. The Nazis turned their meticulous records over to the Jewish museum workers, who documented and catalogued hundreds of thousands of items before they in turn were murdered.

Only a few items could be returned after the war because only a few owners could be found. The Jewish population of Prague, as in most of Europe, is still declining; there are barely enough Jews in the city to support a couple of kosher restaurants.

Designer Chris White couldn't disassemble the ghetto and have it shipped to Washington, so he's done the next best thing, framing the exhibit and marking its divisions with replicas of the walled city's arched gateways. And without seeming to

crowd anything, he has jam-packed the show into half the space most designers would have demanded.

We are led through the deep, rich history of the Jews of Prague, who were already long established when the First Crusade marched south from the Rhine in 1096. On their way to free the Holy Land from infidels, the Christian soldiers paused in Prague long enough to slaughter some Jews and baptize others, a practice that would be repeated at intervals through modern times.

Some sense of the great age, endurance and continuity of the Jewish community of Prague comes from the fact that the cemetery, amounting to perhaps a third of ghetto's land area, was 12 layers deep in burials when it was closed in 1787.

From history the exhibit moves into religious, home and community life, which in this close-knit society amounted to different aspects of the same thing. The show comes to what seems to be the end, logically enough a depiction of the rituals of death.

But it's not the end, because the Nazis banished natural death for Jews. A larger-than-life photomural from a German soldier's snapshot shows a young boy on his way to the Theresienstadt concentration camp, where his chance of survival would be one in 150. Young as he is, the lad has already learned much: His expression is wary but polite and attentive, and he's not looking directly at anyone or anything as he walks along the familiar but suddenly alien street under the eyes of these latest oppressors.

The boy leads the way into one last, softly lighted chamber. It holds a handful of items of inexpressible sacredness found at Theresienstadt after liberation: a Hanukkah menorah fashioned from scrap veneer, a handthrown and unevenly fired Passover cup; paintings by children who should be aging now, with children and grandchildren of their own.

By a trick of the lighting you can see from the end of the exhibit back to the beginning, so that the last, crude and clandestine items of worship are contrasted with superb pieces from the days of glory, when the dedication of a new Torah scroll would fill the ghetto streets with richly caparisoned and festive Jews. The effect is to lead you out of the exhibit blinking, shivering, shuddering.

MAGNIFICENT TESTIMONY TO THE HUMAN SPIRIT

The colorful children's art on the walls of Washington's B'nai B'rith Museum could have been taken from almost any grade-school classroom.

There are stick figures, scenes of home and playground, distorted perspectives, mysterious creatures of the imagination. Some of the collages, in particular, show a precocious sense of composition and other signs of awakening talent.

Most are signed in scrawls, but someone has puzzled out the names and printed them below the pictures. The names are followed, in most cases, by the child's date of birth and the day he or she was shipped off to be gassed at Auschwitz.

The drawings, paintings and collages are from Theresienstadt, the Nazis' showcase concentration camp in Czechoslovakia. The works, on unprecedented loan from the State Jewish Museum in Prague, were done in secret because it was forbidden to hold school for Jewish children.

It also was against camp rules to whistle or sing, or to touch a chimney sweep for luck, or to grow up: Of the 15,000 children under 15 who were sent to Theresienstadt—many of whom had watched the murders of their parents—hardly a hundred survived.

Theresienstadt was not an extermination camp, and executions were relatively rare, but with up to 50,000 hunger-weakened prisoners crammed into housing adequate for perhaps a sixth as many, "natural" deaths often averaged more than a hundred a day. Most of the victims were the old, who were given extra-short rations and were assigned to damp basements or drafty attics in the hope that they would succumb quickly.

The camp was largely reserved for artists, musicians, intellectuals. Franco-Prussian War heroes, physicians, senior civil servants and other persons of distinction whose abrupt shipment to death camps might have caused troublesome inquiries.

Even so, it was a hellhole of starvation, filth and disease, only spruced up now and then for inspection tours by what turned out to be incredibly gullible Red Cross representatives. To relieve the crowding before they came, thousands of prisoners would be shipped off to death camps.

They made a propaganda movie called Hitler Gives the Jews a City, videotaped excerpts of which are on view in the exhibit. It shows the inmates working and playing hard, eating well and passing the evenings among family and friends. Most cast members were killed before the first showing.

While Theresienstadt was small-time as concentration camps went, it was exquisitely cruel, with respites of "normality" suddenly giving way to random brutality, waves of repression and wholesale shipments to death camps. Of the 139,654 men, women and children sent to Theresienstadt, 33,419 died there and 86,934 more were sent on to be murdered elsewhere.

This exhibition shows the human capacity for resilience and endurance as well as for evil, and its net effect is encouraging. Helplessly confined in this pit of madness and doom, the prisoners of Theresienstadt made it into an intellectual and cultural center. Virtually every night there were recitals, lectures, poetry readings, plays, cabarets.

Smetana's opera, "The Bartered Bride," ran for 35 performances. Verdi's "Requiem" was postponed twice when key musicians were transported, but then the Nazis agreed to hold the next group of players over. After the concert, which was attended by Adolf Eichmann, conductor Raphael Schacter and the entire orchestra were shipped out, as they knew they would be.

Although the penalty for drawing or painting true camp scenes was death, dozens of professional and amateur artists furtively set down every aspect of camp life, and much of their work has been preserved. Beside the scores of children's paintings, the B'nai B'rith Museum has assembled an exhibition of art and items from Theresienstadt that are wonderful testimony to the human spirit.

The core of the show is the works of camp survivor Norbert Troller, who died a few months ago. His life, and then his drawings, were saved by a wild set of coincidences that even a confirmed skeptic might concede were miraculous. It's a story from hell, and a hell of a story.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUITY TO COTTON PRODUCERS UNDER THE PAYMENT-IN-KIND PROGRAM

Mr. GARN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Repressentatives on H.R. 3385.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

NOVEMBER 9, 1983.

Resolved, That the House insist upon its amendments to the amendments of the Senate to the bill (H.R. 3385) entitled "An Act to provide equity to cotton producers under the payment-in-kind program", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees, for consideration of all, except for section 131 of the Senate amendment, and modifications thereof committed to conference: Mr. de la Garza, Mr. Foley, Mr. Jones of Tennessee, Mr. Brown of California, Mr. Rose, Mr. Weaver, Mr. Harkin, Mr. Whitley, Mr. Coelho, Mr. Thomas of Georgia, Mr. Madigan, Mr. Jeffords, Mr. Coleman of Missouri, Mr. Hopkins, and Mr. Skeen; for consideration solely of section 131 of the Senate amendment, and additional conferees for consideration of section 213 of the Senate amendment, and modifications thereof committed to conference: Mr. Gibbons, Mr. Jones of Oklahoma, Mr. Jenkins, Mr. Vander Jagt, and Mr. Frenzel.

Mr. GARN. Mr. President, I move that the Senate insist on its amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Senators HELMS, DOLE, LUGAR, COCHRAN, BOSCHWITZ, HUDDLESTON, LEAHY, ZORINSKY, and MELCHER conferees on the part of the Senate.

WARRANTIES ON WEAPONS SYSTEMS

Mr. ANDREWS. Mr. President, it was with a good deal of surprise that I read eight pages of negative comments in the November 8, 1983, CONGRESSIONAL RECORD concerning language in the fiscal 1984 Department of Defense appropriations bill requiring warranties on weapons systems. As you will recall, Mr. President, this was the day following the adoption of the defense appropriations bill by the Senate during the consideration of which no amendments were offered to the warranties section; no point of order made against it at all. Since clearly the remarks inserted after the debate did not describe the warranty I had sponsored, I

looked back through the bill to see if there was another section perhaps dealing with the requirement of warranties on weapons. There was none, so my only conclusion can be that some kind of mischievous gremlin must have gotten into the typesetting equipment at the printer's office of the CONGRESSIONAL RECORD since clearly the comments about warranties did not describe the warranty provision that is now in the bill.

The claim was made that warranty language can be interpreted to be retroactive. Let me state clearly that there is no language in the bill that requires warranties retroactively on production contracts for weapons. The language that is in the bill states that no money:

May be obligated or expended * * * by this or any other act * * * unless the contractor provides a written guarantee * * *

Now, Mr. President, remembering my past, present, and future tenses from high school and college English courses, the words "may" and "provide" are both present tense and imply future tense, certainly not past tense, and I would hope that whoever put together the rebuttal does not have his tenses mixed up or backwards, since it certainly confuses the clear intent of those of us who sponsored the warranty amendment that it be enforced with those weapons systems being contracted for in fiscal year 1984 and beyond.

So there will clearly be no misinterpretation about the exact warranty language, I ask unanimous consent to have printed in the RECORD the warranty bill language and, immediately following it, the report language concerning warranties as contained in the bill passed by the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 797. (a) Except as provided in subsection (b), none of the funds appropriated by this or any other Act may be obligated or expended for the procurement of a weapon system unless the prime contractor of such system provides the United States with a written guarantee—

(1) that the system was designed, manufactured, and equipped so as to conform to the Government's performance requirements as specifically delineated (A) in the production contract, or (B) in any other agreement relating to the production of such system entered into by the United States and the contractor;

(2) that the system, at the time it is provided to the United States, is free from all defects (in materials and workmanship) which would cause the system to fail to conform to the Government's performance requirements as specifically delineated (A) in the production contract, or (B) in any other agreement relating to the production of such system entered into by the United States and the contractor; and

(3) that, in the event of a failure of the weapon system to meet the conditions specified in clauses (1) and (2)—

(A) the contractor will bear the cost of all work including repairing or replacing all parts promptly that are necessary to achieve the required performance requirements; or

(B) if the contractor fails to repair or replace such parts promptly, as determined by the Secretary of Defense, the contractor will pay the costs incurred by the United States in procuring such parts from another source.

(b) The Secretary of Defense may waive the requirements of subsection (a) in the case of a weapon system if the Secretary—

(1) determines that the waiver is necessary in the interest of the national defense; and

(2) notifies the Committees on Appropriations of the Senate and the House of Representatives in writing of his intention to exercise such waiver with respect to such weapon system.

WARRANTIES

The Committee is concerned that for too long Congress has been preoccupied with appropriating funds to correct defective and shoddy workmanship in weapons systems. Tax dollars should no longer be expended for the purpose of producing military weapons that are operationally unreliable, do not meet the military mission, task, and threat, and may imperil the lives of our troops on the frontlines of our Nation's defense. It is the Committee's belief that Congress must demand that those weapons necessary for a strong defense work as intended.

In order to produce weapons which are reliable and which will enable the protection of vital U.S. security interests, the Committee recommends a general provision in the bill requiring the Department of Defense to obtain written guarantees in production contracts or any other agreements relating to the production of weapons systems. The language explicitly states that no appropriated funds will be obligated or expended for the procurement of a weapon system unless the prime contractor of such system provides the United States with a written guarantee that the system was designed, manufactured, and equipped to conform to the Government's performance requirements and that the weapons system is free from all defects in materials and workmanship.

The written guarantee must state that in the event of a failure of the weapons system to meet the conditions regarding its design, manufacture, and freedom from defects in material and workmanship, the contractor will bear the cost of all work including repairing or replacing all parts promptly that are necessary to achieve the required performance requirements; or if the contractor fails to repair or replace such parts promptly, the contractor will pay the cost incurred by the United States in procuring such parts from another source.

The provision further authorizes the Secretary of Defense to waive these requirements by notifying the Committees on Appropriations of the Senate and House of Representatives in writing that such a waiver is necessary in the interest of national defense.

Mr. ANDREWS. Mr. President, in the entire eight pages, the fundamental objective of the warranty requirement is simply not addressed. That objective is the well established principle in the law that liability ought to be associated with fault. The senior Senator from Texas, Mr. President, states that: "the builder * * * would have to warrant the entire system even if the prime contractor had no control over design or manufacture of numerous components." Frankly, part of that is what we must do. There is too much buckpassing about who has control over design and who has input into whether a certain design is really practical and effective or not. Take the case of the C-5A. When the Pentagon made the decision to lighten the wing spar, since there was no warranty requirement on the part of the manufacturer, the manufacturer saluted the Pentagon and went on and lightened the wing spar. Those of us on the Appropriations Committee had to spend $1,400 million for that salute. I may be old fashioned, Mr. President, but I think that if the manufacturer had a warranty on the C-5A wings, his response to the design change would have been: "absolutely not, we have warrantied the wings according to your original specifications."

The purpose of the warranty system, Mr. President, is to unleash the genius in American industry, to make sure that sloppy and faulty designs do not go into production at high costs to the taxpayers and even worse, jeopardize the lives of our fighting men who have to rely on these weapons systems. This is a well established principle in the warranting of components for commercial use. A farmer buys a tractor, he gets a warranty on the overall tractor from the tractor manufacturer, on the engine from Caterpillar or Cummings, on the transmission from Allison or whoever makes it. These warranties are included together by the manufacturer and passed on to the final purchaser. This is precisely the way, Mr. President, it should work in military procurement.

This strange eight-page dissertation, Mr. President, looked like it was drafted by Alice's white rabbit when it held that warranties are anticompetitive. Clearly, warranties will promote competition and the contribution warranties have made to enhancing competition in the commercial sector for the last 25 years speaks for itself. The warranty language in the bill will contribute to creating competition between the firms seeking contracts for weapons systems. Small businesses can well become more serious competitors for defense contracts due to the prime contractor providing a warranty for the complete weapons system and the smaller contractor providing subsystems warranties to be passed through.

Mr. President, the senior Senator from Texas, who is chairman of the Armed Services Committee, also stated that he was disappointed that I did not submit my proposal in order to give the Committee on Armed Services an opportunity to hold hearings on the matter or to work with them to develop a workable legislative proposal.

Let me point out, Mr. President, and I think everyone knows this, last year the Committee on Appropriations, because it has a clear-cut responsibility for how the taxpayer's money is spent, quite rightly put a requirement for warranties on the purchase of derivative fighter aircraft engines. This was done over the strong opposition, at that time, of the Defense Department and, I understand, certain members of the authorizing committees. Those of us on the Appropriations Committee who did this, feeling that it was clearly needed, are intrigued with recent developments concerning this amendment that was signed into law last year. After a full year of working with the warranties on derivative fighter engines, Lt. Gen. Lawrence Skantze of the Air Force stated in Defense Week that the initial cost of its proposal for 2,500 engines will be reduced by savings of close to $2 billion, largely due to the requirement of warranties on the durability of key engine parts.

Mr. President, it is fantastic that those who fought this warranty concept almost 1 year ago, those who had to be brought to the altar with a shotgun at their heads, now are clasping this child to their bosom, claiming it as their own, and attributing $2 billion worth of savings to it.

The Senator from Texas also stated that warranties would impede manufacturers from employing state-of-the-art techniques in their manufactured weapons systems. I think it is important in light of that comment, Mr. President, to realize that state-of-the-art technology in communications satellites, some satellites worth over $2.5 billion, is fully warranted. Warranties are applied extensively in the orbiters NASA is now using for the space shuttle program, and Western European arms manufacturers inform me it is standard practice to warranty weapons systems such as short- and long-range air defense systems for NATO forces.

Mr. President, clearly we know things are not working as far as cost control and dependability on our weapons systems. Congress simply cannot afford to hide its head in the sand and think these problems are going to go away. It is long past time that we take a page from the civilian sector, where warranties on everything from toasters to tractors have evolved over 30 years and apply this gradually and forcefully to the military so that we cannot only affect savings to the taxpayers, but assure the durability of weapons on which our fighting men in the field stake their lives. It is my hope that the conferees will accept this broadening of the warranty concept we started a year ago, so that further savings can be realized and greater dependability from the weapons we purchase will be—at least to a reasonable, rational degree—guaranteed.

CLAIMS AGAINST IRAN

Mr. PERCY. Mr. President, the work of the Iran-United States Claims Tribunal at The Hague in the Netherlands is continuing in an effort to provide compensation to the many American citizens and corporations who lost money and property as a result of actions by the Government and officials of Iran. One of the key issues in the Tribunal's deliberations is the question of appropriate standards for determining the level of compensation required for such losses. Iran has sought to argue that it is no longer bound by the 1955 treaty which established the general standard of prompt, adequate, and effective compensation, which has become an important term of art in international law.

In view of the importance of this issue to many American businesses, I asked the Legal Adviser of the Department of State, Davis Robinson, to provide me with a memorandum discussing this issue. I ask that a copy of this memorandum be included in the RECORD at this point.

There being no objection, the memorandum ordered to be printed in the RECORD, as follows:

[Memorandum]

APPLICATION OF THE TREATY OF AMITY TO EXPROPRIATIONS IN IRAN

INTRODUCTION

The Iran-United States Claims Tribunal [1] in The Hague has heard or scheduled for hearing numerous claims seeking compensation for the expropriation of property of U.S. nationals by Iran. In each of these cases, as in numerous others which will follow, the Tribunal must ascertain the applicable standard of compensation for expropriated property. The United States maintains that the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran [2] ("the Treaty of Amity" or "the Treaty") provides the standard of compensation which must be applied to the cases before the Tribunal.[3]

This memorandum discusses the applicability of the Treaty of Amity to the determination of compensation for the expropriation of property of U.S. nationals in Iran. Part I demonstrates that the Treaty is still in force. Part II shows that the Treaty requires the payment of prompt, adequate and effective compensation for the expropriation of such property in Iran. Part III demonstrates that, for purposes of determining the amount of compensation, property must be appraised at its fair market value. Part IV shows that property must be valued as of the date of expropriation, disregarding the effects of any actions attributable to the Government of Iran that were unlawful or taken in anticipation of the expropriation.

I. The Treaty of Amity remains in force

A. The Treaty Remains In Force By Its Own Terms

The Treaty of Amity explicitly provides that it shall continue in effect until terminated by a party. Specifically, Article XXIII (2) states that the Treaty "*shall remain in force* for ten years and shall continue in force thereafter *until terminated as provided herein.*" (Emphasis added.) The sole method of termination under the Treaty is described in Article XXIII, which provides that the Treaty may be terminated only upon one year's written notice by one party to the other.[4]

Neither the United States nor Iran has provided written notice to the other that the Treaty has been terminated.[5] In fact, to the contrary, Iran on numerous occasions as recent as late 1980 has argued before U.S. domestic courts that the treaty remains in full force and effect.[6] Iran, moreover, has continued to enjoy the benefits of the Treaty.[7] Thus, it is abundantly clear that the Treaty of Amity has not been terminated in accordance with its terms and, therefore, remains in effect.

B. The International Court of Justice Has Ruled That the Treaty Is Still in Force

The continued validity of the Treaty of Amity has been confirmed conclusively by a judgment of the International Court of Justice. On November 29, 1979, the United States filed an application with the Court seeking a declaration, *inter alia*, that Iran's November 4, 1979, seizure of the U.S. Embassy in Tehran violated the Treaty. On May 24, 1980, the Court rendered its judgment, in which it held that the Treaty's provisions "*remain part of the corpus of law applicable between the United States and Iran.*"[8] In so holding, the Court explained that the continued applicability of a treaty of this nature is especially important when the parties are in dispute:

"The very purpose of a treaty of amity, and indeed of a treaty of establishment, is to promote friendly relations between the two countries concerned, and between their two peoples, more especially by mutual undertakings to ensure the protection and security of their nationals in each other's territory. *It is precisely when difficulties arise that the treaty assumes its greatest importance. . . .*[9]

Under the principle of *res judicata*,[10] this decision by the International Court of Justice established conclusively the continued validity of the Treaty of Amity as of May 24, 1980.

The Court's rationale and holding are no less applicable now. Iran has not alleged any event since the issuance of the Court's decision which would affect the continued validity of the Treaty. Moreover, although the hostages have been released, Iran continues to hold U.S. diplomatic and consular properties in violation of international law and the two nations remain divided by serious disputes concerning, *inter alia*, the expropriation of U.S. nationals' investments in Iran. Given that the protection of foreign investment was a central purpose of the Treaty,[11] the present situation is precisely the moment when treaty provisions setting forth the standard of compensation for expropriated property, in the words of the ICJ, "assume [their] greatest importance."

C. The Treaty Has Not Been "Implicitly Terminated" As a Result of Alleged Breaches by the United States

Despite its repeated reliance upon the Treaty in recent years and despite the ICJ's decision, Iran now appears to have adopted before the Tribunal a new position which alleges that certain actions by the United States "implicitly terminated" the Treaty of Amity.[12] Specifically, Iran alleges that U.S. Executive Orders adopting certain countermeasures [13] in response to Iran's unlawful

Footnotes at end of article.

seizure of the U.S. Embassy in Tehran on November 4, 1979, violated, respectively, Articles VII [14] and VIII of the Treaty. Such an assertion, however, is entirely contrary to established principles of international law.

(1) *The United States has not breached the treaty.*—The measures adopted by the United States, in fact, did not violate the Treaty. Rather, under both the law of treaties and the law of nonforcible reprisals, they were a fully lawful response to Iran's flagrant and continuous violations of the Treaty of Amity.

(a) Iran flagrantly and repeatedly violated the treaty.—Throughout 1979 and 1980,[15] the Iranian government, its agencies, instrumentalities and other controlled entities engaged in a long series of actions directed against American lives and property in Iran. These actions included, *inter alia,* government-sponsored attempts to harass and intimidate U.S. nationals with the goal of driving Americans out of Iran,[16] the repudiation of numerous contracts with American firms without legal justification,[17] massive expropriation of American property in Iran without compensation,[18] the imposition of currency restrictions to prevent repatriation of American earnings,[19] and the announced intention (finally implemented) of ceasing all oil exports to the United States.[20] These actions by Iran repeatedly and flagrantly violated numerous provisions of the Treaty of Amity,[21] resulting in the virtual repudiation of all personal, contract and property rights of Americans in Iran and the collapse of commercial relations between the two nations.

Iran's violations of the Treaty culminated on November 4, 1979, with its seizure of the U.S. Embassy and forcible detention of more than sixty U.S. nationals on the Embassy premises. On May 24, 1980, the International Court of Justice held explicitly that these actions by Iran constituted "successive and continuing breaches" of the Treaty of Amity and other applicable international law.[22]

(b) The U.S. countermeasures were justified under the law of treaties and the law of nonforcible reprisals.—Shortly after the seizure of its Embassy, the United States initiated a series of countermeasures in reponse to Iran's violations of the Treaty and other norms of international law. On November 12, 1979, the same day that Iran announced that it would no longer export oil to the United States, President Carter ordered a halt to the importation of Iranian oil.[23] On November 14, 1979, President Carter issued an order to block all official Iranian assets in the United States.[24] Further Executive Orders of April 7 and 17, 1980, prohibited most exports to and imports from Iran and restricted financial transactions related to travel by Americans to Iran.[25]

Each of these countermeasures was adopted in response to Iran's continuous violations of the Treaty.[26] As the International Court of Justice observed in its order of May 24, 1980:

"All measures in question were taken by the United States after the seizure of its Embassy by an armed group and subsequent detention of its diplomatic and consular staff as hostages. They were measures taken in response to what the United States believed to be grave and manifest violations of international law by Iran." [27]

Moreover, the countermeasures were reasonably related [28] and proportional [29] to Iran's prior breaches. They were limited in scope, relative to Iran's prior Treaty violations, and involved no harassment of Iranians in U.S. territory and no expropriation of Iranian property. The restrictions on trade with and travel to Iran formalized a situation which had existed in practice for many months as a direct result of Iran's illegal conduct.[30] Similarly, Iran's assets were blocked only after Iran announced that all its assets in the United States were to be withdrawn.[31] The blocking was intended in part to preserve a remedy for Americans whose rights already had been violated by Iran in the course of Iran's unlawful actions.[32]

International law long has recognized that, where a party to a bilateral Treaty has breached its obligations thereunder, the other party may withhold lawfully its performance of the Treaty in a manner reasonably related to the breach.[33] Such withholding of performance by the aggrieved party does not violate the Treaty but, on the contrary, is actually a means of enforcing it. As the foregoing discussion demonstrates, each of the U.S. countermeasures was a reasonable response to Iran's prior breaches of the Treaty and, therefore, was justified under the law of treaties.[34]

Similarly, under the law of nonforcible reprisals, a nation may lawfully take otherwise unlawful nonforcible actions if (1) the actions are in response to prior international delicts by another nation; (2) the aggrieved nation has sought redress unsuccessfully through other means; and (3) the actions are proportional to the prior delicts.[35] As demonstrated above, these requirements were satisfied and thus the U.S. countermeasures were equally justified under the law of nonforcible reprisals.

(2) *Even if the United States had breached the treaty, the treaty would not have been "implicitly" terminated.*—The preceding section makes clear that the actions taken by the United States in response to Iran's violations of the Treaty were fully justified under international law and, therefore, did not breach the Treaty of Amity. Even if those actions had been in breach of the Treaty, however, such violations could not have resulted in its "implicit" or automatic termination.

It is clear as a matter of international law that a treaty cannot be "implicitly" terminated, that is, a breach of a treaty by one party does not of itself terminate the treaty. Rather, a treaty may be terminated by a breach only if (1) the breach is material, going to the heart of the treaty[36]; (2) the aggrieved party sends formal notice of the treaty's termination to the other party; [37] and (3) the formal notice of termination is sent within a reasonable time after the breach.[38]

In this case, the actions taken by the United States in no way violated the Treaty—materially or otherwise. These actions were taken in an effort to restore full observance of the Treaty by Iran and were a limited, gradual and proportional response to Iran's prior violations.

Further, as already noted, Iran has not sent the United States the formal notice necessary to trigger termination of the Treaty, either before or after the alleged U.S. violations. Indeed, more than ten months after the alleged violations, Iran was continuing to plead in U.S. federal court that the Treaty was still in force.[39]

Finally, because a reasonable time after the alleged U.S. violations already has elapsed without a notice of termination, such alleged violations no longer may form the legal basis for termination of the Treaty.

D. Iran Is Estopped From Repudiating the Treaty of Amity

Repudiation of the Treaty of Amity by Iran is further barred because it would violate well-established principles of international law concerning estoppel and good faith. As Sir Hersch Lauterpacht has written:

"A State cannot be allowed to avail itself of the advantages of the treaty when it suits it to do so and repudiate it when its performance becomes onerous. It is of little importance whether that rule is based on what in English law is known as the principle of estoppel or the more generally conceived requirement of good faith." [40]

Prior to the signing of the Algiers Accords in 1981, Iran repeatedly relied upon the treaty as a defense against litigation in U.S. courts. Now that such litigation has been suspended pursuant to the Accords, Iran simply cannot argue that the Treaty was implicitly terminated as early as November of 1979.

E. Even if the Treaty Had Been Terminated, Its Provisions Would Continue to Apply To All Acts of Expropriation Which Occurred Prior to the Termination Date

Even if the Iranian position were accepted *in toto,* it would have only a minimal effect on the result of the proceedings before the Tribunal. The well-settled rule of international practice is that the termination of a treaty does not affect pre-existing rights created through execution of the treaty.[41] Thus even if the Treaty of Amity were held no longer to be in force, the standard of compensation set forth in the Treaty still would be applicable to any act of expropriation which occurred prior to the Treaty's termination.

II. The Treaty of Amity requires that U.S. claimants be paid prompt, adequate and effective compensation for all property expropriated by Iran.

The Treaty of Amity expressly requires Iran to pay compensation for the expropriation of property owned by U.S. nationals. Such compensation must represent the full equivalent of the expropriated property and must be paid within a reasonable time after expropriation in a readily convertible currency. More particularly, the Treaty requires Iran to pay "prompt, adequate and effective compensation" for expropriated property.[42]

Specifically, Article IV(2) of the Treaty provides that:

Property of nationals and companies of either High Contracting Party, including interests in property, shall receive the most constant protection and security within the territories of the other High Contracting Party, in no case less than that required by international law. Such property shall not be taken except for a public purpose, nor shall it be taken without the *prompt payment of just compensation.* Such compensation shall be in an *effectively realizable* form and shall represent the *full equivalent of the property taken;* and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof. [Emphasis added.]

Thus, Article IV(2) requires "prompt payment . . . in an effectively realizable form" of "just compensation" which represents "the full equivalent of the property taken." This explicit language leaves no doubt that, under the Treaty, Iran must pay prompt, adequate and effective compensation for the expropriation of U.S. property.[43]

The negotiating history of the Treaty clearly confirms this conclusion. Immediately following World War II, the United States negotiated a series of some 21 bilateral FCN treaties with other nations. One important purpose of these treaties, including the Treaty of Amity, was to protect investment abroad,[44] and thus each of the treaties contained a section which required prompt, adequate and effective compensation for the expropriation of foreign investment.[45] Now to interpret those treaties as permitting payment of something less would defeat one central purpose of their execution.

Throughout the negotiation of the Treaty, moreover, Iran was fully aware of the United States' views and treaty practice with respect to the standard of compensation[46] and agreed to that practice in the Treaty of Amity.[47] The language of Article IV(2) was a standard text used by the United States in most of its post-war FCN treaties[48] and, during the negotiations, Iran made numerous references to the language of these other FCN treaties.[49] After negotiations, Article IV(2) was unchanged from the original draft except for the addition of the phrase "in no case less than that required by international law," a phrase which also appears in many other U.S. FCN treaties.[50] Thus, the negotiating history makes clear that the Treaty of Amity, as proposed and executed, requires the payment of prompt, adequate and effective compensation for expropriation.[51]

III. The Treaty of Amity requires that, for purposes of compensation, expropriated property be appraised at fair market value

The Treaty of Amity also requires that, for purposes of determining the amount of compensation, expropriated property be appraised at its fair market value,[52] which in the case of an operating enterprise is equivalent to "going concern" value. This conclusion is evident from both the language and the history of the Treaty.

Article IV(2) of the Treaty mandates the payment of "just compensation" for expropriated property. International law long has understood "just compensation" to require payment of fair market value.[53] The term "just compensation" also can be traced to the Fifth Amendment to the U.S. Constitution, which provides that no property may be taken by the government without just compensation. The U.S. Supreme Court repeatedly has held that the payment of "just compensation" requires the use of fair market value.[54]

Article IV(2) further provides that "compensation * * * shall represent the full equivalent of the property taken," *i.e.*, the full value of the property. The term "full equivalent" indicates that compensation must be comprehensive and must take into account *every* valuable element of the expropriated property. The value of property, of course, depends upon its ability to generate future income,[55] a fact which has been repeatedly recognized in international law.[56] Measures of valuation such as "book value" and "replacement cost" do not consider the capacity of an asset to produce future income.[57] Thus, fair market value,[58] which does take account of the property's income-producing capacity, generally represents the truest measure of an asset's full equivalence.[59]

The history of the Treaty confirms that its language requires the use of fair market value for determining compensation. As already shown, Article IV(2) of the Treaty is standard treaty language proposed by the United States and accepted by Iran without substantial modification. Such language consistently has been understood to require that expropriated property be appraised at fair market value.[60]

IV. The Treaty of Amity requires that property be valued as of the date of expropriation, disregarding the effects of any actions attributable to the expropriating government that were unlawful or were taken in anticipation of the expropriation

The Treaty of Amity further requires that, for purposes of determining compensation, expropriated property must be valued as of the date of expropriation disregarding the effects of any actions attributable to the expropriating government (1) that were unlawful or (2) that were taken in anticipation of the expropriation.[61] These requirements concerning valuation are inherent in the principle of just compensation,[62] which is embodied in Article IV(2) of the Treaty. These requirements are also well-established in customary international law and were similarly incorporated into the Treaty of Amity by the further provision of Article IV(2), which states that compensation for expropriation must be "in no case less than that required by international law."[63] The Treaty of Amity, moreover, has been consistently understood to incorporate these requirements.[64]

The authorities cited above make clear that in determining the value of expropriated property, the Tribunal should disregard the effects of actions attributable to the Government of Iran which were unlawful. As explained above,[65] throughout the course of the Islamic Revolution, the Iranian government, its agencies, instrumentalities and controlled entities engaged in a long series of unlawful actions directed against American property in Iran. These actions included, among others, harassment of Americans in Iran, the repudiation of contracts, massive expropriations without compensation, and the imposition of unlawful currency restrictions. As already shown, all of these actions violated the Treaty of Amity and, therefore, the effects of these actions and other Treaty violations must be disregarded in determining the value of expropriated property.[66]

Certain omissions of the Government of Iran were equally unlawful under the Treaty. Article IV (2) of the Treaty contains the solemn promise of the Government of Iran to guarantee to the property of U.S. nationals "the most constant protection and security" in Iran. This article imposed upon the Government of Iran an affirmative duty to protect the property of U.S. nationals against injury arising from unlawful activity, whether by public officials or individual private citizens.[67] The failure of the Government of Iran to extend this protection was itself a violation of the Treaty, and the effects of this failure also must be disregarded in valuing expropriated property.[68]

Actions by the Government of Iran which were arbitrary or discriminatory must also be disregarded in determining the fair market value of expropriated property. Government conduct which does not intrinsically violate international law is nevertheless unlawful if it is arbitrary[69] or it discriminates against aliens.[70] Thus, actions by the Government of Iran which otherwise might have been lawful were unlawful if the Government engaged in these actions arbitrarily or directed them against U.S. nationals. Any decrease in the value of expropriated property attributable to such actions must be disregarded in calculating the fair market value of such property.

The authorities cited above also require that, in determining the value of expropriated property, the Tribunal should disregard the effects of actions attributable to the Government of Iran that, while lawful, nevertheless were taken in anticipation of the expropriation. Any other rule would permit an expropriating government to avoid entirely the requirement of compensation by acting to ruin the value of a company before formally seizing control. Thus, actions by the Government of Iran that were taken in anticipation of the expropriation, including the threat of expropriation or the expropriation of other companies, even if lawful in themselves, must be disregarded in valuing expropriated property.

Furthermore, under settled international law, a government brought to power by revolution is legally accountable for the acts of the revolutionary forces from the revolution's inception.[71] Accordingly, the actions of the revolution which empowered the present Government of Iran are attributable to that Government. Any diminution in the value of expropriated property caused by the actions of revolutionary forces is equally attributable to present Govenment of Iran. If such actions were unlawful or were taken in anticipation of an expropriation, their effects on the value of expropriated property must be disregarded.

CONCLUSION

Because it has not been terminated in accordance with its terms of the provisions of international law, the Treaty of Amity remains in force between the United States and Iran. Article IV(2) of that Treaty provides the standard of compensation which must be paid for the expropriation by Iran of property of U.S. nationals. Specifically, that Article requires payment of the fair market value of the expropriated property, calculated as of the date of expropriation without regard to actions attributable to the Government of Iran which were unlawful or taken in anticipation of the expropriation.

Under Article V of the Claims Settlement Declaration,[72] this is the appropriate standard of compensation for application by the Iran-United States Claims Tribunal to pending claims for expropriation.

FOOTNOTES

[1] The Tribunal was established in 1981 pursuant to the Declarations of the Democratic and Popular Republic of Algeria concerning commitments and settlement of claims by the United States and Iran with respect to resolution of the crisis arising out of the detention of 52 United States nationals in Iran, *reprinted in* XX Int'l Leg. Mat. 223 (1981).

[2] Signed August 15, 1955, *entered into force*, June 16, 1957, TIAS 3853, 8 U.S.T. 899.

[3] "If a treaty requires a special standard of compensation, the compensation shall be paid in accordance with the treaty." Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, Art. 10(2), in Garcia-Amador, John and Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 133, 204 (1974). Because the Treaty of Amity sets forth the standard of compensation to be used for determining compensation for the expropriation of U.S. property by Iran, the Tribunal need not decide which standard would apply in the absence of the Treaty. The United States maintains, as it has for decades, that in the absence of a treaty customary international law requires the payment of prompt, adequate and effective compensation for property appraised at its fair market value. *See* note 42, *infra*.

[4] Where a treaty specifically establishes the method of its termination, the parties are obligated to adhere to that method. Vienna Convention on the Law of Treaties, Article 54(a), U.N. Doc. A/Conf. 39/27, May 23, 1969, *reprinted in* VIII Int'l Leg. Mat. 679 (1969). Although the United States

has not ratified the Vienna Convention and, therefore, is not bound by it, the U.S. considers many provisions of the Convention, including Article 54(a), to be declaratory of customary international law. *See Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276,* [1971] I.C.J. 16, 47; I. Brownlie, Principles of Public International Law 601 (3d ed. 1979).

[5] Furthermore, where treaties are terminable by notice, international law generally recognizes certain formal requirements for the notice. As the International Law Commission has noted, "a declaration of termination which is not officially communicated to the other party has no effect. . . ." Special Rapporteur Fitzmaurice, Second Report on the Law of Treaties, [1957] II Y. B. Int'l L. Comm'n 69, *quoted in* 14 M. Whiteman, Digest of International Law 443 (1970). Moreover,

"it is essential that the notice should be in due form, emanate from an authority competent for the purpose, and be regularly communicated to the other interested States. . . . In general it is thought better in the interest of regularity and certainty in treaty relations, to require the legal basis of the notice to be stated in every case. Again, in the interest of regularity and certainty, it is thought desirable to require that the date of the notice and the date when it is considered to take effect should be specified in the instrument.

Special Rapporteur Waldock, Second Report on the Law of Treaties, [1963] II Y. B. Int'l L. Comm'n 86, *quoted in* 14 M. Whiteman, Digest of International Law 444 (1970).

[6] *See, e.g.,* Memorandum of the Government of Iran in Opposition to Continuation of Attachments 16-17, 74-75, *Iranian Attachment Cases* (S.D.N.Y.) (filed April 21, 1980); The Islamic Republic of Iran's memorandum of Points and Authorities in Support of Motion to Dismiss 2, *Starrett Housing Corporation* v. *Government of Iran,* Civil Action No. 79-6364 (S.D.N.Y.) (filed July 15, 1980); Defendant Government of Iran's Motion to Dismiss, Memorandum of Points and Authorities 1, *Starrett Housing Corporation* v. *Government of Iran,* Civil Action No. 79-6364 (S.D.N.Y.) (filed September 18, 1980).

[7] The United States Government, for example, continues to issue "treaty trader" and "treaty investor" visas to Iranian nationals, who qualify for such visas only because the Treaty of Amity remains in force. In Fiscal Year 1982 alone, 514 such visas were granted. These visas permit Iranian nationals entry into the United States for purposes of trade or investment.

[8] *Case Concerning United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), [1980] I.C.J. 3, 28, *reprinted in* XIX Int'l Leg. Mat. 553 (1980). (Emphasis added.)

[9] *Id.* Emphasis added.

[10] "That the sanctity of *res. judicata* attaches to a final decision of an international tribunal is an essential and settled rule of international law." *Trail Smelter Arbitration Between the United States and Canada Under Convention of April 15, 1935,* Decision of the Tribunal reported March 11, 1941, at 17, 35 Am. J. Int'l L. 684, 699, *excerpted in* VI G. Hackworth, Digest of International Law 140 (1943); *Company General of The Orinoco Case,* 10 R. Int'l Arb. Awards 184, 276 (1902); *Pious Funds Case,* For. Rel. 1902 Appendix II; D. Sandifer, Evidence Before Internatioinal Tribunals 404 (1975 ed.); II C. Hyde, International Law Chiefly As Interpreted and Applied by the United States 1633 (1945).

[11] As explained below, the Treaty of Amity is part of a modern series of treaties, known generically as "Friendship, Commerce and Navigation Treaties" ("FCN Treaties"), which were negotiated between the U.S. and other nations after World War II and which had as a major purpose the protection of foreign investment. *See* notes 44 and 45, *infra.*

[12] Iran has made this allegation in a number of its pleadings submitted to the Tribunal. Because of the confidential nature of Tribunal proceedings in specific cases, however, citation to particular pleadings by claim name or number would be inappropriate.

[13] These Executive Orders are described below at pages 10-11.

[14] Article VII limits the right of the parties to apply exchange restrictions, except, *inter alia,* where such restrictions have been approved by the International Monetary Fund. Under IMF Dec. No. 144 (52/51) *reprinted in* Selected Decisions of the International Monetary Fund 203, 204 (9th ed. 1981), a state may assume that the IMF has approved exchange restrictions imposed for security reasons unless the state receives notice to the contrary within 30 days of notification to the IMF of the imposition of the restrictions. The United States notified the IMF of its exchange restrictions on November 28, 1979, and received no notice of disapproval from that body.

[15] Revolutionary forces also engaged in considerable unlawful activity directed against Americans in Iran in 1978 prior to the Ayatollah Khomeini's return. As shown below, this activity is attributable to the current Government of Iran.

[16] Shortly after returning to Iran, Ayatollah Khomeini demanded that all Americans leave Iran. N.Y. Times, Feb. 2, 1979, et al. The weeks following saw considerable harassment of U.S. nationals. In mid-February, armed bands detained and interrogated hundreds of Americans and other foreigners. Int'l Herald Tribune, Feb. 15, 1979, at 1, col. 6. In March, the Government of Iran conducted a two-day demonstration against the United States. *Id.,* March 14, 1979, at 1; March 15, 1979, at 2. Over 150,000 Iranians marched on the U.S. Embassy on May 24, demanding "Death to America," and 80,000 more Iranians marched the following day. *Id.,* May 25, 1979, at 1.

[17] In January of 1979, the Ayatollah Khomeini called for a review of all foreign investment projects in Iran. Kayhan, Jan. 28, 1979, at 8, col. 8; Jan. 22, 1979 at 8, col. 3. Contracts terminated that year included those involving military procurement, Etela'at, June 22, 1979 at 8, col. 1, nuclear power stations, Kayhan, June 3, 1979 at 5, col. 2, a dam and agricultural project, Etela'at, September 29, 1979, at 11, col. 5; and a radar system, Jomhouri Eslami, Nov. 11, 1979, at 7. In early 1980, it was announced that the Revolutionary Council would review all contracts with oil companies. Etela'at, January 10, 1980 at 1, col. 3.

[18] During the spring of 1979, the Government of Iran announced its intention to nationalize firms which were poorly managed or unprofitable, Kayhan, March 25, 1979, at 5, col. 1, or whose owners had left Iran, Kayhan, June 23, 1979, at col. 3. In June of that year, Iran nationalized all banks and insurance companies. In July, Iran enacted the Law for the Protection and Development of Iranian Industry, which nationalized additional industries, the share-holdings of certain individuals, and all firms whose debts to the banks exceeded their assets. Additional firms were natonalized by the Act Concerning the Appointment of a Temporary Director or Directors for the Custody of Production and Industrial and Commercial and Agricultural and Service Units whether in the Public or Private Sector, enacted June 16, 1979, and by the Act Concerning the Management and Ownership of the Shares of Contracting and Consulting Companies and Firms, enacted March 3, 1980, *reprinted in* Official Gazette No. 10254. By February of 1981, according to the Minister of Industries and Mines, some 580 companies had been nationalized since the revolution, Etala'at, Feb. 5, 1981, at 14, Col. 1.

[19] *See, e.g.,* Circular NA/11600, Bank Markazi, November 14, 1978; Circular NA 5/2090, Bank Markazi, May 5, 1979. Iran has conceded in its pleadings before the Tribunal the imposition of exchange controls beginning in November of 1978. Because of the confidential nature of Tribunal proceedings in specific cases, however, citation to particular pleadings by claim name or number would be inappropriate.

[20] The Government of Iran repeatedly declared its intention to halt oil exports to the United States. The day after the seizure of the U.S. Embassy, Iranian Oil Minister Ali Akbar Mointhar announced that he was prepared to stop oil exports to the U.S. if Khomeini gave the order. Washington Post, November 6, 1979, at A1; New York Times, November 6, 1979, at A1. Ayatollah Beheshti reiterated the threat on November 11. The threat was carried out on November 12, when the Revolutionary Council decided to stop oil exports to the U.S. N.Y. Times, November 13, 1979, at A1.

[21] Among the provisions violated by Iran were Article II(1), assuring the right of Americans to travel to Iran for commercial purposes; Article II(4), guaranteeing the lives and property of U.S. nationals "the most constant protection and security"; Article IV, protecting American property and other legal rights in Iran; Article VII, limiting restrictions on the transfer of funds; Article VIII, regulating import and export controls; and Article X, guaranteeing freedom of commerce between the United States and Iran.

[22] *Case Concerning United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), [1980] I.C.J. 3, 41, *reprinted in* XIX Int'l Leg. Mat. 553 (1980). The provisions of the Treaty violated were Article II(4), guaranteeing to U.S. nationals "the most constant protection and security," and Articles XIII, XVIII and XIX, protecting the rights of consular officials and the security of consular premises.

[23] Proclamation 4702, 44 Fed. Reg. 65581 (1979).

[24] Executive Order No. 12170 of November 14, 1979, 44 Fed. Reg. 65729 (1979).

[25] Executive Order No. 12205 of April 7, 1980, 45 Fed. Reg. 24099 (1980); Executive Order No. 12211 of April 17, 1980, 45 Fed. Reg. 26685 (1980).

[26] Furthermore, the countermeasures were adopted only after the United States had used every available diplomatic and legal means to stop Iran's illegal action, including appeals directly to Iran and indirectly through organs such as the United Nations and the International Court of Justice. *See Case Concerning United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), [1980] I.C.J. 3, 25, *reprinted in* XIX Int'l Leg. Mat. 553 (1980). *See also* Statement of President Carter in his report to Congress concerning the economic sanctions in 16 Weekly Comp. of Pres. Doc. 614 (April 14, 1980) ("The United States has used every diplomatic and legal means available to it to end [Iran's illegal conduct] but to no avail.")

[27] *Case Concerning United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), [1980 I.C.J. 3, 28, *reprinted in* XIX Int'l Leg. Mat. 553 (1980).

[28] Iran has alleged that the U.S. sanctions violated Articles VII and VIII of the Treaty. As explained above, Iran previously had violated both of these articles, and several others as well.

[29] A Indeed, the sanctions adopted by the United States were in accord with sanctions that would have been adopted by the U.N. Security Council, but for a veto by the Soviet Union. 16 Weekly Comp. of Pres. Doc. 614-615 (April 14, 1980). *See also* Security Council Draft Resolution of January 13, 1980, 35 U.N. SCOR, Supp (Jan.-Mar. 1980) 10, U.N. Doc. S/13735 (1980), *reprinted in* XIX Int'l Leg. Mat. 256 (1980).

[30] The restriction of commerce as a form of reprisal has long been recognized as proper under international law. Hyde wrote that

"In order to save itself and its nationals from being subjected to treatment deemed subversive of international law, as well as to compel the abandonment of reprehensible conduct, a State may suspend all commercial intercourse with that other whose acts are the source of complaint."

II C. Hyde, International Law Chiefly As Interpreted and Applied by the United States, 1674-1675 (1945). Similarly, O'Connell writes that:

"The aggrieved State may seize the assets of the wrongdoer situated within its jurisdiction, it may freeze credits, and it may take non-violent measures of reprisal, perhaps involving large-scale economic consequences."

I D. P. O'Connell, International Law 328 (1965). *See also* Bowett, "Economic Coercion and Reprisals by States," 13 Va. J. Int'l L. 1 (1972); Bowett, "International Law and Economic Coercion," 16 Va. J. Int'l L. 245 (1976).

[31] In reporting to Congress the reasons for the asset blocking, President Carter said:

"On November 14, 1979, I took the step of blocking certain property or interests in property of the Government of Iran, its instrumentalities and controlled entities and the Central Bank of Iran. At that time the United States Embassy in Tehran was occupied and American personnel were being held hostage there in flagrant violation of international law. In addition, Iran had threatened suddenly to withdraw its assets from United States banks, to refuse payment in dollars for oil, and to repudiate obligations owed to the United States and to United States nationals. Iran's actions attacked the foundations of the international legal order as well as the stability of the world economy and the international monetary system."

16 Weekly Comp. of Pres. Doc. 611-612 (April 14, 1980). The President previously had explained that

"Blocking property and property interests of the Government of Iran, its instrumentalities and controlled entities and the Central Bank of Iran will enable the United States to insure that these resources will be available to satisfy lawful claims of citizens and entities of the United States against the Government of Iran."

15 Weekly Comp. of Pres. Doc. 2118 (November 19, 1979).

[32] Asset freezes specifically have been recognized as legitimate responses to violations of international law. *See* I D. P. O'Connell, International Law 328 (1969); *Sardino* v. *Federal Reserve Board of New York*, 361 F.2d 106, 113 (2d Cir 1966), *cert. denied*, 385 U.S. 898 (1966).

[33] Vienna Convention on the Law of Treaties, Article 60(1); Special Rapporteur Waldock, Second Report on the Law of Treaties, [1963] II Y.B. Int'l L. Comm'n 72-76; Restatement (Second) of the Foreign Relations Law of the United States § 158 (1965); A. McNair, The Law of Treaties 570-578 (1961); *see generally* authorities cited at 14 M. Whiteman, Digest of International Law 476 (1970).

[34] The U.S. countermeasures also were justified under Article XX(1)(d) of the Treaty, which provides that the Treaty shall not preclude the application of measures "necessary to protect [a party's] essential security interests."

[35] The classic definition of reprisals is:

"Such injurious and otherwise internationally illegal acts of one state against another as are exceptionally permitted for the purpose of compelling the latter to consent to a satisfactory settlement of a difference created by its own international delinquency."

II H. Lauterpacht, Oppenheim's International Law 110 (1945). The three criteria set forth in the text are derived specifically from the *Naulilaa* arbitration of 1928, [1927-28] Ann. Dig., Case 360. *See* VI G. Hackworth, Digest of International Law 154-155 (1943); 12 M. Whiteman, Digest of International Law 148-149 (1971); Bowett, "economic Coercion and Reprisals by States," 13 Va. J. Int'l L. 1 (1972); Bowett, "International Law and Economic Coercion," 17 Va. J. Int'l L. 245 (1976).

[36] Vienna Convention on the Law of Treaties, Art. 60; Special Rapporteur Waldock, Second Report on the Law of Treaties, [1963] II Y.B. Int'l L. Comm'n 73; Sinha, Unilateral Denunciation of Treaty Because of Prior Violations of Obligations by Other Party 215 (1966).

[37] The International Law Commission of the United Nations commented in 1963 that "a breach of treaty, however serious [does] not *ipso facto* put an end to a treaty . . . ." Report of the Commission to the General Assembly, [1963] II Y. B. Int'l L. Comm'n 205, *accord, In re Lepeschkin*, 51 Journal du Droit International 1136 (1924), Ann. Dig. 1923-1924, Case No. 189, *digested in* VI G. Hackworth, Digest of International Law 347 (1943). Similarly, the publicists are in agreement that violation of a treaty does not automatically terminate it, but only makes it voidable at the option of the aggrieved party. I H. Lauterpacht, Oppenheim's International Law 947 (8th ed. 1955); I. Brownlie, Principles of Public International Law 618 (3d ed. 1979). *See also*, the Vienna Convention on the Law of Treaties, Articles 65-68 (requiring formal notice to terminate treaty), U.N. Conference on the Law of Treaties, Doc. A/CONF. 39/27, May 23, 1969; Restatement (Second) of the Foreign Relations Law of the United States § 158, Comment a (1965) ("The violation of an international agreement does not automatically terminate it."); Sinha, Unilateral Denunciation of Treaty Because of Prior Violation of Obligations by Other Party 206 (1966).

[38] Restatement (Second) of the Foreign Relations Law of the United States § 158, Comment b (1965); I Lauterpacht, Oppenheims International Law 948 (8th ed. 1955); Special Rapporteur Fitzmaurice, Second Report on the Law of Treaties, [1957] II Y. B. Int'l L. Comm'n 31; Sinha, Unilateral Denunciation of Treaty Because of Prior Violations of Obligations by Other Party 215 (1966).

[39] *See* note 6, *supra*, and authorities cited therein. The Iranian position, if generally accepted in the international community, would cast international treaty practice into interminable chaos. Without the requirement of formal written notice of termination within a reasonable time after an alleged breach, no party could ever be certain whether any given treaty still was considered binding by the other parties, or, if not, when the treaty supposedly was terminated.

[40] Special Rapporteur Lauterpacht, Report on the Law of Treaties, [1935] II Y.B. Int'l L. Comm'n 90, 144; *accord, The Temple of Preah Vihear* (Cambodia v. Thailand), [1962] I.C.J. 32; *The Arbitral Award made by the King of Spain* (Honduras v. Nicaragua), [1960] I.C.J. 212. *See also* MacGibb, "Estoppel in International Law," 7 Int'l & Comp. L.Q. 468 (1958).

[41] "[T]he termination a treaty . . . does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination." Vienna Convention on the Law of Treaties, Article 70 (1) (b); Special Rapporteur Waldock, Second Report on the Law of Treaties, [1963] II Y. B Int'l L Comm'n 94; Special Rapporteur Fitzmaurice, Second Report on the Law of Treaties, [1957] II. Y. B. Int'l L. Comm'n 35; A. McNair, Law of Treaties 532 (1961).

[42] The phrase "prompt, adequate and effective compensation" is a legal term of art which describes the measure of compensation that a state is required to pay for the expropriation of property of aliens. The term is understood to mean payment within a reasonable time after expropriation of the fair market value of the expropriated property in a readily convertible currency. The United States has long maintained that, in the absence of the Treaty of Amity, customary international law would require compensation for the expropriation of U.S. property to be "prompt, adequate and effective." As shown herein, this is also the standard imposed by the treaty.

For elaborations upon the meaning of prompt, adequate and effective, see "Expropriation of American Investments Abroad," Memorandum by the Office of the Legal Adviser, Department of State, *excerpted in* M. Whiteman, Digest of International Law 1143 (1967); Department of State GIST, July 1978, *excerpted in* 1978 Digest of United States Practice in International Law 1226-27; Address of Richard Smith, Director of the Office of Investment Affairs, Department of State, at Vanderbilt University (April 9, 1976), *excerpted in* 1976 Digest of United States Practice in International Law 443, 444; 1938 correspondence between United States and Mexico, *excerpted in* VI Hackworth, Digest of International Law 655-65 (1942) (first formulation of "prompt, adequate and effective" standard by U.S.); Restatement (Second) of the Foreign Relations Law of the United States, Sections 187-190 (1965); I. Brownlie, Principles of Public International Law 533-536 (3d ed. 1979).

[43] In hearings on other FCN treaties with virtually identical language, the standard of compensation set forth there in was described by the State Department as "prompt, just and effective." Hearings on Commercial Treaties Before the Subcomm. on Commercial Treaties and Consular Conventions of the Senate Comm. on Foreign Relations, 82 Cong. 2d Sess. 8 (1952) (Remarks of Deputy Assistant Secretary of State for Economic Affairs.) (proposed FCN treaties between the U.S. and Colombia, Israel, Ethiopia, Italy, Denmark and Greece.) The subject treaties required payment of "just compensation."

Indeed, in his correspondence with the Mexican government setting forth the original formulation of the "prompt, adequate and effective" standard, Secretary of State Cordell Hull used that phrase and the term "just compensation" interchangeably. *See, e.g.*, 2 Dept. State Bulletin 380 (1940).

U.S. courts have also regarded the terms "just compensation" and "prompt, adequate and effective compensation" as synonymous. *See, e.g., Banco Nacional de Cuba* vs. *Chase Manhattan Bank*, 505 F. Supp. 412 (S.D.N.Y. 1980), *aff'd as modified*, 658 F.2d 875 (2d Cir. 1981).

[44] Hearings on Commercial Treaties Before the Subcomm. of the Senate Comm. on Foreign Relations, 83 Cong. 1st Sess. 2-3 (1953) (Remarks of Assistant Secretary of State for Economic Affairs) (Purpose of FCN treaties was to provide legal protection against expropriation of investment abroad.) Indeed, in forwarding the draft Treaty of Amity to the American Embassy in Tehran on July 24, 1954, the Department of State referred to Article IV(2) as "the essential nucleus" of the proposed treaty. Department of State Airgram No. A-18 of July 23, 1954. *See also* H. Walker, "Treaties for the Encouragement and Protection of Foreign Investment: Present United States Practice," 5 Am. J. Comp. L. 229 (1956); R. Wilson, U.S. Commercial Treaties and International Law 95-125 (1960); R. Wilson, The International Law Standard in Treaties of the United States 92-105 (1953).

[45] Language virtually identical to that in the Treaty of Amity is contained in U.S. FCN treaties with the following nations: *Greece*, signed August 3, 1951, TIAS 3057, 5 U.S.T. 1829; *Israel*, signed August 23, 1951, TIAS 2948, 5 U.S.T. 550; *Denmark*, treaty signed October 1, 1951, TIAS 4797, 12 U.S.T. 908; *Japan*, signed April 2, 1953, TIAS 2863, 4 U.S.T. 2063; *Federal Republic of Germany*, signed October 29, 1954, TIAS 3593, 7 U.S.T. 1839; *Nicaragua*, signed January 21, 1956, TIAS 4024, 9 U.S.T. 449; *Netherlands*, signed March 27, 1956, TIAS 3942, 8 U.S.T. 2043; *Korea*, signed November 28, 1956, TIAS 3947, 8 U.S.T. 2217; *Muscat and Oman*, signed December 20, 1958, TIAS 4350, 11 U.S.T. 1835; *Pakistan*, signed November 12, 1959, TIAS 4683, 12 U.S.T. 110; *France*, signed November 25, 1959, TIAS 4625, 11 U.S.T. 2398; *Belgium*, signed February 21, 1961, TIAS 5432, 14 U.S.T. 1284; *Viet-Nam*, signed April 3, 1961, TIAS 4890, 12 U.S.T. 1703; *Luxembourg*, signed February 23, 1962, TIAS 5306, 14 U.S.T. 251; and *Togo*, signed Feb. 8, 1966, T.I.A.S. 6193, 18 U.S.T. 1. Language substantially similar to that in the Treaty of Amity is contained in U.S. FCN treaties with *Republic of China*, signed November 4, 1946, 63 Stat. 1299, TIAS 1871 ("without due process of law and without the prompt payment of just and effective compensation"); *Italy*, signed February 2, 1948, 63 Stat. 2255, TIAS 1965 ("without due process of law and without the prompt payment of just and effective compensation"); *Ireland*, signed January 21, 1949, TIAS 2155, 1 U.S.T. 785 ("without the prompt payment of just and effective compensation"); *Ethiopia*, signed September 7, 1951, TIAS 2864, 4 U.S.T. 2134 ("without the prompt payment of just and effective compensation"); and *Thailand*, signed May 29, 1966, T.I.A.S. 6540, 19 U.S.T. 5843 ("without due process of law or without payment of just compensation").

[46] Less than three years before the Treaty of Amity was negotiated, W. Averell Harriman, serving as special emissary from the U.S. to Iran, sent a note to Prime Minister Mossadegh in which he made clear the U.S. view that prompt, adequate and effective compensation must be paid for expropriated property.

Specifically, he stated:

"As I have pointed out to Your Excellency, in the view of the United States Government the seizure by any government of foreign-owned assets without either prompt, adequate and effective compensation or alternative arrangements satisfactory to the former owner is, regardless of intent, confiscation. . . . There must be more than a willingness to pay; there must be an ability to do so in an effective form."

Reply of September 15, 1951, from Mr. Harriman to Dr. Mossadegh, *reprinted in* Royal Institute of International Affairs, Documents on International Affairs at 510 (Oxford 1951), *quoted in* G. White, Nationalisation of Foreign Property 184 (1961).

[47] Iran has openly acknowledged that it entered into the Treaty of Amity and other international obligations involving the protection of foreign investment because of its desire to attract capital and technology from developed countries. See U.N. Doc. A/C. 2/SR 1650, pp. 10-11, *quoted in* Simmonds (ed.), Legal Problems of Multinational Corporations 148 (1977). Thus, Iran fully recognized and accepted its obligation to pay full compensation for the expropriation of property owned by U.S. nationals.

[48] *See* note 45, *supra*.

[49] These negotiations were reported in the following diplomatic correspondence: Telegram No. 105 of July 15, 1954, from the American Embassy in Tehran to the Secretary of State; Telegram No. 119 of July 16, 1954, from the American Embassy in Tehran to the Secretary of State; Department of State Airgram No. A-18 of July 23, 1954, to the American Embassy in Tehran; Telegram No. 212 of October 16, 1954, from the American Embassy in Tehran to the Secretary of State; Department of State Telegram No. 963 of November 13, 1954, to the American Embassy in Tehran; Telegram No. 1176 of November 27, 1954, from the American Embassy in Tehran to the Secretary of State; Department of State Telegram No. 1137 of November 27, 1954, to the American Embassy in Tehran.

[50] A careful review of U.S. FCN treaty practice, published just one year prior to the negotiation of the Treaty of Amity, concluded that the inclusion of references in treaty language to the international law standard does not affect the standard of "just compensation." U.S. negotiators came to prefer the "just compensation" and "full equivalent" language because it was regarded as more precise than general references to international law. *See* R. Wilson, The International Law Standard In Treaties of the United States 92-105 (1953).

[51] Furthermore, subsequent actions by the United Nations or the Iranian Government do not alter Iran's obligations under the Treaty. For example, in casting Iran's vote in favor of the Charter of Economic Rights and Duties of States, G.A. Res. 3281 (XXIX), Ch. II U.N. Doc. A/RES/3201 (1974), approved by the U.N. General Assembly in 1974, the Iranian delegate explicitly stated his government's understanding that approval of the Charter

was "without prejudice to any arrangements or agreements reached between states concerning investments and modalities of compensation in the event of nationalization or expropriation of foreign property." U.N. Doc. A/C.2/SR. 1650, pp 10-11, *quoted in* Simmonds (ed.), Legal Problems of Multinational Corporations 148 (1977). Thus, as Iran has acknowledged, the standard set by the Treaty is the governing law between the United States and Iran.

[52] This includes interest from the date of taking until the date compensation is paid. *See Chorzow Factory Case,* P.C.I.J., Ser. A. No. 17 at p. 47; *Norwegian Shipowners' Case* (Norway v. U.S.), 1 R. Int'l Arb. Awards 308 (1922); OECD Draft Convention on the Protection of Foreign Property, Art. 3, Note 9, 7 Int'l Leg. Mat. 117 (1968); 8 M. Whiteman, Digest of International Law 1186-92 (1967).

[53] *See, e.g., Norwegian shipowners Case* (Norway v. U.S.), 1 R. Int'l Arb. Awards 308 (1922); OECD Draft Convention on the Protection of Foreign Property, Art. 3, Comment 9(a), 7 I.L.M. 117, 127 (1968); Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, *in* Garcia-Amador, Sohn and Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 133, 203 (1974).

[54] *See, e.g., United States* v. *564.54 Acres of Land,* 441 U.S. 506 (1979); *Almoto Farmers Elevator & Warehouse Co.* v. *United States,* 409 U.S. 470 (1973); *United States* v. *Virginia Electric & Power Co.,* 365 U.S. 624 (1961); *United States* v. *Miller,* 317 U.S. 369 (1943); *Olson* v *United States,* 292 U.S. 246 (1934).

[55] Modern economics universally recognizes that the value of property is determined by its capacity to generate future income. *See, e.g.,* J. Williams, The Theory of Investment Value 1 (1938) ("[I]n the end all prices depend on someone's estimate of future income.") I. Fisher, The Theory of Interest 12 (1954 ed.) ("The value of any property . . . is its value as a source of income. . . ."); E. Solomon & J. Pringle, An Introduction to Financial Management 259 (1980 ed.) ("[T]he age-old concept that the value of an asset depends not on its cost or its past usefulness but on its future usefulness . . . underlies the modern theory of value.") *See also* S. Pratt, Valuing a Business Enterprise, 28-29 (1981).

[56] *See, e.g., Sapphire International Petroleums* v. *National Iranian Oil Co.,* 35 I.L.R. 136 (1963); *Chorzow Factory Case,* (1928) P.C.I.J. Ser. A, No. 17; *Delagoa Bay and East African Railway Company Case* (Great Britain & U.S. v. Portugal), 3 Whiteman, Damages in International Law 1694-1703 (1943); *Shufeldt Case* (U.S. v. Guatemala), 2 R. Int'l Arb. Awards, 1080 (1929); *Lena Goldfields Ltd* (1930) (unpublished opinion), 36 Cornell L. Q. 42 (1950); *Norwegian Shipowners' Claim* (Norway v. United States), 1. R. Int'l Arb. Awards 308 (1922); *Palestine Railway Case, discussed in* J. Wetter and S. O. Schwebel, "Some Little-Known Cases on Concessions" 40 Brit. Y. B. Int'l L. 183, 222-231 (1964), *May* v. *Guatemala,* 3 M. Whiteman, Damages in International Law 1704-1710 (1964) ; *Lighthouse Arbitration, (France* v. *Greece),* 23 I.L.R. 299 (Perm. Ct. Arb. 19560; *Cape Horn Pigeon Case* (U.S. v. Russia), 9 R. Int'l Arb. Awards 63 (1902); *Aminoil* Arbitration, XXI Int'l Leg. Mat. 976, 1033 (1982); *TOPCO/CALASIATIC* Arbitration, 53 I.L.R.: (1977); R. Lillich, International Claims: Postwar British Practice 114 (1967). *See also* cases cited in V Hackworth, Digest of International Law 728-731 (1943).

[57] *See* Address of Richard J. Smith, Director of the Office of Investment Affairs, Dept. of State, at Vanderbilt University, April 9, 1976, *excerpted in* 1978 Digest of United States Practice in International Law 444.

[58] As noted above, in the case of an operating enterprise, fair market value is equivalent to the "going concern" value of the enterprise. *See* sources cited at notes 59 and 60, *infra.* In some instances, a market for a particular enterprise may not exist and, therefore, the "fair market value" of the property must be determined through indirect means. One method for determining indirectly the fair market value of a going concern is the discounted cash flow method, under which the total amount of future net income from an enterprise is discounted by the time value of money and the degree of risk associated with the future income to derive the present value of the asset's future income stream. Another method is to value the enterprise with reference to other comparable going concerns which have similar anticipated cash flows and which recently have been ascribed with a fair market value. *See, e.g., City of Thibodaux* v. *Louisiana Power & Light Co.,* 373 F.2d 870 (5th Cir. 1967), *cert. denied,* 389 U.S. 975 (1967); *United States* v. *Eden Memorial Park Association,* 350 F.2d 933 (9th Cir. 1965); *Bailey* v. *United States* 325 F.2d 571 (1st Cir. 1963); *Fairfield Gardens, Inc.* v. *United States,* 306 f.2d 167 (9th Cir. 1962); *United States* v. *Leavell & Ponder, Inc.,* 286 F.2d 398 (5th Cir. 1961), *cert. denied,* 366 U.S. 944 (1961); *Cal-Bay Corp.* v. *United States,* 169 F.2d 15 (9th Cir. 1948), *cert. denied,* 335 U.S. 859 (19480); *United States,* v. *Certain Interests in Property,* 205 F. Supp. 745 (D. Mont. 1962).

[59] *See* McCosker, "Book Values in Nationalization Settlements," II Lillich (ed.) The Valuation of Nationalized Property in International Law 35-51 (1973) (Book value generally understates value of an enterprise); Dept. of State Note to the Government of the Libyan Arab Republic, dated September 14, 1973, Dept. of State File No D730067-0256, *excerpted in* 1975 Digest of United States Practice in International Law 489-490 ("net book value" formula for compensation proposed by Libya did not satisfy requirements of prompt, adequate and effective compensation); Address of Richard J. Smith, Director of Office of Investment Affairs, Department of State, at Vanderbilt University, April 9, 1976, *excerpted in* 1976 Digest of United States Practice in International Law 444 (Replacement cost generally is less acceptable than "going concern" value, and book value is the least acceptable method of valuation).

[60] For example, in the 1920's, the United States negotiated an FCN treaty with Estonia, 44 Stat. 2379 (1925), which required payment of "just compensation" for expropriated property. In the course of negotiations, the U.S. negotiators explained that just compensation required payment of the market value of property (plus interest from the date of expropriation until the date of settlement). These negotiations were described in a leading work on U.S. FCN Treaty practice, published one year prior to the negotiation of the Treaty of Amity. *See* R. Wilson, The International Law Standard in Treaties of the U.S. 98 (1953).

Similarly, the Legal Adviser to the Department of State wrote in 1962 that:

"The Department of State has traditionally defined fair compensation as adequate, prompt and effective payment . . . . In the case of an operating enterprise, adequate compensation is usually considered to be an amount representing the market value or "going concern" value of the enterprise, calculated as if the expropriation or other governmental act decreasing the value of the business had not occurred and was not threatened."

"Expropriation of American Investments Abroad," Memorandum by the Office of the Legal Adviser, Department of State, *excerpted in* 8 Whiteman, Digest of International Law 1143 (1967). *See also* Restatement (Second) of the Foreign Relations Law of the United States § 188, Comments a and b (1965); Department of State GIST, July 1978, *excerpted* in 1978 Digest of United States Practice in International Law 1226-27; Address of Richard J. Smith, Director of Office of Investment Affairs, Department of State, at Vanderbilt University, April 9, 1976, *excerpted in* 1976 Digest of United States Practice in International Law 444; State Department Press Release No. 630 (December 30, 1975), *excerpted in* 74 *Dept. of State Bulletin* No. 1910, at 138 (Feb. 2, 1976) ("foreign investors are entitled to the fair market value of their interests").

[61] This includes, of course, all of the events which constituted or resulted in the expropriation. It also includes the prospect of the expropriation which ultimately occurs, other expropriations by the Government, and the general conduct of the Government which makes such expropriations likely.

[62] *See Lighthouse Arbitration,* 23 I.L.R. 299, (1956); *Chorzow Factory,* [1928] P.C.I.J. Ser. A, No. 17, 1 Hudson, *World Court Reports* 646; *Norwegian Shipowner's Claims,* 1 R. Int'l Arb. Awards 308 (1922); *Mariposa Claim,* 7 Ann. Dig. 255 (1933); *Case concerning the Barcelona Traction, Light and Power Company Ltd.* (Belgium v. Spain), [1970] I.C.J. 3, 46 I.L.R. 1 (Separate Opinion of Judge Gros); Restatement (Second) of Foreign Relations Law of the United States, §188, Comment b (1965); OECD Draft Convention on the Protection of Foreign Property Art. 3, Comment 9(a), 7 Int'l Leg. Mat. 117, 127 (1968); Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, in Garcia-Amador, Sohn and Baxter. Recent Codification of the Law of State Responsibility for Injuries to Aliens 133, 203, 210, (1974); R. Lillich, "The Valuation of Nationalized Property by the Foreign Claims Settlement Commission," in The Valuation of Nationalized Property in International Law, 97 n.13 (1972); "Expropriation of American Investments Abroad," Department of State Memorandum, *excerpted in* 8 M. Whiteman, Digest of International Law 1143 (1967). *Cf. Banco Nacional de Cuba* v. *Chase Manhattan Bank,* 658 F. 2d 875 (2d Cir. 1981) (Value of good will at time of expropriation arbitrarily included in "book value" of company not part of fair market value.)

[63] See authorities cited at note 62, *supra.* For the relationship between those two provisions of Article IV(2), see note 50, *supra.*

[64] Thus, for example, three years before the Treaty of Amity was signed, the Legal Adviser of the Department of State described to Congress the meaning of virtually identical language in other FCN treaties:

"*Compensation* based on the value of the initial investment *would not meet the standard of the treaty* or of international law, *if it were less than the value at the time of taking.*

See Commercial Treaties, Hearings Before a Subcomm. of the Senate Comm. on Foreign Relations, 82nd Cong., 2d Sess. 12 (1952) (Statement of the Office of the Legal Adviser) (proposed Treaties of Friendship, Commerce and Navigation between the United States and Colombia, Israel, Ethiopia, Italy, Denmark and Greece). (Emphasis added.) The subject treaties required payment of "just compensation."

[65] See pages 7-10, *supra.*

[66] In his concurring opinion in *ITT Industries, Inc.* v. *The Islamic Republic of Iran,* Award No. 47-156-2, (May 26, 1983) (Iran-United States Claims Tribunal), Judge Aldrich observed, at page 12, that "[t]he Islamic Revolution in Iran was not a 'wrong' for which foreign investors are entitled to compensation under international law." Leaving aside the legal status of the revolution as a generalized whole, it is clear beyond doubt that certain specific actions taken during the revolution were "wrongs" for which international law provides a remedy. Such wrongs include the expropriation of property of the United States or its nationals without compensation and the failure of the government to provide U.S. nationals and their property with "the most constant protection and security.' As shown above, in valuing expropriated property, the Tribunal should disregard the effects of all unlawful acts attributable to the Government of Iran.

[67] The scope of this protection is to be interpreted in light of the overall purpose of the Treaty to establish friendship and commerce between the two nations and, in particular, to provide for the protection of foreign investment. The Treaty contains numerous provisions intended to foster a favorable climate for U.S. investment in Iran. See provisions cited at note 21, *supra. See also* Art. 1 of the Treaty ("There shall be firm and enduring peace and sincere freindship between the United States of America and Iran.") As one leading commentator on U.S. FCN treaties wrote in a much-cited article, published during the ratification of the Treaty of Amity,

"In a real sense, therefore, *the FCN treaty as a whole is an investment treaty;* not a mosaic which merely contains discrete investment segments. It regards and treats investment as a process . . . inextricably woven into the fabric of human affairs generally; and its premise is that *investment is inadequately dealt with unless set in the total 'climate' in which it is to exist.* A specialized 'investment agreement' based on a narrower premise would be to that extent unrealistic and inadequate."

* * * * *

"These treaties focus, in fundamental terms of enduring value over the long range, upon the line between policy favorable and policy unfavorable to foreign investment: namely, hospitality to and equality for the foreigner under the law, and respect for his person and property."

H. Walker, "Treaties for the Encouragement and Protection of Foreign Investment: Present United States Practice," 5 Am. J. Comp. L. 229, 246-247 (1956) (emphasis added). Thus, the promise made by Iran in the Treaty of Amity was not merely to protect property of U.S. nationals against violence, but to provide a favorable climate for U.S. investment, and it was in reliance upon this promise that U.S. nationals invested in Iran. *See* note 47, *supra* (admission by Iran that it executed the Treaty of Amity in order to attract foreign investment and technology to Iran). Iran's total abdication of this

responsibility in favor of an overt policy of virulent anti-Americanism was in itself a violation of the Treaty of Amity.

[68] Customary international law also imposed on Iran the duty to provide "the most constant protection and security" to U.S. nationals in Iran. *See Case Concerning Barcelona Light, Power and Traction Company, Ltd.*, [1970] I.C.J. 3, 46 I.L.R. 1; OECD Draft Convention on the Protection of Foreign Property, Article 1, Note 5, 7 Int'l Leg. Mat. 117, 120 (1968); Restatement (Second) of the Foreign Relations Law of the United States § 183 (1965); C. Eagleton, The Responsibility of States in International Law 87-92 (1928); Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, in Garcia-Amador, Sohn and Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 133, 234-240 (1974). Given its purpose of establishing enduring friendship and commerce between the parties, the Treaty of Amity must be regarded as providing a standard of protection broader than that of customary international law. *See* note 67, *supra*.

[69] Treaty of Amity, Art. IV(1); *See also* Universal Declaration of Human Rights, Art. 17(2), G.A. Res. 217A, U.N. Doc. A/810, at 71 (1948); OECD Draft Convention on the Protection of Foreign Property, Article 1, Note 7, 7 Int'l Leg. Mat. 117, 121-122 (1968); F. V. Garcia-Amador, "Draft Articles on the Responsibility of the State for Injuries Caused in its Territory to the Person or Property of Aliens", in Garcia-Amador, Sohn and Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 42-43 (1974); Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, in *Id.*, at 164-176.

[70] Treaty of Amity, Art. IV(1); *See also* Universal Declaration of Human Rights, Arts. 2, 7, G.A. Res. 217A, U.N. Doc. A/810, at 71 (1948); OECD Draft Convention on the Protection of Foreign Property, Article 1, Note 7, 7 Int'l Leg. Mat. 117, 122 (1968); Restatement (Second) of the Foreign Relations Law of the United States § 166 (1965).

[71] *George S. Pinson (France)* v. *United Mexican States*, 5. R. Int'l. Arb. Awards 327 (1928); *Bolivar Ry Company Case* (Great Britain v. Venezuela), 9 R. Int'l. Arb. Awards 445 (1903); *Dix Case* (United States v. Venezuela), 9 R. Int'l. Arb. Awards 119 (1902); 8 M. Whiteman, Digest of International Law 819-824 (1967); V G. Hackworth, Digest of International Law 681-682 (1943); Sohn and Baxter, "Convention on the International Responsibility of States for Injuries to Aliens," Final Draft, in Garcia-Amador, Sohn and Baxter, Recent Codification of the Law of State Responsibility for Injuries to Aliens 133, 257-260 (1974); 2 D.P. O'Connell, International Law 968 (2nd ed. 1970); Restatement (Second) of Foreign Relations Law of the United States §§ 109, 110 (1965); A.H. Feller, The Mexican Claims Commissions 156-7, 163 (1935).

[72] The Claims Settlement Declaration is one of the Declarations of the Democratic and Popular Republic of Algeria pursuant to which the Iran-United States Claims Tribunal was established. *See* note 1, *supra*. Article V of that Declaration provides that "[t]he Tribunal shall decide all cases on the basis of respect for law . . . ."

SENATOR TOWER'S REPORT ON HIS TRIP TO GRENADA AND BARBADOS

Mr. THURMOND. Mr. President, I would like to call to the attention of the Senate an outstanding report written by the distinguished chairman of the Armed Services Committee, JOHN TOWER of Texas, following his recent trip to Grenada and Barbados.

Senator TOWER found the Grenadians supported the operation overwhelmingly. This finding is backed by the public services held in Grenada this past weekend to thank the United States for liberating Grenada.

Gov. Gen. Paul Scoon asked Senator TOWER to convey the following message to the Congress:

Tell them that the people of Grenada welcome the Americans and the rescue effort. Those who criticize the operation don't understand the situation here. You would have to live and work here before you can really understand how important it is for us to have the Americans here.

Mr. President, Senator TOWER is to be commended for taking the time to view the situation in Grenada first hand and prepare this report for the Congress. It is an excellent synopsis of events there, and I commend it to the attention of all Senators. I ask unanimous consent that Senator TOWER's trip report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR THE SENATE COMMITTEE ON ARMED SERVICES

From: Senator John Tower.
Subject: Grenada.

On Saturday, November 5 and Sunday, November 6, I visited Grenada and Barbados on a fact-finding trip concerning the incursion by the United States and six Caribbean nations to restore order in Grenada.

In Grenada, I met with Vice Admiral Joseph Metcalf III, Commander, Second Fleet and the overall commander of the operation; Major General Edward L. Trobaugh, Commanding General, 82nd Airborne Divison and Commander, U.S. Forces Grenada; Sir Paul Scoon, Governor General of Grenada; and Ambassador Charles A. Gillespie, Jr., the highest ranking U.S. diplomat on Grenada. I also had the opportunity to visit with citizens of Grenada and U.S. troops in the field.

In Barbados, I had a lengthy meeting with Prime Minister Tom Adams and U.S. Ambassador Milan D. Bish. In addition, I was able to meet with the Prime Ministers of three nations which are members of the Oranization of Eastern Caribbean States as well as the Deputy Prime Minister of a fourth member state:

Prime Minister R. Milton Cato, St. Vincent and the Grenadines.

Prime Minister Eugenia Charles, Commonwealth of Dominica.

Prime Minister John Compton, St. Lucia.

Deputy Prime Minister Lester Bird, Antigua Barbuda.

This memorandum presents the results of these meetings and visits. I hope that Committee Members will find this information useful in assessing the wisdom of past and projected U.S. actions with respect to Grenada.

1. JUSTIFICATION FOR THE INCURSION BY THE UNITED STATES AND SIX CARIBBEAN NATIONS

A. Views of Grenadians

During my visit, I found overwhelming support from Grenadians for the incursion. Sir Paul Scoon and others spoke of the military action as a "rescue operation" and a "liberation, not an invasion". Governor General Scoon asked me to carry the following message to my congressional colleagues:

"Tell them that the people of Grenada welcome the Americans and the rescue effort. Those who criticize this operation don't understand the situation here. You would have to live and work here before you can really understand how important it is for us to have the Americans here."

Sir Paul Scoon's concerns about the situation in Grenada and the need for immediate action were expressed in his letter to Prime Minister Tom Adams of Barbados on October 24, 1983, the day before the intervention. The text of the body of the letter is as follows:

"You are aware that there is a vacuum of authority in Grenada following the killing of the prime minister and the subsequent serious violations of human rights and bloodshed. I am, therefore, seriously concerned over the lack of internal security in Grenada. Consequently I am requesting your help to assist me in stabilizing this grave and dangerous situation. It is my desire that a peace-keeping force should be established in Grenada to facilitate a rapid return to peace and tranquillity and also a return to democratic rule. In this connection I am also seeking assistance from the United States, from Jamaica, and from the Organization of Eastern Caribbean States through its current chairman, the Hon. Eugenia Charles, in the spirit of the treaty establishing that organization to which my country is a signatory."

These same concerns were apparently held by a vast majority of Grenadians. Every Grenadian with whom I came in contact expressed his or her firm support for the multinational effort; but more importantly, a CBS survey showed that, among Grenadians polled, 91 percent supported the action. Sir Paul Scoon indicated that he had been asked by Grenadians to authorize a mass demonstration to thank the United States. This demonstration was not permitted, however, since a state of emergency was still in effect. Another indication of popular sentiment was that "God Bless America" had been painted on numerous walls throughout St. Georges.

This attitude was also evident in the way U.S. troops were welcomed. I have never seen U.S. forces so well received. The local population smiled and waved at U.S. troops and other Americans. They also provided considerable assistance in identifying members of the People's Revolutionary Army and Cubans as well as locating arms caches.

The influence that the Cubans had in Grenada was strongly resented. Grenadians, especially the Governor General, were anxious to see the process of deporting all Cubans completed as quickly as possible.

B. Extent of Communist penetration

(1) Communist Presence: There were many Communists on Grenada at the time of the intervention. I was told that there were more than 750 Cubans as well as 49 Soviets, 17 Libyans, 15 North Koreans, 12 East Germans, and 3 Bulgarians. Since the total population of Grenada is only about 110,000, this number represents a significant Communist presence.

(2) Weapons and Ammunition: Although I had been thoroughly briefed on the extent of the Cuban military presence in Grenada, I was nevertheless surprised by the overwhelming quantities of hardware located at the Frequente storge area. This site is about one and one-half miles from the Point Salines Airport and apparently served as the primary storge area for the Cuban arsenal.

At Frequente, I inspected the contents of four warehouses. The warehouses were located in a compound surrounded by a barbed wire fence. Inside the compound and adjacent to one warehouse was a collection of 57mm recoilless rifles, twin mounted ZU-23mm anti-aircraft guns, and 12.7mm anti-aircraft guns. Altogether there were about 40 weapons in this group. They appeared to be serviceable.

The first warehouse contained an assortment of weapons remarkable for both their variety and number. There were crates of B-40 rocket launchers, 82mm mortars, AK-47 assault rifles, 7.62mm machine guns, and a collection of carbines and pistols which, alone, would have exceeded the legitimate defense requirements for the entire island. The crates were stacked 10-12 feet high, the majority of which contained new weapons still coated with factory preservative. It was estimated that 10,243 small caliber (7.62mm) weapons were captured, including 1,626 AK-47 assault rifles and 4,074 SKS carbines.

The second warehouse contained ammunition. Approximately 5,500,000 rounds of 7.62mm ammunition was captured along with a considerable assortment of B-40 antitank rounds, 23mm and 12.7mm antiaircraft rounds, 82mm mortar rounds, grenades, and several crates of plastic explosives. The great majority of this ammunition was still in crates which, like the weapons, were stacked 10-12 feet high and substantially filled the interior of the warehouse. Several of these crates were labeled "PACK RICE".

To put this quantity of ammunition and weapons in perspective, the Commanding General of the 82nd Airborne reported that he had brought only 275,000 rounds of small arms ammunition to support two brigades (or about 4,500 solidiers) compared with 5,500,000 rounds found in the Frequente storage area. The number of mortars captured exceeded the number authorized for the entire 82nd Airborne Division.

The third warehouse contained crates of military uniforms, insignia, belts, and propaganda material. It was estimated that between 15,000-20,000 uniforms were seized—an apparently generous quantity for a nation with fewer than 2,000 men in the active military.

The fourth warehouse contained a miscellanous collection of spare parts and other nonweapons materiel.

At a separate maintenance facility at Frequente, I observed about 20 two-and-a-half ton trucks in various stages of repair. There were also mobile hospital and kitchen units, and one disabled BTR-60. (A BTR-60 is a Soviet manufactured amphibious armored personnel carrier.) On my tour through St. Georges and Point Salines, I observed four additional disabled BTR-60's. I passed several other serviceable Soviet military vehicles being used by U.S. forces on the island.

In addition to the weapons and ammunition seized at Frequente, numerous smaller caches were found throughout the island. Many of these were pointed out by Grenadian citizens, without whose help they might have gone undiscovered.

(3) Point Salines Airport: The entire airport facility at Point Salines was in various stages of construction. The runway appeared to be near completion, and I was advised that the field was scheduled to be opened in March 1984. At a length of 9,000 feet, the field will accommodate fighter aircraft and long-range bombers as well as the largest commercial aircraft. A survey of the planned POL storage suggests preparation for more than just commercial operations. At the airfield, I saw a portion of what was reported to be a 1,500,000-gallon fuel storage capacity. To put this in perspective, the fuel capacity at Freeport in the Bahamas is just 240,000 gallons.

(4) Communist Propaganda: Communist propaganda on the island was widespread. I found several Communist propaganda booklets, published in the Soviet Union, strewn about the battle-damaged administration building at the Richmond Hill Prison. The same was true at Fort Frederick where, in addition to the published Communist literature, I found several handwritten pages containing such notions as, "the Revolution, with its immense content of humanity, equality, fraternity, morality and beauty, is the greatest of man's feats."

At the Frequente storage area, I found particularly disturbing the contents of several cartons of workbooks intended for young Grenadian students. These workbooks were language primers containing repetitive writing exercises aimed at subtly shaping the minds of young Grenadians. The following are excerpts from these workbooks:

Lesson 6:

"Milk is good for everyone."

"The Revolution brings more free milk."

"This means better health for mothers and babies."

Lesson 7:

"The Revolution brings more doctors for our people."

"More doctors and dentists bring better health care."

"The Revolution brings better health care for our people."

Lesson 14:

"The Revolution is the people."

"The people are the Revolution."

"The Revolution has room for all of us."

"The Revolution is for all of us."

During our meeting, Governor General Scoon confirmed the efforts of the revolutionaries to indoctrinate the Grenadian school children. He said that, shortly after the overthrow of Grenada's constitutional government, the island's most capable teachers were removed and replaced with Cuban and Soviet teachers. Supporting the assertion that this indoctrination effort was one of the early initiatives of the revolutionaries is the fact that the workbook excerpted above was published by the Grenadian Ministry of Education in 1980, just 1 year the revolutionary coup.

C. Views of regional states

In addition to Grenada, the Organization of Eastern Caribbean States has six other member states: Antigua, Dominica, Montserrat, St. Kitts/Nevis, St. Lucia, and St. Vincent and the Grenadines. These six states were joined by Barbados and Jamaica in requesting U.S. assistance in the Grenada crisis.

In my discussions with the leaders of many of these nations, they expressed alarm over the course of events in Grenada during the last 4 years. The close proximity of these island nations caused them to fear a domino effect. For example, only one-half mile separates the closest of the Grenadines islands belonging to Grenada and to St. Vincent. On one of the St. Vincent islands, there was a recent uprising which involved members of the People's Revolutionary Army of Grenada.

Traditionally, these islands have had substantial economic ties and populations that flowed back and forth. Leaders of these nations considered their interdependence to be at least as great as that among the nations of Western Europe. They wondered how European nations would react to a situation in a West European country analoguous to the crisis in Grenada.

The following quote from Jamaican Prime Minister Edward Seaga's speech before the Jamaican Parliament on October 25, 1983 accurately reflects the views of Caribbean leaders with whom I met:

"It may be felt that these matters do not concern us; but most certainly they do. If a whole government can be wiped out overnight either by political or military extremists and the governments of the Caribbean remain silent and passive, then no government elected by the people can be safe. . . . If we ignore the occurrence of brutal military takeovers or political overthrows of governments, we would immediately give heart to every subversive group within the region to engineer disorder, and instability as a means of overthrow. No democratic system of government would be safe."

Not only did regional leaders believe that immediate action was necessary, but in addition they saw no prospects for a negotiated settlement. Moreover, they felt that economic sanctions would not work unless the whole world joined in the effort. Hence, they concluded that a multinational intervention was the only option given the circumstances.

These leaders did not view the multinational intervention as a violation of Grenadian sovereignty. They noted that a double standard on sovereignty was being applied by critics of the intervention. In their view, Grenadian sovereignty had been violated in the 1979 coup and by the subsequent Communist domination which was not supported by the people of Grenada. An editorial in the Barbados Advocate on October 26 endorsed this view:

"If we are really serious about the concept of sovereignty what has been done has given the Grenadians a real chance to recapture their true sovereignty as a people."

There was also discussion of the implications of a U.S. rejection of the request for help. The view from the Caribbean was that all subversive groups in the region and elsewhere would be encouraged to increase their efforts to destabilize and overthrow democratic governments by violent means. Eastern Caribbean nations, which have a special relationship with the United Kingdom, were extremely disappointed by the British refusal to provide the assistance that they requested and by the adverse reaction of other Commonwealth countries to the action taken. British relations with the entire region have suffered significantly as a result. In particular, Eastern Caribbean nations are extremely cool to the notion of the use of peacekeeping forces from the United Kingdom as well as from other Commonwealth nations that criticized the intervention.

D. Safety of Americans in Grenada

My visit to Grenada helped me to more clearly understand the substantial threat to American citizens which existed during the period leading up to the intervention. There was an absolute vacuum of authority bordering on chaos. The 24-hour "shoot-on-sight" curfew was indicative of the lawlessness and potential for additional atrocities. If the United States and others had not acted in a timely manner, we could have faced a difficult hostage situation.

2. GRENADA AND U.S. POLICY IN THE REGION IN THE AFTERMATH OF THE INCURSION

A. U.S. security interests

The United States has fundamental security interests at stake in the Caribbean Basin. Caribbean shipping lanes are vital to U.S. security and economic prosperity. Nearly half of U.S. trade, two thirds of our imported oil, a well as many strategic minerals, pass through the Panama Canal or the Gulf of Mexico and the Caribbean. In the

event of war, 50 percent of U.S. mobilization requirements for NATO would depart Gulf ports. A significant hostile military presence in the West Indies, allied with Cuba, would put those sealanes in jeopardy. Therefore, the United States has a great interest in the peace and stability of the Caribbean region.

B. Rebuilding democratic institutions

In this regard, it is important that peace and stability be returned to Grenada as soon as possible. In fact, St. Georges, the capital of Grenada, appears to be returning to normal. Most shops, restaurants, and post offices are open for business. On Sunday, people attended regular church services.

Now that civilian life has begun to return to normal, Grenada must turn her attention to rebuilding democratic institutions. Sir Paul Scoon indicated to me that he would announce by Wednesday, November 9 the formation of an interim government, the first step in the restoration of democratic institutions to Grenada. This would be followed by elections, which he said would be held in the next 6–12 months. The Governor General has decided that all parties will be eligible to take part in the elections, including the New Jewel Movement (NJM), the political party of former Prime Minister Bishop. It is uncertain how much support NJM retains, but most of the officials with whom I spoke did not believe that NJM would fare well in the elections.

A key factor in ensuring peace and stability in Grenada is to revive her economy. Sir Paul Scoon's first priority is to rebuild the infrastructure: paving badly neglected roads and providing water, electricity, and housing to his people. Another important objective is the completion of Point Salines Airport, a goal which all Grenadian governments have shared. The replacement of Cuban doctors and teachers is also important. In all these areas, U.S. assistance, both technical and financial, will be needed. Sir Paul Scoon also spoke of the possible need for the U.S. Peace Corps to return to Grenada.

C. Continued presence of U.S. military personnel

A key issue during the period of transition to democratic processes will be the required length of stay of U.S. military personnel in Grenada. Although the level of hostilities in Grenada has abated to sporadic sniper fire, there continues to be an immediate need for U.S. combat forces. U.S. officials believe that there are still Cubans on the island and U.S. forces are continuing to search for Cubans, members of the People's Revolutionary Army, and weapons caches.

Both the Governor General of Grenada and regional leaders were very concerned that the United States would withdraw prematurely from Grenada. The Governor General indicated that the next 3 months will be key in deterring threats to stability in Grenada; he believes that the most likely threat to Grenadian security will be insurgents and arms coming from outside of Grenada.

Leaders of the other regional states believe that a U.S. military presence in the form of support units is required at least until the elections. Specifically, there will be a need for the United States to provide certain military support capabilities that neither the Grenadians nor countries of the Caribbean Peacekeeping Force (CPF) can provide. Vertical lift, communications, engineering and logistical support, and training of the CPF are areas of prime need. One of the leaders, however, argued that the United States should maintain one rifle company on Grenada until the elections. He argued that, just as the Cubans were a deterrent in Grenada, U.S. combat forces would act as a deterrent to any mischief-making during this key period.

There was also general agreement among those officials with whom I spoke that there may be a need for some U.S. military presence and support in Grenada even after the elections.

Given these apparent requirements, one issue confronting the Congress will be the applicability of the War Powers Act. Both the House of Representatives and the Senate have passed resolutions indicating that U.S. forces were introduced into hostilities in Grenada under Section 4(a)(1) of the Act. In my view, Section 4(a)(1) of the War Powers Act would no longer apply to the situation in Grenada if U.S. support personnel replace combat forces and if there is an absence of hostilities.

D. Economic assistance

A critical element in any long-term policy for Grenada and the Eastern Caribbean is the need for economic assistance. One Caribbean leader, pointing out the need for more U.S. assistance, noted that the estimated $80 million provided for the new airfield at Point Salines was $20 million more than the total U.S. economic assistance to all Caribbean countries. In this regard, all foreign officials with whom I spoke strongly praised and put much hope in President Reagan's Caribbean Basin Initiative.

As strong as the case is for increased assistance to Grenada, it is essential that the United States not overlook other Caribbean states. Leaders of these countries made the point that U.S. economic assistance to Grenada must be balanced with the needs of the whole area. In other words, they are concerned that, since U.S. attention is now focused on Grenada, the United States may neglect other Caribbean nations. They insist that ignoring their countries' underdevelopment would be a serious mistake, and, therefore, what is needed is a regionally integrated U.S. assistance program.

3. CONDUCT OF THE MILITARY OPERATION

A major purpose of my trip was to gain firsthand knowledge of the military operation that enabled American and multinational units to insert intervention forces in order to secure the island. I received briefings from most of the operational commanders and talked with U.S. troops on the ground at various locations. In summary, the entire military incursion went quite well, considering the joint service nature of the operation and the very limited amount of time available for planning. The overall success of the military operation reflects a well-trained and well-led military establishment.

A. Paramount concerns during the operation

The overall Task Force Commander, Admiral Metcalf, emphasized that he had two paramount concerns in planning and directing the action. First and foremost was the concern for American lives. Every operation was conducted with an extra margin of caution to accomplish the objective without unnecessarily exposing U.S. forces to potential enemy fire. The second concern dealt with the safety of American civilians in Grenada, Grenadians themselves, and with the protection of Grenadian property.

The success of the mission in rescuing Americans has been well documented in the press. There was similar success in protecting Grenadian lives with the only significant incident occurring at the mental hospital. However, one need only visit Fort Frederick, which was the well defended Cuban command and control center from which the Cubans fired at U.S. forces operating throughout St. Georges, and see its proximity to the hospital (less then 100 meters away) to understand how the hospital might have been targeted. In fact, one is struck in visiting St. Georges by the scarcity of damage resulting from the engagement. U.S. forces obviously used great discretion and engaged only those targets from which they were receiving hostile fire.

B. Planning and execution

The speed with which the entire operation was planned and executed was remarkable. For example, the 82nd Airborne Division had one battalion on the ground in Grenada less than 20 hours after being alerted, and had six battalions on the ground in less than 72 hours. Planning times were likewise greatly compressed. The ability to execute so rapidly is a solid endorsement of both military training and military doctrine.

Unlike some recent military operations (e.g., the Iranian rescue effort), this operation utilized the unified command structure. It was indeed a joint operation with significant elements of all Services participating. Marine Corps and Army ground forces received close air support from Marine Cobra helicopters, Navy attack aircraft, and Air Force AC–130 gunships. Air Force transports delivered the initial Army fighting forces and maintained the necessary logistical followup. The joint fighting team was clearly a more effective military force than the sum of its individual Service components.

C. Quality of U.S. military personnel

Without exception, local officials praised the manner in which American forces were conducting themselves. Prime Minister Adams emphasized that there had not been a single incident involving U.S. personnel, despite the fact that several thousand U.S. military personnel were in Barbados or transited through Barbados.

One of the highlights of the visit was the opportunity to have lunch with enlisted troops of the 82nd Airborne Division in the field where they were conducting search operations. As we sat around a jeep on a jungle hillside, eating field rations, we were joined by several local Grenadians who brought with them coconuts and fruit which they gave to the soldiers. The soldiers, young Americans most from 18–22 years of age, asked very intelligent questions. They wanted to know about American reaction, about world reaction, and about the future of Grenada. They knew why they were there, and they were proud to be there. Many voiced the opinion that they did not want to be pulled out too soon and have their efforts wasted if the Cubans should return. I was extremely impressed with the quality of U.S. military personnel who participated in the intervention in Grenada.

D. Lessons to be learned

Despite the overall success of the military operation, there are lessons to be learned. I intend for our Committee to review this military operation in some depth. This will not be a public review nor an attempt to find fault; to the contrary, we must learn what we can and use these lessons to im-

prove both the doctrine and the hardware that will enable our military to better carry out future missions.

HEROIN ADDICTION AND DEATH INCREASING RAPIDLY IN EUROPE

Mrs. HAWKINS. Mr. President, like the United States, Europe is now experiencing an epidemic of heroin addiction and death due to cheap, plentiful Asian heroin.

In Ireland, according to the police in Dublin, there are an estimated 6,000 heroin users today in a country where hard drugs were difficult to obtain before 1979.

In the Netherlands, where drug trafficking had been confined for some time to drifters and maritime workers in international centers like Amsterdam and Rotterdam, officials say hard drugs are finding their way to middle class youth in outlying areas. Similarly, Swedish authorities report that heroin use is no longer the problem of just a few cities.

In Britain, heroin is making addicts of unemployed young men and teenagers in the depressed industrial cities of England and Scotland.

The speed with which the supply of cheap heroin has become available in Europe is causing alarm because of its appeal to youths in countries where unemployment has created boredom and anxiety.

Lord Lane, Lord Chief Justice in Great Britain, said in a recent lecture at Cambridge University that it was possible that the number of heroin addicts in the country could be five times the figure of 4,700 people officially registered with the Government as receiving treatment. This latter figure itself has grown at a 30-percent annual rate over the past 2 years, according to the Home Office.

The British Government's own figures show that there are now about 40,000 users of opiates in the country.

Noting that most of the heroin seized by the authorities here originated in Pakistan, Lord Lane said that cooperation by that country was the only way to interrupt the flow.

"I wait, so far in vain, for any indication that steps are being taken at any level to stop this flood of death at its source," he said in his Cambridge speech.

Violent drug-related crime has surged due to the heroin users need for cash to pay for the illegal narcotic. Nearly one-third of all burglars arrested recently in the suburbs of Edinburgh, Scotland, were regular drug users, according to a survey.

In Dublin, a lone drug treatment center cared for five heroin addicts a month 4 years ago. Now it handles 250 a month, and the Irish capital is experiencing a surge in juvenile crime.

A recent Dublin survey said 12 percent of children between 15 and 19 years old experimented with heroin in some form this year. In the most economically depressed section of north Dublin, it was believed that perhaps 10 percent of those in the 15 to 24 age group were already addicts.

Mr. President, I ask unanimous consent that an aticle in the Sunday, November 13, 1983, New York Times by Jon Hoadheimer entitled, "Heroin Addiction said to be increasing in Europe," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 13, 1983]

HEROIN ADDICTION SAID TO BE INCREASING IN EUROPE

(By Jon Nordheimer)

LONDON, Nov. 12—The number of people addicted to heroin is increasing rapidly in Western Europe, and officials say the problem is spreading into areas where it had been unknown.

In Ireland, according to the police in Dublin, there are an estimated 6,000 heroin users today in a country where hard drugs were difficult to obtain before 1979.

In the Netherlands, where drug trafficking had been confined for some time to drifters and maritime workers in international centers like Amsterdam and Rotterdam, officials say hard drugs are finding their way to middle class youth in outlying areas. Similarly, Swedish authorities report that heroin use is no longer the problem of just a few cities.

In Britain, heroin is making addicts of unemployed young men and teenagers in the depressed industrial cities of England and Scotland.

The speed with which the supply of cheap heroin has become available in Europe is causing alarm because of its appeal to youths in countries where unemployment has created boredom and anxiety.

"Children of ordinary working class people, the salt of the earth who have never heard of heroin before, have habits needing from £50 to £200 a week to feed," a man working with addicted youths in Edinburgh said in a television interview last week.

Lord Lane, Lord Chief Justice in Great Britain, said in a recent lecture at Cambridge University that it was possible that the number of heroin addicts in the country could be five times the figure of 4,700 people officially registered with the Government as receiving treatment. This latter figure itself has grown at a 30 percent annual rate over the past two years, according to the Home Office

The British Government's own figures show that there are now about 40,000 users of opiates in the country.

Noting that most of the heroin seized by the authorities here originated in Pakistan, Lord Lane said that cooperation by this country was the only way to interrupt the flow.

"I wait, so far in vain, for any indication that steps are being taken at any level to stop this flood of death at its source," he said in his Cambridge speech.

Pakistani officials have pledged cooperation and claim that heroin bound for Europe that is shipped from Pakistan actually is grown in Afghanistan. The Pakistan Army has managed to cut some of the supplies in recent months but the border with Afghanistan is 1,400 miles long and difficult to control, according to Pakistani officials here.

Officials say the startling aspect of this new wave of heroin was the speed with which it was introduced in areas where addiction was practically unknown and the relative cheapness of its street price.

The street price of heroin in London has fallen in the last year to about $60 a gram, according to Sir Kenneth Newman, Commissioner of London's Metropolitan Police. Because it is in plentiful supply, it is not only cheaper but also more pure than in the past, Sir Kenneth said. The result is that addiction is much more rapid, producing costlier habits.

This process is contributing to a surge in crime as heroin users steal to pay for the drug. Nearly one-third of all burglars arrested recently in the suburbs of Edinburgh were regular drug users, according to a survey.

In Dublin, a lone drug treatment center cared for five heroin addicts a month four years ago. Now it handles 250 a month, and the Irish capital is combating a surge in juvenile crime.

A recent Dublin survey said 12 percent of children between 15 and 19 years old experimented with heroin in some form this year. In the most economically depressed section of North Dublin, it was believed that perhaps 10 percent of those in the 15–24 age group were already addicts.

RECESS UNTIL 1 P.M.

Mr. GARN. Mr. President, it has been agreed upon by both the majority and the minority that the Senate stand in recess until the hour of 1 p.m. today. I ask unanimous consent, Mr. President, that the Senate now stand in recess until 1 p.m.

There being no objection, the Senate, at 12:34 p.m., recessed until 1:03 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ARMSTRONG).

CIVIL RIGHTS COMMISSION ACT OF 1983

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

The Senate resumed consideration of the bill.

Mr. THURMOND. Mr. President, we are ready to proceed with this bill. If any Senators have amendments to this Civil Rights Commission bill, we would like them to come forward and present the amendments at this time. Otherwise, we expect to go forward with the bill.

AMENDMENT NO. 2606

(Purpose: To make a technical correction)

Mr. BIDEN. Mr. President, on last Thursday or Friday morning—I cannot remember the time, but it ran into Friday morning; I guess it was the legislative day of Thursday—we reached

and voted on a compromise relative to the makeup of the Civil Rights Commission. Unfortunately, through an oversight, a page of the amendment was not printed.

I have been requested by staff that at some appropriate moment—and since we have nothing else to do right now, this might be the appropriate time—the amendment be offered for printing. I send to the desk a technical amendment. The bottom line is that a page was left out of the amendment that had been sent up and voted on and discussed, and the amendment was not printed in its entirety.

Mr. THURMOND. Mr. President, that was just an oversight, I am sure, on the part of an attaché. We certainly have no objection to the bill being amended in that respect.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes an amendment numbered 2606.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the bill as amended after subsection (b) of section 3 insert the following:

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear at a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2606) was agreed to.

Mr. BIDEN. Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the Senator from Iowa wishes to be recognized.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 2607

Mr. JEPSEN. Mr. President, I ask unanimous consent that I be able to offer an amendment without yielding my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an amendment numbered 2607.

Mr. JEPSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

"SEC. 5. No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.".

Mr. JEPSEN. Mr. President, I ask unanimous consent that I may ask for the yeas and nays on my amendment without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Does the Senator seek the yeas and nays?

Mr. JEPSEN. I will be asking that. I ask the Chair: Must I do that now, since I have unanimous consent to do it?

The PRESIDING OFFICER. If it is the Senator's desire that he reserve that right throughout the duration of his amendment, he has so reserved the right.

Mr. JEPSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator has the floor.

AMENDMENT NO. 2608

Mr. JEPSEN. Mr. President, I send to the desk a substitute amendment, and I ask unanimous consent that I may do so and still be permitted to keep my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an amendment numbered 2608, as a substitute to amendment numbered 2607.

Mr. JEPSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by amdt. 2607, insert the following:

"SEC. 5. The Congress finds that—

"(a) it is the policy of the Government of the United States to protect innocent life, both before and after birth, and that the Government of the United States affirms that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life, as embodied in our Declaration of Independence;

"(b) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

"(c) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth:

"(d) at the Nurenberg International Military Tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity;

"(e) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

"(f) scientific evidence demonstrates the life of each human being begins at conception;

"(g) the Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth;

"(h) the Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection

and due process provisions of the Constitution of the United States; and

"(i) a growing tolerance of infanticide in America has followed the "quality of life" ethic as was established by the United States Court in the Roe against Wade decision, and as recently evidenced by the starvation death of an innocent handicapped newborn child in Bloomington, Indiana.

"SEC. 6. No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 7. No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 8. No agency of the United States shall promote, encourage, counsel, refer, pay for, including travel expenses, or assist in the performance of abortions abroad as a matter of our foreign policy, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 9. The United States shall not enter into any contract for insurance that provides for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

"SEC. 10. No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

"SEC. 11. No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.

"SEC. 12. In light of the provisions of this title, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enforces or enacts legislation which prohibits or restricts abortions or infanticide and such legislation is invalidated by interlocutory or final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorney's fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this title.

"SEC. 13. If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected by such determination.".

Mr. JEPSEN. Mr. President, the most fundamental civil right is the right to life. Without it, no other right is secure.

That is so obvious, it should not need to be repeated here. But it does. It is both ironic and tragic that, at a time when our country is more than ever protective of civil rights, we are cruelly disregarding the right to life of those who cannot speak for themselves, cannot defend themselves, cannot litigate in their own behalf, cannot protest or complain.

Mr. President, at this time, again without losing my right to the floor, I ask unanimous consent to have the yeas and nays ordered on my substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JEPSEN. I thank the Chair.

Mr. President, abortion on demand is the law of the land, for a while, at least, sustained by a waning majority on the Supreme Court. And in the nearly 11 years since the Court's decision in Roe against Wade wiped out abortion laws in all 50 States, we have witnessed an appalling retrogression in the protection of human life. For literally millions of infants being prepared—by nature, by God, by biological inevitability—to live outside their mothers' wombs, the "abortion liberty" declared by the Court has been a death sentence: A repudiation of the essential civil right that distinguishes our society from utter barbarism.

I will not take the Senate's time to go over again the horrors that have resulted from Roe against Wade. We have debated this before—most recently in our consideration of a constitutional amendment concerning abortion last summer—and others may wish to prolong this discussion for their own reasons. I will only note that, with the Roe decision, the Court put our country onto a slippery slope toward the annihilation of all rights. By denying the right to life, the Court, in effect, made all rights, not inherent and innate, but dependent upon their recognition by the State.

Those who accepted abortion because of some fetal circumstance—retardation, for example—could not find reasons why a child should not be aborted in case of parental poverty. And those who accepted abortion as the antidote to poverty could not argue with abortion as a convenience to the affluent.

Those who accepted abortion for convenience could not object to abortion as a way of getting even with the child's father. Yes, that happens. And they could not object to abortion because the baby was of the wrong sex. A gender-revealing sonogram has proven fatal for boys whose parents wanted girls and, more frequently we are told, for girls whose parents wanted boys.

All this is what is meant by the "abortion liberty." But there is more. Consider the case, recently recounted in the Hastings Center report, of a kidney patient who impregnated his wife so that her child could later be aborted, to provide the father—yes, the father, although that is a strange application of the title in this case—to provide the father with a kidney transplant from his slain baby.

Are we horrified? We have no right to be. All of human history should have taught us that we cannot deny the right to life for just a few human beings. We cannot let loose a tidal wave of abortion and then, like King Canute, command the flood to halt at our feet and leave us untouched.

There was outrage throughout the Nation last year, even in many notoriously proabortion editorial pages, when a newborn baby was starved to death in a hospital—again, what a peculiar use of that word—in a "hospital" in Indiana. But as a nation, we had no right to outrage. We had no reason for surprise. We had no grounds to exercise our moral indignation. What else did we expect to follow from the "abortion liberty"? Remember that, in its Roe decision, the Court casually observed that government may, but need not, protect human life after birth.

It has taken all these tragic years for the country to realize precisely what the Court was declaring on that fatal day in January 1973. It was announcing a death sentence, not just for millions of children, but for the very idea of inherent, inalienable, God-given, immutable human rights. On that day, we became, legally, a nation of relativists, certain of nothing but uncertainty.

Since that day, the very concept of civil rights has been imperiled. Indeed, it might have already become meaningless if there had not arisen from the grassroots of America a movement to restore protection of the laws to all our people.

I know this issue has not been easy for any of us. I know the Senate hates to vote and vote and vote on it, year after year. I know that many of my colleagues think it should have no place on our agenda, and some may think it out of place during consideration of the pending legislation reauthorizing the Civil Rights Commission.

I respectfully disagree. There is no more appropriate context in which to place the abortion controversy, for abortion on demand is leading us toward the repudiation of any inherent rights. I would ask my colleagues who disagree with me on the subject of abortion to consider what conceptual basis is left to us to defend the civil rights of the weak, the poor, minorities, women. If their rights, if the rights of any of us, are merely legal constructs, dependent upon the good will of those in judicial or legislative authority, then we have no reason to

create a Civil Rights Commission. And we have no reason to reverence the document that tells us that all are endowed by their Creator with certain inalienable rights.

Which rights, if not the right to life?

Of course, it will be argued that rights inhere in people, not in fetuses. It is simply astounding that, in this era of scientific advance and information, there are still those who insist that human life begins when a baby is physically separated from its mother; or when a doctor clears the baby's lungs; or when the baby begins to interact visually with other humans; or, heaven help us, when a physician certifies that the child is free of biological defect; or when the parents decide they really want the child.

Those notions are on a par with the dogmas of the Flat Earth Society. There is something premedieval about them, in their denial of everything taught us by 20th century genetics, embryology, perinatal medicine, and commonsense. And they would be amusing ideas if their application had not cost the lives of more than 10,000,000 unborn children in the United States.

I am sufficiently realistic to admit that the Senate remains badly divided on this subject. But there has, by now, emerged out of the years of controversy a ground of agreement on which most of us, more or less uncomfortably, stand.

We have taken the Federal Government out of the abortion business. Except in cases when a mother's life would be endangered by continued pregnancy, the Federal Government will not pay for abortion. Not in medicaid. Not in health programs under the Department of Defense. Not in the Indian health program. Not under group health insurance for Federal employees.

We have erected a wall of separation between Government and the abortion business. We have done nothing to curb the "abortion liberty," nothing to make the abortion trade illegal. But we have made clear that Government will not subsidize it, not advance it, not participate in it.

It has not been an easy process or a brief one, and it has tried our patience and, at times, taxed our civility. For myself, I hope I have not judged unfairly or spoken harshly.

Now I think it is time to codify what we have done: to take this issue out of the appropriations process and sum up in legislation the wall of separation we have built, bit by bit, between Government and the abortion business.

That is the purpose of the Respect Human Life Act, which I am offering as an amendment to this bill.

There has been considerable misunderstanding about this proposal, and I would like to, first, explain what it does not do.

It does not withdraw jurisdiction from the Federal courts.

While it does provide for expedited Supreme Court review of certain State legislation concerning abortion, it would not require expedited review of contested municipal legislation.

It does not define "person" in the context of the 14th amendment to the Constitution.

It does not prohibit the use of Federal funds for medical training concerning abortion. This is a tremendously complicated matter, involving the independence of medical schools and the need to train physicians and nurses in the treatment of women who have had abortions. Until this matter is clarified, there are more urgent issues to address.

The phrase "directly or indirectly," included in earlier proposals to restrict Federal funding of abortion under various programs, does not appear in this legislation. That wording gave rise to controversies about its scope and implementation, and so it is omitted here in order to focus on the heart of the matter.

The matter, in a nutshell, is Governmental support for, or involvement with, abortion. Tax dollars given, submitted to the Government of the United States under law by all of the millions of taxpayers in this country, those dollars shall not, may not under this, be used to support or be involved in the taking of a life, whether it be born or unborn, where there is not any defense provided whatsoever. This amendment prohibits that.

It applies restrictions of current law, like the Hyde amendment, across the board, thereby removing this issue from the annual appropriations cycle.

It insures that U.S. foreign policy will cohere without domestic policy regarding abortion.

It enacts the Denton/Smith/Ashbrook amendment, which has just become law as part of the continuing resolution, thereby removing that source of future contention from the appropriations process.

And I would submit and remind you, Mr. President, just as recently as last week on five times within 24 hours this Senate worked its will and said essentially the same thing as this amendment is calling for. We will not use tax dollars to fund or have any part of the Government supporting or endorsing abortion or the taking of a life, born or unborn.

It contains a conscience clause, along the lines of the Schweiker amendment of past years, to forbid discrimination by Federal grantees.

It also makes explicit the implicit meaning of section 504 of the Rehabilitation Act: That an institution receiving Federal funds may not, as a matter of Federal civil rights law, deny to a handicapped baby nutritional sustence or medical or surgical treatment necessary to correct a life-threatening condition, if the withholding is based on the fact that the baby is handicapped.

By now, most of my colleagues may have read George Will's trenchant column in yesterday's Washington Post. I will put it in the RECORD, but I also want to urge Senators, and staff too, to read that column before forming an opinion on this issue. It discusses section 504 in its proper civil rights context with far more eloquence than I can muster. It is at once infuriating and inspiring, and it expresses both anger and hope.

Please read that column. Before anyone argues that the pending legislation is not the proper vehicle for my amendment, read that column. Before anyone moves to table my amendment, for procedural reasons of course, read that column. Before my offering of this amendment is deemed eccentric, or political, or inopportune, I hope my colleagues will read Mr. Will's column.

Mr. President, I have already taken much more time than I had intended. We are all anxious to proceed to final passage of the reauthorizing of the Civil Rights Commission. I hope we can do so without delay after voting on the merits of my amendment up or down.

So let me conclude by thanking my colleagues who have borne with me during our abortion debates, in the last few days and in the last several years. Those who have stood up in defense of the right to life, I believe, have a reward far exceeding my gratitude. Those who has strongly disagreed with my position on this subject have been energetic and adamant, well prepared and persistent. I have learned from them, and we have never allowed our disagreement to become enmity; for all of which I do thank them too.

But most of all I want to address those Senators who are not comfortable on either side of an increasingly polarized situation, who are sincerely horrified by abortion on demand and yet do not approve of draconian measures to stop it.

Like you, I devoutly wish the Senate did not have to face this subject. When I began a career in public life, I certainly did not think I would be legislating, on the Federal level, about abortion. But we cannot change our place in history by ignoring it.

The civil rights revolution of the 1950's and 1960's occurred at a most inopportune time. There were so many other things for public officials to consider, so many other crises, so many wants. But so what? Justice has its own timetable. Human decency is not subject to legislative schedules. And who among us now would wish that the attainment of civil rights for mi-

norities in America had been postponed for a decade or two?

So to those of my colleagues who are uneasy both about the status quo of abortion liberty and about attempts to alter it, I would recommend careful consideration of this amendment.

Let us codify the restrictions we have put in place through the annual appropriations process. Let us top off that wall of separation between the people's government and the abortion business.

And let us do it in the context of civil rights, to affirm the inherent nature of those rights, of protest the brutal violation of the most fundamental of those rights, the right to life.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I have been asked by the distinguished chairman of the committee, unless there are other speakers, to suggest the absence of a quorum. But I would just say, before doing that—and I did not hear all of the statement of the distinguished Senator from Iowa—there is certainly one concern and that is whether or not we are going to have a Civil Rights Commission if, in fact, we are going out on Friday.

I have not tried to assess what would happen if this amendment were adopted, because I think I probably would support it. But I think we have been up and down the Hill on this Civil Rights Commission for the past 2 or 3 months. It would seem to me it would be very helpful if we just passed it. The vote on the Commission the other night, or the other morning, I guess, was 79 to 5. So there is strong support for the compromise as proposed.

I certainly know Members have a right to offer amendments any time they wish to offer them. But, in any event, I am carrying out the wishes of the chairman of the committee.

Mr. JEPSEN. Will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from Iowa.

Mr. JEPSEN. Mr. President, the other night when this was brought up, does the Senator know how I voted on the Civil Rights Commission?

Mr. DOLE. I was on my way to Lincoln, Nebr., where I arrived at 4 a.m.

Mr. JEPSEN. I was here, I say to the Senator, and I know that is where you were. So the question I ask and the answer to it is: I am offering this amendment very constructively. I was second in the U.S. Senate to vote for the present Civil Rights Commission as proposed.

I ask the Senator, is there anything that he knows of in this amendment that goes toward fracturing, mechanically or otherwise, the Civil Rights Commission as it is composed?

Mr. DOLE. Again, I must say I have not studied the amendment carefully, but I assume not.

Mr. JEPSEN. I can assure the Senator there is not even one indirect relationship; none whatsoever.

So what I am asking for is that the Senate be permitted to work its will to vote up or down. In either event, the result of that will not affect the establishment of the Civil Rights Commission as it has been proposed, which I support 1,000 percent. Those who prevent this from happening are the ones or groups that will be holding or pulling down the Civil Rights Commission, not this amendment.

Mr. DOLE. I do not argue with the Senator. It seems to me that some of us would like to pass the Civil Rights Commission bill, hopefully without additional amendments. But I understand there may be a prayer amendment, this amendment, and another amendment. It may be the last chance before we adjourn on Friday. What I am primarily concerned about at this moment is that we had abortion issue before us last week, which was a little different. I am hopeful that we can pass the Civil Rights Commission as a compromise. I am pleased to know of the support of the Senator from Iowa. It comes as no surprise to this Senator, because of his strong support for civil rights legislation in the past. I just want to pass this and get out of here.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, last week we had some extensive debate on abortion funding. The debate last week happened to be whether or not the Federal Government would fund health insurance policies that provided abortion for Federal employees. There was a close vote and that funding was eliminated from the appropriations bills we were considering. Over the past years we have eliminated other funding, medicare most notably, and each one of these has been a nibble against the right of a woman to make a choice in this country.

When I say nibble, it has not been an immense bite. What those who are opposed to a woman's right to choose really want is not just to cease Federal funding for medicare abortions or from health insurance for employees. What they want to do, in any way, shape or form, and their past votes on the floor of the Senate prove that, is to overturn the Supreme Court decision which guarantees to a woman the right to make a choice. And they are prepared to overturn it in any fashion possible, be it by court stripping, which they have voted for, or constitutional amendments, which they have voted for, or human life bills, if possible.

This particular amendment, if you look at its findings, is another one of these "life begins at conceptions" bills despite the immense quantity of testimony that we had on a bill bearing that name 1½ years ago.

Mr. President, the efforts that have been made by those who are opposed to a woman's right to choose in the past are not unlike the efforts that are made from time to time by aggressive countries to nibble a piece here and nibble a piece there in the hopes that those who oppose will say that that is all that they want.

There is an immense difference, however, Mr. President, between funding and right. The Supreme Court has held that there is no right to funding for an abortion. Therefore, if you are a woman and poor and would like to have an abortion, and that is your choice, and you cannot afford it, and previously you would have had that abortion funded by medicaid, that no longer is true except under very, very limited and extraordinary circumstances.

All I want to assure the Senate is that if they want to kill the rights bill, indeed they will succeed in doing so because I am not prepared to trade off one of the major advances in civil liberties and civil rights made in this country, the right of a woman to choose, to trade that off for the extension of the Civil Rights Commission, much as I would like to have it extended. I had hoped we had reached an agreement. Those who propose this amendment know full well if it is adopted I and other Senators are prepared to filibuster at length—I want no one to be disabused of that—at length to make sure we are not trading one civil liberty that exists, the right to choose on abortion, for the extension of the Civil Rights Commission.

Mr. President, to date the battles about funding, as I used in my analogy before, have not been unlike the nibbles of the Axis powers in World War II toward Czechoslovakia, Sudetenland, or Austria, or the occupying of the disputed land between France and Germany in the midthirties. In all of those cases the Western power could not bring themselves to draw the line and uniformly say, "Beyond this line we will not go."

But now we are starting down a brandnew road and an adventure of magnitude far beyond anything we have seriously attempted before. It is not unlike the crossing of the Polish border in 1939.

At this stage, Mr. President, my allies and I will draw the line and we will say we will fight with every facility available at our command to stop the efforts from taking away from a woman the right to choose. We will have a vote, whether that will be today or tomorrow I am not sure, on whether or not this particular amendment of the Senator from Iowa should

be tabled. But if it is not tabled, then I can assure this Senate that we will be in for a long, long protracted struggle because at last the issue is joined, and make no mistake.

Despite how this particular amendment may be phrased, despite the words of assurance of those who support it, their record is very clear by their past statements, by their past votes. They are out to do in, in any manner possible, the Supreme Court's decision that gives a woman the right to choose. And in the process of doing in that decision, they do not care if they do violence to the Constitution and they do not care if the precedent that they set by taking away Court jurisdiction—and the argument will be made this amendment does not, but it is the first crack in the door toward doing that—they have no objection in doing it that way if they cannot do it by a constitutional amendment. They showed earlier in this session of Congress that they are no place close to the votes by doing it by a constitutional amendment.

Let me simply say, Mr. President, if the battle must be joined, let it be joined now, let it be joined here but let it be understood this is not going to be the kind of lightning warfare that we saw on Grenada. It will unfortunately be more like the trench warfare that we saw in World War I, and both sides had best be prepared to spend an extensive amount of time on the floor of the Senate—morning, noon, night, and on into the evening—because we will not rest while those who want to overturn the right of a woman to make a choice attempt to do so.

Mr. METZENBAUM addressed the Chair.

Mr. JEPSEN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. METZENBAUM. Will the Senator yield?

Mr. PACKWOOD. I yield for a question, so long as I retain my right to the floor.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. METZENBAUM. Mr. President, I ask my good friend from Oregon whether it is not a fact that, regardless of your point of view in connection with the merits of this amendment, effectively, the passage of this amendment on the Civil Rights Commission compromise measure would cause the defeat of the Civil Rights Commission legislation?

Mr. PACKWOOD. Mr. President, I think there is no question as to that. First, there are people who are just opposed to the Civil Rights Commission, period, who are going to vote against it no matter what. But if this amendment is added, as I made very clear in my speech, and I would be prepared to take part of the responsibility, it is my intention to filibuster this for as long as necessary, from now to Christmas, if necessary. If that means the demise of the Civil Rights Commission, so be it. Much as I want that Commission extended, I am not going to vote for its extension if the price of doing so is to take away or start to take away from every woman in this country the right to make a choice for herself whether or not she wants an abortion.

Mr. METZENBAUM. I thank the Senator from Oregon.

Would the Senator from Oregon not agree that we are faced with a situation where the majority party has indicated its commitment to pass an act, the Civil Rights Commission compromise, into law and, although I am not a member of the party of the Senator from Oregon, would he not agree that, no matter how you slice it, the majority party would have to accept the responsibility for the fact that the Civil Rights Commission would be effectively killed if this extraneous matter were added to it because, as the Senator from Oregon indicates, he, himself, would feel committed to filibuster to keep the matter from becoming law?

Mr. PACKWOOD. No question about it, Mr. President, I think the press and the public would correctly perceive it—if this abortion amendment is adopted, clearly, more Republicans than Democratics are going to vote for it. If the adoption of this amendment causes the Civil Rights Commission to be killed, the press and the public would be justified in saying: "GOP kills Civil Rights Commission."

Mr. METZENBAUM. I thank the Senator from Oregon.

Would the Senator help the Senator from Ohio refresh his recollection as to the number of different measures to which abortion legislation has been added? I know it has been offered as amendments on the continuation resolution, on the resolution to increase the national debt, on any number of appropriations bills of all sorts. Would the Senator from Oregon not agree with the Senator from Ohio that maybe it is time for us to quit adding abortion amendments to every single piece of legislation, that it has had its day in the Senate and if there is to be legislation on the subject, it ought to go through the normal legislative process?

Mr. PACKWOOD. It seems to me it has been added to 500 pieces of legislation. I am sure it is not that many, but it has been added to every conceivable vehicle that has come down the path to the Senate, be it appropriations or not appropriations bills. And the forces who are not for giving women the right to choose will never give up until finally the weight of public opinion is overwhelmingly felt at the polls. There is no question about it. While this is a small and dissident minority in the major public, totally out of phase with the bulk of American opinion, totally out of phase with the bulk of Americans who may or may not agree with the woman's right to choose, but, with a $200 billion deficit, with high military spending, and a whole array of pressing problems, regardless of their personal views on the subject, most of them are inclined to say let us get on with the Government. The Civil Rights Commission is the legislative measure to get on with.

I suppose we fight and fight and fight. I say again to my distinguished colleague from Ohio, the nature of this fight has been elevated way beyond anything that has to do with funding, because we are now done with funding. We have passed, I think, all of the funding limitations we can think of to pass. We are now moving onto the next niche. It is the niche those who are opposing the right to choose have always wanted. That is to get rid of the right altogether. Funding was never more than 1 or 2 or 3 percent of their real deep-down motives. They are prepared to do it regardless of what violence it may do to the Constitution.

It is a danger, I say to my colleague from Ohio, not just to the right to choose on the subject of abortion; it is a danger to every one of the civil liberties that are enshrined in that Constitution and have been held dear in that Constitution by the Supreme Court for almost 200 years of our history.

Mr. THURMOND. Mr. President, is the Senator through?

Mr. PACKWOOD. No, Mr. President.

Mr. THURMOND. Mr. President, I wonder if the Senator would yield for the purpose of my making a motion to table the amendment. I want to say that, personally, I strongly favor the amendment and what it stands for. But I have talked to enough people that I am convinced that it will kill this bill, because a filibuster would certainly result. We have worked too hard on this bill, trying to get unity and trying to get agreement so we can extend the Civil Rights Commission. So, for that reason, regretfully, I feel it is my duty, rather than jeopardize this bill, to move to table the amendment. Let me state emphatically that I would support it as a separate bill.

I so move, Mr. President.

Mr. JEPSEN. Reserving the right to object.

Mr. PACKWOOD. Mr. President, the Senator from South Carolina was asking if I might yield for that purpose. He never got the answer before he moved to table. I think I still have the floor.

The PRESIDING OFFICER. The Senator from Oregon retained the floor, and the Senator from South

Carolina may not make that motion until the Senator from Oregon yields.

Mr. THURMOND. I withdraw my motion to table, Mr. President.

Mr. JEPSEN. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I ask unanimous consent that I may yield to the Senator from Iowa without losing my right to the floor and with the understanding that when I resume, it will not be counted as a second speech under the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Will the Senator from Oregon point out anyplace in this amendment by implication, directly, indirectly, inferentially or however, that would support the statement that he made that this amendment will take away a woman's right to choose? I think that is important. We need to establish it in the RECORD. I can assure the Senator that it is not there.

This language has been worked over by outstanding students of legislation, drafting legislation, both legal counsel and otherwise. If it is there, I would like to know.

Mr. PACKWOOD. Mr. President, I say to my distinguished colleague from Iowa, I look only at one section, section 5, where it says that specific evidence demonstrates that the life of human beings begins with conception.

We had extended hearings on that subject, extended hearings. That is a finding of fact.

Mr. JEPSEN. It is not a finding of fact, it is opinion. It is nonbinding, is that correct?

Mr. PACKWOOD. All findings of congressional fact are binding if the court chooses to regard them as so. This would not be put in here if it were not the intention of the author to try to direct the Supreme Court to that conclusion.

Mr. BIDEN. Mr. President, I rise to announce that I cannot support the Jepsen amendment to the Civil Rights Commission bill and support the motion to table.

I have come to this decision for a number of reasons:

My primary reason for this course of action is very simple: The compromise embodied in the Civil Rights Commission legislation was very carefully crafted. Everyone involved made concessions. It has taken a long time to arrive at this point, and if we do not act soon, the Civil Rights Commission will die. None of the people involved in these negotiations wants that to happen, and I am sure the Senator from Iowa shares that view.

But the fact is, Mr. President, that if this amendment is not tabled, we will not be able to finish this bill before Friday's adjournment. The Commission would die on November 29, and the compromise would be difficult to reconstruct. This was simply not the proper vehicle for such an amendment.

Mr. PACKWOOD. Mr. President, I am prepared to yield to the Senator from South Carolina for the purpose of making a tabling motion.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I move to lay on the table the amendment of the distinguished and able Senator from Iowa.

Mr. JEPSEN. I ask for the yeas and nays, Mr. President.

Mr. THURMOND. Again, I state that I favor the amendment if offered in an acceptable bill. We have worked too long and hard to reach this agreement on the Civil Rights Commission; we cannot jeopardize it. Therefore, I move to table the amendment.

The PRESIDING OFFICER. Will the Senator state what amendment he moves to table?

Mr. THURMOND. The first-degree amendment of the Senator from Iowa.

The PRESIDING OFFICER. Is there a sufficient second for the tabling motion? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment (No. 2607) on the table.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER. I announce that the Senator from New York (Mr. D'AMATO), the Senator from Alabama (Mr. DENTON), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSENBAUM), the Senator from Wisconsin (Mr. KASTEN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay."

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER (Mr. SYMMS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 42, nays 34, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—42

Andrews	Dole	Pell
Baker	Domenici	Riegle
Baucus	Durenberger	Roth
Bentsen	Evans	Sarbanes
Biden	Goldwater	Specter
Bingaman	Gorton	Stafford
Bradley	Huddleston	Stennis
Bumpers	Kennedy	Thurmond
Burdick	Leahy	Tower
Byrd	Levin	Tsongas
Chafee	Mathias	Wallop
Chiles	Metzenbaum	Warner
Cochran	Murkowski	Weicker
Cohen	Packwood	Wilson

NAYS—34

Abdnor	Hatch	Melcher
Armstrong	Hawkins	Mitchell
Boren	Hecht	Nickles
Boschwitz	Heflin	Proxmire
Danforth	Heinz	Quayle
DeConcini	Helms	Randolph
Eagleton	Humphrey	Sasser
East	Jepsen	Symms
Exon	Laxalt	Trible
Ford	Lugar	Zorinsky
Garn	Mattingly	
Grassley	McClure	

NOT VOTING—24

Cranston	Hollings	Moynihan
D'Amato	Inouye	Nunn
Denton	Johnston	Percy
Dixon	Kassebaum	Pressler
Dodd	Kasten	Pryor
Glenn	Lautenberg	Rudman
Hart	Long	Simpson
Hatfield	Matsunaga	Stevens

So the motion to table Mr. JEPSEN's amendment (No. 2607) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, the hour of 2 p.m. has arrived. Under the circumstances which obtain following our adjournment on Saturday, the natural gas bill would recur as the unfinished business at this moment or would have at 2 p.m.

Mr. President, at 2 p.m. we would automatically be back on the natural gas bill. But I am inclined to think we can finish this measure in a very short period of time. I know of no other amendments. I believe there is a requirement for additional debate, and I wish to propound this unanimous-consent request.

I ask unanimous consent that notwithstanding the hour of 2 p.m. having arrived, the Senate continue the consideration of the Civil Rights Commission reauthorization bill, that we now have third reading, and following third reading there be general

debate of not more than 10 minutes to be equally divided with the control of the time to be in the usual form.

Mr. EAST. Mr. President, I did not hear the request.

Mr. BAKER. All right.

Mr. President, the request I put would have the effect of obtaining third reading on the bill now, and following third reading there would be general debate on the bill of not more than 10 minutes equally divided, with Senator THURMOND and Senator BIDEN to have control, Senator THURMOND to have control on my side under designation, and then we would have a vote on final passage.

Mr. President, I also ask unanimous consent that on the disposition of this measure the Senate return to the consideration of the unfinished business, which is the natural gas bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BENTSEN. Mr. President, I want to express my appreciation to Senators BAKER, BIDEN, DOLE, and SPECTER for their steady and tenacious efforts to push through a final compromise that will allow the Civil Rights Commission to continue to live. I want all involved to know how gratified I am that our push to save the Commission's independence ended in triumph.

I am also gratified by the fact that we were able to block the effort made at the other end of Pennsylvania Avenue to deny representation of Hispanic Americans on the Commission. Hispanic Americans are the fastest growing and soon to be the largest minority in our Nation; to deny them representation on the Commission would have been a tragedy. I am pleased that the compromise approved by the Senate Thursday night provides for at least one, and possibly two, Hispanic Americans to be members of the Civil Rights Commission.

I urge my colleagues to join me in voting for final passage of the Civil Rights Commission compromise without additional amendments. This compromise is a fragile one. It is the result of very hard work on the part of all involved. It should not be allowed to fall victim to any effort to take another bite of the apple. If any more bites are taken out of this apple, there may be no fruit left. So again, I urge that the Senate approve the Civil Rights Commission compromise without further amendment.●

Mr. EAGLETON, Mr. President, the Civil Rights Commission has received more publicity in the last 7 months than it has in its 25-year history, and for one reason: President Reagan has sought to remake it as a mouthpiece of the administration.

Never before has an administration—Republican or Democratic—so effectively undermined the Commission's integrity and independency, by:

Firing Commissioners for their views;

Stacking the Commission with those who are ideologically acceptable to the administration;

Threatening the Commission's very existence by holding reauthorization hostage to Senate approval of President Reagan's nominees;

Preventing the Commission from performing its vital work by forcing it into a statutory windup period in which it can only "pack its bags."

The Civil Rights Commission, created in 1957 by President Eisenhower, has been widely regarded as the conscience of the Nation on civil rights. Though the attention of others might be diverted, we can always be confident that the Commission is keeping a watchful eye on the progress of justice and equality in this country.

I urge my colleagues to support this legislation, as it is the only remaining way in which to shield the Commission from unilateral political attacks by the White House. Despite the efforts of this administration, the Commission's voice will continue to be heard. Like the teachings of Dr. Martin Luther King, Jr., who was recently honored by this body with a national holiday, the Commission's message cannot be stilled.

Mr. MATHIAS. Mr. President, I will vote for passage of the bill reauthorizing the U.S. Commission on Civil Rights. The bill now incorporates an amendment with many cosponsors, led by the junior Senator from Pennsylvania (Mr. SPECTER), to transfer the responsibilities of the U.S. Commission on Civil Rights to a new Commission appointed jointly by the President and the Congress. My vote for the bill, however, is tinged with some regret over a lost opportunity. In this session, the Senate had a chance to reaffirm and to strengthen the independence and effectiveness of the Commission on Civil Rights. By enacting the measure before us, we do not take full advantage of that opportunity.

Let me remind my colleagues of some of the basic facts about the Civil Rights Commission. Throughout the quarter century of its existence, it has been unique among all other Federal agencies. No group of Americans is better equipped to testify to that unique character than the nine former members of the Commission who submitted a statement to the Senate Judiciary Committee last July. This group, which included all three former Chairmen of the Commission, described the agency as follows:

> The Commission on Civil Rights is a unique federal agency. It enforces no law. It administers no grants. It has no regulatory authority. It has no permanent life. Its sole power is to collect and analyze facts and to make recommendations.
>
> Unlike most other federal agencies, a majority of appointees may not by law be from a single party; they do not resign when Administrations change.
>
> This unique character of the Commission stemmed from a recognition by Congress in 1957 that race discrimination was a deeply-entrenched national problem that called for unusual and creative government action.
>
> We believe that the Commission's record over the years has vindicated this judgment and has demonstrated why it cannot be a part of any Administration.

The record of the Commission on Civil Rights fully supports this evaluation by the nine former Commissioners. Because of its unique independence, the Commission has been able to weigh the achievements and shortcomings of the civil rights records of successive administrations. It has been able to speak its views without fear or favor; it has been able to call the shots as it has seen them. Six successive Presidents respected that independence. Every one of these occupants of the White House was stung by criticism from the Civil Rights Commission; but not one of them sought to exercise the raw legal power to silence his critics by removing them from the Commission.

There has been some dispute during the last few months about some of the details of this history. Some of the members of the Commission over the years have resigned. Opinions and recollections differ about whether some of these resignations were truly voluntary. Some of these factual disputes might have had some limited relevance to the issue before us. But President Reagan reduced all these questions to insignificant quibbles on the morning of October 25, when he did what none of his predecessors had done: Fire half the members of the U.S. Commission on Civil Rights.

Mr. President, I think we must all recognize that the Civil Rights Commission may never be the same. It may never regain the moral authority and legitimacy which enabled it to stir the national conscience on civil rights questions. The tradition of an independent agency, answerable to no President but only to our national ideals of equality and justice, has suffered a setback. That is true regardless of what we do here today. However, our disposition of this amendment, and of this bill, may determine whether that tradition has suffered a glancing blow or a mortal wound.

Mr. President, we now have three choices. None of them is ideal, but one is clearly preferable.

First, we could vote down the reauthorization bill, thus killing the Civil Rights Commission. Hardly anyone really wants that outcome. There is broad agreement that we still need an independent voice on civil rights issues within the Federal Government.

Second, we could reauthorize the Commission by simply passing the House bill without substantive amend-

ment. That would keep the Commission alive. But what kind of Commission would it be? It would be, Mr. President, a shadow of its former self. Five of its six members would have been appointed by one President. More importantly, half of its members would owe their seats to the President's assertion of his naked power to control the membership of the Commission. Surely the message would not be lost on any of the members of the Commission that fearless, forthright criticism of the incumbent administration is henceforth out of bounds.

I cast no aspersions on the integrity and independence of the President's nominees. I simply point out that those who would benefit from this assertion of Presidential power are human beings; and it takes no deep knowledge of human nature to recognize the truth which the Supreme Court expressed so well over half a century ago, in the case of Humphrey's Executor against the United States:

> It is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will.

This second option is not an acceptable one. It would not preserve and strengthen the Commission; rather, it would weaken and undermine it.

I am pleased that the Senate has rejected these two alternatives in favor of a third approach, which is incorporated in the Specter-Biden-Dole amendment, which we adopted by an overwhelming vote a few days ago. This amendment transfers the functions and powers of the U.S. Commission on Civil Rights to a new entity. Half of the eight members of the new Commission would be appointed by the President; half would be appointed by the Congress, with that number equally divided between the Senate and the House of Representatives. Under the amendment, the new Commission is authorized for 6 years.

This approach presents some problems. For the most part, these are technical difficulties. It will not be easy to carry out the intent of the amendment's authors to transfer intact, from the old Commission to the new, the staff and files and other assets of the existing agency. The transition may be further complicated by the fact that the current Commission, its authorization having expired, is now winding up its affairs.

But there is a more important question. Is the new Commission likely to be as effective as its predecessor has been? I remain somewhat skeptical. Perched precariously between the legislative and executive branches of Government, the new temporary Commission may not be able to speak with the moral authority and persuasiveness of the uniquely independent Civil Rights Commission to which we have grown accustomed over the last 25 years.

But the fact is that if we take no positive action now, the independent and authoritative voice of the current Commission will, in a matter of days, be stilled forever. The events of recent months, particularly the unprecedented firings of half the commissioners last month, leave us little choice. The alternative embodied in the Specter-Biden-Dole amendment, imperfect though it may be, is the best choice available to us now.

Furthermore, there are some positive features to the compromise solution which we have adopted. I would like to call three items in particular to the Senate's attention.

First, the Specter-Biden-Dole amendment includes a provision which has long seemed essential to me in any legislation reauthorizing the Civil Rights Commission. That is the prohibition against the President removing a member of the new Commission from office except "for neglect of duty or malfeasance in office." This protection against removal except for cause is even more critical in light of the President's recent assertion of the power to remove sitting commissioners without any cause whatever. I am glad that we are writing this protection in the statute books for all to see.

Second, the amendment removes an irritant created by the language of the 1957 Civil Rights Act with regard to the position of Staff Director of the Commission on Civil Rights. The amendment provides that the Staff Director of the new Commission "shall be appointed by the President with the concurrence of a majority of the Commission." The 1957 act required the President to consult with the commissioners about his nomination for Staff Director, but did not explicitly require concurrence. This aspect of the amendment codifies past practice, and should prevent, at least for the limited life of this new Commission, the impasse which develops when the Commission majority and the Staff Director are at loggerheads.

Finally, there is something positive to be found, not in the text of the amendment itself, but in the list of its cosponsors. The Specter-Biden-Dole amendment is a compromise, sponsored by a broad range of Senators on both sides of the aisle, and acceptable to the White House as well. It augurs well for the success of the new Commission that its birth is marked by a spirit of cooperation and conciliation, rather than by the tension and confrontation that have typified the debate over this issue for the last several months.

Mr. President, when the Congress created the U.S. Commission on Civil Rights in 1957, it gave it a simple structure. That mechanism worked well for nearly a quarter of century, thanks to the liberal application of the lubricant of good will. Recently, since that ingredient has been in all too short supply, the legislative engineers have worked feverishly to design substitute mechanisms which can accomplish the same important work.

The structure embodied in the Specter-Biden-Dole compromise is an ingenious one. It is the product of hard work by many Senators, preeminently those whose names lead off the list of cosponsors. It may look a bit like a Rube Goldberg contraption. But I hope that it proves to be a smooth-running machine, which can move forward the important work which the Civil Rights Commission has advanced so effectively since 1957. If that outcome can be achieved, all Americans—Republicans, Democrats, independents, whites, blacks, Hispanics, men, women, all who strive for an end to prejudice and discrimination, all of us will be the winners.

Mr. KENNEDY. Mr. President, once again, the Congress and the American people have joined to defeat a White House attempt to roll back, weaken, and undermine civil rights protection for women and minorities. As in the case of the Voting Rights Act and the Martin Luther King holiday the national consensus on civil rights has held firm.

The Judiciary Committee, the Senate and the House of Representatives have worked arduously to arrive at a reauthorization proposal that preserved the congressional intent for an independent Commission.

For 25 years the Civil Rights Commission has been the conscience of the Nation on civil rights. It has monitored our progress, evaluated our failures, interpreted for the Nation the grievances of those among us who are suffering injustice, discrimination and neglect.

The actions of the last 5 months demonstrate that this administration richly deserves its reputation as the most anticivil rights administration in recent memory. This latest assault on civil rights has been rebuffed by the Congress. I am proud that the Congress had held the line, but it is sad that so much effort had to be expended by so many people of good faith in order to stop the President's unconscionable effort to undermine the independence of the Civil Rights Commission.

Because of the diligent efforts of so many people, especially Members of this body on both sides of the aisle, and because of the deeply held convictions of the American people of civil rights and social justice, the Civil Rights Commission will be preserved as the independent watchdog over the Nation's progress on civil rights.

An independent Commission is a vital component of our national civil rights effort—undertaking factfinding, overseeing Federal agencies and the administration; and developing recommendations to advance the cause of civil rights in the years to come.

I am pleased that, with the adoption of this legislation; the Commission's essential work can continue to go forward.

Mr. METZENBAUM. Mr. President, I strongly support the Specter-Biden-Dole amendment to reconstitute the Civil Rights Commission as an eight-member body appointed by both Congress and the President. The amendment has strong bipartisan support; the Senate passed it early Friday morning by a vote of 79 to 5. And, most important, the proposal preserves the independence of the Commission by allowing members to be fired only for cause.

Mr. President, we have been through many months of long and arduous debate and negotiations to reach this compromise and save an independent Civil Rights Commission. Our struggle began in May when the President announced he intended to replace three Commissioners—Mary Frances Berry, Blandina C. Ramirez, and Rabbi Murray Saltzman.

In July, the Judiciary Committee held hearings on President Reagan's nominees to replace the three Commissioners. At the hearings, I, along with several other committee members, expressed concern about the President's attempt to remove these Commissioners, without cause. We stated our belief that Commissioners who serve at the pleasure of the President cannot be truly independent. We were afraid that the Commission would become the handmaiden of the administration, unwilling to point out deficiences in civil rights legislation and enforcement.

When Congress reconvened after the August recess, Senators DOLE, BIDEN, and SPECTER began working diligently to reach a compromise that would preserve the Commission's independence. It appeared as though we were very close to a reasonable solution when, on October 25, the President drastically changed the situation. He took the unprecedented step of firing Mary Berry, Blandina Ramirez, and Murray Saltzman. These Commissioners were not fired for cause. They were fired simply because they dared to criticize the President and his policies.

It appeared that the Civil Rights Commission, established by Congress as part of the Civil Rights Act of 1957 to investigate this Nation's progress on civil rights and to report its findings to the President and to the Congress, would die. It appeared as though the Nation would lose an independent body that for 26 years had not been afraid to confront administration after administration and Congress after Congress with the truth about discrimination in our country.

Then, late Thursday night, a compromise was finally reached through the efforts of the majority leader and Senators SPECTER, BIDEN, and DOLE to prevent the demise of the Civil Rights Commission. If this proposal is enacted, we will continue to benefit from the work of this vital Commission.

For more than a quarter of a century, the Civil Rights Commission has shown us that discrimination does exist, and using its only power—the pressure of public opinion—it has forced significant progress in the area of civil rights legislation and enforcement. For example:

The Commission's radical proposal for voting registrars in the South became part of the Voting Rights Act of 1965.

The Commission's recommendation that Federal agencies withhold funds to institutions of higher learning which refused to admit qualified students on racial grounds was incorporated into the Civil Rights Act of 1964.

In 1967, the Commission recommended that legislation be enacted to prohibit discrimination in the sale or rental of housing. Title VIII of Civil Rights Act of 1968 prohibits such discrimination.

Progress has been made since the days of "whites only" signs in business establishments, but discrimination still exists. Individuals are still being denied equal educational, housing, and job opportunities because of their race or sex or because they are handicapped.

We need a Commission today to serve as the "conscience of the Nation on civil rights."

Such a Commission cannot do its work, however, unless it is independent.

The Commissioners cannot be expected to criticize governmental policies if they know that they can be replaced for expressing those views.

As Justice Frankfurter, speaking for a unanimous Supreme Court in 1957, said in reference to President Eisenhower's attempt to remove a member of the War Claims Commission:

> It is quite evident that one who holds his office only during the pleasure of another cannot be depended upon to maintain an attitude of independence against the latter's will.

The Specter-Biden-Dole proposal insures that the Civil Rights Commission will be independent. It provides that Commissioners may be removed only for cause defined as malfeasance in office or neglect of duty.

Under the proposal, the Commission will have eight members and will be bipartisan. Four members—two Democrats and two Republicans—will be appointed by the President. Two members will be appointed by the President pro tempore of the Senate upon the recommendation of the majority and minority leaders, and two will be appointed by the Speaker of the House, again upon the recommendation of the two leaders. The Commissioners will have staggered, 6-year terms. The staff director will be appointed by the President with the concurrence of a majority of the Commissioners. And, the President will designate the Chairman and Vice Chairman with the concurrence of the Commission.

To insure that the important work of the current Civil Rights Commission is continued, the proposed Commission will have the same powers and responsibilities as the current one. And, existing personnel and records will be transferred to the new Commission.

Our Nation needs an independent Civil Rights Commission to remind us that our goal of a nation free from discrimination is not yet attained and to urge us on toward that goal. The Specter-Biden-Dole proposal assures us of such a Commission. Therefore, I urge immediate enactment of this legislation.

Mr. DURENBERGER. Mr. President, 35 years ago in one of the most famous speeches in an illustrous career, Hubert Humphrey urged his party and his country "to walk forthrightly into the bright sunshine of human rights."

Three and one-half decades after Hubert Humphrey's speech to the 1948 Democratic National Convention we are being asked to keep open the window that has allowed much of the sunshine of human rights to fall upon our society. The Civil Rights Commission, since its creation in the 1957 Civil Rights Act, has played a vital role in assuring the guarantees of civil rights for all people.

The Civil Rights Commission has not passed one piece of legislation, created one new program, handed out one Federal grant dollar or tried one case of discrimination. Yet, by prodding the conscience of a nation, this Commission has effectively challenged the constitutional and statutory institutions and agencies of our country into protecting the civil rights of our people.

Throughout its history, the Civil Rights Commission has furthered the cause of civil rights in America in a variety of ways: By investigating allegations that citizens of the United States are being deprived of their civil rights; by studying and collecting information concerning legal developments constituting discrimination or denial of equal protection under the Constitution; by appraising the laws and policies of the Federal Government with respect to discrimination or denial of equal protection under the laws; by

serving as a national clearinghouse for information with respect to discrimination; and by submitting interim reports to the President and Congress—many of having resulted in civil rights legislation.

In spite of those successes—or, indeed, perhaps because of them—the Civil Rights Commission has always been surrounded by controversy. No threat to its existence, though, has been as ominous as the one that we face today.

The arguments against reauthorizing the Civil Rights Commission have taken many shapes; many of them, unfortunately, have been misplaced. George F. Will in a column in a recent edition of the Washington Post echoes the criticism of many when he says that:

> The distinction between civil rights and economic entitlements has become hazy.

Will goes on to say:

> The intellectual muddle that has been made of the term "civil rights" has produced the political tactic of converting arguments about social policy into ad hominem attacks on the 'racism' (or "ageism" or whatever) of persons who do not hew to the changing line regarding civil rights.

Frankly, there is much in what Will says with which I agree. Yet, I strongly disagree with his conclusion that because there is a lack of clarity about what counts as a civil rights issue, Congress should abandon its commitment to a Civil Rights Commission.

Too often in recent years we have confused civil rights with social policy to the detriment of both. But because we sometimes become confused does not mean that now is the time for us to give up on our commitment to a Civil Rights Commission.

Rather, we need to understand what a civil right is and the role of the Federal Government in protecting that right. I would agree with Mr. Will that a civil right to vote, to assemble, to practice the religion of our choice are among the civil rights guaranteed by our Constitution.

Fortunately, among our Founding Fathers and mothers there was a group which believed that the potential greatness of the new Nation was not just its natural resources or its economic strength, but rather the guarantee that each person would have the opportunity to achieve his or her full potential.

This group insisted that a bill of rights be added to the Constitution—a bill of rights guaranteeing basic civil rights and mandating that the Federal Government be the guarantor of those rights.

For two centuries the Federal Government has accepted that role, defending the rights of the individual against any person, group or institution—even the State governments—that would infringe upon those rights.

Yet, throughout those two centuries there have been times when the Federal Government has not been the guarantor envisioned by the drafters of the bill of rights. In the 1940's and 1950's leaders like Hubert Humphrey recognized that the great muscle of the U.S. Government needed a conscience—a prod to assure that all the resources, talents and abilities of the Federal Government were being brought to bear in the uniform and immediate protection of civil rights.

And so the Civil Rights Commission was born. And its purpose in 1983 is just as vital and necessary as it was in 1957.

President Reagan and others have urged that we reexamine our philosophy of civil rights. If reexamining our philosophy means that we recommit our Civil Rights Commission to what is truly the protection of civil rights, while we in Congress design a social framework based on compassion, then I heartily agree.

But I do not believe this President started that process of reexamination by arbitrarily firing three members of the Civil Rights Commission. That action did not change public policy; it reinforced the perception of a President who is less than 100 percent committed to civil rights, and it saddled the administration's nominees with baggage that prevents their effectiveness regardless of their talents.

The President's action threatened the independence of the Commssion. His action reflected insensitivity to the importance of the Civil Rights Commission and disregard for the tireless efforts of many of our colleagues on the Judiciary Committee to resolve this issue.

Part of what makes the Civil Rights Commission unique and effective is its ability to act without fear of retribution from any branch of Government. The Commission has historically criticized the actions and records of the executive branch, while Commission members have remained shielded from political reprisal.

Whatever the reasons were for President Reagan's decision to dismiss three members of the Commission, the independence and future effectiveness were called into question in the minds of many.

Mr. President, I strongly believe that even if we were not under the gun of a deadline, the controversy surrounding the continued existence of the Commission should be resolved immediately.

I also believe that the Dole-Specter-Biden substitute is not merely a take-what-we-can compromise; it is an overdue improvement over the original Commission.

Reconstituting the Commission along the lines proposed in the substitute amendment will strengthen the Commission in many ways:

Appointment of the eight members by both the executive and legislative branches will assure a truly bipartisan Commission and a Commission that I believe will be representative of a much broader civil rights perspective.

The Commission members will select their own chairperson, vice chairperson and staff director, giving the Commission an added measure of independence.

The substitute spells out in no uncertain terms that Commission members can be fired only for cause—proven gross negligence of duty, for example

Finally, setting fixed and staggered terms for Commission members will assure that the Commission is constantly reinvigorated with new ideas and fresh perspectives. Fixed terms also will allow for performance evaluations without the distorted light cast by dismissals thought to be politically motivated. Staggering the terms will guarantee the continuity that is so important to a body like the Civil Rights Commission.

Mr. President, the Civil Rights Commission was a dream envisioned by Hubert Humphrey during the 81st, 82d, 83d, and 84th Congresses. That dream was finally realized in the 85th Congress and has been fulfilled ever since. Hubert taught us that our progress as a nation could be judged by the manner in which we treat—

> Those in the dawn of life—our children and young people; those in the shadows of life—the poor, the jobless and those who suffer from prejudice and discrimination; and those in the twilight of life—the elderly and those in poor health.

The Civil Rights Commission has helped protect all Americans from the oppressive tendencies of Government for almost three decades. It has carried forward President Lincoln's commitment to "a nation conceived in liberty and dedicated to the proposition that all men are created equal."

We must carry on that tradition by insuring the continued existence of the Civil Rights Commission. I urge my colleagues to support this amendment.

Mr. LAUTENBERG. Mr. President, I rise to support the continuation of an independent Civil Rights Commission. It is imperative that we assure the extension of the Commission. Its very existence has been threatened by a crisis over its ability to remain independent of the President. The members of the Commission, although appointed by the President and confirmed by the Senate, have always served unlimited terms, continuing through changes in administrations. Their open-ended terms helped to assure their independence from political pressure. Earlier this year, contrary to tradition, the President attempted to replace three members of

the Commission, appointed by previous Presidents, with three of his own nominees.

Because of this unprecedented attempt to undermine the traditional independence of the Commission, the Senate did not act to confirm the President's nominations. Attempts to reach a compromise with the White House met with resistance. In the meantime, the September 30 deadline for the reauthorization of the Commission passed. The President added a further complication to the situation by firing the three Commissioners he was attempting to replace rather than finding a way to compromise with the Congress.

Mr. President, Commission supporters have worked for weeks to find a way to extend the Commission without also ratifying the President's attempt to erode its independence. Since September 30, the day the authorization for the Civil Rights Commission expired, we have been faced with the untenable prospect of the Commission ceasing to exist. The life of the Commission will expire on November 29, unless Congress and the President can agree on the terms under which the Commission can continue to function.

Mr. President, I am pleased to support the compromise proposal put forward by a bipartisan group of Senators last week and urge the Senate to act quickly. Under the new authorization, the Civil Rights Commission will have eight members, four appointed by the President and two each appointed by the leadership of the Senate and the House of Representatives. Commissioners would serve 6 year, staggered terms, and could only be removed for neglect of duty or malfeasance in office. The Commission would be authorized for 6 years.

The Civil Rights Commission was created as part of the Civil Rights Act of 1957. Although intended to be temporary, the Commission has been extended time and again because Congress has recognized the continuing need for the purposes served by the Civil Rights Commission. Its mandate is to investigate, study, and appraise aspects of discrimination and deprivation of rights. This is no less important today that it was at the peak of the civil rights struggle. The House committee report on the legislation setting up the Commission stated that "the need for the creation of a Civil Rights Commission * * * is to be found in the very nature of the problem involved; the complexity of the subject matter demands greater knowledge and understanding of every facet of the problem. Its primary purpose is to collect and accumulate data so that a more intelligent study of the problem may be made."

Mr. President, we still need those studies to be made by an independent Civil Rights Commission. The proposal tentatively approved by the Senate last week provides the framework for the Commission to continue providing its traditional role.

I am greatly disturbed that the existence and the independence of the Civil Rights Commission have been left in doubt for such a long period of time. These principles should have been resolved long ago and not be open to question after a quarter of a century. The Senate's action today in approving the reauthorization for the Commission should reassure the civil rights community and the country that that valuable watchdog agency will continue to report on the status of discrimination in the United States. I am sorry that we waited until the 11th hour to do the right thing, but I hope the issue will now be settled for the next 6 years.

Mr. RIEGLE. Mr. President, I rise in strong support of the U.S. Commission on Civil Rights and in support of the valuable work performed by the Commission. I voted for reauthorization of the Commission 5 years ago and 10 years ago. I am convinced that the Commission remains essential in our struggle to guarantee civil rights for all, primarily in light of the Reagan administration's systematic attempts to reverse important civil rights gains of the past 20 years.

I also wish to commend the members of the Judiciary Committee, in particular, Senator SPECTER, BIDEN, and DOLE for their tireless leadership on this issue. Without their efforts, we would not be voting today on this compromise and the Commission would, in all likelihood, cease to exist.

It is for these reasons that I support this compromise reathorization expanding the Commission by two members with the President appointing four Commissioners and the leadership of the House and Senate appointing four Commissioners. I am pleased that the compromise maintains the bipartisan nature of the Commission and provides that Commissioners may only be removed from office for cause or malfeasance of duty. I sincerely hope that these provisions will prevent the future politicization of the Commission. Historically, the Commission has been an independent and autonomous voice and I believe it should remain so.

However, I am distressed that it became necessary to compromise at all and I hope that we are not setting an undesirable precendent today. Despite overwhelming congressional and public support, this administration threatened to let the Commission die if the President didn't get this nominees. In my mind, this is but another example of the President's anti-civil rights offensive. An offensive that has included at one time or another attempting to replace or fire every member of the Commission; obstructing passage of the Voting Rights Act; curtailing enforcement of civil rights statutes; aggressively opposing affirmative action; opposition to the equal rights amendment, and a miserable record on appointing women and minorities to positions of responsibility in the administration.

I intend to vote for this compromise and am extremely pleased we were able to reach one. But I strongly believe that none should have been necessary and that this President should not have played politics with the Civil Rights Commission.

It has been said that the Civil Rights Commission is the conscience of an administration. It appears that President Reagan has been uncomfortable with what the Commission has been saying about his policies, and instead of changing these policies, he sought to make the Commission say what he wanted to hear. Fortunately, he has not succeeded.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. BAKER. Mr. President, I yield to Senator THURMOND.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I wish to find out how much time the distinguished Senator from North Carolina wishes.

Mr. EAST. As I understand, there is a 10-minute period.

Mr. THURMOND. Ten minutes is correct.

Mr. McCLURE. Five minutes on each side.

Mr. THURMOND. Mr. President, does the Senator wish 4 or 5 minutes? I do not think anyone else here wishes to speak on this side, so far as I know. If there is, I wish for them to express themselves. If not, I will allocate the entire time to the Senator from North Carolina.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, the strength of the compromise forged by Senators BAKER, THURMOND, DOLE, SPECTER, DOMENICI, and others is that it retains the Civil Rights Commission in the executive branch. The executive functions of the Commission; namely, acting as a national clearinghouse, setting up State advisory commissions to advise State governments on proper implementation of civil rights laws, publishing rules and regulations in the Federal Register, and otherwise participating in the making and imple-

mentation of civil rights policies, are entirely appropriate within the confines of the executive branch, but raise questions about the proper separation of powers if transferred to the legislative branch. Moreover this compromise averts other confrontations between the branches. For instance, the employees of the Commission would not have to abandon the protections of employment in the Civil Service to join the staff of Congress. As I mentioned earlier in this debate, it would be truly ironic to have the new legislative Civil Rights Commission exempt from the equal employment requirements of the Civil Rights Act, yet this would be the case if the body were transferred to the legislative branch. By striking the language of the earlier, Biden-Specter amendment, the Senate has clarified that the Commission is executive. Besides avoiding any confrontations between the executive and legislative branches, this compromise also takes an enormous step toward solving the problem of how the members of the Commission are to be appointed. Under this compromise, the President would appoint four members of the eight-member body on his own, the Senate would appoint two Members and the House would appoint two Members. I supported that compromise with the understanding that I would have the opportunity to correct a constitutional oversight. The Constitution states clearly:

> The President shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for; and which shall be established by law: but the Congress may by Law vest the appointment of such inferior Officers as they think proper, in the President alone, in the Courts of law, or in the heads of the Departments.

This is article II, section 2, clause 2. May I emphasize a few phrases from this clause: First, the President shall * * * appoint * * * all other officers of the United States. Moreover, he shall appoint all other officers of the United States which, in the future may be established by law. Finally, the only apparent alternative to Presidential appointment of officers created by law is that Congress may permit inferior officers of the United States to be appointed by the heads of the departments. Since we are clearly creating Civil Rights Commissions pursuant to our laws, it seems an inescapable conclusion that they must be appointed by the President.

The framers of the Constitution wanted to have some check on the President's appointment power. They did not, however, provide that check by allowing Congress to make some appointments. They provided that check by giving this body, the Senate, the power of advice and consent with regard to the President's appointments.

The Supreme Court has made it clear that "officers of the United States" must be appointed within the confines of the article II clause:

> That all persons who can be said to hold an office under the government about to be established under the Constitution were intended to be included within one or the other of these modes of appointment there can be little doubt. *U.S.* v. *Germaine*, 99 U.S. 508, 510 (1879).

Indeed, this reasoning has led to Supreme Court opinions that a postmaster first class (*Myers* v. *U.S.*, 272 U.S. 52 (1926)) and that a clerk of a district court (*Ex Parte Henen*, 13 Pet. 230 (1839)) are officers of the United States who must be appointed in a manner specified by the Constitution. Given the importance of the Civil Rights Commission and the nature of the national advice it provides about compliance with the laws of the United States, we should carefully adhere to the intent of the Constitution.

This clause of the Constitution, however, does not have to jeopardize the scheme of appointment conceived by this compromise. Instead of giving the House and Senate leaders direct appointment power, they could be given the power to make recommendations from among which the President could make his final appointment. The Congress has often employed such a device to avoid confronting the appointments clause of the Constitution. For instance, we used this device in making appointments to the Federal Commission established to commemorate the bicentennial of the Constitution which was signed into law earlier this fall as Public Law 98-101.

In any event I compliment this compromise and the efforts of those who have worked together to achieve this progress. I supported the compromise last week. It is my intent to avoid disturbing that compromise. Accordingly, I will not propose my amendment to make all appointments subject to the Senate's advice and consent.

My amendment was intended solely to clarify constitutional ambiguity created by the compromise. It would have insured that each of the eight appointments comply with the requirement of article II that every officer of the United States be confirmed by the Senate. Thus, Civil Rights Commissioners would each have been required to receive the consent of the Senate after their Presidential appointment, even though in some cases the Senate would have recommended those appointments to the President.

In summary, my amendment was intended to be noncontroversial. It would not have altered the substance of the agreement reached last week, but it would have made it considerably less likely that a Federal court will declare that agreement unconstitutional. In that sense, it would have preserved the compromise, rather than altered it.

The Constitution is very specific in its declaration that "all legislative power is vested in Congress" and "all executive power is vested in the President." The Constitution does not create or allow for the creation of any hybrids that are both legislative and executive. This amendment would have clarified the executive status of the Commission and provides for appropriate Presidential appointment and Senate confirmation, our compromise could be in constitutional jeopardy. This amendment would have reduced that jeopardy without any cost to the substance of the agreement reached last week.

To those who might argue that "This is not an executive body with executive functions; therefore Congress need not provide for Presidential appointments or Senate confirmation," I have five specific responses:

First. The text of the amendment perpetuates the executive functions that the Commission has performed in the executive branch for 26 years. For example, it acts as a national clearinghouse, gathering and disseminating information nationwide to advise on compliance with our civil rights mandates. This means that Congress appropriates money to the Commission and the Commission obligates those funds to carry out studies, recommend policies, counsel on compliance with the law, and otherwise participate in executing civil rights laws. Congress cannot both appropriate funds and, via its appointees, perform the executive function of obligating and spending appropriated funds. Furthermore, it is an executive function to aid other governmental bodies in the implementation of the law. Congress makes the law, but it is not empowered to advise local governments and individuals about how the law is to be implemented in specific circumstances. This is just one example of the executive functions of the Commission.

Others include:

Setting up advisory commissions in each State—Congress has its only constitutional relations with the States via the representation of the Senate. The Constitution gives it no other authority to set up independent relationships with the various States.

Making rules and regulations to be printed in the Federal Register—Congress makes laws, not regulations printed in the Register.

Second. When it adopted the current version of this amendment last week, it expressly rejected the language of the Specter-Biden amendment which provided for the explicit transfer of the Commission to the legislative

branch. Instead it elected to retain the Commission in the executive branch. There is no other alternative. We do not have executive-legislative agencies or legislative-judicial agencies or any other form of hybrid. The principle of separation of powers makes at least that much very clear. Accordingly, by rejecting the legislative Commission, we have elected to retain the executive branch Civil Rights Commission.

Third. For 26 years, this Commission has operated in the executive branch. Over the years, its mission has taken on executive duties even beyond those in its statute. It participates very directly in the execution of our civil rights laws. It participates in the way the States implement the law. It participates in formulation of administration policy with regard to civil rights.

Fourth. The Voting Rights Act gives the Commission a very specific executive function. Compliance with various provisions of the Voting Rights Act is tied to whether a Civil Rights Commission study clears the jurisdiction whose voting policy is in question.

Fifth. The Hannah against Larche case arose in 1959, 2 years after the Commission was created. That was before the Commission received additional executive functions under the Voting Rights Act and before it had operated for 26 years in the executive branch participating in the implementation of the law. In 1959 the Commission undoubtedly was understood to do little more than study issues, but the intervening 24 years have seen the Civil Rights Commission, via its "clearinghouse" and "advisory commissions" and other executive roles, take on a much more clear and substantive executive branch function.

Notwithstanding my apprehensions about the constitutionality of appointments to this Commission not made by the President or confirmed by the Senate, I intend to vote to extend the life of the Commission. Under the Supreme Court's ruling in *Buckley* v. *Valeo*, 42Y U.S. 1 (1975), the improper executive functions of this Commission may be struck down without the Court declaring the Commission itself unconstitutional. The extent to which this compromise retains executive functions in officers not appointed according to article II of the Constitution will have to be ultimately determined by the judicial branch. Accordingly, I will support the Commission's extended life although I have concerns about the constitutionality of all of its provisions. The amendment which I will not offer reads as follows:

In the bill as amended, strike out clauses (B) and (C) in section 2(b)(1) and insert in lieu thereof the following:

(B) two members of the Commission shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, who shall consider the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(C) two members of the Commission shall be appointed by the President upon the recommendation of the Speaker of the House of Representatives who shall consider the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

Mr. THURMOND. Mr. President, I now yield to the distinguished and able Senator from North Carolina (Mr. EAST) for 5 minutes.

Mr. BYRD. Mr. President, before the distinguished President pro tempore yields, will he yield to me so that I may appoint a designee?

Mr. THURMOND. Mr. President, I am glad to yield to the able minority leader.

Mr. BYRD. Mr. President, I am glad to appoint Mr. BIDEN to control the time on this side.

Mr. BAKER. Mr. President, will the Senator yield for a few seconds to me?

Mr. THURMOND. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that paragraph 4 of rule XII be waived in respect to the quorum call in proceeding to the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. DOLE. Mr. President, will the Senator from North Carolina yield to me?

Mr. EAST. I yield.

Mr. DOLE. Mr. President, early Friday morning, by a vote of 79–5, the Senate adopted a compromise proposal on the Civil Rights Commission's authorization. The compromise was the result of marathon negotiations involving myself, Senator BIDEN, White House officials, members of the civil rights community, and many others. The compromise was meticulously crafted to address the concerns of those who, on the one hand, wanted to reconstitute the Commission as an arm of Congress, with Commissioners being appointed by congressional leaders, and those who, on the other hand, wanted to continue the Commission as an executive branch agency, with Commissioners being appointed by the President.

Under the compromise, the Commission would be reconstituted as an eight-member "hybrid body." The President would appoint four Members, two Republicans and two Democrats. The President pro tempore of the Senate, and the Speaker of the House, upon the recommendations of the congressional leadership, would each appoint two members to the Commission, one Republican and one Democrat. It is the intent of the sponsors that the President pro tempore and Speaker would abide by the recommendations of the leadership. The compromise includes no requirement that any of the appointees be confirmed by the Senate.

In developing the compromise, some concerns were expressed that congressional appointment of Commissioners might violate the appointments clause, which requires that the President appoint all "officers of the United States" subject to the advice and consent of the Senate. The sponsors believe that the appointment process provided for in the compromise does not violate the appointments clause, as construed by the Supreme Court in Buckley against Valeo.

Buckley involved a challenge to the 1974 legislation creating the FEC. As originally constituted, of the six voting members on the FEC, two were appointed by the President, two by the President pro tem, and two by the Speaker of the House.

The Buckley Court held that most of the powers conferred on the Commission could be exercised only by officers of the United States who were appointed in accordance with article II.

However, the Court explicitly refused to invalidate those powers which were "essentially of an investigative and informative nature, falling in the same category as those powers which Congress might delegate to one of its own Committees, there can be no question that the Commission as presently constituted may exercise them."

This ruling applied directly to the Civil Rights Commission. As the Supreme Court recognized in Hannah against Larche, the Commission's function is "purely investigative and fact-finding. . . . The only purpose of its existence is to find facts which may subsequently be used as a basis for legislative or executive action."

In addition, the Commission's subpena powers do not undermine the constitutionality of the appointment process. It is true that the Court in Buckley struck down the FEC's authority to bring civil actions to enjoin acts or practices which violated the campaign law. However, the Court specifically noted that the Commission's authority to bring such civil action does not require the concurrence or participation of the Attorney General. In contrast, the Commission can enforce its subpenas only through application to the Attorney General. It has no powers of its own to bring a civil action to enforce them.

In short, Mr. President, because the Commission, while housed in the executive branch, exercises legislative, not executive, functions, the appointments clause does not apply.

Mr. President, in concluding, I just want to thank all parties for their will-

ingness and cooperativeness in getting this matter resolved in an amicable way. I would also like to commend the fine efforts of those staff members who worked on this difficult issue: D. Lide, Debbie Owen, Dick Bowman, Randy Rader, Mary Louise Westmoreland, Steve Metalitz, Sheila Bair, Mark Gittenstein, Chip Reid, Marge Baker, and Burt Wides.

In light of concerns which have been expressed about the constitutionality of this proposal, I request unanimous consent that memorandums prepared by the Congressional Research Service and the State Legal Council, supporting the compromise's constitutionality, be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., November 14, 1983.

To: Senate Judiciary Subcommittee on Courts. Attn: Sheila Bair.
From: American Law Division.
Subject: Constitutionality of Creation of Civil Rights Commission with Legislative and Presidential Appointments.

This is in response to your request for a consideration of the constitutionality of the proposal to recreate the Civil Rights Commission with its eight members being appointed half by the President and half by Congress and being subject to removal only for cause.

We must emphasize that time constraints have required that consideration of the question be abbreviated and this response must necessarily be brief. However, it appears from the precedents and their application in analogous circumstances that the proposal does not raise a constitutional problem in general, although it is conceivable that in practice some problem might emerge. We report here with respect to facial constitutionality.

It is settled that Congress has the power through its committees to investigate and inform itself. *McGrain* v. *Daugherty,* 273 U.S. 135, 174–175 (1927); *Watkins* v. *United States,* 354 U.S. 178, 187 (1957). It is equally settled that these legislative functions relating to the flow of necessary information—receipt, dissemination, and investigating—which Congress might delegate to one of its own committees may equally be delegated to another entity, an entity which would be composed of congressional appointees, of presidential appointees, or of mixed congressional-presidential appointments. *Buckley* v. *Valeo,* 424 U.S., 1, 137–138 (1976). Similarly, it is settled that the function of the Civil Rights Commission, whether in its incarnation as a body the members of which were appointed by the President or in its proposal form, "is purely investigative and fact-finding. . . . The only purpose of its existence is to find facts which may subsequently be used as the basis for legislative or executive action." *Hannah* v. *Larche,* 363 U.S. 420, 441 (1960).

The applicable case law thus supports the proposition that such a commission as is envisaged by the proposal comports with constitutional standards. The Federal election Commission in issue before the Court in Buckley against Valeo, supra, was a body the members of which were appointed by Congress and the President. Unanimously, the Court held that as so constituted it could not exercise executive functions—that is, the execution of law enacted by Congress—but also unanimously the Court held that it could exercise the legislative functions of investigation, fact-finding, and dissemination of the obtained information. The proposed Civil Rights Commission would do no more than this.

Because the Commission would be exercising only legislative functions, the appointment of its members would not be subject to the appointments clause which vests the power of appointment of executive offices in, at Congress' discretion, the President with the advice and consent of the Senate or in the President alone, the head of a department or in the courts of law. *Buckley* v. *Valeo, supra,* 124–137. Congress has the discretion to provide for the appointment of a commission with legislative functions and could involve the President or omit him. Similarly, the executive power vested in the President to remove those officers executing the laws of the United States, *Myers* v. *United States,* 272d U.S. 52 (1926); see also *Humphrey's Executor* v. *United States,* 295 U.S. 602 (1035); *Wiener* v. *United States,* 357 U.S. 349 (1958), would have no application to the appointees to such a commission and Congress, exercising its discretion to involve the President, could choose as well to structure removal of the appointed members with specification of cause.

In conclusion, the precedents do not suggest that the proposal to constitute the Commission as an entity with joint congressional-presidential appointments and limitation on removal raises any facial constitutional problem.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

MEMORANDUM

To: Hon. Howard H. Baker, Jr.
From: Michael Davidson.
Date: November 10, 1983.
Re The Civil Rights Commission.

I have been asked for my views on the constitutionality of a proposal to appoint an eight-member Commission on Civil Rights in the following manner. Four members will be appointed by the President, two members will be appointed by the President pro tempore of the Senate, and two members will be appointed by the Speaker of the House of Representatives. The question is whether the appointment of a commission in this manner would violate the powers of the President under Article II, Section 2, Clause 2 of the Constitution, the Appointments Clause, as construed by the Supreme Court in *Buckley* v. *Valeo,* 424 U.S. 1 (1976). My opinion is that the proposed method of appointment is a constitutionally permissible method of appointing the members of a commission which has the powers of the present Civil Rights Commission.

The Federal Election Campaign Act Amendments of 1974 had provided for an eight-member Federal Election Commission to enforce and to administer the Federal Election Campaign Act. Six of the eight members of the Commission were voting members; of these two were appointed by the President pro tempore of the Senate, two by the Speaker of the House of Representatives, and two by the President. In *Buckley,* the Court held that most of the powers conferred on the Commission by the campaign law may be exercised only by officers of the United States who are appointed in conformity with the Appointments Clause.

The Court was explicit in not invalidating all of the powers of the Federal Election Commission as it was then constituted. In particular, the Court held that "[i]nsofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them." Id. at 137.

This specific ruling is applicable to the Civil Rights Commission, whose functions the Court has described as follows:

"[The Commission's] function is purely investigative and fact-finding. It does not adjudicate. It does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. Nor does it indict, punish, or impose any legal sanctions. * * * The only purpose of its existence is to find facts which may subsequently be used as a basis for legislative or executive action.".

Hannah v. *Larche,* 363 U.S. 420, 441 (1960). Under Buckley, a commission appointed entirely or partly by officers of the Congress may exercise investigative and reporting powers of the kind granted to the Civil Rights Commission.

The subpoenas of the present Civil Rights Commission are enforced by the United States district courts upon application of the Attorney General. 42 U.S.C. § 1975d(g) (1976). In the Federal Election Commission case, the Court held that "[t]he Commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. *Buckley, supra,* 424 U.S. at 138. This refers to the authority of the Federal Election Commission to bring civil actions to enjoin acts or practices which violate the campaign law. Also, the Court specifically noted that the Commission's authority to bring such civil actions did not require the concurrence of or participation by the Attorney General. Id. at 111. In contrast, the enforcement of subpoenas of the Civil Rights Commission is on application of the Attorney General. Therefore, the Commission's present subpoena authority does not undermine the constitutionality of the appointment process.

The PRESIDING OFFICER. The Senate will be in order so the Senator from North Carolina may be heard. Will all Senators who are conversing and all staff conversing in the rear of the Chamber please leave the Chamber or be quiet so we may hear? The Senate will be in order.

The Senator from North Carolina.

Mr. EAST. Mr. President, I realize that this measure will pass with overwhelming support. I intend to vote against it. I appreciate the opportunity to have 5 minutes to speak to that end so that my vote in the negative will be understood by supporters of this measure which I know will be overwhelming.

First of all, I think it is an example of the growth of Government over the past 20, 30, 40 years, that it is superfluous and it is redundant.

This measure costs us $11.9 million per year. It is purely an advisory commission. It does not give us any other

additional information on matters affecting the civil rights of women or racial minorities or religious groups or the handicapped that we cannot get from already existing staff and committees.

Now it has reached a point today in America, and I understand that and I am not hostile to it really in terms of the goal, but anything that is done in the name of civil rights immediately gets an overwhelming vote in this Chamber and you can well nigh appropriate about anything you want for it. We saw that with the Voting Rights Act, we saw that with the Martin Luther King holiday, and now we see it in this case here.

In those cases, I tried to explain that I was not hostile to the goal, only to the means to the end. I think the costs cannot be justified—in a period of attempting to cut deficits of over $200 billion, a national debt of over $1 trillion—when the very functions that this Commission could perform, which are purely advisory, can be handled by existing committees and existing staff.

It is a part of the old legacy up here: Somebody comes up with a good idea, you establish a commission and you spend $12 million a year to fund it.

I realize the train rolls. There is a symbolism here. Many like it. As they did with these other votes, they are going to vote in the affirmative.

But I vote in the negative not because I oppose the goal of equal opportunity for blacks, for women, religious, racial minorities, the handicapped and all of the other groups that this Commission may be giving us advice on. I am simply saying it is superfluous; it is redundant. And if you wonder why, again, this Government is wrapped up in this enormous bureaucracy that is spinning out of control in expenses, it is because we are just repeating ourselves.

Keep in mind this Commission is purely advisory. It has no regulatory function. It does not serve like the Federal Trade Commission or other entities that serves some valid legal functions that otherwise would not be fulfilled. But it will pass, and it will pass heavily.

I shall vote against it, not on the goal that it seeks to accomplish, but primarily on budgetary reasons. It cannot be justified on a priority of a really genuine, needed Government expenditure. And to spend $12 million a year on it, and you take a lot of other superfluous entities we have in this country today in this Federal Government, if the American people wonder why we have deficits of $200 billion and an overall national debt of over $1 trillion, I will tell you why. It is $12 billion here and $12 billion there and, as old Everett Dirksen put it, "Pretty soon that adds up to real money." And it is well over $1 trillion today in the United States.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. EAST. I thank the Chair. I simply appreciate the opportunity the committee, the Chair, and the distinguished majority leader has given me to express my opposition to this measure. I shall be voting in the negative for the reasons given and I would like for the RECORD to show that.

Mr. BIDEN. I yield 1 minute to the Senator from Nebraska.

Mr. EXON. I thank the distinguished manager of the bill on this side for the time.

Mr. President, let me add my voice of support to what I think is an excellent compromise. Certainly the Civil Rights Commission, as has been handled by the President, has caused great concern on both sides of the aisles. I believe that the efforts of those who have worked out this compromise with the White House should be congratulated. I hearby congratulate them. I hope that we will have an overwhelming vote of support for the measure that we are about to vote on.

Mr. BIDEN. After long and arduous negotiations we have finally reached a compromise satisfactory to all parties. This compromise reinforces my opinion that, whether or not the President has the legal power, no President should be allowed to replace Commissioners at will. The Commission was intended to be an independent agency. To allow firings without cause would jeopardize that independence.

At the same time, the compromise accommodates the President's interests by giving him the power to appoint four Commissioners.

I am confident that this legislation is constitutionally sound. As the Supreme Court found in *Hannah* v. *Larche* (363 U.S. 420), the Civil Rights Commission's function "is purely investigative and fact-finding." The Commission does not perform executive functions. Therefore, the Commission may include members appointed by Congress. As the Supreme Court concluded in *Buckley* v. *Valeo* (424 U.S. 1), where a commission's power are:

> Essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them.

Mr. President, I also wish to express my appreciation to my colleagues who wished to add amendments concerning other matters to this legislation but agreed not to so as to accommodate those of us who felt very strongly that this proposal should pass without amendment.

Mr. President, I yield back the time and suggest we vote.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Pennsylvania?

Mr. BIDEN. Yes, I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on November 10, 1983, I was pleased to offer, with the cosponsorship of Senators BIDEN, DOLE, THURMOND, DOMENICI, MATHIAS, KENNEDY, METZENBAUM, and CHAFEE, a compromise measure designed to insure the continuance of a vital and independent Civil Rights Commission. That compromise was a step beyond an amendment previously offered which had been cosponsored by more than 50 Senators. That compromise was adopted by an overwhelming majority (79 to 5). Today that measure will be before this body for final passage.

In this regard, I believe it crucial that we recognize the nature of compromise. I need not now recount the full history of the months of discussion, debate, and negotiations following the President's nomination last May of three new commissioners. Suffice it to say that the negotiations have been intense and sustained, and, more importantly, that we were never before able to fashion a compromise that was acceptable to all interested parties. The pending proposal was arrived at only after many, many hours of careful consideration; no detail escaped the closest scrutiny.

The package before us now—as a whole—has received the support of Republicans and Democrats alike, and the support of the White House and the civil-rights community.

I am aware that some question has been raised concerning the constitutionality of a commission with both Presidential and congressional appointments. In the first place, I should point out that constitutional experts from both the Library of Congress and the Senate Legal Counsel were consulted as we prepared this measure. They were unequivocal in their conclusion that the compromise meets all constitutional requisites.

These concerns are based, I believe, on a misunderstanding of the Supreme Court's decision in *Buckley* v. *Valeo*, 424 U.S. 1 (1976). Buckley involved a challenge to the structure of the Federal Elections Commission. As originally constituted, of the six voting members of the Commission, two were appointed by the President, two were appointed by the President pro tempore of the Senate, and two were appointed by the Speaker of the House.

The Buckley court held that insofar as the broad administrative powers of the Commission included "rulemaking, advisory opinions, and determinations of eligibility for funds," these powers could only be exercised by Presidentially appointed Commissioners. The Court, however, explicitly noted, that:

Insofar as the powers confided in the Commission are essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them. *Id* at 137.

Thus, to determine what appointment authority is required for this Commission, one must examine its functions. We are fortunate to have the Supreme Court's view in this regard. In 1960, the Court described the Commission's function as follows:

. . . its function is purely investigative and fact-finding. It does not adjudicate. It does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. Nor does it indict, punish, or impose any legal sanctions. It does not make determinations depriving anyone of his life, liberty, or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may subsequently be used as the basis for legislative or executive action. *Hannah* v. *Larche*, 363 U.S. 420 (1960).

Justice Frankfurter emphasized this conclusion in his concurring opinion:

The objective of the Commission on Civil Rights, the purpose of its creation, and its true function are . . . to develop facts upon which legislation may be based. As such, its investigations are directed to those concerns that are the normal impulse to legislation and the basis for it. . . . (T)he Commission is merely an investigatorial arm of Congress. . . . Congress has entrusted the Commission with (the) role . . . of investigating and appraising general conditions and reporting them to Congress so as to inform the legislative judgment. (*Id.* at 488-489.)

For all of these reasons, it is perfectly clear that the functions of the Civil Rights Commission make it amenable to joint appointment of commissioners by both the President and the Congress. I urge each Member's continued support of the compromise reached on November 10. That compromise will assure the continuation of an independent Commission.

Mr. EAST. Mr. President, have the yeas and nays been requested on this measure?

The PRESIDING OFFICER. They have not.

Mr. EAST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BAKER. I announce that the Senator from New York (Mr. D'AMATO), the Senator from Alabama (Mr. DENTON), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Wisconsin (Mr. KASTEN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) and the Senator from Connecticut (Mr. DODD) would each vote "yea."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 78, nays 3, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—78

Abdnor	Ford	Murkowski
Andrews	Garn	Nickles
Armstrong	Goldwater	Nunn
Baker	Gorton	Packwood
Baucus	Grassley	Pell
Bentsen	Hatch	Proxmire
Biden	Hawkins	Quayle
Bingaman	Hecht	Randolph
Boren	Heflin	Riegle
Boschwitz	Heinz	Roth
Bradley	Huddleston	Rudman
Bumpers	Humphrey	Sarbanes
Burdick	Jepsen	Sasser
Byrd	Kennedy	Simpson
Chafee	Lautenberg	Specter
Chiles	Laxalt	Stafford
Cochran	Leahy	Stennis
Cohen	Levin	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Trible
Dole	Mathias	Tsongas
Domenici	Mattingly	Wallop
Durenberger	McClure	Warner
Eagleton	Melcher	Weicker
Evans	Metzenbaum	Wilson
Exon	Mitchell	Zorinsky

NAYS—3

East	Helms	Symms

NOT VOTING—19

Cranston	Hatfield	Moynihan
D'Amato	Hollings	Percy
Denton	Inouye	Pressler
Dixon	Johnston	Pryor
Dodd	Kassebaum	Stevens
Glenn	Kasten	
Hart	Matsunaga	

So the bill (H.R. 2230), as amended, was passed.

Mr. BIDEN. I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask that the text of the U.S. Commission on Civil Rights Act of 1983 be printed as passed in the RECORD, including the technical amendment.

The text follows:

Strike out all after line 2 on page 1 and insert in lieu thereof the following:

That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

(b) (1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(C) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena of the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined; and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prepared on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service; but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such

times as the Commission, the Congress or the President shall deem desirable.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission) of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

(B) Upon application of any individual (other than the staff director or a member of the Commission) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

(c)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law, the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights established by the Civil Rights Act of 1957 was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.

TERMINATION

SEC. 8. The provisions of this Act shall terminate 6 years after its date of enactment.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I discussed this with the distinguished minority leader and with others. There seems to be a desire now to go very briefly to the Senate day care center resolution, which is Calendar Order No. 533. Before we do that, let me take this opportunity to express my deep appreciation to the chairman of the Committee on Finance (Mr. DOLE), our President pro tempore (Mr. THURMOND), and the distinguished ranking minority member of the Judiciary Committee (Mr. BIDEN).

The PRESIDING OFFICER. The Senate will be in order. All Senators and all staff people will please refrain from conversing in the Chamber. The Senate will stay in suspension until there is quiet.

Mr. BAKER. Mr. President, I thank the Chair. The Chair is most thoughtful and I am very grateful for it taking the initiative to try to restore order in the Chamber.

Mr. President, I wish to take this opportunity to congratulate the distinguished chairman of the Judiciary Committee, our President pro tempore, Senator THURMOND, for his excellent service in bringing this matter to a successful conclusion. It is a major contribution not only to the agenda of the Senate but, in my opinion, to the future welfare of this country.

Mr. President, I wish to congratulate the distinguished Senator from Delaware (Mr. BIDEN), the ranking minority member of the Judiciary Committee, without whose assistance and cooperation it would not have been possible to get to this point. And the Senator from Kansas (Mr. DOLE), who worked so hard and so tirelessly at times when the compromise appeared to be unlikely and perhaps impossible. I wish to express my gratitude to him for his persistence and his successful effort to find a compromise solution.

Mr. President, I also wish to offer my congratulations to one of our newest Members, Senator SPECTER,

from Pennsylvania. It is because of his persistence and his insight and his special talents as one of the premier lawyers in the Senate that we were able to put together this package and bring it to this point.

Mr. BYRD. Mr. President, will the majority leader yield to me?

Mr. BAKER. Yes, I yield.

Mr. BYRD. Mr. President, there is no point in my attempting to elaborate or embellish on what has just been said by the distinguished majority leader. He has again performed with skill, and I want to associate myself with his remarks.

Mr. BAKER. Mr. President, I thank the minority leader.

NATURAL GAS POLICY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. The clerk will now report the unfinished business.

The assistant legislative clerk read as follows:

A bill (S. 1715) to amend the Natural Gas Policy Act of 1978, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 269

Mr. BAKER. Mr. President, I understand that Senate Resolution 269 is cleared for action on a very short time limit, so let me put a unanimous-consent request now.

Mr. President, I ask unanimous consent that the pending business, which is the natural gas bill just reported, be temporarily laid aside and that the Senate proceed to the consideration of Senate Resolution 269, Calendar Order No. 533; that the Senate consider that measure for not to exceed 10 minutes in which the time will be equally divided and the control will be in the usual form; that at the conclusion of that time the Senate return to the consideration of the Natural Gas Policy Act.

May I say, Mr. President, that there is a possibility, perhaps a strong possibility, that there will be a rollcall vote on this measure. Of course, we would not go back to natural gas until after the rollcall vote was concluded.

Mr. BYRD. Mr. President, reserving the right to object—and I am sure the majority leader will respond in a way that will not call for me to object—will the majority leader include as part of the request that there be no amendments to this resolution?

Mr. BAKER. Yes; Mr. President, I ask unanimous consent as well that no amendments be in order to Senate Resolution 269.

Mr. BYRD. I thank the majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the Chair.

SENATE DAY CARE CENTER

Mr. BAKER. Now, Mr. President, if the clerk would report this measure, then I have one other matter.

The PRESIDING OFFICER (Mr. GOLDWATER). The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 269) relating to a day care center for children of Senate employees.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, there is 10 minutes to be controlled by the distinguished chairman of the Rules Committee on this side.

Mr. BYRD. Mr. President, I designate Mr. DECONCINI to control the time on this side.

Mr. MATHIAS. Mr. President, one of the most striking changes which has transformed American society in recent years is the dramatic increase in the proportion of families whose adult members work outside the home. Whether they belong to single-parent families or to those in which both parents work, more and more young children need care during the work day from someone other than a parent. To an increasing extent, employers are recognizing that quality child care is at least as important to the families of many employees as health insurance, retirement plans, and other more traditional fringe benefits. For this reason, more and more employers are establishing high quality child care facilities at the workplace. These perceptive employers know that their work force will perform more efficiently, and with higher morale, if they do not have to worry about who is taking care of the children.

Senate Resolution 269 will put the Senate on record in support of the efforts of thousands of American businesses to help their employees obtain good day care for their children. It will put us on record, not simply through fine words and good intentions, but by example. This original resolution, which was unanimously approved by the Committee on Rules and Administration on November 1, would authorize the expenditure of up to $20,000 from the contingent fund of the Senate to defray start-up costs for a self-supporting, self-sustaining, and self-managed child care center for the children of employees of the U.S. Senate.

Mr. President, the recognition of the need for quality worksite day care facilities is growing every day. Recently, former President Gerald Ford, in an article in Parade magazine, added his voice. Pointing out that the changes in mothers' participation in the labor force give all of us reason to be concerned for our young people, former President Ford stated:

I have come to realize that, today, universal access to quality child care is imperative in all our communities—urban and suburban, rural and industrial, middle-class and poor. We must all become part of the effort to provide this care. And this effort must start today.

A similar realization has taken place in today's White House. The President's advisory council on private sector initiatives recently announced a program to encourage the expansion of accessible, affordable, quality child care in major cities around the country—by attempting to create a more informed environment in the business community for consideration of employer options for working families.

The U.S. Senate, as a major employer, must take these concerns seriously, too. Our thousands of employees surely have many hundreds of young children who need quality child care, because there is no adult who can stay home with them. Their parents are our employees. They are our secretaries, cafeteria workers, lawyers, electricians, gardeners, economists, U.S. Capitol Police officers, computer operators, and all the other myriad workers who keep this institution moving. But they are also parents of small children, and they are concerned about how those children are cared for during the working day. When we act to allay those concerns, we help the Senate do its work, as well as helping the children themselves. The case for action is particularly compelling when the price tag is as small as it is in this case.

Mr. President, with the approval of this resolution, the Senate is not getting into the day care business. It is simply giving a push over the finish line to a dedicated group of Senate employees who have worked diligently and patiently to establish a workplace day care center for their children.

These parents conducted an informal survey of Senate offices, and learned that the parents of well over 130 children are interested in placing their children in workplace child care facilities here at the Senate. They have organized a nonprofit corporation, elected officers, and begun the search for professional staff to run the child care center. They are working with the Architect of the Capitol to redesign space in a Senate annex, allocated to them by the Committee on Rules and Administration, for use as a child care center. That center, which will have an initial capacity of 40 to 60 children, will be operated by the parents' corporation, not by the Senate. The only assistance which the parents are asking for is start-up funding for equipment, supplies, and necessary initial professional services. I believe that this modest investment will pay substantial benefits to the Senate in the

form of increased employee morale, greater work force efficiency, and in the inestimable value of the Senate's example to other employers of an appropriate response to the challenges posed by the increase in working families.

Mr. President, several of the members of the Committee on Rules and Administration have been stalwart supporters of the concept of a child care center for the children of Senate employees. In particular, Senator INOUYE should be commended for placing this issue on the committee's agenda, and for his role in moving it toward realization. The newest member of our committee, Senator DECONCINI, has been a tireless advocate for the child care center; his efforts have been indispensable.

Senator HAWKINS, although not a member of the committee, has been an active participant from the early stages. I also would like to point out the important contributions made by the wives of several Senators. Many have been involved, including Mrs. Thurmond, Mrs. Riegle, Mrs. Leahy, and others. But Mrs. DeConcini, above all, has devoted her energy and enthusiasm to this important effort. Those who will benefit from the establishment of this center—and, as I have pointed out, that includes all of us in the Senate—owe her a debt of gratitude.

Mr. President, I am pleased to bring Senate Resolution 269 to the floor, and I urge my colleagues to support it.

In August of this year, the Rules Committee approved the assignment of 3,500 square feet of space on the second floor of the Immigration Building as a temporary location for a Senate Day Care Center. This is a facility which will be of primary interest to Senate staff. It is a means of providing adequate care for children of staff members during the time that they are at work. It is in the nature of a comparability step. It is comparable to facilities that are provided in the private sector, in industry, and in commerce. It will upgrade the quality of service in the Senate. The Senate will not be involved in the day-to-day operation of the day care center. Our primary role is to provide facilities which can be done at a very modest expense.

Mr. CHAFEE. Mr. President, could I ask the distinguished Senator a question, please? Will he yield for a question?

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. CHAFEE. Who is going to use this? It seems to me we have some of the highest paid staff in the United States of America. Is it going to be a means test? is it free or how does it work?

Mr. MATHIAS. It will be available for a weekly or monthly fee to the Senate staff and to Members, if there happen to be any who have need of such.

Mr. DECONCINI. Will the Senator yield?

Mr. MATHIAS. I yield to the Senator from Arizona.

Mr. DECONCINI. There is a nonprofit tax-exempt corporation that has been formed already. The tax-exempt status has not yet been granted. This will be a self-sustaining day care center. The Senate is providing the space and the utilities only except for the startup costs, a one-time-only appropriation. After that, if it cannot make it, it is not going to make it. But there is such a demand for it I am very confident it will be able to make it and serve a very adequate purpose.

The House of Parliament in Canada has recently done this, as the Senator may know. It is the moving direction of industry and more and more a bargaining matter between management and labor; 46 percent of the children under 6 years old in this country live with parents who both work or a single parent that works. So the need is here, and this is not going to be a burden to this body.

Mr. MATHIAS. As I said earlier, the Senate will not be operating it. We will be providing physical facilities only.

Mr. NICKLES. Will the Senator yield?

Mr. MATHIAS. Surely.

Mr. NICKLES. I heard the Senator from Arizona mention a one-time initial expense. I have not heard an expense. Could the Senator tell us what that initial expense will be to the taxpayers and then maybe give us an idea of the market value of the number of square feet of space we are providing?

Mr. MATHIAS. We are providing 3,500 square feet of space. We are providing $20,000 for the startup costs, and that will be the investment that we will make at this time.

Mr. NICKLES. So the $20,000 will be the sole expense to the taxpayers outside the——

Mr. MATHIAS. Use of the space.

Mr. NICKLES [continuing]. Use of the space?

Mr. MATHIAS. Whatever value you may place on that.

Mr. NICKLES. There will be no employees?

Mr. MATHIAS. No employees, no operating expense.

Mr. SPECTER. Will the Senator yield for a question?

Mr. MATHIAS. I yield to the Senator from Pennsylvania.

Mr. SPECTER. I ask this of the distinguished Senator from Maryland: While a day care center is highly desirable, what justification would there be for our having one for the Senate, with whatever costs that may involve, without providing similar opportunities for day care around the country? This is a problem that exists all over this country.

My wife, who is a member of the City Council in Philadelphia, has been a leader in this matter and has brought it to my attention repeatedly. It is a problem of great national magnitude. I have a concern that by adopting a program for the Senate, we will be taking care of ourselves, without acting to take care of others similarly situated.

How would the Senator from Maryland respond to any special treatment for the U.S. Senate on this issue?

Mr. MATHIAS. Mr. President, it is important to recognize that we have a dual role. The Senate of the United States is a legislature and we are an employer. We operate in this matter as an employer. We are providing for our employees an employee benefit which is comparable to that given in private industry.

Mr. President, I reserve the remainder of my time.

Mr. DECONCINI. Mr. President, I will be glad to yield further time to the Senator from Pennsylvania.

Several Senators addressed the Chair.

Mr. DECONCINI. I yield to the Senator from Florida.

Mrs. HAWKINS. Mr. President, I should like to call the attention of my colleagues to the fact that this is really not an employee benefit. We are talking about children under 6 years of age. They all are taken care of someplace, somewhere.

We spend almost all our time on weekends talking with businessmen about missing children, about latchkey children, about what is happening to these children after school hours. No one is watching the children.

Employers put in day care centers at the site of employment, so that the mother and father do not have to leave the children and they do not have to cross town 25 or 30 miles to the day care center.

I have spent 2 or 3 years of my traveling time encouraging child care or, in my State, dependent care. In my State, you can take your parents there if they are not able to take care of themselves. This is dependent care.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. HAWKINS. I ask for additional time.

Mr. DECONCINI. I yield to the Senator.

Mrs. HAWKINS. So, rather than having this as an employee benefit, this is showing care for a child whose mother or father is an employee of the Senate. I think it gives us a great step forward, so that we can talk to employers all over the United States and say that they should do likewise. I ask my colleagues to think of the children.

Mr. DECONCINI. Mr. President, I yield 1 minute to the Senator from Nebraska.

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I have two questions I should like to ask any of the proponents.

First, is there any such day care center at the present time in the House of Representatives or is one anticipated?

Mr. DECONCINI. Mr. President, I know of none in the House of Representatives at this time.

Mr. EXON. One other question. As I understand it, this is supposedly a one-time $20,000 appropriation. Are there any further appropriations anticipated in the future, or is the commitment being made that this is the first, only, and last time for an appropriation for this day care center?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DECONCINI. The Senator is correct, that it is a one-time appropriation—up to $20,000, not to exceed that. It is not anticipated that there will be other requests made.

I thank the Senator from Nebraska.

Mr. MATTINGLY. Mr. President, will the Senator yield 1 minute?

Mr. DECONCINI. I yield.

Mr. MATTINGLY. Mr. President, this kind of measure that needs to be passed very late at night, because in the light of day, it certainly should not pass.

The two biggest disappointments I have had in the U.S. Senate were last year when we passed a $100 billion tax increase, and the second would be this bill.

I think it is purely frivolous that we would think at this time in our country of trying to provide a day care center for employees of the U.S. Senate.

Mr. ABDNOR. Mr. President, will the Senate yield for a question?

Mr. MATHIAS. I yield 1 minute.

Mr. ABDNOR. I happen to have a subcommittee on appropriations that covers about 65 percent of the different divisions of Government. Would we be obligated to go along with our budget for their agencies which would like to establish the same thing, whether it is the Treasury Department or Secret Service or Post Office? Maybe they already have it. Do they? We would have a hard time saying no, would we not?

Mr. MATHIAS. I advise the Senator that several Government agencies now have day care centers on a self supporting basis.

SEVERAL SENATORS. Vote! Vote!

Mr. EAST. Mr. President, I should like to ask a question of the majority or minority managers of the bill, for clarification.

I thought Senator SPECTER asked an excellent question, about whether we would not be perceived as taking care of our own when, of course, this is a national need as well.

The distinguished Senator from Maryland indicated that it would be comparable to private employers offering facilities for their employees, and I understand that. But, to me, the more pressing and telling point is that we, ourselves, can benefit from it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. I say to the Senator that I hope we are viewed as a model and example for employers throughout the country.

Mr. EAST. We are also providing this for Senators, are we not?

Mr. MATHIAS. Primarily for staff.

Mr. EAST. When the Senator says "primarily," it is true that Members of the Senate would be able to avail themselves of this service. That is, it is not just employees. It is employer—namely, the Senate—taking care that it has a day care center for its children. Yet, this is not necessarily true throughout the country.

All I am saying is that Senators would be able to utilize this facility the same as staff employees, so it is not strictly an employees' benefit. Am I correct?

Mr. SASSER. Mr. President, I rise today in opposition to the measure offered by the distinguished Senator from Maryland, Mr. MATHIAS.

Senate Resolution 269 would establish a day care center for Senate employees. I have no quarrel with the concept of providing day care facilities to working mothers. However, this bill also provides that Senators are allowed the same perquisite.

During my service in the Senate my record clearly and unequivocally will show my support for various child care programs. However, this legislation goes beyond the substance of child care and goes to the very heart of a matter which symbolizes special privilege for those of us who are fortunate enough to work for the U.S. Government.

Is it fair that we should provide for the children of Senate employees when as many as 6 to 7 million children 13 years of age and under, including many preschoolers, may go totally without care while their parents work? I think not.

Is it fair that the children of Senate employees, including Senators, should be afforded the luxury of day care when, since 1982, 32 States have cut funding for child care? I think not.

Mr. President, given the precarious economic times in which we find ourselves I think it is absoutely imperative that we be espcially careful about how we spend the taxpayers' dollars. It is incumbent upon us to provide for those citizens who lack the financial capacity or the opportunity to place their children in day care facilities.

The resolution before us today only addresses one segment of Ameircan society and I do not believe that we should direct our effort and energies to ourselves. This resolution could easily be construed as an unnecessary benefit to a distinguished elite.

I believe that what is needed is an extensive program which addresses the rank and file of American society, not a specialized program which merely takes care of those to which we are most familiar. It is for this reason that I cannot support the measure before this body today.

SEVERAL SENATORS. Regular order.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. EAST. I would like an answer.

Mr. THURMOND. Most of the staff members are younger and have more children, and there would be very few Senators in that situation.

Mr. QUAYLE. Just be careful what you say. [Laughter.]

Mr. THURMOND. Of course, I am reserving all rights. [Laughter.]

The PRESIDING OFFICER. Regular order has been called for.

The question is on agreeing to the resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER. I announce that the Senator from New York (Mr. D'AMATO), the Senator from Alabama (Mr. DENTON), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Wisconsin (Mr. KASTEN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD). the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

I further announce that, if present and voting, the the Senator from Connecticut (Mr. DODD), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 31, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—50

Andrews	Ford	Melcher
Armstrong	Goldwater	Metzenbaum
Baker	Gorton	Mitchell
Baucus	Grassley	Packwood
Biden	Hatch	Pell
Bradley	Hawkins	Riegle
Bumpers	Heinz	Sarbanes
Burdick	Jepsen	Specter
Chafee	Kennedy	Stafford
Cochran	Lautenberg	Stennis
Cohen	Laxalt	Thurmond
Danforth	Leahy	Trible
DeConcini	Levin	Tsongas
Dole	Long	Wallop
Domenici	Lugar	Warner
Durenberger	Mathias	Weicker
Eagleton	McClure	

NAYS—31

Abdnor	Hecht	Randolph
Bentsen	Heflin	Roth
Bingaman	Helms	Rudman
Boren	Huddleston	Sasser
Boschwitz	Humphrey	Simpson
Byrd	Mattingly	Symms
Chiles	Murkowski	Tower
East	Nickles	Wilson
Evans	Nunn	Zorinsky
Exon	Proxmire	
Garn	Quayle	

NOT VOTING—19

Cranston	Hatfield	Moynihan
D'Amato	Hollings	Percy
Denton	Inouye	Pressler
Dixon	Johnston	Pryor
Dodd	Kassebaum	Stevens
Glenn	Kasten	
Hart	Matsunaga	

So the resolution (S. Res. 269) was agreed to, as follows:

S. RES. 269

Resolved, That payment is authorized from the contingent fund of the Senate in an amount not to exceed $20,000 for the start-up costs, including the procurement of the services of individual consultants or organizations, for a Senate day care center, which shall be ready for occupancy by January 1, 1984.

SEC. 2. Payments under this resolution shall be paid from the appropriation account for "Miscellaneous Items" in the contingent fund of the Senate upon vouchers approved by the chairman of the Committee on Rules and Administration.

SEC. 3. The Committee on Rules and Administration shall supervise any contract entered into on behalf of the Senate, under authority of this resolution. Such contract shall not be subject to the provisions of section 5 of title 41 of the United States Code or any other provision of law requiring advertising.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I just wanted to rise for one moment to pay my respects to the unforeseen force that caused the last measure to go through. It was not really the leadership of the Senator from Arizona that caused it to be enacted nor was it totally, although certainly partially, the leadership of the Senator from Florida. But we would be remiss if we did not pay our respects to the wife of the Senator from Arizona, Susan DeConcini, who did so much to push forward with respect to that piece of legislation. I congratulate her, I congratulate PAULA HAWKINS, and I congratulate ourselves for our efforts in this respect.

Mr. MCCLURE. Mr. President, what is the pending business?

NATURAL GAS POLICY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1715) to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MCCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREE ENTRY OF PEOPLE AND EQUIPMENT INTO THE UNITED STATES IN CONNECTION WITH THE OLYMPICS

Mr. BAKER. Mr. president, last week I announced that today and tomorrow we would try to reach a House-passed revenue measure on which the tuition tax credit be offered as an amendment.

I may say parenthetically, Mr. President, that we are speaking of the tuition tax credit for secondary education, which is a measure I do not support. But I do not intend to try to keep that measure from coming up.

I am told that those who support the measure have now chosen House Joint Resolution 290 as the measure to carry the proposed amendment, I believe by the Senator from Kansas (Mr. DOLE), to advance the administration's tuition tax credit bill. House Joint Resolution 290 is a joint resolution to permit free entry into the United States of the personal effects, equipment, and other articles of foreign participants, officials, and other accredited members of delegations involved in the Olympics.

Mr. President, I have no illusions about getting either to this resolution or to the amendment of the Senator from Kansas. But I have given my commitment that we would try to reach it today. Indeed, I wish to try to do that.

Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending measure and turn to the consideration of calendar order No. 557, House Joint Resolution 290.

Mr. CHILES. Reserving the right to object, I think I would have to object to the request to consider the joint resolution if we could not get as part of the agreement that there would be no amendments. I think the majority leader knows that there has been an interest by a number of Senators who are opposed to tuition tax credits. One is the Senator from South Carolina. It appeared that the tuition tax credits might have come up on a number of vehicles. The Senator was never able to know exactly when it would come or nor come. He will not be here today.

There are others I have heard from who did not know that this issue would be coming up today, who would wish to have time to prepare to educate the Senate on this subject if it is going to come up.

So I think if that is an issue, and the majority leader is very open with us in saying that is the vehicle to put that amendment on, then I would have to object.

The PRESIDING OFFICER. Objection is heard to the request.

Mr. BAKER. Mr. President, I must say to the Senator that I could not agree to the condition that no amendments would be in order. I fully expected that there would be an objection.

Mr. CHILES. And I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Now, Mr. President, I am about to make a motion to go to that measure. I understand that the motion is fully debatable. It may indeed require us to debate the matter at some length yet today. Let me announce we have a good 2 hours yet before the Senate will be asked to go out. When I make the motion I expect that we will be off and running.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BAKER. Before I do it, Mr. President, let me now ask unanimous consent, which I do, that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR HEINZ ON TOMORROW

Mr. BAKER. Now, Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order tomorrow, the distinguished Senator from Pennsylvania (Mr. HEINZ) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that the time remaining after the execution of the special order and before the hour of 10:15 a.m. tomorrow be devoted to the transaction of routine morning business in which Senators may speak for not more than 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREE ENTRY OF PEOPLE AND EQUIPMENT INTO THE UNITED STATES IN CONNECTION WITH THE OLYMPICS

Mr. BAKER. Now, Mr. President, I move that the Senate turn to the consideration of calendar order No. 557, House Joint Resolution 290.

Mr. CHILES. Mr. President, I yield to the distinguished Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the distinguished Senator from Florida who has lodged objection to the unanimous-consent request to immediately proceed to a discussion of the issue at hand. He has raised that objection because of the concerns of many Members of the Senate and many citizens across this country with the possibility that an amendment to authorize tuition tax credits for elementary and secondary students might be attached to the pending business.

It is easy to understand why such a concern would be widespread. It is a matter of fundamental importance, an issue that should be very carefully considered at length by the Members of this body. We live in a nation dedicated to the providing of equal opportunities for all of our citizens. It is the dream of all of us as successors to those who authored our Constitution and our Declaration of Independence, and who set up our political and economic system, that we have a country in which every single human being has an opportunity to live up to his or her full potential. If that person is willing to work hard, to learn as much as he or she can, that person will have an equal opportunity to succeed.

Mr. President, it is very clear that nothing is more fundamental to the providing of that full opportunity in our society than the provision of an equal opportunity for an education of quality.

If we deprive, from the beginning, that young person of a chance to learn, we deprive that human being in their own future of any hope that they will have an opportunity, an equal opportunity, to succeed economically, socially, and politically.

Because of the concern of three of us on this side of the aisle, we addressed a letter to the distinguished minority leader of the Senate, Senator ROBERT C. BYRD, expressing our views about the pending measure and expressing our hope that this important and fundamental policy question not be brought up on the floor of the Senate under a schedule that would not allow the kind of prolonged study and probing that an issue of this fundamental importance deserves.

This letter was written with the full understanding that the minority leader does not have control over scheduling on the Senate floor providing us with an opportunity to discuss our feelings. We do not take the time of the Senate in what perhaps will be the last week of this particular session simply for the purpose of delay. It is not our desire to be troublesome. It is not our desire to try to prevent the conducting of the Senate's business in a timely fashion.

I would have to say, Mr. President, speaking as one individual, I know of no more important public policy question to come before this body during the 5 years that I have been privileged to be a Member of it.

I would like to share with the other Members of the Senate the contents of the letter which was sent by Senator HOLLINGS, of South Carolina; Senator LAWTON CHILES, of Florida; and myself, to the distinguished minority leader.

I will read the text of the letter.

U.S. SENATE,
Washington, D.C., November 14, 1983.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, D.C.

DEAR MR. LEADER: Over the past several weeks we have repeatedly been advised that S. 528—tuition tax credit legislation—will be offered as an amendment to any of several bills scheduled for Senate consideration before adjournment. First, about three or four weeks ago the announced vehicle for the amendment was S. 1285—math and science legislation. We began to prepare ourselves for that possibility. For some reason we were later advised that the decision had been made not to use S. 1285. Next the Public Debt Limit bill was suggested as a probable vehicle. Again we began to prepare for that possibility. Later we were advised the Public Debt Limit bill was out. More recently we were advised that we could expect a tuition tax credit amendment to be offered as an amendment to H.R. 2769—Retirement Equity Act of 1983—and that we should be ready to proceed to debate the bill as early as Wednesday, November 10. We began to prepare ourselves for that possibility. But, on Tuesday, November 9, we were advised that we can expect a tuition tax credit amendment to be offered to H.R. 3398—assorted tariff provisions—and that this was a likely prospect for floor action on Wednesday, November 16. Again we began to prepare for that possibility. Then on Saturday, the Majority Leader announced that we would not have the amendment on H.R. 3398 but on H.J. Res. 290 instead and we could expect it to come to the floor around 2:00 on Tuesday, November 15.

We know that you cannot control the offering of amendments. Every member of this body has certain rights and privileges and we would only expect that proponents of a tuition tax credit amendment would skillfully use those rights. That's no more or less than we intend to do. But we object to the on and off routine that we have have to follow the past several weeks. It's a tremendous disservice to Senators on both sides of the tuition tax credit issue. We feel there are important policy considerations raised by this issue and we believe that they are significant enough to receive careful attention. It's more and more apparent that those who would propose a tuition tax credit amendment under the circumstances we have described are not really interested in having this discussion.

Waiting until the last few days of the last projected week of the session before attempting to call tuition tax credits not only limits thorough debate of the issue, it signals that politics is more important than the very significant policies to be debated. In 1978, consideration of tuition tax credit legislation took three days. When the Finance Committee marked up S. 528 earlier this year it took four days. Since the bill was reported in April, the United States Supreme Court has issued an important opinion that impacts on the issue. Numerous changes in basic education policy and programs as well as significant spending cuts for education have occurred in recent years. This has significantly changed the face of education policy and the federal role in it. Over the course of the past year, many impressive and compelling studies have come forth chronicling the problems besetting education in the nation. Yet, this week, in the past few days of the session, the Senate will be called upon to pass judgment on the most significant education legislation before this body in many years. And, we will be called upon to render that judgment in an environment designed to minimize serious debate since "must pass" legislation will be pending and the annual rush to adjournment sine die will be in progress. We feel this is preposterous. We strongly feel that tuition tax credits is an important issue that deserves to be debated on its own merit. We are determined to have the opportunity to speak our mind on this issue and make our case against it.

Let us assure you that we are ready and willing to accommodate your effort to schedule items for the floor. We are willing to enter into a time agreement for the consideration of H.J. Res. 290. But, in no way can we agree to a time limit on a tuition tax credit amendment. To do otherwise would seriously restrict our ability to thoroughly discuss this important issue and its implications for millions of school children. We respectfully request that we be notified when H.J. Res. 290 is called for consideration so that we can be present on the Senate floor when this resolution is made to proceed to its consideration. We in no way desire to delay the Senate's business. We do, however, wish to have the opportunity to explain to our colleagues the twisted course that tuition tax credit legislation has taken to get to the floor. We feel it is important that our colleagues have this understanding and have some understanding just what is

at stake here and the scope of debate we intend should a tuition tax credit amendment be offered. And, because there have been so many announced vehicles for the tuition tax credit amendment, we wish to advise you that it is our intention to follow a similar course of action if a bill other than H.J. Res. 290 is chosen as the vehicle for tuition tax credits.

Thank you for your assistance.

Sincerely,

Ernest F. Hollings.
Lawton Chiles.
David L. Boren.

Mr. DOLE. Mr. President, will the Senator yield without losing his right to the floor?

Mr. BOREN. Mr. President, if I may, I ask the Senator from Kansas for what purpose he would like me to yield.

Mr. DOLE. The Senator from Kansas would like to make just a brief statement and then include in the RECORD a copy of the amendment that the Senator from Kansas may offer if it ever proceeds to that point where the bill is up and amendment is possible.

Mr. BOREN. Mr. President, I ask unanimous consent that I be allowed to yield to the Senator from Kansas for that purpose without losing my right to the floor and without the resumption of my remarks being deemed and constituted an additional speech on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Oklahoma. I think he has properly stated the controversy surrounding tuition tax credits.

I say at the outset, this is a matter of the utmost importance to the President of the United States. As a matter of fact, at about noon today, the President called me. I thought he would be resting after his long trip. He said no, he wanted to make certain we are going to try to bring this up for a vote, hopefully, before Congress adjourns this weekend.

I expressed, as I have in the past, my opinion that, we were going to keep our commitment to the President, we were going to try to bring the bill up, because he feels so strongly about it, as do many Members of the Congress. Many Members of the Senate feel strongly that we ought to have some form of tuition tax credits. I know that there is also strong opposition, as has been indicated. The Senator from South Carolina (Mr. HOLLINGS) has made his opposition clear for a number of years. There is bipartisan opposition just as there is bipartisan support.

The distinguished Senator from Oklahoma, who just spoke, strongly opposes tuition tax credits, as does the distinguished Senator from Rhode Island (Mr. CHAFEE). They were very effective in the committee, and they made their case very well. It was a close vote. I think at the time the bill was reported out, we indicated to both Senators that we would not try to rush to judgment on the bill. We have not done that. Now I think it is the end of the session and the President would like to have it passed—not just a vote, but have the measure passed.

I, as a supporter of tuition tax credits, have indicated to the President that we may do that. Now, it is possible the only vote we can have is on a motion to proceed.

I have suggested to the majority leader that perhaps we could file a cloture motion today, and have a vote on the motion to proceed, maybe, on Wednesday. If the votes are not there, then I think if we are really intent on leaving this Friday, we have to make some other judgment at that time.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD so that Members may have an opportunity to review it between now and tomorrow or Wednesday, and an explanation of the amendment.

There being no objection, the amendment and the explanation were ordered to be printed in the RECORD, as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eductional Opportunity and Equity Act of 1983".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(1) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(2) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(3) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should accept education provided by government-created and government-operated school systems, and forcing such a selection is an unfair and unjust discrimination against persons of lesser means;

(4) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(5) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least posssible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(6) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(7) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(b) PURPOSE.—The primary purpose of this Act is to enhance quality of educational opportunity, diversity, and choice for Americans.

SEC. 3. CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(1) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the term 'applicable amount' means the excess, if any, of—

"(A) $300, over

"(B) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(3) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1983, and before January 1, 1986, paragraph (2) shall be applied—

"(A) in taxable years beginning in 1984, by substituting—

"(i) '$100' for '$300',

"(ii) '1 percent' for '3 percent', and

"(iii) '2 percent' for '6 percent', and

"(B) in taxable years beginning in 1985, by substituting—

"(i) '$200' for '$300',

"(ii) '2 percent' for '3 percent', and

"(iii) '4 percent' for '6 percent'.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an educational institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that it does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade-level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(b) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory

policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(c) REFUNDABILITY OF TUITION CREDIT.—Subsection (b) of section 6401 of such Code (relating to amounts treated as overpayments) is amended by striking out the first sentence and inserting in lieu thereof the following: "If the amount allowable as credits under section 31 (relating to tax withheld on wages), section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), section 43 (relating to earned income credit), and section 44I (relating to tuition credit) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, 43, and 44I), the amount of such excess shall be considered an overpayment.".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 55 (f) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44I."

(2) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(A) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44I (relating to tuition credit)", and

(B) by striking out the caption and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.—".

(3) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TUITION CREDIT CONSIDERED PAID.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 44I (relating to tuition credit) as is treated under section 6401 (b) as an overpayment of tax.".

(4) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND TUITION CREDIT.—".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"Sec. 44I. Tuition expenses.".

(6) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

SEC. 4. DECLARATORY JUDGMENT PROCEEDING.

(a) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) Privacy laws.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(E) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(2) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

SEC. 5. TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. 6. EFFECTIVE DATE: SPECIAL RULE.

(a) CERTIFICATION REQUIRED.—The amendments made by this Act shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(1) an Act of Congress which has been enacted, or

(2) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(b) APPLICATION WHEN CERTIFICATION IS MADE.—

(1) IN GENERAL.—If the certification described in subsection (a) is made to the Secretary of the Treasury—

(A) except as provided in paragraph (2), the amendments made by section 3 shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1983, and ending after such date, and

(B) the amendments made by section 4 shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(2) NO APPLICATION BEFORE AUGUST 1, 1984.—In no event shall the amendments made by section 3 apply with respect to expenditures made before August 1, 1984.

(c) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(1) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1985.

(2) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1985.

EXPLANATION OF TUITION TAX CREDIT LEGISLATION

The bill provides a refundable credit for 50 percent of tuition expenses paid to private elementary and secondary schools for certain qualified dependents of the taxpayer. The maximum credit is $100 in 1984, $200, in 1985, and $300 in 1986 and subsequent years. The maximum credit amount is phased down for taxpayers with adjusted gross incomes of greater than $40,000 and no credit is allowed for taxpayers with adjusted gross incomes of $50,000 or more.

For tuition expenses to be creditable, a school cannot follow a racially discriminatory policy. Eligible schools include only schools that are exempt from taxation under Code section 501(a) as organizations described in Code section 501(c)(3). An eligible school will be required to include a statement of its nondiscriminatory policy in any published by-laws, admissions materials, and advertising, and to file annually with the Treasury Department a statement that it has not followed a racially discriminatory policy. Generally, a copy of this statement also will have to be furnished to each individual who pays tuition to the school and must be attached to any return on which credits are claimed. In addition, the bill disallows credits for payments to any school found to be following a racially discriminatory policy in an action brought by the Attorney General under the bill's declaratory judgment provisions.

The bill generally applies to tuition paid or incurred after July 31, 1984, for taxable years beginning after December 31, 1983; however, no credits will be allowed until either a final decision by the Supreme Court of the United States or an Act of Congress prohibits the granting of a tax exemption under section 501(a) of the Internal Revenue Code by reason of section 501(c)(3) to private educational institutions that maintain a racially discriminatory policy or practice as to students. Credits will be effective on a prospective basis after such final decision or Act of Congress.

The issue of whether schools with racially discriminatory policies may qualify for tax-exempt status was decided in *Bob Jones* v. *U.S.*, 51 U.S.L.W. 4593 (May 24, 1983), which held that racially discriminatory schools cannot qualify as tax-exempt organizations under Code section 501(c)(3).

Mr. DOLE. This amendment would add the tuition tax credit legislation approved by the Senate Finance Committee on May 25, 1983, as the original text of the bill. It is legislation similar to the bill reported last year by the committee. It was sent up to the Congress again by the President this year and, as I have indicated, the President strongly urged as recently as about 4 hours ago that the Congress start to take action on what he considers to be most important legislation.

The amendment would create a refundable tuition tax credit for up to 50 percent of tuition paid to elementary and secondary schools for taxpayers earning less than $50,000. Credits would be phased in over 3 years to a maximum of $300 per child and taxpayers with incomes over $40,000 would enjoy only partial credits.

Mr. President, the amendment has extensive safeguard provisions to insure that credits do not benefit taxpayers whose children attend racially discriminatory schools, including enforcement by the IRS and the Justice Department. Total revenue loss in the amendment is estimated to be less than $800 million once it is fully effective. And I might add at that point some of my colleagues, particularly the Senator from Missouri, Senator DANFORTH, if we reach that point, will offer an amendment which would either delay the effective date or provide that we somehow, either by reducing spending or by some revenue provision, pay for any increased cost.

The theory of that amendment is that since we are facing budget deficits, the last thing we need to do is add $800 million to the deficit regardless, I assume, of the merit of the program. But if there is some way we can pay for it, that is another matter. That is the position we have been trying to follow in the Senate Finance Committee, and I am certain the Senator from Missouri will want to be heard on that at the appropriate time.

I would also ask to have printed in the RECORD at this point a letter from the President of the United States dated April 28, 1983, which again outlines in more detail his support of this proposal.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, April 28, 1983.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: I want to thank you and the members of your Committee for moving expeditiously on my proposal to enact tuition tax credits. As you know, I am deeply committed to this measure to strengthen parental control over education and extend choice to those who would otherwise bear a heavy burden of dual payments for education. I am encouraged that your Committee is giving this legislation the full attention it merits.

Recently I received the report of the National Commission on Excellence in Education from Secretary Bell. This report outlines steps which must be taken to restore quality throughout our educational system, and places a heavy emphasis on the role that parents must play in renewing our country's educational standards.

After reviewing the findings of the Commission with great interest, I am more convinced than ever that passage of tuition tax credit legislation is needed now. It will enhance the measures the Commission recommends for excellence in both our public and private schools.

I have remarked elsewhere that without a race there can be no champion; without competition to excel in our educational system we will not have excellence. Making alternatives affordable to those parents who want them, by allowing them to keep some of what they now earn to spend on their children's education, will provide competition as public and private schools seek to improve the quality of education they offer to attract and retain students.

We will not provide tuition tax credits at the expense of public education. The reduction in revenues to the Treasury will not be offset by reducing Federal support for other educational programs of benefit to public and private school children.

Our Constitution recognizes the parental right to choose between public and private education. Your consideration of this legislation, and its passage by your colleagues on the floor of the Senate, will help make this right a reality for more American families.

We must improve the quality of education in both our public and private schools, and the Commission's report suggests that much of the reform must come from state governors, legislators, school board members, principals, superintendents, educators—and parents. Parental involvement in a child's education is best assured when families choose the schools they wish their children to attend.

This measure can be especially beneficial to minority students and those from low-income families. My Administration was pleased to work with the Senate Finance Committee last year to ensure that parents who send their children to schools which practice discrimination will not benefit from tuition tax credits. The language of the legislation which I sent to the Congress this year, and which you are considering today, is identical to that approved by your Committee in the last session of the Congress.

I do not want to repeat the persuasive arguments in support of tuition tax credits which will be presented by Secretary Bell and other members of the Administration before the Committee today. But let me assure you, I have the strongest personal interest in this legislation and support your efforts to secure its passage. I look forward to working with your Committee for its early enactment.

Sincerely,

RONALD REAGAN.

Mr. DOLE. I strongly support the President's proposal as reported by the Senate Finance Committee. I am well aware of the strong feeling the legislation has aroused. I am well aware of the feeling that the National Education Association has toward this legislation, but I am also aware of very strong feeling from many quarters on the other side. So I think what we really need to do is have an extensive debate on this measure to see if there are amendments that would make it better according to some who may oppose it now. But if the opposition is flat out, then at least we could have some expression by a cloture vote on a motion to proceed.

The major features of the bill do allow tuition tax credits, and, as I have indicated before, it would allow taxpayers to reduce their Federal tax burden by as much as $300 for each child or other dependent attending private elementary and secondary schools instead of public schools. The tax credit is allowed for 50 percent of the child's tuition payment so that a parent paying $600 or more in tuition would receive the maximum $300 tax credit. The 50-percent tax credit produces the same benefit as a tax deduction would for taxpayers in the top 50-percent tax bracket. But by using the credit instead of a deduction, the benefits of the legislation are directed to lower income families instead of higher income families. We do try to phase down the credits to make certain that we stay within that rather broad principle. I have indicated before that this has been a priority for President Reagan for a long time. It was in his 1984 budget. It has in prior budgets. We have had all kinds of hearings. We have wrestled with the legislation. It has been approved by a bipartisan majority in the Senate Finance Committee. We have tried to address some of the concerns expressed by those who fear the competition, fear that it will undermine the public school system.

It will be my hope we could have a vote on the basis of the information that the Senator from Oklahoma and other Senators who may oppose tuition tax credits make available and the information that I am now submitting for the RECORD. I hope that Members or their staffs have an opportunity to look at some of the highlights, look at the amendment itself, perhaps read the letter of the President of the United States in strong support of the legislation, and that we could at the appropriate time have further debate, as I assume we will the balance of the day and perhaps sometime tomorrow I am advised by the Senator from Oklahoma it will take the rest of the week if necessary—but it would be my hope that if a cloture petition is filed we might have some agreement after some more debate.

So I conclude by thanking my colleague from Oklahoma for his courtesy in yielding me the floor so that I might leave for another engagement.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I thank the distinguished chairman of the Finance Committee, the Senator from Kansas, for whom I have such respect. He and I agree on many, many issues, and it is a privilege to serve as a member of the committee over which he presides. It is, of course, for some of the reasons that we do share so many common views that I oppose this particular piece of legislation. No one is doing more right now than the Senator from Kansas to try to put together a package to reduce the budget deficits which threaten the economic future of this country. No one understands more clearly than he what it will do to the economy of this country if our Government continues to add year after year $200 billion to the national debt of our country. Just in the last 1,000 days $500 billion has been added to the national debt. We are told by experts that if we run the national debt up to the $2 trillion level by the year 1988, something in the neighborhood of two-thirds of all of the credit available in the United States will be consumed by our Government to service the national debt and to borrow to meet the current demands of Government. All of us know what the result will be if we allow that to happen. We only leave one-third of the available credit in this country, the accumulated savings of this country, to the private sector, to the farmer who has to borrow to plant, to the small business person who has no choice but borrow to finance their inventory, to the young couple that dreams of buying a home at an affordable cost. If we allow only one-third of

the credit in the country for those legitimate private purposes, we will set off a bidding war. It will make the interest level of 21 percent reached several months ago look like the good old days. We will see economic impacts going far beyond the devastating impact of those high interest rates of a year or 2 ago.

That is only one of the reasons why I cannot in good conscience support a proposal to pour hundreds of millions and I believe billions of dollars of taxpayers' funds into a new program when our Government is already operating at levels of $200 billion in the red. I have heard Members before when new programs were being discussed ask the question, "How are we going to pay for it?" And I have often heard the tongue-in-cheek reply, "We will pay for it out of the deficit."

Mr. President, that is exactly what we would have to do to pay for the tuition tax credit proposal that is now before us—pay for it out of the deficit. When we make a statement like that, we really are saying something more profound. What we are really saying is we are going to pay for it by mortgaging the future of the young people of the United States, by curtailing their ability to own their own homes, to have the kind of economic security, to have the kind of opportunity to work, that many of us have enjoyed in the past.

When Government continues to go into the red and when Government continues to borrow and when interest rates are forced up, those couples cannot buy those homes. The carpenters that build them cannot work. The carpet mills that make the carpet to be laid in the new homes do not work, either. The jobs in the appliance factories are not there any more. The economic opportunity for all our people is curtailed.

Mr. President, this is the wrong proposal at the wrong time.

The Senator from Kansas has said he feels a strong sense of responsibility to the President of the United States to try to bring forward this proposal at this particular time. I have great respect for the President of the United States. I have hoped again and again that he would seriously consider this proposal in his own mind, that he would turn it over again and again, that he would search his conscience to determine if this was a proposal he could truly support, and I continue to hope that he will think about it again and reverse his decision to support or endorse a proposal such as this.

In general, I think the President is sincerely committed to a free economic system. I have heard him speak often about the value of the free-enterprise system, under which every person has an equal right to succeed, if that person is willing to work hard, if that person is willing to put in the hours necessary and the labor necessary and the thought and the study necessary to succeed.

I believe in the free-enterprise system and the free economic system for the same reason. But what are we doing in this proposal? Let us think about it for a minute. We are not expanding competition in education. What we are doing by this proposal is another major step down the road of destruction of public education in the United States.

Does any Member of the Senate seriously believe that a low-income family with two, three, four, or five children, if given another $100 or $200 a year per child, is going to be able to afford to take their children out of the free public schools and put them into some expensive private school that might require several hundred or even several thousand dollars a year in payments to keep that child in that school? Of course not.

You are not going to have a major movement of low-income children in this country from public education to private education. You are not even going to have a major movement of those in the middle income. The average working men and women in this country are not going to be able to afford to move their children from public school to private school with the $100 or $200 a year in benefits. What may very well happen is that you might get another 5 percent or 10 percent of the children at the upper income group or the upper middle income group. That $100 or $200 a year might be just enough to let their families move them over.

In other words, what you are going to have is a little more of the skimming off the top of those in public education—those children who generally come from families where they have some opportunity to travel, where they have books in the home, with parents who have had advanced education, and where children are encouraged to learn. They are the kinds of students who go into the classroom and serve as a sparkplug for other students.

You will skim off more of those, and with it you will skim off some of the funds necessary for the support of public education, and you will begin to create a two-track educational system in this country, with two standards of educational opportunity, one for the privileged and one for the underprivileged.

Mr. President, if we allow that to happen, if we ever allow our loyalty to any party or any person or any officeholder or any politician, no matter how much we may respect that person or that office, to take priority over our basic responsibility to be custodians and guardians of the American dream, we will have made a very serious mistake indeed.

All of us have read the reports of what is happening to educational standards in our country. I was distressed to read the reports of the Carnegie Foundation and others that indicate that the ACT scores of those going into teacher education are among the bottom third of scores of those students in college today. They represent the bottom third of the scores of those students going into teacher education, in terms of their own scoring and ability.

I have read that we have lost between 70 percent and 80 percent of our certified math and science teachers from the public schools in the last decade.

We have all read that the test scores of students in American education have declined almost 10 percent in the last decade, on an absolute scale. Why? There are a number of reasons for it.

Certainly, the professional educators, themselves, cannot be left with the full burden of shouldering all the responsibility for some of the alarming decline; because when they try to raise standards and they try to give students homework and they try to insist upon higher levels of achievement for promotion from one grade to the next, they are often opposed by the parents of this country.

In many ways, the standards of American education have declined because the American public has pressured our educational institutions into allowing for decline.

Why, for example, have we lost so many of our math and science teachers? Why are fewer and fewer young people in college who want to go into education in the top 5 percent, 10 percent, or 25 percent of ACT scores? The answer is clearly to be seen. A beginning mathematician or science major can receive $6,000 to $8,000 a year more the first year of a job in the private sector as compared to a 10-year teaching veteran in the same field.

It is easy to understand why many who want to have children of their own, who want to educate families of their own, who want an adequate standard of living for their families, feel a sense of responsibility; and although they might like to serve in teaching, go into some other profession.

It is sad to say that there would not be half as much public furor or criticism raised by paying millions of dollars a year to a mediocre rock star as would be caused by paying an adequate salary to a great professor or a great teacher at the elementary and secondary level.

So none of us can stand aside and point the finger of blame at the teachers and the school board members and say it is all their fault.

At a time in which we must develop our human resources if we are going to be competitive in this world, at a time in which one-fourth of our national income is dependent on our ability to compete in world trade, we have been declining in terms of our own investment in this Nation's human resource base, in the future education of our children in this country.

We cannot point the finger of blame solely at the educators, because their frustration reflects a lack of attention, a lack of investment, a lack of priority, a lack of dedication to adequate investment in the human resources of our people, on behalf of the citizens of the United States.

So here we are at a time in which our Nation cries out for leadership which will invest more in educational opportunity for all our children, at a time in which we should be taking action that would encourage the top 25 percent of our students to go into teaching, at a time in which we should be taking action to hold some of those qualified math and science teachers, and those who are capable of teaching English and our own history and culture and literature to the students of today, to keep them in teaching.

What do we have before us? We have before us a proposal to transfer away from public education the limited economic resources we have available to us, to skim more off of the top in terms of the student body, to leave public education with an even higher proportion of those students who are most difficult to educate and to teach and most costly to educate and to teach, to leave public education with an even more difficult task proportionately after this skimming is achieved through tuition tax credits and to leave public education with even fewer economic resources with which to do the job.

No, Mr. President. Any such attempt as that deserves more than 1 hour of debate in the Senate. It deserves more than 2. It deserves more than 1 day. It deserves more than 2. It deserves more than 1 week of attention of the people of the country. It deserves more than 2 weeks. It deserves as long as it takes to alert the American people to the fundamental dangers, to the fundamental lack of wisdom, to the fundamental unfairness of this proposal that will, if we allow it to be adopted, eat away at the very central core of the concept of equal opportunity for all human beings and that I might say, Mr. President, is the core of the meaning of this Republic itself.

I am very proud that there has been formed a coalition of organizations to oppose the tuition tax credit proposal. It is called the National Coalition for Public Education. It includes in it some of the most thoughtful and knowledgeable groups in this country on the subject of educational opportunity.

I wish to just name a few for the record of those organizations which have joined in opposition to this proposal: the American Association of Colleges for Teacher Education, the American Association of School Administrators, the American Association of State Colleges and Universities, the American Association of University People, the American Vocational Association, the American Jewish Congress, the Baptist Joint Committee for Public Affairs, the Board of Churches Society of the United Methodist Church, the Children's Defense Fund, the Council for Exceptional Children, the Council for Chiefs of State School Officers, the Council of Great City Schools, the International Reading Association, the League of Women Voters, the National Association for the Advancement of Colored People, the National Urban League, the National Association of State Boards of Education, the National Association of Elementary School Principals, the National Congress of Parents and Teachers (PTA), the National Council of Jewish Women, the National Education Association, the National School Board Association, the Students National Educational Association, and many, many others, who are in a position to know firsthand the effects of this unwise and ill-conceived proposal on the educational system of this country and on educational opportunity for young Americans of today and those of the future.

Mr. President, I wish to share with the Members of the Senate some excerpts from a factsheet on tuition tax credits which has been prepared by this National Coalition for Public Education. The chairperson is Mrs. Grace Baisinger of the National PTA. Here are some of the things that are listed on this factsheet which I think are worthy of consideration of all Members of the Senate.

The National Coalition for Public Education (more than 50 affiliated organizations with more than 40 million combined members) strongly opposes tuition tax credits. The Coalition members believe that tuition tax credits would be bad educational and economic policy and would violate both the letter and the spirit of the Constitution of the United States.

I continue to quote:

Tuition tax credits are designed to remove support for the public schools—which serve nearly 90 percent of all U.S. students—and to redirect that support to nonpublic (church-connected) and private schools.

I think it is important to think about that for a minute, Mr. President. Is it wise when our public schools are already deprived of the resources necessary for them to do an excellent job to transfer funds again away from the public sector and toward the private sector? Does it make sense from a point of view of national policy when we consider what is best and fairest for all of the people to deprive the educational institutions which are educating over 90 percent of the children in this country the funds they need so that more funds can be channeled to those institutions serving 10 percent of the children of this country, serving a 10 percent, which if they so desired could take advantage of the public schools themselves?

I think all of us see the lack of wisdon of such a proposal.

I continue to quote the fact sheet. It says:

The Reagan administration proposed fiscal 1984 budget calls for a tuition tax credits program that—

According to the coalition estimates—

would cost upwards of $2.5 billion over the first 3 years and costs would escalate yearly thereafter. At the same time the administration is seeking a corresponding reduction of $2 billion for fiscal year 1984 alone in support for existing education programs.

Mr. President, I make that point not for any partisan reason, but Members of this body on both sides of the aisle know that I have tried to approach the proposals of this President on a nonpartisan basis.

When he has been right, I have tried to help him. When he has tried to hold the line on budget deficits, I have tried to help him. When he has refused to lead on that subject, I have tried to prod him. When he has taken bold action in areas of foreign policy, as he took in Grenada recently, I have supported those actions vocally.

But where he has stumbled and been in error, for the sake of our country I have tried to provide constructive criticism.

Mr. President, this proposal is one that deserves constructive criticism. When we have a budget that calls for a reduction of $2 billion in funding for educational programs that are designed to help and benefit 90 percent of the children of this country, and then the spending of a new $2.5 billion on programs designed to help only 10 percent, such a proposal is neither fair nor wise.

The factsheet continues:

Nonpublic schools already receive significant Federal and State aid for services they may provide—for example, education programs for the disadvantaged and funds for textbooks and transportation.

These are programs which are already being provided.

Then, Mr. President, the factsheet of the National Coalition for Public Education continues by pointing out the problem that I have already discussed in my introductory remarks. It says:

Tuition tax credits would discriminate against the majority of Americans, especially the less affluent and poor.

The administration has opposed in the past when it was before the committee a refundability provision in tuition tax credits.

And I might say that there has been some discussion in the Chamber today that there might be a change in that position. That was not the position of the administration during the time that we discussed the matter in committee.

Without such a provision, the full tax credits would be available only to those taxpayers who pay taxes which exceed the amount of the proposed tax credit. Others would be ineligible.

Lack of refundability would disproportionately discriminate against minorities—according to the 1980 census, 37 percent of Hispanic and 46 percent of black families with school-age children earn $10,000 a year or less annually and would, therefore, be automatically denied the proposed tuition tax credits even at the proposed figure of $300 per credit.

And I might say, again, Mr. President, even if we were to change the proposal and allow for some refundability, as I have said earlier, to those families that have an income of $10,000 a year or less, or $15,000 or $20,000 or even $25,000 a year or less, particularly if they have families that include a relatively large number of children, $100 or $200 a year in aid is not going to allow them to be able to send their children to expensive private schools. They will be left in the public schools.

Those are the very children whose families cannot afford to give them many of the opportunities themselves. They cannot afford to buy them extra books. They cannot take them on educational trips. They cannot afford, very often, to expose them to cultural activities and events. Those are the very children, many of whom may have been brilliantly endowed by their Creator with exceptional talent, Mr. President, who deserve the chance to have a quality education.

Those are the young people who are going to be the true victims of this kind of proposal because they are going to be left in public education. They have no choice in the matter. They do not have the ability to do otherwise. They will be left in a public educational system with fewer economic resources to do the necessary job.

I will continue to quote from the fact sheet:

The vast majority of non-public schools that are not church-connected charge so much for tuition that the overwhelming majority of Americans could not afford to pay the full tuition over and above the amount of the tax credit.

Nearly 90 percent of all American students attend public schools. The proposed tuition tax credits would be of no benefit whatever to the vast majority of Americans including those with children in the public schools, those without children of school age and those who have no children.

Average income of families of all non-public school students is 37 percent higher than the average income of families of public school students—the proposed tuition tax credits program is an attempt to benefit a small minority of Americans who are significantly more affluent than the majority.

How many people in our country today, occupying the highest position of leadership in the political realm, in the various religious denominations of our country, in the educational system itself, and in the great companies that comprise our economic system in the private sector, the leaders of how many of those companies, how many of those institutions, how many of those communities are products of the public school?

Mr. President, the vast majority of those people grew up in families that did not have the economic resources to send them to a private school. How often have I heard the presidents and CEO's of our Nation's largest corporations, how often have I heard many of my colleagues in the Senate of the United States, or among the Governors of the United States, how often have I talked to presidents of great colleges, universities and great scholars, how often have we heard the remarks of great inventors, people who have moved the United States forward in the areas of advancing technologies and discoveries, who have said again and again and again, "Had it not been for the opportunity I had in the public schools, had it not been for the encouragement of a great teacher, I would not be where I am today"?

Mr. President, it is sad indeed that when we do not provide the funds to continue that kind of educational opportunity, when we so underinvest in public education that only those in the bottom third of the ATC scores consider going into education as a profession, when we cannot even keep 80 percent of our math and science teachers in public schools for a period of longer than 10 years, when we so grossly underinvest in the opportunity necessary to create the kind of leaders that we are privileged to have in this country, that a proposal would be brought forward to further diminish the meager resources now available and to create in our country two standards of educational opportunity, to create what we have always fought against creating, a class society in our country under which the vast majority would be deprived of equal educational opportunity, under which the vast majority of the talent that reside in the American people, the 90 percent that are in public education, would remain underdeveloped.

It is a slippery slope toward discrimination, unfairness, to underdevelopment of the talent that resides in the American people and the closing of opportunity for countless millions of young Americans not even yet born.

I go back to quoting the fact sheet on tuition tax credits which has been given to us by the National Coalition for Public Education.

The proposed tuition tax credits could result in spending public funds to support schools that discriminate on the basis of race, religion, national origin, sex, handicap, or hiring practices.

The tuition tax credits proposals contain no provisions whatever to prevent or oppose any type of discrimination other than racial discrimination.

Provisions against schools which discriminate racially are narrowly defined and would not constitute an effective deterrent to racial discrimination.

Tuition tax credits rely only on voluntary statements by non-public schools that they do not discriminate on the basis of race; verification procedures would only take place if individual complaints of racial discrimination were received.

Tuition tax credits would not meet the needs of handicapped, disadvantaged and vocational education students.

Only about 2.7 percent of all religious schools provide programs for the handicapped.

Only 3.0 percent of all non-public schools provide vocational education programs.

Less than 5.0 percent of all non-public schools provide any services at all to economically disadvantaged students.

Mr. President, when we were considering the tuition tax credit proposal in the Senate Finance Committee, Senator CHAFEE and I offered a series of amendments. It has been argued by those who favor tuition tax credits that all they want to see is competition between the private schools and public schools and that, from competition, we will improve educational opportunity. They say:

After all, isn't it good for the economy that we have competing companies? Doesn't it make for more cost effective production? Doesn't it make for better products?

Yes, Mr. President, it does, if they are all on equal footing. I believe in competition. I believe it brings out the best in us. But what kind of competition is provided for in the proposal? What kind of competition?

Senator CHAFEE and I said:

Well, if you want the public funds, if you want the taxpayers' money to support a private school, then let's just apply the same provisions in terms of education to the handicapped, the same standards for teacher certification, the same standards for building codes, the same standards for special programs for the disadvantaged, for those with learning disabilities. Just the same; no different. If we are going to have competition, let's have a level playing field. Let's play by the same rules.

And what did we hear?

No, no, no, no. How unfair it would be even though we are going to open the public Treasury to private schools, to even suggest that the same rules that apply to public education—the same responsibilities, the same duties, the same costly burdens to educate the handicapped or the economically disadvantaged or those with learning disabilities—should apply to these other schools.

Well, Mr. President, there is an old saying that some people want to have their cake and eat, too. They want to have the public money, they want to compete, but they do not want to have to meet any of the same responsibilities. They do not want to have to put the dollars in the programs for the handicapped. They do not want to have to put the dollars in the same kinds of programs for teacher certification or education of those with learning disabilities.

Those are expensive programs. We will leave those students in the public schools.

Well, let the public schools pay for those programs, those very costly programs, and then we will skim off the top and take another 5 or 10 percent of the children that do not have any of those problems, and the taxpayers of the United States will foot the bill to move them from public to private education. The 80 or 85 percent, now 90 percent, left in the public schools will be left with fewer resources to do the more expensive job.

Mr. President, I think that those in the private educational sector ought to seriously consider the request they are making. I am not opposed to private education. I am a graduate of two privately supported and endowed universities. I was a faculty member at a church-related private college. I am very proud of the contribution which those institutions have made. I was very proud to be a faculty member at a church-related college. I was proud of the fact that we could emphasize the spiritual dimension, that we could try to minister to the whole person. I believe in the ability of private educational institutions to exist. I do not want to see them hampered or shackled or have their freedom to exist undermined or their freedom to make policy undermined or their freedom to educate along the lines of their own religious values dictated by society. I would fight against that.

In fact, last week, just a few hours ago on this floor, I voted against a proposal that would give additional powers to the Government to regulate private education.

But, Mr. President, do those of the private educational sector really believe that the American people in the long run will allow such an unfair proposal as opening the public purse, giving the money, and not assuming any control over those institutions? Do they really think that that private school that they perhaps support or to which they sent their own children as students, because they wanted to be totally free of governmental control, do they really believe that in the long run the Congress of the United States is going to pour forth billions and billions of dollars into those private schools and never have anything to say about whether those schools have programs for the handicapped or have programs for the learning disadvantaged or have certain teacher certification requirements as to how long they will be in school or certain requirements as to what basic subjects they will teach? Do they really believe that? Are they naive enough to believe that 10 or 20 years from now, if they receive vast sums of public money, that they are going to be no more subject to Government control than they are today?

Mr. President, I have heard of people being tricked, I have heard of people described at least in the literary parlance as having bartered away their own birthrights, but surely the leaders of private education, some of whom are mistakenly supporting this proposal, will not be as naive as to believe that they can really preserve the integrity of private education in the long run if they accept public funds of this magnitude.

So, Mr. President, it is a wrong proposal for everyone concerned. It is wrong for those 90 percent of the children who are in the public schools because they are going to be left with even fewer economic resources to do the job of educating the young people of our own country. It is wrong because it is going to set up two classes of educational opportunity in our country because only the very wealthy, only those at the top end of the scale, are going to be able to take an extra $100 or $200 and move their children into private schools. A vast majority of the American people will not be in a position to make such a choice—$100 or $200 a year is not going to make the difference.

It is not fair. It sets up two standards of educational opportunities. It diminishes the very necessary public investment in the training of 90 percent of the schoolchildren of this country. It will open the doors to the future destruction of the integrity and independence of private education.

So it is not just wrong for the 90 percent of the children in public schools. It is wrong for 100 percent of the children in this country and it is wrong for 100 percent of the educational institutions at the elementary and secondary levels in this country.

So, Mr. President, it is a fundamental policy question, a policy question that should not be shoehorned into 1 hour of debate on the Senate floor in what is meant to be the last week of the session.

Mr. President, all I can say is as far as I am concerned it will not be shoehorned in in 1 hour or 5 hours or 10 hours or 50 hours or 100 hours. If tuition tax credits are ever adopted at the elementary and secondary level of this country, I can assure the Members of the Senate, not just myself but others who will join in this discussion have the energy and commitment necessary to assure it will only be after a prolonged and deep discussion of this issue that involves the American public at large. And that is the way it should be when we debate one of those great watershed changes in our society.

This is one of those great watershed changes which is being proposed. It is a change away from equal education opportunity. It is a step away from investing the resources necessary for the public educational system of our country. It is a step toward setting up a class society, a more fragmented one which does not guarantee equal opportunity to all of its citizens.

So, Mr. President, we are not engaged in a dilatory tactic. We are engaged in a debate of one of the most fundamental policy questions to come before this body, I believe, in this century. I do not think I exaggerate when I call it that.

I have already mentioned that I agree with Senator DOLE and his efforts to try to bring down the budget deficits. That is another reason why I am opposed to this proposal, although I must admit that the economic arguments in my mind are not nearly as important as some of the policy arguments we have been discussing.

It is argued that there is $800 million a year involved, though some say it is $1 billion a year and some say it is $2 billion over the next 3 years. Really, no one knows for sure because we do not know exactly how many of those at the upper income level, how many of those at the top level, will be skimmed off from public education into private education. We do not know for sure how many there are. We do not know whether we are dealing with $1 billion, $2 billion, or $3 billion. We do know we are already dealing with deficits of $200 billion. We already know they are crippling the economy, as I have said. As Senator Dirksen used to say, a billion here and a billion there and before you know it, you are into real money.

Mr. CHAFEE. Will the Senator from Oklahoma yield for a question?

Mr. BOREN. Mr. President, I ask unanimous consent that I may yield for a question without my remarks when I resume being deemed to be another speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I would ask the Senator from Oklahoma, as I read the proponents of this legislation they say that the American people are entitled to a choice, a choice of where to send their children to school.

What does the Senator from Oklahoma say about that? Does this legislation indeed give the parents the choice?

Furthermore, they say that they are doubly taxed, as it were. When they

send their children to the private schools they have to pay their local taxes and then have to pay their tuition to the school and that is unfair. Has the Senator addressed that?

Mr. BOREN. Mr. President, I thank the Senator from Rhode Island for his question. I want to pay tribute to him, before I answer that question, for his courage in speaking very thoughtfully to this subject. It is not an easy political issue for him because his position could easily be misinterpreted and misunderstood. I think he realizes that in the vast majority of this country, the vast reaches of this country, most private schools do not really encompass the broad community. I know there are some cases where they do.

I know there are some parts of this country where parochial schools, for example, reflect a broad cross section of the community. But let us look at the statistics. I say to the Senator from Rhode Island that before he came on the floor, I did quote the statistics that indicated that students in private schools tend to come from families of the upper 37 percent of all income groups in this country.

We talk about choice, to which the Senator from Rhode Island directed his question. I think it is clear: 37 percent of all the Hispanic families in this country, for example, make less than $10,000 year. If you have a nonrefundable credit, as was originally passed by the Senate Committee on Finance, they will not get $1. Forty-six percent of all the black families in this country make less than $10,000 a year. They will not get $1 under the original provision passed down from the Senate Finance Committee.

Let us step back from that. Even if we were to allow some kind of refundability, I ask my good friend from Rhode Island, does he really believe—I know I do not know—that if you have a family making $10,000 a year with three or four children, and they would get $100 or $200 additional per year, does he really think that would give that family a choice to send its children to private school that would cost many hundreds, perhaps thousands of dollars a year to enter? I cannot conceive that that is really going to give them a choice. I cannot conceive that any more than, say, that 10 or 15 percent at the top economic level are going to be given any flexibility. If you are at a higher income level and you are just $100 or $200 short from having enough to send your children to private school, this may do it. As I say, it would skim off the ones from the top income level, take those children who do not have any problems and send them to private school, and leave the others to the public school, the more expensive children to educate.

I say to the Senator from Rhode Island, I do not really think that, for the vast majority of Americans, this is going to increase their resources. It is just going to decrease the resources of the local governments to educate their children.

Mr. CHAFEE. I thank the Senator from Oklahoma for his remarks. I look forward to being able to discuss this further. I believe the Senator from Florida will be discussing this matter for a while. Then I shall be glad to take up at the conclusion of his remarks.

Mr. BOREN. Mr. President, I see my distinguished colleague from Florida (Mr. CHILES) on the floor. I ask unanimous consent that I may be able to yield the floor to the Senator from Florida for such remarks as he might like to make, without its being deemed to count as an additional speech that I want to make on this subject, as a separate speech from the remarks I have already made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. With that understanding, I am proud to yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I thank my distinguished colleague from Oklahoma. I wish to associate myself fully with his remarks. I think that he has given us an excellent discussion, an opening discussion, I might say. I understand that he said he wanted to reserve time for a chance to speak further on this subject. I think he has made an excellent opening statement on this subject of tuition tax credits.

Mr. President, I listened with interest to some of the colloquy that was going on, also, with the distinguished Senator from Rhode Island. I can tell he has also an appreciation of the subject and shares some of the same concerns that I have had for a number of years.

This is a subject that is not new to the Senate. It is certainly not new to the Senator from Florida. We started talking about this subject when I was in the State legislature in Florida. I believe in 1963 or 1962 were the first discussions I had on tuition tax credits. Since that time, I have had some years to ruminate on this subject and think about it. Of course, I guess we called it something different back then in the early sixties. I do not think it had become as refined as tuition tax credits. At that time, it was just a sharing of the cost.

The Supreme Court found that that would be improper for the separation of church and state. Now we see this more refined method of trying to do it with the tuition tax credit.

Mr. President, I think that this is a subject that deserves a meaningful debate in the Senate, an intelligent debate. It did come up in the Senate, I believe, in 1978. At that time, I think there was a very good debate on the subject. We had the distinguished Senator from Arkansas, Kaneaster Hodges, here and, of course, the Senator from South Carolina (Mr. HOLLINGS). They, I think, gave considerable education to the Senate on this subject. Senator MOYNIHAN was very strongly for the tuition tax credits, and he certainly acquitted his side of the debate well.

To bring this subject up in what we know or what we hope is the closing week of the Senate—it seems there was some kind of commitment or promise made—means that there has to be some kind of thrust at that. But I believe I understand the majority leader himself said he understood this is not going any place; it is now too late.

It is not coming up at a time when the Senate is going to have any time to reflect on this question. It is sort of unfair to those who are for the tuition tax credit. I do not think they are going to get a real opportunity to bring up the matter and have it considered on its merits. It is also unfair to those of us who oppose tuition tax credits because I think we are not going to get the full attention of the Senate in the way that we should to consider this subject.

The issues of tuition tax credits involve public policy. We know that it is a very, very important public policy question: Are we going to make what some of us feel could be a very drastic change in our public education policy by virtue of granting these credits, by virtue of what that would do to the makeup of the public school system, by virtue of what that would do for the support of the public school system? So we are talking about a public policy question of vast, vast importance.

Those are just some of the ramifications that we could look at for a number of hours, if not a number of days.

Some of us fear what we would find as a result in the public school system, after a long period—or a relatively short period—of time of tuition tax credits. Our public school systems would become the repository of the disadvantaged, of the people who were, perhaps, handicapped or disadvantaged or, in some other way, left in the public school system where those who could flee would be gone. What would that do to the whole system that we have enjoyed over the years of our free public school system?

Public policy—if you are going to have tuition tax credits, what other segments of Government can you look at and say, what if there is a group that does not want to enjoy the tax-supported institutions that are there, who say that they are ready to provide, by some private means, that

same service, but they expect a tax credit for doing that? What about police protection or fire protection?

Why should not a group that lives in an exclusive subdivision, say: "We do not trust the fire department of our municipality or our county; we wish to provide that service for ourselves, but we wish to have a tax credit for that," or for police protection.

These are just some of the far-reaching questions that we might find ourselves addressing in public policy.

The question involves financing. Now, at a time when we see we are in such drastic and dire conditions as a result of $200 billion deficits, with those deficits projecting themselves out for years in the future, should we be talking about a new program like this, that has tremendous cost impact?

That again, Mr. President, is a subject that should have a lengthy debate. Every Member of the Senate should be able to appreciate the magnitude and the scope of the problems in regard to financing, and there is no way that we can even approach that subject in the time that we have before us. They involve the constitutional problem of separation of church and state. There is considerable debate as to where the Supreme Court now stands on that question. I have read a number of opinions of very learned legal scholars taking several sides on how the court would come down on this measure. That again is something that we would need time to explore and time for the Senate to be able to understand where it stands on that question. It involves the balance of the Federal role in the public versus private education, the spending on the disadvantaged and the needy versus the general education aid. All of those areas, too, Mr. President, could take up more time than we have left before us in the close of the Senate.

There has been a whole year to bring this up and yet we find we are in the last weeks of the session, last week I hope. It has been promised to come up on four or five different bills. The Senator from Oklahoma read the letter from the Senator from South Carolina naming some of the bills we were told that this subject matter would come up on and yet we find that it did not come up on any of those bills. And now, late in the day, late in the year, late in the week that we hope to be the last week, we find this subject surfacing. Certainly I cannot see us having anywhere near the time to give it the fair hearing that the American people deserve.

Just to give you briefly—and, Mr. President, it will be brief because many of these areas I would like to expand upon and would look forward to expanding upon if and when we get a chance to really have a meaningful debate on this subject—but briefly to give you some of my concerns and objections to the tuition tax credits, to me the whole subject of using any tax funds for private education, and especially where we are seeing us not have the kind of support that we know that we should have for public education, is just very, very poor public policy.

That really does not express it right. Mr. President, it really goes against the grain of what I think has made this country what we enjoy. So much of the real strength of our country has been the fact that we have enjoyed a free public education system. I think we are singularly fortunate in the United States in that we have been virtually a classless society, and that goes from our early days. I think more than any single thing the right of free public education has had more to do with us becoming and continuing to sort of be a classless society. If you look at how it works now, into that public education system sort of funnels all of our children from the rich, the poor, from those of great advantage, and those of disadvantage. Now we are even trying to mainstream the handicapped, the people with physical or mental infirmities as much as we possibly can. Into that mix has gone all of our students—and all of us have gone into that at some stage—and from that we have learned to appreciate the other cultures, the other stations in life, the fact of where people came from.

Into my State, of course, we had people coming from every State in the Nation. We had the opportunity to mix with them. And also, Mr. President, there was the opportunity for someone from a very poor, very disadvantaged family to be able to sort of rub elbows with all classes, to be able to receive the same kind of education and benefits, the benefits of a free education as somebody in a much higher station and before long that person, even though he came from a disadvantaged status, could say: "I can do that, I can have those grades, I can go forward."

Then, of course, we have had our scholarships from our university system, but the mix and the ability to be able to compete and the ability to be able to enjoy the same kind of educational benefits has allowed people to jump many, many times above where they would have been locked into and are locked into in other countries. If you just look at some of our sister countries, great democracies, countries that we greatly admire, because they have not had the free public school system that we have had, they have formed into a class society, which is very important. If you were born in the coal mine, you stayed in the coal mine. Your father was a miner, you were a miner. There was virtually no ability to get out.

That simply has not happened in the United States, and the reason it has not happened I think more than any single thing is the free public school system.

We get to the point where that free system becomes the system that only houses the disadvantaged, only houses the handicapped, only has those who are not able to take that credit and work their way out, then I think, Mr. President, we would find that we have done a tremendous disservice to this country and to our ability to be able to have a tremendous and growing middle class at all times, which has allowed us to share wealth, allowed us to share prosperity, and allowed an equal opportunity—and that I guess is the crux of what I am speaking about here—the ability for an equal opportunity.

Mr. President, I have four children. Each of those children at some stage I have sent to a private school. I did that because as a parent I felt at some time it would be good to send them to the private school. That was an election I made. The free public school was there. It was available and I was paying my taxes, real property taxes and other taxes, that the State collects to support that public school system and, of course, the share of the Federal tax. But I decided that for the benefit of that child it would be better if he went to a private school. So I elected at some degree to send each of them to a private school. They all went to public school, some for a great deal longer time than others. But when I made that election, Mr. President, I had the responsibility of paying for that private schooling of my child. It was an election I made. I did not have to do it. The State provided the free school system. I did take advantage of that, and I could have taken advantage of that on through.

I have a daughter who is now in a private school system. It is not without cost. But my feeling was that as she was approaching her college years, it would benefit her to be pushed a little harder, to have to work a little harder. But I elected to do that. I think if I elect to do that, I have to share that cost.

I think the private school systems are well and good. They compete somewhat with our public school systems, and I think that is good.

But if we are going to take the taxpayers' dollar and, regardless of the fact that you call it a tuition tax credit, you are still diminishing the pool of money that is available for tax-collection purposes and for educational purposes—if we are going to take that taxpayer dollar and give it to someone to elect to send their children to a private school, that is not good, sound public policy. It is something that perhaps would reverse something we have had in this country that has served us well over many years.

Only 8 percent of the public education funding comes from Federal sources. Private schools can participate in the Federal programs that are targeted to the disadvantaged, that are targeted to the handicapped, and that are targeted to vocational training. So if they wish assistance for that, help can be given. If they want tax credits for the so-called double tax that they are paying for schools, then that question should not be addressed here. It should be addressed in State and local governments.

They are paying at 92 percent, with only 8 percent coming from here. I would be against the same proposition for the same reasons if I were in State and local government. But, still, the question should not be here.

Mr. President, it is interesting to note that in the 13-State referendum that had been presented on this question—13 States have had a referendum as to whether they should have a tuition tax credit—each of those failed. So where the people have had a chance to speak on this, they have said that they are against the tuition tax credits.

Over the 5 years, tuition tax credits would cost nearly $3 billion in lost revenues. When the time exists, I certainly want to go into this much more, but the issue is losing more revenues when our deficits annually are about $200 billion, when we are groping in these last days of this session to try to determine whether we are going to extend the debt ceiling. We had a proposition before us to extend the debt ceiling by almost a quarter of a trillion dollars, and it was turned down by the Senate.

Before we can leave this week, we will have to do something to extend our debt ceiling, because we already have spent more than we have taken in, and we will have to pay that check. At the time we are doing that is not the time we should be embarking on some adventuresome new program, the initial cost of which is going to be over $3 billion in the next 5 years. We all know that that is a vastly scaled-down version from what the proponents actually propose and what they actually want. So the $3 billion is just the opening shot and just the start to what we will see this program cost over a period of time.

(Mr. DENTON assumed the chair.)

Mr. CHILES. Mr. President, how in the world can we be considering this, in the ninth hour of this last week of our year, when we are facing the proposition of not knowing whether we are going to be able to extend the debt ceiling? Really, what the debate should be about now and what should be one the floor now is some proposition to see whether we are going to be able to find a way to get 51 Senators to vote for an extension of the debt ceiling. But here we are talking about a proposition that would have us spend more money over that period of time.

Tuition tax credits would unbalance our spending on private versus public education. As I have said, both the public and private schools can participate in our targeted aid to children. That is targeted aid we are giving because there is some special class that child is in—he is handicapped, he is disadvantaged. But if we enact these elementary and secondary credits for a private school for any child, then we will be spending four times as much on the private school child—this is Federal funds—as we will be spending on the public school child. How in the world can we justify that? How in the world can we even talk about a proposition such as that?

It is interesting to note that one of the propositions that the Secretary of Education is talking about in the State of Florida—and this is the officer responsible for public education in the State of Florida—is, if the tuition tax credits pass, putting some provision in the State constitution that, in effect, allowed everyone who has a child in the public school to qualify for the tuition tax credit. In other words, he would have the State provide—it would probably take a constitutional change to do this, but I do not think it is beyond the realm of possibility—to have a State tuition for every child. His argument is that if there is going to be a tuition tax credit from the Federal Government that is going to provide roughly four times as much to the private school child as to the public school child, he will simply have the State of Florida charge a tuition, and then every child in the State of Florida could qualify for that tuition. Then we will be paying all this money to every public school child.

That, I think, gives you an idea of what the States would go to if you were to pass this, because I do not think you will find States sitting back and allowing four times the amount of money to go for a private school child as you can have for one in the public school. So they will be thinking of some innovative ways to charge a tuition that would work toward negating this.

Our spending would be tilted away from the needs basis—Federal spending, that is—and away from the disadvantaged and the handicapped, to the individual child in the private school, regardless of need, up to an annual family income of $40,000 or $60,000; and the lowest income families, with no refundable provisions, would not even qualify for the credit if they did not owe any taxes.

Mr. President, that is bad public policy. I do not think that this body, when it fully understands that, is going to vote for that kind of proposition.

The other point that is important to make is that the Federal Government—and I think it is a direction we should stay in and be careful we do not get out of—the Federal Goverment has not tried to assume a major share of the cost of public education. Our feeling has been that that is really something that should be left to the State and local governments, and especially because where the money goes that is where the direction goes.

I find in my State and I think it is true in every State that when you really talk to parents and you really talk to citizens they want to be in control of their own schools. They do not want the Federal Government setting all that policy.

That is what the big debate was about as to whether we were going to have a Department of Education. That is why President Reagan said he was going to disband the Department of Education. I do not agree with that decision. But that was the thrust of that argument.

What we have tried to do in the Federal Government is, rather than say we are going to pay for 15 or 25 percent of public education, we have said we are going to try to trigger certain programs. We are going to try to get States to do more to help the handicapped and the disadvantaged. In our title I, we have looked at areas where they have been under great stress and great problems as a result of desegregation orders. And we have tried to provide for a sharing for disadvantaged schools, and we have tried a lot of targeting to try to get States to try innovative methods to give better training materials to their teachers. So that 8 percent of education, I think, is about right. I do not think we should be paying a lot more for education. I think we should leave the States to take up the large share. But I think we need to continue to find ways that we are triggering, that we are trying to provide challenge the States to do something for particular areas.

If we went to a tuition tax credit we would be negating that thrust and that policy that has been the Federal policy from the time we went into Federal aid to education, and that in itself provoked a long debate in the States. I can remember. It happened before I was here, but it happened during part of the time when I was in State government, and I remember when State and local districts said, "We do not want any of that Federal aid, because with that Federal aid is going to come all kinds of Federal controls and Federal directions."

And in some ways that has happened, but at least what we have tried to do is to put that Federal aid into these limited areas of trying to provide some of the impetus for vocation, job training, providing for the handi-

capped and the disadvantaged, and giving the States some money for leverage as they are going into the desegregation plans. All of that would be negated if we went into the kind of funding that we are talking about for tuition tax credits because here we would be providing for the ordinary or the regular school pupil whose parents wish to send him into private schools, and I really think that this is something that the parochial schools and the private schools should look at long and hard, and that is that they think they can have their cake and eat it, too.

I do not believe they can. If we were to pass tuition tax credits, if the Federal Government were to be putting in the amount of money that we are talking about under tuition tax credits, you can bet that the Federal Government is going to be putting in much more in the way of controls in those private schools. They are going to be dictating what the policy of those private schools is going to be, and if some of those private schools think they are having problems now with the Internal Revenue Service and with some of the other provisions that they find because their policy is not what the Federal Government wants it to be in regard to whether it be their teaching of their religious tenets or their mix of pupils in those schools, wait until they see what would happen to them if we had tuition tax credits, because I can tell you, Mr. President, that it would be much, much different than it is now, and they would not enjoy the privileges and the rights that they now have to say, "We are a private school, we comply with the basic law of the land, but we are able to teach the religious tenets that we want to teach, we are able to shape many of the policies that we want to for our school."

When they start taking that tuition tax dollar, that is still tainted with the Federal Government and there is going to come with that the Federal controls.

I think certain of our church-supported institutions have recognized that already, and because of that they have said, "We are opposed to this; we do not want any part of it."

And I think many of the others who think that it would be a good policy should look long and hard at what would happen to them if this passes.

Finally, of course, in this time there is the serious question of constitutionality, and despite the Minnesota case, the Niquist ruling still holds, and that means that credits that only benefit one segment, the private school child, have been found unconstitutional.

All of us in the Senate automatically become constitutional lawyers, whether we even are handicapped with a law degree or not, and so all of us can say what we think the law will be, and that certainly is still a guess until the Supreme Court rules. But I think we are in an area of which there have been many ways of trying to circumvent the question of separation of church and state, but each time that question has surfaced in the Supreme Court, it is interesting how the Court has been able to sort of tear through the subterfuge and the entanglements of trying to say this does not amount to a breach of the separation of church and state.

But they have been able to pierce through to that and find that regardless of those statements, it actually is, and I feel, Mr. President, that if this question went to the Supreme Court again the Court would say, "You are simply trying to do indirectly what we have already rules that you could not do directly. You are trying to funnel tax dollars into private schools, many of those private schools with religious tenets, and that is a violation of the separation of church and state," and they would strike that down.

Mr. President, I think that for that reason alone we should not embark on this course, but that, of course, is just a small concern that I have.

I mentioned the budgetary concerns. From my vantage of being the ranking Democrat on the Budget Committee, I can say that that certainly is a major concern. It is not where I guess I would have to say my major objection rests on that premise because if there were not budgetary concern, if we had a balanced budget, and I wish we did today, I would still be opposed to tuition tax credits.

But to consider this question at a time that we are in the dire circumstances that we are in simply does not make sense.

Let us look for a minute at the budgetary impact of the credits and the potential, and the potential is certainly there, Mr. President, for a much greater impact in the future. To me, it certainly reinforces the argument that we would be foolhardy to adopt this revenue loss.

Let us look at the cost of the credit in terms of lost revenue. As reported by the Finance Committee, CBO projects that the tax credit for private school tuition would add to the deficit $229 million in fiscal year 1984, $491 million in fiscal year 1985, $703 million in fiscal year 1986, $726 million if fiscal year 1987, $712 million in fiscal year 1988. That adds up, Mr. President, to an additional deficit of $2,800 million over the next 5 years—nearly $3 billion.

If we are going to get so used to triple-digit deficits that a mere $700 million annual cost of $3 billion over 5 years does not impress us, then I think we should remember these projected deficits.

We projected the deficit at $192 billion in fiscal year 1984, $180 billion in 1985, and $146 billion in 1986. And those deficits, Mr. President, were projected by this year's budget resolution, which did not assume any revenue losses for tuition tax credits, and it actually assumed a reconciliation that was going to save $86 billion, and so far we do not see even a third of that coming out of the committees that have reported to the Budget Committee.

Mr. President, that is another subject that we are going to have to be on this week. This being the last week, it is the last week that we have to take up our reconciliation to try to do something about that budget. In July, we voted that we were going to cut $86 billion over the next 3 years from our budget. What we voted in July we do not seem willing to go along with in November. But, rather than spending the time on this floor working out a package of spending cuts and revenue increases that we would be doing, and I think we should be doing, in these last days, we are talking about how we can spend some more money. We are talking about whether we are going to adopt a new program that is going to cost us $3 billion over the next 5 years.

That just, again, strikes me as kind of having our priorities totally reversed, Mr. President, and totally backward.

The budget resolution assumes the $73 billion in increased revenues, and we only have $13 billion in increased revenues voted out of the Finance Committee. So, we can see that we are further behind than we even thought we were going to be at a time when this proposal was voted out of the Finance Committee.

I would hope that if this proposal was still residing in the bosom of the Finance Committee, it would be held in that committee because that very Finance Committee that we expected to get $73 billion in additional revenues—and that was the direction of the budget resolution passed in July—has only come up with $13 billion. So they are $60 billion short, Mr. President, and yet we find this measure reported out that is going to cost us an additional $3 billion over the next 5 years.

Mr. President, I point out that again that is not the amount of money that the sponsors proposed when they started off with the proposal. It was many, many times that. So we know that they have scaled back so that they can try to have the foot in the door, so that they can try to start this project. But that would only be the start. I think everyone knows that the proposal will go up from there and go up tremendously.

Mr. President, I see my colleague from Rhode Island has come on the floor. I know that he wants to make

some opening remarks on this proposition.

I ask unanimous consent that I might yield to him at this time without having my remarks created as a second speech and that I be able to continue at a later date.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Florida, who spoke so well on this and who brought up many excellent points.

I have a document here entitled "Tuition Tax Credits: Fact and Fiction," by James S. Catterall of the Phi Delta Kappa Educational Foundation. This was a study made by the University of California on tuition tax credits. He touches on one of the points the Senator from Florida made; namely, about the 13 referendums that have occurred on this subject since 1966. And the Senator from Florida was right on the mark when he said that every single one of them has been overwhelmingly defeated.

Mr. President, the last such referenda took place right here in the District of Columbia in 1981, 2 years ago. One of the points that the proponents of this legislation frequently make is that somehow it is good for the minorities; that it is going to benefit them.

Well, what did the District of Columbia think about that, where minorities are in the overwhelming majority? The vote came in. How many for it? Ten point eight percent. How many against it? Eighty-nine point two percent in the District of Columbia. Now that says something about how minorities feel about this type of legislation.

Mr. President, I do not know where the proponents of the legislation are. I understand that the distinguished chairman of the Finance Committee came over and made a few remarks and then left. They ought to come over here and present their arguments. Here is a chance to be heard on it.

I will yield to anybody for a question or for a statement or for whatever they want to say, with the understanding that all the conclusion of the debate I would be rerecognized. In other words, anybody that wants to come over for debate purposes, come ahead. Let us hear it. Here is a chance to be heard. Do not say tomorrow, "'We were cut off. We were prohibited from presenting our arguments in favor of this legislation."

Here we are waiting to debate it and discuss it. We are prepred to discuss this proposal in great detail. And, as the Senator from Florida so wisely said, this deserves to be discussed in great detail, because this proposal is a radical departure from education policy in the United States as we know it.

As the Senator from Florida said, it is a radical departure from a system that has produced untold benefits for our Nation. So I would like to thank him for what he said and for his outstanding work in the education field as a whole and particularly in connection with this type of legislation.

Mr. President, the proposal to establish a program of tax credits for parents of children in private schools is the most significant education legislation to come before the Senate in several years, certainly since I have been here, which is 7 years.

In the Finance Committee, we spent a full day of hearings and 4 days of markup on this legislation. It has far-reaching implications for education in the United States. Indeed, its passage would bring an end to our current system of universal public education. It would create an entirely new system of Federal support for two sets—two competing sets—of school systems in the United States. And we will discuss whether indeed this is fair competition, whether there is a level playing field. I will get to that in a moment.

Now I believe that this legislation has come before us at an extremely bad time for three reasons: First, we are considering major legislation with deep and profound consequences for education during the time that the leader of the majority has said that this is our final week. Now perhaps we might go a couple of days into next week. But the leader of the majority has said that he wishes to finish this session this week.

The press of other business will preclude the kind of thorough discussion that we all feel this proposal warrants. When you go into a dramatic shift to change course 90 degrees in this country's educational policy, certainly it is deserving of discussion.

Second, another reason that this is a bad time: We are considering the establishment of a new entitlement program at a time when the Nation clearly cannot afford it.

Third, we could not have chosen a worse time to say that we have given up on public education and are ready to pour Federal dollars into private schools.

We have spent a great deal of time, Mr. President, both in this Chamber and in the Finance Committee this year, trying to control spending, trying to raise taxes, trying to bring about a reduction in the massive budget deficit that faces our Nation. A complete economic recovery for the United States will never be possible until this deficit is brought under control.

This year's deficit will be around $200 billion, almost 6.5 percent of the gross national product.

What do we mean by a $200 billion deficit? Those figures are so large that our minds cannot encompass them. What is the difference between $200 and $189 or $123 billion? Whatever it is, it is massive. But just to give you an idea, a $200 billion deficit means that we are borrowing $1 out of every $4 the United States pays. Every time the United States pays out $4 for something, $3 we raise by taxes and $1 we borrow. Twenty-five percent of the national spending program is borrowed money.

Mr. President, you could not do that to your family for very long. I could not do it for mine. Those who are here in this Chamber and in the galleries could not do it. Nobody could do anything like that. But that is what the United States is doing with no end in sight.

It would be one thing, Mr. President, if we could say, "Well, this is unique. We have gone into something extraordinary. But next year it will only be $100 billion and the next year we will balance the budget or have a surplus." No such thing is on the horizon at all.

Never since World War II has a deficit of this country exceeded even 4 percent of the GNP, and now it is almost 6.5 percent.

So do not let anybody tell us that, "Oh, well, it is a deficit on a larger GNP" or that "The country is growing." Sure the country is growing, and thank goodness for it, but our deficits are growing in greater proportion.

What has all this meant? The continued inability to grapple with the staggering deficit means continued high interest rates. It means a stagnant recovery. It means an overvalued dollar, and the effect of that overvalued dollar is devastating on our exports, whether we are trying to export coal from West Virginia, whether we are trying to export farm products, whether we are trying to export machinery, Caterpillar tractors. Whatever it is, our ability to compete is vastly reduced because of the overvalue of the dollar. It costs so much for the importing countries abroad to buy our products compared to buying a tractor from Japan or coal from England or Australia.

This, of course, contributes to the continued high unemployment. We cannot tolerate these continued rates of high unemployment. Sure, it is wonderful that it has come from 9 percent down to 8.2 percent. But traditionally, we thought in this country that 5 percent was high unemployment. Ultimately, this can produce ruinous inflation.

There are some encouraging signs of economic recovery which have recently become evident. But they will soon be overshadowed if the need for Federal borrowing continues to strain the market for available credit.

When the Federal Government goes out there seeking to borrow to pay for

this deficit, $1 out of every $4 we spend this year, $1 out of every $4 next year, and so on into the future, then, of course, it squeezes other people out of the market. The Federal Government can pay as much interest as it has to pay because it has to get the money. But not so with industrial borrowers, not so with those who are seeking mortgages. They cannot keep going up to 12, 14, 18, 20 percent. There is a point where they have to quit. They cannot continue because they just cannot make the payments. But the U.S. Government can match anybody and chase them all out of the borrowing market.

The resulting rise in interest rates will discourage investment; it will discourage the purchase of homes, autos, and other consumer goods. High interest rates will also harm our exports and jeopardize American jobs.

Clearly, we have to do something to bring this deficit under control in order to assure a sustained recovery.

To help achieve this, we have attempted to control spending. In this Chamber, we have taken some tough and difficult votes. Just last week, somebody moved to add on to the continuing resolution $1 billion for education, for aid to the handicapped, for busing for the elderly, for a host of very worthwhile programs. This body defeated that add-on of $1 billion. They did it reluctantly. I voted against it. Why did I vote against it? I, who favor every single one of these programs?

I voted against it because the Federal deficit must be brought under control and we have to take some tough votes in order to do it.

These are extremely painful reductions that I mentioned. This is just a tiny sample. Over the years, we have done it for a host of programs. We even voted down an immunization, program for children in 1981. That is the extent we went to.

None of us welcome doing that.

We have exercised spending restraint in order to support the goals of lowering the deficit and balancing the budget. Federal support for education has been among the programs which have suffered.

This administration, the administration of this Government now, has proposed substantial reductions in education spending each year. The Congress has restored those amounts, or some of them. But they barely enable the education program to keep pace with inflation.

In this context of raging deficits, reduced Federal spending for education, now is clearly not the time for this Senate to embark upon a new tax expenditure and entitlement program to aid the parents of children attending private schools. Approval of this program would contradict every stated goal of this administration in controlling spending and in reducing the deficit.

This new program is an entitlement program. If you qualify, you get the money. If you meet the qualifications, you are entitled to the credit. You figure out your tax and then deduct that from it. It is not a deduction in the income tax sense but it is a credit, which is a subtraction from your tax. This entitlement program would place a further strain on an already overstrained Federal budget.

What are the costs of this? I think we have to remember when I give you the costs, I am giving you the costs that the Department of Treasury has estimated. Mr. President, the Treasury's estimates of spending programs are notoriously off the mark. They are never too high; they are always too low. But when the chickens come home to roost, when the people figure out their taxes, the cost of the program is way in excess of the anticipated pricetag which, in this case, is $2 billion over the next 4 years.

This is an extremely conservative estimate which fails to take into account the incentive these credits will provide for parents to enroll their children in private schools.

Furthermore, that does not take into account what would have to be done to this legislation to make it constitutional. Namely, as a result of the recent Supreme Court decision, it would be necessary to modify the bill that came out of the Committee on Finance and provide that a parent who sends his children to any school, public or private, would be entitled to this credit. So if you have some expenses associated with your child in a public school, you could deduct that as well. As the Senator from Florida indicated, there would be a trend for public schools which are now having difficulty, to add some charges—perhaps on a means-tested level—knowing that those charges would then be deductible under this tuition tax credit program.

Mr. President, I understand the Senator from North Carolina would like to ask a question. I shall be glad to yield to him for a question with the understanding, with the unanimous consent that I not lose my right to the floor and that in no way would any remarks I may make thereafter count as a second speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE. On that basis, I am glad to yield for a question to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the Chair.

Mr. President, I appreciate the distinguished Senator from Rhode Island giving me a chance to comment briefly on this matter. I was passing by when I heard his distinguished voice invite those who support this measure, that they might come forth and ask questions or make some statement in defense of it. This they had not been doing. What I would like to do is, if it would be all right with the Senator since he clearly has the guarantee of the floor, to come back to it, is just that he give me a slight few minutes to elaborate and then, in effect, ask a question.

Mr. CHAFEE. Let me say to the Senator, I shall be glad to yield to him for purposes of debate with the agreement that when the Senator concludes, I be recognized and further, that this would be under the unanimous consent that any further speech I make on this question be deemed my first speech for purposes of rule XIX.

I so ask, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. EAST. I appreciate that, Mr. President. The Senator is really giving me more than I had requested;, namely, an opportunity to have a brief dialog on this, because I realize the Senate is going to go out, and I should not wish to detain it from doing that.

The thing that concerns me in the distinguished Senator's remarks is, I think he used the word "radical" to criticize this idea of tuition tax credit. As one who generally supports the concept, I wish to respond to that a bit.

I appreciate that it is one of those issues that reasonable and fairminded men can disagree over, which, obviously, is going to happen in this Chamber. But I would not agree with the Senator that, some way or other, this is a very radical, outlandish proposal, in some way contrary to the whole spirit of education in this country as we have historically and traditionally known it. If I may just make a succinct statement of my position, the Senator could respond to it. Let me look at it from this angle, if I may, I say to the Senator.

First of all, those of us who have been involved in education—and I was, prior to my election to the Senate, at the college level. I taught at a State institution. One thing that troubled me as a person employed by a State university—which, by the way, is invariably today in a position to pay its faculty and its research facility, as a general rule, infinitely better than the private schools. For example, the little liberal arts college is the most endangered species in higher-education America today.

I know the Senator might respond, "Yes, Senator, but this is not applying to them. It is applying to public schools at the elementary and secondary level." I appreciate that. I am just

trying to put this in a little perspective.

I think that we run the risk in this country that somewhere along the line, only public education is the American way, that diversity and pluralism at the elementary level or at the secondary level or at the university level is something that, to use the Senator's word, is quite radical and ought not to be encouraged.

It is true, one might question the timing on this in terms of budget deficits. But then, that is always true. We added today nearly $12 million for the Civil Rights Commission, which is purely advisory. I believe the Senator voted for that. We added $20,000 just as seed money for a nursery-day care center for children of Senate employees, staff. We did that rather casually, without any problems. But the whole tax code and structure in this country, whether it is credits or deductions, is obviously designed to promote what is conceived to be good public policy. I am saying a fairminded, reasonable-minded person can say that to do something to promote pluralism and diversity in the school systems of this country would be a good thing, to help those private schools that are in very dire straits at all levels in the American system of higher education.

One thinks of the Catholic schools, many of them concentrated in our great cities. One might think of other kinds of institutions. But certainly the idea that we might utilize the tax laws to give these institutions some sort of encouragement, to give them some sort of inducement that may allow them to stay in business, to produce competition, to produce diversity—I think the idea of competition here would be a good thing, and I think it would have a qualitative impact upon public and private education. I do not think the proposal is at all radical in the generic sense of just a purely preposterous, outlandish idea.

After all, the problem is today—and I submit this legislation is designed to help those at the lower end of the economic scale. The problem with them today is that they have to pay both ways.

They have to pay taxes to support public schools and then, of course, they have to pay tuition to go to the private schools. Private institutions, I repeat, as a broad general concept, in this great period of inflation, great period of high taxes, great period of monopoly on education—I know in North Carolina, for example, that the president of Duke University, Terry Sanford, a distinguished former Governor of our State, a Democrat, has indicated in our State, his concern that the smaller private schools—Duke does well with large endowments. It is a wealthy institution. But the smaller private schools are very much in danger of being wiped out. It would mean that the kind of institution in which I taught would then simply enjoy a monopoly. Students have no place else to go and, candidly, I do not think that helps the quality of education in this country.

The notion that tuition tax credit is somehow hostile to the National Education Association or to public school teachers or to public education in this country, I think, is a bit of a way—perhaps not wittingly done but unwittingly—to frighten off opposition to it and not to engage in some serious dialog on it.

I guess the word that triggered me to come in and put in a brief word of defense for the tuition tax credit—we could disagree over the amount it ought to be, the particular groups affected, when it ought to go into effect. But the idea that the tuition tax credit is a radical, well-nigh almost—yes, I shudder to think it—un-American proposal, I deeply resist that and would look forward to further opportunity to speak upon this matter on the Senate floor.

So I pass by and I come in as a good Samaritan to help those in this country—and there are many—who do believe there is merit in this concept and intend to pursue it. That is why we are pursuing it. That is why the President is pursuing it. And we think that good, healthy, vibrant debate could develop a policy that would help our private schools, thereby creating greater diversity, greater competition, and I think all of American education would benefit from that, not just the public.

So I responded to the Senator's challenge. I heard him on the intercom saying, "Where are the defenders of this proposal? Where are they hiding? What are they doing?"

So I came out of a little hole that I found myself in and thought I would raise my voice in defense of the general concept of tuition tax credit.

I thank the Senator for yielding to me.

Mr. CHAFEE. I want to say to the distinguished Senator from North Carolina that I appreciate his coming to the Chamber. He responded to the invitation that I made, and I appreciate it because I do not want anybody saying tomorrow that the opponents of this legislation cut off debate. Anybody is welcome to come and debate it, and we will yield them the time they want just exactly as freely as the Senator had time. They can talk for 5 hours. If the Senator would like to come next time and do that, we would be glad to do it.

Now, as far as what he said, I think they are interesting comments. I should like to say, if I might, that the Senator's concern for the strength of the private schools is not necessary because these statistics show that, indeed, during these last 10 years of inflation and reduced population, reduced pool of school age youngsters, private schools have grown.

In 1970, 10.1 percent of the school population in the United States attended private schools. In 1980, 10 years later, 10.9 percent of the eligible children were attending private schools. When you go from 10.1 to 10.9 percent of the children, that is nearly a 10-percent increase for the private schools. That is a 10-percent increase for the private school enrollment in this period.

Mr. EAST. If I might inquire of the distinguished Senator, I suspect—and again, we never know what fully lies behind the statistics—one reason has been because of the failure, candidly, frankly, in some cases—not all now because I am a product of public colleges and universities. I went to a small liberal arts private school, but I went to public institutions for my law degree and my MA and Ph.D. in political science and taught at a public institution. But in some of these cases, the reason that has occurred is not because it is easy to provide financially or to do financially but because, candidly, in many cases the quality of education in the public schools in certain areas fell so low—I think to some degree because they have a monopoly on education—that it began to get to the point it appeared you could do everything in the public schools today but pray. You could do everything in the public schools today but pray. You could sell drugs. You could indulge in this, you could indulge in that. And I think what happened, the one thing that would account for those statistics, is not lavish amounts of money available by parents to send their children to private schools but actually it shows a great willingness on their part to sacrifice heavily in order that their children might have a good education.

Mr. CHAFEE. That is right.

Mr. EAST. That is what accounts for the percentage increase.

Mr. CHAFEE. That is right, but let me just return to what the Senator was saying about what is levied on the public schools.

Now, first all all, I know the Senator was facetious when he was saying you can sell drugs. The public schools are making a valiant effort to control all kinds of disciplinary problems, problems that reflect society as a whole. They are not indigenous to the public school system.

Mr. EAST. What I would like to say to the Senator on that point, though, is—and I made it clear I was not condemning all public schools in this country; they make a magnificent contribution, have made and will continue to make, and I graduated from public schools as far as my elementary and high school education, and my father was a superintendent of schools and a principal of schools, so I am familiar

with all of that. Many of them are excellent and outstanding institutions. But in some areas, in some localities, in some circumstances, the quality dropped so low, the absence of discipline, et cetera, that finally parents in those localities were driven to put their children into private institutions where they felt there would be a more disciplined atmosphere, a more academic atmosphere, a more stimulative atmosphere. In short, the education of one's children becomes about as important to a dedicated young couple as anything they do. When Johnnie and Jane come home and they are obviously not learning to read and write and they tell sometimes in certain cases, I agree limited cases, horror stories about what is going on at the institutions—where, again to get back to my point, I do not wish to exaggerate, but you can do about everything you want to in some public schools today except say a prayer—they decided maybe the best thing to do is to make the financial sacrifice and sent them to private institutions. I commend them for it. All we would be doing here is considering the possibility of giving them modest tax relief.

As to the idea that some way or other that is a very radical notion, I am very comfortable with it as being very much a reasonably minded, eminently reasonably minded proposal.

Mr. CHAFEE. Let me point out to the Senator that there are levied on the public schools a whole series of requirements from the Federal Government and from the State government. Example: The public schools must accept a child regardless of past disciplinary problems, and the public schools are encouraged and practically mandated to retain that youngster. That is the law. The child has to go to school. Where does he go to school? He goes to a public school if a private school will not take him.

Second, the Federal Government and other governments have levied on the public schools the requirement that children with learning disabilities must be accepted in the public schools. A child with handicaps, mental, physical, whatever, must not only be admitted, but be provided special services. I believe it is right to confer these responsibilities on our public schools. But it would not be right to provide this Federal assistance to private schools on which the same requirements have not been made.

The same holds true in the case of children for whom English is not an original language. Many States require schools to set up bilingual education programs. Under the proposal that the Senator is supporting, we would have two school systems in this Nation, one dominated for the motivated, nonhandicapped, English-speaking, well-disciplined, and in many cases above-average income youngsters.

The other would be largely responsible for serving the poor and the minorites and the handicapped and those with whom English is not an original language, and those with disciplinary and learning problems.

Is that the kind of system you want in the United States? I do not think so. That is the kind of system the Senator is encouraging by supporting this, if he does, and I hope that when he finishes the discussion, he will change his mind, because I know he is capable of doing that.

Mr. EAST. If I may respond to the Senator's very interesting and eloquent remarks, first of all, I would be the last one in this Chamber to be caught in the awkward position of being opposed to the handicapped, having been a polio paraplegic since 1955. So I am not opposed to doing those things that are necessary in order to help our handicapped citizens.

Mr. CHAFEE. Are you willing to levy a requirement that every private school that benefits from this tuition tax credit must provide services for the handicapped? That is an amendment we proposed in the Finance Committee, and it was roundly defeated by the proponents of this legislation.

The PRESIDING OFFICER (Mr. TRIBLE). The Chair reminds Senators that propriety requires that they address their remarks to one another through the Chair and that personal confrontation is not in line with precedents of the Senate.

Mr. EAST. Mr. President, I should like to respond to the remarks of the Senator from Rhode Island on the points he has been making about the disadvantages under which public schools operate and therefore private schools would not have to, and therefore, where does all this lead us?

My response to the line of argument is that, first of all, as you well know, the State governments as well as the Federal Government are heavily involved in funding particular kinds of programs that take care of unique, unusual circumstances, be they handicapped children or whatever it may be.

All I am saying is that the idea of a private school being indifferent and hostile, by definition, to those who do not fit in comfortably to the so-called ablebodied, white majority, Anglo-Saxon Protestant—I do not think that is a valid statement.

One thinks, of course, of the Catholic schools which benefit greatly from that. Often, the Catholic schools in our great urban centers have a fairly high proportion of minority students.

I know, for example, that in North Carolina, one of the most progressive institutions for the handicapped is St. Andrews College, a private Presbyterian college in Laurinburg, which, by its own design, has developed a magnificent program regarding the handicapped.

Mr. CHAFEE. Mr. President, this legislation deals only with elementary and secondary schools.

Mr. EAST. I understand that. But what you are suggesting is that, some way or other, there inevitably will be callousness and indifference in any kind of private school, at the elementary or secondary level, that might benefit from the tuition tax credits, to the unique problems of the handicapped, be it physical or mental or those with certain other kinds of disadvantages, and that these particular problems are forced upon the public schools. I resist the notion that there is that callousness.

As I was suggesting, the tuition tax credit is a very modest thing. The funding to deal with those kinds of programs which has come from the Federal Government to the public institutions, and from State government as well—local taxes, county, and so forth—have dealt with those problems, and certainly through the tax laws of this country.

You could guarantee certain kinds of requirements, as they do today. Privately-owned restaurants, for example, must be made accessible to the physically handicapped. They must have bathroom facilities they can use, for which I, for one, am very grateful.

Your notion is that you can provide a tuition tax credit, but at the same time, through tax laws, you can place—we have done it before and can do it again—certain reasonable restrictions upon that.

The idea is so preposterous—getting back to your word "radical"—that it disturbs me. How in the world could anyone who is thinking right and understands the history and development and the problems of American education today come up with such a ludicrous proposal?

I think your rhetoric is too extreme here, because those of us who would defend the proposition, who are willing to listen to all aspects of it, who are willing to listen to the limitations of it, who are willing to note those conditions that perhaps ought to be attached to it, still are contending that, in the long run, it would encourage diversity, pluralism, and competition in education in America today which, in and of itself, I think would be a healthy thing. I do not think it is radical. I believe it is a very positive, progressive notion.

Those spokesmen for the public schools who attempt to take a posture to the contrary, to frighten the public on this particular issue, do a disservice to themselves and do a disservice to the public institutions in this country, many of which are fine and outstanding. Heaven knows, no one is trying to

crowd them out or unduly burden them or whatever.

This proposal is exceedingly modest as proposals go. As to the notion that it represents the death knell of public education in this country, and therefore is an exceedingly radical, unbelievable proposition, I simply do not accept that as an accurate and appropriate description of it, with all due respect to the Senator from Rhode Island, for whom I have the deepest respect and admiration.

I yield back to the Senator.

Mr. CHAFEE. Mr. President, the Senator has made some good points. He says that, obviously, not all private schools reject those who do not conform to the very highest standards of physical development, learning ability, handling of the English language, discipline, and so forth. That is true.

In my own State, we have many private schools—the term "private," of course, includes parochial schools—that do an outstanding job and do serve students with these problems, as well as those for whom English is not an original language. They are doing outstanding work with minority groups, and they do very well with some children who have learning disability problems, and they are a great credit to our State. But such is not typical across the country. Our State is blessed. But that is not true of private schools across the Nation, necessarily. Many private schools throughout the country are not serving students in the categories I have described.

Now I wish to ask the Senator a question. As I understood him, he said he would be perfectly prepared to have requirements levied on private schools that they provide services for the handicapped. Was I correct in understanding that, that it would be acceptable to him that private schools which accept this money indirectly provide these services for the handicapped? Is he prepared to do that? I think that is splendid. I might say we made that proposal in the Finance Committee, and it was defeated roundly by the proponents of tuition tax credit, but I think the Senator sees it a little differently. At least, that is the way I understood him.

Mr. EAST. Mr. President, responding to the point of the Senator, I am not here to put myself in blanket endorsement of just any kind of tuition tax credit let alone any kind of particular limitation upon it. I think the concept is valid, and I think the Senate through debate and the amending process could develop a national policy that was a positive and progressive one in the best interests of education at all levels in this country and should not be looked upon as a great threat to public education but as a supplement to it, complementary to it, and that is the spirit in which I wish to see the debate and discussion proceed.

What I am suggesting is, and I am not hedging on it, I am not saying that anything that is done in the name of the handicapped I will support, and I say that as a handicapped person. I sometimes find here in the Senate whether it is done in the name of civil rights or done in the name of the handicapped, you can do about anything you want to, lest you appear to be callous or hardhearted or indifferent, and frequently it is a matter of other considerations that have to be looked at, no one having a monopoly on compassion nor concern for people in these particular categories.

All I am saying, in response to the Senator's legitimate inquiry, is that sure I would be amenable. I would be amenable to looking at some reasonable proposals that way. I am not on the Finance Committee. I do not know in what form it took or why it may have been rejected, whether it was excess, or whatever, but certainly that might be a requirement of some kind we would want to look into.

It might be we want to give private schools a little encouragement through the Federal law that we would set up that would make private schools available in some reasonable way to the physically handicapped or to those who may need mental assistance, certainly the physically handicapped, just as we require private restaurants, hotels, and motels today. It is a positive national policy, and I see no immediate total arbitrary barrier against considering reasonable proposals directed to that end, and that would be my attitude on those affecting the handicapped.

Mr. CHAFEE. Mr. President, what we proposed in the Finance Committee was that the same requirements be levied upon the private schools that are levied upon the public schools, that the private schools abide by the same requirements as the public schools in connection with the mainstreaming of the handicapped, as it were. That is what we call going to a level playing field, and that is what was proposed.

I would say to the Senator from North Carolina, who is very thoughtful in this matter, that we are coming right now up to the starting line. If I can mix a metaphor we have to fish or cut bait here. This is not something that will pass and then be followed by the writing of regulations. Without action by this body there will not be a requirement that participating private schools treat the handicapped children exactly as the public schools must. Without action by this body, if this measure should pass, there will not be a requirement that the private schools accept those with learning disabilities or those for whom English is not an original language or those who have disciplinary problems.

As you know, under title IX public schools in the Nation must provide equal programs for female students but when we proposed in the finance committee that private schools which benefit from these tax credits abide by the same rules, this was rejected.

What does that do to a community?

Mr. EAST. Mr. President, if I might respond to that particular point, we have many distinguished colleges and universities in this country today are sometimes strictly male and sometimes strictly female. I do not see what is so un-American about that.

I think that at the elementary or secondary level if a private school wanted to made that kind of distinction it might be warranted for whatever particular circumstance. I do not believe in the unisex standard.

Again just putting it in perspective, if I might reason from the standpoint of some of the major institutions of higher learning in this country today, they have historically been identified with either women or men in terms of their attendance. Davidson College in North Carolina, one of the finest private schools in the country, we contend, down there, has been historically traditionally a male institution.

One thinks of Smith College or Vassar which have historically and traditionally been women's colleges.

What is so frightful about the idea of some degree of pluralism and diversity in American education? This seems to frighten people today that we have to have uniformity. We have to have public control and regulation of everything. We have to have public funding of everything. To encourage individual or private groups or corporations or entities to innovate, develop, grow, spawn, on their own is some way or another just a preposterous idea. And I submit that again I keep coming back to the idea that the tuition tax cedit properly timed, properly done, properly conditioned could very well be argued, and I am arguing that, because I believe in it, it could be a positive contribution to diversity, pluralism, and competition in education in America today, and I think that would be a healthy development.

So there is a little diversity. You have schools that are primarily female or primarily male. I am not frightened with that. Maybe for some reason or another it is best for a particular child or the parents prefer it that way. I mean, I do not quite understand what is so horrendous. It just happened in education in America today that one might have a little pluralism, diversity and competition in the whole setting. I would submit that is not that we are trying to outdo one another in our Americanism here, but that is very much consistent with the American

spirit as I think of competition, pluralism, diversity, and out of the competition, pluralism and diversity we will grow and thrive, and I think the quality of education in this country would improve at all levels, be a stimulation, and the chamber of horrors that the Senator tends to recite and then pull these together and throw it at us in a composite as being radical and wishing to destroy public education in this country I do not think fairly or appropriately describes what it is we are talking about.

Mr. CHAFEE. Mr. President, the amendment I mentioned would have required equal programs and activities for both sexes in coed institutions.

Mr. President, there are all kinds of opportunity for experimentation, diversity, pluralism, anything you want. That is fine. Let us have it. But let us not have it one that is exclusive. Why should the Federal Government have to provide funds for private schools when these schools do not have the same responsibilities as the public schools?

I would remind the Senator that already the Federal Government is assisting the private schools in a substantial way while permitting a tax deduction for contributions to those 501(c)(3) eligible private schools. Anybody who contributes receives a deduction on their income tax. But this is very different from an incentive through tax credits to enroll in private schools.

Mr. President, I see the majority leader is in the Chamber. I ask unanimous consent that I may yield to the majority leader with the provision that I be recognized immediately when the Senate resumes considerations of the pending question, whenever it may be, tomorrow, or whenever the question reoccurs.

Mr. EAST. Mr. President, I have no objection to that. Certainly, I do not have any objection to yielding to the majority leader. I understand I do not have the floor, that the Senator from Rhode Island has the floor.

I simply would like to say this, and I shall be finished. I appreciate the opportunity to engage in this discussion with the Senator. I shall, after hearing what the majority leader has to say, be willing to give up the debate for today, because I think the Senate is anxious to go out.

But I enjoyed the discussion with the distinguished Senator from Rhode Island, and I appreciate his giving me the opportunity to do that. So I shall cease and desist for today, and let the majority leader and the Senator from Rhode Island work out the final point of departure for this evening, whenever they think that is appropriate.

The PRESIDING OFFICER. Does the Senator from North Carolina interpose an objection to the unanimous-consent request?

Mr. EAST. No, I do not object to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. The condition under which I entered into the dialog, and I am going out under those conditions, is that he retains the floor and I think he is yielding to the majority leader under the same requirements and I will not object to that.

Mr. CHAFEE. So my request has been granted?

The PRESIDING OFFICER. The majority leader is recognized. The unanimous-consent request has been agreed to.

Mr. BAKER. It is nice to be thought of, Mr. President.

Mr. President, I thank the Senator from Rhode Island and I thank the Senator from North Carolina.

CLOTURE MOTION

Mr. BAKER. I have two purposes. The first, Mr. President, is to send to the desk a cloture motion against further debate on the motion to proceed to this measure. I ask that it be reported by the clerk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of House Joint Resolution 290, a joint resolution to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States in 1984.

Senators Howard Baker, Strom Thurmond, Barry Goldwater, John P. East, Bob Dole, Roger W. Jepsen, Orrin G. Hatch, John Tower, Jack Danforth, W. V. Roth, Jr., Chic Hecht, Frank Murkowski, Gordon Humphrey, Alfonse D'Amato, Paul Laxalt, and Dave Durenberger.

Mr. BAKER. Mr. President, as far as I am concerned, we are finished with this measure tonight.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not longer than 7 minutes in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of November 12, 1983, the Secretary of the Senate on November 14, 1983, during the adjournment of the Senate, received a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of November 12, 1983, the Secretary of the Senate, on November 12, 1983, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

Under the authority of the order of the Senate of November 12, 1983, the enrolled joint resolution was signed on November 14, 1983, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:27 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 2910. An act to amend the Act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation;

H.R. 3348. An act to honor Congressman Leo J. Ryan and to award a special Congressional gold medal to the family of the late Honorable Leo J. Ryan;

H.R. 3885. An act to provide for the restoration of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.J. Res. 283. Joint resolution designating the week beginning November 6, 1983, as "National Disabled Veterans Week";

H.J. Res. 383. Joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week"; and

H.J. Res. 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day", in honor of the league's seventieth anniversary.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE MEASURE REFERRED

The following joint resolution, received from the House of Representatives on November 11, 1983, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 20. Joint resolution designating November 13, 1983, as "National Retired Teachers Day"; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1964. A communication from the Assistant Secretary of Defense, Comptroller, transmitting pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate and under the German Offset Agreement for the quarter ending September 30, 1983; to the Committee on Appropriations.

EC-1965. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the custodial services function at the Naval Weapons Station, Charleston, S.C. to performance under contract; to the Committee on Armed Services.

EC-1966. A communication from the Deputy U.S. Trade Representative transmitting, pursuant to law, the biannual report on the operation and effect of the International Sugar Agreement; to the Committee on Finance.

EC-1967. A communication from the Deputy Administrator, GSA, transmitting, pursuant to law, a report on the disposal of surplus Federal real property for historic monument purposes for fiscal 1983; to the Committee on Governmental Affairs.

EC-1968. A communication from the U.S. Bankruptcy Judge, Southern District of Alabama, transmitting, pursuant to law, notice of acceptance of appointment as a Judge of a U.S. Bankruptcy Court; to the Committee on the Judiciary.

EC-1969. A communication from the Chairman of the National Mediation Board transmitting, purusant to law, the forty-eighth annual report of the Board; to the Committee on Labor and Human Resources.

EC-1970. A communication from the Secretary of Education transmitting, purusant to law, the 32nd report on the administration of Title I of PL 81-874 and PL 81-815; to the Committee on Labor and Human Resources.

EC-1971. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to modify the method for the selection of Directors of the Foundation for the Advancement of Military Medicine; to the Committee on Armed Services.

EC-1972. A communication from the Director of the Congressional Budget Office transmitting, pursuant to law, a study entitled "Natural Gas Price Decontrol: A comparison of Two Bills"; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-473. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources.

RESOLUTION No. 325

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, Ricardo Montoya has been appointed by the President of the United States to the position of Assistant Secretary for Territorial and International Affairs in the Department of Interior; and

"Whereas, Montoya served as Deputy to Pedro Sanjuan from February 4, 1983 until Sanjuan's assumption of a new position at the United Nations; and

"Whereas, in his tenure as Deputy, Montoya became aware of the issues and concerns facing the United States with respect to its off-shore territories; and

"Whereas, in recent meetings with territorial officials on Guam, Montoya was effective in communicating the position of the federal government to leaders in Guam and yet remaining open to suggestions and alternatives proposed by Guam's officials; now, therefore, be it

"Resolved, That the Seventeenth Guam Legislature respectfully requests that the United States Senate confirm Ricardo Montoya to the position of Assistant Secretary for Territorial and International Affairs in the Department of Interior; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable George Bush, President of the United States Senate; to Senator James McClure, Chairman of the Senate Committee on Energy and Natural Resources in the Department of Interior; to Senator Robert C. Byrd, Senate Minority Leader; to Ricardo Montoya; and to the Governor of Guam."

POM-474. A resolution adopted by the Council of the City of Ketchikan, Alaska requesting Environment Protection Agency reconsideration of its decision on a variance to wastewater treatment requirements affecting the LPK mill in southeast Alaska and establishing an effective date; to the Committee on Environment and Public Works.

POM-475. A resolution adopted by the North Atlantic Assembly relating to the recommendations, resolution and order adopted at the 29th annual session of the North Atlantic Assembly; to the Committee on Foreign Relations.

POM-476. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION No. 449

"Whereas, Since ifs founding in 1931, the Polish Legion of American Veterans has been providing numerous services and great assistance to citizens of this country of Polish descent who served our nation valiantly in the Armed Forces during World War I, World War II, the Korean conflict, or the Vietnam conflict. The vital work undertaken by this esteemed organization over the years has earned it a unique place of prominence not only within the Polish community but throughout the entire network of organizations and individuals dedicated to serving veterans and their families; and

"Whereas, The Polish Legion of American Veterans has played a major role in the lives of many of our citizens and represents the unsurpassed sense of loyalty, patriotism, and commitment which is so strong a part of the Polish heritage in this country; and

"Whereas, There are currently pending before the Congress of the United States two measures which pertain to granting a federal charter to the Polish Legion of American Veterans. These pieces of legislation, HR 29 and HR 1049, would formally recognized and enhance the ability of this respected organization to continue and expand its services to a large segment of the group of men and women who have sacrificed themselves for their country. A federal charter will greatly assist the Polish Legion of American Veterans and strengthen the many services this organization has been providing so remarkably for so long; now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That the Michigan Legislature hereby memorialize the Congress of the United States to grant a federal charter to the Polish Legion of American Veterans; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of the Michigan congressional delegation."

POM-477. A resolution adopted by the Diocese of New York of the Protestant Episcopal Church relating to AIDS; to the Committee on Labor and Human Resources.

POM-478. A petition from the American Legion of Plymouth, Ohio, relating to problems created by an excutive department of the Federal Government; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment and with an amendment to the title:

S. 1775. A bill to repeal the designation of the Georgia O'Keefe National Historical Site (Rept. No. 98-310).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S.J. Res. 173. Joint resolution commending the Historic American Buildings Survey, a program of the National Park Service, Department of the Interior (Rept. No. 98-311).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Helmut A. Merklein, of Texas, to be an Assistant Secretary of Energy (International Affairs).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. NUNN, Mr. NICKLES, Mr. RUDMAN, Mr. GRASSLEY, and Mr. CHILES):

S. 2090. A bill to clarify the authority of the Office of Inspector General, Department of Labor; to the Committee on Governmental Affairs.

By Mr. BOSCHWITZ:

S. 2091. A bill for the relief of Shirley Tsui-Ming Chow; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2092. A bill to continue until the close of June 30, 1989, the existing suspension of duties on certain forms of zinc; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2093. A bill to amend the Contract Disputes Act of 1978 to eliminate the requirement that certain claims be certified, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUMPHREY (for himself, Mr. MATSUNAGA, Mr. QUAYLE, and Mr. EAST):

S. 2094. A bill to amend the Federal Food, Drug and Cosmetic Act to allow increased inspection of records; to the Committee on Labor and Human Resources.

By Mr. HUMPHREY (for himself and Mr. RUDMAN):

S. 2095. A bill to amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a National Wild and Scenic River; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. NUNN, Mr. NICKLES, Mr. RUDMAN, Mr. GRASSLEY, and Mr. CHILES):

S. 2090. A bill to clarify the authority of the Office of Inspector General, Department of Labor. Referred to the Committee on Governmental Affairs.

ACT TO IMPROVE ENFORCEMENT AGAINST ORGANIZED CRIME

Mr. HATCH. Mr. President, today I am introducing, for myself and my colleagues, Senators NUNN, NICKLES, RUDMAN, GRASSLEY, and CHILES, a bill that will provide agents of the Department of Labor's Office of Organized Crime and Racketeering with the tools they need to do their jobs effectively.

In 1978, when Congress passed the Inspector General Act, it authorized the creation of the Office of Inspector General at the Department of Labor. One of the responsibilities of this Office is to administer the Department's participation on the Organized Crime Strike Force.

The Labor Department agents assigned to the strike force all work out of the Office of Organized Crime and Racketeering, a division of the Labor Department's Office of Inspector General.

The strike force represents an intergovernmental effort to combat organized crime by combining and coordinating the resources and expertise of the various Federal departments involved. While the agents of these departments may investigate cases on their own, all investigations are first approved by the Department of Justice representative on the strike force.

In the case of the Department of Labor agents, they are responsible for conducting their Department's investigations of unions or union-connected pension plans which have been identified as being under the influence of organized crime or racketeering.

These agents have an unusual burden. While they are expected to pursue these investigations, they do not have the traditional law enforcement powers one would expect would be granted to anyone charged with protecting rank and file employees from organized crime. Instead, when an arrest needs to be made, a warrant executed, or protection provided, the Labor Department agents must seek out other members of the strike force or even local police officers to provide these services for them.

It is no great surprise that this arrangement not only does not work but also has placed the lives of the Labor Department agents, as well as their families, in great danger. Hearings that I held before the Committee on Labor and Human Resources provided ample evidence of lost investigations, investigations lost not because of a lack of evidence but because the system currently in place does not work.

It should be noted that despite these odds, the Office of Organized Crime and Racketeering has been successful. It initially attracted top law enforcement officials from other agencies, such as the FBI and the Secret Service, and its indictment and conviction record are an apt tribute to the professionalism of its agents.

But such success does not justify ignoring the needs of these agents. If anything, it provides a clear indication of how much more effective they would be if they were allowed to perform their jobs in a realistic and pragmatic manner.

The bill that we are introducing today will rectify the problems confronting these agents. It will enable them to execute warrants, to make arrests without warrants for crimes committed in their presence, and to carry firearms in accordance with rules issued by the Secretary of Labor.

This grant of traditional law enforcement powers is comparable to a previous grant of similar powers to the Office of the Inspector General at the Department of Agriculture, except for one key difference: that grant covered the entire Inspector General's Office at the Agriculture Department. This bill would make such a grant only to one division of the Labor Department's Office of the Inspector General, the Office of Organized Crime and Racketeering.

I hope my colleagues will be willing to address this issue with a sense of urgency. The Labor Department agents are performing in a heroic manner, but they are becoming frustrated. Some are quitting; others are becoming reluctant to continue to risk their lives daily.

If we are sincere in our effort to rid the union movement of the presence of organized crime, we should be willing to to provide to those to whom we have given this responsibility the tools they need to do their jobs. The existing system does not work. It must be corrected if we hope to have an effective Federal unit designed to protect rank and file employees from organized crime and labor racketeers.

Mr. NUNN. Mr. President, I am pleased to join Senator HATCH today in introducing legislation which would extend law enforcement powers and authority to agents of the Inspector General's Office of the Department of Labor charged with criminal enforcement, including agents in the Organized Crime and Racketeering section of that Office. This bill will greatly enhance the Federal Government's ability to effectively combat the problem of organized crime in labor-management racketeering.

The record is clear that the vast majority of union officers and members are hard-working, honest, law-abiding citizens. However, in my work with the Permanent Subcommittee on Investigations, I have seen firsthand that, in many instances, legitimate labor unions have fallen victim to the corrupting influence of organized crime. As a result, the interests of the honest rank and file union member have suffered. Evidence of this corruption has been received, time and again, by our subcommittee: in our hearings on waterfront corruption in 1981, in our hearings on the Hotel Employees and Restaurant Employees International Union, beginning in 1982 and continuing through 1983; and in our hearings on organized crime in the mid-Atlantic, in 1983.

In many cases, the labor unions have worked to shed themselves of organized crime and its crippling influence. Unfortunately, the task is sometimes a mammoth one, which the unions cannot always successfully tackle alone. I believe that the unions need our help here in Congress. We must make every reasonable effort to combat this most serious problem.

In keeping with that belief, I was most pleased with the Senate's recent passage of S. 336, the Labor Management Racketeering Act of 1983, which I introduced, with the cosponsorship

of Senator HATCH and others, in February of this year. That bill, also designed to combat labor management corruption, does three things: First, increases criminal penalties for violations of the Taft Hartley Act; second, prohibits immediately upon conviction of certain crimes persons from holding union, employee benefit plan, or management positions influencing the collective bargaining process; and third, clarifies the Department of Labor's authority to investigate and refer allegations of criminal activity. I am hopeful that the House will recognize the importance of that bill in the fight against labor-management corruption and move quickly to enact S. 336 into law.

The bill which Senator HATCH introduces today will also provide needed assistance to our law enforcement community, as well as the unions themselves, in their efforts against organized crime. During the course of our subcommittee's work in both labor racketeering and organized crime, we received evidence and testimony that builds a very strong case for extending law enforcement status to agents of the Organized Crime and Racketeering section of the Labor Department's Office of the Inspector General, as is provided for in this bill.

In fact, the very creation of that Office came about because of a strong feeling on the part of our subcommittee that the Labor Department maintain an active role in organized crime and racketeering investigations affecting the labor union movement.

Since the 1960's, Labor Department investigators, known as compliance officers, were assigned to the Federal Organized Crime Strike Forces operating in major cities throughout our Nation. In 1978, the Labor Department sought to reduce its allocation of compliance officers to strike forces to approximately 40 persons, compared to a previous high of 199 in the early 1970's. Our subcommittee objected to the reduced commitment of personnel and in response, the Department of Labor agreed to assign the strike forces 90 fulltime positions, at least 80 of which were criminal investigators in the field through the newly established Office of Special Investigations, which in October 1978 was transferred to the Labor Department's Inspector General's Office.

Although these agents have since been engaged in the task of investigating and developing organized crime cases for eventual criminal prosecution, they have never been granted even the most basic of law enforcement tools, specifically:

First, the authority to execute an arrest warrant;

Second, the authority to execute a search warrant and seize evidence pursuant to the warrant;

Third, the authority to make an arrest without a warrant for a felony violation if committed in the agent's presence or if he has probable cause to believe the offense is being or has been committed; and

Fourth, the authority to carry a firearm.

The bill we introduce today would give these labor agents that authority, equal to that routinely possessed by other Federal law enforcement agents. Today, despite the fact that these agents are assigned to work with the Department of Justice organized crime strike forces, often being stationed in the strike force offices, they lack the fundamental enforcement authority possessed by other Federal enforcement agents working with the strike forces, including agents from the FBI, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, and the Secret Service.

The glaring need for law enforcement officer status for the Labor Department's organized crime agents was first brought to the attention of our subcommittee on October 28, 1981 by Thomas F. McBride, who was then the Department's Inspector General. Mr. McBride stated that his special agents assigned to the strike forces needed law enforcement status and that the lack of such designation posed significant obstacles to effective enforcement.

Testimony before the Permanent Subcommittee on Investigations has revealed that these special agents work closely with other law enforcement officers in the strike force and frequently find themselves in situations where their effectiveness is impeded because they lack the authority to carry firearms and make arrests. Additionally, the subcommittee has received testimony that in carrying out their investigative duties, the special agents work undercover, surveil and otherwise come into contact with armed and potentially dangerous suspects. Testimony before the Permanent Subcommittee on Investigations in February 1983 from several of these agents established a need for this authority and also established that other law enforcement agents with whom they work daily did not object to their being granted full law enforcement power. The Labor Committee, under Senator HATCH's chairmanship, heard similar testimony from Department of Labor agent's, also in February 1983.

I recognize that there is some opposition to this idea in the top levels of the Justice Department and the FBI, as expressed at Senator HATCH's February hearings. Such opposition is difficult to comprehend in view of past testimony by Justice Department representatives at our hearings to the effect that the Justice Department alone cannot shoulder the entire burden of combating labor racketeering. I fear that today's opponents put too much emphasis on protection of agency jurisdiction and too little on the needs of our law enforcement agents in the field. I suggest that those who oppose this type of legislation seek the opinions of those field agents who are charged with enforcement on the front lines, and not in Washington. Testimony of Labor Department agents before our subcommittee, in response to my questioning on this point, establishes, again, the need for this bill:

Senator NUNN. I will ask each of you, in your view, would the other people in the strike force out there actually in the field object to the members of the strike force having the same powers as they have?

Mr. MCKEE. I don't believe so.

Senator NUNN. Have any of them voiced any objections to you, people from the FBI, Justice Department, any of the other agencies? Have they said you are not in favor of having these powers? Have you given any reason why they would object?

Mr. MCKEE. No, sir.

Senator NUNN. Mr. Wren.

Mr. WREN. No, sir. They don't believe that we don't have the powers.

Senator NUNN. They don't believe it? You mean they don't realize?

Mr. WREN. They realized it when we told them.

Senator NUNN. Have any of them said anything to you that would indicate any opposition whatsoever to you having these powers?

Mr. WREN. None whatsoever.

Senator NUNN. Mr. McKee?

Mr. MCKEE. No, sir. I am not aware of any law enforcement agency opposing this. As Mr. Wren said, almost everyone, when they find out that we do not have full law enforcement authority are very surprised.

In order to effectively combat labor management racketeering, we must use all the resources available to us. Law enforcement efforts should not be impeded because Federal agents lack proper authority to carry out the task entrusted to them. We cannot request that these agents perform a dangerous job and fail to provide them the porper authority to carry out their duties and the appropriate means by which to protect themselves.

Yet another reason for supporting this bill has to do with the possibility of the criminal exploitation of pension and welfare benefit funds. In keeping with the American public's increasing concern over retirement benefits, pension and benefit plans have grown rapidly. Today, according to Department of Labor estimates, more than 55 million workers and their beneficiaries belong to approximately 740,000 benefit plans with combined assets of over $800 billion. These plans comprised the largest category of capital investment in our Nation. Unfortunately, they also comprise a lucrative target for organized crime. In fact, the recent conviction of Roy Williams, president of the International Brotherhood of Teamsters, related directly to control-

ling the funds of pension plans. His convicted codefendent Alan Dorfman, subsequently slain in an apparent organized crime fashion, achieved his wealth and notoriety as an organized crime figure through his manipulation of pension and health and welfare funds.

To protect these private pension and benefit plans, Congress passed and President Ford signed into law, the Employment Retirement Income Security Act of 1974 (ERISA), legislation which gave to the Department of Labor and the Internal Revenue Service authority to monitor the plans, hold them accountable to minimum fiduciary standards and to initiate suits to seek redres for violations. In ERISA enforcement, the Department of Labor was to be the so-called "lead agency." However, the Department's conduct over the first 6 or 7 years of ERISA's life was less than satisfactory.

Both the permanent Subcommittee on Investigations and the Committee on Labor and Human Resources have in the past been critical of the Department's ERISA enforcement. A major point of contention between the Congress and the Labor Department centered on the Labor Department's role in detecting, investigating and properly disposing of information indicating criminal violations of ERISA. The Department did not believe it had responsibility in that regard; however, we completely disagreed, asserting that the Department of Labor had frontline responsibility.

This disagreement was not an insignificant debate over abstract concepts of governmental organization. The stakes were high, being the pension and retirement security of millions of working men and women. I am pleased to say that sometimes the executive branch sees the light and realizes there may be a bit of wisdom residing in Congress. I am encouraged by the announcements and policies of the Department of Labor regarding ERISA enforcement over the last 2 years. The Department, under Secretary Raymond Donovan, has acknowledged its responsibility in ERISA enforcement and appears to be organizing itself in such a way as to improve its ability to detect, investigate and properly dispose of allegations of criminal exploitation of pension and benefit plans. In order for the Department to properly discharge this responsibility, it is imperative that these agents possess full law enforcement power and authority.

As I stated earlier, the record is clear that there has been some organized crime infiltration of labor unions. The stakes in this area are high, the welfare of millions of working men and women. There can be no justifiable reason for not extending law enforcement powers to these agents. Just as the role of the Department of Labor in ERISA enforcement is clear, the role of this body is equally clear. We should provide the Department's agents with the tools necessary to complete the task which we have assigned to them. The bill introduced this morning does precisely that. I urge its prompt consideration and passage by the Senate.

By Mr. GRASSLEY:

S. 2093. A bill to amend the Contract Disputes Act of 1978 to eliminate the requirement that certain claims be certified, and for other purposes; to the Committee on Governmental Affairs.

CONTRACT DISPUTES IMPROVEMENT ACT OF 1983

● Mr. GRASSLEY. Mr. President, I am introducing legislation to amend the Contract Disputes Act. While the 1978 act has effectively established a comprehensive system for resolving disputes arising out of Federal Government contracts, the certification provision of the act has been a source of pointless litigation.

This provision found in section 6(c)(1) and (2) requires that a contractor submitting a claim for a contract adjustment of more than $50,000 must be certified:

> The contractor shall certify that the supporting data are accurate and complete to the best of his knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable.

This seemingly innocuous provision has had the unforeseen effect of penalizing contractors when the issue of liability may be ripe but the damages unascertainable. When a contractor seeks an extension of time for performance because of an excusable delay or seeks an equitable adjustment of the contract terms because of a change by the Government.

It is generally recognized that this formalized approach was implemented to discourage the submission of frivolent or unwarranted contractor claims. In reality we do not know what the legislative intent was in enacting this provision since it was added as a Senate floor amendment without accompanying comments.

When Congress enacted the Contract Disputes Act of 1978, it was understood that submission of a claim in writing to a contracting officer under section 6(a) was the starting point for interest to run on a contract claim. The separate provisions of section 6(c) requiring the certification of a claim and its supporting data when the claim is in excess of $50,000 was intended as a condition precedent to payment but was not a delayed starting point for the interest accuring period. Many agencies argue that a claim has not been received until the necessary certification data has been submitted. When a contractor initially notifies an agency of a contract claim, it is often impossible to collect the necessary supportive information to satisfy certification procedures.

The lack of legislative intent construing the certification provision has led to more than 60 court and agency board of contracts appeals decisions construing the act's certification requirement. As a result of judicial interpretation, the certification requirement is a prerequisite to certification of a claim and hence interest on a claim does not begin to run until certification of the claim.

Last year Congress passed an amendment to the Contract Disputes Act to remove any uncertainty as to the correct interpretation of the certification provision. That bill was vetoed by the President for fiscal reasons. I am confident that the benefits that inure as a result of fairer application of standards inherent in a more competitive arena will be noted by the administration in the months to come. I intend to have hearings on this provision in order to more fully gage the administration's objections to the bill and share with them our concerns. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contract Disputes Improvent Act of 1983".

SEC. 2. (a) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(1) in paragraph (1) bny striking out the second sentence; and

(2) in paragraph (2) by striking out "certified".

(b) Section 8(b)(1) of such Act (41 U.S.C. 607(b)(1)) is amended in the first sentence by inserting ", examined," after "selected".

(c) Section 10(b) of such Act (41 U.S.C. 609(b)) is amended by striking out "so grossly erroneous" and all that follows through "evidence" and inserting in lieu thereof "clearly erroneous".

(d) Section 12 of such Act (41 U.S.C. 611) is amended to read as follows:

"INTEREST

"SEC. 12. Interest on amounts determined to be due to a contractor on a claim under this Act shall be paid to the contractor for the period beginning on the date the contracting officer receives the claim pursuant to section 6 (a) and ending on the date the claim is paid, except that no interest shall be paid for any period before the date the cost on which the claim is based is actually incurred by the contractor or, in the case of a contract for services, the date such services are rendered. The Secretary of the Treasury shall determine the rate of interest to be paid under this section for the six-month period beginning on January 1, 1984 and, on the first day of each consecutive six-month period thereafter the Secretary shall determine the rate of interest for such period. When determining the rate of inter-

est, the Secretary shall take into account the then current commercial rates of interest for new loans maturing in approximately five years. The Secretary of the Treasury shall publish each such rate in the Federal Register. Interest on a claim shall be paid at the rate or rates established pursuant to this section which are applicable for the periods for which interest is payable under this section on such claim.".

SEC. 3. The Contract Disputes Act is amended by—

(1) redesignating sections 15 and 16 as sections 16 and 17, respectively; and

(2) adding after section 14 thereof the following new section:

"COSTS AND FEES OF PARTIES

"SEC. 15. An agency board of contract appeals which decides an appeal from an appeal from a decision of a contracting officer pursuant to section 8 of this Act, shall assess against any party, except the United States, which does not prevail, reasonable fees and other expenses incurred in connection with that proceeding, if the agency board finds that such action was brought in bad faith or was a frivolous or vexatious action.".

SEC. 4. The amendments made by this Act shall apply to claims filed on or after the date of the enactment of this Act.●

By Mr. HUMPHREY:

S. 2094. A billl to amend the Federal Food, Drug, and Cosmetic Act to allow increased inspection of records; to the Committee on Labor and Human Resources.

INCREASED INSPECTION OF RECORDS

● Mr. HUMPHREY. Mr. President, earlier in this Congress I introduced two bills, S. 503 and S. 497, to outlaw the manufacture and distribution of imitation controlled substances, commonly known as look-alike drugs.

S. 503, the Imitation Controlled Substances Act of 1983, was referred to the Subcommittee on Alcoholism and Drug Abuse. In July the subcommittee held a public hearing on S. 503 at which time representatives of DEA, FDA, FTC, the Postal Service, and NIDA, State officials, and representatives of police departments, schoolteachers, the parents, and pediatricians of this Nation testified about the severity of this drug-abuse problem and the need for a solution at the Federal level.

Since that hearing, with the technical assistance of the Federal agencies concerned about this problem and the legitimate over-the-counter drug industry, we have been striving to develop effective Federal legislation.

As a result of these efforts, as a first step toward addressing this problem on November 8, the Subcommittee on Alcoholism and Drug Abuse reported a substitute amendment to S. 503 to the full Committee on Labor and Human Resources. Today, I, along with my cosponsors, Senators MATSUNAGA, QUAYLE, and EAST, am introducing the text of that substitute as a new bill. Mr. President, I ask unanimous consent that the text of the legislation I have introduced today as well as an accompanying explanation, be printed in the RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SECTION 1. (a) Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended—

(1) in the second sentence of subsection (a) by—

(A) striking out "in which prescription drugs or" and inserting in lieu thereof "in which prescription drugs, drugs described in subsection (f), or";

(B) striking out "whether prescription drugs" and inserting in lieu thereof "whether such drugs"; and

(C) striking out the period at the end thereof and inserting in lieu thereof "or section 401(a)(2) of the Controlled Substances Act (21 U.S.C. 841(a)(2)).."; and

(2) by adding at the end thereof the following:

"(f) Additional inspection authority as referred to in subsection (a) shall apply to drugs containing—

"(1) the following ingredients, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers:

"(A) Caffeine;

"(B) Ephedrine; and

"(2) any other active ingredient that the Secretary, after providing notice in the Federal Register and an opportunity for public comment, finds to provide either a stimulant or a depressant effect and to have been used in drug products that have been promoted or used for purposes other than therapeutic or investigational uses.".

(b) Section 301 of such Act (21 U.S.C. 331) is amended by adding at the end thereof the following:

"(t) The manufacture, distribution, dispensing, or possessing with intent to manufacture, distribute, or dispense, a drug that is not a controlled substance whose overall dosage unit appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance or could be sold as a controlled substance. However, this paragraph does not apply to a drug that is not a controlled substance if it was marketed before the controlled substance that it physically resembles.".

(c) Subsection (a) of section 302 (21 U.S.C. 332) of such Act is amended by striking out "paragraphs (h), (i), and (j)" and inserting in lieu thereof "paragraphs (h) and (j)".

(d) Section 304(a)(2) of such Act (21 U.S.C. 334(a)(2)) is amended to read as follows:

"(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States or United States court of a territory within the jurisdiction of which they are found:

"(A) any drug that is a counterfeit drug or that is a drug whose manufacture, distribution, or dispensing violates section 301(t),

"(B) any container of a counterfeit drug or drug whose manufacture, distribution, or dispensing violates section 301(t),

"(C) any punch, die, plate, stone, labeling, container, or other thing used or designed for use in making a counterfeit drug or drugs or in making a drug whose manufacture, distribution, or dispensing violates section 301(t), and

"(D) any adulterated or misbranded device.".

AMENDMENTS TO FEDERAL FOOD, DRUG AND COSMETIC ACT

Section 1(a) expands the inspection authority of the FDA over records, currently limited to manufacturers and distributors of prescription drugs, to manufacturers and distributors of drugs containing caffeine and ephedrine. Provision is made for the Secretary of Health and Human Services to add additional substances to this list, through notice and comment rulemaking, if they become substances of abuse. This provision will enhance FDA's ability to take action against imitation controlled substances by giving FDA access to records of manufacturers and distributors.

Section 1(b) adds a specific prohibition against the manufacture and distribution of look-alike drugs to the list of acts prohibited under the Federal Food, Drug and Cosmetic Act.

Section 1(c) strengthens FDA's authority to control the traffic in counterfeit drugs, by removing the present prohibition in the Federal Food, Drug and Cosmetic Act on obtaining injunctions against the manufacturers and distributors of counterfeit drugs and the making, selling or concealing of the equipment used to make counterfeit drugs. Since a seizure is directed only at the specific items which are seized, FDA must now initiate a new seizure action when a manufacturer replaces seized equipment or produces more counterfeit drugs. An injunction, in contrast, prohibits a manufacturer or distributor from continuing the same activities; where a manufacturer or distributor persists, FDA could proceed against him for contempt of court and violation of an injunction.

Section 1(d) extends the FDA's seizure authority to the look-alike drugs prohibited under 1(b).●

By Mr. HUMPHREY:

S. 2095. A bill to amend the Wild and Scenic Rivers Act by designating the Wildcat River for study as a National Wild and Scenic River; to the Committee on Energy and Natural Resources.

STUDY OF WILDCAT RIVER IN NEW HAMPSHIRE UNDER THE WILD AND SCENIC RIVERS ACT

Mr. HUMPHREY. Mr. President, today, with the cosponsorship of Senator RUDMAN, I am introducing legislation to designate Wildcat River in Jackson, N.H., as a study river under the Wild and Scenic Rivers Act.

Wildcat River is listed in the Nationwide Rivers Inventory as a river deserving study, and for good reason. The headwaters of this river are to be found within the White Mountain National Forest, and reach up Carter Notch to the sides of Wildcat Mountain and the Carter Range. As the river gains volume and momentum, it traces its way through one of New England's best known resort towns and tumbles over one of the most scenic and accessible falls in New England. Known for both its scenic and recreational values, the Wildcat River is a source of much pride and also a

central attraction in the town of Jackson, N.H.

It is true that there are many outstanding rivers in New England, but it is equally true that very few of them have been studied for possible inclusion in the National Wild and Scenic Rivers System. The legislation that Senator RUDMAN and I are introducing provides an opportunity for including another representative type of river in the National Rivers System.

The people of Jackson believe that their river, the Wildcat, possesses the exceptional scenic and recreational attributes that are required in order to achieve recognition under the Wild and Scenic Rivers Act. They have asked Senator RUDMAN and me to introduce this bill because they wish to see the Wildcat River preserved and protected for future generations townspeople and visitors to enjoy.

Mr. President. I ask unanimous consent that the text of the bill be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 5(a) of the Wild and Scenic Rivers Act (Public Law 96-542; 16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"(89) Wildcat River, New Hampshire: The segment from its headwaters to its confluence with the Ellis River.".

ADDITIONAL COSPONSORS

S. 759

At the request of Mr. MITCHELL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 759, a bill to amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets.

S. 1680

At the request of Mr. GOLDWATER, the names of the Senator from Florida (Mrs. HAWKINS), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of S. 1680, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1881

At the request of Mr. HELMS, the names of the Senator from Nevada (Mr. LAXALT), the Senator from Oklahoma (Mr. NICKLES), the Senator from South Dakota (Mr. PRESSLER), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. EAST), the Senator from South Carolina (Mr. THURMOND), the Senator from Idaho (Mr. SYMMS), the Senator from South Dakota (Mr. ABDNOR), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1881, a bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

S. 2030

At the request of Mr. GOLDWATER, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 2030, a bill to repeal the War Powers Resolution.

S. 2052

At the request of Mr. HELMS, the name of the Senator from Virginia (Mr. TRIBLE) was added as a cosponsor of S. 2052, a bill to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on perishable agricultural commodities and sales proceeds of such commodities for the benefit of the unpaid seller, and for other purposes.

SENATE JOINT RESOLUTION 63

At the request of Mr. KENNEDY, the names of the Senator from Utah (Mr. HATCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of Senate Joint Resolution 63, a joint resolution to end the conflict in Northern Ireland and achieve the unity of the Irish people.

SENATE JOINT RESOLUTION 132

At the request of Mr. RIEGLE, the names of the Senator from Rhode Island (Mr. PELL), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of Senate Joint Resolution 132, a joint resolution to designate the week beginning August 7, 1983, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. JOHNSTON, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Joint Resolution 173, a joint resolution commending the Historic American Buildings Survey, a program of the National Park Service, Department of the Interior.

SENATE JOINT RESOLUTION 176

At the request of Mr. BOSCHWITZ, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 176, a joint resolution to designate the week of October 16, 1983, through October 22, 1983, as "National Fetal Alcohol Syndrome Awareness Week."

SENATE JOINT RESOLUTION 181

At the request of Mr. BENTSEN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. DOLE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for other purposes.

SENATE RESOLUTION 127

At the request of Mr. ANDREWS, the name of the Senator from Oregon (Mr. PACKWOOD) was added as cosponsor of Senate Resolution 127, a resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate.

SENATE RESOLUTION 241

At the request of Mr. LEVIN, the names of the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. MOYNIHAN), the Senator from Ohio (Mr. GLENN), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Michigan (Mr. RIEGLE), the Senator from California (Mr. CRANSTON), the Senator from North Dakota (Mr. BURDICK), the Senator from Oklahoma (Mr. NICKLES), the Senator from New Jersey (Mr. BRADLEY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Indiana (Mr. QUAYLE), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of Senate Resolution 241, a resolution expressing the sense of the Senate that the foreign policy of the United States should take account of the genocide of the Armenian people, and for other purposes.

SENATE RESOLUTION 268

At the request of Mr. CHILES, the names of the Senator from Utah (Mr. GARN), the Senator from Ohio (Mr. METZENBAUM), the Senator from California (Mr. CRANSTON), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Resolution 268, a resolution to express the thanks of the Senate to America's educators.

AMENDMENT NO. 2586

At the request of Mr. SPECTER, the name of the Senator from Washington (Mr. EVANS) was added as a cosponsor of amendment No. 2586 proposed to H.R. 2230, a bill to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission and for other purposes.

AMENDMENTS SUBMITTED

CIVIL RIGHTS COMMISSION EXTENSION

BIDEN AMENDMENT NO. 2606

Mr. BIDEN proposed an amendment to amendment No. 2586 (previously adopted) to the bill H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes; as follows:

In the bill as amended after subsection (b) of section 3 insert the following:

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objection on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witneses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to

JEPSEN AMENDMENT NO. 2607

Mr. JEPSEN proposed an amendment to the bill H.R. 2230, supra; as follows:

At the end of the bill, add the following:

"SEC. 5. No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.".

JEPSEN AMENDMENT NO. 2608

Mr. JEPSEN proposed an amendment to amendment No. 2607 proposed by him to the bill H.R. 2230, supra; as follows:

In lieu of the language proposed to be inserted by amendment 260; insert the following:

"SEC. 5. The Congress finds that—

"(a) it is the policy of the Government of the United States to protect innocent life, both before and after birth, and that the Government of the United States affirms that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life, as embodied in our Declaration of Independence;

"(b) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

"(c) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth:

"(d) at the Nurenberg International Military Tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity;

"(e) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

"(f) scientific evidence demonstrates the life of each human being begins at conception;

"(g) the Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth;

"(h) the Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States; and

"(i) a growing tolerance of infanticide in America has followed the "quality of life" ethic as was established by the United States Supreme Court in the Roe against Wade decision, and as recently evidenced by the starvation death of an innocent handicapped newborn child in Bloomington, Indiana.

"SEC. 6. No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 7. No funds appropriated by Congress shall be used to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 8. No agency of the United States shall promote, encourage, counsel, refer, pay for, including travel expenses, or assist in the performance of abortions abroad as a matter of our foreign policy, except when the life of the mother would be endangered if the child were carried to term.

"SEC. 9. The United States shall not enter into any contract for insurance that provides for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

"SEC. 10. No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

"SEC. 11. No institution that receives Federal financial assistance shall withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; and (2) the handicap does not render treatment medically contraindicated. Any institution or agency in violation of such restrictions shall be denied any further Federal assistance.

"SEC. 12. In light of the provisions of this title, and to expedite Supreme Court consideration of the interest of the States in protecting the lives of all human beings within their jurisdiction, if any State enforces or enacts legislation which prohibits or restricts abortions or infanticide and such legislation is invalidated by interlocutory or final order of any court of the United States, any party to such case shall have a right to direct appeal to the Supreme Court of the United States, under the same provisions as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable many civil action involving, directly or indirectly, the provisions of this title.

"SEC. 13. If any provision of this title or the application there of to any person or circumstances is judicially determined to be invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected by such determination.".

RECONCILIATION

GARN AMENDMENT NO. 2609

(Ordered to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the bill (H.R. 4169) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for the fiscal year 1984; as follows:

On page 5, between lines 19 and 20, insert the following:

(c) Notwithstanding any other provision of law, there shall not be an increase in rates of pay under section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31 (2)) by reason of the adjustment provided in subsection (a).

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL MARKETING AND STABILIZATION OF PRICES

Mr. COCHRAN. Mr. President, I wish to announce that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry had scheduled a hearing on Wednesday, November 16, at 10 a.m. in room SR 328-A. That hearing has been canceled.

The hearing was to look into the operation and management of the Federal Crop Insurance Corporation.

Anyone wishing further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's oversight hearing on Women in Business for November 16, 1983, has been postponed until further notice.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Monday, November 14, to hold a hearing concerning Legal Services Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Monday, November 14, to conduct a hearing on pending nominations by the President to the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Monday, November 14, at 2 p.m., to consider the nomination of Robert Morris to be Deputy Director of the Federal Emergency Managment Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on Monday, November 14, to hold a joint hearing on the nomination of Kenneth S. Geroge, of Texas, to be Director General of the U.S. and Foreign Commercial Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, November 14, to hold a business meeting to only consider the nomination of Helmut Merklein to be Assistant Secretary of Energy for International Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FREEDOM AND RESPONSIBILITY OF THE PRESS

● Mr. GOLDWATER. Mr. President, last week I expressed my surprise at the attitude of the American press and news media which has been wailing and howling about not being fully appraised beforehand of the Grenada invasion. Also, I have been disappointed with the deplorable handling of many news events by the media, which seems to take a special delight in distorting facts, whether it is in the foreign policy, military, or economic field.

For example, when favorable economic news occurred last Friday indicating that unemployment had dropped below 9 percent, much of the media devoted the predominant part of its coverage to an analysis of why this good news must be wrong. It did not seem to matter that an improved economy means that people might be able to buy more newspapers, or that advertisers might be in a position to purchase more space from publishers; instead, reporters were bent on telling the public why this positive development could not really be accurate and that things actually were much worse than they appeared.

Mr. President, why do we have this constant negative approach from the media? Why do we see an almost reckless indifference to the progress and welfare of their country among so much of the Nation's press, even when favorable developments are in the self-interest of the news media itself? Is it appropriate for newspapers, magazines, and television news to routinely disguise editorial content as news reporting in an effort to mold public opinion into some reporter's image of what the people should think?

What is the proper role of the press under the first amendment? What does the first amendment really mean? Just how much power does it give the press and media of our country to belittle America, to distort facts, to injure the reputation of public leaders and to damage the faith of the American people in their free economy and institutions? What did the Founding Fathers have in mind when they drafted and ratified the first amendment? What did a free press mean in the actual experience of Americans living during the formative years of the United States?

Mr. President, the answers to these questions reveal some interesting facts about the history of the press in America. We cannot find the origins of a free press in our British heritage or early colonial practice. Under British law, the press has always been subordinate to government. And, in early colonial times, there were tight political, social and religious controls on the media.

For half a century, until the 1690's, there was only one printing house in Massachusetts. No printing was permitted in Virginia of any kind until 1730. The first newspaper in America was brought out by Benjamin Harris in Boston on September 25, 1690, but it was suppressed by the colonial authorities after only one issue. It took 14 more years before someone dared to produce another paper. And then it was a mouthpiece for the colonial establishment. Thus, the first century of the development of the press in America offers little evidence of freedom to print whatever one wished.

We can begin to understand what a free press means by looking at the experience of James Franklin, who printed the New England Courant in Boston and was ably assisted by his younger brother, Ben. James Franklin was imprisoned for a month in 1722 for criticizing the colonial authorities' slowness in dealing with public problems. A year later, James was forbidden to publish the Courant or any other pamphlet or paper like it. He had dared to poke fun at the hypocrisy of certain local magistrates and religious authorities.

A decade later, Peter Zenger established a small newspaper in New York City which he allowed to be used to attack the royal governor. In his famous trail for criminal libel in 1735, Zenger's lawyer, Andrew Hamilton, expanded on the meaning of press freedom. The central point of Hamilton's argument was that truth is a defense to libel, but the part of his case that gets at the meaning of a free press is his pleading before the jury that by giving a verdict of not guilty, they would secure "the liberty—both of exposing and opposing arbitary power * * * by speaking and writing—truth."

Zenger won his case, but practice in the 18th century did not live up to Hamilton's lofty principle. According to the media historian, John Tebbel, printers of the second half of the 18th century generally acted as if freedom of the press meant that they were free

to publish any comment on a public issue, no matter how untrue or who was injured.

Tebbel writes that adoption of the Stamp Act by Parliament in 1765, which levied a tax on newsprint and printed legal documents, molded the American newspapers into political organs of the most malicious kind. In the 1770's and 1780's, if a newspaper did not print just the propaganda of the cause advocated by local prejudices, patriot or tory, federalist or antifederalist, angry mobs would destroy the printing press and chase the editor out of town. Censorship of newspapers passed from governmental authority to mob rule.

To sum up early press history in America, there was no press freedom in the sense people think of today. First the church, then the colonial governors, controlled the press in Colonia America. There were no newspapers to speak of until 1721, which is only 70 years before the Bill of Rights was ratified. These early newspapers only enjoyed as much freedom as the mob would give them. Some people has lofty dreams about what benefits a responsible press could offer to the public, but they were few and far between.

Freedom of the press meant different things to different Americans in 1791, when the Bill of Rights was ratified. Printers believed the right included the freedom of publishing anything, no matter how malicious or untrue. Many people believed the press should be subject to popular control and free to print only one side of a political issue, their side. Americans generally were skeptical of what they read in any newspaper, regardless of who printed it.

Thus, the history of early America does not offer convincing proof that a free press was looked on as a pure or unchecked media, as many editors and reporters argue for their profession today. Even those among the Founding Fathers, who wrote with most favor about a free press, looked upon the media in practice as a tool for spreading their political propaganda. Americans wanted to have a press, but they wanted it to serve their own personal ends.

For example, Thomas Jefferson is often quoted as having written that were it left to him to decide whether we should have the Government without newspapers, or newspapers without a government, he would not hesitate a moment to prefer the latter. As President, however, Jefferson was first to have what amounted to an official paper, the Intelligencer.

Jefferson often took a dim view of the press. On February 19, 1803, Jefferson wrote to Governor McKean of Pennsylvania, "that even the least informed of the people have learnt that nothing in a newspaper is to be believed."

Jefferson encouraged the States to bring a few libel cases under State laws. In his letter to Governor McKean, Jefferson stated that he had "long thought that a few prosecutions of the most prominent offenders would have a wholesome effect in restoring the integrity of the presses."

Jefferson repeated his criticism of the press in 1807. In a letter he wrote to John Norvell, a young Kentuckian who asked his opinion about the proper conduct of a newspaper, Jefferson had this to say:

> It is a melancholy truth that a suppression of the press could not more completely deprive the nation of its benefits, than is done by its abandoned prosititution to falsehood. Nothing can now be believed which is seen in a newspaper. Truth itself becomes suspicious by being put into that polluted vessel.

In other words, the press had a responsibility for reasonableness and self-restraint. Jefferson believed the press was limiting its own usefulness by its excess. Jefferson's biographer, Dumas Malone, writes that Jefferson believed the press was "much more disposed to claim freedom than to recognize its own responsibilities."

There were other 18th century American leaders who thought of newspapers in terms of responsibility. Benjamin Franklin, the leading printer of this time, declared that if freedom of the press:

> Means the liberty of affronting . . . and defaming one another, I, for my part, am myself willing to part with my share of it when our legislators shall please so to alter the law, and shall cheerfully consent to exchange my Liberty of Abusing Others for the Privilege of not being abus'd myself.

In his "Autobiography," Franklin cautioned printers "not to pollute their presses" by printing "false accusations" and "scurrilous reflections" on individuals and governments.

In his comprehensive history of the media in America, John Tebbel comments on the fact that the first amendment omits any specific mention of the idea "that the press was to be responsible as well as free." He writes:

> The Framers of the Constitution did not even discuss the subject, perhaps believing that responsibility was at least theoretically implied.

Tebbel also suggests that James Madison and others who led the fight for the first amendment may have understood that responsibility could not be legislated unless the Government imposed some kind of control on the press, which would negate the freedom. If this is true, the Founding Fathers may still have anticipated that the press was to act in a responsible manner by self discipline or the force of public opinion, rather than by legal restraint.

Whatever the degree of freedom the press may enjoy, and I do not believe the press has a total freedom to print intelligence or military secrets, perhaps the lesson to be gained from history is that the American people will repudiate the press if it does not act responsibly.

Most people today would likely agree with the advice of the late Justice Felix Frankfurter, generally recognized as 1 of the 10 leading jurists of American history, that:

> The press does have the right, which is its professional function, to criticize and advocate . . . but the public function which belongs to the press makes it an obligation of honor to exercise this function only with the fullest sense of responsibility.

Mr. President, I would add that one dimension of the responsibility which the press owes to the public is to display a sense of history which is essential to balance and to perspective. The novelist and professor of English, Mark Harris, has observed that the press "lacks not only a sense of history, but even the memory of yesterday."

Instead of artificially presenting everything as happening today and fabricating a divisive controversy out of every public action or statement, the press should bring to the people at least a bare minimum of factual, unbiased information so that a sound public opinion will have an opportunity to develop.

Returning for a moment to the origins of the press in America, I find that there is much commonsense expressed in the writing of a Masachusetts farmer, William Manning, who in his unsophisticated way expressed in 1790 his wish that the people could obtain at least a single journal free of the triviality and biases that filled the existing press.

In his words, Manning hoped for a "cheep, easy and sure conveyance of knowledge and learning necessary for a free man to have as posable * * *." Armed with this information, Manning was confident a free people would be able to uphold their rights and interests at election time and force the officers of Government to respond to public needs.

But nowhere around him did Manning see such a paper. Instead, he wrote that a—

> Labouring man (could) read and studdy halfe his time and then be at a loss to know what is true and what not—thus the few have almost ruened the libberty of the press.

Mr. President, I believe these words, written by a plain man of the 18th century, express the vision of a free press which the great majority of people would hold today. If freedom of the press is to mean anything, the press must acquire a sense of duty and responsibility to provide the ordinary citizen with straightforward, relevant

information. Also, the press must be willing to accept criticism without seeing the reincarnation of the alien and sedition laws behind every suggestion for improvement.

Mr. President, I would close with some words of caution for the press because I fear the media is in danger of losing public confidence, not by attacks from outside, but from excesses within.

When newspapers seem willing and anxious to obtain and print the most sensitive national secrets with abandon and when the best public servants among us are constantly harangued and denied even the minimum of trust necessary for the effective discharge of their duties, then it is time for the media to reappraise where it and the country, are headed, and whether the way is illuminated by what Benjamin Franklin would call a rising, rather than a setting sun.●

THE PRESIDENT, CONGRESS, AND LEBANON

● Mr. MELCHER. Mr. President, President Reagan's Middle East policy has an Achilles' heel in the commitment of U.S. assault marine companies to guarding the Bierut airport area as part of the so-called "Peace Keeping Force." Congress also shares in the making of this faulty Middle East policy with the bipartisan passage of the War-Powers Resolution for up to an 18-month period for basing 1,600 marines in Lebanon.

It is time for Congress and the President to change this policy recognizing the facts of life in Lebanon and the Middle East.

These facts include: The U.S. military has consistently recommended against committing our troops to Lebanon because it is militarily untenable.

The Lebanon peace-keeping efforts are hampered by the presence of U.S. forces inciting Moselm groups to attack them because of the close United States-Israeli alliance.

Israel's interests are not helped or protected by U.S. marines on land.

Confronting Syria with land forces in Lebanon and through them warning the Soviet Union not to cause war in the Middle East is an agreement worthy of fiction, but only an argument of fools in the real world and in the real Middle East.

The vital and strategic interests of the United States in the Middle East are all hinged on peace and long-term solutions to their conflicts.

The Senate has a chance to start a correction of the poor War-Powers Resolution that endorses a bad decision in putting U.S. marines in Lebanon. The Foreign Affairs Committee this week is considering changes in that resolution as a result of bills introduced by myself and Senator PRYOR and by Senators EAGLETON, KENNEDY, and DIXON.

The time for correction is upon us and I urge both the committee and the Senate to take the time to do so this week. It is important that we do so, before more marines are needlessly killed and before we sink deeper into the quagmire of Lebanon's strife.●

S. 1739 AND USER CHARGES: THE VIEW OF FIVE LEADING ECONOMISTS

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works recently ordered S. 1739 reported to the Senate. While this bill, the Water Resources Development Act of 1983, will not come to the Senate floor until the second session of the Congress, I must point out that this bill contains several important initiatives involving use charges on inland waterways and ports.

A system of use charges is an important proposal, supported by a broad spectrum of economists. Recently, I received a letter from several leading economists on this issue. Because of the significance of their view to our debate on S. 1739, I ask that a copy of that letter be printed in the RECORD.

The letter follows:

OCTOBER 18, 1983.

Hon. ROBERT T. STAFFORD,
Chairman, Environment and Public Works Committee, Hart Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to urge you to adopt sorely-needed economic reforms for Federal water resources investment. As professional economists with extensive public policy experience, we are concered with the serious misallocation of resources resulting from the current nonmarket approach to the planning and funding of dams, canals, irrigation works, and other water resources projects.

The failure to utilize the market system has eroded the government's ability to identify and act on the more vital and cost-effective water projects. For example, underpricing of the power and water produced by Federal water projects has seriously misallocated both natural and fiscal resources. Continued Federal subsidization of these water projects distorts economic choices.

There are several alternatives now before Congress that would lead to a more rational Federal water resources policy. These include new or increased user fees for ports and inland waterways, market-based pricing for hydroelectric power and water supplies, and increased cost sharing and financing by non-Federal entities for all Federal water resources. If non-Federal sponsors and users pay part or all of the construction cost of Federal projects, then market tests will supplement bureaucratic scrutiny of the projects' merits, and demands on the federal budget will be reduced. Economists have shown that economic benefits are enhanced when a project's beneficiaries pay in accord with the costs they impose and the benefits they receive.

Congress is now considering cost sharing and user fees in the context of a new "Omnibus" authorization bill for the Army Corps of Engineers, H.R. 3678 and S. 1739, and specifically, in your bills, S. 1031 and S. 1554. The financing and cost sharing provisions of your bills would require non-Federal contributions of from 35 percent to 100 percent for various project purposes. These provisions should be incorporated into any omnibus authorization bill.

The financing and repayment provisions that Congress includes in this legislation will shape the water resources program for decades to come. It is imperative, therefore, that choice of more cost-effective projects be encouraged through higher cost sharing and user fees by non-Federal entities.

By requiring states or other non-Federal interests to finance some or all of the construction costs of new water projects, Congress will encourage states to set priorities for water development projects and evaluate their respective benefits and costs as a double-check against the claims of Federal agencies and dam proponents.

We encourage Congress to adopt the user pay principle and lead the country to a rational water policy characterized by economic efficiency and fiscal responsibility.

Sincerely,

WILLIAM J. BAUMOL,
Princeton and New York Universities.
ROBERT M. SOLOW,
Massachusetts Institute of Technology.
DANIEL W. BROMLEY,
University of Wisconsin-Madison.
OTTO ECKSTEIN,
Harvard University.
MURRAY L. WEIDENBAUM,
Washington University.

Affiliations are listed for identification purposes only.●

HAPPY 10TH ANNIVERSARY, LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. DIXON. Mr. President, I would like to take a few moments to acknowledge the 10th annivesary of the Labor Council for Latin American Advancement (LCLAA).

It was 10 years ago today, November 14, 1973, that the founding conference of LCLAA was held in Washington, D.C.

For those who are unfamiliar, LCLAA is the Hispanic arm of the AFL-CIO. Its purpose is to work within the labor movement and other organizations of similar interests, to encourage voter registration, voter education, and greater participation by American workers of Latin descent and their families, in the political process.

LCLAA works to maximize support for economic and social policies and legislation that are essential to advance the mutual interests of trade unions, the poor and Hispanics. It strives to improve and strengthen trade unions by insuring equal benefits and protection of union membership for all workers, regardless of national origin, sex, religion or race.

This organization has joined with other Hispanic groups in a drive to register 1 million Hispanic citizens to vote, prior to November of 1984—an ambitious goal, but one which can and should be done.

The leadership of LCLAA is representative of its broad base of support. The current president is Hank Lacayo of the United Auto Workers. Jack Otero of the Brotherhood of Railway and Airline Clerks is executive vice president and Oscar Sanchez of the Steelworkers is secretary-treasurer. Members come from all segments of organized labor across the country.

Members in my State of Illinois were recently involved with the Rock Island County clerk in arranging a bilingual ballot in that country—the first in the State. This will be available for the first time in the March 1984 primary election, and should encourage wider participation by Spanish-speaking citizens.

Eva Savala, chairperson of the local LCLAA chapter and member of the national board is to be commended for her efforts in bringing this to the attention of election officials in Rock Island.

John Gianulis, the county clerk, is a true pioneer in this area. His interest in equal access to the electoral process is proven with his implementation of the program. It should be noted by other areas of illinois and States where large concentrations of Hispanics of voting age reside.

According to the 1980 census, 85 percent of the Hispanic population in America live in 9 States—Illinois, California, Arizona, New Mexico, Colorado, Texas, Florida, New Jersey, and New York.

LCLAA has come a long way since the idea of a national organization of Latino workers was first conceived. I would like to take this opportunity to say, "Féliz Décimo Aniversario." ●

THE FALLACY OF TAXING "UNPRODUCTIVE" ASSETS

● Mr. SYMMS. Mr. President, I rise to call my colleagues' attention to an important, but subtle issue that has been voiced by some Members of the Ways and Means Committee of the House of Representatives. This is the issue about whether some kinds of investments are nonproductive, and whether the more favorable taxation of capital gains should be denied to unproductive assets.

A news item in the Wall Street Journal on November 3, for example, reported on the proceedings of the House committee as it considered various capital gains measures. The Senate Finance Committee has passed a measure to reduce the holding period for capital assets from 1 year to 6 months. Some Members of the other body, who regard this as a tax-reduction measure, are trying to make a case for increasing tax rates on tangible assets.

An article has just been published in Reason magazine that looks at this issue of taxing so-called unproductive assets. The attempt to lable investments, labor, or consumption as unproductive has a fairly long history in economic theory. This article was written by Joe Cobb, a professional staff member of the House Committee on Banking, Finance and Urban Affairs.

This entire idea that tangible assets, like gold or silver coins, are somehow unproductive is foolish. In my State, thousands of jobs are involved in the mining industry and the public's demand for coins helps keep people in Idaho productively at work. There are also thousands of jobs throughout the country in the retail coin and bullion industry.

More important, however, is the idea that Congress can classify certain kinds of investments as productive and other kinds as nonproductive is based on an economic fallacy. The question of whether some activity or expenditure is productive or not depends upon the question, Productive for whom? If a citizen believes the Congress is about to overspend, overtax, or overregulate and damge our economy, switching funds out of the stock market and into gold or silver coins would be one of the most productive things he could do the protect himself.

Mr. President, I ask that this article, "Hard Times for Hard Assets," be printed in the RECORD.

The article follows:

HARD TIMES FOR HARD ASSETS

(By Joe Cobb)

Congress wants to cash in on collectibles—by taxing them at higher rates.

"It's not nice to fool the politicians," seems to be the message from Congress these days.

In the 1970s, Americans discovered hard assets as a refuge from inflation. While the politicians in Washington spent their way through the decade, ordinary citizens in increasing numbers fled from the depredations of a debauched currency, turning from the traditional stocks, bonds, and savings accounts to gold, silver, diamonds, stamps, antiques, fine art, and other exotica. But if people can make an end run around inflation, its political power as a tool of indirect taxation is accordingly reduced. So we shouldn't be too surprised to find Congress attempting to block this citizens' strategy of self-protection.

First came a ban on investing in gold or silver or other "collectibles" as part of tax-sheltered Individual Retirement Accounts (IRAs) or Keogh accounts. This prohibition was adopted by Congress as it was hammering out the final version of President Reagan's 1981 income tax rate cuts.

Then came a requirement that precious-metals dealers keep records of their purchases of gold and silver coins or bullion from customers and hand over to the IRS the name, address, Social Security number, and amount paid. This measure was tacked on to the 1982 tax increase.

By the summer of '83, a lobbying group had sprouted up in Washington—the Industry Council for Tangible Assets—to oppose legislative moves to undercut hard-asset investing. And it looks like the next congressional strategy will be to tackle hard assets as "unproductive" and boost the tax on proceeds from their sale.

Already in 1981, Rep. James Shannon (D-Mass.), a member of the tax-drafting Ways and Means Committee, introduced a bill to deny the lower capital-gains tax rates to all "unproductive" assets.

In March 1983 the Democratic Study Group, a caucus group of anti-free-market Democrates in Congress, published a list of 41 "revenue options" for fiscal 1984, including: "Eliminate Capital Gains for Non-Productive Assets." Sen. Bill Bradley (D-N.J.), a member of the tax-writing Finance Committee, circulated a letter in June promoting a book entitled Inequity and Decline; the book, Bradley noted, proposed among other things that Congress eliminate "capital gains preferences for investing in gold, collectibles, and other nonproductive assets." And during hearings in July, Rep. Pete Stark (D-Calif.) voiced support for the idea.

This notion that some assets are unproductive and should be taxed more heavily fits in nicely with a political plum that Congress would like to pluck—reducing the capital gains tax on stocks and bonds. These are the productive assets that supposedly stand in contrast to unproductive collectibles. Up until now, both have been taxed the same, although differently from ordinary income.

Since the early 1920s, the tax code has recognized that the appreciation of assets is a source of income unlike wages, dividends, and interest. Some allowance must be made for the difference between periodic flows of income and changes in market values when property is bought and sold. The issue is significant because of the importance of capital to economic activity. A progressive income tax tends to confiscate capital if no allowance is made for long-term holdings, because any accumulated gain is realized only in the year of sale, making the seller's tax rate in that year disproportionately high. A lower tax rate for capital gains and a minimum "holding period" to qualify for it have been the solution to this problem for 60 years.

But now the securities industry wants the holding period for investments reduced from one year to six months. Stock and bond traders earn commissions only when investors buy or sell shares, not when they hold them for years and years. If Congress shortened the term for which an investment must be held in order to qualify for the lower capital gains tax, this would boost investors' incentive to trade shares recently bought.

The proposal is even being sold as a "revenue enhancement"; for it would have, say some, an "unlocking effect." The Treasury only collects capital gains taxes when investors sell their assets, not during the time they are holding them. If clients' accounts were churned more often, the government could get its cut—and investors would enjoy the faster action, of course.

In order to justify changing the tax laws to increase the incomes of stock and bond traders, however, Congress has to find some excuse for classifying investment in securities as particularly beneficial to the economy. The trick is to put a negative label on the kinds of investments that stock brokers don't handle—coins and bullion and other

tangible assets. That label is "unproductive." By this distinction, if you lend someone $1,000 for use in his business or buy shares of stock, it's productive; but if, to raise the same $1,000, he sells you a coin collection he inherited from his grandfather, it is unproductive. If the label "unproductive" can be made to stick to tangible assets, the law can be changed and the securities industry will be very, very grateful to Congress.

Yet the attack on "unproductive" investments is likely to backfire, because it is intellectually flawed. It is an old fallacy. In his economic classic The Wealth of Nations, even Adam Smith described the labor of domestic servants as unproductive. Criticizing this analysis, the early giant of the British neoclassical school of economics, Alfred Marshall, wrote, "It is a slippery term, and should not be used where precision is needed." He explained:

There is doubtless in many large houses a superabundance of servants, some of whose energies might with advantage to the community be transferred to other uses: but the same is true of the greater part of those who earn their livelihood by distilling whisky; and yet no economist has proposed to call them unproductive.

A sense of fair play may prevent Congress from placing a higher tax rate on the hourly wages of distillery workers than on school teachers, but if any of them want to invest part of those earnings in gold coins rather than taking a flyer in the stock market, they had better watch out!

John Kenneth Galbraith once suggested that the tailfins popular on automobiles in the 1950s are unnecessary—"unproductive consumption," as it were. This example should demonstrate how dangerous the new discriminatory tax proposal really is. Just as the beauty of tailfins is a matter of opinion, so is the worth of investments.

Many investments prove to be duds, but should the tax laws classify them as "unproductive"? Bad investments are by definition not productive, and surely government revenues would be enhanced if capital losses were not deductible. Even the most aggressive tax increaser, however, recognizes that a bias of this nature would penalize any kind of risky investment disproportionately—even those that turned out to be the most beneficial and productive.

Even the notion of "productivity" that is put forward in favor of the shorter holding period for stocks and bonds, in contrast with tangible assets, is faulty. The superior social quality they are supposed to have is some connection with employment or economic growth, either through new-job creation or an increased productivity in existing jobs.

Except for new stock issues, however, shares of corporations traded among investors do not meet this criterion. Trading the shares of established businesses does not raise new capital. The stock market is essentially a resale market—its benefit to society comes from the liquidity it provides investors, partially reducing the risks of their portfolios. Investments in certain popular gold and silver coins provide exactly the same benefits.

The assumptions in an economic model often predetermine its conclusions. Consider this analysis of the error behind the "productive" versus "unproductive" model:

The imaginary construction of an autistic economy is at the bottom of the popular distinction. . . . Every phenomenon of the market economy is judged with regard to whether or not it could be justified from the viewpoint of a socialist system. Only to acting that would be purposeful in the plans of such a system's manager are positive value and the epithet "productive" attached. All other activities performed in the market economy are called "unproductive" in spite of the fact that may be profitable to those who perform them.

The prominent Austrian economist Ludwig von Mises so identified the underlying idea of this "new" tax idea over 35 years ago.

A split in the investment community among securities dealers, financial institutions, fund managers, and tangible-asset traders is self-destructive. Confiscation of property through taxation is bad enough; arbitrary distinctions in that confiscation are likely to backfire. Investors have diverse goals, but all of them invest with the hope of being better off in the future. Investors in gold and silver and other tangible assets are aiming for future benefits the same as people who buy blue-chip shares, new issues in high-tech companies, or soybean futures. Perhaps the major difference in the investment expectations of tangible-asset investors is a stronger concern about the spending habits of Congress or a healthy skepticism about the Federal Reserve's manipulation of the money supply.

The trend toward widespread ownership of gold and silver coins is in the best interest of the entire investment community. As a symbolic resistance to the vicissitudes of monetary and fiscal policy, it might make passive acceptance of government economic controls less likely in the future—and awareness of that by legislators and presidents might foreclose the risk of such controls, which would destroy the free economy.

Members of Congress may find the distinction between productive and unproductive investments seductive. But they should not be allowed to use this old fallacy in their campaign against hard-asset investing.●

AMERICAN EDUCATION WEEK, 1983

● Mr. SARBANES. Mr. President, I want to indicate my strong support as a cosponsor of Senate Resolution 268, for this legislation designating the week of November 13 to 19, 1983, as American Education Week. This resolution expresses the Senate's gratitude to teachers, principals, librarians, and other professional staff dedicated to educating our Nation's children.

Thomas Jefferson, who wanted to be remembered above all else as the founder of the University of Virginia and who cared deeply about the education of our people, warned us that "a nation which hopes to be ignorant and free, * * * hopes for what never was and never will be." He was certainly well-recognized as an authority on education—John F. Kennedy, while speaking to a group of Nobel Prize winners, noted:

This is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House—with the possible exception of when Thomas Jefferson dined alone.

From this early recognition that liberty and education are inextricably entwined, we have wisely continued to support education as one of the most important foundations of our society.

Today we are experiencing a renewed recognition of the importance of education to America. Many are aware of the report on education issued during the past year. As the report by the National Commission on Excellence in Education noted:

Very clearly, the public understands the importance of education as the foundation of an enlightened and civilized society, a strong economy, and a secure nation.

We know that fairness and opportunity in education and education excellence are not mutually exclusive. In fact, our educational system cannot be truly excellent if it denies opportunities to certain citizens and cannot be fair if it fails to provide the opportunity for excellence to all. Our society should continue to move toward the goal that all citizens, regardless of handicap, financial need, or other special concerns be educated to the full extent of their talents and abilities.

I salute our teachers, principals, and others who work day after day to teach our children and build the basis of the free society we now know. I am sure we can all cite many examples of teachers and others who have dramatically affected our lives or the lives of others; however, it is impossible to name the many thousands of educators who deserve our thanks and heartfelt gratitude. Recognizing this, I submit for the RECORD an article about three special people judged outstanding educators in the Baltimore City school system.

[From the Baltimore Sun, Oct. 26, 1983]

THREE PRINCIPALS NAMED BEST OF SPECIAL BREED

(By Ann LoLordo)

For Delores Baden, principal of Edgewood Elementary, the day was fairly routine: visiting several classrooms, talking to a maintenance crew about the resurfacing of the playground, drafting a note to a student's mother, patrolling the cafeteria.

And replacing the missing eraser. First-grader Glenda Nicole Johnson was most concerned about that earser. The youngster explained the situation to Dr. Baden as she stood on the school steps while classes let out.

The principal couldn't produce the 6-year-old's eraser, but she could replace it. She offered Glenda a pencil topped by a brand-new pink eraser.

That's the thing about principals. They're required to be all things to all people—teachers, administrative staff, parents, children, custodians. Principals are directly responsible for the operation of that school and the education of its students.

It's because of that responsibility and the importance of the principal's role in the education of schoolchildren that the Greater Baltimore Committee last year initiated an awards program for the best principals in Baltimore city schools.

This year, the GBC has chosen to honor Dr. Baden, Ann France of Mount Royal Intermediate School and Edmonia Yates, principal of Forest Park Senior High School. A

five-member committee of the GBC selected the three principals based on several criteria, including improvements in test scores and pupil and teacher attendance, community participation and school atmosphere.

"The principal is the person on the spot making the decisions on the education of the children, which makes that job absolutely critical to the success of the school," said Muriel Berkeley, a spokesman for the GBC.

The GBC honors, which carry a $11,500 award for each school, were presented to the principals at a reception last night at the Baltimore Hilton. Although the awards single out three individuals, Ms. Berkeley said the purpose of the program is to draw attention to the hard work of all city school principals.

To Dr. Baden, who has spent eight years as Edgewood's principal, the award "represents the hard work that goes on here," she said Monday in her office at the Walbrook area school.

"And I don't mean about Delores either, the 51-year-old administrator said. "I mean the staff, the parents and the children."

Her fellow honorees expressed similar sentiments.

"Certainly, it has to be a tribute to my teachers," said Mrs. France, the principal at Mount Royal for seven years. "The teachers are not content to be at the national norms. They want to be above them."

It's midway through her day at the Bolton Hill middle school and Mrs. France, 58, has already checked attendance, made sure a photographer has a helper—it's class picture day—welcomed a new teacher and conferred with the central office on hiring a secretary.

Soon, she will embark on one of her two daily "strolls" through the school corridors, picking up a piece of litter along the way, corralling a couple of rambunctious students, looking in on a student teacher.

"I think a school really needs its principal to be its strongest advocate," Mrs. France said. "We have to fight and scratch for positions. I'm always looking for more positions."

But, she added: "I'm not selfish. I still recognize the needs of other schools."

Mrs. Yates, who has served as Forest Park Senior's principal for a decade, said she was "delighted and pleased for the students and teachers who have worked so well with me. I don't think the recognition comes solely to me. We are a team."

Ten years ago, Forest Park was in dire need of repair and enrollment was declining, Mrs. Yates said. "The rooms were drab and dark," the 53-year-old principal said, and the students would say, "I don't want to be here."

Since then, there have been $2 million worth of renovations to Forest Park as well as the construction of a new building, Mrs. Yates said.

"The thing I'm most proud of is I can see a student body that is very proud of this school, of their teachers," she said. "There's something here they want to be a part of."

In selecting the best city principals, the GBC panel weighed most heavily improvement in student test scores between the fall 1982 and the spring 1983 and in attendance records.

Edgewood students showed nearly a one grade-level improvement in reading and math test scores, and their attendance increased 10 percent.

At Mount Royal, student performance improved a little more than one grade level, and attendance increased by 22 percent.

Forest Park students improved slightly more than a half-grade, and their attendance, which was "very high," remained stable, school officials said.

Dr. Baden is proud of her school's achievements; they are the result of a "partnership" among administrators, teachers, students and parents, she said.

Perhaps the hardest part of her job, she said, "is convincing people that you're not God and then convincing them that many things are possible if you're all working in the same direction.

"You have to convince people that they have to trust schools, work with schools and invest something of themselves in schools."●

PAUL W. PRIOR, CHAIRMAN OF THE U.S. LEAGUE OF SAVINGS INSTITUTIONS

● Mr. LUGAR. Mr. President, the accomplishments and leadership of Paul W. Prior, one of Indiana's native sons, will be recognized by his colleagues today when he is installed as 1983–84 chairman of the U.S. League of Savings Institutions, which, with its more than 3,500 member savings and loan associations and savings banks, is the primary trade organization serving the $900 billion savings business.

Paul Prior is chairman and president of Henry County Savings & Loan Association, a $200 million institution headquartered in New Castle, Ind. I consider it a tribute to Paul as well as a tribute to the U.S. League membership that his colleagues have chosen to look to this Nation's heartland for leadership at a time when our financial services delivery system is undergoing rapid and massive change. For I know that—while the giant, money-center depositories play an important role in our economic life—savings institutions tend generally to meet the financial needs of America's families—providing them with a reliable source of home finance and secure depositories for their savings.

As chairman of the U.S. League, Mr. Prior will be the chief national spokesman for the savings institutions business, and for this role he has prepared himself well. Following distinguished service as a naval aviator during World War II, Mr. Prior pursued his financial education at the American Institute of Banking, the Institute for Financial Education and the Graduate School of Savings and Loan at Indiana University. He began his career in financial services in 1948, and served as president and chief executive officer of Fidelity Federal Savings & Loan Association in Seymour, Ind., before joining Henry County Savings & Loan Association in 1973.

Over the years, Paul has served as chairman of the New Castle/Henry County Economic Development Corp., chairman of the Executive Trustees of the Indiana Savings Association's Committee on Public Affairs, president of the Savings and Loan League of Indiana, director of the Federal Home Loan Bank of Indianapolis, director of the U.S. League of Savings Institutions and member of that organization's executive and legislative committees. In 1980 he was named Citizen of the Year by the New Castle Area Chamber of Commerce.

Presently, Paul is a director of the Indiana State Chamber of Commerce, a member at large of the Board of Governors of the Associated Colleges of Indiana, and holds membership in the board of directors of the Henry County Memorial Hospital Foundation, the YMCA Board of Trustees and the New Castle Rotary Club. For the past year, he has served as vice chairman of the United States League of Savings Institutions.

I ask my colleagues to join me today in congratulating Paul Prior on his election to chair the United States League of Savings Institutions and to wish him every success in his year as chief spokesman for the savings institution of America.

TAXPAYER ASSISTANCE PROGRAMS

● Mr. COHEN. Mr. President, last week, the Senate approved the continuing resolution, which restores $25 million to the Internal Revenue Service taxpayer assistance programs. I am pleased that full funding for this worthwhile program has been provided.

Most taxpayers require help to complete their tax returns accurately. For those who cannot afford commercial assistance, particularly elderly and low-income taxpayers, the IRS has been the traditional source of free advice. In the past, the IRS has offered a generous tax-payer service program, which has included a toll-free telephone network for quick-question assistance and walk-in facilities for taxpayers who wanted more personalized or detailed help. In fiscal 1982, 39.2 million taxpayers called the IRS and 8.1 million visited offices to request help with their returns.

In recent years, however, the administration has sought to reduce the IRS budget for taxpayer assistance activities as part of an overall effort to curtail escalating Federal budget deficits. The fiscal 1983 budget proposal, if adopted, would have cut funding by 10.2 percent, staff years by 41 percent, and, most significantly, the number of taxpayers assisted by over 60 percent. The IRS had projected that it would handle only 17.9 million taxpayer contacts, which would represent a 62 percent decrease from the 47.4 million contacts handled in fiscal 1982.

Fortunately, we were successful in forestalling this shortsighted reduction in IRS taxpayer assistance. The Governmental Affairs Subcommittee

on Oversight of Government Management held a hearing in March 1982 to examine the impact of the proposed reductions. The Oversight Subcommittee found that these reductions would be costly to taxpayers, who depend on the IRS for free assistance, and to the Government, which depends on these taxpayers to pay their taxes voluntarily. The Oversight Subcommittee's findings and recommendation that the IRS Taxpayer Service program should be maintained at fiscal 1982 levels were made available to the Senate and House Treasury Appropriations Subcommittees, which subsequently voted to restore $50 million for Taxpayer Service in fiscal 1983.

Despite the clear signal from Congress last year in favor of maintaining a strong taxpayer service program, the IRS again proposed reductions for fiscal 1984. What I find disturbing about these continuing efforts to reduce taxpayer service is that the IRS has never evaluated the potential impact of such reductions. Will a cutback in IRS assistance disproportionately affect certain taxpayer groups? Will reduced assistance hurt compliance with our tax laws? Will volunteer groups and paid preparers be able to compensate for assistance program reductions? What are the alternatives?

The answers, according to a draft General Accounting Office report, are even more disturbing. At my request, the GAO studied this issue for the past year and has compiled data which sheds new light on the potentially adverse effects of reducing IRS taxpayer assistance.

First, the GAO found, from a nationwide survey, that elderly and low-income taxpayers would be disproportionately affected by reductions in IRS assistance. While taxpayers age 65 and over made up 9.9 percent of the taxpayer population in 1982, they represented 14.4 percent of the users of telephone assistance, 24.5 percent of the users of walk-in assistance, and 18.1 percent of the users of correspondence assistance. Taxpayers with income under $10,000 made greater use of walk-in assistance than might be expected based on their representation among taxpayers in general. Even through elderly and low-income taxpayers may not have complicated returns, they often are entitled to certain tax breaks, which, without IRS assistance, they might not use.

Second, the GAO determined from its survey that reductions in taxpayer service would hurt compliance with our tax laws. When asked what action they would take if the IRS no longer answered tax questions, 14 percent of the taxpayers sampled said they would give some consideration to ignoring the parts of the tax form on which they had questions, but would fill out the rest of the form and send it in. Six percent of the taxpayers said they would not file a tax return. The IRS itself anticipated this consequence in an October 1981 memorandum from Commissioner Roscoe Egger to Treasury, stating that "potential revenue losses would be great, with widespread deterioration of voluntary compliance possible," if taxpayer assistance is cut. Commissioner Egger estimated in the memo that a 1-percent reduction in compliance costs the Government $4 billion annually.

Third, the GAO found that commercial assistance would not be able to compensate for reductions in IRS assistance. Aside from the fact that many taxpayers may not be able to afford commercial assistance, there is even some question whether paid preparers could, or would want to, assume the IRS' taxpayer assistance responsibilities. A tax consultant, who claims to have made "a very good living off the complexities of the tax laws," wrote to me:

> If the IRS feels that people like myself • • • can or want to substitute for the IRS programs, I can assure you that this is not the case. Although I and others like me would certainly answer an occasional question by telephone, there is not, nor can there be, a private sector equivalent to the IRS telephone program.

In addition, if the administration's goal is to pass the responsibility of providing taxpayer assistance from the IRS to the private sector, then the IRS must enforce its tax preparer penalties to ferret out "fly-by-night" operations. According to the GAO, however, the tax preparer penalties, which were strengthened in the 1976 Tax Reform Act, are not being enforced in an effective manner.

Last, the GAO points out that the IRS budget allocation decisions reflect a conscious shift in priorities away from taxpayer assistance and toward enforcement. I believe this shift will promote an adversarial relationship with the taxpaying public. The IRS is already burdened with a negative public image, perhaps the inevitable consequence of being the Nation's tax collector, but I believe that reducing taxpayer assistance will only make it worse. Strengthening enforcement at the expense of assistance is a poor policy, as well as public relations decision.

The GAO recommended that "given the potential risks associated with further program cutbacks—especially in terms of a possible decline in voluntary compliance levels—Congress should continue to provide IRS with funds to operate telephone, walk-in, and correspondence assistance programs."

I strongly agree with GAO's recommendation and am pleased that the Senate and House Appropriations Committees similarly concur. The Senate Committee stated in its report that the IRS taxpayer assistance program "is most important to the Nation's taxpayers. As tax laws become more complex, more assistance is necessary to aid in preparation of returns." The committee, therefore, provided that IRS taxpayer service programs be maintained at fiscal 1983 levels.

I am even more pleased to learn that the battle with the IRS over the need for taxpayer assistance may be over. According to recent reports from the IRS Commissioner's advisory group, Commissioner Egger stated that "the administration has come around to the side of Congress, [and] the Service will recommend that we continue the taxpayer assistance programs."

This is certainly good news, and I commend Commissioner Egger for his efforts.

Again, Mr. President, I want to praise the work of Senators ABDNOR and DECONCINI and Representatives ROYBAL and MILLER, the chairmen and ranking minority members of the Senate and House Treasury Appropriations Subcommittees, for their continued support for the IRS taxpayer service program.●

LITERARY ABORTIONS

● Mr. HELMS. Mr. President, Robert V. Young is an English professor at North Carolina State University in Raleigh, N.C. He recently wrote an article in the fall 1983 Human Life Review in which he surveyed the treatment of abortion in literature. The results are quite interesting, and I ask that his article be printed in the RECORD.

The article follows.

LITERARY ABORTIONS

(By R. V. Young)

In one sense nothing is easier than to show that unborn human beings are still human beings, that abortion is simply a form of homicide, that killing the innocent within the womb is no different from murder outside the womb. One no longer need play the prophet and say that legalized abortion will lead to infanticide; one need only point to the present grisly reality. But in another sense nothing is more difficult than the task of the anti-abortionist: while it is easy to win debates, it is hard to win hearts and minds.

The fact is that most people, most of the time, do not listen to arguments about moral issues; they instinctively follow the collective wisdom of the community. But with the regard to abortion and related issues, the collective wisdom of the community seems to have evaporated with breathtaking speed. It is painful to remember that as recently as the mid-sixties "abortion" was an ugly word, a term to be whispered with averted gaze and a shake of the head. Now abortion is a "right," and to question its propriety is to indulge in reactionary opposition to progress or display a fanatical "puritainism" and a lack of "compassion." The moral resources of the American public have withered under a relentless campaign of cultural distortion carried out largely through the mass media. So ubiquitous is the influence of television, radio, and the

popular press—so deeply do they penetrate the fiber of American can society—that even the most clear-headed thinker is susceptible to the view of the world propounded by these organs of the *Zeitgeist*.[1]

Of course it is possible to argue with rational certainty that abortion is tantamount to murder, and to point out in painstaking detail the omissions and inaccuracies of the typical media portrayal of the abortion issue; but in a world governed by "telegenic images" and "charisma," the pro-abortion chorus of "opinion makers" and celebrities carries more weight than does argument. To anyone who has considered the matter objectively abortion is so self-evidently heinous that the indifference or outright disdain which greet his arguments are a source of exceeding frustration. It might be conceded that abortion is a "misfortune," but never that it is an evil. The discouraged anti-abortionist begins to wonder whether he is arguing a moral abstraction which has no real meaning for his fellow citizens. His arguments are rarely opposed; they are merely dismissed, as if today's intellectuals and media personalities were possessed of an intuitive vision to which logic and tradition are irrelevant.

Such smug assumptions should be challenged. If the worldview of the abortionist were sound and whole in a way that defies the objections of logic, then it ought to be embodied in an artistic vision. In particular we ought to see a "responsible, loving abortion decision" successfully depicted in a work of literature. The proponents of abortion who refuse to engage in serious moral argument at least ought to rest their complacency on the serious efforts of the moral imagination. Genuine literary artists—whatever their expressed opinions—are true to a vision of reality that transcends their conscious, workaday assumptions. Literature seizes the fluid sweep of experience and holds it up for contemplation; it draws meaning and purpose out of the apparent chaos of the mutable realm inhabited by human beings. The moral value of literature is generated, therefore, not so much by the exposition of precepts as by the authentic representation of significant experience.

But we do not find any significant literary works which are compatible with the abortion mentality. In literature abortion is almost always a symbol of spiritual loss and failure, as well as a matter of physical death and destruction. It is the recourse of the desperate, the foolish, or the selfish. Even apparent exceptions—quasi-literary texts which treat abortion affirmatively—reinforce this judgment. They are bad as literature because they distort reality in a clumsy, vulgar fashion, and an important part of their falseness and triviality lies in inauthentic representations of abortion. Ironically, it is in heavy-handed, hack literature and its cinematic and television counterparts that the abortion ethos of contemporary intellectuals and aesthetes finds its only "artistic" embodiment. Unfortunately, what is cheap and shallow is what seems perfectly suited for mass media production.

Among the earliest strictly literary treatments of abortion is Ovid's account of Corinna's destruction of her (and, the poetic persona thinks, his own) unborn child in the 13th and 14th elegies of Amores, II.[2] This collection of poems is essentially a celebration of adultery, and Ovid himself was banished from Rome during the Emperor Augustus' campaign of moral reform.[3] He can hardly be regarded as a moralist, much less a prude; and these two elegies are essentially a plea to the gods that Corinna not die from the abortion.

Nonetheless, Elegy 13 conveys the uneasy sense that abortion is not merely dangerous, but wrong—a violation of the natural order of things. Elegy 14 explicitly condemns the practice in terms that suggest that it was common enough among Roman women to the subject of general public reprobation. Although Ovid closes the poem with a prayer that the force of his words be deflected from Corinna, he still depicts the woman who dies in an abortion as the condign victim of the violence she has initiated against another.

> The woman who first tore the tender offspring
> From her womb deserved to die in her own war.
> How can you tread the sands of tragic combat
> Just to spare your belly a few wrinkles?[4]

The imagery of these lines is grotesque and violent: the woman who procures abortion is depicted as a gladiator in the sands of the amphitheatre, but the victims of her warfare (militia) are "tender offspring" (teneros * * * fetus). Especially graphic is the verb convellere (to wrench, rip, or tear out; to pluck up or out) which is the root of the English word "convulsion."

The theme of the unnaturalness of abortion is pursued relentlessly in subsequent lines:

> Why cheat the heavy vine of swelling grapes,
> And pluck with cruel hand the unripe fruit?
> Let ripe fruit drop of its accord—allow
> What lives to grow; life is no slight reward
> For a small delay. Why gouge your womb with weapons
> Vile, and poison children not yet born?[5]

Abortion is literally the destruction of fruitfulness—a betrayal and a waste as well as an act of violence. The frequent use of the interrogative mood, here and throughout the poem, implies the poet's puzzled sense of the meaninglessness of the act. Finally, Ovid brutally indicates the general public opinion of abortion, even in Imperial Rome. Fierce beasts, the tigress and the lioness, do not destroy their own young,
Yet tender girls do it, but not unpunished;
Often she who slays her own in her womb
Dies herself, and is borne to the pyre with hair
Unbound, to mocking cries, "It serves her right!"[6]

"Tender girls" (tenerae * * * puellae) echoes with grim irony the "tender offspring" of line five, and the poem comes full circle: she who "deserved to die" (1. 6) "often * * * dies herself." Abortion is thus a violent, unnatural act that turns a tender girl into a gladiator ripping her own entrails to destroy a tender unborn child. Like the stripping of the vines or the plucking of unripe fruit, it cheats life, often wasting the mother as well as the child. In the eyes of the public it is a vile deed—though not a crime in Roman law—for which a woman deserves the death that is frequently her lot.

Hence Ovid, even amidst a series of witty poems that treat adultery as a sophisticated game, testifies truthfully to the repugnant nature of abortion; and though the two elegies considered here are, in part, prayers that Corinna be spared, still he concedes that the typical Roman would leave her to her fate. Ovid's work has survived because he is a genuine literary artist: the light of reality shines through his poems. It is instructive to contrast the treatment of abortion in an effusion characteristic of the contemporary "culture" of sexual liberation.

The Abortion by Richard Brautigan is a piece of classic sixties cute, which lamely reveals the inherent fraudulence of whatever fey charm the San Francisco flower-child scene could claim. The feckless "hero" of this thin volume runs a "library" open twenty-four hours a day, seven days a week, for the purpose of collecting "books" from "authors" rather than lending them to readers. During the course of the novel this library receives (for example) a "book written in longhand with red, green and blue crayons" entitled *Growing Flowers by Candlelight in Hotel Rooms* from an eighty-year old woman, *My Trike* by Chuck (age five), and a book about masturbation by a sixteen-year-old boy.[7] Cute.

The "plot" involves an exceedingly voluptuous young woman who arrives at the library one night with a book describing how she is trapped in the wrong body. Having been over-developed since she was eleven, she has spent the last nine years afflicted with the leering gazes and obscene propositions of lecherous men; and she has wearied of being regarded merely as an object of masculine sexual delectation. Naturally, she does what any girl with such a problem would upon encountering a man who, like "Mr. Librarian," listens to her complaints with gentle understanding; she promptly goes to bed with him that same night and then takes up permanent cohabitation in the library. Evidently her sexual traumatization had been somewhat exaggerated. During the next few months she learns to accept her body as it is: "She was still a little awkward, but now instead of treating it as a handicap, she treated it as a form of poetry and it was fantastically charming."[8] Not surprising, this learning process results in a very unpoetic pregnancy.

Now it may seem pointless to bring the likes of Richard Brautigan into an invidious comparison with Ovid, but he certainly cannot be simply dismissed—not, that is, as an influence. His work is published by Simon & Schuster, and the edition of The Abortion in my possession lists three other novels and three volumes of verse in print. He made a celebrated appearance at Yale when I was a graduate student there around 1970, and he was generally regarded as rather clever camp. His books are still readily available in paperback in stores where Homer ahd Shakespeare are often in short supply. This sort of popularity affords an interesting view into the mentality of contemporary liberalism, because The Abortion is itself a literary miscarriage: a textbook demonstration of artistic badness. Most modern intellectuals will tell you that literature should not be moralistic or preachy, but Brautigan is so patently didactic that one might suspect him of writing Planned Parenthood leaflets on the side. "The decision to have the abortion," he tells us, "was arrived at without bitterness and was calmly guided by gentle necessity." The young woman then proceeds to talk like a recording on the SIECUS hotline or a guest on the Donahue show:

"I'm not ready to have a child yet," Vida said. "And neither are you, working in a kooky place like this. Maybe another time, perhaps for certain another time, but not now. I love children, but this isn't the time. If you can't give them the maximum of yourself, then it's best to wait. There are

Footnotes at end of article.

too many children and not enough love. An abortion is the only answer."[9]

Having decided to diminish the number of children instead of increasing the amount of love, and promising to use the pill from now on, Vida and the librarian call for help upon one Foster, a huge bearish man who never wears anything over his torso but teeshirts; and who drinks his whiskey straight from the bottle. The obliging Foster is able to recommend a certain Dr. Garcia of Tijuana, whose services he has had occasion to employ in the past; but of course he is initially full of solemn concern. He looks seriously at Vida and insists that she be certain about wanting "a little abortion." She replies once more in lines that could have been learned by rote in her high school sex education class:

"Yes," she said, "We're too immature right now to have a child. It would only confuse us and this confusion would not be good for a child. It's hard enough being born into this world without having immature and confused parents. Yes, I want the abortion."[10]

His conscience satisfied by this effusion of self-indulgent piousness, Foster assures Vida that Garcia is "a good doctor," that he will not "hurt you and there will be no complications." Indeed, notwithstanding a tendency to raise the price at the last minute and a poor command of English, Dr. Garcia is "very kind and very good."[11] Just your typical self-sacrificing, hard-working, God-fearing Tijuana abortionist.

Even Brautigan cannot wholly dispel the ghastliness of a Tijuana abortion mill when he comes to the abortion itself. Several abortions occur in addition to Vida's while she and the librarian are there, and the abortionist's young helper is continually flushing fetuses down the toilet. All the customers are tense and some unpleasant, but even though Dr. Garcia tries to overcharge them, his portrayal is far from unsympathetic: "The doctor looked like an awfully tired man. God only knows how many abortions he had performed that day."[12] It is evident that the whole affair is trying, but certainly this is no reflection, in Brautigan's mind, on the thousands of people who procure abortions, people like Vida and the librarian, who love children so much that they will kill them rather than offer them anything less than a perfect life: "As we got into the van, I thought there should be a statue for the Saint of Abortion, whoever that was, somewhere in the parking lot for the thousands of woman who had made the same trip Vida and I had just finished, flying into the Kingdom of Fire and Water, the waiting and counting hands of Dr. Garcia and his associates in Mexico."[13]

Obviously Richard Brautigan's The Abortion is a deliberate attempt to write an affirmative account of abortion—a plea, as it were, for "safe, legal abortions." Brautigan only succeeds in producing a puerile, counter-culture trivialization of his theme. His impicit message can be summarized in the antinomian clichés of the period: "If it feels good, do it." "Get rid of your hangups." "Do your own thing." "I'm okay, you're okay." And so on ad nauseam. The book never engages reality; its emotion is cheap, its vision superficial.

Brautigan cannot be exonerated on the grounds that "times change," and abortion is not now what it was in Ovid's day; and Ovid's example cannot be discounted by assuming that he was influenced in spite of himself by ancient moral traditions. In the work of a serious writer abortion seems as repellent today as 2,000 years ago. Ernest Hemingway can hardly be considered a traditional moralist, much less a religious fanatic; still, the abortion contemplated in his story, "The Hills like White Elephants," falls like a shadow between the man and woman who are the principle characters. As they sit at a railway bar by the Ebro River, awaiting a train from Barcelona which will take them to Madrid, the woman remarks that the hills resemble white elephants. Her companion is unamused by her whimsical observation. Only after two pages of aimless but hostile dialogue does the source of the tension between them emerge:

"It's really an awfully simple operation, Jig," the man said. "It's not really an operation at all."

The girl looked at the ground the table legs rested on.

"I know you wouldn't mind it Jig. It's not really anything. It's just to let the air in."

The girl did not say anything.

"I'll go with you and I'll stay with you all the time. They just let the air in and then it's all perfectly natural."

"Then what will we do afterward?"

"We'll be fine afterward. Just like we were before."

"What makes you think so?"

"That's the only thing that bothers us. It's the only thing that's made us unhappy."[14]

The situation is clear, although neither word is ever mentioned in the story: the man wants the woman to have an abortion—the "operation" which he will not name; "Jig" wants to have her baby.

The young woman has sufficient inarticulate wisdom to recognize the irrevocable destructiveness of her lover's demands; she knows intuitively that an abortion cannot restore their affair to its original, pre-pregnancy state:

"We can have everything."

"No, we can't."

"We can have the whole world."

"No, we can't."

"We can go everywhere."

"No, we can't. It isn't ours anymore."

"It's ours."

"No, it isn't. And once they take it away, you never get it back."[15]

Reality cannot be undone. Even "an awfully simple operation" cannot alter the fact that she has changed, in his eyes and in her own. Nor can the "termination of her pregnancy" mask her realization that her lover's rejection of her baby is a rejection of what she has become, and hence of her personal identity. He wants her to be always the same, an untouched, virgin, pristine and inviolate, for each new act of intercourse. Jig knows that, for all his protestations to the contrary, the man is demanding this abortion, demanding that nature not take its course, that their affair not grow into something greater and more challenging:

"You've got to realize," he said, "that I don't want you to do it if you don't want to. I'm perfectly willing to go through with it if it means anything to you."

"Doesn't it mean anything to you? We could get along."

"Of course it does. But I don't want anybody but you. I don't want anyone else. And I know it's perfectly simple."

"Yes, you know it's perfectly simple."

"It's all right for you to say that, but I do know it."

"Would you do something for me now?"

"I'd do anything for you."

Would you please please please please please please please stop talking?"[16]

She knows that she is being manipulated, used; that in not wanting "anybody but you" he does not want her completely, not as she might be. He is in love with his own idea of her, not with the contingent—the unpredictable and uncontrollable—reality that she is a human person. There is guilt of course even in him, apparent in his refusal to name the "operation"; but the story ends with what appears to be her crumpling under the pressure he exerts, with her telling him the lie he wishes to hear: "'I feel fine', she said. 'There's nothing wrong with me. I feel fine.'"[17]

What would have been Hemingway's opinion of legalized abortion? How would he have voted? Any answer, of course, could only be pure speculation. He might well have followed the modern "party line" and actively supported it. But his artistic conscience is another matter. In this story—in this vividly realized episode—abortion is none of the things its proponents claim for it, and making it "safe and legal" would not alter the case. It is not an instrument of women's liberation; it is a lever used by a man to pry a woman loose from the integrity of her own nature, to make her remain as he wants her to be—an uncomplicated object of unfettered sexual companionship—rather than a whole woman. She realizes that she is being violated but, having accepted life on his terms—"We can have the whole world"—she fears to resist. Thus in this story abortion, the destructon of the baby who should fulfill the love between the man and the woman—is a symbol of the incompleteness and selfishness of the man's love, of his refusal to surrender himself to her or to love.[18]

It is important to realize that revulsion at abortion is not confined to men. It afflicts women authors equally. Anne Sexton would seem to be an unlikely source for a negative view of abortion, of one were to accept the current "pro-choice" position as normal. Throughout her career as a poet until her suicide in 1974, she was associated with the "confessional" school of poetry most notably exemplified by the Late Robert Lowell. Her life and work are touched, at least, with overtones of feminism. Still, "The Abortion" is filled with sheer loathing for its subject. It begins with a refrain (twice repeated) that states starkly the violation of the natural order, the emptiness where fullness should have been, effected by abortion; then this statement is realized in concrete images of a brutally despoiled natural terrain;

Somebody who should have been born is
gone.
Just as the earth puckered its mouth,
each bud puffing out from its knot,
I changed my shoes, and then drove south.
Up past the Blue Mountains, where
Pennsylvania jumps on endlessly,
wearing, like a crayoned cat, its green hair,
its roads sunken in like a gray washboard;
where in truth, the ground cracks evilly.
a dark socket from which the coal has
poured.[19]

These images reflect the woman's state of mind; the abortion will leave her body like the earth around an abandoned coal mine where "the ground cracks evilly"; her womb will become a "dark socket," empty and desolate as the Appalachian countryside.

"In Pennsylvania" she meets "a little man" who is part of no fairy tale ("not Rumpelstiltskin, at all, at all"), and she is no princess who will live happily ever: "he took the fullness that love began." As she

goes back home the natural world around her again mirrors her condition:

Returning north, even the sky grew thin
like a high window looking nowhere.
The road was as flat as a sheet of tin.

Her body is now "flat" and "thin" also, and by the logic of the images her life is "looking nowhere." The speaker of Sexton's poem tries to argue away the reality of the baby that has been killed, but to no avail:

Somebody who should have been born is gone.
Yes, woman; such logic will lead to loss without death. Or say what you meant, you coward . . . this baby that I bleed.

The woman's rationalization has led her to regard the abortion in abstract terms as "loss without death," but the actual experience—expressed in broken, elliptical syntax and a macabre concrete image—belies her "logic." Her own bleeding reminds her inexorably of the blood shed by her aborted baby, who was definitely "somebody."

Of course women are quite as capable of suppressing their instinctive reverence for new life in literature as in their actions, and where there is a dearth of artistic ability there is little likelihood of artistic conscience. This combination of literary ineptitude and dishonesty provides a definitive embodiment of the view of abortion proffered by the quasi-respectable mainstream of secular liberalism. Where Richard Brautigan traded in factitious whimsy, Grace Metalious produced, in *Peyton Place*, what might be the tawdriest, most sensationalistic soap opera ever to masquerade as a novel, a book very different in style and tone, which appealed to the suburban middle class rather than to "turned-on" undergraduates. "The explosive best seller that lifts the lid off a respectable New England town," reads the paperback edition's cover blurb, and on the back there is a photograph of the unprepossessing Mrs. Metalious over a caption which proclaims her "the young housewife in blue jeans who created America's most controversial novel."[20] The book was remarkably successful in the late fifties and early sixties, and was made into a film and even, for a time, a television series. Although it would be difficult to find a credible literary critic to speak well of the novel, its characterization, thematic development, and general outlook are fairly typical of what today passes for serious television and cinema.

Grace Metalious was a woman of exceedingly slender literary gifts, but she possessed sufficient cunning to endow her vulgar story with a spurious air of moral earnestness and literary pretension, such that a citizen could enjoy the thrills of a smutty book and still tell himself that it was "significant" and "frank"; one is reminded of the man who buys Playboy for the interviews. In the world of *Peyton Place* anyone who appears conventionally virtuous and respectable must ipso facto be suspected of greed, envy, hypocrisy, and—above all—sexual repression. The characters generally fall into what have become contemporary media stereotypes: genuine enlightenment and benevolence are personified in a physician, a newspaper editor, and the high school principal. Bigotry and avarice are embodied in the local mill owner who virtually runs the town. Clearly Metalious blazed the trail for the Norman Lear style of television. From time to time Metalious indulges in what she apparently regarded as "fine writing" lest the reader forget that *Peyton Place* is Literature, and not mere seamy sensationalism. The book's opening sentences furnish a characteristic sample:

"Indian summer is like a woman. Ripe, hotly passionate, but fickle, she comes and goes as she pleases so that one is never sure whether she will come at all, nor for how long she will stay."[21]

Evidently, even the weather of the little town cloaks a brooding strain of repressed eroticism.

An abortion figures prominently in one of the more important strands of the meandering plot of Peyton Place. The situation is a classic "hard case" of the sort so often invoked by the proponents of legalized abortion. Selena Cross is a poor girl from the "wrong side of the tracks." But she is beautiful, kind, generous, mature, and industrious; moreover, she has a chance to escape her poverty. Over the objections of his parents, a local boy of the sort who makes good grades, wins athletic honors, heads student government, and is voted most likely to succeed, is passionately in love with Selena and promises to marry her as soon as he finishes school. Selena, however, lives in a shack with her moronic mother, her younger half-brother, and her violent, drunken stepfather who begins molesting her when she is a very young teenager. When she is sixteen she goes to the town physician, Matthew Swain, and begs for help—she is two months pregnant.

Swain is clearly the book's model of nobility. He is, as one might have guessed, "a tall big-boned man with a head of thick and wavy silver hair." He is, in addition, "a good and upright man, and a lover of humanity." He is gruff and outspoken, but of course under his tough exterior is a warm, kindly heart. Although a wellspring of compassion and generosity, "There were three things which he hated in this world, he said often and angrily: death, venereal disease and organized religion."[22] The entire book is designed to enshrine this physician's judgments in a monument of clichés.

When Selena begs him to help her, he is thrown into a crisis of conscience:

"What are you doing Matthew Swain? he asked himself. Here you've been shooting off your mouth for years. What will you do now, when it is time to put your fancy theories to the test? Nothing dearer than life, eh, Matthew? What is this thing you are thinking of doing if it isn't the destruction of what you have always termed so dear?"[23]

But the doctor resolves his dilemma within two pages when he faces the anguish of the pregnant girl:

"'Oh, Doc,' she said staring at him with violet-circled eyes. 'Oh, Doc. I wish I were dead.'

"'Come on, now,' he said cheerfully. 'We'll take care of everything and fix you up as good as new.'

"And to hell with you, he told the silent voice. I am protecting life, this life, the one already being lived by Selena Cross."[24]

By now, of course, this is a familiar argument.

Dr. Swain subsequently accosts Selena's stepfather, extracts from him a signed confession, and frightens him into leaving town by threatening to expose him to the rough justice of the mob. A few years later, during World War II, after he has enlisted in the Navy, the stepfather returns on leave. Selena by this time is living alone with her half-brother, their mother having committed suicide. The stepfather attempts to rape the girl, and she kills him with a set of fire tongs. She and her brother bury the body, but in due course the slaying comes to light. Selena tries to protect Dr. Swain by refusing to explain her motive, but he takes the stand as a surprise witness and explains what had happened three years before, and why the homicide was undoubtedly justifiable. This grand gesture is the book's climax: Selena is found not guilty and Dr. Swain is applauded by all, residents and visiting reporters alike, for his courage and for being a "magnificent old gentleman."[25] A local lawyer assures an out-of-towner that there is no question of the physician losing his license, even though abortion is illegal.

Obviously, this is a thoroughly contrived situation, but Metalious is not content until she has squeezed every available trigger of sensational emotion. The one trusted nurse chosen by Dr. Swain to aid him in the covert operation is Mary Kelley, an Irish Catholic. She contemplates going to her parish priest, Fr. O'Brien, but her mental image of his "big, blue jowled face" and "narrow, black eyes which could pierce like knives" intimidates her. She fears that he will refuse her absolution unless she turns over to the law the physician whose "hands she had regarded as next to those of Christ in their gentleness." And finally, her participation in the abortion opens her eyes to reality in a new way, as she "wondered why she had always thought that it was only Catholics who were against abortion. It couldn't be so, for here was the Doc, a Protestant, with eyes full of pain as his hands expertly performed an alien task."[26] Thus the poor, priest-ridden woman learns that the man who is really against abortion is he who will do one; and though it burdens her conscience, her heart rightly chooses the compassionate, Christ-like "Doc" over the narrow-minded priest.

Apart from the tendentiousness of this account of abortion, there is the additional fact of its inaccuracy. The physician and the nurse give it out that they have performed an emergency appendectomy on Selena Cross, and, although the narrative of the abortion itself is rather vague, the impression is left that Selena's abdomen is being opened up and the fetus removed in the manner of a hysterectomy. In fact, we are told that the doctor actually does remove the girl's perfectly healthy appendix just to strengthen his story. But from what Selena tells the doctor, she is only eight or nine weeks pregnant. A "D. & C." would be the obvious method, but the author does not make this at all clear. What is more, when Dr. Swain later faces down Selena's stepfather, he recalls bitterly "the gelatious red mass of Selena's unborn child."[27] It would appear that "the housewife in blue jeans" had no very clear idea of prenatal development or about the manner in which abortions are done. An eight-week fetus is a recognizable human being. Even a D. &. C., the most probable method of abortion at this stage, would produce, not a "gelatinous red mass," but a great deal of blood and the baby's torso, limbs, and head in pieces. This may seem a trivial point, but it underscores the basic falseness of Peyton Place (and of poor literature generally): The book purports to be a toughminded exposé, but it fails to represent reality even on a simple physical level. It is questionable whether the abortion performed by Matthew Swain would seem such a noble, heroic act if the reader were asked to envision not the "removal" of a "gelatinous red mass," but instead the dismemberment of a living, squirming baby. And how would a real Mary Kelley have felt if forced to reassemble the

pieces of the baby to be sure Selena's womb was completely empty? Grace Metalious should have read Anne Sexton: "Or say what you meant, you coward . . . this baby that I bleed."

The French philosopher, Maurice Merleau-Ponty, maintains that no given utterance is simply a transcription of an a priori thought, but rather that speech (la parole) is the realization of thought: "Thus speech, in the speaker, does not translate ready-made thought, but accomplishes it."[28] This proposition is even more applicable to works of literature, which deal in image, metaphor, and symbol: meaning unfolds in the imaginative re-creation and ordering of experience and transcends the personal subjective intentions of the author. Hence we find that the intuition that deliberate abortion is ugly and repellent is corroborated by the unbiased response of the literary imagination, whatever the explicit social and political opinions of most writers might be. Deliberate, factitious attempts to depict it as something more agreeable are devices of the vulgar sensationalism of Peyton Place or Richard Brautigan's Age-of-Aquarius puerilities. The fashionable assumption that it is appropriate for a cultivated intellectual mind to favor legalized abortion can no more bear scrutiny than the logic of pro-abortion arguments. Only meretricious literature offers the anti-life advocate the comforting illusion that his position is in any way humane. In genuine literature abortion is depicted as ghastly as it truly is: thus the literary imagination accomplishes its most important task, to shatter our self-delusions and remind us of truths about ourselves that we might often wish to forget.

FOOTNOTES

[1] For a superb assessment of the effect of the mass media—especially films, television, and popular music—on contemporary American culture, see James Hitchcock, *What is Secular Humanism? How Humanism Became Secular and How It Is Changing Our World* (Ann Arbor, Mich.; Servant Books, 1982), pp. 81-98. This crucial chapter was reprinted in the *Human Life Review* (Spring, 1983, pp. 39-52).

[2] There are brief useful discussions of abortion in the ancient world by John T. Noonan, *Contraception: A History of its Treatment by the Catholic Theologians and Canonists* (Cambridge, Mass.: Harvard Univ. Press, 1966), pp. 9-55; and by Rev. John Connory, S.J., *Abortion: The Development of the Roman Catholic Perspective* (Chicago, Ill.: Loyola Univ. Press, 1977), pp. 7-32. The definitive treatment of the subject is Enzo Nardi, *Procurato aborto nel mondo greco romano* (Milano; Giuffré editore, 1971). For a recent useful summary in English, see Richard Harrow Feen, "Classical Roots of the Personhood Debate," *Faith & Reason*, 9 (1983), pp. 120-27.

[3] I have of course oversimplified Ovid's troubles with Augustus. For a thorough and subtle account see Gordon Williams, *Change and Decline: Roman Literature and the Early Empire* (Berkley, Calif.: Univ. of California Press, 1978), pp. 52-101.

[4] *Amores*, II, 14, 5-8: *Quae prima instituit teneros convellere fetus, / militia fuerat digna perire sua. / scilicet, ut careat rugarum crimine venter, / sternetur pugnae tristis harena tuae?* I have translated from the Latin text of the Loeb Library edition of the *Heroides and Amores*, trans. Grant Showerman, rev. G.P Gooch (2nd ed., Cambridge, Mass.: Harvard Univ. Press, 1977).

[5] *Ibid.*, 11. 23-28: *Quid plenam fraudas vitem crescentibus uvis, / pomaque crudeli vellis acerba manu? / sponte fluant matura sua—sine crescere nata; / est pretium parvae non leve vita morae. / vestra quid effoditis subiectis viscera telis, / et nondum natis dira venena datis?*

[6] *Ibid.*, 11. 37-40: *at tenerae faciunt, sed non inpune, puellae: / saepe, suos utero quae necat, ipsa perit. / ipsa perit, ferturque rogo resoluta capillos, / et clamant "merito!" qui modo comque vident.*

[7] *The Abortion: An Historical Romance, 1966* (New York, NY: Simon & Schuster, 1971), pp. 14-15, 25, 82.

[8] *Ibid.*, p. 86.

[9] *Ibid.*, p. 71

[10] *Ibid.*, p. 89.

[11] *Ibid.*, p. 90.

[12] Ibid., p. 190.

[13] *Ibid.*, pp. 218-19.

[14] *The Short Stories of Ernest Hemingway* (New York: Charles Scribner's Sons, 1966), P. 275

[15] *Ibid.*, p. 276.

[16] *Ibid.*, p. 277.

[17] *Ibid.*, p. 278.

[18] See the similar use of abortion as a symbol of horror and of a broken relation between a man and a woman at the close of John Cheever's story, "The Enormous Radio," in *The Enormous Radio and Other Stories* (N.P.: Funk & Wagnalls, 1953), p. 180.

[19] "The Abortion" is quoted from *All My Pretty Ones* (Boston, Mass.: Houghton Mifflin, 1962). For another powerful poem on abortion by a woman see Gwendolyn Brooks, "The Mother," *Selected Poems* (New York, NY: Harper & Row, 1963). This poem first came to my attention as reprinted in the *Human Life Review* (Winter, 1981, pp. 143-144).

[20] *Peyton Place* (1956—reprinted New York, NY: Dell, 1958). The dog-eared copy quoted in this essay represents the eighth paperback printing within two years of the novel's original publication.

[21] *Ibid*, p. 7.

[22] *Ibid*, pp. 63, 65, 9.

[23] *Ibid*, p. 203.

[24] *Ibid*, p. 205. Emphasis in original.

[25] *Ibid*, p. 481.

[26] *Ibid*, pp. 216, 217.

[27] *Ibid*, p. 223.

[28] *Phenomenology of Perception*, translated by Colin Smith (Loudon: Routledge & Kegan Paul, 1962), p. 178. Cf. Philip E. Lewis, "Merleau-Ponty and the Phenomenology of Language," in *Structuralism*, ed. Jacques Ehrmann (New York, NY: Doubleday, 1970) pp. 9-31.●

INDUSTRIAL DEVELOPMENT BONDS

● Mr. D'AMATO. Mr. President, on February 17, 1983, I introduced S. 499, legislation to allow continued use of industrial development bonds (IDB's) in the Small Business Administration's (SBA) section 503 program. This bill became necessary because of an Office of Management and Budget directive prohibiting the use of IDB's in the 503 program. The OMB erroneously contends that IDB's are a Government handout, which accomplish nothing that would not otherwise be achieved in the private sector.

IDB's used in the 503 program create jobs and spur economic development. Without the use of IDB's in this program, explicit congressional intent would be circumvented. Worse yet, economic development would falter and jobs would be lost. Since its inception on July 2, 1980, over 33,000 jobs have been created through the 503 program—at a cost-per-job figure lower than for any other job creating program run by the Federal Government.

Mr. President, for these reasons, the Senate Small Business Committee unanimously reported out S. 499. Since then, the Finance Committee has held hearings on the bill. It is my hope that the committee will promptly mark up S. 499 so that the issue can be deliberated on the Senate floor.

Mr. President, now a new threat exists to the 503 programs. A little known provision of the Small Business Act prohibits total SBA 7(a) and 503 loans from exceeding $500,000. Though this provision was promulgated several years ago—prior, in fact, to the establishment of the 503 program—only recently has SBA realized that 503 program loans—as well as other SBA economic development programs—are calculated in the $500,000 aggregate limit. This has severe implications for SBA's economic development activities.

For this reason, I am proud to join with my distinguished colleague on the Small Business Committee, Senator PRESSLER, as a cosponsor of S. 2069, legislation to exempt SBA economic development activities from the $500,000 loan cap. Without this bill, legitimate development activities will be stifled. At this stage of the recovery, the Nation can ill-afford to restrict programs that create jobs.

Mr. President, I urge the Small Business Committee to hold hearings on S. 2069 at the earliest possible date.●

EXPLANATION OF EFFECT OF S. 912

● Mr. ABDNOR. Mr. President, as reported by the Committee on Environment and Public Works, S. 912 contains two provisions. One will prevent an injustice to the city of Abbeville, S.C., which will soon occur due to the filling of a Corps of Engineers reservoir, and the other provision will deauthorize a corps project in the State of Maine.

The city of Abbeville, S.C., currently owns and operates a hydroelectric plant upstream from the Richard B. Russell Dam, which was recently completed by the Corps of Engineers. Filling of the lake behind the dam has begun and, in spring of 1984, the water will be high enough to interfere with the production of power at Abbeville's power facility. This would impose a significant hardship on the city of Abbeville.

Although the corps anticipated this problem, they originally believed that reengineering of the Abbeville powerplant could be performed in such a way as to nullify the effects of the rising water. Further investigation proved this assumption to be false.

The most just and cost-effective solution now appears to be merely providing the city of Abbeville with a portion of the power generated by the powerplant at the Richard B. Russell Dam equivalent to that of the power lost at the Abbeville plant. This power will be less than 1 percent of the total generated at the Richard B. Russell Dam. The total cost of providing Abbeville with the power, plus incidental expenses, is approximately $20,000 per year for the remaining life of the Abbeville plant.

Section 2 of S. 912 deauthorizes a breakwater at Eastport Harbor, Maine. Eastport is a depressed area with approximately 30 percent unemploy-

ment. The town has undertaken projects to improve its economic conditions, including redevelopment of the port area. The improvement to the port requires the strengthening of the breakwater and the dredging of additional berthing capacity. This action will provide more competitive shiphandling operation and increase cargo capacity from 50,000 to 80,000 tons this year.

The breakwater is an authorized Corps of Engineers project. However, in 1980, a corps evaluation found that there was insufficient economic justification for future harbor maintenance or improvement projects in Eastport Harbor. Since the corps can no longer justify modification to the breakwater, the city would like to finance the project through a bond issue and undertake the work itself.

All necessary permits and licenses have been approved, and financing is expected to be available shortly. Work cannot commence, however, until the authorized breakwater project is deauthorized.

This section of S. 912 provides the necessary deauthorization so that Eastport can move forward on its own with harbor improvements.

Mr. President, I believe S. 912 to be an excellent and thoroughly justified piece of legislation and recommend that the Senate give it speedy passage.●

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 10:45 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that we may change the order for convening tomorrow. May I say, before I put the request, that I have indicated to the minority leader through staff that it is necessary to do this. By way of explanation, one of the reasons is that there is a Republican leadership meeting at the White House in the morning at 9:30. Since we had a convening hour of 9:30, it seems the better part of discretion to change that time. Therefore, Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess, instead of until 9:30 a.m. tomorrow, until 10:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that, in addition to the special order in favor of the distinguished Senator from Pennsylvania, Mr. HEINZ, that there follow in sequence a special order in favor of the distinguished Senator from Wisconsin, Mr. PROXMIRE, of not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, the previous order provided for a time for the transaction of routine morning business. I think I will ask unanimous consent to vitiate that since it no longer fits into the sequence and, rather than provide a time for morning business now, I shall examine the situation in the morning and see how the circumstances suggest that we should proceed. Therefore, Mr. President, I ask unanimous consent that the order for morning business tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. CHAFEE. Will the Senator yield?

Mr. BAKER. I yield the floor.

Mr. CHAFEE. I wonder if the majority leader would be good enough to outline what he sees happening tomorrow. It is my understanding that the Clark nomination will not be before us.

Mr. BAKER. Mr. President, I am told that an effort to proceed to the Clark nomination tomorrow would not be successful. The 3-day rule has not run and will not run until Wednesday. Therefore, I think it is unlikely that we will be able to reach the Clark nomination tomorrow.

Mr. CHAFEE. So does the majority leader envision us being back on the Olympic tax bill or would we be on the natural gas bill?

Mr. BAKER. I really think what will happen tomorrow, since we are coming in at 10:45, is that we will probably not be on either one except technically until we go out at 12 noon for the 2-hour recess. I have not provided for that recess at this time, but I will do so tomorrow, I expect.

It has been done, I am told. I stand corrected and I thank the Chair.

So at 12 o'clock we will recess to come back in at 2 p.m. At that time, the question before the Senate will be the motion to proceed, will it not?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, we will continue on that. I would not be surprised to see us turn to other things tomorrow. There may be conference reports that we can deal with. It may be that by consent we will want to go back to the natural gas bill tomorrow, notwithstanding that this motion will be pending and any of the other several matters that I listed this morning that we have got to do before we adjourn sine die.

But when we come back in, and after morning business, if any, the pending question before the Senate will be the motion to proceed to the consideration of the Olympic bill.

Mr. CHAFEE. I thank the distinguished majority leader.

Mr. BAKER. I thank the Senator from Rhode Island.

Mr. President, as a further example of what we might do, I am told that the State-Justice-Commerce appropriations conference report is available. That is an important measure that I would like to see us dispose of. So tomorrow sometime we may try to get to that measure and other conference reports as they became available.

Mr. President, we may or may not be able to get to reconciliation tomorrow. That was included in my original announcement, but things are getting a little sticky.

RECESS UNTIL 10:45 A.M. TOMORROW

Mr. BAKER. Mr. President, I am also advised that, since there will be no further business transacted, the minority leader has no requirement to be present and on the floor. Therefore, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 10:45 a.m. tomorrow.

The motion was agreed to; and, at 6:27 p.m., the Senate recessed until Tuesday, November 15, 1983, at 10:45 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate November 14, 1983, under authority of the order of the Senate of November 12, 1983:

ENVIRONMENTAL PROTECTION AGENCY

Bernard D. Goldstein, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency, vice Stephen John Gage.

John Arthur Moore, of North Carolina, to be Assistant Administrator for toxic substances of the Environmental Protection Agency, vice John A. Todhunter, resigned.

Milton Russell, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency, vice Lee L. Verstandig.

HOUSE OF REPRESENTATIVES—*Monday, November 14, 1983*

The House met at 12 noon.

The SPEAKER. Today we have as our guest an old friend, our former Chaplain, the Reverend Dr. Edward G. Latch.

Rev. Edward G. Latch, D.D., former Chaplain of the U.S. House of Representatives, offered the following prayer:

You shall keep the Commandments of the Lord, your God, by walking in His ways and by fearing Him.—Deuteronomy 8: 6.

O God, our Father, who art the source of light and life and whose glory is in all the world, in Thy presence we pause in silence at the beginning of this new day knowing that without Thee all our labor is in vain. Open our hearts that we may receive the good seeds of Thy word and let Thy spirit ripen them into the fruits of righteousness and good will. Give prosperity to our Nation, work to our people and may a friendly spirit come to new life in the hearts and homes of our citizens.

Bless our President, our Speaker, these Representatives of our country and all who work under the glorious dome of our Capitol. Make this building a center of good will even amid differences of opinions and may a passion for the right and the true keep us dedicated to the welfare of this glorious land. So may the work of this day, be begun, continued and ended in Thee for the enrichment of life and the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2077) entitled "An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes."

The message also announced that the Senate has passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 113. Joint resolution to provide for the designation of the week beginning June 3 through June 9, 1984, as "National Theatre Week";

S.J. Res. 141. Joint resolution to designate the week of December 4, 1983, through December 10, 1983, as "Carrier Alert Week";

S.J. Res. 160. Joint resolution to designate the week of October 15, 1984 through October 21, 1984, as "National Adult Continuing Education Week"; and

S.J. Res. 161. Joint resolution to designate the month of April 1984, as "National Child Abuse Prevention Month."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

NOVEMBER 14, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received a message from the Senate at 12:59 p.m. on Saturday, November 12, 1983, that the Senate passed H.R. 2910, H.R. 3885, and H.J. Res. 408 and agreed to the Conference Report on H.J. Res. 413.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution earlier today:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

JULIETTE GORDON LOW FEDERAL BUILDING

The Clerk called the bill (H.R. 1551) to name the Federal building to be constructed in Savannah, Ga., as the "Juliette Gordon Low Federal Building."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

H.R. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (c), all right, title, and interest of the United States in the surface estate of the land described in subsection (b) is hereby declared to be held by the United States in trust for the benefit and use of the Kaw Tribe of Oklahoma.

(b) The land described in this subsection is the following 132.50 acres, more or less, located within township 27 north, range 4 east, Indian meridian, in Kay County, Oklahoma:

Section 22, northwest quarter northeast quarter southeast quarter, east half east half southeast quarter, west half west half southeast quarter, west half west half east half southwest quarter southeast quarter, west half west half southeast quarter northwest quarter southeast quarter, northeast quarter northwest quarter southeast quarter.

Section 27, west half northwest quarter northeast quarter, west half west half east half northwest quarter northeast quarter.

(c) Nothing in this Act shall deprive any person (other than the United States) of any right-of-way, mineral interest, grazing permit, water right, or other right or interest which such person may have in the land described in subsection (b) on the date preceding the date of enactment of this Act.

DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE KAW TRIBE OF OKLAHOMA

The Clerk called the bill (H.R. 3111) to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma.

There being no objection, the Clerk read the bill as follows:

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1168) to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (c), all right, title, and interest of the United States in the surface estate of the land described in subsection (b) is hereby declared to be held by the United States in trust for the benefit and use of the Kaw Tribe of Oklahoma.

(b) The land described in this subsection is the following 132.50 acres, more or less, located within township 27 north, range 4 east, Indian meridian, in Kay County, Oklahoma:

Section 22, northwest quarter northeast quarter southeast quarter, east half east half southeast quarter, west half west half southeast quarter, west half west half east half southwest quarter southeast quarter, west half west half southeast quarter northwest quarter southeast quarter, northeast quarter northwest quarter southeast quarter.

Section 27, west half northwest quarter northeast quarter, west half west half east half northwest quarter northeast quarter.

(c) Nothing in this Act shall deprive any person (other than the United States) of any right-of-way, mineral interest, grazing permit, water right, or other right or interest which such person may have in the land described in subsection (b) on the date preceding the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3111) was laid on the table.

DECLARING THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE MAKAH INDIAN TRIBE, WASHINGTON

The Clerk called the bill (H.R. 3376) to declare that the United States holds certain lands in trust for the Makah Indian Tribe, Washington.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. This concludes the call of the eligible bills on the Consent Calendar.

AN APPEAL ON BEHALF OF THE UNITED WAY

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, my appeal today is in my capacity as vice chairman of the United Way's Combined Federal Campaign. I should like to bring to the attention of my colleagues in the House and, through them, to members of their office staffs the opportunity that is presented to all of us through the United Fund to practice in deeds what we so often preach in words.

There are hungry, there are jobless, there are homeless, and there are handicapped and needy all about us, and this gives us an opportunity to fulfill that commandment which is preached in all religions. Last year, while 60 percent of the Federal area employees in the Washington area of Government did participate by making some contribution, some 150,000 employees did not contribute anything.

The quota for the House and the employees of the House is $100,000. That ought to be one which we could easily reach, and I should like to commend it to you as an opportunity that you might perform those good deeds that we so often are willing to perform with other people's money, taxpayers' money, that we might have a chance to do that in some small measure at least with our own money.

THE PRESIDENT'S TIMID APPROACH ON TRADE WITH JAPAN

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, I am disappointed with the President in his radio address from Korea trying to sell Korean and Japanese goods by calling them better made and less expensive than American goods. One would expect the President of the United States to be selling America overseas rather than being an enthusiastic salesman for foreign goods.

The President's timid approach to our serious trade imbalance with Japan is unrealistic and insensitive, Fair trade is a two-way street. The President should realize that while Japan is an ally, it is also an industrial competitor, and not always a friendly competitor.

The President should have been more firm in pressing Japan to remove its major trade barriers, rather than encouraging Americans to buy Japanese goods.

HOSPICE CUTS WILL COST US MORE

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, it seems that David Stockman wants to once again cut the medicare reimbursement for hospice. This reduction would be a serious mistake.

Hospice is a compassionate, alternative form of health care for the terminally ill, and patients often stay at home with their families. They need to know that they can depend on adequate funding for hospice services.

Mr. Speaker, the administration just is not playing fair. On one hand, it required hospices to increase the services offered by their staffs, but on the other, it wants to cut medicare reimbursements to help pay for it.

If we are not careful, we will drive terminally ill patients out of their homes, away from their loved ones, and into traditional, expensive hospitals. Mr. Speaker, if these cuts go through, we will all pay more—the patient and the taxpayer.

PEASE AND DORGAN RELEASE CORPORATE TAX STUDY

(Mr. PEASE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, my colleague, the gentleman from North Dakota (Mr. DORGAN), and I are today releasing a study which shows that corporate America's share of the overall U.S. tax burden continues to decline, and that wide disparities in effective tax rates exist among industries.

This study shows, among other things, that corporate income tax receipts as a percentage of total Federal receipts dropped from 28 percent in 1950 to 11.5 percent in 1981 and by another 3 percentage points between 1981 and 1982 to 8.1 percent, and at the same time the individual taxpayers' share continues to go up, now reaching 49 percent of total receipts.

Mr. Speaker, I will be putting in the RECORD today a press release on the subject, and I will make available tomorrow a summary of the entire report.

□ 1210

THE TAX BURDEN OF AMERICAN INDUSTRY

(Mr. DORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN. Mr. Speaker, as the gentleman from Ohio (Mr. PEASE) indicated, we introduced a study this morning that the Congressional Research Service of the Joint Tax Committee has been working on.

The conclusion of the tax study was pretty much as all of us had expected, that the largest corporations in this country are on the road to having

their tax bills virtually wiped out, mostly as a result of the 1981 tax bill.

In 1960, corporations in this country paid 23 percent of the income taxes in America. In 1982, it was 8 percent. It is going to go down even further.

Now, who pays the rest? The working people pay the rest.

What kind of a tax burden do the largest banks in this country pay? Let us look at the study's conclusion. Do the 20 largest banks pay 30 percent income tax? No. Twenty percent? No, not 20 percent. Ten percent? No, the banks pay nothing, zero. The 20 largest banks on $1.4 billion in income, net profits, pay a minus 3 percent income tax.

The study goes on to describe who is bearing what burden of the cost of financing our Government.

Who passes tax laws like this? Well, no one passes them. They are just one step at a time toward a tax system that is distorted and convoluted, that forces the working people to pay a fairly stiff tax to pay the cost of Government and the largest enterprises in this country, in all too many cases, get by without paying a cent.

THE SECRECY OF THE MAJOR GRAIN COMPANIES

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, I want to commend the National Broadcasting Co.'s program Sunday night, "First Camera," for its documentary on major grain companies.

The food supply of our Nation is, of course, the most vital single thing to our national security, and yet it is handled in large part by corporations which are closely held, and allowed to deal in secret, with food sales in secret. What happens to our food supply is kept in the secret files of these corporations.

I am introducing a bill to remedy this, to require that all persons and companies handling major portions of our food supply in this country be required to make their records of sales and other corporate data public. Almost all such companies now do so as they are publicly owned stock companies. But the large international grain companies privately owned are not required to reveal their dealings. They should be. Our food supply is too vital to our security to have it dealt with secretly.

ANOTHER MOTHER FOR PEACE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, over the past 2 months I have received tens of thousands of postcards containing pleas to stop all U.S. military involvement in Central America. These cards were distributed by a group called Another Mother for Peace. But the people who sent them to me are men and women of all ages, from all over the country, who are deeply concerned about this country's activities in Central America.

These postcards reveal a ground swell of popular opinion directed against the United States using military force to solve the problems in that troubled region. These cards reflect the concern of thousands of citizens, mothers, and fathers, who are tired of seeing U.S. foreign policy implemented at the end of a gun. The social and economic problems in Central America can be solved. Military force is not the cure for the upheavel there.

So after having recently commemorated Armistice Day, let us consider the consequences involved in U.S. military action in Central America, and make sure that we do not let ourselves become embroiled in another war costing the lives of America's youth.

IN MEMORY OF A VICTIM OF KAL'S FLIGHT 007

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, last Thursday, the House of Representatives passed a resolution (H. Res. 366) favoring continued Soviet involvement in the Olympics that is being construed by some in the media and elsewhere as signaling a softening of U.S. reaction to the Soviet shootdown of an unarmed South Korean airliner carrying 269 innocent people including one Member of this body. However, I would caution interested observers against reading such an interpretation into the adoption of House Resolution 366. Not only could one derive just the opposite interpretation from the steps the United States has just taken in Grenada but I know this Member from California still feels the Soviets should be held accountable for their barbaric misdeed and I have every reason to believe most other Members feel the same way.

In furtherance of that feeling, let me take what remains of my minute to talk about one of the people whose life the Soviets so callously snuffed out. Lillian Fitzpatrick of Warwick, R.I., age 60, was not a robot; rather she was an active, contributing member of society with 42 years of service as a controller for General Electric. All she was doing on flight 007 was embarking on a long-awaited, well-deserved vacation and for that she was murdered—shot down in cold blood by an atheistic, totalitarian regime that thought, and apparently still thinks, that the sanctity of its airspace was more important than her life and the lives of her 268 fellow passengers. Shame on that regime, shame, public condemnation and whatever sanctions are necessary, so long as they are effective, to get the Soviets to: First, apologize for their action; second, make restitution to Mrs. Fitzgerald's family; and third, sign a civil aeronautics agreement that specifically forbids such an overreaction to incursions into unauthorized airspace. As a nation, we simply cannot let the fate of Lillian Fitzgerald or the other innocent victims of this tragedy be forgotton, nor can we cease our efforts on their behalf until, and unless, justice is served.

EVEN GEORGE BUSH'S MOTHER DOES NOT UNDERSTAND RESUMING PRODUCTION OF NERVE GAS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, GEORGE BUSH'S mother, Dorothy, cannot even understand why her son and this administration favors resuming production of nerve gas that could kill millions. President Reagan had to give her a call and reassure her after the Vice President for a second time broke a Senate tie and voted in favor of resuming chemical weapons production.

Dorothy Bush is not alone, Mr. Speaker. Millions of Americans cannot understand what in the world we need more nerve gas for, with a huge stockpile on hand already, more by everyone's admission than is needed to deter Soviet first use.

The fact is we do not need more. We need to save the money and enhance America's image and kill binary chemical weapons production.

I will offer tomorrow a motion to instruct our defense appropriations conferees to do just that. The key vote will probably come on rejecting the previous question.

Let us do something good for our country, our budget, and our ideals and stop this unnecessary and costly weapons system in its tracks.

THE BLAME FOR THE DEFICITS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I had occasion to watch one of the major networks doing a show on the budget deficits and listened to my esteemed colleague, the gentleman from California (Mr. COELHO), chairman of the Democratic Congressional Campaign Committee, indicating that these were

Reagan deficits and the American people were not going to stand for Reagan's deficits.

I heard one of my esteemed colleagues on the other side of the aisle get up and complain about the tax system being unfair. When you put those two things together, what unfortunately comes out is that the Democratic Party is concerned about the deficit to the extent that it should be taken care of by tax increases. When we discuss the problems with the tax system, and I hold no brief for our overall tax system, there being many distortions in it, one thing ought to be crystal clear. We are at historical highs in terms of the percentage of the income of all the American people going to the Federal Government in any one year.

At the same time that we are doing that, we are even spending beyond the means of the American people such that we have the highest deficits.

The fact, Mr. Speaker, is not that we are severely undertaxed. The fact is, Mr. Speaker, that we are severely overspent and this is the House, the people's House, that should make the decisions to cut that spending, not to raise taxes.

PLACING THE EQUAL RIGHTS AMENDMENT ON THE SUSPENSION CALENDAR TOMORROW

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, the rumor is out that the leadership of the majority party will place House Joint Resolution 1, the equal rights amendment, on the Suspension Calendar tomorrow, after not having given the membership notice last week of that fact when the legislative program was announced. If that is done, it would be the epitome of legislative arrogance to bring a constitutional amendment before the House of Representatives with no opportunity to offer amendments and for only 40 minutes worth of debate.

Tell me, Mr. Speaker, that it is not so. Tell me that House Joint Resolution 1 will be brought up in the regular order under a rule that will allow the offering of amendments, the debating of amendments, and voting on amendments.

□ 1220

RE-REFERRAL OF H.R. 3974, CONTROLLED SUBSTANCES ACT, TO COMMITTEE ON ENERGY AND COMMERCE AND COMMITTEE ON THE JUDICIARY

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the bill (H.R. 3974) to amend the Controlled Substances Act to make it a crime to obtain controlled substances from a pharmacy by breaking and entering or other unlawful means involving force or violence or threats of force or violence, originally referred to the Committee on Energy and Commerce, be jointly referred to the Committee on Energy and Commerce and the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote of the yeas and nays are ordered, or on which the vote is objected under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules or until 4 p.m., whichever occurs first.

CHILD PROTECTION ACT OF 1983

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3635) to amend chapter 110, relating to sexual exploitation of children, of title 18 of the United States Code, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Protection Act of 1983".

SEC. 2. Section 2251 of title 18 of the United States Code is amended—

(1) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;

(2) by striking out "depicting" each place it appears and inserting "of" in lieu thereof;

(3) by striking out "$10,000" and inserting "$100,000" in lieu thereof; and

(4) by striking out "$15,000" and inserting "$200,000" in lieu thereof.

SEC. 3. Section 2252 of title 18 of the United States Code is amended—

(1) by striking out "for the purpose of sale or distribution for sale" each place it appears;

(2) by striking out "obscene" each place it appears;

(3) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;

(4) by striking out "depicts" each place it appears and inserting "is of" in lieu thereof;

(5) by striking out ", or knowingly sells or distributes for sale" and inserting in lieu thereof "or distributes";

(6) in inserting after "mailed" the following: "or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails";

(7) by striking out "$10,000"' and inserting "$100,000" in lieu thereof; and

(8) by striking out "$15,000" and inserting "$200,000" in lieu thereof.

SEC. 4. Section 2253 of title 18 of the United States Code is amended—

(1) in paragraph (1), by striking out "sixteen" and inserting "eighteen" in lieu thereof;

(2) in paragraph (2), by striking out "person;" at the end and inserting in lieu thereof:

"person;

except that such term does not include simulated conduct if there is no possibility of harm to the minor, taking into account the nature and circumstances of the simulation, and there is redeeming social, literary, educational, scientific, or artistic, value;";

(3) by inserting "and" at the end of paragraph (2);

(4) by striking out "; and" at the end of paragraph (3) and inserting a period in lieu thereof; and

(5) by striking out paragraph (4).

SEC. 5. Section 2516(1)(c) of title 18 of the United States Code is amended by inserting "sections 2251 and 2252 (Sexual exploitation of children)," after "section 664 (embezzlement from pension and welfare funds),".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. SENSENBRENNER. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. SENSENBRENNER and Mr. HUGHES.

The House divided, and the tellers reported that there were—yeas 25, nays 0.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 0, not voting 154, as follows:

[Roll No. 491]

YEAS—280

Ackerman	Bonker	Coats
Akaka	Borski	Coelho
Albosta	Boucher	Coleman (TX)
Anderson	Boxer	Conte
Andrews (NC)	Brooks	Conyers
Andrews (TX)	Broomfield	Courter
Annunzio	Brown (CA)	Craig
Applegate	Brown (CO)	Crane, Daniel
Archer	Broyhill	Crockett
Barnard	Burton (CA)	D'Amours
Barnes	Carney	Daniel
Bartlett	Carper	Dannemeyer
Bateman	Carr	Darden
Bates	Chandler	Daschle
Bennett	Chappie	Daub
Bevill	Cheney	de la Garza
Bilirakis	Clarke	Derrick
Bliley	Clay	DeWine

Dingell	Lagomarsino	Roemer
Dorgan	Lantos	Rogers
Dowdy	Leach	Rose
Duncan	Leath	Roth
Dwyer	Leland	Rowland
Eckart	Lent	Roybal
Edwards (CA)	Levin	Rudd
Edwards (OK)	Lewis (CA)	Sabo
Emerson	Lewis (FL)	Savage
English	Lipinski	Sawyer
Erlenborn	Lloyd	Scheuer
Evans (IA)	Loeffler	Schroeder
Evans (IL)	Long (LA)	Schulze
Fascell	Lowery (CA)	Seiberling
Fazio	Lowry (WA)	Sensenbrenner
Fields	Lujan	Shannon
Fish	Lungren	Sharp
Flippo	Mack	Shaw
Foglietta	Marlenee	Shelby
Foley	Marriott	Shumway
Ford (TN)	Martin (IL)	Sikorski
Forsythe	Martinez	Sisisky
Frank	Matsui	Skelton
Frost	Mazzoli	Slattery
Fuqua	McCain	Smith (FL)
Gaydos	McCandless	Smith (IA)
Gekas	McCloskey	Smith (NE)
Gephardt	McCollum	Smith (NJ)
Gibbons	McEwen	Smith, Robert
Gingrich	McGrath	Snowe
Glickman	McHugh	Snyder
Gonzalez	McKernan	Solarz
Gore	McKinney	Solomon
Gradison	McNulty	Spratt
Gray	Mica	Staggers
Green	Mikulski	Stenholm
Guarini	Miller (CA)	Stratton
Hall (IN)	Mineta	Stump
Hall (OH)	Mitchell	Sundquist
Hall, Ralph	Moakley	Swift
Hall, Sam	Mollohan	Synar
Hamilton	Moore	Tauzin
Hammerschmidt	Moorhead	Thomas (GA)
Hansen (ID)	Morrison (WA)	Towns
Hansen (UT)	Mrazek	Udall
Harkin	Murtha	Vander Jagt
Hawkins	Myers	Vandergriff
Hayes	Natcher	Vento
Hefner	Neal	Volkmer
Hertel	Nichols	Vucanovich
Hiler	Nielson	Walker
Hillis	O'Brien	Watkins
Holt	Obey	Waxman
Hopkins	Olin	Weaver
Howard	Packard	Weiss
Hoyer	Panetta	Wheat
Huckaby	Parris	Whitehurst
Hughes	Pashayan	Whitley
Hutto	Patman	Whittaker
Hyde	Patterson	Whitten
Ireland	Pease	Wilson
Jacobs	Penny	Winn
Johnson	Pepper	Wirth
Jones (OK)	Perkins	Wolf
Kasich	Petri	Wortley
Kastenmeier	Porter	Wright
Kazen	Price	Wyden
Kemp	Rahall	Wylie
Kennelly	Ratchford	Yates
Kildee	Ray	Yatron
Kindness	Regula	Young (AK)
Kogovsek	Reid	Young (MO)
Kolter	Roberts	Zablocki
Kostmayer	Robinson	Zschau
Kramer	Rodino	
LaFalce	Roe	

NAYS—0

NOT VOTING—154

Addabbo	Bonior	Coyne
Alexander	Bosco	Crane, Philip
Anthony	Breaux	Davis
Aspin	Britt	Dellums
AuCoin	Bryant	Dickinson
Badham	Burton (IN)	Dicks
Bedell	Byron	Dixon
Bellenson	Campbell	Donnelly
Bereuter	Chappell	Downey
Berman	Clinger	Dreier
Bethune	Coleman (MO)	Durbin
Biaggi	Collins	Dymally
Boehlert	Conable	Dyson
Boggs	Cooper	Early
Boland	Corcoran	Edgar
Boner	Coughlin	Edwards (AL)
Erdreich	Long (MD)	Rinaldo
Feighan	Lott	Ritter
Ferraro	Luken	Rostenkowski
Fiedler	Lundine	Roukema
Florio	MacKay	Russo
Ford (MI)	Madigan	Schaefer
Fowler	Markey	Schneider
Franklin	Martin (NC)	Schumer
Frenzel	Martin (NY)	Shuster
Garcia	Mavroules	Siljander
Gejdenson	McCurdy	Simon
Gilman	McDade	Skeen
Goodling	Michel	Smith, Denny
Gramm	Miller (OH)	Spence
Gregg	Minish	St Germain
Gunderson	Molinari	Stangeland
Hance	Montgomery	Stark
Harrison	Moody	Stokes
Hartnett	Morrison (CT)	Studds
Hatcher	Murphy	Tallon
Heftel	Nelson	Tauke
Hightower	Nowak	Taylor
Horton	Oakar	Thomas (CA)
Hubbard	Oberstar	Torres
Hunter	Ortiz	Torricelli
Jeffords	Ottinger	Traxler
Jenkins	Owens	Valentine
Jones (NC)	Oxley	Walgren
Jones (TN)	Paul	Weber
Kaptur	Pickle	Williams (MT)
Latta	Pritchard	Williams (OH)
Lehman (CA)	Pursell	Wise
Lehman (FL)	Quillen	Wolpe
Levine	Rangel	Young (FL)
Levitas	Richardson	
Livingston	Ridge	

□ 1240

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on the Judiciary is today bringing before the House important legislation to improve the Protection of Children Against Sexual Exploitation Act, which the Judiciary Committee developed and Congress passed in 1977.

The 1977 act is aimed at the despicable practice of inducing children to engage in explicit sex acts in order to film and photograph these acts and distribute the material in interstate commerce.

H.R. 3635 is designed to correct deficiencies in the act identified in 6 years of implementation, and to take into account the resolution, by the Supreme Court of the United States, of a major constitutional issue concerning the act.

First, we have eliminated the requirement in the 1977 legislation that a commercial sale of the pornography must be involved before prosecution can take place. Pedophilias have their own underground network or subculture, and we have discovered that much of the pornographic material involving children is not distributed on a commercial level. Rather, it is traded, exchanged, or given, and that is not considered illegal activity. As a result of this provision of existing law, we have had very few prosecutions since the 1977 legislation was enacted. The bill strikes the "sale" language to provide that all interstate production or distribution of child pornography is a criminal offense.

Second, we take into account the 1982 Supreme Court decision in New York against Ferber, wherein the High Court ruled that the use of children in the production of material depicting children engaging in sexually explicit behavior may be punished as a crime even though the material might not meet the legal definition of obscenity. H.R. 3635 therefore eliminates the requirement that obscenity be proven, making it unlawful to produce or distribute any films or photographs—obscene or otherwise—that sexually exploit children. H.R. 3635 modifies the coverage of simulated sexual conduct to exclude simulations from coverage where there is no possibility of harm to the child and the material produced has social, literary, scientific, educational, or artistic value. This is designed to address the concern expressed by the Supreme Court in Ferber that, without the obscenity requirement, a statute of this sort may reach and proscribe constitutionally protected conduct and material.

Third, the bill raises the age of coverage from those under 16 to all children under 18. It has been almost impossible to find the actual children used in the production of the pornography, and there is difficulty in establishing the age of these children from the pictures alone. As a result, we are not really covering children under 16, but only those under about age 14. With this change, perhaps we can actually protect children up to age 16.

Fourth, enforcement is improved by including child pornography as one of the offenses for which a wiretap may be authorized by Federal courts. The child abusers who produce and distribute this smut are nearly impossible to discover in the act, and the ability to tap wires would be extremely advantageous to enforcement officials in obtaining evidence of the crimes.

Fifth, is the elimination of coverage of written material. The Supreme Court in the Ferber case indicated that written material must still be subject to an obscenity requirement. However, we can find no reason for coverage of nonvisual depictions in the legislative history of the act, and no need for such coverage has been identified in the 6 years of implementation of the act. Rather than write in an obscenity requirement for written material, it seems more appropriate to simply limit coverage to visual material.

Sixth, we close a loophole which lets producers of child pornography escape

prosecution unless it is also proven that they were directly involved in inducing the child to pose for the photography in question. Because of the difficulty in providing this connection, there has been no successful prosecution for the production offense. The new reproduction offense in H.R. 3635 would permit prosecution of the producers who pirates photos from other publications, or who purchases photos for production, as well as the producer who has direct involvement with the taking of the photographs or the filming.

Finally, H.R. 3635 includes a substantial increase in maximum fine levels under the act—currently $10,000 for a first offense, and $15,000 for subsequent convictions. Under the bill, a first offense will be subject to a $100,000 fine and a $200,000 fine is applicable to subsequent convictions.

Mr. Speaker, we frequently refer to this legislation as "the Child Pornography Act," but this term really misses the mark, at least to the extent it suggests this is pornography legislation. The material in question is, no doubt, pornography—vile, sick pornography. However, it is not because the material is pronographic that we have legislated in this area—interstate distribution of pornography was a crime before we passed this legislation.

This is a child protection law, a law which punishes child abuse, not pornography. The Supreme Court made this clear in its recent decision, and I am pleased that we are voting today to make the strong improvement in the law cleared by the High Court's decision, as well as a number of other major changes that will enable us to better identify, prosecute, and punish these despicable child molesters.

Mr. Speaker, a lot of Members on both the Committee on the Judiciary and Members who are not on the Committee on the Judiciary have advanced initiatives that I want to commend.

My colleague from Florida (Mr. HUTTO) and my colleague from California (Mr. PASHAYAN) have advanced major legislation in this important area.

□ 1250

My colleagues on the Judiciary Committee, the chairman of the full Judiciary Committee, the gentleman from New Jersey, PETER RODINO, has been very helpful in forging this particular legislative initiative. The ranking minority member, the gentleman from New York (Mr. FISH) of the full committee; and in particular, my colleague from Michigan Mr. HAL SAWYER, the ranking Republican, who I have left for last, because without his commitment, without his tremendous work on this legislation, we would not be here today with what I think is a very significant bill.

I commend my colleagues for their hard work.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Speaker, I rise in support of H.R. 3635 and seek its passage by this body.

I am a cosponsor of this measure, which is largely founded on legislation I introduced earlier this year, H.R. 2106. The bill now before us, H.R. 3635, just as my legislation provided, will give Federal peace officers and prosecutors new tools with which to attack this sick trade.

The bill attacks the child pornography problem on four fronts:

First, it codifies into Federal law the U.S. Supreme Court decision of July 2, 1982, New York against Ferber, which upheld a New York State law making it unnecessary to prove that materials depicting children in certain situations must be technically obscene in order to proceed with prosecution. In other words, H.R. 3635 allows prosecution for depictions that are unacceptable but less than technically obscene.

Second, the bill removes the requirement that materials depicting child pornorgraphy must be sold before a prosecution can be filed, and makes illegal all distribution of these materials. This is a very important element of the bill, because so much of the filth is traded by pedophiles, rather than sold.

Third, the bill raises to 18 years from 16 the age of children depicted in child pornography, to aid prosecutors in identifying the age of youngsters depicted in these materials. While some 13- and 14-year-olds may pass for 16, they will rarely pass for 18, making it easier to prove that the person being sexually exploited is a child.

Finally, enforcement officers are given a new tool by including child pornography as one of the offenses in which a wiretap may be authorized by Federal courts.

This legislation is similar to a bill which has already been approved by the Senate, S. 1469. Neither the Senate bill nor H.R. 3635 contain provisions to add child pornography to those crimes covered by the Federal racketeering influenced and corrupt organizations statute. The major effect of this statute is to allow private citizens to bring civil actions against individuals suspected of using children in the production of child pornography.

The bills developed by the House and Senate represent many hours of effort and concern by Members of Congress, representatives of the Reagan administration, the Committees on the Judiciary, and concerned citizens.

The issue before us today is the protection of children, our most precious natural resource. It is therefore one of the worthiest causes of all.

I urge this body fully to support H.R. 3635.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, child pornography is an inexcusable exploitation of our Nation's youth. The cost to society today is tremendous. Equally despicable is the impact of this crime on the future of its young victims. The purpose of this bill is to protect children from exploitation by pornographers through tougher laws, better law enforcement efforts, and increased penalties. Toward this end, Chairman HUGHES and I have crafted H.R. 3635, the Child Protection Act of 1983.

The Child Protection Act eliminates a requirement that the child pornography be obscene before a violation of the existing law occurs. In 1983, the Supreme Court held in *New York* v. *Ferber*, — U.S. —, 102 S. Ct. 3348 (1983), that there is a great state interest in the subjects of child pornography, and that this state interest overrides the first amendment interests that otherwise require a showing of obscenity. My bill brings Federal law in conformity with the Ferber decision.

The Child Protection Act also expands the scope of existing law to prohibit all transfers of child pornography, including sales, trades, exchanges, and gifts. The age of the children is increased from 16 to 18 years to insure that prosecutions based on photos alone will not fail because the child may pass for 16, even though he or she is 12 or 13 years old. And that has been one of the great difficulties in the prosecution of these cases because they are unable in most cases to locate the child who is only represented in the picture. Enforcement of this clandestine, cottage industry is improved by including child pornography as one of the offenses in which a wiretap may be authorized by Federal courts.

This is a very much undercover type of operation done pretty much between networks of individuals since it is not advertised or in the normal routes of normal pornography, if we can use that term. Finally, the fines for engaging in child pornography are greatly increased so that the punishment will also eliminate any pecuniary benefit.

The creation and proliferation of child pornography is no less than a national tragedy. More than 1 million children under the age of 18 are believed to be filmed or photographed while engaging in sexually explicit acts for the producer's own pleasure or profit. To address this inexcusable crime, I urge you to support H.R. 3635, which is designed expressly to elimi-

nate those obstacles to further use of it as a prosecutorial tool.

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. RODINO), the distinguished chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I want to commend the gentleman from New Jersey (Mr. HUGHES), the chairman of the subcommittee, and the ranking minority member, the gentleman from Michigan (Mr. SAWYER), for having worked so diligently on this legislation and bringing forth this bill, the Child Protection Act of 1983.

Mr. Speaker, I rise in support of H.R. 3635, the Child Protection Act of 1983. This bill will provide significant new tools to our Federal investigators for cases involving the abuse of children in the production of child pornography, and will close several loopholes that have impeded enforcement of the laws against the sexual exploitation of children. The enticement by adults of young children sometimes in schools, and teenagers often runaways, often abusing drugs, often troubled for some unfortunate reason, into the performance of sex acts stands as one of the most disgusting crimes that plagues our society. We need to stop this cold.

The measures of this bill are most welcome. The bill first of all creates an offense defining the production of child pornography. If one engages in the manufacture of visual depictions of children in explict sex acts, even if only negatives or printing plates are all that are employed by the producer, a prosecution can be brought. Currently the law unfortunately requires proof that the defendant was actually involved in some way with the children who were sexually abused.

The bill raises the age of the children protected from 16 to 18.

The bill eliminates the requirement that the pornography be made or distributed for a commercial purpose. No longer will the Government have to prove that a commercial purpose was intended by the defendant.

The bill also eliminates the requirement that the child pornography meet the Supreme Court's three-part test for obscenity. This will expedite prosecution of these child abuse cases.

One other important feature of the bill is that it raises the maximum fines that can be imposed by a court upon those convicted of making child pornography. The new fines, $100,000 for a first offense and $200,000 for a subsequent offense, coupled with elimination of the loopholes, will significantly deter those few very sick individuals from continuing their practices.

I urge the passage of the bill.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I would like to join other members of the committee in complimenting the chairman of the subcommittee, the gentleman from New Jersey (Mr. HUGHES), and the ranking minority member of the subcommittee, the gentleman from Michigan (Mr. SAWYER).

Mr. Speaker, child abuse is a growing problem and one of the most inexcusable and horrible forms of child abuse is child pornography. The harm done to the child must be as complete and destructive as any other form of physical or mental abuse I can imagine. The victim wears the scars for a lifetime. This is a lifetime lived in fear that, at any moment, a picture will appear and ruin the life of its victim.

The creation and proliferation of child pornography is no less than a national tragedy; it sickens our society. More than 1 million children under the age of 18 are believed to be victims of child pornography. The clandestine production and distribution of kiddy porn results in an estimated $5 billion profit.

In 1977, Congress recognized the seriousness of the problem and passed Federal laws prohibiting child pornography. Last summer, in the case of New York against Ferber, the Supreme Court removed a required showing of obscenity in child pornography cases. This alteration signaled a change in the status quo and paved the way for even stronger legislation with stiffer penalties. We, at the Federal level, must work to rid our Nation of the horrible crime and effects of child pornography. H.R. 3635 presents us with the opportunity to reduce this sick abuse of our children.

□ 1300

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. HUTTO), a prime sponsor of the bill.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I commend the Judiciary Committee and specifically the Subcommittee on Crime, under the able leadership of its chairman, the gentleman from New Jersey (Mr. HUGHES), and the ranking minority Member, the gentleman from Michigan (Mr. SAWYER), for their diligence in acting on behalf of our Nation's children. It is unthinkable that there are people in this world who would exploit little children, but unfortunately there are, and we must clamp down on this growing sick business now.

Mr. Speaker, in April of this year, I introduced legislation that included most of the provisions in this bill being considered today. The committee has successfully incorporated into H.R. 3635 the concerns of our Nation's law enforcement officials. By increasing fines and raising the age of coverage from 16 to 18, I believe this effort will greatly improve the effectiveness of present laws. In addition, I commend the committee for making substantive changes in current law eliminating requirements to prove obscenity and stating that proof of sexually explicit conduct alone is grounds for prosecution. In conjunction with eliminating the commercial limitation presently in the law, the committee has clarified the law in respect to reproductions of child pornography. With passage of this bill, individuals who reproduce pornographic materials of children can be prosecuted just as those individuals who actually force children to pose for the initial production of the material are covered under present law.

While this effort will not eliminate the continued sexual abuses of children, I believe it will greatly improve present Federal law as it relates to the sexual exploitation of children. I encourage the Members of this body to support H.R. 3635 and help send a message to the sick individuals who plague our Nation's children.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, according to the recent article in the Ladies Home Journal:

> Law Enforcement officials estimate that as many as one million youngsters—ranging in age from 16 to under a year—are sexually molested and then filmed or photographed, either for the abuser's own sick pleasure or for a profit. Many of the young victims . . . are never identified and are subjected to every form of sadism and beastiality.

In 1982, the Supreme Court held that distribution of this type of child exploitation could not be justified by the first amendment. H.R. 3635, is Congress' reaffirmation of the New York against Ferber recognition that protection of these children far outweighs the right of the pornographer to distribute this trash. These children are far from consenting adults. They are the victims who carry the scars of this crime for life. The Child Protection Act of 1983 improves existing law in several ways which will better enable the FBI, the U.S. Customs Service, and the postal inspectors to properly reduce child pornography through efficient investigation and tough penalties.

I urge you to join us in support of H.R. 3635, the Child Protection Act of 1983.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SMITH), a prime sponsor of the bill and a distinguished member of the subcommittee.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, let me first say at the outset that I want to commend the chairman of the subcommittee, the gentleman from New Jersey (Mr.

HUGHES), and the ranking minority member, the gentleman from Michigan (Mr. SAWYER), as well as the gentleman from Florida (Mr. HUTTO), and the gentleman from California (Mr. PASHAYAN). I think that they have done a commendable thing in bringing this to the attention of the Congress and in passing this legislation. I am very proud to be on the subcommittee and to be associated with this legislation as a prime cosponsor.

I think it is important for everyone to understand that this is a piece of legislation that is directly responsive to a major problem that has increased in its severity over the last few years. This is not just fixing a law because we hope it will be of some help in an area where we are not sure that we need help. This is legislation that is directed at an insidious disease which not only has reared its ugly head in this country but has, in fact, been on the increase for a number of years. It is a disease which has manifested itself not only in these independent entrepreneurs, but in the annals of organized crime it has recently become a major source of revenue for them. And the names of the same kinds of people associated with crime keep cropping up in city after city and in State after State as local law enforcement tries to deal on a patchwork basis with the problem.

This legislation I believe will allow the Federal Government in cooperation with the State and local governments the capability of dealing on a much more enhanced basis, on a proactive basis, with the problem of child pornography.

The ultimate losers in this fight, if we do not win, is not the Government of the United States; it is the children and the families of this country. Children are at risk. We know that child abuse itself, even by families and parents, is on the increase. This insidious disease, where strangers take advantage of children and profit by it, is a disease that is promoting that kind of child abuse.

So I commend this Congress this piece of legislation. I hope that it passes by unanimous vote. It is something that this country needs today. And I want to say that I hope that it will have the kind of deterrent effect that will put this kind of activity out of the reach of anyone contemplating it, because it is so easy to get into. We need to make sure that those people who even think about it are made aware of the fact that the penalties are too severe to pay for anything that they might reap as a reward. So I commend it.

Mr. SAWYER. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, the children of this Nation are America's most valuable resource. We spend billions to insure that they are educated, well fed, and healthy. I believe we have an absolute duty to insure that these children do not become the unsuspecting victims of lecherous child pornographers.

Literature shows that children involved in pornography can be psychologically scarred and suffer emotional distress for life. They see themselves as objects to be sold rather than people who are important. Some of these children feel dirty and unwanted and become bitter toward adults.

Robbed of normal childhood experiences, such children grow up with grotesque fears. Many become cynical and exploitative of themselves and others. Some end up as criminals, drug addicts, prostitutes, and adolescent parents. A Detroit police psychiatrist stated that children involved in pornography will grow up with no sense of modesty or privacy, no sense of specialness of sex and the human body, and no moral sense.

Even where the child victims are able to respond to psychological help and lead seminormal adult lives, they must live with the constant fear that at anytime, a pornographic picture may surface to shatter their world.

This is intolerable and requires swift enforcement and our strictist penalties. The Child Protection Act of 1983, improves existing law by improving enforcement efforts, closing loopholes, and increasing fines. In 1982, the Supreme Court recognized in Ferber against New York, that the State interest in protecting the children supercedes any right to distribute this trash. H.R. 3635 makes Federal law consistent with the Ferber decision. These sick adults who prey on our children must be severely punished. To achieve this goal, I urge you to support H.R. 3635.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would like to commend the gentleman from New Jersey (Mr. HUGHES) as well as the gentleman from Michigan (Mr. SAWYER) for bringing this bill to the floor. I am particularly pleased by the elimination of the requirement of proving that the production, distribution, or receipt of child pornography was for the purpose of sale. This is not just a matter of whether the instance was one of commercial exploitation. I think it is a valid reason for Congress to act in protection of children from this kind of abuse and conduct, and by further strengthening existing Federal law probibiting the production, distribution, and receipt of child pornography, I think we are not only protecting this country against obscenity and pornography but essentially we are protecting children from this kind of terrible exploitation.

Mr. Speaker, I urge my colleagues to pass this bill.

Mr. SAWYER. Mr. Speaker, I yield 3½ minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, as the ranking Republican member of the Select Committee on Children, Youth, and Families, I want to commend the gentleman from Michigan (Mr. SAWYER), the gentleman from New Jersey (Mr. HUGHES), and their colleagues today for their work on this important legislation. Child pornography is one of the greatest forms of child abuse. It is an insidious element of our society, and we must continue to make strong Federal efforts to eliminate and prosecute its producers.

Earlier this year I introduced H.R. 3322, which is a companion bill to the Senate bill, S. 1469, which passed the Senate. H.R. 3322 is similar to H.R. 3635 except for a few provisions, one of which I would like to point out today.

Portrayals prohibited by H.R. 3635 do not include—and I quote from the bill's language—"simulated conduct if there is no possibility of harm to the minor, taking into account the nature and circumstances of the simulation, and there is redeeming social, literary, educational, scientific, or artistic value."

This language leaves a potential loophole in the law, as far as I am concerned. It basically forces prosecutors to prove that this particular form of pornography is obscene. This goes against one of the bill's main goals: To relieve prosecutors of the difficult burden of proving obscenity. After all, it was the Supreme Court's ruling in New York against Ferber that child pornography is not entitled to first amendment protection, and thus need not be proven obscene, that led to the renewed congressional efforts to eliminate the requirement to prove obscenity.

Some may argue that if it is only simulation, there is no harm to the child or children. But one of the evils of child pornography is that children are permanently recorded as engaging in despicable acts. Simulation is no different in this respect because it still creates the appearance that they engaged in the acts. The children will have to live with that knowledge if these images are out there. We need to protect them from that and also from the psychological damage that may occur to the child.

Now, I realize that to some this is a small loophole in the law, but I also realize that those who would stoop to exploiting children in the production of pornography would be very willing to take advantage of any loophole

they thought might be available to avoid prosecution.

The Senate bill, S. 1469, leaves no such loophole. I, therefore, urge my colleagues who go to conference on this bill to adopt the Senate version of this portion of the bill.

I point this out because I, like the rest of the Members, want to make this law as effective as possible. I, therefore, would urge the support of this legislation. It is a good piece of legislation.

Mr. Speaker, again I congratulate the sponsors, but let us go to conference and block this loophole once and for all.

Mr. HUGHES. Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine (Ms. SNOWE).

Ms. SNOWE. Mr. Speaker, I rise in support of H.R. 3635, the Sexual Exploitation of Children Act, and urge my colleagues to vote in favor of this important bill.

An estimated 1 million children are victims of sexual exploitation each year, and this legislation comes to the aid of these children in several important ways. First, it eliminates the existing requirement that child pornography be "for the purpose of sale or distribution for sale." This expands existing child pornography laws which only address commercial distribution of child pornography to include all distribution and production. H.R. 3635 also eliminates the requirement that obscenity be shown, reflecting a recent Supreme Court ruling that the State's interest in protecting children outweighs a need for first amendment protection of child pornography.

Further, under this legislation, the Protection of Children Against Sexual Exploitation Act will be expanded to cover all minors under 18. Currently, only minors under 16 are protected, leading to significant enforcement problems since the age of the child usually has to be determined from looking at photographs.

Finally, this legislation addresses the substantial need for increased penalties for those who violate the law. The bill increases maximum first-offense fines from $10,000 to $100,000 and fines for subsequent offenses from $15,000 to $200,000. The present overcrowding of the Nation's prisons makes the reliance on stiff penalties all the more critical.

At a time when special interest politics dominate too much of the legislative picture, H.R. 3635 is deserving of special notice. Over the past few months, I have heard continuously from people all over the State of Maine who are concerned with the problem of sexual exploitation of children. The children of this Nation deserve to be vigorously protected from those who would exploit them for profit or prurient gratification, and this important legislation deserves the support of each of us today.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to add my thanks and appreciation to the gentleman from New Jersey (Mr. HUGHES), the chairman of the Subcommittee on Crime, which has produced this legislation, and the gentleman from Michigan (Mr. SAWYER), the ranking Republican member of that subcommittee.

I would like to express first my great support for the concept that is embodied in H.R. 3635, the bill that is before us today. I think it is important for us to realize just how far we are going in a bill such as this in order to try to offset the cancerous, deleterious societal effect of child pornography existing in our country—some might say running rampant.

It is important, I think, for us to stop and realize that, as compared to many other areas of criminal law which are based upon a Federal nexus of some sort—and frequently that Federal nexus is interstate commerce—we are in H.R. 3635 saying that we go beyond that. We are saying, "You don't have to prove that it is commercial. You don't have to prove in order to get a conviction that the production, distribution, or receipt of child pornography was for the purpose of sale."

I support that concept, and I think it is appropriate. But coming from me, that may sound a little unusual because indeed it is basically the commerce clause upon which the predecessor of this legislation was premised. That is the reason why we in the current law have to prove that there was a purpose of sale involved—the interstate commerce Federal nexus.

Beyond that, H.R. 3635 would allow the Justice Department to obtain court-supervised wiretaps to provide evidence of the violation of these laws. Up to this point in time it has not been very generally recognized that wiretaps might be all that valuable a tool in dealing with this particular sickness in our society, but indeed it may be a valuable tool. Indeed, it may be very helpful. It is much more likely that electronic surveillance of locations rather than wiretaps of actual telecommunications lines would be helpful in dealing with the investigation of cases under this law.

But that again tells us just how far those who are supporters of this legislation are willing to go in attempting to deal with a cancerous problem in our country.

There are some who would object in other areas of the law to raising the fines as much as has been done in H.R. 3635. A fine of $100,000 for a first offense instead of $10,000 in the existing law seems like a very large jump. I think it is a necessary jump, and I think it is an appropriate jump. But in other areas of law I think many of us would say that is going too far at one time. That is how important it is in the view of many of us who support H.R. 3635.

Mr. Speaker, I urge that the bill be passed by the Members of the House.

● Mr. BIAGGI. Mr. Speaker, I rise in full support of H.R. 3635, the Child Protection Act of 1983 which I consider essential if this Congress is to continue its crusade aimed at cracking down on those vile persons who use children in pornography.

This legislation is a logical and needed extension of congressional concern in this area. As a member of the House Select Education Subcommittee, I conducted investigatory hearings in my home city of New York looking into the industry of child pornography. The findings were shocking—including testimony indicating that children as young as 3 and 4 were being used in pornographic films and books. Then these merchants of smut would sell these vile publications and make enormous profits.

In 1978 I offered an amendment to the Child Abuse Prevention and Treatment Act which expanded the definition of child abuse to include sexual exploitation of children. This amendment which became law helped us to identify victims and provide for some type of treatment.

This legislation has considerably more teeth associated with it and rightly so because it is time that we attacked this problem head on rather than in a piecemeal fashion. H.R. 3635 makes a very important revision in current law that in order to secure conviction that the child pornography in question must be obscene. This would make Federal law consistent with a landmark decision issued last year in my home State of New York which said that a State's interest in protecting children outweighed the need for first amendment protection in the case of child pornography.

From a very practical standpoint—the very idea of merchandising children in pornography for profit should be viewed as a serious crime. Perpetrators should not be allowed to escape punishment on a technicality as to whether the pornography is obscene. Further this legislation would eliminate another legal loophole which has allowed unscrupulous peddlers of child pornography to escape punishment. Current law requires that the distribution of child pornography be for the purpose of sale. H.R. 3635 eliminates this provision. Finally H.R. 3635 would raise the age of children protected

from the current those under 16 to those under 18.

H.R. 3635 also directs its attention to the very important issue of what punishment should be handed down for those who make profits from child pornography. First the bill would increase from $10,000 to $100,000 the fine for a first offense dealing with child pornography and from $15,000 to $200,000 for subsequent offenses. The bill maintains the maximum prison sentence of 15 years. This in my eyes is an important inprovement of current law. As a former police officer for 23 years, I believe that strong penalties are needed not only for punishment for those who commit crimes but also to deter future criminal acts. What deterrent quality is there in a $10,000 or even a $15,000 fine. Chances are the profits from the sale of a movie or book featuring child pornography could cover that fine easily. By increasing the fine ten-fold may send the kind of message out that will slow if not stop the trafficking of child pornography.

Another important feature of this bill is its provision which allows the prosecution of those who reproduce child pornographic material. This as compared to current law which limits prosecution to those who would actually induce children to pose for child pornography. What makes the two crimes indistinguishable? I am pleased to see that H.R. 3635 sees no distinction and would prosecute for both.

H.R. 3635 takes other important steps including authority for Justice Department to go to Federal court to obtain wiretaps in child pornography investigations.

It is vital that Congress take the strong steps that are contained in the legislation before us. It is one thing to express horror and outrage over the use of children in pornography. It is another thing entirely to take the steps necessary to stop it. That is the choice we have before us today. The use of children for pornography and to make profit from it is as heinous a form of child abuse as there is. It must be stopped before it claims another victim.

I urge support for H.R. 3635 and let its provisions serve as new ammunition in our war to stamp out child pornography.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3635, which amends the Protection of Children Against Sexual Exploitation Act passed by the Congress in 1977. This measure the Child Protection Act of 1983, eliminates existing commercial and obscenity requirements for prosecution of persons involved in child pornography, and creates a new offense for reproducing child pornography. As a cosponsor of this important legislation, I believe that the legislation before us strengthens existing law and makes some much-needed changes in addressing the serious problem of child pornography.

The prior 1977 legislation has been found sorely lacking in deterring investigation and prosecuting the sexual exploitation of children. The existing statute addressed only commercial distribution of child pornography and does not prohibit the distribution of it by exchange; thus, only a small portion of the problem was addressed at that time. The prior definition of a minor was established at 16 years of age, whereas H.R. 3635 raises the age of a minor protected under the act to 18.

Other provisions of the legislation include raising the fines that are levied against offenders, and allowing for the issuance of Federal wiretap permits in child pornography investigations. As legislated by H.R. 3635, the fines are increased from $10,000 for a maximum first offense to $100,000. In the case of subsequent offenses, the fines are raised from $15,000 to $200,000. Jail sentences remain in the same, a 10-year maximum for a first offense, and a 2- to 15-year sentence for subsequent offenders.

Mr. Speaker, the bill before us today is vitally needed. The deterrence measures previously enacted have not proven effective in combatting this most heinous crime against our young. But stiffening the penalties and expanding the scope of the act, as parents and concerned individuals, we can hope that these new provisions will prevail and prevent additional exploitation of our most precious national resources. Accordingly, I urge the swift adoption of this bill.●

● Mr. FEIGHAN. Mr. Speaker, I rise today in strong support of H.R. 3635—legislation to revise and strengthen our Nation's laws against child pornography and the sexual exploitation of children. I want to commend the chairman of the Crime Subcommittee—Mr. HUGHES—for the excellent hearings we had during consideration of this legislation. I believe that those hearings have done much to focus attention—both of the public and of Congress—on the important issue of child pornography. I want to commend our distinguished subcommittee chairman, Mr. HUGHES, for the work done by our committee in reporting legislation that will come down hard on those who would abuse and exploit our children, and will help to protect the innocent victims of this insidious and despicable trade.

Child pornography, or "kiddie porn" as it has come to be known, is generally defined as any films, photographs, magazines, books, or motion pictures which depict children in sexually explicit acts. While the abuse of sexually exploited children can take many different forms, in most cases, the child is used as a prostitute or model engaged in actual or simulated sexual acts.

It is extremely difficult to get accurate numbers of children involved because the production, distribution, and sale of child pornography is an extremely secretive business—likened to a cottage industry—making any determination of its full extent nearly impossible. Estimates of numbers of children involved range from the thousands to the hundreds of thousands.

During the hearings held on the problem of child pornography our subcommittee heard testimony that child pornography and child prostitution are highly organized industries that operate nationwide, and that may gross from half-billion to a billion dollars a year. Police have uncovered prodution centers in large cities such as Los Angeles, New York, and Chicago, but the problem is not limited to the big cities alone, as the police have also uncovered child pornography and prostitution operations in many suburban and rural communities. It is very difficult for the police to combat the problem and to protect the children involved because of the fact that the nature of the material allows it to be produced easily in motels and private homes.

Child pornographers have little difficulty in recruiting children. Typically, the victims are runaways who come to the city with little or no money and who are alone and frightened. Adult exploiters pick them up at bus stations, hamburger stands and street corners, and befriend them—offering them money, gifts or drugs in exchange for sexual favors.

Not all exploited children are runaways, however. Frequently, they are children who have been abused at home or come from broken homes, or live with parents who simply do not care about what they are doing. In some cases, the parents are not aware of the child's activities, but sadly, in many cases, parents have sold their own children for these sordid sexual purposes.

While the psychological effects of sexual exploitation on children have not been extensively studied, there is ample evidence that these effects are devastating—including insomnia, depression, antisocial behavior and guilt. Frequently, these children grow up to lead a life of drugs and prostitution. Even more tragically, children who have been sexually abused themselves are extremely likely to abuse their own children. Furthermore, children whose actions have been recorded on videotape or film must live with the knowledge that their participation in pornography will haunt them for the rest of their lives.

As the father of two young children, I urge my colleagues to lend their strong support to this legislation to

protect all our Nation's children from the evils of child pornography.

Thank you, Mr. Speaker.

● Mr. BENNETT. Mr. Speaker, I rise today in support of H.R. 3635. I feel very strongly about the need for this type of legislation which eliminates the commercial limitation and strict obscenity requirement in child pornography cases, increases fines for conviction, and redefines "minor" to include any individual under the age of 18 rather than the present limit of 16 years of age. I cosponsored the original legislation in this area in an effort to strengthen present laws to justly punish those individuals who sexually exploit children and to assist law enforcement officials in putting an end to sexual exploitation of children. I commend my colleague, Hon. EARL HUTTO, who has pushed so hard to get this legislation enacted, and I urge my colleagues to support this legislation to eliminate this sad and tragic situation.●

● Mr. ADDABBO. Mr. Speaker, I am delighted to add my voice to those of my colleagues in support of H.R. 3635, the Child Protection Act, which makes many changes in Federal laws prohibiting production, distribution, and receipt of child pornography.

No other piece of legislation in recent years has received the enthusiastic support of my constituents as has this bill. The people of America want something done to stop those who prey on children. We know that child pornography is big business and that there are many in this land who would abuse youngsters for profit. If legislation cannot halt the crime, it can at least impose tough and meaningful penalties upon those who violate the law. Hopefully, as this bill is implemented across this land and the Government prosecutes those who engage in child pornography the word will spread to those engaged in this dreadful criminal activity that the penalties are too stiff to be worth the financial gain.

What this bill does is eliminate the current requirement that child pornography be proven obscene. We know that in today's world of highly technical court arguments, a pornography film may not necessarily be judged pornographic by a court. Up until now, that has proven to be a satisfactory defense for many charged with this crime against little children. That will no longer be the case.

The bill also raises the age of those protected from those under 16 to those under 18 and it eliminates the requirements that prosecutors must prove the distribution of child pornography be for the purpose of sale.

The bill increases the fine for a first-time offense from $10,000 to $100,000 and for subsequent offenses from $15,000 to $200,000. The maximum 15-year prison sentence remains unchanged.

This is an important step forward in protecting our children and I urge the House to act expeditiously in approving this most needed legislation.●

● Mr. RATCHFORD. Mr. Speaker, it saddens me that there is a need to pass legislation outlawing child pornography. Of all the crimes committed against our society, this is indeed one of the most heinous. Child pornography is an insult to every decent American and our way of life. It is a sickness which we must cure immediately.

Those people who would argue that the first amendment gives them the right to produce, distribute, and receive child pornography are misguided individuals who have my prayers. Our Nation's obligation to protect our children far outweighs any so called right to expose our children to such indecency.

I commend the sponsors of this legislation. By eliminating the requirement that child pornography be proven obscene, this bill destroys a major obstacle in prosecuting child pornography cases. Furthermore, raising fines for first and subsequent offenders will contribute substantially to deterring offenders.

This act sends a clear message to offenders that child pornography is not acceptable and as a nation we will not tolerate this abuse of our children and of our society.●

Mr. WEISS. Mr. Speaker, I rise in opposition to H.R. 3635, the Child Protection Act. I share the concern expressed by many of my colleagues that children must be protected from sexual exploitation. Coercing or inducing a child to participate in a sex act is reprehensible. However, I believe that H.R. 3635 goes beyond protecting children to infringing upon individual's rights to privacy as provided in the fourth amendment of the Bill of Rights.

As drafted, H.R. 3635 would expand the type of activities which could be prosecuted under the Federal Protection of Children Exploitation Act of 1977. Currently, individuals who produce or distribute child pornography for commercial purposes may be prosecuted. H.R. 3635 would include individuals who receive or distribute the material through the U.S. mail or interstate transport and any one who reproduces the material regardless of whether it is a commerical transaction. This broad definition of an offense under this act causes great concern when one recognizes that any alleged offender may under the act be subject to wiretapping. This wiretapping provision lends itself to great potential abuse and the weakening of our commitment to constitutional provisions assured each of our citizens under the Bill of Rights.

Furthermore, greater consideration should have been given to material which would be considered pornographic. "Lewd exhibitionism" is open to interpretation. If it is not simulated conduct, which is the only activity exempted under H.R. 3635, "lewd exhibitionism" not pornographically motivated could be prosecuted. For example, National Geographic has documented tribal rites which involve displays of the genitals which could be considered as "lewd exhibitionism."

Finally, raising the applicable age from 16 and under to 18 and under creates the illogical situation wherein the age of consent for sexual intercourse would be lower than the age for child pornography violations.

I want to reiterate my commitment and concern about protecting children, but this legislation is not the way to provide that protection. No matter how well intended, this is a mischievous bill which will cause more harm than good.

● Mr. WYDEN. Mr. Speaker, I would like to voice my strong support for H.R. 3635, the child pornography bill, which would amend the Protection of Children Against Sexual Exploitation Act of 1977. I believe that something must be done to stop this most heinous of crimes against youth.

We are only now beginning to realize how pervasive child pornography has become. Law enforcement officials estimate that more than 1 million children in this country are victims of sexual exploitation each year. All the incidence of this crime is on the rise. In fact, child pornography has recently become a major source of revenue for organized crime.

I think this horrible practice must be stopped, and I support this legislation which would give our Federal law enforcement officials some effective tools to deal with this problem.

H.R. 3635 would strengthen the current law in four important ways.

First, the bill would strike the language of the current law which requires that a commercial sale take place before prosecution is possible, and provides that all production or distribution of child pornography is a criminal offense.

Second, H.R. 3635 incorporates the recent Supreme Court case, New York against Ferber, wherein the Court ruled that material depicting children engaging in sexually explicit behavior may be punished even though the material might not meet the legal definition of obscenity. Under H.R. 3635, it would not be necessary to prove obscenity; it would be unlawful to produce or distribute any films or photographs—obscene or otherwise—that sexually exploit children.

Third, the bill raises the age of protection under child pornography laws

from all children under age 16 to all of those under age 18.

And fourth, this bill improves enforcement by including child pornography as one of the offenses for which a wiretap may be authorized by Federal courts.

I believe it is our duty, as responsible adults, to pass this much needed legislation to help those in our society who cannot help themselves: our children.

This legislation is too important to the children of this country to ignore. I urge my colleagues in both Houses to support it.●

Mr. SAWYER. Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, H.R. 3635 is a good bill. It is a needed measure to deal effectively with child pornography, and I urge my colleagues to support it.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 3635, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1320

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REFUGEE ASSISTANCE EXTENSION ACT OF 1983

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3729) to amend the Immigration and Nationality Act to extend for 2 years the authorization of appropriations for refugee assistance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Refugee Assistance Extension Act of 1983".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

TWO-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 414(a) (8 U.S.C. 1524(a)) is amended—

(1) by striking out "fiscal year 1983" and inserting in lieu thereof "each of fiscal years 1984 and 1985" each place it appears;

(2) by striking out "412(c)" in paragraph (2) and inserting in lieu thereof "412(c)(1)";

(3) by striking out "(2) and (3)" in paragraph (1) and inserting in lieu thereof "(2) through (5)"; and

(4) by adding at the end the following new paragraphs:

"(4) There are hereby authorized to be appropriated for each of fiscal years 1984 and 1985, $50,000,000 for the purpose of providing targeted assistance project grants under section 412(c)(2).

"(5) There are authorized to be appropriated for each of fiscal years 1984 and 1985 such sums as may be necessary to carry out section 412(f).".

PLACEMENT OF OFFICE OF REFUGEE RESETTLEMENT WITHIN THE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES AND CLARIFYING ROLE OF SECRETARY OF EDUCATION

SEC. 3. (a) The first sentence of section 411(a) (8 U.S.C. 1521(a)) is amended by inserting "the Office of the Secretary in" after "within".

(b)(1) Section 412(a)(9) (8 U.S.C. 1522(a)(9)) is amended by inserting ", the Secretary of Education, the Attorney General," after "The Secretary".

(2) Section 412(d)(1) (8 U.S.C. 1522(d)(1)) is amended by striking out "Director" and inserting in lieu thereof "Secretary of Education".

RECEPTION AND PLACEMENT GRANTS

SEC. 4. (a) Paragraph (1)(A) of section 412(b) (8 U.S.C. 1522(b)) is amended by striking out the fifth and sixth sentences.

(b) Paragraph (6) of such section is amended to read as follows:

"(6) The Comptroller General shall directly conduct an annual financial audit of funds expended under each grant or contract made under paragraph (1) for fiscal year 1984 and for fiscal year 1985.".

(c) Such section is further amended by adding at the end the following new paragraph:

"(7) Each grant or contract with an agency under paragraph (1) shall require the agency—

"(A) to provide quarterly performance and financial status reports to the Federal agency administering paragraph (1);

"(B)(i) to provide, directly or through its local affiliate, notice to the appropriate county or other local welfare office at the time that the agency becomes aware that a refugee is offered employment and to provide notice to the refugee that such notice has been provided, and

"(ii) upon request of such a welfare office to which a refugee has applied for cash assistance, to furnish that office with documentation respecting any cash or other resources provided directly by the agency to the refugee under this subsection;

"(C) to assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area;

"(D) to be legally and financially responsible for meeting the basic needs for food, clothing, and shelter, and for transportation for job interviews and training of each refugee resettled during the ninety-day period beginning on the date the refugee was admitted to the United States; and

"(E) to transmit to the Federal agency administering paragraph (1) an annual report describing—

"(i) the number of refugees placed (by county of placement) and the expenditures made in the year under the grant or contract, including the proportion of such expenditures used for administrative purposes and for provision of services,

"(ii) the proportion of refugees place by the agency in the previous year who are receiving cash or medical assistance described in subsection (e),

"(iii) the efforts made by the agency to monitor placement of the refugees and the activities of local affiliates of the agency,

"(iv) the extent to which the agency has coordinated its activities with local social service providers in a manner which avoids duplication of activities and has provided notices to local welfare offices and the reporting of medical conditions of certain aliens to local health departments in accordance with subparagraphs (B)(i) and (C), and

"(v) such other information as the agency administering paragraph (1) deems to be appropriate in monitoring the effectiveness of agencies in carrying out their functions under such grants and contracts.

The agency administering paragraph (1) shall promptly forward a copy of each annual report transmitted under subparagraph (D) to the Committees on the Judiciary of the House of Representatives and of the Senate.".

(d)(1) Section 412(b)(7) (other than subparagraphs (B)(i), (C), and (D)) of the Immigration and Nationality Act, as added by subsection (c) of this section, shall apply to grants and contracts made or renewed after the end of the thirty-day period beginning on the date of the enactment of this Act.

(2) Section 412(b)(7)(D) of the Immigration and Nationality Act, as added by subsection (c) of this section, shall apply to grants and contracts made or renewed after the end of the six-month period beginning on the date of the enactment of this Act.

TARGETED ASSISTANCE PROJECT GRANTS

SEC. 5. (a) Section 412(c) (8 U.S.C. 1522(c)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(2) by inserting "(1)" after "REFUGEES.—", and

(3) by adding at the end the following new paragraph:

"(2)(A) The Director is authorized to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

"(B) Grants shall be made available under this paragraph—

"(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, and

"(ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 per centum of the amount of the grant award is made available to the county or other local entity.".

(b) Section 412(e)(2)(A) (8 U.S.C. 1522(e)(2)(A)) is amended—

(1) by striking out "(c)(1)" in clause (i) and inserting in lieu thereof "(c)(1)(A)", and

(2) by inserting "or targeted assistance" in clause (ii) after "social service".

CASH AND MEDICAL ASSISTANCE

SEC. 6. (a) Section 412(e) (8 U.S.C. 1522(e)) is amended—

(1) by amending the last sentence of paragraph (2)(A) to read as follows: "In the case of a refugee who refuses an offer of employment which has been determined to be appropriate either by the agency responsible for the initial resettlement of the refugee under subsection (b) or by the appropriate State or local employment service, who refuses to go to a job interview which has been arranged through such agency or service, or who refuses to participate in a social service or targeted assistance program referred to in clause (ii) which such agency or service determines to be available and appropriate, cash assistance to the refugee shall be terminated (after opportunity for an administrative hearing) for a period of three months (for the first such refusal) or for a period of six months (for any subsequent refusal).";

(2) by amending paragraph (5) to read as follows:

"(5) The Director shall, to the extent of available appropriations, arrange for the provision of medical assistance during the one-year period after their entry, and for purposes of title XIX of the Social Security Act the Director may provide that such individuals may be considered to be individuals receiving assistance under this title IV of such Act."; and

(3) by inserting "(other than under paragraph (5))" in paragraph (6) after "under this subsection".

(b) The amendments made by subsection (a) shall apply to aliens entering the United States as refugees on or after the first day of the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

(c) Section 412(e) (8 U.S.C. 1522(e)) is amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall develop and implement alternative projects for refugees, who have been in the United States less than eighteen months, under which refugees are provided interim support, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

"(B) Refugees covered under such alternative projects shall be precluded from receiving cash assistance under the other provisions of this subsection and under part A of title IV of the Social Security Act.

"(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than March 31, 1985, on the results of these projects and on recommendations respecting changes in the refugee assistance program under this section to take into account such results.

"(D) To the extent that use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraphs (1) and (2) of section 414(a) of this chapter and under part A of title IV of the Social Security Act may be used for the purpose of implementing and evaluating alternative projects under this paragraph.".

PROHIBITING USE OF BLOCK OR CONSOLIDATED GRANTS

SEC. 7. Section 412(a)(4) (8 U.S.C. 1522(a)(4)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(2) by inserting "(A)" after "(4)", and

(3) by adding at the end the following new subparagraph:

"(B) No funds may be made available under this chapter (other than under subsection (b)(1)) to States or political subdivisions in the form of block grants, per capita grants, or similar consolidated grants or contracts. Such funds shall be made available under separate grants or contracts for medical screening and initial medical treatment under subsection (b)(5), for services for refugees under subsection (c)(1), for targeted assistance project grants under subsection (c)(2), and for assistance for refugee children under subsection (d)(2). The Director may not delegate to a State or political subdivision his authority to review or approve grants or contracts under this chapter or the terms under which such grants or contracts are made.".

ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS

SEC. 8. Section 412 (8 U.S.C. 1522) is further amended by adding at the end the following new subsection:

"(f)(1) ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.—The Attorney General shall pay compensation to States and to counties for costs incurred by the States and countries to confine in prisons, during the fiscal year for which such payment is made, nationals of Cuba who—

"(A) were allowed by the Attorney General to enter the United States in 1980,

"(B) after such entry committed any violation of State or county law for which a term of imprisonment was imposed, and

"(C) at the time of such entry and such violation were not aliens lawfully admitted to the United States—

"(i) for permanent residence, or

"(ii) under the terms of an immigrant visa or a nonimmigrant visa issued,

under this Act.

"(2) For a State or county to be eligible to receive compensation under this subsection, the chief executive officer of such State or county shall submit to the Attorney General, in accordance with rules to be issued by the Attorney General, an application containing—

"(A) the number and names of the Cuban nationals with respect to whom such State or county is entitled to such compensation, and

"(B) such other information as the Attorney General may require.

"(3) For a fiscal year the Attorney General shall pay the costs described in paragraph (1) to each State and county determined by the Attorney General to be eligible under paragraph (2), except that if the amounts appropriated for such fiscal year to carry out this subsection are insufficient to cover all such payments, each of such payments shall be ratably reduced so that the total of such payments equals the amounts so appropriated.

"(4) The authority of the Attorney General to pay compensation under this subsection shall be effective for any fiscal year only to the extent and in such amounts as may be provided in advance in appropriation Act.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. MAZZOLI) will be recognized for 20 minutes and the gentleman from California (Mr. LUNGREN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. MAZZOLI. Mr. Speaker, this is a noncontroversial bill and it is sponsored by every member of the Subcommittee on Immigration, Refugees, and International Law, which I have the privilege to chair. It was passed unanimously by the full Judiciary Committee and I hope my colleagues will also support it.

The Refugee Act of 1980, as originally enacted, contained a 3-year authorization of appropriations. When that authorization was about to expire last year Congress enacted the Refugee Assistance Amendments of 1982. That legislation made some programmatic changes in the 1980 act in an attempt to improve this country's refugee program, particularly in the area of domestic resettlement.

The 1982 legislation contained only a 1-year reauthorization because the Subcommittee on Immigration did not have adequate time, in the midst of its consideration of the Immigration Reform and Control Act, to explore the Refugee Act as fully as we would have liked.

This year the subcommittee had more time, and it conducted 3 days of extensive hearings in June. We spent 1 full day analyzing the legal definition of the term "refugee" under both international and domestic law, and we concluded that the current definition as contained in the Refugee Act, is workable, sensible, and humane. Accordingly, this legislation does not alter that definition. Likewise, the subcommittee felt that the present consultative process for determining refugee admissions is satisfactory.

During our hearings certain themes emerged from the testimony of the witnesses and the questions propounded by the Members. I have already spoken of two of those themes: That the refugee definition did not need to be altered and that no change in the refugee-admission process was necessary. A third theme was that auditing of and financial accountability for the millions of taxpayer dollars that go

into the refugee program was completely inadequate.

A final theme was that the administration's proposal to consolidate specific refugee programs into a block grant was not consistent with the expressed views of Congress and was not in the best interests of the program.

Like last year's legislation, the bill before us today will help refugees assimilate into the American mainstream quickly, effectively, and without unnecessary reliance on the welfare system.

When the subcommittee first became concerned about welfare dependency among refugees 3 years ago, the dependency rate ranged between 70 and 80 percent, an unacceptably high figure. This was bad for our country and, more importantly, bad for the refugees themselves.

I am pleased to report the rate has been reduced and is much closer to 50 percent. But that is still not good enough. More improvement is needed. With that objective in mind, we developed the provisions of H.R. 3729, which I will now briefly outline.

The bill reauthorizes the refugee program for an additional 2 years, through fiscal year 1985. It provides for such sums as are necessary for cash, medical, and educational assistance for refugees.

The measure provides specific authorizations for three other programs: $100 million for refugee social service programs, particularly English language and job training; $14 million to reimburse local governments for programs of health screening and initial treatment for arriving refugees; and $50 million for targeted assistance to communities that are heavily impacted by refugees.

The legislation before the House today makes two changes in the administration of the refugee program. First, the Office of Refugee Resettlement (ORR), which administers the domestic resettlement program, is to be moved from the Social Security Administration, where it has been buried for the past 2 years, to the Office of the Secretary of Health and Human Services (HHS), where it will receive more attention. ORR is too important an agency to be stuck in the bowels of the Social Security Administration. Further, ORR has no logical or practical connection with social security.

Second, the bill tightens up the procedures for auditing the funds spent on domestic resettlement, especially grants provided to voluntary agencies under their cooperative agreements with the State Department. While the committee does not relish creating paperwork obligations, it feels these audits and additional reports are necessary to insure the programs are run efficiently and that taxpayer dollars are spent wisely and in a cost-effective manner.

The bill also creats a targeted assistance program. Last year, the committee debated this issue, and, at that time, decided to study targeted aid further.

The committee has now concluded that a carefully controlled targeted assistance program is necessary, and such a program is authorized in the bill before us today. The funds are to be distributed to counties that have been heavily impacted due to the influx of refugees.

Next, the committee, in an attempt to further reduce welfare dependency among newly arrived refugees, has proposed changes in the cash and medical assistance programs now on the books to help refugees.

First, the committee agreed to make newly arrived refugees presumptively eligible for medical assistance for 1 year after their arrival in the United States. This provision is designed to encourage refugees to take jobs immediately upon arrival—even if such jobs are entry-level jobs which offer no health care or other fringe benefits.

The subcommittee was told repeatedly that many refugees are reluctant to take entry-level jobs because many of these jobs do not offer medical coverage, at least during the initial period of employment. These refugees understand the high costs of health care in our country. Rather than take a job with no medical coverage, they refuse to take such jobs and, instead, go onto welfare rolls which entitle them to medicaid. Others, with sick children or pregnant wives quit entry level jobs to obtain medical coverage.

Second, the bill bars refugees from receiving cash assistance whenever they refuse to take a job or go to a job interview that has been arranged by a voluntary agency or local employment service. The first refusal of a job or a job interview will carry a 3-month ban, the second refusal a 6-month ban. This is strong medicine, but the subcommittee has heard from numerous witnesses who told us that it is important to emphasize to refugees—who have been influenced by the welfare mentality—that getting a job quickly is essential and they will be penalized if they do not make a good-faith effort to obtain employment.

Third, the bill requires the Office of Refugee Resettlement to develop, implement, and evaluate alternatives to the present welfare system. These projects, which we will monitor closely, will supply us with the information necessary for determining whether resettlement efforts that do not rely on welfare mechanisms can be effectively implemented nationwide. A full report on these projects, complete with recommendations, will be transmitted to Congress by March 31, 1985.

The final provision of the bill prohibits the use of block grants as a means of funding domestic resettlement activities. The administration, in the absence of specific authorization to do so, and despite the claims of some witnesses that a block grant program might not withstand a legal challenge, has proposed changing the present categorical refugee programs to a block grant.

Mr. Speaker, I would like to make a few comments on two amendments adopted by the full committee. One amendment would require the Attorney General, subject to appropriations provided in advance, to reimburse State and local governments for costs they will incur in incarcerating certain Cubans who arrived in the United States in 1980 and who have been or will be imprisoned for violating State or county criminal law. Although the vast majority of these 1980 Cuban arrivals—the so-called Marielitos—have proven themselves to be fine, law-abiding people, a small number of them were misfits and criminals in their home country and have continued to engage in illegal activity after entering the United States. The committee felt it only fair that the Federal Government help the States shoulder the financial burdens incident to their imprisonment in this country.

The second amendment would require the voluntary resettlement agencies to be legally and financially responsible for providing all refugees with subsistence level food, clothing, and shelter for 90 days after the refugees' arrival. This provision is designed to give legal force to what in the past has been only a moral commitment. We expect that regulations will be issued identifying more specifically their responsibilities under this amendment. We also expect to be consulted during this process.

Mr. Speaker, this is a good bill. It is simply a further attempt to insure that those refugees who are admitted are resettled in the most efficient and cost-effective way possible.

Mr. Speaker, this bill is the product of the hard work of my subcommittee and the full Judiciary Committee.

It is the culmination of numerous days of hearings, consultations, and other oversight activities on the part of my subcommittee members who worked diligently in producing it.

As a result of this comprehensive, bipartisan effort, the bill was unanimously approved by the full Judiciary Committee and I urge the similar support of my colleagues here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the chairman knows of my interest and the interest of many Members in the Congress to upgrade our refugee and, indeed, our immigrant programs to provide to newly ar-

rived people to our shores an understanding of our Government, our economic system, our monetary system, our language, our history, and to provide greater opportunities for employment.

In the last Congress, there was included in what became Public Law 97-363 an amendment that I offered and that the gentleman from Kentucky accepted, providing for a study of refugee centers that would provide these kinds of services. That study, of course, was received in due time in September of this year and states, in part:

* * * that the Office of Refugee Resettlement considers that it may be advisable to make reception center approaches a more clearly defined and adequately supported element in the broader repertoire of refugee resettlement efforts in the United States. ORR is therefore considering plans to provide support for limited demonstrated efforts involving vaious reception center models.

Now, section 412(b)(7) of the bill under consideration provides:

The Secretary shall develop and implement alternative projects for refugees, who have been in the United States less than 18 months, under which refugees are provided interim support, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

I wonder if it is the gentleman's understanding that this section makes it possible to implement the type of refugee processing centers on a demonstration basis that are described in the ORR study and that I am particularly interested in.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for his statement.

Let me first salute the gentleman, because he did bring this to our attention last year and it did become the underlying authority for the report that was issued to which the gentleman has alluded.

The gentleman from Kentucky can tell the gentleman from Illinois that definitely the kind of program which ORR has analyzed and discussed could become an element of a demonstration project under this bill. I believe anything like the gentleman suggested would be available under the amendment which was adopted in the full committee.

Mr. PORTER. Mr. Speaker, if the gentleman will yield further, I wonder if the gentleman could describe how this might affect immigration programs? Would there be enough authority involved here to use this on a broader basis than just refugee programs?

□ 1330

Mr. MAZZOLI. The gentleman from Kentucky would think not.

It would seem to me this should be limited to refugees, and not immigrants because immigrants, of course, come in through a different channel, with a generally different ability, a generally different sponsorship arrangement, generally different work background, and are not really in need of the kind of initial settlement support systems which refugees are definitely in need of.

Mr. PORTER. If the gentleman will yield farther, I might say that it seems to me that while the gentleman from Kentucky is correct, that most often refugees come in with greater needs than immigrants, that we experience in both programs the same kinds of problems of putting people into our society without an adequate understanding of all of the background of Government, economy, history, and language that we really need to have people well integrated into our society. I would hope that we could ultimately broaden the authority here to provide the same kinds of projects on a demonstration basis for both refugees and immigrants.

Mr. MAZZOLI. As the gentleman knows, there is a major initiative for reforming and remodeling, revamping, upgrading, and modernizing the Immigration Nationality Act which has gotten lost somewhere around here. The gentleman from Kentucky has been searching for it for the last several months.

Mr. PORTER. I thank the gentleman very much.

Mr. MAZZOLI. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 3729, the Refugee Assistance Extension Act. Passage of this measure is of critical importance. It would extend for 2 years the authorization of appropriations for refugee assistance provided pursuant to the Refugee Act of 1980. The current law provides crucial Federal financial support for special education and social service assistance to refugees brought into this country as a direct result of Federal policy. This law should clearly be extended.

In addition to reauthorizing the Refugee Act, H.R. 3729 contains a provision to prohibit the block granting of the refugee program. Block granting of this program would present the State and local governments with an unconscionable choice between assuring that basic food, shelter, and health care requirements of a significant number of newly arrived refugees are met and that adequate services are provided to enable all refugees to be rapidly assimilated with as little dependency on public assistance as possible. The Judiciary's Subcommittee on Immigration is on record as solidly against the block granting of the refugee program and so, too, is the full Judiciary Committee.

We must remember that the decision to admit refugees is a Federal decision which carries with it the responsibility for Federal financial support. Block granting or disentitlement is not cost saving, it is merely cost shifting from the Federal Government where it belongs—to the State and local governments, which are already suffering under reduced capacity because of cutbacks in domestic programs. Many States have State laws or constitutions which prohibit discrimination among classes of individuals who reside within State borders. Federal disentitlement would simply be an incentive for secondary migration to such States. We have seen this before with cutoff of Federal funds. When the administration cut the cash assistance period of noncategorically eligible refugees from 36 to 18 months, thousands of refugees fled to the States that have State general assistance provisions. This is one of the reasons why targeted assistance is so important to the States.

In this bill, steps have been taken to encourage refugee self-sufficiency. Under current refugee law, cash and medical assistance are terminated for refugees refusing an appropriate offer of employment. Thus, sanctions already exist against those refugees who refuse bona fide job offers. That would be continued. In addition, the bill before us today sets up pilot projects designed to encourage self-sufficiency. The Refugee Office must report back to Congress by March 31, 1985, on the results of these projects and on recommendations regarding changes in the refugee assistance program to take into account the results of these pilot projects.

I believe this bill is an improvement of the current law. It will give us data upon which to base future changes. I encourage all of my colleagues to vote for the measure.

Mr. MAZZOLI. Mr. Speaker, I reserve the balance of my time.

Mr. LUNGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I welcome this opportunity to join with my colleagues on both sides of the aisle in urging favorable consideration, and therefore, House action on H.R. 3729, the Refugee Assistance Extension Act of 1983.

This legislation truly does attempt to address a persistent problem that has characterized U.S. refugee resettlement efforts in recent years, and that is the problem of unacceptable high levels of welfare dependency.

My own State of California, the destination of over one-third of all Indochinese refugees, unfortunately expe-

riences an 80 to 84 percent dependency rate among those refugees in the United States 3 years or less. This astonishing record of turning survivors imbued with the work ethic into persons seemingly totally dependent on Federal assistance programs must be changed, both in the interest of the refugees themselves and the American taxpayer.

Eugene Douglas, U.S. Coordinator for Refugee Affairs, described the problem facing us thusly:

In the absence of a broadly accepted revitalized sense of sponsorship, the refugees are moving more and more into the orbit of entitlement programs under state management. To us, this represents a regression in the traditional idea of refugee sponsorship which is unaccepted to this administration, and to most of the American people as well.

We are committed to returning the principal responsibility for resettlement of refugees to the private sector, albeit with adequate Federal assistance in the early stages.

H.R. 3729, by placing greater reliance on the private sector, hopefully will break the nexus between refugee assistance and welfare.

During our full committee markup, the Judiciary Committee adopted an amendment I offered specifying that grants and contracts entered into or renewed after a 6-month grace period shall require the resettlement agencies to be responsible for meeting "the basic needs for food, clothing, and shelter, and for transportation for job interviews and training" for the first 90 days refugees are in the United States.

The amendment anticipates an adjustment in the level of reception and placement grants—grants that help underwrite resettlement activities.

Mr. Speaker, our experience in recent years clearly demonstrates that public assistance does not work as an effective machanism for providing temporary transitional assistance to refugees, but rather it initiates a dependency cycle. I believe it is time to take an important first step toward returning the responsibility for refugee resettlement to the private sector.

We came to this point, Mr. Speaker, not by intention. As a matter of fact, the reason that we have this nexus between the refugees and the welfare system is a conscious decision on our part in the past not to duplicate the already existing systems for providing such assistance as needed by the refugees.

We made the decision that we would not duplicate those efforts with the duplication of expenses. Unfortunately, what occurred is that when the refugees reached this country with all good hopes and intentions of truly becoming fully participating members of this society, the very first thing they are shown in a major way is the welfare office. They are taken there because that is the mechanism by which they receive the assistance to which they are entitled. Of course, once they are there, the social workers sincerely believe it is their obligation to inform them of the panoply of welfare assistance that they might receive.

What we have is people who have a very strong work ethic who have survived, despite all odds, coming into this country with a firm intention to become fully participating members, being told in essence by both word and deed that the way that you become a truly participating member in this society is to attach yourself to the welfare system and never let go.

It was not intended, but that is the result. This is one thing that we are trying to do, to make sure that that does not continue in the future.

Mr. Speaker, another committee amendment offered by Congressman FISH provides statutory authority for pilot projects designed to operate as alternatives to welfare for refugees who have been in the country less than 18 months. A range of innovative suggestions for encouraging refugee self-sufficiency can be tested under the terms of this provision. This legislation includes a number of other changes in current law. No. 1, the Office of Refugee Resettlement (ORR) is placed within the Office of the Secretary of Health and Human Services in response to the concern that ORR presently is buried in the Social Security Administration.

This change underscores the importance this Congress attaches to the refugee resettlement efforts.

This is one area where there is dispute by some, but I would suggest that both Republicans and Democrats on the subcommittee and the full committee understood the importance of trying to make sure that that office receives some primacy, so we can make some of the changes that we think are necessary to break this welfare cycle.

Second, the legislation confers statutory authority on the Secretary of Education to make grants and enter into contracts for special educational services to refugee children. The present arrangement with the Secretary of Education, pursuant to an interagency agreement, exercising authority conferred by statute on the Director of the Office of Refugee Resettlement, unnecessarily delays the direction of funds.

This is one change that was suggested to us by a number of local educational entities around the country who have to deal with the hands-on training of these children, and I think it is a good one.

Third, the bill added greater specificity to the requirement of audits of resettlement-related grants and contracts by stating that the Comptroller General "shall directly conduct an annual financial audit."

Fourth, new reporting requirements have been imposed on agencies involved in resettlement. Both the House and Senate Judiciary Committees will receive copies of annual reports providing details on refugee placements, expenditures, and proportions of refugees receiving cash or medical assistance.

We felt that in this situation, this is not unnecessary bureaucracy or paperwork. This is to help us in our responsibilities of oversight to make sure we are not wasting our money on the refugee programs.

Fifth, the legislation authorizes the Director of the Office of Refugee Resettlement to make targeted assistance projects grants to facilitate refugee employment and self-sufficiency.

There is a belief that in some areas that are impacted more heavily than others that such targeted assistance will do more than just generally dispensed additional dollars would do and in fact allow us to work with the particular problems we find that occur in those areas that have most been impacted by refugee resettlement.

Those areas are rather few in number in this country, and nonetheless, they get the greatest impact in tremendous percentage of numbers of all the refugee flow into this country.

Sixth, the bill prohibits the use of block grants. Although I supported initially the administration's efforts to move toward block grants, I must confess that the recently proposed consolidation of refugee cash and medical assistance, social services, target assistance, and education impact assistance into a single grant award does not appear justified on the basis of information currently available.

I feel that we gave the administration ample opportunity to provide us with the information in that regard, and we did not receive the information necessary to persuade a sufficient number of Members on the subcommittee and committee. It is something I think we ought to look into in the future. It is something, however, that the committee feels rather strongly about.

□ 1340

Seventh, a committee amendment offered by the gentleman from Florida, Mr. MCCOLLUM, authorizes the Attorney General to compensate States and counties for the incarceration of Cubans who came to the United States in the Mariel boatlift. The provision focuses on a very specific, limited group of people who arrived under extraordinary circumstances. The amendment recognizes the unfairness implicit in making local governments take responsibility for the Federal Government's failure to conduct appropriate screening.

If the Members would have the opportunity to discuss this subject with a number of jurisdictions around the

country, they would discover that within the Mariel boatlift were a number of people who were already convicted criminals in Cuba, who were given an option of having an extension on their time served in Cuban prisons or coming to the United States. They made the rational judgment that they would come to the United States. Then we became subject to their criminal activity.

It seems to me that since the President of the United States—at that time Jimmy Carter—said that we open our arms and our hearts to all of these people, the Federal Government in this instance might open its pocketbook a little bit to assist those local jurisdictions in a very much federally directed problem that exists in those particular jurisdictions.

This legislation is the product of 3 days of hearings by the Immigration Subcommittee, investigative site visits by the gentleman from Kentucky, Chairman MAZZOLI and staff, to a number of cities, and detailed discussions of our resettlement problems. All members of our subcommittee joined the chairman as cosponsors of this bill, a bill representing the work product of our entire subcommittee.

The gentleman from Florida (Mr. MCCOLLUM), as the gentleman from New York (Mr. FISH) already noted, contributed important amendments in the full committee.

I urge my colleagues to pass this legislation and give us the tools to make needed improvements in refugee resettlement.

In a prior year I took the floor to argue against more than a 1-year extension because we had not had the oversight opportunity. We have had that opportunity this year. We have made some of the changes that we think are necessary and, Mr. Speaker, I would therefore ask that my colleagues join us in a bipartisan vote of support for this bill.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I want to thank the gentleman very much for yielding and thank him very much for his constant help and support as the ranking member of our subcommittee. The gentleman has shown many, many times his willingness to be at long, tough meetings and to try to work out all of the details of very intensely complicated and highly controversial legislation.

I just want to thank the gentleman for that degree of help to the subcommittee and to the committee.

Mr. LUNGREN. I thank the chairman for his remarks. I do not want anyone to believe those kind remarks indicate that the chairman gave me everything I wanted, or in all cases rolls over. He does not. But he is very friendly about disagreements and I appreciate that.

Mr. Speaker, I yield 4 minutes to the distinguished ranking minority member of the full committee, the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I am pleased to speak in support of H.R. 3729, a bill that extends for 2 additional years the funding authorization for the domestic resettlement of refugees.

American acceptance of refugees promotes important humanitarian and foreign policy goals. The United States has saved the lives and futures of countless thousands, promoted the stability of a number of our allies, and set a high standard for the rest of the world. The people who have come to the United States as refugees, moreover, have made an inordinate contribution to our society. Our historic experience gives me confidence that the United States will continue to display compassion toward the persecuted of other lands.

Refugee resettlement efforts in recent years, however, have been plaqued by unacceptabily high levels of welfare dependency. Last year Congress, in passing the Refugee Assistance Amendments of 1982, took some important steps to address our resettlement problems. A clear statement of congressional intent in the 1982 reauthorization emphasized job placement as soon as possible after a refugee's arrival in the United States. That bill required voluntary agencies and welfare offices to share certain information critical to refugee self-sufficiency. We strengthened the provision of the Refugee Act that conditions the availability of cash assistance to employable refugees on registration with an appropriate employment agency or service. The change in the law eliminated the exception that had permitted a refugee to obtain cash assistance without registering during a 60-day period after entry. Another section of the 1982 legislation emphasized the importance of initial placement decisions. Resettlement policies, under the mandate in that bill, must avoid unnecessary placements in highly impacted areas.

This year, I am pleased to note, the Judiciary Committee has taken new initiatives to discourage welfare dependency and encourage self-sufficiency. We have expanded and clarified the provision of last year's reauthorization bill that terminates cash assistance if a refugee an appropriate employment offer or refuses to participate in an appropriate social service program.

H.R. 3729 also provides for the Director of the Office of Refugee Resettlement to arrange, to the extent of available appropriations, for medical coverage during a refugee's first year in the United States. The separation of medical assistance from cash assistance is designated to avoid introducing refugees to our elaborate welfare system.

During our full committee markup, I offereed an amendment—which the committee adopted—to provide the Congress with the critical information it needs to implement alternatives to welfare for meeting the transitional needs of refugees. The Secretary of Health and Human Services, under the terms of my amendment, will develop and implement alternative projects for refugees. The amendment imposes a March 31, 1985, deadline for submission of a report to Congress "on the results of these projects and on recommendations respecting changes in the refugee assistance program" to allow an opportunity to take appropriate action when we consider a refugee reauthorization bill in the 99th Congress. My hope and expectation is that when a range of alternatives to welfare is evaluated, we will have the essential information to make critically needed changes in our resettlement program.

H.R. 3729 also includes an amendment offered by Mr. MCCOLLUM of Florida that authorizes compensation to states and counties for incarceration-related expenses of Cubans allowed by the Attorney General to enter in 1980. That year the United States confronted an unprecedented, sudden, mass migration from Mariel Harbor, Cuba: 125,000 people reached our shores without having undergone the screening and processing outside this country that our law requires for both immigrants and refugees. Although most of the Mariel Migrants were law-abiding people, others were inmates of Cuban prisons who had been encouraged or forced by Castro to leave Cuba. Some States and counties have born a heavy financial burden for the confinement in prisons of Mariel Cubans convicted of violations of State and country laws committed after entry.

This legislation reflects the thoughtful work of the gentleman from Kentucky, Mr. MAZZOLI, chairman of the Subcommittee on Immigration, Refugees, and International Law, and the gentleman from California Mr. LUNGREN, the subcommittee's ranking minority member. Chairman RODINO, a leader in refugee matters for many years, presided during our full Committee markup.

I urge my colleagues to support H.R. 3729 because it will permit the United States to respond—more appropriately than in the past—to the needs of refugees in this country. The bill, in my judgment, will reduce the financial burden of refugee restettlement and help refugees function independently and productively in American communities.

Mr. MAZZOLI. Mr. Speaker, I yield 3 minutes to the distinguished chairman of our committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, this indeed is a piece of legislation that is the result of a bipartisan effort. Since we have been giving out accolades, I should mention that these accolades are well deserved by the chairman of the subcommittee, the gentleman from Kentucky (Mr. MAZZOLI), and the ranking member, the gentleman from California (Mr. LUNGREN).

I would like to also point out the distinguished and diligent efforts of the ranking member of the full committee, the gentleman from New York (Mr. FISH) in behalf of refugees.

I think had it not been for their dedicated efforts in trying to work out a bipartisan compromise we would not have come to the floor with noncontroversial legislation on such a complicated and emotional subject.

Mr. Speaker, the bill presently before us, H.R. 3729, which received the bipartisan support of the Judiciary Committee, has two main purposes.

First, and foremost, it continues through fiscal years 1984 and 1985 the authority to fund the domestic resettlement of refugees. The funds authorized by this bill will be spent on various refugee resettlement activities. The vast majority of the funds will be expended on reimbursing State and local governments for the costs they will incur in providing cash and medical assistance to needy refugees for their first 3 years in this country. It will fund social service products such as English language and job training. It will provide up to $50 million in targeted assistance, or, if you will, impact aid, to localities heavily impacted by refugee populations. And it will provide the funds necessary to provide health screening and initial medical treatment to the refugee population to insure both that refugee medical problems are diagnosed and treated early and that the public health is not compromised by refugee admissions.

The second fundamental purpose of this legislation is to fine tune the Refugee Act of 1980. That legislation has proven to be a fair and workable mechanism for the selection, admission, and resettlement of refugees. However, as in the case of virtually any piece of legislation, changing circumstances and real-world experiences have pointed to the need for some changes. Most of the changes contemplated by the bill are directed toward reducing the refugee welfare dependency rates.

For example, the bill would require refugees to go to properly authorized job interviews. Other changes are designed to streamline the administration of the program.

My State ranks high among the most heavily impacted refugee States with a total of 20,000 refugees and recent arrivals numbering about 1,000 refugees. I believe the sums included in this bill are minimal when compared with the assets these refugees bring to this country and the contribution they are making to American society.

Mr. Speaker, let me point out that this legislation deals only with the domestic aspects of our refugee program. It does not redefine the term "refugee" or alter the manner in which refugees are selected. The committee did study those issues, but decided that no changes in those areas could be justified at this time.

Finally, I would point out that the National Governors' Association had indicated its strong support for the bill as well as, the National Conference of State Legislatures.

I urge my colleagues support of H.R. 3729.

Mr. LUNGREN. Mr. Speaker, I yield myself such time as I may consume.

I would like to comment that I appreciate the Chairman's kind remarks and agree with them, that this is the type of bill that ought to be on the Suspension Calendar, noncontroversial on a tough issue. I hope that we will continue with that understanding the balance of the week.

Mr. Speaker, I yield 4 minutes to the distinguished member of the committee, the gentleman from Florida (Mr. MCCOLLUM) who has done invaluable work on this bill and in the entire area of immigration.

Mr. MCCOLLUM. I thank the gentleman for yielding and I concur in the statements that have been made by those who have spoken before me from our subcommittee and our full committee. I compliment the gentleman from Kentucky (Mr. MAZZOLI) and the gentleman from California (Mr. LUNGREN) in particular for outlining for the Members today the key elements of this bill and the importance of passing it as a noncontroversial item.

□ 1350

I cannot help but echo the concerns that come from my area of the country over the enormous numbers of people who come into this country legally as well as illegally. Yet I realize the responsibility for accepting and handling a certain number of true refugees from around the world. We have reduced those numbers substantially in the last few years. This bill is an effort in part to get a large number of those folks we have accepted as refugees off the welfare rolls and into productive labor in our country as soon as practicable.

I, as one Member, do not believe we have gone quite as far as we could have gone. That is part of the compromise that came out of the committee. There are some of us who would like to see that area revisited, like to see the Volags given more duties and responsibilities earlier on and not provided welfare to refugees while Volags try to get them into the job market. We hope at some point in the future we will be able to pass significant changes in the law that would allow this to happen.

There is one portion of the bill the gentleman from California alluded to, in the amendment portion, that was adopted in the full committee that I do want to talk about for a minute or so, though.

Many of the Members are aware of the fact that in the last few weeks we have raised before this Congress the issue of the several thousand Cuban Marielito criminals who are in our prisons today from the Mariel boatlift and the fact that this Member and a majority of those in the House sent a letter to the President urging him to send those Marielitos in the Federal penitentiary who are criminals, and who never should have been allowed into this country in the first place in that 1980 boatlift, back to Cuba along with the Grenadian Cubans.

So far the administration has not done this, but there has been a considerable concern expressed on our part and there has been a lot of appreciation on the part of officials down there at the White House.

Our hopes are still high that this will be accomplished whether with the Grenadain Cubans or separately because that criminal element that is here from that boatlift, addressed in part by the amendment in this bill, should not be allowed to stay here, should not be allowed to come out upon our society as they have been doing gradually over the past few years and may even be doing in lump sum by some court order one of these days.

We have in Atlanta today at least 1,000, by last count 1,080 of these criminals. We have in our jails around the country, local jails, State institutions, somewhere near 2,000 more.

The ones in Atlanta, a good portion of those committed crimes in Cuba and they were screened out when they first landed here. But many, many other Cuban Marielitos who were criminal elements from Cuba in the first place and were shipped out unwanted by Castro in that boatlift have gone out into our society and they have committed crimes here. It is these who have committed crimes who are languishing in our State and local prisons today costing the taxpayers not just simply the threats of actual crime in our country but dollars that it costs to pay for their incarceration in the various States.

This boatlift should not have happened in the first place. There is no question that the past administration erred in the handling of this matter in allowing those criminals and others to land in that massive way.

But now that they are here it is a Federal responsibility. In this legislation there is the language that the gentleman from California alluded to which we adopted in full committee that would provide a reasonable sum to reimburse States and local governments for the cost of the incarceration of these prisoners from the Cuban Mariel boatlift who are in their prisons today.

They are costing an average, we estimate, of up to $10,000 or so per prisoner per year to house those Marielitos in the State and local prisons.

That is costing each State, each local government unit, each group of taxpayers. It is disproportionate. There are now over 300 of them housed in the Miami, Dade County area alone. Several of them are incarcerated in large numbers in groups in other States like New Jersey, New York, and Texas and so on, adding up to that roughly 2,000 Cuban criminals in our prisons—3,000 altogether if you count the 1,080 in the Atlanta Federal Penitentiary.

While I believe we ought to get them out of the country as quickly as possible, when they are excludable as many of the hardened Federal penitentiary prisoners are, who have received final orders of exclusion, in the meantime the Federal Government should reimburse State and local governments for the costs incurred in housing them.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. McCOLLUM) has expired.

Mr. LUNGREN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida.

Mr. McCOLLUM. We ought to in the meantime, before we send these folks back, go ahead and proceed to reimburse the State and the local taxpayers so that the entire country shares the burden of these costs that were foisted upon us not by the will of any individual State which has to house these criminals, but by the mistakes of our Federal Government and by the cunning of the Castro administration and Cuba who foisted them on us in the first place.

We ought to stand up to Fidel Castro. We should send them back now. But in the meantime it is very essential that we bear proportionately throughout the country the costs that have been put on us.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, let me commend the gentleman for being one of the hardworking and productive members of our subcommittee, and that has gone back now fully 3 years.

As the gentleman knows, I was not as awestruck or compelled by the gentleman's amendment which he has just described as I was by the work he had done in connection with his amendment on targeted assistance which is, of course, in our bill.

I commend the gentleman. I think the gentleman first laid the seeds for that program which is very, very important, and I do want to commend him and thank him for the work he has done in crafting this bill.

Mr. McCOLLUM. Mr. Speaker, I want to thank the gentleman for pointing that out.

I commend the gentleman.

I thank the gentleman for pointing out the targeted assistance program. I am glad that he raises that program. We have done a lot of work on that even though I spent most of my time today talking about the Cuban Marielito situation.

I think that is an essentially vital and important part of this program here today in this legislation. We have in this bill a chance to lift from the States some of the refugee assistance burden that a few States have been forced to disproportionately bear as well as reimburse States for the costs of housing Marielito criminals.

I think it is very important as we go through this process that we join together and have some unanimity and feeling about all these things.

The gentleman from Kentucky did not in fact support the amendment we are talking mostly about, concerning the criminal Marielitos, yet when it comes down to it we had harmony on the committee.

The gentleman's work in helping to shape this legislation has been so essential to a nonpartisan-bipartisan effort on the immigration and refugee issues that I just cannot help but pass the kudos right back because without that we would not have a refugee bill and we would not have a comprehensive immigration reform bill which ought to be brought up for a vote here on the floor before long.

I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Florida (Mr. SMITH) who is the newest member of our subcommittee and one of its hardest working members.

Mr. SMITH of Florida. I thank the chairman.

Mr. Speaker, I want to commend first the gentleman from Kentucky, the chairman of the subcommittee, who is one of the hardest working Members of Congress.

I would like to say that the State of Florida owes him a great debt of gratitude not only for the work he has done on this particular piece of legislation but also the work done on the immigration bill which bears his name and which I hope along with my other colleagues from Florida will be brought to this floor as rapidly as possible for a vote since I believe, as many others, that there is a national constituency out there that would like to see some form of change in the legislation as it currently exists.

In the instant bill which we are discussing today let me say that I believe that it is another example of how the Federal Government can take the burden off the local level citizen for programs which have in fact been necessary because of what the Federal Government has done in the first place and because of what it is that is the policy of the Federal Government.

The problem with refugees in Florida, and I know the gentleman from New Jersey stood here and talked about the number of refugees in his State, but let me reiterate for the record that in Florida just in the last 3½ years we have had over 200,000 refugees come to Florida by virtue of what we will now characterize as what is called special status granted to them after they actually wound up inside the State.

That special status has enabled them to stay in this country, many of them in Florida; but, at the same time, has impacted severely on the level of the local and State governments.

That kind of impact would have been too great to bear if it was not for the Federal Government programs under the Refugee Assistance Act of 1980. And the continuation of that assistance through this legislation is extremely important to those people at home, constituents in my district, in your district, who have to pay for the costs beyond what the Federal Government is giving in the way of aid.

I was one of those that opposed the block grant. I am very happy that it is not here and it appears that there is a consensus that the block grant would have been an inappropriate way to go.

I also was opposed to the problem relating to the first 90 days of welfare being made unavailable to those new welfare refugee applicants because of the problem relating to dependency and how it looks as if we cannot get them off the welfare syndrome once they get on.

I agree with the concept and I made this point very clear at the subcommittee level, it is something we need to do to get them out of the welfare dependency but we do not want it at the expense of the local taxpayers.

If you shut them out of welfare at the Federal level all that means is that the local level will have to pick up and pay for that first 90 days themselves without reimbursement. That has not

been put in this bill. I think that is a good idea. Overall this piece of legislation is something I would commend to the Members of this Congress to pass because it will help not only the hundreds of thousands of refugees but all of your constituents out there.

I thank the Speaker.

● Mr. BENNETT. Mr. Speaker, I rise today in support of H.R. 3729 which reauthorizes the domestic resettlement programs of the Refugee Act of 1980 for fiscal years 1984 and 1985. I cosponsored the original legislation in this area. The bill authorizes $50 million for assistance to areas with large numbers of refugees. The bill would also entitle States to receive reimbursement from the Federal Government for costs associated with imprisoning Cuban refugees of the Mariel boatlift of 1980. Florida's prison system has been burdened by the imprisonment of these refugees, and I believe it is important that the Federal Government provide relief to Florida taxpayers and to the Florida prison system for costs that are a result of Federal immigration policy. I urge my colleagues to support this vital legislation.●

● Mr. TOWNS. Mr. Speaker, while I support the committee's bill for continuing a refugee program. I must take issue with the administration's supposed commitment to the internationalization of refugee problems.

In the committee report, the U.S. coordinator for refugee affairs devoted a great deal of his testimony to the internationalization issue. Oddly enough, the administration seems unable or unwilling to internationalize refugee problems when it comes to Haitian nationals. I am referring specifically to the case of a Haitian who was deported by the Immigration and Naturalization Service on July 14. The U.N. High Commissioner for Refugees (UNHCR) had requested a simple delay of the deportation until they could complete their negotiations with the Government of France for resettlement in that country where the refugee had relatives. Obviously, a simple delay was too great a request for the Immigration Service since the Haitian was deported with the statement on his final deportation orders that he could "emigrate to France from Haiti" if he desired to do so.

It seems to me, Mr. Speaker, that as signatories to the U.N. protocol relating to refugees, which prohibits the return of refugees to a country where they would face persecution, we should welcome offers for resettlement in other countries. In particular, where an international organization, such as UNCHR, makes a bona fide offer for resettlement in another country, we should willingly accept their assistance rather than rushing to expel refugees from the United States. I might add, Mr. Speaker, that our Embassy in Port-au-Prince has been unable to verify the safety of the aforementioned individual.

Again, while I continue to support a refugee program for this country, actions like those I just described and the continuing mistreatment of Salvadoran asylum applicants, makes it difficult for me to believe that the Refugee Act can ever be administered in a nondiscriminatory manner.●

□ 1400

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. MAZZOLI) that the House suspend the rules and pass the bill, H.R. 3729, as amended.

The question was taken.

Mr. CARNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered, H.R. 3729.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEBT COLLECTION ACT OF 1982 AMENDMENT

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 376) to amend the Debt Collection Act of 1982 to eliminate the requirement that contract for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriation acts.

The Clerk read as follows:

S. 376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new sentence: "This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (b) of this section.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 376 authorizes Federal agencies which contract with private companies for debt collection services to pay those companies a percentage of the total amount of debt collected without having an advance appropriation.

In 1982, Congress enacted the Debt Collection Act. Section 13 of this act amended the Federal Claims Collection Act to give Federal agencies the authority to contract with private collection services for the collection of debts due to the United States.

At the hearings held prior to enactment of the Debt Collection Act, witnesses from the Office of Management and Budget and various collection services testified that the most efficient way to contract for such services would be through contingent fee contracts. Under these contracts, a collector would receive as payment a percentage of the total amount of debt collected. On the basis of this testimony, a provision was included to allow this type of contract.

However, when the Debt Collection Act was considered by the Senate, a new subsection (c) was added to the contracting provisions to provide that "Any such contract (for collection services) shall be effective only to such extent and in such amounts as are provided in advance appropriations." The practical effect of this provision was to prohibit contingent fee contracts for collection services. S. 376 would remedy this situation by adding a new sentence to this subsection to allow contingent fee contracts without an advance appropriation.

Thus, S. 376 amends the Federal Claims Collection Act, 31 U.S.C. 3618, to authorize Federal agencies to contract on a contingent fee basis for private debt collection services without having an advance appropriation for the contract. In cases where a collection contract calls for a fixed fee, an advance appropriation would still be required.

I would like to emphasize that if a company contracts with a Federal agency to perform debt collection services, that company will be required to comply strictly with those Federal and State laws which have been adopted to protect debtors from harassment by debt collectors. For example, debt collection services will be required to comply with the Fair Debt Collection Practices Act.

S. 376 is noncontroversial. It was reported favorably by the Senate Governmental Affairs Committee on a

vote of 10 to 0 and was passed by voice vote in the Senate on May 20, 1983.

The Office of Management and Budget, testifying at the House Judiciary subcommittee hearing on S. 376, stated that the administration supports the bill.

The Committee on the Judiciary recommends that the House act favorably on S. 376.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is truly a noncontroversial piece of legislation. It is the sort of legislation that belongs on the Suspension Calendar.

Now that is contrasted with something that would be controversial like House Joint Resolution 1 or House Joint Resolution 66 or House Joint Resolution 100. Those have to do with constitutional amendments that are sort of under consideration in this House.

But distinctly different from those matters that do not belong on the Suspension Calendar—and we trust that nobody with any sense would put them on the Suspension Calendar—we have S. 376 which is truly a noncontroversial piece of legislation.

Mr. Speaker, I want to join with the chairman of the subcommittee today in urging support of S. 376, to amend the Debt Collection Act of 1982.

Mr. Speaker, a few statistics will point out the great need for improvement in the debt collection efforts of the U.S. Government. At the end of the first 9 months of 1983 total debt owed to the Government of the United States stood at $289 billion.

Prior to 1982 the total debt owed to the United States was growing at an average annual rate of 18 percent. With passage of the Debt Collection Act of 1982, coupled with strong collection efforts in agencies encouraged by President Ronald Reagan, and coordinated by the Office of Management and Budget, the rate of increase has been cut in fiscal year 1983 to only 6 percent.

But like Federal spending it is still increasing. It has not been cut in absolute terms. The rate of increase has been cut.

This legislation simply makes the Debt Collection Act of 1982 more workable, as Chairman HALL has so ably described. It will allow experts in the private sector to assist the U.S. Government in collecting the growing amounts of money owed to the U.S. Government. This bill will allow agencies to seek out the best debt collectors, and negotiate a percentage fee with them in order to maximize the amount of debt collected.

The Department of Education, which is already using the collection method that is authorized by this bill under separate statutory authority, has been highly successful in comparison in collecting on delinquent loans. These successful techniques should be utilized throughout the Federal Government to collect delinquent accounts. These methods or techniques have been used in the private sector for many years with greater success than could be accomplished otherwise.

If you realize that collection of all of the money owed to the U.S. Government would more than offset the entire Federal deficit for fiscal year 1983, for example, or even the projected deficit for fiscal year 1984, then the importance of improving Federal debt collection is apparent.

I urge my colleagues to support this bill.

It is interesting that there is no controversy, of course about this measure or this change in the law that I know of, but I have heard so little about it in all of the talk about reducing deficits.

□ 1410

We have talked about reducing spending. That has been unsuccessful. The Congress has not been willing to reduce spending. We have talked about increasing taxes. And so far, the Congress has been successful in avoiding that.

Well, let us do something constructive about reducing the deficit with a potential of up to $289 billion of practical effect, and pass Senate bill 376.

Mr. Speaker, I reserve the balance of my time.

Mr. KINDNESS. Mr. Speaker, I yield 10 minutes to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. I thank the gentleman for yielding, and I commend the chairman of my subcommittee, the gentleman from Texas, and the gentleman from Ohio, my ranking minority member, for bringing forth this legislation.

Mr. Speaker, yes, this bill is noncontroversial, but I think it needs to be talked about a little bit. We have heard an explanation of it. It is fairly simple. It simply changes the law so that the debt collection practices of this country can be such that those people whose business it is in the private world to collect debt can do so for the Federal Government with some kind of a percentage payment from the debt they collect. So it is not a fee payment basis. It is a type of debt collection practice that is common in private industry.

We have heard a lot of witnesses before the subcommittee testify that it is only through this kind of mechanism and this kind of an arrangement that we can ever expect to collect a great deal of the debt owed to this country by private citizens and private businesses.

It is interesting that of the $289 billion that is owed to us now, only a small portion of it can be affected, though, by this act. We are talking about $18 billion, $17.5 billion or $18 billion that is currently delinquent which otherwise can be collected, it is old enough and it is ripe for collection, and so on. A good deal of that there may be problems collecting. But we are talking about debt such as that that is owed by students who have gotten loans over the years that we have heard so much about, written up in the newspapers, and so on, who have not paid them back. And while I am all in favor of encouraging college education and encouraging grants and some of the things this Government does to stimulate our young people to take advantage of the great educational opportunities in our universities and our colleges, I think that when somebody gets a loan from our Federal Government, that person should be held accountable and should be required to pay that money back. And when that person becomes delinquent in doing so, as hundreds and hundreds of students and now former students for many years have done in this country, it is long past time that we took action as affirmatively and as strongly as possible to collect that money.

And what has been happening in that area, as well as in others, is that over the years our bureaucracy has gotten so big, this big cumbersome thing of ours called the Federal Government and all of the agencies that are involved not just with education but with other kinds of debt that is owed to us, other loans we have made, that we are costing the American taxpayers more in paying the salaries of somebody out there on the Federal Government payroll to try to collect than the amount of the debt we have been trying to collect. It is just sort of a crazy system that we have developed. And that is why private debt collection is so important.

But when we talk about the total debt that is owed the United States, we somehow also forget this bill cannot quite stretch out and cannot quite reach, unfortunately, a lot of the foreign debt that is owed to us. We have a lot of money that this country has owed to it from many countries over the years that we have no business ever having made those loans to or ever having gotten involved with. We have expanded the World Bank, we have expanded the International Development Agency moneys, we have expanded the International Monetary Funds, loans here, loans there, and we have literally been spending ourselves in one way or another into a condition which has brought about the great pressures on our economy that resulted in the last recession, with high interest rates and high inflation rates. And while, yes, those are down today, down from the high of 21.5 percent prime interest rate in 1980, when that

Congress which I am so proud to have been a part of as a freshman came to power here in Washington, down to rates of about 11 percent interest today—which is still too high. Inflation, as you know, is down to its lowest level in 17 years, somewhere around 2.9 percent on an annualized basis. And the economy looks like it is recovering and blossoming right now. Things are growing and doing better than they have in a long time; but there is that old deficit just hanging out there that people talk about a lot, especially of late, Members on the other side of the aisle over there, the Democratic side, that we need to do something about, and I am glad to hear that they are finally talking about it now. It is long overdue being talked about.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank my colleague for yielding.

Mr. Speaker, we have heard an awful lot over the weekend in the news media of our colleagues talking about how important it is to raise taxes. The chairman of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI), and the senior Senator from Kansas, Mr. DOLE, were on one of those national television shows and they implored the President to come onboard for a tax increase. And it seems to me that by passing this piece of legislation, we would be able to raise the amount of revenue that both Senator DOLE and the gentleman from Illinois (Mr. ROSTENKOWSKI) were talking about without dipping into the pockets of the honest American taxpayer who pays his bills and who does not default or become delinquent on loans that the U.S. Government has extended to them.

For that reason, I commend the gentleman from Florida and the gentleman from Ohio (Mr. KINDNESS) and the gentleman from Texas (Mr. SAM B. HALL, JR.) for bringing forth a bill that will obviate the need for us to have to pass a tax increase because it is a great deficit-reducing device.

Mr. McCOLLUM. I thank the gentleman from Wisconsin for bringing that point of taxes up and indeed talking about deficits and the total public debt. I think it is very important to discuss in this context.

We have a total public debt in this country today of over a trillion dollars. We passed that point sometime in 1981. At the rate we are going of spending and tax and spend programs in this country, we are going to pass the second trillion-dollar debt by 1985 or 1986 at the latest.

Now, what we have got to remember when we get to those kinds of figures that I cannot contemplate and most of the public, I know, cannot contemplate, is just what that really means.

It means, in part, that the Federal Government is going out there and borrowing enormous sums to pay interest on that debt and support it. Here we have sums we are talking about in this legislation that we are trying to collect that is owed to us, but if we were not owed so much, as the gentleman from Wisconsin pointed out, if people did not owe us this much, we would not have to borrow as much, on the other hand, to cover all of this wild expenditure that has been going on.

But the point is that we keep increasing the expenditure side of the ledger. We do not seem to ever really cut it down to measure. What happens when we spend so much and when we borrow so much—and the borrowing is what is so important here—when the Government itself borrows, we crowd out the private marketplace, and it is that crowding out, the reduction in the amount of available capital and money for individuals and businesses, small and large alike, to be able to go to their banker and their insurance company and the other financial institutions around this country and acquire, to expand businesses and produce new employment, and so on, it is that crowding out that is so bad. It is that crowding out that causes the tight money, it is that crowding out that causes high interest rates, and it in turn results, if the Federal Reserve sees fit to try to help that problem of tight money by printing a little bit more of it, it results in inflation because we have too much money out there that is not real any longer, that is not worth as much, because when you have too much of any commodity, it is not worth as much. And that is what we have had over the years. Now the Federal Reserve is finally acting sensibly and not monetizing our growing debt as it has in the past and for this reason among others we at present have inflation under control.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield for a question?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I have forgotten from the beginning, is the gentleman for or against this bill?

Mr. McCOLLUM. I am very much for this bill, I would tell the gentleman from Texas.

Mr. SAM B. HALL, JR. All right.

Mr. McCOLLUM. I think it is very important for us to know that we are making an effort in this bill to reduce the pressures of crowding out, the pressures that cause inflation, the pressures that cause high interest rates in this country, by this legislation. And it is one example, maybe one small way we can go about resolving this problem without so much talk about the other way that so many people suggest, and that is increasing taxes.

Now, let me tell the Members that increasing the taxes in this country does not solve the problem of the deficit. The problem of the deficit is this crowding out, this higher pressure on interest rates, this higher pressure on inflation, and so on. It is the borrowing that comes about that does it, taking money out of the available pool of money for all of us to borrow.

When you raise taxes, you do exactly the same thing you do when you borrow—you take money out of the available pool of money in the private marketplace—you crowd out private borrowers and tighten credit and cause higher interest rates. I thought there was a very interesting article in last Thursday's Wall Street Journal by the Under Secretary of the Treasury, Beryl Sprinkel, on exactly this point, where he made this precise point: Anybody who is talking about increasing taxes to solve deficits is not talking about helping this economy.

What we need to be doing is bring the spending side of the ledger down. It is the only way that we are ever going to gain control over the runaway deficits and the runaway debt of this country responsibly, because the problem of deficits is not simply the fact that they exist; it is this crowding out that results in less real money available to the American people to borrow, less real money available out in the marketplace without the Fed producing more, and when that happens and you have a smaller amount of it, you have higher interest rates and higher inflation.

The gentleman from Texas asked am I saying I support it. Of course I am supporting it. I am supporting it because in some small measure this actually helps us not only get at bad apples out there who owe us money, but it is a responsible way—as opposed to increasing taxes—it is a responsible way, in fact the only other responsible way besides cutting the spending of this Government of ours—this runaway spending that has got us into these problems—that we can go about solving the deficit problem, that we can go about reducing these pressures that bring about high interest rates and high inflation rates.

□ 1420

I think, however small a step this is, it is long overdue. Let us think about it for a minute. How many loans are owed to us?

I mentioned foreign loans a while ago. This bill does not talk about those. I happen to think we have way overdone it in that area.

But how many student loans and how many other domestic loans are

there? There are literally enough to add up to at least the $17 billion or $18 billion that I mentioned that are currently delinquent. And there are plenty of others that are not yet delinquent but will be very shortly.

We have an opportunity by passing this legislation—and that is why it is noncontroversial, I submit—to let those collection practices that are effective in the private marketplace take hold and be able to be used without costing us a bureaucrat or an extra person on the payroll of the Federal Government to go out and try to collect these debts. It is an economical method of reducing the deficit of this country, reducing the pressures of going out and having to borrow, and reducing the pressures coming from that side of the aisle to increase taxes to solve the deficit. It is a major step to take, and I think it is perhaps one of the biggest steps we have taken for a long time.

Mr. Speaker, that is why I support this bill and ask for its passage.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KINDNESS. Mr. Speaker, may I inquire, does this side have any further time remaining?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. KINDNESS) has 6 minutes remaining.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume, and I take this time to wind up the debate by urging that this measure be favorably considered by the House and passed.

It is to be remembered that although we are talking about very large figures in the national debt and the deficit that has been incurred in fiscal year 1983 and that is contemplated for fiscal year 1984, the longest journey begins with but a single step, and this is just one more step, but a very substantial step, that I think may help in that journey.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I want to applaud both the chairman and the ranking minority member of the subcommittee for bringing this bill forward.

This, Mr. Speaker, is the type of bill that ought to be brought forward on a Suspension Calendar. It is noncontroversial, and it is a compromise that has been worked out on both sides. There are no shenanigans here. We all understand it is noncontroversial, and this is the type of legislation we ought to have on the floor of the House.

I thank the gentleman for yielding, and I just want to say that I hope that spirit of openness will prevail for the rest of the week as we only deal with noncontroversial bills on the Suspension Calendar.

Mr. KINDNESS. Mr. Speaker, is the gentleman contrasting this legislation with matters such as constitutional amendments? Does the gentleman refer to House Joint Resolution 100, for example, on school prayer? Is that a controversial area?

Mr. LUNGREN. Mr. Speaker, I doubt if the gentleman has to worry about a constitutional amendment on school prayer, on prolife, on busing, or on a balanced budget being brought to this floor at any time. But as I understand it, there is a very good chance that the ERA, which is an intriguing proposition but not noncontroversial, may be brought to this floor on the Suspension Calendar, meaning that there would be a limit of 40 minutes total debate, 20 minutes a side, with no amendments allowed. I am startled by that possibility.

Mr. KINDNESS. Mr. Speaker, the gentleman is not seriously suggesting, is he, that a measure that important would be brought to the House floor under suspension of the rules?

Mr. LUNGREN. Mr. Speaker, all I can say to the gentleman is that I read a "Dear Colleague" letter that was sent out by the distinguished chairman of the full committee, the gentleman from New Jersey (Mr. RODINO), when we were dealing with the previous constitutional amendment that was brought up under a discharge petition, in which he suggested that this is not the way to amend the Constitution of the United States, when we only had 1 hour of debate and no amendments.

Certainly I hope that same idea will prevail when some suggest that we should have only 40 minutes of debate and no amendments on anything having to do with that proposition, particularly an amendment that was passed out some 12 years ago and has come back now.

This is a serious matter, and it ought to have serious reflection. We ought to have a chance to fully debate it on the floor so we know what we are voting on.

Mr. Speaker, I was just expressing my concern about this rumor that is running rampant through this Chamber that someone has the idea that is the way to amend the Constitution.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I commend the gentleman from California (Mr. LUNGREN) for a very good statement on the purposes of the Suspension Calendar, but I would change one word in his statement. The word "idea," should be changed to "audacity."

To think of bringing a constitutional amendment, and a controversial one at that, up under suspension of the rules without a committee report being filed and without its being noticed to the membership, when the majority leader announced the legislative program on Friday of last week, is audacious. If we bring this bill up with no amendments, with only 40 minutes of debate, it is going to put this House to shame because constitutional amendments on controversial issues do not belong on the Suspension Calendar. Bills like this one under consideration do.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, it is just remarkable that we hear this when we are here with a bill that came out of the Judiciary Committee where we are supposed to be very much concerned about individual rights, constitutional rights, and due process. I would suggest that if the constitutional amendment is brought up on the Suspension Calendar, that would be prima facie evidence of abuse of process on this House floor. I think it would do untold damage to those of us who serve on the Judiciary Committee, those who have the responsibility to be specifically concerned about constitutional rights, and certainly those in this House who are concerned about the rights of minorities, even if they be political minorities.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, apparently those who are talking about bringing the ERA up under suspension believe in equal rights for everybody except those who want to speak on the floor of this House, those who want to offer amendments, and those who want to read the committee report.

Mr. KINDNESS. Mr. Speaker, recovering my time here, I would just like to mention to both gentlemen who have made their views known on this subject that I certainly hope they are mistaken. I certanly hope that they are misinformed about the intent with respect to the Suspension Calendar for the day following today.

But in the event they are not mistaken, I would have to express my deep concern at such an abuse of the legislative process.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. LUNGREN. Mr Speaker, I have a copy of the letter from the committee chairman, the gentleman from New Jersey (Mr. RODINO), dated July 11, 1979, in which he suggested that we ought not to discharge the constitutional amendment to prohibit

busing, and he said in the pertinent part:

The Constitution has never been amended by using the discharge procedure. The only constitutional amendment which passed both Houses was ERA, and it was not passed by use of the procedure. It passed at a later time after full consideration.

He goes on to say that:

Approval of this motion would mean that the House of Representatives could be limited to a single hour of debate on an amendment to the Constitution of the United States.

The SPEAKER pro tempore. All the time of the gentleman from Ohio (Mr. KINDNESS) has expired.

Does the Chair understand that the gentleman from Texas (Mr. SAM B. HALL, JR.) has yielded back the balance of his time?

Mr. SAM B. HALL, JR. I have yielded my time back, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the Senate bill, S. 376.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

THE 369TH VETERANS' ASSOCIATION

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1095) to grant a Federal charter to the 369th Veterans' Association, as amended.

The Clerk read as follows:

H.R. 1095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The 369th Veterans' Association, a nonprofit corporation organized under the laws of the State of New York, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. 369th Veterans' Association (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) to promote the principles of friendship and good will among its members;

(2) to engage in all forms of social and civic endeavors that will tend to enhance the welfare of its members, and to inculcate in them the true principles of good citizenship; and

(3) to memorialize, individually and collectively, the patriotic services of its members in the several units of the 369th antiaircraft artillery group and other units in the Armed Forces of the United States.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of accounts and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agency or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) 369th Veterans' Association".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use the name "369th Veterans' Association", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

TERMINATION

SEC. 17. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1095 grants a Federal charter to the organization known as the 369th Veterans' Association. The 369th Veterans' Association is a nonprofit, charitable, educational, patriotic, and civic organization, incorporated in the State of New York since 1954.

The organization is named after the all-black 369th Infantry Regiment which served in both World Wars and

the Korean conflict. In fact, the 369th Infantry Regiment was the most highly decorated American unit to serve in World War I.

While the group's origins are with the 369th Infantry Regiment, membership in the organization is totally nondiscriminatory. It is open to all honorably discharged men and women who have served in the Armed Forces.

The 369th Veterans' Association is currently involved in veterans' counseling and provides direct assistance to VA hospitals. In addition, the organization sponsors a scholarship program and is involved in numerous activities directed at helping the poor, senior citizens, and youth of our Nation. Membership totals approximately 2,000 with members located in over 30 States, territories, and the District of Columbia.

In accordance with previously enacted charters, this charter does not expand any corporate rights or relieve any corporate responsibilities established by the State of New York charter. It specifically requires compliance with State corporation laws. Additionally, the charter contains prohibitions against lobbying and other political activity and the claiming of congressional approval for corporate acts. An annual audit is required in addition to certain recordkeeping and reporting requirements. Finally, this legislation provides that the 369th Veterans' Association will automatically lose its charter should it fail to maintain its tax-exempt status under the Internal Revenue Code.

The 369th Veterans' Association has demonstrated that is is a unique organization worthy of the recognition by this bill. I urge my colleagues to support its passage.

□ 1430

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I am very pleased to find that H.R. 1095, a truly noncontroversial bill, is on the Suspension Calendar today. As compared or contrasted to some of the other types of legislation that may from time to time erroneously find their way on to the Suspension Calendar or be rumored as about to be placed on the Suspension Calendar, H.R. 1095 is truly noncontroversial in nature.

There are some of us on the Judiciary Committee and the Subcommittee on Administrative Law of that committee who have some concern that Federal charters have been granted over the years in numbers that are perhaps too great, thus diminishing the value of prestige that might be attributed to a Federal charter.

There are some of us also who share the concern that we have no mechanism for the administration of Federal charters or federally chartered corporations. All of these federally chartered corporations must exist and maintain their good standing under State law, or course.

The Federal charter is really not administered in any degree other than the annual report that is required, and those federally chartered corporations are subject to annual audit by the General Accounting Office.

There is a purpose, however, to Federal charters that finds its way into our discussion here today, I think, and that is with regard to the Federal charter for the 369th Veterans' Association and the bill following, H.R. 29, the Polish Legion of American Veterans, U.S.A. It is a recognition of what these recognitions do for people, whether they be veterans or in some cases these organizations operate in a more general educational, charitable, community service oriented fashion.

The 369th Veterans' Association, however, is a particularly interesting group in the way that it functions, much as a community service organization, as much in that way now as a straight veterans organization. Such community service, it seems to me, is not ordinarily the basis for recognition with a Federal charter; but in addition to that, the 369th Veterans' Association carries a broad array of recognitions from various sources for all that it has done over the years, the 369th having been such a highly decorated, the most highly decorated regiment in the first of the World Wars which has involved our Nation and being involved also, with valor, in World War II and the Korean conflict.

The 369th Infantry Regiment, I think, when it has come home from those wars has brought with it a lot of feeling for service to the community, service to veterans, and service to mankind generally. It is very much appreciated and it is intended to be recognized in the granting of a Federal charter to the 369th Veterans' Association.

It is interesting to make something of a contrast, of course, between this noncontroversial piece of legislation dealing with veterans and other legislation which has been mentioned here earlier, House Joint Resolution 1, which might be on the Suspension Calendar tomorrow, in that that also deals with veterans, or can have an effect on veterans, and one of the things that is not going to be available to the House if the suspension process is used is the opportunity to consider whether there has to be modifying language in the equal rights amendment so that veterans' preference under the law will not be done away with.

I am sure the members of the 369th Veterans' Association and their friends and supporters would have some concern in that area, as well as a lot of other veterans' organizations.

I think that is used only to point out the fact that here again today we have a noncontroversial bill, as compared to some of those other things that are so extraneous to the Suspension Calendar process that have been rumored to be in the wind for tomorrow.

Mr. Speaker, I would strongly urge the House to support H.R. 1095, providing a Federal charter for the 369th Veterans' Association.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Speaker, I want to commend the gentleman for this particular piece of legislation and the gentleman from Texas. Although it is a simple and noncontroversial bill, we are talking about a veterans' organization. We are talking about an organization which we normally do grant charters to, however sparse some of us think they should be, and it is particularly appropriate in light of the fact that we have just had Veterans Day, which many of us were not able to be down in our districts celebrating at this time because of the pressing legislation up here.

It is a time for us to perhaps again reflect as we pass this legislation on the deep importance of veterans to this country, to the survival of the system of individual liberty that was given to us by our Founding Fathers.

This particular group, as the gentleman has pointed out, goes back to earlier wars. They are groups of men and women who served so ably our country, that allowed my generation to have the freedoms that we are with such effort trying to preserve right now. I think it is very important that we take this opportunity to remember that.

I also want to thank the gentleman for once again pointing out something that at the end of the consideration of the last bill was discussed here. I am quite frankly very shocked at the idea that something like the suspension system would be potentially used for a bill, not this bill, this is the type of bill we ought to have under suspension that is noncontroversial, but to be used for something like the equal rights amendment, an amendment to our Constitution, an amendment which in the Committee on the Judiciary, our committee just last week had quite a number of amendments offered to that were very important, that should be brought out here.

When we talk about the equal rights amendment, we must talk about amendments like those dealing with concerns raised as to whether or not a woman is going to be subjected to the draft under the ERA or a woman is going to be subjected to combat duty or questions that were brought up in amendments in the committee that really should be out here on the floor

and not under suspension, dealing with such things as the effect of ERA on private schools and abortion and so on. If we could just have an opportunity to have the bill under an open rule allowing amendments and full debate, it seems to me we could get to the merits of those issues and maybe we could all agree on what we really believe in, which is equal opportunity for women.

Now, in this case we are talking about something very noncontroversial for veterans, a charter. In that case we are talking about something that because of its prior history has been very controversial for women. All of us want to see equal opportunity, but we are very concerned about bringing those kinds of matters out here under suspension where we cannot offer amendments of debate it.

I am disappointed to hear some of my colleagues, such as the gentleman from Ohio, suggesting that we might see that out here this week in a suspension situation.

I wonder if the gentleman from Ohio could elaborate on that.

Mr. KINDNESS. Mr. Speaker, I hasten to assure the gentleman that I hope I am very sadly mistaken about the truth of the rumor that has to do with the suggestion that there might be such an important measure as House Joint Resolution 1 on the Suspension Calendar tomorrow, without notice, in the information that was provided with regard to the calendar for this week and the latter part of last week.

Now, of course, we were in session on Saturday and it would appear that there might have been the opportunity for such information to be made known, but perhaps it was too important to allow the House Members to understand what was developing.

□ 1440

Mr. McCOLLUM. If the gentleman would yield, I know that in our committee last week a number of Members on the other side of the aisle were urging that we have an open rule, and that we bring that amendment here under the regular order of business and let us have a chance to fully debate it and have anybody offer any amendments that they want to.

I am really shocked to hear today that that might not be the case and I thank the gentleman for bringing it to our attention.

Mr. KINDNESS. I join the gentleman in his state of shock.

I think that was a popular condition in the full Judiciary Committee when the equal rights amendment was being considered there too.

The gentleman from California (Mr. EDWARDS) was quite shocked that I should be shocked about our objecting to having a little time to look at the report, the committee report, in order to determine whether additional views should be filed.

The gentleman was also shocked about something else procedural that might have kept the matter from being brought more expeditiously to the floor before final adjournment.

Mr. McCOLLUM. There was some problem with getting the report within the 3-day time limit and getting us out of here before Thursday or Friday, with an open rule.

This seems to be fast track. I got a big volume in my office on the equal rights amendment just this week from the testimony that was taken there. It is very difficult to digest something that goes on for a whole day like that, so I am concerned.

I hope the gentleman is wrong about that rumor and hope we can put that to rest sometime today for sure.

Mr. KINDNESS. I join the gentleman in that thought.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL), the original sponsor of this legislation.

Mr. RANGEL. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1095, but first of all, to thank the chairman of the Judiciary Committee, Mr. RODINO, the subcommittee chairman, Mr. SAM B. HALL, JR., of Texas, and Mr. KINDESS, the ranking minority member of the subcommittee, for the courtesy that they extended to the members of the 369th Veterans Association.

If ever you want to see and appreciation what makes this system work it was their response at having been able to come to Congress, and to be considered for the great honor of having a Federal charter granted to them.

To attend one of the 369th Veterans Associations' meetings, you would see what our Constitution is all about, because seldom in our society do you see people that are old enough to have served in World War I meeting and discussing matters with young veterans that have served in Vietnam. Yet, when I joined this organization as a Korean war veteran, the 369th Veterans' Association brought together all segments, not only of my community, but indeed, of the 40 States in which the 369th have members.

It brings together generations, not only in the defense of our great country, but it also brings together committed citizens that believe that it is just as important to preserve the peace, in rebuilding the communities, providing day care and in bridging the gaps that far too often have separated the generations.

When those flags go unfurled at the annual parade, what a beautiful sight it is to see, not only the old and the young, but the black and the white, the Catholics and the Protestants and the Jews and the gentiles, and so you see it is a particular pride not only because of my membership, but the membership of one of its most illustrative members, a former Member of this House who led the original 369th Infantry Regiment to receive those high honors in Europe, and who celebrates soon his 94th birthday; and I refer, of course, to our former Member, Hamilton Fish, Sr., the father of our current Member.

It is with great pride that we have him as a member of this association, but he just represents the type of membership that we have in the Association.

On behalf of the hearts that swell with pride throughout the 40 States in which members reside, let me thank the subcommittee for the courtesy that you already extended to those members, and for these reasons I rise in support of H.R. 1095, a bill to grant a Federal charter for the 369th Veterans' Association.

The heroic legacy of the 369th stretches back through four wars to 1913. The unit was first organized as an all-black infantry regiment. When it was mustered into Federal service in 1917, it was redesignated the 369th Infantry Regiment and sent to the trenches of France.

Few, if any, units fought as well as the 369th. Not one man was captured, and the unit never lost a foot of ground. This was despite the fact that it spent 191 days in the hell of trench warfare—longer than any other American unit. The regiment was cited 11 times for courage under fire, and the entire unit was awarded the Croix de Guerre from the French. In fact, a total of 171 officers and men received the Croix de Guerre or Legion of Honor.

It is worth nothing that the 369th Regiment was the first allied unit to reach the Rhine River, and the first to march down Fifth Avenue in New York's welcoming parades.

Hamilton Fish, Sr., a most distinguished former Member of this body, was a captain in the regiment during the war to end all wars.

The regiment was redesignated the 369th Coast Artillery Regiment during World War II. One of its units engaged in heavy fighting against the Japanese at Okinawa, and performed well in the tradition of the 369th.

The Veterans' Association was formed to bring together members of the unit with other veterans who served honorably in World War I, World War II, Korea, and Vietnam.

I want to emphasize this.

It is an ecumenical and interracial organization with members residing in forty States, territories, and foreign countries. These members are orga-

nized into 10 districts nationwide. The association is nonprofit, and counts among its members men and women of every denomination and race. It is not just another social club.

As I see it, veterans organizations provide a common medium for improving veteran and community understanding. As societies for the remembrance of what it means to serve, veterans groups have an admirable history of community accomplishments. The 369th has distinguished itself in this regard.

Perhaps its greatest attribute has been its devotion to the communities it touches. The association has set up a tutorial program for children, donated funds to children's camps, provided job counseling services to veterans, and contributed to many other worthy causes. The list goes on, and I could easily continue discussing its many contributions.

There is indeed much for the association's members to be proud of. The tradition of service to the United States is as strong as it ever was, as is the unit's dedication to the general welfare of society. The 369th Veterans' Association embodies the very best ideals of our service men and women. I sincerely believe that the association is the finest that there is. It stands as a symbol of what it means for a person to serve his or her country.

The tradition of service and duty has never ended for members of the 369th, and will always stand far above most civic organizations. It is time to honor this outstanding tradition in tribute to this country's best. Granting a charter to the 369th will honor veterans of all faiths and backgrounds, and I ask you to bear this in mind as you vote for this very fine and dedicated association. Thank you.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. KINDNESS) has 10 minutes remaining, and the gentleman from Texas (Mr. SAM B. HALL, JR.) has 16 minutes remaining.

Mr. SAM B. HALL, JR. Mr. Speaker, I reserve the balance of my time.

Mr. KINDNESS. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1095—a bill to grant a Federal charter to the 369th Veterans Association. At the outset, I want to congratulate my friend and colleague from New York, Congressman CHARLES RANGEL, for his initiative in introducing this important and symbolic legislation and the gentleman from Texas, Congressman SAM HALL, for his expeditious handling of this bill.

My father, Hamilton Fish, served as a captain and company commander in the 369th Infantry Regiment in World War I. My father's association with the brave and patriotic men who served in the 369th has always been a source of great personal pride to him as well as a source of family pride for us all.

In World War I, this predominantly black regiment distinguished itself while fighting directly under the French Army. In fact, this regiment was the most highly decorated American unit to serve in World War I. Subsequently, members of this fine organization served with distinction in the Pacific Theatre in World War II and in the Korean conflict. Their exploits in World War I are widely renowned and have been extolled in a television documentary aired on educational television entitled "The Men of Bronze."

The 369th Veterans Association is a nonprofit organization made up of black and white former servicemen and servicewomen. Founded in 1953, membership in the association is available to any honorably discharged veteran who has served in the Armed Forces of the United States. Currently, it has over 2,000 members. The 369th Veterans Association is involved in numerous charitable, educational, patriotic, and civic activities. For example, the association is involved in veterans counseling and direct assistance to VA hospitals. The association also sponsors a scholarship program for children of its members. They are involved in numerous charitable activities directed at helping the poor, senior citizens, and our Nation's youth. This distinguished organization also originated the Dr. Martin Luther King, Jr. Memorial Parade held every May 15 on Fifth Avenue in New York City. I am sure our colleague from New York would welcome many of us at this event.

Mr. Speaker, the 369th Veterans Association is truly a unique group. By enacting this Federal charter legislation, Congress and the American people would recognize their contributions to our Nation, both in times of war and peace.

Mr. Speaker, in my view, this organization meets the standards established by the Judiciary Committee for the granting of Federal charters. The association has been in continuous existence since 1953; it is organized and operated as a nonpartisan and nonprofit organization. It is organized under a corporate charter granted by the State of New York in 1954. It is totally nondiscriminatory with respect to its membership. It operates charitable, educational, patriotic, and civic improvement programs which are national in scope.

Mr. Speaker, I strongly urge favorable action on H.R. 1095.

● Mr. ADDABBO. Mr. Speaker, I rise in full and complete support for the bill, H.R. 1095, which grants a Federal charter to the 369th Veterans' Association of New York.

The 369th Veterans' Association is a nonprofit, charitable organization which is named for the all black 369th infantry regiment, which served in both world wars and the Korean conflict. The 369th was, as most of you know, the most highly decorated American unit to serve in World War I.

It is only fitting that the U.S. Congress grant a Federal charter to this outstanding organization which since 1964 has been chartered to do patriotic, civic, and charitable work in the State of New York. Today membership totals about 2,000 persons with members located in over 30 States of the Union. I am proud of the active unit which is located in my district at St. Albans together with its ladies auxiliary. It does veterans conseling and offers assistance to veterans hospitals and is active in all community endeavors.

Mr. Speaker, the measure does not conflict with the State charter issued by New York in 1954. It simply recognizes that this particular organization represents so well the needs of veterans who have served their country so well.

It is fitting, I believe, to honor the 369th Veterans' Association and to give them the Nation's recognition as they continue their charitable and community works. By honoring this unit whose members have performed so well on behalf of this Nation we are recognizing their continuing service including providing assistance to the Nation's veterans that cannot ordinarily be given by the Veterans' Administration.

Our salute and praise to the 369th.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 1095, legislation which would grant a Federal charter to the 369th Veterans Association and I commend the gentleman from New York, Congressman RANGEL, a veteran of the 369th, for his initiative in introducing this measure. This legislation commends a worthy veterans' organization whose members conduct civic, patriotic, and educational activities, and it is highly appropriate that we recognize them in this fashion.

The 369th Veterans' Association was incorporated in New York State in 1954; even before its incorporation, it had a sterling reputation going back through four wars to World War I. During that fighting, members of the 369th were the most highly decorated American regiment, led by our distinguished former colleague, the Honorable Hamilton Fish, Sr., the father of my good friend and colleague, the gentleman from New York, HAMILTON FISH, JR. now approaching his 94th birthday, Hamilton Fish, Sr. proudly speaks of the courage of the original 369th Infantry Regiment which he led and which received those numerous

high honors for their fighting in Europe. The 369th Infantry also proudly served with distinction in World War II, Korea, and Vietnam.

This patriotic, nonprofit association is involved with many charitable endeavors, including a scholarship program for the children of its members. Many groups and individuals have benefited from the acts of the 369th Veterans' Association. Passage of H.R. 1095 is a befitting tribute to an organization of such high character. I am pleased to support adoption of this legislation.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 1095, as amended.

The question was taken.

Mr. McCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

POLISH LEGION OF AMERICAN VETERANS, U.S.A.

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 29), to recognize the organization known as the Polish Legion of American Veterans, U.S.A., as amended.

The Clerk read as follows:

H.R. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Polish Legion of American Veterans, U.S.A, a nonprofit corporation organized under the laws of the State of Illinois, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The Polish Legion of American Veterans, U.S.A. (hereinafter referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation. The corporation shall function as a veterans' and patriotic organization as authorized by the laws of the State or States where it is incorporated.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the constitution and bylaws of the corporation, and terms of membership and requirements for holding office within the corporation shall not be discriminatory on the basis of race, color, religion, or national origin.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporaton shall not claim congressional approval of Federal Government authority for any of its activities.

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under the Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(58) Polish Legion of American Veterans, U.S.A.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. If the corporation shall fail to comply with any of the restrictions of provisions of this Act, the charter granted hereby shall expire.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 29 will grant a Federal charter to the Polish Legion of American Veterans, U.S.A., a group incorporated under the laws of the State of Illinois. The Polish Legion of American Veterans, U.S.A. is a nonprofit, veterans and patriotic organization dedicated to helping veterans and their families. The group was founded in 1931—a consolidation of various veterans' groups of Polish descent. Today, the organization is open to all honorably discharged veterans regardless of race, creed, or color. The Polish Legion of American Veterans, U.S.A. has approximately, 9,000 members, in addition to the 4,000 members of the ladies auxiliary.

The organization has devoted over 700,000 hours to numerous charitable, educational, civic improvement, and patriotic activities and volunteer work in Veterans' Administration hospitals, toward its goal of providing assistance and comfort to hospitalized veterans. Also, the Polish Legion of American Veterans, U.S.A. has been recognized by the Veterans' Administration since

1978 and is allowed to prepare, present and prosecute claims under the laws administered by the VA.

This charter is identical to others previously enacted by the House and does not expand any corporate rights or relieve any corporate responsibilities established by the Illinois charter. The Polish Legion of American Veterans, U.S.A. is prohibited from lobbying and from claiming congressional approval. Additional accounting and reporting requirements are imposed by this charter and the organization is further required to maintain its tax exempt status under the Internal Revenue Code.

I urge my colleagues to support this bill to recognize the longstanding service of the Polish Legion of American Veterans, U.S.A.

□ 1450

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

I would like to join the chairman of our subcommittee, the gentleman from Texas (Mr. SAM B. HALL, JR.) in urging support of H.R. 29. Again, this is a truly noncontroversial bill of the variety that belongs on the Suspension Calendar.

I need not contrast it to other bills which might be on the Suspension Calendar if misjudgment were to be effected in that respect as discussed earlier.

But, Mr. Speaker, I would like to join fully in heart and mind in support of H.R. 29 and in a statement which the gentleman from New York (Mr. FISH) would have wanted to present, had he been present and able to stay on the floor, at this point in time. But due to a delay in the schedule of the House floor activities it was necessary for him to leave the floor before he had intended to in the schedule.

This statement gives strong support to H.R. 29 which would give congressional recognition to the Polish Legion of American Veterans by granting a Federal charter to that organization.

Throughout our history, over 3 million Americans of Polish descent have served in our Armed Forces. In 1931, the Polish Legion of American Veterans was formed to honor those veterans. But the Polish Legion of American Veterans, in its over 50 years of existence, has done much more than honor our veterans. The Polish Legion of American Veterans has actively served our country by providing both financial and volunteer assistance to over 50 Veterans' Administration hospitals around the country. Last year alone they provided over 60,000 hours of volunteer service and millions of dollars worth of recreational and medical supplies. They provided all of this at no cost to the taxpayer, at no cost to the Government, saving the taxpayers millions of dollars and giving priceless service to our veterans.

The charter we would grant under H.R. 29 will help the Polish Legion of American Veterans in its work by allowing them to better represent veterans and by providing important public recognition to their activities.

At this time in our country's life it is especially appropriate that we encourage the type of private volunteer action exemplified by the Polish Legion of American Veterans. I am hopeful that this charter will allow them to expand their membership, their services, and their patriotic devotion to assisting all American veterans.

I would urge the Members of this House to support and pass under suspension of the rules H.R. 29 and I would reserve the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, at this time I would like to recognize the gentleman from Illinois, Mr. FRANK ANNUNZIO, who is the prime sponsor of this bill.

Prior to his making any statement for any time that he wishes to have, I want to say that usually when you have a charter bill such as this it is usually a very stereotyped procedure. You have the presentation of the information by the sponsor of the legislation and that usually is the sum and substance of what you have.

In this instance, however, Mr. ANNUNZIO had all of the leaders of the Polish Legion of American Veterans from not only the State of Illinois but other places present in the room when we held our hearings on this legislation. I can truthfully say that the gentleman from Illinois (Mr. ANNUNZIO) orchestrated this legislation beautifully. He had the people who were present, who testified to the necessity of this charter.

Mr. Speaker, it is with a great deal of pleasure that I now yield such time as he may desire to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I am deeply grateful to my distinguished colleague from Texas (Mr. SAM B. HALL, JR.) for all of the kind remarks he has made.

Mr. Speaker, I rise in support of my bill, H.R. 29, which would grant a Federal charter to the Polish Legion of American Veterans, U.S.A.

I take this opportunity to commend the distinguished chairman of the House Judiciary Committee, the Honorable PETER RODINO, for his efforts in expeditiously bringing this legislation to the House floor today.

I also want to express my deepest gratitude and appreciation to the distinguished chairman of the Subcommittee on Administrative Law and Governmental Relations, Hon. SAM B. HALL of Texas, and to the ranking minority member Mr. KINDNESS of Ohio, who held hearings on H.R. 29 and was able to secure swift unanimous approval of this legislation in the subcommittee.

Each and every member of the House Judiciary Committee has the heartfelt thanks of the Polish Legion of American Veterans who have waited for so many years for this legislation to come to the floor of the House of Representatives for consideration.

I also would like to express gratitude to Senator FRANK MURKOWSKI, who personally appeared and testified in support of my bill in the House subcommittee hearings and who has introduced similar legislation in the Senate, and to Congressman JOHN DINGELL, who also personally appeared at the hearing to testify in support of H.R. 29.

In addition to overwhelming subcommittee and committee approval of this bill, 206 Members of the House of Representatives, including many of the committee members, have joined me in cosponsoring this worthy legislation, and they have my sincere appreciation for their support.

Mr. Speaker, the Polish Legion of American Veterans, U.S.A., meets all of the standards for granting Federal charters as established by the House and Senate Judiciary Committees.

First, the PLAV has operated as a national organization for more than 50 years under an existing State charter, and has a proven record of outstanding voluntary service to our Nation's veterans. In fact, State charters have been issued for the PLAV in 12 States, as follows: Connecticut, Florida, Illinois, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin.

Second, the PLAV was organized and operates in the public interest as a nonpartisan and nonprofit organization, without discrimination on the basis of race, color, religion, or national origin. Although the majority of the membership is comprised of Americans of Polish descent, a review of the PLAV rolls reveals that the membership is not restricted. Scores of individuals with various ethnic and religious backgrounds are active members, contributing their time to the many worthwhile activities of the PLAV. Equally important, the PLAV provides assistance to veterans regardless of race, color, religion, or national origin, and would never turn away any veteran who is in need.

Third, the PLAV was given tax exempt status in 1947, and continues to operate solely as a charitable organization.

Finally, the PLAV has conducted activities national in scope, responsive to the national need of supplementing and improving upon the Government's actions on behalf of veterans.

The primary goal of the PLAV is to provide assistance and comfort to hospitalized veterans, and the Veterans' Administration Voluntary Services (VAVS) activities of the PLAV are most commendable. The PLAV has devoted hundreds of thousands of hours to numerous charitable, educational, civic improvement, and patriotic activities, and volunteer work in Veterans' Administration hospitals has become the major mission of the Polish Legion of American Veterans.

Long experience has proven that personal visits providing compassionate human warmth and understanding are just as essential to successful recovery as medical treatment. Field trips and picnics for disabled veterans, parties for confined veterans, escort services for wheelchair bound veterans, and other activities can work wonders, and demonstrate that those who served our country so gallantly are not forgotten. These are the types of services that are provided regularly by the dedicated members of the PLAV.

In addition to performing voluntary hospital services, PLAV members are constantly involved in local fund raising activities to purchase needed equipment for Veterans' Administration hospitals and provide scholarships for the children of veterans, and PLAV members selflessly donate their time to activities in conjunction with other charities and veterans groups. PLAV members participate in many community service and child welfare programs, as well as programs which promote American patriotism. They have also provided monetary donations, food, and medicine for the hard-pressed people of Poland.

Since 1608 when the Poles first settled in this country in Jamestown, the Polish people have added to our country's greatness, and have contributed to our Nation's growth and preservation. Countless Americans of Polish descent have served with distinction in the Armed Forces of the United States, in all our wars and conflicts, beginning with those great heroes of the American Revolution, Gen. Casimir Pulaski, who gave his life on the battlefield while leading his famous cavalry legion in driving the British out of Savannah, Ga., and Gen. Thaddeus Kosciuszko, who was elevated to the rank of brigadier general by the U.S. Congress in 1783 in recognition of his ingenious fortifications which rendered West Point virtually impregnable to enemy assault.

The heroism demonstrated by Polish-Americans is reflected in the names of the Congressional Medal of Honor winners—the highest military award for bravery that can be given by the United States to any individual serving in the Armed Forces. Dozens of Americans of Polish descent have received this honor, including life members of the Polish Legion of American Veterans, Maj. Robert J. Modrzejewski, who, although wounded, courageously led his men in a successful effort to retake a vital supply area during the Vietnam conflict, and Sp3c. Gary George Wetzel, who although severely wounded, demonstrated extraordinary heroism, likewise during the Vietnam conflict, in his efforts to aid his fellow helicopter crewmen trapped in a landing zone by intense and hostile fire.

These war heroes, along with thousands of other members of this patriotic organization, have generously volunteered their time and have given their best efforts in providing needed activities for their fellow former servicemen and their families. However, lack of a Federal charter, and the official sanction it provides, has hindered the work of the Polish Legion of American Veterans in meeting its commitment to our veterans and their survivors.

Passage of H.R. 29 would give long-overdue recognition to the major contributions being made by the PLAV to the well-being of our Nation. A Federal charter would help the PLAV expand their volunteer services, and these services are provided without any charge to American taxpayers. Especially during this time of limited public financing, granting a Federal charter would demonstrate America's tradition and commitment to volunteer action, which has been so beneficial in assisting our country's handicapped, elderly, and less fortunate citizens. It is imperative that we in Congress do everything possible to encourage organizations like the PLAV to continue in their efforts in meeting the needs of our veterans through private resources.

Mr. Speaker, I urge my colleagues to give their full support to H.R. 29, both to recognize the outstanding work of these fine veterans who have sacrificed so much for our country and to promote the goals of this compassionate, hard-working, and patriotic organization.

Mr. KINDNESS. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in strong support of this legislation. It is long overdue. It was first proposed 40 years ago and is finallly being brought up today before the House of Representatives.

I would like to pay tribute to the gentleman from Illinois (Mr. ANNUNZIO) for his unfailing and untiring efforts on behalf of this legislation. Also to the chairman of the subcommittee, the gentleman from Texas (Mr. SAM B. HALL, JR.), and its ranking member, the gentleman from Ohio (Mr. KINDNESS).

Federal charters are frequently proposed and infrequently granted by the Congress of the United States. The House Judiciary Committee has imposed some rather stringent requirements on organizations that seek to get Federal charters granted by an act of Congress. First, the organization must operate as a national organization. The Polish Legion of American Veterans has operated as such a national organization for more than 50 years under an existing State charter.

A State charter is required so that we do not perform the original act of incorporation here in the Congress but merely validate a charter that has been issued by one of the several States or the District of Columbia.

□ 1500

Here State charters have been issued for the Polish Legion of American Veterans by 12 States: Connecticut, Florida, Illinois, Indiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and my own State of Wisconsin.

The second requirement of the Committee on the Judiciary for granting of a Federal charter is that the organization operates in the public interest as a nonpartisan and nonprofit corporation without discrimination on the basis of race, color, religion, or national origin.

And even though the Polish Legion of American Veterans does sound like an organization whose membership is exclusively restricted to veterans of Polish descent, the Polish Legion of American Veterans rolls do indicate that the membership is not restricted.

Scores of individuals who are not of Polish descent have applied for and have been accepted as members of this very worthwhile organization.

Equally important the PLAV provides assistance to veterans regardless of race, color, religion, or national origin and has a record of never turning away any veteran who is in need.

The third requirement for the Committee on the Judiciary to recommend favorably on the granting of the Federal charter is that the organization have tax-exempt status.

In the case of the Polish Legion of American Veterans the tax-exempt status was granted in 1947 and this organization continues to operate exclusively and solely as a charitable organization.

The final requirement for granting of a national charter is that the organization conducts activities that are national in scope and in response to the national need.

Here the Polish Legion of American Veterans has a record of supplementing and improving upon the Government's action in behalf of veterans. The primary goal of the Polish Legion of American Veterans is to provide assistance and comfort to hospitalized veterans and indeed, the Veterans' Administration voluntary service activi-

ties of the PLAV are most commendable.

The PLAV has devoted hundreds of thousands of hours to numerous charitable, educational, civic improvement, and patriotic activities and volunteer work in VA hospitals has become the major mission of the Polish Legion of American Veterans.

I think that this piece of legislation is extremely worthy and I would point out it is something that deserves to be placed on the Suspension Calendar because it is noncontroversial.

No one wishes to offer amendments to this Federal charter legislation. Forty minutes of debate should be more than adequate to extol the virtues of this organization and to demonstrate a need for the granting of a Federal charter.

One can contrast this type of legislation being on the Suspension Calendar with important and controversial constitutional amendments such as the proposed equal rights amendment that is rumored to be placed on the Suspension Calendar tomorrow.

I think that the gentleman from Texas exhibited a great sense of fair play in asking the majority leadership to place this noncontroversial and meritorious piece of legislation on the Suspension Calendar and I hope that all subcommittee chairmen and Members of the majority side of the aisle would show the great sense of fair play that our colleague from Texas (Mr. SAM B. HALL, JR.) has done on this particular issue.

I commend him very highly for his activities and his deportment and I certainly hope this continues to be the rule on the floor of the House of Representatives this week.

Mr. Speaker, I thank the gentleman from Ohio for giving me this time and I yield back to the gentleman from Ohio (Mr. KINDNESS) the balance of my time.

Mr. KINDNESS. I thank the gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. I thank the gentleman for yielding this time to me.

Mr. Speaker, again this is another bill which has been brought up in proper fashion on the Suspension Calendar. Many people, some Members, may not fully realize that the Suspension Calendar does more than just call up the bill without an opportunity to debate; it in essence suspends all the rules. So we are considering it under an extraordinary procedure in this House and the letter and spirit of the law always has been that we only allow noncontroversial bills.

That is why we have this bill which has such strong support in the subcommittee and in the full committee.

And as the gentleman mentioned with respect to the previous bill, this one deals with veterans, a recognition in the very real sense of the contribution veterans have made.

In other legislation that we have, and we allow around this country, we have something known as veterans' preference which allows certain preferences to be given for considerations of employment to those who had some part of their productive lifespan removed from private sector participation by virtue of their service in our military. We grant them this preference to make up for that period of time. This is something that is debated very openly, debated very strongly. It is a reality on the local level, it is a reality on the county level, it is a reality on the State level and on the Federal level.

With respect to one of those rumors going around this floor that we might take up a controversial bill, that is, the equal rights amendment, and we have it considered on the Suspension Calendar, I think it worthy of the notice of our Members that when we debated this particular issue just last week in the Committee on the Judiciary, one of the amendments brought forward was to make sure that the equal rights amendment did not affect veterans' preferences. That is, the veterans' preference would be decided on its own merits and would not be decided by the judgment of nine people on the U.S. Supreme Court trying to figure out what we meant when we passed the equal rights amendment.

However, if the equal rights amendment is placed on the Suspension Calendar, the veterans' preference amendment allowing debate on that issue, and then a vote on that particular amendment would not even be allowed on this floor. I think it is rather interesting and ironic that in the same week we are using the Suspension Calendar in a proper form to allow a renewed commitment of appreciation to our veterans, and we might be asked later on to deal on the Suspension Calendar in a way that would not even allow us to consider the viability of veterans' preference.

Mr. KINDNESS. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Ohio for yielding.

Mr. Speaker, it is even more ironic that the author of the amendment to protect veterans preference system as a part of the ERA is a supporter of the ERA.

He is the gentleman from Pennsylvania (Mr. GEKAS), who voted for the ERA in committee, who voted against all of the amendments in committee including the one offered by my colleague from California (Mr. LUNGREN), the one offered by my colleague from Ohio (Mr. KINDNESS) as well as my own amendment.

It is appalling that the thought would be made to allow this supporter of the ERA no right to offer his amendment to preserve something that this Congress and State and local governments have granted to people who have served their country, who have placed their lives in jeopardy and who have had taken from them a substantial part of the productive period of their lives to serve for relatively no pay in the defense of their country and the free speech and equal rights that this country is all about.

Anyone who can say that veterans preference points are in the public interest ought to be voting against suspending the rules with respect to the ERA, if that is put on the suspension calendar.

Mr. KINDNESS. I thank the gentleman.

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 29, a bill granting a Federal charter to the Polish Legion of American Veterans, U.S.A.

This fine organization was founded in 1931, originally as a means of consolidating various groups of American veterans of Polish descent. It first was incorporated as a nonprofit organization in the State of Illinois, and it now has charter members in 11 other States, including my home State, the Commonwealth of Massachusetts. Its membership now totals some 9,000 veterans, with an additional 4,000 members in the ladies' auxiliary.

This organization, which is open to all honorably discharged veterans regardless of race, sex, creed, or color, has dedicated over 700,000 hours to the service of numerous charitable, educational, civic, and patriotic activities. Included are many hours of volunteer work in Veterans' Administration hospitals, reflecting the legion's commitment to providing comfort and assistance for hospitalized veterans.

Polish patriots have had a long and proud history of service to this country, from Thaddeus Kosciusko down to the present. Congress appointed Kosciusko to the rank of brigadier general in recognition of his invaluable contributions during the Revolutionary War, and by enacting H.R. 29 Congress will recognize the invaluable contributions of Polish patriots since. It is my sincere hope that my colleagues will join with me in supporting this most worthwhile legislation.●

● Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 29 which grants a Federal charter to the Polish Legion of American Veterans, U.S.A., an organization founded more than 50 years ago.

This noteworthy veterans organization of over 13,000 dedicated Polish American men and women is a nonprofit organization dedicated to help-

ing veterans and their families through charitable, educational, and civic improvement activities as well as conducting volunteer work and organizing patriotic activities throughout the year. The Polish Legion of American Veterans was originally chartered in Illinois, although State charters were mandated in 11 other States, including my own State of New York.

The legislation pending before us now does not expand any corporate rights or relieve any corporate responsibilities established by the State charters. What it does do is reinforce State laws by specifically requiring the organization to comply with State laws regarding the election of corporate officers and the responsibilities of the board of directors for the corporation and to comply with State laws governing service of process.

This legislation demonstrates that the over 70,000 hours devoted to civic activities by the Polish Legion of American Veterans deserves congressional recognition, and to that end this legislation succeeds admirably. Accordingly I urge my colleagues to join in support and passage of this legislation.●

● Ms. KAPTUR. Mr. Speaker, I rise to express my support for H.R. 29. This bill, which I am pleased to cosponsor, recognizes the Polish Legion of American Veterans. I commend the gentleman from Illinois (Mr. ANNUNZIO) for his efforts to grant a Federal charter for these deserving veterans.

The Polish veterans' history of service dates back to the end of World War I, when several different groups of American veterans of Polish descent formed legions. These patriotic and fraternal organizations contributed their time and effort to charitable and educational activities in their communities. Many of these local orders consolidated and held their first national convention in 1932. Since 1948, the Polish Legion of American Veterans has met biannually to formulate its policies.

The almost 15,000 members who constitute the Polish Legion of American Veterans and its ladies' auxiliary serve as volunteers in VA hospitals across the Nation. A Federal charter would serve to increase their resources and membership, as well as coordinate their service activities nationwide. We owe this recognition not only to the Polish Legion of American Veterans, but also to the thousands of disabled and impoverished veterans whom they assist.

We should support these veterans who have served their country with great courage and conviction in times of war and peace. H.R. 29 is a much deserved tribute to these dedicated men and women.●

● Mr. PORTER. Mr. Speaker, it is with great pleasure that I support H.R. 29, a bill granting a Federal charter to the Polish Legion of American Veterans, U.S.A.—PLAV.

The granting of a Federal charter is Congress' way of recognizing the outstanding contribution that a group has made to the United States. In my judgment, there are few groups that are more deserving of this special recognition than the Polish Legion of American Veterans.

Founded in the Land of Lincoln in 1931, PLAV has been a veterans patriotic organization dedicated to assisting veterans and their families. PLAV's 9,000 nationwide members perform valuable volunteer services in 45 Veterans' Administration hospitals, conduct an aid-to-the-blind program, provide gifts to men and women in the armed services at Christmas, and provide a wide variety of other charitable services to our country's needy, handicapped, and elderly citizens.

Mr. Speaker, the time has come for the Congress to pay tribute to this fine organization by granting it a Federal charter so that PLAV may expand its volunteer services without cost to the American taxpayer. I commend this fine organization for its superb history of service to this country, and urge my colleagues to support this most worthwhile legislation.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time. I urge that the Members of the House support H.R. 29 and the motion that it be passed on suspension.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 29, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1510

NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3249) to charter the National Academy of Public Administration, as amended.

The Clerk read as follows:

H.R. 3249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academy of Public Administration, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC. 2. POWERS.

The National Academy of Public Administration (hereinafter referred to as the "academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes for which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) evaluating the structure, administration, operation, and program performance of Federal and other governments and government agencies, anticipating, identifying, and analyzing significant problems and suggesting timely corrective action;

(2) foreseeing and examining critical emerging issues in governance, formulating practical approaches to their resolution;

(3) assessing the effectiveness, structure, administration, and implications for governance of present or proposed public programs, policies, and processes, recommending specific changes;

(4) advising on the relationship of Federal, State, regional, and local governments; increasing public officials', citizens', and scholars' understanding of requirements and opportunities for sound governance and how these can be effectively met; and

(5) demonstrating by the conduct of its affairs a commitment to the highest professional standards of ethics and scholarship.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 8. RESTRICTIONS.

(a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(c) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(f) The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 9. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any members having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(61) National Academy of Public Administration.".

SEC. 12. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purposes of ths Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the Corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. TERMINATION.

If the Corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

SEC. 17. SERVICE TO THE GOVERNMENT OF THE UNITED STATES

The National Academy of Public Administration shall, whenever called upon by Congress, or the Federal Government, investigate, examine, experiment, and report upon any subject of government, the actual expense of such investigations, examinations, and reports to be paid by the Federal Government from appropriations available for such purpose.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3249 grants a Federal charter to the National Academy of Public Administration, an elected association of nearly 300 members, including public administrators, academic figures, business, and labor leaders. The Academy is dedicated to providing nonpartisan, independent assistance to public administrators in an endeavor to improve Government operation. Membership in the Academy is nondiscriminatory, but members are selected on the basis of their contributions to the field of public administration.

Incorporated under the nonprofit corporation laws of the District of Columbia, the organization has served Congress and the executive branch since its inception in 1967. A great deal of the Academy's effort has been carried out in response to individual agency requests for help in solving problems associated with particular programs. In addition, the National Academy of Public Administration has aided Congress with several major pieces of legislation and the executive branch in realining the Cabinet.

As with previous charters, this bill does not expand any corporate rights of the National Academy of Public Administration. The Academy is specifically directed to comply with the District of Columbia corporation law. The charter also contains safeguards to assure responsible and appropriate conduct in the future.

I urge my colleagues to support this bill to recognize an important and unique organization.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, now we are moving a little closer to the line. There is a little bit of controversy about H.R. 3249.

In the subcommittee there was not a record vote taken. H.R. 3249 passed on a voice vote. In the full committee, as I recall, there was a voice vote also, but there were some who harbored some questions about the granting of a Federal charter to the National Academy of Public Administration.

I would like to rise in support of H.R. 3249, not because I feel wholeheartedly supportive of it, but because the gentleman from Texas is sitting over there glaring at me—I say that in good humor.

No; I think the National Academy of Public Administration, Mr. Speaker, has as its purpose or among its purposes some very worthy goals.

In the publication of the National Academy of Public Administration, which explains its functioning and the James E. Webb Fund for Excellence in Public Administration, a fund from which grants are made in furtherance of the improvement of public administration, it is stated as the mission of the National Academy of Public Administration that it is a nonprofit collegial society founded in 1967 by the 18 former presidents of the American Society for Public Administration, who were brought together for this purpose by James E. Webb, then Administrator of the National Aeronautics and Space Administration.

Mr. Webb's goal was to create a trusted and experienced source of counsel on sensitive public management matters for Government agencies and officials that would, at the same time, serve as a powerful independent supporter and promoter of superior strategies for making our Government work better.

There is much more that could be said and I will in subsequent time explain more about the mission of and purposes of the National Academy of Public Administration, if desired. But suffice it to say that I think this is one of those cases in which I believe that a Federal charter serves an appropriate purpose, although there is room for disagreement.

Participants in the National Academy of Public Administration from the State and local governmental levels would cause some to say, "Well, why are we looking at this as a cause, an organization that deserves a Federal charter and Federal recognition?"

Well, it has a nationwide purpose, although it relates to local government, State government, and Federal Government, it is a nationwide pervasive purpose, the improvement of public administration.

I would urge the Members to support H.R. 3249 and the motion that it be passed on suspension.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS), chairman of the Government Operations Committee, dean of the Texas delegation, ranking member of the Judiciary Committee, and the sponsor of H.R. 3249.

Mr. BROOKS. Mr. Speaker, I thank the subcommittee chairman.

I wish to say how deeply grateful I am to the gentleman from Texas (Mr. SAM B. HALL, JR.), for having a hearing

on this legislation and promptly moving it, and to the gentleman from Ohio (Mr. KINDNESS), on behalf of the Republicans, for speaking for it and understanding fully the purpose for which it was introduced.

Mr. Speaker, I rise in strong support of H.R. 3249, a bill to authorize a Federal charter for the National Academy of Public Administration, which I introduced in June of this year.

I have the highest regard for the work and membership of NAPA, an elected association of nearly 300 public administrators, academic figures, and leaders of business and labor. The Academy has provided invaluable assistance to the congress and the Federal Government as a whole in performing thorough and objective analyses on major questions of public administration.

I am particularly grateful to the academy for its work in analyzing legislation that created the Departments of Transportation, Energy, Health and Human Services and Education. Congress received the benefit of NAPA's counsel in shaping the original legislation creating these departments, and the executive branch and NAPA's help in organizing and managing the new departments.

The granting of a Federal charter to the National Academy of Public Administration, an organization whose sole purpose is to provide intellectual and academic assistance to the decisionmakers of the Federal Government, will be a tribute to the Academy's unique status. I urge support for H.R. 3249.

Mr. SAM B. HALL, JR. Mr. Speaker, I reserve the balance of my time.

Mr. KINDNESS. Mr. Speaker, I yield 10 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, this bill is a good object lesson in the type of bills that ought to be brought on the Suspension Calender, even though some of us would urge a "no" vote on it.

The reason I suggest it is that this is not a bill that those who do not support it would be persuaded to support if all we did was attach some amendments to it. It really goes to the question as to whether or not the Members believe this particular organization is an organization which rises to that level for which we would want the granting of a Federal charter.

I have no obvious bias against this group. It sounds like they are a good group. But it just strikes me that we ought to be setting some standards as to what special character of an organization would necessitate a Federal charter.

The subcommittee believes it has done that. In this case, however, I believe they have not. And I would urge my colleagues to cast a "no" vote.

Nonetheless, it does present us with a situation in which there can be those who oppose it, but do not oppose its being on the Suspension Calender. It is a relatively noncontroversial bill. Those, who disagree with it, disagree with it merely because they do not believe it makes the standards that they feel ought to be set for granting such charters.

□ 1520

At the same time, it is not of a significant controversy that would warrant it to be presented under the regular rules of the House and subject to the amendment process, as opposed to—as a number of us have mentioned on a previous couple of occasions today—the rumored entrance of the equal rights amendment on the Suspension Calendar sometime this week.

The esteemed chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), has made some very strong comments about treating constitutional amendments in extraordinary ways where there is not an opportunity for debate, full debate and full amendment.

I would suggest that my colleagues might want to peruse the July 11, 1979, letter from Chairman RODINO to all of the colleagues in the House, where he said, on page 2:

Approval of this motion—

And that referred to a motion of discharge—

would mean that the House of Representatives could be limited to a single hour of debate on an amendment to the Constitution of the United States. Such a spectacle—

Those are the chairman's words—

would demean our democratic system, this legislative body, and each of us. Amending the Constitution is an extraordinary action. The discharge petition is an extraordinary procedure. Neither is remotely justified by the narrow viewpoint on school busing represented by House Joint Resolution 74.

And I would just suggest to the Members of this House that if in fact the use of the discharge petition to bring a bill to the floor for 1 hour of debate, during which time no amendments would be allowed, if that is such an extraordinary proceeding, then certainly bringing a controversial subject such as the equal rights amendment to the floor to be considered under the Suspension Calendar, where there would be less time than under the discharge petition, a total of 40 minutes rather than 60 minutes, and no amendments, just as is not allowed under the discharge petition, would be at least as extraordinary and at least as unnecessary.

Mr. Speaker, I would suggest that there are many members on the Committee on the Judiciary and on the subcommittee who had differing views on the ultimate wisdom of an equal rights amendment. Yet within that group, that cross-section, there were those who supported and those who did not support various combinations of amendments that were offered to try and clear up some of the questions involved.

And the membership should know that they will not even have the opportunity for a full discussion of those issues, much less an opportunity to vote on the resolution of those issues, if this rumor is true and if we are told that we are to vote on the equal rights amendment under the Suspension Calendar.

Members should realize that we have 26 bills on the Suspension Calendar scheduled for today and 20 scheduled for tomorrow. Yet while we have those on the Suspension Calendar, also on the agenda for this week, not to be considered on the Suspension Calendar but under the regular legislative procedure, we have the Child Abuse and Adoption Reform Act, we have the Washington Workshop authorization, we have H.R. 3435, Education for the Handicapped, we have H.R. 2900, Atmospheric, Climatic and Ocean Pollution Act of 1983, we have H.R. 2350, the Health Research Extension Act—that is the NIH authorizations—we have H.R. 4072, the Wheat Improvement Act of 1984, we have H.R. 2755, Communications Commission authorization, we have H.R. 3020, Small Business Act, we have H.R. 4248, Panama Canal authorization, and we have H.R. 2912, Department of Justice authorizations for fiscal year 1984.

In other words, if this rumor is correct, the single items are far more controversial and far more wide-ranging in impact on the American people than would be a constitutional amendment.

I do not think anybody would suggest that that is the case.

We ought to, I think, very much consider the remarks of the esteemed chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), again quoting from his letter of July 11, 1979, when he said, on page 2:

Amending the Constitution should always be a deliberative, reflective act, with full opportunity to all to be heard on both sides of an issue. Any procedure which attempts to circumvent the methodical and careful process which has been uniformly applied to consideration of an amendment must be set aside as an unwarranted demeaning of the Constitution itself.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, do I understand the gentleman to say that, with the kind of schedule we have before us, the Atmospheric, Climatic and Ocean Pollution Act of 1983 would be debated for a longer period of time than the ERA would be debated this

week if we go by the procedures that we are being told will be adopted?

Mr. LUNGREN. The gentleman is absolutely correct. Not only that bill, but the Washington Workshop authorization. Now, I understand that the Washington Workshop authorization deals with a program for training certain high school students with respect to how this institution of Government operates. And I think it would be a shame to have them come here and see that the bill that will deal with their program is to be given fuller consideration than an amendment to the Constitution of the United States. But that is coming here under an open rule. That means that all amendments are in order.

Mr. WALKER. If the gentleman will yield further, in other words, then, we would be able to amend the Washington Workshop authorization.

Mr. LUNGREN. Absolutely.

Mr. WALKER. The Atmospheric, Climatic and Ocean Pollution Act of 1983, the Wheat Improvement Act, and several others.

Mr. LUNGREN. Yes.

Mr. WALKER. We are going to be able to offer amendments to those, but we would not be able to even discuss those amendments on the ERA which would be with us, if adopted, for the life of the Constitution of the country?

Mr. LUNGREN. I think the gentleman is absolutely correct on that. The suggestion is that it is less controversial, that it has far less impact on the American people than does the Panama Canal authorization or the authorization of the Department of Justice for a single year.

I find that to be hard to believe, hard to accept.

And I would just suggest that people ought to understand what types of amendments we are talking about. We are talking about sincere amendments, amendments dealing with the question of veterans' preference, amendments concerned with the question of whether the ERA would or would not force the decision as to women being drafted to the Supreme Court rather than by the elected officials of this land, questions as to whether women can be forced into combat, not by a conscious decision made by the elected officials of this land, but by some determination of constitutional law by the Supreme Court.

We would also not be able to consider an amendment that I offered in the subcommittee that dealt with the question of its impact on private and parochial schools. I have a number of problems with that, one of which is this: Under some interpretation of the standard that would be brought to bear on this issue by the adoption of the ERA, there has been the suggestion that Roman Catholic seminaries would be declared unconstitutional or, at the very least, lose their tax-exempt status because the Roman Catholic Church does not ordain women. I happen to be Roman Catholic. I, frankly, do not have any personal problems with women becoming priests, and would accept that. But many people in my church do. The Pope has spoken out against it, along with many others, and they have some scriptural and traditional reasons for that.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. LUNGREN) has expired.

Mr. KINDNESS. Mr. Speaker, may I inquire of the Chair the time remaining on each side?

The SPEAKER pro tempore. The gentleman has 6 minutes remaining.

Mr. KINDNESS. Mr. Speaker, I yield 3 additional minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. If I might just pursue that point, it is a question within my own church as to whether women should or should not be ordained. I do not think that the U.S. Supreme Court ought to make that decision. I think that is something we should resolve within our church, and I do not think that, since that is a sincere consideration of many Members, we ought to be prohibited from at least discussing it on the floor. Maybe I am wrong on that. Maybe the reach of the amendment will not be that far. I hope that is the case. But if it is, if it is even potentially, that is something that the elected Representatives of the people's House ought to be able to debate.

Another question would be whether, therefore, private educational institutions, high schools, all boys' high schools, all girls' high schools, all men's colleges, all women's colleges, would be declared unconstitutional under a standard imposed by the Supreme Court in interpreting ERA.

Now, I do not know. The answer, frankly, is that no one knows what the interpretation will be until the Supreme Court acts. And I would suggest that, as elected officials, since we take an oath to uphold the Constitution, we be given the opportunity to review that, and if we think that is a problem we articulate amendments that resolve that question one way or the other. If it is brought up under the Suspension Calendar, we will not be given an opportunity to do that.

And I see the gentleman from Kansas (Mr. GLICKMAN) standing there, an esteemed Member on the Democratic side on the Committee on the Judiciary, who said, as the bill was passed out, that he would recommend to the chairman of the full committee that it be under an open rule because even though he supports the ERA he feels that these things ought to be put out on the table and we ought to discuss it. I respect the gentleman for saying that.

□ 1530

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I just wish to point out that I have listened to what the gentlemen from the minority side have said this afternoon in talking about the other suspensions that have come up. I know what the point is that they are trying to make. I just want them to know that I wholeheartedly agree with them. I do not think that this ERA, H.R. 1, ought to come up under suspension because I think it is too important a measure to be allowed only 40 minutes of discussion.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for this comment, and I appreciate his leadership on the full committee and the subcommittee.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The point is that the gentleman makes a very valid point. Forty minutes of debate, with all the serious issues that he just mentioned, is an absurdity. We would be allocating for the ERA, an extremely important matter for this country, exactly the same amount of time that we would allot to, for instance, H.R. 2838, the tree seedlings on public lands bill. That makes absolutely no sense whatsoever, and I thank the gentleman for the point he made.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. LUNGREN) has expired.

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 3249, as amended.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PREFERENTIAL MOTION TO ADJOURN

Mr. SENSENBRENNER. Mr. Speaker, I send to the desk a preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SENSENBRENNER of Wisconsin moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and on a division (demanded by Mr. SENSENBRENNER) there were—yeas 8, nays 9.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 121, nays 258, not voting 55, as follows:

[Roll No. 492]

YEAS—121

Archer	Hunter	Ritter
Badham	Hyde	Roberts
Bartlett	Johnson	Robinson
Bateman	Kasich	Roemer
Bethune	Kemp	Rogers
Bilirakis	Kindness	Roth
Bliley	Kramer	Rudd
Broomfield	Lagomarsino	Sawyer
Broyhill	Latta	Schaefer
Carney	Lewis (CA)	Schulze
Chandler	Lewis (FL)	Sensenbrenner
Chappie	Loeffler	Shaw
Cheney	Lowery (CA)	Shumway
Clinger	Lujan	Shuster
Coleman (MO)	Lungren	Siljander
Conte	Mack	Skeen
Coughlin	Marlenee	Smith (NE)
Courter	Marriott	Smith (NJ)
Craig	Martin (IL)	Smith, Denny
Crane, Daniel	McCain	Smith, Robert
Crane, Philip	McCandless	Snowe
Dannemeyer	McCollum	Snyder
Daub	McEwen	Solomon
Davis	McKernan	Stangeland
DeWine	Michel	Stump
Dreier	Moore	Sundquist
Duncan	Moorhead	Tauke
Edwards (OK)	Morrison (WA)	Thomas (CA)
Emerson	Myers	Vander Jagt
Erlenborn	Nielson	Vucanovich
Evans (IA)	O'Brien	Walker
Fields	Oxley	Weber
Gingrich	Packard	Whitehurst
Gregg	Parris	Whittaker
Gunderson	Petri	Williams (OH)
Hansen (ID)	Porter	Winn
Hansen (UT)	Pursell	Wolf
Hiler	Quillen	Wortley
Hillis	Regula	Young (AK)
Hopkins	Ridge	
Horton	Rinaldo	

NAYS—258

Ackerman	AuCoin	Boehlert
Addabbo	Barnard	Boland
Akaka	Barnes	Boner
Albosta	Bates	Bonior
Anderson	Bedell	Bonker
Andrews (NC)	Beilenson	Borski
Andrews (TX)	Bennett	Bosco
Annunzio	Berman	Boucher
Applegate	Bevill	Boxer
Aspin	Biaggi	Breaux
Brooks	Harrison	Patterson
Brown (CA)	Hatcher	Pease
Brown (CO)	Hawkins	Penny
Bryant	Hayes	Pepper
Burton (CA)	Hefner	Perkins
Carper	Hertel	Pickle
Carr	Hightower	Price
Clarke	Holt	Pritchard
Clay	Howard	Rahall
Coats	Hoyer	Ratchford
Coelho	Hubbard	Ray
Coleman (TX)	Huckaby	Reid
Collins	Hughes	Richardson
Conyers	Hutto	Rodino
Cooper	Ireland	Roe
Coyne	Jones (NC)	Rose
Crockett	Jones (OK)	Roukema
D'Amours	Jones (TN)	Rowland
Daniel	Kaptur	Roybal
Darden	Kastenmeier	Russo
Daschle	Kazen	Sabo
Derrick	Kennelly	Savage
Dickinson	Kildee	Scheuer
Dicks	Kogovsek	Schneider
Dingell	Kolter	Schroeder
Dixon	Kostmayer	Schumer
Donnelly	LaFalce	Seiberling
Dorgan	Lantos	Shannon
Dowdy	Leach	Sharp
Downey	Leath	Shelby
Dwyer	Lehman (FL)	Sikorski
Dymally	Leland	Simon
Dyson	Lent	Sisisky
Early	Levin	Skelton
Eckart	Lipinski	Slattery
Edgar	Lloyd	Smith (FL)
Edwards (AL)	Long (LA)	Smith (IA)
Edwards (CA)	Long (MD)	Spence
English	Lowry (WA)	Spratt
Erdreich	Luken	St Germain
Evans (IL)	Lundine	Staggers
Fascell	MacKay	Stenholm
Fazio	Madigan	Stokes
Feighan	Markey	Stratton
Ferraro	Martinez	Studds
Fiedler	Matsui	Swift
Fish	Mazzoli	Synar
Flippo	McCloskey	Tallon
Foglietta	McDade	Tauzin
Foley	McGrath	Thomas (GA)
Ford (TN)	McHugh	Towns
Forsythe	McKinney	Traxler
Fowler	McNulty	Udall
Frank	Mica	Vandergriff
Frenzel	Mikulski	Vento
Frost	Miller (CA)	Volkmer
Fuqua	Mineta	Walgren
Gaydos	Moakley	Watkins
Gekas	Mollohan	Weaver
Gephardt	Montgomery	Weiss
Gibbons	Morrison (CT)	Wheat
Gilman	Mrazek	Whitley
Glickman	Murphy	Whitten
Gonzalez	Murtha	Williams (MT)
Goodling	Natcher	Wilson
Gore	Neal	Wirth
Gradison	Nelson	Wolpe
Gray	Nichols	Wright
Green	Nowak	Wyden
Guarini	Oakar	Wylie
Hall (IN)	Obey	Yates
Hall, Ralph	Olin	Yatron
Hall, Sam	Ortiz	Young (FL)
Hamilton	Ottinger	Young (MO)
Hammerschmidt	Panetta	Zablocki
Harkin	Patman	Zschau

NOT VOTING—55

Alexander	Gramm	Mitchell
Anthony	Hall (OH)	Molinari
Bereuter	Hance	Moody
Boggs	Hartnett	Oberstar
Britt	Heftel	Owens
Burton (IN)	Jacobs	Pashayan
Byron	Jeffords	Paul
Campbell	Jenkins	Rangel
Chappell	Lehman (CA)	Rostenkowski
Conable	Levine	Solarz
Corcoran	Levitas	Stark
de la Garza	Livingston	Taylor
Dellums	Lott	Torres
Durbin	Martin (NC)	Torricelli
Florio	Martin (NY)	Valentine
Ford (MI)	Mavroules	Waxman
Franklin	McCurdy	Wise
Garcia	Miller (OH)	
Gejdenson	Minish	

□ 1550

Mr. FLIPPO and Mr. ERDREICH changed their votes from "yea" to "nay."

Mrs. JOHNSON changed her vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

SATELLITE-DIRECTED NAVIGATIONAL GUIDANCE FOR AIRCRAFT

Mr. GLICKMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 190) expressing the sense of the Congress that the Secretary of Transportation should submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate full research and development program planning documentation leading to expedited use by the civilian sector of certain satellite-directed navigational aids developed by the Department of Defense for the guidance of aircraft.

The Clerk read as follows:

H. CON. RES. 190

Whereas an unarmed South Korean commercial air transport plane was shot down on September 1, 1983, with the loss of two hundred and sixty-nine lives, including many American citizens;

Whereas the Korean Air Lines jet had apparently strayed off course into Soviet-controlled airspace;

Whereas the cause for the deviation from the plane's assigned route of flight is still under investigation and may never be known;

Whereas the current aviation system is safe if internationally recognized procedures are followed;

Whereas the Government of the Soviet Union has arrogantly declared that in the future if another civilian aircraft strays off course and enters Soviet airspace it would repeat its inhumane behavior, ignoring procedures developed to protect passengers;

Whereas there is an urgent need to provide pilots with additional navigational backup systems to prevent aircraft from straying off course and to protect passengers from becoming victims of the renegade behavior of the Government of the Soviet Union or other nations with similar disregard for the lives of innocent people;

Whereas the Department of Defense has developed the Global Positioning System (hereafter in this concurrent resolution referred to as the "GPS") that can provide highly accurate navigational information to civilian aircraft as early as 1988; and

Whereas the GPS could be implemented before the date to provide at least partial coverage near the borders of nations which have threatened and continue to threaten civilian airliners that may accidentally go off course: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Secretary of Transportation should submit to the Committee on Science and Technology of the House of Represent-

atives and the Committee on Commerce, Science, and Transportation of the Senate, not later than June 30, 1984, full research and development program planning documentation leading to expedited use of the GPS by the civilian sector; and

(2) in pursuing such research and development, an orderly process should be developed for input from the aviation user community.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the Secretary of Transportation and the Secretary of Defense.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kansas (Mr. GLICKMAN) will be recognized for 20 minutes and the gentleman from New York (Mr. CARNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to thank the chairman of the full Science Committee for his strong support and leadership in seeing this resolution before the House today.

Over 2 months have passed since the brutal action of the Soviet Union in downing a civilian airliner, flown by Korean Air Lines.

Both the House and the Senate passed strongly worded resolutions condemning this action, in which all 269 passengers and crew were killed. U.S. revulsion was shared by the world, including several nations that responded by temporarily suspending air service to the Soviet Union.

Despite the marshaling of world opinion against the Soviet action, the Soviet Government stonewalled any responsibility for this massacre.

In fact, it publicly proclaimed that it intends to enforce its mindless border law and shoot down any future passenger plane that innocently strays across it borders.

The exact reason for Korean's flight 007 straying some 300 miles off course may never be fully known. Yet in hearings before the Subcommittee on Transportation, Aviation and Materials, which I chair, most experts pointed to the likelihood that a serious navigation error was at fault. Furthermore, the hearings pointed out that such errors are more common than most people think.

For this reason I believe it is imperative that the very latest technology be employed to aid pilots, particularly those flying long, overwater routes, out of view of air controllers. Fortunately, the Defense Department has successfully tested and is now installing a navigation system known as the global positioning system (GPS) which will provide around-the-clock, all-weather coverage for properly equipped aircraft anywhere in the world.

GPS is a satellite system that will provide a very accurate navigation signal to military users such as aircraft and ships. At the same time, a less accurate signal—about 100 meters—will be available to civil users. The expected operational date of GPS is 1988. That means, Mr. Speaker, that a ground controller can locate an aircraft over the ocean several hundred miles away with the accuracy of 100 meters.

The Science and Technology Committee has long been on record as favoring civilian use of GPS. GPS is more accurate than current navigation aids and provides worldwide coverage, which the others do not.

Yet despite these advantages, the FAA has dragged its feet. Plans for modernizing the entire air traffic control system, for examle, do not even mention satellite-based navigation.

The tragedy of Korean flight 007 emphasized the need for better navigation, particularly on long, over-water flights. Our hearings showed that GPS would have been a useful backup, probably preventing that aircraft from straying off course.

Accordingly, I, along with 44 cosponsors, introduced a concurrent resolution urging the administration to expedite the research and development of procedures and standards needed to permit civilian use of GPS. On November 3, 1983, the Science Committee, by a unanimous vote, ordered the resolution reported to the House for consideration.

Mr. Speaker, I urge my colleagues to take this important step toward improving the safety of air travel. Let us not fail to act even though the Public's attention may have shifted to the next crisis.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. I thank the gentleman for yielding time to me.

Mr. Speaker, the Committee on Science and Technology has responsibility for civil aviation research and development. As part of that responsibility we have urged the Department of Transportation, along with other concerned agencies, to develop long range plans, and to do research, aimed at improving the Nation's aging air traffic control system. An important part of that task is to reduce the proliferation of navigation services currently available to aircraft flying both domestically and overseas.

At the present time there are a number of systems providing such services. These include Omega, Loran C, VOR/DME and the inertial navigation system. Each has its advantages and disadvantages, but the net result is unnecessary duplication.

For this reason, the Science and Technology Committee has urged the administration to devise a plan to consolidate existing systems and to consider advanced technologies in providing navigation service.

Among the most promising future technologies is the global positioning system, now in full scale development by the Department of Defense. GPS, when operational in 1988, will consist of 18 satellites orbiting at an altitude of nearly 11,000 miles. The spacing will be such that three or more satellites will be visible at all times anywhere in the world. With each satellite transmitting a signal containing its position, the exact time and an atmospheric propagation correction, it will be possible for suitably equipped users to calculate their position very accurately, much as a navigator using a sextant does.

Although the extremely precise accuracy available to the military will be denied to civil users for national security reasons, a signal allowing civilians to determine their position anywhere in the world within 100 meters will be provided.

In response to the recent Korean jetliner tragedy, the White House announced that the GPS radio navigation system will be made available for civil purposes worldwide to help avoid such disasters in the future. To date, however, the Federal Aviation Administration has taken little notice of GPS in any of its air traffic control modernization planning documentation. For this reason the Science and Technology Committee is recommending the concurrent resolution before us, expressing the sense of Congress that the necessary planning be completed by next June in order to expedite the availability of GPS to civilian users.

Mr. Speaker, I urge adoption of House Concurrent Resolution 190.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. NELSON).

Mr. NELSON of Florida. I thank the gentleman for yielding to me.

Mr. Speaker, I just want to add my concurrence and urge a positive vote on this House concurrent resolution.

Had the research and development already produced a global positioning satellite, we could have averted the 007 disaster.

This global positioning satellite can provide very accurate information of where you are at any given time all over the globe.

□ 1600

By this resolution we express the sense of Congress that we want a GPS in operation as soon as possible.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 190. I cosponsored this resolution because it makes good sense. This is the kind of bipartisan resolution that we can—and should—all get behind.

The global positioning system is an accurate navigational system that can save lives. Moreover, the technology is already here; it is not just an idea on someone's drawing board that will cost billions of dollars to develop.

During the Paris Air Show this system was used exclusively to guide a Sabreliner business jet from Cedar Rapids, Iowa, to Paris, France; and it landed just 25 feet from its intended target. If this system had been in use on September 1 of this year, perhaps the 269 people on board Korean Air Lines flight 007 would still be with us today.

This system was developed by Rockwell International for military use. This development was funded by the U.S. taxpayer. It is only right that the system be made available for all taxpayers. The civilian aviation community that continues to be taxed—and heavily I might add—for modernization of the air space system, especially should be able to benefit from this technology.

This resolution affirms that we in Congress believe that the Department of Transportation should move as expeditiously as possible to utilize this technology for civil applications. I urge all my colleagues to join with us in support of House Concurrent Resolution 190.

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

I would just conclude by saying that the Defense Department has developed a system which can be used in the civilian sector which could have prevented perhaps the Korean airliner tragedy.

In addition, our hearings indicated, Mr. Speaker, that there are several of these occasions that occur perennially and much more frequently than we would think where airliners veer off course many, many times. If they veer close to a hostile nation like the Soviet Union, the same tragedy could happen again, and this system will bring into the 21st century the kind of navigational aids pilots and passengers so desperately need.

Mr. CARNEY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. I appreciate very much the gentleman from New York yielding.

Let me say I think this is a very important step and I want to commend the committee for taking this action. I am delighted that the gentleman from Kansas (Mr. GLICKMAN) is participating in this kind of effort to use advanced technology in a way which will, in fact, improve civilian safety.

I think that all too often we fail to recognize that there are many breakthroughs, many of them supervised by the Committee on Science and Technology, which really make it possible to have a better quality of life, to have more safety, and to have a greater opportunity for everyone on this planet to participate in a high technology world.

This particular opportunity was tragically brought about because of the shooting down of an unarmed South Korean commercial airplane on September 1, 1983, with the loss of 269 lives, including many American citizens and including a Congressman, Larry McDonald of Georgia.

Apparently the Korean Air Lines jet had strayed off course. One of the difficulties we have in the West in developing appropriate high technology is finding ways to insure that the Soviet Union and other dictatorships can participate in creating safety without at the same time giving them any military advantage from this kind of technology. However, in this case the development of a global positioning system that can be used by civilian aircraft as early as 1988 will insure safety for all of the traveling public across the planet.

I think it is a sign of American leadership both in the use of space and in high technology, including computers and information sciences, that we are the only country on the planet at the present time capable of developing such a global positioning system. I simply want to rise to commend the Committee on Science and Technology for its work in developing this particular effort and in directing that we speed up the process of transferring high technology into everyday life so that we can in fact have a more effective system of transportation and a safer system of transportation throughout the world.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I just want, Mr. Speaker, to compliment the gentleman from Georgia (Mr. GINGRICH) on an excellent statement. And I want to indicate that this is an example where you can get good cooperation and transfer from the Defense Department's technology to civilian application of that technology.

While we have had a few problems in getting cooperation at the Pentagon on that issue, the fact of the matter is that we have spent a lot of dollars in the Defense Department to enhance this technology. This is one that can provide dividends to the civilian sector, and we say get moving with it.

Mr. GINGRICH. If I could respond to the gentleman from Kansas, I think it is very important that all Americans realize that in the period immediately after World War II one of the reasons for our star rising was our investment through the Defense Department in very high technology research. The area of computers and jet aircraft are the two best examples which allowed us to totally dominate the world market. Virtually all civilian jet aircraft in the free world were built by American companies based on American technology developed with defense dollars. Similarly, virtually all of our major breakthroughs in the first 15 years of computers were defense related.

I think one of the things I am very delighted to see is the gentleman's committee working under the able leadership of the gentleman from Florida (Mr. FUQUA) in a serious effort to increase the speed of transfer of technology out of the defense related but not necessarily defense only areas into use by the civilian community at large.

If we can regain that commitment—and I must say that in one of the Clearinghouse of the Future meetings it was very clearly stated by a gentleman from MIT that he found far more freedom in his defense related research contracts than in his National Science Foundation contracts, that he found a greater ability to pursue scientific knowledge based on his own judgment, with less bureaucracy and redtape—and if we can get back to a commitment to make America once again the leader in high technology, and to transfer out of NASA and out of the Defense Department the best technology that is appropriate for civilian use without endangering our military leadership, I think we can regain our capacity to create jobs in America and compete without a fear of any kind of protectionism on our part.

I thank the gentleman for his statement.

Mr. GLICKMAN. I thank my colleague.

Mr. CARNEY. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Pennsylvania (Mr. WALKER), a member of the Committee on Science and Technology.

Mr. WALKER. Mr. Speaker, I rise in favor of this bill. This is a good bill. It is a bill which responds to what was a worldwide tragedy, recognized around the world as a tragedy, the barbarism committed by the Soviet Union against an unarmed civilian airliner.

Out of that tragedy grew a repulsion that swept across the world. And in those emotional times we lost sight a little bit of some of the lessons that needed to be learned by that tragedy.

One of those lessons was that it is indeed possible even in this day and age for a civilian airliner to stray off course. What this bill responds to is

that aspect of the tragedy. It shows us that we can find ways to assure civilian airliners that they are on course and thereby avoid the kinds of situations that can have nations with a barbaristic attitude as the Soviet Union act as they did against an airliner.

It also says something else, though, that I think is vitally important. It says how important the emerging space technology and space industrialization is to the future of this country.

Here is an application in outer space which accrues to the benefit of people right here on Earth. It will mean that we will have a safer airline industry, which means ultimately that more passengers will be willing to fly in that airline industry.

It means we will use space based technology for the good of people here on Earth.

I think that we need to recognize that that is one of the emerging economic sectors where this country has world leadership. If we do not exploit our ability to utilize technology in space in a way in which we can utilize that against our balance of payments we will make a tragic mistake. We will make a mistake that will allow other nations the opportunity to develop technology and thereby exceed us in these areas where we are already seeing applications developing.

That is what we have in this case and I commend the gentleman from Kansas (Mr. GLICKMAN), for bringing the bill to the floor.

Mr. CARNEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. DANIEL).

□ 1610

Mr. DANIEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in enthusiastic support of this resolution but I hope that the public will not get the impression that the Congress has taken the position that the airliner (KAL 007) was shot down simply because it was off course.

I thank the gentleman for yielding.

Mr. GLICKMAN. The gentleman (Mr. DANIEL) makes a good point. All we are trying to do is improve navigation technology so as to prevent future accidents from occurring.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. GLICKMAN) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 190).

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MOTION TO ADJOURN

Mr. GINGRICH. Mr. Speaker, I have a privileged motion which I send to the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GINGRICH moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINGRICH).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GINGRICH. Mr. Speaker, I ask for a teller vote.

The SPEAKER pro tempore. The gentleman asks a teller vote. Is the gentleman asking for a recorded vote?

Mr. GINGRICH. Mr. Speaker, I am asking first for a teller vote.

Mr. FUQUA. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 100, nays 261, not voting 73, as follows:

[Roll No. 493]

YEAS—100

Archer	Dreier	Lewis (CA)
Badham	Edwards (OK)	Lewis (FL)
Bartlett	Emerson	Loeffler
Bateman	Erlenborn	Lowery (CA)
Bethune	Fields	Lujan
Bilirakis	Gingrich	Lungren
Bliley	Gregg	Mack
Broomfield	Gunderson	McCain
Brown (CA)	Hansen (ID)	McCandless
Broyhill	Hansen (UT)	McCollum
Carney	Hiler	McEwen
Chappie	Hillis	Michel
Cheney	Hopkins	Moore
Clinger	Hunter	Moorhead
Coleman (MO)	Hyde	Myers
Coughlin	Johnson	Nielson
Courter	Kasich	O'Brien
Craig	Kemp	Oxley
Crane, Philip	Kindness	Packard
Dannemeyer	Kramer	Parris
Daub	Lagomarsino	Petri
DeWine	Latta	Porter
Regula	Shaw	Thomas (CA)
Rinaldo	Shumway	Vander Jagt
Ritter	Siljander	Vucanovich
Roberts	Skeen	Walker
Robinson	Smith (NE)	Weber
Roemer	Smith (NJ)	Whitehurst
Rogers	Smith, Denny	Winn
Roth	Smith, Robert	Wolf
Rudd	Snowe	Wortley
Sawyer	Stangeland	Young (AK)
Schaefer	Stump	
Sensenbrenner	Sundquist	

NAYS—261

Ackerman	Garcia	Mineta
Addabbo	Gaydos	Mitchell
Akaka	Gejdenson	Moakley
Albosta	Gekas	Mollohan
Anderson	Gephardt	Montgomery
Andrews (NC)	Gibbons	Morrison (CT)
Andrews (TX)	Gilman	Morrison (WA)
Annunzio	Glickman	Murtha
AuCoin	Gonzalez	Natcher
Barnard	Goodling	Neal
Bedell	Gore	Nelson
Beilenson	Gradison	Nichols
Bennett	Gray	Nowak
Berman	Green	Oakar
Bevill	Guarini	Obey
Boehlert	Hall (IN)	Olin
Boland	Hall (OH)	Ortiz
Boner	Hall, Ralph	Ottinger
Bonior	Hall, Sam	Panetta
Bonker	Hamilton	Patman
Borski	Hammerschmidt	Patterson
Boucher	Harkin	Pease
Boxer	Harrison	Penny
Breaux	Hatcher	Pepper
Brooks	Hawkins	Perkins
Brown (CO)	Hayes	Pickle
Bryant	Hefner	Price
Burton (CA)	Heftel	Pritchard
Carper	Hertel	Pursell
Carr	Hightower	Quillen
Clarke	Holt	Rahall
Clay	Howard	Ratchford
Coats	Hoyer	Ray
Coelho	Hubbard	Reid
Coleman (TX)	Huckaby	Richardson
Collins	Hughes	Rodino
Conte	Hutto	Roe
Conyers	Ireland	Rose
Cooper	Jacobs	Roukema
Coyne	Jones (NC)	Rowland
Crockett	Jones (OK)	Roybal
Daniel	Jones (TN)	Savage
Darden	Kaptur	Scheuer
Daschle	Kastenmeier	Schneider
de la Garza	Kazen	Schroeder
Dellums	Kennelly	Schulze
Derrick	Kildee	Schumer
Dickinson	Kogovsek	Seiberling
Dixon	Kolter	Shannon
Donnelly	Kostmayer	Sharp
Dorgan	LaFalce	Shelby
Dowdy	Lantos	Shuster
Duncan	Leach	Sikorski
Dwyer	Leath	Simon
Dymally	Lehman (FL)	Sisisky
Dyson	Leland	Skelton
Early	Lent	Slattery
Eckart	Levin	Smith (FL)
Edgar	Lipinski	Smith (IA)
Edwards (AL)	Lloyd	Snyder
Edwards (CA)	Long (LA)	Spence
English	Long (MD)	Spratt
Erdreich	Lowry (WA)	St Germain
Evans (IA)	Luken	Stark
Evans (IL)	Lundine	Stenholm
Fascell	MacKay	Stokes
Fazio	Madigan	Stratton
Feighan	Marlenee	Studds
Ferraro	Martin (IL)	Synar
Fiedler	Martinez	Tallon
Fish	Matsui	Thomas (GA)
Flippo	Mazzoli	Towns
Foglietta	McCloskey	Traxler
Foley	McDade	Udall
Ford (TN)	McGrath	Vandergriff
Forsythe	McHugh	Vento
Fowler	McKinney	Volkmer
Frank	McNulty	Walgren
Frenzel	Mica	Watkins
Frost	Mikulski	Waxman
Fuqua	Miller (CA)	Weaver

Weiss	Wirth	Yates
Wheat	Wise	Yatron
Whittaker	Wolpe	Young (FL)
Whitten	Wright	Young (MO)
Williams (OH)	Wyden	Zablocki
Wilson	Wylie	Zschau

NOT VOTING—73

Alexander	Florio	Mrazek
Anthony	Ford (MI)	Murphy
Applegate	Franklin	Oberstar
Aspin	Gramm	Owens
Barnes	Hance	Pashayan
Bates	Hartnett	Paul
Bereuter	Horton	Rangel
Biaggi	Jeffords	Ridge
Boggs	Jenkins	Rostenkowski
Bosco	Lehman (CA)	Russo
Britt	Levine	Sabo
Burton (IN)	Levitas	Solarz
Byron	Livingston	Solomon
Campbell	Lott	Staggers
Chandler	Markey	Swift
Chappell	Marriott	Tauke
Conable	Martin (NC)	Tauzin
Corcoran	Martin (NY)	Taylor
Crane, Daniel	Mavroules	Torres
D'Amours	McCurdy	Torricelli
Davis	McKernan	Valentine
Dicks	Miller (OH)	Whitley
Dingell	Minish	Williams (MT)
Downey	Molinari	
Durbin	Moody	

□ 1620

Messrs. SIMON, JONES of Oklahoma, WAXMAN, and WALGREN changed their votes from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

□ 1430

TRANSFER OF CIVIL METEOROLOGICAL SATELLITES

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 168) expressing the sense of the Congress that it is not appropriate at this time to transfer ownership or management of any civil meteorological satellite system and associated ground system equipment to the private sector.

The Clerk read as follows:

H. CON. RES. 168

Whereas the Federal Government has traditionally provided weather forecasts which rely significantly upon data gathered by civil meteorological satellites;

Whereas within the United States the Federal Government is the principal user of data gathered by civil meteorological satellites;

Whereas the Federal Government has the responsibility for providing forecasts and warnings regarding severe weather in order to protect property and public safety;

Whereas the United States has engaged for over one hundred years in the free international exchange of meteorological data;

Whereas civil meteorological satellite systems and associated ground system equipment are essential components in ensuring the national security of the Nation through their use in conjuction with satellites operated by the Department of Defense;

Whereas transfer to the private sector of ownership or management of any civil meteorological satellite system and associated ground system equipment would likely create a Government-subsidized monopoly and jeopardize the cost efficiency and reliability of data gathered by civil meteorological satellites;

Whereas it is highly unlikely that, under the current plan for transfer of civil meteorological satellites, any significant new commercial venture involving marketing of weather data would develop;

Whereas skepticism in the Congress about the transfer of the civil meteorological satellite system could complicate and delay the pressing decision about the future of the civil land remote sensing satellite system; and

Whereas no satisfactory explanations or proposals have been advanced for the transfer of ownership or management of any civil meteorological satellite and associated ground system equipment to the private sector: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that it is not appropriate at this time to transfer ownership or management of any civil meteorological satellite system and associated ground system equipment to the private sector.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. FUQUA) will be recognized for 20 minutes and the gentleman from New York (Mr. CARNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, House Concurrent Resolution 168 expresses the sense of the Congress that it is not appropriate at this time to sell this Nation's civilian weather satellites to the private sector. The purpose of the concurrent resolution is to halt the administration's effort to sell these satellites by sending a clear and unambiguous signal to the administration and to U.S. industry that the Congress does not consider such a transfer to be in the national interest.

Mr. Speaker, our committee is of the view, after reviewing both the public testimony on this issue and the administration's plans for transfer, that the proposal to transfer weather satellites is not sound, and that considerable time, effort, and resources will be saved by halting this proposal immediately. Our committee reached this conclusion for several reasons:

The public service nature of weather services;

The danger of establishing a federally protected monopoly;

National security considerations; and

The need to concentrate the debate on commercializing land remote-sensing satellites.

In sum, the committee concurred with the view presented in a November 10, 1983 joint NASA/Department of Defense study:

There is considerable financial, policy, and program risk to the Government in commercializing weather satellites and there is no clear policy or financial benefit to be realized.

Mr. Speaker, House Concurrent Resolution 168 currently has over 150 cosponsors. The resolution received strong bipartisan support in our committee, and an identical resolution passed unanimously in the other body last month. This has not been, and it should not be, a partisan issue in the Congress, and I urge my colleagues to support passage of the resolution.

Mr. Speaker, I yield to the gentleman from New York (Mr. SCHEUER), the chairman of the subcommittee that handled this concurrent resolution.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Speaker, the chief sponsor of this measure, the gentleman from Texas (Mr. ANDREWS), has done an outstandingly fine leadership job in promoting this resolution and in developing the support that the chairman just mentioned. I yield such time as he may consume to the gentleman to explain the resolution, what motivated him, what the resolution means, and for any further explanation the gentleman might like to make.

Mr. ANDREWS of Texas. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today to speak on an issue that I suspect many thought fell by the wayside long ago. Back in March of this year when the President announced his intention to commercialize our Nation's four weather satellites, there rose from the public and from Congress an outcry that was so loud, so overwhelmingly clear and devoid of partisanship that I would have thought the administration would have understood that this ill-conceived proposal would never gain the approval of Congress. In hearing after hearing held this year by the Science and Technology Committee, we have received testimony and reports which have been consistently negative with respect to this proposed sale—from sources which include the President's own private sector survey on cost control, NASA, the Department of Defense, three congressionally chartered panels, a Commerce Department Advisory Committee, and the World Meteorological Organization. Representative of the testimony was the conclusion of a joint DOD-NASA study:

There is considerable financial, policy, and program risk to the Government in commercializing weather satellites and there is no clear policy or financial benefit to be realized.

Despite the testimony; despite the fact that the Senate has passed not only a resolution identical to this one but language actually prohibiting the use of Commerce funds to write a bid document including the weather satellites; despite the introduction of this

resolution in the House; despite its 150 cosponsors and its overwhelming endorsement by the Science and Technology Committee; the administration is moving ahead full speed. The Department of Commerce is drafting a request for proposal that includes weather satellites and that document is due to be released to the private sector in final form in December.

Selling the weather satellites does not make economic sense. The National Weather Service accounts for 95 percent of the first use of our weather data. By what logic should the Government sell its $1.6 billion weather satellite system to a private company at a greatly reduced rate, only to sign a long-term monopolistic contract for data services which could end up costing taxpayers more than $100 million per year?

Furthermore, such a sale would have serious national security implications. Selling these satellites would necessitate significant, and perhaps unwieldy, oversight and regulation by the DOD which relies on civil weather satellites both in its routine operations and in military emergencies.

The sale would threaten the quality of our weather data since a private operator would have little incentive—other than price-gouging perhaps—to improve services. Stagnant technology would hurt everyone who relies on weather information: The farmer, the pilot and the citizen dependent on Federal tornado and hurricane warnings.

In addition, while some weather information is commercially marketed now, the sale of our satellite system would not enhance that market one iota. In reviewing the initial draft of Commerce's RFP, the DOD insisted that a provision be included allowing the free and open distribution of weather data to our allies around the world, as we have traditionally done. The DOD insisted on this provision because of their fear that should the United States begin selling weather data to foreign governments instead of offering it free, those foreign governments would limit the data they provide to the United States, data which is crucial to U.S. military operations. This leads inescapably to the conclusion that the transfer of these satellites is neither militarily prudent nor commercially viable. For if weather data from U.S. satellites is made available internationally, it can be transmitted on public airwaves to the United States, thus destroying not only the international market, but the domestic market as well. The demands of our military and the requirements of commercialization are irreconcilable.

But perhaps the most compelling reason to disassociate the weather satellites from the RFP process now is that the extended consideration we are giving to their sale only delays the decision to commercialize land remote sensing satellites. The continued coupling of the land and weather satellites only guarantees that the land satellite issue will not be resolved by Congress until as late as mid-1985 at which point we may have forfeited to our competitors overseas what promises to be a multibillion domestic market.

Thanks to the Bateman amendment to the NASA bill, the administration will have to come to Congress sooner or later to seek approval for that RFP. And when they do, I feel sure the weather satellite portion of it will not survive the scrutiny of this Congress. My concern is that the private sector be adequately forwarned. It is disingenous and unfair to ask American companies to spend their valuable time and resources responding to a proposal that has no hope of getting by Congress. It is time that we send a clear message to the administration and to the boardrooms of those companies that would bid on our weather satellites. They are not for sale. That is the sole purpose of this resolution. It deserves to pass and I urge its prompt approval.

Mr. SCHEUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Texas (Mr. ANDREWS) indicated, this proposal to sell the weather satellites is truly a nonstarter. It is truly a proposal whose time will never come. And it is a dangerous proposal, not just a silly proposal. It is a dangerous proposal because it is diverting our attention from the main game, from the main competitive global arena in which U.S. enterprise really can play a dynamic and successful role, and that is in the area of Landsat, in the area of Landsat that is appropriate for commercialization. And if we dilly and dally with this absolutely preposterous idea of commercializing weathersat, which 13 out of 14 Government-industry respondents have told us is intrinsically a Government function and should never be commercialized, if we dilly and dally, fiddling about with this, we are going to continue to let our position in Landsat erode to the point where the French and the Japanese are going to beat us to the punch and preempt our leadership in space in the very arena where private capital could play a dynamic and successful role.

Mr. Speaker, I would like to expand upon a point raised by the gentleman from Florida (Mr. FUQUA)—that pursuing the sale of weather satellites needlessly complicates the urgent need to maintain U.S. leadership in land remote sensing.

The U.S. Government has operated civilian land remote-sensing satellites, or Landsat, since 1972.

Since that time, Landsat has provided a wealth of information on: Natural resources, mineral deposits, and agricultural productivity.

At low cost to: Federal agencies, to private industry, and to over 40 nations around the world.

The program has been an enormous scientific success, and it has been a great source of international good will for our Nation.

Landsat, unlike weather satellites, might profitably be operated by the private sector, since the data that it produces are of use not only to scientific researchers and to Government agencies, but also to a number of private companies, including oil and mineral exploration firms and various agricultural interests.

I agree with the administration that the time is right to investigate our options for commercializing this emerging technology, especially since the United States will face stiff competition in the field of land remote-sensing from the French and the Japanese by the mid- to late-1980's.

I disagree strongly, however, with the administration's perverse approach to this international challenge—namely, to kill immediately all funding for the Landsat program and to put our civilian weather satellites, an inherently governmental system, up for sale.

The administration pursued these policies under the assumption that U.S. industry would rush into competition with subsidized French and Japanese systems by launching fully private land remote-sensing systems.

Predictably the gamble failed.

No U.S. industry could possibly enter this field at the present time without some form of temporary Government subsidy.

This subsidy is a necessary evil if we hope to avoid giving up another potentially lucrative commercial opportunity to our competitors.

The irony of our deteriorating situation, of course, is that this commercial opportunity exists only because the U.S. taxpayer, over the past 12 years, has supported a Landsat program which has convincingly demonstrated the feasibility of commercial land remote sensing.

Mr. Speaker, many of us share a deep concern that the United States is about to fritter away its technological leadership in an area where, over the next 20 years, we expect to see tremendous global commercial expansion.

In this case, our industrial expansion and ability to compete in global markets is threatened not by a lack of resources, nor by a lack of creativity, nor by a lack of productivity.

We are threatened solely by Government inaction.

I believe we still have time to preserve our remote-sensing industry, but only if we act expeditiously on two fronts.

First, we need to halt this absurd proposal to commercialize weather satellites. It is a silly diversion from the main global game—Landsat. We must get our eye on the ball.

Next, we need to agree on a policy which will effect a rational transition between Government operation of land remote-sensing systems and fully private operation of these systems.

Last week, the gentleman from Missouri (Mr. VOLKMER) and I held 2 days of joint hearings on draft legislation aimed at effecting such a transition.

Concurrent with our consideration of this draft legislation, the administration has been preparing a request-for-proposal (RFP) to solicit industry bids on present and future land remote-sensing systems.

I was greatly heartened by the testimony that we received on the legislation, both from witnesses representing U.S. industry and from the administration's witness, Mr. Ray Kammer, who is chairman of the Source Evaluation Board for Civil Remote Sensing.

Mr. Kammer found many parallels and few major inconsistencies between his efforts and the provisions of the legislation, and I look forward to working with Mr. Kammer and others in the administration to insure that, as Congress articulates a coherent policy for commercializing land remote-sensing activities over the next 6 months, the administration aggressively implements that policy.

It would be truly unfortunate to see a repetition of the circumstances surrounding the weather-satellite issue, wherein despite repeated signals from the Congress, the administration continued to pursue a policy which had little, if any, support in either House of Congress.

Mr. Chairman, I strongly support the concurrent resolution sponsored by the gentleman from Texas (Mr. ANDREWS), both because selling weather satellites is a bad idea and because we need to proceed quickly toward the resolution of the real issue of this debate—namely, how to transfer, in a rational way, our land remote-sensing capabilities to the private sector.

I urge my colleagues to support House Concurrent Resolution 168.

□ 1640

Mr. McGRATH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution, but I do so with some reservations. Right now I do not feel that the transfer to the private sector of the weather satellites is in the national interest. However, I would like to withhold final judgment on this issue until the RFP process currently being conducted by the Department of Commerce is complete.

After the responses to the RFP are in, we will have a great deal more information about whether or not to go forward with this transfer. We will have the factual basis for determining whether the weather-satellite system is suitable for transfer to the private sector or if, as I believe will be the case, they are not suitable.

Mr. Speaker, I have been following this issue very carefully for the past 2½ years. The civilian weather satellites are essential to the protection of public health and safety, and they serve as a backup to the defense meteorological system. The weather satellites are inherently governmental, as evidenced by the fact that over 95 percent of the market for the data from these satellites is the U.S. Government. For these reasons, I do not think it would be wise to transfer this system to the private sector.

In the Committee on Science and Technology, we held five hearings on the commercialization of the land and weather satellites, and while the consensus was that the land system should be commercialized, strong opposition to the transfer of the Metsat system was expressed by a wide range of witnesses from both the public and private sectors.

Mr. Speaker, it is my hope that once the controversy of the Metsat transfer has been removed from consideration, the Congress and the administration will be able to concentrate on the commercialization of the land remote-sensing system which is more rationally in the public interest.

Mr. Speaker, I yield 2 minutes, for debate only, to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in strong support of this legislation expressing the sense of Congress with regard to weather satellites.

I am a cosponsor of this bill which puts Congress on record in opposition to the transfer of ownership or management of the Nation's weather satellites to the private sector at this time.

In March of this year, the Department of Commerce proposed to commercialize civil weather and land remote-sensing satellites. This proposal has had remarkably little support, especially with respect to weather satellites. It is no wonder. Over 99 percent of the data generated by the weather satellites is in fact used by civil and military agencies of the U.S. Government.

The proposed sale of weather satellites would not save the Government any money. The Defense Department estimates that the sale would cost taxpayers about $800 million more over 10 years than it would cost the Government to continue to operate them.

Congressional hearings have brought out considerable opposition to selling off the Government's satellites. The administration's own private sector survey on cost control, the Department of Defense, NASA, and other Government groups all find that there is no advantage to commercializing the weather satellites.

My main concern about the satellite sale proposal is the effect it would have on our farmers and ranchers, pilots, and other citizens who depend on accurate and timely reports on the weather. The future of the present weather reporting systems would be in doubt with the sale of our "eyes in the sky." There are no answers to the questions about future availability of weather information, the national security implications of selling our satellites, or the safety implications because this idea has not had enough study. Let us adopt this simple resolution and give the whole issue of weather satellites and Landsat thorough study.

Mr. McGRATH. Mr. Speaker, I yield 2 minutes, for debate only, to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. Mr. Speaker, I appreciate the gentleman's yielding this time to me.

I would like to associate myself with the remarks that have been made by the distinguished Members who preceded me who spoke in favor of the resolution and against the proposition of commercializing our weather satellite systems.

As the gentleman from Texas (Mr. ANDREWS) observed, earlier this year I offered an amendment which was adopted and has passed both Houses of the Congress which would have made the prior consent of the Congress as to any commercialization of the weather satellites a condition of such a step being taken. In view of the fact that the other body has conclusively and unanimously indicated that it is not disposed and would not consent to any commercialization of the weather satellites, it is my feeling, which I share with the gentleman from Texas, that private industry and the Government itself should not be put through a frivolous exercise, with the expenditure of a great deal of money, research, investigation, and study, all to come to absolutely naught.

For those reasons, Mr. Speaker, I think this resolution is well conceived and should be supported.

Mr. McGRATH. Mr. Speaker, I reserve the balance of my time.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. NELSON), a member of the committee.

Mr. NELSON of Florida. Mr. Speaker, I thank the chairman of the committee for yielding this time to me.

I just want to say that this resolution sponsored by the gentleman from Texas (Mr. ANDREWS) is a resolution that we should not have to be debating here. But here is constitutional

government working at its best, one branch balancing off against the other branch. The executive branch has simply made a mistake. And they have to be brought back onto the correct course by the congressional branch.

With security at risk, we should not be sending our weather satellites to the commercial sector where in a time of emergency the Government may not have access to that weather information.

So, Mr. Speaker, I certainly urge a yes vote on this resolution.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the distinguished delegate from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I join in voicing my strong support for House Concurrent Resolution 168 which expresses the sense of the Congress that the civil meteorological satellite system should not be sold or transferred to the private sector.

The important data and work collected by these satellites underscore the need for maintaining them in Government hands. The collection and dissemination of weather information is crucial to every person across the nation, from the farmers in Nebraska to vacationers in Puerto Rico. The need for precise and reliable access must be protected and preserved to ensure not only the health of our population but also our continued economic vitality.

The plan to transfer the weather satellites to the private sector is misguided and inimical to the public good. I urge my colleagues to vote in favor of this resolution and thus send a clear signal to the administration about our position on this important issue.

Mr. McGRATH. Mr. Speaker, I yield 2 minutes, for debate purposes, to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, in his book "The High Road," Ben Bova talked about the proposition that there are two types of people that approach policy in this country or throughout history. They are the Promethians and the Luddites. The Promethians are essentially those people who look toward the future, who try to find ways in which to use that which is in the present to promote the future. The Luddites are those people who are wedded to the past, who try to hold on to exactly what is without having any concept of the future at all.

I submit, Mr. Speaker, that this is a Luddite bill. I say that by stating that we are unwilling to move forward toward commercialization of weather satellites, we are exempting one large area from commercialization that has the potential of being commercialized immediately. If there is one thing that we should be all about in our space program, it is moving out of research and development toward commercialization. The more commercialization we promote as a nation in outer space, the more chance we have of reaping the economic rewards that come from that.

□ 1650

These are not minor economic rewards. There are some people who are farsighted enough to believe that commercialization of outer space over the next 20 to 25 years, if given the proper investment attitude, could reap a trillion dollar economy from outer space, a spaced-based economy of a trillion dollars. That in terms of 1983, that is the equivalent of 35 million jobs.

We often sit on this House floor and we hear people debating about the fact, where are the jobs going to come from? How are we going to provide jobs for the future? Where are the jobs for people who do not have them? With hi-tech emerging, where are the jobs going to come from?

One of the places they are going to come from is by properly industrializing and commercializing outer space. When we pass bills of this type, when we say that we are going to take as a matter of public policy and X-out of our consideration weather satellites, we are taking the first step toward limiting the amount of investment that will ever be made in outer space and the amount of jobs that can be created.

I think that is wrong. I think this is a sad bill and I hope people will vote against it.

● Mr. BROOKS. Mr. Speaker, this past March the President announced his intention to commercialize our Government's weather and land remote sensing satellites. It was clear from the beginning that the offer to sell the weather satellites was simply an attempt to make the sale of the land remoting sensing satellite more appealing.

I find this entire commercialization effort most bothersome and have been vocally opposed to it from the very beginning. While many of us may disagree with the desirability of retaining a land remote sensing satellite program within the Government, I know of no one who disagrees with the wisdom of retaining Government control over our Nation's weather satellites. Many of us have made this fact known to the administration during the past few months, and yet the process to commercialize them continues. At risk, if this process continues to completion, is the very security and well-being of our Nation, for we depend daily upon our ability to gather and analyze weather data from around the country as well as the globe.

I urge all of you to support this resolution, of which I am a cosponsor, and hope that the administration will finally understand and accept that our Nation's weather satellites will not be sold.●

Mr. McGRATH. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 168.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 168.

The question was taken.

Mr. CARNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3635, by the yeas and nays;
H.R. 3729, by the yeas and nays;
S. 376, by the yeas and nays;
H.R. 1095, by the yeas and nays;
H.R. 29, by the yeas and nays;
H.R. 3249, by the yeas and nays;
H. Con. Res. 190, by the yeas and nays; and
H. Con. Res. 168, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

CHILD PROTECTION ACT OF 1983

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3635, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 3635, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 1, not voting 33, as follows:

[Roll No. 494]

YEAS—400

Ackerman	DeWine	Hertel
Addabbo	Dickinson	Hightower
Akaka	Dicks	Hiler
Albosta	Dingell	Hillis
Alexander	Dixon	Holt
Anderson	Donnelly	Hopkins
Andrews (NC)	Dorgan	Horton
Andrews (TX)	Dowdy	Howard
Annunzio	Downey	Hoyer
Applegate	Dreier	Hubbard
Archer	Duncan	Huckaby
AuCoin	Dwyer	Hughes
Badham	Dymally	Hunter
Barnard	Dyson	Hutto
Barnes	Early	Hyde
Bartlett	Eckart	Ireland
Bateman	Edgar	Jacobs
Bates	Edwards (AL)	Jeffords
Bedell	Edwards (CA)	Jenkins
Beilenson	Edwards (OK)	Johnson
Bennett	Emerson	Jones (NC)
Berman	English	Jones (OK)
Bethune	Erdreich	Jones (TN)
Bevill	Erlenborn	Kaptur
Biaggi	Evans (IA)	Kasich
Bilirakis	Evans (IL)	Kastenmeier
Bliley	Fascell	Kazen
Boehlert	Fazio	Kemp
Boggs	Feighan	Kennelly
Boland	Ferraro	Kildee
Boner	Fiedler	Kindness
Bonior	Fields	Kogovsek
Bonker	Fish	Kolter
Borski	Flippo	Kostmayer
Bosco	Florio	Kramer
Boucher	Foglietta	LaFalce
Boxer	Foley	Lagomarsino
Breaux	Ford (TN)	Lantos
Brooks	Forsythe	Latta
Broomfield	Fowler	Leach
Brown (CO)	Frank	Leath
Broyhill	Frenzel	Lehman (FL)
Bryant	Frost	Leland
Burton (CA)	Fuqua	Lent
Carney	Garcia	Levin
Carper	Gaydos	Levine
Carr	Gejdenson	Levitas
Chandler	Gekas	Lewis (CA)
Chappie	Gephardt	Lewis (FL)
Cheney	Gibbons	Lipinski
Clarke	Gilman	Lloyd
Clay	Gingrich	Loeffler
Clinger	Glickman	Long (LA)
Coats	Gonzalez	Long (MD)
Coelho	Goodling	Lott
Coleman (MO)	Gore	Lowery (CA)
Coleman (TX)	Gradison	Lowry (WA)
Collins	Gray	Lujan
Conte	Green	Luken
Conyers	Gregg	Lundine
Cooper	Guarini	Lungren
Coughlin	Gunderson	Mack
Courter	Hall (IN)	MacKay
Coyne	Hall (OH)	Madigan
Craig	Hall, Ralph	Markey
Crane, Daniel	Hall, Sam	Marlenee
Crane, Philip	Hamilton	Marriott
D'Amours	Hammerschmidt	Martin (IL)
Daniel	Hansen (ID)	Martinez
Dannemeyer	Hansen (UT)	Matsui
Darden	Harkin	Mazzoli
Daschle	Harrison	McCain
Daub	Hatcher	McCandless
Davis	Hawkins	McCloskey
de la Garza	Hayes	McCollum
Dellums	Hefner	McDade
Derrick	Heftel	McEwen
McGrath	Ray	Staggers
McHugh	Regula	Stangeland
McKernan	Reid	Stark
McKinney	Richardson	Stenholm
McNulty	Ridge	Stokes
Mica	Rinaldo	Stratton
Michel	Ritter	Studds
Mikulski	Roberts	Stump
Miller (CA)	Robinson	Sundquist
Miller (OH)	Rodino	Swift
Mineta	Roe	Synar
Mitchell	Roemer	Tallon
Moakley	Rogers	Tauke
Mollohan	Rose	Tauzin
Montgomery	Rostenkowski	Taylor
Moore	Roth	Thomas (CA)
Moorhead	Roukema	Thomas (GA)
Morrison (CT)	Rowland	Towns
Morrison (WA)	Roybal	Traxler
Mrazek	Rudd	Udall
Murphy	Russo	Vander Jagt
Murtha	Sabo	Vandergriff
Myers	Savage	Vento
Natcher	Sawyer	Volkmer
Neal	Schaefer	Vucanovich
Nelson	Scheuer	Walgren
Nichols	Schneider	Walker
Nielson	Schroeder	Watkins
Nowak	Schulze	Waxman
O'Brien	Schumer	Weaver
Oakar	Seiberling	Weber
Obey	Sensenbrenner	Wheat
Olin	Shannon	Whitehurst
Ortiz	Sharp	Whitley
Ottinger	Shaw	Whittaker
Owens	Shelby	Whitten
Oxley	Shumway	Williams (MT)
Packard	Shuster	Williams (OH)
Panetta	Sikorski	Wilson
Parris	Siljander	Winn
Pashayan	Simon	Wirth
Patman	Sisisky	Wise
Patterson	Skeen	Wolf
Pease	Skelton	Wolpe
Penny	Slattery	Wortley
Pepper	Smith (FL)	Wright
Perkins	Smith (IA)	Wyden
Petri	Smith (NE)	Wylie
Pickle	Smith (NJ)	Yates
Porter	Smith, Denny	Yatron
Price	Smith, Robert	Young (AK)
Pritchard	Snowe	Young (FL)
Pursell	Snyder	Young (MO)
Quillen	Solomon	Zablocki
Rahall	Spence	Zschau
Rangel	Spratt	
Ratchford	St Germain	

NAYS—1

Weiss

NOT VOTING—33

Anthony	Crockett	Mavroules
Aspin	Durbin	McCurdy
Bereuter	Ford (MI)	Minish
Britt	Franklin	Molinari
Brown (CA)	Gramm	Moody
Burton (IN)	Hance	Oberstar
Byron	Hartnett	Paul
Campbell	Lehman (CA)	Solarz
Chappell	Livingston	Torres
Conable	Martin (NC)	Torricelli
Corcoran	Martin (NY)	Valentine

□ 1700

Mr. HEFTEL of Hawaii changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1710

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

REFUGEE ASSISTANCE EXTENSION ACT OF 1983

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3729, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. MAZZOLI) that the House suspend the rules and pass the bill, H.R. 3729, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 300, nays 99, not voting 35, as follows:

[Roll No. 495]

YEAS—300

Ackerman	D'Amours	Goodling
Addabbo	Darden	Gore
Akaka	Daschle	Gradison
Albosta	Daub	Gray
Alexander	Davis	Green
Anderson	de la Garza	Gregg
Andrews (TX)	Dellums	Guarini
Annunzio	Derrick	Gunderson
AuCoin	DeWine	Hall (IN)
Badham	Dickinson	Hall (OH)
Barnes	Dicks	Hamilton
Bates	Dingell	Hammerschmidt
Bedell	Dixon	Harkin
Beilenson	Donnelly	Harrison
Bennett	Downey	Hatcher
Berman	Dwyer	Hawkins
Bethune	Dymally	Hayes
Biaggi	Dyson	Hefner
Bilirakis	Early	Heftel
Boehlert	Eckart	Hertel
Boggs	Edgar	Hightower
Boland	Edwards (CA)	Hiler
Bonior	Edwards (OK)	Horton
Bonker	English	Howard
Borski	Evans (IL)	Hoyer
Bosco	Fascell	Hughes
Boucher	Fazio	Hunter
Boxer	Feighan	Hutto
Broomfield	Ferraro	Hyde
Broyhill	Fiedler	Ireland
Bryant	Fish	Jacobs
Burton (CA)	Florio	Jeffords
Carper	Foglietta	Johnson
Carr	Foley	Jones (NC)
Chandler	Ford (TN)	Jones (OK)
Chappie	Forsythe	Jones (TN)
Clarke	Fowler	Kaptur
Clay	Frank	Kastenmeier
Clinger	Frenzel	Kazen
Coats	Fuqua	Kemp
Coelho	Garcia	Kennelly
Coleman (MO)	Gejdenson	Kildee
Coleman (TX)	Gekas	Kindness
Collins	Gephardt	Kogovsek
Conte	Gibbons	Kostmayer
Conyers	Gilman	LaFalce
Cooper	Gingrich	Lagomarsino
Courter	Glickman	Lantos
Coyne	Gonzalez	Leach

Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mazzoli
McCain
McCloskey
McCollum
McDade
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Purcell
Rangel
Ratchford
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Shaw
Sikorski
Siljander
Simon
Sisisky
Skeen
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Thomas (CA)
Thomas (GA)
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whitten
Williams (MT)
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—99

Andrews (NC)
Applegate
Archer
Barnard
Bartlett
Bateman
Bevill
Bliley
Boner
Breaux
Brooks
Brown (CO)
Carney
Cheney
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Dowdy
Dreier
Duncan
Edwards (AL)
Emerson
Erdreich
Erlenborn
Evans (IA)
Fields
Flippo
Frost
Gaydos
Hall, Ralph
Hall, Sam
Hansen (ID)
Hansen (UT)
Hillis
Holt
Hopkins
Hubbard
Huckaby
Jenkins
Kasich
Kolter
Kramer
Latta
Leath
Lloyd
Loeffler
Lott
Lujan
Madigan
Marlenee
Marriott
McCandless
McEwen
Michel
Miller (OH)
Montgomery
Moore
Murphy
Myers
Nichols
Nielson
Parris
Patman
Quillen
Rahall
Ray
Roberts
Roemer
Rogers
Roth
Rudd
Schaefer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Denny
Smith, Robert
Snyder
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Tallon
Tauke
Tauzin
Taylor
Watkins
Whittaker
Williams (OH)
Wilson
Wylie

NOT VOTING—35

Anthony
Aspin
Bereuter
Britt
Brown (CA)
Burton (IN)
Byron
Campbell
Chappell
Conable
Corcoran
Crockett
Dorgan
Durbin
Ford (MI)
Franklin
Gramm
Hance
Hartnett
Lehman (CA)
Livingston
Martin (NC)
Martin (NY)
Mavroules
McCurdy
Minish
Molinari
Moody
Oberstar
Paul
Roukema
Solarz
Torres
Torricelli
Valentine

Mr. BATEMAN and Mr. WILSON changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEBT COLLECTION ACT OF 1982 AMENDMENT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 376.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the Senate bill, S. 376, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 3, not voting 34, as follows:

[Roll No. 496]

YEAS—397

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (CA)
Carney
Carper
Carr
Chandler
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Dreier
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (FL)
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martinez
Matsui
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Porter
Price
Pritchard
Purcell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—3

Murphy
Pickle
Williams (MT)

NOT VOTING—34

Anthony
Bereuter
Britt
Brown (CA)
Burton (IN)
Byron
Campbell
Chappell
Conable
Corcoran
Dorgan
Durbin

Ford (MI)	Livingston	Oberstar
Franklin	Martin (NC)	Paul
Gramm	Martin (NY)	Solarz
Hance	Mavroules	Torres
Hartnett	McCurdy	Torricelli
Jacobs	Minish	Valentine
Lehman (CA)	Molinari	
Leland	Moody	

□ 1720

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. GINGRICH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. GINGRICH. Mr. Speaker, I ask the Chair's indulgence to ask of the Chair, since there have been, first, rumors on our side that ERA will come up tomorrow and since, second, that it will come up on suspension, which would limit us to 20 minutes debate on each side, several of us have special orders which have been approved by the House on the unanimous consent earlier. It is our concern that there are now new rumors that in fact the leadership of the other side, which intends to bring ERA up under suspension, also intends to adjourn early and prevent us from having the special orders this evening, thereby doubly choking off debate.

I wonder if the Chair might enlighten the House on the other side's intentions.

The SPEAKER pro tempore. The Chair cannot respond to the type of inquiry.

Absent privileged motions, the normal procedure will be followed.

LEGISLATIVE PROGRAM

Without objection, Mr. WRIGHT asked and was given permission to address the House for 1 minute.

Mr. WRIGHT. I do so in order to inquire of the distinguished gentleman from Georgia (Mr. GINGRICH), as he apparently is among those who would like to make speeches on special orders: Does the gentleman give me, and do his friends and colleagues on his side of the aisle, give to the House their gentlemen's agreement that if we proceeded in an orderly fashion and have a vote on each of those suspensions heretofore debated and allow those who have unanimous consent to be heard on the special orders, to be heard, that there will be no irregular motions to adjourn or motions to embarrass other Members by asking for a quorum or anything of that nature which is out of the ordinary?

Mr. GINGRICH. Well, while obviously some people, I might comment, that the laughter comes from those who rather out of the ordinary intend to bring up an amendment tomorrow under suspension. However, let me just say that on our side I would be quite willing to agree, should the leadership on that side decide to let us go ahead and speak. However, I would point out also to the leadership that we will mostly be speaking to ask you to give us an open rule.

Mr. WRIGHT. I think the gentleman has every right to be heard, Mr. Speaker, on that or any other matter and to address himself to whatever subject he may care to speak on upon his special order.

My request is, however, that if we have the gentleman's agreement back and forth across the aisle that we will honor the requests of Members to be heard and allow them to be heard, then if other Members will all agree that there are not going to be any irregular motions to adjourn or points of order about no quorums being present such as to embarrass the rest of the membership after the legislative business of the day has been concluded?

□ 1730

Mr. GINGRICH. I think we can agree that there will be no such motions as the gentleman said.

I would ask, since we do have the distinguished majority leader here, if the gentleman could enlighten us to the gentleman's intentions. I know 12 hours in advance is difficult. Will it come up under suspension tomorrow and with 20 minutes on each side?

Mr. WRIGHT. The intention at this time is to conclude votes on those suspensions that we have debated today. Then to conclude legislative business for today at that point.

Tomorrow, when we convene, to take up the question of ERA on suspension and to allow a vote on that and then to return to other suspensions until we have concluded the suspensions that have some sense of urgency to them at least before going to other business.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

The distinguished majority leader has just asked that we not involve ourselves in irregular behavior on this floor. I ask the gentleman, is it regular that we bring up something in the nature of a constitutional amendment with no notice whatsoever, with it not being on the schedule?

I also ask the gentleman if this is not the first time in the history of this institution that a constitutional amendment has been brought up on a suspension?

Mr. WRIGHT. If the gentleman would permit me to answer, and if I still have time on my reservation, I would respond that it is not unprecedented. It has occurred previously and as recently as 1962 a constitutional amendment to abolish poll taxes was approved on a suspension of the rules.

Surely the gentleman recognizes that it requires two-thirds vote to suspend the rules which is exactly the same vote majority required to pass a constitutional amendment and surely the gentleman would not question that the subject of ERA has been amply and adequately and fulsomely debated, both pro and con, for many years and throughout much of today, as a matter of fact.

Mr. LUNGREN. If the gentleman will yield further, being a member of the committee that dealt with this, it took us the better part of a day to deal with, I believe it was, nine amendments to the ERA.

Mr. WRIGHT. Well, we have faith in the work of the gentleman's committee. We think you are great fellows and did a good job and we are just going to rest upon what you did.

Mr. LUNGREN. If the gentleman will yield further, all I can say is the gentleman as usual is very articulate and very humorous. It is a shame however that this body elected by the people to make some fundamental decisions so cavalierly will treat changing the Constitution for the United States such that there will be time only for 20 minutes on each side.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. GINGRICH. I suggest you go ahead and gag us by moving to adjourn.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

Did I understand the gentleman to say that we would debate ERA and then we would vote on it immediately?

Mr. WRIGHT. Yes, that would be the plan.

Mr. GOODLING. In other words, this could come as early as 1 o'clock? This is just a personal thing in relationship to my getting back from the district. That would come as early as 1 o'clock?

Mr. WRIGHT. It could come as early as 1 o'clock.

Mr. GOODLING. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

Mr. Speaker, I guess what I would like to inquire here is whether or not there is going to be a vote on adjournment whether it comes before special orders heretofore entered into or after. It is my understanding the majority leader is willing to let the gentleman go forward with their special orders simply with the assurance provided there would be no rollcall on adjournment after special orders.

Mr. WRIGHT. That is exactly what I suggested. If we have the good faith assurances of the gentlemen on that side of the aisle that there will not be any irregular efforts to embarrass absent Members who, having concluded the legislative business of the day, then go to be with their families or at meetings that they had previously arranged, then surely we would honor the right of any Member to be heard on a special order.

The only thing that would occasion a motion to adjourn would be to avoid embarrassing Members. Members on both sides of the aisle.

Mr. GINGRICH. Would the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Georgia.

Mr. GINGRICH. The gentleman has been very generous despite the catcalls. I was trying to compliment the majority leader for being courteous despite some of the catcalls.

Let me just say I think the sentiment which we feel, which the gentleman may not fully appreciate, is that if it is the gentleman's determination on an issue this fundamental to gag us with 20 minutes and no amendments, that it is more frankly symbolically appropriate that the American people see you simply cut us off.

The gentleman is asking us to agree to rules and make agreements to your benefit at a time when you are running over us. You cannot have it both ways.

I thank the gentleman.

THE 369TH VETERANS' ASSOCIATION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1095, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 1095, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 28, as follows:

[Roll No. 497]

YEAS—406

Ackerman	Addabbo	Akaka
Albosta	Edwards (CA)	Lantos
Alexander	Edwards (OK)	Latta
Anderson	Emerson	Leach
Andrews (NC)	English	Leath
Andrews (TX)	Erdreich	Lehman (FL)
Annunzio	Erlenborn	Leland
Applegate	Evans (IA)	Lent
Archer	Evans (IL)	Levin
Aspin	Fascell	Levine
AuCoin	Fazio	Levitas
Badham	Feighan	Lewis (CA)
Barnard	Ferraro	Lewis (FL)
Barnes	Fiedler	Lipinski
Bartlett	Fields	Lloyd
Bateman	Fish	Loeffler
Bates	Flippo	Long (LA)
Bedell	Florio	Long (MD)
Beilenson	Foglietta	Lott
Bennett	Foley	Lowery (CA)
Bereuter	Ford (TN)	Lowry (WA)
Berman	Forsythe	Lujan
Bethune	Fowler	Luken
Bevill	Frank	Lundine
Biaggi	Frenzel	Lungren
Billirakis	Frost	Mack
Bliley	Fuqua	MacKay
Boehlert	Garcia	Madigan
Boggs	Gaydos	Markey
Boland	Gejdenson	Marlenee
Boner	Gekas	Marriott
Bonior	Gephardt	Martin (IL)
Bonker	Gibbons	Martin (NC)
Borski	Gilman	Martinez
Bosco	Gingrich	Matsui
Boucher	Glickman	Mazzoli
Boxer	Gonzalez	McCain
Breaux	Goodling	McCandless
Brooks	Gore	McCloskey
Broomfield	Gradison	McCollum
Brown (CO)	Gray	McDade
Broyhill	Green	McEwen
Bryant	Gregg	McGrath
Burton (CA)	Guarini	McHugh
Carney	Gunderson	McKernan
Carper	Hall (IN)	McKinney
Carr	Hall (OH)	McNulty
Chandler	Hall, Ralph	Mica
Chappell	Hall, Sam	Michel
Chappie	Hamilton	Mikulski
Cheney	Hammerschmidt	Miller (CA)
Clarke	Hansen (ID)	Miller (OH)
Clay	Hansen (UT)	Mineta
Clinger	Harkin	Mitchell
Coats	Harrison	Moakley
Coelho	Hatcher	Mollohan
Coleman (MO)	Hawkins	Montgomery
Coleman (TX)	Hayes	Moore
Collins	Hefner	Moorhead
Conte	Heftel	Morrison (CT)
Conyers	Hertel	Morrison (WA)
Cooper	Hightower	Mrazek
Coughlin	Hiler	Murphy
Courter	Hillis	Murtha
Coyne	Holt	Myers
Craig	Hopkins	Natcher
Crane, Daniel	Horton	Neal
Crane, Philip	Howard	Nelson
Crockett	Hoyer	Nichols
D'Amours	Hubbard	Nielson
Daniel	Huckaby	Nowak
Dannemeyer	Hughes	O'Brien
Darden	Hunter	Oakar
Daschle	Hutto	Obey
Daub	Hyde	Olin
Davis	Ireland	Ortiz
de la Garza	Jacobs	Ottinger
Dellums	Jeffords	Owens
Derrick	Jenkins	Oxley
DeWine	Johnson	Packard
Dickinson	Jones (NC)	Panetta
Dicks	Jones (OK)	Parris
Dingell	Jones (TN)	Pashayan
Dixon	Kaptur	Patman
Donnelly	Kasich	Patterson
Dorgan	Kastenmeier	Pease
Dowdy	Kazen	Penny
Downey	Kemp	Pepper
Dreier	Kennelly	Perkins
Duncan	Kildee	Petri
Dwyer	Kindness	Pickle
Dymally	Kogovsek	Porter
Dyson	Kolter	Price
Early	Kostmayer	Pritchard
Eckart	Kramer	Pursell
Edgar	LaFalce	Quillen
Edwards (AL)	Lagomarsino	Rahall
Rangel	Sikorski	Udall
Ratchford	Siljander	Vander Jagt
Ray	Simon	Vandergriff
Regula	Sisisky	Vento
Reid	Skeen	Volkmer
Richardson	Skelton	Vucanovich
Ridge	Slattery	Walgren
Rinaldo	Smith (FL)	Walker
Ritter	Smith (IA)	Watkins
Roberts	Smith (NE)	Waxman
Robinson	Smith (NJ)	Weaver
Rodino	Smith, Denny	Weber
Roe	Smith, Robert	Weiss
Roemer	Snowe	Wheat
Rogers	Snyder	Whitehurst
Rose	Solomon	Whitley
Rostenkowski	Spence	Whittaker
Roth	Spratt	Whitten
Roukema	St Germain	Williams (MT)
Rowland	Staggers	Williams (OH)
Roybal	Stangeland	Wilson
Rudd	Stark	Winn
Russo	Stenholm	Wirth
Sabo	Stokes	Wise
Savage	Stratton	Wolf
Sawyer	Studds	Wolpe
Schaefer	Stump	Wortley
Schneider	Sundquist	Wright
Schroeder	Swift	Wyden
Schulze	Synar	Wylie
Schumer	Tallon	Yates
Seiberling	Tauke	Yatron
Sensenbrenner	Tauzin	Young (AK)
Shannon	Taylor	Young (FL)
Sharp	Thomas (CA)	Young (MO)
Shaw	Thomas (GA)	Zablocki
Shelby	Torricelli	Zschau
Shumway	Towns	
Shuster	Traxler	

NAYS—0

NOT VOTING—28

Anthony	Franklin	Molinari
Britt	Gramm	Moody
Brown (CA)	Hance	Oberstar
Burton (IN)	Hartnett	Paul
Byron	Lehman (CA)	Scheuer
Campbell	Livingston	Solarz
Conable	Martin (NY)	Torres
Corcoran	Mavroules	Valentine
Durbin	McCurdy	
Ford (MI)	Minish	

□ 1740

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO PERMIT 2 HOURS OF DEBATE ON MOTION TO SUSPEND THE RULES AND PASS THE EQUAL RIGHTS AMENDMENT ON TOMORROW

Mr. WRIGHT. Mr. Speaker, I have a unanimous-consent request which I would hope might be helpful to all Members and which might assuage some of the concern that has been felt by some of the Members on procedure and time.

Mr. Speaker, I ask unanimous consent that on tomorrow, when the motion is made to suspend the rules and pass the equal rights amendment, there shall be permitted 2 hours of debate on the motion, to be equally divided between the two sides of the aisle, and we would then hope to have the vote on the motion at approximately 3 o'clock tomorrow afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Texas would be so kind as to tell us, since he is bending the motion to suspend the rules to include more debate, whether he would agree to allow the offering of those amendments that were offered in the Committee on the Judiciary.

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, that is not included in the unanimous-consent request.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, how about a motion to recommit, which is the right of the minority?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield on his reservation, I just simply answer that on a suspension of the rules it is not in order, generally, to recognize motions to amend, nor otherwise to alter procedure.

I think almost everyone knows how he or she intends to vote on that proposal, and I cannot imagine that longer debate would serve any purpose.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I think the gentleman from Texas is asking to have it both ways. He is asking to bend the motion to suspend the rules to benefit his side of the aisle, but not to accord the minority any of the privileges that it gets under the regular procedure.

Therefore, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

POLISH LEGION OF AMERICAN VETERANS, U.S.A.

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 29, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 29, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 30, as follows:

[Roll No. 498]

YEAS—404

Ackerman	Aspin	Bereuter
Addabbo	AuCoin	Berman
Akaka	Badham	Bethune
Albosta	Barnard	Bevill
Alexander	Barnes	Biaggi
Anderson	Bartlett	Bilirakis
Andrews (NC)	Bateman	Bliley
Andrews (TX)	Bates	Boehlert
Annunzio	Bedell	Boggs
Applegate	Beilenson	Boland
Archer	Bennett	Boner
Bonior	Gilman	Martinez
Bonker	Gingrich	Matsui
Borski	Glickman	Mazzoli
Bosco	Gonzalez	McCain
Boucher	Goodling	McCandless
Boxer	Gore	McCloskey
Breaux	Gradison	McCollum
Brooks	Gray	McDade
Broomfield	Green	McEwen
Brown (CO)	Gregg	McGrath
Broyhill	Guarini	McHugh
Bryant	Gunderson	McKernan
Burton (CA)	Hall (IN)	McKinney
Carney	Hall (OH)	McNulty
Carper	Hall, Ralph	Mica
Carr	Hall, Sam	Michel
Chandler	Hamilton	Mikulski
Chappell	Hammerschmidt	Miller (CA)
Chappie	Hansen (ID)	Miller (OH)
Cheney	Hansen (UT)	Mineta
Clarke	Harkin	Mitchell
Clay	Harrison	Moakley
Clinger	Hatcher	Mollohan
Coats	Hawkins	Montgomery
Coelho	Hayes	Moore
Coleman (MO)	Hefner	Moorhead
Coleman (TX)	Heftel	Morrison (CT)
Collins	Hertel	Morrison (WA)
Conte	Hightower	Mrazek
Conyers	Hiler	Murphy
Cooper	Hillis	Murtha
Coughlin	Holt	Myers
Courter	Hopkins	Natcher
Coyne	Horton	Neal
Craig	Howard	Nelson
Crane, Daniel	Hoyer	Nichols
Crane, Philip	Hubbard	Nielson
Crockett	Huckaby	Nowak
D'Amours	Hughes	O'Brien
Daniel	Hunter	Oakar
Dannemeyer	Hutto	Obey
Darden	Hyde	Olin
Daschle	Ireland	Ortiz
Daub	Jacobs	Ottinger
Davis	Jeffords	Owens
de la Garza	Jenkins	Oxley
Dellums	Johnson	Packard
Derrick	Jones (NC)	Panetta
DeWine	Jones (OK)	Parris
Dickinson	Jones (TN)	Pashayan
Dicks	Kaptur	Patman
Dingell	Kasich	Patterson
Dixon	Kastenmeier	Pease
Donnelly	Kazen	Penny
Dorgan	Kemp	Pepper
Dowdy	Kennelly	Perkins
Dreier	Kildee	Petri
Duncan	Kindness	Pickle
Dwyer	Kogovsek	Porter
Dymally	Kolter	Price
Dyson	Kostmayer	Pritchard
Early	Kramer	Pursell
Eckart	LaFalce	Quillen
Edgar	Lagomarsino	Rahall
Edwards (AL)	Lantos	Rangel
Edwards (CA)	Latta	Ratchford
Edwards (OK)	Leach	Ray
Emerson	Leath	Regula
English	Lehman (FL)	Reid
Erdreich	Leland	Richardson
Erlenborn	Lent	Ridge
Evans (IA)	Levin	Rinaldo
Evans (IL)	Levine	Ritter
Fascell	Levitas	Roberts
Fazio	Lewis (CA)	Robinson
Feighan	Lewis (FL)	Rodino
Ferraro	Lipinski	Roe
Fiedler	Lloyd	Roemer
Fields	Loeffler	Rogers
Fish	Long (LA)	Rose
Flippo	Long (MD)	Rostenkowski
Florio	Lott	Roth
Foglietta	Lowery (CA)	Roukema
Foley	Lowry (WA)	Rowland
Ford (TN)	Lujan	Roybal
Forsythe	Luken	Rudd
Fowler	Lundine	Russo
Frank	Lungren	Sabo
Frenzel	Mack	Savage
Frost	MacKay	Sawyer
Fuqua	Madigan	Schaefer
Garcia	Markey	Schneider
Gaydos	Marlenee	Schroeder
Gejdenson	Marriott	Schulze
Gekas	Martin (IL)	Schumer
Gibbons	Martin (NC)	Seiberling
Sensenbrenner	Stark	Weaver
Shannon	Stenholm	Weber
Sharp	Stokes	Weiss
Shaw	Stratton	Wheat
Shelby	Studds	Whitehurst
Shumway	Stump	Whitley
Shuster	Sundquist	Whittaker
Sikorski	Swift	Whitten
Siljander	Synar	Williams (MT)
Simon	Tallon	Williams (OH)
Sisisky	Tauke	Wilson
Skeen	Tauzin	Winn
Skelton	Taylor	Wirth
Slattery	Thomas (CA)	Wise
Smith (FL)	Thomas (GA)	Wolf
Smith (IA)	Torricelli	Wolpe
Smith (NE)	Towns	Wortley
Smith (NJ)	Traxler	Wright
Smith, Denny	Udall	Wyden
Smith, Robert	Vander Jagt	Wylie
Snowe	Vandergriff	Yates
Snyder	Vento	Yatron
Solomon	Volkmer	Young (AK)
Spence	Vucanovich	Young (FL)
Spratt	Walgren	Young (MO)
St Germain	Walker	Zablocki
Staggers	Watkins	Zschau
Stangeland	Waxman	

NAYS—0

NOT VOTING—30

Anthony	Ford (MI)	McCurdy
Britt	Franklin	Minish
Brown (CA)	Gephardt	Molinari
Burton (IN)	Gramm	Moody
Byron	Hance	Oberstar
Campbell	Hartnett	Paul
Conable	Lehman (CA)	Scheuer
Corcoran	Livingston	Solarz
Downey	Martin (NY)	Torres
Durbin	Mavroules	Valentine

□ 1750

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3249, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 3249, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 2, not voting 31, as follows:

[Roll No. 499]

YEAS—401

Ackerman	Barnard	Boehlert
Addabbo	Barnes	Boggs
Akaka	Bartlett	Boland
Albosta	Bateman	Boner
Alexander	Bedell	Bonior
Anderson	Beilenson	Bonker
Andrews (NC)	Bennett	Borski
Andrews (TX)	Bereuter	Bosco
Annunzio	Berman	Boucher
Applegate	Bethune	Boxer
Archer	Bevill	Breaux
Aspin	Biaggi	Brooks
AuCoin	Bilirakis	Broomfield
Badham	Bliley	Brown (CO)

Broyhill
Bryant
Burton (CA)
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—2

Lungren
Murphy

NOT VOTING—31

Anthony
Bates
Britt
Brown (CA)
Burton (IN)
Byron
Campbell
Conable
Corcoran
Durbin
Ford (MI)
Franklin
Gramm
Hall (OH)
Hance
Hartnett
Lehman (CA)
Livingston
Martin (NY)
Mavroules
McCurdy
Minish
Molinari
Moody
Oberstar
Paul
Roybal
Scheuer
Solarz
Torres
Valentine

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1800

SATELLITE-DIRECTED NAVIGATIONAL GUIDANCE FOR AIRCRAFT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 190.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. GLICKMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 190, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 32, as follows:

[Roll No. 500]

YEAS—402

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (CA)
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon

Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—0

NOT VOTING—32

Anthony
Britt
Brown (CA)
Burton (IN)
Byron
Campbell
Conable
Corcoran
Durbin
Edwards (AL)
Ford (MI)
Franklin
Gramm
Hance
Hartnett
Lehman (CA)
Lewis (CA)
Livingston
Martin (NY)
Mavroules
McCurdy
Minish
Molinari
Moody
Oberstar
Paul
Pritchard
Rudd
Scheuer
Solarz
Torres
Valentine

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TRANSFER OF CIVIL METEOROLOGICAL SATELLITES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 168.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 168, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 28, not voting 29, as follows:

[Roll No. 501]

YEAS—377

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Brooks
Broyhill
Bryant
Burton (CA)
Carney
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
D'Amours
Daniel
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mazzoli
McCain
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Mitchell
Moakley
Mollohan
Montgomery
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Spence
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—28

Archer
Badham
Broomfield
Brown (CO)
Cheney
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Edwards (OK)
Frenzel
Hansen (ID)
Kasich
Kramer
Moorhead
Murphy
Nielson
Petri
Ritter
Schaefer
Sensenbrenner
Shumway
Shuster
Solomon
Stump
Vucanovich
Walker

NOT VOTING—29

Anthony
Britt
Brown (CA)
Burton (IN)
Byron
Campbell
Conable
Corcoran
Durbin
Edwards (AL)
Ford (MI)
Franklin
Gramm
Hance
Hartnett
Livingston
Martin (NY)
Mavroules
McCurdy
Minish
Molinari
Moody
Oberstar
Paul
Scheuer
Solarz
Spratt
Torres
Valentine

□ 1810

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 1035, IMPROVING IMPLEMENTATION OF EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1035) to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. LUNGREN. Mr. Speaker, reserving the right to object, I reserve the right to object only to inquire of the Chair whether I will be recognized for the purpose of making a unanimous-consent request, since I have been on my feet for 25 minutes, since the gentleman from Texas (Mr. WRIGHT) last

made his unanimous-consent request, and I have one that involves the same subject.

I wish to have it be heard, and I do not intend to object at this time.

I would just like to request that the Chair extend the same courtesy to this side that he evidently is extending to the other side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Mr. Speaker, reserving the right to object, I will just say that I would like to hear the answer to the question of the gentleman from California.

The SPEAKER pro tempore. The Chair will recognize the gentleman from California after several other unanimous-consent requests are taken care of.

Mr. WALKER. I thank the Chair, and, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

The Chair hears none and, without objection, appoints the following conferees: Messrs. PERKINS, HAWKINS, FORD of Michigan, BIAGGI, ANDREWS of North Carolina, MILLER of California, CORRADA, KILDEE, WILLIAMS of Montana, BOUCHER, ACKERMAN, Mrs. BURTON of California, Messrs. HAYES, ERLENBORN, GOODLING, Mrs. ROUKEMA, Messrs. GUNDERSON, BARTLETT, PACKARD, NIELSON of Utah, and CHANDLER.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2906, EXTENDING AUTHORIZATION OF ARMS CONTROL AND DISARMAMENT ACT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2906) to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LOTT. Mr. Speaker, reserving the right to object, and I do not wish to object, but I just wonder if the ranking minority member on the committee is aware of this request, and if he has any objection thereto.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, he is aware of the request.

Mr. LOTT. Mr. Speaker, does he have any objection to this?

Mr. ZABLOCKI. Mr. Speaker, he does not have any objection.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees: Messrs. ZABLOCKI, FASCELL, HAMILTON, STUDDS, MICA, BROOMFIELD, and HYDE.

There was no objection.

□ 1820

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4102, UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT OF 1983, TO REFLECT BYRON AMENDMENT

Mr. WOLF. Mr. Speaker, I ask unanimous consent, on behalf of the gentleman from Colorado (Mr. WIRTH) and myself, that the Clerk of the House of Representatives be authorized to make the following correction in the engrossment of the bill (H.R. 4102) to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes, to reflect the amendment offered by the gentlewoman from Maryland, Mrs. BYRON:

In lieu of the amendment to page 17, line 22, insert the following new subsection:

(f) Section 201 of the Communications Act of 1934 (as amended by this Act) is further amended by adding at the end thereof the following new subsection:

"(e)(1) A State commission may provide that foreign exchange service be available—

"(A) to any subscriber with respect to exchange areas which are within the same standard metropolitan statistical area; and

"(B) to any subscriber who was provided foreign exchange service on the date of the enactment of this subsection, notwithstanding that the exchange areas involved are in different standard metropolitan statistical areas.

"(2) In any case where a State commission provides for such foreign exchange service entirely within the State but between two or more LATA's, as established pursuant to the modified final judgment (as defined in section 221(e)(3)(B)), the service which (but for this subsection) would be interexchange shall be provided by a carrier which is not prohibited from providing service between LATA's and which is subject to the jurisdiction of the State commission.

"(3) As used in this subsection—

"(A) the term 'foreign exchange service' means service under which a subscriber within one exchange area may elect, for all purposes, to receive telephone service as if that subscriber were located within another exchange area designated by the subscriber; and

"(B) the term 'standard metropolitan statistical area' means the area in mind around a city of 50,000 inhabitants or more as defined by the Office of Management and Budget.".

Page 17, line 23, strike out "(f)" and insert in lieu thereof "(g)". Redesignate corresponding subsections accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. WIRTH. Mr. Speaker, reserving the right to object, many people in outlying suburban areas, such as Loudoun County, Va., and parts of Frederick and Calvert Counties, Md., have come to rely on foreign exchange service as a link to the nearest dominant metropolitan center. However, under the terms of the AT&T antitrust settlement, a divested Bell operating company may not provide FX service that crosses LATA—local access and transport area—lines. At least one BOC has petitioned Judge Greene for a partial waiver from the terms of the settlement in order to continue to provide inter-LATA FX service.

The Byron amendment assures that inter-LATA FX service will be available, even after the antitrust settlement goes into effect on January 1, 1984, by giving each State public utility commission the clear authority to require carriers that can provide inter-LATA service to provide inter-LATA FX service. In addition, a State commission can regulate the rates, terms, and conditions of FX service provided by a long distance company—so that the charge for this important service will remain reasonable.

The amendment does not affect the terms of the AT&T antitrust settlement. However, if a BOC obtains a waiver and is allowed to offer inter-LATA FX service, this amendment would not prohibit the BOC from providing the service, under regulation by the State public utility commission.

I ask the gentleman if that is the purpose of his unanimous-consent request?

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, the gentleman is correct.

I am concerned, in particular, about the continuation of foreign exchange service for Loudoun County, in my congressional district.

Many small businesses in Loudoun depend on the foreign exchange service to communicate with customers and suppliers in the Washington area. Without the foreign exchange service, this communication will have to be at long distance rates, at costs that may be too high to bear and which could very well determine whether or not these businesses continue to operate.

It is important that this vital service be continued and I would appreciate it if the gentleman would address this question.

Mr. WIRTH. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. TAUKE. Mr. Speaker, reserving the right to object, could the gentleman tell us what the impact of his unanimous-consent request is?

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. TAUKE. I am happy to yield to the gentleman from Colorado.

Mr. WIRTH. This is the Byron amendment that was offered on Thursday night. The wrong amendment was given to the Clerk on Thursday night at the time the Byron amendment was agreed to. This amendment does not affect in any way the terms of the AT&T antitrust settlement. This amendment has been cleared with the gentleman from Virginia (Mr. BLILEY).

Mr. TAUKE. Further reserving the right to object, all we are doing is putting the right Byron amendment into the legislation?

Mr. WIRTH. The gentleman is correct.

Mr. TAUKE. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. LELAND. Mr. Speaker, during the course of the rollcall vote 496 I was here present on the floor but failed to record my vote. Had I voted, I would have voted "aye."

REQUEST FOR LIMITATION OF DEBATE DURING CONSIDERATION OF HOUSE JOINT RESOLUTION 1

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that when the House considers House Joint Resolution 1, the general debate on the joint resolution be limited to 2 hours, equally divided between those in favor of the resolution and those against; that only those amendments which were offered in the Committee on the Judiciary may be offered, and that those amendments shall not be subject to amendment, but each such amendment shall be debatable for not to exceed 1 hour, and that one motion to recommit with or without instructions be in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Ms. FERRARO. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, in opposition to H.R. 3635 during the debate in the House today.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 141. Joint resolution to designate the week of December 4, 1983, through December 10, 1983, as "Carrier Alert Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 160. Joint resolution to designate the week of October 15, 1984 through October 21, 1984, as "National Adult Continuing Education Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 161. Joint resolution to designate the month of April 1984, as "National Child Abuse Prevention Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2910. An act to amend the act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Marcopa Indian Reservation;

H.R. 3348. An act to honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan;

H.R. 3885. An act to provide for the restoration of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes;

H.J. Res. 283. Joint resolution designating the week beginning November 6, 1983, as "National Disabled Veterans Week";

H.J. Res. 383. Joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week";

H.J. Res 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day" in honor of the league's 70th anniversary; and

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 413. Joint resolution making further continuing appropriations for the fiscal year 1984.

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 156, not voting 38, as follows:

[Roll No. 502]

YEAS—240

Ackerman	Fascell	Markey
Addabbo	Fazio	Martinez
Akaka	Feighan	Matsui
Albosta	Ferraro	Mazzoli
Alexander	Flippo	McCloskey
Andrews (NC)	Florio	McHugh
Andrews (TX)	Foglietta	McNulty
Annunzio	Foley	Mica
Anthony	Ford (TN)	Mikulski
Aspin	Forsythe	Miller (CA)
AuCoin	Fowler	Mineta
Barnard	Frank	Mitchell
Barnes	Frost	Moakley
Bates	Fuqua	Mollohan
Bedell	Garcia	Montgomery
Beilenson	Gaydos	Morrison (CT)
Bennett	Gejdenson	Morrison (WA)
Berman	Gephardt	Mrazek
Bevill	Gibbons	Murphy
Biaggi	Glickman	Murtha
Boggs	Goodling	Natcher
Boland	Gore	Neal
Boner	Gray	Nelson
Bonior	Guarini	Nichols
Bonker	Hall (IN)	Nowak
Borski	Hall (OH)	Oakar
Bosco	Hall, Ralph	Obey
Boucher	Hamilton	Olin
Boxer	Harkin	Ortiz
Breaux	Harrison	Ottinger
Brooks	Hatcher	Owens
Bryant	Hawkins	Panetta
Burton (CA)	Hayes	Patterson
Carr	Hefner	Pease
Chandler	Heftel	Penny
Clarke	Hertel	Pepper
Clay	Holt	Perkins
Coelho	Howard	Price
Coleman (TX)	Hoyer	Pursell
Collins	Huckaby	Rahall
Conte	Ireland	Rangel
Conyers	Jacobs	Ratchford
Cooper	Jenkins	Ray
Coyne	Johnson	Reid
Crockett	Jones (NC)	Richardson
D'Amours	Jones (OK)	Rodino
Daniel	Jones (TN)	Roe
Darden	Kaptur	Rose
Daschle	Kastenmeier	Rostenkowski
de la Garza	Kennelly	Rowland
Dellums	Kildee	Roybal
Derrick	Kogovsek	Russo
Dicks	Kolter	Sabo
Dingell	Kostmayer	Savage
Dixon	LaFalce	Schroeder
Donnelly	Lantos	Schumer
Dorgan	Leath	Seiberling
Dowdy	Lehman (CA)	Shannon
Downey	Lehman (FL)	Sharp
Duncan	Leland	Shelby
Dwyer	Levin	Sikorski
Dymally	Levine	Sisisky
Dyson	Levitas	Skelton
Early	Lewis (CA)	Slattery
Eckart	Lipinski	Smith (FL)
Edgar	Long (MD)	Smith (IA)
Edwards (CA)	Lowry (WA)	St Germain
English	Luken	Staggers
Erdreich	Lundine	Stark
Evans (IL)	MacKay	Stokes

Stratton	Vento	Wilson
Studds	Volkmer	Wirth
Swift	Walgren	Wise
Synar	Waxman	Wolpe
Tallon	Weaver	Wright
Thomas (GA)	Weiss	Wyden
Torricelli	Wheat	Yates
Towns	Whitley	Yatron
Traxler	Whitten	Young (MO)
Vandergriff	Williams (MT)	Zablocki

NAYS—158

Anderson	Dannemeyer	Hightower
Applegate	Daub	Hiler
Archer	Davis	Hillis
Badham	DeWine	Hopkins
Bartlett	Dickinson	Horton
Bateman	Dreier	Hubbard
Bereuter	Edwards (OK)	Hughes
Bethune	Emerson	Hunter
Bilirakis	Evans (IA)	Hutto
Bliley	Fiedler	Hyde
Boehlert	Fields	Jeffords
Broomfield	Fish	Kasich
Brown (CO)	Frenzel	Kazen
Broyhill	Gekas	Kemp
Carney	Gilman	Kindness
Chappie	Gingrich	Kramer
Cheney	Gonzalez	Lagomarsino
Clinger	Gradison	Latta
Coats	Gregg	Leach
Coughlin	Gunderson	Lent
Courter	Hall, Sam	Lewis (FL)
Craig	Hammerschmidt	Lloyd
Crane, Daniel	Hansen (ID)	Loeffler
Crane, Philip	Hansen (UT)	Lott
Lowery (CA)	Patman	Smith, Denny
Lujan	Petri	Smith, Robert
Lungren	Pickle	Snowe
Mack	Porter	Snyder
Madigan	Quillen	Solomon
Marlenee	Regula	Spence
Marriott	Ridge	Stangeland
Martin (IL)	Rinaldo	Stenholm
Martin (NC)	Ritter	Stump
McCain	Roberts	Sundquist
McCandless	Robinson	Tauke
McCollum	Roemer	Tauzin
McDade	Rogers	Taylor
McEwen	Roth	Thomas (CA)
McGrath	Roukema	Vander Jagt
McKernan	Rudd	Vucanovich
McKinney	Sawyer	Walker
Michel	Schaefer	Watkins
Miller (OH)	Schneider	Weber
Moore	Schulze	Whitehurst
Moorhead	Sensenbrenner	Whittaker
Myers	Shaw	Winn
Nielson	Shumway	Wolf
O'Brien	Shuster	Wortley
Oxley	Siljander	Wylie
Packard	Skeen	Young (AK)
Parris	Smith (NE)	Young (FL)
Pashayan	Smith (NJ)	Zschau

NOT VOTING—38

Britt	Chappell	Erlenborn
Brown (CA)	Coleman (MO)	Ford (MI)
Burton (IN)	Conable	Franklin
Byron	Corcoran	Gramm
Campbell	Durbin	Green
Carper	Edwards (AL)	Hance
Hartnett	Molinari	Solarz
Livingston	Moody	Spratt
Long (LA)	Oberstar	Torres
Martin (NY)	Paul	Udall
Mavroules	Pritchard	Valentine
McCurdy	Scheuer	Williams (OH)
Minish	Simon	

□ 1830

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 6 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Tuesday, November 15, 1983, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and delegations traveling under authorizations from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of calendar year 1983 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. E de la Garza	7/7	7/10	Mexico		132.05						132.05
Military transportation							479.50				479.50
A. Mario Castillo	7/7	7/10	Mexico		79.52						79.52
Military transportation							479.50				479.50
Cristobal Aldrete	9/11	9/13	Mexico		150.00		161.92				311.92
Commercial transportation							508.00				508.00
Hon. E de la Garza	8/7	8/12	New Zealand	821.65	540.00						540.00
	8/12	8/17	Australia	686.55	597.00						597.00
	8/17	8/19	Singapore	644.32	302.00						302.00
Military transportation							9,979.00				9,979.00
Hon. Ed Jones	8/7	8/12	New Zealand	821.65	540.00						540.00
	8/12	8/17	Australia	686.55	597.00						597.00
	8/17	8/19	Singapore	644.32	302.00						302.00
Military transportation							9,979.00				9,979.00
Hon. Charles Hatcher	8/7	8/12	New Zealand	821.65	540.00						540.00
	8/12	8/17	Australia	686.55	597.00						597.00
	8/17	8/19	Singapore	644.32	302.00						302.00
Military transportation							9,979.00				9,979.00
A. Mario Castillo	8/7	8/12	New Zealand	821.65	540.00						540.00
	8/12	8/17	Australia	686.55	597.00						597.00
	8/17	8/19	Singapore	644.32	302.00						302.00
Military transportation							9,979.00				9,979.00
George Palmer	8/7	8/12	New Zealand	821.65	540.00						540.00
	8/12	8/17	Australia	686.55	597.00						597.00
	8/17	8/19	Singapore	644.32	302.00						302.00
Military transportation							9,979.00				9,979.00
Other expenditure for de la Garza:											
Rotorua and Wellington, New Zealand (8/7 to 8/12):											
Control rooms									720.00		720.00
FSN Embassy support personnel									3,190.00		3,190.00
Tolls									62.00		62.00
Townsville, Canberra, and Sydney, Australia (8/12 to 8/17):											
Control rooms									1,165.60		1,165.60
FSN Embassy support personnel									3,452.90		3,452.90
Singapore (8/17 to 8/19):											
Local transportation							233.33				233.33
Control room									425.19		425.19
Committee totals					7,556.57		51,757.25		9,015.69		68,329.51

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, Oct. 30, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Potter, Frank M., Mr	8/22	8/28	Sweden		987.00						987.00
	8/28	9/2	England		655.00						655.00
Rental car in England									1,476.17		1,476.17
Commercial air fare							3,892.00				3,892.00
McCabe, Wm. Michael	8/16	8/20	England		392.00						392.00
	8/20	8/27	Sweden		987.00						987.00
Commercial air fare							2,193.00				2,193.00
Florio, James J	7/5	7/9	Italy		581.00						581.00
In country transportation							93.83				93.83
Commercial air fare							4,148.00				4,148.00
Richardson, Bill	8/31	9/1	Costa Rica		55.17						55.17
	9/1	9/4	Nicaragua		225.00						225.00
	9/4	9/7	El Salvador		225.00						225.00
Commercial air fare							1,086.70				1,086.70
Leach, David	7/5	7/8	England		404.00						404.00
	7/11	7/15	Switzerland		410.00						410.00
Commercial air fare							1,411.00				1,411.00
Frandsen, Richard	8/21	8/28	Sweden		987.00						987.00
	8/28	9/1	Finland		424.00						424.00
Rental car in Finland									25.29		25.29
Commercial air fare							[3] 4,111.00				4,111.00
Khedouri, Sarah G	8/21	8/27	Sweden		904.00						904.00
Commercial air fare							2,563.00				2,563.00
Kitzmiller, Wm. M. [4]	8/15	8/22	France		800.00						800.00
Havens, Arnold	8/21	8/27	Sweden		865.44						865.44
Commercial air fare							2,563.00				2,563.00
McCarthy, Mark	6/21	6/22	Japan								
	6/23	7/7	China								
	7/7	7/8	Japan		[5] 1,566.78						1,566.78
Inter-city travel—China							324.22				324.22
Commercial air fare							1,629.00				1,629.00
Committee total					10,468.39		24,014.75		1,501.46		35,984.60

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Refund has been requested in unused portion.
[4] Commercial air fare. Will file supplemental.
[5] This traveler did not receive any per diem for any portion of this trip. All expenses were paid by the traveler and reimbursed by the Department of State.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bill McCollum, MC	8/4	8/5	El Salvador				[3] 716.30				716.30
William J. Hughes, MC	8/6	8/9	Mexico		320.00		83.20		50.17		453.37
	8/9	8/12	Peru		216.00						216.00
	8/12	8/14	Bolivia		216.00				204.18		420.18
	8/14	8/18	Colombia		476.00						476.00
	8/18	8/21	Jamaica		426.00						426.00
Military transportation							3,961.27				3,961.27
Harold S. Sawyer, MC	8/6	8/9	Mexico		320.00		83.20		50.17		453.37
	8/9	8/14	Peru		540.00						540.00
	8/14	8/18	Colombia		476.00						476.00
	8/18	8/21	Jamaica		426.00						426.00
Military transportation							3,961.27				3,961.27
Hayden Gregory, Staff	8/6	8/9	Mexico		320.00		83.20		50.17		453.37
	8/9	8/12	Peru		216.00						216.00
	8/12	8/14	Bolivia		216.00				204.18		420.18
	8/14	8/18	Colombia		476.00						476.00
	8/18	8/21	Jamaica		426.00						426.00
Military transportation							3,961.27				3,961.27
Eric Sterling, Staff	8/6	8/9	Mexico		320.00		83.20		50.17		453.37
	8/9	8/12	Peru		216.00						216.00
	8/12	8/14	Bolivia		216.00				204.18		420.18
	8/14	81/18	Colombia		476.00						476.00
	8/18	8/21	Jamaica		426.00						426.00
Military transportation							3,961.27				3,961.27
Charlene Vanlier, Staff	8/6	8/9	Mexico		320.00		83.20		50.17		453.37
	8/9	8/14	Peru		540.00						540.00
	8/14	8/18	Colombia		476.00						476.00
	8/18	8/21	Jamaica		426.00						426.00
Military transportation							3,961.27				3,961.27
Geo. W. Crockett, Jr., MC	8/21	8/22	Barbados		133.00						133.00
	8/22	8/26	Grenada		588.58		50.00				638.58
Commercial transportation							1,171.00				1,171.00
Committee total					9,207.58		22,159.65		863.39		32,230.62

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Helicopter transportation within El Salvador was the only expense.

PETER W. RODINO, Jr., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 20, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bowen, Brooks J	9/18	9/25	England		742.00		2,083.00				
Local transportation							30.00				2,855.00
Breaux, Hon. John B	7/12	7/13	Norway		251.42		2,563.00				
Local transportation							153.95				2,968.37
Breaux, Hon. John B	9/11	9/12	Mexico		93.75		793.00				
Local transportation							81.59				968.34
Carper, Hon. Thomas R	8/14	8/16	El Salvador		[3] 150.00						
			Nicaragua		150.00		868.63				1,168.63
Ortiz, Hon. Solomon	9/11	9/12	Mexico		93.75		624.00				
Local transportation							65.85				783.60
Smith, Duncan C	9/18	9/25	England		742.00		2,083.00				
Local transportation							30.00				2,855.00
Smith, G. Wayne	7/12	7/13	Norway		251.42		2,563.00				
Local transportation							153.95				2,968.37
Smith, G. Wayne	9/11	9/12	Mexico		93.75		793.00				
Local transportation							65.85				952.60
Smith, Timothy E	9/11	9/12	Mexico		93.75		793.00				
Local transportation							65.85				952.60
Sunia, Hon. Fofo I. F	7/7	7/8	Philippines		150.00		[4] 5,178.25				
					351.00						5,679.25
Welch, Edmund B	9/11	9/12	Mexico		93.75		793.00				
Local transportation							65.85				952.60
Westcott, Jacquelyn M	7/13	7/24	England		681.00		3,097.00				
Local transportation							62.65				3,840.65
Committee total					3,937.59		23,007.42				26,945.01

[3] Unused per diem funds returned in the amount of $49.87.
[4] Military aircraft used. Equivalent commercial rate.

WALTER B. JONES, Chairman, Oct. 31, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Moody, Jim, Cong	8/6	8/7	Italy	204,750	130.00					204,750	130.00
	8/8	8/11	Ethiopia	663.97	324.00					663.97	324.00
	8/11	8/14	Zaire		525.00						525.00
	8/14	8/17	Zimbabwe		345						345.00
	8/17	8/19	Ivory Coast	69,316	172.00					69,316	172.00
	8/19	8/21	Algeria	851.40	382.00				110.95	851.40	492.95
	8/21	8/23	Morocco	1,080	150.00		123.47		156.21	1,080.91	429.68
	8/23	8/25	Greece	13,332	150.00		[3] 7,222.32			13,332	7,372.32
Ferraro, Geraldine, A., Cong	8/12	8/15	Hong Kong	2,602	352.00					2,602	353.00
	8/15	8/20	Japan	115,128	468.00		130.00			115,128	568.00
Bosco, Douglas, H., Cong	8/31	9/1	Costa Rica	1,232.50	75.00					1,232.50	75.00
	9/1	9/4	Nicaragua		225.00						225.00
	9/4	9/6	El Salvador		225.00						225.00
Air transportation only						4,270.00	1,623.00			4,270	1,523.00
Committee total					3,523.00		9,098.79		267.16		12,888.95

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military.

JAMES J. HOWARD, Chairman, Oct. 31, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NICARAGUA AND EL SALVADOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 15 AND JULY 18, 1983

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rep. Don Edwards	7/15	7/17	Nicaragua		164.00						164.00
	7/17	7/18	El Salvador		150.00		2,159.13				2,309.13
Rep. George Miller	7/15	7/17	Nicaragua		164.00						164.00
	7/17	1/18	El Salvador		150.00		2,159.13				2,309.13
Rep. Les AuCoin	7/15	7/17	Nicaragua		164.00						164.00
	7/17	7/18	El Salvador		150.00		2,159.13				2,309.13
Rep. Mike Lowry	7/15	7/17	Nicaragua		164.00						164.00
	7/17	7/18	El Salvador		150.00		2,159.13				2,309.13
Edith B. Wilkie, Staff	7/15	7/17	Nicaragua		164.00						164.00
	7/17	7/18	El Salvador		150.00		2,159.13				2,309.13

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Cynthia J. Arnson, Staff	7/15	7/17	Nicaragua		164.00						164.00
	7/17	7/18	El Salvador		150.00		2,159.13				2,309.13
Committee total					1,884.00		12,954.78				14,838.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

GEORGE MILLER, Aug. 4, 1983.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SPAIN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN SEPT. 6 AND SEPT. 11, 1983

Name of Member or employee	Date: Arrival	Date: Departure	Country	Per diem [1]: Foreign currency	Per diem [1]: U.S. dollar equivalent or U.S. currency [2]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [2]	Other purposes: Foreign currency	Other purposes: U.S. dollar equivalent or U.S. currency [2]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [2]
Zablocki C.	9/6	9/11	Spain	56,737	375.00						375.000
Military transportation							2,332.15				2,332,15
Brady, J. J.	9/6	9/11	Spain	56,737	375.00						375.00
Military transportation							2,332.15				2,332,15
Finley, M.	9/6	9/11	Spain	56,737	375.00						375.00
Military transportation							2,332,15				2,332,15
Committee total					1,125.00		6,996,45				8,121,45

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLEMENT J. ZABLOCKI, Chairman, Oct. 5, 1983.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2121. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate and under German Offset Agreement for the quarter July 1, 1983, through September 30, 1983, pursuant to section 719 of Public Law 97-377; to the Committee on Appropriations.

2122. A letter from the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, transmitting a report on the results of a study of the various agreements between Government and private industry, pursuant to section 708(k) of the Defense Production Act of 1950, as amended; to the Committee on Banking, Finance and Urban Affairs.

2123. A letter from the Secretary of Education, transmitting the 32d report concerning the administration of title I of Public Law 81-874 and Public Law 81-815, as amended, including a detailed statement of receipts and disbursements for the fiscal year ended September 30, 1982, pursuant to subsection 401(c) of Public Law 81-874 and subsection 12(c) of Public Law 81-815; to the Committee on Education and Labor.

2124. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on November 7, 1983, in Rome, Italy; to the Committee on Energy and Commerce.

2125. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's proposed lease of defense articles to Australia (transmittal No. 5-84), pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2126. A letter from the Deputy Administrator, General Services Administration, transmitting a report covering the disposal of surplus Federal real property for historic monument purposes, pursuant to 203 of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

2127. A letter from the Acting Commissioner of Social Security, transmitting a notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2128. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report of the Authority's activities under the Government in Sunshine Act, pursuant to 5 U.S.C. 522(j); to the Committee on Government Operations.

2129. A letter from the Acting Secretary of the Interior, transmitting a proposal received under the Small Reclamation Projects Act for the Greater Wenatchee Irrigation District, Washington, pursuant to chapter 972, section 10, of the act of August 6, 1956; to the Committee on Interior and Insular Affairs.

2130. A letter from the Acting Secretary of the Interior, transmitting a proposal received under the Small Reclamation Projects Act for the Ak-Chin Indian Community, Arizona, pursuant to chapter 972, section 10, of the act of August 6, 1956; to the Committee on Interior and Insular Affairs.

2131. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting a proposed plan for use and distribution of judgment funds awarded to the coast Indian community of the Resighini Rancheria before the U.S. Claims Court (case numbered 850-71), pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2132. A letter from the Administrator, Panama Canal Commission, transmitting a report on a claim exceeding $120,000 for damages to a vessel that occurred in canal waters outside the locks, pursuant to section 1415(b) of Public Law 96-70; to the Committee on Merchant Marine and Fisheries.

2133. A letter from the Administrator, Panama Canal Commission, transmitting a report on a claim exceeding $120,000 for damages to a vessel that occurred in Canal waters outside the locks, pursuant to section 1415(b) of Public Law 96-70; to the Committee on Merchant Marine and Fisheries.

2134. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting the annual report on the activities of the Office of the Special Counsel, pursuant to 5 U.S.C. 1206(m); to the Committee on Post Office and Civil Service.

2135. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the annual report on the performance of industrial application centers, pursuant to section 21(f) of the Small Business Act, as amended; to the Committee on Small Business.

2136. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the final monthly Treasury statement of receipts and outlays of the U.S. Government for fiscal year 1983, pursuant to 31 U.S.C. 331(c); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STOKES: Committee on Standards of Official Conduct. Report on Investigation of

alleged improper alteration of House documents (Rept. No. 98-544). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3921. A bill to establish additional wilderness areas in the White Mountain National Forest; with amendments (Rept. No. 98-545, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WOLF:

H.R. 4370. A bill to authorize the Secretary of Transportation to conduct a demonstration project involving restrictions on use of a portion of Interstate Highway 66 in the Commonwealth of Virginia; to the Committee on Public Works and Transportation.

By Mr. FAUNTROY (for himself and Mr. DYMALLY):

H.R. 4371. A bill to increase the number of superior court judges in the District of Columbia and to provide for appointment by the Mayor of court of appeals and superior court judges in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. ANDREWS of North Carolina:

H.R. 4372. A bill to amend the Older Americans Act of 1965 by adding a new title relating to health education and training; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. COOPER:

H.R. 4373. A bill to amend the Federal Deposit Insurance Act to require depository institutions to identify individuals who have a significant financial interest in more than one depository institution; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. DANIEL B. CRANE:

H.R. 4374. A bill to redesignate the Veterans' Administration hospital located in Danville, Ill., as "Joseph G. Cannon Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. FORD of Tennessee (for himself, Mr. HEFTEL of Hawaii, Mr. MATSUI, Mr. DUNCAN, and Mr. VANDER JAGT):

H.R. 4375. A bill to amend the Internal Revenue Code of 1954 to make certain sales of fuel for use in a taxicab exempt from tax, to make permanent the provision for refund of taxes on the sale of fuel for use in a taxicab, and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 4376. A bill to require that the U.S. Embassy in Israel be located in the city of Jerusalem; to the Committee on Foreign Affairs.

By Mr. WYLIE:

H.R. 4377. A bill to provide that the recently enacted mandatory extension of social security coverage to employees of nonprofit organizations shall not apply to any such employee (not already covered under waiver certificate) who is eligible on the effective date of such extension for another governmental annuity or pension; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 4378. A bill to suspend the duty on sulfaquinoxaline until the close of December 31, 1986; to the Committee on Ways and Means.

H.R. 4379. A bill to suspend the duty on sulfathiazole until the close of December 31, 1986; to the Committee on Ways and Means.

H.R. 4380. A bill to suspend the duty of sulfanilamide until the close of December 31, 1986; to the Committee on Ways and Means.

H.R. 4381. A bill to suspend the duty on sulfamethazine until the close of December 31, 1986; to the Committee on Ways and Means.

H.R. 4382. A bill to suspend the duty on sulfaguanidine until the close of December 31, 1986; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 4383. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death, to the Committee on Ways and Means.

By Mr. MICA:

H.R. 4384. A bill to establish the computer security research program and the Interagency Committee on Computer Crime and Abuse, and to provide criminal penalties for computer abuse; to the Committee on the Judiciary.

By Mr. MICHEL:

H.R. 4385. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to insure that a defined benefit plan under which benefits are based on final average compensation does not fail to meet either the benefit accrual requirements thereunder, or the standards for reasonableness of actuarial assumptions in meeting funding requirements thereunder, solely by reason of allowing certain elections and revocations thereof affecting benefit accruals, if the relevant actuarial assumptions under the plan are made under the individual level premium cost method; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. WOLPE (for himself, Mr. BONIOR of Michigan, Mr. FORSYTHE, Mr. DELLUMS, Mr. FAUNTROY, Mr. MITCHELL, Mr. STARK, Mr. LONG of Maryland, Mr. FAZIO, Mr. FRANK, Mr. RITTER, Mr. FORD of Michigan, Mr. KOGOVSEK, Mr. OTTINGER, Mr. MARKEY, Mr. GEJDENSON, Mr. CORCORAN, and Mr. HORTON):

H.R. 4386. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft; to the Committee on Armed Services.

By Mr. CONTE (for himself and Mr. DINGELL):

H.J. Res. 418. Joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp"; to the Committee on Post Office and Civil Service.

By Mr. JEFFORDS (for himself and Mr. DOWNEY of New York):

H.J. Res. 419. Joint resolution to proclaim the week beginning April 22, 1984, as "National Dance Week"; to the Committee on Post Office and Civil Service.

By Mr. STENHOLM (for himself, Mr. OBERSTAR, Mr. GORE, Mr. WAXMAN, Mr. BERMAN, Mr. BEDELL, Mr. BOLAND, Mrs. BOXER, Mr. CORRADA, Mr. DEWINE, Mr. DYMALLY, Mr. FISH, Mr. FRENZEL, Mr. HORTON, Mr. KASICH, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEVIN of Michigan, Mr. MCCLOSKEY, Mr. MINETA, Mr. OWENS, Mr. ROE, Mr. SABO, Mr. SCHEUER, Mr. STANGELAND, Mr. TAUKE, Mr. WILSON, Mr. WOLF, Mr. WON PAT, Mr. YOUNG of Missouri, Mr. PENNY, and Mr. LUKEN):

H.J. Res. 420. Joint resolution honoring Chad Knutson whose remarkably unselfish decision to donate his organs at his death made possible multiple life and sight-saving transplant operations; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

297. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to title IX of the Education Amendments of 1972; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FRANK introduced a bill (H.R. 4387) for the relief of O. Edmund Clubb; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 433: Mr. MOLLOHAN.

H.R. 679: Mr. MATSUI and Mr. CARR.

H.R. 1920: Mr. HARTNETT.

H.R. 1942: Mr. OWENS and Mr. EDGAR.

H.R. 1974: Mr. HUGHES, Mr. HARRISON, Mr. FORSYTHE, Mr. HILER, Mrs. VUCANOVICH, Mr. PORTER, Mr. PATMAN, Mr. BADHAM, and Mr. VENTO.

H.R. 2128: Mr. BROWN of California.

H.R. 2715: Mr. BONKER.

H.R. 2732: Mr. CAMPBELL, Mr. REGULA, Mr. CORRADA, Mr. LAGOMARSINO, Mr. THOMAS of California, Mr. WOLF, Mr. FORSYTHE, Mr. HALL of Ohio, Mr. STENHOLM, Mr. MCCANDLESS, Mr. MCEWEN, and Mr. RUDD.

H.R. 2820: Mrs. KENNELLY.

H.R. 3614: Mr. ADDABBO, Mr. AKAKA, Mr. BATEMAN, Mr. BROYHILL, Mr. CORRADA, Mr. DONNELLY, Mr. FAUNTROY, Mr. HAWKINS, Mr. HUTTO, Mr. JONES of Tennessee, Ms. KAPTUR, Mr. KAZEN, Mr. KOLTER, Mr. LEHMAN of California, Mr. LENT, Mr. LEWIS of California, Mr. LOWERY of California, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MCNULTY, Mr. TORRICELLI, Mr. TOWNS, Mr. UDALL, Mr. VANDER JAGT, Mr. WALGREN, Mr. WATKINS, Mr. WEBER, Mr. WHITEHURST, Mr. WHITTEN, Mr. WOLF, Mr. LEVITAS, Mr. HUCKABY, Mr. LONG of Louisiana, Mr. GARCIA, Mr. BARNARD, Mr. GUARINI, Mr. HARTNETT, Mr. HEFTEL of Hawaii, Mrs. HALL of Indiana, and Mr. BROWN of California.

H.R. 3651: Mr. GOODLING.

H.R. 3783: Mr. GUARINI.

H.R. 3815: Mr. MATSUI, Mr. TALLON, Mr. DYSON, Mrs. COLLINS, Mr. WILLIAMS of Montana, Mrs. HALL of Indiana, Ms. FERRARO, Mr. MORRISON of Connecticut, Mr. LEHMAN of Florida, and Mr. KASTENMEIER.

H.R. 3977: Mr. FRANK, Mr. OBERSTAR, Mr. SIMON, Mr. WOLF, Mr. WEAVER, Mr. GONZALES, Mr. CORRADA, Mr. BILIRAKIS, Mr.

FISH, Mr. BEDELL, Mr. LELAND, Mr. MOLLOHAN, Mr. BROWN of California, Mr. CORCORAN, Mr. FORSYTHE, Mr. HORTON, Mr. DEWINE, and Mr. COURTER.

H.R. 3990: Mrs. COLLINS, Mr. STOKES, Mr. GRAY, Mrs. HALL of Indiana, Mr. DWYER of New Jersey, Mr. PRITCHARD, Mr. WON PAT, Mr. BERMAN, Mr. PRICE, Mr. ACKERMAN, Mr. OWENS, and Mr. GOODLING.

H.R. 4080: Mrs. COLLINS, Ms. MIKULSKI, and Mr. ROSE.

H.R. 4111: Mr. LEVIN of Michigan, Mr. WEAVER, Mr. SIMON, Mrs. HALL of Indiana, Mr. FRANK, Mr. ACKERMAN, Mr. OTTINGER, Mrs. BOXER, Mr. LEVINE of California, Mr. YATES, and Mr. WYDEN.

H.R. 4206: Mrs. COLLINS, Mr. YOUNG of Alaska, Mr. REID, Mr. SEIBERLING, Mr. STRATTON, Mr. MCEWEN, Mr. WILLIAMS of Montana, Mr. SOLOMON, Mr. SIKORSKI, Mr. JEFFORDS, and Mr. SOLARZ.

H.R. 4214: Mr. BARNARD, Mr. OBERSTAR, Mr. HARKIN, and Mr. BEDELL.

H.R. 4228: Mr. LELAND, Mr. HORTON, Mr. PATMAN, Mr. BEVIL, Mr. GINGRICH, Mr. KILDEE, and Mr. WON PAT.

H.R. 4287: Mr. MCEWEN, Mr. MOLLOHAN, and Mr. DASCHLE.

H.R. 4299: Mr. BROOKS, Mr. PORTER, and Mr. OWENS.

H.R. 4312: Mrs. VUCANOVICH.

H.J. Res. 103: Mr. ANDREWS of Texas and Mr. ANDERSON.

H.J. Res. 205: Mr. O'BRIEN, Mr. BROYHILL, and Mr. NEAL.

H.J. Res. 375: Mr. GUARINI and Mr. EDGAR.

H.J. Res. 382: Mr. BEILENSON, Mr. LIPINSKI, Mr. MCKERNAN, Mr. SPRATT, and Mr. STANGELAND.

H.J. Res. 394: Mr. ANDERSON, Mr. BIAGGI, Mrs. BURTON of California, Mr. CHAPPELL, Mr. CROCKETT, Mr. DANIEL, Mr. DE LA GRAZA, Mr. DYSON, Mr. FAZIO, Mr. GAYDOS, Mr. HARRISON, Mr. HAYES, Mr. KOGOVSEK, Mr. LELAND, Mr. MITCHELL, Mr. MONTGOMERY, Mr. MOODY, Mr. NICHOLS, Mr. PRITCHARD, Mr. RAY, Mr. SMITH of Iowa, Mr. STRATTON, Mr. STUMP, and Mr. WILSON.

H.J. Res. 395: Mr. DELLUMS, Mr. CROCKETT, Mr. WALGREN, Mr. TOWNS, Mr. MURPHY, Mr. APPLEGATE, Mrs. COLLINS, Mr. STOKES, Mr. HAYES, and Mr. OBERSTAR.

H. Con. Res. 100: Mr. HUNTER, Mr. SISISKY, Mrs. SCHROEDER, Mr. WYDEN, and Mr. KRAMER.

H. Con. Res. 199: Mr. GRAY, Mr. WHEAT, Mr. OTTINGER, and Mr. SAVAGE.

H. Con. Res. 208: Mr. KOSTMAYER and Mr. SOLARZ.

H. Con. Res. 209: Mr. COURTER, Mr. FLIPPO, Mr. FROST, Mr. HUTTO, Mr. HYDE, Mr. LIVINGSTON, Mr. PATMAN, Mr. RUDD, Mr. WILSON, and Mr. SAWYER.

H. Res. 205: Mr. HANSEN of Utah.

H. Res. 360: Mr. STAGGERS, Mr. SHANNON, Mr. LELAND, Mr. RATCHFORD, Mr. HAWKINS, Mr. REID, Mr. BARNES, Mr. SIMON, Mr. BROWN of California, Mr. SEIBERLING, Mr. FAUNTROY, Mr. FRANK, Mr. STOKES, Mr. BONIOR of Michigan, Mr. FISH, Mr. BERMAN, Mr. YOUNG of Alaska, Mr. VANDERGRIFF, Mr. MITCHELL, Mr. RANGEL, Mr. OWENS, Mr. GUARINI, and Mr. RAHALL.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

272. By the SPEAKER: Petition of the Committee on Foreign Affairs, National Assembly, Seoul, Korea, relative to the assassination of the members of the Korean Diplomatic Mission in Burma; to the Committee on Foreign Affairs.

273. Also, petition of the Secretary General, North Atlantic Assembly, Bruxelles, Belgique, relative to recommendations, resolutions, and order adopted at the 29th Annual Session of the North Atlantic Assembly; to the Committee on Foreign Affairs.

274. Also, petition of Robert L. McCarty et al, relative to H.R. 4275; to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1904

By Mr. LUNGREN:

—page 2 line 19, strike out "and between" and insert in lieu thereof "abortion,".

H.R. 3435

By Mr. MURPHY:

—Page 1, line 4, strike out "1984" and insert in lieu thereof "1983".

—Page 2, strike out the hyphen on line 5 and all that follows through "(B)" on line 9.

Page 2, strike out lines 24 and 25, (and redesignate the subsequent paragraphs accordingly).

—Page 4 line 11, strike out "Code," and all that follows through "title" on line 12, and insert in lieu thereof "Code".

Page 4, lines 18 and 22, insert "and Youth" after "Children" each place it appears.

Page 4, line 25, strike out "Children," and insert in lieu thereof "Children and Youth,".

Page 6, line 2, strike out "1985," and insert in lieu thereof "1984,".

—Page 7, line 4, insert "part B of" after "under"; and strike out "thrity/day" and insert in lieu thereof "thirty-day".

Page 7, line 6, insert ", or publish in final form," after "implement".

—Page 8, line 1, insert ", on the date of enactment of the Education of the Handicapped Act Amendments of 1983," after "If".

Page 8, strike out lines 9 through 14, and insert in lieu thereof the following:

"(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider of such services an amount which may not exceed the Federal amount provided per child under this part to all handicapped children enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

"(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

"(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.".

—Page 9, line 17, strike out "6-12, 13-17," and insert in lieu thereof "6-11, 12-17,".

Page 10, line 23, strike out "6-12, 13-17," and insert in lieu thereof "6-11, 12-17,".

Page 11, after line 8, insert the following new subsection (and on line 9, strike out "(d)" and insert in lieu thereof "(f)"):

"(d)(1) The Secretary is authorized to enter into cooperative agreements with State educational agencies to carry out studies to assess the impact and effectiveness of programs asssisted under the Act.

"(2) Such agreements shall—

"(A) provide for the payment of not to exceed 60 per centum of the total cost of studies conducted by a participating State educational agency to assess the impact and effectiveness of programs assisted under the Act; and

"(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth.

"(3) The Secretary shall provide technical assistance to participating State educational agencies in the implementation of the study design, analysis, and reporting procedures.

"(4) In addition, the Secretary shall disseminate information from such studies to State educational agencies, and as appropriate, others involved in, or concerned with, the education of handicapped children and youth.".

"(e)(1) At least one evaluation study shall be a longitudinal study of a sample of handicapped students encompassing the full range of handicapping conditions examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

"(2) At least one study shall focus on obtaining and compiling current information

available through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services) and gather information needed in order to calculate a range of per pupil expenditure by handicapping condition.".

Page 11, line 16, strike out "Children," and insert in lieu thereof "Children and Youth,".

Page 12, strike out lines 4 through 7 (and redesignate the subsequent subparagraphs accordingly).

Page 12, after line 23, insert the following:

"(3) In the annual report for fiscal year 1985 (published in 1986) and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through F of this Act; and

"(B) data reported under sections 621, 622, 623, 627, 634, 641, and 653.".

Page 12, strike out line 24 and all that follows through line 2 on page 13, and insert in lieu thereof the following:

"(f) There are authorized to be appropriated $3,100,000 for fiscal year 1984, $3,270,000 for fiscal year 1985, and $3,440,000 for fiscal year 1986 to carry out the provisions of this section.".

—Page 14, line 1, strike out "(including" and all that follows through "youth)" on line 4.

—Page 15, line 14, strike out "preliminary" and insert in lieu thereof "vocational and".

Page 15, line 18, strike out "social".

Page 16, lines 4, 7, 11, and 25, insert "and youth" after "children" each place it appears.

Page 16, after line 21, insert the following:

"(4) In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved.".

Page 17, strike out lines 1 through 6, and insert in lieu thereof the following:

"(c)(1) Programs supported under this section shall report annually to the Secretary on—

"(A) the numbers of deaf-blind children and youth served by age, severity, and nature of deaf-blindness;

"(B) the number of paraprofessionals, professionals, and family members directly served by each activity; and

"(C) the types of services provided.

"(2) The Secretary shall reconcile the number of deaf-blind children and youth served by the programs with the number of deaf-blind children and youth reported by the States for part B of this Act, the Deaf-Blind Registry, and subpart 2 of part B, title I, of the Elementary and Secondary Education Act of 1965 (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981).

"(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

"(d) The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth.".

—Page 17, line 22, strike out the semicolon and all that follows through "children" on line 24; and on line 20, insert "and" after the semicolon.

Page 18, after line 13, insert the following:

(5) For purposes of this subsection the term "handicapped children" includes children from birth through 8 years of age.

Page 18, line 19, strike out "and other developmentally delayed children".

Page 19, lines 1 and 2, strike out "not to exceed $75,000 per year".

Page 19, lines 7 and 8, strike out "not to exceed $125,000 per year".

Page 19, lines 14 and 15, strike out "not to exceed $175,000 per year".

Page 20, lines 6 and 7, and line 24, strike out "and developmentally delayed" each place it appears.

Page 20, line 22, insert "in consultation with the National Council for the Handicapped and the National Advisory Committee on the Education of Handicapped Children and Youth," after "1986,".

Page 21, strike out lines 6 through 13.

Page 21, line 14, strike out "more" and insert in lieu thereof "less".

—Page 22, line 16, strike out "(including" and all that follows through "dependents)" on line 18.

Page 23, line 4, strike out "those with" and all that follows through line 5 and insert in lieu thereof "the severely handicapped".

—Page 23, line 12, strike out "evaluation,".

Page 24, line 10, strike out "behaviorally disordered," and insert in lieu thereof "seriously emotionally disturbed,".

—Page 26, line 1, strike out "collaborative" and insert in lieu thereof "cooperative".

Page 26, strike out line 12 and all that follows through line 4 on page 27.

Page 26, line 11, strike out the semicolon and insert in lieu thereof a period.

Page 26, line 8, insert "and" after the semicolon.

Page 27, line 7, strike out "collaborate" and insert in lieu therof "coordinate".

Page 27, after line 12, insert the following:

"(e) The Secretary, as appropriate, shall coordinate programs described under this section with projects developed under the Rehabilitation Act of 1973.".

—Beginning on line 21 of page 27, through line 19 on page 28, strike out "1985" each place it appears and insert in lieu thereof "1984"; strike out "1986" each place it appears and insert in lieu thereof "1985"; and strike out "1987" each place it appears and insert in lieu thereof "1986".

Page 28, line 2, strike out "$13,000,000" and insert in lieu thereof "$14,000,000".

Page 28, lines 10 and 11, strike out "$3,000,000" and insert in lieu thereof "$5,000,000"; strike out "$3,200,000" and insert in lieu thereof "$5,300,000"; and strike out "$3,300,000" and insert in lieu thereof "$5,500,000".

—Page 29, line 6, insert "(including the university-affiliated facilities program under the Rehabilitation Act of 1973 and the satellite network of the developmental disabilities program)".

Page 29, lines 9 and 10, strike out "speech-language pathology" and insert in lieu thereof "speech, language, and hearing impaired,".

Page 29, line 11, insert "to handicapped children and youth" after "services".

Page 29, line 15, insert "and other personnel providing special services" after "personnel".

Page 29, line 19, insert the following (and redesignate the subsequent paragraph accordingly):

Page 29, after line 19, insert the following (and redesignate the subsequent paragraph accordingly):

"(3) Grants under this subsection may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.".

Page 30, line 12, insert "who work with parents" after "volunteers".

Page 30, line 9, insert "(1)" after "(c)"; and after line 19, insert the following:

"(2) In order to receive a grant under this subsection a private nonprofit organization shall—

"(A)(i) be governed by a board of directors on which a majority of the members are parents of handicapped children, and which includes professionals in the field of special education and related services; or

"(ii) have a membership representing the interests of individuals with handicapping conditions;

"(B) establish a special parent advisory council on which a majority of the members are parents of children with the full range of handicapping conditions, and which includes professionals in the fields of special education and related services, to operate the parent training and information program;

"(C) serve the parents of children with the full range of handicapping conditions under such grant program; and

"(D) demonstrate the capacity and expertise to conduct effectively the training and information activities authorized under this subsection.

"(3) Any parent advisory council under paragraph (2)(B) shall meet at least once in each calendar quarter to review the parent training and information program established under this subsection, and shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under this subsection, the parent advisory council shall submit to the Secretary a written review of the parent training and information program conducted by that private non-profit organization during the preceding fiscal year.

"(4) The Secretary shall ensure that grants under this subsection will—

"(A) be distributed geographically to the greatest extent possible throughout eligible jurisdictions; and

"(B) be targeted to parents of handicapped children in both urban and rural areas, or on a State, or regional basis.

"(5) Parent training and information programs assisted under this subsection shall assist parents to—

"(A) better understand the nature and needs of the handicapping conditions of their children;

"(B) provide followup support for their handicapped children's educational programs;

"(C) communicates more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

"(D) participate in educational decision-making processes including the development of their handicapped child's individualized educational program;

"(E) obtain information about the programs, services, and resources available to their handicapped child, and the degree to which the programs, services, and resources are appropriate; and

"(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

"(6) Each private nonprofit organization operating a program receiving assistance

under this subsection shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program.

"(7) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.".

—Page 30, line 23, strike out "(and payments" and all that follows through "Interior)" on line 25.

—Page 31, line 22, insert "and" immediately after the semicolon; page 32, line 2, strike out "; and" and insert in lieu thereof a period; and on page 32, strike out lines 3 through 5.

—Page 32, line 13, insert "(1)" after "(b)"; and after line 19, insert the following new paragraph:

"(2) The Secretary is authorized to make contracts with profit-making organizations under this section only when necessary for media access or materials.".

—Page 33, strike out lines 15 through 19, and insert in lieu thereof the following: "$58,000,000 for fiscal year 1984, $61,150,000 for fiscal year 1985, and $64,370,000 for fiscal year 1986. There are authorized to be appropriated to carry out the provisions of the section 633, $1,000,000 for fiscal year 1984, $1,050,000 for fiscal year 1985, and $1,110,000 for fiscal year 1986.".

—Page 33, line 13, insert "(a)" after "635."; and after line 19, insert the following:

"(b) of the funds appropriated pursuant to subsection (a), $5,500,000 in fiscal year 1984, $5,800,000 in fiscal year 1985, and $6,100,000 in fiscal year 1986 shall be available for activities under section 631(c).".

—Page 34, line 14, insert "and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth." after "children".

Page 34, line 18, insert "and devices" before "for teaching".

Page 35 line 1, strike out "and" and all that follows through "demonstrations" on line 3, and insert in lieu thereof the following "and exemplary practices".

Page 35, after line 3, insert the following:

"(5) The dissemination of information on research and related activities conducted under this part to interested individuals and organzations.".

—Page 37, strike out lines 9 through 12, and insert in lieu thereof the following:

"Sec. 644. For purposes of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1984, $21,100,000 for fiscal year 1985, and $22,200,000 for fiscal year 1986.".

Page 37, strike out lines 20 and 21, and insert in lieu thereof the following: "year, 1984, $20,000,000 for fiscal year 1985, and $21,100,000 for fiscal year 1986.".

—Page 38, after line 4, insert the following new sections (and redesignate the subsequent section accordingly):

AMENDMENTS TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981

Sec. 16. (a) Section 602(a)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "each of the fiscal years 1983 and 1984" and inserting in lieu thereof "the fiscal year 1983, and $1,071,850,000 for the fiscal year 1984".

(b) Section 605 of such Act is amended by striking out ", 1983, and 1984" and inserting in lieu thereof "and 1983, and $5,500,000 for fiscal year 1984".

(c) Section 605(b) of such Act is amended by striking out ", 1983, and 1984" and inserting in lieu thereof "and 1983, and $56,000,000 for fiscal year 1984".

(d) Section 605(c) of such Act is amended by striking out ", 1983, and 1984" and inserting in lieu thereof "and 1983, and $28,000,000 for the fiscal year 1984".

SPECIAL STUDY ON TERMINOLOGY

Sec. 17. (a)(1) The Secretary of Education shall either directly or by grant or contract, conduct a review and evaluation (including a number of examples of children effectively and ineffectively served) of the term "behaviorally disordered" as the use of such term relates to the provision of a free, appropriate public education to handicapped children, as defined in section 602(a)(1) of the Education of the Handicapped Act.

(2) The review and evaluation under this section shall involve the active participation of the parents of handicapped children.

(b)(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress, for referral to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report of the review and evaluation required by this section, together with a detailed proposal for any legislation necessary to implement the recommendations of such review and evaluation.

(2) The report required under paragraph (1) shall include—

(A) the number of seriously emotionally disturbed children currently being served under the Education of the Handicapped Act, and the anticipated number of children and youth (by type of condition) in special and regular education who would be served under the Education of the Handicapped Act if the definition is changed;

(B) how the population of children currently served under such Act as "seriously emotionally disturbed" may be changed (particularly in terms of the severity of disability) if the term "behaviorally disordered" is substituted for the term "seriously emotionally disturbed";

(C) how a change in terminology will impact on the identification, assessment, types of special education and related services provided, and the availability of such services, if the shift in terminology is made;

(D) how the settings in which special education and related services are provided may shift if the change in terminology is made;

(E) how the change in terminology may affect the attitudes of, and the relationships among, parents, professionals, and children and youth; and

(F) how the change in terminology will impact upon the training of professional personnel providing services under such Act.

(c) The Secretary is authorized to use funds appropriated for purposes of part E of the Education of the Handicapped Act to carry out the purposes of this section.

—Page 38, strike out line 6, and insert in lieu thereof the following:

Sec. 17. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of enactment of this Act.

(b)(1) To the extent that the amendments made by this Act to parts C, D, E, and G of the Education of the Handicapped Act prohibit or limit the use of funds, such amendments shall apply only to funds obligated after the date of enactment of this Act.

(2) As determined necessary by the Secretary of Education for purposes of providing services under the Education of the Handicapped Act pending the issuance of regulations implementing the amendments made by this Act, the Secretary shall provide financial assistance under parts C, D, E, and G of the Act as in effect on the day before the date of enactment of this Act until issuance of such regulations or March 1, 1984, whichever is earlier.

H.R. 4248

By Mr. CARNEY:

—Page 2, line 4, strike out "$453,800,000" and insert in lieu thereof "$439,100,000".

EXTENSIONS OF REMARKS

SUPPORT TO THE ARTS PROVIDED BY AMERICAN BUSINESSES

HON. THOMAS J. DOWNEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. DOWNEY of New York. Mr. Speaker, as chairman of the Congressional Arts Caucus, I wish to bring to the attention of my colleagues the tremendous support to the arts provided by American businesses in 1982. The attached, provided by Business Committee for the Arts, further describes this outstanding contribution:

BUSINESS COMMITTEE FOR THE ARTS, INC. ANNOUNCES AMERICAN BUSINESS PROVIDED A TOTAL OF $506 MILLION TO THE ARTS IN 1982

WASHINGTON, D.C., November 10.—American businesses provided a record total of $506 million to the arts in 1982 according to national survey findings announced today by the Business Committee for the Arts, Inc., a national not-for-profit organization of business leaders. This is a 32-percent increase over the 1981 total of $385 million during a time when the U.S. Department of Commerce reported that pre-tax profits of U.S. business declined by 45 percent from $252.7 billion in 1981 to $174.2 billion in 1982.

Conducted for the Business Committee by Peat, Marwick, Mitchell & Co., the survey revealed a substantial increase in volunteer services and business expense contributions to the arts. Volunteer services (in-kind contributions and the loan of business personnel to arts organizations) increased by 87 percent from $7.9 million in 1981 to $14.8 million in 1982. Business expense contributions (from marketing, promotional, advertising and public relations budgets) increased 56 percent from $7.4 million in 1981 to $11.5 million in 1982.

Despite the economic climate, 64 percent of American businesses increased or maintained the same level of support in 1982 as in 1979. Of this total, 45 percent increased support and 19 percent remained the same; 58 percent of American businesses expect to give more or maintain the same level of support in 1983 as in 1982. Of this total, 16 percent plan to increase support and 42 percent plan to remain the same.

Nearly 80 percent of the $506 million contributed by business to the arts in 1982 came from companies reporting annual sales of $50 million or more. Businesses headquartered in the Middle Atlantic states provided 55 percent of the total support to the arts in 1982. East North Central businesses gave 15 percent. Businesses in the West Pacific states contributed 14 percent, and businesses in the South gave 12 percent.

Ralph P. Davidson, Chairman of the Board of Time, Inc. and Chairman of the Business Committee for the Arts, Inc., commented: "The survey showed a remarkable commitment to the arts by thousands of corporations hit by the recession last year and a good, solid foundation for increased giving as the economy recovers. In an ordinary year, a 32-percent increase would have been dramatic. But in the midst of a severe recession, with business earnings under pressure, the 1982 increase was nothing less than phenomenal.

"Moreover, the survey shows a greater willingness for business to go beyond just writing an occasional check. Lending financial expertise, marketing help of other in-kind aid can yield a long-term payoff to arts organizations. Third, the survey shows plenty of room for greater involvement by medium and small size businesses and those headquartered outside the Northeastern states."

Judith A. Jedlicka, President of the Business Committee for the Arts, said: "We are delighted by the record level of business support to the arts reached last year and we look forward to greater increases as the economy improves. The possibilities for businesses large and small throughout the United States to form mutually beneficial partnerships with the arts seems boundless. The development of these partnerships is the challenge ahead."

Other results of the survey:

Business contributions to all philanthropic causes totaled $5.26 billion in 1982. The arts received nearly 10 percent of this total.

Museums received 19 percent of the total support to the arts from business. Theaters and cultural centers each received 9 percent and symphony orchestras, 8 percent.

The Business Committee for the Arts, Inc. is the first and only national not-for-profit association of business leaders committed to supporting the arts and to encouraging new and increased support to the arts from the American business community. Founded in 1967, the Committee is composed of 155 corporate executives who represent businesses headquartered in 67 cities throughout the United States. Each member heads a company that has an active arts support program and actively works to increase the partnership between business and the arts.●

RECOGNITION FOR ELLWOOD CITY HIGH SCHOOL FOOTBALL TEAM

HON. JOE KOLTER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. KOLTER. Mr. Speaker, I would like to take this opportunity to congratulate the Ellwood City High School Football Team, Head Coach Jim Rankin, and the entire Ellwood City community for their recently concluded 6–4 winning season.

Although a 6–4 season may not always be cause for celebration, this winning season deserves a special tribute because it was truly a community effort.

The young men on the team played above and beyond the expectations of many and Coach Rankin helped to bring out talents and skills that some of the players did not even know they had. The Go Blue Booster Club and its president, Bob Grossman, along with the Ellwood City Football Mothers, played the most important roles in generating the community enthusiasm and spirit that made this a special football season.

The high school bank should also be commended for their enthusiastic and vocal support. After all, a football game just would not be the same without the band firing up the crowd with the school fight song.

Mr. Speaker, this was indeed a winning football season in Ellwood City, Pa. This was a season in which everyone—the players, the coaches, the boosters, the band and the parents—should be proud of themselves and of their community.●

"TRADE SHOULD BE A TWO-WAY STREET"—CONGRESSMAN DALE KILDEE

HON. DONALD J. PEASE
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. PEASE. Mr. Speaker, our colleague, Hon. DALE KILDEE, last Saturday delivered a nationwide radio address commenting on United States-Japanese automobile trade. I commend his remarks to the attention of my colleagues.

This is Congressman DALE KILDEE. I represent the seventh district of Michigan.

Many are disappointed by the President's low-key approach to our trade problems during his visit to Japan. This timid approach to our serious trade imbalance is both unrealistic and insensitive to our employment and industrial needs in the United States.

I do not expect the Japanese government to be concerned for our industrial base. That is not their responsibility.

But I do expect our government to be concerned. And President Reagan should have demonstrated these concerns when he was in Japan.

I noticed that he took the Secretary of State with him to Japan, but not the Secretary of Commerce or our chief trade representative.

President Reagan must realize that while Japan is an ally, it is also an industrial competitor—and not always a friendly competitor. Indeed, it is often a very aggressive com-

petitor. Japan is not at all idealistic in its trade relations. It is coldly practical and thinks in terms of its national interest.

We must show an equal concern for ours.

While we must continue to work for an ideal world, President Reagan does not recognize the facts of the real trade world in which we live. He must be more firm in trying to bring about fair trade.

If the whole world lived by the same rules, things would be quite different in the field of trade. But the rules are not the same.

The tariff on cars in the United States is less than 3 percent, but the tariff on cars in Canada is 12.1 percent. It is 10.8 percent in Germany, France and Italy, and up to 58 percent in Australia.

Many other countries have strong domestic content requirements which they feel help promote fair trade.

Some nations, including Japan, have major trade barriers. The Japanese place so many restrictions on the sale of U.S.-built automobiles in their country that American cars cost Japanese customers up to twice what Americans pay. At the same time, Japan provides many advantages for its manufacturers when they ship overseas. Japanese automobiles actually sell for less here than they do in Japan. While this may be of short-term benefit to some individual consumers, it hurts all American consumers in the long term.

This simply is not fair trade.

No other auto-producing country allows Japan to do to it what our government allows. And as a result, the United States has become the principal marketing target for Japanese cars. This affects not only our domestic automobile industry, but our entire industrial base. The Department of Transportation in 1980 warned us that we face a permanent downsizing of our industrial capacity if we allow this situation to continue unchecked.

We recognize that our steel, glass, rubber and plastic industries depend heavily upon the health of our automobile industry.

But some people do not realize the extent to which other jobs in our economy are affected. Not too long ago a member of Congress from a southern state asked me when the auto industry would start recovering. I tried to respond, but inquired of him why he was asking. He pointed out that the carpet fiber industry was suffering because the automobile industry is the second largest consumer of carpet in this country.

Many are also disappointed in President Reagan's recent failure to show his willingness to effectively negotiate voluntary restraints on Japanese automobile imports.

Japan clearly out-negotiated us.

The Administration reached an agreement to increase the number of cars Japan can send here by 170,000 additional cars next year. This will cost thousands of additional American jobs. And the extension of only one year in voluntary restraints will not provide our industry with adequate time to retool and modernize.

While trying to encourage free trade, we must also work for reciprocity and fairness in trade. Japan must be willing to buy more of our goods and stop flooding our country with their goods. Trade should be a two-way street.

The present imbalance in trade with Japan is about $20 billion in their favor. This is directly costing hundreds of thousands of Americans their jobs across a wide range of industries.

This situation is intolerable, and the President must show greater concern and sensitivity to that fact. The President must take a lead in ensuring that we live in a world of fair trade.●

PRINTING INDUSTRIES OF AMERICA HELP TO LOCATE JOBS

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. SAWYER. Mr. Speaker, I would like to commend the Printing Industries of America for their efforts to assist in job relocation for Federal employees who have lost their jobs as a result of the closing of 130 Federal printing and duplicating facilities nationwide. I think many of us believe the closing of these facilities is a long overdue step, and I believe PIA's willingness to ease the hardships associated with that action should be recognized. If more industries were more willing to help their own I doubt the unemployment problem would be as critical as it is today. PIA's action will undoubtedly save the Government a great deal of money. But their initiative makes good sense. When Government printing is being transferred from the public sector to the private sector, it makes sense to retain the employees from the public sector who have skills to offer their new private employers. Via placement services which will match skills with employment opportunities, this printing experience will not be lost. New workers will not necessarily need to be trained, this saving the private printing industry as well. Let us maximize all our resources and learn by example. I think the Printing Industries of America have provided us with an excellent example and I hope that we can learn from it.●

TRAGIC STORY OF JOHN SMITHERMAN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. MINETA. Mr. Speaker, I rise today to call your attention to a tragic story about a proud American named John Smitherman.

As a 19-year-old in the Navy during World War II, Mr. Smitherman was told that observing the detonation of an atomic bomb on the Bikini Islands posed no danger to him.

Yet, we all know that dangerous levels of radiation swept over the Bikini Islands as a result of that explosion and others. Mr. Smitherman later experienced a breakdown of his lymphatic system, a breakdown which led first to the amputation of his legs, and later to his death. Mr. Smitherman appealed to the Veteran's Administration because he had good reason to believe that his exposure to nuclear radiation was the cause of his disease, but his repeated requests for serivce-related disability and for use of Veterans' Administration medical facilities to treat his disease were denied.

Mr. Smitherman's requests represented more than a personal quest for justice. His courageous efforts constituted a public service; he called attention to our Government's gross irresponsibility.

John Smitherman's patriotism was proven, his sacrifice immense. Today, John Smitherman is dead, but the sorrow and suffering of his family must not be left unaddressed. John Smitherman and thousands of other World War II veterans were mislead into participating in our country's atomic bomb research several decades ago. We must neither deny nor forget that fact. Now, we should attempt some redress for those citizens and soldiers who were most egregiously misinformed about nuclear tests.

Mr. Speaker, I hope that you and our colleagues will join me in expressing our country's sorrow at the loss of this fine American. Equally important, let us respond compassionately and responsibly to veterans who have been victimized as John Smitherman was.●

MARSHALL MANLEY AWARDED TREE OF LIFE AWARD BY THE NATIONAL JEWISH FUND

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Ms. FIEDLER. Mr. Speaker, on Tuesday, November 15, 1983, Mr. Marshall Manley is to be awarded the Tree of Life Award by the National Jewish Fund. I wish him all best regards to this proud occasion, for this award has been presented to many of this Nation's most distinguished private and public leaders.

Mr. Marshall Manley is one of California's leading attorneys and a civic and community leader. He is among many in our community dedicated to the efforts of bringing about better understanding of the goals of Israel and perpetuation of programs to enhance the quality of life in Israel and the United States.

Mr. Manley is the managing partner of his law firm, one of the largest in the United States. He is the chairman of the board of the First National Bank of Beverly Hills. Yet despite these commitments, Mr. Manley always has found time for the needs of our community. Mr. Manley will be assuming responsibility for the funding

and development of selected projects in Israel.

I would like to join in this well-deserved tribute in recognition of Marshall Manley's fine contributions to a better world.●

PEASE AND DORGAN RELEASE CORPORATE TAX STUDY

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. PEASE. Mr. Speaker, following is a copy of a press release issued today announcing the results of the annual Pease-Dorgan study of effective tax rates for U.S. corporations.

I am extremely pleased with this year's study and the 3-year statistical span that it covers lending further substance to our results which previously were available on a 1-year basis.

Tomorrow I will submit in the RECORD a detailed summary of the study.

Copies of the study in its entirety can be obtained by contacting my office in 1127 Longworth; the telephone number is (202) 225-3401.

PEASE AND DORGAN RELEASE CORPORATE TAX STUDY

WASHINGTON, D.C., November 14, 1983.—Congressman Don J. Pease (D-13 Ohio), joined by Congressman Byron L. Dorgan (D-N.D.), today released a study that shows that corporate America's share of the overall tax burden continues to decline and that wide disparities in effective tax rates exist among industries.

The study conducted at the request of Pease and Dorgan by the Joint Committee on Taxation and the General Accounting Office, also points up significant differences among the average tax rates that U.S. Corporations pay on U.S. income versus what they pay on foreign income and worldwide income.

The Pease-Dorgan study of the effective tax rates of U.S. corporations reveals that:

Corporate income tax receipts, as a percentage of total federal receipts, dropped from 28.3 percent in 1950 to 11.5 percent in 1981 and fell again to 8.1 percent in 1982. At the same time, personal income taxes, as a percentage of total federal receipts, climbed from 39.2 percent in 1950 to 47.5 percent in 1981 and rose again to 49 percent in 1982.

Seven out of 29 industry sectors studied had effective tax rates of less than 10 percent in 1982.

U.S. corporations paid an average of 16.1 percent U.S. taxes on their U.S. income in comparison with 55 percent on their foreign-earned income and 29.6 percent on their worldwide income.

In 1982, U.S. income tax rates on U.S. income by industry varied between a high of 39 percent and a low of minus 17.7 percent.

The lowest effective tax rates by industry sector were in chemicals (−17.7 percent); insurance (−6.3 percent); financial institutions (-3.8 percent); aerospace (−0.6 percent); tellecommunications (1.6 percent); railroads (4.1 percent); and broadcasting (8.9 percent).

The highest effective tax rates by industry sector were in rubber (39 percent); trucking (36.9 percent); tobacco (36.3 percent); paper and wood (36.1 percent); and wholesalers (36.1 percent).

Pease said that the conclusions of this year's study, which classifies 213 large corporate taxpayers studied into 29 industry sectors, have been combined with the conclusions of studies from two previous years and reflect a three-year trend.

"This year's study adds validity to our earlier conclusions," Pease said. "The report shows that corporate contributions to the cost of running the country have gone down precipitously—in part due to the recession—while the percentage of federal receipts from personal income taxes has jumped up, despite personal tax cuts."

Pease, a member of the tax-writing House Ways and Means Commitee, said that the study underscores the need for an alternative minimum corporate tax rate.

"This study bears out my contention that the U.S. needs an alternative minimum corporate income tax," he said. "It is clear that corporations ought to make some contribution to the operation of our country, yet under our current tax system, corporate taxpayers are contributing only 8.1 percent of total federal receipts."

Pease has proposed an alternative minimum corporate tax rate equal to 15 percent of all income in excess of $50,000, disallowing deductions for most tax preferences and most tax credits permitted under current law.

"Obviously," Pease added, "Congress must also examine carefully the wide variances in effective tax rates among industry sectors. Tax equity considerations demand such an examination, and so do concerns about the nation's economic growth."

Dorgan, who is also a member of the Ways and Means Committee, said the study demonstrates the basic unfairness of the nation's tax system. "The tax system has become a punchboard of gimmicks. While some industries, such as the trucking industry, pay a fairly heavy income tax, others such as financial institutions, including many of the largest banks, pay no U.S. income tax," Dorgan said.

"The Administration's 1981 business tax cut has virtually wiped out the income tax obligation for a number of industries, even though they earn substantial profits. Many of them are no longer paying income taxes to the federal government. Congress faces a real challenge to correct these inequities," Dorgan said.

Pease said that another important finding from the study is the difference between the average U.S. tax rate on U.S. income (16.1 percent) and the average foreign tax rate on foreign income (55 percent), and similar differences between the average U.S. tax rate on U.S. income and the average worldwide tax rate on worldwide income (29.6 percent) among the corporations studies.

"Why are the average foreign tax rates and the average worldwide tax rates so much higher than the average U.S. tax rates? To me, this is a provocative finding that cries out for further study," Pease said.

Pease said a summary of the study will be published in the Congressional Record this week. Copies of the complete study are available from the offices of Pease and Dorgan.●

CONGRATULATIONS—VA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. DOWNEY of New York. Mr. Speaker, it seems that much of my workday is spent criticizing different proposals, people and events. That is why my task today of thanking the Veterans' Administration is so pleasant.

One of my constituents, Mr. Claude Schultz of Bay Shore, N.Y., recently underwent successful heart surgery in the VA medical system. He and his family were delighted with the quality of care received, and I want to commend the VA—especially Northport VA Hospital and Fort Hamilton VA Hospital—for their fine work by reprinting the thank you note I received from Mr. Schultz's wife, Eleanor. The letter follows:

DEAR MR. DOWNEY: As far back as 1978, my husband, Claude Schultz, has been treated for heart disease at Northport VA Hospital.

In August, 1982, Claude began suffering with heart pains and was admitted to Northport VA Hospital for treatment and release.

On April 5, 1983, he had a catherization done on his heart, which showed that the left side arteries were 100 percent, 98 percent, and 90 percent closed and the right side arteries were 60 percent and 70 percent closed. From then on, his health deteriorated.

In July 1983, Claude was in and out of C.C.V. at Northport VA Hospital and then sent home with a date set for September 25, 1983 to report back to Northport VA Hospital for open heart surgery. But on July 30 he was suffering pains in the chest and was put back into C.C.V. at Northport VA Hospital. On July 31 in the evening, Claude suffered a heart attack and was under the care of his nurse, Mr. Edward Felix, and Dr. Christopher Quartararo. On August 3, Dr. Christopher Quartararo phoned me to come to Northport VA because they were shipping Claude by Suffolk County Police helicopter to Fort Hamilton VA Hospital in Brooklyn. The following day, August 4, Dr. Eddie Hoover performed a triple bypass on his heart. Claude was released from Fort Hamilton VA Hospital on August 12, 1983.

My family and I want to thank Dr. Eddie Hoover at Fort Hamilton VA Hospital and Dr. Christopher Quartararo and nurse Edward Felix at Northport VA Hospital for giving my husband, Claude, a new life to enjoy.

Without the wonderful service and treatment that my husband received from the VA Hospital, I don't think that he would have survived.

Sincerely,

ELEANOR SCHULTZ.

I also want to send my thanks to the Veterans' Administration, Northport and Fort Hamilton VA Hospitals, Dr. Eddie Hoover, Dr. Christopher Quartararo, and Mr. Edward Felix for their fine work. It is at times like this that I

am proud to be a part of the Federal Government.●

UNISEX PRICING IS UNFAIR TO WOMEN

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. SHELBY. Mr. Speaker, on November 2, 1983, the New York Times took an editorial position on the issue of unisex pricing of insurance which was not supportive of the insurance industry's side of the issue. In fact the editorial parts significantly from a position the New York Times took in April of this year. In an earlier editorial, a lengthy, objective commentary on the unisex insurance question concluded: "The good reasons to eliminate sex discrimination in insurance do not justify reckless damage to the insurance industry, existing pension systems, or present policyholders." I submit that nothing has transpired since April to make the consequences of this legislation any easier for women or the industry to bear.

On November 9, the New York Times printed a letter to the editor from Barbara Lautzenheiser in response to the editorial. Miss Lautzenheiser is senior vice president of the Phoenix Mutual Life Insurance Co., and chairman of the Committee for Fair Insurance Rates, a broad-based group of property, casualty, life, and health insurers.

I believe Miss Lautzenheiser's letter will be helpful to my colleagues as they consider this issue. She points out that the new Florio proposal is not a compromise and that, should it pass, women would still pay more for auto insurance than their driving records would justify. Also, the Florio proposal does not eliminate the very troublesome retroactivity feature and would likely give rise to a great deal of litigation.

Finally, I am sure my colleagues would be interested to know that the "box score" relating to editorial page coverage of this issued in newspapers throughout the country, finds editorials opposing enactment of H.R. 100 on a 4-to-1 ratio.

I offer Miss Lautzenheiser's arguments for the edification of my colleagues.

[From the New York Times, Nov. 9, 1983]

LETTER: ON INSURANCE RATES

UNISEX PRICING IS UNFAIR TO WOMEN

To the Editor:

Your Nov. 2 editorial "Insure Against Sex Discrimination" discusses a compromise" version of pending unisex legislation. You correctly identified as "non-sexist" the main objection of insurers that women's greater longevity and lower auto accident rates would have to be ignored in setting insurance rates.

This "compromise" fails to remedy these concerns and we remain unequivocally opposed.

We believe that cost-based pricing—calculating premiums based on statistically verifiable risk characteristics—is fair to all consumers and socially as well as economically neutral. Prices based on costs do not involve social judgment or sexual stereotypes.

Life insurance rate distinctions by race are actuarially invalid because race is not an inherent predictor of mortality. Mortality differences between whites and nonwhites have narrowed and any remaining differences are still attributable to socioeconomic factors. Similarly, any observable mortality differences among people of different religions are attributable to life-style factors such as smoking and drinking.

Sex, on the other hand, is an accurate predictor of mortality and differences between the sexes cannot be explained merely by life-style factors. Indeed, as the socioeconomic differences between men and women have narrowed, mortality differences have widened. Women have longer life expectancies than men, at every age. Even smoking does not explain these differences because nonsmoking women outlive nonsmoking men. In fact, there is a wealth of scientific evidence that women are simply biologically superior to men.

This compromise does not eliminate retroactivity, as is claimed. Current, in-force contracts with women would have to be breached in order to avoid the disastrous financial consequences of the legislation. It is extremely doubtful that the courts would permit insurers to increase premiums for women above those guaranteed in existing contracts.

Regarding automobile insurance, this "compromise" would still require lower-cost women drivers to pay higher premiums to subsidize higher-cost male drivers. And it is a myth that miles driven explains why women have fewer automobile accidents than men.

Statistics demonstrate that women driving the same number of miles per year as men have fewer accidents than men. Increased reliance on mileage and the elimination of gender in pricing will inevitably result in overcharging women because their accident rates are lower than men's in every mileage category.

The use of gender in determining insurance premiums is not an "unnecessary legal distinction" but a valid factor in predicting costs. If this law passes, women will receive only the right to pay more than their fair share.

BARBARA J. LAUTZENHEISER,
Chairman, Committee for Fair Insurance Rates,
Washington, Nov. 3, 1983.●

PERSONAL EXPLANATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. MARTINEZ. Mr. Speaker, I was absent from the House session last Saturday, November 12, due to previous commitments in the 30th District of California. Had I been present, I would have voted "yea" on rollcall No. 490.●

VETERANS DAY: TO HONOR OUR UNSUNG HEROES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. BROWN of California. Mr. Speaker, I regret that commitments relating to my position on the Agriculture Committee made it impossible for me to be present last Friday, Veterans Day. I am a long term supporter of all veterans and would like to take this opportunity to share my thoughts on Veterans Day and the men and women it honors.

For 65 years we have set aside a day to pay homage to the men and women who fought for our country's freedom on the battlefields of the world. Originally, November 11 was celebrated as "Armistice Day," in honor of the men and women who served so valiantly in "the war to end all wars." The date was chosen because it marked the anniversary of the armistice agreement which, on the 11th hour of the 11th day of the 11th month of 1918, silenced the guns and signaled the start of a new era of peace.

The hope for lasting world peace which characterized the end of the First World War proved to be premature, and American troops were called out to battle nazism in World War II and communism in Korea. In 1954, recognizing the sacrifices and heroism of the men and women who had served their country in all the Nation's wars. Congress passed a bill designating November 11 "Veterans Day" and President Eisenhower signed it into law.

The veterans of every battle in our Nation's history, from Lexington and Concord to Beirut and Grenada, fought and died so that our country, and all that it stands for, could live on. Veterans Day is a spiritual monument to those men and women, who deserve a special place in our hearts and minds as well as in our history books. At Arlington a Presidential wreath is placed on the Tomb of the Unknown Soldier in memory of the Nation's war dead. Across the land veterans are honored by parades, speeches, and other ceremonies intended to show the appreciation of the Nation for their sacrifices and the freedom that such sacrifices made possible. On this day veterans receive the gratitude and acclaim which they so amply deserve.

Veterans Day is a time to recall the past, but it should also be a day to look to the future. America has a tendency to treat its heroes as though they were disposable, to be used according to the exigencies of the moment, and then discarded. We must not let this happen in the case of our veterans, who have given much that we might have much. Veterans Day should be a

day when we rededicate ourselves to giving our veterans the recognition and compensation they deserve.

The inscription on the Tomb of the Unknown Soldier states, "Here rests in honored glory an American soldier known but to God." Let us work toward the day when every veteran will be the recipient of such "honored glory," not only on Veterans Day, but every day.●

TRIBUTE TO ROLAND E. ARNALL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Roland E. Arnall as he is honored by the International Committee for Israel Bonds as Man of the Year.

Roland is a prominent financier and philanthropist in Los Angeles, and a good friend of mine. I am proud to say that he has contributed much of his time, energy and resources to the State of Israel. He is playing a vital role in building a stronger and safer homeland for the Jewish people, and has given generously to nearly every major philanthropy and institution of learning in Israel. Roland is committed to giving, and to improving the quality of life for others. He is a true humanitarian.

Mr. Speaker, Roland does not stop even at this high level of giving. In addition to his work for the State of Israel Bonds, he is a founder of Yeshiva University of Los Angeles and has served as cochairman of the Board of Trustees, he is vice president of Hillel Hebrew Academy, founder and cochairman of the Board of Trustees of the Simon Wiesenthal Center for Holocaust Studies, vice president of Shaarei Tefila Congregation, and a member of the board of trustees of the California State Universities. He is chairman of the board of REA Industries, and of Long Beach Savings and Loan Association.

Roland Arnall has earned the respect of all those who know him. His community involvement has been exemplary, and he is clearly deserving of this honor to be bestowed upon him.

On Sunday, November 20, 1983, Roland Arnall will be the guest of honor at the Man of the Year Dinner of the International Committee for Israel Bonds in Los Angeles. I would like to take this opportunity to extend my personal congratulations and warmest regards to my friend Roland Arnall.●

GIVING PEACE A BAD NAME

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. GOODLING. Mr. Speaker, in this week's edition of Newsweek magazine, columnist George Will does it again: Using his uncanny ability to take a seemingly complex issue, capsulize it and provide a penetrating analysis, he tackles the proposed Peace Academy. As always, Mr. Will has hit the nail on the head. I especially like his concluding point that we already have three peace academies—our so-called war academies; after all, peace is a condition brought by the deterrence of war. I heartily recommend George Will's article to all of my colleagues, and respectfully request that it be reproduced here in full.

The article follows:

GIVING PEACE A BAD NAME

Sen. Jennings Randolph, a West Virginia Democrat, is an affable slab of a man who looks like a piece of Stonehenge that walked away. He first came to Congress 50 years ago. He is leaving next year, and many colleagues want to honor him by fulfilling his fondest desire, establishment of a United States Academy of Peace. Unfortunately, that is another idea that could give peace a bad name.

The proposal for a peace academy is as American as, well, the Kellogg-Briand Pact, which outlawed war many dozens of wars ago. A peace office was proposed for the government in 1793. In 1945 a young congressman from Pekin, Ill.—et tu, Everett Dirksen?—proposed a division of peace within the State Department. Today the lobby for the peace academy claims 30,000 supporters. Its list of advisers begins with Ed Asner. A fund-raising letter begins "Dear Fellow Human." I never learn how letters that begin that way end.

A peace academy would be part graduate school, part think tank. It would sponsor research about the causes of conflict, and techniques of conflict resolution, duplicating work done at many universities. If it were just a slice of pork for the academic lobby, it would not matter. It matters because it illustrates odd ideas about peace.

TERRIBLE PRICE

Peace is so desirable that, if an academy were relevant to it, it would be worth paying the terrible price of having yet more graduate students. But the idea of a peace academy flows from many premises, all mistaken. One is that mankind's "natural" condition is peace, the breakdown of which results from remediable "mistakes" and "misunderstanding." Another premise is that peace can be taught as a discrete subject, like dentistry. A third premise is that conflicts between individuals, and domestic social discords, are closely analogous to, and pregnant with lessons about, conflicts between nations. Hence conflicts are opportunities for applying clear, teachable techniques of "conflict resolution." A fund-raising letter for the peace-academy lobby proclaims: "There is now a science—tested and proved in actual practice—that can help make war obsolete."

Supporters speak of learning to "wage peace." They say, "peacemaking is as much an art to be learned as war." But it is not.

War is the intense focusing of will and materiel, of leadership and technique, to achieve clearly definable political aims. War is a profession; peace is a condition.

The words "war" and "peace" are misleading when used in ways that suggest a clean, clear distinction. At different times and places the words have denoted quite different things. Gen. Sir John Hackett says that when Britain and France were engaged in the Seven Years' War (1756-1763) most citizens of both countries were unaffected by it and many never even heard about it. Today in the continuum between peace and war lies a broad terrain of troubles such as terrorism, subversion and ideological aggression. Hackett says that weapons of mass destruction have made the prevention of war rather than the waging of it the principal purpose of armed forces. But he also notes that in the less than 40 years since peace (of sorts) came to Europe, outside Europe there have been at least 40 wars with more than 40 million dead.

And now add the population of Kansas City to the casualty list. ABC is about to treat the nation to a prime-time entertainment movie, "The Day After," portraying the reduction of that city to a cinder. The movie is this month's—they come about one a month—original discovery that nuclear war would be awful. It is safe to assume that some of the persons who made the movie consider it a political act. It will have the predictable and intended effect of stirring recruits for the "peace movement." One thought behind movies like this is that it is morally frivolous for anyone to go through life other than weighed down by woe about living in dangerous times. A related and equally dumb thought is that if everyone can just be scared witless, everyone will act constructively to make a less scary world.

In the current climate, the last thing the nation needs is a peace academy staffed by people stuffed full of the ideas you would expect in people attracted to a peace academy. All that an academy could usefully do is what every liberal-arts school does: teach history. Taught properly, history refutes the idea that there is some social or scientific key to peace.

However, the academy bill has 55 Senate and 158 House cosponsors. It is a double temptation. Peace is a good thing, and Americans believe in academies because they believe that any unpleasant fact is a "problem" solvable by good will backed by education.

COUNTER-HIJACKING

Besides, an important tactic in contemporary politics is semantic hijacking: factions make certain words their private property. The agreeable adjective "gay" has been ruined. Let's see: "environmentalists" want a nice environment, so the people environmentalists oppose must be opposed to that. Then there is the "peace movement," which has cornered the market on "concern" about war. (Some people want to ban the bomb. I want to ban the word "concern" as used by groups calling themselves Clergy and Laity Concerned About This or That.) A peace academy is another instrument for moral posing: everyone who loves peace, line up behind our latest peace-promoting scheme (the League of Nations, the Oxford Resolution, the United Nations, SALT I, SALT II, cultural exchange, East-West trade, nuclear freeze, peace academy); ev-

eryone who doesn't care a fig if Kansas City goes poof, line up over there. Of course there are all sorts of ways of loving peace. As Clausewitz said, "The conqueror is always peace-loving; he wishes to make his way into territory unopposed."

Peace is made possible by many factors, but not least by (in words Herman Wouk once spoke at West Point) "the willingness of an able few to give up personal freedom in the necessary discipline of a military arm. On a planet which is mostly not free, a free society can only live by such a sacrifice of this able few." So, if I can attempt a counter-hijacking: we already have three peace academies. One is on the eastern slope of the Rockies, one is on Chesapeake Bay and one is where Wouk spoke.

TUITION TAX CREDITS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. DOWNEY of New York. Mr. Speaker, in the last few days I have received a tremendous amount of mail on the subject of tuition tax credits. Every one of these letters looks as though it was written by a school-age child, and every one urges my support of tuition tax credits. Given this sudden interest on the part of so many students, I thought I would take this opportunity to repeat my continued opposition to these tax credits.

Our country has decided that certain basic services must be made available to its citizens, and it has fallen upon the Government's shoulders to provide for those services. These include roads and highways, police and fire protection, national defense, parks, and public schools. All of us contribute to maintain them because the whole community benefits from their existence, and we could not afford them any other way.

While everyone has a right to choose private alternatives over these public services, no one has a right to expect the people of this Nation to pay them to exercise this private right of choice. Should the Federal Government provide tax credits to private individuals who build their own fire station because they do not like the way the public fire protection services are managed? If everyone who could afford to do so were subsidized by public moneys, we could not afford public fire protection services, quality would be uneven, and some people would not be protected at all. The sad fact of the matter is that these public services demand full community support, and paying for exceptions undermines that support.

Proponents of tuition tax credits often argue that the credits would improve the public schools because they will be forced to compete with private schools. Yet this argument was refuted by a comprehensive CBO study which concluded that:

Tax credits might increase competition for able and exceptionally bright children, but they would be less likely to increase competition for other students.

Private schools have no obligation to educate students who are difficult to control, are handicapped, or have other special educational needs. If these children were shut out of the private school system, a two-caste system of education would develop where the fortunate would attend one type of school and the less fortunate would be lumped together in separate institutions.

In a perfect world, we could afford to spend endless sums on both private and public education. Unfortunately, our world is imperfect. Funding for all social programs is very limited, and public education has suffered serious cutbacks over the last few years. Because I believe that our first priority is to our public education system, and because that system is in desperate need of attention and funding, I cannot support the cost of tuition tax credits.

I am sorry I disagree with these students, but I hope we can respect each others' views. Yet I am glad that we both agree on this fundamental point: There are few things as important as a quality education. As Mark Twain once said:

Soap and education are not as sudden as a massacre, but they are far more deadly in the long run.●

PERSONAL EXPLANATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. LEHMAN of California. Mr. Speaker, due to an illness in the family I will be unable to cast my vote on the continuing resolution today. Of course, I would extend my wholehearted support to the resolution, but am obligated to travel to California so that I can be at the bedside of a member of my family.●

A RESOLUTION TO DESIGNATE 1984 AS THE "GOLDEN ANNIVERSARY YEAR OF THE DUCK STAMP ACT" AND THE DESIGNATION OF THE WEEK OF JULY 1 THROUGH JULY 8, 1984, AS "NATIONAL DUCK STAMP WEEK"

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. CONTE. Mr. Speaker, today I am introducing a joint resolution to provide for the designation of the year 1984 as the "Golden Anniversary Year of the Duck Stamp" and the designation of the week of July 1 through July 8, 1984, as "National Duck Stamp Week."

On March 16, 1934, Congress enacted the Migratory Bird Hunting Stamp Act in response to the draining away of millions of acres of prime waterfowl habitat—the future for geese and ducks was questionable. As the marshes vanished, indiscriminate shooting and hunting increased the demise of the great flocks. Even nature, through a great drought, joined the onslaught against waterfowl.

Under the Migratory Bird Hunting and Conservation Stamp Act, any person who hunts ducks, geese, swans, or brant and is 16 years of age and older must buy and carry a current duck stamp on which he has written his signature in ink. In 1976, the Department of the Interior was authorized to sell duck stamps through other facilities to encourage nonhunters interested in and concerned with conservation to buy duck stamps.

I am proud to report that this act has placed more than $270 million in the migratory bird conservation fund for the acquisition of migratory bird refuge and waterfowl production areas. In the last 50 years, these funds have been used to acquire over 3.5 million acres of refuge land for migratory birds.

Thus, the American sportsmen and conservationist have played a key role in preserving the Nation's ducks and geese—one of our Nation's most precious resources. Many migratory bird refuges serve as a center for conservation education where visitors can view tens of thousands of graceful, colorful waterfowl along with many other forms of wildlife. I have seen these places and they are beautiful.

We, as Americans concerned with the future of the environment, must realize that the task of preserving our waterfowl is not complete. An estimated 450,000 acres of wetland habitat continue to disappear under the pressure of human development; the U.S. Fish and Wildlife Service's goal is to preserve another 1.6 million acres by 1986.

Let us reaffirm congressional support for the preservation of our Nation's wetlands then by designating the year of 1984 as the "Golden Anniversary Year of the Duck Stamp" and the week of July 1 through July 8, 1984, as "National Duck Stamp Week." It is my hope that this resolution will stimulate the sale of the duck stamps for 1984 and make all citizens realize that each colorful duck stamp is an investment toward insuring that future generations will be able to share some of the beauty and wonder that we feel when gazing upon a waterfowl flock.

I urge all my colleagues to join me as a cosponsor of this resolution. I am sure that they will all agree that the Duck Stamp Act is deserving of such recognition and support.●

GRENADA AND BRITAIN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. DE LUGO. Mr. Speaker, I would like to draw my colleagues' attention to a column on Grenada in the November 10, 1983, edition of the San Juan Star by Ronald Walker. Mr. Walker is very knowledgeable about the area, and has worked in the region for many years. I ask that his column he included in the RECORD in its entirety.

GRENADA AND BRITAIN

(By Ronald Walker)

WASHINGTON.—I'll say it again; one of the root causes of the problems in Grenada has been Britian's near-abdication of responsibilities to its former colonies, now independent nations, in the Caribbean. To be fair, Britain has maintained a military presence in troubled Belize (formerly British Honduras), and has respected the wishes of Anguilla and the British Virgin Islands to remain under the Crown. But London's record otherwise in the West Indies has only helped create the vacuum that led to U.S. intervention in Grenada.

Those thoughts came to mind when reading through the Oct. 25, 26, 27, and 28 issues of the Congressional Record, which, of course, were heavily sprinkled with comment from the floor of the House of Representatives about that week's invasion of Grenada. On all of those days there were comments by Ron DeLugo, the delegate from the Virgin Islands, who by design rarely speaks out on national issues. Here is what Delegate DeLugo had to say on Oct. 27.

"Mr. Speaker, there will be a lot said on the floor today about the action in Grenada. As the only representative in the Congress from the region of the English-speaking eastern Caribbean. I want to remind my colleagues again of the two points I have been stressing over the past two days. First, we must not confuse the eastern Caribbean—with its history of democratic rule—with other areas of the world, like Latin and Central America, where democracy has been a fleeting experience at best. Second, we must look to the history of these islands to see that the genesis of the situation can be traced to the defenseless state these islands were left in when Britain pulled out after 300 years of colonial rule and exploitation.

"Britain pulled out of that chain of small islands for pragmatic economic reasons: they were no longer profitable. The rationale was independence, but Britain left those small islands, her former colonies, woefully unprepared for nationhood—without adequate protections against aggression from within or without, and without the basic economic tools—infrastructure, utilities, roads, schools and hospitals—that any nation, no matter how small, must have to survive. Let us face facts: the best defense against anarchy and aggression in any form is a strong, equitable economy.

"The problems in Grenada grew out of the void left by the British. And we have just been plain lucky that there have not been more Grenadas already among those struggling islands. It is a credit to the strength of the people of these islands that there have not been more."

The following day (Oct. 28), DeLugo had this to say, in part, on the floor of the House:

"Yesterday, Prime Minister Eugenia Charles of Dominica said it all. When asked by a major news service if the Organization of Eastern Caribbean States had asked Britain for help, she replied 'no' because, she said, the British made it very clear when they pulled out that they would not defend their former colonies.

"I am pleased that Britain is gradually backing down from the position they took on Tuesday of condemning U.S. action, and that they are now saying they would be in sympathy (and) consider participating in a peacekeeping force in the Caribbean. I would hope they would do more than that in the eastern Caribbean that was once such a gold mine to them . . ."

Well, there you have it. The jury is still out on whether President Reagan pulled off a master stroke in Grenada or whether he caused grievous harm to the principle of international law and sovereignty, not to mention the portents now in Central America.

If he did nothing else, Reagan's action laid it out for all the Caribbean to see—that Britain, whether by design or accident, blinked a long time ago when confronted by the possibilities at eyeball-to-eyeball time, militarily, in the West Indies. Now and in the future the United States will have to fill that vacuum.●

INVESTMENT STRATEGY FOR CLEVELAND

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Ms. OAKAR. Mr. Speaker, the following article adds a fine dimension concerning investment strategy for Cleveland. It is written by a leader in our financial community.

[From the Cleveland Plain Dealer, Nov. 14, 1983]

(By Jerry V. Jarrett)

A bumper sticker on a Michigan car seen recently in Texas said, "Will the last person leaving Michigan please turn off the lights."

Apart from the fact that many Michiganders who had sought out Texas as the promised land are on their way back north, their illusions shattered, the bumper sticker illustrates a fallacy that mars much serious business and economic forecasting. The error lies in taking two or three years' worth of economic data and making a forecast by extending the trendline indefinitely into the future. By such logic the migration out of Michigan during the past few years foretells some new kind of Easter Island, without inhabitants, but with a landscape cluttered with rusting factories and machinery whose origin and purposes are lost in history.

That grim kind of vision has caused many chambers of commerce in western Pennsylvania, New York, Ohio, Indiana, Michigan, Illinois and Wisconsin to lose interest in the basic industries that have built the region. The old steel, chemicals, rubber, auto and machinery companies are often tolerated like aging and eccentric relatives while attention is lavished on vigorous young computer, silicon chip and biomedical equipment companies.

It is easy to forget the enormous investment we have in mature industries and the likelihood that, in some form or other, most of them will be with us for many decades to come.

In Greater Cleveland, for example, our capital investment in manufacturing facilities for the period 1973–1977 averaged more than half a billion dollars per year. Even though total manufacturing jobs have declined substantially, they still totalled nearly 367,000 in 1981 and pumped $8.1 billion in wages directly into the area's economy. About 60% of these jobs were in metals, machinery and transportation equipment.

We are also apt to overestimate our ability to lure newly developing high-technology industries to our region quickly enough and in quantities sufficient to offset the continuing near-term employment losses we will probably continue to experience in some of our older industries.

So we must develop a practical economic development strategy that takes these realities into account.

While basic industries will continue to play a significant role in our future, their long-run ability to be a source of economic growth is going to depend in large part on how well they can adapt and apply new technologies to existing product lines and thus regain competitiveness with suppliers elsewhere in the world. This is where strong emphasis must be placed.

At the same time, we should not ignore the possibilities of attracting newer high-technology industry. Even though we have nothing in the Great Lakes states comparable to Silicon Valley and Boston's Route 128, we do have a sizable base of electronics-related industries. Most of the companies were funded in the region and have grown significantly. And if we exploit our region's competitive advantages properly, we can expect this trend to accelerate.

A 1982 study by the Joint Economic Committee of Congress predicted that high-technology industries concentrated on the east and west coasts would be forced by rising costs and increased production demands to expand into other areas of the country. Percentage gains in such jobs, the study said, will probably be highest in some of the Great Lakes states which offer unusual strengths in higher education, a skilled labor force and comparatively moderate costs.

Basic to any strategy for economic revitalization of Mid-America is our ability to train young people for rewarding careers in the industries of the future. If the recent report of the National Commission on Education is to be believed, the prospects are not rosy. We can hardly expect to compete in a high-technology world against economies and cultures like those of the Japanese and Europeans if many of our young people are only marginally literate.

We must be ready to pay the cost of a first-rate educational system.

How well we meet these challenges—adapting emerging technologies to our huge industrial base and the preparation of our young people for the kinds of jobs they will actually find available—will mean the difference between continuing economic stag-

nation of industrial Mid-America and a new period of economic growth and development.

Our region is adapting its huge economic base to new economic conditions and starting to make a strong comeback. But we sense that too many communities are chasing "hi-tech" industries indiscriminately rather than adopting practical development strategies involving specific private and public sector initiatives that can make existing industries more competitive and nourish new ones.

To help Mid-America pursue practical strategies for revitalizing its economy my company has commissioned a study to examine and make recommendations on how major technical, managerial, financial and educational strengths of our region can best be linked to emerging technologies and worldwide economic trends to accelerate economic growth. Being conducted by SRI International (formerly Stanford Research Institute) the study is analyzing ways in which technologies such as computer-assisted design, new materials, robots, biotechnology and microcomputers can be applied to improve the competitive position of specific Mid-American industries.

It is also examining the changes in management, labor relations, job training and financing that will be needed to revitalize the area's economy, as well as public issues such as world trade which are most likely to affect the outcome.

The study will project two possible future scenarios for the Mid-American economy, one based on the potential for renewal and the other assuming no substantial change in recent historical trends.

We will share our findings with as broad an audience among Mid-American industries, economic development groups, governmental agencies, and educational institutions as possible, and we solicit their interest and inquiries.●

A TRIBUTE TO DANIEL H. BURKHARDT

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mrs. HOLT. Mr. Speaker, I rise today to bring to the attention of the Members of this body the humanitarian actions of one of my constituents, Daniel H. Burkhardt. A past department adjutant of the American Legion for Maryland and a delegate to the White House Conference on Aging, he has been involved in serving his fellow man for many years now. But there is a recent project of his that I feel deserves special recognition.

Mr. Burkhardt set about to combat hypothermia—the gradual loss of body heat suffered by the elderly who are forced to keep their thermostats set below 60°. He became aware of widespread problem through his work with the White House Conference on Aging. Mr. Burkhardt learned that most heat loss comes from the neck up and, in the case of elderly women, from the knees down. Accordingly he started an overwhelmingly successful pilot project with the Maryland Department of the American Legion and the Auxiliary providing handmade mittens, scarfs, caps, calf warmers, booties, and lap warmers to the elderly across the State.

Mr. Burkhardt brought this program to the attention of Mrs. Anna Gear, national president of the American Legion Auxiliary, and she adopted this program on a nationwide basis. This means that over 1 million dedicated and concerned women of the American Legion Auxiliary have joined Dan Burkhardt in making certain that thousands of our Nation's elderly will be warmer this winter and perhaps even hundreds may avoid the fate of hypothermia.

All this work for elderly started with just one man's idea and one man's commitment to lending a helping hand. This, I believe, is truly the spirit of volunteerism that the President has maintained exists in every one of us. It just so happens that for some people this spirit runs a little deeper. Such is the case of Daniel H. Burkhardt, a great American.●

TO HONOR WAYNE WOOD AND THE FIRST AMERICAN TITLE INSURANCE CO.

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. LEWIS of California. Mr. Speaker, First American Title Insurance Co. is celebrating over 35 years of growth in San Bernardino and its parent company's 95 years of history in southern California. Mr. C. Wayne Wood, president of First American Title Insurance Co., has molded and established a tradition of leadership and excellence which is matched by none. I would like to take this opportunity to personaly recognize and commend my friend, Wayne Wood, for his many years of dedication to the success of First American Title.

Over 35 years ago Wayne Wood began working with a small, unknown title insurance company in San Bernardino, Calif. He had limited knowledge of the title insurance business, but was enthusiastic to both succeed and to learn. Today, First American Title Insurance Co. is the largest, most successful title insurance company in San Bernardino County. Its four-story, 44,000 square foot landmark location is a fitting testimony to the company's steady progress and success.

The professional staff has over 1,000 years of combined experience with Frist American Title Insurance Co. in San Berardino County. The people as well as the company are known for their leadership as innovators in the title insurance industry. It was the first title insurance company in San Bernardino County to implement a force of field represenatives as well as being the first title insurer to introduce the sophistication of mechanized data processing.

Under Wayne Wood's guidance, First American Title has become a most unique business organization. One of the most unique facts of First Ameircan Title's success is it's community involvement. First American Title has always demonstrated a dedicated attitude of sharing with civic clubs, service organizations, youth charities, academic institutions and cultural and performing arts societies.

Mr. Speaker, I take great pride in commending to my colleagues, Wayne Wood and his company, First American Title Insurance, for the quality service they have provided for over three and one-half decades. I know their efforts and service have helped to make the county of San Bernardino a better place in which to live.●

TURKEY'S DEMOCRATIC EXPERIMENT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. YATRON. Mr. Speaker, on November 6 the people of Turkey went to the polls and for the first time in several years elected a national parliament. In view of the years of systematic repression and military rule, this election represents a first step toward the realization of democracy in Turkey. On the surface, the results of this election are most impressive. Over 90 percent of the registered voters participated in the democratic process and as a major consequence, the "Motherland Party" (ANAP), a right of center party not endorsed by the ruling military generals, captured a surprising 45 percent of the vote.

The success of this election cannot be fairly judged solely in terms of how many people cast votes or that a party not endorsed by the military was victorious. Turkey's democratic experiment should be considered within the context of the restrictions placed on the process itself, and to what extent the Turkish military will allow a civilian government to rule. In this connection, several disturbing actions undertaken by the military indicate that Turkey has a long way to go before being considered a legitimate democracy as we know democratic institutions to be in the western world.

Twelve of the fifteen political parties were banned from participating in the electoral process, over 200 politicians were excluded from running for office, and in many cases, dissidents were placed under arrest until after the election. The present military

leader, Gen. Kenan Evren will usher the new government into power by retaining his authority as a civilian president and will preside over the new Turkish Government for 7 years with the power to dissolve parliament if he deems necessary.

Turkey's National Security Council retains broad authority to insure its power over a civilian government. To be sure, the council recently announced a 4-month extension of martial law which was imposed by the military in September 1980. When one considers these factors with the strict press censorship laws and the continued abuse and discriminatory actions taken against political, ethnic, and religious groups, Turkey's exercise in the democratic process falls short of our expectations. But with all its shortcomings Turkey's limited or controlled democracy should be supported by the United States and the NATO alliance, in which Turkey is a member, in the hope that a new Turkish Government will make a concerted effort to establish true democratic institutions and to promote human rights.

Clearly, the present conditions in Turkey are unacceptable with respect to substantiated reports of human rights violations and constitutional restrictions on press and political freedoms. Nevertheless, the election in Turkey on November 6 is a step in the right direction.●

HOUSE JOINT RESOLUTION 413

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. RAY. Mr. Speaker, I was one of 189 Democratic and Republican Members of the House of Representatives who voted against the continuing resolution (H.J. Res. 413), on Thursday, November 10, because of its Santa Claus deficit additions.

I was delighted to learn that the conference committee in its wisdom had stripped at least 90 percent of the Christmas tree add-ons out of the bill. My concern, however, is with several of the projects which make up the remaining 10 percent.

In my opinion, the chairman of the Senate Appropriations Committee, the majority leader of the Senate and the chairman of the House Public Works and Transportation Committee are among the most credible Members in the House and the Senate. Yet the Washington Post in its Friday morning edition reported that the process was slowed down until their pet projects were approved.

It was reported that the chairman of the House Public Works and Transportation Committee maneuvered $9 million for a Federal building and court house for Newark, N.J. This is the first installment of a $39 million project. This project was funded when the project of the Chairman of the Senate Appropriations Committee was threatened. This project involved $67 million for the Bonneville Power Administration Headquarters in Portland, Oreg.

It was further stated that the chairman of the Public Works and Transportation Committee threatened to oppose a Federal building in Knoxville, Tenn. which the majority leader wanted, at a cost of $14 million.

The majority leader even received a consolation prize, according to some of the members, of $6.4 million to improve white water rafting on the Ocoee River in Tennessee. This consolation should ease the hurt of losing the Clinch River Breeder Reactor.

Even the Chairman of the House Public Buildings Subcommittee got $550,000.00 for advance design work on a Federal building in St. Louis, Mo. This little pocket change item was the result of actions by an ambitious staffer who managed to maneuver this project, according to the editorial.

Mr. Speaker, I am not in a position to make final judgments on the motives of these House and Senate leaders as the Washington Post has done.

But I do know this. The United States of America is in debt up to its ears, and neither the administration nor the House and Senate leadership can muster the resolve to do anything about it.

We are told that such action must wait until the next election. I submit that we should be more concerned with living up to the oath we took after our last election.

Mr. Speaker, every day the American people become more cynical about their Congress and their institutions. It is time for us to demonstrate that we are worthy of their trust, and the time for this action is now—not in 1985.●

TRIBUTE TO NEW YORK, NEW YORK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. BIAGGI. Mr. Speaker, as a lifelong native of New York City and one who has represented parts of it over the past 15 years, I am always happy to share with my colleagues those developments which reaffirm that New York is the greatest city in the world.

Last week it was reported that for the first time since the fiscal crisis of 1975 that New York City's long-term bonds have been raised from speculative to investment grade by Moody's Investment Service. For those of us who fought long and hard on behalf of New York during her dire days of fiscal difficulties, this comes as most welcome news and in many ways symbolizes the fiscal recovery which the city has enjoyed—a recovery process which began when Congress passed legislation first in 1975 and later in 1978 providing loan guarantee authority.

The economic rebirth of New York City did not come at any expense to the Federal Treasury. The city was never forced to invoke and draw from the loan guarantee authority. In fact it repaid its obligations in a most timely fashion and the Federal Treasury made some $30 million in interest.

However, the support of Congress in approving especially the 1978 package provided the infusion of confidence needed to help restart New York's fiscal engines.

The action of Moody's represents true confidence that New York's financial future is clearly looking up. It will also save the city millions of dollars in the cost of borrowing money.

Just 5 years after we vote to provide the city of New York with loan guarantees, she repays our confidence. It is a happy occasion for the city and its citizens.

I am hopeful that the overall renaissance of New York City will continue and that it will be anchored by continued strong fiscal health. I wish to place in the RECORD two additional items including a New York Times article discussing the Moody decision.

The two items follow:

WITH APOLOGIES TO FRANK SINATRA

Start spreading the news
We have made it a long way
From fiscal depths to Moody's A
New York, New York

From those vagabond days
When default seemed the way
We've made a brand new start of it
New York, New York

We can now awake in a city
That did not slip
Instead we are climbing the road
To the top of the heap

Our financial blues
Are melting away
We want to stay away from them
New York, New York

Since we have made it there
We can make it anywhere
Thanks to you—friends of
New York, New York

[From the New York Times]

MOODY'S LIFTS CITY BONDS TO AN INVESTMENT GRADE

(By Edward A. Gargan)

For the first time since the height of the fiscal crisis in 1975, New York City's long-term bonds have been raised from speculative to investment grade by Moody's Investors Service.

"For me, it is probably the most important announcement I've made in years," Mayor Koch said yesterday at a news con-

ference in his office attended by the city's senior financial officials.

The Mayor, who seemed barely able to contain his delight, hailed the decision to upgrade the bonds from Ba1 to Baa, the lowest of the investment-grade ratings.

The action means it will cost the city less to borrow money than it did in the past. City Comptroller Harrison J. Goldin estimated the upgrading could mean savings to the city of "tens and tens of millions of dollars."

The president of the Federal Reserve Bank of New York, Anthony N. Solomon, said the bonds would be removed from the "criticized" list of investments, which has inhibited banks and other large institutions from purchasing the bonds for their portfolios.

The Standard & Poor's Corporation, the other major bond-rating agency, awarded city bonds an investment-grade rating in March 1981, a rating the city continues to hold.

"It ends the last major impediment to once again being perceived as totally fiscally sound," Mr. Koch said. "There is now the imprimatur of the rating agencies, both of them. Our single largest mission to date was to achieve all the things that were necessary in order to get an investment-grade rating."

This year, the city expects to issue $650 million in bonds, according to Alair A. Townsend, the Director of the Budget.

Of the nation's five largest cities, New York alone did not have an investment-grade rating from Moody's. Los Angeles and Houston have Aaa ratings, Moody's highest.

Moody's tempered its re-evaluation by saying, "Budget difficulties are likely to continue."

Mr. Solomon said the three Federal agencies that evaluate municipal bonds, the Federal Reserve, the Comptroller of the Currency and the Federal Deposit Insurance Corporation, would react positively to the Moody's decision.

"I think, quite clearly, Moody's action does express an increased confidence in the quality of these assets," he said. "Now that both agencies have done that, the regulatory agencies will remove the city from that criticized list."

IMPORTANCE OF FEDERAL ACTION

Many major institutions, including banks and insurance companies, are either prohibited by charter or law or are simply reluctant to buy bonds lacking the approval of the three Federal agencies.

Charles A. Ballard, managing director of Dillon Read & Company, the investment banker, said the move by the Federal agencies would mean the city would find it cheaper to borrow money.

"It expands the market for the city's securities," he said.

In its evaluation, Moody's was impressed by a number of achievements, said Freda S. Ackerman, director of its municipal department.

"The city has reasonably controlled employment and wage levels, transferred some costly services to the state and obtained a greater degree of intergovernmental assistance," according to the analysis. "The added protections of oversight scrutiny, excellent financial reporting and required planning provide additional discipline."

Moody's also raised its rating on bonds of the Municipal Assistance Corporation, the state agency created to raise money for the city during the fiscal crisis. Moody's raised the agency's bonds, from Baa1 to A.

Its chairman, Felix G. Rohatyn, said, "Having an A from both agencies means we are the Cadillac of financing agencies."●

EDUCATING YOUNG CHILDREN FOR HOSPITAL STAY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. APPLEGATE. Mr. Speaker, I would like to draw the attention of my colleagues to an article that appeared in the January 1982, issue of Hospital Progress, written by a constituent of mine, Sister Nancy Linenkugel. It concerns a new program prepared for young children to educate them as to what to expect of a hospital. I believe it could be quite beneficial, not to mention comforting, to have such a program available to all. The article is as follows:

"When you took my blood pressure, could you hear what I was thinking?" "Will the shot be a big or little pinch?" "I thought my heart was red. Why doesn't it look red on that x-ray picture?" These questions were asked—and answered seriously—during several projects undertaken by 232-bed St. John Medical Center, Steubenville, OH, owned and operated by the Sisters of St. Francis of Sylvania, OH, to prepare children for hopital experiences by helping them understand the "why" of clinical activities.

Hospital administration, while considering the possibility of preparing in-house an original coloring book that could be given to pediatric inpatients and emergency room patients, worked with George and JoAnn Creegan, Steubenville artists, puppeteers, and television educators, who suggested an original television program produced onsite to allay children's fears about entering the hospital. The third project was a week dedicated to educating children about the hospital. A number of medical center employees voluntarily participated in the projects.

The television program, "Crow Goes to the Hospital," produced by the Creegans, features George Creegan and a copyrighted puppet, Crow, brought to life by JoAnn Creegan. The entire show was filmed on location at St. John Medical Center. The program, without a script, relied completely on Crow's interaction with actual medical center employees who performed their duties as usual. Crow, who needs a tonsillectomy, is admitted; has x-rays, lab tests, and vital signs taken; is prepared for surgery; and is shown recuperating afterward.

Using Crow as the main character adds a dimension to the film that probably could not have been achieved through a live person. As a puppet, Crow can ask frequent questions and be totally uninhibited. The employees in the film talk with Crow as though they are speaking with a child, adding a realistic quality. The Creegans take a somewhat humorous approach throughout the film to make it entertaining as well as educational. Several employees acted as production consultants to ensure that the educational aspects were clinically correct and that the entire program portrayed a true picture of pediatric hospitalization. "Crow Goes to the Hospital" has been aired as a special half-hour program on local television.

SPECIAL CHILDREN'S WEEK

Children's Hospital Week at St. John Medical Center was intended to allow children to experience the hospital when they were not sick and when personnel would be available to concentrate on their fears and wonderment. A core committee planned the week's festivities, and members of the quality assurance/education department handled the activities, assisted by employee volunteers from a number of other departments.

First-grade students from schools in the medical center's three-county service area were invited to take a field trip to the hospital during the designated week. Visits were scheduled well in advance with one of the administrative secretaries, who then sent to each class a confirmation notice containing the specifics of the trip.

One employee, costumed as Crow, met each school group in the main lobby, and hospital personnel escorted the group to an open area where equipment was displayed and demonstrated. The children had an opportunity to try some of the objects, which included a stethoscope, electronic thermometer, and sphygmomanometer. The group then toured the pediatrics department. Crow stayed with the children throughout the visit.

Refreshments were served in a large, noncarpeted lobby. Once the students were settled, a brief question-and-answer period followed. At the conclusion, Crow distributed an imprinted balloon and special certificate to each child as a souvenir of the visit. The certificate was cosigned by the medical center president and Crow; it also contained information for parents about the day's activities. Approximately 500 first-graders and their teachers and some parents visited St. John Medical Center during Children's Hospital Week.

Children's Hospital Week would not have been possible without the commitment and participation of a significant number of employees. Due to their willing involvement and to the favorable response to the projects by the community, students, teachers, medical center administration, medical staff, and employees, Children's Hospital Week may well become an annual event.●

TIME TO HELP REMOVE ASBESTOS IN SCHOOLS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. MILLER of California. Mr. Speaker, in 1980 Congress determined that children in schools throughout the country were especially vulnerable to the health hazards posed by exposure to asbestos. In response to this problem we enacted the Asbestos School Hazard Detection and Control Act, which I authored.

On November 3, 1983, the Department of Education released a study on asbestos hazards in schools which estimated that 14,000 elementary and secondary schools nationwide contain asbestos material.

The Department of Education study, together with Congress' findings in

1980, provide unequivocal evidence of the hazards our children and school employees face each day. The continued exposure of these individuals to asbestos will cause the premature deaths and unnecessary illnesses of thousands.

Last month the House voted to appropriate $50 million in interest-free loans to schools for the removal of asbestos hazards. This vote for limited aid sent an important message to States and schools that the remedying of asbestos problems must be a high priority. Unfortunately, the Senate voted to postpone providing these funds pending receipt of the Department of Education study, and in conference the funds were deleted. With the Department of Education study's findings available, it is my great hope that the Senate will recognize the urgent need for limited Federal assistance.

Yesterday the New York Times printed an editorial that describes the administration's inaction with respect to asbestos in the schools. In previous weeks the Times printed two other articles which illuminate various aspects of this grave national problem. I commend them to my colleagues.

The articles follow:

[From the New York Times, Nov. 13, 1983]

KILLER IN THE CLASSROOM

Every day some three million children are exposed in their schools to possibly dangerous amounts of asbestos. The deadly fibers flake from the ceiling, or crumble from insulation and piping. They cause no disease as they lodge in children's lungs. But in 20 to 30 years, the fibers will produce asbestosis, lung cancer and mesiothelioma.

The Reagan Administration has done nothing but wash its hands of the problem. It tried to palm off responsibility onto local school authorities by having them inspect themselves for loose asbestos. But it hasn't asked to know the results and doesn't require cleanup even when asbestos is found.

Many schools have found potentially dangerous amounts of asbestos but done nothing. Cleanup costs a typical school about $100,000, and it doesn't have the money. Although all were required to inspect for asbestos before June, the Environmental Protection Agency says about two-thirds failed to comply fully with the law.

This lethargy at the local level mirrors the apathy in Washington. The Administration has repeatedly denied funds. The Secretary of Education was charged by a 1980 law to address the problem with the help of a task force. It held its first meeting in three years last month. If the Administration can't rouse itself to tackle a proven cancer threat that jeopardizes the health of three million children, what does it care about?

Some 200,000 Americans are expected to die prematurely over the next two decades because of the fibers they inhaled in asbestos plants and dockyards long ago. Even the atmosphere in the schools affected worst doesn't threaten life on such a scale. Indeed, most probably have fewer asbestos fibers in their air than are now legally permitted in work places. That's ground for some reassurance, since risk depends on the degree of exposure.

But no amount of asbestos is so small as to be assumed safe. Children may be more susceptible than adults. They also breathe faster and thus inhale more of a room's dust. According to a recent estimate by the Service Employees International Union, there are probably 11,000 still uncleaned schools with unstable, fiber-shedding asbestos. They are attended by 3.24 million children and employ 650,000 adults.

In New Jersey, probably 90 percent of all schools built before 1979 contain asbestos in some form. Of those monitored by the Environmental Protection Agency—admittedly likely to be the worst cases—few keep proper records. In the view of Arnold Frieberg, the agency's regional coordinator for asbestos, only 5 percent have fully dealt with the problem. He doubts that things are much better in New York, though it, unlike New Jersey, provides matching funds for cleanup.

This is an Administration so intent on the right to life that it seeks to prolong the life of deformed infants, even over the judgment of parents, doctors, counselors and courts. Yet it won't pay to stop children from getting cancer while attending school.

[From the New York Times, Oct. 5, 1983]

HUGE COST OF REMOVING ASBESTOS DAUNTS SCHOOLS

(By William E. Schmidt)

There is growing alarm among school officials around the country about where they will get the funds to pay to remove potentially dangerous asbestos insulation from local school buildings.

According to a report not yet released by the Department of Education but made available to The New York Times, it will cost about $1.4 billion to remove asbestos from 14,000 public and private school buildings around the country.

"We did a survey and came up with the total bill of about $7 million to remove and replace the asbestos," said Dr. Robert Fortenberry, the superintendent of schools in Jackson, Miss. "We'll get it out as we have the money. But right now, we can't get to it unless the state or someone else helps us come up with some extra money."

Federal officials and medical authorities have warned that asbestos, widely used as fireproof insulation in school buildings built or renovated from 1940 to 1978, poses a serious threat of cancer and other diseases to children and school employees.

MOST SCHOOLS FAIL TO COMPLY

The Department of Education report, prepared in consultation with the Environmental Protective Agency on behalf of a Senate committee, concedes that Federal officials have no hard data to confirm their cost figures. But it estimates that removal will cost an average of $100,000 per school building.

An internal E.P.A. report that came to light last week showed that well over half the nation's 85,000 public and 20,000 private schools have failed to comply fully with Federal rules that required them to identify and report on any asbestos in school buildings by June 28.

Current E.P.A. regulations do not require schools to remove the loose or flaking asbestos. Instead, the agency says the districts must notify employees and parent-teacher organizations of the presence of asbestos in school buildings.

HESISTANT TO CREATE CONCERN

It is widely believed that the cost of asbestos abatement programs is one of the main reasons so many districts have not complied. Many smaller districts fear they do not have the resources to follow through with remedial actions and are therefore hesitant to arouse fears without being in a position to deal with the problem.

Most school districts are already facing budget problems as a result of earlier cutbacks in state and Federal money. In Jackson, for example, voters rejected bond issues twice in the past eight months for repair and construction programs.

Though some states have offered money to help local districts with removal programs, the largest share of the cost of removing the asbestos so far has been borne by taxpayers in the individual school districts. There has been no Federal assistance, although Congress is now studying a plan to set up $50 million fund to provide local districts interest-free loans for asbestos removal.

NEW YORK SCHOOLS SPEND MILLIONS

In Alabama, state officials have set up a $75 million fund, drawn from oil and gas lease revenues, to help local districts pay for asbestos abatement.

In New York, one of the first states to address the asbestos problem, the Legislature has authorized nearly $7 million in the past four years to help pay for local asbestos abatement programs.

Dr. Brian Walsh, an administrator for the state's Department of Education, estimated that schools in the state have already spent nearly $43 million removing or containing more than six million square feet of asbestos insulation.

In New York City alone, school officials said more than $12 million has spent since 1979 on asbestos control and removal programs in city schools.

"I can appreciate that schools are under a lot of fiscal pressure," said Representative George Miller, a California Democrat who has helped push legislation to make schools report asbestos hazards. "But this is not enough of a justification not to do the studies, or to refuse to disclose the dangers."

REAGAN ADMINISTRATION BLAMED

Mr. Miller also blamed the Reagan Administration for the low reported rate of compliance, because it has planned no measures to make districts say if their schools have asbestos.

"This Administration has sent a clear signal to the schools that asbestos is just not that important a problem," Mr. Miller said.

The E.P.A. said last week it would notify the local news media of any schools found to be in violation of asbestos rules.

Dwight Brown, asbestos coordinator for a regional office of the environmental agency in Atlanta, said the failure of many school districts to deal with the asbestos threat is likely to make them increasingly vulnerable to law suits from former students or school employees seeking to blame subsequent cancers or other illnesses on exposure to asbestos in school buildings.

SCHOOL DISTRICTS ARE WARNED

Mr. Brown said school officials who ignore the asbestos hazard "are guilty of either negligence or malfeasance, or both." He said that a school district that knows of the presence of asbestos but does nothing to get rid of it is not only continuing to expose children to a known health hazard, but also has created "a lawsuit waiting to happen."

Though Mr. Brown said he was not aware of any such lawsuits pending against schools, he said they were inevitable. More

than 10,000 suits have been filed in the past decade against asbestos manufacturers by workers who blame their illnesses on exposure in the workplace.

Many of the suits involve those who worked with asbestos in Navy shipyards in World War II.

Asbestos is seen as a cause of a variety of diseases, including lung cancer and a cancer of the lining of the lungs, mesothelioma, that is usually fatal. It typically takes 15 to 40 years after exposure before the diseases begin to appear.

35 LAWSUITS ARE PENDING

The danger in schools and other public buildings is that asbestos insulating pipes or ceilings will begin to crumble, releasing fibers into the air. The asbestos fibers, once inside the lungs, usually stay there.

In addition to advising schools to be aware of potential liability, Mr. Brown also cited a study by the Justice Department in 1981 that provided advice to local school districts that could be used to persuade taxpayers to support asbestos removal programs. The study suggested comparing the cost of the litigation against asbestos manufacturers against the cost of abatement plans.

At least 35 suits against manufacturers are now pending, including a class action filed in Federal District Court in Philadelphia on behalf of the nation's public schools. David Berger, the lawyer for the schools in the lawsuit, is asking that manufacturers be ordered to put up money to pay for asbestos removal programs.

Only in recent months have many districts discovered the extent of their asbestos problem.

In Clarksville, Tenn., one of the districts that complied with the E.P.A. rules, the discovery of asbestos in 10 local schools touched off a debate over the removal plans, which one consultant has estimated will cost $2.5 million. At least one school has been shut down because of asbestos.

Several people in that area have argued that the hazard has been exaggerated and are urging school officials to cut back on the removal program.

In Jackson, school administrators and lawyers are seeking assistance from Mississippi in removing asbestos. "Unless we get some help, we just aren't going to be able to get at this problem the way we should." said Dr. Fortenberry, noting that a survey this summer revealed asbestos insulation on the ceilings of areas frequented by students in 25 of the district's 77 buildings.

The estimate of the cost of removing asbestos from the nation's schools is part of a 27-page Department of Education report prepared at the request of the Senate Appropriations Committee.

Among other things, the report details difficulties Federal officials have had in collecting data on the asbestos problem from the states.

[From the New York Times, Sept. 25, 1983]

SCHOOLS IN UNITED STATES LAG ON ASBESTOS PERIL

(By Philip Shabecoff)

WASHINGTON, Sept. 24.—Well over half of all schools in the country have not fully complied with rules requiring them to identify and report on any asbestos that may threaten the health of children, according to an internal report prepared in the Environmental Protection Agency.

Asbestos has been found to pose a serious threat of cancer and other diseases. The report did not give an estimate as to how many children were threatened by asbestos, but a report issued earlier this year by the Service Employees Union estimated that 3.6 million children were exposed. Asbestos was widely used as fireproof insulation in many older school buildings throughout the country.

NONCOMPLIANCE PUT AT 66 PERCENT

The internal report, prepared for Alvin Alm, Deputy Administrator of the environmental agency, said about 80 percent of the public and private schools surveyed had failed to comply with at least some of the requirements.

Mr. Alm said in a telephone interview that the 80 percent figure was not statistically significant because the survey had been aimed at those school districts believed not to be in compliance. The current noncompliance figure used by the agency, he said, is 66 percent.

"This is a very serious problem," Mr. Alm added. "Asbestos is a known carcinogen and I don't like to see kids exposed." Schools have failed to comply with all the asbestos rules. In many cases, the schools do check the location and condition of asbestos ceilings and insulation but are reluctant to report their results or to keep documents. This often reflects the fact that school systems, particularly smaller ones, do not have the resources to follow through with remedial actions and are therefore hesitant to arouse fears without being in a position to deal with the problem.

Sometimes a failure to conduct the inspection in the first place reflects inadequate technical assistance to the schools to show them how to do the job, or a lack of knowledge about where to obtain such assistance, according to officials who have studied the problem. Some critics have said that another reason is lack of pressure to comply on the part of the Federal Government.

Mr. Alm said that William D. Ruckelshaus, Administrator of the agency, had recently agreed to a new policy of sending out press releases to the news media in any area where the local schools had been found to be in violation of the asbestos rules.

The E.P.A. regulations do not require the removal of loose or flaking asbestos that could endanger the health of children, teachers and other school employees.

PRESSURE ON SCHOOL OFFICIALS

As the memorandum to Mr. Alm noted, the agency intended that requiring the school administrations to notify parent-teacher organizations and school employees would "encourage" them to "make decisions about whether to remove sources of asbestos exposure."

The idea of the press releases, Mr. Alm said, is to put pressure on school administators to remove or seal up loose or flaking asbestos that poses a health danger. "Superintendents will not be happy to read in the newspaper that they have not complied with the law," he said.

Mr. Alm said the E.P.A. schedule for inspecting schools was being accelerated, from 125 this year to 825 in 1984 and 1,525 in 1985. The agency selects the schools to be inspected through complaints about specific problems and a sampling in each school district.

He said 10 additional inspectors had been assigned to asbestos cases and noted that the agency's spending on asbestos in schools had been increased by 565,000 beyond what had been provided.

HOT LINE SERVICE PROVIDED

In addition, the agency is providing a "hot line" service, which tells school systems where they can get help on asbestos problems, Mr. Alm said.

The agency has the legal authority to order schools to remove or otherwise deal with asbestos under the Toxic Substances Control Act, but it has chosen not to exercise such authority. Notifying the parents of school children threatened by asbestos is the "most effective" way of dealing with the problem, Mr. Alm said.

He also said that providing Government funds to clean up or seal in asbestos might prove counterproductive because school systems would delay any action while they waited for Federal grants.

But Representative George Miller, a California Democrat who is an author of legislation requiring inspections and reporting of asbestos hazards in schools, said he was "disappointed but not surprised" about the wide noncompliance with the asbestos rules because "this Administration has made asbestos in the schools a low priority."

$50 MILLION EXPENDITURE VOTED

"Given the seriousness of the problem and the health danger to children and employees, I would hope that we would not respond with a policy of compliance by press release," Mr. Miller added.

He also noted that the House last week authorized an expenditure of $50 million for grants and loans to school districts, through the Department of Education, for inspections and remedial action on asbestos. The measure has not yet been addressed by the Senate.

But Mr. Miller asserted that it could not be left to parent-teacher organizations to make sure the schools follow the rules for asbestos. "The law is the law, and it is up to E.P.A. to make sure the schools comply," he said.

The memorandum to Mr. Alm noted that the asbestos rules apply to more than 121,600 public and private schools attended by more than 50 million students throughout the country.

DRASTIC STEPS REQUIRED

Jacqueline M. Warren, an attorney for the Natural Resources Defense Council, said that in some schools children were exposed to levels of asbestos higher than industrial exposures.

"We should be taking drastic steps to reduce exposures," she said. "E.P.A. should not be reluctant to use its powers to mandate remedial action."

Anthony Restaino, asbestos coordinator for the environmental agency's regional office in Chicago, said most of the school districts in the region provided the agency with some . . . schools. But he said a majority of the districts were violating at least some of the rules, particularly the requirement that parent-teacher organizations be notified of the dangers.

Mr. Restaino also said the regional office did not have enough money or manpower to do the job of inspecting the schools, and added that many of the school systems, particularly the smaller ones, did not have the resources to do the cleanup job needed.●

DEADLINE FOR METRIC CONVERSION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. FUQUA. Mr. Speaker, in a world of rapid change, the adoption of the metric system of weights and measures is proceeding rapidly. Since 1945, all the English-speaking countries of the world who formerly used the English system have begun the changeover to the metric system, and countries such as Canada and Australia have completed that process.

In the United States that process of changeover is now proceeding and industries such as automobiles, farm implements, and others have already made the change to metric. But because the U.S. Metric Board has gone out of existence there is little coordination and little urgency to assist industry with this process.

The U.S. Metric Association has long advocated a stronger role in this area by the Federal Government. The Board of Directors recently adopted a resolution about the urgency of this matter, and I ask that the Board's letter and the text of its resolution be printed in the RECORD for the information of the Members of the House.

The material follows:

U.S. METRIC ASSOCIATION, INC.,
Northridge, Calif., October 21, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives

The Board of Directors of the U.S. Metric Association passed the enclosed resolution at its 1983 meeting and requested that I forward a copy to you with the request:

1. That you call attention to the House Members to the resolution and recommend the House take action on it.

2. That the resolution be read into the CONGRESSIONAL RECORD.

Thank you for your help in implementing this request.

VALERIE ANTOINE,
President.

A RESOLUTION TO MEMBERS OF THE CONGRESS OF THE UNITED STATES OF AMERICA

Whereas, President Ronald Reagan has stated, "Let me assure you of my support for the policy of voluntary metrication expressed in the Metric Conversion Act of 1975;" and

Whereas, The U.S. Deputy Secretary of Commerce stated recently, "Metric is a key for competing in world markets (and) the lack of widespread production of metric products in the U.S. has had a negative impact on sales both at home and abroad;" and

Whereas, The Assistant Secretary of Commerce for Productivity, Technology and Innovation concluded, "To compete in the metric world we have to be metric . . . It is baffling to me that not everyone understands the needs to use metric;" and

Whereas, The acting director of the Office of Metric Programs in the Department of Commerce stated, ". . . there appears to be a growing recognition in the marketplace of the advantages of an international system of units, and if U.S. industry is to compete effectively in the international marketplace, more widespread use of the metric system will become necessary;" and

Whereas, The Executive Secretariat, Metric Committee, of the Department of Defense pointed out, "Our country is shifting to the (metric) system . . . in order to be able to better compete in the world marketplace and to enhance the allied defense position;" and

Whereas, In this time of educational crisis, the education of today's youth who will be the workers in industry tomorrow, would be greatly enhanced and simplified if the decimal-based metric system which is the language of science and technology, were taught as the principal measurement system in the nation's schools; and

Whereas, An increasing number of foreign countries are requiring imports to be manufactured and labeled in metric dimensions and it is not cost effective for industry to manufacture in two measurement systems, and

Whereas, Companies that have already implemented metric conversion are reporting long-term economic gains as a result of metric conversion and improved manufacturing processes adopted concurrently; and

Whereas, Accelerated depreciation allowances and investment tax credits for modernizing plants and equipment are now in place, these incentives are important to metric conversion, because the retooling and rebuilding process is an ideal time to change to metric; therefore be it

Resolved, That the U.S. Metric Association Board of Directors strongly urges that the Congress set deadlines for completion of the metric transition to ensure that the best interests of industry and the consumer are served.●

IN APPRECIATION OF VETERANS

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 11, 1983

● Mr. RAY. Mr. Speaker, I want to join millions of Americans in paying tribute to those men and women of our Nation who have willingly served our country in the many branches of our military, our Reserves and our National Guard. Often, their dedication to our country's freedom has called upon them to devote years of their lives in lands far from home and family. During periods of conflict, they have been called upon to risk their lives for the preservation of the United States and many have died to protect our democratic form of Government.

I am proud to be a citizen of a nation which can inspire devotion of this type in its citizenry. I am honored that I was able to serve during World War II. Our country was founded because men and women were willing to fight for the freedoms they wanted and it has remained strong through the years because Americans have never lost their love for these freedoms.

On past Veterans Days, we have paid tribute to veterans of both World Wars, the Korean conflict and the Vietnam conflict. This year, a new group of veterans join their ranks, the veterans of the fighting in Lebanon and Grenada. I believe on this Veterans Day it is important that we remember that the fight to preserve democracy and the safety of the United States is still going on. Our future actions must not ignore the sacrifice made by the men who have died in the fighting in Lebanon and Grenada.

Veterans Day signifies our appreciation for the service of our military personnel, but it is important that we not let this appreciation become only symbolic. When men and women decide to join our military or our National Guard, their decision is partly based on the promises our Government makes to take care of them as veterans. The commitments we make to our veterans must be honored since these people give a portion of their lives to insure that we can live in freedom.

When we honor the veterans of America with parades, picnics, and flags, let us not forget that our debt to these people goes far beyond the tribute of 1 day a year. Rather, we have commitments and obligations which we have made with our veterans, and it is our moral duty to uphold these commitments.

Mr. Speaker, I for one will fight to insure that America lives up to its commitments to its veterans.

Mr. Speaker, the Soviet Union's involvement in Central America and the world is evident to us all. The ruthless destruction of KAL 007, with the loss of innocent lives, and the now chaotic situation developing in Lebanon and the Middle East should serve clear notice to us that the Soviets have long term, worldwide goals which are not in the best interests of America and the world.

Our military services are the very best and indeed must remain superior in equipment, motivation, patriotism and morale. In today's atmosphere, we cannot hope to outspend and to outbuild the Soviets in numbers of weapons and troops.

But, Mr. Speaker, with our goals for peace, our love of freedom and our military expertise, we can provide a deterrent which will insure against nuclear and economic blackmail.

Our veterans support this concept of an adequate defense and that is why it is so important that we recognize those who believe that the American way of life is the very best and is worth fighting for. They inspire our present and future fighting men with this philosophy far more than our recruiters can ever do.

I am proud to be an American and I am proud to be counted among Americans of such high caliber as the veter-

ans of the U.S. military. It is my fervent hope and prayer that the example of our country's veterans will inspire in our youth a love of our country. America will always be a haven of freedom and democracy as long as Americans realize that this freedom must be bought with a price.●

LEGAL SERVICES CORPORATION CUTBACKS HURT MANY IN UNITED STATES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues an important report conducted by the nonpartisan group of lawyers known as the "Washington Council of Lawyers" analyzing the impact of budget cuts in the Legal Services Corporation.

The report indicates a distressing and disturbing picture in many parts of the United States. The $80 million in cuts approved over the past 2 years have forced a 30-percent reduction in lawyers, 28-percent reduction in paralegals and 35-percent reduction in administrative and support personnel—all of whom are working to serve the legal needs of the poor. In addition 26 percent of local legal services offices have been forced to close causing many poor and elderly people to have to travel to greater distances to get help.

The cuts recommended for the Legal Services Corporation were part of the Budget Reconciliations Acts of 1981 and 1982 which I strongly opposed. The fact is notwithstanding their impact—the $80 million in cuts approved were far less grievous than the total elimination of the funding for the Corporation proposed by the President.

I am pleased that the conference report to the State commerce appropriations bill did contain an increase in funds for the Legal Services Corporation for fiscal year 1984. The funding levels are increased from the current $241 million to $275 million. While I supported the House passed level of $296 million any increase in funds is welcomed, especially when one consider that the number of poor people eligible for assistance has increased by more than 14 percent.

This survey is completed at about the same time as the Legal Services Corporation is taking steps to implement new rules which could eliminate up to two-thirds of those elderly presently eligible from receiving legal services. Their rationale is based in large part on declining resources. I together with my colleague from Maine (Mrs. SNOWE) are fighting the Corporation for promulgating these rules which fly directly in the face of congressional intent.

I intend should these regulations be published in their final form to develop legislation to seek their repeal. Further I will continue my efforts to secure adequate funding levels for the Legal Services Corporation which is a vital part of out Nation's commitment to the poor and elderly of our Nation.

The Washington Post article follows:

LEGAL AID CUTS FOUND TO HAVE DRASTIC EFFECTS

(By Mary Thornton)

A nationwide survey of field offices of the Legal Services Corp. has found that budget cuts under the Reagan administration have had "drastic effects" on the poor people the program serves.

The administration has tried repeatedly, without success, to persuade Congress to cut off funds for the corporation, which supplies free legal assistance to the poor in noncriminal cases. But in 1981, Congress agreed to reduce the programs's annual budget from $321 million to $241 million, where it has remained.

The survey, conducted by the Washington Council of Lawyers and made public last week, found that between January, 1981, and January, 1983, the number of lawyers in Legal Services Corp. offices around the country decreased by about 30 percent, with many programs losing their most experienced lawyers. The Washington Council of Lawyers is a voluntary, nonpartisan group of lawyers that promotes public-interest law.

Some of the major findings of the study:

In addition to the decrease in lawyers, the number of paralegals dropped by 28 percent and the administrative and support personnel by 35 percent. Because of the uncertain future of the program, regional offices are having trouble recruiting workers.

While financing for Legal Services dropped by 25 percent, the number of poor people eligible for assistance increased by 14.5 percent.

Between 1980 and 1981, the number of personal bankruptcies increased by 43 percent. But more than 16 percent of the field offices surveyed now are forced to turn away all bankruptcy cases because of lack of staff.

A stepped-up federal review procedure for two federal disability programs—Supplemental Security Income and Social Security Disability Income—led to 225,000 persons' losing benefits in fiscal 1982. On the average, two-thirds of those people who appeal have benefits reinstated. But because of the volume of cases involved, many who would appeal are being turned away by the regional Legal Services offices.

More than 44 percent of the offices surveyed said that because they are overwhelmed by more important cases, they no longer can handle divorce cases, while 18 percent no longer handle child custody and visitation cases, and about 10 percent are turning away all cases dealing with unemployment compensation, child abuse and adoptions.

Between 1981 and 1983, 376 field offices—about 26 percent of the total—have been closed, forcing poor people to travel a greater distance for services.

Of the offices surveyed virtually all were turning away eligible clients because of large caseloads. Nearly two-thirds of those offices had turned away more than 1,000 eligible clients during 1982. In addition, a number of other clients was put on long waiting lists and may never receive help.

Critics of the Legal Services Corp. have said that most poverty-law work could be done free or at reduced rates by the private bar. But program directors reported that fewer than half the clients they turned away were able to get help from attorneys in private practice and that most private lawyers lack experience in poverty law.

Ten percent of Legal Services' budget is earmarked for programs to encourage the private bar to handle cases for poor people.

The study also found that the cutback had seriously affected the morale of both the Legal Service workers and their clients. It found that clients were angry because their cases were not being handled and that lawyers felt they were working in a "sustained bunker atmosphere."●

H.R. 3635

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 1983

● Mr. DAUB. Mr. Speaker, I rise today to congratulate the House for passing H.R. 3635 concerning sexual exploitation of children. I am glad legislation of this type was brought to the attention of the Congress and I wholeheartedly supported its passage.

The legislation passed today is responsive to the problem of child pornography that we see becoming increasingly severe throughout our Nation. Local enforcement agencies are having a difficult time handling these problems. The Federal Government, therefore, is being called upon to help deal with these problems more actively.

The sexual abuse of children touches home in many cases, and it is not a problem that limits itself to the Nation's large cities. National pornographers have recruited children in my home State of Nebraska.

Last March, the Omaha World Herald followed up on a 1974 incident that occurred in Omaha, Nebr. In this case a 13-year-old was abducted after getting off a schoolbus; the youth was held captive and sexually abused for 18 months. His abductor had previously been charged with sex offenses dating back as far as 1959; however, the Omaha kidnaping charges against him were dropped while he was imprisoned in another State on other charges.

When the young man who was abducted was first found missing, the FBI could not be of assistance because it lacked the necessary authority. Our State and Federal law enforcement agencies cannot be allowed to let these criminals escape punishment for their horrendous crimes. The legislation passed today will serve to strengthen the role of the Federal law enforce-

ment agencies in order to help prevent incidents such as this in the future.

I am astounded and disgusted by the figures indicating that 1 million children, ages 1 to 16, fall victim to sexual molesters and child pornographers. These children, whose childhood is cut short, carry the scars from this abuse throughout their lifetime.

Unfortunately, this legislation, or any legislation, will not totally eliminate the abuse many of our children suffer from insidious child pornographers. However, this legislation goes much further than any previous laws and will serve as an effective deterrent to those twisted individuals guilty of abusing so many young people.

This legislation imposes much more severe penalties for offenders. H.R. 3635 eliminates the requirement that child pornography be used for commercial purposes. It is now expanded to include the distribution and production of the child pornography as well.

Second, the bill deletes the requirement that obscenity be shown. This is in agreement with the 1982 Supreme Court ruling in New York against Ferber that child pornography is not protected by the first amendment. H.R. 3635 also makes the determination of minor involvement easier by raising the age of youths covered from 16 to 18 years of age.

Congress is going to great lengths to address this problem. Fines for first time offenders will be increased under H.R. 3635 from $10,000 to $100,000 and for subsequent offenses from $15,000 to $200,000.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, November 15, 1983 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 16

8:30 a.m.
Veterans' Affairs
To hold joint oversight hearings with the House Committee on Veterans' Affairs on the adequacy of VA standards and procedures with respect to funeral and burial services provided for veterans whose remains are unclaimed at VA medical centers.
334 Cannon Building

9:00 a.m.
*Labor and Human Resources
Business meeting, to consider the nominations of Leaanne Bernstein, of Maryland, Claude G. Swafford, of Tennessee, Robert A. Valois, of North Carolina, William C. Durant III, of Michigan, Robert F. Kane, of California, Michael B. Wallace, of Mississippi, Paul B. Eaglin, of North Carolina, and Pepe J. Mendez, of Colorado, each to be a member of the Board of Directors of the Legal Services Corporation, and Elliot Ross Buckley, of Virginia, to be a member of the Occupational Safety and Health Review Commission, proposed legislation relating to look-alike drugs, and S. 1978, proposed Retirement Equity Act.
SD-538

Special on Aging
To hold hearings to evaluate the payment procedures of the social security system.
SD-562

9:30 a.m.
Finance
Business meeting, to consider pending committee business.
SD-215

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Conferees
On H.R. 4185, appropriating funds for fiscal year 1984 for the Department of Defense.
H-140, Capitol

10:00 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation, Forestry and Environment Subcommittee
To hold hearings on S. 1610, to designate certain lands in Wisconsin as wilderness.
SR-328A

Armed Services
To resume hearings to review the organization, structure, and decisionmaking procedures of the Department of Defense, focusing on procurement practices.
SR-222

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to resume markup of a proposed committee amendment in the nature of a substitute to S. 1291, authorizing funds for fiscal years 1984 and 1985 for the Nuclear Regulatory Commission (pending on Senate calendar).
SD-406

Foreign Relations
To hold hearings on the future of United States and Soviet relations.
SD-419

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 1876, to allow for the advertising, transporting, mailing, or broadcasting between States of materials and information concerning State-conducted or State-authorized lotteries.
SD-226

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 2067, to confer jurisdiction on the U.S. Claims Court to determine damages suffered by the Carolinas Cotton Growers Association, Inc., an agricultural cooperative association, and admitting liability therefor.
SR-418

*Labor and Human Resources
To hold hearings on private sector initiatives to promote the health and well-being of the American family.
SD-430

10:30 a.m.
Commerce, Science, and Transportation
Business meeting, on pending calendar business.
SR-253

*Governmental Affairs
To continue oversight hearings on Federal regulations of the Lobbying Act of 1946.
SD-342

2:00 p.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To hold oversight hearings to review current gas markets and alternatives for delivery of Alaskan gas through the Alaska natural gas transportation system to those markets.
SD-366

Judiciary
To hold hearings on pending nominations.
SD-226

NOVEMBER 17

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings to review the potential problem to the poultry industry caused by the recent outbreak of contagious respiratory disease affecting poultry.
SD-138

Finance
Energy and Agricultural Taxation Subcommittee
Taxation and Debt Management Subcommittee
To hold joint hearings on S. 1768, to provide energy tax credits for certain equipment used aboard or installed on fishing vessels; to be followed by the Subcommittee on Taxation and Debt Management holding hearings on miscellaneous tax bills, including S. 1332, S. 146, S. 1809, S. 1857, and S. 1758.
SD-215

Labor and Human Resources
Handicapped Subcommittee
To hold hearings on section 504 of the Rehabilitation Act of 1973 (Public Law 93-112), relating to institutional care and services for retarded citizens.
SD-428A

9:45 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on Federal arts policy.
SD-430

10:00 a.m.
Environment and Public Works
To resume hearings on proposed amendments to the Clean Air Act (Public Law 95-95).
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the Hotel and Restaurant Workers' Union (HEREIU).
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Indian Affairs
To hold hearings on S. 885, to provide for settlement of unresolved claims relating to certain allotted Indian lands on the White Earth Indian Reservation, Minn.
SD-124

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on the impact of Federal spending cuts on maternal and child health care in the United States.
SD-628

2:00 p.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on Federal arts policy.
SD-430

2:45 p.m.
*Select on Ethics
Closed business meeting.
SR-328A

NOVEMBER 18

10:00 a.m.
Finance
To hold hearings on S. 1804, to provide for tax treatment of foreign sales corporations and exports of goods and services.
SD-215

Labor and Human Resources
Family and Human Services Subcommittee
To hold hearings on issues relating to National Family Week and National Adoption Week, November 20-26, 1983.
SD-628

NOVEMBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 141, to provide a special defense to the liability of political subdivision of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights.
SD-226

NOVEMBER 29

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on Senate Joint Resolution 26, proposing a constitutional amendment authorizing the President to disapprove or reduce an item of appropriations.
SD-226

2:00 p.m.
Environment and Public Works
*Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act (Public Law 94-469).
SD-406

NOVEMBER 30

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Judiciary
To hold hearings on issues relating to the Goose Lake Basin Compact.
SD-226

DECEMBER 6

10:00 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to review long-term care policy provisions of the Older Americans Act.
SD-430

DECEMBER 7

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the status of the Job Corp program.
SD-430

10:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on certain modifications in the copyright law relating to cable TV.
SD-226

DECEMBER 14

9:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations; to be followed by a business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
SD-430

CANCELLATIONS

NOVEMBER 15

10:00 a.m.
Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold hearings on Federal employees health benefit programs.
Room to be announced.

2:00 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Lacey Act Amendments of 1981 (Public Law 97-79), making it illegal to import or trade in live fish or wildlife or animal products which are taken, transported, or sold in violation of State or foreign laws.
SD-406

NOVEMBER 16

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on S. 521, to encourage the utilization of Federal criminal justice information services and other alternative proposals for the exchange of criminal history information to assist State-run institutions in hiring individuals to work with juvenile offenders, and S. 1924, to establish a Federal information gathering system to collect and disseminate information on individuals who have been arrested or convicted for child molestation.
SD-628

10:30 a.m.
Small Business
To hold oversight hearings on the status of women in the work force.
SD-428A

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold oversight hearings on the operation and management of the Federal Crop Insurance Corporation, Department of Agriculture.
SR-328A

SENATE—*Tuesday, November 15, 1983*

(Legislative day of Monday, November 14, 1983)

The Senate met at 10:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The PRESIDENT pro tempore. Our opening prayer will be delivered by the Reverend Doctor B. Ross Morrison, pastor of the First Baptist Church of Wheaton, Md. He is sponsored by Senator PAUL S. SARBANES, of Maryland.

The Reverend Doctor B. Ross Morrison offered the following prayer:

May we unite our hearts in prayer.

O Lord God, in these hushed and quiet moments we thank You for Your ever present help. We need to recognize You now in the privacy of our own hearts. We need to hear You say again to us, "Be still and know that I am God."

We bless Your name for leading people of considerable human talent to dedicate their lives to serve our Federal Government. We thank You for all the staff of each of our Senators who continually commit their love and labor on behalf of our great country.

Bless the day-to-day deliberation that from them may come the ever wise course of democracy.

Lord God, bless each Senator; not only in the setting of these hallowed halls, but in their family, community, country, and world leadership.

In Your holy name we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. RUDMAN. Mr. President, the majority leader has not yet returned. I ask unanimous consent that his leadership time be deferred to a later time when he returns.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, am I correct in that there are two special orders entered for this morning in behalf of Senator HEINZ and Senator PROXMIRE?

The PRESIDENT pro tempore. The Senator is correct.

Mr. RUDMAN. Am I also correct that the order does not yet contain a provision for a period for the transaction of routine morning business?

The PRESIDENT pro tempore. The Senator is correct.

Mr. RUDMAN. I thank the Chair.

Mr. President, I yield to the minority leader such time as he wishes to use. We would then reserve the time of the majority leader until his return.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I yield to the Senator from Maryland (Mr. SARBANES) such time as he may desire.

REV. DR. B. ROSS MORRISON

Mr. SARBANES. Mr. President, I am pleased to welcome to the Senate this morning the Reverend Ross Morrison of the First Baptist Church of Wheaton who has just delivered a very moving and thoughtful prayer.

I might say to the minority leader that Rev. Morrison was born near Parkersburg, W. Va. So we have a West Virginian, in a sense, in our midst.

He graduated from Parkersburg High School and then went to Alderson Junior College in West Virginia. He has served the First Baptist Church of Wheaton since August 1950. He has been the only pastor of this congregation and has held that post for in excess of 33 years.

Prior to that, he served congregations in Marbury, Md., and started a mission in Lexington Park, both in southern Maryland.

From that service he came to Wheaton and to the First Baptist Church.

Dr. Morrison has been active in a number of community leadership positions. He has been the chaplain of the Montgomery County Council since 1954.

He has been very active on a number of commissions in Montgomery County, including the Redevelopment and Rehabilitation Commission and the Human Relations Commission of Montgomery County.

Dr. Morrison has held a number of positions in the Baptist Church, including the presidency of the D.C. Baptist Convention, and has been on a number of committees and boards of the Southern Baptist Convention and the American Baptist Convention.

He also has been a trustee of Southwestern Baptist Theological Seminary for 18 years.

Dr. Morrison's distinguished record is particularly known to an employee of the Senate, Allen Hinton, who is with the staff of the Sergeant at Arms, who is a deacon in Reverend Morrison's church.

It is a privilege for me to welcome Reverend Morrison to the Senate, for us to have had the opportunity to hear the prayer delivered by him and to say just a few words in recognition of a very distinguished career of service and very strong leadership. We are honored to have him with us today.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland (Mr. SARBANES) for calling attention to the distinguished minister who has delivered the opening prayer. I am proud that the Reverend Dr. Morrison is from Parkersburg, W. Va. I was just saying to him that I have a young man on my staff who is from Parkersburg. He graduated, in a Parkersburg graduating class of more than 700 students—a little different from the high school from which I graduated. I think my senior class had about 28 or 29 students. But Parkersburg has a very large high school. It is a growing county.

I want to share Mr. SARBANES' appreciation and thankfulness that the Reverend Dr. Morrison has come here today to deliver the sermon for us. We thank him and we hope he will return some day.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, does the Senator from Pennsylvania need any additional time?

Mr. HEINZ. The Senator from Pennsylvania has a special order.

Mr. BYRD. I understand. Does he need any additional time?

Mr. HEINZ. I thank my friend from West Virginia, Mr. President, I do not.

Mr. BYRD. I yield back my time.

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER (Mr. DANFORTH). Under the previous order, the Senator from Pennsylvania is recognized for 15 minutes.

THE BAHA'IS MUST SURVIVE

Mr. HEINZ. Mr. President, this morning, I am introducing, together with 32 cosponsors, a concurrent resolution on behalf of the Bahais of Iran. It is my hope that; before the end of

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

today, many of my colleagues will join me in cosponsoring this resoluton.

My purpose is also to bring to my colleagues' attention and that of others who review the proceedings of this body the actions taken by the ruthless Iranian authorities against this innocent and peace-loving people.

On August 29 of this year, the revolutionary prosecutor general of Iran, during an interview with one of Iran's leading newspapers, declared that Bahaí religious institutions were now illegal and membership in them was a criminal act. This edict formally and officially outlaws the Bahaí National Assembly in Iran, its 400 local assemblies, and all other governing bodies of the Bahaí community. In one swift moment, with the utterance of a few words, the prosecutor turned thousands of men and women into criminals, open to persecution and punishment at the whim of the Government.

Mr. President, the plight of the Bahaís has been considered by both Houses of Congress on a number of occasions and, indeed, both bodies have expressed their outrage over the wanton acts of repression perpetuated by Iranian authorities. Just over 1½ years ago, Congress passed a joint resolution, which I introduced, condemning the persecution and execution of innocent Bahaís and, last May, President Reagan issued a plea to the Ayatollah Khomeini that the lives of a group of Bahaís arrested and imprisoned in the city of Shiraz be spared. Iran's answer to this plea, and its answer to many inquiries and statements by American and foreign leaders, was the execution of men, women, and children.

With the issuance of this new decree contained in the statement made by the prosecutor general, we witness another answer, one that is perhaps the most distressing to date. In a pronouncement reminiscent of the Nuremberg laws that the Nazis issued to stifle the Jews in Germany during the early 1930's, the Iranians have moved to establish the legal grounds for mass arrests and executions. They have brought the survival of the Bahaí faith and its followers in Iran into question, and if the history of the treatment of the Bahaís under the present regime teaches anything, the future of more than 300,000 may well be in jeopardy. Let me take just a moment to explain this in greater detail.

The Bahaís, unlike many religions, have no clergy. Instead, they rely upon elected local and national leaders to conduct their programs through committees of volunteers. The recent edict implicates all those who have taken part in the activity of electing officials and all who have participated in functions coordinated through and run by Bahaí assemblies. In graphic terms, the recent proclamation instantly brands as criminals the 3,600 elected leaders currently serving on the 400 local assemblies and the National Spiritual Assembly of Iran; 20,000–30,000 members of local committees responsible for schools, charities, and other religious activities; and, most likely, more than 200,000 adult Bahaís who participated in electing their leaders.

It is particularly sad, and quite ironic, that the Bahaís have been singled out by the Iranian authorities for such mistreatment and, I might add, treatment bordering on genocide, for it is a basic tenet of the Bahaí faith that they remain unattached to any specific political philosophy. In fact, it is noninterference in politics and an unparalleled obedience to Government that guides their faith. Solely because of their refusal to recant their faith in favor of Islam have they had to endure constant and unceasing hardship. The Bahaís of Iran respresent the only case in the world today in which people are being persecuted and killed based only on their religious beliefs, and not because of their opposition to the regime in power.

Mr. President, I would also like to bring to my colleagues' attention a letter that I shall immediately be releasing, that was written by the Bahaí National Spiritual Assembly in Iran in response to the statement of the prosecutor general. It is a moving and very compelling response to the false charges, ridicule, and lies that the Iranian Government has thrown at moral and law-abiding people. It is the only form of opposition I know of that the Bahaís have ever shown to this present Iranian regime. At this point, I ask unanimous consent that the text of this letter be printed in the RECORD at the conclusion of my remarks so that all may read and understand the deep loyalties and love of Government that the Bahaís have demonstrated; so that all may view first hand the Bahaí answers to the trumped up charges put forward by the Iranian Government.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered. (See exhibit 1.)

Mr. HEINZ. Mr. President, with obedience to law being a vital article of Bahaí belief, the National Assembly has announced the suspension of all Bahaí organizations throughout Iran, thus signaling another victory for the oppressive Iranian regime. It is in this light that we must review this legislation and our approach to dealing with the unfolding atrocities in Iran. It is because the light at the end of the tunnel for the Bahaís is little more than a flicker that we must maintain our interest, our opposition, and our hope.

The changes of the Iranian authorities reacting favorably to our words are slim, and while we have seen their response to our appeals in the form of further murders and jailings, I believe we must not yield. The Bahaís in the United States who remain in close contact with their brethren in Iran assure me that our words do help. The one fear they have is that we will forget the plight of their families and friends in Iran, that no pressure will be brought to bear on those who would commit such crimes against humanity.

Mr. President, I have stood before the Senate on previous occasions to address this matter, and I speak again on this occasion with an even greater sense of urgency, a deeper sense of outrage, and a similar sense of responsibility. This country was built on the ideal of freedom for all, and we have gone to great lengths to stress this ideology abroad. It is important that we not be silent as this inhumanity to man persists. We cannot avert our eyes from the suffering of the Bahaís, and we must not divert our attention from the party guilty of perpetrating this pain. As people of good conscience, we cannot ignore terror and murder. By constantly bringing the Bahaí cause to the attention of the world perhaps—and I say perhaps—we can in some positive way influence the future course of events in Iran.

So, Mr. President, I urge all of my colleagues to support this resolution. I urge them to cosponsor it. I urge them to do so at the earliest possible opportunity—hopefully today.

Mr. President, in a moment I will send my resolution to the desk, but I want to read what the resolution says in sum: That we hold the Government of Iran responsible for upholding the rights of all its nationals including the Bahaís; that we condemn the recent decision taken by the Government of Iran to destroy the Bahaí faith by labeling as criminal acts all Bahaí teaching and organized religious activities, and that we call upon the President of the United States to work with appropriate foreign governments and the allies of the United States in forming an appeal to the Government of Iran concerning the Bahaís; that he cooperate fully with the United Nations in all efforts on behalf of the Bahaís, and to provide and urge others to provide humanitarian assistance for those Bahaís who flee Iran.

Mr. President, again let me plead with my colleagues to look at this concurrent resolution and cosponsor it.

I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 86

Whereas more than 150 members of the Bahaí faith have been brutally executed by Iranian authorities since the 1979 Islamic revolution;

Whereas many Bahais in Iran have disappeared and others have been tortured, persecuted, and deprived of their fundamental rights to personal property and employment;

Whereas an edict issued by Iran's Revolutionary Prosecutor General on August 29, 1983 has far-reaching implications that threaten the lives of 300,000 Bahais residing in Iran and places the future practice of Bahaism in jeopardy by dismantling the administrative structure of the Bahaí religion; and

Whereas these actions for the first time establish an expressed national policy which lays the level foundation for executions, arrests, the confiscation of property, denial of jobs and pensions, expulsion of Bahai children from schools, and other pressures which may be brought to bear by Iranian authorities on the Bahais in Iran: Now, therefore, be it

Resolved by the Senate (the House of Representatives Concurring), That the Congress—

(1) holds the Government of Iran responsible for upholding the rights of all its nationals, including the Bahais;

(2) condemns the recent decision taken by the Government of Iran to destroy the Bahaí faith by labeling as "criminal acts" all Bahaí teaching and organized religious activities, including the attempts by Bahais to elect their own local and national leaders, to meet in assemblies, to communicate among themselves, and to work for volunteer committees; and

(3) calls upon the President—

(A) to work with appropriate foreign governments and the allies of the United States in forming an appeal to the Government of Iran concerning the Bahais;

(B) to cooperate fully with the United Nations in its efforts on behalf of the Bahais and to lead such effort whenever it is possible and appropriate to do so; and

(C) to provide, and urge others to provide, for humanitarian assistance for those Bahais who flee Iran.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

EXHIBIT I

THE BANNING OF BAHAÍ RELIGIOUS INSTITUTIONS IN IRAN—AN OPEN LETTER

(Translated from Persian)

12 Shahrivar 1362

[September 3, 1983]

(By the National Spiritual Assembly of the Bahais of Iran of Iran)

Recently the esteemed Prosecutor General of the Islamic Revolution of the Country, in an interview that was published in the newspapers, declared that the continued functioning of the Bahaí religious and spiritual administration is banned and that membership in it is considered to be a crime. This declaration has been made after certain unjustified accusations have been levelled against the Bahaí community of Iran and after a number of its members—ostensibly for imaginary and fabricated crimes but in reality merely for the sake of their beliefs—have been either executed, or arrested and imprisoned. The majority of those who have been imprisoned have not yet been brought to trial.

The Bahaí community finds the conduct of the authorities and the judges bewildering and lamentable—as indeed would any fair-minded observer who is unblinded by malice. The authorities are the refuge of the people; the judges in pursuit of their work of examining and ascertaining the truth and facts in legal cases devoted years of their lives to studying the law and, when uncertain of a legal point, spend hours poring over copious tomes in order to cross a t and dot an i. Yet these very people consider themselves to be justified in brazenly bringing false accusations against a band of innocent people, without fear of the Day of Judgment, without even believing the calumnies they utter against their victims, and have exerted not the slightest effort to investigate to any degree the validity of the charges they are making. "Methinks they are not believers in the Day of Judgment." [Hafiz, a 14th century Persian poet]

The honorable Prosecutor has again introduced the baseless and fictitious story that Bahais engage in espionage, but without producting so much as one document in support of the accusation, without presenting proof in any form, and without any explanation as to what is the mission in this country of this extraordinary number of "spies": what sort of information they obtain and from what sources? Whither do they relay it, and for what purpose? What kind of "spy" is an eighty-five year old man from Yazd who has never set foot outside his village? Why do these alleged "spies" not hide themselves, conceal their religious beliefs and exert every effort to penetrate, by every stratagem, the Government's information centers and offices? Why has no Bahaí "spy" been arrested anywhere else in the world? How could students, housewives, innocent young girls, and old men and women, such as those blameless Bahais who have recently been delivered to the gallows in Iran, or who have become targets for the darts of prejudice and enmity, be "spies"? How could the Bahaí farmers of the villages of Afus, Chigan, the Fort of Malak (near Isfahan), and those of the village of Nuk in Biyand, be "spies"? What secret intelligence documents have been found in their possession? What espionage equipment has come to hand? What "spying" activities were engaged in by the primary school children who have been expelled from their schools?

And how strange! The honorable Prosecutor perhaps does not know, or does not care to know, that spying is an element of politics, while noninterference in politics is an established principle of the Bahaí Faith. On the contrary, Bahais love their country and never permit themselves to be traitors. 'Abdu'l-Baha, the successor of the Founder of the Bahaí Cause, says: "Any abasement is bearable except betraying one's own country, and any sin is forgivable other than dishonoring the government and inflicting harm upon the nation."

All the other accusations made against the Bahaí by the honorable Prosecutor of the Revolution are similarly groundless. He brands the Bahaí community with accusations of subversion and corruption. For example, on the basis of a manifestly forged interview, the falsity of which has been dealt with in a detailed statement, he accuses the Bahaí community of hoarding, an act which its members would consider highly reprehensible. The Prosecutor alleges that the Bahaí administration sanctioned the insensible act of hoarding, yet he subtly overlooks the fact that with the proceeds that might be realized from the sale of unusable automobile spare parts whose total value is some 70 million tumans—the value of the stock of any medium-size store for spare parts—it would be impossible to overthrow a powerful government whose daily expenditures amount to hundreds of millions of tumans. If the Prosecutor chooses to label the Bahaí administration as a network of espionage, let him at least consider it intelligent enough not to plan the overthrow of such a strong regime by hoarding a few spare parts! Yes, such allegations of corruption and subversion are similar to those hurled against us at the time of the Episcopalian case in Isfahan when this oppressed community was accused of collaboration with foreign agents, as a result of which seven innocent Bahais of Yazd were executed. Following this the falsity of the charges was made known and the Prosecutor announced the episode to be the outcome of a forgery.

Bahais are accused of collecting contributions and transferring sums of money to foreign countries. How strange! If Muslims, in accordance with their sacred and respected spiritual beliefs, send millions of tumans to Karbala, Najaf and Jerusalem, or to other Muslim holy places outside Iran, to be spent on the maintenance and upkeep of the Islamic scared shrines, it is considered very praiseworthy; but if a Bahaí—even during the time in which the transfer of foreign currency was allowed—sends a negligible amount for his international community to be used for the repair and maintenance of the holy places of his faith, it is considered that he has committed an unforgivable sin and it is counted as proof that he has done so in order to strengthen other countries.

Accusations of this nature are many but all are easy to investigate. If just and impartial people and God-fearing judges will only do so, the falsity of these spurious accusations will be revealed in case after case. The Bahaí community emphatically requests that such accusations be investigated openly in the presence of juries composed of judges and international observers so that, once and for all, the accusations may be discredited and their repetition prevented.

The basic principles and beliefs of the Bahais have been repeatedly proclaimed and set forth in writing during the past five years. Apparently these communications, either by deliberate design or by mischance, have not received any attention, otherwise accusations such as those described above would not have been repeated by one of the highest and most responsible authorities. This in itself is a proof that the numerous communications referred to were not accorded the attention of the leaders; therefore, we mention them again.

The Bahaí Faith confesses the unity of God and the justice of the divine Essence. It recognizes that Almighty God is an exalted, unknowable and concealed entity, sanctified from ascent and descent, from egress and regress, and from assuming a physical body. The Bahaí Faith which professes the existence of the invisible God, the One, the Single, the Eternal, the Peerless, bows before the loftiness of His Threshold, believes in all divine Manifestations, considers all the Prophets from Adam to the Seal of the Prophets as true divine Messengers Who are the Manifestations of Truth in the world of creation, accepts Their Books as having come from God, believes in the continuation of the divine outpourings, emphatically believes in reward and punishment and, uniquely among existing revealed religions outside Islam, accepts the Prophet Muhammad as a true Prophet and the Qur'an as the Word of God.

The Bahaí Faith embodies independent principles and laws. It has its own Holy Book. It prescribes pilgrimage and worship. A Bahaí performs obligatory prayers and

observes a fast. He gives, according to his beliefs, tithes and contributions. He is required to be of upright conduct, to manifest a praiseworthy character, to love all mankind, to be of service to the world of humanity and to sacrifice his own interests for the good and well-being of his kind. He is forbidden to commit unbecoming deeds. 'Abdu'l-Bahaí says: "A Bahaí is known by the attributes manifested by him, not by his name: he is recognized by his character, not by his person."

Shoghi Rabbani, the Guardian of the Bahaí Cause, says: ". . . a person who is not adorned with the ornaments of virtue, sanctity, and morality, is not a true Bahaí, even though he may call himself one and be known as such."

He also says: "The friends of God . . . are required to be virtuous well-wishers, forbearing, sancitified, detached from all except God and free from worldly concerns. They are called upon to manifest divine attributes and characteristics."

The teaching and laws of the Bahaís religion testify to this truth. Fortunately, the books and writings which have been plundered in abundance from the homes of Bahaís and are available to the authorities, bear witness to the truth of these assertions, Bahaí in keeping with their spiritual beliefs, stay clear of politics; they do not support or reject any party, group or nation; they do not champion or attack any ideology or any specific political philosophy; they shrink from and abhor political agitation. The Guardian of the Bahaí Cause says, "The followers of Baha'u'llah under whatever state or government they may reside should conduct themselves with truthfulness, fidelity, trustworthiness and absolute virtue. . . .They neither thirst for fame nor clamor for leadership. They neither indulge in flattery, nor practice hypocrisy, nor are they impielled by selfish ambition or the desire to accumulate wealth. They are not anxious to attain high ranks and positions, nor are they the bond-slaves of titles and honors. They abhor every form of ostentation and are far removed from the use of such methods as would entail violence or coercion. They have detached themselves from all else save God and have fixed their hearts upon the unfailing promises of their Lord . . . . They have become forgetful of their own selves and have dedicated themselves to that which will serve the interests of humanity. . . . They unhesitatingly refuse such functions and posts as are political in nature, but wholeheartedly accept those that are purely administrative in character. For the cardinal aim of the people of Baha is to promote the interests of the whole nation. . . .

"Such is the way of the followers of Baha, such is the attitude of the spirituallyminded, and whatsoever else is but manifest error."

Also Bahaís, in accordance with their exalted teachings, are duty bound to be obedient to their government. Elucidating this subject, Shoghi Rabbani says: "The people of Baha are required to obey their respective governments, and to demonstrate their truthfulness and good will towards the authorities. . . . Bahaís, in every land and without any exception, should . . . be obedient and bow to the clear instructions and the declared decrees issued by the authorities. They must faithfully carry out such directives."

Bahaí organizations have no aim except the good of all nations and do not take any steps that are against the public good. Contrary to the conception it may create in the mind because of the similarity in name, it does not resemble the current organizations of political parties; it does not interfere in political affairs; and it is the safeguard against the involvement of Bahais in subversive political activities. Its high ideals are "to improve the characters of men; to extend the scope of knowledge; to abolish ignorance and prejudice; to strengthen the foundations of true religion in all hearts; to encourage self-reliance, and discourage false imitation; . . . to uphold truthfulness, audacity, frankness, and courage; to promote craftsmanship and agriculture; . . . to educate, on a compulsory basis, children of both sexes; to insist on integrity in business transactions; to lay stress on the observance of honest and piety; . . . to acquire mastery and skill in the modern sciences and arts; to promote the interests of the public; . . . to obey outwardly and inwardly and with true loyalty the regulations enacted by state and government; . . . to honor, to extol and to follow the example of those who have distinguished themselves in science and learning. . . ." And again, ". . . to help the needy from every creed or sect, and to collaborate with the people of the country in all welfare services."

In brief, whatever the clergy in other religions undertake individually and by virtue of their appointment to their positions, the Bahaí administration performs collectively and through an elective process.

The statements made by the esteemed Prosecutor of the Revolution do not seem to have legal basis, because in order to circumscribe individuals and deprive them of the rights which have not been denied them by the Constitution, it is necessary to enact special legislation, provided that legislation is not contradictory to the Constitution. It was hoped that the past recent years would have witnessed, on the one hand, the administration of divine justice—a principle promoted by the true religion of Islam and prescribed by all monotheistic religions—and, on the other, and coupled with an impartial investigation of the truths of the Bahaí Faith, the abolition or at least mitigation of discrimination, restrictions and pressures suffered by Bahaís over the past 135 years. Alas, on the contrary, because of long-standing misunderstandings and prejudices, the difficulties increased immensely and the portals of calamity were thrown wide open in the faces of the long-suffering and sorely oppressed Bahaís of Iran who were, to an even greater degree, deprived of their birthrights through the systematic machinations of Government officials who are supposed to be the refuge of the public, and of some impostors in the garb of divines, who engaged in official or unofficial spreading of mischievous and harmful accusations and calumnies, and issued, in the name of religious and judicial authorities, unlawful decrees and verdicts.

Many are the pure and innocent lives that have been snuffed out; many the distinguished heads that have adorned the hangman's noose; and many the precious breasts that became the targets of firing squads. Vast amounts of money and great quantities of personal property have been plundered or confiscated. Many technical experts and learned people have been tortured and condemned to long-term imprisonment and are still languishing in dark dungeons, deprived of the opportunity of placing their expertise at the service of the Government and the nation. Numerous are the self-sacrificing employees of the Government who spent their lives in faithful service but who were dismissed from work and afflicted with poverty and need because of hatred and prejudice. Even the owners of private firms and institutions were prevented from engaging Bahaís. Many privately-owned Bahaí establishments have been confiscated. Many tradesmen have been denied the right to continue working by cancellation of their business licenses. Bahaí youth have been denied access to education in many schools and in all universities and institutions of higher education. Bahaí university students abroad are deprived of receiving money for their education, and others who wish to pursue their studies outside Iran have been denied exit permits. Bahaís, including the very sick whose only hope for cure was to receive medical treatment in specialized medical centers in foreign lands, have been prevented from leaving the country. Bahaí cemeteries have been confiscated and bodies rudely disinterred. Numerous have been the days when a body has remained unburied while the bereaved family pleaded to have a permit issued and a burial place assigned so that the body might be decently buried. As of today, thousands of Bahaís have been divested of their homes and forced to live as exiles. Many have been driven from their villages and dwelling places and are living as wanderers and stranded refugees in other parts of Iran with no other haven and refuge but the Court of the All-Merciful God and the loving-kindness of their friends and relatives.

It is a pity that the mass media, newspapers and magazines, either do not want or are not allowed to publish any news about the Bahaí community of Iran or to elaborate upon what is happening. If they were free to do so and were unbiased in reporting daily news, volumes would have been compiled describing the inhumane cruelty to and oppression of the innocent. For example, if they were allowed to do so, they would have written that in Shíraz seven courageous men and ten valiant women—seven of whom were girls in the prime of their lives—audaciously rejected the suggestion of the religious judge that they recant their faith or, at least, dissemble their belief, and preferred death to the concealment of their faith. The women, after hours of waiting with dried lips, shrouded themselves in their chadurs, kissed the noose of their gallows, and with intense love offered up their souls for the One Who proferreth life. The observers of this cruel scene might well ask forgiveness for the murderers at Karbala, since they, despite their countless atrocities, did not put women to the sword nor harass the sick and infirm. Alas, tongues are prevented from making utterance and pens are broken and the hidden cause of these brutalities is not make manifest to teach the world a lesson. The Prosecutor alleges that they were spies. Gracious God! Where in history can one point to a spy who readily surrendered his life in order to prove the truth of his belief?

Unfortunately it is beyond the scope of this letter to recount the atrocities inflicted upon the guiltless Bahaís of Iran or to answer, one by one, the accusations levelled against them. But let us ask all just and fair-minded people only one question: If, according to the much-publicized statements of the Prosecutor, Bahaís are not arrested and executed because of their belief, and are not even imprisoned on that account, how is it that, when a group of them is arrested and each is charged with the same "crime" of "spying", if one of them recants

his belief, he is immediately freed, a photograph of him and a description of his defection are victoriously featured in the newspapers, and respect and glory are heaped upon him? What kind of spying, subversion, illegal accumulation of goods, aggression or conspiracy or other "crime" can it be that is capable of being blotted out upon the recantation of one's beliefs? Is this not a clear proof of the absurdity of the accusations?

In spite of all this, the Bahaí community of Iran, whose principles have been described earlier in this statement, announces the suspension of the Bahaí organizations throughout Iran, in order to establish its good intentions and in conformity with its basic tenets concerning complete obedience to the instructions of the Government. Henceforth, until the time when, God willing, the misunderstandings are eliminated and the realities are at last made manifest to the authorities, the National Assembly and all local spiritual assemblies and their committees and disbanded, and no one may any longer be designated a member of the Bahaí Administration.

The Bahaí community of Iran hopes that this step will be considered a sign of its complete obedience to the Government in power. It further hopes that the authorities—including the esteemed Prosecutor of the Islamic Revolution who says that there is no opposition to and no enmity towards individual Bahaís, who has acknowledged the existence of a large Bahaí community and has, in his interview, guaranteed its members the right to live and be free in their acts of worship—will reciprocate by proving their good intentions and the truth of their assurances by issuing orders that pledge, henceforth:

1. To bring to an end the persecutions, arrests, torture and imprisonment of Bahaís for imaginary crimes and on baseless pretexts, because God knows—and so do the authorities—that the only "crime" of which these innocent ones are guilty is that of their beliefs, and not the unsubstantiated accusations brought against them;

2. To guarantee the safey of their lives, their personal property and belongings, and their honor;

3. To accord them freedom to choose their residence and occupation and the right of association based on the provisions of the Constitution of the Islamic Republic;

4. To restore all the rights which have been taken away from them in accordance with the groundless assertions of the Prosecutor of the Country;

5. To restore to Bahaí employees the rights denied them by returning them to their jobs and by paying them their due wages;

6. To release from prison all innocent prisoners;

7. To lift the restriction imposed on the properties of those Bahaís who, in their own country, have been deprived of their belongings;

8. To permit Bahaí students who wish to continue their studies abroad to benefit from the same facilities that are provided to others;

9. To permit those Bahaí youth who have been prevented from continuing their studies in the country to resume their education;

10. To permit those Bahaí students stranded abroad who have been deprived of foreign exchange facilities to receive their allowances as other Iranian students do;

11. To restore Bahaí cemeteries and to permit Bahaís to bury their dead in accordance with Bahaí burial ceremonies;

12. To guarantee the freedom of Bahaís to perform their religious rites; to conduct funerals and burials including the recitation of the Prayer for the Dead; to solemnize Bahaí marriages and divorces, and to carry out all acts of worship and laws and ordinances affecting personal status; because although Bahaís are entirely obedient and subordinate to the government in the administration of the affairs which are in the jurisdiction of Bahaí organizations, in matters of conscience and belief, and in accordance with their spiritual principles, they prefer martyrdom to recantation or the abandoning of the divine ordinances prescribed by their faith;

13. To desist henceforth from arresting and imprisoning anyone because of his previous membership in Bahaí organizations.

Finally, although the order issued by the Prosecutor of the Islamic Revolution was unjust and unfair, we have accepted it. We beseech God to remove the dross of prejudice from the hearts of the authorities so that aided and enlightened by His confirmation they will be inspired to recognize the true nature of the affairs of the Bahaí community and come to the unalterable conviction that the infliction of atrocities and cruelties upon a pious band of wronged ones, and the shedding of their pure blood, will stain the good name and injure the prestige of any nation or government, for what will, in truth, endure are the records of good deeds, and of acts of justice and fairness, and the names of the doers of good. These will history preserve in its bosom for posterity.

Mr. SPECTER. Mr. President, I support the resolution offered by my distinguished colleague from Pennsylvania, Senator HEINZ, on behalf of the oppressed Bahaí religous minority in Iran. I condemn in the strongest terms the persecution of the 350,000 Bahaís by the Khomeini regime, and I commend Senator HEINZ for taking action in this increasingly desperate situation.

Mr. President, of all the real and imagined enemies of the present Government of the Islamic Republic of Iran, the Bahaís are possibly the least threatening. The Bahaí faith is a pacifist sect of Islam which, since its founding in 1863, preaches the equality of all religions honoring the same God, the unity of mankind, the equality of men and women of all races, and universal peace and education. It is unconscionable that these people, who represent the epitome of tolerance, should be relentlessly persecuted, and have many of their brethren tortured or killed for their utopian views.

Ever since the Khomeini Government came to power in 1979, there has been a systematic pattern of discrimination against the apolitical and peace-loving Bahaís. Bahaís have lost their jobs, their savings have been confiscated, and some 15,000 have been forced to leave Iran. For those who remained, their fate has been marked by arbitrary imprisonment and the execution of approximately 150 Bahaís. In May, despite the personal pleas of President Reagan, the Iranian Government hanged 22 Bahaí men, women, and children on trumped up charges of spying.

Lately, the Khomeini government has enacted a series of restrictions on Bahaí practices that are similar in scope to the infamous Nuremberg laws of Hitler's Germany. The teaching of Bahaí beliefs, organized religious activities and the very practicing of the faith have all been outlawed.

The only reason I can detect, Mr. President, for the harassment, executions, and organized discrimination of Iran's Bahaí population points in the direction of one goal—genocide. Whether by selected executions, incitement of mob violence, or the slow but steady denial of basic human rights to practicing Bahaís, it seems that the Ayotollah Khomeini is intent on wiping out any traces of religious expression other than his own twisted interpretation of Islamic precepts. I can only express my admiration for the humanitarian ideals and tenacious piety of the Bahaí faithful in the face of constant charges of heresy and daily degradation by Iranian authorities.

I urge my colleagues to support this resolution.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

COULD TERRORISTS NUKE THE CAPITOL?

Mr. PROXMIRE. Mr. President, several days ago a bomb exploded in the Capitol and provoked the congressional leadership to pursue more intensely security measures to safeguard this heart of our national Government. Can we prevent bombs from exploding in the future? No way. In the last few years bombs have been exploded in this Building several times. In most cases the bombers have not been apprehended. Property damage has been limited. Casualties have been few. The incidents have been quickly forgotten. Last Saturday night John McLaughlin, technically the moderator but actually the agitator of the McLaughlin group, on Channel 4 television in Washington, predicted that this decade of the eighties would be known as the decade of terrorism. He predicted that by 1986 terrorists would explode a nuclear device. McLaughlin did not predict the nuclear device would be exploded in the Capitol. But that could be the logical culmination of this series of bombings which one observer speculated could simply be practiced.

Thinking about all this, this Senator speculated a little further that the big

one could be a nuclear explosion by a terrorist group, and if they have just one ingredient it would be easy. All the police protection and metal detectors and bulletproof glass and flak vests would be pitifully inadequate. The police and troops could keep everyone except Senators, staff, and press from coming within a half-mile of the Capitol. They could thoroughly and competently search every vehicle in the parking lot. It would all be to no avail.

Consider the grim scenario: A truck, looking like thousands of other trucks could angle up New Jersey Avenue and park a half-mile or so from the Capitol. It could park there on a night when the President, Vice President, the Cabinet, the Supreme Court, and the diplomatic corps join Members of the House and Senate to hear the President speak. Halfway through his speech the contents of the truck are detonnated. Result: the Capitol of our Government and its entire leadership disappears in a huge concussion, intense heat and a cloud of vapor. Capital Hill becomes a hole in the ground. The top policymakers of our Government disappear totally. Could this happen? Of course, it could happen if you add one simple ingredient. What ingredient? A single thermonuclear weapon in the hands of a terrorist group. Is there any chance that a terrorist group could somehow acquire a nuclear device?

Mr. President, there is not only a chance that this could happen. The odds are very strong that unless we act and act promptly this will happen in the next few years as John McLaughlin predicts. How do we act? We get really serious about nonproliferation, and for this we need no additional cooperation from the U.S.S.R. We can and should criticize the Soviets for their nuclear buildup. But on one score they have followed the right nuclear policy. They do not sell nuclear knowhow or materials or equipment to other countries and for good reason. Can you imagine what a nuclear armed Hungary might have done when Russian tanks rolled into Budapest?

This Senator will never forget that a few years ago John Phillips, an undergraduate at Princeton University, working by himself designed a nuclear device. His professor reported his student's accomplishments to the New York Times. Within a few days Phillips was called upon by personnel from the Pakistani Embassy among other. He called me for advice and protection. I asked the FBI and the CIA to check the situation out. They did so. Various sources confirmed that with a little plutonium, this 21-year-old student's project would be a nuclear bomb.

That was a few years ago and the knowledge has spread. What is worse, this country has been feeding both plutonium producing nuclear materials and nuclear equipment to India, South Africa, Argentina, and other countries in a grossly irresponsible action.

Mr. President, to date our real answer to the threat of nuclear annihilation has been to build up our deterrent. That makes sense as far as it goes. It certainly deters any calculated attack on this country by the other nuclear superpower. We are making some halting and erratic steps in the direction of a halfhearted, limited arms control. In the judgment of many of us we should do our best to negotiate a mutual, verifiable—I repeat mutual and verifiable—nuclear freeze. By itself this would do nothing to prevent a nuclear bombing by terrorists, but it would start a process that could help. By stopping all nuclear testing it would begin to get the onrushing nuclear technology under control.

But far and away the most important action we can take to prevent the 1986 McLaughlin prediction from coming true right here in the Capitol is to stop nuclear proliferation. Unless we do, some Shiite or Druze or Communist or Red Brigade terrorist is likely to get his hands on the thermonuclear weapon that will end the terms of all of us in the Senate and House simultaneously.

Nuclear deterrence and nuclear proliferation have been distant theoretical concepts for most of us. No one has been killed by a nuclear explosion ignited for that purpose for almost 40 years, that is, since 1945 in far-off Japan. The whole idea has seemed like a boogeyman story told to frighten or panic people. Well, Mr. President, now we are talking about our own survival. That is right, our own survival. And how do we survive? We slam down hard and fast on the dissemination of nuclear materials, equipment and knowhow.

Why can we not rely as we have for so long on deterrence? Mr. President, this Senator believes strongly in deterrence. I recognize that until we can successfully negotiate a verifiable nuclear freeze with the Soviet Union, we must continue to keep pace in the arms race. But the best deterrent in the world will serve no purpose in forestalling the explosion of nuclear weapons by terrorists. Deterrence is based on retaliation. We count on our awesome nuclear capability to deter a premeditated attack because with the power of our nuclear deterrent the other superpower knows such an act would simply result in mutual suicide. But what purpose does the deterrent serve in forestalling a terrorist attack?

Suppose, as I said the nuclear filled truck is detonnated a mile or so from the Capitol when all our Government leaders are assembled together. Our Capitol and all our leaders disappear forever together and simultaneously. How do we retaliate? Do we nuke the Soviet Union? Do we take out Cuba or Iran or arrest and execute all the extremists of the left and right? Of course not. We would be in the same dilemma we find ourselves in right now in Lebanon where more than 230 American marines and sailors were blasted to their death. Did we retaliate in Lebanon? No. Why not? For the obvious reason that when a terrorist group attacks we do not know where it comes from or who did it? Did we arrest and bring charges against those who bombed the Capitol a couple of weeks ago? Again, no. And why not? Because we do not know who or what group did it. So of what value would deterrence be in stopping a terrorist nuking of our Government here in Washington? Anwer: None.

So what is the answer?

First. Stop nuclear proliferation;

Second. Stop the practice of the Congress, the President and Vice President, the Supreme Court, and the Cabinet meeting together in the same place at the same time from now on, on any occasion; and

Third. Keep the President and Vice President both safeguarded and separated as much as possible. Since there is no protection against a nuclear explosion by a terrorist group within several miles of the site of the explosion, a physical separation would at least help reduce the temptation for a terrorist group to try to take out our two Government leaders in a single act.

THE CULTURAL GENOCIDE OF SOVIET JEWS

Mr. PROXMIRE. Mr. President, the plight of the Soviet Jews is, indeed, tragic. Soviet Jews wish only to freely practice their religion and culture, yet this freedom has been denied them by the Soviet Government. Synagogues are forbidden and the teaching of Hebrew is outlawed. In fact, Moscow, the largest city in all of the Soviet Union and the home to tens of thousands of Jews, contains but one synagogue. Jews attending services do so at great risk of reprisal by Soviet authorities. Like other victims of religious persecution, Soviet Jews must take their religious practices and cultural activities underground. They are forced to hold secret meetings in makeshift synagogues. All of these activities are done at great risk. Many Jews are forced to abandon their heritage to prevent further persecution of themselves and their loved ones.

Other Soviet Jews choose simply to leave. Unfortunately, those Jews who wish to emigrate for religious freedom find a locked door at the exit. They cannot pick up their families and settle elsewhere in the world. They

have no freedom of movement. Soviet officials will simply not allow Jews to leave. In fact, Jews who merely apply for exit visas are systematically discriminated against: They are harassed, they lose their jobs, their children are expelled from schools and universities. Essentially, their lives are made miserable. They live with both hope and fear—hopeful that they may someday leave, and fearful that they may someday face greater persecution and hardship. These are the "refusniks"—imprisoned in a country that denies them the right to practice their religion and culture.

Examples of the injustices toward the Jewish citizenry of the Soviet Union are abundant and well documented. Dr. Joseph Begun, a Soviet Jew from Moscow, could face up to 12 years in a Siberian forced labor camp for "anti-Soviet agitation and propganda"; Begun's crime; teaching Hebrew. Dr. Alexander Paritsky, the founder of a Jewish Free University in Kharkov, is already being subjected to brutal treatment in a slave labor camp. Anatoly Shcharansky, a Soviet Jewish scientist and a leading advocate of emigration rights, has been exiled to a notorious prison camp in Siberia; even now, his health is significantly deteriorating.

The Soviets seem unwilling to change their policy on Soviet Jews. Instead, they continue to lie and deceive the world about their "Jewish policy." The Soviet Government makes the incredible assertion that the "vast majority" of Jews who wish to leave the Soviet Union have already received permission to depart. In fact, the Union of Councils for Soviet Jews reports that of the 750,000 Jews who have applied for exit visas to Israel, only 260,000 have actually emigrated. The tiny stream of emigration in the 1970's has been reduced to a mere trickle in the 1980's—from a peak of 51,000 Jewish emigrees in 1979 to barely over 1,100 so far in 1983. The refusniks remain in the Soviet Union, culturally subdued and religiously repressed.

Mr. President, the suppression of Jewish life in the Soviet Union constitutes a near cultural genocide. It is a blatant denial of rights that we hold sacred: the freedom of religion and heritage. While the Genocide Convention cannot directly help the Soviet Jews, it is an important part of our overall human rights policy. As such, it can strengthen our hand in the fight to save Soviet Jewish culture and its 2 million adherents. Therefore, this is another good reason why I urge ratification of the Genocide Treaty.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that I may retrieve my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. May I ask the Chair, how much time do I have?

The PRESIDING OFFICER. The minority leader has 8 minutes remaining.

Mr. BYRD. I thank the Chair.

HAPPY BIRTHDAY, SENATOR BAKER

Mr. BYRD. Mr. President, today is an outstanding day in the life of a truly fine and capable U.S. Senator. The majority leader of the Senate today experiences one of those days that he and I—I should only speak for myself—increasingly desire not to see come around. There was a time when I just could not wait for another birthday. When I was 15, or 16, or 17, I wanted the years to progress and I could get on with getting married to my high school classmate and maybe get a job. Jobs were hard to find in those days. I finally located one in a gas station. But, anymore, I hate to see those birthdays come around.

I take occasion today to express good wishes to the majority leader of the Senate. He is a man who neither looks up to the rich nor down on the poor. He is thoughtful as he approaches legislation and other matters. He is thoughtful of widows and orphans and the poor. He is too brave to cheat. He is too courageous to lie. He is too industrious to shirk. And he assumes his responsibilities here with the utmost purposefulness and diligence and dedication.

I have never seen a Senator who is more amiable and congenial and friendly than this Senator of whom I speak. He is truly a gentleman. My admiration for HOWARD BAKER has greatly increased since he became majority leader.

He was a tough competitor as minority leader. Sometimes, I think, he needed not to assert himself as much as he did. I thought at times that he was a little slow in relaxing the 3-day rule. But he saw those things as his duty, and I do not blame him for that.

I have to say that he is the most congenial and likable of all the majority leaders in my time here. He is accommodating. I marvel at his equanimity. He takes everything in stride. He does not appear to be overwhelmed by the power of his office, and we all, on both sides of the aisle, like HOWARD BAKER and have a genuine fondness for him.

I think of a bit of verse, or even two verses, that I should like to recite. I am not the author of either verse, and I may forget the lines.

I know my colleagues will join me in saying with reference to HOWARD BAKER, who is going to leave the Senate after another year, that we are going to miss him. That is saying a lot, because people are not missed around here very long. I have served with great Senators, and they are soon forgotten, very soon forgotten. I guess that is just in the nature of life in the latter part of the 20th century.

There were times in which life was more simple. We will always remember Webster and Calhoun and Clay and others more than we remember even some of the Presidents, or maybe most of the Presidents.

HOWARD BAKER will leave an impression etched upon my memory and heart that will continue to be a pleasant one. Whatever he does in later life, I wish him well and good health, and I wish his nice wife the same. She is the daughter of another great Senator who was the minority leader for a number of years.

We do not address each other in the first person in the Senate, but I am going to breach the rules a little when I recite this little poem.

Howard, count your garden by the flowers,
Never by the leaves that fall.
Count your days by the sunny hours,
And not remembering clouds at all.
Count your nights by stars, not shadows.
Count your life by smiles, not tears.
On this rainy but beautiful November morning,
Count your age by friends, not years.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. BAKER. Mr. President, I admire the minority leader for many things. One of them is that he taught me just about everything I know about this job. I have often said, and repeat now, that I was fortunate in the extreme to be able to sit here, to listen and to learn, as minority leader, while he served so ably as majority leader, and to be next to and involved with perhaps the most accomplished parliamentarian and historian of the Senate that we have ever known in the history of the Senate. But mostly, Mr. President, I admire him because he is a man who expresses sentiments freely, who is always straightforward, and who is a pleasure to work with.

It has been one of the rare experiences of my life to have the opportunity to serve with ROBERT BYRD of West Virginia. The relationship we have—and I suppose almost every majority leader and minority leader may have had it to some degree or other—is not known or shared fully by the outside world or even by those who serve in this Chamber, because we share our frustrations, and our ambitions. We recognize the necessity to be combatants and adversaries, but not to be enemies. I owe him a great debt of gratitude for that experience and that opportunity.

However, Mr. President, I have never been more grateful to the minority leader, my friend from West Virginia, than I am today for his

poetic remarks; nor have I ever been more jealous of his several talents and the ability to summon a poem for every occasion. I cannot say that.

I was impressed the other day when I took my wife to Georgetown Hospital for some routine testing. In the laboratory was a sign that said: "Please do not forget your name or your social security number."

That is about the way I am. I not only cannot remember poems; sometimes I cannot remember my name, almost. But the Senator from West Virginia, the minority leader, has an absolutely inexhaustible memory for totally appropriate and moving poems and tributes and language.

Birthdays: It is better to have them than not. At the age of 58, there are several things that do occur to me about birthdays. I find that on occasion I wake up in the morning grumpy. I find that instead of looking forward to a birthday dinner of ice cream and cake, my wife insists that I remember my diet.

Mr. President, I remember that 58 is followed inexorably by 59 and 60 and, God willing, for years beyond that. But those things all have their compensations, too.

I returned this past Sunday from Tennessee, from a christening of my second grandson, Matthew. I think of the advantages that come with age, as well, and grandchildren are among them.

The minority leader once said to me—and I never really understood it before the last couple of years—that it may be that grandparents have a special type of love for their grandchildren which they never experience in any other form, as parents or in any other personal relationship, and that is true.

But there is another special relationship, and that is the one that endures in this body, because we are all family, with 100 Members, plus our officers and loyal clerks and employees; and that relationship is one that I will always treasure.

The capstone of those relationships is the one that exists between the minority leader and me, and I express my deep gratitude to him.

Mr. President, while I am at it, I was at the White House this morning at the regular weekly leadership meeting and was not present during dugout chatter. Dugout chatter, of course, is that time just before the Senate convenes when the press accredited to the Senate press gallery have an opportunity to question the minority leader and myself. I missed that today. I regret that because I usually enjoy that—I do not always enjoy that—but I usually enjoy that. And I would have liked to have been here this morning because they left behind them two birthday cards written over with what looks like maybe 100 names of reporters accredited to the Senate press gallery.

It is not appropriate and it is a violation of the rules to refer to anyone in the gallery, and I will not do that, but I wish to express my appreciation to every person who is accredited to the Senate press gallery who signed that card, and I am deeply grateful.

I may wave those cards in front of the press as the Pope would dispense holy water, if they get too ruckus some-day, and remind them of their kindly sentiment.

But I am moved, I am moved by their generosity and, Mr. President, I am certainly moved by the undeserved tributes extended to me by the minority leader this morning.

Mr. BYRD. I thank the majority leader.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe there is not a time for the transaction of routine morning business yet ordered, is there?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Is there a time for the Senate to recess on Tuesday from 12 noon until 2 p.m.?

The PRESIDING OFFICER. The Senator is correct. That has been ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time between now and 12 o'clock noon be devoted to the transaction of routine morning business in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

THE CLARK NOMINATION

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I yield.

Mr. BUMPERS. Mr. President, I wish, during morning business, for which the majority leader has just gotten unanimous consent, to speak for a couple minutes on an unrelated item.

But I did want to ask the majority leader if he could give us some idea of when he hopes to bring the Clark nomination to the floor.

Mr. BAKER. Yes.

Mr. President, I had hoped to bring it to the floor today, and I have had some conversations with the minority leader and with the Senator from Arkansas about the conditions under which we might do that.

But I am told that apparently there is an objection to proceeding prior to the ripening of the 3-day rule on that measure, which does not come up until tomorrow.

Mr. BUMPERS. When will that mature? When will the 3-day rule expire?

Mr. BAKER. I believe tomorrow at 12:50 p.m.

Mr. BUMPERS. I assure the majority leader I will not object.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Could I inquire of the Chair if the Journal clerk has a notation on that?

The PRESIDING OFFICER. The 3-day rule will mature at 12:50 p.m. tomorrow.

Mr. BAKER. I thank the Chair.

Mr. BUMPERS. Mr. President, I have assured the majority leader and will again that I am certainly not going to be obstreperous about that nomination, and it is perfectly agreeable with me for it to go forward. I cannot speak for some of my colleagues.

But I wish to be consulted on a time agreement if and when the majority leader seeks one, simply because there are so many Senators who will oppose the nomination and wish to be heard. But certainly it will not be my intention to unduly delay that nomination.

Mr. BAKER. I thank the Senator and I assure him that I will consult with the majority leader and with the Senator from Arkansas to make sure that the matter is addressed directly.

I wish to get to the nomination today if we can, and I will renew my effort to do that because on Monday I announced we would do that today, but if we cannot we have to wait until tomorrow.

Mr. BUMPERS. I remind the majority leader that the transcript of hearings was only received in our office yesterday, and the hearings are very important, of course, in developing the debate. My staff tells me that, for example, they need a little additional time, and I am sure anyone else who intends not to support that nomination might feel likewise.

There again, as I say, I do not want to be obstreperous about it, but I do not want to deprive myself of the opportunity of reviewing that record either.

Mr. BAKER. I understand, and I appreciate the remarks of the Senator from Arkansas and I assure him we will consult with him before we go forward.

Mr. BUMPERS. Mr. President, if the majority leader has concluded, will he yield?

Mr. BAKER. Mr. President, I yield the floor.

COMPETITIVE OIL AND GAS LEASING

Mr. BUMPERS. Mr. President, I wish to make a couple of comments regarding an item that has been much on my mind for the past 5 years. I have learned to be very patient around here, and I do not enjoy it, but I have learned that it is an essential quality of being an effective Senator.

There are two things one must learn, and that is nothing ever happens overnight around here, and the other thing is that no matter how far down the road you may be with some bill or amendment that you have been carefully nurturing over the years, it can always come unraveled until the President has actually put his signature on it.

But this matter of competitive leasing is, of course, one of the reasons that I will oppose the nomination of Judge Clark, who I might say I found to be a very engaging man and a man who I think personally I would like. Certainly he is not confrontational in the mold of James Watt. It is my intention to oppose his nomination, and I hope I have the opportunity in the next 12 months to apologize to him for this opposition. But, nevertheless, one of the reasons, among others, that I will oppose the nomination is that I could not get Judge Clark on the record as saying that he would use his office to abolish either the so-called first-come first-served system for leasing Federal lands, or the second method of leasing lands, namely the lottery system.

I consider the noncompetitive leasing system one of the remaining outrages in which Congress continues to indulge, not because it agrees with the system but simply because it has never taken the time to study it and to understand just how egregious the situation is.

In any event, a third thing I have learned around here is that discretion is the better part of valor. I concluded that it would be well not to offer my bill to abolish the present simultaneous and noncompetitive oil and gas leasing program. I have decided not to offer that in these waning days of this session but rather to wait until we come back into session in January and as soon thereafter as an appropriate vehicle is presented to the Senate to offer my bill as an amendment.

I do that for two reasons. No. 1 is to serve notice on everyone that it is coming; No. 2, to hope that a few Senators between now and then will direct their staffs to read the very lengthy colleague letter that we meticulously prepared on this issue and sent them a couple or 3 weeks ago.

Mr. President, we have been talking a lot about reconciliation and whether or not Congress is going to pass a reconciliation bill before we go out. The press is absolutely replete with stories about the efforts of the distinguished Senator from Kansas (Mr. DOLE) and the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, who are attempting to come up with a package of spending cuts and tax increases to reduce the deficits over the next several years.

It now seems that there is not going to be any accommodation between Congress and the White House because Senator DOLE and Chairman ROSTENKOWSKI both believe that you cannot make a serious impact on the deficit without new tax increases. The President says that is absolutely off limits, prohibited, verboten, and that he will veto any bill presented to him that raises taxes unless as a condition he has been presented with a bill conforming to his idea of spending cuts that should be adopted by Congress.

So we have a standoff and apparently nothing is going to happen. I simply say that the competitive oil and gas leasing bill, which has been filed here now by me for a long time, would produce $1.3 billion in additional gross revenues to the U.S. Treasury over the next 5 years according to the Congressional Budget Office. And if you reduce that amount by the amount that we would otherwise get under the present system the Federal Government would still benefit over the 5-year period to the tune of $700 million under my proposal.

But that is not all the story. There is more to it. Under the present lottery system, when people pay $75 to have their name put into the little squirrel cage in the hope that they will be a lucky winner of an oil and gas lease on Federal lands, the States do not share in the money derived from the lottery filing fees. We are working diligently now to try to find out how many names were in the lottery for the so-called Amos Draw leases near Casper, Wyo., that were awarded in August. I am particularly interested in how many people paid $75 to get their names put in that lottery because the winner of one of the 18 tracts immediately sold his for $7.6 million. Another one brought over $5 million. That is money that would have gone to the Federal Government if we had a competitive system. Much more probably would have been generated if it had been put up for competition.

But the point people should understand is that their money goes into the pockets of the leasing companies, these service corporations who take, say, $2,000 from you. They take $75 of it to type your name and put it on a card and send it in to BLM to get your name in the squirrel cage, and they keep the other $1,925.

But the winner of that particular lease, who has paid the Government the sum of $75 for it, turned around and got $7.6 million for it. Now, the question is: When these leases are bringing these big sums, how can you defend it? How can you defend such a system? The oil companies are paying for the leases, but they are simply paying the people who win the lotteries instead of the U.S. Treasury.

It just absolutely boggles my mind that the noncompetitive system has been going on since 1920. It never really amounted to much and nobody cared until oil and gas became such precious commodities in this country. But the ordinary laymen in this country simply cannot understand, nor could any Member of this body explain to them, why the U.S. Government continues to foster a racket. There is a very serious question as to whether or not the lottery is in violation of Federal laws against gambling.

Now I can tell my colleagues one thing. This battle to eliminate competitive leasing is going to be just like fighting with my wife—all of my wins just "ain't over." And I can tell you that I do not care how many times I have to present my bill to eliminate this racket, I am going to do it.

But I will say this: in deference to my colleagues, I have absolutely no doubt that if my 99 colleagues were seated on this floor for 2 hours for a genuine, legitimate, sensible debate on this issue, they would vote overwhelmingly to eliminate this thing.

At a time when the States and the counties are so hardpressed for funds to finance the programs that the Federal Government has eliminated, we are depriving them of huge sums of money with this system. Witnesseth this example: In the Amos Draw region in Wyoming, 18 leases were sold by lottery. Twelve of those leases have already been resold for somewhere between $50 million and $100 million.

My guess is that those 12 leases were probably worth between $100 and $200 million if they had been put up for competitive bids.

But let us just take one of those 12 leases, the one that brought $7.6 million. Let us assume that for that particular lease 100 people had placed their name in the lottery—100 people times $75 means that that lease produced $7,500 to the U.S. Government. And the State of Wyoming, because our law says that one-half of all bonus bids but none of the filing fees, must go to the States, gets none of even the $7,500. I think that particular lease covered about 2,000 acres, so whoever won the lottery had to pay $1 an acre or $2,000 to get the lease. And the State of Wyoming, assuming it was a 2,000-acre tract, got half that money, or $1,000.

If it had been put up for competitive bids, certainly it would have brought a minimum of $7.6 million, because somebody was willing to pay that for it from the lottery winner. Assuming that it had been put up for competi-

tive bids and it only brought $7.6 million, the State of Wyoming would have gotten $3.8 million and the Federal Government would have gotten $3.8 million. Instead, the State of Wyoming got $1,000, the Federal Government got $1,000, and some lucky winner from Fort Lauderdale, Fla., or somewhere else got $7.6 million.

Now, you cannot believe that, but I am just telling you exactly the way it is. If NBC is right in its estimate—and NBC interviewed these people who won those lotteries—if NBC is right the winners of those lotteries sold those leases for between $50 million and $100 million. Incidentally, I am only talking about 12 leases of the 18 leases offered in the lottery. There are still six that have not been reassigned. But taking the top side of it, just 12 of the 18 leases brought $100 million. That means the U.S. Government probably got about somewhere between $12,000 and $40,000 and the State of Wyoming got somewhere between $12,000 and $40,000, and the lucky 12 people whose names happened to have been pulled out of the pot got $100 million. And we talk about fiscal responsibility and balancing the budget.

If those leases had been put up on a competitive bid basis, the State of Wyoming would have gotten at least $50 million and the U.S. Government would have gotten $50 million.

Down in Fort Chaffee, Ark., where Texas Oil & Gas got a lease for 33,000 acres for $33,000, present estimates are that that lease is worth $100 million.

I could go on and on. But I will say this: Not one of the 50 States in this Union give away their resources under any such outrageous scam as this. Do you know why? Because that would be exposed in every newspaper in the State. The State of Wyoming which was the last State in the Nation to use a lottery system, abolished that system just this past July. So far as I know it was only one of three or four States that ever had such a system, but Wyoming abandoned the lottery system in July of this year.

I say to the Senator from Nebraska (Mr. EXON) that because he was not here the other day I will repeat the story just for his benefit. Arkansas is blessed with a lot of forest land. And one of our forests is the Ouachita National Forest. Last year, the Bureau of Land Management leased a couple of thousand acres down in the Ouachita National Forest. The subsurface rights of 80 acres inside that 2,000 acres belonged to the State of Arkansas. And because the laws of the State of Arkansas require competitive bids on any State resources, Arkansas got $103 an acre for its 80 acres. The Bureau of Land Management got only $1 an acre because that is all the Federal Government can get under the law.

Mr. President, I will wrap this up. I am going to wait until next year to offer my bill to abolish the noncompetitive leasing system, and by then I hope to have a strong endorsement from the National Governors Conference, a strong endorsement from the attorneys general of the United States—two of which, incidentally, have already shut down leasing operations in their States in Maine and Florida—and, finally, I hope to have a strong endorsement of my bill from the National Association of Counties.

That is going to leave the U.S. Congress all alone by itself if it does not do something about this system. You cannot patch it up. Happily, Robert Burford, who is head of BLM, has a moratorium in effect right now so that we cannot lease any more land under this system.

This is absolutely a scandal. But ever since I got onto this in 1979 because of a lease in my own State, to have seen just one scandal after another, an effort to patch up the system here and there. It is like a sieve, and as long as you try to patch it up it is going to break out somewhere else. I want to put my colleagues on notice that this is coming. I hope they will enlighten themselves, if they are not prepared to listen to the debate when it does come, and that finally the Congress, after 5 years, will do the responsible thing: try to reduce the budget deficit. CBO estimates that my proposal to require competitive leasing will mean $700 million more to the Treasury. If that were $700 million out of somebody's pocket, it would be different. But it is not. The $700 million now just happens to be going into the pockets of somebody playing that bingo game.

Mr. President, I am prepared to yield the floor. I will be happy to yield to my distinguished colleague from Nebraska.

Mr. EXON. I thank my friend from Arkansas.

I have heard the distinguished and capable Senator from Arkansas speak on this subject previously. I congratulate him for his fortitude in moving ahead with this legislation. When he gets it in order, I suspect that this Senator from Nebraska will be not only willing but anxious to be a cosponsor.

I salute my friend from Arkansas for once again advising the Senate of this matter. I agree with him, that the time is long past that we should move on this. I wish we could move more quickly than the program he has outlined. Nevertheless, I think it is entirely proper. I thank my friend from Arkansas once again for bringing this to the attention of the U.S. Senate and hopefully to the people of the United States.

Mr. BUMPERS. I appreciate the comments of the Senator.

Let me say one other thing. One of the things that precipitated my comments was that during Judge Clark's confirmation hearings I got into this issue with him. You know, I have always felt that Members of Congress have a high responsibility to the public. It is a public trust. You ought not to sit on the Appropriations Committee or in the U.S. Senate and vote to appropriate money unless you feel that that is the highest and best use for that money.

You ought not to spend money unless you spend it as if it were your own.

So it is with leasing Federal energy resources. I asked Judge Clark, part of whose ranch is leased to the Phillips Petroleum Co., how much he got for it. I believe he said he collected $10 an acre a year. He said the land is 30 to 40 miles from the nearest producing oil or gas well. Yet, it is quite obvious that that land would bring only $1 an acre if it were put up for lease by the United States.

We know one thing, that if it were leased at all under existing law, the maximum it could bring would be $1 an acre. Under the law, if land belonging to the Federal Government is over what is called a known geological structure, it has to be put up for competitive bid. But the USGS, whom we depend upon to tell us what a known geological structure is, tells us they do not know what a known geological structure is. Consequently, only 2.3 percent of the Government lands are leased competitively. 187 million acres are on lease right now for $1 an acre.

I ask Judge Clark, if he would lease his land for $1 an acre. Of course, he would not. I will tell you who he leases it to—the person who offers him the highest price for it.

If you are going to be a good Senator, if you are going to be a good Member of Congress, you have to treat the public domain as you would if it were your own. There is not a Member of the U.S. Senate willing to stand here and say that if he had oil and gas land, or if he had any land, he would arbitrarily let it out for $1 an acre. You cannot say that you honor the public trust and then abuse the public trust by treating Federal lands differently than you would if they were your very own.

Mr. EXON. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to.

Mr. EXON. Since we will be voting supposedly in the next day or so on the confirmation of Judge Clark who has been nominated by the President to be Secretary of Interior, this Senator is curious as to what Judge Clark said to what must have been followup questions with regard to the subject the Senator is addressing. Specifically, what was Judge Clark's attitude re-

garding the outrageous procedures that we have followed in the past and what were his suggestions during the confirmation process of what he would do to correct it?

Mr. BUMPERS. That is a very good question. Let me say that I have announced it is not my intention to support Judge Clark's confirmation. The reasons are very simple and they have nothing to do with him or his personality.

As a member of the committee that will be dealing with the Department of Interior most frequently, I have the feeling that Judge Clark will be accessible, which is a very good quality. I think he will be a good listener. But I must say during 2 days of confirmation hearings—and I stayed there for the entire 2 days, I suppose I asked more questions than anybody—Judge Clark was not willing to commit to changing one single policy of James Watt's. I found that very troubling because I personally think that James Watt is the worst travesty ever to be imposed on the American people.

Judge Clark may change some of those policies, and may be more sensitive to the environment and the long-range use of the natural resources which belong to all people of this country. I think he may be, but from the confirmation hearings you would not be assured of that. He said in answer to the question regarding the simultaneous leasing program that he would review it. When it came to the Outer Continental Shelf drilling, when it came to the oil and gas leasing program, when it came to the moratorium on coal leasing, when it came to drilling in the wilderness, when it came to all of those things, all Judge Clark would say is he would review them. I am sure he will.

But then you look at what Ed Meese said on the MacNeil-Lehrer show the day after Judge Clark was nominated for the job Ed Meese said nothing is going to change at Interior. "We are simply changing players. The policies will remain the same."

Judge Clark did not have any response to that statement, either. I asked him about that specifically.

"Is Ed Meese speaking for you? Is that the President's belief?"

I invite you to look at the transcript of hearings. That troubled me. President Reagan, until this very day, has never lifted his voice in opposition to any of the outrageous policies and the even more outrageous public conduct of James Watt, and so when the President's No. 1 man says that nothing is going to change, that is really troubling to me.

Before the Senator from Nebraska arrived, I said this morning that I hope my conscience will demand that a year from now I go apologize to Judge Clark. I will happily do that, if I am wrong.

Mr. EXON. Will the Senator yield for another question?

Mr. BUMPERS. I am happy to yield. I was about to speak for 5 minutes but my 5-minute speech usually takes 30 minutes.

Mr. EXON. Well, whatever the Senator says, he always says very well. I congratulate him again.

The problem the Senator outlined did not come about overnight. Could the Senator explain to me, since he is on the committee of jurisdiction, what action was taken by the previous administration in this regard when the Department was headed by a friend of mine and a friend of the Senator? What action was taken in this area by the previous administration, if any?

Mr. BUMPERS. The Fort Chaffee lease is the thing that brought this whole thing to my attention. You know, military reservations had never been leased in this country until we amended the law in 1976. Fort Chaffee, Ark., 2 miles from my home, covers 74,000 acres. All of a sudden, somebody called me and told me Texas Oil and Gas walked in, and because the base had never been leased before, walked out with the leases for $33,000, or $1 per acre. Fort Chaffee was surrounded on four sides by hundreds of producing wells. The only reason Chaffee was not in production is that the law prohibited it from ever having been leased. I pointed out earlier that it is now estimated that that land, if it were put up for competitive bid today, would be worth roughly $5,000 an acre.

The PRESIDING OFFICER. The time of the Senator has expired.

APPOINTMENT OF SENATOR DECONCINI AS CONFEREE TO THE CONFERENCE ON H.R. 3959

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. DECONCINI) be appointed as a conferee to the conference on H.R. 3959, the supplemental appropriations bill for fiscal year 1984, in lieu of Senator INOUYE. It has been worked out with the minority side and the majority side.

Mr. BUMPERS. Mr. President, that has been cleared on our side of the aisle.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from Arkansas.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, appoints the following Senators as members of the Special Joint Committee on Arrangements for the Commemoration of Harry S. Truman's 100th Birthday: The Senator from Missouri (Mr. DANFORTH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Dakota (Mr. BURDICK), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Missouri (Mr. EAGLETON).

THE CALENDAR

Mr. BAKER. Mr. President, I apologize to the Senator from Arkansas. I would ordinarily extend the time for the transaction of routine morning business, but we have a recess beginning at 12 noon, and there are a few matters of routine business that require our attention.

Could I ask the minority leader if House Concurrent Resolution 214 has been cleared on his side?

Mr. BYRD. Yes, Mr. President, House Concurrent Resolution 214 has been cleared on this side.

May I invite the attention of the majority leader to the following items which have also been cleared for action on this side: S. 2039, to indefinitely postpone; Senate Resolution 276, to be passed; House Joint Resolution 93, to be placed on the calendar; Senate Resolution 192, to pass; S. 1001, with two amendments, to amend H.R. 2293, and to indefinitely postpone S. 1001.

Mr. BAKER. Mr. President, I thank the minority leader.

COMMEMORATION OF THE 20TH ANNIVERSARY OF THE DEATH OF JOHN F. KENNEDY

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate turn to the consideration of House Concurrent Resolution 214, authorizing the rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the 20th anniversary of the death of John F. Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (H. Con. Res. 214) authorizing the rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the 20th anniversary of the death of John F. Kennedy.

There being no objection, the concurrent resolution (H. Con. Res. 214) was considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 2039 INDEFINITELY POSTPONED

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar Order No. 520, S. 2039, the Senate version of the DOD appropriations bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF TESTIMONY AND PRODUCTION OF DOCUMENTS

Mr. BAKER. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 276) to authorize testimony of Katherine Y. Cudlipp and B. Reid Detchon and the production of documents in the case of the United States of America against Rita M. Lavelle.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, the case of United States of America against Rita M. Lavelle is pending in the U.S. District Court for the District of Columbia and is set for trial later this month. Counts 3 and 5 of the indictment against Ms. Lavelle charge her with perjury before the Senate Committee on Environment and Public Works. The Department of Justice has requested the production of certain documents and the testimony of two Senate staff members, Katherine Y. Cudlipp, counsel to the Committee on Environment and Public Works, and B. Reid Detchon, staff director of the Subcommittee on Information Management and Regulatory Affairs of the Committee on Governmental Affairs, in connection with the trial. This resolution would authorize Ms. Cudlipp and Mr. Detchon to provide the requested documents and testimony.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 276) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 276

Whereas, the case of *United States of America* v. *Rita M. Lavelle*, Criminal No. 83-184, is pending in the United States District Court for the District of Columbia;

Whereas, the Department of Justice has requested the production of certain documents and the testimony of Katherine Y. Cudlipp, an employee of the Senate Committee on Environment and Public Works, and B. Reid Detchon, an employee of the Subcommittee on Information Management and Regulatory Affairs of the Senate Committee on Governmental Affairs, at the trial of the case;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony, documents, papers, and records under the control of or in the possession of the Senate are needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Katherine Y. Cudlipp and B. Reid Detchon are authorized to appear and testify and to produce documents in the case of *United States of America* v. *Rita M. Lavelle*, except concerning matters for which a privilege from disclosure should be asserted.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE JOINT RESOLUTION 93 PLACED ON CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of House Joint Resolution 93, a joint resolution to provide for the awarding of a special gold medal to Danny Thomas in recognition of his humanitarian efforts and outstanding work as an American, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 388, Senate Resolution 192, the budget waiver to accompany S. 1001.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 192) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1001.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the budget resolution waiver.

The resolution (S. Res. 192) was agreed to as follows:

S. RES. 192

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1001. Such Waiver is necessary because S. 1001 authorizes the enactment of new budget authority which would first become available in fiscal year 1984, and such bill was not reported on or before the appropriate date required under section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority for the Office of Federal Procurement Policy.

S. 1001 provides an authorization for fiscal year 1984 of $5,000,000.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1983

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 331, S. 1001.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1001) to authorize appropriations for the Office of Federal Procurement Policy for an additional 5 fiscal years.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause and insert:

S. 1001

That this Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1983".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act a reference is expressed in terms of a section or other provision, the reference shall be considered to be made to a section or other provision, respectively, of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.)

DECLARATION OF POLICY

SEC. 3. Section 2 (41 U.S.C. 401) is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. It is the policy of the Congress to promote economy, efficiency and effectiveness in the procurement of property and services by the executive branch of the Federal Government by—

"(1) promoting effective competition;

"(2) establishing policies, procedures, and practices which will provide the Government with property and services of the requisite quality, within the time needed, at the lowest reasonable cost;

"(3) promoting the development of simplified uniform procurement processes;

"(4) promoting the participation of small business concerns;

"(5) supporting the continuing development of a competent, professional work force;

"(6) eliminating fraud and waste in the procurement process;

"(7) eliminating redundant administrative requirements placed on contractor and Federal procurement officials;

"(8) promoting fair dealings and equitable relationships with the private sector;

"(9) ensuring that payment is made in a timely manner and only for value received;

"(10) requiring, to the extent practicable, the use of commercial products to meet the Government's needs;

"(11) requiring that personal services are obtained in accordance with applicable personnel procedures and not by contract; and

"(12) ensuring the development of procurement policies that will accommodate emergencies and wartime as well as peacetime requirements.".

DEFINITIONS

SEC. 4. Section 4 (41 U.S.C. 403) is amended to read as follows:

"DEFINITIONS

"SEC. 3. As used in this Act—

"(1) the term 'executive agency' means—

"(A) an executive department specified in section 101 of title 5, United States Code;

"(B) a military department specified in section 102 of such title;

"(C) an independent establishment as defined in section 104(1) of such title; and

"(D) a wholly owned Government corporation fully subject to the provisions of chapter 91 of title 31, United States Code;

"(2) the term 'procurement' includes all stages of the process of acquiring property or services, beginning with how the need for such property or services is described by an executive agency and ending with contract completion and closeout;

"(3) the term 'procurement system' means the integration of the procurement process, the professional development of procurement personnel, and the management structure for carrying out the procurement function;

"(4) the term 'single system of Government-wide procurement regulations' means (A) a single Government-wide procurement regulation to be issued jointly by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities, title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), chapter 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), and (B) agency acquisition regulations implementing and supplementing the Government-wide procurement regulation issued as provided in clause (A), which shall be limited to (i) regulations essential to implement Government-wide policies and procedures within the agency and (ii) additional policies and procedures required to satisfy the specific and unique needs of the agency; and

"(5) the term 'standards' means the criteria for determining the effectiveness of the procurement system by measuring the performance of the various elements of such system.".

AUTHORITY AND FUNCTIONS OF THE ADMINISTRATOR

SEC. 5. Section 6 (41 U.S.C. 405) is amended to read as follows:

"AUTHORITY AND FUNCTIONS OF THE ADMINISTRATOR

"SEC. 6 (a) The Administrator shall provide overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies. To the extent that the Administrator considers appropriate, and with due regard to applicable laws and the program activities of the executive agencies, the Administrator may prescribe Government-wide policies, regulations, procedures, and forms which shall be followed by executive agencies in the procurement of—

"(1) property other than real property in being;

"(2) services, including research and development; and

"(3) construction, alteration, repair, or maintenance of real property.

"(b) The authority of the Administrator under this Act shall not be construed to—

"(1) impair or interfere with the determination by executive agencies of their need for, or their use of, specific property, services, or construction, including particular specifications therefor; or

"(2) interfere with the determination by executive agencies of specific actions in the award or administration of procurement contracts.

"(c) The functions of the Administrator shall include—

"(1) providing leadership and resolving differences among the executive agencies in the establishment, development and maintenance of the single system of simplified Government-wide procurement regulations and in the development of simplified Government-wide procurement procedures and forms;

"(2) coordinating the development of Government-wide procurement system standards that shall be implemented by the executive agencies in their procurement systems;

"(3) providing leadership and coordination in the formulation of the executive branch position on legislation relating to procurement;

"(4) providing for a computer-based Federal Procurement Data System which shall be located in the General Services Administration (acting as executive agent for the administrator) and shall collect, develop, and disseminate procurement data;

"(5) providing for a Federal Acquisition Institute which shall be located in the General Services Administration (acting as executive agent for the administrator) and shall—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;

"(6) establishing criteria and procedures to ensure the effective and timely solicitation of the viewpoints of interested parties in the development of procurement policies, regulations, procedures, and forms.

"(7) developing standard contract forms and contract language in order to reduce the Government's cost of procuring property and services and the private sector's cost of doing business with the Government; and

"(8) completing action, as appropriate, on the recommendations of the Commission on Government Procurement.

"(d) In carrying out the functions set forth in subsection (c), the Administrator—

"(1) shall consult with the affected executive agencies, including the Small Business Administration;

"(2) may, with the concurrence of the heads of affected executive agencies, designate an executive agency or executive agencies to assist in the performance of such functions; and

"(3) may establish advisory committees or other interagency groups to assist in providing for the establishment, development, and maintenance of a single system of simplified Government-wide procurement regulations and to assist in the performance of any of the other functions which the Administrator considers appropriate.

"(e) The Administrator may, with the concurrence of the Director of the Office of Management and Budget, deny the promulgation of or rescind any final rule or regulation of any executive agency relating to procurement if the Administrator determines that such rule or regulation is inconsistent with the policies set forth in section 2 or any policies, regulations, or procedures issued pursuant to subsection (a).

"(f) Except as otherwise provided by law, no duties, functions, or responsibilities, other than those expressly assigned by this Act, shall be assigned, delegated, or transferred to the Administrator.

"(g) The authority of the Administrator under this Act shall apply only to procurements payable from appropriated funds.

"(h) Nothing in this Act shall be construed to—

"(1) impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and services or of real property; or

"(2) limit the current authorities and responsibilities of the Director of the Office of Management and Budget.

"(i)(1) With due regard to applicable laws and the program activities of the executive agencies administering Federal programs of grants or assistance, the Administrator may prescribe Government-wide policies, regulations, procedures, and forms which the Administrator considers appropriate and which shall be followed by such executive agencies in providing for the procurement, to the extent required under such programs, of property or services referred to in clauses (1), (2), and (3) of subsection (a) by recipients of Federal grants or assistance under such programs.

"(2) Nothing in paragraph (1) shall be construed to—

"(A) permit the Administrator to authorize procurement or supply support, either directly or indirectly, to recipients of Federal grants or assistance; or

"(B) authorize any action by such recipients contrary to State and local laws, in the case of programs to provide Federal grants or assistance to States and political subdivisions.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 11 (41 U.S.C. 410) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 11. There are authorized to be appropriated to carry out the provisions of this Act, and for no other purpose, $5,000,000 for the fiscal year ending September 30, 1984, and for each of the four succeeding fiscal years.".

EXPERIMENTAL PROGRAMS; ADDITIONAL PROCUREMENT RESPONSIBILITIES OF EXECUTIVE AGENCIES

SEC. 7. The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following new sections:

"TESTS OF INNOVATIVE PROCUREMENT METHODS AND PROCEDURES

"SEC. 15. (a) The Administrator may develop innovative procurement methods and procedures to be tested by selected executive agencies. The innovative procurement methods and procedures tested under this subsection shall be consistent with the policies set forth in section 2. In developing any

program to test innovative procurement methods and procedures under this subsection, the Administrator shall consult with the heads of executive agencies to—

"(1) ascertain the need for and specify the objectives of such program;

"(2) develop the guidelines and procedures for carrying out such program and the criteria to be used in measuring the success of such program;

"(3) evaluate the potential costs and benefits which may be derived from the innovative procurement methods and procedures tested under such program;

"(4) select the appropriate executive agencies or components of executive agencies to carry out such program;

"(5) specify the categories and types of products or services to be procured under such program; and

"(6) develop the methods to be used to analyze the results of such program.

A program to test innovative procurement methods and procedures may not be carried out unless approved by the heads of the executive agencies selected to carry out such program.

"(b) If the Administrator determines that it is necessary to waive the application of any provision of law in order to carry out a proposed program to test innovative procurement methods and procedures under subsection (a), the Administrator shall transmit notice of the proposed program to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and request that such committees take such action as may be necessary to provide that such provision of law does not apply with respect to the proposed program. The notification to Congress shall include a description of the proposed program (including the scope and purpose of the proposed program), the procedures to be followed in carrying out the proposed program, the provisions of law affected and any provision of law the application of which must be waived in order to carry out the proposed program, and the executive agencies involved in carrying out the proposed program.

"EXECUTIVE AGENCY RESPONSIBILITIES

"SEC. 16. (a) To further achieve effective, efficient, and economic administration of the Federal procurement system, the head of each executive agency shall, in accordance with all laws, Government-wide policies and regulations, and good business practices—

"(1) increase the use of effective competition in procurement by the executive agency;

"(2) establish clear lines of authority, accountability, and responsibility for procurement decisionmaking within the executive agency, including placing the procurement function at a sufficiently high level in the executive agency to provide—

"(A) direct access to the head of the major organizational element of the executive agency served; and

"(B) comparative equality with organizational counterparts;

"(3) designate a procurement executive who shall be responsible for management direction of the procurement system of the executive agency, including implementation of the unique procurement policies, regulations, and standards of the executive agency; and

"(4) develop and maintain a procurement career management program in the executive agency to assure an adequate professional work force.

"(b) The head of an executive agency designated by the Administrator to participate in an interagency group established under section 6(d)(3) shall, to the extent practicable, participate in such interagency group.

"STUDIES AND REPORTS

"SEC. 17. (a) The Administrator shall conduct studies and issue reports on—

"(1) the feasibility and advisability of promulgating Government-wide regulations applicable to suspensions and debarments of recipients of Federal financial assistance; and

"(2) the extent of competition in the award of subcontracts by Federal prime contractors including (A) an evaluation of the data available on subcontracts awarded in fiscal 1982 with respect to (i) the source selection method used in awarding such subcontracts, (ii) the type of subcontracts awarded, (iii) the dollar value of such subcontracts, (iv) the size of the subcontractors which were awarded the subcontract (by number of employees), and (v) the geographical location of such subcontractors, and (B) the report shall also include recommendations for improvements, if appropriate, in the extent of competition in the awarding of subcontracts and in the collection of data on such subcontract awards.

"(b) All reports required under subsection (a) of this section shall be completed by April 1, 1984, and shall be submitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives not later than April 15, 1984.".

MISCELLANEOUS AMENDMENTS

SEC. 8. (a) Section 8 (41 U.S.C. 407) is amended—

(1) in subsection (a)—

(A) by striking out "(1)" at the beginning of paragraph (1); and

(B) by striking out paragraphs (1), (3), and (4);

(2) in subsection (b)—

(A) by striking out the first sentence and inserting in lieu thereof "At least 30 days prior to the effective date of any major policy or regulation prescribed under section 6(a), the Administrator shall transmit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the proposed policy or regulation."; and

(B) by inserting "or regulation" after "policy" each place it appears in clauses (1), (2), and (3) in the second sentence of such subsection; and

(3) by striking out "any policy" in subsection (c) and inserting in lieu thereof "any major policy or regulation".

(b) Section 10 (41 U.S.C. 409) is amended to read as follows:

"SEC. 10. Procurement policies, regulations, procedures, or forms in effect on the date of enactment of the Office of Federal Procurement Policy Act Amendments of 1983 shall continue in effect, as modified from time to time, until repealed, amended, or superseded by policies, regulations, procedures, or forms promulgated by the Administrator.".

(c) Subsection (a) of section 12 (41 U.S.C. 411) is amended to read as follows:

"(a) The Administrator may delegate, and authorize successive redelegations of, any authority, function, or power of the Administrator under this Act (other than the authority to provide overall direction of Federal procurement policy and to prescribe policies and regulations to carry out such policy), to any other executive agency with the consent of the head of such executive agency or at the direction of the President.".

(d)(1) Sections 201(a)(1), 201(c), and 206(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(1), 481(c), 487(a)(4)) are each amended by inserting "and regulations" after "subject to policy directives".

(2) Section 602(c) of such Act (40 U.S.C. 474) is amended by inserting "except as otherwise provided by the Office of Federal Procurement Policy Act, and" after "any law inconsistent herewith,".

AMENDMENT NO. 2610

(Purpose: To make sundry amendments)

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the Senator from Maine (Mr. COHEN) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. COHEN, proposes an amendment numbered 2610.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page, 2, line 18, strike out "effective" and insert in lieu thereof "full and open".

On page, 3, line 19, strike out "and".

On page, 3, line 22, strike out the period, the end quotation marks, and the period after the end quotation marks, and insert in lieu thereof a semicolon and "and".

On page, 3, between lines 22 and 23, insert the following:

"(13) promoting, whenever feasible, the use of specifications which describe needs in terms of functions to be performed or the performance required.".

On page 4, lines 15 and 16, strike out "how the need for such property or services is described by an executive agency" and insert in lieu thereof "the process for determining a need for property or services".

On page, 4, line 25, strike out "to be issued" and insert in lieu thereof "issued and maintained."

On page, 6, beginning with "appropriate" on line 2, strike out all through "of—" on line 7 and insert the following: "appropriate in carrying out the policies and functions set forth in this Act, and with due regard for applicable laws and the program activities of the executive agencies, the Administrator may prescribe government-wide procurement policies which shall be implemented in the single system of government-wide procurement regulations and shall be followed by executive agencies in the procurement of—

"(1) property other than real property in being;

"(2) services, including research and development; and

"(3) construction, alteration, repair, or maintenance or real property.

"(b) In any instance in which the Administrator determines that the Department of

Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue government-wide regulations, procedures and forms in a timely manner, the Administrator may, with due regard for applicable laws and the program activities of the executive agencies and consistent with the policies and functions set forth in this Act, prescribe government-wide regulations, procedures and forms which shall be followed by executive agencies in the procurement of—".

On page 6, line 13, strike out "(b)" and insert in lieu thereof "(c)".

On page 6, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 6, beginning with "resolving" on line 23, strike all through "among" on line 24, and insert in lieu thereof "ensuring action by".

On page 7, line 2, insert "resolving differences among the executive agencies" "and".

On page 7, line 3, insert "regulations," after "procurement".

On page 8, line 14, strike out "(d)" and insert in lieu thereof "(e)".

On page 9, beginning with "(e)" on line 5, strike out all through "any" on line 7, and insert the following:

"(f) The Director of the Office of Management and Budget may deny the promulgation of or rescind any government-wide regulation or".

On page 9, line 12, strike out "(f)" and insert in lieu thereof "(g)".

On page 9, strike out lines 16 through 18.

On page 11, line 4, strike out "$5,000,000" and insert in lieu thereof "$4,500,000".

On page 11, line 5, strike out "four" and insert in lieu thereof "three".

On page 13, line 7, strike out "(a)".

On page 13, line 10, strike out "all" and insert in lieu thereof "applicable".

On page 13, line 24, strike out "designate a" and insert in lieu thereof "designate a senior".

On page 14, strike out lines 7 through 10.

On page 14, strike out line 13 and all that follows through "reports" on page 15, line 7, and insert in lieu thereof the following: "and issue a report on the extent of competition in the award of subcontracts by Federal prime contractors including an evaluation of the data available on subcontracts awarded in fiscal year 1982 with respect to (1) the source selection method used in awarding such subcontracts, (2) the type of subcontracts awarded, (3) the dollar value of such subcontracts, (4) the size of the subcontractors which were awarded the subcontract (by number of employees), and (5) the geographical location of such subcontractors. The report shall also include recommendations for improvements, if appropriate, in the extent of competition in the awarding of subcontracts and in the collection of data on such subcontract awards.

"(b) The report".

On page 15, strike out "major" on line 22.

On page 15, beginning with "Committee" on line 24, strike out all through "Senate" on page 16, line 2, and insert in lieu thereof "Congress".

On page 16, strike out "major" on line 9.

On page 17, after line 12, insert the following new section:

SMALL PURCHASES

SEC. 9. (a)(1) Section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(3)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(2) Sections 201(a)(1), 201(c), and 206(a)(4) of such Act (40 U.S.C. 481(a)(1), 481(c), 487(a)(4)) are each amended by striking out "subject to policy directives" and inserting in lieu thereof "subject to regulations".

(3) Section 602(c) of such Act (40 U.S.C. 474) is amended by inserting "except as otherwise provided by the Office of Federal Procurement Policy Act, and" after "any law inconsistent herewith,".

(b) Clause (1) of the first sentence of section 3709 of the Revised Statutes (41 U.S.C. 5) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(c) The Act entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending June 30, 1966, and for other purposes", approved July 27, 1965 (41 U.S.C. 6a-1), is amended by striking out "$10,000" in the third full unnumbered paragraph under the heading "Office of Architect of the Capitol" and inserting in lieu thereof "$25,000".

(d) Clause (3) of the first sentence of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2610) was agreed to.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 1001, the Office of Federal Procurement Policy Act Amendments of 1983. The purpose of this legislation is to improve the management of the Federal procurement process by strengthening the Office of Federal Procurement Policy and extending its authorization.

The need for a central procurement policy office is even greater today than when the Commission on Government Procurement recommended that such an office be established over a decade ago. The dollar value of government contracts has almost tripled during the past 10 years—from $57.5 billion in fiscal 1972 to $158.9 billion in fiscal 1982—with over 130,000 Federal employees now involved in the procurement process. The magnitude and budgetary significance of Government contracting, alone, mandate the existence of a strong procurement policy office.

Senator ROTH and I introduced S. 1001, which simply reauthorized the OFPP for an additional 5 years, on April 7, 1983. S. 1001 represented our starting point in considering the OFPP reauthorization and served as the basis for discussion during a hearing held on April 27 by the Governmental Affairs Oversight of Government Management Subcommittee. In addition to the testimony presented, the Oversight Subcommittee solicited views and received over 35 responses from procuring agencies, associations, former members of the Committee on Government Procurement and other procurement experts. The General Accounting Office also conducted a study at my request on procurement reform and OFPP's role in the process, entitled "Progress of Federal Procurement Reform Under Executive Order 12352," which was completed on June 17.

The Oversight Subcommittee adopted a substitute for S. 1001 on July 25, which was reported unanimously by the full committee on August 1, incorporating several of the recommendations of procurement experts with whom the subcommittee consulted. The substitute restores the OFPP's regulatory authority, codifies the agency management responsibilities included in Executive Order 12352, establishes the OFPP's leadership role in the development of agency procurement systems, provides authority for the testing of innovative procurement methods, transfers the Federal Acquisition Institute from the OFPP to the General Services Administration, and requires the OFPP to undertake studies on the feasibility of Government-wide debarment and suspension procedures for recipients of Federal grants and on the extent of competition among subcontractors. The subcommittee substitute retains the provision of S. 1001, as introduced, which reauthorizes the Office for an additonal 5 years but increases the authorization level from $4 million to $5 million annually.

The reauthorization of the OFPP—with regulatory authority—enjoys widespread support. S. 1001, as reported, is cosponsored by Senators ROTH, CHILES, DANFORTH, LEVIN, BINGAMAN, PERCY, SASSER, EAGLETON, PRYOR, PROXMIRE, DURENBERGER, COCHRAN, GRASSLEY, and KASSEBAUM. The bill is also strongly endorsed by the General Accounting Office, the U.S. Chamber of Commerce, the American Bar Association, the three former OFPP Administrators, former members of the Commission on Government Procurement, and numerous contracting associations. The House passed its companion bill, H.R. 2293, by voice vote in May.

Despite this extensive support, the Department of Defense raised objections to the bill on the grounds that reauthorizing the OFPP with regulatory authority would impair DOD's mission. On October 19, the Senate Armed Services Committee held a hearing, despite its lack of jurisdiction over S. 1001, to consider the national security implication of restoring OFPP's regulatory authority. This hearing only confirmed my belief that a strong OFPP is needed to resolve agency disputes and turf battles if we are ever to implement significant procurement reforms on a Government-wide basis.

There is no evidence to support DOD's contention that restoring OFPP's regulatory authority would jeopardize the Department's ability to

perform its mission. In fact, the General Accounting Office, which has monitored OFPP's activities since 1974, testified at the hearing that "there have been no instances when the use of OFPP's regulatory authority has injured our defense posture * * * and there is nothing on the horizon which would indicate that conditions will change."

Originally, the establishment of a central procurement policy office in the executive branch was the first of 149 recommendations made by the Commission on Government Procurement in its December 1972 report to Congress. The Commission, which was created by Congress in 1969 (Public Law 91-219) to study the Federal procurement process, based its primary recommendation on the rationale that "effective management of the procurement process requires a high degree of direction and control of basic policy."

In 1972, Congress established the Office of Federal Procurement Policy within the Office of Management and Budget for 5 years to provide overall direction and leadership in Federal procurement policymaking (Public Law 93-400). Prior to that time, procurement policies and procedures were needlessly diverse; there was no central office in the executive branch prepared to provide the Congress with the recommendations for improving the procurement process, and there was no arbiter to reconcile agency disagreements on procurement policy.

For these reasons, the OFPP was established—independent of any agency having procurement responsibility, empowered with directive rather than merely advisory authority, responsive to Congress, and consisting of a small, highly competent cadre of seasoned procurement experts—to fill this void. The Administrator for Federal Procurement Policy, who is subject to Senate confirmation, was authorized under the 1974 act to prescribe policies, regulations, procedures, and forms which the Executive agencies were required to follow. The OFPP was statutorily prohibited, however, from interfering in the daily management of an agency's procurement operations, which properly is the responsibility of an agency's procurement officials.

In 1979, the OFPP was reauthorized for an additional 4 years (Public Law 96-83). While Congress maintained the OFPP's fundamental responsibility to promote economy, efficiency, and effectiveness in the Federal procurement process, the authority which the Administrator had to discharge this responsibility was substantially weakened. Public Law 96-83 revoked the OFPP's regulatory authority, thereby restricting its authority to issue Governmentwide policy directives. As a supplement to this more limited authority, the Director of the OMB was authorized to deny the promulgation of or rescind any agency rule or regulation which was inconsistent with any OFPP policy directive.

Since its 1979 reauthorization, the OFPP has devoted considerable resources to the establishment of a single system of Government-wide procurement regulations, known as the Federal Acquisition Regulation system, and the implementation of procurement reforms under Executive Order 12352. While the OFPP has performed these and other functions well, considering its limited authority, there is a strong consensus within the procurement community that there is room for improvement in the OFPP's performance.

The OFPP initiated the Federal Acquisition Regulation (FAR) project in January 1978 and has provided policy oversight and assistance throughout its development. The project is designed to establish a regulatory system which will curb what the Procurement Commission characterized as "a burdensome mass and maze of procurement and procurement-related regulations." Once established, the FAR system will consolidate the Defense Acquisition Regulations, the Federal Procurement Regulations, the National Aeronautics and Space Administration Procurement Regulations and all other agency procurement regulations into one system consisting of a single Government-wide procurement regulation, applicable to all agencies, with such supplemental regulations essential to meet agency-specific needs.

Completion of the FAR, however, has been a problem. Originally, the FAR was to be published in the spring of 1980. After numerous extensions, the FAR's effective date is now scheduled for April 1, 1984—a 4-year delay. Once the system is in place, moreover, maintenance of the FAR is also anticipated to be a problem. Revisions to the FAR will be processed through the coordinated action of two regulatory councils, although it is unclear what will happen in the event of a dispute. Executive Order 12352 authorizes the OMB, through the OFPP, to "facilitate the resolution of conflicting views" between the regulatory councils. The GAO does not believe, however, that the OFPP is in a position to resolve such differences without regulatory authority.

S. 1001, as reported, strengthens the authority and functions of the Administrator for Federal Procurement Policy by restoring regulatory authority and by specifying a leadership role for the Administrator in the establishment, development, and maintenance of the FAR system. by restoring the Administrator's regulatory authority, the committee does not intend for the OFPP to supersede the current efforts by the DOD, GSA, and NASA to issue the FAR. Rather, S. 1001 preserves the present regulatory framework—with the DOD, GSA, and NASA directed by the President under Executive Order 12352 to continue their joint efforts to consolidate their common procurement regulations into a single, simplified FAR—while providing the OFPP with regulatory authority to be used in those situations when these agencies are unable to agree or fail to act.

The Governmental Affairs Committee believes that S. 1001 provides OFPP with the authority necessary to insure the integrity of the FAR system. While the committee does not intend for the OFPP Administrator to serve as "procurement czar," the committee believes that it is important to strengthen the Administrator's hand in the regulatory process to provide the needed leadership. This authority is especially important in light of the GAO's conclusion in its June 1983 report that without strong OFPP leadership for resolving conflicts among, and insuring action by, the Executive agencies, the FAR system may crumble under the proliferation of supplemental agency procurement regulations.

S. 1001 also provides the necessary safeguards to prevent abuse of this authority. Joseph Wright, Deputy Director of the Office of Management and Budget, testified at the Armed Services Committee hearing that:

> S. 1001 contains several safeguards which preclude OFPP from acting arbitrarily and unilaterally in any matter. For example, OFPP must consult with agencies affected by its directives; it must notify the Congress at least 30 days in advance of policy issuances; it is prohibited from impairing or interfering with executive agencies' determinations of their needs; and it is prohibited from interfering in any specific contract actions. And in a very practical vein, moreover, the limited size of OFPP's staff is an effective block to any significant involvement in detailed regulatory matters.

Nevertheless, in response to concerns raised by the chairman of the Armed Services Committee, I have agreed to clarify the language in S. 1001 to reflect more explicitly the Governmental Affairs Committee's intention when regulatory authority should be used—"in any instance in which the Administrator determines that the DOD, NASA, and GSA are unable to agree on or fail to issue Government-wide regulations, procedures and forms in a timely manner." I do not feel that this language in any way weakens the authority provided to the Administrator. Rather, this clarification merely incorporates into the statute the clear intent expressed in the Governmental Affairs Committee report accompanying S. 1001. I would also like to clarify that OFPP policy directives shall be in sufficient detail as the administrator considers neces-

sary to insure effective and uniform Government-wide implementation.

Finally, I have agreed to broaden the reporting requirement in S. 1001, which presently requires the OFPP to submit any policy or regulation to the Senate Governmental Affairs and House Government Operations Committees, 30 days prior to its effective date, to permit any congressional committee to review proposed OFPP policies and regulations.

In addition to developing the FAR system, the OFPP submitted its proposal for a Uniform Federal Procurement System to Congress, as required by Public Law 96–83, in February 1982. The UFPS served as the basis for Executive Order 12352, which was issued by the President in March 1982, to implement those reforms contained in the proposal that could be accomplished administratively. The Executive order requires the heads of Executive agencies to carry out specific reforms in Federal procurement, including designating an agency procurement executive with responsibility to oversee development of the procurement system and establishing career management programs. To facilitate agency implementation of these reforms, the Executive order requires the Director of the OMB, through the OFPP, to provide broad policy guidance and overall leadership.

To date, however, progress in implementing the reforms has been slow. According to the GAO's June 1983 report, agencies are all but ignoring the policy guidance developed by the interagency task groups, which the OFPP formed to assist agencies in implementing the Executive order. The prime example cited by the GAO of agencies failing to follow OFPP guidance involves the designation of a procurement executive. While 44 agencies had appointed their procurement executives as of April 1983, the GAO found that of the 12 agencies sampled (which comprise 97 percent of the Federal procurement budget), only a third had adopted charters which set forth the procurement executive's responsibilities. Of the four agency charters adopted, moreover, the GAO found that none was complete. Absent a clear charter, the procurement executive is a title without substance.

S. 1001, as reported, codifies the basic agency management responsibilities prescribed by Executive Order 12352. The responsibilities include, first, increasing the use of effective competition in procurement, second, establishing clear lines of authority, accountability, and responsibility for procurement decisionmaking within the agency, third, designating a procurement executive who shall be responsible for management direction of the agency's procurement system, and fourth, developing and maintaining a procurement career management program in the agency. The committee does not intend to legislate agency management, but rather to ensure that the objectives of the OFPP's procurement reform efforts are not thwarted by agency failure to act.

To further insure effective execution of these agency management responsibilities, S. 1001 expands the scope of the Administrator's authority for "providing overall direction of procurement policy" to "providing leadership in the development of procurement systems of the Executive agencies." S. 1001 specifies a new function for the Administrator to "coordinate the development of Government-wide procurement system standards that shall be implemented by the Executive agencies" in order to measure the operational effectiveness of their procurement systems. This concept of establishing performance standards which individual agency procurement systems would have to maintain in order to be considered acceptable was originally developed in the administration's UFPS.

Any action on the part of Congress short of reauthorization—with regulatory authority—would surely threaten the OFPP's procurement reform efforts. Without a strong OFPP to serve as a catalyst for procurement reform, nothing will be done. The individual procuring agencies have not been, and cannot be expected to be, a meaningful source of procurement reform. Their energies must of necessity be channeled to make procurement decisions on a day-to-day basis. In contrast, the OFPP has a Government-wide perspective, insulated from parochial interests, and is able to synthesize the interests of all individual procuring agencies, the Congress, and the vendor community.

The OFPP, therefore, is the critical link in our efforts to improve the Federal procurement process. S. 1001, as reported, would not only preserve that link, but strengthen it.

Mr. President, my staff has worked with the House Government Operations Committee staff to reconcile the differences between S. 1001 and its companion bill, H.R. 2293. To implement that agreement, I am offering the following amendments to S. 1001.

First, the length of the OFPP's reauthorization is reduced to 4 years, and its annual authorization of appropriations is reduced to $4.5 million. This represents a compromise between the 5-year reauthorization and $5 million annual authorization provided in S. 1001 and the 3 years and $4 million in H.R. 2293.

Second, the amendments change the definition of "procurement" to include the process for determining a need for property and services. Under this revised definition, the Administrator for Federal Procurement Policy is authorized to prescribe policy which affects an agency's process for determining its needs (OMB circular A–109 on major systems acquisition is a good example), but is specifically prohibited from interfering with an agency's determination of need for specific property.

Third, a policy statement is added to encourage the use of specifications which describe an agency's needs in terms of functions to be performed or the performance required. This amendment is consistent with the specification provision in S. 338, the Competition in Contracting Act, which was recently passed by the Senate.

Fourth, the amendments delete the provision which restricts the Administrator's authority to procurement payable from appropriated funds. This conforms S. 1001 to present law and maintains the OFPP's jurisdiction over procurement payable from non-appropriated funds.

Fifth, the small purchase procedure threshold, under which less formal procurement procedures are used, is increased from $10,000 to $25,000 in accordance with the threshold for military agencies. This provision is also in S. 338.

These amendments provide an expeditious resolution of the differences between the committees, and I urge their adoption.

Mr. President, it is my understanding that the leadership will call up H.R. 2293 and substitute the language after the enacting clause with the text of S. 1001, as amended. I subsequently urge the adoption of H.R. 2293, as amended.

Mr. BYRD. Mr. President, I rise in support of the measure offered by the distinguished Senator from Maine, Mr. COHEN. Senator COHEN and the distinguished Senator from Michigan, Mr. LEVIN, have been in the forefront of the fight to bring added prudence, commonsense, and frugality to the Federal procurement process—particularly as it relates to spending by the Department of Defense. The large expenditures which the Senate has authorized and appropriated for the Department of Defense for fiscal year 1984 are, in my opinion, needed and justified. It is, however, in the area of management practices and in the area of efficiency and economy in contracting and procurement practices that reform is needed.

The Senate passed two amendments of mine on the DOD appropriations measure which address this question of contracting and management reform. I very much appreciate the support that the distinguished Senators from Maine and Michigan, as well as other Senators, gave me on those amendments. Those amendments had to be offered to the DOD bill because the reauthorization measure for the Office of Federal Procurement Policy had been bottled up. I have heard that

the Secretary of Defense, Mr. Weinberger, would rather not have the Office of Federal Procurement Policy look too closely at his Department's procurement practices. It is perhaps understandable that the Secretary of the Department of Defense believes that his own Department can take care of its own problems. It is perhaps understandable that he would rather not have someone looking over his shoulder. So the Secretary of Defense fought the creation of outside watchdogs whose job it was to help correct mismanagement, waste, and abusive practices in the Department of Defense.

Fortunately, Mr. President, the Congress overrode Mr. Weinberger's objections and created a strong and independent inspector general for the Department of Defense. I do not think I have to remind my colleagues that the inspector general has been doing a very good job. He has caused a major reevaluation of the way DOD procures spare parts, for example. He has pointed out some serious deficiencies in the operation of the blueribbon Defense Science Board, for another example. In the long run, the inspector general is going to save the taxpayers of this country a lot of money.

I suppose it is not surprising that Secretary Weinberger is vigorously opposing the activities of the Office of Federal Procurement Policy. The job of that Office, which Congress created 10 years ago, is to improve the economy and efficiency of the Federal procurement process. I understand the Office has performed well in those 10 years, and that is the reason that the Government Affairs Committee has chosen to recommend its reauthorization. Again, we would be derelict in our duty to the taxpayers of the Nation if we did not take every reasonable step to cut back on waste in the Department of Defense. A stong national security is enhanced by frugal spending policies and efficient management practices. Procurement reform in the Department of Defense is obviously needed—no serious person can dispute that. It is therefore puzzling that anyone could seriously object to the reauthorization of an office which Congress created for the explicit purpose of procurement reform.

Yet, I understand that the managers of this measure have had considerable difficulty in their attempts to have this bill considered. Therefore, I congratulate them for working out their differences with other Senators on this matter.

Mr. President, my two amendments passed by the Senate last week on the DOD appropriations measure were study and report provisions on the questions of spare parts procurement by DOD and spending practices at the end of the fiscal year by DOD. Those reports are to be done by OFPP—they should have originally been offered to the pending measure, but the pending measure had been bottled up. The conference committee on the DOD appropriations measure meets tomorrow, and so I cannot be completely certain that the amendments will be accepted by the House conferees. Therefore, Mr. Chairman, I have arranged those two amendments into a single amendment which I now offer to the pending measure. This is simply an added protection that those amendments will be accepted by the House.

I understand that the managers of the bill are agreeable to this procedure. The amendments are virtually identical to those already passed by the Senate, and I do not believe there should be any controversy over them. They were cosponsored by Senators COHEN, LEVIN, BOREN, HOLLINGS, SASSER, ARMSTRONG, KASSEBAUM, ANDREWS, PRESSLER, PRYOR, FORD, and MATSUNAGA.

AMENDMENT NO. 2611

(Purpose: To require the Office of Federal Procurement Policy to review certain procurement practices and procedures of the Department of Defense and to report its findings, conclusions, and recommendations to the Congress)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 2611.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, after line 12, insert the following:

STUDY OF WEAPON SYSTEMS SPARE PARTS PROCUREMENT BY THE DEPARTMENT OF DEFENSE

SEC. 10(a) Not later than June 1, 1984, the Office of Federal Procurement Policy (hereinafter in this section referred to as the "Office") shall review the procurement practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems and shall transmit to the Congress a report on the findings, conclusions, and recommendations of the Office relating to such matters. The report shall include (1) an evaluation of the adequacy of the reform proposals and programs to promote practices and the development of directives which will achieve control of costs, economy, and efficiency in the procurement of such spare parts and (2) such recommendations for legislation with respect to the procurement of such spare parts as the Office considers appropriate.

(b)(1) The Secretary of Defense shall furnish to the Office such information on the practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems as the Office considers necessary to carry out subsection (a).

(2) The Inspector General of the Department of Defense shall furnish to the Office such information on the practices of the Department of Defense in procuring spare parts for weapon systems as the Inspector General acquires during his audits of such practices and the Office considers necessary to carry out subsection (a).

(c) The Inspector General of the Department of Defense shall have reasonable opportunity to review and comment on the report required by subsection (a) before the report is transmitted to the Congress. The comments of the Inspector General shall be included in such report.

PROCUREMENT PRACTICES OF THE DEPARTMENT OF DEFENSE AT THE END OF THE FISCAL YEAR

SEC. 11. (a)(1) Not later than February 1, 1984, the Office of Federal Procurement Policy (hereinafter in this section referred to as the "Office") shall review the procurement actions of the Department of Defense during the one-week period ending September 30, 1983, and transmit to the Congress a report on such review as provided in paragraph (2). In carrying out the preceding sentence, the Office shall review the regulations and administrative and managerial guidelines applicable to procurement actions of the Department of Defense during the final quarter of a fiscal year.

(2) The report required by paragraph (1) shall include (A) the number and dollar amount of contracts and purchases which were made by the Department of Defense during the one-week period referred to in paragraph (1), (B) the findings and conclusions of the Office on whether the Department of Defense had a bona fide need for the property or services procured by each such contract and purchase, (C) a list of the contracts and purchases which were made by the Department of Defense during such period without formal advertising, including the dollar amount of each such contract or purchase, (D) a list of the contracts and purchases made by the Department of Defense during such period after soliciting bids or proposals from only one source, including the dollar amount of each such contract and purchase, (E) each justification for making each contract and purchase included in the list under clause (C) or (D) without formal advertising or soliciting bids or proposals from more than one source, (F) the findings and conclusions of the Office on whether any regulation or administrative or managerial guideline reviewed pursuant to paragraph (1) (including the requirements of Office of Federal Procurement Policy letter number 81-1) were violated in making any of the contracts or purchases reviewed pursuant to paragraph (1), and (G) such recommendations for legislation and administrative actions relating to the procurement practices of the Department of Defense as the Office considers appropriate to assure economy and efficiency in procurement actions by the Department of Defense during the final quarter of a fiscal year.

(b)(1) The Secretary of Defense shall furnish to the Office such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Office considers necessary to carry out subsection (a).

(2) The Inspector General of the Department of Defense shall furnish to the Office

such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Inspector General has acquired and the Office considers necessary to carry out subsection (a).

(3) The Comptroller General of the United States shall furnish to the Office such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Comptroller General has acquired and the Office considers necessary to carry out subsection (a).

(4) Each official furnishing information to the Office under paragraph (1), (2), or (3) shall include with such information all information by such official to the Congress, any committee of the Congress, or any Member of the Congress relating to the procurement actions required by subsection (a) to be reviewed by the Office.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2611) was agreed to.

Mr. TOWER. I would like to inquire of the Senator from Maine, the sponsor of S. 1001, about the proposed amendment to section 6 of the bill. As I understand it, this amendment would clarify that the regulatory authority of the Office of Federal Procurement Policy would apply to situations where the Administrator determines that the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration have failed to reach agreement on a Government-wide procurement regulation, procedure, or form; or where these three agencies or any one of them have failed to take timely action with respect to the development of a Government-wide regulation, procedure, or form. Is this correct?

Mr. COHEN. The Senator is correct.

Mr. TOWER. The amendment of the Senator from Maine makes reference to a failure to act in a timely manner. I presume that OFPP would be expected to establish reasonable time frames in which agency action would be required. Would this be the expectation of the Senator from Maine?

Mr. COHEN. Of course, I would expect the Administrator of the OFPP to be reasonable in all things, including the establishment of timeframes in which agencies are to act. While we do not want the regulatory agencies thwarting efforts to achieve Government-wide procurement reforms, we also believe that the first opportunity ought to be given to the agencies to see if agreement can be reached. That requires, I think, that agencies be given a reasonable amount of time in which to act in response to an OFPP initiative or changes in Federal law.

Mr. TOWER. I thank the Senator. I should like to note that while the Senator from Maine and I have had some differences of opinion about this legislation, I appreciate the fair and open manner in which he has tried to understand my concerns and to address them. I think that the amendments which are proposed to S. 1001 will clarify what the appropriate role of OFPP is. Though I am not certain that we have yet struck the most appropriate balance between the regulatory agencies and OFPP, I think that we at least have a reasonable basis for providing OFPP with regulatory authority.

I want to compliment the Senator from Maine for the creative leadership that he is providing on Federal Government procurement. The Senator has devoted a tremendous amount of time and energy to considering how the procurement process Government-wide can be improved. As chairman of the Subcommittee on Oversight of Government Management, Senator COHEN has been a daily guardian of our tax dollars. He has worked energetically to insure that the Federal Goverment operates effectively and efficiently. He deserves the thanks of all Americans for the outstanding contributions that he has made to Government management.

Mr. COHEN. I thank the distinguished chairman of the Armed Services Committee for his kind words.

Mr. LUGAR. Will the Senator yield? I would like to clarify for the record that S. 1001 will not affect the Director of Central Intelligence statutory authority to protect intelligence sources and methods and to support intelligence purposes.

Mr. COHEN. That is correct.

Mr. LUGAR. I thank the Senator and appreciate his cooperation on this important matter.

Mr. MATTINGLY. Will the Senator yield? I would like to clarify for the record the proper interpretation and application of the policy statement in S. 1001 which "requires, to the extent practicable, the use of commercial products to meet the Government's needs."

Commercial product policy is currently interpreted by some Government procurement officials to limit eligible bidders to those who actually maintain a certain level of ongoing sales to the general public at established catalog or market prices. The effect of such an interpretation is to exclude from competition those manufacturers who sell on a contract basis to various customers, including the Federal Government, but who do not maintain commercial sales.

In its proposal for a uniform Federal procurement system, the Office of Federal Procurement Policy defined commercial products and services as "products or services of a type sold or made available to the public at competitive prices." The implication of this definition clearly is not to impose a commercial sales requirement as a condition to bid.

It is my understanding that the commercial products policy prescribed in S. 1001 is not to be interpreted in such a manner as to exclude contract manufacturers from competing for Government business solely because they do not maintain sales to the general public.

Mr. COHEN. That is correct.

Mr. MATTINGLY. I thank the Senator from Maine.

Mr. COCHRAN. Will the Senator yield? Section 4 of S. 1001, as reported by the Governmental Affairs Committee, provides that wholly owned Government Corporations "fully subject" to the provisions of chapter 91 of title 31, United States Code, are subject to the provisions of S. 1001. It is my understanding that procurement by the Tennessee Valley Authority, which is not fully subject to these provisions of law, would not be covered by S. 1001.

Mr. COHEN. That is correct. I am pleased to clarify that point for the Senator from Mississippi.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CHILES. Mr. President, I express my strong support for S. 1001, a bill to reauthorize the Office of Federal Procurement Policy.

As a cosponsor, I compliment Senator COHEN, the sponsor of the legislation, Senator DANFORTH, and others on the Committee on Governmental Affairs for the thorough evaluation and hard work that underpins this reauthorization effort. They are to be commended.

Mr. President, I have commented previously to Senator COHEN that in the game of Federal procurement reform, touchdowns do not come often or easily. It is a nuts and bolts, mundane subject matter. But Federal procurement, the money Government spends for goods and services, now amounts to some $159 billion a year. Every 1-percent savings represents over $1.5 billion in savings to the taxpayer. That potential alone makes the issues surrounding the Office of Federal Procurement Policy's authority and mandate from Congress critically important.

The OFPP sits within the White House Office of Management and

Budget. It was originally created by the Congress in 1974 as a result of the Commission on Government Procurement's No. 1 recommendation. The Procurement Commission was a statutory creature of the 91st Congress and had been assigned the task to look at the problems involved with the way Government purchased what was then some $55 billion worth of goods from paperclips to air combat fighters.

The Commission found fragmentation and unnecessary diversity among Federal agencies in their buying policies. Layers of regulations needlessly piled upon each other. Agencies approached similar procurement functions differently. Private sector suppliers, particularly small business, were discouraged from doing business with the Government. Congress, in its desire to bring about more competitive business practices and fewer cost-overruns, did not have an effective mechanism to help provide oversight.

I served on the Commission and was persuaded by the merit of its first and foremost recommendation: A strong Government-wide focal point with directive authority over Federal procurement policy. I helped sponsor the creation of OFPP. The 1974 law establishing OFPP was a clear statement from Congress that procurement policy was an important subject requiring a central manager who could lead and exercise clout over functional agency battles.

In 1979 the OFPP authorization expired. The 1979 reauthorization law passed by Congress narrowed the scope of the Office's mandate to emphasize the importance of bringing about the Procurement Commissions second recommendation: The consolidation of the two separate procurement systems that flow from the Armed Services Procurement Act of 1947 and title 111 of the Federal Property and Administrative Services Act. The OFPP was to concentrate on developing executive branch consensus on a uniform procurement code proposal to be submitted to Congress. The regulatory authority contained in the 1974 act was diminished.

The Committee on Governmental Affairs key question in addressing this year's reauthorization was whether to restore the regulatory authority contained in the 1974 law.

The committee found that what the Procurement Commission concluded in 1972 about the need to raise the visibility of procurement activities within the agencies with a strong central manager, is as valid today as it was then. Regulatory authority specifically provided by law was needed:

If OFPP is to be an effective focal point for congressional oversight;

If OFPP is to be a credible actor in standardizing and simplifying agency buying regulations in order to reduce paperwork, encourage small business participation, stimulate more competitive practices, and increase the number of suppliers; and

If OFPP is to coordinate and resolve the wasteful agency turf wars that arise.

Let it be clear that this bill as reported by the committee expresses the congressional intent that regulatory authority is statutorily provided to the Administrator of OFPP, that the Congress understands the Administrator is to be a policy leader with clout above the line activities of the functional procurement agencies. This is a strong OFPP we are authorizing today. As a result, my belief is the Office will be more effective in fulfilling the responsibilities Congress and the President assign to it. The potential for larger cost savings in the $159 billion procurement program is greater when this bill becomes law.

Mr. President, Public Law 91-129, the law establishing the Procurement Commission, was a brainchild sponsored by Senator Jackson. Without his guidance and support that Commission's first recommendation would never have become a reality. The Office of Federal Procurement Policy would not exist today. It took someone of his stature and credibility to push the idea through the forces of inertia and resistance to change that exist in procurement matters. It is merely a small example of the many contributions this great man made but nevertheless one which I think illustrates the kind of effective legislator he was. He saw this small Office as an important catalyst in making a difference in the way Government does business. Today's action to reauthorize OFPP continues the can-do spirit the sponsors of OFPP intend.

Mr. LEVIN. Mr. President, I am pleased that the Senate is finally considering the reauthorization of the Office of Federal Procurement Policy. This Office, commonly known as the OFPP, has performed an important function for almost 10 years—providing needed coordination for the many and varied procurement systems and offices in the Federal Government. We are now close to the implementation date for the Federal acquisition regulations, which should make the procurement processes of the various Federal agencies more uniform, and OFPP is to be commended for its long and helpful role in bringing the FAR to fruition.

I want to discuss, for a moment, an amendment I offered and which was added in the Governmental Affairs Committee to this bill and I also want to mention an amendment to be offered by the distinguished minority leader, Senator BYRD. My amendment requires OFPP to conduct a study by April 1, 1984, to assess the level of data currently available on Federal subcontracts and the extent of competition for such contracts.

Mr. President, the chairman of the Subcommittee on Oversight of Government Management (Mr. COHEN) will shortly be offering an amendment to strike a provision requiring a study of debarment and suspension of grant recipients. I concur in that amendment. Since offering that provision in committee, I have been informed that the President's Council on Integrity and Efficiency in the Office of Management and Budget is presently undertaking a study of that very same issue and hopes to have a recommendation in place for legislative or administrative action by early spring, 1984. I think we should avoid a duplication of that effort.

I am eager, however, for OFPP to conduct the study on Federal subcontracting data and practices. For the past 5 years now, I have taken a great interest in some of the more mundane details of the Federal procurement system, as has my good friend, Senator COHEN. And one issue that keeps surfacing, almost regardless of the larger issue pending at the time, is the lack of information the Federal Government has on its subcontracts. When I have asked, I have been told that there is no breakdown of the flow of Federal procurement dollars to the subcontract level by region. Yet, almost 50 percent of DOD's prime contract dollars filter down to the subcontractors. When I have asked, I have been told that there is no way for the DOD to determine the extent to which there is competition for subcontracts in general or on a particular contract.

This concerns me greatly, if this is true, because it does not allow any assessment by States such as Michigan which are hungary for Federal contracting dollars to determine the extent to which they are losing Federal contracting oportunities, nor does it permit an evaluation about whether a lack of competition at the subcontract level may be a factor in the high cost of Federal procurement.

Second, I welcome the amendment of the minority leader relating to the purchase of spare parts within the Department of Defense. I have been deeply involved in this issue in both the Committee on Governmental Affairs and the Armed Services Committee. For this reason I welcome the suggestion of the Senator from West Virginia that this impartial agency study the findings of the Congress and coalesce these findings and their knowledge of the procurement process into concrete recommendations which should help to stem this horrendous waste of our defense expenditures. I am pleased to cosponsor his amendment.

I commend the efforts of Senator COHEN on this bill, and I urge OFPP to

conduct these two studies with all due diligence and thoroughness.

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 2293, the House companion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2293) to amend the Office of Federal Procurement Policy Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I move to strike all after the enacting clause of H.R. 2293 and to substitute the text of S. 1001, as amended.

The motion was agreed to.

The PRESIDING OFFICER. The question is on engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2293), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Amend the title so as to read:

"An Act to revise the authority and responsibility of the Office of Federal Procurement Policy, to authorize appropriations for the Office of Federal Procurement Policy for an additional four fiscal years, and for other purposes.".

Mr. BAKER. Mr. President, I ask unanimous consent to postpone indefinitely consideration of S. 1001.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOOK-ALIKE DRUGS

Mrs. HAWKINS. Mr. President, the following is a true story. It happened when one of my staff members was visiting a relative in a kidney dialysis center near Philadelphia, Pa. During her visit, five teenagers, in a state of extreme shock, were rushed in from a police ambulance and immediately hooked up to dialysis machines. In case you are unfamiliar with the process, it entails sitting in a chair for 4 hours with a large needle stuck into your arm, while a machine pumps all your blood through a series of filters. With a substantial part of your bloodstream outside your body at one time, your blood pressure drops, causing extreme nausea and cramps. The machine does the work of your kidneys.

The police told the attendant nurses this story: On their way to a party, the kids had bought some pills they were told were amphetamines. They were not. The nurses never did find out what the pills were, but the poisonous substance caused massive kidney failure in the five teenagers. Only 16 years old, they will be tied to dialysis machines until they die.

Mr. President, throughout the country, "look-alike" drugs are sold to unsuspecting young people. The drugs, usually pills, are easier to obtain than marihuana, cocaine, or opiates. The standard look-alike is a stimulant that is in essence a caffeine and ephedrine sulfate mixture. Caffeine and ephedrine sulfate are central nervous system stimulants. They can cause such bizarre reactions as extreme agitation, uncontrollable nervousness, crying, depression, or manic behavior.

In the case I cited, however, the combination was more than caffeine and ephedrine sulfate. The frightening thing is that we do not know exactly what it was. What we do know is that it was practically lethal. But the effect was almost the same as death—the lives of those five kids will be ruined forever.

Mr. President, I ask unaninous consent to have printed in the RECORD an article from the NARD Journal on look-alike drugs, dated August 1983.

The article follows:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the NARD Journal, August 1983]

THE LOOK-ALIKE RIPOFF

(By Sidney Cohen, M.D.)

A relatively new phenomenon appeared on the American drug scene about five years ago. It was the look-alike explosion, a bizarre outgrowth of the Controlled Substances Act of 1970. The effort to reduce the quantity of prescription amphetamines was successful enough to reduce their manufacture by 80 percent. Counterfeit amphetamine production also come under somewhat better control.

At this point an enterprising trucker in Florida bought a quantity of phenylpropanolamine (PPA), ephedrine and caffeine made up to look like Dexedrine® and other prescription stimulants and proceeded to sell them at truck stops. Business was so good that it expanded into a nationwide network. Other entrepreneurs rushed in, and at the height of the look-alike period, dozens of manufacturers and hundreds of "speed boutiques" sold look-alike stimulants.

Eventually, the look-alikes also expanded to sedatives and cocaine. At the time, drugs that looked like others and did not contain controlled substances were not deemed illegal. They consisted of items found in over-the-counter preparations, although usually in larger doses. Their mimicry of "cartwheels" (amphetamine sulfate), "rainbows" (Tuinal®) and "black beauties" (Biphetamine®) required lengthy litigation if each manufacturer of the resembled product wanted to force the bogus manufacturers to desist.

By 1981 millions of doses were being made, and income was estimated at 50-million dollars a year. At this time, direct mail advertising space in certain magazines, and handbills in classrooms and on bulletin boards proclaimed the availability of hassle-free stimulants. Shortly thereafter, pressure from parents groups and other organizations who saw these items as a step toward the road to genuine drugs, resulted in post office seizures and local ordinances prohibiting look-alike sales.

The FDA eventually stated that combinations of phenylpropanolamine, ephedrine and caffeine were a new drug and required Federal approval to market. Misbranding and improper labeling was charged. For example, a cocaine look-alike called Peruvian flake was labeled as an incense, not to be used for medical purposes. At present, most states have prohibitive legislation passed or pending.

ARE THEY DANGEROUS?

How dangerous are the look-alikes? When taken in average doses they are rarely harmful. However, when used to achieve a "high," four to eight dosage units must be consumed, and then the risks mount. Increasing numbers of undesired reactions are being reported.

The ingredients of the various look-alikes will be discussed along with their possible untoward effects.

1. THE AMPHETAMINE LOOK-ALIKES

These are usually combinations of the three drugs mentioned, although the FDA ruling may reduce them to two.

Phenylpropanolamine. Usually found in 25 to 50 mg amounts, phenylpropanolamine or PPA has an ephedrine-like effect, reducing appetite and producing alerting and mild stimulation. It should not be used by hypertensives or people with coronary artery disease. In larger than average amounts, dizziness, tremulousness, anxiety, palpitations and nausea can occur. Sudden hypertension has resulted in cerebral hemorrhages in a few published cases. A PPA psychosis has been described when larger doses are consumed. A discussion is underway on whether PPA should be made a prescription item in view of its potential for harm under unsupervised conditions.

Ephedrine. From 12.5 to 50 mg are found in the look-alikes. Ephedrine increases norepinephrine activity by increased adrenergic receptor stimulation. As a stimulant it is about five times weaker than amphetamine. It increases blood pressure, heart rate and dilates bronchioles. It has the same side effects and contraindications as PPA.

Caffeine. The caffeine amount ranges for 37.5 to 325 mg, the latter quantity is about the same as three cups of strong coffee. People sensitive to caffeine or those who take large amounts are aware that headache, jitteriness, palpitations, anxiety and gastritis can result. Enormous doses can produce consvulsions and heart rhythm disruptions. The lethal dose of cafeine is about 10 grams or about 30 of the high dose look-alike tablets.

Naturally, when the mild stimulants are taken together, an additive effect will occur.

2. THE COCAINE LOOK-ALIKES

These are flakes or powders that resemble cocaine and may provide a mild stimulant effect upon inhalation. More than a dozen products are known, including Pseudocaine, Snocaine, Toot, Florida Snow, Real Caine and Ultra Caine. Their contents may vary from batch to batch. Ephedrine, PPA, caf-

feine, procaine, benzocaine or lidocaine are the usual active ingredients. Sometimes they are sold on the street as cocaine.

3. THE SEDATIVE-HYPNOTIC LOOK-ALIKES

Most of the look-alikes contain 25 to 50 mg of the sedative antihistamine, doxylamine succinate, a component of Formula 44 and Nyquill. Many also have an analgesic like acetaminophen (Tylenol) or salicylamide, an aspirin-like compound. The combination of doxylamine and alcohol can induce oversedation. Doxylamine overdose is associated with confusion, tremors and stupor.

Quaaludes are popular among chemical hedonists. Therefore they are counterfeited. Some Quaalude-appearing tablets stamped "Lemon 714" contain no methaqualone. Phenobarbital and diazepam are common adulterants. Some street Quaaludes contain as much as 200 mg of diazepam, about 40 times the average dose. Look-alike Quaaludes ordinarily contain doxylamine succinate.

The appearance of the look-alike/sound alikes in the marketplace resulted in a number of unwanted consequences.

Since they have been promoted among and used by schoolchildren, the danger of establishing non-medical drug use patterns early in life exists. Preadolescents and adolescents can start using these "drugs for kids" and move on to the real thing.

Youngsters and adults may be persuaded that the real drugs can't be so bad, maybe only a little stronger than the look-alikes.

The fundamental education issue of drug abuse prevention is: "Don't put any substance in your body that is unneeded" is undermined by the look-alikes.

These drugs are not safe when taken in the amounts needed for euphoria. When an amphetamine-like effect is achieved, they have as many side effects as the amphetamines.

In instances of overdose due to unknown cause, the look-alikes complicate the diagnostic problem for emergency room physicians.

It may be that we are seeing the end of the look-alike caper. But man's ability to exploit his fellows should never be underestimated, and something like the look-alikes will rise again.

ILLEGAL DECLARATION OF INDEPENDENCE BY TURKISH LEADERS IN CYPRUS

Mr. KENNEDY. Mr. President, I join in strong support of the resolution, adopted today by the Senate Foreign Relations Committee, which opposes and condemns the illegal declaration of independence by Turkish leaders in Cyprus.

This action in an unacceptable violation of the sovereignty and territorial integrity of the Republic of Cyprus. It is a contravention of international law that must be strongly resisted by the United States, by our allies, and by all nations in the world community.

At this critical time, the U.S. Government must give the tragic situation in Cyprus a higher priority in our Nation's foreign policy. We must insure that this latest illegal action is not permitted to start, and that more effective efforts are made to achieve a peaceful settlement. After years of suffering and illegal foreign occupation, the people of Cyprus and fundamental standards of justice demand no less.

THE BIRTHDAY OF SENATE MAJORITY LEADER HOWARD H. BAKER, JR.

Mr. THURMOND. Mr. President, as the Senate is aware, today is the birthday of our friend and colleague, Senate Majority Leader HOWARD BAKER, of Tennessee. During many of his 58 years, this remarkable public servant has devoted much of his time and energy within the Halls of Congress pursuing the legislative goals which have helped keep our Nation great.

During his three terms as a U.S. Senator, HOWARD BAKER has been recognized by his colleagues on both sides of the aisle as being true to the ideal of American democracy. His firm fairness is revealed to us daily as he goes about his difficult and often thankless task of moving legislation through this body. His leadership is that of a patriot who always places the benefit of nation above his own legislative agenda and political goals.

Mr. President, HOWARD BAKER will not, at his own choosing, return to this chamber for another term. We will sincerely miss his capable, honest, inspirational, and firm guidance. The void will not be easy to fill. The service this great statesman has rendered to his Nation will long stand as a high watermark of legislative ability.

I wish to personally commend my friend, HOWARD BAKER, for answering the call to duty in the true service of his Nation. I urge my colleagues to mark this day, November 15, as the birthday of a man who has given himself in order to serve the people. Happy birthday, Mr. Majority Leader.

SMALL BUSINESS COMPUTER CRIME PREVENTION ACT

Mr. NUNN. Mr. President, on October 4, Senator TSONGAS and I introduced S. 1920, the Small Business Computer Crime Prevention Act. A companion bill has been introduced in the House by Congressman RON WYDEN, and was just passed by voice vote in the House. This act, if passed, will be an important step forward in protecting America's small business from computer crime.

It has been estimated that the private sector loses $1 billion annually to computer crime. However, experts admit that the full scope and dimension of the problem is unknown. In recent hearings by the House Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business, one expert witness testified:

Although obtaining accurate information about some reported cases of computer crime is possible, so much is not reported or not reported in retrievable ways and so many victims are reluctant to report criminal activity that it is not practical to obtain accurate estimates of the cost per year of computer crimes against small business.

Some forms of this crime include theft or copyright infringement on information stored on computer tapes or diskettes, unauthorized destruction or alteration of information, and the modification of computer programs or computerized information either to cover up a crime or cause a crime to be committed.

While the crimes are not committed solely against small business, the hearings indicate that small businesses are clearly in a weaker position to defend themselves against computer crime, or to absorb damage once a crime has been committed. Specifically, small businesses tend to have less of an understanding of computers in general and computer crime in particular and have fewer resources to dedicate to acquiring that understanding. Moreover, no centralized source of information on computer crimes or computer security technology exists, and the criminal statutes have not been updated to take into account the practices used in theft by computer. In most cases this leaves the small business dependent on local police forces which are not knowledgeable or staffed to deal with this problem.

The Small Business Computer Crime Prevention Act makes three congressional findings. First, that there is a growing dependency on information technology, including computers, in the small business community. Second, that this technology creates a new vulnerability to computer crime which small business must contend with. Finally, Congress finds that many small businesses are unable to deter this crime because of either a lack of technological information or inadequate substantive criminal and civil laws with which they may assess their rights and obligations.

S. 1920 acknowledges that computer crime presents a threat to small business and to our economy. It provides for the establishment of the Small Business Computer Crime and Security Task Force within the Small Business Administration, and would assist in determining technological and legal remedies to combat this threat to small business. This task force, in cooperation with the National Bureau of Standards, would use these findings to develop legal and technical guidelines for enhancing the security of computer systems. Finally, this act provides for the establishment of a much needed resource center of public and private information regarding computer crimes and methods of deterrence.

I believe that passage of this bill and its quick implementation will provide a strong foundation from which to begin the very important fact gathering and

educational efforts to counter the potentially devastating effects of computer crime on small business.

However, as valuable a step as the Small Business Computer Crime Prevention Act will be, it does not signify the first, or a comprehensive effort by the Senate to address the larger and more complex problem of computer crime. There currently exists no Federal criminal statute written specifically to deal with computer crime. As a consequence, new types of technological crime must be forced to fit into existing antiquated statutes. This is totally unacceptable, and it is the responsibility of Congress to add to the Nation's criminal justice system with a viable computer crime statute. Harvard Law School professor, Arthur R. Miller, has said, "We can't have horse-and-buggy law in a Buck Rodger's era."

We are becoming more aware of the vulnerability of computer security through well documented threats to our national security, and the various exploits of teenage computer hackers, yet the full dimension of the computer security problem in this country remains undocumented. However, this lack of knowledge does not dispel the legitimate Federal concern and responsibility to help in the safeguarding of personal data on individuals, trade secrets, financial data, and information kept confidential in the interest of national security.

In the 96th Congress, 17 Senators, including myself, joined Senator Ribicoff as consponsors of the Federal Computer Systems Protection Act of 1979. Unfortunately, following hearings in the Judiciary Committee, no further action was taken on that bill. Senator TRIBLE has reintroduced the Federal Computer Systems Protection Act in this Congress (S. 1733). I have joined as a cosponsor of this bill as well. I would like to urge my colleagues to carefully review both the Small Business Computer Crime Prevention Act and the Federal Computer Systems Protection Act.

FRED L. HARTLEY

Mr. PERCY. Mr. President, our Nation needs men of vision. That is what has made us great in the past and that is what is needed to insure our economy remains strong in the future. I would like to share with my colleagues a recent article in the New York Times that describes one such man—Fred L. Hartley, the chairman and president of Union Oil Co.

The article describes Fred Hartley as a remarkable man for his involvement in the oil and gas business. I know that he has been remarkable in a number of other areas. Not only does he care about his business interests, he cares deeply about the future of this country. I have had the opportunity to work with him closely as a fellow member of the board of the Alliance To Save Energy.

The Alliance is a nonprofit organization devoted to encouraging energy efficiency and thereby, reducing our dependence on foreign countries for oil. Fred Hartley devoted his personal time, energy, and experience into making this organization successful. His contribution is truly remarkable.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION OIL'S TENACIOUS CHIEF WATCHES A DREAM COME TRUE

MR. OIL SHALE: FRED L. HARTLEY

(By Thomas C. Hayes)

LOS ANGELES.—The lobby of the Union Oil Company of California's headquarters here is filled with plaques, paintings and mementos celebrating great moments in the company's past—most of it in the last 15 years and most of it starring Fred L. Hartley, chairman and president.

Here he is, painted in richly colored oils, standing with Gov. Richard Ogilvie of Illinois in 1970 as they prepare to activate a 140,000-barrel-a-day refinery in Romeoville, Ill.

There he is, depicted in bright acrylics, wearing a dark suit and white gloves as Park Chung Hee, the late president of South Korea, cuts a ceremonial ribbon in 1972 to open a refinery on a field where, according to an inscription, "General Douglas MacArthur made his daring Inchon landing in 1950."

And here is a painting of his wife, Peggy, christening a new oil tanker in 1971 with a bunting-wrapped champagne bottle. The bottle and its stained cloak are enshrined in a glass case below.

It has been a long and eventful history for both the man and the company. But whether there will be great moments to preserve in Union's future and that of its 66-year-old chairman is much in question today.

Over the years, Union has grown to a multibillion-dollar oil and gas giant—the nation's 14th largest in sales. In 1982, it ranked above the industry average in return on investment, at 18.2 percent. And in a year when profits at many major oil companies were off, Union's climbed a bit last year, by 1.5 percent, to $804 million.

But as the gruff, venerable Mr. Hartley enters the twilight of his career at Union's helm, with no indication that he intends soon to loosen his tenacious hold over the company; its earnings have begun to sag. While the overall oil industry is expected to show a modest profit upturn for the year, and its major stocks have enjoyed a rally on Wall Street, Union has been a market wallflower. And the company has made a daring commitment to shale oil production, long after other oil giants abandoned the idea as uneconomical in the face of cheaper crude oil prices.

Under the company's banner, on a mountainside high above an isolated Colorado river valley, the nation's first commercial oil shale plant is expected to start turning out jet and military diesel fuel for the Defense Department sometime this year.

But many oil analysts and executives, noting that crude prices have fallen in recent years, are wondering whether it is worth Union's while to pursue more costly shale oil.

Mr. Hartley rejects that view as shortsighted.

Union's stake in oil shale is another instance of Mr. Hartley's philosophy of investing for the long haul by accenting technological innovation. An engineer by training, he has always stayed close to the lab and the field, and Union's research facility near Los Angeles bears the evidence—it is named the Fred L. Hartley Research Center.

He arrived at Union Oil in 1939, a young civil engineer fresh from Vancouver with a suitcase full of dirty clothes and $25 in his pocket. Starting out as a maintenance worker at a refinery in San Francisco, he worked his way up through the engineering ranks—he was head of research at one time—and into the top echelons of management. Last year he pocketed $561,667 in salary and $838,675 in bonuses and other considerations.

He has controlled Union for nearly two decades, and currently operates it through a six-member executive committee. He is chairman and president both of Union and its new holding company, the Unocal Corporation.

While most companies separate the offices of chief executive and chief operating officer, he in effect plays both roles at Union. "This is a very tight organization," Mr. Hartley said. "There is very little slippage as to who the heck is responsible."

At least one analyst has a slightly different perspective. "He's a bit of a dictator," said Todd Bergmann, an oil industry analyst with Goldman Sachs & Company. "Then again, the guy has done a pretty good job."

Although Union ranked 14th in total sales in 1982, at $10.9 billion, it was 10th in profits, at $804 million. Union also has been the industry's most efficient producer of new oil for the last five years, averaging $2.43 a barrel in production costs, compared with the least efficient, Amerada Hess, at $11.83 a barrel, according to Petroleum Analysis Ltd., a research firm.

"They sort of roll along without a tremendous amount of fanfare, but they have actually done a better job than most of the domestic companies," said Barry Good, oil analyst at Morgan Stanley & Company.

Yet, for all its success and innovation, Union has been hurt this year by the slump in demand for natural gas and chemicals and intermittent price wars at the gas pump. Its second-quarter profits were down by 29 percent, to $139.4 million, or 80 cents a share, while revenues declined 3.5 percent, to $2.8 billion.

Some analysts say Mr. Hartley has spent too heavily on what they regard as exotic feats of engineering, sacrificing profitability in pursuit of such technology as shale oil, geothermal plants and deep-water rigs.

Investors have not been impressed. Union has been something of a wall-flower in this year's stock market rally among domestic oil companies. Competitors like Getty Oil, Standard Oil of Ohio and Amerada Hess—which some analysts regard as the three strongest of the group because of their domestic reserves—have turned in gains of 50 percent or more compared with 22 percent at Union. Its shares closed at $31 Friday on the New York Stock Exchange.

"Union has trailed this group also because it is more of a natural gas company and because of the enigma factor" caused by the unpredictable Mr. Hartley, said one oil analyst, who asked not to be identified. "Fred Hartley can be a loose cannon on the deck,

and the market is not paying a premium for his expertise."

But as for the question of management succession, Mr. Hartley said, "You should never think about that in terms of yourself, because if you do you become immediately useless." He describes Union as "a multi-leadership" company. "I am the coach. Since I've done a lot of these jobs myself, I have some idea of what they are like. But these other fellows have to carry the ball."

The two senior vice presidents most likely to succeed Mr. Hartley appear to be Claude S. Brinegar, 56, and Richard J. Stegemeier, 54. Mr. Brinegar has been a Union director since 1968. Mr. Stegemeier was named to the board in 1980. Three other Union executives on the board are all in their 60's.

Regardless of who succeeds Mr. Hartley, Union Oil's world outlook is unlikely to change radically—while it has some overseas interests, it is very much a domestic company. Its domestic reserves amount to 90 percent of its total reserves; it ranks 13th in United States crude oil reserves and 10th in natural gas reserves.

Union plants produce about half of the electricity generated in the world by geothermal energy, or heat in the form of dry steam or hot water captured from the Earth's crust. Profits from this area accounted for 2.7 percent of Union's total income last year.

Union's successes in building electrical-generating geothermal plants, plus its retail strategy of staying in the high-priced, full-service market niche at the gas pump and building the nation's largest network of freeway truck stops—it has more than 400 of them along the nation's highways—illustrate how Mr. Hartley often has gone against the industry's conventional wisdom.

Many industry marketing specialists faulted Union for not moving more toward the low-cost, high-volume service station format that Atlantic Richfield and several independent marketers adopted as gas prices rose in 1979 and 1980.

Union sells gasoline in 42 states in the West, South and Middle West, but has little presence in the Northeast.

Its stations—mostly mixtures of self- and full-service—sell only premium leaded and premium unleaded grades. Union also guarantees its car repairs, and allows any purchase to be made with a credit card. Last month, it offered to pay customers in the West $1 if attendants neglected to clean their windshields and check under the hood.

Most competitors, including the independents, sell regular leaded and two grades of unleaded—leaving Union as the only supplier around for higher-grade leaded gas—and many have abandoned auto servicing and credit cards.

Union increased its market share in California through June, to 12.4 percent from 12.2 percent at the end of 1982, according to Dan Lundberg, a specialist in gasoline marketing and pricing trends.

Atlantic Richfield, whose share rose to 14.7 percent in June from 13.4 percent last year, now is running an advertising campaign trumpeting prices that are as much as 30 cents a gallon lower than its competitors'.

One market analyst at Atlantic Richfield said the campaign is directed against rivals like Union. Mr. Hartley, who said that price wars in the nation's most populous state have been "barbaric," acknowledged that Union has had to cut prices in response.

Mr. Hartley, who had open-heart surgery in 1969, said that he travels about 40 percent of the time, largely to Union's important gas operations off the coast of Thailand. When at home in Palos Verdes Estates about 20 miles south of Union's headquarters in downtown Los Angeles, he often takes a swim in the family pool at 6 a.m. And on occasional weekends he takes his 50-foot power boat, "My Way," on outings.

It will be a proud day for him when the shale oil project gets under way. Around the industry they call him "Mr. Oil Shale," and his fascination for the process goes back at least 45 years, when he wrote on the topic of oil shale fuels in a college thesis.

Many analysts are doubtful that oil pricing dynamics will ever make shale oil a practical, profitable business. But Mr. Hartley said he believes that Union will begin making money on shale oil before the year is out, thanks to its 10-year contract to supply the Defense Department with jet and military diesel fuel refined from its shale oil.

A market price-escalation clause in the contract protects the company's investment through 1993, guaranteeing Union $42.50 a barrel for the jet and military diesel fuel the Government buys. The company is not saying how much of a profit it expects to make on a barrel of shale oil. "It won't be a fortune," he said, but the company expects profits, or "we wouldn't have gone into the venture."

The new plant, in Parachute, Colo., 200 miles west of Denver, cost $570 million and is expected to produce 10,000 barrels of shale oil a day. Mr. Hartley has a plan for expanding that to up to 90,000 barrels a day by the 1990's if the Government widens its participation. For now, the Government can pay no more than $400 million in above-market prices for the fuel it buys from Union. While the world price of crude oil has remained at about $29 a barrel, Mr. Hartley expects that it will rise again and that Union's bet on shale oil will pay off.

Thomas A. Petrie, a managing director and oil analyst with the First Boston Corporation in Denver, expects another crunch in petroleum supplies later in this decade or early in the 1990's. Then, he said, Mr. Hartley's faith in shale oil refining stands a good chance of being vindicated.

"Somebody has to take the long-term view in this industry," Mr. Petrie said. "In the current time, Fred Hartley is one of the only ones willing to do that."

U.S. COMMISSION ON CIVIL RIGHTS

Mr. PERCY. I have been very concerned about recent events affecting the U.S. Commission on Civil Rights. I am delighted that an acceptable compromise has been achieved and that the Senate has passed a reauthorization bill. I think we owe a debt of gratitude to Senators, SPECTOR, BIDEN, DOLE and those other Senators who have worked for this over the last several months. This Commission is important. Since 1957, it has exercised its independent mandate to conduct investigations and report on discrimination in the United States. These reports, although they are not always welcome to the administrations and others who come in for criticism, are valuable means for assuring the American people that the country is acting to remove discrimination, and that continued abuses and violations of our civil rights laws will be exposed to the light of day. Recommendations from the Commission have more than once served as the basis for major legislative initiatives, efforts which are now counted among our proudest accomplishments.

It has been clear to me from the outset that there were a number of key principles which had to be reflected in any reauthorization bill. First, the Commission had to be made independent. I am a member of the Committee on Governmental Affairs, and through the years we have time and again had to grapple with the question of whether to make an agency independent, and if so, how best to accomplish that objective. I want to say that I think the bill's sponsors have selected one of the most effective ways there is—making the members of the Commission subject to termination only for cause, that is, for neglect of duty or malfeasance in office. Second, it was clear to me that consistency should be provided for, so that no sitting President would be able to stack the agency with a majority of persons holding the same set of views. Again, the reauthorization bill passed by the Senate meets this objective. It provides for staggered, 6-year terms for the Commissioners. It also provides that half the Members of the Commission will be appointed by the President, and half by the Congress, and that the number of those appointed by the Congress will be equally divided between the House and the Senate.

Finally, I have felt quite strongly that the legislation should provide the necessary authority so that the Commission could organize and manage its own affairs. The President retains the power to appoint the Staff Director, but with the concurrence of a majority of the Commissioners. The President will designate the Chairman and Vice Chairman of the Commission, again, with the concurrence of the Commission. This is a relatively novel arrangement. I have some concerns about it. It is in the nature of a compromise, however, and I think that because this arrangement has earned the support of the distinguished Members of the Judiciary Committee who have worked long and hard to achieve this compromise, we should support it and lend every effort in the coming years to make sure that it does work as intended.

Finally, the new Commission will retain the powers of the existing Commission. Documents relating to ongoing investigations and reports will be transferred to the new organization, so that the work can continue unaffected. The expertise and experience of the existing Commission staff can also be retained, something which is in

itself an important asset that should be preserved.

Mr. President, I admire the way that the distinguished junior Senator from Pennsylvania, Senator SPECTER, and Senators DOLE and BIDEN, have pursued this matter. The controversy has reminded us once again that the commitment to the Civil Rights Commission is strong indeed. I believe the compromise is workable, and I am hopeful that the Commission will be an independent, effective voice for civil rights in this country for years to come.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I believe there is now an order for the Senate to stand in recess until 2 p.m.

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHAFEE).

FREE ENTRY OF PEOPLE AND EQUIPMENT INTO THE UNITED STATES IN CONNECTION WITH THE OLYMPICS

Mr. BAKER. Mr. President, the pending business, I believe, is the motion to proceed to the consideration of the Olympic tariff bill, is that correct?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Now, Mr. President, my hope is that we can temporarily lay aside that measure as well as the natural gas bill and perhaps go to a conference report on the State-Justice appropriations bill. I have not yet consulted with the minority leader on that point, nor have I been able to consult with the distinguished Senator from Kansas, the chairman of the Finance Committee, nor the Senator from Idaho (Mr. MCCLURE). So as soon as I can do all those things, I will see if we cannot get on this conference report, but for the moment, Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAWKINS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, as I understand the proceedings, under the order entered last night I was to be recognized in connection with the motion to proceed on the Olympic tax bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. It is my understanding that the majority leader would like to proceed to the conference report on State-Justice. That would be fine by me if it could be with the understanding that the conclusion, should that be the majority leader's intention, that I would be entitled to be recognized in order to fully protect my rights in connection with the motion to proceed on the tax bill.

Mr. BAKER. Madam President, will the Senator yield to me without losing his right to the floor and without it counting as a second speech for today under the two-speech rule?

Mr. CHAFEE. That would be fine by me.

Mr. BAKER. Madam President, may I say to my friend from Rhode Island that I would be very happy to do that and, of course, I would be happy to propound a unanimous-consent request that when we dispose of the conference report on the State-Justice appropriations, he would be first recognized when we resume consideration of the motion to proceed to the consideration of the tuition tax credit vehicle.

I would even be willing to vitiate the cloture petition if we could do that and at some point today get on the tuition tax credit matter itself instead of the motion to proceed, but I do not imagine that says anything except what an agreeable person I am. When the time comes and we have an opportunity to discuss that with the minority leader, I will be happy to propound such a request if he indicates he has no problem with that.

Mr. CHAFEE. Madam President, I am but one of several—I hope many, but as of now, only four—so I am unable to make that commitment now. However, we will be meeting, and I will immediately inform the majority leader whether this is possible. I agree with him. I would like to do that. I would like to proceed and vitiate the cloture petition and move on, and then have some kind of a vote on the tuition tax credit, but I will inform the majority leader of that as soon as I am in a position to do so.

Mr. BAKER. Madam President, I thank the Senator for yielding, and I wonder if he will suggest the absence of a quorum.

Mr. CHAFEE. I certainly would. Where do we stand now? Has the majority leader had unanimous-consent agreement as I suggested?

Mr. BAKER. We are on the bill, and the only thing I guess we need to do, if the Senator wants to, is, I guess after the quorum call is completed or called off, the Senator would have to seek recognition once again.

I ask unanimous consent that after the completion of the quorum call or disposition of the quorum call by unanimous consent, as the case may be, the Senator from Rhode Island be recognized for the purpose of continuing debate on the motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the Senator from Rhode Island not have his rights affected under the previous order by this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS POLICY ACT AMENDMENTS OF 1983—S. 1715

AMENDMENT NO. 2523 (AS MODIFIED)

(Purpose: Amendment in the nature of a substitute for S. 1715)

Mr. BRADLEY. Madam President, I send a modification of the amendment No. 2523 to the desk and ask unanimous consent that it be printed in the RECORD at the appropriate point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Natural Gas Policy Act Amendments of 1983".

(b) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—TRANSITIONAL PRICE AND CONTRACT PROVISIONS

Sec. 101. Repeal of certain contract requirements and imposition of take-or-pay limits.

Sec. 102. Transportation obligations for certain natureal gas.

Sec. 103. Effect of certain contract clauses.

TITLE II—REMOVAL OF WELLHEAD PRICE CONTROLS ON NEW CONTRACTS AND REPEAL OF JURISDICTION OVER CERTAIN FIRST SALES

Sec. 201. Removal of wellhead controls on new contracts.

Sec. 202. Repeal of Natural Gas Act jurisdiction over certain sales of committed or dedicated natural gas.

Sec. 203. Amendment to provisions allowing reimposition of price controls and report to the Congress.

TITLE III—PIPELINE PRUDENCE STANDARD

Sec. 301. Pipeline prudence standard.

TITLE IV—CONTRACT CARRIER AUTHORIZATION

Sec. 401. Contract carrier authorization.

Sec. 402. Coordination with the Natural Gas Policy Act.

Sec. 403. Effective date.

Sec. 404. Miscellaneous provisions.
TITLE V—REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS AND PETROLEUM USE AND PRICING IN NEW OR EXISTING POWERPLANTS
Sec. 501. Repeal of and amendments to certain sections of the Powerplant and Industrial Fuel Use Act 1978.
Sec. 502. Conforming amendments.
Sec. 503. Repeal of incremental pricing amendments.
TITLE VI—NATURAL GAS IMPORTS
Sec. 601. Amendment to the Natural Gas Act.

TITLE I—TRANSITIONAL PRICE AND CONTRACT PROVISIONS

REPEAL OF CERTAIN CONTRACT REQUIREMENTS AND IMPOSITION OF TAKE-OR-PAY LIMITS

SEC. 101. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by inserting a new section 316 to read as follows:

"§ 316. Imposition of take-or-pay limits

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section and not exempted by subsection 121(f) from the wellhead price controls specified in subtitle A of title I, the purchaser may elect not to be obligated to take delivery of, or pay for, any volume in excess of the volumes specified in subsection (b) for the periods specified in subsection (c).

"(b) VOLUMES.—For the purposes of subsection (a), the volumes shall be—

"(1) 50 per centum of deliverability during the first and second year from the date of enactment of this section;

"(2) 60 per centum of deliverability during the third year from the date of enactment of this section; and

"(3) 70 per centum of deliverability during the fourth and fifth years from the date of enactment of this section.

"(c) DURATION OF REDUCTION.—Any reduction of volumes pursuant to this section shall last for one year and may be extended for additional one-year periods, but in no event shall any reduction extend beyond the fifth year after enactment.

"(d) NOTICE REQUIREMENT.—Any purchaser electing pursuant to this section to reduce the volumes purchased shall provide the seller with written notice no less than thirty days prior to the date on which delivery of such volumes is to be reduced. Such notice may be given in advance of the effective date of this section.

"(e) RELEASE OF VOLUMES NOT TAKEN.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the volumes not taken are released and may be sold to any other purchaser. Such volumes will constitute released take-or-pay gas and—

"(1) shall not be subject to the abandonment requirements of the Natural Gas Act; and

"(2) shall not be committed or dedicated to interstate commerce under the Natural Gas Act.

"(f) CONTRACT AND TRANSPORTATION OBLIGATIONS.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the purchaser shall tender to the seller full and unconditional release from all duties and obligations in contract or in law with respect to volumes not taken under subsection (e). The purchaser, if a transporter of natural gas, shall tender transportation for such gas in accordance with the provisions of section 317.

"(g) PURCHASES FROM AFFILIATES.—If a purchaser elects pursuant to this section to reduce the volumes purchased, the purchaser must reduce purchases of its own production, and purchases from any affiliated producer, to a percentage of deliverability no higher than the percentage of deliverability which the purchaser is receiving under contracts for less expensive gas.

"(h) CASINGHEAD NATURAL GAS.—This section shall not apply to casinghead natural gas. The term 'casinghead natural gas' as used herein shall mean gas produced from a well which, under the laws or rulings of the regulatory body having authority over the production of oil and gas of the jurisdiction in which such well is located, is classified as an oil well, and in the absence of any classification under such laws or rulings, such term shall mean gas which is produced in conjunction with crude oil from the same producing formation from a single well.

"(i) DRAINAGE SITUATION.—This section shall not apply to the extent the production of the volume for which delivery is required to be taken would either cause drainage or be necessary in order to prevent drainage. For purposes of this section, the determination of whether delivery is required to be taken in order to prevent drainage will be determined by the drainage provision in the applicable gas sales contract. In the absence of a contractual provision, the determination will be made by the State or Federal agency having regulatory jurisdiction with respect to the production of natural gas.

"(j) PREVENTION OF RESERVOIR DAMAGE.—This section shall not apply to the extent that reduction in takes would be likely to result in damage to the well or reservoir.

"(k) OTHERWISE APPLICABLE LAW.—Any provision or rule of State or Federal law which conflicts with this section shall be inoperative after the date of enactment of this section to the extent that such provision or rule would otherwise apply to prevent the operation of this section.

"(l) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of this section, any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category.

"(m) MAKEUP RIGHTS.—Within thirty days after enactment, the Commission shall issue regulations respecting makeup rights for natural gas paid for, but not taken, by purchasers electing to reduce the volumes purchased pursuant to this section.

"(n) EFFECTIVE DATE.—The provisions of this section shall go into effect thirty days after the date of enactment.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 315 the following:

"Sec. 316. Imposition of take-or-pay limits.".

TRANSPORTATION OBLIGATION FOR CERTAIN NATURAL GAS

SEC. 102. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding a new section 317 to read as follows:

"§ 317. Transportation obligation for certain natural gas

"(a) IN GENERAL.—Any pipeline purchaser electing to reduce the volumes taken under section 316, which results in 'released take-or-pay gas' as defined therein shall have an obligation to transport such gas. The obligation of the pipeline purchaser shall not exceed on an annual basis the largest volume delivered under the contract during any twelve consecutive months in the thirty-six months prior to its termination.

"(b) LIMITATION OF OBLIGATION.—The Commission, or in the case of an intrastate pipeline purchaser the State agency with jurisdiction over the pipeline purchaser, upon application by the pipeline purchaser and after opportunity for hearing, may order a limitation of the obligation of the pipeline purchaser under this section if compliance with the obligation would require construction of additional facilities other than minor facilities as defined in section 320 or would impair the ability of the pipeline purchaser to render adequate service to its existing customers.

"(c) CONSIDERATION.—The consideration for any transportation provided under this section shall include an incentive allowance of $0.05 per million Btu's plus the just and reasonable rate, or the fair and equitable rate, for such transportation, as established by the Commission or appropriate State regulatory body, unless the Commission or appropriate State regulatory body has established by rule a different incentive allowance for such transportation. No amount of such incentive allowance shall be required to be credited and flowed back to the customers of such pipeline. Further, no amount of such incentive allowance shall be used in establishing rates to be charged by the pipeline.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 316 the following:

"Sec. 317. Transportation obligation for certain natural gas.".

EFFECT OF CERTAIN CONTRACT CLAUSES

SEC. 103. (a) MOST FAVORED NATIONS CLAUSES.—Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding a new section 318 to read as follows:

"§ 318. Limitation on most favored nations clauses

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section which is exempted from the wellhead price controls specified in subtitle A of title I by section 121, beginning on December 31, 1984, any most favored nations clause of any such contract may not operate to increase the price paid for such natural gas above the price paid as of December 31, 1984, multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

"(b) DEFINITION OF MOST FAVORED NATIONS CLAUSE.—For purposes of this section, the term 'most favored nations clause' means any provision of any contract which establishes the price by reference to the price paid under any other contract for the first sale of natural gas.".

(b) INDEFINITE PRICE ESCALATOR CLAUSES.—Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding a new section 319 to read as follows:

" § 319. Effect of indefinite price escalator clauses

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section which is exempted from the wellhead price controls specified in subtitle A of title I by section 121, beginning on December 31, 1984, any indefinite price escalator clause of any such contract may not operate to increase the price paid for such natural gas

above the price paid as of December 31, 1984, multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

"(b) DEFINITION OF INDEFINITE PRICE ESCALATOR CLAUSES.—For purposes of this section, the term 'indefinite price escalator clause' means any provision of any contract—

"(1) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to prices (established by other contracts or otherwise) for natural gas, for crude oil, for refined petroleum products, or for any other commodity, or

"(2) which the Commission determines is comparable in form and result.".

(c) CONFORMING AMENDMENT.—Section 105(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3315(b)) is amended by striking out paragraph (3).

(d) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 317 the following:

"Sec. 318. Limitation on most favored nations clauses.
"Sec. 319. Effect of indefinite price escalator clauses.".

TITLE II—REMOVAL OF WELLHEAD PRICE CONTROLS ON NEW CONTRACTS AND REPEAL OF JURISDICTION OVER CERTAIN FIRST SALES

REMOVAL OF WELLHEAD PRICE CONTROLS ON NEW CONTRACTS

SEC. 201. Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by inserting "and (f)" following "(e)"; and by adding new subsection (f) to read as follows:

"(f) REMOVAL OF CONTROLS ON NEW CONTRACTS.—The provisions of subtitle A shall not apply to new natural gas (as defined in section 102(c)) not subject to any contract for the first sale executed prior to the date of enactment of this subsection.".

REPEAL OF NATURAL GAS ACT JURISDICTION OVER CERTAIN SALES OF COMMITTED OR DEDICATED NATURAL GAS

SEC. 202. Section 601(a)(1)(B) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)(1)(B)) is amended by striking "or" at the end of clause (ii), by replacing the period at the end of clause (iii) with a semicolon, and by the addition of a new clause (iv) to read as follows:

"(iv) natural gas exempted from the operation of subtitle A of title I pursuant to section 121(f).".

AMENDMENT TO PROVISIONS ALLOWING REIMPOSITION OF PRICE CONTROLS AND REPORT TO THE CONGRESS

SEC. 203. (a) Section 122 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332) is amended as follows:

(1) In subsection (a), strike ", or the Congress, in accordance with subsection (c)(2),";

(2) In subsection (c), strike "concurrent resolution of disapproval described in section 507(c)(1)" and insert "joint resolution of approval described in section 507(c)(1)";

(3) Strike paragraph (c)(2), and redesignate paragraph (c)(1) as subsection (c).

(b) Section 507 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3417) is amended as follows:

(1) In subsection (a)(1) strike "concurrent" and insert "joint";

(2) Strike paragraphs (a)(2) and (a)(3) and redesignate paragraph (a)(1) as subsection (a).

(3) In subsection (c), strike "202, and 206";

(4) In subsection (c)(1) strike "Concurrent" or "concurrent" wherever it appears and insert "Joint" or "joint";

(5) Strike paragraphs (c) (2) and (3) and redesignate paragraph (c)(1) as subsection (c).

TITLE III—PIPELINE PRUDENCE STANDARD

SEC. 301. Section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)), is amended by inserting "imprudence," after "fraud, abuse," and before "or similar grounds."

SEC. 302. Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by inserting a new subsection (d) to read as follows:

"(d) PRUDENCE STANDARD APPLICABILITY.—The provisions of section 601(c)(2) respecting the Commission determination of whether any amount paid with respect to any purchase of natural gas was imprudent shall apply to any amounts paid for natural gas after the date of enactment.

SEC. 303. Section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by adding a new subsection to read as follows:

"(38) IMPRUDENCE.—The term 'imprudence' includes, but is not limited to, entering into or operating pursuant to any contract for the purchase of natural gas that—

"(A) materially prevents the purchaser from responding to changes in customer demand or other market forces;

"(B) does not provide for periodic renegotiation to adjust the price to reflect changes in the market price of natural gas in the region where the natural gas will be consumed;

"(C) contains average minimum bill or take-or-pay provisions that provide the purchaser inadequate flexibility to respond to changes in market demand for natural gas;

"(D) contains a price for natural gas under which the natural gas could not have been reasonably calculated to be marketable in the region where it will be consumed; or

"(E) the Commission determines is imprudent.".

TITLE IV—CONTRACT CARRIER AUTHORIZATION

SEC. 401. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 320 to read as follows:

§ 320. Contract carrier authorization

"(a) GENERAL INTERSTATE PIPELINE RULE.—An interstate pipeline shall transport natural gas under this section if—

"(1) a seller or a purchaser of natural gas requests an interstate pipeline to transport natural gas,

"(2) such pipeline has available capacity, and

"(3) the seller or purchaser certifies that—

"(A) at least forty-five days in advance it notified the interstate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(B) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline at a price and on terms satisfactory to a purchaser, and

"(C) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(b) GENERAL INTRASTATE PIPELINE RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order an intrastate pipeline to transport natural gas in accordance with this section if—

"(A) a seller or a purchaser of natural gas requests an intrastate pipeline to transport natural gas,

"(B) such request is received by such intrastate pipeline and filed with the State agency, and that State agency has failed to take final administrative action within a period of ninety days after receipt of such request,

"(C) such pipeline has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the intrastate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline at a price and on terms satisfactory to the purchaser, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This subsection shall not apply if a State agency certifies that—

"(A) it has authority to require an intrastate pipeline with available capacity to transport natural gas for a seller or purchaser of natural gas requesting such transportation, and

"(B) pursuant to such authority, it is required to take final administrative action within a time certain.

"(3) JURISDICTION OF THE COMMISSION.—No intrastate pipeline shall be subject to the jurisdiction of the Commission under the Natural Gas Act by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for an intrastate pipeline ordered by the Commission to transport natural gas under subsection (b), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by an intrastate pipeline, if no rate has been established pursuant to State law.

"(c) GENERAL LOCAL DISTRIBUTION COMPANY RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order a local distribution company to transport natural gas in accordance with this section if—

"(A) a seller or purchaser of natural gas requests a local distribution company to transport natural gas,

"(B) such request is received by the local distribution company and filed with the State agency, and that State agency has failed to take administrative action within a period of ninety days after receipt of such request,

"(C) such local distribution company has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the local distribution company currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any,

by such local distribution company at a price and on terms satisfactory to the purchaser, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This section shall not apply if a State agency certifies that—

"(A) it has authority to require a local distribution company to transport natural gas for a seller or a purchaser of natural gas requesting such transportation,

"(B) pursuant to such authority, it is required to take final administrative action within a time certain, or

"(C) the local distribution company to which the section would otherwise apply has filed and received approval for a tariff, rate schedule, or service agreement covering transportation service which is generally available for transportation service within such local distribution company's service area.

"(3) JURISDICTION OF THE COMMISSION.—No local distribution company shall be subject to the jurisdiction of the Commission by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for a local distribution company ordered by the Commission to transport natural gas under subsection (c), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by a local distribution company, if no rate has been established pursuant to State law.

"(4) RESTRICTION.—

"(A) No individual facility that as of the date of enactment of this Act, purchased or received gas from, or was historically served by a local distribution company, may receive gas transported under this section, except according to the procedures in this subsection.

"(B) For the purposes of this paragraph, any individual facility that—

"(i) has received gas from a local distribution company since January 1, 1980,

"(ii) is not receiving gas as of the date of enactment, and

"(iii) has service facilities physically connected to the local distribution company,

shall be deemed to have been historically served by such company.

"(C) The prohibition under subparagraph (A) shall not apply—

"(i) to a request for transportation service to an individual facility served as of the date of enactment of this Act, or historically served, by a local distribution company to the extent that the volume of natural gas to be transported exceeds the average annual deliveries to such facility within four years prior to the date of enactment,

"(ii) to gas transported to service facilities not in existence as of the date of enactment,

"(iii) to gas transported to serve facilities which—

"(aa) have not used gas for three years prior to date of application for transportation service, or

"(bb) have not used gas for four years, in the case of facilities historically served by a local distribution company,

"(iv) to the extent that the individual facility has a direct purchase contract with an interstate natural gas pipeline that was executed on or before July 29, 1983, or

"(v) to a request for transportation service if such request has the concurrence of the local distribution company and the State agency.

"(d) AVAILABLE CAPACITY.—

"(1) REBUTTABLE PRESUMPTION.—A pipeline or a local distribution company shall be presumed to have available capacity unless the Commission determines that such pipeline's or local distribution company's total capacity is necessary to render adequate service to its existing customers.

"(2) PARTIAL CAPACITY.—If the Commission finds that a pipeline or a local distribution company has available capacity to transport only a portion of the natural gas requested to be transported under this section, the Commission shall require such pipeline to transport such natural gas to the extent of such available capacity in accordance with this section.

"(e) PROTECTION FOR HIGH PRIORITY USERS.

"(1) GENERAL RULE FOR EXISTING CUSTOMERS.—Any pipeline transporting natural gas pursuant to this section shall continue to serve its existing customers, in preference to its contract carriage customers, except as provided herein.

"(2) ESTABLISHMENT OF CONTRACT CARRIAGE SERVICE PRIORITY.—Any contract carriage customer may seek to establish a contract carriage service priority in order to assure that capacity is available for the existing high-priority users of the gas transported on behalf of such customer.

"(A) FILING REQUIREMENT.—The contract carriage customer seeking to establish a contract carriage service priority shall file such information as may be required by the Commission in order to establish the volume of natural gas to be transported by the pipeline in order to meet the current requirements of the existing high-priority users of the gas transported on behalf of such customer. The contract carriage customer seeking to establish the contract carriage service priority shall file such information at the same time it files the request for authorization pursuant to subsection (k)(1).

"(B) COMMISSION DETERMINATION.—The Commission shall determine the volume of natural gas which is necessary to meet the current requirements of the existing high-priority users of the gas transported on behalf of any contract carriage customer, taking into consideration all of the sources of supply of such contract carriage customer. Such volume shall constitute the contract carriage service priority.

"(3) APPLICATION OF PRIORITY.—In the event that the transporting pipeline later develops insufficient capacity to satisfy the transportation needs of both its existing customers and its contract carriage customers, the Commission shall, by rule or order, require the pipeline to transport the contract carriage service priority volume, in preference to the volume necessary to meet the requirements of customers who are not high-priority users of such pipeline.

"(4) INSUFFICIENT SUPPLY.—Nothing in this section shall affect—

"(A) the priority of service afforded users under Title IV of this Act of the pipeline's gas supply that is subject to the pipeline's curtailment plan, or

"(B) the priority of service established pursuant to State law for any intrastate pipeline.

"(f) CONTRACT CARRIAGE COMPENSATION.—

"(1) GENERAL RULE.—Compensation for transportation service provided under this section shall be determined according to this subsection.

"(2) VOLUNTARY TRANSPORTATION ALLOWANCE.—Any pipeline or local distribution company that voluntarily agrees to transport natural gas under this section shall be permitted to charge an incentive allowance of up to $0.05 per million Btu's (in excess of the just and reasonable rate, or the fair and equitable rate, for such transportation as established by the Commission) unless and until the Commission determines by rule or order that some other amount is appropriate as an incentive in the public interest. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline.

"(3) REQUIRED CONTRACT CARRIAGE COMPENSATION ALLOWANCE.—Any pipeline or local distribution company that protests the transportation of natural gas under this section and is subsequently ordered to transport such natural gas by rule or order of the Commission shall be allowed to charge an appropriate incentive allowance, to be determined by the Commission. The allowance may exceed the just and reasonable rate, or the fair and equitable rate, for such transportation by up to $0.05 per million Btu's if, in the judgment of the Commission, the protest was a reasonable effort to protect the pipeline's or local distribution company's ability to continue to render adequate service to its existing customers. The Commission shall establish criteria to be used in determining the amount of the incentive allowance to be granted. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline or local distribution company.

"(4) TRANSPORTATION BY MULTIPLE PIPELINES OR LOCAL DISTRIBUTION COMPANIES.—If transportation service is provided under this section by more than one pipeline or local distribution company, the Commission may allocate the incentive allowance provided for in subsection (2) or (3) among the parties providing transportation service under this section.

"(5) INCENTIVE ALLOWANCE LIMITATION.—Notwithstanding any other provision of this section, any pipeline that transports natural gas owned or produced by an affiliate of such pipeline may not receive an incentive allowance for such transportation service. Similarly, any local distribution company that transports natural gas owned or produced by an affiliate of such local distribution company may not receive an incentive allowance for such transportation service.

"(6) CONSUMER PROTECTION RATE DESIGNS.—Within ninety days after enactment the Commission shall promulgate regulations which require that the just and reasonable rates for the transportation service provided in accordance with this section include an equitable percentage of the fixed costs of the transporting pipeline (including any costs associated with prepayments for gas not taken which the Commission permits to be included in the pipeline's cost of service) in order to protect all classes of customers, but particularly residential and commercial customers of the transporting pipeline. Such regulations shall be designed to require rates for transportation service provided in accordance with this section that are comparable to transportation charges in-

cluded in the price of gas sold to pipeline customers receiving comparable service.

"(g) CONSTRUCTION OF NEW FACILITIES.—Upon request of a seller or purchaser of natural gas requesting transportation of natural gas under this section, the Commission may order a pipeline or local distribution company to construct and operate minor facilities necessary for the transportation of natural gas under this section. The person requesting transportation service shall pay the cost of construction and operation of such facilities.

"(h) SERVICE OBLIGATION.—If an existing customer of an interstate pipeline becomes a contract carriage customer, such customer's right to utilize the pipeline's capacity to receive gas under all rate schedules, tariffs, government licenses or certificates in effect prior to becoming a contract carriage customer shall not be affected. The customer may utilize such capacity either to transport gas under this section, or to receive gas purchased from the pipeline. If a customer of an interstate pipeline elects to reduce its obligation to purchase natural gas from such pipeline, the obligation of such pipeline to sell natural gas to such customer pursuant to the Natural Gas Act shall be reduced to that extent.

"(i) MINIMUM BILLS AND DEMAND CHARGES.—The Commission, upon petition by a pipeline or local distribution company, shall reduce such pipeline's or local distribution company's obligation to purchase natural gas under any minimum bill contract, service agreement, or demand charge tariff to the extent necessary to offset any reduction in volume of natural gas purchased by it—

"(1) in the case of a pipeline due to reduced demand for natural gas of its customers because of purchases made under this section, or

"(2) in the case of a local distribution company to permit the local distribution company to purchase natural gas from others pursuant to the authority of this section and to reflect any reduced demand for natural gas of its customers because of purchases under this section.

"(j) TERMINATION.—The Commission may, by order, reduce or terminate the transportation service provided for under this section upon the filing of a petition by any party to a transportation service agreement if the Commission determines that, because of unforeseen circumstances, the volumes of such natural gas supplied or delivered do not substantially comply with the terms of the authorization under this section.

"(k) NONDISCRIMINATION PROVISION.—

"(1) No interstate pipeline subject to the requirements of this section may discriminate between existing customers and contract carriage customers in providing storage for natural gas sold or transported or in determining the rate to be charged for such storage.

"(2) The Commission shall require each interstate pipeline subject to the requirements of this section to publish separate, nondiscriminatory tariffs for purchase, transportation, storage, and sale of natural gas.

"(3) The Commission shall prohibit any interstate pipeline from conditioning the transportation or storage of natural gas by a contract carriage customer upon purchases by such contract carriage customer of natural gas from such pipeline.

"(l) REGULATIONS.—The Commission shall issue final regulations implementing the requirements of this section within one hundred and twenty days of enactment of this section. The regulations shall—

"(1) provide for self implementation of transportation requested under this section in the absence of any protest; and

"(2) require semiannual certification by each interstate pipeline of its total capacity, its available capacity, and the amount of natural gas actually taken by its existing customers in months of peak natural gas usage during the five years immediately preceding.

"(m) PROCEDURES.—

"(1) All requests for transportation service under this section shall be filed with the Commission, which shall cause the same to be published in the Federal Register and forwarded to the appropriate State agency as soon as practicable.

"(2) Any transportation service request may be protested by the pipeline or local distribution company to which it is addressed or by any other interested person, or any State agency, on the grounds that—

"(A) the request, if implemented—

"(i) would render the pipeline or local distribution company requested to provide the transportation service unable to render adequate service to its existing customers, or

"(ii) would render the pipeline or local distribution company presently serving the person on whose behalf such transportation is being sought unable to render adequate service to its remaining customers,

"(B) the seller or purchaser did not meet the notice requirement contained in subsection (a), (b), or (c),

"(C) the seller or purchaser did not negotiate in good faith as required by subsection, (a), (b), or (c), or

"(D) the transportation would not comply with the requirements of this section.

Such protest must be filed within thirty days after publication of the request for transportation service.

"(3) At the expiration of the thirty-day protest period provided in paragraph (2), if no protest has been received, the transportation service shall be implemented pursuant to subsection (j)(1).

"(4) The Commission shall hear and decide protests filed hereunder as expeditiously as practicable, giving priority to such proceedings; and shall enter its order with respect to any protest within ninety days after the date the protest is filed, extending the entry of its order beyond such ninety-day period only for good cause shown. If the Commission cannot enter its order within such ninety-day period, in the absence of a stay entered to avoid irreparable injury, requests for transportation service shall be implemented at the end of such ninety-day period.

"(5) Commission proceedings and orders with respect to any protested request shall be limited to consideration of and decision on the specific grounds for protest specified in this section and asserted in the protest.

"(n) DEFINITIONS.—For purposes of this section, the term—

"(1) 'contract carriage customer' means any person receiving transportation service under subsection (a);

"(2) 'existing customer' means any person served by a pipeline other than a contract carriage customer;

"(3) 'high-priority user' includes any high-priority user, any essential agricultural use, and any essential industrial process and feedstock use, as defined in title IV;

"(4) 'intrastate pipeline' means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act, except a local distribution company;

"(5) 'minor facilities' means those facilities, including sales taps, which the Commission determines by rule or order do not involve substantial costs;

"(6) 'render adequate service to its existing customers'—

"(A) in the case of an interstate pipeline, means the capacity to transport, store, and deliver the volume of natural gas necessary to meet the maximum quantities applicable to each customer for the receipt of gas under all rate schedules, tariffs, governmental licenses or certificates, provided, however, solely for purposes of determining available capacity, that such capacity shall not include (i) capacity which the Commission finds has been applied for by a prospective contract carriage customer purchasing from a local distribution company and for which the prospective contract carriage customer has produced evidence satisfactory to the State agency of a current obligation on the part of the local distribution company to deliver gas without substantial interruption; or (ii) capacity otherwise available to the local distribution company which the prospective contract carriage customer is authorized (either by the local distribution company or the State agency) to utilize. Such authorization may be for any number of days of a year and may be subject to interruption for use by the local distribution company; or

"(B) in the case of an intrastate pipeline or a local distribution company shall be as defined by the State agency.

"(7) 'State agency' means an agency or instrumentality of a State or political subdivision thereof, including a municipal utility, with authority to fix, modify, approve, or disapprove rates for the transportation or sale of natural gas; and

"(8) 'total capacity' means the capacity to transport natural gas that can be made available consistent with accepted engineering principles to deliver a given volume of natural gas to a given location through all means, including but not limited to, direct haul, storage capacity, compression, flow reversal or transportation by displacement.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 319 the following:

"Sec. 320. Contract carrier authorization.".

COORDINATION WITH THE NATURAL GAS POLICY ACT

SEC. 402. Title VI of the Natural Gas Policy Act of 1978 is amended—

(a) by amending section 601(a)(1)(C)(i) to read, "(i) authorized under section 302(a), 311(b), or 320; or"

(b) by amending section 601(a)(2)(A) by striking "or" at the end of clause (i), replacing the period at the end of clause (ii) with a semicolon, and inserting the following:

"(iii) authorized under section 317 or 320 of this Act; or

"(iv) transported by an intrastate pipeline, whether voluntarily or as the result of an order by a State regulatory commission, for any party under contract carriage terms, regardless of the source or ultimate destination of such gas.".

EFFECTIVE DATE

SEC. 403. The amendments made by section 401 shall apply to the transportation of natural gas pursuant to requests made one hundred and twenty days after enactment.

MISCELLANEOUS PROVISIONS

SEC. 404. (a) STATE RETAIL RATEMAKING AUTHORITY.—Section 602 of the Natural Gas Policy Act of 1978 is amended by adding new subsections (c) and (d) to read as follows:

"(c) STATE REGULATORY AUTHORITY.—Nothing in this Act, or in the Natural Gas Act, shall preclude any State regulatory authority from reviewing the natural gas purchasing practices or from disallowing the natural gas purchase costs of any utility subject to its ratemaking jurisdiction if such action is otherwise in accordance with State law.

"(d) BUYER'S COOPERATIVES.—The Commission may issue rules that facilitate and encourage any local distribution company or municipality to cooperatively purchase gas. The failure of the Commission to issue rules under this paragraph shall not be construed to prevent or impair formation of such buyer's cooperatives.".

(b) REDUCTION OF PURCHASE OBLIGATION.—Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 321 to read as follows:

"§ 321. Reduction of purchase obligation for contract carriage

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section and not exempted by subsection 121(f) from the wellhead price controls specified in subtitle A or title I, the purchaser may elect not to be obligated to take delivery of, or pay for, an amount necessary to offset any reduction in volume of natural gas sold by the purchaser due to transportation under section 320, as determined by rule or order of the Commission.

"(b) OTHER APPLICABLE PROVISIONS.—The provisions of section 316 (c) through (n) shall apply to any reduction due to the operation of this section.".

SEC. 405. CLARIFICATION OF COMMISSION'S AUTHORITY UNDER SECTION 7.—Section 7(a) of the Natural Gas Act of 1978 (15 U.S.C. Sec. 717f(a)) is amended by adding the following: "The authority of the Commission under this subsection extends to the expansion of transportation and storage facilities and gathering lines and to the physical connection of pipeline facilities to wells or to the facilities of any other pipeline company necessary to provide transportation service to customers. The Commission may require such method of payment or of the furnishing of security for payment as affords protection to others against bearing the costs of unused capacity should the demand for which the expansion was undertaken thereafter diminish.".

TITLE V—REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS AND PETROLEUM USE AND PRICING

REPEAL OF AND AMENDMENTS TO CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 501 (a). The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) Section 202;
(2) Section 302;
(3) Section 401;
(4) Section 402; and
(5) Section 405.

(b) The table of contents of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the sections repealed by subsection (a) of this section and by revising the table of contents accordingly.

(c) Section 212(d) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) After consideration of a petition (and comments thereon) for an exemption from the prohibitions of subpart A for a powerplant to use natural gas in a natural gas-coal mixture, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas if the petitioner certifies to the Secretary that—

"(A) the use of natural gas in such mixture is to reduce the emissions from that which would occur if only coal was used as a primary energy source; and

"(B) the proportion of natural gas in such mixture will not exceed the level necessary to comply with applicable environmental requirements, disregarding any variances issued or granted in connection with the powerplant.

For purposes of this paragraph, the term 'natural gas-coal mixture' means any mixture of natural gas and coal or any combination of such fuels used simultaneously or alternately in any unit or in any set of units located at the same site.".

(d) Section 701(c) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding section 702(a) or any other provision of law (other than subparagraph (B)), any exemption under section 212(d) shall be effective upon the date a certification is filed with the Secretary by the person proposing such use of natural gas that the conditions for such exemption have been met.

"(B) An exemption shall not be made effective on the date of certification under subparagraph (A) for a facility if—

"(i) a previous petition for an exemption under such sections has been denied on the basis of facts and circumstances which have not been substantially changed since the prior petition; or

"(ii) such an exemption has been approved but subsequently revoked under the terms and conditions of that exemption.".

CONFORMING AMENDMENTS

SEC. 502. (a) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by striking "and major fuel-burning installations" wherever this phrase appears.

(b) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(1) in subsection (a)(13(B), by—

(A) striking clause (ii)(III);

(B) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and

(C) inserting "and" at the end of clause (ii)(I);

(2) in subsection (a)(15), by striking "or major fuel-burning installation" wherever this phrase appears;

(3) in subsection (a)(20), by striking "or major fuel burning installation", "in the case of powerplants," and "In the case of an electric powerplant", and by capitalizing the "s" which follows "State regulatory authorities.)";

(4) in subsection (4), by striking "or major fuel-burning installation" wherever this phrase appears; and

(5) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(c) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended—

(1) by striking "or installation" and "or installations" wherever the phrases appear;

(2) by striking "or 302" wherever the phrase appears;

(3) by amending subsection (b)(1) to read as follows:

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants.";

(4) in subsection (b)(3), by striking "or major fuel-burning installation"; and

(5) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(d) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

(1) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(2) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase; and

(3) by adding, in subsection (b)(1)(A), the phrase "in new and existing electric powerplants," following the words "conservation of petroleum and natural gas,".

(e) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking in subsection (g) the words "or a major fuel-burning installation" and the words "or installation".

(f) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

(1) in the last sentence of subsection (b), "or installation";

(2) subsection (c)(2) the words "or, where appropriate, major fuel-burning installation";

(3) in subsection (f), the words "402 or" wherever they appear; and

(4) in subsection (g), the words "402 or" wherever they appear, the phrase "with respect to a major fuel-burning installation or", and the words "installation or".

(g) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(h) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended by striking subsection (b)(2) and the word "(1)".

(i) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended by striking the phrase "or major fuel-burning installation" wherever the phrase appears.

(j) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(k) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended by striking the phrase in subsection (a), "or major fuel-burning installation".

REPEAL OF INCREMENTAL PRICING REQUIREMENTS

SEC. 503. (a) Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(b) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the enactment of this section, including any surcharges based on such costs.

(c) The Commission may take appropriate action to implement this section.

TITLE VI—NATURAL GAS IMPORTS

AMENDMENT TO THE NATURAL GAS ACT

SEC. 601. Section 3 of the Natural Gas Act is amended by redesignating the existing section as subsection (a) and entitling it "General Rule"; by striking the word "Commission" wherever it appears and by inserting the words "Secretary of Energy"; and by inserting new subsections (b) and (c) to read as follows:

"(b) PUBLIC INTEREST CRITERIA.—In any proceeding concerning an importation of natural gas, the importation shall not be consistent with the public interest if the Secretary determines that the contract governing the terms and conditions for such an import—

"(1) materially prevents the purchaser from responding to changes in customer demand or other market forces;

"(2) does not provide for periodic renegotiation to adjust the price to reflect changes in the market price of natural gas in the region where the natural gas will be consumed;

"(3) contains average minimum bill or take-or-pay provisions that provide the purchaser inadequate flexibility to respond to changes in market demand for natural gas consistent with the need for adequate financing;

"(4) contains a price for natural gas under which the natural gas could not have been reasonably calculated to be marketable in the region where it will be consumed; or

"(5) is contrary to the public interest.

"(c) ALGERIAN LNG IMPORTS.—

"(1) For purposes of this section, the import of liquefied natural gas (LNG) from Algeria by Trunkline LNG Company shall be considered not consistent with the public interest. Notwithstanding any other provision of law, within ten days after the date of enactment of this subsection, the Commission shall issue a supplemental order suspending the authorization to import this LNG of Trunkline LNG Company.

"(2) On or after the date eighteen months after the date of enactment of this subsection, the Commission may lift the suspension of the authorization to import imposed by paragraph (1) if the Commission, in accordance with the procedures set forth in subsection (a) of this section, finds that the resumption of imports of this LNG would be consistent with the public interest.".

Mr. BRADLEY. Madam President, I am today modifying the amendment I described on November 8, 1983. After consulting with my colleagues from Pennsylvania and Massachusetts and others, I have made the following changes:

Expanded the definition of imprudence; deleted the provision decontrolling released take-or-pay volumes; deleted the provision in contract carriage allowing FERC review of final State decisions; allowed the State regulatory authorities to define "render adequate service to its existing customers" for local distribution customers and intrastate pipelines; clarified the service obligation provisions of contract carriage; adopted the Ford-Hollings version of the Fuel Use Act modifications; and adopted more explicit language regarding the trunkline imported LNG problem.

Madam President, we do not have much time. The gas market from producer to consumer needs legislation. Now is the time for the Senate to act.

● Mr. CHAFEE. Madam President, just about anybody who has been following the natural gas debate has concluded that the bill reported by the Energy and Natural Resources Committee, S. 1715, is unlikely to pass in its present form.

I opposed the bill in committee and continue to oppose it for a number of reasons, primarily because its old gas decontrol provisions guarantee higher prices for gas consumers in Rhode Island. Our consumers already pay among the highest natural gas prices in the country and this bill would only add to that burden.

Another serious flaw in S. 1715 is its so-called equal access and transportation provisions. These provisions are harmful to Rhode Island because they discriminate against interstate pipelines which serve the nonproducing States.

Under the bill, intrastate pipelines could obtain gas across State lines without having the transaction subject to the Federal Energy Regulatory Commission. Because intrastate pipelines would not be under FERC jurisdiction, which could affect wellhead pricing and contract terms, they could outbid the interstate pipeline for interstate supplies. Such a situation would obviously give a competitive advantage to the intrastate pipelines and would lead to the reemergence of the dual market which caused so much of the supply shortfall in the interstate market during the 1970's.

The dual market occurred when Federal regulations governing the purchase of new gas supplies were applied to the interstate pipelines but not the intrastates. Consequently, the intrastate pipelines were in a position to outbid the interstate pipelines. Congress passed the Natural Gas Policy Act in 1978 and corrected some of the problems of this dual market and the results have been successful. Now, however, S. 1715 could recreate the dual market situation because it would allow intrastate pipelines to have access to interstate supplies without being subject to the Natural Gas Policy Act or the Natural Gas Act.

This situation could be further exacerbated because S. 1715 as well as other natural gas bills contain prudent purchasing requirements for interstate pipelines, a concept I support. If these requirements are enacted, intrastate pipelines would not be subject to the prudence test, and this could give them an additional bargaining advantage over the interstates.

As I said earlier, I believe S. 1715 in its present form will not pass. Consequently, there are many substitutes floating around whose sponsors are attempting to find the right mix of provisions that will get 51 votes on the Senate floor. Some of these substitutes have access provisions like those of S. 1715 while others do not address the issue at all. As we move forward on the natural gas legislation, I would like my colleagues who are drafting these substitutes to know that I will support efforts to change any access provisions like those found in S. 1715 because they discriminate against interstate pipelines and consumers in the nonproducing States.●

● Mr. HEINZ. Madam President, I am pleased to cosponsor the amendment introduced by my distinguished colleague from New Jersey, Senator BRADLEY.

It represents our efforts in working together to modify the original amendment Senator BRADLEY offered to the Senate on November 8, in ways which I believe are consistent with defining balanced solutions to the problems we face in the natural gas market.

While we all have had ideas as to how to remedy distortions in the natural gas market, it is now time to seek middle ground around which to structure comprehensive legislation. It is our belief that this amendment represents this very valuable middle ground.

In attempting to fashion comprehensive natural gas legislation we have focused our attention on better principles: First, providing meaningful long-term protection to our Nation's consumers; second, insuring that producers have adequate incentives at their disposal in order to continue to explore and develop additional reserves of natural gas; third, stimulating more competition in the natural gas market to reduce wellhead and delivered gas prices; and; fourth, expanding potential markets for natural gas in concert with this Nation's most abundant energy resource—coal.

By now the provisions of the amendment offered by Senator BRADLEY to the Senate on November 8, are well known. The expanded 5-year take or pay relief provided will hopefully provide relief to consumers served by pipelines whose onerous prepayment obligations have denied them access to the most cost competitive gas supplies

available. Outlawing the existence of most-favored-nation clauses and limiting the ability of other escalator clauses to operate in an abusive manner will prevent the occurence of nonmarket related price spikes. The addition of imprudence to section 601(c)(2) of the Natural Gas Policy Act will hopefully end an era during which the FERC has abdicated its obligation to protect the consumers of this Nation against abusive pipeline purchasing practices. In addition we have taken the following action.

First, we have eliminated the provision which would have decontrolled released take or pay gas. It is certainly our hope that under the take or pay regime we establish that volumes of gas released by pipelines will represent high cost gas whose price is insensitive to market conditions. In theory, once these high cost volumes of gas are released and decontrolled, they will be sold at a market sensitive price. In theory such a trade off would be worth the price. In practice, I am concerned that decontrol of released take or pay volumes may lead to the decontrol of volumes of old gas which never were intended to be decontrolled.

Some would argue that no pipeline would ever be so foolish as to release specified volumes of old gas and thereby be subject either to charges of abuse or the imprudence this legislation would add to section 601(c)(2) of the Natural Gas Policy Act.

Had the pipelines exhibited the ability to prudently manage their affairs to the benefit of this Nation's consumers or had the FERC either exercised proper oversight over purchase gas adjustment filings or acted expeditiously to create an aggressive abuse standard, I would not oppose decontrolling released take or pay gas. We are, however, faced with a very different reality and as a result we have decided to refrain from decontrolling released volumes of take or pay gas.

Second, though the take or pay relief this legislation provides is reasonable, both in its extent and duration, it may not provide consumers with sufficient relief from onerous prepayment obligations incurred by pipelines. Those prepayment obligations, now totalling nearly $7 billion for the time period 1982 to 1985 cannot be totally alleviated by the take or pay regime in this amendment. This is particularly the case for those pipelines who have imprudently incurred excessive obligations for large volumes of high cost gas. Therefore we have directed the FERC to issue regulations respecting makeup rights for natural gas paid for but not taken by purchasers electing to take advantage of the take or pay relief this amendment offers.

Third, we have attempted to provide the FERC with more careful guidance in adding imprudence as an additional measure of pipeline accountability. Our intent is to have the FERC recognize the importance we attach to contracts and purchasing practices which are flexible and can be adjusted to reflect market conditions. It is absolutely essential that such flexibility be inherent in future purchase gas adjustment filings.

Fourth, though I believe that we should repeal the Powerplant and Industrial Fuel Use Act to increase demand for natural gas, we must do so in ways to maximize the role that both coal and gas can play in concert in meeting our Nation's energy and environmental needs.

Our amendment would therefore repeal the Powerplant and Industrial Fuel Use Act in the following manner:

First, we would repeal the automatic ban in the Powerplant and Industrial Fuel Use Act on the use of either gas or oil by large new industrial facilities;

Second, we would repeal the Department of Energy's discretionary authority to ban gas or oil use by large existing industrial facilities;

Third, we would retain the ban on gas and oil use in large new powerplants except for the select use of gas to achieve environmental compliance by offsetting some or all of the emissions that would otherwise be associated with direct coal combustion;

Fourth, we would permit the select use of gas by large existing powerplants to achieve environmental compliance by offsetting some or all of the emissions that would otherwise be associated with direct coal combustion;

Fifth, we would preserve the legal ability of electric utilities to volunteer for mandatory orders to convert powerplants from oil and gas to coal; and

Sixth, we would repeal environmental pricing provisions.

The concept of the select use of gas in concert with coal, originally introduced by my distinguished colleague from South Carolina, Senator HOLLINGS, and recently cosponsored by the distinguished cochairman of the Senate Coal Caucus, Senator FORD can: Maximize the benefits to the Nation from using our cleanest fossil fuel—natural gas; reduce our dependence on foreign oil while increasing our use of domestic coal and gas; maintain and improve air quality; and enhance the employment outlook of Eastern and Midwestern coal miners. In this way we can overcome barriers to greater coal and gas utilization.

Fifth, as elaborated by Senator BRADLEY, we have amended the contract carriage provisions of the original amendment to insure that residential consumers do not suffer from negative consequences which may result from load loss to local distribution companies which might have occurred as a result of contract carriage. As a result, the integrity of the distribution company system will be preserved by respecting its need to maintain existing and future pipeline capacity. To Senator BRADLEY's credit he has modified his contract carriage provision in a way which will bring cost competitive, market sensitive gas to all of our consumers. While contract carriage is not the panacea to our natural gas problems, it creates a factor which has long been missing from the natural gas marketplace—competition.

Finally, perhaps one of the most controversial features of our proposed amendment is the decontrol of new 102 gas. Those who view themselves as consumer advocates have stated that they cannot tolerate even the symbolism of decontrolling the carefully defined and small amounts of 102 gas called for by this amendment. As one who has championed the protected of this Nation's consumers throughout the natural gas debate, I, frankly, welcome the consumer benefits that will result from selling new gas at a market price 40 to 50 cents per thousand cubic feet below established NGPA ceiling prices. I welcome the opportunity to have producers prove that if given the chance, they will sell gas to our Nation's consumers at market prices. Symbolism is far less important than real price relief.

The amendment we propose today, provides price relief, competition, sensible regulation and a healthy regard for the free market. The solutions proposed are balanced. It is our hope that in the coming days our colleagues will join us in cosponsoring this amendment and thereby assisting us in moving toward the enactment of comprehensive natural gas legislation.●

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I have cleared the request I am about to make with the distinguished Senator from Rhode Island and the distinguished Senator from Idaho (Mr. MCCLURE). It seems the better part of discretion now to go to the conference report on State, Commerce, Justice, and the Judiciary.

Madam President, I ask unanimous consent that the pending business, which is the motion to proceed to the consideration of the Olympics bill be temporarily laid aside, to recur after the disposition of the conference report on H.R. 3222, which I now ask unanimous consent be laid before the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. BYRD. Madam President, there will be no objection that I know about. Senator HOLLINGS, who will manage the matter on our side, is on his way, and Senator MELCHER is on his way. So I simply state this for the record.

If the distinguished Senator wishes to proceed with an opening statement, I am sure there will be no one who will object to that.

Mr. LAXALT. I thank the minority leader.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1984—CONFERENCE REPORT

Mr. LAXALT. Madam President, I submit a report of the committee of conference on H.R. 3222 and asks for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 3, 1983.)

Mr. LAXALT. Madam President, I am pleased to take this action because with enactment of this measure, the departments and agencies under this act will have the first regular appropriations bill in 4 years.

This bill is a delicate compromise. While it pleases no one entirely, it is a good bill and one I have been assured the President will sign.

Rather than recap the entire history of the bill, I would simply like to inform the Senate where we are now. The conference report was approved by the House last week with one exception—funding for the Civil Rights Commission was stricken. This was due to the uncertainties of the authorization of that agency. Yesterday, as you know, that uncertainty was resolved.

Today, I will ask the Senate to agree to every amendment already agreed to by the House. On amendment No. 102, the Civil Rights Commission, I will ask the Senate to restore the moneys and return the measure to the House. I have been assured the House will recede to the Senate position before adjournment clearing the measure for the President.

In view of the fact that the ranking minority member of this committee, Senator HOLLINGS, apparently is still on his way and Senator MELCHER is on his way, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Madam President, I thank the distinguished Presiding Officer, and I thank particularly my chairman here of the State, Justice, and Commerce appropriations bill. He has been very indulgent with me.

Madam President, I commend our new chairman, the distinguished Senator from Nevada (Mr. LAXALT) for outstanding leadership of the Commerce, Justice, State, the judiciary and related agencies appropriations bill for 1984 (H.R. 3222). He has moved this bill along in a fair and expeditious manner and always with the good humor that makes him one of our most beloved colleagues.

Madam President, the minority has been fully involved in the development of this bill. The conference agreement provides appropriations totaling $10,499,665,000 which meets the high priority requirements while recognizing the overall fiscal situation. This bill is a good bill that we all can support, for example:

We have not only preserved, but provided a modest increase in the funding of the Economic Development Administration.

We have provided a major increase in the Nation's tourism activities, including the full Senate enhancement of the successful gateway receptionist program.

The funding of the National Oceanic and Atmospheric Administration is considerably improved over the reductions budgeted by the Reagan administration, including $36,500,000 for sea grant, and maintenance of the night staffing at 21 National Weather Service stations.

The amounts for the Justice Department will insure that no reduction be made to law enforcement agent levels budgeted for the FBI, DEA, Marshals and Immigration Service. Furthermore, the DEA received additional funds for increased work years to combat the trafficking in illegal drugs.

The agreement for the Department of Justice also maintains the juvenile justice and delinquency prevention program, with reinstatement of the delinquency prevention, technical assistance and juvenile legal advocacy programs, to their fiscal 1982 levels. In addition, we agreed to $67,300,000 to renew the best aspects of the criminal justice assistance programs of the former Law Enforcement Assistance Administration, contingent upon the enactment of authorizing legislation.

A total of $275,000,000 is provided for the Legal Services Corporation, after 2 years of forcing them to operate at a level 25 percent lower than the 1981 level. In addition, the conferees agreed, with slight modifications, to the legislative changes initiated by the committee with regard to the funding formula, class actions, lobbying, administrative advocacy, representation of aliens, training, and presumptive refunding.

The conference agreement provides $10,000,000 to establish Radio Marti to bring truth the the people of Cuba. In addition, at my initiative, the conferees agreed that VOA should make available by reprograming, when necessary, the remaining $4 million that the Senate recommended.

The strong bipartisan congressional support of our educational and cultural exchange programs has been affirmed by the creation of a separate appropriation to protect their integrity as well as the $5 million add-on to the requested amount. The conferees also recommended the full $18 million for the East-West Center in Hawaii, a vital part of the interchange of ideas, that was not provided for in the House bill.

As I indicated at the outset, the senior Senator from Nevada is to be commended for his fine work on this bill. He took the unusual step of filing additional views in the committee's report for good reasons that we certainly appreciate. However, he should certainly be proud of his work in producing a bill that will be acceptable to the administration. He had to begin with horrible budget proposals from the Office of Management and Budget that zeroed out EDA juvenile justice and legal services as well as a $135 million reduction to NOAA. As indicated earlier, adequate funding has been secured for those vital programs as well as meeting the real needs of the other agencies funded by this bill.

Madam President, on page 13 of our Report No. 98-206, we noted that committee's interest in having our increase in Saltonstall-Kennedy (S-K) funds reflected in the share of those grants going to the Western Pacific Region. The report noted that:

This region has not yet attained the level of infrastructure and program development of the other regions and has unique and compelling needs. Indeed, this region's continuing need for special attention was confirmed last year when the Central, Western, and South Pacific Fisheries Development Act was reauthorized through fiscal year 1986, providing a source of funding for the Pacific Fisheries Development Foundation to use for the development of fisheries in the Western Pacific. This act, the only one of its kind, has not received appropriations in the past since, until recently, S-K grants were sufficient to fund Western Pacific fisheries development programs. In the past 3 years, however, S-K grants for the region have declined rapidly, imposing limitations

on the abilities of the Pacific Fisheries Development Foundation to achieve its objectives.

The committee urged that a level of S-K funding necessary to promote fisheries development in the Western Pacific be made available to the region in fiscal year 1984. It was my understanding that the conferees agreed that sufficient S-K funds would be available to provide the necessary funds for a fisheries development program in the Western Pacific. However, this is not stated in the statement of the managers, and I would appreciate having the chairman's assurances that adequate funding for Western Pacific fisheries development is contained in the conference agreement.

Mr. LAXALT. This distinguished manager for the minority is absolutely correct that the conference agreement provides sufficient Saltonstall-Kennedy funds for fisheries development in the Western Pacific. The distinguished senior Senator from Hawaii (Mr. INOUYE) discussed this matter with me, and in our discussions with our House counterparts, we turned down a further transfer of S-K funds to NOAA's basic account in order to keep a sufficient level in the S-K account for the Western Pacific program.

● Mr. WARNER. Madam President, I wish to ask the chairman: When the Senate passed S. 1721, making appropriations for State, Justice and Commerce, you included in the report language (Rept. No. 98-206) on page 43, the following:

The Committee recommends that the Attorney General of the United States develop and submit to the Congress not later than January 30, 1984, a plan prepared by the National Institute of Corrections, in consultation with the D.C. Department of Corrections, to cap the growth of the prison population at the D.C. prison in Lorton, Virginia, and on the economic and logistic feasibility of constructing a facility within the District for the anticipated growth of the D.C. prison population, as projected by the General Accounting Office in July, 1983, and in the eventual transfer of D.C. prisoners from the Lorton, Virginia, facility to the District of Columbia.

I know that you and the other committee members felt very strongly that this report should be completed. Does this report language have the backing of the conferees?

● Mr. LAXALT. The instruction to the Attorney General to undertake and complete the Lorton study are included in this legislation. It is the intention of the conferees and the Congress that the report language you have just read be carried out by the Attorney General.

● Mr. WARNER. I am pleased that the Senate has reaffirmed their intention that the Attorney General undertake this study of the Lorton Prison problem, and report to the Congress no later than January 30, 1984, a plan to cap the growth at Lorton and the feasibility of constructing facilities in the District to house new prisoners and those presently located at Lorton. This language was also included in the report accompanying the D.C. appropriation. Senator TRIBLE, Congressman PARRIS and I will be meeting D. Lowell Jensen, Associate Attorney General on Friday, November 18, 1983, to discuss the progress of this plan.●

UNDERCOVER OPERATIONS PROVISIONS

Mr. MATHIAS. Mr. President, the conference committee on H.R. 3222, this appropriations bill for the Departments of State, Justice, and Commerce, the judiciary and related agencies, has agreed upon some important provisions concerning undercover operations of the Federal Bureau of Investigations. Amendment No. 101, as amended by the conference committee, will help provide a foundation for legislation concerning these operations, which have become so important to Federal law enforcement, and which raise such difficult questions concerning the privacy and other constitutional rights of American citizens. As a principal sponsor of such legislation—S. 804, the Undercover Operations Act—I applaud the work of the conference committee, and urge my colleagues to accept the conference report.

The conferees' proposal on FBI undercover operations contains three major provisions.

First, it would continue in effect, with some modifications, the provisions of current law which relieve undercover operations of certain statutory requirements which would otherwise significantly limit the FBI's ability to work undercover. These requirements, which pertain to leasing procedures, bank deposits, and the like, have been waived by most of the last 4 years. The conferees' proposal extends these waivers through September 30, 1984. It also gives the Justice Department somewhat greater flexibility, by allowing the Attorney General and the Director of the FBI to delegate to a member of the FBI's Undercover Operations Review Committee the authority to certify that a waiver is necessary in order to conduct a particular undercover operation.

Second, amendment No. 101, as amended, would strengthen financial controls over undercover operations by requiring the FBI Director to report to the Attorney General on the liquidation of any undercover proprietary business with a net value of over $50,000. It would also require the FBI Director to conduct a financial audit of all major undercover operations which are closed during the fiscal year, and to report the results to Congress within 180 days.

Finally, the conferees' proposal contains new nonfinancial reporting requirements. It directs the FBI to report to Congress on the number of undercover operations opened, closed, and pending during the fiscal year. Most importantly, if a closed undercover operation involved one of the "sensitive circumstances" specified in the FBI's undercover guidelines, the FBI must make a more detailed report on the operation. FBI foreign counterintelligence operations are excluded from this requirement.

During the 97th Congress, I served as chairman of a Senate select committee to study the issues raised by Justice Department undercover operations. The conclusions of that exhaustive study are embodied in S. 804, which I introduced last March, along with six other members of the select committee. Our bill would explicitly authorize Justice Department law enforcement agencies, including the FBI, to conduct undercover operations, and would grant permanent exemption from the statutory restrictions which I have mentioned to agencies which adopt undercover operations guidelines conforming to specified standards. S. 804 would also establish reporting requirements for agencies which conduct undercover operations.

The proposals contained in the conference report on H.R. 3222 are consistent with one fundamental principle upon which the Undercover Operations Act is based: that congressional authorization of undercover operations must go hand in hand with improved congressional oversight of this law enforcement technique. While the extension of the waivers of statutory restrictions will allow the FBI to conduct undercover operations more efficiently, the financial controls and reporting requirements will allow Congress to become better informed about how the FBI is using undercover techniques. This can only help the Congress as it moves on to the necessary next step: permanent legislation to authorize and to regulate the undercover work of not only the FBI, but of other Justice Department components which are not directly affected by the conference committee's proposal.

As the senior Senate manager, Senator LAXALT deserves particular commendation for his role in crafting the provisions of the conference report dealing with undercover operations. In his capacity as chairman of the Subcommittee on Criminal Law of the Committee on the Judiciary, the senior Senator from Nevada will have an opportunity to continue to shape legislative action in this area, since S. 804 has been referred to his subcommittee, as well as to two others within the Judiciary Committee.

The committee has recently received the long-awaited comments of the Justice Department on the Undercover Operations Act. There are, of course, many areas of disagreement; but, as Senator HUDDLESTON points out in his

statement, the response from Justice indicates that there may be some common ground from which the legislative process can usefully proceed.

I share the view of the junior Senator from Kentucky, the vice chairman, of our select committee and the principal cosponsor of S. 804, that the time is right for further examination by the Congress of the challenges posed by the increased use of undercover operations. This examination should include prompt hearings on the Undercover Operations Act. I commend Senator LAXALT for his constructive efforts on this topic in the conference on H.R. 3222, and look forward to working on this issue with him and with my other colleagues on the Judiciary Committee.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The bill clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$38,337,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $240,000,000: Provided, That during fiscal year 1984 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal. Of the total amount appropriated under this heading, $40,000,000 shall be made available under the criteria and conditions of assistance described in section 101(a) of Public Law 98-8.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $27,500,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-seven permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1984, and such positions shall be maintained in the various States within the approved organizational structure in place on June 1, 1981, and where possible, with those employees who filled those positions on that date.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

During fiscal year 1984 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $7,500,000. During fiscal year 1984, total commitments to guarantee loans shall not exceed $15,000,000 of contingent liability for loan principal.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: *: Provided further, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$988,212,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *; and of which $2,500,000 shall be available for payments under section 4(b) of the Commercial Fisheries Research and Development Act of 1964 for commercial fishery failures and disruptions; and in addition, $23,600,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries."*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $115,718,000, to remain available until expended, of which not to exceed $3,807,000 may be transferred to the "Working Capital Fund".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

During the fiscal year ending September 30, 1984, the United States Postal Service may furnish to the Secretary of Commerce any list of names and addresses requested under section 6(a) of title 13, United States Code. The Secretary shall prepare and submit to the President and the appropriate committees of Congress, not later than August 31, 1984, a report relating to—

(1) the purpose for which any list furnished by the Postal Service under the preceding sentence was used, particularly with regard to any progress made by the Bureau of the Census in the development of an improved list methodology;

(2) categories of sources (other than the Postal Service) from which any list of names and addresses was acquired by the Bureau of the Census during the period covered by the report, and the relative advantages and disadvantages of acquiring and using lists from those other categories of sources as compared with acquiring and using lists furnished by the Postal Service;

(3) measures taken to ensure the confidentiality of any information furnished by the Postal Service under the preceding sentence; and

(4) such other matters as the Secretary considers appropriate.

The Secretary is encouraged to acquire lists of names and addresses from a representative sample of sources other than the Postal Service in order to ensure that meaningful comparisons under paragraph (2) may be made.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $73,283,000, to remain available until expended: Provided, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

None of the funds provided in this Act for the Maritime Administration shall be used for enforcement of any rule with respect to the repayment of construction differential subsidy for permanent release of vessels from the restrictions in section 506 of the Merchant Marine Act, 1936, as amended, until June 15, 1984.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $63,500,000: Provided, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374): Provided further, That none of the funds appropriated in this paragraph may be used to promulgate final rules under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) until the enactment of legislation authorizing appropriations for the Federal Trade Commission or until the adjournment of the first session of the 98th Congress, whichever is earlier.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $2,000 for official reception and representation expenses, $93,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$201,643,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *beginning with disasters commencing between January 1, 1983, through September 30, 1983, determination of a natural disaster by the Secretary of Agriculture pursuant to 7 U.S.C. 1961 shall be deemed a disaster declaration by the Administrator of the Small Business Administration for purposes of determining eligibility for assistance under section 7(b)(1) of the Small Business Act for agricultural enterprises as defined in section 18(b) of the Small Business Act: Provided, That nothing in this paragraph is to preclude the applicability of section 18(a) of the Small Business Act with regard to the duplication of benefits for disasters commencing between January 1, 1983, through September 30, 1983: Provided further, That $36,600,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$230,000,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Department of Justice $63,360,000 of which $556,000 is to remain available until expended for the Federal justice research program.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $7,248,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent for private or Government-owned space in the District of Columbia; $158,385,000, of which not to exceed $10,374,000 for asbestos litigation support contracts shall remain available until September 30, 1985; and of which $2,753,000 shall be for the Office of Special Investigations; and of which $450,000 shall remain available until expended to reimburse private litigants for legal fees incurred in the State of New Mexico ex rel. Reynolds v. Aamodt water adjudication suit.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$372,330,000. In addition, section 408(c) of Public Law 95-598, the Bankruptcy Reform Act of 1978, is amended by inserting September 30, 1984 in lieu of April 1, 1984.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$286,123,000.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That $67,300,000 of this amount shall be for a criminal justice assistance program, to be available only upon enactment of authorizing legislation except that $2,500,000 of such amount shall be available upon enactment into law of H.R. 3222 and shall be awarded by the Administrator to the National Center for State Courts for court system management and improvement: Provided further, That $3,500,000 shall be made available from Law Enforcement Assistance Administration reversionary funds to complete the Bi-State Criminal Justice Assistance Center at Texarkana, Arkansas, under the same terms and conditions that previous Federal assistance was made available for construction of this facility.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

SEC. 204. No part of the funds appropriated in this title for the Department of Justice may be used to represent the Tennessee Valley Authority in litigation in which the Authority is a party unless the Department is requested to provide representation in such litigation by the Authority.

Resolved That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 205. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation for fiscal year 1984 may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254(a) and (c)).

(B) sums authorized to be appropriated for the Federal Bureau of Investigation for fiscal year 1984 may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation for fiscal year 1984, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code, only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on FBI Undercover Operations, as in effect on July 1, 1983) and the Attorney General (or if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) of this paragraph is necessary for the conduct of such undercover operation. Such certification shall continue in effect for the

duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of paragraph (1) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1984,

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation shall also submit a report annually to the Congress specifying—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on FBI Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(I) all criminal proceedings (other than appeals) are concluded, or

(II) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code, except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 105 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $275,000,000: Provided, That notwithstanding any regulation, guideline, or rule of the Corporation, the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts under section 1006(a) (1) and (3) so as to insure that total annual funding for each such current grantee and contractor is maintained in fiscal year 1984 in the same proportion which total appropriations to the Corporation in fiscal year 1984 bear to the total appropriations to the Corporation in fiscal year 1983, unless action is taken by directors of the Corporation prior to January 1, 1984, who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That, notwithstanding the above proviso, the funds distributed to each grantee funded in fiscal year 1983 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area be distributed in the following order:

(1) First, grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act shall be maintained in fiscal year 1984 at not less than 5 percent more than the annual level at which each grantee and contractor was funded in fiscal year 1983 or $6.50 per poor person within its geographical area under the 1980 Census, whichever is greater;

(2) Second, each such grantee funded in fiscal year 1983, pursuant to the number of poor people within its geographical area, shall be increased by an equal percentage of the amount by which the grantee's funding, including the increase under the first priority above, falls below $13.00 per poor person within its geographical area under the 1980 Census: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each such client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client,

except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: Provided further, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: Provided further, That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this title shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: Provided further, That no member of the Board of Directors of the Legal Services Corporation shall be compensated for his services to the Corporation except for the payment of an attendance fee at meetings of the Board at a rate not to exceed the highest daily rate for grade fifteen (15) of the General Schedule and necessary travel expenses to attend Board meetings in accordance with the Standard Government Travel Regulations: Provided further, That no officer or employee of the Legal Services Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service: Provided further, That none of the funds appropriated in this Act shall be expended by the Legal Services Corporation to participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945); expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; expenses of the United States-Japan Advisory Group; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,114,810,000, of which $17,500,000 shall remain available until September 30, 1985. Of the amounts available for expenditure pursuant to the International Center Act of 1968, not to exceed $925,000 may be made available until expended from proceeds of lease, sale, or exchange for purposes authorized in section 5 thereof as amended by Public Law 97-186.

REOPENING CONSULATES

For necessary expenses of the Department of State and the Foreign Service for reopening and operating certain United States consulates as specified in section 103 of the Department of State Authorization Act, fiscal years 1982 and 1983, $2,500,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $160,000,000, to remain available until expended, of which $1,100,000 shall be available for an air conditioning project at the United States Embassy in Mexico City; and of which not to exceed $2,800,000 shall be available for purchase of a site adjacent to the United States Embassy in Mexico City; and of which $1,500,000 shall be available for design and development of a new chancery building for the United States Embassy in Seoul, Korea; and, in addition there shall be available subject to the approval of the Committees on Appropriations of the House and Senate under said Committees' policies con-

cerning the reprogramming of funds, the sum of $30,000,000, to remain available until expended, for overseas housing requirements.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$103,791,000*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $8,910,000 to remain available until expended, of which not to exceed $225,000 may be expended for representation as authorized by law.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 123 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $10,651,000: Provided, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): Provided further, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: Provided further, That not to exceed $800,000 of the amount appropriated in this paragraph shall be available for reimbursement of the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico, and not to exceed $100,000 of the amount appropriated in this paragraph shall be available for reimbursement of the city of Nogales, in the State of Arizona, for expenses incurred in treating domestic sewage received from the city of Nogales, in the State of Sonora, Mexico.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $100,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses: Provided, That notwithstanding section 8(b) of the Board for International Broadcasting Act of 1973, not to exceed $4,900,000 of the amounts placed in reserve in fiscal year 1983 pursuant to that section or which would be placed in reserve pursuant to that section, shall be available in fiscal year 1984 to the Board for carrying out that Act, and, in addition, $13,282,000 shall be appropriated for grants to RFE/RL, Inc. for facility modernization and program enhancement.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

Provided further, That none of the funds appropriated under this heading shall be available during calendar year 1984 unless a conference report on H.R. 2915, "The State Department Authorization Act" is filed.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws; of persons on a temporary basis (not to exceed $20,000); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928; and entertainment, including official receptions, within the United States, not to exceed $20,000; $471,853,000, of which not to exceed $6,509,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: Provided, That not to exceed $615,000 may be used for representation abroad: Provided further, That receipts not be exceed $500,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of Public Law 80-402, as amended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $10,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $92,900,000. For the Private Sector Exchange Programs, $7,100,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $18,000,000: Provided, That these funds shall be available for obligation only upon enactment into law of authorizing legislation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 145 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, and for lease of real property for periods up to twenty-five years in Africa, $31,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendemnt of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 508. None of the funds in this Act shall be available for payment of that portion of Standard Level User Charges (SLUC) that are in excess of a 7 per centum increase over the amounts paid for such charges in fiscal year 1983.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 153 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 510. None of the funds appropriated in Title I and Title II of this Act may be used for any activity, the purpose of which is to overturn or alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: Provided, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in Titles I and II of this Act from presenting testimony on this

matter before appropriate committees of the House and Senate.

Resolved, That the House insist on its disagreement to the amendment of the Senate numbered 102 to the aforesaid bill.

Mr. LAXALT. Madam President, I ask unanimous consent that the amendments in disagreement, with the exception of amendments numbered 58 and 102 be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. BYRD. Madam President, reserving the right to object, and I do not think I will. Did the Senator hear the request?

Mr. MELCHER. Yes.

Mr. BYRD. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on excepted Amendment No. 58.

EXCEPTED AMENDMENT NO. 102

Mr. LAXALT. Madam President, I ask unanimous consent to temporarily set aside excepted Amendment No. 58 so that we may take up excepted Amendment No. 102.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The House insists on its disagreement to the amendment of the Senate numbered 102.

AMENDMENT NO. 2612

Mr. LAXALT. Madam President, I ask unanimous consent that the Senate recede from its amendment and concur with a further amendment No. 102, as follows:

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,887,000.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada (Mr. LAXALT) proposes an amendment numbered 2612 to Senate amendment No. 102.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,887,000.

The PRESIDING OFFICER. The question is on the amendment.

The amendment (No. 2612) was agreed to.

The PRESIDING OFFICER. The motion to concur with the amendment (No. 2612) is agreed to.

Mr. LAXALT. I did not hear the Chair.

The PRESIDING OFFICER. Without objection, the motion to concur is agreed to.

EXCEPTED AMENDMENT NO. 58

Mr. LAXALT. Madam President, we now proceed to the consideration of the amendment numbered 58. It is my understanding that Senator MELCHER wishes to be heard on this particular amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. LAXALT. Mr. President, will the Senator yield for just one moment?

Mr. MELCHER. Yes.

Mr. LAXALT. Madam President, ahead of that, I move that the Senate concur in the amendment of the House to amendment No. 58 of the Senate.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Madam President, this is the amendment that appropriates $450,000 to reimburse the private litigants for legal fees incurred in the State of New Mexico ex rel. Reynolds against Aamodt, which is a water adjudication suit. This case has lasted almost 17 years and, in the judgment of the Justice Department, the case is nearing termination. The amendment seeks relief for those litigants by paying $450,000 to some attorneys that are representing them.

Now I do not have anything against attorneys, Madam President. They are a necessary part of our society, a professional group that protects the rights of all of us in various ways. So as a profession, the comments I am making are not meant to be derogatory of the legal profession at all.

But Madam President, if I had an amendment on this floor today, or yesterday, or tomorrow, or last week, or anytime that said we ought to be paying the fees of my profession because the clients of some of my colleagues in my profession are hard pressed in a long, drawn out procedure involved with the rules and regulations of the Federal Government or the State government, or both, I think I would be voted down.

Now, my profession, Madam President, in case you do not know it, is a veterinarian. I know of no instance when any amendment has been offered in the Senate or in the House or even remotely considered to come to the relief of paying the fees of veterinarians, no matter how hard pressed their clients are. I just do not think that has happened.

Well, maybe it is not relevant, Madam President. I do not think it is relevant to good legisation for the same reason I do not think paying legal fees of these particular attorneys in Albuquerque is relevent to good legislation in the conference report before us.

The reason I do not think it is relevant or good legislation is that it sets a dangerous precedent. There are perhaps instances when we have considered in the Senate or the House a reason to pay for legal fees, to pay some lawyers for representing some private litigants. I am not aware of any successful effort, however. Because I think that when you are talking about just paying for one case, for one set of litigants, for one set of attorneys, I do not believe that has ever passed, no matter who made the argument, no matter how touching the case might be.

Well, this particular instance is not very touching. This is a water lawsuit that was brought against four pueblos by the State of New Mexico and it also involves some private litigants who are not members of any of the four pueblos in the State of New Mexico. But there are other people involved in this besides the members of those four pueblos and the U.S. Government and the State of New Mexico. They are private individuals who do not belong in any of those categories. They are simply private individuals and they are separate and apart from the Indians that are involved in the four pueblos. So what is their case? What are the circumstances that could make it essential that the U.S. House of Representatives and the U.S. Senate should agree to dipping into the Federal Treasury to pay for their lawyers' costs?

Well, the situation is this: throughout the long history—and I have already stated that the case has dragged on for 17 years—there have been conflicting interests in the water that is available for use out there.

Now the Federal Government, of course, has to represent the Indian tribes. That is part of their trust responsibility. And we have long discussed on this floor previously how we arrived at the so-called trust responsibility, the Federal obligation to defend the Indians' claims in those water rights, tracing clear back through treaties, through statutes, through agreements made, and in this case, through agreements made in the land being ceded from Mexico to the United States.

Now, that responsibility is a very real one. We cannot shirk it. That obligation must be met on behalf of the Federal Government.

So what are the circumstances that now we should pay the cost of opposite lawyers, competing lawyers, on the other side who are representing private litigants who are really against not just the four pueblos but are against the U.S. Government? The circumstances are pled by my two friends whom I very much respect, the two Senators from New Mexico. They present the facts that these people are hard pressed, the suit is long and cost a lot of money, and they have got good attorneys and this is the way of helping them out.

11-059 O-87-22 (Pt. 23)

Well, I think we can find all kinds of ways of helping out people throughout this country. The question is, Is it good legislation? What should be the terms?

First of all, is there anything in the statute that authorizes such appropriation?

The answer to that is no, there is no authorization. It has not been done before, because it should never be done. That is why it has never been done before.

The circumstances in the case are even more clouded, speaking not to the merits of spending $450,000 out of the Federal Treasury to pay these lawyers' fees, but really arguing against doing so. The other fact is that the State of New Mexico has agreed to represent the interests of the citizens of New Mexico who are involved in this litigation.

These particular litigants are not under that umbrella, apparently by their own choice. Not because the State of New Mexico has denied to them the right of representation by the State of New Mexico in this case, but apparently because these particular litigants have chosen to have outside attorneys to represent their interests over and above what the State of New Mexico can do for them.

Madam President, I am not unfamiliar with such circumstances. There are slightly more than 50 water lawsuits pending of a similar nature in Federal courts in the United States today. Some of those cases, I believe it is eight of them, involved litigants in my own State of Montana.

How is it handled there? The State of Montana is representing the non-Indian litigants in the proceedings. The U.S. Government is representing the Indians in these particular cases.

These are tough cases and they take a long time. They are following some uncharted ground because no one knows without litigation just how much water is available for the various litigants, the various water claims, both Indian and non-Indian.

This does involve both State and Federal law. Despite the complication of the cases and the extensive time that is involved in settling these cases, let me recommend for the consideration of my colleagues what the proper answer should be on the question of appropriating Federal money to pay for the costs of the attorneys representing the private interests of these non-Indian litigants.

Mr. DOMENICI. Will the Senator yield?

Mr. MELCHER. I will be delighted to yield.

Mr. DOMENICI. I have to return, as I told the Senator, to a hearing in the Energy and Natural Resources Committee where I have 39 New Mexicans testifying regarding some grazing lease problems. I must return. Senator BINGAMAN will be on the floor shortly.

I wonder if the Senator will permit me to speak for 2 or 3 minutes at this point and then I will yield right back.

Mr. MELCHER. Yes, by all means. I would encourage the Senator to do so. I know he has other committee business to attend to.

Mr. DOMENICI. I thank my friend. I yield myself 5 minutes.

First, let me thank my friend from Montana for the way he has handled this problem. I know it is a very serious one for him. I hope he understands it is a very serious one for me. Literally 1,000 New Mexicans not only feel they might lose their water rights, which may indeed happen, but, in the process, they may very well lose their confidence and respect for the judicial process. When that happens, people react in very different ways. I do not want that to happen.

Through a course that is out of our hands, we have not paid the legal counsel for four Indian Pueblos, private counsel not Government counsel, $2.9 million for their legal fees and expert witness fees.

On the other side of that, about 1,000 Indians are defendants in a general way and then recently in a specific way, wherein their individual rights have been challenged by service of process challenging their very rights.

Needless to say, they think, with some justification, that they are not going to get a fair shake because they do not have enough money to hire the experts to compete with the Government, who is paying the Indian fees as I described, and, in addition, the National Government as trustees being represented by other experts and Department of Justice lawyers and Department of Interior lawyers.

I could go on and perhaps even paint a more detailed picture of why they are justified in feeling that they are not going to be dealt with fairly.

I call this a fair play amendment. I know of no other way to do it at this late date. The U.S. Senate has agreed with me twice. They voted yes to pass this $450,000 attorney fees and expert witness fee payment for the non-Indians in that litigation. Now they have come out of conference with the House with the matter in the bill. Our distinguished friend from Montana apparently will ask the Senate to strip it in an up-or-down vote. I hope the Senate will not do that.

I think we spoke wisely as a body on the side of fairness. We ought to do it again today. I hope the distinguished Senator from Montana will permit us to vote rather quickly, and I think he will. He has done a magnificent job in bringing the issue to the Senate, but I really think it is the same issue we voted in twice by overwhelming margins and I hope we will do that again when the Senate votes.

Mr. President, I support the conference agreement.

The conference agreement, including outlays from prior-year budget authority and possible later requirements, puts the subcommittee total at $10.9 billion in budget authority and $11.6 billion in outlays.

These amounts are $0.1 billion below the sucommittee's first budget resolution 302(b) allocation for budget authority and at the subcommittee's outlay allocation.

I ask unanimous consent that a table showing the relationship of the conference agreement to the congressional spending and credit budgets and the President's budget request be printed in the RECORD at the conclusion of my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES SUBCOMMITTEE: SPENDING TOTALS—CONFERENCE AGREEMENT

[In billions of dollars]

	Fiscal year 1984	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed	0.1	2.4
H.R. 3222, conference agreement	10.5	9.0
Possible later requirements:		
SBA business loan investment fund	.1	.1
Criminal justice block grant	.1	(1)
Adjustment to conform mandatory programs to first budget resolution assumptions	−(1)	−.1
Subcommittee total	10.7	11.4
Subcommitee 302(b) allocation	10.9	11.4
Senate-passed level	10.5	11.2
House-passed level	10.4	11.4
President's request	9.8	11.0
Subcommittee total compared to:		
Subcommittee 302(b) allocation	−.2	
Senate-passed level	+.2	+.1
House-passed level	+.3	+(1)
President's request	+.9	+.4

[1] Less than $50 million.

Note: Details may not add to totals due to rounding.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES SUBCOMMITTEE: CREDIT TOTALS—CONFERENCE AGREEMENT

[In billions of dollars]

	Fiscal year 1984	
	New direct loan obligations	New loan guarantee commitments
H.R. 3222, conference agreement—subcommittee total	1.6	3.8
Subcommittee first budget resolution assumption	1.7	3.8
Senate-passed level	1.5	3.9
House-passed level [1]	1.6	3.8
President's request	1.0	2.8
Subcommittee total compared to:		
First budget resolution assumption	−.1	
Senate-passed level	+.1	−.1
House-passed level [1]		
President's request	+.6	+1.0

[1] House-passed level includes a possible later requirement for the Economic Development Administration loan guarantee program.

Mr. MELCHER. Madam President, I thank the senior Senator from New Mexico for his remarks and his fram-

ing the issue as he sees it. I have some comments to make, however.

It is true the Senate has voted on this before. Of course we have. We have made mistakes from time to time here. I think we all admit that. Approval of this at the outset by the Senate I believe was a mistake, and it has been a mistake to repeat that error.

In between times, the conferees in the House knocked it out of the first bill. They just said, "No way. No way." There is a responsibility here placed upon the Federal Government to defend the Indians.

How does that come about?

Well, it really comes about because of a whole series of actions which said to these Indian tribes and these Indian pueblos, "We are taking from you, we admit we are taking from you, quite a bit of area and land, minerals, and all that goes with it. But in doing so we are setting up a provision for so much land to be left to you."

That is how simple it was. It sounds awfully simple, does it not? But yet it is not that simple. I do not want to mislead anyone into thinking that I think this, over the course of a couple of hundred years, has been a very simple procedure. It has been a very aggravating procedure in our dealings with Indian tribes. It has been a question of many times looking back over our shoulder and saying, "What did we really do when we agreed that, yes, we were taking a lot of land away from Indians, depriving them of what they consider to be their rights in regard to that land? But we have also set aside land for them, admittedly much smaller in area, but in doing so we also believe that we have treated them in a fashion to welcome them into the society that we have created here in this country with full membership in that society."

In doing so, we were protecting some of those basic rights that go along with that land.

Again, that perhaps sounds too simplified and I admit it is too simplified because there has been a whole series of examinations of treaties, examinations of statutes, and over 150 years a series of court cases and Federal statutes enacted by Congress establishing what is known as protection for the rights of the tribes. In this case, these four pueblos are making sure of their rights to the land that was left them, to the water that was left them, in most cases hunting rights, in some cases fishing rights, in some cases mineral rights. There are other types of rights that are pertinent to the land and to their livelihood.

That, in brief, Madam President, is how we arrive at what is known as the obligation of the Federal Government for the trust responsibility of the property rights of Indian tribes in pueblos.

We do not have any choice under our laws, under our Constitution, under our court cases and under the treaties. We have arrived at a situation where it is clearly understood that there is a trust responsibility to defend those rights. That means defending them in court, through the whole court process. These Indians who belong to these four pueblos are not getting something special when the U.S. Government provides that defense. They are only getting what we have determined as a nation to be our responsibility to meet that, to defend their rights, to defend their legal rights. So the Federal Government is involved in that trust responsibility and that means providing attorneys when they are challenged in court.

The pueblos did not bring this suit. The State of New Mexico brought it. But that means the Federal Government must immediately supply the legal advice, the legal support, all that is necessary for those four pueblos, those Indians involved in those four pueblos, in defending their rights in this particular suit.

My friend from New Mexico has correctly stated that in addition to the U.S. Justice Department, there are private attorneys that have been hired to protect the rights of the Indians in those four pueblos, and there is a reason for that. There is a reason why that is also our obligation. Because the Justice Department in representing the United States in this suit finds that it has conflicts—it has to defend rights of the Federal Government that have been established, for instance, for the Forest Service. What does the Forest Service in the national forests out there claim as their portion of the water? That is a water right that the Justice Department must defend on behalf of the Forest Service, on behalf of the United States, on behalf of all the citizens of this country; and there are other conflicts involving Federal agencies. So it became clear and it was established by the appellate court that the tribes must be provided counsel other than the Justice Department. Now, that is a Federal responsibility that we cannot avoid. It is not a question of is that money authorized. The money is authorized, that money is required under our Constitution, under the treaties that have been established, under the statutes that have been established by Congress to defend the rights of Indians and individuals and tribes and pueblos.

Now, we have no choice in that. We come to the second matter and the crux of this amendment and that is this: Do we go beyond that by dipping into the Federal Treasury and paying some additional fees for lawyers, for private interests, who are non-Indian, involved in this case?

The Senator from New Mexico has stated that it is a matter of being fair. Well, that is not quite the way it is though. It is not just a question of fairness. If it was a question of fairness, it would be, Is the United States all of a sudden going to find itself paying both sides of a lawsuit? Now, that is a question of fairness. Is it necessary? And the answer to that is I do not think it is necessary at all. The State of New Mexico, which brought the suit, has already offered under their own law to represent all of the litigants who are non-Indians.

Now, that is common. It is common to my State of Montana. I think it is common in most of the States where these cases have arisen involving water lawsuits. I find that to be the usual procedure. Well, are they not qualified? Is not the State of New Mexico, which is not required to defend the rights of the Indians, qualified to defend the non-Indians? I think it is. We feel they are in Montana. I think other Western States feel they are, and that is the procedure we follow. So now we have this dangerous precedent offered that will have the State of New Mexico representing the non-Indian litigants but we will also dip into the Federal Treasury and place the U.S. Government paying both sides of a lawsuit.

I think that is a particularly dangerous precedent. No other method that I can conceive would invite litigation more rapidly and extend litigation longer than a procedure where you can have the Federal Treasury become the payor on both sides of a lawsuit.

I believe it would be wise for Congress to set some hearings and go through the whole process of hearing both sides, the arguments of various people that would feel this is a matter of concern to them and then adopt some authorizing legislation.

Now, that may be the outcome of this series of debates we have had on this particular amendment. Maybe it all suggests to us that we should set some sort of procedure. But until that is done, I would advise the Senate that in my best judgment it would be wise to forget about this amendment and let the State of New Mexico represent the interests of these litigants or if they wanted to hire additional attorneys to assist in the case, let the State of New Mexico appropriate $450,000. That is possible, and there is no conflict that I understand that would follow from doing so. I do not think the precedent there would be as damaging as doing it here, because the State of New Mexico, after all, would only be financing some private litigants on one side, paying the fees their lawyers on one side of the case. They would not find themselves hiring attorneys on both sides. So I do not think that would set a dangerous precedent.

Getting back to the point of what this money will be used for, the Justice Department, in writing to chairman NEAL SMITH of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations in the House, on October 28 said:

> While the Department takes no legal position with respect to the adoption of such amendment, the Department suggests that if the amendment is adopted it should contain specific guidelines to assist the Attorney General to carry out how any funds should be distributed and that funds be made available through the appropriation for general legal activities instead of general administration.

The Justice Department continues:

> Before any such amendment is approved, however, it should be noted that a similar amendment to the Department of Interior appropriation bill failed in conference. The Federal issue is unclear. The Indian tribes involved are generally opposed. Judicial remedies apparently have not yet been exhausted and it is proper to ask whether the State of New Mexico or others should shoulder this burden.

The letter was signed by William French Smith, Attorney General. Fully aware of the amendment offered by the two Senators from New Mexico, Senator DOMENICI and Senator BINGAMAN, I suspect that the Attorney General is wondering whether he should meddle in the affairs of the chairman of the Senate Budget Committee, and his colleague, the junior Senator from New Mexico. But nevertheless, the Attorney General correctly pointed out that the Federal issue is unclear. Where is the Federal issue that obligates the Treasury, that obligates the taxpayers to pay this bill? Where is it? That is what he is saying by that simple clause, "the Federal issue is unclear." There is no Federal issue involved. He is being very polite about it.

Second, the Attorney General says, "The Indian tribes involved are generally opposed." Well, I will say they are opposed. What do they think is happening? They know of the trust responsibility, the Federal obligation to protect their interests. They know of that, but all of a sudden they are being told by an amendment hatched out on this floor to an appropriations bill that they are going to be opposed by funds coming out of the Treasury.

Well, the Attorney General goes on to say, "Judicial remedies apparently have not yet been exhausted." That is true. So we are going to appropriate before there is any resolution of the processes and before they even get a bill from these attorneys.

I would like to have practiced my profession on the basis of getting into the Federal Treasury and being paid out of appropriations granted by the House and the Senate before my work had even been completed. I never did get into the Federal Treasury that way anyway, but I would have been pleased to find some avenue if that would have been permitted.

Well, it is not permitted, thank God, because we can have all kinds of requests of various groups to be paying the costs for their professional fees out of the Treasury.

Now, the Justice Department finally says, "And it is proper to ask whether the State of New Mexico or others should shoulder this burden."

That is the final point. It is $450,000. Why should it not be paid by the State of New Mexico if it is supposed to come out of Government or by others if it is supposed to be a pass-the-hat arrangement? What we are doing with the amendment in short is we are creating a dangerous precedent. We for the first time will find ourselves hiring both sides of a legal defense on a water suit involving Indian claims as well as Federal claims and involving private individuals. This is No. 1.

Second, there are no guidelines established at all. This is $450,000 to be put into a fund that apparently Congress is directing the Justice Department to shell out to these attorneys regardless of whether the suit is finished, regardless of whether there is any justification for the $450,000, and regardless of whether there is any justification for it at all.

Now, that is taking things rather lightly. I think it is too lightly, and I will offer an amendment to correct this.

AMENDMENT NO. 2613

I move that the Senate agree to the amendment of the House to amendment No. 58 of the Senate to the bill (H.R. 3222) entitled "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes," with an amendment as follows:

> In the amendment of the House, strike out "and of which $450,000 shall remain available until expended to reimburse private litigants for legal fees incurred in the State of New Mexico ex rel. Reynolds v. Aamodt water adjudication suit".

Mr. MELCHER. Mr. President, this amendment is very simple to understand. It merely strikes from the conference report this particular item of $450,000.

Mr. President, there is an old story about a little town out West that had only one lawyer. He was not doing very well, even though he was the only lawyer in town. He was next to broke most of the time, nevertheless. After a few years, another lawyer of modest means came to that little town and also opened a practice. In no time at all, both lawyers had become fairly wealthy.

What does that say to us? It is sort of an old saw. If there is only one lawyer in town, not doing very well, the best thing to do is to get another lawyer. Between the two lawyers in town, things will get real rosy.

How did that happen? How could that possibly happen?

I can say this: If we start appropriating $450,000 around here every other day—this thing has been before us just about every other week, not every other day—but if we are going to start doing that, pretty soon we will be upping the ante a little. Why only $450,000? Let us make it a round figure of $1 million. If we can appropriate $1 million around here every other week to pay lawyers' fees, we ought to have a lot more lawsuits. Then business really ought to pick up.

I am going to be very candid. My profession, as I said at the beginning, is not in on any trough such as this. We have not found a way like that to the Federal trough. Maybe we are not initiative enough.

I have nothing against the legal profession. It happens that our oldest son is starting in law practice. When he learns about this, if this amendment is adopted and is enacted into law, and a half-million dollars goes to the Albuquerque attorneys to reimburse them in this case, maybe he will feel encouraged that things are really going to pick up, because it might be followed by a lot of other actions.

Not only is our oldest son a practicing lawyer, but also, our oldest daughter is going back to school and is a first-year law student. If she is successful, we will have two attorneys in our family, and that is pretty good; 40 percent of our children would be in the legal profession.

So I believe I have a stake in what happens in the legal profession in the future. If we can start dipping into the Federal Treasury to pay legal fees for private attorneys, I should be able to assure our children that they ought to be able to do all right. They might be just as well off as the two attorneys in that little western town I spoke of, who both became wealthy.

I think this is poor policy—something we should not do, something we know we should not do.

I wish we would vote for my amendment and strike that $450,000 and avoid a dangerous precedent and avoid doing something we can all understand we should not be involved in, in the appropriations process, in this bill or any other bill.

The PRESIDING OFFICER. Is there further debate?

Mr. MELCHER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana. On this question yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 23, nays 75, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—23

Andrews	Ford	Metzenbaum
Baucus	Glenn	Nickles
Biden	Hart	Nunn
Bradley	Hatfield	Pell
Burdick	Huddleston	Proxmire
Byrd	Humphrey	Tsongas
Dixon	Long	Zorinsky
Exon	Melcher	

NAYS—75

Abdnor	Gorton	Murkowski
Armstrong	Grassley	Packwood
Baker	Hatch	Percy
Bentsen	Hawkins	Pressler
Bingaman	Hecht	Pryor
Boren	Heflin	Quayle
Boschwitz	Heinz	Randolph
Bumpers	Helms	Riegle
Chafee	Hollings	Roth
Chiles	Jepsen	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Sasser
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Lautenberg	Stafford
Denton	Laxalt	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
Eagleton	Matsunaga	Trible
East	Mattingly	Wallop
Evans	McClure	Warner
Garn	Mitchell	Weicker
Goldwater	Moynihan	Wilson

NOT VOTING—2

Cranston	Inouye

So Mr. MELCHER's motion to concur in the House amendment to Senate Amendment No. 58, with amendment No. 2613 was rejected.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED AMENDMENT NO. 58

The PRESIDING OFFICER. The question recurs on the motion to concur in amendment No. 58.

The second excepted amendment (No. 58) was agreed to.

Mr. RUDMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, parliamentary inquiry. What is the pending business?

FREE ENTRY OF PEOPLE AND EQUIPMENT INTO THE UNITED STATES IN CONNECTION WITH THE OLYMPICS

The PRESIDING OFFICER. the question recurs on the motion to proceed to House Joint Resolution 290.

Mr. CHAFEE. Mr. President, I believe that provides that I shall be recognized.

The PRESIDING OFFICER. There is not an order.

Mr. BAKER. Mr. President, could I ask the Chair to recheck that because a request was put by me that when we resume consideration of this measure the Senator from Rhode Island would be next recognized.

Mr. President, it was that way. I ask unanimous consent that the Senator from Rhode Island now be recognized while the Journal clerk finds that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, on this matter, we are prepared to defer if others wish to proceed on certain matters this afternoon for, say, an hour while we arrive at some further decisions which may make it possible for the leader to move ahead on this matter.

Mr. President, the Senator from South Carolina would like to make a statement in connection with the matter we are dealing with.

I ask unanimous consent that he be permitted to do so and that, following his statement, I be recognized again and it not count as a second speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Rhode Island. We are now conferring with respect to the slightly surprise movement to bring tuition tax credits to the floor. It is understandable. You have to bring up matters as they reach the attention of the majority leader.

But for a matter of this nature, our reason for opposing for the moment the motion to proceed is based on a very, very genuine concern over the public education system here in the United States. To proceed in this particular fashion without sufficient notice—for example, this Senator only learned of it last evening and then made arrangements to come back for this particular matter—has not allowed us to really inform the Senators, Mr. President, and have them know what really is at hand.

It is extremely unfortunate that we make a lot of studies of public education—and there will be some 21 in all this particular year, from the Presidential commission on excellence in the public schools, entitled "A Nation At Risk," to the Carnegie report on the high schools, prepared by Dr. Ernest Boyer, to "Action for Excellence" by the Education Commission of the States—Governor Hunt's report—and several other distinguished and thoughtful reports on problems facing education.

Now, in the closing days, while we are handling these financial matters, we cursorily take up what seemingly is to some a financial matter, House Joint Resolution 290. Almost without notice a very, very important matter, that should be of concern to all, with respect to priorities and policies here in the United States of America is a potential issue for floor debate.

It seems, to me, Mr. President, that the most important study on public education to really emanate in the last year was just November 1982, 1 year ago, by the blue-chip corporations of America—the New York Stock Exchange's study. They were examining, if you please, productivity in Japan. And pursuant to a yearlong study by the financial and economic community—not necessarily the educator who was looking for just more money for education—but the business leader trying to learn what many of us have tried to fathom here within the Democratic policy councils, an industrial policy, or specifically the answer to the question: "Why the high productivity in Japan?" They came down with the one-line conclusion—elementary and secondary education.

Having worked in this particular field for several years, I have used this study as a formative presentation over many different parts of the country to bring home the fact that we are not going to increase the economic level of any until we first increase the education level of all. I learned the truth of that for the first time as a State Governor 20 years ago. Many times in trying to induce expansions of industrial development in the Sun Belt section of the United States, talking to the chairman of the board and the president of that particular entity in New York, he would turn and say:

"Governor, we would be pleased to come to South Carolina, but we are not coming unless we can organize quickly and bring our operation into the black. We cannot bring that into a profitable position without in the very first instance bringing along topflight supervisory personnel. The topflight supervisory personnel are not going to come to Podunk, S.C. They are only going to come to a town and a community that has a healthy, developed, strong public education system for their children. We cannot have them

just move anywhere because they will turn us down."

So at the very early stages I learned that we had to strengthen our public education system.

Now, in the ensuing past 20 years, a great many things have occurred in public education. Mind you me, I am talking about the policy and not the constitutionality of tuition tax credits this afternoon because only on this point will the individual Senators be presuaded of the right and the wrong on this issue. If it was a technical, constitutional point they might find the appeal of the distinguished Senator from New York who made it 5 years ago about a proper reading of history, to let the Court decide that. That might be just a good place to assign some financial resources of the Federal hierarchy to the individual by way of a tuition tax credit. But today I am talking about public education, the policy itself.

In the past 20 years, and we might even say the past 10 or 15 years, various things have occurred. Of course, we have had the formative decision on May 17, 1954, in Brown versus the Board of Education, that segregation in and of itself was unconstitutional and that we should move forward with all deliberate speed toward the instituting of the unitary school in America. Thereupon certain trauma came to be visited upon public education, developed in a deliberate way in many communities. In others with advent of school busing it more or less divorced the public from the public school, without arguing, of course, the issue of busing, probusing, or antibusing. The fact of the matter is there was a good bit of white flight from the inner cities to the suburbs, organizing not just the suburban public schools but private white-flight academies. They took the best and the brightest, and their doors were not open to the undisciplined, the unprepared, those of different races, the handicapped, or otherwise, like the public schools are responsible for.

Another thing visited upon public education was the lack of discipline. We saw only 3 weeks ago a decision about marijuana in the high school locker, that that particular student, according to the high court, had a civil right to not have his locker examined for drugs.

I have never heard of such a thing. You would not last in school long, and when I say last in school long, suspensions, canings, and what have you, in that style in my day. But this is a new day. The old way is gone, out the window. It is difficult to enforce disciplinary measures upon a student who comes there who is unruly. If he is a discipline problem in the private school, he is out the door. But he shows up at the public school. That is his right.

You have had the splits in the families over the past 15 to 20 years, and the average minority child in the State of the distinguished Presiding Officer and mine will come from a one-parent family 51 percent of the time. There is no such thing any more as homework. Read "A National Risk," it tells the story. There is no home for the work. We have learned early on that it is better to keep the child later in the afternoon to get that homework done.

We have been liberated. The average woman of talent, I started to say lady of talent but they do not want to be called ladies—I cannot keep up with the style as we move along. They called them ladies in my day, but the preferred term is "woman" today. Do not address them as a lady. They get offended. They would be offended if I called them a woman 20 years ago.

In any event, the best and the brightest for 9 months could only find a job, perhaps, in the public classrooms of America. Now that teacher of 12 years' experience is receiving on the average of $17,000 a year and liberated. Job opportunities are there. The larger industrial entities would gladly employ that woman of that talent at $25,000 to $30,000 a year. Many Senators on their staffs have women staff members who have salaries in excess of $30,000 a year.

So the economics of the situation are forcing the best and the brightest out of the classroom. All are dedicated. They love teaching. Those who do so, are remaining behind. But some who have to make that judgment between the economic welfare of their own children with respect to the high cost of college and the children they must teach, say they cannot afford it. They say: "I would love to stay in that classroom but I have to make more if I am going to be able to provide." They are breadwinners now. "If I am going to provide that college education for the child, I have to make more."

So we come now with all of these studies spewing forth all over the countryside, and you would think this U.S. Senate would have an opportunity to discuss public education. We need to have a good debate. The public schools are crying out for help.

I should emphasize the maneuver at the moment is for private education.

As I talk about public education, our distinguished President has gone around the country with his report of excellence on education and it has many findings, and they are all very valid. "We need more discipline, longer school days, more hours, a longer school year, more for math, more for science, more for writing, more for English, merit pay for the teacher, schools for the talented child, and on down the list."

And as they go about that, they turn and they say, "And we at the Federal level are determined not to do anything about it."

We have all of these needs. We have the picture of the distinguished President sitting in the classroom in Tennessee, just really getting the feel of public education. And he continually, habitually, regularly insists we will not at the Federal level do anything about the significant problems brought forward in the study he commissioned.

It is very interesting to me, Mr. President. Now we have taken that puny little island of Grenada we are going to provide public schools. Do you know how we are going to do it? Not through tuition tax credits. We believe Federal money should be spent for the schoolchildren of Grenada, but not Federal moneys for the schoolchildren of America. We have a plan on foot. Check the fine print in the continuing resolution.

It is very difficult to bring these things into perspective but we should bring them into perspective because now they are saying that we believe another rupture should be incurred upon the economic fabric, another revenue hemorrhage should start here.

I went away last week. I am going to have to get to my distinguished friend, the Senator from Kansas, Senator DOLE, who has been fighting a valiant fight to develop something to bring the deficits down. I knew if he was going to lead the fight to bring the deficits down, we were not going to start a new spending measure. But here a finance measure—a new entitlement program—spews forth to start a new spending program for private schools. Imagine that. As we go to beneficiaries of other curtailment programs to say we cannot afford their benefits, the Finance Committee wants to create a new entitlement.

Let us talk about the various features, not just the unconstitutionality of it because that was pretty well decided in the case of Nyquist. We will have to get into that debate perhaps a little later on with respect to the Senator from Minnesota because they have a "Minnesota plan." But the court decided therein it was not an excessive involvement or an excessive entanglement, but this constitutionally acceptable plan is totally different than the one before us.

There is no question that here at the Federal level coming in with tuition tax credit it has been ruled an excessive entanglement. And let there be no doubt somewhere on this record, this is not an education move, this is not really a financial move. I say most respectfully, this is a church move. The church leaders are in the Senate Halls, today and yesterday, imploring their Senators to "Let us give money, public funds, to support the church schools."

So what we have here now is the Bob Jones case. At least Dr. Jones,

from Greenville, S.C., was candid and above board. He said that he believed that, as a religious tenet, there should be separation. He believed there should be no association of the races on the Bob Jones campus.

I had to tell him 10 years ago and even before, 20 years ago once, when we argued about it with his father, but at least 10 years ago, that he had every right to his religious faith, and I respected it, but he could not ask me as a public servant for public moneys to support his church beliefs after all the separation that has been talked about between church and State.

But here we have a move. I do not know how they have been debating this thing, but they have been talking about technicalities. I want to talk about substance. I want to talk about policy. I want to talk about church policy for one thing. It is bad, bad, bad church policy to be coming to the public body and saying, "We are having difficulty supporting our church schools and we think we can get our foot in the door with a tuition tax credit in order to finance the tuition of our church schools, and we will make it small at the beginning. But once the foot is under the door like the camel's nose under the tent, we will move on in and embellish the program and have that kind of financing."

There is a split in the church. I know the Southern Baptists who had a view one time 5 years ago have since written a letter. I have just gotten back to my desk, and I do not have those materials at the present moment, but I will during this debate no doubt enter that particular letter in the RECORD because I would say there are those in the field of religion who have watched and studied it who realize that under that Bob Jones decision the Government cannot be giving this financial assistance without certain rules and regulations of the Government. They know Federal control follows Federal dollars. And therein those particular church schools say, "No, we have gotten along this far as a country and as a church without the financial assistance and we should continue on the best we can," and they are doing a good job of it. I speak with affection and respect. I have served on the board of church schools at the higher institutional level, on the Newbeery College or Lutheran board of trustees for several years, so I am not here running down private schools. But as a matter of church policy, when the Court goes to make its ruling on whether or not it had a secular intent or was primarily intended to foster religion, I can tell you here and now this move today in the National Congress is to foster religion. I wish I could have the TV cameras ride around the Halls and follow them as they beat on the doors of the Senators and come in with their very appealing appeals: "Just give us a vote, give us a vote."

Well, we are not trying to be obstructionists. We will have a vote. I will counsel with the distinguished Senator from Rhode Island, as I have already, the Senator from Florida, the Senator from Oklahoma, who have been holding the fort, and we perhaps can make an arrangement where we do not have that cloture vote and go ahead and proceed to the consideration because we would like to be able to discuss this on the merits. We are very fearful in these closing days with all of the business of the Senate to be handled in the last few days before we adjourn, this particular subject, which took 3 to 4 days before in 1978, would consume the remaining work of this particular session and none of the other important business could be handled and, more particularly, this issue could not be deliberately handled.

From the matter of church policy, let us move to the matter of educational policy. As a matter of educational policy, this has not been handled by an education committee. The most important subject of public education has not had the expertise from labor and human resources in education who, over the many, many years have been handling all of the particular educational programs. If you worked in that particular field, you would understand immediately that the Federal programs are categorical. There has never been general aid for either private or public education, but always categorical aid for both private and public education—title I for the disadvantaged, not only the disadvantaged in public schools, but the disadvantaged in the private schools, and down the list for the handicapped, for the bilingual, for remedial reading, the categorical programs under the Elementary and Secondary Education Act of 1965. We have a special "bypass" mechanism to insure that Federal moneys reach qualified children in the private schools.

That has been a cautious approach by the Federal Government because the primary function of your Federal Government is national defense and the primary function of your State government is public education. And here is an issue to be debated by Congress, not just looked at as a financial gimmick before the Finance Committee. And I say that respectfully; they are brilliant. But they cannot keep up with everything. They have not listened to the educators on this one or they would see there is a very, very strong feeling of pride in public education as to what has been accomplished, what is being done, with a lot more disadvantaged coming into the public system, while reflecting in the net sum a slight diminution in test scores, in the overall now they have bottomed out and are now climbing back, particularly under the disadvantaged and minority school population. The National Assessment of Education Progress tells the story. Read it and you will know the progress. There is much progress, but still more needed.

There is a story to be told there, particularly as we see it in the greater high schools and the investments we make in public education. If you study it closely—and I would not go into this one in detail because I want to relinquish the floor just as soon as I can this afternoon—you will find in all of those particular items that I talked about with respect to discipline, more for math, more for science, a longer school year, magnet schools, and otherwise, in every one of them, the common theme amongst all these particular educational studies is the need for a better teacher, and the common flaw is the failure to provide one.

We look over America and we find those trying with the crunch of the recession, depression, unemployment—and I speak advisedly because I am in the Democratic ranks and they seem to think that somehow it is not a Democratic tenet to be fiscally responsible, but I resent and resist—you find Governor Blanchard facing up to the responsibility in Michigan, Governor White in Texas, Governor Cuomo in New York, and more recently Governor Celeste of Ohio increasing the revenues and being strongly supported in so doing. They are acting fiscally responsible with respect to their primary responsibility in public education, and yet at this particular hour of our history that is not enough. What we really need in providing for that better teacher is to professionalize teaching. And now herein, as they jump to conclusions and do not listen closely, no one is trying to be offensive, but teaching is not a profession in the United States. They are hired hands. They have nothing to do with their subjects, no control over the curriculum, the materials used, the hours, the working conditions, or more particularly, the pay and again more specifically the standards of their profession.

I believe that we should be treating teachers as professionals. I believe each of the several States should institute a teaching commission to enunciate those professional standards. It would be composed of school board members, administrators, the higher education increment of teaching, and at least half of that commission being made up of classroom teachers themselves. Once they set the standards and the teacher determined to be professionally competent, I would embellish or supplement their pay from the Federal level by $5,000 and in the inner city by $10,000. I go to the inner city because I am tired of traveling

around the country and looking at parking garages—I go to Des Moines, go to Denver, go to Louisville, the bank building and the parking garage, the bank building and the parking garage, and right on down the line. I do not believe in just renewing buildings, but I believe in renewing people. I think we could have a much stronger inner city if we could have the best and the brightest attracted down into that inner city and the public school system. I am convinced we would save money with respect to mischief and penal activity. I learned long ago it is cheaper to feed the child than it is to jail him. I think it is cheaper to educate that child than jail him. I think that education should not begin in the penitentiary but in the early years in the inner city, and they are not receiving it.

You will say, "Wait a minute. That is a $14 billion program. Where do you get the money?" Very easy. We picked up $15 billion in agriculture for payment-in-kind this year just so they would not plant, $30 billion for an MX, $40 billion for a B–1. The schoolchildren of America are worth at least one weapons system. We had a $33 billion tax cut in July for the rich. We could have held that. I think there is a greater need. The rich would be more enriched if all of America could receive a quality education. The greatness of the United States, said Sevan Schreiber in his book "The Universal Challenge" is its public education, and we let it fall back when we fail to provide professionalized teachers.

And so from an education standpoint it is not radical, it is not crazy. We have a national defense problem and we have just passed, I think it was $253 billion, and that was not a total defense bill. We have a national education problem, a nation at risk, and we spend only $15 billion. I just want to up that to $29 billion. I believe that we can then leave to the local entity all of these particular problems relative to discipline. All the States are going into various experiments. They are to be commended. They realize the problem. What they cannot understand is the priorities of the Federal Government itself, here the priority being private education.

So much for the educational nature of this particular question. What about the social nature and the requirement for the unitary school?

I speak advisedly. If you want to start financing those who have tried to resist the tenet of the court for the unitary school system, and I think they have every right to do so—I am not condemning or decrying that itself. I am just saying let us not put Federal moneys to it. That is all I am saying here this afternoon. But that is exactly what you have afoot, and that is what is not being discussed—the social program of those experts who have dealt in education, in the Labor and Human Resources Committee.

I saw my friend the Senator from Kansas here a moment ago. I am a little dismayed as he is trying to balance the budget and is trying to bring up an amendment that would give a further rupture into the revenue system in our great country.

We really are living off the fruits of the next generation: $200 billion deficits this year, next year, the following year.

They all talk about looking at the nice recovery we see. If I were President and I started dealing up $200 billion I did not have, there would be something to show for it. It is an entirely deflated, borrowed economy. It will last for a little while, but by 1985, there is no question that in order to arrest that inflation, you will find quickly the Federal Reserve will have to put the brakes on again, and we will start another recession and depression, and they will blame it on the next administration.

The best jobs program is to bring down the deficit. This particular measure would increase our deficit. The best industrial policy is not business and labor and Government sitting around the table talking about winners and losers: "You're a winner. You're a good business. We'll give Government money to you. You're a loser, and we won't give Government money to you."

I never heard such nonsense. Some propose that.

The best industrial policy is not those jumping around and hollering: "New ideas! New ideas! Retrain America!"

I will give you 100 skilled workers. I say, in the past tense, that we have given you 100 skilled workers off the farms in South Carolina, to make robots in 100 days. There is a low per-capita income in South Carolina, and they can train expeditiously for any and every skill. We do not need a Federal program to retrain America.

I met with the high tech folks around the table in Stanford, Conn. Having been the chairman of the Communications Subcommittee, I started in with my information age talk. It was a delightful speech.

They stopped me quickly and said, "Senator, cool it. High tech has all the money it needs. We can borrow at the bank at 10 percent and are ready, willing, and able to do so, except for you down there in Washington. You're running this $200 billion deficit this year and next year, and by 1985, anybody with any financial smarts will tell you that the 10 percent is going back to the 18- and 20-percent interest rates, and we have just worked our way out of that situation. We fired people. We closed down marginal operations. We are lean, competitive, and hungry. But the roadblock is the Government in Washington. You just get those deficits down. You don't have to balance the budget this year, but get it on a glidepath back to Government in the black, and we can start investing, and we can turn this around. We'll start retooling and start reemploying."

That is the best industrial policy and the best jobs bill. They are running around here with a jobs bill for the young, for the old, jobs in the city, jobs in the country. The only jobs it protects are the politicians' jobs, so they can go home and say, "I was for jobs," after they voted for Reaganomics and put 3 million Americans out on the sidewalks, looking for a job.

So we do not need that, the funding of money and everything else. The best trade policy is to bring down the deficit.

It is amusing to see Senators who have all this wisdom racing around the countryside, saying to industry, "You have to be more productive. You have to be more competitive." We have in the United States the most productive farmer, the most competitive farmer. I will show you, by both the Bureau of Labor Statistics and the Department of Commerce, that we have the most productive worker in the world in that industry, in that plant. But what occurs is that Washington, with the high deficits, has an older value dollar to such an extent that we impose a 25-percent penalty or deadweight on the productivity of every farmer and every industrial worker.

The Soviet Union bought Canadian wheat because there was an 8- to 20-percent differential in the value of a dollar there. So they will buy Canadian wheat, and we will continue to make that farmer and that industrial worker less competitive. With what? With our high deficits.

No one is discussing it, except a few—the distinguished chairman of our Budget Committee, Senator DOMENICI; the distinguished ranking member of the Budget Committee, Senator CHILES; the distinguished chairman of our Finance Committee, Senator DOLE; and they have been working and working. Congressman ROSTENKOWSKI is on the House side. They are ready to bring together something, to bring order out of this chaos. The whole country is waiting. Governors have been here; mayors have been to town.

We tried to put in our freeze amendment and at every turn have been rebuffed, because the White House wants increases in defense and wants tax cuts; and everybody says, "I don't want to be postured as antidefense and anti-tax cut, and there is no reason to go along with you."

That is the real hangup.

Here, with the great need of the country to bring the deficits down, we have a financial initiative from the Fi-

nance Committee. To do what? To increase the deficit. That is what you have on the floor this afternoon.

They do not want to talk about it, because the church leaders are running around in the hallway. That is all we are—like a bunch of Katzenjammer Kids. We want to please every little group. There is no responsibility to the common good. Just come up and cry, whatever group you are, and we have a money program, a money solution. It is a disgrace; it really is.

This free-press crowd would not allow it in a State capital. They would not allow it in a city hall. They would get on that mayor and that Governor. But it is a spectator sport in Washington today.

What you have is no-fault government. This is a no-fault administration. No one is at fault. No one is responsible. No one is responsible for the deficit.

No one is responsible for Central American policy. We have a commission to find out what it is. Can you imagine that? We have a commission looking around because no one is responsible.

There is no fault at all for the hunger in America. The churches are backed up with the unemployed who get food stamps. There are lunchroom programs, but it is no-fault government. Since we do not know who caused that—if we bought a mirror we would find out right away—we appoint a commission as to why there is hunger.

Social security—we finessed that one. We busted the trust fund and went into the general revenues. There is no fault there, because the Speaker and the President got together. That ought to be good, according to the media—a spectator sport.

There is no fault in Lebanon. Two hundred and thirty of them were killed over there, and it was said at the time that they were just sitting ducks. It is as though you would say to a Marine commander, "We're going to put your men on the end of the runway at National Airport so that the men sitting in the windows in Crystal City can shoot at them."

That Marine commander would tell you, "Do not put my men in that particular spot."

If you would tell that Marine commander, "We are going to limit you to 1,200 men," he would say, "No."

And they asked, if you look into it, for 4,500 men. They wanted to clean the perimeter.

But these were political decisions. This is the level of security in this no-fault government. You are supposed to go along with the President and the political charade back home.

"I do not need Congress. There are not any hostilities. There is no war power resolution. Just pass my Gulf of Reagan resolution.

"And there is not enough time. You cannot kill enough marines in 60 days. I want 18 months, so we can show that we can get a lot of them."

And they are not doing anything but sitting there and being shot at. There is no peace to be kept. It is absolutely a charade saying it is peacekeeping. It is partisan. We are on the side of the Israelis. You and I know that. And as partisans to the conflict, you cannot be in that particular Hatfield and McCoy situation. There are 12 Christian sects, 4 Muslim sects, the PLO split three ways and now killing each other, 50,000 Syrian troops, 30,000 Israeli troops. And we walk in and say "peace." We are keeping peace, so we do not have any clips in the rifles.

We will get a picture of them playing volleyball. It will be peace. You do not want to act warlike.

That is a political decision we have and no one cares. They are not looking into it. I have to tell Gen. P. X. Kelly most respectfully that is where he belongs, in the PX, if he thought that was security. If he thought that was security, we ought to put him in the PX. And that colonel who was warned and told after talk about the kamikazes—this is not an airplane. This is a regular weapon used at that particular front. It blew up our embassy and killed our Ambassador in 1976. It blew up the Italians, blew up the French Embassy. And now it has blown up the Israeli compound. That is a frontline weapon of war.

The marines could put 2½-ton trucks in that opening, and they could not have piled into that building.

But there was not security and no thought given. Why? Because we must carry it out so when Senators can come, we can have peace, and let them all jump out and play a little bit of volleyball quick, and let them get back to the aircraft carrier and give them desert, because we are peacekeeping out here. It is a sham. It is no-fault government.

Here they are trying to start an initiative without thorough debate upon public education, a real need in this country if we are going to make the next generation competitive with our counterparts, the Japanese and the Europeans, and they are living in an international economy. This is a global economy and global competition. We must prepare our people, our children in the next generation to be competitive and we have needs right at this moment, as all the studies show; we have financial needs in public education and there is a way to really put that need and set that priority.

I can say within this frozen budget they come to me constantly. You know, they think they are tricky. They say, "How do you freeze a budget and then give $14 billion more to education?" The dummies do not read or understand or know anything about a defense budget. I can freeze that defense budget right at the present level and save billions for education right now, and I would start saving money on the interest costs on the national debt. I think that is what we should do. So there is money available there. You are not talking out of both sides; you are talking out of one, and it ought to be understood.

Public education should be a priority, not private education. Our duty to the public schools is to support them. Our duty to the private schools is to leave them alone. That's fundamental. Do not give me this stuff about private education gives you diversity. If there is a sameness, if there is a similarity, if there is a conformity, it is in the private school. Many of them have little uniforms. Ninety percent of them are church-related, religious-affiliated schools required to study the catechism and otherwise. That is why they are there. And they do not need Government intrusion in their affairs.

Do not tell the authorities of the church, of these church leaders here, that they are not going to have their church teachings. That is the purpose of the church schools, and that is a wonderful purpose. It has made tremendous contributions to our society. But that has been done without public funds, and it should continue to be done without public funds.

The great difficulties that we have in the world today are religious. The finest foresight, the greatest wisdom of our forefathers was in the freedom of religion provision in our Constitution. But the great difficulties in Ireland and the Mideast, India, and Pakistan, which are unsolvable problems, are those of religion.

And this is no time in our society today to start that religious hiatus. On the one hand, it will not help education, in the private or the religious schools. It will put them under the gun of the Federal bureaucracy. They will have all their minions running around—

Have you conformed with this rule, have you conformed with that regulation? Do you have this freedom? Do you have open doors? Are you taking this child or that child?"

Do you have the funds to fight the law suits brought to gain compliance with those rules?

There will be lawsuits all over. There will be more money spent by the bureaucracy in the church schools of America to receive these benefits. Whereas, we could leave them alone as the Constitution says and begin providing for public education and make America competitive again.

So I am prepared to go along with our colleagues from Florida, Oklahoma, and Rhode Island. I know they feel as genuinely as I do, and I am prepared to debate this at quite some

length because if we can gain the attention of the American people on this score it should not be wasted. I do not know how you get America's attention on a subject, with them as mobile as they possibly can be, but we continue to have these good studies on education. They are all good, and now that we have the public's mind focused on public schools for heaven's sake let us not go off down the primrose path for private schools on a bad social, on a bad educational, on a bad constitutional policy and a bad economic policy because you and I know, trying to bring these deficits down, this is just a foot in the door, and all of these programs begin just a billion or just a half billion. We are only going to give them a dollar—they just want to fix the principle—and then year in and every year out there is a little bit more and then in a 10-year period you will find out it will be billions upon billions upon billions of dollars, and of course that will not last.

We in public education then will be forced to start charging tuition in the public schools like they started down here in Virginia, and then it will be a pair off, and it will be another billion dollar program that was not conceived and well thought out with respect to the needs and how to help, and at the same time, leave in the control at the local level.

I say to my distinguished chairman of the Finance Committee, I wish to commend him for his wonderful efforts to bring the deficits down. I just wonder—I left town and they have blown up the Capitol since I left, and you are about to blow up the budget here, when I get back here, with this kind of amendment coming out of the Finance Committee, for private schools, a whole new program the last week of Congress—the man who is going to bring us fiscal responsibility is now going to bring us fiscal irresponsibility. I just cannot understand what has happened to my leader from Kansas, who has done such a magnificent job. I do not say that facetiously Mr. Chairman. I really admire you. I know the difficulties you are having over there with the executive branch.

I am willing to go along if it is a shared sacrifice. I think where we bog down, some want to get defense cuts, some want to get social cuts, some want to hold on and hold the level on entitlements, and I think they should be held there, and I have spoken to the senior citizens.

We did not have COLA's in the New Frontier. We did not have COLA's in the Great Society, and my friend, Lyndon, thought of every way in the world to spend money, but he did not think of that.

And the senior citizens have children and grandchildren, and they do not want to offload this debt onto their children and grandchildren, so long as you are not balancing the Federal Government budget on their back.

So if it is to be shared, hold the line on social, hold the line on entitlements, hold the line on defense spending, and hold the line on tax spending. We should reinstitute that 10-percent tax cut we had in July. We would not have all these little Mickey Mouse amendments of tightening enforcement and revenue enhancement and the Treasury thinks we can pick up a half billion here and that thing and you know that is just an act. We put down an amount and pat each other on the back—what a magnificent job we have done, and look around next year and the deficit is even bigger.

If we really want to pick back up that $33 billion and we do not have the economic turnaround, it certainly has to be turned around by next July, but next July one way or another we should reinstitute that 10 percent and hold off on this indexing.

I have not found a mayor of a city who wanted to index his revenues. You go around the country, and they think you know that is something that the chamber of commerce or the Rotary Club—I talk too long. I get the hint. I only had a chance once or twice this year. Let me stop here.

Yes; I wish the distinguished majority leader happy birthday; he looks younger every day.

I yield back to the distinguished Senator from Rhode Island.

(Later the following occurred:)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that the material I am about to include follow the statement of the Senator from South Carolina (Mr. HOLLINGS) on the tuition tax credit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, enactment of this legislation is one of the top priorities of the administration. In fact, it is well to point out that just about 3 hours ago the President met with a number of us, Republicans and Democrats, members of the Senate Finance Committee, to support tuition tax credits. There should be no mistake about the President's commitment to this proposal. It has been a long-held commitment by the President. He feels strongly about it. Present at the meeting were the Senator from New York (Mr. MOYNIHAN), the Senator from Louisiana (Mr. LONG), the Senator from Delaware (Mr. ROTH), the Senator from Missouri (Mr. DANFORTH), the Senator from Oregon (Mr. PACKWOOD), and this Senator from Kansas. The President indicated his strong support again for this measure. We have agreed to bring this legislation up.

I think the proposal the distinguished majority leader will propound later on, about getting some vote, whether a motion to table or whatever, to indicate to the President and to the American people how this legislation is viewed by the Senate would be very helpful.

TUITION TAX CREDITS ARE A TOP PRESIDENTIAL PRIORITY

Mr. President, President Reagan first sent us his legislation during the 97th Congress. The Finance Committee held hearings and favorably reported the legislation, but unfortunately there was not sufficient time to consider the bill on the Senate floor. The President included this legislation in his 1984 budget, and once again sent the bill to the Congress. The Senate Finance Committee held hearings and favorably reported the bill on June 20, 1983.

Earlier this year, the President, the distinguished majority leader, and I agreed that the legislation should be brought to the full Senate this year, and I am pleased that this agreement has come to fruition.

SENATOR DOLE'S SUPPORT FOR TUITION TAX CREDITS

Mr. President, my support for the President's bill has been prompted primarily by concerns regarding economic equity under the Federal tax laws. Education is not only a parental and family concern, it is a national concern, reflected by the compulsory education laws of each of our 50 States and the District of Columbia.

Financing education of the elementary and secondary levels has traditionally been the primary responsibility of our State and local governments, with limited assistance provided by the Federal Government in certain areas.

Although public education is the norm in our society, with only 10 percent of all students attending nonpublic elementary and secondary schools, the Supreme Court has recognized that the Constitution guarantees parents the right to choose an alternative to the public schools. A critical question is whether our Federal educational policies promote this freedom to choose, or impede it.

FEDERAL AID TO PUBLIC EDUCATION AND PRIVATE EDUCATION

According to statistics cited by both the Department of Education and the National Educational Association, direct Federal aid to public schools in recent years has ranged in the neighborhood of $150 per student, while aid to private school students has been must less, around $30 to $60 per student. These statistics do demonstrate a preference in our aid programs for public schools over nonpublic schools. However, they dramatically understate that preference by omitting the

assistance provided through the Federal tax system.

According to the Congressional Research Service, almost $14 billion each year of Federal tax expenditures go to support our State and local public school systems. On a per pupil basis, these tax subsidies amount to more than $300 per student, in addition to the direct assistance of around $150. The tax expenditures analyzed by CRS include the deduction for State and local taxes to the extent those taxes support the public schools, and the exclusion of interest on State and local bonds to build public schools.

Some experts in public finance have pointed out that these tax provisions help the majority of parents whose children attend the public schools to obtain approval for school taxes that are only partially borne by the local citizens. Through the Federal tax system, the local school tax burden is partially defrayed by Federal tax deductions. The result is that the preference of the majority for public schools supported by local taxes is partially subsidized by the Federal Government.

In my view, allowing a limited Federal tax credit for private school tuition expenses will help to redress the imbalance in our system of Federal aid to education, and provide a climate in which the freedom to choose recognized by the Constitution is not an empty slogan for low- and moderate-income families, but a reality.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the CRS study I mentioned, together with a copy of the testimony of Dr. Thomas Vitullo-Martin analyzing the impact of our present tax policy on our educational system.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., April 27, 1983.

To: Senate Finance Committee.
From: Nonna Noto, Specialist in Public Finance, Economics Division.
Subject: Estimate of Federal tax expenditure subsidy to school districts.

In the Government estimates of tax expenditures made by the Treasury Department and the Joint Committee on Taxation, there is no explicit category for aid to school districts, or even of aid to State and local governments in general. Consequently, in order to address your question about the amount of the Federal tax expenditure subsidy to primary and secondary education, we needed to generate an estimate by assigning to school districts a portion of four categories of tax expenditures associated with aid to State and local government in general. The results are summarized in the accompanying table.

For reasons explained in greater detail below, CRS estimates that school districts benefit from 58 percent of the subsidy associated with the deductibility of property taxes on owner-occupied homes; 29 percent of the subsidy associated with the deductibility of all other nonbusiness State and local taxes (primarily income, general sales, and personal property taxes); 35 percent of the subsidy associated with the exclusion of interest paid on State and local general obligation bonds; and none of the subsidy associated with the exclusion of interest paid on revenue bonds sponsored by State and local governments. These are the percentage figures shown in column 1 of the table.

Column 2 of the table presents the revenue loss estimates for these four categories of tax expenditure made by the Treasury Department and reported in Special Analysis G of the FY84 Federal budget, published in February 1983. The estimated dollar amount of benefit associated with school districts (as opposed to other State and local functions) presented in column 3 is calculated by multiplying the percentage allocation for school districts (in column 1) times the total dollar estimate for the tax expenditure item (in column 2).

The resulting dollar amount of subsidy attributable to school districts in column 3 can then be compared with the total for all State and local government activities in column 2. The subtotal considers only the tax expenditure estimates for property taxes, other State-local nonbusiness taxes, and exclusion of interest on State-local general obligation bonds. It indicates that for FY 1983, of the total of $38,825 million in tax expenditures going to State-local taxpayers (individuals only) and general obligation bondholders (both individuals and businesses), approximately $13,700 million, or 37 percent, is attributable to school districts.

The total considers tax expenditures associated with the exclusion of interest on State and local revenue bonds as a form of aid to State and local governments, rather than as aid to private-purpose activities sponsored by State and local governments. Because no revenue bonds are associated with primary and secondary education, the dollar estimate of tax expenditures for school districts remains at $13,700. But because the basis of comparison for total State-local subsidy grows to $42,600 million, the percentage attributable to school districts drops to 32 percent.

ESTIMATING THE FEDERAL TAX EXPENDITURE SUBSIDY TO SCHOOL DISTRICTS

[Dollars in millions]

Tax expenditure category	Estimated percent going to school districts	Projected revenue loss from tax expenditure item, fiscal year 1983	Estimated tax expenditure subsidy to school districts, fiscal year 1983 (1) × (2)
	(1)	(2)	(3)
Deductibility of State and local taxes [1]:			
Property taxes on owner-occupied homes	58	$8,765	$5,083
Other nonbusiness taxes (primarily income, sales, and personal property)	29	20,060	5,187
Exclusion of interest on State and local debt [2]: General obligation bonds	35	8,000	2,800
Subtotal	37	36,825	13,700
Revenue bonds [3]	0	5,775	0
Total	32	42,600	13,700

[1] Derives from individual income tax only. Because State and local taxes are considered a normal business expense, their deduction is not treated as a tax expenditure item for corporation income tax purposes, or for sole proprietorship or partnership income tax purposes.

[2] The tax-expenditure figures for the exclusion of interest on State and local bonds include estimates under both the corporation and individual income tax.

[3] The revenue bond category includes the following classifications detailed in the tax-expenditure budget: industrial development, pollution control, owner-occupied housing, rental housing, student loan, hospital, mass transit, and energy production facilities.

Source: Tax expenditure revenue loss estimates in column 2 from U.S. Office of Management and Budget, Special Analyses, Budget of the United States Government, Fiscal Year 1984 (Washington, D.C.: U.S. Govt. Print. Off., 1983), Table G–2, p. G–31 and G–32. CRS estimated the percentage of each category going to school districts by the methods explained in the text.

It should be emphasized that the total revenue loss estimates for tax expenditures are rough aggregate figures for the Nation as a whole. These estimates are particularly rough for the exclusion of interest on State and local bonds, since there are inadequate records of the total amount of bonds outstanding (especially for revenue bonds) and there is no IRS record of who holds these bonds and consequently no way to determine the actual marginal tax rate applicable for tax expenditure estimates. In addition, because of difference among States and localities in the proportion of their own revenue sources that are deductible for Federal income tax purposes, there may be corresponding differences in the percentage of benefits associated with State-local tax deductions that are directly attributable to school districts as compared with other State and local functions.

METHODS FOR ESTIMATING THE PERCENTAGE OF TAX EXPENDITURES ATTRIBUTABLE TO SCHOOL DISTRICTS

The percentage estimates for the deductibility of State and local taxes were based on data obtained from the U.S. Bureau of the Census, Governmental Finances in 1979–80, Series GF80, No. 5, U.S. Government Printing Office, Washington, D.C., 1981. The estimates for the exclusion of interest on State and local general obligation debt were based on data obtained from the 1977 Census of Governments.

Property taxes.—It was assumed that all property taxes were paid to local as opposed to State governments, that property taxes were the sole local own-source revenues available to support school districts, and that these local property taxes must be allocated between school district and other local government functions. Total local spending on education ($104.8 billion, including interest payments, debt retirement, and pension contributions, in addition to direct expenditure on education) minus State ($52.7 billion) and Federal ($1.7 billion) aid to local school districts was considered local own-source spending on education ($50.4 billion). This was compared with local own-source tax revenues ($86.4 billion) to produce the percentage of 58 applied to property taxes for school districts. (Own-source tax revenues included taxes paid by businesses as well as individuals as households.)

Other nonbusiness State and local taxes.—The category of other nonbusiness State and local taxes includes primarily income, general sales, and personal property taxes. To facilitate this calculation, it is assumed that all of these taxes are paid to State as opposed to local governments. (We know that in practice some local governments levy these taxes, although the resulting revenues may be designated for municipal and not school district purposes.) It is further assumed that all own-source State aid to local school districts is paid from these tax revenue sources.

State aid to local school districts ($52.7 billion) minus Federal aid to States for education purposes ($12.8 billion) yields an estimate of State own-source aid to school districts ($39.9 billion). This is compared to total State own-source tax revenues ($137 billion) to yield the percentage of 29 applied

to "other nonbusiness State and local taxes" for school districts.

General obligation debt.—Total school district debt outstanding ($35.1 billion) was compared to local full faith and credit debt outstanding ($94.8 billion) (this corresponds to general obligation as compared with revenue bonds). The resulting figure of 37 percent, based on 1977 data, was rounded down to 35 percent as the figure to apply to general obligation interest for school districts.

Revenue bonds.—The one category of revenue bonds that can be considered educational aid is student loan bonds. But because this is for college education and outside the scope of aid to primary and secondary education being considered here, it is excluded from the calculation. Consequently, it is assumed that none of the tax-expenditure benefits from revenue bonds are associated directly with school districts. Because the tax-favored treatment of revenue bonds can be considered as aid to private-purpose activities rather than State and local governments, it can or cannot be considered as part of the total subsidy to State and local governments. In the table, the subtotal excludes consideration of revenue bonds and the total includes it.

THE DAMAGE TO EDUCATION FROM FEDERAL TAXATION POLICY

(Testimony of Dr. Thomas Vitullo-Martin)

Both sides of the debate over tuition tax credits for private school users appear to assume that federal tax policy is today neutral toward both private and public schools and that, therefore, a tax credit for private school tuition-payers is a form of aid to private schools that is denied public schools. Following this logic, opponents of tax credits frequently argue that such a preferential policy is either unfair or unwise, and that it encourages the rich to use private schools to separate themselves from the poor, left behind in the public schools. Similarly, opponents fear tax credits will encourage the racial segregation of public schools by making the choice of private schools less costly.

Federal tax policy is neutral neither toward private schools nor public schools. Private schools operated by churches or other not-for-profit organizations are tax-exempt. They are already helped by the tax laws. Contributions to such schools are tax deductible. Tax credit legislation poses no new, unsettled Constitutional questions. The law now permits the direct deduction of contributions to churches for expressly religious purposes; a tax credit (which is essentially similar to a tax deduction) for the payment of tuition to a church school poses no substantially different issue.

We should ask ourselves why the tax law does not permit the deduction of tuition expenses. Present policy considers the instruction provided by tuition-charging schools as a personal service to the recipient; it considers tuition payments as payments for services from which individual recipients benefit and therefore as expenses that cannot be deducted from taxable income. If tuition payments were regarded as contributions in support of religious training, they would be deductible under current tax law. If the recipients of the benefits of the education service were businesses and not individuals, the tuition would be deductible.

The deductibility of tuition has absolutely nothing to do with the degree to which the school reaches a public objective. Indeed, tuition payments for public schools—and many public school districts including the New York City system charge tuitions to out-of-district enrollees—are not deductible. The policy can have some very damaging effects: Black or Hispanic parents who send their children out of district to enroll in white-dominated suburban systems must pay tuition to those systems. And then they must pay taxes on the money they earn for the tuition, despite the fact that they are integrating the suburban school. This tax policy deters—even punishes—their integrating efforts.

Despite the much voiced concern that private schools segregate, the federal government has no programs to aid private schools become more racially or economically heterogeneous. On the contrary, through its taxation policies, the federal government actually punishes those schools attempting to integrate. A private school that decides to reduce or eliminate its charges so that lower-income or minority-families may enroll their children will, all other conditions remaining the same, make up the lost income by charging the rest higher tuitions. As tuitions rise, so do the amount of taxes the federal government collects from the portion of the gross incomes of the tuition-paying families that support the school.

For the simplicity of illustration, consider a two-salary family with an income of $45,000 per year, thus reaching the 50 percent federal tax bracket. If the scholarship efforts of the private school cost $300 per tuition-paying students, the family would have to devote $600 more of its gross pre-tax income to education than it would if its school offered no scholarships and made no attempts to integrate: $300 will go to the private school to pay the extra tuition to cover the scholarship and $300 will go to the federal government as taxes on that effort. In this case the federal government takes a dollar for every dollar of scholarship support imbedded in the private school's tuition charge.

It is theoretically possible to tie the deductibility of private school tuitions to the racial and economic characteristics of the school, but the approach would be extremely difficult to regulate and would be highly intrusive into the operation of the schools. Alternatively, federal policy could be changed to permit the deduction of all education expenses. I believe this to be the wisest approach, but it suffers a major objection in common with all tax deduction measures for any purpose: The higher a family's income and tax bracket, the more valuable the deduction. Thus a wealthy family paying a $1000 tuition will save $500 from its tax liability. A poorer family, for example one at the 10% tax bracket, will save only $100 on its tax liability after paying that same tuition. In fact, the tax system is so constructed that most families at or below median income use the standard deduction, and gain no advantage from the additional deduction of an educational expenditure.

I believe that a thoughtful, and therefore literate and educated people, are vital to our democratic form of government as well as to our economic prosperity. And therefore I believe that a policy that taxes the effort citizens make for education to be an extremely poor one. Expenditures for education should be tax deductible, because they should be encouraged. Against this reasoning are the objections that I have already outlined. They are, at their core, that a pure system of tax deductions is inequitable in its benefits to those with dramatically varying incomes. This inequality is particularly objectionable in the area of educational expenses, because the schools are such an important springboard for mobility and equality in our society. Tax credits are a progressive way of eliminating the objections to a pure system of deduction.

A 50 percent tax credit up to $300, in effect, equalizes the benefits of tax deductions for families of all incomes except those with incomes so low that they have no tax obligation. (In this case, I urge the Committee to adopt the same rule that applies to U.S. Steel or other companies with investment tax credits in profitless years. Let lower income families accumulate the credits or transfer their benefit to others who can use them.) First, every one—whether or not he or she takes the standard deduction—will benefit from the credit. Second, everyone receives the benefit that only those in the highest tax bracket receive from a tax deduction—a 50 percent benefit. Third, the limit of $300 on the total amount of the credit means that the benefit to wealthier families is substantially reduced, because the wealthier families tend to pay substantially higher private school tuitions than lower and middle-income families. In addition, the present bill excludes families with incomes above $60,000 from any benefits whatsoever.

These progressive aspects are desirable, but the bill does not go far enough in redressing the imbalance of the federal impact on the choices of schools open to families. Assume a family with an income of $25,000 must pay $1,000 a year tuition to send its child to a church-affiliated school. Assume the family's marginal tax rate is 30 percent. The family must earn $1428, of which $428 is paid to the federal treasury. Even after the tax credit at its full value, the family is paying the federal government $128 for the privilege of its choice of schools. If the family's income is $50,000 and it is paying $4000 in tuition, then it must earn $8000 and pay $4000 to the treasury for this privilege. If it received the full $300 credit (which it cannot under the present bill), its net payment to the government for its education support efforts would be $3700!

Even with the passage of this bill, the taxation policy of the federal government will continue to make it very difficult for families to support education through tuition payments.

So far as private schools are concerned, this is a *new* federal policy. In the early 1960s, when the Catholic system had its peak enrollment and, together with the Lutheran schools, accounted for more than 90% of all private schools, the federal government received almost no tax income from the money which supported these schools. The schools were supported principally by their parishes, which in turn were supported by contributions. It was only toward the end of the 1960s that these schools turned toward tuition as a principal source of support. Thus only then did the federal government begin to gain much revenue from taxation of elementary and secondary education expenses. In a sense, this bill turns back the clock—to about 1970.

The other half of my concern is that current federal policy is not neutral toward public schools either. If Congress decides against this bill, then I suggest it pass a bill that prohibits the deduction of *any* expenditures in support of education. That bill would reestablish the balance. Parents would be freer to choose private schools, but central city public schools would not be so

seriously damaged as they are by existing policy.

No matter the outcome of your current deliberations, I hope the tax credit debate develops general recognition that the existing taxation policy affecting education strongly aids some public schools and fails to aid others, and that the net effect on public education is to deprive lower-income districts of resources while encouraging the segregation of central city school systems. This effect is the result of a little recognized fact: The local and state taxes that pay for public education are themselves deductible from federal (and state) taxable income. In many suburban districts, as much as 80% of the local taxes go to support the schools—taxes are little more than a tuition payment.

In the case of the private school, the tuition is not deductible. But in the case of the public school, it is. This means that in a high-income school district, where most every family is at the 50 percent tax bracket, a $4,000 cost per pupil will result in a $2,000 per pupil reduction in the federal taxes owed by residents of the community. In other words, the federal treasury will foot half the local school costs, because when it permits the deduction of the local taxes that support the public school, it is reducing the amount of money those local taxpayers will owe the federal treasury. And, I cannot resist pointing out, there are no caps on the income of the families who can benefit from these deductions.

The problem is that the benefit is not available to all public school systems, only those where most families are in a high enough tax bracket to itemize their deductions. A city like New York—where 90 percent of the families use the standard deduction—gains very little from this provision of the tax law. This, in turn, means that it is much easier for a high-income suburban district to increase its education budget than it is for New York City, because the federal government helps the high income district more than New York. Public school systems receive more money from the federal treasury from the deductibility of local taxes than they do through the actual grant programs of the Department of Education. Larry Uzzel, of Learn, Inc., calculates the amount to be $20.2 billion by 1985, or an average of $517 per public elementary and secondary school student.

Most of that money goes to wealthier districts. The net effect of federal taxation policy on schools is to aid wealthier districts far more than the poorer ones, even after the distribution of federal grants is calculated, and that only encourages the flight of the middle and upper income families from these poorer districts.

And we are now full circle. It is not unfair to give private schools tax credits (a progressive alternative to tax deductions), because public school users now receive enormous benefits from the tax deductions of their education expenses (i.e. their tax payments in support of their local schools.) The unfairness rests in the fact that the existing system gives extraordinary benefits only to the wealthiest and least integrated public school districts and very little to medium- and lower-income districts. Tax credits are designed to aid low- and middle-income families disproportionatley, and this will have the effect of stemming the flow of such families from central cities to the exclusive and attractive—because so heavily subsidized—public school havens. That in turn, will aid urban public schools, because it will make their cities stronger.

FURTHER INFORMATION

I present in greater detail the argument that present taxation policy is damaging public systems as well as handicapping the private schools and limiting their integrating effect in an article in the City Almanac, which I have attached to this testimony.

A much more detailed discussion of the damaging effects current taxation policy has on the ability of private schools to offer scholarships to lower-income and minority-families for the purpose of integration can be found in: "Tuition Reform For Private Schools: The Manhattan County School Plan" (with Frank Roosevelt), (New York: Manhattan County School, 1981). This publication, supported by a grant from the Ford Foundation, is available from the school at 6 E. 96th Street, New York, New York 10029.

In this article, I cite calculations of the cost to the federal government of tax deduction of public school expeneses. These calculations are also appended to this testimony in the form of the report from: Larry Uzzel, "Issue Brief: Tuition Tax Credits," (Washington, D.C., Learn, Inc., September 1982).

(Mr. SPECTER assumed the chair.)

Mr. BAKER. Mr. President, will the Senator from Rhode Island permit me to make an inquiry?

Mr. CHAFEE. Yes.

Mr. BAKER. I apologize to the Senator from South Carolina. I do not wish to interrupt him when he is in full flight. I admire him greatly, and I have great appreciation for his eloquence, and I say that sincerely.

But the question I was going to put before he perceived that I wished to ask a question is whether or not we still had time today to leave this matter since cloture will not occur until tomorrow and go back to the natural gas bill because I think we might make some progress on that measure, and I have been advised by the Senator from Idaho, who is chairman of the Energy Committee, that they are ready to go back to the natural gas bill now.

Could I inquire of the Senator from Rhode Island would he mind if we laid this motion aside temporarily to recur tomorrow?

Mr. CHAFEE. No.

I wish to say to the distinguished majority leader that would be fine by me.

Yes, I not only consent to it, I am enthusiastic about it, and furthermore, I will ask unanimous consent that in yielding, it would be with the provision that I would be recognized when the Senate resumes consideration.

Could I ask the majority leader where would we be tomorrow? Let us say that we go to the natural gas bill now. That would be the majority leader's intent. When we come in tomorrow, what would happen?

Mr. BAKER. Mr. President, tomorrow when we come back, we will be still on the natural gas bill unless we change the sequence of events.

What I plan to do is this: Do as much as we can today on natural gas and spend the next 2 or 2½ hours or thereabouts, whatever, and how long we can reasonably make progress within reason, and then tomorrow when we come in we will take a look at the situation and see if it is possible to get this measure up, that is, the Olympic bill, with the tuition tax credit offered to it and have it laid before the Senate, and then I would hope to do that tomorrow.

If we have not yet reached an agreement, then I would propose to stay on natural gas until the time for the cloture vote arrives.

Mr. CHAFEE. Mr. President, may I ask the majority leader, if I were able to tell him in the morning—and I practically can tell him now, it depends on the Senator from South Carolina—but suppose I were able to inform him that those who are opposing the motion to proceed to the Olympic bill had withdrawn their objection and, thus, the vote for cloture would be vitiated and we were prepared to go ahead to consideration of the measure? Would it then be the majority leader's intention to bring up the Olympic bill tomorrow?

Mr. BAKER. Yes, Mr. President. I would consult with the Senator from Kansas, Senator DOLE, who I understand will offer a tuition tax credit amendment. That would be eminently satisfactory to me.

Might I say also that I must confer with the Senator from Idaho, Senator MCCLURE. But if we get a good day in on this today, on the natural gas bill, and if that agreement were to be obtained, I would certainly want to do it that way.

Mr. HOLLINGS. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. HOLLINGS. Mr. President, it would be our intent or hope, if we did go ahead and yield and consent to the consideration of this measure and the tuition tax credit amendment was laid down, that after a short while of deliberative debate on this side we would like to get a test vote. And we would move, not to be rude about it or cut anybody off, but be ready perhaps just to make a motion to table just to see where we are, because the week is short.

Mr. BAKER. I think that is a good idea. Indeed, I believe that has been discussed with the Senator from Kansas. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I hope we might work that out. Of course, we would like to see that passed. Maybe we cannot do it this evening, maybe not even tomorrow.

Mr. HOLLINGS. Let us go back on it tomorrow morning.

Mr. DOLE. I think if we could have that vote on the motion to table before we get into all the amend-

ments—because there must be 10, 15, 20 amendments on this bill—we might as well have a test vote up front. That would save us a lot of time, I might say to the distinguished majority leader before we get into each little amendment, whether we are going to table the amendment or whatever. So I would be willing to try to work toward that end.

Mr. HOLLINGS. Mr. President, I say to the majority leader that I have been in touch with the distinguished Senator from Oklahoma, Senator BOREN, and the distinguished Senator from Florida, Senator CHILES, who have been vitally interested in this and that is agreeable to them.

Mr. McCLURE. While we are carving up all the time remaining today and tomorrow, I am sure the distinguished majority leader would remember that I expected to be back on the natural gas bill at 2 o'clock today and we are already approaching 3 hours beyond that time. I believe that it is possible to pass the natural gas bill, but certain things have to occur.

We have said to the distinguished Senator from Kansas, Mrs. KASSEBAUM, that we would get her a vote on her bill as an amendment. It would be my hope that we could get on the natural gas bill and stay on it long enough to produce a vote on her amendment.

The Senator from Ohio, Mr. METZENBAUM, as well as the Senator from Kansas, Mrs. KASSEBAUM, had suggested, as well, that we might attempt to get a vote on S. 1715 as a second-degree amendment. It would be my hope that we might be able to get to those two votes before we interrupt this or set it aside for something else.

I would, therefore, hope that we can stay in at least long enough this evening to get to those two votes, if we can do so in a reasonable period of time. If we cannot, we could then return to it tomorrow morning and spend enough time on it to get to those votes. I really would hate to set it aside again until we have achieved that much.

Mr. METZENBAUM. Will the Senator yield without losing his right to the floor?

Mr. McCLURE. The Senator from Tennessee has the floor and I, therefore, cannot yield.

Mr. BAKER. I am happy to yield to the Senator from Ohio. But, before I do, let me say to the Senator from Idaho that he is exactly right. We expected that we would be on that bill at 2 when we resumed session today and we missed it by a good measure. I announced earlier, and advised the minority leader, that we would be out by 6:30. Unless there is strong reason to do otherwise, I would be inclined to ask the Senate to stay until about 7:30 so the Senator could make up some of that time on natural gas.

I would also like, if we can, to actually put the unanimous-consent request this evening. I will not now do it, but let me describe what I would like to do.

I would like to provide that when we resume tomorrow, after a brief period for morning business, that we be on the Olympic bill; that is, vitiate cloture and be on that bill, and have 1 hour of debate on that bill, at which time then someone, whoever is suggested, would be recognized for the purpose of making a tabling motion; and that the hour would be equally divided and under the control of the Senator from Kansas and someone else.

Mr. DOLE. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. DOLE. I think if we could work it out some other way. We have a very important meeting in the Senate Finance Committee tomorrow in which we hope to address the deficit reduction package the Senator from South Carolina referred to. But we will work it out somehow.

Mr. BAKER. What time would the Senator be available for the tuition tax credit measure?

Mr. DOLE. I would think by 11:30. What we hope to do is hand out to all members of the Finance Committee a refined package and then maybe meet on Thursday to vote on it.

Mr. BAKER. I am sorry, I was distracted.

Mr. DOLE. I would say by 11:30 or 12.

Mr. BAKER. I thank the Senator.

I will ask my cloakroom to see if we can clear on this side a request that the cloture vote be vitiated and that tomorrow at 12 o'clock the Senate begin consideration of the Olympic bill; that the Senator from Kansas would be first recognized to offer an amendment, which would be the tuition tax credit amendment; that then there would be an hour of debate, equally divided, to be under the control of the Senator from Kansas and whomever is designated on the other side, the minority leader or his designee; and that at the end of the hour a Senator—and we will fill in the name later—would be recognized for the purpose of making a tabling motion. That is what I would hope to do.

I will ask my cloakroom to see if we can clear an arrangement of that sort. We would go then until about 7:30 tonight and in the morning come in about 9:30—and the Senator from Idaho is already jumping up and down to claim that time before noon for natural gas.

May I urge him to think that we also have the Senator from Utah (Mr. GARN) who wants to do Export Administration.

Before that, could I ask the Senator from Utah if he would be in a position to do Export Administration tomorrow at 10 o'clock.

Mr. GARN. Mr. President, I would say to the majority leader the Export Administration Act has been expired for more than a month. I would not anticipate more than a couple of hours on the bill. We are prepared to do it tonight, in the morning or anytime that the leader designates.

Mr. BAKER. I thank the Senator.

Mr. McCLURE. Will the Senator yield?

Mr. BAKER. Yes.

Mr. McCLURE. Mr. President, I say to my friend from Utah that if it has been expired for more than a month, another 24 hours is not going to matter.

But I would also suggest that I do not have an arbitrary amount of time that I have in mind with respect to the natural gas bill at this particular time except that I do believe we need to make progress on it.

We have been caught up in desultory debate. I have those two amendments that I would very much like to get to disposition. If we can dispose of those today, I will be much more amenable to setting it aside.

Mr. METZENBAUM. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. METZENBAUM. Mr. President, if the majority leader and the manager of the bill would be amenable to doing so, I would like to propose—I agree that we have been on this and we have laid it aside—that there is not one vote being changed, there is not anybody being educated as to the merits. The manager of the bill has talked about taking up S. 1715 as a second-degree amendment.

Mr. McCLURE. I think the Senator from Ohio suggested it.

Mr. METZENBAUM. I suggested it. I think it is a fine idea. I would propose 20 minutes, 10 minutes to a side, to debate. I would propose to take up the Kassebaum bill, which I am a cosponsor of, the same amount of time, 20 minutes, 10 minutes to a side, to debate. Then I would propose that if those two failed to pass, or even if they do, that the Senator from Ohio and the Senator from Missouri, as well as some other cosponsors, the Senator from Iowa, be permitted to take up their amendment on the same basis, 20 minutes, 10 minutes to a side, and we could dispose of this measure.

Frankly, we will know pretty well at the conclusion of those three votes. The Senator from Idaho talks about two votes. I suggest three. I am not talking about any 2-hour debates. I am talking about 20 minutes, 10 minutes to a side, for three votes.

Mr. BAKER. Mr. President, I thank the Senator from Ohio for his offer. I think it is a generous one.

We are going to squander the time we have this evening if we are not careful. So, without trying to solve the whole package, we pretty well described what we would like to do.

I now ask unanimous consent that the Senate temporarily set aside the pending motion, which is the motion to proceed to the consideration of the Olympic bill, and resume consideration of the natural gas bill.

Mr. President, that is the extent of the request.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I also ask unanimous consent that when we resume consideration of the Olympic bill, the distinguished Senator from Rhode Island be first recognized.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not object, I have been advised that there is objection on our side to time agreements on the amendments. But I will not object to the request.

Mr. BAKER. We can continue to work on that. But let us get on the natural gas bill now, if we may.

Mr. DOLE. Can I just have about 5 minutes to place some material into the RECORD before we move to that? It is all right to make that part of the request.

Mr. McCLURE. Mr. President, if this unanimous-consent agreement is granted and we return to the natural gas bill as the pending business, I would have no objection to the Senator from Kansas (Mr. DOLE) proceeding for not to exceed 5 minutes to place material into the RECORD.

Mr. BAKER. Mr. President, I add to the request that after the natural gas bill is once more made the pending business the Senator from Kansas be recognized for not to exceed 5 minutes as in morning business.

Mr. BYRD. Mr. President, reserving the right to object, may I just state for the record if the majority leader's request is objected to, he can get on the natural gas bill anyhow. I just say that for the record for my own protection.

Mr. BAKER. I understand and I appreciate the remarks of the minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NATURAL GAS POLICY ACT AMENDMENTS OF 1983

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1715) to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas, and petroleum, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO 2525

Mr. McCLURE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Louisiana, amendment No. 2525, to the amendment of the Senator from Idaho, amendment No. 2524.

Mr. McCLURE. Mr. President, as all Members know, I offered a first-degree amendment to S. 1715 which provides a statement of policy with respect to passing the savings through to the customer, to protect the consumer as gas prices change under contract arrangements mandated in the statute, so that the consumer gets the benefit of those changes.

The Senator from Louisiana (Mr. JOHNSTON) offered an amendment to that which sets up the procedures by which that would be accomplished.

To the best of my knowledge, those amendments, that policy statement embodied in my amendment and the procedures set out in the amendment of the Senator from Louisiana, are widely acceptable. They have been before this body for some time now and there is no doubt in my mind that this body is ready to adopt the amendments as well as that policy.

If there is no further debate on that question, it would be my purpose to ask for a vote on the Johnston amendment.

Mr. METZENBAUM addressed the Chair.

Mr. McCLURE. Mr. President, a parliamentary inquiry. Have the yeas and nays been ordered on those amendments?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. McCLURE. On the Johnston amendment?

The PRESIDING OFFICER. They have not been ordered on the Johnston amendment or the other amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would like to suggest to the Senator from Idaho that with respect to the first-degree amendment and the second-degree amendment I am not at all certain that they are that great. But I am not prepared to go to the mat and make an issue about them. I think the purposes of this body would be best served if we accepted the second-degree amendment. It has some faults in it. But that will not be the final word on this bill. We all know that. The final word will come in either the original bill itself, the Kassebaum amendment, or my amendment. So I would propose there not be a rollcall and go ahead and accept the second-degree amendment as far as this Senator is concerned. You can accept the first-degree amendment as well and we can get on with the business.

Mr. McCLURE. I am ready to vote on the Johnston amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2525) was agreed to.

AMENDMENT NO 2614

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Senator KASSEBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. Is this an amendment to the McCLURE first-degree amendment?

Mr. McCLURE. It is.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for Mrs. KASSEBAUM, proposes and amendment numbered 2614.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of amendment No. 2614 is printed in today's RECORD under Amendments Submitted.)

Mr. McCLURE. Mr. President, this is the Kassebaum bill, S. 996, which I have offered on her behalf so it will be the pending business, and we can discuss that bill and hopefully get to a vote on it. I have no disposition at all to delay that vote. I would hope we could get to it as quickly as possible.

The Senator from Kansas has been very cooperative in getting this matter before this body and has indicated in the past that the debate might take some time in view of the number of cosponsors on that amendment. Therefore, I might ask her at this time how much time she thinks it would take to dispose of it from the proponents' side.

Mrs. KASSEBAUM. I would say to the Senator from Idaho that I think we have felt it would not take a lot of time, that much of the debate has already taken place on and off. But I do also feel very strongly, as we discussed the other day, that I would like to not only have a vote on S. 996, but the committee bill as well. I think if we just have the debate on S. 996 and had a vote and ran out of time, then it would be the worst of all possible

worlds for some of us who have been involved in this.

I appreciate very much the chairman's position on this and his efforts to try to resolve this. I think all of us want to see the decision put to rest.

I would be very hopeful that, as a matter of fact, we could move forward and we could have votes on both S. 996 and S. 1715 and see where we were at that point.

Mr. McCLURE. Mr. President, I thank the Senator from Kansas for her statement. It is my intention to move as rapidly as possible through this and get a vote on it, and then offer the amendment that embodies S. 1715 and get a vote on it.

I am ready to offer a time agreement. The Senator from Ohio suggested we do that. I am willing to offer a constrained time agreement. As mentioned by the Senator from Louisiana, it is not possible at this time to get that agreement. Therefore, I suggest we get started on the debate. Perhaps as we get into the debate on the amendment we will be able to ascertain whether or not it is possible to get an agreement with respect to those two steps.

I would say to the Senator from Ohio, who suggested a third amendment, that I do not think it is possible to get an agreement on that at this time, but we will explore that as we are going forward with the other two.

Mr. METZENBAUM. I am prepared to vote as soon as anybody else is prepared to vote. As soon as the Senator from Kansas has concluded her statement—I am a cosponsor; it is a fine bill and we can pass it.

Mrs. KASSEBAUM. Mr. President, I would just like to say that perhaps we better wait just a moment and I will see if anybody else who is a cosponsor, because there are 17 cosponsors, would wish to come over and have a statement either as a matter of record or make a statement on the floor. I did not realize we were going to get to this at this particular time.

Mr. President, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I take the floor only at this time so that those Senators and staff who may be listening in their offices may be notified that I sense the mood among the Members here on the floor is to move very quickly on these amendments, and I therefore suggest that anyone who has an interest in the debate on the pending amendment should come to the floor immediately to participate in that debate or to make his statement.

There appears to be a disposition among the Members that are on the floor to move very quickly thereafter to the second amendment which I outlined, which would be S. 1715 as a second degree amendment, so that we can get a vote on both of those very quickly. If there are Members within earshot who want to be heard on that matter, I suggest they make arrangements to get here or get word to us as to their interest.

Mrs. KASSEBAUM. Will the Senator from Idaho yield just a moment for a question? I wonder if he could have all those who are interested so alerted that a vote on both 996 and 1715 will take place around 5:30?

Mr. McCLURE. That would be fine with me. Indeed, if no one objects, I am perfectly willing to enter into that kind of an agreement. But as the Senator from Kansas knows, unanimous-consent agreements are hard to get, and therefore everyone should be on notice that we may be attempting to move it in that timeframe.

Mrs. KASSEBAUM. I fully appreciate that and would certainly like to urge everyone to come to the floor who would like to make any comment, because I do believe it has been fully debated and we all understand the existing realities. It is an issue of great importance not only to the many interests that are represented closely with this bill, but I think of great importance to the country for us to address this in the Senate before we go out on Friday. If we can do it in a way that is a strong and constructive piece of legislation, I think it will enhance the opportunity to get it through the House as well. That, I think, would be a great benefit to the American public.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, parliamentarian inquiry. Would S. 996 in amendment form as now offered by the distinguished Senator from Kansas, if adopted, then be further amendable?

The PRESIDING OFFICER. Something could be added on the end or there could be a substantive change made to the amendment.

Mr. JOHNSTON. Something could be added on the end to make a substantive change in it?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. After its adoption, if adopted?

The PRESIDING OFFICER. Yes; after it is adopted. The Senator is correct.

Mr. JOHNSTON. And if 1715 is in the same form, as an amendment, the same would be true of that as well?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. I thank the Chair.

Mr. METZENBAUM. Mr. President, I rise to strongly and enthusiastically support S. 996, a bill which would provide genuine and meaningful relief to battered natural gas consumers, farmers, and small businesses.

The Senate Energy Committee bill is not a consumer-relief measure. It is a $40 billion payoff to the major oil companies and a blatant effort to hold consumers hostage to a misguided ideological commitment to natural gas decontrol.

The problem in the natural gas market today is high prices. Those high prices have not been caused by controls. In fact, nothing in the NGPA mandates minimum prices for gas—and nothing prevents those prices from falling, as recent market developments prove. High prices have been caused by private contracts, not the NGPA. These contracts were negotiated between pipelines which have failed to fulfill their legal duty to act in the public interest and producers that have profiteered at the consumer's expense.

S. 996 is the best response to the current chaos reigning in today's natural gas markets.

Through the 1979–83 period gas supplies grew impressively, but in that period the average cost of gas for interstate pipelines has risen from 83 cents per thousand cubic feet to $3.15 per Mcf, a 207-percent increase.

Certainly, increased costs of production and exploration, as well as gradual depletion of the old, cheap gas supply, partially explain this increase.

But the predominant reason is that pipelines and producers have signed contracts containing clauses that can generously be described as irresponsible. The net effect of these contract provisions is that cheap gas has been shut in while more expensive gas continued to flow.

In Ohio, for example, approximately 8.5 billion cubic feet of gas went unsold in 1982 for a lack of a purchaser, most of it available for $2.50 to $4.50 per Mcf. Meanwhile, pipelines continued to take gas in the $6 to $9 per Mcf.

The full implications of these irresponsible contracting practices have yet to be realized. The price of 28 percent of the gas volumes sold in the interstate market from post-NGPA wells are tied to the price of petroleum products upon deregulation in 1985. These oil parity clauses, in turn, will trigger the infamous most-favored-nation clauses. This chain of events led EIA to forecast that 60 percent of the interstate gas scheduled for decontrol in 1985 is likely to move into the $6 to $8 price range. Try to explain that to your average gas user.

It is clear that the problem the Senate needs to address is not more decontrol, but the failure of pipelines to minimize their gas costs.

In contrast, S. 996 represents a conscientious effort to provide consumer relief quickly. It is based on the principle that consumers, not the gas industry, should obtain the primary benefits of low-cost gas production. By rolling back wellhead price ceilings, by bringing unregulated gas under price controls, by limiting take-or-pay and minimum bill commitments to reasonable levels, by invalidating indefinite price escalator clauses, it places human need above the unnecessary profiteering of several large corporations.

By authorizing pipelines to market-out of burdensome gas purchase contracts and by requiring them to exercise prudence in their gas purchase practices, the bill improves the tools and increases the pipeline's responsibility to protect the ratepayer.

By requiring FERC to increase its scrutiny of the gas costs which pipelines pass through to ratepayers, and by requiring FERC to establish rules for rate design which will cause pipelines to minimize their gas costs, the bill seeks to invigorate the primary instrument of consumer protection at the Federal level.

And by requiring pipelines to conduct themselves as contract carriers, transporting gas on behalf of producers, distributors, and other shippers, the bill establishes a safety valve, a means for customers to avoid the monopolistic practices and imprudence of the pipelines that serve them.

Mr. President, I believe this is the best and most responsible approach to moderating the outrageous price increases that have so burdened consumers in recent years.

Finally, unlike the ill-conceived committee bill, S. 996 has a realistic chance of passing the Congress. The House is poised to adopt a measure similar to S. 996. If we join that effort, we can send consumers a Christmas present for the ages—lower gas bills now and in the future.

Mr. President, I join in urging that we vote at this point with respect to S. 996. I think debate has been concluded. If there is nothing further on the floor, why, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. TRIBLE). Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, the process that has lead us to this point today began last fall when a few of us attempted to react to the unconscionable rise in gas prices occurring at a time of surplus deliverability. I attempted to address some rather narrow concerns at that point and the Senate chose instead to attempt to produce a comprehensive gas bill. The result of that attempt, as everyone knows, is S. 1715.

I sincerely applaud the herculean effort that the Energy Committee went through to create the bill currently on the floor. As anyone who has ventured into the morass of gas legislation will attest, it is extremely difficult to reach agreement on even the simpliest of points. Each segment of the natural gas industry blames the rest of the industry for the inexorably rising prices. Each segment proposes solutions which address only their increases.

The Energy Committee's bill has some features which are not that far away from the amendment that I am offering. It has some very interesting and innovative points. Unfortunately, I believe that it also has a fatal flaw. Briefly stated, that flaw is the fact that it would create a tremendous upward pressure on average wellhead prices by decontrolling old gas. At the same time, the bill fails in its attempt to insure that the pipelines have a long-term incentive to bargain aggressively for the lowest possible cost for the gas they purchase.

The problems today stem, in part, not so much from having different prices for different categories, but rather from having most gas controlled and one category of gas totally decontrolled. By decontrolling old gas, before distortions in the marketplace are corrected, the committee's plan would cause the price to increase dramatically on over 40 percent of the gas in this country. True, it would cause the price of the expensive section 107 gas to moderate somewhat. However, since that section 107 gas only constitutes approximately 5 percent of our supply, it does not take an expert to see what will happen to average wellhead prices. In fact, a recent study by a consumer group indicates that this would ultimately cause residential gas bills to increase by approximately 67 percent over the next 4 years. Even if this figure should prove exaggerated, we cannot ask the consumer to bear that risk.

One of the problems in dealing in this area is the plethora of studies purporting to prove whatever point the group paying for the study wants proven. As nearly as I can tell, there is only one truly independent group doing any significant work in this area—the Energy Information Administration of the Department of Energy. Although they have not examined S. 1715 itself, it is instructive to see what they say phased old gas decontrol will have done to wellhead prices by 1990. By 1990, a time when the mechanism that brought you there will be irrelevant, part IV of the EIA's study states that old gas decontrol will result in a wellhead price 11 percent above the NGPA reference case. And what do we get for that 11-percent increase? Again, according to EIA, precious little. The complete decontrol of old gas would bring the American consumer almost no new reserves.

I think a brief word is in order at this point concerning the flexible role that decontrol backers assign to the expensive section 107 gas. Last fall, while admitting that 107 was a small part of the total picture, I believed that some relief could be brought to consumers by encouraging pipelines to shut-in their sources evenly. My opponents responded by saying that 107 was such a miniscule portion of the total that it would be irrelevant to consumers. Now, however, we are told to expect wondrous things from the ramping-down of those same supplies. Suddenly 107 has become such a powerful factor that by moderating its price, you can magically offset a doubling in price of over 40 percent of our national supply.

It is incumbent upon those of us with a true concern for the consumers of this country not just to criticize the committee's bill, but to present an alternative. I believe my amendment represents such an alternative.

The vast reservoir of old gas serves as an anchor of most of our major pipeline systems. It serves as a cushion to support the exploration for more expensive gas without unduly raising consumer prices. This gas should not be decontrolled until distortions in the marketplace have been corrected.

With the basic premise of continued controls on old gas in mind, I would like to briefly list the other main points of my amendment.

First. The NGPA ceiling prices would be rolled back to their August 1, 1982, levels and allowed to increase at a rate no greater than 75 percent of inflation. In addition, the 1985 and 1987 decontrol dates in the NGPA would be extended 2 years.

Second. High cost, section 107 gas would be capped at 150 percent of the 103 price, subject to a case-by-case review by FERC as to whether such a rate is just and reasonable for a particular well or producer.

Third. The provisions in the NGPA which may give FERC the power to raise ceiling prices and/or create new incentive categories would be repealed.

Fourth. Take-or-pay obligations above 50 percent of daily deliverability would be repealed. This would continue for 3 years after enactment. The producer would be free to sell the gas represented by the reduced take, subject to a right-of-first-refusal by the pipeline. Subject to capacity, the pipeline would be required to transport the gas to a new purchaser for a reasonable charge.

Fifth. Both parties to contracts for high-cost gas shall have a market-out opportunity if renegotiations fail. The

pipeline would be required to transport the gas to a new purchaser on terms similar to those described above.

Sixth. Indefinite price escalator clauses would be outlawed.

Seventh. Section 601(c) would be left intact, with imprudence added to the fraud and abuse standard.

Eighth. FERC would be required to establish a rate design which would force the pipelines to consider the effects that their purchasing practices have on the end-user market.

Ninth. Imports of Algerian LNG would be capped at 150 percent of the 103 price.

Tenth. The President would be required to report to Congress within 60 days on efforts to renegotiate the border price of Canadian and Mexican gas to more realistic levels.

I believe that this amendment will address the major problems with the natural gas market today. It certainly is not a perfect solution, but I believe it is a far better approach than S. 1715, and I urge my colleagues to support my amendment.

Mr. DANFORTH. Mr. President, nearly a year has passed since the junior Senator from Kansas (Mrs. KASSEBAUM) led a fight on this floor to bring the skyrocketing price of natural gas under control. I joined with her at that time and again last spring, when we introduced S. 996 in an attempt to bring some relief to our hard-pressed consumers. Now we come forward together again to seek the Senate's support for our efforts.

Last winter consumers all across the Nation were staggered by natural gas price increases of 20 and 30 percent and more. In one community in my State, the price of gas jumped 86.8 percent between March of 1982 and March of 1983. This winter we do not face a repetition of those price increases. But we had a mild winter last year. A cold winter could mean still more dramatic increases in consumers' gas bills.

Let us review for a moment how we arrived at this sorry state of affairs. Passage of the Natural Gas Act in 1938 first gave the Federal Power Commission the authority to regulate interstate pipeline rates and the terms and conditions of sale. The Supreme Court's Phillips decision in 1954 extended that authority to the regulation of wellhead gas prices for gas delivered into interstate markets.

Under this regulatory control, prices remained virtually constant from 1963 to 1974. As a result, producers began committing more and more of their reserves to the unregulated intrastate market, where the gas could command higher prices. Interstate pipelines could not compete successfully for new gas supplies, yet their low prices stimulated demand. In 1968, for the first time in 50 years, more natural gas was consumed in 1 year than was added to reserves. By the end of 1973 the deficit between new inventories and consumption had grown to 16.1 trillion cubic feet. In a single decade demand for gas and oil had increased 60 percent while the number of wells drilled had decreased by 40 percent. If the same rate of production versus consumption had continued, by 1988 inventories would have been totally depleted.

By the winter of 1972, shortages were occurring in the interstate market, but mild winters prevented serious deficits. Then, in January of 1977, severe winter weather struck, and the Commission was forced to curtail gas consumption drastically, starting with industrial users. At one point, it appeared that even top priority users—residences and small businesses—might be curtailed in some sections of the Nation. By February 1, 11 States were in emergency status, with industry and schools closed by gas cutoffs. An estimated 8,900 plants were closed in the Midwest and East, with more than half a million workers temporarily laid off. Many auto and steel makers were unable to reopen before April, the end of the heating season.

Congress responded in 1978 by enacting the Natural Gas Policy Act. The act brought intrastate gas under Federal regulation for the first time, eliminating the split market. Old natural gas—gas not in production before April 1977—was kept under permanent price controls at the equivalent of 1978 prices. New natural gas—discovered since April 1977—was allowed annual price increases of inflation plus 4 percent, with price controls to end altogether in 1985. Certain high-cost gas was deregulated immediately.

This combination was a compromise between those who wanted permanent price controls on all gas and those who wanted immediate decontrol. Producers were given a greater incentive to find new gas, and gas that was already flowing was kept at current prices.

In terms of its effect on supply, the act was a success. In 1981, for the first time since 1967, the United States added more to its gas reserves in the lower 48 States than it consumed. But the act's effect on consumers was devastating. The authors of the act failed to foresee the prices that supply-starved pipelines would pay for decontrolled gas and for imported gas, especially from Algeria. They failed to foresee the effect of contract clauses that producers would obtain in a seller's market—take-or-pay clauses that bind a pipeline to pay for gas whether needed or not, and indefinite price escalator clauses tying the price of gas at one place to the price of gas—or even oil—elsewhere. And they failed to foresee the height to which the Iranian oil price shock of 1979 and the ensuing surge of inflation would take the price of energy generally. The Natural Gas Policy Act was supposed to relax price controls on a gentle curve, but in retrospect the curve looks more like the takeoff path for the space shuttle.

Nationally, more than 55 percent of all U.S. households use natural gas for home heating; their prices have doubled and in some cases tripled since 1978. In my own State of Missouri, the typical January bill for a customer of Missouri Power & Light has risen from $55 in 1978 to $165 in 1983. For a customer of Great River Gas, that bill has risen from $55 to $173. For a customer of Missouri Utilities, it has risen from $51 to $171. For the Gas Service Co., serving a population of nearly 3 million people in western Missouri and eastern Kansas, a January bill has gone from $43 to $153. Put another way, the increase in natural gas prices since 1978 has caused the export of $700 million from my State—annually. Meanwhile, in western Kansas, more than half of the enormous Hugoton gas field—a reservoir of cheap, regulated gas—is shut in by pipelines taking Wyoming gas costing 10 times as much because of take-or-pay contract clauses.

Mr. President, the outrage in my State about this situation is enormous, and so is the despair, for the cost is real in human suffering. The Kansas City Times recently reported that more than 12,000 households in the Kansas City metropolitan area are without natural gas—twice the number of a year ago. An estimated $4.5 million would be required to bring those bills current. Another $7.5 million would be needed to provide heat just to the homes helped last year. According to one national survey, utility shutoffs for nonpayment of back bills have increased 45 percent since 1980, and the average debt of customers in arrears has shot up 80 percent.

These are staggering figures. The need for action—for action now—is great.

The pending amendment, offered by the junior Senator from Kansas, offers a comprehensive remedy. It would roll back price ceilings to their August 1982 levels, limit or eliminate restrictive contract clauses that are keeping prices artificially high despite conditions of excess supply, limit the price paid for deep gas and Algerian liquefied natural gas, and allow pipelines to break their contracts with producers if they cannot agree on price.

Price controls on old gas would be retained permanently. Removal of these controls would be a mistake for three clear reasons: First, it would drive up gas prices by at least $40 billion through 1990; second, it would bring forth significantly less gas than would current law: and third, it would reward the Nation's major oil companies, who control the bulk of our old gas supplies, while penalizing the inde-

pendent producers who have been finding new supplies of natural gas.

Old gas now constitutes about half of the Nation's gas supply. The average price of old gas today is $1.41 per thousand cubic feet, compared to a new gas price of $3.43. Decontrol of old gas prices thus could result in a doubling of price of half of the Nation's gas supply. Even if the price of new gas came down to compensate—an arguable assumption in itself—the impact on consumers would be tremendous.

The Energy Information Administration estimates that, compared with current law, a decontrol plan like that in S. 1715 would result in residential prices being 35 cents higher per 1,000 cubic feet in 1985 and 60 cents higher in 1990. The additional cost would be $5 billion annually in 1985 and nearly $10 billion in 1990. But such increases would not enhance supply; indeed, current law would produce 5 trillion cubic feet more in new additions to U.S. reserves than this decontrol scenario.

By way of contrast, the EIA found that a system of continued controls like that in the pending amendment would result in lower prices than current law—saving consumers more than $20 bill—and would result in additions of nearly 4 trillion cubic feet to U.S. reserves.

To draw the lines most sharply, choosing S. 1715 over the pending amendment would result in consumers spending $60 billion more between now and 1990 and having 9 trillion cubic feet less gas to show for it.

Decontrolling old gas would not augment our supply of gas—it would simply enrich the major oil companies that control most of the old gas. And if the price of new gas came down to compensate, the independent producers who have been bringing in additional supplies would be devastated.

As Senator HATFIELD noted in the Energy Committee's report on S. 1715,

> The wells that produce old gas were drilled years ago, and the investment in this drilling was premised upon receipt of a wellhead price of approximately 26 cents for wells drilled before 1974, 42 cents for wells drilled between 1974 and 1976 and $1.42 for wells drilled in 1976. Little, if any, additional investment in these wells is required to maintain production. Since these wells are economic at the existing ceiling prices, which increase automatically with inflation, there is no justification for increasing the price of this gas now. In fact, in 1976 the Federal Power Commission considered and rejected permitting old gas to receive new gas prices because "the Commission . . . has a responsibility to minimize severe and harmful economic dislocation but to increased rates." This body has no less of a responsibility.

The supply of old gas will become exhausted over the next 10 to 20 years. To make the transition to a free market, we should keep controls on old gas and simply allow the natural diminution of supply to phase out the effects of regulation.

Mr. President, as winter looms, we finally have natural gas legislation before us. We can seize this opportunity, and I believe we must. I do not believe that we can go home for Christmas and tell people who are cold—people who cannot afford to heat their homes, people who are scrimping on the necessities of life in order to stay warm—that the Senate just did not have time to deal with natural gas. In the pending amendment, we have legislation that will bring immediate and meaningful relief to consumers, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I will make a very brief statement now, and I am not doing that with any purpose of delay. I want to give Members the opportunity to get here or to contact us with respect to their interests, and rather than asking for a quorum call I will make a very brief statement.

Mr. METZENBAUM. Will the Senator withhold for a minute? I ask whether he would be willing to agree and whether the Senator from Louisiana would be willing to agree that immediately upon the conclusion of the rollcall with respect to S. 996 the Senator from Idaho would be recognized for the purpose of introducing S. 1715 and immediately thereafter without debate there would be a rollcall on that amendment?

Mr. McCLURE. Unfortunately, I would say to the Senator from Ohio, we have an objection to that at the moment. But we will attempt to do what we can to clear that objection before we get to the end of the rollcall on the pending amendment.

Mr. METZENBAUM. Would the Senator from Idaho at least be willing to undertake to offer S. 1715 as a second degree amendment immediately after?

Mr. McCLURE. Yes, indeed. I intend to do that, and I thank the Senator from Ohio. That is my intention.

Mr. President, I am opposed to S. 996, for a number of reasons. However, I would note, at the outset, that S. 996 is not a quick fix. It is a comprehensive, detailed proposal that deals with numerous contract issues as well as the wellhead pricing problem. Accordingly, the author of the bill, the Senator from Kansas, is to be commended for her contribution to the natural gas debate. She, obviously, recognizes that the natural gas industry is very complex, that the problems in the industry are very complex, and that any legislative solution must deal with those complexities, rather than attempt to impose some type of simple solution. Any type of quick fix approach can only attempt to resolve part of the problem. A partial solution would benefit one part of the industry, but it would harm another. That is the dilemma we face. Any simple solution will be an unfair and unacceptable solution, because it will impose some form of serious hardship on a portion of the industry.

As I mentioned, S. 996 does not have the disability of being a quick fix. But it does contain a number of defects that compel me to oppose it.

First, the bill could cause irreparable harm to natural gas consumers in the long term. That conclusion follows from the fact that the bill would roll back NGPA ceiling prices to their August 1982 levels. In my judgment, that provision would adversely affect our Nation's supply of natural gas. If the price rollback were to be enacted into law, prices would be too low after 1984 to elicit the necessary level of exploration and development of new supplies. In my opinion, the result would be shortages before 1987.

I do not believe that is an unreasonable prediction. A price rollback, combined with a 2-year extension of price controls, would have a devastating psychological impact on all producers, and a serious financial impact on many producers. In each case, the result would be a reduction in the financial incentive of producers to explore for and develop new gas supplies. Also, some producers undoubtedly would cut back on their drilling activity merely because of fear of more Federal intervention. Their fear would be well justified. If the Congress can extend controls once, it can do it twice, and undercut even further the level of revenues originally anticipated by producers when the wells were drilled.

Second, the bill would limit take-or-pay obligations to 50 percent of daily deliverability for 3 years. This is an unbalanced response to the problem concerning take-or-pay clauses. It ignores the legitimate need of producers to have a sufficient and predictable cash flow. In addition, the bill would prevent producers from minimizing their losses by selling released take-or-pay gas to another buyer. The bill does not give producers the right to terminate a contract with respect to volumes not taken. Thus, producers would not be permitted to sell released gas to another buyer. Moreover, even if they were authorized to do so, the bill fails to require pipelines to transport released take-or-pay gas to another buyer. Rather, it would force producers to utilize the contract carriage provisions of the bill. Such a procedure inevitably would require litigation before the FERC, an unreasonable burden for a producer since the transportation term would be limited to a period of 3 years.

Third, S. 996 provides market-out relief only for pipelines, not producers. This market-out right would apply to all present and future contracts, with-

out a time limit. Such an unbalanced approach would result in irreparable financial injury to producers, and it would make a mockery of arms-length bargaining between pipelines and producers.

Fourth, the bill would void all indefinite price escalator clauses, rather than encourage the parties to renegotiate those clauses to make them reasonable and responsive to current market conditions. The definition of indefinite price escalator would include area rate clauses. This could result in a rollback of all prices to those specified in contracts which, in many instances, are extremely low. This would produce another reduction in revenues for many producers, and would add to the financial hardship caused by take-or-pay reductions. Also, by declaring indefinite price escalator clauses to be unenforceable, the bill would for many contracts, elminiate the only method of determining the price. The bill provides no alternate pricing mechanism. What would happen to those contracts if S. 996 would become law? Neither party could be forced to agree to a price, and neither would have the right to abrogate the contract. Undoubtedly, there would be widespread litigation in Federal and State courts, with all the expense, delay and unpredictability that would accompany such litigation.

Mr. President, it is for these reasons that I would urge my colleagues to reject this bill. Although the bill may bring down gas prices in the short run, it is so weighted against gas producers that in the long run, it may do far more damage than good.

Mr. EAGLETON and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I am proud to join Senator KASSEBAUM, Senator DANFORTH, and others in offering the Natural Gas Consumer Relief Act as a substitute amendment to the Energy Committee's decontrol bill.

The Consumer Relief Act has been, and continues to be, the clear proconsumer alternative to any proposal that would decontrol the price of low cost "old" gas, such as the bill before us today.

Clearly the Consumer Relief Act has far more support than does the committee bill. Where the committee bill has the tenuous support of little more than half of the committee and was reported "without recommendation," the Consumer Relief Act has the full support of 16 Senators and over 150 Members of the House. Where the committee bill has the backing of the major oil companies, who stand to gain billions by decontrol, and the Reagan administration, the Consumer Relief Act has endorsements from a long list of senior citizen, consumer, farmer, and labor organizations as well as gas distribution companies.

Although our bill was sidetracked by the Senate Energy Committee, I am happy to note that on October 24, 1983, House Energy Committee Chairman DINGELL and the House Fossil Fuels Subcommittee Chairman SHARP unveiled their proposal for natural gas legislation. The Dingell/Sharp proposal tracks most of the provisions found in the Consumer Relief Act.

Like the Consumer Relief Act, the House chairmen's proposal contains a rollback of "new" and high-cost gas prices and a 2-year extension of controls on new gas. The two pieces of legislation would also limit take-or-pay contract requirements to 50 percent for 3 years, limit the operation of indefinite price escalator clauses, apply a strict prudency test to all future pipeline gas purchases, and limit the harm that is being caused by high-priced gas imports.

In short, the provisions in the Consumer Relief Act amendment are provisions that are likely to be found in legislation that comes out of the House of Representatives.

Clearly the approach to gas pricing found in this amendment and in the leading proposal in the House is the approach that is most acceptable to the American public. The type of approach found in the decontrol bill that we are attempting to amend is just as clearly one of the most unacceptable approaches to the American public.

Enough about public opinion. Let us turn to what little reliable information there is on the impact that various natural gas pricing proposals will have on gas prices and supply.

The best gas pricing study that I know of is the Energy Information Administration's analysis, "The Natural Gas Market Through 1990." The Energy Information Administration, or EIA, is the independent analytical arm of the Energy Department. EIA was created in 1977 by a Congress frustrated by the painful lack of unbiased and accurate economic and statistical information on energy policy.

Simply put, the EIA study of the gas market puts to rest any high expectations that some may have had about total decontrol legislation. At the same time, the report is a glowing endorsement of the principles found in this amendment.

In sharp contrast to industry and administration estimates, EIA finds that of four alternatives, the two decontrol schemes considered would lead to the highest prices and the lowest production. According to the EIA, under decontrol legislation wellhead gas prices would rise roughly 40 percent by 1985 and 117 percent by 1990. This needless increase of price would actually decrease gas production.

EIA found that the lowest prices and the greatest production would be induced by a continued price control approach of the type found in this amendment. By 1990, the average wellhead price under continued controls would be $1.07 per thousand cubic feet less than it would be under decontrol. Continued controls would induce the production of 1.1 trillion cubic feet more natural gas than would be produced under decontrol.

I know that there are those who will attempt to dispute EIA's findings. I suppose I would too if it made such devastating proclamations about my legislation. But the fact remains, like it or not, EIA is the best that we have and, as it proved by publishing its study, the agency is independent and impartial.

I realize that a study recently released by the CBO does not come to quite the same conclusions as does the EIA. There is good reason to question the accuracy of the CBO study. A major problem in the CBO study seems to be that it estimates that in 1982 dollars, the world oil price will be $27.85 per barrel—roughly $10 below the EIA's best forecast. I understand that there are other questionable assumptions in the CBO study that leave the entire study in question.

The need for legislation of the type we are proposing is unquestionable. We should not forget the incredible hardships that faced hundreds of thousands of American households last winter as a result of gas prices. Even though last winter was the sixth mildest in 50 years, over 11,000 households in Kansas City, Mo., alone had their gas cut off as a result of unmanageable gas payments.

Without consumer protection legislation, future winters will become progressively gloomier for gas users. If the Congress passes anything short of this amendment, it will be forced to face a justifiably irate public in the years to come as gas prices put an even bigger squeeze on residential and commercial consumers.

Mr. President, I call on my colleagues to adopt this amendment. In doing so we will assure more reasonable gas prices in the future and the greatest possible supply of natural gas.

I ask unanimous consent that a list of the groups that have endorsed this amendment be printed in the RECORD.

I also ask unanimous consent that a copy of a table summarizing the results of EIA's "The Natural Gas Market Through 1990" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS SUPPORTING THE PRINCIPLES OF THE NATURAL GAS CONSUMER RELIEF ACT

AFL–CIO.
Allied Industrial Workers.
Amalgamated Clothing and Textile Workers Union.

American Federation of State, County and Municipal Employees.
American Federation of Teachers.
American Public Gas Association.
Bakery, Confectionery and Tobacco Workers.
Bricklayers and Allied Trades.
California Citizen/Labor Energy Coalition.
Citizens Action Coalition of Indiana.
Citizen/Labor Energy Coalition.
Coalition for Black Trade Unionists.
Colorado Citizen/Labor Energy Coalition.
Communication Workers of America.
Concerned Senators for Better Government.
Connecticut Citizen Action Group.
Consumer Energy Council of America.
Consumer Federation of America.
Florida Consumer Federation.
Food and Beverage Trades Department, AFL-CIO.
Illinois Farm Alliance.
Illinois Public Action Council.
International Association of Machinists and Aerospace Workers.
International Brotherhood of Electrical Workers.
International Ladies Garment Workers Union.
International Union of Electrical Radio and Machine Workers.
International Union of Operating Engineers.
Iowa Citizen/Labor Energy Coalition.
Maryland C/LEC.
Massachusetts Fair Share.
Minnesota Citizen/Labor/Senior/Farmer Energy Coalition.
Missouri Citizen/Labor Energy Coalition.
National Association of Letter Carriers.
National Council of Senior Citizens.
National Farmers Organization.
New Hampshire Peoples Alliance.
New Jersey Citizen Action.
New York Citizen/Labor Energy Coalition.
Ohio Public Interest Campaign.
Oil, Chemical and Atomic Workers.
Oregon Fair Share.
Pennsylvania Public Interest Coalition.
Public Citizen/Congress Watch.
Rhode Island Community Labor Organizing Coalition.
Rural America.
Service Employees International Union.
Sheet Metal Workers International Union.
Stone, Glass and Clay Coordinating Committee.
International Brotherhood of Teamsters.
United Auto Workers.
United Distribution Companies.
United Electrical, Radio, and Machine Workers of America.
United Food and Commercial Workers International Union.
United Mine Workers.
United Paperworkers.
United Rubberworkers.
United Steelworkers of America.
Virginia Action.
Wisconsin Action Coalition.●

THE GAS MARKET THROUGH 1990, DOE/EIA-0366, MAY, 1983—SUMMARY OF NATURAL GAS REGULATION ALTERNATIVES

	Actual 1981	NGPA reference		Administration proposal		Phased decontrol		Continued controls	
		1985	1990	1985	1990	1985	1990	1985	1990
Supply outlook:									
Reserves (dry), excluding Alaska (quads)	173.2	161.8	153.4	161.9	151.7	164.2	156.1	161.6	155.3
New discovery reserve: Additions, cumulative for the preceeding 5-year period (quads)	78.4	77.8	78.6	77.9	73.4	78.4	74.5	77.8	82.5
Marketed production, excluding Alaska (quads)	20.2	18.4	18.4	18.1	17.7	16.8	17.7	18.6	18.8
Reserves-to-production ratio	8.6	8.8	8.3	8.9	8.6	9.8	8.8	8.7	8.3
Supplemental supplies (quads)	0.2	0.1	0.2	0.1	0	0	0	0.2	0.4
Supply prices (1982$/MMBtu):									
Average wellhead price	2.04	3.19	4.88	3.58	5.56	4.11	5.41	2.98	4.49
New deregulated contract price	9.00	4.87	6.55	4.38	5.96	4.21	6.44	11.17	13.54
World oil price	6.76	4.42	6.36	4.42	6.36	4.42	6.36	4.42	6.36
Delivered to consumers (excluding Alaska):									
Total:									
Quantity (quads)	18.2	16.8	16.9	16.5	16.1	15.4	16.1	17.1	17.4
Price (1982$/MMBtu)	3.63	5.14	7.28	5.49	7.89	6.14	7.76	4.97	6.94
Residential:									
Quantity (quads)	4.7	4.7	4.5	4.7	4.4	4.6	4.4	4.8	4.6
Price (1982$/MMBtu)	4.43	6.11	8.35	6.48	8.96	7.14	8.87	6.01	8.05
Average household expenditures for natural gas (1982$/per year)	476	605	743	647	779	675	791	597	722
Industrial;									
Quantity (quads)	7.3	6.2	6.4	6.0	6.0	5.7	6.0	6.3	6.8
Price ($1982/MMBtu)	3.25	4.59	6.65	4.91	7.23	5.50	7.12	4.38	6.31
Macroeconomic effects:									
Real GNP:									
(Trillions of 1972 dollars)	1.50	1.64	1.90	1.64	1.90	1.64	1.89	1.64	1.90
Consumer Price Index (1967 equals 100)	272	332	466	333	471	472	472	331	464
Unemployment rate (percent)	7.6	8.3	7.5	8.3	7.5	8.4	7.5	8.3	6.7

Source: 1981 reserve quantities are from "U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves, 1981 Annual Report," DOE (EIA-0216(81)), August 1982. 1981 production, consumption and price are from the "Natural Gas Annual 1981." 1981 macroeconomic and world oil price data are from the "1982 AEO." 1981 prices have been converted to 1982 dollars based on table B2. World oil price projections are from the "1982 AEO." Projections of macroeconomic effects are from simulations using the DRI macroeconomic model. All other projections are from the gas analysis modeling system.

Mr. MOYNIHAN. Mr. President, in 1978, Congress passed the Natural Gas Policy Act (NGPA) after 2 years of extensive debate, in response to serious concern over the major natural gas shortages of the mid-1970's. By the act Congress intended to stimulate gas production by establishing a phased schedule of decontrol that, in turn, would lead to gradual increases in gas prices until market forces brought supply and price into equilibrium.

The evidence indicates that the NGPA is not functioning as Congress intended. It is particularly perplexing and distressing to see prices rise at a time of adequate supply and reduced demand. The Nation's consumption of natural gas declined from 20.4 trillion cubic feet in 1980 to 18.5 trillion cubic feet in 1982—due to a combination of factors including the recession, increases in natural gas prices, warmer weather, and energy conservation.

Between 1978 and 1982, the average cost of natural gas for residential customers in the United States increased by 110 percent in nominal dollars. There are some 3.7 million residential natural gas customers in New York. Including commercial and industrial customers, we have nearly 4 million natural gas consumers in New York. New York is the eighth largest natural gas consuming State in the Nation. We account for 3.9 percent of the entire country's natural gas consumption.

New York's prices are much higher than the national average. In 1981 New Yorkers spent $3.6 billion on natural gas, representing 5.5 percent of the total Nation's expenditures on natural gas—while consuming only 3.9 percent of the natural gas. Between 1980 and 1982, the average bill of a residential natural gas user in New York increased by 33 percent in nominal dollars. In certain areas of the State, the increase were even more dramatic, and more unfair. In Buffalo, for example, the average annual bill for residential natural gas customers increased by 41 percent between 1980 and 1982.

On February 26, 1983, President Reagan proposed to accelerate natural gas wellhead price decontrol, including the elimination of all price controls by January 1, 1986. I opposed the President's proposal; it was ill timed and ill advised. It would have cost New York's natural gas consumers between $488 and $812 million annually.

On July 26, 1983, the Senate Energy Committee voted 11 to 9 to report out a substitute natural gas decontrol bill, S. 1715, without recommendation. This bill is also unacceptable. I am particularly concerned about the provisions in S. 1715 that allow for the decontrol of "old gas"—gas discovered before 1978. Under the NGPA, this category of gas was to remain forever

controlled; 55 percent of New York's natural gas supply is "old gas."

I remain concerned about the rapid increase in natural gas price New Yorkers have endured over the last 2 years. S. 1715 will not provide the consumers of New York with the relief they need and deserve. As we enter another winter heating season, Congress must act, and act in a way that will aid the consumers of New York and the entire Nation.

Alternatives to S. 1715 must be considered. I am a cosponsor of one such alternative, S. 996, the National Gas Consumer Relief Act, introduced by Senator KASSEBAUM on April 7, 1983, and which we now consider as an amendment to S. 1715. This amendment would roll back natural gas prices to August 1982 levels, nullify indefinite price escalators in gas contracts, reduce take-or-pay provisions in contracts to 50 percent, and delay decontrol of the prices of certain categories of gas now scheduled to occur under the NGPA on January 1, 1987. This will answer many of the legitimate concerns and needs of the natural gas consumers of New York and the Nation.

I would ask my colleagues to support this amendment.

Mr. GRASSLEY. Mr. President, as Congress continues its debate on natural gas legislation, I would like to commend the chairman and ranking minority member on the Senate Energy and Natural Resources Committee for their diligence in developing a natural gas bill. It was no small task for the committee leadership to reach this point where we now have a gas bill on the Senate floor, and can evaluate not only the Senate Energy Committee bill, but other alternatives as well.

As a Senator from an energy-dependent State, I readily admit my prime consideration is somewhat different from those of my colleagues representing producer States. Iowan's have been faced with tremendous increases in their natural gas heating bills, irrespective of their success in energy conservation. My foremost concern is that consumers do not suffer from a lack of affordable gas as we enter this heating season.

In view of the fact that Iowa is served by pipelines which have above-average supplies of old gas, I cannot support present efforts to decontrol old natural gas. My preference for any natural gas legislation Congress addresses this year would be to focus on areas of a contractual nature. By requiring changes in those gas contracts which are no longer reflective of the marketplace, we can bring some sense of order to natural gas pricing.

To that end, I have joined my colleague from Iowa (Mr. JEPSEN) in sponsoring two bills which would alter contractual agreements between pipelines and producers, and give the Federal Energy Regulatory Commission more discretion in disallowing unreasonable cost passthroughs. This approach is more limited than the one taken in the committee bill, but it goes a long way toward addressing the most pressing problems.

It is no secret there exists a wide divergence of viewpoints on S. 1715, and on the larger issue of natural gas regulation. All views on this matter need to be weighed heavily before adoption of any measure. I personally have concerns with several key portions of this bill, particularly the aforementioned old gas decontrol. I also question the adequacy of the prudency standards affecting the consumer protection provisions, and the contract-carriage provisions, particularly as they would affect residential users.

I fully recognize that Congress cannot overstate the need to balance gas affordability with long-term energy supplies. It would be a tragic mistake to legislate America into a situation similar to that in the late 1970's. No one wants a recurrence of that scenario. Given Congress past success with market-ordering legislation, I am skeptical of efforts to recontrol the gas industry. While it is apparent our last attempt to move toward partial decontrol was less than satisfactory, it would be unwise to move hastily toward recontrol.

Congress has done a poor job in its long history of regulating the gas industry. One of the prime reasons we find ourselves debating this issue right now is the passage of the Natural Gas Policy Act of 1978. As a Member of the House of Representatives, I voted against the NGPA, and do not intend to support any confused natural gas bill this go-round. We have the opportunity to legislate in a responsible and fair manner. I remain hopeful this Congress will live up to that responsibility.

Any legislation which emerges from this body must guarantee long-term gas availability. While I commend Mrs. KASSEBAUM in her efforts to lower gas prices, I must oppose her amendment on the basis of the rollback provision. Other main portions of S. 996 represent a marked improvement over both current law and the Senate energy bill and I will support those particular provisions should the Senate have another opportunity to vote on other natural gas alternatives.

Mr. RIEGLE. Mr. President, I rise as a cosponsor and supporter of the substitute offered by the Senator from Kansas. This amendment is a realistic and more reasonable alternative to the higher prices which are guaranteed by the pending measure, S. 1715.

The substitute has several elements that are of vital importance to the natural gas consumers of Michigan. They have seen their prices rise 20 percent in the last 12 months, even though Michigan and the rest of the Nation have been in a recession, demand is down, and supplies are up. The effects of this perversion of the market system have been felt by Michigan consumers, and I firmly believe that S. 1715 will exacerbate this situation.

A key facet of the amendment is the extension of existing price controls on natural gas, especially old gas. Without this extension, controls will begin expiring in the next year, which will cause tremendous hardships on homeowners and other consumers of natural gas. Other sections address the most important inequities that have arisen in contracts signed pursuant to the Natural Gas Policy Act. I am speaking of the "take or pay" provisions, indefinite price escalators, and minimum commodity bills and "prudence."

Mr. President, we can, I feel, find a consensus on the need for reforms in these specific areas. I believe that "take or pay" provisions must be eliminated, or short of that, severely curtailed. That will be of great benefit to pipelines, and these benefits should be transmitted to the local distribution companies. To insure that these benefits flow up the pipelines to the local companies, the amendment provides for the elimination of minimum commodity bills.

Mr. President, I do hope that the Senate will approve this amendment, so that we can assure consumers that we have taken action aimed directly at the causes of spiraling natural gas prices.

This amendment is supported by a wide range of consumer, labor, and senior citizens groups. It will provide relief to the people of Michigan, and the over 2 million households in that State that are completely hostage to high natural gas prices. I urge its approval.

Mr. BENTSEN. Mr. President, it seems that whenever the Senate considers the controversial issue of natural gas pricing, there is a tendency to pit consumers against producers; we are constantly hearing dark prophesies about how the price of gas will rocket out of sight with decontrol.

I think a lot of this emotion and rhetoric is exaggerated. We heard the same arguments and dire predictions when the price of oil was decontrolled—and now we can see that those arguments had no basis in fact.

Mr. President, I represent the State that leads the Nation in the production of natural gas. I also represent the State that leads the Nation in the consumption of natural gas. So I can assure you that I am alert to the interests of both producers and consumers. I have a special appreciation of the problems and distortions that have

been caused by 30 years of senseless, counterproductive control.

I have been making the case for decontrol year after year, ever since 1977 when Jim Pearson and I sponsored—and the Senate passed—a decontrol bill that, if enacted, would have prevented the occurrence of many of the supply problems and pricing distortions we see today.

In many respects, Mr. President, America has been fortunate in regard to energy supplies. In recent years we have had enough gas to meet our requirements, but let me revive for a moment the memory of February 1977, when the ground was frozen, people were cold, and Americans were being laid off from their jobs because many areas of the country were crippled by a natural gas shortage. More than 1.2 million people were thrown out of work in just 1 week. In the State of Ohio, 1 million workers lost their jobs because of gas shortages. The Governor of Indiana declared a state of emergency as plants without natural gas closed across the State. In Georgia, 75,000 people were laid off. 56,000 auto workers were thrown out of work, along with people in the steel, machinery, and glass manufacturing industries.

Today natural gas shortages are just a memory, but they could once again become a nightmare with frightening speed. Continued regulation has choked off production of natural gas, and that diminished production leaves us vulnerable to any short-term dislocations.

Both opponents and proponents of decontrol can agree that the Natural Gas Policy Act—and more specifically Federal controls—have seriously damaged natural gas production in this country.

Since the enactment of the NGPA both proven reserves and gas production have fallen. Our reserves have shrunk steadily since 1970 and have been diminished by one-third. At current rates of consumption, Mr. President, America has just a 10-year supply of natural gas in the ground.

With continued controls producers have also lacked incentives, to bring gas to market, and production has fallen. Natural gas production peaked in America a decade ago—in 1973—when we produced natural gas equivalent to 10.5 million barrels of oil a day. By 1982 that figure was down to the equivalent of 8.5 million barrels a day.

Mr. President, whenever we debate natural gas the Senate gets bogged down in lengthy arguments over complex policy points and obscure aspects of pricing. In the process we tend to lose sight of the basic, overriding issues at hand.

I believe that regulation and control are arch enemies of our free market system. If you want less gas produced in America, regulate the price. If you want more gas produced in this country, provide the incentive and let the market work its will.

We have seen with oil that decontrol does not necessarily mean higher price or major fluctuations. Even the critics have been pleasantly surprised by the results of oil decontrol.

I think it is time we put an end to this crazy quilt of artificial, fixed prices for various categories of gas. Clearly it is in our national interest to produce more gas here in America and import less energy from abroad. The last thing we need during this period of economic recovery is another energy shortage. Decontrol at the earliest possible time will make assured supplies available to American consumers at a price that is fair and consistent with the laws of supply and demand.

Mr. President, it has been 6 years now since the Senate began moving toward decontrol with the passage of the Bentsen-Pearson legislation. I think it is high time to finish that process and I urge my colleagues to join me in working to find a workable solution.

Mr. President, I will have to oppose the Kassebaum amendment. I am concerned that with the price rollback mandated by her amendment, we will be facing a serious problem in the production of natural gas. I also do not believe that the extension of controls will benefit either the production of natural gas or the consumers of natural gas. We have seen in the last several years a reduction in the price of crude oil with the deregulation of crude oil prices. I believe that we will see the same thing happen in the natural gas sector once we get Government out of the business of regulating the industry. I would hope that my colleagues will join me in searching for a workable solution to our natural gas dilemma.

Mr. DOLE. Mr. President, after several days of debate we have finally reached what I believe is the first substantive step in the natural gas debate. I refer to the substitute offered by my distinguished colleague from Kansas, Senator KASSEBAUM. Although this approach was rejected by the Energy Committee during its deliberations, this is a proposal on which the full Senate must speak before we can move on. It is an approach which is tremendously popular in my State and in the Midwest. Politically it would be easy to vote for. However, Mr. President, I oppose the amendment because I believe it is the wrong answer.

Mr. President, this Senator was here during the last battle over natural gas policy which resulted in the Natural Gas Policy Act of 1978. I voted against the NGPA and believe that it stands out now as a stark example of the failure of Federal intervention in the natural gas market. Our efforts now to address problems in the natural gas marketplace are a direct result of the market distortions caused by the NGPA. In many parts of the country, because of the incentives in the NGPA and what in hindsight proved to be imprudent gas purchases, the burner-tip price of natural gas last winter equaled or exceeded what many believe it would have been in a free market. In response my colleagues have proposed legislation to further control the natural gas market. I do not believe that is the answer.

The most frequently heard cliche during the natural gas debate has been every Senators' desire to insure an adequate supply of natural gas at reasonable prices. I oppose the amendment before the Senate because it fails to achieve the first part of that objective and is not needed to achieve the second part. This amendment reminds this Senator of another old cliche—"for every complex and difficult problem there is a simple answer and it is wrong." It is an outgrowth of the misconception that if partial decontrol is bad, complete recontrol must be good. The issue is more complicated than that. Mr. President, if we are dissatisfied with the Natural Gas Policy Act, it hardly seems appropriate to enact legislation to extend the Natural Gas Policy Act for 2 more years.

Mr. President, much of today's problem arises because we have a surplus of deliverable natural gas. High cost gas continues to make its way to consumers while less costly supplies are shut in. But, surplus deliverability is not a surplus of natural gas. What we really have is a shortage of natural gas. I say that because our known natural gas reserves as a proportion of what we use has gone down. Only once in the last 13 years have we found more gas than we have used. And, new natural gas exploration is down precipitously. As the distinguished Senator from Louisiana pointed out in earlier debate, the rig count is down from the high in December 1981 of 4,520 to 2,247 on September 1, 1983. The 1983 rig count is down 10 percent from what it was a year ago. If we adopt the amendment before the Senate, we will eliminate what little incentive there is today to find new gas reserves. Mr. President, we will quickly find ourselves back in the days of natural gas shortages if this decline is allowed to continue.

The well-intentioned amendment offered today will serve to further decrease incentives for new gas exploration and development, while doing nothing to enhance production from old gas wells. The recently released CBO study on natural gas concluded that legislation in the House, similar to the Kassebaum amendment, would discourage reserve additions by 7.1 trillion cubic feet between now and 1990.

Mr. President, I remember all too well the era prior to the NGPA when Federal price controls led to massive gas shortages and curtailments which closed down much of the industrial Midwest. This Senator recalls the great amount of effort expended to secure natural gas to heat schools in Paola, Kans., and in other parts of my State. I do not wish to visit those shortages on my constituents or on citizens of any other State ever again.

Mr. President, if anyone is to blame for the high prices and high take or pay contracts in today's market, we are. The Natural Gas Policy Act established the incentives to explore and develop costly and exotic gas supplies. Frankly, we accomplished what we set out to do in 1978. We increased gas supplies by providing sufficient financial incentives for exploration and development. If we choose now to unilaterally abrogate those contracts, I believe we will find ourselves facing the same shortages we faced in the 1970's in relatively short order.

Finally, Mr. President, if this approach were the only way to bring down consumer prices, I would probably support it. But it is not. Natural gas prices across the country are already coming down. In my State, due to voluntary contract renegotiation and the willingness of interstate pipelines to assume some risk, the price of gas is down almost a dollar from the high it achieved last winter. The average price of gas at the wellhead had declined over the last year. And no one is signing contracts in this market for $7, $8, or $9 gas. Even the committee bill which so many members find unacceptable holds out the promise of lower natural gas prices. The CBO report concludes that there is a slight difference between the price effect of the committee bill and the Kassebaum amendment. So, Mr. President, this amendment is not necessary to provide consumer price relief.

We have to face the fact that we are not going to return natural gas prices to 1978 or 1979 levels under this, or any other proposal. Those days are over. The best we can hope for is comprehensive natural gas legislation that will bring natural gas prices back to more reasonable levels. I believe that can be accomplished without destroying incentives for gas production as this amendment would.

Mr. President, I do not quarrel with my colleagues who offer this amendment. They are well intentioned. But, I believe they are misdirected. I hope that the Senate will defeat this amendment so that we can move on and work together on an equitable and fair solution to the natural gas problem.

Mr. HEINZ. Mr. President, Senator KASSEBAUM has offered a valuable contribution to the natural gas debate. It attempts to provide the kind of protection for our Nation's consumers that I have long advocated including: Substantial relief from onerous contract provisions which have denied consumers access to the most cost competitive gas available and the creation of a meaningful standard of pipeline accountability.

I do not agree with provisions in this amendment which would roll back prices to their August 1982 ceiling levels and extend NGPA controls on new gas. My concern is that such provisions would stifle the successful supply response created by NGPA's incentive pricing system.

However, over all, Senator KASSEBAUM's approach is far preferable to S. 1715—legislation which would decontrol old gas prices, while at the same time failing to provide long-term protection to our Nation's consumers.

Therefore, I will support Senator KASSEBAUM's legislation, even though I disagree with parts of it. It is my hope that ultimately the Senate will enact comprehensive legislation which incorporates the positive provisions offered by Senator KASSEBAUM, hopefully along the lines of the substitute proposed by Senator BRADLEY and myself earlier today.

Mr. SPECTER. While there are desirable features to Senator KASSEBAUM'S proposal—introduced as S. 996—it is my judgment that the disadvantages outweigh the advantages, taken as a whole. As the record shows, the vote on Senator KASSEBAUM'S proposal and Senator MCCLURE'S proposal (S. 1715) are viewed as test votes to determine which proposals, if any, have substantial support. Since neither proposal represents a satisfactory resolution of the complex issue, I intend to vote against both and work with my colleagues on legislation—and many other alternatives have already been proposed—which strikes the appropriate balance.

● Mr. LEVIN. Mr. President, as a cosponsor of Senator KASSEBAUM'S bill, S. 996, which is identical to the amendment before us, I want to take the opportunity to express support for the passage of this proposal. This bill addresses the two major areas of natural gas controversy, both pricing and contract provisions.

On the question of price, the amendment would permanently keep controls on the price of old natural gas. This natural gas was contracted for before 1978, when prices were controlled by the Federal Power Commission. Under this amendment, those prices would continue to be controlled by the successor to the Federal Power Commission, the Federal Energy Regulatory Commission (FERC). Without the continuation of these controls, the price of about 40 percent of natural gas would be decontrolled and would double or triple. I was not a Member of the Senate in 1978 and did not, therefore, participate in the debate surrounding the passage of the Natural Gas Policy Act of 1978. I understand, however, that a bargain was struck, whereby the difference between the interstate and intrastate markets for natural gas was ended in exchange for the decontrol of the price of natural gas contracted for after 1978. This amendment endeavors to maintain the status quo, to prevent the revocation of this vital portion of the Natural Gas Policy Act.

The amendment before the Senate would also put a cap on the price of Algerian natural gas, which has caused a tremendous increase in the price of natural gas in the State of Michigan and in other States.

On contract issues, this amendment contains several provisions that would modify current contracting practices in the natural gas industry. The Natural Gas Policy Act established a system that only allows prices to go up and not to come down. Now we find that supplies have increased, demand is down, but because of rigid contracting practices, these market signals are not being registered and prices are still high.

Specifically, this amendment would limit take-or-pay contracts that force the purchase of natural gas from producers even though in cannot be sold. This amendment would limit such contract provisions to 50 percent deliverability for 3 years. This is necessary to allow pipelines and their customers—the distribution companies and major industrial users—to avoid purchasing high cost gas when supplies of lower priced gas are available.

This amendment would also allow pipelines to market out of untenably expensive contracts by allowing them to either purchase lower cost gas or use this new authority to convince producers to renegotiate such contracts. Without this authority, it is expected that many pipelines will not be able to sell a major portion of the gas they have contracted to purchase and will face the choice of either breaking the contracts or facing bankruptcy. The market out provision would prevent such a Hobson's choice.

This amendment also contains a rate reform provision that would require FERC to develop an overall rate design policy for pipeline rates. Presently, although pipeline rates are approved by FERC, the agency has not developed standards for approving pipeline rates. There is concern that the current lack of standards does not adequately reward pipelines that try to purchase lower cost gas. Many present rates include the cost of gas in the rate base without including any mechanism for taking into account gas volumes; a pipeline buying increasingly expensive gas—and losing increasing number of customers—could receive

increasing profits. Such a system is antithetical to the free market system and should be changed.

For these reasons, I urge adoption of the amendment.●

Mr. METZENBAUM. Mr. President, I wonder if we can get unanimous consent that immediately upon conclusion of the vote on S. 996, the Senator from Idaho will be recognized to offer S. 1715 as a second-degree amendment, assuming that S. 996 does not pass, and that, with either little or no debate, we thereafter go to a vote.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. JOHNSTON. We still have a pending objection to unanimous-consent requests on our side, but we are ready to vote on S. 996 right now.

Mr. METZENBAUM. I think we ought to get both measures to a vote. One is an administration bill, and I would not want to deprive the President of an opportunity to have a vote on his bill.

Mr. JOHNSTON. The fastest way there is a vote right now.

Mr. METZENBAUM. Does the Senator from Louisiana indicate, by intimation, that we will be able to get to a vote on S. 1715 tonight?

Mr. JOHNSTON. So far as I am concerned, we will be able to offer S. 1715 immediately and, so far as I am concerned, to vote on it immediately. But we have an objection on our side, and that does not come at this time from the same source as earlier. There was another objection on our side to a unanimous-consent agreement.

Mr. METZENBAUM. All right.

The PRESIDING OFFICER. Is there further debate?

Mr. NICKLES. Mr. President, I just wish to make a brief comment. I have spoken two or three times on the Senate floor in the last 2 or 3 weeks on natural gas deregulation.

I compliment the Senator from Kansas with respect to her efforts to move this matter forward. I do not want to delay it.

I want to tell the Senate that I think adoption of the Kassebaum amendment should not occur. It would be very detrimental to an industry that is already hurting and, in my opinion, would not be beneficial to consumers. It is reregulation on a massive scale. We should be moving in the other direction, toward deregulation.

So I compliment the leaders in moving forward, and I look forward to voting on this issue and some other issues. I hope the Senate, in its wisdom, will not support adoption of this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 2614. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 26, nays 71, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—26

Andrews	Hawkins	Moynihan
Biden	Heinz	Pell
Bradley	Kassebaum	Proxmire
Bumpers	Kennedy	Riegle
Chafee	Lautenberg	Sarbanes
D'Amato	Leahy	Sasser
Danforth	Levin	Stafford
Dodd	Mathias	Tsongas
Eagleton	Metzenbaum	

NAYS—71

Abdnor	Glenn	Murkowski
Armstrong	Goldwater	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Packwood
Bentsen	Hart	Percy
Bingaman	Hatch	Pressler
Boren	Hatfield	Pryor
Boschwitz	Hecht	Quayle
Burdick	Heflin	Randolph
Byrd	Helms	Rudman
Chiles	Hollings	Simpson
Cochran	Huddleston	Specter
Cohen	Humphrey	Stennis
DeConcini	Jepsen	Stevens
Denton	Johnston	Symms
Dixon	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Trible
Durenberger	Lugar	Wallop
East	Matsunaga	Warner
Evans	Mattingly	Weicker
Exon	McClure	Wilson
Ford	Melcher	Zorinsky
Garn	Mitchell	

NOT VOTING—3

Cranston	Inouye	Roth

So Mrs. KASSEBAUM's amendment (No. 2614) was rejected.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senate will be in order. Those distinguished Senators in the aisle are asked to take their seats.

The Senator from Idaho.

AMENDMENT NO. 2615

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an amendment numbered 2615 to amendment numbered 2524.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of amendment No. 2615 is printed under amendments submitted.)

Mr. McCLURE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator has a right to be heard. The Senate is not in order.

The Senator from Idaho.

Mr. McCLURE. Mr. President, the pending amendment is the text of the bill S. 1715.

Mr. METZENBAUM. Mr. President, the Senate is not in order. The Senator from Idaho is speaking, or trying to speak.

The PRESIDING OFFICER. The Senate will be in order. We will not resume the consideration of this matter until the Senate is in order.

On the majority side there are a number of Senators who are talking. The Chair asks them to please take their conversations to the cloakroom.

The Senator from Idaho.

Mr. McCLURE. I thank the Chair.

Mr. President, the amendment which is now pending is the text of S. 1715, which has now been offered as a second-degree amendment to the pending amendment. This will give Members of the Senate the opportunity to vote on the matter which has been submitted from the Energy and Natural Resources Committee.

As all Members know, if they have been following the debate at all, this is a matter that has been very extensively debated over the last several weeks: First, in the motion to proceed to the consideration of the bill; and, second, we have had the bill pending on several different days before the Senate.

I believe that S. 1715 is the best compromise that we are likely to be able to produce. There are others who believe that we can do better. It was the best that the committee could produce. In my judgment, it has the highest measure of consumer benefit of any piece of legislation which is likely to get a majority in this body.

Mr. President, I am told that we can get to a vote on this matter very soon. I would hope that we can do so.

Mr. President, each Member of the Senate brings to the natural gas decontrol debate the problems and concerns of his or her State and seeks the best possible legislation to meet individual State needs. But the Senate of the United States must take into consideration the problems and concerns of all the States and regions and bring forth the best possible legislation to meet the national need.

In believe S. 1715, the Natural Gas Policy Act Amendments of 1983, is our best chance for decontrol in this Congress. It is not perfect legislation. I

doubt if any Member of the Senate is completely satisfied with its provisions. But, Mr. President, I submit that enactment of this legislation is far superior to the alternative of doing nothing or of devising some quick fix measure.

We in Government have done nothing on natural gas for far too long. In the rare cases when we have acted, we have been so preoccupied by politics and concern about the next election that, if anything, we have made a bad situation worse. We did that in 1978 when, in an attempt to decontrol natural gas prices, we, in fact, imposed on the natural gas market and incredibly complex system of 23 or more categories of price controls and took the disastrous step of extending controls to the intrastate market. We have been living with the consequences of that mistake ever since: higher prices, diminishing reserves, market distortions, and continued overdependence on foreign oil.

Mr. President, once again, the Senate faces a critical choice on natural gas. Are we to make the same mistake all over again and go down the road of Government controls and intervention? Or will we learn from the past and try to bring about some real solutions to the natural gas problems facing our country?

Mr. President, if all Members of the Senate seek the perfect bill on natural gas, I doubt if any measure will receive more than a handful of votes. This is an unusually complicated issue on which there are many approaches and a wide variety of options. But at this late date, we in the Senate do not have the luxury of rehashing all the old arguments and reviving all the old issues that have blocked action on natural gas for so long.

Mr. President, it is time to act. It is time to vote. It is time to pass legislation and get on with natural gas decontrol.

S. 1715 is no panacea for our natural gas problems, but it does provide for some long overdue steps that will alleviate much of the burden that has been placed on natural gas consumers under the current price control system. It would remove, by a date certain, all natural gas wellhead price controls, and would place reliance on the competitive marketplace. Under this legislation, there would be a gradual phasing of current gas prices to the market price during a transition period to decontrol. During the transition period, the legislation would permit significant reductions in current take-or-pay contract obligations.

Mr. President, there are additional, significant benefits contained in S. 1715. It would increase the economic efficiency of the natural gas transmission system by providing greater access to natural gas supplies for all transporters and users. It would also permit natural gas purchasers and sellers to arrange for contract carriage of gas supplies. And S. 1715 would remove the harmful restrictions on natural gas use contained in the incremental pricing provisions of the Natural Gas Policy Act of 1978 and in the Powerplant and Industrial Fuel Use Act.

Mr. President, while we all have our own State and regional concerns on this issue, we should keep in mind that natural gas consumers throughout the Nation have a common interest in seeing a gas decontrol bill enacted this year. Over the long term, consumers will directly benefit from the balancing of supply and demand in the free market. The result of reliance on the marketplace will be that prices will be no higher than they have to be to produce the supply needed to meet the demand of gas consumers. Under the current price control law, some gas prices have risen higher than necessary to balance supply and demand. All of us who are concerned about high natural gas prices should understand that the most effective way to combat high prices is to vote for the passage of S. 1715.

And, Mr. President, the removal of price controls, which discourage gas use in the industrial sector, and the elimination of other end-use restrictions will open up new gas markets. This will allow pipelines and distributors to allocate costs over a larger number of customers. The result will be more stable prices to the benefit of all gas consumers.

Mr. President, I think all Senators should express their gratitude to the Senate Energy Committee for working so long and so hard to resolve the many difficult issues addressed by this legislation. All of us could make changes in the bill in ways which we believe would improve it. But we should all recognize that S. 1715 is almost certainly our last best hope for achieving natural gas decontrol in this Congress. It is a bipartisan compromise that makes a good faith effort to meet the needs of consumers, producers, pipelines, and all others who have a stake in solving our natural gas problems.

Mr. President, we have debated this issue long enough. It is time to pass this legislation and get on with the decontrol of natural gas.

Mr. DANFORTH. Will the Senator yield for a question?

Mr. McCLURE. I will yield, if I may do so without losing my right to the floor.

Mr. DANFORTH. Mr. President, let me first compliment the floor managers of the bill for setting up what amounts to two test votes to find out where we stand. It has been predicted for quite a while the Kassebaum amendment would get about 30 votes. It got 27 votes.

It has also been predicted that the committee bill when subject to a test vote would probably not fare too much better, if that well.

Several of us have worked on what we consider to be a middle-ground position. Senator JEPSEN, Senator METZENBAUM, Senator KASSEBAUM, and Senator EAGLETON have worked on a bill on a middle-ground position. I wonder if it would be possible, so long as we are having these test votes, if we could set up a test vote for this amendment subsequent to voting on the McClure amendment, if the committee version of the bill is defeated.

Mr. McCLURE. Mr. President, I appreciate the inquiry of the Senator from Missouri. Let me indicate first of all that there are a number of other substitutes or alternative approaches which have been proposed. Indeed, the one the Senator from Missouri identified is one of those. There are a number of others. If we had more time, I would hope that we might be able to get each one of those up and vote on them separately. I am not convinced that we have time to do that. The one that the Senator from Missouri has is not the only one. However, I will explore that possibility, but I have to say at this time there is objection to doing that.

Mr. DANFORTH. It would seem to me that if we could have a test vote with very little debate—15 minutes or a half hour, because I think everybody understands the issue—it could at least establish a starting point which could be adopted as original text for the bill and be open for amendment and we could proceed from there. what we have been needing is a starting point. Maybe this or some other substitute could be offered and we could have a kind of middle-ground consensus, a beginning.

Mr. McCLURE. Again, Mr. President, I appreciate the suggestion that has been made but I would respond again as I did, that there are a number of other alternatives. Senator JEPSEN had a bill pending perhaps longer than anyone else, as do Senators NICKLES and WEICKER. In addition, there is one by Senator DOMENICI and BOREN; one by BRADLEY, HEINZ, and TSONGAS, and one by Mr. METZENBAUM. I do not know whether he has cosponsors on that one. Senator EXON has one, also. Out of that group we may be able to come to a consensus as to which one should be voted on, if at all, next. But it may well be that what we need to do, all of us, is to retire to the cloakroom with our shirt sleeves up and our pencils out and see what we can do.

Again, Mr. President, I hope we can get to a vote on the pending amendment relatively soon. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I will be very brief. I think it is appropriate that we are moving in this direction. We now have an opportunity to indicate whether there is or is not substantial support for the administration bill, S. 1715, which is now being considered as a secondary amendment. What it really means is that you have decontrol of natural gas, you have ramp up and ramp down, you have contract abrogation. I think it is appropriate that we move forward. It is my understanding that many of the local utility companies throughout the country are opposed to this proposal; that many of the independent gas producers are opposed to the proposal. There is no question about it that the consumer organizations of this country are opposed to the proposal.

I believe it is appropriate that it be brought to a vote in order to test the sentiment of this body with respect to the administration proposal. It is our view that it will cost $40 billion more. Of that $40 billion, 70 percent of it will go to the major oil companies of this country. It will be taken from the pockets of the consumers who will be hard enough put to pay their gas bills without this legislative proposal.

SEVERAL SENATORS. Vote! vote!

Mr. HEINZ. Mr. President, I think this is a good opportunity for a test vote. It is my hope that those people who believe that there are better alternative proposals, such as but not exclusively necessarily the one that Senator BRADLEY and I offered as an amendment earlier today, which I hope our colleagues will study carefully, will vote to defeat the amendment offered by the Senator from Idaho.

Mr. President, this Nation needs natural gas legislation. It needs action on the part of the Congress which will curb the excesses of the Natural Gas Policy Act. At the same time we must insure that the supply response stimulated by the Natural Gas Policy Act's incentive price mechanism to continue to operate in an uninhibited manner.

Unfortunately, the legislation before the Senate today, in effect, S. 1715, does not meet these very important objectives. It fails to provide long-term protection to consumers and will fail to insure that adequate supplies will be added to this Nation's natural gas reserves.

Enactment of this legislation will only insure chaos in the market place, higher prices for consumers, supply shortages in the future, and the creation of glaring inequities between the interstate and intrastate markets.

Senators must ask themselves whether this Nation will be better off if this legislation is enacted?

Does this legislation address the problems we currently face in the natural gas market today?

Those problems are well known. Despite a surplus of deliverability estimated to be between 2 and 3 trillion cubic feet, natural gas prices have risen dramatically in recent years. Since 1978 natural gas prices charged to this Nation's homeowners have risen by 100 percent, prices charged to our industrial users have risen by 135 percent, prices charged to our electric utilities have risen by 135 percent.

The price of natural gas has achieved market clearing levels in many parts of the country, forcing industry with fuel-switching capability to turn to alternative fuels. The load loss created has forced distribution companies to spread payment of fixed costs over a narrower consumer rate base. The result: increasing the burden on residential ratepayers with no fuel-switching capability to pay for higher purchased gas costs and transmission costs.

Abusive contracts signed between pipelines and producers have denied consumers access to the cheapest gas available.

The abdication of its traditional consumer protection role by the Federal Energy Regulatory Commission has insured that natural gas prices move in one direction—up.

Despite the existence of a fraud-and-abuse standard in the Natural Gas Policy Act, the FERC continues to condone pipeline purchasing practices which are clearly contrary to the public interest.

How does S. 1715 deal with these problems—by basing its solutions on the abrogation of longterm contracts and decontrol of old gas.

It grants authority to pipelines and producers alike to abolish 40,000–50,000 natural gas contracts—allowing the price of old to be ramped up over 36 months to an artifically created free market price indicator while at the same time forcing new gas contract price indicator.

The effect; substituting one kind of Federal intervention for another and in effect telling producers who have placed their faith in the incentive pricing mechanism that we are now changing the rules of the game.

The legislation decontrols old gas and demands no supply response in return. Yet at the same time it abolishes a supply-incentive system that has worked.

Consider that in the post-NGPA period, reserve additions have averaged 94 percent of production compared with just 48 percent for the 1968–1978 time period.

For 1981 and 1982, the reserves to production ratio stood at 114 percent and 111 percent respectively.

Between 1979 and 1982, 65 percent of reserve additions have been added by independent producers.

Yet now we are being asked to destroy this very effective system—a system which has protected major consuming States from the kind of supply shortages which plagued them prior to the enactment of the Natural Gas Policy Act.

Mr. President, advocates of natural-gas decontrol have argued that any comprehensive solution must bring all gas out from under wellhead price controls as quickly as possible. Anything less they have argued would serve only to perpetuate existing inequities while giving rise to new ones.

Yet this legislation exempts the direct sales contracts so prevalent in producing States from decontrol. Apparently the consumers of Pennsylvania and other consuming States will have to subsidize consumers and industries in producing States who are already getting cheaper gas. If decontrol is good for Pennsylvania it is good for all 50 States in this Nation. We cannot condone nor tolerate legislation which would create such an inequity.

As a Senator from a major consuming State whose consumers have had high prices imposed on them as a result of abusive pipeline purchasing practices, I have long felt that a stringent and longstanding pipeline accountability standard must be implemented to protect our consumers from further abuses.

Regrettably, S. 1715 ties pipeline accountability to a prudence standard which expires at the end of the 36-month ramp-up period thereby providing no enduring protection to this Nation's consumers.

S. 1715 fails to go far enough in providing relief from onerous take-or-pay obligations which have resulted in shutting in and wasting and ultimately denying consumers access to cheaper gas.

It fails to eliminate indefinite price escalator clauses which are now and will be in the future, responsible for price increase unrelated to market realities.

Though proponents of S. 1715 allege that it will provide price relief from the most expensive new-gas contracts by forcing them to ramp down, the fact is that the legislation exempts contract which already contain market-out provisions from the ramp-down process.

The reality we face is that many of the more moderately priced new-gas contracts do not contain market-out provisions. According to the Energy Information Agency, only 21 percent of the post-NGPA gas—sections 102, 103, 107, and 108 contained market-out clauses but that 57 percent of their highest priced 107 contracts flowing in

1980 did in fact contain market-out authority.

Therefore, some producers will be forced to stack their rigs and discontinue production while others will not. S. 1715 will in effect magnify the impact that expensive gas has on our Nation's consumers.

With old-gas prices being forced up, the most expensive deep-gas prices exempted from the ramp-down, an expiring pipeline accountability standard, inadequate take-or-pay relief, and a failure to eliminate the most abusive indefinite price escalator clauses I must ask: How does S. 1715 provide this Nation's consumers with long-term price relief?

Finally Mr. President, this legislation fails to seek assurances that there will be more than a marginal supply response from the decontrol of old-gas prices. According to the Energy Information Agency the decontrol of old-gas prices would add significantly less gas to our reseves—5 trillion cubic feet less between 1985 and 1990 than would current law.

The supply response predicted from old-gas decontrol varies anywhere from 2 to 52 trillion cubic feet. Indeed, the marginal cost to bring on new reserves from old-gas fields as a result of decontrol may be two or three times more expensive than what it costs to produce reserves from existing new-gas wells. Put another way, we simply may not get the bang for the buck that the present NGPA incentive-pricing system gives us.

Mr. President, when the Committee on Energy and Natural Resources first began to consider comprehensive natural gas legislation, the late, very distinguished Senator from Washington asked the following question:

> The vital question before this Committee today is whether new legislation would be a net improvement over the existing law or whether we would be substituting a new set of problems and inequities for an old one. The burden must be on those who want to amend the law to convince us that their approach would be better for all concerned.

As Scoop Jackson stated, S. 1715 does not meet that burden.

Mr. President, it is my hope that my colleagues will not pass S. 1715 but rather will seek to find middle ground during the course of this debate which will benefit our consumers and producers providing realistic price relief and adequate incentives to protect this Nation against future gas shortages.

Mr. NICKLES. Will the Senator from Idaho yield for a question?

Mr. McCLURE. I will be happy to yield.

Mr. NICKLES. If the Senator's amendment is adopted, would it preclude those of us who would like to work off S. 1715 from offering amendments such as elimination of contract abrogation? Would that still be possible at a later time?

Mr. McCLURE. If the amendment is agreed to, the amendment as amended would be amendable further.

Mr. NICKLES. It would be amendable further. I thank the chairman.

Mr. President, those persons who indicated that passage of this bill would increase consumer costs by $40 billion are using the same arguments—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. NICKLES. Mr. President, the arguments that were made against deregulation before, quite frankly, history has proven were incorrect. This bill does have a lot of things that would be very beneficial for consumers. It does allow for reduction to take obligations in existing contracts to 50 percent the first year. That is a substantial reduction. It does allow contract carriage so that we can move gas from surplus areas into areas where they may not have gas.

There are several additional things that are important to be considered. The bill as it is now would allow for a ramp down of high cost gas contracts. I do not agree with that provision, but even so there are several things that would be beneficial in this bill as it is right now. It would be a return to the marketplace instead of undue reliance on Government regulation which, quite frankly, has not worked in the past. It has been a dismal failure. I would hope Senators would support this bill. It is still subject to amendment. We could still work from it. I would hope we would do so and adopt S. 1715.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 2615. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. EXON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

The PRESIDING OFFICER (Mr. HECHT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 28, nays 67, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—28

Armstrong	Humphrey	Stevens
Baker	Johnston	Symms
Cochran	Laxalt	Thurmond
Denton	Matsunaga	Tower
East	Mattingly	Trible
Garn	McClure	Wallop
Goldwater	Murkowski	Weicker
Hatch	Nickles	Wilson
Hecht	Rudman	
Helms	Simpson	

NAYS—67

Abdnor	Eagleton	Metzenbaum
Andrews	Evans	Mitchell
Baucus	Ford	Moynihan
Bentsen	Glenn	Nunn
Biden	Gorton	Packwood
Bingaman	Grassley	Pell
Boren	Hart	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Hollings	Randolph
Chafee	Huddleston	Riegle
Chiles	Jepsen	Sarbanes
Cohen	Kassebaum	Sasser
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Dixon	Leahy	Tsongas
Dodd	Levin	Warner
Dole	Lugar	Zorinsky
Domenici	Mathias	
Durenberger	Melcher	

NOT VOTING—5

Cranston	Inouye	Roth
Exon	Long	

So the amendment (No. 2615) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO 2616

Mr. BAKER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Tennessee (Mr. BAKER) proposes an amendment numbered 2616.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield to the distinguished chairman of the committee.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I hope the Senator will not object.

Mr. President, I withdraw the request.

Does the Senator from Ohio insist on his objection that this amendment be read?

Mr. METZENBAUM. The Senator from Ohio thinks all Senators on the floor should be treated equally. The Senator from Idaho and the Senator from Ohio were both seeking recognition to offer an amendment, but the majority leader was recognized. It seems to me that that is beyond the prerogatives of the majority leader, although the majority leader is able to speak for himself. The manager of the

bill and I were both attempting to be recognized for the purpose of sending up an amendment. The majority leader sought recognition, which he is entitled to do, but I did not think it would be used for the purpose of sending up an amendment.

I certainly am not going to insist upon the reading of the amendment, but I do not think that normally has been done around here, and I expressed my objection to the majority leader, for whom I have the highest respect.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. MELCHER. I hope my friend from Ohio will not insist upon reading of the amendment. The manager is going to be recognized, anyway, probably. It just subjects us to some more snafu on this bill, and we have had enough.

We had 27 votes on the Kassebaum amendment and 28 votes on the last amendment. That points to the fact that we are nowhere near a majority, let alone the 60 votes that will be required for cloture.

I thank the majority leader for yielding. I think what should be considered is a motion to recommit to the committee, because doing this sort of surgery on the Senate floor, on a gas bill, does not make any sense at all. It should be done in committee.

Mr. BAKER. Mr. President, I do not know what the future of this bill may be. I do know that we are about to go off the bill, unless there is an objection to doing that, or unless we are going to have the amendment read, which is perfectly all right with me, but I think it would be a waste of time.

I think now is the time for the managers of this bill to take a look at where they are and decide where we are going next.

The amendment that is offered is a second-degree amendment, and I think there is no point in discussing the matter any further tonight.

However, before I go off the bill, I want to reiterate that I feel it was entirely proper and appropriate for me, at the request of the manager, to offer this amendment, and I have done so.

Mr. President, if no one else wishes to speak on this bill at this time, I intend to put us in time for the transaction of routine morning business. I hope we can still find something else to do tonight, because I have advised a number of Members that we would be in session until about 7:30 or 8 o'clock tonight. If we cannot do that, we cannot do it. It may be one of my wet noodle days, when the Senate will not do any more than the Senate is willing to do.

Mr. President, I renew my request that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(The text of amendment No. 2616 is printed in amendments submitted.)

Mr. McCLURE. Mr. President, I am proposing that S. 1715 be modified in several fundamental ways. In my judgment, these modifications would eliminate, or at least reduce, various concerns about S. 1715 that have been expressed by certain groups within the natural gas industry and other groups with an interest in the bill.

The first change relates to the pricing provisions of the bill. S. 1715 currently provides for a 12-month rampdown period for the price of high-cost gas. The amendment would extend that period for 2 more years, so that the total period for the ramp down would be 36 months, the same period that is provided for the ramp up of low-cost gas.

In addition, if a buyer elects to apply the ramp-down mechanism to high-cost gas, the producer would have the option to terminate the contract at the end of the first 18 months of the ramp-down period. Once again, this change merely conforms the ramp-down mechanism to the existing mechanism in S. 1715 for adjusting the price of low-cost gas.

The third change would eliminate the provision in S. 1715 that provides the parties with the right to market out of a contract after it has been subjected to the price adjustment mechanism.

Each of these changes is designed to reduce the financial impact that S. 1715 would impose on producers of high-cost gas. Many of those producers have expressed strong opposition to the bill. They have concluded that they would be better off under existing law. They have been particularly concerned about the contract abrogation provisions in S. 1715 because they believe that such provisions undermine the revenue predictability that should be derived from contracts for the first sale of natural gas. Other groups, such as large institutional lenders, have also expressed concern about the possibility that legislatively sanctioned contract abrogation would undermine the security of their investments.

The amendment contains two additional changes relating to wellhead pricing. First, so-called definite price contracts would be expressly exempted from the price adjustment mechanisms of S. 1715. These contracts were originally negotiated at a time when neither party contemplated the type of price adjustment mechanism created by S. 1715. In return for a fixed price, the buyer received a secure supply. It would be inappropriate to now superimpose an arbitrary judgment by the Congress that the fixed price should be radically changed.

The final change regarding wellhead pricing is the elimination of the direct sales exemption contained in S. 1715. That provision of the bill would exempt direct sales contracts from the price adjustment mechanisms. This exemption has been judged by some to create a special benefit for consumers in only a small number of States, and they have concluded that, in essence, the exemption would result in discriminatory treatment among the States. This problem would be resolved by the proposed change, because now direct sale contracts, as well as sale for resale contracts, would be subjected to the price adjustments permitted by the bill.

Mr. President, the take-or-pay provisions have been amended to include a necessity test for the utilization of the take-or-pay reduction authority. Under this new provision, a purchaser having the right to exercise the new take-or-pay authority would be subject to a showing of necessity if challenged by the gas seller. The seller may make this challenge on the grounds that the purchaser has not used all means available to it under existing contracts to reduce average purchased gas price. If such a challenge is made, the Federal Energy Regulatory Commission, or the appropriate State agency, will determine whether the pipeline has used all means available under existing contracts to reduce average purchased gas price. If the determination is made that the pipeline has not taken all means available under existing contracts to reduce its gas price, then the election will be found to be null and void.

The purpose of this new provision is to insure that a purchaser of natural gas first do all that it can under its existing contracts to reduce gas price before beginning to impose a financial burden on producers by exercising the bill's take-or-pay reductions. This provision will help consumers by inducing each pipeline to look first to its authority under the provision of existing contracts to reduce gas price. This provision will help gas producers by insuring that the bill's take-or-pay authority is exercised only as a last resort, after the pipeline has determined that it cannot reduce gas prices through the provisions of its existing contracts.

In addition to this provision, there is a new provision which requires the Federal Energy Regulatory Commission to promulgate such rules as may be necessary to prevent the exercise of the bill's take-or-pay authority from increasing the profits of the pipeline. This provision insures that all of the benefits of the exercise of the bill's take or pay provisions go to the gas consumer, and that there will be no windfall profits going to pipelines.

Another change is modification of the provision relating to pipeline ac-

countability. The prudent purchase rule in S. 1715 was based on an arbitrary standard, consisting of 110 percent of the free market price indicator. That inflexible standard appeared to please no one. Therefore, the amendment would add the word "imprudence" to section 601(c) of the NGPA. The amendment would also direct the FERC, when it determines whether a purchase was imprudent, to consider three factors: The availability to the pipeline of lower cost supplies, the necessity for acquiring additional supplies, and whether the purchase prevents the pipeline from responding to changes in demand or other market forces. These criteria should provide the Commission with sufficient guidance to make reasonable judgments about pipeline purchasing practices.

Mr. President, this bill also contains the requirement for the automatic and immediate passthrough of the natural gas price savings that would be generated by the bill's other provisions. This is identical to the amendment Senator JOHNSTON and I offered to S. 1715. The administration supports this provision and I have previously placed their letter of support in the CONGRESSIONAL RECORD.

The amendment would also add an import provision. In general, it would permit buyers of imported gas to make price and volume adjustments the same as those that could be made by buyers of domestic gas. For new import applications, the amendment would impose a new standard, to be applied by the Secretary of Energy. An import would be approved only if the Secretary found that it would not materially prevent the importer from responding to changes in demand or other market forces.

This import provision reflects the notion that natural gas imports should not be exempted from the discipline of the domestic market, nor should they be exempted from the adjustments imposed by the Congress on domestically produced gas.

Mr. President, in addition to those provisions which eliminate the future application of incremental pricing, this bill also contains a provision which would prevent the retroactive application of incremental pricing. The need for this amendment arises from the recent Supreme Court decision on the constitutionality of the congressional veto. Without this new provision, the potential impact of the Court's decision on industrial gas consumers could be very adverse. The worst case scenario would be if the Commission were to retroactively make effective the original phase II rule that the House of Representatives had legislatively vetoed. If this occurred, industrial natural gas users would be obligated to pay retroactively huge amounts of money for their nonboiler gas consumption.

This outcome simply would not be fair; industrial gas consumers had, in good faith, based their gas purchases on the intent of Congress. Had Congress not legislatively vetoed the phase II rules, industry would have based its gas purchases on that basis, and priced its products accordingly. However, unlike incremental pricing, industrial companies cannot retroactively raise the price of goods they sold years ago in the event that the phase II rule is retroactively put back into effect.

Mr. President, if this were allowed to occur, the impact on this Nation's industry would be severe. In addition to increasing the costs of consumer goods, thereby exacerbating inflation, this outcome would undoubtedly result in some companies going out of business, thereby worsening the unemployment situation.

Mr. President, I ask unanimous consent that there appear at this point in the RECORD a summary of the proposed changes in S. 1715.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MODIFIED S. 1715

I. PRICING

Twelve month ramp-down period for high-priced gas changed to 36-months.

Add sellers option to terminate contract at the end of the first 18 months on the ramp-down without obligation to continue deliveries (as exists in S. 1715 for ramp-up).

Exempt "definite-price" contracts from price adjustment mechanisms.

Delete direct sales exemption.

II. NON-PRICE DEREGULATION

Unchanged.

III. CONTRACT PROVISIONS

A. Take-or-Pay

Pipeline right to reduce take-or-pay percentages would be subject to a showing of "necessity" if challenged by seller.

Add limitation on exercise of take-or-pay to prevent windfall profits resulting from take-or-pay reductions.

B. Market-Out

Eliminate market out right available at end of ramp-up and ramp-down.

C. Escalators

Unchanged.

IV. PIPELINE ACCOUNTABILITY

Add "imprudence" to section 601(c) of the NGPA, with definition based on (1) availability to pipeline of lower cost supplies and necessity for acquiring additional supplies and (2) whether the purchase materially prevents the pipeline from responding to changes in demand or other market forces.

V. CONTRACT CARRIAGE

Unchanged.

VI. DEMAND CONSTRAINTS

Add incremental pricing amendment.

VII. IMPORTS

Subject existing and new imports to pricing policies of S. 1715.

VIII. INTRASTATE ACCESS

Unchanged.

IX. MISCELLANEOUS

Add requirement for passthrough of LDC savings in purchased gas costs (as per amendment).

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, to extend no longer than 7 p.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no more record votes tonight.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 290

Mr. BAKER. Mr. President, I have a unanimous-consent request dealing with another matter that apparently has been cleared on both sides. I should like to state the unanimous-consent request while Members are still on the floor, or as many Members as are still here. I invite their attention as I present the matter for the consideration of the minority leader and for all other Members.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, I ask unanimous consent that the cloture vote to occur on tomorrow, on the motion to proceed to House Joint Resolution 290, be vitiated.

I further ask unanimous consent that at 12 noon tomorrow, Wednesday, the Senate proceed to the consideration of Calendar No. 557, which is House Joint Resolution 290, a joint resolution regarding the Olympic games.

I also ask unanimous consent that once the clerk reports House Joint Resolution 290, the Senator from Kansas (Mr. DOLE) be recognized to offer an amendment, the text of which is the Finance Committee reported tuition tax credit bill; that there be 1 hour of consideration on that measure, to be equally divided between the Senator from Kansas (Mr. DOLE) and the Senator from South Carolina (Mr. HOLLINGS) or their designees.

I ask unanimous consent that following that hour of consideration, the Senator from Oklahoma (Mr. BOREN) be recognized to make a tabling motion to the Dole amendment; provided, further, that in the event the Dole amendment is tabled, the joint resolution be returned to the calendar.

That, Mr. President, is the extent of the request. However, I wish to clarify one point, before the Chair puts the request.

Mr. President, I ask this, in the nature of a parliamentary inquiry: In this formulation, if the Dole amendment is not tabled, would the amendment be open to further and unlimited debate at that point?

The PRESIDING OFFICER. It would.

Mr. BAKER. So if it fails to be tabled, the Dole amendment would still be before the Senate, and there would be no limitation on debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I put the request.

Mr. CHAFEE. Mr. President, may I make an inquiry of the majority leader in connection with this? I reserve the right to object.

I ask the majority leader: Under this agreement, the amendment to be offered by the Senator from Kansas, as I have heard it, would be the tuition tax credit bill that emerged from the Finance Committee, without further amendments, and no further amendments would be considered. Is that correct?

In other words, the only matter we would be debating would be the tuition tax credit bill as emerged from the committee?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, reserving the right to object, may I ask if the motion to table is unsuccessful, would amendments to the amendments of the Senator from Kansas be in order?

Mr. BAKER. Yes, I believe.

Mr. President, I address that question to the Chair.

The PRESIDING OFFICER. That is correct. They would be in order.

Mr. HEINZ. I thank the Chair.

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senate will be in order.

The minority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, under this agreement would amendment in the second degree be eligible to be called up to the Dole amendment?

The PRESIDING OFFICER. After the motion to table has been voted on.

Mr. BYRD. Only after the motion to table?

The PRESIDING OFFICER. That is part of the agreement.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. BYRD. I yield.

Mr. BAKER. Mr. President, if that is not clear, that is clearly the intention of the parties. So let me add this amendment to the request.

I ask unanimous consent that prior to the vote on tabling no amendment be in order, and I further ask unanimous consent that if the amendment is not tabled it be open to further amendment and to debate without limitation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. BOREN. Mr. President, reserving the right to object, if the amendment is not tabled—I just wish to state again what I think I just heard—it would be open to further debate and there would be no time limitation; if the amendment is tabled then the whole bill would go back to the calendar.

Mr. BAKER. That is my interpretation.

I inquire of the Chair if that is the Chair's interpretation?

The PRESIDING OFFICER. That is correct.

Mr. BOREN. I thank the Senator.

Mr. BYRD. Mr. President, under the agreement will the Finance Committee reported tuition tax credit be open to modification by the offerer of that amendment?

The PRESIDING OFFICER. It would not be.

Mr. BYRD. I think the majority leader has cured what I felt to be some problems.

May I ask this question? And I ask it of the majority leader: Is there a need for time on any motions or appeals or points of order?

Mr. BAKER. Mr. President, before I answer the minority leader, will he yield so I can put the question to the Chair?

Mr. BYRD. I yield.

Mr. BAKER. Mr. President, I inquire of the Chair in this formulation if any appeals or points of order are debatable and submitted to the Senate, would there be any time for debate beyond the 1 hour that is provided for consideration?

The PRESIDING OFFICER. If they are made immediately prior to the motion to table, they would not be debatable.

Mr. BYRD. I did not understand the Chair.

The PRESIDING OFFICER. In any case the debate cannot go beyond the 1 hour.

Mr. BYRD. Mr. President, I am not sure that answers the question that I have raised or that the majority leader has put, with all due respect to the Chair. Maybe it did. Perhaps I am not understanding it clearly.

Mr. BAKER. Mr. President, as I understood the Chair, it was that if an appeal or point of order is debatable and/or presented to the Senate, if any time remains of the 1 hour for consideration that could be utilized for the debate on that subject but if the time has expired then no further debate would be in order on any appeal or point of order that is submitted to the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. Mr. President, does not the minority leader have a reservation pending?

The PRESIDING OFFICER. Yes, but the majority leader retains the floor.

Mr. BAKER. Yes, Mr. President.

I am happy to yield to the Senator if the Senator wishes.

Mr. BYRD. I only wanted to put in a brief quorum call.

Mr. BAKER. I will do that.

Mr. President, if the Senator wishes, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the question has been raised, and very properly so, on one aspect of the fourth paragraph of the unanimous-consent request which provides that after the hour of consideration the Senator from Oklahoma (Mr. BOREN) be recognized to make a motion to table. The question arose as to whether or not he was obliged to make that motion to table at that time or simply permitted to do so. It was the clear intention of the parties that he would make such a motion.

Could I inquire of the Senator from Oklahoma if it is his intention to do so?

Mr. BOREN. Mr. President, yes, that would be my intention. It would be my intention at no more than 1 hour after debate on the amendment commences to make the motion to table.

Mr. BAKER. I thank the Senator.

Would the Senator then object or the minority leader object or others object if this were modified to say that the Senator would be recognized for the purpose only of making the motion and not for the purpose of debate?

Mr. BYRD. Either that or that he, and it does not make any difference, may I say to my friend—there is a little hole there—he could if he wished be recognized to table the amendment and talk for 6 hours if he wanted to and that would not make any difference to me. But maybe the majority leader wished to say for the purpose of immediately moving to table it.

Mr. BAKER. All right.

Mr. President, let me just clarify the point by saying that the agreement will be the Senator from Oklahoma be recognized immediately, make a motion to table, and without further

debate the Senate will proceed to vote on that motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 12:00 noon, Wednesday, November 16, 1983, the Senate proceed to the consideration of H.J. Res. 290 (Order No. 557), a joint resolution to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States in 1984, and that the Senator from Kansas (Mr. DOLE) be immediately recognized to offer an amendment, the text of which is the Finance Committee reported tuition tax bill, on which there shall be 1 hour consideration, to be equally divided and controlled by the Senator from Kansas (Mr. DOLE) and the Senator from South Carolina (Mr. HOLLINGS), or their designees.

Ordered further, That following the 1 hour of consideration of the Dole amendment, the Senator from Oklahoma (Mr. BOREN) be recognized to immediately make a motion to table the Dole amendment: *Provided,* That if the Dole amendment is tabled, the joint resolution be returned to the Calendar: *Provided further,* That if the motion to table fails, there be no time limit on consideration of the Dole amendment.

Ordered further, That no second degree amendment be in order prior to the vote on the motion to table.

Mr. BAKER. Mr. President, I thank the minority leader, I thank the managers, and I thank the distinguished Senator from Oklahoma.

Mr. President, there are 20 minutes remaining for morning business and in case some Members are seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 376. An act to amend the Debt Collection Act of 1982 to eliminate the requirement that contracts for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriation Acts; and

S. 1168. An act to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1035) to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PERKINS, Mr. HAWKINS, Mr. FORD of Michigan, Mr. BIAGGI, Mr. Andrews of North Carolina, Mr. MILLER of California, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. BOUCHER, Mr. ACKERMAN, Mrs. BURTON of California, Mr. HAYES, Mr. ERLENBORN, Mr. GOODLING, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. BARTLETT, Mr. PACKARD, Mr. NIELSON of Utah, and Mr. CHANDLER as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2906) to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ZABLOCKI, Mr. FASCELL, Mr. HAMILTON, Mr. STUDDS, Mr. MICA, Mr. BROOMFIELD, and Mr. HYDE as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 29. An act to recognize the organization known as the Polish Legion of American Veterans, U.S.A.;

H.R. 1095. An act to grant a Federal charter to the 369th Veterans' Association;

H.R. 3249. An act to charter the National Academy of Public Administration;

H.R. 3635. An act to amend chapter 110 (relating to sexual exploitation of children) of title 18 of the United States Code, and for other purposes; and

H.R. 3729. An act to amend the Immigration and Nationality Act to extend for two years the authorization of appropriations for refugee assistance, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that it is not appropriate at this time to transfer ownership or management of any civil meteorological satellite system and associated ground system equipment to the private sector; and

H. Con. Res. 190. Concurrent resolution expressing the sense of the Senate that the Secretary of Transportation should submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate full research and development program planning documentation leading to expedited use by the civilian sector of certain satellite-directed navigational aids developed by the Department of Defense for the guidance of aircraft.

At 6:24 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ADDABBO, Mr. CHAPPELL, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. HIGHTOWER, Mr. AUCOIN, Mr. WHITTEN, Mr. EDWARDS of Alabama, Mr. ROBINSON, Mr. MCDADE, Mr. YOUNG of Florida, and Mr. CONTE; and as additional conferees, for the consideration of Senate amendment numbered 167 and modifications thereof committed to conference only: Mr. BOLAND, Mr. STOKES, and Mr. REGULA.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 446. An act for the relief of Juan Escobar Rodriguez;

H.R. 724. An act for the relief of Carlos Mebrano Gatson;

H.R. 743. An act for the relief of Theda June Davis;

H.R. 932. An act for the relief of Harry Chen Tak Wong;

H.R. 1072. An act for the relief of Margot Hogan;

H.R. 1152. An act for the relief of Tomoko Jessica Kyan;

H.R. 2087. An act for the relief of Hans Robert Beisch; and

H.R. 4102. An act to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes.

At 7:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3486. An act to promote maritime safety on the high seas and navigable waters of the United States, and for other purposes;

H.R. 3968. An act to authorize the Secretary of Commerce to budget for medical and dental care for personnel on the National Oceanic and Atmospheric Administration entitled to that care;

H.R. 3969. An act to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission; and

H.R. 4252. An act to suspend the noncash benefit requirement for the Puerto Rico nutrition assistance program, and for other purposes.

HOUSE MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 29. An act to recognize the organization known as the Polish Legion of American Veterans, U.S.A.; to the Committee on the Judiciary.

H.R. 446. An act for the relief of Juan Escobar Rodriguez; to the Committee on the Judiciary.

H.R. 724. An act for the relief of Carlos Mebrano Gatson; to the Committee on the Judiciary.

H.R. 743. An act for the relief of Theda June Davis; to the Committee on the Judiciary.

H.R. 932. An act for the relief of Harry Chen Tak Wong; to the Committee on the Judiciary.

H.R. 1072. An act for the relief of Margot Hogan; to the Committee on the Judiciary.

H.R. 1095. An act to grant a Federal charter to the 369th Veterans' Association; to the Committee on the Judiciary.

H.R. 1152. An act for the relief of Tomoko Jessica Kyan; to the Committee on the Judiciary.

H.R. 2087. An act for the relief of Hans Robert Beisch; to the Committee on the Judiciary.

H.R. 3249. An act to charter the National Academy of Public Administration; to the Committee on the Judiciary.

H.R. 3486. An act to promote maritime safety on the high seas and navigable waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3968. An act to authorize the Secretary of Commerce to budget for medical and dental care for personnel on the National Oceanic and Atmospheric Administration entitled to that care; to the Committee on Commerce, Science, and Transportation.

H.R. 3969. An act to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission; to the Committee on Armed Services.

H.R. 3729. An act to amend the Immigration and Nationality Act to extend for 2 years the authorization of appropriations for refugee assistance, and for other purposes; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 190. Concurrent resolution expressing the sense of the Senate that the Secretary of Transportation should submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate full research and development program planning documentation leading to expedited use by the civilian sector of certain satellite-directed navigational aids developed by the Department of Defense for the guidance of aircraft; to the Committee on Commerce, Science, and Transportation.

HOUSE MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3635. An act to amend chapter 110 (relating to sexual exploitation of children) of title 18 of the United States Code, and for other purposes;

H.R. 4102. An act to amend the Communications Act of 1934 to assure universal telephone service within the United States, and for other purposes.

HOUSE CONCURRENT RESOLUTION PLACED ON THE CALENDAR

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that it is not appropriate at this time to transfer ownership or management of any civil meteorological satellite system and associated ground system equipment to the private sector.

HOUSE MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 4252. An act to suspend the noncash benefit requirement for the Puerto Rico nutrition assistance program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1973. A communication from the Acting Commissioner of Social Security, Baltimore, Md. transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1974. A communication from the chairman of the Federal Labor Relations Authority transmitting, pursuant to law, a report on implementation of the Government in the Sunshine Act during 1982; to the Committee on Governmental Affairs.

EC-1975. A communication from the General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting relative to the International Energy Program to be held on November 7, 1983; to the Committee on Energy and natural Resources.

EC-1976. A communication from the administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report on the performance of the industrial applications centers; to the Committee on Small Business.

EC-1977. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress In Improving Program and Budget Information For Congressional Use"; pursuant to the order of January 30, 1983, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-1978. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on the receipt of a project proposal from the Ak-Chin Indian Community, Arizona, under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-1979. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a report on the receipt of a project proposal from the Greater Wenatchee Irrigation District, Washington, under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-1980. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law the final monthly Treasury Statement of Receipts and Outlays of the U.S. Government for fiscal year 1983; to the Committee on Finance.

EC-1981. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a report on the conversion of the installation support functions at the Tank Automotive Command Support Activity, Warren, Mich.; to the Committee on Armed Services.

EC-1982. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting, pursuant to law, a report on the conversion of the administrative services function at the U.S. Army Missile Center and School, Redstone Arsenal, Ala.; to the Committee on Armed Service.

EC-1983. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the Unclassified PMS Documentation function at the Naval Sea Center, Atlantic, Portsmouth, Virginia; to the Committee on Armed Services.

EC-1984. A communication from the Director of the Office of Technology Assessment, transmitting, pursuant to law, a summary and report brief of the OTA report entitled "An Assessment of Maritime Trade and Technology"; to the Committee on Commerce, Science, and Transportation.

EC-1985. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, an informational copy of a lease prospectus; to the Committee on Environment and Public Works.

EC-1986. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, a special report of the Council entitled "Federal Tax Law and Historic Preservation"; to the Committee on Finance.

EC-1987. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Coast Indian Community of the Resighini Rancheria judgment funds; to the Select Committee on Indian Affairs.

11-059 O-87-23 (Pt. 23)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee of Foreign Relations, without amendment:

S. Res. 278. An original resolution calling for determined U.S. opposition to illegal actions by the so-called Turkish Federation of Cyprus.

S. Res. 279. An original resolution condemning the assassination of the U.S. naval attaché and his driver in Athens.

RESOLUTIONS CONCERNING THE EASTERN MEDITERRANEAN

Mr. PERCY. Mr. President, this morning brought word of two distressing events in the Eastern Mediterranean: the brutal assassination of the U.S. naval attaché in Athens and a unilateral declaration of independence by the so-called Turkish Federation of Cyprus. Both events warrant condemnation and response. Toward that end, the Foreign Relations Committee immediately considered and approved two resolutions proposed by Senator SARBANES, which I cosponsored along with Senators PELL, BIDEN, GLENN, CRANSTON, TSONGAS, and DODD. Because these resolutions are self-explanatory, I ask that they be reprinted at the end of my remarks. I should note, Mr. President, that the committee deems developments in Cyprus to be of such gravity that we have scheduled an immediate State Department briefing in executive session, after with the committee will consider further action.

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2163. An act to amend the Federal Boat Safety Act of 1971, and for other purposes (Rept. No. 98-312).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 55. Concurrent resolution expressing the grave concern of the Congress regarding the plight of Ethiopian Jews.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Terry Calvani, of Tennessee, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1983.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Clayton E. McManaway, Jr., of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Haiti:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Clayton E. McManaway, Jr.

Post: Port-au-Prince, Haiti.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Elvira McManaway, none.
3. Children and spouses names: Alison Latvala, none.
4. Parents names: Malinda McManaway (father deceased), none.
5. Grandparents names: deceased.
6. Brothers and spouses names: none.
7. Sisters and spouses names: none.

Geoffrey Swaebe, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Geoffrey Swaebe.

Post: Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Nominated: September 15, 1983.

Contributions, amount, date, and donee:

1. Self: Unavailable.
2. Spouse: Mary Mossman Swaebe, $1,000, June 23, 1979, Reagan for President.
3. Children and spouses names: Geoffrey Swaebe Jr., None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Sol Polansky, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as vice chairman of the United States Delegation to the Strategic Arms Reductions Talks (START) and Department of State Representative.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Polansky, Sol.

Post: Vice Chairman, START Delegation; Ambassador.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

James E. Goodby, of New Hampshire, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as U.S. Representative to the Conference on Confidence on Security Building Measures and Disarmament in Europe.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James E. Goodby.

Post: Chief of Delegation to the Conference on Disarmament (CDE) with rank of Ambassador.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: None.
5. Grandparents names: None.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

Edmund Stohr, of Illinois, for the rank of Minister during the remainder of the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edmund Stohr.

Post: U.S. Representative to International Civil Aviation Organization Montreal—rank of Minister.

Contributions, amount, date, and donee:

Self: $220, 1982-83, National Republican Party; $50, 1982, Senator Charles Percy; $85, 1982-83, Illinois Republican Party.

2. Spouse: None.
3. Children and spouses names: None.
4. Parents names: Deceased.
5. Grandparents names: Deceased.
6. Brothers and spouses names: Mr. Elmer H. Stohr, 2918 Glenaven Avenue Alhambra, Calif. 91803.
7. Sisters and spouses names: Mrs. A. Edward Brown, 2507 South State Street, St. Joseph, Mich. 49085; Mrs. Roy J. Linnig, 395 Carlisle Avenue, Deerfield, Ill. 60015.

William Caldwell Harrop, of New Jersey, a career member of the Senior Foreign Service, class of Career Minister, to be Inspector General of the Department of State and the Foreign Service, vice Robert L. Brown, resigned.

Alfred L. Atherton, Jr., of Florida, a career member of the Senior Foreign Service, with the personal rank of Career Ambassador, to be director general of the Foreign Service, vice Joan M. Clark, resigned.

Joan M. Clark, of New York, a career member of the Senior Foreign Service, class of Career Minister, to be Assistant Secretary of State for Consular Affairs, vice Diego C. Asencio.

Ben J. Wattenberg, of the District of Columbia, to be a member of the Board for International Broadcasting for a term expiring April 28, 1986 (reappointment).

Frank Shakespeare, of Connecticut, to be a member of the Board for International Broadcasting for a term expiring May 20, 1986 (reappointment).

The following-named career member of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service as indicated:

To be career member of the Senior Foreign Service of the United States of America, class of counselor

Frank A. Padovano, of Virginia.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD (for himself, Mr. TSONGAS, Mr. DODD, and Mrs. HAWKINS):

S. 2096. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to permit investment by employee benefit plans in residential mortgages; to the Committee on Finance.

By Mr. HART:

S. 2097. A bill to amend the Internal Revenue Code of 1954 to reduce the deduction for business meals and to earmark the savings from such reduction for the school lunch programs; to the Committee on Finance.

By Mr. NICKLES:

S. 2098. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Seward project, Okla., and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEPSEN:

S. 2099. A bill to delay for 2 years the mandatory coverage of employees of religious organizations under social security; to the Committee on Finance.

By Mr. PRYOR:

S.J. Res. 198. Joint resolution designating April 27, 1984, as "National Nursing Home Residents Day"; to the Committee on the Judiciary.

By Mr. WARNER (for himself and Mr. TRIBLE):

S.J. Res. 199. Joint resolution relating to improving the highway transportation system of the Commonwealth of Virginia; placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 276. Resolution authorizing testimony of Katherine Y. Cudlipp and B. Reid Detchon and the production of documents in the case of *United States of America* v. *Rita M. Lavelle;* considered and agreed to.

By Mr. JOHNSTON (for himself, Mr. PACKWOOD, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. CHILES, Mr. CRANSTON, Mr. DIXON, Mr. DURENBERGER, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GLENN, Mr. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. TSONGAS, Mr. ZORINSKY, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. STENNIS, Mr. SASSER, Mr. BIDEN, Mr. RANDOLPH, and Mr. INOUYE):

S. Res. 277. An executive resolution expressing the advice of the Senate to the President relative to the nomination of William P. Clark of California to be Secretary of the Interior; to the Committee on Energy and Natural Resources.

By Mr. PERCY, from the Committee on Foreign Relations:

S. Res. 278. An original resolution calling for determined U.S. opposition to illegal actions by the so-called Turkish Federation of Cyprus; placed on the calendar.

S. Res. 279. An original resolution condemning the assassination of the U.S. naval attaché and his driver in Athens; placed on the calendar.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 280. Resolution to direct the Senate Legal Counsel to represent the Permanent Subcommittee on Investigations in the case of *In re Subpoena to Anthony J. Accardo;* considered and agreed to.

By Mr. HEINZ (for himself, Mr. SPECTER, Mr. D'AMATO, Mr. HOLLINGS, Mr. EXON, Mr. SARBANES, Mr. PRESSLER, Mr. LEVIN, Mr. MITCHELL, Mr. MELCHER, Mr. DOLE, Mr. PROXMIRE, Mr. SASSER, Mr. BINGAMAN, Mr. MCCLURE, Mr. DANFORTH, Mr. GORTON, Mr. HUDDLESTON, Mr. BUMPERS, Mr. BURDICK, Mr. QUAYLE, Mr. HATFIELD, Mr. ZORINSKY, Mr. STEVENS, Mr. MOYNIHAN, Mr. PERCY, Mr. KENNEDY, Mr. GLENN, Mr. BOSCHWITZ, Mr. CRANSTON, Mr. SYMMS, and Mr. THURMOND):

S. Con. Res. 86. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself, Mr. TSONGAS, Mr. DODD, and Mrs. HAWKINS):

S. 2096. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to permit investment by employee benefit plans in residential mortgages; to the Committee on Finance.

RESIDENTIAL MORTGAGE INVESTMENT ACT OF 1983

● Mr. PACKWOOD. Mr. President, today I am introducing the Residential Mortgage Investment Act of 1983. This bill seeks to broaden the ability of private pension funds to invest in the residential mortgage market while insuring that adequate safeguards governing the investments of these plans remain intact.

The Employee Retirement Income Security Act of 1974, ERISA, governs private sector pension plan investment policies. Sections 404 through 408 establish standards which were designed to encourage safe and sound investments yielding acceptable returns that are in the best interests of the plan participants, and protect pension plan participants from improper dealings by plan fiduciaries and other related parties. Two sets of investments constraints may affect a pension funds ability to invest in residential mortgages.

The first involves general investment responsibility rules which impose requirements of prudence, diversification, liquidity and prohibitions against selfdealing by plan fiduciaries. These investment requirements apply to all investments whether they be stocks, bonds or mortgages and, therefore, do not place any specific restrictions on a pension fund's ability to invest in the mortgage market.

The second set of constraints contained in ERISA that greatly affect a pension fund's ability to invest in mortgages are the prohibited transactions provisions. The congressional assumption behind the adoption of these provisions was that dealings between pension funds and related parties are inherently subject to abuse. Because it is difficult to police these kinds of transactions, Congress enacted a general prohibition on all dealings between funds and related parties.

Unlike most investment transactions, mortgage transactions usually involve a large number of parties including not only employers and employees, but also builders, developers, unions, mortgage bankers, and other types of financial institutions. Because of the large numbers of parties-in-interest typically involved in mortgage transactions, a mortgage investment is more likely to be classified as a prohibited transaction than other types of investments.

Plan trustees are inhibited from engaging in such transactions because there is a significant risk that they might inadvertently engage in a prohibited transaction. For all practical purposes, the prohibited transaction provisions of ERISA preclude plan investments in mortgages, even if the transactions are prudent, fair, and at arm's length.

In June 1980 the National Association of Home Builders and the National Coordinating Committee on Multiemployer Plans asked the Department of Labor to issue an administrative exemption that would permit pension plans to invest in residential mortgages under certain conditions. After almost 2 years, the Department issued final prohibited transactions exemptions. However, these exemptions did not sufficiently authorize plan trustees to make mortgage investments.

The Residential Mortgage Investment Act of 1983 is designed to remove the unnecessary barriers that have discouraged private pension funds from investing in housing. The bill amends ERISA to allow any qualified mortgage transaction by an employee benefit plan provided the transaction receives the prior approval of an independent fiduciary; is eligible for purchase by, or backed by the Federal National Mortgage Association (FNMA), the Federal home Loan Mortgage Association (FHLMC) or the Government National Mortgage Association (GNMA); or involves mortgage-backed

securities bearing one of the three highest ratings of a nationally recognized rating service.

This bill accomplishes two important goals. First, it places residential mortgages on equal footing with other investment opportunities. It does not mandate pension fund investment in mortgages, nor does it give preferential treatment to mortgages. It simply removes the second-class investment status that has been assigned to mortgages.

Second, it insures that adequate investment safeguards are maintained to protect pension plan participants. By retaining the prudence rule and the selfdealing provision of ERISA, this bill insures that investments in residential mortgages will be made under the same conservative standards as all other plan investments and that plan trustees will not be able to engage in mortgage transactions for their own benefit.

Some concern has been voiced about the effect of this bill on the tax treatment of loans to plan participants. I would like to clarify at this point that the Residential Mortgage Investment Act does not attempt to alter the tax treatment of the transactions covered by the bill.

Mr. President, this bill is the result of many months of negotiations between the the National Asssociation of Home Builders and the Building and Construction Trades Department of the AFL-CIO. I am pleased to say the bill I am introducting today has the endorsement of both of these groups. I ask unanimous consent that the letters from the Home Builders and from the building trades supporting this bill be inserted in the RECORD at this point.

There being no objection the letters were ordered to be printed in the RECORD; as follows:

NATIONAL ASSOCIATION OF HOME BUILDERS,
Washington, D.C., November 10, 1983.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: The National Association of Home Builders would like to take this opportunity to endorse and fully support your legislative intitiative to remove statutory and regulatory barriers to private pension fund investment in residential mortgages. NAHB has long sought relief from overburdensome rules that have placed residential mortgages at a disadvantage when trying to compete with other types of investment vehicles for pension fund dollars. It is only through an amendment to ERISA that pension funds will be able to actively invest in a broad range of prudent residential mortgages.

NAHB appreciates your support of the housing industry and offers to assist you in your efforts to gain passage of "The Residential Mortgage Investment Act of 1983."

Sincerely,

HARRY PRYDE,
President.

BUILDING & CONSTRUCTION TRADES DEPARTMENT, AFL-CIO,
Washington, D.C., November 10, 1983.

Hon. ROBERT PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: I am writing to express the strong support of the Building and Construction Trades Department for the Residential Mortgage Investment Act of 1983 bill which I understand you will be introducing presently.

As you know, the Building and Construction Trades Department has long been in the forefront of efforts to encourage pension fund investments which not only provide a sound return but also stimulate additional job opportunities for plan participants. The undeniable fact is that pension funds must depend on a continued and assured flow of contributions on behalf of working participants, as well as a fair investment return, to meet benefit obligations to retirees, current and future.

Home mortgages as an investment satisfy both of these financial needs of pension funds, and also serve to stimulate the nation's economy as a whole.

Your legislation is a responsible measure which removes unnecessary and unproductive barriers to pension fund investment in residential mortgages while maintaining protections against even potential abuses. This legislation is good not just for pension plan participants and the housing industry, but for the nation as a whole.

I applaud your efforts and look forward to the enactment of this important legislation.

Sincerely,

ROBERT A. GEORGINE,
President.

Mr. PACKWOOD. Mr President, while I cannot overstate the importance of this bill, I do not want to imply that it will solve all of the problems of the housing industry. These problems are far-reaching and cannot be addressed by one piece of legislation. However, I do believe that this bill will open up a new source of capital to the housing industry and will result in more investments by pension plans in the residential mortgage market. The benefits of the Residential Mortgage Investment Act will include pension fund trustees and participants, who will no longer be deprived of an excellent investment opportunity, and the housing industry which will gain a new source of mortgage capital. I urge my colleagues to join Senators HAWKINS, TSONGAS, DODD and me in cosponsoring the Residential Mortgage Investment Act of 1983.

I ask unanimous consent that the text of the bill be placed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Residential Mortgage Investment Act of 1983".

SEC. 2. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 408 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108) is amended by adding at the end thereof the following new subsection:

"(g)(1) IN GENERAL.—The prohibitions provided in Section 406(a) shall not apply to the following transactions:

"(A) Any qualified mortgage transaction engaged in by a plan if the transaction received the prior approval of an independent fiduciary;

"(B) The purchase, retention, sale, exchange, or transfer of any interest in a residential mortgage loan if the loan is eligible for purchase by or if the payment of principal and interest on the loan is guaranteed or insured by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, or any other Federal or State agency; or

"(C) The acquisition, purchase, retention, sale, exchange, or transfer by a plan of any residential mortgage-backed security, or a participation in the security, if the security or participation bears one of the three highest ratings of a nationally recognized rating service.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'independent fiduciary' means a fiduciary who—

"(i) is an individual or organization with expertise and experience in advising investors regarding transactions similar to the transactions which the plan desires to make and to the transactions described in this subsection;

"(ii) acknowledges in writing to the plan that it will make decisions with respect to transactions described in this subsection for which the individual or organization is acting in its capacity as a fiduciary of the plan; and

"(iii) as to a particular transaction, is not a party-in-interest other than in its capacity as a fiduciary of the plan under this subsection.

"(B) The term 'mortgage investment pool' means an aggregation of residential mortgage loans, originated by one or more lenders, that is established by a plan or lender, or transferred to a trustee, to create a residential mortgage-backed security.

"(C) The term 'origination' means carrying out the process by which financing is obtained for residential dwellings.

"(D) The term 'participation' means an ownership interest in a residential mortgage loan, mortgage investment pool, or residential mortgage-backed security, which is held in common with another person or legal entity.

"(E) The term 'qualified mortgage transaction' means—

"(i) the issuance of a residential mortgage financing commitment by a plan;

"(ii) the receipt of a fee by a plan in exchange for issuing a residential mortgage financing commitment;

"(iii) the origination, acquisition, purchase, retention, sale, exchange, or transfer by a plan of a residential mortgage loan or a participation in the loan (regardless of whether the action is taken pursuant to a residential mortgage financing commitment);

"(iv) the sale, exchange, or transfer by a plan of a residential mortgage loan or a participation in the loan (regardless of whether the action occurred before or after the maturity date of the loan);

"(v) the servicing or contracting for servicing of a residential mortgage loan (regardless of whether the residential mortgage loan is part of a mortgage investment pool or a mortgage-backed security) by a plan for reasonable compensation, including collecting mortgage payments, assuring that taxes and insurance premiums for the residential dwelling units are paid, making decisions relating to foreclosures, and executing foreclosures;

"(vi) the acquisition, purchase, retention, sale, exchange, or transfer, or the issuance of a commitment to purchase or sell, an interest or participation in a mortgage investment pool or a residential mortgage-backed security; or

"(vii) the formation and operation by a plan of a mortgage investment pool.

"(F) The term 'residential dwelling' means a structure designed for residential use by one or more families including—

"(i) a detached house;

"(ii) a townhouse;

"(iii) a manufactured house (regardless of whether the house is considered real or personal property under State law);

"(iv) a condominium unit;

"(v) a unit in a housing cooperative;

"(iv) a unit in a multiunit subdivision (planned unit development) which is subject to recorded documents which limit the use of the unit to residential purposes and provide for maintenance and facilities; and

"(vii) a structure consisting of two or more residential dwelling units.

"(G) The term 'residential mortgage financing commitment' means a contractual obligation or option to originate, acquire, purchase, retain, sell, exchange, or transfer a residential mortgage loan, mortgage investment pool, or a participation in the mortgage investment pool, which must be satisfied or may be exercised by a plan or a trust or other entity designed to facilitate such actions by a plan.

"(H) The term 'residential mortgage loan' means a loan secured by—

"(i) a mortgage or deed of trust on residential property held in fee simple absolute title as security for payment of a debt;

"(ii) the pledge of a leasehold with a term of at least 99 years;

"(iii) the pledge of a household with a term extending at least 10 years beyond the term of the mortgage;

"(iv) a leasehold wherein fee simple absolute title vests in the borrower by operation of law;

"(v) a mortgage or deed of trust secured by a condominium unit; or

"(vi) a loan secured by a share or shares in a residential cooperative.

"(I)(i) The term 'residential mortgage-backed security' means—

"(I) any interest in a mortgage investment pool which meets the requirement of clause (ii);

"(II) any interest in a loan which is secured by a mortgage investment pool or residential mortgage-backed security and which meets the requirements of clause (ii); or

"(III) any interest in a debt instrument collaterized by the cash flow from a mortgage investment pool or residential mortgage-backed security.

"(ii) a mortgage investment pool or loan meets the requirements of this clause if the mortgage investment pool or loan—

"(I) is held in trust or under an agreement for the benefit of the security holders; and

"(II) is secured solely by, or represents solely interests in, residential mortgage loans, property which was used to secure residential mortgage loans and has been acquired by foreclosure, or undistributed cash.".

"(3) No rule, regulation or order shall be promulgated which implements interprets or limits the provisions of paragraphs (1) and (2) of this subsection and no rule, regulation or order shall be promulgated pursuant to sections 406 or 408 which implements, interprets or limits the term reasonable rate of interest with respect to a qualified mortgage transaction."

SEC 3. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

(a) EXEMPTION.—Subsection (c) of Section 4975 of the Internal Revenue Code of 1954 (relating to prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(4) EXEMPTION FOR CERTAIN MORTGAGE TRANSACTION.—The prohibitions provided in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not apply to the following transactions:

"(A) Any qualified mortgage transaction engaged in by a plan if the transaction received the prior approval of an independent fiduciary;

"(B) The purchase, retention, sale, exchange, or transfer by a plan of any interest in a residential mortgage loan if the loan is eligible for purchase by or if the payment of principal and interest on the loan is guaranteed or insured by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Government National Mortgage Association, or any other Federal or State agency; or

"(C) The acquisition, purchase, retention, sale, exchange, or transfer by a plan of any residential mortgage-backed security, or a participation in the security, if the security or participation bears one of the three highest ratings of a nationally recognized rating service.".

(b) DEFINITIONS.—Subsection (e) of Section 4975 of such Code (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(10) INDEPENDENT FIDUCIARY.—For purposes of subsection (c)(4), the term 'independent fiduciary means a fiduciary who—

"(A) is an individual or organization with expertise and experience in advising investors regarding transactions similar to the transactions which the plan desires to make and to the transactions described in subsection (c)(4);

"(B) acknowledges in writing to the plan that it will make decisions with respect to transactions under subsection (c)(4) for which the individual or organization is acting in its capacity as a fiduciary of the plan; and

"(C) as to a particular transaction, is not a party-in-interest other than in its capacity as a fiduciary of the plan under subsection (c)(4).

"(11) MORTGAGE INVESTMENT POOL.—For purposes of subsections (c)(4) and (e)(14) the term 'mortgage investment pool' means an aggregation of residential mortgage loans, originated by one or more lenders, that is established by a plan or lender, or transferred to a trustee, to create a residential mortgage-backed security.

"(12) ORIGINATION.—For purposes of subsections (c)(4) and (e)(14), the term 'origination' means carrying out the process by which financing is obtained for residential dwellings.

"(13) PARTICIPATION.—For purposes of subsections (c)(4) and (e)(14), the term 'participation' means an ownership interest in a residential mortgage loan, mortgage investment pool, or residential mortgage-backed security, which is held in common with another person.

"(14) QUALIFIED MORTGAGE TRANSACTION.—For purposes of subsection (c)(4), the term 'qualified mortgage transaction' means—

"(A) the issuance of a residential mortgage financing commitment by a plan;

"(B) the receipt of a fee by a plan in exchange for issuing a residential mortgage financing commitment;

"(C) the origination, acquisition, purchase, retention, sale, exchange, or transfer by a plan of a residential mortgage loan or participation in the loan (regardless of whether action is taken pursuant to a residential mortgage financing commitment);

"(D) the sale, exchange, or transfer by a plan of a residential mortgage loan or a participation in the loan (regardless of whether the action occurred before or after the maturity date of the loan);

"(E) the servicing or contracting for servicing of a residential mortgage loan (regardless of whether the residential mortgage loan is part of a mortgage investment pool or a mortgage-backed security) by a plan for reasonable compensation, including collecting mortgage payments, assuring that taxes and insurance premiums are paid, making decisions relating to foreclosures, and executing foreclosures;

"(F) the acquisition, purchase, retention, sale, exchange, or transfer, or the issuance of a commitment to purchase or sell, an interest or participation in a mortgage investment pool or a residential mortgage-backed security; or

"(G) the formation and operation by a plan of a mortgage investment pool.

"(15) RESIDENTIAL DWELLING.—For purposes of subsection (c)(4), the term 'residential dwelling' means a structure designed for residential use by one or more families including—

"(A) a detached house;

"(B) a townhouse;

"(C) a manufactured house (regardless of whether the house is considered real or personal property under State law);

"(D) a condominium unit;

"(E) a unit in a housing cooperative;

"(F) a unit in a multiunit subdivision (planned unit development) which is subject to recorded documents which limit the use of the unit to residential purposes and provide for maintenance and facilities; and

"(G) a structure consisting of two or more residential dwelling units.

"(16) RESIDENTIAL MORTGAGE FINANCING COMMITMENT.—For purposes of subsections (c)(4) and (e)(14), the term 'residential mortgage financing commitment' means a contractual obligation or option to originate, acquire, purchase, retain, sell, exchange, or transfer a residential mortgage loan, mortgage investment pool, or a participation in the mortgage investment pool, which must be satisfied or may be exercised by a plan or a trust or other entity designed to facilitate such actions by a plan.

"(17) RESIDENTIAL MORTGAGE LOAN.—For purposes of subsections (c)(4) and (e)(14), the term 'residential mortgage loan' means a loan secured by—

"(A) a mortgage or deed of trust on residential property held in fee simple absolute title as a security for payment of a debt;

"(B) the pledge of a leasehold with a term of at least 99 years;

"(C) the pledge of a leasehold with a term extending at least 10 years beyond the term of the mortgage;

"(D) a leasehold where fee simple absolute title vests in the borrower by operation of law;

"(E) a mortgage or deed of trust secured by a condominium unit; or

"(F) a loan secured by a share or shares in a residential cooperative.

"(18) RESIDENTIAL MORTGAGE-BACKED SECURITY.—

"(A) IN GENERAL.—For purposes of subsection (c)(4), 'residential mortgage-backed security' means—

"(i) any interest in a mortgage investment pool which meets the requirements of subparagraph (B); or

"(ii) any interest in a loan which—

"(I) is secured by a mortgage investment pool or residential mortgage-backed security;

"(II) meets the requirements of subparagraph (B); and

"(III) any interest in a debt instrument collaterized by the cash flow from a mortgage investment pool or residential mortgage-backed security.

"(B) REQUIREMENTS.—A mortgage investment pool or loan meets the requirements of this subparagraph if the mortgage investment pool or loan—

"(i) is held in trust or under an agreement for the benefit of the security holders; and

"(ii) is secured solely by, or represents solely interests in—

"(I) residential mortgage loans;

"(II) property which was used to secure residential mortgage loans and has been acquired by foreclosure; or

"(III) undistributed cash.".

(c) REGULATIONS.—Subsection (f) of Section 4975 of the Internal Revenue Code of 1954 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) REGULATIONS.—No rule, regulation or order shall be promulgated which implements, interprets or limits the provisions of paragraphs (4) of subsection (c) or of paragraphs (10) through (18) of subsection (e) and no rule, regulation or order shall be promulgated pursuant to this Section which implements, interprets or limits the term 'reasonable rate of interest' with respect to a qualified mortgage transaction."

SEC. 4. The provisions of sections 2 and 3 of this Act shall be in addition to and independent of any other provision of the Employee Retirement Income Security Act of 1974, as amended. Nothing in this Act shall be construed as limiting or otherwise affecting the interpretation or construction of the provisions of the Employee Retirement Income Security Act of 1974, as amended, and the Internal Revenue Code of 1954, as amended, in effect prior to the date of enactment of this Act.●

● Mr. TSONGAS. Mr. President, I am pleased to join my colleague Senator PACKWOOD in introducing legislation to ease restrictions on pension fund investment in residential mortgages. Arbitrary and unnecessary Government restrictions have hampered yields on pension fund investments, resulting in billions of dollars of lost savings for retirees. This bill would result in greater returns for pension beneficiaries, and relief for home buyers and the construction industry.

The Residential Mortgage Investment Act of 1983 would amend the Employee Retirement Income Security Act (ERISA) to allow any residential mortgage investment transaction by an employee benefit plan as long as the transaction receives the prior approval of an independent fiduciary. However, if a plan invests in a mortgage or security of Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or Government National Mortgage Association, the requirement for approval by an independent fiduciary would be waived. The bill retains basic ERISA prudence and diversity standards and establishes a safeguard of an independent fiduciary to doubly insure the soundness of a residential mortgage investment.

Public and private pension fund plans now exceed $900 billion, making up more than 12 percent of total funds available to U.S. financial markets. These pension funds represent the deferred earnings of millions of Americans. However, I am concerned that present law does not allow these pension funds to be invested in the long-term interests of the beneficiaries the funds are meant to protect. One study by the New York investment firm, Salomon Brothers, has found that mortgage securities produced stronger yields than many other investment instruments, including corporate bonds, between 1978 and 1980. I see no reason why mortgages and mortgage-backed securities should be considered second-class investments, especially in light of numerous studies proving their high rate of return.

The primary goal of this legislation is to protect the benefits of millions of retirees by allowing more stable investment instruments for pension funds. However, another important effect of this act would be to stimulate a dormant mortgage market and a depressed construction industry. Homeownership is becoming a fading dream to millions of Americans while the construction industry continues to languish, its hopes hinging on declines in interest rates. This bill would go far in providing relief to home buyers and to the housing industry. It has been referred to by its House sponsor, Representative RON WYDEN, as the no-cost, no-subsidy housing bill because it will open up a vast new source of mortgage financing with no hidden Government subsidies and without costing taxpayers 1 cent.

Investments that restore and develop the economic base of local communities will do more for the prosperity of retirees than the short-term approach that now exists. A recent article in the National Journal mentions several innovative and very successful pension fund investment ventures which have directly benefited local economies. Mr. President, I request unanimous consent that the text of that article be reprinted in the CONGRESSIONAL RECORD at the conclusion of my remarks.

By 1978, Federal, private, State, and local pension funds were worth over $500 billion. That was larger than the combined GNP of the United Kingdom and France, and equaled the total 1978 fiscal budget of the U.S. Government. Today these funds are worth nearly $1 trillion. An increasing portion of these funds are now being used for America's human and economic development. Time and again, pension funds have been instrumental in the economic development efforts of my home State of Massachusetts.

This bill would remove unnecessary and arbitrary Government redtape and restrictions on long-term pension fund investments. The benefits resulting from these changes would be significant: Solvent and secure retirement funds for millions of beneficiaries, relief for home buyers and the housing industry, and renewed economic development efforts in hundreds of communities across the Nation. I urge each of my colleagues to join in supporting this important legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PENSION FUNDS ATTRACTING INTEREST AS SOURCE FOR UNCONVENTIONAL INVESTMENTS

(By Richard Corrigan)

Alabama's public pension system is chipping in a $75-million loan to help U.S. Steel Corp. build a half-billion-dollar pipe mill near Birmingham. This transaction, part of a package loan deal, illustrates how pension fund assets can be targeted to a fund's own backyard instead of being tossed into nationwide or worldwide capital markets.

Whether this investment proves to be worthwhile remains to be seen. But it demonstrates mounting interest in the potential use of pension fund assets, both public and private, for investments outside the conventional basket of major company stocks and bonds and government securities.

Using a fund's assets in hopes of spurring home-state or hometown economic development is one approach, with real estate mortgages being the most popular vehicle. Another approach is to channel some funds into different investment vehicles, from venture-capital firms to small high-technology companies to futures contracts, to diversify and expand fund assets. Still another approach is to steer funds away from investments that fund trustees deem improper: for example, companies operating in South Africa, or companies with allegedly anti-union employment policies.

Some of these alternative approaches are described as "social investing," while others are simply attempts at smart investing. Any marked changes in pension investment patterns might, in any case, have widespread economic effects because of the size of the nation's pension pools. Even a small percentage shift in fund assets can move billions of dollars from one sector to another.

With almost $1 trillion in assets, the nation's pension fund managers collectively can afford to invest in almost anything that catches their eye. Whether they are flirting with the idea of trying the new approaches or are submerged in conventional stock and

bond portfolios is a question popping up in analyses of pension fund management.

The deployment of pension fund investments also figures in Capitol Hill discussions of national industrial policy. As House Democrats look for sources of capital to shore up old industries or to launch new ones, pension funds, not surprisingly, are quickly drawing their attention.

"People are saying, 'Hey, look at all that money,' "said Richard Prosten, research director of the AFL-CIO's industrial union department. "Everybody who comes along with a good idea, when somebody says, 'How are you going to pay for it?' the answer is, 'Pension funds.' This is something that is played out someplace every day."

IN-STATE INVESTMENTS

The Alabama steel deal is described as a sound business investment, not a "social investment." by the state fund, which claims total assets of $3.5 billion. "We aggressively seek in-state investments at rates comparable to what we would get outside Alabama," said Gary Partridge, director of equities at Retirement Systems of Alabama.

Partridge objected to calling this a "social investment" policy, saying: "It's a term I don't like to use because it suggests a lower yield than you could get elsewhere—which is not the case with this deal." The U.S. Steel loan will yield annual interest of 12.25 per cent, Partridge said.

In Michigan, meanwhile, a business-labor coalition called Economic Alliance for Michigan is suggesting the formation of a state-chartered corporation to channel state pension fund assets, both public and private, into in-state investments. Eugene Tolot of the Michigan Building and Construction Trades Council said state pension assets total $30 billion to $40 billion.

"If we get a piece of that, we'll be able to help out Michigan quite a bit." Tolot said. He said the Michigan Reinvestment Fund would operate under standard investment criteria and that placement of pension assets with the fund would be strictly voluntary. The alliance hopes for speedy approval of the venture by the Legislature, he said.

The use of state and local government pension funds in in-state investments is likely to increase, according to Pensions and the Economy. Since 1980, the study said, at least 14 states have announced plans to step up local investments by their pension plans. "Most of this investment will be concentrated in local mortgage markets," it said.

TRACK RECORDS

Both public and private funds have strong incentives to seek high yearly returns because the more money the funds make, the less their sponsors must contribute.

Most pension plans are structured as defined-benefit rather than defined-contribution plans, meaning that the funds need enough money to pay specified benefits to retired workers and their beneficiaries. If the funds perform well on their investments, the sponsors can realize substantial savings by trimming back their annual contributions.

Investments by most private pension plans are covered by the 1974 Employee Retirement Income Security Act (ERISA). The law, which is administered by the Labor Department, sets a general standard of "prudent" investing and does not allow various transactions involving self-dealing and conflicts of interest.

Public pensions are not covered by the law, but state and local governments generally set their own investment regulations, which traditionally have been highly conservative. The Government Finance Research Center, which is an arm of the Municipal Finance Officers Association, found, for example, that 11 state or local systems were forbidden to buy common stocks; other systems could only buy stocks and bonds that met right criteria.

Pension funds registered good investment gains in 1982 as a result of the midyear surge in bond and stock prices. Public funds outperformed private funds, with both posting returns well over 20 per cent, according to a survey by A. G. Becker Inc. quoted in The Wall Street Journal.

But 1982 was a very good year. From 1978-82, the Becker firm said, public funds showed median returns of only 9.2 per cent, nearly 3 percentage points below the private funds' five-year record of 12.1.

Alicia H. Munnell, vice president of the Federal Reserve Bank of Boston, studied the investment performance of pension funds and found that their track record was "very poor." Pension funds over the past two decades consistently fell below the gains registered by stock market indexes and by mutual funds, she wrote in the bank's New England Economic Review. She assigned much of the blame to professional investment managers who sought quick profits and placed too much money in stocks and not enough in real estate.

Pension benefits to union members, the focus of her report, lost ground to inflation, Munnell wrote, and she suggested that unions, in contract negotiations, should insist on "performance indexes" to help assure that future benefits cover cost-of-living increases.

Another critic of pension funds' performance is Ronald E. Muller professor of economics at the American University and author of Revitalizing America: Politics for Prosperity (Simon and Schuster, 1981).

He said he reviewed the investment performance of the top 14 union pension funds and found their over-all record "remarkably low." from 1978-80, he said, only one fund posted a nominal average yearly gain above 10 percent.

Muller said he was commissioned by a big union pension fund to find out whether the use of pension fund assets for below-market mortgage loans could be justified under ERISA's "prudent man" standard.

He said this use of pension assets could indeed be justified. The mortgage loans, to be used to finance construction of low and middle-income homes, would cause a net increase in construction jobs and thus add to the union's membership base, he said. That increase in membership rolls would in turn cause a greater flow of contributions into the fund, he said. Therefore, the fund itself would be in better shape, and its trustees would be meeting their legal obligation to assure the strength of the fund. The trustees of this union's fund are reviewing the report, he said.

OPTIONS

The Government Finance Research Center recently surveyed state and local government pension systems on their investment policies. The survey found that 24 percent of the respondents earmarked some of their funds for special investments. The most popular choices were various mortgage instruments, small businesses and international investments.

However, the survey said, "the vast majority of fund managers showed a strong preference for maximizing return while minimizing the risks." It found that only 2 percent of the total assets covered by the survey was placed in "alternative investments." Nevertheless, that 2 percent equaled $3.5 billion, most of which was invested in mortgage securities. The survey gave this 1982 breakdown of total investments:

	Percent
Corporate bonds	30.7
Stocks	23.5
U.S. securities	23.1
Cash, deposits	8.9
Mortgage loans	8.9
Municipal bonds	0.8
Other	4.1
Total	100.0

Money managers who handle private pension accounts say that the pension law, ERISA, hampers their ability to achieve better results.

"The money-management community has for years been trying to get ERISA amended" to remove the law's "laundry list" of prohibited transactions, said George W. Cowles, senior vice president of Bankers Trust Co. Under current restrictions, he said, some investments cannot be undertaken because of financial linkages among fund managers, even if these investments are negotiated on an arm's-length basis.

The Labor Department, in what it called its most ambitious deregulatory effort in the pension field, has proposed a class exemption covering professional fund managers to give them greater flexibility. Action on this exemption has been delayed, however, by the recent departure of Jeffrey N. Clayton, the department's chief pension fund officer. As things stand now, managers must seek individual exemptions for deals that may bump into legal restrictions. "By the time you chase something down, the investment opportunity is gone," Cowles said.

While seeking greater flexibility, Cowles said, money managers are worried by the prospect of federal or state legislation requiring pension fund assets to be allocated to specific sectors.

"We don't want mandates coming out of Congress or anyplace else," he said. These result in "slide-rule investments," he said, which would skew efforts to achieve maximum benefits for pension plan participants.

Cowles also said that investment restructions, such as a prohibition against investments in companies with operations in South Africa, would be "very difficult" to cope with. Most companies in the Fortune 500 have dealings in South Africa, he said.

"A corporate sponsor can create whatever investment guidelines he wants to create," Cowles said. "The institution seeks its own comfort level."

"As money managers, we offer a whole list of tools," said Frank J. Rudavsky Jr., vice president of the pensions department at Metropolitan Life Insurance Co. He said there is increasing interest among pension plan sponsors in "social investments" and investments within a plan's home territory. There is "a fine line" in trying to balance risks and returns, he said, and most managers seek to put 75 to 80 per cent of fund assets in "solid core investments" such as blue-chip stocks and bonds.

Private funds have been placing some assets in new vehicles such as stock market futures contracts as a way of spreading their investments. Henry Nothnagel, vice president of index and options markets at the Chicago Mercantile Exchange, said big institutional investors, including pension

fund managers, are investing in stock index futures as a way of hedging their stock holdings against a drop in market prices.

A trend toward worldwide investments of pension assets has been outlined by Christopher A. Nowakowski, president of InterSec Research Corp. In a recent paper, he estimated worldwide private pension assets at nearly $1.2 trillion at the end of 1982, with U.S. assets pegged at $700 billion. About $7 billion, or 1 per cent of total U.S. assets, was invested outside the United States.

That was more than double the 1980 figure, he said, and the pace is accelerating. The average pension funds investing overseas, he said, already puts 5 per cent of its portfolio in the global sector and is moving toward 10 per cent.

"Our cousins in corporations and our brothers in banking have been diversifying their asset and earning streams for decades," he said. "The pension business is simply catching up.

"There's a global shift in retiree responsibility from public systems to private plans," he added. "Bankrupt social welfare systems are not, by any means, a purely American phenomenon. The man in the street simply doesn't believe that political and financial wherewithal will grow as rapidly as retirees' rising expectations."

CONGRESSIONAL INTEREST

Pension funds have long-term investment horizons and relatively little need for short-term cash. Lawrence Litvak, pension specialist at the United States Trust Co. of Boston, said these and other attributes make the funds good potential sources of long-range, growth-oriented capital, in September testimony to the House Banking, Finance and Urban Affairs Subcommittee on Economic Stabilization.

But, Litvak said, pension funds have been "passive" investors, lacking the expertise to get into many sectors and hampered by erratic and overly conservative rules. Only a minority of pension funds invest significantly in venture capital, private placements or the common stock of small firms, he said, with public pension funds, representing a third of the pool, being "particularly unaggressive."

"Public-sector sponsors and members have only slowly realized that the higher earnings achieved through more aggressive investment policies could keep down costs and preserve benefits," Litvak said.

The average big corporation has a pension fund portfolio worth $250 million, and the average state or local government fund is worth more than $500 million, he said. Yet, "capital is less available than it should be," he said, for "out-of-fashion" and "under-researched" companies. He said three recent studies showed that the stocks of smaller companies offer an average rate of return far above the premium needed to offset their higher risk.

Litvak suggested that the federal government encourage the formation of new investment vehicles to attract pension capital. One example, he said, would be a pool of industrial mortgages similar to real estate mortgage pools. The banking subcommittee, which has been holding hearings on industrial policy options, is looking into this idea.

Litvak also suggested the enactment of federal legislation to make state and local government pension funds subject only to the same "prudent man" standard covering private plans. This legislation would supersede state laws restricting fund investments, a move that seems too controversial to make headway on Capitol Hill.

Efforts were launched in Congress last year to draw more pension fund assets into real estate mortgages as a way of reviving the housing industry. Rep. Ron Wyden, D-Ore., has reintroduced legislation this year to accomplish the same objective, but the recent improvement in building activity seems to have taken the steam out of this effort.

Wyden said his bill would simply put real estate investments under the same investment standard as stocks and bonds. "There is no reason why an investment in housing should have to go through extra hoops and hurdles," he said, before funds can invest in this market.

The Labor Department contends, however, that pension funds are free to put money into housing as long as the investment is as good as other possibilities. "The department has noted on numerous occasions that no provision of ERISA or of the regulations thereunder prevents a plan from investing in housing," a Labor official told Sen. William Proxmire, D-Wis., in a letter last year.

The letter said: "All investments must be made for the purpose of providing plan benefits to the participants and beneficiaries. This objective may not be compromised by an other consideraiton, including a well-intended desire to achieve certain social goals. Thus, for example, a fiduciary's decision to make a loan may be influenced by a desire to help the local housing industry only if the loan, when judged solely on the basis of its economic value to the plan, would be equal to or superior to alternate investments available to the plan."

OUTLOOK

Defenders of the pension system stress that pension plans are meant to provide retirement income and that other considerations, no matter how laudable, should not intrude in investment decisions.

George J. Pantos, a Washington attorney who serves as counsel to ERISA's industry committee, said that suggestions for using pension funds for "reindustrialization" strategies or for "social investment" purposes are "another way of saying that there is a purpose other than the primary purpose of a pension program."

There is no need to "unlock the door" to pension assets because they already are serving the economy well, he added.

Attorney Ian Lanoff, who served as pension administrator in the Carter Administration and now represents the National Venture Capital Association, likewise warned against earmarking penison funds for specific goals. "Don't let the workers pay for some person's idea of what is a good investment," he said, arguing that there is plenty of capital available already for venture capital firms. There is "more money chasing deals than there are deals chasing money."

"The world is afloat in liquid assets that aren't going into new investments," Ronald Müller said, expressing the contrary view.

"We don't use the term 'social investment' here," said Prosten of the AFL-CIO. "I don't know what it is." But unions have legitimate concerns, beyond the usual economic criteria, about how and where their members' pensions assets are invested, he said. As examples, he cited a company's labor relations record, its dealings in South Africa and its presence within the members' home area.

Changes in investment patterns are likely to occur gradually rather than through a big policy thrust from Washington, Prosten speculated. "As a practical matter, it will occur plan-by-plan before it occurs nationally," he said.

Ed Davey, executive director of the Association of Private Pension and Welfare Plans Inc., linked discussions about pension assets to uncertainty over social security and the future shape of the economy. "All of a sudden you have a whole examination of the private pension benefit system in this country," he said.

"The problem is that we really haven't formulated a national retirement policy."

If there is a point that everyone seems agreed on, it is that the pool of pension funds will continue to attract attention for a multitude of causes. It is, as Pantos put it, "a very tempting pool of assets."

PENSION FUND ASSETS CONTINUING TO SWELL

From 1976–80, total pension plan assets nearly doubled, then rose to almost $750 billion in 1981 and passed the $900-billion mark in 1982. Private funds amount to well over half the total pool, as the following table, based on data published in the *New England Economic Review*, shows (end of 1982, in billions):

Public plans:	
Federal	$98
State and local	257
Total public	355
Private plans:	
Collective-bargain plans:	
Single employer	239
Multiemployer	70
Total	309
Noncollective bargain	260
Total private	569
Total, public and private	924

Pension funds make up more than 12 percent of the total funds that are available to financial markets, according to the study, Pensions and the Economy, by Sophie M. Korczyk (published by the Employee Benefit Research Institute, 1982). In 1980, the study said, pension funds held almost a fourth of all corporate bonds and more than 12 percent of corporate stocks.

Some companies, squeezed by the recession, have cut back their pension contributions while others have contributed stock instead of cash to fulfill their obligations. Cutbacks in state and local pension programs likewise have occurred as a result of budgetary pressure. And in some cases, companies have moved to terminate their obligations by spinning off subsidiaries with heavy pension liabilities. (See NJ, 9/3/83, p. 1776.)

Despite these troubles, however, total pension fund assets continue to swell. Net contributions to the nation's pensions funds, after benefit payments are deducted and before investment earnings are counted, amount to about $24 billion a year, according to a survey cited by The New York Times.

The nation's 100 biggest corporations contributed more than $18 billion to their pension funds last year, Business Week reported, and their year-end pension assets totaled nearly $185 billion. The composite rate of return on investments for the 100 funds was assumed to be 8.1. percent, for calculations of future liabilities, up slightly from an assumed return of 7.9 percent in 1981.●

By Mr. HART:

S. 2097. A bill to amend the Internal Revenue Code of 1954 to reduce the deduction for business meals and to earmark the savings from such reduction for the school lunch program; to the Committee on Finance.

REDUCTION IN BUSINESS MEAL DEDUCTION

● Mr. HART. Mr. President, one need not look far in our society to find examples of inequity and unfairness. But few examples are more palpable than the allocation of federally subsidized meals. Over the past 2 years, while we have cut over $1 billion from the national school lunch program, we continue to subsidize business meals at a cost of several hundred million dollars a year. This perverse policy is not only wasteful, it is also unjust. In depriving millions of schoolchildren of basic needs such as nutrition, we are harming our young people, our greatest national resource.

Today, I am reintroducing legislation to remedy this inequity by amending the Tax Code to reduce the deduction for business meals and entertainment expenses by 30 percent, with the savings, as estimated by the Secretary of the Treasury, earmarked for the national school lunch program. Passage of this bill, which will leave no impact on the Federal budget, will significantly bring school lunch funding in line with that which existed prior to the fiscal year 1981 Federal budget. This bill is similar to legislation I introduced in the 97th Congress.

This measure would not eliminate or abolish the business meals deduction. It merely reduces from 100 percent to 70 percent the allowable deduction for business meals and entertainment expenses, to provide for greater Federal support of school nutrition.

The national school lunch program was created "to safeguard the health and well-being of the Nation's children." The program provides pre-, elementary, and secondary schools with cash and commodities, so that schoolchildren can receive nutritious lunches. Over 80 percent of the program's expenditures go to support free and reduced-price meals for low-income children. Currently, the national school lunch program assists 23 million schoolchildren in over 91,000 schools—nearly half of whom are from poor families.

Since its inauguration, the Reagan administration has taken it upon itself to cripple the program. In fiscal year 1982, the administration cut funding for all child nutrition programs by $1.5 billion—that figure represented more than a third of all child nutrition funding. Most prominent among these cuts was a $1 billion cut in the national school lunch program, a decrease in funding of 35 percent. Cutbacks were achieved through reducing benefits for moderate-income students, lowering income eligibility guidelines for free and reduced-price meal participants, and raising the cost of reduced price meals to the individual student from 20 cents to 40 cents.

In its fiscal year 1983 budget, the administration proposed over $400 million in school lunch cuts. Fortunately, the Congress rebuffed the administration's proposals. Through the budget process of that year, all child nutrition programs received funding to meet current expenditures, including increases for inflation. The Congress also rejected the administration's proposed fiscal year 1984 cuts in these programs. As a member of the Senate Budget Committee, I am pleased that, on a bipartisan basis, the Senate had the good sense to preserve the national school lunch program against further encroachment.

The fiscal year 1983 cuts have severely reduced the possibilities of many of our Nation's schoolchildren to receive at least one nutritious meal per day. Since 1981, over 3 million children have left the school lunch program. Average monthly participation had declined from 26 million in 1980–81, to 23 million in 1981–82. The decline is due in large part to a decrease in free and reduced-price meals, of benefit mainly to poor children. Over 1 million fewer poor children are now receiving free and reduced-price lunches as compared to when the Reagan administration took office.

The decline in student participation has been accompanied by a fall-off in school participation, as reduced student volume raises unit costs for the whole program at each school, forcing some school districts to drop out of the program entirely. Over 2,700 schools dropped out of the program between March 1981 and March 1982. Moreover, the number of States that supplemented Federal school lunch reimbursements dropped from 17 in 1980–81 to 13 in 1981–82. At the same time, over 500,000 children and 1,100 schools have left the school breakfast program.

For its fiscal year 1984 budget, the Reagan administration proposed more of the same. Unwilling to comb intelligently the entire mix of Federal taxing and spending policies for ways to curb the deficit, it focused its ax on child nutrition programs, seemingly unaware that future cuts in this area will have little effect on the deficit but a great effect on the health and welfare of many of our Nation's poorest schoolchildren. Among the cuts the administration proposed, cuts rejected by the Congress, were:

The administration would have abolished separate funding for the child care food program, the student breakfast program, and the summer food program. Funding for these programs would be "returned to the States" in the form of a general nutrition assistance grant. Although it would have cost $820 million to provide the same level of funding for these programs as individual entities, the administration would have provided funding of only $535 million—a cut of almost 30 percent. As a result, 1 million children would be forced out of these programs. Nor do the States have the money necessary to make up the shortfall.

The administration proposed a 6-month freeze in updating the reimbursement rates for the school lunch and special milk programs. Schools used to receiving reimbursements on July 1 would have had to wait until January 1. This change would mostly affect students from low-income inner schools. Federal reimbursement rates are greatest for free lunches. Freezing the reimbursement rate would have cost each inner city school approximately 6 cents per free meal. The higher the proportion of poor students, the more funding a school would lose from a delay in updating the reimbursement rates.

The administration would have required families to apply at the welfare office to receive school lunch benefits. Such a change would create administrative confusion in thousands of already backed-up welfare offices; in addition, the stigma associated with welfare would force many families to leave the program.

The administration would have required low-income families and schools to pay for any increase in the annual rate of inflation for reduced price meals. The charge would have been increased to 45 cents and subsequently to 50 cents. Current law sets a maximum charge of 40 cents per meal. Three million children have already dropped out of the national school lunch program as the price of meals has risen. Needy children simply can not afford to pay more.

Even though this latest round of proposals has fared little better in Congress than last year's cuts, we still have work to do in restoring the school lunch program to its pre-cutback levels.

The benefits of the school lunch program to the health and welfare of our Nation's young people are well-documented. In cutting funds for these programs, we are restricting opportunities for all of us who might benefit from the contributions made by well-nourished, healthy people to our society. As the nutritionist Dr. Jean Mayer put it: "Of all the dumb ways of saving money, not feeding kids is the dumbest."

Numerous studies have shown that the national school lunch program provides emotional as well as nutritional benefits for schoolchildren, and that it enhances the ability of children to perform well in school. A study by the Food Research and Action Center found that students who eat school

lunches are much more likely to consume milk, a fruit, and a vegetable than students who attended schools that dropped the national school lunch program. Students participating in the national school lunch program had more of their nutritional needs fulfilled than those students who did not participate. A study by Dr. Barry Popkin, of the University of North Carolina, found that children of all ages benefit nutritionally from the school lunch and breakfast programs, particularly in the consumption of those foods traditionally slighted by young people.

Finally, the Agriculture Department's recently released "National Evaluation of School Nutrition Programs" demonstrates that children of all ages and incomes benefit nutritionally from the school breakfast and lunch programs. Clearly, the national school lunch program fulfills a most fundamental need for many of our Nation's schoolchildren. A hungry child, a malnourished child, is hardly able to think, to create, to concentrate on the lessons in the classroom.

Cuts in the national school lunch program were made in the name of fiscal austerity. Yet, while our poorest children are forced to tighten their belts—or give them up altogether—American business men and women continue to have the costs of luxury meals subsidized by the U.S. Treasury. Under existing law, business meals and entertainment expenses are fully deductible as ordinary and necessary operating expenses.

The arguments against this subsidy are well known. The Senate has heard them many times before. It is expensive. The Joint Committee on Taxation estimates that the Treasury will forgo in lost revenue, $1.7 billion in fiscal year 1984; and $1.8 billion in fiscal year 1985 from tax deduction for business meals other than those associated with travel. It is inefficient, inflationary, and wasteful. The deduction helps drive up the cost of meals, and is given for meals that people would eat anyway. Finally, it is unfair. Selected members of the business community are allowed to enjoy themselves at public expense.

Such unfairness might be overlooked in times of prosperity. But at a time when infant mortality is on the rise, when soup kitchens are reopening across the land, when families are forced to choose between food and clothes and rent—such unfairness is unconscionable.

If this deduction were reduced—if 30 percent of the deduction were disallowed, as this bill would require—the Treasury would collect in increased revenue $1 billion in the current fiscal year and $1.1 billion in fiscal year 1985. If this increased revenue were earmarked for the national school lunch program, we would make great strides toward restoring the program to precutback levels.

What would this increased money provide? We could, first of all, restore the reduced price meal reimbursement to 20 cents. We could also restore the free and reduced price eligibility levels that existed in 1981 for the school lunch program.

The free meal eligibility criteria is currently tied to food stamp eligibility; 130 percent of the poverty level or $12,090 for a family of four. The reduced price eligibility is currently 185 percent of the poverty level, or $17,210 for a family of four. Funding for the national school lunch program should be increased sufficiently to set the free meal eligibility at 125 percent of the poverty level plus $85 for an indexed monthly standard deduction. The reduced price eligibility level should be set at 195 percent of the poverty level plus $85 for an indexed monthly standard deduction. These changes would provide assistance for the 3 million children no longer participating in the national school lunch program.

Mr. President, this bill stands for a simple reassessment of national priorities. It says, in effect, that nutritionally balanced meals for our poorest children in our Nation's schools should take precedence over expense account meals in private clubs and fancy restaurants. It says that, at a time when all claims upon the public purse cannot be realized, equity and fairness must win out. My former colleague, Philip Hart, the Senator from Michigan, well stated the best reasons for supporting child nutrition programs:

> A child whose brain is damaged or whose growth is stunted because of a poor diet faces a life of dependency and poverty. if the moral considerations of taking every possible step to prevent such damages are not compelling enough, then cost cutters should at least consider the cost to future generations of lost earning capacities and perhaps, public assistance.

In supporting this bill, the Congress will be acting to protect future generations. Ours is not a secure society when millions of children—future contributors to national excellence in the arts and the sciences, business, politics, and the classroom—go to bed hungry. This bill outlines a different future for our Nation and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that a full copy of this bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN BUSINESS MEAL DEDUCTION.

(a) IN GENERAL.—Paragraph (1) of section 274(e) (relating to business meals) is amended by striking out "Expenses" and inserting in lieu thereof "70 percent of the expenses".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 2. NATIONAL SCHOOL LUNCH TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the National School Lunch Trust Fund (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as are transferred to the Trust fund under subsection (b)(1) and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2).

(b) TRANSFERS TO TRUST FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the revenues from the business meal deduction reduction.

(2) REVENUES FROM THE BUSINESS MEAL DEDUCTION REDUCTION.—The term "revenues from the business meal deduction reduction" means, for any fiscal year, the amount which the Secretary estimates to be the excess of—

(A) the gross revenues received in the Treasury of the United States for such fiscal year, over

(B) the gross revenues which would have been received for such fiscal year if the amendment made by section 1(a) had not been enacted into law.

(3) METHOD OF TRANSFER.—The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund and (after consultation with the Secretary of Agriculture) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operation during the next fiscal year Such report shall be printed as both House and Senate document of the session of the Congress to which the report is made.

(2) INVESTMENTS.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt;

except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the mutiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(B) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) INTEREST.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) USE OF FUNDS.—For each of the fiscal years beginning after September 30, 1984 there is appropriated, out of any amounts in the Trust Fund, such sums as may be necessary to carry out the programs established under the National School Lunch Act and the Child Nutrition Act of 1966.●

By Mr. NICKLES:

S. 2098. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Seward project, Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

SEWARD PROJECT, OKLAHOMA

● Mr. NICKLES. Mr. President, in December 1974, the U.S. Department of the Interior's Bureau of Reclamation completed and published an appraisal level report on the proposed Seward project on Cottonwood Creek just north of Edmond and to the west of Guthrie, Okla. As my colleagues who are familiar with the reclamation program will recall, an appraisal level report is made on a proposed project in order to advise the Congress if legislation authorizing a detailed feasibility investigation is justified.

Based upon the 1974 report, a feasibility level study of the Seward project was authorized by the Congress in Public Law 94-156 which was signed into law on December 16, 1975.

It is my understanding that the feasibility report is nearing completion at the regional level and the preliminary results are very encouraging.

Mr. President, based upon the studies conducted by the Bureau of Reclamation, I am today introducing legislation to authorize the Secretary of the Interior to construct, operate, and maintain the Seward project in Oklahoma. The project would consist of a dam and reservoir on Cottonwood Creek, a tributary of the Cimarron River in Logan County, Okla. approximately 20 miles north of Oklahoma City. Major project features would include the dam and reservoir, pipelines, pumping plants, water treatment works, and outdoor recreation facilities. The project would provide a dependable municipal and industrial water supply to meet the projected needs of central Oklahoma, much needed flood control, as evidenced by the recent flooding of the downstream town of Guthrie, and recreational opportunities for the citizens of the Oklahoma City metropolitan area.

This project has received the endorsement of the Oklahoma Water Resources Board and is included in the Oklahoma comprehensive water plan of 1980, as a key feature for meeting the future demands for municipal and industrial water supplies in central Oklahoma. In addition to the support of the board, the Bureau has received resolutions from the cities of Guthrie, Edmond, and Oklahoma City in support of the project.

As my colleagues will note, the bill authorizes the Secretary of the Interior to enter into an agreement with a non-Federal entity for a contribution toward implementation of the act. This is in keeping with the policy of the Energy and Natural Resources Committee of establishing cost sharing requirements on a project-by-project basis. The Oklahoma Water Resources Board has already pledged to provide a contribution and I intend to define the extent of non-Federal participation during the hearing process. I would remind my colleagues that under current law, all construction costs for municipal and industrial water supplies are reimbursable to the Treasury with interest.

Mr. President, as chairman of the Subcommittee on Water and Power of the Committee on Energy and Natural Resources it is my hope to schedule a field hearing to take testimony on the proposed Seward project in the near future.●

By Mr. JEPSEN:

S. 2099. A bill to delay for 2 years the mandatory coverage of employees of religious organizations under social security; to the Committee on Finance.

SOCIAL SECURITY TAXATION

● Mr. JEPSEN. Mr. President, for the first time in America's history, churches and other religious organizations will be taxed by the Federal Government. It is altogether appropriate and indeed imperative for Congress to examine this breach in the wall of separation between church and State.

From the creation of the social security system in 1935 until March of this year, employees of nonprofit groups operating exclusively for religious, charitable, or other public goals (defined by section 501(C)(3) of the Internal Revenue Code) were exempt from social security taxation. A 1946 report to the Committee on Ways and Means states section 501(C)(3) groups were exempted because representatives of religious, educational, and philanthropic institutions:

> Feared endangering their freedom from taxation and the separation of church and State; they feared extension of government influence on religious and educational policies and contended that anything paid by nonprofit organizations for social benefit purposes would decrease dollar for dollar what they could use for the public services for which they were organized.

The social security amendments of 1983 (Pub. L. 98-21) reverses this historic position by removing the exemption for employees of tax-exempt nonprofit organizations. Currently, 80 to 90 percent of employees of these nonprofit groups pay social security taxes voluntarily under provisions first passed in 1948. I feel strongly that this option is appropriate. It is the mandatory position that needs examination.

Today, I am introducing legislation that would provide a 2-year delay of the effective date for the mandatory taxation under the social security amendments of religious organizations and affiliated schools. It would not affect other section 501(C)(3) groups. I have reviewed the testimony of this new mandatory tax on churches and have found that, as was done in 1946 and successive years, the nonprofit groups banned together to argue that they should not be taxed mandatorily. The issue of whether or not religious activity has a special constitutional protection was not properly addressed. This is due not to oversight by the Subcommittee on Social Security chaired by my distinguished and effective colleague Senator ARMSTRONG, but rather due to historical precedence: The three categories of nonprofit groups have always been examined as a whole. Under these circumstances, the special protection given to religious activity under the first amendment has not been adequately examined.

Thus, I strongly recommend that Senators join me in this short delay in order to thoroughly examine this constitutional question.

I ask unanimous consent that a memorandum prepared by Bruce R. Hopkins at the request of the nonprofit mailers' federation be printed in the RECORD. His memorandum regards the application of the social security amendments of 1983 to religious organization mailers. (His arguments apply to all religious organizations classified as section 501(c)(3) groups.)

This legislation is important not only to church employees who will be directly affected, but also to each and every one of us that believes in the first amendment protection afforded to our Nation's churches for over 200 years. This issue deserves careful consideration by Congress. I venture to say that the large majority of my colleagues would agree that such an issue

should be addressed specifically and fully.

I encourage my colleagues to join me as cosponsors of this simple delay in order to address this important constitutional question.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Nonprofit Mailers' Federation.
From Bruce R. Hopkins, P.C.
Regarding: Application of Social Security Act Amendments of 1983 to Religious Organization Mailers.

INTRODUCTION

By enactment of the Social Security Act Amendments of 1983 (P.L. 98-21), Congress has removed the exemption for employees of certain nonprofit organizations from coverage under the Social Security program. This action, which is the subject of Section 102 of the Amendments, becomes effective on January 1, 1984.

Under current law, the exemption is available where the employer is a religious, charitable, educational or other type of tax-exempt organization described in IRC section 501(c)(3).

ISSUE

This extension of Social Security coverage to all employees of all IRC section 501(c)(3) employers raises the question as to the constitutionality of this law as it applies to employers that are described in IRC section 501(c)(3) because they are "religious."

CONCLUSION

It is the opinion of this firm that it is contrary to the First Amendment of the U.S. Constitution to have religious organizations taxed under the Social Security program.

LAW

The First Amendment of the U.S. Constitution states that, inter alia, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

Exemption of religious organizations from forms of governmental regulations has long been viewed as the way in which to avoid unconstitutional entanglements between the "church" and the "state."

As is discussed infra, this has been particularly the case with respect to religious organizations, which are exempted from, for example, taxation and fund raising regulation.

Indeed, in the Social Security context, the present law with respect to religious organizations was deliberately structured to avoid constitutional law difficulties. For example, in the report on the Amendments prepared by the House Committee on Ways and Means (H. Rep. No. 92-25, Part 1), it was said that "[t]o avoid these constitutional issues, and the issues with religious groups that would have been raised by mandatory coverage, Congress covered these groups on an optional basis" (at 16). These issues were there described as including the "separation of church and State" (ibid). In fact, the development of the optional system was described as occurring because "religious and philanthropic groups opposed mandatory coverage originally because of fears of Federal influence over religious activities" (id.).

An analogy may be made to the Federal tax law pertaining to nonprofit organizations, where the law on this point is more developed.

The entanglement question has been faced in the tax context. Some have contended that to tax a religious organization would be an unconstitutional act; others have contended that to exempt a religious organization from tax would be an unconstitutional act.

The U.S. Supreme Court faced this issue in 1979, deciding that constitutional law principles dictate that religious organizations must be exempted from taxation. In *Walz* v. *Tax Commission*, 397 U.S. 664 (1979), the Court conceded that "[e]ither course, taxation of churches or exemption, occasions some degree of involvement with religion" (at 674). "The test," concluded the Court, "is inescapably one of degree"(ibid). The Court thus held:

Elimination of [tax] exemption would tend to expand the involvement of government by giving rise to tax valuation of church property, tax liens, tax foreclosures, and the direct confrontations and conflicts that follow in the train of those legal processes.

Granting tax exemptions to churches necessarily operates to afford an indirect economic benefit and also gives rise to some, but yet a lesser, involvement than taxing them. In analyzing either alternative the questions are whether the involvement is excessive, and whether it is a continuing one calling for official and continuing surveillance leading to an impermissible degree of entanglement. (674-675)

The grant of a tax exemption is not sponsorship since the government does not transfer part of its revenue to churches but simply abstains from demanding that the church support the state. No one has ever suggested that tax exemption has converted libraries, art galleries, or hospital into arms of the state or put employees "on the public payroll." There is no genuine nexus between tax exemption and establishment of religion. (675)

Consequently, the Court concluded that tax exemption for churches is "benevolent neutrality" on the part of government (at 676). The Court added:

The exemption creates only a minimal and remote involvement between church and state and far less than taxation of churches. It restricts the fiscal relationship between church and state, and tends to complement and reinforce the desired separation insulating each from the other. (ibid)

The underlying rationale for the holding in *Walz* is that tax exemption is not a form of government sponsorship or subsidy, the administration of which would lead to "an impermissible degree of entanglement" (at 675). Thus the Court wrote that the "grant of a tax exemption is not sponsorship [of religion] since the government does not transfer part of its revenue to churches but simply abstains from demanding that the church support the state" (ibid). Contrasting tax exemption with a "direct money subsidy," the Court concluded that "[t]here is no genuine nexus between tax exemption and establishment of religion" (ID.).

The Court went on to note that "[o]bviously a direct money subsidy would be a relationship pregnant with involvement and . . . could encompass sustained and detailed administrative relationships for enforcement of statutory or administrative standards . . ." (id.).

Earlier this year, in *Regan* v. *Taxation With Representation of Washington*, — U.S. — (1983) (No. 81-2338), a unanimous Supreme Court stated that:

Both tax exemptions and tax-deductibility are a form of subsidy that is administered through the tax system. A tax exemption has much the same effect as a cash grant to the organization of the amount of tax it would have to pay on its income. Deductible contributions are similar to cash grants of the amount of a portion of the individual's contributions. The system Congress has enacted provides this kind of subsidy to non profit civic welfare organizations generally, and an additional subsidy to those charitable organizations that do not engage in substantial lobbying. In short, Congress chose not to subsidize lobbying as extensively as it chose to subsidize other activities that non profit organizations undertake to promote the public welfare.

These observations can be read to mean that the Court now believes that tax exemption is a form of government "subsidy," which if is the case would upset the rationale articulated in *Walz*.

In *Bob Jones University* v. *United States*, —— U.S. —— (1983) (No. 81-3), the Supreme Court held that, to be tax-exempt under IRC section 501(c)(3) (which includes religious organizations), an organization "must serve a public purpose and not be contrary to established public policy" and that the "institution's purpose must not be so at odds with the common community conscience as to undermine any public benefit that might otherwise be conferred."

ISSUES

To bring this back to the Social Security context, the issue is thus posed—

1. Assuming that (a) both exemption from the Social Security program and mandatory participation in the program, as respects religious organizations, involves some form of governmental involvement with religion, and (b) the test is one of degree,

2. Then, which occasions the greater degree of entanglement:

a. Exemption of religious organizations from the program, or

b. Coverage of employees of religious organizations in the program in the same manner as is done with the employees of other tax-exempt (IRC section 510(c)(3)) organizations?

3. There is another aspect of this issue, reflecting the fact that participating in the Social Security program embodies two aspects: (a) the withholding of the tax by the employer from the compensation of the employee and (b) payment of a like amount of tax by the employer. It may be that the employer tax is unconstitutional when applied to religious groups, while the withholding requirement imposed on religious groups as a mechanism for collecting the employee-paid tax is not.

ANALYSIS

It seems clear that the principal decision in this context is the *Walz* opinion. The *Walz* opinion was affirmatively cited earlier this year in the *Taxation With Representation* opinion, so it remains good law.

Therefore, the "degree" concept remains valid, as does the concept of tax exemption as a form of "benevolent neutrality." Consequently, taxation of religious organizations under the Social Security program causes an unacceptable degree of governmental entanglement with religion, while tax exemption does not. It is our view that the principles that originally caused Congress to exempt religious organizations from the program remain fully valid and governing today.

Thus, it is our opinion that taxation of religious organizations under the Social Security program would be contrary to the First

Amendment to the U.S. Constitution. We are not prepared, at this time, to give our opinion as to whether the requirement, as will be imposed upon religious organizations, of withholding the employees' portion of the employment tax is also unconstitutional.

The rationale underlying the *Walz* opinion is that tax exemption is not a form of government subsidy, so that tax exemption of religious institutions is not a form of governmental aid to such institutions. Subsequently, in *Taxation With Representation*, the Court held that tax exemption is a form of government subsidy, thereby raising the possibility of an argument that tax exemption is now regarded by the Court as much of a form of entanglement as its taxation. However, this argument (and concern) is averted, as the Court also held that "[i]n stating that [tax] exemptions and deductions, on one hand, are like cash subsidies, on the other, we of course do not mean to assert that they are in all respects identical," citing *Walz. Regan* v. *Taxation With Representation of Washington*, supra, at n.5.

Finally, it is also our view that the "public policy" doctrine enunciated in *Bob Jones University* is not a factor in this analysis. That is, we do not believe that *Bob Jones* is supportive of an argument that "public policy" involves rehabilitation of the Social Security system and thus that "public policy" mandates participation in the system by all nonprofit organizations, including religious organizations. The "public policy" doctrine means that an organization may not—and remain tax-exempt—do something that is contrary to established public policy (e.g., racially discriminate). Nonparticipation by religious organizations in the Social Security program for constitutional reasons is not "at odds with the common community conscience." Indeed, it is our view that nonparticipation by religious organizations in the program is mandated by the *Bob Jones University* opinion as being required by the Constitution and thus is advancement of "public policy."

BRUCE R. HOPKINS, P.C.●

By Mr. PRYOR:

S.J. Res. 198. Joint resolution designating April 27, 1984, as "National Nursing Home Residents Day"; to the Committee on the Judiciary.

NATIONAL NURSING HOME RESIDENTS DAY

● Mr. PRYOR. Mr. President, today I am introducing a joint resolution which proclaims and authorizes the President to designate Friday, April 27, 1984, as "National Nursing Home Residents Day."

Elderly Americans have made an historic and unique contribution to the growth and dynamism of this Nation. The joint resolution I am introducing will continue our past efforts to honor and recognize a vital segment of our population—the more than 1.3 million citizens who reside in nursing homes throughout the United States.

Mr. President, I call attention to the growing demographic shift within our population. Currently, America is "graying" at a dramatic rate. The 25.3 million senior citizens over 65, which make up 11.3 percent of the population, will jump to 32 million by the year 2000. This is an increase of nearly 26 percent in 20 years, making senior citizens the fastest growing segment of our population.

More importantly, this general shift in the population will be accompanied by another important shift within the over-65 population itself. The National Center for Health Statistics estimates that the nurisng home population will nearly double, becoming almost 2.5 million by the year 2000. Also, the Social Security Administration projects that the over-85 population—those most in need of health services—will grow by an incredible 60 percent. This burgeoning growth among the aged sector of our population will undoubtedly produce greater demands on our health care delivery systems.

Now, more than ever before, the Congress is focusing on the necessity of our Nation readying itself for future health care needs. Among these will be a variety of alternatives to costly and sometimes unnecessary institutionalization. But the nursing home setting will remain a very necessary and important item along the continuum of long-term health care.

The coming demographic shifts bring to the fore public policy issues of the first magnitude. We must anticipate any problems that these trends will bring, so that individuals and families of our most recent baby boom are assured of their future after age 65.

These figures also underscore the need to reassess our own personal attitudes about the elderly—especially that group of the elderly which is most easily forgotten—the institutionalized elderly. Last year, thousands of nursing home residents across the country joined in quiet celebrations on "National Nursing Home Residents Day." Whether in Minnesota or New York, these citizens were gratified to be reaffirmed as an invaluable source of wisdom and experience in our society. The simple elegance of Ms. Ethel Gross, resident of a nursing home in Seattle, Wash., speaks for itself:

> We are glad that some people still see us as people of value • • • We are not all senile, unable to think and unable to make our own decisions • • • "Residents Day" gives us a sense of pride • • •

Therefore, Mr. President, I am proud to introduce this joint resolution in the Senate. I hope my colleagues will share my concern and join me in sponsoring and enacting this joint resolution to establish April 27, 1984, as "National Nursing Home Residents Day." I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 198

Whereas over one million older Americans reside in nursing homes and one in five older Americans likely will reside in a nursing home at some time;

Whereas nursing home residents have contributed to the growth, development, and progress of this Nation and, as elders, offer a wealth of knowledge and experience;

Whereas Congress recognizes the importance of the continued participation of these institutionalized senior citizens in the life of our Nation;

Whereas in an effort to foster reintegration of these citizens into their communities, Congress encourages community recognition of an involvement in the lives of nursing home residents;

Whereas the Congress recognizes the importance of safeguarding the rights of nursing home residents; and

Whereas it is appropriate for the American people to join in support of nursing home residents to demonstrate their concern and respect for these citizens: Now therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That April 27, 1984, is designated as "National Nursing Home Residents Day", a time of renewed recognition, concern and respect for the Nation's nursing home residents. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 103

At the request of Mr. BOREN, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 103, a bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax.

S. 467

At the request of Mr. JEPSEN, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 467, a bill to establish U.S. governmental policy with regard to respect for human life.

S. 476

At the request of Mr. LEVIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 476, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 1145

At the request of Mr. DENTON, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1145, a bill to recognize the organization known as the Catholic War Veterans of the United States of America, Inc.

S. 1613

At the request of Mr. TRIBLE, the names of the Senator from New York (Mr. MOYNIHAN), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 1613, a bill to amend

title 10, United States Code, with respect to the provision of medical benefits and post and base exchange and commissary store privileges to certain former spouses of certain members or former members of the Armed Forces.

S. 1772

At the request of Mr. MATSUNAGA, the name of the Senator from Michigan (Mr. RIEGLE), was added as a cosponsor of S. 1772, a bill to amend title XVIII of the Social Security Act to provide for direct medicare reimbursement for services performed by registered nurse anesthetists.

S. 1978

At the request of Mr. DOLE, the name of the Senator from Rhode Island (Mr. PELL), was added as a cosponsor of S. 1978, a bill to amend the Internal Revenue Code of 1954 and the Employee Retirement Income Security Act of 1974 to assure equality of economic opportunities for women and men under retirement plans.

S. 2013

At the request of Mr. BUMPERS, the names of the Senator from Tennessee (Mr. SASSER), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2013, a bill to amend the level of funding authorized for the maternal and child health services block grant for the purpose of insuring no less than the current level of services for fiscal year 1984.

S. 2048

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2048, a bill to provide for the establishment of a Task Force in Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes.

SENATE JOINT RESOLUTION 132

At the request of Mr. RIEGLE, the name of the Senator from Louisiana (Mr. LONG) was added as a cosponsor of Senate Joint Resolution 132, a joint resolution to designate the week beginning August 7, 1983, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. SASSER, the names of the Senator from Ohio (Mr. GLENN), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Joint Resolution 182, a joint resolution designating the week beginning February 12, 1984, as a time to recognize those volunteers who give of their time to become Big Brothers and Big Sisters to single parent youth.

SENATE JOINT RESOLUTION 197

At the request of Mr. HATCH, the names of the Senator from Connecticut (Mr. DODD), the Senator from North Carolina (Mr. EAST), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from South Dakota (Mr. ABDNOR), the Senator from New Mexico (Mr. DOMENICI), the Senator from Connecticut (Mr. WEICKER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Arkansas (Mr. PRYOR), the Senator from Mississippi (Mr. STENNIS), the Senator from Texas (Mr. BENTSEN), the Senator from Montana (Mr. BAUCUS), the Senator from Arizona (Mr. DECONCINI), the Senator from Utah (Mr. GARN), the Senator from California (Mr. WILSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alabama (Mr. HEFLIN), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Joint Resolution 197, a joint resolution to designate the week beginning November 20, 1983, as "National Adoption Week."

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. LEVIN, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of Senate Concurrent Resolution 40, a concurrent resolution expressing the sense of the Congress that a uniform State act should be developed and adopted which provides grandparents with adequate rights to petition State courts for privileges to visit their grandchildren following the dissolution—because of divorce, separation, or death—of the marriage of such grandchildren's parents, and for other purposes.

SENATE CONCURRENT RESOLUTION 55

At the request of Mr. PERCY, the name of the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of Senate Concurrent Resolution 55, a concurrent resolution expressing the grave concern of the Congress regarding the plight of Ethiopian Jews.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution expressing the sense of the Congress regarding actions the President should take to commemorate the anniversary of the Ukrainian famine of 1932-33.

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. DOLE, the names of the Senator from Connecticut (Mr. DODD), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for the other purposes.

SENATE RESOLUTION 204

At the request of Mr. LEVIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Resolution 204, a resolution to express the sense of the Senate concerning Raoul Wallenberg.

AMENDMENT NO. 2523

At the request of Mr. BRADLEY, the names of the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of amendment No. 2523 intended to be proposed to S. 1715, an original bill to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes.

SENATE EXECUTIVE RESOLUTION 277—RELATIVE TO THE NOMINATION OF WILLIAM P. CLARK TO BE SECRETARY OF THE INTERIOR

Mr. JOHNSTON (for himself, Mr. PACKWOOD, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. CHILES, Mr. CRANSTON, Mr. DIXON, Mr. DURENBURGER, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GLENN, Mr. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MITCHELL, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. TSONGAS, Mr. ZORINSKY, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. STENNIS, Mr. SASSER, Mr. RANDOLPH, Mr. BIDEN, and Mr. INOUYE) submitted the following executive resolution; which was referred to the Committee on Energy and Natural Resources.

S. RES. 277

SEC. 1. (a) The United States Senate, having under consideration the nomination of Mr. William P. Clark of California to be Secretary of the Interior, finds and declares that—

(1) the Department of the Interior under the leadership of Secretary James Watt and his subordinates has pursued policies that have significantly altered well-established programs which had enjoyed long-standing, bipartisan congressional support and broad public acceptance; and

(2) these policies have generated unprecedented public controversy, led to an unusual volume of litigation in which courts have frequently held that the Department was not acting in accordance with the law, and have caused the Congress to constrain the

Department from pursuing many of these policies;

(b) The United States Senate further finds and declares that, as examples of these policies—

(1) wilderness study lands have been dropped from congressionally mandated study inventories without regard for congressional requests that such lands continue to be studied fairly;

(2) purchases of congressionally authorized lands for inclusion within the National Park System have been delayed or halted; and

(3) plans have been prepared for extensive sales of public lands with insufficient regard for congressionally mandated planning requirements.

SEC. 2. Now therefore be it resolved that it is the sense of the United States Senate and the advice of the Senate provided to the President pursuant to Article II, Section 2, of the Constitution of the United States, that, upon confirmation, the new Secretary of the Interior should undertake immediate actions to insure that the policies and programs of the Department of the Interior—

(1) conform with the expressed will of Congress; and

(2) regain general public support and confidence. Such actions should include—

(1) an end to efforts to lease for energy development lands under study for possible Congressional designation as wilderness or to eliminate such lands altogether from the wilderness study program;

(2) prohibition within wildlife refuges, of intensified commercial development or other actions inconsistent with the purposes for which they were established;

(3) rejection of plans for the sale and disposal of millions of acres of public lands;

(4) resumption of urgently needed purchases of lands within authorized units of the National Park System, the National Wildlife Refuge System, the National Forest System, and the National Wild and Scenic Rivers System, and of funding for state and local acquisition of park and recreational lands; and

(5) establishment of policies of leasing public mineral resources under conditions of careful environmental protection.

Mr. JOHNSTON. Mr. President, today I am introducing a resolution on behalf of myself and 40 colleagues on both sides of the aisle regarding the policies of Secreatary of the Interior James Watt and his successor William Clark.

Let me begin, Mr. President, by informing my colleagues what this resolution does not do. First, it does not raise any questions about the fitness of Judge Clark to be Secretary of the Interior. I voted to report his nomination favorably out of the Committee on Energy and Natural Resources, and I intend to vote for his confirmation when it comes before the Senate. Second, the resolution does not represent in any way a personal attack on Secretary James Watt or anyone who worked with him in the Department of the Interior. While some may have had personality conflicts with Secretary Watt. I was always able to work with him on a 1-to-1 basis and have no animosity toward him whatsoever.

What this resolution does do is give the Senate an opportunity to express its views on what direction certain policies and programs of the Department of the Interior should take in the future.

During his recent confimation hearings before the Committee on Energy and Natural Resources, Interior Secretary-designate Clark agreed to review many of the controversial programs of this administration. However, he gave very little specific indication of what his views were on the subjects involved. I am concerned that without some expression of the Senate such as this, Judge Clark's confirmation could be interpreted as a vote for continuation of all of the Department's present programs and policies. That is certainly not the impression that I want to leave with either the President or Mr. Clark, and this resolution will give us an opportunity to set the record straight.

SENATE RESOLUTION 278—RELATING TO OPPOSITION TO THE ILLEGAL ACTIONS OF THE TURKISH FEDERATION OF CYPRUS

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. RES. 278

Whereas in 1974 Turkish forces occupied a portion of Cyprus, facilitating the creation of a separate but unrecognized governmental entity in that sector of the island;

Whereas both the United States and the United Nations continue to recognize the government in Nicosia, under President Kyprianou, as the sole governing authority in a unified Cyprus;

Whereas on November 15, 1983, the so-called assembly of the Turkish Federation of Cyprus purported to declare the creation of an independent state, thereby attempting to secede from the Republic of Cyprus and to destroy its territorial integrity and unity;

Whereas such action is illegal and contrary to the policy of the United States, which continues to call for the withdrawal of Turkish forces and the establishment of a harmonious, bi-communal Republic of Cyprus;

Whereas such illegal activities, which threaten the stability of the entire Eastern Mediterranean region and the integrity of the North Atlantic Alliance, are made possible only by the presence of Turkish occupation forces on Cyprus;

Therefore, be it resolved, That the United States Government

Should act with urgency and determination to oppose this and any other action aimed at effecting a permanent bifurcation of Cyprus; and

Should call upon the Government of Turkey to take without delay all necessary steps to reverse the illegal action declaring an independent state and to promote, pursuant to pertinent U.N. resolutions, the full political and economic unity of the Republic of Cyprus.

SENATE RESOLUTION 279—RELATING TO THE ASSASSINATION OF THE U.S. NAVAL ATTACHE IN ATHENS

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. RES. 279

Whereas the United States Naval Attache serving at the U.S. Embassy in Athens and his driver were brutally assassinated on November 15, 1983; and

Whereas terrorism constitutes both a heinous crime and a threat to democratic society;

Therefore, be it resolved, That the United States Senate condemns this act of terrorism and supports all efforts by the Government of Greece necessary to apprehend and punish those responsible.

AMENDMENTS SUBMITTED

OFFICE OF FEDERAL PROCUREMENT POLICY AUTHORIZATION

COHEN AMENDMENT NO. 2610

Mr. COHEN proposed an amendment to the bill (S. 1001) to authorize appropriations for the Office of Federal Procurement Policy for an additional 5 fiscal years; as follows:

Amend amendment number 2524 (Mr. MCCLURE), as amended, by adding at the end thereof the following:

"SEC. 303. Notwithstanding any provisions of this Act, except section 302, the provisions added by this amendment shall govern, as follows:

On page 2, line 18, strike out "effective" and insert in lieu thereof "full and open".

On page 3, line 19, strike out "and".

On page 3, line 22, strike out the period, the end quotation marks, and the period after the end quotation marks, and insert in lieu thereof a semicolon and "and".

On page 3, between lines 22 and 23, insert the following:

"(13) promoting, whenever feasible, the use of specifications which describe needs in terms of functions to be performed or the performance required.".

On page 4, lines 15 and 16, strike out "how the need for such property or services is described by an executive agency" and insert in lieu thereof "the process for determining a need for property or services".

On page 4, line 25, strike out "to be issued" and insert in lieu thereof "issued and maintained".

On page 6, beginning with "appropriate" on line 2, strike out all through "of—" on line 7 and insert the following: "appropriate in carrying out the policies and functions set forth in this Act, and with due regard for applicable laws and the program activities of the executive agencies, the Administrator may prescribe government-wide procurement policies which shall be implemented in the single system of government-wide procurement regulations and shall be followed by executive agencies in the procurement of—

"(1) property other than real property in being;

"(2) services, including research and development; and

"(3) construction, alteration, repair, or maintenance or real property.

"(b) In any instance in which the Administrator determines that the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue government-wide regulations, procedures and forms in a timely manner, the Administrator may, with due regard for applicable laws and the program activities of the executive agencies and consistent with the policies and functions set forth in this Act, prescribe government-wide regulations, procedures and forms which shall be followed by executive agencies in the procurement of —".

On page 6, line 13, strike out "(b)" and insert in lieu thereof "(c)".

On page 6, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 6, beginning with "resolving" on line 23, strike all through "among" on line 24, and insert in lieu thereof "ensuring action by".

On page 7, line 2, insert "resolving differences among the executive agencies" after "and".

On page 7, line 3, insert "regulations," after "procurement".

On page 8, line 14, strike out "(d)" and insert in lieu thereof "(e)".

On page 9, beginning with "(e)" on line 5, strike out all through "any" on line 7, and insert the following:

"(f) The Director of the Office of Management and Budget may deny the promulgation of or rescind any government-wide regulation or".

On page 9, line 12, strike out "(f)" and insert in lieu thereof "(g)".

On page 9, strike out lines 16 through 18.

On page 11, line 4, strike out "$5,000,000" and insert in lieu thereof "$4,500,000".

On page 11, line 5, strike out "four" and insert in lieu thereof "three".

On page 13, line 10, strike out "all" and insert in lieu thereof "applicable".

On page 13, line 24, strike out "designate a" and insert in lieu thereof "designate a senior".

On page 14, strike out lines 7 through 10.

On page 14, strike out line 13 and all that follows through "reports" on page 15, line 7, and insert in lieu thereof the following:

"and issue a report on the extent of competition in the award of subcontracts by Federal prime contractors including an evaluation of the data available on subcontracts awarded in fiscal year 1982 with respect to (1) the source selection method used in awarding such subcontracts, (2) the type of subcontracts awarded, (3) the dollar value of such subcontracts, (4) the size of the subcontractors which were awarded the subcontract (by number of employees), and (5) the geographical location of such subcontractors. The report shall also include recommendations for improvements, if appropriate, in the extent of competition in the awarding of subcontracts and in the collection of data on such subcontract awards.

"(b) The report".

On page 15, strike out "major" on line 22.

On page 15, beginning with "Committee" on line 24, strike out all through "Senate" on page 16, line 2, and insert in lieu thereof "Congress".

On page 16, strike out "major" on line 9.

On page 17, after line 12, insert the following new section:

SMALL PURCHASES

SEC. 9. (a)(1) Section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(3)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(2) Sections 201(a)(1), 201(c), and 206(a)(4) of such Act (40 U.S.C. 481(a)(1), 481(c), 487(a)(4)) are each amended by striking out "subject to policy directives" and inserting in lieu thereof "subject to regulations".

(3) Section 602(c) of such Act (40 U.S.C. 474) is amended by inserting "except as otherwise provided by the Office of Federal Procurement Policy Act, and" after "any law inconsistent herewith,".

(b) Clause (1) of the first sentence of section 3709 of the Revised Statutes (41 U.S.C. 5) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(c) The Act entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending June 30, 1966, and for other purposes", approved July 27, 1965 (41 U.S.C. 6a-1), is amended by striking out "$10,000" in the third full unnumbered paragraph under the heading "Office of Architect of the Capitol" and inserting in lieu thereof "$25,000".

(d) Clause (3) of the first sentence of section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

BYRD AMENDMENT NO. 2611

Mr. BYRD proposed an amendment to the bill S. 1001, supra; as follows:

On page 17, after line 12, insert the following:

STUDY OF WEAPON SYSTEMS SPARE PARTS PROCUREMENT BY THE DEPARTMENT OF DEFENSE

SEC. 10 (a) Not later than June 1, 1984, the Office of Federal Procurement Policy (hereinafter in this section referred to as the "Office") shall review the procurement practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems and shall transmit to the Congress a report on the findings, conclusions, and recommendations of the Office relating to such matters. The report shall include (1) an evaluation of the adequacy of the reform proposals and programs to promote practices and the development of directives which will achieve control of costs, economy, and efficiency in the procurement of such spare parts and (2) such recommendations for legislation with respect to the procurement of such spare parts as the Office considers appropriate.

(b)(1) The Secretary of Defense shall furnish to the Office such information on the practices, regulations, and reform proposals and programs of the Department of Defense relating to the procurement of spare parts for weapon systems as the Office considers necessary to carry out subsection (a).

(2) The Inspector General of the Department of Defense shall furnish to the Office such information on the practices of the Department of Defense in procuring spare parts for weapon systems as the Inspector General acquires during his audits of such practices and the Office considers necessary to carry out subsection (a).

(c) The Inspector General of the Department of Defense shall have reasonable opportunity to review and comment on the report required by subsection (a) before the report is transmitted to the Congress. The comments of the Inspector General shall be included in such report.

PROCUREMENT PRACTICES OF THE DEPARTMENT OF DEFENSE AT THE END OF THE FISCAL YEAR

SEC. 11. (a)(1) Not later than February 1, 1984, the Office of Federal Procurement Policy (hereinafter in this section referred to as the "Office") shall review the procurement actions of the Department of Defense during the one-week period ending September 30, 1983, and transmit to the Congress a report on such review as provided in paragraph (2). In carrying out the preceding sentence, the Office shall review the regulations and administrative and managerial guidelines applicable to procurement actions of the Department of Defense during the final quarter of a fiscal year.

(2) The report required by paragraph (1) shall include (A) the number and dollar amount of contracts and purchases which were made by the Department of Defense during the one-week period referred to in paragraph (1), (B) the findings and conclusions of the Office on whether the Department of Defense had a bona fide need for the property or services procured by each such contract and purchase, (C) a list of the contracts and purchases which were made by the Department of Defense during such period without formal advertising, including the dollar amount of each such contract or purchase, (D) a list of the contracts and purchases made by the Department of Defense during such period after soliciting bids or proposals from only one source, including the dollar amount of each such contract and purchase, (E) each justification for making each contract and purchase included in the list under clause (C) or (D) without formal advertising or soliciting bids or proposals from more than one source, (F) the findings and conclusions of the Office on whether any regulation or administrative or managerial guideline reviewed pursuant to paragraph (1) (including the requirements of Office of Federal Procurement Policy letter number 81-1) were violated in making any of the contracts or purchases reviewed pursuant to paragraph (1), and (G) such recommendations for legislation and administrative actions relating to the procurement practices of the Department of Defense as the Office considers appropriate to assure economy and efficiency in procurement actions by the Department of Defense during the final quarter of a fiscal year.

(b)(1) The Secretary of Defense shall furnish to the Office such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Office considers necessary to carry out subsection (a).

(2) The Inspector General of the Department of Defense shall furnish to the Office such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Inspector General has acquired and the Office considers necessary to carry out subsection (a).

(3) The Comptroller General of the United States shall furnish to the Office such information on the procurement actions of the Department of Defense and the regulations and administrative and managerial guidelines applicable to such actions as the Comptroller General has acquired and the Office considers necessary to carry out subsection (a).

(4) Each official furnishing information to the Office under paragraph (1), (2), or (3) shall include with such information all information furnished by such official to the Congress, any committee of the Congress, or any Member of the Congress relating to the procurement actions required by subsection (a) to be reviewed by the Office.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION, 1984

LAXALT AMENDMENT NO. 2612

Mr. LAXALT proposed that the Senate recede from its amendment No. 102 to the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes, and concur with a further amendment; as follows:

COMMISSION ON CIVIL RIGHTS SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,887,000.

MELCHER AMENDMENT NO. 2613

Mr. MELCHER proposed an amendment to the amendment of the House to the amendment of the Senate numbered 58 to the bill H.R. 3222, supra; as follows:

In the amendment of the House, strike out "and of which $450,000 shall remain available until expended to reimburse private litigants for legal fees incurred in the State of New Mexico ex rel. *Reynolds* v. *Aamodt* water adjudication suit".

NATURAL GAS POLICY ACT

KASSEBAUM AMENDMENT NO. 2614

Mr. McCLURE (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1715) to amend the Natural Gas Policy Act of 1978, to protect consumers from those price increases that would occur because of market distortions as a consequence of current regulation of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phased deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes.

Amend amendment number 2524 (Mr. McCLURE), as amended, by adding at the end thereof the following:

"SEC. 303. Notwithstanding any provisions of this Act, except section 302, the provisions of Title I—Contracting and Marketing Practices, and Title II—Wellhead Price Provisions, as added by this amendment shall govern, as follows:

TITLE I—CONTRACTING AND MARKETING PRACTICES

SEC. 101. TAKE-OR-PAY CLAUSES.

(a) GENERAL RULE.—The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 and following) is amended by inserting after section 315 the following new section:

"SEC. 316. TAKE-OR-PAY CLAUSES.

"(a) LIMITATION ON TAKE-OR-PAY CLAUSES.—During the 3-year period beginning on the effective date of this section, any take-or-pay clause of any pipeline contract subject to this section is hereby declared to be against public policy and unenforceable—

"(1) to the extent it requires the pipeline to make any payment with respect to natural gas in excess of 50 percent of the maximum annual volume the pipeline has contracted to take; or

"(2) if such clause does not entitle a pipeline which makes a payment under such clause to take delivery of the natural gas involved during the 1-year period beginning on the date of payments (or during such longer period as may be provided under the contract).

"(b) CONTRACTS SUBJECT TO SECTION.—This section shall apply to any pipeline contract for the first sale of any of the following categories of natural gas:

"(1) NEW NATURAL GAS.—New natural gas (as defined in section 102(c)) and natural gas qualifying for new natural gas ceiling prices (as determined under section 102(d)).

"(2) NEW, ONSHORE PRODUCTION WELLS.—Natural gas produced from any new, onshore production well (as defined in section 103(c)).

"(3) HIGH-COST NATURAL GAS.—High-cost natural gas (as defined in section 107(c)(1), (2), (3), (4), and (5)).

"(4) STRIPPER WELL NATURAL GAS.—Stripper well natural gas (as defined in section 108(b)).

"(c) DEFINITIONS.—For purposes of this section—

"(1) PIPELINE CONTRACT.—The term 'pipeline contract' means any contract for the first sale of natural gas to any interstate or intrastate pipeline.

"(2) TAKE-OR-PAY CLAUSE.—The term 'take-or-pay clause' means any contract provision which requires payment for the minimum quantity of natural gas contracted for under the contract in the event the pipeline fails to take delivery. Such term also includes any other contract clause which the Commission determines has the same effect.

"(3) CONTRACTED TO TAKE.—The term 'contracted to take' means the volume of natural gas for which the pipeline is entitled to take delivery under a contract (whether or not the pipeline is obligated under the contract to pay for any lesser volume in the event delivery is not taken).

"(d) COORDINATION WITH SECTION 317.—Nothing in this section, or any contract clause which is not declared to be against public policy under this section, shall be construed to restrict the rights provided to pipelines by section 317 to refuse delivery of certain natural gas.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding after the item relating to section 315 the following new item:

"Sec. 316. Take-or-pay clauses.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act, and shall apply with respect to contracts entered into before, on, or after the date of the enactment of this Act. Such amendment shall not affect any pipeline's rights under a take-or-pay clause with respect to any payments made under such clause before such effective date.

SEC. 102. RENEGOTIATION AND MARKET-OUT PROVISIONS.

(a) GENERAL RULE.—The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 and following) is amended by inserting after section 316 (as added by section 101) the following new section:

"SEC. 317. RENEGOTIATION AND MARKET-OUT PROVISIONS.

"(a) RENEGOTIATION.—In the case of any contract for the first sale of natural gas to any interstate or intrastate pipeline, the pipeline may transmit to the seller at any time a written notice—

"(1) requesting that the terms of the contract be renegotiated, and

"(2) indicating that, in the event that the terms are not renegotiated after the expiration of the 90-day period beginning on the date of such notice is transmitted, the pipeline intends to exercise the market-out option provided under subsection (b).

"(b) MARKET-OUT OPTION.—

"(1) GENERAL RULE.—In the case of any contract for the first sale of natural gas to any interstate or intrastate pipeline, if—

"(A) the pipeline determines in its sole discretion that the pipeline would be unable to market natural gas contracted to be taken under the contract, and

"(B) the period provided under subsection (a) has expired and the contract terms have not been renegotiated,

the pipeline may elect to refuse to take delivery under the contract of any volume of natural gas (or portion thereof) without incurring an obligation to pay any fee or charge with respect to the natural gas not delivered pursuant to such election.

"(2) HIGHEST PRICE GAS REDUCED FIRST.—Except as provided in paragraph (3), a pipeline may not reduce under this subsection the volume it accepts delivery of if it has not elected under this section to reduce deliveries of natural gas it has contracted to take delivery of at a higher price under any other contract.

"(3) AFFILIATED PRODUCERS.—A pipeline may not reduce under this subsection the volume it has contracted to take delivery of if it has not elected under this subsection to reduce deliveries of natural gas it has contracted to take at the same or a higher price under any other contract between the pipeline and any other person who is an affiliate of the pipeline.

"(4) LIMITATION ON CONTRACTING FOR NEW SUPPLIES.—

"(A) No pipeline, after the date upon which such pipeline first exercises the option to reduce volumes granted by this section, shall enter into a new or renegotiated contract for the delivery of additional volumes of natural gas unless:

"(i) such pipeline has first offered to purchase from each producer in respect to which it exercised the reduction option granted by this section and in respect to which such reduction is still in effect, volumes of gas equal to the lesser of the additional volume the pipeline seeks to purchase or the amount of reduction pursuant to this section currently in force between the producer and such pipelines; and

"(ii) such offer or offers have been refused by the applicable producers.

"(B) In extending the offers required by subparagraph b(4)(A), the pipeline shall proceed in chronological order beginning with the producer in respect to which the pipeline first exercised the reduction option granted by this section. Further, such offers shall be at the same price, or at the applicable ceiling price if lower, and on substantially the same terms and conditions as the offer being made to the seller of the additional volumes.

"(5) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—Any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category.

"(c) RESALE OF NATURAL GAS MARKETED-OUT UNDER SUBSECTION (b).—

"(1) RELEASE OF CONTRACTUAL OBLIGATIONS.—If a pipeline elects to refuse to take delivery under subsection (b) of any volume of natural gas, the seller shall be considered released from all duties and obligations in contract or in law with respect to such volumes.

"(2) PIPELINE'S RIGHT OF FIRST REFUSAL.—In the case of any natural gas—

"(A) which is not acquired by a pipeline due to the election of the pipeline under subsection (b), and

"(B) which the seller's first offer to subsequently sell (in whole or in part) has been substantially accepted in principle by another person in an arms-length transaction,

the pipeline which exercised the market-out option shall have a right of first refusal of such offer.

"(3) PURCHASER'S TRANSPORTATION OBLIGATION.—In the case of any natural gas—

"(A) which is not acquired by a pipeline due to the exercise of the pipeline's election under subsection (b), and

"(B) which the seller has sold (in whole or in part) to another person,

the pipeline which exercised such election shall be required to provide the seller transportation of any of the volume of natural gas sold. Such transportation shall be required to the same extent, under the same conditions, and for the same considerations as transportation by interstate pipelines under section 319, except that it shall be accorded priority over transportation under section 319. The Commission shall prescribe regulations establishing the priority of transportation under this subparagraph (c)(3) over transportation under section 319.

"(4) BAR AGAINST MARKET-OUT.—In the case of any natural gas in respect to which the pipeline has accepted the offer made by the producer pursuant to subparagraph (c)(2), the pipeline may not exercise the market-out election granted by subsection (b) for a period of two years beginning on the date said offer is accepted by the pipeline.

"(d) BAR AGAINST NONPRICE DISCRIMINATION.—Nothing in this section shall be construed as allowing any pipeline to discriminate against any one or class of producers or other sellers of natural gas on any basis other than the price of natural gas.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding after the item relating to section 316 (as added by section 101(b)) the following new item:

"Sec. 317. Renegotiation and market-out provisions.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act, and shall apply with respect to contracts entered into before, on, or after the date of the enactment of this Act.

SEC. 103. INDEFINITE PRICE ESCALATORS.

(a) PROHIBITION OF INDEFINITE PRICE ESCALATOR CLAUSES.—Section 313 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3373) is amended to read as follows:

"SEC. 313. INDEFINITE PRICE ESCALATOR CLAUSES.

"(a) GENERAL RULE.—Any indefinite price escalator clause of any contract applicable to the first sale of natural gas is hereby declared to be against public policy and unenforceable.

"(b) DEFINITION OF INDEFINITE PRICE ESCALATOR CLAUSES.—For purposes of this section, the term 'indefinite price escalator clause' means any provision of any contract—

"(1) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to prices (established by other contracts or otherwise) for natural gas, for crude oil, for refined petroleum products, or for any other commodity, or

"(2) which the Commission determines is comparable in form and result.

Nothing in this section shall be construed to affect the applicability of the modified price adjustment factor (as defined in section 101(a)(4)).".

(b) CONFORMING AMENDMENT.—Section 105(b) of such Act (15 U.S.C. 3315(b)) is amended by striking out paragraph (3).

(c) CLERICAL AMENDMENT.—The item in the table of contents for such Act relating to section 313 is amended to read as follows:

"Sec. 313. Indefinite price escalator clauses.".

SEC. 104. LIMITATION ON GUARANTEED PASS-THROUGH.

(a) GENERAL RULE.—Section 601(c)(2) of such Act (15 U.S.C. 3431(c)(2)) is amended by inserting "imprudence" after "fraud, abuse," and before "or similar grounds.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to recovery of costs of natural gas delivered to pipelines on or after such date.

SEC. 105. MINIMUM COMMODITY BILL REQUIREMENTS.

(a) The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 and following) is amended by inserting after section 317 (as added by section 102(a)) the following new section:

"SEC. 318. MINIMUM COMMODITY BILL REQUIREMENTS.

"(a) LIMITATION.—Any minimum commodity bill requirement applicable to any sale of natural gas by any interstate or intrastate pipeline to any purchaser is hereby declared to be against public policy and unenforceable—

"(1) to the extent it requires the purchaser to make any payment with respect to natural gas in excess of 50 percent of the maximum annual volume the purchaser has contracted to take (as defined in section 316(c)(3)); or

"(2) if such requirement does not entitle a purchaser who makes a payment under such requirement to take delivery of the natural gas involved subsequent to the date of payment, provided under the requirement.

"(b) MINIMUM COMMODITY BILL REQUIREMENT DEFINED.—For purposes of this section, the term 'minimum commodity bill requirement' means any contract or tariff requirement which requires payment for the minimum quantity of natural gas contracted for in the event the purchaser fails to take delivery.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 317 (as added by section 102(b)) the following new item:

"Sec. 318. Minimum commodity bill requirements.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act, and shall apply with respect to contracts entered into before, on, or after the date of the enactment of this Act. Such amendment shall not affect any pipeline's rights under a minimum bill requirement with respect to any payments made under such requirement before such effective date.

SEC. 106. CONTRACT CARRIER AUTHORIZATION.

(a) AUTHORIZATION.—The Natural Gas Policy Act of 1978 (15 U.S.C. 3301 and following) is amended by inserting after section 318 (as added by section 105) the following new section:

"SEC. 319. CONTRACT CARRIER AUTHORIZATION.

"(a) IN GENERAL.—The Commission shall order any interstate pipeline, upon application by a producer of natural gas or by a purchaser of natural gas from a producer, to carry natural gas under contract between the producer and purchaser if the Commission finds—

"(1) that such pipeline has available capacity,

"(2) that no undue burden would be placed upon such pipeline by reason of such order,

"(3) that such order would not require construction of any new facilities, and

"(4) that such order would not impair the ability of such pipeline to render adequate service to (A) its then existing customers or (B) later acquired customers to be served on a noninterruptible basis.

The Commission may implement this section by rule or order.

"(b) CONSIDERATION; TERMS AND CONDITIONS.—The consideration for transportation provided under this section, and the terms and conditions of such transportation, shall be just and reasonable (within the meaning of the Natural Gas Act).

"(c) LIMITATION WITH RESPECT TO PIPELINE AFFILIATED PRODUCERS.—The Commission may not order transportation under subsection (a) on the application of any producer affiliated with the pipeline through which such transportation would occur.

"(d) INTRASTATE TRANSACTIONS.—

"(1) GENERAL RULE.—An intrastate pipeline or local distribution company shall not be subject to the jurisdiction of the Commission under the Natural Gas Act by reason of purchasing natural gas in a transaction covered by this section.

"(2) SUBSEQUENT TRANSACTIONS.—Any transportation or sale of natural gas purchased in a transaction which occurs beyond the point at which such gas is received in the facilities of the purchaser in the transaction covered by this section shall not be in interstate commerce (within the meaning of the Natural Gas Act) and shall not be subject to the jurisdiction of the Commission under the Natural Gas Act to the extent that such natural gas remains in the State of purchase.

"(3) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term 'natural-gas company' (as defined in section 2(6) of the Act) shall not include any person by reason of, or with respect to, any transportation or sale of natural gas if the transportation or sale is not subject to the jurisdiction of the Commission solely by reason of paragraph (2) of this subsection.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 318 (as added by section 105(b)) the following:

"Sec. 319. Contract carrier authorization.".

SEC. 107. COMMISSION RATES AND RATE DESIGN.

Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by adding at the end thereof the following new subsection:

"(d) RATE DESIGN RULEMAKING.—

"(1) RULEMAKING.—Within 12 months after the date of the enactment of this section, the Commission shall undertake and complete a rulemaking proceeding to issue standards for interstate pipeline tariffs. Such standards shall be designed to assure that prices of natural gas purchased by interstate pipelines in first sales are sensitive to end-use market conditions and end-use market signals are effectively transmitted to pipelines and producers.

"(2) REVIEW.—Within 12 months after completion of such rulemaking, the Commission shall review interstate pipeline tariffs to assure they meet such standards and require modification of those tariffs which do not meet such standards. Tariffs filed thereafter shall not be approved unless the tariffs meet such standards.

"(3) COORDINATION.—The preceding provisions of this section shall not be construed or applied in any way which would limit the establishment or approval of pipeline rates or rate designs under which prices and supplies of new natural gas, high-cost natural gas, and similarly priced natural gas supplies will be subject to end-use market forces.".

SEC. 108. FIRST SALE CONTRACTS REQUIRED TO BE FILED.

(a) GENERAL RULE.—Section 315(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375(c)) is amended to read as follows:

"(c) FILING OF CONTRACTS AND ANCILLARY AGREEMENTS.—The Commission shall, by rule, require any first sale purchaser of natural gas to file with the Commission a copy of such contract, together with all ancillary agreements.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to (1) any contract in effect on or after such date, and (2) any prior contract necessary to determine the price or other terms of any contract in effect on or after such date.

TITLE II—WELLHEAD PRICE PROVISIONS

SEC. 201. CEILING PRICES TO BE BASED ON AUGUST 1982 PRICES WITH LIMITED ADJUSTMENTS FOR INFLATION.

(a) MODIFIED PRICE ADJUSTMENT FACTOR.—Section 101(a) of such Act (15 U.S.C. 3311(a)), relating to annual inflation adjustment factor, is amended by adding at the end thereof the following new paragraph:

"(4) MODIFIED PRICE ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—For purposes of this title, the modified price adjustment factor applicable for any month shall be the lower of—

"(i) 75 percent of the quarterly percent change in the GNP implicit price deflator (as defined in paragraph (2)); or

"(ii) the percent change in the energy index, computed and published as an annual rate by the Department of Labor, for the most recent month for which such percent change has been so published at least 8 days before the beginning of the month for which the modified price adjustment factor is being calculated.

"(B) ENERGY INDEX DEFINED.—For purposes of this paragraph, the term 'energy index' means the energy component of the Consumer Price Index (U.S. city average—all urban consumers), seasonally adjusted, as computed and published by the Department of Labor.".

(b) NEW NATURAL GAS AND NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF.—Section 102(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3312(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out the period at the end of such paragraph and inserting "; and" in lieu thereof; and

(3) by adding after paragraph (2) the following new paragraph:

"(3)(A) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this subsection for August 1982; and

"(B) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this subsection for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month.".

(c) NEW, ONSHORE PRODUCTION WELLS.—Section 103(b)(1) of such Act (15 U.S.C. 3313(b)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) in subparagraph (B) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out the period at the end of such subparagraph and inserting "; and" in lieu thereof; and

(3) by adding after subparagraph (B) the following new paragraph:

"(C)(i) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this paragraph for August 1982; and

"(ii) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month.".

(d) NATURAL GAS DEDICATED TO INTERSTATE COMMERCE.—Section 104(b)(1)(A) is amended—

(1) by striking out "and" at the end of clause (i);

(2) in clause (ii) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out ", or" at the end of such clause and inserting "; and" in lieu thereof; and

(3) by adding after clause (ii) the following new clause:

"(iii)(I) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this subparagraph for August 1982; and

"(II) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month; or".

(e) EXISTING INTRASTATE CONTRACTS.—Section 105(b)(2)(B) such Act (15 U.S.C. 3315(b)(2)(B)) is amended—

(1) by striking out "and" at the end of clause (i);

(2) in clause (ii) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out the period at the end of such clause and inserting "; and" in lieu thereof;" and

(3) by adding after clause (ii) the following new clause:

"(iii)(I) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this subparagraph for August 1982; and

"(II) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month.".

(f) INTERSTATE ROLLOVER CONTRACTS.—Section 106(a) of such Act (15 U.S.C. 3316(a)) is amended—

(1) in paragraphs (1) and (2), by striking out "and" at the end of subparagraph (A);

(2) in paragraphs (1)(B) and (2)(B), by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act";

(3) in paragraph (1), by striking out "or" at the end of subparagraph (B) and inserting "and" in lieu thereof; and

(4) in paragraph (2)(B), by striking out the period at the end of the first sentence of such subparagraph and inserting "; and" in lieu thereof and by having the sentence which follows thereafter begin at the margin as an undesignated paragraph without indentation;

(5) in paragraphs (1) and (2), by inserting immediately after subparagraph (B) the following new subparagraph:

"(C)(i) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this paragraph for August 1982; and

"(ii) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month."; and

(6) in paragraph (1)(C) (as added by paragraph (5)), by striking out the period at the end of clause (ii) and inserting "; or" in lieu thereof.

(g) INTRASTATE ROLLOVER CONTRACTS.—Section 106(b)(1) of such Act (15 U.S.C. 3316(b)(1)) is amended—

(1) in subparagraphs (A) and (B), by striking out "and" at the end of clause (i);

(2) in subparagraphs (A)(ii) and (B)(ii), by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act";

(3) in subparagraph (A), by striking out "or" at the end of clause (ii) and inserting "and" in lieu thereof;

(4) in subparagraph (B), by striking out the period at the end of clause (ii) and inserting "; and" in lieu thereof;

(5) in subparagraphs (A) and (B), by adding after clause (ii) the following new clause:

"(iii)(I) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this paragraph for August 1982; and

"(II) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month."; and

(6) in subparagraph (A)(iii) (as added by paragraph (5)), by striking out the period at the end of subclause (II) and inserting ": or" in lieu thereof.

(h) STRIPPER WELL NATURAL GAS.—Section 108(a) of such Act (15 U.S.C. 3318(a)) is amended to read as follows:

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out the period at the end of such paragraph and inserting "; and" in lieu thereof; and

(3) by adding after paragraph (2) the following new paragraph:

"(3)(A) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this subsection for August 1982; and

"(B) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this subsection for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month.".

(i) OTHER CATEGORIES OF NATURAL GAS.—Section 109(b)(1) of such Act (15 U.S.C. 3319(b)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) in subparagraph (B) by striking out "thereafter" and inserting in lieu thereof "after April 1977 and before the effective date of the Natural Gas Consumer Relief Act" and by striking out the period at the end of such subparagraph and inserting "; and" in lieu thereof: and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C)(i) in the case of the month beginning on the effective date of the Natural Gas Consumer Relief Act, the maximum lawful price, per million Btu's, prescribed under this subsection for August 1982; and

"(ii) in the case of any month beginning after such effective date, the maximum lawful price prescribed under this subsection for the preceding month multiplied by the monthly equivalent of the modified price adjustment factor applicable for such month.".

SEC. 202. HIGH-COST NATURAL GAS.

(a) WELLHEAD CEILING PRICE NOT TO EXCEED 150 PERCENT OF SECTION 103 PRICE.—Section 107 of such Act (15 U.S.C. 3317(a) and (b)), relating to certain high-cost natural gas, is amended to read as follows:

"(a) CATEGORIES OF HIGH-COST NATURAL GAS DESCRIBED IN SUBSECTION (c) (1), (2), (3), (4), OR (5).—

"(1) GENERAL RULE.—In the case of any first sale of any category of high-cost natural gas described in subsections (c)(1)-(5), the maximum lawful price under this subsection for such natural gas delivered during any month shall be prescribed by the Commission, by rule or order, at a rate necessary to provide reasonable incentives for the production of such high-cost natural gas.

"(2) LIMITATION.—The maximum lawful price prescribed by the Commission under subparagraph (A)(1) for any month may not exceed a price equal to 150 percent of the price, per million Btu's, prescribed for such month under section 103 (relating to new, onshore production wells).

"(b) The Commission may, by order on the petition of any operating producer, prescribe a maximum lawful price, applicable to any first sale of any category of natural gas described by subsections c(1)-(5), produced by that operator from a well the surface drilling of which commenced on or before April 7, 1983, if such price is—

"(1) higher than the maximum lawful price which would otherwise be applicable;

"(2) just and reasonable within the meaning of the Natural Gas Act; and

"(3) necessary to allow the producer to earn a just and reasonable return, taking into account any costs the producer is able to recover by virtue of section 110(b).

(b) ELIMINATION OF COMMISSION AUTHORITY TO ADD NEW HIGH-COST CATEGORIES.—Section 107(c)(5) of such Act (15 U.S.C. 3317(c)(5)), relating to determinations of additional categories qualifying high-cost natural gas ceiling prices, is amended by inserting ", prior to March 1, 1983," after "the Commission determines".

SEC. 203. ADJUSTED CEILING PRICE PERMITTED FOR WELLS DRILLED ON OR AFTER AUGUST 1, 1982, AND BEFORE ENACTMENT.

(a) GENERALLY.—The Natural Gas Policy Act of 1978 is amended by inserting after section 110 the following new section:

"SEC. 111. CEILING PRICE FOR CERTAIN NATURAL GAS WELLS DRILLED ON OR AFTER AUGUST 1, 1982.

"The Commission may, by order on the petition of any operating producer, prescribe a maximum lawful price, applicable to any first sale of natural gas produced by that operator from a well the surface drilling of which commenced on or after August 1, 1982, and before the date of the enactment of the Natural Gas Consumer Relief Act, if such price is—

"(1) higher than the maximum lawful price which would otherwise be applicable;

"(2) just and reasonable within the meaning of the Natural Gas Act; and

"(3) not higher than (A) the maximum lawful price applicable for such category of natural gas on the date the surface drilling of such well commenced in the case of the month following the enactment of the Natural Gas Consumer Relief Act and (B) in the case of any month thereafter, the maximum lawful price under this paragraph for the preceding month multiplied by the modified price adjustment factor applicable for such month.".

(b) CLERICAL AMENDMENT.—The table of contents of the Natural Gas Policy Act of 1978 is amended by inserting after the item relating to section 110 the following:

"Sec. 111. Ceiling price for certain natural gas wells drilled on or after August 1, 1982.".

SEC. 204. ELIMINATION OF COMMISSION AUTHORITY TO INCREASE CERTAIN CATEGORIES ABOVE STATUTORY MAXIMUM LAWFUL PRICE.

(a) ELIMINATION OF GENERAL AUTHORITY.—Effective March 1, 1983, section 104(b)(2), section 106(c), and section 109(b)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3314(b)(2), 3316(c), and 3319(b)(2)) are hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) So much of section 104(b) of such Act (15 U.S.C. 3314(b)) as precedes subparagraph (A) of paragraph (1) is amended to read as follows:

"(b) MAXIMUM LAWFUL PRICE.—The maximum lawful price under this section for any month shall be the higher of—".

(2) Section 104(b) of such Act (as amended by the preceding provisions of this Act) is further amended by redesignating subparagraphs (A)(i), (A)(ii), (A)(iii), (A)(iii)(I), (A)(iii)(II), and (B), as paragraphs (1)(A), (1)(B), (1)(C), (1)(C)(i), (1)(C)(ii), and (2), respectively.

(3) So much of section 109(b) of such Act (15 U.S.C. 3319(b)) as precedes subparagraph (A) of paragraph (1) is amended to read as follows:

"(b) MAXIMUM LAWFUL PRICE.—The maximum lawful price under this section for any month shall be the higher of—".

(4) Section 109(b) is further amended by redesignating subparagraphs (A), (B), (C)(i), and (C)(ii) as paragraphs (1), (2), (3)(A), and (3)(B), respectively.

SEC. 205. CEILING PRICES TO BE INCLUSIVE OF AMOUNTS FOR RECOVERY OF PRODUCTION RELATED COSTS.

(a) AMENDMENT TO SECTION 110.—Section 110 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3320) is amended by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as redesignated) the following new subsection:

"(a) GENERAL RULE.—Except as provided in subsection (b), the maximum lawful price applies with respect to the recovery of all costs and profits (whether recovered in cash, in-kind compensation, or other remuneration) associated with production and first sale delivery of marketable natural gas.".

(b) TRANSPORTATION AND PRODUCTION RELATED COSTS SEPARATELY RECOVERABLE ONLY IF NECESSARY TO PERMIT SELLER A JUST AND REASONABLE RATE OF RETURN.—Section 110(b) of such Act (as redesignated by subsection (a)) is amended in paragraph (2) by striking out ", by rule or order," and inserting in lieu thereof ", by order on the petition of a seller," and by inserting before the period the following: ", but only if and to the extent recovery is necessary for the petitioner to earn a just and reasonable return, as determined by the Commission under section 502(c)".

(c) CERTAIN EXPLORATION, DEVELOPMENT, AND PRODUCTION COSTS OF PRE-1982 WELLS SEPARATELY RECOVERABLE IF NECESSARY TO PERMIT SELLER A JUST AND REASONABLE RATE OF RETURN.—Section 110(b) of such Act (as redesignated and amended by this section) is further amended by adding at the end thereof the following new sentence: "In the case of a petition under paragraph (2) with

respect to high-cost natural gas (as described in section 107(c)(1), (2), (3), (4), and (5)) from any well the surface drilling of which commenced before August 1, 1982, the costs which may be recoverable pursuant to such petition may include the costs of exploration, development, and production of such well (to the extent attributable to the high-cost natural gas) if necessary for the petitioner to earn a just and reasonable return, as determined by the Commission under section 502(c).".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 110(b) of such Act (as redesignated by subsection (a)) is amended by striking out "subsection (b)" both places it appears and inserting "subsection (c)" in lieu thereof.

(2) Section 110(c) of such Act (as redesignated by subsection (a)) is amended by striking out "subsection (a)(1)" and inserting "subsection (b)(1)" in lieu thereof.

SEC. 206. IMPORTED NATURAL GAS.

(a) LIMITATION.—Section 3 of the Natural Gas Act is amended by inserting "(a)" after "SEC. 3." and by adding at the end thereof the following new subsection:

"(b) Natural gas may not be imported into the United States from any foreign country (other than Mexico or Canada) pursuant to any authorization under this section if the first sale price within the United States of such natural gas exceeds 150 percent of the maximum lawful price prescribed under section 103 of the Natural Gas Policy Act of 1978 (relating to new, onshore production wells) for the month of importation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act, and shall apply with respect to any orders under section 3 of the Natural Gas Act issued before, on, or after the date of the enactment of this Act.

(c) REPORT ON STATUS OF NEGOTIATIONS REGARDING NEW CANADIAN BORDER PRICE.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to the Congress on the status of negotiations with representatives of the Government of Canada regarding modification of the border price for natural gas imported from Canada into the United States.

SEC. 207. EXTENSION OF NATURAL GAS CONTROLS.

(a) EXTENSION OF PRICE CONTROLS.—Section 121 of such Act (15 U.S.C. 3331) is amended—

(1) in subsection (a), by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987"; and

(2) in subsection (c), by striking out "July 1, 1987," and inserting in lieu thereof "July 1, 1989.".

(b) EXTENSION OF STANDBY AUTHORITY.—Section 122 of such Act (15 U.S.C. 3332) is amended—

(1) in subsection (b)(1), by striking out "July 1, 1985," and inserting in lieu thereof "July 1, 1987,";

(2) in subsection (b)(1), by striking out "June 30, 1987," and inserting in lieu thereof "June 30, 1989,"; and

(3) in subsection (c)(1) and (c)(2), by striking out "May 31, 1985," and inserting in lieu thereof "May 31, 1987,".

(c) EXTENSION OF REPORT DATE.—Section 123(a) of such Act (15 U.S.C. 3333(a)) is amended—

(1) by striking out "July 1, 1984," and inserting in lieu thereof "July 1, 1986,"; and

(2) by striking out "January 1, 1985," and inserting in lieu thereof "January 1, 1987,".

(d) SHALLOW, ONSHORE PRODUCTION WELLS.—Section 103(b)(2) of such Act (15 U.S.C. 3313(b)(2)) is amended—

(1) in the paragraph heading, by striking out "1984" and inserting in lieu thereof "1986"; and

(2) in the text, by striking out "January 1985" and inserting in lieu thereof "January 1987".

(e) EXISTING INTRASTATE CONTRACTS.—Section 105(b)(3) of such Act (15 U.S.C. 3315(b)(3)) is amended—

(1) in subparagraph (A) by striking out "January 1985" both places it appears and inserting in lieu thereof "January 1987",

(2) in subparagraph (C), by striking out "January 1, 1985," and inserting in lieu thereof "January 1, 1987,", and

(3) in subparagraph (D), by striking out "July 1, 1987," and inserting in lieu thereof "July 1, 1989".

SEC. 208. EFFECTIVE DATE.

Except as otherwise expressly provided, the amendments made by this title shall take effect on the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act. The amendments made by this section shall apply to deliveries occurring on or after the first day of such calendar month.

McCLURE AMENDMENT NO. 2615

Mr. McCLURE proposed an amendment to the bill S. 1715, supra; as follows:

Strike all after the enacting clause and insert:

TITLE I—TRANSITIONAL PRICE AND CONTRACT PROVISIONS

LIMITATION ON PRICES FOR CERTAIN NATURAL GAS

SEC. 101. (a) Title I of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311-3333) is amended by adding the following new subtitle:

"Subtitle C—Transitional Price Provisions

"SEC. 131. LIMITATION ON PRICES FOR CERTAIN NATURAL GAS.

"(a) GENERAL RULE OF APPLICABILITY.—

"(1) COVERAGE.—The provisions of this section shall apply to contracts for the first sale for resale of natural gas produced in the contiguous forty-eight States or from adjacent portions of the Outer Continental Shelf, including gas purchased by a pipeline for use in pipeline transmission, but not including gas which is described in section 121(f) (1), (2), or (3).

"(2) PARTIES MAY ELECT.—The provisions of this section shall apply only if either party to a contract for the first sale for resale of natural gas so elects.

"(A) NOTICE OF ELECTION.—The party making such election must give notice to the other party to the contract, and must file a copy of such notice with the Commission within five days.

"(B) ELECTION PERIOD.—The election must be made no later than the first day of the fifth full month after enactment of this section; such notice must have been received by the other party to the contract by that date.

"(C) EFFECT OF NON-ELECTION.—Where neither party to a contract for the first sale for resale of natural gas so elects, the contract shall remain subject to the otherwise applicable provisions of this Act.

"(3) OPTIONS AVAILABLE TO NON-ELECTING PARTIES.—Where either party to a contract for the first sale for resale of natural gas makes the election specified in paragraph (2), the other party shall have the options specified in this paragraph.

"(A) For a contract subject to subsection (c) where the seller elects to alter the contract by making the election specified in paragraph (2), the purchaser shall have the option, to be exercised within fifteen days of receipt of notice of an election, to agree to such election or terminate the contract. If such option is not exercised within such period, the purchaser shall be deemed to have agreed to such election.

"(i) If the purchaser exercises the option to terminate the contract, the purchaser or seller shall have the option to compel continued performance in accordance with the provisions of the terminated contract at the price specified in subsection (c)(2) until such date as the seller has entered into a contract with a new purchaser, unaffiliated with such seller, who is capable of receiving the gas that was subject to the terminated contract: *Provided, however,* That the seller's authority to compel continued performance under the terms of the contract shall expire at the end of twelve months. If the seller has not obtained such a new purchaser prior to the end of the first eighteen months of the thirty-six-month period specified in paragraph (c)(1), the purchaser may elect to no longer compel such continued performance by the producer as of such date.

"(ii) If the purchaser agrees to an election, the purchaser, at the end of the first eighteen months of the thirty-six-month period specified in paragraph (c)(1), shall have an additional option to terminate the contract subject to the provisions of subparagraph (i).

"(iii) Neither party to a contract terminated pursuant to this paragraph shall have any obligation to perform any act because of the contract after the effective date of termination of the contract, except as provided herein and in section 317(e)(3).

"(B) For a contract subject to subsection (b) where the purchaser elects to alter the contract by making the election specified in paragraph (2), the seller has the option, to be exercised within fifteen days of receipt of notice of election, to agree to such election or terminate the contract.

"(i) If the seller exercises the option to terminate the contract, such seller shall continue performance under the contract at the price specified in subsection (b)(2) until such date as the seller—

"(aa) enters into a contract with a new purchaser, unaffiliated with such seller, who is capable of receiving the gas that was subject to the terminated contract or—

"(bb) one year, whichever is earlier.

"(ii) Neither party to a contract terminated pursuant to this paragraph shall have any obligation to perform any act because of the contract after the effective date of termination of the contract except as provided herein and in section 317(e)(3).

"(4) EXEMPTION.—The provisions of this section shall not apply to contracts for the first sale of gas for resale, if such contract meets the requirements for an exemption under this paragraph.

"(A) REQUIREMENTS.—To qualify for the exemption, the contract for the sale for resale of natural gas must contain a clause that—

"(i) may be exercised at the option of the purchaser,

"(ii) enables the purchaser to adjust the price of natural gas subject to the contract; and

"(iii) does not prohibit the purchaser from adjusting the price to a price equal to the applicable price indicator.

"(B) DISQUALIFICATION.—The exemption shall not apply if the clause is not available for exercise by the purchaser on the first day of the second full month after the date of enactment of this section, or if the seller provides notice within thirty days after the enactment of this section that the clause does not satisfy the requirements set forth in paragraph (A).

"(5) EXPIRING CONTRACTS.—If a contract for natural gas not subject to section 121 (a), (b), or (c) of this Act has been the subject of an election under paragraph (2) of this subsection and if the contract expires prior to the expiration of the time periods specified in subsections (b), (c), or (d), performance under the contract by both parties shall continue at the price specified by such applicable subsections until the expiration of the six-month period specified in subsection (d). Upon the expiration of such six-month period, the termination of the contract shall be effective. The right of first refusal and right of first offer provisions of section 318 shall not apply to the sale of gas subject to such terminated contract.

"(6) RIGHT OF FIRST REFUSAL AND RIGHT OF FIRST OFFER APPLICABILITY.—Except as provided in paragraph (5), the right of first refusal and right of first offer in section 318 shall apply to the sale of gas subject to any contract terminated pursuant to this subsection.

"(b) APPLICATION TO HIGH PRICED GAS.—

"(1) GENERAL RULE.—Beginning with the first day of the second full month after the date of enactment of this section, and effective for a ceiling price limitation period of twelve months thereafter, the price of natural gas subject to this subsection shall be the lower of the contract price or the computed price under paragraph (2) for a contract which was the subject of an election by one party and the agreement of the other party under the procedures of subsection (a)(3)(B). In no event, however, shall the price of natural gas subject to this subsection be less than the price established by the applicable price indicator.

"(2) COMPUTED PRICE.—The computed price per million Btu's under this subsection for any month shall be equal to the base price, minus the quotient of the surplus price divided by the number of months in the price control period.

"(3) GAS COVERED BY THIS SUBSECTION.—This subsection applies to the first sale for resale of any gas where the price in effect for such sale on the first day of the second full month following the date of enactment equals or exceeds the applicable price indicator on that date.

"(c) APPLICATION TO LOW PRICED GAS.—

"(1) GENERAL RULE.—Beginning with the first day of the second full month after the date of enactment of this section, and effective for a ceiling price limitation period of thirty-six months thereafter, the price of natural gas subject to this subsection shall be the computed price under paragraph (2) for a contract which was the subject of an election by one party and the agreement of the other party under the procedures of subsection (a). In no event, however, shall the price of natural gas subject to this subsection exceed the price established by the applicable price indicator.

"(2) COMPUTED PRICE.—The computed price per million Btu's under this subsection for any month shall be equal to the base price, plus the quotient of the price controlled price divided by the number of months in the price control period.

"(3) GAS COVERED BY THIS SUBSECTION.—This subsection applies to the first sale for resale of any gas where the applicable price indicator exceeds the price in effect for such sale on the first day of the second full month following the date of enactment of this section.

"(d) ADDITIONAL PERIOD FOR CONTRACT PRICE LIMITATION.—The contract price of natural gas subject to subsection (b) or (c) shall not exceed the free market price indicator for an additional six-month period following expiration of the twelve-month period specified in subsection (b) or the thirty-six-month period specified in subsection (c), respectively.

"(e) DEFINITIONS.—For purposes of the calculation required by this section, the term—

"(1) 'base price' means, for any calendar month, the price for that gas for the previous calendar month;

"(2) 'price control period' is the divisor and means the number of calendar months, including the current month, remaining before the expiration of the ceiling price limitation period specified in the general rule, plus one;

"(3) 'price controlled price' is the dividend and means the amount by which the applicable price indicator exceeds the base price; and

"(4) 'surplus price' is the dividend and means the amount by which the base price for that gas exceeds the applicable price indicator.

"(f) APPLICABLE PRICE INDICATOR.—

"(1) TEMPORARY PRICE INDICATOR.—A temporary price indicator equal to the price computed under section 103 of this Act will be the applicable price indicator for the first six months of operation of this section. It will go into effect the first day of the second full month after enactment of this section.

"(2) FREE MARKET PRICE INDICATOR.—Beginning on the first day of the eighth full month after enactment of this section, the free market price indicator will be the applicable price indicator. The term 'free market price indicator' means, for a particular month, the volume weighted average of the price per million Btu's for natural gas under contracts exempt from ceiling prices pursuant to section 121(f)(1) entered into during the six months prior to the month in which the calculation is made and under contracts for imports authorized under section 3 of the Natural Gas Act which are authorized during the six months prior to the month in which the calculation made, including all subsequent amendments to such contracts made during such six-month period. Any allowances subject to section 110 of this Act shall be excluded from the calculation.

"(g) PUBLICATION.—Beginning with the first day of the seventh full month after enactment of this section and continuing for thirty-six months thereafter, the Commission (in accordance with section 101(b)(6)) shall compute and publish the free market price indicator for each succeeding month.

"(h) FILING REQUIREMENT.—

"(1) A purchaser of natural gas under a contract subject to section 121(f)(1) shall file with the Commission within five days of the date on which such contract is executed or amended within six months of execution—

"(A) a summary of the contract and all ancillary agreements, including all pricing provisions;

"(B) the prices to be paid under the contract during the first six months of deliveries;

"(C) the estimated volumes (in millions of Btu's) to be delivered during the first six months; and

"(D) any additional data required by the Commission.

"(2) A copy of the data filed for each contract, and contract amendment, shall be served by the purchaser of the gas on the other parties to the contract.

"(3) At the end of the period when the Commission ceases computing and publishing the free market price indicator, in accordance with section 131(g), a purchaser's filing obligation under this subsection shall terminate.

"(i) SECTION 110 ALLOWANCES.—A price for the first sale of natural gas shall not be considered to exceed the price established for the first sale of such natural gas under this section if such price exceeds the price established hereunder due to any allowance established under the provisions of section 110 of this Act.

"(j) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of subsection 131(a), any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as two separate contracts if one or more categories is priced as stated in 131(b)(3) and one or more categories is priced as stated in 131(c)(3). In such event, one contract shall be considered to include all categories priced as stated in 131(b)(3) and the other contract shall be considered to include all categories priced as stated in 131(c)(3).

"(k) COMMISSION RULES.—Within thirty days of the enactment of this section, the Commission shall issue rules to implement this section.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 123 the following:

"SUBTITLE C—TRANSITIONAL PRICE PROVISIONS

"Sec. 131. Limitation on ceiling prices for certain natural gas.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 101(b)(5) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311(b)(5)) is amended by striking the period at the end and inserting the following: ", but in no event shall the operation of this paragraph be deemed to entitle any seller of certain natural gas subject to section 131 to collect a price in excess of the price under section 131.".

(2) Section 101(b)(9) of the Natural Gas Policy Act of 1978 is amended by striking the period at the end and inserting the following: ", except as provided in section 131.".

(3) Section 105(b)(3)(B) of the Natural Gas Policy Act of 1978 is amended by adding a new sentence at the end to read as follows: "This definition shall not include any clause which establishes the price for natural gas exempted from the operation of this title pursuant to section 121(f).".

(4) Section 601(b)(1)(A) of the Natural Gas Policy Act is amended by striking "or" at the end of clause (i), replacing the period at the end of clause (ii) with a semicolon and "or", and inserting clause (iii) as fol-

lows: "(iii) such amount is the price under section 131 (b)(1) or (c)(1).".

REPEAL OF CERTAIN CONTRACT REQUIREMENTS AND IMPOSITION OF TAKE-OR-PAY LIMITS

SEC. 102. (a) Subsections 315 (a) and (b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375) are repealed, subsection 315(c) is redesignated as "sec. 315. filing of contracts and agreements.", and a new section 316 is added to read as follows:

"SEC. 316. IMPOSITION OF TAKE-OR-PAY LIMITS.

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section and not exempted by section 121(f) (1), (2), or (3) from the wellhead price controls specified in subtitle A of title I, the purchaser may elect not to be obligated to take delivery of, or pay for, any volume in excess of the volumes specified in subsection (b) for the periods specified in subsection (c).

"(b) VOLUMES.—For the purposes of subsection (a), the volumes shall be—

"(1) 50 per centum of deliverability during the first year from the date of enactment of this section;

"(2) 60 per centum of deliverability during the second year from the date of enactment of this section; and

"(3) 70 per centum of deliverability during the third year from the date of enactment of this section.

"(c) DURATION OF REDUCTION.—Any reduction of volumes pursuant to this section shall last for one year and may be extended for additional one-year periods, but in no event shall any reduction extend beyond the third year after enactment.

"(d) NOTICE REQUIREMENT.—Any purchaser electing pursuant to this section to reduce the volumes purchased shall provide the seller with written notice no less than thirty days prior to the date on which delivery of such volumes is to be reduced. Such notice may be given in advance of the effective date of this section.

"(e) RELEASE OF VOLUMES NOT TAKEN.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the volumes not taken are released and may be sold to any other purchaser. Such volumes will constitute released take-or-pay gas and—

"(1) shall not be subject to the abandonment requirements of the Natural Gas Act;

"(2) shall not be committed or dedicated to interstate commerce under the Natural Gas Act; and

"(3) shall not be subject to the provisions of this Act relating to the maximum lawful price for the first sale of natural gas.

"(f) CONTRACT AND TRANSPORTATION OBLIGATIONS.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the purchaser shall tender to the seller full and unconditional release from all duties and obligations in contract or in law with respect to volumes not taken under subsection (e). The purchaser, if a transporter of natural gas, shall tender transportation for such gas in accordance with the provisions of section 319.

"(g) PURCHASES FROM AFFILIATES.—If a purchaser elects pursuant to this section to reduce the volumes purchased, the percentage reduction in purchases from a nonaffiliated seller may not exceed any percentage reduction in deliveries from the purchaser's own production or from any affiliated seller.

"(h) CASINGHEAD NATURAL GAS.—This section shall not apply to casinghead natural gas. The term 'casinghead natural gas' as used herein shall mean gas produced from a well which, under the laws or rulings of the regulatory body having authority over the production of oil and gas of the jurisdiction in which such well is located, is classified as an oil well, and in the absence of any classification under such laws or rulings, such term shall mean gas which is produced in conjunction with crude oil from the same producing formation from a single well.

"(i) DRAINAGE SITUATIONS.—This section shall not apply to the extent the production of the volume for which delivery is required to be taken would either cause drainage or be necessary in order to prevent drainage. For purposes of this section, the determination of whether delivery is required to be taken in order to prevent drainage will be determined by the drainage provision in the applicable gas sales contract. In the absence of a contractual provision, the determination will be made by the State or Federal agency having regulatory jurisdiction with respect to the production of natural gas.

"(j) PREVENTION OF RESERVOIR DAMAGE.—This section shall not apply to the extent that reduction in takes would be likely to result in damage to the well or reservoir.

"(k) OTHERWISE APPLICABLE LAW.—Any provision or rule of State or Federal law which conflicts with this section shall be inoperative after the date of enactment of this section to the extent that such provision or rule would otherwise apply to prevent the effective operation of this section.

"(l) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of this section, any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category.

"(m) EFFECT OF TAKE-OR-PAY REDUCTION.—Any election made pursuant to subsection (a) shall not be considered a renegotiation for purposes of section 121(f)(2).

"(n) EFFECTIVE DATE.—The provisions of this section shall go into effect thirty days after the date of enactment.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by striking the item relating to section 315 and inserting in its place the following:

"Sec. 315. Filing of contracts and agreements.

"Sec. 316. Imposition of take-or-pay limits.".

MARKET OUT AUTHORITY, RIGHT OF FIRST REFUSAL, AND RIGHT OF FIRST OFFER

SEC. 103. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding new sections 317 and 318 to read as follows:

"SEC. 317. MARKET OUT PROVISION.

"(a) GENERAL RULE OF APPLICABILITY.—The provisions of this section—

"(1) shall apply to contracts in effect on the date of enactment of this section;

"(2) shall apply to contracts for the first sale for resale of natural gas produced in the forty-eight contiguous States or from adjacent portions of the Outer Continental Shelf; and

"(3) shall not apply to any contract for the first sale for resale, if such contract meets the requirements for an exemption under this paragraph.

"(A) REQUIREMENTS.—To qualify for the exemption, the contract for the sale for resale of natural gas must contain a clause that—

"(i) may be exercised at the option of the purchaser,

"(ii) enables the purchaser to adjust the price of natural gas subject to the contract, and

"(iii) does not prohibit the purchaser from adjusting the price to a price equal to the applicable price indicator.

"(B) DISQUALIFICATION.—The exemption shall not apply if the exercise of the clause is not available for exercise by the purchaser on the first day of the second full month after the date of enactment of this section, or if the producer provides notice to the purchaser within thirty days after the enactment of this section that the clause does not satisfy the requirements set forth in paragraph (A).

"(b) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of this section, any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as two separate contracts if one or more categories is priced as stated in 131(b)(3) and one or more categories is priced as stated in 131(c)(3). In such event, one contract shall be considered to include all categories priced as stated in 131(b)(3) and the other shall be considered to include all categories priced as stated in 131(c)(3).

"(c) EFFECTIVE DATES.—The authority provided by this section shall last twelve months. The authority shall begin—

"(1) the first day of the twentieth full month after enactment of this section for natural gas subject to section 131(b), and

"(2) the first day of the forty-fourth month after enactment of this section for natural gas subject to section 131(c).

"(d) EXERCISE OF AUTHORITY.—Either party to a contract for the purchase of natural gas which is subject to this section shall have the right to terminate the contract under the following conditions:

"(1) the party wishing to terminate the contract must give notice to the other party at least sixty days in advance that the contract is to be terminated;

"(2) the party giving notice of termination does not materially breach the contract at any time during the notice period; and

"(3) the party giving notice of termination must offer to the other party a full and unconditional release from all future duties and obligations in contract or in law relating to the contract, which release is effective upon termination of the notice period, or upon termination of any deliveries required by subsection (e) under the contract, whichever is later.

"(e) OBLIGATIONS OF PARTIES UPON TERMINATION.—Neither party to a contract terminated pursuant to this section shall have an obligation to perform any act because of the contract after the effective date of termination of the contract, except as provided herein.

"(1) EFFECT IF SELLER MARKETS OUT.—If the seller terminates the contract by authority granted under this section, the purchaser may compel continued performance by such seller in accordance with the provisions of the terminated contract at a price equal to the free market price indicator pursuant to subsection 131(f)(2) until such date as such seller obtains a new purchaser unaffiliated with such seller who is capable of receiving gas under the terminated contract.

"(2) EFFECT IF PURCHASER MARKETS OUT.—If the purchaser terminates the contract by authority granted under this section, the seller may compel continued performance under the contract, except that the price paid under such contract shall be equal to

the free market price indicator pursuant to subsection 131(f)(2), until such date as the seller obtains a new purchaser unaffiliated with such seller who is capable of receiving the gas subject to the terminated contract, or one year after the date of termination, whichever is earlier.

"(3) RESTITUTION.—Either party to a contract terminated under this section that has received a good or service before the effective date of the contract termination shall have a duty to pay for that good or service as provided for in the contract. A party that has received payment for a good or service that was not provided before the effective date of contract termination shall have a duty to make restitution of the payment in cash or in kind in accordance with the provision of the contract.

"(f) LIMITATION ON USE OF GAS SUBJECT TO THIS SECTION.—Notwithstanding the requirements of subsection (e), if the seller terminates a contract pursuant to the authority of this section, or if the purchaser terminates a contract with an affiliated entity pursuant to the authority of this section, the gas subject to such contract may not be sold between affiliated entities or used by a seller for such seller company's use prior to the date on which such contract, by its terms, would have expired.

"(g) ENHANCED RECOVERY REQUIREMENT.—Notwithstanding the requirements of subsection (e), if the seller terminates a contract for the sale of gas subject to section 104 pursuant to the authority of this section, the new contract for the sale of gas which was subject to the terminated contract must contain an express provision to the effect that the seller will use reasonable, good-faith efforts, where technically and financially feasible, to enhance the recovery of such gas.

"SEC. 318. RIGHT OF FIRST REFUSAL AND RIGHT OF FIRST OFFER.

"(a) PURCHASER'S RIGHT OF FIRST REFUSAL.—

"(1) GENERAL RULE.—Except as provided in subsection (b), if either party terminates a contract pursuant to the authority of section 131 or 317, the purchaser that was a party to the terminated contract shall have a right of first refusal for gas subject to such contract, if such purchaser offers to purchase such gas at a price equal to or greater than the applicable market price indicator.

"(2) GAS SUBJECT TO REQUIREMENT.—The right of first refusal shall apply to the volumes of gas coextensive with the terminated contract.

"(3) REQUIREMENTS FOR OFFER.—

"(A) If the seller terminates the contract, the purchaser from such seller shall have thirty days after receipt of the notice from the seller required by subsection 317(d)(1) to make an offer to purchase at a price equal to or greater than the applicable price indicator.

"(B) If the purchaser terminates the contract, and if such purchaser wishes to retain a right of first refusal, the purchaser must, at the time of notice of intent to terminate the contract, make the seller an offer to purchase at a price equal to or greater than the applicable price indicator.

"(4) ACTION ON OFFER.—An offer by such purchaser pursuant to paragraphs (3) (A) or (B) to purchase must be accepted or rejected by the producer within thirty days of receipt.

"(5) OPPORTUNITY TO MATCH TERMS OF SUBSEQUENT SALE.—If such purchaser makes the seller an offer to purchase pursuant to the requirements of this section, and if the seller does not accept that offer and thereafter proposes to sell the gas, the purchaser shall have an opportunity to match the terms of the subsequent sale. The purchaser shall be required to match an offer with comparable volumes and terms and conditions, as well as with price. If the purchaser does not exercise its right to match the terms within fifteen days of receipt of notice from the seller of an intent to sell the gas, the purchaser may sell such gas to any unaffiliated purchaser.

"(b) PURCHASER'S RIGHT OF FIRST OFFER.—

"(1) GENERAL RULE.—If a purchaser terminates a contract pursuant to the authority of section 317 or if a seller exercises the option to terminate the contract pursuant to the authority of section 131(a)(3)(B) for natural gas subject to section 121 (a), (b), or (c), or section 107(c)(5), the purchaser that was a party to the terminated contract shall have a right of first offer for gas subject to such contract.

"(2) TERMS AND CONDITIONS.—Within fifteen days of receipt of notice of termination of the contract by the purchaser pursuant to the authority of section 317, or within fifteen days of the exercise by the seller of the option to terminate the contract pursuant to the authority of section 131(a)(3)(B), the seller shall nominate volumes of gas available for purchase in a subsequent contract. Such nomination shall apply to volumes of gas coextensive with the terminated contract, and shall include terms and conditions regarding—

"(A) duration of the contract, and

"(B) volumes to be delivered under the contract, including terms and conditions respecting delivery and take or pay obligations.

"(3) REQUIREMENTS FOR FIRST OFFER.—Within fifteen days of receipt of such nomination from the seller, the purchaser may make an offer to purchase such gas at a price equal to or greater than the applicable price indicator in effect at the time of notice to terminate the contract, in accordance with the terms nominated by the seller.

"(4) ACTION ON FIRST OFFER.—An offer by such purchaser pursuant to paragraph (3) to purchase must be accepted or rejected by the seller within thirty days of receipt of such offer.

"(5) SUBSEQUENT SALE.—In the first contract for sale of gas nominated under paragraph (2), the seller may not sell the gas for which a first offer has been made under paragraph (3) to another purchaser for any amount equal to or less than the price specified in the first offer or under terms and conditions other than those nominated by such seller, except under the procedures specified in paragraph (6).

"(6) ALTERATION OF TERMS AND CONDITIONS.—If, after receipt of a first offer to purchase gas under paragraph (3), the seller desires to alter the terms and conditions specified in the nomination under paragraph (2), such seller shall give notice of the alteration to the purchaser, and the requirements of paragraphs (3), (4), and (5) shall apply to the gas subject to such altered nomination.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 316 the following:

"Sec. 317. Market out provision.

"Sec. 318. Right of first refusal and right of first offer.".

TRANSPORTATION OBLIGATION FOR CERTAIN NATURAL GAS

SEC. 104. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding a new section 319 to read as follows:

"SEC. 319. TRANSPORTATION OBLIGATION FOR CERTAIN NATURAL GAS.

"(a) IN GENERAL.—In the event that a contract is terminated under section 131 or 317, a pipeline purchaser that was a party to the terminated contract shall have an obligation to transport natural gas for a seller that was a party to the terminated contract. Any purchaser electing to reduce the volumes taken under section 316, which results in 'released take-or-pay gas' under section 316(e), shall have an obligation to transport such gas. The obligation of the pipeline purchaser shall not exceed on an annual basis the largest volume delivered under the contract during any twelve consecutive months in the thirty-six months prior to its termination.

"(b) LIMITATION OF OBLIGATION.—The Commission, or in the case of an intrastate pipeline purchaser the State agency with jurisdiction over such pipeline purchaser, upon application by the pipeline purchaser and after opportunity for hearing, may order a limitation of the obligation of the pipeline purchaser under this section if compliance with the obligation would require construction of additional facilities other than minor facilities as defined in section 321 or would impair the ability of the pipeline purchaser to render adequate service to its existing customers.

"(c) CONSIDERATION.—The consideration for any transportation provided under this section shall include an incentive allowance of $0.05 per million Btu's plus the just and reasonable rate, or the fair and equitable rate, for such transportation, as established by the Commission or appropriate State regulatory body, unless the Commission or appropriate State regulatory body has established by rule a different incentive allowance for such transportation. No amount of such incentive allowance shall be required to be credited and flowed back to the customers of such pipeline. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 318 the following:

"Sec. 319. Transportation obligation for certain natural gas.".

EFFECT OF FREE MARKET PRICE INDICATOR

SEC. 105. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 320 to read as follows:

"SEC. 320. EFFECT OF FREE MARKET PRICE INDICATOR.

"(a) PERMANENT REFERENCE FOR CERTAIN CONTRACTS.—The price established by the free market price indicator in effect on the first day of the forty-fourth full month after enactment of this section—

"(1) shall operate as a permanent reference for any area rate clause as defined in this section, and

"(2) shall be the reference price for natural gas under any contract subject to an election under section 131(c) of this Act, if such price would otherwise be below the price level established by the free market price indicator on that date.

"(b) DEFINITION OF AREA RATE CLAUSE.—An area rate clause is a clause which establishes a contract price for the sale of gas by reference to a federally established rate, including, without way of limitation, a clause referencing a just and reasonable rate established by order of the Commission.

"(c) OTHER REFERENCE PRICES.—For purposes of an area rate clause, any maximum lawful price under subtitle A, or price established pursuant to section 131 of this Act, shall be deemed to be a just and reasonable rate established by order of the Commission.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (U.S.C. 3301 note) is amended by inserting after the item relating to section 319 the following:

"Sec. 320. Effect of free market price indicator.".

TITLE II—REMOVAL OF WELLHEAD PRICE CONTROLS AND REPEAL OF JURISDICTION OVER CERTAIN FIRST SALES

REMOVAL OF WELLHEAD PRICE CONTROLS

SEC. 201. Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by the deletion of the words "Subject to the reimposition of price controls as provided in section 122, the" and inserting in lieu thereof "The", and by the addition of new subsections (f) and (g) to read as follows:

"(f) SPECIAL RULE.—The provisions of subtitle A shall not apply to—

"(1) gas subject to any contract for the first sale of natural gas that was executed after the date of enactment of this subsection, or

"(2) gas subject to any contract for the first sale of natural gas that was renegotiated after the date of enactment of this subsection, if such renegotiated contract expressly provides that the provisions of subtitle A shall not apply, or

"(3) released take or pay gas under subsection 316(e) of this Act, or

"(4) gas subject to an election under section 131 (b) or (c) of subtitle C of this title.

"(g) REMOVAL OF WELLHEAD PRICE CONTROLS ON ALL NATURAL GAS.—

"(1) on the first day of the forty-fourth full month after enactment of section 131, the provisions of this title shall cease to apply except as specified in paragraph (2) or (3).

"(2) the provisions of this title shall cease to apply to natural gas subject to subsection 131(b) on the first day of the twentieth full month after the enactment of this subsection or at the conclusion of any additional time period specified for continued contract obligations pursuant to paragraph 131(a)(3)(B)(i).

"(3) the provisions of this title shall cease to apply to natural gas subject to subsection 131(c) on the first day of the forty-fourth full month after the enactment of this subsection or at the conclusion of any additional time period specified for continued contract obligations pursuant to paragraph 131(a)(3)(B)(i).".

REPEAL OF NATURAL GAS ACT JURISDICTION OVER CERTAIN SALES OF COMMITTED OR DEDICATED NATURAL GAS

SEC. 202. Section 601(a)(1)(B) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)(1)(B)) is amended by striking "or" at the end of clause (ii), by replacing the period at the end of clause (iii) with a semicolon, and by the addition of new clauses (iv), (v), and (vi) to read as follows:

"(iv) natural gas exempted from the operation of subtitle A of title I pursuant to section 121(f);

"(v) natural gas that was subject to a contract that expired, lapsed, was terminated pursuant to its own terms, or was terminated pursuant to the provisions of section 317 of this Act, except as provided under subsection 131(b) or 131(c); or

"(vi) natural gas exempted from the operation of title I pursuant to section 121(g).".

REPEAL OF PROVISIONS ALLOWING REIMPOSITION OF PRICE CONTROLS AND REPORT TO THE CONGRESS

SEC. 203. (a) Sections 122, 123, and 507 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332, 3333, and 3417) are repealed.

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by striking the items relating to sections 122, 123, and 507.

TITLE III—LIMITATIONS ON PASSTHROUGH OF CERTAIN PURCHASED GAS COSTS

LIMITATION ON THE PASSTHROUGH OF CERTAIN PURCHASED GAS COSTS

SEC. 301. Section 601(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by adding new paragraphs to read as follows:

"(3) PRUDENT PURCHASE RULE.—The Commission may not deny any interstate pipeline recovery of the amounts paid for purchases of natural gas under contracts for the first sale of natural gas entered into or renegotiated during the period specified in subparagraph (C) on the grounds that the amounts paid were excessive due to abuse or similar grounds, if such amounts are prudent purchases as defined herein.

"(A) For purposes of this paragraph, the term 'prudent purchases' shall include amounts paid with respect to purchases of natural gas if—

"(i) the weighted average amount paid for such purchases during any month does not exceed 110 per centum of the free market price indicator in effect during that month, exclusive of any allowance established under the provisions of section 110 of this Act, or

"(ii) the amount paid for such purchase—

"(aa) matches the terms of an offer made by another party where the pipeline purchaser has a right of first refusal for such gas under section 318(a), or

"(bb) is paid pursuant to a right of first offer under section 318(b).

"(B) During any month in which the weighted average amount paid for purchases of natural gas under contracts entered into or renegotiated during the period specified in subparagraph (C) exceeds 110 per centum of the free market price indicator in effect during that month, the Commission may determine that any amount paid in excess of 110 per centum of such free market price indicator may be recovered by such pipeline, subject to the requirements of paragraph (2). In making this determination, the Commission shall consider—

"(i) the reasonable availability of lower cost supplies of natural gas to such pipeline, and

"(ii) the necessity of incurring such costs in order to enable such pipeline to acquire the supplies of natural gas necessary to render adequate service to its existing customers.

"(C) The provisions of this paragraph shall be effective for thirty-six months beginning on the first day of the eighth full month after the date of enactment of this paragraph.

"(D) If the amounts paid for purchases of natural gas under contracts entered into or renegotiated during the periods specified in subparagraph (C) are prudent purchases pursuant to subparagraph (A), or if the Commission determines pursuant to subparagraph (B) that any amount paid in excess of 110 per centum of such free market price indicator may be recovered, then such amounts shall be deemed to be just and reasonable for the purposes of sections 4 and 5 of the Natural Gas Act.

"(E) Notwithstanding section 4(e) of the Natural Gas Act, any increase in the rates of a pipeline that may be recovered under this paragraph shall go into effect upon the date of filing subject to refund with interest.

"(F) AFFILIATED PRODUCTION.—No interstate pipeline may recover any amounts paid for purchases of natural gas under contracts renegotiated with an affiliated producing entity unless such interstate pipeline has renegotiated contracts with nonaffiliated producing entities commensurately.

"(G) REDUCTIONS IN PURCHASED GAS COSTS.—Within sixty days of the enactment of this section, the Commission shall promulgate rules providing for the automatic passthrough of any reductions in amounts paid for purchases of natural gas realized by an interstate pipeline as a result of—

"(i) take or pay reductions pursuant to section 316,

"(ii) price reductions pursuant to section 131, or

"(iii) any other reductions in amounts paid for natural gas.".

TITLE IV—REMOVAL OF IMPEDIMENTS TO INTERSTATE MOVEMENTS OF GAS

CONTRACT CARRIER AUTHORIZATION

SEC. 401. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 321 to read as follows:

"SEC. 321. CONTRACT CARRIER AUTHORIZATION.

"(a) GENERAL INTERSTATE PIPELINE RULE.—An interstate pipeline shall transport natural gas under this section if—

"(1) a seller or a purchaser of natural gas requests an interstate pipeline to transport natural gas,

"(2) such pipeline has available capacity, and

"(3) the seller or purchaser certifies that—

"(A) at least forty-five days in advance it notified the interstate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(B) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline, and

"(C) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(b) GENERAL INTRASTATE PIPELINE RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order an intrastate pipeline to transport natural gas in accordance with this section if—

"(A) a seller or a purchaser of natural gas requests an intrastate pipeline to transport natural gas,

"(B) such request is received by such intrastate pipeline and filed with the State agency, and that State agency has failed to take final administrative action within a

period of ninety days after receipt of such request,

"(C) such pipeline has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the intrastate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This subsection shall not apply if a State agency certifies that—

"(A) it has authority to require an intrastate pipeline with available capacity to transport natural gas for a seller or a purchaser of natural gas requesting such transportation, and

"(B) pursuant to such authority, it is required to take final administrative action within a time certain.

"(3) JURISDICTION OF THE COMMISSION.—No intrastate pipeline shall be subject to the jurisdiction of the Commission under the Natural Gas Act by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for an intrastate pipeline ordered by the Commission to transport natural gas under subsection (b), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by an intrastate pipeline, if no rate has been established pursuant to State law.

"(c) GENERAL LOCAL DISTRIBUTION COMPANY RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order a local distribution company to transport natural gas in accordance with this section if—

"(A) a seller or a purchaser of natural gas requests a local distribution company to transport natural gas,

"(B) such request is received by the local distribution company and filed with the State agency, and that State agency has failed to take administrative action within a period of ninety days after receipt of such request.

"(C) such local distribution company has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the pipeline or local distribution company currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline or local distribution company, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This section shall not apply if a State agency certifies that—

"(A) it has authority to require a local distribution company to transport natural gas for a seller or a purchaser of natural gas requesting such transportation, and

"(B) pursuant to such authority, it is required to take final administrative action within a time certain.

"(3) JURISDICTION OF THE COMMISSION.—No local distribution company shall be subject to the jurisdiction of the Commission by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for a local distribution company ordered by the Commission to transport natural gas under subsection (c), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by a local distribution company, if no rate has been established pursuant to State law.

"(4) RESTRICTION.—

"(A) No individual facility served as of the date of enactment of this Act, or historically served by a local distribution company, may receive gas transported under this section, except according to the procedures in this subsection.

"(B) For the purposes of this paragraph, any individual facility that—

"(i) has received gas from a local distribution company since January 1, 1980,

"(ii) is not receiving gas as of the date of enactment, and

"(iii) has service facilities physically connected to the local distribution company, shall be deemed to have been historically served by such company.

"(C) The prohibition under subparagraph (A) shall not apply—

"(i) to a request for transportation service to an individual facility served as of the date of enactment of this Act, or historically served, by a local distribution company to the extent that the volume of natural gas to be transported exceeds the average annual deliveries to such facility within four years prior to the date of enactment,

"(ii) to gas transported to serve facilities not in existence as of the date of enactment,

"(iii) to gas transported to serve facilities which—

"(aa) have not used gas for three years prior to date of application for transportation service, or

"(bb) have not used gas for four years, in the case of facilities historically served by a local distribution company,

"(iv) to the extent that the individual facility has a direct purchase contract with an interstate natural gas pipeline, or

"(v) to a request for transportation service if such request has the concurrence of the local distribution company and the State agency.

"(5) GENERAL EXCEPTION.—Notwithstanding any other provision of this subsection, the Commission may, by order, approve a request for transportation service in accordance with this section if it finds that—

"(A) a State agency having regulatory jurisdiction over local distribution companies has taken final administrative action on a request for transportation service pursuant to this section, and such action is no longer subject to appeal pursuant to State law, and

"(B) the final action by the State agency did not result in transportation service because such action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(d) AVAILABLE CAPACITY.—

"(1) REBUTTABLE PRESUMPTION.—A pipeline or a local distribution company shall be presumed to have available capacity unless the Commission determines that such pipeline's or local distribution company's total capacity is necessary to render adequate service to its existing customers.

"(2) PARTIAL CAPACITY.—If the Commission finds that a pipeline or a local distribution company has available capacity to transport only a portion of the natural gas requested to be transported under this section, the Commission shall require such pipeline to transport such natural gas to the extent of such available capacity in accordance with this section.

"(e) PROTECTION FOR HIGH PRIORITY USERS.—

"(1) GENERAL RULE FOR EXISTING CUSTOMERS.—Any pipeline transporting natural gas pursuant to this section shall continue to serve its existing customers, in preference to its contract carriage customers, except as provided herein.

"(2) ESTABLISHMENT OF CONTRACT CARRIAGE SERVICE PRIORITY.—Any contract carriage customer may seek to establish a contract carriage service priority in order to assure that capacity is available for the existing high-priority users of the gas transported on behalf of such customer.

"(A) FILING REQUIREMENT.—The contract carriage customer seeking to establish a contract carriage service priority shall file such information as may be required by the Commission in order to establish the volume of natural gas to be transported by the pipeline in order to meet the current requirements of the existing high-priority users of the gas transported on behalf of such customer. The contract carriage customer seeking to establish the contract carriage service priority shall file such information at the same time it files the request for authorization pursuant to subsection (k)(1).

"(B) COMMISSION DETERMINATION.—The Commission shall determine the volume of natural gas which is necessary to meet the current requirements of the existing high-priority users of the gas transported on behalf of any contract carriage customer, taking into consideration all of the sources of supply of such contract carriage customer. Such volume shall constitute the contract carriage service priority.

"(3) APPLICATION OF PRIORITY.—In the event that the transporting pipeline later develops insufficient capacity to satisfy the transportation needs of both its existing customers and its contract carriage customers, the Commission shall, by rule or order, require the pipeline to transport the contract carriage service priority volume, in preference to the volume necessary to meet the requirements of customers who are not high-priority users of such pipeline.

"(4) INSUFFICIENT SUPPLY.—Nothing in this section shall affect—

"(A) the priority of service afforded users under title IV of this Act of the pipeline's gas supply that is subject to the pipeline's curtailment plan, or

"(B) the priority of service established pursuant to State law for any intrastate pipeline.

"(f) CONTRACT CARRIAGE COMPENSATION.—

"(1) GENERAL RULE.—Compensation for transportation service provided under this section shall be determined according to this subsection.

"(2) VOLUNTARY TRANSPORTATION ALLOWANCE.—Any pipeline or local distribution company that voluntarily agrees to transport natural gas under this section shall be permitted to charge an incentive allowance of up to $0.05 per million Btu's (in excess of the just and reasonable rate, or the fair and

equitable rate, for such transportation as established by the Commission) unless and until the Commission determines by rule or order that some other amount is appropriate as an incentive in the public interest. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline.

"(3) REQUIRED CONTRACT CARRIAGE COMPENSATION ALLOWANCE.—Any pipeline or local distribution company that protests the transportation of natural gas under this section and is subsequently ordered to transport such natural gas by rule or order of the Commission shall be allowed to charge an appropriate incentive allowance, to be determined by the Commission. The allowance may exceed the just and reasonable rate, or the fair and equitable rate, for such transportation by up to $0.05 per million Btu's if, in the judgment of the Commission, the protest was a reasonable effort to protect the pipeline's or local distribution company's ability to continue to render adequate service to its existing customers. The Commission shall establish criteria to be used in determining the amount of the incentive allowance to be granted. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline or local distribution company.

"(4) TRANSPORTATION BY MULTIPLE PIPELINES OR LOCAL DISTRIBUTION COMPANIES.—If transportation service is provided under this section by more than one pipeline or local distribution company, the Commission may allocate the incentive allowance provided for in subsection (2) or (3) among the parties providing transportation service under this section.

"(5) INCENTIVE ALLOWANCE LIMITATION.—Notwithstanding any other provision of this section, any pipeline that transports natural gas owned or produced by an affiliate of such pipeline may not receive an incentive allowance for such transportation service. Similarly, any local distribution company that transports natural gas owned or produced by an affiliate of such local distribution company may not receive an incentive allowance for such transportation service.

"(6) CONSUMER PROTECTION RATE DESIGNS.—Within ninety days after enactment the Commission shall promulgate regulations which require that the just and reasonable rates for the transportation service provided in accordance with this section include an equitable percentage of the fixed costs of the transporting pipeline in order to protect all classes of customers, but particularly residential and commercial customers of the transporting pipeline. Such regulations shall be designed to require rates for transportation service provided in accordance with this section that are comparable to transportation charges included in the price of gas sold to pipeline customers receiving comparable service.

"(g) CONSTRUCTION OF NEW FACILITIES.—Upon request of a seller or purchaser of natural gas requesting transportation of natural gas under this section, the Commission may order a pipeline or local distribution company to construct and operate minor facilities necessary for the transportation of natural gas under this section. The person requesting transportation service shall pay the cost of construction and operation of such facilities.

"(h) SERVICE OBLIGATION.—If a customer of an interstate pipeline is a purchaser of natural gas transported pursuant to this section, the service obligation of that pipeline to such customer pursuant to the Natural Gas Act shall be reduced, at the option of the pipeline, to the extent the volumes purchased by the customer reduce the customer's requirements under its contract with the interstate pipeline.

"(i) TERMINATION.—The Commission may, by order, reduce or terminate the transportation service provided for under this section upon the filing of a petition by any party to a transportation service agreement if the Commission determines that, because of unforeseen circumstances, the volumes of such natural gas supplied or delivered do not substantially comply with the terms of the authorization under this section.

"(j) REGULATIONS.—The Commission shall issue final regulations implementing the requirements of this section within one hundred and twenty days of enactment of this section. The regulations shall—

"(1) provide for self implementation of transportation requested under this section in the absence of any protest; and

"(2) require semiannual certification by each interstate pipeline of its total capacity, its available capacity, and the amount of natural gas actually taken by its existing customers in months of peak natural gas usage during the five years immediately preceding.

"(k) PROCEDURES.—

"(1) All requests for transportation service under this section shall be filed with the Commission, which shall cause the same to be published in the Federal Register and forwarded to the appropriate State agency as soon as practicable.

"(2) Any transportation service request may be protested by the pipeline or local distribution company to which it is addressed or by any other interested person, or any State agency, on the grounds that—

"(A) the request, if implemented—

"(i) would render the pipeline or local distribution company requested to provide the transportation service unable to render adequate service to its existing customers, or

"(ii) would render the pipeline or local distribution company presently serving the person on whose behalf such transportation is being sought unable to render adequate service to its remaining customers,

"(B) the seller or purchaser did not meet the notice requirement contained in subsection (a), (b) or (c), or

"(C) the seller or purchaser did not negotiate in good faith as required by subsection (a), (b), or (c).

Such protest must be filed within thirty days after publication of the request for transportation service.

"(3) At the expiration of the thirty-day protest period provided in paragraph (2), if no protest has been received, the transportation service shall be implemented pursuant to subsection (j)(1).

"(4) The Commission shall hear and decide protests filed hereunder as expeditiously as practicable, giving priority to such proceedings; and shall enter its order with respect to any protest within ninety days after the date the protest is filed, extending the entry of its order beyond such ninety-day period only for good cause shown. If the Commission cannot enter its order within such ninety-day period, in the absence of a stay entered to avoid irreparable injury, requests for transportation service shall be implemented at the end of such ninety-day period.

"(5) Commission proceedings and orders with respect to any protested request shall be limited to consideration of and decision on the specific grounds for protest specified in this section and asserted in the protest.

"(l) DEFINITIONS.—For purposes of this section, the term—

"(1) 'contract carriage customer' means any person receiving transportation service under subsection (a);

"(2) 'existing customer' means any person served by a pipeline other than a contract carriage customer;

"(3) 'high-priority user' includes any high-priority user, any essential agricultural use, and any essential industrial process and feedstock use, as defined in title IV;

"(4) 'intrastate pipeline' means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act, except a local distribution company;

"(5) 'minor facilities' means those facilities, including sales taps, which the Commission determines by rule or order do not involve substantial costs;

"(6) 'render adequate service to its existing customers' means the capacity to transport the volume of natural gas necessary to meet both the present requirements of existing customers and the reasonably foreseeable requirements of such customers as determined by the Commission. The Commission, in making the determination of capacity necessary for a pipeline or local distribution company to render adequate service to its existing customers, shall require the pipeline or local distribution company to specify the amount of natural gas actually used by its existing customers in months of peak natural gas usage during the five years immediately preceding;

"(7) 'State agency' means an agency or instrumentality of a State or political subdivision thereof, including a municipal utility, with authority to fix, modify, approve, or disapprove rates for the transportation or sale of natural gas; and

"(8) 'total capacity' means the capacity to transport natural gas that can be made available consistent with accepted engineering principles to deliver a given volume of natural gas to a given location through all means, including but not limited to, direct haul, storage capacity, compression, flow reversal or transportation by displacement.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 320 the following:

"Sec. 321. Contract carrier authorization.".

COORDINATION WITH THE NATURAL GAS POLICY ACT

SEC. 402. Title VI of the Natural Gas Policy Act of 1978 is amended—

(a) by amending section 601(a)(1)(C)(i) to read, "(i) authorized under section 302(a), 311(b), or 321; or".

(b) by amending section 601(a)(2)(A) by striking "or" at the end of clause (i), replacing the period at the end of clause (ii) with a semicolon, and inserting the following:

"(iii) authorized under section 319, or 321 of this Act; or

"(iv) transported by an intrastate pipeline, whether voluntarily or as the result of an order by a State regulatory commission, for

any party under contract carriage terms, regardless of the source or ultimate destination of such gas.".

EFFECTIVE DATE

SEC. 403. The amendments made by section 401 shall apply to the transportation of natural gas pursuant to requests made one hundred and twenty days after enactment.

AUTHORIZATION OF CERTAIN INTERSTATE SALES, TRANSPORTATION, AND ASSIGNMENTS

SEC. 404. (a) Section 311(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(a)) is amended by—

(1) amending subparagraph (A) of paragraph (1) to read as follows:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of any person.".

(2) inserting "AND LOCAL DISTRIBUTION COMPANIES" after "INTRASTATE PIPELINES" in the paragraph (2) heading;

(3) inserting in paragraph (2) "or local distribution company" after "intrastate pipeline";

(4) amending subparagraph (A) of paragraph (2) to read as follows:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline or local distribution company to transport natural gas on behalf of any person."; and

(5) in subparagraph (B)(ii) (I) and (II) of paragraph (2), inserting "or company" after "pipeline".

(b) Section 311(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(b)) is amended by—

(1) amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Commission may, by rule or order, authorize any pipeline or local distribution company to sell natural gas to any pipeline or local distribution company.";

(2) amending paragraph (2) by—

(A) striking "MAXIMUM FAIR AND EQUITABLE PRICE" after the subparagraph designator "A" and inserting in its place "INTRASTATE PIPELINES AND LOCAL DISTRIBUTION COMPANIES";

(B) inserting "or local distribution company" following "pipeline" and "or local distribution company's" following "pipeline's" wherever they appear; and

(C) inserting "(including storage)" after "transportation" in clause (i) of subparagraph (B);

(D) adding a new subparagraph (D) to read as follows:

"(D) INTERSTATE PIPELINES.—The rates and charges of any interstate pipeline with respect to any sales authorized under subsection (b)(1)(A) shall be just and reasonable (within the meaning of the Natural Gas Act).";

(3) in paragraph (4), striking "pipeline's" and inserting in its place "seller's", and striking "INTRASTATE" in the heading and inserting in its place "EXISTING";

(4) in paragraphs (4) through (7), except for subparagraph (5)(A)(i), striking "intrastate pipeline" or "pipeline" wherever they appear and inserting in their place "seller";

(5) in paragraph (5)(A)(i), striking "interstate pipeline or local distribution" and inserting in its place "purchasing";

(6) in paragraph (7)(C) striking "or";

(7) in paragraph (7)(D) striking the period and inserting a semicolon and "or";

(8) in paragraph (7) inserting a new subparagraph (E) to read as follows:

"(E) such sale would involve, either directly or indirectly, the sale of natural gas made available to the seller as a result of purchasing natural gas outside the State of receipt in a covered transaction as defined in section 601(d).";

(9) adding new paragraphs (8) and (9) to read as follows:

"(8) PRIOR APPROVAL.—If an intrastate pipeline or local distribution company purchasing natural gas outside the State of receipt in a covered transaction as defined in section 601(d) wishes to make a sale under this subsection, it must file for and obtain prior express authorization from the Commission.

"(9) DEFINITION OF SELLER.—For purposes of this subsection, the term 'seller' means any person that sells gas under paragraph (b)(1).".

(c) Section 312 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3372) is amended—

(1) by amending subsection (a) to read as follows:

"(a) AUTHORIZATION OF ASSIGNMENTS.—The Commission may, by rule or order, authorize a pipeline or local distribution company to assign, without compensation, to any other pipeline or local distribution company, all or any portion of the assignor's right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate."; and

(2) by amending subsection (c) to read as follows:

"(c) SURPLUS NATURAL GAS.—For purposes of this section, the term 'surplus natural gas' means, with respect to any pipeline or local distribution company, any natural gas which exceeds the then current demands of such person for natural gas, as determined by—

"(1) the Commission, or

"(2) the State agency having regulatory jurisdiction over that person.".

(3) by adding a new subsection (d) to read as follows:

"(d) EXTENT OF JURISDICTION.—Nothing in this Act shall be deemed to confer on the Commission jurisdiction under the Natural Gas Act over the purchase, sale, assignment, or transportation by an intrastate pipeline or local distribution company of natural gas which is not committed or dedicated to interstate commerce.".

ACCESS TO INTERSTATE SUPPLY SOURCES

SEC. 405. (a) Section 314 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3374) is amended by—

(1) striking "first" in subsection (a), and

(2) amending subsection (b) to read as follows:

"(b) NATURAL GAS COVERED BY THIS ACT.—For purposes of subsection (a), the term 'natural gas covered by this Act' means for any first sale contract, natural gas—

"(1) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of section 601 (a)(1)(A) or (b);

"(2) the sale in interstate commerce of which—

"(A) is authorized under section 302(a) or 311(b); or

"(B) is pursuant to an assignment under section 312(a); or

"(3) the transportation in interstate commerce which is—

"(A) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h),

"(B) authorized by the Commission under section 311, or

"(C) authorized under section 319 or 321.".

(b) Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by adding new subsections (d) and (e) to read as follows:

"(d) LIMITATION OF COMMISSION JURISDICTION OVER INTRASTATE TRANSACTIONS.—

"(1) GENERAL RULE.—No intrastate pipeline or local distribution company shall be subject to the jurisdiction of the Commission under the Natural Gas Act by reason of purchasing natural gas in a covered transaction regardless of whether the purchase occurs in the State of receipt.

"(2) SUBSEQUENT TRANSACTIONS.—Any transportation or sale of natural gas purchased in a covered transaction described in paragraph (1) of this subsection which occurs beyond the point at which such gas is received in the facilities of the purchaser in the covered transaction or received for its account in the facilities of another intrastate pipeline or local distribution company located in the State of receipt shall not be in interstate commerce (within the meaning of the Natural Gas Act) and shall not be subject to the jurisdiction of the Commission under the Natural Gas Act to the extent that such gas remains in the State of receipt.

"(3) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term 'natural-gas company' (as defined in section 2(6) of that Act) shall not include any person by reason of, or with respect to, any transportation or sale of natural gas if the transportation or sale is not subject to the jurisdiction of the Commission solely by reason of paragraph (2) of this subsection.

"(4) STATE OF RECEIPT RULE.—

"(A) GENERAL RULE.—For purposes of this subsection, natural gas shall be deemed to remain in the State of receipt if the gas is not transported outside the State of receipt unless such transportation occurs in connection with—

"(i) transportation authorized under sections 302(a), 311(a), 319, or 321 of this Act, or

"(ii) a sale or assignment authorized under sections 311(b)(8) or 312 of this Act.

"(B) DEFINITION.—For purposes of this subsection, the term 'State of receipt' means the State in which the intrastate pipeline or local distribution company operates and has its facilities.

"(5) DEFINITION OF COVERED TRANSACTION.—For purposes of this subsection, the term 'covered transaction' means the purchase of natural gas in—

"(A) a first sale of gas—

"(i) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of subparagraph (A) or (B) of paragraph (1) of subsection (a),

"(ii) which is produced from the Outer Continental Shelf,

"(B) a sale authorized under section 311(b),

"(C) an assignment authorized under section 312, or

"(D) a sale for resale by any person not subject to the jurisdiction of the Commission solely by reason of section 1(c) of the Natural Gas Act.

"(6) APPLICABILITY OF NATURAL GAS ACT.—Nothing herein shall exempt any person from the requirements of sections 4, 5, or 7 of the Natural Gas Act, except as is specifically provided in this Act.

"(e) NONDISCRIMINATION PROVISION.—The Commission may not condition or deny any authorization of the sale or transportation of natural gas under this Act or the Natural Gas Act on the basis of whether the gas is consumed in the interstate market or the intrastate market.".

TITLE V—ADDITIONAL AUTHORITIES AND REQUIREMENTS

LIMITATION ON INTERSTATE PIPELINE SALES TO AFFILIATED INTRASTATE PIPELINES

SEC. 501. (a) PIPELINE SALES TO CERTAIN AFFILIATES.—

(1) GENERAL RULE.—No interstate pipeline may sell in interstate commerce during any month to its affiliate (A) intrastate pipeline, (B) Hinshaw pipeline, or (C) local distribution company, a greater percentage of the quantities of natural gas contractually available for sale during such month by the interstate pipeline to its affiliate than the percentage of contractually available lower average-priced natural gas which such affiliate buyer is purchasing during the same month from nonaffiliate interstate pipelines.

(2) DEFINITIONS.—For purposes of this section, the term "Hinshaw pipeline" means any person which is not subject to the provisions of the Natural Gas Act by reason of section 1(c) thereof.

(b) APPLICATION AND EXCEPTIONS.—

(1) RULES AND ORDERS.—The Commission shall use its authority under section 501 of this Act to administer this section.

(2) ADJUSTMENTS.—The Commission may use its authority under section 502(c) of this Act to make such adjustments, consistent with the purpose of this section, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.

LIMITATION ON OFF-SYSTEM SALES BY INTERSTATE PIPELINES

SEC. 502. (a) LIMITATION.—The Commission may not issue a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act for the off-system sale of natural gas if such sale is to occur at a price less than the temporary price indicator or the free market price indicator, as defined in section 131 of the Natural Gas Policy Act of 1978, plus the just and reasonable rate for the transportation of such gas to the purchaser.

(b) DEFINITION.—For the purposes of this section, the term "off-system sale" means a sale by a pipeline which is subject to the jurisdiction of the Commission of natural gas that is—

(1) excess to the pipeline's current demand,

(2) of a short-term, interruptible nature, and

(3) made to a customer outside or away from the pipeline's traditional or historic market area.

(c) EXPIRATION PERIOD.—The provisions of this section shall be effective for forty-four months beginning on the first day of the second full month after the date of enactment of this paragraph.

LIMITED ANTITRUST EXEMPTION FOR INDEPENDENT PRODUCER COOPERATIVES

SEC. 503. (a) AVAILABILITY OF ANTITRUST DEFENSE.—There shall be available as a defense to any civil or criminal action brought under the Federal antitrust laws as that term is defined in section 2(37) of the Natural Gas Policy Act of 1978, or any similar State law, with respect to actions taken to develop cooperative associations of independent producers or actions taken by such cooperative associations to carry out any voluntary agreement or plan of action to market natural gas released for sale pursuant to subsections 131 (e) and (f) of the Natural Gas Policy Act of 1978 provided that—

(1) such action is necessary to market natural gas, and

(2) such action is not taken for the purpose of reducing competition.

(b) DEFINITION OF INDEPENDENT PRODUCER.—For the purposes of this section, the term "independent producer" has the same meaning as that term is defined in section 4992(b) of the Internal Revenue Code of 1954.

SPECIAL RULE FOR CERTAIN ROYALTY PROVISIONS

SEC. 504. (a) Section 101(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311(b)), is amended by inserting at the end thereof the following new paragraph:

"(10) PRICE CONSIDERED MARKET VALUE.—For purposes of determining the amount payable as royalty under any provision of any oil or gas lease (other than those involving State owned lands) on private, Federal or Indian lands or under any provision of Federal or State law, that bases the royalty on market value, any price paid for natural gas under any contract in effect on the date of the enactment of this paragraph and any subsequent contracts shall be considered its market value if the price was established—

"(A) pursuant to the provisions of the Natural Gas Policy Act Amendments of 1983; or

"(B) pursuant to the renegotiation of that contract if that renegotiation occurred after the date of enactment of the Natural Gas Policy Act Amendments of 1983. In the case of any such renegotiated contract between any person and an affiliate of that person, this paragraph shall apply only if the price paid does not exceed the amount paid in first sales between similarly situated parties not affiliated with each other which are comparable as to the quality and delivery conditions.".

TITLE VI—REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS AND PETROLEUM USE AND PRICING

REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 601. (a) The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) sections 103 (a)(16), (a)(18), (a)(19), and (a)(29)) (42 U.S.C. 8302 (a)(16), (a)(18), (a)(19), and (a)(29));

(2) sections 201 and 202 (42 U.S.C. 8311 and 8312);

(3) section 302 (42 U.S.C. 8342);

(4) section 401 (42 U.S.C. 8371);

(5) section 402 (42 U.S.C. 8372); and

(6) section 405 (42 U.S.C. 8375).

(b) The table of contents of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the sections repealed by subsection (a) of this section.

CONFORMING AMENDMENTS

SEC. 602. (a) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by striking "and major fuel-burning installations" and "and new" wherever these phrases appear.

(b) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(1) in subsection (a)(13)(B), by—

(A) striking clause (ii)(III);

(B) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and

(C) inserting "and" at the end of clause (ii)(I);

(2) in subsection (a)(15), by striking "or major fuel-burning installation" and "or new" wherever these phrases appear;

(3) in subsection (a)(20), by striking "or major fuel-burning installation";

(4) by redesignating subsections (a)(17), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27), and (a)(28) as subsections (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), and (a)(25);

(5) in subsection (b), by striking "or major fuel-burning installation" wherever this phrase appears;

(6) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting in its place a period; and

(7) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(c) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"The provisions of the Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except Hawaii and Alaska.".

(d) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended—

(1) by striking "or installation" and "or installations" wherever the phrases appear;

(2) by striking "or 302" wherever the phrase appears;

(3) by striking subsection (a)(3);

(4) by amending subsection (b)(1) to read as follows: "(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants.";

(5) in subsection (b)(3), by striking "or major fuel-burning installation"; and

(6) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(e) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

(1) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(2) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase;

(3) in subsection (a)(2), the last sentence; and

(4) subsection (a)(3).

(f) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking—

(1) in subsection (c), "new or" in the phrase "applicable to any new or existing electric powerplant"; and

(2) subsection (g).

(g) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

(1) in the last sentence of subsection (b), "or installation";

(2) subsection (c);

(3) in the title of subsection (d), "AND EXEMPTIONS";

(4) in the first sentence of subsection (d)(1), "or any petition for any order granting an exemption (or permit";

(5) in subsection (d)(1)(B), "or in the consideration of such petition,";

(6) in subsection (f), "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and

(7) subsection (g).

(h) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8412) is amended by striking—

(1) in the title of subsection (a), "OR EXEMPTION";

(2) in subsection (a), "or granting an exemption (or permit)";

(3) subsection (b), and redesignating subsection (c) as subsection (b);

(4) in the first sentence of subsection (b)(1) (as redesignated), "or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b),";

(5) in the first sentence of subsection (b)(1) (as redesignated), "such rule, order, or denial is published under subsection (a) or (b)" and inserting in its place "such rule, or order is published under subsection (a)";

(6) in the first sentence of subsection (b)(2) (as redesignated), "the rule, order, or denial" and inserting in its place "the rule or order";

(7) in the second sentence of subsection (b)(2) (as redesignated), "(or denial thereof)"; and

(8) in subsection (b)(3) (as redesignated), "any such rule, order, or denial" and inserting in its place "any such rule or order".

(i) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(j) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(k) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c).

(l) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended by striking—

(1) "or major fuel-burning installation" wherever the phrase appears; and

(2) "title II or" in subsections (a)(1) and (g)(3).

(m) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting in its place "from existing electric powerplants".

(n) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended by striking—

(1) in subsection (a), "any existing or new electric powerplant or major fuel-burning installation" and inserting in its place "any existing electric powerplant"; and

(2) in subsection (b)—

(A) "new or" in the phrase "In the case of any new or existing facility"; and

(B) "except to the extent provided under section 212(b) or section 312(b)" and the comma immediately preceding that phrase.

REPEAL OF INCREMENTAL PRICING REQUIREMENTS

SEC. 603. (a) Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(b) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the enactment of this section, including any surcharges based on such costs.

(c) The Commission may take appropriate action to implement this section.

McCLURE AMENDMENT NO. 2616

Mr. BAKER (for Mr. McCLURE) proposed an amendment to the bill S. 1715, supra; as follows:

Amend amendment number 2524 (Mr. McCLURE), as amended, by adding at the end thereof the following:

"SEC. 303. Notwithstanding any provisions of this Act, except section 302, the provisions added by this amendment shall govern, as follows:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This act may be cited as the "Natural Gas Policy Act Amendments of 1983".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—TRANSITIONAL PRICE AND CONTRACT PROVISIONS

Sec. 101. Limitation on prices for certain natural gas.
Sec. 102. Repeal of certain contract requirements and imposition of take-or-pay limits.
Sec. 103. Right of first refusal and right of first offer.
Sec. 104. Transportation obligation for certain natural gas.
Sec. 105. Effect of free market price indicator.

TITLE II—REMOVAL OF WELLHEAD PRICE CONTROLS AND REPEAL OF JURISDICTION OVER CERTAIN FIRST SALES

Sec. 201. Removal of wellhead price controls.
Sec. 202. Repeal of Natural Gas Act jurisdiction over certain sales of committed or dedicated natural gas.
Sec. 203. Repeal of provisions allowing reimposition of price controls and report to the Congress.

TITLE III—LIMITATIONS ON PASSTHROUGH OF CERTAIN PURCHASED GAS COSTS

Sec. 301. Limitation on the passthrough of certain purchased gas costs.
Sec. 302. Local distribution company automatic purchased gas cost-savings passthrough requirements.

TITLE IV—REMOVAL OF IMPEDIMENTS TO INTERSTATE MOVEMENTS OF GAS

Sec. 401. Contract carrier authorization.
Sec. 402. Coordination with the Natural Gas Policy Act.
Sec. 403. Effective date.
Sec. 404. Authorization of certain interstate sales, transportation, and assignments.
Sec. 405. Access to interstate supply sources.

TITLE V—ADDITIONAL AUTHORITIES AND REQUIREMENTS

Sec. 501. Limitation on interstate pipeline sales to affiliated intrastate pipelines.
Sec. 502. Limitation on off-system sales by interstate pipelines.
Sec. 503. Limited antitrust exemption for independent producer cooperatives.
Sec. 504. Special rule for certain royalty provisions.
Sec. 505. Natural gas imports.

TITLE VI—REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS AND PETROLEUM USE AND PRICING

Sec. 601. Repeal of certain sections of the Powerplant and Industrial Fuel Use Act of 1978.
Sec. 602. Conforming amendments.
Sec. 603. Repeal of incremental price requirements.

TITLE I—TRANSITIONAL PRICE AND CONTRACT PROVISIONS

LIMITATION ON PRICES FOR CERTAIN NATURAL GAS

SEC. 101. (a) Title I of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311-3333) is amended by adding the following new subtitle:

"Subtitle C—Transitional Price Provisions

"SEC. 131. LIMITATION ON PRICES FOR CERTAIN NATURAL GAS.

"(a) GENERAL RULE OF APPLICABILITY.—

"(1) COVERAGE.—The provisions of this section shall apply to contracts for the first sale of natural gas produced in the contiguous forty-eight States or from adjacent portions of the Outer Continental Shelf, including gas purchased by a pipeline for use in pipeline transmission, but not including gas which is described in section 121(f) (1), (2), or (3).

"(2) PARTIES MAY ELECT.—The provisions of this section shall apply only if either party to a contract for the first sale of natural gas so elects.

"(A) NOTICE OF ELECTION.—The party making such election must give notice to the other party to the contract, and must file a copy of such notice with the Commission within five days.

"(B) ELECTION PERIOD.—The election must be made no later than the first day of the fifth full month after enactment of this section; such notice must have been received by the other party to the contract by that date.

"(C) EFFECT OF NON-ELECTION.—Where neither party to a contract for the first sale of natural gas so elects, the contract shall remain subject to the otherwise applicable provisions of this Act.

"(3) OPTIONS AVAILABLE TO NON-ELECTING PARTIES.—Where either party to a contract for the first sale of natural gas makes the election specified in paragraph (2), the other party shall have the options specified in this paragraph.

"(A) For a contract subject to subsection (c) where the seller elects to alter the contract by making the election specified in paragraph (2), the purchaser shall have the option, to be exercised within fifteen days of receipt of notice of an election, to agree to such election or terminate the contract. If such option is not exercised within such period, the purchaser shall be deemed to have agreed to such election.

"(i) If the purchaser exercises the option to terminate the contract, the purchaser of seller shall have the option to compel continued performance in accordance with the provisions of the terminated contract at the price specified in subsection (c)(2) until such date as the seller has entered into a contract with a new purchaser, unaffiliated with such seller, who is capable of receiving the gas that was subject to the terminated contract: *Provided, however,* That the seller's authority to compel continued perform-

ance under the terms of the contract shall expire at the end of twelve months. If the seller has not obtained such a new purchaser prior to the end of the first eighteen months of the thirty-six-month period specified in paragraph (c)(1), the purchaser may elect to no longer compel such continued performance by the producer as of such date.

"(ii) If the purchaser agrees to an election, the purchaser, at the end of the first eighteen months of the thirty-six-month period specified in paragraph (c)(1), shall have an additional option to terminate the contract subject to the provisions of subparagraph (i).

"(iii) Neither party to a contract terminated pursuant to this paragraph shall have any obligation to perform any act because of the contract after the effective date of termination of the contract, except as provided herein and in paragraph (7) of this subsection.

"(B) For a contract subject to subsection (b) where the purchaser elects to alter the contract by making the election specified in paragraph (2), the seller has the option, to be exercised within fifteen days of receipt of notice of election, to agree to such election or terminate the contract.

"(i) If the seller exercises the option to terminate the contract, such seller shall continue performance under the contract at the price specified in subsection (b)(2) until such date as the seller—

"(aa) enters into a contract with a new purchaser, unaffiliated with such seller, who is capable of receiving the gas that was subject to the terminated contract or—

"(bb) one year, whichever is earlier.

"(ii) If the seller agrees to an election, the purchaser at the end of the first eighteen months of the the thirty-six-month period specified in paragraph (c)(1), shall have an additional option to terminate the contract subject to the provisions of subparagraph (i).

"(iii) does not prohibit the purchaser from adjusting the price to a price equal to the applicable price indicator.

"(B) DISQUALIFICATION.—The exemption shall not apply if the clause is not available for exercise by the purchaser on the first day of the second full month after the date of enactment of this section, or if the seller provides notice within thirty days after the enactment of this section that the clause does not satisfy the requirements set forth in paragraph (A).

"(5) EXPIRING CONTRACTS.—If a contract for natural gas not subject to section 121 (a), (b), or (c) of this Act has been the subject of an election under paragraph (2) of this subsection and if the contract expires prior to the expiration of the time periods specified in subsections (b), (c), or (d), performance under the contract by both parties shall continue at the price specified by such applicable subsections until the expiration of the period specified in subsection (d). Upon the expiration of such period, the termination of the contract shall be effective. The right of first refusal and right of first offer provisions of section 318 shall not apply to the sale of gas subject to such terminated contract.

"(6) RIGHT OF FIRST REFUSAL AND RIGHT OF FIRST OFFER APPLICABILITY.—Except as provided in paragraph (5), the right of first refusal and right of first offer in section 318 shall apply to the sale of gas subject to any contract terminated pursuant to this subsection.

"(7) RESTITUTION.—Either party to a contract terminated under this section that has received a good or service before the effective date of the contract termination shall have a duty to pay for that good or service as provided for in the contract. A party that has received payment for a good or service that was not provided before the effective date of contract termination shall have a duty to make restitution of the payment in cash or in kind in accordance with the provision of the contract.

"(b) APPLICATION TO HIGH PRICED GAS.—

"(1) GENERAL RULE.—Beginning with the first day of the second full month after the date of enactment of this section, and effective for a ceiling price limitation period of thirty-six months thereafter, the price of natural gas subject to this subsection shall be the lower of the contract price or the computed price under paragraph (2) for a contract which was the subject of an election by one party and the agreement of the other party under the procedures of subsection (a)(3)(B). In no event, however, shall the price of natural gas subject to this subsection be less than the price established by the applicable price indicator.

"(2) COMPUTED PRICE.—The computed price per million Btu's under this subsection for any month shall be equal to the base price, minus the quotient of the surplus price divided by the number of months in the price control period.

"(3) GAS COVERED BY THIS SUBSECTION.—This subsection applies to the first sale of any gas where the price in effect for such sale on the first day of the second full month following the date of enactment equals or exceeds the applicable price indicator on that date.

"(c) APPLICATION TO LOW PRICED GAS.—

"(1) GENERAL RULE.—Beginning with the first day of the second full month after the date of enactment of this section, and effective for a ceiling price limitation period of thirty-six months thereafter, the price of natural gas subject to this subsection shall be the computed price under paragraph (2) for a contract which was the subject of an election by one party and the agreement of the other party under the procedures of subsection (a). In no event, however, shall the price of natural gas subject to this subsection exceed the price established by the applicable price indicator.

"(2) COMPUTED PRICE.—The computed price per million Btu's under this subsection for any month shall be equal to the base price, plus the quotient of the price controlled price divided by the number of months in the price control period.

"(3) GAS COVERED BY THIS SUBSECTION.—(A) Except as provided in paragraph (B), this subsection applies to the first sale of any gas.

"(d) ADDITIONAL PERIOD FOR CONTRACT PRICE LIMITATION.—The contract price of natural gas subject to subsection (b) or (c) shall not exceed the free market price indicator for—

"(1) an additional six months following expiration of the thirty-six month period specified in subsection (b) or

"(2) an additional six months following expiration of the thirty-six month period specified in subsection (c).

"(e) DEFINITIONS.—For purposes of the calculation required by this section, the term—

"(1) 'base price' means, for any calendar month, the price for that gas for the previous calendar month;

"(2) 'price control period' is the divisor and means the number of calendar months, including the current month, remaining before the expiration of the ceiling price limitation period specified in the general rule, plus one;

"(3) 'price controlled price' is the dividend and means the amount by which the applicable price indicator exceeds the base price; and

"(4) 'surplus price' is the dividend and means the amount by which the base price for that gas exceeds the applicable price indicator.

"(f) APPLICABLE PRICE INDICATOR.—

"(1) TEMPORARY PRICE INDICATOR.—A temporary price indicator equal to the price computed under section 103 of this Act will be the applicable price indicator for the first six months of operation of this section. It will go into effect the first day of the second full month after enactment of this section.

"(2) FREE MARKET PRICE INDICATOR.—Beginning on the first day of the eighth full month after enactment of this section, the free market price indicator will be the applicable price indicator. The term 'free market price indicator' means, for a particular month, the volume weighted average of the price per million Btu's for natural gas under contracts exempt from ceiling prices pursuant to section 121(f)(1) entered into during the six months prior to the month in which the calculation is made and under contracts for imports authorized under section 3 of the Natural Gas Act which are authorized during the six months prior to the month in which the calculation made, including all subsequent amendments to such contracts made during such six-month period. Any allowances subject to section 110 of this Act shall be excluded from the calculation.

"(g) PUBLICATION.—Beginning with the first day of the seventh full month after enactment of this section and continuing for thirty-six months thereafter, the Commission (in accordance with section 101(b)(6)) shall compute and publish the free market price indicator for each succeeding month.

"(h) FILING REQUIREMENT.—

"(1) A purchaser of natural gas under a contract subject to section 121(f)(1) shall file with the Commission within five days of the date on which such contract is executed or amended within six months of execution—

"(A) a summary of the contract and all ancillary agreements, including all pricing provisions;

"(B) the prices to be paid under the contract during the first six months of deliveries;

"(C) the estimated volumes (in millions of Btu's to be delivered during the first six months; and

"(D) any additional data required by the Commission.

"(2) A copy of the data filed for each contract, and contract amendment, shall be served by the purchaser of the gas on the other parties to the contract.

"(3) At the end of the period when the Commission ceases computing and publishing the free market price indicator, in accordance with section 131(g), a purchaser's filing obligation under this subsection shall terminate.

"(i) SECTION 110 ALLOWANCES.—A price for the first sale of natural gas shall not be considered to exceed the price established for the first sale of such natural gas under this section if such price exceeds the price established hereunder due to any allowance established under the provisions of section 110 of this Act.

"(j) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of subsection 131(a), any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as two separate contracts if one or more categories is priced as stated in 131(b)(3) and one or more categories is priced as stated in 131(c)(3). In such event, one contract shall be considered to include all categories priced as stated in 131(b)(3) and the other contract shall be considered to include all categories priced as stated in 131(c)(3).

"(k) COMMISSION RULES.—Within thirty days of the enactment of this section, the Commission shall issue rules to implement this section.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 123 the following:

"Subtitle C—Transitional Price Provisions

"Sec. 131. Limitation on ceiling prices for certain natural gas.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 101(b)(5) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311(b)(5)) is amended by striking the period at the end and inserting the following: ", but in no event shall the operation of this paragraph be deemed to entitle any seller of certain natural gas subject to section 131 to collect a price in excess of the price under section 131.".

(2) Section 101(b)(9) of the Natural Gas Policy Act of 1978 is amended by striking the period at the end and inserting the following: ", except as provided in section 131.".

(3) Section 105(b)(3)(B) of the Natural Gas Policy Act of 1978 is amended by adding a new sentence at the end to read as follows: "This definition shall not include any clause which establishes the price for natural gas exempted from the operation of this title pursuant to section 121(f).".

(4) Section 601(b)(1)(A) of the Natural Gas Policy Act is amended by striking "or" at the end of clause (i), replacing the period at the end of clause (ii) with a semicolon and "or", and inserting clause (iii) as follows: "(iii) such amount is the price under section 131 (b)(1) or (c)(1).".

REPEAL OF CERTAIN CONTRACT REQUIREMENTS AND IMPOSITION OF TAKE-OR-PAY LIMITS

SEC. 102. (a) Subsections 315 (a) and (b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375) are repealed, subsection 315(c) is redesignated as "Sec. 315. Filing of Contracts and Agreements.", and a new section 316 is added to read as follows:

"SEC. 316. IMPOSITION OF TAKE-OR-PAY LIMITS.

"(a) GENERAL RULE.—In the case of any contract for the first sale of natural gas in effect on the date of enactment of this section and not exempted by section 121(f) (1), (2), or (3) from the wellhead price controls specified in subtitle A of title I, the purchaser may elect not to be obligated to take delivery of, or pay for, any volume in excess of the volumes specified in subsection (b) for the periods specified in subsection (c).

"(b) VOLUMES.—For the purposes of subsection (a), the volumes shall be—

"(1) 50 per centum of deliverability during the first year from the date of enactment of this section;

"(2) 60 per centum of deliverability during the second year from the date of enactment of this section; and

"(3) 70 per centum of deliverability during the third year from the date of enactment of this section.

"(c) DURATION OF REDUCTION.—Any reduction of volumes pursuant to this section shall last for one year and may be extended for additional one-year periods, but in no event shall any reduction extend beyond the third year after enactment.

"(d) NOTICE REQUIREMENT.—Any purchaser electing pursuant to this section to reduce the volumes purchased shall provide the seller with written notice no less than thirty days prior to the date on which delivery of such volumes is to be reduced. Such notice may be given in advance of the effective date of this section.

"(e) RELEASE OF VOLUMES NOT TAKEN.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the volumes not taken are released and may be sold to any other purchaser. Such volumes will constitute released take-or-pay gas and—

"(1) shall not be subject to the abandonment requirements of the Natural Gas Act;

"(2) shall not be committed or dedicated to interstate commerce under the Natural Gas Act; and

"(3) shall not be subject to the provisions of this Act relating to the maximum lawful price for the first sale of natural gas.

"(f) CONTRACT AND TRANSPORTATION OBLIGATIONS.—If the purchaser elects, pursuant to this section, to reduce the volumes purchased, the purchaser shall tender to the seller full and unconditional release from all duties and obligations in contract or in law with respect to volumes not taken under subsection (e). The purchaser, if a transporter of natural gas, shall tender transportation for such gas in accordance with the provisions of section 319.

"(g) PURCHASES FROM AFFILIATES.—If a purchaser elects pursuant to this section to reduce the volumes purchased, the percentage reduction in purchases from a nonaffiliated seller may not exceed any percentage reduction in deliveries from the purchaser's own production or from any affiliated seller.

"(h) CASINGHEAD NATURAL GAS.—This section shall not apply to casinghead natural gas. The term 'casinghead natural gas' as used herein shall mean gas produced from a well which, under the laws or rulings of the regulatory body having authority over the production of oil and gas of the jurisdiction in which such well is located, is classified as an oil well, and in the absence of any classification under such laws or rulings, such term shall mean gas which is produced in conjuction with crude oil from the same producing formation from a single well.

"(i) DRAINAGE SITUATIONS.—This section shall not apply to the extent the production of the volume for which delivery is required to be taken would either cause drainage or be necessary in order to prevent drainage. For purposes of this section, the determination of whether delivery is required to be taken in order to prevent drainage will be determined by the drainage provision in the applicable gas sales contract. In the absence of a contractual provision, the determination will be made by the State or Federal agency having regulatory jurisdiction with respect to the production of natural gas.

"(j) PREVENTION OF RESERVOIR DAMAGE.—This section shall not apply to the extent that reduction in takes would be likely to result in damage to the well or reservoir.

"(k) OTHERWISE APPLICABLE LAW.—Any provision or rule of State or Federal law which conflicts with this section shall be inoperative after the date of enactment of this section to the extent that such provision or rule would otherwise apply to prevent the effective operation of this section.

"(l) CONTRACTS COVERING MORE THAN ONE CATEGORY OF NATURAL GAS.—For purposes of this section, any contract covering two or more categories of natural gas for purposes of pricing the natural gas delivered under the contract shall be treated as separate contracts for each such category.

"(m) EFFECT OF TAKE-OR-PAY REDUCTION.—Any election made pursuant to subsection (a) shall not be considered a renegotiation for purposes of section 121(f)(2).

"(n) EFFECTIVE DATE.—The provisions of this section shall go into effect thirty days after the date of enactment.".

"(o) NECESSITY TEST.—

"(1) An election made under subsection (a) shall be effective unless the Commission or the appropriate state agency, upon complaint by the seller, determines on an expedited basis that the purchaser has not used all means available under existing contracts to reduce average purchased gas price.

"(2) If the Commission or the appropriate state agency determines that the purchaser has not used all means available under existing contracts to reduce average purchased gas price, then the election shall be null and void as of the date of election.".

"(p) SPECIAL COMMISSION RULE.—Within 30 days after the date of enactment of this section, the Commission shall promulgate such rules as may be necessary to prevent the rate of return of a purchaser who makes such an election, whose rate of return is subject to the jurisdiction of the Commission, from increasing as a result of such election."

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by striking the item relating to section 315 and inserting in its place the following:

"Sec. 315. Filing of contracts and agreements.

"Sec. 316. Imposition of take-or-pay limits.".

RIGHT OF FIRST REFUSAL AND RIGHT OF FIRST OFFER

SEC. 103. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding new section 318 to read as follows:

"SEC. 318. RIGHT OF FIRST REFUSAL AND RIGHT OF FIRST OFFER.

"(a) PURCHASER'S RIGHT OF FIRST REFUSAL.—

"(1) GENERAL RULE.—Except as provided in subsection (b), if either party terminates a contract pursuant to the authority of section 131, the purchaser that was a party to the terminated contract shall have a right of first refusal for gas subject to such contract, if such purchaser offers to purchase such gas at a price equal to or greater than the applicable market price indicator.

"(2) GAS SUBJECT TO REQUIREMENT.—The right of first refusal shall apply to the volumes of gas coexistence with the terminated contract.

"(3) REQUIREMENTS FOR OFFER.—If the purchaser terminates the contract, and if such purchaser wishes to retain a right of first refusal, the purchaser must, at the time of notice of intent to terminate the contract, make the seller an offer to purchase at a price equal to or greater than the applicable price indicator.

"(4) ACTION ON OFFER.—An offer by such purchaser pursuant to paragraphs (3)(A) or (B) to purchase must be accepted or reject-

ed by the producer within thirty days of receipt.

"(5) OPPORTUNITY TO MATCH TERMS OF SUBSEQUENT SALE.—If such purchaser makes the seller an offer to purchase pursuant to the requirements of this section, and if the seller does not accept that offer and thereafter proposes to sell the gas, the purchaser shall have an opportunity to match the terms of the subsequent sale. The purchaser shall be required to match an offer with comparable volumes and terms and conditions, as well as with price. If the purchaser does not exercise its right to match the terms within fifteen days of receipt of notice from the seller of an intent to sell the gas, the purchaser may sell such gas to any unaffiliated purchaser.

"(b) PURCHASER'S RIGHT OF FIRST OFFER.—

"(1) GENERAL RULE.—If a seller exercises the option to terminate the contract pursuant to the authority of section 131(a)(3)(B) for natural gas subject to section 121 (a), (b), or (c), or section 107(c)(5), the purchaser that was a party to the terminated contract shall have a right of first offer for gas subject to such contract.

"(2) TERMS AND CONDITIONS.—Within fifteen days of the exercise by the seller of the option to terminate the contract pursuant to the authority of section 131(a)(3)(B), the seller shall nominate volumes of gas available for purchase in a subsequent contract. Such nomination shall apply to volumes of gas coextensive with the terminated contract, and shall include terms and conditions regarding—

"(A) duration of the contract, and

"(B) volumes to be delivered under the contract, including terms and conditions respecting delivery and take or pay obligations.

"(3) REQUIREMENTS FOR FIRST OFFER.—Within fifteen days of receipt of such nomination from the seller, the purchaser may make an offer to purchase such gas at a price equal to or greater than the applicable price indicator in effect at the time of notice to terminate the contract, in accordance with the terms nominated by the seller.

"(4) ACTION ON FIRST OFFER.—An offer by such purchaser pursuant to paragraph (3) to purchase must be accepted or rejected by the seller within thirty days of receipt of such offer.

"(5) SUBSEQUENT SALE.—In the first contract for sale of gas nominated under paragraph (2), the seller may not sell the gas for which a first offer has been made under paragraph (3) to another purchaser for any amount equal to or less than the price specified in the first offer or under terms and conditions other than those nominated by such seller, except under the procedures specified in paragraph (6).

"(6) ALTERATION OF TERMS AND CONDITIONS.—If after receipt of a first offer to purchase gas under paragraph (3), the seller desires to alter the terms and conditions specified in the nomination under paragraph (2), such seller shall give notice of the alteration to the purchaser, and the requirements of paragraphs (3), (4), and (5) shall apply to the gas subject to such altered nomination.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating of section 316 the following:

"Sec. 318. Right of first refusal and right of first offer.".

TRANSPORTATION OBLIGATION FOR CERTAIN NATURAL GAS

SEC. 104. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361 et seq.) is amended by adding a new section 319 to read as follows:

"SEC. 319. TRANSPORTATION OBLIGATION FOR CERTAIN NATURAL GAS.

"(a) IN GENERAL.—In the event that a contract is terminated under section 131, a pipeline purchaser that was a party to the terminated contract shall have an obligation to transport natural gas for a seller that was a party to the terminated contract. Any purchaser electing to reduce the volumes taken under section 316, which results in 'released take-or-pay gas' under section 316(e), shall have an obligation to transport such gas. The obligation of the pipeline purchaser shall not exceed on an annual basis the largest volume delivered under the contract during any twelve consecutive months in the thirty-six months prior to its termination.

"(b) LIMITATION OF OBLIGATION.—The Commission, or in the case of an intrastate pipeline purchaser the State agency with jurisdiction over such pipeline purchaser, upon application by the pipeline purchaser and after opportunity for hearing, may order a limitation of the obligation of the pipeline purchaser under this section if compliance with the obligation would require construction of additional facilities other than minor facilities as defined in section 321 or would impair the ability of the pipeline purchaser to render adequate service to its existing customers.

"(c) CONSIDERATION.—The consideration for any transportation provided under this section shall include an incentive allowance of $0.05 per million Btu's plus the just and reasonable rate, or the fair and equitable rate, for such transportation, as established by the Commission or appropriate State regulatory body, unless the Commission or appropriate State regulatory body has established by rule a different incentive allowance for such transportation. No amount of such incentive allowance shall be required to be credited and flowed back to the customers of such pipeline. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 318 the following:

"Sec. 319. Transportation obligation for certain natural gas.".

EFFECT OF FREE MARKET PRICE INDICATOR

SEC. 105. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 320 to read as follows:

"SEC. 320. EFFECT OF FREE MARKET PRICE INDICATOR.

"(a) PERMANENT REFERENCE FOR CERTAIN CONTRACTS.—The price established by the free market price indicator in effect on the first day of the forty-fourth full month after enactment of this section—

"(1) shall operate as a permanent reference for any area rate clause as defined in this section, and

"(2) shall be the reference price for natural gas under any contract subject to an election under section 131(c) of this Act, if such price would otherwise be below the price level established by the free market price indicator on that date.

"(b) DEFINITION OF AREA RATE CLAUSE.—An area rate clause is a clause which establishes a contract price for the sale of gas by reference to a federally established rate, including, without way of limitation, a clause referencing a just and reasonable rate established by order of the Commission.

"(c) OTHER REFERENCE PRICES.—For purposes of an area rate clause, any maximum lawful price under subtitle A, or price established pursuant to section 131 of this Act, shall be deemed to be a just and reasonable rate established by order of the Commission.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (U.S.C. 3301 note) is amended by inserting after the item relating to section 319 the following:

"Sec. 320. Effect of free market price indicator.".

TITLE II—REMOVAL OF WELLHEAD PRICE CONTROLS AND REPEAL OF JURISDICTION OVER CERTAIN FIRST SALES

REMOVAL OF WELLHEAD PRICE CONTROLS

SEC. 201. Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by the deletion of the words "Subject to the reimposition of price controls as provided in section 122, the" and inserting in lieu thereof "The", and by the addition of new subsections (f) and (g) to read as follows:

"(f) SPECIAL RULE.—The provisions of subtitle A shall not apply to—

"(1) gas subject to any contract for the first sale of natural gas that was executed after the date of enactment of this subsection, or

"(2) gas subject to any contract for the first sale of natural gas that was renegotiated after the date of enactment of this subsection, if such renegotiated contract expressly provides that the provisions of subtitle A shall not apply, or

"(3) released take or pay gas under subsection 316(e) of this Act, or

"(4) gas subject to an election under section 131 (b) or (c) of subtitle C of this title.

"(g) REMOVAL OF WELLHEAD PRICE CONTROLS ON ALL NATURAL GAS.—

"(1) on the first day of the forty-fourth full month after enactment of section 131, the provisions of this title shall cease to apply except as specified in paragraph (2) or (3).

"(2) except as provided in section 131(d), the provisions of this title shall cease to apply to natural gas subject to subsection 131(b) on the first day of the twentieth full month after the enactment of this subsection or at the conclusion of any additional time period specified for continued contract obligations pursuant to paragraph 131(a)(3)(B)(i).

"(3) the provisions of this title shall cease to apply to natural gas subject to subsection 131(c) on the first day of the forty-fourth full month after the enactment of this subsection or at the conclusion of any additional time period specified for continued contract obligations pursuant to paragraph 131(a)(3)(B)(i).".

REPEAL OF NATURAL GAS ACT JURISDICTION OVER CERTAIN SALES OF COMMITTED OR DEDICATED NATURAL GAS

SEC. 202. Section 601(a)(1)(B) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)(1)(B)) is amended by striking "or" at the end of clause (ii), by replacing the period at the end of clause (iii) with a semicolon, and by the addition of new clauses (iv), (v), and (vi) to read as follows:

"(iv) natural gas exempted from the operation of subtitle A of title I pursuant to section 121(f);

"(v) natural gas that was subject to a contract that expired, lapsed, or was terminated pursuant to its own terms, or was terminated, except as provided under subsection 131(b) or 131(c); or

"(vi) natural gas exempted from the operation of title I pursuant to section 121(g).".

REPEAL OF PROVISIONS ALLOWING REIMPOSITION OF PRICE CONTROLS AND REPORT TO THE CONGRESS

SEC. 203. (a) Sections 122, 123, and 507 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332, 3333, and 3417) are repealed.

(b) The table of contents of the Natrual Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by striking the items relating to sections 122, 123, and 507.

TITLE III—LIMITATIONS ON PASSTHROUGH OF CERTAIN PURCHASED GAS COSTS

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SEC. 301. (a) Section 601(c)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(c)(2)) is amended by inserting "imprudence" after "abuse," and before "or similar grounds."

(b) Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by inserting new subsections (d) and (e) to read as follows:

"(d) PRUDENT PURCHASE RULE.—In determining whether any amount paid by a pipeline with respect to any purhase of natural gas was imprudent, the Commission shall consider—

"(1) the reasonable availability of lower cost supplies of natural gas to such pipeline,

"(2) the necessity of incurring such costs in order to enable such pipeline to acquire the supplies of natural gas necessary to render adequate service to its existing customers, and

"(3) whether such purchase materially prevents the pipeline from responding to changes in demand or other market forces.

"(e) The rule set forth in subsection (d) shall apply to any amount paid pursuant to contracts for the first sale of natural gas entered into or renegotiated after the date of enactment of this subsection.

"(f) AFFILIATED PRODUCTION.—No interstate pipeline may recover any amounts paid for purchases of natural gas under contracts renegotiated with an affiliated producing entity unless such interstate pipeline has renegotiated contracts with nonaffiliated producing entities commensurately.

"(g) REDUCTIONS IN PURCHASED GAS COSTS.—Within sixty days of the enactment of this section, the Commission shall promulgate rules providing for the automatic passthrough of any reductions in amounts paid for purchases of natural gas realized by an interstate pipeline as a result of—

"(1) take or pay reductions pursuant to section 316,

"(2) price reductions pursuant to section 131,

"(3) any other reductions in amounts paid for natural gas, or

"(4) any reductions pursuant to section 316(p).".

LOCAL DISTRIBUTION COMPANY AUTOMATIC PURCHASED GAS COST SAVINGS PASSTHROUGH REQUIREMENTS

SEC. 302. The Natural Gas Policy Act of 1978 is amended by adding the following new section:

"SEC. 603.—LOCAL DISTRIBUTION COMPANY AUTOMATIC PURCHASED GAS COST SAVINGS PASSTHROUGH REQUIREMENTS

"(a) GENERAL RULE.—Any purchased gas cost savings received by any local distribution company shall be automatically and immediately passed through by such local distribution company to all gas consumers on a volumetric basis.

"(b) PURCHASED GAS COST SAVINGS SUBJECT TO AUTOMATIC PASSTHROUGH.—For the purposes of this section, any reduction in the amounts paid by a local distribution company for the purchase of natural gas from any interstate pipeline as a result of section 601(g), or any other reductions in amounts paid for natural gas by a local distribution company, shall be deemed a purchased gas cost savings.

"(c) COMMISSION RULES.—Within sixty days of the enactment of this section, the Commission shall promulgate such rules as may be necessary to provide for the automatic passthrough to customers of local distribution companies of the purchased gas cost savings specified in subsection (b).

"(d) PROHIBITION ON OFFSETTING MODIFICATIONS IN RATES AND CHARGES.—Any modification of the method of allocating costs to the rates and charges in effect on the date of enactment of this section of such local distribution company, which has the effect of creating any offset in the rates and charges for natural gas to any customer served by such company for the amount of any purchased gas cost savings received by such local distribution company, is prohibited.

"(e) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to such enforcement authority as may be available pursuant to section 504(b)(1), the Secretary, the Commission, or, on the request of the Secretary of Energy or the Commission, the Attorney General, may institute a civil action for injunctive or other equitable relief as may be appropriate to assure compliance with the provisions of this section requiring the passthrough of purchased gas cost savings received by any local distribution company. Such action may be instituted in any district court of the United States in the State in which such local distribution company conducts business or in the District Court of the United States for the District of Columbia.

"(f) PREEMPTION OF STATE OR LOCAL LAW.—The requirements of this section shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any purchased gas cost savings pursuant to the provisions of this section, or prevent the application of the requirements of this section.".

(b) CONFORMING AMENDMENT.—The Natural Gas Policy Act of 1978 is amended by inserting in Sec. 504(b)(1) after "Except as provided in paragraphs (2) and (3)," the phrase "and section 603(e),".

(c) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 602 the following:

"Sec. 603. Local distribution company purchased gas cost savings passthrough requirements.".

TITLE IV—REMOVAL OF IMPEDIMENTS TO INTERSTATE MOVEMENTS OF GAS

CONTRACT CARRIER AUTHORIZATION

SEC. 401. (a) Title III of the Natural Gas Policy Act of 1978 (15 U.S.C. 3361-3375) is amended by adding a new section 321 to read as follows:

"SEC 321. CONTRACT CARRIER AUTHORIZATION.

"(a) GENERAL INTERSTATE PIPELINE RULE.—An interstate pipeline shall transport natural gas under this section if—

"(1) a seller or a purchaser of natural gas requests an interstate pipeline to transport natural gas,

"(2) such pipeline has available capacity, and

"(3) the seller or purchaser certifies that—

"(A) at least forty-five days in advance it notified the interstate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(B) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline, and

"(C) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(b) GENERAL INTRASTATE PIPELINE RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order an intrastate pipeline to transport natural gas in accordance with this section if—

"(A) a seller or a purchaser of natural gas requests an intrastate pipeline to transport natural gas,

"(B) such request is received by such intrastate pipeline and filed with the State agency, and that State agency has failed to take final administrative action within a period of ninety days after receipt of such request,

"(C) such pipeline has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the intrastate pipeline currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This subsection shall not apply if a State agency certifies that—

"(A) it has authority to require an intrastate pipeline with available capacity to transport natural gas for a seller or a purchaser of natural gas requesting such transportation, and

"(B) pursuant to such authority, it is required to take final administrative action within a time certain.

"(3) JURISDICTION OF THE COMMISSION.—No intrastate pipeline shall be subject to the jurisdiction of the Commission under the Natural Gas Act by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for an intrastate pipeline ordered by the Commission to transport natural gas

under subsection (b), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by an intrastate pipeline, if no rate has been established pursuant to State law.

"(c) GENERAL LOCAL DISTRIBUTION COMPANY RULE.—

"(1) APPLICABILITY.—The Commission, after consultation with the Governor of the affected State, shall order a local distribution company to transport natural gas in accordance with this section if—

"(A) a seller or a purchaser of natural gas requests a local distribution company to transport natural gas,

"(B) such request is received by the local distribution company and filed with the State agency, and that State agency has failed to take administrative action within a period of ninety days after receipt of such request.

"(C) such local distribution company has available capacity, and

"(D) the seller or purchaser certifies that—

"(i) at least forty-five days in advance it notified the pipeline or local distribution company currently serving the person for whom such transportation service is being sought of its intent to request an authorization pursuant to this section,

"(ii) it attempted, in good faith, to negotiate a continuation of current service, if any, by such pipeline or local distribution company, and

"(iii) it has been unable to conclude any other satisfactory agreement for the transportation of such gas.

"(2) EXEMPTION.—This section shall not apply if a State agency certifies that—

"(A) it has authority to require a local distribution company to transport natural gas for a seller or a purchaser of natural gas requesting such transportation, and

"(B) pursuant to such authority, it is required to take final administrative action within a time certain.

"(3) JURISDICTION OF THE COMMISSION.—No local distribution company shall be subject to the jurisdiction of the Commission by virtue of transporting natural gas pursuant to the requirements of this subsection. The Commission shall—

"(A) establish an incentive allowance for contract carriage compensation under subsection (f) for a local distribution company ordered by the Commission to transport natural gas under subsection (c), if no incentive allowance has been established pursuant to State law, or

"(B) establish a fair and equitable rate for transportation by a local distribution company, if no rate has been established pursuant to State law.

"(4) RESTRICTION.—

"(A) No individual facility served as of the date of enactment of this Act, or historically served by a local distribution company, may receive gas transported under this section, except according to the procedures in this subsection.

"(B) For the purposes of this paragraph, any individual facility that—

"(i) has received gas from a local distribution since January 1, 1980,

"(ii) is not receiving gas as of the date of enactment, and

"(iii) has service facilities physically connected to the local distribution company, shall be deemed to have been historically served by such company.

"(C) The prohibition under subparagraph (A) shall not apply—

"(i) to a request for transportation service to an individual facility served as of the date of enactment of this Act, or historically served, by a local distribution company to the extent that the volume of natural gas to be transported exceeds the average annual deliveries to such facility within four years prior to the date of enactment,

"(ii) to gas transported to serve facilities not in existence as of the date of enactment,

"(iii) to gas transported to serve facilities which—

"(aa) have not used gas for three years prior to date of application for transportation service, or

"(bb) have not used gas for four years, in the case of facilities historically served by a local distribution company,

"(iv) to the extent that the individual facility has a direct purchase contract with an interstate natural gas pipeline, or

"(v) to a request for transportation service if such request has the concurrence of the local distribution company and the State agency.

"(5) GENERAL EXCEPTION.—Notwithstanding any other provision of this subsection, the Commission may, by order, approve a request for transportation service in accordance with this section if it finds that—

"(A) a State agency having regulatory jurisdiction over local distribution companies has taken final administrative action on a request for transportation service pursuant to this section, and such action is no longer subject to appeal pursuant to State law, and

"(B) the final action by the State agency did not result in transportation service because such action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(d) AVAILABLE CAPACITY.—

"(1) REBUTTABLE PRESUMPTION.—A pipeline or a local distribution company shall be presumed to have available capacity unless the Commission determines that such pipeline's or local distribution company's total capacity is necessary to render adequate service to its existing customers.

"(2) PARTIAL CAPACITY.—If the Commission finds that a pipeline or a local distribution company has available capacity to transport only a portion of the natural gas requested to be transported under this section, the Commission shall require such pipeline to transport such natural gas to the extent of such available capacity in accordance with this section.

"(e) PROTECTION FOR HIGH PRIORITY USERS.—

"(1) GENERAL RULE FOR EXISTING CUSTOMERS.—Any pipeline transporting natural gas pursuant to this section shall continue to serve its existing customers, in preference to its contract carriage customers, except as provided herein.

"(2) ESTABLISHMENT OF CONTRACT CARRIAGE SERVICE PRIORITY.—Any contract carriage customer may seek to establish a contract carriage service priority in order to assure that capacity is available for the existing high-priority users of the gas transported on behalf of such customer.

"(A) FILING REQUIREMENT.—The contract carriage customer seeking to establish a contract carriage service priority shall file such information as may be required by the Commission in order to establish the volume of natural gas to be transported by the pipeline in order to meet the current requirements of the existing high-priority users of the gas transported on behalf of such customer. The contract carriage customer seeking to establish the contract carriage service priority shall file such information at the same time it files the request for authorization pursuant to subsection (k)(1).

"(B) COMMISSION DETERMINATION.—The Commission shall determine the volume of natural gas which is necessary to meet the current requirements of the existing high-priority users of the gas transported on behalf of any contract carriage customer, taking into consideration all of the sources of supply of such contract carriage customers. Such volume shall constitute the contract carriage service priority.

"(3) APPLICATION OF PRIORITY.—In the event that the transporting pipeline later develops insufficient capacity to satisfy the transportation needs of both its existing customers and its contract carriage customers, the Commission shall, by rule or order, require the pipeline to transport the contract carriage service priority volume, in preference to the volume necessary to meet the requirements of customers who are not high-priority users of such pipeline.

"(4) INSUFFICIENT SUPPLY.—Nothing in this section shall affect—

"(A) the priority of service afforded users under title IV of this Act of the pipeline's gas supply that is subject to the pipeline's curtailment plan, or

"(B) the priority of service established pursuant to State law for any intrastate pipeline.

"(f) CONTRACT CARRIAGE COMPENSATION.—

"(1) GENERAL RULE.—Compensation for transportation service provided under this section shall be determined according to this subsection.

"(2) VOLUNTARY TRANSPORTATION ALLOWANCE.—Any pipeline or local distribution company that voluntarily agrees to transport natural gas under this section shall be permitted to charge an incentive allowance of up to $0.05 per million Btu's (in excess of the just and reasonable rate, or the fair and equitable rate, for such transportation as established by the Commission) unless and until the Commission determines by rule or order that some other amount is appropriate as an incentive in the public interest. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to be charged by the pipeline.

"(3) REQUIRED CONTRACT CARRIAGE COMPENSATION ALLOWANCE.—Any pipeline or local distribution company that protests the transportation of natural gas under this section and is subsequently ordered to transport such natural gas by rule or order of the Commission shall be allowed to charge an appropriate incentive allowance, to be determined by the Commission. The allowance may exceed the just and reasonable rate, or the fair and equitable rate, for such transportation by up to $0.05 per million Btu's if, in the judgment of the Commission, the protest was a reasonable effort to protect the pipeline's or local distribution company's ability to continue to render adequate service to its existing customers. The Commission shall establish criteria to be used in determining the amount of the incentive allowance to be granted. The Commission shall not require any portion of such incentive allowance to be credited and flowed back to the customers of such pipeline or local distribution company. Further, no amount of such incentive allowance shall be used or considered in establishing rates to

be charged by the pipeline or local distribution company.

"(4) TRANSPORTATION BY MULTIPLE PIPELINES OR LOCAL DISTRIBUTION COMPANIES.—If transportation service is provided under this section by more than one pipeline or local distribution company, the Commission may allocate the incentive allowance provided for in subsection (2) or (3) among the parties providing transportation service under this section.

"(5) INCENTIVE ALLOWANCE LIMITATION.—Notwithstanding any other provision of this section, any pipeline that transports natural gas owned or produced by an affiliate of such pipeline may not receive an incentive allowance for such transportation service. Similarly, any local distribution company that transports natural gas owned or produced by an affiliate of such local distribution company may not receive an incentive allowance for such transportation service.

"(6) CONSUMER PROTECTION RATE DESIGNS.—Within ninety days after enactment the Commission shall promulgate regulations which require that the just and reasonable rates for the transportation service provided in accordance with this section include an equitable percentage of the fixed costs of the transporting pipeline in order to protect all classes of customers, but particularly residential and commercial customers of the transporting pipeline. Such regulations shall be designed to require rates for transportation service provided in accordance with this section that are comparable to transportation charges included in the price of gas sold to pipeline customers receiving comparable service.

"(g) CONSTRUCTION OF NEW FACILITIES.—Upon request of a seller or purchaser of natural gas requesting transportation of natural gas under this section, the Commission may order a pipeline or local distribution company to construct and operate minor facilities necessary for the transportation of natural gas under this section. The person requesting transportation service shall pay the cost of construction and operation of such facilities.

"(h) SERVICE OBLIGATION.—If a customer of an interstate pipeline is a purchaser of natural gas transported pursuant to this section, the service obligation of that pipeline to such customer pursuant to the Natural Gas Act shall be reduced, at the option of the pipeline, to the extent the volumes purchased by the customer reduce the customer's requirements under its contract with the interstate pipeline.

"(i) TERMINATION.—The Commission may, by order, reduce or terminate the transportation service provided for under this section upon the filing of a petition by any party to a transportation service agreement if the Commission determines that, because of unforeseen circumstances, the volumes of such natural gas supplied or delivered do not substantially comply with the terms of the authorization under this section.

"(j) REGULATIONS.—The Commission shall issue final regulations implementing the requirements of this section within one hundred and twenty days of enactment of this section. The regulations shall—

"(1) provide for self implementation of transportation requested under this section in the absence of any protest; and

"(2) require semiannual certification by each interstate pipeline of its total capacity, its available capacity, and the amount of natural gas actually taken by its existing customers in months of peak natural gas usage during the five years immediately preceding.

"(k) PROCEDURES.—

"(1) All requests for transportation service under this section shall be filed with the Commission, which shall cause the same to be published in the Federal Register and forwarded to the appropriate State agency as soon as practicable.

"(2) Any transportation service request may be protested by the pipeline or local distribution company to which it is addressed or by any other interested person, or any State agency, on the grounds that—

"(A) the request, if implemented—

"(i) would render the pipeline or local distribution company requested to provide the transportation service unable to render adequate service to its existing customers, or

"(ii) would render the pipeline or local distribution company presently serving the person on whose behalf such transportation is being sought unable to render adequate service to its remaining customers,

"(B) the seller or purchaser did not meet the notice requirement contained in subsection (a), (b) or (c), or

"(C) the seller or purchaser did not negotiate in good faith as required by subsection (a), (b), or (c).

Such protest must be filed within thirty days after publication of the request for transportation service.

"(3) At the expiration of the thirty-day protest period provided in paragraph (2), if no protest has been received, the transportation service shall be implemented pursuant to subsection (j)(1).

"(4) The Commission shall hear and decide protests filed hereunder as expeditiously as practicable, giving priority to such proceedings; and shall enter its order with respect to any protest within ninety days after the date the protest is filed, extending the entry of its order beyond such ninety-day period only for good cause shown. If the Commission cannot enter its order within such ninety-day period, in the absence of a stay entered to avoid irreparable injury, requests for transportation service shall be implemented at the end of such ninety-day period.

"(5) Commission proceedings and orders with respect to any protested request shall be limited to consideration of and decision on the specific grounds for protest specified in this section and asserted in the protest.

"(l) DEFINITIONS.—For purposes of this section, the term—

"(1) 'contract carriage customer' means any person receiving transportation service under subsection (a);

"(2) 'existing customer' means any person served by a pipeline other than a contract carriage customer;

"(3) 'high-priority user' includes any high-priority user, any essential agricultural use, and any essential industrial process and feedstock use, as defined in title IV;

"(4) 'intrastate pipeline' means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act, except a local distribution company;

"(5) 'minor facilities' means those facilities, including sales taps, which the Commission determines by rule or order do not involve substantial costs;

"(6) 'render adequate service to its existing customers' means the capacity to transport the volume of natural gas necessary to meet both the present requirements of existing customers and the reasonably foreseeable requirements of such customers as determined by the Commission. The Commission, in making the determination of capacity necessary for a pipeline or local distribution company to render adequate service to its existing customers, shall require the pipeline or local distribution company to specify the amount of natural gas actually used by its existing customers in months of peak natural gas usage during the five years immediately preceding;

"(7) 'State agency' means in agency or instrumentality of a State or political subdivision thereof, including a municipal utility, with authority to fix, modify, approve, or disapprove rates for the transportation or sale of natural gas; and

"(8) 'total capacity' means the capacity to transport natural gas that can be made available consistent with accepted engineering principles to deliver in given volume of natural gas to a given location through all means, including but not limited to, direct haul, storage capacity, compression, flow reversal or transportation by displacement.".

(b) The table of contents of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 note) is amended by inserting after the item relating to section 320 the following:

"Sec. 321. Contract carrier authorization.".

COORDINATION WITH THE NATURAL GAS POLICY ACT

SEC. 402. Title VI of the Natural Gas Policy Act of 1978 is amended—

(a) by amending section 601(a)(1)(C)(i) to read, "(i) authorized under section 302(a), 311(b), or 321; or".

(b) by amending section 601(a)(2)(A) by striking "or" at the end of clause (i), replacing the period at the end of clause (ii) with a semicolon, and inserting the following:

"(iii) authorized under section 319, or 321 of this Act; or

"(iv) transported by an intrastate pipeline, whether voluntarily or as the result of an order by a State regulatory commission, for any party under contract carriage terms, regardless of the source or ultimate destination of such gas.".

EFFECTIVE DATE

SEC. 403. The amendments made by section 401 shall apply to the transportation of natural gas pursuant to requests made one hundred and twenty days after enactment.

AUTHORIZATION OF CERTAIN INTERSTATE SALES, TRANSPORTATION, AND ASSIGNMENTS

SEC. 404. (a) Section 311(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(a)) is amended by—

(1) amending subparagraph (A) of paragraph (1) to read as follows:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of any person.".

(2) inserting "AND LOCAL DISTRIBUTION COMPANIES" after "INTRASTATE PIPELINES" in the paragraph (2) heading;

(3) inserting in paragraph (2) "or local distribution company" after "intrastate pipeline";

(4) amending subparagraph (A) of paragraph (2) to read as follows:

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline or local distribution company to transport natural gas on behalf of any person."; and

(5) in subparagraph (B)(ii) (I) and (II) of paragraph (2), inserting "or company" after "pipeline".

(b) Section 311(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371(b)) is amended by—

(1) amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Commission may, by rule or order, authorize any pipeline or local distribution company to sell natural gas to any pipeline or local distribution company.";

(2) amending paragraph (2) by—

(A) striking "MAXIMUM FAIR AND EQUITABLE PRICE" after the subparagraph designator "A" and inserting in its place "INTRASTATE PIPELINES AND LOCAL DISTRIBUTION COMPANIES";

(B) inserting "or local distribution company" following "pipeline" and "or local distribution company's" following "pipeline's" wherever they appear; and

(C) inserting "(including storage)" after "transportation" in clause (i) of subparagraph (B);

(D) adding a new subparagraph (D) to read as follows:

"(D) INTERSTATE PIPELINES.—The rates and charges of any interstate pipeline with respect to any sales authorized under subsection (b)(1)(A) shall be just and reasonable (within the meaning of the Natural Gas Act).";

(3) in paragraph (4), striking "pipeline's" and inserting in its place "seller's", and striking "INTRASTATE" in the heading and inserting in its place "EXISTING";

(4) in paragraphs (4) through (7), except for subparagraph (5)(A)(i), striking "intrastate pipeline" or "pipeline" wherever they appear and inserting in their place "seller";

(5) in paragraph (5)(A)(i), striking "interstate pipeline or local distribution" and inserting in its place "purchasing";

(6) in paragraph (7)(C) striking "or";

(7) in paragraph (7)(D) striking the period and inserting a semicolon and "or";

(8) in paragraph (7) inserting a new subparagraph (E) to read as follows:

"(E) such sale would involve, either directly or indirectly, the sale of natural gas made available to the seller as a result of purchasing natural gas outside the State of receipt in a covered transaction as defined in section 601(d).";

(9) adding new paragraphs (8) and (9) to read as follows:

"(8) PRIOR APPROVAL.—If an intrastate pipeline or local distribution company purchasing natural gas outside the State of receipt in a covered transaction as defined in section 601(d) wishes to make a sale under this subsection, it must file for and obtain prior express authorization from the Commission.

(9) DEFINITION OF SELLER.—For purposes of this subsection, the term 'seller' means any person that sells gas under paragraph (b)(1).".

(c) Section 312 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3372) is amended—

(1) by amending subsection (a) to read as follows:

"(a) AUTHORIZATION OF ASSIGNMENTS.—The Commission may, by rule or order, authorize a pipeline or local distribution company to assign, without compensation, to any other pipeline or local distribution company, all or any portion of the assignor's right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate."; and

(2) by amending subsection (c) to read as follows:

"(c) SURPLUS NATURAL GAS.—For purposes of this section, the term 'surplus natural gas' means, with respect to any pipeline or local distribution company, any natural gas which exceeds the then current demands of such person for natural gas, as determined by—

"(1) the Commission, or

"(2) the State agency having regulatory jurisdiction over that person.".

(3) by adding a new subsection (d) to read as follows:

"(d) EXTENT OF JURISDICTION.—Nothing in this Act shall be deemed to confer on the Commission jurisdiction under the Natural Gas Act over the purchase, sale, assignment, or transportation by an intrastate pipeline or local distribution company of natural gas which is not committed or dedicated to interstate commerce.".

ACCESS TO INTERSTATE SUPPLY SOURCES

SEC. 405. (a) Section 314 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3374) is amended by—

(1) striking "first" in subsection (a), and

(2) amending subsection (b) to read as follows:

"(b) NATURAL GAS COVERED BY THIS ACT.—For purposes of subsection (a) the term 'natural gas covered by this Act' means for any first sale contract, natural gas—

"(1) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of section 601 (a)(1)(A) or (b);

"(2) the sale in interstate commerce of which—

"(A) is authorized under section 302(a) or 311(b); or

"(B) is pursuant to an assignment under section 312(a); or

"(3) the transportation in interstate commerce which is—

"(A) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h),

"(B) authorized by the Commission under section 311, or

"(C) authorized under section 319 or 321.".

(b) Section 601 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431) is amended by adding new subsections (d) and (e) to read as follows:

"(d) LIMITATION OF COMMISSION JURISDICTION OVER INTRASTATE TRANSACTIONS.—

"(1) GENERAL RULE.—No intrastate pipeline or local distribution company shall be subject to the jurisdiction of the Commission under the Natural Gas Act by reason of purchasing natural gas in a covered transaction regardless of whether the purchase occurs in the State of receipt.

"(2) SUBSEQUENT TRANSACTIONS.—Any transportation or sale of natural gas purchased in a covered transaction described in paragraph (1) of this subsection which occurs beyond the point at which such gas is received in the facilities of the purchaser in the covered transaction or received for its account in the facilities of another intrastate pipeline or local distribution company located in the State of receipt shall not be in interstate commerce (within the meaning of the Natural Gas Act) and shall not be subject to the jurisdiction of the Commission under the Natural Gas Act to the extent that such gas remains in the State of receipt.

"(3) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term 'natural-gas company' (as defined in section 2(6) of that Act) shall not include any person by reason of, or with respect to, any transportation or sale of natural gas if the transportation or sale is not subject to the jurisdiction of the Commission solely by reason of paragraph (2) of this subsection.

"(4) STATE OF RECEIPT RULE.—

"(A) GENERAL RULE.—For purposes of this subsection, natural gas shall be deemed to remain in the State of receipt if the gas is not transported outside the State of receipt unless such transportation occurs in connection with—

"(i) transportation authorized under sections 302(a), 311(a), 319, or 321 of this Act,

"(ii) a sale or assignment authorized under sections 311(b)(8) or 312 of this Act.

"(B) DEFINITION.—For purposes of this subsection, the term 'State of receipt' means the State in which the intrastate pipeline or local distribution company operates and has its facilities.

"(5) DEFINITION OF COVERED TRANSACTION.—For purposes of this subsection, the term 'covered transaction' means the purchase of natural gas in—

"(A) a first sale of gas—

"(i) which is not subject to the jurisdiction of the Commission under the Natural Gas Act by reason of subparagraph (A) or (B) of paragraph (1) of subsection (a),

"(ii) which is produced from the Outer Continental Shelf,

"(B) a sale authorized under section 311(b),

"(C) an assignment authorized under section 312, or

"(D) a sale for resale by any person not subject to the jurisdiction of the Commission solely by reason of section 1(c) of the Natural Gas Act.

"(6) APPLICABILITY OF NATURAL GAS ACT.—Nothing herein shall exempt any person from the requirements of sections 4, 5, or 7 of the Natural Gas Act, except as is specifically provided in this Act.

"(e) NONDISCRIMINATION PROVISION.—The Commission may not condition or deny any authorization of the sale or transportation of natural gas under this Act or the Natural Gas Act on the basis of whether the gas is consumed in the interstate market or the intrastate market.".

TITLE V—ADDITIONAL AUTHORITIES AND REQUIREMENTS

LIMITATION ON INTERSTATE PIPELINE SALES TO AFFILIATED INTRASTATE PIPELINES

SEC. 501. (a) PIPELINE SALES TO CERTAIN AFFILIATES.—

(1) GENERAL RULE.—No interstate pipeline may sell in interstate commerce during any month to its affiliate (A) intrastate pipeline, (B) Hinshaw pipeline, or (C) local distribution company, a greater percentage of the quantities of natural gas contractually available for sale during such month by the interstate pipeline to its affiliate than the percentage of contractually available lower average-priced natural gas which such affiliate buyer is purchasing during the same month from nonaffiliate interstate pipelines.

(2) DEFINITIONS.—For purposes of this section, the term "Hinshaw pipeline" means any person which is not subject to the provisions of the Natural Gas Act by reason of section 1(c) thereof.

(b) APPLICATION AND EXCEPTIONS—

(1) RULES AND ORDERS.—The Commission shall use its authority under section 501 of this Act to administer this section.

ADJUSTMENTS.—The Commission may use its authority under section 502(c) of this Act to make such adjustments, consistent with the purpose of this section, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.

LIMITATION ON OFF-SYSTEM SALES BY INTERSTATE PIPELINES

SEC. 502. (a) LIMITATION.—The Commission may not issue a certificate of public convenience and necessity pursuant to section 7 of the natural Gas Act for the off-system sale of natural gas if such sale is to occur at a price less than the temporary price indicator or the free market price indicator, as defined in section 131 of the Natural Gas Policy Act of 1978, plus the just and reasonable rate for the transportation of such gas to the purchaser.

(b) DEFINITION.—For the purposes of this section, the term "off-system sale" means a sale by a pipeline which is subject to the jurisdiction of the Commission of natural gas that is—

(1) excess to the pipeline's current demand,

(2) of a short-term, interruptible nature, and

(3) made to a customer outside or away from the pipeline's traditional or historic market area.

(c) EXPIRATION PERIOD.—The provisions of this section shall be effective for forty-four months beginning on the first day of the second full month after the date of enactment of this paragraph.

LIMITED ANTITRUST EXEMPTION FOR INDEPENDENT PRODUCER COOPERATIVES

SEC. 503. (a) AVAILABILITY OF ANTITRUST DEFENSE.—There shall be available as a defense to any civil or criminal action brought under the Federal antitrust laws as that term is defined in section 2(37) of the Natural Gas Policy Act of 1978, or any similar State law, with respect to actions taken to develop cooperative associations of independent producers or actions taken by such cooperative associations to carry out any voluntary agreement or plan of action to market natural gas released for sale pursuant to subsections 131(e) and (f) of the Natural Gas Policy Act of 1978 provided that—

(1) such action is necessary to market natural gas, and

(2) such action is not taken for the purpose of reducing competition.

(b) DEFINITION OF INDEPENDENT PRODUCER.—For the purposes of this section, the term "independent producer" has the same meaning as that term is defined in section 4992(b) of the Internal Revenue Code of 1954.

SPECIAL RULE FOR CERTAIN ROYALTY PROVISIONS

SEC. 504. (a) Section 101(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311(b)), is amended by inserting at the end thereof the following new paragraph:

"(10) PRICE CONSIDERED MARKET VALUE.—For purposes of determining the amount payable as royalty under any provision of any oil or gas lease (other than those involving State owned lands) on private, Federal or Indian lands or under any provision of Federal or State law, that bases the royalty on market value, any price paid for natural gas under any contract in effect on the date of the enactment of this paragraph and any subsequent contracts shall be considered its market value if the price was established—

"(A) pursuant to the provisions of the Natural Gas Policy Act Amendments of 1983; or

"(B) pursuant to the renegotiation of that contract if that renegotiation occurred after the date of enactment of the Natural Gas Policy Act Amendments of 1983. In the case of any such renegotiated contract between any person and an affiliate of that person, this paragraph shall apply only if the price paid does not exceed the amount paid in first sales between similarly situated parties not affiliated with each other which are comparable as to the quality and delivery conditions.".

NATURAL GAS IMPORTS

SEC. 505. Section 3 of the Natural Gas Act is amended by redesignating the existing section as subsection (a) and entitling it "General Rule"; by striking the word "Commission" wherever it appears and inserting the words "Secretary of Energy"; and by inserting new subsections (b) and (c) to read as follows:

"(b) PUBLIC INTEREST CRITERIA.—In any proceeding concerning an importation of natural gas, the importation shall not be consistent with the public interest if the Secretary determines that the contract governing the terms and conditions for such an import materially prevents the importer from responding to changes in demand for natural gas or other market forces.

"(c) EXISTING IMPORTS.—Within 120 days from the date of enactment of this subsection, and notwithstanding any order previously issued pursuant to subsection (a), the Secretary shall review each natural gas import approved prior to the date of enactment of this subsection, and shall determine whether the price of such import is consistent with the public interest as set forth in subsection (b). If the Secretary determines that the price for any such import is not in the public interest, the importer may elect to—

"(1) reduce the volumes delivered in accordance with the criteria specified in section 316 of the Natural Gas Policy Act of 1978;

"(2) reduce the price of such import, in accordance with the provisions of subsection 131(b) of the Natural Gas Policy Act of 1978, to a level established by the Secretary and determined by him to be consistent with the public interest as set forth in subsection (b); or

"(3) undertake both actions authorized in paragraphs (1) and (2).".

TITLE VI—REPEAL OF CERTAIN RESTRICTIONS ON NATURAL GAS AND PETROLEUM USE AND PRICING

REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

SEC. 601. (a) The following sections of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) sections 103 (a)(16), (a)(18), (a)(19), and (a)(29); (42 U.S.C. 8302 (a)(16), (a)(18), (a)(19), and (a)(29));

(2) section 201 and 202 (42 U.S.C. 8311 and 8312);

(3) section 302 (42 U.S.C. 8342);

(4) section 401 (42 U.S.C. 8371);

(5) section 402 (42 U.S.C. 8372); and

(6) section 405 (42 U.S.C. 8375).

(b) The table of contents of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the sections repealed by subsection (a) of this section.

CONFORMING AMENDMENTS

SEC. 602. (a) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended by striking "and major fuel-burning installations" and "and new" wherever these phrases appear.

(b) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(1) in subsection (a)(13)(B), by—

(A) striking clause (ii)(III);

(B) striking "; or" at the end of clause (ii)(II), and inserting a period in its place; and

(C) inserting "and" at the end of clause (ii)(I);

(2) in subsection (a)(15), by striking "or major fuel-burning installation" and "or new" wherever these phrases appear;

(3) in subsection (a)(20), by striking "or major fuel-burning installation";

(4) by redesignating subsections (a)(17), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), (a)(25), (a)(26), (a)(27), and (a)(28), as subsections (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (a)(24), and (a)(25);

(5) in subsection (b), by striking "or major fuel-burning installation" wherever this phrase appears;

(6) in subsection (b)(1)(D), by striking everything after "synthetic gas involved" and inserting in its place a period; and

(7) by striking subsection (b)(3), and redesignating subsection (b)(4) as subsection (b)(3).

(c) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"The provisions of the Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except Hawaii and Alaska.".

(d) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended—

(1) by striking "or installation" and "or installations" wherever the phrases appear;

(2) by striking "or 302" wherever the phrase appears;

(3) by striking subsection (a)(3);

(4) by amending subsection (b)(1) to read as follows: "(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants.";

(5) in subsection (b)(3), by striking "or major fuel-burning installation"; and

(6) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(e) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended by striking—

(1) in subsection (a)(1), "major fuel-burning installation, or other unit" and the comma immediately preceding this phrase and "installation, or unit" and the comma immediately preceding this phrase;

(2) in subsection (a)(2), "installation, or other unit" and the comma immediately preceding that phrase, and "installation, or unit" and the comma immediately preceding that phrase;

(3) in subsection (a)(2), the last sentence; and

(4) subsection (a)(3).

(f) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking—

(1) in subsection (c), "new or" in the phrase "applicable to any new or existing electric powerplant"; and

(2) subsection (g).

(g) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended by striking—

(1) in the last sentence of subsection (b), "or installation";

(2) subsection (c);

(3) in the title of subsection (d), "AND EXEMPTIONS";

(4) in the first sentence of subsection (d)(1), "or any petition for any order granting an exemption (or permit)";

(5) in subsection (d)(1)(B), "or in the consideration of such petition,";

(6) in subsection (f), "or a petition for an exemption (or permit) under this Act (other than under section 402 or 404),"; and

(7) subsection (g).

(h) Section 702 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8412) is amended by striking—

(1) in the title of subsection (a), "OR EXEMPTION";

(2) in subsection (a), "or granting an exemption (or permit)";

(3) subsection (b), and redesignating subsection (c) as subsection (b);

(4) in the first sentence of subsection (b)(1) (as redesignated), "or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b),";

(5) in the first sentence of subsection (b)(1) (as redesignated), "such rule, order, or denial is published under subsection (a) or (b)" and inserting in its place "such rule, or order is published under subsection(a)";

(6) in the first sentence of subsection (b)(2) (as redesignated), "the rule, order, or denial" and inserting in its place "the rule or order";

(7) in the second sentence of subsection (b)(2) (as redesignated), "(or denial thereof)"; and

(8) in subsection (b)(3) (as redesignated), "any such rule, order, or denial" and inserting in its place "any such rule or order".

(i) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(j) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(k) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended by striking subsection (b) and redesignaing subsections (c) and (d) as subsections (b) and (c).

(l) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended by striking—

(1) "or major fuel-burning installation" wherever the phrase appears; and

(2) "title II or" in subsections (a)(1) and (g)(3).

(m) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a), "from new and existing electric powerplants and major fuel-burning installations" and inserting in its place "from existing electric powerplants."

(n) Section 761 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471) is amended by striking—

(1) in subsection (a), "any existing or new electric powerplant or major fuel-burning installation" and inserting in its place "any existing electric powerplant"; and

(2) in subsection (b)—

(A) "new or" in the phrase "In the case of any new or existing facility"; and

(B) "except to the extent provided under section 212(b) or section 312(b)" and the comma immediately preceding that phrase.

REPEAL OF INCREMENTAL PRICING REQUIREMENTS

SEC. 603. (a) Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

(b) A rule promulgated by the Commission under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flow-through of costs incurred before the enactment of this section, including any surcharges based on such costs.

(c) The Commission may take appropriate action to implement this section.

(d) Effective on the date of the enactment of this section, no person shall be required to pay any other person any amounts pursuant to a rule promulgated by the Federal Energy Regulatory Commission under section 202 of the Natural Gas Policy Act of 1978 pertaining to natural gas purchased by such person prior to such date of enactment.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, November 15, at 10 a.m., to consider S. 1566, the Program Fraud Civil Penalties Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, November 16, at 9:30 a.m., to mark up the following bills and nominations:

S. 803, Commission on the Centennial Review of the Civil Service;

S. 1662, authorization of the Special Council of the Merit Systems Protection Board;

S. 1664, status of the Chairman of the Federal Labor Relations Authority;

S. 1665, operational continuity of the Office of the General Counsel of the Federal Labor Relations Authority;

S. 563, Former President's Facilities and Services Reform Act of 1983.

S. 905, National Archives and Records Administration Act of 1983;

The nomination of Robert H. Morris to be Deputy Director of the Federal Emergency Management Agency;

Bruce D. Baudin to be associate judge of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, November 16, at 10:30 a.m., to continue hearings on the Federal Regulations of the Lobbying Act of 1946.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, November 15, at 2 p.m., to hold an oversight hearing on the Federal regulations of the Lobbying Act of 1946.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, November 16, at 10 a.m., to receive testimony on the Department of Defense organizational issues relating to procurement practices.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 15, to hold a business meeting to consider pending legislative business and nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 16, at 4 p.m., to receive a briefing on the situation in Cyprus.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 16, at 10 a.m., to hold a hearing to consider the future of U.S.-U.S.S.R. relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 15, to hold an oversight hearing on the condition of America's coal industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, November 15, to hold an oversight hearing on coal land exchanges on the value of Indian-owned coal.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 15, to hold an oversight hearing regarding grazing permits on White Sands Missile Range only.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY AND ENVIRONMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Soil and Water Conservation, Forestry and Environment of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, November 16, to hold a hearing on S. 1610, a bill to establish wilderness areas in Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

JOHNSON & JOHNSON'S NEW CORPORATE HEADQUARTERS

● Mr. LAUTENBERG. Mr. President, the official opening today of Johnson & Johnson's new corporate headquarters in the heart of downtown New Brunswick, N.J., symbolizes the kind of private-public partnership that is essential if we are to revitalize our urban centers.

The decision by Johnson & Johnson to remain and to build in the city that has been the company's home for nearly a century has sparked an economic, social, and cultural renaissance in New Brunswick. More than $200 million is planned. The revitalization process, which has brought together all segments of the community, is known as New Brunswick Tomorrow.

The strikingly modern Johnson & Johnson complex, designed by the internationally acclaimed architect, I. M. Pei, is another important part of the movement that is making New Jersey the corporate headquarters capital of the Nation.

I salute Johnson & Johnson's decision to build its headquarters in New Brunswick. They are a good neighbor and New Jersey can be proud they are located in our State.●

FEDERAL CHARTER FOR THE CATHOLIC WAR VETERANS

● Mr. BIDEN. Mr. President, I am proud to be a cosponsor of S. 1145, which would grant a Federal charter to the Catholic War Veterans of the United States. This legislation has now met the Senate Judiciary Committee's requirement of at least 20 cosponsors from each side of the aisle, and the committee has reported the bill.

Anyone who has ever seen wartime photographs of American soldiers attending mass and accepting the Holy Eucharist in the mud on a foreign battlefield knows the great faith those soldiers maintained in the face of terrible adversity. Death and fear were thick in the air, but those soldiers were able to keep in mind those things of true and lasting importance. That is the stuff of which this organization is made.

Mr. President, among the criteria the Judiciary Committee has for judging the merit of bills authorizing Federal charters are permanence and community service. The Catholic War Veterans of the United States are still going strong after a half century, and their record of community service could not be stronger. This is confirmed by citing a few of its articles of incorporation. For example:

stimulate to the highest degree possible the interest of the entire Nation in the problems of veterans, their widows, and orphans;

cooperate to the fullest extent and in a harmonious manner with all veterans organizations in common projects designed to serve the interests of all veterans of all wars in which the United States of America has participated;

inculcating an enduring love of country, a deep and abiding sense of patriotism, and a profound commitment to Americanism among all the people of the United States;

promote the realization that the family is the basic unit of society;

increase our love, honor, service to God, and to our fellow man without regard to race, creed, color, or national origin. . . .

Mr. President, the Catholic War Veterans of the United States are recognized and certified by the Veterans' Administration and authorized to represent the claims of veterans before the VA rating boards.

Mr. President, the Catholic War Veterans of the United States have a deep commitment to freedom in this country, and to veterans and their families who have sacrificed so much in the defense of that freedom. They deserve our recognition, and I intend to work toward passage of S. 1145 on the floor of the Senate.●

FATE OF SOVIET JEWRY

● Mr. LAUTENBERG. Mr. President, one of the continuing questions facing the Congress and the American people is how we can best influence the Soviet Union to show greater respect for the basic human rights of its citizens. A central part of our concern relates to the fate of Jewish citizens of the U.S.S.R., who face state-sanctioned oppression at home and yet are denied the right to emigrate.

Dozens of Senators and Representatives have spoken out against the crackdown on Jewish activists and other dissidents in the U.S.S.R. in recent months and about the appalling drop in the numbers of Jews allowed to leave the country. We have written to Soviet leaders, debated resolutions, and considered changes in our law in an effort to get greater cooperation from the U.S.S.R. But the National Conference on Soviet Jewy estimates that only 91 Jews were allowed to leave U.S.S.R. in October and that the 10-month total for 1983 is only 1,162. This is less than half the number for that same period in 1982.

"Can We Affect the Fate of Soviet Jewry—Now?" is the topic for discussion at a group assemblage to be held at Congregation Beth El in South Orange, N.J., the evening of November 22. This meeting is being held to honor the memory of our late, beloved colleague, Scoop Jackson, who was so committed to human rights and religious freedom for Soviet Jewry. The meeting and discussion is being sponsored by the Beth El Men's Club, the Metropolitan New Jersey Conference on Soviet Jewry, the New Jersey Region Zionist Organization of America, South Mountain Lodge of B'nai B'rith, the New Jersey Council of Churches, the National Conference of Christians and Jews, and the Jewish War Veterans of America.

In announcing this meeting, Judge Joseph H. Lerner of South Orange, who is chairman of the effort, noted that the religious and cultural oppression faced by about 3 million Jews in the U.S.S.R. demands our attention. Judge Lerner made clear his belief that a strong stand in support of Soviet Jewry is critical now, lest we appear indifferent. And he expressed a basic confidence that our persistence in registering our concern will pay off.

Our distinguished colleague Congressman PETER W. RODINO, chairman of the House Judiciary Committee, will join with a Soviet specialist from the Department of State, Dr. Raymond F. Smith, as featured speakers on what we might expect on human rights and emigration matters in the future.

I want my colleagues in the Senate to be aware that these private and religious efforts to focus on basic human rights questions are continuing. They provide the mandate for those of us who represent Americans in the Congress to press their case vigorously whenever we can. And we can only exhibit clearly to the U.S.S.R. and others that there is not only political concern, but popular concern for basic human rights.●

PROGRESS ON PRODUCT LIABILITY

● Mr. KASTEN. Mr. President, on January 26, 1982, I introduced legisla-

tion to address product liability problems that are an enormous drain on interstate commerce. The bill, S. 44, would establish uniform rules applicable in all product liability actions. I am pleased to say that S. 44 now has 25 cosponsors in the U.S. Senate—cosponsors from both political parties and from a wide spectrum of views.

Extensive hearings have been held on S. 44 and in September the bill was scheduled for markup by the Senate Commerce Committee. At that time, Senator GORTON raised some concerns that he felt should be addressed. In view of this long experience as a jurist and as attorney general for the State of Washington, I welcomed the opportunity to work with Senator GORTON to improve the bill. Those improvements are reflected in a revised version of S. 44. The result is a bill that is without question fair to all concerned with product liability—those who bring actions and those who defend them.

The revised S. 44 will accomplish three basic goals. First, it will bring stability to product liability law. Currently, safety is compromise, because manufacturers and product sellers face a host of conflicting rules about how to make their product safe. For example, some State courts tell manufacturers to warn about the obvious, to warn that glass breaks, or that knives cut. Other State courts say quite the opposite, that warnings to be effective should not focus on dangers that are obvious, but rather on dangers that are not obvious. On the basis of our hearings, S. 44 chooses that rule. It is fair, and uniformity on the issue is desirable. Uniformity is also desirable on other key issue that arise in a product case. Currently, manufacturers face multiplicity of different design liability standards and conflicting guidelines regarding warning. S. 44 provides clear, coherent rules with respect to liability for design and warning defects. With Senator GORTON's revisions it assures that manufacturers will always be responsible when they have been at fault in causing a product-related harm.

Second, S. 44 will bring fairness to product liability law. Today, peculiar rules in a few States lead to unfairness. On the one hand, there are rules that are adverse and unfair to those who bring actions. In some States today, the right to sue is cut off before the injured person even knows or has reason to know he is injured. Under S. 44, the right to bring a product liability action will not expire until 2 years after he knows or has reason to know that he has been harmed and that the harm was caused by a particular product. Thus, those who suffer cancer or other diseases as a result of long exposure to a harmful product will have the right to bring a suit. Some States cut off the right to recover if the injured person is partially at fault in causing his own harm. This is not fair to the injured person and may permit a guilty manufacturer to get off the hook. Under S. 44, this will not be true. The manufacturer will always pay the damages for which it is responsible. Some States permit a manufacturer to produce a useless product that is totally unsafe merely because there is no other way to make such a product. This, too, is unfair to consumers. Under S. 44, such manufacturers may be at fault for such conduct.

On the other hand, some rules are unfair to manufacturers. Our hearings show that manufacturers have been held liable for harms caused when their products have been misused in totally bizarre situations. For example, in one case a manufacturer of a commercial washer/dryer was held liable for harms caused to a person when the machine's door blew off while it was being used to dry a large hot air balloon. The machine had been used safely for over 17 years. In another case, a perfume manufacturer was held liable for harm to a person who was injured while pouring the perfume on a Christmas candle. In a third case, a manufacturer of a vacuum cleaner was held liable for harms to a 12-year-old who used the vacuum as a toy to ride around on. More importantly, a few courts have begun to move the tort system, traditionally based on fault, into a total nonfault system with unlimited damages. The tort system is and should remain a system that holds people responsible when they are at fault. If we want to move away from this to nonfault, guaranteed recovery, we should move out of the tort system to a compensation system, and there is substantial evidence that it may be necessary in some areas. If so, it must be approached as a compensation system with damages limited to what a person has actually lost.

Finally, there has been unfairness in some situations in the area of punitive damages. Tort law has imposed liability that goes far beyond anything that might be punitive in the criminal law. Under S. 44, a manufacturer will only be punished through the payment of punitive damages only once with respect to one type of product defect, just as a criminal cannot be punished more than once for the same conduct. A portion of the punitive damages will go to a charitable purpose, rather than going as a windfall to a fully compensated victim.

In addition to achieving stability and fairness in the law of product liability, there is a third goal of S. 44—to reduce legal costs. Excess costs are, in fact, a result of the current instability and unfairness in the law. A recent study of 24,000 claims conducted by the Rand Corp. shows that for every dollar going to a plaintiff in product liability cases 41 cents is paid immediately to his or her attorney. An addition 58 cents is spent by the defendant for his lawyers. Thus, for every 59 cents the plaintiff actually gets, lawyers get 99 cents. This situation is simply intolerable. By enacting one set of uniform product liability rules these legal costs that permeate product liability cases will be substantially reduced.

The time has come to place stability and fairness in product liability law and to reduce its costs. I hope others will join with me in supporting this effort.●

"NO" TO MORE MONEY FOR THE IMF

● Mr. EAST. Mr. President, the Senate voted back in June to increase the U.S. quota to the International Monetary Fund by about $8.4 billion. We will soon face another vote on this matter, and I hope that some of the original supporters of this measure will take this opportunity to reassess the situation. We have been presented with several reasons for the IMF bailout, all of which fail to stand up under scrutiny. Two of the arguments offered were that the IMF is vital to the economic development of the poorer nations, and that rescuing the IMF is necessary to prevent the collapse of the American banking system. These two contentions are convincingly refuted by Dr. Milton Friedman, the Nobel Prize winning economist, in the November 14 issue of Newsweek. I commend this article to those of you who supported the IMF quota increase, and I ask that you read it with the attention that you devoted to pro-IMF arguments.

Mr. President, I ask that the article entitled " 'No' to More Money for the IMF" be printed in the RECORD following my comments.

The article referred to follows:

'NO' TO MORE MONEY FOR THE IMF

(By Milton Friedman)

In the current debate about whether the United States should increase its contribution to the International Monetary Fund by $8.4 billion, there has been no mention of those "less developed countries" that are not in trouble, not in danger of defaulting on their debts, not asking for or receiving assistance from the IMF. They include such successful and rapidly growing LDC's as Taiwan, South Korea, Singapore, Hong Kong, not to mention Japan, which only two decades ago would also have been termed an LDC but no longer qualifies for that status.

Compare these countries with Poland, Romania, Yugoslavia, Argentina, Brazil, Mexico—all of whom, except for Poland, are currently receiving assistance from the IMF. The two groups differ sharply in one major respect. Every successful country has relied primarily on private enterprise and free markets to achieve economic develop-

ment. Every country in trouble has relied primarily on government to guide and direct its economic development.

In the successful countries, government's major role has been to maintain and enfoce a framework of law and institutions favorable to private enterprise and free markets—despite numerous deviations from that policy to favor specific industries by tariffs, quotas or subsidies.

WHY COUNTRIES ARE IN TROUBLE

In the countries in trouble, government has accepted major responsibility for organizing and directing the economy. At one extreme are Poland, Romania and Yugoslavia, where government controls essentially all economic activity. At the other extreme are countries like Brazil and Argentina, where military-backed governments profess support for private enterprise, but where government owns major sectors of the economy, imposes controls on prices, wages, imports and exports and follows unstable and inflationary fiscal and monetary policies. In between is Mexico, where government owns and operates about two-thirds of productive enterprises and imposes extensive controls on the rest of the economy.

Whatever the reason for the international debt crisis, it is real and serious. Defaults could impose heavy losses on banks in the United States and elsewhere and on governments that have guaranteed many of the loans. The IMF is playing a key role in arranging the rescheduling of debts and imposing conditions on debtor countries designed to improve their ability to repay the debts. Is is not desirable to strengthen the IMF's resources so that it can perform this vital function more effectively?

The answer is no. The IMF is a governmental institution. It operates by lending money to *governments*, not private enterprises. It imposes conditions on *governments*, not private enterprises. In the process it strengthens the government relative to the private sector. But the key problem with the debtor countries is that government has played too large a role, private enterprises and free markets too small a role. IMF assistance will, at best, postpone the day of reckoning, while making the long-run problem worse.

Central economic planning has proved a failure wherever it has been tried—whether behind the Iron Curtain, or in less extreme form in such developed countries as Britain, France and Italy, or such LDC's as Mexico, Brazil, Argentina and Peru. Perhaps IMF bureaucrats are more skillful central planners than the home-grown variety, but they too are bureaucrats spending someone else's money, not entrepreneurs risking their own, and they do not even have to face the political music when their best-laid plans go awry. We shall not help the LDC's by foisting a new layer of government planners on them.

The IMF was established in 1945 as part of the Bretton Woods monetary reform. It was assigned a clear role: to provide *temporary* financing to alleviate temporary balance-of-payment problems of member countries committed to maintaining fixed exchange rates for their currencies. That function disappeared when the Bretton Woods system collapsed in the early 1970s. However, the IMF did not disappear and ever since it has been seeking a new function. The debt crisis is a heaven-sent opportunity, creating the possibility that the IMF can become a world central bank. National central banks are bad enough; we do not need an international one. The IMF should be abolished, not expanded.

BUT WHAT ABOUT THE DEBT CRISIS?

If the IMF is not strengthened, may not the Treasury and the Federal Reserve have to step in to prevent the failure of major commercial banks? Not at all.

Banks made loans to the debtor countries at terms they considered profitable, taking full account of the risks involved. Had all gone well, they would have reaped the profits. If any loans go sour, the banks (i.e., their stockholders) should bear the loss, not the taxpayers. If government socializes the losses, it will inevitably end up socializing the profits. Neither the banks nor the rest of us can have our cake and eat it.

If the IMF were out of the picture—or operating within its present resources—the banks would arrange their own rescheduling of debts, as they do with domestic borrowers in trouble. In the highly unlikely case that defaults caused some banks, perhaps including large ones, to fail, their depositors would be protected from loss by federal deposit insurance. The Federal Reserve would and should step in only to prevent bank failures from reducing the quantity of money. That would limit and isolate the losses. They would be borne by the banks that took the risk. The rest of the economy would not suffer.

In an understandable effort to minimize losses, major banks and their supporters have predicted dire consequences if the quota increase is not promptly approved—a world financial collapse or major deflation or perhaps runaway inflation. Their cries of "wolf" ring hollow. If the danger is so grave, it will take more than the Band-Aid of an IMF-quota increase to avert it. We should not let ourselves be stampeded by their apocalyptic visions.

President Reagan has long preached and practiced reduced intervention by government into the economy. His administration's support for an increase in the U.S. contribution to the IMF is in direct conflict with that philosophy.●

CYPRUS

● Mr. TSONGAS. Mr. President, I rise today to express my shock and dismay at the establishment of a Turkish Cypriot Government on the island of Cyprus, and have asked the chairman of the Senate Foreign Relations Committee to hold hearings on the situation as soon as possible.

Clearly this action by the Turkish colonists on Cyrpus destabilizes the Aegean area and brings into question the already fragile relations between Greece and Turkey. The Reagan administration is the third administration to pay only lip service to progress on Cyprus, but this administration makes the problem even worse. The President invokes the strategic importance of Turkey and increases military aid in the fiscal year 1984 appropriations. These actions send a clear message to Turkey that by an accident of geography they are of paramount importance to the United States. It is of critical importance that the Congress, by its future actions, express grave concerns to the countries in the region about the political and strategic implications of this precipitous event.●

INTELSAT

● Mr. LEVIN. Mr. President, during this "International Year of Telecommunication—1983" and the celebration in 1984 of the 20th anniversary of Intelsat, I am pleased to join my colleagues in congratulating this model international organization on several major counts.

First, Intelsat has achieved the goals which were established for it by the Congress in 1962. Technological advancements in international communications have fairly and equitably been shared among developing and developed nations. The number of shareholders in the cooperative known as Intelsat is impressive. Intelsat is owned by its 109-member countries from every part of the globe. The revenues of the system come from utilization charges and, after deduction of operating costs, are distributed to the member states in proportion to their investment share; 61 other countries in addition to the member nations utilize the satellite facilities which Intelsat operates. The organization's activities are carried out peaceably and without the rancor and discord which too often disrupt other international organizations around the globe.

The preamble to the legislation creating Intelsat has continued to serve our nations well since its founding and I include it here to refresh our collective memories as to why Intelsat was created:

> The Congress hereby declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communication satellite system, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries, and which will contribute to world peace and understanding.
>
> The new expanded telecommunication services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, toward efficient and economical use of the electromagnetic frequency spectrum, and toward the reflection of the benefits of this new technology in both quality of services and charges for such services.

Mr. President, I would also like to congratulate Richard Colino, who has just been unanimously selected the new Director General of Intelsat. Mr. Colino, whom I recently met, is a man with wide experience in the field of satellite communication. He has had more than 20 years of association with high technology telecommunications

and broadcasting, including 14 years with the Communications Satellite Corp. He was also involved with the creation of Intelsat and has continued to be active in its affairs, including serving as chairman of the board of governors. During his 6-year tenure at Intelsat, which will begin on January 1, 1984, we in the United States look forward to close cooperation in putting an evolving technology to use for the benefit of all of humankind.●

THE EQUAL RIGHTS AMENDMENT

● Mr. GARN. Mr. President, I am distressed today to learn that the House leadership will attempt to bring the equal rights amendment to the floor under a suspension of the rules. I fully agree with the editorial statement in today's Washington Post that doing so would be "unnecessary, potentially risky and loaded with unpredictable political consequences."

Suspension of the rules is a procedure that is usually reserved for noncontroversial matters. As a result, only very limited debate of 20 minutes for each side is allowed and no amendments can be considered. To say the equal rights amendment is noncontroversial would be to deny the very facts of its history. As the Post article points out, the equal rights amendment is, in fact,

. . . certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year.

Of course, its proponents are welcome to bring this matter up for debate but, and I quote the Post editorial again,

. . . ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business.

An editorial column in the Washington Times also criticizes the procedure that the House leadership might use today in order to pass the equal rights amendment in that body. I quote this article as well:

CONSTITUTIONAL BLASPHEMY

Tip O'Neill's running scared. Opponents of the original Equal Rights Amendment convinced more people than they knew that making the Constitution sexless is wrong. Once-rabid ERA supporters worry about the effect of laws governing abortion, women in combat, and sex differentials in insurance.

This morning Tip is expected to try to ram ERA through by short-circuiting debate and forcing a vote. Only 20 minutes of talk will be allowed per side—a third of an hour to debate a constitutional amendment. The women's pressure groups are laying it on thick.

O'Neill knows that if the amendment came up under normal procedure, as a constitutional change should, members would probably add military draft, abortion and insurance amendments. O'Neill knows that each amendment of ERA would lose some votes for the final package. Hence the tricky procedure to avoid this. Tricky, and outrageous.

The speaker's going to have a lot of unhappy members if he tries to pull this off today, which is as it should be.

A further consequence of the ratification of the equal rights amendment as it stands, if passed under suspension rules in the House, would include possible negative effects on the congressional-enacted restrictions on abortion funding. I have received a letter from Lincoln C. Oliphant, formerly of my staff and currently a professional staff member on the Republican Policy Committee, that includes recent information and an analysis of the effect that such ratification would have on abortion funding restrictions. I strongly recommend it to my colleagues in the Senate, and submit it for the RECORD.

The letter follows:

REPUBLICAN POLICY COMMITTEE,
Washington, D.C. November 14, 1983.

Hon. JAKE GARN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GARN: A member of your staff has asked me to provide you with the most recent information and analysis of the effect that ratification of the Equal Rights Amendment would have on the Congressionally-enacted restrictions on abortion funding. (Throughout this letter, these restrictiosn are referred to as the Hyde Amendment. The Hyde Amendments on Labor-H.H.S. appropriations bills have taken a variety of forms, and abortion funding restrictions have been enacted on other measures which were not amendments of Congressman Hyde.)

This letter is written without benefit of the House Judiciary Committee Report on H.J. Res. 1, the proposed Equal Rights Amendment. The report is not available, although the House may consider H.J. Res. 1 as early as tomorrow, under a suspension of the rules. This letter does incorporate the views of witnesses as presented in their typewritten statements, and the deliberations of the subcommittee and full committee in the House. Of course, the hearings are not yet printed. (On a motion of Mr. Sensenbrenner, the House Judiciary Committee agreed to have the mark-up of H.J. Res. 1 printed. This committee print, together with the committee report, will constitute a portion of the legislative history.)

On June 30, 1980, by a vote of 5 to 4, the Supreme Court of the United States upheld the constitutionality of the Hyde Amendment. *Harris* v. *McRae*, 448 U.S. 297 (1980). On the same day, the constitutionality of a state abortion funding restriction was upheld by the same narrow margin. *Williams* v. *Zbaraz*, 448 U.S. 358 (1980) (Illinois statute). The 1980 case dealt with medically-necessary abortions. The issue of funding for non-therapeutic abortions was disposed of in 1977 when the High Court upheld such restrictions by a vote of 6 to 3. *Beal* v. *Doe*, 423 U.S. 438 (1980) (Medicaid as restricted by Pennsylvania's abortion restrictions—the Court construed the Social Security Act) and *Maher* v. *Roe*, 432 U.S. 464 (1980) (Medicaid as restricted by Connecticut's abortion restrictions—the Court construed the constitution).

In *Harris*, the Hyde Amendment withstood challenges brought against it under the First and Fifth Amendments. The First Amendment arguments are not particularly important here. The challenges brought on Fifth Amendment grounds were of two sorts: First, it was alleged that the Hyde Amendment impinged on the liberty protected by the Due Process Clause of the amendment which *Roe* v. *Wade*, 410 U.S. 113 (1973), had held to include the right of a woman to decide whether to terminate her pregnancy. Second, it was alleged that the Hyde Amendment violated the equal protection component of the Due Process Clause of the Fifth Amendment. The Court has held that the Fifth Amendment contains an implicit guarantee of "equal protection of the laws." See, *e.g.*, *Bolling* v. *Sharpe*, 347 U.S. 497, 499-500 (1954).

The due process-liberty argument was disposed of in these terms:

"[R]egardless of whether the freedom of a woman to choose to terminante her pregnancy for health reasons lies at the core or the periphery of the due process liberty recognized in Wade, it simply does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices. [A]lthough government may not place obstacles in the path of a woman's exercise of her freedom of choice, it need not remove those not of its own creation. Indigency falls in the latter category." 448 U.S., at 316.

For equal protection purposes, the Court analyzed the Hyde Amendment with its two-tiered formula for judicial review:

"We must decide, first, whether [state legislation] operates to the disadvantage of some suspect class or impinges upon a fundamental right explicitly or implicitly protected by the Constitution, thereby requiring strict judicial scrutiny. . . . If not, the [legislative] scheme must still be examined to determine whether it rationally furthers some legitimate, articulated state purpose and therefore does not constitute an invidious discrimination. . . ." *Maher* v. *Roe*, 432 U.S. 464, 470, (1977), quoting *San Antonio School Dist.* v. *Rodriguez*, 411 U.S. 1, 17 (1973).

In *Harris*, the Court held that no constitutionally protected fundamental right was abridged (see the quotation on the "due process-liberty right," above.) In asking whether the Hyde Amendment operated to the disadvantage of some suspect class, the Court followed its position in *Maher*:

"An indigent woman desiring an abortion does not come within the limited category of disadvantaged classes so recognized by our cases. Nor does the fact that the impact of the regulation falls upon those who cannot pay lead to a different conclusion. In a sense, every denial of welfare to an indigent creates a wealth classification as compared to nonindigents who are able to pay for the desired goods or services. But this Court has never held that financial need alone identifies a suspect class for purposes of equal protection analysis." 324 U.S., at 470–71 (citations omitted).

Having determined that the Hyde Amendment neither disadvantaged a suspect class nor impinged upon a fundamental right, it remained for the Court to determine whether the Hyde Amendment furthered "some legitimate, articulated state purpose." "Where, as here, the Congress has neither invaded a substantive constitutional right or freedom, nor enacted legislation that purposefully operates to the detriment of a suspect class, the only requirement of equal protection is that congressional action be rationally related to a legitimate governmental interest." 448 U.S., at 326.

The government argued on behalf of the Hyde Amendment, and the Court agreed, that the abortion funding restriction bore "a rational relationship to [the government's] legitimate interest in protecting the potential life of the fetus." Id., at 324.

"[T]he Hyde Amendment, by encouraging childbirth except in the most urgent circumstances, is rationally related to the legitimate governmental objectives of protecting potential life. By subsidizing the medical expenses of indigent women who carry their pregnancies to term while not subsidizing the comparable expenses of women who undergo abortions (except those whose lives are threatened), Congress has established incentives that make childbirth a more attractive alternative than abortion for persons eligible for Medicaid. These incentives bear a direct relationship to the legitimate congressional interest in protecting potential life." Nor is it irrational that Congress has authorized federal reimbursement for medically necessary services generally, but not for certain medically necessary abortions. Abortion is inherently diifferent from other medical procedures, because no other procedure involves the purposeful termination of a potential life." 448 U.S., at 325 (footnotes omitted).

In summary, three years ago the constitutionality of the Hyde Amendment was upheld by the Supreme Court by the narrowest of margins. Because the abortion funding restriction did not infringe a fundamental right (there is no constitutional entitlement to the financial resources needed to pay for an abortion) and because the restriction did not operate to the detriment of a suspect class ("An indigent woman desiring an abortion does not come within the limited category of disadvantaged classes. . . ."), the Congressionally mandated abortion funding restriction was required to meet only the "rational basis" standard of judicial review. This standard was met when the Court recognized that the abortion funding restriction "bears a rational relationship to [government's] legitimate interest in protecting the potential life of the fetus."

The Hyde Amendment survived judicial scrutiny under the Court's minimum standard. Would it have survived a more searching judicial inquiry? An inquiry in which the statutory restriction would have been subjected to strict judicial scrutiny requiring justification by a compelling state interest? The answer cannot be known with certainty, of course, but the probability that the Hyde Amendment would have survived a heightened standard of review is extremely low. Most commentators regard the Japanese Relocation Cases as the most recent examples of statutes which have been submitted to strict judicial scrutiny and been held constitutional. See, *e.g., Korematsu* v. *United States*, 323 U.S. 214 (1944). (Because an ethnic classification was used, the statute was "immediately suspect" and subject to "rigid scrutiny." Id., at 216) The Japanese Relocation Cases have been roundly criticized and in view of the recent action of a federal district court in California which now has dismissed the indictment against Mr. Korematsu their value as precedent is highly doubtful.

The Equal Rights Amendment will require the Hyde Amendment to pass muster under the Court's elevated standard of strict judicial scrutiny.

"The general principles on which the Equal Rights Amendment rests are simple and well-understood. Essentially, the Amendment requires that the federal government and all state and local governments treat each person, male and female, as an individual." S. Rep. no. 92–689, 92d Cong., 2d Sess. 11 (1972).

"The basic premise of [the ERA] in its original form is a simple one. As stated by Professor Thomas Emerson of Yale University, one of the Nation's foremost authorities on constitutional law, the original text is based on the fundamental proposition that sex should not be a factor in determining the legal rights of women or of men." Id., quoting H.R. Rep. no. 92–359, 92d Cong., 1st Sess. 6 (1972) (Separate Views [of Congressmen Don Edwards, Peter Rodino, Robert Kastenmeier, John Conyers, Paul Sarbanes, and others]). See also, Brown, Emerson, Falk and Freedman, "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," 80 *Yale L. Jn.* 871, 889 (1971).

The general principle of the Equal Rights Amendment (according to the theory of the amendment propounded in the *Yale L. Jn.*, which is clearly the leading theory) "does not preclude legislation . . . which regulates, takes into account, or otherwise deals with a physical characteristic unique to one sex." Id., at 893. Laws dealing with abortion are laws taking into account a physical characteristic unique to one sex. These kinds of laws "raise[] questions which should be carefully scrutinized by the courts." "A court faced with deciding whether a law relating to a unique physical characteristic was a subterfuge [for discrimination that would evade the broad mandate of the amendment] would look to a series of standards of relevance and necessity. These standards are the ones courts now consider when they are reviewing, under the doctrine of strict scrutiny, laws which may conflict with fundamental constitutional rights." Id., at 894. So, laws regulating or taking into account unique physical characteristics will be subjected to strict judicial scrutiny; to be upheld, such laws must be justified by, and closely and narrowly related to, a compelling state interest.

Ann E. Freedman, one of the coauthors of the *Yale L. Jn.* article, and now a professor of law at Rutgers, explained the rule of the Equal Rights Amendment in the following manner in her testimony to the House Judiciary subcommittee.

"The ERA also requires strict scrutiny of classifications based on physical characteristics unique to one sex to assure that such classifications do not undermine the equality of the sexes. To treat people differently on account of characteristics unique to one sex is to treat them differently on account of their sex. Although such classifications are not prohibited outright, because there are a limited number of circumstances in which their use is justified, the state would bear the burden of demonstrating that such classifications are necessary and the reasons for them compelling. The dissent of Justice Brennan in *Geduldig* v. *Aiello* [417 U.S. 484 (1974)] illustrates the approach contemplated by the ERA. Unlike the Supreme Court, Congress has recognized the importance to working women of equal treatment of pregnancy-related disabilities and rejected stereotyped characterizations of pregnant workers by passing the Pregnancy Discrimination Act of 1978. The ERA would provide a constitutional foundation for the protection of women from governmental discrimination based on such stereotypes." Statement of Ann E. Freedman before the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee at 5 (mimeo) (Nov. 3, 1983).

The Chairman of the House subcommittee, Don Edwards of California, accepts the understanding that classifications based on unique physical characteristics will be subjected to strict judicial scrutiny. The following colloquy took place during mark-up at the full committee level. The questioner is Hamilton Fish, Ranking Minority Member of the full committee. This account is from a tape recording of the mark-up session:

Mr. FISH. "Under the language of the proposed amendment, would a pregnancy classification be discrimination based upon sex?"

Mr. EDWARDS. "It's a classification based on unique physical characteristics, but not on gender or sex."

Mr. FISH. "Not on gender or sex?"

Mr. EDWARDS. "Well, each person [whether a man or a woman(?)] is judged on unique physical characteristics."

Mr. FISH. "Is the chairman saying then that the rational basis test which is applied today will continue to be applied after the passage of this amendment?"

Mr. EDWARDS. "We believe it would be a strict scrutiny test."

Mr. FISH. "It would not be the rational basis, it would be the strict scrutiny test? Well then, I guess that the committee report will state that on the standard of judicial review that is to be used by the courts [inaudible] the strict scrutiny test should apply."

Mr. EDWARDS. "I believe so."

Chairman Edwards subscribes to the position that classifications based on unique physical characteristics will require strict scrutiny under the Equal Rights Amendment. Unlike Professor Freedman who testified that "[t]o treat people differently on account of characteristics unique to one sex is to treat them differently on account of their sex," Mr. Edwards said that a pregnancy classification is not a gender or sex classification. Still, he says ERA will require such a classification to undergo strict judicial scrutiny. Mr. Edwards must be wrong about the nature of pregnancy classifications, for if pregnancy classifications are not classifi-

cations based on sex then the Equal Rights Amendment could not require that they be strictly scrutinized. Section 1 of the proposed amendment reads, "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." If this language is going to require pregnancy classifications to be submitted to strict scrutiny as Mr. Edwards twice said it would (and in this view he is in agreement with the preponderance of the amendment's proponents), then a pregnancy classification must fall within the terms of the amendment and be a "denial or abridgment" of "equality of rights" "on account of sex." After all, ERA only changes the constitutional law of sex discrimination, and if pregnancy classifications are not sex discrimination then ERA is incapable of mandating that such classifications undergo strict judicial scrutiny where such high scrutiny has not before been required.

In *Harris* v. *McRae*, the Hyde Amendment was upheld after being submitted to the minimal, rational basis, standard of judicial review. The Equal Rights Amendment will require the Hyde Amendment to withstand strict judicial scrutiny. Under ERA, the government will have the burden of showing that the restrictions of the Hyde Amendment are closely and substantially related to the achievement of compelling governmental interests. In *Harris*, the Hyde Amendment was found to be "rationally related to the legitimate governmental objective of protecting potential life." 448 U.S., at 325. In terms of Constitutional law analysis, the "legitimate objectives, rationally related" which were approved in *Harris* are a far, far cry from the compelling showing that will be required under the strict scrutiny which ERA will mandate.

Theoretically, of course, it is possible to show that abortion funding restrictions can be justified by compelling state interests. We are not restricted to theoretical speculation, however. We know what the Supreme Court thinks about this theory.

In *Roe* v. *Wade*, 410 U.S. 113, 162 (1973), the Supreme Court held that the state has an "important and legitimate interest in protecting the potentiality of human life." "With respect to [this] important and legitimate interest in potential life, the 'compelling' point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the mother's womb. State regulation protective of fetal life after viability thus has both logical and biological justifications. If the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period, except when it is necessary to preserve the life or health of the mother." Id., at 163–64. *Accord*, *Harris* v. *McRae*, 448 U.S., at 316.

It is important to note that the interest of the state which was recognized in *Roe* v. *Wade* was not a compelling one, but an "important and legitimate" one. This "important and legitimate" state interest reached a "compelling point" at viability. This is when the state could act to protect "the potentiality of human life." However, if an abortion was "necessary to preserve [either] the life or health of the mother[,]" then the state's interest could never be compelling regardless of the advanced state of the pregnancy. (In a companion case decided the same day, the Court said that a woman's physician's "medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health." *Doe* v. *Bolton*, 410 U.S. 179, 192 (1973).)

The state's interest in protecting the fetus becomes compelling at viability. However, the state's interest can never be compelling enough to prohibit abortions necessary to preserve the mother's life (this exception is irrelevant in the context of the Hyde Amendment because the Hyde Amendment contains an express exception for funding in cases "where the life of the mother would be endangered if the fetus were carried to term") or to prohibit abortions necessary for the mother's physical or mental or emotional or psychological or familial health. This position has recently been reaffirmed. *City of Akron* v. *Akron Center for Reproductive Health*, — U.S. —, 103 S. Ct. 2481, 2491–92 (1983).

If the Supreme Court's analysis and conclusions in the abortion privacy cases (relating to the interests of the state in regulating abortion) are transferred to the abortion funding cases of the future, and if the Equal Rights Amendment requires those cases to withstand strict judicial scrutiny (as its proponents say it will), then the state's interest in *not* paying for medically necessary abortions (physically necessary, emotionally necessary, mentally necessary, psychologically necessary, familially necessary, necessary by reason of age) could not become compelling before viability, and could not be compelling even after viability if the woman asserted a health "need." In short, the only women against whom the state could successfully assert its compelling interest in the protection of "potential life" would be those women who either do not wish an abortion or those who, in consultation with their physician, cannot arrive at a reason necessary for their physical, mental, emotional, psychological, or familial health, or their age.

The Equal Rights Amendment will require the Hyde Amendment to pass strict judicial scrutiny. At the present time, with the doctrine of *Roe* v. *Wade* and its progeny, the Hyde Amendment will be unable to pass the judicial test. *Harris* v. *McRae* will be reversed if the Equal Rights Amendment is ratified in its present form, and with its current legislative history. This is my view of the matter.

Sincerely,

LINCOLN C. OLIPHANT,
Professional Staff Member.●

CHINESE DEFECTIONS

● Mr. GOLDWATER. Mr. President, I would like to call the attention of the Senate to a little noted, but significant development in international politics. Two days ago, another Chinese pilot defected from Red China. This brings the number of aircraft escaping to the free world from Communist China up to four in the last several months.

Three fighter aircraft and one civilian airliner have been brought out of Red China by persons seeking freedom from the oppressive dictatorship in Red China. Another two or three attempted escapes have been documented recently.

Mr. President, I would suggest that the latest flight for freedom means that the Republic of China on Taiwan is winning the war for the allegiance of the Chinese people. This latest defection proves again just how unstable conditions are in Communist China. It demonstrates clearly that Communist China would be a highly uncertain partner as a counterweight to the Soviet Union. The Communist masters on the mainland do not have control over matters in their claimed territory and all they are seeking is to exploit the technology and resources of the United States to prevent their own internal collapse.

Mr. President, I think observers of the world scene should take note that something strange and unprecedented is occurring in mainland China which proves that the spark of freedom is still alive there and that the Communist dynasty is not permanent.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are a number of items in the folder of business to be transacted by unanimous consent on this side. In a moment, I should like to go through as many of those as I can if the minority leader is agreeable. Before I do, I believe there is not yet an order for the Senate to convene tomorrow, is there?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MURKOWSKI TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow, after the recognition of the two leaders under the standing order, the distinguished Senator from Alaska (Mr. MURKOWSKI) be recognized on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, it is anticipated that on tomorrow, there will be a time for the transaction of routine morning business provided for.

THE CALENDAR

Mr. BAKER. Mr. President, I say to the minority leader that I am cleared on this side to pass six bills that appear to be noncontroversial. I refer to calendar order Nos. 550, 551, 555,

556, 560, and 561. May I inquire if the minority leader is prepared to clear all or any portion of those measures?

Mr. BYRD. Mr. President, in response to the majority leader, there is no objection on this side to any of those bills. If the majority leader wishes to proceed, it will be agreeable on this side.

ANNIVERSARY OF THE UKRANIAN FAMINE

The concurrent resolution (S. Con. Res. 70) expressing the sense of the Congress regarding actions the President should take to commemorate the anniversary of the Ukrainian famine of 1932-33, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 70

Whereas more than seven million Ukrainians in the Ukrainian Soviet Socialist Republic, one of the member republics of the Union of Soviet Socialist Republics, died of starvation during the years 1932-1933;

Whereas the famine was the consequence of deliberate policies of the Government of the Union of Soviet Socialist Republics aiming to destroy the political, cultural, and human rights of the Ukrainian people, and the economic, social, and political consequences of this famine are still manifest among the Ukrainian population;

Whereas the Government of the Union of Soviet Socialist Republics, although fully aware of the famine in the Ukraine and having complete control of the entire food supplies within its borders, nevertheless failed to take relief measures to check the famine or to alleviate the catastrophic conditions resulting from it, and, furthermore, ignored the appeals of international organizations and other nations; and

Whereas intercessions have been made at various times by the United States during the course of its history on behalf of citizens of other countries who are oppressed or persecuted by their governments, indicating that it has been the traditional policy of the United States to take cognizance of such invasions of human rights and liberties: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby condemns the systematic disregard for human life and for human rights and liberties that characterizes the policies of the Union of Soviet Socialist Republics, expresses sympathy for the millions of victims of such policies, and urges the President—

(1) to proclaim May 28, 1984, as a day to commemorate the fiftieth anniversary of the introduction of the original resolution by Congressman Hamilton Fish in the House of Representatives which focused attention on the Ukrainian famine;

(2) to call, through public and diplomatic channels, the attention of the world to the policies of the Government of the Soviet Union which caused the slow death by famine of seven million Ukrainians during 1932 through 1933 and to other similar policies of the Government of the Soviet Union; and

(3) to urge the Government of the Soviet Union to remove current restrictions on the shipment of food parcels and other necessities to Soviet citizens by private individuals and charitable organizations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. BAKER. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

SUPPORT OF EFFORTS OF ASSOCIATION OF SOUTH EAST ASIAN NATIONS WITH RESPECT TO KAMPUCHEA

The concurrent resolution (H. Con. Res. 176) expressing the sense of the Congress concerning the U.S. support for the efforts of the Association of South East Asian Nations (ASEAN) with respect to Kampuchea, was considered and agreed to.

The preamble was agreed to.

Mr. BAKER. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

NATIONAL CORRECTIONAL OFFICERS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 132) to designate the week beginning August 7, 1983, as "National Correctional Officers Week," which had been reported from the Committee on the Judiciary with an amendment as follows:

On page 2, line 3, strike "August 7, 1983" and insert "May 6, 1984".

So as to make the joint resolution read:

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas the American Association of Correctional Officers will be holding its annual convention May 6-12, 1984; and

Whereas the attitude and morale of correctional officers is a mater worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 6, 1984, hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The amendment to the preamble was agreed to.

The title was amended so as to read: "Joint resolution to designate the week beginning May 6, 1984, as 'National Correctional Officers Week'.".

Mr. BAKER. I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

NATIONAL TOURISM WEEK

The joint resolution (H.J. Res. 168) to designate the week beginning May 27, 1984, as "National Tourism Week" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to:

H.J. RES. 168

Whereas tourism is vital to the United States, contributing to its economic prosperity, employment, and international balance of payments;

Whereas travelers from the United States and other countries spent $191,000,000,000 in the United States during 1981, directly producing four million six hundred thousand jobs, $40,000,000,000 in wages and salaries, and $18,000,000,000 in Federal, State, and local tax revenues;

Whereas, if viewed as a single retail industry, the travel and tourism sector of the economy constituted the second largest retail industry in the United States in 1981, as measured by business receipts;

Whereas tourism contributes substantially both to personal growth, health, and education, and to intercultural appreciation of the geography, history, and people of the United States;

Whereas tourism enhances international understanding and good will; and

Whereas, as incomes and leisure time continue to increase, tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 27, 1984, hereby is designated "National Tourism Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BAKER. I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SECRETARY OF COMMERCE TO SETTLE CLAIMS

The bill (H.R. 594) to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

RELIEF OF JAMES A. FERGUSON

The bill (H.R. 726) for the relief of James A. Ferguson, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION AND BILL PLACED ON CALENDAR—H.R. 2590

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 2590, an act to amend the Agricultural Adjustment Act to authorize marketing research and promotion projects, including paid advertising, for filberts, and to amend the Potato Research and Promotion Act, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 4252

Mr. BAKER. Mr. President, I ask unanimous consent that, once the Senate receives from the House, H.R. 4252, a bill to repeal the noncash benefit program, it be held at the desk pending further disposition.

Mr. BYRD. Mr. President, this has to do with H.R. 4252?

Mr. BAKER. Yes, Mr. President, 4252.

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—H.R. 2395

Mr. BAKER. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 2395, an act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and I ask that it be placed on the calendar.

Mr. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, I now send to the desk a resolution for myself and the distinguished minority leader dealing with representation by the Senate legal counsel in reference to a subpoena and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 280) to direct the Senate legal counsel to represent the Permanent Subcommittee on Investigations in the case of In Re Subpoena to Anthony J. Accardo.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 280

Whereas, in the case of In re Subpoena to Anthony J. Accardo, Misc. No. 83-0338, pending in United States District Court for the District of Columbia, the petitioner has filed a petition seeking relief against the Senate Permanent Subcommitee on Investigations;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. V 1981), the Senate may direct its counsel to defend the committees, members and employees of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Senate Permanent Subcommittee on Investigations, and its members and employees, in the case of In re Subpoena to Anthony J. Accardo.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE JOINT RESOLUTION 199 PLACED ON THE CALENDAR

Mr. BAKER. Mr. President, now I would say to the minority leader I propose to send to the desk a Senate joint resolution by Senators WARNER and TRIBLE, which I believe has been cleared on both sides.

Mr. BYRD. It has been cleared.

Mr. BAKER. I thank the minority leader. I now send the resolution to the desk and request that it be placed on the calendar.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there objection? The Chair hears none, and it is so ordered.

● Mr. WARNER. Mr. President, today I am introducing a joint resolution designed to improve the highway transportation system of the Commonwealth of Virginia. Both of these provisions are contained in H.R. 3103, the Surface Transportation Technical Corrections Act, which is currently in conference. I feel it is necessary to introduce them as a new resolution because of the current stalemate between the House and Senate with respect to H.R. 3103. The citizens of Virginia should not be made to suffer the effects of not passing these provisions because of the inability of Congress to agree on other very expensive provisions of H.R. 3103 on the House side that do not affect Virginia, particularly in light of the fact that neither of these provisions has any effect on the U.S. Treasury. They are necessary because Federal restraints are preventing the Commonwealth from working its will.

The Virginia General Assembly, in its 1983 session, enacted legislation for two reasons, which provided that tolls be kept on the Richmond-Petersburg Turnpike. The tolls need to be retained until I-295, between I-64 east of the city of Richmond and I-95 south of Petersburg, is completed in order to facilitate smooth traffic management.

The second reason, and the major reason, for extending the tolls is so that the tolls collected in the interim can be directed to the construction of five critically-needed road projects in the Richmond-Petersburg area which could not be financed from normal Federal or State revenue within the next 15 years.

In order to implement the provisions of the State's legislation, it is necessary that the Commonwealth be relieved of certain provisions of an agreement with the Federal Highway Administration in 1971. The FHwA has determined that the agreement cannot be amended administratively, but that such an amendment must be approved by Congress. Virginia House members and I have just been informed, further, by the Virginia Secretary of Transportation, that every day the Federal Government does not act on this toll bill, that Virginia's road projects get delayed—which costs Virginians money. This has put a critical light to this legislation. As such, the Virginia House delegation was successful in having such a provision included

in the House version of H.R. 3103. However, given the precarious nature of that legislation, I now find it necessary to introduce this resolution.

The other provision concerns a subject that was debated on the Senate floor when the Senate considered H.R. 3103.

I was very pleased when the Senate, in its wisdom, agreed with my amendment to reduce the high occupancy vehicle restrictions on I-66 from four to three and adopted it as a part of H.R. 3103. Similar action was taken in the House and this provision is included in both versions of H.R. 3103.

I will not go into the several compelling arguments in favor of this legislation because I have already filled the RECORD with material. This provision is exactly the same as my amendment to H.R. 3103, except that some language has been added to clarify the original intent of the provision with respect to the Lynn Street and George Washington Parkway ramps.

Vehicles entering I-66 from these arteries have not been subject to HOV restrictions and while report language on H.R. 3103 makes the point clear, it was never intended that these ramps become subject to them as a result of this legislation.

Both of these provisions are timely and overdue. They have no costs to the taxpayers associated with them and they are not, to my knowledge, objectionable to any Member of Congress. I hope, Mr. President, that the resolution can be passed as soon as possible.

Mr. President, I wish to thank the majority and minority leaders and staff for facilitating this last minute item.

Mr. BAKER. Mr. President, I thank the Senator from Virginia.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President on today's Executive Calendar there are a number of items that have been cleared on this side. Could I inquire of the minority leader if he is in a position to consider the nominations that begin on page 2 under the Department of Defense, all of those nominations on page 3 under the Judiciary and Department of Justice, page 4, the Commodity Futures Trading Commission, through the balance of that page, and page 5, all or any part of those items?

Mr. BYRD. Mr. President, I was temporarily distracted, and I beg the majority leader's pardon. If I understand what I thought he said, he indicated those nominations beginning on page 2 with the Department of Defense, going through page 3, going through page 4, through page 5, and through page 6. Am I correct?

Mr. BAKER. Yes. Mr. President, I thank the minority leader. That is correct.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask that the Senate now go into executive session for the purpose of considering the nominations just described by the minority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

William E. Mayer, of California, to be an Assistant Secretary of Defense.

THE JUDICIARY

W. Eugene Davis, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Lenore Carrero Nesbitt, of Florida, to be U.S. district judge for the southern district of Florida.

G. Kendall Sharp, of Florida, to be U.S. district judge for the middle district of Florida.

George E. Woods, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Jane A. Restani, of Virginia, to be a judge of the U.S. Court of International Trade.

DEPARTMENT OF JUSTICE

Helen G. Corrothers, of Arkansas to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Vincent Fechtel, Jr., of Florida, to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Paula A. Tennant, of California, to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Frank Henry Habicht II, of the District of Columbia, to be an Assistant Attorney General.

COMMODITY FUTURES TRADING COMMISSION

Susan Meredith Phillips, of Iowa, to be chairman of the Commodity Futures Trading Commission.

William E. Seale, of Virginia, to be a commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1988.

DEPARTMENT OF AGRICULTURE

Daniel Oliver, of Connecticut, to be General Counsel of the Department of Agriculture.

IN THE AIR FORCE

The following-named officer to be deputy judge advocate general, U.S. Air Force, and to the grade of major general, under the provisions of title 10, United States Code, sections 8072 and 624:

Brig. Gen. Robert W. Norris, 417-44-5019FR, U.S. Air Force.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Edward A. Burkhalter, Jr., 423-20-4762/1120, U.S. Navy.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Gwyneth Gayman, of California, to be a member of the National Council on Educational Research for a term expiring September 30, 1984.

Joan M. Gubbins, of Indiana, to be a member of the National Council on Educational Research for a term expiring September 30, 1985.

David J. Armor, of California, to be a member of the National Council on Educational Research for a term expiring September 30, 1986.

DEPARTMENT OF ENERGY

Helmuth A. Merklein, of Texas, to be an Assistant Secretary of Energy (International Affairs).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning James N. Hagenson, and ending Guy O. Bilek, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 31, 1983.

Army nominations beginning William G. Adams, and ending Ralf W. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 31, 1983.

Army nominations beginning Lawrence L. Tracy, and ending Charles F. Longer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1983.

Army nominations beginning Alfred M. Allen, and ending Kathryn L. Nagel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1983.

Marine Corps nominations beginning Lauren D. Ayers, Jr., and ending Paul A. Zappala, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1983.

Navy nominations beginning Frank Oliver Barret III, and ending Adrian M. Mcchesney, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1983.

LENORE NESBITT

Mrs. HAWKINS. Mr. President, it is a pleasure for me today to express my strong support for an individual who has been nominated by President Reagan to fill the vacancy in Florida's southern district and voted favorably by the Senate Judiciary. I recommend to the Senate Lenore Nesbitt to serve on the Federal bench. Lenore Nesbitt will bring to the Federal court an excellent combination of personal qualities, educational background, and both legal and judicial experience to this important post in our Federal judiciary. In 1957 she graduated first in her class from the University of Miami Law School. She has distinguished herself both as a member of the Florida Bar and as a respected State jurist. Judge Nesbitt's service to the district court of appeals and the Dade County

Circuit Court is both well known and well respected.

What makes me especially proud to recommend her is that this individual has, through her own hard work and personal determination, succeeded and excelled so greatly without ever losing sight of her responsibility as a daughter, a wife, and a mother. Interestingly, I would like to point out that Judge Nesbitt is married to Judge Joseph Nesbitt. This outstanding judicial couple, I might add, are the proud parents of a son and a daughter, Thomas and Sarah.

Judge Nesbitt's appointment will also be a very special occasion for the southern district court in Florida. I am happy to report that she will be the first woman appointed to serve in that district. Knowing Lenore Nesbitt's background and philosophy and her dedication to her family, the American judicial system and this country, I am confident that she will make an outstanding contribution to our Federal judiciary.

GEORGE KENDALL SHARP

Mr. President, it is a pleasure for me today to express my strong support for an individual who has been nominated by President Reagan to fill the vacancy in Florida's middle district and voted favorably by the Senate Judiciary. I recommend to the Senate, George Kendall Sharp, who is known by his friends and associates as Ken.

During my term as U.S. Senator, I have made every effort to seek out and find individuals of only the highest caliber to serve in our Federal courts. Ken Sharp will bring to the national judiciary an outstanding record of accomplishments and list of credentials. As a graduate of Yale University and the University of Virginia Law School, he distinguished himself in his active service in the U.S. Navy and continued his service through his current Reserve position as captain. Judge Sharp has demonstrated his leadership and dedication to our country. As a private practioner, Ken Sharp built a reputation based on the respect and admiration of his peers. This reputation contributed to his election to the position of circuit court judge for Florida's 19th circuit in 1978. Whether it was in his presidency of a local bar association, work in his community, or in his service to the circuit court, Ken Sharp has always brought honor and distinction to the legal profession.

It has been my pleasure over the years to know Ken Sharp and his wife Mary and their lovely daughters, Florence and Julia. It is an honor for me to recommend him to the Senate today for future service in our Federal judiciary.

VINCENT J. FECHTEL, JR.

Mr. President, I am pleased that Vincent J. Fechtel, Jr., has been nominated by President Reagan to fill the position of U.S. Parole Commissioner. On November 10, the Senate Judiciary Committee approved Mr. Fechtel's nomination and today he will be confirmed by the full Senate.

I had the opportunity to recommend Mr. Fechtel to our President last spring and today I strongly reaffirm my support for his confirmation. I would like to share briefly with you some of this gentleman's background and the reason he has been selected for this important position. Mr. Fechtel has the experience, ability, and character necessary to become a great Parole Commissioner. His life has been an example of achievement and success.

He received his bachelor of science in business administration from the University of Florida in 1959. He is a successful central Florida businessman. He was elected to the Florida House of Representatives in 1972 and served there until 1979 when he was elected to the Florida Senate. While serving in the Florida Senate he was elected minority floor leader. During his tenure in the Florida Legislature he was actively involved in the key committees concerning prisons and, in fact, the author of several substantial pieces of legislation dealing with prisons and prisoner-related matters. Mr. President, we need someone with a strong philosophy of law and order who will enhance the judicial system. I believe Mr. Fechtel possesses that philosophy, a qualification that promises achievement in the position of U.S. Parole Commissioner.

In addition, I believe that he will bring to this office capable leadership and the ability to service the best interests of the people of Florida and of the United States.

Mr. President, I appreciate the expeditious nomination and confirmation of Mr. Vincent J. Fechtel, Jr., for the position of U.S. Parole Commissioner. I look forward to the commencement of his career and I am confident that his service will enhance our law enforcement efforts.

HELMUT A. MERKLEIN

Mr. McCLURE. Mr. President, I rise in strong support of the nomination of Helmut A. Merklein to be Assistant Secretary of Energy for International Affairs. On November 14, the Committee on Energy and Natural Resources endorsed Mr. Merklein's nomination by a vote of 17 to 0. The committee's vote followed a nomination hearing held on November 10.

Mr. Merklein possesses fine credentials for the position of Assistant Secretary. Until recently, he was a full professor of petroleum economics at Texas A&M University. Previously, he taught energy and international economics at the University of Dallas and the University of Nice, in France. Mr. Merklein has also served as a project engineer with an international consulting firm and as a petroleum engineer with an oil company. Additionally, he has submitted to the committee an extensive list of articles he has published and books he has authored or contributed to in the area of energy economics. Born in Indonesia and raised in Europe, where he became fluent in French and German, Mr. Merklein has traveled extensively, and comes before the Senate with the background so vitally needed in this important position.

At Mr. Merklein's nomination hearing last week, I expressed my strong feelings on the role of the Department of Energy in the formulation and implementation of international energy policy. Secretary Hodel is charged with the lead responsibility within the executive branch for the International Energy Agency, and for U.S. energy policy as it relates to OPEC and the Arabian Gulf; thus, the importance of the Assistant Secretary's role as the principal international policy adviser to the Secretary. During his nomination hearing, Mr. Merklein assured the committee of his commitment to reestablishing the Department's leadership in international energy policy. He stated:

> I would propose, if confirmed, to help continue the work Secretary Hodel has initiated to restore the Department of Energy to the level of international respect an credibility that, as an agency of the United States Government, it deserves.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the nomination of Helmut A. Merklein for the position of Assistant Secretary of Energy for International Affairs.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE FOR TOMORROW

Mr. BAKER. Mr. President, in a moment I will ask the Senate to stand in recess until tomorrow.

The leadership on this side had anticipated that the Senate might be able to turn to the export administra-

tion bill in the morning and perhaps finish it before we go to the tuition tax credit matter. I am told now that that is unlikely.

In view of that, I will inquire on this side if the distinguished chairman of the Budget Committee might be in a position to proceed to reconciliation in the morning. It appears that we might be able to do that.

I will not now make such a request, but I say this to advise the minority leader that in order to fill that approximately 2 hours in the morning and not waste it, the leadership on this side would like to try to go to the reconciliation matter.

I am not sure we can finish reconciliation in the 2 hours, but there is a statutory maximum on the time and certain other statutory restraints on the nature of action that can be taken on that matter, and I would like to get started on it.

If the minority leader is so inclined and can give us some idea in the morning when we convene as to whether we can do that, I will ask that Senator DOMENICI be present.

Mr. BYRD. Mr. President, I will be happy to do that, to see if it can be cleared. We will discuss it with Mr. CHILES and will be prepared to give the majority leader an answer in the morning.

Mr. BAKER. I thank the Senator.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no other matter to come before the Senate. If the minority leader has nothing further, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:14 p.m. the Senate recessed unil tomorrow, Wednesday, November 16, 1983, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 15, 1983:

DEPARTMENT OF STATE

Deane Roesch Hinton, of Illinois, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

INTER-AMERICAN FOUNDATION

Harold K. Phillips, of California, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988, vice Alberto Ibarguen, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 15, 1983:

COMMODITY FUTURES TRADING COMMISSION

Susan Meredith Phillips, of Iowa, to be Chairman of the Commodity Futures Trading Commission.

William E. Seale, of Virginia, to be a commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1988.

DEPARTMENT OF AGRICULTURE

Daniel Oliver, of Connecticut, to be general counsel of the Department of Agriculture.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Gwyneth Gayman, of California, to be a member of the National Council on Educational Research for a term expiring September 30, 1984.

Joan M. Gubbins, of Indiana, to be a member of the National Council on Educational Research for a term expiring September 30, 1985.

David J. Armor, of California, to be a member of the National Council on Educational Research for a term expiring September 30, 1986.

DEPARTMENT OF ENERGY

Helmuth A. Merklein, of Texas, to be an Assistant Secretary of Energy (International Affairs).

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF DEFENSE

William E. Mayer, of California, to be an Assistant Secretary of Defense.

THE JUDICIARY

W. Eugene Davis, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Leonore Carrero Nesbitt, of Florida, to be U.S. district judge for the southern district of Florida.

G. Kendall Sharp, of Florida, to be U.S. district judge for the middle district of Florida.

George E. Woods, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Jane A. Restani, of Virginia, to be a judge of the U.S. Court of International Trade.

DEPARTMENT OF JUSTICE

Helen G. Corrothers, of Arkansas to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Vincent Fechtel, Jr., of Florida, to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Paula A. Tennant, of California, to be a commissioner of the U.S. Parole Commission for a term of 6 years.

Frank Henry Habicht II, of the District of Columbia, to be an Assistant Attorney General.

IN THE AIR FORCE

The following-named officer to be deputy judge advocate general, U.S. Air Force, and to the grade of major general, under the provisions of title 10, United States Code, sections 8072 and 624:

Brig. Gen. Robert W. Norris, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601 to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Edward A. Burkhalter, Jr., xxx-xx-xxxx/1120, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning James N. Hagenson, and ending Guy O. Bilek, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 31, 1983.

IN THE ARMY

Army nominations beginning William G. Adams, and ending Ralf W. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 31, 1983.

Army nominations beginning Lawrence L. Tracy, and ending Charles F. Longer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 3, 1983.

Army nominations beginning Alfred M. Allen, and ending Kathryn L. Nagel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 3, 1983.

IN THE NAVY

Navy nominations beginning Frank Oliver Barret III, and ending Adrian M. McChesney, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 3, 1983.

IN THE MARINE CORPS

Marine Corps nominations beginning Lauren D. Ayers, Jr., and ending Paul A. Zappala, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 3, 1983.

HOUSE OF REPRESENTATIVES—November 15, 1983

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Enable us, O God, to be the people You would have us be, and to do those things that honor You and insure justice for all people. We admit the pressures that clamor for our attention and we do what we can to speak to everyone's needs. Help us, O gracious God, to act and believe with righteousness that the paths of peace and concord will be our way and we will strive to reflect the glorious image of our creation. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 120, answered "present" 3, not voting 27, as follows:

[Roll No. 503]

YEAS—284

Ackerman	Bennett	Burton (IN)
Addabbo	Berman	Carper
Akaka	Bevill	Carr
Albosta	Biaggi	Chandler
Alexander	Boehlert	Chappell
Anderson	Boggs	Clarke
Andrews (NC)	Boland	Clay
Andrews (TX)	Boner	Coelho
Annunzio	Bonior	Coleman (TX)
Anthony	Bonker	Collins
Archer	Borski	Conte
Aspin	Bosco	Cooper
AuCoin	Boucher	Corcoran
Barnard	Boxer	Coyne
Barnes	Britt	D'Amours
Bartlett	Brooks	Daniel
Bateman	Brown (CA)	Darden
Bates	Broyhill	Daschle
Bedell	Bryant	de la Garza
Beilenson	Burton (CA)	Dellums
Derrick	Kildee	Rahall
Dicks	Kogovsek	Rangel
Dingell	Kolter	Ratchford
Dixon	Kostmayer	Ray
Dorgan	LaFalce	Reid
Dowdy	Lantos	Richardson
Downey	Leach	Rodino
Duncan	Leath	Roe
Dwyer	Lehman (CA)	Rose
Dymally	Lehman (FL)	Rostenkowski
Dyson	Leland	Roukema
Early	Levin	Rowland
Eckart	Levine	Roybal
Edgar	Lipinski	Russo
Edwards (AL)	Long (LA)	Sabo
Edwards (CA)	Lowry (WA)	Savage
English	Lujan	Scheuer
Erdreich	Luken	Schneider
Evans (IL)	Lundine	Schroeder
Fascell	MacKay	Schumer
Fazio	Markey	Shannon
Feighan	Marriott	Sharp
Ferraro	Martin (NY)	Simon
Florio	Martinez	Sisisky
Foglietta	Matsui	Skelton
Foley	Mavroules	Slattery
Ford (TN)	Mazzoli	Smith (FL)
Fowler	McCandless	Smith (IA)
Frost	McCloskey	Smith (NE)
Fuqua	McCurdy	Snowe
Gaydos	McDade	Snyder
Gephardt	McEwen	Spence
Gibbons	McHugh	Spratt
Gilman	McKernan	Staggers
Glickman	McKinney	Stark
Gonzalez	McNulty	Stenholm
Gore	Mica	Stokes
Gray	Michel	Stratton
Green	Mikulski	Studds
Gregg	Miller (CA)	Swift
Guarini	Mineta	Synar
Gunderson	Minish	Tallon
Hall (IN)	Mitchell	Thomas (GA)
Hall (OH)	Moakley	Torres
Hall, Ralph	Mollohan	Torricelli
Hall, Sam	Montgomery	Towns
Hamilton	Moody	Traxler
Harrison	Moore	Udall
Hatcher	Morrison (CT)	Valentine
Hawkins	Mrazek	Vandergriff
Hayes	Murtha	Vento
Hefner	Myers	Volkmer
Heftel	Natcher	Walgren
Hertel	Neal	Watkins
Hightower	Nelson	Waxman
Hillis	Nowak	Weaver
Holt	O'Brien	Weiss
Hopkins	Oakar	Wheat
Horton	Obey	Whitley
Howard	Olin	Whitten
Hoyer	Ortiz	Williams (OH)
Hubbard	Owens	Wilson
Huckaby	Panetta	Wirth
Hughes	Patman	Wise
Hunter	Patterson	Wolpe
Hutto	Pease	Wortley
Ireland	Penny	Wright
Jeffords	Pepper	Wyden
Johnson	Perkins	Wylie
Jones (NC)	Petri	Yates
Jones (OK)	Pickle	Yatron
Kaptur	Porter	Young (MO)
Kastenmeier	Price	Zablocki
Kazen	Pursell	Zschau
Kennelly	Quillen	

NAYS—120

Badham	Carney	Courter
Bereuter	Chappie	Craig
Bethune	Cheney	Crane, Daniel
Bilirakis	Clinger	Crane, Philip
Bliley	Coats	Dannemeyer
Broomfield	Coleman (MO)	Daub
Brown (CO)	Conable	Davis
Campbell	Coughlin	DeWine
Dickinson	Lewis (FL)	Roth
Dreier	Livingston	Rudd
Durbin	Lloyd	Schaefer
Edwards (OK)	Loeffler	Schulze
Emerson	Lott	Sensenbrenner
Erlenborn	Lowery (CA)	Shaw
Evans (IA)	Lungren	Shumway
Fiedler	Mack	Shuster
Fields	Madigan	Sikorski
Fish	Marlenee	Siljander
Forsythe	Martin (IL)	Skeen
Franklin	Martin (NC)	Smith (NJ)
Frenzel	McCain	Smith, Denny
Gejdenson	McCollum	Smith, Robert
Gekas	McGrath	Solomon
Gingrich	Miller (OH)	Stangeland
Gradison	Moorhead	Stump
Gramm	Morrison (WA)	Sundquist
Hammerschmidt	Murphy	Tauke
Hansen (ID)	Nielson	Tauzin
Hansen (UT)	Oxley	Taylor
Harkin	Packard	Thomas (CA)
Hiler	Parris	Vander Jagt
Hyde	Pashayan	Vucanovich
Jones (TN)	Regula	Walker
Kasich	Ridge	Weber
Kemp	Rinaldo	Whitehurst
Kindness	Ritter	Whittaker
Kramer	Roberts	Winn
Lagomarsino	Robinson	Wolf
Latta	Roemer	Young (AK)
Levitas	Rogers	Young (FL)

ANSWERED "PRESENT"—3

Jacobs	Ottinger	St Germain

NOT VOTING—27

Applegate	Garcia	Nichols
Breaux	Goodling	Oberstar
Byron	Hance	Paul
Conyers	Hartnett	Pritchard
Crockett	Jenkins	Sawyer
Donnelly	Lent	Seiberling
Flippo	Lewis (CA)	Shelby
Ford (MI)	Long (MD)	Solarz
Frank	Molinari	Williams (MT)

□ 1210

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

Mr. LIPINSKI and Mr. HAWKINS changed their votes from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate disagrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 3385) entitled "An act to provide equity to cotton producers under the payment-in-kind program," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Mr. DOLE, Mr. LUGAR, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. LEAHY, Mr. ZORINSKY, and Mr. MELCHER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2230. An act to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 452. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

The message also announced that Mr. DECONCINI is appointed a conferee, on the part of the Senate, on the bill (H.R. 3959) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes," vice Mr. INOUYE, excused.

□ 1220

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

THEDA JUNE DAVIS

The Clerk called the bill (H.R. 743) for the relief of Theda June Davis.

There being no objection, the Clerk read the bill, as follows:

H.R. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay to Theda June Davis of Phoenix, Arizona, out of any money in the Treasury not otherwise appropriated, the sum of $35,499.25 plus interest thereon calculated at the rate of 6 per centum per year from December 1, 1976, to April 3, 1980, and at the rate of 10 per centum per year from April 4, 1980, to the date the sum is paid. Such sum is the amount of a court judgment in favor of Theda June Davis against a nonprofit Arizona corporation based upon a finding of sex-based discrimination. The Arizona corporation is totally funded by Federal grants from the Department of Labor.

SEC. 2. No part of the amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 per centum of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

With the following committee amendment:

Page 1, line 6: Strike "at the rate" and all that follows through "paid." on page 2, line 2 and insert: "in accordance with the provisions of section 1961 of title 28."

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRANK L. HULSEY

The Clerk called the bill (H.R. 719) for the relief of Frank L. Hulsey.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CARLOS MEBRANO GATSON

The Clerk called the bill (H.R. 724) for the relief of Carlos Mebrano Gatson.

There being no objection, the Clerk read the bill, as follows:

H.R. 724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Carlos Mebrano Gatson, the father of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of that Act shall not be applicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HARRY CHEN TAK WONG

The Clerk called the bill (H.R. 932) for the relief of Harry Chen Tak Wong.

There being no objection, the Clerk read the bill, as follows:

H.R. 932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(9) and (10) of the Immigration and Nationality Act, Harry Chen Tak Wong may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

With the following committee amendment:

Page 1, line 3, delete the words "(9) and",

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HANS ROBERT BEISCH

The Clerk called the bill (H.R. 2087) for the relief of Hans Robert Beisch.

There being no objection, the Clerk read the bill, as follows:

H.R. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hans Robert Beisch shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUAN ESCOBAR RODRIGUEZ

The Clerk called the bill (H.R. 446) for the relief of Juan Escobar Rodriguez.

There being no objection, the Clerk read the bill, as follows:

H.R. 446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juan Escobar Rodriguez may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon the approval of a petition filed in his behalf by Mario Rodriguez-Illobre and Helen Elsie Rodriguez-Illobre, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TOMOKO JESSICA KYAN

The Clerk called the bill (H.R. 1152) for the relief of Tomoko Jessica Kyan.

There being no objection, the Clerk read the bill, as follows:

H.R. 1152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Tomoko Jessica Kyan, the daughter of William Jack Easterly, Junior, a United States citizen, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Tomoko Jessica Kyan shall be held and considered to be the natural-born alien daughter of William Jess Easterly, Junior, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARGOT HOGAN

The Clerk called the bill (H.R. 1072) for the relief of Margot Hogan.

There being no objection, the Clerk read the bill, as follows:

H.R. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Margot Hogan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(c) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

H.R. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Margot Hogan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the bill and the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

SELL-OUT: PRESIDENT REAGAN IN JAPAN

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, the pictures were beautiful. The pageantry was gallant. The preparation for such splendor, I am sure, was long, hard, and difficult; but, Mr. Speaker, I submit that President Reagan during his recent trip to Japan again totally ignored the American unemployed worker and he has sold out U.S. coal interests.

Despite the President's rhetoric that his mission to Japan would include protecting U.S. trade interests in order to counter increased protectionistic sentiments here, he has instead legitimized a dramatic reduction in the amount of U.S. coal being purchased by the Japanese.

During the first 7 months of 1983, U.S. coal exports to Japan declined by 45 percent. The United States has traditionally supplied Japan with approximately 30 percent of its coal requirement. Today, this figure has dropped to below 16 percent.

The United States-Japan Energy Working Group has met on several occasions to discuss this situation. However, the Japanese have refused to make any concessions.

As such, it is my understanding that the President accepted a Japanese position not to make any commitment on metallurgical coal purchases from the United States. At best, the Japanese have indicated that they would try to keep the United States in the market.

In 1982, the United States exported almost 26 million tons of coal to Japan. In 1984, U.S. coal producers will be lucky to ship 10 million tons.

In light of the $22 billion trade deficit this Nation has with Japan, I find the President's action to be incredible. Does he not realize that Japan is spending $500 million in the U.S.S.R. to develop a coal-hauling railroad line. Does he not realize that the Japanese export-import bank has approved a $2 billion financing package to China for the development of new coal mines. Does he not realize that a number of Japanese firms, including Nippon Steel, are considering becoming involved in a surface coal mine/coal slurry project in Mongolia.

At this time, not a single long-term coal contract exists between a United States coal producer and Japan. Members of both the House and Senate coal groups have contacted the President, urging him to seek to maintain the traditional U.S. share of the Japanese coal market at 30 percent. This request, instead, has fallen on deaf ears.

So I would suggest to the President, next time you visit with the Japanese, do not do the coal industry any favors. No agreement would be better than the type your administration has struck.

THE EQUAL RIGHTS AMENDMENT AND VETERANS PREFERENCE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, several veterans organizations have contacted me as chairman of the Committee on Veterans' Affairs in reference to the impact, if any, of the proposed equal rights amendment on vet-

erans preference in employment. These organizations are concerned with statements made by some supporters during Judiciary Committee hearings that, should the equal rights amendment be adopted, certain veterans preference laws would be challenged in the Federal courts.

As my colleagues know, veterans preference has been in existence for more than a hundred years. The constitutionality of such preference has been challenged and upheld by the U.S. Supreme Court on more than one occasion. The latest challenge came in the case of Massachusetts against Feeney. In that case, the U.S. Supreme Court, by a vote of 7 to 2, upheld a veterans preference statute which insured that veterans would receive consideration for employment ahead of nonveteran applicants, no matter when the veteran applied for a position.

Mr. Speaker, since the equal rights amendment is being brought up under suspension of the rules there may not be time to ask questions to determine whether it would have an impact on veterans preference. Therefore, I want to share with you my concern on this particular issue. First, I would like to know whether or not the proposed legislation will adversely affect the 5- and 10-point preference now available for veterans who seek employment with the Federal Government. Next, I would like to know whether or not the proposed legislation would adversely affect the educationally disadvantaged Vietnam veterans who can now be appointed, under the Vietnam veterans readjustment appointment authority (VRA), to a position without having to compete with nonveterans for certain positions in the Federal Government. Finally, Mr. Speaker, I want to know what impact the proposed legislation would have on current State laws such as the case of Massachusetts against Feeney which was recently upheld by the U.S. Supreme Court.

The reason I raise this issue, Mr. Speaker, is that, if the intent is to change the status of veterans preference laws, Members should know that the 28 million veterans who have answered our Nation's call in time of war will work hard in every State throughout the country to insure that the amendment is not ratified.

I hope in this debate my concerns can be addressed.

SEEKING A BALANCE CONSISTENT WITH EQUAL RIGHTS FOR WOMEN AND PROFAMILY VALUES

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I am dismayed that those of us who want to support an equal rights amendment will be denied the opportunity to fashion such an amendment that is consistent with both equal rights for women and profamily values.

The decision to pursue a serious effort to enact a fundamental realinement of the social and family values that underlie our society and our American tradition, with no consideration of the impacts and, ramifications of this change, clouds the chances for passage.

For those who have in the past supported profamily legislation in such matters as abortion and homosexual rights, we stand in jeopardy of undoing in 40 minutes all that we have accomplished over the years.

I believe that a majority of this House would support abortion-neutral language. I believe a majority are opposed to drafting women and/or committing them to combat, or requiring religious institutions to alter their treatment which distinguishes between men and women on the basis of doctrine, and many other issues which we will not be able to address.

Finally, Mr. Speaker, I want to raise with my colleagues a number of concerns which I have over the potential impact of the equal rights amendment if it is adopted in an imprecise form. Let me point out that my intention is to develop a version of the ERA which will have broad-based support both in the Congress and in the American public. I think I speak for a great many women when I say we want to see an equal rights amendment that corrects discrimination now faced by women, but does not rend the fabric of family life, or the institutions which this society has developed to protect a basic set of values that are commensurate with family life. We want very much to be a constructive voice in protecting those values while acting positively and responsibly to remove existing barriers to full and equal opportunities for women.

First, I would urge that the House make explicit that nothing in the proposed amendment be construed to expand, endorse or secure either the right to abortion, or the right to, or granting of, Federal funds for the performance of abortion, except in those limited instances which the Congress has already defined. The concern in this instance is not in the language of the proposed amendment itself, but rather that in interpreting the amendment the courts may so define "sex" as to overturn the Hyde amendment. This concern is reinforced by the Supreme Court decision in the *Newport News Shipbuilding and Drydock, Co.* v. *Equal Employment Opportunity Commission* (77 L. Ed. 2d 89, June 20, 1983) in which Justice Stevens writing for the majority noted that "discrimination based on a woman's pregnancy is, on its face, discrimination because of her sex."

Second, there is confusion over how the amendment in its present form would apply to homosexuals, particularly in the case of homosexual marriages. My personal feeling is that the legislative intent of the Congress does not extend to including sexual preference as part of the definition of "sex" as the word is used in the amendment. Nonetheless, by failing to clearly exclude homosexuals from the ERA, the Congress has left a decision on this matter up to the courts, and the result may not be consistent with the interpretation of the legislative intent as I understand it, and as I believe most in this body understand it. This exclusion should be explicit thus ending any uncertainty.

Third, the ERA must not be construed by the IRS or the courts to deny tax exempt status to schools, seminaries, and churches which treat men and women differently. Specifically, those religious institutions which do not ordain women, could run the risk of losing their tax exempt status for their schools or seminaries. If the courts choose to interpret sex discrimination in the same way that they interpret race discrimination, then the Bob Jones University case makes very clear the potential risk to these institutions.

Fourth, provision should be made to clarify that the amendment does not require the drafting of women into the Armed Forces of the United States, nor should it be construed as requiring women members of the Armed Forces to be assigned to combat duty. The concern in this instance is that in the absence of such clarifying language, the ERA may be interpreted in such a manner as to overturn the decision in Rostker against Goldberg which upheld the exemption of all women from the military draft, and provided for the exclusion of woman from military combat.

Fifth, supporters of the equal rights amendment in its present form have argued that it would overturn the Supreme Court decision in Massachusetts against Feeney, which held the existing veteran's preference procedure as constitutional. The concern in this instance is similar to that in the case of abortion. Since 98 percent of all those receiving veterans preference are male, the preference appears to discriminate against women. Just as abortion, becuase it is performed exclusively on women, discriminates on the basis of sex. Language should be adopted to prevent the ERA from being construed in any way which affects any benefit or preference given by a State or the Federal Government to veterans.

Sixth, amendatory language is necessary to prevent the amendment

from being construed in such a manner as to deprive wives, or widows, of rights or benefits granted to them by the States, or to interfere with State laws that obligate husbands to support their wives. This provision is of crucial importance for those women who choose a career in the traditional role of homemaker. These women provide a very valuable, but generally financially uncompensated service to their husbands and families.

These women are entitled to, and the courts have recognized their legal claims upon, their husbands earnings in the event of divorce or separation. To the extent that the existing ERA is ambiguous on this point, it must be clarified to assure that the traditional legal rights of wives are protected.

Seventh, the equal rights amendment should specifically provide for the continued distinction between the sexes where such distinction accommodates personal modesty. This stipulation would protect such institutions as private schools, hospitals, prisons, and other public accommodations from being placed in the position of having to implement sex-integration policies that contravenes the policies that were created to protect the privacy and modesty of the individuals served by these facilities.

Finally, because of the nature of this amendment, that is, because it seeks to remove legal impediments to the full opportunities for women, it of necessity addresses itself to existing law; Federal, State, and local. To transfer the responsibility for correcting these laws and for properly enforcing them to the Federal Government in lieu of the States will make the amendment less effective. The majority of the concerns that I have raised in my statement relate to areas which have traditionally been the province of the States; such items as divorce, alimony, child custody, homosexual rights, private and public schools, public accommodations and so on. The inclusion of section 2 of the proposed amendment effectively removes the States from these decisions by transferring authority for implementation to the Federal Government. I believe that this is both unwarranted and less effective than reliance on the States.

I appreciate this opportunity to express the concerns which I have about this amendment. I believe that my concerns on most, if not all of these matters are shared by many in this House. However, my particular concern is that despite our intentions, if we fail to make clear the meaning of the equal rights amendment we must bear the responsibility for future interpretations that run contrary to the understanding and intentions that we had in the drafting and consideration of this amendment.

□ 1230

BAN "COP KILLER BULLETS"

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, a recent letter I received leads me to believe that the administration's top two law enforcement agencies are deliberately sabotaging my effort to outlaw armor-piercing "cop killer bullets."

The Justice Department said in April that they would complete a research project on this crucial issue and submit legislation to Congress banning the armor-piercing handgun ammunition by this summer. However, in a letter I received this week, the Justice Department reported that they had run into difficulties and now were unsure when, or if, any such proposal would be submitted to Congress. The U.S. Treasury Department, or Nation's firearms regulatory agency, has been even less responsive, despite previous statements of concern.

I have authorized a bill, H.R. 953, to outlaw armor-piercing handgun ammunition. As a former law enforcement officer, I challenge this administration to stop their bureaucratic double talk and dilatory tactics, and lend their support to the most important police protection initiative in recent years—a ban on cop killer bullets. But, with or without their help, this is a problem the Congress must soon address—the lives of our Nation's police officers depend on it.

THE TIME IS RIGHT FOR THE ERA

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, for reasons of equity, economic opportunity, and educational access, history will judge that the time is right for passage of the equal rights amendment.

From the point of view of fairness, I think it is clear that women will not achieve real equity without the support of the U.S. Constitution, and the equal rights amendment is long overdue.

Second, the concept of economic opportunity also compels the enactment of the ERA, for in 1983, women are earning only 59 cents for every dollar earned by men doing similar work.

Finally, too many educational doors are still closed to women, and this is a national tragedy of wasted human potential.

Mr. Speaker, some Members may not like the procedure by which the amendment was brought up, but clearly, the American principles of equity, economic opportunity, and educational opportunity cry out for a yes vote in favor of the ERA.

I hope my colleagues will cast that yes vote, for it may be our only opportunity this session.

IN SUPPORT OF THE EQUAL RIGHTS AMENDMENT

(Mr. GEJDENSON asked and was givern permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, later today we will be voting on House Joint Resolution 1, the equal rights amendment. As you know, this will not be the first time that this body will act to approve this constitutional amendment, but hopefully it will be the last. The time of the ratification of the equal rights amendment is long overdue. Since 1972, when the ERA was approved by Congress and sent to the States for ratification, a very important educational process has taken place.

The debate on the equal rights amendment has changed dramatically since the early seventies. Opponents, though they may believe it, will not say on the floor of the House today, that women should not have equal opportunity, that they already have it better than men or that the ERA will destroy the American family. I predict that not one person will argue against the substance of the ERA. Such arguments have become political suicide, as well they should. Women and those who support equal rights for women have become a powerful political force in this country.

Instead, what we may hear today from opponents is that they are for the "E and the R, but not the A." This is President Reagan's excuse for not supporting the ERA. He says that we can change our laws so that there is no longer any discrimination against women, without messing up our Constitution. Well, I think the President's record since he has been in office shows just how serious he and others who will use his argument today are about insuring that sex biased laws are repealed. The record is dismal. Luckily, however, the American people have learned something during the last 10 years of debate. They have learned that if you are for equal rights for women you support the equal rights amendment. I intend to do so proudly today.

IT IS NOT TOO SOON TO GRANT EQUAL RIGHTS TO WOMEN

(Mr. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTERSON. Mr. Speaker, I rise today to urge my colleagues to support the equal rights amendment.

We have discussed this issue on the merits, but allow me to talk about what the debate will be focused upon today.

There will be argument on the procedure. Some will say, it is too soon to take up the issue. Some will say the length of the debate is too short, and some will say no amendments are to be allowed. Let us address those issues very briefly.

Is it too soon? Is it too soon to pass the equal rights amendment? Have we not debated this over 15 years, not only in this Chamber and in the Senate, but also in 50 statehouses across the country. The length of the debate is only 40 minutes. If you look in the CONGRESSIONAL RECORD, you will find pages and pages and pages of points of view on the equal rights amendment. I do not think that individuals will change their votes as a result of the shortness of the length of the debate today and we do have equal time on either side of the debate.

The fact that no amendments are allowed. Most of the amendments that are intended to be tacked on to the equal rights amendment are not clarifying but rather they are destructive, contrary amendments that would in effect make the amendment ineffective or unpassable.

There will also be an argument that this is a "political" tactic of Democrats to embarrass Republicans. You can help insure that this is not a political issue by merely joining with us on our side of the aisle and vote for the equal rights amendment to show that it is a people issue and not a party issue.

EQUAL RIGHTS AMENDMENT WILL SECURE FUTURE FOR WOMEN AND AMERICA

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, the most difficult, thankless yet most noble struggles in American history have been those to achieve simple equality.

Traditional discussions of those struggles have focused on the great numbers: 200,000 killed in our Civil War, 25 million blacks, 70 million Catholics, 120 million women. But as I began my day this morning, as I washed my 2½-year-old daughter's face and combed her hair and fixed her Cheerios and tied her sneakers, I thought of her future.

Without equal rights for women protected by our Constitution, she can and will be denied an equal education. She can and will be cheated of 41 cents of every dollar of her rightful compensation for a job well done. She can and will be discouraged from certain careers, like sitting in this body. And she can and will be dispossessed of her rightful future.

God gave her certain talents, certain intelligence, and God knows America needs the unfettered contributions of all its children.

This amendment for equal rights will help secure it.

Women's poverty is due to two causes that are basically female—women are disadvantaged in the labor market and women must often support and pay for child care for their children mostly if not totally on their own. Women often bear the economic as well as the emotional burden of rearing their child or children or caring for an older parent.

Many poor women must also deal with a social welfare system that was originally designed for men, a system which often exacerbates rather than reduces women's poverty.

The equal rights amendment will stimulate an examination of the disadvantaging impact of government welfare programs on poor women; it will stimulate the beginning of the process of creating a welfare system that will help reverse the feminization of poverty and help create new economic opportunities for women. The equal rights amendment will help strengthen prohibitions against discrimination in the marketplace. And in domestic relations law, under the equal rights amendment, laws and court orders will be based on the principle that each spouse contributes equally to the marriage; it will validate the view of marriage as a social, emotional, and economic partnership.

We are experiencing a crisis. An increasing number of the poor are women maintaining households alone. The equal rights amendment will help to curb the feminization of poverty. It offers new hope for women who are experiencing the stigmatizing and isolating effects of poverty.

I urge my colleagues to vote for its passage.

ERA AND THE FEMINIZATION OF POVERTY

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, if wives and female heads of households were paid the wages that similarly qualified men earn, about half of the families now mired in poverty would not be poor. The equal rights amendment offers hope for women in poverty and their children.

We are all aware of the dramatically increasing numbers of single women heading households and its accompanying phenomenon—the feminization of poverty. More than half of the total number of poor families in this Nation are maintained by women, and almost three-quarters of minority children in female-headed households live in poverty.

ACTIVITIES OF COMBAT AND INTELLIGENCE UNITS ARE SUBJECT OF PHOTO EXHIBITION

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, and Members of the House, I rise to announce the opening of a very significant historical photo exhibition in the Cannon House Office Building Rotunda. The display documents the activities of the most highly decorated fighting unit in the history of the U.S. military.

The Go For Broke/Yankee Samurai exhibition is the story of some of America's bravest soldiers. Members of the 442d Regimental Combat Team, which included the 100th Infantry Battalion, were awarded more than 18,000 individual decorations, including 1 Congressional Medal of Honor, 47 Distinguished Service Crosses, 350 Silver Stars, 810 Bronze Stars and more than 3,600 Purple Hearts.

The exhibition also includes the work of the Military Intelligence Service, whose interpreters and translators greatly contributed to shortening the length of World War II by as much as 2 years and thus saved 1 million lives.

It is appropriate that the dedication of these proud and loyal Americans to the freedom which built our Nation be recorded and understood by all. The irony which underlies the actions of this heroic group is that they were Americans of Japanese ancestry. Many of these soldiers had families locked up behind barbed wire and guarded by machineguns in relocation camps established by our Government during an era of prejudice and war hysteria.

It is my hope, Mr. Speaker, that after viewing the exhibit, my colleagues will all reflect on the significance of its presence here in our Nation's Capital. The contribution which these Americans made, despite overwhelming odds and tremendous sacrifice further demonstrated their loyalty and dedication to their home, the United States of America.

Mr. Speaker, it is my hope that every person sees this exhibit in the rotunda of the Cannon House Office Building.

AMERICAN FORCES CAN BE REMOVED FROM GRENADA BY DECEMBER 24

(Mr. NELSON of Florida asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, I would like to share with the House the conclusions that I have drawn after having just returned from a trip to Grenada, which I shared yesterday with Speaker O'Neill, concerning the December 24 withdrawal deadline. I believe that we can remove our combat troops by December 24.

□ 1240

The only qualifier there would be that there are presently 30 to 40 Cuban armed guerrillas operating in the mountains that should be neutralized before our combat troops would be withdrawn. Thereafter there will need to be administrative and advisory military support as the Grenadians transition through a provisional government until they ultimately hold elections.

I would hope that the British Commonwealth of Nations will supply those administrative and advisory troops. If they refuse, then that is a role that the United States will have to consider.

I am very optimistic about the future of Grenada, having seen the smiles and the happiness on the faces of the people there. I think they have a brilliant future in freedom, an economically brilliant future thanks to the Cuban-built runway, because tourism will flourish in that tiny jewel in the Caribbean.

SUPPORT THE EQUAL RIGHTS AMENDMENT

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, I rise in strong support of the equal rights amendment. Passage of the equal rights amendment is long overdue. Its ratification remains one of the most important issues now facing the Congress and the Nation.

The laws of this Nation embody the principle of equality for all citizens. Yet historically equal justice has been denied to women. Without this amendment to our Constitution, women in America will continue to be second-class citizens.

Women are not afforded equal protection under our current laws. The statute-by-statute approach advocated by the Reagan administration and ERA opponents has not succeeded in eliminating sex discrimination.

Passage of the ERA will prompt local, State, and Federal governments to end practices and policies that discriminate against women.

A constitutional amendment remains essential to insure that women in America will be guaranteed fair and equal opportunities. If Congress wishes to confirm its commitment to equal rights for women, we must do so by approving the ERA today.

HOUSE NEEDS CHANCE TO FULLY DEBATE EQUAL RIGHTS AMENDMENT

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, on the equal rights amendment, leave aside the questions of Federal funding of abortions or of women fighting on the frontlines and all of the rest; let us talk instead about amending the most important legal document in America, our Constitution, without the people's body, the House of Representatives, having a chance to either fully debate it or to consider a single amendment, not one.

Some in the House submit that the amendment has already been debated ad nauseum. Yes, it has been debated and defeated. I would point out.

A strong statement on equal rights for women is necessary, but it must be carefully crafted so as not to destroy more than it builds.

Obviously the American people were telling us something when they defeated the ERA as written. They were telling us to take another look; construct it more carefully they said.

Today we will answer their concerns. I hope we will turn down the ERA as written, not to kill it, but to reconstruct it and modify it for the common good.

When we modify our Constitution we make law. We do not send messages or paint pretty perceptions. We make law and such law ought to be fully debated and carefully constructed.

Vote no on this attempt to quick pitch an amendment to our Constitution.

THE EQUAL RIGHTS AMENDMENT IS AN ISSUE OF FAIRNESS

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I cannot help but respond to my good friend from Louisiana (Mr. ROEMER). We have been debating the question of equal rights for 200 years, and we have been debating specifically the equal rights amendment for more than 12 years.

Every State of the Union, our Congress has a complete record of hours and hours and hours of testimony for the last 12 years. The Committee on the Judiciary has had very comprehensive hearings and they reported out a bill.

So let us not buy the argument that we have not given equal time in terms of debating this issue. The time is now to vote for an issue that affects the quality of life of more than 50 percent of the population, and to be fair. That is the issue at hand, not the issue of squelching debate.

We have been debating this ad infinitum. Let us get on with the issue.

Mr. Speaker, I am proud of the men who support the equal rights amendment. I am especially proud of the support of my senior Senator from Ohio, Senator JOHN GLENN, who has been so helpful in attempting to get the ERA passed. I wish to publicly thank him for his efforts. The following is the text of his remarks to us:

THE IMPORTANCE OF PASSING H.J. RES. 1, THE EQUAL RIGHTS AMENDMENT

Mr. Speaker and Members of the House of Representatives, passage of H.J. Res. 1, The Equal Rights Amendment and its eventual ratification by the States is one of the most important items on the agenda in the 98th Congress. I commend and encourage my colleagues in this House for taking the initiative of bringing ERA to the House Floor today.

More than one half our population is not Constitutionally guaranteed equal access to the basic rights on which our country was founded and prides itself. Fairness, justice and equality should touch the lives of all our citizens. Unfortunately, the women of this country have been denied basic rights in education, job training, hiring and payment practices, insurance, and retirement coverage. Existing laws which have been passed in a piecemeal fashion on the federal and state levels have proven ineffective in adequately protecting women against discrimination. The results are a simple but sad fact of life. Women are the fastest growing segment of our poor population. It is especially true that poverty is become a reality for two out of three women over 65.

Passage of ERA can only improve a deteriorating situation for women. If, as Representatives of the people of the United States, we are truly committed to the concept of equal rights for all, then ERA will pass. I believe that it is a necessity for the women of today and for the success and improvement of our future. I urge adoption of the Equal Rights Amendment.

POINT OF ORDER

Mr. EDWARDS of Oklahoma. Mr. Speaker, I make a point of order.

I noticed in the recognition of Members as they sat around the room here to be recognized for 1-minute speeches that one Member was just recognized who had not been sitting in order to participate.

I would inquire of the Speaker if it is his intention now to continue to recognize the Republican Members before accepting any more Democrats who are not currently sitting to be recognized.

The SPEAKER pro tempore (Mr. WRIGHT). The Chair would state that this is not really a point of order. Recognition is within the discretion of the

Chair, and the Chair is attempting to be fair.

It was the Chair's present intention to recognize a minority Member gentleman from Ohio, who stands seeking recognition at this time. This is what the Chair intends to do.

WRONG PROCEDURE FOR CONSIDERATION OF THE EQUAL RIGHTS AMENDMENT

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, the failure of leadership in the majority party in this House of Representatives is nowhere more apparent than it is in the attempt to create a partisan political issue of the equal rights amendment by bringing that matter to the House floor today, after so much delay, under suspension of the rules.

Suspension of the rules is the legislative equivalent of martial law in a civilian setting. We amply complain about the imposition of martial law in other nations around the world, about the suppression of human rights that occurs in those circumstances. But where are the ranting, raging liberals today as martial law is imposed upon the House of Representatives? Are they protesting against the failed leadership that had to resort to martial law to get the equal rights amendment considered by the House?

Where has this matter languished since the beginning of this session 11 months ago? Why did the subcommittee not report it before last week? Is martial law the only way to get what you want around here? Legislative dictatorship is no better than any other dictatorship.

I am sorry for your suppressed followers.

THE EQUAL RIGHTS AMENDMENT

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, by bringing this constitutional amendment on equal rights to the House under this restrictive procedure, suspending all the rules of the House, the proponents of this amendment subvert the very cause which they claim to espouse—equality of rights under the law.

The proponents of this amendment for some reason think it is necessary to suspend all the usual legislative procedures and rights and protections under our rules in order to pass this amendment. To say that we must deny and abridge the rights of Members of the U.S. House of Representatives in order to insure the rights of others is to make a mockery of our democracy. This is akin to the general who was quoted as saying he had to destroy a village in order to save it. Do we really have to destroy the democratic rights and procedures of this institution in order to save the Republic from the perceived wrongs this amendment purports to remedy? I think not.

Mr. Speaker, at the very heart of this institution's rules is the parliamentary law laid down by Jefferson in his manual, the preface to which includes the maxim that the rules of proceeding are "the only weapons by which the minority can defend themselves" against the wanton abuse of power by large majorities.

Proceeding in this manner on such an important issue as amending the Constitution of this Republic demeans and disgraces those democratic principles and protections which we claim to hold so dear. Suspending the rights of our legislators in the name of extending further rights to our citizens can only ultimately lead to the demise of the very governmental institutions which were designed to secure those rights in the first place. No issue, no matter how sincere and well-intentioned, is worth sacrificing the most basic rights of Members of Congress to freely debate and amend important legislation as elected Representatives of the people.

OPEN RULE TO BE OFFERED FOR HOUSE JOINT RESOLUTION 1

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, the procedure for considering House Joint Resolution 1 does not do honor to this body nor to our Constitution. The procedure will not permit the 404 Members who are not members of the House Judiciary Committee to consider the merits of amendments many of us thought reflected legitimate concerns.

For those of us who favor equal rights, I am later today introducing a rule providing for the consideration of House Joint Resolution 1.

□ 1250

It is an open rule with 4 hours of debate, the way this measure should be considered by this body.

I invite cosponsorships.

In the meantime, Mr. Speaker, pull the suspension now.

I URGE A "NO" VOTE ON THE SUSPENSION OF THE RULES

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEWINE. Mr. Speaker, I am a supporter of the equal rights amendment, yet I rise today to urge a "no" vote on this amendment. If the ERA is passed in its current form it is clear from testimony we heard that women, No. 1, will have to be drafted; No. 2, will have to be used in combat; and that Federal funds will have to be used for abortion.

I do not think the majority of my constituents nor the majority of the American people support that.

So if we are serious, if we really want to make the ERA a part of the Constitution, if this is not just some statement we are making today, if we want to see it in the Constitution, then the vote is "no."

Let us bring this back, let us get the amendments in there, let us clean it up. There is a reason it failed before. Let us not send it out and have it defeated again.

Those of us who are deeply committed to the ERA should think long and hard about our vote today. A "no" vote is really a vote for ERA.

REAFFIRMING SUPPORT OF THE POLISH LEGION OF AMERICAN VETERANS

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, yesterday, when the House considered H.R. 29, legislation to grant the Polish Legion of American Veterans a Federal charter, I was not able to speak on behalf of the bill. I was at the Supreme Court demonstrating my support for prayer in our public schools by supporting the efforts of the Mobile, Ala., school board to have the High Court consider and, hopefully, overturn an unfavorable appellate court decision.

So, I want to take this opportunity to reaffirm my strong support for H.R. 29. I was a cosponsor of this legislation and testified on its behalf during subcommitee hearings on the bill I have said it before and I will say it again—the Polish Legion of American Veterans is an exceptional organization whose members have made and are making significant contributions to the spirit and well-being of the Nation through their patriotism and service. The Legion and its auxiliary are 14,000 strong and are engaged in a variety of patriotic, educational, and charitable activities across the Nation. A Federal charter will help PLAV further these worthy efforts and I was proud to join my colleagues in unanimously passing H.R. 29.

A USURPATION OF LEGISLATIVE RESPONSIBILITY FOR POLITICAL PURPOSES ON ERA

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 munute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, it is impossible in 1 minute to express all the reasons why the women's movement and the American people are being cheated by this blatant abuse of parliamentary procedures on the equal rights amendment. I am a freshman, new to this game, but I never really thought it was a game until today.

It is inconceivable to me, that this body, charged with the duty of Government of the world's strongest, most productive, most successful nation, will allow itself to be denied the ability to debate the merits of a constitutional amendment, and clarify it as we all know a majority wish to do.

To allow only 40 minutes of debate, and no amendments on a proposed change in our Constitution that is perhaps as far reaching and significant as any ever considered is nothing more than an attempt to deliberately circumvent the legislative process. The very existence of proposed amendments to this measure, that possess sufficient strength for passage mandates that this body and the American people be allowed to fulfill our desire and responsibility to provide clear, well-thought-out legislation to the people of this country. Neither the women's movement, nor the American people are well served by the usurping of legislative responsibility for political purposes.

THE RAIL SHIPPER PROTECTION RESOLUTION

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, today I am introducing the rail shipper protection resolution.

This resolution will require the Interstate Commerce Commission to rethink and review its policies and Congress intent on market dominance, rate setting, and abandonments and report back to Congress within 60 days.

The ICC has taken the Staggers Rail Act of 1980 for a dead-end ride. There exists market dominant areas in many States where predatory ratesetting and drastic branch line abandonment go on unchecked.

There is no protection by the Commission to insure equitable or fair branch line abandonment in areas where there is a lack of effective carrier competition.

There is the eminent threat to shippers and the public of increasingly high shipper rates due to a combination of an improving economy, a lack of effective carrier competition, and lethargic regulation by the ICC.

In my own State of Montana, the railroad is bleeding shippers to death while the ICC watches. The ICC has the tourniquet and the skill to apply it. I want them to use it.

SUSPENSION OF RULES ON ERA IS AN ARROGANT ABUSE OF POWER

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, for those who take their role here seriously, let me ask you to stop and reflect for 1 moment on the actions of the majority leadership.

The decision to bring a constitutional amendment to the floor under suspension of the rules is a grave mistake.

First, it may ultimately bring about the defeat of the amendment in State after State because of the failure to address serious questions through the amendment process.

Second, because it is another display of the arrogant abuse of power.

It is an arrogant abuse of power to gag the minority's right to dissent on an equal rights amendment.

It is an arrogant abuse of power to refuse to debate the issues which have been raised through national debate.

It is an arrogant abuse of power to cut off the amendment process.

However, it comes as no surprise since the majority leadership has already gaged the full House on the immigration reform bill.

The arrogant abuse of power is not new and history has shown that those who misuse power lose power.

SUSPENSION OF RULES ON ERA IS BLATANT HYPOCRISY

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, there is no equality for women; there is unfair discrimination against women. I work with an advisory committee in my district on issues of concern to women and by whatever means we choose to pursue, we should all dedicate ourselves to eliminating that inequity.

But it is blatant hypocrisy to profess one's concern for people's rights and at the same time to cut off debate and prohibit consideration of any amendment by the people's Representatives in the consideration of a proposed revision of the U.S. Constitution.

The comments in this morning's Washington Post were just a beginning of the public reaction that you will see, Mr. Speaker.

Democrats laughed and hooted last night but you have made a serious political blunder and you will not laugh last.

FLAWS SEEN IN THE EQUAL RIGHTS AMENDMENT

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, the equal rights amendment is flawed. For this reason, after its initial passage by Congress in 1972, efforts for more than 10 years failed to achieve ratification by the requisite 38 States.

I know of no Member of Congress who is opposed to the concept of equal rights for women. However, years of debate over the specific language of the equal rights amendment have raised grave and justifiable concerns on the part of many Americans that the adoption of this amendment would lead to court decisions going far further than the noble and simple goals its early advocates indicated were embodied in the language of the amendment.

In my judgment, were Congress to adopt five clarifying amendments which were proposed unsuccessfully in the markup before the Judiciary Committee the amendment would pass Congress easily and be very quickly ratified by the requisite number of States. These five amendments are as follows:

First, a provision that "nothing in this article shall be construed to affect any law, regulation, or policy relating to the draft for military service."

Second, a provision that "nothing in this article shall be construed to affect any law, regulation, or policy relating to the utilization of persons in military combat."

Third, a provision that "nothing in this article shall be construed to grant or secure any right relating to abortion or the funding thereof."

Fourth, a provision that "nothing in this article shall be construed to relate to private or parochial educational institutions." And

Fifth, a provision that "nothing in this article shall be construed to affect the right of Congress or any State to enact laws concerning veterans' benefits."

These five proposed amendments would do no more than clarify the fact that the equal rights amendment is not intended to change or control the laws of this country regarding drafting women, women in combat, questions of abortion, the tax-exempt status of single sex private and parochial schools, and laws relating to veterans' benefits.

One can argue forever about whether the present ERA language would

result in court decisions making major changes in the areas affected by these clarifying amendments, but the very fact that there is great dispute on these points is reason enough to demand that clarifying language be drafted onto the ERA before it is sent back again to the States for ratification.

Sadly, the leadership in the ERA movement and the House Democratic leadership have joined together to prevent a full House vote on any clarifying amendments to the ERA. As a consequence, Members will only be provided the opportunity to vote for or against the same unmodified ERA amendment, which failed ratification by the States. To say the least, the House leadership decision to bring the ERA up under suspension of the rules and thus prevent any amendments from being offered and gag opponents with a 40-minute debate limit is unfair and unconscionable. Under the circumstances, there is no choice but to vote "no" on ERA.

In visiting the issue of the ERA, I cannot let the opportunity for discussion pass without commenting on a theme some ERA advocates have been stressing during debate. Some are saying that women in America have never asked for special privileges and imply that they would be most happy if the results of the adoption of the ERA were to be to destroy all special status and privilege that women have had in this country. Perhaps this theme is at the heart of why such a strong effort is being made to prevent amendments which would clearly keep the ERA from introducing into the areas which pose grave concerns for many. I strongly disagree with those who assert this antiprivilege theme, and I believe that most American women and men would also disagree.

While I firmly believe that women should have the equal opportunity to compete with men in all endeavors in American life, and receive equal treatment in virtually every situation, I for one believe we should preserve a great American cultural heritage of giving special privilege to women in certain areas of our society. Women are the childbearers. Women are the mothers. Women who choose to be homemakers and mothers should not be subjected to the draft. American women should have the right to choose to compete physically with men and, to the extent of their physical abilities, allowed to achieve positions comparable to those of any man. However, we should not force combat on any woman, and we should not require women to be subjected to the same physical training and conditioning men are. If a woman wants to avoid the rigors of military service she should be allowed in America to do so. Such should be the privilege of women in America.

□ 1300

THE EQUAL RIGHTS AMENDMENT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, most of us have spent more time in line to see a movie than we have been given today to debate an amendment to the Constitution of the United States.

The majority is engaging in an abuse of power that would bring a blush to the cheeks of the most absolute despot of antiquity.

It has been argued that because we have had ERA before us for 10 years, there is no need for debate. We are told that we have heard all the arguments.

But it is precisely because we have heard so many arguments in the past 10 years that we need time to sort them out, to set them forth in the clear, cold light of legislative deliberation.

What puzzles me is this: Is there any political gain that is worth the damage being done to the House and to the Constitution today? I know of none.

We are presented with a shoddy piece of procedural business that clouds the important issue before us and brings shame upon the House.

I know how terribly embarrassing this is for many on both sides of the aisle. I especially offer my condolences to Members on the other side of the aisle who realize how degrading all of this is to the great traditions of their party.

No matter when we came here—a generation ago or 2 years ago—none of us ever thought we would be asked to debate an amendment to the Constitution of the United States in such a manner.

No matter how we feel on the issue—do not let this House sink into disgrace by going along with this procedure, which is a combination of low farce and high tragedy.

Surely if this constitutional amendment is worth considering, it is worth considering fairly. Surely if matters of grave importance are embodied in the issue before us, we owe it to the people to deliberate. This is not the "eight items or less" cashier's lane at the supermarket.

We are in no hurry. We need time to judge. You are not giving us time to think.

Just ask yourself one question: Is this the way you really believe an amendment to the Constitution should be presented to the American people?

Answer that question, and then vote your conscience.

VOTE "NO" ON ERA

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise to urge all Members who oppose taxpayer funding of abortion to vote "no" on suspending the rules to pass ERA. I say this as one who supports ERA, but only if clarifying amendments are included.

It is abundantly clear, Mr. Speaker, that if unamended, the ERA would be used by the abortion lobby to strike down the Hyde amendment. Compelling testimony presented to DON EDWARDS, Judiciary Subcommittee—and Mr. EDWARDS supports an open rule, I might point out—clearly established the abortion/ERA connection. Inclusion of an abortion neutral amendment would disconnect the two issues and literally take abortion out of the ERA.

Mr. Speaker, no party has the right to demand that a Member abdicate his or her fundamental convictions, principles or conscience. Yet many of my friends who oppose funding of abortion because of the violence it inflicts upon an innocent unborn child are being pressured to do just that today.

By precluding amendments to the ERA, Mr. Speaker, you have put your own friends in your party in a compromising, awkward position.

By precluding amendments to ERA, you have done more to undermine ultimate passage and ratification of the ERA than any one in the United States.

I urge all Members who are appalled and sickened by this blatant misuse of power to vote no. Do not be intimidated my colleagues, ERA will be back if you vote "no," under a procedure that permits amendment and adequate debate.

DEBATE IS NEEDED ON ERA

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, some advocates of the process that we are utilizing today have suggested that this has been debated and debated and debated and there is nothing to be gained by further debate.

The fact of the matter is the world is different today than when this same language was debated on this floor a decade ago. Roe against Wade has come down from the Supreme Court requiring this particular House to act on the question of Federal funding of abortions. That question at least ought to be discussed on this floor and not ignored. It is begging the issue to say that we do not have to debate something because it was debated last

time, when it was not even relevant to the debate last time.

Second, we have questions of veterans' preference. We have questions of women in the draft and combat. Things that ought to be decided on this floor by a vote of the people, not by skirting the issue and passing it off to the Supreme Court.

Third, those who say we have already debated it in subcommittee and committee and therefore we do not need to debate here have not found the report. You know why you have not found the report? Because this is coming under the Suspension Calendar. All the rules are suspended. We have no report. You cannot read of the testimony we have. You cannot read of the deliberations. And a request by minority staff of the majority staff earlier as to whether we will ever have a report was answered with the resounding, "We do not know, we are under no obligation to give it to you."

If you think that changing the Constitution in ignorance is what you were sent to do here, then God help this country.

THE EQUAL RIGHTS AMENDMENT

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOORHEAD, Mr. Speaker, I want to join with my colleagues and register my personal objection to the use of an abbreviated procedure for the consideration of a constitutional amendment.

The equal rights amendment raises important and significant issues which the House of Representatives deserves to analyze in detail. When the House Judiciary Committee debated the subject for a full day last week, numerous amendments were offered in the full committee. These amendments dealt with such important issues as:

First, abortion rights and the funding of abortions;

Second, the impact on the military draft;

Third, whether women should be required to serve in combat;

Fourth, the effect on private and parochial schools;

Fifth, veterans' preferences; and

Sixth, the ratification period.

These are but examples of the sincere and important concerns raised in connection with the language of the ERA. Another such issue which deserves full debate and analysis is the impact that the ERA could have on gender-based insurance classifications. As my colleagues know, the issue of discrimination in insurance is currently being considered in the House Committee on Energy and Commerce. I have been provided with a legal memorandum on this subject by the law firm of Patton, Boggs, & Blow. Having read this memorandum, I am convinced that the language of the equal rights amendment will not prohibit gender-based insurance classifications, if it is properly interpreted by the courts. Nevertheless this issue should be made clear in the amendment itself. The memorandum reads as follows:

GENDER-BASED INSURANCE CLASSIFICATIONS AND THE EQUAL RIGHTS AMENDMENT

INTRODUCTION

The Equal Rights Amendment as reintroduced this year provides that: "Equality of rights under law shall not be denied or abridged by the United States or by any State on account of sex."

H.J. Res. 1, 98th Cong. 1st Sess. (1983). The most significant limitation upon the extent to which the amendment would affect existing gender-based actions and practices is that the amendment would apply only to the actions of the federal government or the various state governments. As in the case of the First and Fourteenth Amendments, conduct would become subject to the amendment's prohibitions only if the conduct constitutes "state action" as that term has been construed by the courts. See Brown, Emerson, Falk, and Freedman, "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," 80 Yale L.J. 871, 905–07 (1971). The activity of a private party may be "state action" and thus subject to constitutional prohibitions directed at the state depending upon the nature of the relationship between the state and the private activity. Thus, the use of gender-based classifications by private insurance companies would be within the scope of the amendment if the activities of such companies rose to the level of "state action."

ISSUE

Whether the use of gender-based classifications by private insurance companies constitutes "state action" such that the proposed Equal Rights Amendment would be applicable to private insurance companies.

CONCLUSION

The Supreme Court has not addressed the state action issue in the context of gender-based insurance practices. Recent Supreme Court cases, however, have limited the extent to which the activities of private parties can be challenged on constitutional grounds. Moreover, two recent lower court cases have held that gender-based insurance or pension classifications did not constitute state action for purposes of the equal protection clause even where the state approved the contracts of the private insurers. The only holding to the contrary is in a case decided prior to the Supreme Court's most recent opinions. The likelihood that gender-based insurance practices will constitute state action under the proposed Equal Rights Amendment depends upon the exact degree of state involvement with such practices. However, if current case law in the due process and equal protection areas carries over to state action analysis under the Equal Rights Amendment, then there is a strong basis for concluding that gender-based insurance practices will not be found to constitute state action.

DISCUSSION

Recent case law strongly suggests that the use of gender-based classifications by insurance companies would not constitute state action for purposes of the Equal Rights Amendment. At least two lower courts have held that the use of gender-based classifications by private companies in the insurance or pension areas does not constitute state action for purposes of the equal protection clause of the Fourteenth Amendment. The Supreme Court has not yet addressed the state action issue in terms of the practices of insurance companies; however, recent Supreme Court cases apparently have narrowed the boundaries of the state action doctrine in the context of the due process clause.

A. Supreme Court cases

Of particular import for the issue of gender-based insurance classifications is the Supreme Court's decision in *Jackson* v. *Metropolitan Edison Company*, 419 U.S. 345 (1974). In *Jackson*, a privately-owned and operated utility company terminated the petitioner's electrical service for non-payment of bills. The company held a certificate of public convenience issued by the State of Pennsylvania, and the company was subject to extensive regulation by the state. The company's right to terminate service was included in a provision of the company's general tariff which was filed with the state. The petitioner contended that the company's termination of her service constituted state action and that the termination represented a deprivation of property without due process.

The Court rejected the argument that the termination of service was state action. The petitioner advanced several reasons why state action was involved. Two of these arguments have been repeated in cases challenging gender-based insurance classifications under the equal protection clause and likely will be repeated in cases challenging such classifications under the Equal Rights Amendment. First, the Court dismissed the argument that state regulation, even if extensive, transformed the actions of the regulated private party into state action. According to the Court, "[t]he mere fact that a business is subject to state regulation does not by itself convert its action into that of the State for purposes of the Fourteenth Amendment. Nor does the fact that the regulation is extensive and detailed. . . ." *Id.* at 350 (citations omitted).

Second, the Court rejected the argument that the termination of service was state action because the state had approved or authorized the practice. In rejecting the argument, the Court relied in part on an assessment of the facts surrounding the state's action in approving the company's tariff. According to the Court, the state never considered the termination provision in approving the company's tariff. Although hearings were held on the tariff, the termination provision was never a subject of inquiry.

More importantly, the Court went on to imply that even if the state had focused specifically on the termination provision, state action still might not have been present. The Court noted that heavily regulated utilities often are required to obtain approval for more practices than less extensively regulated businesses. The Court concluded that approval by the state utility commission where the commission "has not put its weight on the side of the proposed practice by ordering it" does not elevate the practice to state action. According to the Court, Pennsylvania merely determined that the termination practice was authorized if the utility company chose to adopt it. The state

did nothing to encourage or initiate the company's choice. The Court concluded that the company's "exercise of the choice allowed by state law where the initiative comes from it and not from the State does not make its action in doing so 'state action'. . . ." *Id.* at 357.

In short, the Court appeared to slide from a factual determination that Pennsylvania had not directly approved the company's termination provision to a legal determination that even direct approval would not be sufficient to trigger a finding of state action. If, in fact, the Court intended the latter determination as a statement of law, it would represent a significant restriction on the state action doctrine. The activity of a private party would constitute state action only if the state actually required that activity.

In *Flagg Brothers* v. *Brooks*, 436 U.S. 185 (1978), the Court arguably confirmed that the state must in some manner compel private activity in order for the activity to become state action. The Court held in *Flagg Brothers* that there was no state action where a warehouseman proposed to invoke its authority under a state statute permitting the sale of goods entrusted to a warehouseman when storage charges are not paid. The Court rejected the argument that the state statute authorized and encouraged the warehouseman to act in a manner which would deprive the respondent of her due process rights. The Court stated that the state's acquiescence in a private action does not transform the private activity into state action. Moreover, the Court in several places indicated that there is no state action unless the state compels or orders the private activity. *Id.* at 164–66. Although the Court stopped short of pronouncing that state compulsion must be shown to establish state action, the clear intent of *Flagg Brothers* appears to be to establish such a rule. See the Supreme Court, 1977 Term, 92 Harv. L. Rev. 57, 124 (1978).

Taken together, *Jackson* and *Flagg Brothers* strongly indicate that the Supreme Court would not find the activity of private insurance companies to be state action even if a state regulatory commission approved the practices of the companies. *Jackson* makes clear that state regulation of an insurance company, even when extensive, is not by itself sufficient to support a finding of state action. Moreover, *Jackson* intimates and *Flagg Brothers* apparently confirms that state approval of insurance rates or other practices may not support a finding of state action unless there is evidence of state compulsion.

B. Lower court cases

Both *Jackson* and *Flagg Brothers* involved challenges under the due process clause as opposed to equal protection challenges, a context more directly analogous to the proposed Equal Rights Amendment. At least two lower court cases have found in equal protection cases that genderbased insurance or pension practices do not constitute state action. Both of these cases have relied explicitly on *Jackson*, and one of the cases also specifically invoked the decision in *Flagg Brothers*.

In *Spirt* v. *Teachers Insurance and Annuity Association*, 475 F.Supp. 1298 (S.D.N.Y. 1979), aff'd in part, rev'd in part on other grounds, 691 F.2d 1054 (2d Cir. 1982), vacated and remanded, 51 USLW 3937 (1983), the district court held that the use by two private companies of sex-segregated mortality tables in determining retirement benefits did not constitute state action.[1] The court noted that under *Jackson* detailed state regulation did not transform private activity into governmental activity. Rather, the proper test under *Jackson* is whether "there is a sufficiently close nexus between the State and the challenged action of the regulated entity so that the action of the latter may be fairly treated as that of the state itself.'" *Id.* at 1311 (quoting *Jackson*, supra, at 351).

According to the court in *Spirt*, the Supreme Court in *Flagg Brothers* added as a gloss to *Jackson* that the state must order the private activity before that activity becomes state action: "Subsequent to *Jackson*, in *Flagg Brothes, Inc.*, v. *Brooks* . . . the Supreme Court unequivocally pronounced that the acts of a private entity will not be attributed to the state unless the state actually compels the action." *Id.* at 1312. The *Spirt* court stated that, even though the state approved the contracts and certificates of the defendants, there could be no claim that the state *required* the private companies to use sexbased mortality tables. The court thus concluded that "under the rationale of *Jackson* and *Flagg Brothers*, there is no state action." *Id.*

The court, however, went on to consider whether *Jackson* and *Flagg Brothes* might not be controlling because both cases were due process cases while an equal protection challenge was at issue in *Spirt*. The court noted that in the Second Circuit it is necessary to consider the nature of the right alleged to be violated in analyzing the state action issue. Less state involvement might support a finding of state action when race or sex discrimination are alleged than when a deprivation of due process is at issue. *Id.*

The court nonetheless concluded that even under a less stringent test, no state action was involved in the defendants' use of sex-segregated mortality tables. Under the alternative tests, the claimant must show at least that the state has fostered or encouraged the alleged discrimination.[2] The court noted that in the instant case the state had no role in establishing or enforcing the use of sex-based mortality tables nor did state law overtly or covertly foster or encourage sex discrimination. Most importantly, the court stated that the state's approval of the defendants' contracts and certificates in no way indicated encouragement for the particular provisions of the contracts and certificates. The private companies merely had excercised a lawful choice regarding contract terms, and the excercise of that choice does not constitute state action where the initiative derives solely from the private parties. *Id.* at 1312–13.

The *Spirt* case contains the most detailed analysis of the state action doctrine in the context of gender-based insurance and pension practices. The case ememplifies the ways in which *Jackson* and *Flagg Brothers* narrowed the state action doctrine. Equally important, *Spirt* suggests that even where discrimination is at issue as it would be in cases under the Equal Rights Amendment, the practices of insurance companies do not constitute state action.

At least one other lower court case has reached the same result as in *Spirt*. In *Reichardt* v. *Payne*, 396 F.Supp. 1010 (N.D. Cal. 1975), the court examined a claim brought against the state insurance commissioner and several private insurers based on the allegation that the insurers offered disability insurance on a sexually discriminatory basis. The court relied on *Jackson* to conclude that the practices of the companies did not constitute state action. According to the court, although the state must review and approve insurance policies before they may issue, tacit approval of allegedly discriminatory insurance practices did not create an adequate nexus between the state and the activity of the insurers to support a finding of state action. *Id.* at 1015–16.

The lower court in *Richardt*, however, did find that the state insurance commissioner's activities in reviewing and approving insurance policies constituted state action and that consequently an equal protection claim could be brought against the commissioner. According to the court, the commissioner has the authority to disapprove discriminatory policies. Thus, if the policies at issue in the case are found to be discriminatory, the commissioner would have played an active role in the discrimination. The court stated that the commissioner could not rely on *Jackson* because that case dealt only with a claim against a private party and not with the actions of a state official. *Id.* at 1014–15.

On appeal, the Ninth Circuit reversed the lower court's holding regarding the activity of the state insurance commissioner. *Life Ins. Company of North America* v. *Reichardt*, 591 F.2d 499 (9th Cir. 1979). The appellate court found *Jackson* apposite and stated that the commissioner's approval of the insurance policies was as pro forma as the approval process in *Jackson*. According to the court, the commissioner's approval did not place an official imprimatur on or compel the allegedly discriminatory practices. The court thus concluded that there was an insufficient connection between the state's role and the private activity to find that the commissioner's activity constituted state action for purposes of the Fourteenth Amendment. *Id.* at 501–02.

Outside the context of equal protection challenges to gender-based insurance classifications, there have been several cases which have held that the practices of insurance companies do not constitute state action. *See Freier* v. *New York Life Insurance Co.*, 679 F.2d 780 (9th Cir. 1982); *Masel* v. *Industrial Commission of Illinois*, 541 F.Supp. 342 (N.D. Ill. 1982); *Pino* v. *Protection Maritime Insurance Co.*, 454 F.Supp. 210 (D. Mass. 1978). These cases do not analyze the state action issue in any depth; they merely rely on *Jackson* for the principle that regulation of a business by the state does not transform the business' activities into state action. These cases, however, support the conclusion that *Jackson* represents a significant obstacle to contending that the activities of insurance companies are state action.

In fact, the only reported case finding state action in the context of gender-based insurance classifications was decided before

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[1] Neither the appellate court nor the Supreme Court reached the state action issue and thus did not question the district court's holding. The central issue in the case on appeal was the applicability of Title VII.

[2] The Spirt court derived this alternative "foster or encourage" test from the Supreme Court's opinion in *Moose Lodge No. 107* v. *Irvis*, 407 U.S. 163 (1972). In *Moose Lodge* the Court held that there was no state action where a club licensed by the state pursued racially discriminatory policies. The Court in part stated that the detailed regulatory scheme cannot be said to "foster or encourage" racial discrimination. *Id.* at 176–77. The *Spirt* court's approach of stepping down from a "compel or require" test in the due process context to a "foster or encourage" test in the equal protection context represents a reasonable approach to the issue of varying state action analysis according to the nature of the right at stake. The Supreme Court has not yet addressed the issue.

the opinion in *Jackson*. In *Stern* v. *Massachusetts Indemnity and Life Insurance Co.*, 365 F.Supp. 433 (E.D. Pa. 1973), the plaintiff challenged gender-segregated disability insurance policies on equal protection grounds. The state insurance commissioner was named as defendant along with the private insurance company. The court found that the activities of both defendants constituted state action because the state pervasively controls and extensively regulates the insurance industry. In particular, the state must approve the terms, conditions, and premium rates used by insurance companies as well as license such companies. With respect to the state insurance commissioner, the court concluded that "[s]uch pervasive control by the Commonwealth establishes its intimate involvement in the alleged discriminatory conduct of defendant Insurance Company." *Id.* at 438. With respect to the defendant insurance company, the court stated, "In light of the pervasive regulatory scheme extant here, we find that the allegations of the Complaint sufficiently set forth the requirement of state action." *Id.* at 439.

Because the holding of the *Stern* court rested so heavily on the fact of pervasive state regulation, the *Stern* opinion may not survive *Jackson*. As indicated above, it is clear after *Jackson* that pervasive state regulation by itself is not sufficient to trigger a finding of state action. The post-*Jackson* cases discussed above in all likelihood represent the better view of the current status of the state action doctrine. *Stern*, however, does represent one caveat to the conclusion that the practices of insurance companies do not constitute state action.

REJECT CHEMICAL WEAPONS FUNDS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, on behalf of Dorothy Bush, the Vice President's mother and millions upon millions of other Americans who can not understand what on Earth we need with more nerve gas, I will be offering a motion this afternoon to instruct our defense appropriation conferees to eliminate from the conference report money for this unnecessary and costly weapons system.

Instructions really should not be needed. The House has twice in the last 4 months voted overwhelmingly to reject resumption of chemical weapons production. The other body has put a provision in both its authorization and appropriation bills only because the Vice President twice cast tie-breaking votes to do so, causing his mother's anguish. There is not a majority of elected Members in either body that favor more nerve gas production and it would be unconscionable for the conferees to include it.

To insure that they get the message, however, please vote to instruct them to reject chemical weapons funds. The key vote will probably come on rejecting the previous question, so that my instruction can be offered.

NATIONAL ENERGY INDEPENDENCE

(Mr. BOUCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUCHER. Mr. Speaker, twice in the last decade—in 1973 and again in 1979—the economy of this Nation was held hostage by our overreliance on imported oil. With continued political instability in the Middle East, it is more important than ever that America commit itself to national energy independence through greater use of our most abundant energy resource—American coal.

For this reason, I have joined with the gentleman from West Virginia (Mr. RAHALL) in introducing the National Coal Science, Technology, and Engineering Development Act. This legislation affirms the Federal responsibility to assist coal research and development.

We have a choice: 5 years from now we can be well on the road to energy independence through a greater utilization of American coal, or we can retreat to the energy crises of 1973 and 1979.

I strongly urge my colleagues to assist our efforts to rejoin the fight for national energy independence.

PASSAGE OF ERA LONG OVERDUE

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, I rise in support of the equal rights amendment. As a prolife Member of Congress, I am committed to the protection of life—a protection that extends from the very beginning of life to its final stages—and a protection which includes the inalienable rights of life. One of the most basic of those inalienable rights is the right to be free from discrimination on the basis of our race, our faith, our ancestral heritage, or our sex.

The U.S. Constitution is the blueprint of our society. When the question is posed, "What does America stand for?", we point to that document. Can we then say we stand for equal rights under the law, regardless of gender, and refuse to place that fundamental statement within the Constitution for all the world to see?

As a member of the Pro-Life Caucus, I have been strongly urged to withdraw support for this constitutional guarantee of equality under law, unless that guarantee is amended. We are asked to eliminate the possibility that the ERA could be used to further abortion or its funding by placing an amendment on it. I do not believe such an amendment is necessary. Nor do I believe it wise to embroil the principle of sexual equality in a debate over abortion funding, military subscription, or sexual preference.

I state clearly for the record that, by my support, I intend the ERA to remain separate from the issue of abortion and its funding. I believe that the legislative and judicial history of the ERA demonstrates this distinction. The history in Congress is clear. Congress does not favor abortion funding. In this very session we have consistently voted to prohibit the use of Federal funds for abortions except to protect the life of the mother. Passage of the ERA is not inconsistent with that policy. I could not support the increased protection of the rights of women at the sacrifice of the rights of the preborn.

Passage of the ERA is long overdue. The U.S. Constitution is almost 200 years old. It is time the rights of over half the population of this country are recognized in that document.

□ 1310

EQUAL RIGHTS AMENDMENT

(Mr. MORRISON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON of Connecticut. Mr. Speaker, today the House will consider the equal rights amendment. We should make no mistake—the issue before us is not one of procedure but one of substance. We will be voting on the question of whether or not the States and the United States shall treat men and women equally under the law. Mr. Speaker, I believe that to deny to women equal treatment under the law is to deny the essence of what we should stand for as a nation.

In recent years we have passed many laws to remedy different aspects of discrimination against women. Many other important measures are pending before us. But legislation alone is not enough. Women still find themselves paid less than men for comparable work. Women are still denied educational and economic opportunities. We will not break down those barriers completely—nor will the real gains that women have made be secure—until we insure to women the fundamental right to be treated equally under the law, until we recognize in the fundamental document of our Nation that women are not second-class citizens. Mr. Speaker, it is past time that we put women into the Constitution. I ask all my colleagues to vote "yes" on ERA.

ERA SHOULD HAVE FULL DEBATE

(Mr. MOLLOHAN asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. MOLLOHAN. Mr. Speaker, those of us who truly believe in equal rights for the women of America are finding themselves trapped in a difficult and unfair position today.

We are being asked to consider an amendment to the Constitution of the United States—the document that breathes life into our rights as Americans—with our hands tied. This equal rights amendment is the same amendment with the same language that has been proposed before, and which unsuccessfully ran the gauntlet of ratification by our States.

I believe it failed in its ratification effort because the leaders of our State governments had deep concerns, not about the equal rights of women, but because of issues that unfortunately will again go unaddressed here today.

This amendment is being considered under the suspension of rules with a mere 20 minutes of debate for each side of the aisle. This precludes us from adequately addressing the legislative concerns that has kept the amendment from being a part of our Constitution.

I am speaking of two issues in particular—the concern that women, as a result of this amendment, would be subject to military conscription and combat duty, and the concern that an amendment without abortion-neutral language could lead to legal quagmires.

Now, because of the restrictions on the need to air our concerns and consider alternatives to the amendment, Members such as myself who truly believe in equal rights, are placed in an unreasonable position. We are being asked today to either vote in favor of an unamended ERA and ignore convictions that important issues be considered, or voting against the ERA and transmitting the inaccurate impression that we oppose equal rights for women.

I submit that this is wrong legislative procedure. There should be a full complete airing of all implications, and consideration of all concerns. Only through full debate can measures so vital to public policy be decided.

Equal rights for women? Most definitely. Women in combat and legal quagmires over abortion? These are public policy questions which should only be decided after clear airing through adequate debate.

ERA

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, my colleagues on the Republican side of the aisle have bitterly complained of gag rules and shutting off of debate. How quickly they forget. Just yesterday the Democratic majority leader offered 2 additional hours of debate on ERA, more than doubling the allowable debate time.

My friends, who objected to this request? Was it the Democrats? No; not at all. The Republicans objected, many of those same Republicans who are complaining bitterly here today.

So let us set the record straight. If you are for ERA, then vote for it. If you are against ERA, then vote against it. And explain it in any way you want, but do not blame the process, because the people of America will see right through it.

Mr. LUNGREN. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, does the gentlewoman recall that I had made a unanimous-consent request for more time, and also for an amendment, and there was objection on the gentlewoman's side of the aisle yesterday?

Mrs. BOXER. There was no objection from our side when the distinguished majority leader offered 2 hours. You wanted to open up the rule.

EQUAL JUSTICE UNDER LAW FOR ALL AMERICANS

(Mr. YATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATES. Mr. Speaker, I am pleased that the equal rights amendment is being considered today. I am very pleased to be a cosponsor of that amendment. I look forward to its speedy enactment.

To my mind, the equal rights amendment stands for a simple proposition, fulfillment of our basic judicial tenet of equal justice under the law for all Americans.

We made great strides in fighting sexual discrimination, but we must have the strength of a constitutional amendment.

The promise of our Constitution of liberty and justice for all should be brought to reality for all Americans. Passage and ratification of the ERA will provide that assurance to provide women and men equal status and dignity under the law.

I urge my colleagues to vote for the equal rights amendment.

ECONOMIC RIGHTS FOR WOMEN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, let us remind ourselves that it was 60 years ago, in 1923, when this very same equal rights amendment was introduced into this House. Let us remind ourselves that it contained the same words we have in front of us today. And let us remind ourselves that it took until 1971, on a discharge petition, to even get the ERA out of committee. It has been a long time.

Here we are, 60 years later. After 60 years we now know what the ERA means, and everybody in America knows what it means. Paul Harvey, in last Saturday's broadcast, came out for it. He knows what it means.

It means economic rights for women.

In these 60 years what has happened is that States all over America, including mine, have passed the exact same language in their State constitutions. We have State court decisions explaining precisely what those words mean. So for the first time we are dealing with a constitutional amendment in which there are prior court cases, legislative action, and everything else. The ERA is not a surprise. We know exactly what it means.

We hear many Members saying, "Well, we ought to put in everything it does not mean." Well, if we put in everything the ERA does not mean, it would be 800 pages long. We have never put in the Constitution what it does not mean. We did not do it under the freedom of speech, under the freedom of religion, or any other amendment to the Constitution.

We are asking for equal treatment for our equal rights amendment. We want our amendment to be treated in the same manner as all other amendments to the Constitution. We know more about what it means than any other amendment because the delay at the Federal level has been so long. Too long. Let us act.

ALL PEOPLE ARE CREATED EQUAL

(Mrs. BURTON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BURTON of California. Mr. Speaker, the Declaration of Independence says that all men are created equal. Do you not think that it is time to say that all people are created equal?

It has been over 200 years, and I think it is about time. I do not understand the fear of having women in the Constitution. We are in the 20th century, and almost into the 21st. It is about time women be in the Constitution. After all, we constitute more than half of the population in this Nation.

Please, gentlemen. And I will say "gentlemen" because I think most of the women here are for ERA. Those of you who are not, think. Put us in the

Constitution. It will not hurt, I assure you.

A FULL PARTNERSHIP

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, during the 1-minute speeches today there have been many who rose to say they do not like the process under which we are considering the equal rights amendment.

I have to bring to their attention that we, the women of the United States, have not liked the process for 200 years and the way women have been treated in this country. From Abigail Adams to Betty Ford, we have asked the leaders of this country to remember the ladies and include us in a full partnership. The only way we will be included in a full partnership is to be included in the Constitution of the United States.

So for 200 years there have been parliamentary tricks and procedural excuses to either keep us out or leave us out of the Constitution.

For those who say that this is a gag rule, I would also like to remind them that for 130 years women were being gagged in this country by the failure to give us the right to vote.

And, finally, now, after 60 years of considering this same amendment, with the same language, we feel that the debate is enough, that now it is no longer the time for continued debate. It is now the time for action.

I hope that when the resolution comes up on suspension that we will, finally, after 200 years, remember the ladies and include us in that Constitution.

AN ARROGANCE OF POWER

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I hope there is a better understanding of what is being done here than there is of the Constitution, based upon the remarks we have just heard. There is no language in the Preamble of the Constitution saying anything about all men being created equal. I hope that at least we have a better understanding of this amendment than that.

But few would deny that we have a proposed equal rights amendment to the Constitution and it is one of the most important issues to have faced this Congress and the Nation over the past decade. The emotion and deep conviction on both sides of this issue often make debate on this amendment spirited and intense.

This morning we are asked to consider this major issue under suspension of the rules, a procedure traditionally reserved for noncontroversial measures. Debate will be limited to 20 minutes on each side. Twenty minutes, that is about the same amount of time we typically use to cast one vote. That is arrogance of power, it is an arrogance of power that prevails here when a gag rule is imposed.

Mr. Speaker, no major constitutional amendment in the history of this body has ever been considered under anything less than an open rule, let alone under suspension. The use of the Suspension Calendar for such a major issue is both ludicrous and outrageous. But that is your choice. The Democratic leadership has opted for a procedure which says that you can explain the whole case for ERA in 20 minutes.

As a supporter of the ERA concept, I think the case deserves better treatment. But since you have chosen that process, I intend to help see to it that you live with the process that you have chosen.

□ 1320

LORD ACTON'S VINDICATION

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, this action today on ERA ought to be called Lord Acton's vindication. The process is contemptuous of this institution, it brutalizes the deliberative process, and I would remind some of my friends that the right to vote is more important than the right to speak.

The women, after all, of this country could speak for 130 years, but they could not vote. They wanted the right to vote, and so do we want the right to vote.

I want to make it clear to anybody who thinks they can vote for the ERA without an abortion-neutral amendment and retain their credentials as a pro-lifer is absolutely wrong. There is not a single pro-life organization in the country, from the Catholic bishops to the National Right to Life Committee, that does not say a vote for the ERA without the Sensenbrenner abortion-neutral amendment is a pro-abortion vote.

So let that be clear. The ACLU has said it in three cases where they filed briefs. The National Organization of Women has said it in the Harris-McCrae case where they filed a brief. So vote as you wish, but do not assume you can have it both ways.

ERA-ABORTION CONNECTION

(Mr. WEBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER. Mr. Speaker, I rise to amplify the remarks of my colleague who preceded me in the well, the gentleman from Illinois (Mr. HYDE).

We have, indeed, as the supporters of ERA have pointed out today, learned a great deal about the ERA in the last 10 years. It has been debated thoroughly, and one of the things we have learned very clearly is that there is a direct, irrefutable connection between abortion and the equal rights amendment.

In view of that proven connection, one of the most cynical exercises we have seen today is the parade of allegedly pro-life Members of Congress coming into the well declaring that there can be no connection between their vote in favor of the ERA and their stand on the issue of abortion.

It simply is not true. Every pro-life scholar has indicated clearly that there is a connection between the ERA and abortion. Many feminist and pro-abortion scholars have indicated that they accept a connection between the ERA and abortion. The National Right to Life Committee sees a connection, the Christian Action Council sees a connection, the U.S. Catholic Conference sees the connection, the National Association of Evangelicals sees a connection, the American Life Lobby sees the connection.

Our colleague from Colorado Mrs. SCHROEDER, said in another context and I quote, "This is not a surprise; we know what it means." Let me say to my pro-life colleagues who intend to vote in favor of the ERA today that the same thing applies to them. Their pro-life constituents know what it means. A vote for the ERA today is clearly a pro-abortion vote.

ABSOLUTE POWER CORRUPTS

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker and Members of this body: To address ERA under suspension and under the procedure that has been so corruptly outlined by the leadership of this House is in itself a major travesty. If we talk about rights, then we have to talk about rights for all people.

We are today denying a large group of people in this House the very right that we are attempting through this legislation to extend to a group of people in our country. We are denying the unborn the opportunity to speak and be heard. Although it is not a new phrase, Mr. Speaker, absolute power corrupts, and this is a very corrupt process. Shame on you, Mr. Speaker. Shame on you.

11-059 O-87-25 (Pt. 23)

PHILOSOPHICAL AND POLITICAL CATCH-22

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I am one of those Members of this body who is a sponsor of the equal rights amendment and also a sponsor of the human life amendment, so I am one of those who finds myself today caught in both a philosophical and a political catch-22 situation.

Yet I resolve that by saying that we were elected to make tough political and philosophical decisions and that is why we are here. In the end, today, I will probably vote for the equal rights amendment.

But who are the real losers today? I suspect the real losers are not those of us who are committed to a deliberative process in any ordinary consideration of legislation, and particularly a constitutional amendment. And I suggest that the losers today are not those groups such as the pro-life movement and the veterans' organizations and others who have legitimate concerns about the implications of this amendment; that ought to have the right to debate this amendment and what it means in those areas. I must tell you I think the real losers today will be the cause of women's rights, because we are giving an already controversial amendment additional controversy, additional baggage, that I am afraid it cannot carry through the States in the ratification process. That, my friends, is the real loss.

ERA, BUT NOT THIS WAY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. RUDD. Mr. Speaker, the reality of today's 40-minute debate on passage of a constitutional amendment for ERA is a major injustice being committed by this institution that is supposed to be a free and open forum for ideas and national policy decisions.

The House leadership's action to ramrod the ERA through this body is a travesty, an abrogation of our responsibilities to the people of the Nation, and they expect more than that from its officials. So I urge rejection of the resolution (H.J. Res. 1) and would encourage all Members, whether for or against the equal rights amendment, to support open debate and not pass our responsibilities to the judicial branch of the Government that is not equipped nor delegated with that role of legislating.

I oppose ERA, but I especially oppose the manner in which this is being brought up and I commend to you the editorial in the Washington Post of today. Normally, that newspaper favors the ERA, but in this case it emphasizes the wrongness of today's action and I include that editorial for your consideration:

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lose this vote, they will suffer a serious psyschological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

WE ASK NO QUARTER AND WE GIVE NONE

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIELSON of Utah. Mr. Speaker, this amendment has been before us for over 10 years. It has been accompanied by a lot of controversy, and economic sanctions against States which have not passed it. It has caused a lot of division in our country. The fact that there were no new States which adopted it in the last 3½-year extension should convince us that changes should be made before again offering it to the people.

Unless we can come up with something new, something different, which would pass, I think we should set it aside.

Senator Ervin of North Carolina, one of the greatest constitutional attorneys we had in the Senate, proposed three simple amendments when this amendment was offered by Representative Griffiths in 1971. Those amendments were to recognize the physical differences, to take care of the military situation, and also to provide that the husbands would take care of their wives financially if the marriages were to be dissolved.

Mrs. Griffiths' answers to Senator Ervin were. "We ask no quarter and we give none." Had she been willing to allow these reasonable requests by Senator Ervin we would have had the equal rights amendment 10 years ago.

The attitude that she had and the supporters had at that time still prevails today. They will not give us a chance to amend it so it could be passed, and I think we should resoundingly defeat it.

CYNICAL POLITICAL MANEUVER ON ERA

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, today's cynical political maneuver on ERA is another example of the bankrupt symbolism of the left. The symbolic ERA amendment had 10 years to be ratified and failed. There are serious questions about drafting women, about requiring women to be placed in combat, about the issue of abortion.

A symbolic ERA that would be rushed through the House without amendment and with inadequate debate is a step down the road to 10 more years of frustration and defeat. The Washington Post hit the nail on the head today in an editorial entitled "ERA But Not This Way." It said, and I quote:

The signs are that the House will be asked today to do something unnecessary, potentially risky, and loaded with unpredictable political consequences. Ramming it through the House using this extraordinary procedure is wrong on a number of accounts.

If pro-ERA forces lose this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

If you are serious about curing the problems of women's equal status in the legal system, you should vote "no" today. A "yes" vote today is a vote to exploit women's concerns at the expense of real reform. It is a vote for defeat in the State legislatures.

□ 1330

THE BOTTOM LINE ON ERA

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. EDGAR. Mr. Speaker, we can argue about the procedure that is here today, but I ask my colleagues in the waning moments of the 1-minute speeches just to listen to the words of the equal rights amendment:

The equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The Congress shall have the power to enforce by appropriate legislation the provisions of this article. This amendment shall take place two years after the date of ratification.

The bottom line, after all of the arguments and after all of the discussion today, is, are you for our against the equal rights amendment? Today the House will consider this important resolution. I urge my colleagues to support it.

Mr. Speaker, for over 10 years, women and men have struggled together to insure that equal rights for women are protected by our Constitution. My home State of Pennsylvania has a State ERA, and it has been a resounding success. In Pennsylvania and other States, the ERA has eliminated discriminatory laws and prohibited the enactment of discriminatory gender-based legislation.

It has not been our experience in Pennsylvania that the horror stories circulated about the ERA have come true. The equal rights amendment in Pennsylvania has led to a greater degree of equality for women, particularly in the areas of education and employment. Unfortunately, a State ERA cannot address all of the inequalities faced by women; for this reason I am an original cosponsor in the House of the Federal equal rights amendment.

Mr. Speaker, existing laws have not been adequate to eliminate discrimination on the basis of sex. The appropriate time to pass an equal rights amendment to our Constitution has long since passed. Let us stop dragging our feet—I urge support of the ERA when it comes before the House today.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. The Chair recognizes the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise to propound a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MICHEL. In the short time available to us, Mr. Speaker, I have reviewed the precedents on the subject of the consideration by this House of a proposed amendment to the Constitution under a motion to suspend the rules.

Mr. Speaker, precedents are rare on this question, although I believe it to be of profound significance to the deliberations we are about to embark upon.

The question which I would like the Chair to address is the question as to whether those Members voting present on any proposed constitutional amendment are included in determining whether two-thirds have voted in the affirmative. With the indulgence of the Chair, I would like to review the applicable provision under which this question is raised.

Mr. Speaker, there are no precedents, at least none available to this Member, under the provisions of rule XXVII of the rules of the House—the so-called suspension of the rules provisions—which address the question of counting those Members voting present on the passage of a constitutional amendment.

There are no precedents under the provisions of article V of the Constitution, the article which delineates the manner and mode of proposing and ratifying amendments to the Constitution.

There is only one precedent which is available on this question, Mr. Speaker, and that precedent occurred on August 13, 1912. I refer specifically to section 1111 of volume 7, Cannon's Precedents of the House of Representatives, which states:

The two-thirds vote required to pass a bill notwithstanding the objections of the President is two-thirds of the Members voting and not two-thirds of those present.

That precedent addressed the question of whether those answering "present" should be taken into consideration or excluded in determining whether two-thirds have voted for passing a bill over the president's veto. That question should be considered separate and distinct from the one we have before us today.

If the Chair were to examine that one precedent to which I refer, he will find that it is based wholly on the language of article I, section 7 of the Constitution, which states in part:

If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively.

Matters of law are measured and judged on every word, comma, and period of our great Constitution.

The provisions providing for the passage of a vetoed bill and only those voting for and against being entered upon the Journal of the House are substantially different from the provisions of article V dealing with those instances "whenever two thirds of both Houses shall deem it necessary" to propose amendments to our Constitution.

I think this question requires the closest examination, as do all matters involving our Constitution.

I will state my inquiry one more time, if I might, Mr. Speaker.

On the question of the House of Representatives proposing an amendment to the Constitution, should those answering "present" be taken into consideration in determining whether two-thirds shall have deemed it necessary to propose such an amendment?

And the most important language upon which our only precedent is based is that which states:

But in all such Cases the Votes of the Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal . . .

That is a profound distinction from the procedure required under the provision of article V dealing with constitutional amendments. The one precedent is founded on the requirement of a yea and nay vote, and that only those votes be entered on the Journal. Article I, section 7, does not contemplate "present" votes, but article V is silent on this question, and because we have no precedent, at least that this member could find, we need a ruling that would apply to the situation we are facing today.

That is why, Mr. Speaker, I have propounded this parliamentary inquiry.

The SPEAKER pro tempore. The distinguished gentleman from Illinois, the minority leader, has requested the Chair to interpret the requirement of article V of the U.S. Constitution that a two-thirds vote of the House is necessary to propose an amendment to the Constitution.

It is a well-settled rule, as indicated by the precedents cited in section 192 of the Constitution and House Rules and Manual, that the vote required on a joint resolution proposing a constitutional amendment is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership.

The Supreme Court of the United States has addressed the same issue and concluded in 1920, in the National Prohibition cases, volume 253 of the U.S. Reports, page 386, that—

The two-thirds vote in each House which is required in proposing an amendment is a vote of two-thirds of the members present—assuming the presence of a quorum—and not a vote of two-thirds of the entire membership, present and absent.

Now, as to the status of Members who vote present on a rollcall vote on a proposition which requires a two-thirds majority for passage, the Chair has no doubt that under the rules and under the practices and precedents of the House, and under parliamentary law in general, Members who indicate their presence only and do not vote either yea or nay on a question of this type are not to be counted, as they are not counted on any other question, in determining whether the proposition has been approved by the appropriate or required majority.

Speaker Champ Clark delivered an extensive ruling in 1912, in the 62d Congress, on that precise issue. It involved the passage of a bill over Presidential veto. Although the passage of a bill over Presidential veto requires a vote by the yeas and nays, the two-thirds majority which is required for that action, under article II, section 7, clause 2 of the Constitution is the same, identical two-thirds majority required to propose a constitutional amendment. In 1912 the issue before the Chair was stated as follows:

On a roll call on passing a bill over the President's veto, in determining whether two-thirds have voted for it, should those answering "present" be taken into consideration or excluded therefrom?

Speaker Clark ruled as follows, and I quote from his ruling:

The Constitution does not provide for a Member voting "present," but the rules of the House in order to eke out a quorum, have provided that they can vote "present." They have to answer "aye" or "nay" on the roll call in order to be counted on passing a bill over the President's veto. That is a requirement of the Constitution, and if the contention were on a proposition which required only a majority it would be the same way. In fact, that is one unvarying rule of procedure whenever the roll is called on any proposition. The Chair announces: "so many ayes, so many nays, so many present; the ayes—or nays, as the case may be—have it." Those voting "present" are disregarded except for the sole purpose of making a quorum.

Speaker Clark went on to say:

These gentlemen were here simply for the purpose of making a quorum. It is clear that to count them on this vote would be to count them in the negative, and the Chair does not believe that any such contention as that is tenable.

□ 1340

Now, the distinguished gentleman from Illinois has emphasized the requirement of article I, section 7, that the names of the persons voting for and against a bill over Presidential veto be entered on the Journal, in order to distinguish the status of Members only recording their presence on a veto override as opposed to Members only recording their presence on passage of a constitutional amendment.

It appears to the Chair that the requirement of the Journal entry on veto override merely emphasizes that the vote in that circumstance must be taken by the yeas and nays, with the names of the Members recorded. If the yeas and nays are ordered by one-fifth of the Members present on any other question, article I, section 5, clause 3 requires that the yeas and nays of the Members be entered on the Journal, and makes no mention of Members who are present for the vote but do not cast their votes on one side or the other. The fact that the House has determined to authorize Members to be present and record that fact without taking a position affords no constitutional status to such a decision except to be counted for a quorum.

The Chair would also point out that the present Speaker, Mr. O'NEILL, has ruled on the status of Members who vote "present" on a motion to suspend the rules. On December 16, 1981, Speaker O'NEILL ruled, in response to a parliamentary inquiry, following a rollcall vote on a motion to suspend the rules and pass H.R. 5274, that a motion to suspend the rules may be agreed to by two-thirds of the Members voting yea or nay, a quorum being present, and Members voting "present" are only counted to establish a quorum and not to determine a two-thirds majority.

Thus, as stated in chapter 21, section 9.21 of Deschler's Precedents of the House of Representatives, a motion to suspend the rules is an appropriate parliamentary method for consideration of a constitutional amendment, and has previously been utilized for that purpose.

Mr. MICHEL. Mr. Speaker, I thank the Chair for responding to my parliamentary inquiry and I am sure that will clarify much more clearly and demonstrate a precedent for the future.

I thank the Chair.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

The Clerk read as follows:

H.J. Res. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This article shall take effect two years after the date of ratification.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. RODINO) will be recognized for 20 minutes and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Pennsylvania reserves the right to object.

Mr. WALKER. Mr. Speaker, I reserve the right to object, because a process was determined here and the process says that there is going to be 20 minutes for the entire case to be made. There are many of us in this House who feel that that was not an appropriate kind of a decision to be made.

So therefore, I am reserving the right to object to tell the Members that I am going to object to all unanimous-consent requests, both to revise and extend remarks, as well as for the purpose of getting general leave, so that the entire debate on this matter will take place on the Democratic side within the 20 minutes allotted.

Mr. Speaker, I do object.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, there has been a great deal of hand-wringing about the process by which House Joint Resolution 1 has arrived here today on the floor of this Chamber. Members will brandish excerpts of my own past statement, statements which I made in the con-

text of opposing discharging the Judiciary Committee from the further consideration of a constitutional amendment with only 1 hour of debate. That is a totally different problem, and I still support a rules change to correct that.

Today, however, we consider a constitutional amendment reported out by the House Committee on the Judiciary, after many years of consideration. It is not a precedent-setting action we are engaged in. The 24th amendment to the Constitution was approved and sent out for ratification on the suspension calendar on August 27, 1962.

I do not lightly propose amendments to our fundamental law. The Constitution is, above all else, a document that guarantees basic rights and freedoms for the infinite future.

I am not one to urge precipitous action on constitutional issues. Amending the Constitution is, indeed, a slow and difficult process, one made so deliberately and rightly by the Founding Fathers, to provide time for serious public discussions; but the debate on this issue has gone on for 60 years and that, I think, is long enough.

Before us today is a very simple proposition: Whether the House of Representatives agrees that equality of rights under the law shall not be denied or abridged on account of sex. What does this proposition mean? Quite simply, it means that sex shall not be a factor in determining the legal rights of men and women. This is not new. This is what our predecessors meant when the amendment was first introduced in Congress in 1923. This is what we meant in 1970 and 1971 when the House passed the amendment by overwhelming majorities. This is what we meant in 1978 when we extended the period of time for ratification.

To be sure, there has been progress toward equality for women; but, just as certainly, invidious discrimination persists against women in jobs, wages, education, pensions, social security, and that is what this amendment is all about.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. RODINO. Mr. Speaker, I yield myself 30 more seconds.

It is about enhancing these opportunities for women by strengthening their legal rights. And for this reason, the equal rights amendment, Mr. Speaker, is one that speaks out eloquently. It guarantees clearly and for all time that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

That is a promise that fairness demands. It is a promise that has been too long delayed and too often denied.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself a minute and a half.

Mr. Speaker, I rise in opposition to the motion to suspend the rules. Placing an important and controversial constitutional amendment upon the Suspension Calendar makes a mockery of the rules of fairplay as well as the spirit of the Constitution itself.

□ 1350

We Republicans place no obstacles in the way of the Judiciary Committee consideration of the ERA upon the express promise that House Joint Resolution 1 was to be considered under an open rule. Those promises have now taken a back seat to partisan politics. The suspension procedure makes it impossible to consider two critical amendments: One would make the ERA abortion neutral. Make no mistake about it, if the ERA passes in this form, the Hyde amendment is doomed and taxpayers will be funding elective abortions.

The second would prevent women from being drafted and sent into combat. On this issue, all of the witnesses who appeared before the subcommittee agreed that the ERA would have this effect.

The American people oppose these two results of the ERA, and their Representatives should have at least a chance to debate and vote on these amendments.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, these past 24 hours there has been much fiery rhetoric about the procedure under which we are operating.

We have heard hot words, words not spoken or heard very often in this Chamber. Unsaid by our colleagues in opposition, however, is that the issue comes to 26 words:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

These 26 words say quite simply that American woman shall have their legal rights. That is all it says, American women shall have their legal rights.

This is not a vote on whether we debate this issue an hour, for a day, for a week, for a month or even for that matter for 60 years.

It is not a vote on procedure. This is a vote on whether you oppose or support equality. Supporters will vote yes. Opponents will vote no and the American people will be watching.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. DEWINE).

Mr. DEWINE. Members of the House, the question is not that simple.

I support ERA, and I submit to you today, we need to look at our priorities. What are we trying to do today? Are we not trying to put the ERA in the Constitution? If you vote yes today, without amendments, without an abortion-neutral amendment, without taking care of the question of women in combat, without taking care of the question of the drafting of women, this ERA is dead.

You are consigning it to the same fate that it had last time. If you really want to support the ERA, if you really want to not just make a statement, but put it in the Constitution, vote "no." Get an open rule, get the amendments, get it cleaned up and let us go pass it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine (Ms. SNOWE).

Ms. SNOWE. Mr. Speaker, I rise in support of the equal rights amendment.

I only regret that I must compress the effects of over 200 years of constitutional omission into 1 minute. As a Republican and as a woman, my support for this amendment is unassailable, but I believe the process we have resorted to is wrong. The equal rights amendment is one of the most important issues to come before the 98th Congress, and to prevent meaningful consideration is to retreat from our position of strength and to succumb to those who want to defeat this amendment. However, I ask my colleagues not to allow the time limitation to prejudice the significance of this issue. The equal rights amendment is simply a matter of fairness, fairness for more than one-half of the population in America.

Today we must take action not on the myths of the equal rights amendment but on the realities. Those realities are that 20 years after the passage of the Equal Pay Act, there is still a widening of the wage gap between men and women. Nine years after the passage of title 9, we still have to reaffirm today that we restate our support that we stated in 1972.

Finally, when all is said and done, American women in 1983 are going to face discrimination in employment, education, wage and retirement plans, credit through marriage, divorce, and old age. Those of us who support the equal rights amendment support it for just that reason, equal rights for all Americans.

Mr. RODINO. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, the long and extensive hearings that we have had on the Judiciary Committee prove that Paul Harvey was right in his Saturday broadcase when he said:

> Yes, even though the law says equal pay for equal work, the law is not enough. We need the equal rights amendment to finally end the feminization of poverty and to finally bring women into the Constitution and give them an equal break.

There are many people who have been going around saying to women, "Look, if you do not have equal rights, you will never have equal responsibilities and all human beings would much rather talk about rights than responsibilities."

But do not let anyone kid you. There was not a witness who did not admit that the equal rights amendment, not having it would be a total defense to being asked to do your responsibilities.

Those who were saying that are trying to get women into a position where they will be asked to do their responsibility but not be given equal rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, if the soothing siren song heard from the lips of the chairman of the committee and the subcommittee were in fact correct, I would be here speaking very strongly for the equal rights amendment.

They repeat the words and they say, "Something this simple should not be voted down."

Then I ask you, Mr. Speaker, why did not House Joint Resolution 1 come to us on the second day of our session? If it is so simple, if the words are so easy to interpret, if there can be no mistake about it, why did we have to go through the subcommittee and committee process? Why was there so much difficulty in the other body by the major proponents even explaining what it should mean?

We had in our committee deliberations the elevation of a new theory of interpretation, a responsibility in this House. It was the "trust me" theory; that is, trust the courts to tell us what we mean. We had a peroration from one Member of the other side for 15 minutes, telling us all we are supposed to do is throw some nice sounding words up there and not worry about what they really mean because the courts will tell us.

We took an oath to the Constitution. We are as obligated to uphold the constitutional prerogatives as are the courts. If in fact this is the way we should proceed, why, Mr. EDWARDS, chairman of the Subcommittee on Civil and Constitutional Rights, wrote to someone in California on June 27 of this year with these words:

"Should the legislation receive subcommittee or full committee approval, we will bring it to the House floor under an open rule," not "I will try to bring it," not "it might be," but "we will bring it to the House under an open rule."

"I agree with you," Mr. EDWARDS said, "that any bill as important as the proposed constitutional amendment should have an open rule."

The distinguished chairman of the committee, Mr. RODINO, on the two previous occasions that we have on this floor dealt with questions of constitutional amendments, has told us that if we limit ourselves to an hour, not 40 minutes, an hour with no time for debate, what we would do is create a spectacle which would demean our Democratic system, this legislative body and each of us. Amending the Constitution is an extraordinary action. We are not saying that those who support the ERA do not have legitimate concerns. They may be right, even though I may disagree with them. If we are the people's House, if we have the opportunity and the obligation to bring forward ideas and debate them, why do we shrink from that responsibility when we are going to amend the most sacred document in our civil land, the Constitution?

Does it not need more than 40 minutes? Some say well, we could have had 2 hours but 2 hours additional debate without the opportunity to actually vote on amendments is nothing. It says that you can talk, but you cannot vote.

It is saying that the voting rights does not extend to those of us who serve in this Chamber to make decisions that we are elected to make. I do not think anyone can stand here and say if we had an up or down vote, that we would affirmatively vote to draft women.

This amendment creates that possibility, and as a matter of fact, if you review all the testimony of all the witnesses who appeared before the subcommittee, they say it is a finality. It is a finality, so we ought to at least stand up and discuss that openly and not hide behind a procedure that the chairman of the Judiciary Committee on previous occasions has said is demeaning.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Louisiana (Mrs. BOGGS).

□ 1400

Mrs. BOGGS. Mr. Speaker, whether one agrees or disagrees with the parliamentary procedure, and as one of the 70 Members of this body who has a strong consistent prolife voting record and is one of the cosponsors of this resolution, I rise in support of the resolution because American women need the Equal Rights Amendment.

During my 10 years in Congress I have participated in the enactment of strong laws that protect women's opportunity to equitable education, credit, housing, employment, and economic status. But I have also witnessed an erosion of many of these gains because antidiscriminatory statutes can be deregulated, deauthorized, underfunded, or simply ignored.

American women need the Equal Rights Amendment as a guarantee that the deep traditional, systematic and pervasive discrimination that has burdened them will be eliminated.

ERA is good for working women. ERA is good for homemakers. ERA will help older women and retired women. The ERA is good for all women and all girls of all ages and all races, and I urge its adoption.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, under the banner of equal rights for all, the Democrat majority of this House has allocated only 40 minutes to debate an amendment to the oldest Constitution in the world today. How will history judge those who would smother creativity and the freedom to vote on what could be a substantial improvement to the equal rights amendment.

There are those here in this Chamber who would oppose any change to this amendment. To them I say the language of the ERA was not carved in stone by God. It was authorized by men and women and contains their imperfections.

Among these imperfections, this amendment would require this Congress not only to draft women in time of war but to subject them to combat.

Mr. Speaker, let us work together in the spirit of the framers of the Constitution and bring this matter back to this body with an open rule that will allow debate and votes; for that, Mr. Speaker, is the fcundation of our democracy and equal rights for all.

Let us not make the fatal mistake of turning out such an important piece of legislation affecting the rights of so many people in this country under this dark cloud.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I am proud to be from a State that has adopted its own ERA. Maryland and other States have ERA's very similar to the proposed ERA before us today. These States have shown that the ERA can make a real difference in the economic lives of women, especially homemakers.

Where there are State ERA's, courts have started to recognize the economic value of the contributions of the homemaker. In Pennsylvania the courts have used the State ERA to show that a husband is not the owner of all household goods used by both spouses. Before that the wife had to prove she had made a financial contribution to their possessions.

The Pennsylvania Supreme Court said by limiting contributions solely to financial contribution, the homemaker was not given any credit for her nonmonetary contributions to the marriage. State courts in Pennsylvania, Colorado, and Texas have determined under their State ERA's the value of a

custodial parent's services in raising and caring for a child is equal to the financial contribution for child support.

Mr. Speaker, State ERA's have been important tools in recognizing that the services performed by homemakers have economic value.

We need a Federal ERA so that homemakers in all States will have that recognition.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, the majority leadership has committed legislative robbery today in the process that we are adopting, robbery in broad daylight, of the rights of the American people to fully debate this very serious issue.

But what is more is that that robbery extends to stealing the rights of the American veterans, the veterans whom we praised just a few days ago on this very floor for their magnanimous contributions to our Nation, robbing them of the opportunity to have full debate on veterans' preference. And this veterans' preference which we have accorded our esteemed soldiers, sailors, marines, of male and female sex, that which we rob them of today will come back to haunt us and it will hurt mostly the Vietnam veterans, and the most recent veterans whom again we have praised on this floor, those who have sacrificed in Lebanon and Grenada.

I support the equal rights amendment but my support is now tarnished.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I am not going to discuss the procedure. I want to discuss the substance of the equal rights amendment.

Today America's older women have a more than equal right to be poor. Today 2.7 million women over the age of 65 live in poverty, almost triple the number of poor men in that age group.

The reason why older women are poorer is a lifetime of economic discrimination. Unequal education leads to unequal pay leads to unequal retirement income, in or out of the work force. Divorce or the death of a husband can plunge the lifelong homemaker and mother into an old age of poverty.

The laws which govern pensions are neutral on their face but they are based unfairly on men's traditional work patterns and ignore those of women. In theory we exalt the woman who stays home to raise her family; in practice, we punish this woman by denying her economic contribution.

The ERA will strike overtly discriminatory laws from the Federal and State statute books. It would help us challenge supposedly sex-neutral laws which actually discriminate against women.

In the name of economic equality for all Americans I urge a vote of yes on the equal rights amendment.

Mr. SENSENBRENNER. Mr. Speaker, in the spirit of bipartisan cooperation, I yield 1 minute to the gentlewoman from Tennessee (Mrs. LLOYD).

Mrs. LLOYD. Mr. Speaker, I rise in opposition to House Joint Resolution 1 in its present form and in particular to this extraordinarily inequitable procedure which prevents full discussion of the equal rights amendment. It denies many of us who want to support an equal rights amendment the opportunity to correct the imprecision of the existing language and fashion an ERA that can be passed in this Congress and one that can be ratified in the States.

Now, proponents of the amendment argue that this issue has been debated for the past 15 years and this is certainly true. But rather than acknowledge the depth of the public concern about the language which has led to the 15-year debate, they want to railroad the very same language through the House. And the concerns that are being raised today are precisely the very same concerns that will be raised in the State legislatures during a ratification process.

Now, if we fail to deal with these issues now at the outset of the process we are going to sow seeds of confusion, misinterpretation and quite likely defeat for the ERA.

Let us not settle for a meaningless victory on a hollow symbol. Let us pass an equal rights amendment that can become a part of the Constitution.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, I rise here today in support of the ERA as a woman who chose to remain home as a woman, a wife, and a mother for 16 years. The ERA will protect these women who make this same choice.

The ERA will protect women who stay home as homemakers but suddenly, by cruel twists of fate, they become widows without pensions.

The ERA will help those women who chose to be homemakers, good wives and mothers and suddenly after 10, 12, or sometimes even 30 years are told they are about to be divorced.

The ERA will recognize the economic partnership of marriage. It will acknowledge the homemaker as an equal contributor to the family.

During those years at home I raised three daughters, young women who are now 19, 21, and 23. Passage of the ERA will make it possible for these young women to choose whether they want to stay at home as a homemaker, do they want to be working women, do they want to be both. But they need that passage today to protect their future.

□ 1410

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON. Thank you very much, Mr. Speaker.

I have 1 minute and three points. First I am a Republican and I strongly support ERA. I will vote in favor of it today in spite of the worthy procedural concerns of my colleagues.

Second, I do not want the significance of the Democrats' procedural decision to be lost on the women of America. As a national party, they have flaunted their commitment to ERA. In this body they have the voting power to fulfill their commitment, and they cannot and do not act to send a fully debated, clean ERA forward because the Democratic Party, as the Republican Party, is deeply divided on both ERA and abortion.

The lesson is simple. It is a bipartisan coalition that is advancing the interests of American women.

Third, ERA is a dollars and cents issue for American working women. Discrimination has not been eradicated. Only a constitutional guarantee can attack the root of discrimination and I urge my colleagues to support the equal rights amendment though I regret the lack of full debate which alone would enhance its chances of future success.

Mrs. ROUKEMA. Mr. Speaker, will the gentlewoman yield?

Mrs. JOHNSON. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I want to associate myself with your remarks, support the amendment, and ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment, which is, once again, before the House of Representatives.

As a strong supporter of this measure, over the years, I see no need to stand before this body arguing for the merits of this most important legislation. Simple justice determined in my mind long before today that I would vote in favor of this measure.

However, while I stand firm in my support of the ERA, many of my colleagues may have benefited from additional debate of the amendment. Because the majority leadership has determined that House Joint Resolution 1 should be considered under suspension of the rules no such opportunity will be afforded them.

It is the tradition of the House of Representatives to consider only non-

controversial issues under the suspension of the rules. No one argues that the equal rights amendment is without controversy. Nevertheless, the leadership has allowed the equal rights amendment to come before us without proper debate.

Mr. Speaker and supporters of this resolution, today's actions will come back to haunt us in the future. When considering ratification of the ERA, will legislatures in your home States look at the expedited way in which it was considered at the Federal level and determine it not suitable as an amendment to our Constitution?

The procedure under which we operate today will simply be another impediment to an already controversial proposal. This was a terrible error in judgment, one which will make our opponents' job easier and ours more difficult.

I vote for the ERA today, but do so only with an expression of indignation over the procedure which is used to bring the amendment before us.

Ms. FERRARO. Mr. Speaker, I reserve the right to object to the unanimous-consent request.

The SPEAKER pro tempore. The gentlewoman from New York has been recognized, but the Chair would have to state that the gentlewoman's objection comes too late.

The Chair had already declared that the unanimous-consent request was agreed to and the Chair would so rule.

The Chair perhaps was not diligent in looking around but the Chair had so declared.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. BOXER).

Mrs. BOXER. Mr. Speaker, I am proud to speak for ERA and make no mistake about it that is what we are voting for today, the ERA, simply that. Some do not like it and that is their right. But here it is, 24 words of fairness. ERA is a fairness issue. Americans know this and support ERA 62 to 34 percent. According to a Business Week poll, 450 mainstream organizations representing over 50 million Americans have endorsed ERA. Women face occupational stagnation, exclusion from high wage jobs. ERA means that treatment under the law will not be related to gender and that helps men, too. Should the day come that women hold political power in this country, we will not be able to discriminate against men, and that is fair.

ERA is important for our daughters and our sons and the American people support it because Americans are a fair people.

Mr. ALBOSTA. Mr. Speaker, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the gentleman from Michigan.

Mr. ALBOSTA. I ask unanimous consent, Mr. Speaker, to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. HARTNETT. Mr. Speaker, I object.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The time of the gentlewoman from California (Mrs. BOXER) has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Thank you, Mr. Speaker.

I apologize for the way I sound but I have got something wrong with my throat.

I am the only one, I suppose, from the Committee on the Judiciary that will appear here today in opposition to the manner in which this matter is being handled.

A man in east Texas, a great district judge, told me, he said, "Son, I have more authority, I have more power than any person has and ought to have," but, he says, "I don't have the right many times to use that power."

We on the Democratic side today have the power to do what we are doing but I daresay that we have the right to handle this matter in the manner in which it is being handled.

Now, I was the only one of the members of the Committee on the Judiciary that voted against this matter last week.

At that time I was led to believe that we were going to have an open rule on this bill. Now, I do not know what has happened in the short period of time since we ruled on it and acted on it that has changed that procedure.

I wish I knew.

We have been told today that this amendment covers 26 words. Well, let me say this: We are sending this amendment, we are sending this ERA bill back to the American people in exactly this same way that it was there last year when it galvanized the legislatures of the States. If we had one or two amendments here there is no doubt in my mind that this matter would pass as it should pass.

Mr. RODINO. Mr. Speaker, might I inquire of the Chair how much time is remaining for both sides?

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) has 10½ minutes remaining; the gentleman from Wisconsin (Mr. SENSENBRENNER) has 9 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Mrs. HALL).

Mrs. HALL of Indiana. Mr. Speaker, I rise in very strong support of the equal rights amendment. Sex discrimination reflects and perpetuates discrimination which women face throughout their lives. Over 200 years ago our forefathers drafted and adopted a Constitution which served as the foundation of American government. I feel that it is very unfair and very tragic that they did not have the foresight to envision this problem and to do something about it.

In 1983 in the United States of America millions of women who comprise more than 50 percent of our population find that they are constantly confronted with discrimination. It is a fact that in the United States discrimination exists in our schools. Early in their years, boys and girls are taught different stereotyped roles. Boys are taught to be leaders and achievers; girls are taught to be mothers, housewives, secretaries and receptionists.

As they journey and continue their education process they find that this is a continuous problem. Our boys are taught to be scientists, our girls are taught to have the under-roles.

I urge the House to adopt this amendment, make equality under the law a reality of the United States of America in 1983.

Vote for ERA.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, with great reluctance and because of my fondness for the committee chairman, I must oppose this procedure that we are engaged in today because it perverts and is contemptuous of the legislative process.

The suspension procedure should only be employed when the matter is noncontroversial or routine; neither case being present today.

This procedure, Mr. Speaker, trivializes the Constitution, the basic document of our land.

It is not feasible nor possible to gain an understanding of any constitutional amendment in one period of 40 minutes, much less House Joint Resolution 1.

Last, I was cosponsor of the original ERA and voted for it. I am a cosponsor of House Joint Resolution 1 and voted to report it from our committee last week.

Until last week's markup I did not believe there was a connection between ERA and abortion or female draft or single sex schools.

At the markup which I attended and debated in, I had my serious doubts; the experts are divided, the committee members are divided. Therefore, Mr. Speaker, I feel the House should today reject House Joint Resolution 1 under suspension so that it may come back before this full House with a rule establishing reasonable conditions for debate and amendment.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, we know that the thrust of the equal rights amendment is economic justice for all. To me it is an extension of my pro-life philosophy and I say to my pro-life friends State ERA's have not mandated abortion funding. In several States with ERA's, the State ERA was argued to the courts as a grounds for overturning restrictions on State funding for abortion. Not one of these cases was a State ERA used by the court in its decision to overturn the restrictions.

Now, if you are pro-life, you must be pro-ERA because you must be concerned not only with the unborn as we are but with the living. You must be concerned about the poverty among our older Americans who are female, who are the poorest people in this country because of the discrimination that they face with respect to the social security and their pensions.

□ 1420

If you are pro-life you must be concerned with the quality of life of working women and homemakers who are discriminated against in the work field and who are discriminated against in the insurance area. If you are pro-life you must be concerned with the women who are paid inequitably.

I ask the men who dominate this body to be concerned with their mothers, their sisters, their wives, their children and vote for the equal rights amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Nevada (Mrs. VUCANOVICH).

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the motion to suspend the rules and pass the ERA. I am truly saddened, as a mother, a woman, and an American, to witness today the political gamesmanship that this body is being subjected to.

I cannot imagine a greater insult to the American people than that of railroading this unpredictable and ill-conceived amendment to our Constitution through the Congress with no consideration for its real impact.

Stated quite simply, how can we call this the equal rights amendment, when it allows, even mandates, that the rights of one individual may cost another, the unborn, his or her life? There can be no equality in that.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Speaker, I rise in support of the equal rights amendment. I am a Republican. While I am very much opposed to the process that has been used here today, I think that the most important issue is equal rights for the women of this Nation. I think that not only have we gained the responsibility, but that it is time that we were given the opportunity through the law.

I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I urge my colleagues on this side of the aisle to shun the procedural traps so cynically set for them and to vote for the ERA on the merits.

Ms. FIEDLER. Mr. Speaker, I yield to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I am a Republican. I urge folks to vote for the ERA today as I intend to do.

Ms. FIEDLER. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ZSCHAU).

Mr. ZSCHAU. Mr. Speaker, I rise in strong support of the equal rights amendment, but in strong opposition to the procedure to consider it on the Suspension Calendar.

Amending the Constitution has such far-reaching consequences that those who truly favor this amendment ought to want to write the best possible amendment, language like the original Constitution itself will survive for centuries to come.

Unfortunately, with an eye to the 1984 elections, the Democrats have decided to bring this measure before the House under rules that preclude perfecting amendments.

And unfortunately, such an approach will probably make it less likely that this amendment will some day find its way into the Constitution.

But that is not their objective. What they seek is to put those of us who cherish both this institution, this democratic body, and equal rights, in a position to choose between the two.

Frankly, as a Republican, a member of the party that has had leadership throughout history in equal rights and opportunities in this country, I resent this partisan tactic.

On the merits of the amendment, we, as a Nation, should do everything possible to guarantee equal opportunity for all citizens. For two centuries, this Nation has grown and prospered because we have. Equality of opportunity has been our guiding principle and it has provided hope to millions of immigrants, people of all races and religions, and those from the most humble walks of life.

And so, accordingly, it is critical to the values of this Nation that we hold so dear that equality of right should not be denied on account of sex. Instead, the United States should do everything in its power to assure that women and all other citizens have the opportunity to be the very best they can be, at whatever they choose to be in life.

That is what this amendment would do and that is why it should be added to the Constitution.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I realize that many of my Republican colleagues oppose today's limiting procedure as unfair, but I urge them to ignore the system and support the substance.

The substance is that women must have their right to choose their economic and their social roles.

I urge my colleagues to vote for the ERA, to close the economic gender gap, to equalize men and women under the law, and to stymie those who would make this a partisan issue.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GRAY).

Mr. GRAY. Mr. Speaker, nearly 200 years ago, our Constitution was written. It was a statement of an experiment in government that had lofty ideals, freedom, individual rights.

But my forebears were not in that Constitution. I was not there. Black people were not there. But I am now.

Is it not time that women be included and protected? That is the issue. Not abortion, not the draft, not procedures.

So when you vote today, let us vote to include women in the Constitution of the United States as we have done for other people.

Mr. SENSENBRENNER. Mr. Speaker, may I inquire of the gentleman from New Jersey (Mr. RODINO) how many speakers he has left on his side. I have just two.

Mr. RODINO. I have five, Mr. Speaker.

Mr. SENSENBRENNER. Mr. Speaker, I would prefer that the gentleman from New Jersey yield time.

Mr. RODINO. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I rise in support of the equal rights amendment as I have on many occasions in the past.

But at the outset, I would like to commend our chairman, the gentleman from New Jersey (Mr. RODINO), but particularly my subcommittee chairman, the gentleman from California (Mr. EDWARDS). For it was not only in 1983 that he supported this, but each and every year, in 1970 and 1971 and all the intervening years he has championed so hopefully, in the final analysis successfully, this endeavor.

Also, on the subcommittee, I would want to recognize the efforts of the gentlewoman from Colorado (Mrs. SCHROEDER), certainly a champion of this proposition.

Mr. Speaker, I regret, too, that the issue today seems to be procedural

rather than substantive. For my own part, I have no objection to a longer debate. But it does seem to me, Mr. Speaker, that as has been pointed out, the language of this amendment was the same in 1971, in fact, was the same in 1943, 40 years ago.

Mr. Speaker, I would only say in conclusion that whether we debate 40 minutes, 2 hours, or 12 hours, this is an idea whose time has come.

□ 1430

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, Members of the House, I am cosponsor and a supporter of the equal rights amendment, and I am livid with the leadership decision to kill the ERA with kindness.

No friend or supporter of the equal rights amendment would bring it up under these circumstances. Only those who are more concerned about partisan political advantage than about the future of the ERA would pull this kind of stunt.

It is the responsibility of Congress to present an amendment to the States. The States, not Congress, ratify that constitutional amendment. The States can only vote "yes" or "no" on the proposal we send them. Our responsibility is to perfect that proposal to the best of our ability. This procedure prohibits us from carrying out that responsibility.

By failing to follow proper procedure and by failing to do our best for the ERA, we are condemning that amendment to ultimate defeat. We severely undermine its chances for ratification. And, ladies and gentlemen, that is sad.

The ERA deserves better. It deserves better because the women of America deserve better. Discrimination exists in our Nation today, discrimination which affects virtually every American woman. We owe it to all Americans to finally apply the Constitution to women and do the very best we can to give women an equal opportunity.

We can fulfill that obligation by defeating this attempt to kill the ERA with kindness. We can do ourselves, the ERA, and all America a favor by getting the ERA off this dead end track and forcing this House to consider it in a thoughtful, deliberative manner, a manner which will give the equal rights amendment a chance for success.

The SPEAKER pro tempore. The Chair will announce that the gentleman from New Jersey (Mr. RODINO) has 5½ minutes remaining; the gentleman from Wisconsin (Mr. SENSENBRENNER) has 3½ minutes remaining.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Speaker, the carping we are hearing today about the procedure being followed is essentially the same carping that we heard a few years ago with respect to the Anti-Poll Tax Amendment. The procedure is the same, and the necessity for that procedure is the same.

The year is 1983, and our Union is more than 200 years old and the equal rights amendment itself has been around for over six decades.

How long must women wait to gain equal entrance into the Constitution?

The equal rights amendment says one simple thing: That the Constitution and Federal and State Governments shall not treat women differently than they treat men. It is a simple concept, a concept of justice. It does not need to be added to nor detracted from nor amended. It speaks for itself.

I urge my colleagues to speed this amendment on its way today.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, I rise today in total, unequivocal support of the equal rights amendment to the U.S. Constitution. This amendment is needed as much now, if not more so, than when it was first sent out to the States for ratification in 1972. We here in the Congress took a bold and courageous step then, and I call on all of my colleagues on both sides of the aisle to do the same today.

However, duty impels me to object to the manner and atmosphere in which this debate is being conducted today. First, I am upset by the shabby way in which the Democratic leadership of the House has chosen to deal with such an important piece of legislation. Pulling the measure out of the Rules Committee and then scheduling it at the last minute under the Suspension Calendar, removes the possibility of informed debate, which is the hallmark of the democratic process. Riding roughshod over this piece of legislation is not the way to instill respect and support for the measure throughout the country.

Second, I want all Members to understand the reason why we have to vote again on the ERA. This is because the amendment fell three States short of ratification, and that the burden for failure of passage lies with the State legislators in those five States which could have provided women with the rights we so urgently need. In 1982, five States were targeted for ratification: Florida, Illinois, Missouri, North Carolina, and Virginia.

I was hesitant to bring this up, as I prefer to work in an atmosphere of bipartisanship, but the Democratic leadership has already clouded what should be a nonpartisan issue by making it appear to be a referendum on the GOP and its relationship with women in this country. I want to ask my Democratic colleagues in this room from those five States, where were you when the ERA was facing its most important test? I know where I was—down in Florida working to change the minds of State legislators. But where was the congressional leadership then. If they had wanted, they could have exerted the much-needed pressure to pass this amendment in those various States.

Let us be fair, Mr. Speaker. I will grant you that the GOP has not been as strong on the national level for the ERA as it should be, and I am working hard to change that. But at that crucial moment, when the ERA could have been passed by the States, this Nation was let down by a small group of Democrats in those five States. I mention this only to set the record straight.

Once again, I call on my fellow colleagues to do the right thing, to take the same step as Congress did over a decade ago—pass the equal rights amendment.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. DYMALLY).

Mr. DYMALLY. Mr. Speaker, as a California State Senator, I had the privilege of chairing the Joint Committee for Legal Equality of Women and was author of the resolution to ratify the equal rights amendment. Again today, I am pleased to join with my colleagues in urging strong support for the amendment.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in strong support of the equal rights amendment, and in so doing I make the following point: Equal rights is not a women's issue; it is not a men's issue; it is a human question. And all Americans will benefit from the constitutional amendment which protects them from sex bias.

At stake in this debate are fundamental issues of equality, the importance we as society place on the protection of equal rights.

The amendment says nothing more or nothing less than simply equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex. These 24 words are a basic affirmation of the best values of American society, the goal of equal opportunity we have struggled over, often painfully, for more than 200 years.

Mr. RODINO. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. Mr. Speaker, this issue has been debated. In committee, all of those amendments were debated, they have been debated before. Now is the time to let the people decide.

This amendment, this issue, transcends the debate here today. It requires that it be put to the people of the United States for the test. Not here. This is not the test. This issue requires that this amendment be ratified here and then be ratified in the United States of America. This issue deserves that attention.

I urge my colleagues to lay aside the differences regarding procedure and rely upon the substance, the transcendence of the principle of equal rights above every issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the distinguished ranking minority member of the Committee on the Judiciary, the gentleman from New York (Mr. FISH).

The SPEAKER pro tempore. The gentleman from New York (Mr. FISH) is recognized for 3½ minutes.

Mr. FISH. Mr. Speaker, my feelings today are a mixture of genuine sorrow and outright anger. The decision to consider an amendment to the Constitution of the United States under suspension of the rules diminishes the role of each and every Member of this House. It is an affront to the deliberative consideration which should be accorded the constitutional amendment process.,

I say this as a Republican who has supported the ratification of the ERA in the past and who continues to support the basic principle that women should not be discriminated against solely on the basis of their sex.

I voted for the proposal in 1971 and worked actively for the extension of time in which to ratify in 1978.

In July of 1982, together with five colleagues in the Congress, following failure of ratification, I joined in cosponsoring in a symbolic move to demonstrate our continued commitment to equal rights. On House Joint Resolution 1 before us my name appears second, immediately following that of Chairman RODINO.

I regret that the procedure under which we are considering House Joint Resolution 1 puts me at odds with allies not only in pursuit of equal rights but in a broad range of companion civil rights issues.

Today, however, we face a cynical and partisan decision that undermines the bipartisan support the equal rights amendment has traditionally received. Democrats say that House Joint Resolution 1 had to be brought up either under suspension or under a closed rule permitting no amendments. Why? Clearly, any other procedure would allow amendments, amendments which might even pass.

And so we are asked to vote a change in our national charter without considering any alternative language. Is this properly discharging our responsibilities?

The language of ERA is not sacrosanct. There have been many different versions adopted by the other body and ourselves dating back to 1923.

□ 1440

Your Judiciary Committee considered no less than eight amendments, all of which raised legitimate and sincere concerns. The House deserves the right to evaluate them on their merits. Committee debate and consideration is not enough. We are but 31 Members. Under this suspension process, 404 Members of this House are being bypassed.

The Constitution was never intended to be amended in such a cavalier fashion. On the contrary, amendments are made difficult, requiring deliberation and consensus and extraordinary involvement requiring a two-thirds vote in both Houses of the Congress and ratification by three-quarters of the State legislatures. In witness of this purpose, we have the history: Since our first 10 amendments to the Constitution were adopted in 1791, only 16 amendments have been adopted in 192 years.

So what then is the purpose of the procedure we are engaged in, this denial of the deliberative role and the contribution of each one of the people's representatives? Women's groups active for ERA tell us that it was not their initiative. I suggest it is less a commitment to equal rights than it is more of what we have witnessed this fall, partisan politics in search of a campaign issue.

We should refuse to cooperate in this approach. A "no" vote, my colleagues, is not a vote against ERA, but a vote for respect for the U.S. Constitution.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. RODINO) has 3 minutes remaining.

Mr. RODINO. Mr. Speaker, I yield the balance of the time to the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I rise in support of the resolution. I support it because I believe the only sure guarantee of equal rights in this country is a constitutional guarantee. The only sure way to insure equal opportunity for women in this country is to guarantee them in the Constitution.

This amendment would do that. If it is approved today, it would be the first step, and a strong one, in realizing once and for all the equal rights of American women. The fight for equal rights is not an easy one, but it is a necessary one. It is appropriate that it begins once again here in this House, the people's branch.

The resolution was filed at the beginning of the session and has received overwhelming support in the Judiciary Committee. I stated on January 3, after I took my oath and gave my remarks at the rostrum, that this would be House Joint Resolution 1, that I was interested in its passage, and its consideration would be one of the top priorities, and it is. Consequently, we are considering it today in the classic lean language that suits the amendment of the Constitution.

The power of the Speaker of the House is the power of scheduling. I take it upon myself that this resolution is here today.

Why is it here today? Because I have been asked by the people who are interested in this, that it not get logjammed, that it not be subject to amendment, whether it be the abortion amendment and you are for it, or whether it be the draft amendment and you are for or you are opposed to it.

In your hearts you know, those of you who have taken this floor, that there is no way this amendment would pass under an open rule with either one of those amendments. In fairness to the women of America, the thing to do is to send a lean, clean package.

There is nothing unusual about what we are doing. When you have the strength and when you have the leadership—oh, I remember the Gramm-Latta bill, when you had control of this House. You for a period of time had control of this House. You trampled on the rights of people. You trampled on the rights of people because I gave you the opportunity. I brought that bill to the floor. There were those in my own party that criticized me. The Gramm-Latta bill could not have gotten to the floor if the Speaker did not schedule it.

I am scheduling this bill today. There has been precedent for it. In 1962, your leader, myself, and other Members were here. We had the poll tax bill. We passed it exactly the same way as I am asking you to pass this bill today. I am asking you to consider it in the classic, lean language that suits the amendments of the Constitution.

Members have the opportunity to clearly, unequivocally register their support or their opposition to this amendment. If you want to hide behind something that we have done, the structure in which we have brought it up, you are not fooling anybody. In your heart you will never live it down. You were looking for the escape. If you think this is the escape, then vote "no." If you truly believe in a constitutional amendment for women's rights, now is the time and vote "yes."

● Mr. LEVITAS. Mr. Speaker, I intend to vote in favor of House Joint Resolution 1, the equal rights amendment. The words of the equal rights amendment are as follows:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Those words are a statement of principle with which I think most people agree, namely that individuals, regardless of whether they are men or women, should be treated alike under the law.

If that is a principle with which most people agree, then surely there is no reason why that principle should not be put in writing. There is no reason why, in the last half of the 20th century, our Constitution should not contain a statement of principle that people should be treated equally under the law. Perhaps, it is worse to think that, in the last half of the 20th century, we might consciously decide that we are not willing to state that principle in our Constitution.

Frankly, in my opinion, the equal rights amendment will not accomplish all of the good things that its proponents claim that it will achieve nor solve all of the problems they think it will solve. I frankly do not think that all of the benefits will occur which its proponents say will come about with passage of the ERA. In fact, I think that most of the goals which the proponents anticipate the equal rights amendment will achieve either have been achieved or will be achieved through other statutory provisions or through other provisions in the Constitution.

On the other hand, I am absolutely convinced that the dire consequences which opponents of the equal rights amendment predict will occur with its passage are totally without foundation. The equal rights amendment does not affect the law relating to abortion nor will it require public funding of abortion. It does not have anything to do with homosexuality or so-called gay rights. It does not affect family relationships. It does not affect religious practices within religious orders, nor does it affect religious beliefs. It does not affect how people treat each other in society in terms of etiquette or courtesy. Nor does it have any effect on the right of Congress to conscript women or not to conscript women, or to have them play a role in combat or not to play a role in combat. It would not require any of this.

The equal rights amendment relates primarily to the economic rights of women and the principle that women shall be treated without adverse discrimination under the law just because they are women.

I think it would have been better to make changes in the language of the equal rights amendment for a variety of reasons. While I support the equal rights amendment and voted for its ratification when I was a member of the Georgia State Legislature, I think that after it had been through this ratification process, a change in the language might have been appropriate to deal with some of the objections, whether real or imagined, that opponents have raised. I could have supported some change in the language to deal with specious arguments or real arguments, if they exist, against the equal rights amendment, in order to make the clear statement of principle for our Constitution. Unfortunately, that opportunity does not exist at the present time under this motion. But if it is a question of voting for or defeating the equal rights amendment, then I feel we should adopt rather than defeat it.

I do not think the procedure we find today is the appropriate way to consider this issue, and I strongly disagree with the leadership's procedural decision. On the other hand should this effort fail today, I will immediately cosponsor the resolution which will be introduced by my good friend and colleague, the gentleman from New York (Mr. FISH), which will call for an open rule and 4 hours of general debate on the equal rights amendment, so that there can be full debate given to this constitutional amendment and so that any change which might be appropriate to accomplish the purpose of the equal rights amendment and avoid any real or imagined problems can be dealt with in the ordinary process. I will not only vote for, but will cosponsor, an open rule, and I will vote against a closed rule if that should be offered at some time down the line.

In conclusion, let me say that I think that the American people have demonstrated in poll after poll their support for the concept of equality of treatment for all people under the law regardless of their gender. That in my judgment is what this constitutional amendment would do. I believe that the time has come in the history of our country when we should put this principle in writing. That is what we will do by adopting the equal rights amendment.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, veterans' preference in public employment is rooted deep in the legislative history of our country. It has existed in various forms for over 100 years. In the several States it has long been the law that those who have served our country honorably in the Armed Forces during periods of war are entitled to special assistance in hiring and retention in the public sector. On the Federal level the same has been true. The Congress has often expressed its will in this regard. The various Veterans' Preference Acts have been hallmarks of assistance to veterans, particularly those who have become disabled in service to their country. In my opinion the results have been good for our Nation, for those veterans employed in the civil service have served it well and I, for one, have been a long-time supporter of this valued benefit and I would be greatly distressed if it were to be suddenly eliminated. Yet, Mr. Speaker, there is a valid concern among many that that might well happen if the equal rights amendment to the Constitution were to be passed.

Mr. Speaker, on September 14, of this year the president of the league of women voters of the United States testified before a subcommittee of the House Judiciary Committee. She specifically testified that a Supreme Court decision in a Massachusetts case would fall if ERA became law. That statute, while broader in scope than many other such State laws, is not dissimilar to many aspects of Federal law and they too might well fall to a court challenge if ERA is enacted.

Mr. Speaker, my great concerns are that ERA would very possibly:

Eliminate preference in hiring and retaining veterans in the Federal public service, particularly those who are disabled.

Eliminate many preferences given to veterans all across the country in State, city or county hiring and retention.

Eliminate the Federal preferences given to disadvantaged Vietnam veterans.

Mr. Speaker, I want to be absolutely assured that my concerns about the ERA as it affects veterans' preference in employment are unfounded. In that connection, I inform the House that my concerns are fully shared by each of the major veterans' organizations.

Thank you, Mr. Speaker.●

● Mr. COURTER. Mr. Speaker, I rise to express my great reservations about the way this measure is being brought before us today. My position has consistently been to support efforts to provide equal protection and opportunities for all Americans, regardless of sex. The ERA attempts no more and no less than to insure these essential rights, and, for this reason, I feel it is my duty to vote in favor of House Joint Resolution 1.

However, I feel the House leadership has committed a grave error in bringing the equal rights amendment to the House floor under suspension of the rules. Not only does this decision show a reckless disregard for the integrity of House procedures. It also undermines the credibility of the amendment we are debating. Our vote on the ERA is one of the most important votes we will make in the 98th Congress. As an amendment to the Nation's basic charter, it has the potential to affect the lives of each and every American citizen. We have a duty to clarify what we want the ERA to mean and how we expect it to be interpretted by the courts. But, by limiting debate to a paltry 40 minutes, and by eliminating the opportunity for the Chamber to consider each concern

about the ERA's repercussions, the leadership has done a great disservice to this initiative. The leadership has also restricted our ability to express and represent all our constituents' views.

In view of these restrictive procedures, let me take this opportunity to reaffirm my commitment to limiting the Federal funding of abortion. The convictions evidenced by my consistent voting record in opposition to Federal involvement in the abortion issue remain unchanged. My support for the principle of equal rights for all citizens must not be perceived as rising above my belief in the sanctity of human life. Protection of each individual's rights under the law can and should coexist with protection of the lives of the unborn. By voting for the ERA we will insure men and women are afforded the same legal treatment and opportunities. This will not affect our struggle to provide equal opportunities to those yet to be born.●

● Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment to the Constitution.

Since the first consideration of the ERA in 1972, I have been committed to its passage in the Congress and its ratification by the States. As an original cosponsor of this resolution, I am still convinced that the ERA is the only way to insure equal rights for all Americans. Over the past 20 years, the Congress has approached the issue of women's rights haphazardly. Several laws have been enacted in an attempt to eradicate discrimination based on sex. The Equal Pay Act, the Civil Rights Act of 1964, and the Educational Amendments of 1972 all contain provisions prohibiting sex discrimination in certain federally funded programs. Although these are steps in the right direction, this approach is slow and not sufficient to correct all the defects in State laws or to prevent all discrimination at the Federal level.

Even though I am committed to the ERA, I am concerned about the parliamentary procedure used today for the consideration of this constitutional amendment. Last January, I spoke on the floor in support of the ERA when the joint resolution was introduced. At that time, I emphasized the serious nature of amending the Constitution of the United States. I do not take lightly this act of amending the fundamental law of our land. The suspension of the rules procedure precludes the offering of perfecting amendments, and this closed rule severely limits congressional debate on this important civil rights issue. It only benefits all those concerned about the impact of the ERA to have a clear legislative history of congresssional intent for such an amendment on issues like the draft, veterans preference, and abortion. I am particularly concerned about the ERA and abortion.

As an original cosponsor, it is my sincere belief that the ERA is an economic and civil rights issue and not an issue concerning lifestyles and basic human rights. Case law and legal precedents have ruled that the ERA and abortion are separate, distinct issues. Abortion cases have always been decided by the State and Federal courts either under the constitutional principle of right to privacy or due process. In Massachusetts, for example, the State Supreme Court ruled that the State ERA and the abortion issue were separate. In 1981, State medicare restrictions on abortion were challenged under the ERA. The court rejected the ERA argument, but struck down the restrictions based on the State due process provision. In Connecticut, the ERA-abortion right claim was also rejected by the courts. It is clear to me that the grounds of the court's finding have nothing to do with equal rights for women.

As my constituents well know and many in the House are aware, I strongly disagree with the courts ruling against abortion restrictions on any basis. Just last month, I offered the Hyde language to the Labor/HHS/Education appropriations bill for fiscal year 1984. My convictions on the issue of abortion have not changed. The record clearly reflects this assertion.

I am sure that Members opposed to the ERA will argue that there is a connection between abortion and the ERA. But the history in the States—the precedent that has been set—forcefully indicates that the courts will not tie the two issues. There is no reason to conclude that the Supreme Court will broaden the basis of its previous rulings on abortion related issues.

I hope that this statement clearly expresses this sponsor's intent for the impact of the ERA. Although the legislative history—so important to the interpretation of any constitutional amendment—will be brief, the issue of abortion and the ERA remain distinct and separate in my mind as I vote in favor of House Joint Resolution 1.●

● Mr. FRENZEL. Mr. Speaker, the equal rights amendment is based on a principle whose time should have come long ago. Because it is designed to equalize opportunity for about one-half of our population, ERA has become the most prominent U.S. symbol of equality.

I believe in the ERA. I sponsored the resolution which passed and presented the question to States. I sponsored the time-extension for State consideration. I am a sponsor of House Joint Resolution 1, which brings ERA to us today. I have strong feelings in favor of vocational equality, and in favor of the ERA.

A principle as important as ERA should be treated with the utmost care. Hearings, discussion, debate, and amendment should be straightforward, bipartisan, and in accordance with regular and open parliamentary procedures.

Unfortunately for ERA, and for those who believe it, we do not have regular procedure today. The House leadership has given us the worst process possible, a gag rule with no amendments and restricted debate.

No friend of ERA would handle the amendment this way. No friend of ERA would jeopardize the ultimate adoption of the amendment by untimely, partisan, and highly restricted consideration of this bill. Any person who has a consistent devotion to the integrity of the legislative process is likely to vote against House Joint Resolution 1 today. Such a vote would be hard to criticize because of the outrageous procedure.

The process is awful. It is a violation of responsible procedures. It will surely damage the chances that ERA will ever be passed and ratified. The extent of those damages cannot be ascertained now, but the responsibility for them can clearly be laid at the feet of the House Democrat Caucus and its leadership.

Despite all the reasons the House leadership has given us to vote against ERA, my feelings in support of it are too strong for me to cast a negative vote. The ERA is too important to be put off by partisan Democrat games.

I shall vote therefore for House Joint Resolution 1. Perhaps its passage and ratification will help to create an environment in which future Congresses will not succumb to partisan urges to employ gag rules.

ERA represents equality. It is a step toward perfecting our society. It is the very least we can promise our daughters. I hope it will receive the two-thirds vote of approval required.●

● Mr. BILIRAKIS. Mr. Speaker, there is no question that women in this country are not accorded equal treatment, most particularly in terms of comparable pay for comparable work. However, the equal rights amendment, as reported to this body, is not the appropriate forum to make the necessary corrections.

Rather than amending the Constitution of the United States, we should aggressively address legislatively those areas in which inequality exist. I am proud to say that I am the sponsor or cosponsor of a number of measures which seek legislative remedy for inequality.

Therefore, let no one consider my vote against the equal rights amendment before us today as a vote against providing women with the equal protection that our Constitution and traditions demand. Rather, as so clearly

pointed out in this morning's Washington Post editorial, it is a vote against the manner in which this important issue is to be considered—without the opportunity for detailed discussion and clarifying amendments. The equal rights amendment raises almost as many questions as it was designed to answer—most notably whether the congressional prohibition against Federal funding of abortion can remain intact, whether funding for single-sex private and parochial schools will be allowed, and whether the veterans' preference in hiring will be permitted to remain.

Since there is no way, in the scant 40 minutes of debate allowed under the rule imposed by the Democratic leadership, that these issues can be discussed fully, let alone resolved—there is no way a thinking Member can support ERA today. For that reason, I must oppose the ERA and continue my efforts to make our laws apply equally and equitably to both sexes.

[From the Washington Post, Nov. 15, 1983]

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lost this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

MIKE BILIRAKIS' EFFORTS FOR WOMEN

There is no doubt that there are many areas which must be ameliorated in an effort to provide equity and assurance that women will be treated equally. I abhor discrimination of any kind and I am committed to securing equal rights under the law for women and for all Americans. I believe the actions listed below show my commitment.

INDIVIDUAL RETIREMENT ACCOUNTS

The present law controlling contributions to spousal IRAs restricts the full $2250 tax deduction to those couples including a nonworking spouse. If that nonworking spouse earns even $1 of compensation during the tax year from serving as an election official, a juror, or a babysitter and reports it, the law bars the couples from claiming the full $2250 deduction; instead, they could claim only a maximum of $2001. I have cosponsored H.R. 2468 which provides that a spouse earning less than $250 annually would not be disqualified from the benefits of a spousal IRA.

As a member of the House Aging Committee I have been made keenly aware that this nation has a poverty class primarily composed of elderly women, which is a sad reward for homemakers who devoted their lives to providing for their families. To remedy this injustice, I have cosponsored H.R. 3266 which permits spouses to combine gross incomes to determine the amount that can be contributed to each spouse's IRA. This bill will increase the amount individuals can contribute based on a formula, from the present $2000 to $5000 over a three year period.

Again because I feel strongly about the need to expand the ability of women to provide for their retirement years, I am a cosponsor of H.R. 2099. This legislation, which is part of the omnibus Economic Equity Act, would allow the earning spouse to deposit up to $4000 a year in an IRA on behalf of both spouses. The present limit is $2250—$2000 for the earning spouse and just $250 for the non-earning spouse, usually the homemaker. This bill would also permit a spouse who earns a very small amount of money each year—less than $2000—to open her own IRA in an amount based on the earnings of the higher-earning spouse. This will be particularly good to those women who hold down low-paid part-time jobs outside the home and are presently denied the full advantages and future security of an IRA. This legislation would allow alimony to be defined as income for purposes of opening an IRA.

WIVES OF CIVIL SERVICE EMPLOYEES AND MEMBERS OF THE MILITARY

As the divorce rate has increased and the number of poor, elderly women continues to grow, a number of inequities in the laws governing benefits for surviving and divorced spouses of civil servants and members of the military have come to light. With this in mind, I have been deeply involved in seeking legislative remedies.

Under current law, divorced spouses of civil servants are denied any civil service survivor benefits after the termination of a long marriage and this has left many divorced spouses who were married 20 or 30 years in desperate financial straits. I am cosponsoring H.R. 2300, the Civil Service Spouse Retirement Equity Act which establishes, for the benefit of a former spouse who was married at least ten years, a presumption of entitlement to a pro rata share of the survivor and retirement annuities based on years of marriage during creditable years of service. The bill allows the courts to modify or reject the presumption depending on the circumstances of each individual case. I might also add that I testified on behalf of this legislation on Thursday, October 20th, before the appropriate subcommittee.

Long-term military spouses who become divorced are also unfairly penalized by the present system. I am a cosponsor of H.R. 2715, the Uniformed Services Former Spouses Health Care Act, which provides medical coverage for former spouses who have a disease or disability attributable to the service of the armed forces member.

Two other bills of interest which I am cosponsoring are H.R. 433, which provides elderly veterans' widows who remarry after age 60 with the same entitlement to continued dependency and indemnity compensation as Civil Service and Social Security beneficiaries, and H.R. 1376, which clarifies the law so that a surviving military spouse will not have her survivor benefits offset by the amount of her social security benefits if those benefits are based on her own work history.

I introduced the Forgotten Widows legislation, H.R. 3686, which would provide benefits under the Uniformed Services Survivor Benefit Plan to the widows of servicemen who retired or died prior to enactment of the Survivor Benefit Plan in September 1972. This group of forgotten military widows have been denied the recognition and compensation they have earned through their years as a military wife and are now elderly and many are living in poverty conditions. There is a precedent for this change, since the Civil Service SBP was made retroactive 25 years ago. Our military wives deserve no less. The costs of providing benefits to these elderly women will decrease in future years.

WOMEN VETERANS

As a member of the House Veterans' Affairs Committee, I was actively involved in having legislation passed by the House which I sponsored, that will establish within the Veterans' Administration and Advisory Committee on Women Veterans. This Committee will have the responsibility of addressing the serious problems of female veterans that have largely gone unrecognized because of the emphasis placed on male veterans. In order to create greater awareness of the contributions and needs of women veterans, I have introduced legislation to designate September 14, 1984 as National Women Veterans Recognition Day.

EDUCATION

Title IX of the Educational Amendments of 1972 provides the federal commitment to educational opportunities for men and women alike. Title IX was designed to provide broad coverage to those men and women who attend educational institutions receiving federal funds. However, the courts have recently interpreted the regulations in a significantly more restrictive manner.

Thus, I have cosponsored H. Res. 190 reaffirming support for the enforcement of Title IX as the Congress originally intended and that is equality in education and a prohibition on gender discrimination.

I recently voted for passage of the appropriations bill which provides funds for Department of Education activities. Among those programs which I supported is the Women's Education Equity program which supports national, state and other projects designed to promote educational equality for women through guidance and counseling activities, preservice and in-service training for educators, and courses for underemployed and unemployed women. This legislation clearly instructs the Department of Education to take no action which will undermine the integrity of the program. In this same bill were funds for vocational education programs, which provide women an opportunity to seek non-traditional jobs once they have completed their education. It is this sort of commitment that has encouraged women to seek non-traditional training and also professional degrees, which increase their earning power.

CIVIL RIGHTS AND DISCRIMINATION AGAINST WOMEN

I voted for passage of H.R. 2230, the Extension of the Civil Rights Commission, which is of paramount importance in ferreting out discrimination as it applies to the elderly, handicapped women, minorities and voters. Efforts were made to politicize this independent commission through legislative maneuvers; however, I supported legislative language which will ensure that this commission will be able to carry out its mandate without pressure to adopt the civil rights views of any Administration whether Republican or Democrat.

SOCIAL SECURITY BENEFITS

Statistics indicate that women tend to outlive their husbands. In addition to the grief of the survivors, the present Social Security law does not provide any benefits for the month in which the Social Security beneficiary dies. For instance, if a male beneficiary died at 11:57 p.m. on the last day of a month, his widow would be required to return his Social Security check to the government. I am cosponsoring H.R. 951, which would permit the survivor to have access to the expected income based on a prorated share taking into consideration the number of days the beneficiary lived during the month of his or her death. I believe the present system adds insult to injury and requires immediate change.

CHILD SUPPORT ENFORCEMENT

This is a critical economic issue to women who head single parent families. In many instances when absent fathers shun their financial responsibility, the taxpayer is left to assume the father's child support obligations. Because working women usually earn less than men, regular child support payments are crucial to their children's economic stability. It is estimated that between a quarter and a third of fathers never make a single court-ordered payment and the mothers lack the resources to pursue legal remedy through the courts. I was a cosponsor of legislation which would designate a month as National Child Support Enforcement Month, which would serve to stimulate much needed public attention on the issue of child support as every child's right and every parent's responsibility. This bill has been signed into law.

In addition to raising the public's sensitivity to child support, I am a cosponsor of legislation which would mandate that state court-ordered child support payments be automatically withheld from wages, including arrearages. The language in this legislation is geared toward reciprocity between states so the absent parent cannot skip his or her responsibility by moving to another jurisdiction. My decision to support this legislation is based on the extreme difficulties faced by single parents trying to raise their children alone, and by the numbers of elderly individuals who are using their meager incomes to contribute to their grandchildren's economic well-being.

RECOGNITION OF THE WOMEN'S MOVEMENT FOR EQUAL RIGHTS

Seneca Falls, New York, was the site of the first women's rights conference in 1848, and it is here that the National Women's Hall of Fame was established to provide a permanent place of honor for America's most outstanding women. I am cosponsoring a bill which would provide a Federal charter to the Hall of Fame.

DISPLACED HOMEMAKERS

I have introduced legislation, H.R. 4208, which will provide an ongoing targeted jobs tax credit to employers who hire a displaced homemaker, and I am also a cosponsor of another displaced homemakers bill. An example of the displaced homemaker is: Mrs. Smith has two children. Her husband and the sole support of the family died when she was 45 years old. She had never handled family finances nor had she worked outside of the home; thus, she had few job skills. She is a displaced homemaker in need of an income producing job, which will be difficult in view of her lack of professional job skills. Under my bill, an employer will be given an incentive to hire her and thus assure that she and her children will be self sufficient and not be dependent on the society for financial assistance.●

PASS ERA WITH CLARIFYING AMENDMENTS

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon against the unfair, undemocratic procedure under which we are today considering the proposed equal rights amendment.

That procedure precludes any Member from offering any amendment whatsoever to the ERA and restricts debate on this vital issue to a mere 40 minutes.

I point out to my colleagues that even the chairman of the House Judiciary's Subcommittee on Civil and Constitutional Rights—a Member who opposes all amendments—has stated that he wants an open rule on the ERA.

In a letter dated June 27, 1983, Chairman Edwards wrote: "we will bring it (ERA) to the House floor under an open rule. I agree with you that any bill as important as a proposed constitutional amendment should have an open rule."

The distinguished chairman of the full Judiciary Committee, Mr. RODINO of my home State, has spoken eloquently to the question of open debate for constitutional amendments. When the House was considering limiting debate to 1 hour on a busing constitutional amendment in 1979 Mr. RODINO declared: "* * * Such a spectacle, I must suggest, would demean our democratic system, this legislative body, and each of us." (CONGRESSIONAL RECORD, July 24, 1979, 20361)

The ERA has 40 minutes today, Mr. Speaker; 40 minutes.

I rise as a Member who would very much like to support the ERA. But I consider it my duty, in conscience, to insist that it be properly amended with clarifying language in some fundamental areas of law to prevent sweeping reversals of important public policy by the courts.

I strongly support clarifying amendments that would have been offered here today had the House Democratic leadership not imposed an absolute closed rule on such amendments.

I want to point out to my colleagues that: even Lane Kirkland, president of the AFL-CIO has recognized the need for clarifying amendments. In his testimony before a House subcommittee he said:

> Finally, while we recognize that a few substantial issues have been raised—such as the effect, if any, of the ERA on the right to an abortion and the status under the ERA of restrictions on the role women may play in the military services—we believe Congress may, and should, provide authoritative guidance to the courts in these areas.

In order to provide the House with a full and open debate on the ERA, and to allow amendments to ERA, I have cosponsored the open rule resolution introduced earlier today by ERA supporter Representative HAMILTON FISH of New York.

That resolution would allow 4 hours of debate—not 40 minutes—and amendments to ERA would be made in order. Mr. FISH's resolution is a fairness rule—and I sincerely hope it helps facilitate prompt consideration of the ERA in this House.

Mr. Speaker, the first amendment this body could and should have considered would have effectively taken abortion out of the ERA. It reads: "Nothing in the article (ERA) shall be construed to grant or secure any right relating to abortion or the funding thereof."

The abortion neutral amendment would eliminate the distinct possibility that the ERA, If unamended, would strike the Hyde amendment as unconstitutional.

According to prominent ERA advocates the main legal effect of ERA would be to turn sex-based classifications into suspect classifications under the Constitution—just as race-based classifications are now. Thus under the ERA, sex-based classifications would receive the same so-called strict judicial scrutiny—a rigid constitutionality test employed by the Court—which race-based classifications now receive.

Representative HENRY HYDE, author of the Hyde amendment stated before

a Senate Subcommittee on May 26, 1983:

Since 1970, the ERA advocates have emphasized that the Amendment's principal legal effect would be to make sex a "suspect classification" under the Constitution. The most important "suspect classification" at present is race. If sex discrimination were treated like race discrimination, government refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races. Suppose the Federal Government provided funding for procedures designed to treat most diseases, but enacted a special exclusion for sickle-cell anemia (which affects only black people). The courts would certainly declare that exclusion unconstitutional.

On October 20, 1983, the Congressional Research Service—a branch of the Library of Congress—issued a legal analysis of the ERA-abortion connection. The CRS report included this conclusion:

* * * if strict scrutiny, the most active form of judicial review, is the standard applied [under ERA], then the answer to the question whether pregnancy classifications are sex-based classifications would seem to be affirmative. It would then follow that the ERA would reach abortion and abortion funding situations. It is very difficult for the government to meet the burden of showing that the classifications in question serves a compelling state interest, thus, classifications subjected to active review are almost always invalidated as being violative of the Constitution.

Mr. Speaker, put another way, the Hyde amendment and other pro-life initiatives would be decimated by the Court.

Mr. Speaker, another important amendment—that I support—would have prevented the Supreme Court from striking as unconstitutional current law barring women from assignment to combat-duty roles. This amendment is supported by numerous organizations including the Veterans of Foreign Wars (VFW). The amendment reads: "This article [ERA] shall not be construed to require the assignment of women to military combat."

In a scholarly Yale Law Journal article entitled "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Woman," four constitutional experts—Brown, Emerson, Falk, and Freedman—wrote "women will serve in all kinds of military units and they will be eligible for combat duty."

Senator ORRIN HATCH, chairman of the Senate Judiciary Committee, states in his book, "The Equal Rights Amendment, Myths and Realities":

Not only would men and women likely be drafted on equal terms, but they would likely be assigned to all military duties on equal terms, including combat duty. This would alter current law in which women are excluded from most combat positions, including infantry and armor specialist, field artillery, and air defense.

ERA proponents frequently minimize the difficulties involved in equal combat roles by emphasizing that only "qualified" men and women would be assigned to combat. This is a deceptive argument. It is deceptive in that recent civil rights history repeatedly shows that where eligibility standards and tests fail to result in "representative" proportions of minority individuals in employment positions, or in colleges and universities, the customary response of civil rights proponents has been to call into question the eligibility standards and tests themselves—in other words, to blame the messenger for the message.

If military requirements establish minimum levels of upper body strength or physical endurance, for example, and almost all males satisfy that standard and almost no women do, the validity of the standards themselves will be challenged in court rather than feminist organizations conceding that the neutral application of these requirements simply results in fewer female than male troops. This is not pipe-dreaming or speculation; it is already taking place. It is taking place, for example, at the military academies where women are no longer subject to the same standards as men in the arts of boxing or wrestling or in developing upper body physical strength. It is taking place in the military itself where women are exempt from some of the most rigorous physical tasks. And it is taking place in a similar outside the military where requirements for police and firefighters and prison guards are being altered where they lead to "under-representation" for women. If women are unable to satisfy a firefighting test of being able to drag a 300 pound body 100 yards, then demands are made for tests of 200 pounds and 75 yards.

* * * The realities of life, as Brigadier General Elizabeth Hoisington has described them, are that:

Women cannot match men in aggressiveness, physical stamina, endurance, and muscular strength in long-term situations. In a protracted engagement against an enemy, soldiers with these deficiencies would be weak links in our armor. We cannot build a winning army if the soldiers in it have no confidence in the long-term mental and physical stamina of their comrades.

The Equal Rights Amendment would effect a revolution in the way that the military does service for this country. It is far from clear that this revolution is one desired by the American people; that it is consistent with their values; or that it would not undermine the primary responsibility of a free government—the preservation of the national security.

Mr. Speaker, another important amendment that I believe should be added to the ERA would protect veterans preference from being invalidated as unconstitutional. The amendment reads: "This article shall not be construed to affect any benefit or preference given by the United States or any State to our veterans."

Indeed the threat to veteran's preference is real but little discussed. The Women's Defense Fund, for example, has argued that "veterans preference programs, by which veterans are given strict hiring preference in civil service positions, are in violation of the Constitution because more men than women are veterans."

Again, as in the abortion-funding issue and women in combat, the application of a strict judicial scrutiny court test—the acknowledged aim of the ERA lobby—would result in veterans preference being invalidated by the courts.

Mr. Speaker, just as clarifying language is necessary to protect women from being forced into combat roles, this amendment enjoys the support of key veterans organizations including the Veterans of Foreign Wars (VFW).

As a matter of fact, VFW National Commander Clifford G. Olson has stated that it is imperative that the ERA contain these two important amendments. In a letter to Members of Congress dated November 10, 1983, he wrote: "If these amendments are not made to the legislation, it will be wholly unacceptable to the more than 2.6 million members of the Veterans of Foreign Wars of the United States and our Ladies Auxiliary and I would urge you in the strongest terms to vote against the passage of H.J. Res. 1 (ERA)."

Mr. Speaker, I would like to speak to another amendment that was to be offered here on the floor today, but you would not allow, an amendment which was narrowly defeated in the full Judiciary Committee last week. The amendment would have protected single-sex schools—seminaries, all-boy or all-girl high schools, colleges, and the like—from being attacked as discriminatory. The amendment reads: "Nothing in this Article [ERA] shall be construed to relate to private or parochial educational institutions." Prof. Jeremy Rabkin, the director of the program on public policy and the courts at Cornell University, testified before the Senate Subcommittee on the Constitution that: "it seems inescapable that all single-sex institutions must be denied tax exemptions. Thus, ERA would not only make all-women colleges ineligible for tax exemptions, but also Catholic seminaries, for example, unless they admit women for training to the priesthood." He further stated: "it seems inescapable that an institution like Yeshiva University of New York, which does have coeducational programs, must still forfeit its tax exemption if it maintains separate seating for men and women in religious services."

Prof. Mongan of Columbia Law School stated in testimony before the House Subcommittee on Civil and Constitutional Rights said: "I think you could also revoke the tax exemption of even a theological school or seminary that was discriminating."

I think it should be clear that the ERA proposal is in need of some meaningful amendment to strengthen it. But that vital deliberative process, again let me say, has been frustrated by the Speaker of the House.

Mr. Speaker, a constitutional amendment is indeed a sober undertaking. The consideration of the ERA by the

House of Representatives has been trivialized by its treatment here today. It is my earnest desire, Mr. Speaker, to see the ERA passed in this Congress and ratified by the States in a meaningful, responsible form, absent its present liabilities.

The Speaker of the House has denied us that opportunity today.

Mr. Speaker, lest anyone be tempted to simple-minded conclusions, let no one misconstrue my vote here today.

Today, I vote against an unfair procedure—a procedure that forbids clarifying amendments. I vote for the right of Members to offer amendments to clearly define the ERA. After all, Mr. Chairman, I support all the major initiatives, past and present, to insure equality under law for women.

To illustrate and underscore the point, I point out to my colleagues that I strongly support the following:

First, Equal Pay Act—prohibits discrimination on the basis of sex in the payment of wages for equal work performed.

Second, title VII—prohibits discrimination on the basis of sex with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

Third, title IX—prohibits discrimination on the basis of sex in education programs that receive Federal support.

Fourth, revenue acts—provides for the deduction of child-care expenses, allows IRA's for nonworking spouses, and eliminates estate tax for widows.

Fifth, Manpower Act—prohibits discrimination on the basis of sex in regard to Federal jobs programs.

Sixth, Housing and Community Development Act—prohibits discrimination on the basis of sex in housing and mortgage lending.

Seventh, title VIII—prohibits discrimination on the basis of sex in rentals and home selling.

Eighth, Equal Credit Opportunity Act—forbids discrimination on the basis of sex in any aspect of credit transactions.

Ninth, Pregnancy Disability Act—requires employers to include coverage of maternal benefits within the scope of health insurance programs.

Tenth, Executive Order 11246 (as amended)—prohibits discrimination in employment on the basis of sex on the part of governmental contractors.

Mr. Chairman—pending legislation that I have cosponsored and support which would aid women includes:

First, H.R. 2090; Economic Equity Act—an omnibus bill aimed at eliminating sex discrimination in such areas as tax and retirement matters, dependent care, insurance and child support and enforcement. I am proud to be a cosponsor of this legislation.

Second, House Resolution 109—a resolution expressing the sense of the House on the need to maintain guidelines which insure equal rights with regard to educational opportunity. I am a cosponsor.

Third, H.R. 1527; Federal Equity Act—a bill to amend the laws of the United States to eliminate gender-based distinctions throughout the United States Code. I have cosponsored this legislation.

Fourth, H.R. 4280, revision of H.R. 2100, women's pension equity—a measure that seeks to remove inequitable restrictions on women currently sanctioned by Employee Retirement Income Security Act (ERISA). Would improve credit for maternity leave; expand IRA contribution; insure survivors pensions if spouse dies before annuity starts. I have cosigned letters to six committee leaders urging favorable and expeditious consideration of this legislation.

Fifth, H.R. 4325, Child Support Enforcement Amendments of 1983—a bill that insures that children will be able to receive financial support from delinquent parents. Encourages interstate enforcement, and requirement of spousal support as well. I have cosponsored another bill, H.R. 3354 which would go even further than the new bill, to protect the rights of spouses and their children. However, H.R. 4325 was reported from committee and is presumably the bill that we will consider on the floor. This legislation also has my support.

Mr. Chairman, the ERA must be amended. I urge my colleagues to defeat the motion to suspend the rules and support an open rule—the fairness rule—so that this House will be able, at some not too distant future date, to properly address and debate the ERA and consider several rational, substantive amendments to it.●

● Mr. NIELSON of Utah. Mr. Speaker, over the past decade we have witnessed one of the most divisive political battles this country has ever seen. The so called equal rights amendment, after a 7-year consideration period, and an unjust and illegal extension period, was soundly defeated according to the wishes of the American people. The elected officials of each State had ample time in which to consider this amendment to the Constitution. At the end of the 10-year period, the American people had spoken. The ERA was defeated. Why has this misguided amendment resurfaced when the American people have clearly spoken. Across this Nation there is practically zero interest in this amendment. It is only here, in the Congress, that this amendment is still a hot issue.

When the ERA came before the Utah State Legislature, I was speaker of the house at the time. Many States had passed this amendment almost without debate. In those days, few had really considered some of the far reaching effects of this seemingly innocent group of words. When Utah became the first State to stop ERA, many who had previously given little thought to the implications of the amendment, began to study it more carefully to determine just what effect ERA would have on our society. Since that time, a mountain of objections has surfaced. Many who previously considered the amendment to be a good step have now recognized the many serious dangers to our society that the amendment poses.

Just what would ERA do? When the 14th amendment to the Constitution was passed, it insured that all persons would receive equal protection under the law. This means that all laws would be especially scrutinized to make certain that they would not be discriminatory on a racial basis. Race became a special classification by which laws were subject to extra examination. Sex, too, became a special classification. Laws which discriminate on the basis of sex came under special scrutiny. With very few exceptions, laws that discriminate on the basis of sex became unconstitutional The only exception became when an excellent and logical case could be made for different treatment of the sexes. When a law is challenged under the 14th amendment, two key questions are asked by the courts: First, is there a strong and compelling reason for such a difference in treatment? And second: Is there any other way that the legislature could have achieved its purposes other than by treating men and women differently? This has proven, over the years, to be a rational, reasonable, and effective approach to public policy. What ERA would do would be to make sex a suspect classification for judicial review just as race now is. Under the absolutist and unyielding language of the ERA, there would be no possibility, under the U.S. Constitution, for ever making any differentiation, reasonable or not, between the sexes. No argument, no matter how compelling, would allow any law or policy to distinguish between men and women.

The effects of making sex a suspect category would be far reaching and devastating:

First, since no differentiation could be made between the sexes in the military, women would be drafted and sent into combat on the same basis as men. In the past, this policy has been debated in Congress many times. If ERA became a part of the Constitution, there would be no debate. Even though the American people overwhelmingly oppose drafting women or placing them in combat situations, the Constitution would mandate it. The people would lose the right to make that decision.

Second, family law would be seriously affected. Husbands would no longer

be under legal obligation to support their wives. Since homemakers would be eligible for separate social security benefits, family taxes would have to be raised to cover the cost of this. There are those that have even argued that ERA would require government-supported child day-care centers in order to insure that men and women have a genuine "equality of right" to enter the work force. Child custody laws would be seriously affected in order to guarantee that absolute equality of custody would be achieved. Property rights in marriage, which have been decided by State laws, would be totally decided on the basis of equal treatment, throwing out any special protection laws that States may have afforded to homemakers. The presumption of family names might be affected, leading to countless problems in property title searches, location of heirs, and identification of familiar status of individuals for a variety of formal and business purposes. Because of the extra financial and legal pressures placed on the family by ERA, the traditional role of homemaker will become an increasingly difficult choice for women to make. Many women still wish to choose homemaking as a career. ERA would effectively work to eliminate this choice for women.

Third, present labor laws would be affected. Special protection laws which women's unions have worked for years to achieve would be thrown out in one fell swoop. Laws which require minimum sanitary conditions in the workplace for women, maximum hour laws for women, laws limiting the physical exertions of women, and laws providing minimum rest periods for women could all be found unconstitutional. Since the many professional women which applaud ERA are rarely if ever confronted with situations that apply to these laws, they feel rather differently about abolishing these laws than blue-collar women do. Elimination of such laws would cause an increased physical and emotional burden on women working in factory jobs and other physically demanding jobs. Under ERA, no matter how compelling a case could be made for some protective labor law, they would be constitutionally prohibited.

Fourth, since sex would become a suspect category under ERA, laws which related to abortion would come under judicial scrutiny. Under the 14th amendment, the right to an abortion or the public funding of abortion has always been denied. Under ERA if surgery for men's disorders were funded under medicaid, all women's operations, including abortion, would have to be funded. Abortion would become a constitutional right and so would the public funding of abortion. Let me stress to my colleagues that public funding of abortion would become a constitutional right. If you believe, as I do, that abortion, except to protect the life of the mother, is the shedding of innocent blood, you cannot support ERA. If you believe that there should be no public funding of abortion on demand, you cannot support ERA. You cannot be pro-ERA and pro-life at the same time.

Fifth, insurance practices would be completely changed. Since there could be no distinction based on sex for setting rates, gender could not be used as a determining factor. In that event, women, who have better and safer driving records, and live healthier, and longer lives, would lose the advantage they now enjoy in insurance. Women, who now pay lower insurance premiums, would be forced to pay higher premiums, subsidizing men who cause the majority of accidents and live less healthy and shorter lives. Since I have been a professor of statistics for over 20 years and have taught actuary classes, I assure you that gender is a perfectly reasonable criterion for determining insurance rate tables. Women should have the right to reap the benefits of their superior records. I fail to see how any woman who is paying lower insurance premiums is being discriminated against.

In addition, group insurance plans would be required to provide abortion insurance. That is to say that all employers would be forced to provide abortion insurance for their employees under ERA, regardless of how these employers feel about abortion. This means that churches, such as the Catholic Church or the Mormon Church, would be compelled by the Constitution to provide abortion insurance for their female employees.

Sixth, under ERA, private organizations and churches that treat men and women differently would likely lose their tax-free status. Church schools with separate dormitories could be forced to change their policies or pay crippling taxes if it were determined that these policies were in conflict with public policy. Churches that deny women the priesthood or treat women differently in some way could be in danger of losing their religious freedom if their policies were against public policy.

Seventh, as gruesome as these few aspects of ERA seem, probably the most objectionable part of ERA is this. ERA will take considerable power away from the elected officials of the people in both the States and the Congress and give this power to the courts. Literally thousands of issues of public policy will have to be decided by the Supreme Court with no possibility of input from the people of the United States. Because of ERA's absolute mandate of a sex-neutral society, there could be no debate except in the Supreme Court. Nine upper-class lawyers would be deciding the fate of over 200 million Americans on a vast range of issues. I ask you. Are we really willing to trust the fate of this great nation to nine individuals who sit in the Supreme Court and are accountable to no one? Are we, as a Congress, willing to relinquish our power and duty to carry out the wishes of the American people? Are we willing to take the right to determine thousands of family and community policies away from the States, taking the power of States away, to a great degree and turning State legislatures into bodies that are powerless to respond to the desires of their constituents? This devastating transfer of power away from States and legislative bodies to the courts is probably the most compelling reason to oppose ERA.

These several objections that I have stated here are only the tip of the iceberg. The list could go on and on. Evidently, proponents of ERA believe that everything, even our entire civilization, is to be sacrificed on the "altar of equal rights." National security, labor protection laws, personal privacy, and over 200 years of cultural tradition and social mores pale next to the necessity of creating a sex-neutral society.

Distinguished colleagues, you and I know that the type of society that this misguided amendment would create is against the interests and desires of the American people. Time after time, proponents of ERA have declared that 66 percent of the American people support the passage of ERA. This is very misleading. Whenever polls are conducted on the effects that ERA would have, that is, drafting women, placing women in combat, et cetera, the American people overwhelmingly respond negatively to the type of society that ERA would create.

When ERA was originally sent to the States, many States passed the amendment without proper debate and consideration. Upon further consideration, five States, Nebraska, Tennessee, Kentucky, Idaho, and South Dakota, rescinded their vote for ERA. When the States of Wisconsin, New York, New Jersey, Florida, Nevada, and Iowa placed ERA on a State referendum, ERA was soundly defeated by overwhelming margins.

While it is true that there are still some laws on the books which discriminate against women, these laws must be carefully carved out with the precision of a surgeon. Let us not hack our society to death with the "meat-ax" approach of ERA. To say that ERA is the solution to the remaining few inequities our civilization faces is like a doctor telling a patient that he or she has a cold and that the cure is to amputate the head. The cold will be cured but the patient will be dead.

Ten years of ERA is enough. ERA has had its turn. It has been defeated. The American people have spoken. ERA is dead. Let us not resurrect it. I would support amendments to ERA which would keep the amendment from applying to abortion and abortion funding, personal privacy, military service for women, insurance, et cetera. I urge my colleagues to do the same. Thank you.●

● Mr. ROEMER. Mr. Speaker, I support equal rights for all Americans, women and men, black and white. But the equal rights amendment, as written, raises serious questions about a number of important issues: Federal funding for abortions, to name just one.

I will vote against ERA as written because it would permit the use of tax money for abortion, because it could put young women into the front lines of combat, because it would prohibit veterans preference in employment, because—finally—we were not given a chance to debate these issues.

I think our goal should be to pass a strong constitutional amendment protecting the rights of women but without all those flaws in the original ERA. I think Congress would pass such an amendment. More importantly, the people of America would support it, too.

I would vote for an amendment like that. Most of Congress would like to see us consider such an amendment—as long as we have plenty of time for debate, as long as we have a chance to add perfecting amendments, as long as we are sure it would do what we intend it to.

The Constitution is a wonderful document, but it is not perfect. An equal rights amendment, with the right kinds of protections, would make the Constitution even stronger.●

● Mr. VOLKMER. Mr. Speaker, I rise in support of the equal rights amendment and the cause for which it stands. I have long supported the ERA, I voted for the amendment the only time it was passed by the Missouri State House of Representatives, and I am a cosponsor of House Joint Resolution 1.

My decision to vote for the equal rights amendment today, however, was not an easy one. I have reservations about some aspects of the ERA, and unanswered questions as to its effects in particular areas, matters which I had hoped would be cleared up during proper deliberation by this Congress. Despite these concerns, I am voting in favor of the ERA, because I fully agree with the noble principle which it embraces—equal rights under the law for all Americans.

My primary concern with the ERA relates to the subject of abortion. No one knows with certainty to what extent ERA will affect abortion laws and abortion funding. I have always maintained that ERA has nothing to do with abortion, that it does not in any way secure a right to abortions. My prolife record is well known, and no one should mistake my support of ERA as endorsing in the slightest the killing of the unborn. However, I am also aware that there are those who maintain other views on this subject—that ERA secures, or may secure, rights to abortion and the funding thereof by the Federal Government.

I firmly believe that the ERA and abortion are two entirely separate issues. The ERA assures that women are accorded the same rights under the law as men; no less, no more. As such, the amendment would not affect the ability of Congress to regulate abortion and abortion funding to the same degree as we are able to under present law.

Prohibitions on abortions do not distinguish between men and women as wholly separate classes. While only women can become pregnant, women who are not pregnant are no more affected by such prohibitions than are men.

Furthermore, such prohibitions do not deny rights to one gender which are granted to another. Federal funding for abortions is denied to all. The fact that only women can become pregnant is physiological, not one established by law. Thus, an amendment which states, as does the ERA, that equality of rights under the law shall not be denied or abridged on account of sex would not invalidate laws as they are not sex-based.

A study prepared by the Congressional Research Service was inconclusive as to an ERA/abortion connection, finding that this issue would largely be determined by the legislative history surrounding the ERA. Proponents of the ERA have repeatedly asserted that ERA has no effect on abortion laws. Furthermore, State courts have heretofore not accepted the arguments of abortion proponents that similarly worded State equal rights amendments invalidate abortion prohibitions.

In order to address concerns in this area, I would have preferred that the ERA contain language stating that the amendment has no effect on the question of abortion or abortion funding. I believe such language would have "cleared the air" and enhanced the ERA's chances for ratification by the required number of State legislatures, but I do not find such language absolutely necessary.

As I stated earlier, I have some reluctance to vote for the ERA under this procedure. However, I have no reluctance to support this statement of a fundamental right. Given my strong conviction that ERA does not affect abortion prohibitions, and my longstanding support of the amendment, I will cast my vote for equal rights.●

● Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment, and I urge my colleagues to join me in voting in favor of the resolution.

The importance of the issue before us today transcends our objection to and the insult of the procedure under which the measure is being brought to the floor. All too often we hide behind procedure in order to sidestep an issue. I challenge anyone voting no today to explain to the 50 percent of this country's population why "procedure" should take precedence over their guarantee to equality.

Yes, I object to bringing the ERA to the House floor under suspension of the rules. Preferrably we should have had every opportunity to fully debate and discuss the concerns about the language of the proposed amendment. But I cannot dispute the argument that we have been debating this exact proposal for more than 10 years—since Congress overwhelmingly approved it in 1972. There is a thorough and extensive legislative history since committee hearings began in the 92d Congress.

Moreover, we have had an equal rights proposal before the Congress for 60 years. In fact, I remind my Republican colleagues that it was Republicans who initiated the debate in 1923 with the first introduction in both the House and Senate of the ERA. As a Republican and a women, I am proud of my party's initiative and foresight. I do not want to see us abandon the ERA now when economic realities dictate the need for the ERA now more than ever.

Women no longer work for "pin money." They are working to support families, to educate their children, and provide a degree of economic security in the future. I am a strong advocate of our traditional family values and sincerely believe that children need and benefit from having a parent at home. But economic pressures have forced mothers into the job market time and time again, especially in the past decade. If a women must work to support her family or if she chooses to pursue a career, she should have every opportunity afforded her male counterparts to succeed and prosper in the job market.

Sixteen States have equal rights provisions in their State constitutions. The experience of the States has been positive. Through legislative reform and court decisions, many laws and practices that discriminated on the basis of sex have been changed. And, very importantly, and contrary to the "parade of horribles" put forth by ERA opponents, the traditional family has remained intact, and the courts have refused to play games with the ERA and sensitive moral issues.

Still, a State-by-State approach is not the answer, neither will a statute-by-statute approach work. The piecemeal approach of the past 10 to 20 years has utterly failed to satisfactorily address the concerns and problems of women. Therefore, a constitutional foundation is needed on which women can build economic equality. There are more than 47 million women in the labor force today, and even with equal pay and antidiscrimination statutes, women continue to earn far less than men do for comparable work and are shut out of much of the job market. Gender-based statutes still on the books also hinder the achievement of equal opportunity for women in marriage and divorce, in education, in credit markets, in insurance, and in benefit and retirement plans.

Let me remind the House that our vote today does not put the ERA into the Constitution—into law. We are voting on whether we should send this proposal back to the people—through their State legislatures—for approval. How do we deny that the majority of Americans clearly want this opportunity again?

The ERA wins in every national poll. In June 1981 Time magazine reported that the ERA was supported by more than a 2-to-1 margin. Other independent polls conducted nationwide have shown that three-quarters of U.S. voters support the exact wording of the ERA. Most recently, in August 1983 Business Week polled registered voters across the country and found 62 percent in favor of the proposed amendment, and the amendment winning in every State.

I am voting today to again put the question of the ERA to the American people, and I am voting for 24 words that will move the country a step closer to achieving one of the principle goals of this Nation—that the United States exists equally for all people—that its citizens, whether male or female, have a firm and clear constitutional guarantee that they will share equally the rights, privileges, and responsibilities of citizenship under the law.

Again, I urge my colleagues to vote on the merits of the issue before us, to cast your vote based on logic and fact, not on emotions that have been stirred by distortions about the ERA. Vote aye on House Joint Resolution 1.●

● Mr. HARRISON. Mr. Speaker, I rise in support of the equal rights amendment which is before this body today.

I have long been a supporter of equal rights for women. This constitutional amendment is a matter of fundamental fairness if we as a nation are to extend a full measure of constitutional protection to over half of our population.

It is morally wrong and constitutionally unacceptable that some women are still denied educational, business, and professional opportunities solely on the basis of their gender. There is also the matter of equal pay for equal work. There are numerous cases on record and extensive statistical evidence from many credible sources indicating that women are often paid less than men for doing identical work. The fact that this unfair practice persists in the face of various statutory prohibitions is all the more indication that the current state of the law is not adequate to assure equal rights for women.

I shall, therefore, vote for the equal rights amendment, Mr. Speaker, because I believe the United States must protect the "equal rights" of all of its citizens.

In doing so, however, I think it is important to stress that there is absolutely no connection between the equal rights amendment and the issue of abortion or the public funding of abortions. I would not support the ERA if there were.

Based on my study of the Constitution while in law school, as a practicing attorney, and for the past dozen years teaching a four-semester course in constitutional law at the college level, I am convinced that those who have somehow read abortion rights into the ERA are mistaken—both in their interpretation of the amendment itself and of the existing body of constitutional law. This conclusion is supported by the opinion of any number of leading constitutional scholars, such as Thomas Emerson of Yale University and Ann Freedman of Rutgers University, who have testified before the Judiciary Subcommittee on Civil and Constitutional Rights.

All of the previous cases on the subject of abortion have been decided on the basis of a woman's "right to privacy." This right is frequently described as a "nontextual right" since it is not explicitly set forth in the Bill of Rights, but is drawn, rather tortuously, from a number of amendments, including the 1st, 4th, 5th, and 14th. This "privacy right" was first expressed by the Supreme Court in a 1965 case, Griswold against Connecticut, which overturned a State law prohibiting the sale or other transfer of contraceptives to all persons, including married couples.

The abortion cases, Roe against Wade and Doe against Bolton, as well as subsequent decisions, then extended the right to personal and reproductive privacy announced in Griswold to include freedom to choose whether to abort a pregnancy subject, in the first trimester, only to the wishes of a woman and the advice of her physician. I have never agreed with this interpretation and have, in fact, consistently stated that I would support a constitutional amendment to overturn these decisions.

The fact is, Mr. Speaker, that there is simply no connection between the equal rights amendment and abortions or the public funding of abortions. I believe that the legislative history of the equal rights amendment and the judicial history of the abortion issue demonstrate that fact. And while I respect those who have come to a contrary conclusion, I believe they are plainly and simply wrong.

Moreover, the history in this Congress is clear. Congress does not favor abortion funding. In this very session, we have consistently voted to prohibit the use of Federal funds for abortions except to protect the life of the mother. I have voted with the majority in each and every instance in which this question has come before us. In light of that incontestable fact, no court could reasonably hold that passage of the equal rights amendment would require the public funding of abortions. It is on that basis that I cast my vote; were it otherwise, I would not support the ERA as I do today.

But a strong commitment to protecting human life from its beginnings to its end in no way precludes a similar commitment to equal rights under the law for all our citizens. Mr. Speaker, the U.S. Constitution is almost 200 years old. It is time the rights of over half the population of this country are recognized in that document.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New Jersey (Mr. RODINO) that the House suspend the rules and pass the joint resolution, House Joint Resolution 1.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 278, nays 147, answered "present" 1, not voting 9, as follows:

[Roll No. 504]

YEAS—278

Ackerman	Bonior	Collins
Addabbo	Bonker	Conable
Akaka	Borski	Conte
Albosta	Bosco	Conyers
Alexander	Boucher	Coughlin
Anderson	Boxer	Courter
Andrews (NC)	Breaux	Coyne
Andrews (TX)	Britt	Crockett
Annunzio	Brooks	D'Amours
Applegate	Brown (CA)	Darden
Aspin	Brown (CO)	Daschle
AuCoin	Bryant	Daub
Barnes	Burton (CA)	de la Garza
Bates	Byron	Dellums
Bellenson	Carper	Derrick
Bereuter	Carr	Dicks
Berman	Chandler	Dingell
Bevill	Chappie	Dixon
Biaggi	Clarke	Donnelly
Boehlert	Clay	Dorgan
Boggs	Clinger	Dowdy
Boland	Coelho	Downey
Boner	Coleman (TX)	Durbin

Dwyer	Kolter	Ratchford
Dymally	Kostmayer	Regula
Dyson	LaFalce	Richardson
Early	Lantos	Ridge
Eckart	Leach	Rinaldo
Edgar	Lehman (CA)	Rodino
Edwards (CA)	Lehman (FL)	Roe
English	Leland	Rose
Erdreich	Levin	Rostenkowski
Evans (IA)	Levine	Roukema
Evans (IL)	Levitas	Roybal
Fascell	Lewis (FL)	Sabo
Fazio	Long (LA)	Savage
Feighan	Long (MD)	Scheuer
Ferraro	Lowry (WA)	Schneider
Fiedler	Lujan	Schroeder
Flippo	Lundine	Schumer
Florio	Mack	Seiberling
Foglietta	MacKay	Shannon
Foley	Markey	Sharp
Ford (MI)	Martin (IL)	Sikorski
Ford (TN)	Martinez	Simon
Fowler	Matsui	Sisisky
Frank	Mavroules	Slattery
Frenzel	McCloskey	Smith (FL)
Frost	McCurdy	Smith (IA)
Gejdenson	McHugh	Smith (NE)
Gekas	McKernan	Snowe
Gephardt	McKinney	Solarz
Gibbons	McNulty	Spratt
Gilman	Mica	Staggers
Glickman	Mikulski	Stark
Gonzalez	Miller (CA)	Stokes
Goodling	Mineta	Stratton
Gore	Minish	Studds
Gradison	Mitchell	Swift
Gray	Moakley	Synar
Green	Moody	Tallon
Gregg	Morrison (CT)	Tauzin
Guarini	Morrison (WA)	Thomas (CA)
Gunderson	Mrazek	Torres
Hall (IN)	Murphy	Torricelli
Hall (OH)	Natcher	Towns
Hall, Ralph	Neal	Traxler
Hamilton	Nelson	Udall
Harkin	O'Brien	Vento
Harrison	O'Neill	Volkmer
Hatcher	Oakar	Walgren
Hawkins	Oberstar	Watkins
Hayes	Obey	Waxman
Hefner	Olin	Weaver
Heftel	Ortiz	Weiss
Hertel	Ottinger	Wheat
Holt	Owens	Whitehurst
Hopkins	Panetta	Whitley
Horton	Parris	Whitten
Howard	Patman	Williams (MT)
Hoyer	Patterson	Williams (OH)
Huckaby	Pease	Wilson
Hughes	Penny	Wirth
Jacobs	Pepper	Wise
Jeffords	Perkins	Wolpe
Johnson	Petri	Wortley
Jones (NC)	Pickle	Wright
Jones (OK)	Porter	Wyden
Kaptur	Price	Yates
Kastenmeier	Pritchard	Young (AK)
Kennelly	Pursell	Zablocki
Kildee	Rahall	Zschau
Kogovsek	Rangel	

NAYS—147

Archer	Crane, Philip	Hansen (UT)
Badham	Daniel	Hartnett
Barnard	Dannemeyer	Hiler
Bartlett	Davis	Hillis
Bateman	DeWine	Hubbard
Bedell	Dickinson	Hunter
Bennett	Dreier	Hutto
Bethune	Duncan	Hyde
Bilirakis	Edwards (AL)	Ireland
Bliley	Edwards (OK)	Jones (TN)
Broomfield	Emerson	Kasich
Broyhill	Erlenborn	Kazen
Burton (IN)	Fields	Kemp
Campbell	Fish	Kindness
Carney	Forsythe	Kramer
Chappell	Franklin	Lagomarsino
Cheney	Fuqua	Latta
Coats	Gaydos	Leath
Coleman (MO)	Gingrich	Lipinski
Cooper	Gramm	Livingston
Corcoran	Hall, Sam	Lloyd
Craig	Hammerschmidt	Loeffler
Crane, Daniel	Hansen (ID)	Lott
Lowery (CA)	Oxley	Smith, Denny
Luken	Packard	Smith, Robert
Lungren	Pashayan	Snyder
Madigan	Quillen	Solomon
Marlenee	Ray	Spence
Marriott	Reid	St Germain
Martin (NC)	Ritter	Stangeland
Martin (NY)	Roberts	Stenholm
Mazzoli	Robinson	Stump
McCain	Roemer	Sundquist
McCandless	Rogers	Tauke
McCollum	Roth	Taylor
McDade	Rowland	Thomas (GA)
McEwen	Rudd	Valentine
McGrath	Russo	Vander Jagt
Michel	Schaefer	Vandergriff
Miller (OH)	Schulze	Vucanovich
Mollohan	Sensenbrenner	Walker
Montgomery	Shaw	Weber
Moore	Shelby	Whittaker
Moorhead	Shumway	Winn
Murtha	Shuster	Wolf
Myers	Siljander	Wylie
Nichols	Skeen	Yatron
Nielson	Skelton	Young (FL)
Nowak	Smith (NJ)	Young (MO)

ANSWERED "PRESENT"—1

Hightower

NOT VOTING—9

Anthony	Jenkins	Molinari
Garcia	Lent	Paul
Hance	Lewis (CA)	Sawyer

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Hance and Mr. Garcia for, with Mr. Hightower against.

Mr. HIGHTOWER. Mr. Speaker, I have a live pair with the gentleman from Texas (Mr. HANCE) and the gentleman from New York (Mr. GARCIA). If they were present, they would have voted "yea." I am recorded as voting "present."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

SEEKING COSPONSORSHIP OF RESOLUTION CALLING FOR OPEN RULE AND 4 HOURS DEBATE ON HOUSE JOINT RESOLUTION 1

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, I just want to remind my colleagues that what has transpired certainly has caused me no joy and I am in the process this afternoon of seeking cosponsorship of a resolution calling for an open rule and 4 hours of debate on House Joint Resolution 1. That will be introduced this afternoon and after the requisite number of legislative days, a discharge petition will be filed.

REQUEST FOR PERMISSION TO INSERT STATEMENT IN THE RECORD ON HOUSE JOINT RESOLUTION 1

Mr. DANNEMEYER. Mr. Speaker, I ask unanimous consent to insert a statement in the RECORD just prior to the vote on House Joint Resolution 1.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from California?

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

APPOINTMENT OF CONFEREES ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 4185, be instructed to insist on the House position on Senate amendments numbered 188 and 191.

The SPEAKER. The gentleman from Florida (Mr. YOUNG) is recognized for 1 hour.

□ 1510

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would explain the purpose of this motion to instruct. It deals with the use of funding in the Defense appropriations bill.

The House Defense appropriations bill included language prohibiting the use of any funds appropriated by this act for the purpose of obtaining animals to be used in certain types of medical training that is found totally revolting by most Members of this Congress and by most American people.

The other body used language somewhat similar, but they restricted the prohibition only to the purchase of dogs and cats. Unfortunately, all of us have seen television documentaries and news accounts of all different

types of animals being hung up or tied to a post and shot, or had their hides scalded while they were still alive for the purpose of training. When I offered this language in the Defense Appropriations Subcommittee, it was adopted and we found no strong objection from the Department of Defense. Yet the other body failed to agree to the same type of prohibition that we have agreed to in the House.

This motion to instruct merely instructs the conferees on our part to stand firm in support of the House language which prohibits the use of any funding in this bill for the purpose of buying or using these animals for medical training.

Mr. Speaker, I yield 2 minutes, for the purpose of debate only, to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. I thank the gentleman for yielding to me.

Mr. Speaker, I certainly do not oppose this motion that Mr. YOUNG of Florida is offering. However, it is simply a smoke screen to prevent us from getting to the issue that I think is most paramount in this bill, and that is whether this House is going to allow its conferees to go uninstructed on the question of resuming chemical weapons production. I would ask the Members when we get to the previous question, that they vote down the previous question, in order that I may offer an amendment to Mr. YOUNG's motion that would instruct conferees of the House not to agree to the Senate position to resume chemical weapons production and its funding.

Mr. Speaker, there is no need for new chemical weapons production whatsoever. It is a waste of taxpayers' money, and I would hope that on the previous question, the Members would vote no so that I could offer an amendment to that effect.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes, for the purpose of debate only, to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. I thank the gentleman for yielding me this time.

Mr. Speaker, I ask my colleagues to listen to exactly the parliamentary situation we are in.

The Senate has offered a motion to instruct conferees. If we do not vote down the previous question, it will exclude another amendment being offered by the gentleman from Illinois (Mr. PORTER) to instruct the conferees to delete funding for nerve gas production and to hold to the House position. It is an important issue, because this House on several occasions voted very strongly not to move toward the production of chemical weapons.

All of us recall the vote in the other body which was a tie vote, and we had to call the President of the Senate, Mr. BUSH, who happens to be the Vice President, to come in and break that tie.

There have been press reports that the Vice President's mother even called him to complain about his breaking of that tie, and supporting nerve gas production. No vote in this body or the other body has affirmatively and in a majority supported production of nerve gas, except we the vote of the Vice President.

I would hope that my colleagues would understand a very complicated parliamentary procedure, join us in voting down the previous question, and give us the opportunity to have a vote to instruct the conferees on the issue of nerve gas.

At a time we are about to approve a quarter of a trillion dollars for the most deadly array of weapons man has ever developed, it seems almost absurd that nerve gas advocates insist again and again on adding another $100 million for chemical weapons. Chemical weapons are not needed. We already have a useable, deliverable, safe stockpile of chemical artillery shells. Our NATO allies do not want the weapons, and I hope everyone has read the General Accounting Office recommendation against funding of nerve gas.

I, therefore, urge my colleagues to vote down the previous question and urge my colleagues to support an effort to get to the issue of nerve gas.

PARLIAMENTARY INQUIRY

Mr. STRATTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HERTEL of Michigan). The gentleman will state it.

Mr. STRATTON. Mr. Speaker, who controls the time under this particular situation?

The SPEAKER pro tempore. The gentleman from Florida (Mr. YOUNG) controls the time, 1 hour.

Mr. STRATTON. Mr. Speaker, will the gentleman from Florida yield to me?

Mr. YOUNG of Florida. I would be happy to yield to the gentleman, but I would prefer to yield to the gentlewoman from New Jersey (Mrs. ROUKEMA) because she had asked first. For the purpose of debate only, I yield 1 minute to the distinguished gentlewoman from New Jersey.

Mrs. ROUKEMA. First a parliamentary inquiry, then debate, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mrs. ROUKEMA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. ROUKEMA. Mr. Speaker, what is the precise nature of the debate time?

The gentleman from Florida now controls the time. If the motion to instruct is defeated, will there then be time for debate controlled by the gentleman from Illinois (Mr. PORTER)?

□ 1520

The SPEAKER pro tempore. There is only one motion to instruct on which the gentleman from Florida (Mr. YOUNG) is proceeding. That is why he controls the time.

If the previous question is voted down, an amendment may be offered to the motion and would be debatable for 1 hour.

Mrs. ROUKEMA. I thank the Chair.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) for purposes of debate only.

Mrs. ROUKEMA. I appreciate my colleague yielding.

I do want to reiterate the situation we have here. We have on several occasions had debate in this House on the subject of nerve gas. It is now in the conference report yet again.

However, there is no way that this House can deliberate on the merits of the issues of nerve gas and the circumstances under which it arose in the conference report unless we defeat the previous question.

We have been through an emotional debate on the equal rights amendment and many Members I fear are not now paying close attention to the parliamentary situation. So I want to repeat what my colleague from Pennsylvania has said.

The parliamentary situation is a difficult one. If you care about reviewing the decision on nerve gas, then you must defeat the previous question.

I thank the gentleman for yielding.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. STRATTON) for purposes of debate only.

Mr. STRATTON. I thank the gentleman for yielding.

I am sure that my colleague from New Jersey (Mrs. ROUKEMA), my colleague from Pennsylvania (Mr. EDGAR), my colleague from Illinois (Mr. PORTER), and my colleague from Arkansas (Mr. BETHUNE) are all well meaning in their attempt to eliminate nerve gas from the U.S. arsenal. But the fact of the matter is that while we on this floor and on the floor of the other body have been debating what kinds of weapons to eliminate from our arsenal the Soviets have been going relentlessly, day after day, after day, creating new weapons of greater destruction and damage. And now here today we learn of a new attempt to try to eliminate a safe modern, nerve gas, when just last night on television it was reported that the Soviets have developed a new and far more powerful species of gas that can penetrate the rather feeble gasmasks that are currently issued to the soldiers of the U.S. Armed Forces stationed in Europe.

I think it would be a terrible thing for us to cave in on this issue.

Certainly we want to protect our soldiers. Yet, even now we have precious little from the point of view of defensive weaponry against Soviet gas. Now members are trying once again to deny us the opportunity to provide a genuine deterrent so that the Soviets will not be tempted to use that weapon against American troops.

I hope the House will support my colleague from Florida (Mr. YOUNG) in his motion and not vote down the previous question. In so doing we can head off this ill-conceived profoundly misguided effort to deny American troops the protection they deserve.

Mr. YOUNG of Florida. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, we have just finished a 1 hour and 40 minute session on the ERA. That is an important issue for many Members here but it is a long process which has been going on 10 years. The press gallery was full. Everybody was interested in that issue.

This is a real issue here. This is not one that is going to linger on for a long time. This is the last chance for this House to stop one program that President Reagan has asked for in his defense budget.

This House controlled by a 2-to-1 majority, Democrats over Republicans, has beat its breast now for 1½ years about how big this defense budget is and how much we need to get things out of this defense budget. This is the last chance. This is the only program that we have managed to stop here in the House of Representatives that the President has asked for.

So it is time to put your money where your mouth is. If you really want to say that you are trying to take things out of this enormous defense budget, this is the place. This is the time. And you are going to have to do it through a convoluted process because the proponents are very clever. They have bootstrapped their way through this matter in a fashion that is incredible.

This House has repeatedly rejected nerve gas. The other body, the elected officials there, have repeatedly rejected nerve gas.

Only the administration, acting through the Vice President, has kept it alive and only by the convoluted processes under which we are constrained to work here are we in this situation where the will of the people is not going to be honored and this House is going to cave in to the process, to the institutionalized forces here which always seem to overcome the will of the people.

Now, this is the time when you either stand up and say we mean it, when we do not want to put nerve gas in the arsenal of this country, or we do not. This is the chance.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I would like to commend the gentleman in the well for his leadership on this issue. It has been outstanding. I thank the gentleman for being so consistent in his attempt to delete funds for chemical weapons.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 1 minute.

I would like to point out we are using the time of the House on a motion to instruct the conferees dealing with protection of animals. The debate seems to have gotten off on to a different track and I would like to not use up too much of the House's time if we can avoid it.

However, I am willing to yield further time to my distinguished friend, the gentleman from Oregon (Mr. AUCOIN), Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman.

Mr. AUCOIN. I thank the gentleman for yielding.

I would say to the gentleman from Florida (Mr. NELSON) that it is very important that we defeat the previous question on his motion to instruct conferees, because it is not only animals that will die if nerve gas is ever used but also human beings.

It is important that the Members of the House understand the substance and the parliamentary situation. The substance of the issue is that nerve gas is a wrong investment for moral reasons and for military reasons. The parliamentary situation is that there is no majority. There is no majority in the House; there is no majority in the other body in support for funding for these weapons.

But on the defense authorization bill, because of a Vice Presidential tiebreaker in the other body, we ended up getting nerve gas folded into the conference report on the authorization bill and Members on the House floor then had to vote against the entire defense authorization bill in order to defeat nerve gas. Most of the Members elected to vote for the authorization bill.

Now the fix is in again. The same effort is being attempted. Again the majority in this House voted against nerve gas. Again on a tie vote in the other body on the appropriations bill there was not a majority for nerve gas and again the Vice President voted and broke the tie.

You know and I know what will happen if we do not defeat the previous question and get to the gentleman from Illinois' motion to instruct the conferees on the House side to hold firm to the House position on nerve gas.

If we do not get to the gentleman from Illinois' motion we are going to be rolled again and we are going to have nerve gas funded when it is against the will of the majority of the House and not the will of the majority of the other body.

I urge my colleagues to defeat the previous question and then to vote for the motion to be offered by the gentleman from Illinois.

Mr. YOUNG of Florida. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Appropriations Subcommittee on Defense, the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. I thank the gentleman for yielding.

Normally a chairman does not wish to be instructed by the House. He wishes to go to the conference uninstructed.

But I will be supporting the vote to vote down the previous question, to permit the motion to be made by the gentleman from Illinois (Mr. PORTER) for the simple reason that I need direction from the House on this controversial and important issue.

The gentleman from Oregon says there is no congressional majority for nerve gas. The majority of the House conferees support the position of the other body. They do not support the House position. So I would now ask the House to instruct us as they wish us to go into conference on this question of nerve gas.

□ 1530

The only way they can do it is by voting down the previous question and voting for the amendment to be offered by Mr. PORTER.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I take this time to discuss the purpose of the motion again so that there is no question in anyone's mind what the motion is.

The motion is to instruct the conferees to stand by the House language that was agreed to so strongly, to prevent the use of funding in this bill for the purchase of animals to be used in medical training. Now that is a simple motion to instruct because the other body did not use the same language that we did.

We could use a motion to instruct on issues like the MX missile, the B-1 bomber, or whether or not we are going to take any more battleships out of mothballs or whether we are going to build any more F-18 or A-10 airplanes or build any more tanks. We can use a motion to instruct on all of

these issues including the question of binary gas.

Mr. Speaker, those issues that I have just mentioned have been with us for years and they are going to be with us for years. And what we do here on a motion to instruct on those issues is not going to affect the outcome of those programs or those systems.

Now here is one opportunity, one of the very few opportunities that we get to stand up for the people of America who are opposed to the things they see on television where animals have been put in chains or tied to posts and shot for medical training.

They are opposed to seeing on television other animals taken live and scalded alive for the same purpose. There are other ways to do these things.

The people of America are opposed to this and here is one of the very few opportunities that you are going to have to express an opinion and to voice the feelings of your constituents as they relate to what I consider to be the improper use of animals.

I say again that the other issues will be dealt with and have been dealt with in the past, they will be dealt with in the future as the authorization bills come through the committees and to the House, as the appropriations bills come through the committees and come to the House, and as the supplemental bills and the continuing resolutions come to the House; all of these major items have had their day and will continue to have their day.

Now you have a chance to cast a simple vote for the people of America who for so long have been demanding that you do something to protect these animals.

Mr. Speaker, I move the previous question on the motion to instruct.

PARLIAMENTARY INQUIRY

Mr. WEAVER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WEAVER. Mr. Speaker, if the previous question is voted down and an amendment is then offered, the motion offered by the gentleman from Florida (Mr. YOUNG) would remain intact, would it not, if the amendment dealt with binary nerve gas?

The SPEAKER pro tempore. It would depend on the amendment offered at the time, if there were such an amendment offered of any sort.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. YOUNG of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 164, nays 256, not voting 14, as follows:

[Roll No. 505]

YEAS—164

Andrews (TX)	Gibbons	Murtha
Anthony	Gilman	Myers
Archer	Gingrich	Nelson
Badham	Gramm	Nichols
Barnard	Hall, Ralph	Nielson
Bartlett	Hall, Sam	Packard
Bateman	Hammerschmidt	Pashayan
Bennett	Hansen (ID)	Patman
Bereuter	Hansen (UT)	Petri
Bevill	Hartnett	Price
Bilirakis	Hatcher	Quillen
Bliley	Hefner	Ray
Boner	Hightower	Ridge
Breaux	Hillis	Ritter
Brooks	Holt	Robinson
Broomfield	Hubbard	Roemer
Burton (IN)	Huckaby	Roth
Byron	Hunter	Rowland
Campbell	Hutto	Rudd
Chandler	Hyde	Schulze
Chappell	Ireland	Shaw
Chappie	Jones (OK)	Shelby
Cheney	Jones (TN)	Shumway
Clarke	Kasich	Shuster
Coleman (MO)	Kazen	Siljander
Coleman (TX)	Kemp	Sisisky
Conable	Kindness	Skeen
Cooper	Kramer	Skelton
Corcoran	Lagomarsino	Slattery
Courter	Latta	Smith (NE)
Craig	Leath	Smith, Denny
Crane, Daniel	Lent	Solomon
Crane, Philip	Livingston	Spence
Daniel	Lloyd	Stangeland
Dannemeyer	Loeffler	Stenholm
Darden	Long (MD)	Stratton
Davis	Lott	Stump
de la Garza	Lowery (CA)	Sundquist
DeWine	Lujan	Tauzin
Dickinson	Lungren	Taylor
Donnelly	Mack	Thomas (CA)
Dowdy	MacKay	Thomas (GA)
Dreier	Madigan	Valentine
Duncan	Marlenee	Vander Jagt
Dyson	Marriott	Vandergriff
Edwards (AL)	Martin (NY)	Vucanovich
Emerson	McCain	Whitehurst
Erlenborn	McCandless	Whitley
Fazio	McCollum	Wilson
Fiedler	McEwen	Winn
Fields	Mollohan	Wright
Flippo	Montgomery	Yatron
Franklin	Moore	Young (AK)
Fuqua	Moorhead	Young (FL)
Gaydos	Morrison (WA)	

NAYS—256

Ackerman	Brown (CO)	Dwyer
Addabbo	Broyhill	Dymally
Akaka	Bryant	Early
Albosta	Carney	Eckart
Anderson	Carper	Edgar
Andrews (NC)	Carr	Edwards (CA)
Annunzio	Clay	Edwards (OK)
Applegate	Clinger	English
Aspin	Coats	Erdreich
AuCoin	Collins	Evans (IA)
Barnes	Conte	Evans (IL)
Bates	Conyers	Fascell
Bedell	Coughlin	Feighan
Beilenson	Coyne	Ferraro
Berman	Crockett	Fish
Bethune	D'Amours	Florio
Biaggi	Daschle	Foglietta
Boehlert	Daub	Ford (MI)
Boggs	Dellums	Ford (TN)
Boland	Derrick	Forsythe
Bonker	Dicks	Fowler
Borski	Dingell	Frank
Boucher	Dixon	Frenzel
Boxer	Dorgan	Frost
Britt	Downey	Garcia
Brown (CA)	Durbin	Gejdenson
Gekas	McCloskey	Savage
Gephardt	McCurdy	Schaefer
Glickman	McDade	Scheuer
Gonzalez	McGrath	Schneider
Goodling	McHugh	Schroeder
Gore	McKernan	Schumer
Gradison	McKinney	Seiberling
Gray	McNulty	Sensenbrenner
Green	Mica	Shannon
Gregg	Mikulski	Sharp
Guarini	Miller (CA)	Sikorski
Gunderson	Miller (OH)	Simon
Hall (IN)	Mineta	Smith (FL)
Hall (OH)	Minish	Smith (IA)
Hamilton	Mitchell	Smith (NJ)
Harkin	Moakley	Smith, Robert
Harrison	Moody	Snowe
Hawkins	Morrison (CT)	Snyder
Hayes	Mrazek	Solarz
Heftel	Murphy	Spratt
Hertel	Natcher	St Germain
Hiler	Neal	Staggers
Hopkins	Nowak	Stark
Horton	O'Brien	Stokes
Howard	Oakar	Studds
Hoyer	Oberstar	Swift
Hughes	Obey	Synar
Jacobs	Olin	Tallon
Jeffords	Ortiz	Tauke
Johnson	Ottinger	Torres
Jones (NC)	Owens	Torricelli
Kaptur	Oxley	Towns
Kastenmeier	Panetta	Traxler
Kennelly	Parris	Udall
Kildee	Patterson	Vento
Kogovsek	Pease	Volkmer
Kolter	Penny	Walgren
Kostmayer	Pepper	Walker
LaFalce	Perkins	Watkins
Lantos	Pickle	Waxman
Leach	Porter	Weaver
Lehman (CA)	Pritchard	Weber
Lehman (FL)	Pursell	Weiss
Leland	Rahall	Wheat
Levin	Rangel	Whittaker
Levine	Ratchford	Whitten
Levitas	Regula	Williams (MT)
Lewis (FL)	Reid	Williams (OH)
Lipinski	Richardson	Wirth
Long (LA)	Rinaldo	Wise
Lowry (WA)	Roberts	Wolf
Luken	Rodino	Wolpe
Lundine	Roe	Wortley
Markey	Rogers	Wyden
Martin (IL)	Rose	Wylie
Martin (NC)	Rostenkowski	Yates
Martinez	Roukema	Zablocki
Matsui	Roybal	Zschau
Mavroules	Russo	
Mazzoli	Sabo	

NOT VOTING—14

Alexander	Foley	Molinari
Bonior	Hance	Paul
Bosco	Jenkins	Sawyer
Burton (CA)	Lewis (CA)	Young (MO)
Coelho	Michel	

□ 1550

Mr. SAVAGE and Mr. ACKERMAN changed their votes from "yea" to "nay."

Mr. MACKAY changed his vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PORTER TO THE MOTION OFFERED BY MR. YOUNG OF FLORIDA

Mr. PORTER. Mr. Speaker, I offer an amendment to the motion.

The Clerk read as follows:

Amendment offered by Mr. PORTER to the motion offered by Mr. YOUNG of Florida: At the end of the motion before the period on the last line add: "and to insist on disagreement to that part of the Senate amendment numbered 73 to "Procurement of Ammunition, Army" which provides $124,400,000 for

production facilities for and procurement of chemical munitions, and the accompanying provision."

Mr. PORTER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HERTEL of Michigan). Is there objection to the request of the gentleman from Illinois?

Mr. ANTHONY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PORTER) is recognized for 1 hour.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my amendment to the motion leaves the motion offered by the gentleman from Florida (Mr. YOUNG) intact and adds to that instructions to the Defense appropriations conferees to not recede from the House position and, therefore, to not agree to funding for binary chemical weapons production.

Mr. Speaker, I am not a member of the Defense Appropriations Subcommittee, and I do not pretend to be an expert in this area. But I do know a waste of the taxpayers' money when I see it.

This country has not produced binary chemical weapons, or indeed any chemical weapons, since 1969. The vote just taken on rejecting the previous question is almost identical to votes against chemical weapons production taken in the House twice previously this year. Overwhelmingly, the House of Representatives is opposed to authorizing or appropriating money for binary chemical weapons. We would not be here today discussing the matter if it were not for votes taken in the Senate.

As was said earlier in the debate, twice this year the Senate has tied on the floor in regard to the issue of whether we should produce new chemical weapons, and twice it has taken the Vice President casting a vote on behalf of the administration to break the tie. The conclusion is that there is not a majority of Members in either House that favor the production of binary chemical weapons. And yet, Mr. Speaker, here we are today once again finding it necessary to make certain that chemical weapons funding does not find its way into the conference report.

The intent of my amendment to the motion offered by the gentleman from Florida (Mr. YOUNG) is to do just that.

Mr. Speaker, there is strong evidence that the Soviets have used chemical weapons, through their proxies, in Laos and directly in Afghanistan. This use of a horrible weapon of death by our adversaries on innocent civilians has amazingly prompted cries in the Congress that we undertake to produce the same kind of weapon. What for? Rather what we have to do is to show the world that our society is not a society that finds it necessary to do the same things that the Soviets do and does not subscribe to an unconscionable weapon of this type. We have, it seems to me, a great propaganda advantage that we should take. We should reject chemical weapons funding because we already have on hand a very large stockpile of chemical weapons that provide an adequate deterrent to the Soviet Union against their first use. Now is the time to tell the world that they use them, they produce them, but the United States does not need to do so and indeed will not do so.

□ 1600

Furthermore there is nothing to be gained if we do produce new binary chemical weapons. Our European allies, caught right now in the throes of a disruptive movement in Western Europe to prevent the deployment of Pershing II and cruise missiles, will undoubtedly not accept them on their soil even if we were to produce them.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the chairman, the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker and my colleagues, I fully support the instructions given to us by the gentleman from Florida (Mr. YOUNG) relative to testing and using animals, dogs and cats, in various experimentations.

I thank the gentleman from Illinois (Mr. PORTER) for offering his amendment to instruct the conferees on nerve gas and not offering it as a substitute, but as an amendment, so that we will have both instructions as we go to conference. I intend to fully support the position of the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the gentleman's (Mr. PORTER) amendment to the instructions to conferees offered by the gentleman from Florida and I want to commend him for the amendment.

I rise in strong support of it. I think in this particular instance, it is extremely important, in terms of the defense appropriation issue, we are at the last step in this legislative process and all the way throughout the process we have been frustrated by a determined minority certainly in the House, and in the Senate. I think the views of the constituents that we represent and our votes are simply not delivering the result that they should. Our constituents are against the development and deloyment of new nerve gas, binary nerve gas products. For this House it is an unusual step to instruct conferees. But it is especially important that we do so in regard to this issue. I think we are fully justified in this instance doing it based on what the past performance has been with regard to this very, very important issue of binary nerve gas.

We have had the will of the House completely disregarded and the instructions will bind the conferees to more forcefully represent the view of the House.

The United States has not produced new chemical weapons for 14 years. Now the Reagan administration and the Pentagon want to resume production of binary nerve gas. I strongly oppose this proposal as does this House. We must continue to speak out concerning this new arms race for new far reaching and dangerous chemical weapons. We are bound by treaty and morality to reject such weapons in the name of humanity.

So I commend the gentleman for his initiative and ask my colleagues to vote for his amendment to the instructions to conferees offered by the gentleman from Florida. Vote "yes" to hold our conferees to the House position against new nerve gas production.

Mr. PORTER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EDGAR), for purposes of debate only.

Mr. EDGAR. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to simply congratulate the gentleman for his activities on this issue. I think it is important to recognize that this House on several occasions has had extensive debates on the issue of binary nerve gas. We have looked at the issue from various perspectives. We have had our votes, and the votes have overwhelmingly supported deleting binary nerve gas, and the instructions that the gentleman is offering is simply saying to our conferees that we want to hold fast to the House position.

I think the overwhelming vote we just cast gives us a great deal of hope that this one weapons system will be deleted. We have strong bipartisan support here in the House. We find little or no reason for the construction and production of nerve gas facilities, and I think the gentleman makes a great contribution to the House by giving us this opportunity to instruct the House on the issue of nerve gas, as well as keep in the language that the gentleman who offered the amendment earlier, before we struck down the previous question.

The gentleman is to be commended, and I commend my colleagues in the House to support his action.

Mr. Speaker, for the second time this year, the Senate has split down the middle on the question of resumed production of lethal nerve gas weapons, while the House has overwhelmingly opposed their production.

Representative JOHN PORTER has offered a motion to instruct the conferees to maintain the House position on chemical weapons, and prevent appropriation of any funds for their production.

There are several facts about nerve gas you should know:

First, a majority of neither body of Congress has voted for chemical weapons in 1983.

Second, the House Appropriations Committee voted 28 to 22 on October 20, 1983, to strike all funds for production of nerve gas.

Third, a recent GAO report dated September 28, 1983, recommended against appropriating funds for binary chemical weapons production, calling the request premature, and saying that "the Big Eye bomb has technical problems, and has undergone only limited testing." Both Armed Services Committees concede the technical problems would prevent production at this time.

Fourth, a September 27, 1983, Department of Defense blue ribbon panel report on our chemical weapons stockpile states that our stockpile of weapons is in good shape:

"Leakers" are isolated and either sealed or detoxified as part of routine surveillance procedures. The fraction of leakers is small (less than 6 per 10,000 artillery projectiles) and in most cases, the leaks seem to occur at improperly fitted joints or brazed joints.

Fifth, Secretary Weinberger told the Senate Armed Services Committee in February 1983 the U.S. stockpile or 155 millimeter shells is sufficient to deter chemical warfare against our troops:

For procurement of new artillery shells, the need is not one of addressing a clear lack of military capability. The United States possesses a stockpile of chemical nerve agent artillery shells, similar to the proposed M-687 binary round, that are compatible with modern 155mm and 8-inch artillery pieces. The quantity is in the range of sufficiency . . . and is actually higher than the planned acquisition quantity for the binary projectile. . . . The 155mm and 8-inch fills still meet acceptable standards.

There is no good reason to appropriate funds for new nerve gas this fiscal year. Members should support the Porter motion to instruct the conferees.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentlewomen from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I want to particularly thank the gentleman from Illinois (Mr. PORTER) for raising this issue before the House, and, hopefully, very successfully. I also want to commend at this time the gentleman from Arkansas (Mr. BETHUNE) and the gentleman from Pennsylvania (Mr. EDGAR) who have consistently shown leadership on this issue.

Mr. Speaker, I rise in support of the motion of the gentleman from Illinois (Mr. PORTER). I urge my colleagues to support instructing the conferees to draft a conference report without any appropriation for chemical weapons, and demonstrate the commonsense they displayed on June 15 when this House overwhelmingly rejected the folly of these weapons. At that time, during consideration of the DOD authorization this body voted 256 to 161 to oppose production of chemical weapons and to continue the 14-year moratorium which had begun under the Nixon administration. That was sound policy 14 years ago, it was sound policy on June 15, and it is sound policy today,

As we all know, the other body for a second time could not muster a majority of Members in favor of nerve gas, and approved both the authorization and the appropriation, only 2 days ago, after the Vice President cast the tie-breaking vote. That action has brought this body to today's situation, in which we must decide, once and for all, to free the final DOD authorization for 1984 from all traces of chemical munitions.

We must reverse the authorization decision by supporting this motion. History will not forgive us if we agree to produce lethal munitions.

The case has not been made for production of these weapons. We have never received a satisfactory response to the question of deterrence, nor have the foreign policy implications of this move been adequately addressed, especially with respect to our NATO allies. A GAO report issued in July accurately conveys this point.

The United States has a large stockpile of toxic chemical munitions to deter other countries from using chemical warfare and to retaliate if deterrence is unsuccessful.

Additionally, the recent Chemical Stockpile Status Review concludes that the weapons in the stockpile are in "usable condition," and good shape. The panel, established by Dr. Theodore S. Gold, Deputy Assistant to the Secretary of Defense for Chemical Matters, and composed of the nine leading experts in the field of chemistry, recommended that storing chemical munitions at lower temperatures could significantly extend their lifetime, and that developing a program for sampling the weapons on a regular time scale could provide meaningful data with which to monitor the decomposition and effectiveness of the current stockpile of chemical munitions.

Finally, the DOD has not chosen any locations for its proposed three chemical munitions facilities. One of these facilities would produce the Big Eye bomb, which has undergone only limited testing due to many technical problems. I now ask my colleagues, are we to fund these munitions which are a futile attempt for defense, and for which the DOD has not even established locations?

To quote briefly from a September 15 New York Times editorial,

The Pentagon's case, challenged by civilian experts, is that the binary gas will be safer to handle in a European war. But the NATO allies don't want it on their territory. Apart from the Russians, only the French still stock poison gas. It is useful chiefly as a deterrent. It was not used in World War II because it is less effective against protected troops than high explosives and would inflict 20 civilian casualties for every military one.

The Secretary of Defense even acknowledged in written testimony earlier this year that there is no need for more artillery shells because we already have a usable, deliverable, and safe stockpile of chemical artillery shells. We do not need this insidious weaponry.

And lest anyone be misled this motion does not delete $1 from the funding of protective gear for our troops, nor does it delete moneys for research and development.

Many Members have helped in this effort, but let me take just a moment to pay particular tribute to the gentleman from Arkansas (Mr. BETHUNE) and the gentleman from Wisconsin (Mr. ZABLOCKI), Mr. PORTER and Mr. EDGAR. These two Members have provided invaluable leadership on this issue and they are to be commended for their efforts.

In closing, Mr. Speaker, let me emphasize that no case has been made for these munitions. A new weapons program would be established with little understanding of the impact upon foreign policy, military security, or comprehensive arms control. I urge our colleagues exercise logic and commonsense votes of last summer and support this motion.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate, to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker and Members of the House: I do not flatter myself with any notion that anything that I am going to say on this floor today will any more turn around the result of the vote that we will soon take than the remarks that I have offered on all the previous occasions when we have debated this issue. But I cannot let any opportunity available to me pass without at least expressing some degree of indignation that those who

rise on this floor on all the previous occasions, and today, arrogate unto themselves some superior moral rectitude, we are against the heinous use of poison gases, of chemical weapons.

There is no one in this Chamber who regards chemical weapons as being any more abhorrent than I, but by golly, I abhor our being subject to their use more than I abhor the notion of having a true deterrent that will see that they are not used. There is no one in this body who believes that these United States will use chemical weapons against any enemy.

It has been said that there are some who believe the Soviet Union has used chemical weapons in Afghanistan. If they have read, if they know anything of the evidence, they not only have reason to believe it, we know it. We have every reason to know that it has been used by their satellite states in Southeast Asia. We have already heard that for 14 years we have done nothing to upgrade our capability in chemical weapons. We are, we are told, need to occupy the high ground. We have a propaganda advantage.

I say to this House, we have had that propaganda advantage for 14 years.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. BATEMAN) has expired.

Mr. PORTER. Mr. Speaker, I yield 1 additional minute to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman for yielding this additional time to me.

Mr. Speaker, we have had that advantage for more than 14 years and what has it gotten us? A Soviet capability far superior to ours, stocks which are getting aged, and all of the people who will be speaking today may tell you in their instant expertise on chemical warfare that they know more about this than the Joint Chiefs of Staff, anyone else who is knowledgeable in working day in and day out in the area of chemical weapons, but I say to them, as much as I respect you in your areas of genuine expertise, I would defer to those in our military who tell us that we have aging, depleting stocks. We need a capability that will be a true deterrent. We need to be assured that we do not, because of our inability to respond to a chemical attack, have to rise to the level of the use of tactical nuclear weapons or either leave our forces in the field in jeopardy.

I hope the House will rectify the errors which I so sincerely believe it has made in its previous efforts on this question.

□ 1610

Mr. PORTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I want to associate myself with the very fine words of the able gentleman from Virginia (Mr. BATEMAN). He is telling the story precisely as it is.

We have been hearing a lot of bedtime stories about how we have an adequate, up-to-date, modern, usable chemical warfare capability. That is just baloney. It is simply not true, as the gentleman from Virginia has already said.

What I have tried to do in connection with the proposal of the gentleman from Florida (Mr. YOUNG) is to point out that additional information has recently become available to us. Technology in the field of defense moves along very swiftly. Within the last few weeks, apparently the Soviet Union has developed a new kind of gas that can actually penetrate our gas masks, feeble and limited as they are. I think it is very important that before this House simply goes off on the old cliché that "we voted this thing down time after time after time, "we ought to at least take a look at the current facts, which are highly disturbing.

This is a very dangerous piece of information. I think the House ought not to vote on this question until it can be explored a little bit further with the Pentagon.

In the book entitled "A Man Called Intrepid," Sir William Stevenson, the British intelligence representative in the United States before World War II, sent one of his operatives to President Roosevelt to tell him that Pearl Harbor was going to be bombed by the Japanese, but people in the Roosevelt administration simply did not believe it.

What we have here is a dramatic new piece of evidence. Yet Members are set in their ways on this matter of chemical warfare and still believe that we have adequate deterrent and, that we have got the right kind of capability. As a result, they pay no attention to this information, just as the Roosevelt administration refused to even listen to the warning on Pearl Harbor.

Mr. Speaker, I think it is most important that we vote down this motion offered by the gentleman from Illinois (Mr. PORTER) for the safety of the country.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for debate purposes only, to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

I think we should make some response to the gentlewoman from New Jersey (Mrs. ROUKEMA), who spoke before the presentation of the last few speakers. I hope she mistakenly misspoke herself by saying that this concept has not had a majority vote in either House and we should not put it in this authorization bill. I think the gentlewoman has misspoken herself. This is an appropriation bill we are talking about, and the authorization bill which had this in it and to which she was referring was passed by both Houses of the Congress and is now law.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. BADHAM. I do not have very much time, and I am sure the gentleman will have a chance to speak.

Mr. BETHUNE. Mr. Speaker, we will get the gentleman more time. I am sure the gentleman can be given another minute.

Mr. BADHAM. Then I will be more than happy to yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, the gentleman is saying that this House approved it. The House approved it as part of a conference report.

Mr. BADHAM. That is right.

Mr. BETHUNE. It was not on an up-or-down vote here in this House on nerve gas. Not in the last 3 years while I have been sitting as a Member of this House as we have considered this issue has it ever passed this House.

Mr. BADHAM. Mr. Speaker, the point I am making is, first, that this is an appropriation bill, not an authorization bill. The authorization bill was passed and this is in it, so it had to be passed by both Houses.

So, Mr. Speaker, if I may reclaim my time, during the time we were debating the authorization bill and this subject came up, I pointed out, and I think it should be pointed out now, that our wonderful friends in the Soviet Union have been constantly producing chemical and biological agents since 1921, and they have used them in Afghanistan, they have used them in Southeast Asia, but they have never used them in the Western World. They never used them in World War II when they were offered to them, when the German forces were at the gates of Stalingrad.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. BADHAM) has expired.

Mr. PORTER. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, the story goes that Mr. Churchill contacted Mr. Stalin and asked him if he needed any help. He asked him if he needed any poisonous gas or chemical weapons.

Stalin said, "No, thanks. We have a lot of it."

Why did they not use it? Because they did not have to or because they did not fear retaliation?

The Soviet Union has used chemical agents where they do not fear retaliation, and they do not use them when they do fear retaliation.

We have chemical weapons, as the gentleman from New York said, but they are junk; they are chemically eroded and corroded. They are out of date. We simply want, by this up-to-date technology, to replace old, corroded, used up chemical weapons that are no good and that are unsafe with chemical weapons to which we have pledged no first use, so that we might have a retaliatory capability, and that is all.

Mr. Speaker, I hope the amendment is defeated.

Mr. PORTER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I thank the gentleman from Illinois for yielding this time to me.

I am heartened by the votes in the House which have set us against the addition of further nerve gas production, and I am heartened by the leadership of the gentleman from Illinois (Mr. PORTER) and the gentleman from Arkansas (Mr. BETHUNE) and by friends on the Democratic side of the aisle who have led in this issue.

I am very proud of our Nation. It is the greatest Nation on Earth, the freest nation on Earth, and I think that the Soviet system is ugly, retaliatory, and tyrannic. I do not want our Nation to be like the Soviet Union in any way.

When I think that this House has taken on a position where we set child nutrition ahead of nerve gas and where we set education ahead of the production of vile systems of death, then I think that this country can look itself in the eye and say that we are a great Nation. If the Soviet Union in its ugliness persists in producing these vile weapons, then certainly we have means to defend ourselves without imitating them.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I thank the gentleman for yielding me the 2 minutes.

I know that what I say here will have little impact on Members' own thoughts, especially if they are voting this issue from a moral standpoint, because they do not want to hear the facts. If they are voting this issue from an emotional standpoint, they are not going to listen to the facts. But to those few legislators who are still left around after I mention those two categories, I would like to mention some of the factual points.

It makes no sense to hamstring our conferees so they are not able to go into conference and hammer out some type of sensible compromise. A sensible compromise would be that which we passed in the conference report as an amendment. That gives us the opportunity to take the high road that we want. It also gives our Ambassador Fields the ultimate opportunity to say to the Soviets, "Negotiate with us in seriousness or we will start production."

We can say to the conferees, "Vote to put money in to build the facility, vote to put money in to build the canister in which you put it, in other words, the metal parts and the plastic parts, but," we can tell the conferees, "don't spend any money to actually build the gas. Don't build it and put it together."

We can tell them that, and we can say under Mr. LEE's proposal, "Until October 1985, don't do that."

What does that give our Ambassador an opportunity to do? It gives him an opportunity to sit eyeball to eyeball with the Russians and say, "Negotiate." They can come back in October 1985 and tell us they negotiated, here is the treaty, and then we do not build.

Or they can say, "We have no treaty," in which case we can say, "Now, are we ready to get off the high road and tell the Russians we are able to produce?"

Then, Mr. Speaker, we have the capability to produce, but if we postpone this until October 1, 1985, we will only be that many more months and years behind.

□ 1620

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I thank the gentleman for yielding.

It has been said here several times outright and it has been inferred in a few others that we ought to defer to the expertise of the Military Establishment on this particular issue. Well, it seems like that is what we do on all the issues relating to defense. It must be, because they have gotten everything they have asked for, so we must be deferring to their expertise.

On this particular issue, some of us started asking some questions, because we did not believe that the military had all the answers and, indeed, they did not have all the answers; and the more questions we asked, the more we discovered that they really did not know what they were talking about on this particular issue.

The great impulse for chemical weapons in this country comes from the moribund Chemical Corps. They are the only unit in the Pentagon that has not gotten what they asked for, so they come back and they come back. They are embarrassed by the fact that they have not got their program and now they are trying to get you to give them what they are asking for. These are the career pressures that build upon on those people in the Pentagon. They will say anything, tell you anything, distort any piece of information in order to sell the program.

We saw that happen right here in this House Chamber when we were debating the Bigeye bomb 2 years ago on the House floor. They possessed information that the bomb was blowing up. Did they give it to us? No. Keep that from the decisionmakers, because we need to keep the momentum on our program. We need to keep it going.

Now, let us examine what it is they are asking for here, because everyone always says—the gentleman from New York (Mr. STRATTON) is famous for this—that the Soviets are building all of these exotic weapons and we have got to match them somehow.

Well, what are we really asking for here? What is the moribund Chemical Corps asking for here? They are asking for 155 artillery shells and the Bigeye bomb. We do not need the 155 artillery shells. Our stockpile is perfectly adequate. Their own blue ribbon committee found that it is good into the 1990's.

Second, the Bigeye bomb is not working. They have not dynamically tested it, so you are going to deter the Soviets by building weapons you do not need and weapons that do not work? That is lunacy. Let us save the money. Let us stop one minor program that President Reagan has asked for, just in the interest of showing that we, the decisionmakers, can from time to time arrive at our own decisions.

Mr. PORTER. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding.

I do not think we have the luxury, Mr. Speaker, in this instance to do other than to stick with production and go forward with the production of binary gas.

Let me give you a very simple scenario that concerns me a great deal. It concerns me about the potential threat of our young men, wherever they may be. Let us assume we have a front between the Soviets and between our forces and on this front you have five battalions of the Soviets facing five battalions of our forces. Were we not to have the threat of nerve gas and the deterrent of the nerve gas, the Soviets would have the luxury of choosing any one of those parts of the front to equip their troops with antigas suits and use that particular type of weapon, nerve gas.

We, on the other hand, not knowing where this type of attack could come from, would have to outfit all five of our battalions in the very cumbersome, very difficult to wear, and very inefficient suits to defend ourselves.

I ask, what type of deterrent is this? This is the decision that is placed before us, placed before our command-

er. That is why we should be for this production in this case.

Mr. PORTER. Mr. Speaker, I yield myself the remaining time that I may have.

Mr. Speaker, I will just take a final minute to say that the motion of the gentleman from Florida (Mr. YOUNG) is left intact by this amendment. The amendment is an addition to the motion.

My amendment deals only with the production of chemical weapons. It does not deal with R&D. If we need to keep up with the Soviet Union—and I am sure we do—the R&D funds are not touched by this amendment.

I might say also, and it has not been mentioned earlier in the debate, that the General Accounting Office issued a report on September 28, 1983, dealing with this entire subject. The GAO recommendation to the House and to the other body regarding chemical weapons funding was in every case not to provide for it, to defer it, and that is the independent judgment of a highly respected and careful arm of the Congress on the viability of the funds that have been included on the Senate side by the vote of the Vice President breaking a tie in the other body on behalf of the administration in favor of resuming chemical weapons productions.

It seems to me that the issue is very clear. Is this country, after 14 years of not producing chemical weapons and having on hand a large and good stockpile of unitary weapons—larger, I might add, than the amount of binary weapons proposed to be produced—going to resume the production of a weapon that we do not need, a weapon that is costly, and a weapon that does not fit, in my judgment, any ideal or principle, or, indeed any purpose of our country. The answer should be "no" and repeatedly the House has said "no."

I urge the Members to vote in favor of the amendment to the motion and clearly instruct our comprees, in unmistakable terms that we want the conference report to include absolutely no funds for chemical weapons production.

Mr. Speaker, I move the previous question on the motion and the amendment thereto.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. PORTER) to the motion offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 166, not voting 10, as follows:

[Roll No. 506]

YEAS—258

Ackerman	Gejdenson	Oakar
Addabbo	Gekas	Oberstar
Akaka	Gephardt	Obey
Albosta	Gibbons	Olin
Anderson	Gingrich	Ottinger
Annunzio	Glickman	Owens
Applegate	Gonzalez	Oxley
Aspin	Goodling	Panetta
AuCoin	Gore	Parris
Barnes	Gradison	Patterson
Bates	Gray	Pease
Bedell	Green	Penny
Beilenson	Gregg	Pepper
Berman	Guarini	Perkins
Bethune	Gunderson	Pickle
Biaggi	Hall (IN)	Porter
Boehlert	Hall (OH)	Pritchard
Boggs	Hamilton	Pursell
Boland	Harkin	Rahall
Bonior	Harrison	Rangel
Bonker	Hawkins	Ratchford
Borski	Hayes	Regula
Bosco	Heftel	Reid
Boxer	Hertel	Richardson
Britt	Hiler	Rinaldo
Broomfield	Hopkins	Roberts
Brown (CA)	Horton	Rodino
Brown (CO)	Howard	Roe
Broyhill	Hoyer	Roemer
Bryant	Huckaby	Rostenkowski
Burton (CA)	Jacobs	Roukema
Carney	Jeffords	Russo
Carper	Johnson	Sabo
Carr	Jones (NC)	Savage
Clay	Kaptur	Schaefer
Clinger	Kastenmeier	Scheuer
Coats	Kennelly	Schneider
Coelho	Kildee	Schroeder
Collins	Kogovsek	Schumer
Conte	Kolter	Seiberling
Conyers	Kostmayer	Sensenbrenner
Cooper	LaFalce	Shannon
Coughlin	Lantos	Sharp
Coyne	Leach	Sikorski
Crockett	Lehman (CA)	Simon
D'Amours	Lehman (FL)	Slattery
Daschle	Leland	Smith (FL)
Daub	Levin	Smith (IA)
Dellums	Levine	Smith (NJ)
Derrick	Lewis (FL)	Smith, Robert
Dicks	Lipinski	Snowe
Dingell	Long (LA)	Solarz
Dixon	Lowry (WA)	Spratt
Dorgan	Luken	St Germain
Downey	Lundine	Staggers
Duncan	Markey	Stark
Durbin	Martin (IL)	Stokes
Dwyer	Martin (NC)	Studds
Dymally	Martinez	Swift
Early	Matsui	Synar
Eckart	Mavroules	Tallon
Edgar	Mazzoli	Tauke
Edwards (CA)	McCloskey	Thomas (GA)
Edwards (OK)	McCurdy	Torres
English	McGrath	Torricelli
Erdreich	McHugh	Towns
Evans (IA)	McKernan	Traxler
Evans (IL)	McKinney	Udall
Fascell	McNulty	Vander Jagt
Feighan	Mica	Vento
Ferraro	Mikulski	Volkmer
Fish	Miller (CA)	Walgren
Florio	Miller (OH)	Walker
Foglietta	Mineta	Watkins
Foley	Minish	Waxman
Ford (MI)	Mitchell	Weaver
Ford (TN)	Moakley	Weber
Forsythe	Morrison (CT)	Weiss
Fowler	Mrazek	Wheat
Frank	Murphy	Whittaker
Frenzel	Natcher	Whitten
Frost	Neal	Williams (MT)
Garcia	Nowak	Williams (OH)
Wirth	Wortley	Yatron
Wise	Wyden	Zablocki
Wolpe	Yates	Zschau

NAYS—166

Alexander	Hall, Sam	Nichols
Andrews (NC)	Hammerschmidt	Nielson
Andrews (TX)	Hansen (ID)	O'Brien
Anthony	Hansen (UT)	Ortiz
Archer	Hartnett	Packard
Badham	Hatcher	Pashayan
Barnard	Hefner	Patman
Bartlett	Hightower	Petri
Bateman	Hillis	Price
Bennett	Holt	Quillen
Bereuter	Hubbard	Ray
Bevill	Hughes	Ridge
Bilirakis	Hunter	Ritter
Billey	Hutto	Robinson
Boner	Hyde	Rogers
Breaux	Ireland	Rose
Brooks	Jones (OK)	Roth
Burton (IN)	Jones (TN)	Rowland
Byron	Kasich	Rudd
Campbell	Kazen	Schulze
Chandler	Kemp	Shaw
Chappell	Kindness	Shelby
Chappie	Kramer	Shumway
Cheney	Lagomarsino	Shuster
Clarke	Latta	Siljander
Coleman (MO)	Leath	Sisisky
Coleman (TX)	Lent	Skeen
Conable	Levitas	Skelton
Corcoran	Livingston	Smith (NE)
Courter	Lloyd	Smith, Denny
Craig	Loeffler	Snyder
Crane, Daniel	Long (MD)	Solomon
Crane, Philip	Lott	Spence
Daniel	Lowery (CA)	Stangeland
Dannemeyer	Lujan	Stenholm
Darden	Lungren	Stratton
Davis	Mack	Stump
de la Garza	MacKay	Sundquist
DeWine	Madigan	Tauzin
Dickinson	Marlenee	Taylor
Donnelly	Marriott	Thomas (CA)
Dowdy	Martin (NY)	Valentine
Dreier	McCain	Vandergriff
Dyson	McCandless	Vucanovich
Edwards (AL)	McCollum	Whitehurst
Emerson	McDade	Whitley
Erlenborn	McEwen	Wilson
Fiedler	Michel	Winn
Fields	Mollohan	Wolf
Flippo	Montgomery	Wright
Franklin	Moore	Wylie
Fuqua	Moorhead	Young (AK)
Gaydos	Morrison (WA)	Young (FL)
Gilman	Murtha	Young (MO)
Gramm	Myers	
Hall, Ralph	Nelson	

NOT VOTING—10

Boucher	Lewis (CA)	Roybal
Fazio	Molinari	Sawyer
Hance	Moody	
Jenkins	Paul	

□ 1640

Messrs. FUQUA, LATTA, ROSE, and PASHAYAN changed their votes from "yea" to "nay."

So the amendment to the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion to instruct, as amended, offered by the gentleman from Florida (Mr. YOUNG).

The motion to instruct, as amended, was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ADDABBO, CHAPPELL, MURTHA, DICKS, WILSON, HEFNER, HIGHTOWER, AUCOIN, WHITTEN, EDWARDS of Alabama, ROBINSON, MCDADE, YOUNG of Florida, and CONTE;

and as additional conferees only for consideration of Senate amendment numbered 167 and modifications committed to conference: Messrs. BOLAND, STOKES, and REGULA.

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, THURSDAY, NOVEMBER 17, 1983, TO FILE CONFERENCE REPORT ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Thursday, November 17, 1983, to file a conference report on the bill (H.R. 4185) making appropriations for the Department of Defense for the fiscal year ending September 30, 1984, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4185, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1984, WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ADDABBO moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference committee meetings between the House and the Senate on H.R. 4185, the Department of Defense appropriation bill for the fiscal year ending September 30, 1984, and for other purposes, be closed to the public at such times as classified national security information is under consideration, *Provided however,* That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ADDABBO).

Under the rules, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 15, as follows:

[Roll No. 507]

YEAS—419

Ackerman	Archer	Bennett
Addabbo	Aspin	Bereuter
Akaka	AuCoin	Berman
Albosta	Badham	Bethune
Alexander	Barnard	Bevill
Anderson	Barnes	Biaggi
Andrews (NC)	Bartlett	Bilirakis
Andrews (TX)	Bateman	Bliley
Annunzio	Bates	Boehlert
Anthony	Bedell	Boggs
Applegate	Bellenson	Boland
Boner	Fowler	Lowry (WA)
Bonior	Frank	Lujan
Bonker	Franklin	Lundine
Borski	Frenzel	Lungren
Bosco	Frost	Mack
Boucher	Fuqua	MacKay
Boxer	Garcia	Madigan
Breaux	Gaydos	Markey
Britt	Gejdenson	Marlenee
Brooks	Gekas	Marriott
Broomfield	Gephardt	Martin (IL)
Brown (CA)	Gibbons	Martin (NC)
Brown (CO)	Gilman	Martin (NY)
Broyhill	Gingrich	Martinez
Bryant	Glickman	Matsui
Burton (CA)	Gonzalez	Mavroules
Burton (IN)	Goodling	Mazzoli
Byron	Gore	McCain
Campbell	Gradison	McCandless
Carney	Gramm	McCloskey
Carper	Gray	McCollum
Carr	Green	McCurdy
Chandler	Gregg	McDade
Chappell	Guarini	McEwen
Chappie	Gunderson	McGrath
Cheney	Hall (IN)	McHugh
Clarke	Hall (OH)	McKernan
Clay	Hall, Ralph	McKinney
Clinger	Hall, Sam	McNulty
Coats	Hamilton	Mica
Coelho	Hammerschmidt	Michel
Coleman (MO)	Hansen (ID)	Mikulski
Coleman (TX)	Hansen (UT)	Miller (CA)
Collins	Harkin	Miller (OH)
Conable	Harrison	Mineta
Conte	Hartnett	Minish
Conyers	Hatcher	Mitchell
Cooper	Hawkins	Moakley
Corcoran	Hayes	Mollohan
Coughlin	Hefner	Montgomery
Courter	Heftel	Moody
Coyne	Hertel	Moore
Craig	Hightower	Moorhead
Crane, Daniel	Hiler	Morrison (CT)
Crane, Philip	Hillis	Morrison (WA)
Crockett	Holt	Mrazek
D'Amours	Hopkins	Murphy
Daniel	Howard	Murtha
Dannemeyer	Hoyer	Myers
Darden	Hubbard	Natcher
Daschle	Huckaby	Neal
Daub	Hughes	Nelson
Davis	Hunter	Nichols
de la Garza	Hutto	Nielson
Dellums	Hyde	Nowak
Derrick	Ireland	O'Brien
DeWine	Jacobs	Oakar
Dickinson	Jeffords	Oberstar
Dicks	Jenkins	Obey
Dingell	Johnson	Olin
Dixon	Jones (OK)	Ortiz
Donnelly	Jones (TN)	Ottinger
Dorgan	Kaptur	Owens
Dowdy	Kasich	Oxley
Downey	Kastenmeier	Packard
Dreier	Kazen	Panetta
Duncan	Kemp	Parris
Durbin	Kennelly	Pashayan
Dwyer	Kildee	Patman
Dymally	Kindness	Patterson
Dyson	Kogovsek	Pease
Early	Kolter	Penny
Eckart	Kostmayer	Pepper
Edgar	Kramer	Perkins
Edwards (AL)	LaFalce	Petri
Edwards (CA)	Lagomarsino	Pickle
Edwards (OK)	Lantos	Porter
Emerson	Latta	Price
English	Leach	Pritchard
Erdreich	Leath	Quillen
Erlenborn	Lehman (CA)	Rahall
Evans (IA)	Lehman (FL)	Rangel
Evans (IL)	Leland	Ratchford
Fascell	Lent	Ray
Feighan	Levin	Regula
Ferraro	Levine	Reid
Fiedler	Levitas	Richardson
Fields	Lewis (FL)	Ridge
Fish	Lipinski	Rinaldo
Flippo	Livingston	Ritter
Florio	Lloyd	Roberts
Foglietta	Loeffler	Robinson
Foley	Long (LA)	Rodino
Ford (MI)	Long (MD)	Roe
Ford (TN)	Lott	Roemer
Forsythe	Lowery (CA)	Rogers
Rose	Smith, Denny	Vandergriff
Rostenkowski	Smith, Robert	Vento
Roth	Snowe	Volkmer
Roukema	Snyder	Vucanovich
Rowland	Solarz	Walgren
Rudd	Solomon	Walker
Russo	Spence	Watkins
Sabo	Spratt	Waxman
Savage	St Germain	Weaver
Schaefer	Staggers	Weber
Scheuer	Stangeland	Weiss
Schneider	Stark	Wheat
Schroeder	Stenholm	Whitehurst
Schulze	Stokes	Whitley
Schumer	Stratton	Whittaker
Sensenbrenner	Studds	Whitten
Shannon	Stump	Williams (OH)
Sharp	Sundquist	Wilson
Shaw	Swift	Winn
Shelby	Synar	Wirth
Shumway	Tallon	Wise
Shuster	Tauke	Wolf
Sikorski	Tauzin	Wolpe
Siljander	Taylor	Wortley
Simon	Thomas (CA)	Wright
Sisisky	Thomas (GA)	Wyden
Skeen	Torres	Wylie
Skelton	Torricelli	Yates
Slattery	Towns	Yatron
Smith (FL)	Traxler	Young (MO)
Smith (IA)	Udall	Zablocki
Smith (NE)	Valentine	Zschau
Smith (NJ)	Vander Jagt	

NOT VOTING—15

Fazio	Luken	Sawyer
Hance	Molinari	Seiberling
Horton	Paul	Williams (MT)
Jones (NC)	Pursell	Young (AK)
Lewis (CA)	Roybal	Young (FL)

□ 1700

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3959, SUPPLEMENTAL APPROPRIATIONS, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight to file a conference report on the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

The SPEAKER pro tempore. (Mr. COLEMAN of Texas). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 98-551)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) "making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14, 17, 22, 32, 46, 47, 58, 59, 63, 64, and 66.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 8, 9, 10, 21, 24, 25, 26, 28, 29, 33, 34, 35, 38, 40, 43, 50, 53, 56, and 57, and agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

For an additional amount for pre-kindergarten programs, $1,600,000.

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum named by said amendment insert *$6,000,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 4, 5, 6, 7, 11, 12, 13, 15, 16, 18, 19, 20, 23, 27, 30, 31, 36, 37, 39, 42, 44, 45, 48, 49, 52, 54, 55, 60, 61, 62, 65, and 67.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES,
TOM BEVILL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
GEORGE M. O'BRIEN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
ALFONSE M. D'AMATO,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
TOM EAGLETON,
LAWTON CHILES,
(except amendment No. 63),
WALTER D. HUDDLESTON,
DENNIS DeCONCINI,
(except amendment No. 63),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

CHAPTER I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate limiting the interest rate on Section 202 projects to 9.25 percent.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in amendment of the Senate appropriating $600,000 to the Council on Environmental Quality and Office of Environmental Quality for two contract studies related to water resources.

The conferees are aware of the broad responsibilities and technical expertise of the U.S. Geological Survey, the Environmental Protection Agency, and the Army Corps of Engineers in matters related to water resources and water quality. The Council is directed to consult with and rely on these agencies for technical guidance in developing the study requirements and monitoring the progress of the contracts. The conferees expect these contracts to be competitively awarded to university-based organizations and to be completed by September 30, 1984.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 3: Inserts heading as proposed by the Senate.

SALARIES AND EXPENSES

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the limitation on the Federal Emergency Management Agency's reception and representation allowance for fiscal year 1984 from $500 to $2,000.

STATE AND LOCAL ASSISTANCE

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which effectively sets aside the fiscal year 1984 authorization limitation of $54,000,000 for contributions to States under section 205 of the Federal Civil Defense Act and specifies that $55,000,000 of the funds already appropriated for state and local assistance in the Department of Housing and Urban Development-Independent Agencies Appropriation Act of 1984 shall be available for such purpose.

EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAM

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum of $40,000,000 named in two instances in said amendment, insert in both instance: *$30,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate inserting language appropriating $20,000,000 for construction of facilities for partial funding of two shuttle projects and permitting previously appropriated fiscal year 1984 funds to be used to contract with Thiokol to amortize the casting pit covers over 12-year period, at a total cost of not more than $23,000,000.

The conferees further agree that NASA transfer $3,450,000 from the research and development appropriation to the construction of facilities account for the design and preparation of a Kennedy Space Center site for subsequent construction of a solid rocket booster assembly and refurbishment facility.

VETERANS' ADMINISTRATION

COMPENSATION AND PENSIONS

Amendment No. 8: Deletes language proposed by the House and stricken by the Senate appropriating $66,000,000 for compensation and pensions for fiscal year 1983.

READJUSTMENT BENEFITS

Amendment No. 9: Deletes language proposed by the House and stricken by the Senate appropriating $40,000,000 for readjustment benefits for fiscal year 1983.

MEDICAL AND PROSTHETIC RESEARCH

Amendment No. 10: Appropriates $53,974,000 for medical and prosthetic research as proposed by the Senate, instead of $57,356,000 as proposed by the House.

VETERANS JOB TRAINING

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

For an additional amount for payment of expenses as authorized by the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77), $75,000,000, to remain available until September 30, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide an additional $75,000,000 for the veterans' job training program in fiscal year 1984. This amount, together with the $75,000,000 included in the Further Continuing Appropriations Joint Resolution, provides the $150,000,000 authorized and requested for this program in fiscal year 1984.

The conferees are concerned that the Veterans' Administration administers this program to ensure compliance with the basic law. In that connection, it is directed that the VA verify the type of employment and training experienced by the recipient in order to ensure such compliance. Also, the conferees direct that the VA collect sufficient data for an evaluation study funded from the general operating expense appropriation. For example, data on recipient length of unemployment should be requested on the application form and should be computerized with other benefit data in connection with this and other benefit programs.

GENERAL OPERATING EXPENSES

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), $1,000,000 shall be available for an evaluation of the emergency veterans' job training program.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Subsequent to action by both houses on the 1984 Supplemental Appropriations Bill, the Committees on Appropriations became aware of $13,779,000 in savings in the general operating expenses account. These sav-

ings accrued owing to a limitation on the increase in the standard level user charge in fiscal year 1984. Therefore, the conferees agree that administrative expenses associated with the veterans' job training program can be provided from within existing resources. The conferees further agree that an evaluation of the program, as outlined in Senate Report 98-275, can also be funded from within available resources.

CHAPTER II—LEGISLATIVE BRANCH

SENATE

Amendment No. 13: Reported in technical disagreement. Inasmuch as this amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other body concurs without intervention, the managers on the part of the House will move to recede and concur in the Senate amendment.

RAILROAD ACCOUNTING PRINCIPLES BOARD

Amendment No. 14: Appropriates $50,000, subject to the enactment of authorizing legislation, for salaries and expenses as proposed by the House.

CHAPTER III

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,500,000 for the construction of a new headquarters for the operation of the Valley Division of the Yuma Reclamation Project.

Central Arizona Project.—Within funds provided in the fiscal year 1984 construction program for the Central Arizona Project (Public Law 98-50), $50,000 is for an evaluation of available water supplies in the Salt-Verde River Basin which could be developed for conservation purposes. The preliminary evaluation should be completed and submitted to the Committees for review by April 1, 1984.

Arbuckle Project, Okla.—The Conference Committee directs the Bureau of Reclamation to make available within existing funds approximately $200,000 to complete preconstruction activities necessary for the construction of previously authorized conveyance facilities in connection with the Arbuckle Project, Okla., to provide municipal and industrial water to Sulphur, Okla. Such activities will include making location studies, environmental studies, collection of design data, and beginning preparation of design and specifications for the pumping plant, pipeline and appurtenant features.

Upper John Day Project, Oreg.—The conferees direct the Bureau of Reclamation to use $150,000 of available funds to complete the Upper John Day project study in 1984. The data necessary for the study has already been collected and analyzed and additional funds would allow for the completion of the planning report and environmental statement.

Hoover Dam Powerplant Uprating and Facility Improvements.—The Committee directs the Bureau of Reclamation to allocate sufficient funds from the construction program to undertake advanced engineering and design on Hoover Dam Powerplant and other facility improvements. The project has been in operation for more than 40 years and critical safety and equipment requirements have been identified for implementation. This action will allow the Bureau of Reclamation to begin initial engineering activities prior to project authorization.

Lower Colorado River Flooding.—Controlled flooding conditions along the lower Colorado River, and recent floods in New Mexico and Arizona require a coordinated review by both the Corps of Engineers and the Bureau of Reclamation and a recommendation of measures to prevent or minimize recurring damage. Additionally, the conferees urge the Bureau to comprehensively address the serious groundwater problems in the lower Colorado region within existing authorization.

Muddy Creek Project, Montana.—The conferees recommend that of the funds appropriated in Public Law 98-50 under General Investigations, $10,000 shall be available for transfer to the State of Montana to continue erosion control studies on the Muddy Creek Project, Montana.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT ACTIVITIES

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which appropriates $8,000,000 for "Energy Supply, Research and Development Activities". Of this amount, $4,000,000 is available for the four atoll health care plan authorized in section 102 of Public Law 96-205. The conferees intend that this funding be consistent with the health care arrangements under Section 177 of the Compact For Free Association. The conferees agree that the Secretary of the Interior should develop a health care plan as required under section 106 of P.L. 96-205 addressing the health care needs of those found to have been exposed to radiation from the nuclear weapons testing program and that these funds are available for implementation of such plan. The provision of these funds does not assume any future commitments for additional funding for this program.

The conferees agree that $3,000,000 is available for construction and operation of a second small community solar energy project on the Island of Molokai, Hawaii, and that $2,000,000 of available funds shall be used for the thermal energy storage program identified in the House Report 98-272 and that it be conducted under the "Energy Storage Systems" activity.

Within the funds provided to the Department of Energy in P.L. 98-50, the managers direct the Department to use up to $500,000 to complete by June 30, 1984, the environmental studies, planning and design activities on the Lakeview, Oregon, uranium mill tailings site pursuant to Public Law 95-604. The Department is expected to consult and cooperate with appropriate State and local officials in the development and implementation of this remedial action program.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 17: Appropriates $57,000,000 as proposed by the House, instead of $60,000,000 as proposed by the Senate for the continued construction and development of the Waste Isolation Pilot Plant, project 77-13-f.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which provides authority for the Department of Energy to purchase four additional helicopters.

The conferees direct that the Department of Energy obtain the approval of the Committees on Appropriations prior to the actual purchase of any helicopters under this provision.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

TERMINATION OF THE USE OF CERTAIN SEEPAGE BASINS

Of the funds heretofore appropriated for "Atomic Energy Defense Activities", $30,000,000 is to be made available for use by the Secretary of Energy—

(1) to terminate, within 24 months after the date of enactment of this Act, the use of seepage basins associated with the fuel fabrication area at the Savannah River Plant, Aiken, South Carolina; and

(2) to submit to the appropriate committees of Congress, within 6 months after the date of enactment of this Act, a plan for the protection of groundwater at the Savannah River Plant which shall include—

(A) proposed methods for discontinuing the use of seepage basins associated with the materials processing areas;

(B) provisions for the implementation of other actions appropriate to mitigate any significant adverse effects of on-site or off-site groundwater and of chemical contaminants in seepage basins and adjacent areas, including the removal of such contaminants where necessary; and

(C) provisions for continuing the expanded monitoring program of groundwater impacts involving the appropriate South Carolina agencies in accordance with the statutory responsibilities of such agencies.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Department should prepare a detailed plan for the work to be performed and the expenditure of the funds redirected by this amendment is subject to the prior approval of the Committees on Appropriations and appropriate authorizing committees.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the amendment of the Senate which rescinds $50,000,000 for Project 82-D-109, 155mm artillery fired atomic projectile.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 21: Inserts reference to "Public Law 97-425", as proposed by the Senate, in text of appropriating language.

APPALACHIAN REGIONAL COMMISSION

Amendment No. 22: Appropriates $9,400,000 for the ARC development highway program as proposed by the House.

TENNESSEE VALLEY AUTHORITY

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

SEC. 1300. No part of the funds appropriated under this Act or any other provisions of law may hereafter be used by the Department of Justice to represent the Tennessee Valley Authority in litigation in which the Authority is a party unless the Department is requested to provide representation in such litigation by the Authority.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

The conferees intend that the Department of Justice should be able to represent the Tennessee Valley Authority in appropriate cases in which the Authority is a party, if the Authority requests the Department to provide representation in such cases.

Amendment No. 24: Changes section number as proposed by the Senate.

Amendment No. 25: Changes section number as proposed by the Senate.

Amendment No. 26: Inserts language proposed by the Senate limiting the experimental program for delivery of water to the Everglades National Park to two years.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

The Secretary of the Army is further authorized to acquire such interest in lands currently in agriculture production which are adversely affected by any modification of schedule for water delivery to Everglades National Park under the preceding paragraph. The Secretary shall acquire any interest in land at the fair market value of such interest based on conditions existing after the construction of the project described in the preceding paragraph of this section and before any modification of such delivery schedule. The Secretary is also authorized to construct necessary flood protection measures for protection of homes in the area affected by any modification of such delivery schedule, at an estimated cost of $10,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recognize the emergency situation existing in Everglades National Park as a result of excessive rainfalls over the last several years. The delicate ecosystem of the park has been disrupted and, as a result, there has been a dangerous decrease in wading bird populations as well as other animal and plant species. Untimely water releases during nesting seasons have affected such endangered species as the brown pelicans and woodstork. The alligators, once prolific in this area, are now seen in reduced numbers.

The unseasonably wet period and its effects prompted the Everglades National Park to work with the South Florida Water Management District and the U.S. Army Corps of Engineers to implement a seven-point emergency program for the park. A portion of this plan recommends a revision in the water delivery schedule in order to allow for greater discharges to the park during the wet season, and a reduction in unseasonable, dry season releases. Experts agree that a more natural schedule of water flows across the east Everglades area is the only way to insure ecological integrity of Everglades National Park.

The conferees acknowledge that a change in the water delivery schedule could have an adverse impact on privately owned lands east of the park, and recognize the need to address and resolve this situation and treat fairly private landowners whose properties may be affected as a result of water delivery modifications necessary to protect the Federal park.

The conference agreement provides for a 2-year experimental program of modified water releases to the park and allows the Corps of Engineers to acquire those agricultural lands adversely impacted by the increased experimental releases. Further, the Corps would also be authorized to protect those homes in the area that may be affected by this experimental program.

Amendment No. 28: Changes section number as proposed by the Senate.

Amendment No. 29: Changes section number as proposed by the Senate.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the Red River Waterway Project.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to flood control on the North Branch Chicago River in Niles, Illinois.

Amendment No. 32: Deletes language proposed by the Senate relating to the Eastport Harbor, Maine, project.

Dredge Kennedy.—From within funds available to the Corps of Engineers, not to exceed $2,000,000 shall be used to rehabilitate, restore, and refurbish the Corps of Engineers dredge vessel *Kennedy*, to transport the vessel to New Orleans, Louisiana, and there to operate, maintain, and display the vessel for the duration of the 1984 Louisiana World Exposition. Such operation, maintenance, and display shall include the preparation and use of audio-visual and other exhibits to inform the public of Corps of Engineers water resources activities.

Hugo Lake, Okla.—Within available funds, the Corps of Engineers is directed to allocate $200,000 to continue planning of the Hugo Lake, Oklahoma, hydropower study.

Lorean Branch and Calloway Branch, Hurst, Texas.—The Corps of Engineers is directed to allocate within available funds $130,000, to Lorean Branch, Hurst, Texas, small flood control project and $130,000 to the Calloway Branch, Hurst, Texas, small flood control project.

Chesapeake Bay Model, Maryland.—The conferees note a decision by the Corps of Engineers to close the Chesapeake Bay Model in Maryland. The State of Maryland has offered to fund and conduct a study of the merits of converting the model facility into a multipurpose center for the promotion of the Chesapeake Bay's natural resources, or for other purposes. In order to allow time for the conduct of the study, the conferees direct that the Model be maintained in a fresh water mode until July 1, 1984, at Federal expense.

Aliceville Lake.—The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct a resource management and visitor center at Aliceville Lake for the purpose of providing a centrally located facility to disseminate information to the public about water resource development. The construction of the center shall be substantially in accordance with plans developed by the Mobile District Engineer at an estimated construction cost of $3,500,000.

Black Rock Channel, New York.—The Conference Committee notes that a serious safety problem exists at the Bird Island Pier which separates the Black Rock Channel from the Niagara River in New York. The pier, which is used by fishermen, is unsafe due to the overtopping of waters from the Black Rock Canal into the Niagara River. The Coast Guard estimates that they perform dozens of rescues a year from the pier. Concerns have intensified after four drownings this past summer. The Corps recommends that an elevated walkway be constructed at the pier. The conferees, therefore, direct that within available funds $1,000,000 be used to complete planning and start construction of this emergency walkway.

Coles Point, Sardis Lake, Miss.—The conferees are aware of a request to the Corps of Engineers from local interests for development of a marina at Coles Point on Sardis Lake, Miss. The Corps is directed to provide assistance to the local entities in developing the necessary agreements that will bring this worthy project to fruition.

Yazoo Basin Reservoirs.—The conferees have been advised that drifts and sand spurs have been accumulating in the channel outlets in the four Yazoo Basin Reservoirs, creating an emergency need for channel cleanout in those locations. The Corps of Engineers is directed to accomplish this work in cooperation with the Soil Conservation Service and take such steps as are necessary to make a permanent resolution to the problem of upstream erosion.

Crows Neck and Plymouth Bluff Environmental Education Centers.—The Chief of Engineers is directed to construct the Crows Neck and Plymouth Bluff Environmental Education Centers in accordance with plans developed and the agreements by the District Engineer.

Platte River and Tributaries, Nebraska.—The conferees are very concerned with the flood problems of Nebraska, particularly along the Platte River and its tributaries. During 1983, the worst flood on record occurred in this region, the volume of flood waters being so large that hydrologists estimate that such a deluge could occur only once in 200 years. Recognizing that this flood potential has threatened this region for many years and continues to do so, therefore, the conferees direct the Corps of Engineers to utilize available funds to prepare a plan of action to address this serious situation. Also the Division Engineer, Missouri River Division, is to include in the statement on the fiscal year 1985 budget a funding schedule and necessary draft legislation to facilitate an expeditious resolution to this flood problem and other water problems in the State.

Revere Beach, Massachusetts.—The conferees have reviewed the beach erosion protection project at Revere Beach and have determined that it is deficient in providing flood damage reduction measures to Revere, Massachusetts, and provides the following direction to the Corps of Engineers. The flood control element is to complement the authorized beach erosion and is to include the following items:

Restoration of Revere Beach and shoreline flood control measures inclusive of Roughans Point and Point of Pines; and

Other flood damage reduction measures needed for the backshore area.

The Corps is directed to utilize $1,000,000 of available funds to initiate construction of this vitally needed project. The State initiated, in June 1978, construction of Phase I of the Master Plans Park and Flood Control Embankment, and acquired the additional property needed to complete the embankment. The construction cost of Phase I was $1,100,000. The Revere Beach Reservation was the first such public beach reservation in the United States.

Scottsville, Virginia.—The conferees are very concerned with the flooding problems at Scottsville, Virginia. The community has

been devastated by floods on numerous occasions, and the future of this historic town is in serious jeopardy. Therefore the conferees direct the Army Corps of Engineers to provide an adequate level of protection to this community using up to $2,000,000 in available funds as an advance measure under Public Law 99 of the 84th Congress.

Havre-Weir Project, Montana.—Within available funds, the Corps of Engineers is directed to allocate $150,000 for design of the Havre-Weir Project in Montana.

Pleasant Run Flood Control Project, Ohio.—Within available funds, the Corps of Engineers is directed to allocate $200,000 for continuation of planning and engineering on the Pleasant Run flood control project in Ohio.

Captiva Island, Florida.—The Conference Committee notes that a serious erosion problem exists on Captiva Island, Florida, that has been exacerbated by storms within the past year. As a result, County Road 867, the only hurricane evacuation route for the northern two-thirds of Captiva Island, is in imminent danger of being undermined unless the nourishment of the Captiva Island shoreline is completed. The Corps of Engineers is therefore directed to investigate the problem of the remaining nourishment of the beach, and to report back to the Congress those findings with an estimate of the cost of such repairs.

Trumbull Lake, Conn.—Within available funds the Corps of Engineers is directed to initiate studies of alternatives to the authorized Trumbull Lake Project in Fairfield County, Conn., including a review of problems and opportunities and formulation and evaluation of flood damage reduction plans. The Corps should also consider other values which may be achieved under alternative plans and consult with local governmental officials in the formulation of the alternatives.

Mamaroneck and Sheldrake Local Protection, N.Y.—The Conference Committee directs the Corps of Engineers to apply, from available funds, an additional $300,000 to accelerate and complete the feasibility study of the Mamaroneck and Sheldrake Rivers flood protection project in 1984 so that a decision regarding funding for continued planning and engineering and project construction can be made at the earliest possible time. In addition, the Chief of Engineers shall include the costs and benefits of local improvements initiated by local interests for such flood protection subsequent to January 1, 1985, which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan. In determining the appropriate non-Federal share for such project, the Chief of Engineers shall fully consider the costs incurred by non-Federal interests in carrying out such local improvements.

Homochitto and Buffalo River Basin, Miss. (MR&T).—Within available funds, the Corps of Engineers is directed to use $650,000 to continue the study of flood control, bank stabilization, sedimentation, and related activities along the Homochitto and Buffalo Rivers, St. Catherine and Coles Creeks, Bayou Pierre, and other major tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River, Miss.

Fox River, Wis.—In action on the 1984 Energy and Water appropriation bill, the decision was made to convert the operation of the navigation locks on the Fox River in Wisconsin to caretaker status. The Committee has been informed, however, that local interests currently are negotiating with the Corps of Engineers in an effort to take over lock operations. In an effort to provide additional time for the orderly transfer of operations to local interests, the Corps of Engineers is directed to allocate $900,000 from available funds for continued operation of the navigation locks on the Fox River.

The Conference Committee believes that, in light of past project utilization, lock operation should not be extended beyond the end of fiscal year 1984.

Minto-Brown Island Park, Oreg.—The Conference Committee directs the Corps of Engineers to allocate, from available funds, $1,000,000 to undertake measures which will prevent further erosion to and protect the Federal investment in the Minto-Brown Island Park in Oregon.

Sowashee Creek, Miss.—The Conference Committee has been advised of the continuing serious flood problems along the Sowashee Creek in Meridian, Miss. The Corps was authorized, under section 171 of the 1976 Water Resources Development Act, to undertake the phase I design memorandum stage of advanced engineering and design along the lower 10.1 miles of Sowashee Creek. Flood problems in the upper reaches and adjacent areas are to be reduced by upstream watershed structures authorized for installation by the Soil Conservation Service in cooperation with the Sowashee Creek Drainage District and in coordination with the Corps downstream work. Because of the urgent need to proceed with construction work, the Conference Committee directs the Corps to take all necessary steps to accelerate and expedite the phase I report so as to enable Congress to consider this project in the next session.

Grays Harbor, Wash.—The conferees are concerned over the continued delays in the processing of the Chief of Engineers' report for the proposed Grays Harbor, Washington project, and directs the Chief to expeditiously process his report so that the Congress can consider this project in the next session.

Homer Spit, Alaska.—The Conference Committee directs the Corps of Engineers to undertake a study on a permanent solution of serious erosion conditions at Homer Spit, Alaska. Since the 1964 Good Friday earthquake, the spit has been susceptible to major erosion during the spring and fall through a combination of high tides, storms, and shifting currents. The study should be initiated so data on wave action and current can be collected during the spring of 1984.

Barnegat Inlet, N.J.—The Congress authorized a phase 1 general design memorandum on the Barnegat Inlet, N.J., project in the 1976 Water Resources Development Act. In submitting the phase 1 report on this project, the Chief of Engineers determined that the existing authorized project should be modified due to design deficiencies and that the proposed modifications are basically corrective measures required to have the project function as initially intended and, therefore, can be implemented within the purview of the original project authority. In light of this determination, the conferees urge the Chief of Engineers to proceed with the modifications as quickly as possible in accordance with his findings and expressed intentions to correct these deficiencies, using available resources.

Presque Isle, Pa.—The Conference Committee is disturbed that the Assistant Secretary of the Army for Civil Works and the Corps of Engineers has continually delayed ongoing engineering and design activities on the Presque Isle project and has indicated that it does not intend to follow the conferees' intent to fund the design for a permanent solution.

The Conference Committee has consistently supported this project and the need for a permanent solution to the beach erosion problem in both the 1983 supplemental and 1984 Energy and Water Development Appropriations Acts.

Therefore, the conferees direct the Corps of Engineers to forward the revised project report which is due on November 30, 1983, along with its recommendations and funding schedule for the permanent solution.

Rochester, Minn., Flood Control Project.—Within available funds, the Corps of Engineers is directed to use $200,000 to continue planning and engineering on the Rochester, Minn., local protection project.

South Yadkin River, N.C.—An amount of $300,000 was appropriated for fiscal year 1984 within the annual "General Investigation" account for the Little Pee Dee and Pee Dee Rivers basin study. Within available funds, the conferees direct the Corps of Engineers to proceed with the study to determine what measures are necessary and justified to provide flood control, water supply, hydroelectric power, and allied purposes in North Carolina, with particular reference to multipurpose reservoirs on the South Yadkin River, as authorized by a resolution adopted September 23, 1982.

Devils Lake Basin, N. Dak.—Within available funds, the Corps of Engineers is directed to begin a feasibility study of the Devils Lake basin, N. Dak., under the authority of the Red River of the North authorization. The conferees recognize the relationship of the Devils Lake basin and the Pick Sloan plan and, therefore, direct the Corps to consult and coordinate its efforts with the Bureau of Reclamation.

Lock Haven, Pa.—Within available funds, the conferees direct the Corps of Engineers to continue planning and engineering on the Lock Haven, Pennsylvania, flood control project.

CHAPTER IV

DEPARTMENT OF THE INTERIOR

Amendment No. 33: Adds heading "Fish and Wildlife and Parks" as proposed by the Senate.

Amendment No. 34: Appropriates $500,000 for resource management as proposed by the Senate for preparation of environmental impact statements on oil and gas leasing applications on National Wildlife Refuges outside of Alaska.

Amendment No. 35: Adds heading "National Park Service" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Operation of the National Park System

Funds appropriated to the National Park Service under this head in Public Law 97-394 shall be available to reimburse the Estate of Bess W. Truman for operation expenses, including maintenance and protection, of the Harry S Truman National Historic Site incurred during the period October 18, 1982 through December 27, 1982.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Mrs. Truman bequested her home to the United States and it was accepted as part of the Harry S Truman NHS by the Secretary of Interior. This language permits the Park Service within available funds to compensate the estate for security costs from the time of Mrs. Truman's death to the time of the acceptance of the property by the Service. No funds are provided for operation of a tourist information facility in the Great Hall of the Herbert Clark Hoover Building.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which increases the construction development ceiling for Perry's Victory Memorial. Funds for rehabilitating the Memorial were provided in the Fiscal Year 1983 appropriation.

Amendment No. 38: Appropriates $25,500,000 as proposed by the Senate for land acquisition and state assistance. This provides $25,000,000 for a condemnation award at Congaree Swamp National Monument and $500,000 for Saratoga NHP.

U.S. FOREST SERVICE

The managers expect the Forest Service to use up to $300,000 of the funds provided for recreation composites in Public Law 98-146 to acquire land in the Clear Creek Composite of the Bankhead National Forest.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That any funds remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: Provided further, That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have deleted bill language which made the funds available to the Commonwealth of Pennsylvania conditional on the Commonwealth accepting title to all properties acquired by the Office of Surface Mining in and around the Borough of Centralia. The managers agree that the funds should not be made available to the Commonwealth until the Commonwealth accepts title to 28 properties acquired by OSM under memorandum of understanding dated March 30, 1981. In addition, the managers strongly urge OSM and the Commonwealth to reach agreement on the transfer of 6 other properties from OSM to the Commonwealth at the earliest possible date.

Amendment No. 40: Deletes incorrect account title and inserts correct account title, as proposed by the Senate.

Amendment No. 41: Appropriates $1,600,000 for BIA pre-kindergarten programs, instead of $1,700,000 as proposed by the House and nothing as proposed by the Senate.

The amount provided, $1,600,000, is for the last year of funding in BIA for existing pre-kindergarten programs. The managers note that of 88,000 Indian children of preschool age, only 1,000 are enrolled in programs supported by the BIA pre-kindergarten program. Under the Indian and Migrant set-aside in the Headstart program, $3,110,000 is available in fiscal year 1984 for new starts. The managers direct the Bureau of Indian Affairs to work closely with those tribes funded by the BIA program to develop applications for the Headstart program in the future.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated in Public Law 97-257 for transfer to the State of Alaska shall remain available until expended and may be used for reconstruction of day schools.

Amendment No. 43: Provides no funds for the four atoll health care plan in this chapter. The funds are provided to the Department of Energy in Chapter III of this bill.

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds available for the Department of the Interior and the U.S. Forest Service for contracting for privately-owned aircraft shall be used to contract only for aircraft certified as airworthy by the Federal Aviation Administration, unless such aircraft are not resaonably available.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment, insert the following:

Subsection (d) of section 109 of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes" (Public Law 98-146), is amended by striking out "The limitation with regard to this subsection on the use of funds shall not apply if any State-owned tide or submerged lands within the area described in this subsection are now or hereafter subject to sale or lease for the extraction of oil or gas from such state lands; and" and insert in lieu thereof "The limitation with regard to this subsection on the use of funds shall not apply to submerged lands within 30-nautical miles off any Florida land mass located south of 25 degrees north latitude."

The managers on the part of the House will move to concur in the amendment of the House to the amendment of the Senate.

At the time H.R. 3959 was considered in the House, action was not yet complete on H.R. 3363—the Department of Interior and Related Agencies Appropriation Act for fiscal year 1984. That Act had a one year moratorium on OCS leasing in Lease Sale #79 in the Easten Gulf of Mexico below 26° N. Latitude, 50 miles from the land between 26° N. Latitude and 28° N. Latitude, and all tracts in the OCS area bounded on the West by 85° W. Longitude and on the south by 28° N. Latitude. The conferees on that bill had agreed to restrict leasing on three environmentally sensitive areas in the Eastern Gulf of Mexico—much less than had been agreed to by the House. After the House completed action on the conference report and the amendments in disagreement thereto on H.R. 3363, the Senate further amended the amendment relating to the Florida lease sale. The House subsequently agreed to that further amendment which follows:

(d) All submerged lands within 30-nautical miles of the baseline from which the territorial sea is measured: *Provided*, That the western boundary of the area is a line extending south from the line dividing blocks 404 and 405 in Official Protraction Diagram NH 16-9, Apalachicola to a point 30-nautical miles from the baseline from which the territorial sea is measured. In addition, from the boundary between blocks 404 and 405 as described in the preceding sentence, westerly to a line extending north and south dividing blocks 38 and 1 in Official Protraction Diagram NH 16-9, all submerged lands within 20-nautical miles of the baseline from which the territorial sea is measured. The limitation with regard to this subsection on the use of funds shall not apply if any State-owned tide or submerged lands within the area described in this subsection are now or are hereafter subject to sale or lease for the extraction of oil or gas from such State lands

That language established a one year leasing moratorium in a 30 mile buffer area from Apalachicola south to northern Monroe County and in a 20 mile buffer from Apalachicola north and west to Panama City.

Before the subsequent Senate and House actions on H.R. 3363, the House considered this bill—H.R. 3959 and adopted an amendment which banned leasing in lease sale 79 between 28° N. Latitude and 26° N. Latitude 40 miles from the 10 mile Federal-State boundary. That provision was struck by Senate amendment No. 45.

After all action was completed on H.R. 3363, it was found that the State had leased the outer three miles of the State submerged lands. That action, in effect, vitiated the buffer zones established in section 109(d).

The conferees on H.R. 3959 agreed to an amendment which deleted the last sentence of section 109(d) and reestablished a one year leasing moratorium as described above.

The conferees have further adopted language which stipulates that this moratorium will not apply to any area located in lease sale number 79 which lies 30 miles north of any land mass located south of 25° N. Latitude.

Amendment No. 46: Deletes language proposed by the Senate, which prohibited the use of funds to process oil and gas lease applications in units of the National Wildlife Refuge System unless specifically authorized.

This provision has already been enacted into law as part of H.J. Res. 413, making further continuing appropriations for fiscal year 1984.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 47: Appropriates $1,000,000 for Fossil Energy Research and Development as proposed by the House for the gasification pilot plant in Homer City, Pennsylvania. This amount supplements the $5,000,000 already made available in fiscal year 1984. The Department of Energy should develop and transmit to the House and Senate Appropriations Committees a plan to best use the pilot plant within the available funds. The plan should be present-

ed to the Committees by March 1, 1984 and should not be a mere continuation of tests previously run in the bi-gas mode. The managers agree that none of the funds made available in this Act or in Public Law 98-146 for the Homer City facility should be used for any continued testing in the bi-gas mode.

NATIONAL GALLERY OF ART

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $250,000 for special exhibitions in the National Gallery of Art.

CHAPTER V

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate disapproving the deferral of $2,050,000 for the United States Railway Association.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

Amendment No. 50: Inserts language proposed by the Senate which identifies Chapter VI of the bill as "Department of Agriculture".

FEDERAL GRAIN INSPECTION SERVICE

Amendment No. 51: Appropriates $6,000,000 for inspection and weighing activities instead of $8,000,000 as proposed by the Senate. The House bill did not include any additional funds for the Federal Grain Inspection Service.

FOOD AND NUTRITION SERVICE

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes language regarding alleged overpayments to certain institutions participating in the child care food program

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Amendment No. 53: Appropriates $7,000,000 for the emergency conservation program as proposed by the Senate.

DONATION OF CERTAIN PROPERTY

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits the Secretary of Agriculture to donate the Bamboo Research Station in Savannah, Georgia, to the University of Georgia.

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For an additional amount for part B of title IX of the Higher Education Act of 1965, $500,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

With regard to amendment number 66, the conferees note the lack of specific authorization to appropriate funds to the Sam J. Ervin, Jr. Program in Public Affairs, and are therefore reluctant to include such funding in this supplemental appropriation bill. However, the conferees have agreed to include funding for an existing program authorized for purposes similar to those conducted at the Ervin Program in Public Affairs. It is the intent of the conferees that a major portion of these funds should be used to support the Sam J. Ervin, Jr., Program in Public Affairs.

The conference agreement deletes funding included in the Senate-passed bill for construction, renovation and related costs of an urban research park facility to be established jointly by Cheyney State College and Lincoln University in Philadelphia. The conferees take note of the following letter from the Director of the Office of Management and Budget:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 15, 1983.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR ARLEN: Please forgive me for not responding earlier to your letter of October 24 concerning the Philadelphia project involving Provident Mutual and the two historically black colleges. As I'm sure you know by now, an approach has been worked out using currently available Education and HUD funds that will allow the project to go forward. No supplemental appropriation of additional 1984 funds will now be necessary.

I'm sure you're as pleased as I that we've been able to work this out to everyone's satisfaction without needing additional funds. Thank you for your assistance and concern.

Sincerely,

DAVID A. STOCKMAN,
Director.

TITLE II

GENERAL PROVISIONS

Amendment No. 56: Technical correction.

Amendment No. 57: Changes section number.

Amendment No. 58: Deletes language proposed by the Senate concerning the Rural Development Loan Fund. The conferees understand the additional obligations proposed by the Senate from the Rural Development Loan Fund may be premature at this time. By December 31, 1983, the Department of Health and Human Services must obligate $10,000,000 from this fund; before agreeing to a second round of loans, it may be prudent to wait until information is available on the loans which will be made this December.

Amendment No. 59: Deletes a general provision proposed by the Senate prohibiting the use of funds by the Federal Communications Commission to repeal, amend, or otherwise modify the Syndication Rule, the Financial Interest Rule and the Prime Time Access Rule, which would have applied only to the three major networks. The House bill contained no provision on this matter.

The House of Representatives has already passed a bill which prohibits any further action by the FCC on the issue of financial interest, syndication rights, and prime-time access. The Managers on the part of the Senate receded on this amendment with the understanding that similar legislation will be considered and acted upon by the Senate prior to sine die adjournment of this session of the Ninety-Eighth Congress, thereby providing for a legislative solution to this issue.

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 2002. Notwithstanding any other provision of law, the terms "meat" and "meat food products" as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and the Secretary of Agriculture, out of funds available to the Commodity Credit Corporation, upon proper proof of loss, shall pay outstanding claims for losses resulting from the 1980 embargo on sales of agricultural commodities to the Soviet Union sustained by businesses dealing in pork and frozen hog carcasses as well as edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment added bill language amending the Prompt Payment Act (P.L. 97-177) to expand the definition of the terms "meat" and "meat food products" to include ". . . edible fresh or frozen poultry meat, poultry meat food products, fresh eggs and perishable egg products." The conference agreement includes this language, amended to specify "perishable" poultry meat food products, and provides for payment of claims, upon proper proof of losses as a result of the embargo at the time of the Soviet invasion of Afghanistan. Such determination shall be made by the Secretary.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 2003. (a) Section 4 of the Act entitled "An Act to save daylight and to provide standard time for the United States," approved March 19, 1918 (15 U.S.C. 263) is amended—

(1) by striking out "Yukon" and inserting in lieu thereof "Alaska";

(2) by striking out "Alaska-Hawaii" and inserting in lieu thereof "Hawaii-Aleutian"; and

(3) by striking out "Bering" and inserting in lieu thereof "Samoa".

(b)(1) Any reference to Yukon standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Alaska standard time.

(2) Any reference to Alaska-Hawaii standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Hawaii-Aleutian standard time.

(3) Any reference to Bering standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Samoa standard time.

(c) The Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended—

(1) by striking from Section 201(e) of such Act "1983" and inserting in lieu thereof "1985"; and

(2) by striking from Section 308(c)(1) of such Act "1983" and inserting in lieu thereof "1985".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees urge the Federal Railroad Adminstration to give priority consideration to the redeemable preference share project applications of the Erie Lackawanna and the New York Susquehanna and Western Railroads to the extent that such projects can be funded from surpluses derived from existing projects for which preference share funds have been reserved. The conferees direct the Federal Railroad Administration to report to the Appropriations Committees of the House and Senate 15 days prior to the reservation and/or obligation of funds for these projects, explaining from which project funds are to be reprogrammed and the reasons for such action.

The conferees are aware of problems involving the proposed abandonment of service on the Maitland Industrial Track in Mifflin County, Pennsylvania. The conferees have been informed that the Commonwealth of Pennsylvania will be providing $105,000 in state funds, and seeks $245,000 in federal funds for a total project cost of $350,000 for the rehabilitation of this line. The Commonwealth is expected to apply for approval to reprogram $245,000 in local rail service funds from its prior years' formula funds for this purpose, and the conferees urge that expeditious and favorable consideration be given to such request by the Federal Railroad Administration.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *2004*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This general provision is a sense of the Senate provision commending the United States Armed Forces for their actions in Grenada.

Amendment No. 63: Deletes a general provision proposed by the Senate which would have authorized and appropriated $1,000,000 for a Commission on Drug Interdiction and Enforcement to review current laws and procedures concerning drug interdiction and to make recommendations to the President, the Director of National and International Drug Operations and Policy and the Congress on a coordinated interagency Federal strategy on narcotics control. In addition, the amendment would have authorized $500,000 for fiscal year 1985 and such sums as may be necessary for four succeeding fiscal years for an Office of National and International Drug Operations and Policy. The Office would have been headed by a Director who would have served as the principal coordinator of United States operations and policy on illegal drugs and who would have had the authority to direct each department and agency with responsibility for drug control in carrying out policies established by the Director on this matter.

Amendment No. 64: Deletes language proposed by the Senate concerning national programs under the Job Training Partnership Act. The Senate bill language would have forced the Labor Department to carry out conference report directives accompanying the regular fiscal year 1984 Labor-HHS-Education Appropriations Act (P.L. 98-139, H. Report No. 98-422). Since it now appears the Department will substantially comply with the conference report directives pertaining to special national programs, bill language is unnecessary.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which changes the section number to *2005*. The Senate amendment amends the Railroad Unemployment Insurance Act to provide for 10 additional weeks of benefits for rail workers with less than 10 years of seniority. These workers are presently eligible for only 26 weeks of benefits. This provision would be in effect until June 30, 1984. No additional appropriations are required; sufficient funds remain from the $125 million appropriated for this purpose in the "Jobs Bill" (P.L. 98-8). The extended benefit provision for these workers that was included in the Jobs Bill expired on June 30, 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 66: Deletes language proposed by the Senate appropriating $500,000 for financial assistance to the Sam J. Ervin, Jr. Program in Public Affairs. The conferees have addressed this matter as part of amendment number 55.

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the first section number named in said amendment, insert: *2006*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COMPARISON TOTAL—WITH COMPARISONS

The total net budget (obligational) authority for the fiscal year 1984 recommended by the Committee of Conference, with comparisons to the fiscal year 1984 budget estimates, and the House and Senate bills for 1984 follows:

Budget estimate of new (obligational) authority ..	[1] $340,056,000
House bill	444,740,800
Senate bill (net)	[2] 390,828,600
Conference agreement (net)	[2] 302,213,600
Conference agreement compared with:	
Budget estimates of new (obligational) budget authority	−37,842,400
House bill	−142,527,200
Senate bill	−88,615,000

[1] Includes $8,200,000 of budget estimates not considered by the House.

[2] Includes rescission of $50,000,000.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
SIDNEY R. YATES,
TOM BEVILL,
WILLIAM LEHMAN,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JOHN T. MYERS,
LAWRENCE COUGHLIN,
GEORGE M. O'BRIEN,
Managers on the Part of the House.
MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
JAKE GARN,
THAD COCHRAN,
MARK ANDREWS,
ALFONSE M. D'AMATO,
JOHN C. STENNIS,
WILLIAM PROXMIRE,
TOM EAGLETON,
LAWTON CHILES,
(except amendment No. 63),
WALTER D. HUDDLESTON,
DENNIS DeCONCINI
(except amendment No. 63),
Managers on the Part of the Senate.

ANNOUNCEMENT OF LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I have three unanimous-consent requests, and Members might be interested in plans for this evening and tomorrow.

If the unanimous-consent requests are agreed to, then it would be our purpose to proceed shortly to the consideration of bills on suspension that remain, but not to have any further votes this evening once we have started on that.

I think the gentleman from California may have a routine motion that I should not expect to require a vote.

If this were agreed to, we could roll the votes on the suspensions until we had completed debate on them today and tomorrow.

AUTHORIZING THE SPEAKER ON WEDNESDAY, NOVEMBER 16, 1983, TO ENTERTAIN MOTIONS TO SUSPEND THE RULES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Wednesday, November 16, 1983, the Speaker may recognize for motions to suspend the rules.

The SPEAKER pro tempore is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, would the gentleman please repeat his unanimous-consent request?

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Wednesday, November 16, tomorrow, the Speaker may recognize four motions to suspend the rules.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON WEDNESDAY, NOVEMBER 16, 1983, SUBJECT TO THE CALL OF THE CHAIR

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess at any time on Wednesday, November 16, 1983, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORTS, NOTWITHSTANDING PROVISIONS OF CLAUSE 2, RULE XXVIII

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it shall be in order at any time during the remainder of the first session of the 98th Congress to consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, rule XXVIII, if copies of the conference report and accompanying statement together with the text of any such amendment reported from conference in disagreement, have been available to Members for at least 1 hour before the beginning of such consideration, and subject to the requirement of an announcement on the floor of the House by the Speaker or his designee at least 1 hour before the consideration of any confernce report and amendments reported from conference in disagreement, and any said conference report or amendments in disagreement shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not, only to let it be known as far as I am concerned that is the same form of resolution that we have usually agreed to as we get toward adjournment time in order to facilitate the business of the House.

We have measures like revenue sharing, the defense bill, Export Administration, maybe even a dairy bill, the supplemental, matters that will need to be tended to and the more we can get done, the sooner the better.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1710

DISMISSING THE ELECTION CONTEST AGAINST JAMES McCLURE CLARKE

Mr. BATES. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 304) dismissing the election contest against JAMES MCCLURE CLARKE, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 304

Resolved, That the election contest of William M. Hendon, contestant, against James McClure Clarke, contestee, Eleventh Congressional District of the State of North Carolina, be dismissed.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). The gentleman from California (Mr. BATES) is recognized for 1 hour.

Mr. BATES. Mr. Speaker, I yield 30 minutes, for the purpose of debate only, to the gentleman from California (Mr. BADHAM), pending which I yield myself such time as I may consume.

Mr. Speaker, under the U.S. Constitution and the rules of the House, the Committee on House Administration is charged with the responsibility for investigating contested elections.

In this Congress, two election contests were filed. In both contests, the chairman of the Committee on House Administration, AUGUSTUS HAWKINS, established a task force to conduct the investigation.

In the contest before the House today, Hendon against Clarke, I chaired the investigating task force and I was joined by committee members ED JONES and ROBERT BADHAM.

This election contest was filed by William Hendon against James McClure Clarke for the seat in the 11th Congressional District of North Carolina. In the election held on November 2, 1982, Mr. CLARKE received 85,410 votes while Mr. Hendon received 84,085 votes. On December 6, 1982, certifying credentials were signed by the secretary of state and Governor and were issued to Mr. CLARKE, The credentials of Mr. CLARKE were presented to the House of Representatives, and he appeared, took the oath of office, and was seated without objection on January 3, 1983.

Mr. Hendon contested the results of the election and requested a recount of the ballots cast. Specifically, Mr. Hendon challenged the vote counting procedures used in 5 of the 17 counties in the district. In these five counties, ballots which had markings for both a straight party ticket and for an individual candidate of another party were counted as a straight party vote. This procedure was consistent with North Carolina election law and the ballots had clear instructions that ambiguously marked ballots would be counted in this way.

Mr. Hendon challenged the constitutionality of the North Carolina election law in Federal court and requested a recount of ballots cast in the five counties. A district court rejected Mr. Hendon's case. However, the appeals court found the North Carolina law unconstitutional, but denied Mr. Hendon's request for a recount, holding that it is the duty of parties having grievances with election laws to challenge the laws prior to the election in question.

On July 25, 1983, the task force held an open hearing and received oral argument on a motion to dismiss the contest. On August 3, 1983, the task force again met and heard additional arguments. The concerns of this task force centered on whether the outcome of the election had been affected by the vote counting procedures used in the election, and whether the committee should conduct a recount of the ballots. At the conclusion of the oral presentation, the task force recommended to the committee, by a rollcall vote of 2 ayes and 1 nay that the motion to dismiss be granted, and that the contest be dismissed.

On October 25, 1983, by voice vote, a quorum being present, the committee adopted the task force's resolution to recommend dismissal of the contest to the House.

These are two bases for the recommendation of dismissal. First the contestant failed to demonstrate with sufficient evidence, as required by the Contested Election Act, that the outcome of the election was affected. The committee found no evidence indicating that the election was affected by the vote counting procedures used in the election. Mr. Hendon presented only unsubstantiated speculation, and the committee felt that the will of the people as expressed at the ballot box should not be thwarted by mere speculation.

The second basis for dismissal is that a contestant, wishing to challenge an election on the basis of known preelection irregularities, must challenge the irregularities prior to the election in question. This was the ruling of the U.S. Court of Appeals, and it is entirely consistent with House precedent. I would like to point out that the law which the contestant challenged has been on the books since 1955, and it is the same law under which the contestant won election to Congress in 1980, at which time he did not challenge the validity of the statute. To quote the appeals court:

> Failure to require preelection adjudication would permit, if not encourage, parties who could raise a claim to lay by and gamble upon receiving a favorable decision of the electorate and then, upon losing, seek to undo the ballot results in court action.

For these reasons, the committee recommends that the contest of Hendon against Clarke be dismissed. The House has before it House Resolution 304 and I urge its adoption.

Mr. BADHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this case is case is before us because of the responsibilities the U.S. Constitution entrusts to the House of Representatives. Article I, section 5, clause 1 states specifically that it is the obligation of the House to "be the Judge of the Elections, Returns, and Qualifications of its own Members," We are fortunate in having in this case more than the evidence collected through the Federal Contested Election Act (FCEA) (2 U.S.C. 381-96 (1981)). We also have the benefit of a U.S. Court of Appeals decision. *Hendon* v. *North Carolina Board of Elections*, No. 82-2122 (4th Cir. June 23, 1983). The ruling provides a fair and impartial analysis that we cannot ignore. The court found unconstitutional the law under which the Hendon-Clarke ballots were counted.

In addition to the ruling on the methods of vote tabulation, Mr. Hendon presented this task force with sufficient evidence to show that he would have won the election if the ballots had been counted in a constitutional manner. The precedents of the House allow us to examine the ballots. Equity and our duties under the Constitution require that we recount those ballots, or, at the very least, set aside the election, declare the seat vacant, and hold a new election.

Mr. Hendon brought this contest under the FCEA on the grounds that the counting and casting of ballots in his congressional race denied voters equal protection of the law. He also filed suit in U.S. District Court for the Western District of North Carolina. The accuracy of the tabulation is crucial because Democrat Clarke defeated incumbent Hendon by 1,325 votes out of 171,047 cast. The 15 counties in the 11th Congressional District employed 4 voting methods: a hand-counted paper ballot listing only the congressional race; a mechanical lever voting machine; an electronic punch card system (CES); and an optically scanned paper ballot system (Airmac). Hendon protested the tabulation of votes on the CES, where voters punched a hole beside the name of a party or candidate and the ballots were counted electronically by machine, and on the Airmac system, where voters used a special pen to mark ballots counted by an optical scanning device. Five counties used these methods.

Hendon's complaint and the fourth circuit's opinion both center on the North Carolina statute permitting a person to vote a straight party ballot by marking a circle above that party's column. More than 50 contests faced 11th Congressional District voters last November. Democrats had candidates for all the races while Republicans fielded less than 10 in some counties. Therefore, a voter wanting to split his ballot and vote for candidates of different parties had to mark a square by each candidate's name. A voter wanting to vote a straight party ticket had to make only one mark.

The court found the application of these statutes unconstitutional because of the way a CES or Airmac ballot with a mark in the straight party circle, but also in the square of an individual candidate, was counted. Such ballots registered as a straight party vote, with the vote for the individual of the other party not counted. But voters using paper ballots or mechanical lever voting machines could split their tickets, even if they marked the straight party circle, by just marking Hendon's name.

Mr. Hendon provided the task force with convincing evidence that this system of counting votes deprived him of enough votes to change the result of the election. Examining the system, the fourth circuit rules:

> The imposition of a legislative preference for the straight party candidate, when the voter has indicated no such preference, is an arbitrary subversion of the electoral process that serves no compelling State interest.

Mr. Hendon provided the task force with specific evidence that a constitutional tabulation would have given him enough votes to change the outcome through affidavits from disenfranchised voters and through evidence that a manual count necessitated by an election night breakdown of some CES and Airmac machines showed Hendon votes not being counted.

While the fourth circuit found the method of vote counting in the Hendon-Clarke election unconstitutional, it did not order a recount as had been requested and arrayed for by the Hendon forces. Although Mr. Clarke and his supporters have tried to make much of this, the Constitution makes the House the sole judge of the elections of its Members. See *Brit* v. *Board of Canvassers* (172 N.C. 797, 90 S.E. 1005, 1007 (1916)); see also, *Roudebush* v. *Hartke* (405 U.S. 15, 25-26 (1972)); *Keough* v. *Horner* (8 F. Supp. 933 (S.D. Ill. 1933)). The court knew during its deliberations that Mr. Hendon had filed an election contest with the House of Representatives. The court's decision avoids any interference with the constitutional prerogative of a coequal branch of government.

The precedents of the House of Representatives clearly allow us to examine contested ballots to insure the integrity of an election. See *Roush* v. *Chambers* (H.R. Rep. No. 513, 87th Cong., 1st Sess. (1961)); *Moreland* v. *Scharetz* (H.R. Rep. No. 1158, 78th Cong., 1st Sess. (1944)). Faced, as we are, with an election conducted in a manner a U.S. Court of Appeals has found unconstitutional, such is our obligation. As this committee said:

> The power to examine the ballots and to correct both deliberate and inadvertent mistakes and errors shall always remain in the House.

Kyros v. *Emery* (H.R. Rep. No. 760, 94th Cong., 1st Sess. 6 (1975)); (quoting *Brown* v. *Hicks* (H.R. Rep. No. 1328, 64th Cong., 1st Sess. (1916)); see also *Mikva* v. *Young* (H.R. Rep. No. 244, 95th Cong., 1st Sess. (1977)); *Ziebart* v. *Smith* (H.R. Rep. No. 763, 94th Cong., 1st Sess. (1975)); L. Deschler, "Deschler's Precedents of the House of Representatives" (Ch. 8, §§ 8.4-8.5 (1978)). In previous contests, such recounts have been conducted by bipartisan teams supervised by this committee. See, for example, Kyros against Emery, supra. Mr. Hendon has estimated that 64,000 votes are being contested and that the recount would take only 5 days.

The precedents of this House further state that disputed ballots, such as the split ticket ballots in this case, "should be counted on the basis of obvious voter intent." *Mikva* v. *Young* (H.R. Rep. No. 759, 94th Cong., 1st Sess. 4 (1975)). The North Carolina statute holds:

> No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to determine the voter's choice under the rules for counting ballots. (N.C. Gen. Stat. §§ 163-170.)

Indeed, the fourth circuit rules that no compelling State interest existed for the method used to count split tickets on CES and Airmac systems as was done in the 11th Congressional District. Equity and fairness demand that these ballots be recounted so that this election can truly reflect the voters intent.

Our constitutional mandate compels that we act. The role of the judge that this House must assume is not an easy one. But it entails getting the full facts of this case by conducting a recount or, alternatively, declaring this seat vacant and ordering a new election. I strongly urge the House to examine the facts of this case objectively and to reject House Resolution 304.

□ 1720

Mr. SPEAKER, I have no further requests for time, and I reserve the balance of my time.

Mr. BATES. Mr. Speaker, I would just like to commend the gentleman from California (Mr. BADHAM) on the fine way that he has handled this issue. I think certainly his position is not without merit, but I think on balance the committee and the task force have made the right decision.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS AND HUMAN RESOURCES OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT ON WEDNESDAY, NOVEMBER 16, 1983, DURING 5-MINUTE RULE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that tomorrow, Wednesday, November 16, 1983, the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations be permitted to meet during the 5-minute rule.

I have checked this with the ranking member on the other side, the gentleman from Pennsylvania (Mr. WALKER), and it is all right with him.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. RIDGE. Mr. Speaker, reserving the right to object, did the gentleman say he checked with the ranking minority member on that subcommittee and got his assurance that it was satisfactory with him to meet?

Mr. WEISS. The gentleman is correct.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 304, which was just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISMISSING THE ELECTION CONTEST AGAINST RON PACKARD

Ms. OAKAR. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 305) dismissing the election contest against RON PACKARD, and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 305

Resolved, That the election contest of Roy "Pat" Archer, contestant, against Ron Packard, contestee, Forty-third Congressional District of the State of California, be dismissed.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. OAKAR) is recognized for 1 hour.

Ms. OAKAR. Mr. Speaker, I yield 30 minutes, for purposes of debate only, to the gentleman from California (Mr. THOMAS) and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 305 is a resolution to dismiss the election contest filed in the 43d Congressional District of California.

In the contest before the House, Archer against Packard, I chaired the investigating task force and I was joined by committee members AL SWIFT and WILLIAM THOMAS.

This election contest was filed by Pat Archer against Ron Packard for the seat in the 43d Congressional District of California. In the election held on November 2, 1982, the Republican candidate, Johnnie Crean, received 56,297 votes, the Democratic candidate, Pat Archer, received 57,995 votes, and the write-in candidate, RON PACKARD, received 66,444 votes for an 8,449 vote margin of victory. On December 3, 1982, certifying credentials were signed by the Secretary of State and were issued to Mr. PACKARD. The credentials of Mr. PACKARD were presented to the House of Representatives on January 3, 1983. He took the oath of office and was seated on the same day.

Mr. Archer contested the results of the election charging that irregularities took place during the election. Mr. Archer challenged the results in California court and his case was dismissed for lack of evidence.

On June 30, 1983, the task force held an open hearing for receiving oral argument on the motion to dismiss. On August 3, 1983, the task force again met and voted by a rollcall vote of three ayes and zero nays to recommend to the committee that the motion to dismiss be granted and that contest be dismissed.

On October 25, 1983, by a unanimous vote, a quorum being present, the committee adopted the task force's resolution to recommend dismissal of the contest to the House.

The recommendation for dismissal is based upon the fact that the contestant failed to establish, as required by the Contested Election Act, that the outcome of the election was affected by the alleged irregularities.

I would note that a contestant has a substantial burden to carry and the contestant in this matter has fallen far short of doing so. The contestant lost by over 8,000 votes, and has not presented any evidence that puts the outcome in doubt. However, I would note that the election system employed did have inherent weaknesses when it comes to write-in efforts, such as that successfully mounted by Mr. PACKARD. Therefore, the report included a recommendation that election officials in California explore alternative means for handling write-in candidacies.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 305, the resolution dismissing the election contest filed by Mr. Roy Pat Archer against Congressman RON PACKARD.

The election of Congressman PACKARD was the fourth time in U.S. history that a Member was elected to Congress through the write-in process. Viable write-in candidacies are rare, and pretty obviously, elected write-in candidates are rarer yet. It is unique in the history of the House that we currently have two write-in candidates sitting.

□ 1730

Although the county election officials did provide the poll inspectors in the 43d District with extra training on write-in voting, the importance of frequent checks of the voting booths, and inspection of the voting devices, they did not anticipate the volume of problems encountered by the confusion created by the write-in procedures and the mechanical devices used in voting. The committee's recommendation to improve the write-in procedures is, I think, a good one.

Mr. Archer presented his case for himself, and the committee rejected his conclusions, as did the District Attorney and the superior court in California previously, and I would strongly urge the House to do likewise.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I take this time only to compliment the six members of these two election task forces who have worked over nearly a year on these particular cases.

I think these two cases illustrate some of the behind-the-scenes work that is done in this Congress of which the outside world is not aware and in fact some of our own Members are not aware.

I would further state that in each of these cases the task forces and the committee uncovered defective State systems. In the case of North Carolina, there was the problem of not allowing a candidate a recount and the problem of counting votes in different ways. In the case of California, there was the difficulty of administering a write-in system.

Our committee has no jurisdiction over State election systems, and all we

can do is make recommendations. But I hope that the Members of the House are aware of the extra effort being put in by members of this committee and of their untiring efforts to see that the will of the people is maintained in election contests.

Mr. Speaker, I thank the gentleman for yielding.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow after debate has been concluded on all motions to suspend the rules, or at such other time as subsequently announced by the Chair pursuant to clause 5 of rule I.

PANAMA CANAL PROXY BILL

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3969) to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission.

The Clerk read as follows:

H.R. 3969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1102(c) of the Panama Canal Act of 1979 (22 U.S.C. 3612(c)) is amended by adding at the end thereof the following: "The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. Only one proxy may be valid at any one time. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New York (Mr. CARNEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3969, which I introduced with the cosponsorship of Mr. HUBBARD, Mr. FORSYTHE, and Mr. CARNEY, seeks to make a small change in the way the Panama Canal Commission Supervisory Board conducts its meetings. Under the existing law, no proxies may be used at Board meetings. This bill authorizes the use of one proxy, to be issued only to the Secretary of Defense or the Defense Department officer designated by him. Currently, the designee is Assistant Secretary of the Army (civil works), Bill Gianelli, who is Chairman of the Supervisory Board. Mr. Gianelli, for himself and on behalf of the administration has requested proxy authority several times, beginning in late 1981 with the administration's proposals for amendments to Public Law 96–70.

I believe that this bill will enable Mr. Gianelli and his successors to chair the Supervisory Board more effectively and with less disruption. At the same time, the bill places restrictions on the use of proxies, thereby insuring that the proxy authority will not be abused. Thus, the bill achieves a good balance, on the one hand, allowing the Board to work more smoothly and, on the other, maintaining the committee's and Congress control over Board and canal operations. I urge all Members to support H.R. 3969.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I want to commend the distinguished chairman of the House Merchant Marine and Fisheries Committee, Hon. WALTER B. JONES of North Carolina; the ranking minority member of the full Merchant Marine and Fisheries Committee, Hon. EDWIN B. FORSYTHE of New Jersey; and the ranking minority member of the Subcommittee on Panama Canal/Outer Continental Shelf, Hon. WILLIAM CARNEY of New York, for their efforts to bring House bill 3969 to the floor today.

I rise in support of House bill 3969, a bill to amend the Panama Canal Act of 1979 to allow the use of proxies by the Board of the Panama Canal Commission. This bill responds to a request made by the administration to amend the law in order to facilitate the organization of the meetings of the Board, which are held four times a year. The problem that this bill resolves concerns the provision in the law that mandates the composition of the governing Board. According to the Panama Canal Act of 197, Public Law 96–70, the Board must be composed of four Panamanians and five Americans. The act requires an American majority before the Board can conduct business. If all four Panamanians are present for a Board meeting, then all five Americans must also be there in order for a quorum to be present. As a practical matter, this means that 100 percent Board attendance is necessary for a quorum.

If one American Board member's schedule changes at the last minute, and he is unable to attend the Board meeting, the result must be a postponed or canceled meeting, because all must be present to establish a quorum.

This bill authorizes the use of one proxy, to be issued only to the Secretary of Defense or the Defense Department officer designated by him. Currently the designee is Assistant Secretary of the Army for Civil Works Bill Gianelli, who is Chairman of the Board.

I believe this bill will solve the problem by allowing the use of the proxies while placing rigorous restrictions on their use, thereby insuring that the proxy authority will not be abused. First, a proxy may be counted to establish a quorum. Only one proxy may be valid at any one time, so as to assure that at least four Americans are present. In addition, the Chairman of the Board cannot issue a proxy. Only other members may issue their proxies to him.

Mr. Speaker, on October 4 this bill passed unanimously by voice vote at subcommittee level, and again passed unanimously by voice vote at the full committee level on November 1. This bill is necessary and has bipartisan support. I sincerely hope that such unity will prevail in the consideration of this bill by my distinguished colleagues. Once again, I urge adoption of House bill 3969.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman of the House Merchant Marine and Fisheries Committee, the Honorable WALTER JONES of North Carolina, and the chairman of the Subcommittee on Panama Canal/OCS, the Honorable CARROLL HUBBARD of Kentucky, and the rank-

ing minority member of the full Merchant Marine and Fisheries Committee, the Honorable EDWIN FORSYTHE of New Jersey, for their efforts in bringing this bipartisan proposal concerning the Panama Canal before this body today for a vote.

I not only support this legislation to permit the use of a proxy by members of the Supervisory Board of the Panama Canal Commission, but as a cosponsor of H.R. 3969, I want to underscore that this bill has bipartisan support and urge my colleagues in the House to vote for its passage.

The need for this proxy authority was first brought to our committee's attention in 1981, when proposed amendments to the Panama Canal Act of 1979 were submitted to the Congress in accordance with Public Law 96-70.

Under the law, the Panama Canal Commission is to be supervised by a Board of nine members, not less than five of whom must be U.S. nationals, and the remaining four are Panamanians. In order for the Board to conduct its business, a quorum must be present. Section 1102(c) states that a quorum shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. If all four Panamanian Board members attend a meeting, all five Americans must also be present to establish the quorum required for the transaction of business. If just one American is unable to attend, the Board meeting must be postponed or canceled. This situation presents a potentially serious problem, for an emergency preventing the attendance of one American Board member could preclude the conduct of Board meetings.

This bill responds to a request by the administration in order to facilitate the conduct of Supervisory Board meetings, which are held four times a year. H.R. 3969 authorizes the Secretary of Defense or the officer of the Department of Defense designated by the Secretary—currently the Assistant Secretary of the Army for Civil Works—to act by proxy for any other member of the Board if that Board member authorizes the proxy in writing. The bill clearly states that only one proxy may be valid at any one time, and that the proxy may be used to establish a quorum. Proxies may only be issued to the Secretary of Defense or the Defense Department officer designated by him, and that Defense Department officer may not himself issue a proxy to anyone else. Only other members may issue their proxies to them. In addition, at both our subcommittee and full committee markups on this legislation, we clearly established our intent that only one proxy may be used at each Board meeting. These protections provided in the bill and its legislative history will assure that the proxy authority is not abused and the Congress will retain control over the operation and maintenance of the Panama Canal between now and the year 2000.

I hope this proxy authority, if approved, will never have to be exercised. The views of all five U.S. Board members need to be heard at all of the Board meetings. Section 1102(a) of Public Law 96-70 stipulates that, of the five U.S. Board members, three must have specialized backgrounds in steamship and port operations, and in labor matters. It is important that these constituencies be properly represented at Supervisory Board meetings, and therefore it is important that all five U.S. Board members make every effort to be present at all Board meetings.

Recognizing that emergencies can arise, however, I strongly believe the limited use of proxies can facilitate the timely conduct of Supervisory Board meetings.

This bill merits this body's support, and I urge my colleagues to vote for its passage.

□ 1740

Mr. Speaker, I yield 1 minute to the ranking minority member of the full Committee on Merchant Marine and Fisheries, the honorable gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 3969 is the first legislative amendment to the Panama Canal Act of 1979. It is not a complicated bill, and will assure that the five U.S. members of the Panama Canal Commission Board effectively represent this country at Board meetings, thereby, insuring that important issues are dealt with in a timely manner.

Sections 1101 and 1102 detail that the Panama Canal Commission Board, which is made up of four Panamanians and five Americans, supervises the activities, operations, maintenance, and facilities of the Panama Canal Commission. All activities of the Board are binding on the Administrator of the canal.

In order to conduct the business of the Panama Canal Commission Board, a majority of the nine member Board must be present, and a majority of those present must be Americans. In other words, if all four Panamanian Board members are present for a meeting, and only four of the five Americans are present, a meeting of the Board may not take place. This is not subject to a point of order; the law is clear that a quorum must be present for all board meetings, and a quorum is a majority of the nine member Board.

H.R. 3969 allows the issuance of a proxy by only one American Board member per Board meeting. The proxy must be issued to the Chairman of the Board, who is the Secretary of Defense's designee, Assistant Secretary of the Army for Civil Works, Mr. William Gianelli, for the purpose of establishing a quorum, and for the purpose of voting on matters before the Board.

The Reagan administration recommended this legislative change in 1981, and it was included in H.R. 5601 during that year. The bill was given careful consideration by the Panama Canal/OCS Subcommittee of the House Merchant Marine and Fisheries Committee. However, that bill was never signed into law, and, therefore, the committee is taking the first opportunity available to them to deal with this issue.

I want to commend the chairman, the Honorable Carroll Hubbard, and the ranking minority member, my colleague from New York, BILL CARNEY, for their judicious consideration of this legislation, and would also like to commend the chairman of the full committee, my colleague from North Carolina, Mr. JONES, for judicious full committee action on this legislation.

I support this bill, and hope that it will be approved by this body.

Mr. CARNEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 3969.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POSTAL SAVINGS SYSTEM STATUTE OF LIMITATIONS ACT

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3922) to establish a 1-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System, as amended.

The Clerk read as follows:

H.R. 3922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Savings System Statute of Limitations Act".

SEC. 2. Section 1322(c) of title 31, United States Code, is amended to read as follows:

"(c)(1) The Secretary of the Treasury shall hold in the Treasury trust fund receipt account 'Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown' the bal-

ance remaining after the final distribution of unclaimed Postal Savings System deposits under subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92-117; 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit concerning the disposition of unclaimed or abandoned property.

"(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims made within the time limitation set forth in paragraph (3) of this subsection.

"(3) No claim for any Postal Savings System deposit may be brought more than one year from the date of the enactment of the Postal Savings System Statute of Limitations Act.

"(4) The United States Postal Service shall assist the Secretary of the Treasury in providing public notice of the time limitation set forth in paragraph (3) of this subsection by posting notices thereof in all post offices as soon as practicable after the date of the enactment of the Postal Savings System Statute of Limitations Act.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill H.R. 3922, amends section 1322(c) of title 31, United States Code, to establish a 1-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System.

The Postal Savings System was created on June 25, 1910, to provide facilities for deposit of savings at interest with the security of the U.S. Government for repayment. Authority to accept additional deposits into the Postal Savings System was terminated in 1966 and the responsibility for administering payment of claims on the remaining 580,000 accounts was transferred from the Postal Service to the Department of the Treasury in 1967. Since 1967, payment to 119,000 depositors or their successors in interest has been made leaving approximately 467,000 unpaid accounts with a $5.8 million balance. Of the remaining accounts, at least one-half are estimated to be worth $2 or less, with the remaining one-half valued at an average of $24. The original $65 million transferred to the Department of the Treasury has been exhausted, use to the claims on the unpaid accounts and the distribution of $6 million in 1971 to the States, territories and District of Columbia. This distribution was authorized by Congress in lieu of allowing claims on the basis of State unclaimed property laws.

The Secretary of the Treasury is presently required to hold in perpetuity the balance of the accounts formerly held in the Postal Savings System. The bill provides that no claim for any Postal Savings System deposit may be brought after 1 year from date of enactment. Considering the notice to be provided, the notice given at the time of termination and transfer to the Department of the Treasury 16 years ago, the bill adequately protects the interests of depositors, their successors in interest and the U.S. Government.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday I thought this was a pretty good bill. We had been waiting around so long for it to be presented, I am not sure whether it has lost any merit or gained any merit, but I still think it is the kind of a bill that belongs on the suspension calendar, a noncontroversial bill.

I would just like to add a few comments, Mr. Speaker, to the excellent description of this bill that has been provided by the gentleman from Texas, the chairman of the subcommittee.

In 1966, the Postal Savings System, as has been pointed out, was closed for additional deposits and responsibility for winding up the system was transferred to the Department of the Treasury, along with approximately $65 million in account balances and accrued interest. That money has been used up in payments out to accounts. There are, however, 470,000 accounts that remain unclaimed.

At this point, as I say, all funds that were transferred by the Post Office has been distributed. It is time to close the books on these old accounts and allow the Department of the Treasury to dispose of the bushels of old records, some of which were exhibited to the subcommittee. They are records that the Treasury Department must maintain to keep track of these accounts, some of them going back to 1912.

The 1-year period allowed by the bill as a period of limitation will provide one last chance for people to claim these funds.

I would like to stress that according to testimony received by our subcommittee, many of these accounts have been inactive since the 1940's, and even including accrued interest, the average balance in the remaining accounts is about $12.41.

The expense of maintaining the records on these accounts nearly outweighs the value of them. I would ask my colleagues to support this commonsense, good government bill, that belongs on the Suspension Calendar.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 3922, as amended.

The question was taken.

Mr. CARNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1750

MARITIME SAFETY ACT OF 1983

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3486) to promote maritime safety on the high seas and navigable waters of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Safety Act of 1983".

SEC. 2. (a) Section 3309 of title 46, United States Code, is amended by adding at the end:

"(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

"(1) will be required to be inspected; or

"(2) will not be operated so as to require an inspection.".

(b) Section 3311 of title 46, United States Code, is amended by—

(1) inserting "(a)" before "A vessel";

(2) striking the word "valid"; and

(3) inserting at the end the following:

"(b) The Secretary may direct the owner, charterer, managing editor, agent, master, or individual in charge of a vessel subject to inspection under this chapter not having a certificate of inspection—

"(1) to have the vessel proceed to mooring and remain there until a certificate of inspection is issued; or

"(2) to take immediate steps necessary for the safety of the vessel, individuals on board the vessel, or the environment.".

(c) Section 3318 of title 46, United States Code, is amended as follows:

(1) Subsection (a) is amended by—

(A) striking "The" the first time it appears and substituting "Except as otherwise provided in this part, the" and

(B) by striking "$1,000, except that when the violation involves operation of a barge, the penalty is $500.", and substituting "not more than $5,000.".

(2) Subsection (c) is amended by striking "$2,000," and substituting "$5,000,".

(3) Subsection (d) is amended by striking "$2,000," and substituting "$5,000,".

(4) Subsection (e) is amended by striking "$2,000," and substituting "$10,000,".

(5) Subsection (f) is amended by striking "$5,000," and substituting "$10,000,".

(6) Subsection (g) is amended by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both," and substituting "is liable to the Government for a civil penalty of not more than $5,000,".

(7) Subsection (h) is amended by striking "United States Government for a civil penalty of not more than $500." and substituting "Government for a civil penalty of not more than $1,000.".

(8) At the end add the following:

"(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than $1,000.

"(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons, the penalty is not more than $2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(2) A person is not liable for a penalty under this subsection if—

"(A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under Section 3309(c) of this title;

"(B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and

"(C) The Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

"(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

"(l) A person committing an act described in subsections (b)–(f) of this section is liable to the Government for a civil penalty of not more than $5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.".

SEC. 3. (a) Chapter 23 of title 46, United States Code, is amended as follows:

(1) At the end of the chapter analysis, add the following:

"2306. Vessel reporting requirements.".

(2) In section 2301, strike "This chapter" and substitute "Except as provided in section 2306 of this title, this chapter".

(3) Add at the end the following:

"§ 2306. Vessel reporting requirements

"(a)(1) An owner, charterer, managing operator, or agent of a vessel of the United States having reason to believe (because of lack of communication with or nonappearance of a vessel or any other incident) that the vessel may have been lost or imperiled immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(2) When more than 48 hours have passed since the owner, charterer, managing operator, or agent of a vessel required to report to the United States Flag Merchant Vessel Location Filing System under authority of section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a), received a communication from the vessel, the owner, charterer, managing operator, or agent immediately shall use all available means to determine the status of the vessel and notify the Coast Guard.

"(3) A person notifying the Coast Guard under paragraph (1) or (2) of this subsection shall provide the name and identification number of the vessel, the names of individuals on board, and other information that may be requested by the Coast Guard. The owner, charterer, managing operator, or agent also shall submit written confirmation to the Coast Guard within 24 hours after nonwritten notification to the Coast Guard under those paragraphs.

"(4) An owner, charterer, managing operator, or agent violating this subsection is liable to the United States Government for a civil penalty of not more than $5,000 for each day during which the violation occurs.

"(b)(1) The master of a vessel of the United States required to report to the System shall report to the owner, charterer, managing operator, or agent at least once every 48 hours.

"(2) A master violating this subsection is liable to the Government for a civil penalty of not more than $1,000 for each day during which the violation occurs.

"(c) The Secretary may prescribe regulations to carry out this section.".

(b)(1) Section 6101 of title 46, United States Code, is amended—

(A) in subsection (a), by striking "and incidents"; and

(B) by striking subsection (c).

(2) Section 6103 of title 46, United States Code, is amended by striking "or incident".

SEC. 4. (a) Subsection (b) of section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183(b)) is amended by striking out "$60" each place it appears and inserting in lieu thereof "$420".

(b) The amendment made by subsection (a) shall apply to incidents occurring after the date of enactment of this Act.

SEC. 5. Sections 2(a) and 3 of this Act are effective 180 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several marine casualties, involving the tragic loss of life, prompted the introduction of H.R. 3486. The full Committee on Merchant Marine and Fisheries held three oversight hearings on these marine catastrophes, and the Coast Guard and Navigation Subcommittee held four hearings this year on maritime safety.

Essentially H.R. 3486 has four objectives: First, to establish a notification process in order to assure timely inspection of vessels by the Coast Guard; second, to improve compliance with vessel inspection requirements by increasing civil penalties for violating inspection laws and regulations; third, to establish vessel reporting requirements which will help identify possible distress situations and facilitate timely rescue operations; and fourth, to update the 1936 statutory limits on liability for personal injury and death.

I am saddened that our awareness of the need to meet these four objectives stems from several maritime accidents which resulted in the loss of many lives. I am heartened, however, that we were able to identify the problem areas and, subsequently, find solutions that will help to remedy this situation.

The first part of H.R. 3486, section 2, increases the maximum penalties for violating inspection laws. When I introduced H.R. 3486 in June of this year, the penalty for violating inspection laws was $500. This $500 fine was written into law in 1871. H.R. 3486 is the first comprehensive review and redraft of the inspection penalty sections since 1871.

Section 3 of H.R. 3486 requires masters of vessels to report every 48 hours to their vessel owners. If the owner does not receive this report, or if the owner has reason to believe his vessel may be imperiled, the owner is required to use all available means to locate the vessel and also promptly notify the Coast Guard.

The fourth section amends the 1936 Limitation of Liability Act by increasing the amount of the 1936 limitation from $60 per ton to $420 per ton. An inflation factor of seven was used to arrive at the $420 figure.

H.R. 3486, as amended, has received widespread support from the shipping industry, the maritime unions, the government agencies, and fortunately from both sides of the aisle.

I urge you to support H.R. 3486 and join me, along with the members of the Merchant Marine and Fisheries Committee, in this effort to improve maritime safety for our seamen.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of H.R. 3486.

The U.S. merchant fleet is now the oldest in the world. Economic conditions are such that this fleet will grow older still in the years ahead. This situation is unacceptable for reasons having a great deal to do with the economic well-being and the national security of our country. Other committee members will discuss the specific notification, reporting and penalty

provisions of this marine safety bill. What these changes are designed to make clear in general terms, however, is that Congress intends that our marine safety laws will be effectively enforced, and that economic considerations—no matter how severe they may be—must never be elevated in importance above the very lives of those who earn their livelihood at sea. Ships that are unsafe should never go to sea, it is that simple.

During consideration of this bill, I proposed an amendment—which was approved—to update the present limit on shipowner liability. This amendment would increase the liability limit for cases involving personal injury or death from $60 per ton of the vessel to $420 per ton. This change reflects merely the increase in the cost of living between now and when the $60 limit became a part of U.S. law—in 1936. Both present law and my amendment apply only to seagoing vessels. The limit can be invoked by the owner of a vessel only when he is able to establish that none of his supervisory personnel had or should have had knowledge of the cause of the disaster. If he cannot establish that, there would be no limit on liability under either my amendment or existing law.

I offered this amendment as an interim measure pending consideration by Congress of a more comprehensive long-term solution to the liability issue. That effort began last Tuesday, November 9, in the Subcommittee on Merchant Marine, and will continue in the months ahead under the leadership of that subcommitte's chairman, Mr. BIAGGI. My amendment was intended to spur, not hinder, the development of a more comprehensive bill, while also making certain that—regardless of what happens—we will emerge from this Congress with a more modern and defensible limitation of liability law on the books.

The bill we are considering today does not provide the full answer to the marine safety problem. There are many issues which were discussed during the hearings held by the Subcommittee on Coast Guard and Navigation which are not dealt with in this bill, but which are important, and which I am confident we will be acting upon later in this Congress. H.R. 3486 should, however, improve the likelihood that timely assistance will be available to vessels imperiled at sea, and it will do a lot to improve the enforcement of our marine safety laws. This legislation has been, from the beginning, designed, modified, and perfected under the leadership of the gentleman from North Carolina (Mr. JONES). I think he deserves enormous credit for the patient, serious and thorough manner in which he has approached this legislation.

Mr. Speaker, I believe this is an excellent bill, and I hope it will be overwhelmingly approved by the House.

I include at this point in the RECORD a copy of correspondence between members of the Subcommittee on Coast Guard and Navigation and the Coast Guard with respect to seven marine safety related issues.

HOUSE OF REPRESENTATIVES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C. October 6, 1983.

Admiral JAMES S. GRACEY,
Commandant, U.S. Coast Guard, Washington, D.C.

DEAR ADMIRAL GRACEY: As you know, the Subcommittee on Coast Guard and Navigation has recently conducted a series of four hearings on the subject of marine safety, with particular attention to H.R. 3486, the proposed Maritime Safety Act of 1983.

During those hearings numerous recommendations were presented to the Subcommittee, some of which have been incorporated in the text of H.R. 3486, and some of which were either not considered meritorious by the Subcommittee or were set aside for later consideration. Several other recommendations, however, were of considerable interest, but lent themselves more readily to administrative than to specific legislative action. Our Subcommittee has, as you know, been attempting to avoid encumbering statutory language with highly specific requirements, particularly in the area of marine safety.

In this letter, we are requesting that the Coast Guard take the following actions:

1. Issued proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with lifeboat launching davits which are arranged to allow the lifeboat to be boarded and launched directly from the stowed position;

2. Issue proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with self-contained, completely enclosed lifeboats;

3. Proceed with present plans to require that an additional EPIRB be carried on each side of all vessles subject to the Safety of Life at Sea Convention, in a position where the EPIRB may be readily placed in any lifeboat or life raft;

4. Arrange to send Coast Guard personnel for training in the rescue swimmer program administered by the U.S. Navy, or make other provisions to guarantee that Coast Guard personnel are trained in rescue swimming;

5. Review your policy governing the granting of extensions of drydock inspections for vessels. Vessels which have had a history of safety problems should not be granted extensions, except when shipyard space to carry out the drydock inspection is unavailable;

6. Proceed with efforts to evaluate the merits of improved lifesaving equipment suitable for use on passenger ferries; and,

7. Accelerate present efforts to recruit a limited number of experienced civilian personnel to participate in the Coast Guard's marine inspection program.

The Subcommittee believes that it would be in the public interest to implement each of the seven recommendations listed above. We remain willing, however, to consider any objections or reservations which the Coast Guard might have. With respect to the rule-making proposals, we believe a full opportunity for public comments should be accorded, in order that the economic and safety implications of these initiatives may be balanced and completely explored.

We would appreciate a response within 30 days concerning your willingness to carry out these recommendations.

As always, we deeply appreciate your assistance and cooperation.

Sincerely,

Walter B. Jones, Chairman, Subcommittee on Coast Guard and Navigation; Gerry E. Studds; Solomon Ortiz; Thomas Foglietta; Edwin Forsythe; Jack McKernan; Tom Carper; Webb Franklin; Billy Tauzin; Bob Borski; William Carney; Gene Snyder.

Jack Fields; Barbara Mikulski; Don Bonker; Earl Hutto; Bill Hughes; Roy Dyson; Dennis Hertel; Robin Tallon; Barbara Boxer; Mario Biaggi; Don Young; Joel Pritchard; Glenn Anderson; Herbert Bateman.

U.S. DEPARTMENT OF TRANSPORTATION, U.S. COAST GUARD,
November 10, 1983.

Hon. WALTER B. JONES,
Chairman, Subcommittee on Coast Guard and Navigation, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: My comments regarding the desirability and feasibility of the requests made by the Subcommittee on Coast Guard and Navigation in your letter of 6 October 1983 are set forth below.

The Subcommittee requested that the Coast Guard issue proposed regulations to require all U.S. cargo vessels required to have lifeboats, within 3 years of the effective date of the regulations, to be equipped with:

1. lifeboat launching davits which are arranged to allow the lifeboat to be boarded and launched directly from the stowed position, and

2. self-contained, completely enclosed lifeboats.

Totally enclosed lifeboats equipped with davit systems that would allow boarding and launching from the stowed position would be a significant upgrading of the lifesaving equipment on many cargo vessels. A required retrofit of this equipment could save lives in future casualties but at a significant cost. Along with safety benefits, we must assure that our regulatory proposals comply with Executive Order 12291, which requires cost-benefit analyses to show that potential benefits of regulatory actions outweigh potential costs.

We estimate the average cost of a totally enclosed lifeboat to be $40,000, and the davit and winch system to be $55,000 per davit set, including installation. Since each vessel must have two boats and davits, the cost would be about $190,000 per vessel. Approximately 400 vessels would be affected, so the total cost of the program would be about $76,000,000.

The lifesaving potential of the retrofit program is difficult to estimate, but if we assume the average useful remaining life of the existing vessel fleet is 15 years, we can look at the last 15 years' casualty experience on oceangoing U.S. cargo vessels to see how many lives were lost that might have been saved by better lifesaving equipment. Vessels involved during this period were the Badger State, Texaco Oklahoma, Chester A. Poling, Poet, and Marine Electric, and a

total of 120 lives were lost. If all of these lives could have been saved by the improved lifeboats and launching systems, the cost would approximate $633,000 per life saved. The actual cost per life saved would probably be in excess of one million dollars since we have estimated that about 47 of those lost might have been saved by the carriage of exposure suits.

Requiring this equipment on new vessels is much less expensive because the cost is the incremental difference between the conventional equipment and the new boat and davit systems. This equipment will be required for new vessels as we implement the new Chapter III of SOLAS 1974. Our tentative intent is to propose such installations on new vessels prior to the coming into force of the SOLAS change and to mentioin the alternative of retrofitting in the preamble to that rulemaking in order to elicit comments from the public.

The Subcommittee requested that the Coast Guard proceed with present plans to require that an additional EPIRB be carried on each side of all vessels subject to the Safety of Life at Sea Convention, in a position where the EPIRB may be readily placed in any lifeboat or liferaft.

As part of our regulation revision work to implement the new Chapter III of the Safety of Life at Sea Convention, we will propose regulations that would require that an EPIRB be carried on each side of the vessel, stowed so that it can be readily placed in any lifeboat or liferaft. These two EPIRBs would be in addition to the float-free EPIRB already on the vessel. We will begin work with the FCC to develop the appropriate technical specifications for the unit. When these are ready, the FCC and Coast Guard will jointly publish proposed regulations for approval of the EPIRB. Our goal is to have the regulations published as final rules before the July 1, 1986 effective date for the SOLAS revisions.

The Subcommittee further asked that we take action to ensure that Coast Guard personnel are trained in rescue swimming, through a program such as the one administered by the U.S. Navy. Based upon Coast Guard studies and analysis currently being completed, I estimate that 48 more lives would be saved each year if a rescue swimmer were available aboard Coast Guard helicopters. With the introduction of the non-amphibious HH-65A helicopters into our inventory I estimate that the increment in lives saved will rise to 64 per year. However, the costs for such a program are substantial.

To establish a helicopter rescue swimmer program as you suggest will require 133 additional military enlisted billets, start-up funding of $300,000 and a recurring increase to Coast Guard OE funding of $100,000, exclusive of personnel costs.

The additional personnel are required for several reasons. First, each one of our helicopter rescue crews will have to be augmented by one person—the rescue swimmer—as all of the existing crew are fully utilized during rescue evolutions. Secondly, there is a substantial amount of training time required on a routine basis to maintain the physical condition and expertise necessary to permit an individual to perform this function safely. This additional training and workload requirement will have to be offset by additional staffing. In an extensive study of our aviation enlisted staffing we have recently established that our personnel needs exceed billets by 115 man-years per year. Adding the rescue swimmer requirement to the system without adding personnel resources would be sure to have a significant impact on our ability to maintain aircraft and retain people.

In spite of the cost of the program, I feel that such a program has merit and will provide a substantial return on the resources devoted to it. If the resources can be obtained and the program is established, I estimate that a benefit to cost ratio of 5.91:1 will be obtained during the first year of operation, and a ratio 7.88:1 once the HH-65A helicopter is implemented.

You indicated that vessels which have had a history of safety problems should not be granted extensions, except when shipyard space to carry out the drydock inspection is unavailable, and requested that the Coast Guard review its policy governing the granting of extensions of drydock inspections for vessels.

Coast Guard policy governing extensions of drydock examinations was reviewed following the *Marine Electric* casualty. While general policy was not revised, specific guidelines were issued which formalized the steps to be taken when considering requests for extensions. I consider our current policy and guidelines to be adequate.

Coast Guard Officers in Charge, Marine Inspection (OCMIs) and District Commanders have limited authority to grant extensions on a case-by-case basis. A visit to the vessel by Coast Guard inspectors is required in all but the most unusual situations as a prerequisite to the issuance of an extension. The guidelines also require a written statement from the vessel's master or chief engineer stating that in his opinion the vessel is suitable for operation during the extension period. In addition, a thorough review of the vessel's history by the cognizant OCMI is required.

The inspection of the vessel coupled with the file review will establish not only any history of safety problems but also a good assessment of the vessel's current condition. A drydock extension will not be granted unless the vessel history and/or current condition warrant. Furthermore, unavailability of a drydock facility would not be grounds for granting an extension if the vessel is determined unsafe for the extension period.

The Subcommittee recommended that we proceed with efforts to evaluate the merits of improved lifesaving equipment suitable for use on passenger ferries. We have agreed in principle with a proposal by the Washington State Ferries to provide a new type of inflatable buoyant apparatus on some of their vessels. The apparatus is designed to keep survivors out of the water, has no canopy, and has a large capacity. We will be working closely with the manufacturer of the apparatus and the ferry system to evaluate the device. once this system is installed on a vessel, we will be able to evaluate the expense, stowage problems, and crew capability. Our support for a requirement for such a system will depend upon our evaluation of this first installation.

Finally, you requested that the Coast Guard accelerate present efforts to recruit a limited number of experienced civilian personnel to participate in our marine inspection program.

The Coast Guard is evaluating recruiting a limited number of experienced civilian personnel into the marine inspection program. At present under our Licensed Officer of the Merchant Marine (LOMM) and Experienced Licensed Officer of the Merchant Marine (ELOMM) programs we have recruited civilian merchant mariners into marine inspection, albeit as Coast Guard officers. We contemplate a great increase in the number of civilians at the Regional Examination Centers. A significant factor in vessel safety is quality of the licensed merchant marine officers. Our focus on the Regional Examination Centers should provide an increase in this quality. In conjunction with our expanded training program for marine inspectors, we are evaluating the concept of designating several large marine safety units as training ports. These will be used as the centers for the professional development of our inspection cadre. Although this organizational structure has not been fully developed, we plan to include experienced civilian personnel on the staff. These plans are not in final form due to the need to assess the availability of experienced civilians at the appropriate GS levels and to consider such matters as career promotion opportunities in order to achieve stability in these positions.

B. L. STABILE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3486, the Maritime Safety Act of 1983. This legislation takes important steps to promote maritime safety. It also helps to assure that individuals injured at sea, and the survivors of victims lost at sea, are fairly compensated.

H.R. 3486 is the product of a series of four hearings held by the Coast Guard and Navigation Subcommittee which considered numerous maritime safety issues. This bill also reflects extensive consultations with representatives of a great many interested groups, including the Coast Guard. I appreciate the cooperative spirit in which virtually all interested parties have approached this bill.

Maritime safety should be of the highest priority—for the Coast Guard and other Government agencies, for the owners of ships and offshore facilities, and for the officers and crews who operate them. Many laws now regulate maritime safety, but it appears from hard experience learned in recent disasters—involving the *Poet*, the *Ocean Ranger*, and the *Marine Electric*—that additional legislative action is necessary.

I would like to comment on two issues that arose during consideration of this bill. One issue addressed in this bill is an amendment to 46 U.S.C. § 183(b), to increase the shipowners' limits of liability in cases where the crew suffers death or injury. I think that raising the statutory limit to take care of inflation over the years is quite fair in principle, and I support the amendment, but I also think that this whole question of limits of liability deserves more comprehensive study. I am pleased that the Merchant Marine

Subcommittee already has held a hearing on this subject, and I expect to see further legislative action soon.

One issue that is basically not addressed in H.R. 3486 is how to significantly improve safety on board commercial fishing vessels, where approximately 150 U.S. fishermen are lost each year. I understand that the fishing industry is strenuously concerned about any official Coast Guard actions regarding commercial fishing vessel safety. I also understand that some sectors of the fishing industry have begun efforts to improve fishing vessel safety through education programs. Congress should continue its effort to find some forum in which the fishing industry, the Coast Guard, the insurance industry, and other interested parties can discuss fishing vessel safety matters on a regular, frequent, organized basis.

For now, I am quite pleased that the Merchant Marine and Fisheries Committee has worked diligently, with all affected groups, to bring H.R. 3486 to the floor. I urge my colleagues to vote in favor of H.R. 3486.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of H.R. 3486, the maritime safety bill. However, I must qualify that support by stating that legislation to improve safety on our aging merchant marine is only treating the symptoms and not the disease that causes a great portion of our maritime disasters.

The disease is not poor safety standards of enforcement, but rather, a U.S. maritime policy that fosters the continued service of old, rusted, inefficient ships through unwarranted and unwise cargo preference laws.

Our cargo preference laws have led to continued use of vessels that should have been scrapped years ago. What is more, this Congress has before it legislation that would extend cargo preference laws to more of our exports—not less.

Consider the case of the S.S. *Poet* which sank 3 years ago killing 34 men. The S.S. *Poet* was a WW II vintage ship sailing with a Government guaranteed cargo of Public Law 480 grain for Egypt. Its only justification for existence was the revenue it could generate from one more load of Government grain with taxpayers paying the inflated cost of inefficient powerplants and very high labor costs. The ship was lost for 10 days before the owner reported it missing.

May I remind the House that this is not an isolated case. Our maritime policy has fostered a merchant marine fleet in which 38 percent of the ships are more than 20 years old and 22 percent have passed age 30.

The *Marine Electric*, a 38-year-old relic, sank February 12, 1983, killing 31 American crewmembers. The S.S. *Penny*, sister ship to the ill-fated S.S. *Poet*, sailed from Florida 2 weeks ago loaded with AID fertilizer for Kenya. The *Penny* sailed after repairs were made in the hull from damage caused when a crewmember dropped a sounding pole into the ballast tank to measure the depth. The sounding pole went right through the bottom of the ship. When the *Penny* went on recent sea trials, the Coast Guard ordered her to drop anchor only to watch the anchor break loose from the chain and plunge to the ocean floor.

Safety standards are a good idea and so is improving them, but they will never prevent the inevitable problems that occur with old ships once they get on the high sea. The fact is, we have priced ourselves out of the shipping and shipbuilding business. Our mad array of subsidies through the years, including cargo preference, have not helped the merchant marine and in fact, have probably only fostered its unsafe demise.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DONNELLY).

□ 1800

Mr. DONNELLY. Mr. Speaker, I thank the committee chairman for yielding time to me.

I rise in strong support of H.R. 3486, the Maritime Safety Act of 1983. This legislation will have a positive impact on the worker safety record of the U.S. maritime industry. By increasing the penalties for operation of unsafe vessels, and by raising the limit on liability that a court can award to a lost seaman's survivors, we are making it much less attractive for a shipowner to knowingly avoid compliance with safety regulations. Hopefully, we will never have to witness tragedies-at-sea on the scale of the *Poet*, the *Ocean Ranger*, and the *Marine Electric* disasters, again. Enactment of the Maritime Safety Act of 1983 will result in major improvements to existing statutes that have lost their effectiveness over the years.

I commend the chairman of the full committee, WALTER JONES, for his stewardship of this timely legislation. Likewise, I want to commend my colleague from Massachusetts (Mr. STUDDS), for the significant role he played in bringing this bill before the House today.

Mr. YOUNG of Alaska. Mr. Speaker, today we take up the bill, H.R. 3486, the Maritime Safety Act of 1983. This bill is in response to the three recent maritime tragedies of the *Marine Electric*, *Ocean Ranger*, and *Poet*. The information that we of the Merchant Marine and Fisheries Committee received in our four oversight hearings has allowed us to put together the provisions in the bill before us today.

Marine safety, of course, is of prime importance to everyone in the maritime industry: the Coast Guard, the shippers, the unions, offshore oil, pilots, and commercial fishermen. These three recent incidents remind us of the possibility of large loss of life which all of us regret. These incidents not only point out the need for safety but also the dangerous nature and risks of going to sea for a living. As the Representative from the State of Alaska, I can assure you that I am familiar with a harsh and unforgiving maritime environment. I mention that because we must accept the reality of the conditions in the marine industry when looking at these marine safety programs.

A safer merchant marine will eliminate unnecessary loss of life but is also just good business. No one wins when a marine casualty occurs. I am glad to see that we are taking the steps toward safety in the inspection, vessel reporting, and penalty update parts of H.R. 3486. I am also glad to see that we have not jumped to include any unnecessary or undesirable provisions.

Thus, we have struck the balance of the need for safety with the realization of the dangerous nature and risks of the marine industry and of the limits of what Government can and should do. Just passing laws or adopting regulations is not the only solution. We must consider the efforts made in the private sector and Government in bringing about safe conditions and a strong merchant marine. In particular, we must be concerned with how a new law would impact the way in which the Coast Guard implements its safety program and the sparse resources it has to perform its responsibilities. This bill takes these concepts into account.

Mr. Speaker, I urge all of my colleagues to support and approve this bill.

● Mr. BIAGGI. Mr. Speaker. I rise today in support of H.R. 3486, the Maritime Safety Act of 1983. I also want to associate myself with the remarks of the gentleman from North Carolina, the chairman of the committee on Merchant Marine and Fisheries.

I am proud to have been a part of the joint efforts of the Subcommittee on Coast Guard and navigation and my own Subcommittee on Merchant Marine. We met on four separate days and considered a number of maritime safety issues that were raised as the result of three major maritime tragedies. This legislation and a number of regulatory efforts that have been—or soon will be—initiated by the Coast Guard is the result of our endeavors.

This legislation will provide a better notification process for insuring timely inspections of vessels by the Coast Guard—greater owner awareness of his responsibilities by signifi-

cantly increasing penalties for certain violations of the inspection laws and regulations—better notification of where vessels are located on the high seas so as to help in identification of possible distress situations—and last but certainly not least—an increase for inflation of existing liability limits for loss of life or bodily injury on seagoing vessels.

This last item, which increases the liability limits of a shipowner from $60 a gross ton to $420 a gross ton is solely an interim measure. During the committee deliberations I made it clear that the issue of limitation of shipowner's liability is a major issue of importance to the competitiveness of the United States-Flag Merchant Marine—and to the well-being of our seafarers and their families. I felt—and still feel—that it is a subject that requires extensive review and consideration. We have already held one hearing to explore all issues and proposals related to our maritime limitation laws. As might be expected we already have conflicting views. One witness suggested adopting a legislative proposal to parallel the international treaties on limitation of liability but with higher limitation funds. Another suggested that we should remove all limits of liability for vessels.

I again would like to make it clear to all interested parties that the Subcommittee on Merchant Marine intends to conduct a broad examination of these issues and proposals. They should make their views known so that we may arrive at reasonable solutions to provide adequate compensation to those who have been injured and to those families who have lost a loved one without unduly burdening the competitiveness of the U.S. fleet. It is a challenge that is certain to raise controversy—but it is a challenge I intend to meet.

However, the elements of H.R. 3486 are not in controversy and most interested parties have expressed their support for promoting maritime safety and for increasing limitation of liability funds. I believe it deserves the support of all of us. I urge your adoption of H.R. 3486.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill (H.R. 3486), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NOAA PERSONNEL MEDICAL AND DENTAL CARE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3968) to authorize the Secretary of Commerce to budget for medical and dental care for personnel of the National Oceanic and Atmospheric Administration entitled to that care.

The Clerk read as follows:

H.R. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of December 31, 1970 (33 U.S.C. 857-3) is amended by adding "(a)" after "SEC. 3." and by adding at the end the following new subsection:

"(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation."

SEC. 2. (a) The matter before subsection (b) in the first section of the Act of July 19, 1963 (42 U.S.C. 253a(a)), is amended by striking "at facilities of the Public Health Service: *Provided,* That" and inserting in lieu thereof "by Public Health Service if".

(b) The first sentence of subsection (b) of the first section of that Act (42 U.S.C. 253a(b)) is amended—

(1) by striking out "at its hospitals and relief stations"; and

(2) by striking out "at hospitals of the Public Health Service: *Provided,* That" and inserting in lieu thereof "by the Public Health Service if".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleagues—Mr. D'AMOURS and Mr. FORSYTHE, in urging the House to pass H.R. 3968.

H.R. 3968 is a noncontroversial bill, introduced at the request of the Department of Commerce, which simply seeks to provide continued health care to certain employees of the National Oceanic and Atmospheric Administration (NOAA); namely, NOAA Corps, wage marine employees, and persons retired on or before July 19, 1963, or in continuous active service since that date.

Until fiscal year 1983, health care for these employees was provided by Public Health Service hospitals under Health and Human Services. Currently, the Department of Commerce reimburses Health and Human Services for health care provided to their employees.

Section 1 of H.R. 3968 would grant the Secretary of Commerce permanent authority to budget for the health care of these employees. The Secretary of Commerce was given temporary authority under the continuing appropriations for fiscal year 1983.

The Secretary of Commerce could provide this care by contracting directly with private facilities or through reimbursement to another agency, including the Public Health Service, qualified to provide care either directly or by contract with private facilities.

Section 2 of the bill strikes references to "facilities" and "hospitals" of Public Health Service and is designed to provide relief to those NOAA employees, or retired NOAA employees, and dependents whose hospitalization benefits were inadvertently terminated by closure of PHS facilities under the Omnibus Budget Reconciliation Act of 1981 and by interpretation of other law that hospitalization at "facilities of the Public Health Service" does not include health services by contract.

Since this care is presently being provided by the Department of Commerce through reimbursement to the Department of Health and Human Services, this legislation is not expected to result in any additional cost to the Federal Government.

Mr. Speaker, I urge my colleagues to support this noncontroversial legislation.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3968.

This bill authorizes the Secretary of Commerce to budget for medical and dental care for those employees of the National Oceanic and Atmospheric Administration (NOAA), NOAA Corps officers, their dependents, survivors, and crew members of NOAA vessels whose health services were previously provided and budgeted by the Public Health Service. These services have been terminated by the phaseout of Public Health Service hospitals and related fiscal adjustments. The bill further authorizes the Secretary to provide medical and dental care to eligible NOAA employees by contracting directly with private facilities or by reimbursing another agency to provide such care, either directly or by contract with private facilities. It has been determined that fiscal accountability would be improved if NOAA, and other affected agencies like the Coast Guard, made provision in their budgets for health care services of their agency's personnel.

Finally, H.R. 3968 makes several technical—but critical—amendments to current law, the effect of which is to continue hospitalization for a small group of older NOAA employees who have either been retired or in continuous active service for at least 20 years.

To my knowledge, H.R. 3968 does not change any existing basic entitlements, it merely changes administrative authority for these health benefits. Further, it contains no new authorizations for appropriations for fiscal year 1984. The Merchant Marine and Fisheries Committee reported H.R. 3968 with a unanimous voice vote. I also am not aware of any opposition to the bill by the administration. In fact, the draft legislation was submitted to the Merchant Marine and Fisheries Committee by the Secretary of Commerce.

Mr. Speaker, I support H.R. 3968 and urge my colleagues to adopt the legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 3968.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3969, H.R. 3486, and H.R. 3968, the three bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow, November 16, 1983, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXTENDING CASH NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4252) to repeal the noncash benefit requirement for the Puerto Rico nutrition assistance program, as amended.

The Clerk read as follows:

H.R. 4252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective for the period beginning January 1, 1984, and ending July 31, 1985, section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking out "noncash".

SEC. 2. The Secretary of Agriculture shall conduct a study of the food assistance program in Puerto Rico carried out under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) which shall include (1) an assessment of its impact on the adequacy of the nutritional level of the diets of households receiving food assistance in the form of cash rather than in a noncash form, (2) an assessment of the expenditure levels for food of such households, and (3) any other factors the Secretary considers appropriate. The Secretary shall submit a final report of the findings of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than March 1, 1985.

SEC. 3. Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by—

(1) in the second sentence, striking out all that follows "except that" and inserting in lieu thereof "the foregoing limits on the certification period may, with the approval of the Secretary, be waived by a State agency for certain categories of households where such waiver will improve the administration of the program."; and

(2) adding at the end of clause (2) the following new sentence: "The maximum limit of 12 months for such period under the foregoing proviso may be waived by the Secretary where such waiver will improve the administration of the program.".

SEC. 4. Section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) is amended by redesignating subparagraph (B) as subparagraph (C), and inserting after subparagraph (A) the following new subparagraph:

"(B) Household income for households that (i) are permitted to report household circumstances at specified intervals less frequent than monthly under section 6(c)(1) of this Act, (ii) have no earned income and in which all adult members are elderly or disabled members, or (iii) are any other households, other than a migrant household, not required to report monthly or at less frequent intervals under section 6(c)(1) of this Act, may, with the approval of the Secretary, be calculated by a State agency on a prospective basis, as provided in paragraph (3)(A) of this subsection.".

SEC. 5. Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by inserting after the first sentence the following new sentence: "The Secretary may permit State agencies to accept, as satisfying the requirement that households report at such specified less frequent intervals, (i) recertifications conducted in accordance with section 11(e)(4) of this Act, (ii) in person interviews conducted during a certification period, (iii) written reports filed by households, or (iv) such other documentation or actions as the Secretary may prescribe.".

SEC. 6. Section 6(c)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3)) is amended by striking out the third sentence and inserting in lieu thereof: "Reports required to be filed monthly under paragraph (1) shall be the sole reporting requirement for subject matter included in such reports.".

SEC. 7. Section 11(e)(19) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(19)) is amended to read as follows:

"(19) that—

"(A) in any case in which information is available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security Act (42 U.S.C. 503(d)), the information shall be requested and utilized by the State agency to the extent permitted under such section;

"(B) in any case in which information is not available from agencies administering State unemployment compensation laws under section 303(d) of the Social Security act—

"(i) information available from the Social Security Administration under section 6103(1)(7) of the Internal Revenue Code of 1954 shall be requested and utilized by the State agency to the extent permitted under such section; or

"(ii) similar information available from other sources shall be requested and utilized by the State agency to the extent approved by the Secretary and permitted by any law controlling access to the information.".

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. PANETTA) will be recognized for 20 minutes and the gentleman from Missouri (Mr. EMERSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would point out at the outset of consideration of this bill that additional provisions have been included that were not contained in the bill as reported by the committee on agriculture. The changes address administrative matters that have posed significant difficulties to the State agencies administering the food stamp program. The changes, which I will describe more fully in my remarks, have been developed in consultation with the administration and have the support not only of the majority and minority members of our committee, but also the majority and minority members of the Senate Committee on Agriculture, Nutrition, and Forestry.

H.R. 4252, as reported by the Agriculture Committee, amends the Food Stamp Act of 1977 to suspend through July 31, 1985, the requirement that benefits in the nutrition assistance program (NAP) in Puerto Rico be paid in noncash form. Unless a change in the law is enacted prior to January 1, 1984, Puerto Rico would be required to implement a noncash benefit delivery system. H.R. 4252 also mandates the Secretary of Agriculture to complete a

study of the effectiveness of the current NAP by March 1, 1985.

The additional amendments I am offering today would make it easier for States to administer the monthly reporting and retrospective budgeting requirements currently in the law. While I continue to believe that monthly reporting and retrospective budgeting should be optional with the States, I believe we should also make these changes to ease the burden on States while these requirements remain in effect.

Perhaps the most important change these amendments make is to allow States to conduct recertification interviews more often than every 6 months for households subject to the monthly reporting requirements. Some States think it is more cost effective to have frequent, probing face-to-face interviews than to require the filing of a written report monthly.

In addition, these amendments would achieve several other purposes:

First, they would respond to a widespread State concern by allowing retrospective budgeting (the practice of basing benefits and eligibility upon household circumstances in a prior month) to be waived for households that are either exempt or waived from monthly reporting requirements;

Second, they would permit the Secretary to allow certain elderly and disabled households to be certified for more than 12 months at a time;

Third, they would allow periodic reporting requirements to be satisfied by in person interviews, as well as the filing of a written form; and

Fourth, they would allow States to design shorter and less complicated monthly report forms, so long as recipients would not be required to file more than one written form a month addressing the subject matter in the reports.

Altogether, these amendments should simplify program administration and allow States to target monthly reporting and retrospective budgeting on those for whom it is cost effective.

Now I would like to provide more background on both parts of the bill before you. Puerto Rico has operated a cash nutrition assistance program since July of 1982, as the result of legislation in 1981 replacing the food stamp program there with a block grant. Based upon the evidence available so far, the agriculture committee believes the current NAP program is worthy of continuation. This program is well administered, has eliminated many of the accountability and integrity problems of the Puerto Rico food stamp program, and enjoys widespread support among clients and program workers. Both a study by the U.S. Department of Agriculture (USDA) and hearing testimony fail to show any significant drop in food expenditures by participating households as a result of the conversion of the form of payment from stamps to cash.

However, since the evidence on the effect of this conversion on the food expenditures and consumption of these households is inconclusive, the committee believes a more definitive evaluation of the cash form of nutritional assistance should be conducted by the Secretary of Agriculture. H.R. 4252 directs USDA to conduct a study and submit by March 1, 1985, a final report of its findings to the appropriate House and Senate committees.

I am pleased that H.R. 4252 was approved in subcommittee and full committee by unanimous vote. The bill is carefully drafted to respond to the preference of the government of Puerto Rico and USDA to continue the current program, yet also builds in an opportunity for program skeptics to debate the program again in 1985, following completion of the USDA study. By establishing a July 31, 1985, expiration date for authorization of the cash program, the bill would facilitate congressional consideration of the Puerto Rico cash assistance program separate from reauthorization of the entire food stamp program and the 1981 farm bill.

I would stress that passage of this bill should in no way be viewed as a precedent for change in the administration of the food stamp program in other States and jurisdictions. The NAP is a response to circumstances unique to Puerto Rico. Participation of over 50 percent of the island on food stamps created administrative and accountability problems in that program unlike those anywhere else. Congressional passage of the block grant at sharply reduced funding created additional pressures to minimize administrative costs and maximize benefits. I do not support extending block grants allowing cash assistance to any other jurisdiction and would oppose efforts to do so.

I would like to express my appreciation to the chairman of the House Committee on Agriculture and the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry for their leadership in expediting passage of this bill. It is extremely important to the people of Puerto Rico and it has been most helpful to have this bill considered apart from other more controversial food stamp issues. I would also like to express my thanks to Representative TOM COLEMAN for his cooperation in reaching a satisfactory compromise on the Puerto Rico NAP issue.

As far as the other amendments offered today, our committee has in recent months heard much testimony and received widespread reports of problems posed by monthly reporting and retrospective budgeting systems. The research conducted to date on these systems indicates that they generally do not reduce costs and have little effect on error rates—but do increase administrative burdens and expenditures and do result in the denial of benefits to some recipients in legitimate need. Given these problems, most States have asked the Congress to make the use of these systems a State option in the food stamp program rather than a mandatory Federal requirement.

At my request, a proposal to retain a State option in this area was included in the Wright amendment passed by the House last week as part of the continuing resolution. I would have preferred that the problems posed by monthly reporting be addressed in this manner. However, this provision was dropped in conference. And now, with the deadline for mandatory monthly reporting approaching, it is incumbent upon Congress to do what we can to ease the burdens States will shortly face in implementing monthly reporting systems.

The proposed amendments contain several provisions dealing with USDA's authority to grant waivers under which States may exempt categories of households from monthly reporting. At present, households covered by monthly reporting—as well as households exempted from monthly reporting under the waiver authority—may not be recertified any more frequently than every 6 months. This requirement has caused significant problems. Up until now, and prior to the onset of monthly reporting, many food stamp households have been certified for periods of less than 6 months. A number of States believe that maintaining these more frequent recertifications (at which households are generally interviewed in person and household circumstances can be probed in greater depth than is usually the case in the monthly reporting process) would be more effective for certain types of households than placing them under the monthly reporting regimen. Yet if States wish to exempt some of these households from monthly reporting, they must now lengthen their certification periods to 6 months.

An amendment before us fixes this. It provides that States requesting waivers to exempt certain categories of households from monthly reporting may also seek waivers to recertify such households at intervals of less than 6 months. The amendment does not require that certification periods of less than 6 months be used for households exempted from monthly reporting—it simply gives States flexibility so that they may elect, with the Secretary's approval, to use shorter certification periods for some or all households for which waivers from monthly reporting are being requested.

In addition, the amendment also allows States—with the approval of the Secretary—to use certification periods of less than 6 months for categories of households who are subject to monthly reporting. If a State wishes to combine shorter certification periods with use of monthly reporting for particular types of households, this should not be precluded by law. Here again, the amendment provides additional State flexibility.

I would note that it is our clear intention that the Secretary would normally grant State requests to use certification periods of less than 6 months—both for households waived from and those subject to monthly reporting—if the requests are made on a reasonable basis.

An amendment also deals with the income accounting procedures to be used for households exempt or waived from monthly reporting. In most cases, it makes sense to use prospective accounting for households who are not subject to monthly reporting. However, the statute currently requires use of retrospective accounting for elderly and disabled households not subject to monthly reporting as well as for households waived from monthly reporting at the request of a State. The requirement for use of retrospective accounting in these circumstances has caused administrative difficulties for a number of States.

The amendment remedies this problem. It authorizes States to secure waivers that would allow them to use prospective budgeting for the categories of households to which I just referred. We expect that, where monthly reporting is not being used, prospective accounting procedures would ordinarily be the procedure put in place and that the Secretary would readily approve State requests to do so.

Another amendment clarifies that when households are exempt from monthly reporting and have to report at specified less frequent intervals instead, the Secretary could allow recertifications to be used to satisfy this reporting requirement. The Secretary could also permit in person interviews in the Food Stamp Office during a certification period, the submission of a specified type of report from, or other means to be used to satisfy this requirement.

An additional amendment would facilitate the use of simpler and shorter monthly reporting forms. Section 6(c)(3) would be modified to make clear that if States wanted to shorten their monthly report forms by say, dropping items relating to expenses or assets or other items, participants would still be expected to report on eligibility factors that are not covered in the monthly reports. To the extent that certain subject matters, such as household income or household size, are covered in the monthly written report, a participating household could not be required, contrary to the practice in the AFDC program, to file an additional written form during the month if a change should occur in a matter that is included in the report.

This change in the law is necessary because the law currently states that a household subject to a monthly reporting requirement cannot be required to meet any other reporting requirement. As a result, the Department has required that monthly reports must be quite comprehensive in scope. Many States would like to simplify the reports to cover eligibility factors that are the most subject to change and would rely on other reporting mechanisms to provide additional information that might be needed to determine eligibility and benefit levels. The proposed amendment would allow this to happen, while still protecting clients from having to file written reports on any eligibility factor more than once in a month. The intent of this amendment is simply to give States greater flexibility in designing reporting requirements. It is not intended to authorize the Department to place any new reporting requirements on the States or participants. It is firmly intended that for those households exempt from monthly and periodic reporting requirements, such as migrants and certain elderly and disabled households, no new reporting requirements can be imposed beyond those in effect now. The sole purpose of this amendment is to allow greater flexibility in procedures affecting households subject to monthly reporting.

Mr. Speaker, these changes are intended to resolve serious problems that have cropped up in the monthly reporting waiver process. These changes will be of considerable importance to the States. We would expect the Secretary to notify all States of the new waiver guidelines immediately upon enactment, and to inform all States that they may revise or expand earlier waiver requests, or submit new waiver requests, based on these new guidelines.

It is now clear that monthly reporting works only if it is well targeted. The research data to date is not favorable to monthly reporting when it is used on a broad scale. Given the lack of data showing cost-effectiveness from monthly reporting and given the potential for increased administrative costs, we would expect the Secretary to grant most waiver requests concerning exemptions from monthly reporting for specified household categories. The burden should now be placed on the Secretary, in the event that waiver requests are denied, to justify why approvals were not granted. This is a matter of considerable interest for the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. We plan to follow the Department's actions on waiver requests closely and to exercise our oversight function in this area.

We would also expect that, since so little time exists between now and January 1, 1984 (when the monthly reporting mandate takes effect), the Secretary would grant temporary waivers to States submitting waiver requests under these guidelines, if necessary beyond January 1, 1984. The Secretary followed this approach in late September, allowing temporary waivers to be placed in operation while the longer term State waiver requests were examined. This procedure should now be used again so that States do not incur unnecessary administrative burdens and costs in shifting categories of households to monthly reporting on January 1 only to remove them from monthly reporting a month or two later when a waiver request is granted.

These amendments are offered with the clear intent to affect the process for issuing waivers on monthly reporting and retrospective budgeting prior to the date these procedures become mandatory, January 1, 1984. It is our intent that no State should be required to implement mandatory monthly reporting and retrospective budgeting until it has had the opportunity to avail itself of the changes in the law we are now making. It is our intention that the Secretary would immediately entertain State requests for waivers relating to 6 month certification periods, retrospective budgeting, and other features of these amendments.

A final provision included in these amendments pertains to wage matching. It would permit States to utilize alternative sources of information for wage matching, in lieu of using wage data from the Social Security Administration as required by current law. Apparently some States are unable to match the social security wage data with their food stamp rolls in an effort to screen out ineligible persons.

Mr. Speaker, these amendments will not solve all the problems with monthly reporting and retrospective budgeting (MRRB). For some States, these procedures will never be cost-effective and most States will still have to engage in an unwieldy and burdensome process of gaining waivers from USDA to reduce the number of households subject to MRRB to the relatively few (estimated to be 10–15 percent) for whom it may be cost effective.

I continue to believe that monthly reporting and retrospective budgeting should remain a State option. There are already strict sanctions in the law for States with high error rates. I do believe we should provide States with a large degree of flexibility to determine how they will meet the error rate sanction standards, rather than man-

date an across-the-board method for administering this program that may well lead to more errors and higher costs.

I urge my colleagues to support this bill, as amended, as a reasonable approach to improving several important aspects of the food stamp program.

□ 1810

Mr. Speaker, I reserve the balance of my time.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H.R. 4252 I support this measure to allow Puerto Rico to continue, for a specified period of time, to have flexibility to determine the method by which they will issue food assistance benefits under their block grant and to require the Secretary of Agriculture to study this issue in depth.

The representatives from the Commonwealth of Puerto Rico—the Governor, the Resident Commissioner and the Secretary of Human Resources—all believe that the method they have chosen to issue food assistance benefits is correct for Puerto Rico. They have set forth several reasons for issuing benefits by check. As I stated in our committee, some of the reasons, as described by the representatives from Puerto Rico, are:

First, substantial savings are achieved. Administering a check issuance system costs approximately $10 million per year less than administering a coupon system. Eliminated are expenses associated with the printing of the coupons, their timely distribution, the hiring of guards to prevent their theft, the certification and monitoring of food stores, the rental of office and vault space at issuing centers, and the employment of issuance clerks at each such center.

Second, the temptation to spend nutritional assistance funds on nonessential items is minimal. A study by the Puerto Rico Department of Health revealed that in 1981 food expenses are greater than food assistance for most recipient families.

Third, the possibilities for fraud are reduced. A chronic problem nationally with the food stamp program involves brokers, who convert coupons to cash in exchange for a percentage of their face value. In addition, unscrupulous merchants have frequently accepted coupons in payments for nonfood items. Puerto Rico is employing a high-security check, extremely difficult to falsify and very easy to trace, to determine where it was cashed.

I support the bill as it was amended in our subcommittee markup. I agree that the Secretary should be required to study this matter. As I understand it the study to be conducted by the Secretary will include an assessment of the impact on the nutritional levels of households receiving food assistance in cash as compared to households receiving food assistance in noncash or in-kind forms; an assessment of the cash food assistance program in Puerto Rico to determine whether the money issued is used for food, rather than nonfood items; and, any other factor the Secretary deems appropriate.

The USDA agrees that they can complete the study by March 1, 1985. I expect that between March 1, 1985, the time at which the Secretary is required to submit a final report, and July 31, 1985, the results of the study will be fully evaluated and a determination will be made concerning the continuation of the cash food assistance program in Puerto Rico.

I believe this is a reasonable solution to the issue before us.

I urge Members to vote for H.R. 4252.

I concur with amendments on monthly reporting. It gives States flexibility and gives the Secretary authority to grant waivers so that a workable and cost effective program can be put in place.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the gentleman from Puerto Rico, (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I am pleased to rise in support of H.R. 4252, legislation which I introduced with the cosponsorship of Mr. DE LA GARZA, Mr. PANETTA, Mr. EMERSON, Mr. MORRISON, and Mr. OLIN.

This bill is a truly bipartisan effort and was reported unanimously by the Agriculture Committee. Both the Governor of Puerto Rico Carlos Romero Barceló and the Reagan administration support this bill as introduced.

This legislation will allow Puerto Rico to continue its nutritional assistance program which is scheduled to expire January 1, 1984, in its present operating form, that of cash benefits. The system was developed by the government of Puerto Rico and the USDA following removal of Puerto Rico from the national food stamp program.

As many Members know, the Omnibus Budget Reconciliation Act of 1981 took Puerto Rico out of the national food stamp program effective July 1, 1982. In its place, Congress allowed the island to develop a new program under the mandate of a "block grant" for nutritional assistance. This was accompanied by a 25-percent reduction from the projected level of Federal assistance.

Following this event, and using guidlines, regulations, and the advice of the U.S. Department of Agriculture, Governor Romero and the Secretary of Social Services of Puerto Rico developed a new system which provides a direct check mailed to eligible families. Approximately 300,000 individuals were dropped from the food stamp program in Puerto Rico as a result of the implementation of the current program which we would further extend under this bill. Puerto Rico tightened eligibility requirements to the most needy individuals and families.

The continuing resolution we passed at the beginning of this fiscal year gave Puerto Rico an extension of a requirement that we revert to a noncash program. That extension would end on January 1, 1984.

It is the general consensus of the House Agriculture Committee that there has not been ample time to thoroughly analyze a program which has been tried no place else in the United States but evidence so far available shows that the current program is working well, that fraud, abuse, and errors have been minimized and administrative savings accomplished. Furthermore, the overwhelming majority of the beneficiaries appear to favor the current program.

H.R. 4252, as amended by the committee, extends the cash out nutrition assistance plan in Puerto Rico through August 1, 1985. It provides, however, that the U.S. Secretary of Agriculture will conduct a study of the program which would assess its impact on the nutritional diet of beneficiaries and an assessment of the expenditure levels for food of those households utilizing the cash assistance. This study shall be made available to the Congress no later than March 1, 1985. This proposal has my endorsement for the simple reason that the program has only been in place for just over 1 year and a more thorough study is required to determine the nutritional impact of the cash system.

I believe our Governor, Carlos Romero Barceló, and our secretary of social services, Jenaro Collazo, have responded to the needs of our citizens for an adequate nutritional diet by efficiently utilizing the Federal benefits which accrue to us in the form of a fixed block grant of $825 million. This program is extremely important to our poor families and H.R. 4252 would keep it in place until August 1, 1985.

I wish to commend Chairman DE LA GARZA, ranking member, Mr. MADIGAN, Subcommittee Chairman PANETTA, Mr. EMERSON, and others for moving expeditiously this legislation. I urge all Members to support this bill.

Mr. EMERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN of Missouri. Mr. Speaker, I am gratified that the committee adopted the amendment in the nature of a substitute I offered to H.R. 4252. I believe the committee's requirement that the Secretary study the impact of issuing cash as compared to noncash or in-kind benefits in

a food assistance program and whether the cash benefits issued in Puerto Rico are spent on food is a wise decision.

Since the government of Puerto Rico has chosen to issue food assistance benefits in cash, I have been concerned about the impact of this decision—both on the people receiving benefits in Puerto Rico and the precedent this decision has for the entire food stamp program. I would have the same concern had this decision been made in my own State of Missouri.

Be assured, this is not an issue unique to Puerto Rico. It has implications for the entire food stamp program and therefore for the needy people who rely on this program for themselves and their families. I believe the committee has shown that it is also uneasy about allowing a permanent change in the method of delivering food assistance from the current noncash or in-kind system. Therefore the committee required that a study be conducted and provided that the authority to continue the cash food assistance program in Puerto Rico will expire on July 31, 1985.

I expect that between March 1, 1985, the deadline for submission of a final report on the study, and July 31, 1985, the committee will be able to evaluate the results of the study and make a decision as to the continuation of cash as the form of delivering food assistance in Puerto Rico.

The committee has chosen to treat this issue of Puerto Rico in separate legislation in 1983; therefore, any future action with regard to this issue must be looked at and fully debated as a separate issue in 1985.

It is my desire to see a food assistance program in Puerto Rico that meets the needs of the low-income population and insures that the goals of the food stamp program are met. While I do not believe that either can be achieved when cash is distributed in any food assistance program, I offered what I felt was a reasonable approach to the issue before us.

The concern voiced because of this issue began in 1982. The government of Puerto Rico decided to issue cash in their food assistance program beginning in July 1982. The Commonwealth of Puerto Rico participates in the food stamp program through a block grant, set at $825 million each year. The block grant was designed to allow the government of Puerto Rico to formulate its own food assistance program, one that would be responsive to the needs of the low-income people living in Puerto Rico.

There were several reasons for providing Puerto Rico a block grant for food assistance. The food stamp program as it is designed for the States had changed Puerto Rico. Any program of such magnitude as existed in Puerto Rico would have to have a profound impact on the island's people and their economic status. This was certainly the case with the food stamp program.

In 1981, prior to the block grant, about 56 percent of the Puerto Rican population received food stamps; 8 percent of the entire food stamp budget went to Puerto Rico, and 7 percent of the personal income of the people of Puerto Rico was derived from the food stamp program. It seemed to me that the old food stamp program was inappropriate for the island and a majority of the Congress agreed with this. Food stamps were no longer a program that responded to the food need of the low income and the unemployed people of Puerto Rico. Instead they were a part of the economy of the island—big part—and a way of life for many.

Additionally, the food stamp program changed their economic base. Less land was used for farming and cultivated cropland fell. More and more the people of Puerto Rico had to rely upon imported—and, therefore, more expensive—foods. For all of these reasons I believed that Puerto Rico should have the ability to design its own food assistance program. Legislation was enacted and by July 1, 1982, Puerto Rico had designed a food program for its low-income population and began issuing benefits.

However, these benefits were issued in cash—by a check that could be cashed anywhere, with the money spent on any item. What happened to the $825 million food assistance program? It became the $825 million assistance program. For the first time, the food stamp program was being administered with neither stamps nor necessarily for food.

I would like to mention that while I disagree with the method chosen to deliver food assistance benefits—in cash—I do understand that the basic design of the Puerto Rico program and the manner in which they have implemented it has more than satisfied the Department of Agriculture. Conversion to the new program went smoothly, without a disruption of benefits and with a minimum of administrative problems.

I commend those involved in that process. I only wish they had exercised similar good judgment in determining the method of delivery of food assistance benefits.

My disagreement is not only with the Puerto Rico decision to issue cash in their food assistance program but also with the administration for approving such a system. By approving this cash-out concept, the administration virtually washed its hands of responsibility over millions of dollars' worth of taxpayers' money. The administration appeared to be more concerned with form rather than substance. Simply turning over the administration of a Federal program to a State, a territory, or in this case a Commonwealth is not New Federalism. That is passing the buck—and in this case, literally passing millions of bucks.

I would like to mention that while the letter submitted by the Department of Agriculture expressing their views on H.R. 4252 contains a statement with reference to congressional intent and the Puerto Rico cash food assistance grant, it is a statement I believe that was improvidently added. The Department's conclusion has no foundation in legislative history.

During debate on the food assistance block grant program, there was no discussion of cashing out the food stamp program in Puerto Rico. It was the clear intent of Congress to provide $825 million worth of food assistance to the Commonwealth under the Food Stamp Act.

When the Puerto Rico plan was implemented as a cash-out program, it changed from a food assistance program to a guaranteed income program, with—ironically—absolutely no guarantee that these millions of dollars will be used for food.

Obviously many, if not most, people in Puerto Rico will buy food with their cash grants and, yes, the present food stamp program using food coupons does have serious flaws. There is illegal trafficking of food stamps, as well as the selling of food stamps at discounts. Steps are being taken to crack down on these illegal activities. For instance, electronic transfer systems using magnetic ID cards are being tested in major cities. Also, I successfully sponsored legislation in 1981 that gives tougher law enforcement powers to USDA Inspectors General charged with investigating large-scale illegal trafficking in food stamps. That law is being used to track down these fraudulent and criminal activities.

The fact that we have serious abuses in the food stamp program, however, is no reason to give up on its basic premise—that of providing food assistance to needy individuals. Cashing out the food stamp program in Puerto Rico could well mean opening the door to nationwide repudiation of feeding our poor.

It should not be assumed that this is a parochial, unique issue to Puerto Rico. As I said before, I would oppose such a delivery system even if offered by my State of Missouri. Indeed, cashing out of the food stamp program could become a reality in each of the 50 States if the block grant concept is extended to them.

Many may argue that by cashing out the program, we can get rid of fraud and abuse in food stamps. Such an argument is specious. We will not eradicate fraud in the food stamp program through cash-out. What we will do is

remove the ability to find out where the fraud exists. There will be no audit trails, no possibility of finding out who is abusing the program.

Have we given up on the battle on fraud in the food stamp program so easily? Do we want to give up any assurances that the poor can receive food assistance? Surely not. Cashing out the food stamp program in Puerto Rico may be the first step toward cashing out the entire program, and this could only be the beginning. If one considers other New Federalism ideas, we can certainly see other programs turning into cash giveaways. For example, if extended to the school lunch program, children would be directly given money to purchase their lunches in the hope that some of it would actually end up in the school cafeteria to pay for their meals.

Cashing out the food stamp program is not a new idea; it has been debated in the Halls of Congress for years. What is surprising is that this administration would carry out the liberal philosophy offered by others, in the past, under the guise of States' rights. Whatever happens to the concept of New Federalism, the Congress must not give up on the goals and purposes for which programs are established.

Policy decisions on program goals must not be blurred because of the type of delivery system used. Certainly this is the converse of the recent past, where many program goals were lost in the shuffle because of faulty administration of the program. Closer scrutiny by the White House of what happens to these block-granted programs once they are given to the States would insure that the New Federalism truly will be an improvement over the Old Federalism.

Part of this closer scrutiny is a clear, objective study of what happens when cash is issued in a food assistance program. It is my hope that the study to be conducted by the Secretary will provide some answers and data on which the Congress can base a decision on the future of the food stamp program, in Puerto Rico and elsewhere.

□ 1820

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4252.

The bill deals with a relatively small segment of the Federal nutrition assistance program carried out under the Food Stamp Act of 1977. But it is a segment of great importance to the Commonwealth of Puerto Rico and its low-income households.

For some time, Puerto Rico participated in the food stamp program in much the same fashion as other jurisdictions in the United States. This situation was changed by the 1981 Reconciliation Act. That legislation established a block grant food assistance program for the Commonwealth. While it significantly reduced funding for the program, it gave the Government of Puerto Rico added flexibility in program structure and administration.

With the approval of the Secretary of Agriculture, the Commonwealth initiated a nutrition assistance program that made benefits available to participants in cash. This practice caused some concern to the Congress, at least in part because of its possible adverse impact on the nutritional status of recipients. As a result, the 1982 Reconciliation Act amended the Food Stamp Act to require that Puerto Rico make nutrition program benefits available in noncash form. The effective date for this change has been postponed by law until January 1, 1984.

A report by the Department of Agriculture, a hearing held in Puerto Rico by our Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, and other information have disclosed that the cash assistance program has had some positive results. It has simplified program administration, reduced fraud and abuse, and generally pleased recipients. Importantly, there is evidence, though admittedly inconclusive, that program recipients have not reduced their food expenditures under the cash program.

In these circumstances, the Committee on Agriculture concluded that the Commonwealth should not be required to abandon the cash benefits approach on January 1 of next year. Pending the development of more complete information on the program, H.R. 4252 would permit the present program to continue on an interim basis—until August 1, 1985. Meanwhile, the bill would direct the Secretary of Agriculture to study the impact of the cash program on the nutritional status and food expenditures of recipient households. The study would compare these factors with those existing when the program used stamps as the form of assistance. The Secretary will be required to report the findings of the study to the committees of jurisdiction by March 1, 1985. This will give Congress an opportunity to review the findings and take any action considered appropriate on the Puerto Rico program prior to the effective date of the noncash mandate earlier enacted.

We believe that this is a balanced and reasonable approach to this matter. It allows the Commonwealth to continue for a reasonable time what appears to be an effective program. And it will furnish to the Congress accurate and reliable information to permit it to make an informed judgment on the Puerto Rico program before it undertakes a general review of the food stamp program in connection with its reauthorization.

Mr. Speaker, in addition to the provisions relating to Puerto Rico in H.R. 4252, the Agriculture Committee is offering several amendments relating to minimum certification periods and monthly reporting/retrospective budgeting (MRRB) in the food stamp program. These amendments are noncontroversial, having been worked out with the minority here in the House, the majority and minority of the Senate Committee on Agriculture, Nutrition, and Forestry, and the administration.

These amendments are designed to address several problems that have arisen under the Food Stamp Act amendments in the 1981 and 1982 reconciliation bills—Public Law 97-35 and Public Law 97-253. The Food Stamp Act currently requires a certification period of at least 6 months for those households required to submit monthly or periodic reports on changes in household circumstances. A number of States, including my State of Texas, feel that a shorter certification period would be more effective in this regard. These amendments would thus give the Secretary of Agriculture authority to allow States to certify households subject to either monthly or periodic reporting for a lesser number of months.

Further, the amendments would provide additional authority to the Secretary to permit State agencies to use prospective accounting for certain households and to use other means of satisfying the periodic reporting requirements. The provision of the law pertaining to monthly reports would be modified to allow simpler and shorter report forms, provided that no requirement could be placed on participants to file written reports on any eligibility factor more than once in a month.

Finally, broader authority is provided to the States for utilization of information for wage matching purposes upon approval of the use of such information by the Secretary. All of these amendments are designed to provide the State greater flexibility in implementing procedures that should improve accountability and reduce errors in the administration of the food stamp program.

The chairman of the subcommittee (Mr. PANETTA) and the ranking minority member (Mr. EMERSON) have worked diligently and expeditiously on this legislation. I commend their effective and cooperative efforts to achieve a reasonable resolution to these vexing problems.

I trust my colleagues will join in giving their support to H.R. 4252.●

Mr. EMERSON. Mr. Speaker, I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA) that the House suspend the rules and pass the bill, H.R. 4252, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to suspend the noncash benefit requirement for the Puerto Rico nutrition assistance program, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 1.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WIRTH. Mr. Speaker, I am today introducing legislation on behalf of myself, Mr. BROWN of Colorado, Mr. CHENEY, Mr. HANSEN, Mr. KOGOVSEK, Mr. KRAMER, Mr. LUJAN, Mr. MARRIOTT, Mr. NIELSON OF UTAH, Mr. REID, Mr. RICHARDSON, Mrs. SCHROEDER, Mr. SCHAEFER, Mr. SKEEN, and Mrs. VUCANOVICH, which will grant congressional consent to the Rocky Mountain low-level radioactive waste compact in accordance with section 4(A)(2) of the Low-Level Radioactive Waste Policy Act of 1980 (42 U.S.C. 2021d (A)(2)).

My colleagues will recall the near national crisis in 1979 which precipitated the passage of the 1980 Waste Policy Act. At that time, the Nation's three existing low-level radioactive waste disposal sites were either temporarily closed or found it necessary to severely limit the amount of waste they could accept. That scenario naturally created considerable confusion among both the States and the public at large. While the States of Washington, Nevada, and South Carolina rightfully took such actions to prevent their States from becoming the national dumping grounds for the disposal of low-level radioactive wastes, it was also clear at that time that a comprehensive national strategy for the control and disposal of such wastes was a crucial need whose time had clearly arrived.

At the urging of the States, and with their full cooperation, the Congress responded to the confusion of 1979 through the passage of the Low-Level Radioactive Waste Policy Act of 1980—easing the immediate pressure on the States for the disposal of low-level wastes and creating the impetus for the development of a thorough national policy for the future. At the heart of the 1980 act were two key components. The 1980 act recognized that each State was "responsible for providing for the availability of capacity either within or outside the State for the disposal of waste." However, recognizing that the development of low-level waste disposal sites in each individual State would potentially pose unnecessary and, in many cases, needless costs on each State, the Congress opted to follow the very logical course of authorizing the States to enter into negotiations for the purpose of establishing interstate compacts for the purposes of meeting their responsibilities for the safe disposal of low-level radioactive waste.

Recognizing that the States were the appropriate lead actors in developing a national program for the disposal of low-level radioactive wastes, Congress granted the States a great deal of flexibility in developing the regional compacts called for in the 1980 Waste Policy Act. The States were free to determine which States would be members of which compact and to establish their own general guidelines for siting and disposal of low-level waste within their region. Additionally, the provisions of the 1980 act also recognized that the resulting compact States would be solely responsible for disposal of wastes generated within their respective regions and allowed the individual compacts the authority, after January 1, 1986, to restrict the use of their regional disposal facilities to only those wastes generated within the respective compact region.

Following on the heels of congressional passage of the 1980 Waste Policy Act, the States began the process of discussion and negotiation leading up to the formal drafting of the individual compacts. Naturally, the compacts which were subsequently formed generally followed appropriate geographic boundaries across the country—as evidenced by the compacts currently pending before the Congress and the compact which I introduce today.

The Rocky Mountain low-level radioactive waste compact results from the direct efforts of six Western States—Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming—and is indicative of the very careful and bipartisan spirit in which these Rocky Mountain area States approached their task. To be sure, the questions confronting the States in the development of the compact were not easy. Yet, working together for the good of the region and the individual States involved, the resulting compact provides the foundation for the precise regional strategy called for in the 1980 act. And I would like to personally congratulate the States for the care they have taken in drafting this compact.

Mr. Speaker, to date four of the eligible States—Colorado, Nevada, New Mexico, and Wyoming—have taken the necessary action to formally ratify their respective State's entry into the Rocky Mountain compact. Additionally, Arizona is currently considering their membership in the compact and Utah, while also a member of the Northwest compact, remains eligible to join in the Rocky Mountain compact. These States have taken thorough and decisive action in meeting the responsibilities laid before them, and I am pleased that all of my colleagues from those States which have formally joined the Rocky Mountain compact, as well as my colleagues from Utah, have chosen to recognize that action by joining me as original cosponsors of this congressional consent legislation.

It is now incumbent upon the Congress to act upon the formal consent to this and the other compacts pending before it. In my own State of Colorado, over 80 percent of the low-level radioactive waste is generated by State institutions, such as universities and hospitals. Traditionally, these generators are also those least able to store or dispose of the wastes they create as a byproduct of their research or common treatment or diagnostic practices. Facing the existing January 1, 1986, deadline wherein the existing waste disposal sites might once again exercise their option to exclude waste generated from outside of their State and/or region, I trust my colleagues will agree with me as to the necessity for timely consideration of this issue.

Finally, following these remarks, I commend to the Members' attention a summary of the major provisions of the Rocky Mountain low-level radioactive waste compact.

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

SUMMARY OF KEY PROVISIONS

I. Findings and purpose

States are responsible for providing for the management of non-federal low-level radioactive waste.

II. Definitions

1. Host state means a state in which a regional facility for the disposal or incineration of low-level radioactive waste is located.

2. Low-level waste excludes federal waste, high-level waste, material contaminated with transuranic elements emitting more than 10 nanocuries per gram, and mining and milling waste.

3. Facility means any property, equipment or structure used for the management (collection, consolidation, storage, treatment, incineration, disposal) of low-level waste.

III. Responsibilities of party and host states

1. At least one regional facility other than Beatty, Nevada must be open and operating in a party state other than Nevada within 6 years after Nevada and at least one other state have adopted the compact.

2. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states.

3. Each party state that generates 20 percent or more of the region's waste has an obligation to host a regional facility.

4. A state seeking to fulfill its obligation to become a host state shall cause a regional facility to be developed on a timely basis as determined by the board.

5. Once a party state has served as a host state it shall not be obligated to serve again until each other party state having an obligation to host a regional facility has fulfilled that obligation.

6. The decisions on how and where to site a facility are left to the laws and policies of the host state(s).

7. All party states shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility.

8. All party states must enforce transportation and packaging regulations.

IV. Board approval of regional facilities

The board must approve or disapprove all regional facilities, based only on consideration of economic feasibility and capacity requirements.

V. Surcharges

1. The board will impose a surcharge on waste disposed at regional facilities to provide funding for administration of the compact.

2. A host state may impose a surcharge on waste disposed at a regional facility in order to offset regulatory costs, local government impacts, to provide for closure and long-term care and to provide a positive financial incentive for state and local governments.

3. The board is authorized to ensure that all surcharges are reasonable.

VI. The board

1. The board, which shall meet at least once per year, is composed of one representative from each party state.

2. Each party state must pay $70,000 to fund the initial two-year operating costs of the compact.

3. The board shall keep an inventory of all waste generators and regional facilities.

4. The board shall prepare a contingency plan in the event a regional facility is closed and may develop a regional low-level waste management plan and provide information to the party states.

5. The board shall submit an annual report to the party states' governors and legislatures.

6. The board is authorized to assure that charges by regional facilities are reasonable.

VII. Prohibited acts

1. It is unlawful for low-level waste to be disposed of at other than a regional facility approved by the board.

2. After January 1, 1986, low-level radioactive waste may not be shipped out of the region without approval of the board and host state(s).

3. After January 1, 1986, no low-level radioactive waste may be shipped into the region unless approved by the board and host state(s).

4. No defense or federal low-level radioactive waste or any other type of waste not defined by the compact as low-level waste may be managed at a regional facility unless authorized by the board and host state.

5. The board may impose civil penalties and seek court orders to enforce the provisions of the compact.

VIII. Eligibility, entry into effect, congressional consent, withdrawal, exclusion

1. The States of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming are eligible to join.

2. Other states may join with the unanimous consent of the board.

3. The compact must be ratified by Congress.

4. If a state fails to fulfill its obligations under the compact, it may be excluded by a two-thirds vote of the remaining states on the board.

5. A state may withdraw from the compact two years after legislative repeal of the compact.

6. If a host state chooses to withdraw from the compact, its facility will continue to be available to the remaining party states for five years so that another facility can be developed.

● Mr. CHENEY. Mr. Speaker, I am pleased to join with my colleague from Colorado (Mr. WIRTH) and others from the Rocky Mountain area, to propose legislation to ratify the Rocky Mountain low-level radioactive waste compact which involves my own State of Wyoming.

As my colleagues know, the individual States are responsible for the management of low-level waste generated within their borders. Congress has, however, by enacting the "Low-Level Radioactive Waste Policy Act," encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level waste. Such compacts are a means of insuring cooperative effort among the States to provide adequate storage facilities without duplication of effort and expense, and to protect the safety, health, and welfare of citizens in the involved States.

My State of Wyoming has agreed to participate in the Rocky Mountain compact, and the legislation we are introducing today will provide the necessary congressional approval for the States to proceed. I am pleased to be a sponsor of this proposal.●

● Mrs. VUCANOVICH. Mr. Speaker, I rise in strong support for the legislation introduced today by my colleague from Colorado (Mr. WIRTH) providing for congressional consent to the Rocky Mountain low-level radioactive waste compact. To date, four States—Colorado, Nevada, New Mexico, and Wyoming—have formally joined the Rocky Mountain compact through action by their State legislatures. The Nevada State Legislature overwhelmingly passed the compact legislation, and on May 24, 1983, became an official member of the compact.

Nevada has had a low-level radioactive waste site at Beatty, Nev., for 21 years. In the past, this site has received up to 20 percent of our Nation's low-level radioactive waste. In recent years, this level has dropped dramatically and in 1981, Beatty only received 4 percent of the national low-level radioactive waste. Passage of this vital Federal legislation will insure that a new low-level radioactive waste site will be built within 6 years. What this means to Nevada is that the Beatty site will close, and Nevada will not be a host State for low-level radioactive waste until all the member States in the compact have served as host States.

This legislation will allow those States which produce the majority of low-level radioactive waste to serve as sites for that waste to be discarded. It also excludes States that are not members of the Rocky Mountain compact from dumping their waste into our States. This legislation will allow our region to develop new low-level radioactive waste management facilities without allowing the region to become the dumping ground for the Nation. Nevada has served long enough as the Nation's dumping ground for low-level radioactive waste. It is time to change this policy, and I believe the compact will accomplish that goal.●

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of H.R. 4388.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

WAIVING ALL POINTS OF ORDER ON THE CONFERENCE REPORT ON H.R. 2915, DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1984 AND 1985

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all points of order be waived against the conference report on the bill (H.R. 2915) to au-

thorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3867), to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e) is amended by adding at the end thereof a new subsection to read as follows:

"(c)(1) It is hereby found that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the public interest. This subsection is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

"(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held by such commission merchant, dealer, or broker in trust for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which is dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.

"(3) The unpaid supplier, seller, or agent shall lose the benefits of such trust unless such person has given written notice of intent to preserve the benefits of the trust to the commission merchant, dealer, or broker and has filed such notice with the Secretary within thirty calendar days (i) after expiration of the time prescribed by which payment must be made, as set forth in regulations issued by the Secretary, (ii) after expiration of such other time by which payment must be made, as the parties have expressly agreed to in writing before entering into the transaction, or (iii) after the time the supplier, seller, or agent has received notice that the payment instrument promptly presented for payment has been dishonored. When the parties expressly agree to a payment time period different from that established by the Secretary, a copy of any such agreement shall be filed in the records of each party to the transaction and the terms of payment shall be disclosed on invoices, accountings, and other documents relating to the transaction.

"(4) The several district courts of the United States are vested with jurisdiction specifically to entertain (i) actions by trust beneficiaries to enforce payment from the trust, and (ii) actions by the Secretary to prevent and restrain dissipation of the trust.".

SEC. 2. Section 2(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(4)) is amended by adding after the semicolon at the end of the paragraph "or to fail to maintain the trust as required under section 5(c);".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. PANETTA) will be recognized for 20 minutes and the gentleman from Missouri (Mr. EMERSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3867 which was sponsored by the chairman of the full committee, Mr. DE LA GARZA, Mr. MADIGAN, myself, and Mr. EMERSON, and 33 other cosponsors. By a 7 to 0 vote, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition which I chair recommended to the full committee and to the House passage of H.R. 3867.

H.R. 3867 amends the Perishable Agriculture Commodities Act of 1983 to increase the protection for unpaid sellers and suppliers of perishable farm commodities by impressing a trust until full payment of sums due have been received by them. This legislation is supported by USDA and represents a general consensus in the industry.

The statutory trust concept in this bill is analogous with the protection afforded the livestock producers 7 years ago under the Packers and Stockyard Act. The trust provisions under the Packers and Stockyards Act have operated very successfully for the livestock industry without imposing a regulatory burden.

H.R. 3867 provides the protection needed by the trust beneficiaries without creating an undue hardship to any person. The trust impressed in H.R. 3867 is a nonsegregated floating trust that would apply to the commodities, products derived therefrom, and any receivables or proceeds from their sale in the hands of the commission merchant, dealer, or broker. Any failure to maintain the trust would constitute an unfair trade practice. To benefit from the trust, the unpaid seller or supplier must provide written notice of intent to preserve the trust to the commission merchant within 30 calendar days after payment must be made.

This legislation would give the industry and the Department effective new tools to assure prompt payment throughout the marketing chain. Timely payment, according to contract terms, permits a steady flow of perishables to consumers and a prompt return of earnings to the sellers throughout the market chain. Sound credit, fair trade practices, and a reliable payment performance are essential to the health of the entire industry.

For this industry, because of the perishable nature of this product, time is essential. Consumers want the highest quality fruits and vegetables that retain their high nutrient content. Sales must often be consummated verbally to insure that commodities are quickly en route across the country to a buyer. Under such conditions, credit checks, conditional sales agreements, and other traditional safeguards, that require several days to secure, are not possible.

Since 1930, the Perishable Agriculture Commodities Act has provided a code of fair trading in the marketplace and has protected sellers and buyers of fruits and vegetables from unfair and fraudulent market practices. PACA has minimized many interruptions in the marketing of perishables.

However, under current law, in the case of slow pay or nonpay, sellers of fruits and vegetables are treated as unsecured creditors, which means they get little protection in the event of financial claim against buyers. Produce, under accounts receivable, is often assigned to the lender without any guarantee that the seller will recover more than a small amount of the value of his produce. Consequently, the financial position of sellers is extremely vulnerable vis-a-vis collecting on the debt when the buyer becomes insolvent.

In recent years, there has been a substantial increase in instances where commission merchants, dealers, or brokers have failed to pay on time or at all for perishable commodities received by them. During the last year alone, USDA has estimated that over $65 million was lost through failure to pay the sellers of perishable crops.

If slow or nonpayments continue, consumers also lose. A certain shrinkage factor is included in the consumer

price of fruits and vegetables to offset for loss through spoilage, slow or nonpayment. USDA estimates that this factor adds 10 percent to the consumer purchase price.

Since enactment of H.R. 3867 would benefit both the consumer and the industry, I urge my colleagues to vote in favor of this legislation.

□ 1830

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3867, a bill designed to provide protection for sellers of perishable commodities in situations in which buyers of such commodities fail to pay.

As most of you know the Perishable Agricultural Commodities Act was enacted in the 1930's. The purpose of the act is to encourage fair trade practices between buyers and sellers of perishable commodities and, if applicable, to provide the means to collect damages from buyers and sellers who fail to live up to their agreements. However, in the past few years incidents in which buyers of perishable commodities are slow to pay or fail to pay at all have increased.

According to testimony received in our subcommittee the Perishable Agricultural Commodities Act or PACA has been an effective tool in bringing stability to the fruit and vegetable market. The fruit and vegetable industry is made up of approximately 222,000 fruit and vegetable farmers who market their crops through 15,000 licensed trading firms made up of approximately 200,000 individuals. The majority of the firms involved are small business operations. Producer-marketers outnumber buyers by 15 to 1. Payment for goods and services must be timely made to assure an uninterrupted flow of food to the consumer, and a prompt turnaround return of earnings to the grower and other sellers in the marketing chain. The production and marketing cycles can then repeat without unwarranted interruption.

Historically, the industry has operated informally with large amounts of commodities being committed and shipped on a good faith basis. In general, there are no written contracts and the buyer does not see the product before shipment. Because the commodities are perishable and distances to markets are great, sellers are under pressure to dispose of these commodities as rapidly as possible. Since trading agreements are primarily verbal rather than written, there are misunderstandings and a vulnerability to deception and fraud. The PACA has brought stability to the marketplace by protecting trade against persons who engage in unfair and fradulent practices.

The Department and the industry had reported three problems that this bill before us should address. They are:

First, hidden security agreements which encumber liquid assets of buyers and divert money due to suppliers for fruits and vegetables away from the suppliers.

Second, climbing overhead costs including costs of debt servicing which impact trading and are reflected by a marked increase in slow pay.

Third, a steady increase in business failures and bankruptcy losses with no possibility of meaningful recovery because assets are diverted away from fruit and vegetable creditors and into the hands of secured interest holders.

Most business failures today mean a total loss to fruit and vegetable suppliers. By the time they learn that a customer has closed its doors, available funds have been diverted to secured interest holders. A recovery of as much as 10 cents on a dollar is unusual. PACA experience reflects the impact of these burdensome factors. During fiscal year 1982, reported losses due to slow pay and no pay aggregated approximately $32 million. Reported business failures and bankruptcies reflected losses of another approximately $32 million. The same situation continued into fiscal year 1983. Most firms in the fruit and vegetable industry are small businesses which cannot withstand severe losses. Too frequently because the domino effect prevails, they join the ranks of the business failures.

The Secretary of Agriculture is currently without the authority to deal with these problems meaningfully.

H.R. 3867 amends the Perishable Agricultural Commodities Act by establishing a trust on the commodities and on the proceeds of the sales of commodities for the benefit of unpaid sellers.

A new subsection is added to the Perishable Agricultural Commodities Act that requires buyers of perishable agricultural commodities to set up a trust equal to the value of the commodities received to protect the unpaid seller. The unpaid seller will notify the buyer and the USDA within 30 days after payment is due and not received in order to activate the trust.

The buyers and sellers may then agree to other payment periods but a record of this agreement must be kept. U.S. district courts will have jurisdiction over disputes concerning the trusts.

In addition, the buyers' of the perishable agricultural commodities failure to establish a trust will be considered an unfair trade practice. The penalties for unfair trade practices range from a 90-day suspension of a license to complete revocation of a license.

The Department of Agriculture and the fresh fruit and vegetable industry support this bill. I urge you to vote for H.R. 3867.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3867, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 3867, a bill to amend the Perishable Agricultural Commodities Act, 1930, to impress a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller-supplier.

The Perishable Agricultural Commodities Act establishes a code for fair trading in the marketplace, provides for aid in the enforcement of contracts for marketing these commodities and serves to suppress unfair and fraudulent practices in the marketing of fresh and frozen fruits and vegetables. PACA, as this act is commonly referred to, has served the fruit and vegetable industry well since its enactment in 1930. However, the fruit and vegetable industry pointed out to our committee a problem of major concern. That concern is that in recent years we have unfortunately seen an increasing number of cases in which commission merchants, dealers, or brokers have either been slow in making payments for perishables or have not paid at all.

The growing number of these cases has brought attention to what now appears to be a weak spot in the protective features of the act. During periods when there were few cases of failures to pay, that weakness was not apparent or very serious. Now, however, we are confronted with a situation that demands action.

The record indicates a disturbing increase in the number of cases in which payment to sellers is slow or is not made at all. All total, according to estimates made by the U.S. Department of Agriculture, the sellers-suppliers of perishable agricultural commodities lost about $65 million last year alone, and the same or higher amount is predicted for this year.

Sellers of perishable commodities often are located thousands of miles from their customers. Many times, sales must be made while commodities are en route and under conditions which make it impossible to conduct normal business practices such as credit checks and conditional sales agreements. Under present law, in the case of failure of a commission merchant, dealer or broker, to pay sellers of fresh fruits/vegetables, no special protection is given to the unpaid seller, even though their produce pro-

vided much of the equity capital to support the financial strength of the buyer's operation. Produce, under accounts receivable, are often assigned to the lender, without any guarantee that the seller will recover more than a small amount of the value of this produce.

There is widespread agreement that, under current conditions, fairness demands some new protective features for those who sell agricultural commodities.

H.R. 3867 is designed to help address this problem by incorporating provisions similar to those of the Packers and Stockyards Act which would make sellers, who have not received payment for their produce, the beneficiaries of a statutory trust. H.R. 3867 impresses a trust on all perishable agricultural commodities received by a buyer and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products for the benefit of the unpaid seller.

Other important provisions of the bill include the following:

Buyers of perishable commodities would have to maintain the trust assets until sellers receive full payment.

When an account is not paid by due date, seller, in order to preserve the trust must notify both the buyers and the Secretary of Agriculture within time limits set by the bill.

The U.S. district courts would be directed to entertain actions by sellers to enforce payments from trusts, and actions by the Secretary of Agriculture to prevent dissipation of trusts.

The failure of a buyer to maintain a trust when required by the new bill would be classed as an unfair trade practice under the Perishable Agricultural Commodities Act, making the person involved subject to penalties including suspension or revocation of his or her PACA license.

I want to point out that the provisions of this new legislation are not new to the agricultural marketing field. They have been in effect since 1976 for those businessmen whose activities are covered by the Packers and Stockyards Act.

Finally, Mr. Speaker, I want to note that this legislation has the support of the administration and the produce industry, and it has a distinguished list of cosponsors including the chairman and ranking minority member of the subcommittee and the ranking minority member of the full Committee on Agriculture.

I ask all Members to join me in supporting enactment of H.R. 3867.●

● Mr. GUNDERSON. Mr. Speaker, I rise in support of H.R. 3867 that would amend the Perishable Agricultural Commodities Act to require buyers, wholesalers, and brokers of fresh fruits and vegetables to establish a trust of the proceeds, receivables, or inventories created by those commodities in favor of their unpaid producers.

In recent years, Mr. Speaker, there has been an increasing use of credit purchases in the fresh fruit and vegetable industry. In fact, in some areas of the country, less than 5 percent of the initial producer sales of these commodities are on a cash basis.

This means, of course, in more economically troubled times such as those recently experienced, a number of innocent producers are never paid for their crops when middlemen who purchased on credit go bankrupt. This phenomenon results from the prioritization of debts by the bankruptcy laws that place such unsecured producers near the bottom of the payment list.

H.R. 3867 would alter this inequity by establishing a trust of the funds and assets of the buyer resulting from the sale or inventory of perishable commodities purchased from the producer and requiring that the trust proceeds be first used to compensate any remaining indebtedness of the buyer to the producer.

The establishment of such a trust not only benefits producers, but consumers as well by keeping producer losses due to bad credit arrangements at a minimum. USDA has estimated that the savings to the consumer may be as high as 10 percent of the value of the commodity itself.

I, therefore, urge my colleagues to join me in supporting H.R. 3867.●

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA) that the House suspend the rules and pass the bill, H.R. 3867, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CREDIT CARD PROTECTION ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3622) to amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers, as amended.

The Clerk read as follows:

H.R. 3622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Credit Card Protection Act".

RESTRICTIONS ON DISCLOSURE OF PAYMENT DEVICE NUMBERS

SEC. 2. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following:

"§ 137. Restrictions on disclosure of payment device numbers

"(a) No person shall disclose any payment device number unless—

"(1) such person is disclosing a payment device number in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or payment device recovery that relates to such payment device number, an account accessed by such payment account number, or debts or obligations arising, alone or in conjunction with another means of payment, from the use of the payment device number;

"(2) such person is the holder of the payment device number or is disclosing the payment device number to the holder *or issuer* of the payment device number;

"(3) such disclosure is reasonably necessary in connection—

"(A) with the sale or pledge, or negotiation of the sale or pledge, of all or a portion of a business or the assets of a business; or

"(B) with the management, operation, or other activities involving the internal functioning of the business of such person making such disclosure;

"(4) such person makes the disclosure to a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act; or

"(5) such person makes the disclosure solely under a circumstance specified in section 604 of the Fair Credit Reporting Act regardless of whether such person is a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act and regardless of whether the disclosure is a consumer report, except that such person shall not disclose any payment device number prior to receipt of an individual written certification from the requestor—

"(A) containing the specific reason that the payment device number is required; and

"(B) that the payment device number—

"(i) cannot be obtained under a circumstance specified in this section; or

"(ii) that such payment device number is needed for security, or loss or fraud prevention purposes.

"(b) No person shall intentionally obtain any payment device number except as provided under this section.

"(c) Nothing in this section shall affect the rights or limitations of persons to disclose payment device numbers to, or at the direction of, governmental entities under any other provision of law.

"(d) For purposes of this section—

"(1) the term 'payment device number' means any code, account number, or other means of account access (other than a check, draft, or other similar paper instrument) that can be used to obtain money, goods, services, or any thing of value, or for purposes of initiating a transfer of funds; and

"(2) the term 'holder' means any person—

"(A) who was issued a payment device number;

"(B) who is authorized by such holder to use such payment device number; or

"(C) who is authorized at the specific request of the holder to receive such payment device number on behalf of the holder.

"(e) Any person who fails to comply with any requirement imposed under this section shall be a creditor for purposes of section 130.".

(b) The table of sections contained at the beginning of chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"137. Restrictions on disclosure of payment device numbers.".

FRAUDULENT USE OF A CREDIT CARD

SEC. 3. Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended—

(1) in subsection (a)—

(A) by striking out "use any" and inserting in lieu thereof "use one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "payment devices";

(2) in subsection (b), by striking out "credit card" and inserting in lieu thereof "payment device";

(3) in subsection (c), by striking out "credit card" and inserting in lieu thereof "payment device";

(4) in subsection (d)—

(A) by striking out "with a" and inserting in lieu thereof "with one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "payment devices";

(5) in subsection (e)—

(A) by striking out "credit cards" and inserting in lieu thereof "payment devices"; and

(B) by striking out "or" at the end thereof;

(6) in subsection (f)—

(A) by striking out "of any" and inserting in lieu thereof "of one or more";

(B) by striking out "credit card" and inserting in lieu thereof "payment devices"; and

(C) by striking our "obtained—" and inserting in lieu thereof "obtained; or";

(7) by inserting before "shall be" the following:

"(g) Whoever, with unlawful or fraudulent intent, possesses ten *five* or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained payment devices that have moved in, been part of, or constituted interstate or foreign commerce—"; and

(8) by adding at the end thereof the following: "For purposes of this section, the term 'payment device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another payment device, to obtain money, goods, services, or any other things of value, or for the purpose of initiating a transfer of funds (other than a transfer originated by check, draft, or other similar paper instrument).".

CONFORMING AMENDMENT

SEC. 4. Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by striking out "and 134" and inserting in lieu thereof "134, and 137".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect sixty days after the date of enactment of this Act, except that the amendments made by section 3 shall take effect upon the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are faced in this country with a little-known epidemic. There are some 580 million credit cards in circulation in this country. Every year an estimated 73 million cards are reported lost or stolen. Of that total, some 20,000 credit cards are fraudulently used every day.

We are not talking about penny ante crime here; financial institutions lost an estimated $128 million from bank card fraud alone in 1982, an increase of more than 35 percent over 1981. About $40 million of that figure came from the use of counterfeit credit cards. It is believed that losses resulting from illegally used credit cards approached the $1 billion mark last year, a threefold increase since 1979.

And make no mistake about it, those losses are borne by consumers as surely as if a gunman put a gun to their head and robbed them. The losses suffered by financial institutions and credit card issuers are passed on to consumers in the form of higher fees for cards and increased interest costs. While credit card crime exists to the greatest extent in our major cities, there is also evidence that fraudulent credit card transactions go on in every community in our country.

Unfortunately, most credit card criminals operate with little fear of being caught. And if they are caught, they usually get off with a small fine or minimal jail sentence. A bank robber may serve 20 years for stealing a few thousand dollars from a bank, while a credit card criminal might well steal $20,000 a day and, if caught, face only the lightest of sentences.

We must change the rules of the game for those who seek to play. We must make certain that credit card criminals no longer get a free ride. We must also make certain that questionable businesses using lists of credit card numbers do not charge consumers for products or services that they do not receive or do not want.

The Credit Card Protection Act will go a long way in cracking down on credit card crime. It will: First, make it illegal to distribute credit card or debit card numbers except on a very limited basis; second, make possession of five or more stolen or counterfeit credit or debit cards a Federal crime; third, make it a crime to illegally use a credit or debit card number, as well as a card itself; and fourth, correct a problem in existing law which will make it a crime to use stolen credit cards to obtain $1,000 in cash or merchandise in a 1-year period. Present Federal law only comes into play when an individual charges more than $1,000 on a single credit card. This change makes the $1,000 figure applicable to one card or a group of cards.

As I mentioned earlier, this is an epidemic that has not received much attention. It does not have the media appeal of bank robbery or the exotic overtones of drug dealings. But by spotlighting credit card crime, it is my hope that we can begin a major crackdown on credit card criminals. My goal is, through legislation, prosecution, and publicity, to put an end to the epidemic.

I am asking credit card issuers, law enforcement agencies, judges, and the general public to help out. I am asking credit card issuers to improve their card security. I am asking law enforcement agencies across the country to begin vigorous crackdowns on credit card criminals. I am asking judges across the country to treat these criminals as they should be treated, as major economic dangers to the community. And I am asking consumers to be on the alert for credit card schemes to defraud them and to report such schemes promptly.

The version of the Credit Card Protection Act we consider today is a product of many hours of hearings and discussions of how best to restrict the unwarranted trafficking and selling of credit card numbers without ignoring the legitimate needs of businesses to use and disclose those numbers in commerce. I am pleased that the legislation before us today is so carefully constructed that it not only should put an end to the unwarranted trafficking in credit numbers, but also has gained the support of virtually every group and company that had originally expressed reservations concerning the bill, even after it was amended and reported by the Banking Committee.

This support was possible because of five amendments to the bill. Four of these amendments are simply clarifying amendments concerning the application of the disclosure of account numbers to existing business practices. The fifth amends the effective date of some provisions of the act to give adequate time for businesses to make the operational changes needed to comply with the act.

The first amendment adds the words "credit card or" before the term "payment device number" throughout the legislation. This amendment is intended to indicate that the legislation does not intend to eliminate distinctions between debit cards and credit cards.

The amendment is intended to preserve the distinctions between debit and credit transactions, without affecting their treatment under the legislation. It would be just as much a crime to use a counterfeit debit card as to use a counterfeit credit card, but the legislation would not affect the transactional distinctions between credit and debit card systems.

The second amendment clarifies that account number disclosures within the corporate structure are permitted. Parent companies may disclose to or receive from subsidiaries or controlled affiliates account numbers, and the subsidiaries and controlled affiliates may likewise exchange account numbers between themselves. The amendment recognizes that there are strong business and competitive reasons for corporations to protect their relationships with consumers which extend to their subsidiaries and controlled affiliates.

The amendment clarifies that disclosures with the various entities of a corporation are permitted. At the same time, the amendment restricts these disclosures if they are for marketing purposes by requiring that holders of active accounts be notified that their credit card or payment device numbers may be disclosed to a subsidiary or controlled affiliate for marketing purposes. The consumer would then have the option of prohibiting such disclosures by notifying the account issuer in writing that the consumer forbade such disclosures. The consumer could later revoke election, and should the account be inactive for 12 months, the account issuer could treat the election as having lapsed.

The third amendment makes several changes to the provision governing disclosures of numbers by credit bureaus. The amendment clarifies that the certification required prior to obtaining the numbers may be oral or electronic as well as written means. This change recognizes that many requests for consumers' reports necessarily must be made orally, such as by telephone, or electronically, such as through a computer terminal. The amendment also deletes the requirement that the certification state the "specific" reason that the number is needed. This clarifies that the certification only needs to indicate in a very brief manner why the disclosure is required. The amendment also clarifies that only a single certification for a report is required, even if the report contains more than one number.

The fourth amendment clarifies that encoded or truncated numbers are excluded from the definition of payment device numbers. While the House report on H.R. 3622 makes this clear, it is prudent to include the language in the statute itself. Numbers are frequently used in third party marketing arrangements in which the account issuer permits a third party, such as an insurance company, to offer its goods or services to the issuers' account holders. If the issuer encodes or truncates the payment device number or has the number so encoded by its service bureau or mailing house, this encoded or truncated number does not come within the definition of payment device number.

In encoding a number, the issuer may have the number transformed to a series of letters or may assign the consumer a new number. In truncation, the issuer would delete one or more of the digits in the account number so as to render it unusable. These transformations should provide an effective deterrent to the fraudulent use of account numbers, while allowing legitimate marketing activities that do not entail a risk of fraudulent charges to the consumer' account. As indicated earlier, the encoding or truncating may be done by a third party processor.

The final amendment permits a 90- rather than 30-day delay in the effective date for compliance with the bill. Credit bureaus would be provided 1 year in which to prepare the operational changes necessary to comply with the act. These changes would not alter the effective date for the amendments to the criminal provisions of the Truth in Lending Act, which would continue to take effect upon enactment of the legislation.

These amendments, the work of much negotiation, have resulted in the legislation being supported by many in the retail and credit industry. I have received letters of support from Sears Roebuck, J.C. Penney Co., the credit subsidiary of Zale Corp., American Express Co., Associated Credit Bureaus, the Credit Bureau, Inc., National Home Life Assurance Co., American Heritage Life Insurance Co., and the National Association of Life Cos. In addition, the legislation is supported by the Justice Department, the American Bankers Association, VISA, and MasterCard. All these organizations recognize that credit card fraud is an epidemic that needs treatment. H.R. 3622 is strong medicine, but it has been carefully formulated to avoid any adverse side effects.

Mr. Speaker, I urge the passage of H.R. 3622.

□ 1840

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3622, the Credit Card Protection Act, of which I am an original cosponsor.

This bill has received strong bipartisan support and sponsorship within the Banking Committee. I have worked closely with the gentleman from Texas (Mr. PAUL), the ranking minority member, and with the chairman of the subcommittee, Mr. ANNUNZIO, to move this legislation quickly to the floor today.

H.R. 3622 addresses the skyrocketing problem of credit card fraud in this Nation to which the chairman, Mr. ANNUNZIO, alluded. The problem involves hundreds of millions of dollars a year, a cost that must be borne by every honest consumer. This bill imposes new penalties for the fraudulent use or possession of credit cards and restricts disclosure of credit card numbers and other payment device numbers, thereby limiting their availability for fraudulent purposes.

I have just one question for the gentleman from Illinois, the chairman of our Subcommittee on Consumer Affairs. Just to clarify the bill he is offering.

The text of the bill, as I understand it, is the one we talked about last week, and one which was circulated among the members of the Banking Committee, providing for the limited exchange of credit account number information, and also providing that truncated or encoded payment device numbers will not be subject to the restrictions in this legislation. Am I correct in that?

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I would be glad to yield to the gentleman from Illinois.

Mr. ANNUNZIO. I thank the gentleman for yielding.

Mr. Speaker, my distinguished ranking minority member is absolutely correct.

Mr. WYLIE. I thank the gentleman for that affirmative answer.

Then, Mr. Speaker, I urge all of my colleagues to support the Credit Card Protection Act, which is supported by the administration. I again want to thank and compliment the chairman of the subcommittee for his cooperation and for the work which he has put into this bill to bring it to the floor today. It is a much needed piece of legislation.

BACKGROUND

Mr. Speaker, the principal section of this bill proscribes the unlawful or fraudulent use or possession of counterfeit credit cards and other fraudulently obtained payment devices. There appears to be a general consensus that such additional restrictions are needed. The second major section of this bill restricts the disclosure of credit card numbers and other payment device numbers. This section originally caused several significant concerns for a number of financial institutions, retail merchants, credit reporting agencies, insurance companies and other affected businesses.

Such businesses recognized the mounting problems due to credit card fraud, but would have encountered serious operational problems due to the

potential sweep of the original bill's restrictions on disclosure of payment device numbers. The committee has sought to address these concerns by adopting several perfecting amendments. We also intend to resolve several questions by explaining more fully the intent of certain provisions at this time.

The committee recognized that there are many legitimate and reasonable disclosures of account numbers in daily business transactions which should not be prohibited. Due to the complexity and diversity in business practices, it would be difficult, if not impossible, to catalog all such present or future disclosures which are not intended to be prohibited. Therefore, we intend that the bill's exceptions which authorize certain disclosures should be interpreted broadly to allow businesses adequate flexibility in operating under the statute.

SPECIFIC ISSUES

Most questions have been resolved by the clarifying committee amendments. It will be helpful for subsequent interpretive purposes to further explain the intent of several key provisions.

ALLOWABLE DISCLOSURES FOR INTERNAL FUNCTIONS

Section 2 of the bill generally proscribes the disclosure of any payment device number except in five enumerated circumstances. Perhaps the most important is the third exception which states, "such disclosure is reasonably necessary in connection * * * with the management, operation, or other activities involving the internal functioning" of the business making such disclosure. This exception is to be construed broadly in order to accommodate present and future credit systems. A critically important area allowed by this internal functioning exception involves third party processing.

For example, for many retailers the Christmas holiday selling season comprises as much as 50 to 60 percent of their yearly sales volume. With so many of their sales occurring in a compressed period of time, retailers often must hire outside firms to help process and market credit sales transactions. It often would be unduly expensive to maintain year-round costly processing systems to accommodate this Christmas-time volume aberration. Exception (3)(B) is to be construed to permit internal and external processing where it is accomplished for the creditor as such transactions do not impose undue security risks.

The committee amendment which adds new subsection 137(a)(3)(C) clarifies that the disclosure proscription is not applicable to disclosures to or between entities within the same corporate structure. Parent companies are thus permitted to disclose or receive such numbers to or from subsidiaries or controlled affiliates. In addition, controlled affiliates and subsidiaries may also disclose such numbers to or between one another. The proviso gives the holders of credit cards or payment device numbers the ability to prevent disclosures of account numbers to subsidiaries or controlled affiliates for marketing purposes. Issuers who intend to make such disclosures are required to notify holders of active accounts, at least annually, that such disclosures may be made unless the account holder notifies the issuer that such use is not permitted.

It is intended that an issuer may select the month in which disclosure is made and notify those account holders active for that month of their election capabilities. An issuer receiving a notification, at the issuer's prescribed address, from a holder in response to the notice would be required within 45 days to respond to the notice by prohibiting the disclosure of that account number to a subsidiary or controlled affiliate during the effective period of the election.

ENCODED NUMBERS

The committee amendment to the definition of payment device numbers clarifies that encoded numbers would not come within the meaning of payment device numbers. For example, disclosure of credit card or payment device numbers is often made in joint marketing activities, such as arrangements between card issuers and insurance companies to market insurance by direct mail. Such disclosure for marketing purposes would continue to be allowed so long as the number is encoded before it is initially released to the insurance company or other firm involved in a joint marketing effort. Encoding should provide an effective deterrent to the fraudulent use of account numbers.

Encoding could detail, for example, changing a numerical number to an alphabetical sequence, or assigning a number to the consumer that is different from his or her regular account number, or by truncating the existing account number. Truncation could be accomplished by changing, deleting, or adding one or more numbers to the regular account number. Encoding could be done directly by the card issuer, or on its behalf by another firm such as a service bureau or mailing house pursuant to the internal functioning and processing exceptions set forth in the bill.

DISCLOSURE FOR AUTHORIZATION, PROCESSING, AND OTHER PURPOSES

An important provision, which to some extent overlaps with several of the other exceptions, is contained in exception 1 which authorizes disclosures "* * * in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or credit card payment device recovery * * *." This general listing of authorized disclosures should be construed flexibly to accommodate legitimate business practices.

While some large credit or debit card issuers may perform functions—such as recording and billing the customer—"in house," many smaller issuers must rely on individuals outside the issuing company to perform one or more of these functions. For example, a retailer may use an outside firm to emboss account numbers on its credit cards, perform credit authorization or billing functions, or collect delinquent accounts. Transfers of account numbers to such firms are necessary and are intended to be authorized by this subsection or by the internal functioning exception discussed earlier. Card issuers also must obtain account numbers from other issuers and consumer reporting agencies for credit authorization, new account processing, account collection and servicing, and similar purposes. Exception 1 is intended to allow disclosure for such established business practices.

DEFINITIONS OF PAYMENT DEVICE AND PAYMENT DEVICE NUMBER

The committee amendment which adds the words "credit card or" wherever the words "payment device number" appear is a recognition that many creditors have objected to the bill as reported out of the committee because of its use of the terms "payment device number" and "payment device" as merging two different means of payment—the debit and credit card—into one definition.

It is clear through this amending language that the committee does not intend any substantive change in the distinction between credit and debit transactions nor would one result from the use of the term "payment device" which, on its face, applies only "for the purposes of this section" (that is, the "Credit Card Protection Act" section of the Truth in Lending Act).

A second concern is that the definition of payment device number could be interpreted to include items that should not be covered by the bill. This concern can be understood by examining the specific language of the definition. For example, the term "payment device" is defined as "any * * * means of account access * * * that can be used" to obtain goods or services or to initiate a transfer of funds. This arguably could include such items as a person's name, address, social security number, or driver's license number, since some credit grantors will access accounts or authorize an extension of credit on the basis of such information. However, it is not intended that this language be interpreted so broadly as to include such items as one's name, address, or similar identifying data that is not ordinarily considered to be an account number.

CERTIFICATION PROCEDURE

Another important committee amendment affects exception 5 which permits disclosure for valid business purposes pursuant to a prior individual certification of the need and reason for such disclosure. The amendment would allow certification to be made by oral, written, or electronic means. This change is required because many requests for consumer reports have to be made orally, such as by telephone, or electronically, such as when a creditor accesses a credit reporting agency's file by electronic means, or in writing. It is intended that the requestor would have to maintain a record of the reason that the numbers were requested and that the consumer reporting agency or other person making the disclosure would have to record only whether the consumer's account numbers were disclosed. It is intended that record retention under this subsection would be for a 12-month period.

The amendment also would delete the requirement that the certification must contain the specific reason that the credit card or payment device number is required. Instead, the certification would only indicate the general reason, such as "credit authorization," as to why the disclosure was required. The amendment also makes it clear that the certification would apply to reports which may contain a number of credit card or payment device numbers.

The committee amendments would also extend the effective date for provisions to allow industry adequate time to meet the requirements of the bill. It is intended that the 12-month delay in the effective date as to credit reporting agencies relates to the disclosure by, and the receipt by issuers of, numbers from credit reporting agencies.

Thank you, Mr. Speaker.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I would be glad to yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I commend the distinguished subcommittee chairman and the ranking minority member for bringing this measure to the floor.

Mr. Speaker, I am pleased to rise in support of H.R. 3622, the Credit Card Protection Act which relates to title 15 of our United States Code and which deals with our banking provisions. Credit card fraud has ballooned enormously in the last few years, making it increasingly necessary to alter and amend sections of the Truth in Lending Act.

This measure would prohibit the disclosure of payment device numbers, with certain exceptions, would modify the definition of a payment device that is now found lacking, makes possession of five or more fraudulent payment devices a Federal offense, and clarifies the $1,000 threshold that is necessary to consider fraudulent use of payment devices a Federal offense.

This legislation, along with legislation that I cosponsored, along with my colleague from New York (Mr. FISH), H.R. 3181, together address the very serious problems associated with credit card fraud. H.R. 3181 centers on the counterfeiting of payment devices, as well as the fines associated with fraudulent use. Each measure addresses a different title of the United States Code, the latter relating to title 18, dealing with criminal offenses. I urge swift passage of the legislation before us now, and further urge my colleagues to support H.R. 3181 as well. Our distinguished colleague, Mr. FISH, as the ranking minority member of the Committee on the Judiciary, has fashioned a measure which together with H.R. 3622, help alleviate the millions of lost dollars and untold anguish which results from credit card fraud.

Mr. WYLIE. I thank the gentleman for his support and for his contribution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman for yielding this time to me.

Mr. Speaker, the chairman knows the regard I hold for him.

Mr. Speaker, I rise in support of the Credit Card Protection Act. Mr. ANNUNZIO's bill, H.R. 3622 closes several loopholes that have weakened the effectiveness of current law. The Federal banking laws in title 15 of the United States Code prohibit the credit-card fraud that was envisioned in the early 1970's. Unfortunately, as technology has increased, so has the ability of the criminal mind to use this technology to circumvent both industry security and the law.

Today, using a credit-card account number to fraudulently obtain goods, services, or currency is not illegal under Federal law. Account numbers are indiscriminately disseminated without punishment. A person can make fraudulent purchases of hundreds of thousands of dollars without violating Federal law as long as no more than $1,000 is applied to a single credit card. A person possessing 50 fraudulent cards is not breaking the law.

In addition to these problems is another loophole that is wreaking havoc on the credit-card industry. Counterfeiting credit cards is not prohibited by Federal law. The counterfeiting problem is the focal point of legislation I have introduced which is now pending before the Committee on the Judiciary Subcommittee on Crime. The Credit Card Counterfeiting and Fraud Act of 1983, H.R. 3181, outlaws the act of counterfeiting credit cards, the subsequent improper use of validly issued cards, and possession of fraudulent cards, and punishes those acts with prison sentences and substantially increased fines.

I have crafted H.R. 3181 to complement the bill before the House of Representatives today. The two bills work together to insure that credit-card fraud of all types are swiftly reduced and effectively punished.

The existing law was adopted at a time when film-flammers were stealing cards or shaving off old numbers and names and glueing on new ones. Today photo-offset printing and silk screening are only two of the modern, technologically advanced processes used by organized rings of counterfeiters. Their impact on the industry in 1983 is expected to cause losses approaching $100 million. Who pays this $100 million bill? Consumers are the victims of this inexcusable, profit-motivated, modern-day scam. The film-flammers at the root of these schemes are sophisticated bankers. They deserve our swift and efficient punishment, which will both deter these activities and take the punishment out of crime.

It is my understanding that H.R. 3622 has been crafted to permit legitimate business activities involving credit-card numbers while outlawing fraudulent misuse of those numbers. I urge the adoption of the bill before us because it will vastly improve our banking laws dealing with credit-card fraud. The Committee on the Judiciary Subcommittee on Crime has held two hearings on my bill and I am extremely hopeful that the Subcommittee on Crime will process H.R. 3181 in the very near future. I also urge this body to support H.R. 3181, my bill directed toward the act of counterfeiting credit cards and additional fraudulent acts.

Mr. ANNUNZIO. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. VENTO), a member of the committee.

Mr. VENTO I thank the chairman for yielding.

Mr. Speaker, I want to rise as a sponsor of this measure with our chairman in support of the Credit Card Protection Act, H.R. 3622, this evening, and I want to commend in one instance the masterful job that the chairman of our subcommittee has done in terms of steering and guiding this legislation to the floor. I think that he singlehandedly did bring this to the attention of our committee and gained, I think, significant support there and made it possible for us to move swiftly and promptly in terms of acting on this very serious problem.

The fact of the matter is that there are over 600 million credit cards in circulation in this country. It was an ap-

palling thing for me, and I think for other Members, to learn of the type of abuse that these credit cards are subject to today, and the devastating impact that has upon consumers and upon retail establishments in the normal course of business activity in this country. It is really with this in mind, of course, that we tried to craft this legislation.

I think the gentleman has walked a fine balance in trying to meet legitimate objections and concerns that arise in the normal course of business, and at the same time taking cognizance of the technology and the leapfrogging over, really, existing law in dealing with those who would abuse and really commit crimes with regard to credit cards.

For instance, the example of just the utilization of numbers in terms of committing a fraudulent use of that, or purchase, has resulted in significant problems with regard to law, as well as the number of credit cards in possession. It was amazing for us to learn in details some of the problems where a single credit card, for example, could be subject to abuse where an individual might run up $20,000 worth of fraudulent bills on the use of a single card; where criminals, for instance, actually have formed schools that teach others how to use and abuse this credit system in this country.

So it is with a great deal of pride that I rise to support and commend my chairman and other members of our committee who I think have done a very good job in terms of trying to bring credit-card law in synchronization with the 1980's and the type of technology that we face.

I certainly hope that this receives prompt action on the part of the Senate and that we will have this as a necessary consumer protection for the 1980's, and that we will continue such diligence over the subject matter is certainly a credit to the chairman, that he has brought this here and done this primary work on this issue. I commend him for his work.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 3622, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1850

EXTENDING BAN ON CREDIT CARD SURCHARGES

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4278) to provide for the temporary extension of the ban on credit card surcharges.

The Clerk read as follows:

H.R. 4278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(c)(2) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendments made by paragraph (1) shall cease to be effective on July 31, 1984.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes and the gentleman from Ohio (Mr. WYLIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is necessary in order to determine whether a potentially serious problem exists involving the surcharging of credit card purchases.

The law prohibiting credit card surcharges expires on February 27 of next year. Given the limited number of legislative days between now and the expiration date, it would be extremely difficult to hold hearings on the legislation to determine if it should be extended.

There are some Members who favor the elimination of the ban, which would mean that a merchant could charge extra for credit card purchases. While I am totally opposed to such surcharges, I nevertheless feel that those Members should have an opportunity to present their positions.

There are some who have suggested that we merely let the surcharge ban expire. If we do that without additional legislation, we in fact would accomplish nothing at all. In almost every State a credit card surcharge would be considered a finance charge. And since most credit card interest rates are already right up against the State usury ceiling, a credit card surcharge would violate State usury ceilings and cause tremendous legal problems.

I am strongly opposed to overriding State usury laws, whether it be for credit card surcharges or for any credit purchases. But if that is the will of the Congress, it should be accomplished only after complete hearings.

The Federal Reserve Board has conducted a study on credit card surcharges. But because of an extremely crowded legislative schedule no hearings have been held on that study. I do not think it would be wise for this body to deal with the surcharge issue without in-depth hearings on the Federal Reserve Board study.

H.R. 4278 takes no position on the surcharge bill, rather it is designed to give the House time to consider the matter with full and meaningful hearings. It will give both opponents and proponents of the surcharge ban an opportunity to fully present their cases.

I know of no opposition to this legislation, and it has been cleared with the ranking Republican members of both the full Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. WYLIE), and the ranking Republican member of the Consumer Affairs and Coinage Subcommittee, the gentleman from Texas (Mr. PAUL).

Let me once again state that this bill takes no position on the surcharge issue, but rather is a simple extension of the termination date of the ban so that we can legislate on the issue with full hearings.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this temporary extension of the credit card surcharge ban, without which the provisions of the Cash Discount Act, Public Law 97-25, would expire on February 27, 1984.

The existing statute was enacted in the previous Congress following hearings, with some witnesses favoring and others opposing the ban on credit card surcharges. To address concerns raised in the hearings, the act called for the Federal Reserve to conduct a study of the relative costs of various forms of credit and to address the issue of whether cash sales subsidize credit card sales. The Federal Reserve report was submitted to Congress on July 27, 1983.

To support the request of the chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO), in seeking this short extension of the bill at this time because the question of extending this ban on credit card surcharges deserves critical consideration by the Committee on Banking, Finance and Urban Affairs. The time remaining before the expiration of the Cash Discount Act in February would not permit the appearance of witnesses or the full discussion of the credit card surcharge issue that we would like.

The Cash Discount Act, prohibiting credit card surcharges, has been a part of the law since 1976, and the gentleman from Illinois (Mr. ANNUNZIO) and I have both cosponsored legislation since that date to see that it was enacted into law. We have extended the act before. It is hoped that the hearings next year will look critically at

the pricing of retail credit in our economy. Perhaps the hearings will cause the Banking Committee to conclude that the ban should be made permanent or, in the alternative, to eliminate the ban and let the free market determine the pattern of prices.

Certainly before taking either step, the committee should have hearings and give due consideration to arguments on both sides of the issue.

I must point out, with due deference to the gentleman from Illinois, that the administration has sent a letter in opposition to the temporary extension of the ban on credit card surcharges because: First, it says that it constitutes unwarranted Government interference in private business; and second, that there is no functional difference between a credit card surcharge, currently prohibited, and a discount for paying with cash. I happen to think that there is a real difference between a discount for cash and a surcharge, and have stated that before, and I respectfully disagree with the administration's position on this point.

In any event, Mr. Speaker, until that issue can be resolved, I do urge adoption of H.R. 4278 today.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the chairman of the subcommittee.

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman's yielding, and I want to extend to him my thanks for all the help and the contributions he has made over the years on this particular legislation.

I want to say to the gentleman that as far as costs are concerned, there is no cost to the Federal Government on the legislation, and I am delighted that he agrees with me that before the full committee takes any more action, we must have full and complete hearings.

Mr. Speaker, I thank the gentleman again for his support.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANNUNZIO). It has been a real pleasure for me to work with the chairman of the subcommittee on this legislation, and I compliment him for the leadership he has exemplified in bringing it here today.

Mr. Speaker, the gentleman from Pennsylvania (Mr. WALKER) has asked me to yield 2 minutes to him, and I do that at this time.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding, and I take these 2 minutes to propound a parliamentary inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, it is my understanding that the majority side found that it could not live with the procedures they adopted earlier today with regard to the ERA, so, therefore, they have requested unanimous consent for general leave for everyone to revise and extend their remarks. The gentleman from California (Mr. PANETTA), I understand, made that request.

Now, given that situation, I wanted to receive some assurance from the Chair that the remarks that are put into the RECORD under that general leave will be bulleted. Is that correct?

The SPEAKER pro tempore. Under the rules of the Joint Committee on Printing, that is the way that would happen.

Mr. WALKER. And, Mr. Speaker, will any remarks that are revised within the limits of that request also be bulleted?

The SPEAKER pro tempore. Only those remarks that were not actually spoken. Those that were actually spoken, of course, will be revised.

Mr. WALKER. In other words, Mr. Speaker, if I understand the Chair correctly, what the gentleman from California (Mr. PANETTA) has gotten is an ability of Members to doctor the RECORD with their remarks in their revisions? We will not have an actual representation of what was spoken on the floor in the debate during the 20 minutes today?

The SPEAKER pro tempore. As the gentleman might imagine, that is not in the nature of a proper parliamentary inquiry. The Chair cannot anticipate what Members might submit.

Mr. WALKER. Then, Mr. Speaker, I will put it in terms of a parliamentary inquiry.

Can the Chair advise me as to whether or not it will be possible for Members to take such action under that permission which the gentleman from California got?

The SPEAKER pro tempore. The rules of the Joint Committee on Printing permit revisions and extensions of remarks. It permits revision of remarks actually spoken, but without a bullet, as the gentleman may know.

Mr. WALKER. I thank the Chair for clarifying the situation.

Mr. Speaker, if I do understand it correctly, though, any remarks under general leave will be bulleted under the rules; is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. I thank the Chair.

Mr. WYLIE, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 4278.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1900

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered, H.R. 4278 and H.R. 3622.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 2780, LOCAL GOVERNMENT FISCAL ASSISTANCE AMENDMENTS OF 1983

Mr. BROOKS submitted the following conference report and statement on the bill (H.R. 2780) to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program:

CONFERENCE REPORT (H. REPT. No. 98-550)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2780) to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Local Government Fiscal Assistance Amendments of 1983".

EXTENSION OF PROGRAM

SEC. 2. Section 6701(a)(1) of title 31, United States Code, is amended to read as follows:

"(1) 'entitlement period' means each one-year period beginning on October 1, of 1982, 1983, 1984, and 1985.".

TERMINATION OF STATE SHARE

SEC. 3. Section 6703(b)(1) of title 31, United States Code, is amended by inserting after "each entitlement period" the following: "beginning before October 1, 1983,".

STATE VARIATIONS OF LOCAL GOVERNMENT ALLOCATIONS

SEC. 4. Subsection (a) of section 6711 of title 31, United States Code, is amended—

(1) by adding "and" at the end of clause (1);

(2) by striking out "; and" at the end of clause (2) and inserting in lieu thereof a period; and

(3) by striking out clause (3).

MODIFICATION OF INTRASTATE ALLOCATION FORMULA IN CERTAIN CASES

SEC. 5. Subsection (c) of section 6713 of title 31, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(3) for purposes of intrastate allocations under sections 6708, 6709, and 6712, consider any reduction in the amount of adjusted taxes of any unit of general local government if such reduction—

"(A) results from a specific economic dislocation which causes—

"(i) the closing of places of employment,

"(ii) declines in assessed value of, or receipt of taxes from, real property, or

"(iii) declines in sales or income tax collections of such government, and

"(B) would reduce the allocation of the unit of local government for an entitlement period by an amount equal to or greater than 20 percent of such allocation for the preceding entitlement period.".

PUBLIC HEARINGS

SEC. 6. Section 6714 of title 31, United States Code, is amended—

(1) by striking out paragraph (1) of subsection (a);

(2) by redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (1) and (2), respectively;

(3) by striking out "subsection (a)(2)" in subsection (b)(1) and inserting in lieu thereof "subsection (a)(1)";

(4) by striking out clause (1) of subsection (c);

(5) by striking out "subsection (a)(2)" in subsection (c)(2) and inserting in lieu thereof "subsection (a)(1)"; and

(6) by redesignating clauses (2) and (3) of subsection (c) as clauses (1) and (2), respectively.

DISCRIMINATION PROCEEDINGS

SEC. 7. Section 6717 of title 31, United States Code, is amended—

(1) by striking out "the Secretary submits a notice of noncompliance to the government" in subsection (b) and inserting in lieu thereof "the government receives a notice of noncompliance from the Secretary of the Treasury"; and

(2) by striking out "shall suspend payments to the government under this chapter unless by the 10th day after the decision" in the second sentence of subsection (c) and inserting in lieu thereof "shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision,".

AUDIT REQUIREMENTS

SEC. 8. (a) Section 6723(a)(1) of title 31, United States Code is amended—

(1) by striking out "expecting to receive" and "which receives";

(2) by striking out "at least once every 3 years" and inserting in lieu thereof "at least as often as is required by paragraph (2)"; and

(3) by striking out "auditing standards" and inserting in lieu thereof "government auditing standards issued by the Comptroller General of the United States".

(b) Section 6723(a)(2) of such title is amended to read as follows:

"(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than $25,000 under this chapter. A government which receives at least $25,000 but not more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) at least once every 3 years. A government which receives more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) for such fiscal year, except that, if the government operates on a biennial fiscal period, such audit may be made biennially but shall cover the financial statement or statements for, and compliance with the requirements of this chapter during, both years within such period.".

(c) Section 6723(b)(1) of such title is amended.—

(1) by striking out "at least once every 3 years" in clause (A) and inserting in lieu thereof "at least as often as would be required by subsection (a)(2)";

(2) by striking out "auditing standards" and inserting in lieu thereof "government auditing standards issued by the Comptroller General of the United States".

(d) Section 6723(c)(2) of such title is amended—

(1) by striking out "generally accepted auditing standards" the first place it appears and inserting in lieu thereof "generally accepted government auditing standards issued by the Comptroller General of the United States"; and

(2) by striking out "generally accepted auditing standards" the second place it appears and inserting in lieu thereof "such auditing standards".

(e) Section 6723(e) of such title is amended by adding at the end thereof the following: "Not later than 30 days following completion of the audit, the audit report shall be made available for public inspection by the State government or unit of local government.".

TECHNICAL AMENDMENTS

SEC. 9. (a)(1) Subsection (a) of section 6701 of title 31, United States Code, is amended by adding at the end thereof the following new clauses:

"(8) 'adjusted taxes of a unit of general local government' means the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses.

"(9) 'urbanized population' has the meaning given to such term by the Secretary of Commerce for general statistical purposes.".

(2) Section 6701(c) of such title is amended by striking out the last sentence and inserting in lieu thereof the following: "Except as provided in regulations prescribed by the Secretary of the Treasury, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.".

(3) Section 6701(d) of such title is amended by inserting "annexation," after "constitutional change,".

(4) Section 6701(e)(2) of such title is amended by striking out "having one unit of general local government" and inserting in lieu thereof "and the sole unit of general local government in the area".

(b) Section 6704(a) of such title is amended—

(1) by inserting "under this chapter" before the semicolon at the end of clause (1);

(2) by striking out "received under" in clause (3) and inserting in lieu thereof "so received in accordance with";

(3) by striking out "consistent" in clause (5) and inserting in lieu thereof "in accordance";

(4) by striking out "section 6723(b)" in clause (7) and inserting in lieu thereof "section 6723(g)";

(5) by striking out "and" at the end of such clause (7);

(6) by striking out the period at the end of clause (8) and inserting in lieu thereof "; and ; and

(7) by inserting after such clause the following new clause:

"(9) the government will comply with the requirements of sections 6714 and 6723.".

(c) Section 6707(c)(5) of such title is amended by striking out the last sentence.

(d) Clause (A) of section 6709(a)(2) of such title is amended to read as follows:

"(A) the adjusted taxes of the unit of general local government, divided by".

(e) Section 6713(a) of such title is amended by inserting "before the beginning of the entitlement period" immediately after "Secretary of Commerce".

(f) Section 6716 of such title is amended by striking out "when" in subsections (a) and (b) and inserting in lieu thereof "if".

(g) Section 6716(c)(1) of such title is amended by inserting before the period at the end the following: "with respect to which the allegation of discrimination is made".

(h) Section 6717 of such title is amended—

(1) by striking out "a part" in subsection (b)(3) and inserting in lieu thereof "any part";

(2) by striking out "except when" in subsection (c) and inserting in lieu thereof "unless";

(3) by striking out "When" in such subsection and inserting in lieu thereof "If"; and

(4) by inserting "of discrimination" after "The holding" in subsection (e).

(i) Section 6718(b) of such title is amended by striking out "about" and inserting in lieu thereof "based on".

STUDY OF FEDERAL/STATE/LOCAL FISCAL RELATIONSHIPS

SEC. 10. (a) The Secretary of the Treasury shall undertake a study of the following issues:

(1) The various factors used in the current allocation formulas under chapter 67 of title 31, United States Code, and possible alternatives to such formulas and factors (such as State gross domestic product, the representative tax system, and the inclusion of user fees in factors based on tax collections), including an analysis of the strengths and weaknesses of such formulas and factors.

(2) The long-term outlook for the fiscal condition and fiscal capacity of Federal, State, and local governments.

(3) The concept of returning revenue sources to State and local governments along with responsibility for programs and activities for which responsibility for programs and activities for which financial assistance is now provided by the Federal Government.

(4) The impacts of the cyclical nature of the economy and other factors, such as unemployment, on the expenditures, needs, and fiscal capacities of Federal, State, and local governments, and the responsiveness of the distribution of Federal financial assistance to the cyclical nature of the economy and such other factors.

(5) The responsiveness of the distribution of Federal assistance to the fiscal capacities of State and local governments, and the responsiveness of the distribution of Federal assistance to the need for services of State and local governments and to cost-of-living and cost-of-government differentials.

(6) The mathematical forms, data, and administration of Federal grant formulas, including the formulas examined under paragraph (1).

(7) The impact on State and local governments of—

(A) modification of the provisions of the Internal Revenue Code of 1954 with respect to—

(i) the deductibility of State and local government taxes, and

(ii) the tax exempt status of State and local securities used for purposes other than the financing of public facilities and cash management, and

(B) increases in allocations under chapter 67 of title 31, United States Code, made to compensate for the modifications described in clause (A).

(b) The Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, the Advisory Commission on Intergovernmental Relations, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that may receive substantially reduced funding under alternative methods of allocating Federal grants-in-aid, shall develop a plan for the completion of the study required by subsection (a). Such plan may provide for the participation of such individuals and organizations in the conduct of the study.

(c) Upon completion of the study required by subsection (a), the Secretary shall solicit the views of the persons and organizations with whom he was required to consult by subsection (b) and shall append such views to a final report to the President and the Congress. Such report shall be submitted no later than June 30, 1985.

(d) There are authorized to be appropriated for each of the fiscal years 1984 and 1985 such sums as may be necessary to carry out this section, not to exceed for each such fiscal year an amount equal to 3 percent of the cost of administering chapter 67 of title 31, United States Code, for the preceding fiscal year.

ADJUSTING DEFINITION OF MASSACHUSETTS TAX EFFORT

SEC. 11. (a) For the purposes of allocating amounts under sections 6708 and 6709 of title 31, United States Code, among units of general local government within the Commonwealth of Massachusetts for the entitlement period beginning October 1, 1983, the adjusted taxes of those governments shall include property taxes levied for the Commonwealth's 1982 fiscal year and recognized as fiscal year 1982 receipts pursuant to Massachusetts General Laws, chapter 59, sections 21 and 23, and chapter 44, sections 35 through 46.

(b) No tax collections credited to any unit of general local government under subsection (a) for the Commonwealth's 1982 fiscal year shall be credited to that unit of general local government for any other fiscal year.

EFFECTIVE DATE

SEC. 12. (a) Except as provided in subsection (b), the amendments made by this Act shall apply to entitlement periods (as such term is defined in section 6701(a)(1) of title 31, United States Code) beginning on or after October 1, 1983.

(b) The amendments made by section 8 shall apply with respect to any fiscal year (or period) of any State government or unit of general local government beginning on or after October 1, 1983.

And the Senate agree to the same.

JACK BROOKS,
TED WEISS,
JOHN CONYERS,
SANDER LEVIN,
BUDDY MACKAY,
E. TOWNS,
FRANK HORTON,
ROBERT S. WALKER,
ALFRED A. MCCANDLESS,
Managers on the part of the House.

BOB DOLE,
JOHN C. DANFORTH,
JOHN HEINZ,
DAVID DURENBERGER,
RUSSELL B. LONG,
LLOYD BENTSEN,
GEORGE J. MITCHELL,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2780, to extend and amend the provisions of title 31, United States Code, relating to the general revenue sharing program, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute test.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a complete substitute for the Senate amendment, and the Senate agrees to the same. The differences among the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1—SHORT TITLE

House bill

The House bill is entitled the "State and Local Fiscal Assistance Amendments of 1983."

Senate amendment

The Senate amendment is entitled the "Local Government Fiscal Assistance Amendments of 1983."

Conference substitute

The conference substitute is the same as the Senate amendment.

SECTION 2—EXTENSION OF PROGRAM

The House bill, the Senate amendment, and the Conference substitute extend the program for three years, October 1, 1983, through September 30, 1986.

FUNDING LEVEL

House bill

The House bill increases the entitlement for local governments by $450 million to $5.02 billion per year.

Senate amendment

The Senate amendment retains the current funding level of $4.57 billion per year.

Conference substitute

The Conference substitute is the same as the Senate amendment.

SECTION 3—TERMINATION OF STATE SHARE

House bill

The House bill terminates the authorization for payments to State governments.

Senate amendment

The Senate amendment retains the current authorization for payments to State governments of $2.3 billion per year, subject to the appropriations process and the provisions requiring a dollar-for-dollar tradeoff of categorical grant funds for revenue sharing funds.

Conference substitute

The conference substitute is the same as the House bill.

SECTION 4—STATE VARIATIONS OF LOCAL GOVERNMENT ALLOCATIONS

House bill

Under current law, each State government may, subject to certain constraints, develop its own formula for allocating revenue sharing funds to local governments within the State. The House bill extends this option through fiscal year 1986.

Senate amendment

The Senate amendment extends this option permanently.

Conference substitute

The conference substitute is the same as the Senate amendment.

SECTION 5—MODIFICATION OF INTRASTATE ALLOCATION FORMULA IN CERTAIN CASES

House bill

No provision.

The Senate amendment revises the intrastate allocation formula to disregard a reduction in a local government's adjusted taxes if: A) the reduction is caused by a "specific economic dislocation", and B) the reduction would mean a decrease of 20 percent or more in the government's allocation.

Conference substitute

The conference substitute adopts the Senate provision.

SECTION 6—PUBLIC HEARINGS

House bill

Under current law, each recipient is required to hold two public hearings concerning the use of its revenue sharing allocation—one on the "possible uses" of such funds, and one the "proposed use" of the funds. The "possible uses" hearing may be waived if the cost would be "unreasonably burdensome" in comparison to the recipient's allocation.

The House bill retains the current requirements, but the committee report calls on the Treasury Department to inform recipients of the waiver provision.

Senate amendment

The Senate amendment eliminates the requirement for a public hearing on the "possible uses" of revenue sharing funds.

Conference substitute

The Conference substitute eliminates the requirement for a separate "possible uses" hearing. This revision is not, however, intended to diminish public participation in the process of deciding how a recipient's revenue sharing funds are to be used. It is expected, therefore, that when a recipient holds its hearing on the "proposed use" of its revenue sharing allocation, interested

persons will be given an opportunity to suggest alternative uses of such funds.

SECTION 7—DISCRIMINATION PROCEEDINGS

House bill

The House bill retains the current provisions for handling discrimination proceedings under the general revenue sharing program.

Senate amendment

The Senate amendment revises the method of computing the time periods within which a recipient must respond to a "notice of noncompliance" with the nondiscrimination provisions of the program. The time periods would run from the date such a notice is received by a local government, rather than from the date the notice is issued by the Secretary of the Treasury, as is currently the case.

Conference substitute

The Conference substitute adopts the Senate provision.

SECTION 8—AUDIT REQUIREMENTS

House bill

Under current law, governments receiving $25,000 or more per year in revenue sharing funds are required to obtain and audit once every three years. This provision has been construed to mean that the audit need only cover one of the three years. The audits must be conducted in accordance with generally accepted auditing standards.

The House bill requires governments receiving $25,000 or more per year in revenue sharing to obtain annual audits. Governments operating on a biennial fiscal period, however, may obtain an audit every two years as long as the financial statements for both years are covered. Audits must be conducted in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States.

The House bill deletes the provision of current law permitting State and local governments to waive the audit requirements under certain conditions, and establishes a requirement that audit reports be submitted to the Secretary of the Treasury and be available for public inspection.

The House bill also deletes the provision of current law that permits the Secretary of the Treasury to waive the requirement that audits meet generally accepted auditing standards and be independent if the audits are conducted by a State audit agency and such agency demonstrates substantial progress toward meeting such standards of becoming independent.

Finally, the House bill deletes the provision of current law that permits a government receiving less than $25,000 per year in revenue sharing to use an audit required by State or local law to comply with the revenue sharing audit requirements.

Senate amendment

The Senate amendment retains the current audit requirements.

Conference substitute

The Conference substitute requires governments receiving $100,000 or more per year in revenue sharing to obtain annual audits, or biennial audits covering both years for governments operating on a two-year fiscal period. Governments receiving between $25,000 and $100,000 are subject to the current requirement for an audit once every three years. Such audits need only cover one year. Audits must be conducted in accordance with generally accepted government auditing standards issued by the Comptroller General and be available for public inspection.

The Conference substitute retains the current waiver authority for the Secretary of the Treasury and recipient governments, but deletes the option for governments receiving less than $25,000 per year to use an audit required by State or local law to meet the revenue sharing audit requirement.

SECTION 9—TECHNICAL AMENDMENTS

Both the House bill and the Senate amendment contain various technical and clarifying changes to Chapter 67, title 31, U.S. Code. The Conference substitute incorporates all of these changes.

SECTION 10—STUDY OF FEDERAL/STATE/LOCAL FISCAL RELATIONSHIPS

House bill

The House bill requires the Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General of the United States, and the Advisory Commission on Intergovernmental Relations (ACIR), to evaluate: (1) the representative tax system for use in the general revenue sharing allocation formulas; (2) alternatives to personal income as a measure of the fiscal capacity of State and local governments in the revenue sharing formulas; and (3) Federal aid formulas in general. The bill does not include a specific authorization of funds.

Senate amendment

The Senate amendment requires the Secretary of the Treasury, the Secretary of Commerce, the Comptroller General, and the Chairman of the ACIR to conduct a series of studies on the areas covered by the House bill, as well as the following additional issues: (1) the overall revenue sharing program; (2) the concept of returning Federal revenue sources to State and local governments along with the responsibility for programs currently financed by Federal grants-in-aid; (3) the fiscal condition and capacity of all levels of government; (4) the relationship between changes in the economy and the distribution of Federal financial assistance; (5) alternative measures of fiscal capacity; and (6) Federal grant allocation formulas.

The amendment specifically provides for extensive participation by organizations representing State and local governments in the design of the studies. The amendment authorizes such funds as are necessary for fiscal years 1984–1986, but the annual authorization is limited to five percent of the cost of administering the general revenue sharing program.

Conference substitute

The Conference substitute requires the Secretary of the Treasury to undertake a study on the following issues: (1) The factors used in current allocation formulas for revenue sharing and possible alternatives to such formulas and factors; (2) the long-term outlooks for the fiscal condition and fiscal capacity of Federal, State, and local governments; (3) the concept of returning revenue sources to State and local governments, along with the responsibility for programs and activities currently funded by Federal financial assistance; (4) the impacts of the cyclical nature of the economy and other factors on Federal, State, and local governments' expenditures, needs, and fiscal capacities, and the responsiveness of the distribution of Federal financial assistance to the cyclical nature of the economy and such other factors; (5) the responsiveness of the distribution of Federal assistance to State and local governments' fiscal capacities, and to such governments' need for services, and to cost-of-living and cost-of-government differentials; (5) the mathematical forms, data, and administration of Federal grant formulas, including current and possible alternative revenue sharing formulas, and (7) the impact of modifying the Internal Revenue Code with respect to the deductibility of State and local taxes, and tax exempt status of certain State and local securities, along with increases in revenue sharing allocations which would be made to compensate for modifications in the above tax provisions.

The Conference substitute requires the Secretary of the Treasury, in consultation with the Secretary of Commerce, the Comptroller General, the Advisory Commission on Intergovernmental Relations, and recognized organizations of elected officials of State and local governments, including regional organizations of such officials and officials of States that my receive substantially reduced funding under alternative allocation methods to develop a plan for completion of the study described above. This plan may provide for the participation of the individuals and organizations listed above in the conduct of the study. The conferees intend that responsibility for conduct of the portion of the study dealing with a proposed "representative tax system" shall remain with the Secretary of the Treasury and shall not be delegated to the Advisory Commission of Intergovernmental Relations.

The Conference substitute requires the Secretary, upon completion of the study, to solicit the views of the individuals and organizations with whom he was required to consult above, and to append such views to a final report to be submitted to the President and Congress no later than June 30, 1985.

The Conference substitute authorizes the appropriation in Fiscal Year 1984 and Fiscal Year 1985 of such sums as may be necessary to carry out the study provision, not to exceed for each fiscal year an amount equal to three percent of the cost of administering the revenue sharing program for the previous fiscal year.

SECTION 11—ADJUSTING DEFINITION OF MASSACHUSETTS TAX EFFORT

House Bill

The House bill allows local governments in the Commonwealth of Massachusetts to include in their fiscal year 1982 "tax effort", property taxes levied in fiscal year 1982 but not actually collected until the following year. This provision does not affect the amount of revenue sharing funds that will be allocated to Massachusetts or to any other State.

Senate amendment

The Senate amendment contains a similar provision. In the Senate version, however, the adjustment in "tax effort" is contingent upon local governments in Massachusetts adopting "generally accepted accounting principles" by fiscal year 1985.

Conference substitute

The Conference substitute is the same as the House bill. The Conference Committee has, however, received written assurance from the Massachusetts Department of Revenue that local governments within the Commonwealth are in the process of converting to generally accepted accounting principles.

SECTION 12—EFFECTIVE DATE

House bill

The House bill contains a specific effective date provision to accommodate the changes it makes in audit requirements.

Senate amendment

The Senate amendment is effective upon its enactment.

Conference substitute

The Conference substitute is the same as the House bill.

JACK BROOKS,
TED WEISS,
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LLOYD BENTSEN,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL WEDNESDAY, DECEMBER 7, 1983, TO FILE VARIOUS AND SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until Wednesday, December 7, to file various and sundry reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

VERMONT WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4198) to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area, as amended.

The Clerk read as follows:

H.R. 4198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vermont Wilderness Act of 1983".

TITLE I—NEW WILDERNESS AREAS

FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that—

(1) in the vicinity of major population centers and in the more populous eastern half of the United States there is an urgent need to identify, designate, and preserve areas of wilderness by including suitable lands within the National Wilderness Preservation System;

(2) in recognition of this urgent need, certain suitable lands in the national forest system in Vermont were designated by the Congress as wilderness in 1975;

(3) there exist in the national forest system in the vicinity of major population centers and in Vermont additional areas of undeveloped land which meet the definition of wilderness in section 2(c) of the Wilderness Act (78 Stat. 890);

(4) these and other lands in Vermont which are suitable for designation as wilderness are increasingly threatened by the pressures of a growing and concentrated population, expanding settlement, spreading mechanization, and development and uses inconsistent with the protection, maintenance, and enhancement of their wilderness character; and

(5) the Wilderness Act established that an area is qualified and suitable for designation as wilderness which (i) though man's works may have been present in the past, has been or may be so restored by natural influences as to generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable, and (ii) which may, upon designation as wilderness, contain certain preexisting nonconforming uses, improvements, structures, or installations; and the Congress has reaffirmed these established policies in the subsequent designation of additional areas, exercising its sole authority to determine the suitability of such areas for designation as wilderness.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as components of the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to perpetuate and protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation.

DESIGNATION OF WILDERNESS AREAS

SEC. 102. In furtherance of the purposes of the Wilderness Act, the following lands in the State of Vermont are designated as components of the National Wilderness Preservation System:

(1) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately twenty-one thousand four hundred and eighty acres, as generally depicted on a map entitled "Breadloaf Wilderness—Proposed", dated September 1983, and which shall be known as the Breadloaf Wilderness;

(2) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand seven hundred and twenty acres, as generally depicted on a map entitled "Big Branch Wilderness—Proposed", dated September 1983, and which shall be known as the Big Branch Wilderness;

(3) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately six thousand nine hundred and twenty acres, as generally depicted on a map entitled "Peru Peak Wilderness—Proposed", dated September 1983, and which shall be known as the Peru Peak Wilderness;

(4) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately one thousand and eighty acres, as generally depicted on a map entitled "Lye Brook Additions—Proposed", dated September 1983, and which are hereby incorporated in and shall be deemed to be a part of the Lye Brook Wilderness as designated by Public Law 93-622; and

(5) certain lands in the Green Mountain National Forest, Vermont, which comprise approximately five thousand and sixty acres, as generally depicted on a map entitled "George D. Aiken Wilderness—Proposed", dated September 1983, and which shall be known as the George D. Aiken Wilderness.

MAPS AND DESCRIPTIONS

SEC. 103. As soon as practicable after this title takes effect, the Secretary of Agriculture shall file the maps referred to in this title and legal descriptions of each wilderness area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this title: Provided however, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 104. (a) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this title, any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Vermont with respect to wildlife and fish in the national forest in the State of Vermont.

(c) Notwithstanding any other provision of the Wilderness Act or any other provision of law, the Appalachian Trail and related structures, the Long Trail and related structures, and the associated trails of the Appalachian Trail and the Long Trail may be maintained.

EFFECT OF RARE II

SEC. 105. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Vermont, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Vermont, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Vermont;

(2) with respect to the national forest system lands in the State of Vermont which were reviewed by the Department of Agriculture in RARE II, that review and evaluation shall be deemed for the purposes of the initial land management plans required for

such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Vermont reviewed in such final environmental statement and not designated as wilderness upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Vermont for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE II—WHITE ROCKS NATIONAL RECREATION AREA

FINDINGS AND POLICY

SEC. 201. (a) The Congress finds that—

(1) Vermont is a beautiful but small and rural State, situated near four large cities with combined metropolitan populations of of over fifteen million;

(2) geographic and topographic characteristics of Vermont provide opportunities for large numbers of people to experience the beauty of primitive areas, but also place unusual pressure to provide options to maximize the availability of such lands for a variety of forms of recreation;

(3) certain lands designated as the Big Branch and Peru Peak Wilderness Areas by title I of this Act are suitable for inclusion as part of the National Recreation Area;

(4) Certain other lands on the Green Mountain National Forest not designated as wilderness by this Act are of a predominantly roadless nature and possess outstanding wild values that are important for primitive recreation, watershed protection, wildlife habitat, ecological study, education, and historic and archeological resources, and are deemed suitable for preservation and protection as part of a national recreation area.

(b) The purpose of this title is to designate certain national forest system lands in the State of Vermont as the White Rocks National Recreation Area in order to preserve and protect its existing wilderness and wild values and to promote wild forest and aquatic habitat for wildlife, watershed protection opportunities for primitive recreation, scenic, ecological and scientific values.

DESIGNATION OF WHITE ROCKS NATIONAL RECREATION AREA

SEC. 202. In furtherance of the findings and purposes of this title certain lands in the Green Mountain National Forest, Vermont, which comprise approximately thirty-six thousand and four hundred acres, as generally depicted on a map entitled "White Rocks National Recreation Area—Proposed", dated September 1983, are hereby designated as the White Rocks National Recreation Area.

MAPS AND DESCRIPTIONS

SEC. 203. As soon as practicable after this title takes effect, the Secretary of Agriculture shall file the map referred to in this title and legal descriptions of the National Recreation Area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this title: *Provided however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF THE NATIONAL RECREATION AREA

SEC. 204. (a) Subject to valid existing rights, the White Rocks National Recreation Area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the findings and purpose of this title and the laws, rules, and regulations applicable to the national forest in a manner compatible with the following objectives:

(1) the continuation of existing primitive and semiprimitive recreational use in a natural environment;

(2) utilization of natural resources shall be permitted only if consistent with the findings and purposes in this title;

(3) preservation of and protection of forest and aquatic habitat for fish and wildlife; and

(4) protection and conservation of special areas having uncommon or outstanding wilderness, biological, geological, recreational, cultural, historical or archeological, and scientific and other values contributing to the public benefit.

(b) Notwithstanding any other provision of law, Federally owned lands within the White Rocks National Recreation Area as designated by this Act are hereby withdrawn from all forms of appropriation under the mineral leasing laws, including all laws pertaining to geothermal leasing, and all amendments thereto.

(c) The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Vermont.

(d) Within eighteen months from the date of enactment of this Act the Secretary shall develop and submit to the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives and Energy and Natural Resources of the United States Senate a comprehensive management plan for the recreation area.

(e) In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation, shall consider the views of all interested agencies, organizations and individuals, and shall particularly emphasize the values enumerated in subparagraph 201(a)(4) of this title.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4198 as reported by the Interior Committee, H.R. 4198 represents a compromise wilderness proposal reached by representatives of the major interest groups concerned. While there are some elements of both the conservation community and industry groups who do not agree with the proposal, the Vermont delegation is of the opinion that it is the best they can do under difficult circumstances and has asked us to move the legislation forward. I have personally spent a great deal of time on this issue and agree wholeheartedly with the delegation's assessment.

H.R. 4198 designates four new wilderness areas and one small addition to the existing Lye Brook Wilderness. Two of the wilderness proposals, Breadloaf and George D. Aiken, are freestanding proposals which represent mountainous terrain in central and southern Vermont. The Breadloaf area is especially noteworthy by virtue of its relatively large size (21,480 acres), which will make it the largest wilderness area in the State, and one of the larger wildernesses in the Eastern United States. The area is also centrally located between the main population centers of Burlington, Barre-Montpelier, and Rutland, and will thus insure that opportunities for primitive recreation are available to residents of those communities in the future.

The proposed 5,060-acre George D. Aiken Wilderness covers the watery Woodford Plateau and is characterized by beaver ponds and dams which provide important habitat for a number of wildlife species.

The two other wilderness proposals, Big Branch and Peru Peak, will be located within the proposed 36,400-acre White Rocks National Recreation Area. This area has always been the most hotly contested.

In order to become more familiar with this area and to give Vermonters the opportunity to be heard on the issue, the subcommittee conducted a field inspection on July 8 of this year, followed by a public hearing on July 9 in Manchester, Vt., at which some 123 witnesses appeared. Subsequent to the hearing, the Vermont delegation staged a series of negotiating sessions attended by representatives of key interest groups, and in early September a near consensus agreement was reached. I and my subcommittee staff have conferred with Congressman JEFFORDS and the two Senators and their staff since that date in order to fine tune the proposal embodied in the substitute adopted by the subcommittee.

In designating a portion of the forest as the White Rocks National Recreational Area, the bill is modeled after previous acts of Congress, such as the Hells Canyon NRA and Rattlesnake NRA laws, which designated national recreations areas containing a wilderness unit or units incorporated within the boundaries of the NRA. In the bill before us today, we propose a 36,400-acre NRA with two wilderness units of approximately 7,000 acres each. Lands lying outside the boundaries of the two wilderness areas, some of which contain existing roads and receive heavy off-road vehicle use, will be managed pursuant to the National Forest Management Act with special emphasis on retaining the natural values which make the area highly popular for primitive and semiprimitive recreation. Specific committee report language, already worked out with the Vermont delegation, will provide guidance to the Forest Service on how to administer the area.

I personally would have preferred that more of the proposed NRA would have been designated as wilderness and that the existing snowmobile trails would have been rerouted outside the wilderness. However, in an effort to avoid continued controversy, Vermont conservationists and snowmobilers agreed to the NRA/wilderness concept as set fourth in the bill as a compromise means of protecting ongoing recreation and at the same time accommodating snowmobile use. Given the good faith bargaining that led to this compromise, and given the fact that Congress has sanctioned the combination NRA/wilderness approach in the past, I believe it should be honored as the best solution available at this time.

I, therefore urge my colleagues' support of this meritorious legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Vermont Wilderness bill has not been without controversy and a number of groups in Vermont still oppose it; however, by in large, I believe the bill is a compromise and should move ahead.

The gentleman from Vermont (Mr. JEFFORDS) has worked closely with our committee and we appreciate the problems he has had to overcome.

The citizens of Vermont are strong-minded people and know what is best for their State. They do not always trust the Federal Government. They have a lot in common with Alaska.

The Vermont bill provides for a 36,400-acre national recreation area worked out as an alternative to wilderness. The NRA will have a management plan developed with full citizen participation. I believe it is a good alternative to the no management dictum imposed by wilderness designation and I hope it works for Vermont.

As one who represents a State with a land base of over 365 million acres of which 65 million acres has been designated wilderness, I can understand those who oppose even 64,000 acres more wilderness. However, the gentleman has something else in common with me—he is the sole representative in the House for his State and, as such, his position carries great weight. I shall support his bill.

Mr. Speaker, I submit the following statement of principles and other material from the Vermont Forest Coalition:

VERMONT FOREST COALITION—STATEMENT OF PRINCIPLES

Vermont's Green Mountain National Forest is an invaluable resource and heritage for the people of Vermont. It must be managed wisely to preserve a wide range of uses for today's Vermonters, visitors, and future generations.

The U.S. Forest Service, charged with the management of the Green Mountain National Forest, must continually attempt to resolve the competing demands of a wide diversity of interests. We believe that to the maximum extent allowed by the National Forest Management Act, user conflicts should be resolved in Vermont. They should not be decided by people in Washington, whose attitudes and interests are often wholly different from those of the people of our state.

To resolve these competing demands, Vermonters need an ongoing process whereby those representing different interests can come together, in a spirit of mutual accommodation, to seek fair and reasonable adjustment of conflicts. We believe that in a proper framework reasonable people can eventually find a way to accommodate all interests fairly in an atmosphere of mutual understanding. We believe that such a framework must allow periodic reexamination and modification of recommendations in response to the changing economic and recreational preferences of Vermonters of the future.

To make such an ongoing process work there must be a continuing and meaningful opportunity for Vermonters to make recommendations to the local Forest Service office as it prepares and implements the forest management plans required by law. Without such an opportunity the possibility for mutual accommodation recedes, and the use of the forest must necessarily become a controversial political issue.

For Congress to designate more perpetual wilderness in Vermont would mean that, for the forest lands included, a once-and-for-all decision by Congress would forever control the future uses of Vermont's national forest, regardless of changing circumstances and Vermonters' future preferences. Such action by Congress would also destroy the chance for establishing a meaningful process of accommodating conflicting interests by Vermonters here in Vermont. This we cannot accept.

We can—and we do—accept the responsibility for working together with those who favor more wilderness designation to try to produce consensus recommendations to the Forest Service for management plans which are as fair and reasonable as possible to all of the various interests involved. We believe a consensus could be reached on the long term setting-aside of many thousands of acres of Green Mountain National Forest as primitive areas. In such areas there could be a moratorium on timber or mineral production and commercial development that would irrevocably alter the character of the forest. But unlike Congressionally-designated wilderness, reasonable adjustments could be allowed to keep trails open with motorized equipment, continue economical pond stocking for better fishing, maintain rustic bridges and primitive trail shelters, and provide wintering areas for the deer population.

There could be arrangements to relocate snowmobile trails, or to limit snowmobiling to certain areas at certain times. There could be special provision made for accommodating the recreational needs of the handicapped. Limited harvesting of dead and down wood for the fuel needs of Vermonters could be allowed. Response to emergencies or natural disasters would be enhanced. None of these reasonable provisions would be allowed in Congressionally-designated wilderness.

There would also be an opportunity to recommend the issuing of permits to qualified organizations to manage certain forest areas as wilderness or nature reserve.

In New Hampshire the Governor and Congressional delegation took the initiative to create a semi-official White Mountain National Forest Advisory Council to address the Carter Administration's RARE II study in 1978. Its membership today includes representatives of the Sierra Club, Society for the Preservation of New Hampshire Forests, the ski and timber organizations, the Audubon Society, the Appalachian Mountain Club, the University of New Hampshire, the New Hampshire Snowmobile Association, and the public.

Largely as a result of the work of this Council, strongly supported by elected officials, New Hampshire has been spared the violent political battles over wilderness that have plagued Vermont, despite the fact that there is half again as much wilderness in the White Mountain National Forest. By the accounts of the participating organizations and of the Forest Service, the Council has been a smoothly working forum for resolving disputes and producing a responsible consensus. We believe this represents an approach which would benefit Vermont and Vermonters. We thus call upon Governor Snelling to take the initiative in recommending the prompt creation by the Secretary of Agriculture of a Green Mountain National Forest Advisory Council, as authorized by section 309 of the Federal Land Policy and Management Act of 1976.

Such a Council would be composed of up to 15 Vermonters representing the various interests relating to the Green Mountain National Forests, including appropriate local and state government officials. The Council would review the planning and management of the Forest, stimulate increased public participation in the Forest Service planning process, and provide a forum in which Vermonters could work toward a consensus for the resolution of competing user demands. We have every reason to believe that the Forest Service would welcome such citizen input and make every effort to implement its consensus recommendations.

The Vermont Forest Coalition pledges, on behalf of the organizations represented in it, to give full support to the efforts of such a Council, and to make a sincere effort to arrive at fair and reasonable accommodations of forest use conflicts in the interest of all. Through participation in this process,

wilderness advocates would also gain a voice with respect to a wide range of matters which the Forest Service now supervises throughout the National Forest.

We know that it is not possible for all competing interests to achieve their fullest demands for the use of a limited and valuable natural resource. Yet we believe that the creation of the process found to work so well in our neighboring state would maximize the changes of mutual accommodation and reduce the political polarization which now afflicts Vermont on matters of National Forest use. It would leave decisions about the future use of our National Forest in the hands of Vermonters, rather than remove that decision-making power to Washington to be exercized by others with little knowledge of our state and the interests of our people. It could lead to the achievement of the goals of a large number of organizations—wise resource use, wildlife preservation, responsible recreation, and at last, a consensus behind the protection of forest areas better left to future generations in the form of wilderness untrammelled by the works of man.

Adopted in Rutland, Vermont, August 10, 1983.

The Vermont Forest Coalition is composed of the following organizations:

Vermont Association of Snow Travellers (VAST).

Vermont State Farm Bureau.

Vermont State Grange.

Vermont Federation of Sportsmens Clubs.

Vermont Sportsmens Alliance.

National Rifle Association, Vermont membership.

Vermont Trappers Association.

Vermont Timber Truckers and Producers Association.

Society of American Foresters (Green Mountain Division).

Vermont Taxpayers Association.

Vermont Ski Areas Association.

Devil's Den Committee.

Bristol Cliffs Association.

The officers of the Vermont Forest Coalition, elected August 10, 1983, are:

Chairman: Bruce Shields of Wolcott, Secretary of the Vermont Timber Truckers and Producers Association.

First Vice Chairman: Stan Zecher of Manchester, President of the Green Mountain Trail Blazers Snowmobile Club.

Second Vice Chairman: George McNeill of Dorset, Executive Director of the Vermont Sportsmens Alliance.

Secretary-Treasurer: Roland Q. Seward of East Wallingford, board member of the Devil's Den Committee.

Honorary Vice Chairman: Perry Merrill of Montpelier, long time Vermont Commissioner of Forest and Parks.

For further information contact: Bruce Shields, Chairman, Box 1130, Wolcott, Vermont 05680.

VERMONT OPEN FOREST RESOLUTION

Whereas, Vermont's Green Mountain National Forest is an invaluable resource and heritage for the people of Vermont, and

Whereas, this great resource provides an important contribution to our state's economy, along with diverse recreational opportunities for Vermonters and visitors to Vermont, and

Whereas, Congress has already designated 17,258 acres of Green Mountain National Forest as permanent wilderness, to meet the needs of those who desire a wilderness experience in Vermont, and

Whereas, the use of these wilderness areas has been relatively infrequent, and in fact has declined since 1979, making it clear that there is no urgent need for their expansion, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas forbid all timber harvesting which, in addition to having a negative effect on jobs for Vermonters, will also endanger the provision of Federal payment in lieu of taxes to forest town, and prevent the removal of dead and down wood for winter fuel for Vermonters, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas prohibit all snowmobiling, thereby increasing the recreational pressure on private lands and the threat of land posting; and make it extemely difficult for Vermont trappers to maintain trap lines in the forest, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will in such areas prevent the practical management of deer yards and the stocking of ponds for sportsmen, and the maintenance of trials, fire roads and emergency access routes, by rigidly prohibiting all use of power tools, and

Whereas, the designation by Congress of additional permanent wilderness areas in Vermont will impose these strict prohibitions for all time, regardless of changing circumstances and the future preferences of Vermonters, and

Whereas, Vermont tradition and common sense hold that public policy conflicts ought to be settled to the maximum extent practicable by Vermonters, close to home, instead of by a distant Congress, almost all of whose members know little or nothing of Vermont; now therefore be it

Resolved, That no further permanent wilderness should be designated in Vermont for the indefinite future, and that all areas not presently in permanent wilderness ought to be returned promptly to continuing professional multiple use management by the United States Forest Serivce; and be it further

Resolved, That the Governor and the Congressional delegation should use their good offices to bring together Vermonters representing all affected interests, including wilderness interests, in a continuing process for seeking mutually acceptable solution to user conflicts in Green Mountain National Forest; such solutions to be transmitted as recommendations to the Forest Service as it prepares its land management plane; and be it further

Resolved, That in any such process serious consideration should be given to the recommendation of semi-primitive areas in the forest, where permanent alterations are held in abeyance for the indefinite future, to keep options open for future generations of Vermonters, and be it further

Resolved, That the Vermont Congressional delegation be requested to withdraw its proposed legislation (S. 897, H.R. 2275) to designate additional permanent wilderness in Green Mountain National Forest.

VERMONT FOREST COALITION,
East Wallingford, Vt., September 12, 1983.

Hon. MORRIS UDALL,
Chairman, Committee on Interior and Insular Affairs, House Office Building, Washington, D.C.

DEAR CHAIRMAN UDALL: We understand that your Committee's Public Lands Subcommittee is preparing to mark up H.R. 2275, the Vermont Wilderness Bill. This measure was the subject of a hearing in Vermont on June 9, chaired by Congressman Seiberling and attended only by Congressman Jeffords, not a member of your committee.

H.R. 2275 is opposed by the constituent organizations of the Vermont Forest Coalition, which include:

Vermont State Bureau.

Vermont State Grange.

Vermont Association of Snow Travelers.

Vermont Federation of Sportsmen's Clubs.

Vermont Sportsmen's Alliance.

Vermont Trappers Association.

Vermont Timber Truckers and Producers Association.

Vermont Ski Association.

Society of American Foresters, Green Mountain Division.

National Rifle Association, Vermont division.

Devils Den Committee.

Bristol Cliffs Committee.

Vermont Taxpayers Association.

Representatives of the Coalition would like to have the opportunity to explain to the majority of the members of the Public Lands Subcommittee, or of the full Committee, why we think that the present 17,250 acres of wilderness in Vermont is quite sufficient for the time being, and how designation of the large number of acres proposed in H.R. 2275 (64,800) operates adversely to the interests of our organizations and to those of a number of towns in which the Forest lies. In addition, Governor Richard Snelling has informed us that he cannot support any wilderness designation of more than 36,000 acres, and that he is prepared to so testify in person before a Congressional committee.

We therefore request one day of hearings at which our views may be made known to all or most of the members of your committee.

Sincerely,

BRUCE SHIELDS, *Chairman.*

VERMONT FOREST COALITION,
East Willingford, Vt., October 20, 1983.

DEAR MEMBER OF CONGRESS: Before the end of this session you may be called upon to vote on HR 2275, the Vermont Wilderness bill. There are a few things you should know about this effort.

At this writing, the bill would designate some 39,000 acres of Vermont's Green Mountain National Forest as permanent wilderness, plus an additional 23,000 acres of "National Recreation Area" in which restrictions could be made as strict as those in a permanent wilderness.

Four years ago, under the RARE II study, 55,720 acres of our Forest was studied for possible wilderness designation. Massive opposition here in Vermont, culminating in a resolution adopted by our state legislature, caused the Carter Administration to recommend no additional wilderness in Vermont.

But now the wilderness advocates, a relatively small but hyperactive group which unfortunately includes both our Senators and Congressman James Jeffords, have attempted to slip through a wilderness bill which affects even more acreage than was overwhelmingly rejected in 1979–80.

Strangely, incresed pressure on Vermont's existing permanent wilderness (17,300 acres) has nothing to do with the demands for more wilderness. Forest Service reports show that visits to the existing wilderness areas have decreased steadily since 1979!

The wilderness people simply want more wilderness for its own sake, regardless of what it costs their neighbors in lost jobs and recreational opportunities.

This new wilderness grab has produced broad and deep opposition in the state. That opposition includes—

Vermont State Farm Bureau.

Vermont State Grange.

Vermont Association of Snow Travellers.

Vermont Federation of Sportsmen's Clubs.

Sportsmen's Alliance for the Vermont Environment.

Society of American Foresters, Green Mountain Division.

Vermont Timber Truckers & Producers Association.

National Rifle Association, Vermont Division.

Vermont Trappers Association.

Governor Richard A. Snelling, though favoring some additional wilderness, has declined to endorse the delegation's legislation and has expressed his opposition to its magnitude and the selection of lands to be included.

The Vermont legislature is on record, in 1979, for continued multiple use management of Green Mountain National Forest. We are quite sure that that position will be reaffirmed when it reconvenes in January, 1984.

The U.S. Department of Agriculture, in a letter from Secretary Block to Chairman Udall dated July 7, 1983, has expressed its opposition to enactment of H.R. 2275.

There has been one Congressional subcommittee hearing on this measure, in Manchester Center, Vermont in June. Congressman Seiberling was the only subcommittee member present, and it was perfectly clear that his mind was fully made up in advance. Citizens were allowed three minutes to testify. Our written request for a subcommittee hearing in Washington, where members other than Mr. Seiberling could hear our point of view, was not even dignified with a letter of rejection.

We know full well that it matters little to 434 members of Congress what happens in Vermont's Green Mountain National Forest.

You can score points with your environmentalists back home by voting to lock up tens of thousands of acres of productive forests in our little state—forever banning timber harvesting, forever destroying jobs in our forest industries, forever prohibiting snowmobiling, forever stopping effective deer yard improvement, pond stocking and trail management.

But we hope you won't.

We hope you will refuse to enact this wilderness grab—at least until we have had the chance to present all the facts and all of our views on this issue so vital to us and to the people of our little state.

That, it seems to us, is only simple justice. We appeal to you to show that justice. We ask you to insist that we get some semblance of due process before a little band of wilderness advocates succeeds in setting aside 28% of our national forest for their special use.

For the Vermont Forest Coalition:

ROLAND Q. SEWARD,
Secretary.

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 4198, legislation to resolve the wilderness controversy in Vermont and end a debate that has been ongoing for the last decade. While this bill will not satisfy all Vermonters, I believe it addresses the desires and needs of the vast majority.

Few issues have generated more debate in my State than this one. The latest round of the debate began in 1978 with the Forest Service's second roadless area review and evaluation. It intensified last winter when the Vermont congressional delegation introduced legislation, H.R. 2275, to try to provide a focus for discussion and negotiation.

Since last March, there have been two hearings on wilderness in Vermont, and the congressional delegation and its staff have spent countless hours discussing the issue with those on all sides of the issue. We have held several negotiating sessions during which representatives of all of the affected interests sat down to discuss their areas of agreement and disagreement.

The bill before the House today is the product of this process. It takes into account the specific concerns of thousands of Vermonters and the more general views of thousands more. Excellent alternatives were also offered by Governor Snelling through the diligent and thorough work of the Agency of Environmental Conservation; by a group of State legislators from the areas of the State where the wilderness areas will be; and by the Vermont Wilderness Association. The Forest Service in Vermont far exceeded the call of duty in its outstanding technical assistance and impartial advice.

My colleagues in the other body, Senator STAFFORD and Senator LEAHY, have worked with me throughout the crafting of this compromise. Our staffs have devoted an enormous amount of time and effort to this issue. I want to give particular thanks to David Wilson of my staff. He has worked hard and well on this legislation, and deserves much of the credit for it.

In the final analysis, this bill might not have been possible had it not been for the help of the leading advocates of both the pro- and anti-wilderness factions, who worked hard and negotiated in good faith despite pressure from others not to compromise.

This bill designates over 39,000 acres of wilderness and also establishes a national recreation area totaling nearly 36,400 acres. It is important to note that the acreage of the national recreation area includes roughly 12,600 acres of wilderness.

For the benefit of the Members of the House, I would like to point out two very important features of this bill as they pertain to the national recreational area. First, in section 204, the bill states that "utilization of natural resources shall be permitted only if consistent with the findings and purposes" of the NRA. I would point out that the usual words "and disposal" after "utilization" were not included. The Vermont congressional delegation wants to indicate as clearly as possible that this area is intended for recreational purposes and is not intended as a timber stand.

Second, section 204, paragraph (g) specifically states that the terms of the management plan for the NRA "shall particularly emphasize the values enumerated in subparagraph 201(a)(4)" of the findings and purposes of title II. Specifically, this means that this land is of a predominantly roadless nature and that it is important for primitive recreation, watershed protection, wildlife habitat and ecological study. I will further explain the delegation's intent below in my remarks on the administration of the national recreation area.

In the northern unit of the Green Mountain National Forest (GMNF), this bill designates the Breadloaf Wilderness Area, which has essentially the same boundaries as contained in our initial bill. Some alterations were made to leave particularly productive timber stands out of the wilderness area near the Granville Gulf Reservation and to leave out several short snowmobile runs.

Breadloaf is highlighted by the 3,835-foot peak of Breadloaf Mountain. It also takes in Mounts Wilson, Roosevelt, Cleveland, and Grant of the Vermont Presidential Range. Most of the area is above 2,500 feet, the altitude recognized by Vermont law as being ecologically fragile.

The east side of this ridge collects water for the White River watershed. The west side serves the same function for the Otter Creek watershed.

Skylight Pond, one of Vermont's highest, lies near the crest of the ridge at 3,350 feet. Its pristine appearance and general remoteness provide an outstanding wilderness experience for hikers along the famous Long Trail.

At the southern end of the State, this bill designates the George Aiken Wilderness Area, named in honor of our State's former Governor and U.S. Senator. Governor Aiken has retired to Putney, which is not far from this area, and the delegation felt it appropriate to recognize the countless contributions of one of the authors of the Eastern Wilderness Act of 1974.

The Aiken Wilderness covers about 5,000 acres of the watery Woodford plateau, drained by the west branch of the Deerfield River. The area is characterized by extensive wetlands at altitudes above 2,000 feet.

The area has seen a great deal of activity by beaver over the years and their construction of ponds and flows along the many streams have created openings in the forest cover that provide important natural habitat for many wildlife species.

At the south end of the existing Lye Brook Wilderness Area, we have added a 1,200-acre addition. This area reaches the Kelly Stand Road at the south edge and the steep upper ravine on Bacon Hollow on the northwest. The addition of this small tract will allow for wilderness designation of parts of the Branch Pond Brook, which drains Branch Pond to the east.

In H.R. 2275, we proposed a 33,830-acre Big Branch Wilderness Area near the town of Mount Tabor. This was the most controversial of all of the areas in the bill. Based on the negotiation process we established, this bill sets forth a compromise that we believe takes into account local use patterns and other important activities in this area.

In the area south of Forest Service Road 10, we have designated two wilderness areas. The Peru Peak wilderness takes in Styles Peak, Peru Peak, and Pete Parent Peak and totals close to 7,000 acres.

On the west side of Griffith Lake, the Big Branch Wilderness takes in about 6,700 acres of National Forest. Its prominent features include the Lost Pond Bog, a quaking bog located in the 2,700-foot saddle between Buck and South Buckball Peaks. Scientists have displayed interest in the distinctive vegetation of the bog mat and the bog forest.

The area also takes in Baker Peak, a tremendously scenic spot which affords a panoramic view of nearby peaks and valleys.

Much of the area of the Big Branch Wilderness proposed in H.R. 2275 will be designated as the White Rocks National Recreation Area in H.R. 4198. Included within the boundaries of the White Rocks area will be the Big Branch and Peru Peaks Wilderness Areas. It will also include land north of Forest Service Road 10 and the area between the two wilderness areas.

The White Rocks area is the foundation of the compromise. The Vermont delegation expects that it will be managed by the Forest Service with special emphasis placed on maintaining existing roadless and wild values and preserving existing opportunities for primitive recreation.

As I mentioned earlier in my statement, the language regarding the national recreation area is unique for a purpose. It is the unequivocal intention of the Vermont congressional delegation that this land should be managed as follows:

First. There should be no new road construction, including skid roads, with the possible exception of relocating portions of existing roads only for environmental reasons or building turnouts to facilitate access to trailheads. Existing roads not essential for the management of the area will be closed and allowed to revegetate.

Second. The use of wheeled vehicles—4-wheel drives, ATV's motorcycles, and so forth—will be limited to roads currently passable by 2-wheel drive passenger cars. Wheeled vehicle use will be prohibited in the rest of the area.

Third. Snowmobile use will be allowed in the area only along existing trails currently authorized by the Forest Service.

Fourth. Timber harvest for commercial purposes shall not take place. Cutting of timber will be permitted only for preservation of existing wildlife habitat and will be limited to selective cutting in areas where access will not require new roadbuilding, skid roads, or any other disturbance of the land surface.

Fifth. Motorboat use will be prohibited on all ponds in the area.

The national recreation area (NRA) designation will provide the kinds of protection for these wild, valuable lands that they deserve while still allowing for existing local use patterns such as snowmobiling, hunting, fishing, and trapping.

Included in the NRA are many of the features mentioned in the inventory of Vermont natural areas that was done 10 years ago. One of the most important is the 95-acre Wallingford Pond, which is the largest undeveloped pond in the State. It also contains the remote Fifield Pond, Little Rock Pond—one of the most popular destinations on the Long Trail—and Griffith Lake, a large, high altitude pond.

One of the most prominent features of the NRA is its namesake, White Rocks Mountain, which is at the northern end of the area. Its white cliff face forms a prominent landmark that is visible for many miles. This cliff was the last known nesting site of the peregrine falcon and is now being used to try to reestablish the species in Vermont.

This area also takes in almost the entire Big Branch watershed. The Big Branch Cascades down through the Big Branch Wilderness, having carved out a spectacular gorge.

These are some of the many important features of the land covered in H.R. 4198. While no side in this debate was able to get all it wanted, all sides made numerous, responsible concessions to accommodate one another.

For example, the boundaries were redefined in order to leave open all portions of a major north-south snowmobile corridor which had crossed three of the originally proposed wilderness areas. Branch Pond was left out of the Lye Brook addition because of its popularity with snowmobilers. The NRA allows almost all snowmobile trails inside the original Big Branch area to remain open. In addition, several thousand acres of highly productive timber land was dropped from consideration.

Most, though not all, of the conflicts involving access to the wilderness areas by sportsmen were resolved. Hunting, fishing, and trapping are allowed in wilderness areas, and boundary changes have been made to provide adequate access.

For perspective, it should be noted that Vermont has 530,000 acres of State and Federal land. With the acreage included in this bill, we will have about 56,000 acres of wilderness and 22,000 nonwilderness acres in the White Rocks NRA. The remaining 452,000 acres of public land, including 215,000 acres of the GMNF, are not affected by this bill.

I do not expect this compromise to receive rave reviews from everyone who has been active in this controversy. The strong, sincere beliefs of both sides do not easily lend themselves to compromise. But compromise is essential if we are to accommodate the competing needs and interests of Vermont's diverse population. I think this is a good and equitable compromise, and urge my colleagues to support it.

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X. section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by the committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agricuture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

● Mr. CONTE. Mr. Speaker, I rise in support of H.R. 4198, the Vermont Wilderness and Recreation Area Act as introduced by Congressman JEFFORDS.

The bill will designate approximately 40,000 acres of wilderness in Vermont's Green Mountain National Forest and another 23,000 acres made part of a national recreation area.

My original concern for this legislation was that it would not adequately address the valid, existing rights of one particular resident of the Woodford, Vt. area. My good friend, Mr. Richard Myers, of North Adams, Mass.

has owned a camp in Woodford for over 50 years and expressed concern that a designated wilderness area which included his camp would preclude his ability to access his property by road.

I have been assured by Congressman JEFFORDS that the existing rights to access Mr. Myers' camp will continue. An agreement has been reached with the National Forest Service, and the passage of this legislation will in no way affect this gentleman's ability to reach his camp by means of an existing road.

I thank Congressman JEFFORDS for his attention to and cooperation in this matter, and for his attention to the interests which have been expressed by the many hunters, trappers, fishermen, and snowmobilers of the proposed wilderness area.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 4198, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NORTH CAROLINA WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3960) to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Carolina Wilderness Act of 1983".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Uwharrie National Forest, North Carolina, which comprise approximately four thousand seven hundred and ninety acres, as generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

(2) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, ad generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand six hundred and eighty acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately two thousand nine hundred and eighty acres, as generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Joyce Kilmer Wilderness as designated by Public Law 93-622;

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Linville Gorge Wilderness as designated by Public Law 88-577;

(6) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Middle Prong Wilderness—Proposed", dated July 1983, and which shall be known as the Middle Prong Wilderness;

(7) certain lands in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, as generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated July 1983, and which shall be known as the Pocosin Wilderness;

(8) certain lands in the Croatan National Forest North Carolina, which comprise approximately one thousand eight hundred and sixty acres, as generally depicted on a map entitled "Pond Pine Wilderness—Proposed", dated July 1983, and which shall be known as the Pond Pine Wilderness;

(9) certain lands in the Croatan National Forest North Carolina, which comprise approximately nine thousand five hundred and forty acres, as generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand one hundred acres, as generally depicted on a map entitled "Shining Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Shining Rock Wilderness as designated by Public Law 88-577; and

(11) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "Southern Nantahala Wilderness—Proposed", dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act except that the Secretary of Agriculture may make correction of clerical and typographical errors in each such legal description and map. Each such legal description and map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to national forest system lands in the State of North Carolina;

(2) with respect to the national forest system lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of North Carolina reviewed in such final environmental statement and not designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, need not be managed

for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974 as amended—

(1) certain lands in the Pisgah National Forest which comprise approximately seven thousand one hundred and thirty-eight acres, as generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2) certain lands in the Pisgah National Forest which comprise approximately five thousand seven hundred and eight acres, as generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be known as the Lost Cover Wilderness Study Area;

(3) certain lands in the Nantahala National Forest which comprise approximately three thousand two hundred acres, as generally depicated on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) certain lands in the Nantahala National Forest which comprise approximately eight thousand four hundred and ninety acres, as generally depicted on a map entitled "Snowbird Wilderness study Area", dated July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) certain lands in the Pisgah National Forest which comprise approximately one thousand two hundred and eighty acres, as generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are hereby incorporated in the Craggy Mountain Wilderness Study Area as designated by Public Law 93-622.

The entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93-622 shall be administered in accordance with subsection (b) until the Congress determines otherwise. The Secretary shall submit a report and findings to the President regarding the review under this section, and the President shall submit his recommendations regarding the areas specified in paragraphs (1) through (5) to the Congress of the United States no later than three years after the date of enactment of this Act.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3960. As reported by the Interior Committee, the bill would designate approximately 68,750 acres of national forest land in North Carolina for addition to the National Wilderness Preservation System. In addition, approximately 25,816 acres would be slated for further wilderness study. With the exception of certain relatively minor modifications requested by the administration, the wilderness and wilderness study proposals of H.R. 3960 as amended are identical to the 1979 National Forest Service RARE II recommendations. The bill is cosponsored by the entire North Carolina delegation on the House side and I believe that indicates that H.R. 3960 is truly a consensus product.

Mr. Speaker, I am personally familiar with many of the wilderness and wilderness study proposals of H.R. 3960 by virtue of the subcommittee's 1979 field inspection trip to western North Carolina. I believe there are other areas in the State which could have been appropriately added to the proposal. However, I fully endorse this compromise package because it represents the type of consensus I have been encouraging the involved interest groups to negotiate, thanks largely to the tremendous efforts of our colleague, Congressman JAMIE CLARKE. I am particularly pleased to note that the representatives of the timber industry have agreed to the committee's standard soft release language. At the same time, conservationists backed down on various demands to increase the size of key areas. If the conflicting interest groups in more States could be brought together in this way, I believe we would be able to dispose of the RARE II issue with far greater dispatch than has been the case to date.

In summary, I heartily approve this compromise legislation and urge its passage by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3960, the North Carolina wilderness bill.

The bill is supported by the entire North Carolina delegation and little, if any, opposition was expressed during our hearings on the bill.

As the chairman has explained, the bill proposes to designate six new wilderness areas and makes additions to four existing areas. Each of these 10 areas is similar or exactly what was recommended by RARE II. The committee made some minor adjustments to correct acreage figures and, in one case, we even added 3,400 acres at the request of the Forest Service.

The bill also designates five areas for wilderness study. The areas were left in further planning under RARE II so I believe it is appropriate that they be studied before we take final action on them. The bill was amended in committee to make it clear that the Forest Service can conduct these studies in conjunction with the forest plans. Without this language, it is possible there would have been some duplication and additional expense.

There is some controversy over the study areas and I am hopeful that everyone concerned will have an opportunity to participate in the study process.

North Carolina has been a difficult State to resolve. We failed to act on it in past Congresses awaiting some consensus by the delegation. It is encouraging to see a final resolution which the delegation is behind 100 percent.

RARE II has dragged on too long leaving far too many people and States in limbo. Again, I commend the chairman for acting on this legislation and hope that compromise and consensus will be the rule of the day when it comes to all wilderness bills.

Mr. Speaker, I urge all Members to support the legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. CLARKE), the distinguished author of this legislation, and commend the gentleman for his efforts which resulted in the successful consummation of this compromise bill and getting all the interested parties together. The gentleman has been a valuable member of our committee.

Mr. CLARKE. Mr. Speaker, I want to say how happy I am that the North Carolina delegation could agree as a whole group on this bill. The lumber industry, the environmental groups, and the Forest Service and our local officials have all agreed on this compromise proposal, which embraces the recommendations of the RARE II study.

Nobody is completely happy, but everyone feels it is something we should get behind us. It is a good compromise and it is a step that our State should take at this time.

I want to thank the chairman of our subcommittee, the gentleman from Ohio (Mr. SEIBERLING), and I want to thank the gentleman from Alaska (Mr. YOUNG) who served as the ranking minority member.

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by this committee. The bill was

recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn it first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committe, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3960, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WISCONSIN WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3578) to establish the wilderness areas in Wisconsin.

The Clerk read as follows:

H.R. 3578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131)—

(1) certain lands within the Chequamegon National Forest, Wisconsin which are generally depicted on the map entitled "Porcupine Lake" comprising four thousand two hundred and thirty five acres; and

(2) certain lands within the Nicolet National Forest, Wisconsin, generally known as the "Headwaters Wilderness," and which are depicted on the maps entitled—

(A) "Kimball Creek" comprising seven thousand five hundred and twenty-seven acres;

(B) "Headwaters of the Pine" comprising eight thousand eight hundred and seventy-two acres; and

(C) "Shelp Lake" comprising three thousand seven hundred and five acres,

are hereby designated as wilderness, and therefore as a component of the national wilderness system.

SEC. 2. Subject to valid existing rights, the wilderness areas designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wisconsin and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Wisconsin, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wisconsin;

(2) with respect to the national forest lands in the State of Wisconsin which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Wisconsin reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wisconsin for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 4. As soon as practicable after enactment of this Act, maps and legal descriptions of the wilderness areas designated by this Act shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

□ 1910

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3578, the Wisconsin Wilderness Act of 1983. The bill is the product of a consensus agreement reached by conservationists, industry, snowmobilers, and other interested groups in Wisconsin. It is cosponsored by the entire Wisconsin delegation in the House and by both Senators. The wilderness proposals are also endorsed by the administration.

Briefly, H.R. 3578 would add four areas in Wisconsin to the National Wilderness Preservation System, bringing the percentage of national forest lands in the State designated as wilderness to a very modest 3 percent.

One of our goals in passing these State wilderness bills is to expand the National Wilderness Preservation System so that it will contain relatively large samples of the various ecosystems which exist in the Nation. This will insure that native flora and fauna will have adequate habitat to survive in a natural or near natural condition and will thereby afford a barometer by which to measure the impact of man's activities on more developed lands.

The four proposed wildernesses in Wisconsin contribute significantly to this goal. The areas are located in northern Wisconsin and are relatively remote from main population centers. Nevertheless, they are popular for primitive recreation and contain interesting flora and fauna representative of the area. The proposed 4,235-acre Porcupine Lakes Wilderness is characterized by rolling hills, relatively flat uplands, and swamps, which typify much of the country in northern Wisconsin south of Lake Superior, whereas the Kimball Creek/Headwaters of the Pine/Shelp Lake complex, totaling approximately 20,000 acres, is representative of the hardwood ridges, forest swamp, muskeg, and bog lowlands lying further to the east. All four areas provide excellent opportunities for primitive recreation, scientific research, and preservation of important wildlife habitat.

The Forest Service believes the four areas would make quality additions to the wilderness system, and there ap-

pears to be no disagreement with their assessment.

I, therefore, urge my colleagues to join me in supporting this consensus legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3578, the Wisconsin Wilderness bill. The bill represents a consensus worked out amongst the affected interest groups and the Wisconsin delegation.

To date, we have passed six wilderness bills in this session of Congress—Oregen, California, Florida, Alabama, Missouri, and Montana. None of them have been as noncontroversial as this one. In fact, several of them have been extremely controversial usually because the Member in whose district the wilderness areas lie does not support the bill or supports a smaller overall acreage figure. In every case, where the acreage greatly exceeds the RARE II recommendations, we have difficulty with the bill.

The Wisconsin bill sailed through our committee and should pass the House unopposed because it closely parallels the RARE II recommendations and subsequent wilderness studies. But, most importantly, it was worked out in Wisconsin by those people most directly affected.

I commend the chairman for his willingness to move this legislation without amendment and I hope he will continue to follow this course with other bills we will be addressing in the future.

Mr. Speaker, I yield back the balance of my time.

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill. Mr. Speaker, this bill has not been acted upon by the committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. SEIBERLING. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3578.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR MEMBER TO REVISE AND EXTEND REMARKS ON HOUSE JOINT RESOLUTION 1

Mr. HARRISON. Mr. Speaker, I ask unanimous consent that I be allowed to revise and extend my remarks on the subject of House Joint Resolution 1, which was debated and decided here today, and that these remarks appear at that place in the RECORD immediately preceding the vote on the question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Mr. Speaker, reserving the right to object, can we be assured that this will appear as a bulleted statement as well?

The SPEAKER pro tempore. Is the gentleman asking the gentleman from Pennsylvania (Mr. HARRISON) or the Chair?

Mr. WALKER. I am asking the Chair that question under my reservation.

The SPEAKER pro tempore. It would be bulleted; that is correct.

Mr. WALKER. I thank the Chair.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDING BOUNDARIES OF CUMBERLAND ISLAND NATIONAL SEASHORE

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 807) to amend the boundaries of the Cumberland Island National Seashore.

The Clerk read as follows:

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of October 23, 1972 (86 Stat. 1066), as amended by the Act of November 10, 1978 (92 Stat. 3489), is further amended by striking out "numbered CUIS 40,000D" and substituting "numbered CUIS 40,000E".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 807 would amend the boundary of the Cumberland Island National Seashore. The House passed this same boundary amendment during the 97th Congress on October 2, 1982, as a part of H.R. 6882. The Senate failed to act on H.R. 6882.

The boundary of the Cumberland Island National Seashore would be revised by S. 807 to exclude a 568-acre tract of privately owned land known as Point Peter on the Georgia mainland adjacent to the Cumberland Island National Seashore. This tract was included in a revision of the boundary map in 1978 so that the Park Service could acquire the land if necessary to accommodate a major expansion of public visitation on the island.

At the time of the inclusion of the land in the boundary map, it was contemplated that Cumberland Island might eventually be developed for a major program in intensive public use with a daily visitation on the island in excess of 1,400 persons. Planners envisioned that as many as 9,000 additional persons per day might visit the proposed visitor center at Point Peter. This program, however, has been revised in light of strong public concern about the environmental impact of large numbers of visitors on the sensitive resources of this pristine barrier island. This concern was reflected in overwhelming public comments submitted to the National Park Service as a part of the final environmental impact statement general management plan and wilderness recommendation. The National Park Service now plans for low-density use of the seashore. As a result, the Park Service has concluded that the acquisition of the the Point Peter area will not be necessary now or in the future.

Mr. Speaker, our colleague, LINDSAY THOMAS, introduced an identical bill (H.R. 3377) in the House on June 21, 1983, and has worked diligently with the Georgia Senators to convince the

other body to act on this needed legislation.

I wish to commend our colleague for his successful efforts in achieving that objective.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the adoption of the bill now before the House (S. 807), which would change the boundary of the Cumberland Island National Seashore by the deletion of a 568-acre parcel on the mainland which was earlier intended to serve as an administrative site.

A bill passed by the House last Congress, H.R. 6882, contained the very same provision encompassed by this entire bill. The bill before us was recently passed by the Senate. I do not know of anyone who opposes this bill.

Mr. Speaker, since this seashore's original authorization in 1972, the National Park Service has progressively moved away from earlier plans of high density development and use of the island. Part of the reason for the deletion of this once-proposed administrative site is tied to these current plans for a much lower density use of the island. The seashore yet retains an authorized development ceiling which is greatly larger than will ever be used, in view of the significantly scaled down use density. Since the land acquisition plans for the island are not yet complete and an increased authorization ceiling will before long be needed for that purpose, I would recommend that an easy and responsible way to address that soon would be to shift some of the existing excess authorized development ceiling over to the land acquisition ceiling need.

Mr. Speaker, I would hope that the Park Service will immediately exert a high priority in the use of its authorized development funds for the stabilization, protection, and appropriate restoration of some of the historical and cultural resources of the island. Particular attention needs to be given to the Plum Orchard Mansion, and also to the provision of a docking facility and boat access to allow visitor use to this important and interesting historic feature.

Mr. Speaker, I have no further comments on this bill, and I urge its adoption by my colleagues.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NEW HAMPSHIRE WILDERNESS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3921) to establish additional wilderness areas in the White Mountain National Forest, as amended.

The Clerk read as follows:

H.R. 3921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New Hampshire Wilderness Act of 1983".

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the White Mountain National Forest, New Hampshire, which comprise about forty-five thousand acres, are generally depicted on a map entitled "Pemigewasset Wilderness—Proposed", dated July 1983, and which shall be known as the Pemigewasset Wilderness Area;

(2) certain lands in the White Mountain National Forest, New Hampshire, which comprise about twenty-five thousand acres, are generally depicted on a map entitled "Sandwich Range Wilderness—Proposed", dated July 1983, and which shall be known as the Sandwich Range Wilderness; and

(3) certain lands in the White Mountain National Forest, New Hampshire, which comprise approximately seven thousand acres, are generally depicted on a map entitled "Presidential Range Dry River Wilderness Additions—Proposed", dated July 1983, and which hereby are incorporated in and shall be deemed to be a part of the Presidential Range Dry River Wilderness as designated by Public Law 93-622.

SEC. 3. (a) As soon as practicable after enactment of this Act the map and a legal description on each wilderness area shall be filed with the Committee on Agriculture of the Senate of the United States, and the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) Each map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. Subject to valid existing rights, each wilderness are designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act (78 Stat. 890): Provided, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of New Hampshire and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest system lands in States other than New Hampshire, such statement shall not be subject to judicial review with respect to national forest system lands in the State of New Hampshire.

(2) with respect to the national forest system lands in the State of New Hampshire which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (Public Law 94-588), to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of New Hampshire reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless areas review and evaluation of national forest system lands in the State of New Hampshire for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) The provisions of this section shall not apply to the area in the White Mountain National Forest, New Hampshire, which is depicted on a map entitled "Kilkenny Unit Plan Area", dated October 1983. This area shall be considered for all uses, including wilderness, during preparation of a forest plan for the White Mountain National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

(d) The provisions of this section shall not apply to any lands in the White Mountain National Forest located within the State of Maine.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3921, the New Hampshire Wilderness Act of 1983. Like the wilderness bills before it, H.R. 3921 is a consensus product that resulted from a series of meetings by concerned groups and individuals within New Hampshire. The bill is supported by the entire New Hampshire congressional delegation and by many environmental and industry groups. The wilderness proposals are also endorsed by the administration.

The wilderness proposals of H.R. 3921 are located in the White Mountain National Forest and comprise some of the wildest lands remaining in the Eastern United States. Despite the fact that the White Mountain National Forest lies within a relatively easy drive of Boston, New York, and Montreal, Canada, the forest lands have been managed in such an exemplary manner by the Forest Service that nearly half of the forest would meet the statutory qualifications for wilderness designations. During RARE II, the bulk of this qualifying land was inventoried for wilderness designation, but only 33,000 acres were recommended for wilderness and another 146,000 acres, or roughly 20 percent of the forest, for further wilderness study.

With such a high percentage of the forest recommended for further study, a variety of groups in New Hampshire became interested in seeking a solution which would more rapidly allocate areas to either wilderness or nonwilderness, and thereby end the relative limbo status of wilderness study. Interest in such a resolution increased in 1983 when the Department of Agriculture unexpectedly announced the so-called RARE III program whereby all roadless areas in the White Mountain National Forest, and other forests nationwide, would undergo yet another wilderness inventory and study. Many Members of Congress, including myself, strongly disagreed with the RARE III decision, especially because it meant that the completion of national forest management plans would be delayed so as to incorporate the new inventory and study process.

Prompted by these delays in the forest planning process and continued wilderness debates, the informal Ad Hoc White Mountain National Forest Advisory Committee, comprised of individuals representing conservation organizations, industry, snowmobilers, and others met during the spring of 1983 and developed a consensus recommendation whereby most areas in the forest would be allocated either to wilderness or nonwilderness, thereby ending the wilderness study process and saving untold costs, time, uncertainty, and repetitious efforts by the Forest Service. That consensus recommendation, somewhat modified by an amendment concerning an area in Maine not inventoried and studied in RARE II, is embodied in H.R. 3921 as reported by the committee. Enactment of the recommendation will put 77,000 acres in wilderness and release all other New Hampshire areas except the lands not studied during RARE II. In releasing areas, H.R. 3921 will eliminate the possibility of lawsuits related to wilderness review requirements in the current generation of forest plans and thereby end uncertainties plaguing the National Forest Management Act (section 6) planning effort.

It is because H.R. 3921 will facilitate the planning effort and incorporate key lands in wilderness that I support the legislation. I personally would have preferred to see larger wilderness designations in certain areas. In particular, I believe the bill should have included more wilderness for the 100,000-acre Pemigewasset roadless area. This area is the second largest national forest roadless area east of the Mississippi River, and possesses superlative wilderness values. H.R. 3921 designates 45,000 acres as wilderness, but that, in my opinion, is not enough for this crown jewel of eastern areas. However, it is my understanding that the Ad Hoc White Mountain National Forest Advisory Committee examined the area carefully, and decided to go slow on wilderness designation at this time in order to evaluate the impacts of wilderness designation on future use patterns. I believe virtually all parties agree that the portions of the Pemigewasset not designated wilderness by H.R. 3921 should continue to be managed to preserve and protect their outstanding wild and natural values. The same is true of the Wild River, Kinsman, Carr Mountain, and other key roadless areas not designated wilderness by the bill. Indeed, as is indicated in our committee report on H.R. 3921, any sudden shift in management direction for these key areas which would result in substantial development proposals would likely be a cause for grave concern by the public, and could prompt Congress or the New Hampshire groups which negotiated H.R. 3921 to revisit the wilderness issue.

Having said that, I reiterate that I support H.R. 3921 as a consensus bill that will assist the Forest Service and New Hampshire citizens and interest groups in their cooperative efforts to insure that the national forest lands in New Hampshire are managed in the sensitive manner that they have been in the past. I, therefore, urge my colleague's support of H.R. 3921.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3921, the New Hampshire wilderness bill, and I emphasize New Hampshire.

As my colleagues may know, the bill started out as a simple, noncontroversial New Hampshire bill. As introduced by the two gentlemen from New Hampshire (Mr. D'AMOURS and Mr. GREGG) the bill would have designated three new wilderness areas totaling 77,000 acres in the White Mountain National Forest in New Hampshire.

The bill also released the remainder of the forest, a portion of which falls over into Maine. There were no roadless areas inventoried in Maine during RARE II and release language for that State seemed like a simple, straightforward proposal.

At the 11th hour, however, certain wilderness advocates decided to try and add an area in Maine called the Caribou-Speckled as a defacto wilderness by calling it a study area but providing for protection of its wilderness character until Congress determined otherwise.

Not only was the New Hampshire delegation caught off guard but our committee as well when we were asked to consider an area never really addressed in hearings and not supported by the delegations involved.

The New Hampshire delegation were not anxious to turn a simple, noncontroversial bill into a fight; and the Maine delegation, particularly the gentlewoman from Maine (Mrs. SNOWE) simply had not been given time to study the area and find out how her constituents might feel about 11,000 acres of defacto wilderness.

Reason has prevailed and I compliment the chairman for his decision to return to the compromise we started out with and leave the Maine issue to another day.

The bill is truly a New Hampshire bill. The three wilderness areas remain in the bill. The release language will only apply to New Hampshire but at least that State can now have some time to work out their own position.

The committee did add one area in New Hampshire for additional study. The area is known as the "Kilkenny." However, the study will be done

during the current forest planning cycle.

Again, I am pleased to advise the Members that New Hampshire is still New Hampshire and Maine is still Maine.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. I thank the gentleman for yielding to me.

Mr. Speaker, I wish to express my appreciation to the committee for the extremely prompt manner in which they brought this legislation forward, and I especially appreciate the chairman's interest and the ranking minority member from Alaska for his interest in this.

It is a consensus piece of legislation involving 77,000 acres in New Hampshire and has the strong support of all of the various users of the White Mountain National Forest, including the forestry groups, the snowmobile groups, the hikers, the environmentalists.

It is supported by the entire delegation and will be a good addition to our national forest which is one of the most used national forests in the United States.

Therefore, this is a very positive step, and I appreciate the committee's prompt action.

● Mr. GEJDENSON. Mr. Speaker, I would like to express my support for two bills being considered under suspension of the rules today, H.R. 3921 and H.R. 4198, designating wilderness areas in New Hampshire and Vermont.

Both of these bills establish wilderness areas in response to a 1979 RARE II study. Both have been subject to controversy and extensive negotiation, and neither is perhaps perfect in the eyes of interested parties. H.R. 4198, the Vermont bill, is a compromise carefully worked out among conservationists, the lumber industry, and recreational users; it establishes 39,000 acres of the Green Mountain National Forest as wilderness and creates an additional 22,000 acre national recreation area. While some of us on the committee might have preferred a bill which gave greater consideration to one or another of these interests, H.R. 4198 remains an important vehicle for the preservation of Vermont's unique and beautiful pristine areas, and I am pleased to support it.

H.R. 3195 has been the subject of similar controversy and compromise. It is unfortunate that the bill before us today does not address the question of preservation and study of the Caribou-Speckled region of the White Mountain National Forest, which is located in Maine. Inclusion of this area was part of a compromise accepted by virtually all interests, including the New Hampshire delegation and Rep. SNOWE, in whose district the Caribou-Speckled region lies. I hope that this body will have an opportunity to vote on the fate of this area in the near future. In spite of this significant omission, however, I believe that the preservation of the 77,000 acres in New Hampshire still designated by H.R. 3195 is a significant effort in the protection of our New England wilderness areas.●

● Mr. FOLEY. Mr. Speaker, as you are aware, under rule X, section 1(a)(13), the Committee on Agriculture has jurisdiction over this bill, Mr. Speaker, this bill has not been acted upon by the Committee. The bill was recently reported by the Committee on Interior and Insular Affairs.

Because the Congress will soon adjourn its first session, the Committee on Agriculture has been requested to allow this bill to proceed to the floor of the House and we have no objection to its consideration at this time.

Mr. Speaker, as the distinguished chairman of the committee, Mr. DE LA GARZA, indicated in his letter to you dated today, if any of the provisions of this bill which relate to matters within the jurisdiction of the Agriculture Committee should become an issue with the Senate, the Agriculture Committee will request representation in conference. Further, if the bill is not enacted in the 98th Congress, the Agriculture Committee will seek a referral for full consideration of the merits in any subsequent Congress.●

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3921, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish wilderness areas in New Hampshire."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1920

REPAIR AND MAINTENANCE OF A CERTAIN HIGHWAY LOCATED WITHIN CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2644) to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within the Cape Hatteras National Seashore Recreational Area, as amended.

The Clerk read as follows:

H.R. 2644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Act entitled "An Act to provide for the establishment of the Cape Hatteras National Seashore in the State of North Carolina, and for other purposes", approved August 17, 1937 (50 Stat. 669, as amended, 16 U.S.C. 459-459a-3), is amended further by adding at the end thereof the following new section:

"SEC. 6. (a) The Secretary of the Interior shall enter into an agreement with the State of North Carolina, upon terms and conditions acceptable to the Secretary of the Interior and such State, under which the Secretary of the Interior shall provide up to 50 per centum of the costs of repairing and maintaining the portion of North Carolina highway numbered 12 located within the boundaries of the aforesaid national seashore recreational area, without regard as to whether title to the right-of-way of such highway is in the United States. Such agreement shall provide that the Secretary shall retain control over the standards of roadway reconstruction and maintenance to the extent of assuring the maximum environmental compatibility of such roadway with the landscape of the seashore. Any new spending authority described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974 which is provided under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(b) Any amount appropriated to the Secretary of the Interior for purposes of carrying out an agreement entered into under subsection (a) shall be in addition to, and not in lieu of, any other Federal assistance to which the State of North Carolina is entitled.".

SEC. 2. Any provision of this Act, which directly or indirectly authorizes the enactment of new budget authority, shall be effective only for fiscal years beginning after September 30, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes and

the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2644 is a simple bill which was introduced by our colleague from North Carolina and the distinguished chairman of the Merchant Marine and Fisheries Committee, WALTER JONES. The intent of this bill is to provide for some long needed Federal assistance to the State of North Carolina for the maintenance and repair of State Highway No. 12 located within the boundary of the Cape Hatteras National Seashore.

Cape Hatteras National Seashore is composed of 70 miles of relatively unspoiled barrier islands off the coast of North Carolina. The seashore was created by the act to provide for the establishment of the Cape Hatteras National Seashore, approved August 17, 1937. The authorizing legislation provided that lands were to be secured by the United States only by public or private donation. North Carolina transferred land comprising nearly all of the present-day seashore by deed dated August 7, 1958. The deed, however, specifically reserved to the State a right-of-way for North Carolina Highway 12.

North Carolina Highway 12, is the only road that runs through the Cape Hatteras National Seashore and in recent years, the number of visitors to the seashore has increased greatly and the condition of the road has deteriorated creating safety hazards and impairing the enjoyment of the seashore by the visitors. About 1.8 million persons visit the seashore each year. Eighty-five percent of the traffic on the road is estimated to be recreational traffic.

H.R. 2644 requires the Secretary of the Interior to enter into a contract with the State of North Carolina to provide for the repair and maintenance of North Carolina Highway Number 12 within the Cape Hatteras National Seashore and provides for the payment of up to 50 percent of the cost of such repairs. The Committee on Interior and Insular Affairs specifically amended the bill to require the Secretary of the Interior to share the costs of repair and maintenance of the portion of the highway within the boundary of the seashore but not to pay all of such costs. The committee has also added language to require that the cooperative agreement stipulate that the Secretary shall be responsible for maintaining control over the standards of roadway reconstruction and maintenance. This provision is intended to insure that all work on the road be performed in a manner which is sensitive to the national seashore landscape, and befitting of the area's administration as a unit of the national park system.

There was included in the bill as reported from the Committee on Interior and Insular Affairs a provision regarding the definition of Highway 12 as a park road for the purpose of obtaining funding from the Surface Transportation Assistance Act. Except for the technicality that the right-of-way for Highway 12, within the boundary of the seashore is owned by the State of North Carolina, the road would undoubtedly have qualified as a park road. This provision was objected to by the Public Works and Transportation Committee and has been removed from the bill, with the consent of all parties.

Mr. Speaker, I believe our colleague WALTER JONES has done an outstanding job of working out the needed compromises to assure an equity of expenditure for the maintenance of this road between the Federal Government and the State of North Carolina and I strongly urge my colleagues to support the passage of H.R. 2644.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure (H.R. 2644) provides for the Secretary of the Interior to financially assist in the maintenance and reconstruction of a State-owned highway which runs the length of the Cape Hatteras National Seashore Recreational Area, a unit of the national park system in North Carolina. The State will continue to hold title to the road right-of-way, but the Federal Government will assist in the upkeep of the road through the terms of a cooperative agreement to be consummated as a result of this legislation. The cooperative agreement must provide that the National Park Service will maintain control over all standards to which the roadway is to be redesigned, reconstructed and/or maintained. The intention of this provision is to assure that the roadway's continued existence will always be maintained in a manner which is environmentally sensitive to the natural landscape of the seashore, and in accordance with national park system roadway standards.

Mr. Speaker, I have no further comments on this bill, and I urge its adoption by the House.

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my distinguished colleague, the ranking minority member on the Subcommittee on Public Lands and National Parks, the gentleman from Alaska (Mr. DON YOUNG), for the support he has given to our efforts to dispose of this legislation in a bipartisan and cooperative manner.

I also wish to thank the House for its indulgence for going 6 minutes beyond the agreed upon time in order that we might dispose of these bills.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I accept the gentleman's thanks and want to thank the chairman of the subcommittee because these bills have been worked out with the cooperation of the delegation and the chairman and the members of the committee, and it shows that we can work together to set aside those acreages of land in the East and West so that people can enjoy them.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 2644, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VACATING MOTION REGARDING HOUSE JOINT RESOLUTION 1

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the motion regarding House Joint Resolution 1 made by the gentleman from California (Mr. PANETTA) be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST TO MAKE IN ORDER RULE FOR CONSIDERATON OF HOUSE JOINT RESOLUTION 1 ON WEDNESDAY OR ANY DAY THEREAFTER

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the resolution introduced by the gentleman from New York (Mr. FISH) specifying a rule for consideration of House Joint Resolution 1 be made in order for consideration by the House on Wednesday or any day thereafter.

The SPEAKER pro tempore. The Chair cannot entertain that motion without consultation with the leadership. The Chair will not recognize the gentleman for that purpose.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, my parliamentary inquiry is that this is a unanimous-consent request and it is entirely in order.

The SPEAKER pro tempore. The Chair has the same right to object as any Member, and I do so object.

□ 1930

GENERAL LEAVE

Mr. WYDEN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the subject of the special order speech today by the gentleman from New York (Mr. SCHUMER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

BANKRUPTCY: THE CRISIS THAT WON'T GO AWAY—I

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 30 minutes.

● Mr. FISH. Mr. Speaker, we are confronting a crisis in Bankruptcy, and it won't go away. Unless Congress acts, our system of bankruptcy adjudication will come to a halt on March 31, 1984, less than 5 months from today.

Under section 404(b) of the Bankruptcy Act of 1978 the presently sitting bankruptcy judges are authorized to serve only in the transition bankruptcy courts established in section 404(a), which go out of existence next March 31. Under section 405(a), the sitting judges are authorized to exercise only the jurisdiction and powers conferred on those transition courts. On April 1, 1984, therefore, no qualified bankruptcy judges will be available to preside.

The consequences will be awesome. Half a million consumer bankruptcies, involving billions of dollars in creditors' claims, will be thrust into judicial limbo, as will pending corporate bankruptcies affecting tens of thousands of employees and additional billions in assets and liabilities.

As a prerequisite for congressional action, a sense of urgency on the bankruptcy courts issue must move swiftly outwards from the relatively few members who have heard testimony or who have recently had other direct contact with bankruptcy judges, practitioners, or concerned business interests. There is no time to spare. It is for this reason that I am delivering a series of four speeches to the House this week on consecutive days to familiarize more Members with the origin of the present crisis, the need for a response of clear constitutionality, the legislative roadblocks that have developed, and the possibilities for compromise.

I recognize that bankruptcy is probably second only to copyright law as an issue emanating from the House Judiciary Committee that sends members back to their offices for more exciting and rewarding constituent matters. But the crisis will not go away.

After filing for bankruptcy, an individual or business debtor is either: First, financially rehabilitated, or second, assets are assembled and liquidated for distribution to the creditors. A prime objective of the Bankruptcy Code is to rehabilitate the debtor and preserve assets to the extent possible. Proceedings range from corporate reorganizations involving thousands of creditors, hundreds of millions of dollars in assets and claims, and an endless variety of Federal and State substantive law issues all the way to the simplest consumer bankruptcies. A 1983 GAO study found that the typical consumer debtor who files for straight bankruptcy under chapter 7 of the Bankruptcy Code is a clerical or blue-collar worker with a before-tax income of $13,497 and an average debt level of $31,674. He is a nonhomeowner and has few assets. The major factors influencing consumer bankruptcy, according to the GAO, are increases in the cost of living, too many debts, easy credit availability, unemployment, unusual medical bills and threats of creditor actions. This is consistent with other recent studies which have been made.

Prior to the 1978 Reform Act, bankruptcy courts exercised jurisdiction only over property in the actual or constructive possession of the court, except to the extent that the parties consented to its exercise of jurisdiction over a particular controversy. Without such consent, the claims of debtors against third parties would languish for years on the dockets of State courts or Federal district courts, even when their prompt resolution was absolutely critical to the successful reorganization of a distressed enterprise.

The essential weakness of the pre-1978 bankruptcy system was this bifurcation, or the division of bankruptcy cases between matters that could be heard by bankruptcy courts and matters that must be heard by courts of general jurisdiction—either Federal district courts or State courts. This archaic structure imposed an enormous burden in excessive, duplicative, costly, and wasteful litigation which undermined both the rehabilitative and preservation-of-assets objectives of the bankruptcy law.

By 1978, about 250,000 bankruptcy cases were pending throughout the country, a figure which has since more than doubled. The case for extensive reform of the bankruptcy court system and the substantive law had been clearly demonstrated by a national study commission and 4 years of exhaustive congressional hearings. The result was congressional enactment of the Bankruptcy Act of 1978, the first comprehensive reform of bankruptcy law and adjudication since 1898. At the heart of the new code was the determination that bankruptcy courts must have jurisdiction not only over bankruptcy cases but over all matters arising in or related to such cases, including claims arising under State as well as Federal law. The era of bifurcated cases thus came to an end. There is no one who seriously questions that this reform has led to a remarkable improvement in the efficiency, effectiveness, and economy of our bankruptcy system and has immeasurably benefited the public interest. These gains will be lost if, as some may propose, we turn the clock back to limit the new unified jurisdiction of the bankruptcy courts.

Congress concluded in 1978 that the bankruptcy system would be unworkable if the primary judicial responsibility for bankruptcy proceedings were to be vested in the already overburdened Federal district courts. Furthermore, the expedited handling of criminal matters required by the Speedy Trial Act would inevitably disrupt the prompt disposition of bankruptcy matters which is frequently essential to the conservation of assets, the payment of creditors and the survival of debtors. Bankruptcy had also become too specialized and required too much particular expertise to be handled by a generalist court. In short, it was clear that bankruptcy cases would have to be dealt with by a specialist court independent of the Federal district courts, and this was the structure which Congress adopted.

The Bankruptcy Reform Act established a transition period ending on March 31, 1984, during which the carryover bankruptcy judges appointed by the district courts would serve on courts of bankruptcy constituted as separate departments of the district court. The act further provides that the new U.S. Bankruptcy Court come into existence on April 1, 1984, and shall have its judges appointed for 14 year terms by the President. Tomor-

row, I shall discuss how this provision led directly to the present crisis in bankruptcy.●

PASS THE ERA WITH CLARIFYING AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 30 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, I rise this evening against the unfair, undemocratic procedure under which we today considered the proposed equal rights amendment.

That procedure precluded any Member from offering any amendment whatsoever to the ERA and restricted debate on this vital issue to a mere 40 minutes.

I point out to my colleagues that even the chairman of the House Judiciary's Subcommittee on Civil and Constitutional Rights—a Member who by the way opposes all amendments—has stated that he wants an open rule on the ERA.

In a letter dated June 27, 1983, Chairman EDWARDS wrote: "we will bring it [ERA] to the House floor under an open rule. I agree with you that any bill as important as a proposed constitutional amendment should have an open rule."

The distinguished chairman of the full Judiciary Committee, Mr. RODINO of my home State, has spoken eloquently to the question of open debate for constitutional amendments. When the House was considering limiting debate to 1 hour on a busing constitutional amendment in 1979 Mr. RODINO declared:

> Such a spectacle, I must suggest, would demean our democratic system, this legislative body, and each of us. (Congressional Record, July 27, 1979 H6431.)

The ERA had 40 minutes today, Mr. Speaker, 40 minutes.

I rise as a Member who would very much like to support the ERA. But I consider it my duty, in conscience, to insist that it be properly amended with clarifying language in some fundamental areas of law to prevent sweeping reversals of important public policy by the courts.

I strongly support clarifying amendments that certainly would have been offered here today had the House Democratic leadership not imposed an absolute closed rule precluding such amendments.

I would point out to my colleagues that even Lane Kirkland, president of the AFL-CIO has recognized the need for clarifying amendments. In his testimony before a House subcommittee he said:

> Finally, while we recognize that a few substantial issues have been raised—such as the effect, if any, of the ERA on the right to an abortion and the status under the ERA of restrictions on the role women may play in the military services—we believe Congress may, and should, provide authoritative guidance to the courts in these areas.

In order to provide the House with a full and open debate on the ERA, and to allow amendments to ERA, I have cosponsored the open rule resolution introduced earlier today by ERA suporter Representative HAMILTON FISH of New York.

That resolution would allow 4 hours of debate—not 40 minutes—and amendments to ERA would be made in order. Mr. FISH's resolution is a fairness rule and I sincerely hope it helps facilitate prompt consideration of the ERA in this House.

Mr. Speaker, the first amendment this body could and should have considered today would have effectively taken abortion out of the ERA. It reads:

> Nothing in the Article [ERA] shall be construed to grant or secure any right relating to abortion or the funding thereof.

The abortion neutral amendment would eliminate the distinct possibility that the ERA, if unamended, would strike the Hyde amendment as unconstitutional.

According to prominent ERA advocates the main legal effect of ERA would be to turn sex-based classifications into "suspect classifications" under the Constitution—just as race-based classifications are now. Thus under the ERA, sex-based classification would receive the same so-called "strict judicial scrutiny"—a rigid constitutionality test employed by the Court—which race-based classifications now receive.

Representative HENRY HYDE, author of the Hyde amendment stated before a Senate subcommittee on May 26, 1983:

> Since 1970, the ERA advocates have emphasized that the Amendment's principal legal effect would be to make sex a "suspect classification" under the Constitution. The most important "suspect classification" at present is race. If sex discrimination were treated like race discrimination, government refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races. Suppose the Federal Government provided funding for procedures designed to treat most diseases, but enacted a special exclusion for sickle-cell anemia (which affects only black people). The courts would certainly declare that exclusion unconstitutional.

On October 20, 1983, the Congressional Research Service—a branch of the Library of Congress—issued a legal analysis of the ERA-abortion connection. The CRS report included this conclusion:

> • • • if strict scrutiny, the most active form of judicial review, is the standard applied [under ERA], then the answer to the question whether pregnancy classifications are sex-based classifications would seem to be affirmative. It would then follow that the ERA would reach abortion and abortion funding situations. It is very difficult for the government to meet the burden of showing that the classifications in question serves a compelling state interest, thus, classifications subjected to active review are almost always invalidated as being violative of the Constitution.

Mr. Speaker, put another way, the Hyde amendment and other pro-life initiatives would be decimated by the Court. Mr. Speaker another important amendment—that I support—would have prevented the Supreme Court from striking as unconstitutional current law barring women from assignment to combat duty roles. This amendment is supported by numerous organizations including the Veterans of Foreign Wars (VFW). The amendment reads: "This article [ERA] shall not be construed to require the assignment of women to military combat."

In a scholarly Yale Law Journal article entitled "The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women," four constitutional experts—Brown, Emerson, Falk, and Freedman—wrote "women will serve in all kinds of military units and they will be eligible for combat duty."

Senator ORRIN HATCH, chairman of the Senate Judiciary Committee states in his book, "The Equal Rights Amendment, Myths and Realities":

> Not only would men and women likely be drafted on equal terms, but they would likely be assigned to all military duties on equal terms, including combat duty. This would alter current law in which women are excluded from most combat positions, including infantry and armor specialist, field artillery, and air defense.
>
> ERA proponents frequently minimize the difficulties involved in equal combat roles by emphasizing that only "qualified" men and women would be assigned to combat. This is a deceptive argument. It is deceptive in that recent civil rights history repeatedly shows that where eligibility standards and tests fail to result in "representative" proportions of minority individuals in employment positions, or in colleges and universities, the customary response of civil rights proponents has been to call into question the eligibility standards and tests themselves—in other words, blame the messenger for the message.
>
> If military requirements establish minimum levels of upper body strength or physical endurance, for example, and almost all males satisfy that standard and almost no women do, the validity of the standards themselves will be challenged in court rather than feminist organizations conceding that the neutral application of these requirements simply results in fewer female than male troops. This is not pipe-dreaming or speculation; it is already taking place. It is taking place, for example, at the military academies where women are no longer subject to the same standards as men in the arts of boxing or wrestling or in developing upper body physical strength. It is taking place in the military itself where women are exempt from some of the most rigorous physical tasks. And it is taking place in a similar manner outside the military where requirements for police and firefighters and prison guards are being altered where they lead to "under-representation" for women. If women are unable to satisfy a firefighting

test of being able to drag a 300 pound body 100 yards, then demands are made for tests of 200 pounds and 75 yards.

. . . The realities of life, as Brigadier General Elizabeth Hoisington has described them, are that,

"Women cannot match men in aggressiveness, physical stamina, endurance, and muscular strength in long-term situations. In a protracted engagement against an enemy, soldiers with these deficiencies would be weak links in our armor. We cannot build a winning army if the soldiers in it have no confidence in the long-term mental and physical stamina of their comrades."

The Equal Rights Amendment would effect a revolution in the way that the military does service for this country. It is far from clear that this revolution is one desired by the American people; that it is consistent with their values; or that it would not undermine the primary responsibility of a free government—the preservation of the national security.

Mr. Speaker, another important amendment that I believe should be added to the ERA would protect veterans preference from being invalidated as unconstitutional. The amendment reads: "This article shall not be construed to affect any benefit or preference given by the United States or any State to our veterans."

Indeed the threat to veteran's preference is real but little discussed. The Women's Defense Fund, for example, has argued that "veterans preference programs, by which veterans are given strict hiring preference in civil service positions, are in violation of the Constitution because more men than women are veterans."

Again, as in the abortion funding issue and women in combat, the application of a strict judicial scrutiny court test—the acknowledged aim of the ERA lobby—would result in veterans preference being invalidated by the courts.

Mr. Speaker, just as clarifying language is necessary to protect women from being forced into combat roles, this amendment enjoys the support of key veterans organizations including the Veterans of Foreign War (VFW).

As a matter of fact, VFW National Commander Clifford G. Olson has stated that it is "imperative" that the ERA contain these two important amendments. In a letter to Members of Congress dated November 10, 1983 he wrote:

If these amendments are not made to the legislation, it will be wholly unacceptable to the more than 2.6 million members of the Veterans of Foreign Wars of the United States and our Ladies Auxiliary and I would urge you in the strongest terms to vote against the passage of H.J. Res. 1 (ERA).

Mr. Speaker, I would like to speak to another amendment that was to be offered here on the floor today but you would not allow an amendment which was narrowly defeated in the full Judiciary Committee last week. The amendment would have protected single sex schools—seminaries, all-boy or all-girl high schools, colleges and the like—from being attacked as discriminatory. The amendment reads: "Nothing in this Article (ERA) shall be construed to relate to private or parochial educational institutions." Prof. Jeremy Rabkin, the director of the program on public policy and the courts at Cornell University, testified before the Senate Subcommittee on the Constitution that:

It seems inescapable that all single-sex institutions must be denied tax exemptions. Thus, ERA would not only make all-women colleges ineligible for tax exemptions, but also Catholic seminaries, for example, unless they admit women for training to the priesthood.

He further stated:

It seems inescapable that an institution like Yeshiva University of New York, which does have coeducational programs, must still forfeit its tax exemption if it maintains separate seating for men and women in religious services.

Professor Mongan of Columbia Law School stated in testimony before the House Subcommittee on Civil and Constitutional Rights said:

I think you could also revoke the tax exemption of even a theological school or seminary that was discriminating.

I think it should be clear that the ERA proposal is in need of some meaningful amendment to strengthen it. But that vital deliberative process, again let me say, has been frustrated by the Speaker of the House.

Mr. Speaker, a constitutional amendment is indeed a sober undertaking. The consideration of the ERA by the House of Representatives has been trivialized by its treatment here today. It is my earnest desire, Mr. Speaker, to see the ERA passed in this Congress and ratified by the States in a meaningful, responsible form, absent its present liabilities.

The Speaker of the House has denied us that opportunity today.

Mr. Speaker, lest anyone be tempted to simple-minded conclusions, let no one misconstrue my vote here today.

Today, I vote against an unfair procedure—a procedure that forbids clarifying amendments. I vote for the right of Members to offer amendments to clearly define the ERA. After all, Mr. Chairman, I support all the major initiatives, past and present, to insure equality under law for women.

To illustrate and underscore this point, I point out to my colleagues that I strongly support the following:

First. Equal Pay Act—prohibits discrimination on the basis of sex in the payment of wages for equal work performed.

Second. Title VII—prohibits discrimination on the basis of sex with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

Third. Title IX—prohibits discrimination on the basis of sex in education programs that receive Federal support.

Fourth. Revenue Acts—provides for the deduction of child care expenses, allows IRA's for nonworking spouses, and eliminates estate tax for widows.

Fifth. Manpower Act—prohibits discrimination on the basis of sex in regard to Federal jobs programs.

Sixth. Housing and Community Development Act—prohibits discrimination on the basis of sex in housing and mortgage lending.

Seventh. Title VIII—prohibits discrimination on the basis of sex in rentals and home selling.

Eighth. Equal Credit Opportunity Act—forbids discrimination on the basis of sex in any aspect of credit transactions.

Ninth. Pregnancy Disability Act—requires employers to include coverage of maternal benefits within the scope of health insurance programs.

Tenth. Executive Order 11246 (as amended)—prohibits discrimination in employment on the basis of sex on the part of governmental contractors.

Mr. Chairman—pending legislation that I have cosponsored and support which would aid women includes:

First. H.R. 2090; Economic Equity Act—an omnibus bill aimed at eliminating sex discrimination in such areas as tax and retirement matters, dependent care. Insurance and child support and enforcement. I am proud to be a cosponsor of this legislation.

Second. House Resolution 109—a resolution expressing the sense of the House on the need to maintain guidelines which ensure equal rights with regard to educational opportunity. I am a cosponsor.

Third. H.R. 1527; Federal Equity Act—a bill to amend the laws of the United States to eliminate gender-based distinctions throughout the United States Code. I have cosponsored this legislation.

Fourth, H.R. 4280, revision of H.R. 2100, women's pension equity—a measure that seeks to remove inequitable restrictions on women currently sanctioned by Employee Retirement Income Security Act (ERISA). Would improve credit for maternity leave; expand IRA contribution; insure survivors pensions if spouse dies before annuity starts. I have cosigned letters to six committee leaders urging favorable and expeditious consideration of this legislation.

Fifth, H.R. 4325, Child Support Enforcement Amendments of 1983. A bill that insures that children will be able to receive financial support from delinquent parents. Encourages interstate enforcement, and requirement of spousal support as well. I have cosponsored another bill, H.R. 3354 which would go even further than the new bill, to protect the rights of spouses and their children. However, H.R. 4325

was reported from committee and is presumably the bill that we will consider on the floor. This legislation also has my support.

Mr. Chairman, the ERA must be amended. I urge my colleagues to defeat the motion to suspend the rules and support an open rule—the fairness rule—so that this House will be able, at some not too distant future date, to properly address and debate the ERA and consider several rational, substantive amendments to it.

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Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I would like to commend the gentleman for his statement and note to him that I was one of those individuals and I think there are many of us in the House who support ERA and would have voted for it had it come up in a fair manner and had it come up in a disposition in which it would be possible to put in some of the key amendments that the gentleman talked about.

I commend him for his understanding of the issue and I think that ultimately we will have a chance to shape the ERA in a manner in which it can be passed and become the law of the land.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I did want to point out to the gentleman that just a few minutes ago I tried, through unanimous-consent requests, to make it in order for the House to consider that rule filed by the gentleman from New York (Mr. FISH) tomorrow or any day thereafter so that those of us who do favor the equal rights amendment would have an opportunity to have it considered very soon under a rule that would allow the offering of amendments.

And I am disappointed to say that a very unusual procedure was used in which the Chair objected to that unanimous-consent request. That is the first time I have ever seen it in the time that I have been in the House of Representatives.

So that I think, we see that we even have the Chair now blocking efforts to address some of the amendments, amendments which the Speaker of the House in his remarks on the floor today admitted that probably two of those amendments would pass and that that is the reason why we were not given an opportunity for democracy to work.

It is a very, very unusual procedure.

I thank the gentleman for his contribution in allowing the people of the country to understand just exactly what is going on here in the House.

Mr. SMITH of New Jersey. I thank the gentleman from Pennsylvania.

And I would like to remind my colleagues that there were several attempts made by the gentleman from California (Mr. LUNGREN) and I believe the gentleman from Pennsylvania through unanimous-consent requests to allow for an open rule, to allow amendments to be considered on the floor regarding ERA, and each and every time those requests were objected to.

And I know that the gentleman from Pennsylvania and my friend from California are supporters, as am I, of the equal rights amendments. We were precluded that opportunity to amend it in a way that will insure, in my opinion, its passage and ratification when it gets out to the several States.

So again I thank the gentleman for his contribution.

Mr. Speaker, I yield back the balance of my time.

THE PLIGHT OF THE BAHA'IS IN IRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PORTER) is recognized for 60 minutes.

Mr. PORTER. Mr Speaker, In calling for this special order today I am joined by several of my colleagues. I would like to express my appreciation to Mr. YATRON, chairman of the Foreign Affairs Subcommittee on Human Rights and International Organizations, Mr. LEACH, ranking minority member of that subcommittee, and Mr. LANTOS, my cochairman of the Congressional Human Rights Caucus for their hard work in calling attention to the plight of the Baha'is in Iran.

The Baha'i faith was founded in Persia—now Iran—over 100 years ago. Its followers practice a faith driven to bring about the unity of mankind, world peace, and world order. The Baha'i faith teaches the essential beliefs of all organized religions which include social equality, pacifism, and tolerance.

It is a crime against all humanity that the Baha'is, a people who practice their belief of nonviolence and unity among mankind, are victims of the wrath of the Ayatollah Khomeini and his murderous regime. During the past 3 years over 150 leaders of the Baha'i faith have been executed. Countless others have been subject to other kinds of persecution including arrest for imaginary crimes, confiscation of their personal property, and expropriation of Baha'i-owned corporations' property. Baha'is have been fired from their jobs and their holy shrine has been destroyed by an angry mob organized by the ayatollahs.

The leaders of the Iranian Government deny that their treatment of the Bahai's is based on religious differences. However, it is clear to impartial observers that this persecution is based on the fact that the Baha'i faith is seen as a challenge to the Shiite belief that Islam is the final religion and that Muhammed was the last prophet to appear on Earth.

In an attempt to remove the Baha'i from Iran, the Prosecutor General of Iran recently decreed a comprehensive ban on all Baha'i teaching and organized religious activities—including election of local and national leaders, and "giving information to others"—which threatens the very survival of the Irananian Baha'i community.

Like the Nuremberg laws, the new edict announced by the Prosecutor General on August 29 establishes the so-called legal grounds for mass arrests and genocide. It is the single most serious development in the continuous persecution of the Baha'i.

In response to the new decree, the elected leaders of the Baha'i National Spiritual Assembly of Iran, citing the Baha'i tenet of obedience to the civil law of the land, have dissolved all Baha'i institutions in Iran.

This edict, combined with the past history of persecution, are absolutely appalling. The persecution of the Baha'i in Iran is presently the only case in the world in which people are being persecuted and killed solely on account of their religious beliefs and not because of their political opposition to the regime in power.

The United States and the Congress have consistently played a leading role in fighting for fundamental freedoms of oppressed people around the world. We must continue to call attention to the situation of the Baha'i in Iran and do all that we can to halt the persecution.

In an attempt to call attention to this horrible situation, I am introducing a resolution, with 59 cosponsors, which states that the Congress holds the Government of Iran responsible for upholding the rights of all its citizens, condemns the August 29 edict, and calls upon the President of the United States to work with other governments to form an appeal to the Government of Iran, to cooperate with the United Nations in its efforts on behalf of the Baha'is and to lead these efforts when appropriate, and also to provide humanitarian assistance for Baha'is who are able to flee Iran.

At this point, I would like to insert in the record an open letter written by the leaders of the National Spiritual Assembly in Iran to government officials in Iran. This letter was written and distributed at great personal risk, since 17 of the predecessor leaders have either been hanged or disappeared. In this letter they discuss some of the charges leveled against Baha'is by the Khomeini regime, their commitment to following the law of

the land by disbanding all official structures, and finally call upon the Prosecutor General to demonstrate that the Iranian Government does not persecute Baha'is for their religious beliefs. The Baha'is outline 13 specific measures in their letter that they ask the Iranian Government to adopt to protect their religious beliefs and practices.

I urge my colleagues to read this meaningful letter and ask them to raise their voices in opposition to the program instituted by the Khomeini regime evidently aimed at destroying the Baha'i religion in Iran. We can only hope that these misguided religious fanatics will finally hear the protests of outrage unleashed by the world community and cease their unforgivable persecution of the Baha'is.

THE BANNING OF BAHA'I RELIGIOUS INSTITUTIONS; AN OPEN LETTER

(Translated from Persian—September 3, 1983)

Recently the esteemed Prosecutor General of the Islamic Revolution of the Country, in an interview that was published in the newspapers, declared that the continued functioning of the Baha'i religious and spiritual administration is banned and that membership in it is considered to be a crime. This declaration has been made after certain unjustified accusations have been levelled against the Baha'i community of Iran and after a number of its members—ostensibly for imaginary and fabricated crimes but in reality merely for the sake of their beliefs—have been either executed, or arrested and imprisoned. The majority of those who have been imprisoned have not yet been brought to trial.

The Baha'i community finds the conduct of the authorities and the judges bewildering and lamentable—as indeed would any fair-minded observer who is unblinded by malice. The authorities are the refuge of the people; the judges in pursuit of their work of examining and ascertaining the truth and facts in legal cases devote years of their lives to studying the law and, when uncertain of a legal point, spend hours poring over copious tomes in order to cross a "t" and dot an "i". Yet these very people consider themselves to be justified in brazenly bringing false accusations against a band of innocent people, without fear of the Day of Judgment, without even believing the calumnies they utter against their victims, and having exerted not the slightest effort to investigate to any degree the validity of the charges they are making. "Methinks they are not believers in the Day of Judgment." [Hafiz, a 14th century Persian poet]

The honorable Prosecutor has again introduced the baseless and fictitious story that Baha'is engage in espionage, but without producing so much as one document in support of the accusation, without presenting proof in any form, and without any explanation as to what is the mission in this country of this extraordinary number of "spies": what sort of information they obtain and from what sources? Whither do they relay it, and for what purpose? What kind of "spy" is an eighty-five year old man from Yazd who has never set foot outside his village? Why do these alleged "spies" not hide themselves, conceal their religious beliefs and exert every effort to penetrate, by every stratagem, the Government's information centers and offices? Why has no Baha'i "spy" been arrested anywhere else in the world? How could students, housewives, innocent young girls, and old men and women, such as those blameless Baha'is who have recently been delivered to the gallows in Iran, or who have become targets for the darts of prejudice and enmity, be "spies"? How could the Baha'i farmers of the villages of Afus, Chigan, the Fort of Malak (near Isfahan), and those of the village of Nuk in Birjand, be "spies"? What secret intelligence documents have been found in their possession? What espionage equipment has come to hand? What "spying" activities were engaged in by the primary school children who have been expelled from their schools?

And how strange! The honorable Prosecutor perhaps does not know, or does not care to know, that spying is an element of politics, while noninterference in politics is an established principle of the Baha'i Faith. On the contrary, Baha'is love their country and never permit themselves to be traitors. 'Abdu'l-Baha, the successor of the Founder of the Baha'i Cause, says: "Any abasement is bearable except betraying one's own country, and any sin is forgivable other than dishonoring the government and inflicting harm upon the nation."

All the other accusations made against the Baha'is by the honorable Prosecutor of the Revolution are similarly groundless. He brands the Baha'i community with accusations of subversion and corruptions. For example, on the basis of a manifestly forged interview, the falsity of which has been dealt with in a detailed statement, he accuses the Baha'i community of hoarding, an act which its members would consider highly reprehensible. The Prosecutor alleges that the Baha'i administration sanctioned the insensible act of hoarding, yet he subtly overlooks the fact that with the proceeds that might be realized from the sale of unusable automobile spare parts whose total value is some 70 million tumans—the value of the stock of any medium-size store for spare parts—it would be impossible to overthrow a powerful government whose daily expenditures amount to hundreds of millions of tumans. If the Prosecutor chooses to label the Baha'i administration as a network of espionage, let him at least consider it intelligent enough not to plan the overthrow of such a strong regime by hoarding a few spare parts! Yes, such allegations of corruption and subversion are similar to those hurled against us at the time of the Episcopalian case in Isfahan when this oppressed community was accused of collaboration with foreign agents, as a result of which seven innocent Baha'is of Yazd were executed. Following this the falsity of the charges was made known and the Prosecutor announced the episode to be the outcome of a forgery.

Baha'is are accused of collecting contributions and transferring sums of money to foreign countries. How strange! If Muslims, in accordance with their sacred and respected spiritual beliefs, send millions of tumans to Karbala, Najaf and Jerusalem, or to other Muslim holy places outside Iran, to be spent on the maintenance and upkeep of the Islamic sacred shrines, it is considered very praiseworthy; but if a Baha'i—even during the time in which the transfer of foreign currency was allowed—sends a negligible amount for his international community to be used for the repair and maintenance of the holy places of his faith, it is considered that he has committed an unforgivable sin and it is counted as proof that he has done so in order to strengthen other countries.

Accusations of this nature are many but all are easy to investigate. If just and impartial people and God-fearing judges will only do so, the falsity of these spurious accusations will be revealed in case after case. The Baha'i community emphatically requests that such accusations be investigated openly in the presence of juries composed of judges and international observers so that, once and for all, the accusations may be discredited and their repetition prevented.

The basic principles and beliefs of the Baha'is have been repeatedly proclaimed and set forth in writing during the past five years. Apparently these communications, either by deliberate design or by mischance, have not received any attention, otherwise accusations such as those described above would not have been repeated by one of the highest and most responsible authorities. This in itself is a proof that the numerous communications referred to were not accorded the attention of the leaders; therefore, we mention them again.

The Baha'i Faith confesses the unity of God and the justice of the divine Essence. It recognizes that Almighty God is an exalted, unknowable and concealed entity, sanctified from ascent and descent, from egress and regress, and from assuming a physical body. The Baha'i Faith which professes the existence of the invisible God, the One, the Single, the Eternal, the Peerless, bows before the loftiness of His Threshold, believes in all divine Manifestations, considers all the Prophets from Adam to the Seal of the Prophets as true divine Messengers Who are the Manifestations of Truth in the world of creation, accepts Their Books as having come from God, believes in the continuation of the divine outpourings, emphatically believes in reward and punishment and, uniquely among existing revealed religions outside Islam, accepts the Prophet Muhammad as a true Prophet and the Qur'an as the Word of God.

The Baha'i Faith embodies independent principles and laws. It has its own Holy Book. It prescribes pilgrimage and worship. A Baha'i performs obligatory prayers and observes a fast. He gives, according to his beliefs, tithes and contributions. He is required to be of upright conduct, to manifest a praiseworthy character, to love all mankind, to be of service to the world of humanity and to sacrifice his own interests for the good and well-being of his kind. He is forbidden to commit unbecoming deeds. 'Abdu'l-Baha says: "A Baha'i is known by the attributes manifested by him, not by his name: he is recognized by his character, not by his person."

Shoghi Rabbani, the Guardian of the Baha'i Cause, says: ". . . a person who is not adorned with the ornaments of virtue, sanctity, and morality, is not a true Baha'i, even though he may call himself one and be known as such."

He also says: "The friends of God . . . are required to be virtuous, well-wishers, forbearing, sanctified, detached from all except God and free from worldly concerns. They are called upon to manifest divine attributes and characteristics."

The teachings and laws of the Baha'i religion testify to this truth. Fortunately, the books and writings which have been plundered in abundance from the homes of Baha'is and are available to the authorities, bear witness to the truth of these assertions. Baha'is, in keeping with their spiritu-

al beliefs, stay clear of politics; they do not support or reject any party, group or nation; they do not champion or attack any ideology or any specific political philosophy; they shrink from and abhor political agitation. The Guardian of the Baha'i Cause says, "The followers of Baha'u'llah under whatever state or government they may reside should conduct themselves with truthfulness, fidelity, trustworthiness and absolute virtue. . . . They neither thirst for fame nor clamor for leadership. They neither indulge in flattery, nor practice hypocrisy, nor are they impelled by selfish ambition or the desire to accumulate wealth. They are not anxious to attain high ranks and positions, nor are they the bond-slaves of titles and honors. They abhor every form of ostentation and are far removed from the use of such methods as would entail violence or coercion. They have detached themselves from all else save God and have fixed their hearts upon the unfailing promises of their Lord. . . . They have become forgetful of their own selves and have dedicated themselves to that which will serve the interests of humanity. . . . They unhesitating refuse such functions and posts as are political in nature, but wholeheartedly accept those that are purely administrative in character. For the cardinal aim of the people of Baha is to promote the interests of the whole nation. . . .

"Such is the way of the followers of Baha, such is the attitude of the spiritually-minded, and whatsoever else is but manifest error."

Also, Baha'is, in accordance with their exalted teachings, are duty bound to be obedient to their government. Elucidating this subject, Shoghi Rabbani says: "The people of Baha are required to obey their respective governments, and to demonstrate their truthfulness and good will towards the authorities. . . . Baha'is, in every land and without any exception should . . . be obedient and bow to the clear instructions and the declared decrees issued by the authorities. They must faithfully carry out such directives."

Baha'i organizations have no aim except the good of all nations and do not take any steps that are against the public good. Contrary to the conception it may create in the mind because of the similarity in name, it does not resemble the current organizations of political parties; it does not interfere in political affairs; and it is the safeguard against the involvement of Baha'is in subversive political activities. Its high ideals are "to improve the characters of men; to extend the scope of knowledge; to abolish ignorance and prejudice; to strengthen the foundations of true religion in all hearts; to encourage self-reliance, and discourage false imitation; . . . to uphold truthfulness, audacity, frankness, and courage; to promote craftsmanship and agriculture; . . . to educate, on a compulsory basis, children of both sexes; to insist on integrity in business transactions; to lay stress on the observance of honesty and piety; . . . to acquire mastery and skill in the modern sciences and arts; to promote the interests of the public; . . . to obey outwardly and inwardly and with true loyalty the regulations enacted by state and government; . . . to honor, to extol and to follow the example of those who have distinguished themselves in science and learning. . . ." And again, ". . . to help the needy from every creed or sect, and to collaborate with the people of the country in all welfare services.

In brief, whatever the clergy in other religions undertake individually and by virtue of their appointment to their positions, the Baha'i administration performs collectively and through an elective process.

The statements made by the esteemed Prosecutor of the Revolution do not seem to have legal basis, because in order to circumscribe individuals and deprive them of the rights which have not been denied them by the Constitution, it is necessary to enact special legislation, provided that legislation is not contradictory to the Constitution. It was hoped that the past recent years would have witnessed, on the one hand, the administration of divine justice—a principle promoted by the true religion of Islam and prescribed by all monotheistic religions—and, on the other, and coupled with an impartial investigation of the truths of the Baha'i Faith, the abolition or at least mitigation of discrimination, restrictions and pressures suffered by Baha'is over the past 135 years. Alas, on the contrary, because of long-standing misunderstandings and prejudices, the difficulties increased immensely and the portals of calamity were thrown wide open in the faces of the long-suffering and sorely oppressed Baha'is of Iran who were, to an even greater degree, deprived of their birthrights through the systematic machinations of Government officials who are supposed to be the refuge of the public, and of some impostors in the garb of divines, who engaged in official or unofficial spreading of mischievous and harmful accusations and calumnies, and issued, in the name of religious and judicial authorities, unlawful decrees and verdicts.

Many are the pure and innocent lives that have been snuffed out; many the distinguished heads that have adorned the hangman's noose; and many the precious breasts that became the targets of firing squads. Vast amounts of money and great quantities of personal property have been plundered or confiscated. Many technical experts and learned people have been tortured and condemned to long-term imprisonment and are still languishing in dark dungeons deprived of the opportunity of placing their expertise at the service of the Government and the nation. Numerous are the self-sacrificing employees of the Government who spent their lives in faithful service but who were dismissed from work and afflicted with poverty and need because of hatred and prejudice. Even the owners of private firms and institutions were prevented from engaging Baha'is. Many privately-owned Baha'i establishments have been confiscated. Many tradesmen have been denied the right to continue working by cancellation of their business licenses. Baha'i youth have been denied access to education in many schools and in all universities and institutions of higher education. Baha'i university students abroad are deprived of receiving money for their education, and others who wish to pursue their studies outside Iran have been denied exit permits. Baha'is, including the very sick whose only hope for cure was to receive medical treatment in specialized medical centers in foreign lands, have been prevented from leaving the country. Baha'i cemeteries have been confiscated and bodies rudely disinterred. Numerous have been the days when a body has remained unburied while the bereaved family pleaded to have a permit issued and a burial place assigned so that the body might be decently buried. As of today, thousands of Baha'is have been divested of their homes and forced to live as exiles. Many have been driven from their villages and dwelling places and are living as wanderers and stranded refugees in other parts of Iran with no other haven and refuge but the Court of the All-Merciful God and the loving-kindness of their friends and relatives.

It is a pity that the mass media, newspapers and magazines, either do not want or are not allowed to publish any news about the Baha'i community of Iran or to elaborate upon what is happening. If they were free to do so and were unbiased in reporting the daily news, volumes would have been compiled describing the inhumane cruelty to and oppression of the innocent. For example, if they were allowed to do so, they would have written that in Shiraz seven courageous men and ten valiant women—seven of whom were girls in the prime of their lives—audaciously rejected the suggestion of the religious judge that they recant their faith, at least, dissemble their belief, and preferred death to the concealment of their faith. The women, after hours of waiting with dried lips, shrouded themselves in their chadurs, kissed the noose of their gallows, and with intense love offered up their souls for the One Who proferreth life. The observers of this cruel scene might well ask forgiveness for the murderers at Karbala, since they, despite their countless atrocities, did not put women to the sword nor harass the sick and infirm. Alas, tongues are prevented from making utterance and pens are broken and the hidden cause of these brutalities is not made manifest to teach the world a lesson. The Prosecutor alleges that they were spies. Gracious God! Where in history can one point to a spy who readily surrendered his life in order to prove the truth of his belief?

Unfortunately it is beyond the scope of this letter to recount the atrocities inflicted upon the guiltless Bahai's of Iran or to answer, one by one, the accusations levelled against them. But let us ask all just and fair-minded people only one question: If, according to the much-publicized statements of the Prosecutor, Baha' is are not arrested and executed because of their belief, and are not even imprisoned on that account, how is it that, when a group of them is arrested and each is charged with the same "crime" of "spying", if one of them recants his belief, he is immediately freed, a photograph of him and a description of his defection are victoriously featured in the newspapers, and respect and glory are heaped upon him? What kind of spying, subversion, illegal accumulation of goods, aggression or conspiracy or other "crime" can it be that is capable of being blotted out upon the recantation of one's beliefs? Is this not a clear proof of the absurdity of the accusations?

In spite of all this, the Baha'i community of Iran, whose principles have been described earlier in this statement, announces the suspension of the Baha'i organizations throughout Iran, in order to establish its good intentions and in conformity with its basic tenets concerning complete obedience to the instructions of the Government. Henceforth, until the time when, God willing, the misunderstandings are eliminated and the realities are at last made manifest to the authorities the National Assembly and all local spiritual assemblies and their committees are disbanded, and no one may any longer be designated a member of the Baha'i Administration.

The Baha'i community of Iran hopes that this step will be considered a sign of its complete obedience to the Government in power. It further hopes that the authorities—including the esteemed Prosecutor of the Islamic Revolution who says that there

is no opposition to and no enmity towards individual Baha'is, who has acknowledged the existence of a large Baha'i community and has, in his interview, guaranteed its members the right to live and be free in their acts of worship—will reciprocate by proving their good intentions and the truth of their assurances by issuing orders that pledge, henceforth:

1. To bring to an end the persecutions, arrests, torture and imprisonment of Baha'is for imaginary crimes and on baseless pretexts, because God knows—and so do the authorities—that the only "crime" of which these innocent ones are guilty is that of their beliefs, and not the unsubstantiated accusations brought against them;

2. To guarantee the safety of their lives, their personal property and belongings, and their honor;

3. To accord them freedom to choose their residence and occupation and the right of association based on the provisions of the Constitution of the Islamic Republic;

4. To restore all the rights which have been taken away from them in accordance with the groundless assertions of the Prosecutor of the Country;

5. To restore to Baha'i employees the rights denied them by returning them to their jobs and by paying them their due wages;

6. To release from prison all innocent prisoners;

7. To lift the restrictions imposed on the properties of those Baha'is who, in their own country, have been deprived of their belongings;

8. To permit Baha'i students who wish to continue their studies abroad to benefit from the same facilities that are provided to others;

9. To permit those Baha'i youth who have been prevented from continuing their studies in the country to resume their education;

10. To permit those Baha'i students stranded abroad who have been deprived of foreign exchange facilities to receive their allowances as other Iranian students do;

11. To restore Baha'i cemeteries and to permit Baha'is to bury their dead in accordance with Baha'i burial ceremonies;

12. To guarantee the freedom of Baha'is to perform their religious rites; to conduct funerals and burials including the recitation of the Prayer for the Dead; to solemnize Baha'i marriages and divorces, and to carry out all acts of worship and laws and ordinances affecting personal status; because although Baha'is are entirely obedient and subordinate to the Government in the administration of the affairs which are in the jurisdiction of Baha'i organizations, in matters of conscience and belief, and in accordance with their spiritual principles, they prefer martyrdom to recantation or the abandoning of the divine ordinances prescribed by their faith;

13. To desist henceforth from arresting and imprisoning anyone because of his previous membership in Baha'i organizations.

Finally, although the order issued by the Prosecutor of the Islamic Revolution was unjust and unfair, we have accepted it. We beseech God to remove the dross of prejudice from the hearts of the authorities so that aided and enlightened by His confirmations they will be inspired to recognize the true nature of the affairs of the Baha'i community and come to the unalterable conviction that the infliction of atrocities and cruelties upon a pious band of wronged ones, and the shedding of their pure blood, will stain the good name and injure the prestige of any nation or government, for what will, in truth, endure are the records of good deeds, and of acts of justice and fairness, and the names of the doers of good. These will history preserve in its bosom for posterity.

Respectfully,

NATIONAL SPIRITUAL ASSEMBLY
OF THE BAHA'IS OF IRAN.

● Mrs. JOHNSON. Mr. Speaker, it is with great concern that I rise to speak today about the Iranian Government's continued persecution of the Baha'i community. Although the Baha'is have encountered persecution from the inception of their faith, the current wave of violence aimed at annihilation, overladens the attempts of the past in the scale and severity of the attacks on the Baha'i community. A 1982 report from the Minority Rights Council in London, written by Roger Cooper, states:

There is clear evidence that the authorities are condoning and in some cases initiating the terror and repression against Baha'is, involving physical violence, imprisonment, economic sanction and other pressures, that have already caused widespread suffering. . . . . The government, far from denying the allegations, instead defends its actions and inactions, in a variety of other ways. . . . the similar circumstances of different cases and particularly the annihilation of the community's leadership, make what is happening look increasing like a coordinated plan. Even if it is not, . . . the result is the same: a green light for fanatics to practice pogroms and harassment, which are placing immense pressure on Baha'is to recant their faith and covert . . . to Islam.

The attempts by the Iranian Government to justify these horrible acts by claiming the Baha'is are enemies of the people, tools of whatever superpower is in disfavor at the moment, would be laughable for their transparency were it not for the tragedy they obscure.

Mr. Speaker, I hope that the dedicated attempts of individual citizens, human rights groups, and other organizations both public and private, to bring this issue to the forefront will encourage our Government to take an active role in making an appeal to the Iranian Government to cease in its efforts to destroy this religious minority, who wish nothing more than to practice their own faith. As an elected representative for a country founded on the belief, that all people should be free to practice the religion of their choice. I feel an obligation to speak out against such outrageous persecution, for in the end, it is the silence of the knowledgeable that is the most condemning.●

● Mr. FISH. Mr. Speaker, last September this Congress passed a concurrent resolution condemning the persecution of the Baha'i community in Iran. The situation has not improved. Therefore, I come before this Chamber to once again express my alarm and dismay over this continuing repression.

The Baha'is pose no threat to Ayatollah Khomeini, Government officials, or the Iranian Government. In fact, inherent to their religion is the tenet that they should in no way subvert the laws of the country in which they are living. They are a peaceful people who wish only to be left to themselves and be allowed to work toward the fundamentals of their faith: The unity of mankind, equality of race and sex, world peace, and world order. Yet, the current Islamic regime has recently begun a new wave of anti-Baha'i terror. Many innocent people have been executed, including 10 women, 3 of whom were teenage girls. In addition to torture and daily harassment, thousands have lost their jobs and their pensions, and many have left Iran, becoming homeless refugees.

Mr. Speaker, such atrocities will continue against the Baha'is in the weeks and months to come. However, their suffering can be alleviated if public opinion and this Congress expresses its indignation in the strongest terms possible. I urge my colleagues to join me in condemning the Ayatollah Khomeini and the Iranian leadership. A ruthless reign of terror must not, and cannot, be ignored.●

● Mr. GEJDENSON. Mr. Speaker, it is with regret that I find it necessary today to join with my colleagues in cosponsoring legislation which firmly denounces the Iranian Government's adoption of laws that threaten the Baha'i religious community. It is unfortunate that Congress must once again address this problem, but I am pleased by our fervor in pursuing the matter.

The Baha'is make up the largest religious minority in Iran and are the only religion that is not recognized by the constitution of the Islamic revolution. Baha'is are therefore precluded from any protection under the law, including civil rights and basic human liberties. Baha'is in Iran now cannot work in government, own property, vote or travel freely. Their weddings go unrecognized, and if they live together, they can be accused of indulging in prostitution, a capital offense in Iran. Baha'i children are considered illegitimate and are barred from attending school.

On August 29, Iran's attorney general banned as criminal acts all Baha'i teaching and organized religious activities including election of local and national leaders, meeting in assemblies, and "giving information to others."

Like the Nuremberg laws, the new edict establishes "legal" grounds for mass arrests and genocide. Unfortunately, that is exactly what we have seen. In the last 3 years over 150 Baha'is, virtually all of them belonging to the leadership, have been exe-

cuted on various trumped up charges. The latest executions occurred on June 16 and 18 in Shiraz, where 6 men and 10 women, including 2 teenage girls, were hanged.

The time has come for the Iranian Government to end this senseless persecution. We, as Members of Congress, must do our part to try to persuade the Khomeini regime to alter its ways. As bad as the situation in Iran is today, we have reason to believe that constant world attention is the only thing that has prevented even greater atrocities. Therefore, I once again ask your support for this timely and important resolution.●

● Mr. LEACH of Iowa. Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. PORTER, Mr. YATRON, and Mr. LANTOS, in introducing a resolution which once again calls national and international attention to the continued brutal persecution of the Baha'i religious community in Iran.

During the past year since Congress first adopted a resolution, Senate Congressional Resolution 73 condemning the Iranian persecution of the Baha'is, the executions, arrests, and imprisonments of innocent men and women have continued unabated. The hanging of several teenage Baha'i women this past summer for their courageous refusal to recant their faith added a new dimension to the horrors which have been heaped upon this peaceful religious community. Appeals for mercy from President Reagan and others in the international community have fallen on deaf ears. The death toll, which now exceeds 150, has continued to rise while others—perhaps some 200—languish in Iranian prisons. The property of other Baha'is has been confiscated, some have lost their jobs, cemeteries have been desecrated, and thousands have been forced to live as exiles, after losing their homes or being driven from their villages.

And, as if this ongoing tragedy were not already too much to bear, this campaign of persecution took a new and particularly ominous turn on August 29 when the Prosecutor General of Iran issued an edict which brands Baha'i membership as a crime and bans Baha'i religious and spiritural administration, thus effectively prohibiting such activities as religious teaching, and assemblies.

Iranian authorities, it seems safe to say, are hell-bent on destroying the Baha'i community and must be put on notice that such actions are in defiance of international law and human decency and are crimes for which they will bear full responsibility. Not only does internationally law explicitly protect the right to life, but provisions in the International Covenant on Civil and Political Rights, to which Iran is a party, specifically protect the right to freedom of religion as well as the right for religious minorities to profess and practice their religion in community with other members of their group. The actions of the Iranian Government demonstrate no respect for these or other provisions of international law.

In "An Open Letter," recently sent by the Baha'i community in Iran to some 2,000 Iranian Government officials and prominent personages, a moving account of the atrocities which these people have suffered is laid out and false accusations against the Baha'is for "spying" are effectively refuted. That letter closes with a bold challenge to the Iranian Government in which the Baha'i community announced the "suspension of the Baha'i organizations throughout Iran, in order to establish its good intentions and in conformity with its basic tenets concerning complete obedience to the instructions of the Government." With their announcement, they issue a challenge to the government to reciprocate by bringing the executions, torture, and imprisonment to an end and permitting them to once again practice their religion. The letter closes with this poignant passage:

> . . . Although the order issued by the Prosecutor of the Islamic Revolution was unjust and unfair, we have accepted it. We beseech God to remove the dross of prejudice from the hearts of the authorities so that aided and enlightened by His confirmations they will be inspired to recognize the true nature of the affairs of the Baha'i community and come to the unalterable conviction that the infliction of atrocities and cruelties upon a pious band of wronged ones, and the shedding of their pure blood, will strain the good name and injure the prestige of any nation or government, for what will, in truth, endure are the records of good deeds, and of acts of justice and fairness, and the names of the doers of good.

Mr. Speaker, one stands in awe at the courage of these innocent people who dare to so confront their persecutors. Such faith, in the ultimate triumph of good and truth, is an inspiration to all who stand outside as witnesses to their suffering. In the civilized world of the 20th century, such shameless barbarism as that in which the Iranian Government is engaged defies comprehension. The United States and other law abiding nations of the international community must demand, in stronger terms than ever, that the shedding of innocent blood in Iran cease.●

● Mr. WAXMAN. Mr. Speaker, I urge every Member of the House to cosponsor the resolution introduced today which condemns the Iranian Government's continuing persecution of the Baha'is.

Immediately after the 1979 Islamic revolution in Iran, the new government began a systematic campaign of persecution against the members of the Baha'i faith. At least 150 Baha'is, including most of the religious leaders, have been murdered and hundreds more have been imprisoned. Free societies throughout the world have denounced Iran's barbarous treatment of the Baha'is, but we fear that the magnitude of the crimes against them will continue to intensify.

Unlike the other minority religious in Iran, the Baha'is have no constitutional protections. Therefore, they can be and have been subject to rules that do not affect other Iranian citizens. Baha'i adults are not allowed to work and their children have been prohibited from attending school. Retired Baha'is are no longer entitled to the pensions they have earned. The government has seized the property and money of the Baha'is and has desecrated and destroyed their religious institutions and holy places. It is impossible to exaggerate the significance of these acts.

Yet, while the Khomeini regime has left the Baha'is destitute, it will not permit them to leave the country.

The leaders of Iran insist that this is a political battle, that the Baha'is belong to a heretic religious sect dedicated to the overthrow of Islam. We know that they are persecuted solely because of their religious beliefs. Baha'is are forbidden by their faith from participating in partisan politics or from holding political posts. They believe that the basic principles of their faith are in harmony with the teachings of Islam.

We cannot stop the persecution and the killings in Iran. But we can join the rest of the world in continued protest of Iran's brutal crimes against humanity. We also must continue to give asylum to the Baha'is who manage to escape from Iran.●

● Mr. LANTOS. Mr. Speaker, today, my distinguished colleagues, Mr. PORTER, Mr. YATRON, Mr. LEACH, and I introduced a resolution in the House which condemns the Iranian Government's actions against the Baha'i and urges the President to take appropriate action to discourage persecution and provide humanitarian assistance to this persecuted group. Mr. HEINZ, of Pennsylvania, with several of his colleagues, is introducing a similar bill in the other body.

Mr. Speaker, we are introducing yet another resolution decrying the barbarous actions of the Iranian Government against the Baha'i for yet new outrages against humanity. This is not the first piece of legislation to be introduced in the Congress on this tragic problem, and unfortunately, I fear that it will not be the last.

We have been successful in some of our efforts to draw attention to the plight of the Baha'i, but atrocities continue, and more attention is obviously required. Our only weapon now is publicity.

It is particularly significant that the injustices that we are addressing today are being waged against a group like the Baha'is. They are pacifist; they publicly maintain their nonpolitical nature. It is also significant that the Baha'is are not making demands for political representation or other forms of power sharing which could be considered unpalatable to a sovereign nation.

In response to the Iranian Government's decree of last August outlawing the Baha'is as a group, the National Spiritual Assembly of the Baha'is of Iran drafted an open letter. One of the important points made in the letter demonstrates what the Baha'is stand for: "We request the freedom to conduct religious activities—funerals, marriages, laws affecting the personal affairs only of the Baha'i." The letter further states: "Baha'is are entirely obedient and subordinate to the government."

At the same time, however, the Baha'is unequivocally state that "they prefer martyrdom to recantation or the abandoning of the divine ordinances prescribed by their faith."

There are now 150 martyrs in this tragic struggle—individuals who have been executed in Iran during the last 3 years. We must take every possible action to see that there are no more.

Keep in mind that the battle we are now fighting is a battle for publicity. The House has already passed legislation on the Baha'i and the President has spoken out on this issue. We have seen the intransigence of the Government of Iran toward efforts made by this country. With this in mind, however, let us continue to fight now for widespread attention to the desperate cause of these persecuted people.●

● Mr. FRANK. Mr. Speaker, we are by now familiar with the repressiveness and intolerance of the Khomeini regime in Iran. One of the most appalling instances of this has been the treatment of the Baha'i community. I have spoken out against it in the past, as have other Members of this body. The administration has also been highly critical of these human rights abuses, and I commend the administration for its outspokenness. I would like to take the opportunity on the occasion of this special order to congratulate the administration for a recent action that it has taken on behalf of the Baha'is.

The U.S. Government recently proposed three men for the job of interpreter at the Iran-United States Claims Tribunal in the Hague. One of these men, Mohebatullah Ahdiyyih, was a member of the Baha'i faith. The Iranians objected to Mr. Ahdiyyih "on constitutional grounds," undoubtedly a reference to the fact that the Iranian constitution provides no legal guarantee for the Baha'is, as it does for the Jews and Christians. The Shi'ite clergy regularly denounce Baha'ism as heresy, and the Iranian Government has proclaimed that the Baha'is do not constitute a religion but are only a political conspiracy against the Iranian regime.

The president of the Tribunal, in accordance with the Iranian complaint, declined to hire Mr. Ahdiyyih. The U.S. representative has correctly criticized that decision, for it, in essence, is an acquiescence in the religious discrimination which has unfortunately become so routine in Iran.

Mr. Speaker, the fact that human rights abuses have become commonplace in Iran and so many other places is no reason why any international body should countenance such abuses. To do so might seem to give them some measure of legitimacy. I support the stand of the administration. It should encourage the Members of this body who, like myself, have argued that this Nation can afford to take the moral high ground and should act vigorously in support of human rights wherever they are ignored.

And we must remember, Mr. Speaker, that the complaint against Mr. Ahdiyyih itself pales in significance compared to the large-scale campaign being conducted against his fellow Baha'is in Iran. Hundreds of Baha'is have been executed and thousands have been otherwise persecuted on trumped-up charges of "Zionism," espionage, and so forth. Now that the Iranian Government has proclaimed all Baha'i practices to be illegal, it will no doubt be even easier for the regime to harass the Baha'i community. The Baha'is are fully justified in regarding the recent proclamation as a prelude to genocide. Mr. Speaker, we cannot be silent in the face of such an outrage, and I am very pleased that the administration has not been.●

● Mr. YATRON. Mr. Speaker, an outraged America watches the Khomeini regime level its hatred and repression against yet another victim. This time the Iranian Government is not parading U.S. hostages before our eyes; it has instead turned its wrath on its own citizens. The victims are innocent people who ascribe to a religion which advocates principles such as the unity of mankind, the equality of all races and of men and women, and universal peace. They are Baha'is. To the ayatollah, they are infidels.

The faith of the Baha'is is their crime—a crime dictated by a government that harasses and kills them. But now, Iran has dared to take even harsher measures against this religious community. The Prosecutor General of the Islamic Revolution declared that the continued functioning of the Baha'i religious and spiritual administration is banned. Members will be executed, arrested, or imprisoned. The persecution of the Baha'is will not only continue in Iran, it will be escalated.

President Reagan issued a personal appeal to the Iranian Government for the lives of 6 men and 10 women—including 3 teenaged girls—on May 17, 1983. These individuals were subsequently executed. Congress passed a concurrent resolution last September condemning Iran's actions, but our protests were ignored. Today we express, once again, our contempt for the genocide occurring in Iran and demand that this terror against the Baha'is end. The United States must continue its leadership role in denouncing these murders, and urge the worldwide community to speak out against these outrages being perpetrated against the Baha'is.

The Baha'i community of Iran asks only for the right to live and be free in their acts of worship. They want the persecutions, arrests, torture, and imprisonment for imaginary crimes to end. The safety of their lives, their residences, their jobs, and their honor is at stake. By supporting this resolution, we can help to provide the hope they desperately need to withstand this tyranny.

I commend the gentleman from Illinois, the original sponsor of this legislation in the House, for his dedication and perseverance. The international human rights community also thanks him for his noble efforts.●

● Mr. STARK. Mr. Speaker, almost 2 years ago, I stood here in this Chamber and expressed my horror and disbelief at the actions of the Iranian Government toward the Baha'is of Iran. Those actions continue, 2 years later.

Since 1978, the Baha'is of Iran have suffered an increase in repression and oppression from the Iranian Government. Although the Baha'is of Iran have always been the subject of persecution, these last 5 years have been particularly horrible. In response to this, I have introduced two pieces of legislation in this Congress designed to aid the Baha'is in overcoming this persecution. I hope that we can look forward to action on these initiatives.

But, Mr. Speaker, the most important thing we can do for the Iranian Baha'is is to show the Iranian Government that we are watching them. We are watching, and we are keeping track of their actions in this area. We may have already saved some lives by our concern in that area; we must continue our vigil in the hope that we may save more lives.

It is only through the conscience of the rest of the world that we will succeed in altering the genocide taking place in Iran. We must show the Iranian Government that by all human standards their deeds are unacceptable. We must show them that we have no intention of allowing them to

continue their abominable actions. We must show them that we will not forget.●

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1950

CONSULTATIONS ON REFUGEE ADMISSIONS PROGRAM, FISCAL YEAR 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, the Refugee Act of 1980 (Public Law 96-212) requires the President to consult with Congress prior to the beginning of each fiscal year on his proposals for refugee admissions for the coming year.

In the following letter dated September 16, 1983, the U.S. Coordinator for Refugees forwarded the President's recommended refugee ceilings and allocations for fiscal year 1984 as a basis for consultations with the Congress:

U.S. COORDINATOR,
FOR REFUGEE AFFAIRS,
Washington, D.C. September 16, 1983.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with the Refugee Act of 1980 and in preparation for the Congressional consultations on FY 84 refugee admissions to the United States, I have the pleasure to forward the President's letter of September 16, 1983, authorizing his representatives to consult on an FY 84 admissions ceiling of seventy-two thousand (72,000) refugees worldwide.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador-at-Large.

THE WHITE HOUSE,
Washington, D.C., September 16, 1983.

Memorandum for the Honorable H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

Subject: Fiscal Year 1984 Refugee Consultations.

I have reviewed the Senior Interagency Group recommendations on proposed consultation levels for FY '84 refugee admissions and have approved the following ceilings for the consultations with Congress: up to 50,000 East Asian refugees and up to 22,000 refugees from other regions. The latter level shall include 12,000 for Eastern Europe/Soviet Union; 6,000 for the Near East/South Asia; 3,000 for Africa; and 1,000 for Latin America/Caribbean. I have also approved a level of up to 5,000 for aliens granted asylum in the United States to adjust to permanent resident alien.

Consultations with the Congress should be completed as promptly as possible to allow for a final determination, taking into account Congressional views.

RONALD REAGAN.

Adhering to the two-tier consultation format used in prior years, as chairman of the Committee on the Judiciary, I scheduled on September 20, 1983 a closed meeting between designated consultative congressional members and administration officials and a public hearing before the full committee.

As background information for members of the committee, the following tables were distributed reflecting refugee admissions ceilings and actual arrivals for fiscal year 1981, fiscal year 1982, and fiscal year 1983; the "Estimated Costs of Refugee Movement to and Resettlement in the United States for fiscal year 1983 and fiscal year 1984;" and the "U.S. Contributions to International Refugee Situations, fiscal year 1983 and fiscal year 1984."

REFUGEE ADMISSIONS CEILINGS AND ACTUAL ARRIVALS

Geographic area	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983	
	Authorized ceiling	Actual admissions	Authorized ceiling	Actual admissions	Authorized ceiling	Estimated actual admissions
Africa	3,000	2,119	3,500	3,356	3,000	2,800
East Asia	165,600	131,139	96,000	73,522	64,000	37,500
Eastern Europe	6,900	6,704	11,000	10,780	[1] 15,000	[1] 14,500
Soviet Union	33,000	13,444	20,000	2,756		
Laitin America	4,000	2,017	3,000	579	3,000	700
Near East/South Asia	4,500	3,829	6,500	6,304	6,000	5,000
Totals	217,000	159,252	140,000	97,297	90,000	60,500

[1] Beginning in fiscal year 1983, there is a combined ceiling for Eastern European and Soviet Union refugees.

ESTIMATED COSTS OF REFUGEE MOVEMENT TO AND RESETTLEMENT IN THE UNITED STATES—FISCAL YEAR 1983 AND FISCAL YEAR 1984

[Dollars in millions]

Agency	1983 program total cost	1984		1984 total
		Arrivals		
		1984	Prior	
DEPARTMENT OF STATE				
Bureau for refugee programs:				
Volags' services overseas	$16.2	$20.5		$20.5
Language/orientation programs overseas	11.1	10.4		10.4
Transportation loans	33.0	46.6		46.6
Reception and placement agreements	32.0	39.5		39.5
Subtotal	92.3	117.0		117.0
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
Office of Refugee Resettlement: [1]				
State administered programs	512.1	121.8	338.6	460.4
Voluntary agency programs	4.0	4.0		4.0
Preventive health	6.1	8.4		8.4
Federal administration	6.4	6.6		6.6
Subtotal	528.6	140.8	338.6	479.4
Other HHS: [2]				
Aid to families with dependent children	109.7	12.7	78.3	91.0
Medicaid	64.4	7.3	45.2	52.5
Supplemental security income	15.1	1.6	11.4	13.0
Subtotal	189.2	21.6	134.9	156.5

ESTIMATED COSTS OF REFUGEE MOVEMENT TO AND RESETTLEMENT IN THE UNITED STATES—FISCAL YEAR 1983 AND FISCAL YEAR 1984—Continued

[Dollars in millions]

Agency	1983 program total cost	1984 Arrivals 1984	1984 Arrivals Prior	1984 total
Department of Agriculture: [2] Food stamps	208.4	24.9	128.7	153.6
Grand total	1,018.5	304.3	602.2	906.5

[1] Includes funds for refugee assistance only. Cuban/Haitain entrant funds that are appropriated for use by ORR are not included.
[2] Includes cost estimates only for refugees' first 36 months in the United States.

U.S. CONTRIBUTIONS TO INTERNATIONAL REFUGEE SITUATIONS, FISCAL YEAR 1983 AND FISCAL YEAR 1984

	Fiscal year— 1983 estimate as of August 25	1984 appropriation request
United Nations High Commissioner for Refugees (UNHCR):		
Africa	$47,300,000	$40,000,000
East Asia: Indochinese	20,500,000	11,700,000
East Asia: Orderly departure program	400,000	[1]
Latin America	11,000,000	11,000,000
Near East and South Asia: Pakistan	23,000,000	28,000,000
Other	1,000,000	1,000,000
UNHCR subtotal	103,200,000	91,700,000
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	69,750,000	72,000,000
Refugees resettling in Israel	12,500,000	12,500,000
International Committee of the Red Cross (ICRC):		
Ordinary budget	2,000,000	2,000,000
Africa	9,900,000	6,300,000
East Asia: Khmer relief	2,000,000	2,000,000
Latin America: El Salvador	3,000,000	2,000,000
Near East and South Asia: Pakistan	1,000,000	1,000,000
Political detainees	1,750,000	1,750,000
Other	1,730,000	
ICRC subtotal	21,380,000	15,050,000
Other:		
Africa: Special projects	10,000,000	6,500,000
East Asia: Khmer relief (UNBRO)	9,300,000	7,000,000
Other	620,000	1,000,000
Near East and South Asia: Pakistan	2,000,000	2,000,000
Intergovernmental Committee for Migration (ICM)	5,320,000	5,150,000
Resettlement projects	7,200,000	7,000,000
Other subtotal	34,440,000	28,650,000
Administration [2]	7,562,000	7,600,000
Subtotal: Refugee program	[3] 248,832,000	227,500,000
Other assistance:		
Food for Peace (Public Law 480, title II)	65,700,000	75,000,000
Grand total	314,532,000	302,500,000

[1] To be funded within the UNHCR/East Asia line item.
[2] Portions of these funds are associated with the costs of refugee admissions and resettlement.
[3] The fiscal year 1983 supplemental appropriations legislation transfers $15,000,000 to the International Disaster Assistance Account in AID for projects in Africa, and $5,000,000 to the Economic Support Fund (AID) for the antipiracy program in the Gulf of Thailand from refugee program appropriations.

Administration officials who appeared before the full committee in public session on September 20, 1983 in support of the President's recommendations were: H. Eugene Douglas, Ambassador-at-Large, U.S. Coordinator for Refugee Affairs; Alan C. Nelson, Commissioner, Immigration and Naturalization Service, Department of Justice; James N. Purcell, Director, Bureau of Refugee Programs, Department of State; and Phillip Hawkes, Director, Office of Refugee Resettlement, Department of Health and Human Services.

After considering the testimony of administration witnesses at both the closed and open meetings, the consultative members expressed their views in the following two letters:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 23, 1983.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We have completed the consultative process mandated by P.L. 96-212, the Refugee Act of 1980, with regard to refugee admissions and allocations for FY 1984 as recommended by you and transmitted to us by the U.S. Coordinator for Refugee Affairs, Ambassador H. Eugene Douglas.

Your proposal calls for a ceiling of 72,000 refugees to be allocated as follows: up to 50,000 from East Asia, 12,000 from Eastern Europe/Soviet Union, 6,000 from the Near East/South Asia, 3,000 from Africa and 1,000 from Latin America/Caribbean.

We are pleased to advise you that we interpose no objections to the numbers and allocations as recommended. We, however, wish to reiterate, as in the past, that these numbers should be considered as celings rather than goals. Furthermore, should there be any need to reallocate refugee numbers between regions during the fiscal year, we would respectfully request that we be consulted on any such reallocation.

It would be appreciated if the U.S. Coordinator for Refugees would keep us advised on a monthly basis on the progress of the FY 1984 refugee admissions program.

Sincerely,

PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary.

DANIEL E. LUNGREN,
Ranking Minority Member, Subcommittee on Immigration, Refugees, and International Law.

ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 28, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: After reviewing the Administration's proposal for FY 1984 refugee admissions, I recommend a world-wide ceiling of 83,000 (compared with the proposed 72,000 figure) to allow adjustments in the Administration's suggested allocations for East Asia and Eastern Europe/Soviet Union. An 83,000 figure represents a 7,000 reduction compared with the FY 1983 ceiling of 90,000.

I applaud your policy of attempting over the next two fiscal years, in concert with other receiving nations, to substantially reduce the Indochinese refugee camp population of approximately 192,000. The FY 1984 allocation for East Asia will have to accommodate approximately 15,000 Indochinese refugees who already have been approved (in FY 1983) for admission to the United States but are undergoing recently lengthened English language and cultural orientation training programs abroad. The remaining 35,000 will have to accommodate persons coming under the Orderly Departure Program. The large numbers of refugees in transit, the administrative difficulties in screening refugees earlier in this fiscal year, and the continuing flows of refugees (estimated at 30,000 for next year) justify an allocation of 58,000 for East Asia (compared with the proposed figure of 50,000). A 58,000 allocation represents a 6,000 reduction compared with the FY 1983 allocation of 64,000.

The allocation for Eastern Europe and the Soviet Union, in my judgment, should remain at 15,000 (the FY 1983 allocation) because actual admissions this year have approximated this figure. A lower allocation of 12,000, in my judgment, would reduce the flexibility of our refugee program in that part of the world.

Sincerely,

HAMILTON FISH, JR.,
Ranking Minority Member.

Mr. Speaker, on October 12, 1983, the U.S. Coordinator for Refugee Affairs informed me of the President's determination in the matter. This document sets forth the refugee admissions and allocations program for fiscal year 1984.

U.S. COORDINATOR
FOR REFUGEE AFFAIRS,
Washington, D.C., October 12, 1983.

Hon. PETER W. RODINO, JR.,
House of Representatives.

DEAR MR. CHAIRMAN: I have the honor to inform you that the President has formally approved the admission to the United States of up to seventy-two thousand refugees in fiscal year 1984.

A copy of Presidential Determination 83-11 is attached to this letter.

I wish to express the Administration's gratitude for the advice and cooperation extended to us during the consultation process.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador-at-Large.

[Presidential Determination No. 83-11]

THE WHITE HOUSE,
Washington, D.C., October 7, 1983.

Memorandum for the Honorable H. Eugene Douglas, U.S. Coordinator for Refugee Affairs.

Subject: Fiscal Year Refugee Ceilings.

In accordance with the relevant statutes and after appropriate consultations with the Congress, I have determined that:

The admission of up to 72,000 refugees to the United States during FY 1984 is justified by humanitarian concerns or is otherwise in the national interest;

The 72,000 worldwide refugee admission ceiling shall be allocated among the regions of the world as follows: 50,000 for East Asia; 12,000 for the Soviet Union/Eastern Europe; 6,000 for the Near East/South Asia; 3,000 for Africa; and 1,000 for Latin America/Caribbean; and

An additional 5,000 refugee admissions numbers shall be made available for the adjustment to permanent residence status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with provisions of the Immigration and Nationality Act and after appropriate consultations with the Congress, I specify that special circumstances exist such that, for the purposes of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States; and

Present and former political prisoners, and persons in imminent danger or loss of life, and their family members, in countries of Latin America and the Caribbean.

You will inform the appropriate Committees of the Congress of these determinations.

This memorandum shall be published in the Federal Register.

RONALD REAGAN.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 5 minutes.

● Mr. ANTHONY. Mr. Speaker, I was necessarily absent on yesterday, Monday, November 14. Had I been present I would have voted as indicated:

Rollcall No. 491, ordering a second; "yes".

Rollcall No. 492, motion to adjourn; "no".

Rollcall No. 493, motion to adjourn; "no".

Rollcall No. 494, H.R. 3635 under suspension; "yes".

Rollcall No. 495, H.R. 3729 under suspension; "yes".

Rollcall No. 496, S. 376 under suspension; "yes".

Rollcall No. 497, H.R. 1095 under suspension; "yes".

Rollcall No. 498, H.R. 29 under suspension; "yes".

Rollcall No. 499, H.R. 3249 under suspension; "yes".

Rollcall No. 500, House Concurrent Resolution 190 under suspension; "yes".

Rollcall No. 501, House Concurrent Resolution 168 under suspension; "yes".●

VOTE ON THE EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, I will vote for the equal rights amendment when we vote later today. I have been a cosponsor of this amendment in each Congress to which I have been elected. The language of the amendment is very straightforward, and it embodies a principle in which I strongly believe. It is fully consistent with the concepts on which this Nation of ours is based. As I have told any number of people who have raised questions about the amendment, my father, my son, and I are clearly included in the Constitution; I think it is important that my wife, my mother, and my daughter be clearly included as well.

Still, Mr. Speaker, I have concerns about the procedure being used here today. Amending the Constitution of this country was intentionally designed to be a cumbersome and slow-moving process; that was to assure that all points of view are fully considered and that any language that is added to that basic law of our land is carefully crafted and understood. While I support the amendment as written and voted against the various amendments offered in the Judiciary Committee last week, I have reservations about the decision to bring this resolution to the floor under suspension of the rules. On the other hand, I do know that this amendment is not a new idea. It has been in the works for decades and has been sent by the Congress to the States for ratification before. Also, several earlier constitutional amendments have been approached using the suspension procedure in the past. Therefore, I will vote for the ERA today, as I have in the past, but the procedure we are using is not in the best tradition of this House.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, (Mr. TORRES) is recognized for 5 minutes.

● Mr. TORRES. Mr. Speaker, I was not present for House proceedings on Monday, November 14, 1983. I was meeting with constituents and groups

in my district. Had I been present on the House floor, I would have cast my votes in the following manner:

Rollcall No. 491, on agreeing to order a second (280-0); "yes."

Rollcall No. 492, on a motion to adjourn (121-258); "no."

Rollcall No. 493, on a motion to adjourn (100-261); "no."

Rollcall No. 494, passage of H.R. 3635, Child Protection Act (400-1); "yes."

Rollcall No. 495, passage of H.R. 3729, Refugee Assistance Act (300-99); "yes."

Rollcall No. 496, passage of S. 376, Debt Collection Act (397-3); "yes."

Rollcall No. 497, passage of H.R. 1095, 369th Veterans Association (406-0); "yes."

Rollcall No. 498, passage of H.R. 29, Polish Legion of Vets (404-0); "yes."

Rollcall No. 499, passage of H.R. 3249, National Academy of Public Administration, Charter (401-2); "yes."

Rollcall No. 500, passage of House Concurrent Resolution 190, Satellite-Directed Navigation (402-0); "yes."

Rollcall No. 501, passage of House Concurrent Resolution 168, Weather Satellite Systems (377-28); "yes."

Rollcall No. 502, on adjournment (240-156); "yes."●

THE EQUAL RIGHTS AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

● Mr. SCHUMER. Mr. Speaker, as a member of the Judiciary Committee and the Subcommittee on Civil and Constitutional Rights, I have participated in the many hearings that have been held on the ERA. In considering it, several questions have come up concerning its impact on private religious schools and military service exemptions. I have listened carefully to all the testimony. Also, I have discussed these issues at length with Hon. PETER W. RODINO, the chairman of the committee and Hon. DON EDWARDS, the chairman of the subcommittee and, as their statements below indicate, they agree that the following statements are correct.

It is my understanding that under the doctrine of State action or any othe doctrine the ERA would not apply to private instances of discrimination in private religious schools. None of the following would cause ERA to be invoked in the instance of a private parochial school: regulation, licensing, or record-keeping requirements; tax-exempt status; receipt of Federal or State funds; student financial aid programs; or provision of nonreligious textbooks, school transportation, or meal subsidies. Thus, a private parochial school such as a Catholic school or a Yeshiva that receives Federal or State aid in the ways that I have described would not be required to conform to the ERA. This is also the understanding of Mr. RODINO and Mr. EDWARDS.

It is also my understanding that the ERA would not require the coeducation of a private religious educational or charitable institution in order to maintain a tax exemption and Mr. RODINO and Mr. EDWARDS agree that this is the case.

Finally, the ERA would not alter the military service exemption granted to individuals based on genuinely held religious belief. For example, an Orthodox Jewish woman would be granted an exemption where an Orthodox Jewish man would not because this is in accord with the Orthodox Jewish religion. This is also the understanding of Mr. RODINO and Mr. EDWARDS.

I was going to make these remarks part of the record of debate but because the ERA was scheduled on the suspension calendar there was no time. I therefore would like this to be made part of the record.

Mr. Speaker, I urge support of the ERA.●

● Mr. RODINO. Mr. Speaker, my colleague from New York has described some of the major questions that arose during the committee debate on House Joint Resolution 1 last week. I have reviewed the remarks of the gentleman and, based on my reading of the committee record and the hearings held by the Subcommittee on Civil and Constitutional Rights, I believe that the gentleman's analysis of the issues he raises is correct.●

● Mr. EDWARDS of California. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York and the gentleman from New Jersey, the chairman of the House Judiciary Committee.●

A TRIBUTE TO DR. WILLIAM L. MEDALIE

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, today Dr. William Medalie celebrates his 90th birthday. What is unusual about that event is that Bill Medalie showed up today at his dental office for regular practice. He was probably feted by his associates with a birthday cake, did his hand calisthenics, put in a good day's work and returned home to his wife, Mona, this afternoon.

Bill Medalie has been in dental practice for 64 years. He was my hometown dentist in Chisholm, Minn., where he began his practice and where he lived most of his years. He is a dear and gentle soul, a kind man, an understanding person, who practiced from the earliest days of dentistry to the most modern of today's technology. He spanned generations. He brought together nationalities, diverse people, many of them unlettered in their earlier years, saw them, their children and their children's children grow up, raise families, go on to other pursutis in life.

He persists because of his warm and gentle humanity in the hearts of all those in Chisholm, even though he has moved to another part of our State.

Today he was paid tribute in the Minneapolis Star and Tribune by a beautiful and warm article on his life's pursuit.

Mr. Speaker, I close my remarks by wishing a very happy birthday to Bill Medalie, many more to him and to his wife, Mona, and son, Ricky.

The Minneapolis Star and Tribune article is as follows:

[From the Minneapolis Star and Tribune, Nov. 15, 1983]

DR. WILLIAM L. MEDALIE—A TRIBUTE

(By Jim Klobuchar)

His first patients were immigrant miners who sometimes came to his office wearing red-smudged work clothes of the iron ore pits and barely disguised expressions of terror.

They were diggers and hard-living men. Nobody gave them an orientation course on what to expect when they walked into a dentist's office.

Whatever they expected, they found William Medalie, in a place and role that might have flabbergasted the relatives he left behind in the Jewish settlements of Latvia on the fringe of then-czarist Russia.

In 1919 he was a precise little man of 26 in his first year out of dental college, confidently—he insists today—handling his instruments and trying to calm the wary miners in five or six languages, all of which he knew better than English.

Polish or Russian, German or Yiddish or Hebrew he could handle. If they were Italian or Yugoslavian, he shrugged and worked fast.

Some of them had tempers and practically all of them had tender gums.

Somebody will light a candle on his birthday cake in a dental office at 2120 Nicollet Ave. this morning, invite him to put down his gadgets for a while and remember the first 90 years of the life of William Medalle, family dentist.

How many years?

The figure is correct; 90, and still practicing.

Can we see your hands, William Medalie?

"Sure, why not," the little old man says. "They don't move a muscle. Not even a twitch. My patients have never complained."

You could put a carpenter's level on William Medalie's hands, and the bubble would freeze.

He's a smiling gnome, a little slouched to be sure, still with an accent, never able or willing to forget the old country, his mind still bright as a ruby. But the grace of his gentle old age, the fragile but enduring vitality in his face, somehow gives a silent narration of the whole 20th century in the life of America.

In it you can read immigrant zeals and conflicts; struggling to make it; later the or-

thodoxy of success; the comfort and maturity it brought.

Does it also tell about a 90-year-old dentist who still calls his stockbroker three times a day, or one who is beguiled by the prospect of real estate as a good second career when he hits 100?

Not everything is orthodox about William Medalie.

Five days a week he drives to work in his Malibu, after kissing his wife goodbye and performing an exercise.

Hand calisthenics. He learned about calisthenics nearly 70 years ago when they put him in a U.S. Army uniform for a couple of months and stationed him at Camp Dodge, Iowa, on the theory that America's corn crop needed William Medalie's protection. On second thought, they released him back to dental school, but he never forgot the exercises.

"I have been doing it a little bit each morning every day since then," he said. "I can still make dentures very well and fill teeth, but extracting maybe that's for younger men."

He didn't say how young. But there are two dentists a third his age to handle the gripping stuff in his office.

His regular patients, particularly the middle-aged women, adore the gentleman, plain and simple.

"He's easy and fun," explained Noel Korengold, the office's business manager. "He never stops wanting to please people and make them comfortable. A lot of younger people who come in prefer younger dentists, but he still has his clientele. Monday morning he'll come in here second-guessing the football game.

He left Latvia with a brother when he was 16 in 1909. They went to Chisholm on the Iron Range because he had uncles running clothes shops there and their letters said: "It's true. This is the land of opportunity."

It wasn't immediately recognizable as such to William Medalie because the town burned down a year before he got there. They put him in third grade for a few weeks because he couldn't speak English. He learned frantically, but well. The families moved to Gilbert a little later. One of the relatives opened a candy store, and another said, "come in with me and learn the business."

"But school was everything for me," the old man remembers.

Schooling included American football for a kid a few years removed from the czar's eastern Europe. "I don't know how to play," the kid told the coach. "When you see somebody carrying the ball," the coach said, "tackle him."

The game should have such blunt clarity Sundays on the TV screen.

He was a clarinet player, acted in school plays, edited the yearbook and—you can't really be surprised—graduated as the high school valedictorian in 1913. He came out of Minnesota dental school six years later and for 30 years practiced in Buhl and Chisholm.

In 1922 he married Mona. She was a young dentist in Odessa, Russia, and left during the revolution but didn't have the license to work in the United States. So he hired her as an assistant ("she was so meticulous, she would have been a marvelous dentist") and married her a year later. He practiced so long ago they still used a treadle to power the drill.

In the Depression he kept his patients on the books for years after they were treated. But finally they got work, and almost always they paid. When his son, now a lawyer, came to the Twin Cities to study, William and Mona moved to St. Louis Park. He maintained an office there until he was 70, and then moved into the city. Two years ago he attended a seminar, still learning dentistry at 88.

"They said retire. I bought some lots in Florida years ago, but why should I retire? Am I going to play golf eight hours a day? Watch the leaves? You stay young, and maybe you can stay good, working with people. Outside of my family and being a dentist, I have gone the places where my heart was, places in the Jewish community. I never smoked so I never got nervous, and I kept doing those little calisthenics."

He will open a bottle of wine on his 90th birthday.

"A moderate drink," he said.

"Mogen David."

What else?

STUDY OF 1982 EFFECTIVE TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

(Mr. PEASE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEASE. Mr. Speaker, the 1982 study of effective tax rates for U.S. corporations has just been completed by the Joint Committee on Taxation with assistance from the Government Accounting Office at the request of myself and Congressman DORGAN.

This is our second annual study and this year the study's conclusions are drawn from 3-years of statistics. I believe the work on this project is superior and the results are provocative. I intend to use this information as the Ways and Means Committee addresses tax policy questions during the rest of the 98th Congress.

This study demonstrates again the need for immediate action to stem the erosion of our tax base and to make our tax code more equitable. With these goals in mind, I am planning to offer an amendment to H.R. 4170, the Tax Reform Act of 1983, which will raise revenue to meet the fiscal 1984 budget resolution target, when this bill is brought to this House floor. It includes a provision proposing an alternative minimum tax for corporations.

Copies of the study in its entirety can be obtained from my office at 1127 Longworth.

The study follows:

STUDY OF THE 1982 EFFECTIVE TAX RATES OF SELECTED LARGE U.S. CORPORATIONS

INTRODUCTION

This study presents 1982 effective corporate income tax rates, by industry. It is based on the annual reports of selected large corporations within each industry. It includes a comparison of 1982 effective tax rates with prior years' rates. Effective tax rates, the ratio of income tax expense to income before tax, are computed for each company studied; the industry rate is then computed from the weighted average of the tax rates for the companies within the industry.

In annual financial statements corporations disclose net income before tax, income tax expense and net income after tax. The income tax expense (or provision for taxes) is separated into two parts—current and deferred. Current income tax expense represents taxes currently payable on book income; deferred income tax expense is treated as a current year's expense for financial reporting purposes, but it represents a liability for taxes which will be payable in some future year, or years. Deferred taxes generally result from differences in the timing of income recognition or deductions allowed under the rules for computing book income and those for computing taxable income. (The total amounts ultimately allowed are equal under the two sets of rules.) Cost recovery deductions for equipment are an example of such an item.

In this study, tax rates are computed by comparing reported current tax expense with net income before tax. This approach differs from other studies which compute effective tax rates by matching the taxes paid with the income on which the tax is imposed. The difference between these approaches arises because income is not necessarily reported on financial statements in the same period as the taxes imposed on that income. Because this study compares current tax expense with net income before tax as reported to shareholders, it does not address the complex problems that arise when taxes paid are matched with the income on which the tax is imposed.

Taxes paid are measured by current tax expense rather than by the total provision for taxes because deferred taxes often roll over from one year to the next, and in a period of growth or inflation are paid, if ever, in the distant future. The actual burden of each dollar of deferred tax liability, therefore, is less than actual burden of each dollar of current tax liability and will depend upon the period of deferral and prevailing interest rates. In effect, by assuming that deferred taxes represent zero tax liability, the true tax burden is understated to the extent that the present value of the deferred tax liability is positive (i.e., to the extent that some tax will be paid in the future). Primarily because of this treatment of deferred taxes, the tax rates in this study differ from those in corporate financial statements or from studies of effective tax rates computed from published data which exclude no, or only a portion, of deferred taxes from the measure of taxes used to compute the tax rate.

Where data to separate foreign and domestic earnings are available, a foreign tax rate on foreign income and a U.S. rate on U.S. income is computed in addition to the worldwide rate on worldwide income.

In some instances an effective tax rate is not shown for an industry because, for a number of reasons, the rate may be misleading. Generally rates are not shown when there is an aggregate book loss or when rates are clearly abnormal.

This report covers 213 companies selected from the Fortune 500 Industrial and the Fortune Service 500. Industrials are grouped, generally, by the Standard Industrial Classification Code numbers (SIC Codes). Each company is included in the industry or service group which represents the greatest volume of sales for that company; the companies are, in most cases, the largest companies in the industry. A few exceptions to this method of selection and classification of companies were made this year to provide additional groupings that we

consider useful (e.g., mining and construction).

This study was prepared at the request of Congressmen Donald J. Pease (Ohio) and Byron L. Dorgan (North Dakota) by the staff of the Joint Committee on Taxation, with the assistance of staff from the General Accounting Office.

COMPARISON OF EFFECTIVE TAX RATES

1982 effective tax rates by industry

The corporations included in this study have an average worldwide tax rate of 29.6 percent in 1982, a U.S. tax rate of 16.1 percent, and a foreign tax rate of 55.0 percent (Table 1).

The worldwide tax rates on worldwide income vary widely among industries from negative 2.5 percent for insurance companies to 59.6 percent for rubber companies. Four industries have effective tax rates of less than 10 percent (aerospace, insurance, telecommunications, and railroads).

The telecommunications industry, which has more than 10 percent of total worldwide income and a very low worldwide rate (2.3 percent), has a particularly significant impact on the aggregate rate. This group is dominated by AT&T, which by itself has more than 10 percent of aggregate worldwide income and which has a low effective rate.[1] If just this one company, AT&T, is excluded from the sample, the average worldwide rate for all remaining companies would increase from 29.6 percent to 32.8 percent and the U.S. rate would increase from 16.1 percent to 18.9 percent. There are, of course, other large companies, particularly in the petroleum industry, that have a significant impact on the weighted average rate. But since none of these have an abnormally low rate, they do not, individually, affect the aggregate as much as AT&T.

The unusually high rate of 59.6 percent for rubber companies can be explained partially by the method of aggregation used this year. Companies with a positive tax expense are included in the totals even if they incur a book loss. This method increases the effective tax rate for the group and may result in apparently abnormal rates in any one year; but despite the potential for distortion over a short period, this method provides a better measure of the tax burden for the industry over longer periods of time. If loss companies were excluded from the group, the rubber industry rate would be less unusual, 46.2 percent, rather than 59.6 percent. (The U.S. rate would be 26.9 percent rather than 39.0 percent.) Another reason for the high rates in this group are book losses with no related tax benefit. For example, the effective tax rate for Firestone, as shown in the annual report, is increased by 10.4 percentage points by such losses.

Insurance companies were included in diversified financials in the staff's study of effective tax rates for 1981 but are separated into a new group in 1982. This group of companies does not necessarily represent the whole insurance industry, however, for two principal reasons. First, many of the largest insurance companies are mutual, rather than stock, companies which do not publish comparable data. Second, like other industries in this study, the insurance industry is represented by a small sample of companies: five companies that represent less than 15 percent of total companies in the insurance industry based upon asset size.

Not only is the rate computation difficult because of the differences between stock and mutual companies, it is complicated further by differences in types of insurance. Life insurance products are different from property and casualty insurance products, and quite different tax rules apply. For tax purposes, life insurance reserve deductions are based on the discounted value of future claims, whereas property and casualty reserve deductions are taken at the undiscounted cost of future payments. In addition, life companies must treat certain amounts credited to policyholders as being funded proportionately out of taxable and tax-exempt income, whereas property and casualty companies get the full benefit of tax-exempt income. As a result, property and casualty companies tend to generate tax losses which are used to offset the life insurance companies' taxable income in consolidated returns. Furthermore, because many of the largest life insurance companies are mutuals and are therefore excluded from this study, the effective tax rates are more heavily weighted by the property and casualty component of the insurance industry.

The negative current tax provision (a refund due) for the insurance group is due in part to Aetna's and Transamerica's negative provisions for tax. Reasons for the negative provision, as disclosed in Aetna's annual reports, include carrybacks of investment tax credits and capital losses to prior years, and a book adjustment for the taxes of unconsolidated subsidiaries. Consolidation of life insurance taxable income with property and casualty losses contribute to Transamerica's large negative current provision. Thus, even though all life insurance companies paid approximately $2 billion in taxes in 1982, it is not inconsistent that this study reflects a low (or negative) rate due to the effects of consolidation with property and casualty companies, carryovers and the exclusion of mutual companies.

The U.S. income tax rates on U.S. income vary between negative 17.7 percent for chemicals to 39.0 percent for rubber. Seven industries had effective tax rates of less than 10 percent (aerospace, broadcasting, chemicals, financial institutions, insurance, telecommunications, and railroads).

Industries which show a book loss (worldwide and U.S.), for the companies included in the sample, include metal manufacturing, mining, motor vehicles, and airlines. While motor vehicles incurred a book loss, the group had a positive worldwide tax expense, primarily due to substantial foreign tax expense.

The U.S. rates are almost all lower than the worldwide rates—some significantly lower. For example, chemicals have a 47.3 percent worldwide rate but a negative 17.7 percent U.S. rate. Financial institutions have a 24.3 worldwide rate but a negative 3.8 percent U.S. rate. The reasons for the large differences in rates between the worldwide rate and the U.S. rate have not been analyzed for particular industries. However, extensive foreign operations, with the utilization of foreign tax credits, appear to result in a low U.S. rate relative to the worldwide rate. Both the chemical industry and financial institutions derived more than 75 percent of their worldwide income from foreign sources.

Industry groups include companies whose greatest volume of sales lie within that group. Often a company included in one industry group has substantial activities in one or more other groups. Hence the tax rates for an industry in the data often reflect the effects of tax rules relating to other, often quite different, industries. For example, Sears is included in the retail industry because more of its sales income is from retailing than from insurance or financial services.[2] But because of the special tax provisions that apply to insurance, Sears' effective tax rate is lower than it would be if Sears were a retailer only. In addition, because Sears is so large, the weighted average for the whole retail group is substantially lower than it would be without Sears' insurance operations. It is not possible, generally, to calculate a separate effective tax rate for separate activities within one company; therefore, we cannot calculate Sears' rate for retailing alone to eliminate the effect of insurance tax provisions on the "retail" rate. But the effective worldwide rate for retailers computed by excluding Sears is 27.1 percent—5.5 percentage points higher than the rate shown (21.6 percent including Sears). The U.S. rate for retailers is 26.1 percent without Sears compared to 20.4 percent with Sears in the group. It seems reasonable to assume that most of the difference in rates is due to Sears' insurance and other activities.

Another, somewhat similar, problem with classifying companies into broad categories is that even within a particular cateorgy (SIC code), some companies' business operations may be quite different from others in the same group. Using the retail industry as an example again, large retailers include department stores and food supermarkets who have quite different business operations (e.g., food supermarkets generally have a low gross profit on large turnover while department stores have a much higher gross profit on lower turnover). The effective worldwide rate for the food supermarkets alone is 28.0 percent compared with 21.6 percent for the whole group (or 27.1 percent without Sears).

Typically, corporations file a consolidated income tax return with any wholly owned finance subsidiary, even when, under the accounting rules, the finance subsidiary is not included in consolidated financial statements. If a finance subsidiary generates significant tax benefits (e.g., from leasing), the tax expense as reflected in the parents' financial statements may be misleading; the tax expense on the consolidated tax return would be much lower. In this study, equity in the net earnings of wholly owned subsidiaries is eliminated from the parents' income, i.e., neither the income nor tax expense of the subsidiary is included in the tax rate computation. Because this treatment may be misleading in cases where the tax rate for the subsidiary is the significant-

[1] The California Public Utilities Commission ordered certain utilities, including a subsidiary of AT&T, to pay refunds to consumers, thereby rendering the utilities ineligible for accelerated depreciation and investment tax credits. In December 1982, Congress enacted legislation to clarify the eligibility for these tax benefits and to require tax payments based on amounts refunded to consumers. The net effect of recognizing the reestablished eligibility and the required tax payment was to reduce current tax expense by $885.2 million in 1982. Because of the size and unusual nature of this adjustment, the current tax expense used to compute the effective tax rate excluded this adjustment (i.e., current tax expense as reported was increased by $885.2 million). GTE was also affected by this legislation, but the tax expense was not adjusted because the amount applicable to the current rather than the total provision was not available.

[2] If companies were classified by net income, rather than gross sales, Sears would be classified as an insurance company.

ly different from the rate for the parent, a combined rate is computed for the parent and subsidiary. The pre-tax income of the subsidiary is added to the income of the parent, and the current tax expense of the subsidiary is added to the tax expense of the parent. The financial statements of the subsidiary are needed, however, to compute this combined rate. A combined rate was computed only when, from other information, it was clear that the subsidiary generated significant tax benefits, and when the financial statements were available. Thus, a combined rate may not have been computed in all cases where it was appropriate. A combined rate was computed for General Electric (GE) because of the significant tax benefits generated by GE's wholly owned subsidiary, General Electric Credit Corporation (GECC). As a result, GE's worldwide and U.S. rate in 1982 was reduced by over 20 percentage points by including GECC.

U.S. and worldwide tax rates, 1980–1982

There is no clear pattern of change in the tax rates over the period 1980 through 1982 for all industries. Some industry rates remain fairly constant, such as the financial institutions' worldwide rate (22.5 percent, 24.5 percent, and 24.3 percent for 1980, 1981, and 1982, respectively). The rates for other industries change substantially from year to year. For example, the U.S. rate for chemicals went from 13.7 percent in 1980 to 5.0 percent in 1981, to negative 17.7 percent in 1982.

By aggregating the income and taxes for the 3-year period, the effect of factors which tend to distort the rates in any one year are reduced (e.g., an unusual loss in a large company may distort the aggregate rate in one year, while it may not have a significant effect on the 3-year rate). Three-year rates are not available for all of the industries studied in 1982 because some new industries were added to the study in 1982 and other companies were grouped differently from the prior years. The meaning of such aggregate data, however, is obscured by the fact that the tax law was changed, in significant respects, during the 3-year period. Also, different companies were included in the industry group in differet years, which could cause the data to present a misleading indication of the true trend.

Of the industries for which data are available, railroads have the lowest worldwide rate of 2 percent for the period 1980–82, and trucking has the highest worldwide rate of 40.9 percent. Paper and wood products have the lowest, and only negative, U.S. rate (3.5 percent) for the 3-year period, while the highest U.S. rate is 40.3 percent for trucking. Five out of the 17 industries for which prior years' data are available had U.S. rates of less than 10 percent (aerospace, chemicals, financial institutions, paper and wood products, and railroads).

Average effective tax rates, 1980–1982

The U.S. rate on U.S. income declined from 21.8 percent in 1980 to 17.2 percent in 1981 and 16.1 percent in 1982. The worldwide rate declined from 34.3 percent in 1980 to 29.6 percent in 1981, but remained at the same level (29.6 percent) in 1982. These data should be interpreted cautiously as indicators of a true trend, since different companies were included in the data for different years.

Tax return vs. annual report tax rates, 1980

The effective tax rates in this study are computed for only a small number of the largest companies in selected industries. Do these rates fairly represent the Federal income tax burden of each industry given the problems in computing effective tax rates from financial statements? In order to shed some light on this question, an effort was made to compare the rates computed in this study with tax return data.

Solely for purposes of determining whether the effective tax rates in this study approximate the actual rate paid by an industry, an effective tax rate was computed for a few industries from the "Corporation Statistics of Income" data for 1980 (the most recent year available). The rate was computed by comparing U.S. tax liability plus foreign taxes paid (a measure of worldwide tax expense) with net income per books plus the provision for Federal income taxes (worldwide income). These rates differ from effective tax rates computed from annual reports in several important respects. Probably the biggest difference is that the tax return measure of "taxes paid" does not reflect any refunds. Another important difference is that net income per books is often not reported on the return, and even if reported is often incorrect.[3] Also, the consolidation rules for tax purposes are different from the accounting rules, so the taxable entity may not be the same as the financial statement entity. The final difference is that rates from income tax returns are computed only for firms with positive after-tax income and positive tax liability.

This study includes a comparison of the effective tax rates based on annual reports with the effective tax rates based on tax return data. Some of the rates computed by the two different methods are remarkably similar. For example, rates which differ by less than 1 percentage point include petroleum and coal products, which have a rate of 43.9 percent on tax returns compared with a 44.7 percent worldwide rate computed from 1980 annual reports.[4] Electric, gas, and sanitary services have a rate of 10.7 percent on tax returns compared with 10.9 percent for gas and electric utilities on financial statements.[5] Instruments and related products have a rate of 41.5 percent on tax returns compared with 40.7 percent in this study.

Several other rates differ by 5 percentage points or less. For example, general merchandise stores have a rate of 31.5 percent on tax returns compared with 30.3 percent for retailers on financial statements; food products' rate is 32.9 percent on tax returns compared with a rate of 37.6 percent for food processors on financial statements; the electric and electronic equipment industry rate is 32.5 percent on tax returns compared with electronics, appliances' rate of 27.5 percent on financial statements.

Some rates differ by larger margins. The rate for banking on tax returns is 15.4 percent compared with a 22.5 percent rate for financial institutions (this group includes only commercial banks) on financial statements. The rate for tobacco manufacturers is 45.2 percent on tax returns rather than 29.9 percent on financial statements for the tobacco group in this study.

Any comparison of rates computed for different samples using different methods must be used with caution. Flaws become more apparent when the rates for an industry are quite different under the two methods. For example, paper and allied products have a rate of 29.6 percent computed from the tax return data, but only a 7.0 percent rate computed from annual reports. While this may be due to refunds reflected in the annual report rate but not in the tax return rate, the difference needs explaining—and this is not possible without much more analysis.

Even though this comparison of rates computed from tax return data with rates computed from annual reports is inexact, one industry's tax rate relative to other industries' rates is generally the same under both methods. For example, utilities and banks pay lower rates of tax than the retailers or instrument companies. Thus, the rate computed from tax return data does provide support for the relative industry rates computed from annual reports in this study.

Trends in U.S. corporate taxes as percentage of Government receipts

Effective tax rates in this study are computed for only a small number of large companies, and aggregate rates are only available for 1980, 1981, and 1982. U.S. tax rates for these companies declined over this period. Does this decline in rates represent fairly an overall decline in the corporate Federal income tax burden? In an effort to answer this question, at least partially, the trend in rates based on this study is compared with the trend in corporate taxes as a percentage of Federal Government receipts.

Federal Government receipts for the period 1950 through 1982 by category—individual, corporate, indirect, and social security. Corporate taxes have declined steadily over the period from 28.3 percent of total receipts in 1950 to only 8.1 percent in 1982. Meanwhile, individual taxes have increased from 39.2 percent in 1950 to 49.0 percent in 1982, and contributions for social insurance have increased more rapidly from 13.1 percent in 1950 to 34.7 percent in 1982. If contributions for social insurance are excluded, receipts from personal taxes are 75 percent, corporate taxes 12.4 percent, and indirect taxes 12.6 percent of the total.

It appears that the decline in the effective rate of the federal corporate income tax has contributed to the reduced contribution of this tax to total federal receipts.

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[3] Firms that reported zero after-tax book income are excluded.

[4] 1980 rates computed from annual reports are as shown in Table 3. (Complete study available from the office of Congressman Pease.)

[5] The Edision Electric Institute prepares a "combined" income statement for over 100 investor-owned electric utilities. Effective tax rates computed from the current tax expense and book income shown on the combined statements are 8.9 percent in 1980, 10.2 percent in 1981, and 13.7 percent in 1982—rates that are all within 2 percent of the rates in this study and the income tax return rate in 1980.

TABLE I—FEDERAL INCOME TAX RATES BY INDUSTRY, 1982

[Dollar amounts in thousands]

	Income before tax			Current tax expense			Percent—		
	United States	Foreign	Worldwide	United States	Foreign	Worldwide	U.S. tax rate on U.S. income	Foreign tax rate on foreign income	Worldwide tax rate on worldwide income
Aerospace	$2,295,141	$416,243	$2,711,384	$(13,956)	$207,505	$193,549	(0.6)	49.9	7.1
Beverages	1,590,612	674,107	2,264,719	325,463	327,565	653,028	20.5	48.6	28.8
Broadcasting	784,065	123,101	907,166	69,760	54,472	124,232	8.9	44.2	13.7
Chemicals	1,191,400	3,832,800	5,024,200	(210,800)	2,584,900	2,374,100	(17.7)	67.4	47.3
Computers and office equipment	5,790,319	4,199,219	9,989,538	1,525,913	2,179,158	3,705,071	26.4	51.9	37.1
Construction	335,747	219,682	555,429	53,422	72,093	125,515	15.9	32.8	22.6
Electronics, appliances	4,329,753	1,820,752	6,150,505	617,199	698,067	1,315,266	14.3	38.3	21.4
Financial institutions	1,413,187	4,150,181	5,563,368	(54,137)	1,405,018	1,350,881	(3.8)	33.9	24.3
Food processors	2,412,720	966,581	3,379,301	761,940	469,818	1,231,758	31.6	48.6	36.5
Glass and concrete	(6,490)	201,897	195,407	(35,036)	69,986	34,950	(1)	34.7	17.9
Instruments	2,723,646	960,978	3,684,624	597,515	394,711	992,226	21.9	41.1	26.9
Insurance	1,339,534	32,000	1,371,534	(83,851)	49,161	(34,690)	(6.3)	(1)	(2.5)
Investment companies	1,155,762	531,800	1,687,562	246,512	146,886	393,398	21.3	27.6	23.3
Metal manufacturing	(1,882,979)	70,200	(1,812,779)	(200,793)	70,200	(130,593)	(1)	(1)	(1)
Metal products	458,132	230,096	688,228	138,400	156,270	294,670	30.2	67.9	42.8
Mining	(345,543)	29,007	(316,536)	(43,714)	33,450	(10,264)	(1)	(1)	(1)
Motor vehicles	(1,488,894)	543,967	(944,927)	(289,621)	525,187	235,566	(1)	(1)	(1)
Paper and wood	301,318	27,887	329,205	108,857	30,900	139,757	36.1	(1)	42.5
Petroleum refining	21,433,352	17,854,717	39,288,069	3,907,484	11,091,783	14,999,267	18.2	62.1	38.2
Pharmaceuticals	1,854,573	1,420,600	3,275,173	606,446	646,997	1,253,443	32.7	45.5	38.3
Retailing	3,418,987	206,761	3,625,748	699,044	85,874	784,918	20.4	41.5	21.6
Rubber	260,645	195,144	455,789	101,569	169,970	271,539	39.0	(1)	59.6
Soaps and cosmetics	1,929,911	578,135	2,508,046	641,835	310,106	951,941	33.3	53.6	38.0
Telecommunications	13,328,971	184,399	13,513,370	211,292	105,723	317,015	1.6	57.3	2.3
Tobacco	2,674,142	687,453	3,361,595	970,884	128,139	1,099,023	36.3	18.6	32.7
Transportation:									
Airlines	(619,492)	(123,160)	(742,652)	(48,428)	23,034	(25,394)	(1)	(1)	(1)
Railroads	1,689,859	.....	1,689,859	68,523	.....	68,523	4.1	.....	4.1
Trucking	837,646	4,495	842,141	309,310	4,308	313,618	36.9	(1)	37.2
Utilities (electric and gas)	5,502,269	.....	5,502,269	859,214	.....	859,214	15.6	.....	15.6
Wholesalers	911,570	96,354	1,007,924	329,319	14,019	343,338	36.1	14.5	34.1
Average, all companies	75,619,863	40,135,396	115,755,259	12,169,565	22,055,300	34,224,865	16.1	55.0	29.6

[1] Rate not computed. See "Methodology-Computation of Tax Rates."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEWIS of California (at the request of Mr. MICHEL) on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 10 minutes, today.

Mr. FISH, for 5 minutes, on November 16.

Mr. FISH, for 5 minutes, on November 17.

Mr. FISH, for 5 minutes, on November 18.

Mr. SMITH of New Jersey, for 30 minutes, today.

Mr. FRENZEL, for 30 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. CARNEY, for 60 minutes, on November 17.

Mr. CARNEY, for 60 minutes, on November 18.

Mr. PORTER, for 60 minutes, today.

(The following Members (at the request of Mr. WYDEN) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LLOYD, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. BONER of Tennessee, for 10 minutes, today.

Mr. ANTHONY, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on November 15.

Mr. GAYDOS, for 60 minutes, on November 16.

Mr. GAYDOS, for 60 minutes, on November 17.

Mr. GAYDOS, for 60 minutes, on November 18.

Mr. HALL of Ohio, for 20 minutes, today.

Mr. SHELBY, for 30 minutes, on November 16.

Mr. SCHUMER, for 5 minutes, today.

Mr. PEPPER, for 45 minutes, on November 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMMERSCHMIDT, to revise and extend on House Joint Resolution 1.

Mr. LEVITAS, immediately before the vote on House Joint Resolution 1, in the House today.

Mr. COURTER, and to include remarks just prior to the vote on House Joint Resolution 1 in the House today.

Mr. CONTE just prior to the vote on House Joint Resolution 1 in the House today.

Mr. FRENZEL, just prior to the vote on House Joint Resolution 1 in the House today.

Mr. BILIRAKIS, just prior to the vote on House Joint Resolution in the House today.

Mr. SMITH of New Jersey, just prior to the vote on House Joint Resolution 1 in the House today.

Mr. NIELSON of Utah, to revise and extend his remarks on House Joint Resolution 1 just prior to the vote in the House today.

Mr. ROEMER, immediately preceding vote on House Joint Resolution 1.

Mr. VOLKMER, on House Joint Resolution 1, immediately prior to the vote.

Mrs. SMITH of Nebraska, on House Joint Resolution 1, immediately prior to the vote.

Mr. PEASE, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,086.75.

Mr. YOUNG of Alaska, on H.R. 3486, immediately prior to the question being asked.

Mr. JEFFORDS, on H.R. 4198, immediately prior to vote.

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. BLILEY.

Mr. SAWYER.

Mr. GOODLING.

Mr. LEWIS of California in two instances.
Mrs. HOLT.
Mr. GUNDERSON in four instances.
Mr. CONTE.
Mr. DUNCAN.
Ms. FIEDLER.
Mr. LEACH of Iowa.
Mr. PRITCHARD.
Mr. MARRIOTT in three instances.
Mr. BILIRAKIS.
Mr. DANIEL B. CRANE.
Mr. BURTON of Indiana.
Mr. BROOMFIELD in three instances.
Mrs. VUCANOVICH.
Mr. WEBER.
Mr. KEMP in three instances.
Mr. BOEHLERT.
Mr. COURTER.
Mr. HILLIS.
Mr. MOORE.
Mr. FORSYTHE.
Mr. DAUB.
Mr. DANNEMEYER in two instances.
Mr. CLINGER.
Mr. CORCORAN.
Mr. DAVIS in two instances.
Mr. LAGOMARSINO.
Mr. SILJANDER.
Mr. MICHEL in two instances.
Mr. DREIER of California.
Mr. REGULA.
Mr. BEREUTER.
Mrs. SMITH of Nebraska.
Mr. MORRISON of Washington in two instances.
Mr. LOWERY of California.
Mr. FISH.
Mr. GILMAN in four instances.
Mr. PHILIP M. CRANE.
Mr. WOLF.
Mr. RINALDO.

(The following Members (at the request of Mr. WYDEN) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. PEASE in two instances.
Mr. JACOBS in two instances.
Mr. DE LUGO in two instances.
Mr. FUQUA.
Mr. YATRON.
Mr. MILLER of California in two instances.
Mr. APPLEGATE.
Mr. DOWNEY of New York in three instances.
Mr. KOLTER in two instances.
Mr. BERMAN.
Ms. OAKAR.
Mr. SHELBY.
Mr. MINETA in two instances.
Mr. STOKES.
Mr. SKELTON.
Mr. ROE.
Mr. FLORIO.
Mr. UDALL.
Mr. GUARINI in three instances.
Mr. ROYBAL.
Mr. LEATH of Texas.
Mr. ECKART.
Mr. VOLKMER in two instances.
Mrs. BURTON of California in two instances.
Mr. BOUCHER.
Mr. FOWLER.
Mr. EVANS of Illinois in two instances.
Mr. LANTOS.
Mr. DELLUMS.
Mr. PATTERSON in two instances.
Mrs. SCHROEDER.
Mr. LONG of Louisiana.
Mr. SAM B. HALL, JR.
Mr. LUNDINE.
Mr. FAUNTROY.
Mr. BARNES.
Mr. DIXON.
Mr. WON PAT.
Mr. TORRES.
Mr. MATSUI.
Mr. SWIFT.
Mr. WHEAT.
Mr. NICHOLS in two instances.
Mr. AUCOIN.
Mrs. HALL of Indiana.
Ms. MIKULSKI.
Mr. BEDELL.
Mr. SCHEUER.
Mr. OBERSTAR in two instances.
Mr. OWENS.
Mr. MURTHA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 452. An act to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes; to the Committee on Public Works and Transportation.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on November 14, 1983, present to the President, for his approval, bills and joint resolutions of the House of the following title:

H.J. Res. 283. Joint resolution designating the week beginning November 6, 1983, as "National Disabled Veterans Week";

H.J. Res. 383. Joint resolution to designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week";

H.J. Res. 408. Joint resolution designating November 12, 1983, as "Anti-Defamation League Day" in honor of the league's 70th anniversary;

H.R. 2910. An act to amend the act of November 2, 1966, regarding leases and contracts affecting land within the Salt River Pima-Maricopa Indian Reservation;

H.R. 3348. An act to honor Congressman Leo J. Ryan and to award a special congressional gold medal to the family of the late Honorable Leo J. Ryan; and

H.R. 3885. An act to provide for the restoration of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 16, 1983, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2137. A communication from the President of the United States, transmitting a request for supplemental appropriations for the fiscal year 1984 for the Department of Defense—military, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-133); to the Committee on Appropriations and ordered to be printed.

2138. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-76, "Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2139. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-77, "Alcoholic Beverage Control Act Amendments Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2140. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 5-78, "Notaries Public Fee Act of 1983," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2141. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2142. A letter from the President, National Safety Council, transmitting a report on the audit of the Council's financial transactions for the fiscal year ended June 30, 1983; to the Committee on the Judiciary.

2143. A letter from the Adjutant General, United Spanish War Veterans, transmitting the proceedings of the stated convention of the 84th National Encampment, United Spanish War Veterans, Inc., held in Louisville, Ky., August 28 to September 2, 1982, pursuant to Public Law 77-249 (H. Doc. No. 98-132); to the Committee on Veterans' Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Commmittee on Government Operations. Report on improvements needed in the administration of the Javits-Wagner-O'Day Act (Rept. No. 98-546). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on the interrelationship of funding for the arts at the Federal, State, and local levels (Rept. No. 98-547). Referred to the Committee of the Whole House on the State of the Union.

Mr. STOKES: Committee on Standards of Official Conduct. Report on the matter of James C. Howarth (Rept. No. 98-548). Referred to the House Calendar.

Mr. ASPIN: Committee on Armed Services. S. 974. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes; with an amendment (Rept. No. 98-549). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of conference. Conference report on H.R. 2780 (Rept. No. 98-550). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 3959 (Rept. No. 98-551). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WIRTH (for himself, Mr. BROWN of Colorado, Mr. CHENEY, Mr. HANSEN of Utah, Mr. KOGOVSEK, Mr. KRAMER, Mr. LUJAN, Mr. MARRIOTT, Mr. NIELSON of Utah, Mr. REID, Mr. RICHARDSON, Mrs. SCHROEDER, Mr. SCHAEFER, Mr. SKEEN, and Mrs. VUCANOVICH):

H.R. 4388. A bill to grant the consent of the Congress to the Rocky Mountain low-level radioactive waste compact; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. CARPER:

H.R. 4389. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to repeal certain recently enacted provisions which create disincentives to judicial service by retired justices and judges; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 4390. A bill to amend the Education Consolidation and Improvement Act of 1981 to require certain minimum standards of academic achievement and school administration, and for other purposes; to the Committee on Education and Labor.

By Mr. HARKIN (for himself and Mr. JEFFORDS):

H.R. 4391. A bill to apply a payment limitation on payments under the milk diversion program; to the Committee on Agriculture.

By Mr. MAVROULES (for himself and Mr. WILLIAMS of Montana):

H.R. 4392. A bill to provide for an accelerated program of research, development, and demonstration with respect to the production of electricity from magnetohydrodynamics, leading to the construction and operation of at least one major proof of concept demonstration project in connection with an existing electric powerplant, and for other purposes; to the Committee on Science and Technology.

By Mr. MRAZEK:

H.R. 4393. A bill to amend the Federal Water Pollution Control Act relating to permits for dredged or fill material; to the Committee on Public Works and Transportation.

By Mr. ROYBAL:

H.R. 4394. A bill to direct the Attorney General to study the problems of indigent, elderly immigrants who wish to return to their home countries but cannot afford to pay the transportation costs to do so; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Mr. WAXMAN, and Mr. YOUNG of Florida):

H.R. 4395. A bill to regulate smoking on board passenger-carrying aircraft; to the Committee on Public Works and Transportation.

By Mr. SKELTON (for himself and Mr. VOLKMER):

H.R. 4396. A bill to authorize community relocation and business and employee protection in cases of toxic substance contamination; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. VENTO:

H.R. 4397. A bill to provide that non-Federal interests shall pay an equitable share of the costs of water project feasibility studies conducted by the Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service in order to encourage practical solutions to water resource problems and insure an orderly development of the Nation's water resources; jointly, to the Committees on Public Works and Transportation, Interior and Insular Affairs, and Agriculture.

By Mr. WOLF:

H.R. 4398. A bill to authorize the Secretary of Transportation to conduct a demonstration project involving restrictions on use of a portion of Interstate Highway 66 in the Commonwealth of Virginia; to the Committee on Public Works and Transportation.

By Mr. WOLF (for himself, Mr. BLILEY, and Mr. SISISKY):

H.R. 4399. A bill to amend title 23, United States Code with respect to the Richmond-Petersburg Turnpike, and U.S. Interstate 66; to the Committee on Public Works and Transportation.

By Mr. YATRON:

H.R. 4400. A bill in support of the Government of the Republic of Cyprus as the sole legitimate Government on Cyprus; to the Committee on Foreign Affairs.

By Mr. PHILIP M. CRANE:

H. Con. Res. 216. Concurrent resolution disapproving the Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983 passed by the City Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. FOWLER (for himself and Mr. AKAKA):

H. Con. Res. 217. Concurrent resolution endorsing the recommendations of the Solar System Exploration Committee for the continued exploration of the solar system by the United States; to the Committee on Science and Technology.

H. Con. Res. 218. Concurrent resolution endorsing the recommendations of the Astronomy Survey Committee for astronomical and astrophysical exploration and understanding during the 1980's; to the Committee on Science and Technology.

By Mr. MARLENEE (for himself, Mr. DAVIS, Mr. MCNULTY, Mr. STUMP, Mr. RAHALL, Mr. STENHOLM, Mr. HANSEN of Idaho, Mr. BOSCO, Mr. FIELDS, Mr. EVANS of Iowa, Mr. WILLIAMS of Montana, and Mr. ROBERTS):

H. Con. Res. 219. Concurrent resolution expressing the sense of the Congress that the Interstate Commerce Commission has not been exercising its statutory authority in a manner which adequately balances the interests of rail shippers and the public against the interests of rail carriers; to the Committee on Energy and Commerce.

By Mr. YATRON (for himself, Mr. ZABLOCKI, Mr. BROOMFIELD, and Mr. FASCELL):

H. Con. Res. 220. Concurrent resolution condemning the action of the so-called Turkish Federated State of Cyprus in declaring itself to be an independent state on Cyprus on November 15, 1983; to the Committee on Foreign Affairs.

By Mr. BROOMFIELD:

H. Res. 371. Resolution calling for determined U.S. opposition to illegal actions by the so-called Turkish Federation of Cyprus; to the Committee on Foreign Affairs.

By Mr. PHILIP M. CRANE:

H. Res.. 372. Resolution disapproving the action of the District of Columbia Council in approving the Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983; to the Committee on the District of Columbia.

By Mr. FISH (for himself, Mr. MICHEL, Mr. LOTT, Mr. CHENEY, Mr. FORSYTHE, Mr. STANGELAND, Mr. MORRISON of Washington, Mr. VANDER JAGT, Mr. BETHUNE, Mr. SHAW, Mr. KEMP, Mr. SENSENBRENNER, Mr. GEKAS, Mr. MCCOLLUM, Mr. SNYDER, Mr. SMITH of New Jersey, Mr. WALKER, Mr. HYDE, Mr. PARRIS, Mr. LUNGREN, Mr. LOWERY of California, Mr. GRAMM, Mr. DEWINE, Mr. LEVITAS, Mr. DANNEMEYER, Mr. KINDNESS, Mr. GINGRICH, Mr. RIDGE, Mr. TAUKE, Mr. RITTER, Mr. CHANDLER, Mr. DAVIS, Mr. LAGOMARSINO, Mr. TAUZIN, Mr. BEREUTER, and Mr. MOORE):

H. Res. 373. Resolution providing for the consideration of the joint resolution (H.J. Res. 1) proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on Rules.

By Mr. LELAND:

H. Res. 374. Resolution calling upon the U.S. Postal Service to designate the Houston Main Post Office Building in Houston, Tex., as the "Barbara C. Jordan Post Office Building"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DELLUMS introduced a bill (H.R. 4401) for the relief of Shu-Ah-Tsai Wei, her husband, Yen Wei, and their sons, Teh-fu Wei and Teh-huei Wei; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. GOODLING and Mr. BEDELL.
H.R. 433: Mr. FASCELL.
H.R. 470: Mr. MCCOLLUM.
H.R. 1354: Mr. GEJDENSON, Mr. MOLLOHAN, Mr. WEAVER, Mr. ROE, Mr. FAZIO, Mr. EVANS of Iowa, and Mr. GOODLING.
H.R. 1415: Mr. CLARKE, Mr. WISE, and Mr. HUCKABY.
H.R. 1576: Mr. ST GERMAIN.
H.R. 1657: Mr. KEMP.
H.R. 1955: Mr. MACK, Mr. ROBINSON, Ms. SNOWE, Mr. ANDREWS of Texas, Mr. HEFNER, and Mr. MARLENEE.
H.R. 1991: Mrs. HALL of Indiana and Mr. MCGRATH.
H.R. 2053: Mr. SKELTON.
H.R. 2817: Mr. WON PAT, Mr. MAVROULES, Mrs. LLOYD, and Mr. HUGHES.
H.R. 2959: Mr. FORSYTHE, Mr. RATCHFORD, Mr. BEILENSON, Mr. BOLAND, Mr. LEHMAN of Florida, and Mrs. HALL of Indiana.
H.R. 2977: Mr. STENHOLM and Mr. BILIRAKIS.
H.R. 3264: Mr. WAXMAN.
H.R. 3498: Mr. LANTOS and Mr. TORRES.
H.R. 3588: Mr. YATES, Mr. KINDNESS, Mr. HARRISON, Mr. OBERSTAR, Mr. CROCKETT, Mr. TALLON, Mr. LEHMAN of Florida, Mr. ROE, Ms. KAPTUR, Mr. KOGOVSEK, Mr. FRANK, Mr. DONNELLY, Ms. MIKULSKI, Mr. CORRADA, Mr. SOLARZ, Mr. DWYER of New Jersey, Mr. CONYERS, Mr. FAZIO, Mr. SMITH of New Jersey, Mr. GEKAS, Mr. DAUB, Mr. BROWN of California, Mr. OTTINGER, Mr. OWENS, Mr. SABO, Mr. SEIBERLING, Mr. SIMON, Mr. LELAND, Mr. HOWARD, Mr. MCGRATH, Mr. WHITEHURST, Mr. CONTE, Mr. TOWNS, Mr. LANTOS, Mr. WEAVER, Mr. BIAGGI, Mr. BERMAN, Mr. WILLIAMS of Montana, Mr. EARLY, Mr. VENTO, Mrs. KENNELLY, Mr. FORSYTHE, Mr. SUNIA, Mr. DELLUMS, Mr. WILSON, Mr. STUDDS, Mr. D'AMOURS, Mr. TORRICELLI, Mr. ASPIN, Mr. RODINO, Mr. MCHUGH, Mr. DYSON, Mr. HORTON, Mr. GOODLING, Mr. DANIEL, Mrs. JOHNSON, Mr. BORSKI, Mr. EVANS of Illinois, Mr. TAUKE, Mr. PENNY, Ms. FERRARO, Mrs. HALL of Indiana, and Mr. CLINGER.
H.R. 3791: Mr. SMITH of New Jersey and Mrs. BOXER.
H.R. 3792: Mr. SMITH of New Jersey and Mrs. BOXER.
H.R. 4070: Mr. DICKS, Mr. FISH, Mr. MORRISON of Washington, Mr. PATMAN, Mr. SIMON, and Mr. MCGRATH.
H.R. 4092: Mr. STENHOLM, Mr. MCCOLLUM, and Mrs. SCHNEIDER.
H.R. 4162: Mr. FRANKLIN, Mr. BADHAM, and Mr. BROWN of Colorado.
H.R. 4164: Mr. HANCE, Mr. CARR, Mr. ANDREWS of North Carolina, Mr. TRAXLER, Mr. YOUNG of Missouri, Mr. BOEHLERT, Mrs. BURTON of California, Mr. PATTERSON, Mr. DWYER of New Jersey, and Mr. SAVAGE.
H.R. 4187: Mr. WORTLEY, Mr. BRYANT, Mr. BATES, Mr. WEISS, Mr. LUNDINE, and Mr. PANETTA.
H.R. 4206: Ms. OAKAR and Mr. OTTINGER.
H.R. 4207: Mr. STOKES, Mr. PATMAN, Mr. RANGEL, Mrs. HALL of Indiana, Mr. WON PAT, Mrs. COLLINS, Mr. HAWKINS, and Mr. ECKART.
H.R. 4214: Mr. UDALL, Mr. MARLENEE, and Mr. SKEEN.
H.R. 4229: Mr. KRAMER and Mr. BOSCO.
H.R. 4317: Mr. NEAL.
H.R. 4324: Mr. ALBOSTA, Mr. AUCOIN, Mr. BATES, Mr. ECKART, Mr. HARRISON, Mr. HUGHES, Mr. MCGRATH, Mr. MCNULTY, Mr. PATMAN, Mr. WOLPE, and Mr. WYDEN.
H.R. 4340: Mr. COELHO.
H.J. Res. 103: Mr. OWENS.
H.J. Res. 205: Mr. BEVILL and Mr. YOUNG of Missouri.
H.J. Res. 322: Ms. MIKULSKI, Mr. MARTINEZ, Mr. MURPHY, Mr. KASTENMEIER, Mr. SABO, Mr. BLILEY, and Mr. GONZALEZ.
H.J. Res. 324: Mrs. JOHNSON, Mr. DANIEL, Mr. HEFNER, Mr. PICKLE, Mr. LUJAN, Mr. SABO, Mr. FEIGHAN, Mr. SYNAR, Mr. FIELDS, Mr. ZSCHAU, Mr. RUDD, Mr. MRAZEK, Mr. ACKERMAN, Mr. SILJANDER, Mr. COOPER, Mr. LEACH of Iowa, Mr. MCDADE, Mr. KILDEE, Mr. HANSEN of Utah, Mr. MARKEY, Mrs. COLLINS, Mr. MAVROULES, Mr. SKELTON, Mr. MOAKLEY, Mr. MURPHY, Mr. MARRIOTT, Mr. RODINO, Mr. PACKARD, Mr. ROEMER, Mr. SAVAGE, Mrs. SCHNEIDER, Mr. MARTIN of North Carolina, Mr. LIVINGSTON, Mr. RINALDO, Mr. JACOBS, Mr. GRADISON, Mr. ROBINSON, Mr. BATEMAN, Mr. MARTINEZ, Mrs. HALL of Indiana, Mr. PEPPER, Mr. CORCORAN, Mr. CROCKETT, Mr. CHAPPIE, Mr. DOWDY of Mississippi, Mr. DONNELLY, Mr. DURBIN, Mr. DYMALLY, Mr. GILMAN, Mr. CONTE, Mr. DASCHLE, Mr. ANNUNZIO, Mr. BEILENSON, Mr. FORD of Tennessee, Mr. GUNDERSON, Mr. SKEEN, Mr. CLAY, Mr. EDWARDS of Oklahoma, Mr. KAZEN, Mr. RAY, Mr. DANNEMEYER, Mr. DREIER of California, Mr. LOTT, Mr. LEWIS of Florida, Mr. REGULA, Mr. HARTNETT, Mr. NICHOLS, Mr. HYDE, Mr. ECKART, Mr. BILIRAKIS, Mr. SUNDQUIST, Mr. RIDGE, Mr. DANIEL B. CRANE, Mr. MARTIN of New York, Mr. DAUB, Mr. HARRISON, Mr. GRAY, Mr. HANCE, Mr. HAMMERSCHMIDT, Mr. BARTLETT, Mr. LOWERY of California, and Mr. ENGLISH.
H.J. Res. 382: Mr. ASPIN, Mr. BARNES, Mr. BEVILL, Mr. ECKART, Mr. ENGLISH, Mr. HUGHES, Mr. LEHMAN of California, Mr. OLIN, Mr. REID, Mr. RIDGE, Mr. SHELBY, and Mr. WOLPE.
H.J. Res. 384: Mr. RICHARDSON, Mr. WYDEN, Mr. RANGEL, Mr. BERMAN, Mr. EDGAR, and Mr. DELLUMS.
H.J. Res. 394: Mr. ALEXANDER, Mr. BARNARD, Mr. BENNETT, Mr. BEVILL, Mr. BOLAND, Mrs. BOGGS, Mr. CORRADA, Mr. DARDEN, Mr. EARLY, Mr. ERDREICH, Mr. FRANK, Mr. FUQUA, Mr. GEPHARDT, Mr. HAMILTON, Mr. HATCHER, Mrs. HOLT, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. LEVIN of Michigan, Mr. LEVITAS, Mrs. LLOYD, Mr. LONG of Maryland, Mr. LUJAN, Mr. MICA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. NATCHER, Mr. PANETTA, Mr. PEPPER, Mr. PERKINS, Mr. ROBERTS, Mr. ROEMER, Mr. ROSE, Mr. ROYBAL, Mr. SKELTON, Mr. SUNIA, Mr. VOLKMER, Mr. WATKINS, Mr. WEISS, Mr. WHITTEN, Mr. YOUNG of Missouri, Mr. ZABLOCKI, Mr. AUCOIN, Mr. BONKER, Mrs. BOXER, Mr. DIXON, Ms. FERRARO, Mr. FOLEY, Mrs. HALL of Indiana, Mr. HAWKINS, Mr. JONES of North Carolina, Mr. LEVINE of California, Mr. LUKEN, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MILLER of California, Mr. MORRISON of Connecticut, Mr. OBEY, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. STOKES, Mr. TORRES, Mr. UDALL, Mr. WYDEN, Mr. DINGELL, and Ms. KAPTUR.
H.J. Res. 404: Mr. MCCOLLUM.
H. Con. Res. 146: Mr. CORCORAN.
H. Con. Res. 181: Mr. EDGAR and Mr. MCEWEN.
H. Con. Res. 196: Mr. YATRON.
H. Con. Res. 215: Mr. SMITH of Florida, Mr. RICHARDSON, Mr. PATMAN, Mr. HATCHER, Mr. RUDD, Mr. CHAPPELL, Mr. MCGRATH, Mr. MCCANDLESS, and Mr. JEFFORDS.
H. Res. 15: Mr. HAYES and Mr. QUILLEN.
H. Res. 278: Mr. KINDNESS and Mr. MCGRATH.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4170

By Mr. FROST:

—Beginning on page 586, line 1, through page 612, line 25, strike all of subtitle B and insert the following:

Subtitle B—Private Activity Bonds

SEC. 721. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations must not be guaranteed or subsidized under an energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(C) such obligation is issued as part of an issue with respect to which a significant portion of the principal or interest required to be paid on the issue is to be insured (directly or indirectly) by a Federal depository insurance agency as a result of the investment of the proceeds of the issue in deposits or accounts in a federally insured financial institution, or

"(D) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States or an agency or instrumentality thereof.

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Farmers Home Administration, the Veterans' Administration, or the Small Business Administration, or

"(ii) any guarantee of student loans, or

"(iii) any housing assistance payments or payments under any annual contributions contract by the Department of Housing and Urban Development.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments related to debt service,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B), or

"(iv) other investments permitted under regulations.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—Any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States; provided, however, that any entity described in clauses (i), (ii), or (iii) of subparagraph (B) shall not be treated as an instrumentality of the United States.

"(B) FEDERALLY INSURED FINANCIAL INSTITUTION.—The term 'federally insured financial institution' means—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution, or

"(iii) a credit union,

the deposits or accounts in which are insured under Federal law.

"(C) AGENCY OR INSTRUMENTALITY.—The term 'agency' or 'instrumentality' shall not be construed to include the District of Columbia.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam "generating or alcohol" producing facilities).

SEC. 722. ACQUISITIONS OF CERTAIN FACILITIES NOT PERMITTED.

USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airlane, skybox or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 723. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or residences using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue)."

(c) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a partnership and each of its partners shall be treated as related persons."

(d) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagaph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

(e) INCREASE IN AMOUNT OF CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—Subparagraph (I) of section 103(b)(6) (relating to aggregate amount of capital expenditures where there is urban development action grant) is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000", and

(2) by adding at the end thereof the following new sentence: "This subparagraph shall not apply unless the amount of the urban development action grant equals or exceeds 5 percent of the total capital expenditures on the facilities with respect to which the action grant has been made."

(f) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

724. EFFECTIVE DATES.

(a) EXPANSION OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by section 723(a) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 723(a) shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 723(a) shall apply only with respect to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 723 shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(b) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Section 103(h)(2)(C) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle shall not apply to obligations with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (a)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(c) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 102(g) of this Act.

(2) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State agency created on June 18, 1973, took formal action before October 19,

1983, to commit development funds for such facility,

(B) such agency issues obligations for such facility before January 1, 1987, and

(C) expenditures have been made for the development of such facility before October 19, 1983.

(d) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

EXTENSIONS OF REMARKS

LEGISLATION TO AMEND SUPERFUND PROGRAM

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. VOLKMER. Mr. Speaker, as the House prepares for the reauthorization of the Superfund program, a law enacted in 1980 designed to clean up America's thousands of hazardous waste sites, I, along with my colleague from Missouri, Mr. SKELTON, are introducing legislation today to amend that law. As with the initial implementation of any program, problems have arisen that could not be foreseen in the drafting of Superfund.

Unfortunately, during the last few years Missouri has experienced many problems. Through the activities of one waste hauler, Missouri was contaminated by dioxin. More than 200 potential sites of contamination have been reported to EPA and over 30 have been confirmed.

The problems this legislation addresses are important in human terms. The proposed legislation would clarify EPA's authority in situations where Superfund must be applied to a contaminated community. Specifically, it clarifies the Administrator's discretionary powers in three fundamental areas. First, it permits the Administrator to permanently relocate residents of a contaminated area to protect human health or where it is cost effective to do so. Second, it allows the Administrator to provide for payment of business debt during the time of temporary relocation or until permanent relocation is accomplished. Finally, it spells out that unemployment assistance available under the Disaster Relief Act of 1974 can be applied to those thrown out of work by a hazardous waste disaster.

Mr. Speaker, the confirmed dioxin sites in Missouri range from a trailer park in Gray Summit, to horse arenas in New Bloomfield and Moscow Mills, to the entire city of Times Beach. Our experience with dioxin indicates that Superfund as it currently exists does not have the flexibility needed to deal with these varied situations. It does not have the flexibility to allow EPA to immediately respond to threats to human health. The citizens of Times Beach experienced this problem. Citizens were driven from their homes by the rising waters of the Meramec River and then told not to return because of dioxin contamination in their community. They were provided temporary relocation and after 2 months EPA decided to relocate the residents permanently.

At the Quail Run Trailer Park in Gray Summit, a situation similar to the one in Times Beach exists. Because of the existing law, EPA cannot immediately relocate the citizens of Quail Run on a permanent basis. Today these citizens wait for a permanent solution to a problem that has disrupted their lives. This legislation would amend the definition of "remove" or "removal" in the Superfund law to clarify that the Agency can move immediately to permanently relocate the residents of a contaminated site if such a step is found to be cost effective or may be necessary to protect health or welfare. For example, in some cases it may make more sense—economically and socially—to buy up and seal off a highly contaminated residential area immediately, rather than locate the residents indefinitely in temporary housing during an extended, possibly impractical, cleanup.

This legislation also gives EPA the authority to pay the interest and principal on business debt during the period of temporary relocation. Temporary relocation is intended to protect the residents of a contaminated area, but when a community is evacuated, businesses are cut off from their customers. Their income stops, while their business expenses continue. I want to make it clear this provision is not intended to compensate an owner for lost income but rather provides for business debt only.

Many other sites, not only in Missouri but throughout the country, are experiencing these same problems. The Federal Government undertook the responsibility to clean up our Nation's hazardous waste sites in 1980 by enacting Superfund. The fact that these contaminated sites exist at all is disrupting to the lives of those citizens residing in such areas. Handcuffing EPA's authority to react quickly, fairly, and in a responsive manner to such problems defeats the purpose intended by Congress. This legislation is one small step to fill the gap we could not foresee in 1980.●

RAOUL WALLENBERG: TRIBUTE TO A LOST HERO

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LANTOS. Mr. Speaker, 2 years ago the Congress and the President approved legislation making Raoul Wallenberg an honorary citizen of the United States, as exemplifying the ideals that we as Americans revere. Wallenberg has become a symbol of humanity, decency, and heroism around the world.

I would like to call to the attention of my colleagues in the House the effort of a Colorado playwright to give the Wallenberg story greater circulation through a dramatic portrayal of the man's life and accomplishments in Budapest.

Carl Levine, professor emeritus of English at Colorado State University in Fort Collins, first became interested in the Wallenberg story immediately after World War II when he was in Stockholm on behalf of the American Friends Service Committee to expedite food and clothing to refugees in Germany and Finland.

Levine's interest and research has been woven into his drama Raoul Wallenberg: Tribute to a Lost Hero, which was premiered in Denver's Bonfils Theater in March of this year. The initial performances of the play were so successful that the play's run was extended and the production has been scheduled to be rerun at Denver's Shwayder Theatre during the 1983–84 season.

Wallenberg dramatizes events during a 5-day period during World War II in a Swedish protected house in Budapest, during which the Swedish diplomat's mission of saving nearly 100,000 Hungarian Jews from Nazi and Hungarian fascist extermination camps is portrayed on a more individual scale.

Reviews of the drama have been enthusiastic: "A powerful story which stirs us" (the Denver Post), "An engrossing drama in which one man's life takes on the magnitude of legend" (Rocky Mountain News), "A dramatic production of great intensity and moral challenge" (Friends Journal).

Mr. Speaker, a particularly incisive review of the play was recently published in the Friends Journal. I commend it to my colleagues.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RAOUL WALLENBERG: TRIBUTE TO A LOST HERO

Friends in the Denver-Boulder area had a special treat last spring when they were able to see the world premiere production of Carl Levine's play, Raoul Wallenberg: Tribute to a Lost Hero.

Carl Levine has spent a lot of time unraveling the reality of Wallenberg's rescue of tens of thousands of Jews in Budapest at the end of World War II and the mystery of his disappearance when the Soviet troops moved into the city. Out of this comes a dramatic production of great intensity and moral challenge.

Carl Levine and his wife, Augusta, first became interested in the Wallenberg story when they were in Stockholm for the American Friends Service Committee in 1946–47. Their job was to expedite food and clothing from neutral Sweden to the starving refugees in Finland and Germany. After a year they went into direct relief work in Germany. There they learned that an American Jewish organization, through the U.S. government, had offered to finance the rescue of the last Jews in Europe who were being shipped to Germany. Wallenberg, the son of a wealthy banking family in Sweden, volunteered to go, and the Swedish government gave him second secretary status in the legation in Budapest and the freedom to operate in any way he could.

The Levines followed the trail to Budapest and heard that from July 6, 1944, to January 17, 1945, Wallenberg exerted superhuman efforts to succor Jews and others in peril. He set up special diplomatically protected houses flying the Swedish flag and moved refugees out of the country by printing innumerable Swedish "protection passports." The situation was extremely chaotic with rightist Hungarian Nazi groups roaming the streets as the Soviet armies advanced.

Levine did extensive research to find out what happened when the Soviet army took over, but only one thing is clear: Wallenberg went off with Soviet officers for questioning in January 1945 and has never been heard of since.

Carl Levine does a remarkable job of weaving all this into a play that shows heroism that is very human, desperation without complete loss of hope, and moral challenge without preaching. Wallenberg is depicted as a real person, not a saint. He gains great satisfaction from using all his ingenuity to save people—his concern for individuals is clear, but he is also intrigued by the excitement, the danger, the power that he wields.

The climate of terror is clearly shown in faces and words, but the main violence is off stage, and there are moments of relief from tension. The company of refugees coming in and out of the waiting room is one of the Swedish-protected houses is a mixture of humanity, from the Hasidic rabbi who dances in the midst of it all to the vulnerable young woman who will not relinquish her gold locket. They are real-life refugees, alternately praising and cursing their benefactor, sometimes helping each other, sometimes quarreling.

In each of two acts there is a confrontation with the military, the first with Nazis, the second with Soviet "liberators." The common characteristics of tyrannical, sadistic behavior are shown as the results of alienation with the fears, suspicions, loneliness, and grabbing for personal loot. The Russians are only a bit more jovial in their pilfering and intimidating.

The play is valuable for Quakers in its presentation of the ethical dilemmas of such a crisis. Should the Jews fight back, rather than accept their fate? Are lies, fabricated documents, and threats justified in saving lives? Why is a Christian risking all to save the Jews?

The question of Wallenberg's disappearance and possible continuing existence in a Soviet prison haunts us at the end. Without softening the possibility of Soviet culpability, Levine gives hints of genuine reasons for Soviet suspicion of a Swede whose family was intimately involved with Sweden's flawed neutrality and who was amply funded with American capitalist money.

Carl Levine is emeritus professor of English at Colorado State University, Fort Collins, Colorado. He is well known as a teacher of English literature with a passion for social concerns.●

LEADERSHIP BY HON. JOHN CONYERS, JR.

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SAM B. HALL, JR. Mr. Speaker, as a member of the Judiciary Committee I want to pay special tribute to the tremendous work and leadership of our colleague, JOHN CONYERS, in guiding through the committee a bill dealing with the difficult and sensitive issue of the insanity plea.

As chairman of the Subcommittee on Criminal Justice, JOHN CONYERS tackled this problem with resolve, knowledge of the law, and a commitment to finding a solution that would achieve bipartisan support.

As Chairman RODINO pointed out, after the full committee reported the bill, it is "an important improvement over current law, but one that still retains the insanity defense in the limited and explicitly defined circumstances where a person does not appreciate the wrongfulness of a criminal action."

Of course, it has been obvious for some time that Congress must provide guidelines for our judiciary in regard to the insanity plea. This became especially critical in view of the public outcry over the Hinckley verdict.

It is too late in the session, as I understand, for the Conyers bill to come to the floor. However, it should be high on the agenda early next year.

The legal community is very divided over the insanity defense. It is a constitutional problem that requires a calm and reasoned approach, and this is just the way Chairman CONYERS handled it. He deserves our thanks and the thanks of the American people who are looking to us for assurances that people charges with capital crimes are not indiscriminately released on technicalities in the insanity defense.

There are many facets to his bill, but basically it would provide a shift in the burden of proof from the prosecution, which, under existing law, must prove a defendant's sanity to the defense.

In addition, it contains the following: First, redefines the Federal insanity defense by limiting it to a cognitive test requiring that a person did not appreciate the wrongfulness of the act, and eliminates the volitional test which refers to the defendant's ability to control his or her conduct; second, provides a prohibition of expert witness testimony in determining the ultimate issue of the defendant's sanity; third, establishes a Federal commitment procedure for persons who are found to constitute a threat to themselves or society.●

CONGRESSIONAL SALUTE TO THE HONORABLE HAROLD KRAMER OF PASSAIC, N.J., DISTINGUISHED CITIZEN, BUSINESS AND COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ROE. Mr. Speaker, on Friday, November 18, the residents of my congressional district and State of New Jersey will join together in testimony to an outstanding business leader in the construction industry, community leader, and good friend—the Honorable Harold Kramer of Passaic, N.J.—whose birthday celebration commemorating the 75th year of his birth will provide an opportunity for his relatives and many, many friends to express tribute to his lifetime of good works. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to him and share the pride of his good wife, Adeline; three sons, George, Frederick, and Arthur; and eight grandchildren, Lawrence, Andrew, Susan, Alexander, Jonathan, Oliver, Allison, and Joshua, on this most joyous occasion in testimony to the quality of his leadership and professional expertise in his field of endeavor, the warmth of his friendship, and his standards of excellence in our American way of life.

Mr. Speaker, Harold Kramer's personal commitment to the economic, social, and cultural enhancement of our community has been a way of life for him. He was born November 25, 1908, and over the years, from schooling to other endeavors, he has been active in the city of Passaic, where he still resides. Mr. Kramer graduated from Passaic High School in 1928, completed New York University in 1932, attended Newark School of Fine and Industrial Arts in Newark, N.J. and New Jersey Law School.

As an officer of Kramer Lumber Co. in Clifton, N.J., for 55 years, Harold has been actively engaged in the construction industry for almost that entire period. His well-known Harmer Cos. constructed more than 15,000 single-family and 6,000 multi-family dwellings since 1939 in more than 40 New Jersey cities and communities. He also was involved in construction in New York State where his company built more than 650 townhouses.

Mr. Kramer is still active in the construction field, as chairman of the board of Harmont Corp. This company is developing 50 passive solar condominiums in Mt. Snow, Vt.

Harold's exceptional transcendent intellectual and creative genius in the construction industry, now preserved in brick and mortar with enduring significance, stand, as a monument to his exemplary professional expertise and record of achievements in pursuit of life's fulfillment and purpose. As a leader in the construction industry, Mr. Kramer has been honored on numerous occasions by the Builders Association of Northern New Jersey, a most prestigious organization that he helped to establish in 1943. He served as president of the association in 1958–60 and as chairman of the board, 1960–61.

Mr. Speaker, Harold Kramer has attained the greatest respect and deepest appreciation from a grateful community for his compassion, dedication, and untiring efforts in service to his fellow man. In 1976 and 1977, he served as deputy mayor of Passaic, N.J., and was president of the Passaic Area Chamber of Commerce. He also has served on the board of trustees of Beth Israel Hospital in Passaic from 1947 to the present, has been on the board of trustees of Temple Emanuel for more than a half century, and over the years has been a key figure in the growth of both the city of Passaic and county of Passaic.

Mr. Speaker, the foregoing highlights of the lifetime of devoted expertise that Mr. Kramer has imparted to his fellow man only scratch the surface of the standards of excellence and highest order of performance that one man could give in a highly successful career which has truly enriched our community, State, and Nation. I am pleased to seek this national recognition of all of his good works.

As we gather together in a diamond jubilee birthday celebration to a good friend and distinguished citizen, we extend the appreciation of the Congress to Harold for his many, many contributions to the quality of life and way of life for all of our people. We do indeed salute a great American—the Honorable Harold Kramer of Passaic, N.J.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. CORCORAN. Mr. Speaker, due to previous commitments, I was unable to be present and voting when the House considered various pieces of legislation on the following days:

MONDAY, OCTOBER 31

Had I been present, I would have voted for the motion to order the previous question on the O'Brien motion to instruct confereees to insist on the House position that $70.15 million of the funds in the bill be earmarked for juvenile justice programs in H.R. 3222, State, Justice, Commerce appropriations bill for fiscal year 1984.

I would have voted no on an amendment offered by Mr. BROWN of Colorado to the O'Brien motion to further instruct conferees on H.R. 3222 to insist on the House position that not more than $21.3 million in the bill be appropriated for the Endowment for Democracy, and that no funds be given to any political party. I am a strong supporter of the Endowment for Democracy.

I would have voted for an amendment offered by the Judiciary Committee to strike provisions allowing the EPA to file civil actions in cases where the Justice Department fails to act within a specified time on EPA requests for litigation. This was an amendment to H.R. 2867, hazardous waste control.

TUESDAY, NOVEMBER 1

Had I been present, I would have voted for the motion to approve the House Journal of Monday, October 31.

I would have voted against the motion to suspend the rules and pass S. 448, the Belle Fourche project in South Dakota, a project costing $42 million for expenses involved in the rehabilitation of it.

I would have voted for the motion to suspend the rules and pass House Joint Resolution 402, War Powers Resolution, requiring the President to withdraw U.S. troops from Grenada within 60 days unless Congress grants an extension.

I would have opposed the amendment to delete multiyear procurement funds for the B-1 bomber contained in H.R. 4185, DOD appropriations for fiscal year 1984.

I was paired against an amendment to H.R. 4185 which would have deleted $2.2 billion for procurement of 21 MX missiles.

WEDNESDAY, NOVEMBER 2

Had I been present, I would have voted for the motion to approve the House Journal of Tuesday, November 1.●

McCLYMONDS HIGH SCHOOL ALUMNI HONOREES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DELLUMS. Mr. Speaker, this Friday, November 18, the McClymonds High School Alumni Association will honor three individuals, Ms. Dorothy M. Hinmarsh, Mr. George Powles, and Mayor Lionel J. Wilson, for their outstanding contributions to the Oakland and bay area community. As an alumnus of McClymonds and a person who is well aware of the contributions given my community by these three individuals, I want to take this opportunity to share with my colleagues the inspiring history of community activism and selfless service provided by each of them.

Dorothy M. Hinmarsh served as a teacher, counselor, and director of student affairs at McClymonds High School for over 20 years, from 1938 to 1940 and 1942 to 1959. This service, and her work as a vice principal in the Oakland School District from 1959 to 1969, were both undertaken with a sense of dedication to improving the lives and educational attainment of the students that she served. She not only worked hard on behalf of individual students, but she undertook unstinting efforts to further educational and developmental programs that would have a wider impact.

Mr. George Powles worked for some 25 years as a teacher and coach for the Oakland Unified School District. Under his patient influence, Mr. Powles brought a number of America's greatest athletes to maturity. His work with the school district, the Oakland Athletic League and the National American Legion baseball program earned him the National American League baseball program award in 1950, influenced his selection into the California coaches Hall of Fame in 1981, earned him the distinguished Alumni Award of the Marcus A. Foster Education Institute in 1982 and the meritorious service award from the American Baseball Coaches Association in 1983.

Mayor Lionel J. Wilson has long been a community leader of outstanding caliber. During the past 33 years, his work with the NAACP, Charles Houston Law Club, YMCA, New Oakland Committee, Oakland Economic Development Council, Inc., Alameda County Mental Health Council and many other organizations have inspired others and improved the quality of life in our city. His judicial career, first as a member of the Oakland-Piedmont Municipal Court and subsequently as a member of the Alameda County Superior Court, at one time its

presiding judge, was outstanding and marked one of the first significant advances for minorities in the judicial profession. His tenure as mayor of Oakland, the first black mayor of this major city, has coincided with major redevelopment of the city, a commitment the mayor has undertaken with great vigor. As a pioneer in so many fields, and as one who has worked hard on behalf of McClymonds High, it is quite fitting that he is being honored by its alumni.

I urge my colleagues to reflect on the selfless contribution that these individuals have made to our society. I hope it will prove to be an inspiration for many in the years to come.●

RABBI SAUL E. WHITE

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mrs. BURTON of California. Mr. Speaker, it is with great sadness that I rise to pay tribute to Rabbi Saul E. White, dean of northern California rabbis, who died early this month.

Rabbi White was a cherished friend of my husband Phillip and me for many years. He began serving his community 48 years ago in the small congregation of Beth Sholom, which at the time had only 48 families. Under his leadership that congregation grew to more than 600 families, making it one of the leading conservative congregations in the West.

Rabbi White's influence extended well beyond his own congregation and the Jewish community. He was a renowned and eloquent spokesman for human rights wherever they were threatened. Throughout his life, Saul White was a powerful champion of racial, social, and economic justice and a forceful advocate of religious tolerance.

His death is a profound loss for his congregation, our community and the entire Nation. I would like to extend my deepest sympathy to his wife, Ruth and their three children. His devotion, his wisdom, and his compassion will be greatly missed.●

SANTA MONICA REALTOR JON DOUGLAS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LEVINE of California. Mr. Speaker, recently I had an opportunity to take part in the Jon Douglas 10 kilometers race in Santa Monica. The proceeds from this race benefit all of the social service organizations serving the residents of the west Los Angeles area.

At a time when public resources to aid public service groups are increasingly difficult to find, events such as these are critical.

Many times the people who sponsor events such as these do not receive adequate recognition of their efforts to aid.

Recently an article appeared in the Santa Monica Evening Outlook which chronicles Jon Douglas' remarkable career. I would like to share this article with my colleagues and insert it in the CONGRESSIONAL RECORD.

[From the Santa Monica (Calif.) Evening Outlook, Nov. 7, 1983]

HOMETOWN BOY MAKES GOOD

(By Jim Brooks)

There's a flaw here. There must be.

A big smile curls across Jon Douglas' tanned face.

Whatever cracks three may be in this modern-day knight's persona, they appear etched no deeper than hairline fractures.

He's the kind of fellow that mothers pick for daughters, the one who not only quarterbacks his college football team but also sails through graduation ceremonies with a dual major and Phi Beta Kappa honors. In short, the type who makes the rest of us feel like underachieving Caspar Milquetoasts.

"We're hoping to do a billion in sales" this year, Douglas says, almost dismissingly, while relaxing a moment in the Beverly Hills headquarters of his real estate empire.

But it's not a boast. The Santa Monica hometown-boy-turned-good even admits to his millionaire status with an eyes-lowered chagrin.

After all, America doesn't like its success stories to be braggarts. And if ever there was case for capitalistic ballyhooing, this is it.

Middle-class youngster—"we didn't have a lot of money"—grows up, leads high school football team to two consecutive CIF championships, enters Stanford on athletic scholarship, graduates with honors, plays on Davis Cup tennis team for three years, falls into real estate and, within a decade of starting his own firm, sees his business rake in annual sales toppling the nine-figure mark.

Pause. Take a breath.

"It was just in me," Douglas says today, grasping for explanations or motivations. "My parents were supportive, but they were never pushy."

"He drove himself, he was like his father in that way," says his mother, Dortha Douglas, of her only child.

Most places she goes on the Westside she can see her son's name dotting the front yards of residences and commercial properties, the brown-and-white signs staking out a domain that stretches from Marina del Rey to Malibu and east to a newly opened office in Hancock Park.

A Brentwood resident for the past several years, Douglas hasn't forgotten the community he once called home. Last weekend, his firm, Jon Douglas Realtors, sponsored its sixth 10K Run with benefits going to the Santa Monica Community Services Agency.

"With my roots in Santa Monica, I thought it was a nice thing to do for the needy, a nice thing to do for the community I grew up in." The endeavor has put "in excess of $10,000" into the agency's coffers each year, he adds.

It was in Santa Monica that Douglas, an Army brat, landed as a sixth-grader and soon displayed his prowess on the football field. Local sports enthusiasts of yore will recall the Santa Monica High teams of 1952 and '53 that he helped push to CIF football championships. Those with elephantine memories may even remember the dark-haired teenager who also took home CIF honors for his talent on the tennis court and made all-Bay league in basketball.

The promise, on and off the field, was evident even then, says former classmate John Mortensen. "I mean everything he ever did—sports, school, leadership—he was there" at the top.

"So often guys with that much ability aren't nice to everyone, but Jack was. Even now, when we walk down the street, we'll see someone and I won't remember their name, but he will," says Mortensen, who played guard to Douglas' quarterback. He always remembers who they are."

Douglas used his flair on the football field as a springboard into college, winning an athletic scholarship to Stanford University where he became quarterback and captain of the team. But he was just as emphatic about scoring high on tests as he was gaining yardage.

"I was more into sports in high school (where he managed to breeze through his classes). Then I got to Stanford, and I thought, 'Jimminey crickets, all these guys are coming from these great prep schools.' . . . I just studied like crazy because I was scared to death of flunking out."

Consequently, Douglas fared so well in the classroom that first quarter, he switched to an academic scholarship that took him through college.

Still, he continued honing his football skills, garnering All-Coast recogntion and winning a spot as starting quarterback in the December 1957 East-West Shrine game.

Douglas' footwork on the tennis court was none too shabby either, and he tells with obvious glee of defeating Alex Olmedo in a Stanford-USC match. (Olmedo, now the tennis pro at the Beverly Hills Hotel, Douglas says, went onto outclass him at the National Intercollegiate Finals before claiming his Wimbledom title.)

It was tennis, in fact, that Douglas turned to in 1958 after graduating Phi Beta Kappa from Stanford with a dual major in history and economics.

Although he had much earlier established a goal of attending law school, he decided it was time for a break. "I was playing two sports, I was hashing for meals and I was working for money," he says of his college days.

The breather from academia turned into a year of tennis, a two year stint in the Marines, another year or so in tennis, a marriage—and no law school.

Once married, Douglas went to work for a friend in the hydraulic valve business, but after a few months decided that wasn't for him. He again made an overture to law school at UCLA, but it was February and he was advised to wait and start in September.

In the interim, he tried his hand at real estate. To put it mildly, he proved to have an instinctive knack for the business.

After a brief training program, "they put me in sales, and on my first day I made a ($40,000) deal. I made $500 and I thought, 'How long has this been going on?' "

Unsurprisingly, law school was put on permanent hold, and Douglas spent the next

eight and a half years learning the ins and outs of a business that eventually would put him near the top of his profession on the Westside.

By 1971, he was confident enough to join with partner Dan Emmett to start a firm developing properties in the Santa Monica Bay area. After building nine apartment buildings in a year, they opened a brokerage firm with five employees that tallied $10 million in sales the first year. (The Douglas-Emmett company now comprises a brokerage arm run by Douglas and a development branch overseen by Emmett.)

The venture has since snowballed into a network of some 750 employees, 14 offices and sales figures that "in terms of the Westside . . . are the largest numbers," Douglas says, though no comparison statistics are published.

Whatever, business is indeed good.

"The last five months, we've done over $100 million a month," Douglas says, hazel eyes sparkling. Last year, in fact, he opened a special division dealing exclusively with residential properties in the million-dollar and more range.

The man obviously has the Midas touch. But if Douglas' life has been cast in gold, there's been a few tarnished moments. As with the rest of us mortals, he's known his share of disappointments.

Though a master of the football field and tennis court, Douglas' first love in the athletic arena was basketball. But at 5-foot-9½—and he never forgets the half, he laughs—he didn't cut it in a sport where success is often measured in height.

On a darker note is a first marriage that produced three sons—now 18, 16 and 12—but ended in divorce.

If there was ever any bitterness, though, it appears to have dimmed with age. Douglas proudly reveals how his ex-wife, Sue Ellen Douglas, a former Santa Monica High teacher now working in real estate (for another firm, no less), covered the more than 26 miles in this year's New York marathon in 3:55, despite the inclement weather.

The one-time star athlete has turned to running himself for exercise, participating in each of the 10K runs sponsored by his firm. Tennis, however, has fallen victim to a schedule that sometimes includes 11-hour workdays. "Too much demand on my time," Douglas says of the sport that landed him on the U.S. Davis Cup teams in 1958, '61 and '62 and took him around the world.

"If I had had the (monetary) temptation that these young tennis players have today, I might have stayed with it," he says. "I'd be playing with (Rod) Laver and those guys—the old-man circuit."

As it was "I missed the big money in tennis by about five years."

He's been able to keep himself in the ballgame, so to speak, as a member of the Stanford Athletic Board of Directors. But he's also gained an outsider's perspective on the world of sports.

His company recently donated $3,200 to a program started by former Lakers forward Happy Hairston that awards scholarships to underprivileged youths to various Los Angeles prep schools. Hairston's view, Douglas says, is "the way these children are going to make progress is not really through professional athletics, but more pragmatically through education . . . I happen to agree with that idea. Education, to me, is the name of the game."

It's an all-American stance that has carried him well through the years.

"I think a person who doesn't grow up under a great deal of affluence is better off," Douglas adds. "If there's so much around and you get it so easily, you can have problems," especially later on when one expects the free ride to continue through life.

That's why he set up an allowance system for his sons, one of whom lives with him and his second wife, Dawn, a real estate broker who recently helped form the for-women-only club, Los Angeles Professional Republican Women, Federated.

Keeping up with his busy professional schedule doesn't permit lots of free time. Douglas allows, professing an interest in impressionistic art and nonfiction reading.

With that he plunges into an analysis of his latest favorite book titled—what else—"In Search of Excellence."●

R. A. "MOLLY" McGEE—A DEDICATED LEADER IN THE ANAHEIM UNION HIGH SCHOOL DISTRICT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PATTERSON. Mr. Speaker, in my 9 years in Congress, I have had the opportunity to work with many local officials on matters of mutual concern. While I have always been impressed with the caliber of these people, there are always those whose dedication, commitment, and vision mark them as outstanding. I rise today to ask my colleagues in the House to join me in paying tribute to one of those outstanding leaders—R. A. "Molly" McGee of the Anaheim Union High School District Board of Trustees.

In March of 1974, at the age of 19, Molly was first elected to the board of trustees of the Anaheim Union High School District as one of the youngest school board members ever elected in the United States. Molly quickly gained the respect of her colleagues on the board and of her contemporaries in the community. She received excellent training for her new role on the board when she served as the student representative to the California State Board of Education in 1971.

In 1974, Molly's fellow board members selected her to serve as alternate clerk of the board. She served in that capacity until 1976. Also in 1974, Molly was selected by the California State Superintendent of Public Instruction to serve as a member of the commission for the reform of intermediate and secondary education (RISE). In 1976, Molly's colleagues on the Anaheim Board selected her to serve as clerk of the board. She served in that capacity until 1980, when she was again looked to for leadership—this time as president.

In addition to her work on the board, Molly is active in numerous educational and civic organizations. Among these are the Parent-Teacher Association (PTA), the California School Boards Association Delegate Assembly, the Altrusa International, and the League of Women Voters. As a leader, Molly has always realized the importance of sharing information and skills with others. To that end, she conducts workshops and seminars around the State to improve the leadership skills of school board members and educators. In 1981, Molly's efforts were recognized by the Anaheim Women's Division of the Chamber of Commerce when they awarded her the Woman of the Year—Annie Accolade Award.

While Molly has always been a dedicated board member, her time as president was perhaps the most challenging. When Molly took over as president of the board in 1980, she inherited a school district in transition. Through her leadership and commitment, she took significant steps to insure the best decisionmaking environment for the board in preparation for the difficult decisions that had to be made to keep the AUHSD in financial solvency.

Molly began with a modest agenda. She involved the community in making recommendations regarding district organization and school closure. She was instrumental in the smooth transition to the "2-4 Plan". Molly encouraged staff development and inservice workshops for district employees. She led the drive to improve articulation and communication with feeder elementary school districts. In addition, student achievement has always been a top priority for Molly. To this end, she has worked to improve student achievement through a renewed emphasis on testing and basic skills.

Mr. Speaker, Molly McGee has provided an ongoing commitment and leadership to enhance the quality of education in the Anaheim Union High School District. In all of her decisions, she has placed the interests of the students above any other consideration. Molly has always been known for her openness, honesty, and integrity. As president of the board during a troubled time, Molly was key to the healing process that brought support back for our schools. I am honored to commend her before my colleagues today, and ask them to join me in paying tribute to R. A. "Molly" McGee—a truly outstanding local official.●

ERA VOTE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LEWIS of California. Mr. Speaker, due to a death in my personal family, it was necessary that I be absent from the floor today as the

House considered the equal rights amendment. While I am in strong disagreement with the procedure involved in controlling the debate on the proposed constitutional amendment and feel that the leadership responsible is doing unnecessary violence to the constitutional amendment process, if given the opportunity for a straight up or down vote on the equal rights amendment, I would have voted aye.●

KEN DUBERSTEIN'S DEPARTURE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MICHEL. Mr. Speaker, it was announced this week that Kenneth M. Duberstein, Assistant to the President for Legislative Affairs, will be leaving his post in the near future to return to the private sector.

I take this time to wish Ken well in his new pursuits and to say that he will be sorely missed by those of us in the Congress who have come to depend upon his counsel, his representation of the President, and his keen understanding for, and appreciation of, the legislative process.

Ken has served the President with distinction and he has played no small part in the successes of this administration in enacting its legislative agenda over the course of the last 3 years.

He brought with him to the White House the culmination of many years of public service and many years of experience as Deputy Under Secretary of Labor, as Director of Congressional Affairs at GSA, and as a Senate staffer. Ken was a very capable assistant to Max Friedersdorf when he was in charge of White House liaison operations and I was very pleased with the President's decision in December 1981 to elevate Ken to Max's position.

Ken has done the country a great service and he has certainly earned the right to move on to other pursuits, pursuits which will undoubtedly give him the precious time he has longed for to spend with his lovely wife, Sydney, his family, and his friends.

I have no doubt that some of Ken's free time will be spent in a front row seat at the Cap Centre offering free advice to the coach of the Washington Capitals. I always found in my dealings with Ken that if I couched my comments in hockey terms they seemed to be received with a far greater degree of understanding.

Fortunately for us in the Congress, Ken's difficult role as the President's right-hand man for legislative affairs, will be ably filled by a fellow Illinoisan and friend of ours, B. Oglesby.

Filling the shoes of Ken Duberstein will be no easy assignment, but I know that B. will do an outstanding job.

To Ken and Sydney we wish the very best in the future and thank them both for the unselfish commitments of time and energy they have made to the service of the President, the Congress, and to the country.●

BARBARA CHARLINE JORDAN

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LELAND. Mr. Speaker, today I am introducing a resolution which would rename the main post office facility in my home city of Houston after one of its most outstanding citizens, Ms. Barbara Charline Jordan, a lady with whom many of you have had the honor and pleasure to work when she was a Member of the U.S. House of Representatives.

Although she is no longer in the Congress, she is still very active in her home State of Texas. While she has already made far more than enough contributions to this Nation to deserve this recognition, her work is not finished and I know that we can look forward to many more contributions from her. She has proven time and again that she thrives on new challenges and excels at each new opportunity.

Even though her accomplishments and capabilities are larger than any one city, I find it very appropriate that we honor her in this modest way in the city where she was born and reared. Her accomplishments are usually listed as "firsts," something which rarely pleases her. These "firsts" are always described as her being the "first black woman to * * *". She prefers to be recognized for her conquests of unfair and irrational obstacles such as racism. While this factor motivates her to strive and to help others, she does not seem willing to allow herself to be praised for raising herself above it.

Despite her unwillingness to be cast as "the first black woman," I find it hard to refrain from mentioning several of these "firsts:" the first black woman to be elected to the Texas Senate, in 1966; the first black woman to represent a southern State in Congress since reconstruction; the first black keynote speaker at a Democratic National Convention. These achievements are impressive enough at face value, but, when one looks beyond them, there is an even more impressive array of beliefs and ideals.

She is the same woman who was truthful enough to point out that as a black American, "When the document (the U.S. Constitution) was completed on the 17th of September in 1787, I was not included in that 'We the people'," but then later declare in the desperate hours of the Nixon impeachment proceedings, "My faith in the Constitution is whole, it is complete, it is total." Here is a woman capable of mixing this highly emotional awareness with intellectual idealism and not giving in to others' lack of comprehension of the situation. She never asked for special treatment, "I am neither a black politician nor a female politician. Just a politician. A professional politician;" nor does she encourage others to so do.

In her new profession, as a professor at the University of Texas Lyndon B. Johnson School of Public Affairs, she has given the message, "There is no obstacle in the path of young people who are poor or members of minority groups that hard work and thorough preparation cannot cure. Do not call for black power, or green power, call for brain power." As William Broyles wrote of her in 1976, "A Southern woman from the race of slaves, she dramatically affirmed, in spite of slavery, civil war, and segregation, her faith in our original ideals. She inspires the belief that one day the burden of race may be set aside." She was fighting for her people and her country at the same time, realizing that to help one was to help the other.

The Reverend Bill Lawson, who in 1965 led almost 10,000 blacks in a protest march in Houston calling for school desegregation, said of Barbara Jordan, "She had a vision back in the sixties. Most of us couldn't see it. She was beyond conflict to the enduring institutions, and she saw that most people, even black people, wanted to believe in them, if only they could be made to work. Within these institutions she saw that people like Sam Rayburn and Lyndon Johnson got more done. So she wed her philosophy and purpose to their practical skills. But she kept her purpose. The rest of the civil rights movement is far behind her in making that transition."

I hope that I have been successful in presenting even in a small part of the greatness of this lady, Barbara Jordan, and the greatness of her philosophical blend of realism and idealism. She never insinuated that the truth should be overlooked, but that an unwarranted emphasis on problems that persist can lead a person to lose track of goals that can be accomplished. She is living proof that you can be what you really want to be, and she is a worthy role model for women and men of all races.

Barbara Jordan is one of the most notable, capable, gifted and inspirational leaders this country has had. It is a very modest honor that I am proposing we bestow on her, but I think it can do a great deal to remind all Houstonians of what can be accomplished through application of qualities that Barbara Jordan so abundantly possesses.●

STREET PEOPLE AND PSYCHIATRY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. GUARINI. Mr. Speaker, to date 57 of our colleagues have joined Congressman CHARLES RANGEL and me in sponsoring legislation which calls upon the President to convene a White House Conference on the Homeless and the Hungry. As the cold weather of winter approaches, the urgent need for answers and action for these twin national tragedies grows.

The ranks of professionals who are concerned about these issues are swelling. Indeed, the American Psychiatric Association's monthly magzine devoted to the care of the mentally disabled, Hospital and Community Psychiatry, in September probed in great detail the issue of homelessness. As stated in the opening commentary in this issue:

There are several reasons for the (increases) in the homeless population. Certainly, our nation's economy has been suffering from a disastrous, prolonged recession, and many people who were barely surviving before have lost not only their jobs but also their health insurance and their ability to pay for housing. In addition, inflation and the gentrification of inner-city neighborhoods have driven up the cost of housing in the cities. Finally, the deinstitutionalization policies of the past 28 years have clearly revealed what happens when resources, services, and moneys do not accompany patients from institutions to "the community."

Today I would like to share with you an article by Robert E. Jones, M.D., who is president of the Philadelphia Committee for the Homeless and professor of Psychiatry at the Jefferson Medical College of Thomas Jefferson University. Dr. Jones traces the history of the homeless mentally ill in the United States and discusses effective ways of altering the public and the mental health field to the plight of street people. I am sure we will find the Hospital and Community Psychiatry series most informative about a national tragedy we must address effectively.

The article follows:

[From the Hospital and Community Psychiatry, September 1983]

STREET PEOPLE AND PSYCHIATRY: AN INTRODUCTION

(By Robert E. Jones)

More than once in American history insane people on city streets have alarmed the public and have pricked the social conscience of American citizens so that the care of the mentally ill has been improved. This paper provides an introduction to the problem of street people, by briefly reviewing its history, the rise of advocacy, the role of the media, and recent literature.

Benjamin Franklin recorded that "several Inhabitants of the Province, who unhappily became disordered in their Senses, wandered about to the terrour of their Neighbours, there being no place in which they might be confined, and subjected to proper treatment for their Recovery" (1). It was the plight of these homeless insane that prompted a group of 33 citizens to submit a petition, penned by Franklin, to the Pennsylvania legislature, which resulted in the opening of the nation's first hospital in 1752.

Nearly a century later, in 1845, Dorothea Dix wrote to the Pennsylvania legislature: "I come to represent to you the condition of a numerous and unhappy class of sufferers who fill the cells and dungeons of the poor houses. * * * I refer to the pauper and indigent insane. I come to urge their claims upon the commonwealth for protection and support. * * * I do not solicit you to be generous; this is an occasion rather for the dispensation of justice.

"These most unfortunate beings have claims, those claims which bitter misery and adversity create, and which it is your solemn obligation as citizens and legislators to cancel. As the advocate of those who are disqualified by a terrible malady from pleading their own cause, I ask you to provide for the immediate establishment of a State Hospital for the Insane" (2). Dorothea Dix's labors on behalf of the homeless and inappropriately housed insane poor resulted in the opening of 30 state hospitals.

RECENT HISTORY

How did the phenomenon of so many mentally ill street people happen again in the 20th century? It began with a public outcry about the appalling conditions of overcrowded state mental hospitals. One of the first revelations to incense Americans was a 1946 photographic essay in Life magazine that portrayed naked patients in rundown, overcrowded wards of Philadelphia State Hospital. Following that article came films like The Snake Pit, which reached wide audiences.

In 1954 France introduced chlorpromazine to the United States; the drug provided a simple means of calming the psychotic and suppressing their hallucinations and delusions. In 1958 the Joint Commission on Mental Illness and Health was established. The commission designated the proposal, which President John F. Kennedy presented to Congress in 1963, calling for a nationwide system of treatment of the mentally ill within their communities. Soon after the civil rights movement gained more momentum, and advocates for the mentally ill began to claim the right to the "least restrictive alternative." Thus the presence of the insane on the streets was made possible by a medical triumph and a social rights victory.

During the 1970s we gradually became aware that the number of street people were increasing, that they were no longer confined only to Skid Row areas of cities, and that the composition of the group was changing. In the 1960s the denizens of Skid Row, who lived in flophouses and boarding houses, were single and usually alcoholic men; in the 1970s the population had larger factions of younger people and women and many more former mental patients.

CAUSES OF HOMELESSNESS

Foremost among the causes of homelessness is deinstitutionalization, a factor that demands the attention of the psychiatric profession.

The deinstitutionalization of state mental hospitals was defined by the director of the National Institute of Mental Health in 1975 as the prevention of inappropriate mental hospital admissions through the provision of community alternatives for treatment, the release to the community of all institutionalized patients who have been given adequate preparation for such a change, and the establishment and maintenance of community support systems for noninstitutionalized people receiving mental health services in the community (3).

The phenomenon of deinstitutionalization has been the subject of numerous papers and books, including those by Bassuk and Gerson (4), Bachrach (5), Braun and associates (3), Talbott (6), and Pasamanick and associates (7), and a report of the Group for the Advancement of Psychiatry titled "The Chronic Mental Patient in the Community" (8). In one of several articles on deinstitutionalization in the February 1983 issue of Hospital and Community Psychiatry, Goldman and associates (9), using data collected by NIMH, showed that 1.5 million to 2.2 million chronically mentally ill Americans no longer reside in state hospitals, but now reside in nursing homes and boarding homes.

It is the failures in this carefully planned process of deinstitutionalization—patients who leave the institutions, have no other support system, and actually live in the streets—who must concern us. Shelters report that the number of residents who arrive directly from inpatient psychiatric facilities is increasing.

While deinstitutionalization may be a major cause of homelessness, other significant causes are the economic recession, unemployment, and cutbacks in federal support programs. In addition to cutbacks in aid to individuals and disallowal of Supplemental Security Income, there have been cutbacks in programs for medical care, aging studies, alcoholism and drug abuse, families and children, and employment training. Lack of adequate low-cost housing and evictions also account for a significant number of the homeless.

MEDIA COVERAGE

The media have played a major role in acquainting the public with the plight of the homeless. Every large city newspaper and many national magazines have carried pathetic human interest stories about bag ladies and vent men.

For 18 months Philadelphia Inquirer reporter Donald C. Drake followed released mental patients and in a series of articles told "the story of a reform movement that sought to save such people but wound up forsaking them." New York magazine carried a long feature called "The Homeless, the Shame of the City" in December 1981. Philadelphia magazine published "The Other Side of Darkness" in 1981 and "Dealing at Street Level" in 1982, articles based on interviews with street people and the workers who try to help them.

The New York Times has done a particularly creditable job of informing the public. On February 26, 1983, the paper published the views of New York City Mayor Edward I. Koch on responsibility for the homeless. Koch said "I've always maintained that the basic responsibility is the city's. We spent $7 million on shelters in fiscal year 1979; this year we'll spend about $40 million—split equally between city and state. But I've also told churches and synagogues, who have been among our most vocal critics on this issue, and local communities that they should shoulder part of the burden. * * *

We've sheltered as many as 4,900 people a night recently, the most since the Great Depression."

LITERATURE ON THE HOMELESS

In addition to media coverage, literature on the homeless has begun to develop. In 1981 social researchers Ellen Baxter and Kim Hopper published "Private Lives/Public Spaces" (10), an analysis of the problem of homeless adults on the streets of New York City. Their book began as a "research study of the life circumstances of mentally disabled adults living in the community of New York City."

Baxter and Hopper view the homeless as the most desperate subgroup of the "disenfranchised in the community." In "Private Lives/Public Spaces" they discuss the origins of homelessness and strategies for survival on the streets, and describe their study methods, which included entering the men's and women's shelters themselves to gain first-hand experience of the services. Baxter and Hopper conclude that the conventional services approach to the homeless is inadequate and that the basic survival needs of the homeless must be met before rehabilitation efforts are useful.

The authors also refute the belief that the mentally disabled on the streets have such impaired judgment that they are unwilling to seek shelter or assistance when it is offered. They state that "where decent, humane shelter has been made available, it has never lacked willing recipients."

Baxter and Hopper describe the Pine Street Inn of Boston, which opened its doors 60 years ago, as a model shelter program. The Pine Street Inn offers security, cleanliness, meals, counseling services, and nursing services to 500 men and women each day. The authors call for the immediate development of similar shelters in New York City and long-term supportive housing. They also blame the state's Office of Mental Health for passing on the problems of the homeless to the welfare system rather than assuming responsibility for a failed deinstitutionalization policy. According to Baxter and Hopper, the problems of the homeless cannot be solved by mental health and social service professionals, because the causes of homelessness include housing limitations, welfare regulations, and deinstitutionalization policies that are beyond their control.

In a 1982 sequel, "*One Year Later*" (11), Baxter, Hopper, and other authors continue their indictment of the public agencies charged with the care of the homeless poor. They present a profile of New York City's homeless based on data from shelter surveys.

The median age was 40, with 75 percent of the men under 50 years of age and 25 percent of the clients under 30. More than 60 percent of the clients were black, and 10 percent were Hispanic. Seventy-eight percent had never married, only 28 percent had completed high school, and approximately 25 percent showed clinical evidence of alcohol dependency. When asked their reasons for seeking shelter, approximately 25 percent said they had lost a job, 14 percent said they had lost a residence, and 10 percent said they had been released from an institution.

These shelter surveys showed that by 1976 psychiatric problems rivaled alcoholism as the predominant disorder of homeless men. Fifty percent to 70 percent of the homeless men showed some psychiatric problem, and 31 percent to 74 percent had history of psychiatric hospitalization. More than half of the clients in the women's shelter were under 40 years old; 58.5 percent had histories of psychiatric hospitalization, and 13 percent came directly from hospitals.

Baxter and Hopper reviewed available shelter spaces, stated whether they met minimal standards established by the court during 1981, and made concrete suggestions for reenfranchising the homeless. To qualify for welfare assistance, a citizen must have an address, and thus finding a suitable home for a homeless person is a basic requirement.

More than any other publications, these two volumes have been used as tools by advocacy groups. Baxter and Hopper first estimated the number of homeless in New York City as 36,000, which made the city's 3,200 shelter beds appear meager. New York City officials responded by saying they would attempt to count the homeless, but later abandoned the plan in favor of applying for a federal grant to find better ways of moving people out of the shelters. The figure of 36,000 homeless was widely quoted in newspapers as a public scandal and served to alarm the public and public officials.

In *"Homelessness in America: A Forced March to Nowhere"* (12), Mary Ellen Hombs and Mitch Snyder focus on economic factors and deinstitutionalization as causes of homelessness and review the estimated numbers and conditions of the homeless in Washington, D.C., Richmond, Atlanta, and Chicago.

Paul Selden and Margot Jones have written for those who want to establish a small shelter. *"Moving On: Making Room for the Homeless, A Practical Guide to Shelter"* (13) discusses space requirements, shelter regulations, and factors in community acceptance or opposition.

ADVOCATES FOR THE HOMELESS

Every American city has invented its own strategies to deal with street people. Voluntary charitable organizations, usually church-based, and shelters funded by the city generally take the lead; when such organizations are not responsive, some advocacy groups have filed class-action suits on behalf of the homeless.

One of the most vocal advocates has been Robert M. Hayes, a 31-year-old lawyer who left a private firm to work for the Coalition for the Homeless in New York City. In 1980 Hayes successfully sued the city on behalf of homeless men, forcing officials to open shelters that met minimum requirements for showers, toilets, lockers, and sleeping and dining areas. In 1982 he again filed suit in the New York Supreme Court on behalf of homeless women for safe, accessible, and clean shelters.

The story of the homeless in Philadelphia is typical of the sequence of events in many American cities. For many years, Skid Row was located in a fairly circumscribed area of warehouses. The men lived in flophouses and small hotels, while poor women usually lived in boarding houses, so they were not actually homeless (14). A survey done in preparation for the demolition of Skid Row in 1965 reported that most of the vagrant men were single, 80 percent were alcoholic, and 14 percent to 17 percent were tubercular (15). Approximately 50 percent did seasonal day labor. The majority of these homeless men were fed by missions.

With the opening of community mental health programs in the late 1960s, the population of Philadelphia State Hospital was gradually reduced from 6,000 to 800 patients. Many of the deinstitutionalized patients entered nursing homes and boarding houses; those who reached the streets were cared for primarily by two Catholic shelters, St. John's Hospice for Men and Mercy House for Women. The Salvation Army offered care for homeless women with children. A new facility, the Peoples' Emergency Center, was opened by volunteers in 1973 to provide temporary shelter for families.

The homeless began to appear in the center-city business and shopping district. There was no program to reach them on the streets, and shelter space was woefully inadequate. Street people also began to appear in poorer suburbs, such as Chester and Bristol.

The first group to form was the Philadelphia Advocates for the Mentally Disabled, led by William Eisenhuth, who had personally fed and cared for street people. Eisenhuth recognized many of the street people as patients he had helped to treat when he was employed at Philadelphia State Hospital. With his own funds, he fed many of them as he canvassed streets and subways during the night. Eisenhuth's one-man mission was inadequate for the size of the task. In one neighborhood, a few citizens began to provide food to feed the people.

In November 1981 a group of religious and business leaders and mental health professionals formed the Philadelphia Committee for the Homeless. Initially the group served as a gadfly to goad the city government into opening a shelter. During bitter cold days of January 1982, city officials realized that the homeless were in danger of freezing to death, and thus they opened a temporary shelter. Anthony Arce, M.D., and his team studied 193 street people who were admitted to the Adult Emergency Shelter during its eight weeks of operation [see "A Psychiatric Profile of Street People Admitted to an Emergency Shelter" on page 812 of this issue].

In March 1982 the Philadelphia committee sponsored a conference on the homeless, bringing together for the first time city officials, staffs of church-sponsored and private shelters, and concerned citizens. Representatives of shelter programs from other cities were invited to describe model programs. This conference forced city officials to offer contracts for shelter facilities.

Three new facilities opened in November 1982, including a 60-bed drop-in shelter, a smaller, five-day center for medical and psychiatric evaluation, and a psychiatric boarding home. A large lounge was provided at the drop-in shelter for up to 175 people to sit up all night; nevertheless, 30 to 50 still line up at the door daily, unable to enter.

During the winter of 1982–83 the committee trained 120 volunteers to prepare and distribute food and clothing to street people and to guide them to shelters. Volunteers carried knapsacks with sandwiches and thermos bottles of hot soup, and fed people in the streets and on subways. A private foundation grant enabled the committee to hire a part-time coordinator of this "mobile outreach program." The committee solicited contributions of food and soup from private citizens and food companies, and several restaurants contributed leftovers. The food was prepared in churches, and one church lent a van to transport the street workers to their posts. Newspaper advertisements and television appeals also brought in contributions to aid the street people.

The Philadelphia committee sponsored a follow-up conference in April 1983. Progress reports from the government and the private sector were presented to assess needs and goals for the future. Advocates for

better programs in Philadelphia have not yet resorted to court action to bring about a response from the city as was done in New York City. The committee is studying the feasibility of opening another private shelter.

In April 1982 the National Coalition for the Homeless was formed at a national conference on the homeless, held in Boston, that drew more than 175 participants. With headquarters in New York, the coalition serves as a clearing-house for information about the nation's homeless and about successful shelter models for social services agencies, church groups, community shelters, and private charities in 20 cities. It publishes a newsletter, *Safety Network*, and also provides legal assistance to advocates.

On December 15, 1982, the House of Representatives subcommittee on housing and community development of the Committee on Banking, Finance, and Urban Affairs held a public hearing on "Homelessness in America," chaired by Representative Henry B. Gonzalez, (D-Tex). Gonzalez pointed out that Congress had not examined the phenomenon "since its hearings on migrating workers in the Great Depression." He said, "we do not really know the extent of homelessness in America."

The witnesses included representatives of the Salvation Army, the National Coalition for the Homeless, and the Community for Creative Nonviolence; directors of shelters; mayors of cities; and several homeless people. The committee requested information about existing community resources, about volunteer efforts, and about what the federal response should be. The House Committee on Appropriations had already approved a $50 million emergency program to be administered by the Federal Emergency Management Agency to provide aid to community shelter organizations. Although the proposal passed the House, it failed to pass the Senate. Nevertheless the hearing produced a national perspective on the homeless, and the published testimony contains valuable information (16).

At the June 1983 annual meeting of the Mental Health Association of Southeastern Pennsylvania, panel presentations focused on the impact of unemployment on mental health. This fall the National Mental Health Association's commission on the mental health aspects of unemployment is slated to hold public hearings in Philadelphia about such issues as the current recession and its effect on demands for mental health services, the increase in child and spouse abuse, and the corporate and public sector response to the problems of unemployment and the plight of the homeless. Former Health and Human Services Secretary Patricia R. Harris will chair the hearings. Recommendations for public policy are expected to be made in a report by the commission.

Thus the insane on the streets of American cities, now visible in numbers never before seen in this century, may once again arouse Americans to reassess and improve their care of the mentally ill.●

SALVADORAN DEATH SQUADS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. RICHARDSON. Mr. Speaker, I am deeply disturbed by recent reports that right-wing groups backed by the Salvadoran Government are waging a campaign of terror against Centrist union groups in El Salvador. Three union members have already been killed by unidentified assailants and five directors of the country's largest labor organizations have received death threats. Salvadoran President Roberto D'Aubuisson recently accused leading labor organizer, Samuel Maldonado, of having strong ties to the left. Maldonado has since fled the country in fear of his life.

Furthermore, I am also deeply concerned that the Salvadoran Government continues to drag its feet on land reform initiatives and on bringing the murderers of four U.S. churchwomen to justice.

Mr. Speaker, the people in El Salvador and throughout Central America have long viewed right-wing oppressors as puppets of American interests. Our current policies of backing a regime that apparently rejects the need for progressive land reform and the establishment of law and order does little to dispel these beliefs.

I am strongly opposed to the spread of Marxist power in Central America. However, I do not feel that we can solve the political problems in El Salvador merely with U.S. military might. Any further assistance to the Salvadoran Government must be conditioned on their willingness to open negotiations with all parties and to permit progressive Centrist groups to participate in the decisionmaking process.

If the moderate voices in El Salvador calling for land reform and the establishment of democratic institutions are silenced by death squads, our goal to establish a free and independent El Salvador will be doomed.●

WASHINGTON POST EDITORIALIZES ON WHY NATO MODERNIZATION MUST PROCEED ON SCHEDULE

HON. JACK KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. KEMP. Mr. Speaker, in July of this year, I had the opportunity to travel to the Soviet Union as part of a congressional delegation, headed by our colleague TOM FOLEY, to meet with members of the Supreme Soviet. In all of our meetings the Soviets repeatedly emphasized arms control issues—although clearly their concerns rest with stopping deployment of our arms, not cutting back on theirs. I believe their foremost objective right now is stopping deployment of the Pershing II and GLCM in Western Europe. Even Soviet officials whose duties have nothing whatsoever to do with military issues returned repeatedly to this theme.

I discern a twofold Soviet strategy to prevent NATO modernization. First, I heard repeated again and again the threat that if we proceed with modernizing NATO forces to counter the Soviets' enormous SS-20 force—360 launchers, three warheads each, each reloadable and mobile—then the Soviets would respond in some undefined way. Scare tactics of this sort backfired in the West German and British elections, where those who are knowledgeable about the Soviet Union understand that such threats are Soviet bluster to cover up what the Soviet leadership has decided to do anyway. But threatening talk does provide fodder for peace demonstrations, and so its propaganda value should not be discounted.

Second, many Soviet officials during our visit argued that there is nothing sacrosanct about a December deployment deadline: why not delay deployment to give the INF talks more time? In other words, if they cannot scare us into not proceeding with deployment, they want to stall.

And as December grows near, more and more well-intentioned people in the West are urging that deployment be delayed. Even some Members of Congress usually considered supportive of a strong defense, such as Senator JOHN GLENN, have taken up this call.

An outstanding editorial in Sunday's Washington Post succinctly sets forth the case why the United States should not defer deployment. As the editors write, "It misstates Soviet purpose and will to imagine that the Kremlin, having declined to strike a bargain in 4 years, will do so if it has 6 months more." I agree. And I also believe with the Post that the important thing now is to keep calm in the coming deployment storm.

The ability of the free world to maintain that calm is enhanced by able and responsible editorials such as that in Sunday's Washington Post.

I believe that our only hope for an arms control agreement that will contribute to the peace and stability of Europe is to proceed as planned with INF deployment. Only then will the Soviets be convinced of our determination, and be persuaded that an arms control agreement is in our mutual interest. Let's keep calm.

I ask that Sunday's Washington Post editorial be printed in the CONGRESSIONAL RECORD.

The article follows:

DEFER DEPLOYMENT?

Defer deployment of new American missiles in Europe, anxious voices say, to give Moscow time and room to back off its threat to counter with new deployments of its own. But it misstates Soviet purpose and will to imagine that the Kremlin, having declined

to strike a bargain in four years, will do so if it has six months more.

Go back a bit. Well into the 1970s, the nuclear equation in Europe satisfied both sides. In 1977, the Soviets unilaterally altered it. Unprovoked, they started deploying accurate mobile SS20s. At once the Europeans recognized the Soviet intent to intimidate them with a powerful new nuclear threat for which the United States had no regional match. They asked Washington to counter it and, meanwhile, to try to induce the Soviets to eliminate their SS20s or at least to build down to an agreed level to which the Americans would build up.

This the Soviets have steadfastly refused to do. In the four years since NATO thus spoke, they have deployed one new triple-warheaded SS20 a week against Europe—every week. The "balance" they now seek is essentially between British and French missiles and their SS20s: the United States would in effect fold its nuclear umbrella over Europe.

The issue is not military, since too many missiles already exist on both sides, but political, a question of allied confidence. The allies—all of them—understand it perfectly, though their "peace movements" do not.

The Soviets complain when Ronald Reagan trolls in Eastern Europe, but what they have done in Western Europe is more adventurous many times over. They were wrong to think they could panic Western publics into accepting their design. With American counter-deployments about to begin, they are still at it, promising to quit the INF talks and install "new systems" against both Europe and America.

The closing of the INF forum will make a splash but is not serious, since it was always true that European systems had best be discussed in the broader context of START, which remains open. The new Soviet deployments will make Europeans and perhaps also Americans more nervous, but not nearly so nervous as they both would rightly have been if Moscow had been able to split the alliance.

Mr. Reagan has not handled the INF talks especially well, starting late, scaring his partners and putting down his cards erratically. Still, the important thing now is to keep calm in the coming deployment storm.

If the Kremlin is as concerned as it says it is to be facing missiles that could reach Moscow (if their range was extended) in eight to 10 minutes, then it can still make an 11th-hour offer. Otherwise, the new American deployments should be steady but slow, so as not to force the pace. Planning should start at once to include British and French forces in American strategic considerations at START.●

WEATHER SATELLITES

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DASCHLE. Mr. Speaker, yesterday, by a vote of 377 to 28, the House went very strongly on record in opposition to any attempts to transfer this country's civil weather satellites and land natural resource satellites (Landsat) to the private sector. The resolution which was passed (H. Con. Res. 168) is one which was I privileged to cosponsor, and one which has my full support.

This has been a long ongoing controversy. Since the administration first proposed such a transfer in March of this year, it has been almost impossible to find anyone, outside of the administration and certain special interests which would profit from this transfer, who supports it. Two months ago, the Senate passed a prohibition on any further action on this proposal by a unanimous voice vote. The recent NASA authorization for 1984 (Public Law 98-52) clearly prohibited such a transfer. Every authorizing committee and subcommittee in both the House and the Senate has indicated, in every way they possibly could, that they are opposed to this transfer.

Still, however, like a bad penny that keeps returning, progress on this proposal keeps advancing. The administration, even now, is conducting a solicitation for proposals to purchase the weather and Landsat statellites, and still projects that it will make a selection of winning bids in May of this year.

This controversy is more than an abstract philosophical argument to me. I have had firsthand experience in viewing the operations of one of the land-based support facilities that the administration proposes to remove from our information gathering and dissemination network. This is the EROS Data Center, located outside of Sioux Falls, S. Dak. The development of the Landsat information which is conducted in this data center provides invaluable information on the possibilities of the development of natural resources and the agricultural environment of our country. To cavalierly toss this information gathering equipment to the private sector at a monetary loss to the taxpayer makes no sense, especially since it appears, under most of the bids that are in the process of development, that the Federal Government will be in the position of having to buy back from the bidders information that it presently gets from the system that it wants to sell them.

There is no doubt in my mind that there are goods and services which the Federal Government provides which can, in fact, and should be turned over to the private sector, especially when significant savings can be made by the Government through such transfers. However, the vital national interest which the weather and Landsat satellites serve make their function one which is inherently governmental in nature, and one whose transfer to the private sector, especially at a monetary loss to the taxpayer, makes no sense, and should be abandoned.

I welcome the overwhelming vote which supports this position, and sincerely hope that the administration will, in the light of this action, reconsider its perhaps well-intentioned—but mistaken—proposal.●

THE THERAPEUTIC USE OF MARIHUANA

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. STOKES. Mr. Speaker, as an orignial cosponsor of H.R. 2282, a bill to make marihuana therapeutically available to persons confronting life-threatening and sense-threatening diseases, I would like to recommend to my colleagues an editorial which was written by Mr. Norman Kaplan of Cleveland, Ohio, on the value of loosening restrictions on marihuana use for cancer and glaucoma victims.

H.R. 2282, introduced by my good friend Congressman STEWART MCKINNEY, provides an effective and humane response to the legitimate medical needs of seriously ill Americans who suffer from these and various other debilitating diseases without altering criminal penalties against the drug's social use.

Mr. Speaker, there are thousands of glaucoma and cancer patients across this country who are suffering from severe emesis stemming from anti-cancer treatments and who do not respond to conventional medications. Evidence shows that a majority of these individuals would enjoy relief from the medical use of marihuana. Moreover, the case for medical use of this drug is continuing to grow.

Thirty-three States have enacted medical marihuana statutes already. However, Federal policy has not adjusted to meet the need. Last year, the States of New Mexico and Michigan enacted resolutions calling on the Congress to eliminate the cumbersome bureaucratic controls which restrict marihuana's availability for medical uses.

H.R. 2282 would not make marihuana available at the local supermarket. It would not allow physicians to prescribe marihuana as freely as other dangerous opiates and barbituates. But it would recognize marihuana's well-established medical value, and adapts Federal law to allow its medical use.

[From the New York Times, Sept. 6, 1983]

ONE MORE STEP FOR MEDICINAL MARIJUANA

To the Editor:

As a cancer researcher who has worked with the marijuana derivative Delta-9-Tetrahydrocannabinol for the past five years, both in its anti-cancer properties and in its anti-nausea properties for patients receiving cancer chemotherapy, I applaud your Aug. 27 editorial "Marijuana and Medicine."

A recent computer search of the medical literature revealed that over 50 articles on the therapeutic uses of the derivative and

its analogues were published in the last three years. I have often commented on the tragic circumstances that in the past allowed this drug with tremendous medical potential to be readily available illegally to the individual on the street while it was difficult, nigh impossible, for the person suffering the ravages of cancer and chemotherapy to obtain.

Nevertheless, both the National Cancer Institute and the National Institute on Drug Abuse have made every effort in recent years to make Delta-9-Tetrahydrocannabinol capsules (Schedule I) available free to those suffering with cancer, and to make it available to researchers like myself working with scientific protocols acceptable to research committees within the state and Federal establishment.

What is needed, as you state, is for the Food and Drug Administration and the Drug Enforcement Administration, under the urging of Congress, the scientific and medical community and the public, to move therapeutic Delta-9-Tetrahydrocannabinol from Schedule I (Investigational Experimental Substance) to Schedule II (Controlled Narcotic), which would enable any licensed oncologist, surgeon, opthalmologist, psychiatrist or other physician to prescribe it without excessive regulation or fear of legal liability for use of an "experimental" pharmaceutical.

For responsible medical researchers, the substance has been and remains available; the problem is to ease the bureaucratic tangle that makes it difficult for physicians to order it and supply it to their patients.

NORMAN CHARLES KAPLAN,
Shaker Heights, Ohio, Aug. 27, 1983.

[The writer is president of Calcol Inc., a medical and scientific research and consulting firm.]●

RECOMMENDATIONS OF ADVISORY COUNCIL ON CONTINUING EDUCATION

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DEWINE. Mr. Speaker, the National Advisory Council on Continuing Education report was brought to my attention by my constituent, Richard Brinkman, president emeritus of Clark Technical College in Springfield, Ohio, a member of the National Advisory Council on Continuing Education, and a prominent figure in education in Ohio for the past 30 years. The Advisory Council, on which Dick serves, is a Presidentially appointed body authorized by Congress in the Higher Education Act of 1965. The Council's task is to advise the President, the Congress, and the Secretary of Education on Federal policies relating to the education and training of adults at the postsecondary level of instruction.

This report advised that there are 23 million American adults who are functionally illiterate. The Advisory Council's report also concludes that there are the same number of Americans who are formally engaged in continuing their education. The majority of these men and women cite job and career-related reasons for continuing their education, as well as their private interest in enriching their lives.

I believe it is important for us to pay particular attention to the Council's five recommendations which specifically address the problems of dislocated workers; the collection and dissemination of data and information; private sector support for institution-based research and development; the role of the Department of Education in continuing education and human resource development; and the need to inform and educate the general public to the trends cited by the Council in its report. The following are the Advisory Council's recommendations:

RECOMMENDATIONS OF THE NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

1. DISLOCATED WORKERS

The Congressional Budget Office reports that as many as 2.1 million workers, or twenty percent of the unemployed, may be permanently dislocated from their jobs during 1983 as a result of structural changes in the economy—even as the economy improves.

Title III of the Job Training Partnership Act provides limited federal funds for federal-state-local joint efforts to identify these workers and to retrain them for employment. Educators and employers are directly involved in this program.

The collaborative efforts sought by the Job Training Partnership Act put into practice one of the basic assumptions of the Council regarding effective continuing education and training for workers: that it is best done at state and local levels, where training resources and jobs are most readily available; and that a proper role for the federal government is to encourage and supplement these activities, as appropriate, to enhance grassroots resolutions to national problems.

The Council commends the objectives of this Administration-backed effort and recommends to Congress that the President's request for increased funding in fiscal year 1984 for Title III of the Job Training Partnership Act be approved.

To supplement the objectives of this legislation and to further collaborative federal-state efforts to help unemployed and dislocated workers, the Council also recommends that legislation be approved to give states more flexibility to use part of state unemployment insurance tax revenues to pay for training, job search, and relocation for unemployed workers eligible for unemployment compensation under state law.

2. DATA AND INFORMATION

Effective planning of education and training programs requires current, accurate data about the supply and demand for workers and the changing nature of occupational requirements, particularly at the local level.

The federal government has the responsibility for collecting a wide range of economic and labor force data, at the national level, to provide a basis for the development of national policies. However, in the area of education and training, these data become particularly meaningful when they can be applied at the local, operating level.

The Council calls upon federal agencies to examine their data collection, analysis and dissemination activities to determine how these programs can best be reoriented to supplement existing data on the labor market available in states and localities. Because of the critical importance of this issue for the future effectiveness of continuing education and training, the Council proposes to investigate this subject intensively over the next year.

3. RESEARCH AND DEVELOPMENT

The Council views the basic research and development capacity of institutions as crucial to the preparation and deployment of a competent, well-educated and trained workforce.

One-half of the basic research conducted in the United States is sponsored by the Nation's colleges and universities. There is ample evidence to suggest that institutional facilities and laboratories for research and development are often out-dated, underfunded, and fallen into disrepair.

State-of-the-art equipment, laboratories, and related hard and software resources are critical to American research and development activities. The quality of academic curricula and training depends upon them and they are crucial to helping institutions develop new delivery systems that can use and serve emerging technologies and industries.

If postsecondary institutions are expected to train and retrain workers to master these technologies and fill the jobs created by these expanding industries, their curricula and training programs must have access to and support from private sector enterprises.

The Council recommends that the Administration and Congress explore further the options provided by the U.S. Tax Code as an instrument to encourage the private sector to commit more of its money, manpower, and technical resources to institution-based R&D activities.

The federal government has a record of various efforts to provide incentives to the private sector to collaborate more closely with postsecondary institutions on matters of mutual concern. It would be wise to assess the effectiveness of that record—its past successes and failures—while in the process of exploring any new federal effort.

4. THE U.S. DEPARTMENT OF EDUCATION

The Secretary of Education has moved ahead to draw national attention to the need to reform American education. His office is the key policy-making office on education matters for the federal government; through it, the federal government can convey to the American people what it perceives are educational issues of national importance.

The Council believes that it is appropriate for the Department to assume a leading role in developing policy directions for retraining the Nation's workforce. The educational reform that is sought may depend, in part, on the potential of post-secondary institutions to serve the Nation for this retraining purpose.

To further that end, the Department of Education should have the capacity for:

(a) Leadership in relating college-sponsored continuing education to the needs of the Nation's workforce;

(b) Policy analysis and program development in consultation with other agencies, especially the Department of Labor and the Department of Commerce;

(c) Support of exemplary projects, based on local initiatives, which can clarify, develop and enlarge the postsecondary contribution to worker training and retraining; and

(d) Research and dissemination activities which can expand understanding of the relevance of college-sponsored continuing edu-

cation to workforce needs and provide information about effective programs.

The Council believes that the Department has a special opportunity to act as a catalyst and as a source of leadership within the federal government on broad, multi-agency policy initiatives for human resource development.

5. AMERICAN ATTITUDES TOWARD WORK, EDUCATION AND TRAINING

Americans and their families are confronted by unprecedented demographic, technological and economic changes. Many do not understand what is happening. The loss of a job and salary is a catastrophic event to any wage earner, and any prolonged threat to that job and to the jobs of others has grave consequences for the stability of the American workforce.

Specific actions to improve the economic climate and to provide additional education and training opportunities to workers by federal, state and local governments, by employers and unions, by academic, community and other agencies are needed. These actions may not be enough, however, if workers themselves are essentially ill-informed about the changes sweeping over them.

Persistent—even dramatic—initiatives are needed to alert workers and the American public generally to the implications of these historic changes and to enlighten them about the renewed importance of further education and training, if workers are to hold on to jobs and to compete for new jobs.

The federal government has unparalleled resources and capacity for leadership in this area. It is the recommendation of the Council that the Administration and the Congress exercise this leadership now and that the President marshal the resources of federal agencies to alert, inform and help prepare workers for the likelihood of more changes to come.

In concluding this report, the Council realizes that there are many more issues to be examined, many more concrete steps to be taken. It is the Council's intention in the year ahead to further explore the issues it has raised in this report and to undertake a reexamination of the Higher Education Act and other federal laws with these issues in mind.

The Council will focus specifically on the provisions of the various student aid programs of the Act and give special consideration to title I, the only federal legislation focussing exclusively on continuing education for adults. The Council will also review institutional development of library resources, linkages between institutions and the business world, and international studies and foreign language instruction as an aid to institutional responses to the challenges of a world economy.

The Council is indebted to the many individuals and agencies that expressed concern for the Council's work and who contributed to it. In the year ahead, the Council would welcome the opportunity to solicit their views again.

MANDATE—NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

Sec. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, and labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such reports to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

(The Higher Education Act of 1965, as amended.)●

ORAFLEX—THE LILLY SIDE OF THE STORY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BURTON of Indiana. Mr. Speaker, as a member of the Committee on Government Operations, I signed dissenting views to the report, entitled "Deficiencies in FDA's Regulation of the New Drug 'Oraflex.'"

I would like to share with my colleagues, a letter written to members of the Subcommittee on Intergovernmental Relations and Human Resources from Edgar G. Davis, vice president of corporate affairs for Eli Lilly and Co. The letter accurately and thoroughly explains the faults which many have found with the report.

The letter follows:

ELI LILLY & Co.,
Indianapolis, Ind., November 3, 1983.

Hon. TED S. WEISS,
2442 Rayburn House Office Building,
Washington, D.C. 20515

DEAR MR. WEISS: Eli Lilly and Company is deeply concerned about the report, entitled "Deficiencies in FDA's Regulation of the New Drug 'Oraflex,'" that was issued yesterday by the Committee on Government Operations. The report questions the integrity of Lilly and charges that the company improperly withheld information from the Food and Drug Administration. Lilly believes that its actions were in accordance with FDA regulations, sound medical judgment, and current industry practice.

When former Congressman L. H. Fountain opened the subcommittee hearings on which the report is based on August 3, 1982, he made clear that their purpose was to investigate "the manner in which FDA is administering the law" and that the subcommittee had no interest in "investigating the operations of drug manufacturers" or "expressing judgments on pharmaceutical firms or their products" (hearing record, pp. 2-3). Yet the end result is a report that constitutes a virtual indictment of two individual manufacturers, based on a series of detailed allegations that have never been tested against all available information.

The final report, moreover, ranges far beyond the subject matter of the hearings, which were held nearly fifteen months ago. It is in large part devoted to allegations that Lilly did not report adverse reactions associated with use of Oraflex overseas prior to its approval in this country.

Yet there was no discussion whatever of those charges in the hearings held last year.

The report is, in substance, a subcommittee staff report. The Congressman who chaired the subcommittee during its hearings in 1982 has retired. None of the Congressmen who served on the subcommittee during the 1982 hearings is on the current subcommittee. We note that one Committee member who was a member of the subcommittee and participated in the hearings last year has chosen to file additional views that question significant findings in the report, as well as the process by which it was adopted.

The report makes three principal charges involving Lilly: first, that the company did not abide by a legal obligation to submit reports to FDA of foreign adverse reactions that occurred prior to U.S. approval of Oraflex; second, that the company was informed weeks or months before U.S. approval of the drug of the occurrence overseas of a new and significant form of liver-kidney reaction but failed to report that information to FDA until several weeks after the drug was approved; and third, that the company made untimely or incomplete reports of adverse reactions that occurred in clinical studies in this country prior to the approval of the drug and that this reporting failure, as well as the failure to report adverse reactions that occurred overseas, "prevented FDA from fully assessing the drug's risks prior to its approval." None of these charges is supported by the facts.

The report incorrectly claims that FDA regulations required Lilly to report adverse drug reactions associated with commercial marketing overseas prior to U.S. approval of the drug. In fact, no federal statute or regulation required such reports to be made.

The Committee report suggests that FDA regulations unambiguously require pharmaceutical manufacturers to make reports of adverse reactions associated with foreign commercial use of a drug that is under investigation in the United States. The report quotes selectively from an FDA regulation (21 C.F.R. § 312.1(a)(6)) that requires prompt reports of "any finding" associated with use of an investigational drug that may suggest "significant hazards, contraindications, side effects, and precautions pertinent

to the safety of the drug." When read in context, however, this requirement clearly applies only to findings that result from clinical studies carried out under the regulation.

In the twenty years since this regulation was issued, FDA has never advised pharmaceutical manufacturers that it requires reports concerning reactions associated with foreign commercial use. Since the Oraflex matter arose, FDA has taken several steps that clearly suggest that the regulation does not impose such a requirement. First, on October 19, 1982, FDA proposed amendments to its regulations governing New Drug Applications that would require periodic safety updates while an application was pending. Second, on June 9, 1983, the agency proposed amendments to its investigational new drug regulations that would require reports concerning experience from foreign commercial use while a drug is under investigation in this country. And finally, in at least one letter preceding approval of a new drug earlier this year, FDA specifically requested an update on experience from foreign commercial marketing that had occurred while the application was pending—a request that would have been unnecessary if such reports were required by the agency's regulations.

Although it calls on FDA to "enforce" its requirements for reporting foreign adverse reactions, the Committee report itself tacitly acknowledges that such requirements are not currently in effect. Thus, the report states (at page 33) that "FDA has no established procedures for obtaining foreign adverse reaction data for drugs under investigation in the United States which are already marketed in other countries." It concedes that this lack of procedures is not simply an oversight, since the Commissioner of FDA, in testimony to the subcommittee, said that FDA's "files would literally explode" were the agency "to solicit all adverse reactions on all drugs from all countries that have such information' " (report at page 33). In fact, the report acknowledges (at page 15) that Lilly's reporting with respect to Oraflex "appeared consistent with current industry practice" but attributed this to ineffective enforcement rather than the lack of a reporting requirement.

Although no FDA regulation required reports of foreign adverse reactions prior to U.S. approval of Oraflex, the company in fact sought information on foreign experience with the drug.

The Committee report suggests that a Belfast geriatrician, Dr. Hugh Taggart, provided Lilly with detailed information on the occurrence of unusual, fatal, liver-kidney reactions in elderly women in Northern Ireland weeks, or even months, before Oraflex was approved in the United States. The report suggests that Lilly did not take appropriate action in response to Dr. Taggart's warnings. The facts, however, are to the contrary.

Dr. Taggart did not, in fact, approach Lilly. A representative of the company's British affiliate (Dista) met with him by chance at the Belfast City Hospital, learned that he had encountered adverse reactions in patients receiving the drug, and furnished him with copies of the company's adverse reaction report forms. Initially, Dr. Taggart reported only two of the six cases known to him, although all had occurred by the time Dista's representative first approached him (some of them more than six months before Dr. Taggart reported them to Dista). Dr. Taggart reported three more cases to Dista only after Dista's medical director met with him, and those reports did not reach Dista until mid-April, 1982, at or about the time Oraflex was approved in the United States. Dr. Taggart never submitted a report to Dista on the sixth case. Moreover, although Dr. Taggart had full medical records on all of the patients (including autopsy reports for three), he did not show those records to Dista. By his own admission, in a deposition taken in Belfast on July 4, 1983, Dr. Taggart had mailed a manuscript containing detailed information on his cases to the British Medical Journal several days before he met with the Dista medical director on March 16, 1982. Yet he failed to give the medical director a copy of his manuscript.

The reports that Dr. Taggart did submit to Dista were so sketchy as to be virtually uninterpretable. An expert liver pathologist retained by the plaintiff in a pending product liability action relating to Oraflex has conceded that he could not have recognized the unusual form of liver injury later claimed to be associated with Oraflex without reviewing autopsy and pathology reports, which Dr. Taggart failed to submit to Dista.

Only within the last few days—some twenty months after first requested, and then only in response to an order by the courts in Northern Ireland—has Dr. Taggart produced the records of the patients on whom his British Medical Journal report was based. Lilly has just begun to review them, but it is significant that in one case the contemporaneous autopsy and pathology report stated that the injury that caused death was not likely to be drug-related.

In these circumstances, Lilly's handling of Dr. Taggart's reports cannot properly be faulted. The medical personnel in the company's British affiliate sought to obtain necessary information from Dr. Taggart. The information they had prior to U.S. approval of the drug did not warrant special medical concern, and it was not reported to the company's Indianapolis headquarters. The first detailed information became available to the company on May 6, 1982, when Lilly received a preprint of Dr. Taggart's report from the British Medical Journal. Lilly promptly reported this information to FDA.

Even after the British Medical Journal report appeared, FDA and its independent medical advisors remained unclear as to its significance. On may 20, 1982, Lilly submitted to FDA revised labeling for Oraflex that included information about the Taggart report; but, as FDA officials acknowledged in the subcommittee hearings (at page 124), the agency asked Lilly to delay such action until FDA's Arthritis Advisory Committee could review and consider the general question of liver injury associated with other nonsteroidal anti-inflammatory drugs in addition to Oraflex. At the advisory committee's meeting on June 3–4, 1982, FDA's consultants were puzzled by Dr. Taggart's report and unclear as to its medical significance. In light of these events, it is simply not reasonable to contend that medical personnel at Dista should have recognized an unusual or significant medical problem based on the sketchy and incomplete reports they received from Dr. Taggart.

The Committee report also charges that Lilly did not make required reports of reactions that occurred in the U.S. clinical studies of Oraflex. This charge stems principally from internal FDA memorandums, especially memorandums by a former FDA investigator, that were disclosed in the subcommittee's hearings in 1982. The key memorandum, which was printed at pages 76–84 of the subcommittee's own hearing record, was rebutted point by point in a submission made by the company to FDA on September 16, 1982. That submission was not printed in the hearing record and is not mentioned in the Committee report. Documents in the hearing record show, moreover, that FDA officials accepted Lilly's explanation that the former investigator's memorandum was in error, that the agency was well aware of the adverse reactions in question, and that the information Lilly supposedly withheld would have had no effect on the labeling or approvability of the drug.

The company's September 16, 1982, submission showed that there were serious mistakes and omissions in the former FDA investigator's memorandum that rendered its conclusions incorrect. For example, the former investigator's memorandum accused Lilly of not reporting sixty-five adverse reactions that occurred during the clinical trials; but it neglected to take account of an extensive report of adverse reactions, submitted to FDA three months prior to the date of the investigator's memorandum, that contained reports of the vast majority of the reactions in question.

Moreover, the investigator's memorandum was apparently based on a mistaken interpretation of the FDA regulations governing reporting of adverse reactions in clinical trials. Senior FDA officials testifying at the subcommittee hearing on August 3, 1982, acknowledged that many of the reactions in question were relatively minor and had been encountered with sufficient frequency in the clinical trials that special reports were not required by the regulations (see page 93 of hearing record).

Finally, the former FDA investigator alleged that there were significant differences in the incidence figures for certain adverse reactions in the New Drug Application for Oraflex and in a subsequent report to the investigational new drug file. These differences, he suggested, were evidence of an attempt by Lilly to bias FDA's review of the New Drug Application by understating the incidence figures. Lilly's September 16, 1982, submission showed, however, that the FDA investigator had misread the tables in Lilly's New Drug Application and that the incidence figures for the reactions in question reported in the application were, in fact, much higher than the FDA investigator claimed.

The record of the subcommittee's August 3–4, 1982, hearing demonstrates that FDA's review of Lilly's New Drug Application was not biased by the supposed underreporting of adverse reactions that occurred in the U.S. clinical trials. According to a memorandum prepared by FDA enforcement officials after the agency investigator's memorandum was reviewed, the adverse reactions that it identified had "no effect on the labeling or approvability" of the application (see page 240 of hearing record).

Lilly is confident that it acted responsibly in the Oraflex matter. In many respects, that matter is both medically and legally complex. What is not complex is the fundamental commitment of this company to honest and responsible conduct.

Sincerely,

EDGAR G. DAVIS.●

CHILDREN'S FEARS OF WAR

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MARRIOTT. Mr. Speaker, on September 20, 1983, the Select Committee on Children, Youth, and Families held a hearing on "Children's Fears of War." The hearing record sets forth my views and the views of the minority members regarding this committee work.

Subsequent to the hearing I have received several unsolicited letters. Since these perceptive letters have not been submitted for benefit of the committee record, yet contain informed opinion, I am inserting them in the CONGRESSIONAL RECORD. The letters I am submitting come from Dr. Tony M. Deeths, a physician in Creve Coeur, Mo.; and Edward Zigler, Ph. D., Sterling professor of psychology at Yale University, and director of the Bush Center in Child Development and Social Policy.

I am also inserting a brief article from the Christian Science Monitor, written by John H. Dendahl, a business management consultant who has been actively concerned about nuclear waste disposal in Massachusetts, in the RECORD.

The material follows:

CREVE COEUR, MO.,
October 3, 1983.

Congressman DAN MARRIOTT,
Washington, D.C.

DEAR CONGRESSMAN: Instead of holding hearings on children's fears of war, you should hold hearings on who is manipulating those fears and why.

Last summer my ten year old received a thick letter from President Reagan. She showed me the letter and I was astounded to find that it was a reply to a letter she had written expressing her fear of nuclear war and support of a nuclear weapons freeze.

I was surprised since she had never expressed these feelings to me. I asked her about her letter and found that she had little memory of it and even less idea of what the freeze debate was all about. With further investigation I found that the letter had been written as a classroom project and been mailed from school without any parental input. The "resource material" used is published by a group calling itself "Children Against Nuclear War." There was no other identification and the material was quite polished in its presentation and as such I suspect was produced by adults. I also thought that the material was very one-sided.

I am forty years old and have lived most of my life under the threat of the bomb. When I was in grade school in California we use to have "flash" drills. I do not see that conditions leading to nuclear war are greater than then and wonder why there is such an effort to create fear in our children. I object to the use of my children as political tools. I especially object when it is done by school teachers using my tax money.

I would appreciate your comments on this cynical attempt by adults to influence the political process by creating unreasoned fear in our children.

Sincerely,

TONY M. DEETHS, M.D.

YALE UNIVERSITY,
New Haven, Conn., September 23, 1983.

Hon. DAN MARRIOTT,
House of Representatives,
Longworth Building, Washington, D.C.

DEAR MR. MARRIOTT: In my view the hearings last week on children's reactions to the nuclear threat was a misguided effort. The knowledge base in this area is much too thin to illuminate much of anything. I cannot for the life of me imagine what constructive purpose such hearings could serve. I have transmitted these views directly to George Miller.

American's children and their families continue to be confronted with many problems which merit the concern of the Committee on Children and Families. It is important that the nation know that the Republican members of the Committee feel just as deeply about child and family issues as do the members of the Democratic party. I continue to hope that the members of the Committee can put aside partisan party politics and join ranks in dealing with children and family issues. I would be delighted to help you in any way I can in fulfilling your function as ranking minority member of this Committee. My expertise, as well as the resources of Yale's Bush Center in Child Development and Social Policy, are at your disposal.

Sincerely,

EDWARD ZIGLER,
Sterling Professor of Psychology.

[From the Christian Science Monitor, Oct. 17, 1983]

NUCLEAR ARMS AND CHILDREN

(By John H. Dendahl)

A very disturbing element in the public dialogue about nuclear weapons and disarmament has nothing to do with legitimate differences of opinion over survivability, military strategy, or international relations. The element to which I refer is the cultivation and exploitation of fear among schoolchildren.

We have now had what one reporter described as "a moving special meeting in the [US] House of Representatives" where children told of their fears of war. The concluding sentence of the story was the quoted statement of an 11-year-old girl from Iowa. "It's scary to think about the world being destroyed and nothing is left."

Reading that, I thought back to my perspective of the same subject at age 11, when the "police action" in Korea began and I was growing up in Santa Fe, N.M. If I looked out my bedroom window at night, I could see clearly the lights of the atomic laboratory at Los Alamos spread across the darkened mountains nearby.

Relations with the Soviets were at least as belligerent then as now. I took it as obvious that Los Alamos must be the top-priority target of the Soviets when they decided to attack, and believed that all I knew and loved would cease to be. Many were the nights when I wondered if the sound of a nearby plane was telling me that the end was near. That, as the Iowa child testified, was scary.

It still is. But so are a lot of other things I learned about later, like pogroms, Dachau, the Cultural Revolution, and the Soviet gulags.

Abhorrence of war and fear of its consequences are normal for children who are properly informed by their education. What I find upsetting in 1983 is schoolroom access to your children and mine by those who would nourish their concerns and fears with propaganda.

One outspoken advocate of disarmament, a former pediatrician, often appeals to adult audiences to "learn from the little ones." Perhaps to be sure that the little ones have something to teach, her organization has helped lead an effort to provide school courses on the supposed effects of nuclear war.

If it were the purpose of these courses to provide a balanced view of war and its horrors, alongside some of the horrors over which reasonable people might choose war, one might praise the effort.

One gets the impression, however, that the children are led almost without fail to a conclusion that war is simply an unthinkable alternative and, by the way, that resources are being wrongfully diverted to defense from other, more socially "enlightened," purposes. Creation of numbing fear seems to be the purpose and, sadly, production of young actors to advance a particular view of public policy seems to be the goal.●

POSSIBLE CONSEQUENCES OF H.R. 1510

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. EVANS of Illinois. Mr. Speaker, Members of this body recently received a letter from the national executive director of the League of United Latin American Citizens (LULAC) regarding H.R. 1510, the Simpson-Mazzoli immigration reform legislation.

I would like to bring this letter once again to the attention of my colleagues. LULAC's executive director, Arnoldo S. Torres, expresses the concerns and dissatisfaction with major provisions in the bill and explains the circumstances leading to House Speaker O'NEILL's decision not to act on this bill in 1983.

In order to correctly understand the possible consequences of H.R. 1510, it is necessary to review its shortcomings. Mr. Torres reminds us of these and also reminds us that the measures we take to accomplish needed reforms of U.S. immigration and refugee policy must be fair and not provide the opportunity for flagrant violations of civil rights.

I urge Members to review Mr. Torres' letter.

LEAGUE OF UNITED
LATIN AMERICAN CITIZENS,
Washington, D.C., October 24, 1983.

DEAR MEMBER OF CONGRESS: On behalf of the League of United Latin American Citizens (LULAC), this nation's oldest and largest Hispanic organization, I write to you regarding both recent developments on H.R. 1510, the House version of the Immigration Reform and Control Act, and LULAC's perspective on the recent turn of events sur-

rounding this legislation. In addition, we have enclosed an issues paper discussing the various problems we see with H.R. 1510.

As you well know, the House leadership has postponed further action on H.R. 1510. After three years of working through the legislative process in coalition with the Congressional Hispanic and Black Caucuses, civil rights advocates and church groups to bring about fair, effective and non-discriminatory immigration and refugee reform, we were very pleased to hear House Speaker Tip O'Neill's decision not to move on H.R. 1510. We have long been concerned with this bill for we do not regard it as being fair, effective, and non-discriminatory.

The House Speaker's decision was courageous and should be applauded. While many have accused the Speaker of playing politics and stifling the legislative process, we firmly believe that had the bill come to the House floor, there would have been such acrimony and animosity between members that more harm than good would have come from such a display. This environment clearly would not have been conducive to the passage of effective public policy.

Other factors which had to be considered had the bill come to the House floor, were that various committees which had sequential referral of this bill and had reported out committee versions, could not find any ground for agreement on how to proceed with this bill on the floor. Despite efforts to work out arrangements so as to have a general consensus on floor action, the differences and interests of the committees were so wide and varied that no progress could be achieved. In addition, the Speaker was also well aware of the letter by U.S. Attorney General William French Smith to House Judiciary Committee Chairman Peter Rodino in which the Attorney General made it very clear that the House version of the bill "is not in accord with the program of the President," and "the Administration cannot support" the legislation. Further, the letter went on to object to the estimated cost of the House version and to and overly generous legalization program. Also we found the Attorney's statement appearing in a wire story of October 6, 1983, that the bill was going too far in protecting the civil rights of permanent-resident aliens living legally in the United States, to be extremely disturbing.

While some would argue that the Speaker should have presented these facts as leading to his decision to withdraw the bill, and not invoked such a partisan line, it does not negate these realities, nor lessen their importance. Had this bill come forward with such controversy, divisiveness and lack of the necessary Congressional support, it clearly would not have resulted in any positive benefits for any one group or for this country.

This scenario does not and should not stop us from designing fair, effective, and non-discriminatory reform legislation of U.S. immigration and refuge policy. However, after two years of attempting to pass poor public policy perhaps we should step away from such an approach and examine the possibility of proceeding with phased-in legislation. In other words, LULAC would be interested in exploring the establishment of a legislative mechanism or agreement in which over a three or four year period we address specific aspects of the immigration and refugee issue which would result in a final product of comprehensive reform. Legislation such as H.R. 1510 is so complex and controversial that too many competing interests cannot agree on how to be more productive to develop sound public policy; one which has short term as well as long term goals in its design and implementation in addressing immigration and refugee matters.

We in LULAC feel compelled in bringing to your attention the fact that we are totally committed to enacting legislation, reforming U.S. immigration and refugee policy. However, H.R. 1510 is not, and has never been fair, effective and nondiscriminatory. We have attached an editorial which clearly states our reasons for consistently opposing this legislative proposal. We are very upset that our position on this issue has been purposely misrepresneted by some extremist proponents of this bill, we call to your attention that the League is 54 years old, founded in 1929, with over 110,000 members in 43 states. We are not a nationalist group, nor are we for an open border with uncontrollable passage. Rather, we are committed to the enactment of sound public policy which truly deals with the short and long term factors and consequences of immigration and refugee flows to this country. Any other standard simply creates more problems than benefits. Also, we do not profess to claim that there is perfect legislation; however, the effort to pass the best legislation we can should be a priority and standard. We believe our suggested approach of phasing in certain legislative components over a period of time should be the manner in which we proceed. We stand ready to work with each and everyone of you to realize such a legislative package as soon as possible.

In closing, we do not regard the recent actions by extremist groups and the House Republican leadership to circulate a discharge petition to be conductive to developing good legislation. Rather, it serves to only further divide us from effectively working together, which is a must if we are to effectively deal with this ever-growing, complex matter. We hope that such actions can be minimized and that we can expedite the start of our collective effort.

Respectfully,

ARNOLDO S. TORRES,
National Executive Director.

[From the Los Angeles Times, June 14, 1983]

THE FLAW IN U.S. IMMIGRATION REFORM—LATINOS VIEW IT AS FAILURE TO DEAL WITH FUNDAMENTAL PROBLEMS

(By Arnoldo S. Torres)

Those of us in the Latino-American community who were intricately involved in immigration reform had a dual goal: the achievement of good and sound public policy, through legislation that would not cause major difficulties for Latinos.

The so-called Simpson-Mazzoli bill is flawed on both points; it expresses Congress' overriding concern to address population movement into this country with little thought to effectiveness or consequences. When Simpson-Mazzoli emerged from the Senate last month with no improvement, the extremely disturbing message from Congress seemed to be that "something is better than nothing."

Unfortunately, that something fails to put into place a foundation for dealing with the fundamental problem of illegal immigration: *why* record numbers of people are attempting to enter the United States.

Proponents of this legislation, now bound for action by the House, contend that we must regain control of our borders and that we must stop the hiring of undocumented workers. These are reasonable and proper objectives, which we support conceptually. However, it is simplistic and unrealistic to assume that an attempt to accomplish these objectives alone will effectively decrease or stop the human flow to our shores. If there is to be true immigration reform, there must be true reform of immigration policy. This would require Congress to deal with the question of why our government welcomes people who are fleeing communism and systematically rejects people who are fleeing oppressive right-wing regimes that we are supporting. Even Congress' limited objective will not be met unless it mandates an improvement in the workings of the Immigration and Naturalization Service, and better cooperation between the INS and the State Department.

As Simpson-Mazzoli moved through the Senate, advocates of immigration reform were dismayed by the ignorance and offhand attitude of a number of senators and their aides. Many saw it as a problem that had arisen in the last decade, and felt sure that this bill would readily put a stop to it. They seemed unaware of our government's long history of encouraging and stimulating the flow of willing cheap labor from Mexico.

On three occasions Congress has enacted legislation establishing temporary guest-worker programs to feed the insatiable appetites of America's agricultural industry. This conveyed the message to Mexican nationals that they were welcome here and would find employment sanctioned by the U.S. government. These guest-worker programs created a relationship between the two countries in which the population movement across borders was mutually beneficial. U.S. growers and consumers prospered due to cheap labor costs, while Mexico was provided what some refer to as a "safety valve."

This relationship became the norm even after the temporary programs officially ended. In the last two decades it was joined by major population movements triggered by sociopolitical conditions reaching a crisis point in other underdeveloped and developing countries.

These migrations have been long developing. They are the product of many decades of poverty, injustice, neglect and poor government in the Western Hemisphere—conditions that are strongly associated with U.S. foreign policy in the region.

Throughout this century our government has followed a policy of supporting any foreign government that is "friendly" to American objectives, regardless of the inequities and abuses that these governments have foisted on their people. After decades of such treatment, after decades and generations of unrelieved poverty and injustice, the people in these countries have begun to seek political and economic refuge in our country. Most recently they have come, in massive numbers and with extraordinary difficulty, from El Salvador, Nicaragua, Guatemala, Haiti and Cuba. The irony is that they are fleeing problems in their homelands that reflect the shortcomings of U.S. foreign policy and the neglect, ignorance and selfishness with which we have treated the Caribbean and Latin America—our "backyard," as our highest policymakers revealingly call this region.

These movements of desperate people will continue and increase as these countries become poorer and as U.S. foreign policy continues to foster an environment of political instability and economic stagnation. So

it is foolish to presume that Simpson-Mazzoli will have a substantial effect on this situation. Unless we confront the real problems, it is false and irresponsible to claim that this legislation is "immigration reform," and that it will stem the flow of undocumented people. Instead, it is Latino-Americans who will suffer the pain because of our physical and linguistic characteristics.

We do not expect perfect legislation. We do want the American public to understand our own government's role in creating situations that now pose serious policy concerns, and that there is no quick-fix legislation that can provide immediate relief. Cross-border immigration is a major issue with deep and complex roots; it requires more patience, honesty, intelligence and pragmatism than Congress has demonstrated. What we need is an overhaul of the Immigration and Nationality Act and true reform of the workings of the Immigration Service and the State Department. We must have a mechanism that will allow us to properly examine the effect of U.S. foreign policy on immigration, and we must have better working relationships with countries that are sending their people to ours.

Finally, we urge a serious assessment of the extent to which, and reasons that, U.S. citizens may be displaced by undocumented workers—and why citizens are not willing to accept certain types of employment.

We regard the above approach as honest and responsible. It does not have the political attraction of claiming to be a quick fix. But neither does it make a whole category of Americans scapegoats and victims of discrimination. Nor does it exploit the desperate emotions of Americans affected by their President's faulty policy.

We—all Americans—know that there is "something better than nothing": sound, realistic, durable and honest public policy. What Congress is offering as "immigration reform and control" is closer to nothing.●

REGULATION AND INCREASED COMPETITION IN FINANCIAL INSTITUTIONS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FLORIO. Mr. Speaker, on July 19, 1983 the subcommittee I chair held hearings on the subject of the increasing competition among financial institutions. It was clear that traditionally distinct financial institutions are moving to provide to the public a complete array of financial services.

Insurance companies are providing brokerage services and even purchasing banks to provide insured depository services. Banks are seeking to test the existing Federal and State laws that limit the powers of banks. The subcommittee was considering at those hearings legislation supported by the administration that would drastically change the Federal laws defining the boundaries of existing financial service institutions.

One concern that developed in these hearings was the ability of regulators, especially those at the State level, to cope with the changes which are occurring, and to continue to protect depositors and policyholders. I would like to share with the Members an article which appeared recently discussing that concern by State legislators.

The article follows:

[From Business Insurance, Sept. 26, 1983]

STUDY SAYS REGULATORS CAN'T COPE WITH BOOM IN FINANCIAL SERVICES

(By Douglas McLeod)

NEW YORK.—Financial services conglomerates are growing so quickly that they've outstripped the ability of state regulators to keep watch over them, a new study concludes.

In a period of "overnight takeovers" and the blurring of lines among the insurance, banking and securites industries, state insurance departments may not be able to protect the public against insolvencies unless they have better equipment and more manpower, says the study prepared by a task force of the Conference of Insurance legislators.

"In the fast mix and match of their companies and products, America's financial leaders are doing some imaginative things with other people's money," th report begins.

"Many of their efforts are very worthwhile. But others are proving a little too inventive, aggressive and perhaps even reckless, and have raised serious questions as to the ability of regulators to keep watch."

The report, entitled "Risk . . . Reality . . . Reason . . . In Financial Services Deregulation," was prepared by the COIL Task Force on Multi-Purpose Financial Products and Regulatory Initiative. It was presented to the annual meeting of the Society of Chartered Property and Casualty Underwriters earlier this month by New York State Sen. John R. Dunne, the task force's chairman.

"Like it or not, there are some real dangers with the deregulation of financial services," Sen. Dunne said. "In this day of quick takeovers and instantaneous fund transfers, a company holding millions of dollars in policyholders' funds can go broke in no time, and it could take insurance regulators months to learn about it."

One needn't look too far for an example of the problem, the report notes. "The hard times that have befallen the Baldwin-United Corp. provide a current and ongoing case in point."

Cincinnati-based Baldwin-United, fighting to avoid insolvency, this month announced its intention to sell its largest subsidiary, MGIC Investment Corp., to help pay off the thousands of holders of single-permium deferred annuities issued by six Baldwin life insurance units that are now in rehabilitation (*BI*, Sept. 19.)

In trying to deal with the Baldwin-United controversy, the insurance regulatory system in Arkansas "by its own admission came perilously close to breaking down," the report says.

The Arkansas Insurance Department's investigation of questionable loans and transactions among various Baldwin-United subsidiaries didn't even begin until after the transactions had already been closed out, the COIL report notes.

The Arkansas department also encountered long delays in getting information about Baldwin and its affiliates from the insurance departments in the other 49 states, and had to seek outside help when its own staff couldn't handle the "regulatory overload" imposed by the situation.

In the course of COIL's six-month review of the conglomeration of financial services and the adequacy of current regulatory systems, the 13-member task force, composed of state legislators with an interest in insurance matters, made several other observations.

Among its findings were:

State insurance departments can't keep up with the transactions of financial services conglomerates because they don't have the computer capability to rival that of the companies they are regulating.

"Many insurers and their affiliates, with the aid of today's computers, perform in split seconds tasks that pile up on the desks of regulators," the task force's report observes.

While a few states—including Illinois, California and New York—have "reasonably current" computer facilities, most regulators are "at a decided disadvantage in monitoring reserve adequacy" and other solvency data.

The so-called "early warning system" developed by the National Assn. of Insurance Commissioners, a basically manual system for spotting potential solvency problems, "may not spot and relay insolvency information until months after the danger should have become clear.

"A system that furnishes information once yearly and then five months after the fact limits what regulators can do," the report concludes.

The basis for regulation of insurer solvency is still the triennial examination, a report that takes months of work to produce.

For instance, the triennial examination of the Metropolitan Life Insurance Co. by the New York Insurance Department for the period ending Dec. 31, 1978, is still not complete, the report notes.

The integration of insurance with other financial services requires state insurance departments to monitor information traditionally outside their normal scope, compounding their disadvantage in keeping pace with the action of the marketplace.

"When face-to-face with insurers, banks and other financial institutions, (regulators) are outmanned and outgunned," the report says.

Many insurance departments can't offer attractive enough salaries to draw the brightest people away from private companies. Budget restrictions and compensation parity requirements among departments of state government all contribute to the difficulty many insurance departments are having in maintaining adequate staffs to handle their growing responsibilities.

Because regulators' preventive steps may not always head off an insolvency, the "patchwork quilt" of guaranty fund laws in the various states need to be made more uniform and comprehensive.

Many holes still exist, the report says, noting California's failure to create a fund to cover life, accident and health policies.

In addition, many state guaranty funds only function is to bail a state out of fiscal crisis, as happened in New York last year when the Legislature appropriated $77 million from the Motor Vehicle Liability Security Fund to balance the state's budget.

States should make similar efforts to revise insurance holding company and investment laws to make it easier for regulators to monitor solvency and protect policyholders in case of insolvency.

The kind of aggressive deregulation pursued by some states to attract business and promote economic development "represent

the bad side of deregulation and could lead to a deregulatory free-for-all," the report warns.

To help insurance departments cope with some of the problems noted in its review, the task force makes several recommendations. They include the following:

State insurance departments should be given access to state-of-the-art computer equipment that would allow them to continuously monitor insurance company solvency.

To start, insurance departments might require only relatively simple microcomputers, and the cost of such systems would not be staggering, the task force maintains. The report estimates that the non-recurring expenses of buying hardware, software and training workers to use a microcomputer might total about $750,000. Recurring expenses of entering yearly and quarterly insurance company financial data and buying supplies might add up to $350,000 per year, the report concludes.

After state departments have their own small computers, a larger mainframe computer could be bought to handle larger amounts of information. Operated by the National Assn. of Insurance Commissioners, this central system might cost about $4 million, including hardware, staff and network charges to individual insurance departments communicating with the system through their own microcomputers.

Legislatures should increase the budgets of state insurance departments to allow for the purchase of modern equipment and the hiring and training of highly qualified staff.

State legislatures should strengthen insurance holding company, investment and guaranty fund laws to provide more security for policyholders in cases of insolvency.

State officials should start communicating with federal officials who regulate financial services outside the insurance industry so that the state regulators can participate in the formation of a national policy and "avoid being squeezed out of their sphere of influence by federal officials who principally regulate the other financial services."●

LEGISLATION ADDRESSING DISASTER RELIEF FOR VICTIMS OF HAZARDOUS WASTE CONTAMINATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SKELTON. Mr. Speaker, during the last year Missouri has had the unfortunate experience of providing a laboratory for the operation of the Superfund law. The bill which I offer today is an effort to learn from our experience of the past.

In Missouri, through the activities of one waste hauler, Mr. Speaker, over 200 potential sites were created and to this date over 30 have been confirmed.

The problems which my bill addresses are not huge ones; instead, it clarifies what the Administrator can do in certain hopefully rare cases where Superfund must be applied to a contaminated community.

I would like to especially emphasize that discretion is left with the Administrator as to whether to use these tools in a given case. We do not seek, Mr. Speaker, to create an entitlement in any way, but it should be made clear what tools the Administrator has if he needs them.

Let me go through both sections of my bill briefly. The first part provides that the Administrator can, if he deems it appropriate or cost effective or necessary to protect health and welfare, permanently relocate a community that is contaminated beyond repair by hazardous wastes.

This is exactly the situation we had in Missouri at Times Beach and at Quail Run. The ground was so contaminated that nothing short of permanent relocation made any sense; and yet, the EPA went through the motions of a temporary relocation until a loophole could be found to move the residents permanently. After the flood at Times Beach, the disaster laws were used to effect a permanent relocation; in other words, indirectly doing what we say in this bill can be done directly.

The second provision provides that the Administrator can, where appropriate, pay the principal and interest on business debts so that the economy of an area can be kept alive during a temporary relocation or until a permanent relocation can be put into effect.

It makes no sense to rescue a community, but endanger its economy. Why bother to repopulate a town if every business has been either run off or put into bankruptcy?

In Times Beach, Mo., the residents were asked to relocate by the Government and were provided assistance to mitigate their financial mishap; but the businesses, now left without customers, received no help. Their income was zero, but their obligations continued on.

My bill in its second portion would not replace their lost profit, but it would maintain the status quo so that all the residents have something to return to.

Finally, my amendment provides that some of the aid provided to individuals under the Disaster Relief Act of 1974 would be permitted for those persons thrown out of work by relocation. This could include, at the Administrator's discretion, unemployment and reemployment assistance, food stamps, and certain grants where other programs were not available to meet the serious needs of these relocated residents. By this provision, we simply provide the Administrator the same kind of power to resolve a man-made disaster as is already available in the event of a natural one.

I urge my colleagues to benefit from the hard-learned lessons of our experience in Missouri and to enact legislation that can provide the help that Congress intends for disaster victims.●

GREAT-GRANDMOTHER JOINS PEACE CORPS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ECKART. Mr. Speaker, with all of the bad news that we hear about every day, it is not often enough that we read about the good deeds which many of our citizens perform. It is the spirit of volunteerism and charity which truly makes our society great. I would like to share with you this article from a local newspaper from my district in Ohio which evidences this spirit of benevolence and commitment by Irene Steigerwald.

[From the Ravenna (Ohio) Record Courier, June 8, 1983]

GREAT-GRANDMOTHER JOINS PEACE CORPS

(By Margaret Herman)

Irene Steigerwald is one person who isn't about to sit back and take things easy. "Life is too valuable and interesting to sit back and stagnate," is her formula for staying active.

At 70, Irene is embarking on a new career—as a member of our country's Peace Corps in Sierra Leone. Sierra Leone is a tiny country tucked in along the coast of western Africa.

The great-grandmother of four will leave for Sierra Leone in July and stay two years where she will teach English, mathematics and shorthand in secondary schools.

Where did she get the idea to join the Peace Corps? "I saw an ad in a magazine for senior citizens asking for older Americans to join the Peace Corps."

Looking at that ad, reminded her of a challenge a daughter had made while following news coverage of a trip to Africa by Lillian Carter, mother of former President, Jimmy Carter.

"My daughter said that if Miss Lillian could do it, so could I," she said.

Although 70, Irene's appearance matches her youthful outlook on life. She looks closer to 50 and admits she is "carded" to show proof of her age when taking advantage of senior citizen discounts.

One reason she drew the Sierra Leone assignment is because of her proficiency in two other languages—French and Spanish. Irene studied French in high school, but still retains her fluency in the language. At one time she had a job translating business letters into French for a construction company that did work in the French speaking provinces of Canada.

How she came to speak Spanish is indicative of her attitude toward life. Irene started taking courses at Kent State University two year ago because she thought it would be new and interesting.

"There's no way I'll sit back and spend the rest of my life looking at the tube," she said.

Irene is well aware that the next two years will not be easy—especially if her assignment means duty in the rural bush country. Irene admits that she is bracing herself for the heat of Sierra Leone where it is a minimum of 85 degrees year round.

"I've also been forewarned that teaching may be difficult because the children tend to be lethargic because of malnutrition, ma-

laria or the heat. I'll probably have to repeat lessons over and over again to compensate for their slower rate of learning," she said.

Peace Corps volunteers are expected to live as the natives do. Houses have cement floors, zinc roofs and as many as 15 family members in a few rooms. Outside toilet facilities are the norm.

Customs and mores of her host country will have to be respected. "I may not be permitted to wear slacks because it isn't considered proper for women to wear slacks. I'll probably be wearing cotton dresses and shifts," Irene said.

She had held a variety of occupations ranging from mother and homemaker to program assistant with the teacher corps for the education department of Kent State University. Irene has also done extensive volunteer work. It is a spirit of volunteerism that she hopes to leave behind in Sierra Leone as her personal legacy.

"These people have a unique culture, one I hope to derive much from and learn how they look at the world and survive.

"I am saddened by talk of the ugly American. Maybe I can change that and the people will remember me as somone who came out of love to help them."●

TRIBUTE TO MAYTHELL CHAPPLE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LANTOS. Mr. Speaker, it is my privilege today to call to the attention of my colleagues the retirement of my friend, Mrs. Maythell Chapple, after many years of service to the California Teachers Association.

As you know, the California Teacher's Association is the largest organization of teachers in the country, and has for many years played an important role in enlisting support for public education. The size and tremendous responsibility of this organization in working with its supporting membership to seek public support for education has placed a tremendous work load on its support staff.

Maythell Chapple, for the last 14 years, has been one of the most valuable of this staff in handling the essential work. Maythell has been the dedicated secretary to Ralph Flynn, executive director of the CTA, for many years. Too often people in the secretarial profession are unfairly underestimated, but anyone in the CTA will quickly tell you that this is not the case with Maythell. She has been an integral and essential part of the CTA for all of her 14 years with the organization, and will be sorely missed.

I salute her hard work and dedication, and wish her all the luck and enjoyment possible in her richly deserved retirement years.●

MEDICARE CHANGE MAY HARM PATIENTS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DANIEL B. CRANE. Mr. Speaker, I would like to bring to the attention of my colleagues the following article, "A Medicare Standoff With Doctors Looms," by Harry Schwartz from the November 3, 1983, Wall Street Journal.

Soon we will be voting on important matters affecting the future of physicians and patients alike.

I therefore urge my colleagues to consider Mr. Schwartz' article carefully before making up their minds on issues of such far-reaching consequences.

I am indebted to Charles Ord, executive director of the Association of American Physicians and Surgeons, for calling my attention to this timely article. AAPS, founded in 1943, is the primary advocacy organization for the Nation's physicians engaged in the practice of private medicine.

The article follows:

[From the Wall Street Journal, Nov. 3, 1983]

A MEDICARE STANDOFF WITH DOCTORS LOOMS

(By Harry Schwartz)

The strain of Egalitarian Utopianism in U.S. domestic policy reached its maximum in 1965 when Congress passed and President Johnson signed into law the Medicaid and Medicare programs. These programs, enthusiasts of that time proclaimed, would guarantee that all Americans—including the poor served under Medicaid and the elderly served under Medicare—would enjoy the same high standard of medical care previously available only to the affluent. Cadillac Medicine for everybody was the bright prospect.

By providing additional tens of billions of dollars of government money for the medical-care market, Medicaid and Medicare did make it possible for large numbers of beneficiaries to receive more and better care. Before these programs, richer Americans tended to get more medical care—as measured annually by physician visits and hospital stays—than poorer Americans. This past decade, that relationship has been reversed and poorer Americans have gotten more medical care per capita and per annum than their more affluent neighbors.

Government spending on health care grew to roughly $150 billion last year from almost $11 billion in 1965, or an increase of about 300 percent in real terms adjusted for inflation. That did much to fuel the explosion in health-care costs the past two decades, as well as to propel medical expenditures to 10.5 percent of the gross national product last year from 6 percent in 1965.

MEASURES VARIED

It was this rapidly rising cost of health care that doomed the hopes of Egalitarian Utopians very quickly with respect to Medicaid. As its bills devastated state and local budgets, politicians throughout the country moved to rein in what they saw as a ravenous monster.

Since Medicaid is a state-run program, though Washington participates in its financing, measures to control costs varied from locality to locality. But, in general, economy moves were aimed at cutting the list of services covered and, perhaps most frequently, keeping down physicians' fees. In many areas, as a result, many physicians refused to see Medicaid patients, arguing that the minuscule fees offered did not even cover overhead expenses.

The result has been that for many years it has been tacitly recognized that for Medicaid recipients the hopes of the Egalitarian Utopians died long ago. Relatively few private physicians serve Medicaid patients, and large numbers of these patients depend on hospital emergency rooms and other specialized institutions such as the Medicaid mills that won notoriety in New York City some years ago.

More recently, some states have sought to save on costs by confining Medicaid patients to special HMO-type groups of doctors and hospitals, as in Arizona, or to particular hospitals willing to offer cheaper rates to the state, as in California. In practice, the old dream of giving the Medicaid patient access to all the same doctors, hospitals and other resources available to the middle-class American has been abandoned. Cost containment is the top priority in Medicaid now, not Egalitarian Utopianism.

Medicare, the program that serves mainly senior citizens, has not up to now gone the way of Medicaid, though its costs have also risen rapidly. The possibility that Medicare recipients may lose their current very wide freedom of choice has arisen this year as Congress is spurred on by official reports predicting that the Medicare trust funds may go bankrupt within a few years, perhaps even before 1990.

The major change imposed up to now has been the requirement that hospital reimbursement be shifted from the historic payment for costs actually incurred during each day of a Medicare patient's stay to the new case-payment system based on Diagnostic-Related Groups (DRGs). As this system, which began Oct. 1, becomes general, hospitals will be paid a fixed sum for each patient, based on that patient's diagnosis. The hospitals will have new incentives, since they will be permitted to pocket the profit if they can care for the patient at less than the government rate and will have to bear the loss if their actual costs exceed the payment.

So far at least, there has been no report of any significant number of hospitals refusing to accept Medicare patients because of the change in reimbursement. Presumably this is because senior citizens—who tend to be sick more often and more seriously than younger people—account for such a large percentage of hospital customers that community hospitals find it unthinkable to reject such patients. But there has been worried speculation that hospitals may discharge Medicare patients prematurely in an effort to keep costs below the government's payment by diagnosis.

Until now, Medicare patients have had very wide access to the physicians of their choice because Medicare, unlike Medicaid, has not required that physicians accept the government fee for a particular visit or service as payment in full. Leaving aside physician billing for the Medicare deductible and for the 20 percent co-payment from patients, physicians now enjoy a choice, patient by patient, between accepting assign-

ment or billing their patients directly for their full fees.

The physician accepting assignment is paid directly and accepts the Medicare prevailing fee as payment in full, aside from any deductible and the coinsurance. The physician who does not accept assignment bills his patient directly, presumably for a larger amount than the Medicare fee, and the patient presumably pays that large amount while being reimbursed only the Medicare-approved amount, which is lower.

Writing in a government publication recently, two researchers summed up the trends here: "The steady decline in Medicare assignment rates over the past 10 years, from 60 percent of all claims to 50 percent, means that the elderly are bearing an increasingly larger share of their total medical care bill. Senior citizens, who read in their Medicare, Part B handbook that Medicare will pay 80 percent of physicians' bills, are stunned to discover that Medicare actually reimburses closer to 50 percent."

The reason for this phenomenon is that government approved fees are each year lagging farther and farther behind the fee levels actually being charged. The lag is the result of formulas introduced by the government in an effort to save money.

The political and economic tensions generated by this situation reached a flash point in mid-October when the House Ways and Means Committee agreed to propose to the full House a radical change in physician compensation.

This amendment would freeze physicians' fees at the June 30, 1983, level for six months beginning next Jan. 1. Additionally, and most important, physicians would be required to accept Medicare assignment for all services provided to Medicare hospital inpatients. This requirement would continue until six months after Congress receives a report, whose deadline is July 1, 1985, on the possibility of revamping the physician payment system so physicians would be paid on a DRG case basis, as hospitals are now paid.

The union of these two proposed steps arises from this reasoning: If Medicare fees are frozen (and actually rolled back to the levels of June 30, 1983), physicians will become even more reluctant to accept assignment and will bill Medicare patients directly more frequently than they do now.

Against this, some congressmen and some representatives of the elderly fear that if physicians are locked into a Medicaid-type reimbursement at below prevailing rates, the Medicaid situation will encompass Medicare as well. That is, it is feared that many physicians, particularly many of the best doctors who tend to have a lot of patients, will decide not to see Medicare patients. The patients would then have to content themselves with service by the presumably inferior—or average, at least—doctors who will be willing to accept Congress's Draconian change in the rules.

There are those who argue that no significant group of doctors would dare boycott Medicare patients. Some doctors already have suffered a painful backlash from public disclosure of their refusal to see Medicaid patients. Any similar boycott of the politically very potent senior-citizen population could, it is held, really bring heavy, punitive retaliation against physicians.

Opinions can reasonably differ about the impact of any change as radical as compulsory assignment for physicians seeing Medicare patients. But there can hardly be any doubt that such a major change would produce an historic confrontation between the government and America's physicians, one that would produce a harvest of ill will and bitterness if the government were able unilaterally to impose its will upon the doctors of this country. In Canada, a very similar issue has become a major point of friction between Ottawa and Canadian physicians.

NEED FOR STATESMANSHIP

Physicians can argue accurately that many senior citizens are relatively affluent and can afford to pay for medical care without Medicare aid. The current system lets physicians discriminate among their patients in the traditional Robin Hood fashion, in effect accepting lower fees from their poorer senior-citizen clients—via assignment—and higher fees from those who are more affluent. The proposed change would prohibit such discrimination regardless of how wealthy a particular Medicare patient is. It can hardly be doubted that any effort to enforce such a system would encourage widespread lawlessness, as the most popular physicians would be able to get their richest patients to make additional payments in some covert manner. Such lawlessness would also move Medicare to a two-tier system of medical care.

Given the importance of the issues, one would think that negotiation between the government and physicians' representatives would be the proper way to approach these difficult problems. Several physician groups already have indicated approval for a temporary freeze, but forced assignment is meeting general hostility. There would seem to be a need for responsible statesmanship in this situation, not for an attempt to impose a change that could produce an explosion of resistance and resentment.●

THE BEST COUNTY CLERK IN TENNESSEE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DUNCAN. Mr. Speaker, Milburn Waters serves as the county clerk for Blount County, Tenn. He is presently serving his fourth term in this office, and he is the finest county clerk I know. Recently he was honored by his fellow county officials as the most outstanding county clerk in Tennessee. He is certainly deserving of this honor for his work in Blount County, but also because of his efforts across the State.

Mr. Waters was presented with a plaque for his achievements by the County Officials Association of Tennessee last month. As president of the Tennessee Association of County Clerks, he has visited the office of each county clerk in Tennessee, traveling to 94 counties other than his home county.

During the past term of the State's general assembly, Mr. Waters began in February and was in Nashville at least 1 day each week of the entire legislative session. He assisted in the introduction and passage of five bills designed to improve State and county government.

Mr. Waters was also cited by the County Officials Association for publishing a directory of the county clerks containing a thumbnail sketch of each official and pictures of most of them along with their telephone numbers.

His hard work as president of the County Clerk's Association paid off in a big way. For the second time in the 15-year history of the association every clerk in the State is presently a member, having paid the required dues. The officials State meeting also recorded the best attendance in its entire history.

Milburn Waters has served Blount County well, and has provided strong leadership for the other county clerks in the State of Tennessee. I believe his accomplishments deserve our attention, and our congratulations.●

NAVAL RESERVISTS HONORED

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MRAZEK. Mr. Speaker, the Third Congressional District of New York has long been held in great esteem for its accomplishments in the area of high technology. The people and industry of our own Long Island district are recognized as the forerunners of technological achievement in engineering and scientific communities throughout the country. Once again, the efforts of the members of this district have warrented recognition. I have just been informed that the U.S. Naval Reserve has recently selected two of my constituents for assignment to the technology and mobilization team of the Office of Naval Research. Eighteen members in total were chosen for their proficiency in the fields of engineering and science from among applicants throughout the United States by a selection board of senior officers at the Office of Naval Research.

The two naval reservists, who both reside and work on Long Island, will dedicate at least one weekend per month to their new assignments as representatives of the Office of Naval Research. They are:

Capt. William B. Reeves (USNR-R), a senior engineer with the Sperry Corp., who specializes in surface ship combat systems design and development; and Comdr. David O. Israel (USNR-R), a computer specialist, who has been previously recognized by the Navy for his system design and programing abilities. I am proud to state that my district was the only district to have such an honor bestowed upon itself twice. It is indeed a privilege to have these men reside in my district

while they continue to uphold the fine Long Island tradition of technological expertise.●

JACK COKER HAS RETIRED

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LEATH of Texas. Mr. Speaker, I come here to praise one of the best Government employees in the history of the Veterans' Administration. That gentleman is Jack Coker, director of the VA regional office in Waco, Tex., since 1965.

Jack, some 66 years young, retired from Federal service at the end of October 1983, after more than 42 years of service for the Veterans' Administration.

Mr. Coker's career in the VA is a classic example of upward mobility in that he began in a clerical job in 1946 and progressed to the position of regional office director in 1965. This could be the only instance on record in the VA of an employee beginning at the bottom of the ladder and reaching the top rung all in the same office.

The mission of the Veterans' Administration is to provide high quality service to the claimants in a timely manner and with the maximum economy of operations. Epitomizing this philosophy is Jack Coker, who, upon becoming director in 1965, established goals of sustained high productivity, high quality of work and timeliness of operations. By the end of fiscal year 1967, under his direction, the productivity index for the regional office reached 92, highest of all regional offices in the Nation. Based upon statistical data contained in the VA Field Station Summary, the Waco regional office during fiscal years 1967 through 1982 had the highest productivity index of all stations in 6 of the years, was second highest three times, third, five times, and has never been lower than fifth. Through August of fiscal year 1983, the Waco regional office productivity index averaged 94, which was eight points higher than the national average of 86. Not only has this sustained high level of manpower utilization been achieved for the station as a whole, it is typical of each operating division as well.

Through the years, Jack Coker has placed even greater emphasis and importance on accuracy of work and timeliness of processing. He personally became involved in review of quality and timeliness indicators with the expectation that error rates in processing would be reduced to the point that predetermined goals and acceptable levels for all indicators would be achieved and maintained. By the end of fiscal year 1970, this objective was achieved. In a letter dated June 10, 1970, the chief benefits director announced to all regional offices that for the first time in the history of DBV's evaluative program for a regional office (Waco) had been assigned an "Excellent" evaluation in all ratable factors (management and quality) in all divisions. With only slight deviations, this same high level of quality and timeliness of operations has continued. In fiscal year 1979, the Waco regional office gain reached the distinction of having an "excellent" evaluation in all ratable factors throughout the station.

The high levels of sustained manpower utilization and quality and timeliness of operations maintained have not been at the expense of other related program areas; in fact, the reverse is true. Employee pride and a station "can do" attitude have evolved to a point that the office excels in everything it is assigned or undertakes to do, whether it be in EEO, Employ the Handicapped, Incentive Awards, and Outreach programs, or in community service efforts such as payroll bond deduction, CFC participation, Red Cross Bloodmobile program, and so forth. The office has been recognized for achievement in all of these areas. The Inspector General's report following audit of the Waco regional office in fiscal year 1979 characterized the general administration and management of the office by saying: "Management successfully promotes efficiency, economy, and effectiveness of operations."

In another report, service was characterized by this statement:

Courteous and friendly dealings are in evidence with all persons coming to the regional office. A helpful attitude has become the natural attitude in the office and is also reflected in station correspondence.

The overall excellence of the Waco regional office has been primarily attributable to the leadership of its director, Jack Coker. He has the ability to anticipate problem areas and thus provide solutions before problems occur or become unmanageable. He encourages positive attitudes and discovers ways of turning individual goals into mission goals; stresses to employees that accomplishment is not only the key to success, but also a key to self-satisfaction and happiness. His effective development and recognition of employees is proven by the fact that former employees of the Waco regional office have progressed to the positions of director at six stations and assistant director at five stations.

Recognitions to Jack Coker during his career with the agency include:

1962: Sustained Superior Performance Award.

1963, 1969 and 1972 through 1982: Outstanding performance rating.

1969: Man of the Year Award, Waco Management and Personnel Association.

1969: Administrator's commendation.

1978: Administrator's Award for Executive Leadership.

1980: Senior Executive Service Performance Award.

1981: Meritorious Executive Rank Award.

Awards and citations from State and local veterans' organizations include:

DAV citation for distinguished service, 1968.

The American Legion Rehabilitation Commission Award for Outstanding Service.

American Veterans of World War II, special meritorious commendation.

The American Legion 11th District citation for meritorious service, 1971.

VFW Outstanding Service Award.

DAV National Commander's Award for Outstanding Employer of Disabled Veterans, 1978.

DAV Department of Texas Large Employer Award for Hiring Disabled Veterans, 1978.

The American Legion Outstanding Service Award, 1978.

AMVETS Outstanding Service Award, 1978.

VAC Exceptional Leadership and Service Award, 1978.

VFW Meritorious and Distinguished Service Award, 1978.

Air Force Association citation, 1979.

AMVETS General Daniel "Chappie" James Community Service Award, 1979.

Texas Paralyzed Veterans Association Appreciation Award, 1982.

Jack Coker is the most respected director in the VA system. His contributions to the Agency, the Government, and to veterans cannot be measured by a factual catalog of statistics. His career has been one of true public service. He has been rewarded for his efforts as noted above, but the true reward is in the form of appreciation from those he has served over the years.

We in Texas will miss Jack Coker, but we wish him well upon his retirement.●

ERA: A QUESTION OF SUBSTANCE, NOT PROCEDURE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. GUNDERSON. Mr. Speaker, when the House considered the equal rights amendment (H.J Res. 1) under suspension today, many of us were faced with a difficult procedural choice. As cosponsors of ERA, do we oppose the resolution because the procedure under which it was considered foreclosed all but 40 minutes of debate and any consideration of amendments, or do we honor our commitment to

legislation that would end inequality between the sexes?

The decision was not easy. After all, the U.S. Congress is the greatest deliberative body in the world and changes in the U.S. Constitution are considered so infrequently that they certainly deserve more than a mere 40-minute debate period that does not even allow for the presentation and review of alternative language.

I, therefore, join my colleagues who are both upset and offended by the method through which House Joint Resolution 1 was considered. That procedure has no place in the people's body—the House of Representatives. As a supporter of ERA, I fear that the masterminds of this short cut may have done more in this single move to jeopardize ratification of the amendment than anything its opponents could have done collectively.

Yet, regardless of how inappropriate the length and timing of our consideration of the equal rights amendment was, I could not vote to deny equal rights solely on the basis of a misguided procedure. Our history is already full of examples where procedure has been used as an excuse to deny substantive rights. That practice must end.

Accordingly, I voted in favor of the equal rights amendment. In doing so, I must emphasize that I view nothing in its language that in any way, shape. or form impacts on laws that prohibit public funding of abortions. Legislative history, existing State cases, and constitutional scholars agree, the present language of the ERA is abortion-neutral.

I am sponsor of a human life amendment and have voted prolife on every question of public funding of abortions during my 3-year tenure in Congress. I have studied the abortion connection question from my prolife posture and, quite frankly, Mr. Speaker, I found no such connection.

First of all, during prior consideration of the ERA in 1971, its primary sponsor, Congresswoman Griffiths, spoke directly to the abortion question and specifically stated that the ERA would have no effect on any abortion law of any state.

Second, in the three States where State ERA's were used in attempts to invalidate existing State prohibitions on public funding of abortions, not once was the ERA cited as prohibiting such funding. The most instructive of these was the Massachusetts case of Moe against King in which the Massachusetts Supreme Court passed over the specific ERA argument and decided the case on very general due process grounds, thereby rejecting the ERA argument.

Finally, the most reknown constitution scholars find no connection between the ERA and abortion. The most notable of these is Prof. Lawrence Tribe of the Harvard Law School who has concluded that "adoption of the amendment would have no effect whatever on the power of the State to regulate abortion or to protect fetuses consistent with the Federal Constitution generally."

Mr. Speaker, those who would ignore these facts make the legal argument that passage of ERA would mean that the Supreme Court would subject distinctions based on sex to a test of strict scrutiny rather than the current rational basis test. This would require the Government seeking to impose the distinction to show a compelling reason for its continuation.

That argument does not necessarily follow. First, there is no written or unwritten rule requiring that result. Second, in recent cases, the Court has begun to recognize intermediate steps between the rational basis test and strict scrutiny. Finally, even if strict scrutiny were applicable, it seems to me that governments can establish compelling reasons to protect the most precious of all commodities—life itself.

In short, Mr. Speaker, from my prolife perspective, I find no connection between the ERA and abortion. I will, therefore, continue in my support of prolife legislation and legislation that promotes equal rights between the sexes. The two are not mutually exclusive.●

ERA COULD MEAN CONFUSION

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. HILLIS. Mr. Speaker, a few years ago, during the Carter administration, the Under Secretary of the Air Force, Antonia Handler Chayes, appeared before the Armed Services Committee to discuss a plan to train women as combat pilots. We talked over the cost of the program, the physical limitations that might prohibit such duty and the effect it could have on the morale of our military personnel.

It soon became apparent to the Under Secretary that the plan was going nowhere with the committee.

But Secretary Chayes made a most interesting point that I would like to share with you and comment on. The Secretary asserted that America would make great strides in the advancement of international social justice if it removed all restrictions based on gender in the military.

The standard we could set, she said, would not only enhance women's rights in the United States but also serve as a good example to the entire world.

Well, I am not one who believes we should advance the cause of social justice at the expense of compromising the effectiveness of our Armed Forces.

I do not believe women should be subjected to military conscription. I do not believe women should be forced to endure the rigors and horrors of combat. I do not believe the military would be well served by a constitutional amendment requiring an equal role for women in combat operations.

If the equal rights amendment passes as is, can anyone in this Chamber unequivocally tell me that the courts will not interpret this to mean women are now subject to the draft? Can anyone here guarantee the ERA will not mean the military will be required to assign women to combat roles?

Even a leading proponent of the ERA, Prof. Thomas Emerson of Yale University, has written "the equal rights amendment will have a substantial and pervasive impact upon military practices and institutions. As now formulated, the amendment permits no exceptions for the military."

I might add here, the House leadership has made sure, through parliamentary high-handedness, that no exceptions are going to be made period.

I have no objection to the principles embodied in the equal rights amendment. I would gladly support it if I was convinced it would not tamper with the existing military structure.

But the amendment makes no specific reference to the military and this is bound to throw the entire matter into the courts.

The Constitution of the United States provides that it is the responsibility of Congress to raise and support armies—provide and maintain a navy and to make rules for the Government and regulation of the land and naval forces.

The ERA, most certainly, would put the courts in the embarrassing position of violating the Constitution in order to interpret the Constitution.

Let us avoid this constitutional crisis by writing an equal rights amendment that addresses this concern. Let us support the rights of women but not at the expense of national security or constitutional confusion.●

EQUAL RIGHTS AMENDMENTS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FAUNTROY. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment.

On August 27, 1983, 500,000 people representing civil rights, women, labor, peace, church, and environmental organizations marched on Washington for jobs, peace, and freedom. This New Coalition of Conscience which com-

memorated the 1963 march on Washington has as its purpose the passage of a 14-point legislative agenda and House Joint Resolution 1, the equal rights amendment, is an important part of this legislative agenda.

The equal rights amendment is an idea whose time has come; it is past due.

This legislation, first introduced in 1923, and passed by the 92d Congress on March 22, 1972, fell three votes short of the 38 States required for ratification in 1982.

The equal rights amendment would put our Nation on the high road by declaring that the equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The equal rights amendment would also mandate that Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

In joining in this effort to pass and then ratify the equal rights amendment, I am mindful that the problems in our Nation are most acutely reflected in the black experience. The discrimination against women in our country is compounded by the decadence of racism and is especially severe in its effect on black women.

It is clearly time to continue to make our Nation a better place for all of us. Let us pass House Joint Resolution 1.●

EQUAL RIGHTS AMENDMENT

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DIXON. Mr. Speaker, one of the most important challenges facing our Nation is passage of the equal rights amendment (ERA). ERA is needed to establish as national policy that sex discrimination is unconstitutional.

Current efforts to eliminate sex discrimination have proven wholly inadequate. Our society needs ERA as part of the Constitution—the cornerstone of our democracy—to end gender based discrimination. Women working outside the home need ERA for better pay and more opportunities. Women who are full time homemakers need the ERA for full economic security through elimination of discrimination in social security, pension plans, property rights, and credit.

Women continue to be denied equal pay and equal opportunity on the basis of sex alone. The U.S. Department of Labor 1980 statistics show that even when occupation, age, education, and time worked are taken into account:

Women still make less than 60 percent of what men make;

Minority women are paid less than half of what men are paid;

Women with college degrees are paid less than men who did not complete high school; and,

Black women are paid 54 percent of what men are paid; Hispanic women, 49 percent.

The labor of full-time homemakers has the least economic and legal protection of all. Homemakers' labor is not recognized as having economic value. They suffer economic discrimination during marriage, as well as after—whether marriage ends by death or divorce—in social security, pensions, and credit.

Despite laws prohibiting sex discrimination, without ERA, educational opportunities for girls in educational institutions are still not what they are for boys. Girls are steered away from mathematics, science, and the training that is needed for technical and professional careers now dominated by men.

Failure to ratify the equal rights amendment will force another generation of American women to grow up unequal, limited in their options, penalized for being born female. Today's vote will affect the lives of generations of girls and women. I urge the passage of this amendment so that it can be approved by the Senate and forwarded to the States for ratification.●

ERA, BUT NOT THIS WAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LAGOMARSINO. Mr. Speaker, I strongly objected to the procedure under which this resolution is being considered. I call the attention of the House to the editorial in today's Washington Post entitled "ERA, But Not This Way."

I agree. I will vote for the ERA, but not this way.

The Post notes that the paper has always supported the ERA and continues to do so, "but," it goes on to say, "ramming it through the House using this extraordinary procedure is wrong on a number of counts. * * * A single sentence that alters our Nation's basic charter and affects the lives of hundreds of millions of Americans, is worth more than a 40-minute discussion."

There are few, Mr. Speaker, who would dispute that passage of the ERA will have a substantial impact on millions of Americans. Proponents and opponents alike testified to this impact in the House Judiciary Committee hearings. Concerns ranged from the impact of the amendment on abortion rights and veterans' benefits to freedom of religion. To cut off free discussion of these concerns is, as the Post notes, wrong on several counts. First of all, it will fuel ferocious debate in the States, which must ratify the amendment, over the intent of Congress in these areas of concern. Second, it would leave the final decision in these areas to the courts. In the vernacular, it would be a "crapshoot," and no one could be certain of how the courts would rule.

The decision to bring the amendment to the floor with only limited debate and to prohibit the offering of amendments to the resolution denies this House the opportunity to go on record with regard to these serious concerns, which involve basic constitutional rights. In effect, the House will be silent on how these conflicts should be resolved. It is a gag rule, and has no place in the consideration of such a momentous issue. While such a procedure will allow Members to duck dealing with these questions, I think it is clear that Congress has an obligation to define for the courts how the amendment should be applied in those inevitable cases where it comes into conflict with other provisions of the Constitution. These issues were raised in committee, but were not resolved. Under the current procedure, they will not be resolved.

I urge the leadership to reconsider its unconscionable decision to suspend the rules on this measure. Their action, besides violating both procedural rules and commonsense, could well endanger ratification of the amendment by the States.

Mr. Speaker, I include the editorial at this point in the RECORD:

[From the Washington Post, Nov. 15, 1983]

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discus-

sion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lose this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.●

BETWEEN RUSSIA AND THE UNITED STATES: A CLOSING DOOR

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PRITCHARD. Mr. Speaker, Mr. Glickman has written a thoughtful article about Soviet-United States relations in the Wichita Eagle-Beacon.

I believe all Members of Congress must put greater attention on this subject.

The article follows:

BETWEEN RUSSIA AND THE UNITED STATES: A CLOSING DOOR

The movie is set in Lawrence, Kansas, and it chronicles a nuclear war. The destruction is mindboggling. The familiar setting brings home clearly the tragedy of a nuclear attack because the setting is home; the setting is Kansas. On November 20, ABC will show that movie "The Day After." Perhaps it will cause others, as it did me, to think about the implications of the arms race, to view in the context of a potential disaster what can happen if the two superpowers do not come to terms with their awesome power and the potential for destroying the human race if we do not learn to live with each other.

In July of this year, Yuri Zhukov, a member of the Supreme Soviet and Chairman of the Soviet Peace Committee, made the comment to me during a congressional trip to the Soviet Union, that "your President is too provincial . . . calling us an evil empire and engaging in nasty, polarizing rhetoric." The irony of that comment made by a man known as "the butcher of Moscow" was not lost around the luncheon table in the Kremlin. I responded to Zhukov that Kremlin leaders, including Yuri Andropov, were guilty of much uglier rhetoric. Zhukov's response was "perhaps you are right, but you Americans do not show us respect." He then described a meeting with Richard Nixon over ten years ago in the same room where we were eating, and where the Test Ban Treaty had been signed at the very same time the United States was placing mines in Haiphong Harbor in Vietnam. Zhukov said, "Even at the identical time you were placing our ships at risk in the harbor, Nixon at least showed us courage and particularly the respect by coming here to the Kremlin."

Zhukov's comment was very significant. He was telling me that as a Russian, he didn't necessarily care to be loved, just respected. Later, our Soviet "experts" from the State Department accompanying us on the trip said that I had "discovered" a very significant fact about the way the Soviets view their relationship with the West, particularly the United States. My discovery was nothing more than reaching the knowledge that we must deal with nations as we would with individuals, remembering that simply recognizing the other's point of view is the first step in communicating. And although it may be a cliche, communication is the key to resolving the impending disaster we could be facing. The door that separates the two most powerful countries on earth is open now only a slight crack; if it closes shut, the consequences are unthinkable.

Nuclear war would not in all probability start by reason of an intentional first strike attack by one superpower against the other but a miscalculation based on the misinterpretation of the other side's motives and could end in a holocaust. That miscalculation could literally come from something so simple a perception as not being shown respect.

After forming this realization of the Soviet Union, and deciding to learn a bit more about our major adversary, I have come up with a few suggestions to deal with them, to open up communications with them, and to modify our methods of communications to foster a new era of superpower detente. First, we need to realize that we are dealing with two Russias. There is the old hard line dialogue with the remaining Stalinist leadership like the Andropovs. They have experienced war and want some agreement with us, but they will push us as far as they can and try to get as much as they can. They experienced power and politics in one of the most repressive times of all history and are probably the group most sensitive to not being "respected."

The second Russia is post-war, post-Stalinist. These Russian leaders did not experience the war, at least not in a leadership context. This new generation potentially can move away from the aggressive adventures of Poland and Afghanistan toward an emphasis on their own domestic problems. They did not experience the political purges either and there are signs that this part of the Russian leadership, who will be in charge one day, may be more attuned to cooperation if it means improving their economic problems. The successor generation then, could conceivably be approached to set in motion an opening up of lines of communication beneficial to both of us. For example, the signing of the recent grain agreement should be matched by bilateral cultural and scientific exchanges. And while we must guard against exporting strategic knowledge and secret technology, neither should we refuse to enter such accords in health care, agriculture or energy research simply because they don't work 100 percent in our favor alone. There are many ways in which we can talk, can cooperate without harming ourselves.

We must then, on the one hand speak in harsh, direct specifics with the old Stalinists who will rule Russia until the end of this decade, realizing that a little common sense understanding of their need for "respect" and a mutual cooling of hot political rhetoric might reduce tensions a bit. At the same time, while keeping a strong military posture, we must search out non-military ways to cooperate with the post-Stalinists whose interests will be more and more focused on a disastrous domestic economy, and whose background is not steeped in warlike tradition and political genocide.

We are, after all, two nations armed with the awesome power to annihilate the world. Each of us knows so little about the other, its history, its culture and its ideals. But since it is impossible to talk through a closed door, we must work to open that door. In this era of conflict in Lebanon and Grenada, where the superpower tensions between the United States and the Soviet Union underlie almost every brush fire and confrontation that is occuring in the world, there are not miracle answers to prevent the nuclear holocaust portrayed in the ABC movie. There are no absolute solutions to prevent a future "incident," like the shooting down of the Korean airliner, or the invasion of an island nation, from snowballing into the unthinkable. But we must try to find those answers and look for the miracles; to not do so could turn movie fiction into fact and actors playing roles of dying Kansans into the real thing.●

EQUAL RIGHTS AMENDMENT

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MARRIOTT. Mr. Speaker, I support equal rights for women and I oppose any laws or statutes which unfairly discriminate against any individual based on their sex. Further, I was hoping that the House of Representatives could consider before this body and support a version of the equal rights amendment that provides, by force of law, strong equal rights for women. But, this choice has not been presented to the Members on the floor of the House of Representatives today.

While I had hoped that the Members of Congress could consider, in an open debate, the sensitive issues brought forth by many concerned Americans—men and women, alike—and the various State legislatures during the past 12 years, and in many instances amend the simple language of the equal rights amendment, showing the intent of Congress to dispel many of the horror stories that have surfaced over the past decade, the gag rule under which the equal rights amendment has been brought before this body, will not allow us either adequate time to debate the intent of Congress or the ability to amend the language specifically indicating our concern in various areas.

Since the equal rights amendment was passed in 1972, the States have had 12 years to ratify this constitu-

tional amendment. When the original 7-year statute was to expire, Congress, in 1978, passed an additional 4-year extension, allowing the States additional time to approve of the equal rights amendment passed by the Congress in 1972. In 1982, the time expired on the ratification process for the equal rights amendment. During the entire decade, the States did not believe that the issues raised on the ramifications of the equal rights amendment had been adequately answered.

The House of Representatives, one of the greatest body of deliberators, could evaluate the merits of the equal rights amendment and debate the pros and cons of the language in the equal rights amendment. Through the amendment process, the House of Representatives could modify the current language, indicate the intent of the House as to the subsequent interpretation of the equal rights amendment, and then pass a measure which could be presented to the States that makes sense—that perfects the previous language which had been denied under the earlier ratification process.

Unfortunately, the rule under which the equal rights amendment will be considered today is not a fair rule. It is a shame that individuals of this body, swayed by political motivations, have deteriorated what could have been one of the most significant legislative debates by this body this year, into a simple sham. Instead of following the proper procedure laid out in the Rules of the House of Representatives for consideration of constitutional amendments, the leadership has determined that the equal rights amendment should be debated under an unfair rule creating an unequal forum of discussion.

The only people who lose, Mr. Speaker, are the American public. As the equal rights amendment is one of the most important issues to come before the body, it is more than unfortunate that those of us in the House who would like to vote for passage of an equitable constitutional amendment, will not have the opportunity to do so. It is not the rights of American women that these legislators have in mind—it is, rather, the outcome at the polls that they are coveting more. This is nothing more than a dereliction of duty by the U.S. Congress.

Under the rules of the House under which the equal rights amendment has been brought to the floor, this measure can only be debated for 40 minutes—20 minutes in favor of final passage; 20 minutes in opposition to passage. The 26-word amendment cannot be amended on the floor of the House. There are no provisions allowing for the concerns of the Members of Congress representing the American people who have appealed to them on their feelings on the equal rights amendment.

Last week the debate surrounding the Universal Telephone Services Act of 1983, was held under a rule allowing for 10 hours of debate and as many as 82 amendments were allowed to come to a vote if the Members wished. Why has the House leadership used a gag rule on the equal rights amendment, bringing the measure to the floor of the House of Representatives in the last week of scheduled business for 1983 in a hurry-up fashion. What happened to the other 11 months in which we were in session. House Joint Resolution 1 was introduced on January 5, 1983. The Universal Telecommunications measure was introduced on October 6, 1983.

Questions were presented during the debate by each of the State legislatures during the ratification debate. Some of these questions are as follows:

First, would ERA strengthen abortion rights for women? Would the Hyde amendment, restricting the use of Federal funding for abortions, be unconstitutional under the equal rights amendment?

Second, would churches with religious doctrines differentiating between the roles of men and women lose their tax-exempt status?

Third, would ERA prohibit sex-based differentiation in insurance?

Fourth, would ERA require that discrimination on the basis of marital status be added to housing discrimination laws of our Nation?

Fifth, would ERA result in women being assigned to combat units and related duties on the identical basis as men?

Sixth, can Federal charters be given to separate but equal organizations, such as the Boy Scouts and the Girl Scouts under the ERA?

Seventh, under previous constitutional interpretation, usually the most recent constitutional amendment is the controlling amendment. Therefore, will the first amendment rights prevail when they come into conflict with the equal rights amendment?

Eighth, would the ERA make it unconstitutional for government to provide private, single-sex institutions, such as Wellesly, tax exemption, financial assistance for their students, or any form of government benefit?

These are the questions that the House of Representatives should confront today. It is the role of the legislature to determine the intent of congress rather than to pass legislation which will just be interpreted by activist Federal judges. Limited debate will not even allow the Members adequate time to indicate their concerns with future judicial intrepretation as to what was meant on the floor of the House when the Congress passed this constitutional amendment.

With proper floor debate, and with proper changes in the language of the equal rights amendment, I would have been willing to endorse a straight and fair ERA. In the forum that has been presented here today, I have no clear choice but to uphold the integrity of the House of Representatives by voting no on suspending the rules and voting for final passage of House Joint Resolution 1.

It is impossible to brush aside questions on the impact of ERA on abortion funding, veterans preference laws, the tax-exempt status of churches and religious schools that differentiate between the sexes on the basis of their religious doctrines, the status of women in relation to the draft and combat duty, and a number of other areas of marked interest and concern to large numbers of the American public.

These require our contemplation, and our action.

Neither can we brush aside these questions on the grounds that the Constitution deals in broad principles that should not be too narrowly defined. We cannot presume that the courts will rule on the vexing and complex issues raised by the ERA. It is our responsibility as legislators to work together to solve these problems at the outset and then adopt language that will make our intent clear to the judiciary which will be responsible for interpretation and application of the equal rights amendment. Therefore, it is critical that the equal rights amendment be considered under normal procedures will full opportunity to consider amendments that would allow resolution of these important questions.

There can be no justification for this attempt to railroad a proposed constitutional amendment through the House.

In closing, Mr. Speaker, I would like to document my statement that the equal rights amendment is being used as a political pawn. When the tables were turned, not more than 5 years ago, the chairman of the House Judiciary Committee, Representative PETER RODINO, who was in opposition to the consideration of the constitutional amendment prohibiting forced school busing, stated as there was an attempt to limit debate to 1 hour on that constitutional amendment: "Such a spectacle, I must suggest would demean our democratic system, this legislative body, and each of us." (CONGRESSIONAL RECORD, July 24, 1979, page 20361).

Mr. Speaker, let us not demean the American public, the women of our society who should be provided equal rights under the law; let us not demean our democratic system of debate and the amendment process; let us not demean the House of Representatives; and let us not demean each of us as Representatives of the People of our Nation.

In casting my vote in opposition to House Joint Resolution 1, I am stating

that my constituents want any debate on the equal rights amendment before the House of Representatives to be a fair debate and one which would be given the serious consideration of each and every Member of Congress.

I am casting my vote, not in opposition to equal rights for women, but in opposition to the gag rule on the floor of the House today.●

HAZARDOUS WASTE: A MAJOR CONCERN IN FLORIDA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BILIRAKIS. Mr. Speaker, I want to express my pleasure over the passage of H.R. 2867—the Hazardous Waste Control and Enforcement Act.

I, first, want to mention that the importance of this bill can be seen in the fact that the bill passed by a unanimous voice vote of the House. Though several of the amendments were controversial and debatable, the heart of the very bill addresses several important issues of national and local concern. I want to emphasize the concern of the Florida delegation on this issue. As a united body, we have joined together to combat the problems that our home State is facing regarding hazardous waste, since Florida contains three times more the hazardous waste sites on the Superfund priority list than any other Southern State. Something must be done about this. To express our growing concern in this area, the delegation joined in passing a resolution, stating our position:

The Florida Congressional Delegation expresses its concern over hazardous waste sites located in Florida. It wishes to reemphasize its commitment to a prompt and thorough cleanup of those sites now included on the Hazardous Waste Sites—National Priorities List (Super Fund List). It appreciates the recent information provided by Environmental Protection Agency Administrator William Ruckelhaus regarding the Florida sites, and requests the following actions be taken by the EPA, including;

1. Expeditious cleanup of Florida Super Fund sites, directly or through appropriate State or local parties.

2. Inclusion in the National Priorities List of four new Florida sites recently proposed by EPA for an expanded Super Fund List.

3. A quarterly report to the Delegation of Florida Super Fund sites and the progress being made toward their cleanup, including identification of any problems encountered in the cleanup process.

4. Notification of the Delegation as to any assistance it might render in the cleanup process.

Since my election to office, I have made environmental concerns one of my priorities, as I know what a concern this is to the residents of the Ninth Congressional District. It is measures like the hazardous waste bill and the deauthorization of the Florida Barge Canal that top the lists of all Florida environmentalists and as a direct respond to their call, I have labored for the passage of these pieces of legislation. It is my hope that the EPA will continue to work with the Florida delegation so that these concerns will be addressed and Florida will be cleaned of the hazardous waste that pollutes her air, land, and water resources.●

EQUAL RIGHTS AMENDMENT

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DE LUGO. Mr. Speaker, while the Constitution provides for equality for all citizens, we have failed to appreciate the meaning of this precept as it applies to women. This is true on a number of levels, but economic discrimination is the most entrenched and the most disturbing. We cannot ignore, for example, recent debate on insurance discrimination and inequities in the social security system.

Equal rights for women continues to be a grey area in constitutional law, giving rise to debate where there should be none. We have the responsibility today to make crystal clear the status of women as equal citizens in a country that prides itself on the equality of all.●

UNFASHIONABLE CIVIL RIGHTS

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SILJANDER. Mr. Speaker, on this day that we debate the ERA it continues to amaze me how proponents of the amendment support an expanded and excessive constitutional amendment for females while ignoring the rights of those weaker and helpless such as unborn children, the elderly infirmed, and most recently infant children born with handicaps. When abortion was the issue, the pro-ERA people said that the unborn child was not human. Now what do they say about handicapped infants? Obviously they cannot say the child is not human. Instead we see the real nature of the argument. The "quality of life" is not sufficient to meet their standards. I believe this article by George Will in the Sunday, November 13, Washington Post articulates this best:

[From the Washington Post, Nov. 13, 1983]

UNFASHIONABLE CIVIL RIGHTS

(By George F. Will)

Civil rights "activists," so active denouncing President Reagan, have not noticed, or will not acknowledge, that he is significantly expanding civil rights protections. That is the importance of cases like that of "Baby Jane Doe" in New York.

The government is seeking medical records in the case of the infant born with spina bifida and excessive brain fluid. Without surgery the baby is expected to die within two years. The parents oppose surgery. Doctors say—guess, really—that the child would be "severely" retarded and would die as a young adult. The federal government may seek treatment the parents oppose.

The administration is not acting on an ideological quirk. It is giving a reasonable interpretation to a civil rights law, Section 504 of the Rehabilitation Act of 1973. Section 504 prohibits discrimination solely on the basis of handicap. The administration is not trying to sever Section 504 from medical judgment. There is no notion of an obligation for futile treatment that merely prolongs dying or extends life a short span. But treatment should not be withheld to cause the death of a newborn because parents decide, on the basis of doctors' guesses, that the child's life would be inconvenient, disappointing or without acceptable "quality."

After parents and doctors agreed in Indiana in 1982 to starve a Down's syndrome baby rather than perform routine surgery, Reagan ordered regulations requiring the posting in hospitals of notices that discriminatory denial of care to handicapped infants is prohibited. A hot line was established for reporting violations.

The New York Times, which favors aggressive federal action to protect the right to vote or to a safe work place, denounces the government as "Big Brother" when it moves to protect an infant's right to life. If a parent and an employer decided to employ the parents' healthy child at less than the minimum wage, The Times would demand a federal posse. But when the government considers intervening to prevent parents and doctors from causing death by withholding treatment, The Times champions parental sovereignty.

Such sovereignty is highly conditioned. Parents cannot abuse or neglect their children, or keep them from schooling, or prevent them from receiving certain vital medical care, such as transfusions, on religious grounds.

The Wall Street Journal, which at least has a crazy consistency (it doesn't much like government, the Pentagon excepted) denounces the administration for "harassment" of parents and doctors and for expanding "the role of Washington in our lives." The Journal wants the rights of handicapped newborns allocated by the private sector, by parents and doctors. But surely even conservatives of the Journal's stripe can concede that the federal government, in addition to running the Navy, can legitimately protect babies from being condemned because of imperfections.

Many editorialists insist on deference toward doctors' judgments. In the Indiana case, a doctor testified that the baby should die because the baby would never achieve a "minimally acceptable" quality of life. The doctor decreed that "some" Down's syndrome persons are "mere blobs" and that he had never known a Down's syndrome person "able to be gainfully employed in anything other than a sheltered workshop * * * that could be self-supporting. * * * These children are quite incapable of telling us what they feel, and what they sense. * * *"

The moral squalor of that statement (should life-saving treatment be denied to all economically marginal persons?) is ex-

ceeded by its ignorance: I'll introduce the doctor to Down's syndrome citizens—sorry, doctor, that's what they are—who work outside sheltered workshops and who can tell what they feel and sense about people like him. Clearly, some doctors claim authority concerning matters that are in no sense medical. Note the doctor's opinion about the "acceptable"—to whom? the AMA?—quality of life.

A person who calls the police to protect a child who is being abused next door is called a good citizen. A nurse who tells the government that a baby is suffering the ultimate abuse is denounced by editorialists as a "spy" or "police informant" or "busybody." A professor writes that the hospital notice and hot line "insult" all doctors as potential child abusers. But do child-abuse laws insult all parents? Editorialists who have favored sending civil rights enforcers, even the Army, into the South now express horror about "Baby Doe squads" descending on hospitals.

Why the hysteria? Perhaps it is because editorial writers consider doctors as peers—fellow professionals and equally infallible. It is one thing to urge federal enforcers on businessmen, but restricting the discretion of professionals is an affront. Furthermore, many members of the social stratum from which editorial writers come cannot cope with the fact of permanent defects, especially in children, defects that neither a new law nor a new antibiotic nor a new curriculum can cure. Parents who conjugate French verbs for their super-babies are unnerved by what they think is the meaninglessness of a life that will not include reading New York Times editorials.

But American history is a story of progressive inclusiveness as rights have been extended beyond healthy, white, property-holding males. America today is on the threshold of another great inclusion, that of handicapped, and especially mentally handicapped, persons. This is Ronald Reagan's doing, and he is getting neither help nor credit from the self-appointed custodians of the nation's conscience regarding civil rights.●

ACU OPPOSES ERA UNDER SUSPENSION

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1982

● Mr. WEBER. Mr. Speaker, the oldest and largest conservative organization, the American Conservative Union, has issued its formal position on the ERA. Like many of us in this body, the ACU opposes consideration of the ERA under the "gag" rules imposed by the House Democratic leadership. I think the ACU statement speaks for itself:

ACU STATEMENT ON PASSING THE ERA ON A RULES SUSPENSION

The attempt to steam roll an amendment to our constitution through Congress on a rules suspension is a crassly political and shameful act.

Surely House members, regardless of their feelings on ERA, will not allow the leadership to tamper with the basic document of our Republic without full debate or the chance to offer amendments.

This is the procedure which was used to saddle the country with prohibition. It was a mistake then and it is a mistake now.●

EQUAL RIGHTS AMENDMENT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. EVANS of Illinois. Mr. Speaker, fear and contempt have often dominated the debate on the equal rights amendment—fear of the changes and new responsibilities that equality might bring, contempt for those who dare dream of a more equal society.

All too often this fear of the unknown has obscured the realities of discrimination so many women and men have experienced, and continue to face in their everyday lives.

We now have become quite familiar with the fact that women as a group earn only 59 cents for every $1 a man earns. This wage gap affects a woman from the time she is born until the day she dies. And in those twilight years when a woman is often faced with living alone, she pays perhaps the heaviest price for inequality—as a retiree living without a pension of her own, or with less social security because her earning power was less during her working years.

Limited educational opportunities, hindered advancement in business and government, and restricted insurance policies are just a few of the ways our Nation is robbing itself of the skills of over one-half its population and binding the dreams and hopes of more.

In the middle of the Depression my grandmother was left alone to raise my mother, Joyce, and her sister alone. My mother now works as a nurse practitioner, but has been told by more than one supervisor that she would have made an excellent doctor. Yet the doors of the best medical schools were closed to her generation.

We have come a long way, but it is not far enough. The doors of opportunity are still not fully opened. Court rulings still allow the best schools to discriminate on the basis of gender.

Now I have a 2-year-old niece, also named Joyce, who must still overcome unfair and unnecessary discrimination as she grows up. I believe that this vote for the ERA is for her—a vote of hope and optimism for her future.

I strongly support the simple but powerful words of the equal rights amendment, which seek to bestow the blessings of life, liberty, and the pursuit of happiness on all Americans, women and men. I believe that my niece, and your daughters, sisters, nieces, wives, and grandmothers should be allowed the opportunities and benefits they have been so long denied.

To maintain our greatness as a country and to meet our mandate from history, we cannot condone one wasted opportunity or one wasted life. We will need the best and brightest, regardless of sex, working for our very survival. I do not think it is asking too much to state in the basic law of the land that each individual is equal before the law. It is an affirmative declaration of our continuing commitment to the ideals of our democracy.

Mr. Speaker, I rise in strong support of this constitutional amendment and urge our colleagues to vote "yea."●

THE EQUAL RIGHTS AMENDMENT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. CLINGER. Mr. Speaker, I deplore the procedure under which the equal rights amendment is being brought to the floor today. Bringing such a sensitive constitutional issue before the House or Representatives without the opportunity for debate and amendment constitutes a stranglehold on the legislative process and a blatant manipulation of the legislative process.

In spite of my reservations about the "gag rule" imposed on the consideration of this amendment, I rise in strong support of the ERA as a symbolic as well as an effective affirmation of my commitment to the ideal of equal rights under the law for men and women.

As a consistent supporter of the ERA as well as the Hyde amendment, I have struggled with the question of how to vote today. I have carefully reviewed the facts regarding the possibility of an ERA-abortion connection and I have come to the conclusion that passage of the ERA will not jeopardize the constitutionality of the Hyde amendment.

In a series of three cases in States which have equal rights amendments, the courts dealt directly with the issue of whether a State's refusal to pay for nontherapeutic abortions discriminated against women. The American Civil Liberties Union argued in each of these cases that abortion is simply a medical procedure and to deny public funding thereof constitutes sex discrimination. The Court summarily rejected these equal protection arguments and decided the cases on the basis of economic equity.

In the celebrated Supreme Court cases of Roe against Wade and Dalton against Bolton the Court viewed abortion as an issue of due process rather than equal protection. Due process is concerned with whether the exercise of a fundamental right, guaranteed to

all citizens, is being unconstitutionally burdened by a particular law. This doctrine does not require evidence of unequal treatment since even if everyone were treated exactly the same, denial of due process might still exist. Since no right is absolutely free from all governmental control, the cure for due process violations involves balancing the need for regulation against the free exercise of rights.

Mr. Speaker, I am confident that the courts will maintain their position and will carefully scrutinize any arguments put before it which seek to undermine legal precedent. The equal rights amendment faces a long journey through State ratification and for the sake of this country, I hope it meets with success.●

EQUAL RIGHTS AMENDMENT

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LUNDINE. Mr. Speaker, this country has witnessed a great deal of progress over the last several decades in the area of equality of rights for all Americans. Women have displayed courage, integrity, and brilliance in their competition with a male-oriented society. The strides we have taken in this short period of time deserve to be reinforced by our passage of the equal rights amendment (ERA).

The American dream is fast becoming a reality for many American women. Years ago, the American dream was obtained only by the white American males; for others, the dream was just a dream. Today, we must support women in their continuing endeavors to attain the goals previously available only to the male half of our population. Young women need to know that the sky is truly the limit. A women's place within society should be of her own choosing, dictated not by gender but by ability. The children of today, and of tomorrow, need to be encouraged by us in their endeavors to continue the goal of an egalitarian society.

It is time to allow the States another chance to fully endorse the equal rights amendment. It is time to allow them to decide that the American dream is a possibility for women as well as for men. We must allow the people of the United States, through their State representatives, to pass at long last a substantive statement of this country's support of women in the goals to which they aspire. Therefore, I respectfully urge my colleagues to support the equal rights amendment, House Joint Resolution 1, when it comes before the full House for a vote.●

THE YEN, THE DOLLAR, AND DEFICITS

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. REGULA. Mr. Speaker, I have addressed this distinguished body on numerous occasions concerning Washington's uncontrolled deficit spending. Curing the budget deficit disease also requires treating the symptom of trade deficits. Overall, the trade deficit is expected to be $70 billion in 1983 and could reach $100 billion in 1984.

I believe Congress must take decisive action to correct this problem. Our trading partners must recognize the present inequities within the world marketplace. The value of the yen relative to the dollar is indicative of such unfair trading practices.

Today, I insert into the RECORD an article entitled "How Double Deficits Are Distorting The Economy," Business Week, November 7, 1983, written by Phillip Caldwell. At present, Mr. Caldwell is chairman and chief executive officer of Ford Motor Co. I am hopeful that this article will be of use to my colleagues in understanding this complicated problem.

The article follows:

[From Business Week, Nov. 7, 1983]

HOW DOUBLE DEFICITS ARE DISTORTING THE ECONOMY

(By Philip Caldwell)

This year the automobile industry, including Ford Motor Co., is recovering from the crippling economic environment of the past several years and for the first time since 1979 will end the year with a comfortable profit.

But our company's recent successes do not mean that we are completely out of the woods. Despite the industry's $80 billion effort to restore its competitiveness, Ford and the other domestic auto makers need to make further financial improvements and increase volume in order to maintain the high levels of capital spending required to meet the international challenge. The new ground rules of international trade that were unfolding in the late 1970s are still very much with us. Yet the U.S. has not awakened to the reality that its business and industry cannot be competitive in world markets unless the U.S. itself is competitive. I submit that it is not.

Perhaps the managers of the U.S.—our government leaders—have been taken in by the myth of smokestack industries, as have some members of the press. As the myth would have it, these industries should be abandoned to make way for a "postindustrial" economy based on high technology and services.

Let there be no mistake: It is only a myth. The harvest of a brave new high-tech world cannot uphold the U.S. standard of living or its security. Nor can this enormous nation survive if its work force does nothing more than get up each morning to fry one another's eggs or press one another's pants.

What must this nation do to ensure its competitive strength and reassert its leadership? I believe there are at least two areas in which the U.S. can and must take decisive action: the misalignment of currency prices—particularly the long-standing imbalance between the Japanese yen and the dollar—and the inequities between the U.S. tax system and the tax structures of other trading nations. Both serve to make the U.S. noncompetitive in world trade.

Out of control: Here, however, I want to focus on a larger issue: the problem of double deficits. I am talking about the federal budget deficit and the trade deficit, both of which are out of control.

Together they create a serious distortion in the U.S. economy. One impact of the budget deficit is to raise interest rates, drawing in foreign capital. That jacks up the dollar, which leads to a worsened trade deficit; this in turn causes loss of jobs, higher unemployment, and lost tax revenues, which add to the budget deficit.

One of the principal causes of double-deficit distortion is, in fact, the continuing misalignment in current prices, particularly the relationship between the dollar and the yen. For some time, there has been an imbalance between these two currencies of about 25 percent. I view it as one of the greatest trade-distorting elements in the world today.

As an example of its impact, consider that this imbalance gives Japanese auto makers what amounts to a subsidy of $750 on every car they export to the U.S. I believe that part of the solution for the double-deficit problem can be found by addressing the yen-dollar imbalance. President Reagan and Prime Minister Yasuhiro Nakasone are scheduled to meet in November. They should take that opportunity to declare that the imbalance is a problem and that the two countries are committed to work together to resolve it. That's the first step.

Shifting the balance: The next steps should center on diminishing the extraordinary capital flows out of Japan and into the U.S. and internationalizing the yen. In recognition of the role of Japan in the world economy, the yen must be internationalized as a reserve currency. This would be accomplished by orderly and substantial acquisition of yen securities for reserve purposes—through cooperative purchases by the U.S., Japan, and other central banks of the countries of the Organization for Economic Cooperation & Development—to create a significant change in the relationship between the yen and other major currencies. This cooperative international effort should also include action on a long-range solution such as was indicated by the declaration at the Williamsburg summit to consider improved exchange-rate-setting mechanisms in a study carried out in conjunction with the International Monetary Fund.

Actions Japan could take unilaterally include removal of government constraints on capital inflows to Japan and steps to reduce the interest rate differential vis-a-vis the U.S. by allowing the market more freedom to determine Japanese interest rates.

Getting U.S. interest rates down is of paramount importance, and reductions in the U.S. federal budget deficit would contribute substantially to lowering the interest rate differential between the two nations.

The private sector is working hard to make American industry and products more competitive. But only the government can act on such issues as currency imbalances, tax system disparities, and, above all, the double deficits to ensure that the business

environment of the U.S. is fully competitive with that of any rival.●

PRODUCTIVITY IMPROVEMENT INITIATIVES AT ANNISTON ARMY DEPOT PREPARED BY DIRECTORATE FOR RESOURCES MANAGEMENT

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. NICHOLS. Mr. Speaker, too often we read and hear criticism of the attitudes of Federal employees. With all confidence, I can say that the typical Federal employee at Anniston Army Depot is far different from that portrayed by political cartoonists.

Earlier this year, an independent reporting team from the Resource Management Journal visited Anniston Army Depot. Their findings can be best described in their own words:

All Anniston employees, from supply specialists to Commander Leo J. Pigaty to tank rebuild laborers, perform their work with a rare zest, and a concerned awareness of what their specific jobs mean to the overall productive effort (at Anniston Army Depot).

The contributions of the Anniston Army Depot are important to the Nation's total defense effort. This can only be achieved with the continued motivation of each individual employee at the base. I am proud of, what I consider, the Nation's best depot. I would like to share with my colleagues a short point paper highlighting what the Depot is doing to maintain that high level of motivation.

In the summer 1983 edition of Resource Management Journal, writers Roxanne Addis and George E. Wildman, Jr., describe many of Anniston's productivity enhancement efforts in their article, "Anniston Army Depot—Excellence Through Innovation." Following is a brief synopsis of the initiatives discussed in that article.

Our people are our most important asset. Much of our effort is directed toward developing and utilizing their skills, knowledges, abilities, and dedication to the depot.

At the end of FY83, Anniston had 66 Quality Circles. This program uses the skills and knowledges of the people who are closest to problems in order to find solutions to those problems. This program produced a net savings of $75,000 in FY83.

Anniston also strongly encourages employee participation in the suggestion program. FY83 savings from employee suggestions were $1,126,824.

Anniston's awards program is a strong contributing factor toward motivating our employees to continually strive to improve. Twenty-two percent of Anniston's employees were recognized in FY83.

Another motivational effort was the Productivity Gain Sharing (PGS) test program. This test permitted the 480 participating employees to share in the benefits of productivity increases in their area. This resulted in a 9% productivity increase in FY83.

As a result of strong command emphasis and employee dedication, average annual sick leave usage was reduced from 71 hours per employee in FY79 to 51.2 hours in FY83. This equates to 37 additional productive man-years.

Value engineering studies resulted in savings of $2,500,000 in FY83. Much of this was accomplished through finding ways to reclaim worn parts that were previously replaced in the depot maintenance process.

Turret race rings were previously scrapped when teeth were worn, pitted, or chipped beyond tolerances. Replacement race rings cost $5327 each. Teeth are now welded with a special welding rod and machined back to original size at a cost of $127. This produced an annual savings of $728,000.

Engine cooling fans with broken or chipped blades were previously scrapped. Broken or chipped blades are now welded, ground to original configuration, balanced, and returned to service, resulting in an annual savings of $731,817.

Modernization of facilities and equipment is essential to Anniston's capability to respond to the Army's future needs.

Acquisition of an interactive graphics system for programming numerically controlled (NC) equipment and producing engineering drawings and DMWR design sketches has resulted in an annual savings of $102,650.

Use of a voice input mini-computer to control small arms inventory under the DA Small Arms Serialization Program is saving $179,000 and 9 man-years annually.

Planned application of robotics in the welding, painting, and sandblasting activities will save an estimated $510,000 annually.

Planned facilities modernization projects include a new test track to provide capability to test the M1 Abrams tank, a new $2,750,000 modern machine shop that will amortize its cost in 3.54 years, new maintenance facilities, and many others.

These are only a few examples of the many ways that Anniston continually strives to excel through people building programs, efficiency effectiveness actions, and modernization initiatives. It is through efforts such as these that Anniston maintains its can do reputation.●

THE LATEST TRAGEDY IN CYPRUS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BROOMFIELD. Mr. Speaker, I am certain that all of my colleagues share my shock in hearing today's news concerning Cyprus.

Northern Cyprus just unilaterally declared itself an independent Turkish-Cypriot republic separate from the Greek-Cypriot majority on the strategic Mediterranean island. The Turkish-Cypriot Legislative Assembly, in the northern tier of the country, decided to name that part of the country the "Turkish Republic of North Cyprus." I am angered and saddened by the shortsightedness and insensitivity of this illegal action. To appreciate the amount of damage which this decision creates, let me briefly review the tragic history of that island.

In 1974, Turkey invaded and occupied the island and thousands of innocent Cypriots were killed. Turkey claimed that it acted in order to protect the Turkish community on the island. Over 40 percent of Cyprus has been occupied by over 30,000 Turkish troops.

Over 1,600 Cypriots are still reportedly missing and unaccounted for. The Turkish Government has done very little to pursue a search for these missing innocent civilians.

In recent years, the Turkish Government has intentionally settled Turkish nationals in Cyprus and has distributed Greek property to them. Most of that island's productive areas, from an economic point of view, are now in Turkish hands. Over 40,000 Anatolian Turkish settlers have been given large areas of northern Cyprus, and over 200,000 native Cypriots have been forced from their villages. The great irony in this illegal settlement program is that, historically, 78 percent of the population of Cyprus has always been Greek Cypriot. Only 18 percent of the people have been Turkish Cypriots.

This tragic and shameful Turkish siege has denied self-determination to the people of Cyprus. This sad occupation of a sovereign country has placed economic, social, and cultural burdens on the Cypriot population. It has created a significant refugee problem on the island. Over 200,000 native Cypriots have been forced from their villages.

Since 1974, the U.N. Special Representative has sought a solution to the complex problems of the Cyprus dispute, but progress has been nil thanks to the intransigence of the Turkish Cypriots. I now realize that the intercommunal talks were being used by the Turkish Cypriots as a smoke screen to give them time to consolidate their position. Although the Greek-Cypriot showed flexibility and initiative in the ongoing negotiations, Greek-Cypriot President, Spyros Kyprianou was correct when he recently said that Turkey's "philosophy of division" had caused the deadlock in the talks.

Turkish complicity in the recent move is obvious to all. I was not surprised to learn that Turkey immediately recognized the new Turkish Republic of North Cyprus. The Turkish Foreign Minister had the audacity to say that Turkey had "decided to recognize the Turkish Republic of Northern Cyprus after a detailed examination of the situation." Knowing full well how Turkey invaded the island and settled Turkish nationals there, he said: "With their own national will,

the Turkish Cypriot people have proclaimed their independence using the right to self-determination."

Fortunately, world opinion is moving in the other direction. At the United Nations, Britain and Cyprus requested an emergency session of the Security Council. Secretary General Javier Perez de Cuellar expressed his deep regret over the unilateral declaration of independence. This unfortunate decision creates a major obstacle to U.N. and U.S. efforts to end the effective partition of the island.

I commend the Department of State for quickly condemning this unilateral decision on the part of the Turkish-Cypriots. This foolish decision on the part of Turkey and the Turkish-Cypriots can only lead to further strife, tension, and possible bloodletting.

I am confident that my colleagues in this Chamber will join me in condemning this hasty and unwise decision. It runs counter to the long-term interests of both Greece, Turkey, and all groups on the island of Cyprus. Our Government should do everything in its power to insure that the Turkish-Cypriots rethink this unwise move and return to the bargaining table in the intercommunal talks.●

ACAP ENDORSES REDUCTION OF AVIATION USERS TAXES

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MINETA. Mr. Speaker, five of our colleagues and I recently wrote to the Members of this House seeking their cosponsorship of legislation to reduce aviation users taxes (H.R. 4054 and H.R. 4055).

I have just received an enthusiastic endorsement for that legislation, on behalf of the consumers of air travel, from the Aviation Consumer Action Project (ACAP). As this may be of interest to the Members as they consider whether to cosponsor this legislation, I insert ACAP's letter in the RECORD at this point:

AVIATION CONSUMER ACTION PROJECT,
Washington, D.C., November 8, 1983.

Hon. NORMAN Y. MINETA,
Chairman, Subcommittee on Aviation, Public Works and Transportation Committee, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN MINETA: We are writing with regard to H.R. 4054 and H.R. 4055 which would reduce the rate of aviation related taxes. As you know, ACAP is a non-profit consumer group founded by Ralph Nader in 1971.

We applaud your efforts to bring about a reduction of the passenger ticket tax. The collection of taxes from passengers which then sit around in the airport and airways trust fund balancing the budget for OMB is nothing less than a billion dollar passenger rip-off. It is also a threat to air safety since much of the money was earmarked for safety improvements.

We support your plan to bring about an end to this sham which hurts passengers more than any other element in the aviation community. With 300,000,000 enplanements each year, you can be certain that we are not the only ones who appreciate Congressional efforts to promote economic air travel and passenger safety.

Sincerely,

MATTHEW H. FINUCANE,
Executive Director.●

H.R. 4325

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MILLER of California. Mr. Speaker, this legislation, the child support enforcement amendments of 1983, addresses a very critical and growing issue: How to insure that our children have sufficient income to escape poverty. This is why child support has become such an important domestic policy issue.

We have learned at the Select Committee on Children, Youth, and Families that almost three million children have become impoverished since 1970. Today, children are more likely than any other age group to be living in poverty with all the risk factors we know that accompany that status. Obviously, this situation creates terrific potential for problems within our society as well.

In part, child poverty is caused by divorce and out-of-wedlock births, both of which are dramatically rising. Between 1970 and 1982, the number of children living in female headed households rose from 7.5 million to 12.5 million children. It is to meet the needs of children living in these circumstances that more adequate support mechanisms are required.

If we do not act today, nonsupport of children will continue. The Census Bureau reports that barely one-third of the children whose fathers are absent receive child support. The mean annual support received is $1,799, hardly an adequate amount for raising a child in today's economy.

Although child support, like divorce, has traditionally been regulated by State law, since the mid-1970's the dimensions of the nonsupport problem have focused Federal attention on the issue. In 1975, Congress began taking steps to require States to help locate absent parents and enforce the payment of support. We know now, however, from looking at the statistics on children in poverty, that it is time to make another adjustment in our child support enforcement programs.

During the 98th Congress, numerous bills have been introduced to strengthen child support enforcement. The Subcommittee on Public Assistance and Unemployment Compensation held hearings and, after careful consideration, marked up H.R. 4325, the Child Support Enforcement Amendments of 1983. The bill is designed to encourage States to adopt stronger enforcement mechanisms, and to provide incentives for States to improve their support enforcement programs.

A basic provision of H.R. 4325 makes it explicit that State child support enforcement programs shall serve both AFDC and non-AFDC families. This is a welcome advance. Currently, many States concentrate primarily on collections from AFDC families, leaving non-AFDC families to fend for themselves. If they are unsuccessful in their collection efforts, nonwelfare families may be forced onto the welfare rolls. Surveys show that default on child support payments is not limited to the poor. It is the intent of H.R. 4325 that State child support enforcement programs assist non-AFDC as well as AFDC families obtain the child support payments to which they are entitled.

During the past year I have heard from divorced fathers who are concerned over the linkage made between support and visitation rights. H.R. 4325 recognizes this concern and directs the Governors of each State to appoint a State Commission on Child Support, which would examine the functioning of the State's child support enforcement program and a variety of support issues, including visitation. These Commissions will permit each State to monitor its own program and problems before making public its findings by October 1, 1985.

The Ways and Means Committee has studied the problems with the current child support system, and has put forth legislation that should improve it. I urge my colleagues to vote in favor of H.R. 4325. Better child support enforcement cannot, by itself, solve the problems of poverty among all single parent families and children. But it is one positive, overdue, and necessary step in the right direction.●

OPPOSITION TO THE ADDABBO-GREEN STRIPED BASS AMENDMENT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FISH. Mr. Speaker, an amendment has been added to the second supplemental appropriation bill for fiscal year 1984 that purports to save the striped bass which winter in the Hudson River estuary in the area of the proposed landfill for construction of the Westway project. The amendment would allow construction to begin, without completing a compre-

hensive environmental impact statement.

My opposition to this amendment has nothing to do with the merits of the Westway project. The decision to go forward with Westway should not be a Federal concern, but rather a decision for New York City and New York State pending the outcome of appropriate environmental studies. At issue is not the project, but the way in which this amendment attempts to circumvent not only the judicial process, but also Federal environmental protection laws passed by Congress to address serious environmental concerns of the American people.

This amendment is poor policy for several reasons. It would override a Federal district court order, upheld by the court of appeals, which prohibits further work on Westway until the Army Corps of Engineers makes a determination as to the need for further studies on the effect of the landfill on aquatic life. The amendment circumvents provisions in section 404 of the Clean Water Act and section 10 of the River and Harbor Act which require the corps to make its decision on a dredging permit based on its and other Federal agencies' analysis of whether the dredging would have adverse effects on water quality and aquatic life. The construction that this amendment would allow is expressely forbidden unless the corps determines that the project should proceed.

Until the corps makes such a determination, which this amendment declares unnecessary, the project will not be in keeping with applicable environmental laws. Paragraph 2 of this amendment claims not to exempt the project from NEPA. However, the amendment requires as a condition to granting the permit a replacement habitat and an enhancement study. Clearly this overrules the National Environmental Policy Act requirement of a comprehensive environmental impact statement, before a work permit is given, and work is begun. In addition, none of the congressional committees with jurisdiction over the Westway project and the environmental laws which apply to it have reviewed this provision.

Overriding current Federal environmental law would establish an intolerable precedent—other federally funded projects which do not want to meet Federal environmental requirements will also seek exemptions.●

THE EQUAL RIGHTS AMENDMENT IS NOT A NONCONTROVERSIAL MATTER

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DANNEMEYER. Mr. Speaker, yesterday afternoon, as the word spread that the proposed equal rights amendment was going to be brought up under suspension of the rules, I simply could not believe my ears. My understanding was, and is, that the Suspension Calendar was to be reserved for noncontroversial matters involving authorizations of $100 million or less, and not for highly controversial proposals to which Members could be expected to offer a multitude of amendments. Now I understand the math involved—it takes just as many votes to pass a proposed constitutional amendment as it does to pass something under suspension of the rules—and I understand the politics of it—proponents do not want any amendments—but good math and good politics do not make good policy or good precedent. And especially when the very framework of our Government—the Constitution itself—is directly involved.

Mr. Speaker, contrary to what some people would have us believe, House Joint Resolution 1 leaves a lot of unanswered questions, questions that the courts would no doubt have to deal with. For instance, would the ERA permit Federal funding of abortions? Would it end the veterans perference? Would it subject women to combat as well as the draft? Would it end the fraternity and sorority system as we know it? Would it wipe out tax exemptions for single sex colleges, the Catholic Church or Orthodox Synagogues? Would it require unisex insurance? Would it countenance homosexual and lesbian marriages? Would it affect existing seniority systems on the job? Would it mean co-ed sex education classes and would it invade the privacy of millions of Americans in other, personal ways? Personally, I think that, in many instances, the answer is "yes" but regardless of what I think, or other Members think, if we pass the proposed amendment under suspension of the rules, we will waive our opportunity to answer these questions and, if necessary, to offer amendments that might ease whatever concerns we might have. Indeed, we will abrogate our responsibilities as legislators and turn this whole matter over to the unelected branch of our Government, the judiciary, to decide. Now that might be agreeable to some, but I think most Americans would prefer that we, as their elected representatives, exercise our own judgment in this matter and not resort to what can most charitably be described as a slick political finesse.

Mr. Speaker, even if one agrees that all these questions should be decided by the courts, using the Suspension Calendar is not the way to accomplish that objective. It makes a mockery of not just the suspension process but the constitutional amendment process. At best, it represents a flagrant exercise—some would say abuse—of power; at worst, it establishes a precedent for laying aside the rules to accommodate the whims of a political majority. In either event, the consequences could be far reaching and I urge my colleagues to head them off before they occur. And the easiest way to do that is to vote "no" when House Joint Resolution 1 comes up under suspension of the rules. At least let us have a full and fair debate, with ample time to consider amendments. Let us not generate any more hostility than this amendment has generated already.●

IN HONOR OF THE LATE JAMES E. McDONOUGH, AMERICAN MARINE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. KOLTER. Mr. Speaker, I would like to include in today's RECORD the last writings of James E. McDonough, a young marine from the Fourth Congressional District, who was killed in the tragic explosion that claimed so many American lives in Beirut last month. These are no ordinary letters home. Young Mr. McDonough was no ordinary young man. It seems that he communicated home by sending poetry, poetry that he had written while he was risking his life for his country on military duty in a foreign and hostile land.

These two poems were given to me by his mother who says that they were the last letters she received from her son before he died. They show the deepest thoughts of this young man at the time when he and many other young American men much like him were under fire from an enemy they could not see or fire upon. His thoughts were of family and country and duty. One poem even states his belief that the meaning of freedom was in part—dying for your country. Freedom does indeed mean that. We are all free because of men and women like James McDonough, who were willing to make the sacrifices that the rest of us might live free from oppression, and free from fear. The poems speak for themselves. James McDonough speaks for all in America that is bright, strong, young, and good.

The poems follow:

FREEDOM OR LOVE OF LIFE

(By James (Mack) E. McDonough)

If freedom is to be free, then what are we to be free of?
Are we to be free of the world, other people or ourselves?
There is no such thing as freedom.
Freedom is nothing but a myth.
A man's opinion against another man's. Who is to say he's wrong and who is to say he is right.
Freedom is a word well used by all, yet all have a different opinion of freedom.
Freedom might mean to have no cares, yet show me a man alive with not a care in the world.
Is freedom working eight hours a day and paying bills, to some men it is.
Living on the open plains "Where the deer and the buffalo roam." Being free from all people is freedom to another man.
Yet has he no cares of getting food and shelter and of other people who knew him back in civilization.
Freedom is dying for your country or is that just another opinion of how a whole country can differ from another.
Freedom to me is enjoying what I do and how I go about it and just being happy.
Is that really Freedom or is it just Love of Life?

LOVE OF A MOTHER

(By James (Mack) E. McDonough)

A window is a transparent thing, and yet it holds many sights.
The moon is so far away, and yet it brightens up our nights.
The wind is a source you'll never capture. You can feel its gentle breeze, or the wrath of its awesome might.
A flame can destroy the entire earth, and yet it could give you warmth, and light
The seas are an ever changing source, from fresh water to salt, from vapor to ice that reaches never ending heights.
Put all of these things together and yet it could never replace one Mother.
A Mother teaches from wrong to right and stands besides you either way.
She's always there, bad or good she will always protect and guide you.
All the sources in the world could be understood, but you'll never understand the never ending Love of a Mother.

Happy birthday Mom, with all my love.

JIM.●

THE $200 BILLION DEFICITS AND THE DOMESTIC AUTO INDUSTRY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WOLPE. Mr. Speaker, as a member of the House Budget Committee and a Representative from the State of Michigan, I would like to draw the attention of my colleagues to the impact of $200 billion annual Federal deficits on our domestic auto industry.

In recent testimony before the House Budget Committee, Dr. Martin Feldstein, Chairman of the President's Council of Economic Advisers, stated that "It is present and projected deficits that I think are unambiguously increasing real interest rates."

It is a well-established fact that high interest rates dampen demand in some sectors of the economy, such as autos and housing. However, the impact of high "real" interest rates on international trade—and, therefore, the auto industry—is not as widely known. "Real" interest rates are defined as the amount by which market interest rates exceed the rate of inflation. These high real interest rates attract foreign investment to this country which increases the value of the dollar in comparison to other currencies. This strong dollar is great if you want to go shopping in Europe. However, it also makes imports cheaper in this country, while making our exports more expensive in the international market. This situation clearly puts domestically produced autos at a competitive disadvantage.

To illustrate the consequences of this situation, I would once again like to quote from Dr. Feldstein:

* * * this kind of deficit ($200 billion per year) would * * * in the near term, as I have warned many times in the past, produce a lop-sided recovery in which, because of the high real interest rates that follow from these budget deficits, the interest-sensitive sectors of the economy just will not fully share in the overall recovery.

Dr. Feldstein's testimony clearly indicates that a sustained economic recovery will bypass the auto industry if we do not reduce these $200 billion deficits that are responsible for high real interest rates.

I am convinced that the first step in finding a solution to the deficit crisis is to stop the partisan finger pointing. Democrats and Republicans, the President and the Congress, must agree to joint in a bipartisan effort to produce a deficit reduction program that will fairly spread the burden of sacrifice. To this date, the President has been unwilling to joint in such an effort. I sincerely hope that the President will listen to the economic analysis of Dr. Feldman—his own economic advisor—and join with congressional Democrats and Republicans to effectively address this crucial problem in a bipartisan fashion.●

PROTECTION OF NONSMOKING AIRLINE PASSENGERS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SCHEUER. Mr. Speaker, throughout the last two decades, our knowledge of the dangers present in cigarette smoking has expanded dramatically. We have launched campaigns to warn smokers of the hazards posed to their health. We have also enacted a variety of laws at the Federal, State, and local levels to protect nonsmokers from the discomfort and danger of breathing tobacco smoke. Only recently are we learning about the potential harm tobacco smoke may have on the health of nonsmokers who breathe that smoke.

Smoking is banned or segregated in many public buildings, supermarkets, restaurants, and stores. Just last Tuesday the voters of San Francisco approved a referendum requiring employers in public and private offices to make accommodations for both smoking and nonsmoking employees. If these accommodations do not satisfy nonsmokers, then smoking must be prohibited.

Nonsmoking sections have been established in public transportation as well, including airplanes. However, on January 1, 1985, the Civil Aeronautics Board (CAB), the agency which currently regulates smoking aboard aircraft, will cease to exist under the sunset provisions of the Airline Deregulation Act of 1978. Unless we act now, in just over a year, airline passengers will be left without any protection against indoor air pollution caused by smoke. I rise today to introduce legislation for myself, the gentleman from California (Mr. WAXMAN), and the gentleman from Florida (Mr. YOUNG), which will codify existing CAB regulations governing smoking aboard aircraft.

These regulations were established more than a decade ago in response to health dangers posed to nonsmoking airline passengers from breathing smoke. In August, my Subcommittee on Natural Resources and Environment held hearings on the effects of indoor air pollution. Witnesses testified on recent studies indicating that passive smoking—breathing indoor air polluted by tobacco smoke—may pose serious health risks to nonsmokers.

Researchers continue to explore this issue with the goal of eventually being able to measure indoor smoke levels and to quantify exactly what levels constitute a substantial health hazard. Although much research remains to be done, we already know that a significant danger exists.

As we approach the CAB's termination, we must make certain that consumer health and safety needs are addressed. This bill will insure that nonsmoking airline passengers are not unreasonably burdened by tobacco smoke by requiring carriers to: Provide a no-smoking section for each class of service; Provide a seat in a no-smoking section to any passenger who wishes to sit there as long as he arrives within a specified length of time prior to the scheduled departure as determined by the airline; Prohibit cigar and pipe smoking; Prohibit tobacco smoking of

any kind whenever a plane's ventilation system is not fully functioning.

This bill will not ban smoking on airplanes. It will set in place permanently the regulations that have been adopted by the CAB or voluntarily established by the airlines themselves. The CAB has reviewed these regulations in light of the changes that have come about since deregulation and has decided to maintain them to protect the health and comfort of the traveling public.

While many of the CAB's functions will be transferred to other departments when the agency expires in 1985, it is unclear what will happen to its consumer protection authority. This could well fall between the cracks in deregulation. While the Federal Aviation Administration has authority to regulate safety, it is not clear that the FAA has either the authority or the will to regulate health—and smoking in particular—when the CAB goes out of business. Accordingly, we are directing the FAA to exercise this authority to insure that these regulations remain in place.

Without this legislation, we will leave nonsmokers at the mercy of the airlines, who will have complete responsibility for determining smoking policies—if they choose to establish any guidelines at all. It is in the interest of the flying public, for their health and safety, that we retain the current regulations governing smoking aboard aircraft to prevent consumers from being left without any protection in 1985. I urge my colleagues to support this essential health legislation.

The text of the bill follows:

H.R. 4395

A bill to regulate smoking on board passenger-carrying aircraft

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title VI of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"REGULATION OF SMOKING ON PASSENGER-CARRYING AIRCRAFT

"SEC. 613. The Administrator shall, not later than 180 days after the date of enactment of this section, issue final regulations to ensure that nonsmoking passengers in air transportation are not unreasonably burdened by tobacco smoke. Such regulations shall apply to each operation of an air carrier involving the carriage of passengers in air transportation in an aircraft having more than 30 passenger seats and shall, at a minimum, require each air carrier to—

"(1) provide a no-smoking section for each class of service;

"(2) provide a seat in a no-smoking section in the appropriate class of service for each passenger who wishes to be seated in such section and presents himself for boarding not later than a specified length of time, as determined by the air carrier, before the scheduled departure time of the aircraft;

"(3) prohibit all smoking of cigars and pipes; and

"(4) prohibit the smoking of tobacco whenever all parts of the ventilation system of an aircraft are not in working order or are not operating at the capacity designed for normal service.".

(b) That portion of the table of contents which appears under the center heading

"TITLE VI—SAFETY REGULATION OF CIVIL AERONAUTICS"

is amended by adding at the end thereof:

"Sec. 613. Regulation of smoking on passenger-carrying aircraft.".

SEC. 2. Any rule or regulation adopted by the Civil Aeronautics Board relating to the smoking of tobacco aboard aircraft shall not be in effect on or after the date on which regulations issued by the Administrator of the Federal Aviation Administration under section 613 of the Federal Aviation Act of 1958 take effect.●

BULLETS FROM GRENADA TO AFGHANISTAN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BROOMFIELD. Mr. Speaker, I recently returned from a brief fact-finding trip to Grenada. I believe that all of the Members in the delegation were deeply concerned about the vast quantities of arms that we saw there. Six large warehouses were filled with a wide range of Soviet, Cuban, and North Korean military equipment including antiaircraft guns, heavy machine guns, mortars, and antitank weapons. Nearly 6 million rounds of ammunition were recovered. We also saw many armored personnel carriers, and other military vehicles.

These quantities of arms and ammunition far exceeded the needs of Grenada, a small island with a population of only 110,000 people. It became obvious to all of us that the Cubans and their Soviet backers had plans for Grenada. They were planning to use it as a base for terrorist and guerrilla operations in the Caribbean area.

As part of this plan, the Soviets established a large embassy in Grenada. Diplomats and advisers from Cuba, Libya, East Germany, and North Korea were active on the island. The Soviets had a four-star general as Ambassador there. Is there any wonder what his mission was?

What should we do with this array of military gear? I have a suggestion. Let us send it to the struggling people of Afghanistan. As all of you know, the people of that besieged nation are trying to throw out their occupiers. Over 100,000 Soviet troops now control that once peaceful land. The Afghan guerrillas are desperately short of arms and ammunition. I have seen recent reports that these brave patriots are using ancient rifles and often have to fabricate their own weapons. Why do not we help these people and send them weapons that the Soviets and Cubans were planning to use against the free and democratic nations of the Caribbean?●

MOVING THE AMERICAN EMBASSY FROM TEL AVIV TO JERUSALEM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. GILMAN. Mr. Speaker, today I am introducing legislation which would require our Government to firmly acknowledge its diplomatic ties with the State of Israel by recognizing that Jerusalem is Israel's capital, and by establishing our Embassy and ambassadorial residence in the city of Jerusalem. I urge my colleagues to join me in this effort, so that the current practice of maintaining our Embassy in Tel Aviv may be changed.

Jerusalem is Israel's capital—a fact that will not change with the passage of time. In our diplomatic relations with other nations, we afford them the courtesy of maintaining our Embassy in their capital city. With Israel, one of our strongest allies, we do not even extend this basic courtesy. By our resistance to move our Embassy from Tel Aviv to Jerusalem, we do a disservice to the Government and people of Israel as well as ourselves. We are perpetuating a political mistruth.

This denial of the most basic recognition of the Israeli Government has been continued by eight successive administrations, since Israel's inception in 1948. Not only do we maintain our Embassy in a city that is not the capital, but our diplomatic representatives are forbidden from traveling to the eastern portions of that city. The Government of Israel maintains some ministerial offices in that sector, which precludes any meetings between our representatives and theirs. A recent situation which illustrates this problem occurred in June, when Deputy Assistant Attorney General Mark Richards was to meet with Yitzhak Zamir, Israel's Attorney General. They were to meet in order to discuss the possibility of Israel's accepting for trial in Israel several former Nazis and Nazi sympathizers now living in the United States. When it was discovered that the Justice ministry was located in the eastern portion of Jerusalem, this long-planned and important meeting was delayed, and we have thus far not completed these discussions.

It is time we stopped treating Israel as if it were a country without a capital. Jerusalem is the essence of Israel, acknowledged by the Government of Israel as its capital, and a city whose illustrious history deserves such a designation. Since the State Department is unwilling to correct this situation, it

is incumbent upon the Congress to correct this anachronism by adopting my legislation, which requires that the U.S. Embassy in Israel be located in Jerusalem, Israel's capital city. The Israeli Government announced its intention to move many of its governmental offices to the eastern portion of the city. If we do not rectify the situation in the near future, we will find our diplomatic representatives unable to carry on their liaison work with their Israeli counterparts. Should a majority of the Israeli governmental offices be located there, much of our diplomatic efforts will be hampered. Accordingly, I urge the support of my colleagues for this measure, and ask that the full text of this measure be printed in this portion of the RECORD for their review:

H.R. 4376

A bill to require that the United States Embassy in Israel be located in the city of Jerusalem

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding any other Act, the United States Embassy in Israel and the residence of the American Ambassador to Israel shall hereafter be located in the city of Jerusalem.●

THE EQUAL RIGHTS AMENDMENT AND THE MILITARY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FAZIO. Mr. Speaker, we meet today to cast our votes on a matter of supreme importance to this Nation: the equal rights amendment. This amendment was the subject of thorough consideration by the House Judiciary Committee and by this body when it originally passed in 1972.

The ERA is not complex; it simply provides constitutional affirmation to the guarantee that women shall be treated equally with men under the law. A look at the economic position of women in this Nation relative to pay and other traditional forms of compensation lends quick and proper justification to the concern that the multitude of laws already on the books to assure women economic equity are not adequate and that a constitutional safeguard of these rights is fitting and proper.

However, opponents of the ERA have sought to complicate this issue by confusing its meaning and drawing upon popular but unsubstantiated fears. One area in which this is most commonly attempted involves the ERA's effect on military service. Congress had debated the issue of drafting women, and no doubt will continue to do so regardless of the fate of the ERA. But there are other issues beyond the draft which rightly concern women with regard to their legal rights and the military.

Concern has been expressed within this body that the ERA will undermine veterans benefits. And yet this concern, based on an assumption that to be a veteran is to be a male, highlights the very need for the ERA since women are veterans, and as veterans women have been denied the full benefits entitled to their male counterparts. The ERA will equalize veterans benefits between men and women veterans. It has no bearing on the compensation afforded veterans versus nonveterans.

The military is the largest employer and educator in the Nation. Furthermore, the share of all active duty military personnel that women constitute is on the rise. Yet present policies and attitudes limit the contributions women can make in the armed services and restrict the benefits military participation can engender, such as full veterans' health care, veterans' education benefits, and veterans' preference in Government employment. For example, veteran hospitals are not fully equipped to deal with the health care needs of women. Consequently, women veterans often must seek medical care outside of VA facilities on a fee basis. Sadly, many women veterans are not even aware of the veterans' health benefits to which they are presently entitled. Equally important, women are not obtaining the lucrative benefits available through the military/industrial connection since they are missing opportunities for high paying private sector jobs available to former service members with defense-related skills.

The 1980 census indicated that the female veteran population has risen from approximately 750,000 to over 1.1 million. Yet it cannot be denied that inequities for women veterans have existed. I call the attention of my colleagues to a September 1982 GAO report entitled "Actions Needed To Insure That Female Veterans Have Equal Access to VA Benefits," which concluded that while the Veterans' Administration has made some progress in insuring that medical care and other benefits are available to eligible female veterans, there are still deficiencies in providing services to meet the needs of the female veteran population.

My point is that women have made important contributions to the armed services, a growing number of women are now contributing to the armed services, and, with the growth of high technology weapons systems, the participation of women within the military is destined to grow. The ERA does not create new trends in terms of women and the military, but it can help us recognize and address existing trends. As in other aspects of American life, the ERA will assist those women who are part of the armed services in receiving the equal protection under the law that they deserve.●

THE TIME FOR ECONOMIC EQUITY IS NOW

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WON PAT. Mr. Speaker, I am pleased as a cosponsor of House Joint Resolution 1, the equal rights amendment to the Constitution, to offer my support before my distinguished colleagues today. The people of Guam have already embraced the tenets of this amendment on a local level, through the efforts of a wise and responsive legislature. On behalf of the people of Guam, I urge this Congress to pass the proposed amendment before them today.

There are those who contend that an amendment to guarantee the equal treatment of women under the law is unnecessary. But the reality of the grim economic condition that women endure forces us to realize that this is a false contention.

If there is no need for this measure, why do our Nation's women earn only 60 cents to every dollar that is made by a man?

If title IX is all that women need to guarantee equal educational opportunity, why are not there even more women entering what will be the vital and, therefore, most lucrative professions in science and mathematics?

And why is it, again, that after earning college degrees, many women make less than males who did not finish high school?

I am concerned here with economic equity; the simple concept of equal pay for equal work. In view of the changing roles of women in our society, we cannot continue to allow what has become the inexpiable feminization of poverty.

I believe that economic equality is the most important issue before us today. Almost half of our work force, approximately 43 percent, is made up of women who have the same desire to achieve and earn that which is available to their male counterparts. This issue cuts to the bone, because money directly affects the quality of the lives women lead.

More women are working now than ever before in the history of this country. Most of them work not only because they want to, but because they have to support themselves and their families. Our country's appalling divorce statistics indicate that over half of the marriages today are dissolved.

We are aware of who will continue to nurture, in the majority of instances, the children who have come from these marriages. It is the woman. Can we in good conscience ignore, because of the gross inadequacy of child-support law enforcement, who will be the major or sole support of these children? I assert that our Government can no longer wear the blinders of ignorance on this issue.

The ERA will strengthen existing prohibitions against sex discrimination in the workplace, and require uniform enforcement of current laws which outlaw bias in wages, fringe benefits, hiring practices, and other conditions of employment. It is a necessary measure that responds to the ambitions and economic needs of women.

The ERA is not the only answer. It will not bring justice overnight. It also will not, as its opponents charge, wreak havoc upon the fragile and precious role of the family in our society. As with past amendments to our Constitution, this one will be shaped and interpreted by the people, the temperament of a nation, and the decisions of our courts.

I urge my colleagues in the House of Representatives to pass this much-needed protection to insure basic equal rights and equal economic opportunity to the women of our country.

I also urge our colleagues in the Senate to take a fresh look at an issue which refuses to go away.●

EQUAL RIGHTS AMENDMENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mrs. SCHROEDER. Mr. Speaker, the Subcommittee on Civil and Constitutional Rights held extensive hearings this summer and fall on the ERA. We found that, indeed, ERA is an economic issue. We found that nowhere is this more true than in the military.

The military is the largest employer and educator in the Nation and is one area of Federal law where explicit sex discrimination still exists. Women are denied entry to every service branch, opportunities to be promoted, education and training not on the basis of their capabilities but solely and exclusively because of their sex. These discriminatory policies limit opportunities for women and the contribution they can make to our Nation.

I would like to share with my colleagues three key facts that came out of our hearings in respect to women and the military:

First, there is no static statute, policy, or definition of combat. The Department of Defense changes the definition of combat according to its needs for women's skills, not to protect women from danger. The services operate under a variety of rules and definitions which have been subject to change over the years, are inconsistent among the service branches, and have little or no relationship to actual war planning. Their only effect was to impair women's career opportunities, skill training, and promotional chances.

Second, under the ERA, valid job qualifications would still stand. Military positions would be filled by the most qualified individuals available. Women, like men, who are physically or psychologically unsuited for a combat or combat-related position would be excluded from such an assignment. The ERA would not mandate 50 percent of the military be women.

Third, women can be drafted with or without the ERA. The Department of Defense has already prepared legislation designed to alter existing law so that both sexes can be subject to future conscriptions. Thus, women are currently at risk of being drafted without having first achieved their full constitutional rights.

Congress will still retain its power to grant exemptions from the draft. For example, it could exempt parents with small children, single parents, and others with special responsibilities.

We had before the subcommittee a panel of several bright young women representing every branch of the military establishment. The witnesses included an Air Force captain who flies a KC-135 supply plane that would provide direct support services for combat troops during a time of war, the commanding officer of a Coast Guard cutter with a 16-person, all-male crew, and a Navy test pilot who is trained to fly helicopters that would land on naval vessels engaged in combat.

These women are examples of where the military is today. It is a military of brains, not brawn. Under the ERA, sex classification by the Government would be prohibited, so that the best qualified people would serve. It would strengthen, not weaken, our national defense.

I urge my colleagues to pass the ERA today. We have a 10-year legislative history and positive State ERA experiences. ERA itself is 50 years old this year, but its basic principle is 200 years old, it is the principle that our Nation was founded upon—equality of rights for all.

This vote today is one that your daughters and granddaughters will thank you for.●

THE EQUAL RIGHTS AMENDMENT

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DAVIS. Mr. Speaker, the House leadership has done serious disservice to the cause of equal rights for women. The equal rights amendment was used as a pawn today by those who are more concerned with creating a compaign issue than passing House Joint Resolution 1. Americans who are disappointed with the outcome of this vote should find fault with those who opted to bring the bill to the floor using questionable means, not those of us who voted not to suspend the rules. If the Democratic leadership had the interest of the ERA first, over political considerations, the bill would have come to the floor allowing Members' concerns to be addressed.

I have been a consistent supporter of the ERA. I voted for its ratification while serving in the Michigan State Legislature and am a cosponsor of House Joint Resolution 1. My vote against suspending the rules was not a vote against the ERA, but a statement against the bullying tactics to which we in the minority party are so often subjected.

The Suspension Calendar is intended for noncontroversial measures. To allow a measure as important as amending the Constitution to come to the floor under suspension of the rules is, at best, inappropriate. If any issue this body considers demands free and open debate, certainly it is amending the Constitution. Particularly in this House, the body of the people, discussion should have been encouraged, not stifled. The majority party's opposition to potential ERA amendments should not be allowed to prevent Members from even offering them.

Immediately followed the vote to suspend the rules, I was the third cosigner of the resolution calling for House Joint Resolution 1 to be brought to the floor with an open rule allowing for 4 hours of debate. I believe that once House Joint Resolution 1 is considered under such a rule—regardless of whether any amendments are ultimately adopted—we will see it pass the House on the basis of its merit and unobscured by partisan political considerations.

Because there is little doubt that the ERA can pass the House, the majority party's tactics can only be interpreted as a political ploy. The ERA was sold out for election year ammunition.●

THE EQUAL RIGHTS AMENDMENT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WIRTH. Mr. Speaker, America is a nation which was forged under the concepts of freedom and equality under the law. Our revolutionary patriots fought for their right to worship, live, and work united under one flag, together as one nation. It is time, once again, to unite as a nation—in accord with the principles of freedom and equality—and rally to support the equal rights amendment.

We have a continuing need for a Federal equal rights amendment so that equal rights for all Americans can finally become a reality. Measured by any standard, gender lines have not been erased in our society. Although State, local, and Federal governments may act in absence of the ERA to promote equal rights, the current reality is that without the amendment, governments at all these levels have not taken the steps necessary to end the sex bias that continues to intrude upon the lives of women and men in this country.

The equal rights amendment will acknowledge the homemaker as an equal contributor to the family and respect the rights of economic partnership. It will serve as the vehicle to promote the equalization of pay and benefits regardless of sex, and will serve to abolish discrimination against women working outside the home. In that regard, let us not forget that women presently compose 43 percent of the national work force. The ERA will also champion equality within schools, insurance, and pension programs. It will guarantee that women and men are accorded equal treatment and opportunity in the Armed Forces on the basis of their individual skills and abilities—the military being the largest vocational training center in the country.

The familiar battle cry that ERA will promote homosexual marriages, unisex bathrooms, abortion privileges and discriminate against the homemaker is a false siren. Within States where equal rights amendments have been implemented, the amendment has not been used as an umbrella to protect or promote other legislation pertaining to women. Such legislation has been and remains debatable on its relative merits alone, and not simply enacted as a direct result of an ERA amendment. Accordingly, we need not obfuscate the language of the amendment before us with additional language, such as the Sensenbrenner amendment, which seeks to tie the ERA to abortion. Abortion is a separate issue entirely and must continue to be considered as such.

Colorado is one of the 17 States that has adopted its own ERA by amending its constitution in 1972. The citizens of the State reaffirmed that stance by decisively rejecting an initiative to deratify in 1976. The Colorado Legislature is also one of the first to have ratified the national ERA. I have consistently voted in accordance with the sentiment of the people of Colorado in this regard—by supporting the extension of the ratification deadline; by cosigning a letter to State legislatures in unratified States; and by cosponsoring both the initial ERA legislation, its subsequent reintroduction and its passage today under suspension.●

ON EQUAL RIGHTS FOR WOMEN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. HOYER. Mr. Speaker, today we vote on whether to resubmit the equal rights amendment to the States for ratification as the 27th amendment to the U.S. Constitution. For those of us who believe in and are deeply committed to the equal dignity of all individuals, the equal rights amendment is essential. What we are seeking today is to secure equal justice under the law, a basic guarantee of equal rights—for all individuals. Surely we can no longer tolerate discrimination based upon gender. It is at odds with notions of fundamental guarantees generally accorded most Americans.

I am very proud to state that in April 1972 the Maryland General Assembly, of which I was a member, passed an amendment to the declaration of rights of the Maryland constitution known as the equal rights amendment. On November 7, 1972, by a vote of 697,107 to 236,007, the voters of Maryland ratified the Maryland equal rights amendment and, on December 5, 1972, the amendment became law. In the past 11 years since enactment of the amendment, numerous extensive legislative reforms have been enacted. Domestic workers have been brought under the coverage of the Maryland minimum wage and workers' compensation laws. Health insurance offered in the State must offer benefits for maternity coverage to the same extent as other illnesses and these benefits cannot be denied on the basis of marital status. Discrimination on the basis of gender is prohibited in credit, housing, and mortgage financing.

The fears expressed by opponents that passage of the ERA would result in less protection for women have proven groundless. Maryland's equal rights amendment has not interfered in such areas of privacy as abortion, homosexual relationships, or family matters. What the amendment has done in Maryland is insure that all individuals receive fair and equal treatment under the law.

The rights of individuals vary significantly from one State to another. We have recognized that certain principles of individual dignity transcend the vagaries of State laws. The States are not at liberty to hinder interstate commerce, to discriminate on the basis of race, national origin, or religion, or to impede freedom of speech. The equal rights amendment expands the scope of this Federal scheme to mandate that, regardless of gender, all individuals are entitled to equal justice under the law.

We need to set aside the myths that surround the arguments of those who oppose equal rights for women. Present laws have miserably failed to sufficiently redress a long history of unequal treatment. Such laws are riddled with exceptions and are subject to the changing whims of legislators.

The social and economic costs to our society are immeasurable. That we relegate a majority of our citizens to second-class citizenship is an affront to basic principles of democracy. In addition to the personal humiliation and hurt, the social and economic impact of gender discrimination has become devastating.

Employed women today receive, on the average, 59 cents for every dollar earned by men. The primary reason is an insidious, subtle, historical phenomenon termed "occupational segregation." We need go no further than a cursory examination of the crisis in this country's educational system for an example.

The teachers of this country have been predominantly female, and, as such, our educators have traditionally been underpaid. Despite the fact that we entrust the intellectual instruction of our children to them; despite the requisite skills, responsibilities, and extensive training we demand of our educators, because it is an occupation historically filled by women, it has become a profession shamefully underpaid and the long-range costs are now being felt, as our most qualified and educated women look to other, more highly paid fields of endeavor.

Because women have been viewed as transitory sojourners in the labor market, present employment opportunity laws have failed to eradicate pervasive discriminatory practices in the labor force. Present social security laws fail to recognize the economic value of the homemakers' service.

We are also witnessing a phenomenon known as the feminization of poverty. More than one-half of the total number of poor families in this Nation

are headed by women. Almost 75 percent of minor children in households headed by women live in poverty. If this trend continues, it is estimated that 100 percent of the poverty-stricken in the year 2000 will be women and their children. Yet ERA opponents claim that women are protected enough now by current laws on the books. The facts indisputably deny such an assertion.

I urge my colleagues to support the equal rights amendment. The shackles of inequality are oppressive. They bind the oppressed to suffer personal indignities and the oppressors to inflict these indignities upon their fellow Americans.

We, as supporters of the equal rights amendment, wish all Americans to share the fruits of our society. My opponents offer women crumbs fallen from the table.●

EQUAL RIGHTS AMENDMENT

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MORRISON of Washington. Mr. Speaker, I voted for the equal rights amendment—ERA—today because I am a strong believer in legal equity for women, but cast my vote with a great deal of protest.

I supported identical language in the Washington State Legislature 11 years ago, but feel that the House of Representatives made a tragic mistake in bringing the ERA to the floor under suspension of the rules. The Suspension Calendar is intended for noncontroversial, minor measures that can be considered quickly and is not the proper way to amend the Constitution.

I believe that several of the proposed amendments to the current wording address issues also of concern to many of the State legislatures which did not ratify the original amendment. While I am not committed to the support of any amendment, complete discussion of these controversial issues is necessary to alleviate and clarify many unnecessary concerns in order to achieve final ratification.

It will make far more sense to schedule this measure again for next session when it can be fully considered under the normal legislative process. This proposal must be approved, but debate should be encouraged and all amendments should be considered and voted upon.●

ERA: YES—SUSPENSION OF THE RULES: NO

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LOWERY of California. Mr. Speaker, I rise in ardent support of House Joint Resolution 1, the equal rights amendment. However, I take strong exception to considering this constitutional amendment under suspension of the rules.

As you are well aware, Mr. Speaker, the Suspension Calendar is usually reserved for bills which can be passed without controversy or dissent. For example, this week's Suspension Calendar includes the following: House Concurrent Resolution 111, commemorating Ukrainian famine; Senate Concurrent Resolution 76, congratulating Lech Walesa; House Resolution 136, commending the Dominican Republic for efforts to achieve democracy; and H.R. 2644, Cape Hatteras National Seashore. In view of this sampling, the ERA is a most inappropriate candidate for consideration under suspension.

Regardless of how one feels about the ERA, it is clearly the most controversial constitutional amendment proposed in our lifetime. Bringing this matter to the floor under abbreviated procedures and even before the report from the House Judiciary Committee has been presented to the Members is an affront to the Constitution and the House of Representatives. To choke off debate and to flatly refuse amendment of this important and comprehensive legislation debases our democratic institutions.

I am appalled by the cavalier manner in which the Democratic leadership of the House has chosen to deal with such an important piece of legislation. To schedule the ERA at the last minute, prior to publishing the report in the CONGRESSIONAL RECORD, removes the possibility of informed debate, the hallmark of the democratic process. Riding roughshod over this amendment is not the way to instill respect and support for the ERA throughout the country.

The issue today is not support or opposition to the ERA. The issue is the integrity of the U.S. Constitution and the rules of the House of Representatives.

American women deserve better—better than a 20-minute discussion per side, allowing for 5½ seconds for each Member of Congress.

As a cosponsor of House Joint Resolution 1, I support the efforts of our colleague, Mr. FISH of New York, to bring the amendment back to the floor with an open and fair rule. The ERA should pass, but I cannot, in good conscience, vote to silence the elected Representatives of this House. Partisan politics has no place in the realm of equal rights, and I deplore the actions of the leadership in denying the ERA the same consideration we give other major legislation.

Today's Washington Post editorial succinctly and accurately defines this action as "something unnecessary, potentially risky and loaded with unpredictable political consequences." I commend it to my colleagues for their consideration.

The article follows:

ERA, BUT NOT THIS WAY

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules. That's a procedure usually reserved for noncontroversial matters. Very limited debate is allowed—only 20 minutes to a side—and no amendments can be considered.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lose this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulterated politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a political issue so that many who object on procedural grounds to voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.●

EQUAL RIGHTS—FAIR DEBATE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BEREUTER. Mr. Speaker, today this body took action on an amendment to U.S. Constitution, House Joint Resolution 1, that is one of the most important and historic measures of the century. Today this body narrowly missed sullying the purity of that founding document by stooping to the use of a procedure normally reserved for noncontroversial proposals that are not amending the Constitution.

Let there be no question about my unassailable support for the equal rights amendment. I supported it when I was a member of the Nebraska Unicameral Legislature. I supported it in the 96th and 97th Congresses, and I was an early cosponsor of it in the 98th Congress. My support has not wavered, and my outrage today is not directed at the merits of the measure, but at the House leadership which chose to ride roughshod in the most flagrantly partisan manner over the diverse concerns of certain Members. The leadership's decision violated the rights of those Members to air their concerns in a free and open debate on the floor of the House of Representatives.

The arrogant decision by the House leadership to suspend the rules in an attempt to pass the equal rights amendment hurt the cause of economic justice for American women everywhere. Today, for posterity, I wish to record my strenuous objections to the manner by which this measure was brought to the floor. I object to allowing only 40 minutes of debate on a measure that profoundly affects our conduct of democracy. However, I know that residents of my district, the First District of Nebraska, realize that I support an open rule, to allow for a thorough consideration of the ERA and any proposed amendments. One of these amendments states that nothing in the ERA would be construed to secure the right to abortion, or funding thereof. I believe that question should be debated in full by this body. I would support an amendment to render the ERA abortion-neutral. In the same manner, I think it would be important to insure that decisions about conscription of women and women in combat are left to Congress. But under the suspension of the rules, these amendments could not be offered.

The ERA is also clearly a fundamental bread and butter issue for women. It relates directly to employment, pension funds, wages and salaries, educational opportunities, social security, and homemakers' status. The economic rights of one-half of the population apparently will not be secured without the ERA. In spite of the attention to the broad issue of economic equity over the past several decades, as the ERA has been debated, women still earn only 59¢ for every $1.00 that men earn. That is economic injustice in its most blatant form. Women do not receive equal pay for equal work.

The Democratic leadership in this House have only themselves to blame in this setback for the ERA. I hope that future decisions by that leadership on this momentous constitutional question will put the first priority on equality for American women and not on partisan gamesmanship. Shortsighted partisan tricks almost always backfire. This cheap partisan trick has grievously injured precisely the American women that the leadership claims to want to help and it has damaged this great Congress and our governmental processes as well.●

THE EQUAL RIGHTS AMENDMENT

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. AuCOIN. Mr. Speaker, it is unfortunate that I must take the floor today to support the equal rights amendment—unfortunate because this amendment should have become part of our country's Constitution long ago. But I do not hestitate to do so. I am firmly committed to working for passage and ratification of this critical amendment. I am just sorry it is taking so long to achieve success.

It has been 60 years since this amendment was first introduced in the Congress. Sixty hard years of struggle for a very fundamental principle that all American citizens—men and women—should be guaranteed equal treatment under the laws of our country.

Last year, just a few States short of ratification, time ran out for the ERA which passed in 1972. And that was largely because a small minority of opponents used scare tactics, misinformation, and outright lies to sabotage ratification. They are being used again. I have letters on my desk asking me to oppose the ERA because it will be considered a major vote for abortion, because it will hurt veterans, and because it will force women into combat. I have been told that a vote for ERA is unacceptable unless it states that we can have separate male and female restrooms in public dining facilities I have been told a lot of things.

But what I know is that this amendment is very simple. It is very straightforward. It says nothing about abortion, or the draft, or homosexuals, or unisex toilets.

All it says is that equality of rights under the law shall not be denied or abridged by the United States or by and State on account of sex.

The ERA is supported by over 450 major organizations with memberships of over 50 million American citizens. Poll after poll has shown that Americans support the ERA by a 2 to 1 margin.

Only a constitutional amendment will eliminate discrimination against women and do it permanently. We have made some progress over the years by changing individual laws dealing with employment and education. But laws deal with specific, often narrow policy issues one at a time. They can be repealed quick, subject to sudden changes in political currents. Their effect can be nullified with simple regulation change.

Because this amendment has been brought up under suspension of the Rules, some Members who support the ERA have indicated that they may vote against it. I think this is a terrible mistake. To consider the ERA in a manner which would allow it to be amended to death on issue after issue is to destroy the clear and simple intent of the ERA. I urge my colleagues to support the amendment.●

EQUAL RIGHTS AMENDMENT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment legislation now before us. It is landmark legislation with a noble purpose, that of prohibiting discrimination. I was pleased to cosponsor this measure in order to lend strength to a bill dedicated to equalizing opportunities for all individuals. I am, however, concerned about the procedure adopted for our considering such an important bill by placing it on the Suspension Calendar. This procedural device permits only 40 minutes of debate on this important matter, and since proponents and opponents have continued to raise issues worthy of debate, I would have preferred that House Joint Resolution 1 be granted an open rule that would allow for several hours of debate. The Suspension Calendar is intended for noncontroversial matters. Although once in a while a measure placed on this calendar is removed because it is subsequently deemed controversial, all of us in this chamber know that the equal rights amendment has been the subject to extensive debate over the years. However, by placing this legislation on the Suspension Calendar, we

are not only precluding clarifying debate; we are stifling the legislative process. The Washington Post today voiced these same thoughts, and stated:

Ramming it through the House using this extraordinary procedure is wrong on a number of counts. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our Nation's basic charter and affects the lives of hundreds of millions of Americans is worth more than a 40-minute discussion when it is considered by one House of Congress.

Although I believe that this is not the best way to legislate, I still intend to support passage of House Joint Resolution 1, because of its significance to our Nation.

There are many who feel that this legislation should not be necessary; I agree with such a sentiment. Were our society perfect, we would not need laws. But living in an imperfect society we realize that wrongs need to be righted. If solutions can be found without resorting to legislation, that is, without mandating the necessary changes, I feel that we, as a Nation, should do so. However, in this instance, this has not proven to be the case—discrimination based on gender still exists.

Much controversy has arisen in the last decade over this simple measure; allegations that are without merit as well as those that are thought-provoking have entered into the debate on this resolution. We have heard all the arguments for, and those against. Yet I continue to believe that society has not changed enough so that we can put this equal rights amendment on the shelf.

When this amendment passed Congress the first time, proponents felt that equal rights was a fait accompli. Many did not realize the struggle that lay ahead, nor the scare tactics that would be raised by opponents. While a majority of our Nation has stated again and again that it favors the ERA, a handful of State legislators continued to block ratification of this much-needed amendment, so much so that Congress agreed to extend the ratification deadline. The struggle to gain the necessary three States needed for ratification during this period evolved into a battle that I believe should not have had to be fought. In the interim, opponents stepped up their opposition to this measure, continuing to claim that this amendment would lead to abolition of various privacy laws and other provisions that are part of our extensive legal code. Although the legislative history of this joint resolution has tried to clarify that such deviations would not occur, opponents of House Joint Resolution 1 continue to distort the situation.

Our Declaration of Independence guaranteed "life, liberty, and the pursuit of happiness" as a goal. While the remainder of legislation considered by this body is dedicated either in part or in whole to advancing this precept to various segments of our society, be they social, economic, ethnic, age-related or industrial-based, this legislation fosters the much needed advancement of this goal for a group of Americans who are a majority of our populace—women. To deny them inclusion in our Constitution is to commit the gravest of wrongs. The people of this Nation have in the last decades tried to conquer many other prejudices; discrimination based on gender is yet another that needs to be overcome. I strongly support this legislation which fosters equality, and I urge my colleagues to do likewise.●

EQUAL RIGHTS AMENDMENT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PANETTA. Mr. Speaker, I rise to express my strongest support for House Joint Resolution 1, the equal rights amendment.

I would, however, like to say at the outset that I have some very serious reservations over the procedures which were used to bring House Joint Resolution 1 to the floor today. I believe that an amendment to the U.S. Constitution—no matter how much I agree with its substance—is too fundamentally important a matter to debate under the restricted conditions in effect this afternoon. A change in the basic law of our land should be afforded every opportunity for careful examination and full debate—and indeed, I believe it detracts from the importance of the ERA itself to act on it without due regard for the proper procedures.

At the same time, I believe that the equal rights amendment is too vital a proposal, and too long overdue, to oppose it merely on procedural grounds. The discrimination against women which persists in our society simply will not allow us not to act.

Clearly, the strides which have been made in recent years are admirable—even remarkable, in view of the long history of second-class treatment which preceded them. But women still earn 59 cents for every dollar earned by men. Women are still paid far less than men who have training and job skills far inferior to theirs. Women are still suffering discrimination in insurance, in pensions, in credit, in property rights. Women who are homemakers still see their labor go unrecognized, and are still penalized if their marriages end in death or divorce. Women are still steered away from mathematics, science, and high-paying technical fields which remain dominated by men.

Progress is being made in eliminating discriminatory laws and practices, and in strengthening the protections against sex discrimination in all areas. But that progress has been slow—too slow. Passage and ratification of the equal rights amendment will provide us with the most powerful tool we can wield against discrimination: A clear declaration, embodied in our supreme law, that the rights and opportunities available to all our citizens cannot and must not be dependent on their sex.

This declaration of equality is not a privilege or a gift. It is a matter of justice, a basic truth which deserves a place among the other basic truths embodied in our Constitution: Freedom of speech, press, and religious observance; the right to a fair trial and to due process of law; the right of every citizen to vote. The equal rights amendment, as part of the Constitution, will give us both the symbolic power and the legal mechanisms to eliminate discrimination. I urge all my colleagues to declare their commitment to that goal, by supporting House Joint Resolution 1 today.●

THE EQUAL RIGHTS AMENDMENT

HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mrs. HALL of Indiana. Mr. Speaker, I rise to speak in favor of the equal rights amendment. But, how could I do anything else? I am, after all, a woman and I am an American. It should be no surprise that I, and millions of American women, want to live as first class American citizens. It should be no surprise that I, and millions of American women, want the guarantees of the U.S. Constitution. And it should be no surprise that I, and millions of American women, support the ERA by over a two-thirds majority in the polls.

In 1977, I was a cosponsor of the equal rights amendment when Indiana became the 35th and last State to ratify the amendment. That vote was a final tribute to Alice Paul, a suffragist and the author of the ERA, before her death. Alice Paul spent her life working for women's suffrage. Although she knew the right to vote was crucial, she also knew that it was not sufficient to insure women's equality. She knew that only when women are included in the Constitution will we have even a fighting chance at legal equality.

Sixty years ago, in 1923, Alice Paul wrote the equal rights amendment.

Not until 1971, however, did the House approve the ERA by a vote of 354 to 24. The next year the Senate also approved of the ERA and it was sent to the State legislatures for ratification. In the 60 years that the equal rights amendment has been before the American people, it has been discussed, debated, and dissected and nauseam. The time is over for debate.

Over 200 years ago, Abigail Adams, in her famous letter to John Adams, admonished the framers of our Constitution to "remember the ladies". The ladies have been waiting for over 200 years. But even today, in 1983, we are not included in the Constitution of the United States.

American women have been waiting for equality for 200 years. The Nation has debated women's equality for 60 years. Enough is enough.

Today American women across the country look to their leaders for the inalienable rights that they have never enjoyed. Today the American women look to you to cast your vote for the equality of all American citizens.

Remember the ladies—vote for the equal rights amendment.●

THE EQUAL RIGHTS AMENDMENT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BOUCHER. Mr. Speaker, 60 years ago, the principle of equal rights for all Americans, regardless of gender, was first introduced in Congress. It took almost 50 years for Congress to finally approve in 1972 the equal rights amendment which guaranteed that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Today, we have the opportunity to reaffirm our commitment to equal justice for all Americans.

The basic principle of the ERA is very simple: Gender should not be a factor in determining the legal rights of men or of women, a simple statement reaffirming that, as a nation, we do believe in justice for all.

After more than a half century of debate, the need for an ERA is clear and compelling. The ERA would, for the first time in our history, grant women full status as equal citizens under the Constitution and would establish a standard for eliminating discrimination based on sex.

The need for the ERA is at least as great as in 1972. Measured by any standard, the history of unequal treatment of men and women has not been adequately addressed by existing laws, and the past decade of active debate on the ERA has proven this fact. We have learned that our society has been ignoring the economic value of the services provided by homemakers. Working women have learned that their employment patterns count against them in earning pensions. Wives have learned that divorce can lead to instant poverty. College-graduate women have learned that their median income is $8,000 less than that of their male counterparts.

The impact of economic inequity has become staggering for working women who often find that discrimination in the business world seriously impedes their ability to support themselves and their families. Currently, more than one-third of heads of households are women, and 1 in 3 of those families live in poverty, compared to 1 in 18 headed by men.

Moreover, older women are the fastest growing poverty group in America. Older women suffer in particular from pension policies that fail to recognize both spouses' contributions to an employee's earning ability, in effect punishing women for their unique work patterns due to childbearing and other family responsibilities. Because the role of women in society has changed dramatically over the last 30 years, women are now being penalized by laws and policies that fail to reflect this change.

While working to insure economic equity for women, it is essential that we also reaffirm our commitment to educational equity. Title IX of the Education Amendments of 1972 provides the cornerstone of our Federal commitment to educational opportunities for men and women alike. Recently, the administration proposed to narrowly limit the application of title IX provisions. I firmly believe that we cannot deny women equal access to educational programs and thus the opportunity for career advancement and economic equity.

A constitutional amendment is the only guarantee that women will have fair and equal opportunities in employment, education, and benefit and retirement plans. The ERA is an essential first step toward eliminating the last vestiges of gender discrimination.

This is an exciting time for all Americans who are concerned about issues of equity and fairness; 60 years ago, the movement for equal rights for women was considered a radical social change. Today, we recognize it for what it really is—fairness and commonsense.

I join with supporters of the ERA in hoping that this is the last time that we will have to go through this process—because this time, the ERA will succeed. I urge my colleagues to join me in voting for the ERA.

Thank you.●

THE EQUAL RIGHTS AMENDMENT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. OBERSTAR. Mr. Speaker, today I am proud to demonstrate, in a very specific way—with my vote—my firm and long-held commitment to the ratification of the equal rights amendment as the 27th amendment to the Constitution of the United States.

The ERA will establish a clear and uniform national policy for the elimination of discrimination based on sex. At stake is the equal distribution of human justice. At stake is constitutional equality for women. At stake is economic equality for women. The State-by-State, statute-by-statute piecemeal approach to equality for women has not worked; it has neither provided adequate enforcement nor effected changes in patterns and practices of discrimination. Not only are current laws inadequate, they vary from State to State, and they can also be repealed or severely modified at any time by any legislature.

Only the constitution will give the assurance woman deserve that they will have fair and equal opportunities in employment, education, retirement plans, insurance, credit in the market place, during marriage and divorce, and throughout old age.

The ERA is an economic issue. The statistics on the economic status of women in our country are well documented:

Women continue to earn 59¢ for every dollar earned by men.

Three out of five persons with incomes below the poverty level are women.

Older women constitute the fastest growing segment of the poverty population.

In 1960, 52 percent of all women were employed in just four occupations: clericals, saleswomen, waitresses, and hairdressers. In 1980, 68 percent of all employed women were still in the categories which are among the lowest paying jobs. Even in jobs dominate by women, men are paid more. Women in clerical jobs average $10,997 per year; men in clerical jobs make $18,247 or 40 percent more than females.

Women with college degrees make less than men who have not graduated from high school.

Women's participation in the workforce has increased dramatically during the past decade. These women have jobs for the same reasons men do: they need the income. Over 50 percent of women are employed to support themselves or their families. In fact, one woman of every nine in the

work force—about 5 million—is either divorced, widowed, or not married and is the only source of support for her family.

Now, more than ever, economic equity is crucial to American women and their families. Existing equal employment laws and affirmative action policies are inadequate, unevenly applied, and often loosely enforced. And, as with any laws, they can be repealed or weakened at any time, or simply not enforced by the agencies with their responsibility.

The ERA would strengthen prohibitions against sex discrimination in the workplace, and require uniform enforcement of current laws which outlaw bias in wages, fringe benefits, hiring practices, and other conditions of employment.

Many laws and traditional practices now operate to deprive homemakers of economic security during marriage, upon divorce, or at widowhood by failing to recognize their valuable contribution to the family and society.

Most of our marital laws date back to the English common law system in which women were considered the property of their husbands. Despite some progress, today many of our tax and divorce laws, the social security system, insurance and pension plans still reflect this archaic assumption.

Homemakers face some of the most severe forms of discrimination, because their work is not legally recognized. With the exception of certain States, a homemaker's contribution has no worth in economic or legal terms.

Unfortunately, many women are not aware of their lack of basic legal rights until the marriage dissolves through death or divorce. Divorced women too often do not receive the alimony, to which they are legally entitled, and, with alarming frequency receive no child support. Even when such payments are received, they are usually inadequate. Of divorced mothers with minor children, 78 percent are awarded child support with only 59 percent of these collecting payments. Two of five fathers do not pay for their children's support.

Discrepancies between the earnings of men and women make the problem worse. The divorced father almost always has more disposable income than the divorced mother who has the children to support.

After the death of a husband, millions of women who are homemakers find themselves too young to retire and too old to find a good-paying job, forced into low-paying, dead-end jobs and sometimes even poverty.

The ERA will recognize the economic partnership of marriage and will acknowledge the homemaker as an equal contributor to the family. Under the ERA, laws and court orders relating to domestic relations will be based on the principle that each spouse contributes equally to the marriage.

The statute-by-statute piecemeal approach to the elimination of discrimination based on sex is not enough. Equal rights for women should not depend on the whims of lawmakers or the changing political tides. Equality under the law must be a basic right for every American. The equal rights amendment is needed to insure permanent economic equality for women.

I urge my colleagues to join me today in voting for House Joint Resolution 1, the equal rights amendment.●

THE EQUAL RIGHTS AMENDMENT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WYDEN. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment, which would guarantee that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

These are simple words, Mr. Speaker. But these few simple words mean the difference between equality and inequality under the law to all women in this country.

And that is a critical difference. American women need the equal rights amendment to achieve permanent economic equality—that is to insure that women will have equal opportunity, equal economic security, and the same rights under the law that men do.

But, the truth of the matter is, Mr. Speaker, that we all need the equal rights amendment.

We need the equal rights amendment because it is simply unthinkable that a society as concerned about civil and human rights as the United States has no law guaranteeing equality between men and women.

We need the equal rights amendment because existing laws are not adequate to eliminate sex discrimination. Title VII of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Equal Pay Act of 1963, and the Equal Credit Act are often cited as providing equal opportunity for women. But, these laws have been riddled with exceptions and are often unevenly applied. Our experience over the past 20 years is that these statutes have not provided adequate protection. Nor have they resulted in desired changes in the pattern and practice of discrimination.

We need the equal rights amendment because current laws can be repealed or weakened by lawmakers at any time. For example, the administration has already implemented regulations that weaken title IX, the law prohibiting discrimination in public education, and has argued in court to severely limit its scope.

We need the equal rights amendment to prompt State and local governments to take the necessary steps to rid their laws of sex bias. In States that passed their own ERAs, such as Colorado and Pennsylvania, legislative reforms followed and discriminatory statutes were struck down.

We need the equal rights amendment to be our Nation's basic mandate for and guarantee of equal rights.

I think it is very clear, Mr. Speaker, that we all need the equal rights amendment and I would urge my colleagues to support it.●

THE EQUAL RIGHTS AMENDMENT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DANNEMEYER. Mr. Speaker, the measure we are considering here today, the proposed equal rights amendment, is not a new one. Nor has the wording been changed from the time 11 years ago when Congress first proposed an equal rights amendment to the States. However, circumstances have changed dramatically, reducing the need for an amendment on the one hand and suggesting changes in the wording on the other hand. Much more is known, in terms of the potential impact of the amendment and in terms of possible alternatives, than was known back in 1971 and 1972 and I cannot help but believe it would be a mistake for this body to ignore that knowledge.

Perhaps the most important development, subsequent to the first equal rights amendment being sent to the States, has come in the area of abortion. Back in 1972, when Congress officially sent the ERA to the States, abortion was banned in most States and the Supreme Court had not acted, in the Roe and Doe cases, to overturn those State laws. But now that the Supreme Court has handed down the Roe and Doe decisions, and Congress has responded to those decisions by repeatedly denying Federal funding for abortions except when the mother's life is in danger, a whole new situation confronts us. Whereas Congress could have anticipated, back in 1972, that the States would prohibit abortion and that the Federal Government would not be involved in funding it, now just the opposite is the case—unless an amendment to the equal rights amendment stating that the latter does not "* * * grant or secure any right to abortion or the funding thereof," is adopted. But, as I need not

remind anyone in this Chamber this afternoon, the procedure under which this proposed equal rights amendment is being considered does not permit the offering of any such amendment.

Likewise, when Congress considered the equal rights amendment back in 1971 and 1972, it could have hardly contemplated that said amendment might have condoned either homosexual or lesbian marriages. Such arrangements were almost unheard of then, at least not in a public sense. And yet one could make an argument that, in today's world, a judge or judges could rule that banning marriages between members of the same sex is tantamount to discriminating against people on the basis of sex. Strange things have happened and if such a ruling did get handed down, not only would it be too late for Congress to do much about it but the Federal Government would be put in the position of legally countenancing such a union. Now there is a difference between tolerating arrangements worked out in private between two consenting adults that are unacceptable as public policy, and giving public sanction to such arrangements as ERA might do. The latter, I submit, runs counter to what a great majority of Americans who believe in the family as the foundation of American society want to see. And one could cite a multitude of local referenda that give support to that assumption. At the very least, the concerns of the majority should have an opportunity to be aired, but once again, the procedure being used here today prevents that from happening.

Similarly, there seems to have been minimum consideration givern back in the early 1970's to the possibility that the ERA could wipe out the veterans preference in the hiring of Federal employees and the use of existing seniority systems in the private sector. These issues, along with such things as the possibility of equal leave time for fathers as well as mothers during pregnancy, unisex insurance rates, and tax exemptions for a church or orthodox synagogue which do not ordain women, came to the fore as a result of the deliberations of various State legislature over the equal rights amendment. Are we to ignore these concerns, or should we address them with clarifying amendments? I think the latter approach would be the most responsible and productive but, here again, I am reminded that the procedure precludes the consideration of amendments so this House will not have that opportunity.

And then there are questions about ERA that have largely resulted from the implementation of title IX of the 1972 Education Act. True, the Education Act itself was passed in 1972 but the regulations implementing it were not handed down until 1975 and when they were handed down, questions immediately arose about the future of father-son or mother-daughter banquets, the possible loss of grants or tax exempt status for various educational institutions and even the future of fraternities and sororities on the college campus. If this proposed ERA is adopted, all of these questions will reappear, along with some new ones involving the tax exempt status of single sex schools or Federal aid for students attending those schools. Conversely, if there were the opportunity to offer amendments to House Joint Resolution 1, some of these problems could be worked out and the ERA made more amenable to the public at large. But, again, there will be no such opportunity.

Finally, Mr. Speaker, it should be noted that, since the ERA was first sent to the States back in 1972, there has been a lot of progress legislatively in the area of promoting equality of opportunity for women. In addition to the aforementioned title IX of the Education Act, which ushered in a whole new era of opportunity for women athletes, the Equal Credit Opportunity Act of 1974 made it easier for women to obtain credit on their own, the Social Security Amendments of 1977 and 1983 eliminated certain inequities facing widows and the Women's Educational Equity Act of 1978 providing additional funds to counteract sexual stereotyping and other sex-based educational barriers. In short, we have come a long way since 1978 using the legislative approach and the statistics prove it. The percentage of women getting graduate, doctoral, and professional degrees has increased from 33.1 percent of those degrees given to 44.5 percent and salaries for women have increased. Also, women have been moving into more and more employment fields that used to be almost exclusively male. For instance, the percentage of women in the fields of law enforcement, air traffic control, bartending, and farm management has roughly doubled in the past decade while the percentage of women in traditionally female fields such as teaching, hair styling, and nursing has begun to decline. In short, there is little justification for assuming that we cannot handle whatever problems women legitimately face just like we handle problems other people face—on a situation-by-situation basis wherein the representatives of the people decide what is the best way to resolve the matter in the interests of all concerned. Yet that is what this proposed equal rights amendment assumes, especially if the opportunity to amend it to deal with certain obvious problems is not provided. Yet we are denied this opportunity.

Mr. Speaker, I support the goal of equality of opportunity for women. I support the objective of greater female participation in the economy of this country. However, I question whether we want to elevate very issue surrounding the provision of such opportunity to that of a constitutional issue that will be resolved, not by elected officials but by unelected ones. To go that route risks not only uncertainty coupled with years of litigation but threatens some traditional male-female distinctions that most Americans believe in. Suffice it to say that, while most women want to enjoy equality of opportunity with men, they do not necessarily want to be treated as men, which helps explain why the ERA has long enjoyed more support among men than women. Therefore, I think we should reject House Joint Resolution 1 today and send the ERA back to the Rules Committee for further consideration. If it is to be considered by this House, at the very least, the opportunity to consider amendments to it should be considered as well. Otherwise, the term "equal rights" will lose some of its meaning.●

THE EQUAL RIGHTS AMENDMENT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MOODY. Mr. Speaker, I rise in strong support of a very important matter, House Joint Resolution 1, the new equal rights amendment.

Congress must pass the ERA today. Both personally and as a member of the Congressional Caucus for Women's Issues, I believe that we must give maximum effort to this goal. It is also important to establish clear legislative history and legislative intent for the ERA.

Why do we need a Federal ERA? The reason is simple. There are still a number of State and Federal laws, regulations or private economic activities which countenance unequal treatment of women. Many of these polices, laws or regulation inadvertently permit or encourage discrimination based on gender. A few laws, such as those on military draft, do so expressly and with intent. But regardless of explict intent, there are many instances in which women face a more difficult time than do men in employment, credit, pay, promotions, insurance, and in a host of other economic and professional areas. Legal treatment based on sex also continues to exist in family law, for example in property division and custodial obligations of parents.

All of this must be corrected. In some cases doing so will actually increase the economic and professional burdens on women, but this is a necessary concomitant to increasing the

overall economic opportunity and development potential of women.

The need for a Federal ERA may be seen in those States that have adopted their own versions. State legislation arising out of the adoption of the ERA has removed innumerable barriers to women in the workplace, credit market, and insurance market, but has not led to the blurring of sexual distinctions at the individual level.

Fifty State ERA's cannot substitute for one Federal ERA because, first, we need a single uniform, national standard. State versions of ERA would be written with different language and with different nuances. Second, the Federal Government itself would not be covered by a State ERA. Third, it would probably take much longer to pass 50 State ERA's than a single Federal ERA.

One last question: Why is the 14th amendment of the existing U.S. Constitution in itself not enough? There are laws now on the books which do not specifically refer to gender but still have a classifying effect on the sexes. The Supreme Court treats men and women differently, but it is merely doing its job of upholding existing laws. The ERA would provide the rationale for the Court and its Federal counterparts to treat women and men on an equal basis.

The bottom line is that until the ERA is passed women in America will not have equal or professional opportunities. Thus, it is a matter of fundamental fairness.

For a nation that prides itself on fair treatment of all and equality in economic opportunity, it is imperative that the ERA now be moved through the House and the Senate without further delay. I urge my colleagues to vote for House Joint Resolution 1.●

THE EQUAL RIGHTS AMENDMENT

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BERMAN. Mr. Speaker, I rise today in strong support of the equal rights amendment now before us. For too long, women in this country have been forced to wage a battle for equality on a statute-by-statute basis because no single legal standard exists to fight the discrimination that permeates our laws. A constitutional amendment is the only way to guarantee equal protection across the board.

While opponents of the ERA object to it for a wide range of reasons, I want to focus here on an argument made frequently during the Judiciary Committee debate by ERA critics, and that is the role of the courts in interpreting the Constitution.

These critics claim that ERA, unless amended, will give too much discretion to the courts in deciding how it should be applied. I find this argument particularly disturbing because it says, in effect, that before we pass the amendment, we need to know exactly what women plan to do with their new constitutional rights, and how far the Supreme Court will go to back them up.

What these people fail to understand is that the purpose of the ERA, as with any constitutional amendment, is to set forth a broad principle. We cannot possibly predict how it will be applied in specific cases. Not only is it unnecessary for Congress to specify the standard of review for the Court to use in considering the cases that come before it, it is also totally unprecedented.

There is no such standard of review written into the 1st amendment, the 14th amendment, the Bill of Rights, or any other constitutional protections. As it has in cases involving racial discrimination, the Supreme Court would, I assume, view sex-based classifications as suspect and apply a strict scrutiny test. I believe strict scrutiny is the appropriate standard for the Court to use, but that should be a judicial determination, not one spelled out by Congress.

What I am afraid has happened is that arguments about judicial interpretation have been adopted by people who have a vision of "women's rights run amok." These critics see the Supreme Court as the last line of defense if the ERA passes, and they hope that by requiring a lower standard of review, sex discrimination cases will be harder to win. ERA opponents want to appear to be granting equal rights, while on the other hand they can deny them.

I think it is a sad commentary that in 1983, we are debating taking steps to assure constitutional protection for the rights of over half our population. It is sad that we must still overcome objections to it; it is sad that the need for protection even exists. Yet the reality is that discrimination based on sex still occurs, and there is no adequate legal standard that can be used to fight it. The 14th amendment is ineffective in that the Supreme Court has consistently refused to view sex-based classifications as suspect. The only way to change this is to amend the Constitution.

I urge my colleagues to see through the objections that have been raised for what they are, and vote for the ERA without amendments.●

THE EQUAL RIGHTS AMENDMENT

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DAUB. Mr. Speaker, I would like to take this opportunity to state my position on House Joint Resolution 1, the equal rights amendment and to express my frustration with the House Democratic leadership's arrogant approach to a measure that is of great importance and concern to the citizens of this Nation.

As the people of my district know, I have always favored equal rights for women. However, I have felt that ERA was unnecessary because I believed that the equal-protection clause of the 14th amendment provided the necessary protection for equal rights for women. Additionally, I believed that the courts could deliver more prompt and equitable results to women based on current Federal statutes regarding credit, pay, nondiscrimination in hiring, and other concerns rather than upon additional constitutional protections.

However, since I have been in Congress the last 3 years, economic inequities for women have continued to persist, and the limitations of the 14th amendment are underscored by the fact that the 19th amendment was later needed to give women the basic right to vote.

It is a fact that women do not always receive equal pay for equal work. It is a fact that civil rights violations on the basis of sex are still occurring. It is a fact that equality in education as mandated by title X is not uniformly enforced.

ERA is an important economic issue. The so-called feminization of poverty is not an empty phrase but rather a tragic reality, and like the ERA, it relates directly to women's jobs, wages, education, pensions, and social security. I have tried to do my part by introducing legislation like my spousal IRA bill that eliminates the current inequity that exists for women who do not work outside the home.

Additonally, as a member of the House Select Committee on Aging, I held a hearing in Omaha last year regarding issues affecting older women. A participant noted that:

> The women of the United States have always carried the burden and the responsibility for nurturing families and communities. It is time that we, as a society, protect them so that the cost of their nurturing is not poverty.

ERA provides that legal protection.

Regarding abortion, I have and I will continue to oppose abortion. Our Nation is built on the strong foundation of equal opportunity, equal re-

sponsibility, and equal rights under the law. These equal rights are due all individuals—including the unborn, and we show respect for women, for the unborn, and for others, by assuring their full rights under the law.

Additionally, I have cosponsored every piece of legislation before Congress that supports the pro-life movement. Further, let me emphasize that I oppose special rights for gays and lesbians; I oppose the use of homosexuals promoting their views as teachers in our public and private schools; I support voluntary prayer in school; and as a Christian, I am a strong believer in the family unit.

Having made my position very clear regarding ERA, I want to object strongly to considering ERA under a suspension of the rules. It is deplorable. It lacks integrity. It is an appalling abuse of power. It is obvious that the House Democratic leadership only cares about making ERA a political campaign issue rather than being genuinely concerned about equality for women.

In ramming this issue through Congress by using this extraordinary procedure, the House Democratic leadership is doing a disservice to women and women's organizations who sincerely care about equal rights for women and who sincerely do not want to politicize the equal rights amendment.

So it is because of these women and because of my concern for economic equality for women that in spite of this appalling and arrogant abuse of power by the House Democratic leadership, that I will vote for the ERA under a suspension of the rules. I do not like the circumstances under which the vote is occurring but after careful and thoughtful deliberation, I believe this is the appropriate vote.●

JUDGE ALBERT FRANCIS DeMARCO

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MINETA. Mr. Speaker, we Americans take great pride in the fact that we live in the freest country in the world. The foundation for our freedom is our legal system, and the guardians of our freedom are our judges. Interpreting and applying the law, judges turn legal principles into practices. Today, I rise to honor one of California's finest judges, Albert Francis DeMarco.

Judge DeMarco has been a member of Santa Clara County's legal community for over 40 years. He studied law at the University of Santa Clara, practiced law in San Jose, and then became a judge in 1961. Now, after 20 years of devoted public service, Judge DeMarco has retired.

Throughout his two decades on the bench, Judge DeMarco was conscientious and compassionate, thoughtful, and farseeing. The work he did for the county of Santa Clara as both attorney and judge was of inestimable value. In addition to serving as a fine judge, Judge DeMarco served our community as a fine citizen. During his spare time, Judge DeMarco participated in a number of community service groups. Most notably, Judge DeMarco served as director of Boy's City, a boy's club emphasizing recreational and social activities.

It is an honor for me to pay tribute to a man who has truly been a public servant to the people of Santa Clara County. It is always difficult for a community to lose a public official as valuable as Judge DeMarco. Yet the citizens of Santa Clara County also recognize that Judge DeMarco worked hard all his life to serve the people, and his retirement is well deserved. Mr. Speaker, I call upon you and all of our colleagues to thank Judge DeMarco, for his years of service.●

QUEENS OUTREACH PROJECT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ACKERMAN. Mr. Speaker, I rise to inform my colleagues of the upcoming dinner in honor of the work of the Queens outreach project, a pioneer organization in the drug-free treatment of victims of substance abuse. This auspicious event will be held on Thurdsay, November 17, in Flushing, N.Y.

The inspiration behind the Queens outreach project is Father Coleman Costello, a man loved and admired not only in my home county of Queens, but, indeed, throughout the Nation. He has dedicated his life to helping young people, especially those struggling with a drug or alcohol problem. In fact, he this year received the Presidential Recognition Award for Community Service for his many good works.

During the 1970's, Father Costello joined the New York City board of education's drug-prevention program, in community school district 27. Although the counselors were able to assist the youngsters they saw, nothing was being done for those who were not in school—there are as many as 144,000 truants from the New York City schools roaming the streets each day. Most of these Queens teenagers were not wealthy enough to afford treatment, but neither were they so poor that they qualified for federally or locally funded social services.

To make matters worse, in 1979, budgetary constraints forced the school district to pare back its programs; drug prevention was now available only to junior high school classes. Together with Kathy Riddle, another counselor from district 27, Father Costello decided to launch the Queens outreach project from an abandoned candy store across the street from Forest Park.

Mr. Speaker, Queens outreach's choice of location is important to an understanding of the project's approach: Forest Park has been a trading place for all sorts of drug pushers and addicts. Costello wanted the dealers and their customers to know that he was there, ready to sit down and talk, to share with them alternatives to their present lifestyles.

But for Father Costello, even such a nearby location was not enough. Because narcotics sap a person's motivation and ability to make sound choices, the Father—and members of his staff—sought out the youngsters. Each night he went to the park, and to other popular hangouts. Once there, Father Costello never inveighed against the evils of substance abuse. Instead, he tried to foster trust between himself and the youngsters. "If you want to help kids," he advises, "you have to let them know that you care about them as people, that your concern goes farther than how they behave."

As a youngster begins to confide in the Father, family problem inevitably emerge. Many of the project's clients are from single-parent homes. Some have folks who are alcoholics; others have been sexually or physically abused by their parents. Still others need counseling after frustrations in school or in the job market. Even a simply lack of communication within a household can fester into larger troubles.

Hence, over the past 3 years, Costello has been sure to include the family when trying to rehabilitate the user. In that short space of time, the Queens outreach project has given support to an astonishing number of youngsters—over 7,000 in all. By the spring of 1984, the project will boast a residential treatment component. Thanks to a community development block grant, two dilapidated buildings will soon house up to 40 residents for short-term, comprehensive care. Besides the traditional counseling, youngsters will receive, structured educational and vocational training; only through such programs can these young Americans hope to build an independent, drug-free life for themselves.

Mr. Speaker, I know that all of my colleagues join me in congratulating Father Costello, Kathy Riddle, and all those associated with the Queens out-

reach project on a job well done, and in extending out best wishes for their continued success.●

EQUAL RIGHTS AMENDMENT

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BEDELL. Mr. Speaker, today, with great reluctance, I cast a vote in opposition to House Joint Resolution 1, the equal rights amendment to the Constitution. As a longtime supporter of the equal rights amendment, as an original cosponsor of House Joint Resolution 1, as one who voted for extended consideration of ERA by the States, and as one who strongly believes in the objectives of the amendment, the vote was a very difficult and painful one for me.

I want to take this opportunity to make clear that I voted against this legislation today not on its merits, but because of the procedure under which the legislation was brought before the House. Furthermore, I honestly believe that the action that the House took today will prove to be in the best long-term interests of the amendment.

The issue of the equal rights amendment is both a simple and complex one. The amendment establishes in explicit terms the fundamental principle of legal equality for all, which I wholeheartedly support. It is both an important and necessary amendment.

However, I am deeply disturbed about the manner in which the amendment was brought before the House today. The procedure denied others who have reservations about the amendment in its present form the opportunity to attempt to modify it. And the procedure limited supporters and opponents of the amendment to just 20 minutes each to debate this fundamental issue.

It must be made clear, Mr. Speaker, that the ERA was not defeated today. Rather, the procedure under which it was brought to the floor was rejected, and rightly so.

Some have argued that the ERA issue has been debated extensively over the years and that further discussion on the amendment was not in order today. But I believe that we must dismiss such logic as ill-founded. If this reasoning was successfully applied to other issues which come repeatedly before the Congress—such as funding for the B–1 bomber, the MX missile, et cetera—Members would be denied the opportunity to regularly review these matters once they are initially dispensed with by the Congress. As one who believes strongly in the democratic principles under which we operate, I believe that no one should be denied this legislative prerogative.

It strikes me as ironic, and wrong, Mr. Speaker, that an amendment to the Constitution designed to guarantee equal rights to all was brought to the floor in a manner that denied those concerned about the legislation the simple right to offer amendments to the legislation.

Furthermore, for those of us who are genuinely hopeful for the ultimate enactment of the ERA, I must point out that if the ERA was approved today while denying a minority the opportunity to offer modifications in its language, then I believe we would be offering opponents of the ERA in the various States a convenient excuse for voting against its ratification. We must not give the opponents of ERA—who could cite the fact that the Congress did not adequately debate the issue—an easy way out in opposing the amendement.

Finally, I have been assured by the Chair of the subcommittee which reported the bill, Mr. EDWARDS, that indeed the ERA will be brought before the House once again early next year. I am hopeful that the legislation will be brought before us in a manner that will allow full opportunity for debate, so that all of us who strongly endorse the amendment can freely and without reservation express our support.●

EQUAL RIGHTS AMENDMENT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. OWENS. Mr. Speaker, today we consider the equal rights amendment. There are those who say that we have not taken enough time to explore the issues fully. Recent history proves them wrong. The equal rights amendment was originally introduced over 50 years ago and I cannot imagine just what can be added to the debate that has not been said in the last 50 years.

Throughout the world the oppression of women has occurred, is occurring, and will continue to occur until both men and women are liberated from this burden. From the moment a child is born and experiences the limited world of the family, he or she is taught that the status of women is less than the status of men. Children are quick to pick up just where the power in life lies and to conform their conduct to the expectations of those who wield the most power. This earliest lesson in discrimination and oppression forms the basis for learning more complex and subtle lessons later on in life.

There are those who predict all sorts of massive and harmful changes in our society if the equal rights amendment is passed. They fear that women, granted equality under the law, will suddenly rise up against men. The equal rights amendment does not call women to rise up against men, but to serve as full partners in the life of our Nation. I find it hard to believe that any person can reject the energy and talents of women in the struggles that we face as individuals or as a nation.

Today I urge my colleagues to support the equal rights amendment. It is an important step on the way to the full participation of women in our society and to the liberation of both men and women from the oppression and discrimination that serves no one.

Our action today can be the beginning of a new commitment to equality for all of our people. This is a journey that will not always be smooth or painless. Still, it is an adventure that can bring us closer to the ideal of recognizing each person for their individual contributions and abilities as we work together to build a more just society for ourselves and those who will follow us.

Let us act to end any legal basis for discrimination against women. When this is accomplished, all men will be also liberated.●

CALIFORNIA CREDIT UNION LEAGUE 50 YEARS OF SERVICE TO THEIR MEMBERS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PATTERSON. Mr. Speaker, today I would like to ask my colleagues to join me in extending congratulations to the California Credit Union League upon the anniversary of its 50th year of service to California's credit unions.

I once heard it said that, "It is not too difficult to organize a credit union. It is much more difficult to see that a credit union maintains its spirit." It was in recognition of this fact that the California Credit Union League was founded to foster the credit union spirit of providing financial services to their members at the lowest possible cost.

One can see from the league's record of achievement that it has adhered to that credo. With but a few members in 1933, the league grew to 1.6 million members in 1964 with credit union assets of $1 billion. Today, the organization counts over 1,200 member credit unions, serving 5.8 million members and having the strength of over $12 billion in assets.

Now these numbers may not seem large when compared to other types of financial institutions, such as banks and thrifts. However, given the origin and nature of credit unions, these

numbers are impressive. Let me explain why.

Credit unions are special. They are special because of their people. Unlike any other type of financial institution, a credit union is owned by its members, who are its savers and borrowers. The saver is a member and the member is an owner. This cooperative structure allows savers to own and democratically control the financial institution.

This idea of credit unions is a modern phenomenon. It originated about 130 years ago in Germany by a small town mayor. The mayor was so appalled at the poverty of farmers, workers, and tradespeople in his region that he organized a cooperative savings institution to permit them to pool their money and make loans to themselves. As a result, they were able to lift themselves out of poverty and escape the grasp of unscrupulous money lenders.

The philosophy of people-helping-people quickly spread to other parts of the world. And in 1909, the first U.S. credit union opened its door in New Hampshire. Credit unions continued to increase in acceptance, but the number of credit unions increased dramatically when, 25 years later, Federal legislation was passed permitting the creation of credit unions anywhere in the country. Today there are 20,000 credit unions in the United States and 40,000 throughout the world serving 52 million members. My home State of California is one area where credit unions serve nearly 6 million people.

Each one of these 6 million credit union members has all the rights and responsibilities of ownership. Each has the opportunity to share in the decisions affecting the credit union—one vote per member, regardless of how much money he or she has in savings. There are no outside stockholders so all earnings (after reserves are set aside) are returned to members in the form of dividends on savings, lower rates on loans or better service.

That is why the California Credit Union League is to be commended. The league has dedicated 50 years to assisting the human resources—the people—of credit unions by providing training opportunities to officials, management, and staff. The league has helped people organize credit unions, and has provided support services to assure that credit unions thrive. Their professional backup and support has allowed even small credit unions to offer sophisticated financial services.

Credit unions can today provide many services. In addition to car loans and other consumer loans, credit unions can provide mortgage loans. And recent legislation allows them to participate in the secondary mortgage market.

Credit unions can offer not only passbook share accounts, but also share draft accounts, which are essentially interest bearing checking accounts.

Credit unions today can offer credit cards or travelers checks.

Credit unions now have access to the Central Liquidity Fund (CLF), a fund that serves the same purpose for credit unions as the Federal Reserve's discount window renders to banks and thrifts.

Today we see the potential for even more changes in the nature of credit unions. Member needs continue to evolve. Legislation proposing further deregulation of the financial services industry are under discussion here on Capitol Hill.

These changes, whatever they may be, will put strain on credit unions, a strain in terms of competition for savings dollars. I am convinced, however, that credit unions will thrive. They will do so if they continue to do what they have done in the past; that is, keep in mind the best interest of their members. If credit unions continue to work together—each credit union helping the other to increase the strength of the credit union movement nationally by holding on to the credit union philosophy of service to the member—then credit unions will be able to retain their preeminent position in the financial community.

I think it is only fitting that in this golden anniversary year—a year posing awesome challenges to all types of financial institutions—that the California Credit Union League has chosen the motto "Proud of the Past * * * Prepared for the Future."

Indeed the California Credit Union League should be proud of its 50 years of service. And if the past is any indication of the future, the league is truly prepared to meet the challenges of the future. I hope my colleagues will join with me in congratulating the California Credit Union League upon its 50th anniversary. And best wishes for the years to come.●

WE ARE IN DEBT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MINETA. Mr. Speaker, 78 Members have joined under the leadership of Majority Leader JIM WRIGHT to introduce a bill which implements the recommendations of the Commission on Wartime Relocation and Internment of Civilians. That bill, H.R. 4110 was introduced on October 6, 1983, and corrects the injustice that our country committed against thousands of loyal Americans.

I would like to call my colleague's attention to an editorial in the Los Angeles Times on October 17, 1983. The editorial called the internment "wrong" and endorsed the Commission's recommendations. I share with you now, the text of that editorial:

WE ARE IN DEBT

It was, as Justice Department lawyers said, a "singularly appropriate" action for the government to take. It agreed to set aside the 40-year-old convictions of three Japanese-Americans for violating evacuation orders that led to the internment of more than 100,000 Japanese-Americans after Japan's attack on Pearl Harbor.

The government was responding in San Francisco to one suit, but will take the same position in similar legal actions brought by two other Japanese-Americans or any others "similarly situated." The government attorneys said that they acted because it was time to put aside the 1942 controversy "and instead reaffirm the inherent right of each person to be treated as an individual."

While pleased with the department's decision, attorneys for the three convicted Japanese-Americans are discussing whether to ask the judge in the case, U.S. District Judge Marilyn Hall Patel, to hold hearings and issue findings on the government's wartime actions. The suits charge that the government withheld evidence that could have persuaded the U.S. Supreme Court to prohibit the internment.

We are inclined to agree with the government's opposition to further court hearings or findings. As Justice Department attorneys noted, the Commission on Wartime Relocation and Internment of Civilians concluded that "no completely satisfactory answer can be reached about these emotion-laden issues from this vantage point in history."

This nation, gripped by wartime concerns and acting against a perceived danger, nevertheless committed a wrong by interning thousands of people simply because of their ancestry and not for anything that they did. Step by step the nation has acted to rectify that wrong, although a perfect balance sheet can never be achieved.

One thing the nation can now do: Carry out the recommendation of the commission to pay $1.5 billion to the approximately 60,000 people forced into relocation who are still living. That compensation, not an exorbitant sum but generous enough to make it meaningful, is a debt that we owe.●

TRIBUTE TO RABBI HENRY KRAUS AND THE TEMPLE BETH AMI BREAKFAST

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. TORRES. Mr. Speaker, this Sunday I had the honor to be the guest speaker at Temple Beth Ami. This speaking forum is a unique event, called "Breakfast with the Rabbi," and provides an opportunity for elected and appointed officials to speak on items of importance to the Beth Ami Congregation.

Mr. Speaker, our good friend Rabbi Henry Kraus has been the moving force behind this undertaking. The breakfast is actually hosted by the Beth Ami Men's Club by Milton Fader, its president.

I was able to make a presentation that dealt with the current situation in the Middle East, especially developments in Lebanon. Moreover, I presented a statement dealing with United States-Israeli relations.

Mr. Speaker, I submit for my colleagues to read the statement I made to my constituents at Temple Beth Ami in West Covina:

I. U.S.-ISRAELI RELATIONS

U.S.-Israeli relations are a key factor in American Middle East policy and of primary importance to Congress. Israel and the United States share the view that the U.S. has a predominant role and responsibility in Middle East peacemaking. The two countries also share the perception that one of the major threats to world stability and to peace in the Middle East is the expansion of Soviet influence and power. The Soviet threat has been cited as a fundamental basis for close cooperation between Israel and the United States.

It is a distinct feature of American foreign policy that ethnic Americans of many origins retain a sensitivity toward the country of their ancestry. American Jews, sensitive to religious discrimination and the need for religious freedom, concerned for the fate of Europe's Jews in World War II, and as witnesses to the creation of the modern Jewish state, have been particularly aware of Israel's vulnerability and need for aid. The American Jewish community and its official lobby, the American Israel Public Affairs Committee (AIPAC), have substantial influence and contribute significantly to the continuity of official U.S. support for Israel, particularly at times when American and Israeli policy objectives in the Middle East have diverged.

THE U.S. NEEDS ISRAEL AS MUCH AS THEY NEED US

An assessment by President Carter in 1980:

"The United States has a moral commitment to Israel because we share so many things in common. A strong, independent, democratic nation committed to peace in the Middle East is a major asset for our country, and we share these strategic understandings and consultations, looking toward the future. A strong Israel is not just in Israel's interest or the United States; it's in the interests of the entire free world."

Each country contributes to this special relationship and benefits from it. The ties are unusually close in several domains; political, economic, strategic, and cultural.

A vital source of strength of this relationship is the democratic nature of Israel. The American people know that there is only one country in the Middle East that is not a totalitarian dictatorship or a fragile feudal monarchy. American people know that there is only one state in the Middle East that shares our own American democratic ideals, our democratic form of government, and our democratic institutions. These include free elections, a free press, protection of the rights of individuals and minorities, checks and balances to prevent abuses of authority, and other safeguards typical of a free society. That state is the state of Israel. The recent change in power from the leadership of Menachem Begin to Yitzhak Shamir should not alter Israel's policies or relations with the United States. The peaceful and orderly transition was most impressive and should serve as a model for other nations in the world.

The economic and technological capabilities of Israel can be of invaluable assistance to the United States. Israel has taken the lead in discoveries of innovative agricultural techniques that can have a significant impact on American agricultural methods. Another example is in the medical field; the United States imports 100% of our surgical lasers from Israel. There is an almost limitless potential for increased trade and cooperation. In turn, there is no question over Israel's need for American aid, both the direct financial transfers to meet Israel's budgetary requirements and Israel's access to American military hardware. It is important to mention that the United States has never used economic or military aid as a lever against Israel. The United States also provides indirect assistance to Israel by helping the Israeli economy. The U.S. offers Israel its assessments of its serious economic problems, namely, high inflation and balance of payments deficits. Of course, Israel does not always share U.S. experts' views of policy prescriptions.

We are committed to the defense of Israel's security. We are also committed to defend its place in the world community. The United States will not permit Israel to be isolated. We are committed to the Camp David accords. Israel is a critical strategic asset to the United States, as our strongest, most reliable, and stable ally in a volatile part of the world. This contribution should never be underestimated. The Israeli defense forces are the strongest deterrent in the region. Furthermore, Israeli military facilities are the best resources for the United States in the region. No other country in the area has the hospital facilities and personnel to provide care on the scale and professional standards required.

That is why I take particular exception to the Pentagon's decision to refuse an Israeli offer of medical assistance for marines wounded in the recent terrorist attack on the American military headquarters in Beirut. Less than three hours after this tragic indicent, the Israelis offered to provide medical assistance for the marines wounded in the terrorist attack. Israel placed Ramban Hospital in Haifa, just one hour from Beirut, on alert and readied the hospital for the wounded. Ramban Hospital has a long history of treating wound victims and was a central medical center used throughout the war in Lebanon. The decision to airlift the marines to Western Europe raises some disturbing questions regarding the nature of the arrangemnents we have made with Israel and other countries in the region in the event of medical emergencies of this sort. Why did the U.S. reject the Israeli option even after Israel's Defense Minister offered the use of Israeli medical facilities on three separate occasions on the day of the bombing? The questions surrounding the rescue efforts deserve a full and immediate investigation as well as an explanation of how future emergencies will be handled. Another recent development raising troubling questions in the minds of many in Congress, is the Administration's disclosure of a plan to form a Jordanian Mini-Rapid Deployment Force for use in the Middle East at a cost of over $200 million. The plan appears to pose dangers to all parties involved. The United States, in equipping Jordan to play the role of troubleshooter, is placing great reliance on an unstable monarchy to help maintain regional stabilty. The force also represents a danger to Israel. Although it is being formed to counter threats to the Persian Gulf states, it could be used against any of Jordan's neighbors, including Israel, in the same way that Jordan has used U.S. supplied equipment against Israel in the past. Members of Congress wrote to the President to secure answers to important questions such as (1) Under whose control would the force be? (2) Why were the House and Senate Foreign Affairs Committees bypassed in seeking appropriations for the force? (3) What are the purposes of this force and what do others in the Gulf understand its purposes to be? (4) What assurance would or could the United States have that such a force would not be used against Israel? These questions, to date, remain unanswered. However, funds for the force were removed from the Defense Appropriations bill recently approved by the House. If the Administration really believes that this force is essential, its formation should include full consultation with Congress and be part of an overall Middle East strategy which includes Israel.

II. SUPPORT FOR ISRAEL IN CONGRESS

Members of Congress who are supporters for strong U.S.-Israeli relations include fellow Californians Henry Waxman, Mel Levine, Howard Berman, and Anthony Beilenson. We can also look to the leadership of Ted Weiss, Stephen Solarz, Lawrence Smith, Benjamin Gilman, and Gerald Solomon, all of whom are on the House Foreign Affairs Committee. Chuck Schumer and Sid Yates have also been quite vocal in expressing their sentiments on U.S. policy toward Israel.

The direct congressional role in formulating and implementing American policy toward Israel involves authorizing and appropriating aid funds, issuing "sense of the Congress" policy statements, and maintaining a dialogue and interaction, both in Washington and in Israel.

Official American aid to Israel is authorized in either recurring or non-recurring forms. Recurring aid may be earmarked specifically for Israel, as in the case of economic support funds, foreign military sales credits, or funds for resettling Soviet Jews in Israel. Other annual aid programs provide assistance to Israel, but usually an amount is not earmarked specifically for Israel, such as American schools and hospitals abroad, Export-Import Bank loans, or housing guarantees. Congress has passed special, non-recurring legislation to provide Israel with funds, such as those for the joint U.S.-Israel prototype desalting plant, emergency aid after the 1973 war, or the 1979 "peace package".

Between 1948, the year President Harry Truman recognized Israel as an independent nation, and 1983, the United States has provided Israel with $27 billion in aid. For several years we have been supplying Israel with economic and military assistance at a rate of roughly $7 million a day, the equivalent of $3,500 to $4,000 a year for every family of five in Israel, an outlay that is steadily increasing. Last year, Congress approved an aid package for Israel totaling $2.4 billion.

The regular Foreign Aid Appropriation legislation will probably not be enacted into law this year, therefore, spending for foreign aid is included in the continuing resolu-

tion for FY 1984. The House and Senate Appropriations Committees set the guidelines for that resolution. President Reagan had proposed $1.7 billion in military aid for Israel and $785 million in economic aid. The military aid request called for $550 million to be forgiven loans (the equivalent of grants) and the remainder to be loans that must be repaid. Both House and Senate Appropriations Committees boosted the economic aid figure to $910 million and earmarked $850 million in military aid as forgiven loans, while holding the total military aid figure at $1.7 billion. This past Thursday, the House approved the further Continuing Resolution for FY 1984 containing $2.61 billion in total aid levels for Israel. I supported passage of this funding resolution. The increases aid level reflects the serious economic and security problems Israel faces.

Earlier this year, I joined many of my colleagues in cosponsoring a resolution stating that the United States should proceed without further delay, with the sale and delivery of F-16 aircraft to Israel. On March 1, 1983, President Reagan had said he was "forbidden by law" from proceeding with the sale because Israel was occupying Lebanon. However, this seemed to ignore the fact that Soviet-supplied Syrian troops were massed in Lebanon, and were present there long before the Lebanese conflict last summer. My colleagues and I believed that failure to provide support for such an important ally as Israel would have had devastating consequences for the U.S. and for everyone committed to peace and stability in the Middle East. As you know, on May 20, the President lifted the embargo on U.S. sales of advance warplanes to Israel and notified Congress that Israel would be allowed to buy 75 F-16 jets.

An important feature of the congressional role in American-Israeli relations not directly entailing legislation is occasional congressional consultation and advice to the executive branch in the implementation of American policy. Congress has initiated statements of support in the form of letters to the President at times when some Members of Congress have differed with executive branch policy toward Israel.

In addition, Members of Congress travel to Israel and leading Israeli figures, in both their public and private lives, visit the Congress in Washington to exchange ideas on Israeli problems and on the difficult Middle East questions confronting American policymakers.●

EQUAL RIGHTS AMENDMENT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. RINALDO. Mr. Speaker, as a cosponsor of House Joint Resolution 1 and a long-standing supporter of the equal rights amendment, I want to express my strong concern about the procedures adopted for consideration of this measure.

I have consistently supported equal rights for women because I do not believe we should permit or encourage discrimination of any kind in the United States, whether it is on the basis of race, religion, sex, or age.

The equal rights amendment is the expression of that goal, and I am shocked and disappointed that the leadership has approved bringing up this measure under suspension of the rules, which permits only 40 minutes of debate and does not allow for amendments. The majority chairman of the Subcommittee on Constitutional Law, Representative EDWARDS of California, has correctly pointed out that Members ought to have the opportunity to debate and vote on amendments to ERA. The fact of the matter is that we are considering an amendment to the most fundamental law of the land, and its consideration has been hastened and distorted by pure politics.

Many of my constituents are deeply concerned that this legislation would strengthen the claim that a right to abortion exists in the Constitution. They are afraid that the ERA would overturn legislation which has been passed to deny public funding to perform abortions.

The rule under which House Joint Resolution 1 has been brought up allows for only minimal debate on this vital issue. It is essential, in order for the ERA to have any chance at all of ratification, to demonstrate that there is no connection between the ERA and the so-called right to choose abortion. I am deeply disappointed that the rule on the resolution does not allow Members an adequate opportunity to make clear that by passing the ERA, we are not voting to remove restrictions on public funding of abortions or ratifying abortion on demand. The ERA is neutral on abortion; it neither grants the right to obtain an abortion nor inhibits a woman from seeking one.

This separation of the ERA from abortion is demonstrated by the decisions on claims for public funding of abortions in States which have their own equal rights amendment as part of their State constitutions. In none of these cases have the courts accepted the argument that the State ERA made restrictions on abortions and on public funding for abortions invalid.

For example, in Massachusetts' case of Moe against Secretary of Administration and Finance in 1981, the court held that medicaid recipients were entitled to publicly funded abortions, but it did not base this decision on the State's ERA. The Massachusetts court instead used the same "right to privacy" found by the Supreme Court in Roe against Wade and held that the State could not use funding policies to influence a woman's decision on childbearing. The argument that the restriction on abortion funding violated the State ERA was ignored.

In a New York case, McRae against Harris, the Federal district court ruled that the denial of public funds for abortions was unconstitutional, but the court did not use a woman's right to equal protection of the laws as its rationale. Instead, the court found that restrictions on public funding of abortions violated the freedom of conscience guaranteed by the bill of rights.

In a Pennsylvania case, Beal against Doe, which reached the Supreme Court in 1977, the Court held that the State did not have to provide publicly-funded abortions. Pennsylvania has a State equal rights amendment, but the Court rejected the argument that abortion is a simple medical procedure and that the denial of funds for abortion, therefore, denies women the equal protection of the laws. The Court instead held that the State has an interest in childbearing and that the State could choose funding for childbirth over abortion, as long as the State did not act to make abortion absolutely unavailable.

The argument that abortion restrictions are a form of sex discrimination will continue to be made by abortion advocates, but that does not mean that the argument is valid. Courts already have recognized that abortion is not just a medical procedure, and that equal rights does not entail a right to an abortion.

I am strongly opposed to abortion, and I have consistently voted against Federal funding for abortions. I have also cosponsored the human life amendment and the Respect Human Life Act to protect the lives of innocent unborn children. I intend to continue doing everything possible to end the destruction of human life before birth.

I am also completely opposed to any form of discrimination on the basis of sex as well as race, religion, national origin, or age. This issue is completely separate from the issue of abortion. I am a cosponsor of House Joint Resolution 1, and before the original ERA expired, I voted as a New Jersey State senator to ratify it in 1972 and as a Member of Congress to extend the deadline for ratification in 1978. I would not have supported the ERA all these years if I had thought that it entailed the right to an abortion.

I am therefore voting in favor of the ERA in spite of my strong disapproval of the way in which it has been brought to the House floor.●

EQUAL RIGHTS AMENDMENT

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. JONES of Oklahoma. Mr. Speaker, consideration of this equal rights amendment under the restrictive procedures of suspension of the rules is a decision which I regret and oppose. I further regret that the unan-

imous-consent request to extend the debate on this amendment was defeated yesterday on an objection because I think that a more extensive, thorough debate should take place.

But the fact is that we are here today to vote on this issue. My preference for another procedure is immaterial since the leadership has decided to proceed in this manner. However, I do think it is important to establish very clearly a legislative history, what is intended by this Congress and this Congressman so that no future Federal court will misinterpret our intent.

I support the goal of the equal rights amendment which is to state in the fundamental foundation of our law that we do not tolerate discrimination on the basis of sexual gender. In fact, this amendment would have been considerably strengthened had the Judiciary Committee changed the wording of the amendment from sex to gender. Since it appears that this Congress will not approve sending this amendment to the States for the ratification process, I hope very much that the next Congress will give more consideration to suggestions such as the one I have just made.

This amendment in my view is primarily for women, not the women one usually thinks of pictured in the newspapers demonstrating. It is for the countless numbers of women across this land who through no fault of their own because of death, divorce, or serious illness find themselves alone and on their own in the job market. It is hard to deny that these women are not being equally protected under our Constitution in the economic household of America.

The fears and concerns of some of those who oppose this amendment are legitimate an should be addressed in this debate. I do so to make sure that no future court misunderstand our intent. For example, this legislation does not require unisex bathrooms as some constituents have feared, and no court should so interpret.

Second, this legislation does not require drafting of women for combat assignments. Only Congress can authorize the institution of the military draft, and there is no intention to abrogate our responsibilities through this amendment.

Third, this legislation will not undermine the legality of existing laws that prohibit Federal funding for abortion. I wish that we could have debated and voted on something like the Sensenbrenner amendment today which sought to make the ERA abortion neutral. However, we will not have that opportunity. I repeat, however, that this legislation will not undermine the legality of existing laws that prohibit Federal funding for abortion. That is not the intent of this House's actions today and it certainly is not my intent.

Again, let me say, Mr. Speaker, that those of us who support the goal of ERA and who would have liked to clarify by amendment some of the concerns expressed to us are disapointed that we will not have that opportunity. When this matter comes up again. I hope that a different procedure will be granted. A totally open rule is not necessary, but certain amendments should be made in order.●

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. OBERSTAR. Mr. Speaker, during the session of November 14, 1983, I was absent for four procedural votes and for the votes on passage of eight noncontroversial bills under suspension of the rules.

Had I been present, I would have voted:

"Yea" on rollcall No. 491, ordering a second on H.R. 3635, the Child Protection Act of 1983. The House agreed to the motion 288–0.

"Nay" on rollcall No. 492, motion to adjourn. The House defeated the motion 121–258.

"Nay" on rollcall No. 493, motion to adjourn; defeated 100–261.

"Yea" on rollcall No. 494, passage of H.R. 3635; passed 400–1.

"Yea" on rollcall No. 495, passage of Refugee Assistance Extension Act of 1983; passed 300–99.

"Yea" on rollcall No. 496, passage of Debt Collection Amendments; passed 397–3.

"Yea" on rollcall No. 497, passage of H.R. 1095, 369th Veterans' Association charter; passed 406–0.

"Yea" on rollcall No. 498, passage of Polish Legion of American Veterans, U.S.A., charter; passed 404–0.

"Yea" on rollcall No. 499, passage of H.R. 3249, National Academy of Public Administration charter; passed 401–2.

"Yea" on rollcall No. 500, passage of House Concurrent Resolution 190, calling for satellite-directed navigational guidance for aircraft; passed 402–0.

"Yea" on rollcall No. 501, passage of House Concurrent Resolution 168, opposing transfer of civil meteorological satellites to private ownership; passed 377–28.

"Yea" on rollcall No. 502, motion to adjourn; agreed to, 240–156.●

EQUAL RIGHTS AMENDMENT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SWIFT. Mr. Speaker, the State of Washington adopted an equal rights amendment to its constitution in 1972. In May 1983, the Washington State Legislature passed House Joint Memorial No. 17, praying that "renewed efforts be undertaken to encourage the speedy passage of the equal rights amendment to the U.S. Constitution."

It has been our experience in the State of Washington, as well as in other States with equal rights amendments, that benefits accrue to all citizens when freedom is extended.

In the words of House Joint Memorial No. 17:

> Over a century of involvement by women and their supporters in seeking equal legal rights through the democratic process has contributed significantly to the welfare, rights and privileges now enjoyed by the citizens of the State of Washington and to the quality of life in this state. • • •

We who support the equal rights amendment do not say, simply, "Trust us." Our position is not based on blind faith. We have had years of debate, conducted extensive hearings, and perhaps most important, years of practical experience living with equal rights amendments in several of our States. The dire predictions have not materialized. For me, the issue is simple: Women should be acknowledged explicitly in our Constitution as being "endowed by their Creator with certain inalienable rights."●

EQUAL RIGHTS AMENDMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BROWN of California. Mr. Speaker, I cannot say that this is a particularly proud moment in our Chamber's history. Yet again we must vote on a fundamental question of equal rights—a question this Congress supported over 11 years ago and reiterated in 1979 in its unprecedented extension of time for ratification of the equal rights amendment [ERA]. The ratification failed, not for lack of public support, but because a handful of legislators in a few States failed in their obligation to over half of the citizens of this Nation. Today we have the opportunity to vote again for the ERA; today we have the opportunity to vote for the most basic of rights.

The equal rights amendment is essentially a question of economic rights for women—women who are white

collar, blue collar, and pink collar; women who are homemakers, women who work outside the home all their lives, women who alternate between the home and the workplace. Every woman in our diverse society would benefit from the addition of the equal rights amendment to the U.S. Constitution.

For the homemaker, the ERA will recognize the economic partnership of marriage and will acknowledge the homemaker as an equal contributor to the family. Many laws and practices operate to deprive homemakers of economic security during marriage, upon divorce, or at widowhood, by failing to recognize their valuable contribution to their families and society.

Problems resulting from the homemaker's lack of legal and economic protection become acute if the marriage ends through divorce or death. Divorced women rarely receive alimony, and often receive no child support. Discrepancies between the earnings of men and women exacerbate the problem. Under the ERA, laws and court orders relating to domestic relations will be based on the principle that each spouse contributes equally to the marriage.

In Pennsylvania, the court used the State ERA to recognize the importance of the custodial parent's role in staying home with the children. Defining rights and responsibilities in sex neutral terms means that both breadwinners and homemakers are entitled to legal and economic recognition, not that each must perform both functions.

While nearly a third of all marriages dissolve in divorce, the equal rights amendment by no means protects merely divorcees. The present social security system works against the homemaker in various ways. The unpaid homemaker receives absolutely no disability protection for herself or her family; her survivors receive no benefits. If an employed married woman leaves the paid labor force to care for her family, she is penalized by having zero earnings entered into her savings history and her payouts are reduced. The ERA would require the reexamination of sexist assumptions that underline the social security system.

These assumptions are not mere platitudes by a few vocal women, but real economic concerns. Today 53 percent of all women—43 percent of the total labor force—work for pay. Their unique work patterns stemming from childbearing and rearing responsibilities are not recognized as having economic worth, and hence are not provided for in present retirement systems, including social security. In 1979, 2.3 million retired women who paid social security taxes were no better off than had they never worked for pay and never contributed to social security. The net result is a growing population of poor, elderly women, 85 percent of the elderly poor are single women; 60 percent of them depend solely on social security for their income.

Women with other retirement plans fare little better. Inequities in pension systems abound. Regulations which ignore women's typical work patterns, such as minimum participation age and vesting requirements, coupled with inadequate provision for survivor benefits, resulted in 1981 in only 10 percent of retirement age women receiving a pension, compared to 28 percent of retirement age men. Even if a woman does have a pension based on her own earnings, her average benefit is only 59 percent of a man's average benefit, reflecting continuation of the wage gap into old age. The industry estimates that $2 billion will be required to equalize pension payouts. While that is a lot of money, it is only three-tenths of 1 percent of current pension fund assets.

The working woman fares little better. Discrimination against women in the marketplace has not been eradicated, despite laws to protect them. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination and the Equal Pay Act of 1963 requires wage equity, but in 1983 women continue to earn only 59 percent of men's income. These equal employment laws and affirmative action policies are simply inadequate, unevenly applied, and often loosely enforced. And, as with all statutes, they can be repealed or weakened at any time, or simply not enforced by the agencies charged with that responsibility.

Growth in the number of single women heading households has been dramatic. Accompanying this trend has been a phenomenon known as the feminization of poverty—more than half of the total number of poor families in the Nation are maintained by women. Almost three-quarters of minority children in female-headed households live in poverty. If this trend continues, it is estimated that 100 percent of the poverty-stricken in the year 2000 will be women and their children. If wives and female heads of households were paid the wages that similarly qualified men earn, about half of the families now mired in poverty would not be poor.

A statute-by-statute approach to remedying economic bias does not work. Only a constitutional guarantee of equal employment opportunities for women can get at the root of the problem. Women are in the work force to stay. Limited access to job training, vocational studies, and educational fields will insure the endurance of the feminization of poverty and the widening of the wage gap. The ERA would prohibit sex discrimination by public employers, prompt State legislatures to repeal discriminatory laws, and guide the courts when enforcing laws. Loopholes and exceptions in equal employment laws would be closed.

One of the more emotional issues surrounding the equal rights is women and the military. Yet if this issue is carefully examined it can be seen that it, too, is a significant economic issue. The Texas Population Research Center has just released data showing that among employed women of all races, those who have served in the Armed Forces are almost twice as likely to earn salaries at least $300 per week better than those women who have not.

The military is the largest employer and educator in the Nation and yet is virtually immune from policies and laws prohibiting sex discrimination. Currently, Federal statutes restrict the manner in which the Secretaries of the Air Force and Navy can assign women, and all the services—except the Coast Guard—further restrict the roles women can play. These restrictions jeopardize the women who must serve in dangerous military situations without the training and support essential to survival. Furthermore, exclusion from full participation in military service also means lost opportunities for college scholarships, veterans' education benefits, veterans' preference in Government employment, and veterans' insurance and loan programs.

Under the ERA, women would be treated equally with men with regard to registration for the draft. However, certain women, like certain men, may be exempted from the draft as conscientious objectors, the parents of dependent children, or because of medical reasons. Once inducted, men and women would be assigned responsibilities on the basis of service needs and individual qualifications, not gender. Even if the ERA is not enacted, women would not be protected from the draft. Ironically, the Department of Defense has already prepared legislation designed to alter existing law so that both sexes can be subject to future conscriptions.

The equal rights amendment is needed to achieve permanent economic equality for women. Existing laws are not adequate to eliminate sex discrimination. Current laws can be repealed or weakened at any time by lawmakers. The current administration has already implemented regulations that weaken title IX, the law prohibiting discrimination in public education, and has argued in court to severely limit its scope. As the American Bar Association states in explaining the need for the ERA:

No ordinary statute can provide the bedrock protection assured by a constitutional amendment. No court decision can provide that protection, for the courts may inter-

pret, but they may not amend the Constitution.

Mr. Chairman, women are persevering and shall not be denied this basic right. At the first women's convention at Seneca Falls, N.Y., in 1848, women resolved to obtain the vote; 70 long, hard-fought years later, women won that right. In 1923, the first equal rights amendent was introduced in Congress, but it was not until nearly 50 years later that Congress sent it to the States for ratification. We failed to obtain that ratification, but let no one assume it is a dead issue; let no legislator avoid his responsibility. The ERA is a basic right and women will and must persevere until that right is won, until the motto of Elizabeth Cady Stanton and Susan B. Anthony rings true, "Men, their rights and nothing more; women, their rights and nothing less."●

EQUAL RIGHTS AMENDMENT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BONKER. Mr. Speaker, I rise in complete support of this legislation, which I believe is long overdue to extend full equality and full protection under law to more than half of our entire Nation.

Nearly 1½ years ago, when the deadline for ratification of the equal rights amendment had expired, I joined with more than 200 of my colleagues in immediately reintroducing the amendment. Our purpose, as I stated then, was to send a signal to both supporters and opponents of the amendment that we will not give up and that ERA is an issue that will not go away.

Now the bill has come to the House floor, and I urge its overwhelming passage, so that we can begin again the long process of ratification by three-quarters of the States.

It saddens me that it is even necessary to have this debate today. Equality of rights and opportunities for women should be a fact of life. But sadly, discrimination still exists.

According to 1980 Department of Labor statistics, even when occupation, age, education, and duration of employment are identical, women still make less than 60 percent of what men make. Women with college degrees are paid less than men who did not complete high school.

Countless other forms of inequality persist in our society. While family and homelife have served as the foundation of American life, for example, full-time homemakers have only second-class economic and legal protections. Homemakers often find that if their marriage ends in death or divorce, they face numerous inequities in social security, pensions, employment opportunities, and access to credit.

The equal rights amendment before us today will establish a national policy that sex discrimination will not be tolerated. Countless polls establish this as the will of the land—over 75 percent of Americans consistently support equality of rights under the law for women. The ERA is strongly supported by churches, civil rights groups, labor unions, and legal, educational, and medical organizations.

The people from my own State of Washington demonstrated their commitment to equality of rights for women by enacting an amendment to the State constitution a number of years ago. During consideration of the amendment, opponents raised numerous charges regarding the military draft, abortion, homosexual marriage, and public restrooms and other facilities. But these fears have been proven absolutely unfounded—Washington State's experience under the State equal rights amendment has been wholly positive.

I pledge to continue my efforts to win passage of ERA and guarantee equal rights for all women. I hope that 1983 will be remembered as a year of long overdue achievements for women. As a woman has this year conquered space, so may all women win the battle against discrimination.●

EQUAL RIGHTS AMENDMENT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ANDREWS of Texas. Mr. Speaker, I rise today to speak on behalf of the equal rights amendment. As a freshman Member of this body, I am proud to have the opportunity to vote for this piece of legislation during my first term and I am heartened to see its strong and early renewal despite the vigorous and persistent efforts of those who would kill it or amend it beyond effectiveness. I have no doubt that as long as women in this country are denied equal rights under the law, the equal rights amendment will frustrate its detractors by its perpetual renaissance. But with any luck, Mr. Speaker, today will be the last time this body will have to debate what should be obvious to all of us: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

This simple amendment would mandate the treatment of individuals as individuals under the law—without regard to sex. It is patently unfair to hold an individual to a different legal standard because of an immutable factor like gender. Sex should never be the sole determinant in any legal decision.

Men have been traditional breadwinners in the past and as such have been afforded the responsibilities and protections of full citizenship. Now, the majority of women in this country work outside the home, over 47 million women. yet we cling to antique notions of womanhood. We cannot quite appreciate the fact that women today—and half of female-headed households in this country fall below the poverty line—do not need the kind of protection they have been handed by the lawmakers of this country in the past. Women today are in need of equal pay and pension protection, not pin money or an allowance. They are in need of equal access in educational opportunity and vocational skills, not patronage.

Mr. Speaker, we cannot qualify equality, as Chairman RODINO states: "you are equal or you are not equal." If you truly believe in equal rights for women, it is as simple as that.●

EQUAL RIGHTS AMENDMENT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DYMALLY. Mr. Speaker, I am extremely pleased the House of Representatives again has the opportunity to affirm its support for equal rights for women. I am well aware of the arguments of those who say that equal rights must be achieved at the local and State levels through a multitude of changes in State laws and local ordinances. That is true enough. But it is an incomplete statement. The Federal Government has a proper role to play. The Federal Government's role is to lead the States and localities in their effort to bring about equality of rights for all dispossessed groups. If the House does not pass the ERA it will be shirking its duty to lead.

There are many demonstrations of the effect of Federal leadership on the behavior of individuals at the State and local levels. The Civil Rights Act is an instance of Federal leadership. Without that act, I have no doubt that the treatment of black people in this country would be a great deal more disgraceful than it is. Federal leadership in this case provided the incentive that was absolutely necessary to provoke change in all other sectors of American life. Though the language of ERA is simple, it is every bit as important to women as the Civil Rights Act is to black people. It is the concrete manifestation that the Federal Government is behind equal rights for women. Without ERA a certain necessary standard for the country will be missing, and it will have a profound

and undesirable effect. It will say to Americans that equal rights for women need not be taken seriously.

I suppose that some would scoff at this statement. But I think we can learn a lesson about the effect of lack of a standard at the Federal level on conduct elsewhere from the reaction of our commercial sector in instances where the Federal Government has declined to set an industry standard. We will shortly take up legislation that would require the Government to stay in the business of setting energy use standards for home appliances. Why are we taking up that bill? Because the States and even the industries themselves have demanded that we maintain this role. The industry would be disrupted without the standard. The States would be at a loss about what standards would be proper to set within their States. The appliance industry wants the appliance they sell in Maine to meet the standards set in California. They do not want to make a different kind of appliance for each place they wish to sell that appliance. We see this easily enough in the case of commodities. How much important it is that the Nation have one standard for the treatment of women. A woman in Mississippi must have the same rights as a woman in Maine, or New York or California, or any other State in this Union. Each woman must be guaranteed a standard of treatment, and that standard must be equality of rights with men and with other women no matter where in this country she might be. That standard will not be achieved in each State until it is the standard for the Nation. Let us pass the equal rights amendment and offer the country the leadership we were elected to provide.●

EQUAL RIGHTS AMENDMENT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. SHUMWAY. Mr. Speaker, I would like to restate my opposition to the equal rights amendment (ERA). Throughout the years that I have held elected office, I have made clear my views on the ERA on many occasions, and have made no secret of my dislike of the proposal.

Today, however, my opposition to the substance of the ERA not only continues unabated, but has in fact been bolstered by the nebulous and unsatisfactory answers to valid questions, by the confused reasoning as to the impacts of the ERA, and by a blurring of the objectives which the ERA seeks to attain.

We have had this subject before us for discussion during the past 12 years. It has been considered by State legislatures for 10 years, yet has failed to gain the ratification of the necessary three-fourths of those legislatures. Therefore, it seems appropriate to ask why ratification has not materialized, and the answer becomes quite obvious: State legislatures and the public have serious doubts about what the amendment will actually do. They are uneasy about how it will be interpreted by the courts, and they have misgivings as to what some of the impacts will be. Thus, it seems to me that those who really want to see the measure adopted as part of the Constitution would do all possible to supply the answers needed, and to cure some of the vagueness that has been attributed to the ERA. Proponents should realize that simply saying the courts will interpret it is just not good enough.

There are God-created distinctions between men and women, some physical and some physiological. I believe that those distinctions need to be recognized. To be sure, our Creator intended that men and women have equal rights and opportunities. But it was not intended that in achieving that equality we would obliterate gender distinctions, resulting in a unisex society. Therefore, how we assure such equality without erasing those distinctions needs to be carefully reviewed and understood. Unfortunately, today we find ourselves placed in the position of being unable to end the vagueness or cure the defects which have prevented ratification of the ERA. That brings me to my second, equally strong opposition to this matter: the process.

The Judiciary Committee chairman has stated repeatedly to Members, both orally and in writing, that we would debate the ERA under an open rule so that amendments could be offered fairly and be fully considered. Certainly, anything as important as an amendment to the Constitution is deserving of no less than the fullest debate and opportunity for amendment. The fact that we cannot do that under the suspension procedure tells me that ERA proponents really do not have ratification of the ERA and equality for women as their primary purpose—instead, they have chosen to politicize the issue in an attempt to make partisan gains for the elections to be held next year. The refusal of proponents to supply needed answers, or to permit the inclusion of language which would assuage the concerns which previously prevented ratification, indicates their true hand. Their primary objective is petty, partisan gain.

Finally, I find it ironic that we are supposedly debating a so-called equal-rights measure, yet we are denying the rights of millions of American women who do not want unisex status, who cherish their womanhood, and who resent the activism of many outspoken women's groups. We are ignoring those women whose rights are being stifled by militant voices which seek to parade before the press, proclaiming a victory for equal rights in America.

I am opposed to the ERA in substance, I am opposed to the process under which it is being considered, and I resent the fact that it tramples roughshod over the rights of millions of American women. The House will be doing this country a disservice and denigrating the Constitution by passing this bill today.●

EQUAL RIGHTS AMENDMENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. TOWNS. Mr. Speaker, I am very pleased to be a cosponsor of House Resolution 190, to retain the guidelines for sex equity in education.

Title IX has been instrumental in improving educational opportunities for women and mandating sex equity in school athletics. The national study on the effectiveness of title IX, the half full, half empty glass points out that the number of women who now choose engineering as a profession has increased by more than 6,000 in 1980. In the athletic area, women have achieved their most significant gains from title IX. In the past few years, the number of colleges offering athletic scholarships to women has jumped from 60 to 500. In my own family, I have seen the difference title IX has made for daughter, Deidre, who became active in gymnastics at an early age because of the increased sports opportunities for girls in athletics.

Not only does the Gove City case threaten title IX enforcement, other civil rights laws could well be undermined by a court finding that student financial assistance is not considered direct assistance to a college. Today, we will hopefully reaffirm Congress commitment to equal opportunities in education. To limit the jurisdiction of title IX would, in essence, deny an inalienable right to be assured equity in all educational pursuits. I hope my colleagues to wholeheartedly endorse House Resolution 190.●

EQUAL RIGHTS AMENDMENT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DASCHLE. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment.

We need the Constitutional protection of the equal rights amendment because existing laws are wholly inadequate to protect against discrimination based on sex. Discrimination has led, and leads, to women being steered into particular types of educational training, and consequently, into low-paying jobs. Today's laws also allow discriminatory pension plans, property rights, and credit practices.

While there are laws on the books to protect against sexual discrimination—the 14th amendment, the Equal Pay Act, title VII of the Civil Rights Act and title IX of the Education Act—they have been interpreted unevenly in the courts. The 14th amendment has not stopped court decisions denying women the right to vote, permission to practice law and permission to work the same hours and at the same kinds of jobs as men. It has also not allowed homemakers to receive legal recognition for their contributions to their families, thus denying them property and other rights. What we need is a constitutional basis upon which to prohibit discrimination based on gender.

Beyond the issue of inconsistent court decisions are the equally unpredictable actions of the Federal Government. As Congress and the administration changes, so do rights and protections against sex discrimination. For instance, the Reagan administration has given a very narrow interpretation to title IX, which bans discrimination against women in educational programs receiving Federal funds. The Justice Department has construed this law to mean that only educational programs or activities that receive Federal funds directly should be constrained by existing Federal laws that prohibit sex discrimination—not the school as a whole. Not only does this adversely affect opportunities for girls and women, it also sets a very disturbing precedent for laws concerning other types of discrimination, including race, religion, and handicap.

Another example of equal opportunity for women swinging with the pendulum is the current administration effort to defund the Women's Educational Equity Act.

One only need look at wage statistics to see the price that women have paid for being the objects of discrimination. Women earn 60 cents for every dollar made by men. At every age and educational level, men receive more pay than do women. Women with college degrees make less than men who have not graduated from high school. Men in clerical jobs average $18,247 per year, while women receive $10,997 for the same work. Men teachers receive an average annual salary of $19,675 and women teachers $15,151. While male laborers receive an average salary of $12,757, women in the same jobs receive $9,747.

For minority women, the average salaries as compared to men's salaries are even lower. Black women earn 55 cents for every dollar earned by men, and Hispanic women receive 50 cents. There are no figures available for American Indian women, but the figure would surely be very low. Nearly one quarter of all American Indian households are headed by women. South Dakota has the highest percentage of any State of households headed by Indian women—37.9 percent.

Most women are concentrated in 20 occupations, while the majority of men occupy 250 occupations. Women make up 83 percent of home economics students, while 94 percent of the trades and industry students are male. Many vocational education programs discourage women from entering training programs for male-dominated professions. New York City, for instance, has maintained a virtually sex-segregated vocational education system.

With regard to military duty, women are currently by statute prohibited from certain jobs and from the draft. I do not think these laws are fair. In many cases they discriminate against women by closing certain types of professions and training to them. It is interesting to note, however, that the Coast Guard has no restriction on the positions women may hold, and so in times of war, Coast Guard women would be doing the same types of jobs from which Navy women are barred.

It is a real loss that the military, which is the largest employer and educator in the United States, is restricted with regard to opportunities for women. Those opportunities which are available, however, have had a positive impact. Women who have served in the Armed Forces are twice as likely to earn salaries of $300 per week than those women who were not in the military. The difference would be even more stark if women were able to have jobs commensurate with their abilities. Carolyn Becraft, director of the Women's Equity Action League National Center on Women and the Military, testified before the House Judiciary Subcommittee on Civil and Constitutional Rights:

> The effect of the so-called "combat exclusions" is to control women's participation in the military, while still allowing Congress and the service branches enough flexibility to assure that women will be available when their skills are required. Behind every combat exclusion lies an exception—"except" nurses where they are needed; "except" in times of "real" national emergency; "except" when enough qualified men are not available.
>
> The existence of these exclusionary laws and policies does not, then protect women from combat. The real result is the creation of artificial barriers to promotion and to policy-making roles.

We have all suffered because of discrimination against women. We as a nation have prohibited over half of our population from having an equal opportunity for individual fulfillment and accomplishment. Both fairness and economics demand that we pass the equal rights amendment.●

EQUAL RIGHTS AMENDMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. RICHARDSON. Mr. Speaker, I rise in strong support of House Joint Resolution 1, the equal rights amendment.

The equal rights amendment would make one brief but profound addition to the U.S. Constitution—"equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Simply stated, the equal rights amendment will insure that women be afforded the same rights and privileges as every American.

The piecemeal approach to eliminating statutes that discriminate against women has proven to be ineffective. Women still lag far behind men in income levels and career advancement. It is vital that equal rights for women be made part of the U.S. Constitution.

Many have expressed displeasure over not being able to offer amendments to House Joint Resolution 1. But this approach would be unacceptable. Equality has no qualifications or limitations. If one is not equal in every aspect of life, then one is not equal at all.

Mr. Speaker, women have waited long enough. The Nation has waited long enough. Let us act now to pass the equal rights amendment so that we may be true to the values that make us a great nation.●

EQUAL RIGHTS AMENDMENT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FEIGHAN. Mr. Speaker, 10 years ago, as a freshman member of the Ohio House of Representatives, I had the privilege of rising to speak in support of the equal rights amendment. Early in 1974, Ohio became the 33d State to ratify the ERA.

Today, I rise again—this time as a freshman Member of the Congress—to restate my continuing commitment to ratification of the ERA. It is an American tragedy that we must act again to put before the States a statement of human dignity and human rights as simple, forthright, and compelling as the equal rights amendment. It has

rightly been characterized as "a matter of simple justice."

Why, then, has the equal rights amendment faced such strident opposition?

The root cause, is suspect, is fear. Fear of the unknown. Fear of change, the kind of fear that our world—with its rapid pace and shifting social patterns—can cause in men and women who do not know what the future holds but know that it will be different.

And so the debate surrounding ratification of the equal rights amendment descended, on the part of its opponents, to fantastic allegations of the dire consequences of adding ERA to the Constitution.

The facts prove them wrong. A decade of experience in States that have approved equal rights amendments have resulted in none of the horrors predicted. The elimination of sex-based distinctions in criminal and family law have strengthened—not weakened—our basic social institutions.

Mr. Speaker, while thinking about what I could say today in support of the equal rights amendment, I turned to a standard reference volume to look for a quotation that might be appropriate; that might capture the importance and rightness of the equal rights amendment. Unfortunately, the quotations contained in that book almost uniformly demonstrated the need for the ERA. None captured the eloquence and clarity of those 24 words that make up the ERA. Instead, each reflected an attitude toward women that was patronizing at best. Each treated women as something less than men.

That attitude continues to permeate our society. And the equal rights amendment, unfortunately, can only begin to overcome it. But it will demand that we eliminate its vestiges in the laws of this Nation. And it will insure that later Congresses cannot undo the progress that has been made since the enactment 20 years ago of the Equal Pay Act.

Ratification of the equal rights amendment is long overdue. And it is, I believe, inevitable—because it is right.●

EQUAL RIGHTS AMENDMENT

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mrs. BURTON of California. The widespread discrimination against working women in America can be clearly seen in the gross inequities of the Nation's social security system. Women currently comprise 53 percent of the total population in the United States and 43 percent of the work force. Despite the enormous contribution these women have made to the economic well-being of the Nation, they are provided precious little security under current retirement systems, including social security. Childbearing and childrearing responsibilities greatly influence the pattern of women's participation in the work force. Because they must often move in and out of the work force, women are frequently unable to acquire meaningful retirement credit. The ratification of the equal rights amendment would go a long way toward correcting this injustice.

Mr. Speaker, the Declaration of Independence states that "all men are created equal." This Nation's women believe it to be a self-evident truth that all men and women are created equal and are endowed with the same unalienable rights.

I urge my colleagues to affirm those rights and vote in favor of the equal rights amendment.●

EQUAL RIGHTS AMENDMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. UDALL. Mr. Speaker, as I cast my vote in favor of the equal rights amendment today, I am proud to take part in a movement where women have made great strides in breaking down discriminatory barriers, entered fields previously closed to them, and forced us all to rethink our ideas about the roles of men and women in this society. And yet, I am saddened by the slow pace of it all. Saddened that in 1983, in this age of advanced technology, women are not afforded equal rights under our Constitution. Saddened that the United States—a country other countries look up to, a people other peoples try to emulate—has denied over half its population full equality under the law. Saddened that this body has chosen to argue procedural issues rather than work toward the passage of this vitally important measure.

I fear that we are at a critical point in the struggle for women's equality. Over two-thirds of the people in this country favor the equal rights amendment, but our President does not. Women comprise almost half the work force, and yet workingwomen on the average earn only 59 percent as much as men. Half of all the poor families in this Nation are headed by women, yet the administration has worked toward drastic spending reductions in social programs that help these families; it is projected that by the year 2000 nearly all poverty-level households will be headed by women. This administration, by its continued efforts to weaken equal opportunity laws and regulations, has demonstrated just how tentative women's rights are and how important it is to provide a constitutional guarantee. It also has proposed crippling budget cuts for the Women's Educational Equity Act program, the Women's Bureau at the Department of Labor, for family planning and displaced homemaker programs, as well as many other programs affecting women.

We are at a turning point. Women face discrimination and sexism in every facet of their lives and will continue to, until their rights are secured in the Constitution. The ERA is not the end-all in the struggle for women's equality, but without it, we will never achieve our common goal of equality under the law for all citizens.●

THE EQUAL RIGHTS AMENDMENT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ROYBAL. Mr. Speaker, I am honored to speak out today on behalf of House Joint Resolution 1—the equal rights amendment.

It has been 60 years since the ERA was first introduced in Congress. When one reflects on what this Nation has experienced during this time period—World War II, Vietnam, Korea, men—and women—in space, the civil rights movement, assassinations, riots and test tube babies, to name only a few things—it is absolutely astounding that we have witnessed these events and absorbed these changes, and still have not guaranteed equal rights under the Constitution to half our population. And although ERA's critics would have us believe current statutes and regulations are enough, and will point to countless accomplishments and "firsts" by women in recent years as evidence, the fact still remains that women earn 59 cents for every dollar a man earns, that three out of every five persons with incomes below the poverty level are women, and that older women make up the fastest rising poverty group. In addition, this administration has shown its determination to weaken even those few statutes currently in force.

Women are discriminated against every day in hundreds of ways, overt and subtle. They must deal with attitudes marooned in the dark ages, they must accept salaries much lower than those paid to men doing comparable work, they must contend with unequal pension and health benefits, they must watch their male colleagues promoted over their heads. How can we

look at these figures and facts and say the ERA is unnecessary?

I also fail to understand how opponents can claim that the simple statement that is the ERA has such dire implications for the future of our society. Commonsense and history will tell you their wild accusations simply have no basis in fact, and are completely irrelevant to the issue in question—the prevention of discrimination based on sex. When we finally passed the Civil Rights Act, the country did not cave in. In fact, we were stengthened enormously. Our form of Government did not collapse after women got the vote—and women have contributed immeasurably to the sustenance and enhancement of our political structure, procedures, and policies. The arguments against the ERA are the same arguments, more or less, as those directed at the above-mentioned legislation—and have about the same amount of validity. I truly do not think the American people who, according to Time magazine, support the ERA by a more than 2-to-1 margin, are going to be staved off this time by scare tactics and cheap innuendo, either at State or Federal levels. We should not be either.

The time for the ERA is now. It is a national disgrace that it has not been made a part of our Constitution long before this. I urge my colleagues to join me in voting in favor of House Joint Resolution 1, urging the Senate to act accordingly, and working to insure that the States ratify the amendment. The ERA is necessary, it is timely, and it is justice.●

THE EQUAL RIGHTS AMENDMENT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LONG of Louisiana. Mr. Speaker, I wish to make my remarks brief. I rise in support of House Joint Resolution 1. I am an original cosponsor of this bill, and am firmly committed to its passage.

The women of our Nation are asking for nothing more than to be recognized and protected in our Constitution. They deserve nothing less. They deserve once and for all to be recognized as first-class citizens, and to enjoy the rights and responsibilities inherent in the equal rights amendment.

However, I regret that we are considering this amendment today in a way that gives us a limited time to discuss many of the controversial issues. These issues are bound to be raised during consideration by the Senate and throughout the ratification process in the States. The 20 minutes of debate does not allow the House ample time to develop fully the legislative history on each of the issues involved.

I also regret that because of these procedures, I am not given the opportunity to express my support for both equal rights for women and equal rights for the unborn.

The vote I cast today does not lessen my support for both issues. I can in all conscience, support both issues because it is my firm conviction that there is no connection between the issue of equal rights for men and women, and the issue of protection for the unborn child. They are not connecting issues, and I believe the stated position of the House should be that they are not intended as such.

The legislative history is clear in this regard. Chairman EDWARDS stated unequivocally in 1978, during debate on extension of ERA, that the equal rights amendment does not recognize the right to abortion to exist anywhere in the Constitution, including that which the Supreme Court held to exist in Roe against Wade. He explained that Roe against Wade was premised on the right to privacy theory, and not on a question of sex discrimination. Furthermore, courts in States with equal rights amendments similar to the one we are considering today have taken similar positions. In Massachusetts, when State medicaid restrictions on abortion were challenged under ERA, the court struck down the restrictions. They made their findings on State due process law and not on the ERA claim. In Connecticut the court ordered State funding on privacy and other grounds, and not on ERA.

Mr. Speaker, as I stated earlier, this vote I am casting today does not lessen my commitment to equal rights for unborn children. I firmly believe that passage of ERA would in no way jeopardize their rights. These are separate issues, and should be dealt with separately. I have always voted for and supported pro life legislative proposals, and will continue to do so in the years to come. My support for the rights of unborn children is as unwaivering as my support for the equal rights amendment. I can vote for both, and I will vote for both. I urge my colleagues also to consider these issues separately, and to support ERA today.●

THE EQUAL RIGHTS AMENDMENT

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FUQUA. Mr. Speaker, I intend today to vote against House Joint Resolution 1, the equal rights amendment. I do so without making a final determination as to how I will vote should the measure return to the House floor under regular procedures. I just believe that suspension of the rules is a poor way of amending our basic governing document, the Constitution.

More than half the Members of this body today were not here when the ERA was debated more than 10 years ago. They deserve a full and open debate.

Further, there are serious amendments to be considered and these amendments are worthy of our attention. The right to offer amendments to the ERA should not be denied.

The fact is that suspension of the rules was used for the constitutional amendment eliminating the poll tax. Surely the supporters of the ERA recognize that this amendment is far more reaching in its scope and is not to be considered technical in nature.

I object to the procedures used today and shall vote accordingly.●

EQUAL RIGHTS AMENDMENT

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WHEAT. Mr. Speaker, I rise in strong support of this legislation.

It is time, it is long past time, that America grants equality to women under the law. The equal rights amendment is the appropriate vehicle that will bring women the basic constitutional right of equality. Only by force of a constitutional amendment will women have fair and equal opportunities in employment, education benefit and retirement plans, marriage and divorce.

Measured by any standard, gender lines have not been eliminated in our society. Today, nearly 60 percent of America's women work outside the home. Workingwomen contribute greatly to the strength and prosperity of this great Nation. Yet, it is a fact that women today earn, on the average, only 59 cents for every comparable dollar earned by men. A woman with a college education today earns less than the average man with an eighth-grade education. And while women comprise 51 percent of our population, they only hold 6 percent of the management jobs in our economy.

Mr. Speaker, the ERA is a straightforward statement of principle. The issue addressed by the equal rights amendment is one that goes to the very core of our national commitment to equality of rights for all of our citizens. The ERA simply and plainly provides that equality of rights under the law shall not be denied or abridged by

the United States or by an State on account of sex.

I believe the ERA is essential because without it a majority of our citizens will lack the fundamental guarantee of equal treatment under the law. There can be equality in our Nation when we have discrimination against some.

Much progress has been made in recent years toward ending discrimination against women. The Equal Pay and Equal Credit Acts, the Civil Rights Act forbidding discrimination in employment and title IX insuring equality in education are great achievements. But they are a piecemeal approach to a problem that demands a comprehensive solution. The adoption of the ERA is necessary to establish a national standard for the elimination of discrimination based on sex.

Contrary to what some believe, the ERA would not lead to unisex bathrooms, force women into combat, and discriminate against homemakers. The ERA will not force people to change their lifestyles or threaten the integrity of our basic institutions. The ERA, by reaffirming the intrinsic worth of all people, will strengthen the family and our traditional institutions.

Public support for ERA spans the spectum of American society. Every poll, every survey—even in the nonratifying States—shows an overwhelming support among the people for ERA. A recent national poll showed that 75 percent of the American people support equal rights under the law for women. Organizational support for ERA is also strong. More than 500 organizations representing more than 50 million Americans have endorsed the ERA. These include major labor unions, church and civil rights groups, legal, educational, and medical associations, and all major women's groups.

The need for ERA was great in 1923 when it was first introduced in Congress. The need was great in 1972, when Congress first approved it. The need is still great today.

Mr. Speaker, I campaigned in 1982 on a pledge to the people of Missouri that I would work for passage of the equal rights amendment. I made it clear that I would strongly endorse and support the ERA. I am glad to have the opportunity to honor my pledge to the people of Missouri and vote in favor of the ERA. I urge my colleagues to join me in support of this legislation.●

EQUAL RIGHTS AMENDMENT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. DREIER of California. Mr. Speaker, the leadership's decision to bring the equal rights amendment to the House floor under suspension of the rules is an outrage, plain and simple.

I hardly need to remind my colleagues that suspension of the rules is a procedure for noncontroversial legislation. Debate is limited and amendments are not allowed only because they are unnecessary. Today, however, that procedure is being used as a gag rule, and is objected to by both supporters and opponents of the ERA.

Under normal circumstances, we amend legislation to correct its flaws or shortcomings. In extraordinary circumstances such as amending the Constitution, Congress has taken extreme care to debate, to ponder, to amend, and only then to act. How is the ERA any different? How can we possibly examine every aspect of this far-reaching constitutional amendment in only 40 minutes?

This is not a vote on the ERA. This is an outrageous affront to the integrity of the legislative process, and a disservice to supporters and opponents of the ERA alike.

I urge my colleagues to defeat the motion to pass House Joint Resolution 1 under suspension of the rules, and welcome the opportunity to reconsider the ERA under legitimate and appropriate circumstances.●

EQUAL RIGHTS AMENDMENT

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MOORE. Mr. Speaker, I have always supported equal rights for women and would like to vote for the equal rights amendment. Unfortunately, due to the flagrant disregard for the Constitution, the democratic legislative process, and the concerns of many who wished to offer amendments, exhibited by having House Joint Resolution 1 considered on the Suspension Calendar, I was forced to vote "no" as a responsible legislator.

Amending the Constitution is very serious business and merits more than the mere 40 minutes of debate allowed bills considered on suspension and better timing than in the turbulent closing hours of the first session of this Congress. Evidently only 1 of the 26 amendments to the Constitution (the 24th abolishing the poll tax) has ever been on the House floor under suspension and probably because it was not controversial. The same cannot be said of this proposed amendment. The Suspension Calendar is supposed to be used only for noncontroversial measures.

In addition, there are serious concerns of the effect of this proposal on abortion, the draft, and assignment of women in combat, and private single-sex schools, to mention a few. These concerns should be resolved through amendments which are not allowed bills considered under suspension. Many of these concerns were responsible for this amendment not being ratified in the past and could well cause it the same fate if sent to the States in this fashion. Most observers agree several of the proposed amendments would pass the House, especially those concerning abortion and women in combat.

Therefore, one must conclude that this measure is being removed from the normal legislative process not because it is noncontroversial, but because it will be changed if the majority is allowed to work its will. There are those who wish to abuse the House rules to thwart the majority—hardly a democratic notion anytime—but totally inexcusable for a constitutional amendment.

Surely, the cherished concepts of the Constitution, democracy, and women's rights are entitled to a normal debate, on a regular business day early next session, allowing the regular amendment and legislative process to work its will. Failure to honor these concepts dishonors them, and will be a regretted action. My vote today, Mr. Speaker, is clearly, therefore, not against equal rights for women or even against the equal rights amendment.●

THE EQUAL RIGHTS AMENDMENT

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ALBOSTA. Mr. Speaker, I want to state my strong opposition to the way in which the equal rights amendment was considered today by the House of Representatives. An amendment to the U.S. Constitution is certainly deserving of a full and open debate—we should not take lightly the amending of this important document.

I had planned to vote in support of the Sensenbrenner amendment clarifying that the right to an abortion is not guaranteed by the ERA, but was denied the opportunity to do so due to the decision to consider it under suspension of the rules. Although I did not have the chance to express my views on protecting the rights of the

unborn, I still believed it important to vote for the ERA in order that we protect the rights of women by establishing as a fundamental policy of our Government that no individual may be discriminated against on the basis of sex.

I remain supportive not only of equal rights for women, but also of equal rights for our unborn through the passage of a constitutional amendment which would ban abortion. I will continue to work toward both of these goals, and urge my colleagues' support of them.●

THE EQUAL RIGHTS AMENDMENT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MINETA. Mr. Speaker, today we consider one of the most important legislative measures in the history of our country—the equal rights amendment. It amends the Constitution so that an omission in this great document will be corrected. When the amendment is ratified, our Constitution will finally guarantee that all Americans must be treated equally under the law.

The equal rights amendment is not complicated. In keeping with the purpose of the Constitution, it is a broad statement of public policy. It is not a detailed listing of all possible ramifications.

As we all know, the amendment reads simply:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

That message is clear and just. Women will have the same protection under our laws, and the same opportunities under our laws, as men.

The issue is equality for women. You are either for or against this principle. It is that straightforward. If you support full equality for America's women, then you will vote for the ERA today. If you do not support equality for America's women—if you are determined to continue denying them the rank of full-class citizens in this Nation—then you will vote against the ERA.

There are many Members here who are concerned with the procedures under which the House will consider the amendment. They argue that 40 minutes of debate is too little for discussion of such a significant measure. I agree that the measure is of the utmost importance, and that is why I object to time being wasted on unnecessary, long-winded speeches. They only serve to cloud our deliberation.

Americans have discussed this legislation for years, even decades. We all understand it. It is not complex—women must be treated equally under the law. This concept does not require a ponderous amount of deep thinking. It should not be subject to obfuscation and doubletalk.

But, opponents of the amendment couch their arguments in pleas of confusion. They say the ERA is complicated, its intent vague, its ramifications unclear. Thus, to "clean up" the wording, they propose a string of amendments which would cut women out from the very law that is supposd to protect them.

This would not be cleanup nor clarification. This would be a low attempt to weaken and even destroy the intent of the ERA.

What we sorely need today is legislative reform. And that is what the equal rights amendment is all about. To delay consideration, or to insist that each State pass its own amendment, is inappropriate. The purpose of the ERA is to recognize the equality of women in the highest law of the land, the Constitution.

Attempts to weaken the ERA with special-interest amendments spell death for this legislation. Let us pass the amendment in its purest form with the speed and integrity it deserves.

A vast majority of the citizens in our Nation support the equal rights amendment. They depend upon Congress to start the ratification process rolling again. To turn our backs on this great mandate is callous and dishonest.

We were elected to insure the well-being of the American people, all the American people. Today, we must live up to that responsibility.●

THE EQUAL RIGHTS AMENDMENT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FOGLIETTA. Mr. Speaker, I rise in strong support of this resolution. Much has been said, and will be said, on both sides of this issue. Let me be brief.

It is imperative that this constitutional amendment be adopted. It is embarrassing to me, as an American who believes strongly in complete equality under the law for everyone, that we have to pass this resolution again.

Yes, there are laws currently in place and legislation pending that help eradicate gender-based discrimination. they in no way preclude the pressing need for this constitutional amendment.

Let us get on with it. The ERA is an idea whose time came long ago. It is a shame that today, in 1983, we are still mired in the debate that we are. Let us be responsible and forthright. Let us affirm our commitment to equality for all people. Let us pass this resolution.●

EQUAL RIGHTS AMENDMENT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. WOLPE. Mr. Speaker, as an original cosponsor of House Joint Resolution 1, I offer my strong support for the equal rights amendment. No question to come before this body can be of more importance than how to provide equal justice and opportunity to all citizens of our Nation. There is no better answer on how this can be achieved than through passage of the ERA.

The equal rights amendment was first introduced in Congress 60 years ago. We have come a long way since then. It has been 20 years since Congress has passed the Equal Pay Act, 9 years since passage of title IX which disallowed sex discrimination in public education. But there remains a long road ahead. Even today, women make only 59 cents to every $1 learned by a man and recently Federal regulations have been interpreted so as to weaken the impact of title IX legislation. It is evident that existing laws have not effectively eliminated sex discrimination. In addition, statutory law can be repealed or weakened at any time.

Unfortunately, any gains in sexual equality will always be threatened by the whim of a few legislators—or by the social views of a small minority—until equal rights become protected by the Constitution. And yet, this dramatic step to end discrimination once and for all would say nothing that is not already implicit in the Constitution. The equal rights amendment states, simply, that equality under the law should be denied to no one in this country; that the principles of equal opportunity, equal rights and equal responsibility should be applied universally. The equal rights amendment does not alter but only reaffirms traditional American principles. It is precisely because I believe our current practice—of statute-by-statute review—has violated the spirit of the Constitution, that I believe we should adopt the equal rights amendment as the 27th amendment to the Constitution, thereby explicitly securing the principle of equal rights for all in the fundamental law of the land.

The equal rights amendment is not only a women's issue; it is a human issue. Men have benefited equally with women from the new found awareness that no profession, social role or personal commitment should be restricted

to members of one sex. The principle of equal rights is as relevant for men as for women—for it provides the vehicle for creating new opportunities for members of both sexes. The passage of the ERA would be liberating for all. No doubt this is why a recent Gallup poll has shown—as many polls throughout this decade have shown—the American public, men and women alike, supports the ERA by a 63 to 33 percent majority.

On this day, we must support the equal rights amendment, in its original language, clarifying once and for all time that our Constitution guarantees equal rights for all Americans.●

EQUAL RIGHTS AMENDMENT

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. LEHMAN of California. Mr. Speaker, I am proud to extend my strong support for the equal rights amendment today in its simple and straightforward form.

While the original wording of the amendment has been the subject of debate and research for many years, I deeply believe that the ERA as it stands now best addresses the need for a constitutional guarantee of legal equality for all people. Any amendment to the current wording would detract from the essential impact of the constitutional principle of equality.

It has been well-documented that women face occupational roadblocks and stagnation, pay inequities, and general exclusion from the high-wage sector of the job market. Discrimination based on gender has an adverse effect on elderly women attempting to survive on smaller pensions, on women who head the vast majority of single-parent families, on women who are striving to live up to their full intellectual potential in the career world, and on women everywhere, in all walks of life trying to assume their rightful place alongside men in this society. In a society as advanced and enlightened as ours, the continuation of sex discrimination casts a slur on our position as the leader of the free and democratic world.

There is no question that the need exists for a constitutional amendment to establish equal treatment for men and women as citizens and individuals under the law.

Mr. Speaker, we are debating an issue of fairness whose resolve is long overdue. Equal treatment under the law helps all individuals, women, and men alike. Today, we have an opportunity to rise above our history of hypocrisy toward American women. The time has come for the passage of this fundamental and important amendment. I urge my colleagues to support the ERA.●

EQUAL RIGHTS AMENDMENT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. FORSYTHE. Mr. Speaker, today the House votes once again on the equal rights amendment to the U.S. Constitution. I first supported such legislation when I served in the New Jersey Legislature and then had the opportunity to vote for the Federal equal rights amendment when it was approved by the Congress in 1972. I also supported the extension of the original deadline for ratification of the ERA in 1978. I still actively support the ERA and I am a cosponsor of House Joint Resolution 1, but the manner in which the House is today considering House Joint Resolution 1 is unconscionable. I will, therefore, be opposing House Joint Resolution 1 today on procedural grounds.

We are considering a constitutional amendment under a procedure which allows only 40 minutes debate and no amendments. The procedure we are using was intended for noncontroversial legislative bills, not amendments to the Constitution. The House Judiciary Committee heard more than 40 witnesses, representing a broad spectrum of opinion and considered several amendments to the resolution. Yet we are being asked to vote on this constitutional amendment without the benefit of the Judiciary Committee's report and without having available for review the testimony heard by the Judiciary Committee.

The Democrat leadership in the House has chosen to abandon reasoned and responsible consideration and is attempting to ram the amendment through this body for political reasons. It is my great fear that using this method to take the amendment back to the State legislatures for ratification will guarantee its failure rather than its passage. The supporters of the ERA tried for 10 years to have it ratified by three-fourths of our State governments and failed. To send the amendment back to the States without acknowledging the objections raised is nearly certain to guarantee its defeat. I think the ERA is too important to be used as a political ploy, and that a great disservice is being done to the ERA by forcing its consideration in this manner.

I am confident that there are enough votes in the House to pass the ERA after it has been openly and thoroughly debated. There are simply no substantive reasons that exist to account for the consideration of House Joint Resolution 1 in this manner. I urge my colleagues to join me in voting against House Joint Resolution 1 today so that we may consider the measure in an open and responsible fashion to help insure its ratification by the States.●

EQUAL RIGHTS AMENDMENT

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. NICHOLS. Mr. Speaker, today you are asking this body to make a very serious decision—to vote on an amendment to our Constitution. We are not talking about a concurrent resolution, a technical amendment to existing law, or a private bill. An amendment to our Constitution is much more significant and far too important to be considered under suspension of the rules.

I intend to oppose the amendment today. There will be many who will misinterpret this vote. They will say it is a vote against all women in our society. Some will say that I am ignoring the legal needs of more than half our American population.

Let me clearly state that my "nay" vote has nothing to do with my beliefs regarding equal treatment under the law, regardless of sex. It has everything to do with the technique we are using to effect a change in our basic document of democracy. I refuse to make a mockery of our Constitution by voting to change it with just 40 minutes of debate.

Such a procedure is not fair to the millions of Americans potentially affected by such a change, or the millions of Americans who have given their lives to defend our Constitution.●

EQUAL RIGHTS AMENDMENT: CONGRESS MUST ACT NOW

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MILLER of California. Mr. Speaker, I rise in vigorous support of the equal rights amendment to the Constitution, and I urge the House to vote overwhelmingly to pass the resolution before us today.

There is no stronger or more timely statement that can be made in support of full equality for women than enactment of the ERA. On two occasions, the Congress has approved this amendment, only to watch it languish, unratified by a sufficient number of States.

There are some who argue that, having passed this amendment twice,

and having watched the States fail to ratify it twice, we should now abandon this effort. This argument is morally, legally, and politically untenable. A wrong does not become less wrong merely because it exists over time. Nor does our obligation to right that wrong diminish by the failure of others to act against it. As our greatest spokesman for equality, Abraham Lincoln once said, "Important principles may and must be inflexible." So must we be inflexible on the subject of equal rights for women.

The failure to make the ERA part of the Constitution of this country is a failure of politicians, and predominantly male politicians, not a failure of the people of this Nation. An overwhelming majority of voters—men and women, liberals and conservatives—want ERA. The reason that we are again considering this amendment today is not merely because we support equal rights for women, but because the majority of the people of the United States demand equal rights for all citizens.

Politicians have been adept at inventing reasons why ERA cannot, or should not, be enacted. Those politicians must be held accountable, and they will be held responsible at the polls in 1984 for their refusal to endorse equality for women in America.

Some of these politicians argue that ERA is unnecessary because current laws require equality for women. But the legal and historic traditions of our country establish equality not in statutes, which can be interpreted in conflicting ways in different parts of this country, but in the basic law of this country—the Constitution.

If those who argue for statutory guarantees of equality in lieu of constitutional protections actually voted for stronger statutes, our laws promising equality would be stronger today than they are.

If statutes alone could assure equality for women, there would be far less inequality and discrimination against women than there is today.

Yet widespread inequality against women persists. In particular, women endure economic inequality in a world where they are increasingly economically independent. Over half of the women with children under the age of 6 and nearly two-thirds of those with school-age children are working.

Most women work for the same reason that most men work: They need the money to help support their family. In unprecedented numbers of cases—because of widowhood, divorce, and single parenthood—they are the sole wage earner in that family.

Yet despite equal pay laws at the Federal level and in many States, working women earn barely half the salaries of their male counterparts. In many areas, women's earning have declined compared to men's salaries over the last 30 years.

We all know that economic inequality, legal inequality, and political inequality are closely intertwined. The time to end that inequality based on sex has long ago come in the minds of the American people. It is the Congress and the State legislatures which have fallen behind the people they are supposed to lead.

Let us echo the words of William Lloyd Garrison, who, in demanding constitutional equality for black Americans a century ago, reminded us:

> You can not possibly have a broader basis for any government than that which includes all the people, with all their rights in their hands, and with an equal power to maintain their rights.

This House must put the full rights of our Constitution into the hands of all the people of this Nation. Let us stop playing rhetorical games with the basic rights of half our population. Make no mistake, the ERA is your opportunity to vote for full equality for women in this country.

Let this House go on record today in favor of ending centuries of second-class citizenship and social inequality for women in America by overwhelmingly approving, and sending to the States for ratification, the equal rights amendment to the Constitution.●

EQUAL RIGHTS AMENDMENT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. MATSUI. Mr. Speaker, I rise in support today of one of the most important pieces of legislation that we have dealt with in this session, House Joint Resolution 1, the equal rights amendment. Approval of this measure will mark the first step in the march toward full ratification. It will reaffirm our commitment to insure that the civil rights of all our citizens, women as well as men, are protected under the Constitution.

Over the past decade, women have won numerous victories in their struggle to become citizens with equal rights, opportunities, and advantages. Much remains to be accomplished, however, as women continue to earn less than their male counterparts. In 1979, women earned roughly 59 cents for every dollar paid to men. According to these figures, women would be required to work 9 days, nearly twice as long, to earn the same amount that men are paid in 5.

The need for an ERA goes beyond questions of economic equity. With the enactment and ratification of this amendment, women will be assured fair and equal access to opportunities in employment, education, and benefit and retirement programs. An ERA will guarantee necessary protections for women throughout marriage, divorce, and old age.

As stated in a 1981 report by the U.S. Civil Rights Commission, "ratification of the equal rights amendment will provide a durable guarantee to women and men of equal status and dignity under the law. It will allow us to live and develop free from the Government intrusion that historically has classified and pigeonholed men and women according to stereotypes about their roles and capabilities." This report underscores the fact that the ERA will assure all Americans, regardless of their gender, the equal protection and due process entitlements inherent in our Constitution.

In light of our national dedication to the protection and expansion of individual rights, I believe it is incumbent upon us to pursue with renewed purpose the final ratification of the equal rights amendment. I am hopeful that the other body will recognize its obligation to assure equal treatment of all our citizens by passing the ERA expeditiously once the House has acted.●

EQUAL RIGHTS AMENDMENT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. KASTENMEIER. Mr. Speaker, it is most unfortunate that the equal rights amendment failed earlier today to receive the required two-thirds vote for passage under the suspension of the rules.

Those who argue that insufficient time was permitted under this procedure for debate and that it was unfair to bring the proposed constitutional amendment to the floor under a procedure that precluded amendments would have us believe that there are new arguments to be made against an issue that has been voted on three times in a little more than a decade. There are no new arguments. The case for the equal rights amendment has been well made through the years and should not be in dispute.

We have engaged time and again in skirmishes and battles with opponents of the ERA who have raised one smokescreen after another in an attempt to either defeat the ERA or render it meaningless. This year we have the arguments that it will result in these amendments limiting abortion being declared unconstitutional and will mean that women will have to be drafted and fight in combat.

The abortion issue, it seems to me, is falacious on its face. The longstanding legislative history of this amendment has made clear that the amendment would prohibit the application of laws

that apply to one sex only, except for those laws based on the unique physical characteristics of one sex. Clearly the ability to get pregnant and, therefore, to have an abortion, flows from the physical characteristics unique to the female sex. This amendment guarantees equal rights for men and women. Men cannot get pregnant; they cannot have babies; and, they cannot have abortions. There is no way the equal rights amendment can grant, or deny, to men an equal right to an abortion with women. This argument falls with the simplest of logic.

It is likely that with the adoption of the equal rights amendment women would be subject to the draft and would have to serve in combat, if they were able to based on their physical qualifications. As one opposed to conscription of men or women, I would not want to see a draft reinstated for anyone. But, if that were to happen, it seems to me that women who expect and deserve the full benefits of citizenship should also expect the full obligations of that citizenship, including the obligation to defend this country. Women are as patriotic as men, as their service in previous wars has demonstrated. To assume that in times of war, if our national security is at stake, women would not wish to defend our vital interests is to denigrate that patriotism.

Mr. Speaker, this is an issue of basic human rights and equality. That we should still be debating the question of whether the women of this country—more than one-half of our population—should be treated equally under the law is rather incredible. I, for one, do not want the history books to record that, because of the narrowness of a few in power in States across the country, and a male-dominated Congress, women were kept as second-class citizens in a country that has touted to the world its history of freedom, equality and virtually unlimited opportunity.

This is a simple proposition: Do we truly want to continue to foster a society in which some people are more equal than others? I trust the answer is no and that we will see the ERA again brought to the House floor in the near future and adopted without qualifications that can only continue to relegate women to less than equal status.●

EQUAL RIGHTS AMENDMENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. BIAGGI. Mr. Speaker, as a cosponsor of this joint resolution and as the author of an identical House Joint Resolution 7, I rise in full support of the equal rights amendment. I support this legislation no matter what procedure is used for its consideration. This legislation enjoys tremendous support in this House and therefore to place it on the Suspension Calendar is not such an unusual procedure.

Rarely have 40 words meant so much to so many people as does the text of House Joint Resolution 1:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. The Congress shall have the power to enforce by appropriate legislation the provisions of this article.

These few words constitute the foundation upon which equality under the law for women will be achieved. House Joint Resolution 1 is the centerpiece of congressional commitment on behalf of women's rights in 1983. It occurs at a time when progress is being made on other fronts where discrimination against women is rampant such as in pension policies and as it relates to the nonpayment of child support. Yet without passage by Congress of House Joint Resolution 1 and its subsequent ratification by three-quarters of the States—these other initiatives will pale by comparison and we will be following a piecemeal strategy.

I regret in many ways that we are having to restart the ratification clock on this date November 15, 1983. It was some 12 years ago when I and a majority of my colleagues in the House first ratified the ERA. Under that proposed constitutional amendment States were given 7 years to ratify the measure. In 1978 I again joined with a majority of my colleagues in passing legislation to extend the ratification deadline until June 30, 1982. That day came and went and only 35 States, three short of the required amount had ratified the amendment.

June 30, 1982, was truly one of the most regrettable dates in our Nation's history. It seemed then as it does now—inconceivable that in a nation which prides itself on its advocacy for equal rights for all, that a constitutional amendment securing these rights for women could not be ratified by three-fourths of the States.

Yet because of the fact that we did not June 30, 1982, to be recorded as the date that our commitment to women's equality under law ended, we are here today with a sincere effort to reaffirm congressional support for the amendment and let the ratification clock start again.

In concept and in practice equal rights for women should not be viewed as something alien to our Constitution or way of life. In fact the failure of the United States to provide this as part of our law of the land places us in a socially regressive light in the eyes of those who hold this Nation up as an example of the leader of freedom and rights.

House Joint Resolution 1 must be viewed in a philosophical light as well. There are two schools of thought on how best to achieve equality for women under the law. The first is the approach embraced by this administration that equality can come through a statute by statute elimination of discrimination based on sex. The other school is reflected in House Joint Resolution 1 which goes to the very highest level of the law—the Constitution, mandates equality under all laws and places proper enforcement tools right in the Constitution. The first school is fraught with risks—and riddled with exemptions which can ultimately make a mockery of the process. The second school removes the loopholes and makes it incumbent upon all laws to adhere to the provisions which would ber made part of the Constitution.

Not only does an overwhelming majority of the Congress support the ERA public opinion poll after public opinion poll reveals tremendous support among the American people for the ERA.

The issue before us is simply this—do we support equal rights for women under law or do we not. The issue is certainly not whether we take 40 minutes to debate the issue. I joined as an original cosponsor of House Joint Resolution 1 because in its 40-word text was embodied the full commitment to equality which I believe should be part of the Constitution. I did not support the proposal with the assumption that it would be amended or perfected as some have come to describe their efforts. I believe equal rights for women should be provided precisely the way House Joint Resolution 1 was originally written.

Finally, let me conclude with the observation that the ERA was first introduced in Congress 60 years ago. How much longer should women have to wait for the right of equality under law? Let us renew our commitment today with the passage of the joint resolution, and let all of those who advocate for the ERA work in a responsible fashion in all States so that ratification process can succeed this time. I urge passage today.●

THE EQUAL RIGHTS AMENDMENT

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. HANCE. Mr. Speaker, it has generally been my philosophy to correct any inadequacies in the law by enacting legislation specific to the problem. This approach has been painstaking and slow and not always successful. But if our laws are deficient, they

must be corrected nonetheless. If our laws do not guarantee equal rights, then they must be amended to do so. And if we cannot do so law by law, then we must do so with a broader legislative instrument.

My support of ERA is based solely on eliminating the inequities that exist in our pension laws, our insurance laws, our child care laws, our employment laws, and our tax laws. Those who know me know I do not support gay rights, that I do not support women in combat, that I do not support out-and-out abortion. And for anyone to suggest that I do is wrong.

Some wise old philosopher once said that an invasion of armies can be resisted, but not an idea whose time has come. Mr. Speaker, I submit to the House that the ERA's time has come.●

THE EQUAL RIGHTS AMENDMENT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. ACKERMAN. Mr. Speaker, I rise in support of House Joint Resolution 1, the equal rights amendment. This is one of the most important bills this Congress, or any Congress, will consider.

Over the past 200 years, our country has made great strides. Where we once rode in horse and buggy we now travel in high-powered jet. The pace of social change, however, has not moved along at the same velocity. Today we sit in the same Chamber where the first congressional debates on ERA took place, 60 long years ago. Since that time, the moral, cultural, and economic reasons for enactment of this amendment have continued to grow.

We can only lament the unknown numbers of chemists, doctors, and lawmakers that might have been, those legions of women with talents that were never nurtured because of the monopoly men have had over these positions throughout the history of this Nation. Of course, there are far more opportunities for women nowadays, in large part because bold women and men struggled against the stereotypes, and worked hard to improve both the perception and status of women.

These changes, though welcome, are no guarantee that discrimination will one day fade from the landscape. The United States has always been a nation enamored with law, a nation that recognized well before most others that clear, precise rules widely distributed are the best defense against tyranny and injustice. Certainly, the equal rights amendment is in keeping with this outstanding tradition. In a mere two sentences, the amendment expresses this Nation's commitment to fairness and equality, declaring that no citizen's rights can be abridged solely on account of sex.

Mr. Speaker, as a freshman Member of Congress it gives me great pleasure to cast my vote in favor of the ERA. I hope that both Houses of Congress and three-fourths of the States eventually see fit to pass this landmark amendment.●

SUPPORT TITLE IX, HOUSE RESOLUTION 190

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Ms. MIKULSKI. Mr. Speaker, I rise in support of House Resolution 190, reaffirming Congress support for the comprehensive coverage originally intended by title IX of the Education Amendments of 1972. Congress enacted this legislation to insure educational equity for American women and to make certain that Federal taxpayer dollars would in no way support gender discrimination.

Yet the Reagan administration will argue before the U.S. Supreme Court later this month, in the case of Grove City against Bell, that only the specific college office receiving Federal funds is required to abide by the antidiscrimination law. In practice, that could mean that the financial aid office is subject to the law, but the academic and sports programs are not.

This is an extremely narrow interpretation of the law. It is yet another attempt by this administration to roll back the gains made in the last decade in the struggle for women's rights. Moreover, this effort to narrow the current broad guarantees under title IX could be extended to narrow those protecting minorities and the handicapped.

Title IX's comprehensive protection against gender discrimination in education is vital to the struggle for economic equality, because education is the door to opportunity. If the door to education begins to close again for women, a world of opportunities will also begin to close.

How has title IX helped the cause of women's equality? Before its enactment, institutions routinely restricted women through the use of quotas, higher admission standards, and by discriminating against them in the award of financial aid. Since its passage, women have made great strides in obtaining vocational, graduate, and professional degrees.

The Federal Government must persevere in its commitment to equality. Chief Justice Warren Burger, writing for the majority in the Bob Jones University case earlier this year, found the "Government has a fundamental, overriding interest in eradicating racial discrimination in education." It has that same interest in eradicating gender discrimination in education.●

MISGUIDED ACTION AGAINST SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PHILIP M. CRANE. Mr. Speaker, today I am introducing a bill which will express the disapproval of this Congress of the attempt by the District of Columbia to divest its funds from South Africa. Their action is based on what they feel is a moral necessity to move to socially responsible investment. It is believed that the pressure exerted by divestiture will force the South African Government to enact the desired social reforms. Although the intent of this action is honorable and something that we all support, it is not only improper means of achieving the goal at hand but will, in fact, be harmful and is based on misconceptions about the current situation in South Africa. My concern about this action is threefold that it will take away the vast array of opportunities opened up to blacks and other nonwhites by U.S. corporations in South Africa, that Americans will be hurt both financially and by the resulting loss of jobs with little or no effect on the policies of the South African Government, and that such actions violate the Commerce Clause of the Constitution and represent a usurpation of power from the Federal Government. I believe that such actions will only serve to hinder the achievement of our goals that it is imperative that we express our disapproval of them.

This view is shared by many of my colleagues and countrymen. During hearings held by the Senate Subcommittee on Africa in 1976, Congressman STEPHEN SOLARZ testified that:

> During the course of my discussions with nationalist and black leaders in South Africa, I found an almost universal conviction that it would be a mistake for the United States to withdraw its investment from South Africa . . .

This view has also been supported by many leaders of South Africa national groups. They have consistently expressed the view that foreign divestiture will harm the black, colored, and Asian nations. Mrs. Lucy Mvubelo, a respected black leader and general-secretary of the National Union of Clothing Workers, South Africa's largest union, stated that:

> Remaining in South Africa and increasing your stake will be a boost to the evolutionary process which is now taking place. It

will be encouragement that the freedom which is so cherished by Americans can also be ours.

This sentiment was also reiterated by Mr. Franklin Sonn, a colored community leader and Labour Party member, who said, "The United States can be a good influence—not by removing its investments and business involvement—but by keeping them here.* * *" Clearly if the leaders of those groups that we propose to help are opposed to divestiture, we must consider it at best as an ill-advised policy to pursue.

Among the reasons that so many people oppose this policy are its effects on black labor markets. At the present time, 230,000 black laborers enter the South African labor market annually and by the end of the century, that number will rise to 360,000. Continued foreign investment in South Africa will help to insure black progress by guaranteeing the overall growth of the South African economy. This will help to expand job opportunities for skilled and semiskilled black labor. Thus, divestiture will hurt, not help, South African labor markets which are of vital concern to those we intend to help.

American investment in South Africa has had additional beneficial effects. It has contributed significantly to changes in labor policy. Black, colored, and Asian workers have been assured of many rights including the right to work, the right to organize and belong to an employees' organization, and the right to negotiate and bargain collectively. Much of this change is based on initiatives taken by American corporations. These actions include voluntary adherence to the Sullivan code of Fair Employment Practices. In areas with a high concentration of American companies, the wages for black workers are above the norm because local companies must meet the pay standards set by the U.S. companies. This clearly indicates that American investment in South Africa helps to promote the goals of racial and economic equality.

American corporations in South Africa have also contributed to the increased availability of educational opportunities for blacks and other minorities. This has been done in a myriad of ways at the initiatives of U.S. businessmen and corporations. Project PACE is one example of an effort by American businesses to build a private coeducational commercial school in Soweto to provide a quality education for black students at the high school level. It has received the support of all of Soweto's leaders including Dr. Motlana, Committee of Ten chairman, who said:

> The most outstanding thing I remember is that the American businessman had, in fact, decided to make this a commercial high school and this is one area where we felt a great need for this type of training and we are more than glad that they made it into a commercial high school.

This, and many other projects like it, show the attempts by American businesses to focus in on local problems and to initiate projects to alleviate them. Other attempts by U.S. businesses in South Africa to increase job opportunities for nonwhites include programs like those initiated by the Dow Chemical Co. Among their programs are language classes for blacks to help build and improve their command of the English language, financial support for the PACE project, and special education grants for the children of black employees. These are only a few examples of programs supported by American businesses that expand the number of educational opportunities for blacks in South Africa, and it is programs such as these that will help to open up all levels of the labor market to participations by nonwhites. The positive benefits of programs such as these will be terminated if efforts to divest succeed. Passage of the District of Columbia bill will contribute to this termination and only serve to stall efforts to achieve racial and economic equality in South Africa.

American companies in South Africa are viewed as one of the major instruments of social change. The U.S. Council for International Business concluded in a study of American corporations in South Africa that:

> American corporations provide health care and housing, support community projects, education and other activities supporting human development. This effort has improved the quality of life of not only thousands of employees of U.S. corporations but also the community as a whole and has set an example for others to follow.

The Ford Motor Co. has granted interest-free home improvement loans to nonwhite employees, established a multiracial sports and recreation facility, and constructed a swimming pool complex for a nonwhite community. These are only a few of the projects embarked upon by U.S. companies to facilitate social change. Measures such as the District of Columbia divestiture bill which place pressure on U.S. industry to divest itself from involvement in South Africa will only create greater racial tensions which the U.S. corporate presence there helps to ameliorate.

Another important area of concern is the effects of divestiture in this country. Despite the claims of proponents of divestiture, many costs are associated with it. This can be seen by the results of divestiture in other States and localities. Only one example is the Commonwealth of Massachusetts. After divesting State pension funds as a protest against the South African Government's racial policies, the State lost $14.4 million. Although losses have not always been the result of divestiture, it is clear that by divesting the United States is only hurting itself. South Africa does not rely heavily on American investment. Thus, the major costs of divestiture will accrue to the United States in the form of lost jobs and lower investment returns with little or no effect on South African racial policies.

The costs to the United States are caused by several underlying factors. The most immediate is the transaction costs of divestiture. A second cost would be the increased staff time that is required to institute and maintain the restrictive investment policy. The most important cost, however, is the fact that the portfolio becomes less attractive in terms of increased risk, lower returns, and the inability to diversify. Because 56 percent of Standard & Poor's 500 stocks and whole sectors are barred by the proposed investment restrictions, the portfolio would consist of smaller capitalization firms. Such firms are riskier since their stock prices are more volatile and they increase the chances of financial loss. The stock of smaller companies is also less liquid when the ability to quickly buy or sell stocks is vital. Overall, the long-term returns on investments are likely to be lower which would result in higher taxes or lower benefits. These figures clearly indicate that divestiture will involve high costs to the District of Columbia pension funds and those who rely on them while its probable effects on the racial policies of the South African Government would be minimal at best.

In addition to the problems created by the effects of divestiture, constitutional questions can also be raised. By forcing divestiture of public funds from South Africa, the District of Columbia is attempting to involve itself in the foreign policy sphere. Such action can be challenged under the "Commerce Clause" of the Constitution which gives Congress the power to "regulate commerce with foreign nations." It is supported by numerous Supreme Court decisions. One example is the decision in U.S. against Pink: "No state can write our foreign policy to conform to its own domestic policies. Power of external affairs is not shared by the State; it is vested in the nation's government exclusively." If States and localities are allowed to use economic leverage to influence the policies of other nations, American foreign policy will become irrational and inconsistent. The District of Columbia divestiture bill, if allowed to stand, will help to set a dangerous precedent of usurpation of power by the States.

I hope that these facts will make it as clear to you as it is to me that we must express our disapproval of this attempt by the District of Columbia to divest its funds from South Africa.

While on its face this action appears to be beneficent, it, in fact, only harms those whom we intend to help. We must not allow the high ideals which form the basis of this action to blind us to its effects when put into practice. If successful, the divestiture of funds from South Africa will cost both Americans and black South Africans jobs, it will take away one of the major instruments of social change in South Africa, and it will not result in any meaningful changes in the racial policies of the South African Government. Therefore, I urge all of my colleagues to support my action and to express their disapproval of this well-intentioned but misguided action by the District of Columbia.●

STUDY OF FEDERAL CUTBACKS ON EMPLOYMENT TRAINING AND OPPORTUNITIES FOR PUERTO RICANS BY NATIONAL PUERTO RICAN COALITION, INC.

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. TORRES. Mr. Speaker, I would like to share with my fellow colleagues a research study recently released by the National Puerto Rican Coalition, Inc. (NPRC). The study assessed the impact of Federal cutbacks on employment and training opportunities for Puerto Ricans.

The NPRC was established to advance the social, economic, and political well-being of Puerto Ricans throughout the United States and in Puerto Rico. It is a nonprofit, tax-exempt organization conducting research and analyzing public policies as they affect Puerto Ricans. NPRC provides training and technical assistance to Puerto Rican organizations and is currently developing an extensive national communications network for Puerto Rican communities, community-based organizations, and individuals.

The report summarizes the impact on the Puerto Rican community of Federal cutbacks on employment and training programs in seven cities. This report is particularly timely since unemployment among Puerto Ricans in 1983 has been as high as 14 percent—second only to the unemployment rate for blacks. Among its findings, the report highlights several factors contributing to the unemployment rate of Puerto Ricans such as lack of proficiency in English, low levels of formal schooling, and racial discrimination. The report also provides useful policy recommendations that can serve to improve employment and training opportunities for the Puerto Rican community.

Mr. Speaker, I am submitting for the RECORD a copy of the executive summary of the seven city study. If my fellow colleagues wish to obtain a copy of the complete report, they can write the National Puerto Rican Coalition, Inc., 701 North Fairfax Street, Suite 310, Alexandria, Va. 22314.

EXECUTIVE SUMMARY

BACKGROUND TO THE STUDY

Puerto Ricans throughout the nation's fifty states confront enormous obstacles to their well-being. The socio-economic profile of this second-largest, youngest subgroup of Hispanic Americans is not only stark but appears to be worsening. Compared to the U.S. non-Hispanic white population, other Hispanics and almost every other minority group, Puerto Ricans have fewer jobs, lower family income, higher poverty rates, and lower levels of educational attainment. To cite two examples, 42.8 percent of Puerto Ricans in the United States lived at or below the poverty level in 1981, compared to 34.2 percent and 11.1 percent for the U.S. black and white populations respectively. Mean family income that year was $14,172 for Puerto Ricans, $16,696 for blacks and $26,934 for whites.

While this Puerto Rican reality had been partly reflected in statistics gathered by New York City officials and Puerto Rican organizations over two decades, it was not until 1980 that official U.S. Census figures began to document the bare outlines of the condition of the Puerto Rican community nationally. Recognizing that the need for more complete data on this distressed community persists—especially during times of economic austerity and significant federal domestic policy changes—the National Puerto Rican Coalition conceived and carried out a Rockefeller Foundation-funded study to assess the employment and training opportunities for Puerto Ricans in seven cities with sizeable Puerto Rican populations: Hartford, Rochester, Boston, Newark, New York, Chicago and Philadelphia. Support for the study was also received from the Ford Foundation.

The primary purpose of the study was to document and analyze the actual and anticipated impact of federal cutbacks on employment and training opportunities for Puerto Ricans. Beyond that, its goal was to indentify useful policy recommendations which would serve to improve such opportunities for Puerto Ricans.

METHODOLOGY

Seven individual city studies were designed and carried out during the period February 1982 to August 1983 by principal investigator I. Michael Borrero. Data were collected through questionnaires sent to key administrators of employment and training programs (Comprehensive Employment and Training Act (CETA), Private Industry Council (PIC), Work Incentive Program (WIN) and Vocational Education) in each of the seven cities studied; workshops held in the cities involving key Puerto Rican and non-Puerto Rican members of those communities who were knowledgeable about the needs of the Puerto Rican community and concerned about the economic progress of their city; and questionnaires administered to a randomly selected sample of Puerto Ricans who had participated in public employment and training programs in Hartford, Rochester and Newark.

These studies culminated in reports on five cities (Boston, Hartford, Newark, New York and Rochester) and a summary report.

SELECTED FINDINGS AND RECOMMENDATIONS

Finding 1: There continues to be a great need for precise, accurate social and economic statistical data on Puerto Ricans in the United States, including date on the labor market participation of Puerto Ricans. Available data on this community are usually limited, dated or unfocused.

Recommendation 1: As a matter of policy, federal, state and municipal agencies must begin in earnest to routinely collect socio-economic data concerning Puerto Ricans. Unless this happens soon, policy decisions that could serve to improve the well-being of Puerto Rican communities may never be made.

Finding 2: Given the low socio-economic profile of Puerto Ricans in the cities studied, one would expect appreciable numbers enrolled in public employment and training programs. Our study revealed that, of all groups, Puerto Ricans had the lowest participation levels even though they would be the most eligible. Consequently, across the board program cuts being implemented or considered will have a disproportionate impact on the Puerto Rican community.

Recommendation 2: Puerto Rican community-based organizations, PICs and program administrators must assure that eligibility criteria and service priorities under the Job Training Partnership Act of 1982 are extensively disseminated within the Puerto Rican community. They should also collaborate in local oversight efforts of programs implemented under that act. Program advisory boards and councils, as well as program administrators, must make every effort to ensure that the employment and training needs of the Puerto Rican community are forthrightly addressed through these programs.

Finding 3: There is a wide-spread belief among employment and training program administrators and within the Puerto Rican communities studies that, because of an increased emphasis on producing quantifiable results with significantly reduced program budgets, citizens with additional training needs (e.g., English language instruction (ESL) and basic education) will be overlooked as trainees. In other words, those with the most training needs will receive less.

Recommendation 3: While efforts by employment and training administrators to do more with less are laudable, we should recognize that Puerto Ricans in the cities studied may well be denied entry into such programs precisely because their needs are greater than those of other groups. This would have serious consequences for the Puerto Rican communities involved, and steps must be taken immediately to prevent that from happening. At a minimum, targeted efforts to meet the special needs of this population, such as ESL, basic education and school-to-work transition programs must be strengthened.

Finding 4: Very few Puerto Ricans were found to be members of Private Industry Councils, advisory councils or any important decision-making body, and none of the cities studied had a Puerto Rican or Hispanic administrator in a key decision-making position of employment and training programs.

Recommendation 4: A major commitment must be made by all employment and training program decision-making bodies and by community-based Puerto Rican organiza-

tion to assure that knowledgeable Puerto Ricans are identified and recruited to serve on these councils. Committees should be established within each Private Industry Council and other such decision-making bodies to assure the appropriate participation, at all levels, of the Puerto Rican community. Community groups must set up oversight efforts to assure Puerto Rican imput into the decision-making process.

Finding 5: The percentage of Puerto Rican female-headed households averaged 42 percent of all Puerto Rican households in the seven cities studied. Comparable 1979 national figures (derived from the 1979 Current Population Survey) indicated that while 15 percent of all U.S. households were female-headed, the figures for Hispanic female-headed households were as follows: Puerto Rican, 40 percent; Mexican American, 16 percent; Cuban American and other Spanish Origin, 17 percent.

Recommendation 5: It should be clear that this finding has implications far beyond the focus of this study, and we urge policy makers at all levels as well as the Puerto Rican community itself to give it serious attention. Since, as our study points out, such Puerto Rican households have special child care, pre-training and transportation needs, it is imperative that all groups directly involved or concerned with public employment and training programs ensure that the special employment and training needs of Puerto Rican female heads of households are not overlooked. We therefore recommend that stipends and special support services be made available to assure the participation in employment and training programs by these Puerto Ricans.

CONCLUSION

A 1976 report by the U.S. Commission on Civil Rights, "Puerto Ricans in the Continental United States: An Uncertain Future," reached conclusions that remain valid seven years later:

Those who designed and implemented [Federal poverty programs of the last decade] lacked, almost entirely, an awareness of the Puerto Rican community, its cultural and linguistic identity, and its critical problems . . . causing job training and other programs to operate in vacuums. In some cases, the data the programs are based on are so inadequate that those who should be targets for help, such as Puerto Ricans, have been shortchanged. . . .

The Commission's overall conclusion is that mainland Puerto Ricans generally continue mired in the poverty facing first generations of all immigrant or migrant groups. . . .

The United States has never before had a large migration of citizens from offshore, distinct in culture and language and also facing the problem of color prejudice. After 30 years of significant migration, contrary to conventional wisdom that once Puerto Ricans learned (English) the second generation would move into the mainstream of American society, the future of this distinct community in the United States is still to be determined.

As our study makes clear at the outset, its findings and recommendations should be viewed as a significant step toward the long-overdue, precise documenting of the Puerto Rican condition throughout the United States.

While Puerto Rican migration between Puerto Rico and the U.S. mainland remains a significant factor that must be considered by all concerned with the well-being of Puerto Ricans, these Americans are no longer a primary Puerto Rico-New York City phenomenon. Indeed, they face similarly acute problems wherever they reside, throughout the 50 states. Yet their growing numbers and untapped talents and energies represent a vital factor in this nation's progress. By understanding and responding to the distinctive needs of the Puerto Rican worker, all Americans will benefit.●

SENATE—*Wednesday, November 16, 1983*

(Legislative day of Monday November 14, 1983)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable MACK MATTINGLY, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Dear God and Father of us all, we call upon Thee for a very special dispensation of wisdom for the Senate. Thou alone knowest our hearts. We cannot deceive Thee about ourselves. Grant us grace to be open to Thee. Thou knowest the tensions that build, the frustration and strong emotions that grow with the tension, as the attempt is made to adjourn on schedule. We pray that all the essential work will be done however long it takes, but deliver us from nonessentials.

We thank Thee Father for great traditions which established the course of the Senate and guide it daily. We know that many good institutions have become muscle bound by practice, which establish precedents that hinder productivity. Dear God, deliver the Senate from such futility. Bless the leadership and the Members as they do what they must these days. In the name of Him who finished His work on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 16, 1983.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MACK MATTINGLY, a Senator from the State of Georgia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. MATTINGLY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

CANCELLATION OF SPECIAL ORDER

Mr. BAKER. Mr. President, I ask unanimous consent that the special order in favor of the Senator from Alaska (Mr. MURKOWSKI) be canceled.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, what we will do is after the two leaders have used their time or yielded it back I ask unanimous consent there then be a period for the transaction of routine morning business until 10 a.m. in which Senators may speak for not more than 2 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, at 10 a.m. the natural gas bill will recur as the unfinished business. However, depending on the negotiations that may have gone on last night or this morning on that subject, it might profit the Senate more to go to something else, and I have asked the chairman of the Budget Committee, Senator DOMENICI, to be available and on tap this morning at 10 a.m. or 10:15 a.m. to begin reconciliation if that seems the better course of action.

That may or may not develop. But I have asked Senator DOMENICI to be here and we will see how that develops.

Mr. President, we have the Clark nomination which matures today sometime after 12 o'clock under the 3-day rule, which I wish to take up at some point either today or tomorrow.

We have the tuition tax credit matter which decision will be presented to the Senate in the form of a tabling motion at 1 p.m. under the order previously entered.

Depending on the outcome of that vote, then we will be on tuition tax credit or on reconciliation or back on natural gas. But we will unravel that as the day progresses.

Mr. President, we have to do debt limit before we go out, and I will confer with the minority leader on the timing of that vote, but at some point today or tomorrow, perhaps on Friday, but more likely today or tomorrow, I will move to the motion to reconsider which was entered sometime ago and we will proceed to vote on that.

Mr. President, I announced yesterday that our target date is still for sine die adjournment on November 18, which is Friday. If it is absolutely essential to do so we will be in on Saturday. I am not presently inclined, though, if we have not finished our work, to ask the Senate to come in the following week, which is the week of Thanksgiving recess which has been published for some time and on the basis of which no doubt Members have made arrangements.

But rather than borrow trouble, as we say in Tennessee, I am going to assume that we can finish Friday night and I may have to seek, entreat, urge, and insist that my friends and colleagues on this side of the aisle and even on the other side of the isle do something they may not want to do, and that is vote for the debt limit because to the extent that I am capable of doing it and the Senate will permit, we are not going to leave until we do.

Mr. President, I think that is all the bad news I can conjure up today. I will confer with the minority leader later in the day, as I said earlier, on the debt-limit question. I may be even so bold as to ask him to seek, entreat, and urge his Members to vote for the debt limit also because I am not a proud man and I will take the votes any place I can find them, and I hope that I can find some with my meeting with the minority leader. I would not presume to canvass his side for support—I never do that—but I will hope that we do have a bipartisan body of support for the passage of the debt limit.

And, as the teacher says, neatness counts, they may be assured that, on the debt limit, we will take names.

Mr. BYRD. Take what?

Mr. BAKER. Take names.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, will the minority leader yield to me for a moment?

Mr. BYRD. I yield.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there is one item on the Executive Calendar today. It is item No. 406. I confess to the minority leader it caught my at-

tention because it is a Tennessee nominee.

I wonder if the minority leader would be agreeable to taking up that matter at this time.

Mr. BYRD. Mr. President, the minority leader would be agreeable to taking up a Tennessee nominee any time the majority leader wishes.

Mr. BAKER. I am grateful in the extreme and I offer to the minority leader reciprocation at any time.

Mr. BYRD. The majority leader has reciprocated many times heretofore.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate go into executive session for the purpose of considering nomination No. 406.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

FEDERAL TRADE COMMISSION

The legislative clerk read the nomination of Terry Calvani, of Tennessee, to be a Federal Trade Commissioner.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. BAKER. I thank the Chair.

Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table twice, thrice, and then under the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank the minority leader.

Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have no further need for my time. I thank the minority leader for yielding to me. I am prepared to put us in morning business.

Mr. BYRD. Mr. President, I have no further need for my time. I yield it back.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate will now proceed to morning business.

ABC'S CONTROVERSIAL DOCUMENTARY ON NUCLEAR WAR HITTING THE UNITED STATES

Mr. PROXMIRE. Mr. President, in a few days ABC television will carry on its nationwide network a documentary showing what happens the day after nuclear war slams into our country. We are told that this documentary simply relates the consequences of nuclear war coming to a city in Kansas. On Sunday night November 13 on the CBS television network, the program "60 Minutes" interviewed three or four leading figures who favored showing the program and three or four national personalities who opposed it. The ABC program has become a cause celebre for those for and against the nuclear freeze movement. And "60 Minutes" presented the rival network's upcoming show as exactly that. Frankly, Mr. President, this Senator strongly believes that "60 Minutes," the freeze advocates who favor the program, and the freeze opponents who oppose the program are all far off the mark.

Both sides on the freeze issue are wrong. The freeze movement is not even mentioned in the entire course of the program. The program does not prescribe a course of action to prevent nuclear war. We are told that no one on the program proposes that the way to stop such a hideous catastrophe is to increase our nuclear deterrent, and no one on the program proposes that the answer is in a negotiated nuclear freeze or any other arms control approach. The program simply relates how appallingly deadly and destructive a nuclear war would be. And what is wrong with that? Are the American people too weak and fearful to know the truth? Freeze advocates have welcomed this program. They seem to be championing it as if it were their own triumph. Why should they? The program does not mention the freeze. Freeze opponents have vehemently protested the program.

The Reverend Jerry Falwell has even called for equal time so that he and the others who oppose the nuclear freeze can have an opportunity to give their side of it. What would Falwell's equal time program do as an answer to this documentary on the consequences of nuclear war? What is the other side to the consequences of nuclear war? Should we have faith that somehow we could survive a nuclear war? Will Falwell show a film in which we dive into our basements or swiftly scatter far into the countryside while our bombers and submarines loft so many nukes into the evil empire that communism is stilled forever, and then we return to our homes to emerge victorious into a clear, fresh world, free of war and atheism, dictatorship, violence, and evil?

Mr. President, it may well be that the nuclear freeze does not represent the best policy to prevent a nuclear war. It may well be that we should rely more on the deterrence of nuclear strength than on negotiations with the Soviet Union.

The ABC program will not speak to any of this. Can there be any real dispute over that it shows as the day after the bomb hits? It will show how individual men and women and children will panic in a nuclear attack, how they will struggle deperately to stay alive, and how they will in immense numbers perish, instantly or slowly and in many cases suffer the supreme agony of dying from untreated burns.

Unfortunately this program was written and filmed long before a distinguished panel of scientists told us 3 weeks ago what would be the consequences for the survivors of a nuclear war. Those scientists described the aftermath of such a holocaust as shutting most of the sunlight out of the entire Northern Hemisphere for many weeks so that survivors would dwell in a land of day and night darkness. The scientists found that the temperature would drop far below zero and stay there for many weeks even if the war comes in midsummer. They predicted that animals and plants would die and millions of survivors would starve. If there is to be a sequel for the ABC show, the "Nuclear Winter" would be a logical subject. The consequencies of a nuclear war would not be as bad as the ABC program depicts, it would be worse.

HEALTH CARE FINANCING ADMINISTRATION RECEIVES GOLDEN FLEECE OF THE MONTH AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month Award for November to the Health Care Financing Administration (HCFA) for callously clipping the taxpayer of $45 million a year by allowing medicare to foot the bill for cutting toenails. In my "o'bunion," HCFA should toe the line instead of standing by while podiatrists trim the toe.

Health care costs have increased at double-digit rates for many years. Here is one of the reasons why.

Medicare does not usually pay for routine foot care such as cutting toenails. But if patients have a fungus infection around the toenail, then medicare will pay for a procedure called debridement of mycotic toenails—in other words, cutting infected toenails. The taxpayers pay about $90 million a year for this treatment. HHS esti-

mates that $45 million of that total could be saved if abuses were stopped.

According to the Inspector General of HHS, studies conducted in Pennsylvania, Florida, and Illinois show significant overutilization of debridement of mycotic toenails. His investigators found solid indications that some podiatrists in these three States are misdiagnosing the medical condition of beneficiaries in order to obtain medicare reimbursement for routine toenail cutting, which is generally not a covered service.

In another study, conducted in Virginia, the Inspector General discovered that podiatrists billed the medicare program $791,000 for their services, over 70 percent of which were for the debridement of mycotic toenails. A professonal debridement should take about 15 minutes to complete, but some podiatrists, seeking reimbursement for 1 day's work, billed for 50 to as many as 116 debridements which, in the latter case, is virtually impossible to accomplish within a 24-hour period. Some might ask what kind of a clip joint are the taxpayers financing.

How can these abuses be stopped? Two effective reforms—no petty cure—would save the taxpayer that $45 million a year. First, limit reimbursements for debridements to once every 60 days unless a doctor documents the need for more frequent treatment. Second, require that doctors, not podiatrists, diagnose that the toenail is really infected.

HCFA has archly refused to implement these reforms and therefore has no kick coming about this fleece. Congress has now stepped up to the problem and the budget reconciliation bill will put a 60-day limit on this treatment.

HCFA has been footloose with the taxpayers' money. Instead of allowing some podiatrists to get a toehold on this program, HCFA bureaucrats should have done a lot more soul searching. These bureacurats gave the podiatrists an inch but they took a foot. HCFA should be nailed to the wall and brought to heel for this footling expenditure.

THE GENOCIDE TREATY AND THE PLIGHT OF GUATEMALAN REFUGEES

Mr. PROXMIRE. Mr. President, Victor Perera wrote an alarming article for the Nation magazine last week on the plight of Guatemalan Indian refugees. His account of this tragic persecution is based on personal observations and interviews of refugees in border camps in Chiapas, Mexico, where nearly 100,000 Indians are being kept.

Perera graphically described the conditions he witnessed, including starvation, rampant disease, rape, and murder. He estimated that on average three infants die daily and as many as five adults succumb every week because of the lack of food and care. He noted:

> The picture that emerges from my experiences and from the interviews I conducted is appalling: aside from massacres and the systematic burning of villages, all of the conditions that forced the Indians to flee Guatemala are being reproduced in the camps.

"Salt and soap are luxury items," Perera observed, "and at night the moans of starving children drown out the omnipresent jungle sounds." In Perera's opinion, "the Indians I saw in 1982 were better off than those who are refugees today."

Mr. President, If Mr. Perera's story is accurate, we can neither ignore nor tolerate such a despicable situation. This blatant abuse of human rights through persecution and death must not continue.

The cruel treatment of Guatemalan Indians is clearly an afront to the values of cultural freedom that we in the United States hold so dear. We must never forget or ignore the fact that in other parts of our world human rights and freedoms are arbitrarily refused and those who seek them are often starved, tortured, and even murdered. Our Nation has consistently struggled against these types of inhumane actions. Ratification of the Genocide Treaty would only strengthen our denounciation of such acts of cruelty. We have before us an instrument of peace—a tool to help shape world opinion. We have the Genocide Treaty. But without U.S. ratification and ardent support, the treaty is not the powerful and influential document it could be, and our voice on human rights is diminished. Therefore, I urge ratification of the Genocide Treaty.

PRESIDENT JOHN F. KENNEDY

Mr. HOLLINGS. Mr. President, in this month when we commemorate America's tragic loss on that November 22, 20 years ago, articles, books, and television programs are pouring forth in tribute.

The best one I have seen is an article that appeared this past Sunday in Parade magazine, by our colleague TED KENNEDY. It needs no introduction or embellishment, and I rise simply to request that it be printed in today's edition of the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SPARK STILL GLOWS

(By Senator Edward M. Kennedy)

It was January 1932, three weeks before I was born and the night before semester exams for 14-year-old John Kennedy, who was then a ninth-grader at Choate School in Wallingford, Conn. During a break from the books, he wrote a note to Mother which now hangs in my Senate office. The end of it reads: "P.S. Can I be Godfather to the baby?" It was the beginning, even before I was born, of a special relationship I had with Jack all his life, until I last saw him the weekend before he died.

Many things will be written about Jack on this anniversary 20 autumns later. We are startled that so much time has passed since that November day in 1963, and our surprise reveals how vividly his life touched so many others. I still think of Jack very often—of the President, the person, the brother I knew and loved. For me, the pain of his loss will always hurt, and yet my memories of him are happy ones.

My earliest recollections are of the morning pillow fights we had when Jack came home from school. I was only 3, but after we wrestled and played until breakfast, he would take me down to the shore and tell me stories about the sea. In the years ahead, I went sailing with Jack on one of the small boats he loved—the "Tenovus," named for the first 10 in the family, and the "One More," christened after I was born. My job at the end of the day was to fold and pack the sails away. It was long and tedious, and I complained to Jack.

"I had to do it for Joe," he said, referring to our oldest brother.

"Well, why doesn't Bobby have to do it for you then?" I asked.

"If Bobby has to do it for me, then you'll have to do it for him," Jack answered. Years later, during his Senate and Presidential campaigns, I would often be sent to some out-of-the-way stop to speak for him. "Teddy," he would laugh, "it's time to pack the sails again."

Jack dared me to do some crazy things that my father thought were too reckless for a 6- or 8-year-old—like jumping from the roof of our garage with a sheet as a parachute, or diving off a steep cliff when I was learning to swim.

"It's a long way down," I yelled to Jack, who was waiting in the water.

"Don't you think you can depend on me?" he replied. I was still doubtful, but I held my nose and jumped. Jack cajoled me into doing it again and again, and soon, that summer, we were diving and swimming together.

For me at the age of 9, World War II meant that Joe and Jack and then Bobby all went off to the service. Joe never came back. It was the hardest, saddest time I had ever seen in my family. Jack, who was home by then from the hospital, where he had been treated for his war wounds, took me to a naval base in Florida and smuggled me onto a PT-boat at 4:30 in the morning. That summer, and for countless weekends in the summers to come, even after he went to Congress, Jack spent afternoons with me sailing and playing football.

We would walk and talk for hours along the shore until we saw the reflection of the setting sun in our footprints in the wet sand and then started home. "On a clear day," he often said as he gazed out to sea, "you can see Ireland." And on those treks, we would pause if the water was calm and skip a stone for good luck toward the island of our Kennedy and Fitzgerald ancestors. Nearly two decades later, on visits to Hyannis Port after he was President, we were still taking those walks, and Jack was still skipping stones across the water.

Jack was always reading more than anyone else in the family, or anyone else I ever knew. When I was in high school, he found Stephen Vincent Benét's epic poem about the Civil War, *John Brown's Body*, sitting on a desk in my room. By the next

weekend, after reading on the planes to Washington and back and in free moments in his Congressional office, he had finished the book. I teased him that to finish that fast, he must have been reading it on the floor of the House as well. "It's better than what they're saying there," he replied. He wanted to discuss the book and the Civil War, so that was one homework assignment I rushed to finish before he came back to Hyannis again.

John Brown's Body became one of Jack's favorite books and the Civil War one of his most abiding interests. After he was President, we spent Sunday afternoons helicoptering from Camp David to Civil War battlefields. Looking out over Manassas, he said: "This is where Daniel Webster's only son was killed." So were thousands of others. He paused and added: "What a waste war is."

In 1950, I went to college. I took with me my discussions with Jack, which ranged from poetry to sports to politics—those shining years of learning and laughter. Jack was the best teacher I ever had, and those were the happiest years I ever spent.

My initiation into politics came during Jack's 1958 Senate reelection, which was to be a test for his national run in 1960. He named me campaign manager in 1958, but my real responsibility was to travel around Massachusetts as a stand-in for him on days when he was in Wisconsin, West Virginia and other primary states. He was worried that voters at home would resent his absences, and he also wanted to give me exposure for a possible Senate try of my own in 1962. He won reelection by nearly a million votes, the largest victory margin in Massachusetts history and the largest margin in the United States that year. Alone with him after the celebration that night, I lifted a glass to Jack and said, "Here's to 1960, Mr. President—if you can make it." Quick as ever, he answered, "And here's to 1962, *Senator* Kennedy, if *you* can make it."

During his Presidential campaign, I was in virtually every state with Jack, once again speaking for him, often in out-of-the-way places where he didn't have the time to go. On one occasion, as I was standing outside a West Virginia coal mine shaking hands with the 7 a.m. shift change, a police car suddenly rolled up. Jack had lost his voice, and I was driven to the nearest airport and flown to his next rally in Ravenswood, where he sat silently as I delivered his stump speech with gusto and the crowd cheered and cheered. It was a heady experience for someone only 28 years old. But amid the applause at the end, Jack stood and in a hoarse whisper managed to say, "Teddy, you have to wait until you're 35 to run for President." For the next two days, we continued this way until he recovered his voice. He then looked at me and said: "OK, Teddy, you can go now." The next morning, there I was, back at the 7 a.m. shift change at exactly the same mine.

I remember reflecting, a few months later at Jack's inauguration, on how far he had come since those long months in bed only a few years before when, as a young Senator, he had nearly died after back surgery for his war wounds. I had been with him much of that time, watching him struggle slowly back to health. He spent mornings working on *Profiles in Courage*, The Pulitzer Prize-winning book. Each afternoon, the two of us painted with oils, and that night before dinner we mounted the pictures on easels and asked our family and friends to judge which was better. Sometimes I actually won.

Jack was, as the poet Robert Frost wrote, "one acquainted with the night," with pain and the danger of death. I believe this gave him a rare sense of perspective as he entered the Presidency. A friend commented that in 1960 Jack seemed "so detached" about the outcome of the Oregon Primary. In fact, he could be ironic and humorous about himself, a remarkable trait in a politician; yet he cared deeply, not so much about himself as about ideas and issues. From him more than anyone else, I learned how important it was to take issues seriously, but never to take ourselves too seriously.

In the White House years, after I was in the Senate, I often saw Jack in the late afternoon. I would slip in the back door of the White House and, if it were summer, the two of us would sit on the second floor balcony, watch the sun go down and talk about the events of the day. Jack was always looking forward—to the passage of the Civil Rights Act and Medicare, and to the 1964 election, when he expected to win the mandate that 1960 had denied him.

One autumn afternoon in 1963, at our parents' place in Palm Beach, he talked about his trip the next week to Texas. We chatted about it casually, with no sense of foreboding. He recalled his journey through Texas during the 1960 campaign, which culminated with his triumphant appearance before Houston's ministers, where he made his plea for religious tolerance. "I wouldn't have won without that speech or without Texas," he said. Now he was going back to patch up the quarreling Texas Democratic Party. He was frustrated about the situation but confident that he could carry Texas again. "I always get great crowds down there," he said. This time, he thought the crowds would be even better because Jackie was traveling with him. "Listen, we're coming back to Palm Beach the weekend afterwards. Why don't you come with us?" he asked. Jack was always aware of human frailty, but the furthest thought from our minds as dusk came that day was that he might be in the twilight of his life or his Presidency.

I believe that if he had ever had the chance to sit on the White House balcony and review his time in office, he would have singled out certain achievements that have gathered even greater force and meaning across the years.

First, he insisted that America could be both a prosperous and compassionate nation. My brother was not an ideologue, someone who believed that government is always bad or always good; rather, he saw an active, effective, caring government as a means of progress for working families and the middle class and as an essential help for all those who had been left out or left behind. He believed that one basic test of a society was how it treated the elderly, the sick and the poor. So he fought for Medicare, job training and nutrition programs, and he was planning the War on Poverty when he died. He was shocked at the deprivation he had seen in rural West Virginia, the hopelessness etched onto hundreds of faces; he never forgot it, and he would not let America ignore it. That was the heart of his challenge to ask what we can do for our country—and for each other.

Nowhere was the challenge more urgent than in the reach for full equality. Jack was the first President who ever said civil rights was a fundamental "moral issue" and treated it as such. He was willing to hazard his popularity to integrate education and to remove the "Whites Only" signs that had mocked the American Declaration that "all men are created equal."

Finally, Jack stood for an America that was both strong in its own defense and in the cause of peace. He made mistakes, as he himself was the first to admit after the Bay of Pigs. He showed us that a President could stand up to the Soviet Union, as he did in the Cuban missile crisis, without sacrificing the ideals for which this nation must always stand. In Latin America, he replaced an age-old alliance for repression with a new Alliance for Progress. He believed in the cause of human rights, which is why his picture, cut from newspapers and now crinkled with age, still hangs in huts and villages across the globe.

Since his passing, I have seen such memorials many times, from tapestries commemorating him in Dublin rowhouses to streets named for Jack in the remoteness of rural India. Last spring, my son Patrick and I visited an island off the coast of Panama, which is home to a desperately poor tribe of San Blas Indians. They have a tradition of naming their children after someone they admire, and on that island we met scores of JFKs, some only 2 or 3 years old. A generation later, in this distant place where few understand English, Jack is still a hero.

He had a unique capacity to grow, to learn and to lead. He had run in 1960 on the issue of the "missile gap," but he became the President who saw beyond confrontation with the Soviets to the possibility and necessity of peace in the nuclear age. Before he left for his meeting with Nikita Khrushchev in 1961, he came home to Hyannis alone. The two of us spent the afternoon at his house discussing everything from the Berlin crisis to Boston politics, then walked to our parents' home for dinner. Since becoming President, he had seen up close the capacity for nuclear annihilation. "I hope Khrushchev understands it too," he said.

"How will we know if the conference goes well?" our father asked.

"Watch and see if I give him the boat," Jack said, referring to a scale model he was taking as a gift for the Soviet leader.

The next morning, his back was aching. As the helicopter waited, he hobbled into the living room so Mother could put a back plaster on him. He complained that he hadn't had time to shave the area where the plaster was being applied and that, once he got to Vienna, "it'll hurt like blazes to pull this thing off."

"Don't be a sissy, dear," Mother replied. "You're the President of the United States."

Dad watched carefully as the Vienna conference unfolded. After the first day, he noted: "Well, Jack hasn't given him the boat." But at their last session, the cameras showed the gift being presented, and Dad concluded. "I guess things went better than the papers say." A few days later, back in Hyannis, Jack told us ruefully: "I wish I'd kept that ship for myself."

By the time Jack signed the Test Ban Treaty in 1963, Dad had suffered a stroke and could not speak. But every Friday he would wait in his wheelchair on the porch for his son's helicopter to touch down on the front lawn, a landing site the Secret Service adamantly opposed but which Jack insisted on because he knew Dad was waiting. Jack explained the Test Ban Treaty in detail as Dad listened and nodded his head vigorously. Dad knew it was one of Jack's proudest achievements as President.

The last time Jack and I were in public together was on Oct. 19, 1963, a month before he died, at a tumultuous political fund-raising dinner in the Commonwealth Armory in Boston. He was at the height of his power

and affection, and he joked gently and happily about Barry Goldwater, his likely opponent in 1964. Then he turned to me and teased the crowd about the cost of contributing to both his campaign and mine. For him, 1964 would be a last hurrah, but my Senate races could continue far into the future. He smiled as he said, "My final campaign, I suppose, may be coming up very shortly—but Teddy is around, and therefore these dinners can go on indefinitely."

I am now convinced that what *will* go on indefinitely is the power and appeal of his legacy. He was an inspiring, affirmative leader, not one of the naysayers who seek power by playing upon anger, suspicion and narrow self-interest. He said and deeply believed that America could be better but that it would require that every one of us strive to do our best. He summoned us to be involved. He touched our generosity with the Peace Corps and our imagination with the space program. He left behind the faith that each of us in some way, great or small, can make a difference—and that all of us have the obligation to try. Nearly half of our people today were babies or not even born when he died; and yet millions of them, too, continue to feel his loss as a personal one and look to his life as a personal inspiration. My brother made all of us proud to be Americans.

John Fitzgerald Kennedy does not yet belong to history, for he still has a hold on our hopes and our hearts. What made his death so hard was that there were so many in Dallas, in America and everywhere on this planet who admired and even loved him. His thousand days as President are like an evening gone, but they are not forgotten. For his family, his friends and all who knew him, he was a brilliant flash of light in our lives which has not gone out. For tens and hundreds of millions around the world who never met him but who felt they knew him, his memory lives on, and his light reaches even into the darkest corners of human existence. Twenty years later, his spark still glows—and I do not believe it will fade and die.

Jack is my brother, and I love him.

JAMES A. CHAPMAN, JR.

Mr. HOLLINGS. Mr. President, South Carolina and the Nation suffered a tragic and untimely loss last week with the death of James A. Chapman, Jr., one of our country's most prominent business and civic leaders. A man who achieved much, he contributed even more. Jim Chapman was known far and wide for the dedication and enthusiasm he brought to everything he did.

And he did so much. His business was textiles, and he became the leading voice of American textiles, serving at the time of his death as president of the American Textile Manufacturers Institute here in Washington, as well as continuing his responsibilities as chairman and chief executive officer of Inman Mills of Inman, S.C., one of the Nation's leading textile concerns. Jim devoted his tremendous business energy to developing unprecedented textile productivity here at home and to getting government to develop an international textile trade policy to save American jobs. With interests extending into areas other than textiles, Jim was also a Director of the Federal Reserve Board of Richmond and was active in the National Association of Manufacturers.

His community contributions were legion—in education, church activities, charities. He served as chairman of the South Carolina Foundation for Independent Colleges and the board of trustees for Presbyterian College. His contributions to higher education were recognized by honorary degrees from both Presbyterian and Wofford Colleges. Jim was also a ruling elder of the First Presbyterian Church of Spartanburg, where he and his family worshipped for years. The day before he died he was singled out as "Distinguished Citizen of 1983" by the Spartanburg Board of Realtors for his lifelong devotion to the betterment of his community, State, and Nation.

Whatever Jim Chapman did, he did with care and compassion, good humor, and grace. His death, like his life, reflected the courage of the man and set an example that everyone who knew him will always remember.

I have lost a good and close friend, whose counsel I sought, and whose warm friendship I cherished. To his gracious and gallant wife, Martha, to his son and daughters, to all the members of the remarkable Chapman family, we offer our condolences and our prayers. While words do little to console at a time like this, the life Jim Chapman led will shine like a beacon across the years, and for that life, we are thankful and proud.

CHILDHOOD INJURIES: PREVALENCE AND PREVENTION

Mr. DODD. Mr. President, today I wish to draw the Senate's attention to the most pressing health problem facing our Nation's children; namely, injuries.

The Senate Children's Caucus held a forum on July 26 focusing on childhood injuries, how prevalent they are, and how they can best be prevented. Our initial concern over injuries was a result of the June 9 caucus forum on latchkey children. At that time we learned that youngsters who must look after themselves when they return home from school face a much greater risk of injury. For example, one out of every six fires in Newark, N.J., over a year's time involved children alone at home.

What we learned on July 26 gave us even greater cause for concern. Injuries are now the leading cause of death and disability for American children today. Virtually one-half of all youngsters between the ages of 1 and 14 who die this year will die in auto accidents, fires, falls from open windows, and drowning incidents. More teenagers will be killed in car crashes during 1983 than any other group of Americans. And for every child killed in an accident, thousands more will be disabled—sometimes permanently.

The tragic cost of such injuries in human terms can never be computed. But the cost in hospital bills can be. According to the Consumer Product Safety Commission, it cost close to $27,000 last year to treat a child between the ages of 1 day and 4 years scalded by tapwater. With 4,000 victims a year, the total in hospital expenses was $108 million.

Many childhood injuries can be prevented. Yet our efforts at prevention have been piecemeal at best. Although child poisonings from medications have dropped by 35 percent since childproof caps were put into use, poisonings from products without caps have increased by 20 percent. Likewise, some States have auto safety-seat requirements for children but others do not.

On July 26 the Senate children's caucus sent letters to Secretary of Health and Human Services, Margaret Heckler, and Secretary of Transportation Elizabeth Dole, urging them to set up a coordinated childhood injury prevention panel. Such a panel could encourage the collection of standardized data, promote research on effective prevention techniques, develop public education campaigns, and recommend legislative and regulatory changes to reduce the rates of the biggest childkillers: auto accidents, fires, and drownings. Without an effective nationwide campaign to combat childhood injuries, they will remain at epidemic proportions.

At the forum on July 26, the children's caucus heard from two distinguished panels of witnesses. Our first panel included both children who had been injured and taken to the Children's Hospital National Medical Center and the physicians and nurses who treated them.

The younger witnesses who testified ranged in ages from 2 to 16. Their injuries included scaldings, neardrownings, and vehicle accidents. Erica Mann and her mother Rozlind, Derrick Foshe, James Harvey, Jennie McGuigan, Heather Neville, and Christi Stenick all emphasized that they would like to see a lot more done to prevent other children from being injured in the ways that they had been.

The experts at Children's Hospital National Medical Center testified next. Dr. Martin Eichelberger, director of the trauma team, emphasized that the Nation's most precious resource, its youth, is being lost as a result of traumatic injuries and pointed out the need for raising national sensitivity to the problem. Dr. Holbrook, director of the critical care medicine division, criticized current piecemeal efforts at prevention and stressed the impor-

tance of establishing a comprehensive approach. Dr. Daniel Ochsenschlager, medical director of the emergency room, described the kinds of injuries he sees daily and the tragic results not measured by statistics, such as children whose faces will be scarred for life or those who will have permanent brain damage. Dianne Cancian, clinical unit coordinator, spoke of the common theme which runs through parents' regrets: namely that many childhood accidents can be prevented. Dr. Fredrick Green, associate director of Children's Hospital, concluded that poverty is a critical component in many childhood injuries and called for such preventive measures as affordable child care centers and supervised recreational facilities.

Our second panel of witnesses outlined the scope of the problem around the country and suggested possible remedies. The Honorable Joseph Brennan, Governor of the State of Maine, summarized the Maine childhood death study showing that poor children are three times more likely to die than nonpoor children—often as a result of injury—and called for strong efforts nationwide to reduce this disparity. Dr. Abraham Bergman of the American Academy of Pediatrics pointed out that virtually no Federal research money is now being spent on childhood injury prevention research and called for a new commitment in this area. Martha Katz of the Center of Disease Control described the need for standardized data on children's injuries. And Susan Baker of the School of Public Health at Johns Hopkins University concluded by discussing the proper role of regulatory action and public education in injury control.

Mr. President, I wish to thank all of our witnesses for their eloquent testimony. I would also like to commend Children's Hospital National Medical Center for its leadership in hosting the July 26 forum. By arranging for special tours before the forum, the Hospital Center provided Senators, staff and the public in general with a unique opportunity to see the most progressive methods of preventing and treating children's injuries. The Senate children's caucus is especially indebted to Children's Hospital National Medical Center for its expert assistance.

Mr. President, I ask unanimous consent that the remarks of Governor Brennan, Dr. Eichelberger, Dr. Holbrook, Dianne Cancian, Dr. Green, Dr. Bergman and Susan Baker be printed in the RECORD in their entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF MAINE GOVERNOR JOSEPH E. BRENNAN BEFORE THE SENATE CAUCUS ON CHILDREN—HEARING CONCERNING ACCIDENTS AND INJURY AMONG CHILDREN—JULY 26, 1983

Senator Dodd, members of the Senate Caucus, it is a privilege for me to appear before you to discuss this important subject. I know I speak for many others in commending you for focusing attention on a problem that many of us have difficulty in confronting. It is an area that requires increased concern from those of us in the state capitals as well as from you in Washington.

I wish to bring to your attention this morning a recently completed study by the Maine Department of Human Services that examined all children's deaths in our state between 1976 and 1980. The study was prompted by the deaths of four Maine children in October and November of 1981, allegedly at the hands of family members.

The Maine Department of Human Services has access to all Maine death certificates. I would like to briefly present our data, with particular emphasis on accidental deaths.

As can be seen in the first figure attached to my printed remarks, there were 1,737 children's deaths in the period studied. The major cause of death was the disease-related grouping (where there were 1,068 deaths), with accidents being the second major cause (with 578 deaths) followed by suicides (50 deaths) and homicides (29 deaths).

Disease-related deaths were greatest for children 4 years and younger. It is in the newborn that disease-related causes of death (lung diseases, infections, heart malformations, etc.) are still a major problem. Accidents were the leading cause of death among all age groups from 5 to 19 years. This is consistent with national patterns.

As can be seen in the second figure, Maine's overall child death rate for all causes is significantly lower than the U.S. rate—92.5 per 100,000 vs. 110.4 per 100,000.

Maine's death rate for disease-related causes is significantly lower than the U.S. rate, 56.9 vs. 69.8 per 100,000.

For accidential deaths due to fire, Maine's rate is significantly higher, 3.0 vs. 1.8 per 100,000.

It is slightly lower for Motor Vehicle Accidents, 20.9 to 21.1 per 100,000.

And, it is slightly lower for drownings, 2.6 vs. 3.3 per 100,000.

The attached Figure 3 explains these major accidental deaths in more detail. It shows that motor vehicles constitute the single largest cause of accidental death. Most children who die from vehicular accidents are passengers, not pedestrains. Note the high peak in the 15–19 year age group where a number of factors, including access to vehicles, relatively high use of drugs and alcohol, risk-taking behavior and relatively little driving experience blend to produce an extraordinary death toll. More children die from motor vehicle accidents than all other accidents plus suicides plus homicides combined. Fires are a particular problem in Maine, where heating with wood is commonplace and where there remains a significant number of substandard dwellings. Drownings are evident in very young children, who are susceptible to bathtub and swimming pool drowing and also, again, among teenagers who most probably drown in situations where there was a fault in judgment.

In our analysis of childhood death, we examined one risk factor that had never been studied in detail before: poverty. All children who died were categorized as "low income" if they were participating in an income security program (Medicaid, AFDC, Food Stamps) at the time of death. We discovered that poor children were 3.1 times more likely to die during childhood than non-poor children. The attached Figure 4 breaks this out in greater detail. Figure 5 also provides an illustration of this disparity.

Based on Maine's data, we have calculated that, nationally, approximately 55,000 fewer white children 0–14 years would have died during the five-year period (1976–1980) if death rates for poor white children were equivalent to rates for non-poor white children. In addition, we have calculated that there are some 8,000 excess black child deaths per year when the death rate for black children ages 0–14 is compared to that for white children. This may represent an additional 40,000 excess child deaths for the 5-year period.

If we add to these rough estimates the excess deaths of white and black children ages 15–19, we find that there may have been approximately 100,000 excess children's deaths between 1976–1980. This estimate of avoidable deaths exceeds the number of military personnel who died during the VietNam War. You should be aware that there is very poor data available nationally on this subject and I would urge you to consider recommending a national study similar to that which we have conducted in Maine.

Ultimately, we might ask why poor children are more likely to die than children who are not poor. Certainly substandard housing is more susceptible to fire and perhaps poverty makes acquisition of a car safety seat more difficult, but the explanation probably goes much deeper. We believe that many of the concomitants of poverty—decreased education, fragmented families, increased stress and lack of social support systems—merge to produce a situation where the fatal accident is more common.

As an outgrowth of the Maine Child Death Study, we have recently funded a state-wide Family Services Project which will identify Maine's poorest families at highest risk for childhood death, injury and illness and help provide them with the support and services they need to avoid tragedy. We have also recently mandated car safety seats for all young children, required smoke alarms in new construction, and passed tougher drunk driving laws—including one which will result in an automatic one year license suspension of any person under 20 with a blood alcohol content of .02—one-fifth the standard applied to adults. We have also held a statewide symposium on the subject and have established a special advisory group of citizens to recommend ways to lower these rates.

It might also interest you to know that beginning tomorrow the State of Maine and the National Governors' Association are cohosting a national symposium in Portland, Maine on the status of America's Children.

And, next week at the National Governors' Association's 75th annual conference—also to be held in Portland—I will be proposing support from the nation's governors for a policy on children which if adopted would contribute significantly in the decade ahead to reducing childhood deaths and the disparity in death rates between poor and nonpoor children. The proposed policy urges the states to expand their role in promoting the well-being of children but it also places great emphasis on the continued primary

role of our federal government in addressing these issues. The proposed policy statement is the final attachment to my prepared remarks.

I would be happy to respond to any questions you might have. Thank you.

SENATE CHILDREN'S CAUCUS: PEDIATRIC ACCIDENT PREVENTION

(Martin R. Eichelberger, M.D.)

JULY 26, 1993.

Good Morning, Senators. As a surgeon who deals daily with pediatric trauma, I feel it is unfortunate for many children and families that our national conscience has heretofore not been sensitive to the horror of the maiming and death which occurs in our homes, neighborhoods, streets, highways, and playgrounds. This nation's most precious national resource, it's youth, is being lost as a consequence of trauma. To prevent this, the weakest and most dependent members of our society need our assistance.

You are to be commended for establishing the Senate Caucus on Children. The National Safety Council in 1982 reported that approximately 21,000 children (1–14 years of age) died of all causes; accidents account for 50 percent of these deaths. What about the injury sustained by a child that does not lead to death? In 1980, the National Injury Surveillance system reported 21.7 million pediatric injuries. Our Children's Hospital treats 1300 injuries per month and admits 130 of these children to the hospital. At least one patient daily requires the special response of our Trauma Team to prevent secondary loss of life. Even with a dedicated professional team effort, our mortality rate is 6 percent; this is more impressive when one realizes that the mortality from major injury in Viet Nam was an astonishing 1.7 percent.

Death from trauma occurs in three phases. Immediate deaths occur within the first hour after injury as a result of severe insult to the brain, heart or major vessels. Early deaths occur within the first hours (1–4 hours) after injury if appropriate emergency medical care is unavailable. In these cases, the interval between injury and treatment is crucial to survival. The third phase, or late deaths, occurs weeks after the injury from infection or multiple organ failure.

Recognition of these phases permits an analysis of the pediatric safety net required for survival from accidents. The only feasible way to reverse the epidemic of immediate, non-treatable deaths is by primary prevention. This requires institution of programs such as drunk driving laws, or mandatory child restraint laws. These are laudabel efforts *but* children *will be hurt* in spite of such action; just look at the Tennessee Child Restraint Law where 70 percent of the children continue to be unrestrained even though legislation exists to the contrary.

When primary prevention fails, then the care the child receives in the first "golden" hour is critical. A regional *Emergency Medical Services* (EMS) system must be in place, manned by well-trained emergency medical technicians (EMTs) and paramedics (Ps). These individuals exist but are inadequately trained in the special needs of children. Furthermore, Senators, the EMS must function within a regionalized system where the children who sustain an injury can gain rapid access to a hospital facility. Hospital resources with a multi-disciplinary team must be committed to treating the patient not as a "small adult," but as a child with special needs. It is not enough just to be a doctor; physician's require special training to care for the injured child. The *fact* is that regionalization exists only in a few areas of this country. A regional pediatric trauma center *can* prevent loss of life.

In the late phase of care we must highlight long term rehabilitation of the child and family. The expense to these individuals is great, not to mention the emotional stress of an altered life. These young disabled accident victims must become useful members of our society through appropriate rehabilitation.

We cannot underestimate the importance of research into the factors that affect the injured child, such as head trauma, shock, malnutrition, infection and rehabilitation. In 1980, the National Institutes of Health provided 183 million dollars for cancer research, and only one million dollars for research into childhood accidents, in spite of the fact that 2,300 children died of cancer while 11,000 died of trauma. This appalling disparity must not go unrecognized! Senators, is this the way to reverse the accident epidemic that threatens our children?

What then can I recommend as solutions?

First, we must make the accident epidemic a national and personal priority. Public education, legislation, and funding can begin primary prevention. Our society must realize the physical, emotional and financial stress that accompanies rehabilitation from injury by these children. If we can raise the national sensitivity to the plight of these children, primary prevention may be possible.

Second, prevention of death from accidents requires that you help us to provide a regionalized system of care for the pediatric patient. This is a political issue that must be solved if useless death from trauma is to cease. Concommitantly, Emergency Medical Services for children must be emphasized by providing a useful pediatric training experience for the EMT and paramedic.

Third, research is essentail to prevent death from injury. The Senate should direct the Department of Health and Human Services and the National Institutes of Health to correct the gross inadequate funding for pediatric trauma research.

Finally, I strongly recommend that you use the moral suasion of your offices to establish a Pediatric Accident Task Force within ninety days. This task force should coordinate Federal agencies with the private sector to develop funding and a national strategy to eliminate the accident epidemic. We must develop innovative solutions to this problem which continues to deplete our most precious national resource—our children.

Senators, the only question left is when do we begin? We are ready!

TESTIMONY FOR SENATE CHILDREN'S CAUCUS POLICY FORUM—SUBMITTED BY PETER HOLBROOK, M.D.

I'm Dr. Peter Holbrook, Director of the Critical Care Medicine Division here at the Hospital. I would like to thank you for taking time and the effort to come away from your office to the hospital so you can see more closely the kinds of things we are doing and hopefully share with us our concern about the problems you have very appropriately identified.

I would like to spend a few minutes talking about some more children. You have already seen some children here and I think you can appreciate from what you have seen that they demonstrate a diverse set of circumstances that brought them to this hospital. I would like to state that we could also have brought to you, for example, a two year old girl who got into her parents medications or got into something that isn't a medication and ingested that. Or, perhaps, a five year old boy who was trapped in a house fire, possibly burned over a major portion of his body, possibly just suffering from carbon monoxide inhalation, possibly both. I could cite an 8 year old child of a farmer who was caught during an insecticide spraying and suffers organophosphate poisoning which causes the child to have a loss of breathing capability. Or, I could possibly even cite a 16 year old who comes in contact with a very deadly snake who ends up in our hospital emergency room near death and who is resuscitated and brought back from the jaws of death, literally.

All of these are accident victims, all of these are children who end up in this hospital, especially in our Intensive Care Unit, but they come from very diverse causes. They have a wide variety of problems that we are faced with, that we must deal with. Different organ system failures and the like. But they do share one common factor and that is that they represent the potential for taking a normal child and turning that child into a grim statistics in a very short period of time.

I would like to focus a little bit on Jamie Harvey, one of the children who was here before and spoke to you. Jamie Harvey is alive and talking to you today because of a set of circumstances which we should make efforts to duplicate throughout the country. First of all, he was pulled out of the quarry by a scuba diver who happened to be there at the time and found him quickly. He was resuscitated at the scene by a physician who knew pediatric resuscitation skills and capability. He had further resuscitation in the referring hospital where excellent care was given to him to bring him into a point of stability. He was then aerovaced into us by helicopter transport and he received sophisticated intensive care for another 48 or so hours after that period of time. In the absence of any one of those factors, Jamie would not be sitting here talking to you today. Jamie would be in a very different situation. There are some lessons to be learned from Jamie Harvey. I do not think it is appropriate for us to ask for legislation to put scuba divers in every quarry in the United States. Nonetheless, there is an urgent need for the development and dissemination of pediatric resuscitation standards. These have been mentioned by Dr. Eichelberger, but they go beyond the trauma patient, but also include the other accident victims as well. It is technologically possible to have a complete, rapid evacuation system for every part of this country, but such systems do not exist in every part of the country. The Federal government can help in assuring that evacuation systems are developed. Further, continued support of intensive care capabilities, research support, and helping in settling jurisdictional difficulties are very much the realm of the federal government.

All of these actions, however, are focussed on the injury or the illness that has already occurred. Prevention is a much more effective way of keeping the problem under control. Many of the legislative efforts that have already occurred are very important. Child-proof bottle legislation, seatbelt legislation in various states, hot water temperature regulations which are being proposed and implemented. But the problem I see with this is that it is a piecemeal approach.

Each of these individual pieces of legislation is very important, but we are not getting at the global aspect. The problem is of wide variety and diversity and, therefore, I think one of the most important things that you can do through the efforts of your committee is to develop a commission; a commission of experts in pediatric accidents and emergencies; give that Commission a charge to take a global view, to gather statistics, to study those statistics and to propose either regulations or legislation which could lead toward a reduction in the accidents and injuries children face. I think that this sort of a partnership between the legislators on the one hand and the executive branch and the front line people who are down here attempting to deal with these problems would be one of the best and most effective means of benefiting these children who testified before you today and the thousands of others who will be facing this problem in the future.

TESTIMONY OF DIANNE CANCIAN FOR SENATE CHILDREN'S CAUCUS POLICY FORUM

On behalf of the nursing staff of Children's Hospital National Medical Center, welcome: It is a pleasure to have this opportunity to share with you our observations and concerns about the problem of childhood accidents.

This is an especially appropriate time of year for you to be visiting us because we are midway through "Trauma Season." School's out and the child's creativity and energy is turned towards the pursuit of fund and high adventure which too often leads to an unexpected painful injury. Unfortunately, though we see increased numbers of trauma victims at this time of year, trauma is a yearround reality.

You've seen our facilities. You've heard the statistics. You've talked to the children, their families and our physicians. Now we'd like to discuss this problem from the nursing perspective.

We see the disrupted lives, the hurting families the shattered futures. We see the children robbed of their normal everyday routines, some even robbed of their lives. We are with them throughout their hospital stay. Not only do we care for their physical needs we are also there as they work through the emotional consequences of the accident.

Almost always, this process begins with an anguished review of the accident by the child and family. So often then we hear "if only"—

"if only I'd taken the time to fasten the baby in the car seat . . ."

"if only there had been a fence around the pool . . ."

"if only the water in the apartment couldn't get that hot . . ."

"if only that drunken driver wasn't on the road . . ."

If only I hadn't had the gun in the house . . ."

if only I'd checked behind the car before I backed up . . ."

if only we couldn't buy firecrackers . . ."

A theme running through these "if only" stories is that many accidents are preventable. Though "children will be children" and a totally safe environment is not possible, great improvements in childhood safety are possible and necessary. Many of the regrets we hear—the oven cleaner under the sink, the missing fence around the pool—could be avoided by the actions of well informed adults. Prevention of other accidents requires a concerted national efforts: policies, regulations and their active enforcement. There is much we adults can do. Most accidents are not acts of God, but are our acts whether direct or indirect.

It is gratifying when the stitches are removed, the cast or dressings taken off and a recovering child leaves the hospital. It warms us to see a family put their life back together. But when we count the numbers of children who are injured we too say "if only it didn't have to be that way." We have a commitment to prevention and active programs here at Children's. But we can reach just so many. Thus, we see this form as an apportunity to reach out to a larger audience. We know of programs that work to make the environment safe for children-childproof containers, child restraints in autos and smoke detectors. Unfortunately even these strategies have not been fully implemented across the country.

As you look to the development of national policies for children we recommend that accident prevention be the priority. Though trauma treatment is more visible, and more dramatic, prevention is our most powerful weapon. The accident that never happens needs no treatment.

Prepared on behalf of: Department of Nursing, CHNMC, Washington, D.C.

By: Joan Holihan, RN, MSN—Clinical Unit Coordinator, Burns; Kathy Greco, RN MPH—Ambulatory Educator; Astrid Ellis, RN, BSN—Associate Clinical Unit Coordinator—ER; Dianne Wunn Cancian, RN, MS—Clinical Unit Coordinator, General Surgery; July 26, 1983.

TESTIMONY FOR SENATE CHILDREN'S CAUCUS POLICY FORUM—SUBMITTED BY FREDERICK C. GREEN, M.D.

Senator Dodd and distinguished members of the Senate Children's Caucus, my name is Dr. Frederick C. Green. I am a pediatrician and Associate Director of Children's Hospital National Medical Center (CHNMC) here in Washington, D.C. as well as a former Associate Chief of the U.S. Childrens Bureau, Office of Child Development, in the then Department of Health, Education, and Welfare, (1971-1973).

This morning you have heard from key members of our hospital staff whose responsibilities make them very knowledgeable about the prevention of childhood accidents and the management of children who have been victims of accidental injury. However, I would be remiss in my summation if I did not reemphasize the obligatory multidisciplinary team approach to the prevention of this problem and care of child victims. Our nurses, psychologist, nutritionist, educators, and other surgical and medical disciplines provide vital service to these patients. For that reason I have asked Dianne Cancian, R.N. to join me in this final presentation of this panel, to share some of the time allotted to me, in order that she might make some cogent observations.

It is very timely that this policy forum on childhood accidents should be immediately preceeded by your policy forum on Latch Key Children, a population at such high risk for accidental injuries. I base this statement not only on my readings, but also on my 20 years of experience as a practicing pediatrician in Harlem, New York City.

As you have heard, CHNMC, functioning in its role as both a community and a regional and national health resource, has the opportunity to participate in the full continuum of providing services related to childhood accidents, from primary care preventive activities through the most sophisticated life-saving, tertiary care maneuvers. Further, our experience encompasses the all-too-common vehicular accidents of our roadways involving automobiles, motorcycles, mopeds, and bicycles, as well as the frequent accidents of the home and neighborhood, such as, burns, falls, drownings, poisonings, firearm accidents and injuries from other environmental hazards.

From our experience, it would seem that if there are to be meaningful strides made toward the solution of this problem, a two pronged approach is mandatory: namely both preventive and therapeutic initiatives, and certainly not one at the expense of the other.

RECOMMENDATIONS

A. Preventive

1. Support the expansion of affordable, high quality child care facilities for both the pre-school and school-aged population of children in need of such services, particularly after-school programs in the latter group.

2. Encourage the expansion of well-supervised recreational facilities, particularly in our urban and suburban communities.

3. Encourage the support of clearly defined parent education programs, specifically as part of existing child health legislation (e.g., Champus, M.C.H., Medicaid, N.H.C. programs). Further, such educational activities should be an integral part of on-going hospital and clinic activities in programs such as those that exist here at CHNMC, and other hospitals throughout the country.

4. Encourage the enhancement of public awareness about the magnitude of the problem of childhood accidents and about their prevention through the imaginative use of the mass media, both print and electronic.

B. Therapeutic

1. Support the enhancement of E.M.S. appropriations, assuring adequate transportation, communication, training, and shock trauma facilities, particularly directed toward the pediatric patient.

2. Support the expansion of Pediatric Intensive Care resources within our hospitals, assuring adequate fiscal reimbursement for the sophisticated care of the critically injured child.

3. Support the reimbursement of all health professionals who provide a necessary, independent health service (e.g., nurses, psychologists, and social workers) through existing federal health financing programs.

Thank you for your attention.

TESTIMONY BEFORE THE U.S. SENATE CAUCUS ON CHILDREN ON INJURY PREVENTION AND RESEARCH

(Presented by Abraham Bergman, M.D., F.A.A.P.)

Mr. Chairman, members of the Committee, I am Dr. Abraham Bergman, here today representing the American Academy of Pediatrics. I have been a pediatrician in Seattle, Washington for 18 years, during which time I have worked closely with both state and federal governments to improve the health and lives of mothers and children. The subject today is one of great concern to me personally as well as to the Academy. Therefore I commend this caucus for setting injury prevention and research as a high priority and for devoting an early hearing to the issue.

Injury is the leading cause of death and disability in childhood and early adult life.

Annually, one person in four suffers an injury requiring medical care; injury victims are the largest user of general hospital beds. This disturbing fact has long been recognized by the Academy and others. The Select Panel on the Promotion of Child Health identified unintentional injuries ("accidents") as a major concern and made several recommendations for home and neighborhood safety, auto safety and recreational and sport safety. In all areas the general recommendation was for a commitment from public authorities (state and federal), professional organizations, private and voluntary organizations, schools and parents to develop and promote policies for home and community action for accident prevention.

Trauma represents the largest loss of potential years of life[1] and burdens the nation with enormous costs in terms of human suffering and disability, lost productivity, and medical services.[2] In 1977 deaths from unintentional injuries ("accidents") accounted for nearly half of all deaths of children 1 to 14 years old.[3] Nonfatal, unintentional injuries, which are estimated to outnumber fatalities by 100 to 1,[4] frequently result in permanent disability. Fatal inflicted injury (homicide) is a large and growing pediatric problem.[5] Nonfatal child abuse and neglect affect more than 500,000 children per year,[6] resulting in a progressive burden to its victims and society. Our statement today will concentrate on the unintentional injuries.

If those who are young are to be protected from life-threatening injury, a quickened pace of progress in injury care and prevention is needed. Efforts were begun in the 1970s to build emergency medical services, but these services are not yet widely developed.[2] Advances in other aspects of critical care for the injured have also evolved slowly. In the area of injury pervention, considerable progress has been made in the development of ways to understand and control childhood injury; this is evident by the reductions in certain types of childhood injury. Many kinds of injury can be most effectively reduced by changing the environment rather than by changing behavior. The most notable successes have been the reduction of poisoning and flame burns as causes of death and disability in childhood.[7 8] Voluntary and mandatory standards for packaging of medications and household products, and for flammable fabrics and other fire safety efforts, have been largely responsible for the decrease in poisonings and flame burns. Another extremely successful effort is the widespread use of car safety seats for children. More than 40 states now require the use of car seats.

Important theoretic advances have been (1) the elimination of the term "accident," which suggests chaotic and random effects, and its replacement with the notion of "injury," which suggests the transfer of physical or chemical energy to a victim; (2) recognition that the types of interventions likeliest to succeed are ones which require infrequent participation by the potential victim and his or her family (or none at all); and (3) awareness that different types of measures are needed to prevent different types of injury.[9] Unfortunately, effective prevention programs have not developed in tandem with advances in theory and technology, e.g., children still die in cars in which they ride unrestrained, and children die in fires in dwellings with no smoke detectors. Moreover, effective preventive approaches are lacking for many types of injuries.

For example, minibikes represent an unreasonable risk of injury because of their design and performance characteristics. Injuries are frequent and often severe, and can lead to chronic disabilities or loss of life. Despite these hazards, minibikes remain free of rule and regulation, and parents and children remain unaware of the dangers of these "toys." Another example is the risk of hot-water scalds from tap water out of a hot-water heater in the home. The Consumer Product Safety Commission was succssful in getting the industry to voluntarily set the temperature at 140 degrees Fahrenheit for electric heaters and 130 degrees Fahrenheit for gas heaters. Unfortunately, this effort is not enough. The temperature still needs to be lowered, and heaters already installed need to comply with this standard. In general, for all types of danger, education campaigns are worthwhile but insufficient to solve the entire problem.

One reason progress toward injury control has not been commensurate with the scope of the problem is that trauma research is not coordinated, focused or well funded. Excellent research on unintentional injury has been done under private funding (notably by The Insurance Institute for Highway Safety), but such research has not yet become a national priority. In 1980 a dozen federal agencies sponsored trauma-related research totaling $150 million, compared with $1 billion for research sponsored by the National Cancer Institute and $527 million for research sponsored by the National Heart, Lung and Blood Institute.[2]

There is considerable need for an expanded and coordinated trauma research and development effort in at least the following areas:

1. Epidemiologic research on the distribution of injurious death and disability from various causes and in various sub-groups of the population (defined by geography, age, race, sex, and socioeconomic status).

2. Biomechanical research on the effects of transfer of various types of energy to human bodies of various sizes in various situations, e.g., using anthropometric childhood dummies to study the effects of various types of trauma on the bones and soft tissues of children. This information will significantly advance the understanding of both inflicted and unintentional injuries.

3. Research on injury-promoting behavior, i.e., the behaviors of children which put them in danger of injury, and the behaviors of adults which fail to protect the children from injuries (inflicted and unintentional).

4. Development of devices and programs which interfere with the transfer of injurious forms of energy to childhood victims at the various points at which intervention is possible.[9]

5. The development of educational, administrative, and legislative programs to reduce childhood injuries, including improved systems for care of the injured.

6. Evaluation of the implementation of educational, legislative, and environment-modifying programs on an ongoing basis, with continual modifications until serious injury to children is as rare as can be achieved. Augmentation of current injury surveillance systems will be necessary for such evaluation.

The Academy has met with Dr. Everett Koop, the Surgeon General, and recommended at that time the creation of a task force on injury prevention research. Representation would be from governmental agencies such as the Department of Transportation, the Consumer Product Safety Commission, the National Institutes of Health, the Office of Maternal and Child Health and the Centers for Disease Control. This task force would: 1) catalogue all injury prevention research supported by the federal government; 2) identify areas in injury prevention which should receive attention; and 3) outline a strategy for launching research efforts. The Academy has placed itself at Dr. Koop's disposal to consult with this task force.

The Academy is committed to promoting development in the 1980s of a major initiative directed toward injury control through research and application of the results of research. Such an initiative may be compared—in terms of lives saved and function preserved—with the assault on infectious diseases a generation ago.

The Academy's campaign for car seats, "The First Ride—A Safe Ride," has helped direct attention to one aspect of the injury problem.[10] A new phase of this campaign will be called "Every Ride . . . A Safe Ride" and will further emphasize car safety by infants, toddlers and adolescents. The Academy now joins the American Trauma Society,[2] the Ad Hoc Injury Control Work Group,[11] the American Association for Automotive Medicine,[12] and others in recognizing the need for increased emphasis on injury research. Pediatricians, epidemiologists, sociologists, traffic engineers, and others with knowledge and skill pertinent to understanding and reducing the incidence and human toll of childhood injuries must turn increasing attention to these problems. Furthermore, there must be dramatic increases in support for research on injury care and prevention by private foundations, and—especially—by government agencies at the federal, state, and local levels. The Consumer Product Safety Commission has proven beneficial to improving the injury problem. However, the CPSC must turn its attention to the concerns and priorities of the general public, not labor and industry. There is still much this agency can do. The proposal to establish a National Trauma Institute as part of the National Institutes of Health to focus and coordinate injury research,[2, 12] also merit and warrants careful consideration.

In conclusion, I have attempted to point out only a few areas of concern regarding unintentional injury prevention and the Academy's recommendations for alleviating the problem through research. The Academy will continue its educational efforts, such as our current T.I.P.P. (The Injury Prevention Program), to do what we can to make the population more aware of the risks of injury and how to reduce those risks.

FOOTNOTES

[1] Table V. Years of potential life lost, deaths, and death rates, by cause of death, and estimated number of physician contacts, by principal diagnosis, United States, MMWR, 31:599, November 12, 1982.

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CHILDHOOD INJURIES: THE COMMUNITY APPROACH TO PREVENTION

(Susan P. Baker)

[Figures 1 to 5 not reproducible for the RECORD.]

A century ago, it was not uncommon for several children in a single family to die before reaching their third birthday. Many children died because of water- and milk-borne pathogens, many others of diseases preventable by immunization such as diphtheria and pertussis. These diseases were not man-made, but they could be prevented by man, and indeed they are now rare in the industrialized countries of the modern world.

In their stead, injuries are now preeminent as a cause of death and disability in children. Unlike childhood diseases, the overwhelming majority of injuries are caused by man-made hazards—hazards that can be eliminated, reduced, or changed in ways that will reduce childhood injuries. Today it is feasible to prevent many serious injuries, using community approaches that would automatically protect large numbers of children [1-3]. Yet 12,000 children less than fifteen years old will be killed this year in the U.S. alone. In the 0-4 age group, more than 5,000 will die, thousands more will be permanently disabled, and 6 million injured less seriously.

This paper discusses childhood injuries that are caused by man-made products and environments. It excludes a most important category, namely injuries related to motor-vehicles [4-6], but the basic principles of injury control are equally relevant on and off the highway [3]. In either instance, the term *injury control* is a good one because it emphasizes that our goal is controlling or preventing injuries and reducing their sequelae, not controlling people. Children will still be inquisitive, imaginative, and daring long after we have taken successful steps to keep them from dying because of these traits.

FACTORS THAT DETERMINE INJURY REDUCTION

The term *accident prevention* is applied to many commonly used measures that have little chance of substantially reducing injury. At the same time, a variety of approaches with enormous potential are being tragically ignored or underutilized. It is pertinent, therefore, to consider the factors that determine whether *measures that could prevent injury if they are applied* will in fact result in the needed protection. This is largely a function of the following:

Whether the measure is used, which in turn depends on (a) how often action is required of individuals; (b) how much individual effort is required; (c) the presence of other deterrents or incentives

Whether the measure will be used correctly.

Frequency of required action

The likelihood that a child will actually be protected by a measure varies inversely with *the frequency with which action is required of individuals* (fig. 1). This frequency can range from "always," e.g., watching a child continuously, to "never," as in the case of measures that provide automatic protection.

Many forms of automatic protection, sometimes called "passive" protection, have been designed into products and environments with notable results. Childhood death from lead paint poisoning is rare today because of reductions in the lead content of paint. Babies in the United States are no longer asphyxiated by exceptionally small pacifiers because pacifiers now must be of a size that is too large to be drawn into the upper airway [7]. Children's arms are no longer crushed or amputated by washing machines because the moving parts are out of reach. And our children are less likely to be burned by ignited clothing. In part, this change is due to the flammability standard for children's sleepwear: at one burn unit, the average number of children admitted each year because their sleepwear had caught fire dropped from twelve to two after the federal standard became effective [8]. In each of the above instances, protecting children does not require any cooperation by the children or their families and is totally independent of their wisdom, caution, skill, and psychological makeup.

An example of an important public health problem that has not yet been addressed with passive measures is that of tap-water scalds, which are estimated to result in more than 4,000 hospital admissions annually in the United States [9]. The maximum temperature recommended for households is 130°F (54°C), which allows about thirty seconds for escape before first-degree burns occur [10]. Yet hot-water heaters are designed so they can discharge water at temperatures that cause second-degree burns in one or two seconds. The ideal approach to the problem is a community approach that never requires action by the householder, namely, designing water heaters so they cannot discharge water at scalding temperatures (fig. 1B).

Next in effectiveness, after measures that protect children without any action on the part of the families, are measures that require action only *once* on the part of the individual who wants to protect himself or his family. In the case of tap-water scalds, this means persuading parents to lower the setting of their hot-water heaters, or enlisting the help of utility companies in doing so for the householders.

Another example of a measure requiring parents to act only once comes from Denmark, where electrical mouth burns had been caused primarily by defective female plugs on the cords of a particular brand of vacuum cleaner. Children put the pluts into their mouths when their mothers were momentarily distracted. The burns were practically eliminated (fig. 2) when 20,000 households were persuaded to exchange potentially hazardous vacuum cleaner plugs for new, safe plugs [11].

It must be recognized, however, that many people will not undertake even a single, "one-shot" effort that they believe is worthwhile. Ask any group of health professionals how many think that every home should have a smoke detector. Then ask how many actually *have* smoke detectors installed in their homes, and a substantial proportion of the hands will go down. Clearly, if well-educated people who understand a problem and believe everyone should take certain steps do not modify their own behavior, there is little reason to expect to be able to change *most* people's behavior.

Least effective, in general, are the measures that require the most frequent action. This was illustrated by careful evaluation of an intensive program that was undertaken at a pediatric clinic. The program was designed to change the daily behavior of mothers of toddlers, so they would "child-proof" their homes by keeping matches and knives out of reach of children and locking up medicines and cleaning agents. Dr. Dershewitz, a pediatrician, was convinced that the program would work. Fortunately he designed it with a control group so the results could be evaluated.

He found that even though the mothers *thought* their homes were safer as a result of the program, the actual number of such hazards that observers could see and count in the experimental homes was no less than in comparable homes where the mothers had not been exposed to the program [12]. In contrast to this failure to change their *daily* behavior, many of the same mothers did install "child-proof" covers on electrical outlets, again illustrating the greater effectiveness of measures that don't have to be repeated many times a day, every single time a child is protected [13].

Amount of effort required

In addition to frequency of required action, another factor that influences the likelihood that a preventive measure will be used is *the amount of effort required each time a child is protected.* (fig. 3A). Again, the most effective measures are the automatic, "passive" measures that require no effort at all. I include here those products and designs that help a child to perform a given activity more safely, without requiring any extra effort on the part of the parent or child.

Examples include bicycle braking and steering systems that are easy to understand and manipulate, and play equipment low enough so children can get on and off easily. Also, hot-water controls that help a child to draw water at safe temperatures, and track shoes that reduce the likelihood of slipping. All these are "human engineering" or ergonomic approaches. They are incorporated into many products for adult use, and should be applied more widely to solve problems of childhood injury.

In the case of preventing childhood poisoning (fig. 3B) the amount of effort required each time a child is protected ranges from none at all to a great deal of effort, and the likelihood that a preventive measure will be *Effective* decreases as the required effort increases. At one extreme are campaigns and warning labels, which in order to be effective require that parents always keep poisons locked up or out of reach of children. At the other extreme, reformulating products to make them nonpoisonous and reducing amounts to nontoxic doses represent the most effective kinds of approaches because they require no individual effort. In the United States, as lead-

based paints disappeared from children's environments, the yearly deaths from lead poisoning in children aged one to four dropped from seventy-eight to zero between 1960 and 1978.

Intermediate in the amount of effort required and in probable effectiveness are measures such as childproof caps. Compared with other closures, these are harder for the parents to take off and replace, but when used they offer protection when the parent is not present. Their effectiveness is suggested by the fact that between 1973 and 1976 there was a 35 percent decrease in the number of children taken to emergency rooms after ingesting products regulated under the Poison Prevention Packaging Act; during the same period, poisoning by unregulated products increased by 20 percent [14].

Deterrents and incentives

In addition to the frequency of required action and the amount of effort involved, there are *other deterrents or disincentives that can keep a measure from being widely applied.* These include cost, delay, discomfort, even the sacrifice of pleasures, such as swimming on a hot day in attractive but hazardous areas. On the other hand, there are *incentives* which, if they are strong enough, can bring about repeated or prolonged cooperation of children or families who are susceptible to the incentives. One form of incentive that some children are susceptible to is being permitted to participate in a highly desired activity. Students will wear protective equipment such as helmets, mitts, and shin guards if they can't play on school teams without them.

Some laws, such as state laws requiring water skiers to wear life belts, succeed in changing the behavior of many people, especially those who are generally disposed to obey the law, or who perceive the likely consequences of breaking the law as outweighing the disadvantages of obeying it. Unfortunately, the degree of compliance with laws usually is least among the people who are at greatest risk of injury [15], for example, people who have been drinking alcohol. (We sometimes find evidence of heavy drinking even in twelve- or thirteen-year-old children who have drowned or been killed or seriously injured in crashes.)

The effect of many laws and regulations has never been evaluated, but there are encouraging data from Australia on regulations requiring the fencing of swimming pools. In Canberra, the Australian Capital Territory, home pools must be fenced. This is not the case in Brisbane. The number of swimming pools per 100 homes is similar in the two places, but the swimming pool death rate for children is fourteen times as high in Brisbane [16].

Correct use

We have considered some of the factors that influence whether a protective measure is used at all, namely, the frequency with which individual action is required, the amount of effort involved each time a child is protected, and various incentives or disincentives. Effectiveness also depends on whether something is *used correctly* (fig. 4), for example, whether a childproof medicine cap is replaced tightly or whether a life jacket is the right size and is fastened properly. The likelihood of misuse is often a built-in characteristic of a product. One playpen-crib, for all its apparent simplicity, was not really safe unless four snaps were fastened every time it was set up. As could have been anticipated, sometimes parents didn't take the extra steps. Occasionally, as a result, a baby slipped down between the mattress and the side and suffocated—as the result of a design that, quite foreseeably, had reduced the likelihood of correct use [7].

FUTURE DIRECTIONS

Too often, we try to educate people to protect themselves and their children with behaviors that are bothersome and must be frequently repeated, in the vain hope that a desire for "safety" will be all the incentive that is needed. Yet whenever such educational efforts have been competently evaluated, a lack of success has been demonstrated. Despite all the evidence that posters, pamphlets, media campaigns, and other educational porograms have not produced changes in daily behavior that would effectively reduce injuries, we often rely on this kind of approach, spending enormous amounts of money and person-years of labor on ineffective or unproven efforts. The tragic result is that limited resources are used up and approaches with far greater likelihood of success are ignored.

Fortunately, some enlightened health educators are beginning to shift their objectives to include educating and trying to change the behavior of designers, manufacturers, planners, legislators, regulators, members of the judiciary, and other people whose decisions determine the probability of injury for thousands of people. Medical and public health groups have already shown their power to influence such decision-makers. Such efforts prevent injury far beyond the limits of their own practices, and should be extened to address problems that are largely ignored, such as product safety standards that would keep balloons from asphyxiating children [7] or make guns harder for children to fire, or laws requiring barriers that would keep children from wandering into home swimming pools. Although influencing the appropriate decision-makers is often difficult, it is an easy task compared with changing the behavior of all children or parents.

The various problems mentioned in this paper represent only a fraction of the existing man-made hazards that threaten our children. Moreover, an even larger number of unnecessarily hazardous products and enviornments will be developed in the future, unless manufacturers and designers begin to look at every portion of a child's world and ask: how is this likely to be used? how can it cause injury? Because of a specific product safety standard, new cribs no longer can be sold with slats spaced so far apart that an infant can be strangled because his body slips between them [7]. But a newer crib that meets the slat-spacing standard (fig. 5) has strangled babies because no one looked at the design before the crib was put on the market and asked, "What could happen when a child stands up and leans his head over that cut-out space in the headboard?"

Another current example involves playpens that have a railing called a "teething rail," obviously in anticipation that a child will chew on it. Some teething rails are covered with plastic foam and a thin layer of vinyl. Such a teething rail is easily shredded by a baby's sharp teeth into chunks that can cause a child to choke, and the Consumer Product Safety Commission has had more than a hundred reports of choking incidents. So far, there have been no deaths. Should we have to wait for children to die before products like these are recalled or redesigned—when reasonable forethought would have kept them from being made that way in the first place?

Today, the technology is avialable for preventing many childhood injuries, using approaches likely to work because they require neither individual effort nor personal incentives. Yet every day, thousands of children are hurt in ways that are completely predictable and that are easily preventable through community approaches:

turning on stoves with easy-to-reach controls;

falling against household furniture that has unnecessarily sharp corners and edges;

cutting themselves on glass where an unbreakable substitute could have been used;

climbing attractive supports for unprotected high-voltage wires;

being scalded by tapwater that is unnecessarily hot;

drowning in swimming pools that could have been designed to keep them out; and

falling from playground equipment onto hard surfaces where softer ones could have been substituted.

All of these injuries, like the overwhelming majority of injuries inflicted on our children, result from man-made products and designs. This is a form of child abuse that is even more appalling than the intentional kind because it is far more common, and because the knowledge and technology are available to prevent it.

As long as we place major responsibility for childhood injury prevention on children and their parents, potential solutions that have not been implemented in 1980 will still be largely unused in the year 2000, and easily preventable deaths and injurics will continue to occur. A comparable error earlier in this century caused thousands of children to get typhoid fever, tuberculosis, scarlet fever, diphtheria, and other milkborne diseases, because their protection had depended upon their parents' either choosing the right kind of milk or "pasteurizing" it themselves. Tragically, these illnesses and deaths from milkborne pathogens continued for *decades after* it was known that they could be prevented by requiring all milk to be pasteurized before it was sold to consumers.

A recent editorial on preventive medicine says that "A major determinant of the rate of change is the emergence of a key person or group in possession of the facts and able to place them repeatedly and persuasively before the public and before political parties" [17]. Health professionals have exciting opportunities to be agents of change in the prevention of childhood trauma. In particular, we can work toward two kinds of major changes. First, preventive efforts must be based on the best available knowledge of what is likely to be effective. To try to prevent injuries with advice to behave safely, in light of what we know in 1981, is the equivalent of trying to control polio with advice to stay out of swimming pools even though an effective vaccine is available. Second, preventive efforts must be carefully evaluated, in order to guide future efforts and to assure the wisest allocation of limited resources. Otherwise we will continue to repeat costly mistakes in the misguided belief that we are saving the lives of children, when in fact we are not.

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Mr. SPECTER. Mr. President, the safety and protection of our Nation's youth warrant our immediate and concerted attention. Childhood accidents and injuries have become the single greatest cause of childhood death and disability in this country, far surpassing infectious diseases. Despite the medical breakthroughs of our technological age, more than 11,000 American children under the age of 15 will die this year; one-half of these children will be under the age of six.

The startling truth is that these deaths can be avoided. The lives of the vast majority of these innocent children will not be taken by incurable diseases but rather by automobile and bicycle accidents, product-related injuries in the home, and deaths caused by drownings and fires. Testimony at our June 9 policy forum on latchkey children revealed that somewhere between four and 10 million children—some as young as three years of age—are left at home unattended for extended periods of time. In Newark, N.J., the fire department reported that one out of every six calls they received was placed by a child alone at home. When one considers that many of these latchkey children are from low-income families that cannot afford child care, it is not too surprising that the death rate of children on Federal assistance programs such as Aid to Families with Dependent Children, Medicaid, and Food Stamps is three times higher than that for other children due to the increased incidence of fires, automobile accidents, and birth defects.

In his testimony before us on July 26, Governor Brennan will discuss these and related findings from the recent study conducted by the Maine Department of Human Services for the National Governors' Association.

Concerted Federal efforts to ensure the safety of our Nation's youth are long overdue. The success of Federal legislation in this area is demonstrated by the enactment of the Poison Prevention Packaging Act: between 1973 and 1976, there was a 35 percent decline in the number of children requiring emergency room treatment for the ingestion of poison. Federal involvement of a legislative or regulatory nature is still needed to address the most serious threats to the lives of our children; namely, automobile accidents, drownings and fires. Much of the current legislation in these areas varies state to state. For instance, some states require special restraints for children riding in cars while others do not, culminating in widespread public confusion and neglect.

As a means to assess and prevent the tragic loss of a child's life, we, as members of the Senate Children's Caucus, conducted the July 26 policy forum and sent letters to Secretary Heckler and Secretary Dole soliciting their support for the establishment of a Childhood Injury Prevention Panel comprised of representatives from the allied health, safety, education, and business communities. The purpose of this panel is to develop a nationwide data base and public education program and to propose needed legislative and regulatory changes, with the goal of reducing the rate of childhood accidents.

SENATE CHILDREN'S CAUCUS POLICY FORUM ON CHILDHOOD INJURIES: PREVALENCE AND PREVENTION

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CRANSTON. Mr. President, I am pleased to join the Senator from Connecticut (Mr. DODD) and the Senator from Pennsylvania (Mr. SPECTER), who serve as the cochairs of the Senate Caucus on Children, in reporting to our colleagues on the caucus' second policy forum. Our first policy forum, held on June 9, focused on the troubling and growing problems faced by latchkey children—children who are left without adult supervision from the time they leave school to the time their parents return home from work. The testimony from that forum, along with some observations by members of the caucus, appeared in the CONGRESSIONAL RECORD of June 21, 1983, beginning on page 16455.

Today, the Senator from Connecticut is placing in the RECORD the testimony presented at our second policy forum. That forum, held on July 26, 1983, took place at the Children's Hospital National Medical Center and focused on the problem of childhood injuries—their prevalence and prevention. Although I was unfortunately not able to be present, I was represented by members of my staff at both policy forums.

CHILDREN'S HOSPITAL NATIONAL MEDICAL CENTER

Mr. President, I want to express my own personal appreciation to the Children's Hospital National Medical Center for hosting this policy forum. The tours, provided by the medical center staff prior to the policy forum, of the hospital's emergency room, intensive care unit, and trauma center were very valuable. They offered a concrete and poignant opportunity to observe the consequences of childhood accidents and how effective and efficient responses to them are managed in a nationally renowned facility like the Children's Hospital National Medical Center.

The setting for the policy forum at the medical center also provided the opportunity for a number of children—current and former patients—and their parents to describe how the issues relating to childhood accidents and medical responses affected their own lives. In several cases, it was apparent that access to this outstanding pediatric facility made the difference between life and death. The testimony from the center's health care professionals who treat these accident victims and have daily contact with the problems that were the focus of the policy forums was also extremely helpful.

CHILDHOOD ACCIDENTS: PREVALENCE AND PREVENTION

Mr. President, several issues emerged from this policy forum which I think have particular significance. First, it is clear that childhood accidents are now the major cause of childhood deaths, replacing infectious

diseases. Half of all Americans between the ages of 1 and 14 who die in 1983 will die in accidents, ranging from automobile accidents, fires, and falls, to drownings. Moreover, for every child killed in such an accident, thousands survive but suffer tremendously, sometimes incurring lifelong disabling conditions.

Second it is clear that the number of childhood injuries can be reduced. An excellent example is in the area of childhood poisonings. As the testimony presented at the policy forum indicated, child poisonings from medications have dropped 35 percent since child-proof caps were instituted. Similarly, States which have enacted mandatory child restraint laws have reported a drop in auto injuries for children.

It is also clear that the issues relating to prevention of these childhood accidents cut across many lines and involve several different Federal agencies. Because of the great need for a unified focus on these problems from the Federal Government's stand point, I joined with a number of members of the Senate Children's Caucus in a letter to the Secretary of Health and Human Services and the Secretary of Transportation, urging the establishment of a childhood injury prevention panel comprised of representatives of the allied health, safety, education, and business communities and of appropriate Federal agencies. Secretary Dole has enthusiastically responded to this letter and pledged to discuss fully with Secretary Heckler our childhood injury prevention panel proposal and how the efforts of various groups working in this area might be more fully coordinated.

I believe that the focus of the children's caucus on this important issue has provided the beginning of a dialog between the different agencies and concerned organizations on how to develop a coordinated and comprehensive approach to the problems of childhood accidents. This issue will remain a major concern of the children's caucus as it continues its work and policy forums.

ROLE OF EMERGENCY MEDICAL SERVICES

Mr. President, as the Senate author of the Emergency Medical Services Systems Act of 1973, Public Law 93-154 and subsequent legislation to improve this program and extend the authorization for its appropriations, I was particularly gratified by the attention given regional emergency medical services—EMS—systems. Health professionals who testified at the policy forum made repeated references to the importance of regional EMS systems in providing critical assistance in what one physician referred to as the first golden hour when death can be prevented if appropriate emergency medical care is available. In these cases, the time between the injury and treatment is crucial to survival. In one dramatic case presented, a young boy—who testified at the policy forum—survived a drowning accident because he was resuscitated at the scene of the accident by a physician who knew pediatric resuscitation skills. The youngster was then transferred by helicopter to the Children's Hospital National Medical Center where sophisticated intensive care was provided during the first 48 hours following the accident. The witnesses emphasized the importance of appropriate pediatric emergency training and the fact that an injured child cannot simply be regarded as a "small adult" but must be seen as a child with special needs. Moreover, they stressed, an EMS system must function within a regionalized system where the children who sustain injury can gain rapid access to a hospital facility capable of providing the specialized pediatric trauma care needed.

Unfortunately, these regionalized EMS systems do not exist throughout the country. The young boy who testified might not have been as lucky if the Children's Hospital National Medical Center and the means of transporting him by helicopter to the center had not been available.

Mr. President, as created in 1973 pursuant to Public Law 93-154, the EMS program provided seed money for each region in the country to develop EMS services to its maximum potential . The Federal EMS program provided support for local communities' efforts to inventory their resources for providing comprehensive emergency medical services, to identify the gaps in such services—such as whether or not the system is capable of providing the care needed for pediatric trauma victims—and to remedy these deficiencies through better coordination and maximum utilization of existing resources and funding sources, as well as to develop new components essential to the achievement of comprehensive regional EMS systems. Until 1981, the Federal EMS program provided the leadership and support needed to establish national standards for emergency medical services, organize cost-effective systems, and develop training programs for the personnel needed to operate quality systems.

In 1981, however, at the insistence of the Reagan administration the EMS program was folded into the health prevention and services block grant created by the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35. In the first year of funding under the block grant, States were required at a minimum to continue funding to the existing Federal EMS grantees. Permanent restrictions were placed on use of block grant funds for purchasing equipment and paying for the costs of operating the EMS systems.

The consequence of block grant funding for the EMS program—which I strongly opposed—has been a significant decrease in the funding available to the EMS systems. I will be requesting the GAO to investigate the level of funding that has been made available by each State under the health prevention and services block grant to each EMS system. I will also ask the GAO to evaluate what impact the block grant has had on the development of the systems and the extent to which it has affected—adversely or beneficially—the quality of care these systems provide.

If it is demonstrated that the qualify of EMS systems is deteriorating, as individuals around the country involved with the EMS program have indicated to me that it is, due to lack of sufficient funding under the block grant approach, I will introduce and seek enactment of legislation next session to remove the EMS program from the health prevention and services block grant and reestablish the important Federal role in helping communities to develop quality emergency medical services so that children as well as adults throughout the country can receive the care they need in life-threatening situations.

DEATH RATES AND POVERTY RATES

Finally, Mr. President, I want to take special note of the impressive testimony presented at the policy forum by the Honorable Joseph E. Brennan, Governor of Maine. Governor Brennan presented data from studies done in Maine correlating childhood death rates and poverty rates. These statistics, compiled by the Maine Department of Human Services, were published in April in a report entitled "Children's Deaths in Maine." This report, which may be the first of its kind in the Nation, found the death rates for children from low-income families to be substantially higher than the corresponding rates for other children, in virtually every category, ranging from death from auto accidents to deaths from fire or drowning. These statistics reveal in a very dramatic way the hidden costs of poverty for children.

Governor Brennan has also done a tremendous job in his efforts to have the National Governors' Association focus on the needs of children. The Maine Department of Human Services submitted to the National Governors' Association a report, "America's Children: Powerless and in Need of Powerful Friends," which presents a compelling statement about the status and unmet needs of our Nation's more than 60 million children. Governor Brennan is truly a good friend of the children of this Nation, and his participation in the caucus forum is of great value.

CONCLUSION

Mr. President, the first two policy forums held by the Senate Caucus on Children have, in my view, been highly beneficial and provided the members and the public with the opportunity to examine closely some of the critical issues affecting children in this Nation. I know that the future policy forums will be equally beneficial.

CHILDREN'S CAUCUS

● Mr. STAFFORD. Mr. President, on July 26 of this year the Senate Children's Caucus held it's second policy forum on the topic "Childhood Injuries: Prevalence and Prevention" at the National Children's Medical Center in Washington, D.C. Testimony at that hearing documented the need for further research into the causes, the costs in both human and economic terms, and preventive strategies surrounding this critical issue confronting our Nation's most valuable resource: our children.

Very little research has been focused on the causes of accidental death and disability among children under 15 years of age. We do know that accidents are the leading cause of death of American children. Car crashes, fires, falls from open windows, and drownings will claim the lives of close to 14,000 children between the ages of 1 and 14 in the coming year, as they did in 1982, if we do not do something.

The causes and prevalence of childhood accidents have been a topic of great importance to the National Governors Task Force. Its studies have documented the fact that poor children are three times more likely to die during childhood than nonpoor children. The exact reasons for this are not known, but substandard housing, fragmented families, increased stress, and lack of social support systems all contribute to this disheartening statistic.

Where the Federal Government has taken initiatives, accidental childhood deaths have been dramatically reduced. Childproof caps on aspirin bottles reduced poisoning among small children by 35 percent. On the State level, mandatory child restraint seats and seat belt laws have been similarly effective in preventing death and injury.

The intent of the Senate Children's Caucus in holding this policy forum is to heighten public awareness about these frightening statistics.

The testimony that will appear in the RECORD today from staff members of Children's Hospital summarizes both the rationale for initiatives in this area and suggested strategies to address this critical problem.●

SENATE CHILDREN'S CAUCUS

● Mr. DECONCINI. Mr. President, I was most pleased when Senator DODD took the initiative to form the Senate Children's Caucus and am honored to serve as one of its members. I commend Senator DODD for the policy forums the caucus has held on the special problems and needs of our Nation's children and look forward to working with him and the members of the caucus in attempting to enhance and advance the well-being of the Nation's most precious resource—its children.

I hope all Members and their staffs will take the time to review the testimony presented at the forum on "Childhood Accidents" which the caucus held at Children's Hospital on July 26. What the testimony reveals is that we can all help prevent the accidental maiming and killing of our young people.

While modern medicine has made tremendous advances in curing and treating childhood diseases, we, as a Nation, have not been successful in eliminating childhood accidents—the leading cause of death and disability among our youth. Accidents kill more children between the ages of 1 and 14 than the next six leading causes of childhood deaths combined. The lives of our children and being needlessly and tragically extinguished in our homes, in our neighborhoods and on our highways. The simple but sad truth is that the vast majority of these deaths can be prevented and thousands of parents can be spared the anguish of the loss of a child if they take the time to educate themselves on injury control.

Through a massive public information and education process, parents can and must be convinced to take the preventive steps necessary to eliminate childhood accidents. They must be persuaded to use passive restraint on children riding in automobiles, to use flame-retardant clothing, to keep child-proof caps on drugs, to store poisonous household products out of a child's reach, and to install smoke detectors. All of us must participate in this educational process for the lives of our children are at stake.●

THE CONFERENCE AGREEMENT ON HOUSE JOINT RESOLUTION 413, THE FURTHER CONTINUING APPROPRIATIONS RESOLUTION FOR FISCAL YEAR 1984

Mr. DOMENICI. Mr. President, last Saturday the Congress agreed to the conference report on the further continuing appropriations resolution for fiscal year 1984. I ask unanimous consent to print in the RECORD at the conclusion of my remarks a summary table of Appropriations Committee spending action to date, including the further continuing resolution, and a summary table of appropriations action to date as it affects credit activities.

The first summary table shows all spending action through the time of enactment of the further continuing resolution; that is, outlays from prior-year budget authority and other actions already completed, including enacted regular appropriation bills and the further continuing resolution; possible later requirements; and adjustments to keep mandatory programs at the levels assumed in the budget resolution. Compared to the section 302(a) allocation to the Appropriations Committee under the fiscal year 1984 budget resolution, adjusted for the release of reserve fund items, at this point the committee is under its budget resolution crosswalk by $8.7 billion in budget authority and $0.7 billion in outlays.

The second summary table shows credit actions to date, including enacted regular appropriation bills and the further continuing resolution, and possible later requirements. At this point the Appropriations Committee has provided $.8 billion less in new direct loan obligations and $1.4 billion less in new primary loan guarantee commitments than the budget resolution assumed.

I would point out, Mr. President, that the totals we show for the Defense Subcommittee assume that the total Defense level will be the amount contained in the Senate-passed Defense appropriations bill, even though the further continuing resolution provided temporarily for a somewhat lower level.

I would also point out that the Commerce-State-Justice bill is shown as it passed in the continuing resolution. I am told that just the morning the conference agreement on that measure was cleared for the President.

Mr. President, I would again like to commend the chairman of the Appropriations Committee, my distinguished colleague Senator HATFIELD, for the progress being made on appropriations measures this year; 8 of the 13 regular appropriations bills have been enacted to date; the Commerce-State-Justice appropriations bill conference agreement has just been agreed to by both Houses, and the Defense bill is in conference today. As the tables indicate, appropriations actions to date are within the allocation made to the committee under the budget resolution.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SPENDING PROVISIONS—CONFERENCE AGREEMENT FISCAL YEAR 1984 FURTHER CONTINUING APPROPRIATIONS RESOLUTION, DETAIL OF ACTION TO DATE PLUS OTHER REQUIREMENTS [1]

[In billions of dollars]

Appropriations Subcommittee	Enacted to date, further C.R. and other actions [2]		Possible later requirements		Mandatory adjustment		Total action to date, adjusted		Senate 302(b) allocation [3]		Action to date compared to 302(b)	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture	34.4	22.7	0.8	0.5	0.1	0.2	35.4	23.3	35.6	23.1	−0.2	0.2
Commerce	10.3	11.2	.1			−.1	10.4	11.1	10.9	11.4	−.5	−.3
Defense	247.0	222.0	5.5	5.4	−.3	−.3	252.2	227.1	254.2	227.9	−2.0	−.8
District of Columbia	.6	.6					.6	.6	.6	.6		
Energy-Water	14.5	14.7				−.1	14.5	14.6	14.9	14.7	−.4	−.1
Foreign Operations	11.5	9.8	.6				12.1	9.8	12.1	9.8		
HUD-Independent	55.9	58.0	.1	.2	.4	.4	56.3	58.6	57.8	58.2	−1.4	.4
Interior	8.4	9.3	.1	.1		−.1	8.5	9.3	8.3	9.3	.2	
Labor-HHS	104.7	108.1	.5	1.0	1.5	1.3	106.7	110.4	109.0	110.5	−2.3	−.1
Legislative Branch	1.5	1.5					1.5	1.5	1.5	1.5		
Military Construction	7.1	7.1					7.1	7.1	7.3	7.1	−.2	
Transportation	10.9	25.4					10.9	25.4	10.9	25.4		
Treasury	11.9	11.9					11.9	11.9	11.9	11.8		.1
Subtotal	518.8	502.3	7.6	7.2	1.7	1.3	528.1	510.8	534.9	511.3	−6.8	−.5
Unassigned to subcommittees			1.0	1.0	.1	.1	1.1	1.2	2.9	1.3	−1.9	−.1
Total	518.8	502.3	8.6	8.2	1.8	1.4	529.2	511.9	537.9	512.6	−8.7	−.7

[1] This table has been prepared by the staff of the Senate Budget Committee based on their interpretation of the conference agreement on the further continuing resolution.
[2] Includes: (1) the further continuing resolution conference agreement (H.J. Res 413); (2) outlays from prior-year budget authority and other actions already completed, including enacted regular appropriation bills.
[3] Includes reserve fund allocations made on Sept. 14 and Oct. 27, 1983.

Note: Details may not add to totals due to rounding.

CREDIT PROVISIONS—CONFERENCE AGREEMENT FISCAL YEAR 1984 FURTHER CONTINUING APPROPRIATIONS RESOLUTION, DETAIL OF ACTION TO DATE PLUS OTHER REQUIREMENTS[1]

[In billions of dollars]

Appropriations Subcommittees	Enacted to date [2] further C.R. and other actions, adjusted			Budget resolution assumptions		
	Direct loans	Primary loan guarantees	Secondary loan guarantees	Direct loans	loan guarantees	Secondary loan guarantees
Agriculture	11.2	7.6		11.4	8.8	
Commerce-Justice	1.6	3.6		1.7	3.8	
District of Columbia	.1			.1		
energy-Water	.1	.2		.1	.2	
Foreign Operations	6.5	14.7		6.9	14.5	
HUD-independentt	2.2	65.8	68.2	2.2	65.2	68.2
Interior	([3])	([3])		([3])	([3])	
Labor-HHS	.7	6.9		.7	6.9	
Transportation	([3])	([3])		([3])	.2	
Not allocated to subcommittee	([3])			([3])	.1	
Total	22.4	98.8	68.2	23.2	100.2	68.2

[1] This table has been prepared by the staff of the Senate Budget Committee based on their interpretation of the conference agreement on the further continuing resolution, House Joint Resolution 413.
[2] Includes (1) the continuing resolution conference agreement (H.J. Res. 413); (2) other actions already completed, including enacted regulate appropriation bills; and (3) possible later requirements.
[3] Less than $50 million.

Note: Details may not add to totals due to rounding.

CAPT. EDWARD J. SPURLOCK

Mr. THURMOND. Mr. President, on May 3, 1983, the Washington Metropolitan Police Department commenced operation of a repeat offender project aimed at getting hardened criminals off the streets of our Nation's Capital. This project was conceived, planned, and is now directed by Capt. Edward J. Spurlock.

Mr. President, I have known Captain Spurlock for many years. He is a fellow South Carolinian, raised in Oakway, along with his seven sisters and three brothers. Most of the Spurlock family continues to reside in South Carolina. Ed's father worked as a sharecropper for many years and later in life was employed at the J. P. Stevens textile mill in Seneca. Ed Spurlock knew what hard work was like as a youngster because he helped his parents raise the family. He enjoyed sports and played tackle on the Seneca Bobcat Football Team. He was graduated from Seneca High School in 1959.

Following 3 years of honorable service in the U.S. Marine Corps, Ed joined the Capitol Hill Police Force and began to pursue his longtime goal of law enforcement work. He was appointed to the Metropolitan Police Department in 1968 and, in only 11 years, rose to the rank of captain and commander of sector 3 of the 2d district of the Washington Metropolitan Police Force.

Mr. President, the acomplishments of the District's repeat offender project, appropriately known as "Spurlock's Raiders," have been impressive. As of August 1983, the unit had arrested 864 criminals, 91 percent of whom were arrested on felony charges. Twenty-five persons had been arrested for fencing stolen property and the unit had recovered approximately $2,870,000 in stolen property, $51,000 in narcotics, 83 firearms, and 54 stolen cars.

Mr. President, the record of Capt. Ed Spurlock as a member of the Washington Metropolitan Police Department for 15 years is an impressive one. He is a dedicated law enforcement officer and the people of Washington are fortunate to have him as a member of their fine police department.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, on last evening I indicated that this morning, before we go to the tuition tax credit bill, we would try to go to the reconciliation bill. There is a statutory time limit on that. The bill is privileged.

What I would like to do now, which I have discussed with the minority leader, is, instead of moving to that, to ask unanimous consent to go to it so that it will be sequenced along with

the other important things that we have to deal with.

Now, the practical effect of this would be to consider reconciliation until 12 noon, when we will take up the tuition tax credit matter. After 1 o'clock today the situation is a little less clear. But, assuming for the moment—and it is not meant to be anything except an assumption for the purpose of this conversation—assuming that the tuition tax credit is tabled, then, under the order, the bill goes back to the Calendar, then the natural gas bill would recur.

Mr. BYRD. Mr. President, why would it go back to the calendar?

Mr. BAKER. That was provided, I believe, in the order.

Mr. BYRD. I see.

Mr. BAKER. I am perfectly willing to continue with reconciliation after that, because I am not taking this up as just a gesture. I want to see us finish reconciliation. But what I am saying is we will have to make arrangements of some sort in order to get to natural gas after the hour of 1:15 p.m. or thereabouts.

Mr. BYRD. Reserving the right to object, and I will not object, we have run our lines and we have asked Mr. LONG to come to the floor. He is here. As far as I am personally concerned, there is no objection. The motion would be nondebatable.

Mr. LONG. Mr. President, reserving the right to object, I would like an understanding with the leadership on both sides of the aisle, if I could get it, and also with the managers of the bill, that when the reconciliation bill comes before the Senate, they will resist efforts to bring up measures that are not intended to be on a reconciliation bill, the type of things that tend to do violence to the reconciliation process.

I offered an amendment to the debt limit bill which was passed by a big vote, saying that it is the sense of the Senate on a reconciliation bill, just like a debt limit bill, that only amendments that reduce spending or increase revenues should be added; that we should not have anything extraneous. In particular, we should not be adding amendments that increase the cost of Government or that reduce the revenues.

It was never the intention of the reconciliation process that measures increasing the deficit should be included in it. Not knowing what sort of totally irrelevant measures people might want to bring up, I think it is fair to ask that those who provide leadership on this bill on both sides of the aisle, from the committee and the floor leaders, that they agree and that they will support those of us who want to limit the reconciliation bill to exactly what it is supposed to be. It should be a bill that increases revenues or reduces spending. That is the purpose of reconciliation. If we stay with that purpose, I think we might make the process work. If we go beyond that, all sorts of problems will arise. I hope the leadership will agree that this will not be the case, that they will do their best and we will do our best to try to keep this bill to the purpose it is supposed to serve.

OMNIBUS RECONCILIATION ACT OF 1983

Mr. BAKER. Mr. President, just for the purpose of having something before the Senate, let me now ask unanimous consent that the Senate temporarily lay aside the pending business and turn to the consideration of S. 2062, the reconciliation bill.

Mr. President, before the Chair puts the question, let me answer my friend from Louisiana.

I have no intention on my part of supporting anything which would be at variance with what the Senator from Louisiana has described. I may not support any waiver request. That is a matter I have fully determined and I have made that known to the two managers. But if I do support some waiver it will be so that it is in fact within the general purview of the reconciliation bill. I agree that we should not get outside of it on a bill that is so tightly defined by statutory language on limitations. We have no time to deal with it otherwise this late in the session.

Mr. LONG. Can I have assurance of the manager?

Mr. DOMENICI. Let me say to my friend from Louisiana, Mr. President, I have been one who advocates very strict construction of the germaneness rule for the reconciliation bill. I remain concerned. I do not want the Senate to use this kind of special bill, and it is indeed that—some significant prerogatives of the Senate are statutorily waived for this kind of measure, and I understand why and I think that was prudent—in a generous waiver approach so that you apply those inhibitions to anything people want to put on this. The Senate ought to be free to debate these other issues. We are not free to debate if we waive the germaneness requirement and put it on these bills. There ought to be no time limits on debate of these other issues, but there will be if we attach them to a reconciliation bill.

I am totally in accord as to the consideration of this bill as reported. We ought not waive for matters that would be out of line with deficit reduction. That is, either expenditure-side reductions or tax-revenue-raising measures. I am not at this point going to support any waivers that address issues other than that. I certainly might support measures that address those two issues. I want the Senate to know right now, the only reason I might is because this is the first time that we do not have a reconciliation bill before us that totally complies with the instruction given.

Mr. CHILES. I would make the same assurance to the distinguished Senator from Louisiana. I am very reluctant to see us have any waiver. I have been against waivers from anybody else. To be put into the position where we must be asking for a waiver gives me some concern. For the very reason that the chairman pointed out, we find ourselves faced with a budget resolution passed in July which said we were going to cut the deficit by $86 billion. But all we have been able to produce so far is $28 billion. So we have a case of the shorts, by about $60 billion. We think at some stage before we go home the Senate ought to get a chance to see whether we meant what we said in July, when we said we will cut this deficit $86 billion. The only way to do that it to construct, here in the full Senate some kind of waiver. The Budget Committee cannot amend what comes to us. That is probably a healthy thing. But the procedural reality is we must now construct something more to cut spending, and to raise taxes. We must be able to give the membership those choices about how they are going to shape a deficit reduction package. I think that is only fair, that the Members have the opportunity to work their will.

Mr. LONG. Can I hear from the minority leader?

Mr. BYRD. Yes; I am sure the distinguished ranking member of the committee knows that I raised this in the caucus yesterday and urged that Members not waive this for nongermane matters. There is a built-in cloture of 20 hours. If we start allowing nongermane amendments to come in, we will really be hurt.

Mr. LONG. Not only is it built in, but there is a time limit on debate on each amendment.

Mr. BYRD. Two hours on an amendment in the first degree and 1 hour on an amendment in the second degree, with 20 hours overall. That is tighter than cloture.

I do reserve the right to object, Mr. President.

May I ask, are there any authorization measures that otherwise should be taken up in the Senate, are any of them included in this bill as we have seen done in the past? I am not implying any criticism toward the manager or the ranking manager in that regard. I guess they have to take whatever the committee sends them.

Mr. DOMENICI. Let me respond to my good friend, the minority leader. He is correct, we do not have anything to do with it. But there are two. They are minor. They were reported out by the Finance Committee. We cannot do much about it. They are here. I think

one is Dingell-Johnson fish and game funds and the other is the child and maternal health block grant. Both of them came out of Finance.

They are not nongermane, but they might be what we chose to call on the floor not relevant. They are not relevant to an instruction that asked that the money be saved. But they are here.

Mr. BYRD. We have had that situation before, and we can insist that they be taken out. I do not think this measure was ever contemplated to push authorization measures through the Senate under this strict time limit.

Mr. President, I am not going to object.

Mr. CHILES. If the Senator will yield, I would say that the Budget Committee report on reconciliation contains language in which we asked the majority and the minority leaders to exercise that rule and to take out anything. This was before these were put in. We pay homage to that and say they should be taken out.

Mr. BYRD. I thank the ranking manager.

Further reserving the right to object, I have not talked to the majority leader about this, but I would personally like to take action to see any authorization matters taken out of this so that in the future the committees will know that this is not the right approach and that it will not work.

Mr. BAKER. Will the Senator yield to me?

Mr. BYRD. Yes, Mr. President, the Senator has the floor. I just reserved the right to object.

Mr. BAKER. I am similarly inclined, Mr. President. I should like to talk to the distinguished chairman of the Committee on Finance before I make any commitment on that, so that I understand he agrees with the position stated by the minority leader.

Mr. BYRD. I have no objection. I thank the majority leader.

Mr. LEVIN. Reserving the right to object, Mr. President, I do want to notify the majority leader and others that Senator DOLE, Senator COHEN, and I have had a number of colloquies on the floor in which we received Senator DOLE's assurance that he would do whatever he could to help us identify a vehicle before the November 18 recess where we could offer an amendment with some social security disability reforms that have been standing by for a long time. As the majority leader knows, one of the existing provisions of law which permits disability payments through the appeals stage will expire on December 7, so there is a critical expiration date which will take place while we are in recess.

In addition, over 20 States are now ignoring the social security law. There is near anarchy out there because of the need for reform. A number of the provisions of our amendment are, indeed, supported by the Social Security Administration.

This is not a noncontroversial amendment, may I say. There are good friends of mine on the floor here who have not yet acquiesced in it. But we have compromised, compromised, pared, and pared, so we are now about $1 billion less in cost than the so-called Pickle bill on the House side.

I am saying this because we are still searching for that vehicle before the recess. It is essential that there be a vote on these reforms prior to the recess. I just wanted to use this opportunity to let my friend, the majority leader, know that that search continues. This may be the time when we shall offer it. I understand the debt ceiling measure may be technically inappropriate to offer it.

I wonder if the majority leader could join with Senator DOLE and others in assisting Senator COHEN and about 20 others in the Senate who cosponsored a similar bill of ours on a bipartisan basis to find a vehicle in the next few days so we may have an opportunity to vote on this important matter.

Mr. BAKER. Mr. President, I shall be happy to try. I must say, in all candor, that what I shall do first is talk to Senator DOLE, as the Senator would expect, and see what his wishes are in this respect. There are but a handful of things that are still coming down the pike, unless we are here after Thanksgiving. Then there will be a whole lot of things.

Let me confer with Senator DOLE and I shall see if there is some possibility there.

Mr. BYRD. Does the Senator mean there might be several turkeys coming down the track?

Mr. BAKER. There will be a flock of turkeys.

The PRESIDING OFFICER (Mr. EVANS). Is there any objection? Hearing no objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

The clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 2062) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress).

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I designate the distinguished chairman of the committee (Mr. DOMENICI) as manager and in control of the time.

Mr. BYRD. Mr. President, I designate Mr. CHILES on this side as manager and to be in control of the time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I send to the desk a list of staff members for the majority and minority and ask unanimous consent that they be granted the privilege of the floor during consideration of matters in connection with this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN APPRECIATION OF SENATOR ED MUSKIE

Mr. CHILES. Mr. President, before we move ahead with the reconciliation measure, I would point out to my colleagues that we act at a particularly poignant time. Reports from Maine this morning indicate that former Senator Edmund Muskie, the first chairman of the Senate Budget Committee, has been hospitalized with an apparent heart attack.

I want Senator Muskie to know that my prayers, and those of my family, together with the prayers and hopeful wishes of my colleagues are with him.

Ed Muskie is, and has been a good friend of mine. In his long and distinguished career as a Governor of Maine, U.S. Senator, and as Secretary of State, he has won the esteem and affection of countless people from coast to coast.

Senator Muskie, more than anyone else I know, helped shape the congressional budget process. He guided it through the young and stormy years, defending it against challenge with his unique blend of strength and wisdom.

So I wish Ed Muskie a speedy recovery, and prompt return to his honored role as emeritus senior statesman on budget matters. I know these sentiments are echoed throughout the Halls of Congress and around the Nation.

Mr. DOMENICI. Mr. President, I join with my good friend, the Senator from Florida, expressing my heartfelt appreciation to the distinguished former Senator from Maine (Mr. Muskie) and join with Senator CHILES in expressing our deep concern to his wife and family and that our prayers are with him. We thank him for all he accomplished in the past to give this institution and the United States a budget process that has a chance of controlling runaway fiscal policy and bringing some sense to it.

With that, Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as the Senate begins its consideration of the omnibus reconciliation bill of 1983, I hope we will all remember the pressing reasons we have to reduce our enormous Federal deficits. Economists and policymakers may argue about the

best way to reduce our deficits, but no one seriously believes that our deficits should be allowed to continue their rapid growth unchecked.

I have recently spoken my piece on this issue, and I have no desire to lecture my colleagues on it again. I merely say that if it is important to reduce deficits—and I really do not know that there are very many Senators who would not agree that it is—then this bill offers us our last hope this year. We dare not let this opportunity escape us.

In adopting the conference report on the first concurrent resolution on the budget for fiscal year 1984, the Senate instructed five committees to reduce spending or increase revenues. Four of these committees have reported to the Budget Committee, and their recommendations have been packaged in an omnibus bill without substantive change, as the law requires.

The one committee that did not report—the Committee on Agriculture, Nutrition, and Forestry—has fully met its reconciliation instructions without submitting any new legislation. It was given provisional reconciliation instructions, because of pending litigation which could have raised expenses for dairy price supports. The Federal District Court in Richmond, Va., has ruled in favor of the Government in this case. Thus, the Agriculture Committee does not need to produce additional savings in order to be in compliance with our reconciliation instructions.

Generally, the entire Committee on the Budget agrees with that statement—most certainly, the ranking minority member (Mr. CHILES) does.

Three of the committees have reported reconciliation responses that meet or exceed the instructions Congress gave them: the Governmental Affairs, Small Business, and Veterans Committees. As we all know, the response by the Finance Committee makes more outlay savings than the Congress requested, but falls approximately $60 billion short of raising the amount of new revenues instructed by the Congress during the 1984-86 period. This is the first time since reconciliation has been used as a tool by the Congress that a committee has been unable to fulfill the bulk of its reconciliation instructions.

I have discussed at length the reconciliation situation with Chairman DOLE of the Finance Committee. He and his colleagues made a valiant effort to form a consensus to raise more taxes and to cut more spending. They even went beyond it in an effort to cut more spending and to raise even more revenues so that there would be a bigger bite out of the deficit in the 1985-86 timeframe. Unfortunately, despite three delays in the deadline for reporting to us, the Finance Committee was unable to garner the support needed for full compliance. The situation in the House is more serious. There, no tax reconciliation at all has been brought to the floor and grave doubt exists about whether any reconciliation bill can pass the House with reference to the tax side of the ledger. Thus, the Finance Committee has made some headway against a tide that seems to be running in the wrong direction.

In sum, the bill before you raises $13.4 billion in new revenues and cuts anticipated spending by $14.6 billion. In days not long past, such a cut in the deficit—$28 billion—in 3 years, would have been held up as courageous and admirable action.

Indeed, it is courageous, and it is admirable, and it is needed, and we must do at least that. But the size of the deficits now confronting us are of a magnitude that even the $28 billion removed from those deficits that are predicted hardly makes a substantial dent, and maybe that is the reason there is less than broad interest in accomplishing even this much. I will briefly go through the major provisions of the statutes changed by the committees that reported to us.

Title I, submitted by the Committee on Finance, saves a net total of $3.4 billion in outlays over the fiscal years 1984 through 1986 period. This exceeds the reconciliation instruction by about $1.7 billion. The committee also produced revenue increases of $13.4 billion, considerably less than the $73 billion that it was instructed to produce.

To achieve its spending reductions, the Finance Committee has taken three main steps. First, it introduces major restraint in physician and other provider reimbursements under medicare and medicaid. Second, it indexes the medicare part B deductible to increase by about $5 next year. These two measures will significantly reduce the enormous growth in the Federal Government's cost of medicare. Without these measures, this cost would jump 17 percent in the current fiscal year. We all know that rate of growth—17 percent—is obviously completely out of touch with inflation, or even any reasonable increase over inflation.

Third, it requires child support enforcement agencies to seek medical insurance coverage as part of child support orders. This means that employed fathers or mothers will have to assume responsibility for insuring their children, rather than passing the responsibility off to medicaid and the American taxpayer.

The committee's legislation also reauthorizes—and here we have had an opportunity to share this knowledge with the minority leader of the Senate, who indicates some concern with reference to it—the maternal and child health block grant which was originally established in the 1981 Reconciliation Act, and I might suggest that that might be the reason that the Finance Committee did it. Without it, the basic provisions that were reconciled will be inoperative, and I assume they would genuinely argue that, therefore, this is a deficit reduction provision, but we will leave that to the distinguished chairman and ranking member of the Finance Committee. But since they have been very concerned about authorizing legislation and irrelevant legislation, I assume that is the justification.

Title II, submitted by the Governmental Affairs Committee, saves $9.6 billion in outlays over the fiscal year 1984 through 1986 period, primarily by delaying cost-of-living adjustments for Federal civilian and military retirees and by delaying Federal civilian pay raises. This exceeds the reconciliation target by $0.7 billion, and is the largest outlay savings of any committee this year.

I might suggest that those delays in cost-of-living adjustments that were accomplished pursuant to a general mandate in the instruction for the most part are being taken so as to put all cost-of-living increases on the same timeframe. Since social security's reform package put all of the senior citizens' social security cost-of-living increases off 6 months and set a new date for all of them, this effort would be to make them all fall due at the same time, and that is why the committee recommended the savings in that area. By delaying these COLA's until January, they have made them consistent with the COLA's for social security, and then I might add railroad retirement, which also was made consistent with social security. When we passed the railroad retirement solvency legislation, they were also delayed until January. Consequently, all Federal retirement and disability COLA's are on the same schedule. All retirees will receive the same increase at the same time. This does not cut benefits. All beneficiaries will get their full COLA increase, although it will occur in January rather than earlier.

The bill allows raises for Federal civilian employees of 4 percent for white collar and blue collar workers, but the white collar workers' raises would be permanently moved from October to January. Such a change has already been approved by the House of Representatives, as I understand it, as they voted on the expenditure reduction part of this instruction.

Title III of the bill, submitted by the Committee on Small Business, is also in full compliance with our reconciliation instructions. It extends for 3 years the requirement that all agricultural enterprises seeking disaster assistance must apply first to the Farmers Home Administration. Only if

their application for disaster assistance was turned down by the FmHA could these agricultural enterprises seek assistance from the Small Business Administration. By making the SBA the lender of last resort, this proposal will save $1.2 billion in outlays over the fiscal year 1984 through 1986 period.

This change will eliminate some costly and inefficient duplication in Government services, but it will not leave farmers and ranchers hanging. The FmHA has an excellent disaster loan program and it has many times more offices to serve our Nation's farmers and ranchers than does the SBA. Agricultural enterprises that have suffered because of a natural disaster will still be able to receive timely assistance from our National Government.

Title IV of the bill, submitted by the Senate Veterans' Affairs Committee, is also in full compliance with our reconciliation instructions. It stipulates that any legislation to increase veterans compensation rates must be capped at an amount equal to a 3.5-percent cost-of-living increase delayed by 6 months. This compensation COLA is similar to the COLA's enacted for the social security and veterans' pension programs. Title IV also changes the date of future compensation COLA's, putting the program on the same schedule as social security and veterans pension benefits beginning in 1984. These proposals will save $0.5 billion in outlays over the fiscal year 1984 through fiscal year 1986 period.

This part of the reconciliation bill requires veterans and other Federal benefit recipients to make a one-time sacrifice to share the burden of combating high Federal deficits. I would not support this measure unless I thought it was absolutely necessary and scrupulously fair—and this measure meets both tests. The veterans in my State have told me that they are willing to make some sacrifices, because they love their country, as long as all other beneficiaries make similar sacrifices. This legislation does not single veterans out.

Mr. President, this bill, in short, is a critical step toward reducing deficits. If we fail to pass it, we are failing the American people.

Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, with the reconciliation package before the full Senate, we are dealing with one of our most sensitive economic issues, and at the same time we are facing a very sensitive political issue. We are doing it at the touchiest time in the life of a Congress, in the last few days of the session.

If the situation is not complicated enough already, the bill we have is just a parliamentary shell. The Budget Committee reported this bill to the full Senate without recommendation. So what we have here is not an answer; it is simply a chance, and I think it is our last chance this year to do something about the high deficits.

I know that the temptations are strong to give the whole deficit issue a lick and a promise and go home. But we have to overcome those temptations, because the threats to economic recovery are so strong, that this is a time to be bold rather than timid.

All of us have heard the grumbling about the budget process, but I will say this: It gives us a ready-made chance to deal with the deficit problem. Without it, there would be no way to try and fit together a strong package with both spending restraint and some additional revenue, and that, of course, is what we need.

There are two ways to look at the budget challenge. If you look at it politically, it is a burden to do what some might prefer to avoid. But if you look at it in terms of the economy, then I think we have an opportunity to significantly cut the deficit and give the economic recovery a fair chance to continue.

Is there political danger? Certainly. A striving economy might make some of us look better than others. But I would much rather take the risk in the process of doing our best than to do nothing and make us equally culpable for an economic recovery that failed, when we knew we had a chance to save it.

So it boils down to trading a little political adventure or advantage, perhaps, for some economic security, and then it comes down to individual priorities.

Mr. President, I do not think we are here to confirm the worst suspicions of the cynical critics. I think we are here to reaffirm the best tradition of Government—that we must act, now that we know action is essential. At this demanding hour, we could use some leadership from the White House. But nearly all the hours of this year have come and gone, and that leadership has not been expressed in a positive way. So it is up to us in Congress to provide that leadership to head off great injury to the economy.

I do not think we can just sit back and say:

> Well, because the White House did not really lead, did not come in and become a participant in the process, we all can back off from our responsibility.

We have that deep, unavoidable responsibility to face our problems, to make the best effort possible to cut the Federal deficit before it overcomes the present and ruins the future.

With all that said, we have to face another fact, and that is that the bill reported to the Senate has no real support. But the fact that it is here at all underlines something hopeful. It shows that Congress recognizes how large a roadblock deficits are in the path of economic recovery.

The bill is here for other reasons. The issue is larger than the Budget Committee or the Finance Committee. It is an issue that can only be resolved by all of us, by both parties in both Houses, agreeing that we are going to work together.

I want to say a word about the members of the Budget Committee who brought this bill to the floor. I am not trying to spread oil on the waters when I say that we have worked long and hard and in good faith. Our differences reflect differences in the overall Senate, but I think one will find a single voice, without dissent, on the committee when it comes to answering the basic question: Do deficits matter? I think every member of the committee feels that they do, and that we need to do something about them.

If we have accomplished one landmark goal this year, I think it has been to lay to rest any doubt about that issue. Deficits really do matter. We proved it in our winter hearings and with the summer budget. As we approach the last act of autumn, the Senate action on the reconciliation package, the question is no longer whether deficits matter but, rather, what we will do about these deficits.

I think we also owe a word of recognition to the Senate Finance Committee. I recall that last summer, when we passed the budget, Senator DOLE voiced his concern about how much of the budget required action by the Finance Committee, which he chairs. But since then, Senator DOLE, along with the distinguished ranking minority member, Senator LONG, have kept at their work, looking for a way to cut the deficits.

Senator DOLE and I have our legitimate differences but we share a legitimate concern. And I do not think anyone expressed it better than the Senator from Kansas, when he called deficits the most serious domestic concern facing our Nation. He went on to say that a legislature that cannot mobilize itself to deal with the most serious domestic concern facing the Nation cannot be taken seriously.

Mr. President, if the budget deficits are at the heart of our problem, Senator DOLE's statement is at the nerve.

We have all read the reports which say that if anything prevents action on the deficit, it will be the politics of

an election year. I think that by now we all understand that the public understands the threat of deficits as well as we do, and they will be stern prosecutors at the polling place next year if they get the feeling that Congress would tolerate $200 billion deficits because it lacked the grit to attack those deficits when we had the chance.

Well, we have the chance right now, and I think we have the grit to act firmly. However, the reconciliation package now on the floor is not the right vehicle. I will try to tell you why.

First, it is not large enough. We cannot fight a $200 billion deficit with a $28 billion tonic. In other years, $28 billion in deficit reduction would have been remarkable. But this year in the face of that $200 billion deficit it is hardly noticeable.

Second, there are a number of actual savings provisions in the bill that have serious problems.

There are two medicare provisions which trouble me.

First, the provision in this bill to index the medicare part B deductible, automatically increasing the amount each year, simply escalates a pattern of steadily increasing beneficiary out-of-pocket payments.

Second, the bill would put a 7-month freeze on a portion of the index which limits increases in medicare payments for physician charges. I agree that this step in medicare cost containment must rest with physicians and the part B program. But I am concerned that the provision in this bill does not offer any protection to medicare beneficiaries. Without concurrent action to protect against a drastic drop in already very low medicare assignment rates, this provision will also simply shift costs to medicare beneficiaries.

Both these provisions will show budget savings on paper in the short term—but they will not have any significant effect on the root problem of escalating health care costs.

Further, both of these provisions violate the intent of the budget conferees, and the Congress, that there be no additional increased costs to medicare beneficiaries.

The reconciliation bill also includes some provisions which appear to save about $500 million in the AFDC program over 3 years. When offsetting cost increases in medicaid, food stamps, and child support enforcement are included, however, the net savings are inconsequential. Moreover, we have already made major reductions in benefits and tightening of eligibility in AFDC during the last 2 years. Therefore, I feel it is unwise to make any further substantive changes to the AFDC program at this time. I would hope that any nontechnical AFDC amendments would be dropped in conference with the House.

And there is a further reason that we must do better work against the deficit than the existing package provides. The reason is called the structural deficit. This is the kind of deficit we would have even if the economy comes back near full capacity with unemployment down to 6 percent, the benchmark level we call high employment.

Mr. President, if we were to pass a reconciliation package that included only the spending cuts mandated by the budget, all we would do is aggravate the structural deficit problem. Expressed as a percentage of the gross national product, the structural deficit would actually climb from 2.7 percent of GNP in 1983 to 4.5 percent of GNP by 1988. So we cannot do it with just spending cuts, and we cannot do it with the reconciliation bill as it presently exists. And we cannot kid ourselves that strong economic growth will eliminate the deficit.

As a practical matter, we must cut the deficit because it is a threat—not just to economic recovery—but to the economy itself. Deficits drive up interest rates. The real interest rates are now over 6 percent, compared to 1.6 percent in 1980 and 1981.

It is one thing to run deficits in a recession. But big deficits in a recovery are poison. The average recovery lasts about 3 years and the first year of this one has been 1983 and it is about over. The second year should be 1984 and the peak should be 1985.

I am not sure we can even get through year two with a $200 billion deficit. Even if we got through the whole 3 years, the $200 billion deficit would still be there waiting to hang us. So that is why we need to cut deficits right now.

Because the need to act is so strong, and the current reconciliation so weak by comparison, I will be offering today or tomorrow along with Senator DOMENICI, an effective alternative. It includes a tough, yet necessary combination of both revenues and spending restraint.

I am frank to say, some will not like it much on first impression. But the alternative, really, is potential economic depression. So I ask our colleagues to look at the alternative program fairly and examine it with me in outline form right now.

I think the question we have to ask ourselves when we look at this alternative is: So you do not like it; but compared to what? And if you look at this alternative, the "compared-to-what" is a chasm we will topple into with these $200 billion deficits. I defy anyone in here to write a plan that is going to cut deficits by $87 billion over the next 3 years and say they "like it," It is very tough.

Mr. President, I can tell you there are a lot of things in this plan I do not like. I do not like the idea of putting my name on some of them because there are no easy answers. But if we are going to do something about the deficit, we have to face up to that.

This new package keeps the promise we made last July to cut deficits. It should get us started right now and keep us going by locking in future defict reductions. It is balanced, including spending cuts for both domestic and defense programs. And it preserves the entitlement restraint contained in the package reported from the Budget Committee.

Overall our new package would produce $86 billion in 3-year reconciliation savings as mandated in the first concurrent budget resolution adopted this summer. Moreover, when you reduce that $86 billion you are reducing the interest on the national debt.

This bipartisan package shifts $15 billion from revenue increases over the spending restraint. The end result is to add $15.4 billion to the $14.6 billion in recommended spending cuts, producing an aggregate of $30 billion in spending reduction and $58 billion in additional revenues.

On entitlement programs, there are no further cuts in COLA's on medicare beyond those already contained in the package reported by the Budget Committee. That original package delayed retirement COLA's and Federal pay the equivalent of around 2 percent from the Consumer Price Index each year. Our amendment package contains no cuts in means-tested entitlement programs.

On the revenue side, our new package adds $45 billion in revenues to the $13 billion already reported, for a total of $58 billion. It produces something over $10 billion by reason of loophole closing. It provides for phased-in tax indexing by modifying indexing to cost-of-living minus 2.5 percent. To achieve the balance of the revenues, the new package adds a 2.5-percent tax surcharge for everyone except the low income.

And the new package we are proposing has some teeth in it. It requires that, if following a report by the Congressional Budget Office, the fiscal 1985 deficit is projected to exceed 3 percent of the gross national product, then a 2.5-percent spending cut must be imposed across the board on both domestic and defense spending, that cut would be from the amounts in the budget resolution, not from current appropriations.

On the domestic side that would amount to a freeze on total domestic discretionary spending. On the defense side, it saves about $10 billion in outlays through 1986. But it still leaves us with more than 7-percent average real growth between 1981 and 1986.

Once these cuts are triggered, the President would be required to submit, as part of his January 1985 budget, rescissions for both domestic and de-

fense spending. Each set would be required to amount to 2.5 percent of budget authority as contemplated in the fiscal year 1985 budget resolution.

If those recissions are not enacted into law within 60 days by Congress, then a 2.5-percent automatic reduction in budget authority for each appropriation account, program, and activity would go into effect, with no Executive discretion over where reductions are to be made. So while Congress will maintain its prerogatives and responsibility, we make certain the savings will take place, and they are certain, and they are real.

One final point on this package is in order. It is true it calls for no further COLA containment, and some will wonder why. Let me explain.

In action earlier this year, Congress—acting with bipartisan unity, delayed COLA's for social security beneficiaries by 6 months. That change was implemented by making a permanent change in the COLA date from July to January each year, meaning social security recipients will actually be getting less money for 6 months of each year than they would have prior to the change. I asked the Congressional Budget Office to figure out what that loss amounted to in terms of reducing the COLA below the Consumer Price Index. On average it comes out to a 2.4-percent reduction from CPI for each year.

There is no reason why this reduction should not be shared equally by all segments of the economy for the overall good of the economy. That is why this package contains a 2.5-percent reduction for both domestic and defense programs. It is neither more nor less than we have already asked of those living on social security incomes.

Now let me be very candid. Since this package is jointly offered by the Republican chairman of the Budget Committee and the ranking Democrat, this is not a political instrument. This is not a posturing proposal. This is a serious expression of genuine concern about the future of economic recovery. This is a tough but fair blend of substantial revenue adjustments and spending cuts acknowledging the concerns of both parties, and competing economic philosophies.

Because it involves trigger mechanisms, it still gives the economy a fair chance to perform as advertised by the administration on its present course. It gives the economy the extra time requested by the White House, but it gives the budget the extra discipline demanded by the credit markets.

I expect to be asked by my colleagues if I actually like the overall package. Let me answer in advance; of course I do not. These are not pleasant steps. But I can tell you it is better to take those steps now while we can still walk, rather than contemplate the day when the only hope would be for us to rise, not like the Phoenix from the ashes, but like Lazarus from the grave.

It is not that I do not believe in miracles as much as it is that I strongly believe in hard work and responsibility. And those are the two keys to this issue.

That passing a package like this will be hard work is a foregone conclusion. That passing it now is a necessary act of responsibility should be beyond challenge or doubt.

And I would ask my colleagues to consider one more thing. There are probably as many reasons to vote against deficit reduction as there are Members in Congress. There are plenty of speculative arguments ranging from wonder about whether the House will approve it to fears that it will be vetoed by the President. But somebody has to take the first step. And I deeply believe it must be taken now, and we must be the ones to do it.

Mr. President, it is interesting to note that newspapers have been writing for the last few days about our dilemma and talking about whether Congress was going to have the courage to face up to that.

There is a cover story in today's morning edition of the USA Today. It is entitled "Showdown on Deficit Panic This Week," and it has a subhead that says: "The solution will require a scarce commodity . . . political courage."

Mr. President, I ask unanimous consent that the cover story be printed in the RECORD.

There being no objection, the cover story was ordered to be printed in the RECORD, as follows:

SHOWDOWN ON DEFICIT PANIC THIS WEEK

THE SOLUTION WILL REQUIRE A SCARCE COMMODITY . . . POLITICAL COURAGE

(By David Fink)

WASHINGTON.—Representative John McCain, like many members of Congress, is wringing his hands these days: "It took us from 1776 to 1981 to get to a trillion dollars in debt. At the rate we're going, it'll take us till only 1986 to reach $2 trillion.

"It's the most difficult issue we're facing," says McCain, a Republican from Arizona.

Both political parties see the same grim picture: the USA is up against a $200 billion problem called the federal deficit—a deficit that fattens an ever-increasing national debt.

"It's like a sword dangling there and everyone knows it," says Represenative Sandy Levin, D-Mich.

The source of the deficit problem is simple: Government spends more than it takes in and has to borrow the rest.

In the past, Congress has handled the deficit problem by raising the national debt ceiling. Now, some members are unwilling to raise the $1.389 trillion cap unless the action is tied to spending cuts, higher taxes or both. But Tuesday, Senate Majority leader Howard Baker told President Reagan the Senate won't recess this week unless it joins the House in raising the ceiling.

"The most frightening part," says economist Herbert Stein, "is that the deficits add to the national debt and the interest we have to pay on it (an estimated $144 billion this fiscal year) takes a bigger and bigger bite. It becomes explosive."

Hurt is every American who wants to borrow money for homes, autos or businesses. Normally, there is about $500 billion available from banks and other lenders. When the government needs to borrow almost half of that to pay its bills, there's not much left. Everyone scrambles for the remainder and, like every instance when there's great demand for something, its price—in this case the interest paid to borrow—goes up.

Says National Association of Home Builders vice president Jay Shackford: "Home builders and the people who want to buy (homes) are the last ones on the credit ladder and the first ones to get bounced off. Meanwhile (Mortgage interest) rates are higher."

Schackford says the national debt adds over $200 a month to the average mortgage.

Even those not seeking loans are affected. "When interest rates are high and business can't afford to borrow, it builds fewer factories and buys less equipment," says former Congressional Budget Office director Alice Rivlin. "That means fewer jobs and a less productive economy."

The deficit has grown like an unchecked cancer. In 1969, there was a $3.2 billion surplus; 1970 brought a $2.8 billion shortfall. Last year, it was $110 billion. Unless taxes are raised, spending is cut or some combination is found, it will hit $200 billion this year and stay in that range until something is done.

Years of deficits have swelled the national debt to almost $1.383 trillion. Unless Congress passes a law to raise the current debt limit, the government won't be able to borrow enough to pay its bills.

If the limit isn't raised, the government will run out of money, probably about Dec. 1, says White House spokesman Larry Speakes, and banks will have to stop honoring government checks, including those for Social Security.

The deficit debate has engrossed Congress. Even Senator William Roth, R-Del.—among the minority who can't understand all the fuss—admits "you've got almost a panic atmosphere up here."

But what to do? Democrats blame President Reagan for refusing to consider tax hikes less than a year before his expected run for re-election. Republicans blame "big Democratic spenders" who shy away from social program cuts.

There will be no easy solutions. A member of the House Budget Committee, Leon Panetta, D-Calif., recalls an incident last week: "A freshman walks up to me and says we have to do something. I say, 'Fine. Would you support a tax increase?' He says 'No.' I say, 'How about cutting cost of living increases for retirees?' He says 'No.' 'Would you cut defense?' I ask him. No again. So I told him you better learn to explain the deficits back home."

Economist Stein calls the Democrat-Republican standoff a King Solomon situation. "There, one of the mothers was willing to give up the baby. Here, neither side wants to and the baby may get cut in half."

Eventually someone must give, says Representative McCain: "The solution will require a scarce commodity in this town—political courage."

There have been attempts to push a solution: Freshman Democrats turned against leadership last week when they joined Republicans in opposing an emergency spend-

ing bill because it didn't contain a solution to the deficit.

And Senate Finance Committee Chairman Robert Dole, R-Kansas, keeps pressing—without luck—for a new tax hike-spending cut package.

The economic recovery is slowing efforts to find a solution, says Harvard economist and congressional adviser Otto Eckstein. "Right now, everyone's having a ball. The economy's on a happy upswing. The damage the deficit is doing is invisible. It's not drama, it's not a stock market crash."

But, "we'll have trouble we can touch by 1985," he says.

Roth, on the other hand, doesn't see an immediate problem. "I don't argue that a country, just like a family, can keep spending more and more, year in and year out," says Roth, who helped shape Reagan's huge 1981 tax cut. "But the economy's growing, people are finding jobs. The gloom and doom merchants were wrong before and they're wrong now."

But Representative McCain disagrees. The deficit dilemma has to be solved now. A billion dollars—let alone $200 billion—is no small change. "If you had $1 billion when Christ was born and spent $1,000 a day, you wouldn't use it up until the year 2076. And we're talking about billions."

Mr. CHILES. Mr. President, the New York Times reported this morning, in a story on the debt limit bill and efforts to reduce the deficit, that:

A White House official said the last-minute Budget Committee proposal was "not appropriate in the winding-down days of the session."

Mr. President, I do not know when it would be appropriate. It seems to me that it should have been appropriate all this year, and we have been trying to get that done this year. It seems to me that it ought to be appropriate, anytime that we have an opportunity to do something about this $200 billion deficit.

Mr. President, I ask unanimous consent that the article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN PRESSING CONGRESS ON DEBT

(By Steven R. Weisman)

WASHINGTON, Nov. 15—President Reagan bade Congress today to approve legislation raising the national debt ceiling to $1,600 billion, warning that failure to do so would cause the Federal Government to run out of cash Dec. 1.

This evening, an aide to Senator Howard H. Baker Jr., the Senate majority leader, said for the first time that there appeared to be enough votes to pass the debt ceiling measure.

After meeting with the President this morning, Senator Baker said that "we still don't have the votes" to pass the debt limit legislation. "We're going to find a way to pass the debt limit increase," he said, "but for the life of me, I don't know how yet."

The struggle to win approval of the debt limit was a symptom of Congress's continuing concern over the Federal deficit. Conservative Republicans sought to block the debt limit bill, without which the Government would be unable to borrow money to pay bills, in order to get action on the deficit.

BID TO REDUCE DEFICIT

A related indication of Congressional frustration about the deficit came in an unusual announcement by leaders of the Senate Budget Committee of endorsement of a package of spending cuts and tax increases intended to reduce the deficit by $87.6 billion over the next three years.

"We can't sit idly by and see nothing happen," said Senator Lawton Chiles, a Florida Democrat who is co-sponsor of the measure along with Senator Pete V. Domenici, Republican of New Mexico and chairman of the budget panel.

The authors of the proposal conceded that it had little chance of success because of continuing White House opposition to tax increases. A White House official said the last-minute Budget Committee proposal was "not appropriate in the winding down days of the session."

At a meeting with Republican leaders at the White House, Mr. Reagan also listed his priorities for the closing days of this year's Congressional session. In another meeting, he pressed Republicans and Democrats in the Senate to approve a measure to provide tax credit for parents with children in private schools.

DUBERSTEIN LEAVING POST

In a surprise move, Mr. Reagan accepted the resignation of his top Congressional liaison, Kenneth M. Duberstein, who is leaving the White House Dec. 15 to become a vice president of Timmons & Company, a leading lobbying concern.

Mr. Duberstein, who has won wide respect as a strategist and lobbyist, said in his letter of resignation that he was quitting to "renew the family life I have foregone and repair the financial security that has been sacrified" in the three years he has been with the Administration.

As liaison with the House of Representatives in 1981, and with the entire Congress in 1982 and 1983, Mr. Duberstein was credited with playing the key role in forging Congressional approval or agreements on Mr. Reagan's economic program, as well as on the MX missile and Lebanon issues.

Senator Baker was reported to have praised Mr. Duberstein to colleagues today, telling them that "no one has done the job better" in his experience.

Mr. Duberstein is to be succeeded by one of his deputies, M. B. Oglesby Jr., a veteran of Republican politics in Illinois.

Today marked Mr. Reagan's first full day at the Oval Office in a week. The President returned Monday from a trip to Japan and South Korea, where he gave what Secretary of State George P. Shultz described to the Republican Congressional leaders as "an absolutely magnificent performance."

Mr. Shultz's praise was conveyed to reporters by Larry Speakes, the White House spokesman. Mr. Speakes said the Secretary of State also told the leaders that Mr. Reagan felt "bucked-up" by his visit to American troops stationed along the demilitarized zone facing North Korea.

ASSESSMENTS OF ISSUES

The President, however, had little time today for tales about his trip. Instead he became enmeshed in the tangle of issues that threatens to hold up adjournment of the 1983 Congressional session at the end of the week. Mr. Speakes and other White House officials gave these assessments of the various issues:

Mr. Speakes said it was "currently our belief" that the Federal Government had enough cash to pay bills until Dec. 1 without exceeding the current debt ceiling of $1,389 billion. He quoted Treasury Secretary Donald T. Regan as telling the Congressional leaders that failure to raise the ceiling could lead to an "unprecedented" default, which would roil the banking system.

Mr. Reagan, seeking Senate approval of tuition tax credits, assured senators that he would be willing to make telephone calls this week to get it passed. Administration officials said Senate passage would mark an important political victory even if there was little chance of the measure's being passed in the Democratic-controlled House.

Mr. Speakes said the President had asked that high priority be given to approval of William P. Clark as Secretary of the Interior. Senator Baker indicated that approval of Mr. Clark was being delayed by Democrats. Mr. Speakes said that if Mr. Clark were not approved, Mr. Reagan might appoint him Secretary while Congress was in recess. A "recess appointment" would continue until Congress either rejected or approved it in the 1984 session.

The Administration has taken no public position on whether a 60-to-90-day deadline applies to the presence of American troops in Grenada under the War Powers Resolution. A move is under way in Congress to assert that the time clock began Oct. 25, when the American invasion began. But an Administration official said that with the end of hostilities in Grenada, the deadline was not pertinent.

The Administration is also seeking action on such measures as an increase in the American contribution to the International Monetary Fund, a compromise version of the military appropriations bill, extension of the Export Administration Act and extension of revenue sharing.

The Chiles-Domenici proposal on reducing the Federal deficit is to be advanced Wednesday when the Senate takes up a more modest deficit-reduction bill worth $28 billion in tax and spending savings. This bill, called a reconciliation measure, was mandated by the budget adopted last spring.

Of the $87.6 billion package, $30 billion would come on the spending side, including a reduction in military spending by 2.5 percent. The tax increase would come to $57.3 billion over three years. Its elements would include revising "indexing," the law that would prevent taxpayers from rising into new brackets because of inflation, and placing a minimum tax on corporations and adding a surcharge on individual and corporate income taxes.

Mr. CHILES. Mr. President, I suggest the absence of a quorum, with the time to be equally divided between the majority and the minority.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

OLYMPIC DUTY SUSPENSION

The PRESIDING OFFICER. Under the previous order, the clerk will state House Joint Resolution 290 by title.

The bill clerk read as follows:

A House joint resolution (H.J. Res. 290) to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXIII Olympiad to be held in the United States.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause, and insert the following:

That (a) subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	915.00	Personal effects of aliens who are participants in or officials of the XXIII Olympiad, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with the games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury.....	Free	Free	On or before 9/30/84	".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this resolution.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized.

AMENDMENT NO. 2617

(Purpose: To provide a refundable Federal income tax credit for tuition)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and other Senators proposes an amendment numbered 2617.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the matter proposed to be inserted, and the following:

Sec. . Tuition Tax Credits.

(a) CONGRESSIONAL FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(A) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(B) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(C) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(D) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary levels;

(E) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(F) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(G) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(2) PURPOSE.—The primary purpose of this section is to enhance equality of educational opportunity, diversity, and choice for Americans.

(b) Credit for Tuition Expenses.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(1) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the term 'applicable amount' means the excess, if any, of—

"(A) $300, over

"(B) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(3) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1983, and before January 1, 1986, paragraph (2) shall be applied—

"(A) in taxable years beginning in 1984, by substituting—

"(i) '$100' for '$300',

"(ii) '1 percent' for '3 percent', and

"(iii) '2 percent' for '6 percent', and

"(B) in taxable years beginning in 1985, by substituting—

"(i) "$200' for '$300',

"(ii) '2 percent' for '3 percent', and

"(iii) '4 percent' for '6 percent'.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or in any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBLITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), and (7), or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an educational institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is privately operated, not-for-profit, day or residential school;

"(C) which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribed) that it does not discrimiate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapters 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(2) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) Certain investigations and proceedings regarding racially discriminatory policies.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409.

to any officer or employee of the Department of Justice who is directly and personally involved in such investigation or in preparation for such a proceeding.".

(3) REFUNDABILITY OF TUITION CREDIT.—Subsection (b) of section 6401 of such Code (relating to amounts treated as overpayments) is amended by striking out the first sentence and inserting in lieu thereof the following: "If the amount allowable as credits under section 31 (relating to tax withheld on wages), section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), section 43 (relating to earned income credit), and section 44I (relating to tuition credit) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 11, 39, 43, and 44I), the amount of such excess shall be considered an overpayment.".

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 55 (f) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44I".

(B) Paragraph (4) of section 6201 (a) of such Code (relating to assessment authority) is amended—

(i) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44I (relating to tuition credit)", and

(ii) by striking out the caption and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.—".

(C) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TUITION CREDIT CONSIDERED PAID.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 44I (relating to tuition credit) as is treated under section 6401 (b) as an overpayment of tax.".

(D) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND TUITION CREDIT.—".

(E) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"SEC. 441. TUITION EXPENSES.".

(F) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 441(c).".

(c) DECLARATORY JUDGMENT PROCEEDING.—

(1) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DESCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational insitution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specifically that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) decline to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1) IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct; and

"(iv) averring that such institution has complied with the requirements of section 44I(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEYS' FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorneys' fees in such action.

"(h) DEFINITIONS.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other progams.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to especially discriminatory policies of schools.

"Sec. 7410. Cross references."

(B) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

(d) TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.—Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

(e) EFFECTIVE DATE; SPECIAL RULE.—

(1) CERTIFICATION REQUIRED.—The amendments made by this section shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(A) an Act of Congress which has been enacted, or

(B) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(2) APPLICATION WHEN CERTIFICATION IS MADE.—

(A) IN GENERAL.—If the certification decribed in paragraph (1) is made to the Secretary of the Treasury—

(i) except as provided in subparagraph (B), the amendments made by subsection (b) shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1983, and

(ii) the amendments made by subsection (c) shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(B) NO APPLICATION BEFORE AUGUST 1, 1984.—In no event shall the amendments made by subsection (b) apply with respect to expenditures made before August 1, 1984.

(3) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(A) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1985.

(B) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1985.

Mr. BAKER. Mr. President, this is the tuition tax credit amendment. The amendment has been offered, the vehicle has been chosen. The vote will occur on a motion to table at 1 p.m. The motion to table will be offered by the Senator from Oklahoma (Mr. BOREN). I urge and encourage Members to come to the floor, participate in debate, and be ready to vote.

May I ask the Chair, is it 1 hour or is it at the hour of 1 p.m.?

The PRESIDING OFFICER. It is 1 hour of debate, which will be at 1:09 that the vote will occur.

Mr. BAKER. I thank the Chair, 1:09 instead of 1 o'clock. It will be less than that if I do not hush, so I will sit down.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, as the clerk indicated, there are a number of cosponsors of this amendment: Senator LONG, Senator PACKWOOD, Senator MOYNIHAN, Senator ROTH, Senator BRADLEY, Senator DURENBERGER, Senator DANFORTH, Senator GRASSLEY, and Senator D'AMATO. There may be others, and we would be pleased to have their names added as cosponsors if they so desire.

We have had discussions for the last couple of days on this issue. This measure has strong support from the President of the United States. He met with a group of us yesterday afternoon and reaffirmed a strong commitment that he has had for a long, long time for the tuition tax credits. I think it indicates the importance of this on the President's agenda. I thank the distinguished majority leader and the leadership on both sides for permitting us to express ourselves on this issue before we leave this year.

Our Nation is at risk. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world.

These are not my words, but excerpts from "A Nation at Risk," a report of the National Commission on Excellence in Education that was released on April 26 at the White House. The National Commission report is sobering reading. The Commission found that the average achievement of high school students on most standardized tests is now lower than it was 26 years ago when sputnik was launched. In addition, the Commission found that over half the population of gifted students failed to match their tested ability with comparable achievement in the schools.

The report notes that these deficiencies come at a time when the demand for highly skilled workers in new fields is accelerating rapidly. But the concern of the Commission went well beyond matters such as industry and commerce. To quote from the report again:

Our concern * * * also includes the intellectual, moral, and spirtual strength of our people, which knits together the very fabric of our society. A high level of shared education is essential to a free democratic society and to the fostering of common culture, especially in a country that prides itself on pluralism and industrial freedom.

It is fitting that this report was released on the eve of the Finance Committee's hearings on the administration's proposal to allow a limited tax credit for elementary and secondary private school tuition. I am pleased, also, that the Finance Committee fa-

vorably reported the bill on June 20, 1983.

TUITION TAX CREDITS ARE CONTROVERSIAL

Tuition tax credit legislation has always been controversial. Both proponents, and opponents of tuition tax credit legislation have strongly felt views, on all of the critical issues this proposed legislation raises.

Tuition tax credits are championed, and challenged, on educational policy grounds. They are championed, and challenged, in terms of their relationship to the 1st and 14th amendments to the Constitution. They are championed, and challenged, in terms of their impact on tax policy. And they are championed, and challenged, in terms of their overall budgetary impact.

SENATOR DOLE'S SUPPORT FOR TAX CREDITS

One thing is certain: As the old adage goes: "If you think education is expensive, try ignorance." Or, as the National Commission put it: "Excellence costs * * * but in the long run mediocrity costs far more."

I have been a longtime supporter of providing Federal income tax relief for lower and middle income families who carry the additional burden of supporting the public schools while sending their children to private schools. Because of this double burden, an alternative to public education is simply not available to lower income families today and is not available to middle-income families without substantial sacrifice. The economic burden of inflation and recession in recent years has made matters worse. Yet alternatives to public education contribute to the pluralism that help make our society strong. Alternatives to public education can also help stimulate improvements in our public schools through the competition those alternatives present. A strong system of private schools available to all income classes should contribute to a better education for all of our children. Moreover, an educated, skilled populace is an essential ingredient in maintaining this Nation's technological industrial prominence.

NO CREDITS FOR DISCRIMINATORY SCHOOLS

Although I support tuition tax credits in principle, I would not support any bill without adequate safeguards insuring that tax credits would not be allowed for payments to private schools with racially discriminatory policies or practices.

I must say that we spent a great deal of time in this area in the Senate Finance Committee, and through the efforts of the distinguished Senator from New Jersey (Mr. BRADLEY) and others we hammered out a fair compromise in the final product of the Finance Committee's deliberations with a set of antidiscrimination rules that I believe are very strong.

Last year the Finance Committee carefully reviewed the antidiscrimination provisions of the administration's tuition tax credit bill. Extensive discussions were held with administration officials, and experts, and interested laymen in the fields of education, civil rights, and law. The final product of the Finance Committee's deliberations was a set of antidiscrimination rules that, I believe, are very strong. Because the provisions of the administration's bill dealing with racial discrimination are the product of last year's careful review of the discrimination issue by the Finance Committee, I believe that the enactment of the administration's bill will not in any way frustrate our fundamental national policy against racial discrimination in education.

BUDGETARY CONSIDERATIONS

The bill also contains several modifications that were adopted by the Finance Committee and that substantially reduce the cost of tuition tax credits. By reducing the amount of allowable credits, delaying the bill's effective date, and lowering the phase-out and ineligibility criteria, the bill avoids all revenue losses in fiscal year 1984, and reduces the total revenue loss over the 3-year period ending in fiscal year 1987 by over $400 million. When the bill is fully effective in fiscal year 1987, it will cost less than $800 million each year. Of course, these costs are not insignificant. But in light of the long-term economic benefits to be obtained from encouraging investment in human capital and promoting greater diversity and competition in education, these costs are a sound and prudent investment in our Nation's future.

REFUNDABILITY

Many supporters of tuition tax credits feel that private school tuition assistance should be available to individuals with no tax liability, on the same basis as higher income individuals with tax liability. They feel, accordingly, that any tuition tax credit legislation should include provisions making the tax credits refundable, in order that the benefits provided by the bill be available to lower income individuals accordingly, although this amendment would allow a nonrefundable tuition tax credit. I expect to offer an amendment previously approved by the Finance Committee that would make the tax credits refundable. This is important because the primary purpose of this legislation is to create true freedom of choice for lower and middle income families who chose to send their children to nonpublic schools, while bearing the full cost of supporting the public schools.

Mr. President, I reserve the remainder of my time unless the Senator from New York wishes to speak.

Mr. MOYNIHAN. Why do I not wait?

Mr. DOLE. We will reserve the remainder of our time to hear what the others have to say.

Mr. MOYNIHAN. Mr. President, might I make an inquiry?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I believe that the hour allotted for this debate was to be divided between the Senator from Kansas and the Senator from Louisiana. He is not here.

Does the Senator from South Carolina control the time on his side?

Mr. HOLLINGS. Right.

Mr. MOYNIHAN. Fine. I just want to make sure.

The PRESIDING OFFICER. The Chair advises the Senator from New York that the agreement is that the time is divided between the Senator from Kansas and the Senator from South Carolina.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield 5 minutes to the chairman of our Education Committee.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I rise to express my opposition toward any move that would result in the precipitous, and almost reckless, discussion of the tuition tax credit issue.

As all of my colleagues know, tuition tax credits represent no new proposal. Indeed, they have been debated by this body in the past, and I am sure that the issue will be debated again. But, I am confident that given the opportunity to fully air the details of this proposal, this body cannot help but vote against tuition tax credits.

This Senator has to ask, however: What necessitates this present action? What crisis of such enormity has occurred which forces our hand in the waning days of this session? What stands to be gained from acting today that cannot wait for a more propitious time to thoughtfully consider this proposal?

I submit to my colleagues that no substantive reason exists for considering the tuition tax credit issue at this time. Rather, I fear that the legislative strategy at work here is inherently subjective and narrowly political. Even if I were a proponent of tuition tax credits, I would oppose the battle plan which is being followed at this moment.

I, therefore, urge my colleagues who support tuition tax credits to reconsider their strategy and submit their plan at a time earlier than the 11th hour at which we are asked to consider this latest incarnation.

Mr. President, there is nothing new about tuition tax credit proposals, and there is little new which can be said in opposition to them. Yet, in my mind,

certain fundamental difficulties would be created by tuition tax credits which are immutable and deserve restatement.

Obviously, the philosophical, constitutional, and fiscal ramifications of granting such credits remain the same, and many of my colleagues have spent more time than I will spend discussing each of these points in detail.

Yet, as chairman of the Senate Subcommittee on Education and someone who cares deeply about public and private education, I want to highlight what this Senator believes to be certain elemental issues which cannot be finessed and which cannot be explained away or justified.

First, public education remains part of the bedrock that upholds our Republic and what it represents. Indeed, at the heart of the Federal role in education are these principles: That all should have equality in and access to a quality education.

And, our public educational system has done so. In particular, given the enactment of such laws at the Federal level such as chapter 1 and Public Law 94-142, disadvantaged and handicapped children across America know that they are guaranteed the same equal opportunity to education as other young Americans.

Could these children be assured of the same opportunity under a private education system that is not subject to these same guarantees? I fear not, and this body should hesitate before doing anything that remotely jeopardizes the principles of access and equality for those children with special needs.

Mr. President, the Subcommittee on Education has held four hearings to investigate the question of quality education in America. Additionally, the full Labor and Human Resources Committee has held hearings to supplement the hearings already held by the subcommittee which I chair.

In the course of these hearings, the subcommittee has heard divergent views about how to improve educational quality. Yet, one unified message has emerged from the diversity of ideas presented to us. That message is this: The investment in public education must be increased.

Therefore, I am concerned about what message the approval of tuition tax credits would give public education.

Many times in the past few weeks, Congress has had the opportunity to approve additional funding for our major educational programs. And, instead of doing so, Congress has rejected various amendments to increase our investment in public education.

This Senator, while adopting a different point of view, understands the concerns of those who, while supportive of increased funding in principle, could not vote in the affirmative because of the burgeoning deficit that confronts us daily.

Now, how can we possibly approve additional funding for private education? We should not approve tuition tax credits while simultaneously turning down proposals for added spending for public education.

Also, I feel it is important to remind my colleagues that the Federal Government already provides assistance to private elementary and secondary education. For instance, the chapter 1 program for years has made funding available for disadvantaged children in nonpublic schools.

And, the recently enacted education block grant or chapter 2 contains landmark provisions enabling nonpublic schools to participate equitably in that program.

These laws are illustrative of the concern the Congress has shown to the needs of all children, whether they are in public or private schools. But the proposal we are being asked to support would be exclusive, not inclusive, and would concern itself only with those children who attend private schools.

In other words, the equitability exhibited by chapter 1 and chapter 2 is not reciprocated.

Finally, we all know that the size of the credit has been continually whittled down. One suspects that this has been done so as to achieve a critical mass necessary to eke out a marginal legislative victory.

If this victory is achieved, it would establish a principle. And if that principle is established, I fully suspect that the ante on the size of the tuition tax credit will be upped again and again in the future.

Therefore, despite the reductions made in the allowable credit, we should think twice about this proposal lest it become a Trojan horse designed to breach the supports that preserve the compact between the public's educational system and its Government.

I urge rejection of this proposal.

AMENDMENT NO. 2617 AS MODIFIED

Mr. DOLE. Mr. President, under the order entered into last night, the amendment I was to offer was to be the proposal as reported by the Finance Committee. I now ask permission to modify my amendment by striking out the refundability section which starts on page 11, line 23, and goes through line 2 on page 12 of the amendment.

Mr. BOREN. Mr. President, reserving the right to object, the original proposal did not include refundability?

Mr. DOLE. That is correct.

Mr. BOREN. So the Senator is modifying the amendment to comply with the unanimous-consent agreement, and it would not include refundability?

Mr. DOLE. That is right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, at the appropriate time, assuming that the motion to table is not successful, there will be an amendment on refundability. This provision is somewhat controversial. It is not supported by the administration. It should not have been in this amendment. It was a drafting error. I would support refundability however.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 6 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague, Senator DOLE, in offering an amendment to provide tuition tax credits for parents of children in elementary and secondary nonpublic schools. This amendment embodies S. 528, legislation which I cosponsored and which the Senate Committee on Finance approved on May 24. The committee's decision to report S. 528, the Educational Opportunity and Equity Act of 1983, represents a significant step in addressing what is, in truth, a matter of justice for over 5 million students enrolled in our Nation's elementary and secondary nonpublic schools.

I have introduced tuition tax credit legislation in the 95th, 96th, and 97th Congresses. The first proposal I introduced, with my distinguished colleague, Senator PACKWOOD, would have created a tuition tax credit plan not unlike the measure the Finance Committee now recommends to the full Senate for enactment. In 1978, Senator PACKWOOD and I chaired 3 days of hearings on the elementary, secondary, and postsecondary tuition tax credit measure we introduced. Tuition tax credit legislation passed the House of Representatives that year, and our proposal nearly passed the Senate as well.

Many argue that Government aid to nonpublic elementary and secondary schools—including tuition tax credits—violates the first amendment to the Constitution, which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

As I stated in a national Review article of August 3, 1979, and reiterate here today, the first amendment has nothing to do with schools:

> It says that there shall be no established national church. Nothing more, nothing less. Nothing, certainly, to prohibit public aid to the only kind of schools which existed at the time the First Amendment was adopted.

I cited Erwin Griswold, who, when dean of the Harvard Law School, wrote in the Utah Law Review, in 1963:

It is probably true, and highly salutary, that the First Amendment forbade Congress any law "respecting an establishment of religion or prohibiting the free exercise thereof." These are great provisions, of great sweep, and basic importance. But to say that they require that all trace of religion be kept out of any public activity is sheer intervention.

The question of Government assistance for private education has been muddled by dozens of Supreme Court decisions over the last 35 years. Until its recent landmark decision in Mueller against Allen of June 29, 1983, the Court struck down numerous State laws providing Government aid to nonpublic education while upholding others.

I believe that the Supreme Courts has, up until its recent decision in Mueller, been wrong in its interpretation of the "separation" clause of the first amendment, and that given the opportunity it will continue to move away from the course it has followed since 1947—in Everson against Board of Education—as it has reversed dozens of positions it has held at various times in our history when it eventually concluded they were wrong. As I wrote in the Public Interest in the fall of 1979, in an article entitled "What Do You Do When the Supreme Court Is Wrong?":

For long periods of American history the Supreme Court has been wrong about one or another of the principle constitutional issues of the day. It has been wrong in the specific sense that there later came a time when the Court reversed itself, and either directly or implicitly stated that it had been wrong . . .

Of these episodes in American history, the most notorious was the *Dred Scott* decision of 1857 which held the Missouri Compromise to be unconstitutional, a matter in which the Court was, again, plainly wrong. The most pernicious was *Plessy v. Ferguson* (1896), which held that the Fourteenth Amendment permitted separate but equal public facilities segregated by a race, a doctrine that persisted until *Brown v. Board of Education* (1954).

This first decisive opinion of the Supreme Court in Everson involved a New Jersey statute authorizing school districts to reimburse parents for busfares paid by children traveling to and from schools. The Court held that neither Congress nor the State legislatures may "pass laws which aid one religion, aid all religions, or prefer one religion over another." Nor may any tax "in any amount, large or small, * * * be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion."

Now this was simply wrong. As the late Mark DeWolfe Howe of the Harvard Law School put it, in Everson the justices made "the historically quite misleading assumption that the same considerations which moved Jefferson and Madison to favor separation of church and state in Virginia led the Nation to demand the religion clauses of the first amendment." This, he wrote, was a "gravely distorted picture."

Every since Everson the Supreme Court has been retreating from its ruling—slowly at first, more recently with great haste. And with good reason. The pronouncements over the years have contained a series of extraordinary and nonsensical distinctions.

In the 1970 case of Tilton against Richardson, the constitutional distinction which mandates that it is permissible to provide Federal aid to a college freshman but not to a high school senior turned on the question of degree of religious impressionability. The majority opinion states in this case that—

There are general significant differences between the religious aspects of church-related institutions of higher learning and parocnial elementary and secondary schools. There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination. Common observation would seem to support that view.

As I said on the floor of the Senate in 1978, during the debate on the tuition tax credit measure I proposed with Senator PACKWOOD, and as I repeat today, there is no evidence to adequately support any conclusion on this question.

Another well-known, if mistaken and embarrassing, decision came in 1977. In Wolman against Walter, the Court concluded:

In summary, we hold constitutional those portions of the Ohio statute authorizing the State to provide nonpublic school pupils with books . . . . We hold unconstitutional those portions relating to instructional materials. . . .

In an April 1978 article for Harper's, I described the confusion that most Americans now felt over this ambivalent ruling:

Backward reels the mind. Books are constitutional. Maps are unconstitutional. Atlases, which are books of maps, are constitutional. Or are they? We must await the next case. . . .

In June of this year, the Supreme Court, in deciding Mueller against Allen, wrote one of the more important chapters in the history of tuition tax credits. By upholding Minnesota's education tax deduction plan, the High Court embraced the notion that Government support for nonpublic education is not inherently unconstitutional.

The Supreme Court's decision was not, as such, an argument either for or against tuition tax credits. It was simply a statement that this is an issue of public policy that may be decided free of any constitutional constraint. From the time Congress enacted the Elementary and Secondary Education Act of 1965, it was always contemplated that nonpublic schools would share in some form of Federal aid.

The measure now before us in the Senate would insure that students in nonpublic schools receive a fair share of assistance from the Federal Government. The public schools must come first in public policy, and they do: The vast bulk of current Federal education expenditures goes to the public schools and their students. This is as it should be. That does not mean we should ignore the nonpublic schools and their students. Rather, we should strive to accord just and equitable treatment to nonpublic education, to treat private school students the same as public school students, and finally to fulfill the promise first made during the 1964 Presidential election, for Federal assistance in the financing of nonpublic education. I regard tuition tax credits as a reasonable and desirable means of achieving these objectives and urge my colleagues to give this proposal the favorable consideration it merits.

Finally, I should like to say that, time and again, I have repeatedly stated, during floor debates, at Senate hearings, and in numerous articles I have written on the subject of tuition tax credits, that the Supreme Court does not issue advisory opinions. If we want to fully resolve our questions about the constitutionality of this measure, then we must pass it and put it before the Court.

Mr. President, I ask unanimous consent to have two articles I have written on the constitutionality of tuition tax credits printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Harper's, April 1978]

GOVERNMENT AND THE RUIN OF PRIVATE EDUCATION

AN ARGUMENT FOR TUITION TAX CREDITS AS A WAY TO SUSTAIN NONGOVERNMENT SCHOOLS

(by Daniel Patrick Moynihan)

What is likely to be among the most important debates on education in American history began quietly with three days of Senate hearings in January. Sen. Bob Packwood (Rep.-Oreg.) and I introduced a bill to provide tax credits to help pay the tuition costs of parents with children in nonpublic schools and colleges and universities. Our bill was distinctive in that fifty Senators were cosponsors. There were twenty-six Republicans and twenty-four Democrats, ranging from Sen. George McGovern (Dem.-S. Dak.) to Sen. Barry Goldwater (Rep.-Ariz.).

The hearings were distinctive in the strength of the views pressed upon us that this was a measure middle-class Americans felt *they* had coming to them. They had put up with and supported a chaos of government programs designed in aid of other classes and, for that matter, other worlds. Now there was something for them. For *education*. Just as notable was the strength of the opinions of the constitutional lawyers and scholars who testified that in their view there is no question that tuition tax credits

are constitutional as a form of assistance to nonpublic elementary and secondary education. Catholics testified, of course. But so did Lutherans, and representatives of Hebrew schools and Baptist schools. A generation ago this was a Catholic issue. It is nothing of the sort any longer. It is an issue that reflects a broad revival of interest in religious education, an upheaval in constitutional scholarship, and a pervasive sense in American society that government has got to stop choking the life out of institutions that could be seen to compete with it.

What in a sense was not distinctive was the response of the Administration, which came early in February.

As is routinely now the case, the party in power and the President in office were pledged to some form of aid to nonpublic elementary and secondary schools. Just as routinely, whoever wins the election seems to break the commitment when the possibility of keeping it arises. What was distinctive in the response of the Carter Administration was that the President, in a White House news conference, announced that he was prepared, as a substitute for our bill, to spend $1.2 billion for the expansion of existing programs of college student assistance. This came just days after his first budget message provided next to nothing. You have got to not want something pretty badly to be willing to spend $1.2 billion to keep from getting it. As for aid to elementary and secondary schools. HEW Secretary Joseph A. Califano, Jr., at the same press conference, allowed that, wotthehell, Republican Presidents had promised the same.

This is the kind of behavior in an institution—the federal government—for which Marxists reserve the formulation: "It is no accident, Comrade."

IN SUPPORT OF PRIVATE SCHOOLS

In the contest between public and private education, the national government feigns neutrality, but in fact it is anyting but neutral. As programs has been piled atop program, and regulation on regulation, the federal government has systematically, organized its activities in ways that contribute to the decay of nonpublic education. Most likely, those responsible have not recognizerd this; they think themselves blind to the distinction between public and private. But of course they are not. They could not be. For governments inherently, routinely, automatically favor creatures of governments. They know no other way. They recognize the legitimacy of no other institutions. Joseph Schumpeter's gloomy prophecy that liberalism will be destroyed through the steady conquest of the private sector by the public sector bids fair to come true in the United States, and in no domain of our national life is this clearer or seemingly more inexorable than in education.

It is remarkable that the bureaucracy gets away with this, for at the political level nothing is clearer than the avowed support of the parties and their leaders for private education, and for federal policies to buttress it. In its 1976 platform, the Republican party stated:

"We favor consideration of tax credits for parents making elementary and secondary school tuition payments. . . . Diversity in education has great value. . . . Public schools and nonpublic schools should share an education fund on a constitutionally acceptable basis."

The Democratic party platform in 1976

"Renew[ed] its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all public in nonsegregated schools in order to insure parental freedom in choosing the best education for their children. Specifically, the party will continue to advocate constitutionally permissible federal education legislation which provides for the equitable participation in federal programs of all low-and moderate-income pupils attending the nation's schools." [In the interests of full disclosure, let me say I wrote the plank.]

Three years earlier, on behalf of the Nixon Administration, Secretary of the Treasury George P. Shultz testified before the Ways and Means Committee in support of a tax credit for nonpublic school tuitions. "The nonpublic school system plays a vital role in our society," Shultz said.

"These schools provide a diversity of education in the best of our traditions and are a source of innovation and experimentation in educational advances which benefit the public school system and the public in general. In many American communities, they are an important element of stability and civic responsibility. However, education costs are rising, the enrollment in the nonpublic schools is declining, and an important American institution may be in jeopardy."

Tax credits, he flatly predicted, will help "reverse this trend."

During his 1976 Presidential campaign, Jimmy Carter said almost precisely the same thing in a message to the nation's Catholic school administrators:

"Throughout our nation's history, Catholic educational institutions have played a significant and positive role in the education of our children. . . . Indeed, in many areas of the country parochial schools provide the best education available. Recognization [sic] of these facts must be part and parcel of the consciousness of any American President. Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

In a major address just a few months ago, Education Commissioner Ernest L. Boyer echoed this sentiment. "Private education is absolutely crucial to the vitality of this nation," Dr. Boyer averred, "and public policy should strengthen rather than diminish these essential institutions." But the moment we got serious, as it were, and proposed legislation that might do this, Boyer, as his office requires, was on the other side. He was quoted: "We would be saying for the first time that the extra costs of private education are deserving of governmental support." This is their essential point: government has no responsibility to any form of education government does not control. It is a modern doctrine, as I shall discuss, and not always an especially honest one. With respect to "extra costs" our witnesses confirmed that, generally speaking, "private" schools, which is to say neighborhood Catholic, Protestant, and Jewish schools, spend about one-fourth of the per-pupil expenditure of their neighboring public schools. But the advocates of this doctrine are fierce and unshakable in their conviction that theirs is the cause of true liberalism. and that those who disagree are the instruments, witting or no, of the pope and the plutocracy. No argument is too weak to be advanced. The Department of Health, Education, and Welfare did not send an education official to testify at our hearings, but its assistant secretary for legislation was supplied with the boiler plate for the occasion: "An elementary-secondary tuition tax credit could undermine the principle of public education in this country." Undermine! When church-related schools existed and thrived in the United States generations before the public schools as we know them came into being?

If there is an argument, it is that the public schools are a threat to their existence. But this is not really what HEW meant. It meant that private schools undermine the principle of state monopoly. If the bureaucracy was to be open and say that private schools challenge and even defy that principle, then well and good. But the bureaucracy is never open, and often truly dishonest. The hapless assistant secretary was forced to say that our bill would "dry up local and state money for education." If there is one clear correlation in American education it is that wherever there is a large proportion of students in nonpublic schools, public expenditures for public schools are very high indeed. New York City is surely a prime example.

Our bill, the Tuition Tax Credit Act of 1977, would enable a taxpayer to subtract from the taxes he owes a sum equal to 50 percent of amounts paid as tuition. The credit is limited to $500 per student per year, which is to say that after tuition passes $1,000 per student, no additional credit is obtained. If the taxpayer in question owes no taxes, or does not owe the full amount, the Treasury will pay the difference to him. This is by no means the only feasible approach to the matter. Sen. Abraham Ribicoff (Dem.-Conn.) has for some time urged a formula whereby the credit would be a varying percentage of tuitions at different levels, this giving additional benefit to those paying higher tuitions. Another variation offers a flat tax credit for whatever the tuition may be, up to a cutoff point.

This past December, Sen. William Roth (Rep.-Del.) brought up on the Senate floor such a tax credit bill—with a $250 ceiling—and it passed by a vote of 61 to 11. Attached as an amendment to the Social Security bill, it deadlocked the House-Senate Conference Committee until the House conferees agreed that this year the matter would be allowed to come to a vote on the House floor, where it would surely pass.

Almost any formula would entail legislation on the scale of the Servicemen's Readjustment Act of 1944 (the "G.I. Bill"), the National Defense Education Act of 1958, and the Elementary and Secondary Education Act of 1965, placing it among the half-dozen great educational statutes of our history. Although even now not much notice is being paid, this in a curious way is rather a positive sign. At our hearings in January, Rabbi Morris Sherer of Agudath Israel of America, a fifty-five-year-old national orthodox Jewish movement, observed that when he first testified on this subject—seventeen years ago, during the Administration of President Kennedy—it was "so shocking," as he put it, that the New York Times put his picture on the front page. But in the interval, he suggested, the climate had so changed, the idea of public support for nonpublic schools had become so widely accepted, that he was sure "today, . . . seventeen years later, it will be relegated to page 99." In the event, not a line about the three days of hearings made it onto any page of the Times, albeit they came to the attention of the White House! But the rabbi made a point: there has been a vast change in attitudes on this subject, such that it might reasonably be described as an idea whose time has come, and be judged to have made its way at least partially into that realm of

political ideas so "self-evident" that few bother to express what almost everyone takes for granted.

Two-thirds of the tax credits that would be paid under this bill would go to defray the tuition costs of persons attending colleges and universities. A very considerable sum is involved; altogether the bill would cost the Treasury some $4 billion annually, and the bulk of these funds would be devoted to the central principle of maintaining diversity in higher education. But there is certainly no constitutional issue involved at the college level, and not much political argument either. The House Ways and Means Committee has not previously wanted to commit the money, and that is always a perfectly respectable contention. But should it change its mind, as it might well do now, the matter could be disposed of in an afternoon, as middle-income Americans have come to feel a genuine grievance over this matter.

These are the people who pay most of the taxes in America and get few of the social services. In the main, this has been fine by them. The social legislation of the past generation has been enacted primarily by legislators who represent such constituencies. But in the last decade it has come to be seen that taxes are preventing the education of their children, and this they will not have. In this sense, our bill is straightforward, and similar to many others that have somewhat different formulas but the same objective, one that Americans have pretty much agreed upon since the Northwest Ordinance of 1787.

The Administration's alternative is not bad legislation. It raises the income limits of a good program, the Basic Education Opportunity Grants, from $15,000 to $25,000. For what it may be worth, I drafted the Presidential message that first proposed the program. Sen. Claiborne Pell (Dem.-R.I.) has been an immensely devoted and immensely skilled advocate of this program and its "Pell Grants." The drawbacks are twofold with respect to the program itself. It leaves many families out. It puts all other families under a means test. One must see the form to believe it, and one must ask whether it is really necessary to create that much more digging into our private lives for the federal bureaucracy. (Tax credits work directly through the Internal Revenue Service and need involve nothing more than an extra line of form 1040. But the real problem of the Administration's response is that it leaves out elementary and secondary schools altogether.)

Ours is a distinctive measure, precisely with respect to the support it would provide to elementary and secondary schools that are outside the public school system. This involves an argument that has been going on from the beginning of the American republic, namely, support for church-related schools. Here we enter a dark an bloody ground where battles have raged for generations. And yet here, too, there is every sign that finally the matter is to be resolved. This would be an achievement of social peace that goes well beyond education policy, and rewards a certain elaboration.

THE ORIGINS OF PUBLIC EDUCATION

If you like, the accepted interpretation of the Constitution is changing. It is changing back to its original meaning and intention, which in no way barred public support for church-related schools. After more than a century—a period in which religious fears, and, to a degree, religious bigotry, distorted our judgment about what was and was not constitutional—we are getting back to the clear meaning of the plain language in which the Constitution and the Bill of Rights are written.

The most notable element in this regard concerns the demystification of the First Amendment. Demystification is anything but a plain word with a clear meaning, but it is a useful concept that first appeared in Marxist literature, and is now making its way into more general circles. It embodies the argument that social groups commonly conceal from themselves, as well as from others, the true motives and interests that account for their behavior. All manner of myths grow up to explain and justify actions that are founded on a reality that for one reason or another no one wishes to admit. Frequently a condition of social change is to "demystify" such action, and to reveal the true sources of behavior.

This is happening to the First Amendment, through an interaction of legal argument and historical studies. The historical fact is that education in colonial America was almost exclusively an activity of religious sects, just as in that period, as Bernard Bailyn writes (in Education in the forming of American Society), "sectarian religion became the most important determinant of group life. . . . And it was by carefully controlled education above all else that denominational leaders hoped to perpetuate the group into future generations." In the diverse school systems of the time, we see a now-familiar phenomenon at work. Eighteenth-century Americans didn't necessarily want religious toleration; they simply had no choice, such was the number of religions. In time, public support for all manner of church schools was common and unremarked. Bailyn makes the nice point that it came about in part because there was no effective way to endow church schools. Back in England, endowments meant land, which meant tenants, which meant rents. But with free land on the frontier, American tenants could not be found, and so the church schools came to be supported by taxes.

With the founding of the American republic, the arrangement continued, for a time. As with much else, change first appeared in New York City. At the turn of the nineteenth century, public funds from New York State's "permanent school fund" were used to support the existing church schools and four private charitable organizations that provided free education for needy youngsters. In 1805, however, the state legislature chartered the New York Free School Society, which shortly obtained a "peculiar privilege," not shared by the other groups, of receiving public funds to equip and construct its school building.

This favored status was soon challenged by the Baptists, whose schools were experiencing financial difficulties in the aftermath of a depression during the 1820s. The Free School Society responded by challenging both the integrity of the Baptist school organization and the legitimacy of any public money going to support schools associated with religious denominations. "It is totally incompatible with our republican institutions," the Society argued, "and a dangerous precedent" to allow any public funds to be spent "by the clergy or church trustees for the support of sectarian education."

Although New York Secretary of State John Van Ness Yates urged the legislature to support the Baptist position, his advice was rejected, and in 1824 the state turned over to the New York City Common Council the responsibility of designating recipients of school funds within the city. In 1825, the Council ruled that no public money could thereafter go to sectarian schools, and the following year, as if to reinforce the claim that it alone represented nonsectarian "public" education, the Free School Society changed its name to the New York Public School Society. Although it remained a private association with a self-perpetuating board of trustees, the Society obtained what amounted to legal recognition that only its version of education—nonsectarian but Protestant—would thereafter receive public support. The phrase "public school" that endures in New York—as in P.S. 104—is a legacy of this change in the name of a private organization.

By 1839, the Public School Society operated eighty-six schools, with an average total attendance of 11,789. In that year, the Catholic Church also operated seven Roman Catholic Free Schools in the city, "open to all children, without discrimination," with more than 5,000 pupils in attendance. "Nonetheless," as Nathan Glazer and I wrote in Beyond the Melting Pot in 1963, "almost half the children of the city attended no school of any kind, at a time when some 94 percent of children of school age in the rest of the state attended common schools established by school districts, under the direction of elected officers."

Catholics in the city began clamoring for an immediate share of public education funds, but were flatly turned down by the Common Council, notwithstanding even Bishop John Hughes's offer to place the parochial schools under the supervision of the Public School Society in return for public money.

As tempers rose, in April 1841, acting in his capacity of ex officio superintendent of public schools, Secretary of State John C. Spencer submitted a report on the issue to the state senate. Spencer was a scholar—he was Tocqueville's first American editor—as well as an authority on the laws of New York State. He began by examining the essential justice of the Catholic request for public aid to their schools:

"It can scarcely be necessary to say that the founders of these schools, and those who wish to establish others, have absolute rights to the benefits of a common burthen; and that any system which deprives them of their just share in the application of a common and public fund must be justified, if at all, by a necessity which demands the sacrifice of individual rights, for the accomplishment of a social benefit of paramount importance. It is presumed no such necessity can be urged in the present instance."

To those who feared use of public funds for sectarian purposes, Spencer replied that all instruction is in some ways sectarian: "No books can be found, no reading lessons can be selected, which do not contain more or less of some principles of religious faith, either directly avowed, or indirectly assumed." The activities of the Public School Society were no exception to this rule:

"Even the moderate degree of religious instruction which the Public School Society imparts, must therefore be sectarian; that is, it must favor one set of opinions in opposition to another, or others; and it is believed that this always will be the result, in any course of education that the wit of man can devise."

As for avoiding sectarianism by abolishing religious instruction altogether: "On the contrary, it would be in itself sectarian; because it would be consonant to the views of

a peculiar class, and opposed to the opinions of other classes."

The Catholics got no satisfaction from the legislature, but the Public School Society was, in effect, disestablished in 1842. The legislature was persuaded, chiefly by Democrats of a Jacksonian persuasion, that the society was a dangerous private monopoly over which the public had no control. The new school law allowed the society to continue to operate its schools but only as district public schools under the supervision of an elected board of education and the state superintendent of common schools.

CLARIFYING THE FIRST AMENDMENT

Soon, a specifically anti-Catholic nativist streak entered the opposition to public support for church-related schools. President Ulysses S. Grant, looking around for an issue on which he might run for a third term, seized on the danger of papist schools. The Republican platform of 1876 declared:

"The public school system of the several states is a bulwark of the American republic; and, with a view to its security and permanence, we recommend an amendment to the Constitution of the United States, forbidding the application of any public funds or property for the benefit of any school or institution under sectarian control."

Observe. In 1876 there were those who thought that public aid to church schools should be made unconstitutional. But at least they were clear that the Constitution would have to be amended to do so. It is extraordinary how this so obvious fact got lost in the year that followed. We may hope that the matter has now been settled by Walter Berns in his devastatingly clear historical account, The First Amendment and the Future of American Democracy. What Congress intended by the First Amendment was to forbid the preference of one religion over another. At the time of the Revolution, nine of the thirteen colonies had established religions. The establishment clause forbids the nation from having one, this for the obvious reason that to have picked one religion over the others would have destroyed the Union.

To repeat, it is astounding how this plain meaning became lost. We are not here interpreting the Dead Sea Scrolls, or the Upanishad. The House of Representatives debated the First Amendment during the summer of 1789.

Then, as now, the Congressmen spoke English. Then, as now, their deliberations were printed up overnight and placed on their desks the next morning. Thus, on August 15, 1789, in reply to Peter Sylvester of New York, who feared the draft amendment "might be thought to have a tendency to abolish religion altogether," Madison responded that "he apprehended the meaning of the words to be that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience."

It is necessary here to insist that because the First Amendment does not prohibit aid to church schools it does not follow that the authors of the amendment favored such arrangements. Some did, some didn't. Madison surely would not have. The plain point is that this was left as a political choice, as an issue of public policy to be resolved however we chose, and changed however often we might wish.

Here, then, a friendly word for the nativists. Early Americans were considerably suspicious of non-English immigrants. Bailyn reports that even Benjamin Franklin was "struck by the strangeness . . . of the German communities in Pennsylvania, by their lack of familiarity with English liberties and English government," such that he helped to organize the Society for the Propagation of the Gospel to the Germans in America. Why ought George Templeton Strong in New York City of the 1860s not have wondered what would come of the flood of Catholic Irish, not half of whom, probably, spoke English, and yet be more fearful of the Central and Southern Europeans who followed, none of whom spoke English, none of whom came from a country where political liberties existed? How could he not have suspected the Pope of Rome? The only perceptible political preference of the papacy in that republican age was for monarchy. In 1870, as if for the purpose of outraging the rationalism of the age, the Vatican Council of Bishops, after nineteen centuries of blessed unawareness, discovered that the pope was infallible—a curious doctrine, and singularly out of harmony with its age. One would not, at the turn of the century, have been overly confident of the Russian and Polish Jews who were then arriving, with a religious faith that had never shown any great interest in political democracy, and an element of nonreligious who were all too well versed in the latest antidemocratic doctrines of the Continent. *But the point is that it all worked out.* German Protestant and Italian Catholic and Polish Jew have all produced recognizably American progeny, enough to calm the fear and perhaps even to arouse the patriotic fervor of the most nervous nativist of generations past. All that is behind us, and political choices that were at least understandable a century ago make no sense today.

SUPREME COURT RULINGS

What then holds us back? The answer, simply, is the Supreme Court. For generations state legislatures have been passing bills that provide various kinds of aid to church-related schools, but for the last generation the Court has been declaring them unconstitutional in whole or in part. The degree to which the seemly disarray of eighteenth-century arrangements has persisted into the twentieth century is impressive. In 1938, eight states (Maine, Connecticut, New Hampshire, New York, North Carolina, Tennessee, Vermont, and Virginia) paid funds to private schools under certain circumstances. Two decades later, eight states (Alabama, Georgia, Maine, Nevada, New York, Pennsylvania, South Carolina, and Virginia) had constitutional provisions specifically authorizing public aid to private schools. But now the Supreme Court began to fight them, armed with the extension by the Fourteenth Amendment of First Amendment requirements to state governments. The decisive case, *the first of its kind*, was *Everson* v. *Board of Education* in 1947, involving a New Jersey statute authorizing school districts to reimburse parents for bus fares paid by children traveling to and from schools. The Court held that neither Congress nor the state legislature may "pass laws which aid one religion, aid all religions, or prefer one religion over another." Nor may any tax "in any amount, large or small, . . . be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion." Now this was simply wrong. To cite Berns: "It does not accurately state the intent of the First Amendment." This has nothing in the least to do with whether the New Jersey statute was a desirable one or not. It is merely that incontestably the First Amendment did not prevent the New Jersey legislature from adopting it.

Mr. Justice Black, who wrote the opinion, depended primarily on views of Madison and Jefferson, who, in 1784, got much exercised over a bill reported favorably by the Virginia legislature "establishing a provision for teachers of the Christian religion." The late Mark DeWolfe Howe of the Harvard Law School put it that in Everson the justices made "the historically quite misleading assumption that the same considerations which moved Jefferson and Madison to favor separation of Church and State in Virginia led the nation to demand the religion clauses of the First Amendment." This, he wrote, was a "gravely distorted picture."

The Supreme Court had no sooner ruled in Everson than it began to retreat from its ruling. Slow at first, this of late has become a genuine rout, and in all truth has become an embarrassment. In our hearings, perhaps the most passionate statements came from legal scholars who pleaded that the Court has got to be relieved of this enterprise in which it has got itself hopelessly mixed up. Pass a bill, our scholars urged us: declare it to be constitutional; the Court will be only too willing to agree.

The alternative is the present confusion verging on scandal. Not five years after Everson, recalling the evident duty of all American institutions to foster piety, the Court held:

"We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. . . . The government must be neutral when it comes to competition between sects."

From that not especially edifying passage the justices seemingly abandoned their own standards of evidence, and even the dictates of reason, to justify the unjustifiable. In *Tilton* v. *Richardson* (1971) the Court was required to pass upon the constitutionality of the Federal Higher Education Facilities Act of 1963 insofar as it applied to church-related colleges and universities. Most of the statute was found constitutional, but only four justices could agree in an opinion. On their behalf, Chief Justice Burger noted that "candor compels the acknowledgement that we can only dimly perceive the boundaries of permissible government activity in this sensitive area of constitutional adjudication."

It was necessary, of course, for the Court to find a serviceable distinction between church-related elementary and secondary schools and sectarian college and universities. Venturing toward those dimly perceived boundaries in his judgment for the plurality, the chief justice asserted that "there is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination."

Now surely this "contention" is an empirical statement whose "substance" is susceptible to verification. It is a statement by the justices that something is so. It is a statement, then, for which there must be evidence. The justices know about this sort of thing. When, in *Brown* v. *Board of Education* (1954), they held that segregated schools were *educationally* inferior to integrated schools, they cited evidence. One may argue as to how good the evidence was;

that is the nature of social science. But the Court had no doubt that it needed evidence if it was going to say things like that. Very well, then. What is the state of the evidence concerning the greater or lesser impressionability with respect to religious indoctrination of seventeen-year-olds as against nineteen-year-olds, or rather, high school students as against college students, inasmuch as ages vary considerably? One doubts there is much evidence one way or another.

But the justices did not rely solely on this contention. "Many church-related colleges and universities are characterized," the chief justice wrote, "by a high degree of academic freedom, and seek to evoke free and critical responses from their students." What an extraordinarily patronizing endorsement! Would the justices have said the same of "many state universities"? Of "many Ivy League campuses"? What about "many elite preparatory schools"? Obviously not "many Catholic elementary schools"?

It gets worse. In a commencement address at LeMoyne College in May, 1977, I suggested that the problem was that the Court had been given "the thankless task of finding constitutional legitimacy for the religious bigotry of the nineteenth century, and that the quality of its decisions suggests the misgivings with which the deed has been done."

Forty-one days later, on June 24, 1977, the Court handed down its decision in *Wolman* v. *Walter,* which tested an Ohio statute dealing with expenditure of public funds to provide aid to students in nonpublic elementary and secondary schools. A three-judge district court panel had upheld the statute, and citizens and taxpayers had appealed. Mr. Justice Blackmun handed down what may be the most embarrassing decision in the modern history of the Court. It concludes:

"In summary, we hold constitutional those portions of the Ohio statute authorizing the State to provide nonpublic school pupils with books. . . . We hold unconstitutional those portions relating to instructional materials. . . ."

Backward reels the mind. Books are constitutional. Maps are unconstitutional. Atlases, which are books of maps, are constitutional. Or are they? We must await the next case.

But where are we for the moment? We are at the point where the United States Supreme Court has solemnly found that books are safe but equipment (also "field-trip services") is not safe. Verily, the history of modern man, and assuredly the experience of the Catholic Church, teaches that books are the one truly subversive element in the culture. Maps may err. And, in the case of the Mercator projection, for example, may even give rise to erroneous views that there is a natural tendency for armies and glaciers in the northern hemisphere to move south. But in the end it is books that are to be feared, doubtless even to be forbidden. But no, says the Supreme Court. Beware, says of the Court, of field trips. Clearly, and not the least in jest, the Court needs to be rescued from this. As the Court itself bids fair to plead. Observe the state of opinion of Mr. Justice Blackmun's brethren in Wolman:

Chief Justice Burger concurred in part and dissented in part.

Mr. Justice Rehnquist and Mr. Justice White concurred in the judgment in part and dissented in part.

Mr. Justice Brennan concurred in part and dissented in part and filed an opinion.

Mr. Justice Marshall concurred in part and dissented in part and filed an opinion.

Mr. Justice Powell concurred in part and dissented in part and filed an opinion.

Mr. Justice Stevens concurred in part and dissented in part and filed an opinion."

In his Wolman opinion, Mr. Justice Stevens cites with avowed deference Clarence Darrow's argument in the Scopes trial on the great harm that comes to both Church and State whenever one depends on the other. This is not without charm, but must we really accept Mr. Darrow as a consititutional authority in such matters? Darrow was virtually a professional agnostic whose great triumph in the Scopes case was to elicit the admission from William Jennings Bryan that the Silver Tongued Orator believed every word in the Bible to be true. Well, so does the thirty-ninth President of the United States, and no one thinks it especially hilarious. None of us knows as much as we knew in those fine old times in the hills of Tennessee. Even Darwin is having troubles.

POLITICS AND PLURALISM

In rather striking contrast, the political realm has been far more pluralist and if you will, liberal in these matters. In 1875 President Grant addressed the Army of Tennessee in Des Moines, exhorting his old comrades that no money should "be appropriated to the support of any sectarian schools. . . . Leave the matter of religion to the family altar, the church, and the private school, supported entirely by private contributions. Keep the Church and State forever separate."

The following year, as anticipated in his party's platform, Rep. James G. Blaine (Rep.-Maine) proposed a constitutional amendment to this effect, but it failed in the Senate. Altogether, between 1870 and 1888 there were eleven separate amendments proposed, five in the House and six in the Senate, but all were rejected. In the meantime, state and local governments continued to provide support of one sort or another to sectarian schools, and do so to this day. According to an authoritative survey by the Congressional Research Service, thirty-seven states supplied some aid to nonpublic schools as of January, 1977, although often in tiny amounts, for sharply limited purposes and through quite roundabout means. The public has been a good deal more perspective about the First Amendment—and about the motives of some politicians—than have the courts.

After World War II, support began to develop for federal aid to elementary and secondary education, which President Kennedy first proposed to Congress in 1963. It failed because the Catholic hierarchy insisted that church-related schools should share in the program, and the Congress, in effect, agreed. In 1964 I negotiated a plank in the Democratic platform which stated:

The demands on the already inadequate sources of state and local revenues place a serious limitation on education. New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and, to the extent permitted by the Constitution, to all schools. [Emphasis added.]

The bishops agreed that on these terms they would support a bill, and the Elementary and Secondary Education Act of 1965 followed directly. But church schools got precious little of the federal funds that followed, and today private-school students receive only dribs and drabs of the services to which they are entitled. With respect to Title I, for example, which is the major E.S.E.A. program delivering remedial educational services to disadvantaged youngsters, supposedly without regard to the auspices of the schools in which they are enrolled, a recent study conducted for the National Institute of Education by Dr. Thomas W. Vitullo-Martin concludes that "the program reaches only 47 percent of the nonpublic-school students who should be eligible for it, and provides them with only about 18 percent of the services they should receive." In most communities, Vitullo-Martin continues, "Children with the same level of educational disadvantage have less chance of receiving Title I services if they are enrolled in private schools, and will receive fewer and poorer services."

Now a new element appears. The Catholic issue recedes, and it turns out that all manner of Protestant and Jewish groups want to be able to maintain their schools. They said as much at our hearings. What we now have is a fight for educational pluralism, with the sense arising that something precious to this society is being lost. Nor is this just a matter of religious schools. A spokesman for CORE testified that his organization has "begun a community school in the Bronx. In this school, children read, on the average, at approximately grade level, while in the public schools of District 9, which services the area, children are over a year behind by grade 5 and almost two years behind by grade 8." This experience with one school reinforces Professor Thomas Sowell's research findings attesting to the importance of private schools in the education of black youngsters. "One of the great untold stories of contemporary American education," Sowell writes, "is the extent to which Catholic schools, left behind in ghettoes by the departure of their original white clientele, are successfully educating black youngsters there at low cost."

The cost differences are significant. In our hearings, persons from one city after another offered statistics indicating that the parochial schools in their community customarily educate their students at 25 to 40 percent of the cost of the local public schools. Without students, these schools will vanish. And with them will vanish a large measure of the diversity and excellence that we associate with American education.

I take pluralism to be a valuable characteristic of education, as of much else in this society. We are many peoples, and our social arrangements reflect this disinclination to submerge our inherited distinctiveness in a homogeneous whole.

Our private schools and colleges embody these values. They provide diversity to the society, choices to students and their parents, and a rich array of distinctive educational offerings that even the finest of public institutions may find difficult to supply, not least because they are public and must embody generalized values.

Diversity, pluralism, variety. These are values, too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their values and attitudes are formed, their minds awakened, and their friendships formed. We cherish these values, and I do not believe it excessive to ask that they be embodied in our national policies for American education.

Tax credits for school and college tuitions furnish an opportunity to support these values. And they do so without raising any question of constitutionality. They are not a sufficient recognition of private education. But they are a necessary beginning, and a

sound example of a public-policy idea whose time, one hopes, at last has come.

If we don't act, the question is likely soon to become moot. The conquest of the private sector is well advanced. In no small part as a result of its inequitable treatment at the hands of the national government, private education in the United States has taken a drubbing in the past quarter century. Everyone knew that elementary school enrollments would decline between 1965 and 1975—it was a demographic inevitability. But it is less widely known that nonpublic schools accounted for 98 percent of the entire net enrollment shrinkage, and that this loss of 1 million students represented more than one-fifth of their total enrollments.

At the college level, private institutions accounted for a majority of all students enrolled in 1951. Twenty-five years later, more than three-quarters of all college and university students were in public institutions.

At the elementary and secondary level there is surely a revival of Protestant and Jewish education, but the truth is that Catholic spirits have flagged. Some dioceses—New York is a prime example—press on. In others, the bishops have seemingly come to think that schools are not part of the vocation of the Church, and in any event it is hopeless, given the Supreme Court. It would be ironic for them to give up just as the climate of liberalism was changing in their favor; but it could happen.

The Catholic hierarchy will no doubt consider trying to prevent the creation of the Department of Education that the President has proposed, and no doubt they should. In its proposed configuration it will merely institutionalize at yet a higher level those prejudices that have systematically opposed and sought to bring about the end of church schools. Why should the anti-Catholicism of the Grant era be given a seat at the Cabinet table of a twentieth-century President? Of course, that is not what the President intends. It is not what the distinguished Congressional sponsors of Department of Education bills intend. It is not what the National Education Association intends. But is it to be avoided, in view of the attitudes prevalent within the bureaucracy that would inexorably move from the Office of Education to the Department of Education? Is it right that two-and-one-half centuries after the first Catholic schools opened their doors in New Orleans, the Cabinet of the United States should require a member who presides over a bureaucracy devoted to the demise of such schools?

There is something larger involved here. It is time liberalism redefined its purposes in the area of education. State monopoly is no more appropriate to liberal belief in this field than in any other.

What Do You Do When the Supreme Court Is Wrong?

(By Daniel Patrick Moynihan)

An institution charged with the role which the Supreme Court has successfully filled for so many years is entitled to our respect and understanding. If one criticizes the Court (as people have always done in the past, and should continue to do in the future), it should be essentially for the purpose of trying to contribute to that respect and to that understanding. The debt which we all owe to the Court is far greater than any individual can repay. Criticism of decisions of the Court or opinions of its members should be offered as an effort to repay that debt, and with the thought that conscientious criticism may be an aid to the Court in carrying out its difficult and essential task.—Erwin N. Griswold, 1963.

In its Spring Term of 1979, the Supreme Court ruled in the case of *Gannett v. DePasquale* that the public does not have an independent constitutional right of access to a pretrial judicial proceeding. The case had been brought by the Gannett newspapers after one of their reporters was barred from a pretrial hearing in a murder case in upstate New York. Gannett argued that the guarantee of the Sixth Amendment to a "public trial" extended to the public at large, including, of course, the press. The Court held that this was not so. Mr. Justice Stewart's opinion for the majority of the Court declared: "The history upon which the petitioner and *amici* rely totally fails to demonstrate that the Framers of the Sixth Amendment intended to create a constitutional right in strangers to attend a pretrial proceeding. . . ."

Strangers? The press?

In a concurring opinion, Mr. Justice Rehnquist went further, and in such a manner as to highlight the fact that though, strictly speaking, *Gannett v. DePasquale* concerned pretrial proceedings, the decision is easily construed as applying to trials as well. The Court's recitation, he said,

"Of the need to preserve the defendant's right to a fair trial . . . should not be interpreted to mean that under the Sixth Amendment a trial court can close a pretrial hearing or trial only when there is a danger that prejudicial publicity will harm the defendant. To the contrary, since the Court holds that the public does not have *any* Sixth Amendment right of access to such proceedings, it necessarily follows that if the parties agree on a closed proceeding, the trial court is not required by the Sixth Amendment to advance any reason whatsoever for declining to open a pretrial hearing or trial to the public."

The decision was the lead story of *The New York Times* the following day. It had, *The Times* reported, "aroused immediate strong criticism from both the press and the legal profession." The initiative of the Gannett newspapers in challenging the closing of a local court proceeding had been seen as a commendable effort to defend the rights both of the public and the press. The Edward Willis Scripps First Amendment Award for 1979 was presented to the Gannett Rochester Newspapers for pressing the suit and for their reporting and analysis of the issues involved. Allen Neuharth, Chairman of the Board of the Gannett newspapers and Chairman of the American Newspaper Publishers Association, called the ruling "another chilling demonstration that the majority of the Burger Court is determined to unmake the Constitution." The American Civil Liberties Union declared that the decision "erected an iron curtain between the criminal process and the inquiring press."

Editorial comment was not less severe. Much emphasis was placed on the asserted departure by the Court from historical, even ancient standards of justice. A forceful *Times* editorial began:

"For centuries the idea of open justice has been synonymous with justice itself. Before the Norman Conquest, before English judges spelled out the rudimentary rights of defendants, throughout the development of British and American jurisprudence, the tradition of open courts has been honored. Now a 5-4 Supreme Court majority has ordained an exception."

In a commentary, Tom Wicker, Associate Editor of *The Times*, deplored the ruling. It would surely lead to miscarriage of justice, he wrote. Not just the press, but the general public could be barred from courts, discarding a standard "rooted in American history." For the Court "now to say that that tradition has no constitutional validity . . . shakes public confidence in institutions and rights long thought to be a citizen's birthright."

The most telling comment came from the Court itself. In a dissenting opinion, Mr. Justice Blackmun stated that in their constitutional argument the Gannett newspapers were right, and the majority of the Court was wrong:

"The Sixth Amendment, in establishing the public's right of access to a criminal trial and a pretrial proceeding, also fixes the rights of the press in this regard, Petitioner, as a newspaper publisher, enjoys the same right of access . . . as does the general public. And what petitioner sees and hears in the courtroom it may, like any other citizen, publish or report consistent with the First Amendment."

In "rare circumstances," Justice Blackmun allowed, exclusion could be justified. But, he concluded, "Those circumstances did not exist in this case."

II

It is difficult to avoid the judgment that Justice Blackmun was right and the majority of the Supreme Court was wrong. If so, the question arises: What to do?

This is a question for which we have no clear answer and little theory. The Court is not supposed to be wrong. Even *The Federalist*, much given to emphasizing the frailty of human judgment, does not adequately treat this possibility. To be sure, the doctrine of judicial supremacy—of the Supreme Court's power to void acts of Congress by declaring them unconstitutional—is not explicit in the Constitution and was not generally assumed to be implicit until Chief Justice John Marshall established it in *Marbury v. Madison*. But Hamilton, who believed in it, and in *Federalist* paper Number 78 made a strong argument for it, had to deal with the charge that "the errors and usurpations of the Supreme Court of the United States will be uncontrollable and remediless." In Number 81, he suggests several reasons why this charge, upon examination, is "made up altogether of false reasoning upon misconceived fact," but all but one of his papers actually further arguments for the necessity and rationality of judicial supremacy. The sole check upon supremacy suggested by Hamilton, other than that of appeals to superior courts, is the power of Congress to impeach individual judges:

"This is alone a complete security. There never can be a danger that the judges, by a series of deliberate usurpations of the authority of the legislature, would hazard the united resentment of the body intrusted with it, while this body was possessed of the means of punishing their presumption, by degrading them from their stations."

No other corrective is suggested. Rather, the argument is made with particular force that the judiciary is inherently and uniquely possessed of the necessary wisdom and disinterest to weigh the actions of the legislature and the executive on constitutional scales. But if the Court were wrong, what—short of impeaching its members—would be the remedy? *The Federalist* does not say.

It happens, however, that we have a considerable practical experience of just this

situation. For long periods of American history the Supreme Court has been wrong about one or another of the principal constitutional issues of the day. It has been wrong in the specific sense that there later came a time when the Court reversed itself, and either directly or implicitly stated that it *had* been wrong.[1] Nor has this been without consequence. Charles Evans Hughes, in his 1928 volume, *The Supreme Court of the United States*, could refer to the Court's having suffered from a succession of "self-inflicted wounds."

Thus from the last decade of the nineteenth century into the fourth decade of the twentieth century the Supreme Court repeatedly declared that the due process clauses forbade labor legislation. Under the Fourteenth Amendment, it was held, for example, that the state of New York could not require that bakers work no more than 10 hours a day (*Lochner v. New York*, 1905). Under the Fifth Amendment, a District of Columbia Minimum Wage Act was held invalid (*Adkins v. Children's Hospital*, 1923).[2]

This was solemn nonsense, as Holmes pointed out in his acid comment in *Lochner* that "the 14th Amendment does not enact Mr. Herbert Spencer's *Social Statics*."[3] But the solemn nonsense persisted, thwarting for almost half a century the major social movement of the time. Then, as suddenly as it had begun it stopped. Writing somewhat later, Mr. Justice Douglas declared in *Williamson v. Lee Optical Co.* (1955):

"The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought."

Or, as Mr. Justice Black put it in 1963 in *Ferguson v. Skrupa*:

"The doctrine that prevailed in *Lochner, Coppage, Adkins, Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded."

Of these episodes in American history, the most notorious was the *Dred Scott* decision of 1857 which held the Missouri Compromise to be unconstitutional, a matter in which the Court was, again, plainly wrong. The most pernicious way *Plessy v. Ferguson* (1896), which held that the Fourteenth Amendment permitted separate but equal public facilities segregated by race, a doctrine that persisted until *Brown v. Board of Education* (1954).

Apart from the *Dred Scott* decision which was, in effect, overturned by the Thirteenth Amendment, the essential fact in all these cases is, however, that the time came when the Court discovered its error and reversed itself.[4] This may appear much too optimistic, even pietistic a reading of American history, but there it is for those to refute who will. The question I would address is how these reversals have come about. It is a process not now described in political or juridical science. As a beginning contribution I would offer a simple hierarchy of response which in one or another combination has commonly led the Court to change its position in those instances in which it has been wrong. In ascending order: Debate, Litigate, Legislate.

(In theory the ultimate recourse of those who feel the Constitution has been misread is an amendment settling the issue. But this has *never* happened. It has never proved necessary. Apart from the evolving idea of Federalism that needed to correct *Chisholm*, the exceptional circumstances that followed *Dred Scott*, and the changed circumstances that caused a graduated income tax to appear more reasonable in 1913 than 1787, sooner or later the Justices have rectified their mistakes. That is not the least ground for the loving fealty we owe the Court.)

As a "case history" I will first present in some detail the history of the issue of state aid to nonpublic schools. I will argue that the Supreme Court was wrong in its interpretation of the Establishment Clause in its decision *Everson v. Board of Education* (1947), but that after a generation the conditions are developing in which it may (will?) now reverse itself. That time is a considerable element in this process will be of small consolation to those now most distressed by the decision in *Gannett v. DePasquale*, but this also appears to be the general experience.

III

Some weeks before the lengthy *Gannett* decision was announced to the consternation of so many, the Supreme Court in 26 words announced its decision in *Byrne, Brendan T. et al. v. Public Funds for Public Schools*: "The judgment is affirmed. The Chief Justice, Mr. Justice White, and Mr. Justice Rehnquist would note probable jurisdiction and set the cases for oral argument." Thus yet another effort by a state government, in this case New Jersey, to provide a measure of assistance for nonpublic, mostly denominational schools was found to violate the Establishment Clause of the First Amendment, and hence to be unconstitutional.

This in itself was nothing noteworthy. Since 1947, when the Court in *Everson* ruled on a state school-aid statute (also of New Jersey) there have been altogether some 46 cases brought to the Court dealing with aspects of this subject. As the Circuit Court in the most recent New Jersey case stated in the opening sentence of the majority opinion, each of these presented "recurring and troublesome questions concerning the relationship between religion and government."

Withal, the 1979 action by the Supreme Court received some attention, for it involved tuition tax credits. New Jersey had enacted a state income tax to provide funds for public education. Included in the statute was a deduction for parents of children in nonpublic schools, it being reasoned that through tuition they contribute to the secular objective of education, and could receive some partial recompense. (For a parent earing $20,000, the total savings was to be $20.)

A more general, and national, measure, providing tuition tax credits at all levels of education—which is to say including college and university as well—had passed the House of Representatives in 1978. The post-secondary portion passed the Senate as well, while the elementary and secondary provisions failed by only 15 votes. This indicated considerable national support for such assistance, but in the New Jersey case the Circuit Court declared itself bound by a 1973 Supreme Court decision, *Committee for Public Education v. Nyquist*, which struck down a New York measure allowing a taxpayer with a dependent in a nonpublic elementary or secondary school to deduct an amount fron his gross income, and thus pay less state income tax. The Supreme Court had held that this had the primary effect of advancing religion and that therefore—following the constitutional "tests" established in prior decisions from *Everson* through *Lemon v. Kurtzman* (1971)—the state law and the deduction it established necessarily failed.

But the notable aspect of the New Jersey event went altogether unremarked. In a separate opinion of the Circuit Court, Judge Joseph F. Weis declared that while clearly the Supreme Court decision in *Nyquist* governed the case, just as clearly the *Nyquist* decision was wrong. It had been a split decision (as almost all these decisions have been) and in Judge Weis's view "the dissenters have far the better of it in the *Nyquist* opinion. . . ."

Those dissenters—Chief Justice Burger and Justices White and Rehnquist—had written a trio of powerful opinions, observing *inter alia* that:

"While there is no straight line running through our decisions interpreting the Establishment and Free Exercise Clauses of the First Amendment, our cases do, it seems to me [the Chief Justice], lay down one solid, basic principle: that the Establishment Clause does not forbid governments, state or federal, to enact a program of general welfare under which benefits are distributed to private individuals, even though many of those individuals may elect to use those benefits in ways that "aid" religious instruction or worship. . . . The essence of all these decisions. . . is that government aid to individuals generally stands on an entirely different footing from direct aid to religious institutions. . . . However sincere our collective protestations of the debt owed by the public generally to the parochial

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[1] Strictly speaking, the Court could have been right the first time and wrong the second. Walter Berns contends, properly, that the standard against which we measure a decision in order to say whether the Court was wrong must be the Constitution itself, not what the Court says about it. Still experience is the life of constitutional law also, and I would hold that where the Court has reversed itself it has almost always done so to correct an observable error.

[2] In *Erie R.R. Co. v. Tompkins* (1937) the Court reversed *Swift v. Tyson*, acknowledging that they were abandoning a doctrine widely applied ". . . throughout nearly a century. But the unconstitutionality of the course pursued has now been made clear and compels us to do so."

[3] Holmes' suggestion appears to be misleading. The Court was not trying to enact anyone's social theories but its own. In James Q. Wilson's phrase, the Court had an idea as to what a "good economy" would be, and it was against this standard that statutes were measured. A considerable body of labor legislation and business regulation was in fact upheld by the "Laissez-Faire Court." My point is simply that there was precious little constitutional warrant for any of this.

[4] To be sure, the Sixteenth Amendment, permitting a progressive federal income tax, had the effect of reversing the Supreme Court's five-to-four decision in *Pollock v. Farmers' Loan and Trust Company* (1895), which had struck down such a tax. But many commentators feel that in this instance the Court was accurately interpreting Article I, Section 9 of the Constitution, and that changing circumstances in fact called for a constitutional amendment. The contrary view, expressed by some members of Congress during debate on the Sixteenth Amendment, is that the Court *was* wrong but had recognized this and was already diluting the effect of the *Pollock* decision and that the proposed amendment was therefore superfluous.

The Eleventh Amendment, ratified in 1795, which denied the Supreme Court original jurisdiction in law suits brought by citizens against individual states, responded to the Court's decision in *Chisholm v. Georgia* (1793) that it had such jurisdiction. But this could reasonably be described as part of the completing of the Federal structure embodied in the Constitution itself.

school systems, the wholesome diversity they engender will not survive on expressions of good will."

Rather, as with the dog that Sherlock Holmes observed did not bark, the significant fact in the New Jersey tuition-deduction case is that the high court chose *not* to hear an appellate judge tell it that it was wrong.

Here close attention is required. There are two senses in which it may be argued that the Supreme Court has been wrong in this area. The first concerns the basic *Everson* decision itself, set forth by Justice Hugo Black, which announced a rule of law in the widest sense:

"The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another."

The key elements of the rule, as Michael J. Malbin has written, are that Congress cannot give nondiscriminatory aid to religion and that neither can the states.

This is the basic ruling of the Court and it endures three decades later. It has not been challenged, albeit (in my view) wrong. Instead, the *Everson* doctrine has been the basis for numerous challenges to state efforts to channel modest amounts of aid into nonpublic education through one means or another, efforts which persist. (The actual holding in *Everson* itself was that New Jersey *could* provide bus transportation to parochial-school students.) The challenges have always been brought by persons opposed even to such small efforts and determined to maintain the *Everson* doctrine in as strict a form as possible.

The opposition has been organized (the list of plaintiffs in the recent New Jersey case begins: Public Funds for Public Schools of New Jersey, American Civil Liberties Union of New Jersey, Inc., Americans for Democratic Action . . .) and vigilant. As states have devised new forms of aid to accommodate each succeeding Court decision, the organizations have typically challenged the statute, leading in time to yet another decision by the Court. Thus there has followed from *Everson* a great number of interpretive, or exegetic rulings which not infrequently have been wrong, if you will, in their own right.

The result has been an intellectual shambles: one confused and convoluted decision requiring a yet more confused and convoluted explanation or modification. Professor Antonin Scalia of the University of Chicago Law School, former Assistant U.S. Attorney General, Office of Legal Counsel, and in that capacity the senior constitutional authority in the Executive Branch, testified before the Senate Finance Committee in 1978: "It is impossible, within the time allotted, to describe with any completeness the utter confusion of Supreme Court pronouncements in the church-state area." Professor Philip Kurland, also of the University of Chicago Law School, writes that "the Court is thoroughly unprincipled in the area," meaning, of course, that there is no coherent principle to be found in the ever-lengthening series of decisions.

Such incoherence has invited challenge from persons with no greater interest than intellectual rigor in the high court. Challenges to this secondary, exegetic body of decisions from Supreme Court Justices themselves have become increasingly frequent, even as challenges to the primary decisions have remained rare. The notable quality of the Weis opinion is that it challenges both.

Judge Weis's opinion treats first the exegetic decisions:

"An analysis of the cases touching upon state assistance to nonpublic schools could proceed at length, but would merely illustrate the lack of a principled and logical thread. The reality is that the Supreme Court has marked out a series of boundaries and points of departure on an ad hoc basis. Thus, school books may be loaned to pupils, *Board of Education v. Allen* . . . (1968), but weather charts may not, *Wolman v. Walter* . . . (1977). Buses may be provided to allow for transportation of pupils to school, *Everson v. Board of Education* . . . (1947), but not for field trips to courthouses or museums, *Wolman v. Walter, supra.* Financial aid for the construction of buildings may be given to colleges, *Tilton v. Richardson* . . . (1971), but grants to provide needed maintenance to parochial schools in slum neighborhoods are forbidden, *Committee for Public Education v. Nyquist, supra.*"

The Weis opinion turns then to what is the fundamental constitutional issue:

"In many of the opinions in this area, I am struck by the frequent use of the metaphor that the first amendment was intended to erect a 'wall' between church and state. E.g. *Committee for Public Education v. Nyquist, Everson v. Board of Education.* Insofar as this concept expresses a guiding principle for constitutional adjudication, I find it unfortunate and historically inaccurate.

"My first reservation is semantical. So often a wall implies fear and hostility, as the infamous structure separating East and West Berlin so dramatically demonstrates. No such emotions should dominate the relationship between government and religion and the use of a metaphor that encourages such concepts is not desirable.

"A more fundamental objection, however, is grounded in the history of the Establishment Clause. Although an accurate description of the Framers' intent is beyond our grasp, it is dubious that the Madisonian-Jeffersonian concept of absolute separation was widely accepted by the draftsmen. . . .

"Commenting upon the checkered constitutional history of the Establishment Clause, one scholar has noted: '[I]t remains at best ironic and at worst perverse to appeal to the history of the Establishment Clause to strike at practices only remotely resembling establishment in any core sense of the concept.' (L. Tribe, *American Constitutional Law.*).

"Yet that is what has been done in using the 'wall' concept to justify a policy of judicial hostility towards state aid to nonpublic schools.

"Perhaps a more accurate appraisal of the purpose of the first amendment is that the state is to be neutral in its relationship with religion. And so if a particular legislative enactment, particularly in the field of taxation, provides clearly observable secular benefits, then religious institutions should not be barred solely because of their status. See *Walz v. Tax Commission.*

"Finally, constitutional adjudication requires that the courts read a particular clause with its historical context in mind, lest the fears and prejudices of an earlier age serve to distort the problems of today. As Justice Powell, who wrote the *Nyquist* opinion, noted some four years later:

"It is important to keep these issues in perspective. At this point in the 20th century we are quite far removed from the dangers that prompted the Framers to include the Establishment Clause in the Bill of Rights. See *Walz v. Tax Comm'n.* The risk of significant religious or denominational control over our democratic processes—or even of deep political division along religious lines—is remote, and when viewed against the positive contributions of sectarian schools, any such risk seems entirely tolerable in light of the continuing oversight of this Court. Our decisions have sought to establish principles that preserve the cherished safeguard of the Establishment Clause without resort to blind absolutism. *Wolman v. Walter.*

"These cases require a realistic approach, not an exaggerated response to nonexistent threats. Simple justice would require that the court honor the decision of the New Jersey legislature where the *quid pro quo* weighs heavily in favor of the state. But as the majority correctly concludes, the narrow legal issue in this case is whether *Nyquist* or *Walz* governs. Although it seems to me that the dissenters have far the better of it in the *Nyquist* opinions, I cannot in all intellectual honesty say that case differs from the one *sub judice.* I am bound to follow the holding of the majority of the Supreme Court and I therefore concur, albeit reluctantly. . . ."

". . . [J]udicial hostility towards state aid to nonpublic schools." It has now been stated from the federal bench.

Whence does this hostility derive? (Assuming, of course, that it exists, and this brief is clearly written from the partisan view that it does.) It does *not* derive from the Establishment Clause of the First Amendment. The Supreme Court is wrong. This is the heart of it. The matter must begin here.

The Establishment Clause is simplicity itself. It states that Congress may not set up a national church.

There are two ways to get at this meaning. The first is to acquire a moderate facility with the English language, and in particular with one word that has somewhat gone out of usage. The clause states: "Congress shall make no law respecting an establishment of religion. . . ." The term "establishment" referred to a state church, such as the Church of England, an altogether familiar concept at the time, and rather a familiar institution.

All 13 colonies had established churches or other official involvement with particular denominations at some point in their history. At the outbreak of the Revolution, the Church of England was officially established in five southern colonies (Virginia, Georgia, South Carolina, North Carolina, and Maryland); the Congregationalist Church enjoyed official status in Massachusetts, Connecticut, and New Hampshire; and the Anglican and Dutch Reformed Churches both had similar status in New York. This pattern remained in flux for some time. (Virginia, for example, took steps toward diseastablishment in 1776 and 1786 did not eliminate the vestiges of the previous arrangement until 1802). When the First Amendment was ratified, three states gave preference to particular denominations, Anglican, Congregationalist, and Dutch Reformed; four states gave special status to the Protestant religion; three required adherence to Christianity among public officeholders; and three granted full religious freedom.

The term "establishment" has become somewhat unfamiliar in the intervening two centuries simply because there are no

longer any established churches around. (In much the same fashion the provisions of Article III that "no Attainder of Treason shall work Corruption of Blood" would puzzle many persons simply because we don't do that much anymore.) But the meaning of the term "establishment" as used in the First Amendment is altogether accessible and quite unchanged. The first definition given in Webster's Second Edition is: "The establishing by law of a church or religion, etc." It is not too much to ask that persons who profess to care about the Constitution take the trouble to learn the language in which it is written.

Neither, if Mr. Justice Powell is to be believed, is it too much to ask that such persons learn a little of American history. To be fair, this may be stated with perhaps more insistence today than three decades ago when the *Everson* doctrine came into being. For the longest while, the meaning of the First Amendment was clear to everyone concerned. Then a curious sequence took place. In the second half of the 19th century a movement arose to prohibit aid to Catholic schools. It was assumed that the Constitution would have to be amended to do this. But the "Blaine amendment," first proposed in 1876, was never adopted by Congress. (For what it may be worth, a clause in the amendment provided that "This article shall not be construed to prohibit the reading of the Bible in any school or institution. . . .") But somehow when the Court came to rule in 1947, it took the political attitudes of the late 19th century to be the constitutional purposes of the late 18th. In the Court's defense it may be said that in 1947, there wasn't much formal history to dirct it otherwise.

This has now changed. In a predictable manner scholars have been drawn to the issue. In what may also have been predictable, it took them a good while to get the facts organized. In *"Beyond the Melting Pot"* (1963), Nathan Glazer and I may have helped reconstruct the early history of state aid to education. (In New York it went exclusively to church-related schools, as there were none other.) In *"The Garden and the Wilderness"* (1965), Mark DeWolfe Howe commenced a careful examination of the meaning of the First Amendment and the intentions of those who drafted and ratified it. Of the line of church-state decisions begun with *Everson*, he wrote:

"The Supreme Court, in my judgment, has gravely erred in its reading of two chapters of American history. An impulsive eagerness to find that the state and nation were subject to the same disabilities so far as religion was concerned, led the justices to make the historically quite misleading assumption that the same consideration which moved Jefferson and Madison to favor separation of church and state in Virginia led the nation to demand the religious clauses of the First Amendment. . . . Furthermore, it permitted the Court to fill the space from which it had removed the vivid complexities of the eighteenth century's political philosophy with a simple and false absolute—all aid to religion is unconstitutional."

Howe's analysis was followed, and powerfully reinforced, by Walter Berns in his splendid volume, *"The First Amendment and the Future of American Democracy"* (1976) and by Michael J. Malbin's extensive essay, *"Religion and Politics: The Intentions of the Authors of the First Amendment"* (1978). Although Berns and Malbin use different evidence, they reach similar conclusions, as summarized by Malbin:

"As the Court has espoused its doctrines, it had relied on an incredibly flawed reading of the intentions of the authors of the First Amendment. . . . Aid to religion was to be permitted as long as it furthered a purpose the federal government legitimately could pursue and as long as it did not discriminate in favor of some sects or against others."

The research continues, and we are gradually acquiring a solid understanding of the relationship between church and state that obtained in 1791, of the assumptions and intentions of the Founding Fathers, and of the practices that prevailed through much of the nineteenth century. Among the major works now in progress is a comprehensive history of the First Amendment by Professor Robert L. Cord of Notheastern University.

IV

In his dissent in the *Gannett* case, Justice Blackmun stated that the Sixth Amendment established "the public's right of access to a criminal trial and a pretrial proceeding" and that of the press also. Those who would persuade the majority of the Court of this view must begin by reconstructing the history of that Amendment and of the First Amendment. This is not as direct a matter as might be though, but it is entirely doable. It has now been done with respect to the Establishment Clause.

The Bill of Rights was adopted in something of a hurry: Debate on the Establishment clause took up about one day in each chamber. The standard, if somewhat shaky record for the House of Representatives is the *Annals of Congress*, first published in 1834, taken from contemporary newspaper accounts and from the shorthand notes of a reporter, Thomas Lloyd. It is not complete, but is the only serviceable record of the proceedings of the First Congress. An essential fact is that the texts of successive versions of the clause, in each body, are available and these make the intention of the Congress conclusively clear. James Madison introduced two amendments in the House on June 7, 1789. The first of the amendments read:

"The Civil Rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, nor on any pretext infringed."

And the second:

"No state shall violate the equal rights of conscience or the freedom of the press, or the trial by jury in criminal cases."

Malbin notes that Madison's language prohibited both states and the federal government from infringing on the rights of conscience. "In contrast, the Establishment Clause was to apply only to the federal government."

How so? Because, as noted earlier, various of the states still *had* established churches. This is the lesson Perry Miller has taught: that if there was no very great love of religious tolerance in eighteenth-century America, given the profusion of religious denominations there was a very great need of it.

Alas, it was this very fragility of the Union which led ultimately to the substitution of the present language for Madison's explicit prohibition against "any national religion." Malbin reminds us that "federalism was *the* overiding issue throughout the Congress." It was still a lively issue as to whether the Constitution had created a new nation, or merely a federation of states. The Federalists, insisting that the latter was the case, carefully left the word "nation" out of the Constitution. But they were suspected (correctly!) of having a nation in mind and of being determined to forge one. Accordingly, in the debate in the First Congress the Anti-Federalists seized on the word "national" in Madison's draft, declaring that the gigantic conspiracy, the massive subterfuge was at last revealed. Feelings were intense. Elbridge Gerry recalled that at the Philadephia convention of 1787 the two factions were designated Federalists and Anti-Federalists. They should, he said, have been called "rats" and "anti-rats," i.e., ratification and anti-ratification. The phrase "national religion" promptly disappeared. Otherwise the theme of the debate, which took place August 15, was set rather by the opening address of Peter Sylvester of New York who apprehended that the clause "might be thought to have a tendency to abolish religion altogether."

Senate debate was secret at this time. (The doors of the Senate chamber remained closed until 1795, and no record of the debates is available until 1802 when journalists were admitted to the Senate floor. The official transcript embodied in *The Congressional Record* did not begin until 1873.) But the Senate Journal records the texts which were considered on September 3. The first substitute offered for the House language began: "Congress shall make no law establishing one religious sect or society in preference to others. . . ." The final language sent back to the House read: "Congress shall make no law establishing articles of faith or a mode of worship or prohibiting the free exercise of religion." A conference committee settled on the present language.[5]

A century and a half later, when the Supreme Court in *Everson* turned its attention to this subject the Justices did not accept the Establishment Clause at face value, as meaning what it said, nor yet did they inquire into this history. Rather, as much as we can judge, they inquired as to the views of Madison and Jefferson, and came up with the well known "wall of separation." This surely will not do. The question is not what Madison or Jefferson may have thought; the question is what the Congress did. It is perhaps not wholly irrelevant that Jefferson was not a member of the First Congress; he was Secretary of State at the time, and quite uninvolved. (He had spent most of the previous five years on diplomatic missions in Western Europe.) Madison was floor manager of a complex piece of legislation which required compromise. Compromise he did. What more evidence is needed than that his original draft in no way reflected his own, and for the time somewhat extreme views?

If it be the case, in Judge Weis's words, that "an accurate description of the Framers' intent is beyond our grasp," are we not then well advised simply to take the plain language for what it plainly says? No establishment of religion, period.

Does not the burden of proof rest with those who assert that it says more? The legislators of the early American Republic were entirely friendly to religion and religious purposes. The House passed the 10 amendments of the Bill of Rights on September 24, 1789. The *next* day the House

[5] Not at issue here is the "incorporation" doctrine, whereby the prohibitions imposed on Congress by the Bill of Rights have been expanded by the Supreme Court to cover the actions of States. The Supreme Court interprets the 14th Amendment to bind the States as well as Congress when they legislate "respecting an establishment of religion."

passed a Joint Resolution calling upon President Washington to issue a Thanksgiving proclamation. The Senate passed the Bill of Rights on September 26, and on the 27th passed the Joint Resolution. It called for "a day of public Thanksgiving and prayer, to be observed, by acknowledging, with grateful hearts, the many and signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government. . . ." The first Congress wanted to encourage religion, but in no circumstances to establish a church so as to prefer one to the other. Chaplains were appointed to the armed forces. Both House and Senate began—and still begin—each day with a prayer by a clergyman. The Northwest Ordinance of 1787, re-enacted by Congress in 1789, set aside federal lands in the territory for schools: "Religion, morality, and knowledge," the law read, "being necessary to good government and the happiness of mankind, schools and the means of learning shall forever be encouraged." If they were to aid education, how could they do otherwise? Who, in 1789 in the United States, could imagine a school that did not teach some religious belief or other?

Madison and Jefferson, say the Justices, and there the matter rests. The inferior courts follow, as they must. Early on, the majority opinion in the recent New Jersey case invokes the declaration of former Chief Justice Warren that the First Amendment "underwrote the admonition of Thomas Jefferson that there should be a wall of separation between church and state." This well-known phrase of Jefferson's first occurs in a letter to the Danbury Baptists in 1802.[6] How could it be said to underwrite an amendment to the Constitution which had been written 11 years earlier? But this has not infrequently been the level of argument used against aid to nonpublic schools.

The constitutional facts are obvious enough. The state, at any level, is allowed to cooperate with religious groups in a nondiscriminaory manner in the furtherance of acceptably secular purposes. Further, this is precisely what now happens, with the single exception of elementary and secondary schools. Thus city, state, and federal funds, in the usual baffling mix, provide most of the support for the Jewish Hospital in Brooklyn. Federal foreign-aid funds provide much of the resources for the relief work in developing nations of Church World Services, a Protestant agency. The federal government provides money to improve the curriculum and the teaching methods of Marist College, a Catholic institution in Poughkeepsie. And so it goes.

The exception, to repeat, is that of elementary and secondary schools with religious affiliations. (*Not* colleges and universities with such affiliations.) Slowly, however, this anomaly is emerging. Slowly, the hierarchy of responses that arise when the Court is wrong is beginning to appear.

V

1. *Debate:* This is the first and in every way crucial response. When the Court is wrong there must be those who will say so. Often as not this will be a dissenting member of the Court itself. But to be effective the question must become a political issue of the day. In his grand study, *The Least Dangerous Branch*, Alexander M. Bickel described Lincoln's response to *Dred Scott:*

"The principle that the Court proclaimed was that slavery was not only legal in states which had it but was constitutionally guaranteed in unorganized territories as well. In the debates with Stephen A. Douglas in 1858, Lincoln said that he was against this decision, that he thought it wrong, that he feared its consequences, that he deemed it altogether deplorable. Douglas, on the other hand, without admitting that he necessarily thought the decision right, dwelt heavily on the argument that "whoever resists the final decision of the highest judicial tribunal aims a deadly blow at our whole republican system of government." "I yield obedience," Douglas said, "to the decisions of that Court—to the final determination of the highest judicial tribunal known to our Constitution." To this Lincoln countered by deriding the notion that a decision of the Supreme Court is a "Thus saith the Lord." The Court, he said, can be wrong. There is nothing sacred about the Court's decision. Men may properly differ with them."

As the initial decisions regarding state and church involved Catholic schools, the first arguments in opposition to *Everson* and its progeny came, generally, from Catholics. This made for difficulties (as the press, perhaps, will now find), it being easy for others to dismiss or ignore arguments that are necessarily self-interested. It may be Catholics were deficient in the skills and the access needed to mount a debate of this sort; it may also be that an element of prejudice worked against them. Surely there are episodes in this generation-long history that raise this latter question. Consider the instances in which Mr. Justice Douglas supported his opinions in *Tilton v. Richardson* (1971) and *Lemon v. Kurtzman* (1971) with references to a book, *Roman Catholicism* by Loraine Boettner, published in Philadelphia in 1962. This volume has been characterized by Douglas Laycock of the University of Chicago Law School as an "elaborate hate tract." Mr. Boettner's views on Catholicism generally may be summarized in the following brief quote:

"Our American Freedoms are being threatened today by two totalitarian systems, communism and Roman Catholicism. And of the two in our country Romanism is growing faster than is communism and is the more dangerous since it covers its real nature with a cloak of religion."

That particular passage is not cited by Mr. Justice Douglas, but here is one he quotes in footnote 20 of his concurring opinion in *Lemon v. Kurtzman:*

"In the parochial schools Roman Catholic indoctrination is included in every subject. History, literature, geography, civics, and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools, the very reason for going to all of the work and expense of maintaining a dual school system. Their purpose is not so much to educate, but to indoctrinate and train, *not to teach scripture truths and Americanism*, but to make loyal Roman Catholics. The children are regimented, and are told what to wear, what do do, and what to think." (Emphasis added.)

Ponder Mr. Boettner's charge that Catholic schools do not teach "scripture truths."

As it happens, a number of Catholic laymen and clergy pondered just that and at the time tried to draw attention to the peculiarity of such a tract being cited as a reference work in an opinion of a Supreme Court Justice. Had Douglas in some similar connection cited the Protocols of the Elders of Zion, or a Kommunication from the Grand Kleagle of the Ku Klux Klan, there would have been some notice taken. But there was no response whatever to these citations. There is a climate of presumption, and it must be worked against. (Thus, on April 3, 1979, reporting that the Supreme Court would hear a challenge to yet another state statute providing bits of aid to parochial schools, a New York law providing expenses for state-required testing, *The New York Times* noted that "The Federal Constitution specifically forbids state aid to parochial schools. . . .") The dynamic of scholarship, which is both truth-seeking and competitive, at length responds to this kind of imbalance. Already the time is at hand when law clerks will have learned as law students that the *Everson* decision is disputed. In time there will be judges who learned it as students also. Just as importantly, Presidents may come to office committed to change. Roosevelt made no secret of his desire to appoint to the Court Justices who would not block New Deal legislation on the basis of a flawed reading of the Fourteenth Amendment. It would be unthinkable today for a Justice to be appointed who held to the *Plessy* doctrine.

The same may come to be true of *Everson.* This is a constitutional check on the Court: Justices are appointed by the President. Already both major parties have endorsed aid to nonpublic schools. It is becoming a familiar position for Presidential candidates since Senator George S. McGovern endorsed tuition tax credits in his 1972 campaign. It remains for a President to come to office either committed to the proposition as a matter of justice, or able, as a matter of politics, to balance the claims of the nonpublic schools with the fears of the public schools that they lose whatever the other system gains.

Opinion polls indicate that the great majority of American people believe that educational pluralism is a principal deserving of active government support. And it is well to bear in mind Robert G. McCloskey's observation, in his magisterial study, *The American Supreme Court* (1960), that "the Supreme Court has seldom, if ever, flatly and for very long resisted a really unmistakable wave of public sentiment. It has worked with the premise that constitutional law, like politics itself, is a science of the possible."

Debate on the *Gannett* decision began immediately, and soon became almost formal. The Associated Press, for example, distributed to its news staff a prepared statement to be read aloud to a judge who has announced the closing of a courtroom. The statement, described by Louis D. Boccardi, executive editor and vice president of the Associated Press, as "concise and legalistic," objects to any closed proceedings, set forth the reasons why, and asks for time for further argument before a decision s made. This would appear to be a model reaction, if the validity of the Debate, Litigate, Legislate model is assumed.

2. *Litigate:* The exemplar of litigation as a tactic for bringing the Court back to the Constitution is the prolonged but in the end trimphant effort of the National Association for the Advancement of Colored People to reverse the *Plessy* decision. This is more difficult with *Everson,* for the effect of that

[6] Although others—starting with Roger Williams in the seventeenth century—had employed this and similar constructions, a fairly systematic search of the literature indicates—and biographers of Jefferson concur—no prior appearance of this phrase in Jefferson's own writings and utterances.

ruling is that things don't happen rather than do, and it is not easy to challenge a nonexistent regime. Still, experience argues that those who feel aggrieved need to take initiatives. A former United States Attorney, now teaching law, asks his class in constitutional law to explain why the United States government is *obligated* to provide financial aid to church- or synagogue-related schools. The answer, evidently, lies in the Free Exercise Clause of the First Amendment: an interesting thought, and worth a lawsuit, Harry J. Hogan, retired counsel to the House Subcommittee on Elementary, Secondary, and Vocational Education, has pointed to the potential inherent in the growing practice of teaching "values" in public schools. "The fascinating possibility is that as soon as public schools and universities are required to teach values, then church-related schools and universities will be able to demand equal access to state and federal tax funds."

The risk of litigation is that it divides. In the end no schools may receive support for ethics courses. But, as no other process, it educates the courts.

3. *Legislate:* Legislation is the most direct and open way for the Congress and President to advise the Court of their reading of the Constitution, views which have equal standing under the Constitution, albeit they do not have equal effect. This issue arose directly in the Lincoln-Douglas debates. Lincoln said: "If I were in Congress and a vote should come up on a question whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision, I would vote that it should." Douglas was scornful, saying, "if you elect him to the Senate he will introduce a bill to re-enact the law which the Court pronounced unconstitutional. . . . I never heard before of an appeal being taken from the Supreme Court. . . ." Lincoln replied that Douglas "would have the citizen conform his vote to that decision; the member of Congress, his; the President, his use of the veto power. He would make it a rule of political action for the people and all the departments of the government. I would not." Commenting on this exchange, Bickel allows that while deference to the Court is surely in order from the other branches, this cannot be absolute:

"The functions cannot and need not be rigidly compartmentalized. The Court often provokes consideration of the most intricate issues of principle by the other branches, engaging them in dialogues and "responsive readings"; and there are times also when the conversation starts at the other end and is perhaps less polite. Our government consists of discrete institutions, but the effectiveness of the whole depends on their involvement with one another, on their intimacy, even if it often is the sweaty intimacy of creatures locked in combat."

That Congress can abuse its power, should cause no surprise. Indeed it has. Reacting to the Supreme Court decision in *Engel v. Vitale* (1962) which forbade school prayer, the Senate on April 5, 1979 and again on April 9 by margins of 47 to 37 and 51 to 40, respectively, voted to deny the Supreme Court appellate jurisdiction in such cases. This can be done under Article III, Section 2, at least with respect to cases in federal court. (It is contended that the power was intended as Congress's restraint on the Court, corresponding to the President's power of appointment.) But in this case the power was surely misused. Publicly prescribed prayer, voluntary or not, is precisely what "an establishment of religion" is all about and that is what the First Amendment forbids. (In the course of the debate, one Senator rose "to speak as a Christian" about what he called the "secular humanism that abounds in our children's schools today." He did not like this and thought "we Christians" should do something about it. One is reminded, from time to time, that this is a Protestant country.)

For all this, legislation is unequaled as a means to influence the Court. Labor legislation was finally accepted by the Court only because state legislatures kept passing bills. Even the venerable Charles Evans Hughes at last was converted. Writing for the Court in *West Coast Hotel Co.* v. *Parrish* (1937) he derided the "freedom of contract" argument: "What is this freedom? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law."

Similarly, the Congress through legislation has commenced the undoing of the *Everson* decision. First, in the Elementary and Secondary Education Act of 1965, provision was made for compensatory services in schools with high proportions of "deprived" children, of which denominational schools have a more than sufficient share. (In New York City, nuns initially had to teach the children to operate the television sets thus provided, as they themselves were forbidden to touch them. But even such silliness makes its impact.) Similarly, the Higher Education Act of 1965 provided federal funds for "stengthening developing institutions." These were understood to be, in the main, black colleges in the South. But federal administrators, in the manner of bureaucracies, found that denominational colleges in the North often met the criteria and they were given grants accordingly. Half the private colleges and universities in the nation have religious affiliations, and most seem to take part in the now considerably complex system of federal aid to higher education. Mild tensions persist. It was reported that at the First National Congress on Church-Related Colleges and Universities, held at Notre Dame in the summer of 1979, there were complaints of "federal officials who question whether theology should be taught in classrooms built with federally guaranteed loans." But this is the point. Federal officials are now merely nervous about support for activities which, if one were to read *Everson* and nothing more, it would be assumed are altogether forbidden. What is happening, of course, is that American practice is coming in line with that of the other English-speaking democracies where government support is provided to any bona fide educational activity, and the communal peace, on this score at least, is maintained.

Consider the Higher Education Facilities Act of 1963. In this law, Congress provided funds to build buildings on college campuses. In the course of events, Sacred Heart College (and several other church-affiliated campuses) in Connecticut received such funds. The familiar law suit followed. But the Court in *Tilton v. Richardson* (1971) held that this aid was constitutional on grounds that "There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination." Now there is, of course, no substance whatever to this. It can only be a matter of time, albeit this could be another generation, before five Justices agree that what is constitutional for 19-year-olds is constitutional for 18-year-olds, whereupon the legal issue will be behind us. The Weis dissent is surely a harbinger of this.

There will remain the issue of public policy. *Should* 18-year-olds receive assistance? That is a different question altogether. It has never been satisfactorily resolved, mostly because opponents have always succeeded in interposing the constitutional question. But it is not a constitutional question.

Legislation is not always to be advised. The press, for example, will want to be cautious indeed before deciding that it wishes Congress to make a law respecting its freedom. On the other hand, it may find it useful for Congress to make laws protecting the Sixth Amendment right of the public to be present at trials. To those who say the Court has decreed that no such right exists, there is Lincoln's retort that a Supreme Court decision is not a "Thus saith the Lord."

Has this analysis any predictive power? The *Gannett* case will provide a test. As with most cases in which the Supreme Court would seem to be wrong, debate began promptly and it may be forecast that a good deal of litigation will follow. In the manner of *Everson*, one decision will lead to another: clarifying, adjusting, half-apologizing. Legislation will be contemplated: most likely dealing with the public's right to access to the courts, rather than that of the press as such. In the end the Court either will reverse itself, or set forth rules for the closure of courts so narrow and restricted in their application that the controversy will go away. It may be hoped that it does not require a generation for this to come about.

Mr. MOYNIHAN. Mr. President, I call attention of Senators to one fact, which is that we have debated tuition tax credits in this Chamber since 1978. When we first began, the principal proposition put to us was that the legislation was not constitutional. A series of Supreme Court cases with respect to State education laws were cited, and it was inferred that the same holdings would result if we passed a law.

Over and again, proponents of tuition tax credits said two things: One, it was our firm conviction that the legislation was constitutional; two, that we would never learn if that was the real objection until we passed a bill and gave the Supreme Court an opportunity to rule.

The legislation which Senator PACKWOOD and I submitted in 1977 specifically set aside a year before the measure would go into effect and accelerated the opportunity for the Supreme Court to make a finding.

It was also our view that from the beginning the constitutional issue was not what was really motivating the opponents, but rather a different set of views which we hoped would be brought out and debated, but were done so only marginally.

In the interval since our last debate, the Supreme Court has ruled. It has held in Mueller against Allen that legislation in Minnesota, very similar to that which we propose, met the tests of Lemon against Kurtzman and the New York case, Committee for Public Education against Nyquist.

A very considerable effort went into presenting the constitutional case on this floor, and no real response ever came in return. But I also add that when the Court did what we predicted it would do—and we did predict it would do it, and it did it, to very little public comment—this Senator and others of the same disposition said that the fact that this matter is consitutional is not the central fact. We had also assumed it was constitutional. That does not make a case for it or against it, per se. The case, in our view, is one of social equity, that these schools have a right to public assistance as much as other schools do.

We have made the case in history, we have made the case at law, and we repeat it now as one of deferred equity, and we hope it might be considered as such.

I say to the distinguished Senator from Vermont, who spoke earlier, that, yes, this is a period in which there have been reductions in aid to education, where efforts to increase that aid have not succeeded. But that is precisely the condition we forecast. When the schools find themselves in a zero sum game, when what is given to one appears to be taken from another, until they come together as a coalition, as they once did in 1965, there will be no progress.

I was there in 1963, and I worked on the proposals of 1964 that led to the Elementary and Secondary Education Act of 1965.

I say that if we care about any schools, we will have to learn to care about all schools; and it is in that spirit that this proposal is offered.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I also have been involved with this issue, as the Senator from New York has been, for at least 20 years, and I do come from a State that in this country has always initiated change in financing of elementary and secondary education.

Mr. President, I support tuition tax credits because I believe they are an effective and efficient tool to improve the educational opportunities of all children by fostering choice and competition in our elementary and secondary schools.

I believe if Americans were given greater opportunities for educational selection, they would become more involved in the educational process and would make responsible decisions. Tuition tax credits are an effective mechanism to strengthen the educational delivery systems—both governmental and nongovernmental—by extending the concept of consumer choice.

Tuition tax credits are not a reward to private schools, they are not a reward to parochial schools, they are not a reward to parents who already made a choice other than the governmental system. They are a choice on the part of the person in need. Tax credits are an important part of this choice.

To make choice effective, the consumer must come equipped not only with a choice of providers, but the financial ability to make his or her choice effective. We can begin to do this through tuition tax credits.

I also believe consumer financing and the increased competition it would bring would stimulate enthusiasm and increased professionalism amongst the teaching profession. In no other profession are those who actually deliver the services unable to reap the rewards of their efforts. Doctors, dentists, lawyers, all professionals must answer to their respective clients. In turn, however, they are rewarded for excellence. The teaching profession should be no exception. The time has come to deregulate education.

The American public is ready for choice in education—a recent Gallup poll revealed that a majority of Americans support a voucher system for educating the Nation's children. Interestingly, greater support for choice in education is found among blacks, Democrats, young adults, and parents of children in parochial and private schools.

Unfortunately, it does not appear that this Congress is ready for choice in education. Bringing up tuition tax credits in the last week of this session because of a promise to bring the bill to the floor of the Senate is not a promise worth keeping. If the President's promise was to do his best to enact a tuition tax credit bill into law, particularly a law which withstands Supreme Court challenge, then there is a better time and a larger effort which this issue not only deserves, but demands.

Mr. President, when tuition tax credit legislation is brought to the Senate floor in a meaningful fashion, I intend to offer an amendment to extend the tax credit to families with children in public schools. I will not, however, offer my amendment prior to that time—to do so would be a futile effort.

I believe that tuition tax credits, as a concept for improving education in America, will prove to be one of the most significant contributions to the quality of all education. Tuition tax credits, as I see them, are not a tradeoff between public and private education. Effective consumer choice can only exist in an environment where both systems are strong. Tuition tax credits are not an excuse to weaken traditional governmental support for the public school system. On the contrary, a commitment to consumer choice means a recommitment to the principles underlying that support.

But if tax credit legislation is to accomplish these goals, it cannot be restricted to families with children enrolled in nongovernmental organizations. The program must be structured as governmental tax policy aid to all children—not just those who patronize a certain class of institution.

I am fortunate to come from Minnesota where tax deduction legislation has provided educational choice for all families for a number of years. The Minnesota experience has proven that a tax credit or deduction for both public and private school expenses is necessary not only for the success of the program, but is a constitutional necessity. Indeed, the Supreme Court relied heavily on the neutrality of the Minnesota law.

Mr. President, we cannot afford, from either a policy perspective or a constitutional perspective, to discriminate among consumers—successful tuition tax credit legislation must be available to all parents. If we are to have a serious and informative debate on tuition tax credits, I believe my amendments must be adopted.

I am sorry that we are not yet ready to talk seriously about choice in education. I believe that time will come—the 1980's are, and will continue to be, challenging for our educational system. We need a climate which encourages and rewards innovative results, that utilizes the great untapped resources of our educational system.

Expansion of choice, through programs such as tuition tax credits, will ultimately return preeminence to education in America.

Mr. President, just a couple of relevant comments: I come at this issue not that tax credits are a reward for private education or parochial education or the choices made in that regard. I come at it because I believe the American public is ready for choice in education and unfortunately it does not appear that this Congress is ready to provide that kind of choice for people in either private or public schools in America, nor perhaps is the administration. Bringing up tuition tax credits in the last week of a session which we all knew was going to be the last week of the session because of a promise to bring the bill to the floor of the Senate is not a promise worth keeping.

Despite that fact, I will not support an effort to table this motion and indicate to our colleagues, as I have in the past, I will be putting into the RECORD at various times a variety of experiments and demonstrations that are taking place around this country in the use of either tax credits or vouchers or some other form of financing individual choice in education.

We at the Federal level put $15 billion a year in effect into elementary and secondary education through rev-

enue foregone on property tax deductions and a variety of other deductions. It is time to use a portion of that commitment to finance the choice of the parents of America in public and private education.

I thank you, Mr. President. And I thank my colleague.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HOLLINGS. Mr. President, I yield 2 minutes to the Senator from Georgia.

Mr. MATTINGLY. Mr. President, on April 25, 1982, I made my first statement on the floor of the Senate in opposition to the tuition tax credit proposal. Since that time, I have talked with many people throughout the State of Georgia and this Nation about the proposal and, as a result, my opposition to it has intensified.

I am concerned about tuition tax credits for many reasons. But, without a doubt, my greatest concern is the effect that implementation of such a plan will have on the public education system in this country.

The question is not whether the public school or private school "wins out." At issue is the survival of the public education system. Private schools have played and should continue to play a vital role in our Nation's history. Parents should have the freedom to choose whether or not they send their children to these schools. In my own State of Georgia, we have many fine private schools. These schools provide quality programs and a diversity our educational environment so needs. Private schools as well as public schools must flourish if our Nation is to remain strong.

The Secretary of Education's Commission on Excellence in Education reported a fact that we all suspected—the quality of public education in the United States is on a serious decline. Public education is the bastion of our society, and it must be strong. At this time in our country's history, we must all work together to improve the system, not hammer another nail into the coffin of quality education. The tuition tax credit idea, unfortunately, signals to all of us Federal disinterest in the improvement of the public school system.

There are some facts about the public education system that demand attention in this debate. First, 90 percent of American parents depend on the public education system for the education of their children. Second, public schools provide equal access to tuition-free education. And, finally, public schools are the property of all the citizens of this Nation. Private schools are not. Private schools do serve a valuable and useful purpose in our educational scheme. Their existence, however, does and should depend on the choices made by those having children to educate.

One of the arguments made by proponents of tuition tax credits is that they will open the door to private education for lower income families. Nothing could be farther from the truth. How will tuition tax credits help poor families? This proposal will not make private schools available for the majority of public school parents. Even with the tax break, lower middle class and poor families still could not afford to pay the balance due on private school tuition. Additionally, how will a tax refund coming after the first of the year help a family whose private school tuition is due up front in September, at the beginning of the school year?

Let us face it, enactment of the tuition tax credit proposal will create a dual system of education. It will create public schools for the poor, handicapped, and disadvantaged and private schools for the rest. Educational programs offered today by private schools clearly demonstrate this fact. Only 2.7 percent of all religious schools provide programs for the handicapped and only 3 percent of all nonpublic schools provide vocational education.

The emergence of dual education systems is analogous to the emergence of dual health systems that has already occurred in communities across the United States. Today, we see many public hospitals becoming charity facilities providing the large majority of their services for the poor. Middle class and upper class individuals are choosing to seek medical services in private hospitals. On the whole, these private hospitals are attracting the most able medical providers—doctors, nurses, technicians, and so forth. The public hospitals are struggling to provide services to those that cannot afford private hospitals. That is what I am afraid will happen to our public schools. They will be forced into the posture of trying to provide less than adequate educational programs to a segment of the population that cannot afford anything else. The supporters of the tuition tax credit proposal say that this is fine. Competition is healthy and what the public schools need is a little competition. If what has happened to public hospitals and public health care is any indication of what will happen to public schools, then I say we are in trouble. Unfair competition is not healthy for any of us and, most definitely, not for the future of our youth.

I am a fiscal conservative and my voting record in Congress will attest to that. I have consistently in the past and will consistently in the future oppose tax increases and support reduction in Federal spending. From the viewpoint of a fiscal conservative, I cannot support tuition tax credits. These credits will take approximately $4 billion in tax revenues that could be applied to education. The Federal Government currently contributes less than 10 percent of the total cost of public education. The revenue loss of about $4 billion resulting from implementation of tuition tax credits will have to be made up somewhere else. If tuition tax credits become law, the dollars diverted would by 1986 amount to 40 percent of the Federal Government total projected expenditures for public school programs. This would represent a distinctive shift in the balance of Federal support from public schools to private schools and from the disadvantaged and poor to higher income groups.

Another argument used by supporters of tuition tax credits is that the public schools are so bad that parents have no alternative but to send their children to private schools. And, because the public schools have failed as a public service, the parent is justified in receiving a tax break for escaping from the public system to a private system. This is the most convoluted logic I have ever heard. Yes, parents have and should have the right to choose whether their children go to public school or private school. Yes, when we talk about dissatisfaction with a public service, we have and should have the option to set up our own services or choose another alternative. A much quoted example of this is, if you are dissatisfied with public swimming pools, you can build your own private pool or pay to join a health club with a pool. But, you do not ask for tax dollars to pay for it. If you are dissatisfied with police protection in your neighborhood, you can hire your own watchman. But, you do not ask for tax dollars to pay for it. Perhaps a clearer and better correlation can be made if we consider the choices we have between public and private hospital care. Each of us, for a variety of reasons, including quality of care, availability or location, size, and cost makes a choice as to whether we will check into a public or private hospital when we need medical attention. The choice is ours and ours alone to make. If we chose private hospital care then we do not ask or expect a tax credit for choosing private over public. Likewise, private education expenditures are voluntary expenditures of money.

There is one other aspect of the tuition tax credit debate that puzzles me. I cannot understand why private schools would want to take on the burden of the Federal regulatory process. And Federal regulation of private schools is inevitable if tuition tax credits become law. Just last week we considered in the Senate an amendment called the religious liberty amendment. The amendment had as its focus private schools and would have pro-

hibited the IRS from denying tax exempt status to private schools on the basis of the presumption of guilt. I supported the amendment because I oppose unwarranted IRS intervention and investigation of nondiscriminatory private schools. This is what confuses me. On the one hand, the private schools say that they do not want the IRS questioning them and, on the other hand, with the passage of tuition tax credits they will be opening the door even wider for the IRS. It is inevitable that the taxpayer will demand accountability from private schools that are indirectly receiving public subsidy. It is likely that through the IRS the Federal Government will have to judge the legitimacy of a school benefiting from this indirect subsidy.

In closing, I would like to turn the thrust of my comments back to my main concern over tuition tax credits—the destructive forces that the credits will level against public education. Public education is in serious trouble. The responsibility for education rightfully should rest at the local and State levels. However, by enacting tuition tax credit legislation, we will be tying the hands of local and State leaders in education.

States contribute about 49 percent of the total cost of public education and local governments about 43 percent. Enactment of tuition tax credits will undermine fiscal support of the public education system. Local school systems which lose enrollment because the students are going to private schools will also face a loss in State aid because State aid to education is most often based on the number of students enrolled in public schools. It is a vicious cycle and one which will only end when the public education system is in ruins.

Thirteen times since 1966 a tuition tax credit bill has come before the Congress, and 13 times it has failed to become law. I hope that this will be the result of this 14th attempt. There is good reason that tuition tax credit legislation has not been enacted—the American public does not want it. A Roper poll showed that 64 percent of the public opposed such proposals.

I am concerned about the future of public education in this country, and I will vigorously oppose any proposal that I think threatens the systems future. Yes; we have some serious problems. Public education is not what we all would like it to be. The quality is poor and we must all pull together to improve it. Our public education is the most important force in our democracy. We must have equal access and tuition free education for all. That is what our public education system offers. We will be free as long as our citizenry is educated. It has been said that "education makes a people easy to lead, but difficult to drive; easy to govern, but impossible to enslave." How then can we support a proposal which will threaten the very future of our educational system? We cannot.

Mr. HOLLINGS. Mr. President, I yield now 4 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first I wish to state that this bill is opposed by a broad spectrum of groups in the United States, including the National PTA, the League of Women Voters, the American Association of University Women, the Council of Great City Schools, the NAACP, the National Urban League, among others.

Mr. President, it just seems extraordinary that when the country is running a $200 billion deficit the President and the Finance Committee, the group in favor of this legislation, are proposing that we embark on another entitlement program.

Mind, you this comes at a time when the administration urges us to cut spending for public education. Spending for education has not kept pace with the rate of inflation, and we have been urged to cut school lunch programs and other programs to benefit many Americans.

Here we have a letter, dated October 24, 1983, from David Stockman dealing with the school lunch program, indicating that he does not want school lunches to go to those who he feels do not need them.

The premise was that subsidizing middle-income families when deficits are running at $200 billion per year is fiscally insane. Yet nearly all of the entitlement changes proposed in H.R. 4091 reverse Gramm-Latta reductions in the middle-income subsidy.

Later it says:

Private school students paying up to $2,500 (even higher in later years) tuition would be eligible for subsidized meals.

This is wrong, Mr. Stockman says.

A 23 cents/meal subsidy is just not warranted for families which can afford tuition expenses up to 55 times greater on a school-year basis.

Mr. Stockman believes this would be wrong.

Yet that is exactly what this legislation does, Mr. President. It provides a subsidy and that, of course, takes money from the Federal Treasury. The estimate is that this will cost more than $2 billion over 4 years, and $2 billion is significant when we are cutting back on spending for public education, and when we are running these deficits. It is completely contradictory for the administration to urge spending cuts for public education while advocating this new entitlement program for private schools.

Mr. President, my concern, and the concern I believe—I think I can speak for all those opposed to this legislation—is a concern for the public schools of America. We wish these schools to be in the strongest possible position. These schools are undergoing tremendous stress and challenges.

"A Nation At Risk" is one of but a series of reports on public education that delineate the troubles our public schools are in.

And this report contains a whole series of recommendations, as have the Carnegie report and other reports and not one of these studies suggests that the solution to the problems of the public schools is to embark upon a tuition tax credit program.

Mr. President, the public schools of America have been the great melting pot. We have come together as a people unified through the public school system. There, people from all backgrounds have a chance to get ahead, and that is what we wish in our Nation.

This great public school system of ours is one of our Nation's greatest strengths and we must not undermine it by subsidizing a second school system.

I am not ready to give up on the public schools, and I urge my colleagues to join me in rejecting this proposal and renew our commitment to the American system of universal public education.

I thank the Chair.

Mr. HOLLINGS. I thank the distinguished Senator.

Mr. President, I now yield 5 minutes to the distinguished Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Senator from South Carolina.

I wish to associate myself with the eloquent remarks that have just been made by the Senator from Rhode Island and the Senator from Georgia.

Here we are in a situation in our country in which we have the greatest possible need to shore up our system of public education. In the past decade we have lost 70 percent, more than 70 percent of all the math and science teachers in our public schools, mainly because we are not paying them adequate salaries. According to the recent studies of those students in our colleges and universities today entering into teacher education programs their scores rate in the bottom one-third of all students in terms of SAT scores. In other words, because of inadequate investment in public education we are not able to attract the teachers we need and not able to keep the teachers we need in a time in which we are already underinvesting in public education. This proposal would lead us in absolutely the wrong direction. At the time of $200 billion deficits we are asked to start another program and another program which we cannot afford which would cost another $1 billion a year and take even more funds away from public education.

Mr. President, a study has been done by the Council of Great City Schools

and the American Association of School Administrators. It is a study of what would happen in one school district, that of Lincoln, Nebr., if this proposal is adopted. It traces out the administration's own proposals for funding Federal aid to education and assumes the adoption of the tuition tax credit proposal. What would happen? What would happen under that proposal in Lincoln, Nebr.? At the present time, Lincoln, Nebr., is receiving approximately $59.67 per capita for students in the public schools and approximately $20.75 per student of Federal aid per capita for students in the private schools.

If this proposal is adopted and if the administration's budget cuts for public education are adopted, in the 1985-86 school year the figure per capita for public education would be $56.67 and the figure of Federal aid for students in private schools would rise to $185.29, a 5-percent reduction in Federal support for the students in the public schools per capita and a 907-percent increase in Federal support for the students in private education—all of this when we live in a country where 90 percent of our students are in the public educational programs. In other words, we would detract from the funding for the 90 percent and have a 900-percent increase in the funding for the 10 percent who are from families with incomes 37 percent higher on the average than the incomes of students in the public schools.

We have been told that this is a proposal for choice. That is absolute and sheer nonsense.

Under this proposal, 37 percent of all the Hispanic families in this country would not get $1 of tuition tax credits because their incomes are $10,000 a year or below. Forty-six percent of all the black families in this country would not get $1 under this proposal.

Is that choice, Mr. President? If that is choice, then I do not recognize it. Can anyone in this Chamber really believe that an extra $100 or $200 is going to enable the average American working parent in the middle-income level to move their child to some expensive private school that might cost $1,000 or $2,000 or $3,000 a year to attend? Of course not.

Yes, there will be a little more skimming. Perhaps another 5 percent of the population in the upper-income levels will now be able to move from public education to private education with another $100 or $200 a year. And what will happen? What will happen is this: The 85 percent who have no choice will be left in public education, a public education system deprived of the resources that it needs.

Mr. President, that is no choice. It is a choice for one thing: A dual system of education in which we will have additional aid for the privileged in this country and additional erosion of support and resources for those in the 85 to 90 percent of the population in which we must be investing that talent, that human resource, if this country is going to move ahead in the future. It is also a serious mistake for private education itself, which will soon find to its own detriment that ultimately Federal controls have always followed Federal dollars.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield 3 minutes to the distinguished Senator from Texas.

Mr. BENTSEN. I thank my distinguished friend.

Mr. President, as a U.S. Senator committed to the concept of an adequately funded, quality public education system, I oppose the Educational Opportunity and Equity Act of 1983. I ask my colleagues to join me in voting against this legislation, which is unsound fiscally, unsound as a matter of public policy, and of questionable constitutionality.

I have nothing but the highest regard for our private school system. They provide an excellent education, perform a useful social function, and relieve pressures that might otherwise impact on our public schools. My opposition to this legislation is based on my concern for our public school system.

Mr. President, the availability of a tuition free, universal education is one of the cornerstones of our democracy. Public education was designed to overcome all political, cultural, and economic inequities, and to provide every child with the opportunity for a better future. I cannot vote for any legislation which would undermine our country's dedication to a quality education for all children.

At a time when this Congress is facing budget deficits in excess of $200 billion, for at least the next 5 fiscal years, and at a time when our national debt continues to climb inexorably upward, it is incredible to me that the administration would propose a massive new tax expenditure which could cost the Treasury approximately $1.6 billion in lost revenues over the next 3 years. I find it incomprehensible that this administration, which has long been chastising Congress for not cutting spending, would come here today and ask for legislation which promises only to increase our budget deficit.

When this tuition tax credit proposal is combined with the administration's philosophy of cutting Federal support for public education, it can only be viewed as an attempt to further erode our country's traditional system of universal public education. The enactment of this proposal would provide a disproportionate subsidy for the 5 million students enrolled in private schools, at the expense of the almost 41 million students attending public schools. Traditionally, the Federal Government has provided assistance through categorized programs designed to assist the economically disadvantaged in both the public and the private schools. General assistance to private education through the tuition tax credits is unprecedented.

Government has the responsibility to meet its obligations. Many of these obligations are financed by taxes. A free public education is one of these obligations. The financing of private schools is not. Given the limited financial resources of the Federal Government, I do not believe that the Federal Government should take on the additional burden of financing nongovernmental functions. In taking on an additional expense, the Government would diminish its own ability to finance its legitimate Government responsibilities—a quality public education being one of those obligations.

Finally, I believe that this tuition tax credit proposal is unconstitutional in that it violates the constitutional principle of separation of church and state. Before the founding of the Republic, tyrannical governments denied citizens freedom of religion. Furthermore, citizens were compelled to pay taxes to support churches established by the Government, even if they did not believe in the doctrines of that church. Knowing of the history of these tyrannical practices, our Founding Fathers were determined that they would not allow that to occur here. They staked the very foundation of America as a free republic on their abiding conviction that the state must not meddle in the affairs of religion, and that religion must keep its hands out of the public purse. This amendment, if adopted, would violate that doctrine on both counts. I get very uncomfortable when I see Congress proposing legislation which could have the effect of increasing the tax burden on Americans who choose not to send their children to private schools. This scenario becomes plausible when Treasury starts looking at ways to make up for the resultant deficiency in Treasury receipts arising from tuition tax credit legislation.

Proponents of this legislation argue that individuals who choose to send their children to private schools are being unfairly taxed because they must pay whether they use the facilities or not. I could use that same argument to justify the nonpayment of taxes by individuals with no children at all. "Why should I pay taxes that might go to public education? I don't have any kids!" Is the administration advocating voluntary payment for that percentage of one's taxes which

would be earmarked for education? It does not take much imagination to foresee which socioeconomic sector would be the most hard hit by such a proposal.

Mr. President, allow me to conclude my remarks by stating that I will oppose this and any other measure which seeks to undermine our public educational system. This system is a national treasure, and we should look for ways to safeguard it, not destroy it. All of society stands to reap the benefits that a good educational system will provide in the years to come.

In light of the current budgetary problems facing our Nation, this tuition tax credit legislation is simply not economically sound; it is not constitutional. And perhaps most importantly, it is bad public policy. To those of you who are quick to criticize and denigrate our public school system, I issue the following challenge: Join me in a commitment to make public education first rate. Join me as I seek to provide every child with an opportunity to succeed, to make something of himself.

I believe that defeating this amendment is an important first step in that direction. I urge you to join us in striking this amendment from the bill.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise just briefly first to correct an impression left, or maybe it was what I said in my remarks. I intend to vote against the motion to table because I am a cosponsor of this bill and I believe in it strongly.

Two additional comments. I have listened now to the discussion about the fact that this is somehow placing a burden on the public schools of America. I have listened to the long list of associations, many of them associated with public education in America, read off as people who oppose tuition tax credits.

I would say to that, having spent some time, over 5 years now, discussing this issue with representatives of those associations, simply the fact that people in the current public education system do not want change. They do not want to change the way we finance public education in America. They do not want us to talk about tuition tax credits. They do not want us to talk about vouchers because they do not want us to talk about tuition or fees or anything else. They just want us to talk about more money going into an existing governmental system, rather than some financing coming in through the people who can best determine the future of the quality of eduation in America.

On the budget issue, certainly that is a concern. We are already putting out $15 billion a year in revenue. This administration is committed to special education. Even in its New Federalism proposal it has talked about a commitment to those who do not have equal access to this system.

It is not a budgetary problem. It is a question of where you want to put your dollars. If you want to put $20 billion into some buildings and into the teachers, and nothing into the pupils, well, then reject tuition tax credits or vouchers, or anything else. That is how simple I think the budget argument is here, and it should not be used against tuition tax credits.

Mr. President, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the distinguished Senator from Minnesota.

I would like to speak on behalf of the tuition tax credit proposal so that my vote can then be better understood as a part of the record.

I have been somewhat disappointed in the quality of the debate on this issue, because many of the Senators who I find on the other side of this issue are normally people I associate with very practical, prudent, reasonable points of view.

I think language and rhetoric has been used in here of a very extreme nature to describe what is being proposed here. I have heard words like "radical proposal." I have heard it said it would "destroy" the public school system. One recently used the word that it is "incomprehensible" that one would even consider it. And they conjure up this chamber of horrors about what the tuition tax credit might conceivably do to the public school system.

First, let us make it clear. This is not at odds with the public school system. No one that I know supporting the tuition tax credit has an ax to grind in the sense that they are out to destroy the public school system. Not true at all.

What we are trying to do, as Senator DURENBERGER has suggested, is introduce or give encouragement to, in a very modest way, greater pluralism, diversity, and competition in the American educational system, which is about as American as you can get, and is not a redical proposal at all.

Mr. BOREN. Will the Senator yield?

Mr. EAST. No; I have 5 minutes, and I would like to make my statement, unless the Senator wishes to yield on his own time.

This bill does not divide us into rich versus poor. If you will look at it, you will note it is primarily designed to benefit those in the lower income bracket who find it very difficult to send their children to a private institution. Certainly, those parents who send their children to the top prep schools, whatever, costing $4,000 or $5,000 a year, the modest little tuition tax credit they get there will not mean one thing or the other to them.

This is directed to the lower income people who would like to have the choice but do not have it today. They are taxed for public schools and yet they do not have the opportunity or even any encouragement to try to send their children to private schools if that should happen to be their choice.

One thinks, for example, of the great contribution of the parochial and Catholic schools in the great urban centers in this country.

I come from a rural State where that is less prevalent, but, after all, these schools carry a very heavy tax burden in the big cities of this country and offer a very useful service, frequently involving minorities and those at the lower end of the economic scale. I think to give them additional assistance, modest as it is in terms of the tuition tax credit, is a very reasonable and prudent proposal. There is nothing "radical" about it or "incomprehensible" or "would destroy," nor do I find any rational part in this chamber of horrors of which we have seen a long litany of extremely strong debate.

As regards the deficits in this country, one can always quarrel over timing. I can see that. But the primary problem in the deficit is not going to be the tuition tax credit, this modest proposal.

Let us say we do not enact it. Are you suggesting, those on the other side, we will no longer have deficits in the country? The great problem with deficits comes from spending in such areas as the entitlement programs, the uncontrollables, and the need to get those things under control.

That is a red herring, to suggest that this tuition tax credit is at odds with a genuine commitment to the idea of trying to cut deficits in this country. Frequently this is referred to as a subsidy. I submit it is not a subsidy. There are no administrative costs to it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAST. I ask unanimous consent that I might have 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. I object. He gets his additional time from the manager on his side.

Mr. DURENBERGER. Mr. President, I am glad to yield 1 additional minute.

Mr. EAST. I would simply wind up on this point: This is not a subsidy. There are no administrative costs involved. Any tax credit or any deduction certainly is not necessarily looked upon as a subsidy. It is not an outright grant from the Federal Government.

Let me say in conclusion, Mr. President, I think this is an eminently reasonable, modest proposal, to try to inject a great degree of pluralism, di-

versity, and competition into education in this country, and having come from the background of education myself before having been elected to this institution and having taught at a public institution, I think it is a positive contribution and development.

I thank the Senator for having yielded.

Mr. HOLLINGS. Mr. President, I yield 1½ minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. I believe in and I support Federal assistance for quality education of our youth. My support for that educational opportunity includes private education—if it is of good quality.

In considering this amendment for tuition tax credits there are two reasons why I cannot support it:

First, the amendment does not set standards to assure that the tuition tax credits went to schools that met the same standards required for public schools. For me to support this amendment the requirements for the teachers in the private schools must meet the same standards of education and ability, the same requirement for curriculum, hours, and days of school sessions, library, and books as is required to be met in public schools. While many private schools meet or exceed these standards, this proposal before us today does not apply and enforce those standards that are needed to assure quality education. This amendment does not provide those requirements.

Second, at this time of large Federal deficits, a fiscal Federal budget crunch, with the Federal Treasury overwhelmed from deficit spending, it is obvious that most States—perhaps all—are in a better fiscal position relative to the amount of income as compared to red ink. If they choose, States can provide assistance to private schools in a variety of ways similar to this proposal if it is found constitutional and the people of the State favor such assistance. But it is clear that the Federal Treasury cannot stand further deficit spending.

For these reasons I oppose this amendment.

The small amount of assistance we do provide from Federal funds for the basic needs of students that are handicapped, that need remedial reading or assistance in learning opportunity, the programs that help to develop educational skills or teaching skills, the limited library assistance, and the Federal help that is provided for vocational education have been restricted. This help, for the most part, is provided to private schools, also as it should be, and I very much want to see these programs funded and expanded to become more meaningful.

Money spent on education of our youth is an investment in the future of America. It pays off. I only wish we could do more.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield myself 5 minutes.

Mr. President, in trying to sum up, let me state my gratitude to the distinguished Senators who have already spoken. There is no question about education.

Some years ago, 1978, the distinguished Senator from Arkansas Kaneaster Hodges, and myself more or less singlehandedly held the floor at that particular time for 3½ days. Now we have the distinguished former Governors, Senator STAFFORD, Senator CHAFEE, and Senator BOREN, who understand, feel and appreciate the public school system of America giving leadership on this particular score.

With respect to the Senator from Kansas when he quotes his studies, he says the National Commission on Excellence says "if you think education costs, you should try ignorance."

Well, let us look at every one of those studies. Not a single one of those studies recommends tuition tax credits. It is a rather remarkable thing. The studies are spewing from the Carnegie Foundation, from the Governors, from the President's commission, from all quarters, and not a single one of them recommended that, but, in contrast, when President Reagan writes his letter about the cost and the burden I think immediately that 93 percent of the cost and the burden of public education in this country is borne by the localities and the States. If there would be a lessening of the "double burden," as President Reagan points out, then there should be a line forming at the State houses. If they want a refund see the Government. The money provided by the Federal Government, some 7 percent of the total for elementary and secondary education is targeted categorical assistance for needy and disadvantaged students in both public and private schools. The Federal role is to supplement not supplant the State and local effort. A helping hand, if you will, Mr. President.

Mind you me, the proponents of tuition tax credits have gone to those States and localities and have been rejected 13 times, and, most recently, in the District of Columbia in 1981. The vote against tuition tax credits was 9 to 1. In those precincts that stood to gain the most around Georgetown the vote was 8 to 1 against. In wards with large minority population the vote was 38 to 1 against. I was rather interested in that fact because tax credits has been thoroughly debated at the local level. It has been found wanting. The people have reaffirmed their confidence in the universal public education system. The public believes in the public schools.

Now, right to the point of the budget, I am a little misled by our distinguished chairman of the Finance Committee because he has been talking all the last 2 or 3 weeks and perhaps later today and all the rest of this week, and maybe next week, about the budget deficits. Here he comes to rip a revenue hemorrhage in the economic fabric, starting an entirely new program, an entitlement program for some of the wealthiest in the Nation, without hearings before our Education Committee. He is leading the way to a higher deficit.

The President of the United States has submitted a letter which is powerfully interesting. He talks about the double burden and the burden of those supporting the public school system and paying private school tuition for their children as well. If you will read his letter, you will see immediately that he has no understanding whatsoever of that particular burden.

To begin with, in the founding days it was Madison who said that a public government without public information or the means of acquiring it is but a prolog to a tragedy. it was John Adams who said that the whole people must take upon themselves the education of the whole people and be willing to bear the expense of it.

That, according to Shriver in his book, "The American Challenge," is the reason for the greatness of this land—the universal public education system.

But now President Reagan approaches it totally from a financial basis and then, of course, in a very, very unfair way. If that is what he is concerned about, let us go to 75 percent of the families who do not have children in the schools. Only 25 percent of the families have children in schools. So we ought to have an immediate refund or tuition tax credit for 75 percent of those families. They are relieving the schools of any burden. Give them a break. They are paying taxes and have no children to educate.

Or go particularly to the childless couples, or single people or to poor widows who are now on their social security wondering how they are going to pay it. They do not have schoolchildren. They are not burdening the public, but they pay taxes just like the private school parent. Therefore they deserve this same tax break.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator's 5 minutes have expired.

Mr. HOLLINGS. I yield myself 2 more minutes.

Mr. President, you will notice immediately that the burden is being borne just as Adams said, by the "whole

people." We never have used that particular approach of the "user fee system" for education. We have pointed out the golf courses, the private country clubs, their having relieved the burden from the public courses, or the matter of the residential compounds with their own security systems now, as we find with Hilton Head in my own backyard in South Carolina. Shall we send a Government check because they have relieved the burden of Government providing police protection because of their own security system there? Tax credits for tuition is the same concept. It's just as wrong.

Certain it is that President Reagan, in the little time I have left, should realize that we cannot go along with this statement—reading from his letter—

> I would not support nor ask you to support any legislation that would provide Federal assistance to parents for the purpose of sending their children to racially discriminatory schools.

We know his record—by his fruit shall he be known—on the Bob Jones case. He can fool me once, shame on him; but fool me twice, shame on me.

Mr. President, I cannot go along with that particular statement.

Mr. HATFIELD. Mr. President, we are debating an unnecessary and imprudent amendment. The concept of tuition tax credits for elementary and secondary education undermines necessary efforts toward improving our system of education and reducing deficits.

I firmly believe in private education as an alternative to public education, and in parents' right to choose their children's education, whether it be public or private, secular or religious. However, with equal conviction, I oppose this amendment for a number of reasons.

At the very least, the measure as reported by the Finance Committee is not realistic in providing the relief that is intended. The minor tax relief offered pales in comparison to the high cost of private education today. We would only be fooling ourselves if we believe this credit will allow low-income parents to send their children to private schools. The simple fact is that a family has to have the tuition up front to receive the benefit at the end of the tax year. As for middle-income parents, the relief is negligible, and again, provided at the wrong time. Thus, at best, this is a symbolic gesture. At worst, it has serious implications for our economy and our public educational system.

Mr. President, in a fiscal year when we are projecting a $200 billion deficit, to consider a tax measure that would erode our revenue base further is wholly irresponsible. The increasing number of special tax incentives and exclusions, coupled with their frequent expansion, reduces the tax base and results in unnecessarily high tax rates.

Today, special tax breaks, exclusions, credits, deductions, and so forth have increased to such an extent that less than one half of all personal income is currently subject to income taxation. Tuition tax credits would just add to the category of special breaks at a time when we are struggling to enact even an $8 billion revenue bill for 1983.

Tax credits and such exemptions are similar to direct Government payments for discretionary education programs in providing certain educational support. But tax breaks present a serious problem and a drain on our economy in that they act much like entitlement programs, over which we have little or no control through the annual appropriations process. Tax credits escape the annual budgetary scrutiny through which we put other education spending. And, if enacted, we would be locking into place an expenditure for education that would be on "automatic pilot" with built-in increases that no other education program for elementary and secondary education enjoys.

Mr. President, as chairman of the Appropriations Committee, I have been in the difficult position recently of opposing certain new increases in education spending. Just last week, the Senate voted down an amendment that would have provided an additional $624 million for education programs that I strongly support; instead, we provided a much smaller increase in order to avoid a Presidential veto. How can we then turn around and propose additional funding for education in the form of this new tax credit program less than a week later?

Mr. President, in my State, local education funding is provided by real property tax revenues. Property owners without children, elderly property owners, and parents with children in private schools are leading a tax revolt which could severely affect the local districts' ability to continue quality programs. Adding an incentive for parents to send their children to private schools will seriously jeopardize the support base for public education.

Further, Mr. President, the constitutional issue is still very much up in the air. Approximately 85 percent of all private primary and secondary schools are church affiliated. Even though the Supreme Court ruled in favor of the Minnesota tuition tax credit law, it left a question as to whether the President's proposal would meet the constitutional test. The Minnesota law is quite different from the Senate proposal. And many private schools would object to the requirements that they adhere to the same Federal regulations which are required of public schools. In my view, for private schools to be eligible for parents to take this credit, they would have to comply with Federal educational requirements relating to civil rights, the handicapped, and so forth.

Finally, regardless of the judicial outcome of the constitutional debate, tuition tax credits for elementary and secondary education, put simply, are bad public policy. Given the ever-shrinking, nondefense discretionary portion of our budget, I believe that the enactment of automatic tuition tax breaks would mean fewer Federal dollars for priority education programs. Most Federal support in elementary and secondary education is targeted toward specific priorities or special-needs groups: The handicapped, the disadvantaged, language minorities, and so forth.

But in providing tuition tax credits, we would be creating a new category of Federal education support which is general aid for private education that public schools do not enjoy. As I mentioned, public schools receive Federal support for specific categorical assistance.

Mr. President, at a time when we must work harder to strengthen our system of public education, now is not the time to provide tax breaks for private primary and secondary education. There is considerable doubt in my mind if there ever will be a right time for this program. I urge my colleagues to oppose the amendment of the Senator from Kansas.

Mr. CHAFEE. Mr. President, as I mentioned a little earlier, we are getting mixed signals. The administration has sought spending reductions in many very worthwhile programs. As I mentioned in connection with the Budget Director's letter a few moments ago, the emphasis was on the contractions we must make in a whole series of programs. He urges a contraction in the school lunch programs. We have been urged to reduce aid to the handicapped, aid to disadvantaged, student financial assistance, vocational education. These are important programs. It seems to me, Mr. President, that the public schools need every bit of support that we can give them now. They deserve a renewed commitment from Congress, a renewed commitment that public education remains at the top of our national agenda. We have some problems in our public schools and we must concentrate on solving them here to help public education.

Mr. HOLLINGS. Mr. President, I yield 1 minute to the distinguished Senator from Florida and thank him for his assistance in this matter. I wish we had more time.

Mr. CHILES. Mr. President, we can speak about some more subjects, but there really is no time. That is one reason this proposition was brought to us now. Depending on whether you are for or against the proposition, it is

entitled to a lot more time and better consideration by the Senate.

It seems to me when we look and see the value of our public school systems in this country, for all of the years of our history, the fact is that we have been able to be a classless society because we had that public school system, and some of our best allies—Britain, France, and all—man, you cannot get out of one class to another. If you are born to a class, you are locked in there. If your daddy was a bricklayer or a coal miner, that is what you are going to be. We have not had that in this country because we have been able to mingle together one school system. We should not tamper with that and we should turn this down.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I have been impressed over the last 6 years by how difficult it is for the Senate to find a common ground on which to debate this subject. With the greatest respect, I should like to suggest that this has to do, as do many of the debates in this Chamber, with the different experiences of different regions of our country. It is simply the case that, in the region from which I come, education began to be publicly supported in the early 19th century and the schools involved were, without exception, denominational schools. Public schools were a social invention of the 1840's and spread very widely in the Northeast. They did not come to other parts of the country until the latter part of the 19th century, which never knew the denominational school as a normal public—the word "parochial" meaning neighborhood—school. I do not suppose that difference of regional experience will ever be overcome in this debate.

I do wish to say one thing: When Senator PACKWOOD and I first introduced this legislation, we came to the floor and, day after day in that debate, as my distinguished friend from South Carolina describes, we said public schools come first. We have never suggested giving up on the public schools, we have never suggested creating a dual system. We have only said we have a plural system and after you have cared for public schools, other schools come next.

I thank the Chair.

Mr. HOLLINGS. Mr. President, on the 1 minute I have remaining, the President of the United States says "Public schools come last." We went around with his Commission on the crisis in education. We found all the difficulties, all the needs, and he made one solemn pledge: "The Federal Government will do absolutely nothing about it. In fact, if you want to know how I feel, I want to abolish the Department of Education," President Reagan says: "if you want to know how I feel, it is Federal moneys that have adulterated and diminished public education in America." He has slashed spending for education.

Of course, when it comes to private schools, Federal moneys do not hurt. When it comes to the schools for the little children down in Grenada, he has come before the Foreign Relations Committee with his request. He is not asking there for tuition tax credits in Grenada; he wants Federal moneys. But Federal moneys happen to be just the thing that is wrong for the public schools of America.

Mr. President, this is a rip-off for the rich and everyone knows it.

Mr. President, at this point I should like to continue with my prepared remarks relating to tuition tax credits.

GOVERNMENT'S FUNDAMENTAL DUTY TO PUBLIC EDUCATION

Mr. President, I take the floor today on the same terms as I did in August of 1978. My purpose now, just as it was then, is to preserve the American system of public education and to insure its future. Because, Mr. President, Government has one basic duty to the public with regard to our educational system. Its fundamental duty is to provide public schools. Government's duty to private schools is to leave them alone. Let us be clear at the outset that these duties are not equal. The distinction and the duties are fundamental and must be scrupulously maintained.

In 1978, the Senate was considering the Packwood-Moynihan tuition tax credit bill, which is very similar to the one we are considering today. When I took the floor back then, I urged my Senate colleagues to help me defeat that legislation despite the fact that that bill had 51 cosponsors. In appealing to my colleagues' sense of conscience, equity, and reason, I tried to briefly list the infirmities of that bill. I summarized my opposition to the 1978 tuition tax credit scheme with this remark:

> Careful study convinces me that this proposal would turn our Nation's educational policy on its head, benefit the few at the expense of the many, proliferate substandard segregation academies, foster discrimination against the handicapped and disadvantaged, add a sea of red ink to the federal deficit, violate the clear meaning of the first amendment to the constitution, and ultimately destroy the diversity and genius of our system of public education.

Mr. President, without a doubt, much has happened in the education arena since the Senate wisely rejected that ill-conceived legislation. Yet, after 5 years, again I have to take the Senate floor to oppose yet another version of tuition tax credits. Though the times have changed, the arguments against tuition tax credits have not. Nor have they been refuted or weakened. And, though proponents of tuition tax credits have attempted to make their legislation more palatable with various "window dressing" modifications, their attempts only point out the weakness of their proposal. They can cut back on the cost here, try to extend the benefits to lower income families there, or even include public school tuition as well. But the fact still remains that their modified proposal is no more than a foot in the door. An annual battle to up the ante is inevitable.

We know where they are headed with this uncontrollable entitlement program. That is what we should keep our eye on, especially as we struggle with these mind-boggling deficits.

Mr. President, the United States is being challenged at every turn by international competitors. The one institution with the most potential for aiding our attempted resurgence as the preeminent force in the international arena is our national system of public education. Yet, that institution is in jeopardy.

Make no mistake about it. Tuition tax credits have been and continue to be the greatest threat facing public education. Thus, the means to preserving that institution now lies squarely in the hands of the Senate.

As we did in 1978, opponents against tuition tax credits will have to take the floor and talk about education and what it has meant to the success of our Nation. We will have to reiterate the case for education. In so doing, we will have to reiterate the case against the special interest legislation that some would promote for the few at the clear expense of the many.

Let us only hope, Mr. President, that those of us who oppose the concept of tuition tax credits can educate our colleagues in much the same manner we did in 1978. For once again the Senate's commitment to public education is about to be tested. I urge my colleagues to join me in affirming that solemn commitment.

Mr. President, before briefly summarizing the content of the 1983 tuition tax credit bill, I shall digress for a moment to put some developments leading up to today's discussion into perspective.

A CHRONOLOGY OF EVENTS

In his 1983 state of the Union address, the President, having succeeded in cutting education funding some 25 percent from its 1980 level, again expressed his commitment to the enactment of tuition tax credit legislation. Two such bills were introduced in the Senate, including, on February 17, 1983, S. 528. The Senate Finance Committee held hearings on S. 528 in the spring and voted 11 to 7 to report the bill as amended out to the full Senate on May 25, 1983, and it was placed on the calendar. Incidentally, on the previous day, May 24, 1983, the U.S. Supreme Court, in Bob Jones University

against United States had held that racially discriminatory schools could not qualify as tax-exempt organizations. On June 29, 1983, the Supreme Court handed down its decision in the case of Mueller against Allen providing a limited holding that Minnesota's State income tax law allowing deductions for various school expenses did not amount to State aid to church-related schools in violation of the first amendment.

With about 5 weeks left in the first session of the 98th Congress, it was announced that a tuition tax credit amendment would be offered to the math and science legislation (S. 1285). Then we were advised that the public debt limit bill would be the probable vehicle. Last week we were advised that the Retirement Equity Act (H.R. 2769) would be the probable vehicle. Then we were told that H.R. 3398 would be the probable vehicle. Finally, this past Saturday we were informed that the tuition tax credit amendment would be offered to House Joint Resolution 290 during the last few days of the session.

Now I have not recited this chronology of events to complain about the uncertainties within and without the Senate legislative process. Every one knows that you cannot control the offering of amendments any more than you can control the docket of the U.S. Supreme Court. However, my point is this: Tuition tax credit legislation is a highly explosive issue which raises tremendously important policy considerations that must be thoroughly ventilated. Waiting until the last few days of the last projected week of the session before seriously attempting to call up this measure after weeks of kicking this political football around, not only limits thorough debate of the issue but signals that politics is more important than the very significant policies to be debated.

Consideration of tuition tax credit legislation took 3 days in 1978. The Senate Finance Committee took 4 days when it marked up S. 528. Since the bill was reported, a U.S. Supreme Court opinion which directly affects the issue has been handed down. Numerous changes in basic education policy and programs as well as significant spending cuts for education have occurred in recent years. This has tremendously changed the face of education policy and the Federal role in it.

Over the course of the past year, many impressive studies have come forth chronicling the problems besetting education in the Nation. Yet, in the last few days of the session, the Senate has been called upon to pass judgment on the most significant education legislation before this body in many years. Furthermore, we are called to render this momentous judgment in an environment designed to minimize serious debate since the "must pass" debt ceiling limit legislation is pending and the annual rush to adjournment sine die is under way.

Mr. President, I want the record to be perfectly clear that neither I nor my other colleagues in opposition to tuition tax credits will allow the pressures of the projected sine die adjournment date to prematurely shorten the time necessary to thoroughly discuss this issue.

SUMMARY OF S. 528

Mr. President, to briefly summarize the 1983 version of tuition tax credit legislation for the benefit of my colleagues, I refer to the language of the committee report to S. 528 (Rept. No. 98-154).

The bill contains a policy statement that sets forth several propositions that are based upon a congressional finding that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. This policy statement concludes that the primary purpose of the bill is to enhance equality of educational opportunity, diversity, and choice for all Americans, and that the bill will expand opportunities for personal liberty, diversity, and pluralism, which constitute important strengths of education in America.

The bill provides a nonrefundable credit for 50 percent of tuition expenses paid to private elementary and secondary schools for certain qualified dependents of the taxpayer. The maximum credit is $100 in 1983, $200 in 1984, and $300 in 1985 and subsequent years. The maximum credit amount is phased down for taxpayers with adjusted gross incomes of greater than $40,000 and no credit is allowed for taxpayers with adjusted gross incomes of $50,000 or more.

For tuition expenses to be creditable, a school cannot follow a racially discriminatory policy. Eligible schools include only schools that are exempt from taxation under code section 501(a) as organizations described in code section 501(c)(3). An eligible school will be required to include a statement of its nondiscriminatory policy in any published bylaws, admissions materials, and advertising, and to file annually with the Treasury Department a statement that it has not followed a racially discriminatory policy. Generally, a copy of this statement also will have to be furnished to each individual who pays tuition to the school and must be attached to any return on which credits are claimed. In addition, the bill disallows credits for payments to any school found to be following a racially discriminatory policy in an action brought by the Attorney General under the bill's declaratory judgment provisions.

It has also been announced that at least two amendments will be offered. One would provide that the credits would be refundable. Another would provide that tuition paid for public school attendance would become eligible for the credit. It has also been mentioned that a modified version of the credit might be introduced, changing the amount of the credit from $100, $200, and $300 to $100, $125, and $150.

Mr. President, the proponents of this bill have named it the "Educational Opportunity and Equity Act of 1983." However, scrutiny of this, or, for that matter, any other tuition tax credit legislation, clearly demonstrates the irony of that title. There will be no equal educational opportunities if this bill is passed. Nor will there be any educational equity. What will occur, on the contrary, is that one of the costliest and most special interest oriented subsidies will set up a dual system of education exclusively catering to an elite 10 percent of American school students.

Let us examine specifically the adverse effects of this tuition tax credit legislation.

DRAMATICALLY SHIFTING THE FEDERAL ROLE IN EDUCATION

The role of the Federal Government with regard to education is purposely limited. Traditionally, the burden of providing public education has fallen upon the shoulders of our State and local governments. Massachusetts first instituted this concept on November 11, 1647, when it passed a law requiring every town of 100 or more families to have a grammar school supported by the taxpayers. Since that time, essential control of public education has remained at the State and local levels. The reason is obvious: The local citizenry were in a better position to assess the needs and provide the guidance for their children's education.

For almost 300 years, the Federal Government took no noticeable role in our system of public elementary and secondary education. By 1965, however, it became apparent that special segments of our population were not receiving adequate educational opportunities at the elementary and secondary level. Those included in this group were the economically and educationally disadvantaged, later the limited English proficient, the handicapped, and others, were added.

In an effort to resolve the educational inequities suffered by this group, Congress enacted the Elementary and Secondary Education Act of 1965. This was the first of several measures designed to provide those in special need the opportunity to receive competitive educational opportunities. To be sure, Congress, aware of the traditionally limited nature of its role in education, took great pains in specifically targeting aid to particular areas of need, Title I education for the disadvantaged, aid to the handicapped, vocational education, Head Start, school lunch, WIC guaranteed student loans, Pell grants. These programs all demonstrate the categorized nature of Federal educational assistance based on some legitimate need.

Now comes the tuition tax credit bill and the Federal Government's role dramatically changes. It shifts from one of supplementing the educational needs of the disadvantaged in both public and private schools to substan-

tially subsidizing this Nation's private schools and the advantaged individuals who attend them.

In other words, the Federal Government will have suddenly changed its traditional role of servicing the special needs of a disadvantaged segment of our population to one of providing general public assistance to private schools. This is a 180° turnaround which would have dire consequences for public education.

BENEFITING THE FEW AT THE EXPENSE OF THE MANY

Dire consequences indeed.

In 1981–82 the average Federal subsidy to the individual public school student was approximately $183. Also during this time period, the private school student too was helped, through Federal assistance in providing instructional materials, library resources, guidance and testing, and so on, at an average per pupil expenditure of $43. It should be noted that most education legislation passed by Congress includes bypass mechanisms which assure that privates will receive their fair share of Federal aid. Should this bill pass, the latest data I have indicates that by 1984–85, the Federal per pupil expenditure for public schools would be $105, while the figure for private schools would swell to $329. Can it really be in the public interest to provide more than triple the aid to those attending private schools as those attending public schools? I think not. Adoption of this tuition tax credit plan would, when considerd with other parts of the Reagan education policy, shift Federal financial support from one of balanced support for the needs of both public and private school students to a policy of assisting private schools at the expense of the public schools.

Such an outcome is totally unacceptable. There are 42,611,000 public high school students in the United States, as opposed to 5,028,865 private school students. That is a relationship of almost 9 to 1. There are over 107,000 public schools in the Nation, as opposed to almost 21,000 private schools. That is at least a 5-to-1 ratio.

Mr. President, in all equity and good conscience, there is simply no justification for holding at bay the educational opportunities of nearly 90 percent of America's high schools for the sake of some 10 percent minority of students. Besides, I am really hard pressed to think that many of the 42 million public school students from families in the lower income tax brackets are really going to be able to take advantage of the proposed tax credits. This, in spite of the efforts by the bill's proponents to repeatedly modify the bill in an attempt make the bill seemingly more beneficial to the lower income families. With a 3-to-1 Federal funding disparity between private and public school students, lower income families in particular, and public school students in general, are only going to be left out in the educational cold.

Most of our private school student population is middle or upper class. In 1975, just 4 percent of all children from families with incomes of less than $5,000 were enrolled in private schools; 17 percent of all children from families with incomes of about $25,000 were in private schools; and 25 percent of those from families with incomes above $50,000. Clearly, those with the greatest ability to pay would reap the benefits. The proverbial millionaire who pays no taxes would receive a check from Washington for sending his boy to Exeter. However, the Congressional Budget Office has recently estimated that under a $250 refundable tuition tax credit covering 50 percent of costs, only about 16 percent of the funds would flow to families with incomes less than $15,000. Yet 42 percent would go to families with incomes greater than $30,000.

Mr. President, Donald Frey, an authority on tuition tax credits to whom I will later refer, has recently published his findings regarding the regressivity of tuition tax credit legislation. His empirical econometrics study, quite possibly the first of its kind to be released to the public also shows the regressive nature of the tuition tax credit in both zero elasticity and elasticity based estimates. I ask unanimous consent that an excerpt from his study regarding the regressive nature of tuition tax credits be placed in the CONGRESSIONAL RECORD at this point. I urge my colleagues to study these important findings.

Mr. President, as I mentioned earlier, while the proponents of tuition tax credits persevere in their attempts to disguise this legislation as beneficial to middle and lower income families, I think the evidence clearly indicates a reverse Robin Hood effect. Tuition tax credits will only take from the poor in order to give to the rich. It is a scheme lacking any justice whatsoever.

FOSTERING DISCRIMINATION AND SUBSTANDARD SEGREGATION ACADEMIES

Public school assistance programs follow from the mandate of Congress for equal educational opportunity in the public schools. This is not required of the private schools. These latter are selective and generally choose the brightest, those without discipline problems or language problems, those from the higher income brackets, and those fleeing from the inner-city, integrated school. The public school, in contrast, must take all comers—regardless of background, regardless of special problems. The public institution must abide by congressional laws and court decisions that the private school can ignore.

For instance, the Education of All Handicapped Children Act and the Rehabilitation Act of 1973 require that States provide all children, ages 3 through 18, with a free appropriate public education. The U.S. Supreme Court's Law decision requires the accommodation by public schools to the non-English-speaking children seeking public education. The Civil Rights Act of 1964 and the recent U.S. Supreme Court Bob Jones decision require that school systems receiving Federal funds or tax exemptions not discriminate on the basis of race. Two U.S. Supreme Court decisions have sharply regulated the public school's ability to suspend unruly students.

Yet only 2.7 percent of all religious schools provide programs for the handicapped, and 80 percent of all private schools have a religious affiliation. Only 3 percent of all nonpublic schools provide vocational education programs. Less than 5 percent of all nonpublic schools provide any services at all to economically disadvantaged students.

Those who argue that public and private schools are directly competitive and that pupil performances can be directly compared ignore this basic difference. The public school is bound by both law and conscience to reach out to every child as a matter of his or her birthright. This is what public education is all about.

What is impressive is the record compiled by our public schools as they educate 90 percent of our youngsters, expand equal opportunity, and provide every American child the chance for a better future. The public schools have led the way.

In contrast, many private schools have been built for the specific purpose of closing the doors of economic and social opportunity. Some people call them protest schools; others call them segregation academies. They dot the landscape of my own backyard, and their purpose is clear to everyone. Sad to report, the best estimate is that nearly 1 of every 5 private schools is a protest school.

Furthermore, the tuition tax credit bill before us today only contains prohibitions against racial discrimination. Discrimination on any other ground is not prohibited. Moreover, the prohibition against racial discrimination is very weak and relies on individual complaints before legal action is taken. Considering the laissez faire attitude of the Reagan administration and its Attorney General toward the enforcement of civil rights and voting rights violations, the lack of any real "teeth" in the bill's enforcement provisions become readily apparent. Besides, penalties against schools which racially discriminate are very mild and will not be an effective deterrent to discrimination. The penalty provisions constitute a slap on the hand, do better approach.

CREATING GOVERNMENT REGULATIONS

The tuition tax credit legislation means money and bureaucracy. Claiming a tax credit means authenticating the tax return; authenticating the return means commandeering the records of both the citizen and the school; commandeering records means another new bureaucracy; and bureaucracy means intrusion and soaring expenditure. We have been down that road so many times before that the scenery ought to look familiar. At least we ought to recognize the road signs. But somehow politicians never learn. The people, however, are onto the facts.

Federal dollars means Federal control. The simple fact of accounting for the expenditure of Federal funds demands it. In this period of soaring and unprecedented deficit spending when there are constant cries to cut back on Government spending to bring the deficits down you can be sure that any dollar spent will be closely scrutinized. The public will want to know where it's money is going. The public will want to know which program has more priority over others. The private schools in my State understand this. The S. C. Christian School Association fears this possibility. Private schools created for the pursuit of religious beliefs important to their founders are threatened by tuition tax credits. The religious liberty they seek in educating their children will be compromised by the increased Federal involvement in their operation. The potential for acrimonious debates year after year on regulations or appropriations is an inevitable scenario. In his testimony before the Finance Committee, Mr. Jack Clayton of the Association of Christian Schools tried to point this out. Does the Congress really want to open this Pandora's box?

ADDING A SEA OF FEDERAL RED INK

Mr. President, I now intend to discuss the budget implications of this bill. However, I would like to preface that discussion by putting into perspective several recent legislative developments.

First, note the fact that the continuing resolution for fiscal year 1984 received final congressional approval this past Saturday. Veto threats from the administration along with strong objections from fiscal conservatives forced the House of Representatives to reject an earlier version of the stopgap funding measure. The reason was clear: The administration would not accept the budget busting $1 billion in additional social and educational funding. Political realities forced the House to accept a continuing resolution containing only 10 percent of the original $1 billion in additional funding.

Second, note the fact that the legislation to increase the public debt by $225.6 billion, as requested by the administration, was rejected by the Senate this past October 31, by a vote of 39–56. Why did the Senate reject increasing the national debt to the $1.6 trillion requested by the administration? Everyone in this body knows the reason. It was a clear mandate from the Senate for Congress to develop a tax and spending package which will meaningfully reduce the unprecedented budget deficits currently facing the U.S. Government.

This mandate leads us to the third legislative matter, which, obviously enough, involves Congress attempts at meeting the $73 billion deficit reduction requirements contained in the budget resolution's reconciliation instructions. The problems that the Senate Finance and Budget Committees have had in forging deficit reduction plans have been well publicized in the press. The Budget Committee has courageously reported out a package which would decrease the deficit by $28 billion over 3 years. This package included a $13.4 billion tax increase as reported by the Finance Committee. However, despite the courageous deficit-cutting package which has been presented to the Senate, the general concensus remains that $28 billion will not have any real impact on the unprecedented $200 billion budget deficit currently facing the U.S. Government.

What is the common thread in the concern over the continuing resolutiion, the public debt ceiling limit bill, and reconciliation? The answer is the obvious. As President Reagan said on November 3, 1983, "Let them (Members of Congress) keep their hands off the recovery and start doing what they were elected to do—get spending under control once and for all." "We do not face deficits because Americans aren't taxed enough," he continued, "we face those deficits because Congress still spends too much." Simply put, I think the President means we have got to tighten our fiscal belt.

To me, Mr. President, it is simply unconscionable how the administration can have the temerity, in light of the very real and significant economic difficulties confronting the Nation, to support and actively seek congressional passage of another multibillion dollar uncontrollable entitlement program.

Think about it. The highest budget deficit in U.S. history. Nearly $998 billion in 5 years. The Government's debt spiraling upward of $1.6 trillion. An 8.5 percent rate for the real cost of money. A tentative economic recovery with almost 10 million unemployed. A nationwide business and industry capital investment rate of negative 4.6 percent. Business failures averaging 628 per week. Yet here we are in the Senate, debating a program which, at the very least, according to Congressional Budget Office estimates, is going to cost the Government another $2,861 billion to implement through fiscal year 1988. I find this situation to be highly hypocritical. Where is the Senate's sense of fiscal integrity that everyone is clamoring for?

Furthermore, CBO estimates that by fiscal year 1985, the cost of this program would be increased almost another $1 billion if, as has been indicated by tuition tax credit proponents, the bill is amended to conform with the Mueller decision recently handed down by the U.S. Supreme Court. In an attempt to conform with that decision, proponents would grant tuition tax credits not only for private but for public school tuitions as well.

If amended, what was originally intended to be a program costing over $2.8 billion will then turn out to be a program costing, $3.8 billion. This, of course, is in the estimate of the CBO.

But let us step back and look more closely at the CBO's cost analysis. While the CBO has estimated the cost of the original tuition tax credit plan in terms of 5 years, estimates for the plan as amended are only provided for fiscal year 1984 and fiscal year 1985. It is frightening to think that the cost effects of the Mueller amendment would jump from near zero in fiscal year 1984 to $0.9 billion in fiscal year 1985. We must assume that the per year cost for the next 3 years would at least equal the fiscal year 1985 figure.

What will be the net cost of implementing a 5-year tuition tax credit plan with a Mueller amendment? It is quite reasonable to conclude at least $6 billion. This does not even take into account the possibility that the Mueller amendment's outyears' impact might be more highly progressive than the $0.9 billion assumed. Nor does it take into account the second amendment proponents have indicated that they will offer. This, of course, is an amendment to make the credit refundable and thus less regressive in terms of our lower income families. While I have already addressed the regressivity of S. 528, I do want to note that the cost effects of the refundability amendment will, according to CBO estimates, total $125 million over 5 years. Quite frankly, if they are going to create a $6 billion entitlement program, the very least they could do is treat our low-income taxpayers with a degree of equity.

Mr. President, at this time I would like to introduce my colleagues to one of the most current and thorough economic analyses of the effects of tuition tax credit legislation available today. Mr. Donald E. Frey, an associate professor of economics at Wake Forest University, Winston-Salem, N.C., has recently published a study entitled "Tuition Tax Credits for Private Education." Professor Frey received a doctoral degree in economics at Princeton University and his articles on the economics of education

have appeared in such journals as Journal of Education Finance, Economics of Education Review, Public Finance Quarterly, and Journal of Human Resources.

Mr. Frey's empirical studies on the market supply and demand effects of tuition tax credits utilizes the most current and accurate economic methodologies currently available. Although much of the study involves complex econometric equations and nomenclature, his conclusions are forthright in laymen terms.

To summarize his findings as simply as possible, Mr. Frey notes that a tuition tax credit reduces the net payments by parents for private schooling, thereby increasing the demand. Increased demand thereby induces increased tuition rates, increased private enrollment, decreased public school enrollment, and losses in Federal revenue.

Although all of his findings raise important policy implications, let us focus on his last finding—that of losses in Federal revenue.

Mr. Frey analyzed the effects of the tuition tax credit legislation before us today as it was originally introduced. His conclusion was simple: Government estimates of the cost of this entitlement program may be under actual costs by as much as 50 percent. He calculated the per-year costs to be upward of $1.3 billion.

Now I have not introduced Mr. Frey's study to the Senate in an effort to dispute the integrity of any government body which has offered estimates of the cost of tuition tax credits. I know as well as any that reasonable men may differ in hypothecating the economic implications of a relatively untried plan. And though I personally would have to agree with Mr. Frey's findings, in more general terms, his conclusion should induce each Senator to closely scrutinize the cost consequences of the legislation we are now considering.

VIOLATING THE CLEAR MEANING OF THE CONSTITUTION

Tuition tax credits are not only bad policy, they are patently unconstitutional, flying in the face of the establishment clause of the 1st amendment and therefore violative of the 14th amendment also. Many studies by constitutional scholars on tuition tax credits for families with children in elementary and secondary schools indicate the unconstitutionality of this scheme. That position is supported by the courts. The tuition tax credit proposed in this legislation is practically indistinguishable from the tax relief program that New York State enacted and which, in 1973, the U.S. Supreme Court held to be unconstitutional in Committee for Public Education against Nyquist. And only 3 years later the Supreme Court, in its decision in Wolman against Walter, reaffirmed its earlier position. Although some scholars and some politicians may wish that those cases had been decided differently, most of them agree that, under those decisions, a tuition tax credit for elementary and secondary education is unconstitutional.

With the Mueller against Allen opinion by the Supreme Court last June some ardent supporters of tuition tax credits may wish to claim that the Court's approval of the Minnesota tax deduction plan for private and public elementary and secondary school students is signaling a new view. Nothing could be farther from the truth. There are several important distinctions between the plan approved for Minnesota and the one the Finance Committee has reported. First, and foremost, the Finance Committee proposal would benefit only parents of private and parochial school students. Second, it would provide tax credits rather than deductions. And, third, it covers only tuition outlays, not textbook costs, transportation, and similar educational expenditures by parents. Of course, Mr. President, we may see an amendment to the Finance Committee's bill that would expand tuition tax credits to include public students as well. In this day and time when we struggle for control over the deficits we face for the foreseeable future, I cannot imagine how anyone could seriously consider such a notion. On the one hand we are telling entitlement program beneficiaries that we need to hold up on those "promised" benefits while on the other hand we are telling them that we are going to start another entitlement program. Convoluted logic like that just will not pass muster with the voting public. And, a scheme like that would be a clear invitation to the States to pass tuition charges and off-load as much of the State education budget as possible on the Federal budget. Your guess is as good as mine in determining the impact that would have on the Federal deficit.

Clearly the Mueller opinion places the heaviest burden on the public schools. Unfortunately this comes at the time when they are facing their severest test. But, Mr. President, make no mistake that the Mueller opinion settles the score on the constitutionality of tuition tax credits. In its own words, the Supreme Court said that tuition tax credits was "vitally different" from the Minnesota law which was upheld.

Undermining the Public Purpose of Public Education

In the United States the public schools are a major instrument of social cohesion. They provide a common experience for almost all children in which they learn to accept and live with the diversity that has been a strength of this country. Children in public schools learn to work with people of other races, ethnic and cultural backgrounds, and social circumstances while they learn together about the democratic institutions and heritage of the United States. Poet and novelist Robert Penn Warren described it well when he wrote that "we must learn to live in this world."

The traditional role of the public school has been to bring people together, not to separate them. Public schools bring together children of diverse racial, ethnic, social, economic, religious, and even class backgrounds. Private schools separate children on these bases. This point is well made by educational historian R. Freeman Butts who argued:

> A public school serves a public purpose rather than a private one. It is not maintained for the personal advantage or private gain of the teacher, the proprietor or board of managers; nor does it exist simply for the enjoyment, happiness or advancements of the individual student or his parents . . . Rather, the prime purpose of the public school is to serve the general welfare of a democratic society, by assuring that the knowledge and understanding necessary to exercise the responsibilities of citizenship are not only made available but actively inculcated . . . Achieving a sense of community is the essential purpose of public education. This work cannot be left to the vagaries of individual parents or small groups of like minded parents, or particular interest groups, or religious sects, or private enterprises or cultural specialities.

Tuition tax credits would adopt as public policy the notion that people should be encouraged and subsidized to abandon the public school system and separate themselves and their children into a fragmented system where each school serves the narrow interests and views of those who operate it. This is a far cry from a public school system for all children; a public school system which is the bastion of American democracy. This fundamental issue was raised in a different context by Benjamin Franklin when he said we would all hang together or we would all hang separately. He was saying, of course, that to achieve an important national purpose we must act collectively and in concert with one another toward that end. It is a strong public school system that achieves the public purpose of social and political cohesion and mutual respect and understanding. The assimilation of millions of immigrants and racial integration could not have been achieved without a robust public school system. Tuition tax credits will jeopardize that system.

Eroding Public Support for Public Schools

There is an intense debate going on in the United States about the quality of public school programs and how public schools can be improved. The National Commission on Excellence stressed the need for broad support from all segments of American society for the improvement of education and,

quite conspicuously, did not recommend the adoption of tuition tax credits. The annual Gallup Poll on education shows strong support for public schools, particularly for public schools in the respondents' own communities. In the 1983 poll, 73 percent of those expressing an opinion rated public schools adequate or above. Seventy-six percent of those providing a rating, rated the public schools in their own community adequate or above.

It is significant to note that people rate public schools with which they are most familiar higher than those public schools which are at a distance. Parents with direct contact with public schools rate those schools much higher than do those whose major source of knowledge may be television programs, newspaper or magazine articles, or complaints by friends or neighbors. Those knowledgeable about what actually happens in public schools are not nearly as critical of them as those who are not as knowledgeable. There is an important point to be made here. While no one will deny that there are steps that could be taken to improve the quality of the public schools, those who argue that tuition tax credits are a device for improving educational quality in general are missing the point. In the first place, parents with children in public schools are not nearly as dissatisfied as tuition tax credit proponents would have us believe. Second, Americans favor using more Federal moneys to improve the public schools more than for any other purpose.

Leading authorities argue that the small number of parents who might desert the public schools for private schools might be those with the most political influence and that this small percentage of parents would represent a substantial loss of political influence within the community for support of public schools. Parents of the income class, education level, and occupational status who are the most likely users of private school services are precisely those same parents who are most likely to vote in local elections, to support tax levy and school bond votes, to be more active in community affairs, and to have the most political power and influence in the local community. Furthermore, if in the first year of tuition tax credits a small group of the best students leave the public schools, then the following year, the next group of top students would look around and notice that the kids who used to be the model students are gone. The chances are pretty good that next year, the next group would follow. This would go on for a number of years. This process would quickly erode public support of the public schools and leave the public schools with children more difficult to educate and with less political and financial support for the schools which must educate them. Tuition tax credits could make the public schools the dumping ground for the unwanted.

DECREASING THE QUALITY OF AMERICAN PUBLIC EDUCATION

Tuition tax credit supporters argue that Federal aid to private schools will introduce more competition into the education marketplace and lead to improvements in both public and private schools. David W. Breneman of The Brookings Institution effectively demolishes this argument.

He argues that such competition would actually cause public school quality to decline because those families most concerned with educational quality might desert the public schools. Breneman disputes the economist's narrow view that competition is the only or best way to improve the performance of organizations. He contends that working within an organization to improve it (i.e., "voice") is more effective in the case of large public bureaucracies than "exit," or leaving the institution for an alternative service. Tuition tax credits, in Breneman's view, would only lead to the departure from the public schools of those families who are most likely to keep the pressure on for change.

The argument is also made that a shift in enrollment from public schools to private schools would improve educational quality because private schools do a better job than public schools. Recent research does not support this contention. For academic track students, private school enrollment has no special effect on achievement in reading or mathematics. There is no evidence that students in private high school college preparatory programs do any better than students in public high school college preparatory programs.

The fact is that public schools educate almost 90 percent of American children and anything that detracts from emphasis on improving public schools, such as aid to private schools, will decrease, not increase the quality of American public education.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a list of the membership of the National Coalition for Public Education. The many leading groups listed here form the backbone of support for elementary and secondary education in this Nation. They strongly reject tuition tax credits.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE FOLLOWING IS A PARTIAL LIST OF COALITION MEMBERS

American Alliance for Health, Physical Education, Recreation & Dance (AAPHERD).

American Association of Classified School Employees (AACSE).

American Association of Colleges for Teacher Education (AACTE).

American Association of School Administrators (AASA).

American Association of State Colleges and Universities (AASCU).

American Association of University Women (AAUW).

American Civil Liberties Union (ACLU).

American Ethical Union (AEU).

American Federation of State, County & Municipal Employees (AFSCME).

American Federation of Teachers (AFT).

American Humanist Association (AHA).

American Jewish Committee (AJCommittee).

American Jewish Congress (AJCongress).

American Vocational Association (AVA).

Americans for Democratic Action (ADA).

Americans United for the Separation of Church and State (AUSCS).

A. Philip Randolph Institute (APRI).

Baptist Joint Committee for Public Affairs (BJCPA).

Board of Church and Society/United Methodist Church (BCS/UMC).

Children's Defense Fund (CDF).

Council for Educational Development and Research (CEDAR).

Council for Exceptional Children (CEC).

Council of Chief State School Officers (CCSSO).

Council of Great City Schools (CGCS).

Illinois State Board of Education (ISBE).

Labor Council for Latin American Advancement (LCLAA).

League of Women Voters of the United States (LWV/US).

Mexican American Legal Defense Educational Fund (MALDEF).

National Association for the Advancement of Colored People (NAACP).

National Association of Administrators for State & Federal Education Programs (NAASFEP).

National Association of Elementary School Principals (NAESP).

National Association of State Boards of Education (NASBE).

National Association of School Psychologists (NASP).

National Black Child Development Institute, Inc. (NBCDI).

National Coalition for Public Education and Religious Liberty (National Pearl).

National Coalition of Title 1-Chapter 1 Parents (NCT1-C1P).

National Committee for Citizens in Education (NCCE).

National Congress of Parents and Teachers (National PTA).

National Council of La Raza (NCLR).

National Council of Jewish Women (NCJW).

National Council of Senior Citizens (NCSC).

National Education Association (NEA).

National School Boards Association (NSBA).

National School Public Relations Association (NSPRA).

National School Volunteer Program (NSVP).

National Urban League (NUL).

New York City Board of Education (NYCBE).

People for the American Way (PAW).

Public Employees Department/AFL-CIO (PED/AFL-CIO).

Student National Education Association (SNEA).

Union of American Hebrew Congregation (UAHC).

United Automobile, Aerospace and Agricultural Implement Workers of America (UAW).

United States Student Association (USSA).
Unitarian Universalist Association (UUA).
Voice of Reason (VOR).

CONCLUSION

Mr. HOLLINGS. Mr. President, as a parent, a citizen, and an officeholder, I have always believed that public education is the best investment a nation can make. It develops a diversity, a competitiveness, a competence that is nowhere else available. Our public schools are run by over 16,000 local school boards, and theirs has always been the fundamental role. Those who pose the strawman of a public education monopoly have not traveled this land and breathed the diversity and the vitality of 107,272 public schools. No private school can boast this kind of diversity. The public school teaches the American way as no other school can teach it. There is no substitute. Our public schools are and must remain the cornerstone of America's education system. This is not to deny or deprive private education, which can and should remain a vital part of our Nation's education. But we are being asked now to discriminate in favor of the private, and what is left alone and unfunded is public education. All this to be performed by the public Congress. It is an incredible and totally unacceptable proposition.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I thank the distinguished chairman.

Mr. DOLE. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, 53 seconds.

Mr. DOLE. Mr. President, I thank the Chair. I ask unanimous consent to have printed in the RECORD at this point a letter from the Secretary of Education, Mr. Bell, containing a fact sheet relative to this issue, which I think many people need to consider quite carefully in discussing the issue here.

We are discussing budget deficits. I would be willing to find some way to save money to pay for this program. We have to start talking about priorities. We talk about budget deficits. We also talk about public and nonpublic schools. According to the information from the U.S. Department of Education, in the fiscal year 1981, the U.S. Department of Education estimated the following level of Federal support for elementary and secondary education. The total is about $27.5 billion. Of that, public is $26.9 billion and nonpublic is about $600 million. So it is 97.9 percent that goes to the public schools and 2.2 percent to nonpublic schools. This includes not only direct but indirect subsidies, but I do think it makes the point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
November 15, 1983.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: We understand that the Senate will vote this week on H.J. Res. 290 (relating to the 1984 Olympic Games), and that the tuition tax credit proposal (Educational Opportunity and Equity Act, S. 528) will be attached to that legislation.

We are grateful for your continuing support of this legislation. First, it will partially alleviate the inequity shouldered by private school parents who pay both public school taxes and private school tuition. Second, it will promote family choice in education for some parents who currently have no choice in education because of financial constraints. Third, the modest credit proposed will not adversely affect public education. As a public school parent, former public school teacher and administrator, and as the Secretary of Education, I would not support this legislation if I foresaw resultant harm to our Nation's public schools.

I have enclosed a fact sheet on three issues that I believe are of crucial importance. The bill includes provisions covering these areas which have evolved over a long process. I hope you find the enclosed discussion helpful.

Sincerely,

T. H. BELL.

FACT SHEET ON SELECT ISSUES RELATIVE TO S. 528

The three following issues have been discussed extensively as the current bill has evolved. The relevant sections have been shaped by the Finance Committee after lengthy hearings.

1. The tax credit established by S. 528 may be claimed only by parents of students attending racially non-discriminatory schools. Some 17 pages of the bill deal with non-discrimination. In addition to insuring non-discrimination, however, these provisions are sensitive to the fact that very few racially discriminatory private schools exist in our country today. Therefore, these provisions are designed not to presume that a particular school is guilty of racial discrimination.

According to the bill, a school follows a racially discriminatory policy if it refuses, on account of race, either to admit student applicants or to allow students full participation in the school and its programs. Triple anti-discrimination provisions have been written into the bill.

A. The school must be exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code.

B. An individual who has been discriminated against can request that the Attorney General file an action against the school.

C. The school must file a statement annually attesting that it has not followed a racially discriminatory policy. The statement must be made under oath and is subject to the penalties for perjury.

2. Only tuition paid to an "eligible educational institution" may be claimed under the tax credit. To qualify, a school must (a) provide a full-time program of elementary or secondary education, (b) be privately operated, (c) be exempt from taxation under IRC section 501(c)(3) and (d) be non-discriminatory.

In addition to insuring non-discrimination these provisions protect parents from fraudulent, "fly-by-night" institutions. The bill does not require the school to have state approval. Such a requirement would fail to produce a standard definition of eligibility for a federal tax credit. Each state has its own unique compulsory attendance statutes (and at least two states have completely deregulated religious schools). Further only about one-half of the states have any approval or certification procedure.

3. The bill does not provide a federal tax credit for tuition paid to a public elementary or secondary school. Recently, the Supreme Court upheld Minnesota's tax deduction for educational expenses at public and private schools. However, this decision renders it likely that the Court would also uphold the Constitutionality of S. 528 as currently drafted. Further, the inclusion of public school tuition in S. 528 would add significantly to the revenue loss associated with such a tax credit.

History indicates that tax assistance to parents of private school students does not harm public schools. The Minnesota experience is relevant to S. 528 for this reason. Minnesota enacted a tuition tax credit in the early 1970's which existed for several years. In addition, the deduction for educational expenditures has been in place throughout the 1970's. The following decennial data clearly shows that public schools have not suffered during this time. These statistics indicate that the percentage of students enrolled in private schools declined over this ten year period. Further, the tax credit and deduction do not appear to have harmed the quality of education since Minnesota currently has the highest percentage in the country of high school students continuing their education in post-secondary institutions.

PUBLIC AND PRIVATE SCHOOLS ENROLLMENTS, 1970 AND 1980

State and year	Total students	Public schools	Private schools	Percent—	
				Public	Private
Minnesota, 1970	1,060,600	942,500	118,100	88.2	11.8
Minnesota, 1980	843,200	752,100	91,100	89.5	10.8

NUMBER OF SCHOOLS, PUBLIC AND PRIVATE, 1970 AND 1980

State and year	Total schools	Public schools	Private schools	Percent—	
				Public	Private
Minnesota, 1970	2,620	2,125	495	81.1	18.9
Minnesota, 1980	2,187	1,634	553	74.7	25.3

U.S. DEPARTMENT OF EDUCATION,
November 15, 1983.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: The enclosed materials on tuition tax credits are sent to you in response to a request from your staff. Hopefully, this data will arm you with some useful material for the various presentations which you will be making on this subject.

Let me know if I can be of further assistance.

Sincerely,

GARY L. JONES.

TUITION TAX CREDIT DATA, NOVEMBER 14, 1982

(1) How many U.S. students are enrolled in public and nonpublic elementary-secondary schools?

Answer: For the fall of 1982, the U.S. Census Bureau found the following enrollments:

	Number	Percent
Total	41,534,000	100.0
Public	37,385,000	90.0
Private	4,149,000	10.0

(2) What percentage of elementary-secondary students in each State are enrolled in nonpublic schools?

Answer: For the fall of 1980, the U.S. Department of Education's National Center for Education Statistics (NCES) reported the following: (See attached table 1.)

(3) What is the breakdown according to religious affiliation of students attending nonpublic elementary-secondary schools?

Answer: According to NCES, in the fall of 1980 nonpublic enrollment by religious affiliation is as follows:

	Number	Percent
Church related:		
Baptist	233,333	4.6
Catholic	3,190,687	63.4
Christian	112,906	2.2
Episcopal	76,953	1.5
Jewish	85,231	1.7
Lutheran	219,963	4.4
Seventh Day Adventist	82,609	1.6
Other	224,788	4.5
Subtotal	4,226,491	84.0
Not church related	802,374	16.0
Total	5,028,865	100.0

(4) What number and proportion of nonpublic elementary-secondary students attend religiously affiliated schools in each State?

Answer: For the fall of 1980, the U.S. Department of Education's National Center for Education Statistics (NCES) has prepared the tabulation found in the attached Table 2.

(5) What is nonpublic elementary-secondary enrollment by income category?

Answer: According to the U.S. Bureau of the Census, the figures are:

[In percent]

	Group—		Cumulative—	
	1979	1982	1979	1982
Income group:				
Less than $15,000	20.8	17.1	20.8	17.1
$15,000 to $24,999	32.7	23.6	53.5	40.7
$25,000 to $49,000	27.6	39.3	81.1	80.0
$50,000 and above	9.8	13.7	90.9	93.7
No answer	8.9	6.2	100.0	100.0
Total	100.0	100.0		

Note: 1982 cumulative figure for families with incomes up to $35,000 is 64.8 percent.

(6) What is the total amount of Federal support for public and nonpublic elementary-secondary education?

Answer: For fiscal year 1981, the U.S. Department of Education estimates the following levels of Federal support for elementary-secondary education:

	Amount	Percent
Total	$27,530,000,000	100.0
Public	26,924,000,000	97.8
Nonpublic	608,000,000	2.2

Note: For public education, these figures include direct (i.e., program expenditures) and indirect (i.e., tax subsidies) support. For nonpublic education only direct support is included because data necessary to estimate indirect support is unavailable.

(7) What is the level of Federal support per pupil for public and nonpublic elementary-secondary education?

Answer: For fiscal year 1981, the U.S. Department of Education estimates the following levels of per pupil support for regular public and nonpublic elementary-secondary education:

Total—Direct and indirect support: Public $593 per pupil; nonpublic $121 per pupil. (Note: includes direct only.)

Direct—Support in the form of funds, goods or services from federal programs that are allocated on a grant or formula basis: Public, $277 per pupil; nonpublic, $121 per pupil.

Indirect—From tax subsidies: Public, $316 per pupil; nonpublic, NA.

(8) Which public school parents would be most likely to switch their children to private schools with a tax credit of $250?

Answer: Based on a public opinion survey conducted by the Congressionally mandated National School Finance Project located at the U.S. Department of Education's National Institute of Education, the following results were found:

Blacks are more likely to switch to private schools than whites (by a margin of 18.2 to 6.3 percent);

Those with family incomes under $25,000, are more likely to switch than those with more than $25,000; and

Those in large and medium cities would be more likely to switch than those in suburbs, small cities or rural areas.

It should be stressed that these results are based on opinions and do not reflect actual behavior which may differ.

For more details, see attached Table 3 from volume 2, National School Finance Project final report, U.S. Department of Education, July 1983.

TABLE 1.—*Nonpublic school enrollement, by State: Fall 1980*

State and region	*Percent* [1]
United States	11.0
New England:	
Connecticut	14.4
Maine	7.4
Massachusetts	12.1
New Hampshire	11.0
Rhode Island	16.8
Vermont	7.3
Mideast:	
Delaware	19.2
District of Columbia	17.5
Maryland	12.5
New Jersey	15.8
New York	16.4
Pennsylvania	17.6
Great Lakes:	
Illinois	15.4
Indiana	8.7
Michigan	10.4
Ohio	12.1
Wisconsin	16.4
Plains:	
Iowa	9.4
Kansas	7.7
Minnesota	10.7
Missouri	13.4
Nebraska	12.4
North Dakota	8.3
South Dakota	7.8
Southeast:	
Alabama	7.7
Arkansas	4.0
Florida	12.0
Georgia	7.3
Kentucky	9.6
Louisiana	17.6
Mississippi	9.5
North Carolina	4.9
South Carolina	7.4
Tennessee	7.8
Virginia	7.0
West Virginia	3.2
Southeast:	
Arizona	7.3
New Mexico	6.4
Oklahoma	2.8
Texas	5.0
Rocky Mountain:	
Colorado	6.1
Idaho	2.9
Montana	4.7
Utah	1.6
Wyoming	3.0
Far West:	
California	11.2
Nevada	4.3
Oregon	5.7
Washington	6.9
Alaska	4.2
Hawaii	18.4

[1] Private school enrollment.

Sources: U.S. Department of Education.

TABLE 2—ENROLLMENT IN PRIVATE ELEMENTARY AND SECONDARY SCHOOLS,[1] BY AFFILIATION OF SCHOOL AND BY STATE: FALL 1980

State	Total	Not church related	Church related								
			Total	Baptist	Catholic	Christian	Episcopal	Jewish	Lutheran	Seventh-Day Adventist	Other
United States	5,028,365	802,374	4,226,491	233,334	3,190,687	112,906	76,973	65,231	219,963	82,609	224,788
Alabama	62,904	24,888	38,016	7,016	14,720	3,206	1,058	62	1,319	988	9,647
Alaska	3,800	568	3,232	830	1,029	731	.....	.....	64	161	417
Arizona	40,544	10,989	29,555	1,248	18,536	2,885	551	316	2,072	1,267	2,680
Arkansas	18,803	5,195	13,608	1,340	7,603	153	642	.....	626	798	2,446
California	520,440	104,464	415,976	28,198	267,071	30,177	6,984	6,624	24,458	18,811	33,653
Colorado	35,328	7,335	27,993	2,244	17,120	1,087	193	550	2,783	1,459	2,557
Connecticut	89,036	21,161	67,875	250	62,129	372	1,873	885	814	381	1,171
Delaware	23,374	4,352	19,022	1,700	14,725	554	230	114	.....	39	1,660
District of Columbia	21,203	4,636	16,567	152	12,214	210	2,184	.....	.....	499	1,308
Florida	205,168	50,204	154,964	31,764	74,268	7,580	9,072	3,791	9,337	3,688	15,464
Georgia	84,187	45,298	38,889	12,435	13,297	4,390	1,206	655	433	2,417	4,056

TABLE 2—ENROLLMENT IN PRIVATE ELEMENTARY AND SECONDARY SCHOOLS,[1] BY AFFILIATION OF SCHOOL AND BY STATE: FALL 1980—Continued

State	Total	Not church related	Church related								
			Total	Baptist	Catholic	Christian	Episcopal	Jewish	Lutheran	Seventh-Day Adventist	Other
Hawaii	37,147	13,166	23,981	2,570	15,059	1,283	1,731	.....	1,337	939	1,062
Idaho	5,839	377	5,462	65	2,189	524	.....	.....	620	1,200	864
Illinois	360,614	26,578	334,036	4,933	288,130	2,951	212	2,58	26,935	2,154	6,134
Indiana	100,363	7,433	92,930	8,629	63,366	2,887	455	359	9,226	1,229	6,779
Iowa	55,701	1,342	54,359	1,071	45,256	207	.....	18	2,640	301	4,866
Kansas	34,431	3,514	30,917	320	26,152	1,021	183	167	1,759	408	907
Kentucky	71,153	11,316	59,837	3,977	51,368	1,737	82	132	179	735	1,627
Louisiana	166,464	30,176	136,288	4,451	119,642	649	4,642	110	1,994	1,284	3,516
Maine	17,740	8,202	9,538	867	6,733	591	.....	33	.....	291	1,023
Maryland	107,638	19,073	88,565	4,755	68,645	1,429	1,897	3,082	2,979	2,937	2,841
Massachusetts	140,865	28,405	112,460	316	107,252	386	901	1,582	.....	1,088	935
Michigan	215,087	16,609	198,477	13,300	131,363	1,994	491	871	25,705	5,587	19,166
Minnesota	90,557	5,541	85,016	2,811	64,909	1,845	939	249	10,909	662	2,692
Mississippi	50,116	30,336	19,780	3,105	11,342	826	2,008	.....	.....	474	2,025
Missouri	130,302	8,857	121,445	2,666	99,177	1,104	300	312	11,399	1,335	5,152
Montana	7,668	925	6,743	201	4,684	16	.....	.....	535	528	779
Nebraska	39,734	1,367	38,367	245	31,329	261	315	25	4,944	955	293
Nevada	6,641	944	5,697	274	4,347	248	.....	63	330	215	220
New Hampshire	20,721	5,886	14,835	838	11,239	555	852	.....	.....	71	1,280
New Jersey	233,585	23,668	209,916	1,701	193,287	1,764	408	6,427	1,341	1,059	3,929
New Mexico	18,402	5,173	13,229	786	9,585	740	20	80	224	530	1,264
New York	583,997	71,046	512,951	4,303	429,241	2,336	5,296	48,130	10,916	3,883	3,846
North Carolina	58,592	24,605	33,987	16,452	9,323	2,270	1,071	101	797	1,840	2,133
North Dakota	10,659	1,571	9,088	.....	8,230	.....	.....	.....	538	255	65
Ohio	268.795	14,294	254,501	6,336	228,326	6,318	117	2,064	5,569	1,700	4,071
Oklahoma	16,335	2,218	14,117	237	7,381	1,206	2,494	39	657	1,077	1,026
Oregon	28,189	4,059	24,130	775	14,357	2,375	551	118	744	3,968	1,242
Pennsylvania	407,281	40,473	366,808	6,880	319,049	8,175	2,361	2684	1,676	1,492	24,491
Rhode Island	29,875	2,643	27,232	70	25,015	17	380	284	110	.....	1,356
South Carolina	49,619	24,354	25,265	9,448	7,555	2,947	2,699	153	508	194	1,761
South Dakota	10,898	1,790	9,108	72	6,882	471	59	.....	510	146	968
Tennessee	72,639	20,854	51,785	13,636	15,912	2,256	2,132	356	1,543	3,442	12,508
Texas	152,463	17,994	134,469	11,102	83,652	3,058	13,562	1,475	8,480	2,799	10,341
Utah	5,555	1,862	3,693	.....	3,055	.....	.....	.....	371	148	119
Vermont	7,555	3,264	4,291	69	4,082	35	46	.....	.....	59	.....
Virginia	76,084	26,807	49,277	10,961	23,060	2,053	6,039	260	2,203	1,177	3,524
Washington	55,950	6,901	47,049	3,047	27,356	2,958	582	228	2,401	4,355	6,122
West Virginia	12,622	840	11,782	1,865	8,466	876	.....	.....	.....	343	232
Wisconsin	163,167	6,060	157,107	2,485	110,592	1,192	155	245	37,769	1,099	3,570
Wyoming	3,036	760	2,276	538	1,387	.....	.....	.....	209	142	.....

[1] Includes enrollment in special education, vocational/technical, and alternative schools.

Source: U.S. Department of Education, National Center for Education Statistics, preliminary data from the survey of private elementary and secondary schools, 1980–81.

TABLE 3.—PUBLIC SCHOOL PARENTS RESPONDING THEY WERE "VERY LIKELY" TO SWITCH CHILDREN TO PRIVATE SCHOOLS WITH A TAX CREDIT OF $250

	Total public school sample	
	Percent	Number
All respondents	9.2	1,687
Race:		
White	6.3	1,272
Black	18.2	251
Hispanic	19.8	125
Other	9.0	34
Religion:		
Protestant	7.7	980
Catholic	10.6	422
Other	13.2	174
None	9.6	89
Parent's education:		
Non-high school graduate	13.1	308
High school graduate	8.1	764
Some college	10.8	312
College graduate	6.2	169
Post graduate	6.7	119
Family income:		
Under $7,500	12.9	161
$7,500 to $14,999	17.9	288
$15,000 to $24,999	12.9	419
$25,000 to $49,999	2.9	614
$50,000 and over	2.8	109
Region:		
Northeast	9.5	195
North Central	5.8	487
South	9.9	710
West	13.0	284
Place of residence:		
Large city	18.1	353
Suburb	4.7	256
Medium city	12.2	337
Small city or town	6.9	504
Rural	1.3	232

PRESIDENT REAGAN TUITION TAX CREDIT QUOTATIONS

"In proposing tuition tax credits, we hope to provide greater choice and wider educational opportunity for our children." Radio Address to the Nation, January 22, 1983.

"There are 5 million American children attending private schools today because of emphasis on religious values and educational standards. Their families, most of whom earn less than $25,000 a year, pay private tuition, and they also pay their full share of taxes to fund the public schools. We think they're entitled to relief." Remarks at the National Religious Broadcasters' Annual Convention, January 31, 1983.

Speaking of the double burden for parents who choose to send their children to private schools, the President said: "This additional cost has always severely limited the ability of lower income families to choose the nonpublic educational alternatives for their children. Rising costs are now putting private schools beyond the reach of a growing number of middle-income Americans as well. If we are to provide a meaningful choice for those for whom it is in danger of becoming an illusion, we must find a way to lighten the 'double burden' these families bear." Message to the Congress Transmitting the Proposed Legislation, February 16, 1983.

"This Administration will not tolerate the use of tuition tax credits to foster racial discrimination. Consequently, the bill contains strong provisions to ensure that no credits will be permitted for amounts paid to schools that follow racially discriminatory policies." Message to the Congress Transmitting the Proposed Legislation, February 16, 1983.

"And let me add here that far from being a threat to the public school system, these tax credits will serve only to raise the standards of the competing school systems." Remarks of the President to the National Catholic Educational Association, April 15, 1982.

"But I can tell you it was, as I said before, one of the first bills that we sent up to the Congress this year. And the first meeting I had was with congressional leaders to push specific legislation, and it was on tuition tax credits. And I want this legislation to move as quickly as possible through the Congress." Remarks at the National Catholic Educational Association's Meeting, April 7, 1983.

"Parents have the right and duty to have their children educated in accordance with their own values. A tuition tax credit will greatly assist parents to exercise this right by giving more equitable Federal treatment to private as well as to public schools." Letter to Catholic School Administrators from the President, dated October 20, 1983.

Mr. DOLE. Mr. President, I suggest that if the motion to table is defeated, as I hope it will be, then we can get into a full-scale debate, because there is going to be a lot of amendments offered. This matter is entitled to a lot of discussion. None of us is standing back 1 inch in our support for public education, but I do believe we can do both. I believe the President is correct and I ask unanimous consent to print in the RECORD at this point the most recent letter from the President, again indicating strong support and commitment to this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 15, 1983.
Hon. ROBERT DOLE,
U.S. Senate,
Washington D.C.

DEAR BOB: Parents have a fundamental right to send their children to schools that reflect their own moral values and educational preferences. The rising costs of education, however, threaten to put this freedom of choice beyond the reach of many low and middle income families who cannot afford the "double burden" of paying private school tuition and state and local taxes that support public school systems. I write to you this morning to assure you of my concern for the continued vitality, diversity, and pluralism of our Nation's educational system and to remind you of the importance I place on the success of S. 528, the Educational Opportunity Equity Act.

As the Senate proceeds with floor debate on the tuition tax credit proposal, I want to highlight some fundamental points of this legislation.

First, our proposal will help preserve educational freedom and provide the greatest benefit to those who need it most: low and middle income families. We do not seek to aid the rich. I urge you to consider, in particular, the plight of hundreds of thousands of minority families currently making heroic sacrifices to send their children to private inner-city schools; our bill will provide sorely needed relief to those families and bring to other families real freedom of choice in education.

Second, our proposal strikes a balance, ensuring that parents who send their children to schools that discriminate on the basis of race do not benefit, and that those schools with a clear record of nondiscrimination do not suffer from unnecessary Federal intrusion. I would not support, nor ask you to support, any legislation that would provide Federal assistance to parents for the purpose of sending their children to racially discriminatory schools.

Finally, our proposal poses no divisive threat to public education. History has shown that competition breeds excellence; alternatives to public education tend to strengthen public education. I firmly believe that our tuition tax credit proposal, by providing diversity and healthy competition, will encourage our schools to provide higher quality education.

Together we must restore the pluralism that has made our culture rich and our Nation strong. I personally ask you to support the Educational Opportunity Equity Act.

Sincerely,

RONALD REAGAN.

Mr. DOLE. Mr. President, I yield to the Senator from New Hampshire for a brief statement.

Mr. HUMPHREY. Mr. President, I intend to vote against the tabling motion which will occur shortly. The Dole amendment, which has the full support of the Reagan administration, is simply designed to give needed relief to families who choose to educate their children in private schools, yet are required, in addition, to bear the full burden of taxation imposed for the benefit of public schools.

It is important to point out that this amendment provides only partial relief to these taxpayers, and that regardless of eligibility for the proposed credit, most persons with children in private schools will continue to pay a portion of their tax dollars to the public schools. High income taxpayers will be ineligible, in whole or in part, for this credit.

In the course of developing a position on the tuition tax credit issue, I took the time to review arguments against the credits, and obviously I came away unimpressed. After wading through the technical aspects of the proposal, we are left essentially with the argument that somehow the granting of credits will spell the end of quality public education. I fail to see the logic of this assertion. The history of Minnesota's tuition tax credit and education deduction schemes supports my position.

Minnesota enacted a tuition tax credit in the early 1970's which remained in place for several years. In addition, that State had an educational expenditure deduction in place throughout the 1970's. The data clearly shows that public schools did not suffer during those years. The statistics show that the percentage of students enrolled in private schools declined over this 10-year period. Furthermore, the tax credit and deduction do not appear to have harmed the quality of education since Minnesota currently has the highest percentage in the country of high school students continuing their education in post-secondary institutions.

For these reasons I support efforts to create a fair and productive tuition tax credit scheme, and consequently I intend to vote against tabling the Dole amendment.

Mr. President, I ask unanimous consent that statistics provided to me by the Secretary of Education, which support the argument advanced above, be incorporated in the RECORD at this point. I further ask unanimous consent that this statement appear in the RECORD immediately prior to the tabling motion offered against the Dole tuition tax credit amendment.

There being no objection, the statistics was ordered to be printed in the RECORD, as follows:

STATE OF MINNESOTA

Year	Total students	Public schools	Private schools	Percent	
				Public	Private
PUBLIC AND PRIVATE SCHOOLS ENROLLMENTS					
1970	1,060,600	942,500	118,100	88.2	11.8
1980	843,200	752,100	91,100	89.5	10.8
NUMBER OF SCHOOLS, PUBLIC AND PRIVATE					
1970	2,620	2,125	495	81.1	18.9
1980	2,187	1,634	553	74.7	25.3

Mr. KENNEDY. Mr. President, I am firmly opposed to the concept of tuition tax credits for elementary and secondary school students attending nonpublic schools and I intend to vote to table the Dole amendment today. I believe that tuition tax credits are wrong as educational policy and wrong as economic policy. This is a killer amendment aimed at the heart of our public schools, and I hope that it will be rejected by the Senate.

Only last week, the Senate voted against a $600 million increase in Federal funds for public schools that the House had included in the continuing resolution. Yet today, we are asked to provide billions of dollars to private schools over the next several years through this Federal tax subsidy. The message of these two actions to students and parents, teachers and administrators will be unmistakable. It will tell them that the Federal Government has chosen to support the private schools instead of the public schools. It is just the kind of divisive message that will undermine the broad national consensus that has traditionally supported one of America's greatest assets—our system of public schools. And for those reasons, I believe it is just the kind of message that must not be sent.

This amendment ignores the conclusion in report after report—that the public schools are ailing and need help. By this amendment, we would not only turn our back on the public schools, we would encourage students and parents to abandon them as well. We would take an institution that has problems—and by our action, make all its problems worse.

I support pluralism in education, and I believe that private schools have an important role to play. But I do not believe that in these difficult economic times, we should provide new Federal financial support for private education.

Our private schools provide a needed diversity in American education. But private schools must remain truly private. If they begin to receive public funds on any substantial scale, then there will be inevitable pressure on them to accept the various public mandates that have become an integral part of the public school system. The public coffers may look very tempting to those who administer private schools and face daily the limitations imposed by growing needs and shrinking funds. But I urge them to resist this temptation because it may well lead to more Government control and increased Government regulation. And those administrators would, in fact, be hard pressed to insist that the public should not have a voice in how tax money is spent. Tuition tax credits are not the salvation of the private schools in America.

I am also deeply concerned that the proposed amendment violates the Constitution. The supporters of tuition tax credits have failed to make a per-

suasive case that their proposal can be reconciled with the fundamental decisions of the Supreme Court on this issue. We will only compound our problems if we vote for a proposal that is not only unwise but unconstitutional as well.

Some have said that this amendment is an attempt to promote fairness for all parents by avoiding double taxation. But I think that their claim of double taxation is also an argument against the amendment. After all, those Americans who choose to send their students to private schools despite paying taxes for public schools make that choice voluntarily. Under this amendment, those Americans who pay taxes will have no choice but to see their tax money used to support students attending private schools, even if their children remain in public schools. They would be the new victims of an imposed double tax.

From an economic standpoint this amendment is also unacceptable. All of us are aware of the massive deficits that our Nation faces. Only 2 weeks ago, we defeated the debt ceiling because of concern over that mounting deficit. Senator DOLE, the sponsor of the tuition tax credit amendment, has waged a lonely fight in the past few weeks to gain support for a major defict reduction package—yet now, in the closing days of this session, he asks the Senate to accept an amendment that will add billions more to the deficit over the next few years.

America's schools have been an important part of our country's success as a people and our strength as a nation. We must not undermine our public schools, or leave our private schools private in name only. I urge the Senate to reject this amendment.

Mr. THURMOND. Mr. President, I rise today to explain my reasons for supporting the motion to table the tuition tax credit amendment.

While I have considerable sympathy for the concept of tuition tax credits, I have an overriding concern with the present budget situation and the extremely large Federal deficit. In these difficult economic times, I simply do not feel it is wise to enact legislation which will widen the gap between Federal tax revenue and outlays by over $700 million per year when fully effective.

Legislation proposing to establish tuition tax credits for private elementary and secondary education is not new to Congress. There are strong arguments which can be made on both sides of this issue, and I have heard from numerous citizens on both sides of the question. In addition to the concerns about loss of tax revenue, I have been impressed by the fact that many private school officials in South Carolina are less than enthusiastic regarding tuition tax credits. They fear that this will result in more Federal control over their schools through the Internal Revenue Service. Church-related schools are very familiar with this problem. Even though they may have an explicit open admission, nondiscrimination policy, by virtue of court decisions in cases such as Green against Regan, the IRS has imposed, or threatened to impose, onerous and unnecessary regulatory requirements on many of these religious schools.

Public school officials have expressed concerns that a tuition tax credit policy will result in the demise of public education. I believe this fear is unwarranted, although I do understand their concerns. In general, I believe that a healthy competition in education will stimulate the pursuit of educational excellence, rather than divert resources from the public school system. In any event, Mr. President, I believe the wiser course for now is to postpone further consideration of a tuition tax credit bill until the Federal budget is balanced. For these reasons, I oppose tuition tax credit legislation at this time.

Mr. PRYOR. Mr. President, today the Senate is considering an extremely important issue—whether or not to provide tuition tax credits to persons with children enrolled in private schools. I think this bill is unwise from a tax policy standpoint, and I am convinced that it is bad educational policy. Therefore, I hope this measure is defeated by the Senate.

Mr. President, we all know the arguments on both sides of the issue. Tuition tax credit proposals have been around for many years. There have been hearings held, debates scheduled, and thus far, the Congress of the United States has not seen fit to put these tax credits into the Internal Revenue Code. I hope the Senate has the wisdom and the courage to continue that course. These tax credits are something we simply cannot afford from a budgetary standpoint, and more importantly, they are something we cannot afford from an educational standpoint. Passage of tuition tax credits will reverse a strong commitment we have made in this country to public education and will be something that we will sorely regret later.

The bill as reported by the Committee on Finance, S. 528, will allow parents with children in private schools to claim a nonrefundable tax credit equal to 50 percent of qualifying tuition expenditures up to a maximum of $300 per child by 1985. I stated earlier that I did not think we could afford tuition tax credits from a budgetary standpoint, Mr. President, and I think the record will prove me correct when you consider that when this bill is fully effective these tax credits will cost about $800 million per year. That is another $800 million added to an already-bloated deficit. It seems that if the sponsors of this bill were serious, they would come up with a way to pay for it. That is the "Pay-as-you-go" plan which is frequently used around here. However, that is not the case here, Mr. President, and these tax credits will be financed with red ink—a horrible prospect at a time when we are facing record budget deficits.

Equally distressing, Mr. President, is that what we are really creating is a new entitlement program through the tax system. This provision, if put into the Tax Code will then have a constituency which will try to increase the tax credit each year, or index it, and we will then be faced with the same problems many people have pointed out in our other entitlement programs.

Finally, Mr. President, this bill is ill-advised from an educational standpoint. I know that many States, including the State of Arkansas, have taken recent steps to upgrade their educational programs. In the State of Arkansas, the Arkansas General Assembly just completed a special session and raised the State sales tax by 1 cent. All of the revenue from the tax increase is going to go to public education. However, if we in Washington turn right around and pass this tuition tax credit measure, then we are undermining efforts to improve our public schools. From an educational standpoint, I am afraid that the enactment of tuition tax credits will cause a massive shift from the public schools to the private schools. Regardless of what Members of the Senate might say, and regardless of the language in the bill, make no question about it—this bill is Federal assistance. There will be a subsidy involved.

In this regard, I think we need to consider other tax credits in the Tax Code in relation to this bill. Why do we have tax credits? We have them to encourage people to do something which the Congress of the United States has determined to be good economic and social policy. We have the investment tax credit, which is designed to stimulate investment in business assets. We have the targeted jobs tax credit, which is designed to encourage businesses to hire disadvantaged persons. We have the energy tax credits, which are designed to promote investment in energy projects. We have the tax credit for rehabilitating older buildings. That credit is an incentive for people to buy older buildings and then restore them. We have an ESOP credit, which is designed to encourage employers to establish ESOP's.

In short, Mr. President, the Internal Revenue Code contains many provisions in the area of tax credits, and they were put there for a specific reason—to encourage people to do something. That is what is going to happen with tuition tax credits. We

are going to encourage people to send their children to private schools by providing them with a tax subsidy. Thus, the Federal Government is going to be in the business of encouraging parents to send their children to private schools as opposed to the public schools.

Mr. President, I believe as strongly as any Member of this body that parents should decide where their children can get the best education. That is one of the most critical choices a parent has to make. If the decision is to put the child in a private school, that is fine. If, however, the decision is to place the child in the public schools, that is fine as well. However, I simply do not believe that the Federal Government should be in the business of encouraging one course of action over another or influencing a parent's decision—and that is exactly what tuition tax credits would do. The public schools of this country have served, and will continue to serve, a useful purpose. Likewise, the private schools have helped in educating many girls and boys. If we want to continue to have a strong, effective public school system in this country, however, then this bill must be defeated. I hope it will be rejected by the Senate and I would urge my colleagues to vote against it.

Mr. LEVIN. Mr. President, I will vote against the amendment offered by the Senator from Kansas which would establish a program of tuition tax credits for the parents of children attending private elementary and secondary schools. My vote is in no way meant to denigrate the important role that private and parochial schools have played in the education of this Nation's young people. In particular, I appreciate the part which many parochial schools have played in recent years in educating children in our Nation's inner cities.

But the positive impact which many of these schools have had is not a reason for enacting legislation which provides public support for private education when public education is financially strapped, and which increases the deficit and is constitutionally suspect.

Over the past 3 years, the Congress has been able to hold the line on Federal funding for primary and secondary public education, even in the face of the Reagan administration's attempts to cut the level of funding for these programs. On the State and local level, expenditures for public education have been put under severe pressures and in many places have been severely cut back. With the very real prospect of $200 billion deficits looming year after year in the future, and with the dangers that this will present to economic recovery and the tax base of the States and localities, funding for public education will come under even increasing stress. At a time when on the Federal level every avenue, including public education, will be explored to reduce the deficit, it would be inappropriate to enact a new tuition tax credit program, which in essence is a Federal subsidy of private primary and secondary educational institutions. Furthermore, support for public education would be subject to the yearly appropriations process and risk being cut on a yearly basis, whereas the tuition tax credit provision of the Tax Code would not be subject to mandatory reevaluation on a yearly basis.

Enacting the tuition tax credit proposal would also add to the already too large Federal deficit. By the most conservative estimates, this provision would add $1.4 billion to the deficit over the next 3 years. It would represent two steps backward in the effort to assemble the building blocks of significant deficit reduction. At a time when there are calls to scrutinize and reduce the entitlement programs which benefit the poorest members of our society, this proposal would create a new educational entitlement through the Tax Code.

Finally, this legislation may very well be offering a false hope to those who favor it. While it is true that the Supreme Court ruled this year that a Minnesota law which allowed for tax deductions for parents who send their children to private schools was constitutional, the proposal before us today differs from that law in one crucial respect. The Minnesota law also provided the tax deduction for parents who send their children to public schools. It, thereby, maintained a neutrality between public and private schools which the amendment before us fails to achieve. As a result, it is very possible that the Dole amendment would be struck down as a violation of the first amendment's prohibition on the establishment of religion.

This is a difficult vote for me. I see the good that private parochial schools accomplish in our country, and I value it. I can understand parents who look to tuition tax credits as a means of easing the heavy burden of educational expenses. But I also see that if this proposal is enacted it will lead to an inappropriate shift in the allocation of our society's educational resources at a time when the learning process and the Federal budget can ill afford it.

TUITION TAX CREDITS—ADVERSE EFFECT ON FREE, PUBLIC EDUCATION

Mr. CHILES. Mr. President, I recently discussed the range of problems I have with tuition tax credits—the constitutional issues, separation of church and state, public policy precedents, and financial concerns.

My distinguished colleague from Rhode Island (Senator CHAFEE) raised an excellent question the other night—What would be the effect of this subsidy for private education on our universal system of free, public education? The other side of that coin is, What would the subsidy do to the character of private education in this country?

We hear a lot about tuition tax credits in terms of competition and freedom of choice in education. But as Senator CHAFEE pointed out, the essence of private education is not just the freedom of parents to choose a nonpublic school for their children. The heart of private education is also the right of these schools to choose who will, and will not attend.

RACIAL BALANCE

We have a Supreme Court decision now that firmly links tax-exempt status for parochial schools with public policy on nondiscrimination on the basis of race.

I understand the tuition tax credit being considered has provisions that tuition for schools that are racially discriminatory would not qualify.

Yet despite recent increases in enrollment of blacks and Hispanics in private schools, nearly 92 percent of the children in nonpublic schools are white. Blacks make up only 6.4 percent of private-school enrollments. This compares to public-school enrollment of 82 percent white and nearly 16 percent black.

Now suppose we provide these credits for private-school tuition and the racial mix of enrollments in private school does not change very much. Or perhaps it moves toward a larger concentration of whites in the private schools.

What would the proponents of tuition tax credits have us do to guarantee equal access for minorities? I cannot imagine the Federal Government spending four times as much on a child in private school as in public school and just leaving that situation alone.

ACCESS FOR THE DISADVANTAGED, HANDICAPPED, LIMITED ENGLISH

Under the freedom-of-choice argument, parents of disadvantaged, handicapped, and limited-English students should have the same right all parents have to choose private schools for their children. Ideally, the nonpublic schools would compete to provide services to the special-needs children just as all children.

But what if the majority of private schools do not choose to put out the extra expense, the extra care and teaching a special-needs child requires to reach his full potential? Why would these schools want to compete for the so-called higher cost children? Are we going to legislate that?

Now these are not unrealistic questions at all. Only 5 percent of nonpublic schools provide any special services for economically disadvantaged stu-

dents. Less than 3 percent of the 80 percent of the private schools that have a religious affiliation provide programs for handicapped students. Only 3 percent of private schools have vocational programs.

So how much freedom of choice is the parent of a special-needs child going to have to use this credit?

If we are going to claim this tax credit is going to benefit low-income families, children with handicaps, limited-English students, would not we have to do something to force an open admissions policy on the private schools? Are we going to tell the academies that require certain grade point averages or test scores what new standards to use?

I do not think so. I think we are going to create an elitist, caste system in education. Leave the public schools to the poor, and the handicapped, and the limited-English student and let everyone else exercise their freedom of choice.

Where does that put subsidies for private education in terms of competition? Show me true competition when all the trained, star athletes are on one team, and the kids who need special help are on the other. What incentive is there in this non-need-based credit for the private schools to excell in teaching the children who cost more to teach? These are the children who have something to give to society but it takes that extra dollar, that extra effort to give them a chance.

The advocates of the credits point out frequently that this bill is going to provide access to private education for the poor and disadvantaged. Tell me how a $100 credit in 1984, or a $300 credit a few years down the road is going help a family with an annual income of $5,000, or $10,000, or even $15,000 a year send their child to—Sidwell Friends with an annual tuition of $4,000, Georgetown Prep with a $3,860 annual tuition, or Congressional with a $2,230 yearly cost?

It may not be fair to single out the most expensive prep schools in the D.C. area to raise such questions. So let us look at the income distribution in public versus private elementary and secondary school.

Thirty-four and a half percent of the children in public elementary school come from families with incomes of less than $10,000 per year. That contrasts with only 16.5 percent of the children in private elementary school.

At the other end of the scale, 18.7 percent of the children in public elementary school have families that make over $20,000 a year. Compare that with the nearly 30 percent of private-school children from $20,000-plus families.

This income distribution does not change much at the secondary level.

Let us remember that those families in the very low-income brackets do not have any tax obligation, or a very marginal one. With no refundability provision in the current tuition tax proposal, there is no way the credit is going to make the difference in public or private school for the child.

Finally, if we preserve the ability of private schools to stay private in the sense of choosing the students to attend, let us remember a few other things.

Private schools are not evenly distributed throughout the country, or within States, or communities. Not every child is going to have access to nonpublic school.

Private schools can set academic standards for admissions, and if those standards are above the performance of a disadvantaged, handicappped, or limit-English child, well that is just too bad.

Some private academies and prep schools are segregated on the basis of sex. Do we want to keep all-girl and all-boy schools when we have a statute and a public policy against sex discrimination?

I just do not buy the arguments I have heard about competition and freedom of choice in education being advanced by this proposal. We have a dual education system. We have a separate system of public versus private education. We have free choice for parents to choose between publicly funded, Government-subsidized education and schools that are nonpublic, that is, not run by the State, local education agency, or the Federal Government.

You know the proponents of the credits point out that we are the only major industrial nation that does not somehow subsidize private education through the Government. Well, we are also the only major industrial nation that does not have a uniform, nationalized education system.

I do not hear anyone these days, when we are facing a crisis in educational quality, calling for doing away with our system of free, public education. Nor do I see these reports on education, or hear the American people calling for doing away with our tradition of State and local control of the schools.

So I think we want to be just as careful about preserving our traditions in private education being free of Federal control and intrusion.

Mrs. KASSEBAUM. Mr. President, there are many issues involved in the tuition tax credit debate. From a legal standpoint, the question of the constitutionality of tuition tax credits has been raised repeatedly. The legal arguments amassed by both sides are more than ample to virtually guarantee that the final disposition of this question will be made by the Supreme Court should tuition tax credit legislation be enacted. From the standpoint of social benefit, tuition tax credits have been both lauded as a means to open better educational opportunities to middle- and low-income students and condemned as a program benefiting only the wealthy. Looking at the issue on the basis of financial implications, we see one group contending that they carry a double burden by supporting public education with their tax dollars and private education with personal resources. At the same time, others point out that a period of $200 billion deficits is a poor one indeed in which to be contemplating substantial losses to the Treasury in order to duplicate educational services available to all in our Nation's public schools.

Although I understand the reasoning of tuition tax credit proponents, I do strongly oppose this concept and am concerned by what I see as its negative legal, social, and financial implications. However, these concerns are all secondary to my fundamental objection to tuition tax credits: Namely, the detrimental effect I believe they would have on our public school system. In the final analysis, educational considerations should be the deciding factor in this debate, and we simply must decide it in favor of the best and broadest possible educational system. That, in my view, means preserving and improving our public school system.

The bulk of financial assistance for elementary and secondary education is provided by State and local governments. The approximately 10 percent of educational funding provided by the Federal Government is targeted toward special services, such as library and text books, transportation, school lunches, remedial reading and math, and handicapped education. A portion of these funds are made available, often indirectly, to private schools. For example, Federal funds may be used to pay the salary of a remedial education teacher who spends time teaching private school students. Moreover, legislation approved in 1981 which consolidates much of the funding for elementary and secondary school programs makes special provision that the benefits of these programs be extended to private school students. In addition, both the House and Senate versions of pending legislation designed to strengthen math and science education include provisions assuring that private schools will be eligible for available funding. This, I believe, is a reasonable approach. I see no justification for tipping the balance in a way which will result in providing greater levels of support for private school pupils than is made available to students in our public schools. A recent analysis prepared by the Council of Great City Schools and the American Association of School Ad-

ministrators compares Federal per pupil expenditures in public and private schools before and after tuition tax credits. Among the 40 school systems included in the sample are the Kansas City and Wichita, Kans., systems. If the tuition tax credit legislation now under consideration were enacted, school year 1985–86 Federal per pupil expenditures in the Kansas City, Kans., public schools would amount to $133.88 while each private school student in the area would receive $250.91 in Federal assistance. Comparable figures for the Wichita School System are $113.88 and $181.94, respectively.

I recognize that private schools have made substantial contributions to the education of many children, and I feel that the existence of a private school system provides healthy competition with public schools. However, as a former school board member, I strongly believe that our Nation's primary commitment is to the development of a strong system of public education.

Numerous recent reports on the status of education in the United States underscore the serious and immediate need for improvements in our public schools. Certainly, there is no single easy answer. I am firmly convinced however, that the answer does not lie in generalized financial assistance to either public or private schools. We need to look at reforms in our system of delivering education and at our role as parents in reinforcing the work of our schools. These are the areas in which our attention and resources are most appropriately channeled.

Mr. COHEN. Mr. President, as recent debate has shown, tuition tax credit proposals are controversial and the issues involved are complex. The policy questions raised by tuition tax credits, and there are many, are not easily answered. Indeed, the proponents and opponents of tuition tax credits base their arguments on very different answers to the very same questions.

One important question regards the constitutionality of a tax expenditure which will, in effect, provide Government assistance to religious educational institutions. Although this question cannot be settled definitively by the Congress, it remains a consideration nonetheless. As we all know, the Supreme Court earlier this year ruled constitutional a Minnesota statute providing a tax deduction to parents for some of the expenses of educating their children. Although the sanctioning by the Court of the Minnesota tax deduction does not at all insure that the Court would sanction the legislation now before the Senate, it does suggest that this legislation might be modified to conform with the Court's notion of constitutionality.

That is not to say that Senators will disregard any misgivings they may have regarding this proposed new relationship between church and state. My own misgivings will certainly remain. They remain because this proposed tax expenditure would, in effect, divert public funds to the private ends of religious institutions.

A second question raised by proposals to create a Federal tax credit for tuition paid to private elementary and secondary schools is the question of affordability. The Committee on Finance has estimated that this proposed tax expenditure would cost the Federal Government more than $700 million annually once fully implemented. This figure is a considerable sum. I would not be at all surprised, however, if the estimates offered by the Finance Committee very much understate the cost of tuition tax credits. It is simply impossible to determine with any degree of certainty the cost of tuition tax credits without knowing with any degree of certainty the effect of tuition tax credits on public and private school enrollments.

It is hardly possible to dismiss fiscal considerations during a debate of this issue at this time. The national debt is simply too large and growing too fast. The Congress has simply had too much difficulty finding the resources necessary to maintain the Federal programs that already exist. I do oppose tuition tax credits because of such considerations. I submit, however, that the cost of tuition tax credits need not be the central concern of opponents nor the main theme of their arguments against tuition tax credits. Rather, I believe that this debate more properly concerns the question of the appropriate Federal role in education, the public purpose that tuition tax credits would serve, and their effect upon the quality of education.

Primary responsibility for education has traditionally rested with State and local governments. This is as it should be. Decentralization and local control promote the accountability and diversity most conducive to the effective provision of education. The Federal Government, however, has rightfully assumed a primary role in promoting equal educational opportunity for disadvantaged and minority students. As such, Federal programs and policies have been directed toward assisting the educationally deprived to overcome disadvantages, assisting the handicapped to overcome barriers to their education, and assisting women and minorities to overcome discrimination in education.

Would tuition tax credits be at all consistent with Federal education policies intended to enhance educational opportunity? I think not. Although S. 528 is called the Educational Opportunity and Equity Act, its enactment would further neither equity in education nor the educational opportunity of those Americans who are currently denied such opportunity. As the distinguished Senator from Oklahoma has indicated, S. 528 would induce some middle-class parents to send their children to private schools. This legislation would not, however, render private school an attractive and affordable option for lower income families. Nor would it promote the educational opportunity of disadvantaged and minority students. Rather, tuition tax credits would erode equity in education and diminish the educational opportunity that the Federal Government struggles to provide through its other programs of aid to education.

The Federal Government must also concern itself with the overall quality of education available to our Nation's young. Would tuition tax credits promote the general quality of American education? Again, I think not.

Proponents of tuition tax credits would have us believe that enhanced competition between public and private schools would work for the betterment of both. This competition, they say, would induce public schools to improve themselves lest they lose too many students to private schools. Although I am very much an advocate of competition, I find this reasoning not at all compelling. The economics of the marketplace will not be so simply applied to a public undertaking of this kind.

Far from encouraging the improvement of the public schools, tuition tax credits would bring about a decline in public school enrollments and the erosion of public support for the public schools. Tuition tax credits would, in my opinion, remove only those relatively advantaged students acceptable to private schools whose families, with just a little Federal assistance, could afford private school tuition. The less fortunate and the less accomplished would necessarily remain in the public schools. This competition would thus increasingly place public schools and public school students at a disadvantage by leaving public schools with a larger proportion of those students most difficult to educate, but with less resources to educate them.

Each of several recent studies of the state of the American educational system has indicated that the academic achievements of far too many American students are not adequate. America's schools are not providing for the education of our children as thoroughly as we would desire. The recognition of the problems with our educational system, however, has occasioned reform efforts at the local, State, and Federal levels of government. There has been no shortage of proposals for educational reform nor of controversy regarding many of them. A number of States, localities, and institutions have acted to address the need for educa-

tional reform with commendable dispatch and commitment.

Tuition tax credits fly in the face of this Nation's effort to put its schools back on sound footing. The Federal Government has no business adopting a policy which could encourage a decline in the public schools and which would run counter to the central purposes of Federal aid to education. For these reasons, and others which I have touched upon, I oppose tuition tax credits for elementary and secondary education.

Mr. LONG. Mr. President, it was my hope that we could muster the votes to consider this measure today. This issue is not a new one; it is an issue that has been raised time and again in an attempt to establish a measure of tax equity for those who choose to enroll their children in private sector schools while also paying taxes to support our public school systems.

Alternatives to public education contribute to the diversity that helped to make our society strong. A good educational system is an essential ingredient in maintaining this Nation's strength and character. A healthy system of parochial and independent schools available to all income classes can contribute to a better education for all of our children.

Mr. President, the tuition tax credits recommended by the Finance Committee are a modest step toward tax equity. They have a wide measure of bipartisan support. It is my hope that we will be able to bring this measure to a vote early in the next session.

Mr. SPECTER. Mr. President, the issue of tuition tax credits has brought more mail and personal contacts from Pennsylvania constituents than any other matter during my tenure in the Senate except for withholding tax on interest on savings accounts.

It has been a particularly controversial issue because of the difficult financial circumstances facing nonpublic schools on the one hand and the concern that tuition tax credits may seriously impact on the public school system on the other hand.

Just yesterday, a woman from my neighborhood in East Falls told me of her financial hardship in sending two children to parochial school because she felt that the neighborhood public school was inadequate. I understood and sympathized with that view because, years ago, I sought to enroll my older son at the neighborhood Mifflin School for the September term and was told he could not be admitted until the following February in the afternoon session. Faced with that prospect, I promptly enrolled him in private school where his brother followed; and my wife and I paid thousands of dollars in tuition over the years in addition to our taxes to support the public school system.

In voting to table Senator DOLE's amendment, I do not do so because there is not much merit to his proposal, but because I do not believe it is wise to add to the Federal deficit, which will approximate $200 billion this year, and the national debt, which now exceeds $1.3 trillion.

These factors of the deficit and national debt have been decisive in many of my key votes this year. I voted against the budget resolution because it contained so much deficit spending. I voted against the MX missile because I concluded it was not worth the substantial expenditures in the face of the deficit. I voted to cap the third year tax cut of the Kemp-Roth legislation to narrow the escalating deficit.

Regrettably, there are many meritorious proposals which cannot be enacted because of the enormous deficit and national debt which we now face. For these reasons, I shall vote to table Senator DOLE's amendment.

The VICE PRESIDENT. All time has expired. Under the previous order, the Senator from Oklahoma (Mr. BOREN) is recognized.

Mr. BOREN. Mr. President, on behalf of myself and Senators CHAFEE, CHILES, HOLLINGS, BENTSEN, and STAFFORD, I move to lay this amendment on the table. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "yea."

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), is necessarily absent.

I further announce that if present and voting, the Senator from California (Mr. CRANSTON), would vote "yea."

The VICE PRESIDENT. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—59

Abdnor	Byrd	Garn
Andrews	Chafee	Glenn
Baker	Chiles	Gorton
Baucus	Cochran	Hart
Bentsen	Cohen	Hatfield
Biden	Dodd	Heflin
Bingaman	Domenici	Hollings
Boren	Eagleton	Inouye
Boschwitz	Evans	Kassebaum
Bumpers	Exon	Kennedy
Burdick	Ford	Lautenberg
Leahy	Nunn	Sasser
Levin	Pell	Simpson
Mathias	Percy	Specter
Matsunaga	Pressler	Stafford
Mattingly	Pryor	Stennis
Melcher	Randolph	Tsongas
Metzenbaum	Riegle	Warner
Mitchell	Rudman	Weicker
Nickles	Sarbanes	

NAYS—38

Armstrong	Hawkins	Murkowski
Bradley	Hecht	Packwood
D'Amato	Helms	Proxmire
Danforth	Huddleston	Quayle
DeConcini	Humphrey	Roth
Denton	Jepsen	Stevens
Dixon	Johnston	Symms
Dole	Kasten	Tower
Durenberger	Laxalt	Trible
East	Long	Wallop
Goldwater	Lugar	Wilson
Grassley	McClure	Zorinsky
Hatch	Moynihan	

NOT VOTING—3

Cranston	Heinz	Thurmond

So the motion to lay on the table Mr. DOLE's amendment, (No. 2617) as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, today I voted against the tuition tax credit amendment. To many of my constituents and colleagues, this may come as a surprise as I have long been an advocate of the concept of tuition tax credits. I still am. I feel it is totally justified and would give a shot in the arm to the educational systems in this country—both public and private. More importantly, I do not feel a tax credit will have an adverse effect on public education. I am a product of the public school system. My children have attended and will continue to attend public schools, so I would certainly not support anything that I thought would be detrimental to public education.

However, even with the strong feelings I have for tuition tax credits, I voted against the amendment for one reason and one reason only—the $200 billion deficit. I could not in good conscience stand in this body day after day talking about the disastrous effect the Federal deficit is having on this country, and then put that concern aside and vote for a proposal like tuition tax credits that will further add to that deficit. I would be a hypocrite. Decisions like these are not easy when you believe so strongly in the concept of something like tuition tax credits.

I want to go on record, however, that when we get our house in fiscal order, I will be one of the first to vote for a tuition tax credit proposal. I have been working toward that end and will continue to do so.

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, I inquire of the Chair, does not the reconciliation bill recur as the pending business?

OMNIBUS RECONCILIATION ACT OF 1983

The VICE PRESIDENT. Under the previous order Senate Joint Resolution 290 is now returned to the calendar, and the Senate will now resume consideration of S. 2062, which the clerk will state.

The bill clerk read as follows:

A bill (S. 2062) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, 98th Congress).

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senate will be in order. Let us have order.

The majority leader is recognized.

Mr. BAKER. Mr. President, is there an order for the Senate to stand in recess for the Kennedy remembrance ceremony in the Rotunda?

The PRESIDING OFFICER. No such order has been entered.

ORDER FOR RECESS FROM 1:50 P.M. UNTIL 3 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that at the hour of 1:50 p.m. the Senate stand in recess so that Senators may attend the Kennedy remembrance service in the Rotunda and remain in recess until the hour of 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum, with the time to be assessed equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3 p.m.

Thereupon, the Senate, at 1:52 p.m., recessed until 3:02 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. QUAYLE).

The PRESIDING OFFICER. The Senate will come to order.

REMEMBRANCE OF JOHN F. KENNEDY

Mr. BAKER. Mr. President, I just came from the rotunda of the Capitol, which, in some ways, is the central focal point of the Nation's public life. I participated in the ceremony of remembrance of John F. Kennedy. I congratulate Speaker O'NEILL and the other sponsors of that occasion. It was an impressive occasion. I was highly privileged to participate in it.

It pleased me for another reason. I am sure there must have been other occasions when something has happened in the rotunda other than a funeral, but I cannot remember many. This was not meant to be a sad affair; it was a happy affair. I congratulate those who conceptualized that event and permitted us to go forward in this way.

OMNIBUS RECONCILIATION ACT OF 1983

Mr. BAKER. Mr. President, we are on the reconciliation bill, I guess. Sometimes, I think it is hard to tell. Is that not the pending business?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, simply for the sake of saying it again, let me reiterate that I hope, expect, and believe that we shall be able to finish our work and adjourn on November 18. That is my objective.

In order to do that, we have to pass the debt limit bill. I am not preaching to the distinguished occupant of the Chair but, rather, to all of those who must surely be listening in their offices: I hope that we may be able to get that bill up yet today. It may be late today, but I hope we can do it today. If we do not do it today, we will do it tomorrow, I expect.

Mr. President, I am told that—I see the distinguished chairman of the Budget Committee is here. I am prepared to yield the floor to him.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand the distinguished majority whip has a statement, but he will not be ready for a few minutes.

I suggest the absence of a quorum. I ask unanimous consent that it be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

AMENDMENT NO. 2619

(Purpose: To improve security for U.S. Marines in Lebanon)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 2619.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BYRD. I object.

The PRESIDING OFFICER. Objection is heard.

The amendment will be stated.

The bill clerk read as follows:

At the appropriate place in the bill, insert the following:

SEC. . The Congress finds that—

The United States has placed military forces in Lebanon, in good faith and in support of an international peacekeeping mission, and has placed serious restrictions on their military activities;

These restrictions impose additional difficulties in providing for the safety and well-being of American troops;

The bombing of the United States Marine compound in Lebanon on October 23, 1983, demonstrated a lack of adequate security for United States troops;

In an effort to improve security, United States marines thoroughly search all vehicles permitted within areas under direct control, while unsearched vehicles move freely less than fifty yards away, in areas under the control of the Lebanese Armed Forces; and

Efforts since the October 23 bombing to obtain increased security in areas controlled by the Lebanese Armed Forces have not resulted in adequate improvement: Therefore, be it

Resolved, That it is the Sense of the Senate that the United States Government should protest to the Government of Lebanon the lack of security on the access road to the Beirut International Airport. Specifically, the United States Government should insist that Lebanon increase security by searching thoroughly all vehicles entering the Beirut International Airport.

Mr. HUMPHREY. Mr. President, the amendment is very straightforward. It is a resolution. It is intended to focus attention on a security problem relative to our marines in Beirut, in my opinion.

A number of steps have been taken in recent weeks to improve security, but at least one important step remains to be taken, in my view, and that is to require in some way the Lebanese forces to inspect any vehicle entering the airport.

At present, as best I can determine—I have made strenuous efforts in that direction—Lebanese forces who man the checkpoint at the entrance to the airport, among other checkpoints, are only sporadically searching vehicles. In some cases they search trucks, in some cases they search interiors, in some cases they search underneath vehicles; but in no case, on a consistent basis, do they search thoroughly each and every vehicle.

The PRESIDING OFFICER. The amendment is not in order, since it has a resolving clause. It would require that it be redrafted and resubmitted or modified.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry. The problem is that it contains the clause "Therefore, be it resolved"?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I wonder if we could have a brief quorum call and perhaps modify the amendment.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I modify my amendment on line 16, changing the phrase "therefore be it resolved that" to "therefore be it declared that".

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

At the appropriate place in the bill, insert the following:

Sec. . The Congress finds that

The United States has placed military forces in Lebanon, in good faith and in support of an international peace-keeping mission, and has placed serious restrictions on their military activities;

These restrictions impose additional difficulties in providing for the safety and well-being of American troops;

The bombing of the United States Marine Compound in Lebanon on October 23, 1983 demonstrated a lack of adequate security for United States troops;

In an effort to improve security, United States Marines thoroughly search all vehicles permitted within areas under their direct control, while unsearched vehicles move freely less than 50 yards away, in areas under the control of the Lebanese Armed Forces; and

Efforts since the October 23 bombing to obtain increased security in areas controlled by the Lebanese Armed Forces have not resulted in adequate improvements.

Therefore be it declared that

It is the Sense of the Senate that the United States Government should protest to the Government of Lebanon the lack of security on the access road to the Beirut International Airport. Specifically, the United States Government should insist that Lebanon increase security by searching thoroughly all vehicles entering the Beirut International Airport.

Mr. HUMPHREY. Mr. President, as I was saying, there remains one important security measure to be taken at the Lebanon airport, and I hope that the Senate adopts this amendment as I urge Members to do, that the administration will take notice of this action and will bring to bear pressure on the Lebanese Government to search Lebanese forces more thoroughly to discharge their responsibilities.

It goes without saying, but I should say it anyway, that if our marines are to expose themselves, their lives and their limbs, to help the Government of Lebanon, the very least the Government of Lebanon can do in those areas for which it is responsible is to provide complete and adequate security.

That is not the case today, as near as I can determine, at the access to the Beirut Airport, and I point out to my colleagues once again that the main entrance road to the airport passes just a few yards from the administrative compound of our unit at the airport.

The amendment speaks for itself, Mr. President, and there is not a great deal more that can be said. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

Because this is a sense of the Senate resolution, it does not have any budgetary impact. It really would be irrelevant because it is only a sense of the Senate resolution and therefore does not have any budget effect.

I personally do not think as a Senator that we should offer this kind of language to a reconciliation bill, but we have before and I assume we will in the future.

I do not see anything wrong with doing it at this time, and if the Senator is disposed to take very little time, I would be disposed to take very little time myself and vote rather quickly if that is his desire.

I have not checked that with the Senator from Florida on the minority side, but I do not have any objection to proceeding rather quickly.

Mr. CHILES. Mr. President, I yield myself such time as I may use.

I concur. It is hard to kind of figure exactly how this fits in the Budget Reconciliation Act. But parliamentarywise I guess it is in order.

I was going to find out if members of the Foreign Relations Committee had looked at this. I think Senator MATHIAS has looked at it. I am trying to find out if Senator PELL has had a chance to look into this.

Mr. HUMPHREY. Mr. President, if the Senator will yield on that point, I point out with respect to his concern a copy of the amendment along with the explanatory letter was sent to each office.

Mr. CHILES. I thank the Senator for that information.

We are just trying to find out because we are not the committee that has jurisdiction on this. We are just a little bit concerned.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum to be charged to the opposition.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. I urge adoption of the amendment.

Mr. DOMENICI. The Senator would not be satisfied with a voice vote with an indication that we support the amendment?

Mr. HUMPHREY. I view this as pretty important. It is really quite essential that we get the State Department off the dime on the issue and bring some pressure to bear on the Lebanese forces to properly protect our marines. I think it is worthy and a rollcall vote requires that to accomplish its purpose. I have offered it as a goad to the State Department and I think we need that vote.

Mr. DOMENICI. I indicated, Mr. President, I was not going to use much time, and I am not, but, as you know, this is totally irrelevant to the budget process and to the budget. There are plenty of Senators around that do not like anything going on that is not relevant. If we are going to have a yea-and-nay vote, I will have to take a little time and clear it with those who handle the Foreign Relations Committee's work. They may want to offer a tabling motion. I want to confer with them.

Mr. President, I suggest the absence of a quorum and it will be charged to this Senator's time.

Mr. GOLDWATER. Will the Senator withhold that request?

Mr. DOMENICI. Yes, I withhold.

Mr. GOLDWATER. In view of the situation that developed around the present amendment, I have an amendment that will not take long, if I can offer it and if this is the proper place to do so.

Mr. DOMENICI. Let me ask the distinguished Senator, does he want a vote on his amendment or would he be satisfied with a discussion of it and then withdrawing it?

Mr. GOLDWATER. I want to offer it. I do not want the yeas and nays. I want mostly to inform my friends that this is a subject which is rather new with me but it is going to become older as I get older. If we do not hear more this year, we will next year. I want to offer it.

Mr. DOMENICI. Would the Senator from New Hampshire object to setting his amendment aside for 10 minutes if we can agree this one would not take longer than 10 minutes?

Mr. GOLDWATER. I do not think it would take longer than that.

Mr. DOMENICI. How about 15 minutes?

Mr. GOLDWATER. That would do it.

Mr. DOMENICI. Would the Senator have any objection to setting his amendment aside temporarily?

Mr. HUMPHREY. I would not object, provided that after the disposition of the Goldwater amendment we return to my amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Humphrey amendment be temporarily laid aside for the purpose of allowing the senior Senator from Arizona to offer an amendment; that the Senator from Arizona be given 10 minutes and the Senator from New Mexico 5 minutes to debate the amendment, after which the amendment will be withdrawn and the Senate will return to the Humphrey amendment in its present position.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2620

(Purpose: To amend the Internal Revenue Code of 1954 to repeal capital gains tax on disposition of investments in United States real property by foreign citizens)

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes and amendment numbered 2620.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, beginning with line 1, strike out all through page 30, line 13, and insert in lieu thereof the following:

Subpart B—Disposition of Investments in United States Real Property by Foreign Citizens

SEC. 116. REPEAL OF CAPITAL GAINS TAX ON DISPOSITION OF INVESTMENTS IN UNITED STATES REAL PROPERTY BY FOREIGN CITIZENS.

(a) IN GENERAL.—Section 897 of the Internal Revenue Code of 1954 (relating to disposition of investment in United States real property) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 861(a) of such Code (relating to gross income from sources within the United States) is amended to read as follows:

"(5) SALE OR EXCHANGE OF REAL PROPERTY.—Gains, profits, and income from the sale or exchange of real property located in the United States.".

(2) Subsection (a) of section 862 of such Code (relating to gross income from sources without the United States) is amended—

(A) by inserting "and" after the semicolon at the end of paragraph (6),

(B) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period, and

(C) by striking out paragraph (8).

(3) Subsection (g) of section 871 of such Code (relating to tax on nonresident alien individuals) is amended by striking out paragraph (8).

(4) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporations connected with United States business) is amended by striking out paragraph (3).

(5) Subsections (c) and (d) of section 1125 of the Foreign Investment in Real Property Tax Act of 1980 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections for suppart C of part II of subchapter N of chapter 1 of such Code is amended by striking the item relating to section 897.

SEC. 117. REPEAL OF SPECIAL REPORTING REQUIREMENTS WITH RESPECT TO UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Section 6039C of the Internal Revenue Code of 1954 (relating to returns with respect to United States real property interests) is repealed.

(b) CONFORMING AMENDMENT.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended—

(1) by striking out subsection (g), and

(2) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 of such Code is amended by striking out the item relating to section 6039C.

SEC. 118. EFFECTIVE DATE.

(a) REPEAL OF TAX.—The amendments made by section 116 shall apply to dispositions in taxable years beginning after December 31, 1983.

(b) REPEAL OF REPORTING REQUIREMENTS.—The amendments made by section 117 shall apply to returns for calendar years beginning after December 31, 1983.

Mr. GOLDWATER. Mr. President, this is an amendment to the reconciliation bill relative to the capital gains tax on certain real estate transactions by foreign investors. The bill as reported would replace the reporting requirements of FIRPTA, the Foreign Investment in Real Property Tax Act of 1980, with a withholding tax, at the discretion of the Secretary of the Treasury. My amendment would also repeal the reporting requirements and it would repeal the capital gains tax on these land transactions as well. My amendment is offered as a substitute to all the committee language starting with line 1 on page 17 through page 30, line 13.

Mr. President, I agree with the Finance Committee and the Budget Committee that the reporting requirements of FIRPTA should be repealed. The Treasury Department has taken 3 years to attempt to write regulations administering the reporting provisions and it has failed. FIRPTA is simply too complex and impractical to administer.

However, it would be wrong to substitute a withholding tax for the reporting requirements. How do you withhold a tax on mortgages? Real estate transactions are usually not made in cash. Very little cash actually changes hands. Mortgages are common and they may be simply assumed. Promissory notes secured by land are also common. How could the Treasury Department withhold 10 percent, for example, from an assumed mortgage?

In the case of interest or dividends, for which we overwhelmingly rejected a withholding tax, the entire amount of the payment constitutes gross income. In real estate sales, only the gain is taxable. The relevant figure is the seller's original basis. The buyer of the land has no easy way of determining this amount. I cannot imagine the seller routinely informing the buyer of the exact size of the seller's gain. The buyer would often feel cheated and want to renegotiate the sales price.

Moreover, the withholding mechanism would place the real burden of enforcing FIRPTA not on foreigners, but on any Americans who bought the land on resale from a foreign investor. The new buyer would act as the withholding agent in the eyes of the Internal Revenue Service.

Mr. President, I would point out that the Senate has tried three times before to put a withholding scheme into FIRPTA and it was defeated on each occasion. A withholding system was part of the Senate-passed version of FIRPTA in 1980, but the House of Representatives deleted it from the final bill. The Senate included a similar withholding scheme in the Economic Recovery Tax Act of 1981, but once again the House conferees objected and the provisions were removed from the final bill. Last year the Senate again put a withholding mechanism in the tax equity and fiscal responsibility bill of 1982, but as before, the House conferees insisted upon its removal.

If the Senate passes a withholding provision again, I am certain it will meet a similar fate in the House. The House understands that withholding would be very difficult and likely impossible to implement.

Mr. President, I am glad the Finance and Budget Committees decided to bring the subject of FIRPTA before us. This gives me the opportunity to ask the Senate to repeal both the reporting requirements and capital gains tax of FIRPTA.

FIRPTA is a bad law. It harms the American economy. It prevents healthy investment in many American communities that need it. It blocks manufacturing facilities that would add jobs for Americans here at home.

Moreover, FIRPTA violates numerous U.S. tax treaties. It discriminates arbitrarily against a small group of foreign investors. While penalizing

land investors, it encourages and favors foreign investments in stock issued by U.S. companies.

What FIRPTA does is to single out foreign investors in American real estate who are not engaged in a U.S. trade or business and who are not permanent residents of, or present in the United States more than 182 days, in the year of sale of the land. However, foreign investors who buy stock in a corporation which owns large amounts of U.S. real estate are exempt from the capital gains tax, unless they own more than 5 percent of the company's stock.

The biggest landowners are giant oil and gas companies and timber and paper companies, which alone control some 211 million acres of U.S. land. This means foreign investors in these companies are not affected by FIRPTA because they cannot possibly acquire more than 5 percent of the stock in such large companies. While FIRPTA brings in very little revenue to the Treasury, it creates great uncertainty as to who is covered and who is not. This uncertainty has the practical effect of preventing investment in U.S. real estate by foreign persons.

Why FIRPTA singles out a few passive investors in land, while it excludes almost all foreign investment in the stock issues of American companies, is unknown to me. Foreign investors hold $80.7 billion worth of the total stock of private American firms. They are exempt from any capital gains tax.

Yet less than $4 billion of American real estate held by foreign owners is not exempted.

Another unfairness of FIRPTA is that it penalizes foreign investors retroactively. It catches investors by surprise with a law that applies to lands acquired before it went into effect.

FIRPTA puts the United States at a disadvantage with other countries which are promoting and encouraging foreign investment. Every country but our own is trying to lure capital to itself, while our Nation is mindlessly trying to chase away investors.

Mr. President, as I have indicated to the chairman, I merely wanted to introduce this amendment at this time with the certainty that it will be brought up again next year. I ask the chairman if he would ask his staff to study this. I have good reason for believing that there is a lot of foreign money that can be invested. I realize that this was directed chiefly at Arab nations wanting to buy land in our West. Now, I find other sources around the world—for example, the great city of Hong Kong, as the chairman knows, is in very dire straits. Money is leaving that community and traveling to other parts of the world.

We in this country need capital. We need it badly. I think it would be very wise for the Senator's committee, at the proper time next year, to consider seriously a hearing on this matter so that we might discuss it and bring some workable solution out of it.

Would the Senator comment on that?

Mr. DOMENICI. Indeed I will, Mr. President.

Let me first say to the Senator that this Senator, as chairman of the Budget Committee, appreciates the way the distinguished Senator from Arizona has handled the matter. Obviously, this matter is within the jurisiction of the Finance Committee which handles tax matters. Normally, the chairman of that committee would be on the floor when we handle things like this, but the distinguished chairman is tied up in important business off the floor. I assure the Senator that we shall call this to his attention. Knowing the great respect he has for the Senator from Arizona and that this is a very important matter, I am certain that this will not be the last we shall hear of the very important proposition he makes.

It is obviously complicated and I appreciate the fact that the Senator does not insist on a vote today. I think that is the way to handle business. In his normal manner, he is telling us to do it in a prudent way, but he does not want us to forget about it.

Mr. GOLDWATER. I will not let the Senate forget about it, because the Senator from New Mexico and I live in Western States owned mostly by the Federal Government. His State and mine have only 12 percent of the land owned by private owners. We need the possibility of bringing in outside people so we can grow.

Mr. President, with that assurance of my good friend from New Mexico, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2620) was withdrawn.

AMENDMENT NO. 2619

The PRESIDING OFFICER. The question recurs on the Humphrey amendment, as modified.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILSON). Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, at the request of a number of my colleagues, I am going to seek to modify the language of the pending amendment. In advance of making the request, I send the modification to the desk. If it is in order, I ask that it be read in full at this point, in advance of making the request to modify the language.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

At the appropriate place in the bill, insert the following:

SEC. . The Congress finds that—

The United States has placed military forces in Lebanon, in good faith and in support of an international peace-keeping mission, and has placed serious restrictions on their military activities;

These restrictions impose additional difficulties in providing for the safety and well-being of American troops;

In an effort to improve security, U.S. Marines thoroughly search all vehicles permitted within areas under their direct control, while some unsearched vehicles move freely less than 50 yards away, in areas under the control of the Lebanese Armed Forces;

Therefore be it declared that:

It is the Sense of the Senate that the United States Government should work co-operatively with the Government of Lebanon to improve security on the access road to the Beirut International Airport. Specifically, the United States Government should take co-operative measures with Lebanon to increase security by searching thoroughly all vehicles entering the Beirut International Airport.

Mr. HUMPHREY. Mr. President, as I stated, the purpose of modifying the language of the amendment is to address the concerns of a number of my colleagues. Therefore, I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, will the Senator restate the request?

Mr. HUMPHREY. I am seeking to modify the language of my amendment so that it corresponds to the language of which the Senator has a copy.

Mr. DOMENICI. Which was just read?

Mr. HUMPHREY. Yes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, unless someone else wishes to address the issue, I move the question.

The PRESIDING OFFICER. Is there further debate?

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield time to the distinguished Senator.

How much time does the Senator need?

Mr. BOSCHWITZ. Two or three minutes.

Mr. DOMENICI. I yield 5 minutes.

Mr. BOSCHWITZ. Mr. President, I am very much in sympathy with the

amendment that has been presented by the senior Senator from New Hampshire.

I point out that, indeed, serious restrictions have been placed on the military activities of our marines in Lebanon. But it is also important to note that the French and the Italians, both of whom are there in greater numbers than we, as well as the British with their smaller numbers, have far greater restrictions on their activities. There are at least restrictions from the standpoint of their exposure. They are far more exposed than our people. It is important that they as well as we remain, so that the Government of Lebanon can get its activities together for the purpose of imposing controls once again over its territory.

I know, as does the Senator from New Hampshire, that a great tragedy occurred there. Perhaps it is not inappropriate at this time to assess the blame. Great tragedies have been imposed upon the Lebanese people for years, and we hope that will soon be coming to an end. But while the serious restrictions spoken of have been placed on the military activities of our own people, they are far more secure and they are in better positions than some of our allies in the multinational force, who have also come in the hope of bringing a peaceful solution to the affairs of Lebanon.

I thank the Senator from New Hampshire for yielding.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I am prepared to yield back the remainder of my time, but the distinguished Senator from Texas wants a few minutes.

Is the Senator from New Hampshire prepared to yield back his time?

Mr. HUMPHREY. I am prepared to yield back the remainder of my time if all time is to be yielded back at this point.

Mr. DOMENICI. I think the distinguished Senator from Texas wants to be heard, so I yield 5 minutes to him.

Mr. TOWER. Three minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, may I say at the outset that I appreciate very much what my distinguished colleague from New Hampshire is trying to do here. The Senator from New Hampshire is one of the most valued members of the Armed Services Committee. He has been to Lebanon. He was there at the time when the unfortunate bombing occurred, and I think he feels very strongly about doing everything we can to prevent a recurrence of this type of thing. In that objective, I agree with him.

However, I do have grave reservations about trying to legislate on this matter, even though it is not statutorily binding. It is simply a sense of the Senate on a matter of some detail regarding some security arrangements with which most Members of the Senate are not familiar, with which there is not perhaps an adequate record of hearings and information that needs to be available to Senators.

I hope we can avoid doing this kind of thing. I think it gets us too much into the detailed business of the micromanagement of the implementation of foreign policy or national security policy.

I hope that the Senator from New Hampshire will not persist in this. It is not germane to the matter at hand.

Again, I have some concerns about offering issues of this sort in the form of amendments to a reconciliation bill.

It is my understanding that a point of order could lie against this proposition. But I think that, aside from that, in principle it is not a good idea to try to legislate on matters of this kind on short notice, on the Senate floor, without anything that has gone before in the way of hearings of building up a record or some general information on the part of the Senate.

The way the amendment has been reworded and rephrased, I think it removes some of the more objectionable provisions—not objectionable from the standpoint that the recommendations contained therein are not good, but objectionable to the extent that it gets us into the business of the micromanagement of maintaining security for troops in foreign areas.

I would not like to set a precedent here of the Senate trying to dictate what measures field commanders should take, for example. I think it would be a terrible mistake.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator is yielded 2 additional minutes by the Senator from New Mexico.

Mr. TOWER. Although the language as now drawn I think gets us out of the business of dictating specifics, it still is not good precedent, not a good idea, not germane, and I would hope that my distinguished friend from New Hampshire having made his point, and I think he has made it very well, and I think I would agree with him on the majority of the things he has said, would not press consideration of the amendment.

Mr. DOMENICI. Mr. President, I yield such time as the Senator from Maryland desires.

Mr. MATHIAS. Mr. President, I think the Senator from Texas, the chairman of the Armed Services Committee, stated the case very precisely, and I agree wth the position he has taken.

I do believe, as he has said, that the revised version of this amendment is a great improvement over the original version and perhaps in the best of all worlds, in a totally neutral atmosphere, it would be the thing to do.

But we do not exist in a vacuum here. We exist in a world in which a lot of other things are happening, and I believe that the chairman of the Armed Services Committee would agree that there is an ongoing investigation, there are efforts of negotiations with the Lebanese Government on this very subject at the moment, and for us to interject a declaration by the Senate could have unpredictable results.

So as much as I understand and sympathize with the motivations of the author of the amendment and as much as I agree with many of the points he has made and which he has stated ably, I would question whether this was the right time or the right manner in which to make this particular Senate declaration.

Mr. DOMENICI. Mr. President, I intend to yield back the remainder of my time on this amendment. I only wish to say to my friend, the chairman of the Armed Services Committee, the distinguished Senator from Texas, that if he desires to make a motion to table, which I understand he may do, I will support it on the basis that both he and Senator MATHIAS, speaking for the Foreign Relations Committee, think this is not the appropriate way to handle the matter in particular on this kind of bill.

I say to my friend from New Hampshire that I tend to agree with the language he has there, but I am going to the tabling motion and hope that if the Senator from Texas prevails, Senators will not use the reconciliation bill for sense-of-the-Senate resolutions that affect foreign relations and other matters, and I would say that after this one the Senator from New Mexico will more closely scrutinize these amendments for their germaneness under the Budget Act. Perhaps rather than being generous, I will ask for an interpretation from the Chair and maybe we will not have to vote on them other than after the Chair rules.

With that I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 52 minutes remaining.

Mr. HUMPHREY. I certainly do not intend to take very long.

The difficulty in finding a legitimate or more logical vehicle is obvious to everyone. The Senate is probably going to go out this week. There just are not any.

This is an important matter. Three weeks have elapsed since the tragic explosion in Beirut. It is my understanding that we have been trying to persuade the Lebanese forces who man the checkpoint at the entrance to the

airport to check every vehicle entering the airport and so far those efforts have not been successful. That means that some unsearched vehicles are passing literally within feet of U.S. marines at that airport.

I think it is time we focused public attention on this matter. It is time we put a little pressure on the Government to do something about this glaring lack of security at the entrance to the airport.

The language has been modified to accommodate the wishes of a number of colleagues who expressed concern about the original language. I think it is a good amendment. I urge my colleagues to support it.

Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, may I ask the distinguished manager of the bill to yield me 2 minutes so I may make a series of announcements?

Mr. DOMENICI. I am pleased to yield to the distinguished majority leader off the bill.

Mr. BAKER. Mr. President, I see the Senator from Texas on his feet. I will not take but only a moment.

I anticipate there will be a vote on this amendment. Is that correct?

Mr. HUMPHREY. Yes.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, let me say that there will be another vote on another matter, I believe, shortly after this and may I also say, as I have now advised the minority leader, I expect that we will stay late tonight and take up a number of things including the debt limit. We may be in well certainly past the dinner hour and possibly later than that.

So I wish to let Senators know that we still have a busy day ahead of us and we may in fact go to the debt limit bill tonight.

If the Senator will permit me to do so, I wish to admit a messenger from the House of Representatives who is at the door now, and I yield for that purpose.

MESSAGE FROM THE HOUSE

At 5:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 7, 13, 15, 16, 18, 20, 30, 31, 37, 42, 44, 48, 49, 52, and 54, and agrees thereto, and it recedes from its disagreement to the amendments of the Senate numbered 6, 11, 12, 19, 23, 27, 36, 39, 45, 55, 60, 61, 62, 65, and 67, and agrees thereto, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate numbered 102 to the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2838. An act to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes; and

H.R. 3903. An act to authorize the Secretary of Agriculture to develop and implement a coordinated agriculture conservation program in the Colorado River Basin.

Mr. BAKER. Mr. President, this is the supplemental appropriations conference report, and I will perhaps have more to say about that a little later, but it is possible we will try to do that tonight, if not tomorrow.

Mr. President, I thank the Senator from New Mexico for yielding and I yield the floor.

OMNIBUS RECONCILIATION ACT OF 1983

AMENDMENT NO. 2619, AS MODIFIED

Mr. DOMENICI. Mr. President, I yield 1 minute to the Senator from Texas off the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, what I am about to do I do reluctantly because I agree with the substance of what the distinguished Senator from New Hampshire is trying to do, but I also know the danger of trying to legislate foreign policy and national security issues on floor amendments to bills to which the amendments are nongermane.

We could if this succeeds get some amendment offered that in my view would be inimical to the security of our troops or to national security policy. We could get a war powers amendment, a nuclear freeze amendment, anything else like this.

I just think it is a bad way to legislate and certainly on delicate issues of national security and foreign policy.

Therefore, Mr. President, I move to table the amendment of the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from New Hampshire.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), and the Senator from Nebraska (Mr. EXON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 25, nays 71, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—25

Andrews	Goldwater	Stafford
Baker	Gorton	Stennis
Chafee	Hecht	Stevens
Chiles	Jepsen	Thurmond
Cochran	Johnston	Tower
Danforth	Lugar	Wallop
Domenici	Mathias	Wilson
Durenberger	Proxmire	
Evans	Quayle	

NAYS—71

Abdnor	Hart	Mitchell
Armstrong	Hatch	Moynihan
Baucus	Hatfield	Murkowski
Bentsen	Hawkins	Nickles
Biden	Heflin	Nunn
Bingaman	Heinz	Packwood
Boren	Helms	Pell
Boschwitz	Hollings	Pressler
Bradley	Huddleston	Pryor
Bumpers	Humphrey	Randolph
Burdick	Inouye	Riegle
Byrd	Kassebaum	Roth
Cohen	Kasten	Rudman
D'Amato	Kennedy	Sarbanes
DeConcini	Lautenberg	Sasser
Denton	Laxalt	Simpson
Dixon	Leahy	Specter
Dole	Levin	Symms
Eagleton	Long	Trible
East	Matsunaga	Tsongas
Ford	Mattingly	Warner
Garn	McClure	Weicker
Glenn	Melcher	Zorinsky
Grassley	Metzenbaum	

NOT VOTING—4

Cranston	Exon
Dodd	Percy

So the motion to lay on the table amendment No. 2619, as further modified, was rejected.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I believe the amendment can be accepted by voice vote.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2619), as modified, was agreed to.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

SENATE SCHEDULE

Mr. BYRD. Mr. President, I merely seek recognition to ask the majority leader what is in store for us today, tomorrow, and Friday and Saturday.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I thank the Chair. I thank the minority leader for his inquiry.

First, I would like to say I have discussed this with the minority leader prior to this and privately advised him that I think the Senate ought to stay late tonight. We are close enough to our target for adjournment that I think it will profit us to do as much as we can. It is my view that the things we can and ought to do tonight are these:

First, I think we ought to try to do the debt limit bill tonight. I think that, prior to doing the debt limit bill, the leadership on this side may ask the Senate to turn once more to another measure which is familiar to us from prior usage. That is the Olympics bill which is back on the calendar, to which I anticipate there may be an amendment offered by Senators ARMSTONG and LONG dealing with rescission.

After that is disposed of, and we are certain to get a unanimous-consent request to limit time on that debate and limit debate to that amendment only, it will be the intention of the leadership on this side to ask the Senate then to turn to consideration of a motion to proceed to the consideration of the motion to reconsider. Senators will remember that I entered a motion to reconsider after the vote was taken by which the debt limit failed. To get back to that, I have, either by unanimous consent or by motion, to go to the motion to reconsider. There may be two votes involved in getting to the motion to reconsider. Then, of course, we shall have to vote on the amendment itself.

In addition to that, I would also like to go to the supplemental conference report tonight. May I say to Senators in all candor, they should look at that because I anticipate that the managers on both sides will not only deal with that conference report but, on at least one of the amendments in disagreement, there may be an effort to add the compromise that has been worked out on IMF and housing. There may be other matters as well.

I urge Senators to consider that that may be attempted and I hope will be successful because we have to pass IMF, in my opinion, in order to avoid dire consequences. It looks like housing has to go with it in order to make the package fly.

These are the items I would like to do tonight, Mr. President. It will require us to set aside the reconciliation bill, which I hope the Senate will agree to do. That will not mean we are abandoning reconciliation. Indeed, I plan to go back to that tomorrow.

In addition to reconciliation tomorrow, we also have natural gas tomorrow. I urge my friends on both sides of that issue to try harder to work out the differences or at least to minimize the differences or to report to the leadership that they cannot. We shall be back on natural gas. We have not abandoned that, either.

Mr. President, there are a number of conference reports that have not yet been dealt with. Chief among them are the Department of Defense appropriations conference report which is not yet here and not available but which the leadership on this side will ask the Senate to turn to before we go out; the revenue sharing conference report which is not yet available but may soon be available; and others I am not sure I can recall to mention.

That is the schedule as I see it now. I do expect us to be in late tonight. I apologize for that. That is a decision which has been held in abeyance until we saw whether it would be useful. The leadership on this side is convinced it is useful to be in tonight and proceed on this agenda.

At some point, I shall ask the Senate to lay aside the reconciliation bill to turn to the Olympics bill, to which I expect an amendment; after that to turn to the reconciliation measure; and after that, to the supplemental appropriations conference report.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. BYRD. Mr. President, we have had these situations when I was majority leader. I suggest to the distinguished majority leader that the day may tell the tale as far as keeping things on track. There comes those times when the critical moments come earlier than one may perceive. With the things he has outlined, it seems to me optimistic that he hopes to get out on Friday. I need not say that I share the hope.

Mr. BAKER. I thank the minority leader. He accurately characterizes it. We cannot wait until tomorrow to clear these things. We have to get them done. I left off the Clark nomination which may come up before we leave. If we are going to have anything like a chance to finish on Friday, we are going to have to stay in late tonight. I urge Senators to be patient with the leadership on this side and even understanding and stay late and work to get these things out of the way.

Mr. STENNIS. Mr. President, that added point, the Senator said he overlooked something. I did not understand it.

Mr. BAKER. That is the Clark nomination which I shall not take up tonight. I do anticipate going to it tomorrow or by the latest on Friday.

Mr. JOHNSTON. Will the distinguished Senator yield? By later, are we possibly talking about past midnight?

Mr. BAKER. I would hope not. I would hope that we can do it by 10 or 11 o'clock tonight.

I yield to the Senator from Maryland.

Mr. SARBANES. What are the other matters that the majority leader has in mind that there might be an effort to attach to the supplemental appropriation other than housing and IMF?

Mr. BAKER. Mr. President, I do not have the list before me. There are four items: housing, IMF, EXIM, and IDA.

Mr. LEVIN. Will the Senator add social security disability on behalf of Senator COHEN and myself to that list as well, please.

Mr. BAKER. I would not be surprised if it is.

Mr. President, I thank the minority leader for his query, and I will look forward to good progress during the course of the evening.

Mr. BYRD. I thank the majority leader.

IMPROVING THE HIGHWAY TRANSPORTATION SYSTEM IN VIRGINIA

Mr. McCLURE. Mr. President, this matter has been cleared on both sides of the aisle. I ask unanimous consent that we may temporarily lay aside the pending matter and proceed to the consideration of Calendar Order No. 575, Senate Joint Resolution 199, for not to exceed 5 minutes.

The PRESIDING OFFICER (Mr. QUAYLE). Is there objection?

Mr. BYRD. Reserving the right to object——

The PRESIDING OFFICER. The minority leader reserves the right to object.

Before we proceed, the Senate is going to come to order. There is a unanimous-consent request pending,

and the Chair cannot hear. The Senate will come to order.

The Chair is not going to proceed until this conversation ceases. There is a unanimous-consent request pending by the Senator from Idaho. Is there an objection?

Mr. McCLURE. Mr. President, I want to add to this: And that there be only one amendment to be offered by the Senator from Virginia (Mr. WARNER).

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object—may I compliment the Chair on the way he uses the gavel? That is the way it is supposed to be used—what is the request?

Mr. McCLURE. To move to Calendar No. 575 Senate Joint Resolution 199, which I understand has been cleared on both sides.

Mr. BYRD. I remove my reservation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A bill (S.J. Res. 199) relating to improving the highway transportation system of the Commonwealth of Virginia.

The Senate proceeded to consider the joint resolution.

Mr. WARNER. Mr. President, today I am calling up a joint resolution designed to improve the highway transportation system of the Commonwealth of Virginia. Both of these provisions are contained in H.R. 3103, the Surface Transportation Technical Corrections Act, which is currently in conference. I feel it is necessary to introduce them as a new resolution because of the current stalemate between the House and Senate with respect to H.R. 3103. The citizens of Virginia should not be made to suffer the effects of not passing these provisions because of the inability of Congress to agree on other very expensive provisions of H.R. 3103 on the House side that do not affect Virginia, particularly in light of the fact that neither of these provisions have any effect on the U.S. Treasury. They are necessary because Federal restraints are preventing the Commonwealth from working its will.

The Virginia General Assembly, in its 1983 session, enacted legislation for two reasons, which provided that tolls be kept on the Richmond-Petersburg Turnpike. The tolls need to be retained unitl I-295, between I-64 east of the city of Richmond and I-95 south of Petersburg, is completed in order to facilitate smooth traffic management.

The second reason, and the major reason, for extending the tolls is so that the tolls collected in the interim can be directed to the construction of five critically needed road projects in the Richmond-Petersburg area which could not be financed from normal Federal or State revenue within the next 15 years.

In order to implement the provisions of the State's legislation, it is necessary that the Commonwealth be relieved of certain provisions of an agreement with the Federal Highway Administration in 1971. The FHWA has determined that the agreement cannot be amended administratively, but that such an amendment must be approved by Congress. Virginia House Members and I have just been informed, further, by the Virginia Secretary of Transportation, that every day the Federal Government does not act on this toll bill, that Virginia's road projects get delayed—which costs Virginians money. This has put a critical light to this legislation. As such, the Virginia House delegation was successful in having such a provision included in the House version of H.R. 3103. However, given the precarious nature of that legislation, I found it necessary to introduce this resolution.

Another provision concerns a subject that was debated on the Senate floor when the Senate considered H.R. 3103.

I was very pleased when the Senate, in its wisdom, agreed with my amendment to reduce the high occupancy vehicle restrictions on I-66 from four to three and adopted it as a part of H.R. 3103. Similar action was taken in the House and this provision is included in both versions of H.R. 3103.

I will not go into the several compelling arguments in favor of this legislation because I have already filled the RECORD with material. This provision is exactly the same as my amendment to H.R. 3103, except that some language has been added to clarify the original intent of the provision with respect to the Lynn Street and George Washington Parkway ramps.

Vehicles entering I-66 from these arteries have not been subject to HOV restrictions and while report language on H.R. 3103 makes the point clear, it was never intended that these ramps become subject to them as a result of this legislation.

Both of these provisions are timely and overdue. They have no costs to the taxpayers associated with them and they are not, to my knowledge, objectionable to any Member of Congress.

The bill language relating to the Richmond-Petersburg Turnpike has the support, in addition to myself and Mr. TRIBLE, of the Governor of Virginia, Mr. Robb, the president pro tem of the Virginia Senate, Mr. Willey, and Congressmen BLILEY and SISISKY of Virginia. The bill language relating to I-66 has the support of Congressmen WOLF and PARRIS.

It is my hope that the joint resolution can be passed as soon as possible.

Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO 2622

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 2622.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, insert the following new section:

SEC. 3. Upon repayment by the State of Ohio or the Ohio Turnpike Commission to the Treasurer of the United States of an amount equal to the total amount of Federal-aid highways funds received for construction of interchanges or connections with the Ohio Turnpike pursuant to an agreement entered into under section 129(d) of title 23, United States Code, the State of Ohio and the Ohio Turnpike Commission shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Ohio Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder. Nothing in this section shall be construed to affect any apportionment of funds under section 104(b)(5)(B) of title 23, United States Code.

The amount repaid under subsection (a) shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)." Such amount shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Ohio. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

Mr. WARNER. Mr. President, I send an amendment to the desk at the request of the Governor of Ohio. It is a matter that relates to toll roads. I ask unanimous consent that a letter from Governor Celeste of Ohio to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 16, 1983.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: I am writing in support of your bill to relieve the State of Ohio from the Tripartite Agreement. As you know, under this 20-year-old agreement the state would be obligated to remove tolls next December 1984.

The State of Ohio and the Ohio Turnpike Commission have identified several important projects that need to be completed in order to bring the turnpike up to interstate standards. For this reason we need to have the flexibility to continue tolls for a specified period of time in order to complete these projects.

The state needs to have the legislative relief from this agreement in order to make the necessary decisions about the future of the Ohio Turnpike. Congressmen DELBERT LATTA and DOUG APPLEGATE have supported our efforts in the House. Your assistance and support is greatly appreciated.

Sincerely,

RICHARD CELESTE,
Governor of Ohio.

Mr. WARNER. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 2622) was agreed to.

The joint resolution (S.J. Res. 199) was ordered to be engrossed for a third reading, was read the third time, and passed.

The joint resolution reads as follows:

COMMONWEALTH OF VIRGINIA

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That upon repayment by the Commonwealth of Virginia to the Treasurer of the United States of an amount equal to all Federal-aid highway funds heretofore paid on account of the immediate connectors and approaches to the Richmond-Petersburg Turnpike, said turnpike shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on or for the use thereof which are contained in title 23, United States Code, or section 1 of the Federal Highway Act, or any regulation or agreement thereunder. The amount to be repaid shall be deposited to the credit of the appropriations for the "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogramed balance of the Federal-aid interstate funds last apportioned to the Commonwealth of Virginia. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

SEC. 2. Notwithstanding any other provisions of law and the Secretary of Transportation's decision on Interstate Highway 66, Fairfax and Arlington Counties, Virginia, dated January 5, 1977, the Secretary of Transportation, in cooperation with the Commonwealth of Virginia, shall carry out a demonstration project on Interstate Highway 66 in Fairfax and Arlington Counties, Virginia, for a period not less than twelve months, commencing within sixty days of the enactment of this section. The Commonwealth of Virginia shall restrict the use of such highway between I-495 and the District of Columbia to high occupancy vehicles carrying three or more passengers during the hours of 7 antemeridiem to 9 antemeridiem on Monday through Friday, exclusive of holidays, on eastbound lanes and during the hours of 4 post meridiem to 6 post meridiem on Monday through Friday, exclusive of holidays, on westbound lanes during the demonstration period. High occupancy vehicle requirements shall not apply to vehicles entering I-66 or the Theodore Roosevelt Bridge from Lynn Street or the George Washington Parkway in Arlington County, Virginia. During the demonstration period, the Secretary of Transportation, in cooperation with the Commonwealth of Virginia, shall carry out an environmental assessment of the effects of the high occupancy vehicle restrictions, and shall, upon completion of such assessment, report to the Congress the results of the assessment and the demonstration project.

SEC. 3. (a) Upon repayment by the State of Ohio or the Ohio Turnpike Commission to the Treasurer of the United States of an amount equal to the total amount of Federal-aid highways funds received for construction of interchanges or connections with the Ohio Turnpike pursuant to an agreement entered into under section 129(d) of title 23, United States Code, the State of Ohio and the Ohio Turnpike Commission shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Ohio Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder. Nothing in this section shall be construed to affect any apportionment of funds under section 104(b)(5)(B) of title 23, United States Code.

(b) The amount repaid under subsection (a) shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such amount shall be credited to the unprogramed balance of the Federal-aid highway funds of the same class last apportioned to the State of Ohio. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RICHARD B. RUSSELL DAM AND LAKE PROJECT

Mr. McCLURE. Mr. President, I ask that the Chair lay before the Senate S. 912, Calendar Order No. 558.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 912) to modify the authority for the Richard B. Russell Dam and Lake Project, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment, as follows:

On page 2, after line 3, insert the following:

SEC. 2. (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

So as to make the bill read:

S. 912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Richard B. Russell Dam and Lake project, authorized by the Flood Control Act of 1966 (80 Stat. 1420), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such power to the city of Abbeville, South Carolina, as the Secretary determines to be necessary to mitigate the reduction in hydroelectric power produced at the city-owned hydroelectric plant at Lake Secession caused by the construction and operation of the project. Such power shall be provided to the city for a period not to exceed the remaining service life of the city-owned hydroelectric plant as part of the operational requirements and costs of the project under such terms and conditions as the Secretary, in consultation with the Secretary of Energy, determines to be appropriate. The Secretary of Energy is authorized to provide assistance in the delivery of such power.

SEC. 2. (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Mr. McCLURE. Mr. President, I move the adoption of the committee amendment.

The motion was agreed to.

Mr. THURMOND. Mr. President, I am extremely pleased that the Senate is now prepared to consider S. 912, a bill which would modify the authority for the Richard B. Russell Dam and Lake project, a Corps of Engineers hydroelectric facility now nearing completion.

Mr. President, the purpose of this bill is to provide in-kind compensation to the city of Abbeville for the decrease in electrical output which will be experienced by the municipally owned hydroelectric facility at Lake Secession, as a direct result of the corps' Russell project. The Committee on Environment and Public Works does not intend that this measure authorize any additional budget authority for fiscal year 1984 than that already available to the Corps of Engineers. The committee intends that any fiscal year 1984 costs incurred from this bill will be absorbed from existing funds.

The municipal plant currently produces about 31 percent of the electrical power requirements in the Abbeville area. However, when the water level in the Russell Reservoir reaches maximum operating elevation, the generating capability of the city-

owned plant will be reduced by approximately 15 percent. This measure simply seeks to compensate the city for the power loss occasioned by the Government project.

I am pleased that this measure has the support of the Reagan administration, including the Secretary of the Army and the Department of Defense, who have submitted it to Congress and requested its prompt enactment.

Mr. President, I wish to express my deep appreciation to the distinguished chairman of the Committee on Environment and Public Works, Senator STAFFORD, for introducing this bill with me and working for its passage. I also wish to thank the very able chairman of the Subcommittee on Water Resources, Senator ABDNOR, and the other distinguished members of the Committee. I also express appreciation to the majority leader for bringing this important measure to the floor so promptly.

Mr. President, I commend this measure to my colleagues in the Senate, and urge its passage.

Mr. HOLLINGS. Mr. President, let me rise to join with my senior colleague, Mr. THURMOND, in supporting the modification of authority for the Richard B. Russell Dam and Lake project contained in S. 912. We are fortunate to have the assistance of the able chairman of the Committee on Environment and Public Works, Mr. STAFFORD, in obtaining this much needed modification. Mr. President, I commend them both.

The modification contained in S. 912 is very straightforward. The Richard B. Russell Dam and Lake project is now nearing completion. When it reaches operational level, the city of Abbeville's municipally owned hydroelectric facility at Lake Succession will experience a decrease in electrical output. What we seek to do with the modification proposed in S. 912, Mr. President, is to make the city of Abbeville whole by providing for an in-kind compensation. At this time the municipal hydroelectric plant currently produces about 31 percent of the power requirements in the Abbeville area. The generating capacity of the plant will be reduced by approximately 15 percent when the Russell project comes on line. S. 912 will simply compensate the city for the power loss caused by the Russell project.

As the committee has stated, this measure is not intended to authorize any additional budget authority for fiscal year 1984 than that already available to the Corps of Engineers. Existing funds must absorb any fiscal year 1984 costs incurred from this bill.

My senior colleague, Mr. THURMOND, has already indicated the support of the adminstration, for S. 912. I join with him in seeking prompt enactment.

Let me extend to my colleageus my thanks for their assistance and support for this bill. I urge that they join with Senator THURMOND and myself in passing this legislation.

Mr. McCLURE. Mr. President, I move the adoption of the bill, as amended.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS RECONCILIATION ACT OF 1983

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2621

(Purpose: To express the sense of the Senate that a National Commission on Entitlement Reform be established)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY), for himself, Mr. DENTON, and Mr. NICKLES proposes an amendment numbered 2621.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add a new section as follows:

SEC. . (a) The Senate finds that:

(1) Federal spending currently exceeds three-fourths of a trillion dollars and, according to the Congressional Budget Office, will surpass the trillion dollar a year level before the end of this decade;

(2) An ever-growing share of the federal budget is uncontrollable;

(3) The increasing loss of control is due primarily to the tremendous growth of entitlement programs—so called because their recipients are legally "entitled" to benefits;

(4) The share of the federal budget taken up by entitlements has grown from 36.1 percent in 1967, to a high of 59.1 percent in 1980, with entitlements comprising over 50 percent of the fiscal year 1984 budget;

(5) One example of the tremendous growth in entitlements is Medicare which, when enacted in 1965, cost less than $1 billion, and in 1984 will cost the federal government approximately $86 billion on the Medicare/Medicaid system;

(6) The continual increase in federal spending results in large budget deficits;

(7) These large deficits cause a rise in interests rates and inflation and can choke off the current economic recovery;

(8) The Congress must regain control of the "uncontrollable" items in the federal budget, specifically entitlement programs, if it is to control federal spending.

(b) It is the sense of the Senate, therefore, that a National Commission on Entitlement Reform, similar to the National Commission on Social Security Reform, be established to study the growth in entitlement programs and report to the Congress after January 1, 1985, on those steps Congress might consider for the purpose of reforming federal spending for entitlement programs and curbing their growth in an effort to regain control of the so-called "uncontrollable" elements of the federal budget.

AMENDMENT NO. 2621, AS MODIFIED

Mr. MATTINGLY. Mr. President, I send a modification of my amendment to the desk and ask that it be so modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, add a new section as follows:

SEC. . (a) The Senate finds that:

(1) Federal spending currently exceeds three-fourths of a trillion dollars and, according to the Congressional Budget Office, will surpass the trillion dollar a year level before the end of this decade;

(2) An ever-growing share of the federal budget is uncontrollable;

(3) The increasing loss of control is due primarily to the tremendous growth of entitlement programs—so called because their recipients are legally "entitled" to benefits;

(4) The share of the federal budget taken up by entitlements has grown from 36.1 percent in 1967, to a high of 59.1 percent in 1980, with entitlements comprising over 50 percent of the fiscal year 1984 budget;

(5) One example of the tremendous growth in entitlements is Medicare which, when enacted in 1965, cost less than $1 billion, and in 1984 will cost the federal government approximately $86 billion on the Medicare/Medicaid system;

(6) The continual increase in federal spending results in large budget deficits;

(7) These large deficits cause a rise in interest rates and inflation and can choke off the current economic recovery;

(8) The Congress must regain control of the "uncontrollable" items in the federal budget, specifically entitlement programs, if it is to control federal spending.

(b) It is the sense of the Senate, therefore, (1) that a National Commission on Entitlement Reform, similar to the National Commission on Social Security Reform, be established to study the growth in entitlement programs and report to the Congress after January 1, 1985, on those steps Congress might consider for the purpose of reforming federal spending for entitlement programs and curbing their growth in an effort to regain control of the so-called "uncontrollable" elements of the federal budget.

(2) such commission should—

(A) be composed of distinguished leaders from the executive and legislative branches of Government, business, labor, and education;

(B) consult with other private and public sector experts for recommendations about reforms that would best address existing problems.

Mr. MATTINGLY. Mr. President, very simply, this amendment expresses that it is the sense of the Senate that a National Commission on Entitlement Reform, similar to the National Commission on Social Security Reform, be established to study the growth in entitlement programs and report to the Congress on those steps Congress might consider for the purpose of reforming Federal spending for entitlement programs and curbing their growth in an effort to regain control of the so-called uncontrollable element of the Federal budget.

Federal spending currently exceeds three-fourths of a trillion dollars and, according to the Congressional Budget Office, will surpass the trillion-dollar-a-year level before the end of this decade.

Equally as frightening is the fact that an ever-growing share of the Federal budget is uncontrollable. The increasing loss of control is due primarily to the tremendous growth of entitlement programs—so-called because their recipients are legally entitled to the benefits. The share of the Federal budget taken up by entitlements has grown from 36.1 percent in 1967, to a high of 59.1 percent in 1980, with entitlements continuing to comprise over 50 percent of the fiscal year 1984 budget. In other words, from less than one-third of Federal spending in 1970, entitlements have grown in the 1980's to over one-half of Federal outlays.

Three reasons are usually cited for the Federal budget's ever-growing share of entitlements.

First, the biggest reason for the expansion of entitlement spending is simply that Congress has decided over the years that more people should get more benefits from entitlement programs. For example, in 1965, the year medicare was created, Federal expenses for medical care came to less than $1 billion. In 1984, the Federal Government will spend about $86 billion on the medicare/medicaid system.

Second, and even larger share of the increases in entitlement spending can be attributed to Congress effort to keep the long-established entitlement benefits even with inflation so the recipients will not suffer a loss of purchasing power from rising prices resulting from inflation. The most common way Congress has done this has been through the use of indexing. According to a study by the General Accounting Office, indexing accounted for about one-half of the increase in the cost of entitlement systems between 1970 and 1980. In 1982, 42 percent of Federal outlays were automatically indexed to inflation, and another 12 percent were indirectly indexed because the Federal Government paid a share of the cost when prices rose. Currently there are approximately 85 Federal programs indexed to the Consumer Price Index, a flawed barometer which, over the years, has consistently overestimated the rate of inflation.

Finally, another reason for the growth in entitlements has been the pressure on controllable spending caused by the overall efforts to get a handle on the budget. Some authorizing committees, unable to win full funding of their programs from the Appropriations Committee, have turned to entitlements as a way to be sure of getting what they want. As we all know, an authorizing committee that reports an entitlement bill becomes, in effect, its own appropriations committee as well.

Mr. President, the foregoing is known to all, albeit that spending for entitlement programs is increasing every year, both in size and in share of the total Federal budget. The question that arises is how can Congress regain control of the uncontrollables in the Federal budget?

Congress track record in dealing with sensitive political issues is less than impressive. In the administration's fiscal year 1982 budget recommendations, changes were proposed in the social security program to prevent insolvency. However, instead of addressing the solvency issue, Members of Congress made reform in the social security program a political issue and thereby postponed the day of reckoning until a future date. It was not until a bipartisan commission to reform the social security program was established to address the issue that Congress laid aside the politics of the issue and responsibly considered reforms which were necessary to prevent bankruptcy of the system.

A similar crisis exists with Congress ever-growing loss of control of the entitlement programs. While every Member of Congress knows that the day of accounting for this problem is quickly approaching, Members prefer to play politics with the issue rather than responsibly addressing and resolving it.

While postponing responsible, corrective action on social security threatened the solvency of that program, continued failure on the part of Congress to address the issue of regaining control of entitlement programs threatens the solvency of the country.

Again, my amendment expresses the sense of the Senate that a National Commission on Entitlement Reform, similar to the National Commission on Social Security Reform, be established to study the growth of entitlement programs and report to the Congress on those steps Congress might consider for the purpose of reforming Federal spending for entitlement programs and curbing their growth in an effort to regain control of the so-called uncontrollable elements of the Federal budget. In my opinion, this is a responsible response to a potential national crisis.

Mr. President, the Senator from Illinois and I have talked about instituting line item veto. That has not worked. The Senator from Colorado (Mr. ARMSTRONG) is talking about giving the power of rescission to the President. We keep talking about trying to achieve spending cuts.

Mr. President, we need to address the budget from a point of looking at the unbitten bullet of the budget. The Entitlement Reform Commission would allow the Government to show that it can really manage its finances as does the private economic community. There is a need by Congress to look beyond a quick fix. There is a need for Congress to look beyond a debt ceiling increase. There is a need for Congress to look beyond a reconciliation bill, a budget resolution, a contingency tax or congressional committee procedures.

We have all heard about the structural deficit, and we can all concede that the $200 billion deficit figure will diminish somewhat by reemployment in our country. The structural deficit that will still remain, the immovable part, the uncontrollable section of that budget, has not been addressed by this Congress. To look beyond is what is needed now, not a quick passage of a temporary face-saving device or to do nothing or to lie to the American people as to their real cornerstone for prosperity, which is the free enterprise system.

The look beyond that I am talking about is to instruct the President to appoint this bipartisan commission in this interim period and let Congress stand pat—not raise taxes and not endanger the economic recovery we currently have going. We should try to set that up.

We need to ask ourselves, each time we address an issue, will it encourage or discourage the growth in this economy? Will what we do encourage or discourage savings, investment, hope, stability, reliability, and the free enterprise system? This commission addresses that.

I yield to the cosponsor of this amendment, my good friend Senator DENTON.

The PRESIDING OFFICER (Mrs. HAWKINS). The Senator from Alabama.

Mr. DENTON. Madam President, I thank the Senator for his amendment, which has turned out to be almost identical to one I had prepared. He has been kind enough to include in his amendment a modification which makes our proposals completely in line with one another.

I concur with his analysis that the amendment and the modification are specifically geared toward developing comprehensive, long-term solutions to the ever-expanding debt. We watch the debt being fueled year by year by

continued deficits, and this is the target of the measure now before us.

The amendment expresses the sense of Congress that the President should convene a national bipartisan commission, as explained by the distinguished Senator from Georgia. It would be established along the same lines as the National Commission on Social Security Reform. That effort met with considerable success in developing compassionate recommendations for restoring a measure of economic stability to the social security system.

Madam President, I am sure that Members of this Senate from both sides of the aisle share our frustration with the seeming inability of Congress to reach bipartisan agreements on spending reforms that are absolutely needed if the Federal Government is ever to operate within its fiscal means.

To realize how serious our national debt has become we need only read such statistics as that the Federal deficits for fiscal 1983 alone exceeded the entire Federal budget for fiscal year 1970 and that the interest on the debt for fiscal 1984 is estimated to exceed all Federal expenditures for fiscal year 1960.

There are no easy answers to the problem, no quick answers. We continue to try to address it through the budget reconciliation process by which different committees are instructed to make savings of specific amounts in programs under their jurisdiction.

The reconciliation bill before us now would make a number of such worthwhile savings but, Madam President, the committee configuration here in Congress and the multiple executive branch departments have proved to be too unwieldy to address expeditiously enough the disaster of ever-burgeoning national debt.

I believe the amendment before us will be an avenue for compassionate and thorough reform of our entitlement programs and will bring this growing national debt problem under control.

The amendment contains a realistic timeframe in which the commission will report to the President. It may be that in time the commission might be reextended, but at least we will now be transcending the partisan and intercommittee problems which have tied our hands and will be setting ourselves a target date and providing ourselves the long-lacking means of saving our Nation economically.

I thank the Senator from Georgia for his gracious inclusion of the modification to his bill.

Mr. ARMSTRONG. Madam President, will the Senator yield to me?

Mr. MATTINGLY. Yes.

Mr. ARMSTRONG. Madam President, I rise to congratulate my two colleagues, the Senator from Alabama and the Senator from Georgia.

I at first expected to rise in support of the proposal of the Senator from Georgia and to ask to be added as a cosponsor and then as the debate continued I learned that there had been a consolidation of these two proposals including the recommendation of the Senator from Alabama of which I was already a cosponsor.

I ask unanimous consent that I be added as a cosponsor of this now combined amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Madam President, the suggestion which these two Senators have brought to the floor addresses itself in the most fundamental and thoughtful way to this deficit problem.

I have suggested and others have some temporary measures designed to deal with the immediate problem, rescission amendments, amendments to lower spending on particular bills, and so on.

But they are talking about convening a group of distinguished Senators to deal with the underlying problem, the need for welfare reform, the need for entitlement reform, the need to really get things back on the rails on a permanent basis. I believe this is tremendously important.

As Senators may recall, I had the honor of serving on the Social Security Commission and I was not entirely pleased with the outcome of that. I was not entirely satisfied with the recommendations produced by that Commission.

And it may be that, if in fact this amendment is adopted and if the Commission which is called for by this amendment is appointed, it may come up with recommendations that may not be wholly satisfactory to me or to other Members of the Senate.

Madam President, I say to my colleagues, I am convinced we have reached the point where we have to do something about these deficits and if it means that the final solution is something that is a little different that what I like, if it incorporates some elements that are not to my specification, I am willing to give up on some of the things I care about in order to meet the overriding concern, which is to somehow get these deficits under control.

A few minutes ago I met with the press to discuss a related matter, and one of the questions that was proposed to me by a reporter and a thoughtful question was, "What makes you think Congress is ready to do what you are asking when 10 years ago they did the opposite?"

And my answer was a very simple one, because in the last 10 years we have run $1 trillion worth of debt; we have gone that far in the hole over the last decade alone.

So I just wish to associate myself with the observations of the Senator from Georgia and the Senator from Alabama and thank them for their leadership on this matter and urge the adoption of this amendment.

Mr. SYMMS. Madam President, is the time controlled?

The PRESIDING OFFICER. It is.

Mr. SYMMS. Madam President, will the Senator from Georgia yield to the Senator from Idaho?

Mr. MATTINGLY. I yield.

Mr. SYMMS. Madam President, thank him for yielding and I shall make a couple comments on this amendment.

I appreciate what the Senator from Alabama and the Senator from Georgia are trying to do, and I appreciate the comments of our distinguished colleague from Colorado.

But I think there is a problem here of constantly having Government by commission and I think we should at least make note of the fact that we recently have had a commission to study social security and because of the fact that it met here in this town I think partially the solution was 80 percent tax increases which will be carried basically by the young working families in the country and a tremendous transfer of their ability to earn money to, in many cases, more financially better off senior citizens—not in every case, but in some cases.

So I appreciate what the Senators are trying to do, but I might just say to my colleague that when I was over in the other body the distinguished former Governor of Georgia became President and came up to Washington. He wanted to have welfare reform, so we formed a committee in the House of Representatives and that committee met and we tried to have welfare reform. But we still simply do not have the willingness, I think, in this town to do what has to be done.

I wonder if the two Senators gave any consideration to the fact of where this commission would actually have their meetings? Will the Senator tell me where he is planning on this commission meeting? Is it here in Washington where all these special interest groups are there with their hands in the Federal trough? Or is he going to have them meet out west of the Mississippi or up in Maine some place in the hard conditions where they cannot get all of the people reaching for the largess of the Federal Treasury.

Mr. MATTINGLY. I am sure the Senator from Alabama will wish to address that we hope the commission could convene somewhere west of the Potomac.

Mr. SYMMS. How far west? I think it is important. I think if we think we are going to have a commission come in here——

Mr. MATTINGLY. No farther than the Pacific and no farther east than the Potomac.

Mr. SYMMS. If we are going to have another commission come in and recommend another big tax increase to take care of all the deficits, then I think we are just kidding ourselves.

The answer to this problem, I say to my colleagues, is reducing Government spending and allowing for economic growth in the private sector.

I know the purpose of the commission is to somehow reform entitlements and welfare spending and checks and all that.

But what will be the solution? I think we should set the rules down and let the record show that they are supposed to come back and show us how to cut spending.

Mr. MATTINGLY. Yes.

Mr. SYMMS. Cut spending, not raise taxes as the last commission we had.

Mr. DENTON. Madam President, will the Senator from Idaho yield for a question?

Mr. SYMMS. I am happy to yield.

Mr. DENTON. Recognizing his normal vigilance about such matters, it may be that he missed the word reduction of expenditures.

Mr. GORTON. May we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. DENTON. Thank you, Madam President.

I was asking the distinguished Senator from Idaho if he had any hint that in the amendment being proposed, taxes were going to be the method by which expenditures were to be reduced? We are talking about reducing entitlements, not increasing taxes.

Mr. SYMMS. Then I appreciate very much that answer, and I think that that is what the Senator from Idaho wants to hear.

I wish to make very clear that the authors of this amendment are in no way talking about having anything other than a reduction in the massive growth of these welfare programs that we have had in the United States that have grown beyond the wildest imagination of the biggest spender that Washington ever had. They have grown faster than they could dream up, and we still are sitting around here wondering what we should do and you know we discussed this in the Finance Committee this afternoon about the medicare problem and the figures were shown to the committee of how medicare will be bankrupt in the very near future.

I often think that maybe when we finally get down to brass tacks we should let some of these programs competely run out of money and maybe people will finally make the decision we need to reduce all the programs. We should have a 10-percent across-the-board cut, starting with President Reagan's salary and everyone who works for the Federal Government and everyone who receives a check above the poverty line and a fairness test to start off with and see where we are. We would not be here tonight talking about raising the national debt by $400 billion or $500 billion.

I yield the floor.

Mr. MATTINGLY. Madam President, I wish to make one comment.

There are 84-plus indexed programs. So what the Senator is talking about is there are a lot of things that are indexed that are not indexed for people but they are indexed on programs such as lumber being shipped to the Virgin Islands.

I yield to the Senator from Alabama.

Mr. DENTON. Madam President, I respect the remarks and intent of the Senator from Idaho. Again, I compliment the Senator from Georgia.

I wish to address the Senator from Colorado (Mr. ARMSTRONG), who really is in large part responsible for this proposal by virtue of his insistence on his point regarding the raising of the limit on the national debt. This amendment would not be proposed were it not for his courageous action in that respect. I think we might be seeing a resolution of the debt problems in other forms as well as this one.

I wish to clear up one matter, Madam President, with my distinguished colleague from Georgia. He and I have discussed the scope of this commission.

While the amendment refers only to the entitlement commission, he and I recognize that there are a variety of additional transfer payment programs which are not strictly entitlements.

I wish to make clear for the legislative record that it is our intent that this commission address entitlement and other transfer payment programs which have also grown at geometric rates in recent years. I would like to ask the Senator from Georgia if that is his understanding.

Mr. MATTINGLY. That is correct.

Mr. DENTON. I thank the Senator.

(Mr. WARNER assumed the chair.)

Mr. MATTINGLY. Mr. President, I ask unanimous consent to add Senator WILSON as a cosponsor and also allow any other Senators that would like to add their names as cosponsors later this evening to be allowed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, as acting majority manager of the bill, I want to say that the manager has no objection to the passage of this amendment. It is obvious that its goals are highly worthy, that control over the growth of entitlement programs is of vital importance.

As an individual Member of the Senate, I may say that, nevertheless, I do not believe that this amendment is entirely without its downside risks. What it is, is a way of getting out of the very difficult problem of dealing with the challenge of entitlements between now and the end of the 1984 election campaign. I am afraid that a number of Members may point to a vote in favor of this kind of commission as an excuse for failure to deal with the substance of the problem which the commission represents.

Having said that, however, I will agree to the passage of the amendment. It is my hope and trust that it will not require a rollcall vote.

Mr. MATTINGLY. Mr. President, may I make one more comment? The downside risk, as the senior Senator from Washington has referred to it, is really that nothing will ever be done. And so far in my term in the U.S. Senate, we have been very successful in not doing anything.

Now, the idea behind using a commission is either to force the Congress to do something or have the commission do something. The taxpayers do not care who does it, just so long as it gets done. And the Senator from Georgia is not so turf conscious, being a U.S. Senator, that he is not willing to have something happen that is on the plus side for the American taxpayer.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. MATTINGLY. Yes.

Mr. ARMSTRONG. I just do not want to leave the record in doubt here. I am 100 percent for this resolution, but I would not want anybody to think that that means I intend to wait until December 1984 to do something about this deficit problem. I think that there is probably enough work to keep the best minds in America busy for 10 years looking at this problem. And it is not unreasonable to give this kind of a citizens group until December 1984 to do its work.

But I will tell you right now I think it would be a travesty if the Senate were in any way to abdicate its responsibility. I do not think that is what the sponsors of this amendment have in mind.

I will just tell you that unless I misjudge the intentions and motivations and legislative habits of the Senator from Georgia and the Senator from Alabama and the Senator from Idaho, and sure as thunder the Senator from Colorado, there will be plenty of opportunities for Senators who have a desire to vote on specific cost-cutting measures between now and then to do so. I did not want to leave any doubt in anybody's mind. This is not to any extent the last word. It is only the next word in a drama that has been too long playing out already.

Mr. MATTINGLY. I yield back my time.

Mr. DIXON. Mr. President, on behalf of the manager on this side, I

have been asked to state his reservations about this amendment that is offered by my warm friend, the junior Senator from Georgia. I do that, of course, Mr. President, with deep reluctance because of my high regard for the Senator from Georgia and my recognition of what he and others here are trying to do in connection with our serious budgetary problems which concern us all.

I am not disposed to ask for a rollcall on this, may I say. The manager on this side has gone through the trouble of writing out a statement of his concerns in his own longhand. So I am sure it expresses his profound thoughts.

(By request of Mr. DIXON, the following statement was ordered to be printed in the RECORD.)

● Mr. CHILES. Mr. President, I appreciate the good intentions behind the Mattingly amendment. It clearly speaks to the deep concern we all share about the harmful effects of an ever-growing Federal deficit.

But while I share the worries expressed by the amendment, I do not share the same perspective on the sources of the problems. This amendment tends to blame our deficits entirely on Federal spending.

Obviously we have spent ourselves into trouble. Nobody can honestly deny that. But we did not just spend ourselves into a $200 billion deficit. We came to that disaster because we cut taxes more than we could afford. Was it good politics? It was great politics. But was it good budgeting? I think $200 billion deficits answer that question all by themselves.

The Mattingly amendment also tends to blame our spending woes on entitlements. It does not admit to any spending damage generated by defense outlays.

Mr. President, the minority staff of the Budget Committee has prepared a table based on Congressional Budget Office estimates which shows the major categories of the budget as a percentage of the gross national product. It shows some facts which overturn the premises underlying the Mattingly amendment.

Between 1983 and 1989, national defense spending actually climbs 1.3 percent of GNP. Medicare and medicaid climb 0.7 percent during the same period, and net interest costs rise 0.9 percent.

But in every other category spending declines as a percent of GNP. Total spending for entitlements drops 0.5 percent. Nondefense discretionary spending drops 0.8 percent. Means-tested programs decline 0.2 percent of GNP.

So while I share Senator MATTINGLY's concern for the deficit, I think his amendment brings in the wrong indictment. We can all shovel blame on many areas of the budget. But when it comes to solving our deficit problem, every segment of the budget will need adjustment.

I am skeptical about a commission which might function as a grand jury, biased in advance toward bringing in a true bill against spending and disinclined to examine all the evidence on all parts of the budget.

I ask unanimous consent that tables prepared by the minority staff be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD as follows:

TABLE 1.—THE STRUCTURAL DEFICIT AS A PERCENT OF GNP STANDARD-EMPLOYMENT PROJECTIONS

[CBO preliminary estimates October 20, 1983]

	Fiscal year—					
	1980	1983	1984	1986	1989	Change 1983–89
Revenues	20.3	19.3	19.2	19.1	18.9	−0.7
Outlays	21.7	22.1	22.1	22.4	23.6	+1.1
Deficit	1.4	2.7	2.9	3.2	4.6	+1.8

TABLE 2.—REVENUES AS OF PERCENT OF GNP STANDARD-EMPLOYMENT PROJECTIONS

[CBO, October 20, 1983]

	Fiscal year					
	1980	1983	1984	1986	1989	1983–89
Total revenues	20.3	19.3	19.2	19.9	18.6	−0.7
Personal income	9.5	9.4	8.5	8.5	8.6	−1.0
Corporation income	2.7	1.3	1.7	1.8	1.7	+.3
Social insurance	6.1	6.6	6.9	7.1	7.3	+.6
Excise taxes	2.0	1.0	1.0	.8	.7	−.4

TABLE 3.—OUTLAYS AS A PERCENT OF GNP STANDARD—EMPLOYMENT PROJECTIONS

[CBO October 20, 1983]

	Fiscal year—					
	1980	1983	1984	1986	1989	Change 1983–89
Total outlays	21.7	22.1	22.1	22.4	23.6	+1.1
National defense	5.1	6.0	6.3	6.7	7.3	+1.3
Entitlements: Subtotal	10.0	10.5	9.9	9.8	10.1	−.5
Social security	(4.4)	(4.7)	(4.5)	(4.4)	(4.5)	(.3)
Other non-means-tested	(2.5)	(2.6)	(2.1)	(1.9)	(1.9)	(−.8)
Medicare/ medicaid	1.8	2.1	2.2	2.4	2.9	+.7
Means-tested	1.2	1.0	.9	.9	.8	−.2
Nondefense discretionary	5.3	4.1	4.1	3.7	3.4	−.8
Net interest	2.0	2.3	2.5	2.8	3.3	+.9 ●

Mr. DIXON. I would only point out, in connection with his statement and elaborating upon what he says, the point that he wants to make here. He points out first that the suggestion by my distinguished friend in his resolution in point 3, that "The increasing loss of control is due primarily to the tremendous growth of entitlement programs" might be subject to some debate in this body; that others might feel that many other things have contributed to the loss of control here.

He asked me to point out that entitlement programs from 1980 through 1989 will in fact have been reduced by a half a percentage point, according to the records that he has attached to his statement, which are printed in the RECORD.

He takes exception to the statement in line 19, point 6, made by my friend from Georgia in which it is stated: "The continual increase in Federal spending results in large budget deficits," suggesting not only those increases, but the tremendous tax cuts previously passed have made a contribution.

He points out in his remarks that a larger test or examination of the whole question ought to be made. In that connection, I would point out I have had conversations with my friend from Georgia. I was pleased when Alan Greenspan pointed out to the Governors Conference that there ought to be another commission to look into these questions. I felt that the Social Security Commission had done a very good job.

Now I know that there are those who have disagreed with that. My distinguished friend from Colorado pointed out that he took exception to parts of the report, particularly those parts regarding taxes in the social security accord. I do not think anybody here would quarrel about the fact that the whole package that came back in the social security accord was a politically unpalatable one—raising taxes, deferring the COLA's for a period of time, increasing the length of life for retirement purposes, a variety of things of that character all of which were not pleasant things to do politically.

But I would suggest that at least a majority of us in both places felt that that Commission, in looking at the whole question, had made a good report that was a profound benefit in helping to insure the integrity of the social security system.

I think the point that the minority manager here wanted to make was that he felt that the amendment, offered by my friends from Georgia and Alabama, in its perspective was too narrow and that the whole question ought to be looked at.

Why do we have these ever-increasing deficits, $1.4 trillion now, $200 billion as far as the eye can see? How can we address this in a larger perception of the problem, not just in looking at entitlements? Some would say there are not just the entitlements, but there is the growth in defense spending, which our manager on this side would point out has grown in that same period of time that entitlements have, in fact, dropped. Then there is the question of revenue, and other things.

I will be glad to yield in another minute, but let me say in concluding I do commend the thoughtful remarks of the manager on this side. I join in that statement where he has characterized this as being a step in the right direction, but so narrowly defined in looking only at the entitlements that it is the view of the manager of this side that the Commission should look at more than that to come back with some more profound contribution to the whole question.

Mr. MATTINGLY. In response to the Senator from Illinois, in delivering his friend's opinion, entitlement spending is not narrow. We are talking about over 50 percent of the budget. The Congress is able, by its appropriations and authorizing committees, to do something with the other 50 percent of the budget, which they have been doing, though not as well as I would like. Those are things the Congress has done. But unfortunately, when they created the entitlement programs, they created something that said "hands off" to the Congress. Defense is not that way. Defense does not say "hands off." And it is not entitlement. Other areas of the budget are not considered to be "hands off" either.

When other appropriations bills come through here, it is interesting how much "hands on" we have. But on entitlements, it is not narrow. It is the biggest part of the Federal budget. It is a section where everybody, when they walk into the Senate Chamber, turns around and goes back out the door when they hear the entitlement programs brought up. It is the "unbitten bullet." It is the one which has been sterilized, so to speak, that we cannot approach.

I would disagree with that part of his statement that says it is a narrow part of the budget. I think the Congress is in the process of addressing other parts of the budget, but not the entitlements.

Mr. DIXON. I would like to respond to my friend from Georgia briefly, because I see my friend from Missouri here on the floor.

One of the examples that the manager on this side made was that these are some suggestions around here such as the so-called, 3-percent solution. In the 3-percent solution I oversimplify it, but it says when indexing goes into effect it will go into effect at 3 percent less than the rate of inflation and the entitlements will appreciate at 3 percent less than the rate of inflation. I oversimplify, I know. But the point is that in the legislative solution by the distinguished Senator from Missouri, my friend who is on the floor, and I think it is cosponsored by the distinguished Senator from Oklahoma, Senator BOREN, they try to marry several different ideas to come to a conclusion. I think that is the point of our manager over here, that when you address this you ought to do it in a broader way.

I mean no criticism of my colleague. I have not asked to demand a rollcall vote nor do I demand one because this Senator wants to solve the budgetary deficit problem in the worst way. I would like to see that same Greenspan Commission that went out on social security go out on this question with the same membership, so far as this Senator is concerned, and come back with a solution that the majority of us can sign off on, to find a solution to the problem.

I think what the manager over here suggests is that what the Senator is suggesting will not be the kind of a conclusion that a majority can sign off in both places at least, in both Houses.

Mr. DENTON. Will the Senator yield for 2 minutes in response?

Mr. MATTINGLY. Yes.

Mr. DENTON. I consider my friend from Illinois correct in passionately and effectively representing the views of his friend, the distinguished floor manager for the minority. I think his friend would not have made or entered those exceptions had he been on the floor. I asked in a colloquy if the Entitlement Commission were intended to address not just entitlements in the generic sense but additional transfer payment programs, which are not strictly entitlements.

The Senator from Georgia answered in the affirmative. That is part of the legislative record, and I believe that would have satisfied our distinguished colleague's concerns.

Of course, transfer payments have not been static. Federal transfer payments tripled between 1970 and 1976 and then doubled again between 1976 and 1985 to a level of $454 billion.

So I concur with the thrust of the remarks of the Senator from Illinois and the Senator from Georgia and I have already accommodated their caution.

Mr. MATTINGLY. Mr. President, in conclusion, having had experience in chairing hearings when I used to be on the Governmental Affairs Committee, chairing a committee on congressional oversight holding hearings on these programs, it was of great interest to me to find out that there were 84 Federal programs indexed to the CPI. I was surprised to even know what they were.

That is really the purpose of this amendment, to try to get control over these programs.

Once again to address the point that my good friend from Idaho brought up, about the Commission, where it would meet, and the Senator from Illinois referring to Alan Greenspan, who happens to be a good friend of mine, I will once again reiterate one of the best commissions I have seen so far is the Grace Commission, which disclosed everything that 535 Members of Congress and their staffs ought to read. In other words, if you do not know where the overspending is, read the Grace Commission report.

Mr. SYMMS. Will the Senator from Georgia yield?

Mr. MATTINGLY. Yes.

Mr. SYMMS. Did the Grace Commission do most of their work in or out of Washington?

Mr. MATTINGLY. I cannot answer that, but I would say probably outside.

Mr. DIXON. Mr. President, we yield back the remainder of our time.

Mr. MATTINGLY. We yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2621), as modified, was agreed to.

Mr. GORTON. I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2623

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 2623.

Mr. ARMSTRONG. I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate point in the bill insert the following:

Since the President's Private Sector Survey on Cost Control (PPSSCC) has performed a commendable service to the nation having expended over $70 million in private sector funds and devoted the time and talent of over 1200 top executives in a sustained management study of the U.S. Government; and

Since over 2000 recommendations of this study have identifed areas of possible savings which the PPSSCC believes could reduce the Federal budget deficit by hundreds of billions of dollars; and,

Since the U.S. Government is now facing a deficit crisis of unparalleled proportions and it is increasingly urgent to bring government spending under control to avert the threat to the economic future of American working men and women, companies, communities and the nation;

It is therefore the Sense of the U.S. Senate that each Committee of the Senate should study the President's Private Sector Survey on Cost Control recommendations within their jurisdiction and hold hearings on these recommendations so that the PPSSCC Task Force Co-chairmen and the appropriate representatives of the Execu-

tive agencies of Government may testify upon the PPSSCC recommendations; and, each Committee should report on its hearings and its recommendations, if any, for implementing legislation on or before March 1, 1984.

Mr. ARMSTRONG. A few days ago, Mr. President, members of the Budget Committee had the opportunity to hear an extraordinarily interesting presentation by Mr. Peter Grace and others who participated in what came to be known as the Grace Commission, which is technically known as the President's Private Sector Survey On Cost Control.

This group of private citizens at private expense, but with the imprimatur of the President, and with semiofficial status, upon the expenditure of some $70 million in private funds made a very extensive study of the operations of the executive branch.

I think I have said more than 1200 executives of U.S. business firms took part in a sustained management study.

As a result of this study, more than 2,200 recommendations have identified areas of possible savings which members of the Commission believe could save more than $300 billion of Federal spending in the next 3 years.

Since the Government is facing a deficit of just extraordinary magnitude, and I believe there is general agreement that we must do something to bring Federal spending under control if we are going to avert a truly serious jeopardy to our Nation's economic future, I felt that the work which this Commission has done, and after listening to a lengthy presentation of it to the Budget Committee, I can report to my colleagues that it is very high quality work; that this work deserves to be thoroughly considered and aired by the committees of Congress which have jurisdiction over each of the various recommendations.

The proposal which I have set forth, a sense-of-the-Senate proposal, recites the facts I have just called to the attention of my colleagues, that this work has been done, that it is a commendable effort. It does not intend to judge the quality of the recommendations but sets forth the fact that such recommendations have been formulated. This is the operative language:

It is therefore the sense of the U.S. Senate that each Committee of the Senate should study the President's Private Sector Survey on Cost Control recommendations within their jurisdiction and hold hearings on these recommendations so that the PPSSCC Task Force Co-chairmen and the appropriate representatives of the Executive agencies of Government may testify upon the PPSSCC recommendations; and, each Committee should report on its hearings and its recommendations, if any, for implementing legislation on or before March 1, 1984.

Mr. President, this implies a burden in the sense that, if adopted, it would call upon each committee of the Senate to hold some hearings, to let the project managers and the task force cochairmen come in and present their findings, to ask the applicable representatives of the executive branch, the GAO and so forth, to comment, and for the committees to reach conclusions as to the desirability of the recommendations which have come forward.

I do not know whether $300 billion is a realistic figure. Frankly, I have doubt that it is. But if it is exaggerated by double or even triple, it is still worth looking at. If we can save $100 billion or $50 billion, it is worth the effort.

With this kind of showing of dedication and effort by the members of the private sector, who have given of their own time without compensation, paid the expenses of the conduct of this study and come up with what I believe is a valid and thoughtful recommendation in many cases, it seems to me only reasonable for the committees to have hearings not only to hear these groups but to reach some common conclusions and report their findings to the Senate.

Mr. SYMMS. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield to the distinguished Senator from Idaho.

Mr. SYMMS. Mr. President, I want to thank my friend for yielding and I compliment him on the amendment.

I did not get to stay for the entire presentation by Mr. Grace and his commission members that day, but I have been very interested in their work. I am not only in favor of what the Senator is trying to do, totally in favor, but the thought has occurred to me that what the Senator from Colorado is calling for in the sense of the Senate resolution is that we must have hearings prior to March 1984.

Mr. ARMSTRONG. And that the committees must report their conclusions: either yes, we agree this is a good idea, or no, we do not.

Mr. SYMMS. I would like to get the administration involved in this act. I am looking at another amendment I have here that, with a slight modification, could be added to the Senator's amendment. I would like to pose this question: within 60 days after receiving this report required by the—the amendment I am pointing at is to try to have the Comptroller General of the United States prepare and transmit a report to the President which would evaluate the recommendations. Then, what we would do is have the President send back a report over here of at least $10 billion in savings within 60 days after that report-out of these recommendations so that the administration would not be left out in the recommendations. Maybe, just maybe, if there were a little competition between the Congress and the administration, some headway could be made. I wonder if the Senator would look favorably on an amendment that would include the administration in this.

If the Senator remembers correctly, one time many years ago, we had the so-called Hoover Commission. They made a great many cost-saving recommendations but they all ended up gathering dust on the recommendations in proper agencies around this town and nothing ever came of it. I wonder if he would look favorably upon that type of amendment.

Mr. ARMSTRONG. Mr. President, the amendment which the Senator from Idaho has discussed appeals to me. It calls upon the executive branch to do its job, just as my original proposal suggests a timetable for action by the committees of the Senate. I think it is perfectly appropriate.

I also want to make it clear, of course, that the amendment which he suggests would not be binding upon the executive branch, because it only expresses the sense of the Senate.

Mr. SYMMS. That is true.

Mr. ARMSTRONG. To a somewhat greater extent, a sense-of-the-Senate amendment may be somewhat more binding on Senate committees. It is not legally binding, but I suggest that for this set of hearings and this set of reports, the committees would feel more bound to agree than the administration would.

With that caveat and the limits on what we can do in this way, I encourage his amendment and I would urge its adoption.

Mr. SYMMS. Let me make a parliamentary inquiry of the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator will state it.

Mr. SYMMS. Is an amendment in order at this time?

The PRESIDING OFFICER. An amendment is not in order.

Mr. SYMMS. At what time is an amendment in order?

The PRESIDING OFFICER. When all time is yielded back on the first amendment.

Mr. SYMMS. I make a parliamentary inquiry: By unanimous consent, would an amendment be in order?

The PRESIDING OFFICER. By unanimous consent, it could be in order.

Mr. DOMENICI. Mr. President, the Senator did not request it yet, did he?

Mr. SYMMS. No, I did not request it.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mr. GORTON. Mr. President, having examined the amendment proposed by the Senator from Colorado and having listened to his argument for it and having gone through the hearing on the Grace Commission report to which he refers, I should like not only to commend the Senator for

proposing this amendment, but to say that it seems to me that it is very important. The Grace Commission's work was diligent. It certainly includes recommendations about which I have questions, but it deserves consideration on the part of the committees of the Senate. It deserves our attention, and I believe the amendment should be adopted.

Mr. CHILES. Mr. President, I concur in the remarks of the Senator from Washington. I congratulate the Senator from Colorado. I think it is a good move and I think it is something that we should do. I think the Grace Commission has done an excellent job.

Mr. ARMSTRONG. Mr. President, I have no other observations. Unless other Senators wish to comment, I am ready to yield back time and see no reason to do other than adopt it by a voice vote.

Mr. DOMENICI. Mr. President, I want to say that I agree. In fact, we had a hearing with the Grace Commission. Senator ARMSTRONG was there, and others. It was my observation to Chairman Grace that there was no single committee of the U.S. Senate that could carry out an appropriate, thorough, and effective analysis, because their recommendations are so diffuse and dispersed across the jurisdictions that all the committees would have to take some cognizance of it. There are law changes that are going to be required if we are going to carry out some of the recommendations.

If I understand the amendment, it should set that in motion, that this Commission's hearings and recommendations should be considered by every committee that has any jurisdiction over the subject matter. I commend the Senator and think we ought to accept the amendment.

Mr. ARMSTRONG. Mr. President, while the Senator from New Mexico is on his feet, let me just say again that this language calls upon the committees to do one more thing than just consider the recommendations. It says that they shall have hearings and shall report thereon together with their recommendations for legislation, if any, prior to March 1. The only question running through my mind is this: We do not have a lot of Senators on the floor. I am perfectly willing to adopt this by voice vote, but I offered it with the intention that the committees are going to do something about it. I would hate to come back here in March of next year and find out the committees have not fulfilled their function.

As a matter of fact, I am concerned—this is not a pro forma matter. I inquire of others on the floor whether or not we need to ask for a rollcall vote or whether they feel it is sufficient. I would hate to have a committee chairman who is not on the floor come back and say, "I was not there, I did not vote for it, it does not mean me."

I think it does. I think virtually every committee of the Senate has some of these 2,200 recommendations in their jurisdiction. I hope if we adopt this, we will get some reports.

They may not be reports that I agree with. Some committees may come back and say, "We had a hearing, we do not agree, we think they are all wet." I would accept that, but I think we ought to do it with due diligence.

What does the Senator from New Mexico think of that?

Mr. DOMENICI. Mr. President, let me say I do not think calling for a rollcall vote will in any way change the effectiveness or lack of effectiveness of the Senator's sense-of-the-Senate resolution.

Frankly, to be honest with the Senator, I do not know that adoption with every single one of the Senators voting "aye" on a rollcall vote would force every committee of the Senate to do precisely what this sense-of-the-Senate resolution says.

Mr. ARMSTRONG. Of course not.

Mr. DOMENICI. I do not know that we could do anything to them if they did not. I think the Senator has made his point, to the extent that the language is loose and understandable and can be carried out if the adoption of a sense of the Senate resolution will do that.

Mr. ARMSTRONG. I think the Senator is right, and he is entirely correct in pointing out that we do not have the capacity or the desire to force anybody to do anything.

If it is the will of the Senate that these recommendations be considered, I hope the committees and those who have responsibility for the stewardship of the committees would not ignore this, but would act on it and that we would have some legislation and get some savings.

Unless there is reason to proceed further, I yield back the remainder of my time.

Mr. CHILES. I yield back the remainder of my time.

Mr. GORTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

AMENDMENT NO. 2624

Mr. SYMMS. Mr. President, I send to the desk an amendment to the Armstrong amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an amendment numbered 2624 to the Armstrong amendment numbered 2623:

After "1984" add the following:

TITLE V—PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL EVALUATION AND IMPLEMENTATION

SEC. 501. (a) Within 60 days after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit a report to the President and the Congress which evaluates the recommendations of the President's Private Sector Survey on Cost Control for administrative actions which would reduce Government spending and determines the amount that would be saved by the Government if each such recommendation were implemented.

(b) Within 60 days after receiving the report required by subsection (a), the President shall review such report and, on the basis of the amounts of savings determined by the Comptroller General of the United States under subsection (a), shall—

(1) select for implementation as many of the recommendations of the President's Private Sector Survey Cost Control as may be necessary to achieve a total amount of savings of at least $10,000,000,000;

(2) prepare and transmit to the Congress a report describing the activities that will be conducted to achieve savings in the amount referred to in paragraph (1) and containing a timetable for the conduct of such activities; and

(3) implement the recommendations referred to in paragraph (1) in accordance with the report submitted under paragraph (2).

Mr. SYMMS. Mr. President, the reason I offer this amendment is that I think the amendment of the Senator from Colorado is an excellent amendment, and I am totally supportive of it. I think we should do it. We should have hearings. We should take advantage of the expertise that has been made available to us by the 1,200 business executives who have participated in the Grace Commission.

However, I also believe that the Senate should make a sense of the Senate to the administration that we want the administration to provide some leadership to the same end, and that is why I offer the amendment.

I hope the committee will accept this amendment. It is not this Senator's intention to press this to a record vote, although I think that if pressed to a record vote, it probably would be adopted by the Senate. But I do not think that would prove the point.

I hope the committee will accept this amendment in the same spirit it accepted the amendment with respect to the committees, so that we can get leadership from the White House addressing the subject of benefits that could come to the taxpayers of America and to the economy in general, if we were to adopt some of the suggested savings.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I note that the distinguished majority leader is on the floor.

I say to my good friend, Senator SYMMS, that I think this matter will take a little while. I am checking it out. I do not think it is germane, because I believe it is more than a sense of the Senate. I should like to be able to address that issue with full understanding and also to talk with the Senator about it.

If the distinguished majority leader wants to set this matter aside, I will be willing to do that.

Mr. SYMMS. I will be happy to set it aside.

Mr. BAKER. Mr. President, I thank the Senator from Idaho and the Senator from New Mexico.

I have discussed this procedure, first, with the minority leader and then with the Senator from Colorado (Mr. ARMSTRONG), with the Senator from Louisiana (Mr. LONG), Senator DOLE, Senator DOMENICI, Senator CHILES, and others.

What I am about to do is to ask the Senate to temporarily lay aside this measure and go to the Olympics bill, so that the Armstrong amendment, which will be a rescission-type amendment, may be debated at this point.

With that explanation, Mr. President, I ask unanimous consent that the Senate temporarily lay aside the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLYMPIC DUTY SUSPENSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 557, House Joint Resolution 290.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 290) to permit free entering into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the Games of the XXIII Olympiad to be held in the United States in 1984.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, to elaborate on the procedure which the majority leader has discussed, let me just explain for the benefit of those who have not been involved in the procedural negotiations what the intention of the majority leader and my intention, and that of others who are interested, will be.

Mr. President, this is a bill whose purpose has already been fulfilled, in the sense that the actual substance of this has been subsumed in other legislation which is expected to pass.

The PRESIDING OFFICER. Will the Senator suspend?

The Senate will be in order.

Mr. ARMSTRONG. Mr. President, as a note on the procedure, I want to make it clear that we are using this as a vehicle, but in the process we are not adding to or subtracting from the underlying bill, because it has been taken care of in another way. This is simply a vehicle, the purpose of which is to give Senators an opportunity to consider the amendment which Senator LONG and I wish to bring up on the subject of enhancing the rescission power of the President, in order to get us somewhere back on the track of controlling Federal spending.

With that brief word of explanation, I send an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO. 2625

(Purpose: To establish monthly debt limit targets and quarterly limits on the Federal debt)

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself and Mr. Long, proposes an amendment numbered 2625.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

"Section—

"(a) Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out '$1,389,000,000,000' and inserting in lieu thereof 'the applicable amount determined under subsection (d)'.

"(b) Subsection (c) of such section 3101 is redesignated as subsection (m) and such section 3101 is further amended by adding after subsection (b) the following new subsections:

"'(c) For purposes of this section, the amount specified for any month shall be—

$1,385,000,000,000 for months before November 1983;
$1,400,000,000,000 for November 1983;
$1,449,000,000,000 for December 1983;
$1,459,000,000,000 for January 1984;
$1,473,000,000,000 for February 1984;
$1,497,000,000,000 for March 1984;
$1,501,000,000,000 for April 1984;
$1,521,000,000,000 for May 1984;
$1,537,000,000,000 for June 1984;
$1,548,000,000,000 for July 1984;
$1,575,000,000,000 for August 1984;
$1,614,600,000,000 for September 1984

and, subject to subsection (1), each month thereafter.

"'(d) During any month in a calendar quarter, the applicable amount for purposes of subsection (b) shall be the larger of the amount specified for such month in subsection (c) or the amount specified in such subsection for the first month following such calendar quarter.'

"'(e) If for any month the total amount of obligations of the type described in subsection (b) is likely to exceed or does exceed the amount specified for such month in subsection (c), the President shall promptly notify the Congress and shall indicate what action is necessary to assure that the total amount of such obligations will not exceed the applicable amount determined under subsection (d).

"'(f) Whenever the President determines that the United States would be required to borrow an amount in excess of the debt limit determined under this section, the President shall, notwithstanding any other provision of law, defer or reduce a total amount of expenditures for programs, projects, and activities of the Government sufficient to assure that such excess borrowing will not be required.

"'(g) In carrying out subsection (f), the President shall not—

"'(1) take any action to defer or reduce an amount of expenditures for any program, project, or activity if such action would require or result in the elimination of such program, project, or activity; or

"'(2) defer or reduce expenditures for any single program, project, or activity in an amount which will cause the expenditures for such program, project, or activity to be reduced in any fiscal year by more than 20 percent.

"'(3) defer or reduce expenditures in such a manner as to reduce benefit levels payable to individuals under a program funded through spending authority of the type described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 except that this paragraph shall not apply to any limitation on an increase which would otherwise take place in such benefit levels.

"'(h) The provisions of this section shall not be exercised in such a manner as to constitute or result in a default of the United States in redeeming or making payment of interest due on the public debt or in meeting its obligations to make payment for services which have been rendered to or goods which have been received by the United States.

"'(i) The Impoundment Control Act of 1974 and any other provision of law heretofore or hereafter enacted shall not apply to any deferral or reduction of expenditures under this section unless such law contains provisions specifically exempting any such deferral or reduction from the application of this section.

"'(j) The President shall promptly report to the Congress on any deferral or reduction which the President proposes to make pursuant to this section. Such report shall also contain the recommendations of the President for any legislation which may be necessary in the light of such deferral or reduction.

"'(k)(1) The otherwise applicable debt limit pursuant to subsection (b) for any month shall be deemed to be increased by the total amount of expenditures deferred or reduced pursuant to this section, for all months preceding such month, for programs, projects, and activities classified as 'Trust funds' in the Budget Accounts Listing included in the Budget transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921. Notwithstanding the preceding sentence, the amount by which such debt limit may be increased, with respect to expenditures deferred or reduced for any program, project, or activity, shall not exceed the estimated additional expenditures which would be necessary to carry out such program, project, or activity, in the months for which the deferral or reduction is made at the same level as such program, project, or activity was carried out on the date the Budget was most recently transmitted under such section,

without any policy changes in such program, project, or activity.

"'(2) At least every six months, the President shall determine the total amount by which the debt limit has increased by operation of paragraph (1). Such increased amount shall apply to the debt limit in subsection (b) for the month in which the President makes such determination and each succeeding month. The President shall transmit to the Congress a notice of each determination under this paragraph.

"'(1) If for any fiscal year beginning after September 30, 1984, there is in effect a limit on obligations of the type described in subsection (b) which exceeds the amount of $1,615,000,000,000 and also exceeds the amount of such limit as in effect for the month preceding the start of such fiscal year and no amounts are otherwise specified under subsection (c) for the months in such fiscal year, an amount shall be deemed to be specified under such subsection (c) for each month in such fiscal year, consistent with the pattern of borrowing by the United States in previous fiscal years and with the amount of such limit as in effect for the month immediately preceding the beginning of such fiscal year and the amount of such limit as in effect at the end of such fiscal year. Within 15 days after the date of enactment of any Act increasing the limit on obligations of the type specified in subsection (b), the President shall promulgate the monthly amounts which shall be applicable under this subsection along with a description of the methodology used to determine such amounts. After such amounts have been promulgated pursuant to the preceding sentence, they shall not thereafter be modified except pursuant to legislation subsequently enacted.'"

Mr. ARMSTRONG. I will attempt to explain the amendment, and I will be glad to make available to Senators copies of the amendment and a discussion of it that covers its principal points.

Mr. President, the nub of the problem we face is that we have astronomical deficits facing us, not just for the current fiscal year but for every fiscal year we can see into the future. There is some dispute about the magnitude of this. Some people say that the deficits we face will be $200 billion or more every year into the foreseeable future. That is the view of the Congressional Budget Office, which has projected recently, based upon its estimates of the economy—and they are not necessarily optimistic estimates nor necessarily pessimistic; they are simply their best judgment of what the future holds—that we will face budget deficits which will not decline but which will rise and will approach $280 billion by the end of this decade.

In my judgment, that is not an acceptable prospect. It is not something which we can contemplate calmly. It is not something which we can accept as inevitable. Indeed, it is a threat of the very greatest magnitude to the economic and political future of our country.

I am not going to dwell on this, because I think that case has been well made. I do not think any Senator would say that deficits of such awesome proportions should be countenanced, that we can do anything less than devote our best efforts to getting a balance of some kind between revenues and expenditures. There is a lot of disagreement about how we should get there.

Some think we ought to have spending cuts. Others think the right answer is a tax increase. Some think it probably will and should be a combination of both, but I think there is a near unanimous agreement that something must be done and that further delay is most undesirable.

So, Mr. President, with that in mind, I am not going to discuss at any great length the magnitude of the deficits or the seriousness of the threat that they pose to our Nation's future, but I do ask unanimous consent that there appear at the conclusion of my remarks a letter which was sent by Peter G. Peterson, who is the leader of the Bipartisan Budget Appeal Group of New York, under date of October 18, a letter and a memorandum which discusses in a very thoughful and scholarly manner an update of the budget outlook, the estimates of the deficits and the threat that they present to our economy, a discussion of how deficits crush our export trade and crowd out capital formation, Federal spending, how we got into the mess we are in and how we might get out, Federal expenditures for interest, old age and health, bottomless deficits by the year 2000 and 2025, and some alternatives about where to cut spending and how to raise taxes and so on.

I do not ask that this be printed in the RECORD because I agree with every word of it but because I feel it is a thoughtful, indeed a scholarly, discussion of the problem. In addition to asking that it be printed in the RECORD, I have arranged to have it sent by mail to every Member of the Senate.

I urge my colleagues to look at it and consider seriously the import of this message.

The PRESIDENT OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ARMSTRONG. Now, the bipartisan budget appeal is just one group. CBO has warned of the same thing. The President's budget shows a similar pattern. Everybody who has looked at this says we have a huge problem. There are some who argue if we have enough growth, the problem might not be as big as it otherwise will be; that maybe we can grow our way out of it.

I hope that is true, but I honestly do not think it is. I do not think there is any combination of growth, unemployment, productivity gains, or you name it, that is reasonably foreseeable that will solve the deficit problem unless we also exercise restraint in spending.

Mr. President, the amendment which Senator Long and I send to the desk does not purport to be a panacea. What it does do is to take a step. It is an element of institutional reform which would give hope for the future that perhaps these deficits can be moderated, and at the very least that perhaps the targets established by Congress itself for the deficits can be adhered to. There is one very significant aspect of the problem, and it is that we come up with these goals for deficits, goals which are out of kilter to many of our beliefs, and then we fail by very wide margins to meet even the goals which we have set for ourselves.

For example, Mr. President, in recent years we have missed the target by as much as $30 or $40 billion. Let me just give you an example. In 1980, the budget resolution called for a deficit of $23 billion. We ended up with a deficit of $60 billion; the next year $27 billion, the actual result was $58 billion. In 1983, we projected a deficit of $104 billion, and we ended up with a deficit of $195 billion. I do not know what the deficit is going to be in fiscal year 1984, but I have a horrible sensation that it is going to be not only a gigantic number but it is going to be a number that is larger than anything we had in mind.

Mr. President, for several years I have been thinking that we made a mistake when we tied the hands of the President in limiting his ability to manage the Nation's business, literally limited unduly I think his ability to not spend amounts that would otherwise need to be spent if conditions changed or if our financial resources were not materializing as expected.

Mr. President, every business executive in the country has great discretion over the business enterprise he runs. Every Governor that I know of—and I think this is probably true of the Governors of every one of the 50 States although I am not sure of this—virtually every Governor certainly has very broad discretion over the management of his or her State's financial affairs. Most mayors have the same kind of flexibility. They will get from the city council or the Governors get from the State legislature a certain range within which they must perform, but they do not have to spend absolutely every penny that is otherwise committed by law.

Nor did the President of the United States have to do so until a very few years ago. Every President from Thomas Jefferson up until about 10 years ago had a substantial amount of discretion. For example, Thomas Jefferson declined to spend money that had been appropriated for gunboats on the very sensible grounds that the war was over. Different Presidents used this authority in different ways

until the start of the 1970's when Congress, for reasons that were not primarily budgetary, I think, but related to a dispute with the Chief Executive, passed the Budget Control and Impoundment Act.

One of the features of that Budget Act was to require that everything be spent unless the President could obtain from Congress rescission authority.

Now, here is how that works for those of you who are not familiar with it, and I think most Senators are. If the President discovered a place where he could make a saving, he would send up a so-called rescission message, and if Congress did not agree to the rescission within 45 days or if Congress took no action within 45 days, then he had to go ahead and spend the money no matter what, no matter if it was over the target, no matter if it was over the budget, no matter if the need had changed, no matter if it proved to be extravagant, no matter if the debt was running off the rails and beyond anything that had been projected. If Congress just put that rescission message in a pigeonhole someplace, he had to go ahead and spend the money.

I initially had the idea we ought to reverse that and simply say that in 45 days the President could go ahead and make the rescission effective unless Congress acted to overturn that judgment. But when we took up this matter last year the Senator from Louisiana (Mr. LONG) came up with what I think is a neater and more proper formulation of this principle. He tied it to the amount of the public debt. He said, after all, the debt is the final control on spending and borrowing and the amount of the debt is the congressional expression of where we want to draw the line. And so the nub of the idea which he first advanced then and which is now incorporated in the amendment which the Senator and I offer, and which I believe will have the support of other Senators, I hope will merit the support of a majority of the Members of the body, is to say we are going to establish the debt limit month by month throughout the next fiscal year, taking it up on a monthly basis to $1.6 trillion at the end of the fiscal year.

Now, that is the amount which is estimated to be needed based on the budget resolution. It is the congressional target. If the President discovers during the course of the fiscal year that we are off target and if Congress does not act to get us back on target or to change the targets because that would be one option—Congress could amend the amount of the debt ceiling—then under the proposal which Senator LONG and I present to you today, the President could have the power and in fact would be required to defer or rescind spending to stay within the debt limit for that calendar quarter.

Now, the targets are monthly but the limitation is actually expressed on a quarterly basis in order to give him some authority.

The President's discretion would be limited in several ways. First of all, he can only exercise it to meet the targets which have been established by Congress itself. Second, he would not have the authority to eliminate any program or project, nor to reduce any program or project by more than 20 percent. He could not under the authority which we grant him reduce the current level of benefits now paid to individuals under entitlement programs.

So we think this is a valid and responsible step. It is not a panacea, Mr. President. It is not a cure all. I do not want to claim more for it than it is, but it is a good step and it is the kind of step, if we were to take it, that would give me relief of my conscience to go ahead and vote for an increase in the national debt.

EXHIBIT 1

LETTER SENT TO THE FULL MEMBERSHIP OF THE BIPARTISAN BUDGET APPEAL GROUP

OCTOBER 18, 1983.

It has, as you know, been a number of months since we last wrote to the members of the Bipartisan Budget Appeal. They have been months punctuated by a great deal of public discussion, although not much real progress, on the fiscal problems which led to the formation of our group. My founding colleagues—Messrs. Blumenthal, Connally, Dillon, Fowler and Simon—and I have been monitoring both the discussions and the budget outlook itself. This seems like an appropriate time to put some new material before you and, more important, to solicit your views on a number of policy questions and on the role that a group like ours should play in the coming months.

Before turning to the central question—the appropriate strategy for the Bipartisan Budget Appeal in an election year—I'd like to summarize what has been happening on the fiscal front and where we see the situation going. The attached memorandum provides an in-depth look at the present situation and the various projections for what lies ahead. The first point that stands out is that the outlook for the federal budget remains alarming. Even on quite optimistic assumptions, deficits are projected to remain in the range of 5 to 6 percent of GNP through fiscal 1988. Our political system, however, seems to be devoting considerable effort either to pretending that the problem does not exist, or, blaming the Administration more or less exclusively without suggesting responsible steps necessary to reduce the deficits in any significant way. The former view manifests itself in a series of popular if ultimately untenable assertions—that the economy will "grow itself out" of deficits, that deficits don't affect the economy anyway, and that foreign capital flows will, in any event, finance U.S. deficits.

As the attached memorandum suggests, each assertion is critically flawed. As to the first, even with record growth—a repeat of the boom years in the mid-1960's—deficits would remain distressingly large. Assuming growth that is robust, but not wildly implausible, deficits will remain intolerable. As to the second, we are aware of no coherent rebuttle to the proposition that continued high deficits will inevitably confront the Federal Reserve with an unacceptable choice—monetize the deficits and stimulate rampant inflation or resist the pressure to accommodate deficits and drive real interest rates, and with them an overvalued dollar and staggering trade deficits, to unacceptable levels. The cost of high deficits, in short, can be manipulated but not avoided: The alternatives are a return to record inflation (the inevitable consequence of a combination of loose monetary policy and loose fiscal policy), or wrenchingly high interest rates and sustained underinvestment in future growth (the inevitable consequence of restrictive monetary policy and loose fiscal policy). As to the third, while substantial foreign capital is flowing into the United States, were it not for these huge budget deficits, this foreign capital could be financing new private investment. In addition, to the extent these flows of foreign savings relieve some of the domestic interest rate pressures from our unprecedented deficits, they do so at a cost of output, profits, and jobs in our export and import competitive industries. This is because these capital inflows are linked to an overvalued dollar which "overprices" our exports abroad and "underprices" foreign imports in this country. Thus, high budget deficits crowd private borrowers out of the financial markets and crowd important sectors of U.S. economy out of the international markets for manufactured goods.

We are not, in short, cassandras when we point with alarm to projected out-year deficits. On the contrary, as the attached memorandum demonstrates, in sector after sector the costs of fiscal extravagance are manifest. While those who assert the contrary can at this moment obviously point with some elation to the present recovery and the booming stock market, the long term outlook remains bleak, and nothing in today's Dow Jones average or next month's inventory or retail trade figures can obscure our current shortage of savings, our apparently uncontrollable penchant for federal spending, our inadequate federal revenue base and the consequences to which the conjunction of these factors is leading. (As to the current recovery, none of us, even those most concerned with the metastasizing long term effects of deficits, believed that big deficits had outlawed the business cycle.)

The second point that stands out from the attached memorandum is that, as ominous as the near term situation is, with continuation on the present course the long term situation is worse—far worse. Future expenditures for interest costs, old age, and health will lead to bottomless future deficits. Even under fairly optimistic assumptions, we are now primed for calamity; by the year 2000, our present course will generate budget deficits in the range of 4.2 to 7.3 percent of GNP, and by the year 2025 the deficits will have doubled—reaching 8.7 to 16.2 percent of GNP. Under somewhat more pessimistic, and unfortunately more realistic, assumptions, we project a fiscal 2000 deficit of 6.3 to 9.9 percent of GNP, and a fiscal 2025 deficit of 16.8 to 25.8 percent of GNP! Unless something is done to change the course we are now following, interest on the national debt alone is scheduled to increase from 2 percent of GNP in 1980 to between 3.6 and 4.5 percent of GNP in fiscal

2000 and to between 6.3 and 11.6 percent of GNP in fiscal 2025 (using, in each case, optimistic assumptions). We need no long term projections to remind us of the explosion in health care costs; Medicare costs increased 18.6 percent in 1982! We are, in other words, being swept along by a current which becomes harder to resist every year; and there exists a very real danger that we will try a little harder each year to do something about it but will steadily lose ground nonetheless.

The third inescapable message in the attached material is that to date political pressure has skewed efforts to trim federal spending in a manner which has been neither effective nor equitable. The vast edifice of nonmeans tested federal entitlement programs (most of them 100 percent indexed to CPI) has emerged unscathed from the budget cuts of the early 1980's. Supported by 35 to 40 entitlement organizations which boast 100 million members, these programs account for fully 40 percent of the budget. Their costs are projected to explode as demographic changes drive up the number of recipients and reduce the number of workers who contribute to their support and as changes in the medical sector ratchet the cost of providing medical care to the elderly steadily higher.

A final point that stands out is that even the most vigorous and politically sensible package of spending cuts cannot, standing alone, solve the problem. We are, as George Will has said, "undertaxed" given the outer limits of what is politically possible on the spending side.

In light of these disturbing dynamics, what then is an appropriate role for the Bipartisan Budget Appeal? One element of such a role, we feel, is education. Through work like that underlying the attached memorandum, we can as an organization try to puncture the myths and rationalizations that our political system serves up as an excuse for inaction, to provide our leaders with fair and impartial information about the present situation and the consequences of various policy choices. By educating, we may also be able to help end the current political stalemate.

For example, by urging that tax increases be linked to major spending reductions and that any tax increases be based on consumption rather than savings, we can perhaps help build a consensus for doing something intelligent, equitable and consequential on the revenue side.

Similarly, it now seems quite clear that positive action on the spending side will require a thoughtful and humane assault on the citadel of federal entitlements for the elderly. That means shifting entitlement programs more in the direction of the needy so that precious resources aren't squandered on those who are more than able to take care of themselves. (It may well be that such an assault cannot be launched too directly. Still, some combination of measures—such as putting a cap on COLA indexing, taxing all benefits above contributions, capping benefits to those with higher wage histories, and so forth—can do much toward improving the situation.) It also means providing a bipartisan counterweight to the powerful lobbying groups who have made the citadel impregnable thus far.

Prodding our political system to do something about entitlement programs will, as we have seen time and again, be a monumental task. As the attached paper suggests, we are a long way from making any progress. The message coming from Washington today is either that the Social Security problem has been resolved or that Social Security is in any event now "sacred" because it has been blessed by the Bipartisan Commission's "solution". The tag line to that message is that growth in non-Social Security entitlement programs (in particular, federal, civilian and military pensions) can on the grounds of "fairness" be reduced no further than growth in Social Security—essentially one six month delay in indexing, for a relatively trivial $1 billion or less in savings. Together, these thoughts are a prescription for inaction, and only through education can we hope to create a consensus for stronger medicine.

Beyond education, a number of suggestions have been advanced for addressing our fiscal problems. Realistically, it is not likely that significant action will be taken until after the 1984 election—on the contrary, the combination of economic recovery, a strong stock market and a presidential race can be relied upon to assure that difficult questions will be tabled for the next 12 to 18 months. Only a demonstrable crisis would be likely to accelerate this process. In a sense, then, perhaps the immediate challenge is to ensure that the President-elect be in a position to move to resolve the fiscal crisis as soon as possible after the inauguration. In this spirit, a number of suggestions have been advanced. One is to hold a "summit conference" consisting of the leadership from the executive and legislative branches. Another is to create a Bipartisan Deficit Commission similar to the Social Security Commission which was of course created to tackle another problem that was also unusually sensitive from a political point of view. A third option would be the formation of a Bipartisan Private Sector Commission on the deficit which could operate in tandem with or separate from a formal Bipartisan Commission in the public sector.

Such suggestions raise a number of important considerations. First, would a formal Bipartisan Deficit Commission be productive or counterproductive in the midst of a presidential election campaign? There are obviously a number of risks. The formation of a Bipartisan Commission might permit public candidates to ignore the deficit issue entirely on grounds it is being handled by the Bipartisan Commission. Similarly, if the commission made its report in the course of the campaign, the report itself could distort the political process and give candidates an opportunity and even an incentive to pledge not to take steps that are politically unpopular, though fiscally imperative. One response to both considerations might be to restrict such a commission to fact finding until after the November 1984 election.

Similarly, a Bipartisan Private Sector Commission would have to tread gingerly in an election year. While such a group would have the advantage of being able to meet more privately and discuss realistic, if painful, options, both the timing and tenor of its discussions would inevitably be skewed by the various members' reading of the political climate and the progress of the campaign.

While the foregoing considerations suggest that action during the election campaign would have its risks, the risks associated with doing nothing until after the election seem equally grave, if not more so. Whatever the danger that candidates would use any bipartisan commission—whether public or private—as a target for avoiding difficult choices or as a political stalking horse, the offsetting danger is one of delaying any action for as much as two more years. In light of all of our urgent concerns with the fiscal situation, it seems that at the very least the basic analytical work and the definition of options for the President-elect has got to begin before November of 1984.

From a tactical viewpoint, the question which faces our Bipartisan Budget Appeal is quite simply this: What should we do to encourage the candidates to face the deficit issues forthrightly and to commit to take meaningful action upon election? Should we press for the formation of either a private sector commission or an official commission to begin work early in 1984? If such a commission extends its efforts beyond fact finding, should a report be made before the election, or only thereafter? To what extent, setting aside the commission issue, can the Bipartisan Budget Appeal attempt to influence all the presidential candidates, to urge them, for example, to set up official bipartisan commissions after the election and otherwise to address promptly the fiscal crisis? The goal, it seems to us, must be to cause the President-elect to deal with the problem in this very first budget message—in March of 1985.

I urge you to write and let us have your views on these and other options. All of us would prefer that the regular political process function as intended, but seasoned observers in and outside the government tell us time and again that the process is paralyzed by the combination of enormous deficits and an array of vested interests which move to block every viable alternative.

Whatever the tactical choice, the founding members believe that the basic outline of our program remains valid—that cost of living indexation must be retarded, nonmeans tested entitlements and other subsidies reduced and reformed, real defense growth made more gradual and efficient, and revenues increased. We need to hear from you concerning the various elements of this program, those you now feel require greater emphasis, and any new elements you would like to add.

On a more personal note, you may know that I will be retiring from the chairmanship of Lehman Brothers at the end of this year to go into the merchant banking business. I hope, with your help, to continue to devote time, energy and resources to our bipartisan effort, as do our founding members.

I trust we will be hearing from you as we have so often and usefully in the past.

Warmest regards,

PETER G. PETERSON.

(P.S.—I am tempted to apologize for the length of the attached document. Yet the political forces that continue to insist that there is no problem are so formidable that we have no choice but to be thorough in our research, analytical in our reasoning and, in consequence, voluminous in our output. Nonetheless, I am sorry because I know something of the magnitude of your reading burdens).

OCTOBER 19, 1983.

To: Bipartisan Budget Appeal Supporters.
From: Peter G. Peterson.

I. AN UPDATE OF THE BUDGET OUTLOOK

Despite the cyclical economic rebound this year, the outlook for the budget remains alarming. Even assuming the economy continues to grow rapidly for the next few quarters and then (optimistically) grows steadily at about 3½ percent annually thereafter, annual deficits in 1984 through

1988 are still projected to be in the $200–$250 billion range. This assumes Congress holds defense budget authority growth to 5 percent, in real terms, allows nondefense programs, on balance, to continue operating at current services levels, and does not enact any new tax programs. Right now, the deficit is on a course that appears to be permanently locked in at 5 percent of GNP or more—well above either the postwar average of 0.9 percent or the average for the more recent period, 1965–1980, of 1.6 percent.

TABLE 1.—*Federal deficit projections—Baseline estimate* [1]

Fiscal year:	*Billions*
1983	$197.4
1984	196.2
1985	199.4
1986	218.0
1987	243.0
1988	244.5
Percentage of GNP:	
1983	6.1
1984	5.6
1985	5.3
1986	5.2
1987	5.3
1988	5.0

[1] Assumes real GNP growth of 5.4 percent, 3.6 percent, 3.2 percent, 3.4 percent, and 3.4 percent in fiscal years 1984–88, no change in tax and nondefense spending policies, and a 5 percent real growth in defense budget authority in each year.

II. LARGE DEFICITS: THE THREAT TO OUR ECONOMY IS REAL

Too often the most difficult and fundamental problems are ignored by our government. Just as the members of an ailing patient's family seek to pretend that an illness doesn't exist by refusing to have it diagnosed, so our Washington representatives turn away from intractable problems and hope by doing so that they will somehow simply disappear. The latest examples of this approach are recent assertions that our economy can grow itself out of deficits, that deficits don't have any impact on the economy anyway, and that even if they might have an impact, foreign capital will finance them and, eliminate the problem. Each assertion is fundamentally wrong.[1]

(a) Will we grow out of the deficit problem?

The belief (the hope, really) has been expressed that the economy will grow out of currently projected deficits. Unfortunately, however, the $200-250 billion projections already assume a recovery that is stronger than the rebound from the 1974–75 recession. In fact it assumes a 5-year growth path stronger than any since the early 1960's. Even a 5-year growth spurt in 1984–1988 that equalled the record 1962–1966 surge would leave the deficit in the $150–200 billion range throughout most of the period. For example, if the economy were to grow at a 6 percent rate in 1984 and 1985 and at a 5.5 percent rate in 1986, the federal government would still run a $160 billion deficit in 1986—3½ percent of GNP. The dropoff in the deficit to about $100 billion in 1988 under this scenario, shown in Table 2, occurs because, perversely, the inflation surge late in the period swells income tax and payroll tax revenues right away, while cost of living adjustments for benefit payments on the spending side lag.

TABLE 2.—DEFICITS UNDER ALTERNATIVE ECONOMIC SCENARIOS

	Baseline growth scenario			Record growth scenario (1962–66 growth)			Slightly slower growth scenario (1976–80 growth)		
	Real GNP growth (percent)	Inflation (GNP deflator, percent)	Deficit [1] (billions)	Real GNP growth (percent)	Inflation (GNP deflator, percent)	Deficit [1] (billions)	Real GNP growth (percent)	Inflation (GNP deflator, percent)	Deficit [1] (billions)
1984	5.4	4.2	$196	6.0	4.5	$191	4.5	4.0	$204
1985	3.6	4.5	199	6.0	5.2	171	3.4	4.2	209
1986	3.2	5.2	218	5.5	6.1	160	3.4	4.9	229
1987	3.4	5.3	243	5.0	7.2	148	3.4	5.0	257
1988	3.4	5.4	245	4.6	8.3	102	3.4	5.0	264
Cumulative 5 yr real growth [2]	20.5			24.0			19.5		
Average annual rate of growth	3.8			4.4			3.6		

[1] Deficits were computed by adjusting baseline estimates of revenues for the difference in nominal incomes relative to the baseline scenario and by adjusting outlay estimates for unemployment compensation, food stamps, and other means tested programs for the difference in the projected unemployment rate relative to the baseline. Finally, estimates for interest on the debt were adjusted, relative to the baseline, to reflect both the effects of higher (or lower) nominal interest rates because of changes in the inflation rate and the effect of changes in the volume of government financing.

[2] No 5-yr period in the 1970's had cumulative real growth as high as 20 percent.

Most economists believe a prolonged period of rapid economic growth like that in 1962–1966 is highly unlikely, especially on top of this year's rebound. For example, the Administration discounted the possibility in its January budget document, citing among other things the fact that low capacity utilization at the start of the recovery makes the above average rebound in capital spending, necessary for unusually strong real output growth, an unlikely occurrence. It also cited the restrictive effects of high interest rates and the fact that the financial difficulties facing the developing countries will hold down imports from the U.S. and other industrialized countries. More recently, Commerce Department officials have publicly predicted that our trade balance will probably deteriorate further in 1984. It is hard to envision a sustained period of above average economic growth when our export sector is being decimated.

A more likely, but certainly not pessimistic, alternative to the baseline economic scenario would be an expansion like the recovery from the 1974–1975 recession. If this were to occur, deficits would be $10–$20 billion higher than projected under the baseline case.

Thus, the assertion that the economy will grow out of the projected deficits is simply that—an assertion. It can not be substantiated and, in fact seems highly unlikely. Realistically, there is little to suggest that the economy will not follow the post-World War II pattern and sometime over the next five years slip into recession—an eventuality not provided for in any of the three economic and budget scenarios shown in Table 2. When such a downturn will come to pass can not be pinpointed, but it's likely that at least one recession will occur in the five year period, especially in light of the fact that all three scenarios optimistically assume constant or declining real interest rates, something that is not likely to happen with deficits as large as projected. One of the things that makes the budget projections that have been shown so alarming is that if the economy were actually to slip into recession sometime in the next five years, the careful calculations of projected deficits in Table 2 would have to be set aside and replaced with a projection that would literally fly off the charts—past the $300 billion mark.

(b) Do deficits matter?

Some officials have recently taken up a point made by academicians in the 1970's—namely that, in the past, deficits were not high at the same time interest rates and inflation rates were high. Consequently, it is argued that it is not possible to prove that deficits affect either variable. This leads these officials to suggest that deficits are unimportant and that the deficit projections can be safely ignored. The conclusion is simply incorrect. (Professor George W. McKinney, Jr. of the University of Virginia, one of our Bipartisan Appeal supporters, has said this is "pretty much like assuming that there are no wolves in the forest if you don't meet one on the road.") In fact, statistical correlation analysis that tries to establish that deficits cannot affect interest rates fails to take into account the fact that deficits in the 1960's and 1970's were an order of magnitude smaller than the ones we face now and in the future—we even had a budget surplus in fiscal 1968 and near-balance in fiscal 1974. In addition, the previous postwar record for federal budget deficits, 3.1 percent of GNP in fiscal year 1975 and 4.0 percent in 1976, was not only smaller than the deficits now in store but was short-term—a cyclical outgrowth of the 1974–75 recession. Deficits both before and after the 1975–1976 period were much smaller. Contrast that with what appears to be an endless stream of large deficits in the 1980's and beyond. Both the baseline projection and the rapid growth scenario discussed in reference to Table 2 make it clear that the deficit is now not just a cyclical phenomenon, but rather a structural one.

An extremely important consideration when reviewing the postwar history of federal deficits is that each time deficits were large (by the standards of those days) other policies and events, in particular a stimulative monetary policy, were working fully to offset the interest rate effects. Today, few people expect, in the absence of fiscal reform, the sustained loose monetary policy that would characterize an attempt by the

[1] I want to thank James Capra, formerly the Manager of the Domestic Research Department at the Federal Reserve Bank of New York, and now a Senior Economist at Lehman Brothers Kuhn Loeb, for doing the bulk of the analytical work and estimates.

Federal Reserve to offset the interest rate effects of projected deficits. And justifiably so. The last thing we need is to combine a loose monetary policy with the loosest fiscal policy in our history. Although this greatly reduces the flexibility of the Federal Reserve (unless, of course, the projected deficits are curbed), it's clear that if the central bank were to try to neutralize the interest rate effects of large deficits by pursuing a course of sustained monetary stimulus for the next five years, it would not be long before a resurgence in inflation expectations in the financial markets would drive nominal interest rates up anyway.

Before going any further with this line of reasoning, it's useful to review a few basic facts. In the first three years of recovery from the recession that occurred in 1974 and lasted into the first quarter of 1975—the downturn most like our recent one—public borrowing (that is, federal and state and local borrowing) consumed 46.2 percent in the first year of recovery (1975), 30.8 percent in the second year (1976), and 21.6 percent in the third year (1977) of the net funds raised in the credit and equity markets by domestic nonfinancial sectors and by foreigners borrowing and issuing equity in the United States. Monetary policy was "easy enough" that the total flow of new credit extensions and equity issues grew rapidly, especially in 1976 and 1977, when that total grew by 28 percent and 22 percent respectively. How does that contrast with the current outlook?

TABLE 3.—FUNDS RAISED IN THE CREDIT AND EQUITY MARKETS

	Total funds raised (billions)	Public sector borrowing [1] (billions)	Public sector percentage	Private sector percentage
Calendar year:				
1973	$201.7	$21.5	10.6	89.4
1974	193.9	27.3	14.1	85.9
1975 (1st recovery year)	214.4	99.1	46.2	53.8
1976 (2d recovery year)	273.5	84.2	30.8	69.2
1977 (3d recovery year)	334.3	72.2	21.6	78.4
1978	401.7	72.8	18.1	81.9
1979	402.0	57.6	14.3	85.7
1980	397.1	106.3	26.8	73.2
1981	406.9	109.7	27.0	73.0
1982	440.7	207.1	47.0	53.0

[1] Includes Federal and State-local borrowing.

First, with respect to the *total* flow of new credit and equity, in recent testimony Chairman Volcker suggested that in 1984 the Federal Reserve would in all likelihood adopt an associated range of 8 to 11 percent for growth in the level of domestic nonfinancial credit or debt outstanding. When this policy is combined with reasonable estimates of the flow of credit to foreigners and the flow of new equities, the low end of the Chairman's range would imply that the total flow of both new credit and equity in 1984 would fall somewhat below that in 1983, primarily because the level of domestic nonfinancial credit outstanding would grow at 8 percent in 1984 rather than at the 10 percent rate that is now estimated for 1983. The upper end of the Chairman's range would imply a 20 percent increase in the total flow of new debt and equities.

Under these alternative projections for the total flow of new credit and equity, the fraction of the total funds raised that would be preempted by the government in 1984, the second year of the current recovery, is 43 percent under the more accommodative Federal Reserve policy; under the tighter policy, it is 57 percent. Compare that to 30.8 percent in the second year of the earlier recovery. If the 8 to 11 percent credit growth were extrapolated to 1985, either public borrowing would consume about twice the percentage that it did in 1977 (the third year of the earlier recovery)—when it accounted for 20 percent—or public borrowing would consume nearly three times the 1977 percentage, under the slower total credit growth assumption.

TABLE 4.—FUNDS RAISED IN THE CREDIT MARKETS—ALTERNATIVE SCENARIOS

Calendar year	Total funds raised [1] (billions)		Public sector borrowing (billions)		Public percentage		Private percentage	
	8 percent scenario	11 percent scenario	Federal	State-local	8 percent scenario	11 percent scenario	8 percent scenario	11 percent scenario
1983 (estimate)	$503		$214	$45	51.5		48.5	
1975 1st recovery year					46.2		53.8	
1984	450	606	215	43	57.3	42.6	42.7	57.4
1976 2d recovery year					30.8		69.2	
1985	476	662	218	46	55.5	39.9	45.5	60.1
1977 3d recovery year					21.6		78.4	

[1] Includes domestic nonfinancial borrowing, nonfinancial borrowing by foreigners, domestic and foreign equities issued in the United States.

What all the figures boil down to is that unless the Federal Reserve were to promote credit growth well above its announced range, i.e., monetize the deficits, an eventuality which could have dire consequences for future inflation, federal deficits of $200-250 billion simply have to result in interest rate pressures as private borrowers scramble for the remaining funds and bid up interest rates.

The question is no longer whether this clash will take place but when. Alan Greenspan told the National Governors' Conference he could visualize it is soon as the first half of 1984. Others expect that strong business profits and internal cash flow in 1983 and early 1984 will make it possible for the clash to be postponed for awhile. The numbers in Table 4 suggest that even with relatively light business credit demands over the next several months, intermediate pressures will be building in the credit markets over the course of 1984 and by 1985 they will be intense.

Before leaving the issue of the effect on these unprecedented, outyear structural deficits on the supply and demand for funds and ultimately on interst rates, I would suggest a final point. It is undeniable that the vast majority of investment and financial officers have serious concerns about the interest rate and the inflationary effects of the deficit. I believe that the evidence is overwhelming that these concerns are well-founded. But, even if they were not, it is clear that what these people *think* has become part of the current *reality*—interest rates are today very high.

(c) Will foreign capital finance the Federal deficit?

It has been argued that future government deficits will not crowd out domestic borrowers because foreigners will be a major source of financing for the government's deficit. This point of view is, in part, incorrect and, the part which is correct is incomplete. First of all, the financial markets have long ago progressed past the point where only governments can raise funds in the international credit markets. Businesses and individuals, either on their own or through financial intermediaries, are major participants in the Euro-markets. The fact of the matter is that strictly "domestic" and strictly "international" markets for funds are quickly becoming a thing of the past, if they ever really existed at all. Borrowing by the U.S. government from foreigners can displace businesses and individuals seeking to raise funds. What this means is that foreign purchases of U.S. government debt do not necessarily represent an "escape hatch" from the interest rate pressures stemming from large government deficits.

On the other hand, it is correct to note that when foreigners purchase U.S. debt—whether it is public or private—they are providing a supplement to our domestic savings pool. Savings are being extracted from the rest of the world.[2] Unfortunately, these foreign savings are being brought in not so much by foreign perception of high rates of long-term U.S. economic growth, but by high real interest rates on U.S. governmental debt. The relative attractiveness to foreigners of high yields on U.S. government debt (which must be bought with dollars) has caused the dollar to soar on the foreign exchange markets. This strong dollar, in turn, has increased the price of our products abroad, with devastating effects on our trade sector. It has also lowered the prices (in dollars) to U.S. consumers of foreign products, which has proved to be extremely damaging to our import competitive industries. In short, the view that foreign capital inflows will finance the deficit is incomplete in the sense that foreign savings are being extracted at the cost of creating serious imbalances in our domestic economy, with many producers being practically priced out of the market even if they have efficient production processes.

The fact is that foreign capital inflows can not fully prevent the government from crowding private borrowers out of the credit

[2] In one sense it is correct to argue that were it not for these foreign savings it would take even higher interest rates to attract sufficient domestic savings to finance the credit demands of the public and private sectors. But in another sense, it can be argued that if government credit demands were lower, these foreign savings could finance more private investment.

markets[3] and to the extent that these inflows help finance the deficit they do so by a process which crowds U.S. exporters and domestic competitors to foreign imports out of the markets for manufactured goods. It is their products, their profits, and ultimately their workers that are being crowded out by these large government deficits. More will be said about this important side effect of budget deficits in the next section.

III. HOW DEFICITS ARE CRUSHING OUR EXPORT TRADE AND CROWDING OUT CAPITAL FORMATION

In trying to avoid or deflect responsibility for dealing with the deficit problem by bringing up the arguments just discussed, there is also a tendency to distract the public from some very real and very important problems and imbalances caused by projected budget deficits. What is not widely appreciated, nor volunteered, is the connection between the budget deficit on the one hand and the trade deficit on the other, and the implications of the projected deficits for capital formation in this country.

(a) The budget deficit and the trade deficit

The fear of future deficits is clearly one reason why real interest rates have remained exorbitantly high in the United States. A recent analysis that quantified the effects concluded that because the financial markets foresee an endless stream of $200 billion budget deficits, 20-year corporate bond yields are 200 to 300 basis points higher than they would be if the expectation were for a series of $100 billion deficts.[4] These high rates, which have attracted foreign investors, have also catapulted the dollar to new highs on the foreign exchange markets. In effect, the "price" of the dollar has been bid up by the financial demand for dollar denominated financial assets and securities which both high real interest rates and huge deficits attract. (In fact, the international flow into these financial instruments has run in the range of ten times as much as the flow of goods and services. Exchange rates today are being determined much more by movements of capital than by movements of trade.)

A comparison with Japan's interest rates is instructive. For example, in the first half of this year, U.S. and Japanese inflation rates were roughly equivalent. Yet, 10 year bonds yielded about 7.5 percent in Japan compared to 10.5 percent in the U.S., and short-term rates were 6 to 6.5 percent in Japan compared to 9 to 9.5 percent in the U.S. (A comparison with our own recent history is also instructive; we may have forgotten that there were years in the Seventies when we had negative real interest rates in the U.S.) The financial flows that result from such large real interest rate differentials have had an enormous impact on the dollar.

The significance for the real economy (that is the markets for goods and services) of the soaring dollar is direct and profound for the simple reason that the currency is the medium of exchange for products that we trade. The relative cost of American products is determined by a variety of factors, including unit labor costs, levels of inflation, and so forth. The performance of the U.S. on these cost factors has not been good vis-a-vis certain other countries. Thus, if the dollar had been "priced" to keep American products competitive on a trade basis with these countries, the dollar's relative price should have been coming down to reflect these deteriorating cost trends. Instead, the price of the dollar has been going up substantially relative to these and other countries, putting America's trade situation in jeopardy.

Consider the U.S. dollar v. the Japanese yen. Since 1978, the dollar has risen about one-third in value against the yen—230 to 245 yen to the dollar today versus 180 yen in 1978. Yet, during the same period, we had about 20 percent more inflation than the Japanese. Thus, in a more perfect world, it is the yen that might have gone up in value by about 20 percent rather than going down in value by about 35 percent. Thus, the total swing has been over 50 percent. This has had a devastating impact on such industries as autos, construction equipment, electronics, etc. Even allowing for undervaluation of the dollar in 1978 and the imprecision in these kinds of measurements, most economists would agree that the dollar is now significantly overvalued versus the yen in terms of trade competitiveness. It is not difficult to imagine how much more competitive a Chrysler, Ford, GM, or American Motors car would have been if the Toyota and Datsun cars cost significantly more than they do now in dollars. It is well known that the strong dollar has compounded the difficulties of industries like autos which have been in the process of structural change. But the strong dollar has also caused problems for firms that are generally acknowledged to be operating efficiently, such as Caterpillar Tractor, which has seen its productivity gains overwhelmed by an exchange rate which favors Komatsu tractors.

The overvalued dollar has not only decimated the trade competitiveness of companies in our heavy industries like autos and steel, but has cost our leading "high tech" companies (like Hewlett-Packard and TRW) large export losses. In addition, many domestic firms that do not rely on exports have suffered. For they have found their domestic sales positions threatened by foreign imports that are priced lower in the U.S. simply because of the overvalued dollar. To complete the vicious circle, many of the companies affected by this unfavorable exchange rate can hardly be expected to participate significantly in the much heralded pickup in investment if the overvalued dollar erodes the competitive position they counted on for such investments. (In fact, one might argue it is a bit ironic that, in the name of international competitiveness, a new "industrial policy" has received so much public attention at a time when the enormous price and competitive disadvantage—some would call it the "de-industrialization" of America—of an overvalued dollar has received so little discussion.)

High budget deficits and associated high interest rates are a principal reason why the dollar, on a global, trade-weighted basis, is probably right now overvalued by at least 20 to 25 percent from the standpoint of trade competitiveness. (The Institute for International Economics has recently estimated that the dollar is overvalued by 24 percent.) This is like a 20 to 25 percent tax on our exports and subsidy for our imports. The effects are not small relative to the U.S. economy, as some might have us believe. On the contrary, our trade balance deteriorates about $3 billion for every 1 percent the dollar is overvalued, according to the Institute for International Economics. And the deterioration in net exports is associated with about three-fourths of the real GNP decline between early 1981 and the end of 1982, more than double the effect of the housing slump; Data Resources, Inc., estimates that the associated loss in real GNP was more than $100 billion, and even greater losses are possible in the future from the ballooning trade deficit.

In 1984, the U.S. current deficit could easily exceed $80 billion, or more than five times the previous record of $15.2 billion in 1978. Recall that as recently as 1980 we ran a current account surplus. It is no surprise that the projected current account deficit is so large, when one considers that the merchandise trade deficit is likely to grow from a staggering $60 billion or more this year to approach an inconceivable $100 billion next year. Why is this happening? The overvalued dollar is, of course, one of the principal explanations. Henry Wallich, a member of the Federal Reserve Board, has given a succinct explanation:

"In the United States, we do not have a current account deficit because we need it or even want it. We have a current account deficit because we have a budget deficit. The mechanism by which the budget deficit causes the current account deficit is straightforward. The budget deficit raises interest rates. Higher interest rates relative to foreign rates cause a demand for dollar assets. The demand for dollar assets drives up the dollar exchange rate. The high dollar exchange rate causes the current account deficit. Put differently, we don't have a capital inflow because we have a current account deficit. The causal sequence runs the other way. We have a current account deficit because we have a capital inflow." [5]

Thus, over the past two years, we have seen that the exchange rate system has not worked in the way that had been widely expected; namely, that a large current account deficit would improve the trade balance by weakening the currency.

Earlier this year, amid much fanfare, the Congress passed and the President signed a jobs bill that supposedly would create 200,000 to 300,000 jobs. Even if one accepts the questionable proposition that the bill will create that many jobs, the benefits pale in comparison to what the deteriorating trade balance has cost us in job opportunities. It has been variously estimated that there are about 25,000 to 40,000 jobs per billion dollars of manufactured goods exported. Between 1980 and 1983, the merchandise trade balance on manufactured goods will have gone from about a $20 billion surplus to perhaps something in the range of a $30 billion deficit. (Our trade with Japan is so intensive that the Commerce Department estimates that the bilateral U.S.-Japan trade deficit will hit $25 billion in 1983, but with a $30 billion deficit in manufactured goods, above or equivalent to our entire manufactured goods deficit.) Thus, the overvalued dollar will have cost us 1¼ to 2 million job opportunities and that number

[3] In this context, by financial crowding out is meant a process by which heavy demands for funds push rates up sufficiently that the "hurdle" rate for new investment becomes so high and rates for mortgage borrowing become so high that the total of public and private credit demands is reduced to a point that equals the supply. Deregulation of the financial markets has meant that "crowding out" must now occur through the market mechanism of interest rates rather than through credit rationing.

[4] Allen Sinai and Peter Rathjens, "Deficits, Interest Rates, and the Economy," DRI Review, June, 1983 and Allen Sinai, "Policy Mix, Deficits, and the Economy," summary of remarks presented to the National Tax Association-Tax Institute of America Annual Conference on October 3, 1983.

[5] *Journal of Commerce*, August 19, 1983.

would rise another ½ to ¾ million jobs in 1984 if the manufactured goods deficit continues to grow as is widely projected to something in the range of an astonishing $50 billion.

TABLE 5.—MERCHANDISE TRADE BALANCE DETERIORATION

[In billions of dollars]

	1980	1981	1982	Estimate— 1983	1984
Total balance merchandise trade	−20.1	−27.6	−31.8	−60	−96
Petroleum	−71.0	−71.9	−53.5	−50	−58
Agriculture	+23.9	+26.3	+21.6	+19	+19
Manufactured goods	+19.0	+11.8	−4.3	−29	−52
Other (minerals, resources, etc.)	+8.0	+6.2	+4.4	.....	−5

What these figures mean, I fear, is that unless vigorous action is taken, trade could well become a central campaign issue for the first time in many years. The result is likely to be the greatest surge in protectionist rhetoric and political commitments to protectionist measures during an election year since World War II. The strategic and diplomatic consequences of such a campaign would be grave, and the economic consequences could be disastrous.

It has been argued, and quite correctly, that the strength of the dollar has been an important factor in the rapid fall in consumer price inflation, as imported goods have in some cases even fallen in price (in dollars). This makes imported goods less expensive for U.S. consumers and puts pressure on domestic producers to hold down price increases. Experts at the Federal Reserve Bank of New York estimate that a 10 percent appreciation of the currency, through its direct and indirect effects on consumer prices, reduces the price level by a total of 2 percent from what it would have been, with the change taking place gradually over an eight quarter time span.[6]

However, as pleasant as this effect has been so far, the same effect, except in reverse, poses grave future risks. Unless we reduce the value of the dollar gradually and thereby straighten out our trade situation, we run the risk of at some point incurring a precipitous flight from dollar denominated assets. A collapse in the dollar could occur when the deterioration in the U.S. trade and balance of payments position, as well as the continuing prospects of enormous budget deficits, finally outweighs the attractiveness of high interest rates and the U.S. image as a "safe haven"—something that most analysts view as inevitable if our balance of payments continue this extraordinary deterioration. Among other things this would mean a reduced flow of funds to our credit markets and still another source of upward pressure on interest rates. There is, in short, an inevitable Catch 22. The dollar will at some point almost surely sink or perhaps plummet because of unprecedented federal budget and balance of payments deficits unless the currency can be propped up by wider and wider interest rate differentials. Propping it up in this way would, of course, aggravate our domestic economic ills even further. Even more important, though, is the fact that a collapse of the dollar could also easily trigger a new price wage spiral. Consumers would see prices of imported and some domestic goods skyrocket. Workers very well might seek higher wages to compensate for the price increases they would be seeing—and we would be back on the escalator again. A new inflation-recession cycle could be started. No matter how one looks at it, the federal budget deficits are causing our nation to traverse a very dangerous course in international waters.

Finally, in addition to self-interest telling us that the foreign capital flows associated with our high budget deficits are not desirable, there is a moral question here. It is not clear why the richest nation on earth should be drawing capital from the rest of the world in order to pay for its government expenditures—a large part of which is for publicly subsidized consumption. Surely, those funds are needed for investment in both Europe and in Third World nations. Also, in a more direct sense, the interest rate effects of our deficits have a significant effect on Third World debt problems. For every 1 percentage point increase in interest rates the debt servicing costs of the Third World rise by $4 billion, according to the Institute for International Economics. This effect of increased interest costs, together with what could be the explosion of the international debt bomb that would follow the closure of the U.S. as an export market for Third World countries by possible protectionist legislation, explains why the leaders of those nations see curbing the U.S. budget deficit as a top international priority.

(b) The budget deficit and capital formation

It is not deficits per se that pose a threat to capital formation. Rather, it is the combination of deficits that subsidize consumption and at the same time absorb a large portion of the savings that are generated by a nation that poses the threat. This is clearly seen in the case of Japan, which from time-to-time has experienced deficits rivalling ours—deficits in the range of 5 percent of GNP—and yet continued to invest far more in productivity. How? The answer is simple: Japan's net savings pool is much larger than ours, about three times larger as a percent of GNP. In 1978, Japan used 31 percent of net savings to fund its public sector deficit, the largest percentage of net savings for the decade of the 1970's. Our public sector deficits (federal deficits offset by a state-local surplus) are now destined to absorb 50–70 percent of the combined total of our net savings and large foreign capital inflows (savings attracted from abroad). Clearly, what we are doing is rapidly draining our meager savings pool as the government siphons it away to finance public expenditures—many of which are needed, but many others of which simply represent publicly subsidized consumption for the relatively well-off. This is being done at the expense of investment in our future. Thus, if we look at the decade of the 1970's, we should not be surprised to find that Japan put something approaching three times more of their GNP as the U.S. into net investment in plant and equipment than the U.S.

The current Administration came into office professing a deep commitment to capital formation as did much of the Congress. The Chairman of the Council of Economic Advisers has written extensively on the subject. Yet, despite the incentives to business investment enacted in 1981 and what appears to be a strong cyclical rebound in overall economic activity both this year and next, the prospects for net new investment—that is, additions to the capital stock, net of depreciation—are dismal over the next few years unless the deficits are cut significantly. In 1985, for example, under optimistic assumptions about the rate of personal and business saving (especially given the disappointing rates of personal saving we are now experiencing) and with heavy inflows of foreign capital (in the 1960's and 1970's we had, on average, outflows of capital, when our current account was in surplus) a deficit equal to 5 percent GNP would leave net saving available for new private investment—as a share of GNP—at one-half to two-thirds the average of the 1960's and 1970's. (Net saving available for investment would approach 4 percent of GNP, compared to 6 percent in the dolorous 1970's and 7 percent in the 1960's.)

The projection for 1985 assumes strong business saving as a result of the 1981 tax act as well as a continuation of strong business profits. It also assumes, optimistically, a rebound in the personal saving rate. Personal saving as a percent of disposal income is assumed to average 5.8 percent—significantly above the 5.4 percent and 4.0 percent figures registered in the first two quarters of 1983.[7] A state and local government surplus and a large current account deficit also swell the funds available to finance both the federal deficit and gross private investment to well above the average for the 1960's and 1970's—20.1 percent of GNP, compared to 15.9 percent for the 1960's and 17.8 percent for the 1970's. But the federal deficit is projected to be so large that it more than consumes even this projected rise in funds. In addition capital consumption allowances will continue to rise (a trend that reflects the fact, to be discussed later, that managers are increasingly investing in shorter lived assets because of uncertainty about interest rates and inflation and because the tax incentives in the 1981 tax act tend to favor short-lived equipment). Once economic depreciation (capital consumption allowance) is accounted for, the amount of capital available for net new investment is projected to be a dismal 3.8 percent of GNP.

TABLE 6.—SAVING AVAILABLE FOR INVESTMENT

[By calendar year, as a percent of GNP]

	1961 to 1970	1971 to 1980	1985 projection
Private savings	4.7	4.9	4.0
Business savings (gross)	11.7	12.0	13.5
Subtotal gross private saving	16.4	16.9	17.5
State-local budget surplus	—	+1.0	+1.0
Net foreign investment (net flows of capital)	−0.5	−0.1	+1.6
Subtotal amount available to finance the Federal deficit and for investment	15.9	17.8	20.1
Federal deficit	−0.5	−1.9	−5.3
Subtotal, amount available for gross private investment	15.4	15.9	14.8
Capital consumption allowance	−8.4	−9.9	−11.0
Total amount available for net new investment	7.0	6.0	3.8

No individual or Administration can be genuinely committed to capital formation and yet ignore these deficits. If the current policy stalemate is not broken, the high growth and low inflation the economy now enjoys will be just a brief hiatus from the economic malaise of stagflation that has plagued this country for over a decade. Ultimately, the lack of adequate capital forma-

[6] See "Dollar Appreciation, Foreign Trade, and the U.S. Economy," by Robert Feldman, *Quarterly Review of the Federal Reserve Bank of New York*, Summer, 1982.

[7] Saving rates are extremely difficult to measure and alternatives to the national income account definition measure the saving rate as being larger than the figures cited here. But, regardless of the precise definition, the important thing to keep in mind is that the rate is assumed to increase.

tion will also take its toll on productivity. One analysis estimates that in the 1948–73 period, when output per manhour grew by an average of 2.9 percent per year, productivity growth stemming from capital formation was 0.75 percent per year. In the subsequent period, 1973–1978, when productivity growth slowed to 1.2 percent per year, the growth attributable to capital formation was only 0.21 percent, contributing a considerable amount to the productivity slowdown.[8] Low productivity growth means that overall economic expansion slows down, international competitiveness erodes further, and inflation returns with a vengeance.

Not only will large deficits restrict the total flow of new investment, but evidence is beginning to mount that the high real interest rates associated with these deficit prospects may be distorting the quality of the investment that is undertaken. A recent analysis by Townsend-Greenspan, Inc. suggests that there has been a marked move toward shorter-lived investments over the last few years. The risks associated with the fiscal outlook appear to be causing managers to hesitate to undertake longer term investment.

However, what is needed is more, not less, investment in long-lived assets. Business investment in structures, one proxy for long-lived assets, fell from 43% of all investment in 1956 to 30% in 1981. Only in 1979–81, when inflation made investment in office buildings very attractive and touched off an office construction boom that was recently completed, was there a minor shift back to structures. (Investment in structures excluding office buildings fell from 32 percent of total nonresidential fixed investment in 1972 to 26 percent in 1977 and has remained at that percentage since then.)

A pattern of business investment that focuses on a more certain short-term return will not be competitive with our trading partners, who may be more willing to take larger risks in long-term investments. Failure to reverse this short-term bias in our investments will, in all likelihood, result in a continued erosion in our international trading position. Another factor to consider is that an economy in which more goods are produced from modern and competitive long-lived assets is less prone to an inflationary spiral. The inflation process is retarded because as long as there is a small surplus of usable industrial capacity, marginal pricing of goods derived from long-lived assets tends to reflect book costs rather than replacement costs. The opposite tends to be true for goods derived from short-lived or quickly depreciated assets, where pricing tends to reflect replacement costs.[9]

IV. FEDERAL SPENDING: HOW WE GOT INTO THIS MESS AND HOW WE MIGHT GET OUT

(a) What should be the deficit goal?

If the deficit were reduced from 5 percent of GNP to 2 percent, the three percentage points that would be freed up for investment would result in an amount of saving available for investment, as a percent of GNP, that about equals the average for the 1960's. A reduction in the deficit to 2 percent of GNP by 1985 has up until now been the near-term goal of the Bipartisan Budget Appeal. The longer-term goal has been continuing reductions after that—heading toward balance. Unfortunately, there was less than complete action on the budget in 1982, a lack of any significant action so far in 1983, and the view is widely held that absent a domestic or international financial crisis nothing is likely to happen in the way of substantial budget action until after the 1984 election. All of these factors suggest that 1985 has become an impractical target date. Regrettably, federal spending for 1985 is now projected to be 24.4 percent of GNP—5.2 percentage points more than the target announced by the Administration in March of 1981—while revenues are projected to be about 19 percent of GNP, close to the administration's March, 1981 goal.

TABLE 7.—WHAT HAPPENED TO THE ADMINISTRATION'S ORIGINAL SPENDING PLAN FOR 1985?

[Outlays in 1985 as a percentage of GNP]

	March 1981 target	Current projection	Difference
National defense	6.5	6.5	
Benefit payments:			
Nonmeans tested	8.3	9.5	+1.2
Means tested	1.7	2.1	+0.4
Grants	1.0	1.5	+0.5
Other operations and subsidies	1.2	1.5	+0.3
Net interest	1.5	3.3	+1.8
Undistributed cut	1.0		+1.0
Total	19.2	24.4	+5.2

The lags between legislative action and full implementation mean that at least a one year postponement of the target is necessary. Unfortunately, if 1986 now becomes the year of focus for reducing the deficit to 2 percent of GNP, even that will take major action, far more than anticipated right now by Washington representatives and perhaps more than the political system can absorb. Still, as a private sector group, one could argue that we should be setting ambitious goals. In any event, we as a country, have already lost much valuable time. The longer we wait the more draconian the inevitable spending and tax actions will have to be.

Cutting the deficit to 2 percent of GNP by 1986 would mean reducing it to about $85 billion by that date. This would entail a cut of $135 billion from the current projection of $220 billion. Spending reductions would continue to be the top priority, accompanied by the very important principles of fairness and burden-sharing. Under our revised proposed plan, approximately $85 billion of the reduction in the 1986 deficit would come from spending cuts.[10] Tax increases for 1986, which would be linked to spending cuts, would contribute $50 billion.

One can argue about both the size and the timing of a particular deficit goal and in particular about the relative differences that a more gradual stretchout makes. What would seem not be arguable to me is that until financial markets see an unambiguous signal that structural spending and tax measures are in place that will reduce out-year deficits significantly and permanently, within a reasonable time, we cannot expect to see a significant reduction in long term real interest rates.

(b) Federal spending

As to defense, the recently passed Congressional budget resolution adopted defense spending targets that were roughly consistent with the goal suggested by the Bipartisan Budget Appeal last January. That goal represented approximately a $25 billion cut from what in January was the Administration's 1985 spending baseline.[11] Of course, the Congress may change its mind in light of recent foreign policy tensions in the Middle East, Central America, or even a single event, such as the downing of the Korean airliner. If that happens, it will make deficits we face even larger, since cuts from the President's program are assumed in the budget estimates used up until this point. My own view is close to that of former President Ford, who has recommended that sustained longer term, but gradual growth will provide a defense profile that will maintain stength in the economy, strength in our defenses, and strength in our negotiating position with the Soviet Union by sending them a message that the United States has a credible long-term plan for improving its defenses that has bipartisan support. Such a long-term commitment, accompanied by what could still be a rapid rate of growth in current spending, would be more convincing to the Soviets than more rapid current spending without a long-term commitment.

While some action has been taken on defense spending, our government continues to avoid making the difficult choices in the nondefense spending area. Congress has correctly resisted efforts to further reduce the growth of the relatively small means tested programs, but it has failed to initiate substantial reductions in the vast nonmeans tested expenditures. It is precisely these much larger programs that have been the undoing of the budget, yet their growth has been reduced much less in percentage terms than programs for the needy.

In 1970, federal outlays were but 20.2 percent of GNP. By 1982, they had climbed to 24.0 percent—a rise of 3.8 percentage points. The growth in payments for individuals was 5.2 percentage points (defense and other federal operations and subsidies declined). While means tested programs grew somewhat during the 1970's and early 1980's (1.1 percentage points between 1970 and 1982), as the safety net for the poor was expanded, it was the nonmeans tested benefit payments that provided the engine for growth in federal spending. Their GNP share rose from 5.7 percent to 9.8 percent between 1970 and 1982. Social security retirement growth (2 percentage points), social security medicare growth (1 percentage point), and federal civil service and military pension growth (0.4 percentage point) were the prime contributors to this drain on resources for what ultimately is simply publicly subsidized consumption. In the 1970–82 period, expenditures for nonmeans tested benefit payments grew at a compound annual rate of 15.5 percent. Few, if any, major companies have achieved such a growth record.

The large increase in spending for nonmeans tested programs, primarily social security and medicare, is in part attributable to demographic trends in the number of beneficiaries. Those trends are projected to

[8] J. R. Norsworthy, Michael J. Harper, and Kent Kunze, "The Slowdown in Productivity Growth, Analysis of Some Contributing Factors," Brookings Papers on Economic Activity (1979:2).

[9] The exception to this is the case where replacement costs are declining, such as computers. However, there are few goods that fall in this category.

[10] About $35 billion of the spending reductions would be the result of lower interest on the debt, caused by less debt outstanding on which interest would be paid and an assumed across the board fall in interest rates from their current levels by about 100 basis points.

[11] The Congressional targets represent a less than $25 billion cut from the President's most recent 1985 goal because the President lowered his target somewhat when the 1984 budget was submitted in February.

get far, far worse. In 1970, the number of individuals age 65 and over was about 20 million; in 1980, 26.3 million. By the year 1985, it is expected to reach 29.5 million. By the year 2000, the number will have grown to 35 to 40 million, and by 2030 it is projected to be somewhere between 65 to 75 million.

The growth in the aged population combines with the explosion in health care costs to result in some extraordinary longer term growth projections. Hospital patient days of persons 65 and over are projected to increase from 105 million in 1980 to roughly 275 million in 2000, almost a tripling of hospital care for the aged in a twenty year period.

It is clear that the pressures for public spending on behalf of the elderly are only going to intensify and that if the federal budget is to ever be brought under control we have to start to do something now about benefit levels for this growing part of the population.

TABLE 8.—FEDERAL SPENDING TRENDS

[In percent]

	Percent of GNP			Average annual rate of growth 1970–82
	1970	1982	Change	
Total outlays	20.2	24.0	+3.8	11.6
Defense	7.8	5.7	−2.1	7.1
Nondefense, noninterest	10.9	15.5	+4.6	13.2
Interest	1.5	2.8	+1.3	15.9
Nondefense, noninterest	10.9	15.5	+4.6	13.2
Payments for individuals	6.8	12.0	+5.2	15.3
Grants	1.5	1.5		10.1
Other operations/subsidies	2.5	2.0	−.5	7.7
Payment for individuals	6.8	12.0	+5.2	15.3
Means tested	1.1	2.2	+1.1	16.5
Nonmeans tested	5.7	9.8	+4.1	15.1
Nonmeans tested payments	5.7	9.8	+4.1	15.1
Social security (OASDI)	3.1	5.1	+2.0	14.6
Medicare (including SMI)	.7	1.7	+1.0	18.4
Civil service/military retirement	.6	1.0	+.4	14.8
Unemployment compensation	.3	.7	+.4	18.0
Other	.9	1.2	+.3	16.6

The projection for nonmeans tested benefits shows essentially no change in the share of GNP between 1982 and 1988—despite the recently enacted changes in social security. Nonmeans tested benefit payments would be 9.7 percent of GNP in 1984, 9.4 percent in 1986, and 9.4 percent in 1988. Increases in social security retirement and particularly medicare (scheduled to go from 1.7 percent of the GNP in 1982 to 2.3 percent in 1988) offset the reduction in unemployment insurance payments that would be expected as the unemployment rate falls from its current level of over 9 percent to about 6 percent by 1988 as a result of the assumed sustained economic recovery. The big programs with automatic cost of living adjustments, social security and federal pensions, would more than keep pace with inflation—growing about as fast as the economy.

Recent studies by the Congressional Budget Office serve as a reminder of the fairness issue, which the Bipartisan Budget Appeal has emphasized since its inception. Budget austerity to date has been disproportionately focused on the low income groups—whose programs we estimate have been reduced, in percentage terms, two to three times more than the non-need-related benefit payments. By failing to come to grips with automatic 100 percent COLA indexing, the federal government has so far shown itself unable to take even the initial step toward controlling these nonmeans tested programs. This deficiency has been costly. Cost of living adjustments since July of 1981 for nonmeans tested programs alone have permanently built more than $30 billion per year into projected federal spending—that's nearly 1 percent of GNP. Freezing COLAs in order to make up for past overindexing resulting from the distortions in the CPI as a measure of inflation (primarily in the housing component), still remains an important proposal which has not been enacted. Now, in fact, a two year freeze will probably be necessary because of the enormous size of the budget deficit problem. The savings are not nearly what they would have been if this action had been taken in 1981 or 1982. Yet they are still substantial—almost $20 billion annually by 1986. After a freeze, holding COLAs to something closer to the private sector equivalent—such as, to take an example, 60 percent of CPI growth, which is about what the cost escalators are in labor contracts that have them—is an alternative that will have an important long-term effect. After ten years, with this kind of cap on indexing, outlays would be as much as $80 billion lower than they would have been otherwise.

Across-the-board COLA freezes and limiting future COLAs on the nonmeans tested programs represent an important way of spreading the burden of budget restraint fairly. In addition, they provide our political system time to figure out how to structurally reform some of these very costly programs. COLA restrictions provide almost immediate savings without the need to get into the specifics of the particular programs. Politically, a theme of shared sacrifice, fairness, and burden-sharing in which all would participate, other than the poor, strikes me as something more palatable—and certainly quicker—than confronting each of the formidable constituencies of these entitlement programs with specific program reductions. To be sure, this would involve opening up the issue of social security which so many of our political representatives assert would break the Bipartisan Commission compact. Leaving aside the question of the optimism of the demographic and economic assumptions underlying the social security projections,[12] there is no scenario in which the medicare portion of social security does not start running deficits sometime during the latter half of this decade. And for those who would have us believe that medicare is not a part of the social security system ("OASDHI") I would only remind you that as recently as December of 1982, the Retirement and Disability parts of the social security system ("OASDI") borrowed over $12 billion from their then solvent sister, medicare ("HI").

The conventional wisdom seems to be that it is not possible to return to social security for budget action in the wake of the Amendments passed this year. Some believe that the recent changes have effectively removed social security from the budget agenda and, in fact, under the new law, it is supposed to be taken out of the unified budget in 1990. I think it is useful to ponder the implications of such a position. It goes hand-in-hand with giving up on making substantial inroads on spending—especially when it is combined with the position that it is unfair to make COLA reductions to such programs as civil service and military pensions beyond those made to social security. (Applying only a six month delay in COLA's for these programs would save at most only a relatively trivial $1 billion, annually, by 1986.)

Let us now examine in more detail why the conventional political wisdom that social security and nonmeans tested entitlements are off-limits is equivalent to saying we are not going to resolve the fiscal dilemma.

In fiscal 1986, outlays are projected to be $1,010.4 billion under current policies. But, once interest, defense (which is assumed to be reduced from the levels proposed by the President to levels consistent with the First Concurrent Resolution for 1984), and social security (OASDI) are removed, all that is left is $387.1 billion:

TABLE 9.—*What is left when interest, defense, and OASDI are excluded?*

	Billions
Projected 1986 total outlays	$1010.4
Less:	
Interest	143.4
Defense	276.9
Social security (OASDI)	203.0
Projected remainder, nondefense, noninterest, non-OASDI	[1] 387.1

[1] 9.3 percent of GNP.

To cut $50 billion from this total would be a reduction of 12.9 percent from projected spending. Such a reduction would bring the 1986 total to $337 billion—$10 billion less than the projected 1984 total of $347 billion. The $50 billion reduction would reduce the GNP share for this set of programs by 1.2 percentage points, from 9.3 percent to 8.1 percent.

But what is the composition of this "all other" spending? It includes the following (projected for 1986):

TABLE 10.—*Composition of nondefense, noninterest, non-OASDI spending for 1986*

	Billions
Medicare	$85.5
Civil service/military retirement	45.0
Other nonmeans tested benefits	57.3
Subtotal	[1] 187.8
Means tested benefits	85.3
Grants to States-local governments	57.4
Civilian agency pay	39.0
Other operations and subsidies (agricultural price supports, business subsidies, etc.)	17.6
Subtotal	[2] 199.3
Total, nondefense, noninterest, non-OASDI	387.1

[1] Limited reductions in these programs.
[2] Where most of reductions in growth of spending have taken place.

Between 1980 and 1986, the GNP share for all the above items, except for Medicare and civil service/military retirement, is projected to fall, because of budget reductions already put in place. For example, the GNP share for grants to state and local governments will have fallen by 0.8 percentage

[12] The so-called IIB, "Intermediate Pessimistic" scenario that is most widely used assumes the unemployment rate will decline steadily over the remainder of the decade to an average of 6.5 percent by 1990. It will continue to drop, falling to 5.5 percent by 1995 and stay at that rate thereafter. Real wage growth would build to a peak of 1.7 percent in 1991 (in contrast to the 0.1 percent average growth over the past decade) and then would settle in at an average increase of 1.5 percent per year. The fertility rate would grow from 1.85 to 2.0 and longevity increases would slow down. One might well ask if these assumptions are either intermediate or pessimistic.

points; virtually no one is talking about further cuts here; the same is true for the combined category of civilian agency pay and other operations and subsidies, where there has been a like fall of 0.8% of GNP. Taking another $50 billion from these programs simply does not appear feasible. We have already indicated that the means tested programs have been subjected to far larger reductions, on a percentage basis, than the nonmeans tested programs; furthermore, to make major further reductions here would violate our principle of fairness in burden sharing. Looking to means tested benefits, grants to state and local governments, civilian pay and other operations (which together total $199.3 billion in 1986) for $50 billion in spending reductions is neither fair nor practical. Similarly, looking to the balance of the programs sketched on Table 10 (totalling $187.8 billion in 1986) for a substantial part of this $50 billion reduction is simply not feasible.

Thus, it is clear that any program of major spending reduction in nondefense programs must include the largest of them all—Social Security OASDI at $203.8 billion in 1986. However, even if a 2 year freeze is imposed on COLA's for social security, civil service/military retirement, and on civilian payraises and appropriations for grants and other operations/subsidies, substantial cuts would still have to be made elsewhere. Still, such an approach certainly appears to be more appropriate than the alternative of trying to muster support for gutting grants, nondefense government operations, and means tested programs.

An illustrative example of what might be done is shown in Table 11:

TABLE 11.—*If social security is included—Illustrative $50,000,000,000 cut in projected 1986 spending*

Freezing 1985 and 1986 COLA's and inflation adjustments amount of reduction:	*Billions*
2 Yr freeze on OASDI COLA's	$16
2 Yr freeze on civil service military pension COLA's	4
2 Yr freeze on civilian pay raises [1]	4
2 Yr freeze, appropriations for grants	4
2 Yr freeze, operations and subsidies appropriations	1
Subtotal	33
Other possibilities	
Medicare (premiums, freeze payments for particular medical procedures and hospital stays)	10
Military pay (2 Yr freeze, pay raises)	3
Other possibilities include	4
Civil service retirement reforms	2
Farm price support and programs	2
Means tested program cuts	2
Subtotal	17
Grand total	50

[1] Includes Department of Defense civilians.

Two points need to be emphasized again. Reductions of this scope are vastly greater than anything being contemplated now, and continued delay only makes future reductions increasingly difficult, if not draconian. Thus, it now takes a widely applied two year freeze to save about $33 billion. That amount could have been saved by a far more gradual reduction made earlier, say starting back in 1981, such as indexing to 60 percent of the rise in the CPI.

(c) Special nonmeans tested programs needing restructuring and reform

Health care in general and Medicare in particular are the new driving forces in the federal budget program. (Medicare expenditures in 1982 increased by 18.5 percent.) They stand out as the fastest growing part of the budget, except for net interest. Federal health outlays totaled only 1.1 percent of the budget in 1960 compared to 10.7 percent in 1982, with most of the growth being medicare and to a somewhat lesser extent medicaid. In that same period, national health care expenditures grew about two-thirds faster than the GNP, increasing their share from 6 percent to over 10 percent. If total health care expenditures (public and private) were to continue to grow at the same rate in relation to the economy, they would roughly double, as a percentage of GNP, by the year 2000 to perhaps even 20 percent. The government's role in this explosion in health care spending is critical. Its share of the total went from 24.5 percent to 42.4 percent between 1960 and 1982.

There is good reason to believe that the vast resources devoted to health care are not being used efficiently. The incentives to reduce costs are perverse. The cost-benefit ratios are poor. In fact, the least cost-effective, least efficient areas of health care are those involving public funds. This is not the place to get into a subject as complicated as the specific changes that could be made to reform medicare. The new prospective payments system is a good first step and may ultimately prove to be a vehicle for effecting other, more comprehensive changes. What is clear at this point is that comprehensive action is needed to reverse the perverse incentives that now permeate our health care delivery system.

Federal civil service and military pensions represent another nonmeans tested benefit payment that needs careful re-examination. Beyond 100% indexing to the CPI, the basic pension levels of federal workers are extremely high by comparison to the private sector—in the case of Congressmen and their staffs, about 80% of pay after 30 years, compared to about 50% of pay in typical private sector plans.

Furthermore, the age levels and years of service required to get these large pensions, on an unreduced basis, are far less for civil service employees than in the private sector. In the civil service, the length of service required for an unreduced pension at age 55 is 30 years. Less than 4% of the major firms in the private sector have such a generous provision. At age 60, only 20 years of federal service is required; less than 6% of the private sector firms are this generous. Furthermore, the reduction in accrued pension for even earlier retirement is significantly less than in private sector plans.

There are many other special features of federal pensions, including formulas for calculating initial benefits and the size of post-retirement death benefits, that can be discussed at length and have been analyzed extensively in the Report of the President's Private Sector Survey on Cost Control (the Peter Grace commission's report). But the important thing to keep in mind at this point is that substantial savings can be realized by a careful re-evaluation. The President's 1984 budget recommended a number of changes. The combinations of annuity reforms and increased contributions were projected to cut the deficit by about $3 billion by 1986. More changes are needed, although even these proposals have not been acted upon by the Congress.

If some action is not taken on federal pensions, our heirs will be left with a staggering bill to pay. In particular, it has been calculated that the amortization of the unfunded liabilities of the civil service pension system—as is required of private companies—would require annual contributions equivalent to 57 percent of employees' pay if funded over 30 years. The military retirement system is even worse off. Amortization of those unfunded liabilities would require contributions equal to 122 percent of pay. A rough calculation is that if current and unfunded liabilities of civil service and military pensions were funded over 30 years, as many companies do under ERISA, it would take a contribution of about $115 billion each year—a contribution that is of course not reflected in the current federal budget or the official deficits.

Obviously, then, studies of comparative compensation that focus on salary comparability project a highly distorted picture if they ignore the pension element which, as we have seen in the case of federal employees, can amount to a sum equivalent to a major portion of the entire salary.

It is all this generosity in federal pensions that results in the extraordinary, perverse really, result that a federal retiree, several years after retirement, can be paid significantly more than the current employee who is his full time counterpart. Obviously, we would want to pay our civil servants fairly. At the same time, particularly at a time of a national fiscal crisis—we needed to review the federal compensation structure, using as a guideline total comparability in total compensation, including pensions.

Next, only a small fraction of the spending part of the budget is for the actual day to day operations of the federal government and for subsidies to nonfarm business, about 6 percent or $45 billion in 1982. A freeze on new appropriations for these purposes is the logical equivalent of the COLA freeze for social security and federal pensions. Subsidies to farmers, a volatile spending category that varies between $5 and $20 billion, are not particularly large as a fraction of the total budget. Nevertheless, just as benefit payment programs need to be carefully reviewed, these subsidies, both to farmers and business, need to be thoroughly reexamined to insure that we are not substituting direct subsidies for creative policies to alleviate structural business and farm problems. An important point is that subsidies to farmers have increased dramatically in the past two years in part because the overvalued dollar has severely hurt farm income that comes from agricultural exports.

Although federal loan guarantees to business do not show up in the budget totals, they preempt new credit, diverting it to federally sponsored or federally encouraged activities. The Administration's efforts to re-evaluate and reduce loan guarantees makes good sense, deserves our support, and should be expanded.

Finally, massive, so-called "tax expenditures", often a disguised form of subsidy, must also be included in any comprehensive attack on our fiscal dilemmas.

(d) Interest costs

A discussion of federal spending would not be complete without pointing out that the cost of servicing the public debt is exploding. The government, of course, has no choice but to pay interest on the debt. The problem is that federal debt has been rising geometrically. It took the nation about 200 years to accumulate a debt of $1 trillion. It

appears that it will take less than five years to accumulate the second trillion. In 1970, net interest expenditures were equal to 1.5 percent of GNP. By 1980, the percentage had grown to 2.0. If something isn't done, it will grow to about 3.9 percent by 1988—an increase in annual cost of over $140 billion above the 1980 level (and even this assumes interest rates decline, on average, by about 100 basis points from current levels, which some would argue is a generous assumption, given these deficit and borrowing levels.).

TABLE 12. INTEREST COSTS AND SPENDING TRENDS

[As a percent of GNP]

	1980	1984	1988
Defense [1]	4.8	6.4	6.7
Nondefense, noninterest	15.6	15.1	14.0
Interest [2]	2.0	3.0	3.9
Total	22.4	24.5	24.6
[In billions of dollars]			
Defense [1]	$123.9	$223.6	$330.2
Nondefense, noninterest	400.3	530.9	687.3
Interest	52.5	107.0	194.6
Total	576.7	861.5	1212.1

[1] Excludes defense retired pay, which is treated as a benefit payment program and included in nondefense, noninterest.
[2] Assumes Treasury debt is financed at an interest rate averaged across all maturities of 10 percent, compared to the current average rate of almost 11 percent. The rates on short term bills are now below 10 percent but rates on notes and bonds are about 11 percent. If rates were 1 percentage point higher throughout the period, interest costs would be $3–5 billion higher in 1984 and $20–25 billion higher annually by 1988.

It is noteworthy that between 1980 and 1984, primarily as a result of the tax cut, federal revenues as a share of GNP are estimated to fall by 1.5 percentage points, from 20.1 percent to 18.6 percent. We gave ourselves a big tax cut that eased the tax burden considerably. Over the same period, federal interest payments as a share of GNP are projected to grow by 1.0 percentage point, from 2.0 percent to 3.0 percent. In part because we have been unwilling to pay for the tax cut by reducing nonmeans tested spending, the interest share of the budget will rise from 8.8 percent in 1980 to 12.4 percent in 1984, with no end to the increase in sight. About one dollar in eight in the federal budget will go for interest on past debt in 1984 and one dollar in six by 1988.

There has been much discussion about the burden created by the rise in defense spending. What is not well-known is that between 1980 and 1988 projected spending for interest rises as fast as spending for defense, about 1.9 percent of GNP.

The most important thing that can be done to reduce the rate of growth of interest spending is to implement an explicit and large budget reduction package that would cut noninterest expenditures and raise or institute appropriate taxes. These would lower the growth of debt outstanding and contribute to lower interest rates. The interest savings by 1986 could total $35 billion. Virtue is its own reward.

Thus, under the proposal illustrated in this paper total cuts in spending in 1986 would amount to $85 billion . . . . $50 billion in direct spending reductions and $35 billion in reductions in interest costs.

V. THE LONG TERM: FUTURE EXPENDITURES FOR INTEREST, OLD AGE, AND HEALTH; BOTTOMLESS DEFICITS BY THE YEAR 2000 AND 2025?

We have seen that the grim fiscal outlook is the result of several congruent forces—all converging to push federal spending and deficits to unprecedented levels. Principal among these are: (1) a rapidly aging society, (2) fully indexed and largely unfunded entitlement programs, and in particular health case, going principally to the aged (Joseph Califano, former Secretary of HEW made the following estimates of the percentage of the federal budget going to the elderly: 13 percent in 1960, 25 percent in 1980, an impressive 35 percent in the year 2000, and an unthinkable and unsustainable 65 percent in the year 2025) and (3) exploding interest costs.

I will attempt now to try to indicate what the continued effect of these factors might be in the year 2000 and beyond. Before doing this, it is essential to make the important distinction between a projection and a prediction. As to projections, they are obviously hazardous since many of the variables are hard to assess this far into the future. Beyond any errors in estimation, it is especially unwise to equate these projections with predictions—since the political system will often change the outcome of the projection. Thus, as seems likely, if the congruence of the three factors mentioned earlier combine to result in taxes, deficits, interest rates, inflation, or unemployment (or all of the above) so high as to be either economically or politically unsustainable, then the projections, will not turn out to be good predictions of what in fact happens. At the same time, if such projections, under any reasonable set of long range assumptions, yield a deficit and spending outcome that is obviously unacceptable, then they fill an important function; they remind us that the longer we wait for structural reform the worse it gets. There is no way, as we shall see, to avoid the need for reform.

Because the various social security programs are such dominant factors in these out years and official long term estimates are required, this is perhaps the best place to start.

The most widely used estimates are the Social Security Trustees' Scenario IIB (Intermediate-Pessimistic). I believe their Scenario III (Pessimistic) estimates are the most prudent basis but I shall leave that to you, after looking at the critical variables.

TABLE 13. LONG RANGE ECONOMIC ASSUMPTIONS USED IN SOCIAL SECURITY TRUSTEES' SCENARIOS—IIB ("INTERMEDIATE PESSIMISTIC") AND III ("PESSIMISTIC")

[Percent]

Year	Real GNP growth		Inflation rate		Unemployment rate	
	IIB	III	IIB	III	IIB	III
1990	3.0	2.7	4.0	5.0	6.5	7.4
1991	3.0	2.6	4.0	5.0	6.2	7.0
1992	3.0	2.5	4.0	5.0	5.8	6.8
1993	2.5	2.3	4.0	5.0	5.7	6.5
1994	2.5	2.0	4.0	5.0	5.6	6.5
1995	2.6	2.1	4.0	5.0	5.5	6.5
2000 and later	2.6	2.1	4.0	5.0	5.5	6.5

Source: 1983 Annual Report—Federal Old-Age and Survivors Insurance and Disability Insurance Trust Fund, June 27, 1983.

Given the magnitude of the deficits and debt service costs, the assumptions about interest rates are crucial. Here both the long term "intermediate" (nominal interest rates of 6.1 percent, inflation of 4.0 percent, and real interest rates of 2.1 percent) and "pessimistic" cases (nominal interest rates of 6.6 percent, inflation of 5.0 percent, and real interest rates of 1.6 percent) use assumptions that seem to me to be optimistic, especially in light of the large deficits that are projected. Nevertheless, we have used those assumptions.

The resulting budget projections support the case I am making; namely, that even under optimistic sets of economic and demographic assumptions, the spending and tax and deficit levels are simply unacceptable. In spending terms these projections result in numbers that are 10 to 20 percentage points more of the GNP than record peacetime levels. In tax terms, they would imply tax burdens 50 percent (or more) in excess of record levels, unless interest costs on ever expanding deficits and debt were allowed to explode. Are we seriously suggesting that we are asking our children and grandchildren to accept such destructively high tax levels for programs that we put into place? Are we seriously suggesting that our children or the economy could absorb these costs or taxes?

More detail on these long range projections is presented in the two tables and accompanying notes on the next few pages.

The projection for the year 2000 are shown below:

TABLE 14.—YEAR 2000 PROJECTIONS OF FEDERAL OUTLAYS AS A PRECENT OF GNP—USING SOCIAL SECURITY II–B AND III SCENARIOS

	II–B	III
OASDI—Retirement and disability part of social security	4.3	4.8
HI—Hospital insurance part of social security	2.0	2.6
Supplemental medical insurance (SMI)	1.0	1.3
Civil service/military retirement	1.1	1.1
Other nonmeans tested benefits	.9	1.0
Means tested benefits	1.9	1.9
Grants	1.2	1.2
Other operations/subsidies civilian agency payroll	1.4	1.4
Defense [1]	6.7–9.0	6.7–9.2
Interest	3.6–4.5	4.3–5.4
Total	24.2–27.3	26.3–29.9
Deficits as a percent of GNP	4.2–7.3	6.3–9.9

[1] The range gives what happens if (a) defense grows in real terms as fast as GNP after 1988 (low end) and (b) defense grows in real terms by 5 percent each year (upper end). This range for defense expenditures under each scenario causes a range for interest costs.

Projections for the Year 2000

The OASDI and HI projections are from the Trustees' report. The SMI projections assume SMI, the physician's fees part of medicare remains equal to about 50 percent of HI. This may be a slight underestimate. SMI has been growing more rapidly than HI, but no projection is available from the trustees on the long term cost of SMI.

Civil service and Military Retirement are projected to remain at their 1988 GNP share of 1.1 percent. Federal employment has been flat for over 20 years and is projected to remain so and the real wages of federal workers, on which retirement benefits are based, have not grown. Thus, holding the GNP share constant at 1.1 percent is reasonable and may even be a tenth or so too high.

Other nonmeans tested benefits are comprised primarily of unemployment benefits and veterans benefits. The GNP share will probably decline slightly over the 1990's from the 1988 share of 1.2 percent, to 0.9–1.0 percent, because benefits to World War II veterans will fall.

Outlays for means tested benefits, grants to state and local governments and other operations-subsidies-civilian agency pay are simply assumed to retain their 1988 GNP share. This has not been the pattern over the 1980's—as budget restraint has been targeted primarily at these programs. But even if these categories were reduced to zero, outlays would still be 20 to 23 percent of GNP under scenario II-B and 22 to 25 percent under scenario III.

Defense is a big uncertainty in the projections. For 1988, the defense share of GNP is projected to be 6.7 percent. To retain that share, until the end of the century, which is

what was assumed for the low end of the range, defense would have to grow in real terms by 2.5 to 3.0 percent annually in the 1990's (II-B) or 2.0 to 2.7 percent (III). The upper end of the range was constructed by assuming defense outlays would continue to grow by 5 percent per year in real terms (as assumed for the late 1980's).

Current law revenues imply revenues will equal about 20 percent of GNP by 2000. The interest projection makes use of this assumption together with the projections of spending for other categories. Interest rates that are one percentage point higher than the 6.1 percent and 6.6 percent in scenarios II-B and III would raise the GNP share for interest in 2000 by 0.7 to 0.8 percentage points. Even without this, we can see in Table 14 that interest costs could assume about one out of every six budget dollars in year 2000.

Projections for 2025

Let us now take a look at some projections for 2025.

TABLE 15.—FEDERAL SPENDING IN 2025, AS A SHARE OF GNP—USING SOCIAL SECURITY II-B AND III SCENARIOS

	II-B	III
OASDI—Retirement and disability part of social security	5.6	6.7
HI—Hospital insurance part of social security	3.2	4.1
SMI—Supplementary medical insurance	1.6	2.1
Civil service/military retirement	1.1	1.1
Other nonmeans tested benefits	0.6	0.7
Means tested benefits	1.9	1.9
Grants	1.2	1.2
Other operations/subsidies civilian agency pay	1.4	1.4
Defense [1]	6.7–9.0	6.7–9.2
Interest	6.3–11.6	11.9–18.4
Total	29.7–37.2	37.8–46.8
Deficits as a percent of GNP	8.7–16.2	16.8–25.8

The estimates shown for 2025 are more uncertain. The methodology and assumptions used were similar to what was done for the year 2000, with a few exceptions. The trustees have published just one projection for HI in 2025—under the II-B scenario. The scenario III projection for Hospital Insurance assumes that in 2025 the gap between the estimates of the cost of the HI program under II-B and III (as a percent of taxable payroll) would be the same as in 2005—the last year for which an official projection of HI expenses under scenario III is available. This is a relatively conservative assumption since it assumes no further deterioration in HI under scenario III relative to II-B.

The range for defense assumes that after the year 2000 real defense spending increases will equal real GNP increases—2.6 percent per year under alternative IIB and 2.1 percent annually under scenario III. This would mean the GNP share for defense in 2025 would equal the share in the year 2000.

Revenues are projected, under current law, to rise to 21 percent of GNP by 2025. The interest projection uses this estimate as well as the estimates of spending for other categories. Interest rates that are one percentage point higher than the 6.1 to 6.6 percent assumed here would raise the GNP share for interest by 3.4 to 3.9 percentage points of the GNP! Again, even without this, interest costs could consume, depending upon one's assumptions, as much as forty percent of the entire budget.

Again, this is not a prediction, only a projection of what would happen given an indefinite continuation of current policies. Since it is unlikely that future decades will be entirely devoid of unexpected and expensive emergencies—one might imagine everything from a natural disaster to a political confrontation abroad—these deficit figures have to be regarded as inherently optimistic. Whereas financing extraordinary expenditures was once the exclusive function of federal deficits, it will in the future be just one more borrowing burden to be added to all the rest. Indeed, so huge are these projected deficits to being with that it is hard to believe, even without an emergency, that they will actually be allowed to occur. Perhaps the real question then is not whether we reform our budget, but when: sooner, so that we may plan ahead and enact policy changes in a modest and gradual manner? or later, after years of economic damage has already been inflicted and we have no choice but to cut spending suddenly, drastically, and painfully.

VI. FEDERAL REVENUE: RAISING TAXES AND MOVING TOWARD A MORE CONSUMPTION-BASED TAX STRUCTURE

Returning to the illustrative reduction plan for 1986, the goal of reducing the deficit to 2 percent of GNP would also require raising taxes by $50 billion by 1986. the tax increases should be linked to the spending cuts to counteract government's habitual tendency to raise taxes and raise spending. A $50 increase by 1986 is approximately equal to the $46 billion tax increase assumed in the Congressional budget resolution and the tax increase in the Administration's budget. However, the latter increase is primarily made up of the so-called contingency tax. Unfortunately, the many conditions associated with the contingency tax proposal contained in the budget and the President's well-publicized personal opposition to any tax increases have convinced the financial markets that the contingency tax is not a credible alternative. This opposition is one of the reasons for the slim change given for congress abiding by its own budget resolution for fiscal 1984 and voting for tax increases in the next few months for the 1984-1986 period. The markets will only respond to explicit, scheduled tax law changes in the outyears, 1985 and beyond, not a promise of a contingency tax. We would emphasize again that increases should be linked to spending cuts.

There continues to be a great deal of misdirected thinking about how tax increases fit into a deficit reduction plan. A basic goal of our Bipartisan Budget Appeal plan is to free up more saving for net new investment. Tax increases that have the effect of reducing individual and business saving rates would be self-defeating. The deficit reduction would be offset by a fall in private saving, yielding no net improvement in the saving that becomes available for new investment. This is the reason why new taxes should be primarily consumption-based. (As with new cuts on the spending side, fairness requires that the tax increases should be diverted away, as much as possible, from the needy.)

We now have the most pro-consumption, pro-borrowing, anti-saving tax system in the industrialized world. the OECD has documented that we get a smaller portion of our revenues from consumption taxes than any other major industrial country.

In this light, it is also interesting to note that no other major nation allows unlimited tax deductions for interest. This is one reason, together with the fact that inflation creates the economic incentive to buy now and pay later, that total debt (public and private) as a percentage of GNP has risen to an all time peak in this country. Even more alarming is that interest on public and private debt has risen from 1.3% of GNP in 1952 to 10.8% in 1982 (Charts 2 and 3). We, as a people, have collectively borrowed to the point where more than one tenth of our current national income has to be allocated to servicing debt incurred in the past.[13] As shown earlier, some of that increase reflects interest on the public sector debt. But the rise in interest on private sector debt, which has also ballooned because of the "buy now, save later" incentives in our tax system, is also disquieting for two reasons. It either reflects (a) increasing borrowing for consumption, or even when it doesn't, it reflects (b) a dangerous shift in our financial structure toward more loan-financed investment and riskier equity positions.

A consumption-based tax, such as, for example, value-added taxes or gasoline taxes, could increase the incentive to save. This would be a powerful force in the effort to increase the funds available for investment. The tax increase, by lowering the deficit, would reduce the drain on savings. Moreover, the effect on the funds for investment would be magnified if that tax change also caused a greater fraction of each individual's income to be saved.

Even assuming there is no action taken on taxes until after the November, 1984 elections, there is all too little time to forge a national consensus on the types of tax increases that will have the least damaging effect on the economy.

Once again, we do not advocate that the Bipartisan Budget Appeal recommend specific types of consumption-based taxes, but rather the reasoning that supports that strategy.

Many people—especially those who believe our public sector is or threatens to become too large—hesitate to endorse any tax increases on the familiar political principle that more tax revenue will inevitably encourage legislators to spend more of it once it gets into their hands. What must be emphasized about our proposals is that they treat the question of the magnitude of public spending (regardless of how it is financed) as a separate issue. Many of us hold divergent opinions on exactly how large a share of our national product ought to be consumed or redistributed by our various levels of government. Reasonable (and informed) people do not differ, however, on the fact of our extremely meager rate of private savings, the degree to which our tax structure discourages private savings, and the extent to which whatever is saved is in turn consumed by federal borrowing. Here there is no question that the U.S. is way out of line with the other industrial countries. It is one of our most critical economic problems—and how well we resolve it will have such important long-term consequences for our future living standards, and the very size of our future economy, that exactly how much of it is spent through the public sector may eventually seem a trivial issue by comparison.

To be sure, the uncontrolled and inadvertent growth of so many categories of public spending over the last 15 years is a good reason for us to consider reforms in the way our legislative process appropriates money. At the same time, however, we should not succumb to the cynical view that the only

[13] See "Past Burdens and Future Promises," by Michael H. Sherman of Lehman Brothers Kuhn Loeb, August 16, 1983 for a more extended discussion.

way left to control spending is to hold the entire economy hostage to massive deficits until "the other side" gives way. Without compromise on all sides, and without a civilized determination to resolve our most critical problems, all sides will lose and every one of us will end up poorer and weaker for our efforts.

VII. A RETURN TO FIRST PRINCIPLES

When reviewing the budget outlook and the program suggested here to bring down future deficits, it's useful to return to the basic principles for solution contained in the first Bipartisan Appeal to the President and the Congress in May of 1982. These principles still serve as a useful guide.

Realism: It's important to realize that the deficits we face are large, they are not going to disappear even if the economy grows at record rates over the next five years, and they are going to result in substantial and destructive interest rates and, ultimately, inflationary pressures.

Speed: Although realism dictates that the target year for cutting the deficit to 2 percent of GNP should probably be moved back to at least 1986, some action is necessary soon in order to achieve this modified goal. Otherwise, high interest rates and an overvalued dollar will continue to ravage our export industries, and government calls on the capital markets will continue to drain off funds badly needed for new investment.

Long-term impact; A multi-year plan, targeting on a long range goal is necessary.

Focus on investment: The deficit reduction plan outlined here, like the original Bipartisan Appeal, is designed to free up resources for investment in our future. The goal of cutting the deficit to 2 percent of GNP would make it possible for the funds available for net new investment (as a percent of GNP) to equal somewhere between the averages for the 1960's and 1970's. Larger deficit reductions are ultimately desirable and the program put in place should head the budget on a course toward balance.

Fairness and burden-sharing: The lower income groups have so far borne a disproportionate share of budget austerity. It is time for the rest of us to absorb our share. In addition, it is important for us to be fair and honest with our young, most of whom do not realize that they are the ones who will bear the burden of the $7 trillion in unfunded liabilities of the social security, medicare, and federal pension systems. For example, as much as 30 to 40 percent of wages of the 2025 workers would be required to support the social security system alone (OASDHI). This would be an unsustainable tax, both from an economic and political standpoint.

I can visualize neither a credible nor a fair solution to our fiscal dilemma that does not include a rigorous application, or perhaps I should say reapplication of the principle of need. For example, on the benefit payments, we will have to give up some much cherished motions—principal among these that we are all "entitled" to some benefits and subsidies. The sense of largesse that has flooded our society with red ink is simply incompatible with the era of stringency and scarce resources that we now confront. Some will argue we will need to go back directly to means tested benefits. Others will want to trim off some of the largesse and spending growth going to individuals or businesses that are not in serious need more indirectly (through freezes, caps on indexing and benefits, taxation of benefits, etc.). But all of us will have to face the grim reality of the necessity to distribute economic and political pain—something our political system has demonstrated itself incapable of doing in recent years. If those choices are not made explicitly by us and our representatives, they will ultimately be made for us, implicitly, and those who will suffer will be our children who will be left with a less prosperous America.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ARMSTRONG. Mr. President, I am pleased to yield to my distinguished colleague.

Mr. LONG. Mr. President, the Senator knows the high point in trying to achieve major savings in this body came when we voted on the Helms amendment to make a 5-percent across-the-board cut in spending.

This proposal would give the President the authority to make a reduction of that magnitude if he were 5 percent over the budget figures. And in order to achieve a 5-percent savings, some items that perhaps should not be cut at all will not be cut; but if he found that certain items would not be reduced at all, he would then have to reduce other items more than 5 percent. That is why there is a 20-percent limitation on cuts in any one program or activity.

But is it not correct that under this proposal the President could not reduce any item if the effect of the cut meant that that particular activity would be canceled out?

Mr. ARMSTRONG. The Senator is absolutely correct.

Mr. LONG. No one need worry that there would be any more than a 20-percent cut on some particular item, be it a bridge somewhere, or flood control, or a navigation project, or a base. No one need have any worry about the President closing a military base or about knocking out any activity under this amendment It could only be reduced, not eliminated.

The President could say, for example, that when Federal employees leave he would not replace them. They would try to spread the workload among the remaining workers.

Governors, mayors, and others do that sort of thing to try to stay within their budgets if they find they are running over.

Mr. ARMSTRONG. The Senator is absolutely correct, and he characterized it very aptly, and the safeguard to which he has referred, of course, was put in there exactly to reassure Senators and others who are concerned that this power would not be used in an indiscriminate and indiscrete way.

Mr. LONG. Is it not true that this amendment proposes to protect projects in every Senator's State and every Congressman's district, so that none of them would be eliminated but all of them would be eligible for some economy to try to keep us within the budget figure?

I ask the Senator, is it not correct that what is proposed here incorporates the actual debt limit figure the budget resolution, projected forward on a month-by-month basis?

Mr. ARMSTRONG. The Senator is correct. The totals were derived from the budget resolution and projected by the Joint Tax Committee in consultation with the Treasury.

Mr. LONG. Is it further correct that under the amendment the President can go over the limits on a monthly basis provided that by the end of that quarter he is within the ceiling for that quarter?

Mr. ARMSTRONG. The Senator is absolutely correct.

Mr. LONG. I thank the Senator.

Mr. ARMSTRONG. Mr. President, I think the proposition is clear and I await the observations and I hope the support of other Senators.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

Mr. President, I wish I could come to the floor this evening and support this amendment, but I cannot. I wish I could come to the floor and say to my good friend from Colorado and my good friend from Louisiana that I know how to fix this amendment where it would work, but I do not know how.

The amendment is in theory perhaps good, but it just will not work in practice.

Let me try to tell the Senate why. Let me try to tell why and let me use one big example first and then let me use some smaller ones.

Mr. President, if you took the budget resolution that we passed in the Senate and the House of Representatives in 1981 and you took the budget lines for the next 5 years as they were projected there and then you went back on an annual basis and you corrected them for reality, let me tell you how far off we would be, and I hope my good friend from Colorado, who understands this very, very well, will listen. We would be off only $2.2 trillion in the estimation of the GNP. We were off $2.2 trillion on the trend line on the estimated GNP because instead of growth we had recession. Instead of 5.6 and 6.6 and 7.2-percent growth we had negative growth.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. CHILES. The Senator is right. I think in his interpretation we were off, but as I recall we were not the only ones off. The President's budget forecast was the same, was it not?

Mr. DOMENICI. Absolutely. I was going to conclude by saying we have looked at the President's budgets over the last 7 or 8 years and they are off also because they all estimate things optimistically.

I only use that $2.2 trillion as the amount we were off in estimating GNP to try to convince the Senate

that although this is well-intentioned, CBO tables show that 70 percent, and I ask the Senate to really listen to this; 70 percent of the increase in our budget deficits in the past 2 years is due to economic causes, not legislation. That means instead of getting the growth we expected, we got less. Instead of getting revenue as we anticipated it, we got less.

Now I ask Senators, would they want a President to be forced to cut back the budget to the extent that we were in error in economic assumptions, to the extent that we had underestimated the receipts coming in on the tax side? Would they want him, in the middle of a recession and as we continue to go down for 18 months or 2 years and therefore get less revenues, pay more unemployment and those other items? Would they want him, because the budget missed the mark, to wield the ax and take off about $70 billion off the budget? If they do not want that, if they do not want that, then do not vote for that. If they want that to be automatic, the economic policy of America, then vote for this.

Let me tell Senators some other things. There do not exist that we can find any records that give monthly expenditures, quarterly accumulated, of the type that the amendment provides us to base our estimates on. That does not exist in Government. That is the second reason.

The third reason is let me just share with Senators, and no one knows better than the distinguished Senators who offered this amendment, since they are on the Finance Committee, that the revenues come into the U.S. Government in ebbs and tides. Some parts of the year very little taxes come in. Three months later huge amounts of taxes come in.

Under this proposal, we are going to take a quarter and we are going to say how much revenue did we take in and match that off against how much money we spend under these expenditures which we do not have yet, and someone is going to have to figure out, if we say they are off, how much President cuts. Is that not a great way to run the country? At the end of the year the revenue comes in because it comes in ebbs and tides, but we already made these cuts, maybe 5 percent.

Mr. CHILES. Tell them we are sorry.

Mr. DOMENICI. Then Senators could just say let us just put the program back where it was before.

We already have cities, States, and recipients of benefits who are wondering where the consistency is in Government.

I will tell the Senate, if we are going to have every quarter based on monthly assessments, both on the revenue side and the expenditure side, if we want to cut back Government with clarity and precision that we have in economics in forecasting and the clarity and precision that is in any annual economic set of economic assumptions, be they the Budget Committee's from CBO, the Budget Committee because it chooses to use the President's, or the President's using them over there in the Department of the Treasury, if we did not have a budget resolution, there is no assurance that we would not be off a full point in growth, maybe two points, that we would not be off on inflation half a point, maybe a point, that our estimates of revenues might be off anywhere from $10 to $40 billion.

If that is not enough, let me add one more. I wish we could change this one, but we have not. We do not appropriate budget outlays. We appropriate budget authority.

Nowhere in the Government is there anything about outlays that is binding. Outlays are estimates in every part of the Government.

If we look at the next appropriation bill, there is not one single item of outlay in it. It is budget authority and we only estimate the outlays. And when we cut budget authority, we still only estimate the outlay saving or reduction and we are frequently off and we should be off because some of the accounts are just that kind of accounts. Sometimes they cannot spend the money in 1 year and they spend it the next year. Sometimes it is good practice not to spend in one quarter, and to spend in another quarter.

So to add to what I have just described, put it down on a quarterly basis and we will find that it just will not work.

So I wish that I could support it, but basically it will not work.

I hope the distinguished chairman of the Appropriations Committee addresses the other issue and it is a big one. When we are finally through looking at this package, I can tell Senators if the President has to find $40 billion or $50 billion to cut, even with the protection offered, he is going to be taking it out of the appropriated accounts or the appropriated defense accounts of the Government almost with certainty because there is not very much to take out. He cannot take out interest. We are limited extensively under this on entitlements. We add all that up and the President is going to be whacking this appropriated account which the Senator from Oregon can tell us has been cut pretty good or taking it out of defense.

So I wish again that I could support it, but I do not think the Senate should. Any mechanical way of doing this has great attraction but ultimately, when you look at it in detail, it just will not work.

Mr. CHILES. Mr. President, the distinguished chairman of the Budget Committee, the Senator from New Mexico, has given a lot of reasons why this will not work. Most of those reasons, I think, are based on the mechanics of the amendment. I think his arguments are very persuasive for that reason.

But I would like to argue that even if there were no problems with the mechanics, this is poor policy. This is an indication again of the Congress giving up its responsibility. Now we are going to have a choice tonight, or sometime tonight or tomorrow, to determine how we want to cut this deficit. I think the way we ought to cut it, is to do it here in Congress, beginning right now in the Senate. I think we ought to be following our constitutional responsibility as the body given the responsibility to levy the taxes and to appropriate spending.

The Senator from New Mexico and I are going to give the Senate a chance to cut about $86 billion. Maybe the Senator from Kansas will have a bigger package to cut some more money. Either way, I think that is the way we ought to do it, here in Congress.

Do not send our responsibility down to the President and say: "Mr. President, we did not do it right," or "We could not do it. You just decide what you want to cut."

We are the ones that hold the hearings. We are the ones that hear the witnesses. We are the ones that know about programs. We are the ones that set up our subcommittees so people can have a direct say. And we are the ones that are elected by the people to have this responsibility.

If this amendment were to go through and there were no problems mechanically, who do you think will pick out the items to be cut 20 percent? Well, I will tell you, it is not going to be the President. It is going to be that guy with the dark shade and those little elastic garters on his sleeves that sits down in OMB and says: "I ain't never liked that program anyway and, by golly, here is my chance. We are going to whack it 20 percent. I like this program over here and so it won't be touched. We won't touch it. We will whack this other one 20 percent."

That is the way these programs are going to be cut. And the people will not know where they should write a letter. They will not get a chance to vote for those shades and garter people. Those people never change, whether it is a Republican or Democratic administration.

Now, I think that we ought to accept our responsibility and cut the deficit through actions taken on the Senate floor. And I think the Senate is going to get a chance, hopefully tonight or tomorrow, to see whether they really want to do something about the deficit.

Maybe the pending proposal is a good thing. It would, after all, give us the chance to say: "Well, let's just do that. Then I can write the people and say: 'I am all for your program, but the President cut it. He just cut that program.' "

And we could just go ahead and appropriate more and more, because the President will take care of it. "That is his responsibility, now," we could say.

Let me be frank. That is not our right to give away that responsibility. We should not pass something like that.

Mr. LONG. Mr. President, when I came to Washington 35 years ago, if the Congress appropriated money for something that the President thought was unnecessary or unwise, he just did not have to spend it.

I recall we had a very controversial item with President Truman. We appropriated $500 million for a new fighter airplane, which the Air Force felt they needed desperately. After we appropriated the money, President Truman did not agree, and he just said: "I am not going to spend it." And he did not spend that money, he just saved the $500 million.

I happen to think that was a mistake, because later on the situation developed where we needed those particular planes. They were the latest that we had on the drawing board.

But then, from the situation where the President did not have to spend any of the funds appropriated for a project, when he could impound the whole thing, we then moved over to the situation where we provided by law that he has to spend what is appropriated; he has to spend it all whether we need it or not.

If, right in the middle of a program, he found out that the appropriation has already achieved its purpose—he still cannot impound the funds. Suppose we had appropriated $10 billion for food stamps and everybody got a job? He still could not impound the funds he does not need. It is like that old game of hide and seek we used to play as children: "Come and get you, ready or not." We decide we are going to spend those funds, and by golly, we are going to spend them come hell or high water. That does not make any more sense than saying the President does not have to spend any of it.

What this amendment seeks to do is to seek a happy medium between the positions to give the President a certain amount of additional borrowing authority by increasing the debt limit. We will project the limit so that month by month it will increase, and the President does not have the authority to save any money under the authority in this amendment as long as we are going to be within these figures. But if he finds he is going to be over and above the debt limit the Congress fixes, then in that event, he would have to find ways to economize to stay within the figures that Congress fixes for the debt limit. In that event, he might have to save funds by telling all the departments, when people retire or when they leave to go get some other job, to try to find some way to get along without replacing those people; to try to find some way of spreading the work among the employees who remain.

This is the very type of thing that every Senator and every Congressman does in his own office when he finds he is running over his budget. We give the President the authority to do the same type of thing.

But to satisfy Senators who might be concerned about this, we say that within that limited time he could not make any more than a 20-percent reduction on any item. And once you get back inside your budget figures, that would be it for the impounding authority.

Mr. President, for 3 years we ran $40 billion over the deficits projected in the first budget resolution; about $42 billion to be exact. Now, we are running about $55 billion to $60 billion over the budget.

This proposal merely suggests that if deficits are running higher than projected, the President would have the authority to economize, to call upon his department heads and agency heads to say: "Look, we are running over. We are spending more money than we have got, so you are going to have to find a way to stay within our limits."

I heard the Senator from New Mexico ask, what if we didn't take in as much money as we anticipated? Would that not create a horrible situation?

Mr. President, that is not a problem that is new to a mayor. That is not a problem that is new to a county commissioner. That is not a problem that is new to any Governor of a State. They have had situations where the tax receipts were not enough to maintain the level of spending they had planned on. So what do they do? They have to cut back.

We are simply saying in this amendment that if he has to make economies to stay within the budget, the President would have the authority to do it.

If the budget process worked the way we had hoped it would work and we were achieving a balanced budget, as we were led to believe was the case when we passed the Budget Act, we would not be needing anything like this authority. But that has not been achieved.

Instead, since passing the Budget Act, we have had bigger and bigger deficits instead of smaller deficits.

What we seek to do in this amendment is to try to reach a compromise between saying the President cannot save anything and between the situation where he could save as much as he wanted to save out of appropriated funds. It seems to me, rather than going deeper and deeper in debt, this would be a better answer.

Mr. BAKER. Mr. President, I will not take but just a moment. I know the Senator from Oregon, the chairman of the Appropriations Committee, wishes to speak.

Let me say that for days now I have talked to the distinguished Senator from Colorado and others about this matter. As the Senator from Colorado knows, and others know in this Chamber, I am sympathetic to the idea of an enhanced rescission authority. I am no expert in this field, but I think sooner or later we are going to have to come to that.

I have helped arrange the opportunity for the Senator to offer this amendment at this time and I will support him.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I rise to oppose the amendment. I think we not only have a responsibility in the Congress to uphold the constitutional assignments given to us, but I think we must recognize that we should also understand precisely what this amendment seeks to do.

I think this amendment not only provides us with an abdication, in fact it requires, almost, an abdication of our responsibilities.

I want to just take two examples. I think it is time that we sort of get out of this erroneous idea that budget busting has occurred on the part of the Congress and particularly in the appropriations process. I want to address my remarks to the appropriations process.

We have been accused of being the big spenders. Let me remind you that this same administration that we are trying to help bring under control this growing deficit that has grown fourfold since this administration took office is the same administration that pushed through Congress 2 years ago a major tax cut that has eroded the revenue side of this whole fiscal problem—there are two sides, a spending side and a revenue side—by $750 to $800 billion.

Also, it is the same administration that has advocated a massive and unprecedented buildup in military spending.

Those two items alone have certainly not caused all of the increase in the deficit, but I think we ought to realize that it is not the Congress alone. We are all jointly responsible. By merely giving the President more authority to act does not in any way absolve us of responsibility.

Let us take an example of what I mean. Let us take the 1983 fiscal year budget. Of that budget for fiscal year 1983, defense totaled $213 billion, entitlements $391 billion, interest rate costs $89 billion. This left only $114 billion or just 14 percent of everything else in the Federal budget.

That is the portion of the budget which makes up the core of the Appropriations Committee's jurisdiction.

Not only is the nondefense discretionary spending a small piece of the Federal budget; it is a shrinking piece. Only 3½ years ago it represented 21 percent of the total budget, and now, as I say, in this particular year, 14 percent.

The great myth of budget busting in appropriations bills is just something that will not hold water.

Let me also say that in the same period of time that we have seen this decrease in the nondefense discretionary programs the rest of the Federal budget—defense, entitlements, and interest—will nearly double. Those are the facts of life.

If you want to talk about jurisdictions of committees, let me tell you the Appropriations Committee is a poor relative in terms of its influence and impact on the budget process as compared to the Finance Committee in relation to all of the jurisdiction over automatic spending and entitlement programs. But this is not the time to argue jurisdiction or any other matter like that, but just to put at rest some of the old conundrums that we keep having raised before our face.

I think there must also be recognized that in the last calendar year we have sent eight appropriations bills to the President and he has signed each one of them. We have sent two supplemental appropriations measures to the President and he has signed both of them. We have sent two continuing resolutions of appropriations to the President and he has signed both of them.

I have heard the same speech that everyone else has heard, which he has given very often, and that is that he has a veto stamp ready for those budget-busting activities on the Hill. Well, it is very interesting that he has signed all of these. I think it is very evident that we have been responsible in the Congress in trying to hold the deficit down and in trying to work with the White House on the matter of appropriations and the budget generally.

This is not only an act of irresponsibility but I think it is a preposterous proposal at this point, to think that somehow we are going to yield that responsibility downtown and that is going to make a major effort to control our deficits. The President does not have to spend the money he appropriated. Let us get that record clear, too. The President can have deferrals. He can have not only deferrals but he can exercise rescissions as well. The President does not have to spend all that money that is appropriated if there are changes that occur during that fiscal or budget year.

So, Mr. President, this is certainly, again, one of those nights when the Senate perhaps should have adjourned at 6 o'clock because they get into all of these little interesting proposals that come along. I just do not think this is the time to try to come up with some kind of a panacea or some kind of a proposal that really does not address the subject of what causes the deficits. Therefore, I move to table the amendment.

Mr. ARMSTRONG. Will the Senator withhold that motion briefly?

Mr. HATFIELD. I will be very happy to.

Mr. ARMSTRONG. I appreciate that. The Senator from Kansas wishes to speak and I also wish to speak.

Mr. DOLE. Mr. President, I know the Senator from Oregon has other commitments. I appreciate being mentioned. We do the best we can and I am certain we can do better. I am not certain that the Armstrong proposal is any good at all. It cannot be much worse than what we are doing now so I intend to vote not to table.

I appreciate hearing the views of the distinguished chairman of the Appropriations Committee on the implications of the Armstrong rescission amendment for spending that is within his committee. I know that the Senator from Oregon has particular responsibilities to meet and a particular view as to the source of the deficit problem. but I think there is more to be said on this subject.

Senator HATFIELD has stated his view that, so far as Federal spending is concerned, the real problem is the growth of entitlement programs and so-called uncontrollable spending rather than in appropriated funds. As chairman of the Finance Committee which is responsible for most of the major entitlement programs, I would like to make a few points.

Mr. President, entitlements are a difficult problem. But they are a problem we have addressed and will continue to address. The Finance Committee has met or exceeded its reconciliation targets in each of the past 3 years where entitlements are concerned. In addition, we shepherded through the social security reform package that made major long-term savings in retirement benefits.

There is much more to be done on entitlements—there is no doubt about it. But that is no excuse for ignoring the problem of approriated funds, including the large amount devoted to the defense budget. The stream of appropriations bills, supplemental appropriations, urgent supplementals, and what have you, is too important a part of the spending problem to ignore.

Mr. President, the Armstrong-Long amendment gives us a new device for controlling spending. It gives the President authority to regulate spending month-to-month, in line with the revenues coming into the Treasury and such debt authority as Congress grants in establishing monthly ceilings. This authority is not unlike the item veto concept, which is something I have long supported. We need institutional reform, even if it is aimed primarily at appropriated funds, and I think this is worth a try. It may not be a perfect proposal, but it can certainly be refined in the future.

The Finance Committee has done its share and more to control spending.

We have met and exceeded our reconciliation instruction each of the past 3 years.

In 1981 we achieved outlay savings of $29 billion over fiscal years 1982–84.

Last year in TEFRA, we made savings of $17.5 billion over fiscal years 1983–85.

This year we have reported legislation making savings of $3.3 billion, which is twice the reconciliation instruction for Finance.

CBO now estimates that, including this years's reconciliation. The Finance Committee has achieved savings of nearly 895 billion over fiscal year 1982–86.

These are real savings, certified by CBO.

Mr. ARMSTRONG. Mr. President, I do not think there is any need to discuss this at great length. I think the issue is squared out.

I want to comment briefly on some of the points the chairman made. I want to say to my friend, the chairman of the Appropriations Committee, who I think was not on the floor when I made my initial presentation, that not only do I not regard this as a panacea but I specifically disclaimed that it is a panacea, and stated that. It is not the ultimate step.

As to the question of whether or not the President has to spend, I just note that the record shows that the rescission process has not worked very well as measured by the action of Congress on rescission messages. Perhaps the rescissions that have been sent up by President Reagan, President Carter, and President Ford were not well justified. Perhaps they were not a good idea. What has happened is that practically none of them have been approved, a very small number, diminishing numbers, diminishing percentages, and as fewer and fewer have been approved, Presidents have been less and less willing to use this mechanism.

The question was raised of what about the ebbs and flows of revenue? I want to make it absolutely plain that that fluctuation has been taken into

account in the projections prepared by the Joint Tax Committee. We are not taking the anticipated revenue and dividing by 12. We are projecting, and that is what the Joint Tax Committee does, based on their expectation of what the revenue flow will be.

Nevertheless, it is true that we are dealing with estimates, as the Senator from New Mexico pointed out. But we are doing that anyway.

The debt limit is a statutory absolute at the present time. If we guess wrong, it means we have to act on it sooner than we would otherwise. That is all we are saying here. There is nothing about this that is binding. If we are running out of money and Congress wishes to raise the debt ceiling, it may do so. All we are really addressing in the Long-Armstrong amendment is the question of what happens if we have set the target, we are not willing to change the target, and we have not enacted the measures necessary to meet the target? We are not conveying extraordinary power. We are conveying less power than Presidents have exercised previously, less power than exercised by Governors, less power than exercised by most mayors, and certainly less power than exercised by the chief executive of any corporation.

This is a modest proposal. It is not a panacea, but I hope it will not be tabled. I will ask for the yeas and nays if the Senator moves to table.

Mr. LEVIN. Mr. President, I will vote to table the Armstrong amendment which would give the President authority to impound up to 20 percent of the funds for specific programs. This proposal represents a massive shift of responsibility and authority from the Congress to the President.

I agree that action must be taken to reduce the massive $200 billion deficits which threaten to cut short economic recovery. I, along with only a handful of my colleagues, voted in favor of the Hollings budget plan earlier this year, which would have resulted in a far lower deficit than the President proposed in the coming years. It was a program of shared sacrifice. If people are going to be asked to sacrifice through either program cuts or tax increases, then the Congress, as a coequal branch of the Government, should be a part of that decisionmaking process. The people should be able to hold all of their elected Federal officials accountable. The amendment before us would let Members of Congress off the hook. They could vote for spending programs, and then finger point at the President when people complained about subsequent cuts. Such an abdication of responsibility would strike at the very heart of our form of democratic Government.

In addition, this amendment would allocate to the President up to 20 percent of the authority over how this Government allocates its resources. The President could effectively hamstring certain programs using his system of priorities. He may choose to reduce funding for food stamps, or the strategic petroleum reserve, or for education, or for health by 20 percent, and to leave some other spending totally untouched. Those are not necessarily my priorities nor are they the priorities of many, perhaps most, of the Members of the Congress. We should not, then, give the President a free hand to set priorities unbound by the normal checks and balances between the congressional and executive branch.

The authors of this amendment are correct in saying that we must do something about the deficit. Where they error is in proposing the amendment as an appropriate or responsible solution.

Mr. DOMENICI. Will the Senator yield for 30 seconds before he makes his motion?

Mr. HATFIELD. Yes.

Mr. DOMENICI. I just want to state for the RECORD that I believe the amendment is subject to a point of order. I will not raise it, but obviously it is the kind of thing that should go to the committee to be studied. But I will not raise that point of order tonight and I want the RECORD to so reflect.

Mr. HATFIELD. I move to table the amendment.

Mr. ARMSTRONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2625.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. QUAYLE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—49

Andrews	Burdick	DeConcini
Baucus	Byrd	Dixon
Bentsen	Chafee	Dodd
Biden	Chiles	Domenici
Bingaman	Cochran	Eagleton
Bradley	Cohen	Ford
Bumpers	D'Amato	Gorton
Hart	Mathias	Sarbanes
Hatfield	Matsunaga	Sasser
Hawkins	Melcher	Specter
Heinz	Metzenbaum	Stafford
Hollings	Mitchell	Stennis
Huddleston	Moynihan	Stevens
Inouye	Pell	Tower
Lautenberg	Randolph	Tsongas
Leahy	Riegle	
Levin	Rudman	

NAYS—46

Abdnor	Hecht	Packwood
Armstrong	Heflin	Pressler
Baker	Helms	Proxmire
Boren	Humphrey	Pryor
Boschwitz	Jepsen	Quayle
Danforth	Johnston	Roth
Denton	Kassebaum	Simpson
Dole	Kasten	Symms
Durenberger	Laxalt	Thurmond
East	Long	Trible
Evans	Lugar	Wallop
Exon	Mattingly	Warner
Garn	McClure	Wilson
Goldwater	Murkowski	Zorinsky
Grassley	Nickles	
Hatch	Nunn	

NOT VOTING—5

Cranston	Kennedy	Weicker
Glenn	Percy	

So the motion to lay on the table amendment No. 2625 was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. BAKER. Mr. President, earlier, a unanimous-consent agreement would have provided that if this amendment were tabled, the bill would go back to the calendar. I would like to do that and return to the consideration of the reconciliation bill, at which time I believe the Domenici package will be offered, which is the so-called deficit reduction package.

At this time, I ask unanimous consent that the Senate return to the consideration of the reconciliation bill and that this joint resolution return to the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

OMNIBUS RECONCILIATION ACT OF 1983

The Senate continued with the consideration of S. 2062.

AMENDMENT NO. 2624

Mr. BYRD. Mr. President, Mr. CHILES, I believe, supports the amendment. Ordinarily, I would place the time in the control of a Senator who opposes it. I do not know who that may be on the floor at this moment. I am sure that every Senator will be willing to have Mr. CHILES control the time in opposition. I am sure he will be fair. So I designate him to control the time in opposition.

Mr. DOMENICI and Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senate will come to order. The Chair cannot hear. Those Senators who desire to converse will please retire from the Chamber.

Mr. SYMMS. Mr. President, I have a modification to my amendment which I send to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

After "1984." add the following—It is the sense of the Senate that (a) Within 60 days after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit a report to the President and the Congress which evaluates the recommendations of the President's Private Sector Survey on Cost Control for administrative actions which would reduce Government spending and determines the amount that would be saved by the Government if each such recommendation were implemented.

(b) Within 60 days after receiving the report required by subsection (a), the President shall review such report and, on the basis of the amounts of savings determined by the Comptroller General of the United States under subsection (a), shall—

(1) select for implementation as many of the recommendations of the President's Private Sector Survey on Cost Control as may be necessary to achieve a total amount of savings of at least $10,000,000,000;

(2) prepare and transmit to the Congress a report describing the activities that will be conducted to achieve savings in the amount referred to in paragraph (1) and containing a timetable for the conduct of such activities; and

(3) implement the recommendations referred to in paragraph (1) in accordance with the report submitted under paragraph (2).

Mr. SYMMS. Mr. President, I have discussed this modification with the committee chairman and the ranking minority member. They have both agreed to accept the amendment. I yield back the remainder of my time.

Mr. DOMENICI. I yield back my time.

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2624), as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 2623

The PRESIDING OFFICER. The question is now on the Armstrong amendment, as amended.

The amendment (No. 2623), as amended, was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2626

(Purpose: To provide for deficit reduction.)

Mr. DOMENICI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. CHILES, proposes an amendment numbered 2626.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. (Mr. ARMSTRONG). Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE V—DEFICIT REDUCTION

Part A—General Provisions, Spending Reductions

BUDGET COMMITTEES MUST REPORT CONCURRENT RESOLUTION ON THE BUDGET CONTAINING SPENDING REDUCTIONS

SEC. 501. The first concurrent resolution on the budget for fiscal year 1985 and the first concurrent resolution on the budget for fiscal year 1986 reported by the Committees on the Budget of the Senate and the House of Representatives under section 301 of the Congressional Budget Act of 1974 shall set forth, in addition to other matters required to be set forth in such concurrent resolution on the budget pursuant to title III of such Act—

(1) an appropriate level of total new budget authority for fiscal year 1985 or fiscal year 1986, as the case may be, in an amount equal to the sum of—

(A) the amount of new budget authority considered appropriate by each such committee for programs which are not national defense discretionary programs or other discretionary programs;

(B) an amount of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent; and

(C) an amount of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent;

(2) a separate statement of an appropriate level of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for national defense discretionary programs for such fiscal year described in clause (1)(B);

(3) a separate statement of an appropriate level of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for other discretionary programs for such fiscal year described in clause (1)(C); and

(4) for each major functional category under which new budget authority for other discretionary programs is classified, a separate statement of an appropriate level of new budget authority for other discretionary programs classified under such category for fiscal year 1985 or fiscal year 1986, as the case may be, which complies with the total amount of new budget authority described in clause (1) (C) for all such programs for such fiscal year.

REPORT BY THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

SEC. 502. The Director of the Congressional Budget Office shall include in the report required to be submitted on April 1, 1984, under section 202 (f) (1) of the Congressional Budget Act of 1974, a statement which contains, with respect to fiscal year 1985—

(1) an estimate of current law outlays for fiscal year 1985;

(2) an estimate of current law revenues for fiscal year 1985;

(3) a specification of the amount by which the amount estimated pursuant to clause (1) for fiscal year 1985 will exceed the amount estimated pursuant to clause (2) for such fiscal year;

(4) an estimate of the gross national product of the United States for fiscal year 1985; and

(5) a specification of the ratio (stated as a percentage) that the amount specified pursuant to clause (3) bears to the gross national product of the United States estimated pursuant to clause (4).

TRIGGER FOR SPENDING REDUCTIONS AND TAX SURCHARGES

SEC. 503. If, in the statement required under section 502 with respect to fiscal year 1985, the Director of the Congressional Budget Office determines that, for fiscal year 1985, the ratio specified pursuant to clause (5) of such section exceeds 3 percent, the provisions of section 504 shall be in effect with respect to fiscal years 1985 and 1986 and the provisions of section 511 shall be in effect with respect to taxable years beginning after December 31, 1984, and ending before January 1, 1987.

REDUCTIONS IN SPENDING

SEC. 504. (a) If—

(1) pursuant to section 503, the provisions of this section are in effect with respect to fiscal years 1985 and 1986; and

(2)(A) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for national defense discretionary programs exceeds the appropriate level of new budget authority for such programs set forth for such fiscal year in the first concurrent resolution on the budget agreed to for such fiscal year; or

(B) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for other discretionary programs exceeds the appropriate level of total new budget authority for such fiscal year for such programs set forth in the first concurrent resolution on the budget agreed to for such fiscal year,

the President shall include with the budget submitted in such fiscal year under section 1105(a) of title 31, United States Code, for the next succeeding fiscal year, a special message which, except as otherwise provided in this part, complies with the Impoundment Control Act of 1974 and proposes rescissions in budget authority for fiscal year 1985 or 1986, as the case may be, which comply with the provisions of this section.

(b) The special message required to be transmitted pursuant to subsection (a) for fiscal year 1985 or 1986, as the case may be, shall propose—

(1) rescissions which reduce the total amount of budget authority provided for national defense discretionary programs for such fiscal year in an amount equal to the amount by which such total amount exceeds the appropriate level of new budget authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501; and

(2) rescissions which reduce the total amount of budget authority provided for other discretionary programs for such fiscal year by an amount equal to the amount by which such total amount exceeds the appropriate level of total new budget authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501.

(c)(1) Except as provided in paragraph (2) and in subsections (d) and (e), the provisions of the Impoundment Control Act of 1974 shall apply to the consideration of the special message transmitted under subsection (a).

(2) For purposes of sections 1011 and 1012 (b) of such Act, the 45-day period referred to in such sections shall be deemed to refer to a period of 60 calendar days.

(d) Notwithstanding any other provision of law or of the Standing Rules of the Senate or the Rules of the House of Representatives, it shall not be in order in the Senate or the House of Representatives to enroll any rescission bill with respect to a special message transmitted under subsection (a) unless such bill rescinds budget authority for national defense discretionary programs in the amount described in subsection (b)(1) and rescinds budget authority for other discretionary programs in the amount described in subsection (b)(2).

(e) Notwithstanding section 1012(b) of the Impoundment Control Act of 1974, if Congress has not completed action on a rescission bill with respect to a special message transmitted under subsection (a) of this section for fiscal year 1985 or fiscal year 1986, as the case may be, within the 60-day period referred to in subsection (c)(2) of this section—

(1) the total amount of budget authority provided for such fiscal year for each appropriation account of each national defense discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such account, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for national defense discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(B); and

(2) the total amount of budget authority provided for such fiscal year for each appropriation account of each other discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such account, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for other discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(C).

DEFINITIONS

SEC. 505. For purposes of this part—

(1) the term "budget authority" has the same meaning as in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974;

(2) the term "budget outlays" has the same meaning as in section 3(1) of such Act;

(3) the term "concurrent resolution on the budget" has the same meaning as in section 3(4) of such Act;

(4) the term "current law outlays" means the total amount of outlays which would be made to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities, and only includes adjustments for inflation in such outlays if such adjustments are required by law;

(5) the term "current law revenues" means the total amount of revenues that would be received in a fiscal year if the provisions of the revenue laws which were in effect for the fiscal year preceding such fiscal year remained in effect for such fiscal year without change;

(6) the term "other discretionary program" means any Federal program other than—

(A) a national defense discretionary program;

(B) a mandatory spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983);

(C) a permanent spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983); or

(D) a program for which spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974) is provided by law for the applicable fiscal year (as determined by the Director of the Congressional Budget Office annual report was issued in February 1983); and

(7) the term "national defense discretionary program" means a program classified under the functional category of National Defense in the budget submitted by the President for the fiscal year 1984 under section 1105 (a) of title 31, United States Code, except that such term does not include programs for payment of retired and retainer pay to members and former members of the Armed Forces and for payment of claims against the Department of Defense.

PART B—REVENUE MEASURES

SEC. 511. TEMPORARY INCOME SURTAX ON INDIVIDUALS AND CORPORATIONS.

(a) INDIVIDUALS.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed on individuals) is amended by adding at the end thereof the following new subsection:

"(g) IMPOSITION OF TEMPORARY SURTAX.—

"(1) IN GENERAL.—In addition to any section 1 tax, there is hereby imposed on each taxpayer with respect to whom a section 1 tax is imposed for any taxable year a tax equal to 2.5 percent of such section 1 tax as exceeds the minimum surtax amount.

"(2) SECTION 1 TAX.—For purposes of this subsection, the term 'section 1 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 55.

"(3) MINIMUM SURTAX AMOUNT.—For purposes of this subsection, the term 'minimum surtax amount' means, with respect to each taxpayer described insubsection (a), (b), (c), (d), or (e), the maximum amount of tax which would be imposed on such taxpayer under such subsection for any taxable year if the taxable income of such taxpayer were equal to the maximum dollar amount for the fifth rate bracket (sixth rate bracket in the case of any taxpayer described in subsection (c)) in the table under such subsection applicable to such taxable year.

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(2) MODIFICATION OF WITHHOLDING TO REFLECT SURTAX.—Section 3402(a) of such Code (relating to requirement of withholding) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES TO REFLECT TEMPORARY DEFICIT REDUCTION SURTAX.—The Secretary shall modify the tables and procedures under paragraph (1) to reflect the surtax imposed by section 1(g).".

(b) CORPORATIONS.—Section 11 of such Code (relating to tax imposed on corporations) is amended by adding at the end thereof the following new subsection:

"(d) TEMPORARY DEFICIT REDUCTION SURTAX.—

"(1) IN GENERAL.—In addition to any section 11 tax, there is hereby imposed on each corporation for any taxable year a tax equal to 2.5 percent of such section 11 tax.

"(2) SECTION 11 TAX.—For purposes of this subsection, the term 'section 11 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 56.

"(3) DISALLOWANCE OF CREDITS.—No credits shall be allowed against the tax imposed by this subsection.

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) AMENDMENTS TO TAKE EFFECT ONLY IF DEFICIT REDUCTION PROGRAM INSTITUTED.—The amendments made by this section shall not take effect unless the Director of the Congressional Budget Office determines under section 503 that the ratio specified pursuant to section 502(5) exceeds 3 percent for fiscal year 1985.

SEC. 512. COST-OF-LIVING ADJUSTMENT REDUCED BY 2.5 PERCENT FOR 1985 AND 1986.

Section 1(f) of the Internal Revenue Code of 1954 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by adding at the end thereof the following new paragraph:

"(5) COST-OF-LIVING ADJUSTMENT REDUCED FOR 1985 AND 1986.—For purposes of paragraph (2), the cost-of-living adjustment for 1985 and 1986 shall be reduced (but not below zero) by 2.5 percent.".

SEC. 513. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

(a) IN GENERAL.—Section 56 of the Internal Revenue Code of 1954 (relating to additional corporate minimum tax) is amended to read as follows:

"SEC. 56. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed on each C corporation in an amount equal to 15 percent of its corporate minitax taxable income.

"(2) TAX IMPOSED ONLY IF GREATER THAN REGUTAX LIABILITY.—A tax shall be imposed by this section on the corporate minitax taxable income of a corporation for any taxable year only if the amount of such tax is greater than the amount of the adjusted regutax for such year.

"(3) TAX TO BE IN LIEU OF REGUTAX.—For purposes of this title, a tax imposed by this section shall be in lieu of the regutax.

"(b) CORPORATE MINITAX TAXABLE INCOME.—For purposes of this title, the term 'corporate minitax taxable income' means the gross income for the taxable year—

"(1) reduced by the sum of—

"(A) $50,000, plus

"(B) the deductions allowed for the taxable year (other than the deduction allowable under section 172), plus

"(C) the minitax net operating loss deduction provided by subsection (d), and

"(2) increased by an amount equal to the corporate minitax preference items.

"(c) CORPORATE MINITAX PREFERENCE ITEMS.—For purposes of this section, the corporate minitax preferences items are:

"(1) CERTAIN SECTION 57 PREFERENCE ITEMS.—The sum of the amounts determined under the following provisions of section 57(a):

"(A) Paragraph (8) (relating to excess depletion).

"(B) Paragraph (2) (relating to acceleration depreciation on real property).

"(C) Paragraph (4) (relating to amortization of certified pollution control facilities).

"(D) Paragraph (11) (relating to intangible drilling cost), but computed on a straight-line basis over a period of 120 months.

"(E) Paragraph (12) (relating to accelerated cost recovery deduction).

"(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the deductions for development and mining exploration expenditures described in sections 616 and 617 allowable under this chapter for the taxable year, over

"(B) the amount which would have been allowed if such expenditures had been capitalized and amortized ratably over a 120-month period beginning with the month in which the first such expenditures were made.

"(3) CERTAIN AMOUNTS RELATING TO TAX-EXEMPT OBLIGATIONS.—

"(A) INTEREST ON TAX EXEMPT OBLIGATIONS PURCHASED AFTER DECEMBER 31, 1983.—In the case of any obligation—

"(i) purchased after December 31, 1983, and

"(ii) the interest on which is exempt from tax,

the amount of interest which is exempt from tax for the taxable year.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS PURCHASED BEFORE JANUARY 1, 1984.—The amount of interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for such taxable year by reason of the second sentence of section 265(2).

"(C) ALLOCATION RULE.—For purposes of subparagraph (B), the amount of deductions for debt to carry tax-exempt securities is the taxpayer's total interest deductions for the taxable year, multiplied by a fraction equal to—

"(i) an amount equal to the taxpayer's total investment in tax-exempt obligations, divided by

"(ii) an amount equal to the tax basis of the taxpayer's total assets.

"(4) DEFERRED DISC INCOME.—The taxpayer's pro rata share of any DISC's increase in accumulated DISC income for the taxable year.

"(5) CERTAIN SHIPPING INCOME.—With respect to any construction reserve fund or capital construction fund established by the taxpayer under sections 511 and 607 of the Merchant Marine Act (46 U.S.C. 1161, 1177), the net increase for such taxable year in the income and capital gain accounts under such funds.

"(6) AMORTIZATION OF MOTOR CARRIER OPERATING AUTHORITIES.—The amount allowed as a deduction for the taxable year under section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authorities).

"(7) EXCESS ORIGINAL ISSUE DISCOUNT INTEREST.—With respect to original issue discount bonds or other evidence of indebtedness issued by the taxpayer before May 26, 1983, the amount by which the deductions for interest taken in the taxable year for each bond exceeds an amount equal to—

"(A) the yield that would have been paid on the bond or other evidence of indebtedness if the amount of original issue discount under the obligation were paid as interest over the period of the obligation employing compound interest computations (with compounding at annual intervals), multipled by

"(B) the adjusted basis of the bond or other evidence of indebtedness as of the close of the prior bond-year (or in the case of the first bond-year, on the date of issue).

"(8) DEDUCTIONS FOR CERTAIN COSTS INCURRED WITH RESPECT TO LONG-TERM CONTRACTS.—With respect to certain indirect costs in connection with long-term contracts entered into by a taxpayer before September 25, 1981, the amount which the deduction allowed in the taxable year for such indirect costs exceeds the deduction that would have been allowable for the taxable year if such costs had been capitalized and deducted under the progress payment method of accounting for long-term contracts.

"(d) MINITAX NET OPERATING LOSS DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'minitax net operating loss deduction' means the net operating loss deduction under section 172(a) for the taxable year for purposes of the regutax, except that in determining the amount of such deduction—

"(A) section 172(b)(2) shall be applied by substituting 'corporate minitax taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1983 LOSS YEARS.—In the case of a loss year beginning after December 31, 1983, the net operating loss for such year under section 172(c) shall be reduced by the amount of corporate minitax preference items arising in such year.

"(B) PRE-1984 YEARS.—In the case of loss years beginning before January 1, 1984, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1983, for purposes of paragraph (1) shall be equal to the excess of—

"(i) the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1983, reduced by

"(ii) the amount of corporate minitax preference items arising in such loss year to the extent such amount exceeds $10,000.

"(e) ELECTION TO MAKE ADJUSTMENTS FOR REGUTAX PURPOSES.—

"(1) IN GENERAL.—The taxpayer may elect for any taxable year to have any adjustment required by subsection (b)(2) with respect to any corporate minitax preference item arising in such year apply also to such item for regutax purposes. The treatment of any item with respect to which an election has been made under the preceding sentence shall (for all later years and for purposes of both the regutax and the minitax) be consistent with its treatment for the year in which it arises.

"(2) TIME FOR MAKING ELECTION.—Any election under paragraph (1) with respect to any item shall be made not later than the due date (with extensions) for filing the return under this chapter for the taxable year in which such item arose—

"(3) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1) may be made only in the manner provided by regulations, and may be revoked only with the consent of the Secretary.

"(f) SPECIAL RULES RELATING TO CREDITS.—For purposes of this section—

"(1) CREDITS NOT ALLOWABLE.—Except as provided by paragraph (2), no credit shall be allowable against the tax imposed by subsection (a).

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904 (a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's corporate minitax taxable income from sources without the United States (but not in excess of the taxpayer's entire corporate minitax taxable income), bears to

"(ii) his entire corporate minitax taxable income.

For such purpose, the amount of the limitation of section 9.4(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF CORPORATE MINITAX TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subpara-

graph (C), the term 'corporate minitax taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACKS OF CREDITS.—For purposes of computing the amount of any carryover or carryback of any credit allowable under subpart A of part IV, the taxpayer shall be treated as having been allowed a credit against the regutax for any taxable year for which a tax is imposed by subsection (a) equal to the amount of such credit which would have been allowed against the regutax for such taxable year if such regutax had been equal to the excess of—

"(A) the regutax, over

"(B) the tax imposed by subsection (a).

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) REGUTAX.—The term 'regutax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 531 and 541).

"(2) ADJUSTED REGUTAX.—The term 'adjusted regutax' means, for any taxable year—

"(A) the regutax, reduced by

"(B) the sum of the credits allowable under subpart A of part IV (other than sections 31, 39, and 43).

"(3) TAXABLE YEAR IN WHICH ITEM ARISES.—In the case of any amount which is taken into account for regutax purposes in more than 1 taxable year, such amount shall be treated as an item arising in the first such taxable year.".

"(4) APPLICATION WITH SECTION 291.—Under regulations prescribed by the Secretary rules similar to rules of section 57(b) shall apply to items described in paragraphs (2) and (3) of subsection (c).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit to the Congress such technical and conforming admendments as may be necessary to carry out the provisions of this section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 514. ELIMINATION OF THE PERCENTAGE METHOD OF DETERMINING ADDITIONS TO BAD DEBT RESERVES FOR FINANCIAL INSTITUTIONS.

(a) BANKS.—Subsection (b) of section 585 of the Internal Revenue Code of 1954 (relating to addition to reserves for bad debts) is amended—

(1) by striking out "1988" in paragraphs (1) (A) and (3) and inserting in lieu thereof "January 1, 1984,", and

(2) by striking out "1987" in paragraph (3) and inserting in lieu thereof "December 31, 1983,".

(b) MUTUAL SAVINGS BANKS, ETC.—

(1) IN GENERAL.—Subsection (b) of section 593 of such Code (relating to addition to reserves for bad debts) is amended to read as follows:

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—For purposes of section 166(c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be the amount determined to be a reasonable addition to the reserve for losses on loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(3).''; and

(2) CONFORMING AMENDMENT.—Subsection (d) of section 593 of such Code (defining loans) is amended to read as follows:

"(d) LOANS DEFINED.—For purposes of this section, the term 'loan' means debt, as the term 'debt' is used in section 166.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 515. ADJUSTMENTS TO THE ACCELERATED COST RECOVERY SYSTEM.

(a) USED 15-YEAR REAL PROPERTY TO BE DEPRECIATED OVER 25 YEARS.—

(1) IN GENERAL.—Subsection (b) of section 168 of the Internal Revenue Code of 1954 (relating to amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) 25-YEAR REAL PROPERTY.—In the case of 25-year real property—

"(A) the applicable percentage shall be determined by use of the straight line method over a recovery period of 25 years, and

"(B) for the taxable year in which the property is placed in service and the taxable year in which the property is disposed of, the applicable percentage shall be determined on the basis of the number of months in such year during which the property was in service.".

(2) DEFINITION OF 25-YEAR PROPERTY.—Paragraph (2) of section 168(c) of such Code (relating to recovery property) is amended—

(A) by striking out "or less" in subparagraph (D) and inserting in lieu thereof "or less and is not 25-year real property",

(B) by striking out "and (D)" in subparagraph (F) and inserting in lieu thereof ", (D), and (E)", and

(C) by adding at the end thereof the following new subparagraph:

"(G) 25-YEAR REAL PROPERTY.—The term '25-year real property' means section 1250 class property—

"(i) which does not have a present class life of 12.5 years or less, and

"(ii) the original use of which does not commence with the taxpayer.".

(3) CONFORMING AMENDMENTS.—

(A) The table in subparagraph (A) of section 168(b)(3) of such Code is amended by inserting after the item relating to 15-year real property the following new item:

"25-year real property . . . 25, 35, or 45 years.".

(B) Section 312(k)(3)(A), section 1245(a)(5), and subparagraphs (A) and (E) of section 57(a)(12) of such Code are each amended by inserting "or 25-year real property" after striking out "15-year real property" each place it appears in the text and headings.

(C) Section 168 of such Code is amended—

(i) by inserting ", 25-year property" after "15-year property" in subsection (d)(2)(B), and

(ii) by inserting "or 25-year property" after "15-year property" in paragraphs (2) and (5) of subsection (f).

(b) BASIS ADJUSTMENT TO REFLECT ENTIRE INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Subsection (q) of section 48 of such Code (relating to basis adjustment to section 38 property) is amended—

(A) by striking out "50 percent of" in paragraphs (1) and (2), and

(B) by striking out paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (5) of section 48 (d) of such Code (relating to coordination with basis adjustment) is amended—

(i) by striking out "(other paragraph (4))" in subparagraph (A), and

(ii) by striking out "50 percent of" in subparagraph (B).

(B) Section 196 of such Code (relating to deduction for certain insured investment credits) is amended—

(i) by striking out "50 percent of" in subsection (a), and

(ii) by striking out subsection (c).

EFFECTIVE DATES.—

(1) 25-YEAR PROPERTY.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

(2) BASIS ADJUSTMENT.—The amendments made by subsection (b) shall apply to periods after December 31, 1983, under rules similar to the rules of section 48 (m) of the Internal Revenue Code of 1954.

SEC. 516. 3-YEAR FREEZE ON EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1954 (relating to limitation on election to expense certain depreciable business assets) is amended by striking out the table and inserting in lieu thereof:

"If the taxable year begins in:	The applicable amount is:
1984	$5,000
1985	5,000
1986	5,000
1987	7,500
1988	7,500
1989 or thereafter	10,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 517. 3-YEAR FREEZE ON THE FOREIGN EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Paragraph (2) of section 911(b) of the Internal Revenue Code of 1954 (relating to limitation on foreign earned income) is amended by striking out the table in subparagraph (A) and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1984	$80,000
1985	80,000
1986	80,000
1987	85,000
1988	90,000
1989 or thereafter	95,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

Mr. DOMENICI. Mr. President, I think it will take 30 to 45 minutes on the side of the proponents of this amendment, perhaps an hour; so those

who might have been waiting for some indication can be made aware of that.

This is the amendment that, over the 1984–86 annual fiscal years, will reduce the expenditure side by about $30.3 billion and will increase taxes over the same 3 years by $57.3 billion.

At some point, we will probably vote on the germaneness aspects of this amendment under the Budget Act. I do not intend to try to sneak that by. I intend clearly to move that it be made germane by waiver, and we will have an opportunity to vote on that and perhaps even debate it. As I understand it, we are free to debate this amendment, and there is an hour on each side, under the rules.

Mr. President, the amendment that the distinguished ranking minority member of the Budget Committee and I are offering today is designed to bring the actual fiscal policy of Congress more closely in line with the policy dictated by the congressional budget resolution and, in particular, by the reconciliation instruction contained in that resolution.

The Senate passed this resolution by adopting a conference substitute on June 23, by a one-vote margin. This is not an overwhelming indication of support. I understand that. But it is an honest reflection of the will of this body, and I strongly believe that we must make every reasonable effort to make our fiscal blueprint a reality.

The Finance Committee, under the leadership of the distinguished Senator from Kansas (Mr. DOLE), joined by the distinguished ranking minority member, Senator LONG, and other committees that were reconciled, made significant progress toward fulfilling our budgetary goals. Their proposals are contained in the omnibus reconciliation bill that we are considering, but our country's financial condition is too precarious for us to stop there.

Even if we enact the reconciliation measure, which I hope we will do very soon, we will be facing deficits that are large enough to threaten the economic recovery unless we take additional action. The action that Senator CHILES and I are proposing will bring us close to our reconciliation goals for revenues and will bring us well over our goals for spending reductions.

The approach we have chosen is as evenhanded and as nonpartisan as we know how to do. On the spending side, our amendment calls for equal reductions in discretionary spending for defense and for nondefense.

The House and the Senate Budget Committees would be instructed to report budget resolutions for fiscal 1985 and 1986 that would reduce the discretionary categories of spending by 2 percent and 2.5 percent in each of the fiscal years from the levels projected in our budget resolution.

This will save $15.7 billion in these 2 years. Adding these savings to the savings already incorporated in the reconciliation bill, we will be saving $30.3 billion over the fiscal year 1984–86 period.

I am confident that these savings will really occur if this amendment becomes law. The language of the bill is tough enough to guarantee results whenever the deficit is large. If the deficit exceeds 3 percent of the gross national product in fiscal year 1985, a tough new procedure is triggered. The procedure is this:

The House and Senate Budget Committees must include in the budget resolutions for fiscal year 1985 and 1986 levels of budget authority for discretionary defense and nondefense programs, based on the levels for those programs presented in the budget for fiscal year 1984 with a 2.5-percent cut. The Appropriations Committees are then given a chance to stay within those levels. If the deficit exceeds 3 percent of GNP for either of those fiscal years, then the President must propose rescissions in his January budget message equal to the 2½-percent reductions I have described. Congress has 60 days to act on this proposal. The resulting rescission bill must reduce budget authority to the specified levels or it cannot be enrolled. If Congress fails to complete action on the rescission within 60 days, budget authority for discretionary defense and nondefense programs is automatically reduced by the 2½-percent factor. In this event, the reductions would be achieved by cutting all programs equally.

The firmness of this measure ought to send a message to the American people that we are serious about reducing spending and cutting the deficit. It ought to tell them that our words will be backed up with deeds. It ought to tell them that we are really going to make an effort to reduce the fiscal expenditure side as described.

On the revenue side, the Domenici-Chiles amendment provides for an individual and corporate surtax of 2½ percent in 1985 and 1986, mirroring the size of the spending cuts.

I might indicate that I was hopeful that the Finance Committee would report out a package. If they had and it contained $31 billion in savings and $58 billion in tax revenue increases, revenue raisers, I would have supported it. That was an impossibility.

The distinguished chairman has told me that he did not think there was any chance that it could occur and so I did not see any alternative other than to provide for compliance on the tax side, and we have done it to the best of our ability and I think with some degree of fairness.

The 2.5 percent mirrors the spending cuts, as I indicated. An exemption is provided for individuals with taxable incomes of up to $10,800 and families with incomes up to $16,000.

It also reduces the effect of tax indexing by using the CPI minus 2½ percent in the indexing formula, instead of using the full CPI, for calendar years 1985 and 1986 only.

What we are saying there is just, as an example, if the CPI was 5 in each of those years the brackets would be adjusted at 2.5 instead of 5 but nonetheless the indexation of the tax brackets would continue to be a part of the substantive law of the land.

It is important to note that the individual and corporate tax surcharge is a triggered tax. It will not occur unless the projected deficit for fiscal year 1985 exceeds 3 percent of the gross national product. The 1985 deficit is now projected to be in the neighborhood of 4.1 percent of GNP if our amendment is passed, so the surcharge would probably be triggered, along with the new procedure to guarantee equitable spending reductions, the 2½-percent reduction in the appropriated accounts, domestic and military defense.

In addition to these tax and spending measures, this amendment also contains some useful tax reform measures that raise revenues by tightening some tax loopholes.

It broadens the alternative minimum tax base for corporations in 1984 by adding items of tax preference. It allows a $50,000 deduction.

It reforms the percentage method of determining bad debt deductions of banks and other financial institutions, beginning in calendar year 1984.

It requires 25-year straight line depreciation for resale structures, beginning in 1984.

It eliminates tax deduction double dipping—the practice of getting an investment tax credit and a depreciation allowance for the same property. Current law, in effect, allows for half of the investment tax credit to be depreciated. This measure would not permit any depreciation on the portion of an asset's cost equal to the investment tax credit.

It freezes the amount of investment that may be expensed rather than depreciated at $5,000 through 1986.

It freezes the amount of income that may be earned abroad tax free at $80,000 through 1986.

All told, the tax increases and tax reforms raise $43.9 billion over the 3-year budget period in addition to the new revenues in the reconciliation bill reported out by the Finance Committee.

The total deficit reduction from the reconciliation bill, if this amendment is accepted, would be $87.6 billion over the 3 years, and I strongly support it and strongly urge that the Senate support it.

I am going to vote for the reconciliation bill whether it contains this amendment that Senator CHILES and I offer tonight or not. But the differ-

ence between the bill with the amendment and the bill without the amendment, to paraphrase Mark Twain, is the difference between the lightning and the lightning bug. I urge all my colleagues who truly want to reduce our deficits to vote for this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the tables and explanatory materials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOMENICI–CHILES DEFICIT REDUCTION PLAN

[In billions of dollars]

	Fiscal year—			
	1984	1985	1986	Total 1984–86
Spending:				
Discretionary defense reduction (2½ percent)		−3.5	−6.07	−10.2
Discretionary nondefense reduction (2½ percent)		−2.2	−3.3	−5.5
Reconciliation bill	−2.8	−5.7	−6.0	−14.6
Total spending reduction	−2.8	−11.4	−16.0	−30.3
Taxes: Indexing (CPI—2½ percent)		3.3	8.5	11.8
Tax reform::				
(a) Minimum corporate tax	2.3	3.0	2.1	7.4
(b) Repeal bad bank debt	.3	.8	.9	2.0
(c) Full basis adjustment for investment tax credit	.4	1.4	2.6	4.4
(d) Expensing limited to $5,000	.2	.4	.4	1.0
(e) Real property depreciation reform (old versus new at 25 years)	.1	.5	1.1	1.7
(f) Freeze tax-free income earned abroad		.1	.1	.2
Individual surtax (2½ percent)		4.3	6.3	10.6
Corporate surtax (2½ percent)		1.7	3.1	4.8
Reconciliation bill	1.7	4.6	7.1	13.4
Total tax increase	5.0	20.1	32.2	57.3
Total deficit reduction	7.8	31.5	48.2	87.6

SECTION-BY-SECTION ANALYSIS

SECTION 501

This section directs that the budget resolutions for fiscal years 1985 and 1986, as reported by the House and Senate Budget Committees, in addition to other matters required to be reported pursuant to the Congressional Budget Act, shall set forth the following:

1. The appropriate level of new budget authority for fiscal year 1985 or fiscal year 1986, as the case may be. This figure will equal the sum of:

(a) An amount of new budget authority for discretionary defense programs which equals 97.5 percent of the projected level of budget authority for those programs for fiscal years 1985 and 1986 as contained in the budget resolution for fiscal year 1984;

(b) An amount of new budget authority for all non-defense discretionary programs which equals 97.5 percent of the projected level of budget authority for those programs for fiscal years 1985 and 1986 as contained in the budget resolution for fiscal year 1984; and

(c) An amount of new budget authority for all other programs that each committee considers to be appropriate.

2. As a separate entry, the appropriate level of new budget authority for discretionary programs in function 050, National Defense, to be computed as specified in paragraph 1(a) above, and

3. As separate entries, the appropriate level of new budget authority for non-defense discretionary programs (a) in total, and (b) in each applicable non-defense function, to be computed as specified in paragraph 1(b) above.

SECTION 502

As a part of the annual report required to be submitted to the Budget Committees no later than April 1, 1984, the Director of the Congressional Budget Office shall submit a report to Congress with respect to fiscal year 1985, containing the following information:

1. An estimate of current law outlays for fiscal year 1985,

2. An estimate of current law revenues for fiscal year 1985,

3. The amount by which estimated current law outlays will exceed estimated current law revenues for fiscal year 1985,

4. An estimate of the gross national product for fiscal year 1985, and

5. The percentage ratio of the deficit to the gross national product in fiscal year 1985.

SECTION 503

If the deficit as computed under section 502 exceeds 3 percent of the gross national product, then section 504 is triggered with respect to fiscal years 1985 and 1986, and section 511 is triggered with respect to taxable years beginning after December 31, 1984, and ending before January 1, 1987.

SECTION 504

If this section is in effect prusuant to section 503 for fiscal year 1985 or 1986, and if the total new budget authority provided for discretionary defense programs and/or non-defense discretionary programs for that fiscal year exceeds the appropriate level of new budget authority which was set forth in the budget resolution agreed to by Congress for that fiscal year, then:

1. The President must include in his January budget submission for the succeeding fiscal year a rescission proposal which, if enacted, would reduce budget authority for discretionary defense programs and discretionary non-defense programs to the total levels specified in section 501 of the amendment (see discussion of section 501 above).

2. Congress has 60 days to complete action on the rescission proposal,

3. No resulting rescission bill may be enrolled unless its enactment would reduce total budget authority for discretionary defense programs and discretionary non-defense programs to the levels specified in section 501, and

4. If Congress does not complete action on the rescession proposal within 60 days, budget authority for discretionary defense programs and discretionary non-defense programs will be automatically set at the levels specified in section 501, with any reduction to be achieved by cutting equally on a program-by-program basis.

SECTION 505

This section contains definitions of several terms used in title V.

1. Budget authority—same meaning as in the Budget Act,

2. Budget outlays—same meaning as in the Budget Act,

3. Budget resolution—same meaning as in the Budget Act,

4. Current law outlays—the total amount of outlays in a fiscal year that is necessary to continue programs and activities existing in the previous fiscal year without any policy change and with adjustment for inflation only when required by law,

5. Current law revenues—the total amount of revenues that would be received in a fiscal year if the revenue laws in effect in the previous fiscal year were continued without any policy change,

6. Other discretionary programs—any federal program other than:

(a) a national defense discretionary program

(b) a mandatory spending program

(c) a permanent spending program

(d) an entitlement program.

The programs contained in (a) through (d) are as determined by the Congressional Budget Office at the time the CBO annual report was issued in February 1983.

7. National defense discretionary program—any program included in the President's budget request for fiscal year 1984 under function 050, National Defense, except Department of Defense retired pay and Department of Defense claims.

SECTION 511

If this section is in effect pursuant to section 503 for fiscal year 1985 or 1986, it will impose a temporary 2.5 percent surtax on individuals and corporations for calendar years 1985 and 1986 only, exempting individuals up to $10,800 of taxable income and families up to $16,000 of taxable income. The surtax applies to regular and minimum taxes.

SECTION 512

This section reduces indexing of individual income tax exemptions and brackets to the CPI minus 2.5 percent for 1985 and 1986 only.

SECTION 513

This section replaces the current alternative minimum tax on corporations effective with taxable years beginning in 1984. The alternative minimum tax base is broadened in 1984. The alternative minimum tax base is broadened with additional items of tax preference. A $50,000 deduction is allowed.

SECTION 514

This section repeals the percentage method of determining bad debt deductions of banks and other financial institutions, effective in taxable years beginning in 1984.

SECTION 515

This section requires 25-year straightline depreciation for resale structures, effective with taxable years beginning in 1984. This provision also eliminates depreciation on the portion of an asset's cost equal to the investment tax credit, effective in taxable years beginning in 1984. (Current law allows for half of the investment tax to be depreciated.)

SECTION 516

This section freezes the amount of investment that may be expensed rather than depreciated at $5,000 through 1986.

SECTION 517

This section freezes the amount of income earned abroad that may be excluded from tax at $80,000 through 1986.

Mr. DOMENICI. Mr. President, I wish to thank my friend from Florida not only for his help in preparing this amendment and his support for the amendment but for his support throughout the year of the budget process and his support tonight for what both of us consider to be a very important decision by the Senate.

We voted a reconciliation bill on ourselves. We went to conference and brought it back and voted it again.

I think we should give the Senate an opportunity to vote on the tax and expenditure side tonight.

I do wish to remind the Senate that there are significantly more reductions on the expenditure side in this proposal than we found in the budget resolution, almost $17 billion in budget cuts that were not in the resolution that will be mandatory and made part of 1985 and 1986 if we adopt this amendment tonight.

I have heard more in the last 6 weeks, not only more words, but from more people, not only from more people but from more Senators, that we should reduce the deficits. I have seen it on television. I have read it in newspapers. I have heard it on the floor. I guess if I had the newspapers of all of the Senators' home States I would see that not a single one has exempted himself from this admonition that the deficits are too large and we should do something about them.

Frankly, I am sure that everyone here would have a better package to put together. I am absolutely positive that each could put together their own. It would be different than what I offer here tonight in behalf of myself and my good friend, the distinguished senior Senator from Florida.

But the truth of the matter is that after months of discussion nothing has come forth and so I offer this tonight with hope that Senators will look at it very carefully.

The majority of the taxes are contingent just as the President's contingent tax was included in the budget that he sent down here to Congress. I have not taken an exact look but I can tell the Senate this much: On the expenditure side if we adopt these cuts, the expenditure side for 1984, 1985, and 1986 will not be any larger than the President's. In fact, it might be smaller in total size.

That means we have the same amount of savings that he sent to us. We just do it differently.

He said: "If you get that amount of savings, I will be for a contingent tax." Well, he is not for this. I wish I could come here tonight and say he was.

That is, he does not support the 2.5-percent surtax on individuals and corporations; the President had 5 in his proposal as part of his contingent package.

Many of the loopholes, we have closed here. Again, we do not have the expertise of the committee of jurisdiction, but I think we can say that many of them are known by the Finance Committee to be the kind of loopholes that we ought to really look at. Some of them have been discussed thoroughly as prospects for closure. The minimum corporate tax was even recommended 2 years ago by the President of the United States through the Secretary of the Treasury. We perfected it as best we could here tonight in this package and offer it as part of our efforts to reduce substantially the deficits that face the American people.

In arguing tonight, about 30 or 40 minutes ago, against the amendment that the distinguished Senator from Colorado, who now occupies the chair, offered, in defense of my position that most of the deficits are the result of economic assumptions that were in error, I made a statement. It might be the first time I made it on the floor of the Senate. I have made it a number of times elsewhere.

But just to show you the dramatic nature of our assumption errors over the past 3 years and out for the next 2, I used only one number. I said that if you took the 1981 trend lines and went out 5 years with them for the gross national product of this Nation, and then you came now and said instead of those assumed trend lines what is the reality, I gave you a startling number. The cumulative GNP for those 5 years will be $2.3 trillion—I believe I said $2.2—but it is $2.3 trillion less.

Now for anyone that has been following America's fiscal policy, for anyone that has been following its tax policy, for anyone that has been following our much-needed growth in defense, which we have now established as an American priority, it ought to mean something for them to understand that the gross national product—because instead of growing we had a recession and even when we had growth it was not as large as that assumed—it ought to mean that we are not going to get this enormous, enormous deficit, structural and otherwise, under control unless we change fiscal policy on both sides of the ledger, on the expenditure side and on the tax side.

Now, I know that it is hard to change the tax base. But I give you that estimate error because clearly the tax base is in error also by huge amounts and you are not going to pick it up. It is going to take a long time. We have tried our best in all of these projections to assume this new growth, but that tax base also is going to be substantially less than estimated in those same 5-year trend lines that I described.

Some say: "Wait around and the economy will grow and that will get bigger." Do not forget, we have indexed them. They are not going to grow very much. We do not do away with that indexing tonight but we defer 5 percent of it, 2.5 percent a year for 2 years, in terms of the bracket adjustments. People have not received the benefit of that yet. They are going to have to wait 2 years if this becomes law to get the full benefit. Frankly, I think they would welcome that if they knew it was part of a package that was beginning to get the deficit under control.

I wish I could do better. I wish we would have a better package here. But I will be honest with you. I do not believe the U.S. Senate tonight wants to vote for further reductions and changes in social security, even the cost-of-living index on social security.

And you will note this proposal does not change the cost-of-living adjustment for social security. The distinguished Senator from Florida might even argue tonight that we have already changed it dramatically.

But, nonetheless, I offer a package for myself and my friend from Florida that I truly think we can vote on tonight, and this vote will be a positive one for deficit reduction. Yet, we are not voting for something that cannot happen. I think that is what would happen if we insist in putting cost-of-living reductions for social security in a deficit reduction package. So I did not include them tonight. There are some charges in medicare that the Finance Committee reported out.

But I did not go beyond that either, because I think those kind of reductions fit the same category that I have just described. Neither are going anywhere this year. They might go somewhere next year. But they need a lot more support than the support of the Senator from New Mexico and the Senator from Florida, if we were interested. They need a much broader base of support to make those kind of changes. And some do not even think they should be changed. I am not sure. But, nonetheless, they are not in this package.

The 2½-percent reduction off the marks that are set in our budget resolution for defense and for the other appropriated accounts are matched up against $14 billion, principally in entitlements, that the committee has already made, so that is about $16 to $14 billion appropriated to entitlements. Maybe not enough, maybe not the right ratio, but nonetheless everyone should know it is about 1 to 1.

Now I hope that when we are through debating this and the time is yielded back, we raise the point of order and then ask that it be waived. That will be the vote an hour or so from now on whether we want to permit this particular package to be germane and have the protection of the Budget Act. I hope the Senate will vote with us on it.

I would also want to say that I have no intention of further waiving the germaneness rule other than for the provisions as contained here. And they all cut expenditures or raise taxes. So I am not waiving the germaneness requirement tonight or asking that we waive it to get in authorizing language or irrelevant material, or to change the tax law here and there, other than by raising taxes.

I told the distinguished Senator from Louisiana, Senator LONG, that that is the extent to which I would waive. And I am not sure the Senate will want to do that. It is a rather extraordinary procedure, but it is provided for in the Budget Act. If there are 51 votes, it means there are 51 Senators that probably want this package adopted and that is what it is all about under the Budget Act.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield myself such time as I might need.

Mr. President, I want to take this opportunity to say to the distinguished chairman of the Budget Committee that I am delighted to have the opportunity to stand with him tonight, and participate, and cosponsor this amendment. I say that because I know that it is very difficult for him to propose this amendment to start with. It is a time in which we are going to go beyond our general prerogatives of the Budget Committee. We are seeking a waiver of the germaneness provision, something that neither one of us wants to do.

We have been on the floor many times trying to protect the Budget Act, trying to keep it from being waived by other Senators. Here is why we are in this situation tonight. In July, we voted out, with a majority vote of both Houses coming out of the conference, a proposal that said we were going to cut the budget by $86 billion.

That measure was then sent to the authorizing committees to make the required cuts. But now we are looking at cuts of approximately $28 billion. So we see we are short almost $60 billion.

Mr. President, under the Budget Act, when those cuts come back to us we only have the authority in the Budget Committee to package them up and send them to the floor. We do not have the right to add to them; we do not have any right to go further. The Budget Act has been with us for a number of years. This is the first time that we have had a situation in which we have come up with a shortfall in the reconciliation package.

I do not minimize the difficulty of the Finance Committee. I know how many times they have met, I know the extent to which the chairman of the Finance Committee (Mr. DOLE) has attempted to increase the amount of the package required of the Finance Committee, both on the revenue side and on the spending side. I admire his tenacity.

Senator LONG, of course, has joined with him in all those meetings, and with other members of the Finance Committee.

The result, I am afraid to say, is a package totaling just $28 billion. The Senator from New Mexico and the Senator from Florida, in our heart of hearts, know that that is simply not enough to reduce this deficit enough to give the economy a chance to continue its recovery.

We just suffered through a drastic recession. We had tremendous unemployment; we had tremendous pain around this country. We went through a period of tremendously high inflation. We saw interest rates stop housing and stop consumer buying. We saw bankruptcies the extent of which were higher than we have seen in many, many years. To bear all of that pain, only to see a short-lived recovery rather than the kind of robust recovery that we know is possible, is what has motivated us to author this amendment and give the Senate an opportunity to see whether it is willing to keep the commitment we made in July when we pledged we were going to reduce this deficit by $86 billion.

Mr. President, I know, as the Senator from New Mexico has said, there is a tremendous awareness in the Senate that these deficits are just too high. Everyone has gone home and made speeches about it. Everybody knows they are just too high. The question now is how do you get them down?

We had 46 people vote against tabling the amendment of the distinguished Senator from Colorado. Forty-six people here said they were willing to give the President the authority to reduce programs up to 20 percent. In our amendment we are talking about 2.5 percent off discretionary programs and 2.5 percent off defense. If 46 Senators were willing to allow the President to reduce programs 20 percent, then I can say that the Senator from Florida and the Senator from New Mexico are willing to join with those 46 Senators and let the Congress do it. Let Congress spell out where we are willing to make the changes. That would be enough votes to pass the measure right there. The first vote was 46–49. That would change the vote to 48–47. So I know the numbers are here.

What about the source of our spending cuts? Where are we getting our tax increases? We can always differ on that. I can tell you, when it came to writing my name on this and sending those taxes up there to the desk and saying "I recommend," with the Senator from New Mexico, "that we raise these taxes," I did not like to do it. I had a lot of qualms about it. I could argue about a lot of those taxes myself. I can see the letters I am going to get.

They will say, "Do you mean you are going to raise the surtax of the corporations, that you are going to close this loophole?"

Of course, no one thinks of their taxes as loopholes. They are fair to them.

I know how difficult that is. I know it was difficult when, on the debt ceiling, I proposed an amendment specifying that the debt ceiling could not go into effect unless we had reduced deficits $86 billion, as we proposed in the budget resolution.

The distinguished chairman of the Finance Committee and the ranking member of the Finance Committee said, "Wait a minute. You are telling us to cut $86 billion. We have done that once. We have been off meeting in our committee and we have not been able to get a majority of Senators to do that. Why do you not tell us where you want to make those tax increases, where you want to make those cuts?"

I said, "Wait a minute, that is not supposed to be the Budget Committee's role. We are supposed to say what the numbers should be and it is up to your committee." But I was told, "Be my guest. Go ahead and put your name on where you will get those taxes. You be my guest," said the distinguished Senator from Louisiana.

Well, reluctantly, I am your guest. My name is on there. I am saying we are going to make those cuts. I think we have come to the point in this legislative minuet when we must look around and ask "Who will come to the ball?"

I have been to several of the meetings in the leader's office, and the conversations around the table would go like this:

From the Republicans: "Wait a minute. If you are talking about COLA cuts, cuts on social security, cuts on veterans' programs, cuts on Federal employee COLA cuts, can you tell us"—they said to us Democrats at that table—"how is Tip O'Neill on this? Will he go along with this?"

The next question before that was answered came from the Democratic side of the table and it was, "Now wait a minute. Before we answer that question, if we go along with these spending cuts on domestic discretionary, COLA's, defense, and raising taxes, can you tell us how the President stands on these proposals?"

The answer from the Republicans was, "We feel if we carry a package down there and it is a fair package the President will go along."

The Democrats came right back to say, "Wait a minute. We are not talking about going along. We want to know, will he lead?"

That is the way it has been for months. Who is going to lead? Who will attend the ball? Who will say that they are willing to start the ball?

Well, I think that is the one thing we have before us tonight. The Senator from New Mexico and the Senator from Florida are ready to open the ball. Now we want to know who is going to dance. Who is going to dance?

You made all those speeches back home at your Rotary Clubs and said how terrible deficits are. You said that most everybody is playing politics, and the reason is because the election is coming up, that that is the reason we cannot do anything.

We have all said that. Well, the ball is open, and now we want to see who will take the floor. Those people who got a ticket in July said, "We are coming to the ball and we want to cut $86 billion." Now we want to see who shows up to get their ticket punched. We want to see who is ready to participate.

If you have a better tax than we have in here, I will say, as the Senator from Louisiana said to me, "Be my guest." Bring it up here and let us get 51 votes for it.

I think that is the proposition.

Mr. DOMENICI. Will the Senator yield?

Mr. CHILES. I yield.

Mr. DOMENICI. In fact, if they have one, we will take ours down.

Mr. CHILES. I think we have said for the longest time, if the Finance Committee has their package, bless them. We do not want to be usurpers, taking the jurisdiction from the Finance Committee. We do not want to do that at all.

Mr. DOMENICI. In fact, I understand the rules say if we do not have the yeas and nays here, if somebody has one we will put it on top of ours and take our names off. Right?

Mr. CHILES. I think we are looking for any other takers that want to come up.

We are talking about whether we really mean what we say about reducing the deficit, and I think we have an opportunity to do that.

Now some will say you do not really address the whole issue because you do not really affect the COLA's.

Well, I have been through that proposition and what you would have to do to get parties together on that.

I think we must look at the 6-month delay in social security. I think a lot of us have not really studied that. It sounds like a 6-month, one-time delay, that is all there is to it. I scratched my head about that, because I figure if it is just a 6-month, one-time delay, how come it saves $13 billion? How come, every year, it saves some more money?

Well, it is a 6-month delay every year. It means that you get your COLA 6 months later every year. So what it really means is you get a half-year each year on the COLA.

I do not know whether the old folks have found this out or not. Maybe I should not tell them tonight, even though it was a bipartisan package. But the effect is we have cut those COLA's. It amounts to 2.5 percent on COLA's every year—1984, 1985, 1986. So if you are talking about cutting COLA's, just remember, you are going to cut them on top of what we have done already.

It happens to cut Federal employees because it turned out to be a 7-month delay in that proposition. It cuts them more than 2.5 percent a year.

For some reason, thank goodness, veterans did not get cut quite as much.

This package, I think, is fair, because we are talking about 2.5 percent off defense. We are talking about 2.5 percent off discretionary programs, and we are talking about a surtax of 2.5 percent.

I have heard the statement around here now, "But you did not cut taxes 1-for-1 with spending; there should be a 1-for-1 cut in taxes with spending." We did not have that in the proposition. We find we have raised taxes $56 billion and we have cut spending $30 billion.

I want my colleagues to remember how much we have cut taxes since 1981 here. Five, ten, ten—then we had a tax bill that got into a bidding war in the House, between the House and the President. The President was talking about just one set of tax cuts, and in that bidding war we saw revenues go down to 17.5 percent of GNP from taxes, where they had been almost 23 percent. The President was talking about going down to about 21 or 21.5, but went all the way down to 17.5.

Finally, 2 years later, we had to come back. We raised some money. But we have cut spending a tremendous amount over the years. We have cut taxes $861 billion since 1981, and we have cut spending $360 billion.

So, if you want to go to 1-for-1, we have already cut taxes more than 2-for-1. Now we are talking about raising taxes $56 billion and we are going to cut spending $30 billion.

If you look and see what we have done through the Budget Act before reconciliation, you will find that the spending cuts we made there literally are 1-for-1. We are about $56 billion to $50 billion. That is about as close as you can get to 1-for-1.

I think anybody can come up with an argument on why to vote against this. I know there are plenty of arguments. But I think, on the other hand, if you meant what you said when you voted to give the President rescission power up to 20 percent, if you mean what you said about the deficit, here is your opportunity to face up to the fact that we have a chance to turn this deficit another way.

Why is the $86 billion a magic number? It is not. But if you only go with the $28 billion, you end up with a structural deficit that, in every year, is growing.

When I say structural deficit, I mean a deficit assuming that we are already at full employment. In the years of 1985, 1986, 1987, 1988, even if we are at full employment—and we cannot get there—with the kind of deficit we have—we shall never get to full employment. If you go to 6 percent, that structural deficit is growing. By 1986, it is 4.5 percent of the GNP.

On the other hand, if you approve what we are talking about here and you cut deficits by $86 billion, you end up with the structural deficit at least getting smaller every year.

That, to me, is the essential thing we need to come out of here with, Mr. President. We need to signal business people and our financial people, that we are starting that trend the other way, that we are going to come to grips with it. I think that is the signal that would trigger capital expendures. I think it is the signal that would cause the Federal Reserve to ease up on the money supply. That is the signal that could allow us to have lower interest rates—if we could show at least we are coming to grips with the deficit and we are starting it down the other way.

Mr. President, there are a lot of other things we could say about this. I made a statement this morning. I am going to stop here and say that I think the Senate would be well served if we could show that we are serious about trying to come to grips with the deficit by passing this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield as much time as the Senator from Washington desires, off the bill or the amendment.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I thank the President and the chairman of the Budget Committee. I am not sure that there is a great deal I can add to the eloquence and the persuasiveness of my friend, the chairman of the Committee on the Budget (Mr. DOMENICI), or of the distinguished Senator from Florida (Mr. CHILES). Each of them has pointed out the issue which is before us here this evening, late, during the first session of the 98th Congress. That issue is whether or not all of our concerns about budget deficits, all of our speeches about budget deficits, are going to remain simply concerns and speeches or are going to be transmuted into reality.

There is hardly a Member of the Senate or of the House of Representatives who has not expressed his or her concern with budget deficits of close to $200 billion a year, stretching out as far as the eye can see and, under present projections, more likely to grow than to contract.

Those concerns, however, all seem to fall before priorities which are greater. With some Members, those priorities are the national defense of the United States. With others, they are the sacrosanct nature of entitlement pro-

grams, including automatic factors supporting their growth, which are, for all practical purposes, sacred in spite of the fact that those programs are not only the largest but also the fastest-growing of all of the spending programs of the United States. For other Members, mostly more conservative Members, those priorities over budget deficit reduction have to do with an overwhelming opposition to any significant increases in any forms of taxation.

It is because every Member is concerned with budget deficits but no Member or few Members are so concerned with those budget deficits as they are with other priorities that we are faced with the difficulties with which we are dealing in this amendment before the Senate tonight.

This Senator must confess that even as the author of the original form of the first budget resolution for 1984 as passed by the Senate, he was not enthralled with the mix of new taxes and spending cuts contained in that resolution.

This Senator sponsored that proposal, however, because he felt that it at least moved in the right direction and that no one could have the luxury of a perfect solution in his own mind.

This Senator must confess that he does not much like the combination of revenue increases and spending cuts contained in the proposal by his friends from New Mexico and Florida. This Senator feels that he could do a much better job himself if he were allowed to provide a solution which would be magically accepted by the President, by the Senate, and by the House of Representatives. I suspect that identical statement could be made by the Senator from New Mexico, and the Senator from Florida, the Senator from Kansas, and the distinguished Senator from Colorado who is presiding over the Senate at this moment.

None of us, however, is going to have that wish granted. Each of us, if he or she is truly concerned with budget deficits, is going to have to compromise and compromise greatly. I find myself, in supporting this proposal, supporting some of the most important fiscal changes wrought by the two Congresses in which this Senator from Washington has served. Nevertheless, we are faced with a President, a White House, and an administration adamantly opposed either to increases in revenues or in cuts in the most sensitive and largest of all of the entitlement programs.

We are faced with the advice that the House of Representatives will not deal with any reconciliation bill which we pass until January or February or later. We are faced with the proposition, in other words, that this is the only body which is going to deal at all with this problem during calendar year 1983. It is unlikely, in the view of this Senator, that the problem is going to be any easier to deal with during the magic election year of 1984. I am convinced that as difficult as the process was which we went through in 1982, it did contribute significantly to a sharp reduction in interest rates, and to a turnaround in the economy which now has us in the midst of a most gratifying recovery. I am equally convinced that taking sharp and decisive action now will permit that recovery to continue and will result in another cut or reduction in interest rates. We have gotten the entire dividend from last year's activity that we can possibly expect.

Members of the Senate or of the House of Representatives or of the administration can find 1,000 reasons to oppose the amendment proposed by the Senators from New Mexico and Florida. Everyone here has an excuse to vote against it for some reason or another, but voting no and defeating this amendment will not solve the problem created by huge budget deficits. It will not lower interest rates. It will not assure the continuation of the present economic recovery. Only the passage of a proposal substantially reducing deficits this year, next year, and in the years to come can have that effect.

Mr. President, I believe that it is time to put our votes where our mouths have been for so many months. While I can see many defects with this proposal, I see far greater defects with further delay, with further temporizing, and with further excuses for not supporting a brave, a consistent, and what I believe will be an effective effort sponsored by the distinguished chairman and ranking minority member of the Senate Budget Committee. I urge Senators to take this one last chance to do something about the most important fiscal problem facing the United States of America right now, one which will continue to face this country up to and through the next election, and to support this noble effort.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Could I have some time to speak in opposition to the amendment?

Mr. CHILES. I yield as much time as the Senator desires.

Mr. LONG. Mr. President, I think 10 minutes will be enough.

Mr. President, just so we will not misunderstand one another, the Senator from Louisiana did not vote for the budget resolution.

I was concerned at the very large deficits that that resolution projected, the way that it would seek to try to reduce the deficits by putting only a modicum of spending cuts and a much larger amount of tax increases—I think it assumed about $12 billion of spending cuts and about $72 billion of tax increases, and even the spending cuts were not real cuts, illusory cuts I would call them. Looking at the budget resolution, the Senator from Louisiana thought the deficits too big, altogether too much in tax increases compared with too little spending cuts, so the Senator from Louisiana voted against it. I do not feel any obligation, Mr. President, to vote for what was in that budget resolution. I want to make that clear now.

Furthermore, Mr. President, this Senator does not feel any compulsion to vote for a tax increase just because the budget resolution said that we ought to raise taxes.

We did have some discussion on the floor about that subject matter, whether the Budget Committee could require or make us report a $72 billion tax increase. The Senator from New Mexico said, in jest, that they would put us in jail for contempt if we did not report out a $72 billion tax increase. I know he was jesting when he said that; he was not really serious about it when he said perhaps they could put us in jail for not recommending a $72 billion tax increase.

Mr. DOMENICI. The Senator would like that.

Mr. LONG. But this Senator says, as the Senator from New Mexico suggests, I would be delighted to be locked up in jail because I refused to vote for a $72 billion increase in taxes here tonight. If there is one thing that would assure my reelection, it would be putting me in jail. I would rather go to jail than vote for this $72 billion in tax increases.

Mr. DOMENICI. The Senator just ran, did he not?

Mr. LONG. The election is some way off, several years. I would think that would help my reelection even if it was a few years in advance.

So, Mr. President, this Senator from Louisiana does not feel that he has to vote for what the budget resolution said, whether it is something recommended by the Finance Committee, the Budget Committee, or by an individual Senator. He feels that he is privileged to vote his own conscience and his own conviction.

We on the Finance Committee looked at that budget proposal, and we thought that we ought to have the privilege of recommending at least $1 in spending cuts for every $1 of tax increase. So we proceeded to try to do what we really thought ought to be done. We tried to recommend not an $80 billion adjustment but $150 billion, equally divided between tax increases and spending cuts. We were working hard at it and were enthusiastic about it until we got word by way of the media that the President had announced that if we sent any tax in-

crease of that sort to him, he was going to veto the bill. And he said, "Keep your spending hands off my recovery. Keep our tax-increasing hands off my recovery." He was going to veto that kind of bill, and he denounced us as being the people who wanted to penalize the public by raising their taxes and killing the recovery, and he was going to save the recovery and save the tax cut and protect the people of this country against us big taxers and high spenders.

Those of us on the Finance Committee were pretty discouraged at that point. Then comes the Secretary of the Treasury to meet with us and to emphasize the fact that the President will do just exactly that, veto the tax increase if we send it to him.

Mr. President, I have only been in the Senate 35 years. I have not been here as long as my distinguished friend from Mississippi, but almost that long. In my judgment, Mr. President, you cannot pass any $50 billion tax increase, you cannot pass any $70 billion tax increase, you cannot pass any bigger increase than that as long as the President of the United States, who is opposed to it, is sitting there with a veto waiting for it to get to his desk. If this Senate is that imprudent, I predict the House will have more wisdom, because when the big tax increases get over there with the President ready to veto them every step of the way, the bill is not going to become law.

The President said—and I think he was in error about this—"They promised that they were going to cut spending $3 for every $1 of tax increase under the TEFRA bill." That was BOB DOLE's 1982 tax bill. He said, "They promised they were going to cut spending $3."

I do not know who "they" is. I saw the President yesterday and asked him, "Who is the 'they' you are talking about?" He told me that his people assured him that the Senate had agreed that "they"—again "they"—were going to cut spending $3 for every $1 of tax increase.

So I guess he was sitting there waiting for us to cut spending $210 billion to pay off our commitment on the $70 billion of tax increases in BOB DOLE's TEFRA bill.

Mr. DOMENICI. $98 billion.

Mr. LONG. $98 billion, I am told. Well, that means he expected about $300 billion in spending cuts that never materialized. If he was expecting that, I can understand how disappointed the President of the United States is, after "they" promised him to cut spending by $300 billion, that "they" failed to deliver.

Now, Mr. President, I had nothing to do with any of that. How that happened absolutely defies the Senator from Louisiana. I have no idea how that could have happened. I am here to defend BOB DOLE. I do not know of any commitment of that sort that was made by BOB DOLE either. I know I did not make it and, to my knowledge, he never made it. But that is the misunderstanding that some people have.

The President is not willing to sign onto the Finance Committee approach of $1 in spending cuts for $1 in tax increases. He is not willing to go along with us for a dollar of taxes to match a dollar of spending cuts.

Notwithstanding that, we did recommend out of the Finance and other committees a 50-50 package—roughly $15 billion of taxes to be accompanied by $15 billion of spending cuts. We are still working on trying to find more tax increases and more spending cuts.

The pending amendment now proposes to implement just exactly the opposite of what the President said "they" agreed to—whoever "they" are—and it includes roughly $3 billion of tax increases for every $1 billion of spending cuts. That is just exactly the opposite of what "they" promised.

I do not know whether the Senator was the man the President had in mind when he talked about "they" promising $3 in spending cuts for each $1 in tax increases, but it is not in his amendment.

Let us look at the details of this amendment. Everyone who wants to vote for this tax increase should go home and be prepared to tell the people, "I voted these taxes on you."

The leadoff item is a 2.5-percent surcharge. Whatever you owe, pay 2.5 percent in addition. It is a 2.5-percent surtax on all individuals and all corporations. Nobody is left out. Everybody gets in on the 2.5-percent surtax on individuals and a corporate tax. That is what the Senator's summary sheet says.

Mr. DOMENICI. Mr. President, as I said in my opening remarks, there is an exemption on the bottom side—10, 8, and 16 for individual and family. You are exempt for it on the bottom end of the tax structure. It is not on that sheet.

Mr. LONG. All I can go by is what it says in the material the sponsor of the amendment distributed. Does the Senator say individuals do not pay the 2.5-percent surcharge?

Mr. DOMENICI. The low income.

Mr. LONG. The low-income taxpayers get left out. I am glad to have that correction.

Mr. President, we in the Finance Committee were using a somewhat different approach.

Mr. BYRD. What is low?

Mr. LONG. In the Finance Committee, we talked about using that approach and said we are only going to tax high-income persons, and high-income people were those who paid taxes of more than $6,200.

I mentioned that definition to a group of businessmen today and they laughed at it. They thought it was very funny that you would be a high-income person by paying $6,200 in taxes a year. They pay a great deal more than that of course.

This is the lead off point in the amendment: everybody gets to pay an increase of 2.5 percent on individual and corporate liability.

Then indexing: the amendment phases in indexing of individual tax liabilities by limiting the bracket adjustment to the percent change in the Consumer Price Index less 2.5 percent for 1985 and 1986.

My recollection is that this is an item the President specifically said he would veto if it came to his desk. The first 2.5 percent of indexing would go under the amendment.

Then, here is a minimum corporate tax. This amendment places a 15 percent minimum tax on broad-based corporate income. That means you take regular corporate taxable insurance, add to it tax-exempt state and taxable bond interest. Then take your depletion allowances, your intangible drilling costs, your accelerated depreciation, and add those things back in. There are a few other things, which I will not mention.

Take everything that you get taxed on and add all these preferences items and multiply the total by 15 percent; and if that works out to a higher figure than you would otherwise pay, that is the amount you will pay. This means that tax-exempt bonds would be taxed. It means that revenue bonds would be taxed.

Next, this amendment would repeal the excess bank bad debt deduction. Let us analyze that.

President Reagan is recommending that we restore the bad debt deduction for the banks from 0.6 percent up to a full 1 percent, and that recommendation makes sense. We have had bank failures in the country. We had the Penn Square situation. We know about foreign loans going sour, which caused us to pass the International Monetary Fund bill.

Banks do have a lot of cause to worry. So the President recommends that we increase the bad debt allowance. This amendment would repeal the 0.6 percent allowance that is in the law now.

Then, the amendment would have a full basis adjustment for the investment tax credit. What does that mean? That means that when you get an investment tax credit of 10 percent, you reduce your basis for depreciation purposes by 10 percent, so in effect you pay taxes on the 10-percent investment tax credit. That, in effect, is what it amounts to. You cannot depreciate the amount represented by your investment tax credit.

If you were in a 46-percent tax bracket, that is about the same as if

you cut the value of the investment tax credit in half. That sort of thing has been done before: Senator DOLE did half of it in his TEFRA, the Tax Equity and Fiscal Responsibility Act. How could anybody vote against tax equity and fiscal responsibility? Well, you might vote against it if you found out what was in it, and I did. In that bill, 50 percent of the investment tax credit was taxed by way of a basis adjustment. This amendment would tax the other 50 percent.

Mr. President, I can recall years ago when President Kennedy first recommended an investment tax credit. It seemed to me that it was sort of a loophole to give people a tax credit equal to 7 percent and then to permit them to depreciate the whole 100 percent, including the 7 percent. That was an amendment that became law, saying that you could only depreciate that which was left after you reduced your basis by subtracting the investment tax credit.

Over a period of time, I became convinced that we should look upon the investment tax credit as a subsidy, as an incentive for people to buy equipment; and on the basis of that, I went along with the administration when they subsequently recommended that you not reduce their depreciation base by the amount of the investment tax credit. That change became law.

The question is, Do they need the 10 percent investment tax credit? Is that too much incentive for them? If so, it should be reduced or taken away from them.

The fact is that business investment today is less than it was when President Reagan took his oath of office. Business investment has gone down since 1981. We cannot get the business people to buy equipment and build the plants we want them to build, even with the 10-percent investment tax credit.

I submit that if you want recovery to go ahead, you would not want to drastically reduce the investment tax credit by subjecting it to the corporation income tax. That is what it amounts to when you have a full basis adjustment. It means that you put a 46 percent tax on an amount equal to the investment tax credit; because, for every percentage point of investment tax credit they get, they have to decrease the depreciation basis by 1 percent.

Mr. President, I am not going to vote for this bill. It is not going to become law. If it does, it is because the President of the United States is not a man of his word, and I know he is a man of his word. He told me in person yesterday that he was sincere about the matter and would not sign those kinds of tax increases. I know that this amendment is an exercise in futility.

If Senators want to vote to put all these taxes on their people, to raise everyone's income tax, to raise everyone's corporate income tax, to what amounts in effect to cut the investment tax credit, to tax the interest on municipal bonds, and to tax the interest on industrial development bonds—in effect to tax everyone from bedbugs to billy goats and get all the nannies next if they can, if they want to vote for that, go ahead and vote for it.

If so, let the President explain to people that he saved them when he vetoed the tax bill we sent down there.

That is what is getting ready to happen. I do not think it will quite happen that way. I do not think this amendment will get to the White House. I think the House of Representatives will look at it, if it ever gets that far, and they will say thanks, no, we are not going to play that game. We are not going to be mousetrapped by sending this measure down to the President and having him veto it and saying, "Look what those people up there on the Hill did. They tried to put this big tax increase on you."

I am sorry, Mr. President, but I cannot agree with the ranking minority member and the chairman of the Budget Committee.

A while back the Senate almost approved an amendment which this Senator thought had great potential for bringing spending under control. It would have carried if the chairman and ranking minority member of the Budget Committee had voted for it, but they voted against it and spoke against it. So it did not carry.

I am sorry that the budget process has not achieved what we hoped for it, but I do not feel like playing a part in what I believe will be an exercise in frustration.

Therefore, I am not going to vote for the amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Kansas?

Mr. DOMENICI. Mr. President, let me ask how much time the Senator wishes, a half hour?

Mr. DOLE. A half hour—I want to go home in a half hour. About 5 minutes.

Mr. DOMENICI. Mr. President, could I take 2 minutes and just answer the Senator and I will give the Senator from Kansas the 5 or 10 minutes, whatever he wishes.

Let me just say to Senator LONG that first of all I hope he understands that my objection to the Armstrong-Long rescission amendment is predicated on a very simple proposition. It will not work. If it would have worked he would have had me on his side. It is not a question of my not wanting to restrain spending. This amendment has a 2.5-percent across-the-board cut in discretionary spending that will work because it is not based on arbitrary month-to-month changes in cash deficits. It is based on the budget resolution.

Mr. LONG. Mr. President, will the Senator yield at this point?

Mr. DOMENICI. I yield.

Mr. LONG. May I just submit to the Senator that the Senator says that our proposal will not work. I know his will not work because it is not going to become law.

Mr. DOMENICI. That is correct. I understand that the Senator thinks it will not become law. I just wanted to explain to him that I do not think the reason that our amendments will not work is the same. He does not want to start the process. That is what he is telling us here tonight. We would be happy to let the Senator put forward better proposals. He had a proposal to raise a lot of taxes more than we have. He is talking about an energy tax. He suggested to me that he was willing to tax everything from, what did he say, cockroaches to billy goats?

Mr. LONG. Bedbugs.

Mr. DOMENICI. He thinks his energy tax would not have hurt anyone. In fact, it did not have any exemptions in it. Everyone in America would have been paying more for gasoline, more for their utility bills. We cannot raise taxes without affecting someone.

Remember, I learned from the Senator from Louisiana when I first came: "Do not tax me, tax the fellow behind the tree," he said.

We cannot do that because we do not raise any revenue.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. LONG. Mr. President, the Senator from Louisiana would be glad to vote for a big tax increase, a bigger one than the one the Senator from New Mexico is recommending here.

Mr. DOMENICI. I understand.

Mr. LONG. And this Senator has said that to others and he said it to no less a person than the chairman of the Budget Committee, and the President. I am willing to vote for a big tax increase, but I do not feel like making a charge of the Light Brigade with a great big tax increase if the President is going to veto it and accuse me of being a big tax-and-spend man, and leave me in the bad light of leading the charge of the Light Brigade.

I have learned in 35 years that it does not really accomplish much being one of the dead bodies left on the battlefield after the smoke of battle cleared.

Mr. DOMENICI. I understand.

That is why I was suggesting that maybe the Senators with the appropriate committees of jurisdiction could substitute sponsorship for this proposal. I could take my name off since I have to run next year.

Let us understand what the Senator from Louisiana is saying. He may have a better package that he can put together. But he has not put anything together so far because he does not want the Senate to lead. That is the issue. I understand he is an experienced politician. He says it does not pay to lead. In fact, I think he told us once you can only be brave once about every term. That meant in 6 years—I do not know that the word was "brave," but it was close to that—you can only be heroic, he said to us, once a term.

Well, for me I have not been heroic very often, so this is my one time. For him, perhaps he has been heroic probably already two or three times and he does not want to be again.

That is the issue tonight. It is not about being unfair. We are not going to raise the $58 billion in our amendment or the $74 billion in his proposal without taxing someone. So we can find cockroaches and billy goats in anyone's tax proposals. Regardless, someone is going to feel the burden.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. CHILES. Mr. President, I remember the distinguished Senator from Louisiana used to always cite that poem for us:

Don't tax you, don't tax me, tax the man behind the tree.

Our problem is we cannot find the man behind the tree tonight. Now whatever we do it is you or me who end up getting taxed. If we could find that guy behind the tree we would be all right.

Mr. DOMENICI. Mr. President, let me just finish this because we should hear from the distinguished Senator from Kansas.

First, I want the Senator from Kansas and the Senator from Louisiana to understand that I wish I did not have the burden of answering the technical questions here on the floor. I have tried very hard in my chairmanship not to interfere with equity and fairness questions. I do not know very much about the tax laws of this country. That is their jobs and they have done tremendous at it.

We have used the best experts we can to put this proposal together. And, I think, in the final analysis, Senators it is pretty fair. Someone has to bear the tax burden. In this regard, it is pretty fair because everyone shoulders the tax burden a little.

Let me say a word about this 3 for 1 last year because that does bother me. I say to Senator DOLE supposedly TEFRA was supposed to have $3 of savings for every dollar in taxes. I guess the President told the distinguished Senator from Louisiana that yesterday.

I did not promise any 3 for 1. Maybe that came from Dave Stockman over at the Office of Management and Budget.

But I can tell the Senate I saw the papers that came out of the Office of Management and Budget that said 3 for 1. They probably gave that to the President and said: "You ought to be for the taxes because the spending cuts will be three times greater."

I can produce here and I wish I had it tonight, the kind of arithmetic that Dave Stockman used when he gave that number to the President. I tell my friend from Louisiana, we saved almost the 3 for 1. If we take into account only those budget actions that required congressional action and assume that those savings that were not the responsibility of Congress, those that in many instances were the responsibility of the administration, were actually achieved, we came very close to the 3 for 1 that everyone likes to speak of. We also have to remember that there were bills that the President himself proposed, like the $5 billion jobs bill. That bill was not included in anyone's 3 for 1 calculation. That was certainly not a proposal in the budget. The Senator will remember that we passed the jobs bill during the lameduck session. The President signed it. He asked for it. The new tax on gasoline was not in anyone's proposal either.

On social security, we made certain assumptions. Then it turned out the Commission changed the law. We spent more money under social security than we planned. But these congressional actions, which admittedly cost money, were not contemplated in the budget resolution and were certainly not part of the original budget bargain.

So, in short, when we take into account only the commitments we made in the budget, we did not do so bad.

I have the greatest respect for him but, in conclusion tonight, I submit this is a fair package as we are going to get. It is the best opportunity to reduce the deficits, and if Senators agree with the Senator from Louisiana that they should not vote for it even if it is right because the President has not sent the signals, then vote against it and no question about it. That is a true state of fact. That is a true state of fact that I am not going to argue. I argue with a lot of others he made. But with that one as of tonight we lead, the President follows. If he does not, we decide what we want to do for our country here tonight, that is our privilege and our responsibility.

I hope a few Senators will decide this is their one chance to be heroic. They do not have to do it very often, just one time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, will the Senator yield?

Mr. DOMENICI. Mr. President, I yield time. I yield as much time as the Senator desires.

Mr. DOLE. Mr. President, I will not take a great deal of time.

I know there are a number of troubled Senators here tonight because we are trying to get a handle on the deficit, and I guess it is easy to express our frustrations and blame the White House and some of us can blame the Speaker.

I think we have to be optimistic. I am not certain this is the optimistic package.

But I have not given up yet in the Senate Finance Committee, which is the committee of jurisdiction on revenues.

Now, I have not interpreted the President's remarks as saying no. Maybe I do not understand that too well. But I still think there is a chance for the right people to get onboard—maybe not tonight, maybe not tomorrow—before the committee meets. But the last thing we want to do is to shut off all the avenues for compromise. In my view, if we adopt this package, you can forget about deficit reduction. That would tend to polarize people on each side.

I have the highest respect for both Senator DOMINICI and Senator CHILES. They are the chairman and ranking member of the Budget Committee. They have a responsibility.

Congress passed a budget resolution saying raise $73 billion in taxes, and our committee did not do it. So I assume, as the ranking members on the Budget Committee, they feel a responsibility to bring a package out to go up to $73 billion.

But I have to believe that there are still enough of us here, notwithstanding the statements of the Treasury Secretary, notwithstanding the statements of the President, because I think you can interpret those two different ways, at least, and notwithstanding other statements made by the Speaker of the House of Representatives, that someone finally has to provide some leadership when it comes to deficit reduction.

Now, I have arrows in my back, my chest, all over the place for even suggesting that we do anything on the revenue side. I have been scolded by the right—and that is not unusual, but it is a lack of understanding of the problem. Some are going to tell you deficits do not make any difference, and others are going to say you will get it all in spending reductions. Other will say we will get it all in taxes.

Well, in the real world, as everyone here understands, we are not going to get all of either one. But there ought to be a balance. It ought to be one for one, and I do not see it one for one.

Again, I do not want to criticize this package. I just do not want it to be

adopted. It seems to me that if it is not adopted, it will still leave the door open for the committee of jurisdiction to try to put together a package.

Now, we have spent all day today and part of yesterday, the staff has spent the last 2 weeks drafting, redrafting, compromising, trying to sort of ease off all the hot buttons, cool off some of the hot buttons when it comes to COLA adjustments on social security or indexing, to try to put together a package.

Now, the last thing I want to do is to polarize the Democrats on one side and the Republicans on the other side; the spenders on one side or the taxers on the other side.

Mr. DANFORTH. Could I ask the Senator from Kansas to clarify his point?

Mr. DOLE. Yes.

Mr. DANFORTH. I have been watching for the same cracks, just some little cracks to be opened in front of the administration. I have seen nothing at all. I have seen no effort on the part of the President or the Secretary of the Treasury to be in the least bit forthcoming on the problem of the deficits.

I have supported the Senator from Kansas for the last month or so in his efforts. I came over here a couple of weeks ago with the Senator from Kansas and argued for the extension of the debt ceiling at that time. The No. 1 argument was that if we were to extend the debt ceiling, then the Finance Committee really had something constructive going. We were moving ahead in the Finance Committee until Secretary Regan met with us in that backroom of the Finance Committee. And I do not see how he could have done a more effective job in slamming the door.

So it would seem to this Senator that, as much as I dislike the amendment offered by the Senator from New Mexico, it is now the only act going. It is the only possibility for doing anything, probably for the next year and a half, to close the deficit. If the Senator from Kansas could show me where that glimmer of hope is, where the chance is to get anything enacted into law, than I might reconsider my previously held view that I would support the amendment of the Senator from New Mexico.

Mr. DOLE. Well, I do not have a letter or anything in writing. It is intuition. I just have a feeling that they are going to do the right thing. I voted for the President, and I am certain he would not want to let me down. [Laughter.]

It just seems to me that when all the facts are laid out on the table, that the Secretary of the Treasury, who cannot bring the deficit down with speeches—he has tried that and it is still the same. The deficit is still where it was. Everytime he makes a speech, it drops a little. He has a good speechwriter. But the deficit is still there.

I believe the Treasury Secretary is beginning to fully comprehend that we have some wisdom up here, and that we also are concerned about the deficit. He is, too, I would say, in all fairness to the Secretary.

But if you were the Treasury Secretary, you might even say deficits did not matter. Somebody might think they were yours. [Laughter.]

So I understand all of that. But I also understand patience. Having waited 20 years to become a Member of the majority party, I do not think waiting a couple more months to work this out would be the end of the world.

The last thing we want to do is to dash the hopes. I think there are some hopes. I mean, I do not want my distinguished colleague from Louisiana to suggest that all the Democrats are going to vote against the package, and he is not. But he is a little discouraged because he thinks he hears negative signals from the White House. I do not know what would lead him to believe that they would be negative, unless you read the newspaper, watched television, or listened to the radio. [Laughter.]

But I still believe that there is some movement. I think one signal was the fact that nobody denounced our most recent package all day long. [Laughter.] We have been on it since 9:30 this morning, and I have not read a single wire story from the White House. Now, that is progress, and that is why I do not want to lose sight of that. I am serious about it, because had the administration felt strongly about it, I am certain somebody down there would have indicated as much.

As some may recall in the committee today, on every provison that we have gone over today—and there are 70 or 80 provisons in all, I would guess—on nearly every one on the tax side, it is either in some form or in some way like the administration's recommendation, except for zero bracket reduction and trying to help low-income taxpayers and maybe one other area. On the spending side, nearly every one was a recommendation by the administration in the 1984 budget.

I know the frustration. I share the concern of the members of the Budget Committee. I am even willing to say this might be germane, but I cannot support the package. I think the distinguished Senator from Louisiana has gone down the package, some of it I could live with.

But let me just conclude by saying, on the spending side, if we could bring this together, as I said earlier to the Senator from Florida (Mr. CHILES), we are looking at in our committee—and we are just one committee—at approximately over a 4-year period of about $39 billion in spending restraints. That is additional health savings, that is some social security savings, that is a savings we have already made in reconciliation, and some debt service which is real savings, not the smoke that somebody referred to earlier when they talked about the 3 to 1.

So I just suggest that, as much as I admire the Budget Committee, having served on that committee, as much as I know they feel their responsibility, the best hope is to permit us to proceed in the committees of jurisdiction. We have not succeeded, but we have not failed, and there is a difference.

Mr. GORTON. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. GORTON. Like my colleague from Missouri, I have spent most of the last 2 months hoping that the Senator from Kansas would succeed in his quest. As he well knows, I have been providing such support of that quest as I could. I can readily confess to the Senator from Kansas that I would far rather have voted for the proposal which he has come up with, outlined rather generally rather than specifically, than that which is on the floor at the present time. But the Senator will agree that the Finance Committee, by reason of intense opposition from the administration, has not to this point come up with such a package.

The Senator from Kansas says we should defeat this proposal, not so much because he disagrees with it, though he certainly has those disagreements, but because he hopes the administration will change its mind, that the President will come to favor something on the order of the proposals the Senator from Kansas has made. I, too, hope that will take place.

But is it not reasonable, I ask the Senator, is it not highly reasonable, for us to vote for this package, even though we agree with the Senator from Louisiana that it is not going to become law? Is it not going to provide a better basis for the Senator from Kansas and the Senator from Louisiana negotiating with the administration, when we leave for this recess, having passed a real deficit proposal over to the House of Representatives? Is that not going to cause much more interest on the part of the administration, the White House, the President of the United States, in coming up with something that is more balanced, in coming up with something that it can live with as an alternative, than for us to sneak home now for 2 months with our tails between our legs like a beaten puppy? What incentive does the White House have to compromise with the Senator from Kansas if we have simply backed away from what our responsibilities are and have done nothing?

Mr. DOLE. Again, I do not quarrel with that observation, but I do believe

we have had a lot of things happen in the last 4 to 6 weeks. We have had the tragedy in Beirut, the rescue operation or whatever you call it in Grenada, and a lot of the focus of the President has necessarily been shifted to other than economic matters. It seems to me that is a consideration. Maybe it should not be, but I think it must be. I know we have not produced as we should have in response to the budget resolution.

I did not vote for the budget resolution either. I did not think it called on our committee to do enough on the spending side. We have a lot of jurisdiction. We were only asked to cut spending $1.7 billion over a 3-year period. We have already done $3.4 billion and we are prepared to add another $20-some billion in our committee. I am certain the Budget Committee does not object to that. Again, I do not want to in any way indicate any criticism of anybody on the Budget Committee. They have a very difficult job.

It just seems to me that we have an opportunity, and maybe I am mistaken, an opportunity, in my view, even if we do not accomplish it today, tomorrow or Friday, between now and late January to hammer out some revenue reduction package with the administration and with the Speaker. The two giants in this town are still not on board. I do not care whether Ronald Reagan is for this package or not. If TIP O'NEILL is opposed to it, it will not go anywhere. So there are two key players that somehow have to be convinced that the deficits are not only threatening but are a matter of great concern to Congress. I am willing to suggest that this amendment is germane, but I cannot support it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Will the Senator from Kansas yield?

Mr. DOLE. I yield the floor.

Mr. METZENBAUM. Will the Senator from Florida yield to the Senator from Ohio?

Mr. CHILES. Let me ask the Senator from Kansas a question. He said he did not hear anything from the administration all day long. This wire may have been delivered to me by mistake. It says "Senator Dole, your package stinks. Strong letter follows. Reagan." [Laughter.]

Mr. METZENBAUM. Will the Senator yield?

Mr. DOMENICI. I yield such time as the Senator may desire.

Mr. METZENBAUM. Mr. President, there is some question of jurisdiction as to whether the Budget Committee on the Finance Committee should be addressing themselves to the matter of bringing the budget into balance. The facts are that no matter what we do here this evening, it is going to be a very small drop of water but at least it might be a step in the right direction.

I am not enthused about the Domenici-Chiles proposal, but not because I am concerned that they are closing some tax loopholes. I am concerned that they are not closing enough of them. I am not concerned that they are raising some revenue, but I am concerned that they are not raising enough.

Mr. BRADLEY. Will the Senator yield on that point for clarification?

Mr. METZENBAUM. Without losing my right to the floor, I yield for a question.

Mr. BRADLEY. I direct this question to the Senator from Ohio or to the Senator from Florida. The Senator from Ohio has spoken that he would like to see more loopholes closed. I am sure his consideration is that he would like to have a fair tax system. Is that correct?

Mr. METZENBAUM. That is correct.

Mr. BRADLEY. The Senator has also, I think, supported this package that does have a 2.5 percent surtax on individuals. Is that correct?

Mr. METZENBAUM. I take that only in consideration of the fact that it has a corporate minimum tax of 15 percent, it has a surtax of 2.5 percent, and it eliminates the bank bad debt, which is an artificial bad debt. It has some other provisions that I think are moves in the right direction.

Mr. BRADLEY. I ask the Senator from Ohio, the Senator from Florida or the Senator from New Mexico, can you tell me what adjusted gross income will the 2-percent surcharge go into effect on?

Mr. METZENBAUM. Without losing my right to the floor, I yield to the floor managers to respond.

Mr. DOMENICI. I will answer that, if the Senator from Florida will permit. We have a modification we are going to send to the desk. We were making last minute changes.

The individual surtax would impose a 2-percent surtax on the tax liability on personal taxable incomes above $16,000 and a 5-percent tax on the tax liability on personal incomes above $41,000. This compares to the 2.5-percent surtax on the tax liability at all taxable incomes above $16,000 in the original bill.

Mr. BRADLEY. So the surtax will apply to incomes of $16,000 at 2 percent?

Mr. DOMENICI. This 2 percent surtax would apply to tax liability on incomes above $16,000. That is correct.

Mr. BRADLEY. And 5 percent to incomes over $40,000.

How will the surtax affect those individuals with substantial economic income but who pay minimal amounts of tax because they use the tax preferences or the loopholes the Senator from Ohio is so concerned about?

Mr. DOMENICI. To the extent that we reduce tax loopholes in this proposal, those persons would be affected. Otherwise, it does not.

Mr. BRADLEY. The fact is it does not address it at all. What it says is if you use all the loopholes in the code, you will not have this surtax. But if you are out there working with a $15,000 income or a $20,000 income, you have a surtax, and at a $40,000 income you have a bigger surtax. I think we need to look at this a little more carefully as to how fair a tax the surtax on individuals is.

Regarding the corporate minimum——

Mr. METZENBAUM. I only said I would yield for a question.

Mr. BRADLEY. I was supporting the Senator from Ohio who took great pride in saying he supported the 15-percent corporate minimum tax.

My question is, Does this not penalize only those corporations that are paying tax?

Mr. METZENBAUM. No, just the opposite. The 15-percent corporate minimum tax is to get at those very corporations that are paying no taxes. I would like to indicate to my good friend from New Jersey and my friend from Kansas that I do not think the Domenici-Chiles proposal is a great proposal but it is on the floor because the Finance Committee is having difficulty in fashioning its own package.

There is not any argument about it. You can fashion a better package. You can have one that is fairer, I agree with the Senator from New Jersey. But where is it? It is Wednesday night and we are ready to close up shop. There is no proposal before this body and we have an obligation under the reconciliation measure to come up with the funds.

Mr. BRADLEY. I hear the hooves of horses.

Mr. METZENBAUM. I know the Senator from Kansas has busted his butt trying to bring about a tax measure. I am not faulting him. I am not faulting the Senator from New Jersey. What I am saying is if we do not do something now, we are not going to have anything to do with it. This is our way of Senate saying, look this is not great.

I tell you, it is not great at all. There are a lot of things I think we ought to do that are not in this bill.

I think we ought to do something about the oil companies that do not pay their fair share of taxes. I think we ought to do something about the timber companies that get by without paying capital gains taxes on their properties. Sure, we ought to be doing a lot of things that we are not doing. But we have not done it.

The PRESIDING OFFICER. All the time of the Senator from New Mexico has expired. The Senator from Florida has 22 minutes and 55 seconds.

Mr. CHILES. I yield such time as the Senator from Ohio needs.

Mr. DOLE. Will the Senator from Ohio yield for an observation?

Mr. METZENBAUM. I yield for 1 minute, without losing my right to the floor.

Mr. DOLE. I suggest that in the package we are now working on, that we have not given up on, we have about $13 billion that I feel are real loophole closers, as the Senator from Ohio knows; he was there this morning when we went over that. We are going to do something about those.

Mr. METZENBAUM. Mr. President, I supported the measure, but I think the Senator from Kansas and his committee are not addressing themselves to the issue. The Senator from Kansas has done as good a job as anyone I know around here in trying to zero in on some of the loopholes. For the White House's advice, I want to point out to them that closing tax loopholes is not a tax increase. The Senator has made a real effort to do that.

This proposal is not great. I repeat myself. The fact is that at least it tries to do something about the corporate taxes that large corporations making hundreds of millions of dollars and, in some instances, over a billion dollars, are not paying. The President's fiscal year 1983 budget projected corporate income tax of $65.3 billion. Do you think it raised that? Of course, it did not raise it. It raised $37 billion, or a shortfall of $27 billion.

What do you have as a consequence? This is an article in today's paper: "the corporate tax: It's all but disappeared." I read from the article.

> The real economic damage from President Reagan's 1981 tax program stems not from personal tax cuts but from the breathtaking changes in corporate taxes. Despite last year's successes in narrowing some business loopholes, the corporate income tax as a source of federal revenues has all but disappeared.
>
> In four of the 12 months of the fiscal year recently ended, Treasury actually sent out more in corporate tax refunds than it collected in corporate tax payments. Overall in fiscal 1983, corporate income taxes totaled only $35 billion. That's less than 6 percent of federal receipts and a mere 4.4 percent of spending—quite a drop from the 25 percent of federal taxes corporations paid in the 1950s and 1960s, or even from the 15 percent they chipped in during the 1970s.

What we are talking about here this evening, Mr. President, is not the solution to the problem. But at least, somebody is trying to do something about it. Again, I repeat, the chairman of the Committee on Finance is also trying to do something about it. He has been trying to do something about it for days and weeks and months. We all know why he had not been able to. He has not been able to because the man in the White House has truly been irresponsible on this issue. He came into office claiming he wanted to balance the budget and he is not balancing the budget and he smiles on the tube and says, "We are not going to raise taxes and the economy is in great shape."

Sure, wonderful shape; a $200 billion-a-year deficit this year, next year, and the year after.

This article in big type says today, "Ordinary taxpayers who are left paying the taxes avoided by the politically powerful * * * have a right to be angry."

It goes on to say:

> Although the explosion in corporate loopholes over the past decade—from $7 billion on the government's official list in 1970 to an expected $83 billion by 1986—has been relentlessly defended by Washington business lobbyists as beneficial to the economy, the actual results have been just the opposite.
>
> Not only have the costly giveaways failed to lead to increased investment, not only have they helped send federal deficits soaring, but they also have seriously distorted business decision-making. Tax sheltering, rather than marketplace forces, has become the driving force behind many investment choices. Bad investments, entered into only for their tax advantages, have crowded out good ones.

In other words, people do not care what the investment looks like, whether they make any money or not, they are only interested to know, how do we shelter our income? How do we use the tax loophole? There are some tax loopholes that are being used now to provide the greatest and largest amount of giveaways that we have had in this Nation's history.

For example, a $485 million tax shelter engineered in the fall of 1982 in which 534 wealthy investors bought Metromedia Inc.'s entire stock of billboards, with the understanding that they sell them back in 5 years, after milking the tax writeoffs.

Or the rampant trading in used office buildings currently under way in cities like Chicago, as investors seek newly acquired property to get better depreciation deductions.

That great tax bill that we passed—and I apologize to my colleagues and my constituents because I voted for it. That great tax bill makes it possible for two people who have buildings that are 50 years old each and have used up all their depreciation to sell one building to the other and make an exchange. The net result is that they each start anew and they depreciate those buildings on a shortened life of 15 years and use accelerated depreciation in addition.

I say to Members of the Senate, that is absurd. That is plain crazy. That is irresponsible. Those old buildings that provide those tax writeoffs do not add a scintilla to the entire economy. But they do put a lot of millions of dollars in the pockets of the investor.

Let me tell you about another article that was in the paper yesterday. "United States Corporate Tax Share Drops."

"Taxes paid by the Nation's corporations dropped from nearly 30 percent of Federal receipts in 1950 to 6.1 percent last year, while some industries on average paid no taxes at all and received refunds, according to a Government study released yesterday."

As a matter of fact, the tax situation is so good today that some industries have a negative tax. A negative tax means that the chemical industry had a negative 17.7-percent tax. They got 17 percent back of their income instead of paying any taxes.

The insurance industry that is all over this place, talking about how they need a tax bill or they may be paying too much, had a negative 6.3-percent figure. The financial institutions got back 3.8 percent of their income instead of paying anything in taxes. The aerospace industry also had a negative tax.

Now, what we are talking about tonight is Tweedledee and Tweedledum as far as being a really good measure, but at least it is an effort on the part of the Budget Committee leadership to say we ought to move forward and try to balance the budget. We have so many loopholes in the tax laws of this country that it is unbelievable. Tax shelters, tax loopholes. All you need do is have the right lawyer or the right accountant and you do not have to pay any taxes. This measure is not going to get many votes, but it is an indication that those who vote for it think that we ought to be doing something. It is a signal, it is an indication to the White House, it is an indication to the people of this country that there is at least some semblance of responsibility on the floor of the Senate. It will not come close to balancing the budget. The deficit is over $200 billion. And you will pick up by this measure $58.1 billion over 3 years—not in 1 year, over 3 years, $58.1 billion against deficits of $200 billion a year.

What we ought to say is that we want to be responsible. It will be defeated overwhelmingly, but if we do what we ought to, we will vote for it at least as an indicator. Then if the Finance Committee tomorrow wants to come up with its formula, fine with me. I am willing to try to help on that as long as they do not place too much of a burden on the individual taxpayers but make the corporations pay their fair share. I think it can be done. I think it is high time that all those who have been screaming for years about balancing the budget, who call themselves conservatives and say that is what we want to do, balance the budget, balance the budget, I think it is high time that they stand up and be counted and say, indeed, we do; this is

our indicator that we want to try to do our part. It is not enough, but it is better than nothing.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Will the Senator from Florida yield me 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself time.

The PRESIDING OFFICER. The Senator from New Mexico has no more time.

Mr. DOMENICI. I yield time off the bill.

The PRESIDING OFFICER. That would be fine. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I send to the desk a modification of Domenici-Chiles and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

At the end of the bill, add the following:

TITLE V—DEFICIT REDUCTION

PART A—GENERAL PROVISIONS, SPENDING REDUCTIONS

BUDGET COMMITTEES MUST REPORT CONCURRENT RESOLUTION ON THE BUDGET CONTAINING SPENDING REDUCTIONS

SEC. 501. The first concurrent resolution on the budget for fiscal year 1985 and the first concurrent resolution on the budget for fiscal year 1986 reported by the Committees on the Budget of the Senate and the House of Representatives under section 301 of the Congressional Budget Act of 1974 shall set forth, in addition to other matters required to be set forth in such concurrent resolution on the budget pursuant to title III of such Act—

(1) an appropriate level of total new budget authority for fiscal year 1985 or fiscal year 1986, as the case may be, in an amount equal to the sum of—

(A) the amount of new budget authority considered appropriate by each such committee for programs which are not national defense discretionary programs or other discretionary programs;

(B) an amount of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent; and

(C) an amount of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent;

(2) a separate statement of an appropriate level of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for national defense discretionary programs for such fiscal year described in clause (1)(B);

(3) a separate statement of an appropriate level of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for other discretionary programs for such fiscal year described in clause (1)(C); and

(4) for each major functional category under which new budget authority for other discretionary programs is classified, a separate statement of an appropriate level of new budget authority for other such discretionary programs classified under category for fiscal year 1985 or fiscal year 1986, as the case may be, which complies with the total amount of new budget authority described in clause (1)(C) for all such programs for such fiscal year.

REPORT BY THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

SEC. 502. The Director of the Congressional Budget Office shall include in the report required to be submitted on April 1, 1984, under section 202(f)(1) of the Congressional Budget Act of 1974, a statement which contains, with respect to fiscal year 1985—

(1) an estimate of current law outlays for fiscal year 1985;

(2) an estimate of current law revenues for fiscal year 1985;

(3) a specification of the amount by which the amount estimated pursuant to clause (1) for fiscal year 1985 will exceed the amount estimated pursuant to clause (2) for such fiscal year;

(4) an estimate of the gross national product of the United States for fiscal year 1985; and

(5) a specification of the ratio (stated as a percentage) that the amount specified pursuant to clause (3) bears to the gross national product of the United States estimated pursuant to clause (4).

TRIGGER FOR SPENDING REDUCTIONS AND TAX SURCHARGES

SEC. 503. If, in the statement required under section 502 with respect to fiscal year 1985, the Director of the Congressional Budget Office determines that, for fiscal year 1985, the ratio specified pursuant to clause (5) of such section exceeds 3 percent, the provisions of section 504 shall be in effect with respect to fiscal years 1985 and 1986 and the provisions of section 511 shall be in effect with respect to taxable years beginning after December 31, 1984, and ending before January 1, 1987.

REDUCTIONS IN SPENDING

SEC. 504. (a) If—

(1) pursuant to section 503, the provisions of this section are in effect with respect to fiscal years 1985 and 1986; and

(2)(A) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for national defense discretionary programs exceeds the appropriate level of new budget authority for such programs set forth for such fiscal year in the first concurrent resolution on the budget agreed to for such fiscal year; or

(B) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for other discretionary programs exceeds the appropriate level of total new budget authority for such fiscal year for such programs set forth in the first concurrent resolution on the budget agreed to for such fiscal year,

the President shall include with the budget submitted in such fiscal year under section 1105(a) of title 31, United States Code, for the next succeeding fiscal year, a special message which, except as otherwise provided in this part, complies with the Impoundment Control Act of 1974 and proposes rescissions in budget authority for fiscal year 1985 or 1986, as the case may be, which comply with the provisions of this section.

(b) The special message required to be transmitted pursuant to subsection (a) for fiscal year 1985 or 1986, as the case may be, shall propose—

(1) rescissions which reduce the total amount of budget authority provided for national defense discretionary programs for such fiscal year in an amount equal to the amount by which such total amount exceeds the appropriate level of new budget authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501; and

(2) rescissions which reduce the total amount of budget authority provided for other discretionary programs for such fiscal year by an amount equal to the amount by which such total amount exceeds the appropriate level of total new budget authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501.

(c)(1) Except as provided in paragraph (2) and in subsections (d) and (e), the provisions of the Impoundment Control Act of 1974 shall apply to the consideration of the special message transmitted under subsection (a).

(2) For purposes of sections 1011 and 1012(b) of such Act, the 45-day period referred to in such sections shall be deemed to refer to a period of 60 calendar days.

(d) Notwithstanding any other provision of law or of the Standing Rules of the Senate or the Rules of the House of Representatives, it shall not be in order in the Senate or the House of Representatives to enroll any rescission bill with respect to a special message transmitted under subsection (a) unless such bill rescinds budget authority for national defense discretionary programs in the amount described in subsection (b)(1) and rescinds budget authority for other discretionary programs in the amount described in subsection (b)(2).

(e) Notwithstanding section 1012(b) of the Impoundment Control Act of 1974, if Congress has not completed action on a rescission bill with respect to a special message transmitted under subsection (a) of this section for fiscal year 1985 or fiscal year 1986, as the case may be, within the 60-day period referred to in subsection (c)(2) of this section—

(1) the total amount of budget authority provided for such fiscal year for each appropriation account of each national defense discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such account, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for national defense discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(B); and

(2) the total amount of budget authority provided for such fiscal year for each appropriation account of each other discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such ac-

count, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for other discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(C).

DEFINITIONS

SEC. 505. For purposes of this part—

(1) the term "budget authority" has the same meaning as in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974;

(2) the term "budget outlays"' has the same meaning as in section 3(1) of such Act;

(3) the term "concurrent resolution on the budget" has the same meaning as in section 3(4) of such Act;

(4) the term "current law outlays" means the total amount of outlays which would be made to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities, and only includes adjustments for inflation in such outlays if such adjustments are required by law;

(5) the term "current law revenues" means the total amount of revenues that would be received in a fiscal year if the provisions of the revenue laws which were in effect for the fiscal year preceding such fiscal year remained in effect for such fiscal year without change;

(6) the term "other dicretionary program" means any Federal program other than—

(A) a national defense discretionary program;

(B) a mandatory spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983);

(C) a permanent spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983); or

(D) a program for which spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974) is provided by law for the applicable fiscal year (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983); and

(7) the term "national defense discretionary program" means a program classified under the functional category of National Defense in the budget submitted by the President for the fiscal year 1984 under sectoin 1105(a) of title 31, United States Code, except that such term does not include programs for payment of retired and retainer pay to members and former members of the Armed Forces and for payment of claims against the Department of Defense.

PART B—REVENUE MEASURES

SEC. 511. TEMPORARY INCOME SURTAX ON INDIVIDUALS AND CORPORATIONS

(a) INDIVIDUALS.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed on individuals) is amended by adding at the end thereof the following new subsection:

"(g) IMPOSITION OF TEMPORARY SURTAX.—

"(1) IN GENERAL.—In addition to any section 1 tax, there is hereby imposed on each taxpayer with respect to whom a section 1 tax is imposed for any taxable year a tax equal to the sum of—

"(A) 2 percent of the excess of—

"(i) the amount of the section 1 tax imposed on so much of the taxable income of the taxpayer as is less than the excess minimum surtax amount, over

"(ii) the amount of the section 1 tax imposed on much of the taxable income of the taxpayer as does not exceed the basic minimum surtax amount, and

"(B) 5 percent of the excess of—

"(i) the amount of section 1 tax imposed on the taxpayer for the taxable year, over

"(ii) the amount determined under clause (i) of subparagraph (A).

"(2) SECTION 1 TAX.—For purposes of this subsection, the term 'section 1 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 55.

"(3) BASIC MINIMUM SURTAX AMOUNT, ETC.—For purposes of this subsection—

"(A) BASIC MINIMUM SURTAX AMOUNT.—The term 'basic minimum surtax amount' means an amount determined in accordance with the following table:

"In the case of a taxpayer described in subsection:	The amount is:
(a)	$16,000
(b)	11,000
(c)	10,000
(d)	8,000
(e)	8,400

"(B) EXCESS MINIMUM SURTAX AMOUNT.—The term 'excess minimum surtax amount' means an amount determined in accordance with the following table:

"In the case of a taxpayer described in subsection:	The amount is:
(a)	$41,000
(b)	30,000
(c)	28,000
(d)	20,500
(e)	21,500

"(C) INDEXING OF AMOUNTS.—In the case of each taxable year beginning after December 31, 1985, the Secretary shall increase the amounts in the tables contained in subparagraphs (A) and (B) by the cost-of-living adjustment for such taxable year determined under subsection (f).

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(2) MODIFICATION OF WITHHOLDING TO REFLECT SURTAX.—Section 3402 (a) of such Code (relating to requirement of withholding) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES TO REFLECT TEMPORARY DEFICIT REDUCTION SURTAX.—The Secretary shall modify the tables and procedures under paragraph (1) to reflect the surtax imposed by section 1(g).".

(b) CORPORATIONS.—Section 11 of such Code (relating to tax imposed on corporations) is amended by adding at the end thereof the following new subsection:

"(d) TEMPORARY DEFICIT REDUCTION SURTAX.—

"(1) IN GENERAL.—In addition to any section 11 tax, there is hereby imposed on each corporation for any taxable year a tax equal to 2.5 percent of such section 11 tax.

"(2) SECTION 11 TAX.—For purposes of this subsection, the term 'section 11 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 56.

"(3) DISALLOWANCE OF CREDITS.—No credits shall be allowed against the tax imposed by this subsection.

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(c) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

"(2) AMENDMENTS TO TAKE EFFECT ONLY IF DEFICIT REDUCTION PROGRAM INSTITUTED.—The amendments made by this section shall not take effect unless the Director of the Congressional Budget Office determines under section 503 that the ratio specified pursuant to section 502(5) exceeds 3 percent for fiscal year 1985.

SEC. 512. COST-OF-LIVING ADJUSTMENT REDUCED BY 2.5 PERCENT FOR 1985 AND 1986.

(a) IN GENERAL.—Section 1(f) of the Internal Revenue Code of 1954 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by adding at the end thereof the following new paragraph:

"(5) COST-OF-LIVING ADJUSTMENT REDUCED FOR 1985 AND 1986.—For purposes of paragraph (2), the cost-of-living adjustment for 1985 and 1986 shall be reduced (but not below zero) by 2.5 percent.".

(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

"(2) AMENDMENTS TO TAKE EFFECT ONLY IF DEFICIT REDUCTION PROGRAM INSTITUTED.—The amendments made by this section shall not take effect unless the Director of the Congressional Budget Office determines under section 503 that the ratio specified pursuant to section 502(5) exceeds 3 percent for fiscal year 1985.

SEC. 513. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

(a) IN GENERAL.—Section 56 of the Internal Revenue Code of 1954 (relating to additional corporate minimum tax) is amended to read as follows:

"SEC. 56. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed on each C corporation in an amount equal to 15 percent of its corporate minitax taxable income.

"(2) TAX IMPOSED ONLY IF GREATER THAN REGUTAX LIABILITY.—A tax shall be imposed by this section on the corporate minitax taxable income of a corporation for any taxable year only if the amount of such tax is greater than the amount of the adjusted regutax for such year.

"(3) TAX TO BE IN LIEU OF REGUTAX.—For purposes of this title, a tax imposed by this section shall be in lieu of the regutax.

"(b) CORPORATE MINITAX TAXABLE INCOME.—For purposes of this title, the term 'corporate minitax taxable income' means the gross income for the taxable year—

"(1) reduced by the sum of—

"(A) $50,000, plus

"(B) the deductions allowed for the taxable year (other than the deduction allowable under section 172), plus

"(C) the minitax net operating loss deduction providing by subsection (d), and

"(2) increased by an amount equal to the corporate minitax preference items.

"(c) CORPORATE MINITAX PREFERENCE ITEMS.—For purposes of this section, the corporate minitax preferences items are:

"(1) CERTAIN SECTION 57 PREFERENCE ITEMS.—The sum of the amounts determined under the following provisions of section 57(a):

"(A) Paragraph (8) (relating to excess depletion).

"(B) Paragraph (2) (relating to accelerated depreciation on real property).

"(C) Paragraph (4) (relating to amortization of certified pollution control facilities).

"(D) Paragraph (11) (relating to intangible drilling cost), but computed on a straight-line basis over a period of 120 months.

"(E) Paragraph (12) (relating to accelerated cost recovery deduction).

"(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the deductions for development and mining exploration expenditures described in sections 616 and 617 allowable under this chapter for the taxable year, over

"(B) the amount which would have been allowed if such expenditures had been capitalized and amortized ratably over a 120-month period beginning with the month in which the first such expenditures were made.

"(3) CERTAIN AMOUNTS RELATING TO TAX-EXEMPT OBLIGATIONS.—

"(A) INTEREST ON TAX-EXEMPT OBLIGATIONS PURCHASED AFTER DECEMBER 31, 1983.—In the case of any obligation—

"(i) purchased after December 31, 1983, and

"(ii) the interest on which is exempt from tax,

the amount of interest which is exempt from tax for the taxable year.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS PURCHASED BEFORE JANUARY 1, 1984.—The amount of interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for such taxable year by reason of the second sentence of section 265(2).

"(C) ALLOCATION RULE.—For purposes of subparagraph (B), the amount of deductions for debt to carry tax-exempt securities is the taxpayer's total interest deductions for the taxable year, multiplied by a fraction equal to—

"(i) an amount equal to the taxpayer's total investment in tax-exempt obligations, divided by

"(ii) an amount equal to the tax basis of the taxpayer's total assets.

"(4) DEFERRED DISC INCOME.—The taxpayer's pro rata share of any DISC's increase in accumulated DISC income for the taxable year.

"(5) CERTAIN SHIPPING INCOME.—With respect to any construction reserve fund or capital construction fund established by the taxpayer under sections 511 and 607 of the Merchant Marine Act (46 U.S.C. 1161, 1177), the net increase for such taxable year in the income and capital gain accounts under such funds.

"(6) AMORTIZATION OF MOTOR CARRIER OPERATING AUTHORITIES.—The amount allowed as a deduction for the taxable year under section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authorities).

"(7) EXCESS ORIGINAL ISSUE DISCOUNT INTEREST.—With respect to original issue discount bonds or other evidence of indebtedness issued by the taxpayer before May 26, 1983, the amount by which the deductions for interest taken in the taxable year for each bond exceeds an amount equal to—

"(A) the yield that would have been paid on the bond or other evidence of indebtedness if the amount of original issue discount under the obligation were paid as interest over the period of the obligation, employing compound interest computations (with compounding at annual intervals), multiplied by

"(B) the adjusted basis of the bond or other evidence of indebtedness as of the close of the prior bond-year (or in the case of the first bond-year, on the date of issue).

"(8) DEDUCTIONS FOR CERTAIN COSTS INCURRED WITH RESPECT TO LONG-TERM CONTRACTS.—With respect to certain indirect costs in connection with long-term contracts entered into by a taxpayer before September 25, 1981, the amount by which the deduction allowed in the taxable year for such indirect costs exceeds the deduction that would have been allowable for the taxable year if such costs had been capitalized and deducted under the progress payment method of accounting for long-term contracts.

"(d) MINITAX NET OPERATING LOSS DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'minitax net operating loss deduction' means the net operating loss deduction under section 172(a) for the taxable year for purposes of the regutax, except that in determining the amount of such deduction—

"(A) section 172(b)(2) shall be applied by substituting 'corporate minitax taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1983 LOSS YEARS.—In the case of a loss year beginning after December 31, 1983, the net operating loss for such year under section 172(c) shall be reduced by the amount of corporate minitax preference items arising in such year.

"(B) PRE-1984 YEARS.—In the case of loss years beginning before January 1, 1984, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1983, for purposes of paragraph (1) shall be equal to the excess of—

"(i) the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1983, reduced by

"(ii) the amount of corporate minitax preference items arising in such loss year to the extent such amount exceeds $10,000.

"(e) ELECTION TO MAKE ADJUSTMENTS FOR REGUTAX PURPOSES.—

"(1) IN GENERAL.—The taxpayer may elect for any taxable year to have any adjustment required by subsection (b)(2) with respect to any corporate minitax preference item arising in such year apply also to such item for regutax purposes. The treatment of any item with respect to which an election has been made under the preceding sentence shall (for all later years and for purposes of both the regutax and the minitax) be consistent with its treatment for the year in which it arises.

"(2) TIME FOR MAKING ELECTION.—Any election under paragraph (1) with respect to any item shall be made not later than the due date (with extensions) for filing the return under this chapter for the taxable year in which such item arose.

"(3) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1) may be made only in the manner provided by regulations, and may be revoked only with the consent of the Secretary.

"(f) SPECIAL RULES RELATING TO CREDITS.—For purposes of this section—

"(1) CREDITS NOT ALLOWABLE.—Except as provided by paragraph (2), no credit shall be allowable against the tax imposed by subsection (a).

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's corporate minitax taxable income from sources without the United States (but not in excess of the taxpayer's entire corporate minitax taxable income), bears to

"(ii) his entire corporate minitax taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF CORPORATE MINITAX TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'corporate minitax taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceeding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACKS OF CREDITS.—For purposes of computing the amount of any carryover or carryback of any credit allowable under subpart A of part IV, the taxpayer shall be treated as having been allowed a credit against the regutax

for any taxable year for which a tax is imposed by subsection (a) equal to the amount of such credit which would have been allowed against the regutax for such taxable year if such regutax had been equal too the excess of—

"(A) the regutax, over

"(B) the tax imposed by subsection (a).

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) REGUTAX.—The term 'regutax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 531 and 541).

"(2) ADJUSTED REGUTAX.—The term 'adjusted regutax' means, for any taxable year—

"(A) the regutax, reduced by

"(B) the sum of the credits allowable under subpart A of part IV (other than sections 31, 39, and 43).

"(3) TAXABLE YEAR IN WHICH ITEM ARISES.—In the case of any amount which is taken into account for regutax purposes in more than 1 taxable year, such amount shall be treated as an item arising in the first such taxable year.".

"(4) APPLICATION WITH SECTION 291.—Under regulations prescribed by the Secretary rules similar to rules of section 57(b) shall apply to items described in paragraphs (2) and (3) of subsection (c).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit to the Congress such technical and conforming amendments as may be necessary to carry out the provisions of this section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 514. ELIMINATION OF THE PERCENTAGE METHOD OF DETERMINING ADDITIONS TO BAD DEBT RESERVES FOR FINANCIAL INSTITUTIONS.

(a) BANKS.—Subsection (b) of section 585 of the Internal Revenue Code of 1954 (relating to addition to reserves for bad debts) is amended—

(1) by striking out "1988" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1984,", and

(2) by striking out "1987" in paragraph (3) and inserting in lieu thereof "December 31, 1983,".

(b) MUTUAL SAVINGS BANKS, ETC.—

(1) IN GENERAL.—Subsection (b) of section 593 of such Code (relating to addition to reserves for bad debts) is amended to read as follows:

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—For purposes of section 166(c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be the amount determined to be a reasonable addition to the reserve for losses on loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(3).''; and

(2) CONFORMING AMENDMENT.—Subsection (d) of section 593 of such Code (defining loans) is amended to read as follows:

"(d) LOANS DEFINED.—For purposes of this section, the term 'loan' means debt, as the term 'debt' is used in section 166.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 515. BASIS ADJUSTMENT TO REFLECT ENTIRE INVESTMENT TAX CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT ENTIRE INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Subsection (g) of section 48 of such Code (relating to basis adjustment to section 38 property) is amended—

(A) by striking out "50 percent of" in paragraphs (1) and (2), and

(B) by striking out paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (5) of section 48(d) of such Code (relating to coordination with basis adjustment) is amended—

(i) by striking out "(other than paragraph (4))" in subparagraph (A), and

(ii) by striking out "50 percent of" in subparagraph (B).

(B) Section 196 of such Code (relating to deduction for certain insured investment credits) is amended—

(i) by striking out "50 percent of" in subsection (a), and

(ii) by striking out subsection (c).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to periods after December 31, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

SEC. 516. 3-YEAR FREEZE ON EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS.

(3) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1954 (relating to limitation on election to expense certain depreciable business assets) is amended by striking out the table and inserting in lieu thereof:

"If the taxable year begins in:	The applicable amount is:
1984	$5,000
1985	5,000
1986	5,000
1987	7,500
1988	7,500
1989 or thereafter	10,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 517. 3-YEAR FREEZE ON THE FOREIGN EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Paragraph (2) of section 911(b) of the Internal Revenue Code of 1954 (relating to limitation on foreign earned income) is amended by striking out the table in subparagraph (A) and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1984	$80,000
1985	80,000
1986	80,000
1987	85,000
1988	90,000
1989 or thereafter	95,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

Mr. DOMENICI. I want to tell the Senate what it does. First, the biggest change is the one that I just described to the Senator from Ohio and the Senator from New Jersey regarding the surtax. The proposal applies 2 percent surtax to tax liabilities on taxable incomes above $16,000 and a 5 percent surtax to tax liabilities on taxable incomes above $41,000 instead of the 2½ percent that we stated in the original amendment. I emphasize this surtax is on tax liability, not on incomes. Second, the 2½ percent of the CPI as applied to the indexation of the brackets is also made contingent as is the surtax. In the previous draft the indexing modification was not made contingent on the size of the deficit Third, we have deleted the provision that would require 25-year straight line depreciation for resale structures. This modification would continue current law ACRS treatment of structures.

I yield the floor.

Mr. CHILES. Mr. President, I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, the idea that this is the only train that will be moving to reduce the deficit in the next year-and-a-half is gaining great currency on the floor tonight. I suggest that this is not the last train. As the Senator from Kansas has said, the Finance Committee is working on a package. There are other times when we can come back and address this bill.

The bill that is before us has been put together in a rather hasty manner without any real coherent rationale. We are modifying the bill at the last minute. There have been loopholes picked out of the air and put in the bill for some reason that has yet to be explained other than that they will generate x amount of revenue.

Mr. President, in the last 2 to 3 years of tax policy, there has been a lesson learned, I think, and that is that you want to get the rates down. You do not want the rates to go up. Everybody agreed with that in 1981 and sent out their press releases telling everybody how we were cutting the marginal tax rates. Then we ended up with a big budget deficit.

In 1982, we came back and in a systematic review of the existing abuse in the Tax Code, we essentially closed loopholes. The only problem is that we did those things a year apart instead of simultaneously. So the lesson, Mr. President, is that in the future, we have to cut rates and close loopholes simultaneously, not a year later.

I suggest we will have an opportunity to do that. I suggest that this bill raises rates, the surtax. It does not broaden the base substantially. It has only 13 tax preferences under the corporate minimum tax.

I suggest that there will be another time to look at this deficit. This is not the only time. It would be well to wait and take a look to see if we cannot find a more coherent package that gives us some rate reductions at the same time it raises some revenue and closes the deficit.

The PRESIDING OFFICER. Who yields time? The Senator from Florida

has 9 minutes and 25 seconds remaining. The Senator from New Mexico has no time remaining on the amendment.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time do we have remaining on the bill?

The PRESIDING OFFICER. The Senator from New Mexico has 6 hours and 45 minutes.

Mr. DOMENICI. How much time does the Senator desire?

The PRESIDING OFFICER. The Senator from Florida has 7 hours and 43 minutes.

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 10 minutes off the bill to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I share much the same concern as that expressed by the Senator from New Jersey. I think the worst thing that can be done in the closing moments of this session of Congress is to adopt a major tax increase masked by so-called spending cuts that could have a very serious impact on the economic recovery we are enjoying.

One of the things that deeply concerns me is that there seems to be an atmosphere of panic, of emergency, that the economy is going into a tailspin. The fact is that the economy is recovering in a very, very strong way. I think we should all take a great deal of satisfaction that productivity is increasing; that the rate of growth is high for the entire world; that unemployment is dropping; that interest rates have fallen from the 21½ percent of 2 or 3 years ago.

Mr. President, I am concerned about the size of the deficits, and I am one who has voted time and again against many of the appropriations and other proposals to increase spending.

But, Mr. President, I am deeply concerned about the proposal before the Senate this evening. Frankly, in many ways it reminds me of some of the Carter budgets. It is a paper tiger. What we are trying to do is to balance the budget by increasing taxes instead of cutting spending.

Ladies and gentlemen, you are not going to do anything about the deficit until you have the courage to attack the spending programs. In this so-called deficit reduction plan, over 3 years, it claims it is cutting spending by $33 billion.

Well, first of all, let me note that in the first congressional budget resolution we increased spending by $32 billion. It is that congressional budget resolution that is being used as the baseline.

So the fact that we are cutting $30 billion as a result of the Domenici-Chiles amendment only means not a spending cut but that we are reducing the spending increase that was authorized by the first congressional budget resolution.

Let me point out that in no way does this proposal attack any of the entitlements. I point out to the Members of the Senate that the health programs, for example, are going to double over the next 3 years, and this package in no way addresses that problem. It in no way addresses the problem of increased spending on farm programs. It in no way impacts upon the waste, fraud, and abuse that has been found to be true of the Pentagon.

So what I am saying is that if we really want to do something about the deficits, we will have to have the courage to make some of the reform of these other programs that are so politically important.

Instead of cutting spending, once again, we are proposing to raise taxes. Where is the impact going to be? It is going to be on the middle class. Unfortunately, the middle class does not have a lobby for it, so it is the easiest one to attack.

In any event, let me point out that a lot of people have been wanting to blame the deficits on the so-called spending reduction of 1981. I point out that with the proposed increase in the Domenici-Chiles deficit reduction plan, it will wipe out—it will totally wipe out—any reduction in taxes that was made in 1981. Since then, we have had a tax increase almost every year, if not more often; so that, as a result, because of inflation creep, because of the tax on gasoline, because of the social security increases, we find that we have totally eliminated any tax reduction that was so popularly supported here back in 1981.

Let me close by saying that we should not make the kinds of changes that are being proposed in the closing days of the session of the Senate. These changes could have too serious an impact on the recovery. We do not know how they will impact either on business or on labor.

So I urge that we not support this proposal. As the Senator from New Jersey has said, there will be further opportunities to review both the spending and taxing sides, and we should do it in a responsible way, rather than with mirrors.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield from the bill whatever time the distinguished chairman of the Appropriations Committee desires.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the amendment proposed by Senators DOMENICI and CHILES appears to have some very far reaching implications for the congressional budget process in general, and on the Committee on Appropriations in particular. Specifically, the proposed amendment seems to be an attempt to legislate into law the budgetary aggregates adopted as part of the first concurrent resolution for fiscal year 1984 (H. Con. Res. 19).

This is a dramatic and unprecedented departure from the process provided for in the Congressional Budget Act of 1974. Indeed, it elevates the "outyear" functional aggregates contained in the budget resolution to a reference point status for triggering either mandatory rescission proposals or automatic across-the-board budget authority reductions. The proposal in this manner prospectively effects, through a "super" reconciliation procedure, reductions in appropriated budget authority under the jurisdiction of the Committee on Appropriations.

I note that the amendment attempts to balance spending reductions with revenue increases as a coordinated strategy toward a reduced Federal deficit. I applaud this improvement in the amendment over that which we have had before us previously, because it is clear that by expenditure reductions alone, especially reductions in nondefense discretionary programs, there simply is not enough leverage to make substantial inroads in the deficit.

I feel compelled, however, to observe that while the amendment ostensively treats both nondefense and defense spending equally in terms of the rate of expenditure reduction, we must keep in mind that the base on which the percentage reduction is computed is that of the budget resolution which has built into it substantial increases for defense spending while holding nondefense spending at current levels. So even if you ignore the massive military build-up of recent years, the amendment will do nothing to prevent further inroads on nondefense discretionary programs, and indeed when coupled with the "freeze" adopted in the budget resolution, nondefense spending will again have to absorb further reductions below current levels.

Mr. President, with reservations, I will support the amendment, again because I feel it is so vital to the Nation's economic health that we take the hard necessary steps to reduce the Federal deficit. This is an absolute imperative. We must act. And although I can find many objectionable aspects of this amendment, it does make a meaningful attempt to accomplish that goal, and not with smoke and mirrors, but with concrete and realistic measures.

I yield to the Senator from Delaware.

Mr. ROTH. I appreciate the distinguished Senator from Oregon yielding.

Mr. President, I should like to make a point as to the level of revenue, because I think it is much misunderstood.

A lot has been said about the tax cut of 1981, but it is important to recognize that today, Federal revenues are roughly at 20 percent of gross national product, and that is as high as revenues have ever been. There is no tax cut. It has eroded. It has been eaten up. Our current revenue is as high as it has ever been in the history of this country.

On the other hand, spending has risen to 25 percent of gross national product. Much of that has been in defense, as the Senator pointed out. Nevertheless, 25 percent of our gross national product is being eaten up by the spending of the Federal Government.

It is for that reason that I ask if we are serious about deficits. If we are, we have to attack the spending side, because that is where the growth is. If we just continue the old way of increasing revenue, we are going to affect the capability of this country to again become competitive in the world markets, and that would be a serious mistake.

I thank the Senator from Oregon for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I thank the distinguished chairman of the Appropriations Committee for his support. I think he is absolutely right. This a balanced package.

I believe he understands very clearly that nondefense discretionary appropriated accounts are indeed going to be reduced 2.5 percent off the budget mark, and that is a relatively low mark. Defense is going to be reduced 2.5, and that is off a relatively high defense mark. Even with that, he supports it.

I am sure that if he were drafting it personally, according to his preference, it would be different. But I commend him for his honesty in wanting to come up with a package that is balanced and that will garner support from many Senators.

I am prepared to vote any time, but I understand that some others desire to be heard.

I yield time from the bill to Senator ARMSTRONG.

How much time does the Senator desire?

Mr. ARMSTRONG. Not very much. If I can have 5 minutes, that will be sufficient.

Mr. DOMENICI. I yield 5 minutes to the Senator.

Mr. ARMSTRONG. Mr. President, as I understand it, we will soon be voting on the question of whether or not the Domenici-Chiles amendment is germane to the bill. And I take it from what the Senator from New Mexico has said he will raise the point of order himself if no one else does so it will not, as he put it earlier, be sneaking through; it will be voted on up or down as to whether or not it is in fact germane.

Mr. DOMENICI. Mr. President, will the Senator yield on that point?

Mr. ARMSTRONG. I yield.

Mr. DOMENICI. I laid it out for the Senate. The amendment is not germane. It would be subject to a point of order, but I do not think I said I would raise it. If someone does not, I will not. If someone does, I will move to waive the point of order.

Mr. ARMSTRONG. Mr. President, surely someone will make that point of order and properly so. I would just like by way of background to explain that when I was trying to find the appropriate vehicle for the rescission amendment, which is so near and dear to my heart, one of the suggestions that was put before me was that I offer it on the reconciliation bill and in fact there was some hint that if I were to agree to offer it on the reconciliation bill, it probably would have a darn good chance of passing.

I must admit I was tempted to do that. I declined to do so because the parliamentary maneuver that was required to get my rescission amendment on this bill was in my opinion fundamentally violative of the traditions of the Senate. It is waiving the germaneness requirement on a pretimed limited bill.

That is exactly what the Domenici-Chiles motion requires to become germane. We have to waive the germaneness on a bill on which time is already limited. That is a form, I say to my friends, of instant cloture by majority vote.

I urge Senators, however they feel about this amendment, to tread very carefully.

Now we are only talking about doing this once, just this one time, but when we do it one time someone else who has 51 votes or a majority of however many are present will be powerfully tempted to do the same thing again. I do not know what it is going to be for. Maybe it will be for an abortion amendment. Maybe it will be for a war powers amendment. Who knows? Maybe it will be for a rescission amendment. If this is going to be the custom, then maybe I will take another shot at mine in that way sometime.

I hope we will not do that. Even Senators I think who are attracted to the substance of this package must have some pause about doing it in this way.

I want Senators to know just in the interests of full disclosure that is not a concern that comes to my attention tonight. I have discussed it with the chairman of the Budget Committee over a period of weeks. I have discussed it with the chairman of the Finance Committee over a period of weeks. I have discussed it with the majority leader over a period of time. If they sought to bring even a worthy measure of deficit reduction to the floor in this way, I for one would be constrained to vote against it, and so I shall.

One final point about the package itself, and I do not seek to debate the package at this point except to tell the Senate this, that if it is found to be germane, then I am advised by the Parliamentarian that I have a right to insist upon its division so that different parts of the amendment may be voted on, and I am told that pages 1 through 8 are a logical point of division. The first eight pages of this bill happen to comprise the Domenici-Chiles version of a rescission amendment. I do not happen to think that their form of it is as good as the one that RUSSELL LONG and I dreamed up, but it is not bad. I am sure going to vote for it if I get a chance to, and if this is made germane, I will ask that the amendment be divided and I assume that if those who voted for the Long-Armstrong amendment are disposed to go in that direction again and then if perhaps Senator DOMENICI and Senator CHILES, who did not vote for it, will support their own creature, we would pass it and getting a half-loaf is better than nothing, I guess.

I am concerned about the process, and for that reason I hope I will not have that opportunity, but let me say I have reviewed now the rescission language and while I do not prefer it to that which I myself sponsored earlier I think it is a worthwhile idea and in one form or another I would be hopeful that we could get together on that, but for the reason I just stated I would be constrained to vote against making it germane.

Mr. President, I do not wish to be the one who makes that point of order. I thought the Senator intended to make the point of order himself, and I wish to yield the floor so someone else could do that.

Mr. CHILES. Mr. President, I know we are about ready to vote, and I know we have a long debate. I just want to say that I think the question of germaneness concerns the point raised by the distinguished Senator from Louisiana. He asked before we got unanimous consent to take this bill up what was the feeling of the majority leader, the minority leader, the ranking member of the Budget Committee, and the chairman of the Budget Committee in regard to a proposition put before us. Were we talking about opening up this bill so that an abortion amendment or anything else could be added on and in fact he said, "I will not give you unanimous consent to this coming up unless you assure me that what you are talking about is only going to allow you to make further spending cuts or further tax increases."

That is what this bill is all about. That is what the Budget Act is all about. That is what the whole thing is all about. And we agree, the majority leader agreed to that, the minority leader agreed to that because that is our purpose here.

So we are not trying to open this bill up. We do not want to.

I have taken the floor many times before against someone trying to waive the Budget Act. I would hope that the body would allow us to at least get an up-and-down vote, and to do that, of course, we have to have a waiver on the germaneness, and I would hope that we would be able to do that so that we could have a legitimate expression on whether Senators want to make these cuts or not.

I think we are ready to vote.

Mr. ARMSTRONG. Mr. President, will the Senator from Florida yield, just for a second?

Mr. CHILES. I yield.

Mr. ARMSTRONG. I neglected to say, and I should say, that one of the reasons why I am so opposed to getting to a vote on the Senator's amendment in this way is that it is unnecessary. There is another way to bring it before us without setting this horrible precedent of waiving germaneness on a time-limited bill which is a form of instant cloture. But I am not seeking to deny him or the Senator from New Mexico a vote on this either in totality or in its pieces, as I would prefer. But it is just a precedent that I object to.

Mr. President, I am loath to make this point of order and I thought someone else was prepared to do so.

So I again yield the floor, to see if that Senator will come forward.

Mr. CHILES. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Florida has 6 minutes and 35 seconds remaining.

Mr. HOLLINGS. Mr. President, there is an old saying that states "a trip of 1,000 miles begins with one step." Unfortunately, it does not cover a step backward, which is what we have with this budget reconciliation bill.

Let me put this as simply as possible. This budget, this budget resolution, and this so-called deficit reduction package are all failures. They are the end results of economic mismanagement by the President and political squeamishness by the Congress. They should surprise no one because the majority in this Chamber, on both sides of the aisle, has rubberstamped the steps that have led to this day.

I am utterly shocked to find that suddenly the Senate has realized that we have a deficit problem. Where has everybody been for the last 3 years? These numbers are not new, this red ink did not appear overnight.

It was not announced yesterday that we will add over $1 trillion to the national debt in the next 4 years.

It was not announced yesterday that Reagan's three deficits total $364 billion, more than was accrued by all the Presidents from Washington to Nixon.

It was not announced yesterday that deficit spending now amounts to $836 for every man, woman, and child in this country—compared with only $477 last year.

It was not announced yesterday that Federal spending made up 24.7 percent of the economy in 1983—the largest share since 1946 and up from 22.4 percent when this President took office.

It was not announced yesterday Federal tax receipts fell for the first time since 1971.

It was not announced yesterday that we paid $129 billion in interest last year, an amazing 16.2 percent of our budget.

None of this was announced yesterday. It did not need to be. We have known all of this was possible for the last 3 years. The handwriting was clearly on the wall the moment Congress rolled over an helped enact that nonsense called Kemp-Roth tax cuts. But why the Senate missed that message is as mysterious as the underpinnings of supply side economics.

Yet what is our response today? Nothing more than more posturing, more meetings at the White House, and more self-delusion. Our response is a budget resolution that is anemic at best and ridiculous at the worst.

With deficits projected in the $200 billion plus range for the next 5 years, a $28 billion package is simply not enough. In this environment, how can this be called a significant achievement when all we are really taking about is reducing the deficit by $9 billion a year. The real impact is only to lower $200 billion in annual red ink to $191 billion. I have long believed in the power of positive thinking, but something more in the nature of the "fishes and loaves" would have to occur for this bill to have any impact on our economy or Government.

I agree with the chairman and the ranking member that this has been an extraordinarily difficult year. But describing the situation is no substitute for analyzing and controlling it. This year's budget was stillborn in May. Even if the entire reconciliation instruction had been achieved—$85 billion in taxes and spending cuts—the deficits would have been in excess of $130 billion in 1988. Politically, the Senate was told 6 months ago that the Finance Committee could not meet its instructions. And, of course, we have known for the last 3 years where the President stands.

Yet against these formidable odds the Budget Committee chose a course of half-way measures and least resistance. It was a difficult choice, and as former chairman I understand the problems of developing a consensus. But I also know that it is nearly impossible to recruit and hold supporters when the costs so obviously exceed the benefits. It is one thing to join a suicide mission that will balance the budget. It is quite another thing to expect people to join when the mission leaves the deficits at staggering levels.

This reconciliation bill is also unfair. On the revenue side, it refuses to recognize that the Kemp-Roth tax bill is the source of our problems. It was not sport fishing, excise taxes, income averaging, or collapsible corporation taxes that started the $750 billion revenue hemorrhage in 1981. It was not minimum income taxes, corporate graduated rates, or public property leasing that resultled in the great tax giveaway to the rich 3 years ago. It was not any of the dozen new taxes in this bill that started our problems. it was the ill-conceived and ill-founded supply side nonsense called Kemp-Roth. That frenzy of tax cutting simply went too far and should be reigned in. This is the third straight year that we are incrementally taxing our citizens into poverty—all in order to preserve a tax cut that originated in the doodlings of some economist on a restaurant napkin. Well enough is enough. It is time to finally own up to the mistake and start to correct it.

On the spending side, this bill is equally unfair. How many more times can we single out the elderly dependent on medicare, the poor receiving SSI, and medicaid, the retirees in need of cost-of-living adjustments, and the civil servants who deserve a pay raise to take cutbacks in order to balance the budget? How many more times can we allow the defense budget to escape real scrutiny?

The answer is that we cannot anymore. Anyone who has looked at the numbers realizes that continuing the assault on the social safety net is not only unfair but also ineffective—it simply will not balance the budget. And, anyone who has looked at the numbers knows that the defense budget must be controlled. It is a major source of the deficit and it should not continue to escape review.

What is needed is a shared sacrifice that freezes the budget across-the-board. The deficit problem is rooted in the entire budget—taxes and spending—and the entire budget must therefore be our focus. A budget freeze will halt the cutbacks in social programs. A budget freeze will provide an excellent defense and meet our NATO commitment. And, a budget freeze will go to the source of our revenue problems and instead of adding hundreds of new pages to the IRS Code, it will just rip out a few useless ones.

I know the feelings of the Senate about this proposal. I only wish that

my colleagues could find out how the rest of the country responds to it. They would find that business, which only needs a sign that we are serious about these deficits, is almost unanimous in its endorsement of this approach. They would find that retirees, civil servants, and others are willing to join in a program that will reduce the deficit if it is fair and across-the-board. They would find that the Defense Department is incapable of productively spending all of the money it is receiving. In short, they would learn that there is support for this proposal because businesses, unions, State houses, and city halls have all had to freeze their budgets to survive. The only question is why we here in Washington cannot do the same?

The only excuse that I can think of is that Washington believes President Reagan and Secretary Regan. They have bought the line that all is well and that deficits do not matter. However, all is not well and these deficits do matter because they will destroy this recovery. Keep in mind that real interest rates have not declined in the last 3 years, that real capital investment has declined for 2 straight years, that 500 busineses a week are still going bankrupt, and that the savings rate is at a 30-year low. Keep in mind thatg we are facing a credit crunch that will stop this recovery in its tracks—already, the Government is borrowing 98 percent of net private savings. And keep in mind that a crowd with the rosy projections is the same crowd that started the worst recession since World War II.

There are no easy answers to our problems. But my feeling is that we are digging ourselves deeper into the hole with this reconciliation bill. We need stronger medicine and we need it now. And win, lose, or draw, I think it is better to attempt to do what is right rather than attempt another anemic solution. We know what the problems are and we know what the answers are. The only question is, Why are we waiting?

I will vote to waive the Budget Act if it is apparent that a majority of the Senate will join a discipline to reduce the deficits. I am prepared to offer my budget freeze again if the vote indicates that despite the President, the Senate is willing to bite the bullet. I resent the Chiles-Domenici plan of spend now and pay later. We need to freeze spending now.

Mr. LEVIN. Mr. President. There are some elements of the Domenici-Chiles budget plan which I cannot support.

I have long favored indexing of the Tax Code because it recognizes that taxpayers should not be asked to pay higher tax rates simply because inflation has pushed them into a higher tax bracket. If the Congress wants to increase an individual's tax rate, then it should have the courage to legislate that increase and not rely on inflation to do the job. The package before us would retain indexing, while just ratcheting it down 2½ percent below the Consumer Price Index.

I also recognize that any significant deficit-reduction package will require selected tax increases on individuals. However, the 2½-percent income tax surcharge in the Domenici-Chiles package, even as modified, should be more progressive. For example, instead of the modest gradations that it provides for, I would prefer a much lesser surcharge for taxpayers under $40,000, and a longer one for individuals with incomes above that level. Further, I would like to see the minimum tax tightened up to assure that our wealthy families pay at least some amount in taxes, and I regret that the Domenici-Chiles amendment does not address this issue.

In addition, I want to close tax loopholes as much, and perhaps a lot more, than the next person. But in some instances, the Domenici-Chiles plan goes too far. I agree, for example, that some modification of the depreciation law relating to real property may have been in order. But the proposal here to increase the tax writeoff period from 15 to 25 years is too large of a step to take in that direction.

Nevertheless, in spite of these objections, I have decided to vote in favor of the Domenici-Chiles package for several reasons which outweigh my opposition to certain of its individual elements. First, it calls for a relative degree of shared sacrifice. Defense and nondefense discretionary spending is cut back 2½ percent from previously approved levels, and the proposed tax increases would affect some of the individuals who would otherwise be untouched by spending reductions. Second, it would achieve significant deficit reduction. Indeed, it would reduce the deficit by twice the amount of the reconciliation package reported out of the Budget Committee. Third, the Congress must finally move beyond rhetoric and toward action with respect to reducing the deficit. It is only when we take actual steps in that direction will we have a chance of short circuiting the deficits which otherwise threaten the economic recovery.

If it were a choice between the Domenici-Chiles amendment and a more ideal formulation, I would vote against the amendment. But that is not the choice. The choice may well be between voting yes or doing nothing. when faced with that choice and with the knowledge of the gathering deficit storm on the horizon, I believe that the responsible course of action is to vote in favor of the Chiles-Domenici amendment.

Mr. CHILES. I yield back the remainder of my time.

Mr. ARMSTRONG. Is the Senator going to make the point of order?

The PRESIDING OFFICER. All time has expired on the amendment.

The question is on agreeing to the amendment.

Mr. CHILES. Mr. President, I ask for the yeas and nays.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, it appears that the Senator who had perhaps intended to offer this point of order is not present.

I therefore make a point of order that the proposed amendment violates section 305 of the Budget Act and is not germane to the bill.

Mr. DOMENICI. Mr. President, I move, pursuant to section 904 of the Budget Act, to waive the germaneness requirement contained in section 305(b)(2) of that act with respect to the consideration of this amendment.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There is 1 hour of debate equally divided between the two parties.

Mr. DOMENICI. Mr. President, I yield back my time.

Mr. CHILES. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to waive the germaneness requirement contained in section 305(b)(2) of the Budget Act with respect to the consideration of amendment No. 2626.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 33, nays 65, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—33

Andrews	Domenici	Mitchell
Baker	Evans	Packwood
Bingaman	Gorton	Pell
Bumpers	Hatfield	Proxmire
Burdick	Heinz	Riegle
Chafee	Huddleston	Rudman
Chiles	Inouye	Sarbanes
Danforth	Kassebaum	Sasser
Dixon	Levin	Specter
Dodd	Mathias	Stafford
Dole	Metzenbaum	Weicker

NAYS—65

Abdnor	Grassley	Moynihan
Armstrong	Hart	Murkowski
Baucus	Hatch	Nickles
Bentsen	Hawkins	Nunn
Biden	Hecht	Pressler
Boren	Heflin	Pryor
Boschwitz	Helms	Quayle
Bradley	Hollings	Randolph
Byrd	Humphrey	Roth
Cochran	Jepsen	Simpson
Cohen	Johnston	Stennis
D'Amato	Kasten	Stevens
DeConcini	Kennedy	Symms
Denton	Lautenberg	Thurmond
Durenberger	Laxalt	Tower
Eagleton	Leahy	Trible
East	Long	Tsongas
Exon	Lugar	Wallop
Ford	Matsunaga	Warner
Garn	Mattingly	Wilson
Glenn	McClure	Zorinsky
Goldwater	Melcher	

NOT VOTING—2

Cranston	Percy

The PRESIDING OFFICER. The Senate is advised that the amendment contains new subject matter not contained in the bill reported by the committee. It is therefore not germane and the point of order is sustained.

INCREASE IN PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I have discussed this with the minority leader and with others, including the managers of this bill, that it is my desire at this time to leave this measure and to go to the debt limit. Members will recall that after the vote on the debt limit some days ago, I entered a motion to reconsider and indicated that at some point we would proceed to do that. I think this is the time.

Mr. President, the procedure is that I must now ask the Senate to proceed to the motion to reconsider. We can do it two or three different ways and I am willing to do it however we need to. The simplest, most direct and most expeditious way to do it at this point would be this: I now ask unanimous consent that the Senate temporarily lay aside the pending measure and turn to the question of reconsideration of the vote by which House Joint Resolution 308 was rejected.

Mr. DANFORTH. Reserving the right to object.

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like to inquire of the majority leader if this is tantamount to a motion to proceed to the consideration, or would that follow the unanimous-consent request?

Mr. BAKER. I say to the Senator from Missouri that if the request is granted as I put it, the question before the Senate would be on reconsideration itself.

Mr. DANFORTH. Therefore, if an objection were entered at this time, the next step would be to move to proceed to the motion to reconsider?

Mr. BAKER. Yes.

Mr. DANFORTH. That would be a debatable motion?

Mr. BAKER. So is reconsideration. If this unanimous-consent request is granted, reconsideration is debatable and there is no limitation on time.

Mr. BYRD. Reserving the right to object, Mr. President, and I shall not. If this request is granted, the Senator is saving a third rollcall vote.

(Mr. JEPSEN assumed the chair.)

Mr. LEVIN. Reserving the right to object, Mr. President. As the majority leader knows, I, along with Senator COHEN and perhaps 25 of our colleagues, have been patiently waiting for an opportunity to offer an amendment involving social security disability reforms. Part of that program will actually expire on December 7, when we are gone, unless Congress does act before we leave. It is our fear that if the debt limit matter is disposed of, there might not be any other must legislation pending to which we could attempt to attach this amendment. Is the majority leader in a position to give us some assurance that there is other legislation that he feels is must legislation to which we might attempt to offer these reform amendments?

Mr. BAKER. Mr. President, contrary to the assertion by some that passage of the debt limit will be tantamount to sine die adjournment, that is not so. There are some other measures that, in my view, must be taken up and the leadership on this side at least will try very hard and, I believe, will succeed in taking up other matters. We are going to finish reconciliation. After this measure is disposed of, we shall return to reconciliation.

In addition to that, there are a number of conference reports that are or may shortly be available. One that comes to mind immediately is the supplemental appropriations conference report, which is here and available. I first indicated we shall take that up tonight but I think this is a better procedure and probably will take less time, though I am not sure of that. That conference report is here and there are amendments in disagreement.

In addition to that, I know of the Department of Defense appropriation bill, Agriculture appropriation conference report, and there are no doubt others. These items, Mr. President, are going to be dealt with—at least, that is, with the desire and determination of the leadership on this side. The natural gas bill will recur as the pending business at some point. I do not know what the final disposition of that measure will be. Of the several items that I have listed, and there are others, there are some quite obviously in my view that are must legislation.

The supplemental conference report may be in that category. I think it is. Surely, the others are; Agriculture and Department of Defense and still others that may be offered. In addition, there are conference reports on authorization bills. I can think of a State, Commerce, Justice authorization bill which is in conference and I hope will still be dealt with simply because there is a proviso in the continuing resolution that the money available in the continuing resolution of the Department of State will not be available past November 18 or sine die adjournment unless the authorization bill is passed. Clearly we have to do something on that.

Mr. President, that is probably more answer than the Senator from Michigan wants, but I guess the short answer is we have a lot of work yet to do and some of that is must legislation.

Mr. BYRD. Mr. President, there is no way this matter can be opened for amendment, because we have already passed the stage of third reading. There could be no amendment.

Mr. BAKER. The minority leader is correct and debt limit would not lend itself to purposes the Senator from Michigan has in mind in any event. There are others. I do not intend to thwart his efforts to assert his amendments. I may not support them, but I will do nothing to prevent them.

Mr. COHEN. Mr. President, if I may have the attention of our colleagues, there are now some 34 cosponsors to the legislation Senator LEVIN and I and others have been working on. We have spent the last 3 weeks trying to work out a compromise with the chairman of the Finance Committee. I believe we are on the verge of reaching that compromise.

We have chaos in the social security disability review process. We have 22 States that are not even abiding by the social security review process. The Governors in 11 States have declared moratoriums, saying no more reviews at all. We have a situation of chaos out there.

If we adjourn without dealing with this issue, it is one hell of a Christmas present to be sending to people on social security disability. I hope we can deal with it before we adjourn.

Mr. LONG. Mr. President, will the majority leader yield to me?

Mr. BAKER. Yes; I yield.

Mr. LONG. Mr. President, I just want to make it clear that when we are talking about that disability measure we are talking about a spending program that is out of control. I was one of those who was the initial sponsor of that program. Based on the original projected cost of that proposal, it would today be costing us $5 bil-

lion to $6 billion a year if it were within its estimate. That is after adjustment for inflation. Instead, it is costing $18 billion. We have four times as many people on the rolls as the original low-cost estimates, almost three times as many on the rolls as the intermediate estimate.

The Senator says there is chaos in the program. The reason for that fiasco is that we permit the States to make the decision as to who goes on the rolls even though the Federal Government puts up 100 percent of the money for the program. So we do have a problem of bringing a runaway spending program under control. But the way to bring it under control is not to expand the program and put more and more people on the rolls. I would have no objection to extending the provision which lets those people who have been found ineligible continue getting benefits while they appear. I would agree to extending that provision all through next year or sometime well into next year so we can act on this program.

But it seems to me, Mr. President, if we want to do our duty as responsible legislators, we will take a look at this program. We will not try to prevent the Finance Committee from acting in an orderly fashion. This is a program which is already costing three to four times what it was supposed to cost. Some of the proposals being considered could make it go on up to where it might cost 8 or even 16 times what the program was intended to cost.

Now, before we expand the program and start putting more and more people on the rolls, we ought to try to bring the program under control. I want to serve notice that this is a controversial proposition, and when it comes up, Mr. President, I will be one to try to do the fiscally responsible thing about it. It has been my experience that when you have a spending program out of control, the first thing you should do is to get it under control before you consider ways to expand the program.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I hope I have made it clear that I have made no commitment to support this measure. I have not made up my mind on that. What I am trying to do is make it clear to my friend from Maine and my friend from Michigan that there is no effort to cut them out and there is a great wealth of things coming down the pike that they can address and attempt to make their argument and produce a result. So I hope they will not try to delay the consideration of the debt limit under those circumstances.

Mr. COHEN. If the Senator would yield just for one point, it is not a question of giving the Finance Committee time to look at this problem. It has been about 1½ years that the committee has been looking at this issue.

Since March 1981, over 400,000 people have received their termination notices, and 100,000 people have been restored on appeals after months and months of waiting. We have had people in body casts terminated from their disability payments. We have had computer errors, people going 18 months without their disability payments, people committing suicide as a result of being terminated. Disability benefits are something these former workers paid for. It is not charity. They paid for it. What we are trying to do is to get some order and some humaneness in the review process, rather than simply saying let us squeeze everybody out in the name of fiscal responsibility. I thank the majority leader, and I hope he will arrange for that time.

Mr. BAKER. I thank my friend from Maine.

Mr. LEVIN. Reserving the right to object, would the majority leader yield for just one more moment?

Mr. BAKER. Yes.

Mr. LEVIN. What we seek is a place to debate the merits of this issue that Senator LONG has now placed before us.

While it is true that more people were placed on the rolls than were contemplated originally, it is also true that twice as many people have been removed from the rolls as was contemplated by this review process.

Now, as the majority leader knows, and I think our friend from Kansas knows, we have been waiting patiently literally for months for an opportunity to debate this on the floor. I think it would be unconscionable if we left home for Christmas without at least resolving this reform issue. I am willing to accept the assurance of the majority leader that there are other vehicles to which we can attempt to attach these reforms, and on that basis I will not object to his unanimous consent request.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The question is on the motion to reconsider.

The majority leader is recognized.

Mr. BAKER. Mr. President, the motion is debatable, and I believe the Senator from Missouri wishes to be recognized.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, with great reluctance and for the first time since I have been in the Senate, I rise to speak against the extension of the debt ceiling. I might say that this is a change in the position which I took on the floor 2 or 3 weeks ago when we last voted on this matter. At that time, 39 Members of the Senate voted to extend the debt ceiling, and I was one of the 39. I not only voted for extension, I came over to the floor and spoke on behalf of extension.

I am changing my position, Mr. President, for the simple reason that it is my view that in dealing with the deficit, we in the Congress and in the administration have been reduced to rhetoric and rhetoric alone. We are excellent at making speeches. We make speeches on the floor of the Senate, and we make speeches back home to our constituents about what a terrible thing the deficit is, and yet we have indicated as recently as this evening that when it comes to taking concrete steps to deal with the deficit, we are reduced to a catatonic state. We are immobile. We are unable to act.

Tonight we had two specific proposals to consider. Neither of them was perfect. One had to do with the structural reform that was proposed by Senator ARMSTRONG. The other was a specific effort to reduce the deficit put forth by the Budget Committee. Both of them were laid aside, and therefore we have indicated that we do not intend to do anything this evening. What we will do is simply extend the debt ceiling without any specific action.

Two or three weeks ago when I came over to the floor to speak in favor of extension, the argument I made was that I thought it was irresponsible not to increase the debt ceiling. I thought that it really threatened the country, and furthermore I thought that there was a more responsible way to address the situation, a way that was taking place in the Senate Finance Committee.

At that time, Mr. President, the Finance Committee was embarking on what was, I think, a historic occasion—at least historic in my memory. The members of the Senate Finance Committee, Democrats and Republicans, conservatives and liberals, had commenced a process to come up with a minimum of $150 billion, maybe $200 billion over a 3-year period of time. It was to be made up 50-50 of revenue increases and spending cuts. That spirit of bipartisanship was founded on a real sense of national urgency and a recognition that running deficits of $200 billion a year, year after year, is a great danger for our country. Sometimes we think about just the short-term consequences, like what interest rates are going to be 6 months from now or a year from now.

I think we recognized in the Senate Finance Committee that the difficulty was not just 6 months or a year down the road, but it would go on forever; that every year we add another $200 billion to the deficit, we add it to the national debt and we create a problem that our children and our grandchildren will have to finance forever. And

so it was a remarkable thing when the Finance Committee members met behind closed doors. It was a remarkable thing to see the bipartisan spirit that was growing, and I was confident that we would report a bill from the Finance Committee with maybe 13 or 14 votes. I believed that of the 11 Republican members we would get maybe 7 or 8; and of the 9 Democrats, we might get 5 or 6 in support of an effort that was really serious and which dealt with, among other things, the control of the very rapid growth rate of entitlement programs. We were really biting the bullet, not just making speeches about it. We were coming up with something that was concrete.

Well, we were into that process, and we were going along very, very well. Then we had a meeting, some time the week before last, again in the back room of the Finance Committee, with Secretary of the Treasury Regan.

We did not ask for the out-front support of the administration. We really did not ask that they do anything positive; just as Senator DOLE has said repeatedly, "Please be quiet, just for a short period of time; please don't say anything."

Well, that was not the approach that was taken by the Secretary of the Treasury. I think it is fair to say that he did everything he could to throw cold water upon the efforts of the Finance Committee. One of the Democratic members of the committee said to me earlier this evening that in his view, the appearance of Secretary Regan in that back room was a disaster. Another one of our Democratic members who has been so supportive, in an election year for him, I might say, of efforts to reduce the deficit walked out of the meeting and said, in something of a huff uncharacteristic of the Senator, "Well, I've heard enough."

It is not exactly that the administration says, "Well, we don't want the deficit reduced." And I guess that that provides the faint glimmer of hope that Senator DOLE was talking about earlier this evening.

Rather, what they do is say that they are willing to reduce the deficit, but they are willing to do so on their terms, and on their terms only. They want us to enact spending cuts; and after we enact spending cuts, then, in the words of Secretary Regan, they are willing to discuss with us what they will do by way of a tax increase.

They say that they want spending cuts immediately, but they do not want to tax increase until 1985. There is no firm promise of anything. Rather, it is simply a statement that they might be willing to discuss matters, provided we take the first step and that the first step be exactly in accordance with their plan.

Mr. President, it is government by ultimatum. It is the furthest thing possible from the bipartisan compromise which we were struggling to achieve in the Senate Finance Committee.

So the result is a standoff. The result is exactly what we are seeing tonight.

The President claims that it is all the fault of Congress, that we are the big spenders and we are the reasons for the big deficits. We claim that it is the fault of the President and his intransigence.

I wonder if the American people really care whose fault it is. It is the fault of all of us, because we are unable to come to grips with this problem. So we are now at 48 hours before the time when the majority leader wants us to adjourn.

I do not think anybody has been more supportive of the majority leader for the last 7 years than the Senator from Missouri has been. I have not been the kind of person to stand here and filibuster things forever or insist that I get my way. But I must say this: For us to say in the U.S. Senate that the only thing we have to do is to increase the debt ceiling and then adjourn for more than 2 months—that, to me, is irresponsible. To say to the American people that the only thing we must do before going home is to address the debt ceiling question, without addressing the underlying problem of the deficit, is irresponsible.

One of our Members said to me this evening, "Well, I don't think we can do any good sitting around the Senate." I say to my colleagues that if we cannot do any good sitting around the Senate, why should we ever be elected to the Senate? What is the justification of serving here, if it is not to stay here and do good? What is the justification of serving here, if the whole aim is to get out before we do any more harm?

I believe that if we vote against increasing the debt ceiling, the result of that vote is that we will be here next week. Maybe we will be here in December. I do not know.

I really do not think it takes a lot of time for the Finance Committee to act. Maybe we can do it tomorrow. Senator DOLE wants to vote tomorrow. Maybe we can bring that product to the floor and vote on it this week yet, or early next week. I do not think that it is necessary to stay here until New Year's Eve if we reject the debt ceiling. But I think it does say to the President of the United States and to ourselves that we must come together, that the intransigence which we have seen so far must come to an end, and that we must reduce this deficit which is threatening such disaster for our country.

Mr. DOLE. Mr. President, I hope my colleagues will agree at this time to approve House Joint Resolution 308 and increase the limit on the public debt. As the majority leader has said, this is the real must legislation before us that must be approved before we can end this session of the Congress.

When the Senate considered this legislation before—and failed to pass the bill, on October 31—there was a hope on the part of some Members that the Senate's reluctance to increase the debt ceiling would force action by the President and the House and Senate leadership to reduce the deficit. Although we should never give up hope that that goal will be achieved, it now appears highly unlikely that we can get together on a package before the end of this session—or at least not before the date at which the failure to raise the debt ceiling would become a serious problem for our Government and for our credibility in world financial markets.

Mr. President, we are going to have to agree to reduce the deficit sooner or later, and it had better be sooner. But it seems to this Senator, at this late date in the session, that holding up the debt ceiling bill is unlikely to serve any further purpose in advancing us toward the goal of deficit reduction. In this regard I would point out to my colleagues the views of Federal Reserve Chairman Paul Volcker, who wrote to Treasury Secretary Donald Regan on this subject November 9. In his letter Chairman Volcker states,

> The failure of the Congress to act on the debt ceiling would in either case create great uncertainty and confusion in banking and money markets that count on timely payment, and in individual cases, could result in hardship, in addition to the broader implications for confidence and the government's credit.

In this context I believe Chairman Volcker's comments should be given great weight.

The fact is that by the end of this month the Treasury will not have sufficient resources to meet all the obligations of the Government that we have written into the law. If the Treasury or the member banks of the Federal Reserve System are obliged to pay or refuse to pay Government checks based on a first-come, first-serve principle, the credibility of this Government will suffer considerably. Fairness will suffer as well, since there is no way to guarantee that those most in need of Federal assistance would be the first paid.

Mr. President, I understand and sympathize with the views of those who feel we should use the debt ceiling to force action on our fiscal problems. But we seem to have reached the point where that approach is counterproductive, and we ought to get on with the business of Government in this matter.

I ask unanimous consent that the letter be printed in the RECORD and also a letter to Senator BAKER.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., November 10, 1983.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader of the Senate,
Washington, D.C.

DEAR HOWARD: I understand that the Senate plans to take up shortly the House passed resolution (H.J. Res. 403) to extend and increase the limit on the public debt. I want to apprise you of the consequences of failure to pass this legislation.

Next week the Treasury's cash balances reach a dangerously low point. Henceforth, I cannot guarantee that the Federal Government will have sufficient cash on any one day to meet all of its mandated expenses, and thus the United States could default on its obligations for the first time in its history. Furthermore, I cannot guarantee that the mere prospect of such a default will not provoke major disruptions in the U.S. Treasury markets as well as financial markets throughout the world.

I have received a letter from the Chairman of the Federal Reserve (copy enclosed) in which he outlines some of the serious difficulties for the Nation's financial system in event of a default.

This country now possesses the strongest credit in the world. The full consequences of a default by the United States are impossible to predict and awesome to contemplate. Denigration of the full faith and credit of the United States would have substantial effects on the domestic money markets and on the value of the dollar in exchange markets. The Nation can ill afford to allow such a result. The risks, the costs, the disruptions, and the incalculable damage lead me to but one conclusion—the Senate should pass this legislation at the earliest possible date.

Sincerely,

DONALD T. REGAN.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., November 9, 1983.

Hon. DONALD T. REGAN,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR DON: The proposal by the Administration to increase the debt ceiling by $225.6 billion from its present level of $1.389 trillion has not yet been enacted by Congress. From projections provided by your staff I understand that if the debt ceiling is not increased, Treasury cash balances will be precariously low during the second half of November and by early December will be depleted entirely. I also understand that, despite the absence of a sufficient cash balance in the Treasury's account at the Federal Reserve Banks, the Federal Reserve might nonetheless be faced with orders to pay from Treasury's account in the form of Treasury checks, letters of credit, wire transfers, or otherwise. Quite aside from the other major consequences of the government's inability to meet its obligations as they come due, of which I know you are keenly aware, I want you to know of the difficult and chaotic situation that would be created for the Federal Reserve and for the nation's payment system in such an event.

Under the Federal Reserve Act, Banks may disburse funds upon order of the Treasury *only* against deposits in the Treasury account. Consequently, faced with the prospect or actuality of orders for payment in excess of available deposits, we would have no alternative other than to refuse or delay payment in part or in whole. As you are aware, a great variety of payments are made from the Treasury's account with the Federal Reserve, including interest on the federal debt, social security and other government benefits, payments to federal contractors of all kinds, salaries, and payment of principal on maturing federal debt. We in the Federal Reserve have no basis for selecting among these items for payment, and, indeed, operational capabilities will not in many instances permit selectivity among recipients. Left with no further instructions, our only practical recourse may be to delay all payments until sufficient balances are available to honor all payment orders reaching us on a particular day.

In these potential circumstances, I would urge that in the absence of timely action on the debt limit you take all feasible steps to delay enough payment orders, with whatever priority you determine, to assure that orders reaching us will not exceed available deposit balances. Alternatively, it would be absolutely necessary for the Treasury to provide the Reserve Banks with instructions on priorities of payment in a manner in which we could, operationally, enforce such distinctions. The Federal Reserve Banks are prepared to assist you by monitoring and limiting wire transfers, redemptions and interest credits, ACH government payrolls and social security payments, and food coupons and check deposits. Few distinctions within such categories are operationally feasible. Such procedures could not, however, avoid the result that some checks or other orders for immediate payment would have to be dishonored or delayed.

In this light I would appreciate your guidance on whether payment orders to the Federal Reserve can be confined within estimated cash availabilities, and, if not, what priorities you wish us to apply in paying such orders.

As you can well imagine, "the failure of the Congress to act on the debt ceiling would in either case create great uncertainty and confusion in banking and money markets that count on timely payment, and in individual cases, could result in hardship, in addition to the broader implications for confidence and the government's credit." To minimize these adverse consequences, I believe that due notice of potential delays or other actions ought to be provided to recipients of Treasury payments in advance of the event.

The procedures I have outlined would assure our ability to act consistent with law. I hope we can avoid the serious consequences of failing to honor claims on the Treasury presented for payment; at the minimum, we need to be able to announce a procedure for delaying certain payments. Nevertheless, I must also stress that even in these circumstances a failure to increase the debt limit would not only create havoc in the payments system because of the necessary delays that I have outlined, but it would also undermine confidence at home and abroad in the government's ability to manage its affairs.

Sincerely,

PAUL.

ACTING RESPONSIBLY AND THE NATIONAL DEBT

Mr. PROXMIRE. Mr. President, once again the Senate has to vote on whether to raise the ceiling on the national debt. The leadership has now tied that bill to the railroad tracks and a train, in the form of a motion to adjourn, is hurtling toward it. No doubt, the Senate will put on its hard hat, bow in the direction of fiscal restraint, and then rescue the bill by passing it.

Those who support the increase will effectively argue that the Senate has no option. We cannot shut down the Government; we must act responsibly. The Senate will do its duty and Members will heave a collective sigh of relief as they depart these hallowed Halls.

Mr. President, when we rush out of the doors to this Chamber, we will be leaving behind ghosts which will haunt us next year and the American economy in 1985. Those ghosts are $200 billion deficits, stretching as far as the eye can see.

To those who argue that we have no option but to increase the national debt ceiling, I say what other option do we have to reduce the deficit. Are we acting responsibly when we continue to increase the debt ceiling but fail to reduce the deficits?

My answer to that question is a resounding "no" and here is why.

People invest in Treasury securities not because Congress passes a law, but because they believe the strength of the American economy and the stability of this society make these securities a good investment. Congress has taken this confidence for granted for so long that this fact seldom comes to mind.

Can a government abuse this confidence and eventually lose it altogether? The answer is yes because governments have done so in the past and governments will do so in the future.

I hope this Government will not behave so irresponsibly, but before we pass this bill, the Senate should take note of several trends.

The national debt has consistently increased over the past quarter century. But until the mid-1970's, the economy grew even faster. After World War II publicly held debt, as a percentage of GNP, steadily declined until it reached a low of about 26 percent in 1974. Since then, the economy has sputtered but the Government has continued to pile on the debt. Soon, that debt will be about 40 percent of GNP. This trend, which shows every sign of continuing, could easily raise questions about the capacity of the economy to absorb such massive debt.

Consider what has happened since early October 1981, when the national debt first exceeded $1 trillion. Now, scarcely 2 years later, the Senate is considering a resolution to raise the ceiling to $1.6 trillion—a prospective $600 billion increase in about 3 years. That increase proved too difficult to swallow and we voted to limit the ceiling to only $1.45 trillion. This lower limit means we will have to raise the ceiling again, probably in February. Unless we take decisive action to reduce the budget deficit, we will have

to continue raising the ceiling until we reach that $1.6 trillion figure by next October.

The Federal Government took nearly 200 years, that is until 1976, to run up the first $600 billion debt. We will have equaled that record, but in about 3 years. Merely paying the interest on this new part of the debt will mean spending $50 to $60 billion a year. And we wonder how countries like Brazil or Argentina could be so improvident and reckless.

Remember, we are not talking about a wartime emergency, but a period of peacetime when the economy is expected to expand at a rapid clip. Yet debt will still be growing more rapidly than GNP.

When deciding to loan money, prospective creditors look at not only the ability to pay but also the willingness to pay. For a government willingness to pay translates into ability to either raise revenue or cut spending. We have a ramshackle loophole-ridden tax system, whose fairness taxpayers correctly question with increasing vehemence. And cutting overall spending, or even slowing the rate at which overall spending increases, has proven to be more than Congress and the President can handle.

The national debt has turned out to be the pressure valve. If we can't reach agreement on raising taxes and cutting spending, we raise the ceiling on the national debt. How grossly irresponsible!

In 1982, the Federal Government paid $117 billion in interest on the national debt. By 1984, total interest costs will exceed $144 billion and could easily exceed $200 billion by the end of the decade. That last figure is larger than the Federal budget in 1970. These interest costs are one of the fastest growing parts of the budget. What a burden to place on the shoulders of our children and grandchildren.

Congress can continue to evade its responsibility to reduce the deficit. But we should not fool ourselves into believing that we have acted responsibly when, as a consequence, we have to raise the national debt ceiling.

Acting responsibly does not mean taking the easy way out, which is exactly what we are doing. That is why I intend to vote against this increase.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. All those in favor signify by saying "aye."

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

Mr. BYRD. Mr. President, the yeas and nays were ordered on the previous motion, on the motion to reconsider, the first time.

Mr. BAKER. Mr. President, I ask for the yeas and nays now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 31, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—67

Abdnor	Glenn	Murkowski
Andrews	Gorton	Packwood
Baker	Hart	Pell
Bentsen	Hatfield	Pryor
Bingaman	Hawkins	Quayle
Boschwitz	Heinz	Randolph
Bradley	Hollings	Roth
Bumpers	Huddleston	Sarbanes
Byrd	Inouye	Sasser
Chafee	Jepsen	Simpson
Chiles	Kassebaum	Specter
Cochran	Kennedy	Stafford
Cohen	Lautenberg	Stennis
D'Amato	Laxalt	Stevens
Denton	Leahy	Thurmond
Dixon	Levin	Tower
Dodd	Lugar	Trible
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	McClure	Weicker
Eagleton	Metzenbaum	Wilson
Evans	Mitchell	
Garn	Moynihan	

NAYS—31

Armstrong	Grassley	Nickles
Baucus	Hatch	Nunn
Biden	Hecht	Pressler
Boren	Heflin	Proxmire
Burdick	Helms	Riegle
Danforth	Humphrey	Rudman
DeConcini	Johnston	Symms
East	Kasten	Warner
Exon	Long	Zorinsky
Ford	Mattingly	
Goldwater	Melcher	

NOT VOTING—2

Cranston	Percy

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question is, shall the joint resolution pass. The yeas and nays have been ordered and the clerk will call the roll.

Mr. BYRD. Mr. President, I request the Clerk to repeat the vote after each Senator votes, so that it can be heard.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 58, nays 40, as follows:

[Roll Call Vote No. 370 Leg.]

YEAS—58

Abdnor	Garn	Murkowski
Andrews	Glenn	Packwood
Baker	Gorton	Pell
Bentsen	Hart	Quayle
Bingaman	Hatfield	Randolph
Boschwitz	Hawkins	Roth
Bradley	Hecht	Sarbanes
Byrd	Heinz	Simpson
Chafee	Inouye	Specter
Cochran	Jepsen	Stafford
Cohen	Kassebaum	Stennis
D'Amato	Kennedy	Stevens
Denton	Lautenberg	Thurmond
Dixon	Laxalt	Tower
Dodd	Levin	Tsongas
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Durenberger	Matsunaga	Wilson
Eagleton	McClure	
Evans	Moynihan	

NAYS—40

Armstrong	Hatch	Nickles
Baucus	Heflin	Nunn
Biden	Helms	Pressler
Boren	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Humphrey	Riegle
Chiles	Johnston	Rudman
Danforth	Kasten	Sasser
DeConcini	Leahy	Symms
East	Long	Trible
Exon	Mattingly	Warner
Ford	Melcher	Zorinsky
Goldwater	Metzenbaum	
Grassley	Mitchell	

NOT VOTING—2

Cranston	Percy

So the joint resolution (H.J. Res. 308) was passed.

[The rollcall vote was concluded at 12:04 a.m. and thereafter the following occurred:]

Mr. DOLE. I move to reconsider the vote.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. JEPSEN) appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. LONG, and Mr. MATSUNAGA conferees on the part of the Senate.

Mr. BAKER. Mr. President, No. 1, I thank all Members. No. 2, there will be no more rollcall votes tonight. As soon as I get the cotton out of my mouth, I shall figure out what we are going to do next.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend past the hour of 12:15 a.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 10TH ANNIVERSARY OF THE SIGNING OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT

Mr. STEVENS. Mr. President, Alaskans will be celebrating the 25th anniversary of our State's entry into the Union at the beginning of next year. I think that we would be remiss to ignore another important anniversary in Alaska's history.

Ten years ago, a great debate took place in Congress over a proposed oil pipeline to transport oil from the Prudhoe Bay field on Alaska's North Slope to the Port of Valdez on the southern coast of the State. As we all know, Congress eventually authorized the construction of the trans-Alaska pipeline system—sometimes referred to as Taps.

I think that it is appropriate to discuss the controversy over Taps today on the 10th anniversary of President Nixon's signing the Trans-Alaska Pipeline Authorization Act into law. The history of the Taps project has much to teach us about national environmental and energy policymaking. Since about three-fourths of the Senators here today were not here during this debate 10 years ago, I would like to review briefly what took place.

From the moment Atlantic Richfield announced the discovery of the Prudhoe Bay field—the largest oil and gas field ever discovered in North America with recoverable reserves of over 10 billion barrels of crude oil and 26 trillion cubic feet of natural gas—a conflict raged over what method to use to transport Prudhoe crude to market.

The three major participants in the Prudhoe Bay discovery—Humble Oil & Refining Co., now known as Exxon USA; Atlantic Richfield; and Standard Oil of Ohio—investigated various means of transporting North Slope crude. They agreed at an early date, however, on the need for an all-Alaskan pipeline to take the oil to Alaska's southern coast and from there to the lower 48 States by tanker.

Efforts to secure the general right-of-way permit necessary for construction of Taps were challenged in court in 1970 by Alaska Native groups that were seeking to settle their longstanding land claims and by wilderness groups that argued that the Interior Department had not complied with the requirements of the recently enacted National Environmental Policy Act—NEPA.

The Alaska Native Claims Settlement Act (ANCSA), which became law in 1971, resolved a massive dispute over landownership in Alaska and eliminated a major obstacle blocking the construction of the trans-Alaska oil pipeline.

At the same time that the complex negotiations over ANCSA were proceeding, the Interior Department, the pipeline sponsors—which had incorporated as the Alyeska Pipeline Service Co.—and the wilderness groups were fighting a judicial war over NEPA compliance.

The injunctions won in Federal district court by the wilderness advocates eventually led the Department of the Interior to prepare a massive environmental impact statement (EIS). The late Rogers Morton, then Interior Secretary, made a decision in mid-1972 to grant the general right-of-way permit based on that EIS. The sufficiency of the EIS and thus the validity of Morton's decision were upheld in district court. On appeal, however, the D.C. Circuit Court of Appeals, without ruling on the NEPA issues, held that Secretary Morton had no authority to grant a right-of-way wider than 50 feet under the Mineral Leasing Act of 1920.

The Supreme Court refused to review the D.C. circuit's decision despite the fact that the decision was inconsistent with decades of administrative precedent. At that point, it became clear that Congress would have to take action.

During congressional consideration, wilderness groups constantly attacked the Interior Department's decisionmaking process. they wanted to force the oil companies to abandon a trans-Alaska pipeline by convincing Congress to order additional studies of alternatives such as a trans-Canada pipeline. These groups made dire predictions about Taps' impact on Alaska wildlife—particularly Arctic caribou deer, which roam across the North Slope. They also asserted that the heat from the oil moving through the pipeline could melt the permanently frozen earth—permafrost—in which parts of the pipeline were buried, endangering the structural integrity of the line and possibility leading to massive oilspills.

Indefinite delay of Alaska North Slope energy development was the motto, strategy, and ultimate goal of the wilderness groups in responding to the Taps proposal. Unfortunately for them, the first signs of an energy crisis had already appeared by early 1973, and many Congressmen were not sympathetic to the idea of delay for delay's sake. These Congressmen looked behind the argument that a Canadian route should be examined in depth and saw that Canada had not manifested any real interest in the proposal and that the land claims of Canadian natives were a substantial obstacle to a trans-Canada pipeline. They looked behind the assertion that new technologies should be considered and saw that these technologies were unproven or simply unsuited to Alaska.

In July 1973, after a week of intense debate, the Senate rejected on a 61 to 29 rollcall vote an amendment offered by Senator Walter Mondale to the Interior Committee pipeline bill that would have required further investigation of a trans-Canada pipeline. On the same day, a vote on an amendment that stated that the Interior Department's decisionmaking process had satisfied the requirements of NEPA ended in a 49 to 49 tie. The amendment was approved on a tie breaking vote by Vice President Spiro Agnew. The New York Times condemned the amendment as special-interest legislation.

After much less dramatic debate in the House in August, the trans-Alaska pipeline authorization went into conference. On October 18, 1973, the Arab oil-producing nations declared an embargo on oil exports to the United States. Unsurprisingly, when the conference report on the authorization was brought up for floor consideration in mid-November, it was approved by huge margins in both Houses—361 to 14 in the House of Representatives, 80 to 5 in the Senate.

What have we learned from the saga of the trans-Alaska oil pipeline? First and most importantly, we have learned that large-scale energy development can be done in an environmentally responsible way in Alaska. Despite the forebodings of the Sierra Club and other wilderness groups, the construction of Taps has not signaled the beginning of the end for the wildlife of the North Slope. The construction, operation, and maintenance of the pipeline has been conducted in the most environmentally sensitive manner imaginable. Taps has not impeded the movement of caribou. In fact, the two great caribou herds of the North Slope—the Western Arctic and Porcupine herds—are larger and healthier now than they were at the time when construction began on the pipeline.

Fears that the pipeline design failed to deal adequately with Alaska's permafrost have also been shown to be unfounded. No major problems with the structural integrity of Taps have arisen. The worst oil leak in the line was caused by sabotage and affected only a small amount of land. That land, by the way, was promptly cleaned up and rehabilitated.

Second, despite the complaints of some of the major newspapers, Congress was right to terminate further NEPA review of the pipeline project in 1973. The Taps case made it clear that NEPA could become a dangerous tool in the hands of those who were more interested in delaying a decision than in improving the quality of the decisionmaking process. The courts were much slower than Congress to realize this fact. Congress had to take action

to prevent a project of national importance from being talked to death. The Pipeline Authorization Act did not set a bad precedent. It did not say that NEPA was inapplicable to the Taps' routing issue but only that enough study had already been done to satisfy the purposes of NEPA.

Third, Senators should not be too quick to jump to the conclusion that the long judicial fight over Taps resulted in major improvements to the design of the project. It is true that the project's design did change substantially from 1968 to 1973, but many of those changes were the result of additional engineering and planning work that would have occurred even without pressure from the courts or wilderness groups. This fact is not surprising once one realizes that the pipeline sponsors had no interest, pecuniary or otherwise, in building a pipeline that was unreliable and environmentally destructive.

It is undeniable that wilderness groups' activities contributed greatly to the costs of Taps; whether those activities made any contribution to actual improvements in the project's design is much less clear. Open-ended judicial debate on issues such as NEPA compliance is a terrible way of making planning decisions on vital national projects.

Mr. President, there can be no doubt that Taps is a technological marvel. The pipeline was finished in 1977 at a cost of $8 billion. It is the largest private construction venture ever completed. Each day, the pipeline transports 1.7 million barrels of Alaska North Slope crude—representing 20 percent of the U.S. domestic crude oil production—to Valdez for shipment to the lower 48 States. Approximately 3.2 billion barrels of oil have been transported to date. The wisdom of Congress decision in 1973 to authorize construction of Taps has been amply confirmed by the experience of the last 10 years.

In closing, Mr. President, I suggest that the experience of the Taps project should teach us to look skeptically at the impassioned assertions of the national wilderness and environmental organizations. These groups have used the same techniques of exaggeration and distortion in virtually every major natural resource and environmental issue that has come before Congress since the Taps case. Most recently, they have maligned former Interior Secretary James Watt for pursuing sound natural-resource-management policies.

I know that the Members of the Senate have received a letter from the National Audubon Society, urging them to support a resolution that purports to instruct Judge William Clark, President Reagan's nominee for Secretary of the Interior, about what he should do to reform the administration's natural resources policies.

I reject the notion that this resolution is a proper way to advise a Cabinet officer about Congress concerns. In my opinion, we will all be sorry if the Senate starts passing such resolutions on a regular basis. Even more importantly, I reject the idea that the administration's policies need to be reformed. It seems to me that the wilderness/environmental groups are up to their old tricks, and I advise Senators to beware.

Judge Clark is the right man at the right time. He understands the concerns of the public land States and will be a strong leader at the Interior Department. I believe that if the Senate considers his nomination in the same clearheaded and nonpartisan manner it considered the trans-Alaska pipeline authorization, he will be confirmed without delay.

CARRIER ALERT WEEK, DECEMBER 4-10, 1983

Mr. THURMOND. Mr. President, I wish to commend my colleagues in the Senate for passing Senate Joint Resolution 141 which designates December 4-10, 1983 as "Carrier Alert Week." Under this new program, the National Association of Letter Carriers and the U.S. Postal Service have joined in a cooperative effort with local social service agencies, to extend their usual duties to provide a watch for the homebound, the elderly, and the handicapped.

I wish to bring to the attention of my colleagues a recent example in my home State of South Carolina of what such a program will mean to those in need. Even though Florence, S.C., has not officially implemented a carrier alert program, the advance publicity about the program increased the awareness of postal carrier Anne Greene. During her usual route in Florence on October 29, Ms. Greene noticed that the mail had not been picked up at the residence of Mrs. G. W. Kirkland for a week. Since she had worked the route for nearly 10 months, Ms. Greene knew that this was unusual, so she knocked on the door to see if anything was wrong. She heard Mrs. Kirkland crying for help. Ms. Greene immediately called the police to assist Mrs. Kirkland, who had fallen several days earlier and had been unable to get to a telephone. Mrs. Kirkland is now recovering from her accident.

Mr. President, I ask unanimous consent that a newsstory by Jumana A. Swindler, which appeared in the Florence Morning News be placed in the RECORD, at the conclusion of my remarks. This story tells the noble service given by Ms. Greene on that day, and highlights the fine service that our Postal Service employees render to our communities.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAIL CARRIER BRINGS HELP ALONG WITH THE MAIL

(By Jumana A. Swindler)

Mrs. G. W. Kirkland's mail carrier brought her not only good news Saturday morning, the female carrier may have saved her life.

Because of the alertness of postal carrier Anne Greene of Florence, Mrs. Kirkland received necessary medical attention after "hollering for help for six days."

The 85-year-old Mrs. Kirkland, who lives alone at her Florence residence, explained that she had some relatives visit late last Monday afternoon. "After they left, I had just gone to the kitchen to get things lined up for my dinner. I reached out for a pot, reaching too far, I guess, and fell."

Mrs. Kirkland said she couldn't get back up and thought she had broken her hip. "I was on the floor flat on my back, couldn't get to a phone or get back up. You don't know what that was like—to be lying on the floor for hours.

"I was about to freeze and hollered and hollered, but nobody could hear me."

The woman said she had been able to pull herself near the couch where she had left a gown earlier and used the garment to keep warm. She had gone from Monday afternoon until Saturday morning without food or water and added, "It's a wonder I did not die."

During her Saturday morning delivery route, Ms. Greene said she "got a peculiar feeling about the mail and newspapers being left in Mrs. Kirkland's box for the whole week."

Ms. Greene has worked the route "on and off" for nearly 10 months, she added. "Saturday morning I became very concerned and knocked on the door."

Answered by a faint response, Ms. Greene looked around and knocked again. "That time, I heard her saying something like 'get me some help'. I yelled to Mrs. Kirkland and said I would get some aid and that everything would be all right."

The postal worker said she ran across the street to borrow a phone and "they didn't have one." She then ran to another neighbor and told them to call the police and "I said they might need an ambulance, too."

Ms. Greene had tried to get into the house and found all the doors locked as well as the front door screen latched.

"I didn't want to cut the screens for fear of legal problems and waited on the police to arrive," stated Ms. Greene.

Florence City Police Officer Summerford arrived and was informed of the situation. "He snatched the screen down and we found Mrs. Kirkland lying on the floor. She said she had been cold for days and had pulled a coverlet and what appeared to be a gown over her to keep her warm. But, she still seemed as clear-headed as she could be," recalled Ms. Greene.

Mrs. Kirkland was then taken to McLeod Regional Medical Center.

She was reported in stable condition Monday morning. A hospital spokesman said the cause of the fall and her inability to get back up was unknown. She was being treated for weakness and dehydration.

"I think that lady from the post office is the most wonderful woman in the world," said Mrs. Kirkland Monday afternoon.

Ms. Greene, a former rehabilitation counselor, said that "people contact is something I really do miss. I value doing something for somebody else and this incident has given me a good feeling."

She said that some postal carriers had recently received information on the national "Carrier Alertness Program."

"And that made me even more aware that mail had been left in her box too long, along with a pension check that hadn't been taken in," added the carrier.

According to Dave Shamlin, director of the Post Office's customer services, the Postal Service and carrier unions are 100 percent behind such a program, "although one has not yet officially been implemented in Florence."

"I think one in Florence will be coming soon, at least I hope so," added Shamlin.

Some local agency has to sponsor 'Carrier Alert' and "we're in the process now of trying to locate one. Implementation of this program depends on a local agency taking it over."

"Carrier Alert" would mean if a postal carrier encounters several signals that something is amiss within a route, he would then contact his supervisor. "The supervisor will in turn contact the agency handling 'Carrier Alert' and make an effort to check immediately into the situation. It will be intended to focus on people who really have this need, such as the elderly and those who live alone," stated Shamlin.

Bobby Brown, supervisor of delivery, said that such problems turning up on a route are not uncommon.

"Carriers go up and down streets every day and expect things in a certain order. If they see things wrong, they worry about people." Brown said, "Our workers have a job to provide first class service and information and they do it regardless."

"People develop a pattern right along with the mailman."

Frank Courtney, supervisor of collections, maintained that carriers are alert when something is out of line anyway. "However, the formation of 'Carrier Alert' would probably help monitor these efforts.

"I do believe one is forthcoming, but there are a lot of guidelines and no timetables yet."

Brown added, "These carriers are very possessive about their people and dedicated to the public. They may grumble and gripe about the weather sometimes, but they always go."

THE POLICE: PROTECTORS OF SOCIETY

Mr. NUNN. Mr. President, recently I had the oppprtunity to read a speech delivered by our distinguished former colleague, Senator Sam Irvin, regarding the importance of police in our society and the great debt all Americans owe to those men and women in local police forces who serve us so well. I ask unanimous consent that Senator Ervin's remarks be printed in the RECORD and I commend his observations to the attention of my colleagues. All of us who served with Senator Ervin recognize his profound constitional knowledge and his dedication to the role of law. Senator Ervin is missed here in the Senate and I know my colleagues will enjoy and benefit from his words of wisdom:

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE POLICE: PROTECTORS OF SOCIETY

(Remarks prepared by Sam Ervin, Jr., for delivery at the memorial service of the International Conference of Police Chaplains in memory of police officers dying in line of duty to be held at All Souls Episcopal Church in Biltmore, N.C., 1:30 p.m., Tuesday, July 19, 1983.)

THE OBLIGATION OF THE POLICE TO SOCIETY

The obligation of local government throughout the United States is to regulate and control the affairs of the community with respect to the maintenance of order, law, health, and safety, and other matters affecting the general welfare.

Local government delegates to the police its foremost responsibility, which is to maintain order, enforce the law, and prevent and detect crime.

From time whereof the memory of mankind runs not to the contrary, the police have protected society against evil doers. They are likely to have this task until the world ends.

Crime has its origins in those passions and desires of fallible human beings in virtually all walks of life: greed, love of pleasure, lust, idleness, anger, hatred, and revenge.

While his primary task is to protect society from evil doers, the police officer performs multitudes of other services.

This observation is illustrated by a tribute a commercial enterprise paid to the New York City police in a newspaper advertisement some years ago. I quote it:

I am a shield. A New York police officer's shield. Just an ordinary piece of metal. But I work with an extraordinary person.

People call him many things—cop, dick, flatfoot, bull, even pig. But mostly they call him whenever there's trouble. A robbery. A heart attack. An accident. A traffic jam. A fire. A lost child. A mad dog. A would-be suicide on a roof or ledge. And he always answers the call. No matter what they call him.

He's underpaid. Works long, ever shifting hours. Days. Nights. Sundays. Holidays. Fair weather. And foul. Yet he wouldn't change his job for anything.

He loves New York. No one knows better than he that our town has problems. Pushers. Chiselers. Crooks. Lawbreakers. All kinds of crime. And lots of citizens who don't want to get involved. Who keep their eyes and ears closed. Who don't and won't help.

But he also knows that most New Yorkers are honest, decent, lawabiding people who love their city too. Who, when the chips are down, will help their neighbors. Who will support the police officer who may be called to risk his life in their behalf.

He's no superman. He's only all too mortal. If someone shoots him he bleeds—sometimes dies in the service of his fellow citizens.

Support him. Call him when there's trouble. But don't call him names. Thank him for the thankless job he does for all of us. He's what we've got between us and the jungle.

I'm a shield. And proud to be stuck on some pretty wonderful guys and gals.

What this tribute says about the New York City police applies with equal truth to the police in communities throughout America.

MY APPRAISAL OF THE POLICE

When I was a child, my mother implanted this precept indelibly in my mind: "Look for the good in others. By so doing, you will find that most human beings are fundamentally good and worthy of trust."

From that time to this moment I have obeyed my mother's precept. While I have learned with sorrow that some of the sons and daughters of men are vile wretches, I have discovered with joy that the overwhelming majority of them are fundamentally good and worthy of trust.

I have found this to be true of men and women in all walks of life, irrespective of whether they be husbands, wives, mothers, doctors, lawyers, judges, jurors, farmers, merchants, truck drivers, mechanics, architects, contractors, carpenters, brick masons, hod carriers, nurses, teachers, preachers, or police officers.

As a practicing lawyer and trial judge, my opportunities to appraise police officers aright have been abundant. They were enhanced by my experiences as a trial lawyer. I never held the office of prosecuting attorney. I rarely prosecuted a criminal case. For many years, however, I defended multitudes of persons charged with all kind of crimes in trials past numbering, and police officers were usually witnesses against those I defended.

Like all human beings, police officers are fallible. Many years of experience as a biased defense lawyer and an impartial judge have nevertheless instilled in me the abiding conviction that the overwhelming majority of police officers are faithful to their trust. They maintain order, enforce law, and prevent and detect crime with intelligence, courage, and compassion, and often at the risk of their own lives. While they are desirous of bringing incorrigible offenders to justice, they habitually reveal to the court any mitigating circumstances indicting that the shorn lamb standing at the bar may deserve mercy. Despite accusations to the contrary, few police officers ever testify falsely to induce juries to return unjust verdicts.

THE LOT OF THE POLICEMAN

Although they perform service indispensable to the welfare of society, police officers do not always find their lots happy.

In the nature of things, evil doers and those who profit by their misdeeds deem the police to be enemies.

Law abiding citizens often fail to realize that in protecting them against evil doers at home the police are rendering a service to society comparable to that of the soldiers who fight our nation's battles against foreign foes in lands beyond the sea.

Some foolish parents implant life-long prejudices against the police in the hearts of their children by picturing the police as ogres who will get them if they are bad. When my own children were little tots, I emphasized to them that the police were their friends and that they would protect them from harm, and encourage them in all their worthwhile endeavors.

WHAT SOCIETY EXPECTS OF THE POLICE

Society often erects unbelievably high standards for police officers. As former F.B.I. Chief Clarence M. Kelley has said:

We expect not only the very best in our officers, but a range and depth of attributes that no mortal could possibly possess.

All too frequently we expect of the officer what we do not require of ourselves.

He must, in our eyes, be above reproach at all times, scrupulously honest, virtually without a fault.

He must make no mistakes, and if he does, we criticize him unmercifully.

We expect him to handle all situations with finesse, tact, and competence, but seldom do we realize that as a community we have not provided him with the professional training needed to cope with today's sophisticated, changing society.

We expect him to risk his life to apprehend a hijacker, bank robber, or murderer, yet we often fail to pay him a liveable salary, and we make few, if any, provisions for his family in case of death during the line of duty.

We expect him to perform at top efficiency, for long hours, often being called out in the middle of the night or on weekends, and forget that he too is human, that he gets tired and hungry, and like us, he may have a son with whom he likes to play baseball.

We expect him to immediately accommodate our desires when we call the police, forgetting that we have not given the chief sufficient manpower and equipment to provide the kind of service we expect and deserve.

Yet these men and women in blue, despite these handicaps, perform admirably and the citizens across the nation owe them a tremendous debt of gratitude.

POLICE ARE HANDICAPPED BY LAWS GIVING CRIMINALS AND PSYCHOPATHS EASY ACCESS TO PISTOLS

Legislators handicap the police and insure that thousands of Americans will suffer violent deaths each year by misconstruing the Second Amendment and retaining foolish laws which give murderers, burglars, robbers, and psychopaths easy access to pistols.

The Second Amendment says, "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

The Founding Fathers knew that the United States did not have a standing army sufficient to protect our country against potential foreign foes, and that it would have to depend on the men who constituted the militia of the several states for security in times of war. For this reason, and this reason only, the Founding Fathers added the Second Amendment to the Constitution to make it certain that the right of the militiamen to keep and bear arms—chiefly long rifles—should not be infringed. They did not thereby guarantee to criminals and mentally ill persons the right to posses pistols, easily concealable from their potential victims.

Enough has been done for those who murder, rape, and rob. It is time for legislators to do something for those who do not wish to be murdered, or raped, or robbed. Legislators can do this by enforceable laws which do not deprive law-abiding citizens of needed protection, or hunters of shotguns and rifles suitable for hunting game.

THE SUPREME COURT HANDICAPS POLICE BY JUDGE-MADE RULES INCOMPATIABLE WITH THE CONSTITUTION

As one of its lovers, I revere the Constitution. By the Bill of Rights and the due process clause of the Fourteenth Amendment, the Constitution creates the precious presumption of innocence, and guarantees to every person charged with crime the right to a fair trial by an impartial judge and an unbiased jury in an atmosphere of judicial calm in a court of justice. In so doing, the Constitution makes it as certain as is humanly possible that no innocent person will be unjustly convicted.

Hence, the Supreme Court has no excuse for forgetting that society and the victims of crime are as much entitled to justice as the accused, and for inventing artificial, impractical, and unrealistic protections for the accused additional to the sound protections given them by the Bill of Rights.

And, yet, that is exactly what Chief Justice Earl Warren and his associates did in the comparatively recent cases of *Miranda* v. *Arizona* (1966), 377 U.S. 201, *United States* v. *Wade* (1967), 388 U.S. 218, and *Gilbert* v. *California* (1967), 388 U.S. 263.

These decisions are based on distrust of police by the Supreme Court Justices who participated in them, and their resultant conviction that while society and the victims of crime require little protection from the law, persons suspected of crime need much protection from the police additional to that afforded by the Bill of Rights properly interpreted.

These decisions twist the words of the self-incrimination clause of the Fifth Amendment and the right to counsel clause of the Sixth Amendment awry to impede the use by society and the police of the two most convincing evidences of guilt known to man, namely, the voluntary confession of the accused that he committed the crime charged against him, and the testimony of an eye witness that he saw the accused commit the crime with which he stands charged.

The self-incrimination clause provides that "no person . . . shall be compelled in any criminal case to be a witness against himself."

As the Court rightly adjudged during the 175 years next succeeding the ratification of the Fifth Amendment, these words cannot be rightly applied to a voluntary confession made by a suspect to a police officer having him in custody before any charge is made against the suspect by an authorized official. This is true for three plain reasons: (1) The suspect is not a witness when he voluntarily confesses his guilt to the officer; (2) there is no existing criminal case; and (3) a voluntary confession is not compelled.

Notwithstanding these self-evident truths, the Warren Court adjudged that the self-incrimination clause bars the admission in evidence against an accused in all federal and state courts of his own voluntary confession of guilt made to a police officer having him in custody as a suspect, unless the police officer gives him before the making of the voluntary confession specific warnings devised by the Court itself for the first time on June 13, 1966.

The Warren Court so ruled in the *Miranda Case* because the participating Justices obviously believed police to be unworthy of trust, and feared they would coerce suspects to make involuntary confessions. Their distrust and belief did not justify the ruling. Involuntary confessions have been excluded from evidence under the due process clause since the founding of the Republic.

Besides, the *Miranda* decision is unrealistic. Innocent people do not voluntarily confess crimes they never committed. Furthermore, the *Miranda* decision discourages voluntary confessions, notwithstanding common sense, law, psychiatry, and religion declare that an honest confession is good for the soul.

The right to counsel of the Sixth Amendment declares that "in all criminal prosecutions, the accused shall enjoy the right—to have the assistance of counsel for his defense."

Under the Sixth Amendment, a suspect is not an accused in a criminal prosecution, and a criminal prosecution does not exist until a legal proceeding is instituted in a court of justice against a person charging him with the commission of a crime.

The police are frequently compelled by circumstances to make a case against a suspect in their custody depend on the testimony of an eye witness to a crime that he saw the suspect commit the crime. When this situation exists and the eye witness and the suspect were strangers at the time of the commission of the crime, the police customarily permit the eye witness to the crime to see the suspect in a police line-up or elsewhere to determine whether or not the witness identifies the suspect as the perpetrator of the crime he saw committed. By so doing, the police determine whether or not there is a rational basis for the institution of criminal prosecution against the suspect.

The Warren Court distrusted the police in these instances, and feared they would "frame" false identifications of suspects by eye witnesses unless the Court created some protection for suspects additional to those embodied in the Bill of Rights.

For these reasons, the Warren Court invented some judge-made rules in the *Wade* and *Gilbert Cases* to afford suspects such an additional protection in these instances. Strange to say, the Court avowedly based these judge-made rules on the right to counsel clause of the Sixth Amendment despite the circumstance that the rules are incompatible with what that clause says.

These judge-made rules, which are somewhat complicated, may be phrased as follows:

1. The right to counsel clause comes into play whenever the police permit an eye witness to a crime to see a suspect in their custody in a police line up or elsewhere to determine whether or not the eye witness identifies the suspect as the perpetrator of the crime he saw committed; and

2. If it appears that the eye witness was permitted by the police to see the suspect for this purpose in the absence of his counsel at any time before he testifies at the trial on the merits, the trial judge must exclude from the consideration by the jury the testimony of the eye witness that he saw the suspect commit the crime with which he stands charged, unless the trial judge first conducts an inquiry in the absence of the jury and satisfies himself by such inquiry that the testimony of the eye witness identifying the suspect as the perpetrator of the crime was not influenced by the view he had of the suspect in the absence of his counsel.

It is difficult to reconcile these judge-made rules with Article III of the Constitution and the Six Amendment which provide that the trial of crimes shall be by jury. These provisions contemplate that the petit jurors and not the judge are to determine the credibility of eye witnesses and the weight their testimony merits.

Be this as it may, these judge-made rules are artificial, impractical, and unrealistic.

Their underlying rationale is that counsel for an accused cannot cross-examine effectively a witness who identifies the accused as the person he saw commit the crime unless he is present when the identification is made. If this illogical assumption were carried to its logical conclusion, the Supreme Court would be compelled to adjudge that no accused can be convicted of

any criminal offense unless his counsel was present and saw the crime with which his client stands charged committed.

Prosecuting attorneys and police would be fools if they instituted criminal prosecutions without taking the precaution to ascertain that the eye witnesses on whom they rely for convictions would identify the accused as the perpetrators of the crimes they witnessed.

Besides, counsel would frequently not be available to represent suspects when they were seen by eye witnesses for identification purposes in police line ups or elsewhere. Suspects do not ordinarily go to the expense of retaining counsel until they are reasonably certain that they will be prosecuted, and trial judges are not likely to appoint counsel for indigent suspects before a criminal prosecution has been instituted against them.

Finally, the custom the Warren Court deplored when it created the judge-made rules is indispensable to the administration of criminal justice, and saves the taxpayers untold millions of dollars annually. Police release without trial each year multitudes of persons throughout the United States because the eye witnesses the police permit to see them do not identify them as the persons who committed the crimes they witnessed.

By making these sincere comments on these Supreme Court decisions, I invite the criticism of those who labor under the delusion that all Supreme Court decisions are sacrosanct and for that reason must be respected.

I challenge this view most emphatically. A Supreme Court decision deserves respect only if it is respectable, and no Supreme Court decision is respectable if the Justices making it flout the Constitution they are sworn to support.

Supreme Court Justices impede the efforts of police to protect society against evil doers when they impose on them artificial, impractical, and unrealistic rules, which complicate the simplicity of the Constitution.

They should devote themselves to their task of interpreting the Constitution and the laws, and leave the amending of the Constitution to Congress and the States acting in concert under Article V, and the making of laws to Congress and the legislatures of the States.

MY CONCERNS AS A PUBLIC SERVANT

I digress to make observations of a personal nature. In retrospect, I find much satisfaction in the circumstance that in my days as a public servant I was much concerned with the administration of civil, criminal, and military justice.

As a member of the North Carolina Supreme Court, I wrote the majority opinion in *Green* v. *Kitchin*, (1948) 229 N.C. 450, which adjudged that the cities and towns of the state have the implied power to send their police officers at public expense to the F.B.I. Academy in Washington and the Institute of Government at Chapel Hill to receive instruction and training in their profession.

As a Member of the United States Senate, I authored or sponsored the Act to protect the constitutional rights of mentally ill persons in the District of Columbia (1964), the Criminal Justice Act of 1964, the Law Enforcement Assistance Act of 1965, the Bail Reform Act of 1966, the Narcotic Rehabilitation Act of 1966, the Omnibus Crime Control and Safe Streets Act of 1968, the Bill of Rights for American Indians (1968), the Military Justice Act of 1968, the Privacy Act of 1974, and the Speedy Trial Act of 1974.

SOCIETY'S DEBT TO THE POLICE

It is impossible to overmagnify the debt of society to the police. We are able to lay our heads on our pillows at night with confidence that we will rest in peace until a new day dawns only because the police remain on guard while we sleep.

I have stated in detail the duties of the police to society, indicated their fidelity to the performance of those duties, and recounted some of the frustrations they are compelled to endure.

I close with the reminder that the police risk their lives daily to protect society from evil doers, and that 1147 of them suffered violent deaths while so doing during the last decade.

(During the day morning business was transacted and statements were submitted as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGES FROM THE PRESIDENT—PM 90

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Section 1011 of the Alaska National Interest Lands Conservation Act (P.L. 96-487; 16 U.S.C. 3151), I transmit herewith the second annual report on Alaska's mineral resources covering 1983.

RONALD REAGAN.

THE WHITE HOUSE, *November 16, 1983.*

MESSAGES FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 807. An act to amend the boundaries of the Cumberland Island National Seashore.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2644. An act to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within the Cape Hatteras National Seashore Recreational Area;

H.R. 3867. An act to amend the Perishable Agricultural Commodities Act, 1930, by impressing a trust on the commodities and sales proceeds of perishable agricultural commodities for the benefit of the unpaid seller, and for other purposes;

H.R. 3921. An act to establish wilderness areas in New Hampshire; and

H.R. 4198. An act to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area.

At 5:36 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 7, 13, 15, 16, 18, 20, 30, 31, 37, 42, 44, 48, 49, 52, and 54, and agrees thereto, and it recedes from its disagreement to the amendments of the Senate numbered 6, 11, 12, 19, 23, 27, 36, 39, 45, 55, 60, 61, 62, 65, and 67, and agrees thereto, each with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate numbered 102 to the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2838. An act to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes; and

H.R. 3903. An act to authorize the Secretary of Agriculture to develop and imple-

ment a coordinated agriculture conservation program in the Colorado River Basin.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 8:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 376. An act to amend the Debt Collection Act of 1982 to eliminate the requirement that contracts for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriations Acts;

S. 807. An act to amend the boundaries of the Cumberland Island National Seashore;

S. 1168. An act to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma;

H.R. 594. An act to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts of which the National Oceanic and Atmospheric Administration is responsible;

H.R. 726. An act for the relief of James A. Ferguson;

H.R. 3222. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes; and

H.J. Res. 168. Joint resolution to designate the week beginning May 27, 1984, as "National Tourism Week".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

At 10:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 450. An act to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representation or lotteries), and for other purposes.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 974. An act to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes; and

S. 1099. An act to consolidate and authorize certain marine fishery programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparibility Allowance Act of 1978, and for other purposes.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3169. An act to amend the Energy Policy and Conservation Act to facilitate commerce by the domestic renewable energy industry and related service industries;

H.R. 3578. An act to establish the wilderness areas in Wisconsin;

H.R. 3622. An act to amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers;

H.R. 3649. An act to amend the Public Health Service Act to revise the system under which communities pay the United States for the services of National Health Service Corps personnel;

H.R. 3922. An act to establish a one-year limitation on the filing of claims for unpaid accounts formerly maintained in the Postal Savings System;

H.R. 3960. An act to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System;

H.R. 4072. An act to provide for an improved program for wheat;

H.R. 4201. An act to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes;

H.R. 4278. An act to provide for the temporary extension of the ban on credit card surcharges;

H.R. 4325. An act to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes;

H.R. 4336. An act to make certain miscellaneous changes in laws relating to the civil service;

H.R. 4350. An act to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes; and

H.J. Res. 421. Joint resolution providing for the convening of the second session of the Ninety-eighth Congress, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 221. Concurrent resolution providing for the sine die adjournment of the first session of the Ninety-eighth Congress.

HOUSE MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2644. An act to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within the Cape Hatteras National Seashore Recreational Area, to the Committee on Energy and Natural Resources.

H.R. 2838. An act to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3169. An act to amend the Energy Policy and Conservation Act to facilitate commerce by the domestic renewable energy industry and related service industries; to the Committee on Energy and Natural Resources.

H.R. 3578. An act to establish the wilderness areas in Wisconsin; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3622. An act to amend the Truth in Lending Act to protect consumers by placing restrictions on the disclosure of their credit card numbers; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3649. An act to amend the Public Health Service Act to revise the system under which communities pay the United States for the services of National Health Service Corps personnel; to the Committee on Labor and Human Resources.

H.R. 3903. An act to authorize the Secretary of Agriculture to develop and implement a coordinated agriculture conservation program in the Colorado River Basin; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3921. An act to establish wilderness areas in New Hampshire; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3922. An act to establish a one-year limitation on the filing of claims for accounts formerly maintained in the Postal Savings System; to the Committee on the Judiciary.

H.R. 3960. An act to designate certain public lands in North Carolina as additions to the National Wilderness Preservation System; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4072. An act to provide for an improved program for wheat; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4198. An act to designate certain national forest system lands in the State of Vermont for inclusion in the National Wilderness Preservation System and to designate a national recreation area; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4201. An act to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

H.R. 4278. An act to provide for the temporary extension of the ban on credit card surcharges; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4325. An act to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; to the Committee on Finance.

H.R. 4350. An act to establish a system for the consolidation of student loans under title IV of the Higher Education Act of

1965, and for other purposes; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S.J. Res. 177: Joint resolution to provide for appointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 98-313).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1546: A bill to amend the Deepwater Port Act of 1974, and for other purposes (Rept. No. 98-314).

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment and an amended preamble:

S. Res. 74: Resolution expressing the sense of the Senate concerning the future of the people on Taiwan.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 204: Resolution to express the sense of the Senate concerning Raoul Wallenberg.

S. Res. 272: Resolution to offer condolences to France.

By Mr. STAFFORD, from the Committee on Environment and Public works, without amendment:

S. 518: A bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 80: Concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for the other purposes.

S. Con. Res. 85: Concurrent resolution expressing the sense of Congress on allowing Vladimir Feltsman freedom to travel.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

David A. Zegeer, of Kentucky, to be Assistant Secretary of Labor for Mine Safety and Health.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Saundra Brown Armstrong, of California, to be a Commissioner of the Consumer Product Safety Commission for a term of 7 years from October 27, 1983.

William Lee Hanley, Jr., of Connecticut, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1984;

Mari Maseng, of South Carolina, to be an Assistant Secretary to Transportation;

James L. Emery, of New York, to be Administrator of the St. Lawrence Seaway Development Corporation for a term of 7 years;

Neal B. Freeman, of Virginia, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1985.

James H. Burnley IV, of North Carolina, to be Deputy Secretary of Transportation.

Thomas F. Moakley, of Virginia, to be Federal Maritime Commissioner for the term expiring June 30, 1988.

James T. Hackett, of Virginia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 1, 1984.

Harry O'Connor, of California, to be a member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1986.

Kenneth S. George, of Texas, to Director General of the United States and Foreign Commercial Services.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral: Frederick P. Schubert and Richard A. Bauman.

Mr. PACKWOOD. Mr. President, as in executive session, I also report favorably from the Committee on Commerce, Science, and Transportation, a nomination list in the Coast Guard which appeared in the CONGRESSIONAL RECORD of October 18, 1983, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Milton Russell, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

John Arthur Moore, of North Carolina, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

Bernard D. Goldstein, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

Samuel W. Speck, Jr., of Ohio, to be an Associate Director of the Federal Emergency Management Agency.

Joseph A. Cannon, of Virginia, to be an Assistant Administrator of Environmental Protection Agency.

William Louis Mills, of Tennessee, to be a member of the Council on Environmental Quality.

Brig. Gen. Jerome Bernard Hilmes, 330-28-3943, U.S. Army, to be a member of the Mississippi River Commission under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Charles C. Cox, of Texas, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1988.

(The above nomination was reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that it be confirmed, subject to the nominee's commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WILSON:

S. 2100. A bill to authorize the Secretary of the Army to sell ammunition for use for avalanche-control purposes; to the Committee on Armed Services.

By Mr. BOREN:

S. 2101. A bill to provide enhanced penalties for assault and murder committed during extortion; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. EAGLETON):

S. 2102. A bill to charter the National Academy of Public Administration; to the Committee on the Judiciary.

By Mr. GARN (for himself and Mr. PROXMIRE) (by request):

S. 2103. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities amoung claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 2104. A bill for the relief of Henry W. Lerch of Maryland and Harold J. Nussbaum, Dolores Murray, and Edward C. Kennelly of the District of Columbia; to the Committee on the Judiciary.

By Mr. NICKLES:

S.J. Res. 200. Joint resolution proposing an amendment to the Constitution of the United States to establish a twelve year limitation on total terms of office for Members of Congress; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS:

S. Res. 281. Resolution to refer the bill (S. 2104) entitled "A bill for the relief of Henry W. Lerch of Maryland and Harold J. Nussbaum, Dolores Murray, and Edward C. Kennelly of the District of Columbia" to the Chief Judge of the United States Claims

Court for a report thereon; to the Committee on the Judiciary.

STATEMENT ON INTRODUCED BILLS AND RESOLUTIONS

By Mr. WILSON:

S. 2100. A bill to authorize the Secretary of the Army to sell ammunition for use for avalanche-control purposes; to the Committee on Armed Services.

SALE OF AMMUNITION FOR AVALANCHE CONTROL

Mr. WILSON. Mr. President, today I am introducing a bill that deals with an issue requiring swift resolution. This bill would authorize the Secretary of the Army to sell 75 millimeter and 105 millimeter ammunition to approved State entities for use in snow avalanche control problems. For those of my colleagues who represent areas that rarely experience snow—much less snow avalanches—let me describe the conditions that have precipitated the introduction of this legislation.

In the High Sierras of California, and elsewhere in the West, the potential for snow avalanches represent a constant threat to homes, recreation areas and—the subject of this bill—mountain highways. For years, the State transportation agencies in California [Caltrans], Colorado, Wyoming, Washington, and Alaska have been using Army ammunition in 75 millimeter and 105 millimeter recoilless rifles to shoot small snow avalanches before the snow has time to accumulate into a potentially large avalanche, capable of falling onto a mountain highway and closing it for weeks. The thriving resort community at Lake Tahoe, for example, is dependent of Caltrans to keep the highways free of snow and other debris to allow access from the major coastal cities.

The arrangement whereby Caltrans, and transportation agencies in other states, acquired requisite ammunition from the Department of the Army worked well until October of 1982. At that time, the Secretary of the Army found occasion to review the appropriate laws regarding the transfer of Army ammunition to non-Federal entities. Much to the distress of Caltrans, the Secretary determined that the Army did not have express authority from Congress to transfer ammunition to Caltrans or anywhere else. Without this ammunition, State transportation agencies would be unable to control for avalanches because this kind of ammunition is not available on the commercial market, nor are suitable avalance control guns marketed in the private sector. These agencies were faced with the prospect of soon depleting their existing stocks, leaving them with no means of protecting their mountain highways.

Last winter, a temporary solution to this dilemma was reached whereby the Army found that it had the authority to sell surplus 75 millimeter and 105 millimeter shells to State transportation agencies. Even though a large amount of paper shuffling is required to make this transfer of surplus ammunition, this solution would have resolved this situation, were it not for two serious problems.

First, the surplus ammunition that is available is of limited quantity. It is my understanding that only 2,700 rounds of 75 millimeter and 105 millimeter surplus shells are left. At the rate of current usage by State transportation agencies, this stock will be depleted within a matter of years.

Second, and more important, a serious safety hazard is associated with the use of this surplus ammunition. The detonators on these shells are 30 years old and were designed to explode the shells on hard impact. When used on soft snow banks, the shells have proven unreliable and explode with a 30-percent dud rate. These duds must be retrieved, and if not found in the snow, are left to be found in the spring runoff. Just last September 30, two boys hiking in the Lake Kirkwood area in central California found four unexploded shells and returned them to their campground. These shells could have been detonated by a sharp blow or by being dropped.

The bill I am introducing today would solve this problem. It is a very simple bill which authorizes the Secretary of the Army to sell, on a reimbursable basis, nonsurplus ammunition to State transportation agencies. The ammunition that would be made available would be of comparatively better quality that would solve the problem of the 30-percent dud rate associated with the surplus ammunition.

This bill has the formal endorsement of the Department of the Army, is enthusiastically supported by the transportation agency in California, and has no budgetary impact. In fact, I know of no opposition to this bill. It requires immediate attention and I sincerely hope that my colleagues will give it their favorable consideration.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the needs of the Army, the Secretary of the Army may sell ammunition for military weapons which are used for avalanche-control purposes to any State (or entity of a State) or to any other non-Federal entity that has been authorized by a State to use those weapons in that State for avalanche-control purposes. Sales of ammunition under this Act shall be on a reimbursable basis and shall be subject to the condition that the ammunition be used only for avalanche-control purposes.

By Mr. BOREN:

S. 2101. A bill to provide enhanced penalties for assault and murder committed during extortion; to the Committee on the Judiciary.

ENHANCED PENALTIES FOR MURDER AND ASSAULT COMMITTED DURING EXTORTION

● Mr. BOREN. Mr. President, recently, a tragic and unfortunate event took place in my State involving a heinous crime.

An employee at a small bank in Oklahoma was abducted from his home and held for a ransom. The young man's family did everything they could to comply with the abductor's demands. Unfortunately, something went awry, and the employee was murdered. Some evidence has suggested that the victim had already been murdered when the extortion attempt took place.

Oklahomans were shocked and saddened at this terrible crime. Soon afterwards, a suspect was arrested and charged with these crimes, both extortion and murder. The suspect is awaiting trail on these charges now.

Mr. President, at this point, the proceedings take on a burden that is both unnecessary and time consuming. Even though the two charges, murder and extortion, were part of the same crime and took place as one continuous action with no intervening breaks, one indictment, extortion, will be tried in the U.S. District Court in Oklahoma, and the other indictment, murder, must be tried in the Oklahoma State District Court.

This obvious duplication of efforts and evidence as well as subjecting the relatives and witnesses to the trauma and publicity of two trials is an unfortunate situation.

The legislation I am introducing today would provide a limited remedy for this duplication of efforts and would provide for a consolidated trial in the Federal court of the charges arising from an extortion or extortion attempt. Although it is too late to help in the case I have described above, this remedy of a consolidated proceeding in the Federal courts is a desirable solution to this problem.

Mr. President, it is not my intention to argue about this jurisdictional conflict between State and Federal law. My only intent is to allow a consolidation of the proceedings so that the charges arising from an extortion attempt can be tried in the Federal courts instead of splitting the proceedings and having to conduct two trials. These dual proceedings are unfortunate and should not be allowed to continue.

When, as in this case, there is an overriding public interest in providing Federal jurisdiction over the proceedings, there is ample precedent for conferring such jurisdiction in the Federal courts. Bank robbery, kidnaping,

and airline highjackings are but three examples.

Mr. President, safety for ourselves and our loved ones is a basic need for every human being. When a wrong is committed, every person touched by that wrong cries out for justice, determined as expeditiously as possible. This bill is designed to do just that. In the limited circumstance where murder or other physical harm occurs during an extortion or extortion attempt, there would be a consolidation of the charges under the jurisdiction of the Federal court. The overriding public interest demands that this consolidation in this limited sense be allowed.

I urge my colleagues to join me in support of this bill. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1951 of title 18, United States Code, is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end of subsection (a) the following new paragraph:

"(2) Whoever, in committing an offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years up to a term of life.".●

By Mr. ROTH (for himself and Mr. EAGLETON):

S. 2102. A bill to charter the National Academy of Public Administration; to the Committee on the Judiciary.

NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

● Mr. ROTH. Mr. President, today I am introducing legislation to charter the National Academy of Public Administration (NAPA).

NAPA was established in 1967 to provide information and counsel to elected officials, public administrators, and the general public on issues relating to public management and organization and the development of public policy.

NAPA is composed of approximately 300 distinguished practitioners and scholars in the field of public administration. The membership includes former Cabinet members, Governors, present and former Congressmen and White House officials, business executives, professional Government managers and scholars specializing in public affairs. The academy is a valuable resource for all individuals in either the public or private sector who are concerned with promoting excellence in Government. Specifically, NAPA has assisted my office on numerous occasions when issues have arisen relating to intergovernmental relations and Federal level organizational matters.

To grant a charter to the National Academy of Public Administration would be to recognize the important contribution that this organization continues to make to the efficient operation of our National Government. NAPA fulfills all requirements for a Federal charter, and the granting of this charter would have no impact on the Federal budget. NAPA routinely provides valuable assistance to the Congress and the executive branch and is most deserving of the distinction of carrying a Federal charter. I strongly urge all of you to join Senator EAGLETON and myself as cosponsors of this bill.●

By Mr. GARN (for himself and Mr. PROXMIRE) (by request):

S. 2103. A bill to strengthen and refine the provisions of the Federal Deposit Insurance Act to provide for more flexible assessment procedures, to improve methods for insuring deposits and for paying insured depositors, to establish priorities among claimants to the estates of failed banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE IMPROVEMENTS ACT OF 1983

● Mr. GARN. Mr. President, Senator PROXMIRE and I are introducing, by request of the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Improvements Act of 1983, a proposal to improve the operations of the FDIC.

The bill makes three major changes to the insurance fund:

First, the FDIC is authorized to pay insurance premium rebates on the basis of the risks that any insured bank presents to the insurance fund;

Second, the FDIC is established as the receiver for any closed insured bank; and

Third, a set of priorities for payment of all claims against a failed bank are established.

The proposal also provides the FDIC with enforcement authority over national and State member banks, as well as with new authority to facilitate the operations of banks formed and operated by the FDIC to wrap up the affairs of a closed bank.

This proposal represents much study and effort by the FDIC and will be given careful review and consideration by the Banking Committee next year. While the committee has before it legislation affecting the powers of financial organizations, it is a fundamental principle that whatever powers such institutions have or may acquire, the financial system must be sound. And the role of the FDIC as the insuror of deposits is the underlying strength of the system. Thus, in our consideration of financial institution legislation next year, the FDIC proposal to revise and upgrade the deposit insurance system will be of significant interest to the Banking Committee.

Mr. President, I request unanimous consent that the bill and section-by-section summary be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Deposit Insurance Improvements Act of 1983."

SEC. 2. Section 1 of the Federal Deposit Insurance Act is amended by striking out the word "hereby".

SEC. 3. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. § 1812) is amended by inserting after the third sentence the following:

"Each such appointive member may continue to serve after the expiration of said member's term until a successor has been appointed and qualified."

SEC. 4. Section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813) is amended to read as follows:

"(a)(1) the term 'bank' means any bank, banking association, trust company, savings bank, industrial bank, or other banking institution which is engaged in the business of receiving deposits other than trust funds.

"(a)(2) The term 'savings bank' means a bank which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business: *Provided,* That the term 'savings bank' shall include a Federal savings bank.

"(a)(3) The term 'industrial bank' means a corporation chartered by a State as an industrial bank, or a corporation which the Board of Directors finds to be operating substantially in the same manner as an industrial bank.

"(b)(1) The term 'State' means any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, and the term 'United States' (when used to specify geographic limits) includes every state of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"(b)(2) The term 'State bank' means any bank that is incorporated or organized under the laws of any State, and any bank (other than a national bank) which is operating under the Code of Law for the District of Columbia.

"(b)(3) The term 'District bank' means any State bank operating under the Code of Law for the District of Columbia.

"(b)(4) The term 'domestic branch' includes any office, agency, or additional place of business of a bank (other than the bank's primary office), which office, agency or additional place of business is located in

the United States, and at which office, agency, or additional place of business deposits are received or paid or money is lent.

"(c)(1) The term 'foreign bank' means any bank other than a national bank, a Federal savings bank, or a State bank.

"(c)(2) The term 'foreign branch' means any office or place of business of a bank, which office or additional place of business is located outside the United States, at which financial operations are conducted by the bank.

"(c)(3) The term 'Federal branch' means a branch of a foreign bank, which branch is established and operating pursuant to section 4 of the International Banking Act of 1978.

"(d)(1) The term 'State member bank' means any State bank which is a member of the Federal Reserve System, and the term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.

"(d)(2) The term 'national member bank' means any national bank which is a member of the Federal Reserve System, and the term 'national nonmember bank' means any national bank which is not a member of the Federal Reserve System.

"(e)(1) The term 'insured bank' means any bank (including a foreign bank having an insured branch) the deposits of which are insured in accordance with the provisions of this Act.

"(e)(2) The term 'insured branch' means a branch of a foreign bank any deposits in which branch are insured in accordance with the provisions of this Act.

"(e)(3) term 'insured Federal savings bank' means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners Loan Act of 1933 and insured by the Corporation.

"(f) The term 'new bank' means a new national banking association organized by the Corporation to assume the insured deposits (together with such assets and other liabilities as the Corporation may select) of an insured bank closed on account of inability to meet the demands of its depositors, and otherwise to perform temporarily the functions prescribed in this Act.

"(g) The term 'deposit' means—

(g)(1) the unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the bank, or a letter or credit or a traveler's check on which the bank is primarily liable: *Provided,* That, without limiting the generality of the term 'money or its equivalent', any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is immediately, upon delivery, primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to such bank for collection.

(g)(2) trust funds received or held by such bank, whether held in the trust department or held or deposited in any other department of such bank,

(g)(3) money received or held by a bank, or the credit given for money or its equivalent received or held by a bank, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including without being limited to, escrow funds, funds held as security for an obligation due to the bank or others (including funds held as dealers reserves) or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit and withheld taxes: *Provided,* that there shall not be included funds which are received by the bank for immediate application to the reduction of an indebtedness to the receiving bank, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness,

(g)(4) outstanding draft (including advice or authorization to charge bank's balance in another bank), cashier's check, money order, or other officer's check issued in the usual course of business for any purpose, including without being limited to those issued in payment for services, dividends, or purchases, and

(g)(5) such other obligations of a bank as the Board of Directors, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, shall find and prescribe by regulation to be deposit liabilities by general usage, except that the following shall not be a deposit for any of the purposes of this Act or be included as part of total deposits or of an insured deposit:

(g)(5)(A) any obligation of a bank which is payable only at an office of such bank located outside the United States; and

(g)(5)(B) any international banking facility deposit, including an international banking facility time deposit, as such term is from time to time defined by the Board of Governors of the Federal Reserve System in regulation D or any successor regulation issued by the Board of Governors of the Federal Reserve System.

"(h) The term 'trust funds' means funds held by an insured bank in a fiduciary capacity and includes, without being limited to, funds held as trustee, executor, administrator, guardian, or agent.

"(i)(1) Subject to the provisions of paragraph (2) of this subsection, the term 'insured deposit' means the net amount due to any depositor (other than a depositor referred to in the third sentence of this subsection) for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of $100,000. Such net amount shall be determined according to such regulations as the Board of Directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others except trust funds which shall be insured as provided in subsection (i) of section 7. Each officer, employee, or agent of the United States, of any States, of any county, of any municipality, or of any political subdivision thereof, herein called 'public unit', having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (i) of section 7, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections, in subsection (h) of section 3, and in subsections (a) and (i) of section 11 and the extent of the insurance coverage resulting therefrom.

"(i)(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

(i)(2)(A) is payable in the United States to—

(i)(2)(A)(i) an individual who is a citizen or resident of the United States,

(i)(2)(A)(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States, or

(i)(2)(A)(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act; and

(i)(2)(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.

"(j) The term 'transferred deposit' means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

"(k) The term 'receiver' includes a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank or of a branch of a foreign bank.

"(l) The term 'Board of Directors' means the Board of Directors of the Corporation.

"(m) The term 'appropriate Federal banking agency' shall mean—

(m)(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank;

(m)(2) the Board of Governors of the Federal Reserve System—

(m)(2)(A) in the case of a State member insured bank (except a District bank),

(m)(2)(B) in the case of any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978.

(m)(2)(C) in the case of any foreign bank which does not operate an insured branch.

(m)(2)(D) in the case of any agency or commercial lending company other than a Federal agency, and

(m)(2)(E) in the case of supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act,

(m)(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured Bank (except a District bank) or a foreign bank having an insured branch; and

(m)(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank or any commercial lending company owned or controlled by a foreign bank."

SEC. 5. Section 4 of the Federal Deposit Insurance Act (12 U.S.C. § 1814) is amended—

(1) By omitting "as herein defined" wherever it appears in the first sentence of subsection (b) thereof.

(2) By amending subsection (c) thereof to read as follow:

"Every Federal savings bank which is engaged in the business of receiving deposits other than trust funds shall be an insured bank from the time it is authorized to commence business until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation."

SEC. 6. Section 5 of the Federal Deposit Insurance Act (12 U.S.C. § 1815) is amended by omitting "as herein defined" in the first sentence of subsection (a) thereof.

SEC. 7. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. § 1817) is amended—

(1) By striking out "any State of" immediately after "located in", and by striking out "the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands," immediately after "the United States,", in the first sentence of paragraph (4) of subsection (a) thereof.

(2) By striking out "the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands," from paragraph (5) of subsection (b) thereof.

(3) By amending paragraph (6) of subsection (b) thereof to read as follows:

"(b)(6)(A) The assessment base deductions shall be the amounts of cash items in the bank's possession, drawn on itself, which have not been charged against deposit liabilities at the close of business on the date as of which the report of condition is made, either in their actual amount as shown on the books of the bank, or, if not so shown, in an amount determined by means of an experience factor pursuant to regulations prescribed by the Board of Directors.

"(b)(6)(B) Each insured bank as a condition to the right to make any such deduction in determining its assessment base, shall maintain such records as will readily permit verification of the correctness of its assessment base. No insured bank shall be required to retain such records for such purpose for a period in excess of five years from the date of the filing of any certified statement, except that when there is a dispute between the insured bank and the Corporation over the amount of any assessment the bank shall retain such records until final determination of the issue."

(4) By replacing "deposits; and" with "deposits." in subparagraph (B) of paragraph (7) of subsection (b) thereof, and by striking out subparagraph (C) of paragraph (7) of subsection (b) thereof.

(5) By amending the first sentence of paragraph (1) of subsection (d) thereof to read as follows:

"As of December 31, 1983, and as of December 31 of each calendar year thereafter, the Corporation shall transfer 40 per centum of its net assessment income to its capital account and the balance of the net assessment income shall be credited, in such proportions and according to such procedures as the Corporation may by regulation prescribe, to the insured banks based upon the assessments of each bank becoming due during said calendar year: Provided, That the Corporation may set the assessment credit for any such insured bank on the basis of the risks that the bank may present to the Permanent Insurance Fund."

(6) By replacing the colon in the final sentence of subsection (g) thereof with a period, and by striking out the remainder of the subsection.

(7) By replacing "monoplize" with "monopolize" in subparagraph (A) of paragraph (7) of subsection (j) thereof.

Sec. 8. Section 8 of the Federal Deposit Insurance Act (12 U.S.C. § 1818) is amended—

(1) By replacing "injuction" with "injunction" in paragraph (2) of subsection (c) thereof.

(2) By replacing "office" with "officer" in paragraph (1) of subsection (e) thereof.

(3) By replacing "section, and (2)" with "section; (2)" in subsection (k) thereof.

(4) By inserting "; and (3) the term 'appropriate Federal banking agency' shall not only have the meaning provided in subsection (m) of section (3) of this Act, but shall also include the Corporation in the case of any insured bank or any insured branch of a foreign bank" immediately before the final period of subsection (k) thereof.

(5) By capitalizing the word "board" and the word "directors" wherever they appear in the second sentence of subsection (o) thereof.

(6) By replacing "therof" with "thereof" in paragraph (2) of subsection (r) thereof.

SEC. 9. Section 10 of the Federal Deposit Insurance Act (12 U.S.C. § 1820) is amended as follows:

(1) By redesignating subsection (b) thereof as paragraph (1) of subsection (b) thereof, and by adding a new paragraph (2) of subsection (b) thereof as follows:

"The Board of Directors of the Corporation shall have authority and discretion to set reasonable fees for examining insured banks and affiliates thereof, which fees shall be reasonably related to the costs incurred by the Corporation in conducting such examinations: Provided, that the Corporation shall have authority and discretion to refrain from charging fees for regular examinations of State nonmember banks."

(2) By replacing the phrase "appropriate Federal banking agency" in subsection (c) thereof with the phrase "Federal banking agency conducting the examination".

(3) By adding ", and that the term 'affiliate' shall include any subsidiary of an insured bank" immediately before the final period of subsection (d) thereof.

SEC. 10. Section 11 of the Federal Deposit Insurance Act (12 U.S.C. § 1821) is amended as follows:

(1) By amending paragraph (1) of subsection (a) thereof to read as follows:

"The assets of the Permanent Insurance Fund shall be held by the Corporation for the uses and purposes of the Corporation. On and after August 23, 1935, the Corporation shall insure the deposits of all insured banks as provided in this Act. Except as provided in paragraph (2) of subsection (a) of this section, the maximum amount of the insured deposit of any depositor shall be $100,000."

(2) By adding "(but not an officer, employee, or agent of the District of Columbia, of any Territory of the United States, of Puerto Rico, of Guam, of American Samoa, of the Trust Territory of the Pacific Islands, or of the Virgin Islands)" after "United States" in clause (ii) of subparagraph (2)(A) of subsection (a) thereof.

(3) By replacing "his deposit shall be insured in an amount not to exceed $100,000 per account" in subparagraph (A) of paragraph (2) of subsection (a) thereof with "such deposits shall be insured in an amount not to exceed $100,000 separately for each capacity in which such officer, employee, or agent acts as custodian for such public funds."

(4) By redesignating the first subsection (b) thereof as subparagraph (B) of paragraph (2) of subsection (a) thereof.

(5) By amending paragraph (3) of subsection (a) thereof to read as follows:

"Notwithstanding any limitation in this Act or in any other provisions of law relating to the amount of deposit insurance available for the account of any one depositor, deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Code of 1954, as amended, shall be insured in the amount of $100,000. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, only the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by or as a result of the plan, shall be insured."

(6) By amending the first sentence of subsection (e) thereof to read as follows:

"Notwithstanding any other provision of law, State or Federal, or the constitution of any State, whenever any insured State bank (except a District bank) or any insured branch (other than a Federal branch) of a foreign bank shall have been closed by action of its board of directors or by the authority having supervison of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall serve and act as receiver thereof."

(7) By redesignating subsection (f) thereof as paragraph (1) of subsection (f) thereof, and by adding a new paragraph (2) to subsection (f) thereof as follows:

"Notwithstanding any other provision of law, State or Federal, or the constitution of any State, whenever an insured bank or insured branch of a foreign bank shall have been closed on account of inability to meet the demands of its depositors, the Corporation as receiver shall make provision for the following order of payment on all unsecured claims against the estate of such association or institution proved to the receiver's satisfaction or adjudicated in a court of competent jurisdiction:

Preference No. 1. Claims for administrative expenses of the receivership.

Preference No. 2. All claims for deposit and all other claims, whether liquidated or unliquidated, which have accrued and become unconditionally fixed on or before the date the bank is closed, except as provided in succeeding paragraphs of this section.

Preference No. 3. All claims other than those which have accrued and become unconditionally fixed on or before the date the bank is closed. Any claim based on an agree-

ment for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank shall be considered as not having accrued and become unconditionally fixed on or before the date the bank has closed.

Preference No. 4. Claims for subordinated debt.

Preference No. 5. Claims by shareholders based on stock ownership.

The Corporation as receiver shall distribute the assets of the failed bank's estate to the claimants within each payment category on a pro rata basis."

(8) By amending subsection (g) theeof to read as follows:

"In the case of any closed insured bank or of any closed insured branch of a foreign bank, the Corporation, upon the payment to any depositor as provided in subsection (f) of this section, shall be subrogated to all rights of the depositor against the closed bank or closed insured branch of a foreign bank to the extent of such payment. Such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank or closed insured branch of a foreign bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: Provided, That, with respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated: *Provided further,* That the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law."

(9) By adding "(together with such assets and other liabilities as the Corporation may select)" after "insured deposits" in subsection (h) thereof.

(10) By amending subsection (i) thereof to read as follows:

"The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. The new bank shall have such powers of a national bank as the Corporation may designate: Provided, That so long as an executive officer appointed by the Corporation's Board of Directors has authority to manage the new bank, the new bank shall not be subject to any limitations imposed by law that restrict the activities of a national bank by measuring the amount of investment that the bank may devote to such activities by the amount of the bank's capitalization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority."

(11) By inserting "at least" immediately before "equal" in the first sentence of subsection (j) thereof.

(12) By amending the second sentence of subsection (k) thereof to read as follows:

"If the new bank has assumed the insured deposits of a closed bank with total assets of $500,000,000 or more (as determined from the closed bank's most recent report of condition), the new bank is eligible to be acquired by or to merge with an insured depository institution located in the State where the closed bank was chartered but established by an out-of State bank or holding company, in accordance with the procedure established by subsection (f) of section 13 of this Act."

(13) By inserting a new sentence after the first sentence of subsection (l) thereof, reading as follows:

"If the new bank has assumed the insured deposits of a closed bank with total assets of $500,000,000 or more (as determined from the closed bank's most recent report of condition), the business of the new bank may be transferred to an insured depository institution located in the State where the closed bank was chartered but established by an out-of State bank or holding company, in accordance with the procedures established by subsection (f) of section 13 of this Act."

(14) By replacing the phrase "two years" in subsection (l) thereof with "five years".

SEC. 11. Subsection (a) of Section 12 of the Federal Deposit Insurance Act (12 U.S.C. § 1822) is amended to read as follows:

"Notwithstanding any other provision of law, State and Federal, or the constitution of any State, the Corporation as receiver of a closed insured bank or closed insured branch of a foreign bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such received, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver."

SEC. 12. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. § 1823) is amended—

(1) By replacing the first colon in subsection (a) thereof with a period, and deleting the remainder of the subsection.

(2) By replacing the first colon in first sentence of subsection (b) thereof with a period, and deleting the remainder of the first sentence.

(3) By replacing "Receivers or liquidators of insured banks closed on account of inability to meet the demands of their depositors" in the first sentence of subsection (d) thereof with "The Corporation, in its capacity as reciever,".

(4) By striking out the third sentence of subsection (d) thereof.

(5) By striking out "in any case in which the Corporation is acting as receiver of a closed insured bank," in the final sentence of subsection (d) thereof.

(6) By redesignating subparagraphs (i), (ii) and (iii) of paragraph (4) of subsection (f) thereof as subparagraphs (A), (B), and (C) respectively.

(7) By replacing "existing in-State bank" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "existing in-State depository institution."

(8) By replacing "mutual savings bank" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "savings bank organized in mutual form."

(9) By replacing "in-State bank holding company" in subparagraph (A) of paragraph (6) of subsection (f) thereof with "in-State holding company."

(10) By striking out subparagraph (A) of paragraph (8) of subsection (f) thereof, by redesignating subparagraphs (B) and (C) of the said paragraph (8) as subparagraphs (A) and (B) thereof respectively.

(11) By striking out the provisions of subsection (g) thereof.

SEC. 13. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. § 1828) is amended—

(1) By amending paragraph (4) of subsection (c) thereof to read as follows:

"In the interests of uniform standards, before acting on any application for approval of a merger transaction, the responsible agency, unless it finds that it must act immediately in order to prevent the probable failure of one of the banks involved, shall request a report on the competitive factors involved from the Attorney General. The report shall be furnished within thirty calendar days of the date on which it is requested, or within ten calendar days of such date if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action."

(2) By amending paragraph (6) of subsection (c) thereof to read as follows:

"The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the agency has found that it must act immediately to prevent the probable failure of one of the banks involved and the report on the competitive factors has been dispensed with, the transaction may be consummated immediately upon approval by an agency. If the agency has advised the Attorney General of the existence of an emergency requiring expeditious actions and has requested a report on the competitive factors within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency. In all other cases, the transaction may not be consummated before the thirtieth calendar day after the date of approval by the agency."

(3) By striking out the provisions of paragraph (10) of subsection (c) thereof.

(4) By amending paragraph (1) of subsection (d) thereof to read as follows:

"Whenever a State nonmember insured bank (except a District bank) shall establish and operate any new domestic branch, and whenever a State nonmember insured bank (except a District bank) shall move a domestic branch, the bank shall file a notice thereof with the Corporation within ten days of the date on which the bank establishes and begins to operate the branch at the new location. The notice shall be in such form as the Corporation may prescribe."

(5) By striking out "insured mutual savings banks" and inserting in lieu thereof "insured savings banks organized in mutual form" in the second sentence of paragraph (1) of subsection (g) thereof.

(6) By striking out the ninth sentence and the eleventh sentence of paragraph (1) of subsection (g) thereof.

(7) By replacing placing a comma after "if such bank were a member bank" in paragraph (1) of subsection (j) thereof, and by adding *", and any subsidiary of such nonmember insured bank shall be deemed to be an affiliate of the bank"* immediately before the period at the end of the first sentence thereof.

(8) By replacing "foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7))," in the last sentence of paragraph (2) of subsection (j) thereof with "foreign bank".

(9) By striking out subparagraph (F) of paragraph (3) of subsection (j) thereof, and by redesignating subparagraph (G) of the said paragraph (3) as subparagraph (F) thereof.

(10) By adding a new paragraph (5) at the end of subsection (j) as follows:

"(j)(5)(A) The Corporation, upon consultation with the Board of Governors of the Federal Reserve System, may issue regulations and orders, including definitions consistent with this subsection, as may be necessary to administer and carry out the purposes of this subsection and to prevent evasions thereof.

"(j)(5)(B) The Corporation may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of paragraph (1) if it finds such exemptions to be in the public interest and consistent with the purposes of that paragraph."

Sec. 14. Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by striking the first sentence thereof and inserting in its place the following:

"Whenever a person who has been convicted or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust is employed on the date of conviction by an insured bank as an officer, director, or employee (or is performing the duties of an officer, director, or employee for an insured bank on the date of conviction), the bank shall notify the Corporation of that fact within ten business days of the date of conviction. Whenever a person who has been convicted or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as an officer, director, or employee of an insured bank, the bank shall notify the Corporation of that fact within ten business days (1) of the date on which that person enters into a formal commitment with the bank to undertake the duties of officer, director, or employee, or (2) of the date on which that person first begins performing the duties of an officer, director, or employee, whichever date is earlier. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust shall serve as a chairman of the board of directors of an insured bank, or as president of an insured bank, or as chief executive officer an insured bank."

Sec. 15. Section 22 of the Federal Deposit Insurance Act (12 U.S.C. § 1830) is repealed.

Sec. 16. Section 25 of the Federal Deposit Insurance Act (12 U.S.C. § 1831b) is amended—

(1) By striking out "mutual savings" in section (a) thereof and replacing it with "savings bank organized in mutual form which is not an insured bank,".

(2) By striking out "mutual savings and" the first time it appears in section (b) thereof and replacing it with "savings bank organized in mutual form which is not insured banks and".

(3) By striking out "mutual savings and" the second time it appears in section (b) thereof and replacing it with "savings banks organized in mutual form and such".

(4) By striking out "mutual savings and" the third time it appears in section (b) thereof and replacing it with "savings banks organized in mutual form and such".

Sec. 17. Section 26 of the Federal Deposit Insurance Act (12 U.S.C. § 1831c) is amended by striking out "mutual savings bank" in section (a) thereof and replacing it with "savings bank organized in mutual form".

Sec. 18. Section 27 of the Federal Deposit Insurance Act (12 U.S.C. § 1831d) is amended by striking out "and insured mutual savings banks" in section (a) thereof.

Section-by-Section Analysis

SECTION 1

Section 1 of the bill provides that the bill may be called the "Federal Deposit Insurance Improvements Act of 1983".

SECTION 2

Section 2 of the Improvements Act amends Section 1 of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. § 1811, by striking out the word "hereby." The change simplifies the language of the FDI Act without altering its substance.

SECTION 3

Section 3 of the Improvements Act enables any appointive director of the FDIC to serve in office after the expiration of his term unitl his successor has been appointed and qualified. See 12 U.S.C. § 1812.

SECTION 4

Section 4 of the Improvements Act redrafts and reorganizes the definitions used in the FDI Act. See 12 U.S.C. § 1813. For the most part, the new set of definitions is the same as the old one.

The definition of "foreign bank" has been narrowed somewhat. The FDI Act currently incorporates the definition provided in the International Banking Act, see 12 U.S.C. § 3101(b)(7): "(7) 'foreign bank' means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act the term 'foreign bank' includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating." 12 U.S.C. § 3101.

This definition is too broad, and too imprecise, for the FDI Act's purposes.

The Improvements Act defined "foreign bank" as "any bank other than a national bank, a Federal savings bank, or a State bank." See 12 U.S.C. § 1813(c). This definition prevents any overlap between foreign banks and domestic ones; it excludes nonbanking companies (e.g., affiliates and subsidiaries that do not engage in banking); and it excludes foreign companies that engage in activities not considered to be "banking" by the standards of the FDI Act.

The Improvements Act amends Section 3 of the FDI Act in other minor ways. The changes simplify the section's language without altering its substance.

SECTION 5

Section 5 of the Improvements Act alters the language of Section 4 of the FDI Act, 12 U.S.C. § 1814, without affecting the substance of the law. The Improvements Act omits the superfluous phrase "as herein defined" wherever it appears. The Improvements Act also omits a reference to the authority under which Federal savings banks are chartered. The definition of "Federal savings bank" already contains the reference.

SECTION 6

Section 6 of the Improvements Act alters the language of Section 5 of the FDI Act, 12 U.S.C. § 1815, without affecting the substance of the law. The Improvements Act omits the superfluous phrase "as herein defined" wherever it appears.

SECTION 7

Section 7 of the Improvements Act alters the way assessments are calculated by excluding the adjustments for "float." See 12 U.S.C. § 1817(b)(6).

The Improvements Act gives the FDIC flexibility in setting the assessment credits to be returned to insured banks. The FDIC must continue to rebate 60% of its net assessment income to the banks. But the FDIC may rebate the overall amount "in such proportions and according to such procedures as the Corporation may by regulation prescribe." Specifically, the FDIC "may set the assessment credit for any such insured bank on the basis of the risks that the bank may present to the Permanent Insurance Fund." See 12 U.S.C. § 1817(d).

The Improvements Act amends Section 7 of the FDI Act in other minor ways. The changes simplify the section's language without altering its substance.

SECTION 8

Section 8 of the Improvements Act provides that, for the purposes of Section 8 of the FDI Act, the term "appropriate Federal banking agency" not only has its usual meaning, but also includes the FDIC in the case of any insured bank and of any insured branch of a foreign bank. The effect of the change is to give the FDIC enforcement powers over national and state-member banks. See 12 U.S.C. § 1818(k).

The Improvements Act also simplifies the language of Section 8 of the FDI Act without altering the substance of the law.

SECTION 9

Section 9 of the Improvements Act enables the FDIC to charge fees for examinations of banks. See 12 U.S.C. § 1820(b).

The Improvements Act broadens the definition of "affiliate" to include subsidiaries of insured banks. The effect of the change is to give the FDIC explicit authority to examine bank subsidiaries in connection with bank examinations. See 12 U.S.C. § 1820(d).

The Improvements Act also amends Section 10 of the FDI Act in other minor ways. The changes simplify the language of the law without altering its substance.

SECTION 10

Section 10 of the Improvements Act provides that, as a matter of pre-emptive federal law, the FDIC is to serve as receiver for all insured banks. See 12 U.S.C. § 1821(e).

The Improvements Act establishes, as a matter of pre-emptive federal law, the following set of priorities for payment of claims against the estate of a failed bank:

Preference No. 1: Claims for administrative expenses of the receivership.

Preference No. 2: All claims for deposit and all other claims, whether liquidated or unliquidated, which have accured and become unconditionally fixed on or before the date the bank is closed, except as provided in succeeding paragraphs of this section.

Prefernece No. 3: All claims other than those which have accrued and become unconditionally fixed on or before the date the bank is closed. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank shall be considered as not having accrued and become unconditionally fixed on or before the date the bank has closed.

Preference No. 4: Claims for subordinated debt.

Preference No. 5: Claims by shareholders based on stock ownership. See 12 U.S.C. § 1821(f).

The Improvements Act makes it clear that the FDIC does not provide separate insurance for every account held by a public official. The Improvements Act provides that the FDIC shall separately insure the deposits that an official holds in a given capacity (no matter how many accounts the official may have in that capacity). See 12 U.S.C. § 1821(a)(2)(A).

Similarly, the Improvements Act provides that deposits held pursuant to an IRA or Keogh Plan are not separately insured "per account." The Improvements Act speaks instead of the interests of the beneficiaries that are eligible for insurance. See 12 U.S.C. § 1821(a)(3).

The Improvements Act also relaxes the restrictions that now hamper the usefulness of Deposit Insurance National Banks (DINBs), and confers on them the powers normally enjoyed by national banks. In particular, the Improvements Act eliminates the rule that DINBs may only accept new deposits when the deposits are demand deposits, and even then only in an amount up to the $100,000 per depositor. The Improvements Act also eliminates the rule that DINBs may only invest in government obligations or in government-guaranteed obligations. In recognition of the fact that DINBs do not always have capital, however, the Improvements Act frees DINBs from investment restrictions based on bank capital. See 12 U.S.C. § 1821(i).

The Improvements Act provides that, when a DINB has been formed to take over the business of a failed bank, and the failed bank's assets and liabilities could have been assumed by a bank owned by an out-of-state holding company under Section 13(f) of the FDI Act, 12 U.S.C. § 1823(f), the DINB's assets and liabilities may likewise be assumed by a bank owned by an our-of-state holding company (or, alternatively, the DINB may be merged into such a bank). See 12 U.S.C. § 1821(k) & (l).

The Improvements Act omits the provision requiring the FDIC to offer the stock of a DINB first to the owners of the failed bank whose deposits the DINB had assumed. See 12 U.S.C. § 1821(k).

The Improvements Act gives the FDIC five years (rather than two) to dispose of DINB stock.

The Improvements Act also simplifies the language of Section 11 of the FDI Act in minor ways; the changes do not affect the substance of the law.

SECTION 11

Section 11 of the Improvements Act standardizes the FDIC's powers as receiver regarding the use of agents and the posting of bond. See 12 U.S.C. § 1822.

SECTION 12

Secton 12 of the Improvements Act gives the FDIC more flexibility in investing funds and using bank accounts. See 12 U.S.C. § 1823(a) & (b).

The Improvements Act also simplifies the language of Section 13 of the FDI Act without altering the substance of the law.

SECTION 13

Section 13 of the Improvements Act omits the rule that banking agencies must seek advisory opinions from their sister agencies when evaluating bank mergers. Hereafter they need only seek the Attorney General's opinion. See 12 U.S.C. § 1828(c).

The Improvements Act eliminates the rule that the FDIC must approve domestic bank branches in advance. Hereafter a bank need only notify the FDIC within ten days of the date on which the bank establishes and begins to operate a domestic branch at a new location. The rules on foreign branches remain unchanged. See 12 U.S.C. § 1828(d).

The Improvements Act gives the FDIC broader powers to police insider loans by extending the definition of "affiliate" to include subsidiaries of insured banks. See 12 U.S.C. § 1828(j).

The Improvements Act also amends Section 18 of the FDI Act in minor ways. The changes simplify the section's language without altering its substance.

SECTION 14

Section 14 of the Improvements Act relaxes the rule that the FDIC give prior approval when an insured bank wants to employ a person convicted of a criminal offense involving dishonesty or breach of trust. Prior approval is still required when the ex-convict is to serve as the bank's chairman of the board, president, or chief executive officer. But in other cases, prior approval is not required, and the insured bank need only notify the FDIC within ten business days of the time the ex-convict agrees to be employed by the bank or begins acting in that capacity. *See* 12 U.S.C. § 1829.

SECTION 15

Section 15 of the Improvements Act repeals Section 22 of the FDI Act, 12 U.S.C. § 1830, which declares that the FDI Act is not intended to discriminate against state nonmember banks. The provision has proven to have little meaning.

SECTIONS 16, 17 AND 18

Sections 16, 17 and 18 of the Improvements Act amend Sections 25, 26, and 27 of the FDI Act, 12 U.S.C. §§ 1831b, 1831c, & 1831d, respectively. The changes simplify the language of the FDI Act without altering its substance.●

By Mr. NICKLES:

S.J. Res. 200. Joint resolution proposing an amendment to the Constitution of the United States to establish a 12-year limitation on total terms of office for Members of Congress; to the Committee on the Judiciary.

LIMITATION ON TERMS OF MEMBERS OF CONGRESS

● Mr. NICKLES. Mr. President, today I am introducing the first of two congressional reform measures I believe would be of significant benefit to the American people. Today's proposal is a joint resolution to limit to 12 the number of years anyone could serve in Congress. The second initiative, which I plan to introduce upon our return in January, would reform the congressional retirement system.

Mr. President, it is time for Congress to heed the call of the people and return Congress to the institution it was intended to be by our Founding Fathers. This reform was started more than three decades ago when Presidential terms were limited and should not end until the legislative and judicial branches have been attended.

"Power corrupts, even when it is in the hands of angels," bellowed Wisconsin Republican Senator Alexander Wiley as he fought to limit the number of terms a U.S. President could serve. This Senate floor debate was sparked in the wake of 13 years of national stewardship by Franklin D. Roosevelt, the only President elected to four terms. It was for fear of an imperial presidency the country adopted in 1951 a constitutional amendment to limit Presidential terms to two.

This widespread concern over unchecked power has intensified debate on whether to limit the terms of other national offices. During the last decade more attempts have been made then ever before to restrict congressional and judicial tenure. The wisdom Congress and the people once demonstrated in curbing Executive power should again be heeded, in my opinion, by limiting the number of years of service for Congressmen, Senators, and Federal judges.

Each branch of Government has greatly exceeded its original scope of authority. The courts and unelected bureaucrats are now continually legislating, and 535 Members of Congress are acting as Commander in Chief.

Consider congressional service. The longer Congressmen and Senators remain in office, the more their bases of power expand. The benefits of position, that is, pet projects, special tax treatment, and patronage, to name a few, may endear incumbents to their home State constituencies, but cost the Nation more than it can bear.

Part of the intolerable cost is the growth in the size of the legislative branch—much of which can be traced to Members' pursuit of power. Many perquisites of office were designed to increase the chances of reelection and add to the influence of individual Members. Nearly 40,000 people are on the legislative payroll today, all of them at the beck and call of the elected officeholders. Combining personal and committee staffs, some senior Members alone employ several hundred people. This largess does not come cheap; this year legislative expenses will amount to $1.5 billion. Not included in this cost is the multimillion-dollar retirement system created by Congress to care for its former Members.

A majority of the people have been aware of this legislative expansion for some time and want something done about it. A 1977 and 1981 Gallup poll found about 60 percent of the citizenry supportive of a 12-year limit for their congressional representatives.

Look where we are today. Congress has lost the trust of the American people, most of whom believe Congress looks out for itself before the rest of the Nation. Yes, Congress has always been the public whipping boy when there was blame to name, but it was not until the job of Senator and Congressman became a full-time, lifelong occupation that voters began harboring contempt against Congress—the institution.

Congressional office has not always been a perennial achievement. For its first 100 years, Congress was a part-time vocation for lawmakers who spent at least half the year living among their constituents by the laws they made.

The prevailing attitude between the men who wrote the Constitution was the need for a citizen's legislature. In fact, during the Continental Congress the issue was not limiting terms, it was by how much. Term limitation was not addressed in the present Constitution because lifelong congressional tenure was not envisioned by our founders.

To be sure, Congress has benefited from many statesmen who gave their lives to its service; however, a limitation on terms would also oust the bad with equal fairness. No harm has come from refusing Washington or Eisenhower a third term, and there are some Presidents we are thankful served no longer than they did. To those who would bemoan the loss of expertise and sense of historical perspective, I can only reply from this vantage that Congress is not working well now, despite the number of seasoned Members. Besides, no politician should think himself irreplaceable.

Said Thomas Jefferson, "The danger is that the indulgence and attachments of the people will keep a man in the chair after he becomes a dotard, that reelection through life shall become habitual, and election for life follow that." Never did he imagine his admonition would become a way of life for Congress.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 200

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress.

ARTICLE —

SECTION 1. No Member of Congress shall serve any number or combination of terms which would exceed a maximum of twelve years service in the Congress.

SEC. 2. Section 1 of this article shall take effect on the date of ratification of this article, however for purposes of the calculation of the twelve years in Section 1, such calculation shall begin with the election of the first Congress that occurs after such date of ratification.●

ADDITIONAL COSPONSORS

S. 476

At the request of Mr. LEVIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 476, a bill to amend Title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 553

At the request of Mr. HART, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 553, a bill to authorize a national program of improving the quality of education.

S. 764

At the request of Mr. WARNER, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. WALLOP), and the Senator from Missouri (Mr. DANFORTH) were added as cosponsors of S. 764, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

S. 1201

At the request of Mr. MATHIAS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1201, a bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes.

S. 1388

At the request of Mr. SIMPSON, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of S. 1388, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans.

S. 1911

At the request of Mr. PRYOR, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1911, a bill to insure the independence of certain administrative law judges.

S. 1925

At the request of Mr. BYRD, the names of the Senator from Kentucky (Mr. FORD), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 1925, a bill to establish a national coal science, technology, and engineering development program.

S. 1962

At the request of Mr. RIEGLE, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1962, a bill to amend Part B of Title XVIII of the Social Security Act with respect to information on physician assignment practices under the medicare program.

S. 2014

At the request of Mr. SPECTER, the the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

S. 2083

At the request of Mr. ARMSTRONG, the names of the Senator from Nevada (Mr. HECHT), the Senator from Nevada (Mr. LAXALT), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 2083, a bill to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes members of the Armed Forces of the United States who die as a result of hostile action.

SENATE JOINT RESOLUTION 59

At the request of Mr. HEFLIN, the names of the Senator from Washington (Mr. GORTON), the Senator from North Dakota (Mr. ANDREWS), the Senator from Kentucky (Mr. FORD), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. DIXON), the Senator from Pennsylvania (Mr. HEINZ), the Senator from California (Mr. WILSON), the Senator from Maryland (Mr. MATHIAS), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Montana (Mr. BAUCUS), the Senator from Vermont (Mr. LEAHY), the Senator from Arizona (Mr. DECONCINI), the Senator from Iowa (Mr. GRASSLEY), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of Senate Joint Resolution 59, a joint resolution to authorize and request the President to designate February 27, 1986, as "Hugo LaFayette Black Day."

SENATE JOINT RESOLUTION 80

At the request of Mr. HEINZ, the names of the Senator from Delaware (Mr. ROTH), the Senator from Iowa

(Mr. JEPSEN), the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. STENNIS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from California (Mr. WILSON), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of Senate Joint Resolution 80, a joint resolution to grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn.

SENATE JOINT RESOLUTION 129

At the request of Mr. PRESSLER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 129, a joint resolution calling upon the President to seek a mutual and verifiable ban on weapons in space and on weapons designed to attack objects in space.

SENATE JOINT RESOLUTION 176

At the request of Mr. BOSCHWITZ, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Oklahoma (Mr. BOREN), the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. EAST), the Senator from Nebraska (Mr. EXON), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Oklahoma (Mr. NICKLES), the Senator from Vermont (Mr. STAFFORD), the Senator from Connecticut (Mr. WEICKER), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate the week of October 16, 1983, through October 22, 1983, as "National Fetal Alcohol Syndrome Awareness Week."

SENATE JOINT RESOLUTION 179

At the request of Mr. HELMS, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Joint Resolution 179, a joint resolution to provide for a White House Chapel.

SENATE JOINT RESOLUTION 182

At the request of Mr. SASSER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Joint Resolution 182, a joint resolution designating the week beginning February 12, 1984, as a time to recognize those volunteers who give of their time to become Big Brothers and Big Sisters to single parent youth.

SENATE JOINT RESOLUTION 184

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 184, a joint resolution to designate the week of March 4, 1984, through March 10, 1984, as "National Beta Club Week."

SENATE JOINT RESOLUTION 197

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Senate Joint Resolution 197, a joint resolution to designate the week beginning November 20, 1983, as "National Adoption Week."

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. DOLE, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution expressing the sense of the Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations, and for other purposes.

SENATE CONCURRENT RESOLUTION 85

At the request of Mr. PELL, the names of the Senator from Georgia (Mr. MATTINGLY), the Senator from Maine (Mr. MITCHELL), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Senate Concurrent Resolution 85, a concurrent resolution expressing the sense of Congress on allowing Vladimir Feltsman freedom to travel.

SENATE RESOLUTION 74

At the request of Mr. PERCY, the name of the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of Senate Resolution 74, a resolution expressing the sense of the Senate concerning the future of the people on Taiwan.

SENATE RESOLUTION 127

At the request of Mr. ANDREWS, the names of the Senator from Kansas (Mr. DOLE), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 127, a resolution to make the Select Committee on Indian Affairs a permanent committee of the Senate.

At the request of Mr. MELCHER, the names of the Senator from Maine (Mr. MITCHELL) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Resolution 127, supra.

SENATE RESOLUTION 139

At the request of Mr. ZORINSKY, the names of the Senator from South Dakota (Mr. PRESSLER) and the Senator from Nevada (Mr. HECHT) were added as cosponsors of Senate Resolution 139, a resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

SENATE RESOLUTION 277

At the request of Mr. JOHNSTON, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of Senate Resolution 277, an executive resolution expressing the advice of the Senate to the President relative to the nomination of William P. Clark of California to be Secretary of the Interior.

SENATE RESOLUTION 281—RESOLUTION TO REFER THE BILL S. 2104 TO THE COURT OF CLAIMS

Mr. MATHIAS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 281

Resolved, That the bill (S. 2104) entitled "A bill for the relief of Henry W. Lerch of Maryland and Harold J. Nussbaum, Dolores Murray, and Edward C. Kennelly of the District of Columbia" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions theron as shall be sufficient to inform the Congress of the nature and demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to each claimant from the United States. In considering such bill, the doctrine of preferential treatment shall not be considered.

AMENDMENTS SUBMITTED

OLYMPIC DUTY SUSPENSION

DOLE (AND OTHERS) MODIFIED AMENDMENT NO. 2617

Mr. DOLE (for himself, Mr. LONG, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. ROTH, Mr. BRADLEY, Mr. DURENBERGER, Mr. DANFORTH, Mr. GRASSLEY, and Mr. D'AMATO) proposed an amendment (which was subsequently modified) to the joint resolution (H.J. Res. 290) to permit free entry into the United States of the personal effects, equipment, and other related articles of foreign participants, officials, and other accredited members of delegations involved in the games of the XXXIII Olympiad to be held in the United States in 1984; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. . TUITION TAX CREDITS.

(a) CONGRESSIONAL FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that it is in the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, this Act recognizes that—

(A) pluralism is one of the great strengths of American society, diversity in education is an important contributor to that pluralism, and nonpublic schools play an indispensable role in making that diversity possible;

(B) the existence and availability of alternatives to public education tend to strengthen public education through competition

and to improve the educational opportunities of all Americans;

(C) Americans should have equal opportunities to choose between the education offered by public schools and available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government-created and government-operated school systems, and to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(D) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the State and local taxes that go to support public schools, and tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education and at the elementary and secondary levels;

(E) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(F) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to State and local taxpayers of educating the child at a public school; and

(G) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation may not be used to promote racial discrimination.

The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

(2) PURPOSE.—The primary purpose of this section is to enhance equality of educational opportunity, diversity, and choice for Americans.

(b) CREDIT FOR TUITION EXPENSES.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44H the following new section:

"SEC. 44I. CREDIT FOR TUITION EXPENSES.

"(a) GENERAL RULE.—At the election of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified tuition expenses paid by such individual during the taxable year for any qualified dependent.

"(b) MAXIMUM DOLLAR AMOUNT PER QUALIFIED DEPENDENT.—

"(1) IN GENERAL.—The amount of the credit allowable to the taxpayer under subsection (a) with respect to any qualified dependent for any taxable year shall not exceed the applicable amount.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection, the term 'applicable amount' means the excess, if any, of—

"(A) $300, over

"(B) 3 percent (6 percent in the case of a married individual who does not file a joint return) of the amount, if any, by which the adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($20,000 in the case of such married individual).

"(3) TRANSITIONAL RULE.—For taxable years beginning after December 31, 1983, and before January 1, 1986, paragraph (2) shall be applied—

"(A) in taxable years beginning in 1984, by substituting—

"(i) '$100' for '$300',

"(ii) '1 percent' for '3 percent', and

"(iii) '2 percent' for '6 percent', and

"(B) in taxable years beginning in 1985, by substituting—

"(i) '$200' for '$300',

"(ii) '2 percent' for '3 percent', and

"(iii) '4 percent' for '6 percent'.

"(c) CREDIT DENIED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY INSTITUTIONS.—

"(1) DECLARATORY JUDGMENT ENTERED.—

"(A) IN GENERAL.—No credit shall be allowed under this section for any amount paid to an educational institution during any taxable year if—

"(i) within the calendar year ending with or within such taxable year or on any preceding calendar year—

"(I) a judgment has been entered by a district court of the United States under section 7409 (regardless of whether such judgment is appealed) declaring that such educational institution follows a racially discriminatory policy, or

"(II) an order by any United States Court of Appeals has been made which, by its terms, requires the district court to enter such a judgment, and

"(ii) no order described in section 7409(f)(2) with respect to such educational institution has been entered which is in effect for the calendar year ending with or within such taxable year.

"(B) REVERSALS OF DECLARATORY JUDGMENTS OR ORDERS.—

"(i) IN GENERAL.—A judgment or order described in subparagraph (A)(i) entered in an action brought with respect to an educational institution shall not be taken into account under subparagraph (A) for any taxable year if, after all appeals in such action have been concluded or the time for filing such appeals has expired, the declaration contained in such judgment, or required to be entered under the terms of such order, that such institution has followed a racially discriminatory policy is negated (other than by reason of an order described in section 7409(f)(2)).

"(ii) WAIVER OF LIMITATIONS.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of this subparagraph may be filed by any person at any time within the 1-year period beginning on the earlier of—

"(I) the date on which all appeals with respect to the judgment or order described in subparagraph (A)(i) have been concluded, or

"(II) the date on which the time for such appeals has expired.

Sections 6511(b) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(C) STAY OF DECLARATORY JUDGMENT.—

"(i) IN GENERAL.—Any judgment or order described in subparagraph (A)(i) shall not be taken into account under subparagraph (A) for any taxable year if such judgment or order is stayed as of the close of such taxable year.

"(ii) REMOVAL OF STAY.—If a stay entered against a judgment or order described in subparagraph (A)(i) is vacated—

"(I) this subparagraph shall not apply with respect to such judgment or order for any taxable year preceding the taxable year in which such stay is vacated, and

"(II) notwithstanding any other provision of this title or of any other law, the statutory period for the assessment of a deficiency attributable to the disallowance of any credit under this section by reason of this clause shall not expire before the date which is 3 years after the close of the calendar year in which such stay is removed.

"(D) WAIVER OF LIMITATIONS IF INSTITUTION CEASES TO DISCRIMINATE.—Notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by this chapter which arises by reason of a reversal of any order denying a motion under section 7409(f)(1)(A) may be filed by any person at any time within the 1-year period beginning on the date on which such reversal is made. Sections 6511(B) and 6514 shall not apply to any claim for credit or refund filed under this subparagraph within such 1-year period.

"(2) REQUIRED STATEMENTS.—

"(A) STATEMENTS FURNISHED BY INSTITUTIONS TO THE SECRETARY.—No credit shall be allowed under subsection (a) for amounts paid to any educational institution during the taxable year if such educational institution has not filed with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) within 30 days after the close of the calendar year ending with or within such taxable year a verified statement which—

"(i) declares that such institution has not followed a racially discriminatory policy during such calendar year;

"(ii) indicates whether—

"(I) a declaratory judgment or order described in paragraph (1)(A)(i) has been entered against such institution in an action brought under section 7409;

"(II) a stay against such judgment or order is in effect; and

"(III) an order described in section 7409(f)(2) is in effect; and

"(iii) attests that such institution has complied with the requirements of subsection (d)(3)(D) during such calendar year.

"(B) STATEMENTS FURNISHED TO TAXPAYERS.—Except as otherwise provided by regulations, within 30 days after the close of the calendar year to which the statement described in subparagraph (A) relates, the educational institution shall furnish a copy of such statement to all persons who paid tuition expenses to the institution in the calendar year to which such statement relates.

"(C) STATEMENTS FURNISHED BY TAXPAYERS TO THE SECRETARY.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during the taxable year if the taxpayer does not attach to the return on which the taxpayer claims the credit the statement described in subparagraph (A) which is furnished by such institution for the calendar year ending with or within such taxable year of the taxpayer.

"(3) ENFORCEMENT RESPONSIBILITY.—The Attorney General shall have exclusive authority under this subsection to investigate and to determine whether an educational institution is following a racially discriminatory policy.

"(4) RACIALLY DISCRIMINATORY POLICY.—For purposes of this subsection—

"(A) IN GENERAL.—An educational institution follows a racially discriminatory policy if such institution refuses, on the basis of race, to—

"(i) admit applicants as students;

"(ii) admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow students to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory policy' shall not include failure of any educational institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TUITION EXPENSES.—The term 'qualified tuition expenses' means the excess of—

"(A) the amount of tuition expenses paid by the taxpayer during the taxable year to any eligible educational institution for any qualified dependent of such taxpayer, over

"(B) any scholarship or financial assistance paid during such taxable year to such qualified dependent or to the taxpayer with respect to such qualified dependent.

"(2) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any individual—

"(A) who is a dependent of the taxpayer (other than an individual described in paragraph (4), (5), (7, or (8) of section 152(a)),

"(B) who has not attained 20 years of age at the close of the taxable year, and

"(C) with respect to whom a deduction under section 151 is allowable to the taxpayer for the taxable year.

"(3) ELIGIBLE EDUCATION INSTITUTION.—The term 'eligible educational institution' means an educational institution—

"(A) which provides a full-time program of elementary or secondary education;

"(B) which is a privately operated, not-for-profit, day or residential school;

"(C) which is exempt for taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply; and

"(D) which includes in any published bylaws, advertisements, admission application forms, and other such published materials, a statement (in such form and manner as the Secretary may by regulations prescribe) that is does not discriminate against student applicants or students on the basis of race.

"(4) TUITION EXPENSES.—

"(A) IN GENERAL.—The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses.

"(B) CERTAIN EXPENSES EXCLUDED.—The term 'tuition expenses' does not include any amount paid for—

"(i) books, supplies, and equipment for courses of instruction;

"(ii) meals, lodging, transportation, or personal living expenses;

"(iii) education below the first-grade level; or

"(iv) education above the twelfth-grade level.

"(5) SCHOLARSHIP OR FINANCIAL ASSISTANCE.—The term 'scholarship or financial assistance' means—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which—

"(i) is for educational expenses, or attributable to attendance at an educational institution, and

"(ii) is exempt from income taxation by any law of the United States (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(e) ELECTION.—The election provided under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe.".

(2) DISCLOSURE OF INFORMATION TO ATTORNEY GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for tax administration purposes) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INVESTIGATIONS AND PROCEEDINGS REGARDING RACIALLY DISCRIMINATORY POLICIES.—Upon the request of the Attorney General or the Secretary's own motion, the Secretary shall disclose any return or return information which is relevant to—

"(A) any investigation conducted by the Attorney General under section 44I(c) with regard to whether an educational institution is following a racially discriminatory policy (within the meaning of section 44I(c)(4)), or

"(B) any proceeding which may be brought under section 7409,

to any officer or employee of the Department of Justice who is directly and personnally involved in such investigation or in preparation for such a proceeding.".

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44I".

(B) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(i) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44I (relating to tuition credit)", and

(ii) by striking out the caption and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.—".

(C) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TUITION CREDIT CONSIDERED PAID.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed by law for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments) equal to so much of the credit allowed by section 44I (relating to tuition credit) as is treated under section 6401(b) as an overpayment of tax.".

(D) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND TUITION CREDIT.—".

(E) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following:

"SEC. 44I. Tuition expenses.".

(F) Section 6504 of such Code (relating to cross references with respect to periods of limitation) is amended by adding at the end thereof the following new paragraph:

"(13) For disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44I(c).".

(c) DECLARATORY JUDGMENT PROCEEDING.—

(1) IN GENERAL.—Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) IN GENERAL.—Upon filing of an appropriate pleading by the Attorney General under subsection (b), the district court of the United States for the district in which an educational institution is located may make a declaration with respect to whether such institution follows a racially discriminatory policy. Any such declaration shall have the force and effect of a final judgment of the district court and shall be reviewable as such.

"(b) FILING OF PLEADING.—

"(1) IN GENERAL.—The Attorney General is authorized and directed to seek a declaratory judgment under subsection (a) against any educational institution upon—

"(A) receipt by the Attorney General within the previous 1-year period of any allegation of discrimination against such institution, and

"(B) a finding by the Attorney General of good cause.

"(2) ALLEGATION OF DISCRIMINATION.—For purposes of this section, the term 'allegation of discrimination' means an allegation made in writing by any person which alleges with specificity that—

"(A) a named educational institution has committed a racially discriminatory act against a named student applicant or student within one year preceding the date on which such allegation is made to the Attorney General, or

"(B) the educational institution made a communication, within one year preceding such date, expressing that the institution follows a racially discriminatory policy.

"(3) NOTICE OF ALLEGATIONS OF DISCRIMINATION.—Upon receipt of any allegation of discrimination made against an educational institution, the Attorney General shall promptly give written notice of such allegation to such institution.

"(4) OPPORTUNITY TO COMMENT.—Before any action may be filed against an educational institution by the Attorney General under subsection (a), the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the alleged racially discriminatory policy does not exist or has been abandoned.

"(5) AVAILABILITY OF CERTAIN INFORMATION TO COMPLAINANT.—

"(A) IN GENERAL.—If an allegation of discrimination against an educational institution is made to the Attorney General and the Attorney General—

"(i) declines to bring an action under subsection (a) against such institution, or

"(ii) enters into a settlement agreement with such institution under subsection (d) before such an action is brought,

the Attorney General shall make available to the person who made such allegation the information upon which the Attorney General based the decision not to bring such an action or to enter into such settlement agreement. The Attorney General shall

promptly give written notice to such person that such information is available for his inspection.

"(B) PRIVACY LAWS.—Nothing in this paragraph shall be construed to authorize or require the Attorney General to disclose any information if such disclosure would violate any applicable State or Federal law relating to privacy.

"(c) REQUIREMENTS FOR A FINDING OF FOLLOWING A RACIALLY DISCRIMINATORY POLICY.—A district court may declare that an educational institution follows a racially discriminatory policy in an action brought under subsection (a) only if the Attorney General establishes in such action that—

"(1) the institution has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the 2 years preceding commencement of such action;

"(2) the institution has, within the 2 years preceding commencement of such action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(3) the institution has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within 2 years preceding commencement of such action.

"(d) SETTLEMENTS.—

"(1)IN GENERAL.—Prior to, and in lieu of, filing an action under subsection (a), the Attorney General may, at his discretion, enter into a settlement agreement with the educational institution against which an allegation of discrimination has been made if the Attorney General finds that the institution has been acting in good faith and has abandoned its racially discriminatory policy.

"(2) VIOLATION OF SETTLEMENT AGREEMENT.—If the Attorney General has entered into a settlement agreement with an educational institution under paragraph (1) and the Attorney General finds that such institution is in violation of such agreement, the Attorney General may—

"(A) notwithstanding subsection (b)(1)(A), bring an action under subsection (a) without having received any allegation of discrimination against such institution, or

"(B) bring an action to enforce the terms of such agreement.

"(3) COPY OF SETTLEMENT AGREEMENT TO COMPLAINANT.—The Attorney General shall give a copy of any settlement agreement which is entered into with any educational institution under paragraph (1) to any person from whom the Attorney General has received an allegation of discrimination against such institution.

"(e) RETENTION OF JURISDICTION.—Any district court which makes a declaration under subsection (a) that an educational institution follows a racially discriminatory policy shall retain jurisdiction of such case.

"(f) DISCONTINUANCE OF RACIALLY DISCRIMINATORY POLICY.—

"(1) MOTION.—

"(A) IN GENERAL.—At any time after the date which is 1 year after the date on which a judgment is entered in an action brought under subsection (a) declaring that an educational institution follows a racially discriminatory policy, such institution may file with the district court a motion to modify such judgment to include a declaration that such institution no longer follows a racially discriminatory policy.

"(B) AFFIDAVITS.—Any motion filed under subparagraph (A) shall contain affidavits—

"(i) describing with specificity the ways in which the educational institution has abandoned its previous racially discriminatory policy;

"(ii) describing with specificity the ways in which such institution has taken reasonable steps to communicate its policy of nondiscrimination to students, to faculty, to school administrators, and to the public in the area it serves;

"(iii) averring that such institution has not, during the preceding year—

"(I) committed a racially discriminatory act against a student applicant or student pursuant to a racially discriminatory policy;

"(II) made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

"(III) engaged in a pattern of conduct intended to implement a racially discriminatory policy, and committed some act in furtherance of this pattern of conduct;

"(iv) averring that such institution has complied with the requirements of section 441(d)(3)(D).

"(2) ORDER.—If a motion is made under paragraph (1), the district court shall issue an order modifying the judgment entered in the action to include a declaration that the educational institution no longer follows a racially discriminatory policy unless the Attorney General establishes that—

"(A) any affidavit provided by the institution under paragraph (1)(B) is false;

"(B) the institution has, during the preceding year, committed any act, made any communication, or engaged in any pattern of conduct described in paragraph (1)(B)(iii); or

"(C) the institution has not, in fact, complied with the requirements of clauses (ii) and (iv) of paragraph (1)(B).

"(3) APPEAL OF ORDERS.—Any order of the district court granting or denying a motion made under paragraph (1) shall be reviewable.

"(g) ATTORNEY'S FEES.—If an educational institution prevails in an action under this section, the court may award the institution costs and reasonable attorney's fees in such action.

"(h) DEFINITION.—For purposes of this section—

"(1) RACIALLY DISCRIMINATORY POLICY.—The term 'racially discriminatory policy' has the meaning given to such term by section 44I(c)(4).

"(2) RACIALLY DISCRIMINATORY ACT.—

"(A) IN GENERAL.—An educational institution commits a racially discriminatory act if such institution refuses, on the basis of race, to—

"(i) admit any applicant as a student;

"(ii) admit any student to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

"(iii) allow any student to participate in its scholarship, loan, athletic, or other programs.

"(B) QUOTAS, ETC.—The term 'racially discriminatory act' shall not include the failure of such institution to pursue or achieve any racial quota, proportion, or representation in the student body.

"(C) RACE.—The term 'race' shall include color or national origin.

"(i) REPORT.—Within 90 days of the close of each calendar year, the Attorney General shall submit a report to the Congress concerning the disposition during such calendar year of—

"(1) any allegations of discrimination received by the Attorney General, and

"(2) any actions brought under this section.".

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7410. Cross references.".

(B) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy) is amended by striking out "section 7428" and inserting in lieu thereof "section 7409 or 7428".

(d) TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.—Tax credits claimed under section 44I of the Internal Revenue Code of 1954 shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

(e) EFFECTIVE DATE; SPECIAL RULE.—

(1) CERTIFICATION REQUIRED.—The amendments made by this section shall not take effect until the Attorney General certifies to the Secretary of the Treasury that, pursuant to—

(A) an Act of Congress which has been enacted, or

(B) a final decision of the United States Supreme Court,

the Internal Revenue Code of 1954 prohibits the granting of tax exemption under section 501(a) by reason of section 501(c)(3) to private educational institutions maintaining a racially discriminatory policy or practice as to students.

(2) APPLICATION WHEN CERTIFICATION IS MADE.—

(A) IN GENERAL.—If the certification described in paragraph (1) is made to the Secretary of the Treasury—

(i) except as provided in subparagraph (B), the amendments made by subsection (b) shall apply with respect to expenditures made after the date on which such certification is made to the Secretary of the Treasury in taxable years beginning after December 31, 1983, and

(ii) the amendments made by subsection (c) shall take effect on the date on which such certification is made to the Secretary of the Treasury.

(B) NO APPLICATION BEFORE AUGUST 1, 1984.—In no event shall the amendments made by subsection (b) apply with respect to expenditures made before August 1, 1984.

(3) ESTIMATED INCOME TAX AND WAGE WITHHOLDING.—

(A) ESTIMATED INCOME TAX.—Any credit allowable to any taxpayer under section 44I of the Internal Revenue Code of 1954 shall not be taken into account under section 6015(d) in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1985.

(B) WAGE WITHHOLDING.—Any credit allowable under section 44I of such Code shall not be taken into account in determining the number of withholding exemptions to which any taxpayer is entitled under section 3402 of such Code with respect to remuneration paid before January 1, 1985.

NATURAL GAS POLICY ACT

HART AMENDMENT NO. 2618

(Ordered to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to the

bill (S. 1715) to amend the National Gas Policy Act of 1978 to protect consumers from those price increases that would occur because of market distortions as a consequence of current resolution of natural gas prices, to permit natural gas contracts to reflect free market prices, to provide for a phase deregulation of natural gas prices in order to achieve a free market by a date certain, to eliminate incremental pricing requirements for natural gas, to eliminate certain restrictions on the use of natural gas and petroleum, and for other purposes; as follows:

On page 70, after line 6, insert the following:

LIFELINE RATES FOR ELDERLY AND LOW-INCOME RESIDENTIAL CONSUMERS

SEC. 505 (a) Section 302 of Public Law 95-617 (15 U.S.C. 3202) is amended by inserting at the end thereof the following:

"(9) The term 'elderly or low-income consumer' means a person who is a natural gas consumer and who demonstrates to the satisfaction of the gas utility supplying natural gas to such person that such person is—

"(A) the head of or principal wage earner of a household and is at least sixty-five years of age; or

"(B) eligible for assistance under the Low-Income Home Energy Assistance Act of 1981 (Title XXIV of Public Law 97-35; 42 U.S.C. 8621 et seq.).".

(b) Section 303 of Public Law 95-617 (15 U.S.C. 3202) is amended by inserting at the end thereof the following new subsection:

"(d) SPECIAL RATE FOR ELDERLY OR LOW-INCOME CONSUMERS.—Not later than two years after the date of enactment of this subsection, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility shall provide public notice and conduct a hearing and, on the basis of that hearing, shall establish a special lifeline rate for the amount of natural gas necessary to meet the essential needs (including heating and cooking), as determined by the State regulatory authority or the nonregulated gas utility, of elderly or low-income consumers. Such special lifeline rate shall be at least as low as the lower of—

"(1) the lowest rate (per therm) charged by such utility to any class of gas consumers, and

"(2) a rate representing seventy-five per centum of the average cost (per therm) of all natural gas supplied by such utility to all residential gas consumers served by such utility.".

● Mr. HART. Mr. President, today I am offering, as an amendment to the Natural Gas Policy Act Amendments of 1983, provisions to mandate lifeline rates for elderly and low-income consumers of natural gas. The amendment is a modified version of legislation I introduced last spring, the Utility Lifeline Rate Act (S. 1204).

The wildly distorted prices natural gas consumers across the Nation paid last winter perhaps are the driving force behind efforts in the Senate to modify the deregulation process set up in the Natural Gas Policy Act of 1983. I certainly hope the actions the Senate takes will prevent a recurrence of last winter's debacle, keeping natural gas prices to a level that more accurately reflect market realities.

Even before natural gas prices soared last winter, however, increasing numbers of households, particularly those headed by the poor and elderly, were unable to pay for their basic utility needs.

Mr. President, few things terrify elderly or poor persons more than the prospect that the local utility will turn off their electricity or disconnect their gaslines. Without heat or light, they will find it hard, if not impossible, to survive the harsh winters that sweep much of the Nation.

For too many of our poor and elderly, however, the prospect has become a grim reality. Rapidly rising energy prices and a debilitating recession that has thrown 11 million people out of work have made even subsistence amounts of electricity and natural gas—the amounts required for our most basic needs—unaffordable for many needy Americans. Nearly 2 million people in 17 States alone face a possible cutoff of their gas and electricity this month because they cannot pay their utility bills, according to a recent survey by the Associated Press.

If electricity and natural gas are lifelines that sustain virtually every American household, then for these victims of adverse economic fortune the lifeline has been cut.

Mr. President, it is to secure this energy lifeline to millions of poor and elderly persons in this country that I am offering this amendment. These provisions require all utilities, within 2 years, to provide a special lifeline rate for natural gas supplied to their poor and elderly customers. The lifeline rate cannot exceed either: the lowest rate the utility charges any of its classes of consumers; or 75 percent of the average cost of services to all customers, whichever is lower. Those eligible for the special lifeline rate would include all families eligible for Federal low-income energy assistance and all families headed by somebody 65 years in age or older. Those eligible for low-income energy obviously are those least able to afford home heating bills. Our senior citizens, most of whom are on fixed incomes, likewise often have trouble paying their bills—and fully 70 percent of all people over 65 years in age have some physical condition that is aggravated by being too hot or too cold. The special lifeline rate to which these people would be entitled would apply only to a subsistence amount of natural gas the amount necessary, as determined by the State utility commission, to meet essential needs such as heating, and cooking. Any natural gas consumed beyond this subsistence amount would be billed at the normal residential rate.

This legislation is similar to a bill which I first introduced in 1977, and which the Senate approved in 1978, as an amendment to utility reform legislation. But that amendment was deleted in conference, and was replaced with a provision merely requiring the Department of Energy to file a report with Congress on possible lifeline rates.

Mr. President, the Senate was right when it approved this amendment 5 years ago. It is even more important now that the legisation be enacted. Nearly every day is bringing new evidence that the inability of many Americans to pay their utility bills is a grave, nationwide problem.

Although statistics cannot adequately describe the suffering of households whose gas have been cut off, they show how widespread the problem has become.

This year 300,000 households will lose utility service, up 30 percent from last year, according to congressional testimony by the Citizen/Labor Energy Council.

A study recently conducted by the National Consumer Law Center based on detailed analysis of the records of 10 utilities around the country, suggests the number of cutoffs may be far higher. That study shows that just the 10 utilities which were studied cutoff service for 181,115 families in 1982—a 46-percent increase since 1980. In the Philadelphia area alone, over 30,000 families had their natural gas service cut off in 1982—compared to less than 9,000 in 1980. The unpaid gas bills for the Philadelphia families whose service was terminated in 1982 averaged over $990, suggesting many families cannot afford reconnection.

Information from local officials in Milwaukee shows that the moratoriums on utility cutoffs in the winter is not an adequate measure to protect people. Last year, 7,500 families in Milwaukee County had their natural gas cut off because they could not pay their bills from the Wisconsin Gas Co. Fully 1,000 of those families were never reconnected before this winter began, and went through the cold Wisconsin winter with no home heat.

These figures point to the inescapable conclusion that we face a new national crisis—one in which hundreds of thousands of Americans are simply unable to afford to heat their homes.

This crisis has been greatly aggravated by the severe recession gripping the country, with millions of Americans out of work and millions more underemployed. But the primary reason for this new national crisis is the recent increases in home energy costs. For example, the average cost of natural gas to residential customers rose 144 percent from 1977 to 1982. Last year alone, it rose an average of 21.4 percent, but in some areas of the country it increased by more than 40 percent. These dramatic increases in natural gas prices have had a perva-

sive effect, since over 60 percent of elderly and low income households heat with natural gas. They can pay increased energy prices only if they forgo other necessities. For example, during the winter, over 70 percent of the low income elderly spend more than 20 percent of their income to keep warm, according to a study by the National Council of Senior Citizens.

One of every four low income elderly households spends more than 40 percent of its income on heating bills.

During an average winter, after paying home energy costs, the families of unemployed workers in 38 States have less than $100 remaining each week from the average unemployment check.

Similarly, elderly persons living on supplementary security income (SSI) in 42 States have less than $50 remaining each week after paying their energy bills.

Rising home energy costs truly force many elderly and poor households to make an impossible choice between heating and eating.

Mr. President, the Federal low-income home energy assistance program (LIHEAP) does not come close to helping all poor and elderly households with their home energy costs. Only one-third of the eligible households received any of the $1.85 billion of Federal assistance distributed last year. The average annual payment of $184 barely covered many recipient households' energy expenses. In 13 States, LIHEAP benefits pay for less than 20 percent of the average annual home energy bill for low-income households, according to a study by the National Consumer Law Center. In 35 States, the LIHEAP benefits will leave low-income families still saddled with from $500 to $1,000 in energy bills.

Yet, although many eligible households even now do not receive adequate energy assistance, the Administration proposes to cut the Federal program by one-third next year.

Mr. President, simple compassion demands that we not only maintain LIHEAP funding but also devise a better method for helping the poor and elderly meet their basic energy needs. This amendment would do just that, without creating a major new Federal program.

Mr. President, we are failing in our national commitment to provide affordable electricity and natural gas for all Americans. The sight of hundreds of thousands of poor and elderly persons trying to survive the winter in houses they cannot afford to light or heat should shock the national conscience.

I urge the Senate to adopt this amendment so that next winter our neediest Americans will have a secure energy lifeline onto which they can grab hold.●

OMNIBUS RECONCILIATION ACT

HUMPHREY MODIFIED AMENDMENT NO. 2619

Mr. HUMPHREY proposed an amendment (which was subsequently modified) to the bill (S. 2062) to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for fiscal yrar 1984 (H. Con. Res. 91, 98th Congress); as follows:

At the appropriate place in the bill, insert the following:

Sec. . The Congress finds that

The United States has placed military forces in Lebanon, in good faith and in support of an international peace-keeping mission, and has placed serious restrictions on their military activities;

These restrictions impose additional difficulties in providing for the safety and well-being of American troops;

In an effort to improve security, U.S. Marines thoroughly search all vehicles permitted within areas under their direct control, while some unsearched vehicles move freely less than 50 yards away, in areas under the control of the Lebanese Armed Forces;

Therefore be it declared that

It is the Sense of the Senate that the United States Government should work cooperatively with the Government of Lebanon to improve security on the access road to the Beirut International Airport. Specifically, the United States Government should take co-operative measures with Lebanon to increase security by searching thoroughly all vehicles entering the Beirut International Airport.

GOLDWATER AMENDMENT NO. 2620

Mr. GOLDWATER proposed amendment to the bill S. 2062, supra; as follows:

On page 17, beginning with line 1, strike out all through page 30, line 13, and insert in lieu thereof the following:

Subpart B—Disposition of Investments in United States Real Property by Foreign Citizens

SEC. 116. REPEAL OF CAPITAL GAINS TAX ON DISPOSITION OF INVESTMENTS IN UNITED STATES REAL PROPERTY BY FOREIGN CITIZENS.

(a) IN GENERAL.—Section 897 of the Internal Revenue Code of 1954 (relating to disposition of investment in United States real property) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 861 (a) of such Code (relating to gross income from sources within the United States) is amended to read as follows:

"(5) SALE OR EXCHANGE OF REAL PROPERTY.—Gains, profits, and income from the sale or exchange of real property located in the United States.".

(2) Subsection (a) of section 862 of such Code (relating to gross income from sources without the United States) is amended—

(A) by inserting "and" after the semicolon at the end of paragraph 6,

(B) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period, and

(C) by striking out paragraph (8).

(3) Subsection (g) of section 871 of such Code (relating to tax on nonresident alien individuals) is amended by striking out paragraph (8).

(4) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporations connected with United States business) is amended by striking out paragraph (3).

(5) Subsection (c) and (d) of section 1125 of the Foreign Investment in Real Property Tax Act of 1980 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter N of chapter 1 of such Code is amended by striking the item relating to section 897.

SEC. 117. REPEAL OF SPECIAL REPORTING REQUIREMENTS WITH RESPECT TO UNITED STATES REAL PROPERTY INTEREST.

(a) IN GENERAL.—Section 6039C of the Internal Revenue Code of 1954 (relating to returns with respect to United States real property interests) is repealed.

(b) CONFORMING AMENDMENT.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended—

(1) by striking out subsection (g), and

(2) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 such Code is amended by striking out the item relating to section 6039C.

SEC. 118. EFFECTIVE DATE.

(a) REPEAL OF TAX.—The amendments made by section 116 shall apply to dispositions in taxable years beginning after December 31, 1983.

(b) REPEAL OF REPORTING REQUIREMENTS.—The amendments made by section 117 shall apply to returns for calendar years beginning after December 31, 1983.

MATTINGLY (AND OTHERS) AMENDMENT NO. 2621

Mr. MATTINGLY (for himself, Mr. DENTON, Mr. ARMSTRONG, Mr. NICKLES, Mr. TRIBLE, and Mr. WILSON) proposed an amendment to the bill S. 2062, supra; as follows:

At the appropriate place, add a new section as follows:

SEC. . (a) the Senate finds that:

(1) Federal spending currently exceeds three-fourths of a trillion dollars and, according to the Congressional Budget Office, will surpass the trillion dollar a year level before the end of this decade;

(2) An ever-growing share of the federal budget is uncontrollable;

(3) The increasing loss of control is due primarily to the tremendous growth of entitlement programs—so called because their recipients are legally "entitled" to benefits;

(4) The share of the federal budget taken up by entitlements has grown from 36.1 percent in 1967, to a high of 59.1 percent in 1980, with entitlements comprising over 50 percent of the fiscal year 1984 budget;

(5) One example of the tremendous growth in entitlements is Medicare which, when enacted in 1965, cost less than $1 billion, and in 1984 will cost the federal government approximately $86 billion on the Medicare/Medicaid system;

(6) The continual increase in federal spending results in large budget deficits;

(7) These large deficits cause a rise in interest rates and inflation and can choke off the current ecomomic recovery;

(8) The Congress must regain control of the "uncontrollable" items in the federal budget, specifically entitlement programs, if it is to control federal spending.

(b) It is the sense of the Senate, therefore, that a National Commission on Entitlement Reform, similar to the National Commission on Social Security reform, be established to study the growth in entitlement programs and report to the Congress after January 1, 1985, on those steps Congress might consider for the purpose of reforming federal spending for entitlement programs and curbing their growth in an effort to regain control of the so-called "uncontrollable" elements of the federal budget.

IMPROVEMENT OF HIGHWAY SYSTEM IN VIRGINIA

WARNER AMENDMENT NO. 2622

Mr. WARNER proposed an amendment to the joint resolution (S.J. Res. 199) relating to improving the highway transportation system of the Commonwealth of Virginia; as follows:

At the end of joint resolution, insert the following new section:

SEC. 3. Upon repayment by the State of Ohio or the Ohio Turnpike Commission to the Treasurer of the United States of an amount equal to the total amount of Federal-aid highways funds received for construction of interchanges or connections with the Ohio Turnpike pursuant to an agreement entered into under section 129(d) of title 23, United States Code, the State of Ohio and the Ohio Turnpike Commission shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Ohio Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder. Nothing in this section shall be construed to affect any apportionment of funds under section 104(b)(5)(B) of title 23, United States Code.

The amount repaid under subsection (a) shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)." Such amount shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Ohio. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

OMNIBUS RECONCILIATION ACT

ARMSTRONG AMENDMENT NO. 2623

Mr. ARMSTRONG proposes an amendment to the bill S. 2062, supra, as follows:

At the appropriate point in the bill insert the following:

Since the President's Private Sector Survey on Cost Control (PPSSCC) has performed a commendable service to the nation having expended over $70 million in private sector funds and devoted the time and talent of over 1,200 top executives in a sustained management study of the U.S. Government; and

Since over 2,000 recommendations of this study have indentified areas of possible savings which the PPSSCC believes could reduce the Federal budget deficit by hundreds of billions of dollars; and,

Since the U.S. Government is now facing a deficit crisis of unparalleled proportions and it is increasingly urgent to bring government spending under control to avert the threat to the economic future of American working men and women, companies, communities and the nation;

It is therefore the Sense of the U.S. Senate that each Committee of the Senate should study the President's Private Sector Survey on Cost Control recommendations within their jurisdiction and hold hearings on these recommmendations so that the PPSSCC Task Force Co-chairmen and the appropriate representatives of the Executive agencies of Government may testify upon the PPSSCC recommendations; and, each Committee should report on its hearings and its recommendations, if any, for implementing legislation on or before March 1, 1984.

SYMMS AMENDMENT NO. 2624

Mr. SYMMS proposed an amendment (which was subsequently modified) to the bill S. 2062, supra, as follows:

It is the sense of the Senate that (a) within 60 days after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit a report to the President and the Congress which evaluates the recommendations of the President's Private Sector Survey on Cost Control for administrative actions which would reduce Government spending and determines the amount that would be saved by the Government if each such recommendation were implemented.

(b) Within 60 days after receiving the report required by subsection (a), the President shall review such report and, on the basis of the amounts of savings determined by the Comptroller General of the United States under subsection (a), shall—

(1) select for implementation as many of the recommendations of the President's Private Sector Survey on Cost Control as may be necessary to achieve a total amount of savings of at least $10,000,000,000;

(2) prepare and transmit to the Congress a report describing the activities that will be conducted to achieve savings in the amount referred to in paragraph (1) and containing a timetable for the conduct of such activities; and

(3) implement the recommendations referred to in paragraph (1) in accordance with the report submitted under paragraph (2).

OLYMPIC DUTY SUSPENSION

ARMSTRONG (AND LONG) AMENDMENT NO. 2625

Mr. ARMSTRONG (for himself and Mr. LONG) proposed an amendment to the joint resolution (H.J. Res. 290), supra; as follows:

At the appropriate place, add the following new section: "Section—

"(a) subsection (b) of section 3101 of title 31, United States Code, is amended by striking out '$1,389,000,000,000' and inserting in lieu thereof 'the applicable amount determined under subsection (d)'.

"(b) Subsection (c) of such section 3101 is redesignated as subsection (m) and such section 3101 is further amended by adding after subsection (b) the following new subsections:

"'(c) For purposes of this section, the amount specified for any month shall be—

$1,385,000,000,000 for months before November 1983;

$1,400,000,000,000 for November 1983;

$1,449,000,000,000 for December 1983;

$1,459,000,000,000 for January 1984;

$1,473,000,000,000 for February 1984;

$1,497,000,000,000 for March 1984;

$1,501,000,000,000 for April 1984;

$1,521,000,000,000 for May 1984;

$1,537,000,000,000 for June 1984;

$1,548,000,000,000 for July 1984;

$1,575,000,000,000 for August 1984;

$1,614,600,000,000 for September 1984

and, subject to subsection (1), each month thereafter.

"'(d) During any month in a calendar quarter, the applicable amount for purposes of subsection (b) shall be the larger of the amount specified for such month in subsection (c) or the amount specified in such subsection for the first month following such calendar quarter.'

"'(e) If for any month the total amount of obligations of the type described in subsection (b) is likely to exceed or does exceed the amount specified for such month in subsection (c), the President shall promptly notify the Congress and shall indicate what action is necessary to assure that the total amount of such obligations will not exceed the applicable amount determined under subsection (d).

"'(f) Whenever the President determines that the United States would be required to borrow an amount in excess of the debt limit determined under this section, the President shall, notwithstanding any other provision of law, defer or reduce a total amount of expenditures for programs, projects, and activities of the Government sufficient to assure that such excess borrowing will not be required.

"'(g) In carrying out subsection (f), the President shall not—

"'(1) take any action to defer or reduce an amount of expenditures for any program, project, or activity if such action would require or result in the elimination of such program, project, or activity; or

"'(2) defer or reduce expenditures for any single program, project, or activity in amount which will cause the expenditures for such program, project, or activity to be reduced in any fiscal year by more than 20 percent.

"'(3) defer or reduce expenditures in such a manner as to reduce benefit levels payable to individuals under a program funded through spending authority of the type described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 except that this paragraph shall not apply to any limitation on an increase which would otherwise take place in such benefit levels.

"'(h) The provisions of this section shall not be exercised in such a manner as to constitute or result in a default of the United States in redeeming or making payment of interest due on the public debt or in meeting its obligations to make payment for services which have been rendered to or

goods which have been received by the United States.

"'(i) The Impoundment Control Act of 1974 and any other provision of law heretofore or hereafter enacted shall not apply to any deferral or reduction of expenditures under this section unless such law contains provisions specifically exempting any such deferral or reduction from the application of this section.

"'(j) The President shall promptly report to the Congress on any deferral or reduction which the President proposes to make pursuant to this section. Such report shall also contain the recommendations of the President for any legislation which may be necessary in the light of such deferral or reduction.

"'(k)(1) The otherwise applicable debt limit pursuant to subsection (b) for any month shall be deemed to be increased by the total amount of expenditures deferred or reducted pursuant to this section, for all months preceding such month, for programs, projects, and activities classified as 'Trust funds' in the Budget Accounts Listing included in the Budget transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921. Notwithstanding the preceding sentence, the amount by which such debt limit may be increased, with respect to expenditures deferred or reduced for any program, project, or activity, shall not exceed the estimated additional expenditures which would be necessary to carry out such program, project, or activity, in the months for which the deferral or reduction is made at the same level as such program, project, or activity was carried out on the date the Budget was most recently transmitted under such section, without any policy changes in such program, project, or activity.

"'(2) At least every six months, the President shall determine the total amount by which the debt limit has increased by operation of paragraph (1). Such increased amount shall apply to the debt limit in subsection (b) for the month in which the President makes such determination and each succeeding month. The President shall transmit to the Congress a notice of each determination under this paragraph.

"'(l) If for any fiscal year beginning after September 30, 1984, there is in effect a limit on obligations of the type described in subsection (b) which exceeds the amount of $1,615,000,000,000 and also exceeds the amount of such limit as in effect for the month preceding the start of such fiscal year and no amounts are otherwise specified under subsection (c) for the months in such fiscal year, an amount shall be deemed to be specified under such subsection (c) for each month in such fiscal year, consistent with the pattern of borrowing by the United States in previous fiscal years and with the amount of such limit as in effect for the month immediately preceding the beginning of such fiscal year and the amount of such limit as in effect at the end of such fiscal year. Within 15 days after the date of enactment of any Act increasing the limit on obligations of the type specified in subsection (b), the President shall promulgate the monthly amounts which shall be applicable under this subsection along with a description of the methodology used to determine such amounts. After such amounts have been promulgated pursuant to the preceding sentence, they shall not thereafter be modified except pursuant to legislation subsequently enacted.'"

OMNIBUS RECONCILIATION ACT

DOMENICI (AND CHILES) AMENDMENT NO. 2626

Mr. DOMENICI (for himself and Mr. CHILES) submitted an amendment (which was subsequently modified) to the bill S. 2062, supra; as follows:

At the end of the bill, add the following:

TITLE V—DEFICIT REDUCTION

PART A—GENERAL PROVISIONS, SPENDING REDUCTIONS

BUDGET COMMITTEES MUST REPORT CONCURRENT RESOLUTION ON THE BUDGET CONTAINING SPENDING REDUCTIONS

SEC. 501. The first concurrent resolution on the budget for fiscal year 1985 and the first concurrent resolution on the budget for fiscal year 1986 reported by the Committees on the Budget of the Senate and the House of Representatives under section 301 of the Congressional Budget Act of 1974 shall set forth, in addition to other matters required to be set forth in such concurrent resolution on the budget pursuant to title III of such Act—

(1) an appropriate level of total new budget authority for fiscal year 1985 or fiscal year 1986, as the case may be, in an amount equal to the sum of—

(A) the amount of new budget authority considered appropriate by each such committee for programs which are not national defense discretionary programs or other discretionary programs;

(B) an amount of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent; and

(C) an amount of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, equal to the product of—

(i) the total amount set forth for such programs for such fiscal year in the first concurrent resolution on the budget for fiscal year 1984 (H. Con. Res. 91, Ninety-eighth Congress), multiplied by

(ii) 97.5 percent;

(2) a separate statement of an appropriate level of new budget authority for national defense discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for national defense discretionary programs for such fiscal year described in clause (1)(B);

(3) a separate statement of an appropriate level of new budget authority for other discretionary programs for fiscal year 1985 or fiscal year 1986, as the case may be, which is equal to the amount of new budget authority for other discretionary programs for such fiscal year described in clause (1)(C); and

(4) for each major functional category under which new budget authority for other discretionary programs is classified, a separate statement of an appropriate level of new budget authority for other discretionary programs classified under such category for fiscal year 1985 or fiscal year 1986, as the case may be, which complies with the total amount of new budget authority described in clause (1)(C) for all such programs for such fiscal year.

REPORT BY THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

SEC. 502. The Director of the Congressional Budget Office shall include in the report required to be submitted on April 1, 1984, under section 202(f)(1) of the Congressional Budget Act of 1974, a statement which contains, with respect to fiscal year 1985—

(1) an estimate of current law outlays for fiscal year 1985;

(2) an estimate of current law revenues for fiscal year 1985;

(3) a specification of the amount by which the amount estimated pursuant to clause (1) for fiscal year 1985 will exceed the amount estimated pursuant to clause (2) for such fiscal year;

(4) an estimate of the gross national product of the United States for fiscal year 1985; and

(5) a specification of the ratio (stated as a percentage) that the amount specified pursuant to clause (3) bears to the gross national product of the United States estimated pursuant to clause (4).

TRIGGER FOR SPENDING REDUCTIONS AND TAX SURCHARGES

SEC. 503. If, in the statement required under section 502 with respect to fiscal year 1985, the Director of the Congressional Budget Office determines that, for fiscal year 1985, the ratio specified pursuant to clause (5) of such section exceeds 3 percent, the provisions of section 504 shall be in effect with respect to fiscal years 1985 and 1986 and the provisions of section 511 shall be in effect with respect to taxable years beginning after December 31, 1984, and ending before January 1, 1987.

REDUCTIONS IN SPENDING

SEC. 504. (a) If—

(1) pursuant to section 503, the provisions of this section are in effect with respect to fiscal years 1985 and 1986; and

(2)(A) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for national defense discretionary programs exceeds the appropriate level of new budget authority for such programs set forth for such fiscal year in the first concurrent resolution on the budget agreed to for such fiscal year; or

(B) the total amount of budget authority provided for fiscal year 1985 or fiscal year 1986, as the case may be, for other discretionary programs exceeds the appropriate level of total new budget authority for such fiscal year for such programs set forth in the first concurrent resolution on the budget agreed to for such fiscal year,

the President shall include with the budget submitted in such fiscal year under section 1105(a) of title 31, United States Code, for the next succeeding fiscal year, a special message which, except as otherwise provided in this part, complies with the Impoundment Control Act of 1974 and proposes rescissions in budget authority for fiscal year 1985 or 1986, as the case may be, which comply with the provisions of this section.

(b) The special message required to be transmitted pursuant to subsection (a) for fiscal year 1985 or 1986, as the case may be, shall propose—

(1) rescissions which reduce the total amount of budget authority provided for national defense discretionary programs for such fiscal year in an amount equal to the amount by which such total amount exceeds the appropriate level of new budget

authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501; and

(2) rescissions which reduce the total amount of budget authority provided for other discretionary programs for such fiscal year by an amount equal to the amount by which such total amount exceeds the appropriate level of total new budget authority for such programs set forth in the first concurrent resolution on the budget reported for such fiscal year in accordance with section 501.

(c)(1) Except as provided in paragraph (2) and in subsections (d) and (e), the provisions of the Impoundment Control Act of 1974 shall apply to the consideration of the special message transmitted under subsection (a).

(2) For purposes of sections 1011 and 1012(b) of such Act, the 45-day period referred to in such sections shall be deemed to refer to a period of 60 calendar days.

(d) Notwithstanding any other provision of law or of the Standing Rules of the Senate or the Rules of the House of Representatives, it shall not be in order in the Senate or the House of Representatives to enroll any rescission bill with respect to a special message transmitted under subsection (a) unless such bill rescinds budget authority for national defense discretionary programs in the amount described in subsection (b)(1) and rescinds budget authority for other discretionary programs in the amount described in subsection (b)(2).

(e) Notwithstanding section 1012(b) of the Impoundment Control Act of 1974, if Congress has not completed action on a rescission bill with respect to a special message transmitted under subsection (a) of this section for fiscal year 1985 or fiscal year 1986, as the case may be, within the 60-day period referred to in subsection (c)(2) of this section—

(1) the total amount of budget authority provided for such fiscal year for each appropriation account of each national defense discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such account, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for national defense discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(B); and

(2) the total amount of budget authority provided for such fiscal year for each appropriation account of each other discretionary program, and the total amount of budget authority provided for each program, project, or activity classified under such account, shall each be reduced proportionately in an amount necessary to insure that the total amount of budget authority provided for such fiscal year for other discretionary programs does not exceed the amount of new budget authority for such programs described in section 501(1)(C).

DEFINITIONS

Sec. 505. For purposes of this part—

(1) the term "budget authority" has the same meaning as in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974;

(2) the term "budget outlays"' has the same meaning as in section 3(1) of such Act;

(3) the term "concurrent resolution on the budget" has the same meaning as in section 3(4) of such Act;

(4) the term "current law outlays" means the total amount of outlays which would be made to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities, and only includes adjustments for inflation in such outlays if such adjustments are required by law;

(5) the term "current law revenues" means the total amount of revenues that would be received in a fiscal year if the provisions of the revenue laws which were in effect for the fiscal year preceding such fiscal year remained in effect for such fiscal year without change;

(6) the term "other dicretionary program" means any Federal program other than—

(A) a national defense discretionary program;

(B) a mandatory spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983);

(C) a permanent spending program (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983); or

(D) a program for which spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974) is provided by law for the applicable fiscal year (as determined by the Director of the Congressional Budget Office at the time the Congressional Budget Office annual report was issued in February 1983); and

(7) the term "national defense discretionary program" means a program classified under the functional category of National Defense in the budget submitted by the President for the fiscal year 1984 under sectoin 1105(a) of title 31, United States Code, except that such term does not include programs for payment of retired and retainer pay to members and former members of the Armed Forces and for payment of claims against the Department of Defense.

PART B—REVENUE MEASURES

SEC. 511. TEMPORARY INCOME SURTAX ON INDIVIDUALS AND CORPORATIONS

(a) INDIVIDUALS.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed on individuals) is amended by adding at the end thereof the following new subsection:

"(g) IMPOSITION OF TEMPORARY SURTAX.—

"(1) IN GENERAL.—In addition to any section 1 tax, there is hereby imposed on each taxpayer with respect to whom a section 1 tax is imposed for any taxable year a tax equal to the sum of—

"(A) 2 percent of the excess of—

"(i) the amount of the section 1 tax imposed on so much of the taxable income of the taxpayer as is less than the excess minimum surtax amount, over

"(ii) the amount of the section 1 tax imposed on much of the taxable income of the taxpayer as does not exceed the basic minimum surtax amount, and

"(B) 5 percent of the excess of—

"(i) the amount of section 1 tax imposed on the taxpayer for the taxable year, over

"(ii) the amount determined under clause (i) of subparagraph (A).

"(2) SECTION 1 TAX.—For purposes of this subsection, the term 'section 1 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 55.

"(3) BASIC MINIMUM SURTAX AMOUNT, ETC.—For purposes of this subsection—

"(A) BASIC MINIMUM SURTAX AMOUNT.—The term 'basic minimum surtax amount' means an amount determined in accordance with the following table:

"In the case of a taxpayer described in subsection:	The amount is:
(a)	$16,000
(b)	11,000
(c)	10,000
(d)	8,000
(e)	8,400

"(B) EXCESS MINIMUM SURTAX AMOUNT.—The term 'excess minimum surtax amount' means an amount determined in accordance with the following table:

"In the case of a taxpayer described in subsection:	The amount is:
(a)	$41,000
(b)	30,000
(c)	28,000
(d)	20,500
(e)	21,500

"(C) INDEXING OF AMOUNTS.—In the case of each taxable year beginning after December 31, 1985, the Secretary shall increase the amounts in the tables contained in subparagraphs (A) and (B) by the cost-of-living adjustment for such taxable year determined under subsection (f).

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(2) MODIFICATION OF WITHHOLDING TO REFLECT SURTAX.—Section 3402 (a) of such Code (relating to requirement of withholding) is amended by adding at the end thereof the following new paragraph:

"(4) CHANGES TO REFLECT TEMPORARY DEFICIT REDUCTION SURTAX.—The Secretary shall modify the tables and procedures under paragraph (1) to reflect the surtax imposed by section 1(g).".

(b) CORPORATIONS.—Section 11 of such Code (relating to tax imposed on corporations) is amended by adding at the end thereof the following new subsection:

"(d) TEMPORARY DEFICIT REDUCTION SURTAX.—

"(1) IN GENERAL.—In addition to any section 11 tax, there is hereby imposed on each corporation for any taxable year a tax equal to 2.5 percent of such section 11 tax.

"(2) SECTION 11 TAX.—For purposes of this subsection, the term 'section 11 tax' means the sum of—

"(A) the tax imposed by this section (other than this subsection) or any tax imposed in lieu of such tax, and

"(B) the tax imposed by section 56.

"(3) DISALLOWANCE OF CREDITS.—No credits shall be allowed against the tax imposed by this subsection.

"(4) TERMINATION.—No tax shall be imposed under this subsection for any taxable year beginning after December 31, 1986.".

(c) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

"(2) AMENDMENTS TO TAKE EFFECT ONLY IF DEFICIT REDUCTION PROGRAM INSTITUTED.—The amendments made by this section shall not take effect unless the Director of the Congressional Budget Office determines

under section 503 that the ratio specified pursuant to section 502(5) exceeds 3 percent for fiscal year 1985.

SEC. 512. COST-OF-LIVING ADJUSTMENT REDUCED BY 2.5 PERCENT FOR 1985 AND 1986.

(a) IN GENERAL.—Section 1(f) of the Internal Revenue Code of 1954 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended by adding at the end thereof the following new paragraph:

"(5) COST-OF-LIVING ADJUSTMENT REDUCED FOR 1985 AND 1986.—For purposes of paragraph (2), the cost-of-living adjustment for 1985 and 1986 shall be reduced (but not below zero) by 2.5 percent.".

(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

"(2) AMENDMENTS TO TAKE EFFECT ONLY IF DEFICIT REDUCTION PROGRAM INSTITUTED.—The amendments made by this section shall not take effect unless the Director of the Congressional Budget Office determines under section 503 that the ratio specified pursuant to section 502(5) exceeds 3 percent for fiscal year 1985.

SEC. 513. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

(a) IN GENERAL.—Section 56 of the Internal Revenue Code of 1954 (relating to additional corporate minimum tax) is amended to read as follows:

"SEC. 56. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed on each C corporation in an amount equal to 15 percent of its corporate minitax taxable income.

"(2) TAX IMPOSED ONLY IF GREATER THAN REGUTAX LIABILITY.—A tax shall be imposed by this section on the corporate minitax taxable income of a corporation for any taxable year only if the amount of such tax is greater than the amount of the adjusted regutax for such year.

"(3) TAX TO BE IN LIEU OF REGUTAX.—For purposes of this title, a tax imposed by this section shall be in lieu of the regutax.

"(b) CORPORATE MINITAX TAXABLE INCOME.—For purposes of this title, the term 'corporate minitax taxable income' means the gross income for the taxable year—

"(1) reduced by the sum of—

"(A) $50,000, plus

"(B) the deductions allowed for the taxable year (other than the deduction allowable under section 172), plus

"(C) the minitax net operating loss deduction providing by subsection (d), and

"(2) increased by an amount equal to the corporate minitax preference items.

"(c) CORPORATE MINITAX PREFERENCE ITEMS.—For purposes of this section, the corporate minitax preferences items are:

"(1) CERTAIN SECTION 57 PREFERENCE ITEMS.—The sum of the amounts determined under the following provisions of section 57(a):

"(A) Paragraph (8) (relating to excess depletion).

"(B) Paragraph (2) (relating to accelerated depreciation on real property).

"(C) Paragraph (4) (relating to amortization of certified pollution control facilities).

"(D) Paragraph (11) (relating to intangible drilling cost), but computed on a straight-line basis over a period of 120 months.

"(E) Paragraph (12) (relating to accelerated cost recovery deduction).

"(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the deductions for development and mining exploration expenditures described in sections 616 and 617 allowable under this chapter for the taxable year, over

"(B) the amount which would have been allowed if such expenditures had been capitalized and amortized ratably over a 120-month period beginning with the month in which the first such expenditures were made.

"(3) CERTAIN AMOUNTS RELATING TO TAX-EXEMPT OBLIGATIONS.—

"(A) INTEREST ON TAX-EXEMPT OBLIGATIONS PURCHASED AFTER DECEMBER 31, 1983.—In the case of any obligation—

"(i) purchased after December 31, 1983, and

"(ii) the interest on which is exempt from tax,

the amount of interest which is exempt from tax for the taxable year.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS PURCHASED BEFORE JANUARY 1, 1984.—The amount of interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for such taxable year by reason of the second sentence of section 265(2).

"(C) ALLOCATION RULE.—For purposes of subparagraph (B), the amount of deductions for debt to carry tax-exempt securities is the taxpayer's total interest deductions for the taxable year, multiplied by a fraction equal to—

"(i) an amount equal to the taxpayer's total investment in tax-exempt obligations, divided by

"(ii) an amount equal to the tax basis of the taxpayer's total assets.

"(4) DEFERRED DISC INCOME.—The taxpayer's pro rata share of any DISC's increase in accumulated DISC income for the taxable year.

"(5) CERTAIN SHIPPING INCOME.—With respect to any construction reserve fund or capital construction fund established by the taxpayer under sections 511 and 607 of the Merchant Marine Act (46 U.S.C. 1161, 1177), the net increase for such taxable year in the income and capital gain accounts under such funds.

"(6) AMORTIZATION OF MOTOR CARRIER OPERATING AUTHORITIES.—The amount allowed as a deduction for the taxable year under section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authorities).

"(7) EXCESS ORIGINAL ISSUE DISCOUNT INTEREST.—With respect to original issue discount bonds or other evidence of indebtedness issued by the taxpayer before May 26, 1983, the amount by which the deductions for interest taken in the taxable year for each bond exceeds an amount equal to—

"(A) the yield that would have been paid on the bond or other evidence of indebtedness if the amount of original issue discount under the obligation were paid as interest over the period of the obligation, employing compound interest computations (with compounding at annual intervals), multiplied by

"(B) the adjusted basis of the bond or other evidence of indebtedness as of the close of the prior bond-year (or in the case of the first bond-year, on the date of issue).

"(8) DEDUCTIONS FOR CERTAIN COSTS INCURRED WITH RESPECT TO LONG-TERM CONTRACTS.—With respect to certain indirect costs in connection with long-term contracts entered into by a taxpayer before September 25, 1981, the amount by which the deduction allowed in the taxable year for such indirect costs exceeds the deduction that would have been allowable for the taxable year if such costs had been capitalized and deducted under the progress payment method of accounting for long-term contracts.

"(d) MINITAX NET OPERATING LOSS DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'minitax net operating loss deduction' means the net operating loss deduction under section 172(a) for the taxable year for purposes of the regutax, except that in determining the amount of such deduction—

"(A) section 172(b)(2) shall be applied by substituting 'corporate minitax taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1983 LOSS YEARS.—In the case of a loss year beginning after December 31, 1983, the net operating loss for such year under section 172(c) shall be reduced by the amount of corporate minitax preference items arising in such year.

"(B) PRE-1984 YEARS.—In the case of loss years beginning before January 1, 1984, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1983, for purposes of paragraph (1) shall be equal to the excess of—

"(i) the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1983, reduced by

"(ii) the amount of corporate minitax preference items arising in such loss year to the extent such amount exceeds $10,000.

"(e) ELECTION TO MAKE ADJUSTMENTS FOR REGUTAX PURPOSES.—

"(1) IN GENERAL.—The taxpayer may elect for any taxable year to have any adjustment required by subsection (b)(2) with respect to any corporate minitax preference item arising in such year apply also to such item for regutax purposes. The treatment of any item with respect to which an election has been made under the preceding sentence shall (for all later years and for purposes of both the regutax and the minitax) be consistent with its treatment for the year in which it arises.

"(2) TIME FOR MAKING ELECTION.—Any election under paragraph (1) with respect to any item shall be made not later than the due date (with extensions) for filing the return under this chapter for the taxable year in which such item arose.

"(3) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1) may be made only in the manner provided by regulations, and may be revoked only with the consent of the Secretary.

"(f) SPECIAL RULES RELATING TO CREDITS.—For purposes of this section—

"(1) CREDITS NOT ALLOWABLE.—Except as provided by paragraph (2), no credit shall be allowable against the tax imposed by subsection (a).

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's corporate minitax taxable income from sources without the United States (but not in excess of the taxpayer's entire corporate minitax taxable income), bears to

"(ii) his entire corporate minitax taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF CORPORATE MINITAX TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'corporate minitax taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceeding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACKS OF CREDITS.—For purposes of computing the amount of any carryover or carryback of any credit allowable under subpart A of part IV, the taxpayer shall be treated as having been allowed a credit against the regutax for any taxable year for which a tax is imposed by subsection (a) equal to the amount of such credit which would have been allowed against the regutax for such taxable year if such regutax had been equal to the excess of—

"(A) the regutax, over

"(B) the tax imposed by subsection (a).

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) REGUTAX.—The term 'regutax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 531 and 541).

"(2) ADJUSTED REGUTAX.—The term 'adjusted regutax' means, for any taxable year—

"(A) the regutax, reduced by

"(B) the sum of the credits allowable under subpart A of part IV (other than sections 31, 39, ar.d 43).

"(3) TAXABLE YEAR IN WHICH ITEM ARISES.—In the case of any amount which is taken into account for regutax purposes in more than 1 taxable year, such amount shall be treated as an item arising in the first such taxable year.".

"(4) APPLICATION WITH SECTION 291.—Under regulations prescribed by the Secretary rules similar to rules of section 57(b) shall apply to items described in paragraphs (2) and (3) of subsection (c).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit to the Congress such technical and conforming amendments as may be necessary to carry out the provisions of this section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 514. ELIMINATION OF THE PERCENTAGE METHOD OF DETERMINING ADDITIONS TO BAD DEBT RESERVES FOR FINANCIAL INSTITUTIONS.

(a) BANKS.—Subsection (b) of section 585 of the Internal Revenue Code of 1954 (relating to addition to reserves for bad debts) is amended—

(1) by striking out "1988" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1984,", and

(2) by striking out "1987" in paragraph (3) and inserting in lieu thereof "December 31, 1983,".

(b) MUTUAL SAVINGS BANKS., ETC.—

(1) IN GENERAL.—Subsection (b) of section 593 of such Code (relating to addition to reserves for bad debts) is amended to read as follows:

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—For purposes of section 166(c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be the amount determined to be a reasonable addition to the reserve for losses on loans, computed in the same manner as is provided with respect to additions to the reserves for losses on loans of banks under section 585(b)(3).''; and

(2) CONFORMING AMENDMENT.—Subsection (d) of section 593 of such Code (defining loans) is amended to read as follows:

"(d) LOANS DEFINED.—For purposes of this section, the term 'loan' means debt, as the term 'debt' is used in section 166.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 515. BASIS ADJUSTMENT TO REFLECT ENTIRE INVESTMENT TAX CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT ENTIRE INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Subsection (g) of section 48 of such Code (relating to basis adjustment to section 38 property) is amended—

(A) by striking out "50 percent of" in paragraphs (1) and (2), and

(B) by striking out paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (5) of section 48(d) of such Code (relating to coordination with basis adjustment) is amended—

(i) by striking out "(other than paragraph (4))" in subparagraph (A), and

(ii) by striking out "50 percent of" in subparagraph (B).

(B) Section 196 of such Code (relating to deduction for certain insured investment credits) is amended—

(i) by striking out "50 percent of" in subsection (a), and

(ii) by striking out subsection (c).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to periods after December 31, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

SEC. 516. 3-YEAR FREEZE ON EXPENSING CERTAIN DEPRECIABLE BUSINESS ASSETS.

(3) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1954 (relating to limitation on election to expense certain depreciable business assets) is amended by striking out the table and inserting in lieu thereof:

"If the taxable year begins in:	The applicable amount is:
1984	$5,000
1985	5,000
1986	5,000
1987	7,500
1988	7,500
1989 or thereafter	10,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 517. 3-YEAR FREEZE ON THE FOREIGN EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Paragraph (2) of section 911(b) of the Internal Revenue Code of 1954 (relating to limitation on foreign earned income) is amended by striking out the table in subparagraph (A) and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1984	$80,000
1985	80,000
1986	80,000
1987	85,000
1988	90,000
1989 or thereafter	95,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

GARN AMENDMENT NO. 2627

Mr. GARN submitted an amendment intended to be proposed by him to the bill S. 2062, supra; as follows:

On page 177, between lines 8 and 9, insert the following:

(d) Notwithstanding any other provision of law, there shall not be an increase in rates of pay under section 601 (a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31 (2)) by reason of the adjustment referred to in subsection (a).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, November 16, to consider legislation regarding deficit reductions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, November 16, for an executive session to consider and act on pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 16, 1983, in order to receive testimony concerning the following nominations:

James Harvie Wilkinson III, of Virginia, to be U.S. circuit judge for the fourth circuit.

John R. Hargrove, of Maryland, to be U.S. district judge for the district of Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FBI UNDERCOVER OPERATIONS

● Mr. HUDDLESTON. Mr. President, the Senate yesterday agreed to the conference report on the Justice Department appropriations bill, which includes provisions for FBI undercover operations that differ from previous statutory requirements. As former vice chairman of the Senate Select Committee To Study Undercover Activities of Components of the Department of Justice, which investigated the Abscam operation last year, I am disappointed that the Congress has been unable to enact a permanent legislative framework for FBI undercover operations. The new appropriations language is a modest step in that direction, but it is no substitute for legislation that implements the principal recommendations of the Select Committee.

Last March, I joined with Senator MATHIAS, who chaired the select committee, and others who served with us to introduce the Undercover Operations Act of 1983 (S. 804), which embodied the unanimous recommendations of the select committee for legislative action in this area. The bill was referred to the Committee on the Judiciary, but unfortunately no hearings have yet been scheduled.

A major reason for the delay in hearings on S. 804 has been the length of time taken by the Department of Justice in responding to a request from the chairman of the Judiciary Committee for a statement of the Department's views on the bill. That response was finally submitted on October 17, 1983, 10 months after the select committee's report was filed. I am also sorry to say that the Department's views are negative with regard to many of the detailed provisions of the bill.

Nevertheless, the analysis of S. 804 provided by the Department of Justice to the chairman of the Judiciary Committee indicates that there may be a basis for agreement on permanent legislation to authorize and regulate FBI undercover operations. First of all, the Department strongly supports provisions of the bill which would remove certain fiscal restrictions on the conduct of undercover operations. Second, the Department is willing to accept a requirement for written Attorney General's guidelines to control the initiation and conduct of all types of undercover operations. Third, the Department has no objection, in principle, to requirements to report information to the Congress on FBI undercover operations, although it questions some of the detailed reporting requirements in S. 804.

The conference report on the Justice Department appropriations bill for fiscal year 1984 moves in the direction of S. 804 by adding a new reporting requirement for FBI law enforcement undercover operations, with special attention to operations that involve sensitive circumstances specified in the Attorney General's guidelines.

Most important of all, the position of the Justice Department does not appear to foreclose the possibility of agreement on substantive legislative standards for undercover operations that involve the offering of an opportunity or inducement to engage in a crime. While the Department obviously would prefer maximum flexibility and reliance on guidelines that can be readily modified, the Department's analysis of the specific provisions of S. 804 does not criticize one provision that was especially important to the select committee.

The bill would require that any operation intended to offer persons "an opportunity or inducement to engage in criminal acts" must be based upon "a finding that there is a reasonable suspicion that the operation will detect past, ongoing, or planned criminal activity of [a] specified type." If a specific individual identified in advance is to be offered "an inducement to engage in a criminal act," there must be "a finding that there is reasonable suspicion that the targeted individual has engaged, is engaging, or is likely to engage in criminal activity."

This reasonable suspicion standard for offering inducements to engage in criminal activity is not contested by the Department's analysis of the bill. Indeed, this is supposed to be standard that the FBI follows under its current policies. The reason for enacting the standard into law is to insure that the Congress, not just the executive branch, has the say in defining "reasonableness."

Sole reliance on executive branch determinations of "reasonableness" does not provide the kind of guidance the FBI needs in striking the balance between protection of innocent law-abiding citizens and the ability to investigate Federal crimes successfully. As the select committee stated in its final report:

> The Select Committee . . . strongly believes that legislation is needed to express the will of Congress that law enforcement undercover operations be firmly grounded on a factual basis and be free from arbitrariness and abuse. Nothing in current law would prevent drastic dilution of existing guideline requirements. Indeed, at least one former ranking official of the Department of Justice actually has advocated the use of undercover techniques as a preliminary investigative tool even in the absence of circumstances giving rise to a reasonable suspicion that criminal activity has occurred, is occurring, or is likely to occur.
>
> Pressures to use the undercover technique in an unregulated manner inevitably will rise as the number of such investigations increases and as the supervision of any given operation becomes correspondingly more difficult. Indeed, during Abscam the Department of Justice authorized the use of undercover techniques against any public official whose name was mentioned by any corrupt individual, no matter how obviously unreliable the information. Equally as important, legislation is necessary to close major unnecessary gaps in the existing guidelines, which in at least some circumstances clearly permit the use of undercover techniques in the absence of a reasonable suspicion of criminality.

Since the issuance of the Select Committee's report almost a year ago, other problems with an FBI undercover operation have come to light. For example, the FBI has admitted the existence of serious flaws in Operation Corkscrew, where a corrupt middleman swindled FBI undercover agents by having his associates impersonate local judges in Cleveland, Ohio. This case, which has been given widespread publicity by the CBS "60 Minutes" program, illustrates the recurring difficulties of reliance on the word of corrupt middlemen without sufficient independent corroborating information.

Neither guidelines nor legislative standards can guarantee that mistakes are not made in FBI undercover operations. But the Congress has an obligation to the public to participate in developing the standards, rather than abdicating that responsibility to the executive branch.

Consequently, in the year ahead, serious consideration should be given to further legislation. If the Congress is unable to act on a permanent statutory framework for FBI undercover operations, then an alternative may be to include a substantive reasonable suspicion standard in the next annual authorization or appropriations bill. There is no grounds to expect, based

on the Justice Department's analysis of S. 804, that such a standard would unduly hinder the continuing effective use of undercover operations as a means of investigating significant criminal activity. It would, however, fulfill the duty of Congress to establish a standard that protects the innocent while allowing the FBI to apprehend the guilty.●

BUDGET STATUS REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1984 pursuant to section 311 of the Congressional Budget Act.

Since my last report congressional action has been completed on House Joint Resolution 413, providing further continuing appropriations for 1984.

The report follows:

REPORT NO. 84-3.—REPORT TO THE PRESIDENT OF THE U.S. SENATE FROM THE COMMITTEE ON THE BUDGET, STATUS OF THE FISCAL YEAR 1984 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 91 REFLECTING COMPLETED ACTION AS OF NOV. 12, 1983

[In millions of dollars]

	Budget authority	Outlays	Revenues
2d budget resolution level	922,125	852,125	679,600
Current level	905,604	846,247	665,354
Amount remaining	16,521	5,878	0

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $16,521 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 91 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $5,878 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 91 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $0 million for fiscal year 1984, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 91.●

AMERICAN INDIAN NATIONAL BANK CELEBRATES 10TH YEAR OF STEADY GROWTH

● Mr. DECONCINI. Mr. President, I shall take a few minutes to mention a special observance that is taking place this week in Washington, D.C. November 16 marks the 10th anniversary of the American Indian National Bank as this country's only nationally chartered, Indian owned and controlled financial institution. The occasion is special in that the bank is the only successful, multitribal financial institution in the United States created to centralize Indian and non-Indian funds for the purpose of aiding economic development across Indian country.

American Indian tribers and communities stand at the threshold of an exciting era. Paradoxically, at a time when the most severe recession since World War II has left a devastating impact on Indian tribal economies, tribes are beginning to glimpse the potential for a period of tremendous economic growth. Out of necessity, Indian people are beginning to plan and conceptualize an economic order in Indian country which is not totally dependent on either the Federal Government or external business entities. Over the first 10 years of its existence, the American Indian National Bank has designed many specialized financial services for Indian tribes, and has demonstrated that a multitribal private business venture can succeed.

The bank puts Indian capital to work through the careful placements of loans and other extensions of credit directed at such tribal priorities as the development of Indian-owned, reservation-based business enterprises. As an institution charged by its tribal investors with the task of meeting specialized banking needs, AINB has developed a high level of expertise in loan agreements, credit arrangements, and other financial services needed by the Indian community.

AINB was founded on the conviction that a national Indian financial structure, wholly owned and controlled by American Indian and Alaskan Native tribes, organizations, and individuals, could assist Indian Communities to establish and develop a strong economic base. This concept was discussed by Indian leaders and Government officials over the course of many years. In 1973, under the leadership of the Yakima Nation's highly respected chairman, the late Bob Jim, the bank was established in Washington, D.C. The idea at the time was that the bank would act as a mechanism to serve tribal banking needs, primarily by capturing Federal Indian funds from accumulated deposits, so that loans could be made available for worthy business development projects across Indian country. Later, the Unitah and Ouray Tribes of Utah, and the Colville Confederated Tribes of Washington State, joined in this venture, and in 1982, the Navajo Nation became the bank's second largest shareholder.

As it begins its second decade, the bank stands alone as a bank dedicated to working for the economic betterment of Indians, a group of people generally left out of the mainstream of business activity in the United States. By allocating its financial resources to projects that provide jobs on the reservations, increase business opportunities for individual tribal members, and improve the quality of Indian life, the AINB works to insure economic vitality in Indian country and a brighter future for Indian people.

Today, I take great pleasure in recognizing and commending the American Indian National Bank on the 10th anniversary of its successful operation. Those who have an abiding interest in the development of stable economies in Indian country look forward to the bank's continuing contribution to this mutual and crucial goal.●

A PROFILE IN COURAGE

● Mr. HATFIELD. Mr. President, I should like to bring to the attention of my colleagues the story of a very courageous young man, Evan Sission, of Vienna, Va. Evan has been afflicted since birth with osteogenesis imperfecta, a genetic disease resulting in very weak bones, and known more commonly as "brittle bones." The disease has confined Evan to a wheelchair for most of his life, but he has shown steady improvement in recent years, and this year he was able to walk without crutches.

Evan is in his senior year at James Madison High School in Vienna and has participated all four high school years in the schoól band. However, it was not until this past fall that he was strong enough to march with the band. Having Evan march without complaint in band practices during the hot summer months was an inspiration to the entire band, and certainly dissuaded any others who might have felt too weak to continue the grueling pace.

Evan's leadership as band president played a big part in the Madison band's highly successful season. The band won the grand championship at both the North Stafford Invitational Marching Band Contest and the Thomas Jefferson Invitational March Band Contest, and placed first runner-up in the Virginia State Marching Band Festival-West in class AAA competition.

Evan completed the marching season with the band, and appeared to be out of danger. But 1 week after the final contest, he suffered a serious break of the left thigh bone, in a fall which likely would not have injured one not stricken by osteogenesis imperfecta. Evan faces confinement in Fairfax Hospital in traction for 6 to 8 weeks followed by a similar period of further recuperation in a body cast after release from the hospital.

Mr. President, despite this setback, Evan remains optimistic about his overall progress and encourages others

to do likewise. His positive attitude during his recovery from this recent accident, as well as throughout his past struggle with his illness are an inspiration to all his peers and acquaintances and a true profile in courage for all of us.●

SILVER ANVIL AWARD WINNER

● Mr. LEVIN. Mr. President, the Public Relations Society of America annually awards its "Silver Anvil" award to a company that copes best in a crisis public relations situation with effective strategy and communications. One of the companies to receive the 1982 award was Hygrade Food Products of Michigan. I am pleased to take this opportunity to congratulate Mr. D. Clyde Riley, president of Hygrade and his outstanding staff whose preparation, candor, action and initiative proved vital to the survival of a business.

I ask that the text of an article, "Crisis Public Relations" from Dun's Business Month be printed in the RECORD.

The article follows:

CRISIS PUBLIC RELATIONS

An airliner crashes. A hotel walkway collapses. Toxic chemicals from a derailed freight train imperil a community. Botulism in a can of salmon. Poison in a painkiller.

Such tragedies, with all their attendant horrors of loss of life, damage in the millions and whopping liability suits, are the stuff that strikes dread in companies.

What should a corporation do when the unthinkable happens? How should it respond when a skittish public is asking questions and the media are clamoring for answers?

Many companies, to be sure, have contingency PR programs at the ready to respond to such unforeseen emergencies as a defective product, a plant accident or the death of the CEO. But few are ever totally prepared to handle a full-scale public-relations crisis when the very surivial of the company may be at stake. When seven people died from poisoned Tylenol capsules last September, recalls Lawrence G. Foster, vice president of public relations at Johnson & Johnson, "we did have an emergency PR plan in place to cover most situations. But nothing of this magnitude had ever happened to us—or anyone else—before. There was nothing in the program to cope with the kind of crisis that fell on us."

Time was when a company's first response to an emergency was largely defensive. Say little or nothing at all, the prevailing wisdom went. Keep the company name out of the paper. PR people still tell stories of zealous colleagues who would rush to the scene of an air crash and paint over the fuselage of the wrecked plane lest newsphotos show the name of the airline.

To companies that have recently known the trauma of a real crisis, however, such tactics are not only Neanderthal, but counterproductive. The public is much too skeptical and the media far too resourceful to accept stonewalling and cover-up. If a company does not manage its own news event, someone else is sure to mismanage it.

Hence, the first rule of modern crisis PR is borrowed from the Boy Scouts: Be Prepared. According to the 10,000-member International Association of Business Communicators, preparation, candor (even if it hurts), action and initiative are the four major attributes of an effective emergency program. Before disaster strikes, companies are advised to designate a crisis spokesman or a committee of executives, through which all information is to be funneled to the press.

When crisis comes, the experts advise, the company must keep its collective cool. No matter how serious the emergency may be, don't even hint at panic. Activate the crisis team, get the facts, ascertain the extent of the emergency, stop the bleeding as swiftly as possible, summon the media and report candidly and comprehensively what has happened and what the company is doing about it.

"Above all, you've got to be open and honest with the press," asserts Charles Ledgerwood, vice president of operations at Hygrade Food Products, who was the designated crisis leader during the meat processor's frightening emergency last year, when rumors were rife that there were razor blades in the company's hot dogs. "One thing the experience taught me is that total candor can convert a reporter from a hard-nosed muckraker into a sympathetic company supporter," says Ledgerwood. Not only does honesty pay, he adds with a wink, but "it beats having to remember what you told the media yesterday."

It can also turn a corporate tragedy into a public relations victory. The point was recently made by the Public Relations Society of America, which bestowed its annual Silver Anvil award on two companies that, in the opinion of the association's 25-member honors and awards committee, coped best with a PR emergency in 1982. Not surprisingly, a special Anvil was given to Johnson & Johnson for its deft handling of the Tylenol disaster. The other award went to Hygrade for its swift and sure response to reports (false, as it turned out) that a number of foreign objects—mainly razor blades—had been discovered in its Ball Park frankfurters.

From the year's other entries, here is a rundown on some of 1982's premier PR crises and how the companies involved coped:

THE POISONED PAINKILLER

For Johnson & Johnson, there was far more at stake than Tylenol's $450 million in sales. The tragedy not only put the painkiller's future in jeopardy, but cast doubt over the efficacy of the 96-year-old pharmaceutical company and its Tylenol-making subsidiary, McNeil Consumer Products. "It was an event without precedent in American business," producing 2,500 news queries and 125,000 stories in the print media alone, says Larry Foster.

Dumbfounded by reports of the first three deaths in Chicago, Chairman James E. Burke saw at once the frightening consequences of the fast-breaking story and summoned an ad hoc strategy group chaired by himself and including President Donald R. Clare and five other top J&J executives. Over the next six weeks, the group would meet twice daily.

Although it soon became apparent that J&J was itself an innocent victim of a still unknown madman, the company put out a flash alert to the public and the medical profession was immediately notified. Total cooperation was extended to the press, including permission for "60 Minutes" to film a meeting of the strategy group. And Tylenol capsules were swiftly swept from the shelves in a massive recall that cost the company about $100 million.

The program averted panic and restored confidence in J&J. But some market experts declared that Tylenol was dead as a brand. Refusing to say die, the company reintroduced the product in a triple-sealed safety package within an astonishing six weeks, a project that normally would consume a year of design, manufacturing and distribution. To announce Tylenol's comeback, J&J staged a thirty-city press conference via satellite that cost a whopping $400,000 and was covered by 600 news agencies.

Tylenol has since recaptured 80 percent of its previous 35 percent market share. But it must still scratch to recover the 20 percent it lost to the competition because of the crisis. As Foster puts it, "We're not out of this yet."

THE HOT DOG HORROR

The first report came in a week before Halloween. A Detroit housewife phoned the Detroit News to report that she had found a razor blade in a Ball Park frankfurter. To Hygrade Food Products, whose Ball Park brand is the nation's second largest-selling frank and accounts for about 35% of the company's $450 million in sales, the news was terrifying. Coming right after the Tylenol tragedy, it got even worse when thirteen other individuals claimed they had also discovered foreign objects, from blades to nails, in Ball Park franks. Says Ledgerwood: "I thought the company was finished."

The situation called for immediate action. President D. Clyde Riley promptly ordered production halted, issued a voluntary recall order for 350,000 pounds of franks in the market served by the Livonia, Michigan, plant and put all employees to work over the weekend inspecting thousands of cases of Ball Parks with borrowed metal detectors. With no inhouse PR counsel, Riley called in Detroit's PR Associates, which advised that four steps be taken at once: Withhold company comment until all the facts are in; set up a media information center; extend full cooperation to the press, and name a single company spokesman to head a crisis team.

So named, Chuck Ledgerwood issued a statement to 41 news outlets detailing the steps Hygrade had taken to assure the pubic safety, from recall to inspection. The statement also revealed that the company had brought in the police to investigate and was offering a $10,000 reward for conviction of the perpetrator.

At the same time, Ledgerwood visited the home of the woman who claimed to have found the first razor blade, and noted that it was a Gillette Blue Blade, the same type used by her husband. At first, management suspected that a disgruntled employee may have been responsible—and made its only major mistake by saying so to the press. But when Ledgerwood tried to duplicate a condition in the plant that could possibly have led to insertion of a blade in a Ball Park frank, he found it "totally impossible." He began to think that Hygrade was being had.

Days later the big break came when, one by one, under police questioning and polygraph tests, all fourteen claimants—including the housewife and her husband—admitted they had lied in the hope of winning a fat company settlement.

Having established that Hygrade had been victimized by a hoax, the media rallied to the company cause with postitve stories. A month later, Mayor Edward McNamara pro-

claimed "Livonia Loves Hygrade Week," whose objective was the sale and consumption of precisely 104,731 Ball Parks, a host of hot dogs equal to the city's population. Livonia loved Hygrade enough to purchase more than 150,000 franks.

All told, Hygrade's PR effort cost around $30,000, most of it for heavy use of the PR newswire and monitoring the media. The hoax also cost the company about $1 million in lost revenue, which, Ledgerwood advises, "we are on the verge of recovering." Yet the experience did produce one benefit. "It pulled us all together," says Ledgerwood, who, when the hoax was exposed, appeared before plant personnel to apologize on behalf of management for ever suspecting them in the first place. Since then, he reposts, "the level of productivity in the Livonia plant has been unreal." ●

THE ROLE OF THE UNITED STATES AS A WORLD LEADER

● Mr. TOWER. Mr. President, the events of the past several weeks in Lebanon and Grenada have vividly focused the attention of all Americans on the role of the United States as a world leader and the responsibilities and consequences that flow from that role. Mr. R. Emmett Tyrrell, Jr., has recently written two editorials—one dealing with the situation in Lebanon, the other with events on Grenada—which support the idea of a strong America not afraid to use power to protect its vital interests. I ask that Mr. Tyrrell's articles, which appeared in the Washington Post on October 26 and October 31, be included in the RECORD. His words are worthy of contemplation during this proud and difficult period in our Nation's history.

The articles follow:

[From the Washington Post, Oct. 26, 1983]

AMERICA THE FEEBLE

(By R. Emmett Tyrrell, Jr.)

Some of the giants of our time have called last Sunday's massacre in Lebanon an irrational tragedy. It is a tragedy only for the West, and far from irrational, it was committed with deliberation. There was purpose to it, and the purpose is to send us packing. Do we really want to bow to the purposes of those who murdered our Marines in their sleep?

It tells us a great deal about the feebleness that has spread throughout the American body politic that in this time of national grieving so many political leaders are so reluctant to stand by our president. If their carping grows, it will represent a historic break in the American tradition of rallying to the president in time of crisis.

Those calling for the Marines to withdraw from Lebanon talk as though U.S. interests can be rolled up onto landing barges, brought out to the fleet and shipped home. We can withdraw now, but can the Christian Lebanese or the Israelis or any of the moderate Arabs? Then, too, where would we withdraw from next?

The captious questions of Sunday's television pundits were mostly absurd. The smoke was still rising from the rubble, and already some of the commentators were finding fault with the Marines' security measures. Of all those commentators, only Henry Kissinger spoke with wisdom and sense of national purpose when he suggested that the United States consider bringing about a new balance of forces in Lebanon:

"We have to see whether other countries that are also interested in this would be willing to run risks, and in that context I would be willing also to increase American forces, which would then have to take on some of the radical elements that are shooting at them." "And shoot back?" Sam Donaldson of ABC asked. "Certainly," was the reply.

In a healthier time such questions could not possibly be asked. Rather we should be asking when and how to retaliate, probably against Iranian and Shiite encampments in Baalbeck, the Lebanese city behind Syrian lines. Killing American soldiers must carry a high cost.

In international relations, too many believe that foreign policy is just a matter of suave negotiations. All negotiations rest on power. Our reluctance in recent years to use power is why in so many places today there is so much violence and unwillingness to negotiate. If those who are denouncing our president and calling for withdrawal were a part of the passivity of recent years, they are not justified in calling for it today. Their policies, from Vietnam to the Iranian hostage crisis, have been discredited.

Shortly before his recent death, the venerable French theorist, Raymond Aron, judged the American condition when he observed that "the great weakness of the United States today is the absence of the will to power and fatigue of the people." To the degree that we are fatigued it is owing to the frivolity of our public concerns: the hypochondria, the narcissism, the myriad grievances we cultivate and the fanciful rights we argue about, and all the claptrap about the new man and new woman. In Lebanon this week we have seen that timeless men, brave and dutybound, are necessary to our national existence.

[From the Washington Post, Oct. 31, 1983]

A TIP OF THE HAT TO THE SPEAKER

(By R. Emmett Tyrrell, Jr.)

Admittedly, I have at times been critical, possibly even impolite, to that large, rumpled basso continuo of welfarism who serves as speaker of the House, but last week as American soldiers were struggling against a Marxist-Leninist power grab in the Caribbean he was quick to oppose "any type of dialogue critical of my government at this time." His resolution lasted almost three days. In the new age Democratic Party, where Christopher Dodd replaces Henry Jackson, the speaker's toughness took courage.

Possibly he recognized that our recent proclivity for carping and bloviating against a president embroiled in problems abroad only worsens those problems. Possibly he realized that since the early 1970s we have been living through an era of illusory peace, attained solely by allowing large parts of Africa, Asia, the Middle East, and now Central America to be taken over by Moscow's surrogates. All these tin-pot despots abominate us and our way of life. Maybe Speaker O'Neill appreciates the enduring wisdom of Lorenzo de Medici's 15th century admonition to his son, Pope Leo: "Those who speak ill of us do not love us."

Certainly the New Age Capitol Hill giants do not see the world this way. Dreamers that they are, they hear Fidel Castro tirelessly haranguing the United States, a nation that by any humane standard is as superior to Fidel's island hoosegow as heaven is to hell, and they suggest negotiations. He ships huge stores of weaponry and armies of soldiers to once serene little lands, and they see only technicians and construction workers. Do American construction workers carry Russian AK47s? Does it really not matter if Central America and the Caribbean bristle with hostile military installations, or that "little" Grenada be turned into a giant aircraft carrier for Cubans and the Soviets?

Last week for the first time since 1917 a country taken over by Marxist-Leninist revolutionaries was reclaimed for freedom. Friends of freedom throughout the world should have been rejoicing. You can be sure that Lech Walesa was glad and Alexander Solzhenitsyn and all those who yearn for freedom in Eastern Europe, Southeast Asia, Afghanistan, the aforementioned Third World despotisms, and of course, Nicaragua: where the only independent newspaper is censored and subjected to brutal harassment, where the church is under police surveillance, where there are no elections, where the thug Somoza begins to appear as a kind of liberal.

Yet, those who still have their freedoms have been slow to rejoice. From Europe we hear the usual disapprobation. During the administration of Jimmy Carter the Europeans scowled at us for his dithering; today they scowl at Ronald Reagan's decisiveness. It is an old story, summed up by Henry Kissinger in the first volume of his memoirs: "In times of rising tension, they feared American rigidity; in times of relaxing tension, they dreaded a U.S.-Soviet condominium." What do you expect from a people whose major daily meal comes at midday?

The fault-finding that issued from Capitol Hill last week and from our press was more disturbing. Drugged by the pessimism of the era, many now automatically anticipate American defeat and hope to profit from it. Noting that our military was engaged in a dangerous mission, O'Neill wisely warned against being critical, and all the presidential candidates who would be tomorrow's heroes were today's ostriches. While our anonymous American soldiers who never will be able to exploit this moment were defending American interests, the candidates were awaiting their opportunities. Then Mondale and the terminally cynical fell on the president. How could Tip hold out?

There are those on Capitol Hill and in the media who are perfectly comfortable with American failure, for it fortifies their belief that to exercise power is futile. Now Sen. Daniel Patrick Moynihan has joined this band of popinjays, and last week all luxuriated in the kind of petty fault-finding whose aim is to allow them to look righteous whatever the outcome of events. At the United Nations Moynihan used to take on all the world's despots. He wrote a memoir that is a sustained assault on the alleged softness of Henry Kissinger. It is particularly critical of our refusal to resist Cubans in Angola. Now, like so many other members of the club, Moynihan has retired from the fray for the comforts of the United States Senate.

Finally there were those of my colleagues who apparently did not have enough to keep them busy last week, so during a secret assault on secret Cuban installations they began complaining of our government's secrecy. I am sorry I was out of the office when CBS News called for my reaction to this temporary state of affairs. I would have told them that when U.S. soldiers are under fire protecting our interests I do not want

them distracted by souvernir peddlers, life insurance salesmen, or even journalists. Apparently the massacre of our Marines in Beirut did not impose upon the colleagues' minds the seriousness of war, but Tip O'Neill understood, and while he held out against the opportunists and the defeatists, I for one was grateful.●

MRS. HELEN G. CORROTHERS PAROLE COMMISSIONER

● Mr. PRYOR. Mr. President, the country has a new Parole Commissioner in Helen G. Corrothers, and I want to take this opportunity to point out what a remarkable person she is and how fortunate we are to have her in this position.

Mrs. Corrothers is a native of Montrose, Ark. She has long been involved professionally in criminal justice and law enforcement, having served on every significant board and commission in the State and many in the region. She has also received the National Defense Service Medal and the U.S. Army Commendation Medal.

When I was Governor of Arkansas Mrs. Corrothers served as superintendent of the Women's unit of the State Department of Correction in Pine Bluff. She had taken that job in 1971. And she was exemplary in every way, showing leadership and courage whenever tough and necessary decisions had to be made. We were always aware that, no matter what crisis might arise, Helen Corrothers would be able to handle it.

If there is anyone who understands the full implications of prisons, pardons, and paroles, certainly Mrs. Corrothers does. Not only has she served in a variety of positions, she has also published and read professional papers on the subject. She is a known leader in her field.

I recall one such paper on community-based programs. It was delivered by Mrs. Corrothers in El Dorado, Ark., during my tenure as Governor. It was a cogent analysis of work-release projects and discussed clearly the wide range of possibilities within this definition.

On a number of other occasions, Mrs. Corrothers has presented topics on women in prison. She knows from wide experience the effects on the family that result from tragic situations of this kind.

In addition to her prison work, Mrs. Corrothers has a distinguished record in the U.S. armed services. For a number of years she served in Germany with the Army and before that in Fort Myer, Va. In each position, she was the first female ever responsible for the duties assigned her—in personnel, and management, and as a member of the commander's staff.

Mrs. Corrothers graduated from public schools in Portland, Ark., and later from Arkansas Baptist College. She took a later degree at Roosevelt University in Chicago.

We in Arkansas have been well aware of Helen Corrothers' impressive record, and we have long known that she is a national figure in her field. I am pleased that the administration has also recognized this outstanding Arkansan, and I am especially privileged to speak on her behalf today. We are fortunate to have her services, and I wish to commend my colleagues in the Senate for their ready endorsement and confirmation yesterday.●

THE AIR TRAVELERS SECURITY ACT, S. 764

● Mr. WARNER. Mr. President, I rise today to ask unanimous consent that the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. WALLOP), and the Senator from Missouri (Mr. DANFORTH) be listed as cosponsors of S. 764, the Air Travelers Security Act.

Mr. President, this morning the Senate Commerce Committee completed its deliberations on S. 764, and reported the measure by a vote of 16 to 1.

This action by the committee is a resounding expression of support for a measure which now enjoys the cosponsorship of 51 Senators, in addition to myself.

In the 8 months since its introduction, the Air Travelers Security Act has received a full hearing in both the House Aviation Subcommittee and the Senate Aviation Subcommittee. Support for the bill has grown by leaps and bounds, and there are now more than 180 House Members on the bill and a majority of Senators.

Through the course of House and Senate hearings, and discussions with representatives of various regulatory and administrative agencies, two criticisms were raised of the legislation. One criticism was with regard to concern over the precedent of directing an agency—the Civil Aeronautics Board (CAB)—to adopt an administrative law judge's (ALJ) decision. The other criticism was that the bill was ambiguous—because some felt the law judge's decision was ambiguous—about who could and could not market airline accommodations.

As a lawyer myself, I have always believed in the principle that bad facts make bad law, and since there is sincere uncertainty about what the ALJ meant in his decision, that uncertainty ought to be clarified.

As a result, I proposed, and Senator KASSEBAUM, as chairman of the Commerce Committee, Subcommittee on Aviation accepted my offer to have S. 764 modified to meet these two oftenstated criticisms.

The modification drops all reference to the ALJ's decision in the competitive marketing investigation. In its place, the CAB's final decision in the investigation is substituted and further modified to achieve the objectives sought in S. 764. At the same time, the modification clarifies whatever ambiguities surround the ALJ's decision.

The effect of this measure is to insure that airlines individually have the freedom to appoint ticket sellers for their own services on any terms they desire.

It preserves the integrity of the interline system and the industry's area settlement plan.

It continues the opportunities of airlines to recognize the services of business travel departments through discount pricing and on-line arrangements.

It eliminates concerns about the technical form of the bill.

It permits the Government to reexamine the agreements in light of changing conditions or whenever the public interest dictates.

And it limits the substantive amendments to the Board's decision and confirms the Board's factual determinations.

Specifically, the Board repeatedly asserted that its decision found in favor of the system of common accreditation of agents and endorsed the public importance of the interline system, the need to honor U.S. international agreements assuring fair and equal opportunities for airlines of all nations to compete, et cetera.

The revised bill rests on those same principles and essentially endorses the Board's basic findings.

Indeed, the legislative history will praise the Board for its handling of the biggest and most difficult case in its history for its effort to find new ways to make deregulation work, and to increase competition in air travel. In effect, Congress will be intervening only to the limited degree necessary to avoid undue risks to the public interest, a judgment that Congress can appropriately make.

In short, the basic findings on which the Board's opinion is claimed to rest will not be undermined by the amended bill.

From the airlines' and travel agents' perspective, this measure is a major compromise, but one which they have accepted and support.

From my perspective, this measure represents a major effort to be responsive to the concerns of the various administrative and regulatory agency representatives.

From the consumer's perspective, this measure continues to protect their rights and their ability to enjoy and depend upon the conveniences of the airline interlining system.

Mr. President, I am delighted that this accord has been reached and that the Commerce Committee has acted as

it has. I look forward to the opportunity to bring this measure before the full Senate, and urge Senators who have not already cosponsored this measure to do so.

Mr. President, I ask that the text of the original bill and the text of the amendment adopted by the Commerce Committee be printed in the RECORD.

The bill and amendment follow:

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding the following new sections at the end of title IV thereof:

"CONGRESSIONAL DECLARATION OF POLICY

"SEC. 420. The Congress hereby finds and declares—

that the maintenance of competency, honesty and efficiency in the marketing and sale of passenger air transportion is an important feature of the national integrated air transportion system which must be encouraged and preserved for the benefit of the traveling public;

that mutual acceptance by air carriers and foreign air carriers of persons engaged as sales agents in the marketing and sale of passenger air transportion is necessary to maintain a nationwide network of qualified sales agents and requires cooperation among such carriers;

that the national interest in air travel, consumer welfare, tourism promotion, professionalism and financial stability in the marketing and sale of passenger air transportation requires continuation of carrier cooperative working arrangements as to assure that such goals are met; and

that it is in the public interest that carrier cooperative working arrangements or the marketing of passenger air transportation be subject to continuing administrative oversight with respect to compliance with the antitrust laws.

"Sec. 421. The Board is directed to vacate Order 82-12-85, adopted December 16, 1982, and to adopt as its final decision in Docket 36565 the Recommended Order accompanying the Initial Decision of the Administrative Law Judge therein, dated June 1, 1982.".

AMENDMENT TO S. 764

Strike out all after the enacting clause and substitute the following:

SECTION 1. The Congress hereby finds and declares that—

(1) the Civil Aeronautics Board, pursuant to sections 412 and 414 of the Federal Aviation Act of 1958, has conducted a full investigation of airline agreements establishing standards for the accreditation of sales representatives, with the goal of increasing competition in the marketing and sale of air transportation;

(2) the decision of the Board in such case (Order 82-12-85) is in conformity with the policy of the Airline Deregulation Act of 1978 to the extent that it approves such agreements and to the extent that it provides the opportunity for increased competition in the marketing and sale of on-line air transportation under arrangements separate from those for the marketing and sale of interline transportation and with appropriate provisions to avoid confusion among consumers and within the industry;

(3) the maintenance of competency, honesty, and efficiency in the marketing and sale of air transportation is an important feature of the integrated air transportation system which must be encouraged and preserved for the benefit of the traveling public;

(4) mutual acceptance by cooperating and coordinating air carriers and foreign air carriers of persons engaged as sales agents in the marketing and sale of air transportation is necessary to maintain a nationwide network of qualified sales agents;

(5) the national interest in the welfare of air travel consumers, tourism promotion, and professionalism and financial stability in the marketing and sale of air transportation requires continuation of carrier cooperative working arrangements so as to assure that such goals are met;

(6) the public interest is best served by subjecting carrier cooperative working arrangements for the marketing and sale of air transportation to continuing administrative oversight with respect to compliance with antitrust standards; and

(7) in order to preserve the benefits of the Board's decision together with the assurance of the maximum opportunity for continuation of enforceable airline agreements that will facilitate the provision of interline air transportation, provide adequate financial security for parties participating in such agreements, and otherwise achieve the goals set forth herein, certain modifications in the Board's decision are required in the public interest.

SEC. 2. The Civil Aeronautics Board is directed to issue an order in Docket 36595, modifying Order 82-12-85 (adopted on December 16, 1982 and modified on March 21, 1983), as follows:

(1) in paragraph 2 of such Order strike everything after the word "establishes" and substitute "section XX1.L. of Resolution 90.3.";

(2) in paragraph 4 insert "without conditions" immediately after "approve";

(3) in paragraph 8 strike "paragraphs 9 and 10;" and substitute "paragraph 10;";

(4) amend paragraph 9 to read as follows: "9. Deleted.";

(5) in paragraph 14 strike "paragraphs 15 and 16;" and substitute "paragraph 16;";

(6) amend paragraph 15 to read as follows: "15. Deleted.";

(7) in subparagraph 16(f) strike "Sections D(1)-(4)," and substitute "Sections D(2), D(4),"; and

(8) in paragraph 23 strike "until December 31, 1984,".●

REFLECTIONS ON THE LIFE OF PRESIDENT JOHN F. KENNEDY BY STUART SYMINGTON

● Mr. EAGLETON. Mr. President, my former colleague and distinguished Member of this body, Stuart Symington, recently wrote his reflections on President John F. Kennedy as the 20th anniversary of his tragic assassination approaches. Stuart Symington served with John F. Kennedy in the Senate, was his competitor for the 1960 Democratic nomination for President, and served in the Senate during his Presidency. He knew the man well. I think his reflections are particularly insightful and a moving tribute to President Kennedy. I ask that they be printed as part of the RECORD.

The material follows:

JOHN F. KENNEDY

If there is one word which to me would best describe the late President John F. Kennedy, that word would be courage.

As was also true of another friend who years ago was my lawyer in the private sector, Colonel William J. (Wild Bill) Donovan, Jack Kennedy was without fear; a trait apparently characteristic of the best of the Irish.

We all know of the late President's bravery in the Pacific; also his efforts, for the rest of his life, to overcome the pain and fatigue of his war injuries. Some may forget, however, the grace under pressure which he displayed at the time of the Bay of Pigs disaster, a plan drawn up in the previous Administration and presented to him promptly after his inauguration, with recommendation to proceed. Relying on those who had conceived and recommended this undertaking, after it ended in disaster, in the tradition of Harry Truman the buck stopped there. President Kennedy promptly placed upon himself the blame for this misadventure.

But this youngest of Presidents was a consistent learner. From that experience he learned plenty, as demonstrated following his disturbing meeting with Khrushchev in Vienna. After receiving confirming pictorial evidence of Soviet missiles in Cuba, he did not hesitate. Following the precedent set by President Theodore Roosevelt of speaking softly but carrying a big stick, President Kennedy quietly but firmly notified the Soviet leadership to either take the missiles out of Cuba or face World War III.

Such was the stuff of which Jack Kennedy was made.

It is my considered opinion that if he had lived he would have followed the famous advice of Senator George Aiken of Vermont and withdrawn American forces from Vietnam many years before that actually happened.

Another consistent characteristic was his basic optimism. Many people have told me they invariably felt better about the nation and the world after visiting with him. I too felt that way.

In the eight years we served together in the Senate, in my efforts to win from him the Democratic nomination in 1960, and during the some three years of his Presidency, he and I had disagreements, but there was never bitterness.

Women were drawn to him, but so were men.

When asked to say something at the victory celebration following his nomination, July, 1960, I gladly accepted, stating at that time, "How did he do it? Well, I'll tell you how he did it. He did it because he had just a little more courage, a little more stamina, a little more wisdom than any of the rest of us."

The night of his death I could not sleep, so, quite late, I went to a church and lit a candle to this American patriot. I believe people, all over the world, felt the same way.●

VOLUNTEER FIRE DEPARTMENTS

● Mr. JEPSEN. Mr. President, among the unsung heroes of our Nation are members of volunteer fire departments.

In the words of Richard J. Margolis, author of an article in the current

issue of Smithsonian magazine, "the presence of a firehouse in one's village was a blessing not to be scorned."

Continuing, Margolis said "besides assuring residents a measure of protection, it attested to their organizing talents and to their resolve as a community to challenge disaster."

I was pleased that the author took note of two Iowa communities supporting a fire company, Gray and Audubon.

I ask that the article be placed in the RECORD.

The article follows:

FOR THE VOLUNTEERS, DOUSING FLAMES IS ONLY PART OF THE JOB

(By Richard J. Margolis)

It had been an unusually dry autumn. Swiftly and scarily my little trash-can fire strayed beyond bounds, climbed a shagbark hickory and began crackling from treetop to treetop. I ran back to the house and telephoned the village fire department. Even before I'd hung up I could hear the fire horn's reassuring wail a mile away, and soon two red pumpers came careening down our dirt road, sirens blaring, bells clanging. Some of the fire fighters were my neighbors, yet in their brimmed helmets and yellow slickers they looked strangely unfamiliar—more consequential.

Quickly they doused the fire, and almost as quickly they collected their gear, negotiated our driveway and rumbled out of sight. But not out of mind. For in those brief moments of flare-up and extinguishment I had gained a new affection for that most taken-for granted of social inventions, the volunteer fire department. Some 28,000 of these safeguard our towns and villages. They are sustained by about 1.5 million volunteers.

If the volunteer fire company is today a rural fixture, it began as an urban contrivance—first in Boston, in 1717, and 19 years later in Philadelphia, where Benjamin Franklin organized the Union Fire Company (20 volunteers and 40 buckets). An idea whose time had come, it gradually spread to the provinces. By 1845 Henry David Thoreau could describe the motives of village volunteers with his usual mixture of amazement and cynicism. "If I should only give a few pulls on the parish bellrope, as for a fire," he remarked, ". . . there is hardly a man on his farm in the outskirts of Concord . . . nor a boy, nor a woman . . . but would forsake all and follow that sound, not mainly to save property from the flames, but . . . much more to see it burn, since burn it must, and we, be it known, did not set it on fire—or to see it put out, and have a hand in it, if that is done as handsomely. . . ."

The Rainbow Fire Company in Reading, Pennsylvania, "is probably the oldest volunteer unit in continuous service," according to the late Ernest Earnest, author of the *The Volunteer Fire Company.* With a population approaching 80,000 and 150 active volunteers, Reading may be one of the largest towns still served by an all-volunteer fire force. A close rival is Bloomington, Minnesota, a once sleepy village south of Minneapolis, with 125 volunteers.

At the other end of the scale there is Gray, Iowa, surely among the smallest of communities that support a fire company. Twenty volunteers there protect 108 town residents as well as a scattering of farm families. According to Larry Kendle, a local gas-station owner and member of the ladder crew, Gray's fire department was reorganized in 1973 "after the old fire department went to heck."

The citizens' intentions were mixed. For one thing, they craved safety. In those dangerous times, says Kendle, "if someone asked what kind of fire protection the town had, I'd have to answer, 'It rains here sometimes.'" For another, they yearned for a likely charity that would justify the Main Street carnival they had planned for the Fourth of July, something that might take the curse off the gambling and beer drinking that were bound to occur that day in front of the Wagon Wheel café. A new fire department in urgent need of funds seemed just the ticket.

Recently I made a pilgrimage to a score of small fire companies around the country. The journey was an eye-opener in several respects. Among other things I learned an answer—perhaps not *the* answer—to that ancient riddle: Why does a fireman wear red suspenders? It's because they're quicker to put on than a belt.

I also discovered some fresh riddles to ponder. For instance: What about contradictions that shape a volunteer's days and nights? The yawning drudgery relieved by occasional glory; the blend of superstition and science that constitutes fire-fighting wisdom (a new engine is pushed into the firehouse three times—for good luck); the deadly seriousness of the tasks that firemen perform versus the lively foolishness of the games they play—the parades, the carnivals, the water fights, all the extravagant horseplay.

And why is it that volunteer fire departments, though frequently hailed as model democratic institutions, can be as clubby as country clubs? Such riddles were among my firehouses souvenirs.

I went first to Morrisville, Vermont (population 2,074), a pretty town some 40 miles south of the Canadian border. I'd been told that citizens there had suffered much regional ridicule 15 years ago when, on a sunny St. Patrick's Day, their firehouse has burned to the ground. The Morrisville volunteers that day suffered more than embarrassment. A witness recalls that "tears rolled down their faces" as they stood helplessly by.

Before the year was out, however, the town had raised $150,000 for new equipment and construction of a new firehouse of wooden frame and brick veneer, complete with a "social room" for volunteers. The room has since become a favorite fireman's haunt, where the recreation is distinctly old-fashioned and masculine. Almost any evening one can find volunteers there shooting pool, playing poker or just chatting over beers. The talk is loud, good-natured and faintly scatological. Women are found nowhere near the premises. "I guess you could say we're a fraternity," says Lee Sturtevant, a former assistant fire chief.

When the Rev. James Missroon, pastor of the First Congregational Church of Morrisville, became a volunteer, the men kept apologizing to him for swearing. To put the men at ease, *he* said a swear word or two. "They were a little startled at first," he says, "but at least they stopped saying 'Sorry, Reverend.'"

DASHBOARD LIKE AN AIRLINER COCKPIT

On the evening I visited the station, two volunteers were polishing an already gleaming pumper, a lime-green Maxim, ("Red is out now," one of the men told me. "You can't see red at night.") As is always the case with fire trucks, the driver's door had been left wide open for a quick getaway, so I climbed inside and pretended to be a fireman. It was an unsettling experience. The dashboard reminded me of the complicated panels one glimpses in airliner cockpits: it bristled with all manner of mysterious dials and gauges. And when I looked through the windshield, the truck's shiny snout seemed to stretch for miles.

"Can you actually drive this?" I asked a fireman.

He seemed amused. "Only if I'm here first," he said. "First man to answer the call gets to drive the pumper."

Later than night I watched a training session for new volunteers, one of many a recruit must endure during his six-month probation period. Using a dozen empty barrels, the firemen in charge had constructed a snaking tunnel through which the recruits were ordered to crawl. While the young men were negotiating this obstacle course, their veteran colleagues did all they could to rattle them, shouting and beating mightily on the sides of the barrels.

"It's nerve training," Sturtevant explained. "It teaches you not to panic in a confused situation." A week earlier, he said, the new volunteers had been introduced to smoke practice: "We got a barrel of hay and made a lot of smoke. The guys learned how to use their Air Pacs."

The serious training and the constant socializing more than suffice as an initiation into the club, and the message conveyed is that fire fighting is both a privilege and a way of life. "You have to be voted on to get in," Sturtevant says with a touch of awe.

In most respects I found the Morrisville fire company typical of other volunteer fire departments throughout the country. Wherever I went it was clear that the presence of a firehouse in one's village was a blessing not to be scorned. Besides assuring residents a measure of protection, it attested to their organizing talents and to their resolve as a community to challenge disaster. Thus in poorer rural communities a volunteer fire company can be a metaphor for group achievement, a mark of municipal upward mobility. "We weren't nothing till we got the water and the pumper," says Johnny Jackson (p. 161), the mayor of White Hall, Alabama, a predominantly black town 17 miles east of Selma. "Before, when somebody's house caught fire, all we could do was stand around and watch. By the time the trucks from Selma got here, if they ever did, there was nothing left. My mother lost her house that way in '79. So did a lot of others—Willie Saunders, Myrtle Watson, Adam Robertson."

On County Road 40 I stopped at the site where Myrtle Watson's house once stood. All that remains now is a square black scab fronted by three cinderblock steps leading nowhere. I could guess the room scheme from the charred detritus lying around: a blackened sink in one corner, a twisted bedspring in another. Myrtle Watson was taking an afternoon nap when she awoke to sniff the suddenly menacing air. Something of that moment's panic and helplessness still lingers here among the weeds and buttercups, an ashy odor of terror.

"Things are better now," Mayor Jackson tells me. "One day last week we saved a house." His blue-and-white T-shirt bears an inscription that bespeaks the town's sense of rejuvenation: "White Hall has it all!"

TOO OLD EQUIPMENT, TOO MUCH TERRITORY

Even so, it remains true that rural Americans often get the short end of the hose,

which is to say they suffer grievously and disproportionately from the ravages of fire. Antique equipment and expansive geography are among the handicaps that enlarge rural perils.

While inadequacies can be found in all regions, they loom largest in the South, where much of the fire-fighting machinery must be begged or bartered, and smallest in the North, where volunteer traditions are strong and distances between towns are less daunting. Thompson, Connecticut, exceptional even in the North, enjoys the luxury of five independent fire departments that serve approximately 8,300 residents. Each is fully manned (there are 200 active volunteers) and generously equipped with late-model pumpers, two-way radios, Air Pacs and a variety of other up-to-date paraphernalia.

Rural Southerners are less fortunate. As often as not the vehicles vouchsafed to their fire departments are castoffs from larger, more affluent communities. White Hall's first pumper, a Seagrave manufactured in the late 1940s, was donated in 1980 by the Selma fire department. The front "seat" consisted of three wooden boards flung across the width of the cab, with part of a tree stump plopped down for the driver to sit on.

In Trenton, New Jersey, one dealer arranged to sell an older fire truck to volunteers from a village in North Carolina. Right on schedule the Carolinians arrived in an engine even more ancient than the one they intended to buy. It was filled to the top with watermelons, which they offered in lieu of cash. "That's not the kind of green we had in mind," the visitors were told. So they drove on to New York City where they sold their melons wholesale, and with the proceeds purchased the Trenton truck.

Because equipping and maintaining a fire department costs a good deal of money—the price of a new pumper these days can be in six figures—village firemen spend much of their time chasing dollars. Town taxes and bond issues pay the freight in some communities, but where money is scarce the volunteers must be imaginative. Carnivals, auctions, chicken-and-dumpling dinners and firemen's balls are still popular. So are bingo nights in the firehouse. "If it weren't for bingo," a Vermont volunteer told me, "half the towns around here would be in cinders."

The Gray Fire Belles, a ladies' auxiliary to be reckoned with, have produced a 250-page recipe book and to date have sold 1,850 copies at $5 apiece. Their husbands, meanwhile, have raised money by competing with neighboring fire companies in creative water fights. An empty beer keg is strung overhead on a 150-foot cable. Facing each other with their hoses, each team aims streams of water at the keg, attempting to push it to the far end of the cable. "You don't make much money," says Fire Chief Jonnie Meislahn, "but you can get pretty wet."

Still and all, many a village fire department runs out of cash before completing its shopping list. A decade ago help seemed near at hand when Congress began to show an interest in putting out rural fires. A measure passed in 1972 included a Rural Community Fire Protection Program aimed at providing "financial, technical and related assistance . . . to organize, train and equip local firefighting forces. . . ." Rural communities quickly queued up for assistance, only to find that the line was long and funds were short. In the Northeast, for instance, nearly 10,000 small-town fire companies applied for a total of $47 million between 1975 and 1978. Available grants during the same period amounted to only $4.2 million, and that pittance has been reduced, with sharp cuts likely in 1984.

The many hardships faced by rural fire fighters can have irreversible consequences. Last year the National Bureau of Standards conducted a 12-state study on fire fatalities and concluded that rural victims of home fires were nearly twice as likely to die as were nonrural victims. The statistics mask much tragedy, some of which I heard about during my travels.

In Audubon, Iowa, Fire Chief Cliff Petersen, the proprietor of Cliff's Lounge, answered a call to a trailer fire downtown. "The smoke was something awful," he remembers. Donning an Air Pac, Petersen broke a rear window and climbed inside the trailer. There he found a six-year-old girl, the owner's niece, curled up in her bed. She was pronounced dead from smoke inhalation. "Kids and hogs are the same way," Petersen says. "If they can't get out, they go back to their original place and wait to die or be rescued."

In Hyde Park, Vermont, two young volunteers from nearby Morrisville were answering their first fire call. Forcing open the door to a burning apartment, they stepped on the body of someone they'd known: Percy Knight, an elderly retired grocer. Later, the shaken young firemen requested counseling from their fellow volunteer, Mr. Missroon. "The main thing they kept asking," recalls Missroon, "was 'Why?' The man was so close to the door. He was almost saved."

All things considered, firemen are probably no braver than the rest of us, but they may be shrewder in their treatment of mortality. The veteran volunteers I interviewed took care not to brood about the dangers they routinely had to face, and thus achieved a measure of grace under pressure. To paraphrase Shakespeare, they never tasted of death but once—or perhaps but twice, if one takes into account fires like the one that broke out two summers ago at a dockside fertilizer plant in Lewes, Delaware.

One of the first volunteers to arrive at the scene was E. James Monihan, a hospital administrator who happened also to be chairman of the National Volunteer Fire Council, Inc. "We'd taken a call that Saturday afternoon that there was a fire on the fish dock," Monihan remembers. "When we got there, big pieces of sheet metal from the warehouse roof were falling red hot into the bay, making steam. Any one of us could have been beheaded."

As it happened, the University of Delaware maintained an oceanographic facility at the far end of the dock. Fearing the worst, Lewes' fire chief radioed the university for advice. "To the best of our knowledge," someone at the other end of the two-way set told him, "there is nothing hazardous on the dock." The chief had scarcely acknowledged the message when, according to Monihan, "a fireball went up."

"There's not a whole lot you can do at that point," he says. "I crawled under the truck while my driver dived into it headfirst. All kinds of junk was flying around, but nobody ran. That was one hell of an explosion: the fireball went a couple of hundred feet into the air. Grass was burning near the highway a half-mile away. We found out later it was a diesel-fuel tank that went off."

The chief ordered a general retreat off the dock, which meant the firemen had to drag their heavy "blitz lines"—two-and-a-half-inch hoses—behind them, and some of the hoses were fully charged with water. As Monihan struggled with his hose, he saw Ethel Maull go by with a line in each hand. She was the Lewes fire department's first woman volunteer.

"Wait a minute!" he shouted. "We'll help you."

"I'm doing all right," she called back.

"With the pier lost, the task now was to save a fertilizer processing plant, which was now fully exposed. In order to gain height for their hose stream, Monihan and a young volunteer named Steve Brittingham climbed into an aerial basket and were propelled 30 feet above the ground. For a short while they felt relatively safe, but then: "The wind shifted. Suddenly we were enveloped by black smoke."

The thick smoke and debris forced everyone to flee the area, leaving Monihan and Brittingham stranded in their basket. "We had our own controls up there," explains Monihan, "but we couldn't see where we were going. For all we knew we'd be setting ourselves down onto live electric lines."

"ARE WE GOING TO DIE UP HERE?"

The air in their Air Pacs was not going to last forever. Through his mask, Brittingham was trying to ask a question. "He kept leaning into my ear, yelling something," Monihan recalls. "It sounded funny—kind of garbled and muffled." Eventually Monihan caught the drift. "Are we going to die up here?" Brittingham wanted to know. The answer was written in the wind, which mercifully changed course again, allowing the two volunteers to descend safely.

"When we hit the ground," says Monihan, "the first person I saw was Thornton Shipley, the man who'd been at the controls. He was struggling to get to the turntable, trying to save us. That's what I like about volunteers: you can depend on them."

Missroon had made a similar point. "What attracts you is the camaraderie," he'd told me. "It's good to know there are people you can count on."

The tie that binds Morrisville's 35 volunteers stretches from childhood to the grave. If a fireman becomes ill, his colleagues will organize a collection to help defray medical bills. And if he is lying on his deathbed, he may have the satisfaction of knowing that his fellow volunteers will attend his funeral in full regalia, wearing black tape over their badges.

Lee Sturtevant recalls: "As early as I can remember, I wanted to be a fireman. Every time the siren went off I ran out and followed them." The fire department's youth auxiliary, ages 14 to 18, has more applicants than it can handle. Apparently kids still want to be firemen when they grow up. If most city children outgrow the ambition, many rural ones live to fulfill it. In joining the volunteers they partake of both the pride and the prejudice inherent in the calling. Glorying in the gratitude of their fellow villagers, the young men—and occasionally the young women—become part of an elite folk-corps, a company of heroic commoners routinely ready to perform miracles.

It was this abiding paradox, the seeming transmogrification of everyday neighbors into once-in-a-while giants, that startled me when the firemen came to douse my trash-can fire. Their costumes, of course, had a lot to do with my larger-than-life perceptions. Yet masquerade was not the whole story. Something in the volunteers' demeanor, a

no-nonsense air of selflessness, won my respect and prodded my imagination. Perhaps they appealed to my fantasies, the part of me that yearned to go bravely forth and battle the elements. Maybe, at heart, we are all closet volunteers.●

SANYO ELECTRONICS

● Mr. PRYOR. Mr. President, in the mid-1970's, the Arkansas Industrial Development Commission made a conscientious decision to devote much of its efforts to encouraging reverse investments. Representatives of companies outside the United States were courted and wooed to establish plants in our State and hire local labor.

I was Governor of the State at this time and enjoyed the opportunity of getting to know many of the corporate executives and work closely with several companies who did choose Arkansas as a plant site.

However, one company stands out in my mind as a particular success story—that of Sanyo Electronics, a Japanese company that took over a faltering electronics company in an eastern Arkansas town and became integrated into the community there. Since its move to Forrest City, I have heard many fine things about this company from its employees and the citizens of that community. But I shall never forget an early visit I made to the plant shortly before Christmas one year. An employee stopped me to tell me that Christmas would be especially bright for employees there that year since it was the first time in many years that the company would continue to operate to capacity thoughout the holiday season. Rather than being temporarily laid off in the weeks preceding Christmas, all employees would have jobs.

I was especially pleased to read recently an article in the New York Times on this company and its employees. All are working together to insure the continued success of this operation.

The article follows:

JAPANESE FIRM SAVES FORREST CITY PLANT; 'MEANS SURVIVAL,' BUSINESSMAN ASSERTS

FORREST CITY—Seven years ago this town's largest employer, a plant making televisions for Sears, Roebuck and Co., was foundering.

Ten percent of the sets failed inspection at the plant and had to be repaired before being sold. Customer complaints were high. Employment dropped from 2,200 to fewer than 500. The company was near bankruptcy.

Today, under Japanese management, employment is back at 2,000 and additional hiring is possible. Productivity has risen substantially and the quality of the television sets and microwave ovens produced is excellent, Sears says. Workers' grievances have been halved.

The plant's success, with essentially the same workers producing the same product, underscores the differences between traditional American and Japanese management methods.

4,000 CELEBRATE

On a recent Saturday, more than 4,000 workers, executives and townspeople turned out on a sunny field for a party to celebrate the plant's success and the Japanese management that is credited with turning it around.

"Good morning," the company's president, Hajime Nakai, visiting from Japan, shouted.

"Good morning," 500 workers in company T-shirts shouted back. One worker, Betty Brady, gave flowers to Nakai and his wife.

The high spirits and lack of tension that day—workers and executives participating together in the sack race, the half-mile relay, the tug-of-war—illustrated an important development in labor relations and industrial rebirth.

PEOPLE-ORIENTED METHODS

The Sanyo Manufacturing Corporation has installed what it calls people-oriented management and has invested substantial sums of money, putting the plant on a sound financial footing.

"That plant has meant the survival of our city," says Gazzola Vacaro, who runs a lumber yard and leads the city industrial commission.

Forrest City's story is also a human story, in which Japanese and Americans, white and black, are working together harmoniously. Still, everything is not perfect. "Japanese belong to the Country Club but blacks do not," Mayor Danny Ferguson says. The union and the company still haggle. A strike occurred in 1979.

When the Japanese came, Satoshi Iue, the original Sanyo chief executive in Forrest City, told the Japanese not to congregate in a "Little Tokyo" but to live throughout the city and take part in community affairs. Today, Japanese are eating catfish and hushpuppies, and Americans are going to Japanese homes for dinner. Some workers, like Pansy Burns, are taking lessons in Japanese.

Some executives in Japan say blacks are not good workers, according to Tanemichi Sohma, the personnel administrator. He says the Forrest City plant, where 60 percent of the workers are black, demonstrates that this is false.

FACED DIFFICULTIES

The experiment began in the mid-1970s. Warwick Electronics, Inc., had run the plant 15 years and much of that time faced immense difficulties. Warwick is now defunct, and its parent company, Whirlpool, refuses to discuss the firm.

But Warwick, according to people who worked for the firm at the time, stressed output and paid little attention to quality. Sears salesmen did not like to sell the sets.

Sears, tired of shoddy manufacturing and believing the plant would fold if not turned around, asked Sanyo to buy the factory.

The timing was perfect, since the Japanese had been criticized after seizing a large part of the American television market. Sanyo acquired controlling interest in December 1976 and began operating the plant in January 1977.

Most Forrest City residents favored the Japanese, Vaccaro says, for they realized that without them the plant probably would have closed. But he said some people, including some World War II veterans, were opposed.

SEEK CONFIDENCE

The Japanese went to work quickly to win the confidence of workers and the town.

The first thing they did seemed unbusinesslike. They threw a party, complete with coffee and doughnuts. All the workers were invited. Everyone received a transistor radio. Next, the Sanyo officials said the plant was gloomy and dirty and that no one should be expected to work there. The plant was cleaned and painted.

As a few months passed, and production improved and additional workers were needed, Sanyo looked for workers who had been laid off, not the new, young workers often sought by most companies. Sanyo said the old workers were fine and just needed leadership.

SEEKS UNION SUPPORT

Then the Sanyo executives, led by Sohma, said that, in the interest of a harmonious plant, Sanyo wished to work with the plant's union, the International Union of Electrical Workers. This is in contrast to other Japanese companies, such as Nissan in Smyrna, Tenn., Honda in Marysville, O., and Toyota in Fremont, Cal., where the union has been resisted or not sought as a partner.

Sohma met with union officials and said the company believed in unionism and wanted the union to function as a partner. As time passed, the union was won over.

Finally, satisfied that morale and production had improved, Sanyo began to make substantial investments in the plant. Since 1980, it has spent $14.4 million.

Sanyo's television sets are more technologically advanced than Warwick's and are more attractive to consumers. At the same time, they are easier to assemble.

Capital improvements include new conveyors and packing machines as well as extensive testing facilities, in which television sets are checked for playing quality and ability to withstand shipping. If sets fail inspection, they are examined again and repaired, and the failure is held against the department, both workers and supervisors, in which the sets were assembled.

KEY IS PHILOSOPHY

Yet workers and managers agree the key to Sanyo's success has been its management philosophy of deemphasizing hierarchy and authoritarianism. Sanyo seems to have won workers' trust, and because it has, it is able to put forth its policies and win acceptance.

Bertha Owens, a 12-year veteran, says: "People care about you. There is more effort on quality, better follow-through. There is a lot of sensitivity to the feelings of the workers. Management goes out of its way to obtain views of workers, to see how they can make the work more productive, more conductive to doing a better job, to see how they can make the job easier for the workers."

Under the new management, Owens says, poor workers are generally not discharged but receive counseling "by the company and the union until they become productive workers."

Turnover is low because wages, which average about $7.50 an hour, are in line with those in nearby plants, and workers believe other plants are not as clean or efficient.

PROBLEMS UNDER WARWICK

And what of the past? Tales of problems are legion.

Mayor Ferguson says Warwick often brought in college students to work in busy periods. The students had no experience or, in many cases, little interest in quality.

George Clark, the union's district organizing director, a Warwick veteran, says promo-

tions were often made on the basis of company politics or opposition to the union.

Today, supervisors are expected to show respect for workers, says Travis Stidham, a supervisor and a worker for 13 years. He says worker' views are solicited and accorded importance.

"The company is better managed, there's better leadership," Stidham says. "Everybody is working together, trying to do a good job."

Diligence is also expected from executives. "Those son-of-a-guns, they work." Vaccaro says, "They don't come out there at 9 o'clock in the morning and open up their mail and dictate a letter and go to the Country Club at 11 and play golf to 3 and get back to work in time to quit."

About 40 Japanese executives, whose salaries range from $55,000 to $65,000 a year, fill technical jobs and other top offices.

Today the plant produces 2,000 microwave ovens a day under the Sears brand and 5,000 color television sets, 70 per cent for Sears and 30 per cent under the Sanyo name.

Joseph N. Fisher, Sears' vice president for merchandise support, says complaints to the old management about TV sets averaged "in the high 20s" for each 100 customers in the first year of service. Today, he says, complaints are below 10 for each 100 customers.

EXPLAINS, PERSUADES

Sohma says executives attempt to explain and persuade rather than command. For example:

When Sanyo took over, the Japanese were repelled because workers smoked on the assembly lines. Smoking was messy, with ash trays, and cigarette butts scattered about, and it cut work time as workers fumbled for matches and cigarettes.

Sohma asked the union for help, and the company and the union made their views known. After a while, a date to end smoking was announced, and the smoking ended without argument.

Clark says many of the management techniques are "nothing more than industrial psychology"—that is, management techniques developed in America in the 1920s, stressing the importance of workers and of persuasion and explanation rather than direct orders. The Sanyo method is "nothing secret," he says, but the Japanese "may do a better job of applying industrial psychology" than American employers.

In many ways, Sohma and others say, Sanyo has altered Japanese methods to insure that its management practices will succeed with Americans. In Japan, executives can be more direct with workers, Sohma says. "You say, 'Do it this way,' and Japanese workers say, 'Yes, sir,'" he says.

But he says American workers must be made to see the reasons for decision or they might rebel.

NOT A UTOPIA

But the plant is not an industrial utopia, nor has hierarchy been eliminated. Radios and tape decks are not allowed on production lines. Workers may not smoke on the job but executives may.

"Workers understand that we are running in and out, taking care of business," says Sohma, who has worked for Sanyo 23 years. And, he says, "We have to show our dignity."

When the plant's labor-management contract expired in 1979, the union struck for two months in a dispute over cost-of-living raises.

Eventually the strike was settled with compromises by both sides. Union and management officials say there has been no lingering bitterness. In 1982, a contract was reached without a strike.

For a time, Sanyo tried to run the plant through an operations committee of American and Japanese executives. But decision-making was slow. That policy was discarded. Today, Masahiko Iwasa, a senior vice president, functions as the plant's general manager.●

THE ACADEMY OF AMERICAN POETS CELEBRATES 50TH BIRTHDAY

● Mr. PELL. Mr. President, beginning yesterday, the Library of Congress is hosting a special 2-day poetry festival to commemorate the 50th anniversary of the American Academy of Poets. I would like to personally congratulate the academy on its 50th year, and would like to commend it for its fine work in supporting this Nation's poets and Mrs. Hugh Bullock for being its tireless and excellent leader.

The American Academy of Poets was founded in 1934 to support and foster American poetry through means such as scholarships, awards, and fellowships for poets of proven merit. Each year the academy bestows a number of esteemed book awards for outstanding poetry collections, most notably the Walt Whitman Award, the Lamont Poetry Selection and the Landon Award. The academy also works actively to stimulate the appreciation of American poetry, and has launched a whole range of successful programs such as poetry in the schools. Many of the experimental activities of the academy have served as models for programs now supported by the National Endowment for the Arts.

Throughout the past 50 years, the academy has combined the resources of other foundations and literary groups so that American poetry may be recognized, rewarded, and shared with the community. We all owe the academy a great debt of thanks for its vigorous efforts to keep American poetry alive and flourishing. I salute the Academy of American Poets on its 50th anniversary and wish them another 50 years of continued success.

Mr. President, as part of the yearlong celebration of the anniversary of the academy, a number of symposiums have been scheduled which feature readings of individual poets. Among these events was a tribute to W. H. Auden that gathered many of the finest poets of our day. I think that my colleagues would be interested in reading an account of this celebration which appeared in the New York Times, and I submit the text of this article for the RECORD.

The material follows:

[From the New York Times, Oct. 20, 1983]

W. H. AUDEN HONORED

(By Leslie Bennetts)

In the end, the most fitting lines of the evening were ones the poet himself had thrown away.

W. H. Auden, in a poem called "In Memory of W. B. Yeats," wrote:

Time that is intolerant
Of the brave and innocent
And indifferent in a week
To a beautiful physique
Worships language and forgives
Everyone by whom it lives
Pardons cowardice, conceit
Lays its honors at their feet.

Later in life, he revised the poem to omit those lines, but on Tuesday night they were lovingly recalled by a fellow poet, Mona Van Duyn. They seemed an appropriate epigraph for the occasion, and for the company: 13 eminent poets who gathered at the Guggenheim Museum to honor W. H. Auden and his work, which in their view towers majestically above the forgetful passage of time.

The event was part of a weeklong tribute to Auden presented by the New York Institute of the Humanities in cooperation with the Academy of American Poets to commemorate the 10th anniversary of the poet's death at the age of 66.

Tuesday's program, which one audience member described in awed tones as "a mega-event in the poetry world," proved so popular that about 200 people had to be turned away at the door when the museum's 320-seat auditorium was filled to capacity.

"Half the poets in New York are here," observed David Rieff, a senior editor at Farrar, Straus & Giroux, who had come to hear the poets read selected poems by Auden.

The poets on the program, whose credentials constituted a virtual encyclopedia of prizes and awards, were John Ashbery, Anthony Hecht, Richard Howard and James Merrill, all Pulitzer Prize-winners; Howard Moss, Marilyn Hacker, May Swenson and Mona Van Duyn, whose honors include National Book Awards; John Hollander, winner of the Bollingen Prize; Derek Walcott and Joseph Brodsky, both MacArthur Fellows; and Amy Clampitt and Alfred Corn. They were joined by Christopher Isherwood, the writer and close friend of Auden, who gave an impromptu reading.

The tribute was conceived by Mr. Brodsky, who has strong views on Auden's place in literary history. "In my view he is the greatest thing to happen in the English language in this century," Mr. Brodsky said. "Last year it was his birthday, and nothing happened, so I thought it would be worthwhile to try to mark his absence, to show people how much has been left to us by him. Whoever writes in poetry in English today is influenced by Auden."

Indeed, even those whose work is not usually associated with Auden spoke of their debt. "Perhaps because Auden was the first contemporary poet I ever read, he had an indelible influence on me," said John Ashbery. "I had written poetry before I read him, but I don't count it, and when I began to read Auden I began writing seriously."

NEGLECT OF AUDEN SEEN

Several of the assembled poets also wanted to participate in the tribute because they were concerned that Auden has been neglected of late. "Auden has been something of a forgotten poet, so I'm delighted

to see how many people come," observed James Merrill, looking around at the throng.

The poets took different tones in their readings, according to the material; the moods were varied, ranging from Mr. Brodsky's impassioned delivery of "Sept. 1, 1939" to Mr. Merrill's archly humorous reading from "Letter to Lord Byron." Many of the speakers added their own footnotes. Before reading "River Profile," Richard Howard noted that it contained several rather arcane words, and explained that "frore" means "frozen," "penstock" means "floodgate," "nauntle" means "to lift up," and "ramstam" means "headlong." "And of course we all know that 'disembogue" means 'to emerge,' " he added with a grin.

Miss Van Duyn said she had quoted the missing lines from "In Memory of W. B. Yeats" "because I love them, and because I believe them. We poets are such unsatisfactory human beings that we write in order to be forgiven," she said. "We hope to write well enough that we will be forgiven our 'cowardice and conceit,' as Auden says."

May Swenson commented, "W. H. Auden once said, 'Poetry is not magic. In so far as it, or any other of the arts, can be said to have an ulterior purpose, it is by telling the truth, to disenchant and disintoxicate.' And, of course, he said, 'Poetry makes nothing happen.' "

Miss Swenson paused and smiled. "But I say, if it can make nothing happen, that is magic enough."●

CRAFTED WITH PRIDE

● Mr. HELMS. Mr. President, recently the U.S. textile industry launched a Buy America campaign aimed at U.S.-made textile goods and apparel. The program is known as "Crafted With Pride in America."

The purpose of the program is to emphasize the quality of U.S.-made textile and apparel products, and to stress the importance of consumers buying products made in America in order to provide employment opportunities for American workers.

Recently, Gary W. Lyon, plant manager of Burlington House Pioneer Plant in Burlington, N.C., sent me a copy of a poem written by one of the employees of that plant, Mrs. Johnnie Busick. The title of the poem is "Crafted With Pride," and it reflects the feelings of one employee about her job and those of her fellow workers.

Mrs. Busick is a first shift tufting creeler, and she has been employed at the Pioneer Plant for 30 years.

Mr. President, I ask that Mrs. Busick's poem, prefaced by a letter from Mr. Lyon, be printed in the RECORD at the conclusion of my remarks.

The material follows:

BURLINGTON HOUSE,
PIONEER PLANT,
Burlington, N.C., Oct. 28, 1983.

Hon. JESSE HELMS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HELMS: You are well aware of the textile industry "Crafted With Pride In America" program now being promoted nationwide. There is deep concern about unfair textile imports from all of us employed in the textile industry, both management and labor. I want to share with you a poem written by one of our employees and given to me this week. It was written by Mrs. Johnnie Busick, a first shift tufting creeler, who has been employed by our company for over 30 years. I have read a lot of articles on the textile import problem, but I haven't seen anything which sums up the meaning, passion, concern, and frustration of the "Crafted With Pride In America" program better than Mrs. Busick's poem.

Mrs. Busick demonstrates a high level of understanding of a problem that needs to be communicated to all our leaders in Congress and all America. Please feel free to use this and help the American Textile Industry spread the word.

Sincerely,

GARY W. LYON,
Plant Manager.

CRAFTED WITH PRIDE

Crafted with pride in America made through knowledge and skill.
Crafted with pride we inherited that past generations instilled.
We are a people of great endeavors our accomplishments, great and small.
We started this nation with nothing then made life better for all.
Products of every nature have been made by our skillful hands.
Reflecting the pride and genius throughout our God given land.
Other nations have watched us, and listened and learned from the lessons we taught.
And now as we watch, they're stealing the Freedoms for which we have fought.
Foreign-made textiles and products keep flowing into our land.
Loss of our jobs and our money even now, make idle our hands.
Stop now—and look for a moment at the treasure we're about to lose.
We are the ones that can change it, it's ours to keep, if we choose.
Let *us all buy* what we make in America so America can lead once again.
We're a people of great productivity let's fight this battle and win.
Crafted with pride in America let's always strive to stay number one.
Crafted with pride in America the greatest land under the sun.

JOHNNIE BUSICK.●

VENTURE CAPITAL

● Mr. HUDDLESTON. Mr. President, increasing attention is being given to the important role that venture capitalists are playing in funding innovative, small business concerns that are responsible for the majority of net new jobs that have been generated in the last decade. Further, venture capitalists are providing the needed leadership in developing productivity enhancing products and services, and they are contributing to a marked improvement in our quality of life.

An article which recently appeared in Enterprise magazine has come to my attention. The article was authored by Daniel S. Gregory, president of the National Venture Capital Association and chairman of Greylock Management Corp. Mr. Gregory is also a managing partner in Greylock Investors & Co., a nationally recognized private venture capital firm located in Boston. Mr. Gregory succinctly reviews recent developments in the venture capital business, and points out how sensitive the venture process is to changes in the public policy arena.

Mr. President, I ask that "The Quiet Catalyst: Venture Capital" be printed in the RECORD so that my colleagues may have the benefit of Mr. Gregory's review.

The article follows:

THE QUIET CATALYST: VENTURE CAPITAL

(By Daniel S. Gregory)

The early development and industrialization of the United States was financed with "venturesome" European capital. Many Western railroads were built with infusions of English capital, together with capital generated by New England's China trade.

At the turn of the century, the commitment of funds by a single Boston firm was instrumental in the formation of the Atchison, Topeka and Santa Fe Railway Company and Union Pacific Railroad. The same firm played a pivotal role in enterprises which were to become American Telephone and Telegraph Co., General Electric Co. and General Motors Corp. This process was repeated many times as accumulations of older capital were channeled into the emerging promise of industrialized America.

Venture capitalists continue to seek, with available capital, the frontiers of dynamic new technologies. Advancement on these frontiers has already produced unprecedented change—even upheaval—replacing the old with the new.

Several multibillion dollar markets have been created that didn't exist two decades ago. Take the computer revolution. Semiconductors, microprocessors, minicomputers, related peripherals such as printers and memories, and their instructional language—software—have become, or soon will become, multibillion dollar activities. The personal computer is reaching home and school at the economic level. The engineers' work station, as it migrates from the laboratory to a production environment, shows similar dynamism.

We are living with a fundamental revolution in the way we collect, process, display, store and transmit information. Furthermore, these functions are being continuously enhanced at declining costs to the user.

Many leading, established American companies have made the necessary transitions to new technologies. But an important share of the advancement and application of new technologies has been assumed by new companies that were backed with venture capital. Digital Equipment Corp. and later Data General Corp. and Prime Computer, Inc.—all venture capital-backed start-ups—developed the minicomputer industry. Fairchild Camera & Instrument Corp., National Semiconductor Corp. and Advanced Micro Devices Inc., together with other startup companies, helped found the multibillion dollar semiconductor industry. Intel Corp., new in 1968, led the way in the microprocessor field.

These are now well-known companies, but all new within the past 25 years. Behind them are many additional venture-backed projects not yet household names. Ten times the startup activity and about three times the overall venture capital activity occurred in 1982 compared with 1976.

As in the past, profound changes are being financed outside the confines of established companies. The venture capital process shifts capital generated by prior successes and applies it to emerging new technologies and their applications—instead of internal allocation to products or services consistent with established activities of an existing company.

As the rate of change borne by technological advance has accelerated, established businesses are faced with formidable problems of adjustment. Frequently, entrepreneurs, recognizing challenging opportunities, choose to start new projects unfettered by organizational constraints and commitments to older products in the field. The resulting combination of creative entrepreneurs, promising techologies and organized venture capital has caused a major acceleration in the pace of new business formation.

The capital for this rejuvenation has come substantially from within. The $7 billion focused on venture-type opportunities today compares with $1-$2 billion in the sixties and early seventies. In the vanguard of this increase are individuals and families, together with professional venture capital operations. The effectiveness of their efforts has been influenced substantially by government's overall attitude toward private capital.

While a more positive attitude toward capital has arisen in recent years, it hasn't been long since the prevailing attitude in government was that productive capital should be taxed as income. The Revenue Act of 1969, which taxed capital gains at 49 percent, was on ominous step in that direction. The reversal of this thinking, embodied in the 1978 Steiger amendment, has had a powerfully favorable impact on the venture capital process. Each of the past three years has reflected a venture capital commitment level approximately three time greater than the annual level of the years 1970-77. That level, in turn, indicates the substantial increase in new private capital committed to organized venture capital activities.

To cite a familiar but useful comparison, farmers learned long ago not to consume their seed corn lest they be without future crops. Now we are seeing new crops. They are not yet plentiful enough to make up for the dislocations and displacements they may even have caused, nor will they coincide with political terms of office. But this crop yield does point to the ongoing rejuvenation of America through technology coupled with private capital.

At the request of Sen. Lloyd Bentsen (D-TX), the U.S. General Accounting Office published in August 1982 a study of what has transpired through the venture capital process. Wholly favorable in its thrust, the report notes that 1,332 companies were started with venture capital backing during the seventies—a result disproportionately large when compared with the amounts of capital invested. A total of $209 million was invested to create 72 of these firms, which later had public underwritings. Their combined sales in 1979 alone totaled $6 billion, with growth averaging 33 percent per year. In the process, these firms created 130,000 jobs, $100 million in corporate tax revenues, $350 million in employee tax revenues and $900 million in export sales. Furthermore, most of the new products were productivity-enhancing.

Consider the impact of this process where it has been particularly successful—namely, Massachusetts and California. High-tech firms in eastern Massachusetts employ 250,000 persons, or one-third of the region's labor force and have combined sales of $19.5 billion. The sales of high-tech companies in "Silicon Valley," south of San Francisco, are believed to total somewhat over $10 billion.

Most of these companies were started within the past 20 years. The *Venture Capital Journal* recently reported that of the 9 million jobs created between 1966 and 1977, 6 million were the result of small emerging companies, and the rest were added by the government. During the same period, the 1,000 largest U.S. corporations did not add to their combined work force at all.

In the context of such figures, true capital formation is seen in terms of new values and credits produced by new streams of growing earnings. Based on technology-based products or services and good management, capital is formed out of proportion to the original allocation of funds to the projects. The resultant job creation is anchored in self-sustaining business activity. This type of job creation is quite different from the notion of jobs produced as a direct function of pump-priming government outlays.

Along with its influence on tax policy, the Securities and Exchange Commission has a powerful impact on true capital formation. The rules and regulations by which emerging companies seek and obtain large amounts of required development capital are, of course, essential.

While traditional emphasis continues to be placed on protecting the public investor, fresh attention is now being paid to the affirmative attitudes and policies necessary for capital formation. In September 1982, the SEC conducted its first forum to review the status of problems and programs relating to small business capital formation. The forum was attended by a variety of business people, government representatives and venture capital investors. Commissioner John Evans and the Securities and Exchange Commission staff heard numerous recommendations advanced.

The National Venture Capital Association (NVCA) is likewise sensitive to these concerns. Formed in 1974 to foster a better understanding of the venture capital process, NVCA is composed of 130 member firms that collectively manage about 70 percent of capital now channeled toward venture capital projects. Its officers and directors—practicing venture capitalists—have testified before various congressional committees and reviewed issues under consideration by the SEC, the Departments of Labor and the Treasury and other agencies.

The process of channeling capital to promising new activities is complex and sensitive, requiring vision as well as attention to detail. It has produced a formidable yield in terms of new capital formation, job creation and technological contribution.

Venture capital cannot be viewed as a ready source of funds for all projects. They must be good and have the prospect of being self-supporting—making money—fairly early in their life cycles. This explains why the screening process currently characterizing the venture capital marketplace is both stringent and appropriate.

There is no quicker way for the venture capital process to falter than to remove the incentive of financial success. Money must be made by investors to produce the gains that can be redeployed in future ventures. A capital gain is itself capital and tends to be substantially reinvested to the extent it is not taxed away.

In general, the venture capital business is flourishing. The abundance of support, resources and expectations suggests a bright future.●

REPRESENTATIVE MARKEY DETAILS PROPOSAL ON EUROMISSILES

(By request of Mr. PELL, the following statement was ordered to be printer in the RECORD:)

Mr. CRANSTON. Mr. President, earlier this week, the Los Angeles Times ran an extremely thoughtful article by Representative ED MARKEY detailing a proposed solution to the Euromissile crisis.

I commend this important article to my colleagues' attention and ask that it be printed in the RECORD.

The article follows:

LET'S DELAY THE MISSILE DEPLOYMENT: POSTPONEMENT IN EUROPE WOULD GIVE NEGOTIATIONS A CHANCE

(By Edward J. Markey)

Denis Healey, the former British defense minister, has what he calls the first law of holes: "When you are in one, stop digging." The United States and its North Atlantic Treaty Organization allies are in a hole over the planned deployment of 108 Pershing 2 and 464 ground-launched cruise missiles in Europe. And so far the only solution coming from the Reagan Administration is to stand in the hole, leaning on the shovel.

The pending deployment was the result of a two-track decision made by NATO in 1979. On one track the United States was to negotiate with the Soviet Union to achieve arms-control agreements that would make the deployments unnecessary. The other track, the deployment of the Pershing 2 and cruise missiles, would be pursued only if the Soviets refused to reach an equitable agreement to reduce their mobile SS-20 missile force.

European leaders never assumed that the deployment would be automatic. Rather, they assumed that SALT II would be ratified, that the superpowers would be well on their way to completing SALT III and that the intermediate nuclear force negotiations would have been resolved within the SALT framework. As it now stands, the negotiating track is about two years behind the deployment track.

Because of the vulnerability of land-based systems, these missiles never had much military utility. During the 1960s, for example, we *removed* missiles from Europe in favor of less-vulnerable submarine-launched missiles. And even though the Soviet SS-20 deployment is alarming, it still doesn't alter the overall nuclear balance. The only remaining justifications for the Pershing and cruise missiles are that they're needed to demonstrate NATO's political will and unity, and the Soviets won't negotiate seriously until we begin installing them.

As for the first justification, the deployment would only demonstrate NATO's determination to stick to a bad decision made four years ago. While European leaders gamely back the missiles, polls show that a majority of their people oppose the deployment or favor a delay. The second justification rests on the assumption that Soviet Premier Yuriy V. Andropov's spine is weaker than Ronald Reagan's—that the Soviet leader will crawl to the negotiating table and agree to reductions in his SS-20s once the deployment begins. Of course, there's no evidence for this.

When the United States begins the deployment, the Soviets have all but promised to walk out of the Geneva talks and put the West under a similar quick-strike threat, perhaps by deploying SS–22 missiles in East Germany and Czechoslovakia. Those SS–22s would be about two minutes from their targets in the West, while our Pershings would be less than 10 minutes from their targets in the Soviet Union.

But there's a sensible alternative. We should delay the Pershing and cruise missile deployment to give the negotiations a chance. And it's time to present an intermediate nuclear force proposal that has a chance of being negotiated. A delay does no good if it simply allows the Soviets to sit on their hands and score more propaganda points. Therefore, a postponement should come only in exchange for Soviet agreement to negotiate an intermediate nuclear force treaty by a certain time.

While the Administration has offered marginal concessions at Geneva, it hasn't budged on the main stumbling block in the negotiations: whether to take account of the British and French nuclear forces, which currently are estimated to number 162 independently targetable wareheads. (For example, as cruise missiles were being installed in England, the Administration offered to accept a ceiling of 420 warheads on Soviet and American intermediate-range missiles—an offer that was promptly rejected by the Soviets.)

While there is a limit to the number of times that we can allow Moscow to count other nations' weapons, in this case we should take account of the British and French forces in the negotiations. Accordingly, I have introduced a resolution in the House of Representatives that calls for a six-month delay in the deployment. But to get the delay the Soviets would have to agree in writing at the outset to enter into negotiations that would result in the initialing of a treaty at the end of the six months.

Such a treaty would involve a two-stage agreement. In stage one the Soviets would dismantle, over two years, all 248 of their single-warhead SS–4 and SS–5 missiles and 108 of their 243 triple-warhead SS–20 missiles targeted against Europe. We would cancel deployment of all 108 Pershing 2s and 224 of the 464 cruise missiles that were to be installed. The United States would not deploy the other 240 cruise missiles during this two-year period, but would retain the right to deploy them.

Counting the 162 British and French warheads and the 240 cruise missile warheads that the United States retains the right to deploy, completion of stage one would leave 402 independently targetable warheads available to NATO. The Soviets would be left with 405 warheads atop 135 SS–20s. In stage two the United States would cancel the planned deployment of the remaining 240 cruise missiles if the Soviet Union agreed to reduce further its SS–20 force to the level of the British and French nuclear warheads.

The clock is ticking in Europe. A deployment that nobody wants is just around the corner, while both superpowers have squandered precious time playing to the galleries. It's time for the United States and the Soviet Union to climb out of the hole to begin real negotiations.

ORDER FOR RECESS UNTIL 9:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, this morning, after the recognition of the two leaders under the standing order, I ask unanimous consent that there be special orders of not to exceed 15 minutes each in favor of the following Senators, in the following order: Senators HATFIELD, HATCH, MATHIAS, and MCCLURE. The Mathias-Heinz special order will be divided between them, according to my notation. That will be four special orders, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, after the execution of the special orders, there will likely be a brief period for the transaction of routine morning business, but it is hoped that we can reach the supplemental conference report early and complete it as soon as possible.

Today, Mr. President, it is anticipated that in addition to the supplemental conference report, we shall take up other conference reports as they are available, including the Department of Defense appropriations conference report if available, the agriculture appropriations conference report, revenue-sharing conference report, and the Clark nomination sometime during the day today or Friday.

Mr. METZENBAUM. Will the majority leader yield to me?

Mr. BAKER. Yes, Mr. President, I yield.

Mr. METZENBAUM. Am I correct in assuming that there will be no further legislation passed this evening under a unanimous-consent agreement?

Mr. BAKER. Yes, Mr. President. I believe there is nothing we must do tonight, so the answer is "Yes."

Mr. METZENBAUM. I thank the majority leader.

Mr. BAKER. Now, Mr. President, I inquire of the minority leader if he has anything further to attend to this evening?

Mr. BYRD. Mr. President, I have nothing, and I thank the majority leader.

Mr. BAKER. Mr. President, I am the one who should thank the minority leader.

RECESS UNTIL 9:30 A.M. TODAY

Mr. BAKER. Mr. President, in view of that, if no other Senator is seeking recognition, I move, in accordance with the order just entered, that the Senate stand in recess until 9:30 a.m. this morning.

The motion was agreed to, and the Senate, at 12:09 a.m., recessed until 9:30 a.m. today.

NOMINATIONS

Executive nominations received by the Senate on November 16, 1983:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Maurice Lee Barksdale, of Texas, to be an Assistant Secretary of Housing and Urban Development, vice Philip Abrams.

IN THE ARMY

The Army National Guard of the United States officer named herein for appointment as a Reserve Commissioned Officer of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Arthur V. Episcopo, xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be colonel

Abernathy, Albert L., xxx-xx-xxxx
Abney, Floyd J., xxx-xx-xxxx
Abrahamson Raymond L., xxx-xx-xxxx
Adams, Alfred P., xxx-xx-xxxx
Adamson, Daniel P., Jr., xxx-xx-xxxx
Allburn, James N., xxx-xx-xxxx
Allen, George W., xxx-xx-xxxx
Allen, Verne K., xxx-xx-xxxx
Anderson, James R., xxx-xx-xxxx
Anderson, James T., xxx-xx-xxxx
Anderson, Jerris C., xxx-xx-xxxx
Andress, Robert S., xxx-xx-xxxx
Andrews, Victor C., xxx-xx-xxxx
Armstrong, Edwin L., xxx-xx-xxxx
Arnold, Lloyd H., xxx-xx-xxxx
Arnold, Terry A., xxx-xx-xxxx
Asmus, Hans J., xxx-xx-xxxx
Atkins, Gary C., xxx-xx-xxxx
Ayer, Frederick L., xxx-xx-xxxx
Babbitt, George T., Jr., xxx-xx-xxxx
Bacue, Ralph H., xxx-xx-xxxx
Badgwell, Don H., xxx-xx-xxxx
Bafundo, George R., xxx-xx-xxxx
Baker, John J., III, xxx-xx-xxxx
Baker, Kenneth E., xxx-xx-xxxx
Baker, Phillip J., xxx-xx-xxxx
Baron, Bruce, xxx-xx-xxxx
Barrows, Charles V., xxx-xx-xxxx
Bates, Daniel G., xxx-xx-xxxx
Battle, Bobby E., xxx-xx-xxxx
Bauer, Frederick C., xxx-xx-xxxx
Baun, Raymond J., xxx-xx-xxxx
Beasley, Dennis C., xxx-xx-xxxx
Beauchemin, Alfred E., III, xxx-xx-xxxx
Belina, John L., xxx-xx-xxxx
Bennett, Bryan L., xxx-xx-xxxx
Bernstein, Peter D., xxx-xx-xxxx
Bernth, Terry J., xxx-xx-xxxx
Berrean, John D., xxx-xx-xxxx
Berry, Keith, xxx-xx-xxxx
Bianco, Arthur J., xxx-xx-xxxx

Birkner, John H., xxx-xx-xxxx
Birnbaum, Melvin, xxx-xx-xxxx
Black, Robert E., xxx-xx-xxxx
Blackburn, Gerald M., xxx-xx-xxxx
Blake, Ronald W., xxx-xx-xxxx
Blansett, Bennie B., Jr., xxx-xx-xxxx
Blocker, Gettis A., xxx-xx-xxxx
Blocker, Larry J., xxx-xx-xxxx
Bluett, James J., xxx-xx-xxxx
Boardman, Edward C., xxx-xx-xxxx
Bockelman, David C., xxx-xx-xxxx
Boehmer, George E., xxx-xx-xxxx
Bohn, Bruce J., xxx-xx-xxxx
Boldrick, Michael R., xxx-xx-xxxx
Boozer, Gordon L., xxx-xx-xxxx
Boswell, Edward T., xxx-xx-xxxx
Bottjer, Daryl L., xxx-xx-xxxx
Bottomley, James A., xxx-xx-xxxx
Bourgeois, Warren H., Jr., xxx-xx-xxxx
Bowman, Laddie F., xxx-xx-xxxx
Boyd, Stanley E., xxx-xx-xxxx
Boyer, Daniel D., Jr., xxx-xx-xxxx
Bragaw, Paul H., xxx-xx-xxxx
Branch, Patrick K., xxx-xx-xxxx
Brannam, Clarence B., xxx-xx-xxxx
Brannum, Edward S., xxx-xx-xxxx
Brazelton, Michael L., xxx-xx-xxxx
Bremer, John R., xxx-xx-xxxx
Brennan, William J., Jr., xxx-xx-xxxx
Briscoe, John R., xxx-xx-xxxx
Britt, Paul S., xxx-xx-xxxx
Brittingham, James H., xxx-xx-xxxx
Broerman Ramon K., xxx-xx-xxxx
Brown, Alan E., xxx-xx-xxxx
Brown, Harold J., xxx-xx-xxxx
Brown, Wesley, xxx-xx-xxxx
Bruhl, Glyndon A., xxx-xx-xxxx
Brunetti, Mario P., xxx-xx-xxxx
Buermeyer, David W., xxx-xx-xxxx
Buley, Peter J., xxx-xx-xxxx
Burchfield, Edward L., xxx-xx-xxxx
Burke, Bruce L., xxx-xx-xxxx
Burns, Joe L., xxx-xx-xxxx
Burrell, Steven K., xxx-xx-xxxx
Burton, James R., xxx-xx-xxxx
Bush, Richard L., xxx-xx-xxxx
Butler, William H., xxx-xx-xxxx
Butt, James S., xxx-xx-xxxx
Butterfield, Hugh G., xxx-xx-xxxx
Button, Edward J., xxx-xx-xxxx
Buzzelli, James A., xxx-xx-xxxx
Byrd, William B., Jr., xxx-xx-xxxx
Cade, Robert G., xxx-xx-xxxx
Callahan, Hubert J., xxx-xx-xxxx
Calvert, Dorral J., xxx-xx-xxxx
Calvez, Clifton A., xxx-xx-xxxx
Campbell, Jimmie R., xxx-xx-xxxx
Cannon, George E., Jr., xxx-xx-xxxx
Cardoza, Thomas J., xxx-xx-xxxx
Carr, William E., xxx-xx-xxxx
Carron, Hubert J., xxx-xx-xxxx
Cartwright, Jack E., xxx-xx-xxxx
Casey, Robert J., xxx-xx-xxxx
Cashman, James F., xxx-xx-xxxx
Cavanaugh, James M. Jr., xxx-xx-xxxx
Cavanaugh, Michael E., xxx-xx-xxxx
Chandler, Gary A., xxx-xx-xxxx
Chapman, James E., xxx-xx-xxxx
Chase, Edward L., xxx-xx-xxxx
Childers, Ronald B., xxx-xx-xxxx
Choate, John S., xxx-xx-xxxx
Christian, Frank H., xxx-xx-xxxx
Church, Ernest A., Jr., xxx-xx-xxxx
Clabaugh, Carroll A., xxx-xx-xxxx
Clark, Dale R., xxx-xx-xxxx
Clark, Darrell L., xxx-xx-xxxx
Clark, John W., xxx-xx-xxxx
Cliver, Jeffrey G., xxx-xx-xxxx
Clutter, James W., xxx-xx-xxxx
Coco, Eugene G., Jr., xxx-xx-xxxx
Coglitore Sebastian F., xxx-xx-xxxx
Cole, Dennis L., xxx-xx-xxxx
Coleman, Charlie J., Jr., xxx-xx-xxxx
Coleman, Joseph A., xxx-xx-xxxx
Collins William A., xxx-xx-xxxx
Conant, Richard C., xxx-xx-xxxx
Cooke, George E., xxx-xx-xxxx
Coombes, Jimmie L. C., xxx-xx-xxxx
Cooper, Robert N., xxx-xx-xxxx
Corbett, Eugene L., Jr., xxx-xx-xxxx
Corbett, Patrick H., xxx-xx-xxxx
Corbett, Philip W., xxx-xx-xxxx
Costa, Nicholas P., Jr., xxx-xx-xxxx
Cote, Robert T., xxx-xx-xxxx
Cotton, John L., xxx-xx-xxxx
Cousyn, Jack, Jr., xxx-xx-xxxx
Cox, Charles O., xxx-xx-xxxx
Cox, Lawrence O., xxx-xx-xxxx
Crabb, James H., xxx-xx-xxxx
Craig, William R., III, xxx-xx-xxxx
Cranston, Stewart E., xxx-xx-xxxx
Crawford, Charles K., xxx-xx-xxxx
Crosby, Chester G., xxx-xx-xxxx
Croxton, Roy D., Jr., xxx-xx-xxxx
Culler, Donald E., xxx-xx-xxxx
Culver, John D., xxx-xx-xxxx
Cummings, Melvyn D., xxx-xx-xxxx
Cunningham, Roy R., xxx-xx-xxxx
Curl, Larry W., xxx-xx-xxxx
Curoe, Patrick J., xxx-xx-xxxx
Custin, Gerald F., xxx-xx-xxxx
Cwiklik, Paul, xxx-xx-xxxx
Dale, Robert R., Jr., xxx-xx-xxxx
Daley, Philip, xxx-xx-xxxx
Daniels, Mark J., xxx-xx-xxxx
Dassler, William H., xxx-xx-xxxx
Davis, Gordon G., xxx-xx-xxxx
Davis, Jimmie C., xxx-xx-xxxx
Davis, John J., Jr., xxx-xx-xxxx
Davis, Lawrence P., xxx-xx-xxxx
Davis, Marvin L., xxx-xx-xxxx
Davis, Preston H., xxx-xx-xxxx
Davis, Stephen H., xxx-xx-xxxx
Davis, Thomas D., xxx-xx-xxxx
Davitte, William B., xxx-xx-xxxx
Davoren, David I., Jr., xxx-xx-xxxx
Defranco, Carl P., xxx-xx-xxxx
Deminico, Joseph J., Jr., xxx-xx-xxxx
Denington, Michael R., xxx-xx-xxxx
Dennin, Thomas H., xxx-xx-xxxx
Dent, Harvey L., Jr., xxx-xx-xxxx
Dephilippis, Robert M., xxx-xx-xxxx
Depree, Donald C., xxx-xx-xxxx
Depriest, Charles D., xxx-xx-xxxx
Dickerson, Donald D., xxx-xx-xxxx
Diffendorfer, James H., xxx-xx-xxxx
Dix, Larry E., xxx-xx-xxxx
Dixon, Wesley B., xxx-xx-xxxx
Donahue, William J., xxx-xx-xxxx
Donovan, James G., xxx-xx-xxxx
Doorley, William A., Jr., xxx-xx-xxxx
Dorcy, Ronald B., xxx-xx-xxxx
Douglass, John W., xxx-xx-xxxx
Downer, Lee A., xxx-xx-xxxx
Doxey, John W., xxx-xx-xxxx
Drewes, Robert W., xxx-xx-xxxx
Driscoll, Jerry D., xxx-xx-xxxx
Duane, John P., xxx-xx-xxxx
Dugan, Lawrence M., xxx-xx-xxxx
Duncan, John A., xxx-xx-xxxx
Dunlap, Ralph N., xxx-xx-xxxx
Durham, Charles V., xxx-xx-xxxx
Eagle, Henry, III, xxx-xx-xxxx
Eastcott, Merrill E., Jr., xxx-xx-xxxx
Eberhart, Ralph E., xxx-xx-xxxx
Ebert, Gary R., xxx-xx-xxxx
Ebert, William L., xxx-xx-xxxx
Edelblute, Malcolm C., xxx-xx-xxxx
Edens, Robert H., xxx-xx-xxxx
Edwards, Charles R., xxx-xx-xxxx
Elliott, Larry A., xxx-xx-xxxx
Ellis, Leon F., Jr., xxx-xx-xxxx
Ellis, Paul V. III, xxx-xx-xxxx
Ellis, Vernon D., xxx-xx-xxxx
Engle, William M., xxx-xx-xxxx
Evans, Charles W., xxx-xx-xxxx
Evans, David C., xxx-xx-xxxx
Everett, Grant H., xxx-xx-xxxx
Evertsen, Robert T., xxx-xx-xxxx
Exley, Loren E., xxx-xx-xxxx
Fain, James A., Jr., xxx-xx-xxxx
Farias, Matias, xxx-xx-xxxx
Faulkner, James R., xxx-xx-xxxx
Fay, Andrew F., xxx-xx-xxxx
Feibelman, Jay F., xxx-xx-xxxx
Feldman, Perry R., xxx-xx-xxxx
Femrite, Ralph B., xxx-xx-xxxx
Ferguson, Michael L., xxx-xx-xxxx
Ferro, Philip H., xxx-xx-xxxx
Ferry, James D., xxx-xx-xxxx
Fincher, Edward G., xxx-xx-xxxx
Fleming, Allison S., Jr., xxx-xx-xxxx
Fleming, Gerald B., xxx-xx-xxxx
Fleming, James P., xxx-xx-xxxx
Fletcher, Robert, xxx-xx-xxxx
Ford, Phillip J., xxx-xx-xxxx
Fortenberry, Charles P., xxx-xx-xxxx
Foss, Charles H., xxx-xx-xxxx
Foster, Robert A., xxx-xx-xxxx
Fox, William G., xxx-xx-xxxx
Foxwell, Mark B., xxx-xx-xxxx
Frank, Richard E., xxx-xx-xxxx
Frankle, John C., xxx-xx-xxxx
Franklin, Carl E., xxx-xx-xxxx
Fray, Robert R., xxx-xx-xxxx
Frederick, George L., Jr., xxx-xx-xxxx
French, Robert E., xxx-xx-xxxx
Frey, Clifford P., xxx-xx-xxxx
Friel, William J., xxx-xx-xxxx
Frucci, Norman R., xxx-xx-xxxx
Fuller, Richard L., xxx-xx-xxxx
Gamble, Don M., xxx-xx-xxxx
Garner, John T., xxx-xx-xxxx
Garrido, Manuel W., xxx-xx-xxxx
Garrison, John H., xxx-xx-xxxx
Gaston, James C., xxx-xx-xxxx
Gates, William J., xxx-xx-xxxx
George, Wallace E., Jr., xxx-xx-xxxx
Gerken, Kenneth L., xxx-xx-xxxx
Gernert, William E., III, xxx-xx-xxxx
Gideon, Francis C., Jr., xxx-xx-xxxx
Gill, Anthony B., xxx-xx-xxxx
Gill, Timothy D., xxx-xx-xxxx
Gilligan, Francis B., xxx-xx-xxxx
Gilmore, Kenneth E., xxx-xx-xxxx
Goddard, Richard N., xxx-xx-xxxx
Golden, John L., xxx-xx-xxxx
Golden, Lee E., xxx-xx-xxxx
Goodwin, Arren L., Jr., xxx-xx-xxxx
Goodwin, William S., xxx-xx-xxxx
Gordon, Harold, xxx-xx-xxxx
Gould, John E., xxx-xx-xxxx
Graham, Richard H., xxx-xx-xxxx
Graves, Dennis D., xxx-xx-xxxx
Gray, Ronald D., xxx-xx-xxxx
Greene, Raymond E., xxx-xx-xxxx
Greene, William H., xxx-xx-xxxx
Greenie, William C., xxx-xx-xxxx
Greening, James E., xxx-xx-xxxx
Gregory Helen, xxx-xx-xxxx
Greiner, Arthur E., xxx-xx-xxxx
Grillo, Edward F., Jr., xxx-xx-xxxx
Grim, Garrett D., xxx-xx-xxxx
Grosse, Vinson G., xxx-xx-xxxx
Grounds, Herbert W., Jr., xxx-xx-xxxx
Guin, Robert G., xxx-xx-xxxx
Gullett, Jeffrey L., xxx-xx-xxxx
Gunkle, Bruce W., xxx-xx-xxxx
Gunn, Kenneth M., xxx-xx-xxxx
Gurner, Roger A., xxx-xx-xxxx
Gustafson, Charles R., xxx-xx-xxxx
Haas, John J., III, xxx-xx-xxxx
Habgood, Carol A., xxx-xx-xxxx
Hackard, Charles N., xxx-xx-xxxx
Hall, Johnnie H., xxx-xx-xxxx
Hall, Ronald E., xxx-xx-xxxx
Hallman, Jerry A., xxx-xx-xxxx
Hallsworth, Frederick P., xxx-xx-xxxx
Halt, Charles I., xxx-xx-xxxx
Hamilton, James P., xxx-xx-xxxx
Hamilton, Riley A., xxx-xx-xxxx
Handy, John W., xxx-xx-xxxx

Hansell, Clarence L., xxx-xx-xxxx
Hanson, Hans E., xxx-xx-xxxx
Harmon, Gordon V., xxx-xx-xxxx
Harris, Ernest G., xxx-xx-xxxx
Harris, Marvin J., xxx-xx-xxxx
Harrop, Jerry N., xxx-xx-xxxx
Hart, Clinton E., xxx-xx-xxxx
Harvin, Charles B., Jr., xxx-xx-xxxx
Hauser, Jack C., xxx-xx-xxxx
Hawkins, Houston T., xxx-xx-xxxx
Hayes, Robert L., xxx-xx-xxxx
Haynes, Ronald D., xxx-xx-xxxx
Heaney, Patrick, xxx-xx-xxxx
Heaphy, Arthur J., Jr., xxx-xx-xxxx
Hegstrom, Roger J., xxx-xx-xxxx
Heil, Theodore R., xxx-xx-xxxx
Hellier, Richard G., xxx-xx-xxxx
Hellikson, Larry D., xxx-xx-xxxx
Helmuth, Dwight H., xxx-xx-xxxx
Henderson, Joseph M., Jr., xxx-xx-xxxx
Hendrickson, James L., xxx-xx-xxxx
Hennessy, John M., xxx-xx-xxxx
Henry, Donald D., xxx-xx-xxxx
Henry, Ronald E., xxx-xx-xxxx
Herre, Frederick P., xxx-xx-xxxx
Hershfield, Peter H., xxx-xx-xxxx
Hewett, Gary W., xxx-xx-xxxx
Heyde, Thomas M., xxx-xx-xxxx
Hickman, Donald W., xxx-xx-xxxx
Hickman, Geoffrey R., xxx-xx-xxxx
Hickok, Philip A., Jr., xxx-xx-xxxx
Higham, James L., xxx-xx-xxxx
Hinneburg, Partricia A., xxx-xx-xxxx
Hipp, William R., xxx-xx-xxxx
Hird, William G., xxx-xx-xxxx
Hobgood, Henry M., xxx-xx-xxxx
Hoffson, Arthur T., xxx-xx-xxxx
Hogan, Charles E., xxx-xx-xxxx
Hogan, John E., xxx-xx-xxxx
Holbrook, Robert A., Jr., xxx-xx-xxxx
Hollinga, Kenneth L., xxx-xx-xxxx
Homes, James L., Jr., xxx-xx-xxxx
Holmes, Richard E., xxx-xx-xxxx
Hooten, Byron R., xxx-xx-xxxx
Hope, John L., xxx-xx-xxxx
Hopkins, Doran L., xxx-xx-xxxx
Horner, Merwin H., Jr., xxx-xx-xxxx
Howayeck, Michael J., xxx-xx-xxxx
Howells, Harry W., xxx-xx-xxxx
Hruskocy, Thomas C., xxx-xx-xxxx
Huber, Arthur S., xxx-xx-xxxx
Hudelson, Gary L., xxx-xx-xxxx
Hunt, Don J., xxx-xx-xxxx
Hurst, Charles R., xxx-xx-xxxx
Hutchinson, Thomas F., Jr., xxx-xx-xxxx
Hutto, William J., xxx-xx-xxxx
Hynes, William M., xxx-xx-xxxx
Irby, Wendell L., xxx-xx-xxxx
Irvine, Robert B., Jr., xxx-xx-xxxx
Iversen, Richard D., xxx-xx-xxxx
Ivy, William L., xxx-xx-xxxx
Jackson, George C., Jr., xxx-xx-xxxx
James, Roy N., xxx-xx-xxxx
James, Thomas M., xxx-xx-xxxx
Jarvi, Dennis W., xxx-xx-xxxx
Jaynes, Jay J., xxx-xx-xxxx
Jenkins, Alvin B., xxx-xx-xxxx
Jenkins, Gordon L., xxx-xx-xxxx
Jenney, David L., xxx-xx-xxxx
Jensen, Harold G., xxx-xx-xxxx
Joersz, Eldon W., xxx-xx-xxxx
Johnson, Bruce R., xxx-xx-xxxx
Johnson, Clarence C., Jr., xxx-xx-xxxx
Johnson, David F., xxx-xx-xxxx
Johnson, Donald E., xxx-xx-xxxx
Johnson, Larry C., xxx-xx-xxxx
Johnson, Robert D., Jr., xxx-xx-xxxx
Johnson, Thomas H., xxx-xx-xxxx
Johnson, Ward A., xxx-xx-xxxx
Johnston, James M., xxx-xx-xxxx
Jones, Bobby A., xxx-xx-xxxx
Jones, Dale G., xxx-xx-xxxx
Jones, Darrell D., xxx-xx-xxxx
Jones, Ronald L., xxx-xx-xxxx
Jones, William E., xxx-xx-xxxx
Jordan, James P., xxx-xx-xxxx
Jordon, Marshall E., xxx-xx-xxxx
Joyner, Donald R., xxx-xx-xxxx
Joyner, Edward L., Jr., xxx-xx-xxxx
Kantor, Edmund M., Jr., xxx-xx-xxxx
Kappmeier, Jay A., xxx-xx-xxxx
Karlin, Vernon M., xxx-xx-xxxx
Karre, Robert H., xxx-xx-xxxx
Kauffman, William D., xxx-xx-xxxx
Kaysing, Charles J., xxx-xx-xxxx
Keen, Richard O., xxx-xx-xxxx
Keeter, Jack E., Jr., xxx-xx-xxxx
Kelley, Harold F., xxx-xx-xxxx
Kellogg, James W., xxx-xx-xxxx
Kelly, John J., Jr., xxx-xx-xxxx
Kempi, David J., Jr., xxx-xx-xxxx
Kenne, Don E., xxx-xx-xxxx
Kissell, Kenneth A., xxx-xx-xxxx
Kitchen, Marlin R., xxx-xx-xxxx
Kline, Richard L., xxx-xx-xxxx
Klucas, Casper H., xxx-xx-xxxx
Knapp, James W., xxx-xx-xxxx
Knapp, Rosalyn R., xxx-xx-xxxx
Knoblauch, James L., xxx-xx-xxxx
Koehler, Jeffrey D., xxx-xx-xxxx
Koelm, William W., xxx-xx-xxxx
Koenemann, William S., xxx-xx-xxxx
Koester, Allen R., xxx-xx-xxxx
Kollar, Stephen F., xxx-xx-xxxx
Kontny, Rodney A., xxx-xx-xxxx
Koza, James, xxx-xx-xxxx
Kramer, David K., xxx-xx-xxxx
Kramer, Paul F., xxx-xx-xxxx
Kramer, Robert T., xxx-xx-xxxx
Kroll, Richard S., xxx-xx-xxxx
Kubiak, Edward T., xxx-xx-xxxx
Kuester, John R., xxx-xx-xxxx
Kuzemka, Nicholas W., xxx-xx-xxxx
Lablonde, Charles J., xxx-xx-xxxx
Lahti, Richard E., xxx-xx-xxxx
Lambert, Robert G., xxx-xx-xxxx
Lanier, Sidney L., Jr., xxx-xx-xxxx
Latourrette, Robert W., xxx-xx-xxxx
Latulipe, William M., xxx-xx-xxxx
Lavender, Henry L., xxx-xx-xxxx
Leblanc, Roger E. J., xxx-xx-xxxx
Ledbetter, David L., xxx-xx-xxxx
Lee, Norman I., III, xxx-xx-xxxx
Lee, Robert E., Jr., xxx-xx-xxxx
Lee, Thomas E., xxx-xx-xxxx
Leino, Richard A., xxx-xx-xxxx
Lennon, Thomas J., xxx-xx-xxxx
Leong, Fook W., xxx-xx-xxxx
Letellier Patrick J., xxx-xx-xxxx
Levesque, David A., xxx-xx-xxxx
Lewis, John F., xxx-xx-xxxx
Liggett, William R., xxx-xx-xxxx
Linnander, Marshall E., Jr., xxx-xx-xxxx
Linsea, Jack, xxx-xx-xxxx
Lippemeier, Geroge H., xxx-xx-xxxx
Little, Cynthia H., xxx-xx-xxxx
Lobbestael, Wayne J., xxx-xx-xxxx
Lombard, Herman F., xxx-xx-xxxx
Looney, Larry N., xxx-xx-xxxx
Loranger, Donald E., Jr., xxx-xx-xxxx
Lorenz, Robert G., xxx-xx-xxxx
Luce, Tommy R., xxx-xx-xxxx
Lund, James H., xxx-xx-xxxx
Lynch, David C., xxx-xx-xxxx
Lyon, Don A., xxx-xx-xxxx
MacCracken, James C., xxx-xx-xxxx
MacNicoll, Donald C., xxx-xx-xxxx
Macri, Phillip J., xxx-xx-xxxx
Maguire, Maurice J., Jr., xxx-xx-xxxx
Maiocco, Robert, xxx-xx-xxxx
Malcuit, Bernard F., xxx-xx-xxxx
Malone, James M., xxx-xx-xxxx
Maloney, John J., xxx-xx-xxxx
Manekofsky, Harvey, xxx-xx-xxxx
Mannell, Stephen C., xxx-xx-xxxx
Manning, James D., Jr., xxx-xx-xxxx
Mansperger, Thomas E., xxx-xx-xxxx
Marberry, James L., xxx-xx-xxxx
Marek, Thomas L., xxx-xx-xxxx
Mark, James R., xxx-xx-xxxx
Marks, Michael D., xxx-xx-xxxx
Marsey, Edward R., xxx-xx-xxxx
Marshall, Ronald P., xxx-xx-xxxx
Martin, Everett S. G., Jr., xxx-xx-xxxx
Martin, James H., xxx-xx-xxxx
Martin, Richard D., xxx-xx-xxxx
Martin, Rodney L., xxx-xx-xxxx
Martinelli, Dominick R., xxx-xx-xxxx
Martines, Jack A., xxx-xx-xxxx
Mason, Alan C., xxx-xx-xxxx
Mason, David J., xxx-xx-xxxx
Mayhew, Jason F., xxx-xx-xxxx
McAlear, Kenneth E., xxx-xx-xxxx
McBride, Glenn W., xxx-xx-xxxx
McBroom, John M., xxx-xx-xxxx
McBroome, John J., xxx-xx-xxxx
McCarey, John W., xxx-xx-xxxx
McCarthy, Charles J., xxx-xx-xxxx
McCaslin, Patrick D., xxx-xx-xxxx
McClain Roger A., xxx-xx-xxxx
McCoin, Lloyd H. Jr., xxx-xx-xxxx
McCoy, Frederic E., II, xxx-xx-xxxx
McDonald, Charles W., xxx-xx-xxxx
McDonald, Michael N., xxx-xx-xxxx
McDunnough, John W., xxx-xx-xxxx
McFalls, John O., III, xxx-xx-xxxx
McGarrity, William E., II, xxx-xx-xxxx
McGovern, William L., xxx-xx-xxxx
McIlvoy David W., xxx-xx-xxxx
McIntosh, Raymond P., xxx-xx-xxxx
McKeon, James F., xxx-xx-xxxx
McLaughlin, John J., xxx-xx-xxxx
McMullen, Thomas E., xxx-xx-xxxx
McNamara, Dan C., xxx-xx-xxxx
Meacham, Arthur R., III, xxx-xx-xxxx
Meck, Richard G., xxx-xx-xxxx
Meiser, Bruce R., xxx-xx-xxxx
Melvin, Ronald M., xxx-xx-xxxx
Merritt, Robert K., xxx-xx-xxxx
Meyer, Charles L., xxx-xx-xxxx
Michaels, Ronald S., xxx-xx-xxxx
Micucci, Vincent P., xxx-xx-xxxx
Miller, Jere M., xxx-xx-xxxx
Miller, Kenneth G., xxx-xx-xxxx
Miller, Roger M., xxx-xx-xxxx
Miller, Terry D., xxx-xx-xxxx
Miller, William W., xxx-xx-xxxx
Milne, Robert J., xxx-xx-xxxx
Miranda, Frederick J., xxx-xx-xxxx
Mitchell, Bobbie L., xxx-xx-xxxx
Mitchell, Lawrence A., xxx-xx-xxxx
Mittelman, Gerald, xxx-xx-xxxx
Mobley Edwin H., xxx-xx-xxxx
Mock, James W., III, xxx-xx-xxxx
Modolo, Jerome M., xxx-xx-xxxx
Moe, Thomas N., xxx-xx-xxxx
Moen, James A., xxx-xx-xxxx
Montgomery, Dennis W., xxx-xx-xxxx
Moore, Edwin H., xxx-xx-xxxx
Moore, Lloyd T., Jr., xxx-xx-xxxx
Morales, William R., xxx-xx-xxxx
Morrison, John R., Jr., xxx-xx-xxxx
Morrison, Rufus M., xxx-xx-xxxx
Morrison, William B., III, xxx-xx-xxxx
Morrison, William C., xxx-xx-xxxx
Morrow, James K., xxx-xx-xxxx
Moss, Forrest M., xxx-xx-xxxx
Moss, Gary G., xxx-xx-xxxx
Mottern, Michael M., xxx-xx-xxxx
Muehleisen, James E., xxx-xx-xxxx
Muellner, George K., xxx-xx-xxxx
Murphy, George T., xxx-xx-xxxx
Murphy, Robert G., Jr., xxx-xx-xxxx
Musselwhite, Grover E., xxx-xx-xxxx
Myers, Jerry L., xxx-xx-xxxx
Myers, Richard A., xxx-xx-xxxx
Myers, Richard B., xxx-xx-xxxx
Nader, Alfred H., Jr., xxx-xx-xxxx
Nay, Marshall W., Jr., xxx-xx-xxxx
Nekoba, Francis K., xxx-xx-xxxx
Nelson, Gary G., xxx-xx-xxxx
Newton, George L., III, xxx-xx-xxxx

Nicholson, Robert B., xxx-xx-xxxx
Nicholson, Voy J., xxx-xx-xxxx
Noble, Robert E., xxx-xx-xxxx
Noches, Ramon C., xxx-xx-xxxx
Nogaki, Warren S., xxx-xx-xxxx
Noonan, Herbert I., xxx-xx-xxxx
Nordhaus, Richard O., xxx-xx-xxxx
Norwood, George W., xxx-xx-xxxx
Novak, John C., xxx-xx-xxxx
Nunn, James R., xxx-xx-xxxx
O'Brien, Patrick W., xxx-xx-xxxx
O'Brien, William E., xxx-xx-xxxx
O'Connor, Paul D., xxx-xx-xxxx
Oelstrom, Tad J., xxx-xx-xxxx
Olds, David R., xxx-xx-xxxx
Oliverio, Ronald D., xxx-xx-xxxx
Olschner, Clarence E., III, xxx-xx-xxxx
Olson, Ralph E. A., xxx-xx-xxxx
O'Neill, Gerald C., xxx-xx-xxxx
O'Neill, Philip T., Jr., xxx-xx-xxxx
O'Neill, Richard E., xxx-xx-xxxx
Orsini, John V., Jr., xxx-xx-xxxx
Ortloff, Victor C., xxx-xx-xxxx
Osuch, Robert J., xxx-xx-xxxx
Paganoni, John A., xxx-xx-xxxx
Pannage, Charles M., Jr., xxx-xx-xxxx
Parent, Larry A., xxx-xx-xxxx
Parker, Evans T., xxx-xx-xxxx
Parrott, Evan H., Jr., xxx-xx-xxxx
Pasquet, George A., xxx-xx-xxxx
Patton, Paul G., xxx-xx-xxxx
Paul, Edgar Jr., xxx-xx-xxxx
Payne, Charles E., xxx-xx-xxxx
Payne, Isaac S., IV, xxx-xx-xxxx
Pearce, Frank M., xxx-xx-xxxx
Pearce, Harry A., xxx-xx-xxxx
Pease, Birney T., xxx-xx-xxxx
Pehlvanian, George P., xxx-xx-xxxx
Pellman, Vernon L., Jr., xxx-xx-xxxx
Pendleton, Winston K, III, xxx-xx-xxxx
Peterson, Robert D., xxx-xx-xxxx
Peterson, Stephen H., xxx-xx-xxxx
Pfeffer, Gene J., xxx-xx-xxxx
Pfeifer, Norman L., xxx-xx-xxxx
Phillips, Walton S., xxx-xx-xxxx
Pike, Charles L., xxx-xx-xxxx
Piver, Charles R., xxx-xx-xxxx
Potter, Joseph V., xxx-xx-xxxx
Praeger, Ralph B., xxx-xx-xxxx
Prater, Gladstone J., Jr., xxx-xx-xxxx
Pratt, Bruce S., xxx-xx-xxxx
Prescott, Dennis G., xxx-xx-xxxx
Proctor, Cortez A., xxx-xx-xxxx
Purdy, Frank K., Jr., xxx-xx-xxxx
Rader, William K., xxx-xx-xxxx
Ramsey, Stephen F., xxx-xx-xxxx
Rathburn, Robert L., xxx-xx-xxxx
Rawlins, Addison C., III, xxx-xx-xxxx
Ray, James E., xxx-xx-xxxx
Redding, Dennis R., xxx-xx-xxxx
Redding, Robert G., xxx-xx-xxxx
Reed, Grady H, III, xxx-xx-xxxx
Reed, Robert E., Jr., xxx-xx-xxxx
Reedick, Ronald J., xxx-xx-xxxx
Reeser, Robert B., xxx-xx-xxxx
Reutershan, Roger C., xxx-xx-xxxx
Reynolds, Donald L., xxx-xx-xxxx
Richard, Stephen P., xxx-xx-xxxx
Richardson, Michael E., xxx-xx-xxxx
Ricks, William R., xxx-xx-xxxx
Riddick, Richard R., xxx-xx-xxxx
Riske, Robert M., xxx-xx-xxxx
Rissell, Robert A., xxx-xx-xxxx
Roberts, Philip A., xxx-xx-xxxx
Robertson, Orville G., xxx-xx-xxxx
Rogers, Jack C., xxx-xx-xxxx
Rogers, John S., xxx-xx-xxxx
Rosa, Albert J., xxx-xx-xxxx
Rost, Paul F., xxx-xx-xxxx
Rothrock, John E., Jr., xxx-xx-xxxx
Rotz, David H., xxx-xx-xxxx
Rouse, George D., xxx-xx-xxxx
Rundle, Michael F., xxx-xx-xxxx
Rush, Charles W., xxx-xx-xxxx
Rutledge, Robert J., xxx-xx-xxxx
Ryser, Gary C., xxx-xx-xxxx
Saarela, William A., xxx-xx-xxxx
Saboski, Arthur, xxx-xx-xxxx
Sams, Monroe S., Jr., xxx-xx-xxxx
Sanders, Bruce, A., xxx-xx-xxxx
Sands, James E., Jr., xxx-xx-xxxx
Santamaria, John, Jr., xxx-xx-xxxx
Sapere, Joseph R., xxx-xx-xxxx
Saur, James A., xxx-xx-xxxx
Sawyer, David A., xxx-xx-xxxx
Sawyer, William E., xxx-xx-xxxx
Scanlon, William A., xxx-xx-xxxx
Schaebethal, Kenneth P., xxx-xx-xxxx
Schammel, Thomas F., xxx-xx-xxxx
Scherer, James A., Jr., xxx-xx-xxxx
Schofield, Jeffrey E., xxx-xx-xxxx
Schooler, William L., xxx-xx-xxxx
Schuman, Jimmie D., xxx-xx-xxxx
Schwalber, Richard L., xxx-xx-xxxx
Scott, John D., xxx-xx-xxxx
Scott, Robert J., xxx-xx-xxxx
Seagrave, Roger N., xxx-xx-xxxx
Seaux, Junior G., xxx-xx-xxxx
Severo, Orlando C., Jr., xxx-xx-xxxx
Sewell, Milton H., xxx-xx-xxxx
Shamblin, Ronald G., xxx-xx-xxxx
Shearer, Alexander W., xxx-xx-xxxx
Sheppard, William D., xxx-xx-xxxx
Sherrill, Gerald H., xxx-xx-xxxx
Shiner, John F., xxx-xx-xxxx
Shipman, Marcus B., xxx-xx-xxxx
Shipp, George F., xxx-xx-xxxx
Shmoldas, John D., xxx-xx-xxxx
Short, Michael C., xxx-xx-xxxx
Shulstad, Raymond A., xxx-xx-xxxx
Sieminski, Thomas M., xxx-xx-xxxx
Silva, Lloyd F., xxx-xx-xxxx
Simmons, James A., xxx-xx-xxxx
Simpson, Terry A., xxx-xx-xxxx
Sindt, Linda K., xxx-xx-xxxx
Siner, Richard E., xxx-xx-xxxx
Sloan, James M., xxx-xx-xxxx
Smith, Dennis A., xxx-xx-xxxx
Smith, Dewey C., xxx-xx-xxxx
Smith, Edward M., xxx-xx-xxxx
Smith, Gordon C., xxx-xx-xxxx
Smith, Guy A., xxx-xx-xxxx
Smith, Joseph S., xxx-xx-xxxx
Smith, Lloyd R., Jr., xxx-xx-xxxx
Smith, Rolf C., Jr., xxx-xx-xxxx
Smith, Rondal H., xxx-xx-xxxx
Smith, William D., xxx-xx-xxxx
Snedker, Harold C., xxx-xx-xxxx
Snell, Linwood H., Jr., xxx-xx-xxxx
Snodgrass, Thomas E., xxx-xx-xxxx
Sokolowski, Lawrence F., xxx-xx-xxxx
Sotman, John B., xxx-xx-xxxx
Sowden, Sterling J., xxx-xx-xxxx
Spencer, James D., xxx-xx-xxxx
Staloch, Robert L., xxx-xx-xxxx
Starnes, Robert P., xxx-xx-xxxx
St. Clair, Robert G., xxx-xx-xxxx
Stein, Paul F., xxx-xx-xxxx
Stevens, Harvey B., xxx-xx-xxxx
Stewart, Thomas S., xxx-xx-xxxx
Stice, William H., xxx-xx-xxxx
Stokes, George B., xxx-xx-xxxx
Stone, Jack T., Jr., xxx-xx-xxxx
Stone, Lawrence A., xxx-xx-xxxx
Strickland, James O., III, xxx-xx-xxxx
Strunk, Richard R., xxx-xx-xxxx
Stutz, Leroy W., xxx-xx-xxxx
Sullenberger, Donald S., xxx-xx-xxxx
Sullivan, Thomas W., xxx-xx-xxxx
Summers, George P., xxx-xx-xxxx
Sunderman, Dewayne O., xxx-xx-xxxx
Swander, Jay A., xxx-xx-xxxx
Swisher, William S., xxx-xx-xxxx
Swope, Richard T., xxx-xx-xxxx
Syptak, Michael R., xxx-xx-xxxx
Szostak, John D., Jr., xxx-xx-xxxx
Szymczak, Edward J., xxx-xx-xxxx
Taylor, Daniel J., xxx-xx-xxxx
Taylor, Reede L., Jr., xxx-xx-xxxx
Taylor, Roger C., xxx-xx-xxxx
Taylor, Woodrow M., xxx-xx-xxxx
Tedro, Floyd K., xxx-xx-xxxx
Terry, Jay W., xxx-xx-xxxx
Tessier, Richard J., xxx-xx-xxxx
Tewell, Dennis P., xxx-xx-xxxx
Thies, Jerome C., xxx-xx-xxxx
Thomas, Jack A., xxx-xx-xxxx
Thomas, Jimmy R., xxx-xx-xxxx
Thompson, David N., xxx-xx-xxxx
Thompson, James D., xxx-xx-xxxx
Thompson, Lynn L., xxx-xx-xxxx
Thompson, William L., xxx-xx-xxxx
Tidwell, Robert L., xxx-xx-xxxx
Tindell, Bobby P., xxx-xx-xxxx
Todd, Franklin D., xxx-xx-xxxx
Toliver, Richard., xxx-xx-xxxx
Tomlinson, William V., Jr., xxx-xx-xxxx
Tonjes, Earl A., xxx-xx-xxxx
Toohey, John A., xxx-xx-xxxx
Torrez, Dennis C., xxx-xx-xxxx
Tracy, John L., xxx-xx-xxxx
Troy, Richard O., xxx-xx-xxxx
Turk, Walter F., xxx-xx-xxxx
Turner, David C., xxx-xx-xxxx
Turner, Dion W., xxx-xx-xxxx
Vanduyn, John E., Jr., xxx-xx-xxxx
Vantilborg, Dale W., xxx-xx-xxxx
Vanvalin, Gary A., xxx-xx-xxxx
Vaught, Johnnie L., xxx-xx-xxxx
Venable Grady P., xxx-xx-xxxx
Venanzi, Gerald S., xxx-xx-xxxx
Vervisch, Charles D., xxx-xx-xxxx
Via, Ronald D., xxx-xx-xxxx
Vick, David R., xxx-xx-xxxx
Vitamvas, Albert T., Jr., xxx-xx-xxxx
Wade, William E., xxx-xx-xxxx
Walker, Elbert S., Jr., xxx-xx-xxxx
Walker, Robert A., xxx-xx-xxxx
Wallace, Gary E., xxx-xx-xxxx
Wallace, Jere T., xxx-xx-xxxx
Ward, Willis N., xxx-xx-xxxx
Warddrip, Robert L., xxx-xx-xxxx
Warren, David J., xxx-xx-xxxx
Waterman, Charles R., xxx-xx-xxxx
Weaver, James S., Jr., xxx-xx-xxxx
Weaver, Lonnie E., xxx-xx-xxxx
Webster, Thomas L., xxx-xx-xxxx
Weiss, Theodore J., xxx-xx-xxxx
Welch, Robert P., xxx-xx-xxxx
Welch, William E., xxx-xx-xxxx
Welde, John L., xxx-xx-xxxx
Wells, Rodney A., xxx-xx-xxxx
Westover, Timothy O., xxx-xx-xxxx
Wheaton, Eric E., xxx-xx-xxxx
Wheeler, William L., xxx-xx-xxxx
White, Neil W., xxx-xx-xxxx
Whitlock, David C., xxx-xx-xxxx
Wickman, Robert W., xxx-xx-xxxx
Wieland, Michael H., xxx-xx-xxxx
Wilke, Paul L., xxx-xx-xxxx
Williams, Carl E., xxx-xx-xxxx
Williams, David H., xxx-xx-xxxx
Williams, David O., xxx-xx-xxxx
Williamson, Charles A., xxx-xx-xxxx
Williford, James V., xxx-xx-xxxx
Wilson, James F., xxx-xx-xxxx
Wilson, Joseph C., Jr., xxx-xx-xxxx
Wilson, Marion G., xxx-xx-xxxx
Wiltrout, Boyce W., xxx-xx-xxxx
Winland, Gene E., xxx-xx-xxxx
Winston, John T., xxx-xx-xxxx
Wiseman, Omar R., xxx-xx-xxxx
Wiswell, Robert A., xxx-xx-xxxx
Wittress, William M., Jr, xxx-xx-xxxx
Wodstrchill, Daniel L., xxx-xx-xxxx
Wohnsigl, John R., xxx-xx-xxxx
Wolf, Richard A., xxx-xx-xxxx
Wollam, Daniel L., xxx-xx-xxxx
Wong, Wendell M. Y., xxx-xx-xxxx
Wood, John D., xxx-xx-xxxx
Woodruff, John D., xxx-xx-xxxx
Woodward, William V., xxx-xx-xxxx

Woody, James P., xxx-xx-xxxx
Wright, David K., xxx-xx-xxxx
Writer, Lawrence D., xxx-xx-xxxx
Wusk, Larry L., xxx-xx-xxxx
Yax, Thomas J., xxx-xx-xxxx
Young, James A., xxx-xx-xxxx
Younger, Jey E., III, xxx-xx-xxxx
Zadra, Jon A., xxx-xx-xxxx
Zent, Llewellyn, II, xxx-xx-xxxx
Zuberbuhler, Rudolph U., xxx-xx-xxxx

CHAPLAIN CORPS

Foster, Lowel D., xxx-xx-xxxx
Grosse, David G., xxx-xx-xxxx
Halstead, Philip E., xxx-xx-xxxx
Heather, Thomas V., xxx-xx-xxxx
Kenney, John B., xxx-xx-xxxx
Mattox, William H., xxx-xx-xxxx
Millsaps, James W., xxx-xx-xxxx
Richart, Paul F., xxx-xx-xxxx
Solano, John O., xxx-xx-xxxx

JUDGE ADVOCATE

Abbott, Robert A., xxx-xx-xxxx
Adams, Andrew J., Jr., xxx-xx-xxxx
Angle, Swanson W., xxx-xx-xxxx
Barrow, James R., xxx-xx-xxxx
Dearborn, Oris D. Jr., xxx-xx-xxxx
Giaimo, Christopher J., xxx-xx-xxxx
Hawley, Bryan G., xxx-xx-xxxx
Howell, John E., xxx-xx-xxxx
Joyce, Kenneth G. B., xxx-xx-xxxx
Kuhn, Fredolin, W., xxx-xx-xxxx
Raichle, Mildred L., xxx-xx-xxxx
Rubin, Alan J., xxx-xx-xxxx
Waitman, Lemuel R., xxx-xx-xxxx
Weir, Donald E., xxx-xx-xxxx

NURSE CORPS

Blauback, Mary A., xxx-xx-xxxx
Brillhart, Rita A., xxx-xx-xxxx
Crowl, Kathleen T., xxx-xx-xxxx
Lorzing, Katheryn A., xxx-xx-xxxx
McDowell, Fred S., Jr., xxx-xx-xxxx
Oheir, Owen C., xxx-xx-xxxx
Orock, Mary J., xxx-xx-xxxx
Rogers, Bonnie P., xxx-xx-xxxx
Steadman, Barbara J., xxx-xx-xxxx
Turner, Sue E., xxx-xx-xxxx
Wyman, Craig A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Cadenhead, Charles C., xxx-xx-xxxx
Giovale, Joseph J., xxx-xx-xxxx
Gordon, Darwin G., xxx-xx-xxxx
Hamako, Herbert M., xxx-xx-xxxx
Harsanyi, Charles A., xxx-xx-xxxx
McClain, Harry C., Jr., xxx-xx-xxxx
Rasco, William D., xxx-xx-xxxx
Terry, Charles R., xxx-xx-xxxx
Upton, Charles R., xxx-xx-xxxx
Wilson, John G., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

Buchenauer, Robert L., xxx-xx-xxxx
Cardin, David E., xxx-xx-xxxx
David, Tony D., xxx-xx-xxxx
Irving, George W., III, xxx-xx-xxxx
McGhee, Wyatt L., xxx-xx-xxxx
Pletcher, Eugene V., xxx-xx-xxxx
Schaad, Lawrence E., xxx-xx-xxxx
Thomas, Jerry F., xxx-xx-xxxx

INTERNATIONAL MONETARY FUND

Richard D. Erb, of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years (reappointment).

SECURITIES INVESTOR PROTECTION CORPORATION

James G. Stearns, of Nevada, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1985 (reapportionment).

FEDERAL HOME LOAN BANK BOARD

Mary A. Grigsby, of Texas, to be a member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1986, vice James Jay Jackson, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Stephanie Lee Miller, of the District of Columbia, to be an Assistant Secretary of Health and Human Services, vice Pamela Needham Bailey.

DEPARTMENT OF COMMERCE

John G. Keane, of Illinois, to be Director of the Census, vice Bruce Chapman.

DEPARTMENT OF DEFENSE

Michael Ira Burch, of Florida, to be an Assistant Secretary of Defense, vice Henry E. Catto, Jr., resigned.

Francis Carter Coleman, of Florida, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for the term expiring May 1, 1989 (reapportionment).

IN THE COAST GUARD

The following Regular and Reserve officers of the U.S. Coast Guard for promotion to the grade of commander:

John R. Huddleston
Victor P. Primeaux
Brian P. M. Kelly
Dennis M. Majerski
Thomas D. Brennan
Foye A. Meader
Donald R. Carlberg
Zoran Sajovic
Michael D. Vance
Edward J. Searl
Gary A. Bird
Theodore C. Scheeser
Paul E. Hill
Robert L. Hoyt
Michael L. Dorsey
Dick A. Wilson
Rodney E. Smith
Thomas J. Barrett
Stephen A. Scully
Richard B. Cole
Craig F. Eisenbeis
Kenneth J. Losser
James M. McKernan, Jr.
William F. Geers
Warren E. Colburn, Jr.
Gregory L. Shaw
Robert W. Henry
Paul J. Prokop
Gerald L. Hale
George F. Hetland, Jr.
Paul H. Garrity
Robert J. Wenzel
William K. Bissell
Michael J. Mierzwa
Alexander J. Hindle, Jr.
Richard F. Gupman
James D. Hull
Michael Billingsley
David H. Humphreys
Stevens E. Hungness
Richard E. Burke, Jr.
Christopher G. Kreiler
Gregory H. Magee
James E. Smith, Jr.
Jay M. Snyder
James D. Garrison
Stuart N. White
Donald H. Debok
John F. McGowan
Frederick N. Wilder
Robert C. Olsen, Jr.
Eric W. Miller
James L. Robinson
Andrew W. Anderson
Phillip W. Hawkins
Robert C. Belote
Richard J. Losea
Elwood E. Stoeger
Paul J. Bodenhofer
Richard C. Vlaun
George A. Flanigan
Frederick J. Schmitt
Ronald J. Greto
George M. Williams
Jeffrey E. Robbins
Robert M. Acker, Jr.
Charles A. Huber, Jr.
Glenn P. O'Brien
Andrew L. Gerfin, Jr.
William R. Bowen
Richard D. White, Jr.
Michael E. Moore
David B. Anderson
Darryle M. Waldron
Mark D. Present
Pablo M. Rodriguez
Theodore G. White, III
Mark L. Lavache
Timothy W. Josiah
Robert C. Gravino
David K. Arnold
Thomas R. Hamblin
John K. Miner
Charles H. Hill
Barry P. Kane
Russell A. Askey
David H. Blomberg
Roderick A. Schultz
Donald R. Grosse
George N. Naccara
Chester M. Sprague
James D. Burk
Robert W. Thorne
Gary W. Pavlik
Fred W. Pryor
Gerald H. Kemp
Robert T. Glynn
Douglas B. Brown
Eugene A. Miklaucic
Lawson W. Brigham
Terry M. Cross

IN THE NAVY

The following-named limited duty officers, to be reappointed permanent lieutenant as limited duty officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Acosta, Alfredo Zamora
Andies, Robert Baxter
Aydelott, Charles Robert
Baldwin, Patrick Lee
Barbra, William Ronald
Barnhart, John Albert
Boliek, Richard Larry
Botts, Roy Lewis
Byers, Harold Duane
Callahan, Fredrick Norman
Camacho, Donald Leal
Carsten, Thomas Earnest
Carter, Lorenza
Casey, Patrick J.
Chinery, Percy Harrison, III
Ciborowski, Virginia Bernice
Clifton, James Robert
Cole, Donald Edward
Creed, David Lee
Curley, Jeremiah Matthew
Day, Dickie Jum
Dickson, William Gerald
Dobbins, John William
Drewry, Douglas Leroy
Dulin, Robert Herman
Dunbar, Fredrick Charles
Edwards, William Neal
Eltringham, Norman Paul
Fenwick, James Joseph
Finch, Gaylord Ross
Fortner, Elton Graig
Fowler, Ronald Lewis
Fraher, Dennis Eugene
Francis, James Everett
Gavin, Daniel Joseph
Gee, Grant Wallace
Gengler, Kenneth Anthony
Gideon, William Raymond
Gumbayan, Gregorio Entese
Hall, John Henry
Heassler, Ernest Jay
Hosterman, Larry Dea
Hyman, Bobby Earl
Jiles, Elvin Jr.
Jones, Ronny Gene
Keasler, David H.
Kemp, Thermon Robert, Jr.
Kincaid, Elthu F.
King, Thomas Moses, Jr.
Laduke, Robert C.
Larson, Raymond D.
Lord, Frederick R., Jr.
Lytle, John Dennis
Mathisen, Tim Ian
Maxey, Jack Edward
McCarthy, John Paul, Jr.
McGlade, Joseph James, Jr.
Miller, Victor Eugene
Montgomery, James Joseph, Jr.
Nelson, Donald Floyd
Niemann, Gerald Wayne
Ohalloran, Francis Edward
Osterfeld, Leroy Alan
Palmer, Bruce Elvan
Pate, James E.
Paul, George David
Peters, Clyde Virgil
Prince, Burton Louis
Quaschnick, David Laurence
Range, James Nelson, Jr.
Riddle, Jerry Arthur
Ritter, Kenneth James
Schneider, Franz Christian
Schnieder, Jacob Peter
Schwab, Frederick Arnold
Segovia, Gustavo
Shepherd, Robert David
Sherman, James Howard
Shinkle, Leroy Kent
Sipes, Jerry Kay

Sommer, Robert James, Jr.
Sowers, William Randolph
Strong, Richard Lee
Taylor, James Glen
Tom, Daniel Jr.
Vahey, William Francis
Whitaker, Larry Howard
Worthen, Thomas Lee
Young, Dennis Carl, Jr.

The following-named temporary limited duty officers, to be appointed permanent lieutenant as limited duty officers in the Line of the U.S. Navy, pursuant to title 10, United States Code, section 5589A:

Albert, David D.
Albright, Luther NMN
Alexander, Bruce R.
Aligood, Joseph W.
Allen, David W.
Allen, Leonard B., III
Ames, Richard M.
Amstutz, William P.
Anderson, Leroy S., Jr.
Anderson, William R.
Arnold, Allen R.
Aten, Larry R.
Bailey, Carl E.
Bailey, Charles R.
Balcom, Robert H., Jr.
Baldwin, Charles E.
Bannister, George E.
Barnett, Charles N.
Beall, Imrie G., Jr.
Beaulieu, Mark A.
Bennington, Jerry L.
Bernard, Paul L.
Biggs, Luther L., Jr.
Birchfield, James R.
Birdsong, Jerry L.
Blackie, Timothy P.
Blanchflower, Thomas
Bozman, David E.
Bradley, Scott K.
Brandland, David O.
Bridges, John L., Jr.
Brown, Linford C., Jr.
Brumbaugh, Marvin P.
Bryce, Michael P.
Burns, James R.
Burrious, Delbert E.
Butler, Robert G., Jr.
Butts, Richard N.
Byron, Lester G., III
Byrum, Douglas E.
Call, Robert W.
Camenzino, Enno F., Jr.
Campbell, Norman J.
Cantwell, John C., III
Carambia, Anthony P.
Carlson, David R.
Carman, Thomas W.
Carney, William H.
Carobine, John P.
Castillo, Ramon F.
Chasse, David R.
Cherry, Michael J.
Chute, John F.
Cicirello, Anthony P.
Clark, Robert L.
Clem, Frederick NMN
Clock, Alan M.
Coleman, Fernando B.
Collins, Richard M.
Condon, James M., Jr.
Conley, David M.
Conwell, Stephen G.
Cope, William R.
Cosper, Gary W.
Coy, Walter J.
Coyne, Martin W.
Crews, Michael D.
Culpepper, Tommy M.
Danaher, Alan P.
Darby, Alexander L. I.
David, Dale J.
Davis, Andrew Ray
Davis, Jeffery A.
Davis, Robert L.
Deatherage, Weldon E.
Debello, Anthony V.
Decoster, Richard C.
Dell, Kenneth R.
Deluna, Cipriano M.
Diehl, Donald L.
Dolan, Ronald NMN
Donley, Dal S.
Donnellan, Thomas L.
Drees, Bruce W.
Duff, Herbert R.
Earle, Norman W.
Eberhart, Dennis M.
Eidnes, Kenneth L., Jr.
Ellis, Ronald E.
Ellis, Stephen J.
Elvrom, Richard Jon
Esker, Robert D.
Eudy, Stanley K.
Fahling, John G.
Fair, Michael L.
Farley, John L.
Fiala, Donald W., Jr.
Fiegl, Robert J., Jr.
Fillmore, Glenn R., Jr.
Fischer, Harold A.
Fitzgerald, Harold W.
Fleetwood, Clifford
Foissett, John H.
Ford, Curtis B., Jr.
Foreman, Ronald D.
Foster, Jimmy C.
Franks, Robert L.
Fucito, David NMN
Fyvie, William S.
Gager, Arthur R.
Galarpe, Armando A.
Gause, William A.
Giannetto, Joseph J.
Gilroy, Michael J.
Gilson, Jon K.
Girtz, Darryl S.
Gliebe, Joseph E., III
Gonzales, Anthony J.
Gormley, James P.
Gorzoch, Gary R.
Gary, Donald O., Jr.
Gualdoni, Paul C.
Haaland, Frederick R.
Hall, Bert A.
Hamilton, Daughtery
Hamiter, John D.
Hammock, Bobby E.
Handley, Terry D.
Hanscom, John E.
Harris, William R.
Hatfield, Franklin D.
Hawkins, John E.
Hawkins, Richard D.
Hawthorne, James A.
Hayward, Charles W.
Hensley, Arthur W.
Herman, Bruce J.
Hibbard, John W.
Hildebrand, Rex E.
Hinote, Thomas B.
Hogston, Terry L.
Holden, James D.
Houppert, James L., Jr.
Howard, Philip M.
Hunt, Lawrence E.
Izumoto, Gordon S.
Jackson, Donald I.
Jackson, Keith R.
Jaeger, Steven J.
Jeffers, Michael J.
Jernigan, Robert P.
Johnson, Edward J.
Johnson, Vaughn B.
Johnson, William E. J.
Johnson, William T.
Johnston, John P.
Jones, Bruce D.
Jones, John Wayne
Jones, Philip A.
Jung, Melvin J., III
Katekaru, Roberto NMN
Keenan, Richard C.
Keenan, Robert A.
Kelley, Stephen Dell
Kelly, Arthur G.
Kessock, Robert J.
Kiehlmeier, Robert T.
Kimbrow, James Larry
Kirkpatrick, John D.
Kirtley, Charles N.
Kollarik, George N.
Kuehl, David Ralph
Kuss, Maxwell Edwin
Lathers, Bruce J.
Lettie, Terry Lee
Lloyd, David Paul
Lloyd, Robert R.
Locke, Richard Alan
Long, Leslie H.
Lord, Donald E.
Lord, Jeffery NMN
Lorsong, Peter H., Jr.
Love, Harry D.
Love, Orie M.
Lux, Michael J.
Lytton, John R.
Macklem, David K.
Major, Charles A.
Marchese, Henry C.
Mattingly, Timothy J.
Mauk, John A.
Maultsby, Rustic A., Jr.
May, Darrell D.
McClelland, Carl D.
McCrink, John H.
McCullough, Kirk W. I.
McDonald, Travis E.
McDonough, James E.
McDowell, James A.
McFarlane, Anthony E.
McGovern, Daniel J.
McGrath, John P.
McInturff, Frank NMN
McLaughlin, Patrick
McLaughlin, Ralph M.
McNabb, Mark D.
McNeill, James G.
McQuown, David A.
Meyer, Gregory R.
Meyer, John A.
Miller, Glenn L.
Mills, Thomas L.
Misch, Hans P.
Mitchell, John B., Jr.
Moe, Romeo Hilbero
Moloney, Timothy M.
Monroe, Robie L.
Moore, Kenneth E.
Morgan, Gary M.
Morrison, Jack R.
Morrissette, Leo M.
Moss, Carl A., Jr.
Mowery, Larry D.
Mumpower, Thomas S.
Munn, Walter J., Jr.
Murphy, Cyrus B.
Murray, Kerry P.
Murray Michael P.
Nichols, Frank W.
Nichols, James C., Jr.
Norris, Jack H.
Northington, Oscar L.
Norton, James R.
Obrien, William J.
Odell, John M.
Odenwelder, David B.
Odom, Johnnie L.
Olson, Michael W.
Ordemann, John J.
Orr, Jerry B.
Owen, Kirk W.
Pannone, Anthony P.
Pappas, William NMN
Paquin, Albert C. L. I.
Parry, Charles J.
Peck, Eldon C.
Peed, James H.
Peralta, Darryl E.
Peters, Norman B., Jr.
Peterson, Roy C.
Petranek, Gregory F.
Pierce, Henry L.
Pipcho, Joseph R.
Plaskiewicz, Richard
Price, Donald Ray
Price, Ricky E.
Ratliff, Gorden B.
Rawlings, James T.
Raymond, Anthony B.
Reaves, Herbert L.
Reberry, Dennis D.
Regular, Robert K.
Rehbaum, Karl E.
Renken, Del L.
Resch, Steven L.
Rhodes, Dennis D.
Richard, Gary L.
Richards, Norman E., Jr.
Richardson, Jerry D.
Ricketts, Harold L. J.
Roehm, Louis S., Jr.
Rogers, Charles S.
Rosario, Anthony B.
Ross, Nicholas J., Jr.
Rought, Theodore R.
Sanford, Eugene R., II
Sargent, Dero W., Jr.
Sarmiento, Bundy C.
Sartor, Roger M.
Saukel, Francis G., Jr.
Sawyer, Larry E.
Scharringhausen, Ant
Scheifele, Peter NMN
Schirmer, Herman B.
Schultz, Richard P.
Scott, David R.
Searle, Marvin D.
Sears, Thomas L.
Sharp, Larry G.
Shaw, Richard A.
Sheldon, Richard G.
Shilling, Daniel L.
Shinholser, Wilbur A.
Shinn, Edward J.
Shipman, Lee NMN
Silevinac, Michael A.
Skelton, William J., IV
Skramstad, Dennis L.
Sly, Walter R., Jr.
Smith, William R.
Smoot, William L.
Snyder, Bruce H.
Spencer, David H.
Spindle, Robert L., IV
Spon, Richard A.
Stafford, Charles W.
Stokes, Ira Lynn
Stone, Michael W.
Strong, Richard M.
Stroud, Marvin Glen, Jr.
Stump, Jackie D.
Sulzer, Elwood C., Jr.
Sunner, Gary D.
Swart, Ronald E.
Tallman, Ronald W.
Teneyck, Allen E.
Thien, Stanley J.
Thomas, David J.
Thompson, James A., Jr.
Thompson, William C.
Threatt, Charles D.
Tindell, Walker J.
Todd, Larry K.
Trent, Charles E.
Tuthill, Warren E., Jr.
Twyman, Clarence W. J.
Upham, Charles W.
Vanauken, Robert L.
Vanzandt, Buford R.
Velez, Irving NMN
Wainscott, Claude R.
Walker, Floyd A.
Wallace, Alfred A.
Ward, Gerald D.
Warner, Thomas G.
Watson, Daniel M.
Wellbrock, Bryan J.
White, Robert E.
Whitworth, Rickey D.
Wilcox, Frank E., Sr.
Wilkes, William D.
Wilkirson, William E.
Wilson, David A.
Wilson, Jack L., Jr.
Wilson, Murle R.
Wilson, Thomas D., II
Wing, Thomas D.
Winstead, Jimmy L.
Woodmansee, Harvey B.
Woolard, John E.
Wray, Bruce G.
Wulf, Michael A.
Yetzke, Michael E.

The following-named U.S. Naval Reserve limited duty officer of the Line, to be appointed permanent lieutenant in the Line as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589A:

Jolly Elbert L., Jr.

The following-named permanent limited duty officers, to be reappointed as permanent lieutenant in the Supply Corps as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589A:

Maxaner, Bruce
Pemberton, Lawrence A.
VanAusdal, William R.

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the Supply Corps as limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589a:

Ajero, Adolfo C., Jr.
Antes, Basilio V., Jr.
Aqui, Josefino T.
Aquino, Godofredo T.
Bland, James A.
Brooks, Matthew D.
Dee, David W.
Edwards, Michael H. C.
Garcia, Jupiter R.
Heimbaugh, Richard A.
Hoffman, James M.
Huss, Terry E.
Johnson, John H.
Johnson, Robert James
Keller, Gene W.
Lane, Grant M.
Lingard, John Robert
Mayfield, Myson O.
Nicholls, Terrance L.
Obershaw, Roger Curti

Parsons, Thomas K.
Potente, Maximo C.
Schmalz, Ruston K.
Smith, Robert L.
Vansell, Bernard J. J.
Vasquez, Manuel T.
Wright, John R.

The following-named permanent limited duty officer, to be reappointed permanent lieutenant in the Civil Engineering Corps (CEC) as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code, section 5589A:

Britt, Dale Raymond

The following-named temporary limited duty officers, to be appointed permanent lieutenant in the Civil Engineer Corps (CEC) as a limited duty officer of the U.S. Navy, pursuant to title 10, United States Code section 5589A:

Beach, Royce A.
Patnoad, Gerald F.
Smythe, James R.

IN THE NAVY

The following-named Naval Reserve Officers Training Corps Candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 2107:

Abbott, Christopher E.
Abbott, Preston G.
Abraham, Peter F.
Abramson, Daniel
Adam, James P.
Adam Rita S.
Adams, David J.
Adams, Dennis B.
Adams, Kenneth W.
Adams, Zane N.
Adelmann, Walter J., Jr.
Adkerson, Steven D.
Adwell, Glenn R.
Albero, Dominic M.
Alexander, Steven P.
Alfes, Teresa M.
Alkov, Steven L.
Allen, Eddie B.
Allen, Philip W.
Allen, Scott T.
Allen, Todd R.
Allen, Walter E.
Allison, Jon D.
Amador, Thomas R.
Ambrosi, John T.
Ames, Dudley C.
Anderson, David R.
Anderson, Andrew B.
Anderson, April E.
Anderson, David E.
Anderson, Richard A.
Anderson, Richard L.
Anderson, Robert R.
Anderson, Truman O., III
Anderson, Wesley G.
Andes, Scott P.
Andre, John W.
Andreoni, David J.
Andrews, John J.
Andy, Joseph A.
Anglin, Paul S.
Angulo, Vince E.
Anhorn, Walter
Ankewich, Carl M.
Anthony, Eric D.
Anthony, Joseph I.
Apple, Rachel L.
Appleton, Thomas J.
Arcala, Napoleon, J., Jr.
Armstrong, James S.
Arnold, Raymond M.
Aronson, Steven S.
Ashton, Duane R.
Asmus, Scott M.
Aster, Mark D.
Ausley, Paul D.
Austin, Amy E.
Auten, Kenneth W.
Averill, Lester N.
Aves, Dennis
Avila, Mark W.

Baas, James G.
Bables, Michael T.
Badders, Rebecca S.
Badzik, David V.
Bailes, Elbert L.
Baker, Byron L.
Baker, Mark A.
Baldree, Steven W.
Baldwin, Edwin, A., III
Ball, Michael S.
Ballard, Shawin M.
Bare, Keith A.
Barker, Charles D.
Barrett, Kenneth J., Jr.
Bartlett, Clifford K.
Bass, Keith, W.
Bates, Steven E.
Bauer, Timothy T.
Bayot, Stanley, F.
Bean, Mary F.
Beard, Don R.
Beary, John, D.
Beatty, James R.
Beck, Von Peccoz Stephen W.
Beckham, Anderson L.
Beedenbender, Mark G.
Beezley, John M.
Behrmann, Herman T.
Belke, Stephen W.
Bell, Edward L., III
Bell, Jo A.
Bellamy, Latoya
Bellantoni, Paul N.
Belt, Steven L.
Benfield, Charles D.
Benford, Leo W.
Bennett, Calvin B., III
Bennett, Sherri L.
Bennett, Wanda L.
Benson, Charles A., Jr.
Bentz, Troy A.
Berard, Michael R.
Bergeman, Scott D.
Bergman, Robert G.
Bergman, Thomas A.
Berkowitz, Robert J.
Bertin, Cheryl D.
Bethel, Brian W.
Bethel, Ralph S.
Bettis, Sybil Y.
Bice, Carl A.
Bilek, David R.
Billman, James J.
Bilton, Kenneth D.
Bishop, James H.
Biven, Carrol L.
Blackwood, David A.
Blair, John P.
Bland, Richard K.
Blashka, Bruce G.
Blatter, Mark L.
Blaylock, Mikel F.
Blazer, William
Blood, Archer L.
Bloom, Peter S.
Blubaugh, Jonathan L.
Bodkin, Craig R.
Bodoh, Mark P.
Boehms, Samuel H.
Boerke, Raymond H.
Boers, Joy E.
Bogan, Harold A.
Bogdan, Steven R.
Boggs, Sharon R.
Bogue, Charles R.
Boing, Gregory C.
Boissenin, Eugene W.
Boster, Richard D.
Bonincontri, Michael A.
Bonn, Bo R.
Bonner, Michael L.
Bookwalter, Timothy J.
Boraks, Michael W.
Borrelli, Joseph M., Jr.
Boston, Brent L.
Boswell, James D.
Botham, Richard D.
Bottarini, James S.
Bowden, Ronald E.
Bowens, Brian E.
Bowers, Fred F., Jr.
Bowers, Robert E.
Bowles, George A., Jr.
Boxall, Ronald, A.
Boyer, Richard D.
Boyer, Scott R.
Bracker, Heinrich W.
Brackin, Andre P.
Brady, Edmund P.
Brady, Kathleen M.
Braker, William C.
Brakke, Brian J.
Brangaccio, Franklin D., II
Brannan, Thomas J.
Brannen, Daniel J.
Brant, Charles T.
Brawford, John L.
Bremer, James K.
Brese, Robert F.
Brod, Stephen R.
Broene, Brian J.
Brooks, Dexter J.
Brooks, James E.
Brow, John A.
Brower, John A.
Brown, Bernard L.
Brown, Christopher C.
Brown, Isaiah V.
Brown, Jacquelyn D.
Brown, Lloyd P.
Brown, Matthew S.
Brown, Michael S.
Brown, Richard M.
Brown, Stephen F.
Brown, Stephen J.
Brown, Timothy B.
Broz, Gordon A.
Bunhart, Troy H.
Bruni, Dana A.
Brust, Thomas D.
Buchanan, Bryan C.
Buckley, Keith A.
Buehler, Keith J.
Bunce, Jeffrey R.
Burgess, Diane E.
Burghardt, Daniel R.
Burgiss, Thomas D.
Burke, Adrian W.
Burkhart, Lynn L.
Burkholder, Scott A.
Burlager, Bruce P.
Burr, David H.
Burrows, James B., Jr.
Burson, Robert F.
Burtch, Jeffery J.
Busch, Mona R.
Bushong, Adam C.
Bustamante, Andrew C.
Butler, David W.
Byington, Lewis S.
Byrd, Julius H.
Bywaters, Kevin L.

Cady, Kevin L.
Caine, Nathaniel L.
Caldwell, Ricky T.
Cali, Shawn M.
Callaghan, Virginia R.
Camacho, Steven J.
Cameron, Robert J.
Campbell, Douglas J.
Campbell, Tammy P.
Capotosto, David A.
Capria, Frederick J.
Cares, Jeffery R.
Carey, Joseph C.
Carhart, Scott T.
Cariker, Douglas S.
Carlos, John M.
Carlson, Caroline M.
Carlson, Margaret E.
Carney, William T.
Carpentier, Thomas F.
Carroll, Patrick T.
Carter, John H.
Cartier, Matthew G.
Case, Colleen T.
Cashman, Brendan H.
Cason, Scott A.
Cass, Edward P.
Cassidy, John F.
Castaneda, Filmer A.
Castellvi, Robert F.
Castle, William T.
Cave, Edward H.
Cavins, Timothy P.
Cayward, Timothy B.
Chamberlain, Stephen D.
Champion, George, III
Chase, Stephen P.
Chisholm, John S.
Cho, Yon K.
Christensen, Steven L.
Chun, Christopher C.
Chun, Stephen G.
Cicchinelli, Matthew R.
Cicoria, Denise M.
Clanton, Peter W.
Clark, Jamie E.
Clark, Paul K.
Clark, Robert D.
Clark, Rodney A.
Clarke, Kathryn M.
Clarke, Mark A.
Claucherty, Jonathan S.
Claus, Robert C.
Clay, Stephen W.
Clayhold, Mikel D.
Cluck, Cari L.
Cluever, Steven D.
Cobb, Jeffrey D.
Cobb, Michael M.
Cobb, Morgan T., Jr.
Cobbledick, Tom D.
Cobery, Karen A.
Coceano, Barry W.
Cochran, John W.
Cochran, Kenneth
Cohen, David A.
Cole, Daniel
Coleman, Gerry L.
Coleman, Warren A., III
Coles, Barry L.
Collins, Paul M.
Collins, Thomas S.
Collins, Timothy M.
Comer, Vernon B.
Condon, William M.
Conlin, Alan J.
Connelly, Steven R.
Connor, Lois A.
Conowitch, Kevin D.
Conroy, Timothy M.
Cooey, Diane P.
Cook, Perry J.
Cooke, Traci L.
Cooke, William G.
Cooley, Herbert P.
Cooper, Scott D.
Cope, William R.
Costa, Anthony P.
Costello, Robert P.
Courtright, David D.
Cover, Christopher R.
Cowan, Charles W.
Cowan, Keith R.
Cowden, Anthony T.
Cox, William N.
Coyne, Thomas P.
Craig, Calvin H.
Craighead, Donald R.
Crandall, Darse E.
Crayton, Peter J.
Creighton, Craig C.
Crenshaw, Craig C.
Criss, Cecil M., III
Cross, Carl D.
Crosswait, Kenneth M.
Crouch, Robert M.
Crow, Quintin L.
Crowell, Kent A.
Croy, Steven R.
Cruz, Nomeriano
Cubbege, Jill E.
Cullum, Patrick S.
Culton, Terrence E.
Cummings, James J.
Cummings, John C.
Cundari, Stephen G.
Cunningham, Eric P.
Cunningham, Eugene R.
Cunningham, Roger B.
Cunningham, William J.
Curran, Daniel B.
Curran, Elton C.
Curth, Gregory P.
Curtis, Mark D.

Dahleen, David B.
Daley, Robert C.
Daly, Thomas P.
Damm, Eric M.
Danet, Vincent E.
Daniel, Albert C. Jr.,
Daniel, Denise E.
Daniher, William M.
Dapogny Stephen F.
Darlington, Robert F.
Daughtery, Glenn H.
Daus, Patrick G.
Davenport, David A.
Daves, Mary E.
Davis, George W., III
Davis, Keith E.
Davis, Lee T.
Davis, Mark A.
Davis, Michael S.
Dawson, Eric L.
Day, Christopher L.
Day, Michael A.
De Beaumont, Craig B.
Deardurff, Mark J.
Decastro, Victor L.
Deem, Andrew J.
Degennaro, Robert A.
Deliberto, Gary R.
Demory, Myrl W.
Dempsey, Michael T.
Dennis, Aubrey D. Jr.,
Dennis, Scott D.
Dennison, Thomas E.
Denz, Rudolph C.
Dessart, Brian J.
Dew, George E.
Diantonio, Vincent G.
Dietzen, John W.
Dildy, Michael R.
Dipierro, Gary S.
Dirksmeier, Peter J.
Dirmeier, George P.
Disalvi, Thomas C.
Disanto, James V.
Disbro, Thomas P.
Ditri, Thomas A.
Dixon, James K.
Dobberteen, William M.
Dobbs, Dane L.
Dodd, Jeffrey
Doering, Arthur L.
Dolan, Michael J.
Dombroski, Stephen E.
Donald, James W.
Donnelly, Almon C.
Donoghue, Joseph E.
Donovan, Timothy J.
Donovan, William C.
Doremus, David H., II
Dorsey Timothy W.
Dosev, Cristov

Dougherty, Julie A.
Douglas, Michael S.
Dowling, Christopher S.
Downes, Eric S.
Downey, Robert P.
Downs, Bruce M.
Doyle, Glenn C.
Draper, Walter S. V.
Dremel, Raymond J.
Ducey, Marc E.
Duff, James L.
Duffy, Terence J.
Duncan, Barnaby A.
Duncan, Delores A.
Dunham, Lewis
Dunlap, Robert M.
Dunlap, Susan L.
Dunlap, Timothy J.
Dunn, Eric B.
Dunn, Jeffrey S.
Dunn, Keith E.
Dunn, Thomas P.
Dupont, Cecilia J.
Durocher, John J.
Dutcher, Roger E.
Duval, Lawrence R.

Earle, Richard G.
Early, Lucia C.
Eastwood, David F.
Ebling, Earl M.
Echols, James R. Jr.
Edgington, Scott D.
Edwards, Samuel E.
Efta, Damian D.
Ehlert, Gregory J.
Einhorn, John K.
Elliott, Stewart G.
Elliott, Timothy W.
Ely, Bruce A.
Engle, Kirk
English, Mark A.
Epps, Charles W.
Erskine, Joseph W.
Esaki, Evan H.
Eshelman, William P. Jr.
Essary, Tommy W.
Etter, Raymond W.
Evans, George S.
Evans, Robert R.
Evans, Sean F.
Evers, Clayton C.
Everson, Mark J.
Evert, Richard W.
Ewing, Thomas B.

Fabian, John L.
Fagan, William F.
Fagerquist, Harry W., III
Fago, Carl D.
Fahrney, Laurence D.
Fahsbender, John J.
Fahy, John P.
Faletti, Matthew J.
Farey, Michael E.
Farlin, Stuart L.
Fasciana, John P.
Faucett, Thomas G.
Faulk, Cornelius L.
Fee, Sorena
Ferguson, Christopher J.
Fernelius, Cary W.
Ferrando, Stephen A.
Ferrick, Michael G.
Fields, Christopher M.
Fildes, Wendy R.
Fischler, Kenneth S.
Fishburn, Burke
Fishburn, David A.
Fisher, Ronald A.
Fisk, Timothy M.
Fitzgerald, Bartholomew
Fitzgerald, Gary B.
Flemming, Keith L.
Flores, Shawn R.
Flynn, Michael D.
Foery, Keith A.
Foley, Mark T.
Ford, Gralyn V.
Fortin, Donna L.
Foster, David C.
Foster, Michael J.
Foster, Sterling H.
Fowler, Demetrius E.
Fox, Bryan A.
Fox, James G.
Fox, Thomas M.
Foye, James R.
Foyt, Paul B.
Frampton, Tracey A.
Frank, James A.
Frank, Steven G.
Franklin, David B.
Franklin, Glenn M.
Franklin, Jeffrey A.
Franklin, U. L.
Fredrickson, Kent A.
Free, Mitchell A.
Friederich, John A.
Friend, Paul E.
Fries, Bruce D.
Frische, Ellen M.
Froehlich, Mark
Fudge, Gerald L.
Fulcher, John W., IV
Fulcher, Roy H.
Fuller, Robert S.
Fulton, William J.

Gabel, Heidi M.
Gage, Jeffrey A.
Gaiani, Anthony E.
Gaines, Leonard
Gaines, Mark E.
Gainey, Wesley R.
Gaiter Valerie Y.
Galpin, Arthur F., III
Games, Timothy E.
Gamwell, Paul D.
Gancas, Robert A.
Garner, Ches H.
Garten, Matthew J.
Garver, Scott L.
Garvey, Dennis P.
Gass, James D.
Gattis, Stephen G.
Gault, Craig T.
Gay, David L.
Gaye, Thomas E.
Gazdzinski, Robert F.
Gear, John M.
Gebert, Stephen E.
Gebhart, Jeffrey D.
Gegan, Brian J.
Gentry, Regina H.
Gentry, Robin G.
Genung, Mark D.
Gerachty, Michael C.
Geshan, Leonard A.
Gibbons, Patrick J.
Gibbs, Robert J.
Gil, Leopoldo D.
Gilbert, Jeffrey L.
Gill, Kenyon M.
Gillet, Nancy C.
Gilligan, William T.
Ginder, Bruce K.
Gish, Christopher S.
Glackin, Brian J.
Gleason, James J.
Glenn, Robert D.
Glodosky, David M.
Glover, John C.
Godwin, Steven S.
Golden, Jeffrey C.
Goldschmidt, Michael
Gonzalez, Eduard
Good, Michael R.
Goodrich, Rosemarie J.
Goolsby, Thomas C., Jr.
Gordon, John R., III
Gorin, Joseph P.
Gorman, David P.
Goudreau, Thomas J.
Gough, Mark J.
Gourville, John T.
Grabowsky, Maria D.
Grace, James C.
Grady, Christopher W.
Graham, John K.
Graham, Michael G.
Graham, Terrence D.
Gralinski, Barbara
Grant, Stephanie L.
Graul, Michael H.
Gray, David B.
Gray, John H., Jr.
Gray, John W.
Grayson, Bennett P.
Greco, James J.
Green, Edward M.
Green, Mark L.
Green, Robert E.
Greene, Leslie
Gregg, Eddie E., Jr.
Griffith, Shawn E.
Griffiths, Peter A.
Griggs, Douglas B.
Grimes, Richard D.
Gromme, Michele
Grunawalt, Kurt E.
Guenther, Uwe W.
Gunderson, Kevin R.
Gurtowsky, Ernest J.

Haagen, Perry D.
Haben, Gary J.
Habermehl, Stuart D.
Haddox, Glenn R.
Haeg, Todd T.
Haffey, Harriot E.
Hagen, Christopher L.
Hahn, Peter L.
Haliday, Christian N.
Hall, John A.
Hall, Mark E.
Hall, Thomas S.
Hallal, Michael P., Jr.
Hallberg, Eric N.
Hamby, Dale L.
Hamlin, Michael C.
Hamman, Steven, L.
Hammon, Shelly M.
Hampton, William C.
Hancock, Dean A.
Haniman, Wendy M.
Hankins, David S.
Hanley, Craig B.
Hanlon, Eric B.
Hanna, Guy C.
Hannay, Jeffrey W.
Hannes, Kevin L.
Hanrahan, Edward J., Jr.
Hansen, Knud E.
Hansen, Robert M.
Hanson, Eric L.
Hanson, Michael D.
Haras, Paul W.
Harchelroad, Mark R.
Hardebeck, Michael J.
Hardgrove, Susan N.
Hardiman, Timothy J.
Hare, Randal A.
Harley, Jeffrey A.
Harper, Maurice B.
Harrington, Edward J.
Harris, George
Harris, Jeffrey L.
Harris, Michael L.
Harris, Scott D.
Harrison, Tyler H.
Hartman, Thomas E.
Harvey, Mark G.
Harvey, Thomas J.
Hastings, Brian R.
Hatch, John D.
Hatton, Leonard
Haughton, David M.
Hawes, Eric A.
Hawkins, Daniel H.
Hawkinson, Todd D.
Hayden, Christopher E.
Hayes, Steven D.
Hayman, Edward M.
Haynes, Howard, H., Jr.
Haynes, John D., Jr.
Hazard, Charles, A.
Head, Douglas E.
Healy, Stephen J.
Hellauer, James D.
Helmer, Brian W.
Henderson, Michael P.
Hendrickson, Randall M.
Hennessy, Joseph P.
Henry, Jon C.
Henry, Patrick W.
Hepburn, Laird W.
Hermann, Josh T.
Hermanson, Gregory A.
Hermanson, Michael T.
Hertlein, James A.
Heslep, George H.
Hess, David L.
Hess, Richard C.
Hiatt, Ronald K.
Hickey, James A.
Hicklin, William C.
Hicks, Darrel S.
Hicks, Dean R.
Higgins, Timothy P.
Hightower, Michael C.
Hiles, Marcus D.
Hiles, Seth M.
Hill, Stephen E.
Hinckley, Charles C., III.
Hines, Andrew J.
Hirtz, John P.
Hochmuth, Claire C.
Hofert, David K.
Hofmann, Tracy D.
Holbrook, Robert C.
Holcomb, John W.
Holiday, Matthew R.
Holladay, Steven M.
Hollar, Blake D.
Holmes, Graham M.
Holt, James B.
Hoover, Jeffrey M.
Hopkins, David W.
Hora, Douglas A.
Hoshko, Christopher J.
Houchin, Mitchell L.
Hove, Peter C.
Howard, Mark B.
Howard, Samuel
Howard, William J.
Howarth, Robert A.
Howell, William, Jr.
Howick, James F.
Howlett, Eric F.
Hubbard, Michael C.
Huddleston, Brian R.
Huddleston, Jeffrey
Hug, Richard B.
Hughes, Jonathan M.
Hughes, Kenneth M.
Hughes, Michael W.
Hull, Thomas J.
Humphrey, Michael F.
Humphries, Allen D.
Hunt, James R.
Hunt, Paul D.
Hunter, James R.
Hurd, Rodney O.
Hurlbut, Steven D.
Hurst, Ronald
Hussey, Christopher J.

Ingebretsen, Carl R.
Ingram, Phillip R.
Irelan, Robert P.
Ivie, Melanie A.

Jackson, Harry B., Jr.
Jackson, Janice L.
Jackson, John A.
Jackson, Mark A.
Jacobs, Suzanne J.
Jaeger, John A.
Jakus, Craig E.
Janis, William R.
Janousek, Guy M.
Jasper, Marc W.
Jasperson, Rhonda R.
Jaworski, John J.
Jebens, Mark S
Jeffries, Karen D.
Jenkins, Brent P.
Jennings, Nathaniel H.
Jensen, Donald K.
Jensen, William J.
Jerabek, Scott B.
Johannsen, Christopher S.
Johnson, Dwayne A.
Johnson, Ledell
Johnson, Mark C.
Johnson, Welborn V., IV
Jones, Andrew M.
Jones, Arthur H.
Jones, Glennon F.
Jones, Mark A.
Jones, Reginald L.
Jones, Thomas A.
Jones, Walter S., Jr.
Joy, Craig M.
Joyce, John F.
Joyce, Robert E.
Judiced, Paul A.
Juergensen, Mark S.
Jurkowich, Philip L.

Kadrie, David M.
Kamishlian, James M.
Kane, Michael P.
Kappes, Stephen A.
Karkainen, Anthony C.
Kaseno, Timothy A.
Kasky, Wendy L.
Kauber, Craig A.
Kaupp, David S.
Kay, Timothy P.
Kaysak, John M.
Kazin, Gerard G.
Kearney, Thomas J.
Keese, Kyle W.
Kelchner, Charlotte E.
Kellar, Kenneth A.
Kellen, Andrew D.
Keller, Charles W.
Kelley, Craig A.
Kelley, Donald A.
Kelly, Dana L.
Kelly, Dennis P.
Kelly Gregory S.
Kelly, John F.
Kelly, Robert P.
Kelly, Susan M.
Kelso, Michael J.
Kemp, David G.
Keniston, Michael J.
Kenkel, James D.
Kennedy, Sidney D.
Kenney, Scott A.
Keohane, Daniel F.
Kern, Gregory A.
Kern, Scot H.
Kerns, Kellie E.
Kersh, John M.
Kersh, Robert D.
Kershaw, James R.
Kershaw, Patrick J.
Kevin, Lee P.
Kieffer, John F.
Killins, Daniel R.
Kilroy, Robert L.
Kim, Earl T.
King, Dana A.
Kingston, James L.
Kinslow, Michael D.
Kirby, Patrick J., IV
Kirkpatrick, Michael G.
Kirwan, Susan M.
Kiszka, Lawrence V.
Kittelson, John O.
Klein, David L.
Kline, John S.
Klock, Bradley J.
Knapp, James R.
Koerber, Darrel L.
Kohut, Thomas R.
Koltura, Mark G.
Kopas, Robert G.
Kornegay, James A.
Kottler, Paul D.
Kowalski, Michal
Kozicki, Raymond
Kraft, Anton J.
Kramer, Theodore R.
Kratzert, John L.
Krause, Erica T.
Kroh, Thomas S.
Krueger, Michael J.
Kuzdas, Tommy D.

Laberge, Anthony C.
Laboo, Joseph A.
Lafave, Gregory J.
Lafferty, Daniel M.
Lalor, Thomas P.
Landing, Joseph M.
Lane, James G.
Laney, Brian J.
Langdon, Todd G.
Lanicek, Richard E.
Lanier, Scott A.
Lanzi, Leonard M.
Lapearl, Rodney A., Jr.
Laporte, Steven R.
Larsen, Kenneth M.
Larson, Jan C.
Larson, Keith A.
Laurel, Walter W.
Lawas, Adam W.
Lawrence, Sharon L.
Leach, James R.
Leaf, Timothy M.
Leaptrott, Allison T.
Leblanc, Steven R.
Lebo, Mark E.
Leckinger, James D.
Lee, Charleston R.
Leingang, Donald M.
Leonard, Keith R.
Lepecha, Cyril
Lessig, Thomas F.
Leung, Jeffery
Levin, Eric G.
Lewis, Joseph B.
Light, Martin C.
Lindell, Marc A.
Lindland, Lloyd K.
Lindsey, Bruce D.
Lindsey, John D.
Linik, Lawrence C.
Lint, Gerald R.
Lipski, Michael
Little, Thomas E.
Lobbezoo, Mark A.
Lochner, Stuart F.
Lock, Adrian C.
Locke, Kevin R.
Lockwood, Craig B.
Lockwood, Edwin C.
Loftus, Deborah A.
Loger, Laurie A.
Lohmann, Frederick N.
Londow, Kenneth
Long, Bach P.
Long, Jimmy T.
Long, Leonard R.
Look, Charles B.
Looney, Gregory L.
Lord, Bradley C.
Lotocki, Michael J.
Lowell, Kathryn A.
Lund, John N.
Lupone, Gregory S.
Lusk, Richard M.
Lutes, Mari B.
Luther, Brian E.
Lyman, Dan C.
Lynch, David M.
Lynch, Mark V.
Lynch, Michael F.
Lynch, Oriville E.

MacKay, Melissa J.
MacLean, Andrew B.
MacPherson, Douglas W.
Maddox, Douglas
Madsen, Kenneth S.
Magaro, Phillip A.
Mahoney, Joseph E.
Makepeace, Lester B.
Malady, James P.
Malarky, Brian
Male, Danny D.
Malone, Douglas R.
Malone, Joseph E., III
Malone, Winfred A.
Malynn, Edward S.
Manduca, William A.
Manduley, Octavio E.
Manning, Mary E.
Marconi, Paul A.
Marino, Richard M.
Mark, Michael A.
Markert, David P.
Marks, Aaron B.
Marlow, James P.
Marriott, William A.
Martellotto, Michael J.
Martin, Darrell, E.
Martin, Donald G.
Martin, Francis, X
Martin, Raul A.
Martin, Robert F.
Martirano, Joseph P.
Martz, David J.
Maske, Steven R.
Maskell, Dawn
Mason, Charles A.
Mason, Theadore J. Jr.
Massa, James F.
Massey, Jill M.
Matais, George M
Maxwell, Barry A.
Maxwell, Bruce B.
Maxwell Joseph F.
May, Christopher W.
Mayer, Michael M.
Maylor, George C.
Mazza, Walter V.
McAdams, Thomas K.
McAuliffe, John V.
McAvoy, Rodney
McCall, Julius C.
McCarrick, Timothy P.
McCarthy, Gary J.
McCarthy, Timothy G.
McClain, Richard E.
McClintock, Bruce J.
McColgan, Joseph M.
McConnell, Kevin M.
McCool, Morris A. Jr.
McCormick, Clark R.
McCoy, Michael D.
McCray, Mark M.
McCubbin, Timothy I
McCue, Jeremy T. Jr.
McDavid, Dwayne T.
McDevitt, William J., III
McDowell, Bryan D
McDuffee, Bruce E.
McEowen, Jack A.
McFarland, Larry A
McGarvey, Michael P.
McGill, Jeffrey L.
McGinn, Patrick M.
McGown, Michael E.
McGruder, John W.
McGugan, Patrice L.
McHugh, Andrew M.
McIntosh, Benjamin R.
McLaughlin, John R.
McLaughlin, Lynden C.
McLendon, Charles S.
McMahon, Michael P.
McManus, Donald A
McMullen, Michael D.
McMunn, David J.
McNamara, Richard J.
McNeal, William T.
McNoldy, Darren L.
Meade, Alan W.
Meadows, William J.
Mehr, Steven J.
Meisenheimer, Charles C.
Melampy, Ronald W.
Melin, David W.
Mendel, John E.
Mendez, Manuel A.
Merada, Michael J.
Mercer, James H.
Merritt, Lee E.
Michaels, Kenneth J.
Mickelson, Steven R.
Micucci, Michael A.
Mikkelsen, John K.
Mikkelson, David P.
Mikula, Gregory J.
Miller, Edward G.
Miller, James G.
Miller, Peter G.
Milliron, Mark E.
Mills, Craig D.
Mills, Steven G.
Mills, William G.
Minsk, David A.
Minton, Adam W.
Mitchell, Joel J.
Mitchell, John S.
Mitchell, Stephen W.
Mobley, Joe K.
Mock, Michael
Moczygemba, Gary F.
Modisette, Joel D.
Moffett, Johnny W.
Moffitt, Robert R.
Mohan, Catherine M.
Monteferrante, Richard A.
Moore, Beth A.
Moore, Freddie Jr.
Moore, Lavon R.
Moran, Eugene W.
Morgan, David P.
Morgan, Richard W., Jr.
Morgan, Robert L.
Morgan, Thomas M.
Morgan, William F.
Morita, David Y.
Morrill, Kenneth V.
Morrill, Philip H.
Morrison, Wayne
Morse, Daniel R.
Morton, Edward M., II
Mosby, Phillip A.
Motz, James W.
Mougel, Linda F.
Moylan, Michael J., Jr.
Muchowicz, Mark S.
Mueller, Hal S.
Mueller, Lincoln H., Jr.
Mumpower, Kevin N.
Muniz, Martin J.
Muniz, Paul T.
Murach, Joseph A.
Murphy, Daniel J.
Murphy, James M.
Murphy, James S.
Murphy, John C.
Murphy, Joseph D.
Murphy, Karen L.
Murphy, Thomas J.
Murphy, Timothy J.
Murray, Susan L.
Myers, Frank H.

Nagy, Vincent F.
Nahas, John D.
Nahman, Scott T.
Nash, Louis D.
Navarrete, Juan A.
Neal, Randall A.
Neal, Thomas C.
Neiger, William H.
Nelke, Robert L.
Nelson, Charles C.
Nettleton, Edward E.
Nevarez, David J.
Newcomb, Wayne W.
Newman, Lance L.
Nicolai, John A.
Nihill, James E.
Nikoley, Richard L.
Nishioka, Carl H.
Nissen, Richard J.
Noble, Steven W.
Noel, William E.
Noonan, Greg J.
Noonen, Steven M.
Norris, William B.
Norris, William T.
Nosal, David V.
Nowicki, Anthony W.
Nuffer, Cynthia A.
Null, Dejuan P.
Nuttall John M.
Nygaard, John C.
Nysven, Craig J.

Oakes, Michael G.
Oberreiter, Richard.
O'Brien, Daniel S.
Ogburn, John G.
O'Hara, Stephen C.
O'Keefe, Thomas W.
Olarte, Glenn J.
Olaughlin, Terrence J.
Oliver, Randy K.
Olson, Lee A.
Olson, Stephen M.
Olszko, Christopher J.
O'Malley, Robert B.
Omans, Glenn A.
Ong, Philip A.
Ornelas, Robert J.
Ortolano, Michael C.
Osborne, Michael J.
Oshea, Richard T.
Oshiro, Earl S.
Otto, James K.
Overway, Curtis L.
Owings, Richard C.

Padfield, Jonathan M.
Padgett, Mark L.
Padgett, Susan B.
Palma, Anthony D.
Palmatier, Robert W.
Panknin, James D.
Pantoja, Anthony
Pappas, Andrew
Parker, Robert S.
Parker, William J.
Parks, Clarence A.
Parriott, Gary R.
Parrish, Glenn M.
Partin, Robert W.
Paulsen, Christian M.
Paulsen, Dirk F.
Pavack, Anthony C.
Pavack, Sandra E.
Pavolko, Michael T.
Payne, Dan R.
Payne, Daniel C.
Payne, Daniel G.
Payne, James T.
Payne, Joseph E.
Peacock, David A.
Peck, Stephen W.
Perdue, Carl M. Jr.
Perez, Cesar A.
Perry, Marion T.
Perry, Robert R. Jr.
Person, Treacy S.
Pertle, Gregory J.
Peterson, Craig A.
Peterson, Dale E.
Peterson, William L.
Petropoulos, James G.
Petters, Bernie C.
Pettigrew, James C.
Phelan, James J. III
Phillips, Dave E.
Phillips, Joan F.
Pickering, Stephen B.
Pike, John R.
Pilling, Evan R.
Pimentel, Joseph A.
Pish, Clifford A.
Piwko, Robert C. Jr.
Plystak, Steven R.
Poirier, Ronald R.
Polins, Gregory R.
Pontrello, Paul A.
Porter, William B.
Powell, Patrick A.
Powell, Stephen M.
Pratt, Alan M.
Prescott, James E.
Price, Ernest E.
Pridgeon, Pamela L.
Probert, Edward W.
Pugh, James B.
Pulliam, Peter A.
Purnell, John S.
Pynes Dominic J.

Quast, Peter
Rabil, Thomas J.
Racine, Robert, J. Jr.
Radford, Christopher P.
Ragsdale, Gregory B.
Rainey, David P.
Ramirez, Roberto F.
Rampey, William J. Jr.
Ramsay, Sean D.
Randall, Michael J.
Randell, Torr J.
Randle, Bennie J.
Randle, Kenneth W.
Rasp, Warren F.
Rauh, Jeffrey E.
Rautenberg, paul M.
Rayford, Ronald W.
Reavis, William D.
Reddy, Peter C.
Redgate, Daniel J.
Redman, Dee A.
Reid, Terry L.
Reif, Mark D.
Reinwald, Shawn M.
Remick, Daryl F.
Rerko, Robert A.
Reschar, John V. Jr.
Reuter, William H.
Reynolds, David A.
Reynolds, Kurt T.
Reynolds, Patsy A.
Reynolds, Valerie L.
Rice, Lynn E.
Rice, Ronald L.
Richards, Larry A.
Richardson, Daniel L.
Ridley, Frank M. IV
Riggs, Arthur A. III
Riggs, Jason L.
Riley, Michael A.
Riley, Stephen J.
Riley, Wendell
Riley, William W.
Rimmington, Michael J.
Ripkey, John M.
Rivera, Homar
Robbins, Sean M.
Roberts, Brook R.
Roberts, David B.
Robertson, Darrell F.
Robertson, Edward A.
Robinson, David C.
Robinson, Joyce L.
Robinson, Kevin J.
Rockermann, Brian F.
Rogers, Robert L.
Rogers, Steven J.
Rollo, Lawrence D., Jr.
Romano, Carl V.
Rominski, Michael T.
Roney, Henry E.
Rooney, Teresa A.
Rosco, Gerald R.
Rose, Victus F.
Rosen, Paul S.
Rosengarn, Valerie A.
Ross, John R.
Ross, Matthew D.
Rosser, Tenise L.
Roth, Brian A.
Roth, Louis R.
Rowden, John W.
Rowlands, Warren D.
Royster, Jessie M.
Rozema, Diane L.
Rucker, Joseph D.
Rucker, Kenneth L.
Rumley, Richard E.
Runkel, Edward L.
Runyon, David
Russ, Sheila A.
Russell, Eugene R., Jr.
Russell, Scott J.
Ryan, David A.
Ryan, James M.
Rybicki, Alice J.

Sabin, Sott C.
Sacha, Dennis J.
Sadilek, William L.
Sagovac, Christopher P.
Saldutti, Robert L.
Saleck, David A.
Salters, Michael J.
Salzer, John R.
Sample, Keving J.

Sanders, Phillip R.
Sands, Harlan M.
Sands, James D.
Sandstrom, David D.
Sanford, Scott T.
Santos, Vincent A.
Sappenfield, Mary C.
Satterwhite, Melvin D., Jr.
Schader, Barry W.
Schaperdow, Jason H.
Schapler, Todd S.
Scharpf, Norman T.
Schiffman, Stephen W.
Schirmer, Jeffrey P.
Schmidt, Craig W.
Schmidt, Michael D.
Schmidt, Steven B.
Schmidt, Steven P.
Schneider, David W.
Schnick, Gary B.
Schnick, Sandra T.
Schoenle, Gerald J.
Schum, John M.
Schwartz, Gregory R.
Scurlock, Gayron.
Sears, John A.
Sears, Michael E.
Sederburg, Kelvin B.
Selko, Robert W.
Sellers, Bruce C.
Sellers, Linda L.
Sells, Harrison N.
Selman, Thomas H., III
Seroka, Gregory D.
Setzer, Steven R.
Shanahan, Curt M.
Shannon, George M.
Sharp, Daniel L.
Sharrock, Jeffrey J.
Shaw, James E.
Shaw, Joseph M.
Shaw, Robert S.
Shawhan, Kirk A.
Shea, Robert J.
Shepard, Michael K.
Sherman, Eddie E.
Sherwood, George J.
Shinnick, John D.
Shivers, Rodney E.
Shoemaker, James H., Jr.
Sibson, John B.
Silton, Peter E.
Silva, Shawn D.
Simensen, Thor A.
Simmons, Paul F.
Simoneau, Paul A.
Simpson, Jon M.
Singleton, Damon I.
Skelly, Michael V.
Skelly, Vern M.
Skowron, Jacqueline M.
Slavens, Douglas J.
Slewka, Anthony P.
Small, Dwane L.
Smark, Alan
Smith, Awan Richard D.
Smith, Brian K.
Smith, Brian T.
Smith, Edward M.
Smith, Hugh C.
Smith, Kevin P.
Smith, Lynn E.
Smith, Phillip J.
Smith, Preston C.
Smith, Ricky D.
Smith, Russel B.
Smyth, Andrew T.
Snyder, Steven B.
Snyder, William D.
Sokoloski, Glenn D.
Sonifrank, Edward L.
Sorrells, Eric N.
Sorrentino, Fred A.
Sortun, Christopher D.
Soutor, Kevin R.
Specht, Gretchen M.
Speer, James A.
Spellman, Rodney K.
Speranzo, Joseph L.
Spivey, Russell P.
Spohnholtz, James R. Jr.
Spratt, Katherine G.
Squires, Steven D.
St. John, Theodore J.
Staller, John L.
Stanley, Donald K.
Starovasnik, Dean M.
Stauffer, Everett A. Jr.
Stauffer, Michael J.
Stauffer, Richard V.
Stavros, Kathryn E.
Steele, David M.
Steeneck, Robert T.
Stefanyshyn, Heidemarie M.
Steffensen, Mark A.
Steinkdenig, Christopher R.
Stephens, Jeffery R.
Stephens, Robert
Stevens, John A.
Stevens, John R.
Stevens, Robert T.
Stevenson, David R.
Stibler, Stephen V.
Stinson, James E.
Stolarski, Christopher P.
Storm, Marinus
Stride, Robert D. Jr.
Stull, Roger D.
Suhosky, Robert D.
Sullivan, Brain R.
Sullivan, Daniel T.
Sullivan, David J.
Sullivan, Stephen M.
Summer, Mark D.
Suski, Michael A.
Sutherland, Steven F.
Suttner, Edwin A. Jr.
Swatzell, William J.
Sweeny, James B.
Sweetman, Richard E. Jr.
Symmers, Benjamin K.
Szatkowski, Judie A.
Taflin, David E.
Talaber, Richard E.
Talavera, Arthur F.
Tammen, John W.
Tansey, Brian E.
Tashijan, John V.
Taylor, Channing H.
Taylor, Daniel A.
Taylor, Edgar B. IV
Taylor, Kenneth L.
Taylor, Michael T.
Taylor, Raynor L.
Taylor, Stanford J.
Tedmon, Richard S.
Templeman, James C.
Teneyck, Kristin C.
Tenorio, Matthew P.
Terando, David J.
Tessmer, Paul E.
Tharpe, Gregory M.
Therriault, Robert W.
Thomas, Christopher B.
Thomas, David B.
Thomas, Gary L.
Thomas, Robert D.
Thompson, Phillip F.
Thompson, Ronald J.
Thompson, Timothy L.
Thompson, William G.
Thomson, Scott W.
Thormer, Darrel L.
Thorpe, Frederick G.
Tiller, David C.
Tinnel, Thomas R.
Titus, Mark D.
Todd, Eric J.
Tokarick, Kevin J.
Toman, Teresa L.
Tomp, Thomas M.
Tompkins, James V.
Toohey, Richard K.
Toth, Robert J.
Towles, David A.
Townsend, James R.
Tracey, Edward J.
Tranoris, James E.
Triebwasser, Richard V.
Tringali, Arthur M.
Trojan, Alan J.
Trotter, Douglas A.
Tucker, William H., Jr.
Turek, Frank S., III
Tyau, Wesley Y.

Udell, Michael J.
Ujihara, John H.
Upton, Daniel C.
Urban, David T.
Urness, Eric A.

Vale, Richard A.
Valera, Marco A.
Van Arsdale, James R.
Van der Veer, Eric J.
Van Duinen, Neil G.
Vandecarr, Cuyler A.
Vaught, Douglas J.
Vebber, Paul W.
Veilleux, Joseph E.
Vela, John J., Jr.
Venden, Cary D.
Vendrzyk, Judith M.
Vernon, Gregory J.
Vick, Dana J.
Vickers, David A.
Veilock, Jeffrey C.
Viezer, Stephen L.
Viland, Michael S.
Vinson, Jonathan L.
Vistica, John T.
Vitton, Thomas E.
Volandt, Stephen L.
Vollmer, Robert S.
Vowell, Mark L.

Wagenet, Christoph D.
Wakefield, James A.
Wakefield, Joseph W.
Walchessen, Edward J.
Walker, John D.
Walker, John G.
Wallace, David E.
Wallace, John C.
Wallace, Lorne J.
Wallace, Richard L.
Walls, William J.
Walsh, Michael E.
Walter, John J.
Walton, William D.
Waltz, James D.
Wark, Robert D.
Warner, Matthew C.
Washington, Julius C.
Wasson, Kenneth J.
Waters, Christian M.
Watt, Christopher J.
Watts, Mark L.
Waugh, David C.
Wears, O. R.
Wears, Thomas G.
Weaver, Michael J.
Weber, John W., Jr.
Weber, Robert J., Jr.
Weeks, Pamela L.
Weinrich, Jeffrey A.
Weiss, Steve
Welker, John R.
Wells, Gregory J.
Welter, John F.
Wendell, Michael W.
Werner, Mark H.
Wessinger, Courtney S.
Westbrook, Mark S.
Wester, Roderick C.
Westman, Michael R.
Wetherald, Hugh D.
Wheeler, Bruce W.
Wheeler, Earl E.
Wheeler, Richard E.
Whitaker, Barron D.
Whitaker, Jeffrey C.
White, Brian E.
White, Brice L.
White, James B., II
White, Jeffrey L.
White, John W.
White, Mark A.
Whiting, Michael D.
Whitney, Russell C., III
Wied, Douglas C.
Wietfeldt, Fred E.,
Wigle, David E.
Wikeen, Amanda C.
Wilbourn, James N., III
Wild, Mark A.
Wilkinson, Timothy M.
Williams, Edward S.
Williams, Edward V.
Williams, Eric K.
Williams, Jon H.
Williams, Mark H.
Williams, Phillip M.
Williams, Richard L., Jr.
Williams, Richard A.
Williams, Robert G.
Williamson, Peter H.
Willis, Robert J.
Wilson, David A.
Wilson, Kevin L.
Wilson, Lonnie M.
Wilson, Timothy M.
Wilton, David S.
Wimmer, William A., III
Winebarger, Morgan T.
Winnenberg, Thomas F.
Winslow, William J.
Winter, Mathias W.
Wisniewski, John W.
Wojtysiak, Randall W.
Woloschek, James M.
Wood, David O.
Wood, Kent A.
Woodcock, Michael G.
Woods, James M.
Wooten, Clarence W.
Wright Douglas E.
Wyant, James L.
Wyrick, Lynn A.

Yang, Kuo H.
Yargus, Kendall
Yarrington, Robert S.
Yeary, Jeffery S.
Young, Christopher C.
Young, Steven J.

Zanchi, Mark E.
Zanin, Thomas
Zeller, Thomas A.
Zichy, Franz J.
Zick, Herbert L.
Ziebarth, Kurt W.
Zilber, David J.
Zinkevicz, Douglas T.
Zins, Thomas J.
Zuchowski, Brian J.
Zuegel, Jonathan D.
Zwick, John R.
Zwicker, Gregory A.

The following-named Naval Reserve officers to be appointed permanent ensign in the Line or Staff Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Geerdes, David P.
McQuaige, Philip P.
Whitaker, James C.

Commander George F. Worsham, Jr., U.S. Navy, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, pursuant to title 10, United States Code, section 593.

CONFIRMATION

Executive nomination confirmed by the Senate November 16, 1983:

FEDERAL TRADE COMMISSION

Terry Calvani, of Tennessee, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1983.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, November 16, 1983*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as we anticipate the challenges of the days before us, with the opportunities and dangers of the times, give us those attributes of character that strengthen our lives. May we have wisdom to distinguish the lasting from the transitory, may we have courage to speak the truth even when unpopular, may we have patience to listen and learn from others, may we have the commitment for our tasks and perseverance to see them through. In all the circumstances of our lives, help us to express an attitude of concern for others and love for all humankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 335, nays 59, answered "present" 9, not voting 31, as follows:

[Roll No. 508]

YEAS—335

Addabbo	Beilenson	Brooks
Akaka	Bennett	Brown (CA)
Albosta	Bereuter	Brown (CO)
Alexander	Berman	Broyhill
Anderson	Bethune	Bryant
Andrews (NC)	Bevill	Burton (CA)
Andrews (TX)	Biaggi	Burton (IN)
Annunzio	Bilirakis	Byron
Anthony	Bliley	Campbell
Archer	Boehlert	Carney
Aspin	Boggs	Carper
AuCoin	Boland	Carr
Badham	Boner	Chandler
Barnard	Bonior	Chappell
Barnes	Borski	Clarke
Bartlett	Bosco	Clinger
Bateman	Boucher	Coelho
Bates	Boxer	Coleman (MO)
Bedell	Britt	Coleman (TX)
Collins	Jones (NC)	Panetta
Conable	Jones (OK)	Parris
Conte	Jones (TN)	Patman
Conyers	Kaptur	Patterson
Cooper	Kastenmeier	Paul
Corcoran	Kazen	Pease
Coyne	Kemp	Penny
Crane, Daniel	Kennelly	Pepper
Crane, Philip	Kildee	Perkins
Crockett	Kindness	Pickle
D'Amours	Kogovsek	Porter
Darden	Kolter	Price
de la Garza	Kostmayer	Pursell
Dellums	LaFalce	Quillen
Derrick	Lagomarsino	Rahall
Dicks	Lantos	Rangel
Dingell	Leach	Ratchford
Dixon	Leath	Ray
Donnelly	Lehman (CA)	Regula
Dowdy	Lehman (FL)	Reid
Downey	Leland	Ridge
Dreier	Lent	Rinaldo
Duncan	Levin	Ritter
Dwyer	Levine	Rodino
Dyson	Levitas	Roe
Early	Lipinski	Rose
Eckart	Lloyd	Rostenkowski
Edwards (AL)	Long (LA)	Roth
Edwards (CA)	Long (MD)	Roukema
English	Lott	Rowland
Erdreich	Lowery (CA)	Roybal
Erlenborn	Lowry (WA)	Rudd
Evans (IL)	Lujan	Russo
Fascell	Luken	Savage
Fazio	Lungren	Scheuer
Feighan	Mack	Schneider
Ferraro	MacKay	Schulze
Fish	Madigan	Schumer
Flippo	Markey	Sensenbrenner
Florio	Marlenee	Shannon
Foglietta	Marriott	Sharp
Foley	Martin (NC)	Shaw
Ford (TN)	Martinez	Shelby
Fowler	Matsui	Shuster
Frank	Mavroules	Sisisky
Franklin	Mazzoli	Skelton
Frost	McCain	Slattery
Fuqua	McCandless	Smith (FL)
Garcia	McCloskey	Smith (IA)
Gaydos	McCollum	Smith (NE)
Gephardt	McCurdy	Smith (NJ)
Gilman	McDade	Smith, Denny
Gingrich	McEwen	Smith, Robert
Glickman	McGrath	Snowe
Gonzalez	McHugh	Snyder
Gore	McKernan	Spence
Gradison	McKinney	Spratt
Gramm	McNulty	Staggers
Green	Mica	Stangeland
Gregg	Michel	Stenholm
Gunderson	Miller (CA)	Stokes
Hall, Ralph	Mineta	Stratton
Hall, Sam	Minish	Studds
Hamilton	Moakley	Stump
Hammerschmidt	Mollohan	Swift
Hansen (UT)	Montgomery	Synar
Harrison	Moody	Tallon
Hatcher	Moore	Tauke
Hefner	Moorhead	Tauzin
Hertel	Morrison (CT)	Taylor
Hightower	Morrison (WA)	Thomas (CA)
Hillis	Murtha	Thomas (GA)
Hopkins	Myers	Torres
Horton	Natcher	Torricelli
Howard	Neal	Towns
Hoyer	Nelson	Traxler
Hubbard	Nichols	Udall
Huckaby	Nielson	Valentine
Hughes	Nowak	Vander Jagt
Hunter	O'Brien	Vandergriff
Hutto	Oakar	Vento
Hyde	Ortiz	Volkmer
Ireland	Owens	Vucanovich
Jeffords	Oxley	Walgren
Johnson	Packard	Watkins
Weaver	Wilson	Wyden
Weiss	Winn	Wylie
Wheat	Wirth	Yates
Whitehurst	Wise	Yatron
Whitley	Wolf	Young (MO)
Whitten	Wolpe	Zablocki
Williams (MT)	Wortley	Zschau
Williams (OH)	Wright	

NAYS—59

Chappie	Frenzel	Molinari
Cheney	Gejdenson	Murphy
Clay	Gekas	Pashayan
Coats	Gray	Petri
Coughlin	Guarini	Richardson
Courter	Harkin	Roberts
Craig	Hartnett	Robinson
Daniel	Hawkins	Roemer
Dannemeyer	Hayes	Rogers
Daschle	Hiler	Sabo
Daub	Holt	Schaefer
Davis	Kasich	Schroeder
DeWine	Kramer	Shumway
Dorgan	Latta	Sikorski
Durbin	Lewis (FL)	Skeen
Edgar	Loeffler	Solomon
Edwards (OK)	Martin (IL)	Walker
Emerson	Martin (NY)	Weber
Fields	Miller (OH)	Whittaker
Forsythe	Mitchell	

ANSWERED "PRESENT"—9

Breaux	Goodling	Obey
Broomfield	Jacobs	Ottinger
Dymally	Oberstar	St Germain

NOT VOTING—31

Ackerman	Hansen (ID)	Seiberling
Applegate	Heftel	Siljander
Bonker	Jenkins	Simon
Dickinson	Lewis (CA)	Solarz
Evans (IA)	Livingston	Stark
Fiedler	Lundine	Sundquist
Ford (MI)	Mikulski	Waxman
Gibbons	Mrazek	Young (AK)
Hall (IN)	Olin	Young (FL)
Hall (OH)	Pritchard	
Hance	Sawyer	

□ 1010

Mr. KRAMER changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and concurrent resolutions of the House of the following titles:

H.R. 594. An act to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible;

H.R. 726. An act for the relief of James A. Ferguson;

H.J. Res. 168. Joint resolution to designate the week beginning May 27, 1984, as "National Tourism Week";

H. Con. Res. 176. Concurrent resolution expressing the sense of the Congress con-

cerning United States support for the efforts of the Association of South East Asian Nations (ASEAN) with respect to Kampuchea; and

H. Con. Res. 214. Concurrent resolution authorizing the rotunda of the Capitol to be used for a ceremony on November 16, 1983, commemorating the twentieth anniversary of the death of President John Fitzgerald Kennedy.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2293. An act to amend the Office of Federal Procurement Policy Act, and for other purposes.

The message also announced that the Senate had passed a bill, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 338. An act to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes;

S.J. Res. 132. Joint resolution to designate the week beginning May 6, 1984, as "National Correctional Officers Week"; and

S. Con. Res. 70. Concurrent resolution expressing the sense of the Congress regarding actions the President should take to commemorate the anniversary of the Ukrainian famine of 1932-1933.

The message also announced the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3222) entitled "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 5, 7, 8, 11, 15, 21, 23, 33, 36, 41, 42, 46, 50, 51, 53, 54, 58, 61, 76, 91, 100, 101, 105, 108, 110, 115, 120, 123, 134, 136, 139, 140, 141, 142, 145, 150, and 153 to the above-entitled bill.

The message also announced that the Senate recedes from its amendment numbered 102, to the above-entitled bill.

The message also announced that the Senate further amends said amendment.

The message also announced that the President pro tempore appointed the following Members, on the part of the Senate, to the Special Joint Committee on Arrangements for the Commemoration of Harry S. Truman's 100th Birthday: Mr. DANFORTH, Mr. HATFIELD, Mr. MATHIAS, Mr. RANDOLPH, Mr. BURDICK, Mr. METZENBAUM, and Mr. EAGLETON.

□ 1020

ANNOUNCEMENT OF SCHEDULED CONSIDERATION OF CONFERENCE REPORT ON H.R. 3959, SUPPLEMENTAL APPROPRIATIONS, 1984

Mr. WHITTEN. Mr. Speaker, pursuant to the unanimous-consent request of yesterday, I announce that the Committee on Appropriations will call up the conference report on the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, subject to 1 hour availability.

The conference report appears on page H9875 in the CONGRESSIONAL RECORD dated November 15, 1983.

MAKE HISTORY BY PASSING ERA

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I would like to speak to the women of America.

Yesterday this House by only six votes failed to pass the equal rights amendment. I want you to know that 81 percent of the Democrats voted for ERA, while 81 percent of the Republicans voted against ERA.

It is important for the women of America to know this; and if your Congressman tells you it was procedure, ask him why the Republican President of the United States opposed ERA under any procedure and ask that Congressman how many times he voted for other legislation under the same procedure.

ERA is majestic in its simplicity. It gives women equal protection, that is all. We cannot replace the need for ERA, but today we need to send a positive message to American women; so I am introducing legislation proclaiming March 4 as Women's History Week, to honor the women of America.

Mr. Speaker, some day we will make history in this body by passing ERA and we will not give up until all the people in America have their rights guaranteed by the Constitution of the United States.

PROCEDURE HAD LITTLE TO DO WITH VOTE ON ERA YESTERDAY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks and to include extraneous material.)

Ms. OAKAR. Mr. Speaker, the Chair knows and I know and everybody knows that the procedure had little to do with the outcome of the vote on ERA yesterday. There were 278 Members of this body who understood that the equal rights amendment is 24 words in length, always was, always will be, and simply states that men and women must be covered equitably under the Constitution.

Others who do not believe in ERA them do not believe that women of all walks of life, homemakers, our elderly women, our workers, our female children, should be treated equally under the Constitution. If you voted "no," say it and give your reasons, but do not give procedure as your excuse. It is a copout; everybody knows it.

OUTRAGEOUS DECLARATION OF TURKISH CYPRIOT COMMUNITY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, in July of 1974, Turkey launched an illegal and unwarranted invsion of the sovereign island of Cyprus. They have maintained an illegal occupation force since that time. The invasion carried out in part with U.S. military aid outraged this Nation and the world community and led Congress to impose an arms embargo on Turkey.

Yesterday it was disclosed that the leader of the Turkish Cypriot community has proclaimed their portion of the island—to be an independent republic. While this outrageous declaration was made by the leader of the Turkish Cypriot community, Mr. Denktash, it is obvious that it was done with both the advice and consent of the Turkish Government.

In my mind yesterday's action are every best as provocative and illegal as the invasion itself and therefore I believe Congress should reimpose the arms embargo against Turkey. This includes the most recent approval of some $1 billion in military aid for that nation.

We cannot overlook the fact that Turkey has illegally occupied almost 40 percent of Cyprus. They have no right under law to declare this area as an independent nation. The State Department reacted with condemnation of the Turkish Cypriot decision but we must do more. We cannot allow Turkey to operate with impunity against the Greek Cypriots. Their invasion and occupation has ravaged this community leaving 200,000 homeless. Turkey to this day has refused to provide for an accounting of the 2,000 Greek Cypriots missing since the invasion.

ANOTHER ALARMING STATISTIC ABOUT OUR NATION'S DEFICIT

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, I would like to draw my collegues' attention to another very alarming statistic about our Nation's deficit.

Under President Carter, personal savings in America was about 4 percent of the gross national product. During the same 4 years, the Federal deficit amounted to 1.7 percent of the GNP. Stated another way, only about one-half of personal savings was needed to finance the Federal deficit.

In 1981, we were told that the Kemp-Roth tax cut would encourage savings by giving the wealthiest taxpayers in America more disposable income; but believe it or not, savings in America has actually declined since 1981.

Personal savings dropped to only 3.3 percent of the GNP in the first 9 months of 1983. The Federal deficit is now projected to be more than 5.7 percent of the GNP. The Government must borrow more than 150 percent of personal savings just to finance the deficit.

This is absolutely incredible, and if allowed to continue, will commit this Nation to a future of economic stagnation at best.

FIFTIETH YEAR OF THIS NATION'S DIPLOMATIC RECOGNITION OF SOVIET UNION

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, today marks the 50th year of this Nation's diplomatic recognition of the Soviet Union. Throughout those 50 years, we have found power in the proper use of diplomacy: economic, social and political power. In relationships with our world neighbors, we have become the world's leader.

Today we experience the nadir of our relationship with the Soviet Union. World order is thus jeopardized, as is our paramountcy. Full diplomatic stability must be restored between all the neighborhoods of this planet.

Let today's anniversary mark a new commitment to renew our proper relationships with the Soviet Union, though strained those relationships be. Let these past 50 years of toil, perseverance, and considerable accomplishment, be the basis for a renewal of a responsible, prudent, competent diplomatic relationship between the United States and the Soviet Union.

LICK 'EM BEFORE THEY STICK US RESOLUTION

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, if AT&T and the postal service have their way, 1984 is going to become known as the "Year of the Hermit."

Fortunately, this body acted just last week to prevent the increases in phone bills which would have forced millions of Americans to give up their telephones. Now this body must act to prevent similar ill-conceived and unnecessary increases in postal rates.

For those who may have missed the announcement, the postal service, which has run up nearly $2 billion in profits during the past 2 years, has asked for a 15-percent increase in the cost of a first-class stamp. This is the same postal service, by the way, that has been leasing a private jet for executives at a cost of $48,000 per month, "and that ain't for air mail," incidentally.

Mr. Speaker, in 1984 we need more communication, not less, and the postal service needs better management, not more money.

Therefore, today I am introducing a resolution that would put the House on record as strongly opposed to raising postal rates. You know, the postal service is just like the stamps we want to keep at 20 cents. We have to lick them before they stick us.

□ 1030

OPPORTUNITY IS AT HAND FOR PACKAGE OF RESPONSIBLE REVENUE RAISERS

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, this week the other body has been considering legislation to raise the Federal debt ceiling to $1.6 trillion. Also just recently President Reagan's chief economic adviser, Martin Feldstein, warned again that Congress will probably plunge the Nation into another recession if it waits until after next year's election to enact tax increases and spending cuts to reduce deficits.

This week the House hopefully will have an opportunity to vote on a responsbile package of revenue raisers which, taken together, will allow the House to meet the revenue raising commitment of the first budget resolution.

I urge all Members to support all of those amendments and most specially the tax reform amendment which I will offer, along with our colleagues, DICK GEPHARDT, JIM MOODY, and MATT MCHUGH.

INTERVENTION IN GRENADA WAS NECESSARY AND RIGHT

(Mr. DE LUGO asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, as most of my fellow members of the House delegation to Grenada found, U.S. intervention there was not only necessary; it was right.

Truly a rescue mission, it rescued our citizens from the dangers of being taken hostage or being harmed. It rescued the region from the dangers of the Grenadian front for Soviet-Cuban expansionist aggression. It rescued a friendly people from the dangers of the Communist chaos forced upon them.

What mission, then, remains for our troops? Principally, it is to provide stability for the interim government until Grenada's fellow Commonwealth countries can help fill a local policing gap created by years of dictatorship.

This should not take long, certainly not more than 60 days. So, I was happy to learn that our Ambassador believes our troops can be home by Christmas.

If they are not, though, it could counteract some of the good we have already done. We would let our true motives be misinterpreted as an occupation. We would lead the Grenadian people into a reliance that would undermine their return to independent democracy.

As the only representative of the English-speaking Caribbean in this Chamber, I can advise that our real mission now is not military in Grenada; it is economic in the region. With Grenada secure and free, we must not make the mistake of thinking that Grenada is an isolated case. Instead, it is imperative that we meaningfully contribute to the viability and development of the eastern Caribbean as a whole.

CYPRUS RESOLUTION

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, yesterday the so-called assembly of the Turkish Federation of Cyprus declared the creation of an independent state, thereby attempting to secede from the Republic of Cyprus and to destroy its territorial integrity and unity. Moreover, this action has been endorsed by the Government of Turkey which continues to maintain troops on Cyprus.

I am especially angered and saddened by the shortsightedness and insensitivity of this tragic and illegal action which undermines Western security interests in the Mediterranean region and in particular, creates a major obstacle to U.S. and U.N. efforts to equitably resolve the ongoing Cyprus dispute. I commend the U.S. Department of State and the U.N. Secretary General for quickly condemn-

ing this unilateral decision on the part of the Turkish-Cypriots.

In response to the unilateral declaration of the Turkish-Cypriots I am today introducing legislation which provides for a sense of Congress urging suspension of all military assistance to Turkey until that nation has taken all necessary and appropriate steps to secure the reversal of the illegal action declaring the independent Turkish Republic of North Cyprus and to promote the full political and economic unity of the Republic of Cyprus.

I hope that my colleagues will join me in cosponsoring this legislation which provides important incentives to a reversal of the illegal action as well as the promotion of an equitable solution to the Cyprus dispute.

FREE THE IMMIGRATION BILL

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, when you announced in early October that you had decided not to let the immigration bill come to the floor of the House, everyone reacted with amazement, alarm, and disbelief.

After months of preparation and work by four major committees, it was hard to believe that your reaction to a brief statement from a handful of Members could turn the whole legislative process around, and bring the House of Representatives to a crashing halt at the Speaker's desk.

According to the Border Patrol, 92,380 illegal aliens were apprehended since October 4 when you decided to hold up the bill. That is probably about half of the actual number of aliens who slipped across the border in the last month.

If only half of the illegals who are not apprehended manage to get jobs in this country, and if the same number evade capture by the Border Patrol in November and December, your action will have cost the American worker more than 100,000 jobs by the end of the year.

Mr. Speaker, there is a discharge petition at the desk, to bring to the floor of the House the rule on the immigration bill.

It is discharge petition No. 5, and I urge all the Members to sign it, whether or not they are in support of the bill.

The House of Representatives should have the right to debate this measure.

REAL IMMIGRATION REFORM MUST BE ADDRESSED

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, enforcement of our immigration laws is out of control. Immigration reform is long overdue. Regardless of whether we all agree as to the merits of H.R. 1510, the Immigration Reform and Control Act, this legislation is the only vehicle available for addressing our immigration problems.

As some of my colleagues are aware, I have been working to alter the legalization provisions of this legislation, to make it more palatable to the American people, and to this body. That alternative is available to us, but only if we are allowed to consider comprehensive immigration reform legislation.

Mr. Speaker, your decision against allowing this body to debate this measure should be reconsidered. You admitted your powers to schedule legislation yesterday. This body should be allowed to work its will on immigration reform—even those of us with reservations about the present form of this bill realize the importance of addressing the issue. As we know, consideration of H.R. 1510 by this body does not guarantee its passage, particularly in its present form, but I—as well as many of my colleagues—are confident that through the amendment process—and adoption, for example, of amendments to modify or delete section 301, the legalization provisions, leaving in place section 302, which I have proposed along with others to provide for an update of the registry date provision of present law—that this body could be successful in providing our Nation with meaningful immigration reform. We should not abdicate our responsibility to address this issue. Use your power. Schedule immigration reform for open debate.

IMMIGRATION REFORM AND CONTROL ACT

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, today I join with other Members in the House to speak out on an issue which is of critical importance to our Nation and its future well-being. I am referring to the urgent need to make necessary and substantial changes to the Immigration and Nationality Act so that U.S immigration law can be made enforceable, equitable and flexible. While such a comprehensive overhaul of existing law will be difficult and controversial we, as the lawmaking body of Government, should not shirk from our responsibilities to face the issues of our immigration problems. Failure to reform laws can only result in further illegal immigration, greater public frustration and perpetuation of the negative social and economic effects of permitting a large number of undocumented aliens to exist outside our laws.

Despite the pronouncements of the leadership of the House, a number of recent polls, notably the Field Institute's poll in my home State of California, as well as surveys conducted by the Democratic and Republican pollsters, Peter Hart and Lance Terrance, indicate that there is widespread support among all groups regardless of ethnicity for some type of immigration reform.

In my own State of California we face tremendous problems with illegal immigration. In Los Angeles County alone, the undocumented population of illegals has been estimated to be over 1 million—perhaps 20 percent of the undocumented population in the whole country. The broad range of issues relating to illegal as well as legal immigration are well illustrated by California's unique history and direct experience. For example, the poll conducted by the Field Institute in 1982 revealed that a large majority of Californians believe that immigrants produce good U.S. citizens; 60 percent say immigrants make just as good citizens as those who are native born, and another 10 percent maintain they make better citizens. However two-thirds of those polled describe the illegal immigration situation in California as a very serious problem. By a 77- to 18-percent margin, Californians feel that much more should be done to discourage the entry of illegals. I also might point out that despite the supportive view overall of the general idea of lawful immigration, majorities of Californians—including whites, blacks and hispanics—think the number of immigrants now permitted to enter the United States should be reduced.

These attitudes of Californians clearly reflect two of the major issues that must be addressed in any immigration reform bill. First, if we intend to effectively stem the tide of illegal immigration, which is undeniably economically motivated, it is essential that fair and enforceable measures be enacted to deter the hiring of illegals.

A second issue of great concern to me is the need to evaluate the current policy of legal immigration to the United States. Legal immigration is a part of our American tradition. Americans are the most generous people in the world when it comes to immigration. As a free and democratic people we should be proud of our heritage and we should continue it.

However, given our high level of immigration, we could face severe social and economic problems in the future if we do not exercise greater control on legal entry to this country.

I am currently the sponsor of an amendment that seeks to regain control over legal admissions in such a

way that is generous, reasonable and fair. My proposed amendment is designed to provide a flexible formula to prevent major increases in legal immigration in the years ahead. The number of immediate relatives entering our country in any 1 year would determine the number of preference visas available the following year. I believe this amendment, which failed along party lines when I offered it in the Judiciary Committee on which I serve, has great merit and certainly deserves the attention of all Members in the House.

The 98th Congress has the opportunity to regain control of our borders. Comprehensive immigration reform legislation has been considered by four House committees, two of which I am a member. While I do not agree with a number of provisions contained in the House immigration reform bill, I believe the issues involved are of such paramount importance to our Nation's future that we cannot deny ourselves the opportunity to fully air and debate these critical questions on the floor of the House of Representatives. Further, I believe that we cannot deny the entire membership of the House their opportunity to vote on the proposed legislation. If we are a truly democratic institution, the will of the majority of Americans must not be thwarted. I look forward to full and open consideration of this issue without further delay.

THE TIME IS NOW TO ACT ON THE IMMIGRATION REFORM BILL

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEWINE. Mr. Speaker, judging by my mail, one of the areas that most interests my constituents and most concerns them is the immigration problem. Therefore, frankly it is very difficult to go home and explain to them why this House of Representatives is not dealing with this problem.

Earlier this year a bipartisan coalition of members on the Judiciary Committee, on which I serve, reported a fair and humane bill. This bill is the end product of years of hard work by persons of every walk of life. This bill has the support of labor unions, business leaders, Hispanics, blacks, veterans, Democratics, and Republicans.

It is truly a fair attempt to bring our borders under control. It is a humane attempt to deal with those persons already within our borders, and yet, just as we stand on the threshold of constructive legislation, the processes of this House have been again subverted.

There is no justifiable reason for not letting this bill continue to work its way through this body. For those Members who oppose it, or who favor it or who want to amend it—let us get it out on the floor and deal with it and let this body work its will.

□ 1040

THE HOUSE SHOULD CONSIDER SIMPSON-MAZZOLI IMMIGRATION BILL

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, the population of the United States is growing faster than that of any other industrialized nation. Yes, we have always had a steady increase in our population; however, in the past, we had a continent to develop and population growth was an important factor in achieving that objective.

We are no longer a frontier nation whose boundaries can simply expand to absorb more people. Today, population growth must be absorbed within our present geographical confines, and supported by diminishing resources. Thus, population growth, per se, is no longer a part of our strength, but a trend that, without new solutions, further complicates many of our most difficult problems, such as unemployment, social services, resource depletion, and environmental decay.

Forty percent of our population growth today comes from immigration. If current trends continue, in a few short years, immigration will make up a great deal more of our population growth.

Mr. Speaker, what this means is that immigration policy must be considered a critical national priority. Yet, our immigration policy is in chaos, mired in a narrow partisan rut; leaving the question of our future immigration population growth virtually unanswered and effectively uncontrolled.

The Simpson/Mazzoli immigration bill should be defeated, deliberately considered and amended where necessary as a step in putting us on the path toward replacing current chaos with thoughtful, deliberate policy. This legislation should be acted upon by this House.

AMERICANS WANT ACTION ON ILLEGAL ALIENS

(Mr. MCCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Speaker, over 12 million illegal aliens, by best estimates, are in this country today, and an average of about 2 million a year are entering this country, and the Speaker of the House had the unmitigated gall to tell us that there is not a constituency that is concerned enough about the Simpson-Mazzoli immigration reform bill to support it, to bring it to the floor of the House.

The basic thrust of this bill is employer sanctions to make it illegal to knowingly hire an illegal alien. The reason most illegals cross our borders is to get a job and the only way to control illegal immigration is to cut off job opportunities.

Yesterday's New York Times has a poll in it and that poll, the latest survey taken between October 7 and 10 of this year, shows that 79 percent of those surveyed believe it should be illegal to employ anyone who has entered this country without the proper papers.

At the same time, this survey shows that 75 percent of the respondents of Hispanic descent, 75 percent, expressed approval of the restrictions on hiring illegal aliens. The Speaker says he is keeping the bill off the floor because Hispanics oppose it, but this Gallup poll shows 75 percent of the Hispanic community support the key provisions.

It is time to sign that discharge petition. There are 114 signatures on it and we need more. I urge my colleagues to sign discharge petition No. 5.

IMMIGRATION REFORM

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, your decision to deny this Chamber the opportunity to debate the issue of immigration reform is most disconcerting to those of us who look up to the House of Representatives as a place where the paramount issues facing our Nation can be considered. This is the people's House, Mr. Speaker, and it is our responsibility to tackle questions that are integral to the dynamics of our society. The issue of who and under what circumstances people will physically enter our country from other nations is certainly one of those fundamental questions that we, as policymakers, must address.

Why is the leadership of this body so timid about an issue that is of such importance and such historical significance to the American people? What could be more critical to the authority of the U.S. Government than to let it be known to the rest of the world that if you want to come here you must first obey the laws of our land? It is inconceivable to me that such a basic attribute of nationhood would even be controversial.

More important, it must be queried as to what the effect of inaction on immigration reform legislation will be on international perceptions. The conscious, deliberate decision by the Speaker of this House to do nothing to

regain control over our borders is likely to communicate the message that we will continue to allow the likes of Hanoi, Fidel Castro, and the Ayatollah Khomeini to determine who will come into this country.

Mr. Speaker, our current nonpolicy is neither an adequate nor an acceptable response from a nation that prides itself on the integrity of its laws. It is time to allow this House to take upon itself the role of constructing an immigration policy in the national interest.

STUDENT EXCHANGE PROGRAM BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today the gentleman from California (Mr. FAZIO) and I, along with 26 of our colleagues, are introducing a bill to establish a student-exchange program between the United States and the People's Republic of China.

The history of student-exchange programs, sponsored by service clubs and religious organizations, clearly demonstrates the great value of increased understanding.

The strengthening of the relationship between the United States and the People's Republic will be highlighted by the President's visit to China in April 1984.

A student-exchange program for future leaders should be a high priority for this Nation.

Our colleague, the gentleman from Arizona (Mr. UDALL) is providing leadership for a student exchange with the Soviet Union. This effort also deserves our support.

RETURNING CASTRO'S CRIMINALS

(Mr. HANSEN of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN of Utah. Mr. Speaker, the well-deserved pleasure at the outcome of events in Grenada are partly due to the rebuke we have given to the dictator Fidel Castro. But I cannot help noting that one rather obvious opportunity for the United States is rapidly slipping away.

Mr. Speaker, in 1980, Castro sent 124,000 people to the United States. Among that group were many decent and law-abiding citizens, and several thousand hardened criminals. Almost 2,000 of the Mariel criminals are already in American prisons, waiting to be sent back to Cuba. But Castro will not take his criminals back.

We have a perfect opportunity to return those criminals, Mr. Speaker, along with the prisoners in Grenada. The fact that we are not even planning to do so is just another indication of how bad our immigration problem has gotten. One reason that this administration has given for not sending the Mariel criminals back to Cuba is that some people will file suit to protect the rights of the Cuban criminals.

Mr. Speaker, our immigration problems spill over into many other areas of American life. We must get control of immigration to the United States; let us debate and vote on the Simpson-Mazzoli bill.

IMMIGRATION REFORM

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, in this 1st session of the 98th Congress, we have seen many obvious examples of a technique which the Democratic leadership uses very adroitly to prevent the House from taking up legislation that the American people expect us to consider. This technique is best described as: the Speaker giveth and the leadership taketh away. He giveth a vote on ERA and taketh away immigration.

In no area has the leadership made better use of this ultimate power than in immigration reform. They gave five committees the chance to consider this vital piece of legislation but took away any opportunity for final consideration by the full House.

Mr. Speaker, you have stated that there is no constituency for this legislation. We know differently in San Diego and Orange Counties in California. As many as 200,000 illegal immigrants cross the border into San Diego County every month. Of that number, only 50,000 are apprehended. If those statistics do not indicate that there is a desperate need for immigration reform what does?

We must have the opportunity to debate fully all of the issues involved in this complex matter so that we can produce a workable solution to the very real immigration crisis. Since the leadership refuses to give us this opportunity, I urge my colleagues to sign the discharge petition and bring immigration reform before the House.

WOMEN'S ECONOMIC PARITY ACT

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, we have listened to a lot of discussion the past few days about the need for legislation to eliminate discrimination against women. One of the reasons I voted for the ERA is because it provides a means to develop the necessary specific legislation to put women on an equal footing in America.

Although it did not pass Congress must continue to develop better—more comprehensive laws—to address the economic concerns of American women. That is why I introduced the Women's Economic Parity Act in July.

This legislation changes pension and tax laws to assure women more equitable treatment and coverage under their retirement plans. It acknowledges the economic contributions of homemakers—and of women with extensive community volunteer activities.

Since specific legislation still is needed to address discrimination against women in this Nation—I urge my colleagues to cosponsor H.R. 3554. I also support the discharge petition on the reform of the Immigration and Naturalization Act. Let us bring the Simpson-Mazzoli bill to the floor for full debate.

IMMIGRATION REFORM

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I would like to say a few words about the Immigration Reform and Control Act of 1983.

The people in my district, like Americans across the United States, are overwhelmingly in favor of the Immigration Reform Act. It is imperative that we take immediate action to end illegal immigration.

I do not know how many of you are aware that as many as 10,000 illegal aliens cross our southern border from Mexico into America each day. That amounts to over 3.5 million illegal aliens a year crossing one of our southern borders. Many are returned, but the problem is still monumental.

Mr. Speaker, I ask my colleagues: Can our economy sustain such a flood of illegal aliens? The answer is clearly no.

I say we must take care of Americans first. We must feed and provide work for the people in this country before we can take care of the thousands that cross our borders daily.

I hope that each and every one of my colleagues thinks about this as we debate and vote on the Simpson-Mazzoli bill, if we can get the Speaker to bring it to the floor for a vote.

IMMIGRATION REFORM

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, the Denver Post is known for

a moderate editorial policy. But in a recent editorial on the immigration bill they made the following reference to our Speaker. They said:

Tip O'Neill's outrageous insult to the congressional process should not be allowed to stand unchallenged. O'Neill has unilaterally set himself up as traffic cop to ensure that the Simpson-Mazzoli immigration bill, already passed by the Senate, doesn't embarrass a bunch of scared lawmakers in the House."

They conclude by saying:

This legislation is too important to withhold from public debate, no matter how anyone votes later.

Mr. Speaker, this issue is no longer simply immigration. It is a question of the democratic process itself. The American people will not and should not accept our refusal to address critical issues.

□ 1050

AN ARROGANT ABUSE OF POWER

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, yesterday I spoke about the arrogant abuse of power by the majority leadership which brought a constitutional amendment to the House floor allowing no amendments and basically no debate. Let us make no mistake, the equal rights amendment was defeated because of the arrogant abuse of power.

Today we are once again talking about the arrogant abuse of power by the same leadership. It is an arrogant abuse of power to deny the American people the protection of their borders. It is an arrogant abuse of power to deny the House the opportunity to debate the immigration reform bill which was passed out of committee; and it is an arrogant abuse of power to deny the will of the American people.

The leadership abused its power yesterday and was defeated.

We have over half the signatures necessary on the discharge petition to bring the immigration reform bill to the floor. This suggests to me that we are once again going to defeat the arrogant abuse of power.

Thank you, Mr. Speaker.

THE BLIND LEADING THE BLIND

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, your refusal to bring the Simpson-Mazzoli immigration reform bill to the floor is a classic example of the blind leading the blind. The unfounded assertions of one Member of this House have led another into an inexcusable exercise of power. That is not democracy, that is tyranny.

Illegal immigration is a national problem and it can only be addressed in a national forum. This House must be that forum.

Last year, our border guards arrested an average of 5,500 illegal aliens every single day. We know that hundreds of thousands were not stopped by those guards. Indeed, some estimates indicate that as many as 1 million illegal immigrants enter this country every year. It is clear that this flow has very nearly become an irresistable flood.

We cannot blame these people for wanting to come to America, but we cannot abdicate our responsibility to those who have elected us. A fair and effective solution to the problem of illegal immigration must be found.

The Simpson-Mazzoli bill represents an honest attempt to find that solution. While it may not represent a truly fair or truly effective solution, it is something that we can only determine in an open debate on the floor of this House.

Mr. Speaker, why have you unilaterally decided to prevent this body from carrying out its duty to the American people? Your assertion that the President planned to veto the bill for political gain rings hollow. It ascribes to the President a cynicism that we have seen so far only in your own actions. Mr. Speaker, you must allow this House to debate the immigration reform bill.

We are not here in a strictly ceremonial capacity. We are here to solve real problems. We are not here to avoid controversy. We have been sent here to build a consensus out of controversy. That is our job, our responsibility, and our duty. Your unilateral action, Mr. Speaker, has made a mockery of this House.

LET US TACKLE IMMIGRATION REFORM ISSUE HEAD ON

(Mr. CHANDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, discussion today is not on the merits of the immigration bill, whether or not you support this bill, the discussion today is whether we should bring the issue to the floor for consideration.

For years, our constituents have requested immigration reform. Everyone knows there is need for stricter laws and the question appears to be, Are we willing to do anything about the problems? The Census Bureau estimates there are 3.5 to 5 million illegal immigrants now in the United States, about 500,000 entering each year. The last comprehensive change in American immigration policy was made in 1952.

Since that time, studies have been made, bills have been introduced—everyone agrees there is need for immigration reform—the debate is on the method of reform. Are we willing to make the effort?

I believe the influx of illegal immigrants into our borders has gotten out of control and we must do something. It is up to Congress to answer the appeals of our constituency and regain control of U.S. immigration policy.

The easy way is to do nothing—it is time to tackle the issue head on. Let us address our immigration problems. Let us consider the immigration bill.

THERE IS A CONSTITUENCY OUT THERE FOR IMMIGRATION REFORM

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, I rise to address the Speaker's decision to block further consideration of the immigration bill, H.R. 1510. One of the reasons the Speaker gave in reaching his decision was that there was no constituency for immigration reform. Mr. Speaker, I do not know where you spend your time when you are not up there in the chair, but I have got news for you, there is an overwhelming constituency out there clamoring for immigration reform.

One of those organizations which has been consistently forceful in its support has been the American Legion. With almost 3½ million members, the Legion has faced this issue squarely for several years. Most recently the Legion sent you a telegram which urged you to reverse your decision.

Show them how big you really are, Mr. Speaker, and bring this bill before the House and let the House act accordingly.

IMMIGRATION REFORM

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, a short time ago, the Democratic leadership of the House of Representatives thwarted a bipartisan effort to commence debate on immigration reform.

This action by the majority leadership demonstrates a blatant disregard for both public opinion and the urgent need to deal with the problems and effects of uncontrolled illegal immigration. The broad spectrum of groups and individuals—demanding to be heard—have nonetheless been denied that opportunity because Democratic leadership continues to ignore their plea.

I bring to your attention the fact that the other body has overwhelmingly adopted comprehensive immigration reform legislation. Yet, Mr. Speaker, you have unilaterally determined that those of us in this Chamber will not have the opportunity to consider this issue.

This bill is a well-crafted piece of legislation, the result of years of hard work on both sides of the aisle. It is inexcusable to allow the assiduous work of my colleagues to go unrecognized, particularly under the pretense that the public is not interested. The public is interested, Mr. Speaker, and demands action now, not when Democratic leadership determines it is politically expedient to do so.

PLAYING POLITICS WITH IMMIGRATION

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, the October 17 issue of Time magazine featured an article entitled "Playing Politics with Immigration." As you might be able to guess, that article was about our Speaker.

The Speaker's blatant attempt to politicize the issue of immigration reform flys in the face of what has heretofore been a bipartisan effort to address the challenge of illegal immigration. Four committees in this House have labored to produce a balanced reform package. The Speaker's unilateral action to stifle this effort is a bitter disappointment to all Americans who believe that the bill should be considered.

The Speaker's attempt to lay the blame at the feet of the President is ridiculous. This is a legislative body and it is our responsibility to legislate. Mr. Speaker, in light of your recent interview in the New York Times, your new found deference to the White House is beyond belief.

Mr. Speaker, it is time for you to stop trying to lay the blame on someone else. If this House is not given the opportunity to construct a national immigration policy there should be no doubt as to where the responsibility will rest.

VUCANOVICH SEEKS OPEN DEBATE ON IMMIGRATION REFORM

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, yesterday, many in this body voiced their disapproval over the manner in which House Joint Resolution 1, the equal rights amendment, was brought to the House floor. It was felt that your scheduling powers as Speaker were being used to prevent an open consideration of this important legislation. As it turned out, these objections were strong enough to cause the defeat of the ERA.

Today, many of us are concerned about another vital legislative measure, H.R. 1510, the Simpson-Mazolli Immigration Reform and Control Act. Again, it is felt that we are not being allowed the opportunity of an open debate. In fact, in this case it appears we are not being afforded the chance of any debate at all.

It is my understanding that H.R. 1510 has received complete consideration by four House committees, and that a similar version has been approved by the overwhelming majority of the other body. From the large number of constituents who have contacted me on this issue, from public opinion polls I have read, and from conversations I have had with many of our colleagues here in this body, it is quite clear to me that a broad spectrum of Americans are now demanding consideration of immigration reform legislation.

Certainly, immigration reform is a difficult issue and a difficult vote for many of us. However, the incredible growth in the number of illegals crossing our borders, and the incredible potential impact of having this large a number of illegals within our borders, warrants consideration of this legislation.

Mr. Speaker, I would like to add my voice to those seeking consideration of the Immigration Reform and Control Act. I hope that you will see the wisdom of scheduling this measure for a prompt and open debate.

IMMIGRATION REFORM

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, the illegal immigration issue is a bipartisan national problem and the House of Representatives has a responsibility to address it. The difficulties posed by illegal immigration is a matter which we cannot wish away simply by ignoring it.

The current immigration bill represents a product of 10 years of bipartisan work. Some four administrations and a national task force have left their imprint on the immigration bill. On two occasions the other body, with bipartisan majorities has overwhelmingly passed the measure. Four House committees, with votes from both sides of the aisle, have carefully scrutinized the immigration bill. The major obstacle remaining is consideration by this body, the "People's House."

Representing the bipartisan spirit behind immigration reform, former President Ford and President Carter in a telegram signed by several others, wrote:

> This problem is too serious for further delay. The Senate . . . has adopted a bill. Now it is time for the House to act. The American people are impatient. The failure to bring this bill up will arouse cynicism about the will of the House to face tough issues, and dangerous feelings of animosity toward all immigration—legal and illegal alike.

It is imperative that this body proceed to enact immigration reform legislation. We cannot allow an issue of such paramount importance to our Nation to be politicized. It is time for this body to act.

SCHOOL COMPUTER COURSES NEED AN ETHICS COMPONENT

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, there is a new type of lawbreaker afoot in this country. This individual has rejected the traditional tools of crime, like safecracking equipment and the Saturday Night Special, and is instead using information age data terminals to perpetrate computer crimes.

Unfortunately, this latest form of criminal activity is attracting some of our brightest young people. For some reason, some teenagers who would never knock down an elderly woman on the street and empty her pocketbook, see nothing wrong with tapping a few keys on a computer terminal, thereby wiping out that same woman's retirement savings.

For example, one Wisconsin teenager recently told a congressional committee questioning him after he orchestrated a break-in of a Federal nuclear research laboratory that he did not realize he had done anything wrong until, and I quote, "the FBI knocked on the door."

Mr. Speaker, I believe this country is going to have to start educating its young that they are breaking the law when they joyride on a computer system. One way to do this would be for our schools with computer courses to add a special section on ethics, where the emphasis would be on the ethical do's and don'ts of the computer world. This could be done without any bureaucratic, new Federal requirements or mandates, and without spending one additional Federal dollar.

Mr. Speaker, I was pleased and honored several weeks ago when our colleagues passed legislation I introduced to curtail computer crime, the Small Business Computer Crime Prevention Act. This legislation stands as the first bill ever passed by either the House or the Senate to deal with computer crime.

It is my view, that if our schools followed up on this legislation by adding an ethics component to their courses in computer science, we could significantly reduce the growing incidence of computer crime in this country.

EQUAL RIGHTS AMENDMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I was delighted yesterday after looking at the statistics of the vote on the equal rights amendment. Less than 4 percent of this body represents 52 percent of this country's population; that is, women, and all of the women Members of this House voted for the equal rights amendment except two.

I think that says that women are all aware of how long overdue this reform is needed for homemakers, for elderly women, and for all women to begin to stem the feminization of poverty.

What puzzles us as women Members the most, is the 12 Members of this body who cosponsored the equal rights amendment and then proceeded to vote against it. They cosponsored it in exactly the same form that it was introduced 60 years ago. They know that many State legislatures have passed it, courts have interpreted it, they know what it means. They did not cosponsor it in a qualified means saying, "Well, I'll cosponsor only if you put in 15 amendments or two amendments or three amendments." Nobody cosponsors things that way. They should have withdrawn their names if they did not believe in the concept. Had they been with us, the ERA would have passed.

That is very regrettable.

PROCESS MATTERS IN DEMOCRATIC SOCIETY

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I am 1 of 12 Members who cosponsored House Joint Resolution 1 but voted against it yesterday because of the procedure that was used to bring this measure to the floor. I have been a fighter for the equal rights amendment since I came to the Congress and will continue to fight for its passage.

What appalls me and shocks me in this Chamber today is to listen to my colleagues who have fought for openness, who have fought for fairness, who have fought for reform in the House of Representatives, who have fought for equality, come to the well of the House of Representatives and state to the American people that the process does not matter.

Well, process does matter in a democratic society. And if they care about reform and if they care about openness, then they will bring the equal rights amendment to the House of Representatives under an open rule for us to debate the issues that have created the tremendous problems for the equal rights amendment over the last 10 years.

Now, a mistake was made and the mistake was made to push for passage of a very controversial amendment knowing it would only be debated for 40 minutes. And read this limited debate of yesterday. It very rarely talks about the amendment, about the problems and the issues that were raised over the last 10 years. It talks about the process. Where is the legislative history that is needed.

The mistake was made to move it when we did not have the votes. And it has hurt the ERA as well as individuals like myself who support ERA and who will support it when the time comes for proper open discussion before the House of Representatives.

SIMPSON-MAZZOLI OF VITAL IMPORTANCE TO FUTURE OF COUNTRY

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I have just read the CONGRESSIONAL RECORD of yesterday's proceedings. I congratulate the Speaker for his candor when he said: "The power of the Speaker of the House is the power of scheduling."

That power of scheduling was abused yesterday and because of that the ERA amendment, an amendment that affects the rights of over 50 percent of the American people, went down in defeat.

Mr. Speaker, you were wrong then. Mr. Speaker, you are wrong today when you continue to stifle this House in failing to bring about a most important piece of legislation.

The Simpson-Mazzoli bill, which deals with immigration in this country, is of vital concern to people of this country. It is of vital concern to the future of this country.

Mr. Speaker, do not continue to make this mistake. Bring this matter before the House of Representatives and allow the democratic process to go forward.

IMMIGRATION REFORM

(Mr. WEBER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER. Mr. Speaker, it is estimated that from 2 million to 4 million illegal immigrants successfully enter this country across our southern borders each year. In the year ending September 30, border guards seized over 2 million illegal aliens, a 40-percent increase over the previous year.

As these numbers indicate, illegal immigration is a national crisis—and the time has long since passed for this Congress to take action. And yet, Mr. Speaker, for reasons that are purely partisan, you have refused to let the House even debate immigration reform legislation.

You have claimed, Mr. Speaker, that the Reagan administration would veto an immigration reform bill passed by this Congress. In fact, the administration has consistently stated its support for immigration reform legislation, and has been negotiating with Congress to achieve an acceptable compromise.

Mr. Speaker, you have stated correctly that the power of the Speaker is the power to schedule. That is true. But it is also true that the rules of the House permit its Members to assume that power when the Speaker refuses to act responsibly. This is such a time. I urge my colleagues to sign the discharge petition on immigration reform.

GOOD OLD AMERICAN COMPETITION NEEDED IN HEALTH CARE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, there is a proposed amendment to the tax bill that will require physicians to accept fees set by the Government for medicare patients as payment in full. While this amendment has an initial time limit, the intention is ultimately to move physicians toward the one-payment-for-each-diagnosis system now in place for hospital care for the elderly.

What is wrong with that? What is wrong is that many physicians, facing direct Government control of their fees will simply not treat medicare patients, and we will have created a two-tier system of health care—quality care for private-pay patients, less so for medicare patients, the same system as we already and unfortunately have created for the poor under medicaid.

No, the plan just will not work. As much as we need to save money, this will not do so, except at an unacceptable cost in terms of quality and fairness.

What we need and have needed for years is not price controls that have never and will never work, nor Government health care that has created a nightmare and a brain drain in most places where tried, but competition—good old American competition—that would both retain health care quality

and control costs at the same time, if only we would give it the chance.

THE OSTRICH APPROACH TO GOVERNMENT

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, in 1949 the chief of the Sioux Indians came to Washington, D.C., to talk to the then Vice President, Alben Barkley, about the plight of Indians in America.

As he was leaving the meeting, he gave some unsolicited advice to the Vice President by saying,

Mr. Vice President, let me give you some advice. Be careful of your immigration laws. We have been careless with ours.

Mr. Speaker, I think it is important that we in the United States remember the words of the chief of the Sioux Indians in 1949. We have to gain control of our borders. Governing the way you are doing today, by not scheduling debate on a reform that is absolutely essential, is the ostrich approach to government.

Please bring this matter to the floor so we can discuss it on the merits, so we can heed the advice of the chief of the Sioux Indians, so we once again can control the borders of the United States of America.

BRING THE IMMIGRATION BILL TO THE FLOOR

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I learned a long time ago that, no matter how hard you try, you cannot wish a problem away. On the contrary, the longer you put something off, the harder it is to accomplish.

So it is, Mr. Speaker, with the immigration problem our country faces today. For 2 straight years, we have had immigration legislation pending before the House that, for one reason or another, somehow does not make it to a final vote. In fact, this year the bill will not even get to the floor.

And while we do nothing, the problem only get worse—with estimates of up to 5 million illegal aliens entering the United States annually. Of these, only 25 percent are apprehended.

Mr. Speaker, it is time for action. We can ill afford to put this matter off any longer. Let us bring the immigration bill to the floor for an up or down vote—now.

□ 1110

ILLEGAL ALIENS

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, since this discussion began today by Members of the Republican side to point out the failure of your leadership of this House and the arrogance of power which you have undertaken, over 250 illegal aliens have probably been caught, and many, many more—possibly thousands—have crossed our border.

Since that resolution for discharge was filed with this House, over 100,000 illegal aliens have been been caught crossing our border, and possibly a million have come into our borders.

You have to ask yourself: What level of irresponsibility can justify or can undertake to act so arbitrarily as to produce those results?

Mr. Speaker, you have failed this House; you have failed the people of the United States; and it is time that you and your party recognize that the American people are not willing to stand here and take the abuse and the cost which those illegal aliens are putting upon us because you want to make a political issue out of it.

IMMIGRATION REFORM LEGISLATION

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I am very concerned that the House of Representatives is being denied the opportunity to debate and consider the Immigration Reform and Control Act. Since the decision was made to suspend a vote on the bill, the message of the public has been loud and clear in opposing such inaction.

This country critically needs reform of its immigration policy, and I believe that Congress had the obligation to provide a solution to address this national problem.

Four committees have reported legislation designed to restore order to our immigration laws. This legislation is the product of many months of studies and deliberations by special Commissions and Members of Congress. The Senate has twice addressed and approved legislation addressing this issue.

In light of the time and energy that has produced this comprehensive bill, I urge the leadership to permit consideration of this measure without unnecessary delay.

ILLEGAL IMMIGRATION

(Mr. LOWERY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWERY of California. Mr. Speaker, I rise to discuss our current problems with illegal immigration to the United States. Indications from my San Diego district suggest that illegal immigration is running at an all-time level.

In the last fiscal year, the Immigration and Naturalization Service apprehended more than 1,200,000 aliens trying to enter the United States. One million of those apprehensions of illegal aliens came from the Border Patrol; the rest came from criminal investigators in the interior of the United States. Both of these figures are all-time records. All-time records, and the problem is only getting worse, Mr. Speaker.

And those high levels are not all, Mr. Speaker. Experienced Border Patrol officers file what are called "getaway reports" to indicate how many aliens successfuly entered the United States. These getaways are aliens whom the Border Patrol could not catch, either because they were too far away or, as is increasingly the case, they just do not have the personnel or the vehicles to catch all the aliens coming by them.

Using these getaway reports, the Border Patrol estimates that between two and four aliens get away for each one they catch. That means in the last fiscal year, as many as 4,800,000 illegal aliens could have entered the United States.

I consider that an unacceptable situation, Mr. Speaker. Congress must quickly address Simpson-Mazzoli, which will allow us to solve this problem.

IMMIGRATION REFORM

(Mrs. JOHNSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. JOHNSON. Mr. Speaker, despite the virtual unanimous agreement across a broad specturm of American society, among labor unions, business groups, newspapers, veterans, environmentalists, Republicans, Democrats, average Americans of all stripes that our borders are completely out of control, that our immigration policy is no policy, despite the years of hard work by a bipartisan group of Senators and Representatives, the Speaker of this House unilaterally decreed that we in this body will not even have an opportunity to debate and consider the immigration reform bill, a bill, I might add, that has already passed the Senate.

Our Speaker said that there was "no constituency" for immigration reform, a statement that perhaps reflects philosophy that national problems should be subservient to the demands of narrow special interest groups.

I urge all Members—of both parties—to sign the discharge petition to get this bill to the floor. No man should be bigger than the entire House.

WHY THE ERA FAILED

(Mr. ZSCHAU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZSCHAU. Mr. Speaker, yesterday the Democratic leadership of this House sold out the equal rights amendment in search of a campaign issue. Knowing full well that there were plenty of votes to pass the ERA, the Democratic leadership also knew they could count on some of its Republican cosponsors to act responsibly and protest against the cavalier consideration of a constitutional amendment without the opportunity of this body to debate it properly and consider amendments to it.

That is why the ERA failed.

As a Republican who voted for the ERA yesterday and as one who feels that equal rights for women is too important to be a partisan issue, I feel betrayed. This country needs the ERA and it needs it now.

Mr. Speaker, I call on the Democratic leadership, if it is truly interested in the passage of the ERA, to bring it to the floor quickly under a rule that will allow for proper consideration. If it does, the ERA will pass this House.

"PAY AS YOU GO" RESOLUTION

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, together with over 50 of our colleagues in the Congress, I am today introducing a resolution to establish a proven and effective means for challenging the most critical long-range economic problem this country confronts: A mounting and seemingly uncontrollable deficit.

Politicians, economists, the media, business leaders, working people throughout this country agree that soaring deficits pose a fundamental challenge to our economic recovery and our economic future as a nation. Last year, politicians of both parties were cringing at the prospects of a $100 billion deficit. In fact, the deficit for 1983 is nearly twice that awesome amount, contributing nearly $200 billion to a national debt that is well on its way to $1½ trillion.

The cost of those policies is evident to all. In a nation where we are throwing children out of nutrition programs, denying medical care to the handicapped and the elderly, shutting down schools, failing to rebuild our highways and bridges, undercutting our housing programs—in short, reneging on our commitment to the American quality of life—we are spending nearly $130 billion this year just to pay the interest on the national debt.

FAILURE OF THE BUDGET PROCESS

The budget process was supposed to establish an orderly method for planning our fiscal agenda. It has utterly failed. The budgets sent to the Congress by the President are farcical, abandoned by his own political allies in Congress before they even reach Capitol Hill because they represent a callous and indefensible assault on the poor, the young, and the most vulnerable of our citizens.

Nor has Congress lived by the spirit or the letter of the Budget Act. We persistently fail to meet deadlines, we waive points of order, and we evade the reconciliation responsibilities to raise even the minimal revenues to which we have agreed in the budget resolution each year.

As a result, the budget is out of control, and the deficits are exorbitant.

When we created the Budget Act 10 years ago, the Federal deficit was under $5 billion. Today, after years of spending cuts and tax cuts, spending increases and tax increases, the deficit threatens to exceed $200 billion this year. Even worse, the deficit may well continue at that level unless some means for introducing responsibility and order into the budget process is found, both for the Congress and the President.

NEW APPROACH IS NEEDED

So let us try a new approach, an honest approach, one that tells the American people how things really are, not how we think they would like them to be. The American people do not expect miracles from their elected leaders, but they do expect the truth, and we have been deceiving them.

We have pretended—Democrats and Republicans alike—that we can provide all things to all people, and still live within our financial means. We cannot.

The Budget Act, and the entire congressional process, was designed to control spending and deficits by choosing priorities. But in the 9 years that I have served in this House, it has become apparent to me that we do not choose priorities. We choose all priorities, regardless of cost, and we send the bill to future generations of Americans who will inherit our deficit.

Deficit spending is no less the underwriter of Reaganomics than it was financier of the Great Society.

President Reagan has used the deficit to pay for his tax policies and his historic increase in military expenditures. Earlier Presidents used the deficit to pay for domestic spending or other priorities. But the fact is that all Presidents and all Congresses have relied on the deficit to finance their favorite spending policies, while denouncing the deficit at the very same time.

What we need is a budget process which treats all programs and all constituencies alike; a process which forces us in the Congress to make tough choices about spending, and which compels the American people to acknowledge the cost of the society in which we want to live.

The resolution which I am introducing today commits the Congress and the President to a budget process which is fair and honest, a process which requires us to choose our spending priorities and to accept the responsibility of paying for them, instead of passing the cost along to our children.

PAY-AS-YOU-GO PLAN

That process is the pay-as-you-go budget plan, a plan which would control spending and reduce our deficits by tearing up the national credit card.

A year and a half ago, when we were debating the 1983 budget resolution, I offered the pay-as-you-go budget proposal to the House. According to the Congressional Budget Office, had we adopted my proposal in May of 1982, we could have balanced the Federal budget by 1985. Instead, according to this year's budget resolution, we will in all likelihood find ourselves with a budget deficit in excess of $175 billion by that date.

Had we adopted pay-as-you-go this year, our deficit by 1986 would be one-third the level we anticipated in the current resolution, which already has been consigned to the dustbin of history by virtue of our failure to enact the revenue measures called for in that resolution.

The pay-as-you-go process is a straightforward and easily understood procedure by which most of our constituents, and over 40 States, organize their budgets.

We would establish our current outlay levels as a baseline. No spending would be allowed in excess of that baseline unless the Congress simultaneously agreed to pay for that spending increase, either by raising equivalent revenues or by reducing spending elsewhere in the budget.

Similarly, Congress could not reduce revenues below current levels without cutting spending by an equal amount.

CBO PREDICTS DEFICIT REDUCTIONS

If we follow this prescription, according to CBO, we will not add any new dollars to the deficit through future spending or tax decisions. In fact, because revenues naturally increase through the normal expansion of the economy, pay-as-you-go would result in a steady reduction in the deficit regardless of any future decisons on spending or taxation.

This proposal does not prohibit future spending. It only restricts future spending which adds to the def-

icit. If the Congress has the appetite to enact new spending legislation, let us also be responsible and tell the American people what that legislation will cost. And let us also then have the courage to pay for that decision.

Adoption of the pay-as-you-go budget would be an historic moment for this Congress. No longer would we continue to spend billions of deficit dollars to conceal waste, special-interest subsidies, or outdated and lavish programs that the economy cannot afford, the voters do not support, and the Congress does not have the courage to pay for.

Over 150 years ago, Thomas Jefferson wrote that "it is incumbent on every generation to pay its own debts as it goes." Jefferson's wisdom is no less applicable to our own time than it was a century and a half ago. Indeed, reducing the deficit is even more critical today, because soaring and uncontrolled budget deficits threaten to undermine our economic system and destabilize our political process.

Pay-as-you-go is simple, but it is not easy. It will require that we in the Congress tell our constituents the real cost of running this Government. And it will require that our constituents be willing to pay for the quality of life that we enjoy in this country. It will hopefully also expose the waste and the largesse which inflate our budget and swell our deficits.

Pay-as-you-go will restore to the budget process two ingredients sorely missing: discipline and honesty. We need both today. I call upon all Members to endorse pay-as-you-go—the only workable nonpartisan method for controlling the deficit—and I would hope that the Congress will adopt this proven and effective process n 1984.

The text of the resolution, and the cosponsors, follow:

H.J. RES. —

Whereas the Federal deficit in fiscal year 1983 approached $200 billion;

Whereas the current budget process relies largely on the deficit to finance additional spending decisions;

Whereas interests payments on the Federal debt in fiscal year 1983 exceeded $128.8 billion;

Whereas current budget procedures offer no means for preventing the accumulation of hundreds of billions of dollars in additional debt in coming years;

Whereas the Federal Government's heavy use of the deficit consumes a substantial portion of available credit, which diminishes the availability of capital for private investment and personal borrowing;

Whereas a freeze of all spending and revenues at current policy levels, according to the Congressional Budget Office, will result in the steady reduction of the deficit as a result of the normal growth of the economy;

Whereas new spending above current policy levels will not increase the deficit if offset entirely by simultaneous increases in revenues or spending reductions in other areas of the budget;

Whereas adoption of such a "pay-as-you-go" budget process will treat all new spending identically;

Whereas the pay-as-you-go budget process will require the President and the Congress to establish priorities for spending and to identify specific means of paying for new spending decisions; and

Whereas implementation of the pay-as-you-go process will achieve the rapid reduction in Federal deficits, and will reduce the need for the Federal Government to consume credit which is needed to promote economic growth and jobs; Now, therefore, be it

Resolved, by the House of Representatives, the Senate concurring, That for fiscal year 1985 and for each year thereafter, the President shall submit to the Congress, and the Congress shall adopt, a pay-as-you-go budget which freezes all revenues and outlays, including entitlements, at current levels (except that, in the case of entitlements, individuals who meet eligibility standards shall not be denied participation); and be it further

Resolved, That any future legislative reductions in revenues be offset by equivalent reductions in outlays, and that any spending about the outlay baseline (including cost of living adjustments) shall be offset by equivalent increases in revenues or reductions in outlays so that no spending increase shall result in an increase in the deficit.

COSPONSORS TO "PAY-AS-YOU-GO"

Mr. Michael Andrews, Mr. Don Albosta, Mr. Doug Barnard, Mr. Dave Bonior, Mr. Berkley Bedell, Mr. Tom Bevill, Mrs. Marilyn Lloyd, Mrs. Barbara Boxer, Mr. Hank Brown, Mr. Tony Coelho, Mr. Ron Coleman, Mr. Tom Daschle, Mr. Byron Dorgan, Mr. Dennis Eckart, Mr. Ben Erdreich, Mr. Sam Gejdenson, and Mr. Dan Glickman.

Mr. Al Gore, Mr. Tony Hall, Mr. Tom Harkin, Mr. Dennis Hertel, Mr. Bill Hughes, Mr. Abraham Kazen, Mr. Ray Kogovsek, Mr. William Lehman, Mr. Mel Levine, Mr. Elliott Levitas, Mr. Stan Lundine, Mr. Buddy MacKay, Mrs. Lynn Martin, Mr. James McNulty, Mr. Nick Mavroules, Mr. Bill Nelson, Mr. James R. (Jim) Olin, Mr. Bill Patman, Mr. Tim Penny, and Mr. William R. Ratchford.

Mr. Harry Reid, Mrs. Pat Schroeder, Mr. John F. Seiberling, Mr. Jerry Sikorski, Mr. Norman Sisisky, Mr. Jim Slattery, Mr. John Spratt, Mr. Pete Stark, Mr. Charles Stenholm, Mr. Mike Synar, Mr. Robin Tallon, Mr. Morris Udall, Mr. Bruce Vento, Mr. James (Jim) Weaver, Mr. William G. Whitehurst, Mr. Charles Whitley, and Mr. Bob Wise.

THE POWER OF SCHEDULING

(Mr. HARTNETT asked and was given permission to address the House for 1 minute.)

Mr. HARTNETT. Mr. Speaker and my colleagues, yesterday our Speaker eloquently told us of his power, his power to schedule. Yet today he arrogantly abuses that power by refusing to bring to the floor of the House of Representatives the immigration bill.

Oh, I think perhaps he feels he is hurting President Reagan—not helping him anyway—and not helping the Republican Party. But, Mr. Speaker, what you are doing, sir, is you are bringing things like leprosy, that once dreaded Biblical disease now 2,000 percent increase in the cases of lebrosy in this country, you are allowing illiteracy and unemployment and health and economic problems to come into this country. And I submit to you, sir, you are not hurting President Reagan, and you are not hurting the Republican Party; but you are hurting this great Nation and all of her citizens whom you profess to respect and love so much.

I urge you to not arrogantly abuse but to use that power of scheduling which you have and bring the immigration bill before the House of Representatives.

MEMBERS URGED TO SIGN DISCHARGE PETITION TO BRING IMMIGRATION REFORM BILL TO FLOOR OF THE HOUSE

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, in the 97th Congress and again in this Congress, the other body passed an immigration reform and control bill by overwhelming votes. Last year, and again this year, different House committees favorably reported similar legislation.

Action by the Seaker in the current session, however, has brought the legislative process to a screeching halt. The House of Representatives has been prevented from addressing one of the most urgent national problems facing the United States today—our lack of control over our borders. Thousands of undocumented aliens enter our country illegally each day—and the Speaker would have this body look the other way.

The frustration felt by so many Members of this body, as a result of the Speaker's action, must now be translated into a concerted effort to permit a majority of the House of Representatives to work its will. The vehicle for bringing H.R. 1510, the Immigration Reform and Control Act, to the floor is discharge petition No. 5, introduced by our colleague DAN LUNGREN of California. I urge the Members of this body, regardless of their views on particular details of H.R. 1510, to join with me in signing the discharge petition. We will have ample opportunity on the floor to address all concerns.

In a country with democratic institutions, the representatives of the people have a responsibility to legislate.

LEGISLATIVE TYRANNY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we hear a lot of complaints today about scheduling. But I think, frankly, that the various interest groups are getting what they pay for.

Yesterday the Speaker said: "The power of the Speaker of the House is the power of scheduling. I take it upon myself."

The dairy lobby works with the Democratic Congressional Campaign Committee, and their bill comes up; the United Auto Workers work with the Democratic Congressional Campaign Committee, and their bill comes up; the leftwing feminists say they want a closed rule and a gag effort, and their bill comes up in the form they want, even if it gets defeated; the Speaker bows to a handful of Democratic political strategists, and the immigration bill does not come up.

In effect, the chairman of the Democratic Congressional Campaign Committee is playing a special-interest Rasputin to the Speaker's Czar Nicholas in what is now a legislative tyranny for clearly political purposes.

□ 1120

CONGRESS MUST ACT ON IMMIGRATION REFORM

(Mr. McKERNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKERNAN. Mr. Speaker, putting politics aside for a moment, I think that most Members will agree that reform of our immigation policies is long overdue. We have lost control of our borders in recent years, with close to 1 million illegal aliens apprehended last year by the Immigration and Naturalization Service.

There is a bill pending on the House Union Calendar that attempts to address this serious problem—H.R. 1510, the Immigration Reforms and Control Act of 1983. It is the product of four House committees and extensive hearings during the 97th Congress. Unfortunately, it has become caught up in the maze of Presidential politics. The Speaker of the House is blocking its consideration to prevent the President from using it to his advantage in the 1984 Presidential race.

Regardless of your views on H.R. 1510, it can serve as a vehicle for purposes of addressing our immigration problems. The Senate has already approved an immigration reform bill, and I urge my colleagues to assert themselves on this issue by signing discharge petition No. 5 to bring H.R. 1510 to the floor so we can address this important issue.

DISSERVICE TO AMERICANS ON IMMIGRATION REFORM

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, I find it deplorable that the Speaker would prevent the Simpson-Mazzoli immigration reform bill from coming to a vote on the floor of the House. To do so clearly makes a mockery of the democratic process, and we all know that there is a very strong constituency for immigration reform and we have learned in poll after poll that most Americans from all walks of life and from all ethnic backgrounds strongly support the efforts for immigration reform. Let me give you a couple of examples.

The national Terrence Hart poll, which was taken very recently, shows that the Hispanic and the black communities who were polled and asked to indicate whether or not they favored some type of legal sanctions against employers who knowingly hire illegal aliens responded in the affirmative by about a two-thirds margin. Both groups also favor increased funding for border enforcement. In fact, because support of this bill is so broad and because it is so widely known that there is broad support, I find it difficult to imagine how our Speaker can sincerely say that there is no constituency for the bill.

Mr. Speaker, many of us have problems with one or another provisions of the immigration reform bill, but I think we all agree that America needs immigration reform, and for the House leadership to prevent the bill from coming to the floor does a disservice to all Americans.

IMMIGRATION REFORM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, it is imperative that this body be allowed to address the crisis that confronts us at our borders. During the last fiscal year, over 1 million undocumented aliens were apprehended. It should be noted that as a rule of thumb, for every apprehension, it is estimated that two to four successful entries are made. To put this into perspective, this is enough people to comprise at least four new congressional districts.

The magnitude of the problem of illegal immigration should not be looked at from a quantitative perspective alone, however. There are also tremendous human costs that are not captured in the recitation of mere numbers.

First of all, the undocumented aliens are themselves victims of their innate desire to come here for no other reason that to improve their plight in life. Often beyond the protection of our labor laws, and afraid to report crimes or illness, they are indeed a part of the tragedy of illegal immigration.

Second, the American people are also adversely impacted by the uncontrolled flow of illegal immigration. The Department of Labor estimates that about 20 percent of those who enter the United States without the benefit of papers, do so at the cost of jobs that would otherwise go to our own citizens. If we have between 2 and 4 million successful entries, that translates into 400,000 to 800,000 displaced domestic workers. It seems somewhat ironic that this Chamber would spend $4.6 billion on a jobs bill while at the same time fail to take action on immigration reform legislation that could have a direct impact on employment in this country.

The fact of the matter is that except for those special interests with a stake in the status quo, the costs of illegal immigration affect us all. The question of immigration reform is not a partisan issue. It affects both Democrat and Republican constituents alike. It likewise requires support on both sides of the aisle if we are ever to have any hope of meeting the challenge at our borders. I invite all of you to join me in signing discharge petition No. 5 to enable us to formulate an immigration policy that is in the national interest.

IMMIGRATION REFORM

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, despite the virtual unanimous agreement across a broad spectrum of American society, among labor unions, business groups, newspapers, veterans, environmentalists, Republicans, Democrats, average Americans of all stripes, that our borders are completely out of control, that our immigration policy is no policy, despite the years of hard work by a bipartisan group of Senators and Representatives, the Speaker of this House unilaterally decreed that we in this body will not even have an opportunity to debate and consider the immigration reform bill, a bill, I might add, that has already passed the other body.

We are told there is no constituency for immigration reform. Who is kidding whom? I cannot buy that and certainly the American people will not buy that.

SLIP-UP ON ORCHESTRATED 1-MINUTES TODAY

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

11-059 O-87-36 (Pt. 23)

Mr. COELHO. Mr. Speaker, I find it interesting from two respects the comments from the gentlemen from the other side of the aisle. My friends from the other side of the aisle are very concerned about undocumented workers. They are very concerned about illegal aliens. So are many people from our side of the aisle.

But I find it intriguing that these same individuals who were so concerned about these undocumented illegal aliens are not concerned about legal people here in the United States such as women; these are the very same people who voted against women yesterday, who are legal in this country and who do not have the rights that everybody else does. It is intriguing.

The second thing that I find intriguing is that if we look at the CONGRESSIONAL RECORD tomorrow morning we will find that in this orchestrated event here that some of the statements were exactly like some of the previous statements. It is intriguing to me that somebody slipped up somewhere on your side of the aisle and they should not have given the same statement to two people.

PUT ASIDE POLITICAL DIFFERENCES ON IMMIGRATION REFORM

(Mr. DENNY SMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENNY SMITH. Mr. Speaker, it is a disgrace that this body will not have a chance to consider the Immigration Reform and Control Act of 1983. Admittedly, I am not totally convinced that this bill will solve our immigration problems. However, one thing I am sure of: Our immigration problem is now so critical that we need to put aside political differences and get on with passing a bill that will restore integrity to our borders.

I represent a part of the country where we depend on foreign workers to harvest agricultural crops. Some of my constituents would prefer that this bill never see the light of day. But despite the importance of foreign workers to our local economies, the majority of Oregonians recognize that we need to do something to control illegal immigration. The once leaky faucet of illegal aliens has turned into a torrent. It needs to be fixed.

No one knows how many illegal aliens are in our country, but estimates run in the millions and the figure grows daily. We can close our eyes and pretend the problem will go away, but it will not. If anything, the problem will get worse.

Our immigration policy is grossly inadequate for today's conditions. Mr. Speaker, I urge you to look beyond the squabblings of special interest groups and consider the overriding national interest of protecting our borders. The House should have a chance to consider immigration legislation. We owe the American people that much.

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1984

Mr. SMITH of Iowa. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 3222) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984, and for other purposes, with a Senate amendment thereto, and concur therein.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Page 23, after line 12, insert:

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, $11,887,000.

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SMITH of Iowa moves that the House take from the Speaker's table the bill H.R. 3222 with the remaining Senate amendment thereto, and concur therein.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

□ 1130

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are considering again today, the fiscal year 1984 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies. We were here last week with the conference report on this bill, and the amendment in technical disagreement providing funds for the Civil Rights Commission was rejected. The Senate has receded from that amendment with an amendment which provides $11,887,000 for the Civil Rights Commission, which is the level of the original conference agreement on this bill. I am back here today to ask the Members to concur with the Senate on this provision.

This bill has had a long and rocky road. We reported it out of the full Appropriations Committee on May 25. On that date, 77 percent of the money in the bill was for programs that had not been authorized or for programs for which the authorizations had not been extended. We are here now, on November 16, and 70 percent of the funds in this bill are for programs that have not been authorized or reauthorized.

I do not know how we can tend to the business of this Nation if we are going to have so many programs that are not authorized or reauthorized on time. These programs should have all been authorized before October 1, which was the beginning of the new fiscal year, more than 1½ months ago. So it has been a long and rocky road.

When we report an appropriations bill like this with so many unauthorized programs, many members on the authorizing committees often say, "We don't want the appropriations bill to be considered until we get our reauthorization." So we are held hostage week after week on one item after another all through the process. We are back here again today, many months after the time we should have been here, asking the Members to approve this last amendment so the bill can be cleared for the President.

Mr. Speaker, the last item that was not approved when we were here last week was the appropriation for the Civil Rights Commission, and as I mentioned then, we did not hear any objection to appropriating the money until after we were out of conference.

I want to point out again that it makes no difference today whether Members vote yes or no on money for the Civil Rights Commission. They are going to be funded in the continuing resolution. It makes no difference what happens to this bill for a number of the agencies since they will either be under this bill or under the continuing resolution at the same level.

But there are some other agencies that will not have the same level of funding if we do not pass this bill. I read off a list of those agencies and programs when the conference report was considered last week.

Now, the Civil Rights Commission is just one example. If they wanted to terminate the Civil Rights Commission, all the Senate had to do was refuse to confirm the members of the Commission; without a quorum, the Commission could not operate. That is the way to stop it, but eliminating the

funds in this bill for the Commission had nothing whatever to do with the operation of the Civil Rights Commission.

Mr. Speaker, I want to tell those Members of the House that apparently still have the idea—and also members of the press, from the articles I have seen in the paper—that lack of authorization does not prevent an agency from continuing. I have seen articles in the paper about how they had to wind down their business because they do not have authorizations. That is not so at all. If any Member of this Congress wants to prevent an agency from continuing, they have got to keep funds for that agency out of the continuing resolution. There is no other way to do it. Otherwise they will continue.

So what we have here today is a bill with $7.383 billion in unauthorized programs out of a total of $10.5 billion. Now, this lack of authorization is something that should not happen. The unauthorized agencies in this bill include such important agencies as the Federal Trade Commission, the Federal Maritime Commission, FCC, ICC, SEC, the Legal Services Corporation, and EDA. Some of those have been going without an authorization for a couple of years.

Mr. Speaker, I am going to put in the RECORD at this point a list of those agencies or programs within agencies in this bill that are not authorized as of November 16, 1983. Mr. Speaker, that list is as follows:

UNAUTHORIZED ITEMS, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS BILL FISCAL YEAR 1984

DEPARTMENT OF COMMERCE

Special Foreign Currency Program.
Economic and Statistical Analysis.
Economic Development Administration.
International Trade Administration:
Trade Adjustment Assistance.
Defense Production Act.
Export Administration Act.
U.S. Travel and Tourism Administration.
Minority Business Development Agency.
National Oceanic and Atmospheric Administration:
Aquaculture activities.
Atmospheric, Climatic and Ocean Pollution Act of 1983.
Sea Grant Authorization.
Polymetallic sulfides.
Ocean Pollution Planning.
Ocean Thermal Energy Conversion Act.
NACOA.
Marine Protection, Research and Sanctuaries Act.
Marine Sanctuaries Program.
National Bureau of Standards.

DEPARTMENT OF TRANSPORTATION

Maritime Administration.
Federal Trade Commission.
Federal Communications Commission.
International Trade Commission.
Office of U.S. Trade Representative.
Securities and Exchange Commission.
Small Business Administration (Portion of Direct Business Loan Program).

DEPARTMENT OF JUSTICE

(All programs except Juvenile Justice).
Commission on Civil Rights.
Legal Services Corporation.

DEPARTMENT OF STATE (ALL PROGRAMS)

Arms Control and Disarmament Agency.
Board for International Broadcasting.
United States Information Agency.
The Judiciary—Services for Drug Dependent Offenders.

Mr. Speaker, I do want to say that there are a number of programs that will be hurt unless we pass this bill because such programs are included in the bill at either a higher level of funding or contain conditions that are not going to be in effect under the continuing resolution. One of these is the provision on CDS. It is very important, to the shipping industry, and on that I want at this time to compliment the gentleman from Maryland (Mr. DYSON). That provision became known as the Dyson amendment. It is terribly important to jobs and to every port in the country. That provision will not be in effect if we do not pass this bill.

Mr. Speaker, I also want to commend the gentleman from New Mexico, (Mr. RICHARDSON) for his efforts to have an amendment included in the final conference report to provide $450,000 to non-Indian defendants in the Aamodt water rights case in New Mexico. As I understand the situation, four Indian Pueblos in the Pojoaque Valley of New Mexico are suing over 1,500 non-Indians for rights to the limited water supply in the valley. While the Federal Government has provided the Pueblos $2.9 million to pay their legal fees, the non-Indian defendants have only been able to raise roughly $200,000 from private sources. Mr. RICHARDSON impressed upon me and the other House conferees, the urgency of this matter and the need to provide this money to the non-Indian defendants to insure them equal access to justice and a day in court. Again, I want to thank the gentleman from New Mexico for his assistance and hard work on this issue.

There are also many provisions on the Legal Services Corporation in the bill that are very important to many Members. Those provisions will not be in effect unless we pass this bill, since they are not included in the continuing resolution.

So, Mr. Speaker, what I am here today to do is to ask the Members to reverse themselves in the position the House took on funding for the Civil Rights Commission last week and to vote for these funds today.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I thank the subcommittee chairman for yielding, and I appreciate what he is doing today.

Mr. Speaker, I rise in support of the gentleman's motion to recede and concur to the Senate amendment to appropriate funds for the U.S. Commission on Civil Rights.

Last week this House voted to not recede and concur because the funds in this appropriations bill could have been used to continue the current Commission through fiscal year 1984 despite the fact that its life had not been extended by the Congress.

On Monday, the Senate passed H.R. 2230, with an amendment, which creates a new Civil Rights Commission to carry on the vital role of the current Commission. That bill, which we will take up immediately upon completion of action on this appropriations bill, requires the transfer of personnel, records, and the balance of appropriations to the new Commission. Thus, it is important that we now recede to this Senate amendment in order to assure funding for the new Commission.

Mr. SMITH of Iowa. Mr. Speaker, I reserve the balance of my time.

Mr. O'BRIEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, on November 9, the gentleman from California (Mr. EDWARDS) and I asked Members of the House to vote in what must have seemed a very strange manner. H.R. 3222, the Commerce, Justice, State appropriations, contained funds for the Civil Rights Commission. The House had not provided any funds, but the Senate had over $11 million. If the House had receded from its position and concurred in the Senate amendment, the Civil Rights Commission would have been funded without an authorization, and without the restriction of firing only for cause. The President would have gotten all of his nominees and would have not been restricted in the future on appointments and firing of commissioners.

Mr. Speaker, the House and the Senate made two principles very clear during consideration of reauthorization of the Civil Rights Commission. First, no President in a single term could appoint a majority of commissioners, and, second, commissioners could only be fired for cause.

Therefore, Members were asked to vote against the motion to recede from the House position and concur in the Senate amendment, despite the alleged threat to the entire appropriations bill. The conferees were also instructed to insist on the House position. This effort was successful, and I want to thank all who joined in this important vote.

It was due, in part, to this vote, that the Senate, the civil rights community, and the President were able to reach the compromise which is before us today.

Mr. Speaker, I hope we will now reverse our prior position in this body and send this conference report to the President with our compliments to the subcommittee chairman and the ranking member for their work on this very comprehensive legislation.

Mr. O'BRIEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the motion offered by the gentleman from Iowa (Mr. SMITH).

I think it is regrettable that the funding for the Civil Rights Commission has become so politicized in the last several weeks, and I wish we would have disposed of this issue last week when the conference report on the appropriations was brought to the floor. We did not do that, and now it is back here today.

Mr. Speaker, I think that the adoption of the motion offered by the gentleman from Iowa (Mr. SMITH), together with the action that will take place on the Civil Rights Commission reauthorization immediately following disposition of this motion, will put the politics in the Civil Rights Commission to rest and let this important Commission get on with its appointed task.

Mr. O'BRIEN. Mr. Speaker, I yield myself such time as I may consume.

To identify the technical steps we are going through here, let me point out that this bill provides almost $12 million for the Civil Rights Commission. The funds were stricken from the House bill on a point of order, and the Senate bill restored the funds. The House then defeated a motion to recede and concur in the Senate amendment and adopted a motion to insist on the House position of no funds. Finally, the Senate has now insisted on its position, and this motion concurs therein.

Mr. Speaker, I commend the subcommittee chairman on the excellent work he has done with respect to the entire bill, and particularly on this provision.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Illinois (Mr. O'BRIEN), the ranking member in our subcommittee, as well as all the other members of the subcommittee for their hard work on this bill. This has been a long road, and we are hopeful that with a favorable vote on this motion, we are finally at the end of that road.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. MILLER of California). The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Iowa. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 417, nays 3, not voting 14, as follows:

[Roll No. 509]

YEAS—417

Ackerman	Corcoran	Gonzalez
Addabbo	Coughlin	Goodling
Akaka	Courter	Gore
Albosta	Coyne	Gradison
Alexander	Crockett	Gramm
Anderson	D'Amours	Gray
Andrews (NC)	Daniel	Green
Andrews (TX)	Dannemeyer	Gregg
Annunzio	Darden	Guarini
Anthony	Daschle	Gunderson
Applegate	Daub	Hall (IN)
Archer	Davis	Hall (OH)
Aspin	de la Garza	Hall, Ralph
AuCoin	Dellums	Hall, Sam
Badham	Derrick	Hamilton
Barnard	DeWine	Hammerschmidt
Barnes	Dickinson	Hansen (ID)
Bartlett	Dicks	Hansen (UT)
Bateman	Dingell	Harkin
Bates	Dixon	Harrison
Bedell	Donnelly	Hartnett
Beilenson	Dorgan	Hatcher
Bennett	Dowdy	Hawkins
Bereuter	Downey	Hayes
Berman	Dreier	Hefner
Bethune	Duncan	Heftel
Bevill	Durbin	Hertel
Biaggi	Dwyer	Hightower
Bilirakis	Dymally	Hiler
Bliley	Dyson	Hillis
Boehlert	Early	Holt
Boggs	Eckart	Hopkins
Boland	Edgar	Horton
Boner	Edwards (AL)	Howard
Bonior	Edwards (CA)	Hoyer
Bonker	Edwards (OK)	Hubbard
Borski	Emerson	Huckaby
Boucher	English	Hughes
Boxer	Erdreich	Hunter
Breaux	Erlenborn	Hutto
Britt	Evans (IA)	Hyde
Brooks	Evans (IL)	Ireland
Broomfield	Fascell	Jacobs
Brown (CA)	Fazio	Jeffords
Brown (CO)	Feighan	Jenkins
Broyhill	Ferraro	Johnson
Bryant	Fiedler	Jones (NC)
Burton (CA)	Fields	Jones (OK)
Burton (IN)	Fish	Jones (TN)
Byron	Flippo	Kaptur
Campbell	Florio	Kasich
Carney	Foglietta	Kastenmeier
Carper	Foley	Kazen
Carr	Ford (MI)	Kemp
Chandler	Ford (TN)	Kennelly
Chappell	Forsythe	Kildee
Chappie	Fowler	Kindness
Cheney	Frank	Kogovsek
Clarke	Frenzel	Kolter
Clay	Frost	Kostmayer
Clinger	Fuqua	Kramer
Coats	Garcia	LaFalce
Coelho	Gaydos	Lagomarsino
Coleman (MO)	Gejdenson	Lantos
Coleman (TX)	Gekas	Latta
Collins	Gephardt	Leach
Conable	Gibbons	Leath
Conte	Gilman	Lehman (CA)
Conyers	Gingrich	Lehman (FL)
Cooper	Glickman	Leland
Lent	O'Brien	Slattery
Levin	Oakar	Smith (FL)
Levine	Oberstar	Smith (IA)
Levitas	Obey	Smith (NE)
Lewis (FL)	Ortiz	Smith (NJ)
Lipinski	Ottinger	Smith, Denny
Livingston	Owens	Smith, Robert
Lloyd	Oxley	Snowe
Loeffler	Packard	Snyder
Long (LA)	Panetta	Solomon
Long (MD)	Parris	Spence
Lowery (CA)	Pashayan	Spratt
Lowry (WA)	Patman	St Germain
Lujan	Patterson	Staggers
Luken	Pease	Stangeland
Lundine	Penny	Stark
Lungren	Pepper	Stenholm
Mack	Perkins	Stokes
MacKay	Petri	Stratton
Madigan	Pickle	Studds
Markey	Price	Stump
Marlenee	Pursell	Sundquist
Marriott	Quillen	Swift
Martin (IL)	Rahall	Synar
Martin (NC)	Rangel	Tallon
Martin (NY)	Ratchford	Tauke
Martinez	Ray	Tauzin
Matsui	Regula	Taylor
Mavroules	Reid	Thomas (CA)
Mazzoli	Richardson	Thomas (GA)
McCain	Ridge	Torres
McCandless	Rinaldo	Torricelli
McCloskey	Ritter	Towns
McCollum	Roberts	Traxler
McCurdy	Robinson	Udall
McDade	Rodino	Valentine
McEwen	Roe	Vander Jagt
McGrath	Roemer	Vandergriff
McHugh	Rogers	Vento
McKernan	Rose	Volkmer
McKinney	Rostenkowski	Vucanovich
McNulty	Roth	Walgren
Mica	Roukema	Walker
Michel	Rowland	Watkins
Mikulski	Roybal	Weaver
Miller (CA)	Rudd	Weber
Miller (OH)	Russo	Weiss
Mineta	Sabo	Wheat
Minish	Savage	Whitehurst
Mitchell	Schaefer	Whitley
Moakley	Scheuer	Whittaker
Molinari	Schneider	Whitten
Mollohan	Schroeder	Williams (MT)
Montgomery	Schulze	Williams (OH)
Moody	Schumer	Wilson
Moore	Seiberling	Wirth
Moorhead	Sensenbrenner	Wise
Morrison (CT)	Shannon	Wolf
Morrison (WA)	Sharp	Wolpe
Mrazek	Shaw	Wortley
Murphy	Shelby	Wright
Murtha	Shumway	Wyden
Myers	Shuster	Wylie
Natcher	Sikorski	Yates
Neal	Siljander	Yatron
Nelson	Simon	Young (AK)
Nichols	Sisisky	Young (MO)
Nielson	Skeen	Zablocki
Nowak	Skelton	Zschau

NAYS—3

Crane, Daniel	Crane, Philip	Paul

NOT VOTING—14

Bosco	Lott	Solarz
Craig	Olin	Waxman
Franklin	Porter	Winn
Hance	Pritchard	Young (FL)
Lewis (CA)	Sawyer	

□ 1150

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 555, CONSTRUCTION WORK IN PROGRESS POLICY ACT OF 1983

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 98-553) on the resolution (H. Res. 375) providing for the consideration of the bill (H.R. 555) to amend the Federal Power Act to limit the recovery by public utilities of certain costs of construction work in progress through rate increases, which was referred to the House Calendar and ordered to be printed.

□ 1200

CIVIL RIGHTS COMMISSION ACT OF 1983

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2230) to amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(C) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's r''les shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(d) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or

transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subbchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) Investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such times as the Commission, the Congresss, or the President shall deem desirable.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern and southern European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

(B) Upon application of any individual (other than the staff director or a member of the Commission who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1903, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

(C)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights, established by the Civil Rights Act of 1957, was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so or-

dered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i)(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2 (a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.

TERMINATION

SEC. 8. The provisions of this Act shall terminate 6 years after its date of enactment.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from California?

Mr. SENSENBRENNER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, this is the Civil Rights Commission Reauthorization Act which was amended in the other body on Monday of this week. The motion is to concur in the Senate amendment. I support that motion to concur in the Senate amendment which should resolve the controversy that has swirled around the U.S. Commission on Civil Rights for the past year and which has jeopardized its continued existence.

As the membership may know, the authorization for the Civil Rights Commission expired on September 30, 1983. Under the statute, the Commission is to wind down its activities and expire as of November 29, 1983, unless affirmatively reauthorized.

The concurring in the Senate amendment will affirmatively reauthorize the Commission and put this matter to rest for a period of 5 years. I salute the people in the other body who were better able to compromise the differences than we were over here.

I would be remiss if I did not express a concern about the constitutionality of certain functions of the Civil Rights Commission under this agreement. As the membership knows, the case of *Buckley* v. *Valeo,* 424 U.S. 1 (1975) very clearly states that the Congress does not have the right to appoint members of commissions in the executive branch. There are some functions of the Civil Rights Commission, such as the National Clearinghouse on Civil Rights, the establishment and payment of expenses for State advisory commissions, and the publication of Civil Rights Commission regulations and policies in the Federal Register which can properly be determined as executive branch functions.

I do not think this concern is enough to undo the deal and if litigation should subsequently state that those types of functions cannot be performed by a commission that is composed partially of appointees of the President and partially of appointees of the Congress, the Congress will have to make the necessary corrections by remedial legislation.

I would further ask my colleague from California (Mr. EDWARDS) to clarify the provisions of section 6(i)(3) of the Senate amendment which states that the Commission shall make arrangements for the transfer of all field records and balances of appropriations from the existing Civil Rights Commission to the new Commission that is established by the Senate amendment which we are about to concur in today.

Is it the intention of the gentleman from California (Mr. EDWARDS) that the old Commission records shall be transferred to the new Commission rather than deposited with the General Services Administration as is provided by existing law?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. EDWARDS of California. Section 6(i)(3) of the Senate amendment to H.R. 2230 clearly states that the current Commission, and I quote, "shall make arrangements for the transfer of all files, records, and balances of appropriations," of the present Commission to the new Commission created under this act.

The reason for this language is that the clear intent of the Congress is that the new Commission shall be the successor to the current Commission.

Mr. SENSENBRENNER. I thank the gentleman for that explanation.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in support of H.R. 2230, to reauthorize the U.S. Civil Rights Commission. I am most gratified that we have before us today legislation that will finally satisfy all who wish to continue the important work of the Civil Rights Commission. My colleagues on the House Judiciary Committee and our counterparts in the other body have worked many long and hard hours on this compromise.

Mr. Speaker, the road to today's vote has been filled with detours. Many problems have intervened in what seemed to be a simple task. In his State of the Union address last January, President Reagan indicated his strong support for reauthorization of the Civil Rights Commission. On May 12, the Judiciary Committee, by voice vote, approved H.R. 2230 as a 15-year reauthorization.

Between this vote and floor action on H.R. 2230, the President nominated three new members of the Civil Rights Commission to replace incumbent Commissioners. These nominations called into question the true independence of the Civil Rights Commission. No President had ever tried to appoint a majority of the Commissioners, nor had Commissioners been fired without cause. The President had already fired two Commissioners in 1982.

As a result of the President's actions, the House on August 4 approved, by a bipartisan vote of 286–128, an amendment to H.R. 2230 providing that Commissioners could be removed only for "neglect of duty or malfeasance in office." With the authorization reduced to 5 years, the House passed the bill 400–24.

At the same time the nominees were pending in the Senate Judiciary Committee, the committee also had to consider the reauthorization bill. The fight over the nominees centered on the threat to the independence of the Commission if they were confirmed. For the rest of the summer and early fall, a bipartisan compromise was forged in the Senate. But this agreement was subject to efforts by the White House to get the nominees confirmed prior to reauthorization. As the September 30 deadline for reauthorization approached, it did not appear that the Commission would be in business. Fortunately, the legislation creating the Commission provides for a 60-day period to wind up the Commission's business.

The Senate Judiciary Committee deadlock continued through October. A bipartisan compromise was fashioned which increased the number of Commissioners from six to eight, with firing only for cause. This would have allowed the President two of his three nominees, and would not have changed any of the current Commissioners. It also would have given him

four of the eight Commissioners. It appeared that the Senate Judiciary Committee would have approved only two of the three nominees in any event. The compromise had the support of 65 Senators had it reached the floor.

This compromise became moot, however, when on October 25 President Reagan fired the three Commissioners he was seeking to replace. The House bill also then served no purpose, as approval of reauthorization would have effectively ratified the President's firings, and allowed him five out of six Commissioners.

On November 9, we asked Members of the House to vote in what must have seemed a very strange manner. H.R. 3222, the Commerce, Justice, State appropriations, contained funds for the Civil Rights Commission. The House had not provided any funds, but the Senate had over $11 million. If the House had receded from its position and concurred in the Senate amendment, the Civil Rights Commission would have been funded without an authorization, and without the restriction of firing only for cause. The President would have gotten all of his nominees and would have not been restricted in the future on appointments and firing of Commissioners.

Mr. Speaker, the House and the Senate made two principles very clear during consideration of reauthorization of the Civil Rights Commission. First, no President in a single term could appoint a majority of Commissioners, and, second, Commissioners could only be fired for cause.

Therefore Members were asked to vote against the motion to recede from the House position and concur in the Senate amendment, despite the alleged threat to the entire appropriations bill. The conferees were also instructed to insist on the House position. This effort was successful, and I want to thank all who joined in this important vote.

It was due, in part, to this vote, that the Senate, the civil rights community, and the President were able to reach the compromise which is before us today. With approval today of H.R. 3222, the Commerce, Justice, State appropriations bill, the work of the Civil Rights Commission can now continue.

The bill before us today will provide for an eight member Civil Rights Commission, with four members appointed directly by the President without confirmation by the Senate, two appointed by the Speaker of the House, and two appointed by the President pro tempore of the Senate, all in consultation with the Congressional leadership. These congressional appointments will be two Democrats and two Republicans. Once this legislation is passed, it is my hope that the appointments can be made quickly so there is no break in the work of the Commission on November 29.

Several questions have been raised about the constitutionality of this new hybrid Commission. I have reviewed material from Senate and House Judiciary Committee staff and the Congressional Research Service, and I am convinced that the reconstituted Commission is constitutional. Council to the President Fred Fielding also concurs in this conclusion.

The issue of constitutionality centers on whether congressional appointment of Commissioners violates the appointments clause requiring the President to appoint all "officers of the United States." Specifically, whether an executive branch agency can be composed of both legislative and executive branch appointees. A close reading of the relevant cases demonstrates that such appointments are constitutional as long as the agency or Commission performs only legislative functions, such as investigation, dissemination, or receiving information. Congress may delegate such powers as it has or delegates to its committees to another entity, composed only of Presidential appointees, congressional appointees, or mixed congressional-Presidential appointments.

In 1960, the case of *Hannah* v. *Larche,* 363 U.S. 420, held that the Civil Rights Commission "is purely investigative and fact-finding. It does not adjudicate. . . . the only purpose of its existence is to find facts which may subsequently be used as the basis for legislative or executive action." Members may argue that the case of *Buckley* v. *Valeo,* 424 U.S. 1 (1975), calls into question the joint appointments, as *Buckley* held that legislative branch appointments to the Federal Election Commission were unconstitutional due to the executive branch functions of the FEC. The court in *Buckley* also held that the FEC, even with legislative branch appointees, could perform all of its investigatory, fact-finding, and dissemination of information functions. Since the Civil Rights Commission performs only legislative functions, the *Buckley* decision, in my judgment, does not apply. H.R. 2230 and the joint appointment authority is, therefore, constitutional.

Unlike the FEC, the current Civil Rights Commission must seek the approval of the Attorney General prior to issuing subpenas. It cannot perform this executive function. Further, any executive functions that cannot be performed by the Commission, and I believe there are none that can be called into question, will be struck without affecting the rest of the duties of the Commission, nor the appointment process we are approving today.

It has been suggested that the President appoint four Commissioners based only on the recommendations of the House and Senate, along with his own four appointees. The question of congressional interference with the President's article II appointment power must be raised under this proposal. In my view, this would be more subject to constitutional challenge than the current process under H.R. 2230. Article II grants appointment power to the President, subject to confirmation by the Senate, not subject to the recommendations of the Senate or the House.

Mr. Speaker, H.R. 2230 is a fair compromise, and a constitutional answer to the dilemma facing the Congress since early last spring on how to reauthorize the Civil Rights Commission. I want to thank all who have worked so hard on this important measure. I urge my colleagues to support H.R. 2330.

Mr. EDWARDS of California. Will the gentleman yield?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. I thank the gentleman and want to concur in the remarks of the gentleman from New York (Mr. FISH). He stated the legal situation exactly as we see it over here.

At this point, Mr. Speaker, I ask unanimous consent to insert into the RECORD a memorandum upholding this opinion prepared by the Congressional Research Office. This memorandum addresses all of the points brought out by the gentleman from New York.

The memorandum referred to follows:

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. Further reserving the right to object, I yield to the gentlewoman from Colorado (Mrs. SCHROEDER).

□ 1210

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the Senate amendment to H.R. 2230 which creates a new U.S. Civil Rights Commission to replace the current Commission which has been despoiled by the blatant political purges conducted by this administration. President Reagan tried to turn a watchdog into a lap dog. This bill stops him from doing so.

The Civil Rights Commission can only do its job if it is protected from the variable and changeable breezes of public opinion. While the membership of the Commission should change over time, through the normal appointment process at the end of expired terms, it should not be rashly changed to reflect the civil rights views of a single administration, be it far left or far right. By dividing the appointment authority between the President and the Congress and by permitting removal only for cause, this bill protects

the Commission from the type of partisan blitzkriegs we have just seen.

This bill provides continuity and independence for the new Civil Rights Commission. I believe this legislation will permit the Civil Rights Commission to return to the job it has done so well, that of monitoring and reporting on our progress in achieving equality under law.

This bill permits the existing U.S. Commission on Civil Rights to terminate on November 29 and establishes a successor Commission to begin on the day of enactment. It is absolutely clear that this new Commission will be a successor organization and all employee rights will be continued and protected. Employees will continue to serve without a break in service for purposes of career status retention preference, within grade pay increases, leave accrual, health benefits, insurance, retirement, and other matters.

Further, it is clear that all employee cases before the Equal Employment Opportunity Commission, the Merit Systems Protection Board, the Federal Labor Relations Authority, the Office of Personnel Management, and other appellate and oversight agencies continue without interruption. Section 6(a)(2)(C) of the bill assures that both employees and the successor Commission will continue to be bound by the personnel rules and regulations which exist for the current Commission. Similarly, the central appellate agencies will continue to treat the Commission and its employees as they were treated prior to November 29. Furthermore, there is no requirement for a new representation election for an exclusive bargaining representative of the employees at the Commission.

Section 6(a)(2)(B) says any staff member who retired or resigned between September 30, 1983 and November 29, 1983 can come back to his or her old job. This section is intended to permit employees to reconsider decisions to leave the Commission—decisions which were made in the expectation that there would be no Commission after November 29. This is a one-time only option and should not be left open permanently. I would, therefore, expect the new Commission to announce a fixed date on which this right would be terminated. Furthermore, the Commission should take precautions so that employees do not leave, take severance pay, and then return to their old jobs. One way to do this would be to delay actual payment of severance pay until after the cutoff date for reemployment, described above.

On the other hand, employees who are on board on November 29, 1983, automatically transfer with all their rights and benefits.

Section 6(a)(2)(C)(ii) says that the new Commission is bound by all those provisions of title 5, United States Code, to which the old Commission was bound. This includes not only the personnel provisions of title 5, but the administrative procedure provisions as well. This latter group includes the Freedom of Information Act, the Sunshine Act, the Administrative Procedures Act, and the Privacy Act. As such, this section is partly redundant with section 3(m). These two sections should be considered as redundant, not conflicting.

There may be an interim period between the end of the old Commission and the time the new Commission has a quorum and full-time staff director. The President, the President pro tempore of the Senate, and the Speaker of the House should promptly appoint individuals to the positions they each have to fill.

Yet, there are day-to-day administrative requirements which may present themselves before all these appointments can be made. For the interim period, therefore, the Assistant Staff Director for Administration should act as the staff director. Acting in this capacity, this individual should have interim final authority over personnel management, fiscal management, general administrative support services, property management, procurement and contracts, security, management analysis and program evaluation. Clearly, this individual should defer all major policy determinations for the new Commission and the new staff director.

In sum, I think this bill creates a workable and independent new Civil Rights Commission to prod us to do more to secure equal rights for all.

Mr. SENSENBRENNER. Mr. Speaker, further, reserving the right to object I yield to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. I thank my colleague for yielding to me. Mr. Speaker, I would like to at this point state for the record that this effort which has taken several months to accomplish has truly been an effort that has been formed and stimulated by both sides of the aisle.

I believe there is no more important issue that has come before this body in quite some time.

I would like to thank my colleague and congratulate my colleague from California, the chairman of the subcommittee, Mr. EDWARDS, for his outstanding work on behalf of the Civil Right Commission because without his help there is no question in my mind that we would not have been able to accomplish as much as we have.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I yield at this time to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding.

Mr. Speaker, I would like the gentleman to address a question to the chairman or the ranking member; the question being whether or not this is the same version that came out of the Senate, the compromise that was effected on Monday night between the various civil rights groups and other groups interested in this legislation?

Mr. SENSENBRENNER. Further reserving the right to object, Mr. Speaker, the gentleman from New Jersey (Mr. RODINO) is absolutely correct. This is the compromise between the White House, the civil rights groups and the various contending parties in the other body, without changing so much as a comma or a period.

Mr. Speaker, I yield further to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. I thank the gentleman for yielding. I would ask, Mr. Speaker, if it is in order, that the chairman of the subcommittee who has not yet had an opportunity to explain the bill, the gentleman from California (Mr. EDWARDS) explain what the bill is all about. I think that would be rather appropriate.

If that is in order, Mr. Speaker, under the reservation I would ask that that be done.

Mr. Speaker, On August 4, the House passed H.R. 2230, which would have extended the life of the Civil Rights Commission for 5 years. The Senate Judiciary Committee considered this and similar legislation to continue the Commission as an independent body within the executive branch. But, before they were able to report the legislation, the President fired three of the sitting Commissioners. In order to assure the continued independence of the Commission, a bipartisan group of House and Senate Members introduced similar concurrent resolutions to transfer the Commission to the legislative branch, thereby taking the appointment process completely away from the executive branch.

The amendment before us today was adopted by the Senate on Monday and represents a compromise between all the various civil rights groups, the Congress, and the administration. The Senate vote on this amended bill was 78 to 3, which represents an unequivocale, bipartisan commitment in the Congress for a strong, and independent Civil Rights Commission.

The U.S. Commission on Civil Rights has been the conscience of our Nation. It has applauded our successes and warned us of our failures. We have come a long way in our struggle to achieve equality of rights for all, since the Commission was created in 1957, but we in the Congress recognize that we still have a long way to go.

It is for this reason that we have fought so hard to achieve our goal of maintaining a viable and independent Civil Rights Commission. The compromise before us today does just that.

Mr. Speaker, we owe a special thanks to all of the House and Senate Members who have worked so dilegently on this issue. We also owe thanks to all the civil rights groups, including the National Association for the Advancement of Colored People (NAACP), the Urban League, the League of United Latin American Citizens (LULAC), and the Mexican-American Legal Defense and Education Fund (MALDEF) for their endless efforts on behalf of this most important issue.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object I am happy to note that sweetness and light has returned to the Committee on the Judiciary.

Mr. Speaker, at this time I yield to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. This legislation, which was adopted by the Senate on Monday, by a vote of 78 to 3, is the result of lengthy and delicate discussions over a period of months. It is a compromise which retains an independent, bipartisan Commission and is supported by both Democrats and Republicans in the Senate and the House, by the administration, and by the civil rights community.

I urge approval of the Senate amendment to H.R. 2230 because I believe it fulfills the intent of the original bill.

Under the Senate amendment to H.R. 2230 there will be an eight-member Commission on Civil Rights, with not more than four members being of the same political party. Four members will be appointed by the President, two by the House leadership, and two by the Senate leadership. The term of office for each part-time Commissioner will be 6 years and the President may only remove a Commissioner for neglect of duty or malfeaseance in office.

The duties and responsibilities of the Commission created under this bill will be the same as those of the current Commission. Thus, it will also play an important role as this Nation's civil rights "watchdog."

The bill, as amended by the Senate, authorizes $12,180,000 for fiscal year 1984 and "such sums as are necessary" for each succeeding fiscal year ending prior to October 1, 1989.

It has been a long and, at times, difficult road we have traveled to reach this compromise. I want to thank all the House Members, both Democrats and Republicans, who have supported us along the way. Without your help we would not have been able to preserve an independent, bipartisan Civil Rights Commission.

Republican and Democratic Members in the other body, who together with the civil rights community worked hard to craft this proposal, also deserve our gratitude for their efforts and especially for their persistence in assuring the attainment of our mutual goals.

I also want to address myself to an issue which has been raised with regard to this compromise proposal. It has been suggested by some that since the appointment power is shared between the President and the Congress that this Commission will be found to be unconstitutional under the 1976 *Buckley* v. *Valeo* decision (424 U.S. 1). It is important to note that in that case, the U.S. Supreme Court specifically held that the Federal Elections Commission, which was also appointed in part by the President and in part by the Congress, could constitutionally exercise its investigatory functions. In a 1960 case *Hannah* v. *Larche*, 363 U.S. 4209, the Supreme Court reviewed the duties and functions of the Civil Rights Commission and concluded that the Commission performed only investigatory functions. The Commission we are creating under this House bill, as amended by the Senate, would only perform these same investigatory functions.

Thus, it is clear that this new Commission is constitutional despite the hybrid nature of the appointment process. Mr. Speaker, at this point, I ask unanimous consent to insert into the RECORD a memorandum prepared by the Congressional Research Office which addresses this very point.

Finally, it is important to state for the record that we realize that there may undoubtedly be an interim period during which there will not be a full-time staff director to oversee the day-to-day administrative requirements of the Commission. For that interim period, therefore, the Assistant Staff Director for Administration should act as the staff director. In this capacity, this individual should have interim final authority over personnel and fiscal management and the other responsibilities which must be carried out (and are set forth in the statement of the gentlewoman from Colorado who chairs the Civil Service Subcommittee of the Post Office and Civil Service Committee.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I yield at this time to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I want to concur in the remarks of the gentleman from California and add to my words my praise of him. We would not be securing an independent Civil Rights Commission today had the gentleman from California (Mr. EDWARDS) not exhibited his leadership and stayed firm when it looked like there would be no Commission at all unless there was complete capitulation to the President and sacrifice of the Commission's independence. Many people said he was doing the wrong thing. I think today's result has proven that the gentleman's leadership has been singular and exemplary in preserving an independent Civil Rights Commission.

This bill, after a long, hard and tortured road, finally affords us the independence we seek. Once again, I would like simply to compliment all of the players. Thsi is one of the few results in this Congress of which I am really proud to have been a part.

I am pleased to support this compromise amendment to extend the U.S. Civil Rights Commission for 6 years. As a member of the Subcommittee on Civil and Constitutional Rights, I have participated in every step in the process leading us to this point today. I listened to all the testimony in the hearings we held on H.R. 3320 to extend the Commission which this House adopted in August.

Then, when the President fired the three Commissioners from office after we passed legislation that would allow removal only for neglect of duty or malfeasance in office, I joined my colleagues to vote down the conference report last week. To do otherwise would have ratified the President's firing of the three members after he failed to pack the Commission and allowed him to replace them with members who would rubber stamp his civil rights policies.

I participated in all the meetings and negotiations with the civil rights community and bipartisan members of the House and Senate who wanted to see the Civil Rights Commission survive but only as the independent Commission that it was intended to be. I am satisfied that this compromise will protect the Commission's independence and I urge you to vote for the Senate amendment today.

A strong, independent Civil Rights Commission is essential if we as a nation are to continue our commitment to equality and justice for all people regardless of race, color, religion, sex, age, handicap or national origin. Prejudice and discrimination still exist in this country. We need a Civil Rights Commission to study, monitor, and investigate civil rights violations and to recommend forceful Federal Government responses. Without it, there really is no oversight mechanism within the Federal Government.

The ability of a Civil Rights Commission to act vigorously depends on its independence. If a President can fire a Commissioner at will, no Commissioner will be able to speak candidly free from political pressure. The

very authority of the Commission is derived from its independence and nonpartisanship.

Congress, too, depends on the independence and candor of the Commission, as Justice Frankfurter emphasized in a 1960 opinion: "The objective of the Commission on Civil Rights, the purpose of its creation, and its true functions are . . . to develop facts upon which legislation may be based."

This compromise protects these interests. It is a real compromise that both sides had to yield on, not one side alone.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I yield at this time to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman for yielding to me.

Mr. Speaker, as a member of this subcommittee I would like to congratulate all the parties and further observe that what the Senate said to us, and what the House I hope will say to us, is that we find the Civil Rights Commission to be of such unique value that even where there are the great differences and the currents that divided us earlier this year, that it is very important that this body continue, that it retains its independence.

I really want to sincerely congratulate the Members on both sides of the aisle in both bodies of the Congress for the great job done.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

● Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the compromise on the U.S. Civil Rights Commission which was recently approved by the Senate as an amendment to House-passed legislation, H.R. 2230, to reauthorize the Civil Rights Commission. I want to commend the gentleman from California (Mr. EDWARDS) for his outstanding leadership and tireless work on this vitally important issue.

This compromise would create a new eight-member Commission on Civil Rights. The President would appoint four members while the leadership in the House and Senate would each appoint two members. This compromise embodies language which was the heart of the House-passed reauthorization to forbid the President from removing Commissioners except for neglect of duty or malfeasance in office.

Mr. Speaker, if we do not approve this compromise today, the Civil Rights Commission will go out of existence in less than 2 weeks. This crisis was brought on 6 months ago when President Reagan announced he was replacing three current members of the Commission with appointees more to his liking. Never in the 26-year history of the Civil Rights Commission had a President fired Commissioners because he didn't want to hear their criticisms or their recommendations on how to improve civil rights in America. It is not difficult to understand the President's motives however, for his administration has compiled a dismal record in the area of civil rights and equal opportunity for all Americans. This sad reality is only highlighted by the President's efforts to silence the Civil Rights Commission.

President Reagan's actions threatened to forever compromise the integrity and independence of the only Government agency assigned the task of monitoring civil rights in the United States and making recommendations on how to assure that Hispanics, blacks, women, and other minorities are afforded the same privileges as all Americans. The House quickly responded by approving legislation to reauthorize the Civil Rights Commission on the condition that no member could be removed without cause. But the President would not budge. He was determined to stack the Commission in his favor.

With the full support of the Congressional Hispanic Caucus, of which I am a member, along with the Congressional Black Caucus, the Congressional Caucus for Women's Issues, civil rights groups across the Nation, and leaders of both parties in the House and Senate, Congressman EDWARDS introduced legislation to establish a new Civil Rights Commission within the legislative branch. This bipartisian effort coupled with the ruling of a Federal judge barring President Reagan from firing the three members of the Commission forced the administration to accept the compromise we have under consideration today.

Mr. Speaker, we have come a long way in the area of civil rights, but we have a long way to go. We need a free, unbiased, and independent U.S. Commission on Civil Rights to complete this work and to assure that Hispanics, blacks, women, and other minorities have a strong voice in our democratic decisionmaking process. Our Nation will not realize its true potential for greatness until the goal of equality under the law for every American is achieved. I urge Members to vote for the Senate amendment to H.R. 2230 to establish a new Commission on Civil Rights.●

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of California). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken today after debate is concluded on all motions to suspend the rules or at such other time as subsequently announced by the Chair pursuant to clause 5, rule I.

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4325 to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Child Support Enforcement Amendments of 1983".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Purpose of the program.
Sec. 3. Improved child support enforcement through required State laws and procedures.
Sec. 4. 90-percent matching for automated management systems used in income withholding and other required procedures.
Sec. 5. Continuation of support enforcement for AFDC recipients whose benefits are being terminated.
Sec. 6. Financial incentives for balanced and efficient State programs.
Sec. 7. Special project grants to promote improvements in interstate enforcement.
Sec. 8. Periodic review of effectiveness of State programs; modification of penalty.
Sec. 9. Extension of section 1115 demonstration authority to child support enforcement program.

Sec. 10. Child support enforcement for certain children in foster care.
Sec. 11. Enforcement with respect to both child and spousal support.
Sec. 12. Modifications in content of Secretary's annual report.
Sec. 13. Requirement that availability of child support enforcement services be publicized.
Sec. 14. State commissions on child support.
Sec. 15. Wisconsin Child Support Initiative.
Sec. 16. Inclusion of medical support in child support orders.
Sec. 17. Increased availability of Federal parent locator service to State agencies.
Sec. 18. Extension of eligibility under title XIX when support collection results in termination of AFDC eligibility.
Sec. 19. General effective date.

PURPOSE OF THE PROGRAM

SEC. 2. Section 451 of the Social Security Act is amended by striking out "and obtaining child and spousal support," and inserting in lieu thereof "obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested,".

IMPROVED CHILD SUPPORT ENFORCEMENT THROUGH REQUIRED STATE LAWS AND PROCEDURES

SEC. 3. (a) Section 454 of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (19) the following new paragraph:

"(20) provide that (subject to section 466(d)) the State (A) will have in effect all of the laws required by section 466, and (B) will implement the procedures (designed to improve child support enforcement effectiveness) which are embodied or prescribed in such laws.".

(b) Part D of title IV of such Act is further amended by adding at the end thereof the following new section:

"REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

"SEC. 466. (a) In order to be in compliance with the provisions of section 454(20)(A) at any time, each State must have enacted (and have in effect at that time) laws establishing, embodying, or requiring the use of the following procedures, consistent with regulations of the Secretary, to increase the effectiveness of the program it administers under this part:

"(1) Procedures (more particularly set forth in subsection (b)) for the withholding from income of amounts payable as support.

"(2) Procedures assuring (in accordance with regulations of the Secretary) that the State will make all reasonable efforts to expedite and otherwise improve the establishment of, compliance with, and enforcement of child support obligations and any related obligations arising under or in connection with the support orders involved.

"(3) Procedures under which, at the request of the State child support enforcement agency, for the purpose of enforcing a support order of that or any other jurisdiction—

"(A) any refund of State income tax which would otherwise be payable to an individual will be reduced, after notice to that individual of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any past-due support (as defined in section 464(c)) owed by such individual, in every case where the support obligation involved has been assigned to the State pursuant to section 402(a)(26), and in any other case at the option of the State; and

"(B) the amount by which such refund is reduced will be retained by the State for distribution in accordance with section 457(b)(3), and notice of the individual's home address will be furnished to the State agency administering the plan approved under this part.

The Secretary may prescribe regulations specifying the minimum amount of a refund, and the minimum amount of past-due support, to which the procedures required by this paragraph may apply.

"(4) Procedures under which liens are imposed against real and personal property for amounts of past-due support (as so defined) owed by an absent parent who resides or owns property in the State.

"(5) Procedures which permit the establishment of an individual's paternity for any child at any time prior to such child's eighteenth birthday.

"(6) Procedures which require in appropriate cases that an individual give security, post a bond, or give some other guarantee to secure payment of past-due support (as so defined) if such individual is an absent parent who has a demonstrated pattern of overdue support payments, after notice to such individual of the proposed requirement and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

"(7) Procedures by which information regarding the amount of past-due support (as so defined) owed by an absent parent residing in the State will be made available to any consumer credit bureau organization (as defined in section 416 of Public Law 96-374) upon the request of such organization; except that (A) if the amount of the past-due support involved in any case is less than $1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after such parent has been notified of the proposed action and given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) a fee for furnishing such information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting organization by the State.

"(8) Procedures under which child support payments under this part will be made through the State agency or other entity which administers the State's income withholding system (described in paragraph (1) and subsection (b)) in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or $25, whichever is less, shall be imposed on the requesting parent by the State.".

"(b) Under the procedures referred to in subsection (a)(1) (relating to the withholding from income of amounts payable as support)—

"(1) in the case of each absent parent against whom a support order is or has been issued or modified in the State, so much of his or her wages must be withheld, in accordance with the succeeding provisions of this subsection, as is necessary to comply with the order and to provide for the payment of any fee to the employer which may be required under paragraph (6)(A) (except that the amounts withheld shall not exceed the amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)), and the amounts to be withheld to satisfy arrearages may be appropriately limited by the State law);

"(2) such withholding must be initiated without the necessity of any application therefor in the case of a child (whether or not eligible for aid under part A) with respect to whom services are already being provided under this part, and will be initiated upon the filing of an application for services under this part with the State agency in the case of any other child in whose behalf a support order has been issued or modified in the State; and in either case such withholding must occur without the need for any amendment to the support order involved or for any further action by the court or other entity which issued it;

"(3) such withholding must be carried out in full compliance with all procedural due process requirements of the State and must begin as soon as is administratively feasible, in any event by the earliest of (A) the date on which such procedures become effective, the date on which such order becomes effective, the date on which the payments which the absent parent has failed to make under such order are at least equal to the support payable for one month, or (if the absent parent contests the withholding) the date specified in the notice given such parent under paragraph (5)(B), whichever of the four is latest, (B) the date as of which the absent parent requests that such withholding begin, or (C) such earlier date as the State may select;

"(4) such withholding must be administered by a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) which provide for the keeping of adequate records to document payments of support and permit the tracking and monitoring of such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the administration of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments;

"(5) the State (A) must provide advance notice to each individual to whom paragraph (1) applies regarding the proposed withholding and the procedures the individual should follow if he or she desires to contest such withholding on the grounds that

withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact, and (B) if the individual contests such withholding on the grounds specified in clause (A), shall determine whether such withholding will actually occur, and (if so) shall notify the individual of the date on which such withholding is to begin, within no more than 30 days after the provision of such advance notice;

"(6)(A)(i) the employer of any individual to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such individual's wages the amount specified by such notice (which shall include a fee, established by the State in accordance with criteria prescribed by the Secretary, to be paid to the employer unless waived by him or her) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the appropriate State agency (or other entity authorized to collect the amounts withheld under the alternative procedures described in paragraph (4)) for distribution in accordance with section 457; and

"(ii) the notice given to the employer must be a separate and distinct document, containing no matter other than the amounts to be withheld from the employee's wages, the date on which the withholding is to begin, the amount to be retained by the employer as a fee for effectuating the withholding, and such other information as may be necessary for the employer to comply with the withholding order;

"(B) methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to the appropriate State agency (with the portion thereof which is attributable to each individual employee being separately designated);

"(C) the employer must be held liable to the State for any amount which such employer fails to withhold from wages due an employee when such amount is required under this subsection to be so withheld (up to the amount of the arrearage) following receipt by such employer of proper notice under subparagraph (A); and

"(D) provision must be made for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any individual subject to wage withholding because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer;

"(7) provision must be made under State law for the priority of support collection under this subsection over any other legal process under State law against the same wages;

"(8) the State may take such actions as may be necessary to extend its system of wage withholding under this subsection so that such system will include withholding from forms of income other than wages, or will include the imposition of bonding or other requirements in cases involving individuals whose income is from sources other than wages, in order to assure that child support owed by individuals in the State will be collected without regard to the types of such individuals' income or the nature of their income-producing activities;

"(9) the State must make such arrangements and enter into such agreements with other States as may be necessary—

"(A) to extend its withholding system under this subsection so that such system will include withholding from income derived within such State in cases where the applicable support orders were issued in other States, and

"(B) to encourage the extension of the withholding systems of other States under this subsection so that such systems will include withholding from income derived in those States in cases where the applicable support orders were issued in such State,

in order to assure insofar as is possible that child support owed by individuals in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child's custodial parent; and

"(10) provision must be made for terminating withholding.

In order to assure that income withholding as a means of collecting child support is available without the necessity of filing application for services under this part, the laws referred to in subsection (a) must require in the case of any State that all child support orders which are issued or modified in such State on or after the effective date of this section shall include provision for withholding from income whenever arrearages occur.

"(c) As used in this section, the term 'wages' means any and all cash remuneration for employment, determined without regard to any exclusions from or limitations on such term (or the term 'employment') which may be applicable under other provisions of this Act or under other Federal, State, or local laws.

"(d) If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other actual data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State for a specified period of time, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.".

(c) The amendments made by this section shall become effective October 1, 1985.

90-PERCENT MATCHING FOR AUTOMATED MANAGEMENT SYSTEMS USED IN INCOME WITHHOLDING AND OTHER REQUIRED PROCEDURES

SEC. 4. (a) Section 454(16) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof the following: "(D) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) through the monitoring of child support payments, the maintenance of accurate records regarding the payment of child support, and the provision of prompt notification to appropriate officials with respect to any arrearages in child support payments which may occur, and (E)".

(b) Section 455(a)(3) of such Act is amended—

(1) by inserting after "automatic data processing and information retrieval system" the following: "(including the hardware components thereof)"; and

(2) by inserting before the semicolon at the end thereof the following: ", or meets such requirements without regard to clause (D) thereof".

(c) The amendments made by this section shall apply with respect to quarters beginning after the date of the enactment of this Act.

CONTINUATION OF SUPPORT ENFORCEMENT FOR AFDC RECIPIENTS WHOSE BENEFITS ARE BEING TERMINATED

SEC. 5. (a) Section 457(c) of the Social Security Act is amended—

(1) by striking out "may" in the matter preceding paragraph (1) and inserting in lieu thereof "shall"; and

(2) by striking out "the net amount of" in paragraph (2), and by striking out "to the family" and all that follows in such paragraph and inserting in lieu thereof "to the family (without requiring any formal reapplication and without the imposition of any application fee) on the same basis as in the case of other individuals who are not receiving assistance under part A of this title,".

(b) The amendments made by subsection (a) shall become effective October 1, 1985.

FINANCIAL INCENTIVES FOR BALANCED AND EFFICIENT STATE PROGRAMS

SEC. 6. (a) Section 458 of the Social Security Act is amended to read as follows:

"INCENTIVE PAYMENTS TO STATES

"SEC. 458. (a) In order to encourage and reward State child support programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether they are eligible or ineligible for aid to families with dependent children under a State plan approved under part A of this title (and regardless of the economic circumstances of their parents), the Secretary (subject to section 6(b) of the Child Support Enforcement Amendments of 1983) shall pay to each State for each fiscal year, on a quarterly basis (as described in subsection (d)) beginning with the quarter commencing October 1, 1985, an incentive payment equal to—

"(1) 4 per centum of the total amount of support collected during the fiscal year in cases (filed with the State agency under this part) in which the support obligation involved is assigned to the State pursuant to section 402(a)(26) (with such total amount for any fiscal year being hereafter referred to in this section as the State's 'AFDC collections' for that year), plus

"(2) 4 per centum of the total amount of support collected during the fiscal year in all other cases filed with the State agency under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State's 'non-AFDC collections' for that year);

except that (A) if subsection (b) applies with respect to a State's AFDC collections or non-AFDC collections for any fiscal year, the percent specified in paragraph (1) or (2) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year, and (B) the dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its non-AFDC collections under paragraph (2) (with or without the application of subsection (b)) shall in no case exceed 125 percent of the dollar amount of the portion of such payment which is determined on the basis of its AFDC collections under paragraph (1) (with or without the application of such subsection).

"(b) If the total amount of a State's AFDC collections or non-AFDC collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 454 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's 'combined AFDC/non-AFDC administrative costs' for that year) which is equal to or greater than one, the percent specified in paragraph (1) or (2) of subsection (a) (with respect to such collections) shall be increased to—

"(1) 5 per centum, plus

"(2) one-half of 1 per centum for each full one-tenth by which such ratio exceeds one;

except that the percent so specified shall in no event be increased (for either AFDC collections or non-AFDC collections) to more than 10 per centum. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined AFDC/non-AFDC administrative costs for that year.

"(c) In computing incentive payments under this section, support which is collected by one State on behalf of children residing in another State shall be treated as having been collected in full by each such State.

"(d) The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available; and the Secretary shall make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated.

"(e) If one or more political subdivisions of a State participate in the costs of enforcement and collection of support in cases filed with the State agency of such State during any period, such subdivision or subdivisions shall be entitled to receive an appropriate share (as determined under regulations prescribed by the Secretary) of any incentive payments made to the State under this section with respect to that period, and the State's right to receive such incentive payments shall be conditional upon its execution of an agreement satisfactory to the Secretary to pay such share to such subdivision or subdivisions.".

(b) The amendment made by subsection (a) shall become effective October 1, 1985; but if the total amount of the incentive payments to which any State is entitled under section 458 of the Social Security Act as amended by subsection (a) for the fiscal year 1986 is less than 80 per centum of the amount that would have been payable to such State for that fiscal year under section 458 of such Act if such section as in effect prior to such amendment had remained in effect and its provisions had been applied to collections made by such State in that fiscal year, the Secretary of Health and Human Services shall make such additional payments to the State under section 458 of such Act (as amended by subsection (a)), for quarters in the fiscal year 1986, as may be necessary to assure that the total amount of such incentive payments for that fiscal year is no less than 80 per centum of the amount that would have been so payable under section 458 of such Act as in effect prior to such amendment.

SPECIAL PROJECT GRANTS TO PROMOTE IMPROVEMENTS IN INTERSTATE ENFORCEMENT

SEC. 7. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In order to encourage and promote the development and use of more effective methods of enforcing support obligations under this part in cases where either the children on whose behalf the support is sought or their absent parents do not reside in the State where such cases are filed, the Secretary is authorized to make grants, in such amounts and on such terms and conditions as the Secretary determines to be appropriate, to States which propose to undertake new or innovative methods of support collection in such cases and which will use the proceeds of such grants to carry out special projects designed to demonstrate and test such methods.

"(2) A grant under this subsection shall be made only upon a finding by the Secretary that the project involved is likely to be of significant assistance in carrying out the purpose of this subsection; and with respect to such project the Secretary may waive any of the requirements of this part which would otherwise be applicable, to such extent and for such period as the Secretary determines is necessary or desirable in order to enable the State to carry out the project.

"(3) At the time of its application for a grant under this subsection the State shall submit to the Secretary a statement describing in reasonable detail the project for which the proceeds of the grant are to be used, and the State shall from time to time thereafter submit to the Secretary such reports with respect to the project as the Secretary may specify.

"(4) Amounts expended by a State in carrying out a special project assisted under this section shall be considered, for purposes of section 458(b) (as amended by section 6(a) of the Child Support Enforcement Amendments of 1983), to have been expended for the operation of the State's plan approved under section 454.

"(5) There is authorized to be appropriated the sum of $15,000,000 for each fiscal year beginning with the fiscal year 1985, to be used by the Secretary in making grants under this subsection.".

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS; MODIFICATION OF PENALTY

SEC. 8. (a)(1) Section 452(a)(4) of the Social Security Act is amended to read as follows:

"(4) conduct a review of such State's program pursuant to such plan, no less frequently than once every three years, in order to determine whether such program substantially complies with the requirements of this part and to evaluate its effectiveness in carrying out the purposes of this part;".

(2) Section 402(a)(27) of such Act is amended by striking out "operate a child support program in conformity with such plan" and inserting in lieu thereof "operate a child support program in substantial compliance with such plan".

(b) Section 403(h) of such Act is amended to read as follows:

"(h) In any case where a State's program operated under part D is found by the Secretary as a result of a review conducted under section 452(a)(4) not to meet the requirements of such part, and where corrective action within such period or periods as the Secretary may by regulation prescribe has not been adequate to place the program (after such period or periods) in substantial compliance with all such requirements, the amount otherwise payable to such State under this part for any quarter beginning after September 30, 1983, and after the close of the applicable period for corrective action, shall be reduced by—

"(1) not more than 2 per centum, or

"(2) not more than 3 per centum, if the finding is the second consecutive such finding made as a result of such a review, or

"(3) not more than 5 per centum, if the finding is the third or a subsequent consecutive such finding made as a result of such a review;

and such reduction shall continue until the first subsequent quarter throughout which the program is found to meet all such requirements.".

(c) The amendments made by this section shall become effective October 1, 1983.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 9. (a) Section 1115(a) of the Social Security Act is amended—

(1) by striking out "part A" in the matter preceding paragraph (1) and inserting in lieu thereof "part A or D";

(2) by striking out "402," in paragraph (1) and inserting in lieu thereof "402, 454,"; and

(3) by striking out "403," in paragraph (2) and inserting in lieu thereof "403, 455,".

(b) Section 1115 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

"(1) must be designed to improve the financial well-being of children, and may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

"(2) must not result in increased cost to the Federal Government under the program of aid to families with dependent children.".

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SEC. 10. (a)(1) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

"(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administra-

tive order to be paid on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

"(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of aid to families with dependent children) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the child care placement, for use by such agency in accordance with paragraph (2).".

(2) Section 457(b) of such Act is amended by inserting "(subject to subsection (d))" after "shall" in the matter preceding paragraph (1).

(b) Part D of title IV of such Act is further amended—

(1) in section 454(4)(B), by inserting "including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E," immediately after "such assignment is effective,", and by inserting "or E" immediately after "part A"; and

(2) in section 456(a), by inserting "or secured on behalf of a child receiving foster care maintenance payments" immediately after "section 402(a)(26)".

(c) Section 471(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.".

(d) The amendments made by this section shall become effective October 1, 1983, and shall apply to collections made on or after that date.

ENFORCEMENT WITH RESPECT TO BOTH CHILD AND SPOUSAL SUPPORT

SEC. 11. (a) Section 454(4)(B) of the Social Security Act is amended by striking out "and, at the option of the State," and inserting in lieu thereof ", and".

(b) The amendment made by subsection (a) shall become effective October 1, 1985.

MODIFICATIONS IN CONTENT OF SECRETARY'S ANNUAL REPORT

SEC. 12. (a) Section 452(a)(10)(C) of the Social Security Act is amended—

(1) by inserting "(i)" immediately after "(C)"; and

(2) by adding at the end thereof the following new clause:

"(ii) the payment status of all child support cases in each State for which an obligation has been established at the time the report is submitted (with a separate description of those cases which are interstate in nature), as more particularly set forth in subsection (f);".

(b) Section 452 of such Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) The information with respect to child support cases in each State which is required by subparagraph (C)(i) of subsection (a)(10) to be contained in any report submitted under such subsection shall specifically include the following, separately stated for each of the 12 categories of cases specified in paragraph (2):

"(A)(i) The total number of such child support cases (filed with the State agency of such State under this part) in which the full amount of the support obligation has been paid for all months in the particular fiscal year to which the report relates, with the amounts of the support obligations involved in those cases;

"(ii) the total number of such cases in which at least 90 percent but less than the full amount of the support obligation has been so paid, with the amounts of the support obligations established and support collections made in those cases;

"(iii) the total number of such cases in which at least 66⅔ percent but less than 90 percent of the support obligation has been so paid, with the amounts of the support obligations established and support collections made in those cases;

"(iv) the total number of such cases in which at least 33⅓ percent but less than 66⅔ percent of the support obligation has been so paid, with the amounts of the support obligations established and support collections made in those cases;

"(v) the total number of such cases in which some but less than 33⅓ percent of the support obligation has been so paid, with the amounts of the support obligations established and support collections made in those cases; and

"(vi) the total number of such cases in which no part of the support obligation has been paid, with the amounts of the obligations involved in those cases; and

"(B) the number of such child support cases (filed with the State agency of such State under this part), in each of the six subclasses described in clauses (i) through (vi) of subparagraph (A) within each of such categories, which were filed in such State on behalf of children residing in another State or against parents residing in another State in the particular fiscal year to which the report relates, specifying (for each such subclass)—

"(i) the total number of such cases which were initiated in the State of filing, with the amounts of the support obligations established and support collections made in those cases,

"(ii) the number of such cases which were initiated in another State (identifying each such State by name) and in which the State of filing was requested to take action to establish paternity, obtain support obligations, or collect support,

"(iii) the number of the cases described in clause (ii) in which action was taken in response to the request, and

"(iv) the actions (described in clause (ii)) which were so taken.

Such information shall also include any other matter which the Secretary may deem necessary for an effective assessment of the current status of interstate child support collections.

"(2) The categories of child support cases (filed with the State agency of a State under this part) with respect to which information is to be provided in the report, under subparagraphs (A) and (B) of paragraph (1), shall include—

"(A) four categories of cases in which the support rights involved are assigned to the State under section 402(a)(26) and in which the child is currently receiving aid to families with dependent children, as follows:

"(i) all such cases in which a support obligation has been established,

"(ii) all such cases in which a new or increased support obligation was so established during the particular fiscal year to which the report relates,

"(iii) those cases described in clause (i) in which support was collected under this part during such fiscal year, and

"(iv) those cases described in clause (ii) in which support was collected under this part during such fiscal year;

"(B) four categories of cases in which the support rights involved are assigned to the State under section 402(a)(26) but in which the child is not currently receiving aid to families with dependent children, as follows:

"(i) all such cases in which a support obligation has been established,

"(ii) all such cases in which a new or increased support obligation was so established during the particular fiscal year to which the report relates,

"(iii) those cases described in clause (i) in which support was collected under this part during such fiscal year, and

"(iv) those cases described in clause (ii) in which support was collected under this part during such fiscal year; and

"(C) four categories of cases to which neither subparagraph (A) nor subparagraph (B) applies, as follows:

"(i) all such cases in which a support obligation has been established,

"(ii) all such cases in which a new or increased support obligation was so established during the particular fiscal year to which the report relates,

"(iii) those cases described in clause (i) in which support was collected under this part during such fiscal year, and

"(iv) those cases described in clause (ii) in which support was collected under this part during such fiscal year.".

(c) The amendments made by this section shall apply with respect to reports (under section 452(a)(10) of the Social Security Act) for fiscal years beginning on or after October 1, 1986.

REQUIREMENT THAT AVAILABILITY OF CHILD SUPPORT ENFORCEMENT SERVICES BE PUBLICIZED

SEC. 13. (a) Section 454 of the Social Security Act (as amended by sections 3(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (20) the following new paragraph:

"(21) provide that the State will regularly and frequently publicize, through public service announcements and other means, the availability of child support enforcement services under the plan and otherwise, including information as to any application fees which may be imposed for such services and a telephone number or postal address at which further information may be obtained.".

(b) The amendments made by subsection (a) shall become effective October 1, 1985.

STATE COMMISSIONS ON CHILD SUPPORT

SEC. 14. (a) As a condition of the State's eligibility for Federal payments under part A or D of title IV of the Social Security Act for quarters beginning more than 30 days after the date of the enactment of this Act and ending prior to October 1, 1985, the Governor of each State, within 30 days after such date, shall (subject to subsection (f)) appoint a State Commission on Child Support.

(b) Each State Commission appointed under subsection (a) shall be composed of members appropriately representing all aspects of the child support system, including custodial and non-custodial parents, the agency or organizational unit administering the State's plan under part D of such title IV, the State judiciary, the executive and legislative branches of the State government, child welfare and social services agencies, and others.

(c) It shall be the function of each State Commission to examine, investigate, and study the operation of the State's child support system for the primary purpose of determining the extent to which such system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under part A of title IV of such Act and for children who are not eligible for such aid, giving particular attention to such specific problems (among others) as visitation, the establishment of appropriate objective standards for support, the enforcement of interstate obligations, the availability, cost, and effectiveness of services both to children who are eligible for such aid and to children who are not, and the need for additional State or Federal legislation to obtain support for all children.

(d) Each State Commission shall submit to the Governor of the State and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation, and study under this section. The Governor shall transmit such report to the Secretary along with his comments thereon.

(e) None of the costs incurred in the establishment and operation of a State Commission under this section, or incurred by such a Commission in carrying out its functions under subsections (c) and (d), shall be considered as expenditures qualifying for Federal payments under part A or D of title IV of the Social Security Act or be otherwise payable or reimbursable by the United States or any agency thereof; except that costs incurred by such a Commission or its members for transportation within the State, and such other costs incurred by the Commission or its members as may be specifically allowed by the Secretary in regulations, shall be considered for purposes of section 455(a)(1) of the Social Security Act to be expenditures for the operation of the State's plan approved under section 454 of such Act.

(f) If the Secretary determines, at the request of any State on the basis of information submitted by the State and such other information as may be available to the Secretary, that such State—

(1) has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations,

(2) has established within the five years prior to the enactment of this Act a commission or council with substantially the same functions as the State Commissions provided for under this section, or

(3) is making satisfactory progress toward fully effective child support enforcement and will continue to do so,

then such State shall not be required to establish a State Commission under this section and the preceding provisions of this section shall not apply.

WISCONSIN CHILD SUPPORT INITIATIVE

SEC. 15. (a) If the State of Wisconsin requests the Secretary of Health and Human Services to waive any requirement or requirements of part A or D of title IV of the Social Security Act which would otherwise be applicable, so as to permit modifications in such State's programs under parts A and D of such title IV for the purpose of enabling such State to make an adequate test of its Child Support Initiative, the Secretary shall approve such request upon a determination that—

(1) the purposes of the requested waivers are—

(A) to provide the State with flexibility in the methods and procedures to be used to assist single-parent households in obtaining adequate child support (including the provision of such assistance where no application has been made for services under part D of such title IV),

(B) to permit the State to limit the testing of such Initiative to specified areas of the State, or to test alternatives in different sub-State areas, notwithstanding sections 402(a)(1) and 454(1) of such Act,

(C) to permit the State to establish payment methods or procedures designed to reinforce parental responsibility for the child, and

(D) to permit the State to use Federal payments made to it under section 403 of the Social Security Act to ensure that there is an adequate level of support in cases where the contribution of the absent parent, by itself, is inadequate (including cases where the family is ineligible for aid to families with dependent children, without requiring such family to reduce its income or assets to the prevailing level of eligibility for such aid); and

(2) the modifications in and alternative procedures under parts A and D of such title IV which would be allowed pursuant to the requested waivers will improve the financial well-being of children in the State, and will not have the effect of disadvantaging children in need of support,

and upon the approval of such request the State of Wisconsin shall be entitled (with respect to such Initiative) to receive Federal payments under parts A and D of title IV of the Social Security Act as though such Initiative, and the standards, requirements, and procedures thereunder, were in complete conformity with parts A and D of such title IV without the need for any waivers under this section; except that the modifications and alternative procedures which would be allowed pursuant to the requested waivers shall not result in total costs to the Federal Government in connection with the State's program under part A of such title IV during the period of the Initiative which are higher than the costs which would be incurred by the Federal Government during such period in connection with the State's program under part A of such title IV as that program was in effect immediately prior to the approval of the request.

(b) Amounts expended by the State of Wisconsin in carrying out its Child Support Initiative with waivers approved under subsection (a) shall be considered, for purposes of section 458(b) of the Social Security Act (as amended by section 6(a) of this Act), to have been expended for the operation of the State's plan approved under section 402.

INCLUSION OF MEDICAL SUPPORT IN CHILD SUPPORT ORDERS

SEC. 16. The Secretary of Health and Human Services shall issue regulations to require that State agencies administering the child support enforcement program under part D of title IV of the Social Security Act petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Such regulations shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX of such Act with respect to the availability of health insurance coverage.

INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR SERVICE TO STATE AGENCIES

SEC. 17. Section 453(f) of the Social Security Act is amended by striking out ", after determining that the absent parent cannot be located through the procedures under the control of such State agencies,".

EXTENSION OF ELIGIBILITY UNDER TITLE XIX WHEN SUPPORT COLLECTION RESULTS IN TERMINATION OF AFDC ELIGIBILITY

SEC. 18. Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Each dependent child, and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D, and who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins.".

GENERAL EFFECTIVE DATE

SEC. 19. Except where otherwise specifically provided, the provisions of this Act and the amendments made thereby shall become effective on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CAMPBELL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes and the gentleman from South Carolina (Mr. CAMPBELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re-

marks on the bill, H.R. 4325, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is designed to assure that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance.

Earlier this year, the Subcommittee on Public Assistance and Unemployment Compensation held extensive hearings on the effectiveness of child support enforcement programs. The testimony at those hearings made it clear that improvements were needed in our child support enforcement efforts. The central message delivered at those hearings, by witness after witness, was that the lack of compliance with court ordered child support payments is a national disgrace.

This legislation will put some teeth in our child support enforcement program. The major provisions of the bill require States to provide for:

First, the mandatory withholding from wages of child support when arrearages occur;

Second, the mandatory intercept of State income tax refunds, in the case of families receiving AFDC, to collect past due support;

Third, the placing of lines on real and personal property to enforce payment of child support; and

Fourth, the requiring of bonds, securities or other guarantees when there is a pattern of past due support.

In addition, the legislation provides for a new system of incentive payments to States to encourage the development of more effective child support enforcement programs.

Mr. Speaker, this legislation represents a truely bipartisan effort on the part of the members of the Committee on Ways and Means to address a serious problem. I want to thank the members of the subcommittee that reported the bill, in particular, Chairman FORD, Mr. CAMPBELL, the ranking minority member of the subcommittee, and Mrs. KENNELLY for their hard work. This bill could not have moved as far and as fast as it did without the active cooperation, interest, and input of Members from both sides of the aisle.

Their efforts have resulted in legislation that is sorely needed, and deserving of the support of all Members of the House.

Mr. Speaker, before recognizing the subcommittee chairman, I would like to take a few moments to thank Ken Bowler, the staff director of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means.

Ken will be leaving the committee in January and this legislation will be his last bill.

Ken joined the Ways and Means Committee staff in 1975. Over the last 8 years, he has been involved in developing every major piece of legislation passed by the Congress concerning public assistance and unemployment compensation.

Mr. Speaker, there is no one more knowledgeable about these programs than Ken Bowler. And frankly, I do not think there is anyone more concerned about the people these programs assist.

I want to wish him the best of luck, and thank him for his outstanding service to the committee and to the House.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I would like to thank the very able chairman for assisting us in moving the legislation from the full Committee on Ways and Means to the House floor.

Mr. Speaker, I rise in strong support of H.R. 4325, the bill that is before the House today. Our child support enforcement programs are in need of substantial improvement and this legislation that is before us today certainly will bring about new fresh air in this arena of child support enforcement legislation.

Mr. Speaker, according to the Census Bureau, more than 8.4 million women in 1981 were raising children whose fathers were absent. Thirty percent of these women and children were living in poverty, below the poverty level. Although most of these children should receive child support payments, obligations have been established on behalf of only 60 percent of them, but more than half of them, 53 percent, receive only partial payments or no payments at all. The Census Bureau said that these defaults were cheating children in this country out of some $4 billion per year.

Mr. Speaker, I believe that a parent's first responsibility is to provide for the upbringing and welfare of his or her children.

Unfortunately, it is far too easy today for absent parents to escape this legal and moral responsibility. This legislation is a major step in assuring that this responsibility will be met. The Subcommittee on Public Assistance and Unemployment Compensation worked long and hard in drafting this bill.

And I would thank the members of the subcommittee and especially the gentleman from South Carolina (Mr. CAMPBELL), the ranking minority member on the subcommittee, and also the gentlewoman from Connecticut (Mrs. KENNELLY) who is a prime sponsor of this legislation, in being instrumental in drafting this bill to make sure that we would have a sound piece of legislation before the House today.

Mr. Speaker, it is estimated that half of the children born this year will live in a single parent family before they reach the age of 18, one-half. And I think that is the reason why we ought to pass this legislation today and I urge my colleagues to do so.

Mr. Speaker, as I close I would like to say that I, too, would like to join with my chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) in paying tribute to Ken Bowler, who will be leaving the subcommittee as the staff director, who I have had an opportunity to work with for the last 2 years as chairperson of the subcommittee, and one who has been very able and knowledgeable in all social programs.

We pay tribute today to Mr. Bowler and we will miss him.

Mr. CAMPBELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. CONABLE) the ranking minority member of the Committee on Ways and Means.

Mr. CONABLE. Mr. Speaker, America has traditionally looked to its families to perform many of our society's most important tasks. Perhaps the most important of these is the nuturing and support of the infants and children who are our next generation.

Sadly, a stable family with two responsible and caring parents on whom their offspring can rely is too often an ideal rather than a reality. Every year, the parents of 1.2 million children are divorced and another 700,000 children are born out of wedlock. These depressing statistics compound, year after year, with the incredible result that half of the children born this year are expected to live in single-parent families before age 18.

The disruption in children's lives of being separated from one of their parents is too often exacerbated by financial abandonment as well. Parents at every income levels turn their backs on their financial support obligations. Census data indicate that the percentage of parents complying with their legal obligations to support their children is actually declining. Most of the children in single parent families will sooner or later end up on public welfare as recipients of aid to families with dependent children. Many others will hover slightly above welfare levels with incomes that provide insufficient resources over the long haul to raise children in a secure environment. These formerly middle-class families will drastically reduce their standard of living, possibly using food stamps,

title XX, public health, and remedial educational services and other State and local government programs for the first time. The indirect and probably unmeasurable costs to society of rearing half of the next generation at standards of living based on the earnings of only the custodial parent may be far greater than we can estimate. It is important, therefore, that enforcement efforts be fully available to all children, regardless of their AFDC status.

The bill before us represents a consensus on not only specific remedies which are needed but also on the critical need for strong medicine to deal with the problem of flagrant disregard by parents at all economic levels of their obligations to support their children. Clearly the old laborious case-by-case approach cannot absorb the flood of cases which are inundating the system. What is needed instead is an inexpensive and simple means of starting off new child support orders in a paying status from the beginning and bringing delinquent cases into paying status and keeping them there.

The mandatory wage withholding requirement in the bill is such a technique. Within 2 years, in every State, child support obligors who have fallen behind in their payments will have support payments deducted from their paychecks. This is a truly revolutionary provision—not because it is extreme, but because it probably will work. Noncustodial parents will no longer be permitted to finance discretionary purchases with funds that should have gone to their children.

The Committee on Ways and Means has developed a comprehensive bill. It includes many other useful and potentially effective measures which I will not take the time to describe. The Subcommittee on Public Assistance should be commended for its work with the administration in hammering out this consensus package. The tenacity and energy of HHS Secretary Margaret Heckler, and my colleagues CARROLL CAMPBELL and BARBARA KENNELLY, as well as all the others who participated, have combined to produce what we can all hope will be the beginning of an answer to the urgent child support problem.

Mr. Speaker, I think it is important to thank the people who have brought this bill this far. It was the tenacity and energy of Secretary Heckler, the gentleman from South Carolina (Mr. CAMPBELL), the gentlewoman from Connecticut (Mrs. KENNELLY), in particular; but there were Members outside the committee, like the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentlewoman from Maine (Ms. SNOWE), and others who were particularly concerned also.

Mr. Speaker, I, too, would like to thank Ken Bowler for his work on the committee. He is a concerned, involved, and very effective assistant in this type of legislation. He has been working on it for a long time and understands it thoroughly.

We wish him well in the work that lies ahead.

Mr. CAMPBELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with a feeling of accomplishment that I rise to speak in favor of H.R. 4325, the child support enforcement amendments of 1983.

The poignant issue of child support enforcement has concerned me for some time and I am gratified to see it before us today.

Every year despite increased efforts to obtain financial support for children from both their parents, it seems as if we fall farther and farther behind. Annually an estimated 2 million children with potential child support problems are added to the existing backlog. One large city on the west coast reports that they take on 1,000 new child support cases every week, more than 50,000 families every year.

□ 1230

Given these trends, it is projected that fully half of all the children born this year will live in a single-parent family before they reach age 18. And, unfortunately, given what we know about the payment of child support obligations, few of these children will receive the child support to which they are entitled. Even more depressing is the fact that census statistics show us that the percentage of obligors in compliance with child support obligations has fallen off between 1978 and 1981.

These cold statistics translate into a hard reality for the millions of single-parent families trying to raise their children on just one parent's earnings. Usually, but not always, this parent is the mother, struggling on relatively low wages to keep the family going and off of the welfare rolls.

The bill before us today stands out as one of these very unusual measures which was developed as a true bipartisan consensus. It includes a number of the concepts suggested in a bill I sponsored, others from the administration's bill and from the Economic Equity Act, great work by the gentlewoman from Connecticut (Mrs. KENNELLY), who has done an outstanding job, the leadership of the chairman of the subcommittee, the gentleman from Tennessee (Mr. FORD), the efforts of the gentlewoman from New Jersey (Mrs. ROUKEMA), the input of the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentlewoman from Maine (Ms. SNOWE), and some other things which grew out of the hearings that none of us had proposed from the beginning. All of this came together, and it came together to bring about a good bill. But I would be remiss if I did not give credit to two others: One is Mr. Ken Bowler, who is leaving the committee staff. Ken has done a good job on the majority side and for the entire committee. We have not always agreed, but he is an outstanding individual and he has done a good job. I would also like to compliment Martha Phillips who, as much as anyone else, is responsible for this legislation. Martha worked with all of us, and shepherded the legislation. It truly was a pleasure to work with her in this way.

I would like to describe the bill briefly. It attacks the child support problem from a number of different directions so that the whole package will give States better tools with which to work on child support enforcement and greater incentive to use those tools aggressively.

The keystone of the bill is the wage-withholding provision. States will have procedures to begin withholding child support from a parent's wages when past due support equals 1 month's obligation, although this withholding could begin earlier if either the parent or the State so desired. The committee has gone to considerable lengths to make sure that obligor's rights are protected and that they get advance notification of enforcement actions as well as information on how to protect those actions if there is an error of fact. The bill also responds to the employer's concerns by providing streamlined, simple and expeditious procedures and permitting employers to receive a modest fee to cover the cost of withholding.

I am pleased that several of the provisions which we initiated are in the bill. One is a requirement that when a noncustodial parent owes $1,000 or more in back support, the State will inform consumer credit agencies of this fact if they request the information. I do not believe that parents should be encouraged to contract for more debt when they have not paid their child support.

Another provision requires that beginning in 1985 all child support orders are to provide for wage withholding should the support obligation not be paid. That way, this essential first step will have been taken, and it will not be necessary for a custodial parent to return to court to get a withholding order later on.

It is the committee's intention that services provided under the federally financed child support program be available to all parents, regardless of their welfare status. To make sure that parents know about the existence of the program, the committee included a requirement that States publicize the availability of child support services through public service announcements.

Many other excellent provisions are included in this consensus proposal which was developed, as I said, with the full cooperation of the administration and both sides of the aisle. It is clear that a number of changes need to be made in the program, and this bill does not shrink from making them.

We should understand that this bill is just about the toughest piece of legislation on child support which Congress could enact and still leave the basic responsibility of support enforcement with the States. If the States energetically enforce the provisions and respond to the fiscal incentives in the bill to extend services to all children who need them, there is a good possibility that we will see a reversal of the dismal child support enforcement situation. Within a few years, it may be that nonpayment of child support will be the exception rather than the rule. I can think of few programs as important to the economic well being of children in this Nation as child support enforcement.

The bill has wide support. The President called for such a measure in his state of the Union address as did Secretary Heckler of the Department of Health and Human Services when she testified before our committee. The States' child support enforcement administrators have come out in favor of such a bill as have parents' groups and children's advocates. It is rare when such a consensus exists, and it is even more rare when the bill saves money at both Federal and State levels. But this is such an occasion. This is the right bill at the right time. I urge my colleagues to give it the same broad support it enjoyed in the Ways and Means Committee.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine (Ms. SNOWE), who had so much to do with helping us with this legislation.

Ms. SNOWE. Mr. Speaker, I rise in support of the Child Support Enforcement Amendments of 1983. As the Republican cochair of the Congressional Caucus on Women's Issues, and as a cosponsor of H.R. 4325, I want to strongly commend the members of the Subcommittee on Public Assistance for their major effort in bringing this important bill to the floor this session. The Members whose individual bills have contributed to H.R. 4325 and the effort to strengthen our child support enforcement program, including CARROLL CAMPBELL, BARBER CONABLE, MARGE ROUKEMA, and BARBARA KENNELLY—deserve special notice.

H.R. 4325 clearly is a bill that goes far beyond party politics, and answers the demand for legislation to address the economic plight of single parents and their children.

One of the major legislative priorities for the Congressional Caucus for Women's Issues during the 98th Congress is the Economic Equity Act. This important legislation was first introduced into the 97th Congress to provide greater economic equity for women, and I think it is worth noting that the only new addition to the EEA prior to its introduction in the 98th Congress was a separate title on child support enforcement. It was evident to the sponsors of this legislation that Congress could not provide greater economic equity for women without addressing the need for fair and firm child support enforcement.

There is a well proven connection between divorce or separation, and poverty among women and children. Fifty percent of children living in poverty are welfare recipients. Sixty-seven percent of all children in female headed families are welfare recipients, compared to 25 percent of all children.

The failure of an overwhelming number of noncustodial parents to fulfill their legal responsibility to support their children is a national disgrace. In fact, compliance with child support orders is less than 50 percent. Fewer than 1 out of 4 of the 8.4 million families with absent fathers receive regular child support payments. And when they do, the average payment is only $40 a week.

By making needed improvements in the child support enforcement program enacted in 1975, this legislation will encourage better enforcement of court-ordered support awards for non-AFDC children, greater interstate cooperation, and the establishment of specific procedures to improve the administration and enforcement of child support orders.

H.R. 4325 is a bill which speaks to a brighter future for the millions of children who now live, or will at some time during their lives, in single parent families, and I encourage my colleagues to support this important effort.

Mr. CAMPBELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. MARRIOTT), who has also helped us with many suggestions.

Mr. MARRIOTT. Mr. Speaker, I rise in support of this important legislation to assist in improving the shameful record that now exists for the enforcement of child support.

Less than one-half—47 percent—of the Nation's child support orders are paid in full and on time. In 1982, not one State or county had even 50 percent compliance with court orders. One-third of all AFDC families with an absent parent should be receiving child support, but only one in seven does. The single-parent family comprises a significant portion of our Nation's poverty. These households represent about one-third of all families below the poverty level. One-half of these families receive some form of public assistance. It is time the absent parents paid up and met their responsibilities.

This legislation requires improved State provisions for enforcement including: wage withholding, State income tax refund offsets, liens on property, reporting to credit agencies, and funds for improving the managment of State child support systems.

I am sensitive to the probable cause and effect between many child support arrearages and visitation problems. Unfortunately, the Federal Government is not the appropriate level of government for addressing these and many other problems of divorce. This legislation does provide for 50 State commissions to examine these issues, their State systems and codes, and propose some badly needed answers on these important issues.

Each commission will consist of representatives from all aspects of the child support system—custodial and noncustodial parents, the IV-D agency, the judiciary, legislature, child welfare, and social service agencies. Commissions are to be promptly established and their findings available by October 1, 1985.

Mr. Speaker, in our work with the Select Committee on Children, Youth, and Families we have heard estimates that one-half of our Nation's children will live apart from their fathers for part of their childhood. For many of them this will mean a decrease in their standard of living, and emotional trauma. With 50 percent of marriages ending in divorce, we cannot ignore this problem. Unfortunately, while we in the Federal Government can do little to alleviate the emotional costs, let us act now to improve the economic future of these children. I urge my colleagues to support the passage of H.R. 4325.

Mr. CAMPBELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the Child Support Enforcement Amendments of 1983, and I commend the gentleman from South Carolina (Mr. CAMPBELL) for his leadership and others whose bills contributed to this important legislation.

I am a cosponsor of an almost identical measure introduced by Congresswoman ROUKEMA, H.R. 3354. This legislation addresses the problem where fathers fail to assume their rightful responsibility in the care and provision of their children. The situation where fathers have abandoned responsibility for their children financially has caused enormous hardship for women and for the American family. A study recently issued by the U.S. Census Bureau shows that as of the spring of

1982, 8.4 million women were living with a child under 21 years of age, whose father was not living in the household. Of the almost 5 million women due child support payments in 1981, only 47 percent received the full amount due. Of the 2.6 million women below the poverty level with children present from an absent father, about 40 percent were awarded child support. Among the poor, 810,000 women were due payments in 1981, but only about 60 percent received some amount of payment.

The Census Bureau estimates that American children are thus cheated out of $4 billion a year. I echo the sentiments of many of my colleagues who feel that this situation is deplorable and cannot be allowed to continue.

The legislation before us today, provides that all children entitled to assistance in securing financial support from their absent parents will receive assistance regardless of their eligibility or ineligibility for benefits under the aid-to-families-with-dependent-children (AFDC) program. The bill requires certain improvements in the child-support enforcement program, including mandatory income withholding, expedited procedures, State income tax offsets, and property liens, to facilitate program improvement and to insure that child support is provided.

States would be required to establish programs that provide for the collection of child support payments through employee withholding by October 1, 1985, unless the State could show that the new program requirements would be ineffective or inefficient for the State. In such cases, a State could be given more time to develop collection programs under the new regulations.

States would have to begin withholding child support from an employee's paycheck when the amount owed equals 1 month of support payments. Withholding procedures must be automatic, and could be administered by any agency that is publicly accountable and provides for the prompt disbursement of child support payments. The amount withheld would have to equal payments in arrears, plus a fee which is paid to the employer for the administrative costs associated with withholding. The measure provides individuals with an opportunity to contest the proposed withholding in the case of mistakes of fact, and a final decision on withholding must be made within 30 days of notification.

Anyone who takes even a cursory glance at the situation affecting thousands of women heads-of-households recognizes this problem as one of the major contributors to single-parent poverty today. In fact, according to some statistics, 80 percent of welfare recipients are on welfare because their ex-spouses are not paying child support.

Moreover, when States have introduced some form of mandatory withholding of child support payments from paychecks, such as New York, the payment rate has increased significantly. In New York, for example, the payment rate jumped from 40 percent to 80 percent. The facts are clearly in support of this kind of social reform.

Taxpayers, for too long, have been asked to support the families of fathers who refuse to do so—who have been able to shift their own responsibility to others. More importantly, the women who are forced to cope with this situation have shouldered their burden alone for too long. It is time that the inequities be addressed and resolved. I urge my colleagues to support this important legislation before us today.

Thank you.

Mr. CAMPBELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. BATEMAN).

Mr. BATEMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the bill now before the House. This legislation provides the child support enforcement program with much needed powers to require that states set up programs to withhold court ordered child support payments when those payments are at least a month in arrearages.

This and the other changes called for in H.R. 4325 will give teeth to child support enforcement efforts for both AFDC and non-AFDC families. The correlation between failure to receive child support and female-headed households which fall below the poverty level is shocking. I believe that this legislation may go a long way toward keeping these female headed families out of poverty.

As a member of the Virginia Senate, I was the chief sponsor of legislation which established a similar program in Virginia. I am pleased to say that that program has met with success in Virginia. I am sure that the nationwide program will also have positive results both in reducing government costs, and more importantly in seeing that children receive the financial support they deserve from both of their parents.

I find it shocking that so many parents ignore their legal and moral obligation to provide for their children. It is the essence of sound public policy that Congress enact H.R. 4325 and reinforce this obligation.

Mr. CAMPBELL. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mrs. SCHROEDER). The Chair recognizes the gentleman from Tennessee (Mr. Ford).

Mr. FORD of Tennessee. Madam Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. SHANNON), a member of the Committee on Ways and Means.

Mr. SHANNON. I thank the gentleman for yielding time to me.

Madam Speaker, I rise today in strong support of H.R. 4325, the Child Support Enforcement Amendments of 1933. This bill seeks to remedy the serious problem of court-ordered child support that goes unpaid. Although this measure enforces payment by single parents, male or female, its greatest effect will be on single mothers.

H.R. 4325 recognizes the changing nature of the American family—one of every two marriages now ends in divorce, leaving 20 percent of all children under the age of 18 under custody of one parent. Single parent households are growing faster than any other family type in the United States today, and women head the vast majority of them.

More disturbing are the figures linking single-parent families and poverty. In 1978, more than half of the households headed by white females lived in poverty. For black female-headed households, that same figure stood at a shocking 69.5 percent living in poverty. This is not so surprising when we consider that, for every dollar earned by men, women earn only 59 cents and that two-thirds of women working full time earn less than $10,000 a year.

On these wages, many women carry the full burden of supporting their children. In divorce cases involving children, women get custody over 90 percent of the time, but are awarded child support in less than 60 percent of the cases.

Once child support is awarded, 28 percent of the families never receive any payments and 23 percent receive only partial payment. With these numbers in mind, we can easily see how, in the first year following divorce, a woman's standard of living drops 73 percent, while a man's increases 42 percent.

Many single parents cannot afford the time or money needed to go to court to get their overdue child support payments. While the current child support enforcement program under title IV-D of the Social Security Act has made some progress in assisting some single parents in collecting child support, this bill H.R. 4325 goes further. Using new collection methods, including the automatic withholding of wages for parents delinquent in their child support payments, this bill closes some of the gaps in the current law.

These procedures, combined with incentives for States to make collections on behalf of families that are not receiving AFDC funds as well as those who are, should assist States in collecting delinquent child support pay-

ments and assure the continued payment of this support.

Madam Speaker, this bill helps single parent households break out of the growing cycle of poverty and deserves our full support.

Mr. FORD of Tennessee. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Madam Speaker, I rise in support of this legislation. I think it is a terribly important piece of legislation to turn back the progress toward the feminization of poverty, and also to add my congratulations and best wishes to Ken Bowler, who I think has been the outstanding staff person on the Hill in dealing with progressive social policy, and thank him once again publicly for his help in the Foster Care and Adoption Reform Act which many people said was the major piece of legislation of the decade to protect the rights of children without homes.

Mr. FORD of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. BIAGGI).

□ 1240

Mr. BIAGGI. I thank the gentleman for yielding this time to me, and I congratulate the gentleman, the gentlewoman, from Connecticut (Mrs. KENNELLY) and all of those responsible for this legislation, of which I am an original cosponsor.

Madam Speaker, I rise in full support of H.R. 4325, the Child Support Enforcement Amendments of 1983. This is necessary legislation aimed at providing relief for the millions of women and children who are victimized by the nonpayment of child support.

Clearly the nonpayment of under payment of court ordered or voluntary child support is a burgeoning national scandal—a festering sore on our national conscience. The magnitude of the problem is awesome and staggering. Today in our Nation the number of delinquent parents has risen to 21.3 million. According to the Census Bureau, almost one half of the men who are legally obligated to pay child support are in default on all or part of their obligations. Almost 55 percent of the more than 4 million women legally entitled to child support payments are not receiving the full amount and more than half—28 percent—are receiving nothing at all. The average child support payment owed by fathers in the United States is $2,460 but the average paid is but $1,560.

The non or underpayment of child support claims a second victim—the dependent child. It has been estimated that some 13 million children from both AFDC and non-AFDC families are affected by the non or underpayment of child support. It is also estimated that the nonpayment of child support cheats children out of some $4 billion in support each year. That is a vitally important figure when placed against another that being that in the first year after a divorce women suffer a 73-percent decline in their incomes. That means the child support income represents an essential element in the financial security of not only the woman but the child. It is little wonder that 87 percent of the children receiving benefits under the AFDC program are eligible precisely because an absent parent is not providing adequate support. In 77 percent of these cases not a single payment of child support has been collected.

The non or underpayment of child support claims a third victim—the taxpayer of this Nation. It is estimated that we spend more than $590 million to go after delinquent parents yet the amount that is recouped seldom makes the investment profitable. In fiscal year 1982, the Office of Child Support Enforcement was able to collect in only 10 percent of the AFDC caseload of 5.5 million and in only 30.6 percent of the non-AFDC caseload of 1.5 million. Let me add on that point that the Office of Child Support Enforcement has been especially ineffective in collecting payments from delinquent non-AFDC parents. The Office through its formula spent $478 million on administrative costs on AFDC collections while spending only $114 million to collect from non-AFDC parents. Yet my research has indicated that some of the most flagrant abuses of nonsupport come from the wealthy ranks of the non-AFDC parent—sometimes a person making a six-figure income yet completely ignoring their obligation. My colleagues, there is nothing more appropriate to call such a person than a scoundrel.

We reach this point today with respect to H.R. 4325 thanks to the great efforts of a number of House Members. I, like a number of my colleagues, made reform in our existing child support enforcement policies a top legislative priority. I began my efforts this year in January with the introduction of H.R. 1014, which called for the establishment of a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent payments. I felt at that time that this type of problem required the same degree of attention and priority social security received when its problems and crises were submitted to a Presidential commission which produced a series of recommendations which became the law of the land with the passage of the Social Security Reform Act of 1983.

In May I testified before the Labor-HHS Subcommittee on Appropriations to appeal for more money for the Office of Child Support for fiscal year 1984. I am pleased that in the final version of the Labor-HHS appropriations bill for fiscal year 1984 levels for the Office of Child Support Enforcement.

In June I introduced House Joint Resolution 273 to designate and declare the month of August 1983 as National Child Support Enforcement Month throughout the United States—a measure that was passed by the House on July 27 and also by the Senate. I am also pleased to recall that the President of the United States did conduct a special signing ceremony to inaugurate National Child Support Enforcement Month which I attended together with Senator GRASSLEY who authorized the Senate resolution.

In retrospect I believe the strong and bipartisan support registered for the establishment of National Child Support Enforcement Month provided the catalyst which led us to this point today. Shortly after this month and its related activities were completed substantive hearings were conducted by the Subcommittee on Public Assistance of the House Ways and Means Committee. I was in fact proud to present testimony at one of these hearings on behalf of the bipartisan compromise bill which is before us today. A markup session and full committee action followed and today we have under suspension of the rules an important bill in this area.

Also this year I authored an amendment in the House Education and Labor Committee to H.R. 1904, the Child Abuse and Neglect Prevention and Treatment Act which authorizes a first-time study linking the nonpayment of child support to child abuse. It is an understatement to say that such nonpayment or underpayment certainly represents a form of economic child abuse—but the larger issues surrounding this would be the object of this study. I chaired a hearing of the Select Education Subcommittee in New York City on this subject on September 12 together with my colleague, Mrs. ROUKEMA. I might add that H.R. 1904 is eligible for full House consideration this week, and I am confident that it will gain the approval of this House so we might begin this important study.

H.R. 4325 would require State agencies who participate in the AFDC program to develop procedures for the automatic withholding of child support payments from an employee's wages. Such programs must be in effect by October 1, 1985, unless a State can demonstrate that such a program would be ineffective for their State. Withholding would begin when the amount owed in back child support equals 1 month's payment. The amount withheld would have to equal the amount of delinquency plus a fee that would be charged to the employ-

ee for administrative costs associated with withholding.

The bill further requires that employers forward withholdings to the appropriate agency for disbursement and specifies that employers be permitted to combine all amounts withheld from different employees for child support and forward such payments to the appropriate agency in one check. The bill also specifies that State programs would have to make child support payments take precedence over any other attachment on an employee's wage and make other income, including State income tax refunds.

Also this year I authored an amendment in the House Education and Labor Committee to H.R. 1904, the Child Abuse Prevention and Treatment Act authorizing a first-time study linking the nonpayment of child support to child abuse. It is obvious that nonpayment or underpayment of child support constitutes a form of economic child abuse but whether it encompasses any other elements of abuse would be the object of this study. Further I would hope that we could reach the point of having the States adopt laws which would make the nonpayment of child support a crime in much the same way that child abuse is now a crime. I chaired a hearing of the House Select Education Subcommittee on this amendment on September 12 in New York City. I might add that the House is scheduled to consider H.R. 1904 this week, and I am confident that it can gain final passage.

H.R. 4325 is a most important bill in that it directs its attention to States and places the burden of responsibility on them to adopt laws aimed at improving the collection of delinquent child support obligations. These procedures should include but not be limited to:

Mandatory wage withholding when child support obligations fall in arrears:

Offsetting of State income tax refunds for past due support;

Placing liens on real and personal property of parents living or owning property in the State;

Requiring bonds, securities or other guarantees where there is a pattern of past due support; and

Informing consumer credit agencies when support payments fall behind by $1,000 or more.

The bill would also make adjustments in the present incentive formula which is now equal to 12 percent of AFDC child support collections. The bill would replace with a guaranteed incentive equal to 4 percent of AFDC collections plus 4 percent of non-AFDC collections. To the extent that State programs are cost effective—the AFDC and

Finally the bill provides $15 million to HHS to fund special projects developed by States to test innovative techniques to improve interstate child support collection. It would be my fervent hope that included in these State demonstrations would be a redoubled commitment aimed at collecting from wealthy non-AFDC parents especially the self-employed individual who is able to hide so much of their income and by their very action flaunt the law.

Certainly if given the opportunity for an open rule for consideration of this bill—there could be a number of amendments offered to improve upon its provisions. Yet at the same time we must be realists—it is far better to produce a bill than to let the situation languish any further. There are a number of my colleagues who have worked long and hard as I have on this issue—Members such as Mrs. ROUKEMA, Mrs. KENNELLY, Dr. LONG, Mr. CONABLE, Mr. CAMPBELL, and others—all of whom are now united behind this bill.

I consider passage of this legislation vital if we are to take the tangible step aimed at demonstrating our concern as well as outright outrage over the nonpayment of child support. In my judgment it is time that we ended in the enforcement terminology, distinctions between the delinquent AFDC and non-AFDC father with respect to child support. Our goal should be to collect every cent that is owed to each and every mother and child. We must develop sanctions that are both punitive and deterrent in nature. H.R. 4325 is by no means the alpha and omega, but it is a big step in the right direction. I urge support.

Mr. FORD of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. I thank the gentleman for yielding this time to me.

Madam Speaker, I would just like to take the opportunity to say that as a person who has practiced for almost 20 years dealing to a large degree with women who have had the unfortunate circumstance of a divorce and children and who have not had the ability to get the child support payments which were either agreed to or ordered, this bill will go a long way in obtaining all the money that has not been paid over the years to these families.

In the end, it is not the wife who suffers as much, it is certainly not the nonpaying husband or spouse who suffers; it is the children of this country who suffer as a result of the nonpayment of these obligations. This bill takes, finally, the realization that this Government must do something to take care of these children who are being punished for the excesses of their parents.

I urge full support and commend the committee and my colleagues who worked on this measure.

Mr. FORD of Tennessee. Madam Speaker, may I inquire of the Chair as to the time remaining on the majority side?

The SPEAKER pro tempore. The gentleman from Tennessee (Mr. FORD) has 10 minutes remaining and the gentleman from South Carolina (Mr. CAMPBELL) has 10 minutes remaining.

Mr. FORD of Tennessee. Madam Speaker, we would like to reserve the balance of the time on this side of the aisle.

Mr. CAMPBELL. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. MOORE), a member of the subcommittee, and an active participant in drafting this legislation.

Mr. MOORE. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise in strong support of H.R. 4325 as a coauthor, and urge my colleagues to support this bill in recognition of the growing problem facing our Nation's children who are not receiving the support they need and are entitled.

This Congress has before it, the opportunity to make a difference in the lives of our Nation's children who are being denied what is rightfully theirs because an absent parent is not meeting his or her child support obligation. H.R. 4325 would mandate strengthened procedures for the collection of support which a court has declared should be paid.

The statistics are startling. Of all single parent households with a child support order in effect, only 49 percent received the full amount due, and only 10 percent of the payments were received both in full and on time. Research indicates that between a quarter and a third of absent fathers never make a single court-ordered payment.

Currently, there are few alternatives available to families for getting child support that is not being voluntarily paid. Those who are recipients of AFDC have the IV-D agency which can help collect the support due. But non-AFDC families are left to use the costly and cumbersome court system. The median income of those families is only $10,900 which hardly permits the hiring of lawyers or pursuit of lengthy court battles.

H.R. 4325 will extend to all children a process which will assist in the enforcement of child support orders, thus insuring that our Nation's children will have the necessities of life that they should be enjoying, but through no fault of their own have been denied.

Included in the bill are provisions for income withholding, income tax offsets and incentives for automating data processing of support collections,

tracking and monitoring. As the author of an amendment to the 1982 tax bill to allow garnishment of wages against military personnel for the purpose of meeting child support obligations, I am particularly supportive of the provision requiring employers in all States to withhold the support due.

When we pass this important legislation later today, we will be making a clear cut statement that the enforcement of child support orders is a priority of this Congress.

I urge my colleagues to take a responsible stand in support of H.R. 4325 for our Nation's children who deserve the support of their parents and for relief of taxpayers who through Government programs in too many instances have been assuming the responsibility of the absent parent.

Mr. CAMPBELL. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The Chair recognizes the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. I thank the gentleman from yielding this time to me.

Mr. Speaker, I just cannot thank the subcommittee enough and the Committee on Ways and Means enough, because I will tell my colleagues, they took this issue and they went gung ho with it, especially the subcommittee chairman and the gentlewoman from Connecticut, BARBARA KENNELLY, who has worked so hard on it.

So often we have an image around here that Ways and Means only cares about big money bills, or things for big business. Let me tell my colleagues that image is wrong. They care an awful lot about kids. Let us face it, kids are the ones who are going to benefit from this bill.

Mr. Speaker, I support H.R. 4325, the Child Support Amendments of 1983. This bill was reported by the Committee on Ways and Means with strong bipartisan support and should be approved by this body today.

The Census Bureau paints a dismal picture of child support in the United States. Nineteen percent of all families with children are female headed, which translates into 12.5 million children under age 18 living in female headed households. Compliance with child support orders is less than 50 percent. This cannot help but contribute to the high rate of children living in poverty—currently 19 percent of all children.

The impact of nonsupport on children was further dramatized by a report of the U.S. Commission on Civil Rights that found that during the last two decades, the number of persons in poor families headed by white males decreased by 50 percent, while the number of poor families in female headed households increased by 54 percent.

Because of the growth of the number of children in single-parent households, in 1975, Congress enacted legislation to create a Federal Office of Child Support Enforcement and to require States to establish child support enforcement offices to locate absent parent, verify paternity, and establish and enforce court-ordered, administratively ordered, and voluntary child support payments.

The performance of State child support enforcement programs has been spotty. Some are efficiently and effectively run; others are lackadaisical. Some concentrate on collections for AFDC families only, while other States make a conscientious effort to make collections for non-AFDC families as well. Because of the variation in performance it has become necessary to enact additional legislation to strengthen the child support enforcement effort.

Nonpayment of child support means economic disaster for single-parent families. Because of our concern about the support problem, I introduced the Economic Equity Act of 1983, which contained comprehensive proposals for improving child support enforcement in this country. Representative BARBARA KENNELLY introduced the child support provisions as a separate bill as a member of the subcommittee with jurisdiction over this issue. Representative HAROLD FORD, chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Representative KENNELLY, and the other members of the subcommittee deserve a special word of thanks for the long hours of careful consideration they have given to this problem and the compromise bill that they reported.

H.R. 4325 represents a balanced approach to child support enforcement which encourages States to adopt stronger enforcement mechanisms while it provides greater incentives for States to improve their support enforcement programs. The purpose makes it clear that the State child support enforcement program should serve both AFDC and non-AFDC families. It requires States to implement innovative techniques for the collection of child support, to continue child support enforcement services for families that lose AFDC eligibility, and to publicize the availability of child support enforcement services. The bill changes the financing provisions to provide incentive payments for performance on both AFDC and non-AFDC collections, creates special funds to improve the enforcement of interstate cases, and 90 percent matching funds for the development of automated management systems to monitor income withholding procedures.

This bill is the result of bipartisan efforts of the Committee on Ways and Means to find a solution to the serious problem of nonpayment of support. It deseves our support today.

Mr. FORD of Tennessee. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, would like to lend my voice to thank the Committee on Ways and Means for the outstanding job that they did, and particularly to Congresswoman KENNELLY for her longstanding commitment to this issue.

Mr. Speaker, I rise in support of H.R. 4325, the Child Support Enforcement Amendments of 1983. This legislation, part of the Economic Equity Act, responds to a critical economic need of women who head single parent families.

The existing child support enforcement program, passed in 1975, was a good beginning. But our experience with this program shows that this legislation needs to be strengthened. H.R. 4325, which requires State agencies who participate in the AFDC program to develop procedures for the automatic withholding of child support payments from an employee's wages, and which provides incentives for the collection of child support whether the individual's spouse collects AFDC or not, is a major step in that direction.

We do not need more research or more studies to document what we already know. The irresponsibility of many absent fathers is a major contributing factor to poverty among female headed families.

Many of these fathers contribute nothing to support their children. In cases where child support has been awarded by the courts, fathers often default altogether, or provide support only sporadically. Not one of the many studies conducted to date has found one single State or county in which more than half the fathers fully comply with court orders.

When absent fathers shun their financial responsibilities toward their children, who pays? If she is able, the mother. If the mother goes on welfare, the taxpayer assumes the father's child support obligations.

And many women are forced to go on welfare. Divorce can severely alter a woman's economic status overnight. Divorce sharply decreases the income for the woman in a previously two-earner family. When the woman was a traditional homemaker, she faces a sudden entry into the job market for which she is often ill prepared. In either situation, the family faces a steep decline in income. The statistics on the poverty status of female single-

parent families amply illustrate the economic consequences of divorce.

These statistics are one of heartbreak and tragedy. These statistics tell us that half of all children living inpoverty live in female-headed families. In 1979, almost half of the female-headed families received AFDC assistance.

These statistics show that women raising children alone are having a tough time providing their children with the necessities of life such as food, shelter and health care. For these women and their children, regular child support payments are crucial to the children's health and welfare.

This legislation will insure that the absent parents, and in most cases the absent fathers assume their responsibility in providing the basic needs of their children and I urge the passage of this essential legislation. As we approach the Thanksgiving season, I know there are a lot of families who will express thanksgiving for this legislation that will afford economic security for families.

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Mr. FORD of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I rise in support of this excellent legislation, H.R. 4325, the Child Support Enforcement Amendments of 1983. If enacted, this bill will constitute a big step in assuring that all children throughout the Nation will receive their financial support from those who are primarily responsible for securing it: their parents.

By requiring States to enact mandatory withholding of support from income and other collection procedures the enforcement of the child support laws will be enhanced.

The bill also includes guaranteed incentives for States based on percentages of both AFDC and non-AFDC collections, will set graduated penalties of AFDC matching funds with correction periods and establishes 3-year-audit cycles.

Another important provision of this bill makes available $15 million to the Secretary of the Department of Health and Human Services to fund special projects developed by States to demonstrate techniques to improve child support collection.

I urge all my colleagues to vote in favor of H.R. 4325; by doing so we will be protecting our Nation's future which is our children.

Mr. FORD of Tennessee. Mr. Speaker, I reserve the balance of my time.

Mr. CAMPBELL. Mr. Speaker, may I inquire as to the amount of time left?

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. CAMPBELL) has 7 minutes remaining and the gentleman from Tennessee (Mr. FORD) has 6 minutes remaining.

Mr. CAMPBELL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL), a distinguished member of the subcommittee and an active participant in drafting this legislation.

Mr. FRENZEL. Mr. Speaker, I rise in support of H.R. 4325, the child support enforcement amendments, a proposal aimed at reforming and strengthening payment of delinquent child support.

This bill is a great combination of simple justice and taxpayer relief. It is designed to help families and to help taxpayers.

In the 8.4 million families with absent fathers, 56 percent of the children live in poverty. Yet only 60 percent of the female-headed households are entitled to receive assistance from the absent father. For those who are granted child support, less than half received the allotted payment, and almost 30 percent received no money at all. In many cases, paternal neglect forces the family to turn to public welfare, and the taxpayer must pick up where the father left off. In all cases, the children suffer.

Those statistics are appalling, but I am hopeful that passage of this legislation will significantly improve child support collections in the future. The improvement will take time, because the effective date of most of the provisions is 1986. The subcommittee is trying to give the States plenty of time to get their systems in good working order.

Specifically, the bill emphasizes enforcement of both AFDC and non-AFDC cases, and mandates that States pass laws requiring employers to withhold child support from paychecks of absent parents who are at least 30 days late on their payments.

I am especially pleased with the efforts displayed by both President Reagan and HHS Secretary Margaret Heckler in prompting this legislative initiative. The President expressed his intent to strengthen enforcement in his state of the Union message last January. Secretary Heckler has followed through on the President's promise by recommending new regulations for collecting medical support assistance for children, as well as promoting congressional efforts to tighten statutory laws. Clearly, the Reagan administration has given this legislation a high priority.

I also commend the members of the Subcommittee on Public Assistance, especially the chairman of the subcommittee, the ranking minority leader, and the gentlewoman from Connecticut (Mrs KENNELLY). Because of their efforts, this issue has been given a great deal of attention, and the legislation we are voting on is welcomed by both sides of the aisle as well as the administration.

Mr. Speaker, H.R. 4325 is a good, strong bill, calculated to improve child support efforts in the United States. But, it is not going to save the world overnight. In fact, the effective date of the most important provisions of this bill is 1986.

We purposely left time for the States to put their mechanism in good working order before many of these provisions become effective. We also tried not to push the States too hard, nor to tell the courts how to rule.

Nevertheless, this bill is undeniably one with strong almost revolutionary measures in it. There will be some States which would rather not go this far.

One of the good things about this bill is that it is a three-fer. That is, it is pro-woman, pro-family, and pro-taxpayer. Others have indicated that it is pro-children already, but there are three extra beneficiaries.

The bill will save the taxpayers over 5 years, according to the subcommittee's figures, nearly $275 million, and that is pretty good for a bill that is accomplishing the other things that are claimed for it. When we vote for it, we can do well by doing good. We will not only take care of children and families, but also enhance the position of the taxpayer.

The Republican Policy Committee has an important statement on this bill which I will add to my remarks at this point. The statement is as follows:

The House Republican Policy Committee supports passage of H.R. 4325, the Child Support Enforcement Amendments of 1983.

Failure of absent parents to meet child support obligations is damaging the fabric of American society. Half of the children born in the United States this year will live in single parent households before they are adults. Most of these children will depend for at least part of their childhood—often all of it—on the income of one parent alone.

The propensity of absent parents to meet child support obligations often is unrelated to financial ability; automobile payments are met with greater regularity than child support obligations.

H.R. 4325 would require the states to put into effect tough new enforcement techniques and laws, or face becoming ineligible for federal financing of enforcement administrative costs.

The stability of the American home and the risk of hurt to children who do not receive child support payments from absent parents are too important to the future of America to ignore. The House Republican Policy Committee supports adoption of H.R. 4325.

Finally, Mr. Speaker, I would like to join other Members of this House who have complimented our retiring staff member, Ken Bowler, on his splendid work for the Congress over the years.

I think we get a two-fer out of Ken also. He is so smart that he will make a lot of money and double his tax obligations immediately, therefor helping

all of us who are on the Government payroll. And, in addition, the taxpayers will benefit because all of the wonderfully progressive and terribly expensive legislation that he has promoted will be less successful when he has gone.

Mr. Speaker, tougher enforcement and tougher laws are necessary. Parents must accept financial responsibility for their children, regardless of the marital situation. More effective laws such as proposed in H.R. 4325 are a step in the right direction, but Government alone cannot combat the gross lack of responsibility on the part of deadbeat parents. The attitudes of our entire society must change if this problem is to be fully resolved.

Mr. CAMPBELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), who has been so interested in this legislation and has offered so much input.

Mrs. JOHNSON. Mr. Speaker, I rise today to ask my colleagues to support H.R. 4325, the Child Support Enforcement Amendments of 1983. This bill is major step in obtaining proper financial support for our Nation's children and will help correct the national disgrace of child support enforcement efforts in the past.

First, I want to recognize the work done on this issue by the members of the Ways and Means Committee and especially the members of the Subcommittee on Public Assistance and Unemployment Compensation. The rapidity with which this legislation has reached the floor and the quality of the legislation are a tribute to the attention paid to this important issue by these members and the staff. Diligent staff work, notably by Martha Phillips, has helped immeasurably in producing the fine bipartisan bill before us today.

The bill provides a number of important mechanisms for better collection of child support that is not being paid in full and on time by absent parents, usually fathers. Among these important provisions are those for manditory wage assignment after 30 days of arrearages, for incentives to States to collect overdue support payments for both those receiving aid to families with dependent children as well as for non-AFDC cases, and for offset of State income tax refunds.

I also want to call your attention to a section of this legislation that has not yet been discussed today and that reflects my research and legislation I submitted some weeks ago into the adequacy of support payments. An important study by the Department of Health and Human Services which is ongoing, is redirected by the committee report on this bill to thoroughly evaluate the woefully inadequate methods presently used to determine child support awards.

The Congress cannot ignore the fact that millions of children are thrown into poverty merely because they are victims of divorce. Recent studies have shown that, because men are rarely required to part with more than one-third of their income after divorce, the former wife and children suffer a loss of income in relation to needs while the former husband experiences an increase in his disposable income. Children suffer, then, a calamitous drop in standard of living at the same time they suffer the emotional stress caused by the breakup of the family.

An additional problem arises. Child support awards rarely provide for automatic adjustment to compensate for changes in the cost of living or for the increasing cost of raising a child as the child grows up. Inflation is a fact of life and it erodes the buying power of the award and as children grow so too do the costs of raising them, forcing the custodial parent to suffer the additional decrease in standard of living or to seek redress through the courts.

This study will benefit from a broad based advisory panel representing all viewpoints on the child support award issue. Following the completion of the study, the panel is to report the results of the study and the panel's recommendations. Then with the facts before it, the Congress can determine what Federal action is appropriate.

Again, I congratulate the members of the Ways and Means Committee and thank them for including a mandate for a broad study of the adequacy and adjustment of support levels. I urge my colleagues to join me in support of this bill and the effort to achieve an equity in child support that has been lacking in the past.

Mr. CAMPBELL. Mr. Speaker, I reserve the balance of my time.

Mr. FORD of Tennessee. Mr. Speaker, I have only one remaining member to speak on the bill, and I would like to close out the remainder of my time with our final speaker. Therefore, I would like to reserve the balance of my time until such time as the gentleman from South Carolina (Mr. CAMPBELL) has either exhausted or yielded back the balance of his time.

Mr. CAMPBELL. Mr. Speaker, may I inquire as to the time remaining for both sides?

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. CAMPBELL) has 3 minutes remaining, and the gentleman from Tennessee (Mr. FORD) has 6 minutes remaining.

Mr. CAMPBELL. Mr. Speaker, I want to yield time to one additional speaker before I reserve the balance of my time. The gentlewoman from New Jersey (Mrs. ROUKEMA) had legislation on this matter, points from her legislation are incorporated in this bill, and I yield 2 minutes to the gentlewoman.

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of H.R. 4325, the Child Support Enforcement Amendments of 1983. This bill is the result of many hours of hearings on the issue of child support and the hard work by the members of the Subcommittee on Public Assistance and Unemployment Compensation, and they should be commended for their diligence.

Enactment of this hallmark legislation represents a sea change in thinking of this body. It puts the Federal Government firmly on record that child support is not a voluntary commitment, but a legal as well as moral obligation. This bill says that the U.S. Congress will not turn its back on the children nor look the other way when families need help. That this bill now passes with little opposition belies the controversy that surrounded it just a few short months ago.

While acknowledging that child support was a problem, opponents to this reform were initially firm. Numerous objections were raised—some substantive, some specious. Objections were based on States rights, on fathers' rights, on due process violations, on the increased bureaucracy, and on the imposition wage withholding would cause employers.

But the case for this reform is so compelling, the injustice so clear, that a powerful consensus has developed. This reform must be done. For the children enduring economic and emotional abandonment and for the families torn by this problem, the reform comes not a moment too soon.

While the bill does not contain all that could have been achieved, it is far more than a mere pretext of reform. This program has four key provisions.

First, mandatory wage withholding will be imposed after a parent is 30 days delinquent in support payments. Second, the bill provides universal coverage; that is, children from all economic classes will receive protection. A family no longer need fall onto the welfare rolls to get the Government to help them. Third, a parent will no longer be able to escape from proper duties to feed, clothe, and shelter his or her children by simply moving across a State boundary. And fourth, all this is will be done without creating an expensive new bureaucracy.

This Congress and the Nation will stand by its commitment to our children and to enduring family values.

H.R. 4325 represents a fundamental reform of the child support enforcement system. The issue of nonpayment of child support has been a rapidly growing problem in all economic levels. Census Bureau figures covering 1981 indicate that 8.4 million women have custody of minor children, 4 million are awarded child support. Of these women 47 percent receive the full amount due them, and 53 percent

receive little or no support at all. This is clearly not right, and the time has come for Federal involvement to correct this national disgrace.

H.R. 4325 is a move toward eliminating the unnecessary suffering of thousands of children throughout the country. This legislation improves existing collection mechanisms in four basic ways: First, the use of mandatory wage withholding for the collection of child support, second, develops credible bonus and penalities for Department of Health and Human Services to enforce compliance in interstate and intrastate cases, third, creates a univeral system by eliminating the discrimination between the collection of welfare cases and self supporting families alike, and fourth, this legislation would not create any new bureaucracies.

I have long been a supporter of mandatory withholding of wages for the collection of child support. While this approach may seem revolutionary to some it has actually been found to be an effective and efficient method of collection. The State of Michigan has a system of withholding which began with a 60-day period of arrearages before the withholding began. Since that time they have reduced the delinquency period to 30 days and are now finding that this is even too long a period and would like to see it become immediate from the time of the court order. This has been my approach from the beginning. The bill before us today would permit 30 days before the withholding would be effective. This is a good step in right direction. However, I firmly believe that we should eliminate any delinquency period and make this provision immediate, and I will continue to seek this change in the future.

Second, this bill has credible bonuses and penalties which the Department of Health and Human Services can use to enforce compliance by States. In the past we were operating under a system that had no teeth. The States could operate their child support agencies as they saw fit, and there were no penalties which would insure their compliance. This resulted in 10 States collecting 80 percent of the child support moneys reported. Under this bill if a State is in noncompliance after a review period they would be penalized 2 percent of their AFDC matching funds. This penalty would increase to 3 and 5 percent if a State continued to be in noncompliance. For those States with good collection record, they would be eligible for bonus moneys of up to 28 percent. These moneys would be given to States for good collection of both AFDC and non-AFDC cases as well as for their collection for interstate cases. Currently reciprocity between States is nonexistent. Under the new provisions both the State collecting and the State paying would be eligible for incentive money.

Third, H.R. 4325 would end the discrimination between AFDC and non-AFDC cases. Currently States tend to collect their AFDC cases before they collect their non-AFDC cases. The rationale for doing this is that States are eligible for incentive moneys from the Government to do so. Under the proposed bill, States would collect child support for both AFDC and self-supporting families alike, and as I said before the States would be rewarded equally for these collections through bonuses. Often families who had exhausted their financial means in court and legal fees had to resort to the welfare role to care for the basic need of their children. This is clearly not right and is a point I talked directly to the President about and gained his agreement for prior to the introduction of the administration's bill. Child support is a legal obligation for all and the changes in this bill insure that this principle will be upheld.

Lastly, H.R. 4325 would not create any new bureaucracies. From the beginning I have upheld that if we were to make meaningful changes in the child support programs that these changes needed to be easy for the States to implement. This bill requires the States to establish a system through which all child support payments will pass and be recorded. This is merely an expansion of the current system that States have in place for the collection and distribution of their AFDC cases. Again, this procedure would merely insure that custodial parents and children would receive their child support in a timely fashion and will greatly reduce the tensions created through waiting endlessly for payment to received.

In summary, H.R. 4325, while it does not go as far as I would like, it will revolutionize our unworkable system by relieving crowded court dockets, use existing State agencies more productively, provide universal coverage and keep many families off welfare. Most importantly, it would guarantee as completely as possible that no child is held hostage by inadequate economic support.

Child support is not a voluntary commitment. Denying a child the support he or she needs is an injustice that can no longer be tolerated.

Mr. CAMPBELL. Mr. Speaker, I reserve the balance of my time.

Mr. FORD of Tennessee. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. KENNELLY).

Before the gentlewoman begins, I would just like to point out to my colleagues on the House floor that the gentlewoman from Connecticut played a special role in the initial stages of the legislation before the subcommittee for the benefit of others on the subcommittee and Members of the Congress. I would just like to say that she was very instrumental in moving the legislation from the subcommittee to the full committee and onto the House floor.

At this time, Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. KENNELLY).

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Mrs. KENNELLY. Mr. Speaker, I find myself today in a unique position that brings me great happiness. As a fairly new Member of this Congress, I went on the Ways and Means Committee and when I went on that committee, the men and women of the Congressional Caucus for Women's Issues assigned to that committee put a charge to that committee that they look at child enforcement, the Child Support Enforcement Improvement Act. I went to my chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) and I told him how important this was, how important this was to the children of America, and he took this plea seriously and he put this bill in front of many bills.

The chairman of the subcommittee, the gentleman from Tennessee (Mr. FORD), who just introduced me, treated this bill with the same seriousness and put it on a fast track. He asked the staff to work closely with the members of the subcommittee to make sure the Child Support Enforcement Improvement Act came to the floor at this early date, and then it was that Ken Bowler and Martha Phillips came into the picture to work day in and day out on this bill so this could come about before Thanksgiving.

Why did this legislation move as quickly as it did? Why was this fast track possible? One of the main reasons was that Republicans and Democrats of the Public Assistance Subcommittee realized that children do not have party affiliations.

What was the reason that traditionalists, people who believe in the traditional family could come together with feminists who were very upset about what was becoming generally known as the feminization of poverty? The reason for this was that whether you be a feminist or a traditionalist, you are very sure that you think parents should take their responsibilities for their child seriously. None would put up with parental neglect.

There is one other person who should not be forgotten when we talk about this bill and why it is here on the floor today, and that is the Secretary of Health and Human Services. Margaret Heckler was one of the first people interested in this bill and a cochair of the Congressional Caucus for Women's Issues and was one who became involved early on and also spoke to this administration to say

that this is something that we should go with.

Mr. Speaker, we have had a program in place since 1975 to establish and enforce child support obligations, to establish paternity, and to assist in the enforcement of interstate child support cases. This Federal/State effort, the child support enforcement program, has made significant progress: Over $8.8 billion has been collected in child support, over 2.2 million support orders have been established, and the paternity of over 800,000 children has been determined; 32,000 individuals received sufficient child support to allow them to leave the AFDC roles.

Nevertheless, for all this activity, our country still does not have a record of compliance with child support orders which we can be proud of. The May 1983 Bureau of the Census "Special Study on Child Support and Alimony" found 8.4 million households where children were raised in homes without fathers—and in over 90 percent of the cases women have custody after divorce. Only 60 percent of these children had been awarded court-ordered child support. Just 47 percent of those with awards received their full child support—more than one-quarter received nothing at all.

Study after study points to the same sorry statistic. Shocking numbers of parents fail to honor their obligation to support their children. And the problem of nonpayment is not necessarily a result of income—we have found that lack of compliance exists at about the same rate across income levels. A study in Denver found some absent parents paying more in car payments than they paid in child support.

The typical court-ordered support award is not large: The Census Bureau pegs the average amount due at $2,000 per year. Yet even that amount can keep the divorced or separated women and her children from falling into poverty. One-third to one-half the divorced or separated women whose children do not receive their court-ordered child support fall below the poverty line. These women are three times more likely to apply for public assistance than are divorced and separated women whose child support is paid in full. When the child support award is insufficient or only partially paid, it is the custodial parent or the taxpayer who must fill in the gap. The lack of child support is one significant cause for the level of poverty among female-headed households, now at 36.2 percent and growing.

It is no surprise that the issue of child support becomes a new front for the battle between spouses. Yet, it is the children who suffer; the consequences of divorce or separation are made all the worse by the lack of child support. Generally, when the mother is the custodial parent, the mother and children undergo a decline in their standard of living, but the father's available income increased, at least after a year of separation. When child support is not paid and the discrepancy between the two new households is large, the consequences of divorce or separation upon the children are exacerbated. In these cases, the mother, particularly if she has been a housewife, is under extreme pressure to find a way to earn money. She is unlikely to have the training or experience to secure a job at a decent wage—the median yearly salary of women working full time in our country is $13,000; only a few percent of working women earn more than $20,000 a year. Day care is expensive or difficult to find; the family might be forced to move in order to save on shelter expenses. There are precious few dollars available for going back to court to enforce a child support order. Here, the children are experiencing the absence of one parent from their home, while they find their other parent under great stress and with less time available for taking care of them. A study in California has found that when children recognize sharp discrepancy between their own standard of living and their absent parent's, they feel great bitterness about the economic situation and a sense of deprivation and anger. In this battle, typically between parents, all family relations lose.

Except for the traffic court, more Americans come into contact with our judicial system through the family courts than through any other aspect of the law. It is estimated that two-thirds of the children born this year will encounter the child support system: half will be named as recipients of child support, half will be either payors or payees when adults. It is no wonder that there is an erosion of confidence in our country's laws and institutions when compliance is so low with court orders related to something of such importance.

So what do we have in this bill today? The linchpin of this bill is wage assignment. It is no surprise to many of us that an unhappy marriage is an unhappy divorce and there has to be some mechanism put in place so that wage payments can be brought to the child. The women who came before our subcommittee spoke to us about how the system was not working for them. They had in their hands child support orders, but they were not getting any child support, and that is why wage assignment is so important beginning no later than when 30 days' arrearages develops.

Yes; we thought about having withholding start immediately, but we decided we should not affect those who are paying their child support. We should only subject to withholding those who are walking away from their responsibility to pay.

Then we looked at the Federal financial match. As we looked at that match there was some talk about reducing that match. But how could we reduce the match of 70-percent Federal payment and then ask these States to do what we are going to ask them to do which is an awful lot more? So we kept the 70-percent Federal match.

Then we did something that I think is very, very important to this bill and is going to make a great deal of difference. We agreed that we would change the incentive formula, because up to now the formula only encouraged those States and the people who work in those States in the 4(D) agencies, to go forth and look for that person whose children were on AFDC, aid for families with dependent children, because the States got a bonus if they collected support payments for AFDC recipients.

So we said, why not have a bonus for non-AFDC cases, for those women and those men who have child support orders and who are not getting them honored and who want to go to their 4(D) agency and ask for help?

We continued on and we talked and we compromised; and we directed the States to set up child support commissions to examine the operations of State child support programs, and to examine the issue of visitation and child support, because we heard from many fathers, who said, "Why should I pay child support if I can't see my child?"

We had to admit that though that should not be, that problem was there and there was a linkage and these commissions will bring forth members of the legislature, members of the judiciary, and members interested in child support issues appointed by the Governor. It will bring together those parents who are obligated to pay child support and those parents who are supposed to receive it, and argue out why this is happening and why this is bringing up the numbers in this tragic story of nonsupport for children.

I stand here and say there is encouragement for a clearinghouse for the 4(D) agencies. There are mechanisms to make sure this system works better; but I am not going to stand here and say to you that H.R. 4325 is a panacea. It is not the end-all or the be-all of child support enforcement. The individuals who have suffered on account of lack of child support have heard too many promises from too many quarters for me to make that claim.

The SPEAKER pro tempore. The time of the gentlewoman from Connecticut has expired.

Mr. FORD of Tennessee. Mr. Speaker, I yield the additional minute of the remaining time to the gentlewoman from Connecticut.

Mrs. KENNELLY. Mr. Speaker, what I am trying to say, the individ-

uals who have sought child support, the men and women who have been disappointed so far by the system, really now have a right to make their claim in an orderly fashion; but even after passage of this bill, we are going to have to be terribly vigilant to insure that the States share our commitment in grappling with this disturbing problem.

I believe we will have to make further adjustments in our laws, not just in this area, but in other areas as well, to address the often tragic consequences, which we are just beginning to understand, of the effect of increased marital breakdown on our children and to protect their interests for all our sakes and for our country's sake.

So this is another step that this Congress can take to make this country better.

Mr. Speaker, I think something should be said for those States across these United States that did comply with the 1975 Child Support Enforcement Act. There were States that carried out the mandate of this law well and these States are the States that we have looked at for direction. One of these States is my own State of Connecticut that has wage assignment after 30 days and that has a blue-ribbon commission.

There are other States that came to us and shared with us why their story was a success, and more than 40 States had problems.

So I would like to thank those men and women who worked across these United States, and others who have worked on this issue thank them for making the 1975 bill work and thank them for sharing their ideas with us so that we could have the Child Support Enforcement Act of 1983 be what it is today, because we are going to be counting on those men and women to carry out the mandate of this piece of legislation.

Mr. CAMPBELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise to urge my colleagues to give their strong support to H.R. 4325, the Child Support Enforcement Amendments of 1983.

Children have become the unwitting victims of a most deplorable form of neglect of duty—failure by fathers to provide child support payments. The statistics which highlight this problem are shocking, and demonstrate the need for the forceful action suggested by H.R. 4325.

Approximately 21 percent of all U.S. families, over 8 million total, are now single-parent families. Women head 90 percent of those families.

A Census Bureau survey for 1981 tragically revealed that only 47 percent of those families with court orders or agreements for child support were receiving full payments, while 53 percent were receiving a small part or nothing. When those single-parent families without court orders are added to that total, over two-thirds receive little or nothing in child support payments. The Census Bureau estimates that total or partial defaults were cheating children out of $4 billion a year in support.

This intolerable situation exists despite the fact that a California survey indicated that during the year following divorce, the husband's income rose by 42 percent. This contrasts starkly with the survey's conclusion that for the same period the wife's income dropped by an astounding 73 percent.

As if the resulting devastation on the children from these statistics was not obvious, consider that over one-half of all children who live in poverty are children in female-headed families, and almost two-thirds of those children depend on AFDC. Simply put, the profound impact that nonpayment of child support has in exacerbating this problem cannot be overstated.

H.R. 4325 seeks to put a clamp on this national tragedy, and suggests a beginning to reverse its effects. Its provisions require States to adopt mandatory wage withholding laws, require an offset for State income tax refunds, permit liens on property of neglectful parents, and other such measures designed to insure that child support is provided.

This is a first and necessary step in addressing this problem. At stake are not luxuries but necessities for our Nation's most valuable resource, our children. Food, clothing, shelter—these are the casualties of irresponsible neglect by fathers in fulfilling their child support responsibilities, and children are the victims. I hope that my colleagues will join with me today in giving their unqualified support for H.R. 4325.

● Ms. KAPTUR. Mr. Speaker, I rise today in support of H.R. 4325, the child support enforcement amendments.

Child support is a matter of survival for women who head single parent families. Of the 8.5 million single parent families in the United States, 90 percent are headed by women. One-third of them live below the poverty line. A major factor contributing to this poverty is women's inability to collect full child support. The Census Bureau recently reported that fewer than half of the women awarded child support received the full amount due. H.R. 4325 would provide incentive bonuses to encourage State enforcement of court-ordered child support for all families, whether or not the families received aid to families with dependent children. Acts of Congress cannot mend broken families nor eradicate the pains of divorce. We, however, can implement legislation to help insure that children victimized by divorce do not become victimized by poverty as well. I recommend to my colleagues the following column by Ellen Goodman which appeared in the Toledo Blade:

AT LAST, REMEDY FOR CHILD SUPPORT PROBLEM

Every once in a while we actually come up with a solution to a problem. This is an event so unusual in our complicated, embattled society that it should be immediately elevated to the status of news. "Man bites dog" stories pale beside such reader grabbers as "Congress solves problem."

The solution that appears to be on hand is called the child support enforcement amendments of 1983. With luck, a bill to reform and strengthen the payment of child support may get as far as a congressional vote before Thanksgiving.

The problem of course has been around for a long time. One study after another has shown that an extraordinary proportion of divorced parents—mostly fathers—also divorce their children, at least financially.

Of the 8.4 million families with absent fathers, only five million are awarded child support. Less than half of these families actually receive the full amount. In one year alone unpaid child support came to $3.8 billion.

It has been popular to assume that the only men who don't pay for their kids can't pay. Perhaps the court demanded too much, perhaps their incomes produced too little. This is true in some cases. But the statistical picture that has emerged lately is less kind to these fathers. The Census Bureau reports that child-support payments represent only about 13 per cent of the average male income. A Stanford study shows that men who earn $50,000 a year are no more likely to pay their child support than men who earn under $10,000.

It appears that most of these fathers don't pay because they don't want to. And because they can get away with it.

The desire to "do something" about truant fathers has produced a strange alliance over the past year. Traditionalists and feminists are united in one thing; disapproval of paternal neglect. Many are increasingly concerned about the "feminization of poverty."

It is clear now that the quickest way for a mother and children to get poor is to get divorced. Most of the poor children in the country live in single-parent homes. In California, a year after divorce the average wife's income drops 73 percent while her husband's rises 42 percent.

By last January child-support enforcement was not only in the women's economic equity act but in the President's State of the Union address. By July a gaggle of bills was proposed, heard, and studied, August, for its part, was dubbed Child Support Enforcement Month by the President.

The bills were bogged down in details during the early fall and ran into opposition from divorced fathers' groups. Some men complained about wildly varying child-support judgments. Others testified that money was their only weapon in the fight with mothers who denied them access to their children.

But one piece of legislation was finally wrought out of compromise, brought out of subcommittee, and is likely to be reported out of the House Ways and Means Commit-

tee this week, close to a legislative track record. The bill beefs up enforcement of child-support payments for both welfare and nonwelfare families. The central point is that states will now be required to withhold money from the paychecks of fathers who are 30 days late with their payments.

States will also be able to withhold tax refunds from men whose families are on aid to families with dependent children, make liens against the property of any delinquent parent, and add the bad news of child-support arrearages to his credit rating. A full 70 per cent of the costs of administration will come from the feds, money that will also support clearinghouses to monitor and track payments.

To allay the legitimate concerns of divorced fathers, there is even a provision for 50 state commissions on child support. These commissions will talk about things like visitation rights and standards for payments.

This is not a perfect bill, but it's about as decent a compromise as could be wrought out of this odd alliance. The unhappy reality here is that the Government has had to step in where parents dropped out. The Census Bureau tells us that when divorcing parents make their own agreement there is much less trouble with payments. But a large proportion of the people who couldn't make their marriages work can't make their divorces work.

This bill is the end result of failed marriages and failed divorces. But for the moment, at least Congress is acting the way parents should in the best interests of the child.●

● Mr. MATSUI. Mr. Speaker, I rise in strong support of H.R. 4325, legislation to strengthen the current child support enforcement program. We owe a great deal to Congresswoman BARBARA KENNELLY and Congressman CARROLL CAMPBELL whose persistence and dedication proved instrumental in crafting the legislation before us today.

The Congress enacted the child support program in 1975 in an effort to require absent parents to provide for their children. While this Federal initiative has afforded invaluable assistance to many mothers and their children, it has become apparent that certain aspects of this program needed to be revised.

The need for strengthening this statute was underscored by a recent Census Bureau study. The report found that 8.4 million women in 1981 had children under age 21 whose fathers were absent. Thirty percent of these persons lived in poverty. Approximately 4 million of those women were supposed to receive child support payments as ordered by court decree. More than half of these women—about 53.3 percent—received only partial payment or no payment at all. Clearly, it was incumbent on the Congress to address this growing problem.

As a member of the Public Assistance Subcommittee, I was privileged to work on legislation to ameliorate this situation. Our bill represents a worthy and balanced approach, which will enable States to pursue more aggressively collection efforts on behalf of families in need.

The bill adds an important new dimension to the child support enforcement program. H.R. 4325 specifically clarifies that the IV-D programs should assist non-AFDC families in obtaining overdue suport payments. This goal will be accomplished, in part, through a new set of incentives allowing States to keep 4 percent of all collections made on behalf of non-AFDC cases.

H.R. 4325 also provides State IV-D agencies with a number of useful collection tools which include mandatory wage withholding, offsetting State income tax refunds, and placing liens on absent parents' property. While these practices may seem somewhat harsh, we must remember that absent parents, who are not paying their child support, are shirking both a legal and moral responsibility to maintain their children.

We are concerned, however, about the reasons absent parents may be neglecting their child support obligations, reasons such as visitation rights. To address these issues, H.R. 4325 establishes commissions in each State to examine the broad spectrum of concerns surrounding child support programs. These commissions will be encouraged to include absent parents as members in order to understand better their perspective and problems.

In conclusion, I would urge my colleagues to support H.R. 4325. This bill will ease the trauma many women and children suffer because of divorce and its consequence, which occurs all too often, of reduced income and living standards.●

Mr. FORD of Tennessee. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4325, as amended.

The question was taken.

Mr. FORD of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments reported in disagreement on the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, and that I may be permitted to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 3959, SUPPLEMENTAL APPROPRIATIONS, 1984

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of Tuesday, November 15, 1983, I call up the conference report on the bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

The Clerk read the title of the bill.

□ 1310

The SPEAKER pro tempore. Pursuant to the order of the House of November 15, 1983, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 15, 1983.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I bring before my colleagues in the House the conference agreement on the fiscal year 1984 supplemental. I am happy to say, that what might have been a very difficult conference was made easier by the cooperation and strength of our House conferees, Messrs. BOLAND, NATCHER, SMITH of Iowa, ADDABBO, YATES, BEVILL, LEHMAN of Florida, FAZIO, CONTE, MCDADE, MYERS, COUGHLIN, and O'BRIEN. Also, the other body showed restraint, and withdrew a number of controversial legislative items that do not properly belong on a supplemental appropriations bill.

The conference agreement appropriates some $302 million in net new budget authority, including a rescission of some $50 million of previously appropriated funds. I might point out to my colleagues that approximately 60 percent of the funds in this bill are for the veterans' programs. The conference agreement that I bring before you is $37 million below the amounts requested by the President. In all it is a good bill.

The Senate added some 67 amendments to the House-passed bill which cover 9 of the 13 subcommittees. I am happy to say that all items in disagreement have been settled, and all House conferees signed the conference agree-

ment. The various subcommittee chairmen that dealt with the various subjects in conference are here today and will be happy to address the various aspects of the conference report.

I would like to say that your Committee on Appropriations—despite a set of very difficult circumstances—has had a very good year. Eight of our regular appropriations bills are already signed into law, and today Mr. NEAL SMITH cleared the Commerce-Justice-State bill for the President. My good friend JOE ADDABBO is downstairs right now working with the Senate on the Defense conference—and we expect it to be signed by the President. As all my colleagues know, the continuing resolution enacted into law for the full year the conference agreement on the Agriculture bill, and dealt with the foreign assistance programs for the full year.

The expedited schedule that was followed this year was made possible because the committee moved forward on its various appropriation bills based on the House-passed version of the first budget resolution in lieu of waiting for a final conference agreement. This action saved a number of weeks. Procedures such as this will be necessary in future years if the Congress is to make further progress toward the objective of enacting all the appropriation bills by the beginning of the fiscal year.

The committee wishes to stress that early enactment of its regular appropriation bills, and speedy disposition of pending supplementals, give department and agency managers more time in which to administer their programs for the fiscal year. This practice should benefit everyone and improve Goverment efficiency.

I would like to thank all of my fellow committee members for all their help throughout the year, and urge my colleagues in this House to approve this conference report.

Thank you.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference report on H.R. 3959, supplemental appropriations for 1984.

I cannot say that I have much enthusiasm for this bill. There is an inevitable letdown following the high drama of the continuing resolution. And this bill itself is a mixed bag.

Members will recall that this bill was put together as an accommodation to Members who wanted to offer amendments to the first continuing resolution.

The House-passed bill contained supplementals of $444.7 million.

The bill as passed the Senate had been reduced—that is right, reduced—to $391 million, mostly by the addition of a rescission of $50 million. The conference agreement is $302 million, which is $143 million below the House bill, $89 million below the Senate bill, and $38 million below budget.

And the bottom line is that the administration supports the bill, with only one exception, amendment 60, which will be considered separately, and which I shall speak to at that time.

So I am able to say to my colleagues on this side of the aisle that from a fiscal point of view, the conference report as a whole is a good one, and is acceptable to the administration.

However, the conferees did have to dispose of 67 individual Senate amendments. And while I support the conference agreement as a whole, I am the first to acknowledge that there are some individual items that I do not like, and I will review some of these in a moment.

But given the facts of life—these are the closing days of the session, and the purpose of a conference is to compromise—I think your conferees did a good job.

The conference agreement includes some worthwhile items: $20 million for NASA to fund two shuttle projects; $75 million for veterans jobs training, an $33.9 million for the agent orange study; $42 million to deal with the Centralia Mine fire; $12 million for the nuclear waste disposal fund; and $57 million for atomic energy defense activities.

The conferees disposed of two very controversial items which had been added by the Senate, the syndication provision and the so-called drug czar. In both cases the conferees agreed to drop the controversial provisions which had been added by the Senate.

The conferees also disposed of a number of special interest items. We won some, and we lost some.

The Senate bill included language regarding classification of urban counties for community development block grants for the benefit of Anoka County, Minn. That language stayed in.

The House bill contained funds for highways in Mississippi and Alabama. Those funds stayed in.

The Senate added $5 million for a joint research facility at two colleges in Pennsylvania. Those funds are out.

The Senate added language permitting the donation of a bamboo research station to the University of Georgia. That language stayed in.

The Senate included $500,000 for Sam J. Ervin, Jr., program in public affairs at the North Carolina State University which was not authorized. To quote from the conference report.

The conferees note the lack of specific authorization to appropriate funds to the Sam J. Ervin, Jr., program in public affairs, and are therefore reluctant to include such funding in this supplemental appropriation bill. However, the conferees have agreed to include funding for an existing program authorized for purposes similar to those conducted at the Ervin Program in Public Affairs. It is the intent of the conferees that a major portion of these funds should be used to support the Sam J. Ervin Jr., program in public affairs.

The Senate added bill language amending the Prompt Payment Act (Public Law 97-177) to expand the definition of the terms "meat" and "meat food products" to include "* * * edible fresh or frozen poultry, meat, poultry meat food products, fresh eggs, and perishable egg products." This is an amendment in technical disagreement, and I will speak in opposition when it comes up.

In conclusion, Mr. Speaker, I hope I have made it clear that from my perspective as the ranking minority member, this is an acceptable conference agreement. With one exception, it is acceptable to the administration. It is not the kind of bill that anyone can support with great enthusiasm. But I do think you can support it, and I hope that you will do so.

Mr. Speaker, at this point I would like to outline several of the specific provisions of the conference agreement.

ENERGY AND WATER DEVELOPMENT

In the energy and water development section of the supplemental, the House and Senate bills had included report language providing for the continuation of various projects out of available Bureau of Reclamation and Corps of Engineers funds. The conference agreement provides for all of those projects mentioned in either the House or the Senate report, to be continued out of available funds.

The Senate bill had included $4 million for the four-atoll health care plan in this section of the bill, rather than in the Interior section, as in the House bill. The conferees agreed to the Senate position, and will fund this program out of the Department of Energy's account.

The conferees agreed to a Senate amendment rescinding $50 million for the 155-mm artillery fired atomic projectile, to reflect the action of the Congress in the defense authorization bill that terminated this program.

The conferees also agreed to House language appropriating $9.4 million to the Appalachian Regional Commission, for continued work on two highways, one in Alabama and one in Mississippi.

TRANSPORTATION

Mr. Chairman, in the transportation section of the supplemental, the conferees agreed to a Senate amendment that disapproved a proposed deferral of funds for the U.S. Railway Association of $2.05 million. These funds are necessary to permit the USRA to continue its important functions in relation to the sale of Conrail and the

transfer of the Alaskan Railroad to the State of Alaska.

The conferees worked out a compromise with regard to the naming of time zones in the most western parts of the United States. The conference agreement renames the "Yukon" time zone as "Alaska"; changes "Alaska-Hawaii" to "Hawaii-Aleutian"; and changes "Bering" to "Samoa." I think that these changes will meet the approval of all interested parties.

The conference agreement provides for a 2-year extension of Conrail's bandonment procedures. These procedures have worked well during the past several years, and it was felt that this extension would be necessary, both to improve the marketability of Conrail as an operating entity, and to ease the inevitable transition once Conrail is sold.

The conferees urged the Federal Railroad Administration to give priority consideration to redeemable preference share applications of the Erie Lackawanna and the New York Susquehanna and Western Railroads, to the extent that their rehabilitation projects can be funded from surpluses made available from already appropriated redeemable preference share funds.

In addition, the conferees noted the difficulties involving a proposed abandonment of service on the Maitland Industrial Track in Mifflin County, Pa. The conferees urged the Federal Railroad Administration to give prompt and favorable consideration to a request for local rail service assistance funds for this line. I would like to commend the gentleman from Pennsylvania (Mr. SHUSTER) for his efforts in trying to keep this line open.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The managers have agreed to include bill language amending Public Law 98-45 to provide that loans made by the Department of Housing and Urban Development in the housing for the elderly or handicapped fund shall bear an interest rate which does not exceed 9.25 percent.

The expected fiscal year 1984 section 202 loan rate is 10.5 percent. This rate might make infeasible many projects currently being proposed or processed unless there is a concomitant increase in rental subsidies or other project income to cover the substantial additional debt service requirements resulting from the higher loan rate.

In agreeing to this amendment, the conferees intended to insure that the feasibility of many proposed section 202 construction projects is not impaired as a result of financing costs.

The conferees have also included bill language amending Public Law 98-45 to insure that any units of general local government classified as an urban county in fiscal year 1983 shall continue to be classified as an urban county for the purpose of the allocation of fiscal year 1984 funds. This amendment would permit Anoka County, Minn., to retain its 1983 designation as an urban county so that it may remain eligible to apply for community development block grant program funds.

NATIONAL AERONAUTICS AND SPACE AGENCY

The conference managers agreed to provide $20 million to remain available until September 30, 1986 to NASA for the partial funding of two shuttle-related projects: a solid rocket booster assembly and refurbishment facility, and warehousing to be used by the shuttle processing contractor. Construction on these projects will begin in 1984 at the John F. Kennedy Space Center.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The conferees have agreed to increase the limitation on FEMA's reception and representation account by $1,500 from $500 to $2,000. Funds would come from the existing 1984 appropriation for salaries and expenses.

We have also agreed to increase the 1984 authorization of FEMA's contributions to the States under section 205 of the Federal Civil Defense Act. This amendment addresses funding for improved emergency management and response at the State and local levels, and increases the authorized contribution from $54 million to $55 million, the amount appropriated in Public Law 98-45.

For the emergency food and shelter program, the conferees have provided an additional $30 million. The act making further continuing appropriations for fiscal year 1984, as passed by the House on Saturday and signed into law by the President on Monday, provided $10 million, now bringing the total to $40 million for this valuable program.

Funds provided to FEMA for the emergency food and shelter program are to be awarded from the agency to a national board constituted by the Director. The National Board will consist of representatives from United Way, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, the American Red Cross and FEMA. Representatives of these private, voluntary organizations will distribute funds to localities, where local boards have been designated to channel funds to the most needy between now and March 31, 1984.

VETERANS ADMINISTRATION

The conferees agreed to provide $75 million to the Veterans Administration to train unemployed Korean and Vietnam-era veterans. Public Law 98-77, the Emergency Veterans Job Training Act of 1983 authorized the appropriation of $150 million for this program, and $75 million has already been provided through the Further Continuing Appropriations Act signed into law on Monday.

To implement this training program, the managers have agreed to earmark $1 million of funds appropriated in Public Law 98-45.

For the agent orange epidemiological study to be funded by the Veterans Administration and conducted by the Centers for Disease Control, the Congress has provided $53.9 million.

Supplemental appropriations for fiscal year 1983 requested by the Veterans Administration for compensations, pensions, readjustment benefits and general operating expenses were deleted by the conferees. Fiscal year 1984 funds were released to the Veterans Administration on October 1, 1983 removing the necessity of providing supplemental funding at this time.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

The Conference Committee agreed to provide $600,000 for studies to consider, define, and plan a National Center for Water Resources Research and a National Clearinghouse for Water Resources Information. The conferees intend to direct these funds to a university-based organization, which will submit its conclusions to the Congress no later than September 30, 1984.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES

Mr. Speaker, as the supplemental appropriations bill left the House, it contained only four provisions related to the Department of Interior and its related agencies.

Yesterday, agreement was reached in conference on these provisions, and on several other related Senate amendments to H.R. 3959, including a prohibition on the use of fiscal year 1984 funds for the lease sale of certain tracts off the coast of Florida; funding for the relocation of residents of Centralia and Byrnesville, Pa.; additional appropriations for the Bureau of Indian Affairs for prekindergarten programs in seven States; funding for a bi-gas pilot plant report from the Homer City, Pa. facility; and funding for the four atoll health care plan through an energy and water appropriations account.

FISH AND WILDLIFE SERVICE

The act making further continuing appropriations for fiscal year 1984 prohibited the use of funds for the granting or processing of oil and gas leasing applications on units of the national wildlife refuge system outside of Alaska unless and until the Secretary of Interior promulgates revisions to existing regulations, holds a public hearing with respect to such revisions, and prepares environmental impact statements.

The Conference Committee agreed to provide $500,000 in the supplemen-

tal to perform such environmental impact studies.

NATIONAL PARK SERVICE

The managers have agreed to include bill language authorizing the National Park Service to reimburse the Truman estate for the guard service expenses incurred for the protection of the Truman historical site between the date of Mrs. Truman's death and the date on which the Park Service began providing protection.

The managers also agreed to increase the development ceiling for the Perry's Victory and International Peace Memorial in Ohio so that construction may begin, and that additional funds from the fiscal year 1984 appropriations act may be used for that construction.

For land acquisition, the conferees have agreed to provide $25 million for the authorized acquisition of Congaree Swamp National Monument lands in South Carolina; and $500,000 for the acquisition of Saratoga National Historic Park land in New York.

ABANDONED MINE RECLAMATION FUND

The supplemental appropriations bill provides $42 million to assist with the relocation of residents of Centralia and Byrnesville, Pa., who live above a mine fire which has been burning uncontrollably for more than 20 years.

The conferees have agreed that any of the funds not used for relocation may be used by Pennsylvania for other reclamation projects.

BUREAU OF INDIAN AFFAIRS

The conferees have agreed to provide $1.6 million for a final year of funding prekindergarten programs through the Bureau of Indian Affairs. We have also agreed to permit the use of funds transferred to the State of Alaska in the 1982 supplemental for the reconstruction of day schools formerly operated by the Bureau of Indian Affairs.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

The managers have agreed to provide an additional $1 million for the Homer City, Pa. bi-gas pilot plant, with language directing that a report on the testing be issued to the Congress no later than March 1, 1984.

NATIONAL FOREST SERVICE AND BUREAU OF LAND MANAGEMENT

The conferees agreed that fiscal year 1984 funds available to contract with owners of aircraft will only be used to contract for aircraft which have been certified as airworthy by the Federal Aviation Administration as standard category aircraft. The managers intend that, unless such aircraft are not reasonably available, aircraft used to control brush and forest fires should be civilian aircraft which meet all FAA safety requirements.

SMITHSONIAN

The managers have agreed to provide an additional $250,000 to the National Gallery of Art at the Smithsonian for a special exhibition program.

LABOR/HHS/EDUCATION

The House-passed version of H.R. 3959 contained no amendments relating to the Department of Health and Human Services, Labor, or Education. The Senate, however, added 5 amendments.

First, the Senate added an amendment providing $5 million in relation to a proposed $40 million gift of an insurance company headquarters to two historically black colleges in Philadelphia, Lincoln College and Cheyney College. That gift is supposedly conditioned on the availability of these Federal funds. The Senate receded to the House and this amendment was deleted on the basis of a letter from the Director of the Office of Management and Budget, which states that these funds are expected to be available from existing resources. That letter is reprinted in the statement of the managers.

Second, the Senate added an amendment requiring the obligation of $10 million or available funds, whichever is less, from the rural development loan fund. The Appropriations Committee added a similar provision in the fiscal year 1983 supplemental, requiring the obligation of $10 million by December 31, 1983. The conferees felt it would be wiser to wait and see how this first $10 million distribution goes, before requiring an additional distribution from the RDLF, in view of some of the difficulties that have been encountered in this program in the recent past. Consequently, this amendment was deleted in conference.

Third, the Senate added an amendment putting into bill language a directive in the conference report on H.R. 3913, the Labor, Health and Human Services, and Education appropriations bill of fiscal year 1984. This related to congressional concern that three national job training programs, the Human Resources Development Institute, 70,000 Ltd., and the Displaced Homemakers' Network, be funded under the first year of the Job Training Partnership Act at least at that level that they were funded under the Comprehensive Employment and Training Act. After the Senate amendment was added, the conferees have been informed that an agreement has been reached between the Department of Labor and these grantees, so that this amendment was no longer required, and it was deleted by the conferees.

Fourth, the Senate added an amendment providing an additional 10 weeks of unemployment insurance to rail workers, with less than 10 years on the job, under the Railroad Unemployment Insurance Act. A similar provision was enacted as part of the jobs bill last February, and $125 million was appropriated at that time. Sufficient funds remain from that appropriation, according to the Railroad Retirement Board, to cover the costs of this extension of these additional unemployment benefits. The conferees accepted this amendment.

Fifth, the Senate added an amendment appropriating $500,000 for the Sam J. Ervin, Jr., program in public affairs at the North Carolina State University. There is no authorization for this program. The conferees deleted this provision. The conferees added $500,000 for an existing program within the amount currently authorized, title IX part B of the Higher Education Act, fellowships for graduate and professional study. The conferees suggest that the Department of Education may want to consider providing some of these additional funds for the Sam J. Ervin, Jr., program. This additional appropriation brings the amount available in fiscal year 1984 for public service grants and fellowships to $2.5 million, and the total amount available for part B of title IX to $13.5 million.

The total additional appropriation resulting from the conference agreement for the Departments of Labor, Health and Human Services, and Education is $500,000.

Mr. WHITTEN. Mr. Speaker, I yield 10 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to commend the chairman of the Appropriations Committee for the supplemental appropriation bill that he has brought forward today. Ninety-six percent of the bill, I think, is very good.

I am particularly supportive of the veterans funds, and I appreciate the chairman keeping the commitment of $150 million to the emergency jobs program for veterans, particularly of the Vietnam and Korean eras.

The explanation of the provisions that are laid out in the summary that the Democratic Study Group put out are very good. Had I only looked at this summary of what was in the bill, I will be ecstatic that this bill was such a good supplemental bill picking up on many needed projects.

I have to say, Mr. Speaker, that I am a little bit concerned. Perhaps maybe some explanation from the subcommittee chairman on the Water and Energy Subcommittee could explain why, in the report that you brought forward by the conferees, you have a number of water projects inserted.

Let me just state that we have been on this floor on a number of occasions looking for a national water policy. We have indicated that the House Public Works Committee has a major omnibus authorization bill which passed that committee 49 to nothing.

I share the concern of the Appropriations Committee over the slow and laborious process of getting that report finished and getting that bill moving, but I have to call attention to the fact that on page H. 9877 of the RECORD, which includes the report which you laid out, I have real concern on amendment No. 32. You delete language proposed in the Senate relating to the Eastport Harbor main project.

□ 1320

Then you put a period and there is little or no explanation of what all the additional projects are.

When I first looked at it I thought we were including in the conference report these amendments that were provided by the other body, but after talking with the Parliamentarian I have discovered that rather than putting them in legislative language, these are admonitions to the Army Corps of Engineers to do certain things: The Dredge Kennedy project, Hugo Lake, Oklahoma project, the Lorean Branch and Calloway Branch, Hurst, Tex., the Chesapeake Bay model, Md., the Aliceville Lake, Black Rock Channel, N.Y., the Coles Point, Sardis Lake, Mississippi project, Yazoo Basin reservoirs. It goes on for some two pages of projects that were listed in the legislation, but now are in the conference report. They will in fact be directing to the Army Corps of Engineers to respond.

It is my guess, and I am not clear because we got this at such a late hour, as to how many dollars are involved, but I estimate about $20 million of commitments are made here.

The questions I raise are these: What about the other Members of Congress who do not happen to serve on the Appropriations Committee or have contacts in the Appropriations Committee? What about their projects? What about the fact that we take the pressure off getting an omnibus water bill that in fact has some specific decisions made on how projects will in fact be continued in their authorization?

What about cost sharing for these projects? Are we indentifying any of the cost sharing or merit selection provisions of the authorizing bill?

The thing that bothers me the most is that when I went to the staff of the House Public Works Committee, Subcommittee on Water Resources, and went to each of the staff on the majority and minority, nobody had known anything about the directives that we were giving to the Army Corps of Engineers.

It seems to me that if these are important projects that the House should consider and give direction for the corps to pursue. But basic courtesy would have been to communicate with the House Public Works Committee, to talk to the staff, to talk to the chairman of the Water Resources Subcommittee and not find them hidden, in a sense, put in a confused state, not knowing exactly whether or not, how many are authorized or appropriated.

May I ask the chairman of the committee a couple of questions? How many of these projects that are listed here in the joint statement of the conferees were in the House original passed bill that we passed in the first place?

Mr. WHITTEN. Will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I answer my colleague in a general way first? May I say that I think we have been putting in about 12 or 14 hours a day lately trying to get these bills through.

With that in mind, we deal with those projects that have been called to our attention. It is very difficult to be 98 percent pleased with everything we do. I think 98 percent would be a pretty good batting average to please any of us. I doubt if those of us on the committee are 98 percent pleased with what we have, but we do the best we can.

To begin with, we give attention to those things that are called to our attention or that we know of in a general way. May I, for the details of this matter, direct the gentleman's attention to the chairman of the subcommittee, the gentleman from Alabama, Mr. BEVILL.

The gentleman from Pennsylvania well knows that we have hundreds and hundreds of witnesses before us and I would guess what the gentleman sees here is the culmination of a whole lot of effort and looking at the whole picture nationwide.

Mr. BEVILL. Will the gentleman yield to me?

Mr. EDGAR. I yield to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. I thank the gentleman for yielding.

I believe the gentleman did ask a question. The gentleman made a very fine statement about authorization and of course, we have been waiting 7 years for an authorization bill. I commend the gentleman and the committee for getting one out of the committee now.

We are providing direction to the corps, involving studies and planning of projects, some of which are emergency projects that have to move. So if we followed my good friend and colleague from Pennsylvania's advice we would have been waiting 7 years on building these projects. We cannot do that.

But to answer the gentleman's question as to how many of them are from the other body and how many of them are from the House, there are 15 House projects and 12 Senate projects.

Mr. EDGAR. May I ask the gentleman to indicate why there are 33 or so projects?

Mr. BEVILL. Because they involve needed projects and because they are emergencies and because we have not had an authorization bill in 7 years, and we have not had a new start in 4 years. I just do not want anybody to misunderstand anything.

For the gentleman's information, not all of these projects are projects for members of the Appropriations Committee. A considerable number of them involve requests by Members not on our committee.

Mr. EDGAR. If the gentleman would respond further, 15 and 12 does not come to 33, so that means that the conferees themselves did some choosing and some selecting during the course of the conference.

Mr. BEVILL. We do some choosing and selecting; that is part of our job, and this is the way we get these projects built.

Mr. EDGAR. Let me just conclude by saying the gentleman from Pennsylvania is concerned first about the process but more importantly about all of the important water projects throughout the Nation, north, east, south, and west, that are not being considered in a fair and equitable and reasonable way.

I think if we continue every time we have a supplemental appropriation, a continuing resolution, to tack on either through legislative language or through report language additional projects, over the course of the next year we will authorize all 200 projects that presently exist in the omnibus authorization bill and we will take enthusiasm away from many of the merit policy initiatives that are in that legislation.

I think we do have some important issues: The issue of cost sharing, the issue of how to develop our ports, the issue of how to get local investment in many of these projects, the environmental impact of many of these projects.

My final question to the committee is this: It is my understanding that some of these projects are objected to by the very agency you are directing to give these projects a little extra boost, and that the Army Corps of Engineers at the district level and in some cases the regional level objects to these projects.

I wonder whether or not any of these projects fail to meet the cost/benefit ratio, fail to meet the environmental standard, and whether or not there may be some hidden here that may also be opposed by local interests in the area.

I just wish that the Appropriations Committee could work with the authorization committee so that we could have a reasonable and logical

process rather than proceed in this manner, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I would like to engage in a colloquy with the chairman of the Subcommittee on Energy and Water Development.

Is it the understanding of the gentleman from Alabama (Mr. BEVILL) that the statutory language concerning the Yatesville Lake construction project contained in Public Law 98-50, title I, (97 Stat. 247) and Public Law 98-63, title I, chapter IV (97 Stat. 313) requires that the Secretary of the Army acting through the Chief of Engineers shall upon the effective dates of these acts immediately begin construction of the Yatesville Lake, Ky., construction project notwithstanding any statutory provision or provisions which otherwise may be construed to delay immediate construction?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Alabama.

Mr. BEVILL. The gentleman is correct.

Mr. PERKINS. I thank the gentleman from Alabama (Mr. BEVILL), the distinguished chairman of the Subcommittee on Energy and Water Development, Committee on Appropriations for explaining the explicit legislative intent of these two provisions concerning the Yatesville Lake construction project found in Public Law 98-50, title I (97 Stat. 247) and Public Law 98-63, title I, chapter IV (97 Stat. 313); that this project should have been placed under construction immediately.

Mr. BEVILL. I thank the gentleman for yielding and the answer is yes. We want the U.S. Army Corps of Engineers to move immediately on this Yatesville Dam, and no further delays.

Mr. PERKINS. I thank the gentleman.

● Mr. McDADE. Mr. Speaker, I rise in support of the conference report to H.R. 3959 and to urge its adoption by this House.

The conference committee provided the $42 million previously approved by the House for the relocation of approximately 400 properties in the borrough of Centralia in Pennsylvania. Centralia is the site of the Nation's longest and most dangerous underground mine fire. I am pleased that the Senate agreed to drop language holding the funds for relocation hostage while the Commonwealth of Pennsylvania and the Interior Department negotiated the transfer of 34 titles to previously acquired properties in the fire area. The State and the Federal Government have reached agreement to transfer 28 of these properties from the Federal Government to the State. Another six titles are under review and we expect that ultimately the State will take them as well. The statement of the managers reflects our belief that the State should hold these properties rather than some other entity of Government.

The conferees also agreed to allow Pennsylvania to expend any extra funds from this appropriation for additional mine fire reclamation activities statewide. To do this we also concurred in the Senate expression that these funds are to be considered a part of the abandoned mine land fund. These projections are estimates only and include funds our State expects to receive under the Federal emergency program and the State share. Such language, in my judgment, is unnecessary because these projects are only estimates and will be subject to adjustment and appropriations in successive years. We in Pennsylvania agreed to them because we did not want anything to delay the disbursal of the acquisition fund for Centralia. The State will match appropriated funds on a 75 percent to 25 percent basis in order to move the families from the affected area. There is some urgency here in that the fire itself is spreading toward higher populated areas and posing a greater and costlier threat than at present. Now we will be able to move forcefully and expeditiously to check the fire and to protect the lives of the people in this area.

Mr. Speaker, the report also contains specific direction to the Federal Railroad Administration to fund the application for assistance for rehabilitation of the old Erie-Lackawanna line through Monroe and Lackawanna Counties. This action will make $4.8 million available to renew rail service through the Poconos into the Scranton area from New Jersey. Competitive rail service will be restored to this area for the first time since the creation of the Conrail system, bringing what we believe will be new jobs, new tourism and new vitality to northeastern Pennsylvania. I deeply appreciate the willingness of the conferees to include this provision on such an important matter to my people. I urge the adoption of this report.●

● Mr. LEATH of Texas. Mr. Speaker, I am in strong support of the provision, in the conference report which includes $75 million for the Emergency Veterans' Job Training Act of 1983; $75 million has already been approved in the continuing resolution (H.J. Res. 413 for this program.

The $75 million in this supplemental bill will fully fund the Emergency Veterans' Job Training Act, as authorized in Public Law 98-77. Members will recall that Public Law 98-77 recognizes that long-term unemployment is a serious problem for the hundreds of thousands of Korean and Vietnam era veterans. Public Law 98-77 authorizes an on-the-job training program with the principal responsibility for administering the program vested in the Veterans' Administration, to be carried out in cooperation with the Department of Labor, more specifically, the Office of the Assistant Secretary for Veterans' Employment (ASVE).

I have been informed by both the Veterans' Administration and the Department of Labor that workshops and training sessions have been held across the Nation on this legislation, and there will be maximum cooperation at all levels in implementing the program. In addition, the necessary forms have been printed and distributed. Everything is in place and the program is ready to take off as soon as the funds are allocated.

The Emergency Veterans' Job Training Act is enthusiastically supported by veterans' organizations, who through their magazines, newsletters, and other periodicals, together with their conference and meetings, apprised their members and veterans in general that Congress has approved this job training assistance for veterans suffering from long-term unemployment.

I also want to associate myself with the language in the conference report which expressed the concern of the conferees that the VA administer this program in compliance with the basic law. In that regard, the Congress is directing the VA to verify the type of employment and training experienced by the recipients of this program in order to insure such compliance, and that the VA collect sufficient data for an evaluation of the program.

I take this opportunity to commend the conferees for their expeditious consideration of the supplemental bill. In particular, I want to commend the Hon. ED BOLAND and all members of his HUD-Independent Agencies Appropriations Subcommittee for their cooperation and assistance in having funds for the Emergency Veterans' Job Training Act included in both House Joint Resolution 413, the continuing resolution, and in H.R. 3959, this supplemental bill.●

□ 1330

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDGAR. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 51, not voting 11, as follows:

[Roll No. 510]

YEAS—372

Ackerman	de la Garza	Hawkins
Addabbo	Dellums	Hayes
Akaka	Derrick	Hefner
Albosta	DeWine	Heftel
Alexander	Dickinson	Hightower
Anderson	Dicks	Hiler
Andrews (NC)	Dingell	Hillis
Andrews (TX)	Dixon	Horton
Annunzio	Donnelly	Howard
Applegate	Dowdy	Hoyer
Archer	Downey	Huckaby
Aspin	Duncan	Hughes
Badham	Durbin	Hunter
Barnard	Dwyer	Hutto
Barnes	Dymally	Hyde
Bartlett	Dyson	Ireland
Bateman	Early	Jeffords
Bates	Eckart	Jenkins
Beilenson	Edwards (AL)	Jones (NC)
Bennett	Edwards (CA)	Jones (OK)
Bereuter	Edwards (OK)	Jones (TN)
Berman	Emerson	Kaptur
Bethune	English	Kasich
Bevill	Erdreich	Kastenmeier
Biaggi	Erlenborn	Kazen
Bilirakis	Evans (IA)	Kemp
Bliley	Evans (IL)	Kennelly
Boehlert	Fascell	Kildee
Boggs	Fazio	Kindness
Boland	Feighan	Kogovsek
Boner	Ferraro	Kolter
Bonior	Fiedler	Kostmayer
Bonker	Fields	Kramer
Borski	Fish	LaFalce
Bosco	Flippo	Lagomarsino
Boucher	Florio	Lantos
Boxer	Foglietta	Latta
Britt	Foley	Leach
Brooks	Ford (MI)	Leath
Broomfield	Ford (TN)	Lehman (CA)
Brown (CA)	Forsythe	Lehman (FL)
Bryant	Fowler	Leland
Burton (CA)	Frank	Lent
Byron	Franklin	Levin
Campbell	Frost	Levine
Carney	Fuqua	Lewis (FL)
Carper	Garcia	Lipinski
Carr	Gaydos	Lloyd
Chandler	Gejdenson	Long (LA)
Chappell	Gekas	Long (MD)
Chappie	Gibbons	Lott
Clarke	Gilman	Lowery (CA)
Clay	Gingrich	Luken
Clinger	Glickman	Lundine
Coats	Gonzalez	Lungren
Coelho	Goodling	Mack
Coleman (MO)	Gore	MacKay
Coleman (TX)	Gradison	Madigan
Collins	Gramm	Markey
Conte	Gray	Marlenee
Conyers	Green	Marriott
Cooper	Gregg	Martin (NC)
Corcoran	Guarini	Martin (NY)
Coughlin	Gunderson	Martinez
Courter	Hall (IN)	Matsui
Coyne	Hall (OH)	Mavroules
Crockett	Hall, Ralph	Mazzoli
D'Amours	Hall, Sam	McCain
Daniel	Hamilton	McCloskey
Darden	Hammerschmidt	McCollum
Daschle	Harkin	McCurdy
Daub	Harrison	McDade
Davis	Hatcher	McEwen
McGrath	Ratchford	Staggers
McHugh	Ray	Stangeland
McKernan	Regula	Stark
McKinney	Reid	Stenholm
McNulty	Richardson	Stokes
Mica	Ridge	Stratton
Michel	Rinaldo	Studds
Mikulski	Roberts	Sundquist
Miller (CA)	Robinson	Swift
Miller (OH)	Rodino	Synar
Mineta	Roe	Tallon
Minish	Roemer	Tauzin
Mitchell	Rogers	Taylor
Moakley	Rose	Thomas (CA)
Molinari	Rostenkowski	Thomas (GA)
Mollohan	Roth	Torres
Montgomery	Roukema	Torricelli
Moody	Rowland	Towns
Moore	Roybal	Traxler
Morrison (CT)	Rudd	Udall
Morrison (WA)	Russo	Valentine
Mrazek	Sabo	Vander Jagt
Murtha	Savage	Vandergriff
Myers	Schaefer	Volkmer
Natcher	Scheuer	Vucanovich
Nelson	Schneider	Walgren
Nichols	Schulze	Watkins
Nowak	Schumer	Waxman
O'Brien	Seiberling	Weiss
Oakar	Shannon	Wheat
Oberstar	Sharp	Whitehurst
Obey	Shaw	Whitley
Ortiz	Shelby	Whittaker
Ottinger	Shuster	Whitten
Owens	Sikorski	Williams (MT)
Packard	Simon	Williams (OH)
Panetta	Sisisky	Wilson
Parris	Skeen	Winn
Pashayan	Skelton	Wirth
Patterson	Slattery	Wise
Pease	Smith (FL)	Wolpe
Penny	Smith (IA)	Wortley
Pepper	Smith (NE)	Wright
Perkins	Smith (NJ)	Wyden
Petri	Smith, Robert	Wylie
Pickle	Snowe	Yates
Porter	Snyder	Yatron
Price	Solomon	Young (AK)
Quillen	Spence	Young (MO)
Rahall	Spratt	Zablocki
Rangel	St Germain	Zschau

NAYS—51

AuCoin	Hansen (UT)	Nielson
Bedell	Hartnett	Oxley
Breaux	Hertel	Patman
Brown (CO)	Holt	Paul
Broyhill	Hopkins	Pursell
Burton (IN)	Hubbard	Ritter
Cheney	Jacobs	Schroeder
Conable	Levitas	Sensenbrenner
Craig	Livingston	Shumway
Crane, Daniel	Loeffler	Siljander
Crane, Philip	Lowry (WA)	Smith, Denny
Dannemeyer	Lujan	Stump
Dorgan	Martin (IL)	Tauke
Dreier	McCandless	Vento
Edgar	Moorhead	Walker
Frenzel	Murphy	Weaver
Hansen (ID)	Neal	Weber

NOT VOTING—11

Anthony	Lewis (CA)	Solarz
Gephardt	Olin	Wolf
Hance	Pritchard	Young (FL)
Johnson	Sawyer	

□ 1350

Messrs. LOEFFLER, BURTON of Indiana, CRAIG, NIELSON of Utah, MOORE, HERTEL of Michigan, SILJANDER, and NEAL changed their votes from "yea" to "nay."

Mr. MOORE changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER. Pursuant to the order of the House previously granted, the House will stand in recess subject to the call of the Chair.

As the Members are aware, there is a Kennedy memorial service to be conducted by the House and the Senate in the rotunda. It is our hope that the Congress would move in a body to the rotunda.

Accordingly (at 1 o'clock and 54 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1540

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PANETTA) at 3 o'clock and 49 minutes p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

CONFERENCE REPORT ON H.R. 3959, SUPPLEMENTAL APPROPRIATIONS, 1984

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The pending business is the amendments in disagreement on the conference report, H.R. 3959, supplemental appropriations, 1984.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 1, 2, 4, 5, 7, 13, 15, 16, 18, 20, 30, 31, 37, 42, 44, 48, 49, 52, and 54 be considered en bloc, be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement considered en bloc.

The amendments read as follows:

Senate amendment No. 1: Page 2, after line 2, insert:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), is amended by inserting before the period at the end of the paragraph under the heading "Housing for the elderly or handicapped fund" (97 Stat. 219, 220) the following: ": *Provided further*, That notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1984 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover

administrative costs and probable losses under the program".

Senate amendment No. 2: Page 2, after line 2, insert:

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For an additional amount for the "Council on Environmental Quality and Office of Environmental Quality", $600,000 to conduct a study to consider and define a National Center for Water Resources Research, and a study to define and plan a National Clearinghouse for Water Resources Information.

Senate amendment No. 4: Page 2, after line 2, insert:

SALARIES AND EXPENSES

The limitation on spending for official reception and representation allowance for fiscal year 1984 contained in the "Salaries and expenses" appropriation for the Federal Emergency Management Agency in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), is increased from $500 to $2,000.

Senate amendment No. 5: Page 2, after line 2, insert:

STATE AND LOCAL ASSISTANCE

The Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984, under the account, Federal Emergency Management Agency, State and Local Assistance, is amended by adding the following before the period: *"Provided further,* That notwithstanding any other provision of law for the fiscal year 1984, $55,000,000 is available for contributions to the States under section 205 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286), for personnel and administrative expenses".

Senate amendment No. 7: Page 2, after line 2, insert:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

For an additional amount for "Construction of facilities", $20,000,000, to remain available until September 30, 1986, for partial funding of the construction of facilities at the John F. Kennedy Space Center for the Solid Rocket Booster assembly and refurbishment contractor and for warehousing to be used by the Shuttle processing contractor: *Provided,* That with the funds appropriated under the "Space flight, control and data communications" account in the 1984 Housing and Urban Development-Independent Agencies Appropriation Act (Public Law 98-45), NASA may enter into a contract with Morton Thiokol, Inc., to amortize the Thiokol Casting Pit Covers over a twelve-year period for a total cost of not to exceed $23,000,000 under the authority granted under Public Law 98-45.

Senate amendment No. 13: Page 3, after line 7, insert:

SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Helen H. Jackson, widow of Henry M. Jackson, late a Senator from the State of Washington, $69,800.

SALARIES, OFFICERS AND EMPLOYEES

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders", $140,000.

CONTINGENT EXPENSES OF THE SENATE

SECRETARY OF THE SENATE

For an additional amount for "Secretary of the Senate", $60,000.

GENERAL PROVISIONS

SEC. 1201. The Sergeant at Arms and Doorkeeper of the Senate (hereinafter in this section referred to as the "Sergeant at Arms") may designate one or more employees in the Office of the Sergeant at Arms and Doorkeeper of the Senate to approve, on his behalf, all vouchers, for payment of moneys, which the Sergeant at Arms is authorized to approve. Whenever the Sergeant at Arms makes a designation under the authority of the preceding sentence, he shall immediately notify the Committee on Rules and Administration in writing of the designation, and thereafter any approval of any voucher, for payment of moneys, by an employee so designated shall (until such designation is revoked and the Sergeant at Arms notifies the Committee on Rules and Administration in writing of the revocation) be deemed and held to be approved by the Sergeant at Arms for all intents and purposes.

SEC. 1202. Any provision of law which is enacted prior to October 1, 1983, and which directs the Sergeant at Arms and Doorkeeper of the Senate to deposit any moneys in the United States Treasury for credit to the account, within the contingent fund of the Senate, for "Miscellaneous Items", or for "Automobiles and Maintenance" shall, on and after October 1, 1983, be deemed to direct him to deposit such moneys in the United States Treasury for credit to the account, within the contingent fund of the Senate, for the "Sergeant at Arms and Doorkeeper of the Senate".

SEC. 1203. (a) Section 105(a)(2) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1 (2)) is amended to read as follows:

"(2) New or changed rates of compensation (other than changes in rates which are made by law) of any such employee (other than an employee who is an elected officer of the Senate) shall be certified in writing to the Disbursing Office of the Senate (and, for purposes of this paragraph, a new rate of compensation refers to compensation in the case of an appointment, transfer from one Senate appointing authority to another, or promotion by an appointing authority to a position the compensation for which is fixed by law). In the case of an appointment or other new rate of compensation, the certification must be received by such office on or before the day the rate of new compensation is to become effective. In any other case, the changed rate of compensation shall take effect on the first day of the month in which such certification is received (if such certification is received within the first ten days of such month), on the first day of the month after the month in which such certification is received (if the day on which such certification is received is after the twenty-fifth day of the month in which it is received), and on the sixteenth day of the month in which such certification is received (if such certification is received after the tenth day and before the twenty-sixth day of such month). Notwithstanding the preceding sentence, if the certification for a changed rate of compensation for an employee specifies an effective date of such change, such change shall become effective on the date so specified, but only if the date so specified is the first or sixteenth day of a month and is after the effective date prescribed in the preceding sentence; and, notwithstanding such sentence and the preceding provisions of this sentence, any changed rate of compensation for a new employee or an employee transferred from one appointing authority to another shall take effect on the date of such employee's appointment or transfer (as the case may be) if such date is later than the effective date for such changed rate of compensation as prescribed by such sentence.".

(b) The amendment made by subsection (a) shall be applicable in the case of new or changed rates of compensation which are certified to the Disbursing Office of the Senate on or after January 1, 1984.

SEC. 1204. (a) The fifth sentence of subsection (e) of section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "or Minority Whip" and inserting in lieu thereof "Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority".

(b) The amendment made by subsection (a) shall be effective in the case of expenses incurred or charges imposed on or after October 1, 1983.

SEC. 1205. (a) The Sergeant at Arms and Doorkeeper of the Senate shall furnish each Senator local and long-distance telecommunications services in Washington, District of Columbia, in accordance with regulations prescribed by the Senate Committee on Rules and Administration; and the costs of such service shall be paid out of the contingent fund of the Senate from moneys made available to him for that purpose.

(b) Subsection (g) of section 112 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 58a) is repealed, effective on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act.

Senate amendment No. 15: Page 3, after line 20, insert:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for "Construction program", $1,500,000, to remain available until expended, for the Secretary of the Interior to construct a new headquarters for the operation of the Valley Division of the Yuma Reclamation Project and to cover the accompanying relocation costs associated with the move. The cost of this work will be nonreimbursable and constructed features will be turned over to the Yuma Valley Water Users Association for operation and maintenance.

Senate amendment No. 16: Page 3, after line 21, insert:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For an additional amount for "Energy Supply, Research and Development" $8,000,000, to remain available until expended, of which $4,000,000 shall be made available to implement the four atoll health care plan authorized in section 102 of Public Law 96-205 and $3,000,000 shall be for construction and operation of a second small community solar energy project on the island of Molokai, Hawaii.

Senate amendment No. 18: Page 3, after line 25, insert:

Of the funds appropriated for "Atomic Energy Defense Activities" in Public Law 98-50, an amount shall be made available to purchase 4 additional helicopters.

Senate amendment No. 20: Page 3, after line 25, insert:

(RESCISSION)

Of the funds appropriated for "Atomic Energy Defense Activities" in Public Law 98-50 for Project 82-D-109, 155 mm artillery fired atomic projectile, $50,000,000 are rescinded.

Senate amendment No. 30: Page 6, after line 25, insert:

SEC. 1305. Funds available or hereafter made available for the Red River Waterway Project shall be used to provide for construction of a high level replacement bridge for the Louisiana and Arkansas Railway Company near Alexandria, Louisiana, pursuant to an agreement between the Chief of Engineers and the Railway Company and upon terms and conditions acceptable to the Chief of Engineers in the interest of navigation and the expeditious prosecution of the Project. Federal costs of the bridge replacement, including design and construction, shall be limited to $24,270,000 (July 1, 1983 price levels), with an adjustment to this amount, if any, as may be justified by reason of a fluctuation in the cost of construction as indicated by the Engineer News Record's applicable construction indices, plus the cost of necessary real estate interests to be acquired by the Corps of Engineers, which interests may be conveyed to the Railway Company.

Senate amendment No. 31: Page 6, after line 25, insert:

SEC. 1306. Section 116(a) of the Rivers and Harbors Act of 1970 (Public Law 91-611) is amended by adding at the end thereof the following:

"Those areas of the river between Howard Street and Caldwell Avenue in Niles, Illinois, that have accumulated silt and side bank sloughing should be excavated to the normal alignment and depth, and the bank rebuilt where sloughing has occurred at an estimated cost of $100,000."

Senate amendment No. 37: Page 7, after line 2, insert:

CONSTRUCTION

Notwithstanding any other provision of law, section 4 of the Act of October 26, 1972, as amended (86 Stat. 1181; 16 U.S.C. 433c note), is amended by striking the numeral "9,327,000" and inserting in lieu thereof "10,500,000".

Senate amendment No. 42: Page 8, after line 9, insert:

Notwithstanding the provisions of Public Law 97-257, the funds appropriated therein under this head for transfer to the State of Alaska shall remain available until expended and may be used for reconstruction of day schools formerly operated by the Bureau of Indian Affairs.

Senate amendment No. 44: Page 8, after line 16, insert:

Funds available to the Department of the Interior and the Forest Service in fiscal year 1984 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as airworthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

Senate amendment No. 48: Page 9, after line 8, insert:

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For an additional amount for special exhibitions, $250,000, to remain available until expended.

Senate amendment No. 49: Page 9, after line 8, insert:

CHAPTER V

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

The Congress disapproves the proposed deferral of budget authority in the amount of $2,050,000 for the United States Railway Association (deferral numbered D84-20), as set forth in the President's special message which was transmitted to the Congress on October 3, 1983. This disapproval shall be effective on the date of enactment of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 52: Page 9, after line 8, insert:

FOOD AND NUTRITION SERVICE

Effective on October 16, 1983, and until April 16, 1984, the Secretary of Agriculture shall not reduce or withhold reimbursements, shall not collect or attempt to collect funds from an institution, its parents, affiliates or successors, and shall not otherwise affect an institution's participation in the child care food program (42 U.S.C. 1766), where the Secretary's claim relates to payments made in New York during the period January 1, 1975, through December 31, 1976, by the Secretary to the institution as a participant in the child care food program.

Senate amendment No. 54: Page 9, after line 8, insert:

DONATION OF CERTAIN PROPERTY

Notwithstanding any other provision of law, the Secretary of Agriculture shall have the authority to donate, without consideration, the land, buildings, facilities and equipment at the United States Department of Agriculture Plant Introduction Station, commonly known as Bamboo Research Station in Savannah, Georgia, to the College of Agriculture, University of Georgia.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion:

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 7, 13, 15, 16, 18, 20, 30, 31, 37, 42, 44, 48, 49, 52, and 54 and concur therein.

The motion was agreed to.

□ 1550

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 6: Page 2, after line 2, insert:

EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAM

For an emergency food distribution and shelter program to be carried out by the Director of the Federal Emergency Management Agency, $40,000,000, such sum to remain available for obligation until March 31, 1984, and to be made available under the following terms and conditions:

(1) The Director of the Federal Emergency Management Agency shall, as soon as practicable after the date of the enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The national board shall consist of seven members. The United Way of America, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Incorporated, the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board. The representative of the Federal Emergency Management Agency shall serve as chairman of the national board.

(2) Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

(3) The Director of the Federal Emergency Management Agency shall award a grant of $40,000,000 to the national board within thirty days after the date of the enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations.

(4) Eligible private voluntary organizations shall be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

(5) Participation in the program shall be based upon a private voluntary organization's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

(6) Total administrative costs may not exceed 2 percent of the total appropriation.

(7) As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum of $40,000,000 named in two instances in said amendment, insert in both instances: "$30,000,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 11: Page 2, strike out all after line 17 over to and including line 2 on page 3, and insert:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time as authorized by law (the Emergency Veterans' Job Training Act of 1983, Public Law 98-77), $150,000,000, to remain available until September 30, 1986: *Provided*, That not more than $25,000,000 of the amount appropriated shall be available for transfer to the "Readjustment Benefits" appropriation to administer the provisions of section 18 of Public Law 98-77. Any unused portion of the amount so transferred may be returned to this appropriation at any time, but not later than December 31, 1984.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the matter stricken and proposed by said amendment, insert the following:

For an additional amount for payment of expenses as authorized by the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77), $75,000,000, to remain available until September 30, 1986.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 12: Page 3, strike out lines 4 and 5, and insert:

For additional amounts for "General Operating Expenses", $1,000,000 for an evaluation of the emergency veterans' job training program, and an additional $3,165,000 for necessary expenses to administer the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur therein with an amendment, as follows: In lieu of the matter stricken and proposed by said amendment, insert the following:

Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), $1,000,000 shall be available for an evaluation of the emergency veterans' job training program.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 19: Page 3, after line 25, insert:

TERMINATION OF THE USE OF CERTAIN SEEPAGE BASINS

Of the funds heretofore appropriated for "Atomic Energy Defense Activities", $30,000,000, of which at least $8,000,000 shall be derived from funds appropriated to the Department of Energy for fiscal year 1984 for the operation of the L Reactor at the Savannah River Plant, Aiken, South Carolina, and the remainder shall be derived from funds appropriated for Project 82-D-124, to remain available until expended, for use by the Secretary of Energy—

(1) to terminate, within 24 months after the date of enactment of this Act, the use of seepage basins associated with the fuel fabrication area at the Savannah River Plant, Aiken, South Carolina; and

(2) to submit to the appropriate committees of Congress, within 6 months after the date of enactment of this Act, a plan for the protection of groundwater at the Savannah River Plant which shall include—

(A) proposed methods for discontinuing the use of seepage basins associated with the materials processing areas;

(B) provisions for the implementation of other actions appropriate to mitigate any significant adverse effects of on-site or off-site groundwater and of chemical contaminants in seepage basins and adjacent areas, including the removal of such contaminants where necessary; and

(C) provisions for continuing the expanded monitoring program of groundwater impacts involving the appropriate South Carolina agencies in accordance with the statutory responsibilities of such agencies.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

TERMINATION OF THE USE OF CERTAIN SEEPAGE BASINS

Of the funds heretofore appropriated for "Atomic Energy Defense Activities", $30,000,000 is to be made available for use by the Secretary of Energy—

(1) to terminate, within 24 months after the date of enactment of this Act, the use of seepage basins associated with the fuel fabrication area at the Savannah River Plant, Aiken, South Carolina; and

(2) to submit to the appropriate committees of Congress, within 6 months after the date of enactment of this Act, a plan for the protection of groundwater at the Savannah River Plant which shall include—

(A) proposed methods for discontinuing the use of seepage basins associated with the materials processing areas;

(B) provisions for the implementation of other actions appropriate to mitigate any significant adverse effects of on-site or off-site groundwater and of chemical contaminants in seepage basins and adjacent areas, including the removal of such contaminants where necessary; and

(C) provisions for continuing the expanded monitoring program of groundwater impacts involving the appropriate South Carolina agencies in accordance with the statutory responsibilities of such agencies.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The Speaker pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 23: Page 4, strike out lines 18 to 21, insert:

MOTION OFFERED BY MR.WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

SEC. 1300. No part of the funds appropriated under this Act or any other provisions of law may hereafter be used by the Department of Justice to represent the Tennessee Valley Authority in litigation in which the Authority is a party unless the Department is requested to provide representation in such litigation by the Authority.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 27: Page 5, strike out all after line 17, over to an including line 12 on page 6.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

The Secretary of the Army is further authorized to acquire such interest in lands currently in agriculture production which are adversely affected by any modification of schedule for water delivery to Everglades National Park under the preceding paragraph. The Secretary shall acquire any interest in land at the fair market value of such interest based on conditions existing

after the construction of the project described in the preceding paragraph of this section and before any modification of such delivery schedule. The Secretary is also authorized to construct necessary flood protection measures for protection of homes in the area affected by any modification of such delivery schedule, at an estimated cost of $10,000,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 36: Page 7, after line 2, insert:

OPERATION OF THE NATIONAL PARK SYSTEM

Funds appropriated to the National Park Service under this head in Public Law 97-394 shall be available to reimburse the Estate of Bess W. Truman for operation expenses, including maintenance and protection, of the Harry S Truman National Historic Site incurred during the period October 18, 1982 through December 27, 1982. For the Washington Tourist Information Facility in the Great Hall of the Herbert Clark Hoover Building, $500,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OPERATION OF THE NATIONAL PARK SYSTEM

Funds appropriated to the National Park Service under this head in Public Law 97-394 shall be available to reimburse the Estate of Bess W. Truman for operation expenses, including maintenance and protection, of the Harry S Truman National Historic Site incurred during the period October 18, 1982 through December 27, 1982.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 39: Page 8, line 5, after "relocation" insert ": *Provided further,* That any funds remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: *Provided further,* That funds made available for the above purpose shall be made conditional on the Commonwealth of Pennsylvania accepting title to all properties previously acquired by the Office of Surface Mining in and around the Borough of Centralia: *Provided further,* That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That any funds remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: *Provided further,* That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 8, strike out all after line 16 over to and including line 3 on page 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following:

Subsection (d) of section 109 of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1984, and for other purposes" (Public Law 98-146), is amended by striking out "The limitation with regard to this subsection on the use of funds shall not apply if any State-owned tide or submerged lands within the area described in this subsection are now or hereafter subject to sale or lease for the extraction of oil or gas from such State lands; and" and insert in lieu thereof "The limitation with regard to this subsection on the use of funds shall not apply to submerged lands within 30 nautical miles off any Florida land mass located south of 25 degrees north latitude.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 55: Page 9, after line 8, insert:

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For part B of title VII of the Higher Education Act of 1965, $5,000,000, to remain available until expended, for construction, renovation and related costs of an urban research park facility to be established jointly by the Cheyney State College of Cheyney, Pennsylvania, and Lincoln University of Lincoln, Pennsylvania, except that the provisions of section 721 (a)(2) and (b) shall not apply to the funds appropriated under this heading, and the amount of the grants paid from funds appropriated under this heading shall not be subject to any matching requirement contained in section 721(c) of such part and shall be used for the facilities of the type mentioned in section 713(g).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

CHAPTER VII

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For an additional amount for part B of title IX of the Higher Education Act of 1965, $500,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 60: Page 9, after line 13, insert:

SEC. 2004. Notwithstanding any other provision of law, the terms "meat" and "meat food products" as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, poultry meat food products, fresh eggs and perishable egg products.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 2002. Notwithstanding any other provision of law, the terms "meat" and "meat food products" as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and the Secretary of Agriculture, out of funds available to the Commodity Credit Corporation, upon proper proof of loss, shall pay outstanding claims for losses resulting from the 1980 embargo on sales of agricultural commodities to the Soviet Union sustained by businesses dealing in pork and frozen hog carcasses as well as edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) is recognized for 30 minutes.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the amendment in technical disagreement regarding equitable treatment of producers of pork and poultry products for claims arising from the 1980 embargo against the Soviet Union. At the time of the embargo, many found themselves faced with contractual deliveries they could not perform that resulted in significant economic injury. Yet the relief that was granted by the Department of Agriculture at that time protected only those dealing in grains. The amendment would redress this inequity, and afford relief to exporters in the pork and poultry industries that were similarly injured but not similarly compensated for injury.

If I may, Mr. Speaker, I would like to engage in a colloquy, the distinguished chairman of the Appropriations Committee, Mr. WHITTEN, in order to clarify the intent of this amendment. Some concerns have been raised about the scope and type of relief that would be provided by this amendment, and I believe a colloquy with the author could lay those concerns to rest.

It is my understanding, Mr. Chairman, that the purpose of this amendment is to provide for claims already pending at the Department of Agriculture to cover losses incurred by the inability of sellers to perform sales contracts by reason of the embargo, where losses can be properly proved. Is that correct?

Mr. WHITTEN. Mr. Speaker, may I describe my amendment in my own language?

I have not followed my colleague, but I know of his interest here. I prefer to answer in my own words, having provided the amendment.

The language of the amendment speaks for itself. Outstanding claims, as used in the language, mean unpaid demands due or thought to be due and shall be paid only upon proof, proper proof of loss.

The claimants should not be required to meet some technical procedures set up by the Secretary or others.

So far as narrow or lax interpretation, I prefer to say that they must have been heretofore presented to Department officials and must be paid only upon presentation, upon proper proof of loss.

My action is motivated by a refusal to pay or approve the private relief bill pending before the House Committee on the Judiciary.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Massachusetts.

Mr. CONTE. May I ask the chairman, do you have any idea, Mr. Chairman, in dollars, how many claims are pending?

Mr. WHITTEN. I again refer to my own words. I think a claim is a commonsense thing. The only claim I know about is the one pending for some time before the Judiciary Committee, and in which they have been unable to get a favorable report.

Everything in sight was paid for their losses following the embargo on sales to Russia, except, so far as I know, pork.

Now, there may be others, but I want to be sure in case there are, that they would be treated likewise, but again let me stick to the words that I used which I think are commonsense, and should be handled in that way by the Secretary.

Mr. CONTE. Thank you, Mr. Chairman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 61: Page 9, after line 13, insert:

SEC. 2005. (a) Section 4 of the Act entitled "An Act to save daylight and to provide standard time for the United States," approved March 19, 1918 (15 U.S.C. 263) is amended—

(1) by striking out "Yukon" and inserting in lieu thereof "Alaska"; and

(2) by striking out "Alaska-Hawaii" and inserting in lieu thereof "Western Pacific".

(b)(1) Any reference to Yukon standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Alaska standard time.

(2) Any reference to Alaska-Hawaii standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Western Pacific Standard time.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 2003. (a) Section 4 of the Act entitled "An Act to save daylight and to provide standard time for the United States," approved March 19, 1918 (15 U.S.C. 263) is amended—

(1) by striking out "Yukon" and inserting in lieu thereof "Alaska";

(2) by striking out "Alaska-Hawaii" and inserting in lieu thereof "Hawaii-Atleutian"; and

(3) by striking out "Bering" and inserting in lieu thereof "Samoa".

(b) (1) Any reference to Yukon standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Alaska standard time.

(2) Any reference to Alaska-Hawaii standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Hawaii-Aleutian standard time.

(3) Any reference to Bering standard time in any law, regulation, map, document, record, or other paper of the United States shall be held and considered to be a reference to Samoa standard time.

(c) The Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended—

(1) by striking from section 201(e) of such Act "1983" and inserting in lieu thereof "1985"; and

(2) by striking from section 308 (c) (1) of such Act "1983" and inserting in lieu thereof "1985".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 62: Page 9, after 13, insert:

SEC. 2006. It is the sense of the Senate that the United States Armed Forces engaged in military operations in Grenada are to be commended for their rescue of United States citizens on that island, and for their valor, success, and exemplary conduct in battle, which has been in the highest traditions of the military service.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of

the section number named in said amendment, insert "2004".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 65: Page 9, after line 13, insert:

SEC. 2009. (a) Section 17 of the Railroad Unemployment Insurance Act is amended—

(1) in subsection (a)(2), by inserting ", or the benefit year beginning July 1, 1983" after "July 1, 1982";

(2) in subsection (e), by striking out "June 30, 1983" and inserting in lieu thereof "June 30, 1984"; and

(3) by amending subsection (f) to read as follows:

"(f)(1) For purposes of this section the term 'period of eligibility' means, with respect to any employee for the benefit year beginning July 1, 1982, the period beginning with the later of—

"(A) the first day of unemployment following the day on which he exhausted his rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

"(B) March 10, 1983,

and consisting of five consecutive registration periods (without regard to benefit year); except that for purposes of this paragraph, any registration period beginning after June 30, 1983, and before the date of the enactment of the Supplemental Appropriations Act, 1984, shall not be taken into account for purposes of payment of benefits, or in determining the consecutiveness of registration periods.

"(2) For purposes of this section the term 'period of eligibility' means, with respect to any employee for the benefit year beginning July 1, 1983, the period beginning with the later of—

"(A) the first day of unemployment following the day on which he exhausted his rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

"(B) the date of the enactment of the Supplemental Appropriations Act, 1984,

and consisting of five consecutive registration periods; except that no such period of eligibility shall include any registration period beginning after June 30, 1984.".

(b) The amendments made by this section shall apply with respect to days of unemployment during any registration period beginning on or after the date of the enactment of this Act.

(c) Amounts appropriated under section 102(b) of Public Law 98-8 shall remain available without regard to fiscal year limitation for purposes of carrying out the amendments made by this section, and amounts appropriated under such section into the railroad unemployment insurance account in the Unemployment Trust Fund may be transferred into the railroad unemployment insurance administation account in the Unemployment Trust Fund as may be necessary to carry out the amendments made by this section (as determined by the Railroad Retirement Board).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "2005".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 67: Page 9, after line 13, insert:

SEC. 2011. The first paragraph under the heading "Community development grants" in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45) is hereby amended by striking out the period at the end thereof, and inserting the following: *"Provided further,* That any unit of general local government which was classified as an urban county in fiscal year 1983 pursuant to section 102(a)(6) of the Housing and Community Development Act of 1974, as amended, shall continue to be classified as an urban county for the purposes of the allocation of funds provided therein for fiscal year 1984.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows: In lieu of the first section number named in said amendment, insert "2006".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

Mr. WHITTEN. Mr. Speaker, I wish to thank my colleague from Massachusetts for his cooperation in this particular matter, and many, many other matters. Except for his cooperation and understanding and the cooperation of our counterparts on the Senate side, this House and this Congress could be tied up for a great length of time.

I just want to publicly thank him for the fine job he has done and the cooperation we have enjoyed.

Mr. CONTE. I thank you very much, Mr. Chairman.

A motion to reconsider the votes by which action was taken on the several motions and the conference report was laid on the table.

□ 1600

PLANTING OF TREE SEEDLINGS ON PUBLIC LANDS

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2838) to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) trees improve the quality of public lands by reducing noise, filtering impurities from the air, moderating extreme weather conditions, preventing soil erosion, and providing additional habitats for wildlife;

(2) the planting of trees on public lands represents a firm commitment to a healthier, more beautiful, and more diverse environment, now and for future generations;

(3) many States traditionally celebrate "Arbor Day" on the last Friday of April each year; and

(4) States which do not currently celebrate "Arbor Day" should select and designate as "Arbor Day" an appropriate day in order to focus attention on the economic and environmental benefits of planting trees on public lands.

SEC. 2. (a) The Secretary of the Interior and the Secretary of Agriculture may provide donated or surplus tree seedlings, and technical advice and assistance with respect to the planting of such seedlings, to any public or private group or organization, including but not limited to any school group, church group, scouting group, or professional forestry organization, volunteering to plant such seedlings on land owned by State or local governments or the Federal Government. The seedlings may be provided only to those groups or organizations whose planting plans submitted under subsection (b)(1) have been approved by the appropriate Secretary.

(b)(1) Any group or organization planning to plant tree seedlings under this Act shall notify the appropriate Secretary of such plans. Such notice shall be accompanied by a statement of (A) the quantity of such seedlings, and the type of technical advice and assistance with respect to the planting of such seedlings, desired by such group or organization; and (B) the proposed site of such planting, together with evidence that such group or organization has received the permission of the local, State, or Federal officer who exercises control over the land at such site to proceed with planting under this Act.

(2) Any person who provides voluntary planting services under this Act (A) may not be compensated by the Federal Government for such services; and (B) shall not be considered, by reason of having provided such services, a Federal employee for any purpose.

(c) Each Federal department or agency shall cooperate with the Secretaries in the donation of surplus tree seedlings for planting under the provisions of this Act. The Secretaries may accept any donation of any tree seedling by any Federal department or agency or any person for planting under the provisions of this Act.

(d) The Secretaries shall take such action as they determine to be appropriate to publicize the availability of tree seedlings, and technical advice and assistance with respect to the planting of such seedlings, under this Act.

SEC. 3. Notwithstanding any other provision of law, the Secretary of Agriculture is directed to waive annually without charge all or a portion of payment of rental fees required under terms of a permit for use of certain lands of the national forest system as organization camps by local units of the Boy Scouts of America or such other nonprofit organization when such local units of the Boy Scouts of America or such other nonprofit organization are willing to perform services, as the Secretary prescribes and determines will yield a valuable benefit to the public and to the program of the Secretary on such lands. If the Secretary determines that a local unit of the Boy Scouts of America or such other nonprofit organization has not fully performed such services, such organization shall not be entitled in the subsequent year to a waiver under the provisions of this section.

SEC. 4. For purposes of this Act—

(a) the term "surplus tree seedling" means any tree seedling owned by or under the control of the Department of the Interior or the Department of Agriculture that the respective Secretary determines (1) is not required for use in any program administered by such department; or (2) does not posses the characteristics required for use in any such program; and

(b) the term "other nonprofit organization" shall mean (1) a nonprofit organization holding an exemption under section 501(c) of the Internal Revenue Code, as amended; and (2) a nonprofit association or nonprofit corporation, which is not controlled or owned by profitmaking corporations or business enterprises, and which is engaged in public or semipublic activity to further public health, safety, or welfare.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes and the gentleman from California (Mr. HUNTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2838 is a simple bill with a simple purpose. It authorizes the Secretaries of Agriculture and the Interior to provide donated or surplus tree seedlings, together with advice and technical assistance, to groups and organizations volunteering to plant the tree seedlings on public lands.

In addition, an amendment offered by my friend from Idaho, Mr. HANSEN, and adopted in full committee, directs the Secretary of Agriculture to waive all or a portion of the organizational camp user fees for Boy Scouts and other nonprofit groups which agree, in exchange, to perform services on the forests such as tree planting and trail maintenance.

The tree planting program established by H.R. 2838 is intended to achieve two main objectives. First, it would improve the overall quality of life in the United States, since trees reduce noise, filter impurities from the air and water, moderate extreme weather conditions, prevent soil erosion, and provide additional habitats for wildlife.

Second, it would instill in the volunteers, and particularly the young people participating in the program, the sense of pride and accomplishment that comes from making a valuable contribution to society.

In addition, H.R. 2838 urges States which do not currently celebrate Arbor Day to select and designate as Arbor Day an appropriate day to focus attention on the economic and environmental benefits of planting trees on public lands.

H.R. 2838 is needed because the U.S. Forest Service projects timber harvest levels and reforestation needs several years before the harvesting and reforestation actually take place. In order to be sure it has the trees it will later need to reforest the land, the Forest Service must place seedling orders with forest nurseries 3 to 4 years prior to actual harvest.

Due to the cyclic nature of the housing and wood products industries, these Forest Service projections often exceed their actual needs. This occurred most recently in 1980, when the housing market virtually collapsed. As a result, much of the timber that was scheduled for harvest remains uncut. At the end of fiscal year 1983, more than 18 billion board feet of Federal timber—a 3½-year supply—were sold but uncut in Washington and Oregon alone.

Faced with this unprecedented backlog of unharvested timber, the Forest Service found itself with a surplus of seedlings. Under constraint of Federal law, the agency attempted to sell and give away as many seedlings as possible to other Government agencies and volunteer organizations. Dumping the seedlings on the market would have seriously damaged private commercial nurseries, so the Forest Service was forced to destroy them. In 1982, more than 11 million tree seedlings were destroyed by the U.S. Forest Service in Washington and Oregon.

By making the surplus seedlings available for planting in schoolyards, parks, and along our public highways, the Government is assured of a return on its investment in the form of a healthier, more beautiful and more diverse environment.

Mr. Speaker, H.R. 2838, as amended, is supported by the administration, and was reported by Subcommittee on Forests, Family Farms and Energy, and by the full Agriculture Committee, without objection. I urge my colleagues to suspend the rules and pass this legislation.

Mr. HUNTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman from California for yielding. I do not know of any objection to the Tree Seedling on Public Lands Act that we are dealing with here, but I think it is well to note the ludicrous kind of scheduling that we sometimes get on the House floor.

It is absolutely ludicrous that this bill has the same amount of time for consideration as the ERA yesterday. Here is a bill that has been described in some detail by the gentleman from Oregon (Mr. WEAVER). It is the kind of noncontroversial bill that is normally reserved for the Suspension Calendar and yet we had before us the ERA which would amend the Constitution of the United States, and it was given exactly the same kind of consideration as the bill that is now before us.

I think it is ludicrous. I think it is outrageous that we are asked to deal with scheduling of that kind. I think that maybe this bill demonstrates that to a greater extent than most others would and I appreciate the gentleman yielding.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the distinguished and wonderful gentleman from the State of Texas (Mr. DE LA GARZA), our esteemed chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 2838, a bill that would authorize the Secretaries of Agriculture and Interior to provide donated or surplus tree seedlings and technical assistance to volunteer groups and organizations for planting on lands owned by State or local governments or the Federal Government.

Mr. Speaker, the purpose of this bill is plain and simple: When the Federal Government is confronted with an unforeseen loss of millions of taxpayer dollars, let us, in effect, give the money back to the taxpayers in the form of trees for parks and other public areas. This is not only a wise and judicious resolution of a fiscal problem but plain commonsense as well.

Before I proceed further, allow me to explain how such a situation develops and why we bring this legislative resolution before this House.

The U.S. Forest Service projects timber harvest levels and reforestation needs several years before the harvesting and reforestation actually take place. Therefore, the Forest Service places seedling orders with forest nurseries 3 to 4 years prior to harvest

so that when the timber is cut, the agency will have the trees it needs to reforest the land.

After 1980, the housing market virtually collapsed. As a result, much of the timber that was scheduled for harvest remains uncut. At the end of fiscal year 1983, in Washington and Oregon alone more than 18 billion board feet of Federal timber—a 3½-year supply—were sold but remained uncut.

Faced with this unprecedented backlog of unharvested timber, the Forest Service found itself with a surplus of seedlings. Under constraint of Federal law, the agency attempted to sell and give away as many seedlings as possible to other government agencies and volunteer organizations. Dumping the seedlings on the market would have seriously damaged private commercial nurseries, so the Forest Service was forced to destroy them.

When economic fluctuations reduce planned harvests, fewer sites are available for replanting. As a result, surplus seedlings that are 2 and 3 years old, are destroyed at the optimal age for successful planting.

By making the surplus seedlings available for planting in schoolyards, parks, and along our public highways, the Government is assured of a return on its investment in the form of a healthier, more beautiful and more diverse environment.

The tree planting program established by H.R. 2838 is intended to achieve two main objectives. First, it would improve the overall quality of life in the United States, since trees reduce noise, filter impurities from the air and water, moderate extreme weather conditions, prevent soil erosion, and provide additional habitats for wildlife. Second, it would instill in the volunteers, and particularly the young people participating in the program, the sense of pride and accomplishment that comes from making a valuable contribution to society.

I ask all Members to join me in supporting enactment of H.R. 2838.

Mr. WEAVER. Mr. Speaker, I want to thank my dear, esteemed chairman of the Committee on Agriculture for his kind and good remarks in support of this bill. Indeed, it does enjoy strong bipartisan support without any objection.

I would say that this comes out of my personal experience: Back in the early fifties, being very depressed by the Korean war, I came home to Oregon after the Korean war to my parents' place outside Eugene, Oreg., on the Loraine Highway.

I needed something to restore my beliefs in what we were all about, what this Nation was all about. I went out to the land behind my parents' house, on the hillsides and I planted Douglas fir. I planted some small Douglas fir seedlings just as is envisioned in this bill.

I can only tell my colleagues in the House that this act of faith, planting a tree, knowing that it is going to take decades, if not generations of human life before that tree becomes full and mature, is indeed an act of faith, a statement that the world will go on, that we will prosper, things are going to increase in their fruition. I wish that our young people today, those who are fearful of what might happen to the world in their years, as they grow to maturity, would make that same act of faith today by planting a tree or planting many trees because it is indeed something that gives one the conviction that you have done something that only the future can bring to fruition.

Now, those trees that I planted are many, many feet tall. They are reaching to a height of this Hall of the House of Representatives now, tall Douglas fir. It makes one very proud in later years to see the fruits of what one has done when he was young.

It is a marvelous thing and I recommend it to all.

Mr. HUNTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WEAVER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 2838, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSION OF APPRECIATION FROM THE PEOPLE OF THE TOWN OF CENTRALIA, PA.

(Mr. HARRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRISON. Mr. Speaker, I have come to this floor many times this year to talk about the small borough of Centralia, of the 1,200 people who live there and who for 21 years have suffered from an underground mine fire which has imperiled their lives and made their daily living a misery.

Earlier this year an engineering report established that the potential for the spread of that fire was far greater than we had imagined and established also that the trenching operation that would be required to contain it would make living in Centralia virtually impossible.

So the people of that small town, in a nonbinding referendum, voted to relocate if funds could be made available to acquire their homes and enable them to move.

By our action a short while ago approving the conference report on the supplemental appropriation bill, we gave final approval to this bill which appropriates $42 million for that purpose. Assuming the concurrence of the Senate and approval of the President, which we have been assured will be forthcoming, I think we are now in a position to say to those people that government does work, that the money is available, and that they can leave the suffering of Centralia behind them.

So I rise, Mr. Speaker, to thank the Committee on Appropriations, its Subcommittee on the Interior, especially its distinguished chairman, Mr. YATES, its ranking minority member, Mr. MCDADE, my good friend from Pennsylvania, Mr. MURTHA, and to thank our colleagues in the other body and the Governor of Pennsylvania who, in a nonpartisan spirit, worked to achieve this end.

Most of all, Mr. Speaker, for myself and for the 1,200 valiant and long-suffering people of Centralia, I want to thank my colleagues in this body for having done a wise and humane thing.

COLORADO RIVER BASIN AGRICULTURAL CONSERVATION PROGRAM

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3903) to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin, as amended.

The Clerk read as follows:

H.R. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of Agriculture (hereinafter referred to as "the Secretary") may establish a voluntary cooperative program with landowners to improve onfarm water management and reduce watershed erosion on non-Federal lands and on lands under the control of the Department of Agriculture for the purpose of assisting in controlling salinity in the Colorado River Basin.

SEC. 2. In carrying out any program under this Act, the Secretary may—

(1) identify salt-source areas and determine the salt load resulting from irrigation and watershed management practices;

(2) develop, in consultation with the public and affected governmental interests, plans for implementing measures that will reduce the salt load of the Colorado River by improving onfarm irrigation water management, including improvement of related laterals, and by improving watershed erosion management practices, such measures to include replacement of incidental wildlife

values foregone as a result of constructing the salinity control improvements;

(3) provide technical and cost-sharing assistance for the voluntary implementation of plans through contracts and agreements with individuals or groups of owners and operators of farms, ranches, and other lands as well as with local governmental and nongovernmental entities such as irrigation districts and canal companies, except that a portion of the costs of implementing such plans shall be shared by the participants on the basis of benefits received and other appropriate factors, as determined by the Secretary, and except that such contracts and agreements shall provide for continuing operation and maintenance of measures installed under this section without additional Federal cost sharing; and

(4) provide continuing technical assistance for irrigation water management, provide for the monitoring and evaluation of changes in salt contribution to the Colorado River to determine program effectiveness, and carry out related research, demonstration, and education activities.

SEC. 3. (a) The measures to be implemented in any particular salt source areas shall be described in reports issued by the Secretary. Copies of the reports shall be submitted to—

(1) the Committees on Agriculture and Appropriations of the House of Representatives, and the Committees on Agriculture, Nutrition, and Forestry and Appropriations of the Senate;

(2) members of the Advisory Council established by section 204(a) of Public Law 93-320; and

(3) the Governor of any State where measures are to be implemented.

(b) No funds for implementation of proposed measures undertaken pursuant to this section may be expended until the expiration of sixty days after submission of the report of the Secretary.

SEC. 4. The Secretary may use existing agencies, as well as the services and facilities of the Commodity Credit Corporation, to carry out the provisions of this Act. The Secretary also may authorize such participating agencies to make grants to or enter into cooperative agreements with conservation districts, local governmental agencies, colleges and universities, or others as appropriate to carry out the activities identified in section 2. There are hereby authorized to be appropriated annually, to be available until expended, such funds as may be necessary to carry out the provisions of this Act: *Provided*, That no disbursement may be made by the Commodity Credit Corporation except to the extent and in such amounts as provided in advance in appropriation Acts.

SEC. 5. The Secretary shall submit a report to Congress by January 1, 1988, and at each five-year interval thereafter, concerning the operation of the program authorized by this Act. Such report shall contain an evaluation of the operation of such program and may include recommendations for such additional legislation as may be necessary to solve identified salinity problems in areas designated by the Secretary and may include recommendations to utilize new technology and research related to such problems.

SEC. 6. The Act shall take effect on October 1, 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes and the gentleman from Missouri (Mr. EMERSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3903, a bill to establish a U.S. Department of Agriculture salinity control program for the Colorado River Basin.

H.R. 3903 would provide authority to the Secretary of Agriculture to establish a voluntary onfarm salinity control program in cooperation with landowners and on lands under the control of the Department for the enhancement and protection of the quality of water in the Colorado River for use in the United States and Mexico. To this end, the Secretary of Agriculture may: First, identify salt source areas; second, develop plans for measures to reduce the salt load of the Colorado River by improving on farm irrigation water management and improving watershed erosion management practices; third, provide technical and cost-sharing assistance; fourth, conduct monitoring and evaluation; and fifth, carry out research, demonstration, and education activities.

Before going any further, I would first like to provide some background information. The Colorado River Basin encompasses portions of seven States. The river flows over 1,400 miles from headwaters in the upper basin in Wyoming and Colorado, joining with tributaries in Utah and New Mexico, flowing through the lower basin below Glen Canyon Dam and the States of Nevada, Arizona, and California, and terminating in the Gulf of California in the Republic of Mexico.

The Colorado River, at its headwaters, has a salinity—total dissolved solids—concentration of only about 50 milligrams per liter. The salinity concentrations progressively increase downstream as a result of water diversions and salt contributions from a variety of natural and man-induced sources. In 1981, the salinity concentration averaged about 806 milligrams per liter at Imperial Dam, the last major division point on the Colorado River in the United States. Unless control measures are adopted, the concentration can be expected to increase, possibly reaching a level of 1,140 milligrams per liter at Imperial Dam by the turn of the century.

The Environmental Protection Agency recommends that drinking water contain no more than 500 milligrams per liter of total dissolved solids. For irrigators, increased concentrations decrease crop yields, alter crop patterns, increasing leaching and drainage requirements, and escalate management costs. Salinity levels of 700 to 850 milligrams per liter in applied irrigation water are resulting in agricultural losses on more than 1 million acres of irrigated farmlands in the United States, through either lower yields or increased production and management costs.

The 10 million tons of salt annually entering Lake Mead in the Lower Colorado River Basin adversely impacts the quality of life for more than 10 million residents who depend upon the Colorado River for their water supply. In addition to decreased palatability, significant losses are associated with municipal and industrial uses and occur primarily from increased water treatment costs, accelerated pipe corrosion and appliance wear, and increased soap and detergent needs. In response to a 1972 amendment to the Federal Water Pollution Control Act, the seven Colorado River Basin States created the Colorado River Salinity Control Forum. Numerical salinity criteria were developed for the Colorado River Basin and adopted by each of the basin States and approved by the Environmental Protection Agency.

Since 1974, the Department of Agriculture, through such agencies as the Soil Conservation Service (SCS), Agriculture Research Service (ARS), Extension Service (ES), Cooperative State Research Service (CSRS), and Agriculture Stabilization and Conservation Service (ASCS), have played a major role in formulating, developing, and implementing an effective approach to reducing salt loads contributed to the Colorado River from onfarm irrigated agricultural croplands and related farm laterals and irrigation canals.

However, based on its experience, the Department of Agriculture has concluded that the limitations of its existing authorities have hampered the operation of an effective onfarm salinity control program. The Department has no single legislative authority to provide financial assistance, technical assistance, and education. Instead, the USDA must use separate authorities in combination. Each of these separate programs operates with its own restrictions, and each program is awarded funds by its agency on a separate scale of priorities.

For example, the agricultural conservation program (ACP) has cost-share limitations of $3,500 per year per participant. Often this requires implementation of salinity control measures to be delayed longer than necessary, or else forces participants to borrow sufficient funds to install all improvements at one time and then be reimbursed slowly over a period of years, at $3,500 per year. This causes unnecessary delays and expenses for the participants and supporting agencies. Special authority in H.R. 3903 would permit cost sharing without this annual restriction. The bill would also

overcome the ACP restrictions that cost-share funds can be awarded only to agricultural producers. The present authorities preclude cost shares with irrigation districts and canal companies, which often offer a more cost-effective solution. In many cases, off-farm canal and lateral improvements are needed before more efficient onfarm systems improvements can be made. In summary, the new separate authority for Colorado River Basin salinity control in H.R. 3903 would provide sufficient flexibility to administer this unique program in the most expeditious manner.

In closing, let me remind each of you that in centuries past, entire civilizations have been eliminated because of salinization. Salinization is a slow process which does not develop overnight. Likewise, as a soil and water resources management problem, salinization problems cannot be solved or corrected overnight. Salinity problems are costly; salinity problems have widespread impacts; and salinity problems have short-term and long-term implications.

With enactment of this bill, the Congress can take significant steps toward reversing the increasing trends of higher salinity concentrations in the Colorado River which has been and will continue to cause millions of dollars of annual downstream damages to agriculture and nonagriculture water users in the Lower Colorado River Basin States.

Mr. Speaker, this program, as outlined by my bill, has been recommended by the Secretary of Agriculture with the full endorsement of the Reagan administration.

I ask all Members to join me in supporting H.R. 3903.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 3903.

Mr. Speaker, I urge support for this bill to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin.

GENERAL LEAVE

Mr. EMERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. EMERSON. Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Speaker, I rise in support of H.R. 3903 and urge the House to adopt it under suspension of the rules. In my capacity as chairman of the House Agriculture Conservation Subcommittee with jurisdiction over this legislation, I can report to the House that absolutely no opposition to this bill has surfaced—either during hearings which I conducted, or in the time subsequent to H.R. 3903 being ordered reported.

I want to commend my full committee chairman, Mr. DE LA GARZA, for his leadership and support in this much needed Federal effort to solve the increasingly critical salinity problems in the Colorado River Basin. This legislation is aimed at addressing a long-standing problem in the basin's seven-State area. Millions of farmers, ranchers, and other consumers of water out of the Colorado River are facing a serious and potentially disastrous situation if something is not done to provide a coordinated and effective program to control the salt load in this vast river basin. H.R. 3903 will accomplish much of what is needed to provide the tools necessary to address this salinity problem.

Again, I applaud the efforts of Chairman DE LA GARZA, and urge the House to approve H.R. 3903.

□ 1620

Mr. EMERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I commend the gentleman for this action.

I would like to point out at this time since we are talking about salinity in the Colorado River, that we are going to have a crisis coming up when the central Arizona project takes on more water, especially in light of the fact that we have revised downward our estimates of how much water actually flows through the Colorado and is available to the user States. And I think that it might not be a bad idea for this Congress to remind the Government of Mexico that they cannot expect us to send him desalinated water, 1½ million acre-feet a year, and allow them to send north, through New River, which flows up through Calexico, Calif., and through the Tijuana River, which flows northward into San Diego, Calif., raw sewage. We are interested in their cleaning up that sewage flow and sometime in the near future, we will be asking the State Department to link these two items together; that is clean water flowing through New River and through the Tijuana River in return for the clean agricultural water that we send south through the Colorado that basically takes care of and irrigates the entire Mexicali Valley.

I appreciate the gentleman yielding.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman from California for his contribution.

I would like to clarify though that the intent and the immediate purpose of this legislation is to serve the needs of farmers and other domestic users, although there is a collateral benefit that could involve Mexico, but this legislation is aimed entirely at allowing the Secretary to work with the landowners so that the salinity of our lands is corrected and a benefit of that would be cleaner water in the Colorado.

The purpose here is to work with our landowners and as a benefit thereon collaterally would be that clean water would flow into the Colorado for all users, including that which is now utilized in the gentleman's area, an amount that conceivably would diminish in the near future as Arizona reclaims some of its water.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. HUNTER. I thank the distinguished gentleman for yielding.

I understand and I agree that this legislation works toward desalinating water that is going to be used by Americans and perhaps one of my concerns is the $200 million desalinization plant that we are building at Yuma on the Lower Colorado right now for the people of Mexico.

I understand the gentleman's point. It is a point that is well taken. We do need to desalinate the water for the benefit of all the users, Arizona, California, and the other user States.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman and I assure him of our cooperation in his concerns.

● Mr. COLEMAN of Missouri. Mr. Speaker, I support H.R. 3903, to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural conservation program in the Colorado River Basin.

This bill provides the Secretary of Agriculture with the legislative authority to make cost-sharing financial and technical assistance and carry out research, education, and teaching to deal with salinity control in the Colorado River Basin.

Mr. Speaker, the U.S. Department of Agriculture originally proposed this legislation and added $12.55 million in the President's fiscal year 1984 budget. CBO cost estimates are $50 million during the 5-year period covered by the bill.

Controlling salinity in the Colorado Basin is of great importance to the Western States' environment. This bill is needed, and I urge its passage today.●

Mr. EMERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 3903, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RENEWABLE ENERGY INDUSTRY DEVELOPMENT ACT OF 1983

Mr. OTTINGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3169), to amend the Energy Policy and Conservation Act to facilitate commerce by the domestic renewable energy industry and related service industries, as amended.

The Clerk read as follows:

H.R. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renewable Energy Industry Development Act of 1983".

SEC. 2. Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 and following), relating to the international energy program, is amended by adding at the end thereof the following:

"DOMESTIC RENEWABLE ENERGY INDUSTRY AND RELATED SERVICE INDUSTRIES

"SEC. 256. (a) It is the purpose of this section to implement the responsibilities of the United States under chapter VII of the international energy program with respect to development of alternative energy by facilitating the overall abilities of the domestic renewable energy industry and related service industries to create new markets.

"(b)(1) Before the later of—

"(A) 6 months after the date of the enactment of this section, and

"(B) May 31, 1985,

the Secretary of Commerce shall conduct an evaluation regarding the domestic renewable energy industry and related service industries and submit a report of his findings to the Congress.

"(2) Such evaluation shall include—

"(A) an assessment of the technical and commercial status of the domestic renewable energy industry and related service industries in domestic and foreign markets;

"(B) an assessment of the Federal Government's activities affecting commerce in the domestic renewable energy industry and related service industries and in consolidating and coordinating such activities within the Federal Government; and

"(C) an assessment of the aspects of the domestic renewable energy industry and related service industries in which improvements must be made to increase the international commercialization of such industry.

"(c)(1) On the basis of the evaluation under subsection (b), the Secretary of Commerce shall, consistent with existing law, establish a program for enhancing commerce in renewable energy technologies and consolidating or coordinating existing activities for such purpose.

"(2) Such program shall provide for—

"(A) the broadening of the participation by the domestic renewable energy industry and related service industries in such activities;

"(B) the promotion of the domestic renewable energy industry and related service industries on a worldwide basis;

"(C) the participation by the Federal Government and the domestic renewable energy industry and related service industries in international standard-setting activities; and

"(D) the establishment of an information program under which—

"(i) technical information about the domestic renewable energy industry and related service industries shall be provided to appropriate public and private officials engaged in commerce, and

"(ii) marketing information about export opportunities shall be available to the domestic renewable energy industry and related service industries.

"(3) Necessary funds required for carrying out such program shall be requested in connection with fiscal years beginning after September 30, 1984.

"(d) There shall be established an interagency working group which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting commerce in renewable energy products and related services. The Secretary of Commerce shall be the chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.".

(b) The table of contents for such Act is amended by inserting the following item after the item relating to section 255:

"Sec. 256. Domestic renewable energy industry and related service industries.".

SEC. 3. The amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. OTTINGER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. OTTINGER)

Mr. OTTINGER. Mr Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Speaker, this legislation, which is a very innovative effort authored by my friend from Oregon (Mr. WYDEN) has garnered bipartisan support and was passed unanimously by the full Energy and Commerce Committee.

I would like to express my appreciation to the ranking minority member of the Subcommittee on Energy, Conservation, and Power, the gentleman from California (Mr. MOORHEAD) for his great cooperation in expeditiously moving the bill.

I believe the bill has received such broad support because it is obvious that it is needed. We would be foolish to sit back and watch our domestic renewal energy industry, an industry with a market potential estimated to be in the billions of dollars, flounder in the face of foreign competition, subsidized by other governments.

The United States is seeing its technological lead in solar energy overtaken by foreign competitors. For instance, in the past 2 years the U.S. market share of world photovoltaic sales has dropped by 20 percent, according to the Solar Energy Industry Association. In 1980, the United States had 70 percent of the market, today it has only 50 percent. This slippage can be mainly attributed to the aggressive efforts of foreign governments to encourage and subsidize exports of renewable energy technology, and our failure to mount an equivalent effort.

Under the act, the Secretary of Commerce would be responsible for assessing the competitive state of the industry and the export barriers it faces and implementing a program to strengthen and coordinate the Federal effort with the aid of other Federal agencies and the industry, to promote renewable energy technology exports.

Under the act, the Secretary of Commerce would be responsible for assessing the competitive state of the industry and the export barriers it faces and implementing a program to strengthen and coordinate the Federal effort—with the aid of other Federal agencies and the industry—to promote renewable energy technology exports.

H.R. 3169 would require the Secretary of Commerce to conduct an evaluation of the domestic renewable industry to assess the status of the industry and its ability to compete in international markets. The study would include an assessment of the Federal Government's activities affecting renewable energy technology commerce. The amendment adopted by the committee extends the deadline for the submission of the evaluation to Congress until the latter of May 31, 1985, or 6 months after the date of enactment.

Subsequent to the evaluation. H.R. 3169 would require the Secretary of Commerce to establish a program to enhance Commerce of renewable energy technology, and to consolidate and coordinate existing Federal activities affecting the renewable energy industry.

H.R. 3169 would establish an interagency working group, chaired by the Secretary of Commerce and composed of relevant Federal agency and industry representatives to foster cooperation among various Federal agencies and the industry, and to aid in carrying out the Secretary's program.

Necessary funds required for carrying out this program would be requested in connection with fiscal years beginning after September 30, 1984. Funding for fiscal year 1984 can be provided by funds presently allocated for such purposes. The new program is expected to cost between $500,000 and $1 million.

On June 28, 1983, the Subcommittee on Energy Conservation and Power held a hearing on the state of the solar industry and solicited written and oral testimony on H.R. 3169. Representatives from the Commerce Department, the solar lobby, the Solar Energy Industry Association, Century National Bank, the National Consumer Law Center, and the National Association of Home Builders testified.

The Deputy Assistant Secretary for Export Development from the Department of Commerce stated, "I certainly support the effort, because it is absolutely right on the needs of, if you will, a new, young, and emerging industry," although he questioned whether legislation is needed.

He identified the following barriers faced by the U.S. renewable energy industry when exporting:

First, availability of and access to statistical, market, and trade information.

Second, scarcity of geophysical and economic information necessary for identifying renewable energy resources and applications using those resources.

Third, increased international competition and noncompetitive trading practices, and

Fourth, access to sufficient financing for market development and commercial transactions.

The renewable energy technology industry agrees with this assessment, and cites several examples of increased international competition and noncompetitive trading practices by Japan, France, West Germany, and increasingly, Canada and Italy. These countries provide:

Greatly increased R&D spending which emphasizes near-term product development—whereas U.S. R&D is long term and high risk.

Liberal financing which is made available through export financing subsidies and through mixed financing packages—such as export credits and concessional aid; and

Demonstration projects using off-the-shelf equipment which is donated to developing countries, often leading to future equipment sales for the same company.

Industry representatives also worry that the small renewable energy technology exporter may not have the resources to fully explore and take advantage of opportunities afforded by Federal programs.

The Commerce Department offers a wide range of programs, including market research, foreign buyer identification, and overseas trade missions. Other agencies that do or could have applicable programs include the Department of Energy, AID, the Export-Import Bank, the trade and development program, the Overseas Private Investment Corporation, and the Small Business Association. However, there is no central coordinating point among these programs. Supporters of the legislation contend that the program set forth in H.R. 3169 would direct existing resources within the Government to help this new industry expand and assist it in maintaining its market share in the increasingly competitive global market.

H.R. 3169 also directs the Secretary to participate in international standard-setting arrangements with foreign countries as part of the program. DOC, in hearings, noted that the setting of international standards for the domestic renewable energy industry could pose competitive disadvantages. "One of the ways competitors can kill you is by setting standards in a way that you cannot meet them," the Commerce witness testified, and called for increased U.S. Government and industry efforts to, "be sure that our industry standards become world standards and not the reverse."

In a letter to the committee, the Commerce Department supported the goals of the legislation, however, did not believe legislation was necessary. The Department of Energy in a similar letter supported the program goals, but deferred to Commerce on the need for legislation.

The small- and medium-sized businesses which characterize the American renewable energy industry are at a make-or-break point. If these firms are prevented from successfully competing abroad—the largest markets today are in the Third World countries—it may not be long before we find ourselves buying Japanese or German renewable energy systems here at home.

Mr. Speaker, this legislation will cost nothing in its first year. The Department estimates that it can use existing resources. It is estimated to cost between $500,000 and $1 million a year in the subsequent years. It calls for pulling together all the existing authorities in the existing agencies into a coordinated effort to help our exports of renewable energy materials.

I strongly urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WYDEN), the author of the legislation.

Mr. WYDEN. Mr. Speaker, I just want to thank the gentleman from New York for the tremendous leadership he has shown on this and so many other issues. It is clear that this bill would not be before the House today if it were not for the leadership of the gentleman from New York. I just want him to know how much I appreciate all his assistance.

I would also like to say that the gentleman from California (Mr. MOORHEAD), the ranking minority member of our subcommittee, has been enormously helpful with the development of this legislation. This is truly a bipartisan issue. And I just wanted the gentleman from California to know as well how much I appreciate his help.

Mr. Speaker, H.R. 3169 will foster Government and industry cooperation in developing and implementing a comprehensive strategy for improving the marketing of exports of renewable energy technologies such as photovoltaics, cogeneration equipment and wind energy equipment.

An aggressive marketing strategy is vital to our keeping pace with foreign competitors and enabling our companies to compete successfully in the international marketplace.

Though historically U.S. industry has dominated the world market, we are rapidly losing ground. In 1980, for example, the United States controlled 80 percent of the world market in photovoltaics. Today that percentage has dropped to 55 percent. The worldwide market for photovoltaics is expected to approach $1 billion by the end of the decade, thus, every bit of market share won now will multiply many times in value as the worldwide market for renewable energy products expands.

Technology is not our problem. In fact our technology is often superior. The problem is in our relatively weak international marketing system compared to our foreign competitors.

H.R. 3169 will enhance the U.S. renewable energy industry's international competitiveness in two ways:

It will underscore the importance of creating an export policy to maintain U.S. competitiveness in the new and rapidly growing world market for renewable energy products.

It will enhance cooperative efforts among existing U.S. programs dealing with international renewable energy development, permitting greater coordination and overall effectiveness on behalf of the U.S. renewable energy industry.

The renewable energy industry is certainly not unique in its needs in this area. And certainly lessons learned through actions proposed in H.R. 3169 would be of value to other U.S. industries as well.

The renewable energy industry, however, is a natural candidate for this type of effort.

It is an emerging industry, entering a period of tremendous worldwide growth when market position is especially significant.

It is heavily dependent on the exports. More than one-quarter of its companies export, compared with the U.S. industry average of 10 percent. For photovoltaics manufacturers, the export market accounts for more than 50 percent of sales.

One need only consider our own long-term need to replace fossil fuels with alternative energy sources, to understand our stake in maintaining a healthy domestic renewable energy industry. And to maintain a healthy domestic renewable energy industry, we need to develop our exports. We can only do that if we are organizationally equipped to provide the kind of leadership necessary to give assertive direction to the development and implementation of a marketing strategy in this sector.

For these reasons, it is important to proceed with the efforts outlined in H.R. 3169, and to regain the initiative for the United States in the renewable energy field.

□ 1630

Mr. OTTINGER. Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support passage of H.R. 3169, the Renewable Energy Industry Development Act of 1983. In the updated national energy policy plan recently sent to Congress, the administration emphasized its belief that the national energy security requires a balanced mix of resources, including solar, wind, and hydroelectric energy.

The plan also indicated that renewable energy projects must play an increasingly important role in this country's long-term energy policy.

In a statement accompanying the plan, President Reagan urged Americans to continue to use energy prudently and to improve our technology for finding and conserving energy. The renewable energy industry should be encouraged to assist Americans in accomplishing these objectives.

I believe that Congress can provide such encouragement to the renewable industry without massive taxpayers' subsidies and Government intervention in the free market.

This bill, H.R. 3169, introduced by the gentleman from Oregon (Mr. WYDEN), does not call for such subsidies or intervention. It simply will serve to coordinate existing governmental agencies in a comprehensive program to promote the export of renewable energy technology. I believe that the future of our domestic renewable industry is vitally linked to that of industry's ability to expand its world market.

This bill will serve to facilitate such expansion, and I therefore believe that it is worthy of our support. One of the concerns which has been expressed by both the Department of Energy and the Department of Commerce about this legislation is that it was too inflexible in regard to the timing of the report required under the bill. This mandated report is fairly broad in scope and is required, as H.R. 3169 is now written, within 6 months of enactment of the bill.

In order to provide additional flexibility to the timing of the report, I offered an amendment which was agreed to, which would provide that this report shall be due later, the later of May 31, 1985, or 6 months after enactment.

I would like to point out one other way in which Congress can assist in enhancing our Nation's energy security through the promotion of renewable energy. In 1978, I successfully proposed an amendment to PURPA, which gave the Federal Energy Regulatory Commission discretionary authority to exempt certain conduit hydroelectric facilities from the licensing requirements of the Federal Power Act. This amendment encouraged the development of the otherwise wasted hydroelectric potential which is available in the water conduits of our Nation's water utilities.

In my region of the country, the Metropolitan Water District of Southern California installed its first generator in one of its water supply conduits in 1980 for a capital cost of $400,000. This small one-megawatt plant will produce enough energy to save 7,750 barrels of oil each year.

Earlier this session, I introduced H.R. 1618, a bill designed to further encourage the development of larger and more productive conduit hydro facilities. Hearings on this legislation were held last spring, and I have directed my staff to revise and bill in light of these comments. This has been done, and I look forward to working with both the Energy Conservation and Power Subcommittee and the full Energy and Commerce Committee on passage of this legislation in the same spirit of bipartisan cooperation associated with H.R. 3169, the bill before us today.

This bill is an important step toward supplying the Nation the energy that it needs and the kind of renewable energy that is so necessary if we are to remain energy independent.

I ask for the passage of this legislation.

Mr. OTTINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to acknowledge the very great help of the gentleman from California (Mr. MOORHEAD) and to reiterate what I have told the gentleman before, that we are hopeful of being able to work out with him in the very near future the legislation on which he has worked very long and constructively with respect to utilizing the potential of conduit hydro.

I would also like to express my appreciation to the gentleman from New Jersey (Mr. FLORIO), and the gentleman from New York (Mr. LENT), whose Subcommittee on Commerce, Transportation, and Tourism, also reported favorably and unanimously on this bill.

Mr. WYDEN. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Oregon.

Mr. WYDEN. I appreciate the gentleman yielding, and I would like to associate myself with his remarks. The gentleman from New Jersey (Mr. FLORIO), as well as the gentleman from New York (Mr. LENT), were very much a part of the effort to develop a good bipartisan head of steam behind this legislation. I want to express my appreciation to both those gentlemen for their help.

● Mr. FLORIO. Mr. Speaker, I rise in support of H.R. 3169, the Renewable Energy Industry Development Act of 1983. This bill was reported by the Committee on Energy and Commerce by voice vote.

This legislation is designed to promote the competitiveness of the renewable energy industry in interstate and foreign commerce. My subcommittee has held a number of hearings this year on problems that U.S. industry has competing in both domestic and foreign commerce. These problems include inadequate information about foreign market opportunities and performance and other standards which sometimes discourage U.S. exports.

This bill is designed to deal with these problems as they affect the renewable energy industry. The bill was reported by my subcommittee and the Subcommittee on Energy and Conservation Power by voice vote. Both majority and minority members supported the bill. The administration also supports the purposes of this bill. In addition, the bill has the support of several associations that represent the renewable energy industry, including the Solar Lobby and the Export Council on Renewable Energy.

I urge the Members of the House to support this important legislation.●

Mr. OTTINGER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. OTTINGER) that the House suspend the rules and pass the bill, H.R. 3169, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 2838, a bill passed earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

RESCHEDULING OF METHAQUALONE

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4201) to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes.

The Clerk read as follows:

H.R. 4201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the schedule requirements of section 202(a) of the Controlled Substances Act (21 U.S.C. 812(a)) and the requirements of secton 201 of such Act (21 U.S.C. 811) respecting the scheduling of controlled substances, the Attorney General shall, by order, transfer methaqualone from schedule II of such Act to schedule I of such Act. The transfer shall take effect not later than the expiration of ninety days from the date of the enactment of this Act.

SEC. 2. Effective thirty days after the date methaqualone is transferred to schedule I of the Controlled Substances Act, the Secretary of Health and Human Services shall by order withdraw the approval under section 505 of the Federal Food, Drug, and Cosmetic Act of the new drug application for methaqualone.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the abuse of dangerous drugs is one of the most serious and intractable public health problems facing our Nation. It poses grave financial and human costs that confront every family, school, and business.

Only recently have we come to the realization that the abuse of legal drugs—drugs that are available by prescription—is responsible for one-half of drug-related deaths and injuries.

H.R. 4201 would transfer the drug methaqualone from schedule II to schedule I of the Controlled Substances Act. The effect of the legislation would be to make prescription of this drug unlawful.

I suspect few of those outside the medical profession know of this drug by its chemical name. Yet its brand name, Quaalude, is particularly well known in the drug culture. In fact, it is one of the most sought-after and abused substances on the street today. It is valued for its heroinlike effects and easy availability by prescription.

It is so popular that it has spawned a counterfeit black market in versions of the brand name product. It has also encouraged openings of so-called stress clinics. Through these clinics unscrupulous physicians sell methaqualone prescriptions with the care of store clerks distributing receipts for bottles of aspirin.

Although methaqualone is currently subject to the most stringent controls available for a prescription medication, it is considerably more popular among drug abusers than among the medical profession. It has been approved by the Food and Drug Administration (FDA) as a sedative hypnotic, although the FDA has testified that its therapeutic effects are not unique. In fact, there are several drugs now on the market of equal or superior therapeutic effect.

The health risks and abuse potential of methaqualone are beyond dispute. It is well recognized by such groups as the American Medical Association, which cautioned its members 5 months ago against its use.

It is also recognized by the only remaining U.S. distributor—the Lemmon Co. of Sellersville, Pa., which yesterday announced it would voluntarily withdraw methaqualone from sale. While the company's action is commendable, it is not an adequate substitute for congressional action at this time. Unless schedule one controls are placed on methaqualone, little will stand in the way of another manufacturer bringing the drug back on the market.

Eight States—including Georgia, Illinois, Florida, Texas, Connecticut, Mississippi, New Jersey, and North Carolina—have already acted to ban this drug. While these actions have lessened abuse in some localities, the stress clinics and black market continue to threaten other States.

Three Members deserve special praise for their work on this legislation. Each has distinguished himself as a leader in the fight against drug abuse and I am pleased to join with them in cosponsoring this much needed public health measure.

Representatives LARRY SMITH and ROY ROWLAND examined this issue closely as State legislators prior to their election to Congress. They were instrumental in securing passage of legislation to ban the use of methaqualone in their home States of Florida and Georgia.

Representative MICKEY LELAND is a pharmacist by training and serves as one of the most active members of the Subcommittee on Health and the Environment. His technical guidance and professional judgment were of invaluable assistance during the subcommittee's deliberations.

Mr. Speaker, in view of this drug's limited therapeutic value and the incidence of its abuse among young people I urge my colleagues to support this legislation. I am pleased to note that the bill has strong bipartisan support and was reported unanimously by the Committee on Energy and Commerce.

□ 1640

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. H.R. 4201, reported by the Committee on Energy and Commerce, is responsible legislation. This bill has as its purpose the reduction of illicit use and abuse of the drug methaqualone. By transferring methaqualone from schedule II to schedule I of the Controlled Substances Act, the bill will ban the drug in recognition of the absence of significant medically necessary use or need.

Clinical use of this drug, which is classed as a sedative or hypnotic, began in the mid-1960's. Due to its psychotropic effect in promoting drowsiness and sleep, it quickly became a highly abused street drug appreciated by users for its similarity to heroin. Unlike heroin, however, this drug is available by prescription, and as a result, is more readily diverted into illicit channels. Soon after the drug's introduction, reports of methaqualone abuse began appearing.

As a consequence, this drug was made subject to tight Federal controls by its placement schedule II of the Controlled Substances Act in September 1973. Despite this Federal recognition of its abuse potential, the drug continues to be a major cause of death and injury.

The bill before us shifts the control of this drug from schedule II to schedule I, recognizing that its abuse potential far outweighs any legitimate therapeutic use. As the subcommittee chairman has mentioned, illicit use of this drug comes from two sources. First, counterfeits are put on the street as copycats of legitimate brand name drugs. Second, the development of stress clinics has led to unethical practice by licensed physicians who essentially provide it to anyone with the money to pay for it.

As a result of hearings held on the subject in October of this year, I am convinced that the legislation before

us has merit. I urge my colleagues to support this legislation under suspension of the rules.

Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Florida (Mr. SMITH), one of the original authors of this legislation.

Mr. SMITH of Florida. I thank the gentleman for yielding this time to me.

Mr. Speaker, at the outset I would like to very much compliment the gentleman from California, the chairman of the subcommittee, and all the members thereon, for their help and also for their understanding of the major problem which is being addressed by this legislation. The gentleman from California has been a great inspiration not only to myself and I am sure to the other cosponsors of this bill, but to all Members of the House who have a concern about drug abuse in the United States.

Mr. Speaker, I rise in support of H.R. 4201, which would reschedule the drug methaqualone in schedule I of the Controlled Substances Act.

This bill—of which I am a prime cosponsor—results from hearings that were held on October 3 on H.R. 1055, my bill to make this change legislatively.

In the Florida Legislature in 1982, I sponsored the bill that moved methaqualone—the drug from which quaaludes are made—to schedule I of the Florida Controlled Substances Act. The Florida law has had the beneficial effect of curbing the abuse of both diverted legal quaaludes and illicit quaaludes. In the past year, even the market for counterfeit quaaludes seems to have dried up in Florida. I believe many lives have been saved, not only because of the overdoses prevented but avoided traffic accidents as well. If there was any one major tragedy associated with this drug it was the abuse by young adults resulting in a large number of proven accident-related injuries and deaths—especially on the Nation's highways.

Yet in other States there still exist stress clinics—a primary source of diverted quaaludes—prescribing quaaludes as if they were aspirin, and counterfeit quaalude look-alikes are still sold around the country.

Although the passage of the Florida law and a similar statute in Georgia, sponsored by my friend and colleague, Representative ROWLAND, has decreased quaalude abuse in these two States, the problem nationwide still remains. This bill represents a national response to what is a national problem.

Mr. Speaker, the methaqualone/quaalude problem is not a medical or a health problem alone. We are dealing with a drug abuse and control problem. Quaaludes have no real therapeutic medical value that cannot be met with another safer drug.

Quaalude abuse is a small piece of a very large puzzle. We all talk about drug abuse and how it cripples our young and our economy. Too many people, unfortunately, look for a one-shot panacea that would eliminate the problem. Well, if the solution were that easy, we would have found it long ago.

We must take appropriate action as the situation warrants. This is one area in which the Federal Government could, and most certainly should, act.

Our experience in Florida has proven quaalude abuse can be significantly eliminated. It has also proven that a change in the Federal law is necessary. Individual and piecemeal State action only shifts the quaalude abuse from one State to another. It does not address the national problem. A national problem requires a national solution.

I, therefore, urge the House to pass H.R. 4201.

Mr. Speaker, I might just add that as a result, I believe, of this legislation and of the help that this Congress is giving to this problem, just the other day the one company in the United States that manufactures quaaludes from methaqualone, the Lemmon Co., announced that it would be voluntarily withdrawing the drug from the market as of March 1984. While I think this is a significant step forward, this is the reason, this legislation, that this has been so done.

I would urge my colleagues to adopt this to make sure that no further licenses are ever granted for the prescription, manufacture, or distribution of methaqualone we do not need in the United States.

Mr. WAXMAN. Mr. Speaker, I am delighted to yield 5 minutes to the other original coauthor of the legislation, the gentleman from Georgia (Mr. ROWLAND).

Mr. ROWLAND. I thank the gentleman for yielding this time to me.

Mr. Speaker, I wish to commend Congressman LARRY SMITH and MICKEY LELAND, who worked very hard on this legislation also.

Mr. Speaker, quaalude is a drug that first came into use some 15 or 16 years ago and I, as a family physician, began to prescribe this drug, a hypnotic, a drug that is used to induce sleep. I learned some 6 months after beginning to prescribe this drug that it had some very undesirable side effects. Patients who had been given prescriptions for this drug began to come back more often than they should, looking for refills.

I decided at this time that it was a drug that we did not need, since we had many other drugs that we could use in place of it. Individuals became psychologically and physically dependent on this drug, and it also potentiated the effects of alcohol.

I did not hear anything about this drug for several years after that, until some 3 or 4 years ago, as a member of the State legislature, I began to hear that the drug was coming back into vogue again in so-called stress clinics in the Atlanta area, and I suppose the reason that it did is because it did potentiate the effects of alcohol. These stress clinics were set up by unethical physicians and others who would prescribe this drug legally and it would find its way immediately into the area of drug abuse, particularly with young people.

Legislation was passed in the Georgia General Assembly in 1982 to remove this drug from schedule II to schedule I, thus putting it beyond the reach of ordinary prescribing.

As was stated earlier, the legislation in Florida also did the same thing. Well, these stress clinics just simply moved out of the States of Florida and Georgia and moved to other areas; in fact, they moved, many of them, to Chicago. I have learned that just this year the State of Illinois has also passed legislation to remove this drug, placing it in schedule I. Texas and New Jersey have also passed similar types of legislation.

It seems that we have been addressing this in a patchwork, sort of fragmented type way and I think it is time now that we address this in an appropriate manner and make this drug illegal for ordinary prescribing throughout the entire country.

As I mentioned, there are several drugs that can be used in lieu of this drug, and it is not a drug that we really need any longer. So I urge this body to suspend the rules and pass this legislation, and let us put this drug once and for all beyond the reach of ordinary prescribing.

Mr. WAXMAN. Mr. Speaker. I am pleased now to yield 5 minutes to a very distinguished member of our subcommittee, the gentleman from Texas (Mr. LELAND).

Mr. LELAND. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to commend the chairman for his excellent leadership on this legislation, and I would also like to thank the gentleman from Georgia and the gentleman from Florida for their leadership. I join both the gentleman from Florida and the gentleman from Georgia on this legislation as a Member of this body and as a pharmacist and rise in support of H.R. 4201, which would transfer methaqualone to a schedule I controlled substance.

Methaqualone is a sedative and hypnotic agent which is currently classified as a class II controlled substance. However, most reputable physicians in

this country do not prescribe this drug because there are other agents which are therapeutically as effective and much safer. Indeed, the main use of methaqualone at this time is for abuse.

In fact, the abuse potential for this drug is so great that this drug is not produced in this country, and only one pharmaceutical company imports it. Still there are unscrupulous individuals who have diverted this agent to the blackmarket as street drugs. The only solution to end this abuse is to reschedule this drug to a class I narcotic, thereby making the prescription of this drug unlawful, and limiting its availability, except for bona fide research.

H.R. 4201 will help to control the illegal flow of drugs in this country. It will reduce the substantial amount of crime associated with abuse of Quaaludes. I urge my colleagues to support it.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 4201 to transfer methaqualone from schedule II to schedule I of the Controlled Substances Act.

One of my biggest concerns not only as a representative of the people of Puerto Rico but also as a member of the Puerto Rican community is the growing use and abuse among some youngsters in the entire Nation and Puerto Rico of alcohol and drugs. This problem not only affects the health and the minds of our students and youth but also contributes to other social problems such as crime and family disruption.

Nothing should be of highest priority for us as Members of Congress than doing our best to protect the mental health and well-being of our children and our younger population.

In 1983, responding to the growing abuse of methaqualone as a drug on college campuses, this substance was placed on schedule II of the Controlled Substances Act which is one of the most restrictive categories for a drug with an approved medical use. However, despite these strict controls, abuse of methaqualone continues.

H.R. 4201 would transfer methaqualone from schedule II to schedule I of the Controlled Substances Act. As a schedule I controlled substance, methaqualone would no longer be available by prescription and its use would be limited to research activities only, approved by the Secretary of HHS.

The transfer of methaqualone to schedule I would not affect in any way the value of this drug as a medicine. The consensus of medical opinion is that there are other available drugs of equal or superior effect and less abuse potential which can be prescribed for the same medical conditions for which methaqualone is prescribed and the American Medical Association's House of Delegates adopted in its June report a recommendation to avoid the prescription of this drug.

I urge my colleagues to support H.R. 4201.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the bill H.R. 4201, legislation which reschedules methaqualone from schedule II to schedule I, an action that bans all use of the drug.

While this type of action is usually accomplished through the administrative process, I believe that it is critical for us to act immediately to ban this drug because of the widespread abuse of this dangerous substance. Several States have already banned the use of this drug, stating that it has no legitimate medical use. I hope that my colleagues in the House agree with that assessment, and act today to pass this legislation.

Quaaludes have become an extreme threat to the well-being of many Americans, particularly our young people who seek the sedation and hypnotic effect that this drug provides. Quaaludes have been frequently abused by these young people who find themselves addicted and destroyed by their effect.

At a time when substance abuse is epidemic in proportions, I believe the Congress should take the lead and act decisively. We have been struggling for many years to prevail upon other nations to limit their crop production, and to embark on a course of crop reduction and elimination—and our efforts have met with limited success. The influx of cocaine, heroin, and marihuana into our Nation threatens the lives of young Americans, and the growing levels of addiction and abuse make drug abuse our No. 1 national health problem. We can make a difference in our fight against drug abuse if we act today to ban the use of quaaludes immediately, giving our potential substance abusers one less drug of abuse to choose from.

I want to thank the gentleman from Georgia, Mr. ROWLAND, for introducing this bill, and I urge my colleagues to act affirmatively on this legislation.●

● Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 4201, a bill to reschedule the drug methaqualone to schedule I of the Controlled Substances Act. I want to commend Chairman WAXMAN, and our colleagues ROY ROWLAND and LARRY SMITH for their hard work in bringing this bill to the floor.

This bill will eliminate the diversion of this drug from the legal channels of distribution by physicians and pharmacies which has been a major source for this extremely dangerous drug. Methaqualone is a synthetic sedative that is widely abused. It was the eighth most seriously abused controlled drug in 1982 as reported by the drug abuse warning network. It was reported by emergency room patients as the cause of their emergency more frequently than any of the barbiturate drugs, more frequently than PCP and almost twice as frequently as LSD, both dangerous, hallucinogenic drugs.

Many States have already acted to curb the sale of this drug within their borders, including my own State of New Jersey.

In January 1982, the New Jersey Department of Health initiated a canvass of the State to determine the scope and significance of the pattern of methaqualone abuse. Let me highlight for a minute some of the more pertinent reports received by the health department. In one typical example, the director of the special investigations unit in the ocean county prosecutor's office in my district reported "that the abuse of methaqualone is on the rise." He concluded that, "We feel that placing methaqualone into the schedule I category would greatly assist those charged with the enforcement of laws related to controlled dangerous substances." In a separate report the sheriff's office in Ocean County reported that "methaqualone abuse has reached epidemic proportions," and that it is the No. 1 abused drug in the depressant category in the county.

Dr. Morton J. Rodman, professor of pharmacology at the Rutgers University College of Pharmacy wrote that it is his impression that methaqualone "Has no special qualities that warrant its continued medical use as a depressant. Because of its documented ability to cause both coma and convulsions when taken in overdoses, as well as the fatal circulatory and respiratory collapse that it can also occasionally cause, it certainly qualifies as a dangerous substance."

The importance of the bill before us can be seen by a report of the Mercer County, New Jersey prosecutor that "Methaqualone abuse is widespread, especially among young people. Few cases have been observed involving either street sales or large seizures of methaqualone, suggesting that methaqualone dealing may often occur among friends or social acquaintances and that methaqualone may be obtained more often through improperly issued or forged prescriptions than street sales." One of the chief advantages of this legislation is that we will eliminate the ability of a small number of unscrupulous physicians to issue prescriptions for the methaqualone on the basis of superficial medical examinations and falsely asserted medical problems. This will cut off the principle source of methaqualone in a typical county like Mercer County.

The State-by-State ban on methaqualone has produced some serious problems. Diversion is still accomplished. Although one can no longer obtain methaqualone in New Jersey,

Georgia, or Florida, a trafficker can go to a neighboring State with a prescription, fraudulently obtained or forged, and obtain the drug.

A problem is also created for legitimate pharmaceutical suppliers. One pharmaceutical wholesaler wrote that the practice in the pharmacy industry is for a druggest to rely on a single wholesaler to supply all the pharmaceuticals that it carries. A New Jersey drug wholesaler who has accounts in New York or Pennsylvania where methaqualone is lawfully sold in pharmacies cannot under New Jersey law sell or transport methaqualone to those pharmacies. That means that the New Jersey wholesaler may lose his out-of-State business because there is one drug, methaqualone, which he cannot sell. This precise problem was identified in a letter by Michael J. Rosenberg of the Selby Drug Co., of Elizabeth, N.J., a 40-year-old wholesale distributor with over $10 million in annual sales. He wrote to the New Jersey Department of Health that he is "in complete favor of a total ban on the sale of methaqualone," but he observed that until the Federal law bans the drug, he is going to lose accounts because of the progressive action of New Jersey with regard to methaqualone.

We need a uniform, national law to fight the supply of dangerous drugs, and the methaqualone traffic in particular.

The bill before us this afternoon is a very important step. Congress must act because methaqualone is an exceptional case. The drug has a very small legitimate medical use. The Controlled Substances Act requires an administrative finding to place a drug in schedule I that there is "no currently accepted medical use in treatment in the United States." The executive branch is stymied by that absolute restriction. I am satisfied that no person will be deprived of medical treatment because methaqualone will not be available for use.

This step will reduce the availability of this dangerous drug, both in the United States and throughout the world. Our action today will serve as an example to other nations throughout the world who often follow our lead in narcotics-control matters. I urge my colleagues to support this bill.●

□ 1650

Mr. WAXMAN. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRISON). The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 4201.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL HEALTH SERVICE

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3649) to amend the Public Health Service Act to revise the system under which communities pay the United States for the services of National Health Service Corps personnel, as amended.

The Clerk read as follows:

H.R. 3649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 334(a) of the Public Health Service Act (42 U.S.C. 254g(a)) is amended (A) by inserting ", if an entity described in the last sentence of this subsection," after "the entity" in paragraph (3), (B) by striking out "and" at the end of paragraph (3), (C) by redesignating paragraph (4) as paragraph (5), and (D) by inserting after paragraph (3) the following new paragraph:

"(4) the entity, if not an entity described in the last sentence of this subsection, shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be prescribed in the agreement) during which any Corps member is assigned to the entity, the amount (prorated for a calendar quarter or other period) by which the fees, premiums, third party reimbursements, and other revenue which the entity may reasonably expect to receive during an annual period, as determined under subsection (c), for the provision of primary and supplemental health services (as defined in section 330) exceeds the costs which the entity may reasonably expect to incur, as determined under subsection (c), to provide such health services during such period. The amount to be paid under this paragraph shall not exceed the amount to be paid under paragraph (3); and".

(2) Section 334(a) of such Act is amended by adding after paragraph (5) (as so redesignated) the following:

"An entity required to make the payment prescribed by paragraph (3) is an entity which is a hospital, an entity of State or local government, or the recipient of a grant under section 329 or 330 unless the Secretary determines that in the case of an entity which is the recipient of a grant under section 329 or 330, the amount of the grant is less than the amount calculated under subparagraphs (A) and (B) of paragraph (3) for such entity.".

(3) Section 334 of such Act is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following:

"(c)(1) To determine for purposes of subsection (a)(4) the revenue and costs which an entity may reasonably be expected to receive and incur in an annual period for the provision of health services, the entity shall submit to the Secretary before the beginning of such period a proposed budget which—

"(A) describes the primary and supplemental health services which are needed by the area the entity serves in such period, and

"(B) states the revenues and costs which the entity expects to receive and incur in providing such health services in such period.

"(2) From the submission under paragraph (1) and other information available to the Secretary, the Secretary shall determine—

"(A) the primary and supplemental health services needed in the area the entity serves,

"(B) the fees, premiums, third party reimbursements, and other revenues the entity making the submission may reasonably expect to receive from the provision of such services, and

"(C) the costs which the entity may reasonably expect to incur in providing such services.

The revenues and costs determined by the Secretary shall be the revenues and costs used in making the computation under subsection (a)(4).".

(4) Section 334(a)(1) of such Act is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

(b)(1) Paragraphs (1) and (2) of section 334(b) of such Act are each amended by inserting ", on a prospective or retrospective basis," after "in part".

(2) Paragraph (3) of such section is amended by inserting "and does not require payment under subsection (a)(4)" after "(1) or (2)".

(3) Section 334(b) of such Act is amended by adding at the end the following:

"(5) If the Secretary determines that an entity is eligible for a waiver under paragraph (1) or (2), the Secretary may waive the application of the requirement of subsection (a)(3) for the entity and require the entity to make the payment required under subsection (a)(4).

"(6) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(4) for an entity if the entity demonstrates to the satisfaction of the Secretary that it requires all or part of the amount payable under subsection (a)(4)—

"(A) to expand and improve its health services,

"(B) to increase the number of persons it is able to serve,

"(C) to construct and modernize facilities for the provision of its health services,

"(D) to improve the administration of its health service programs, or

"(E) to establish a financial reserve to assure that it will be able to continue to provide health services.

The Secretary may grant a waiver under this paragraph to an entity at any time on or after the date the Secretary makes the determination described in subsection (c)(2) with respect to such entity.".

(c) Subsection (d) of such section 334 (as so redesignated) is amended by inserting "(1)" after "(d)" and by adding at the end the following:

"(2) The excess (if any) of the amount of funds collected in accordance with subsection (a)(2) by an entity subject to subsection (a)(4) over the amount paid to the United States in accordance with such subsection shall be used by the entity for the purposes set out in subsection (b)(6) or to recruit and retain health manpower to provide health services to the individuals in the health manpower shortage area for which the entity submitted an application.".

SEC. 2. The amendments made by the first section shall apply with respect to agreements entered into under section 334 of the Public Health Service Act after the date of the enactment of this Act, but, to the extent feasible, the Secretary of Health and Human Services shall revise agreements entered into under such section 334 before such date to reflect the amendments made by the first section.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3649, as amended, would revise the current requirements under which a community receiving a National Health Service Corps provider pays the Federal Government for the Government's cost in educating and placing that provider.

According to the Department of Health and Human Services, the bill will allow the National Health Service Corps sites to operate under more efficient financial management practices and will reduce the Department's administrative workload. The Congressional Budget Office has advised the subcommittee that the legislation will have no cost.

Mr. Speaker, I want to compliment the gentleman from New Mexico (Mr. RICHARDSON) for introducing this bill and for his leadership in identifying an important problem that many small National Health Service Corps clinics are having with the current payback requirements. The National Health Service Corps is an invaluable resource to thousands of medically underserved communities around the Nation. The bill introduced by the gentleman from New Mexico (Mr. RICHARDSON) will assure that those communities continue to have essential health care services.

Mr. Speaker, I urge my colleagues to support H.R. 3649.

Mr. Speaker, I yield 7 minutes to the gentleman from New Mexico (Mr. RICHARDSON) so he may speak on his legislation.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of this important health care legislation which I recently introduced along with our distinguished colleague from California (Mr. WAXMAN). I want to commend the chairman of the Energy and Commerce Subcommittee on Health and the Environment for the outstanding contributions he and his staff have made on this bill which was unanimously approved by the full committee.

In August, the Subcommittee on Health held hearings on this legislation which is designed to revise the system under which communities pay the United States for the services of National Health Service Corps (NHSC) personnel. The subcommittee heard testimony from the directors and beneficiaries of some of the small rural health clinics in my homestate of New Mexico which are facing extinction as a result of the new payback requirements that substantially increased the amount these clinics will have to repay the Government. According to the New Mexico State Department of Health. This new payback rate would increase the amount New Mexico clinics owe the Federal Government by 74 percent. Some clinics would have the amount they are required to payback increased by as much as 200 percent. In addition to these higher payback levels, in many instances the administration is no longer granting waivers to clinics that for one reason or another cannot pay their bills.

These new hard-line policies are threatening to close rural health clinics in my State. But it is not merely a local problem. The impact of these new policies mean that hundreds of clinics across this Nation are threatened with extinction.

To remedy this crisis, Congressman WAXMAN and I introduced this legislation to change the NHSC payback formula. H.R. 3649, as amended, would require free-standing NHSC sites—clinics that receive no Federal assistance other than an NHSC health provider—to submit a budget to the Secretary of Health and Human Services for review and approval. The clinics would only have to repay the Federal Government revenues in excess of those needed to pay for the basic health care services approved by the Secretary. If clinics found that revenues did not exceed the amount they needed to provide necessary services, they would be granted a waiver. Clinics could apply for a complete or partial waiver at the time of the budget submission if the clinic needs additional money to expand or improve its services, serve additional patients, construct or modernize its facilities, or establish a necessary financial reserve.

In addition, H.R. 3649 would grant the Secretary certain discretionary authority to allow NHSC sites which also receive supplemental Federal funding—migrant health centers or community health centers—to repay the Government under the revised formula. First, the Secretary could allow these larger NHSC clinics to pay back under the new formula if they would qualify for a waiver under current law. Second, the clinics could use the new payback system if the amount of supplemental Federal funding they receive is less than the total worth of the NHSC personnel at the site. In both cases, the clinics could apply for a prospective waiver at the time of budget submission.

Mr. Speaker, NHSC personnel are assigned to medically underserved areas which usually are low-income, rural communities. In my home State of New Mexico, the NHSC clinics serve well over 100,000 people. The counties in which the clinics are located generally have the lowest per capita income and the highest unemployment rate. These communities should repay the Government whatever they can for the services of NHSC personnel. But the repayment policy should not be so strict as to force the clinics to reduce their services, turn needy patients away or go out of existence.

These rural health clinics serve a constituency that has no alternative source of health care. The nearest hospital or doctor's office may be more than 100 miles away. The patients are frequently poor or elderly and rely on the NHSC clinic for their health care. It is a necessity for them—not a luxury.

The mission of the National Health Service Corps is to provide basic health care to those most in need. The Corps provides the doctor or the nurse or the dentist. The patient contributions help to keep the clinics self-sufficient. Does the Government really want to establish a policy of taking these patient contributions and giving them back to the Treasury when the money is needed to maintain basic health care services. The funds the communities repay the Government have a minuscule effect on the Federal deficit—but they breathe life into the small rural clinics in my district and throughout the Nation.

Mr. Speaker, H.R. 3649 will make certain these rural clinics can keep their doors open and care for the health of our Nation's most needy.

Mr. Speaker, I again want to commend the chairman of the Health Subcommittee of the Committee on Energy and Commerce, the gentleman from California (Mr. WAXMAN), and his staff for the leadership they have provided in this legislation. The costs are minimal, it is fair, it means that health care again will not be a luxury, and that many people, whether they are on an Indian reservation or whether they live in urban centers or in the ghettos and barrios of our country, will have an opportunity to be served.

Simply, what this bill does is to facilitate the payback formula. It does not cost the Treasury much. It simply makes the burden less burdensome and allows these clinics to continue. For many people throughout this country, I believe that this bill is a necessity. I again want to commend the minority for its role and the chairman of the health subcommittee.

Mr. Speaker, I urge my colleagues to vote for this important legislation.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. NIELSON).

Mr. NIELSON of Utah. Mr. Speaker, I wish to commend the gentleman from New Mexico (Mr. RICHARDSON) for his bill, and I also commend the gentleman from California (Mr. WAXMAN) and the gentleman from Illinois (Mr. MADIGAN) for their role in this important legislation.

I have the district adjacent to that of the gentleman from New Mexico (Mr. RICHARDSON) and we have many rural areas and Indian reservations in my district as well. This bill will be very helpful to the people in maintaining their small hospitals. I fully endorse it, and again I commend the gentleman for introducing it.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to speak in support of this very important, carefully drafted, and needed legislation. In doing so, I want to commend the gentleman from California and the gentleman from New Mexico for their efforts on behalf of the legislation and, especially, for the way in which they have worked with this side of the aisle and with representatives of the administration so as to resolve all areas of difference.

As the gentleman from California has noted, the bill revises the basic "payback" formula for National Health Service Corps program—a program which is intended to enhance health care services to medically underserved areas of the country. The bill accomplishes this in a way which insures that the NHSC sites will not have to cut back needed services. Moreover, the overall budget impact will, according to the administration, be only minimal.

Mr. Speaker, this bill is not controversial. The administration has stated that it has no objection to its passage. In my judgment, it is appropriate that this legislation come before the House on the Suspension Calendar. I would hope that Senate concurrence and Presidential signature will occur swiftly. Therefore, I urge my colleagues to join me in voting for the bill.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 3649, which amends the Public Health Service Act.

The changes proposed today will add needed flexibility to the act. Proposed section 3349(c) will allow the Secretary to waive the payments required of each entity benefiting from the services of Corps personnel. Such waiver would be available when the money is needed to expand and improve the services provided, to increase the number of persons being served by the program, to construct and modernize facilities, to improve the administration of the health programs or to establish a reserve to insure continued health services.

Even though these flexibility amendments are not retroactive, the Secretary is instructed to revise existing agreements to reflect these changes, to the extent feasible.

The added flexibility provided by this proposal is a welcome relief for Puerto Rico, where the National Health Service Corps program is going through a crisis because of our strained economy. The moneys required to be paid could be used to expand and improve the service in the hope that it will be self-sufficient economically in the near future. The National Health Service Corps program is a worthy program and the changes being voted on today will improve its ability to serve the people of this Nation.●

□ 1700

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 3649, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bills, H.R. 4201 and H.R. 3649, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAIL ORDER CONSUMER PROTECTION AMENDMENTS OF 1983

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 450) to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes.

The Clerk read as follows:

S. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mail Order Consumer Protection Amendments of 1983".

CEASE-AND-DESIST ORDERS; MIRROR IMAGE DOCTRINE; TEST PURCHASE AUTHORITY

SEC. 2. (a) Section 3005(a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.".

(b) The first sentence of section 3005(d) of such title is amended—

(1) by striking out "or" before "(2)"; and

(2) by inserting before the period a comma and "or (3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase, or a purchase order for any such publication, if (A) such advertisement, solicitation, or purchase order is not materially false or misleading in its description of the publication; (B) such advertisement, solicitation, or purchase order contains no material misrepresentation of fact: *Provided, however,* That no statement quoted or derived from the publication shall constitute a misrepresentation of fact as long as such statement complies with the requirements of subparagraphs (A) and (C); and (C) the advertisement, solicitation, or purchase order accurately discloses the source of any statement quoted or derived from the publication. Paragraph (3) shall not be applicable to any publication, advertisement, solicitation, or purchase order which is used to sell some other product in which the publisher or author has a financial interest as part of a commercial scheme".

(c) Section 3005 of such title is amended by adding at the end thereof the following new subsection:

"(e)(1) In conducting an investigation to determine if a person is engaged in any of the activities covered by subsection (a) of this section, the Postmaster General (or any duly authorized agent of the Postmaster General) may tender, at any reasonable time and by any reasonable means, the price advertised or otherwise requested for any article or service that such person has offered to provide through the mails.

"(2) A failure to provide the article or service offered after the Postmaster General or his agent has tendered the price advertised or otherwise requested in the manner described in paragraph (1) of this subsection, and any reasons for such failure, may be considered in a proceeding held under section 3007 of this title to determine if there is probable cause to believe that a violation of this section has occurred.

"(3) The Postmaster General shall prescribe regulations under which any individual seeking to make a purchase on behalf of the Postal Service under this subsection from any person shall—

"(A) identify himself as an employee or authorized agent of the Postal Service, as the case may be;

"(B) state the nature of the conduct under investigation; and

"(C) inform such person that the failure to complete the transaction may be considered in a proceeding under section 3007 of this title to determine probable cause, in accordance with paragraph (2) of this subsection.".

CIVIL PENALTIES; SEMIANNUAL REPORTS

SEC. 3. (a) Chapter 30 of title 39, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3012. Civil penalties

"(a) Any person—

"(1) who, through the use of the mail, evades or attempts to evade the effect of an order issued under section 3005(a)(1) or 3005(a)(2) of this title;

"(2) who fails to comply with an order issued under section 3005(a)(3) of this title; or

"(3) who (other than a publisher described by section 3007(b) of this title) has actual knowledge of any such order, is in privity with any person described by paragraph (1) or (2) of this subsection, and engages in conduct to assist any such person to evade, attempt to evade, or fail to comply with any such order, as the case may be, through the use of the mail;

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection. A separate penalty may be assessed under this subsection with respect to the conduct described in each such paragraph.

"(b)(1) Whenever, on the basis of any information available to it, the Postal Service finds that any person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), the Postal Service may, under the provisions of section 409(d) of this title, commence a civil action to enforce the civil penalties established by such subsection. Any such action shall be brought in the district court of the United States for the district in which the defendant resides or receives mail.

"(2) If the district court determines that a person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), the court shall determine the civil penalty, if any under this section, taking into account the nature, circumstances, extent, and gravity of the violation or violations of such subsection, and, with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such subsection, the degree of culpability, and such other matters as justice may require.

"(c) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

"(d) In any proceeding at any time under this section, the defendant shall be entitled as a defense or counterclaim to seek judicial review, if not already had, pursuant to chapter 7 of title 5, of the order issued under section 3005 of this title. However, nothing in this section shall be construed to preclude independent judicial review otherwise available pursuant to chapter 7 of title 5 of an order issued under section 3005 of this title.

"§ 3013. Semiannual reports on investigative activities of the Postal Service

"The Postmaster General shall submit semiannual reports to the Board summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1 and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September 30. Each such report shall be submitted within sixty days after the close of the reporting period involved and shall include with respect to such reporting period—

"(1) a summary of any proceedings instituted under section 3005 of this title, and the results of those and of any other such proceedings decided, settled, or otherwise concluded during such period;

"(2) the number of cases in which the authority described in section 3005(e) of this title was used;

"(3) the number of applications for temporary restraining orders or preliminary injunctions submitted under section 3007 of this title and, of those applications, the number granted;

"(4) the total amount of expenditures and obligations incurred in carrying out the investigative activities of the Postal Service; and

"(5) such other information relating to the investigative activities of the Postal Service as the Board may require. Upon approval of a report submitted under the first sentence of this section, the Board shall transmit such report to the Congress.".

(b) Section 3012 of title 39, United States Code (as added by subsection (a) of this section) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act.

(c) The analysis for chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3011 the following new items:

"3012. Civil penalties.

"3013. Semiannual reports on investigative activities of the Postal Service.".

CONSUMER EDUCATION PROGRAM ON SCHEMES INVOLVING FALSE REPRESENTATIONS

SEC. 4. (a) As soon as practicable after the date of enactment of this Act, the Postmaster General or his designee, following consultation with representatives of the mail order industry, shall develop and carry out a program designed to provide consumer education to the public on schemes involving false representations through use of the mails, including the dissemination of information on recognizing practices commonly associated with such schemes, as well as appropriate measures which an individual may take upon receiving mail matter which the individual believe may be part of such a scheme.

(b) A summary of the activities carried out under subsection (a) shall be included in each annual report rendered by the Postmaster General under section 2402 of title 39, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan (Mr. FORD) will be recognized for 20 minutes and the gentleman from Missouri (Mr. TAYLOR) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we culminate a 3-year-long, bipartisan effort the likes of which the Congress has rarely seen in recent years. The bill which we bring before the House today has one, simple purpose: to protect the American public from being injured by false representation schemes which utilize the mails.

S. 450 is the product of 3 years of study and consideration by the House Committee on Post Office and Civil Service, the House Select Committee on Aging, the Senate Governmental Affairs Committee, and the Senate Special Committee on Aging. The bill which the House is considering today is substantially identical to a bill (H.R. 7044) which passed the House under suspension of the rules in the 97th Congress. It is a refined version of another bill in the 97th Congress (H.R. 3973) which attracted some 300 cosponsors.

Hearings and investigations by Chairman MICKEY LELAND'S Postal Subcommittee and Chairman CLAUDE PEPPER'S Aging Committee in the 97th Congress conclusively proved the need for this legislation. The existing civil postal false representation statute is too easily circumvented by today's sophisticated mail-order conartists. As a result, mail-order schemes are proliferating as never before, and the American public is paying the price.

Tragically, the most frequent victims of these schemes are the most vulnerable members of our society—the elderly, the infirm, and the disadvantaged. The December 1982 report by Chairman PEPPER'S Select Committee on Aging—"Business and Investment Frauds Perpetrated Against the Elderly: A Growing Scandal"—graphically portrays the financial, physical, and emotional damage which mail-order schemes are inflicting upon this Nation's senior citizens.

S. 450 plugs the holes in existing law without infringing on anyone's constitutional rights. The bill contains numerous procedural and substantive protections to insure that the new investigative and enforcement authority which we are granting is used properly and prudently.

Our Federal postal system is being perverted by the operators of these schemes, and it is time to put an end to it.

S. 450 contains investigatory and enforcement provisions which will be of immense, immediate assistance:

First. The bill provides that the Postal Service—after a full adversarial hearing before an administrative law Judge—may issue orders to require persons to cease and desist from engaging in false representation schemes. Presently, the Postal Service may only issue "stop-mail" orders, which are easily circumvented by experienced con men, who simply move to a new address under a new business name.

Second. The bill also permits the Postmaster General or his agent to tender in person the price of any item or service advertised through the mail. The Postal Service agent must accu-

rately identify himself, state the nature of the conduct under investigation, and inform the advertiser that failure to complete the transaction may be presented to a court as a factor to be weighed by the court in deciding whether there is probable cause to issue a temporary stop-mail order under the existing provisions of 39 U.S.C. 3007. This provision will speed the investigative process and help prevent harm to the public. Presently, by the time the Postal Service obtains an advertised product through the mail for testing, the operator of the scheme has left town.

Third. The bill also provides for civil penalties for violators of false representation orders issued pursuant to 39 U.S.C. 3005. Only a U.S. District Court may enforce such penalties (which may be in an amount up to $10,000 per day), and then only after the court makes an independent determination that the subject person is engaging in, or has engaged in, violative conduct. The court shall determine the amount of the penalty, if any. All penalties will be paid into the General Treasury of the United States. This provision should help solve one of the major problems with today's civil statute: the total lack of any deterrent effect. A "stop-mail" order alone is no obstacle for the operators of today's increasingly sophisticated, mobile, and ruthless schemes.

Fourth. The bill also requires the Postmaster General to develop and carry out an extensive consumer education program as a positive means of helping prevent injury to the public. And so that we may closely monitor the conduct of the Postal Service's investigative and enforcement efforts, the bill also requires the Postmaster General to submit detailed, twice-yearly reports to the U.S. Postal Service Governors and to the Congress on the investigative activities of the Postal Service.

The Senate adopted an amendment which was not in the bill passed by the House last year, to add a cross-reference to section 409(d) of title 39 to clarify that legal representation of the Postal Service in suits to enforce civil penalties under the bill will be conducted in accordance with existing law. Under section 409(d), the Department of Justice must furnish the Postal Service "such legal representation as it may require," except that the Attorney General may consent to the Postal Service employing its own attorneys to represent itself. I understand that in the kinds of consumer protection cases we are concerned with in this legislation, the practice has been that lawyers for the U.S. Attorney's offices around the country have been appearing for the Postal Service in court litigation. Last year's Postal Service testimony before the Subcommittee on Postal Personnel and Modernization indicated that this practice would continue under the civil penalty litigation authorized by this bill. Hearings on H.R. 3973 before the Subcommittee on Postal Personnel and Modernization, House Committee on Post Office and Civil Service (97th Cong., 2d sess. 223 (1982)).

When this purely technical amendment was adopted in the Senate, some statements made their way into the record of the debate, to the effect that the Department of Justice has management and policy control under section 409(d) over all Postal Service litigation. The record of the debate reprinted certain communications sent to the Senate from the Department of Justice on this subject.

While this matter has no practical relevance to the consumer protection cases covered by this bill, experience has shown that the degree to which the Department of Justice may seek to manage and control postal policy may be important in other contexts. The U.S. Court of Appeals for the First Circuit, in a decision which the Justice Department failed to mention in advising the Senate on this matter, has observed that "[I]t would be anomalous to hold that decisions normally committed wholly to the independent discretion of the Service are made subject to Department of Justice veto power when incident to litigation." *Leonard* v. *United States Postal Service.* 489 F.2d 814, 817-818 (1st Cir. 1974). The Postal Service may settle most postal litigation without control by the Department of Justice. In recommending that the House accept the Senate bill as it stands, I simply point out that the meaning of section 409(d) of title 39 is established by the intent of Congress when that section was enacted, as construed by the courts, and the Congress is not making any change or endorsing the interpretation of any individual or department by including a cross-reference to that existing section in this legislation.

It is time to enact the mail order consumer protection amendments—especially now, before the holiday mailing and buying season begins. S. 450 passed the Senate by voice vote on November 3. The administration supports S. 450. CBO certifies that enactment will have no budgetary impact.

House passage today will clear the bill for the President's signature and timely enactment.

I urge you in the strongest possible terms to support S. 450.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. LELAND), the chairman of the Subcommittee on Postal Operations and Services.

Mr. LELAND. Mr. Speaker, I want to thank my chairman for his leadership in this legislation, both this time and the last time when we considered this measure and passed this measure overwhelmingly in the House.

Mr. Speaker, I rise in support of S. 450, the Mail Order Consumer Protection Amendments of 1983. There is a serious problem that now confronts the elderly of this country and those who can ill afford it in these economically difficult times. Mail fraud employs the trusted channels of the U.S. Postal Service to carry out pernicious schemes to dupe individuals out of their hard earned moneys. It takes its highest toll on our elderly. Thirty percent of our senior citizens each year are deceived by these schemes. Sophisticated con men prey upon our senior citizens who grew up in a more trusting era, prey upon their daily fears that they cannot support themselves on a pension. Every year countless men and women lose their savings that may have taken a lifetime to build, to schemes selling land underwater, false promises of weight loss, and arthritis cures. These con men will stop at nothing. There are even those who read the obituaries so that they may send fraudulent bills to the families of the deceased.

Let me tell you of some of the most heinous of these crimes. Recently we learned of a man who lost $30,000 he had received as reparation for being in Dachau, to a scheme selling land underwater in Florida. In Massachusetts, it was recently discovered that several senior citizens spent more than $40,000 each for absolutely worthless health insurance. In another instance, the Postal Service blocked a scheme selling guaranteed weight loss brochures that contained only the most basic program of exercises and vitamins. At $22.50 a brochure, the promoters were raking in $112,000 a day.

These are only a few of the 200,000 mail fraud schemes reported to the Postal Service each year. These schemes were investigated and stopped, but they are the exception. The 2,000 highly respected postal inspectors can devote only 25 percent of their time to investigating and prosecuting mail fraud schemes. All too often their efforts go for naught, as the sophisticated con men know all too well how to circumvent the enforcement process. Presently, all that postal inspectors can do is make a test purchase of the suspect material. By the time the scheme has been detected and the purchase made, the con man has filled all his orders and shut down. Or if he is caught and a stop mail order issued, he merely moves his scheme to another State, or changes his address or adopts an 800 telephone number and continues to extort the public.

So mail fraud continues to escalate and there is not sufficient means to arrest its growth. While the mails are used to dupe the public, mail fraud is

slowly undermining public confidence in the U.S. Postal Service.

I believe that S. 450 is essential for the restoration of confidence in the mails and halting the deplorable extortion of our senior citizens.

Last session the Subcommittee on Postal Personnel and Modernization held five hearings on this legislation. We did this because we were concerned that the powers being granted the Postal Service might be too broad and too loosely defined. Although we had every confidence that the Postal Service would not use the new authority in any manner except that which was intended, we did not even want the potential for such a situation to exist.

We heard testimony from every interest group and organization that expressed interest in doing so. These included the mail order industry; the book, magazine, and newspaper publishing industries; and retiree organizations. We also solicited written comments from every interest group and organization that we thought might have some concern or expertise about this subject.

The consensus of these viewpoints was that a serious problem does indeed exist, and that it will continue to grow if authorities are not given the authority they need to crack down on these schemes. However we found that there was agreement with our concern that the nature and extent of the additional authority might be unncessarily broad and loosely defined. We then decided to rewrite the entire bill. In this rewriting process we dealt with every one of our concerns, deleting some sections, and defining the new authority in very strict language which will insure that it can be used precisely for the purposes intended and nothing else.

We have dealt with this issue in great depth and detail. We have devoted all of the time and attention necessary to consider every possible effect that this new legislation might have. We are presenting to you a carefully thought out and precise instrument for effectively combating one of the fastest growing criminal activities in this country.

I urge you to support S. 450.

Mr. FORD of Michigan. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman.

Mr. Speaker, as a former Commissioner on Aging and as the current member of the Select Committee on Aging, I held a hearing in Hartford, Conn., on this issue a year ago.

The gentleman from Texas is correct. We are talking about a very real problem, a problem that costs Americans millions of dollars each year. This problem is especially severe for the older American. There are far too many quickie cures that older Americans are attracted to, sending out their hard earned money and getting back worthless pills that may consist of nothing more than aspirin, for which they have paid large amounts of dollars; cures for cancer, cures for arthritis, cures for a variety of ailments that really should not be addressed through the mail, but ought to be looked at by a doctor, that ought to be prescribed directly and not through any scheme of this type.

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Another very real problem is the whole question of orthopedic devices. This hearing showed devices that people had bought to help them with orthopedic problems were absolutely useless and yet again older Americans had paid out large amounts of their dollars simply in hope of coming up with a cure that will help them with an orthopedic problem.

In the case of business opportunities, frequently poor pensioners were told if they would send in some money they would have a great opportunity, and receive back nothing more than useless lists or material they could have obtained from the library.

The current law does not allow the Postal authorities, as good as they are, to move in a timely, effective fashion to head off the fraud that it is the intent of this legislation to curb.

This bill is significant to two fashions: One, it provides cease and desist orders, so that the mail authorities when they find a problem, whether it is phony cures for cancer or arthritis or unnecessary orthopedic appliances, business opportunities that do not exist, they can go to a court, get an order and stop that practice and stop it quickly.

Second, the bill authorizes daily fines, so that if a company is reaping a harvest of money from this type of fraud they will not be quite so willing to assume that they can pay a penalty and move on with their business.

The daily fine says to those who would take advantage of this blood money, do not do it. It will cost you severely and cost you on a daily basis. For all Americans, but especially for older Americans, this is a step forward, a commitment to quality of life, and it is legislation that is long overdue.

Mr. LELAND. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the gentleman for the leadership he has offered and the chairman of the full committee as well, and the gentleman from Florida (Mr. PEPPER), who, I believe, in our Aging Committee first brought attention to this awful problem; and, of course, mail fraud and mail order schemes, I should say, are just rampant.

Mr. Speaker, I rise in support of the Mail Order Consumer Protection Amendments of 1983. As a sponsor of the original mail fraud bill, I recognize how important it is to protect our citizens from unscrupulous entrepreneurs who take advantage of our elderly through sophisticated mail fraud schemes.

As my colleagues will recall, the mail fraud legislation grew out of hearings held in the 97th Congress by the House and Senate Committees on Aging, the House Post Office and Civil Service Committee, and the Senate Governmental Affairs Committee. As a member of the House Select Committee on Aging, I conducted a congressional hearing in Cleveland on this matter and received testimony from senior citizens who had been victimized by various medical quackery mail frauds and other assorted schemes that bilked them out of their meager incomes. It was sickening. Such unconscionable activity must be stopped, and it can be through passage of this legislation.

Besides our older Americans, young people are also being prey to fraudulent mail schemes. Such schemes as the so-called look alike pills which is a blatant attempt to get our young people hooked on some form of "speed." This is one of the more insidious schemes.

I am especially proud that our Post Office and Civil Service Committee, under the leadership of Chairman WILLIAM FORD, has taken the lead in sending a strong message to those who use the U.S. mail to defraud our citizens and that message is pure and simple—violators will be prosecuted to the full extent of the law. I also want to commend chairman CLAUDE PEPPER who first brought this issue to the public attention.

The initial bill, which passed the House with amendments during the 97th Congress, attracted the support of over 300 cosponsors. I urge my colleagues to once again demonstrate their desire for justice and vote for the Mail Order Consumer Protection Amendments of 1983.

Mr. LELAND. Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 450 is a broadly supported, bipartisan consumer protection measure to provide the U.S. Postal Service with additional enforcement tools to crack down on fraudulent mail schemes which prey principally on the aged, the infirm, and the needy.

While the vast majority of mail order houses are respectable and reliable, the nature of the business lends itself to the unconscionable machina-

tions of fast-buck operators who may enter and leave the industry with relative ease. The Postal Inspection Service now spends about 20 percent of its time fighting mail fraud, and receives about 200,000 mail fraud complaints a year.

This bill would allow the Postal Service to go directly to the advertiser's place of business to purchase a sample of the suspicious product. Right now, the Postal Service can obtain a sample of the product through a mail order purchase, but it frequently finds itself short circuited by the unscrupulous operator who delays filling orders until the advertising has run its course.

Existing statute provides only for orders directing postmasters to return mail in reply to a false advertisement. These orders place no obligation on the advertisers and there are no prescribed penalties for continuing to engage in a false advertising scheme. More often than not, when false representation orders are issued, unscrupulous promoters change names and adresses and it is business as usual. This bill would give the Postal Service authority to issue "cease and desist" orders after a full adversarial hearing, and, if the advertiser fails to comply, provide for civil penalties.

It is worth emphasizing that S. 450 does not give the Postal Service authority to impose penalties. If the advertiser violates a "cease and desist" order, the Postal Service would request the Justice Department to institute proceedings in a Federal district court. Only a Federal judge would impose the penalties.

S. 450 is supported by the Postal Service, the Federal Trade Commission, the administration, the Direct Marketing Association, the American Association of Retired Persons, the National Counsel on the Aging, the National Newspaper Association and many other organizations.

In sum, this legislation strikes a careful balance between the rights of the consumer and the rights of legitimate business. It deserves overwhelming support.

Mr. FORD of Michigan. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan has 7 minutes remaining.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as he may consume to the able gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the gentleman for yielding time to me. I am very grateful to my distinguised friend, the able chairman of the subcommittee whose committee has so ably examined this measure and so strongly supported it, and, fortunately, brings it here to the House today, for what he has done in support of this measure.

Mr. Speaker, I would like to urge my colleagues in the House to join me in support of S. 450, the Mail Order Consumer Protection Amendments Act of 1983, which passed in the Senate by unanimous consent on November 3, 1983. I want to commend the Senate sponsor of this legislation, Senator DAVID PRYOR, for his excellent work. I also want to commend my distinguished colleague, Congressman WILLIAM FORD of Michigan, chairman of the House Post Office and Civil Service Committee, for urging the consideration of S. 450, a bill which is identical to H.R. 1342. I joined Congressman FORD and Congressman MICKEY LELAND in the introduction of this important measure at the beginning of the 98th Congress in response to the swelling tide of mail fraud targeted at our Nation's senior citizens.

I would like to tell you how H.R. 1342 developed and why we believe that it so important. In 1980, the House Select Committee on Aging, under my chairmanship, undertook an investigation into the umbrella topic of mail frauds against the elderly, as the greatest percentage of fraud does utilize the mails in some way. We held hearings on this issue in New York, New Jersey, Connecticut, Ohio, Massachusetts, and in Washington, D.C. We brought before our committee many, many older Americans who have been victimized by these vicious rackets. We sent literally thousands of questionnaires to Federal and State law enforcement officials asking for their imput. We evaluated the performances of all these officers and even heard testimony from convicted conmen and racketeers. After all this work, a truly desperate picture emerged. The findings of the committee's investigation are detailed in a report to be released in the next few months.

The extent of fraud perpetrated against the elderly and the unsuspecting can only be described as overwhelming. In phony arthritis cures alone, the Arthritis Foundation estimates that more than a billion dollars annually is lost to such schemes. This compares to only $40 million a year that the Federal Government spends on legitimate arthritis research. The American Cancer Society estimates that another billion dollars is wasted on phony cancer cures. Overall, we estimate that perhaps as much as $10 billion is siphoned off through health quackery scams, land fraud schemes, and phony business and investment opportunities—most of which are perpetrated through the mails. We found that although the elderly represent only 11 percent of the Nation's population, they constitute about 60 percent of all victims of phony mail order scams. In short, we are convinced that mail fraud is a massive problem and that the elderly constitute a disproportionate number of the victims of this type of fraud.

Consider some of the following examples of frauds encountered by senior citizens:

Nita Brumley of Lubbock, Tex., is a nurse who retired from hospital work. She was looking for something she could do to earn a little income. She scraped together some $3,475 for a jewelry distributorship. She was supposed to receive display cases and the jewelry to fill them in order to make sales. The problem is that she received nothing at all for her money.

Our committee received testimony from the district attorney from Philadelphia concerning medical quackery and phony cancer cures. In one case, a man with cancer died not from the cancer but from starvation. He was following the special wheat grass juice diet that was prescribed for him by a so-called cancer clinic he had read about in a reputable newspaper.

The committee heard from numerous senior citizens who answered advertisements suggesting that for a small investment they could make money at home stuffing envelopes or raising earthworms. Mr. and Mrs. Ed Steinleitner testified before our committee that they lost $30,000 in a work-at-home scheme in which they were told that the company would pay them to raise earthworms. They never received the worms. The Postal Service told the committee they have not heard of one honest work-at-home scheme yet.

We recently learned of a gentleman who was taken for some $30,000, which he had received as part of his reparations for being in Dachau, the German concentration camp. Fraudulent promoters sold him land in Florida that was underwater.

One common phony business racket involves the sale of vending machine franchises. Senior citizens are told that, after their investment, all they have to do is visit the machines and collect the money. All too often the machines do not exist, do not work and have to be repaired, or are located in out-of-the-way places. Often they contain products that are overpriced and unwanted.

The Postal Service has the primary responsibility for protecting Americans from misuse of the mails. During the course of its investigation into frauds against the elderly, the House Select Committee on Aging worked closely with the Postmaster General William Bolger, Chief Postal Inspector Kenneth Fletcher, and their staff. In addition, the Postal Service detailed Postal Inspector Thomas Bazley and Nan Kalthoff, Esq., to the House Aging Committee to assist the committee staff in their investigation. The Postal Service has a total of 2,000 Inspectors who are responsible for pre-

venting mail fraud and keeping the mails free of nonmailable matters such as explosives, drugs, and guns. We have found that the Inspection Service does an excellent job in ferreting out frauds perpetrated through the mails. However, because of several gaps in Postal Service authority, mail order pirates can easily avoid postal inspectors and stay in business. As the law now stands, the Inspection Service cannot commence an investigation into a mail fraud complaint until they purchase the product, have it analyzed and determine whether it lives up to its promises. Unscrupulous promoters understand this. They wait until they receive all orders—about 2 months—fill them and then go out of business. By the time the Postal Service receives the product the mail order bandits have packed up and moved their operations, only to start the scam all over again in a different location. Hundreds and hundreds of consumers, many of them elderly, have lost their money before the Postal Service can start to fight back. Even when the con artists are caught and are under a mail stop order, they can simply shift locations. Another dodge is to discontinue use of the mails in favor of a toll-free 800 telephone number.

It was because of these severe gaps in the Postal Service authority that I, along with Ms. OAKAR, Ms. FERRARO, Mr. RATCHFORD, and Mr. BIAGGI, introduced H.R. 3973, the "Postal Service Amendments of 1981," in the last Congress. Along with Post Office Committee Chairman WILLIAM FORD and Subcommittee Chairman LELAND, I introduced H.R. 7044—a second version that modified the bill to protect the rights of those who might come under investigation, although there is no evidence that the Postal Service has abused any of its existing power. These bills do not cost the taxpayers 1 cent. H.R. 7044 was cosponsored by over 300 Members of the House of Representatives. This registers a strong bipartisan message—something must be done to done to deal with the epidemic problem of mail frauds being perpetrated against all Americans, but particularly against the Nation's 25 million elderly. H.R. 7044 passed the House and the Senate by an overwhelming majority at the end of the last Congress. However, differences between the House- and Senate-passed versions were not resolved, which prevented its final passage into law.

S. 450 and H.R. 1342, the resolution presently under consideration, is identical to H.R. 7044 and was reintroduced by Mr. LELAND, Mr. FORD, and myself. The major provisions are as follows:

First, it gives the Postmaster General or his agent the right to purchase any item or service being offered through the mails, but also requires the following: the Postal Service agent must identify himself to the seller; he must give the seller notice of the nature of the Postal Service's investigation; and he must inform the seller that failure to sell to the agent may be considered by a court in a probable cause hearing;

Second, it authorizes the issuance of "cease and desist" orders against violations of 39 United States Code 3005, the mail stop order, but only after a full hearing before an administrative law judge;

Third, it provides civil penalties of up to $10,000 a day for violations, but stipulates that only a court may enforce them, and then only after an independent finding by the court that a violation has occurred; and

Fourth, it requires twice yearly reports by the Postmaster General to the USPS Board of Governors on the Postal Service's investigative activities. These reports shall be transmitted by the Board to the Congress. It also mandates an extensive consumer education program, to be carried out by the Postal Service to help prevent ripoffs before they occur.

We passed the legislation before us today last year. I urge my colleagues to take expedient action to pass this bill again. Believe me, this legislation is only the first step in a series of reforms necessary to assist the Postal Service in curbing funds which use the mail. Delay will only rob the elderly of their money and feed the coffers of the con artists and charlatans.

For the benefit of my colleagues, I would like to insert at this point in the RECORD a copy of an article which appeared in the November 13 edition of the Parade magazine. The article, written by Mr. Donald Robinson, details the plight of those Americans who fall prey to mail order frauds and recommends the passage of the legislation before us today. The article follows:

MEDICAL ADVICE YOU SHOULD AVOID

(By Donald Robinson)

Instead of cures, death may be the outcome for those who turn to quacks. An elderly woman, for example, was suffering from an agonizing case of rheumatoid arthritis. Desperate for relief, she turned to a quack for help. He directed her to soak in a bathtub full of gasoline to ease her pain. When she followed his instructions, an electric spark set the gasoline on fire. The unfortunate woman was burned to death.

"Last year alone, medical quacks robbed senior citizens and other unsuspecting Americans of more than $50 billion," says Rep. Claude D. Pepper (D., Fla.). "And that was only a small part of the crimes these quacks committed. They fatally poisoned scores of people. Furthermore, they were responsible for thousands of sick people dying who could have been saved by the right treatment. To my mind, that's murder."

Pepper is chairman of the House Subcommittee on Health and Long-Term Care. The subcommittee is planning to hold hearings in January on Capitol Hill about medical quacks and how they prey upon, and sometimes kill, our citizens—especially the elderly, the ill and the infirm.

Preparing to testify about their findings in such cases are subcommittee investigators and a task force of U.S. Postal Service inspectors who, as a team, probed medical quackery nationwide. They answered advertisements for products of dubious medical value in 114 publications. They subsequently had items they purchased analyzed by recognized medical authorities. The investigators visited hundreds of questionable clinics, hospitals, institutes and foundations in the United States and Mexico, attended dozens of meetings sponsored by quack organizations, met with quack doctors and interviewed their patients. They discovered that quacks prey most on the victims of arthritis, America's No. 1 crippling disease, which affects 31 million individuals.

Recently, a subcommittee investigator answered an ad for a root touted as a "blood purifier" that would ease the inflammation and pain of arthritis. He paid $7.95 for 100 capsules and then had Dr. Sorell L. Schwartz, a pathologist at Georgetown University School of Medicine, analyze them. Dr. Schwartz reported: "Ingestion of only one-half cup of tea [made from the capsules, as directed] resulted in blurred vision, dilated pupils, dry mouth, inability to void, and bizarre behavior and speech, including hallucinations."

This was just one of many disturbing discoveries. The investigators also learned of:

A quack who hawked cocaine disguised as nose drops to treat arthritis.

A Florida woman who experienced a severe hemorrhage after she took snake venom for her arthritis. She had been told the venom came from harmless snakes, but somehow her dosage had included venom from a water moccasin, an extremely poisonous reptile.

A number of supposedly safe Chinese herbal medicines that contained potent amounts of cortisone.

Dr. Michael D. Lockshin, a distinguished rheumatologist at New York City's Hospital for Special Surgery, told the investigators of a women with systemic lupus erythematosus, an ugly type of arthritis. She followed a quack's instructions to swallow massive doses of vitamin C. As a result, said Dr. Lockshin, the woman died of acidosis.

"There is a reason why weird unproven remedies are commonly accepted by people with rheumatoid arthritis," notes Lockshin.

"A characteristic feature of rheumatoid arthritis is that it waxes and wanes on a daily, a weekly or a monthly basis," he adds. "If you do something that fortuitously coincides with a spontaneous remission, you're likely to think that whatever you did caused the remission. It's very hard to convince people with a painful disease that they've done something outlandish and silly."

Cancer victims too are easy prey. Cancer will strike about 855,000 Americans this year, and nearly 400,000 will die of it. Many of them, say subcommittee investigators, will resort to worthless quack remedies in search of relief from this brutal disease. And, they note, even healthy people waste millions on bogus schemes for preventing cancer.

The investigators tell of a man in Burlington, Vt., who attracted more than 30,000 orders for secret herbs and spices that he had advertised could prevent cancer. He had swindled the public of nearly $1 million before U.S. Postal Service inspectors caught up with him.

Investigators note that though the controversial cancer drug laetrile has steadily declined in status, its promoters are netting about $1 billion annually.

Subcommittee investigators also say that odd diets are being palmed off as cancer cures and that thousands consequently adhere to a macrobiotic diet consisting almost exclusively of whole cereal grains, some vegetables, a few beans and a little soup.

There are unscrupulous promoters of the diet who say it will "control" cancer. They discourage cancer patients from undergoing surgery, radiotherapy or chemotherapy and even have told patients that they don't want to destroy all cancers because some cancers are good for people.

Medical experts at the American Cancer Society have told the subcommittee that the macrobiotic diet is useless as a cure for cancer and could cause malnutrition, especially if adopted by older people.

Said Dr. Victor Herbert, chief of the Hematology and Nutrition Laboratory at the Bronx Veterans Administration Medical Center in the Bronx, N.Y., and past president of the American Society for Clinical Nutrition:

"The quacks have learned that nutrition is a magic word in cancer. If you tell people you've got a nutritional cure for cancer, they'll come running. So, the quacks are now labeling all types of quackery as nutritional therapy, metabolic therapy or dietary therapy." As cancer cures, he says, "they're all worthless."

Subcommittee investigators found that some physicians have been guilty of quackery. One they cited is Dr. Donald R. Cole, M.D., whose license was revoked in 1982 in New York State for practicing medicine "fraudulently and with gross incompetence." The state Board of Regents charged that Cole had caused terminally ill cancer patients to leave reputable hospitals for his own hospital with fake promises of cure.

Cole reportedly treated a 60-year-old man suffering from multiple myeloma—a form of bone cancer—with an experimental technique, thermotherapy, in which he raised the man's body temperature to 107.5 degrees. Despite the treatment, the man soon died. Still, Cole handed his survivors a bill for $10,000.

Other quack cures have been advertised for everything from Acquired Immune Deficiency Syndrome (AIDS) and herpes to impotence and prostate problems. There are even products described as sexual enhancers for both men and women. The ever-popular quick-weight-reduction diets are still attracting dollars and slimming people's wallets, if not waistlines. One ingredient in diet drugs has some investigators particularly worried. It's phenylpropanolamine, or PPA, which is available over the counter in most pharmacies. Many who testified urged that individuals consult a physician before ingesting products that contain it.

Evidently, there are many among the gullible who believe the proclamations about the curative powers of alfalfa leaves. One ad said they could cure diabetes, arthritis, anemia, ulcers, nausea, cramps and pituitary ills and improve muscle tone, posture and even your supply of hair. The claims, said Dr. Ara Der Marderosian of the Philadelphia College of Pharmacy and Science, are "misleading and false."

The Food and Drug Administration and the U.S. Postal Service are the two federal agencies chiefly responsible for protecting the public from medical quacks. Unfortunately, the FDA does very little to stop quacks. Its defenders say it lacks the resources to do so.

"The FDA says it doesn't have the manpower to pursue these quacks," says Representative Pepper. "The truth is, there is much more they could and should do with the resources they have."

The Postal Service has fought the quacks steadily but is hampered by weak postal laws.

"Quacks have a whole closetful of tricks for violating the law," says Charles P. Nelson, assistant chief postal inspector for criminal investigation. "Suppose we get a court order that puts a quack company out of business. The next day, it can change its name or address and start up all over again. One quack company down South had 50 changes of address in three years."

Representative Pepper and Sen. David Pryor (D., Ark.) introduced a bill that would give the U.S. Postal Service real power over mail-order quacks, but ultimately its final passage was blocked in the Senate. It sits in legislative limbo.

How can you defend yourself against quacks? Representative Pepper offers the following advice:

1. If you have a medical problem, discuss it with a reputable physician, not a fly-by-night quack.

2. Don't fall for promises about secret cures, miracle drugs, regained youth, increased sexual powers or weight-loss without dieting. If it sounds too good to be true, it probably is.

3. Notify the Postal Service at once if you've been bilked by a quack. Medical associations can help by keeping their ears open for quack schemes.

4. Most important, write your Senators and Representatives. Tell them you want them to vote for the Pepper-Pryor Bill to give postal inspectors enough ammunition to battle the quacks.

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Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

I would just say in closing I would like to express my appreciation to the chairman of our full committee and to the chairman of the subcommittee for their very timely hearings on this very important matter; and to our distinguished former chairman of the Aging Committee, now chairman of the Rules Committee, the gentleman from Florida (Mr. PEPPER) for the contribution that he has made in bringing this very important matter to our committee for consideration.

Again I urge passage of this very important legislation.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

I would not want to close off without acknowledging the cooperation we have had from the other side of the aisle at every step of the way of this bill. It was not easy to work it out.

In the last Congress we had many groups and organizations that were upset. It took time for them to understand what we were up to and it took the cooperation of a bipartisan group.

I want to say that the ranking minority member has cooperated in every way possible to bring about the kind of understanding that is necessary to pass this legislation. For that I am most appreciative and speak for everyone on our side of the aisle.

I yield back the balance of my time.

● Mr. WOLF. Mr. Speaker, I rise in support of S. 450, the mail fraud bill. As a member of the House Post Office and Civil Service Committee, and ranking minority member on the House Subcommittee on Personnel and Modernization which had jurisdiction over this legislation, I would like to voice my support for this initiative. I believe this bill is needed to strengthen postal authority to protect consumers, especially the elderly, from schemes for obtaining money or property through mail by false representation. The elderly have become the prime target for these schemes.

In the past, the Postal Service has lacked the investigatory and enforcement power necessary to effectively stop fraudulent and deceptive schemes. I believe this bill will help correct that situation. It provides for the Postal Service to seek both a stop order and a cease-and-desist order, simultaneously, thereby making it more difficult for a promoter to merely move his business to another location and continue to victimize the public. Further, this bill provides for a new "test purchase" authority by which the Postal Service may obtain the product directly from the promoter rather than waiting for it in the mail.

I urge my colleagues to support S. 450 and would like to commend my colleague, Mr. DANNEMEYER, for the constructive contributions he has made in resolving previous concerns raised by this initiative.●

● Mr. DANNEMEYER Mr. Speaker, I rise in strong support of a bill that has come a long way legislatively since its first version was introduced in June 1981. The moral of this bill's story, for consumers, entrepeneurs, and the Congress, is that it was worth the wait. No one questioned the bill's intent: To better protect consumers, especially the elderly, from false and misleading ads for obtaining money or property through the U.S. mails. However, there was deep, albeit minority concern over the bill's effect: The possible suppression of ideas in the name of consumer protection or medical orthodoxy.

Actions by both Chambers have made this a better bill. The chairman of the House Postal Personnel and Modernization Subcommittee, the gentleman from Texas (Mr. LELAND), reintroduced the bill (H.R. 1342) this year without the civil investigative demand authority. Recent amendments offered in the other body by the gentleman from Iowa (Mr. JEPSEN) clarify Postal Service powers and publisher protections.

In section 2 of S. 450, the mirror image doctrine protects ads that accurately mirror the contents of a publication. However, the doctrine does not immunize those ads for publications where the author of the book and publisher of the magazine have a joint financial interest in a product referenced in the book and noticed in the ad.

In section 3, another Senate amendment makes clear that a court is free not to impose any part of the $10,000 penalty for violating either a mail stop or a cease-and-desist order.

In section 3 again, another amendment clarifies that defendants are entitled to seek judicial review of the legality or constitutionality of Postal Service actions under the false representation statute in title 39.

Section 3 also includes an amendment that specifies that a defendant may be tried only in courts in communities where the defendant resides or receives mail. In an earlier version of the bill, defendants could be tried wherever they transacted business.

Finally, the chairman of the Senate Judiciary Committee offered an amendment to clarify that the Attorney General of the United States continues to have management and policy control over litigation involving the Postal Service.

Concerns remain. Should not allegedly fraudulent advertisers be prosecuted under criminal statutes rather than civil statutes? This would be a better deterrent to fraud and better protection to innocent defendants. Should not the Postal Service have to base at least part of their actions on unsolicited complaints and prove intent to defraud?

While these serious concerns remain, I believe that the biannual reporting mechanism in S. 450 as passed by the Senate provides an excellent opportunity to review the fairness of Postal Service proceedings. I have a number of specific concerns that I would like included in the biannual report which concerns I will later submit to the Postal Service.

Without the new test purchase authority and cease-and-desist authority under this bill, consumers would continue to be victimized by fly-by-night mail schemes. Without the mirror-image doctrine, the promotion of new health ideas would be hostage to orthodoxy. It is time to pass this bill and carefully watch its implementation.

Finally, I would like to take note of one man who has played a central role in making this a better bill: Mr. Clinton R. Miller, legislative advocate for the National Health Federation.

I urge my colleagues to swiftly pass this legislation.●

● Mr. COURTER. Mr. Speaker, I rise in support of S. 450, the Mail Order Consumer Protection Amendments of 1983. Mail fraud has reached epidemic proportions, and the existing tools to protect consumers from this criminality are grossly inadequate. It is a tragic reality that those least able to protect themselves, the aged and the infirm, are the primary targets of mail fraud schemes. We have all heard of situations where individuals have placed their trust in advertising claims only to be victimized by unscrupulous promoters. Although the vast majority of mail order firms are legitimate, greater protections are needed against those who use the mail to obtain money by false representation.

I am convinced that something must be done to stop these opportunists who use the U.S. Postal Service to prey on our citizens. S. 450 addresses the need to crack down on mail-order shams, while containing substantial safeguards to insure the Postal Service cannot misuse its powers. It is important to remember that the authority S. 450 grants to the Postal Service is being put in place to preserve individuals' rights of privacy, not to invade that privacy.

S. 450 is vitally needed if we are to protect our citizens from the consequences of mail fraud schemes, and I urge my colleagues to vote in favor of this important measure.●

● Mr. GILMAN. Mr. Speaker, I would like to compliment my colleague, the distinguished gentleman from California (Mr. DANNEMEYER) for his efforts on the mail fraud bill, S. 450, as amended.

The balancing of the rights to protect an unsuspecting public, particularly the elderly, from unscrupulous mail solicitations and at the same time guarding against unconstitutional abuse of rights of mailers is a difficult balancing act.

But I believe this bill, as amended, probably balances both interests in a delicate and careful way.

Earlier provisions of this bill would have granted strong, perhaps excessive powers, to the Postal Service. There was quite a deal of criticism of the earlier versions; most of that criticism being directed to the question of how the proposed new powers would be implemented—fairly or unfairly.

Over the past 3 years, we have seen production of a final bill that strengthens due process provisions and protections. I share Mr. DANNEMEYER'S concerns over the issues of deterrence through criminal statutes, rather than civil statutes. And I also share his concern over the question of unsolicited complaints not playing a role in proving intent to defraud.

The regular reporting mechanism will allow those of us in the Congress to review the Postal Service's actions and make further amendments if they are needed.

Section 3(d) adds a new section that clarifies that defendants are entitled to judicial review of the legality or constitutionality of Postal Service actions and the semiannual reports under section 3 will allow us to review both spending and Postal Service actions on a problem that has generated a great deal of concern on the part of senior citizens' groups across the Nation.

I, therefore, intend to vote in favor of this bill. I view this legislation as a much-needed law to afford some additional protection to the public from false and misleading ads, which use the tool of the U.S. mail, to reap a tremendous harvest of cash from an unwary public.

Eleven months ago, the Select Committee on Aging published a report which told of the financial, emotional, and physical damage done to our senior citizens and the disadvantaged in the public. That report was entitled "Business and Investment Frauds Perpetrated Against the Elderly: A Growing Scandal."

As we enter the holiday buying season, I am sure this would be a timely measure to pass. This is the most active time of the year for mail order schemes.

The damage inflicted upon our senior citizens is discouraging—and disgusting.

Today clearly is the time for passage.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the Senate bill, S. 450.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on S. 450, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CIVIL SERVICE MISCELLANEOUS AMENDMENTS ACT OF 1983

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4336) to make certain miscellaneous changes in laws relating to the civil service.

The Clerk read as follows:

H.R. 4336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Service Miscellaneous Amendments Act of 1983".

REAPPOINTMENT OF FORMER ADMINISTRATIVE LAW JUDGES

SEC. 2. Section 3323(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Notwithstanding other statutes, an annuitant as defined by section 8331 of this title receiving annuity from the Civil Service Retirement and Disability Fund is not barred by reason of his retired status from employment in an appointive position for which the annuitant is qualified. An annuitant so reemployed, other than an annuitant reappointed under paragraph (2) of this subsection, serves at the will of the appointing authority.

"(2) Subject to such regulations as the Director of the Office of Personnel Management may prescribe, any annuitant to whom the first sentence of paragraph (1) of this subsection applies and who has served as an administrative law judge pursuant to an appointment under section 3105 of this title may be reappointed an administrative law judge under such section for a specified period or for such period as may be necessary for such administrative law judge to conduct and complete the hearing and disposition of one or more specified cases. The provisions of this title that apply to or with respect to administrative law judges appointed under section 3105 of this title shall apply to or with respect to administrative law judges reappointed under such section pursuant to the first sentence of this paragraph.".

FEDERAL LABOR RELATIONS AUTHORITY

SEC. 3. (a) Section 7104(b) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "The Chairman is the chief executive and administrative officer of the Authority.".

(b) Section 7104(c) of title 5, United States Code, is amended to read as follows:

"(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of—

"(1) the date on which the member's successor takes office, or

"(2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.".

ARBITRATION AWARDS

SEC. 4. Section 7122(b) of title 5, United States Code, is amended to read as follows:

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).".

DETAIL AUTHORITY TO FILL CERTAIN VACANCIES

SEC. 5. (a)(1) Section 3345 of title 5, United States Code, is amended to read as follows:

"§ 3345. Details; to office of head of a department or agency

"When the head of an executive department, a military department, or an independent establishment (other than the General Accounting Office) dies, resigns, or is sick or absent, the first assistant to such department or establishment head, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.".

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3345 and inserting in lieu thereof the following new item:

"3345. Details; to office of head of a department or agency.".

(b) Section 3346 of title 5, United States Code, is amended to read as follows:

"§ 3346. Details; to subordinate offices

"When an officer of a bureau of an Executive department, a military department, or an independent establishment (other than the General Accounting Office), whose appointment is not vested in the head of the department or establishment, dies, resigns, or is sick or absent, such officer's first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.".

(c) Section 3348 of title 5, United States Code, is amended to read as follows:

"§ 3348. Details; limited in time

"No person designated to perform the duties of an office under section 3345, 3346, or 3347 shall do so—

"(1) if designated when the Congress is in session, for more than 30 days unless a nomination to fill such vacancy has been submitted to the Senate in which case the person so designated may serve—

"(A) until the Senate confirms the nomination;

"(B) for no more than 30 days beyond the date that the Senate rejects the nomination; or

"(C) for no more than 30 days beyond the date of adjournment at the end of a session in which the Senate has failed to act on the nomination;

"(2) if designated when the Congress had adjourned sine die or at the end of a session, for more than 30 days after the Congress next reconvenes.".

EXECUTIVE EXCHANGE PROGRAM

SEC. 6. (a) Section 4108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, 'training' includes a private sector assignment of an employee participating in the Executive Exchange Program of the President's Commission on Executive Exchange.".

(b)(1) Section 1304(e)(1) of title 5, United States Code, is amended—

(A) by striking out clause (ii); and

(B) by striking out "(i)".

(2) Section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) There is established in the Treasury of the United States a revolving fund which shall be available to the Executive Exchange Program of the President's Commission on Executive Exchange without fiscal year limitation—

"(A) for the costs of education and related travel of participants in such program; and

"(B) for printing, without regard to section 501 of title 44; and

"(C) in such amounts as may be specified in appropriations Acts, for entertainment expenses.

"(2) Participation fees which the President's Commission on Executive Exchange may impose and collect for participation in its Executive Exchange Program (including the balance of any participation fees collected under former section 1304(e)(1)(ii) of this title as of the effective date of this subsection) shall be credited to the revolving fund.".

AUTHORITY TO CONTINUE DEMONSTRATION PROJECT

SEC. 7. The Department of the Navy is authorized to continue implementation of the personnel demonstration project authorized by section 4703 of title 5, United States Code, and currently in operation at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California, until September 30, 1990, without regard to section 4703(d)(1)(B) of such title.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes and the gentleman from California (Mr. PASHAYAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The bill I bring before the House today contains the noncontroversial features of H.R. 4133, a bill I introduced in October. The Civil Service Subcommittee, which I chair, held hearings on this bill on November 1. At this hearing, we heard from the Office of Personnel Management (OPM), the Merit Systems Protection Board (MSPB), the Office of Special Counsel of the Merit Systems Protection Board, the Federal Labor Relations Authority (FLRA), the President's Commission on Executive Exchange, the Senior Executive Association, the Federal Managers' Association, the American Federation of Government Employees, the National Treasury Employees Union, the National Federation of Federal Employees, and the Government accountability project. The Department of the Navy was invited but declined to appear. H.R. 4336 contains those provisions of H.R. 4133 which none of the witnesses opposed.

Before describing the contents of H.R. 4336, I want to make clear that I have not given up on the rest of H.R. 4133. H.R. 4133 placed the civil services agencies of the Federal Government on 3-year expiring authorizations, contained language to increase the independence and authority of the Office of Special Counsel, and would have permitted employees who won

appeals at the presiding official level of MSPB to be reinstated. Each of these provisions engendered some controversy and, for that reason, was dropped from H.R. 4336. Yet, they are important changes which should be made and I hope the House will have an opportunity to consider them next year.

H.R. 4336 was not reported by the Committee on Post Office and Civil Service because of the time constraints of the end of the session. Yet, as far as I know, there is no opposition to any portion of this bill.

H.R. 4336 contains eight provisions making changes in civil service laws:

REAPPOINTMENT OF RETIRED ADMINISTRATIVE LAW JUDGES

Section 2 provides for the reappointment of administrative law judges (ALJ's) for specified periods or for the period necessary to complete specified cases. Current law, contained in 5 U.S.C. 3323(b), provides that retired Federal workers can be rehired. Such reemployed annuitants serve at the will of the agency. This scheme makes sense for most reemployed annuitants, since there is no reason to provide workers who are collecting retirement benefits with the same tenure rights as those provided to younger workers who would be without income if separated.

Yet, in the case of administrative law judges, serving at the whim of the agency head is inappropriate. Administrative law judges are required to be independent of the direction of the agency head in rendering decisions. For them to be subject to dismissal at will could undermine this independence. Removal with no reason given would hang over their heads like a sword, and would compromise their decisional process. On the other hand, we do not want retired administrative law judges hired indefinitely to avoid hiring new people. So, the provisions of this section provide for the rehiring of retired administrative law judges for fixed terms, be it a specified period of time or a specified case or cases.

Section 2 is derived from H.R. 2226, introduced by Mr. BARNES of Maryland. In supporting this provision, the Office of Personnel Management (OPW) said it would be useful because "agencies sometimes experience unexpected retirements and/or temporary increases in ALJ workload and could make effective use of retired administrative law judges in these cases." Like OPM, I believe the authority to reemploy retired administrative law judges should be used sparingly.

FLRA CHAIRMAN ADMINISTRATIVE RESPONSIBILITIES

Section 3(a) of H.R. 4336 makes the chairperson of the Federal Labor Relations Authority (FLRA) the chief executive and administrative officer of the Authority. This ends the confused administrative control system which has existed at the Authority since it opened its doors in early 1979.

The Civil Service Reform Act of 1978 (together with Reorganization Plan No. 2 of 1978) established the Federal Labor Relations Authority. Section 7104(b) of title 5, United States Code, as enacted by the Civil Service Reform Act of 1978 (Public Law 95-454), provides that "the President shall designate one member to serve as Chairman of the Authority." The statute contained no elaboration concerning the role of the chairperson of the FLRA. As a result of this sparse legislative record, the first solicitor of the Authority rendered an opinion, on January 23, 1979, stating that "the Chairman of the agency is not clothed with any special powers and duties by reason of his designation as Chairman, except for the authority to preside at meetings of members of the agency." The opinion went on to state, "However, the other members may properly delegate to the Chairman such additional powers and duties as they desire, so long as the delegation is not inconsistent with applicable statutes."

The three Authority members and the General Counsel signed a delegation of authority to the executive director of FLRA on September 11, 1979. This delegation reserved to the Authority policy decisions and gave the executive director "final authorities" over "personnel management, fiscal management, general administrative support services, property management, procurement and contracts, and personnel, property and document security, and management analysis and program evaluation."

In practice, this delegation was not successful. In 1981, the Authority contracted for more than $255,000 worth of furniture and office furnishings, in violation of the Federal property management regulations, the President's moratorium on furniture procurement, and the Anti-Deficiency Act. After studying this gross waste of public funds, the General Accounting Office concluded that, "In our opinion, many of the administrative and management problems discussed in this report can be traced back to authority and responsibility being shared equally among the three members, rather than the designated chairman being the agency head."

Responding to the fact that the Subcommittee on Federal Expenditures, Research and Rules of the Senate Committee on Governmental Affairs announced hearings on the furniture purchases on May 20, 1982, the members of the Authority that day signed a delegation to the Chairman of "responsibility and authority for the management of internal administrative matters." This May 20 memorandum continues in effect.

Frankly, I am not happy with the administrative structure of the FLRA today. While the question of administrative authority over procurement, fiscal management, and office services is well settled, authority over personnel management has remained too dissipated. Right now, the Authority has a unitary staff which serves all three Authority members. Hence, each member of the staff reports to each of the three Authority members. This system was adopted to reduce the personnel costs of the agency. Whether it succeeds in doing so or not, the unitary staff system creates other problems, which may be exacerbated by making the chairman the chief executive officer, as this bill does. Specifically, this bill gives the chairman final authority over personnel matters, including the Senior Executive Service, within the Authority. A malicious chairman could use this authority to undermine the effectiveness of the other two Authority members. Clearly, I do not intend for this to occur.

Rather, I believe that the Authority should move away from its completely unitary staff. To function effectively, each Authority member needs his or her own legal staff to draft decisions and screen cases. Clearly, each member of the Authority should have the power to select and manage his or her own staff.

We heard testimony in our hearing of November 1 to the effect that the unitary staff has resulted in lengthy and unacceptable time lags. Because any member's possible disagreement triggers a review of the decision by the staff, decisions take far too long to be issued. While the unitary staff scheme has resulted in unanimous decisions in virtually every case, this advantage is outweighed by the length of time it takes to reach these decisions. Further, I believe that more competition and even disagreement among Authority members might well result in clearer and better law from the Authority.

Under this bill, the General Counsel would continue to have wide authority over his or her own staff and over the regional staff, although, pursuant to 5 U.S.C. 7105(d), the full Authority retains the authority to appoint the executive director, the regional directors, and the administrative law judges.

The purpose of this section is to insure that the Chairman is the chief executive and administrative officer of the Authority while, at the same time, preserving equality and independence for each of the three Authority members in the exercise of their decisional responsibilities.

ELIMINATING OBSOLETE LANGUAGE

Section 3(b) eliminates obsolete statutory language concerning the original creation of the PLRA. The first sentence of section 7104(c) of title 5, United States Code, reads, "One of the original members of the Authority shall be appointed for a term of 1

year, one for a term of 3 years, and the Chairman for a term of 5 years." This provision has no further function and so this section deletes it.

EXCEPTIONS TO ARBITRATION AWARDS

Section 4 of H.R. 4336 clarifies the time period within which an exception to an arbitration award must be filed. The Federal Service Labor-Management Relations statute, which was passed as title VII of the Civil Service Reform Act, provides for final and binding arbitration by independent arbitrators for a wide variety of labor-management disputes. To guard against the rare and exceptional case in which an arbitrator's decision was contrary to law or otherwise met the strict standards the courts have set for overturning an arbitrator's decision, an appeals route to the FLRA was established.

Far too many cases have been appealed for exceptions to arbitration awards under section 7122 of title 5. Since the effectiveness of the arbitrator's award is stayed until the FLRA decides the exception and because it takes so long to decide these cases, there is a real incentive for parties to file for exceptions, if only to delay the impact of a disliked decision. FLRA should move aggressively to decide virtually all of exceptions to arbitration awards within 60 days of their being filed.

Section 4 of H.R. 4336 deals with a far narrower problem. Currently, the 30-day period for filing an exception runs from the date which is written on the award itself. Since arbitrators are not infallible in promptly mailing their orders, the 30-day period may be truncated by the negligent action of an individual who is not even a party to the proceedings. So, this provision starts counting the 30-day period on the date the award is served on the parties. It is our intention that the term "the date the award is served" has the same meaning as it has in Federal court practice.

EXTENDING COVERAGE OF VACANCIES ACT

Section 5 of H.R. 4336 brings within the terms of the Vacancies Act (5 U.S.C. 3345 through 3349) the independent agencies of the executive branch of Government. This change was recommended by the General Accounting Office (GAO) in a letter to the Speaker on August 24, 1983.

The Vacancies Act was originally enacted as part of the act of July 23, 1868. Sections 3345, 3346, and 3347 of title 5 provide methods for temporarily filling vacancies created by death, resignation, sickness, or absence of the head of an executive or military department, or the head of an office or bureau within such a department whose appointment is not vested in the head of the department. Ordinarily, such office or bureau heads would be appointed by the President. Section 3349 makes the methods for detailing individuals to fill vacancies provided in sections 3345, 3346, and 3347 the exclusive means of doing so, except in the case of recess appointments provided in 5 U.S.C. 5503.

Section 3348 of title 5, United States Code, is intended to encourage the president to move rapidly to submit nominations to fill vacancies. To do so, it provides that individuals detailed to fill a position under sections 3345, 3346, and 3347 may only serve in such a position for 30 days while the Congress is in session, unless the President submits a nomination.

This section of H.R. 4336 extends the provisions of the Vacancies Act to independent agencies, such as the Federal Labor Relations Authority, and clarifies the language of 5 U.S.C. 3348 concerning time limitations for details.

Some independent agencies have, within their own organic legislation, provisions for the performance of functions ordinarily vested in a Presidentially appointed official during a period following the death or resignation of such individual. Many do not and, hence, have no mechanism for orderly interim transition.

In the case of the Federal Labor Relations Authority, the General Counsel is appointed by the President and assigned to perform certain functions. However, there is no provision for the President to designate someone to act in that capacity during the period of a vacancy. In hearings before the subcommittee on Civil Service in March 1983, the FLRA pointed out that, "In the absence of a General Counsel, these functions [ordinarily performed by the General Counsel] cannot be performed under the Statute."

Similarly, the GAO has questioned the ability of an Acting Special Counsel to discharge the statutory obligations of the Special Counsel.

We did not include GAO's further recommendation that the time limit be extended from 30 to 40 days. That decision is more appropriately made by the Senate, which has the responsibility to confirm Presidential nominees.

The language clarification of 5 U.S.C. 3348 is not intended to change current practice.

EXECUTIVE EXCHANGE: TRAINING ACT SERVICE AGREEMENTS

Section 6(a) of H.R. 4336 makes it clear that the executive exchange program run by the President's Commission on Executive Exchange constitutes training within the meaning of 5 U.S.C. 4108, meaning that employees have to sign a service agreement prior to participating in the training. The service agreement must provide that the employee will remain in the service of his or her agency at the end of training for a period of time equal to three times the length of the training and that the employee will pay the Government the cost of the training if he or she leaves before the end of this period. The payment can be waived under certain circumstances.

The President's Commission on Executive Exchange was established under Executive Order No. 12136, issued by President Lyndon B. Johnson on January 19, 1969. The Commission runs the executive exchange program which is "designed to provide a means through which a mutual understanding and a better working relationship is achieved between the private sector and the Federal Government through the exchange of high-caliber, senior executives from each sector through a 1-year work assignment in the opposite sector through which exchanged executives become aware of and seek ways to resolve major issues impacting both sectors on a national and international basis."

The Subcommittee on Civil Service examined the operations of the executive exchange program over the past year. It is a program which brings an average of 24 midlevel corporate managers into Government positions at around the GS-15 level and places an average of 18 GS-15 Government officials in midlevel corporate positions each year. While corporate participation has grown, Government participation has declined over the past 4 years.

In looking into the program, the subcommittee was particularly conscious of possible conflicts of interest. Although few of the private sector participants are placed in jobs which have much to do with their private sector employment, most of the Government employee participants are placed in corporate jobs closely related to their Government employment. This is a matter of concern.

Of the 73 Government participants over the past 4 years, 5 did not return to their Government jobs. Section 6(a) of this bill should reduce that number.

EXECUTIVE EXCHANGE: EXTENSION OF REVOLVING FUND

Section 6(b) of H.R. 4336 reestablishes a revolving fund for the executive exchange program. This section makes permanent the authority Congress provided last year on a 1-year basis in Public Law 97-412.

Federal agencies pay $3,000 and private firms pay $6,000 for the educational program provided for participants. Up until 1982, the funds collected from private firms were kept in a deposit account in the Treasury. It was finally concluded that the Treasury and the President's Commission lacked legal authority to handle the funds this way. As a consequence, the revolving fund incorporated in Public Law 97-412 was requested.

In this legislation, we continue the authority to use a revolving fund. However, the authority is transferred from section 1304(e)(1)(ii) of title 5 to chapter 41 dealing with training.

where it is more appropriate. The corpus of the Public Law 97-412 fund should be transferred to the fund created by this bill.

EXTENSION OF NAVY PERSONNEL DEMONSTRATION PROJECT

Section 7 extends until September 30, 1990, the 5-year time limit on demonstration projects, contained in section 4703 of title 5, United States Code, in the case of the personnel demonstration project being conducted by the Department of the Navy at the Naval Weapons Center, China Lake, Calif., and at the Naval Ocean Systems Center, San Diego, Calif.

One of the stated purposes of the Civil Service Reform Act was that "research programs and demonstration projects should be authorized to permit Federal agencies to experiment, subject to congressional oversight, with new and different personnel management concepts in controlled situations to achieve more efficient management of the Government's human resources and greater productivity in the delivery of service to the public;" Section 3(8) of Public Law 95-454. The project run by the Navy at these two facilities is the first of these demonstration projects.

Under the 5-year limitation contained in section 4703 of title 5, the project is slated to end in June 1985. This is not advisable for two reasons. First, the demonstration project experiments with, in part, a new classification system which is supposed to help recruitment and retention. There is no doubt that the recruitment and retention figures in 1981 and 1982 are better than previous years. Yet, since this was a period of recession, particularly in the scientific fields which make up the backbone of the work forces of these facilities, it is impossible for the committee to distinguish the effects of the economic downturn from the effects of the demonstration project. Another 5 years of operation should provide Congress with solid data on the effectiveness of this experimental system.

Second, having moved to a new classification system, the conversion back to the general schedule would either cost the Government a lot of money or would reduce the pay of employees. This would cause substantial disruption and probably wipe out the gains which have been made. We are, therefore, reluctant to cut off this program unless it is necessary to do so. Another 5 years will more clearly indicate the desirability of continuation or reversion.

The Committee on Post Office and Civil Service will continue strict oversight over this project.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4336, the Civil Service Miscellaneous Amendments Act of 1983. The provisions of this legislation provide efficient and effective adjustments to the current civil service laws. The chairwoman of the Civil Service Subcommittee, Mrs. SCHROEDER, and I have worked to assure that the changes we make today remedy difficulties which have hindered the civil service agencies in their pursuit of their mandated goals.

This legislation began as H.R. 4133, a piece of legislation that would have made sweeping changes in the structure of the civil service agencies. Many of the proposals, such as advance year authorizations and the restructuring of the relationship between the Merit Systems Protection Board and the Office of Special Counsel, were unprecendented and highly controversial. I am happy to tell my colleagues here today that this bill before you took the best elements of H.R. 4133. The amendments focus on positive changes for the Federal Labor Relations Authority, the President's Commission on Executive Exchange, personnel demonstration projects, the administrative law judge corps, and the civil service as a whole.

Among its provisons, the bill allows retired administrative law judges to be reappointed for a specified time or for a specific case. In addition, the date on which the 30-day period for filing exceptions to arbitration awards with the Federal Labor Relations Authority is changed. The period will now begin to run 30 days from the date of service of the award.

The bill also extends the authority of the President's Commission on Executive Exchange to collect participation fees from private companies beyond the current date of December 31, 1983. A special revolving fund is designated to hold the collected money. This provision is welcomed by the chairwoman of the President's Commission on the Executive Exchange. It is appropriate that the private sector is underwriting its participation in the Exchange and that taxpayers do not have to bear the financial burden of the program.

I urge you to support the passage of H.R. 4336.

● Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4336, the Civil Service Miscellaneous Amendments of 1983. As a member of the Subcommittee on Civil Service, I believe this bill is a positive step to improve and fine tune the Civil Service Reform Act of 1978. It incorporates provisions of H.R. 2226, which I have cosponsored, by providing opportunities for former retired administrative law judges to be recalled to service to help with backlogs.

I urge my colleagues to support H.R. 4336 and wish to commend the chairwoman of the subcommittee on Civil Service, Representative SCHROEDER, for her efforts to bring this important measure to the floor.●

● Mr. BARNES. Mr. Speaker, I want to commend the gentlewoman from Colorado, Mrs. SCHROEDER, for the work she has done on this legislation and for bringing it to the floor expeditiously. H.R. 4336 contains within it the provisions of H.R. 2226, a bill which I introduced at the beginning of the 98th Congress which would allow the recall to active service of retired administrative law judges for specified periods. The gentleman from Maryland, Mr. HOYER, and the gentleman from Virginia, Mr. WOLF, joined me in supporting the legislation, and Senator MATHIAS has introduced an identical bill, S. 728.

Retired administrative law judges have a wealth of experience in Government, and many of them have the desire to continue to serve the public interest on a part-time basis as the caseloads at Federal agencies might require. This legislation would permit retired administrative law judges to preside over specific regulatory proceedings, subject to regulations prescribed by the Director of the Office of Personnel Management. They would have the same independence in reaching their decisions that full-time ALJ's have. The administration and the legal community support the legislation, which would help relieve shortages of judges in active service and reduce delays in disposing of case backlogs. As a result, regulatory proceedings will proceed more smoothly with a savings to the public in money and manpower.●

Mr. PASHAYAN. Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 4336.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4336, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

MILITARY JUSTICE ACT OF 1983

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 974) to amend chapter 47 of title 10, United States Code—the Uniform Code of Military Justice—to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial, and for other purposes, as amended.

The Clerk read as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO THE UNIFORM CODE OF MILITARY JUSTICE

SECTION 1. (a) This Act may be cited as the "Military Justice Act of 1983".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

INCLUSION OF LAW SPECIALISTS OF THE COAST GUARD WITHIN DEFINITION OF JUDGE ADVOCATE

SEC. 2. (a) Clause 13 of section 801 (article 1(13)) is amended to read as follows:

"(13) 'Judge advocate' means—

"(A) an officer of the Judge Advocate General's Corps of the Army or the Navy;

"(B) an officer of the Air Force or the Marine Corps who is designated as a judge advocate; or

"(C) an officer of the Coast Guard who is designated as a law specialist.".

(b) The first sentence of section 806(a) (article 6(a)) is amended by striking out "and Air Force and law specialists of the" and inserting in lieu thereof "Air Force, and".

(c) Section 815(e) (article 15(e)) is amended by striking out "of the Army, Navy, Air Force, or Marine Corps, or a law specialist or lawyer of the Coast Guard or" and inserting in lieu thereof "or a lawyer of the".

(d) Section 827 (article 27) is amended—

(1) in subsection (b)(1), by striking out "of the Army, Navy, Air Force, or Marine Corps or a law specialist of the Coast Guard,"; and

(2) in subsection (c)(3), by striking out ", or a law specialist,".

(e) Section 842(a) (article 42(a)) is amended by striking out ", law specialist," both places it appears in the third sentence.

(f) Section 936(a) (article 136(a)) is amended—

(1) in clause (1), by striking out "of the Army, Navy, Air Force, and Marine Corps"; and

(2) by striking out clause (2) and redesignating clauses (3) through (7) as clauses (2) through (6), respectively.

MATTERS RELATING TO THE MILITARY JUDGE, COUNSEL, AND MEMBERS OF THE COURT-MARTIAL

SEC. 3. (a) Section 816(1)(B) (article 16(1)(B)) is amended by inserting "orally on the record or" before "in writing".

(b) Section 825 (article 25) is amended by adding at the end thereof the following new subsection:

"(e) Before a court-martial is assembled for the trial of a case, the convening authority may excuse a member of the court from participating in the case. Under such regulations as the Secretary concerned may prescribe, the convening authority may delegate his authority under this subsection to his staff judge advocate or legal officer or to any other principal assistant.".

(c)(1) Section 826 (article 26) is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) A military judge shall be detailed to each general court-martial. Subject to regulations of the Secretary concerned, a military judge may be detailed to any special court-martial. The Secretary concerned shall prescribe regulations providing for the manner in which military judges are detailed for such courts-martial and for the persons who are authorized to detail military judges for such courts-martial. The military judge shall preside over each open session of the court-martial to which he has been detailed."; and

(B) in the first sentence of subsection (c), by striking out "by the convening authority, and, unless" and inserting in lieu thereof "in accordance with regulations prescribed under subsection (a). Unless".

(2) Section 827(a) (article 27(a)) is amended—

(A) by striking out "For each" and all that follows through "appropriate." and inserting in lieu thereof the following: "(1) Trial counsel and defense counsel shall be detailed for each general and special court-martial. Assistant trial counsel and assistant and associate defense counsel may be detailed for each general and special court-martial. The Secretary concerned shall prescribe regulations providing for the manner in which counsel are detailed for such courts-martial and for the persons who are authorized to detail counsel for such courts-martial."; and

(B) by designating the sentence beginning "No person who has acted as investigating officer" as paragraph (2) and by striking out "assistant defense counsel" in such sentence and inserting in lieu thereof "assistant or associate defense counsel".

(d) Section 829(a) (article 29(a)) is amended by striking out "except for" and all that follows through the period and inserting in lieu thereof the following: "unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause.".

(e)(1) Section 838(b)(6) (article 38(b)(6)) is amended by striking out "a convening authority" and inserting in lieu thereof "the person authorized under regulations prescribed under section 827 of this title (article 27) to detail counsel".

(2) Paragraph (7) of section 838(b) (article 38(b)(7)) is amended by inserting after the first sentence the following new sentence: "Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the armed force of which the accused is a member.".

(3) Section 838(c) (article 38(c)) is amended to read as follows:

"(c) In any court-martial proceeding resulting in a conviction, the defense counsel—

"(1) may forward for attachment to the record of proceedings a brief of such matters as he determines should be considered in behalf of the accused on review (including any objection to the contents of the record which he considers appropriate);

"(2) may assist the accused in the submission of any matter under section 860 of this title (article 60); and

"(3) may take other action authorized by this chapter.".

(f) Section 842(a) (article 42(a)) is amended by striking out "assistant defense counsel" in the first and third sentences and inserting in lieu thereof "assistant or associate defense counsel".

PRETRIAL ADVICE AND REFERRAL OF CHARGES

SEC. 4. (a)(1) The first sentence of section 834(a) is amended by striking out "or legal officer".

(2) The second sentence of such section is amended to read as follows: "The convening authority may not refer a specification under a charge to a general court-martial for trial unless he has been advised in writing by the staff judge advocate that—

"(1) the specification alleges an offense under this chapter;

"(2) the specification is warranted by the evidence indicated in the report of investigation under section 832 of this title (article 32) (if there is such a report); and

"(3) a court-martial would have jurisdiction over the accused and the offense.".

(b) Section 834 (article 34) is further amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The advice of the staff judge advocate under subsection (a) with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate—

"(1) expressing his conclusions with respect to each matter set forth in subsection (a); and

"(2) recommending action that the convening authority take regarding the specification.

If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.".

RIGHT TO APPEAL AND RELATED MATTERS

SEC. 5. (a)(1) Section 860 (article 60) is amended to read as follows:

"§ 860. Art. 60. Action by the convening authority

"(a) The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.

"(b)(1) Within 30 days after the sentence of a general court-martial or of a special court-martial which has adjudged a bad-conduct discharge has been announced, the accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. In the case of all other special courts-martial, the accused may make such a submission to the convening authority within 20 days after the sentence is announced. In the case of all summary courts-martial the accused may make such a submission to the convening authority within seven days after the sentence is announced. If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the period—

"(A) in the case of a general court-martial or a special court-martial which has adjudged a bad-conduct discharge, for not more than an additional 20 days; and

"(B) in the case of all other courts-martial, for not more than an additional 10 days.

"(2) In a summary court-martial case the accused shall be promptly provided a copy of the record of trial for use in preparing a submission authorized by paragraph (1).

"(3) In no event shall the accused in any general or special court-martial case have less than a seven-day period after the day on which a copy of the authenticated record of trial has been given to him within which to make a submission under paragraph (1). The convening authority or other person taking action on the case, for good cause, may extend this period for up to an additional 10 days.

"(4) The accused may waive his right to make a submission to the convening authority under paragraph (1). Such a waiver must be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority.

"(c)(1) The authority under this section to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. Under regulations of the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

"(2) Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this section. Subject to regulations of the Secretary concerned, such action may be taken only after consideration of any matters submitted by the accused under subsection (b) and, if applicable, under subsection (d), or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking such action, in his sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part.

"(3) Action on the findings of a court-martial by the convening authority or other person acting on the sentence is not required. However, such person, in his sole discretion, may—

"(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

"(B) change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

"(d) Before acting under this section on any general court-martial case or any special court-martial case that includes a bad-conduct discharge, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of his staff judge advocate or legal officer. The convening authority or other person taking action under this section shall refer the record of trial to his staff judge advocate or legal officer, and the staff judge advocate or legal officer shall use such record in the preparation of his recommendation. The recommendation of the staff judge advocate or legal officer shall include such matters as the President may prescribe by regulation and shall be served on the accused, who shall have five days from the date of receipt in which to submit any matter in response. The convening authority or other person taking action under this section, for good cause, may extend that period for up to an additional 20 days. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.

"(e)(1) The convening authority or other person taking action under this section, in his sole discretion, may order a proceeding in revision or a rehearing.

"(2) A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision—

"(A) reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;

"(B) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter; or

"(C) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

"(3) A rehearing may be ordered by the convening authority or other person taking action under this section if he disapproves the findings and sentence and states the reasons for disapproval of the findings. If such person disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.".

(2) The item relating to such section (article) in the table of sections at the beginning of subchapter IX is amended to read as follows:

"860. 60. Action by the convening authority.".

(b)(1) Section 861 (article 61) is amended to read as follows:

"§ 861. Art. 61. Waiver or withdrawal of appeal

"(a) In each case subject to appellate review under section 866 or 869(a) of this title (article 66 or 69(a)), except a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review. Such a waiver shall be signed by both the accused and by defense counsel and must be filed within 10 days after the action under section 860(c) of this title (article 60(c)) is served on the accused or on defense counsel. The convening authority or other person taking such action, for good cause, may extend the period for such filing by not more than 30 days.

"(b) Except in a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused may withdraw an appeal at any time.

"(c) A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 866 or 869(a) of this title (article 66 or 69(a)).".

(2) The item relating to such section (article) in the table of sections at the beginning of subchapter IX is amended to read as follows:

"861. 61. Waiver or withdrawal of appeal.".

(c)(1) Section 862 (article 62) is amended to read as follows:

"§ 862. Art. 62. Appeal by the United States

"(a)(1) In a trial by court-martial in which a military judge presides and in which a punitive discharge may be adjudged, the United States may appeal an order or ruling of the military judge which terminates the proceedings with respect to a charge or specification or which excludes evidence that is substantial proof of a fact material in the proceeding. However, the United States may not appeal an order or ruling that is, or that amounts to, a finding of not guilty with respect to the charge or specification.

"(2) An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within 72 hours of the order or ruling. Such notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and (if the order or ruling appealed is one which excludes evidence) that the evidence excluded is substantial proof of a fact material in the proceeding.

"(3) An appeal under this section shall be diligently prosecuted by appellate Government counsel.

"(b) An appeal under this section shall be forwarded by a means prescribed under regulations of the President directly to the Court of Military Review and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Court of Military Review may act only with respect to matters of law, notwithstanding section 866(c) of this title (article 66(c)).

"(c) Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.".

(2) The item relating to such section (article) in the table of sections at the beginning of subchapter IX is amended to read as follows:

"862. 62. Appeal by the United States.".

(d) Section 863 (article 63) is amended—

(1) by striking out subsection (a); and

(2) in subsection (b)—

(A) by striking out "(b)";

(B) by inserting "under this chapter" after "Each rehearing"; and

(C) by inserting at the end thereof the following: "If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.".

(e) Section 871 (article 71) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit. That part of the sentence providing for death may not be suspended.";

(2) in subsection (b), by striking out the first and second sentences and inserting in lieu thereof the following: "If in the case of

a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as he sees fit."; and

(3) by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c)(1) If a sentence extends to death, dismissal, or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn, under section 861 of this title (article 61), that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to death or dismissal, approval under subsection (a) or (b), as appropriate). A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Military Review and—

"(A) the time for the accused to file a petition for review by the Court of Military Appeals has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

"(B) such a petition is rejected by the Court of Military Appeals; or

"(C) review is completed in accordance with the judgment of the Court of Military Appeals and—

"(i) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

"(ii) such a petition is rejected by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(2) If a sentence extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn, under section 861 of this title (article 61), that part of the sentence extending to dismissal or a bad-conduct or dishonorable discharge may not be executed until review of the case by a judge advocate (and any action on that review) under section 864 of this title (article 64) is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section 860 of this title (article 60) when approved by him under that section.

"(d) The convening authority or other person acting on the case under section 860 of this title (article 60) may suspend the execution of any sentence or part thereof, except a death sentence.".

(f) Subsection (a) of section 857 (article 57(a)) is amended to read as follows:

"(a) No forfeiture may extend to any pay or allowances accrued before the date on which the sentence is approved by the person acting under section 860(c) of this title (article 60(c)).".

(g) Section 876a (article 76a) is amended—

(1) by striking out "864 or 865 of this title (article 64 or 65) by the officer exercising general court-martial jurisdiction" and inserting in lieu thereof "860 of this title (article 60)"; and

(2) by striking out "by the officer exercising general court-martial jurisdiction" in the second sentence and inserting in lieu thereof "under section 860 of this title (article 60)".

(h)(1) The table of subchapters at the beginning of chapter 47 is amended by striking out the item relating to subchapter IX and inserting in lieu thereof the following:

"IX. Post-trial Procedure and Review of Courts-Martial..... 859 59".

(2) The subchapter heading at the beginning of subchapter IX is amended to read as follows:

"SUBCHAPTER IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL".

RECORD OF TRIAL

SEC. 6. (a) Section 801 (article 1) is amended by adding at the end thereof the following new clause:

"(14) 'Record', when used in connection with the proceedings of a court-martial, means—

"(A) an official written transcript, written summary, or other writing relating to the proceedings; or

"(B) an official audiotape, videotape, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.".

(b) Subsections (d) and (f) of section 849 (article 49) are each amended by inserting after "read in evidence" the following: "or, in the case of audiotape, videotape, or similar material, may be played in evidence".

(c) Section 854 (article 54) is amended—

(1) in subsection (a), by striking out the last sentence;

(2) in subsection (b), by striking out "shall contain the matter and";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) A complete record of the proceedings and testimony shall be prepared—

"(A) in each general court-martial case in which the sentence adjudged includes death, a dismissal, a discharge, or (if the sentence adjudged does not include a discharge) any other punishment which exceeds that which may otherwise be adjudged by a special court-martial; and

"(B) in each special court-martial case in which the sentence adjudged includes a bad-conduct discharge.

"(2) In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations of the President.".

(d)(1) Section 865 (article 65) is amended to read as follows:

"§ 865. Art. 65. Disposition of records

"(a) In a case subject to appellate review under section 866 or 869(a) of this title (article 66 or 69(a)) in which the right to such review is not waived, or an appeal is not withdrawn, under section 861 of this title (article 61), the record of trial and action thereon shall be transmitted to the Judge Advocate General for appropriate action.

"(b) Except as otherwise required by this chapter, all other records of trial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.".

(2) The item relating to such section (article) in the table of sections at the beginning of subchapter IX is amended to read as follows:

"865. 65. Disposition of records.".

REVIEW OF COURTS-MARTIAL AND RELATED MATTERS

SEC. 7. (a)(1) Section 864 (article 64) is amended to read as follows:

"§ 864. Art. 64. Review by a judge advocate

"(a) Each case in which there has been a finding of guilty that is not reviewed under section 866 or 869(a) of this title (article 66 or 69(a)) shall be reviewed by a judge advocate under regulations of the Secretary concerned. A judge advocate may not review a case under this subsection if he has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The judge advocate's review shall be in writing and shall contain the following:

"(1) Conclusions as to whether—

"(A) the court had jurisdiction over the accused and the offense;

"(B) the charge and specification stated an offense; and

"(C) the sentence was within the limits prescribed as a matter of law.

"(2) A response to each allegation of error made in writing by the accused.

"(3) If the case is sent for action under subsection (b), a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

"(b) The record of trial and related documents in each case reviewed under subsection (a) shall be sent for action to the person exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that person's successor in command) if—

"(1) the judge advocate who reviewed the case recommends corrective action;

"(2) the sentence approved under section 860(c) of this title (article 60(c)) extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six months; or

"(3) such action is otherwise required by regulations of the Secretary concerned.

"(c)(1) The person to whom the record of trial and related documents are sent under subsection (b) may—

"(A) disapprove or approve the findings or sentence, in whole or in part;

"(B) remit, commute, or suspend the sentence in whole or in part;

"(C) except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or

"(D) dismiss the charges.

"(2) If a rehearing is ordered but the convening authority finds a rehearing impracticable, he shall dismiss the charges.

"(3) If the opinion of the judge advocate in the judge advocate's review under subsection (a) is that corrective action is required as a matter of law and if the person required to take action under subsection (b) does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the Judge Advocate General for review under section 869(b) of this title (article 69(b)).".

(2) The item relating to such section (article) in the table of sections at the beginning of subchapter IX is amended to read as follows:

"864. 64. Review by a judge advocate.".

(b) Section 866(a) (article 66(a)) is amended by inserting after the second sentence the following new sentence: "Any decision

of a panel may be reconsidered by the court sitting as a whole in accordance with such rules.".

(c) Section 866(b) (article 66(b)) is amended to read as follows:

"(b) The Judge Advocate General shall refer to a Court of Military Review the record in each case of trial by court-martial—

"(1) in which the sentence, as approved, extends to death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad-conduct discharge, or confinement for one year or more; and

"(2) except in the case of a sentence extending to death, the right to appellate review has not been waived or an appeal has not been withdrawn under section 861 of this title (article 61).".

(d) Section 867(b)(1) (article 67(b)(1)) is amended by striking out "affects a general or flag officer or".

(e)(1) The text of section 869 (article 69) is amended to read as follows:

"(a) The record of trial in each general court-martial that is not otherwise reviewed under section 866 of this title (article 66) shall be examined in the office of the Judge Advocate General if there is a finding of guilty and the accused does not waive or withdraw his right to appellate review under section 861 of this title (article 61). If any part of the findings or sentence is found to be unsupported in law or if reassessment of the sentence is appropriate, the Judge Advocate General may modify or set aside the findings or sentence or both. If the Judge Advocate General so directs, the record shall be reviewed by a Court of Military Review under section 866 of this title (article 66), but in that event there may be no further review by the Court of Military Appeals except under section 867(b)(2) of this title (article 67(b)(2)).

"(b) The findings or sentence, or both, in a court-martial case not reviewed under subsection (a) or under section 866 of this title (article 66) may be modified or set aside, in whole or in part, by the Judge Advocate General on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence. If such a case is considered upon application of the accused, the application must be filed in the office of the Judge Advocate General by the accused on or before the last day of the two-year period beginning on the date the sentence is approved under section 860(c) of this title (article 60(c)), unless the accused establishes good cause for failure to file within that time.

"(c) If the Judge Advocate General sets aside the findings or sentence, he may, except when the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed. If the Judge Advocate General orders a rehearing but the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges.".

(2) The two-year period specified under the second sentence of section 869(b) (article 69(b)) of title 10, United States Code, as amended by paragraph (1), does not apply to any application filed in the office of the appropriate Judge Advocate General (as defined in section 801(1) of such title) on or before October 1, 1983. The application in such a case shall be considered in the same manner and with the same effect as if such two-year period had not been enacted.

INCLUSION OF CONTROLLED SUBSTANCES IN PUNITIVE ARTICLES

SEC. 8. (a) Subchapter X is amended by inserting after section 912 (article 112) the following new section (article):

"§ 912a. Art. 112a. Wrongful use, possession, etc., of controlled substances

"(a) Any person subject to this chapter who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces a substance described in subsection (b) shall be punished as a court-martial may direct.

"(b) The substances referred to in subsection (a) are the following:

"(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance.

"(2) Any substance not specified in clause (1) that is listed on a schedule of controlled substances prescribed by the President for the purposes of this article.

"(3) Any other substance not specified in clause (1) or contained on a list prescribed by the President under clause (2) that is listed in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).".

(b) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 912 (article 112) the following new item:

"912a. 112a. Wrongful use, possession, etc., of controlled substances.".

THE CODE COMMITTEE

SEC. 9. (a) Section 867(g) (article 67(g)) is amended—

(1) by striking out "The Court of Military Appeals" and all that follows through "and report" and inserting in lieu thereof "(1) A committee consisting of the judges of the Court of Military Appeals, the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, the Director, Judge Advocate Division, Headquarters, United States Marine Corps, and two members of the public appointed by the Secretary of Defense shall meet at least annually. The committee shall make an annual comprehensive survey of the operation of this chapter. After each such survey, the committee shall report";

(2) by adding at the end thereof the following:

"(2) Each member of the committee appointed by the Secretary of Defense shall be a recognized authority in military justice or criminal law. Each such member shall be appointed for a term of three years.

"(3) The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee.".

(b)(1) The Secretary of Defense shall establish a commission to study and make recommendations concerning the following matters:

(A) Whether the sentencing authority in court-martial cases should be exercised by a military judge in all noncapital cases to which a military judge has been detailed.

(B) Whether military judges and the Courts of Military Review should have the power to suspend sentences.

(C) Whether the jurisdiction of the special court-martial should be expanded to permit adjudgment of sentences including confinement of up to one year, and what, if any, changes should be made to current appellate jurisdiction.

(D) Whether military judges, including those presiding at special and general courts-martial and those sitting on the Courts of Military Review, should have tenure.

(E) What should be the elements of a fair and equitable retirement system for the judges of the United States Court of Military Appeals.

(2) The commission shall consist of nine members, at least three of whom shall be persons from private life who are recognized authorities in military justice or criminal law.

(3) The commission shall prepare a comprehensive report in support of its recommendations on the matters set forth in paragraph (1). The commission shall include in such report its findings and comments on the following matters:

(A) The experience in the civilian sector with jury sentencing and judge-alone sentencing, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, and impact on the rights of the accused.

(B) The potential impact of mandatory judge-alone sentencing on the Armed Forces, with particular reference to consistency, uniformity, sentence appropriateness, efficiency in the sentencing process, impact on the rights of the accused, effect on the participation of members of the Armed Forces in the military justice system, impact on relationships between judge advocates and other members of the Armed Forces, and impact on the perception of the military justice system by members of the Armed Forces, the legal profession, and the general public.

(C) The likelihood of a reduction in the number of general court-martial cases in the event the confinement jurisdiction of the special court-martial is expanded; the additional protections that should be afforded the accused if such jurisdiction is expanded; whether the minimum number of members prescribed by law for a special court-martial should be increased; and whether the appellate review process should be modified so that a greater number of cases receive review by the military appellate courts, in lieu of legal reviews presently conducted in the offices of the Judge Advocates General and elsewhere, especially if the commission determines that the special court-martial jurisdiction should be expanded.

(D) The effectiveness of the present systems for maintaining the independence of military judges and what, if any, changes are needed in these systems to ensure maintenance of an independent military judiciary, including a term of tenure for such judges consistent with efficient management of military judicial resources.

(4) The commission shall transmit its report to the Committees on Armed Services of the Senate and the House of Representatives and to the committee established under section 867(g) (article 67(g)) of title 10, United States Code, not later than the first day of the ninth calendar month that begins after the date of the enactment of this Act. Not later than the first day of the third calendar month that begins after receipt of such report, the committee established under section 867(g) (article 67(g)) of such title shall submit such comments on the report as it considers appropriate to the Committees on Armed Services of the

Senate and the House of Representatives and to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Transportation.

(5) The Secretary of Defense shall ensure that the commission is provided with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(6) The Secretary shall ensure that the commission has reasonable access to information relevant to the study.

SUPREME COURT REVIEW

SEC. 10. (a)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Court of Military Appeals; certiorari

"Decisions of the United States Court of Military Appeals may be reviewed by the Supreme Court by writ of certiorari in the following cases:

"(1) Cases reviewed by the Court of Military Appeals under section 867(b)(1) of title 10.

"(2) Cases certified to the Court of Military Appeals by the Judge Advocate General under section 867(b)(2) of title 10.

"(3) Cases in which the Court of Military Appeals granted a petition for review under section 867(b)(3) of title 10.

"(4) Cases, other than those described in paragraphs (1), (2), and (3) of this subsection, in which the Court of Military Appeals granted relief.".

(2) The table of sections at the beginning of chapter 81 of such title is amended by adding at the end thereof the following new item:

"1259. Court of Military Appeals; certiorari.".

(b) Section 2101 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The time for application for a writ of certiorari to review a decision of the United States Court of Military Appeals shall be as prescribed by rules of the Supreme Court.".

(c)(1) Section 866(e) (article 66(e)) is amended by striking out "or the Court of Military Appeals" and inserting in lieu thereof "the Court of Military Appeals, or the Supreme Court".

(2) Section 867 (article 67) is amended by adding at the end thereof the following new subsection:

"(h)(1) Decisions of the Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28. The Supreme Court may not review by a writ of certiorari under such section any action of the Court of Military Appeals in refusing to grant a petition for review.

"(2) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.".

(3)(A) Section 870(b) (article 70(b)) is amended by adding at the end thereof the following new sentence: "Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General.".

(B) Subsections (c) and (d) of such section are amended to read as follows:

"(c) Appellate defense counsel shall represent the accused before the Court of Military Review, the Court of Military Appeals, or the Supreme Court—

"(1) when requested by the accused;

"(2) when the United States is represented by counsel; or

"(3) when the Judge Advocate General has sent the case to the Court of Military Appeals.

"(d) The accused has the right to be represented before the Court of Military Review, the Court of Military Appeals, or the Supreme Court by civilian counsel if provided by him.".

CORRECTION OF RECORDS; DISCHARGE REVIEW

SEC. 11. (a) Section 1552 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

"(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or

"(2) action on the sentence of a court-martial for purposes of clemency.".

(b) Section 1553 of such title is amended by adding at the end of subsection (a) the following new sentence: "With respect to a discharge or dismissal adjudged by a court-martial case tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under this subsection may extend only to a change in the discharge or dismissal or issuance of a new discharge for purposes of clemency.".

EFFECTIVE DATE; CONFORMING AMENDMENT

SEC. 12. (a)(1) The amendments made by this Act shall take effect on the first day of the eighth calendar month that begins after the date of enactment of this Act, except that the amendments made by sections 9, 11 and 13 shall be effective on the date of the enactment of this Act. The amendments made by section 11 shall only apply with respect to cases filed after the date of enactment of this Act with the boards established under sections 1552 and 1553 of title 10, United States Code.

(2) The amendments made by section 3(c) and 3(e) do not affect the designation or detail of a military judge or military counsel to a court-martial before the effective date of such amendments.

(3) The amendments made by section 4 shall not apply to any case in which charges were referred to trial before the effective date of such amendments, and proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(4) The amendments made by sections 5, 6, and 7 shall not apply to any case in which the findings and sentence were adjudged by a court-martial before the effective date of such amendments. The proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(5) The amendments made by section 8 shall not apply to any offense committed before the effective date of such amendments. Nothing in this provision shall be construed to invalidate the prosecution of any offense committed before the effective date of such amendments.

(b) Section 7(b)(1) of the Military Justice Amendments of 1981 (95 Stat. 1089; 10 U.S.C. 706 note) is amended to read as follows:

"(b)(1) The amendments made by section 2 shall apply to each member whose sentence by court-martial is approved on or after January 20, 1982—

"(A) under section 864 or 865 (article 64 or 65) of title 10, United States Code, by the officer exercising general court-martial jurisdiction under the provisions of such section as it existed on the day before the effective date of the Military Justice Act of 1983; or

"(B) under section 860 (article 60) of title 10, United States Code, by the officer empowered to act on the sentence on or after the effective date of the Military Justice Act of 1983.".

TECHNICAL AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE

SEC. 13. (a)(1) Clauses (11) and (12) of subsection (a) of section 802 (article 802) are amended—

(A) by striking out "the following:"; and

(B) by inserting "the Commonwealth of" before "Puerto Rico".

(2) Subsection (b) of such section (article) is amended by striking out "of this section".

(b)(1) The heading of section 815 (article 15) is amended to read as follows:

"§ 815. Art. 15. Commanding officer's non-judicial punishment".

(2) Subsection (b) of such section (article) is amended—

(A) by striking out "of this section"; and

(B) by striking out "subsection (b)(2)(A)" in clause (2)(H)(i) and inserting in lieu thereof "clause (A)".

(c) Section 825(c)(2) (article 25(c)(2)) is amended by striking out "the word".

(d) Section 867(a)(3) (article 867(a)(3)) is amended by inserting "Circuit" after "District of Columbia".

The SPEAKER pro tempore. Is a second demanded?

Mr. HILLIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes and the gentleman from Indiana (Mr. HILLIS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report S. 974, the Military Justice Act of 1983, with an amendment in the nature of a substitute which contains a series of technical amendments to the Senate bill as passed in the other body. The substance of the Senate bill and our substitute is basically the same.

This legislation has been in the making since the Military Personnel and Compensation Subcommittee held

a hearing on an earlier bill in March 1980. Over the intervening years, through a series of studies and consultations with representatives of the military and civilian bar, this legislation emerged.

This bill would streamline the paperwork process originally built into the system with the enactment with the Uniform Code of Military Justice in 1950. This development is now timely after some 30-plus years of experience with the Code.

Also, there is a provision that would allow the accused to waive automatic appellate review except in death sentence cases. In addition, the posttrial review by the person who convened the court would be retained, but emphasis would be placed primarily on the determination as to whether the sentence should be reduced as a matter of command prerogative rather than a formal review. The staff judge advocate would continue to advise the commander on legal aspects of the case.

Probably the most important feature of the legislation is the provision that would establish, for the first time, direct access to the Supreme Court for a review of decisions by the Court of Military Appeals. This is a landmark feature and a significant step forward in the military justice system.

Finally, Mr. Speaker, the bill would establish a punitive article proscribing drug abuse offenses in the military. This has become necessary due to the seriousness of the drug offense matter and, therefore, the necessity for a distinct and common punitive article in all of the military services.

Mr. Speaker, this legislation has the endorsement of the Secretary of Defense, the service chiefs, the Judge Advocates General, the Coast Guard, the Court of Military Appeals, the American Bar Association, the Association of the Bar of the City of New York, the American Civil Liberties Union, and others active in the military and civilian bar. I know of no opposition to the legislation and urge its approval by the committee.

□ 1730

Mr. HILLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur in the comments of my distinguished committee colleague.

After some 30-plus years of experience with the Uniform Code, the time has come to eliminate some of the administrative paperwork now that the system has proven itself, and we have professional military lawyers at each level of action.

In addition, the military judiciary has developed into a highly professional and complementary element of the system, which further justifies streamlining the earlier administrative and ministerial requirements.

Also, Mr. Speaker, I strongly support the amendment to the Uniform Code providing for appeal to the Supreme Court. While this right would be limited to cases decided by the Court of Military Appeals, it does afford an opportunity for consideration on direct appeal of military cases by the Supreme Court.

As the gentleman from Mississippi has indicated, we know of no opposition to the bill, and I urge its adoption.

Mr. MONTGOMERY. Mr. Speaker, I appreciate the strong support for this legislation of my friend and colleague, the gentleman from Indiana (Mr. HILLIS).

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 974, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. HILLIS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. KASTENMEIER. Mr. Speaker, I would like to associate myself with the views expressed by the gentleman from Mississippi (Mr. MONTGOMERY) and the gentleman from Indiana (Mr. HILLIS), particularly as regards the provision creating a right to appeal decisions of the Court of Military Appeals to the U.S. Supreme Court. This landmark feature of the bill not only provides a significant improvement to the military justice system, but also improves access to justice for a large group of individuals. This statutory change conforms with principles of judicial administration in that it treats the Supreme Court as the apex for all courts within this country. Any person—soldier or civilian, citizen or alien, rich or poor, black or white, young or old—given the proper case or controversy and assuming that a right under law or the Constitution has been abridged, should have access to the Supreme Court of the United States.

The Military Justice Act of 1983 is well drafted. During the last three Congresses, the Armed Services Committee has relied upon the drafting and legal expertise of the House Committee on the Judiciary and my Subcommittee on Courts, Civil Liberties, and the Administration of Justice. In short the bill authorizes the parties to petition the Supreme Court to review decisions of the Court of Military Appeals through discretionary writs of certiorari. In views of current concerns about the Supreme Court's workload, the legislation has been crafted in a way that will limit the number of cases subject to direct court review. First, cases in which the Court of Military Appeals declines to grant a petition for review are excluded. The Supreme Court will have complete and unfettered discretion to refuse to grant petitions for writs of certiorari. Second, control over Government petitions will be exercised by the Solicitor General's office in the U.S. Department of Justice. As is present practice, the Solicitor General will exercise strict scrutiny as to which cases the Government seeks review.

I might add, Mr. Speaker, that my subcommittee has already held 4 days of hearings on the pressing issue of the Supreme Court's "calendar crisis." Eight Justices, and many scholars, lawyers, jurists, and bar associations, have indicated that a major problem exists. I have proposed two legislative solutions to the problem. H.R. 1968, passed unanimously by this body during the 97th Congress, would eliminate most of the mandatory jurisdiction of the Supreme Court. H.R. 1970 would create a temporary and experimental Intercircuit Tribunal of the U.S. courts of appeals. Since I expect to bring both bills to the floor during the second session and both bills are inextricably linked to the bill before us today—(the Military Justice Act of 1983)—I look forward to receiving assistance from the Committee on Armed Services on my proposed legislation.

After all, the contents of S. 974 will ring hollow if the right to access to the Supreme Court is theoretical and not real. In order to insure real access, we must provide the High Court with the requisite tools to handle its caseload and ultimately to satisfy its important legislative and constitutional responsibilities. If we do not help the Court with its caseload problems, everyone loses. The Supreme Court is asphyxiated by cases, citizens' rights are not protected, and Congress is rightfully criticized for not responding legislatively to identified needs. In conclusion, I urge a favorable vote on S. 974, as amended.●

● Mr. PRICE. Mr. Speaker, I wish to add my support to what has been said by the gentleman from Mississippi (Mr. MONTGOMERY) concerning the Military Justice Act of 1983.

Also, we should comment on the support of the chairman of the Committee on the Judiciary and the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, in connection with the provision for Supreme Court review contained in section 10 of the amendment.

We appreciate the wise counsel provided by the Judiciary Committee and staff over the several years that the matter of Supreme Court review of military cases has been under consideration.

I urge a favorable vote on S. 974 as amended.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the Senate bill, S. 974, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

SELECT COMMISSION ON VOLUNTARY SERVICE OPPORTUNITIES ACT OF 1983

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1264) to establish a select commission to examine the issues associated with voluntary service, as amended.

The Clerk read as follows:

H.R. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Select Commission on Voluntary Service Opportunities Act of 1983".

FINDINGS

SEC. 2. The Congress finds that—

(1) voluntary service in a variety of areas represents a vast and essentially untapped resource which can and should be utilized to meet national and local needs;

(2) greater leadership is needed on the part of the Federal Government to encourage the people of the United States to serve and to encourage State and local authorities to provide opportunities for meaningful service;

(3) useful public service is very important for the educational and personal development of young people;

(4) the United States faces numerous challenges which can be better met if the people of the United States draw upon the creative energies of young people and other individuals through a program of national service; and

(5) a high-level commission is needed to make recommendations to the President and the Congress regarding the effectiveness of existing voluntary service programs and the costs and benefits of alternative types of national service programs.

PURPOSE

SEC. 3. It is the purpose of this Act to establish a select commission to examine the issues associated with voluntary service and—

(1) to focus national attention on the need for voluntary service, on opportunities which exist for such service, and on alternative types of national service programs which may help the United States to meet a broad range of national and local needs;

(2) to explore and assess alternative methods for providing the people of the United States with the incentives and the opportunities to provide useful service to the community and the United States; and

(3) to provide the President, the Congress, and the people of the United States with an overview and assessment of existing opportunities for voluntary service and a series of options for alternative types of national service programs designed to help the United States deal with a number of serious challenges in the areas of youth unemployment, conservation of natural resources, protection of the environment, rebuilding the inner cities, education, providing services for older Americans and handicapped individuals, and personnel requirements in a wide variety of Federal, State, and local programs and agencies.

ESTABLISHMENT

SEC. 4. There is established a select commission to be known as the Select Commission on Voluntary Service Opportunities (hereafter in this Act referred to as the "Commission").

DUTIES

SEC. 5. The Commission shall—

(1) identify existing voluntary service opportunities in the public and private sectors of the United States and assess the effectiveness of such opportunities in meeting national and local needs, in building a sense of commitment to the community and the United States, and in instilling in the volunteers a sense of accomplishment and pride;

(2) identify incentives which attract, or which are needed to attract, voluntary service in the public and private sectors of the United States;

(3) examine and assess the need for and the desirability, feasibility, and cost of expanding existing service opportunities and incentives and establishing any of the alternative types of national service programs;

(4) identify and examine alternative types of national service programs and assess the relative costs and benefits of such national service programs;

(5) examine the impact of potential changes in the incentives for service, and of various alternative types of national service programs, upon existing institutions (including educational institutions, labor organizations, private and public service programs, and Federal youth, jobs, and training programs);

(6) assess the cost effectiveness of both alternative and existing voluntary service programs and the feasibility and desirability of incorporating such programs into a comprehensive national service program;

(7) examine the role of all individuals (regardless of age, sex, income, and education) in existing service programs and in the alternative types of national service programs;

(8) identify the way in which existing service programs and alternative types of national service programs will provide young individuals and other participants with a sense of accomplishment and pride and an opportunity to contribute to the welfare of the society by responding to unmet needs of the community and the United States; and

(9) conduct meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of individuals particularly young individuals and those individuals and groups most likely to be affected by any changes in existing service programs or the establishment of a program of national service.

MEMBERSHIP

SEC. 6. (a) The Commission shall be composed of fifteen members as follows:

(1) Five members appointed by the President from among individuals who are broadly representative of private volunteer organizations, secondary and higher education, business, organized labor, the military, social service and civil liberty organizations, minority group and ethnic organizations, Federal, State, and local governments, and groups with a primary interest in service opportunities for youth, handicapped individuals, and older Americans, of which not less than one of the members appointed by the President shall be an individual who is not less than seventeen years of age and not more than twenty-five years of age on the date of appointment to the Commission.

(2) Five members appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House, of which two shall be Members of the House of Representatives and one shall be an individual who is not less than seventeen years of age and not more than twenty-five years of age on the date of appointment to the Commission.

(3) Five members appointed by the majority leader of the Senate in consultation with the minority leader of the Senate, of which two shall be Senators and one shall be an individual who is not less than seventeen years of age and not more than twenty-five years of age on the date of appointment to the Commission.

(b) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves such office, he may continue as a member of the Commission until his successor is appointed.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) Members of the Commission shall be appointed for the life of the Commission.

(e)(1) Except as provided in paragraph (2), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties of the Commission.

(2) Members of the Commission who are officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(f) Eight members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) Not later than forty-five days after the effective date of this Act, the President shall designate the chairman of the Commission from among those individuals appointed by the President under subsection (a)(1).

(h) The first meeting of the Commission shall be held not later than sixty days after the designation of the chairman under subsection (g). The Commission shall meet at least once each three months after its first meeting. The date and time of all meetings of the Commission shall be at the call of the chairman or a majority of its members.

EXECUTIVE DIRECTOR AND STAFF

SEC. 7. (a) The Commission shall have an executive director who shall be appointed by the Chairman of the Commission and who shall be paid at a rate not to exceed the

maximum rate of basic pay payable for grade GS-18 of the General Schedule.

(b) Subject to such rules as may be prescribed by the Commission, the chairman of the Commission may appoint and fix the pay, at a rate not to exceed the maximum rate of basic pay payable for grade GS-18 of the General Schedule, of such additional personnel as the chairman considers appropriate.

(c) The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-18 of the General Schedule.

(d) Subject to such rules as may be prescribed by the Commission, the chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title, 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule.

(e) Upon request of the Commission, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out this Act.

POWERS

SEC. 8. (a) The Commission may, for the purpose of carrying out this Act, hold such hearings and conferences, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) The Commission may accept, use, and dispose of gifts or donations of funds, services, or property.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) The Commission through its chairman may enter into any contract which the Commission deems is necessary.

REPORTS

SEC. 9. (a) The Commission may transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than fifteen months after the first meeting of the Commission is held under section 6(h). The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(b)(1) After the final report is transmitted to the President and each House of the Congress under subsection (a), each department and agency of the United States affected by the final report, as determined by the President, shall submit to the President recommendations for implementing the final report.

(2) Not later than ninety days after the final report is transmitted by the Commission to each House of the Congress under subsection (a) the President shall transmit to each House of the Congress an interim report containing a detailed statement regarding—

(A) the desirability, feasibility, and cost of implementing each of the recommendations of the Commission, and the action taken or planned with respect to the implementation; and

(B) recommendations with respect to any legislation proposed by the Commission and the need for any alternative or additional legislation to implement the recommendations of the Commission.

(3) Not later than ninety days after the interim report is transmitted to each House of the Congress under paragraph (2), the President shall transmit to each House of the Congress a final report containing a detailed statement regarding any actions taken to implement the recommendations of the Commission, together with any further recommendations for legislation or administrative actions.

TERMINATION

SEC. 10. The Commission shall cease to exist one hundred and eighty days after its final report is transmitted to the President and each House of the Congress under section 9(a).

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated for fiscal year 1984, such sums as may be necessary to carry out this Act. Any sums appropriated under the authorization contained in this section shall remain available until expended.

EFFECTIVE DATE

SEC. 12. This Act shall take effect on October 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Texas (Mr. BARTLETT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1264 establishes a select commission to study the issue associated with voluntary service, During the 97th Congress, a similar measure passed both the subcommittee and full committee by voice vote. This Congress the subcommittee was discharged from consideration of this bill which again passed the full committee by voice vote.

With an emphasis on voluntary service from the private sector, the administration has asked Americans to become involved. This Commission would identify available opportunities which currently exist as well as recommend the amount of Federal involvement necessary to coordinate voluntary efforts.

At this time I want to yield to my distinguished colleague from California, LEON PANETTA, who is the sponsor of H.R. 1264.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. PANETTA), a cosponsor of H.R. 1264.

Mr. PANETTA. Mr. Speaker, the purpose of the legislation we are considering today, H.R. 1264, is clear, to begin a long overdue examination of the issues surrounding voluntary national service in this country and to help us in devising Federal policies which will encourage Americans of all ages to serve their country. It is appropriate and it seems to me particularly on the 20th anniversary of the death of President Kennedy that the Congress state that it also wants to consider at this point a study of the importance of national service in helping this Nation. "Ask not what your country can do for you but what you can do for your country."

The Federal Government already operates a number of programs for volunteers, and similar opportunities are provided by many States, localities, and private organizations. But I believe that these programs, important as they are, represent only the tip of the iceberg where volunteerism is concerned. We have at our disposal an untapped reserve of Americans of all ages and backgrounds, who are willing and able to help provide some of the public services which we so desperately need and which strained Government resources are unable to cover.

We have set certain goals for ourselves as a Nation. We are committed to providing assistance for our poor, elderly, ill, and handicapped citizens; to preserving our precious natural resources and protecting our environment; to rebuilding our inner cities; to educating our children and helping educationally disadvantaged adults. Many Federal programs already exist to help us achieve these goals. But Federal budget deficits remain unacceptably high, even as the needs of our diverse population continue to grow. At a time when we are searching for ways to reduce Government expenditures, voluntary public service represents the most promising alternative to Federal spending in countless areas.

Equally important, public service can help build a sense of pride, dignity, and self-esteem among volunteers of all ages. The talents and energies of the American people—particularly our young people—are simply not being utilized to the fullest possible extent; 21.6 percent of American youth are currently unemployed and the rate for black teenagers is a shocking 48.3 per-

cent. Not only are the potential contributions of these young people being wasted—but this unused human resources fosters a sense of apathy and even despair, a reluctance to contribute to a society which seems not to care about them.

Public service can provide useful on-the-job training, helping to equip young people and displace workers with marketable job skills. But in addition, meaningful voluntary service can give young people a sense of purpose, a feeling that they have something worthwhile to offer. The fact is that public service can have unique and invaluable effects on its participants in terms of personal growth, development, and self-worth.

The potential of national service to achieve both these goals—to provide services which will improve the quality of life for the American people, and to spark a spirit of activism and involvement among young people and volunteers of all ages—has been widely recognized. Many proposals for some form of national service program have already been put forward. My legislation is designed to address a need which must be met before any of these proposals can be considered: the need for a thorough examination and debate on the national service issue.

H.R. 1264 will meet this need by creating a 15-member select commission to study the issues surrounding voluntary national service. Five members each will be appointed by the President, the Speaker, and the Senate majority leader. The Commission's membership will be broadly representative of a number of interested constituencies, including labor, business, education, and minority groups. And, recognizing the special importance of this issue to young people, the Commission will include three members between the ages of 17 and 25.

The Commission's mandate includes an assessment of existing opportunities for voluntary service and possible alternatives for a national service program. In carrying out this mandate, the Commission will hold hearings throughout the country to gather the ideas and suggestions of the public, particularly young people. It will then, within 15 months, issue a report outlining the desirability, feasibility, and cost of a national service program and recommending options for such a program.

No national study of voluntary service has ever been undertaken. This Commission is needed both to raise public awareness of the issue, and to provide us with a solid foundation of knowledge and analysis on which to act.

Mr. Speaker, this bill has the support of the American Legion, the United Way, the American Veterans Committee, the American Red Cross, the American Council on Education, the National Association of State Colleges and Universities, independent colleges and universities and the presidents of a number of universities in this country including Father Hesburgh of Notre Dame.

The importance of voluntarism in our national life is undeniable. But frankly, I do not think that we have done enough as a Nation to encourage our young people and others to contribute to our society through public service. I continue to believe that by exercising the proper leadership, we can rekindle the activist spirit which has always been characteristic of the American people, and can guide that spirit into productive channels. The establishment of this Commission is the first step in that process of leadership. I urge my colleagues' support.

Mr. MURPHY. Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 1264, the Commission to Examine Voluntary Service Issues.

I oppose the creation of this Commission for two reasons: One is obvious, and the other is based on more than a cursory reading of the proposed legislation.

First, the obvious: The United States does not need a Commission on Voluntary Service. Opportunities for voluntarism exist in every community in our Nation, from the smallest rural town to the largest of our sprawling metropolitan areas.

Furthermore, many areas already have local clearinghouses to recruit volunteers and coordinate their efforts. The private sector is doing a commendable job in this respect, both by encouraging employees and others to become volunteers, and in many cases, by contributing financially to the support of volunteer organizations.

At the Federal level, we already have leadership in the promotion of volunteer service: The President has an Advisory Council on Private Sector Initiatives, an active group that is serving the President and the Nation well; there is also the Action Agency, which this Congress recently reauthorized, and which serves as an umbrella to a number of volunteer efforts which span the generations: from young volunteers to senior citizens.

Mr. Speaker, I said there was a second, more subtle but more significant reason for opposition to the establishment of this commission. Actually, the wording of certain key phrases in the legislation itself is not so subtle at all.

The recurring phrase, "alternative types of national service programs," is very troubling. There are variations, such as "comprehensive national service program." Both are disturbing because they are indicative of an intent to make what should be voluntary service mandatory.

We have a name for required national service—it is called the draft, and it is something that has never been instituted in peacetime in the history of our Nation.

Mandatory service should be reserved for true national emergencies. To do otherwise would violate our philosophical and political traditions.

Nearly 4 million young Americans reach the age of 18 every year. Admittedly, 4 million young persons forced to serve their country in one capacity or another would provide a cheap labor pool, but to the detriment of older, salaried labor, private enterprise, and older volunteers. Further, mandatory service acts to the detriment of those 4 million young people every year by requiring an otherwise free people to spend their resources and time on ways in which they do not volunteer.

Mandatory service would also have an adverse effect on one of the groups it would be intended to benefit: the military. Equating military and civilian service downgrades the image and capabilities of our defense forces.

Make no mistake, mandatory service has a place in the United States. That place should be reserved for national need, for national emergencies. That is to say when we need a draft to protect our liberties or to protect our shores, then and only then should we institute that draft and we should not institute the draft or mandatory service in the absence of that national need.

To those who have not read my interpretation into this legislation, I would point out that one of the Commission members who would be appointed by the President is meant to be representative of the military sector.

And I would ask my colleagues to look at the bill itself and look at page 5 as an example, where the phrase "alternative types of national service programs" appears five times on that single page, along with the phrase "comprehensive national service program."

That is not just words on a piece of paper, ladies and gentleman. It is the handwriting on the wall and in H.R. 1264 for universal, mandatory service in our country.

□ 1740

Mr. MURPHY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, the gentleman from Texas has made a contribution in putting out on the table what frankly we have to be looking at in this country.

I support the resolution. It is an important contribution and something

that is much needed. In fact, we have some security problems today in this country. We vote money for MX's and for everything else like they are going out of style, but we do not pay attention to the single most important military need in this country and that is personnel. We are relying excessively on the poor of this country. We do not have the kind of mix that we ought to in terms of economics and ability.

And, so, when blood is shed in Grenada or Lebanon or anywhere else, it is the poor of the country whose blood is shed. There are no sons of Members of Congress or members of the Cabinet in Grenada or Lebanon. And my feeling—and I am speaking for myself and not for the gentleman from California—and belief is that when you simply look at the demographics and where we are going in the pool of those who may be coming into the military, the reality is that come 1985, no matter who is elected President, this Congress is going to be faced with some very tough choices. And I happen to believe that we will be better off when we face those tough choices.

But what the gentleman from California is saying is let us look at creating some options. I happen to feel that one of these days we are going to have a draft where we give people the option. If you want to go into the military you are going to get certain educational advantages. If you do not want to go into the military and you want to work for the Park Service or a mental hospital or the Peace Corps or something else, you can do that. That just happens to be my idea. It may be no good at all.

But we ought to have a commission that looks at this thing. Right now we are facing the future and some very severe problems and we are saying, "Let us not study those problems." That is basically the message of the gentleman from Texas, for whom I have a high regard, but once in a while he can go wrong and he has gone wrong on this occasion.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I have the highest regard for the gentleman. We serve together on the committee and occasionally we have a disagreement. But on this one I am glad to see that we agree. Because apparently the gentleman is saying that in fact H.R. 1264 is a commission to study the draft, or more precisely, to study mandatory service, mandatory service for all 4 million young people as they reach some age in this country.

Is that what the gentleman is trying to say?

Mr. SIMON. What the gentleman from Illinois is saying—and I am not speaking for the gentleman from California—is that this Commission has to look at the whole package. And that has to include the needs of the military.

It is high time we take a look at that whole thing. And it is high time that we take a look at what we are doing in our society about imposing the burden of military service only on the least fortunate in our society.

Mr. BARTLETT. Mr. Speaker, if the gentleman will yield further, my only request then—and I appreciate the gentleman reading the bill, because I would concur with the gentleman's understanding of H.R. 1264—I would suggest a more appropriate bill would be a commission to study the draft and mandatory service and not put it under the guise of voluntary service.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

Mr. MURPHY. Mr. Speaker, I yield 3 additional minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, the reality is many in this House do not believe that a military draft is desirable nor, going to come, but others believe it is.

But is there some possibility of pulling together some kind of voluntary mixture? I do not know. But we ought to take a good hard look at it. We spend billions for weapons systems that are outdated. We ought to take a look at the No. 1 military problem and a problem that confronts our society in general.

□ 1750

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Speaker, I would urge my colleagues to take a close look at the bill that is before the House because it is not a study of the draft and it is not a study of mandatory national service.

What it basically establishes is a commission to look at various efforts and options for voluntary service in this country, to cover a vast array of areas.

We have been talking about that in this country over and over again, the need to present our young people with some options to provide service to their country. What is wrong with that? To be able to have a national debate and a commission to focus on the need for that.

You can raise all kinds of bogymen with regards to this issue. This basically says: Let us establish a commission to look at these various options. And I do not think that is anything any of us ought to be afraid of.

Mr. BARTLETT. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in favor of this bill. I must say that we should not cloud the issue. I think that what both the gentleman from Illinois and the gentleman from California are talking about is prefectly consistent. What we need to do is study alternatives and options.

I would agree with the gentleman from Illinois that the demographics indicate, along with the economic rebirth, as we on this side would call it, indicate that we could have some severe times in manning an All-Volunteer Force in the near future. I see nothing wrong with looking at various options, as well as options which talk in terms of voluntary service for other purposes.

I personally have visited two such programs, one in Germany and one in France, and I can assure this body that there are complications involved with those programs, that we ought to study them. But more importantly these programs have many benefits. And if it becomes necessary or desirable for us to utilize some sort of voluntary service as an option along with military service, we ought to be ready to do that. It is important that we be ready to do that.

I have personally interrogated many, many young people in my State, asking them: Suppose we do come to the option of a lottery draft or a volunteer service as an option to the draft, with everybody serving. And almost unanimously they agreed that we ought to be looking at that and ought to have it as a preference to just picking on some people to serve.

So I think it is important that we study that. I think it is important that we take a look and see what other countries have done and ask ourselves: Why, if this is so popular and has worked so well in so many other countries, why should we not at least study it?

I think that is the important thing to do here, to study the options. Nobody here is going to advocate one form or another. No one is advocating a return to the draft, no one here is advocating anything other than an analysis and a study of options which we can utilize to help our young people serve this Nation in a way that I am sure a large majority want to serve.

Mr. MURPHY. Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. First of all, Mr. Speaker, let me say that my colleague, the gentleman from Vermont, suggested that what the gentleman from Illinois and the gentleman from California were saying is not inconsistent. It seems to me that since they were contradicting each other that they were totally inconsistent, the one saying that this does call for a study of the

draft, and the other saying that it does not. And then I think the gentleman from Vermont went on to say that he was in favor of a study of universal service.

I think it is quite clear, from the wording in the bill, when you talk about the comprehensive universal service you are talking about a draft for military and civilian purposes. I mean it is just that very simple and clear.

Now, the reason that it does not say "draft" in here is because the bill would then have gone to the Armed Services Committee, and that was considered undesirable by the sponsors of the bill, so they drafted it in a way that it does not say "draft." But I think it very clearly contemplates that.

Mr. Speaker, I am in strong opposition to this bill. My opposition is based on three propositions. First, the bill duplicates activities and services already in place; it raises the issue of universal service or draft; and it bypasses the jurisdiction of another legislative committee, the Armed Services Committee.

When the Select Commission on Voluntary Service Opportunties was discussed by the Education and Labor Committee, I opposed it as a wholly unnecessary commission. In the process of authorizing such a commission, we would be diverting scarce dollars that could be spent in any one of our other education or social service programs.

This Commission would be incapable of contributing to the existing voluntary effort. The scope of the duties and the responsibilities assigned to the Commission is so extensive that I cannot envision reliable, unambiguous findings resulting from its activities.

Thus, the final product of the Commission would be another large, unfocused report that would not serve as an effective aid to the Congress in drafting subsequent legislation.

Another reason for my opposition is that the administration has established through Executive order a Task Force on Private Sector Initiatives to mobilize through voluntary action the vast human and financial resources of the private sector without excessive governmental entanglement.

One of the purposes of the commission is to focus attention on national services which may help the country meet a broad range of national and local needs. It is important to note that the concept of nonmilitary national service is not a new one. It has been tried as a pilot program in New York, and it was one of the biggest and costliest failures in ACTION's history.

Having failed once, why should we spend more dollars to fund yet another theoretical study of the possibilities for national youth service?

I might say, Mr. Speaker, that I differ with my colleague, the gentleman from Illinois, concerning the desirability of the military draft in peacetime. It would be desirable to get a broader cross-section of people in the military. But let me suggest that a draft or comprehensive universal public service, including military service, would bring into the military unwilling people for a short period of time, a year or two at the most. That is not what we need in the way of manpower in the military, particularly today with our highly complicated technological Army, Navy, and Air Force. We do not need short-term people who can learn practically nothing more than how to march and carry a gun. That is not the kind of military service that we have today. What we need are people with long-term commitments to the military who, when they do learn these complicated skills, will stay in long enough to utilize these skills.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, my colleague may be correct, but the majority of military leaders I talked to happen to disagree with him. Whether he is correct or they are correct or I am correct, I do not know. But let us get a group to look at these questions and study the whole picture. I think it is important for our country.

Mr. ERLENBORN. I can sympathize with the gentleman's desire. Let me say, however, that, in all honesty, if what we are to study is a military draft, that question should be looked at by the Armed Services Committee before the bill is brought out here on the floor so that we can have their input. To draft this in a way to have it go through the Education and Labor Committee, avoiding the real committee of jurisdiction, is a sham and a fraud, and I do not think that it well serves the purpose that the gentleman from Illinois would like to have served.

Mr. MURPHY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Speaker, again I just want to respond very briefly to some of the points that have been made.

Once again I would ask Members to look at the title of the bill, which is to establish a select commission to examine the issues associated with voluntary service.

The gentleman from Illinois raises a specious argument when he says that other committees have jurisdiction, when indeed it is the jurisdiction of the Parliamentarian to refer these bills to the committees that have jurisdiction. In this instance it was the Education Committee. They have considered it. They have reported it out, because it deals basically with voluntary service of Government action.

The second point was that we have already had task forces look at this. The President's task force dealt solely with corporate voluntary action. It did not look at the broad sphere of possible voluntary service in Government areas.

Third, again, I think it is important to look at this issue because of the discussion that has gone on here. Why should we not have a national debate on the issue of voluntary service and options to be provided to our young people? That is what this is all about. That is why I urge the Members to support this legislation.

Mr. BARTLETT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I was just glancing at this interesting bill which creates another commission, something we are in dire need of, I guess, and it is going to identify and study how we instill in volunteers a sense of accomplishment and pride. I would assume one would not volunteer for whatever they are doing unless they got a sense of accomplishment if not pride out of it.

□ 1800

But I just wonder if looking at, as the gentleman from Illinois says, all the voluntary service opportunities that might be available, alternative types of national service programs, if this would not be a worthy undertaking for the Committee on Education and Labor. I am told that the majority staff on that committee is about 150 highly skilled experts in the field of education and labor, and that is just the majority staff. Heaven knows what the minority has. I hope they are bulging at the seams with staff, too.

We are going to take a long work period, vacation. We are trying to get out of here next week and not come back until January 23, and I would hope and think and expect that some of us would not girdle the globe, would stay around and get some of the staff of the Committee on Education and Labor together under the able chairmanship of the gentleman from Illinois (Mr. SIMON) and study this question and have a report on our desks by February 1 and save half a million dollars.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding

Mr. Speaker, that is one of the reasons we have come forward with this idea, because the fact is, when you consider a series of options in terms of service to the Government, one com-

mittee does not simply have jurisdiction. It crosses a broad range of jurisdictions across the Congress. That is the purpose of having a commission.

Mr. BARTLETT. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. NIELSON).

Mr. NIELSON of Utah. I thank the gentleman for yielding this time to me.

Mr. Speaker, I speak in opposition to this bill. We already have in place a means to avoid the draft if a draft is contemplated. That is the conscientious objectors. If someone is a conscientious objector, he can do other things and avoid the draft. If we have compulsory military training in peacetime, I think we should have it apply to everyone unless there is a reason not to apply it because of religious belief.

This is a duplication of efforts now being made. It is a violation of the spirit of a suspension. Suspensions should be bills which are noncontroversial. This was not noncontroversial in committee. It had several negative votes. It had dissenting views. It ought to be brought forward so we could debate it adequately, propose amendents so we can get the Committee on Armed Services involved in it. It is intended to be a nonvoluntary service option to be effective in peacetime. I do not think we have studied universal training sufficiently to make it effective and I, therefore, oppose the bill.

● Ms. KAPTUR. Mr. Speaker, I rise in support of H.R. 1264 calling for a select commission to study voluntary national service. Voluntarism has been an integral factor in this Nation's history from its inception. Barn raisings, in which neighbor helped neighbor, were a natural part of frontier life. Colonial towns were protected by citizen militia. Men and women volunteers ministered to the sick and wounded during the Civil War. We recall the groups of citizens who provided bandages and other supplies to our troops during World War I. Peacetime examples of volunteer efforts abound as well. Two of the most well-known and successful are the Peace Corps and Volunteers in Service to America. Then, too, there are the thousands of volunteer fire departments and rescue squads, community service and neighborhood organizations and church-affiliated charitable groups that contribute to the well being and quality of life in our communities.

At a time of reduced Federal domestic spending and persistent unemployment, a voluntary national service program can provide valuable opportunities for service to our towns, cities, and rural areas that lack the funds to meet important human needs. There are thousands of children in our schools for whom tutoring can mean the difference between academic success and failure. There are elderly, alone and homebound in many instances, dependent on sporadic or expensive transportation to get to stores, medical clinics, or recreation centers. Many of our country's poor spend winters in dwellings devoid of heat because they do not have the resources or skills to repair their homes. Our natural resources—the woodlands, beaches, bays, and rivers—need care and attention if we are to preserve them from erosion, pollution, and diminishment. These are but a few of the circumstances in which the creative energies of our country's people could be released.

For individuals, an Education Committee report spoke of the importance of useful public service "to the educational and personal development of persons of all ages." Voluntary service has the potential to bring together young and old, people of all races and walks of life, to foster greater understanding between them and educate people to the situation of those less fortunate than themselves. It can provide a sense of pride and accomplishment to those involved in contributing something positive to their world. Given proper training, voluntary service can give young people the experience and discipline that will help them advance in adult society.

As a proponent of a national program of public service, I believe that the Select Commission to study voluntary national service can play an invaluable role in exploring the feasibility of such a program. Certainly, there are questions to be answered and details to be arranged before any national program of public service is established. That is the purpose of the Commission. Its hearings can act as a forum for debate on this topic, as a means to gather information and provide recommendations on setting a national policy to encourage young people and all Americans to serve their country. To paraphrase Robert Kennedy—"Each time someone stands for an ideal, or acts to improve the lot of others, or strikes out against injustice, he or she sends forth a tiny ripple of hope. And crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance." This Commission can start many such ripples of hope.●

Mr. BARTLETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) to suspend the rules and pass the bill, H.R. 1264, as amended.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1264, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3385, PROVIDING EQUITY TO COTTON PRODUCERS UNDER PAYMENT-IN-KIND

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, (H.R. 3385) to provide equity to cotton producers under the payment-in-kind program.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1983

Mr. SIMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4350) to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Student Loan Consolidation Act of 1983".

STUDENT LOAN CONSOLIDATION

SEC. 2. Part B of title IV of the Higher Education Act of 1965 (hereafter in this Act referred to as "the Act") is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

"(A) the Student Loan Marketing Association; and

"(B) eligible lenders described in subparagraph (A) of section 435(g)(1).

"(2) Except as provided in section 429(e) and 439(o), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a State or nonprofit private institution or organization shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such State, institution, or organization.

"(3)(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

"(i)(I) has received loans under this title from two or more programs or lenders and has an outstanding indebtedness of not less than $5,000; or

"(II) has an outstanding indebtedness to a single lender under this part of not less than $7,500;

"(ii) is in repayment status, or is in the grace period preceding repayment status authorized by section 427(a)(2)(B), 428(b)(1)(E), or 464(c)(1)(A), and is not delinquent with respect to any required payment on such indebtedness by more than sixty days;

"(iii) is not a parent borrower under section 428B(a)(1) with respect to any loan selected for consolidation.

"(B) An individual's status as an eligible borrower terminates upon receipt of a consolidation loan under this section or under section 439(o), except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A) or (B) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1)(B), the lender will make a consolidation loan to any eligible borrower on application by that borrower, if and only if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section and the borrower has no other application pending with another lender for a consolidation loan under this section or under sections 439(o); or

"(ii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on application by that borrower, if the borrower has no other application pending with another lender for a consolidation loan under this section or under section 439(o);

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(B) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans; and

"(E) such other terms and conditions as the Secretary or State or nonprofit private institution or organization (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The State or nonprofit private institution or organization shall issue certificates of insurance to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subsection (a)(1)(B) if he determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). In either case, such certificate shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education, or of the State or nonprofit private institution or organization, which will process claims and perform other related administrative functions;

"(F) the alternative repayment terms, if any, which will be offered to borrowers by the lender;

"(G) that, in the case of a certificate of comprehensive insurance coverage, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(H) in the case of a certificate of comprehensive insurance coverage, the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loans made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrowing is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

"(ii) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at the rate of 10 per centum per annum on the unpaid balance of the loan. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(2) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repayment schedules. In each case, however, a consolidation loan shall be repaid as follows:

"(A) in the case of a consolidation loan the original amount of which is less than $7,500, such loan shall be repaid in not more than ten years;

"(B) in the case of a consolidation loan the original amount of which equals or exceeds $7,500 but is less than $11,000, such loan shall be repaid in not more than thirteen years;

"(C) in the case of a consolidation loan the original amount of which equals or exceeds $11,000, such loan shall be repaid in not more than fifteen years.

"(3) Repayment of a consolidation loan shall commence within sixty days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

"(d) The authority to make loans under this section expires at the close of September 30, 1986. Except for subsection (b)(2)(E), nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 3. (a)(1) Section 423(a) of the Act is amended by inserting "and section 428C" after "subsections (b) and (c)".

(2) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

(3) Section 430(b)(2)(A) of the Act is amended by inserting "or made under section 428C" after "Federal loan insurance under this part".

(4) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439 (o) and (q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

(5) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B";

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B, 428C, and 439(o)".

(6) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under sections 428C and 439(o),".

(b) Section 438(b)(2) of the Act is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)";

(2) in subparagraph (B)(i), by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)"; and

(3) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) In the case of loans made in accordance with section 428C, the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

TEMPORARY EXTENSION OF SALLIE MAE CONSOLIDATION

SEC. 4. (a) Notwithstanding the expiration of the loan consolidation authority of the Student Loan Marketing Association under section 439(o) of the Act, the Association may, subject to subsection (b), continue to make such loans during the period of the first six months after the date of enactment of this Act in accordance with the Association's certificate of comprehensive insurance coverage from the Secretary under paragraph (2) of such section.

(b) No loan may be made under the authority of subsection (a) unless—

(1) the loan is made to an individual who filed an application therefor prior to November 1, 1983;

(2) notwithstanding section 439(o) of the Act, the loan bears interest at the same rate as would be required by subsection (c)(1) of section 428C of the Act (as added by section 2 of this Act), if the loan were a loan made under that section;

(3) the special allowance with respect to such loan under section 438 of the Act is payable at the same rate as would be required by subsection (b)(2)(B) of such section (as added by section 3 of this Act), if the loan were a loan made under section 428C of such Act; and

(4) the terms of such loan require repayment over a period of not more than fifteen years.

(c) Notwithstanding section 438(b)(3) of the Act, no holder of a loan made under the authority of subsection (a) shall have a contractual right against the United States to receive a special allowance which is greater than that permitted by subsection (b)(3) of this section.

(d) Section 439(o)(5) of the Act is amended by adding at the end thereof the following new sentence: "This paragraph shall not preclude the Association from making a loan under this subsection to an individual if the promissory note for such loan was signed by, or delivered or sent for signature to, such individual before November 11, 1983.".

EVALUATION

SEC. 5. The National Institute of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this Act and shall report to the Congress not later than June 30, 1986, on its findings and recommendations.

The SPEAKER pro tempore. Is a second demanded?

Mr. COLEMAN of Missouri. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. SIMON) will be recognized for 20 minutes and the gentleman from Missouri (Mr. COLEMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, we face a problem on the loan consolidation matter. Sallie Mae and the commercial lenders are not authorized, as the law now stands, to move ahead with loan consolidation. This bill authorizes Sallie Mae and commercial lenders to move ahead with loan consolidation. It does not include something that I know at least one of my colleagues here is very much concerned about, and that is the authorization for State agencies to be included.

This was done, frankly, because the administration has made it clear that if the State agencies were included, the bill would be vetoed, and we are anxious that a bill be passed.

It is important to avoid student defaults. It is important also to save money, which this bill does, and I would add that the administration approves the bill as it is now constituted. I hope it will receive the support of this body.

Mr. Speaker, the Emergency Student Loan Consolidation Act of 1983 (H.R. 4350) extends the authority of the Student Loan Marketing Association (Sallie Mae) to consolidate guaranteed student loans (GSL's) national direct student loans (NDSL's) and auxiliary loans to assist students (ALAS's) into one loan with a longer repayment period and lower monthly payments. Under current law, Sallie Mae's authority to make consolidation loans expired on November 1, 1983. Additionally, H.R. 4350 allows banks and other commercial lending institutions to begin making consolidation loans.

The authority to consolidate loans was created in the Education Amendments of 1980 (Public Law 96-374). At that time, It was felt that consolidating student loans involving substantial indebtedness—over $5,000 in loans from more than one lender and over $7,500 in loans from the same lender—and extending the repayment period would help to reduce student loan defaults. During congressional deliberations on the Student Financial Assistance Technical Amendments Act of 1982 (Public Law 97-301), State agencies, banks, and the commercial lenders indicated their desire to have consolidation authority extended to them. Because loan consolidation was a relatively new concept and had only been in operation for a short time, the Congress decided that its effectiveness should be reviewed before extending the program. Public Law 97-301 directed the General Accounting Office (GAO) to undertake a study of Sallie Mae's consolidation program to evaluate the effect of extending the authority to state agencies. GAO's finding were presented to the Congress during a hearing held jointly by the House Postsecondary Education Subcommittee and the Senate Subcommittee on Education, Arts and Humanities on May 25, 1983. As a result of that hearing and subsequent ones, the Student Loan Consolidation and Technical Amendments Act of 1983, H.R. 3394, was introduced on June 23, 1983.

The Student Financial Assistance Technical Amendments Act of 1982 created to a significant degree, the need for H.R. 3394. That act mandated that loan consolidation be reviewed and addressed legislatively by August 1, 1983. However, it was never the intention of the bill's sponsors or the Congress that Sallie Mae's authority should be allowed to expire. H.R. 3394 contained the following major loan consolidation provisions:

Extension of the loan consolidation authority of the Student Loan Marketing Association;

Provision of loan consolidation authority to State agencies and private commercial lenders; and

A 9-percent interest rate on consolidation loans unless ALAS loans were included, in which case the interest rate was to be 12 percent.

In order for there to be a smooth and timely transition from the loan authority provided Sallie Mae in the 1980 amendments to the provisions in H.R. 3394, the bill mandated that Sallie Mae be allowed to operate under its existing insurance agreement with the Secretary for a 6-month period or until a new agreement was signed with the Secretary of Education through the federally insured student loan (FISL) program.

The bill required the Secretary to enter into an agreement with all eligible lenders concerning the terms of consolidation loans and how they were to be administered. The four corners of the agreement were to include all of the terms and conditions governing the relationship between the lender and the Secretary and the provision of loan consolidation by the lender. As a part of this agreement, the Secretary could require "such terms and conditions as the Secretary may specifically require of the lender to carry out this section." It was intended that all loans meet the levels of conformity specified in those agreement terms outlined in the legislation. In formulating H.R. 3394, we realized that it might not be necessary or possible for all lenders to conform to the same practices and that it was essential that each of the agreements be negotiated with the Secretary with the needs of the particular lender and the affected borrowers in mind. One area in which there could be some variation between lenders was the types of repayment plans that can be offered by the lender. Sallie Mae offers three options for repayment of consolidated loans. It was conceivable that another lender could devise a fourth, fifth or sixth option that was better suited to borrowers served by the lender. It was the intention of the legislation that the lender be allowed to offer the additional repayment terms.

In specifying the mandated terms of the agreement the Subcommittee on Postsecondary Education closely followed the agreement that had been reached between Sallie Mae and the Secretary. The specifics of the agreement included:

All loans made in conformity with the law would be insured against the loss of interest and principal by the Secretary;

A consolidation loan would not be insured unless the lender had obtained from the holder of each loan to be consolidated a certificate that the loan was a legal, valid and binding obligation of the borrower; that it was made and serviced in compliance with the applicable laws and regulations; and was in full force and effect;

The effective date of the certificate of comprehensive insurance;

The aggregate amount to which the certificate applies;

The reporting requirements of the Secretary and at which regional office claims processing and other related administrative functions would be handled;

The alternative payment schedules which could be offered to the borrower by the lending institution;

If the lender, prior to the expiration of the certificate of comprehensive insurance, no longer proposed to make consolidation loans, the lender must notify the Secretary in order that the agreement may be terminated. Loans consolidated prior to the termination of the agreement would not be affected;

Terms under which the Secretary could limit, suspend, or terminate the lender's authority to make insured consolidation loans. Loans consolidated by the lender prior to the limitation, suspension or termination of authority would not be affected.

H.R. 3394 further required that the Secretary not promugate rules or regulations governing the terms or conditions of the agreements entered into with State agencies or private lenders, or the insurance certificates issued by the Secretary. The agreements were to be negotiated on an individual basis as the original agreements with Sallie Mae were negotiated. Under no circumstances was the Secretary authorized to make all agreements uniform with no allowance for individual agency or lender needs.

The bill also provided that the borrower be allowed to repay a loan in advance either in whole or in part without penalty for repayment. The use of the term "accelerate" was not to mean that all of the loan had to be repaid at once. It was intended to mean that the borrower could repay at a faster rate than outlined in his/her repayment terms.

Other provisions in the bill included:

In order for a consolidated loan to be eligible for insurance by the Secretary it must be made to an eligible borrower who had agreed to notify the lending institution promptly concerning any change of address and who had entered into an agreement with the lending institution which specified:

The loan was made without security or other endorsement;

Principal payments could be deferred if the borrower was enrolled full time in a course of study at an eligible institution or was pursuing a graduate fellowship approved by the Secretary or was in a rehabilitation training program for disabled individuals. Payments of principal could also be deferred if a borrower was serving an internship required for the completion of professional requirements, was temporarily disabled, was unemployed because of caring for a disabled spouse, or was unemployed and seeking employment for a period not to exceed 12 months;

Payments on interest could not be deferred;

The system of disclosing information to credit bureau agencies had to be specified;

Lending agencies had the authority to establish repayment terms including graduated and income sensitive schedules except that the following repayment periods had to be utilized: $5,000 to $7,499 had to be repaid within 10 years; $7,500 to $10,999 had to be repaid within 13 years; $11,000 to $15,999 had to be repaid within 16 years; and over $16,000 had to be repaid within 20 years.

No origination fee or insurance premium or administrative cost allowance could be charged by the lender or the Secretary;

The National Institute of Education (NIE) was instructed to evaluate the loan consolidation program and report to the Congress no later than June 30, 1986.

The authority to consolidate student loans terminated on September 30, 1986.

H.R. 3394 was considered on the House floor on August 1, 1983 under suspension of the rules. Sponsors of the bill believed that the administration supported the bill. However, shortly before floor deliberation began, the Director of the Office of Management and Budget (OMB), David Stockman notified the Committee on Education and Labor that the administration opposed the loan consolidation provisions of the bill and that the President would veto the bill if they were not stricken. At the heart of OMB's concerns were the Federal costs of loan consolidation. Because other provisions in H.R. 3394 such as the Pell grant and GSL family contribution schedules and the independent student definition were essential to the continuation of other student financial assistance programs and required immediate passage, the bill's sponsors agreed to accept an amend-

ment by Representative JOHN ERLENBORN to delete the new loan consolidation provisions but to extend Sallie Mae's authority to November 1, 1983. H.R. 3394 was signed into law as Public Law 98-79 on August 15, 1983.

When OMB voiced its objections to the legislation last August, there were no specifics given. However, over the past 3 months the subcommittee has worked with the administration to determine the factual basis for their objections and to develop a bill that would avoid Presidential veto. On November 10, 1983, I along with Representatives WILLIAM FORD, FRANK HARRISON, LARRY ACKERMAN, RAY KOGOVSEK, MAJOR OWENS, TOM COLEMAN, the ranking Republican member of the subcommittee, and JOHN ERLENBORN, the ranking Republican member of the full Education and Labor Committee introduced H.R. 4350, the Emergency Student Loan Consolidation Act of 1983. We believe that this bill avoids the cost problems in H.R. 3394, while at the same time maintaining a viable loan consolidation program.

Many of the provisions in H.R. 4350 parallel those in H.R. 3394. For example, the rights of the borrower and the specifics of the insurance agreements are identical. However, H.R. 4350 does not allow for loan consolidation by State agencies. The major administration objection to loan consolidation was the use of tax exempt bonds to finance the loans. Since tax exempt bonds are the only source of financing available to State agencies, it was not possible to include them as eligible lenders under the loan consolidation program. State guarantee agencies were however allowed to guarantee consolidation loans as well as, the Secretary who is authorized to insure them under the FISL program. H.R. 3394 did not allow State guarantee agencies to insure loans.

Under H.R. 4350 Sallie Mae, banks and other commercial lenders are authorized to make consolidation loans. Sallie Mae may insure its loans through the Secretary under the FISL program or through State guarantee agencies. Banks and other commercial lenders must have their consolidation loans guaranteed by a State guarantee agency unless none is available. In that case the Secretary may insure commercial loans. The bill also mandates that only one application for a consolidation loan is valid at a time. The purpose of this provision is to prevent lenders from competing for consolidation loans once the borrower has made an application to an eligible lender. H.R. 4350 also prohibits banks and commercial lenders from consolidating loans unless they hold one of the loans to be consolidated. This limitation does not apply to Sallie Mae.

The legislation further requires that before a lender may enter into a loan, the lender must determine to the lenders satisfaction, "in accordnace with reasonable and prudent business practices" that the loan is legal and binding, that it was made and serviced in compliance with applicable laws and regulations, and that the insurance on the loan is in full effect. While the sponsors of the bill feel strongly that every effort must be made to insure that consolidated loans are valid, it is not our intention that lenders should conduct credit checks on borrowers before consolidating loans. As in the GSL program, borrowers should not undergo credit checks.

Although I and the other sponsors of H.R. 4350 are committed to the concept of loan consolidation and recognize is benefits to student loan borrowers, we realize that it is essential that the cost of the program to the Federal Government be as low as possible. Therefore, the Emergency Student Loan Consolidation Act makes three major changes that will result in reduced Federal spending. These changes include:

The interest rate borrowers are required to pay on consolidation loans is increased from 7 percent to 9 percent. If ALAS loans are consolidated, the interest rate is raised to 10 percent.

The special allowance paid to lenders by the Federal Government is decreased from 3.5 to 3 percent above the 91-day Treasury bill rate. The special allowance insures that, in addition to receiving the 9-percent interest rate paid by the borrower, the lender will receive from the Federal Government an amount which will make student consolidation loans as profitable as other loans. Previously, lenders received a special allowance equal to the 91-day Treasury bill rate plus 3.5 percent minus the 7 percent paid by the borrower. Under H.R. 4350 the lender will receive an amount equal to the 91-day Treasury bill rate plus 3 percent minus 9 percent paid by the borrower. The net effect is that the Federal Government is paying 2.5 percentage points less under the proposed legislation.

The maximum repayment period for consolidation loans is reduced from 20 to 15 years. The new repayment terms are:

Amount of loan and maximum repayment: less than $7,500, 10 years; $7,500 to $10,999, 13 years; and $11,000 or more, 15 years.

These changes still allow for viable student loan consolidation but will significantly reduce the Federal costs associated with the program by limiting the repayment period and encouraging high indebtedness borrowers to repay on a graduated basis.

As with H.R. 3394, the sponsors of this legislation thought that it was important that Sallie Mae be allowed to continue its consolidation program so that those who had applied for a loan prior to November 1, 1983, could have their applications processed. Therefore, section 4 of the bill extends the ability of Sallie Mae to consolidate loans for all borrowers who had signed promissory notes or had been sent promissory notes for signature prior to November 11, 1983, under the conditions of the previous law; that is, 7-percent interest; 20 years maximum repayment; and 3.5 percent special allowance. I understand from Sallie Mae that 1,289 borrowers have signed promissory notes and that an additional 3,656 borrowers have been sent promissory notes to be signed. It is the intention of the legislation that this number of applications be processed under the loan consolidation provisions of the President's 1980 amendments to the Higher Education Act of 1965. Section 4 also provides that Sallie Mae continue to process all other applications it received prior to November 1, 1983, in accord with its current agreement for insurance with the Secretary. However, the other applications must bear a 9-percent interest rate, 10 if ALAS loans are consolidated; have a maximum repayment period of 15 years; and yield a special allowance of 3 percent. In designing the requirements for the insurance certificate, we closely followed the present agreement between the Secretary and Sallie Mae. We would encourage the Secretary, to the extent practicable and allowing for individual needs, to follow this agreement in making future insurance certificates. Likewise, State guarantee agencies should follow the same model in formulating their agreements. Both the Secretary and the guarantee agencies should complete their insurance agreements as expeditiously as possible. Since an excellent model is already available, there is no reason for the agreement process to be prolonged. Sallie Mae will have the authority to process those applications received prior to November 1, 1983, for the next 6 months or until new agreements are signed.

Finally, it is our intention that the Secretary, Sallie Mae, the guarantee agencies, and the commercial lenders all comply in every way with NIE as it studies the loan consolidation process. This should include providing any and all information that may be requested regarding numbers of loans, loan size, profits realized by the agencies through loan consolidation, the effect of the reduction in special allowance, as well as any other information which might be requested. It is our hope that the NIE study will be able to evaluate the effectiveness of the loan consolidation program on reducing default rates, the Federal costs associated with the program, the impact of the reduced special allowance on lender profits, and the profitability of the program for lenders. The legisla-

tion directs the NIE to complete its study and forward its findings to the Congress by June 30, 1986. The authority to consolidate loans expires on September 30, 1986.

In developing this legislation the assistance of my colleagues on the subcommittee and Representative JOHN ERLENBORN and the minority staff of the subcommittee has been invaluable. I want to thank them for their hard work and excellent cooperation in helping us develop this legislation.

I would like to include in the RECORD at this point two letters—from the American Council on Education and the Council of Graduate Schools in the United States on H.R. 4350:

THE COUNCIL OF GRADUATE SCHOOLS IN THE UNITED STATES,
Washington, D.C., November 1, 1983.

Hon. PAUL SIMON,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, House of Representatives; Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the 380 members of the Council of Graduate Schools, I write to call your attention to the growing problem of student loan consolidation.

Today authority to consolidate student loans as a mechanism to facilitate repayment of multiple loan obligations ceases. Earlier this year in the student financial aid technical amendments, (HR 3394), an attempt was made to continue and expand this authority. Due to conference differences and administration opposition to some of the proposed expansions, a simple extension was offered. Now that extension, too has expired and no agreement has emerged on expansion of student loan consolidation. Students are left with a return to conditions prevailing before loan consolidation. This means that upon graduation, students may face multiple payback of several different student loans from several different sources if they have attended more than one institution and engaged in graduate or professional study. This may cause individual hardship, depending upon the job market in given fields of endeavor. More importantly, the lack of consolidation authority increases the effect of the loan burden on graduate and professional students by making it more difficult to schedule repayment of student loans in the period between graduation and the achievement of a firm financial foothold in their chosen field or profession.

Without taking a position on the merits of the case for expansion of loan consolidation authority, it seems tragic for the Congress to allow this authority to expire for students in need of this type of assistance. The Council of Graduate Schools would urge the House Postsecondary Educational Subcommittee to develop a stopgap extension of current loan consolidation authority, as a service to students who find themselves facing large multiple repayments. An extention of Sallie Mae's consolidation authority concurrent with the current Higher Education Act should allow the immediate problems of students to subside, while the hearings and debate over Reauthorization for the HEA should allow for sufficient time for resolution of the current debate over expansion and cost of the loan consolidation options.

Swift action is necessary to avoid disassembly of existing personal and service expertise in the financial aid community among those who operate the current program.

CGS would urge quick action on another technical amendment to protect graduate and professional students with large repayment obligations from potential default.

Thank you in advance for your consideration of this urgent problem.

Sincerely,

THOMAS J. LINNEY, JR.,
Director of Governmental and Association Relations.

AMERICAN COUNCIL ON EDUCATION,
November 14, 1983.

Hon. PAUL SIMON,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The undersigned higher education associations urge passage of H.R. 4350, which we understand will be considered under suspension on November 15. The bill would reestablish authority for consolidation of student loans, which expired November 1.

We recognize that the bill does not resolve a number of important issues related to loan consolidation, and that these issues need to be considered further during the process of reauthorizing the Higher Education Act. Nevertheless we support prompt enactment of H.R. 4350 as the only means of assuring that students (particularly those at graduate and professional schools) will continue to be able to consolidate their loans to facilitate repayment of multiple obligations and reduce the likelihood of defaults.

This letter is written on behalf of:

American Association of Community and Junior Colleges;

American Association of State Colleges and Universities;

American Council on Education;

Association of American Universities;

Association of Catholic Colleges and Universities;

Association of Jesuit Colleges and Universities;

Association of Urban Universities;

Council of Graduate Schools in the United States;

Council of Independent Colleges;

National Association for Equal Opportunity in Higher Education;

National Association of College and University Business Officers;

National Association of Independent Colleges and Universities;

National Association of Schools and Colleges of the United Methodist Church;

National Association of State Universities and Land-Grant Colleges; and

National Association of Student Financial Aid Administrators.

Sincerely,

CHARLES B. SAUNDERS, Jr.,
Vice President for Governmental Relations.

SECTION-BY-SECTION ANALYSIS—THE EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1983

Section 1 of the bill cites the Act as the "Emergency Student Loan Consolidation Act of 1983".

Section 2(a) amends part B of Title IV of the Higher Education Act by inserting a new section, 428C, after section 428B of the Act.

Section 428C(a)(1) authorizes the Secretary of Education or guaranty agencies to enter into agreements to make consolidation loans with Sallie Mae or commercial lenders (435(g)(1)(A)).

Section 428C(a)(2) provides that such loans must be covered by a properly issued certificate of insurance. The subsection also specifies that loans covered by a certificate of insurance issued by a guaranty agency shall be considered to be insured loans for the purpose of federal reimbursement under section 428(c). The subsection also provides that no administrative cost allowance will be paid with respect to such loans.

Section 428C(a)(3)(A) defines the term "eligible borrower" to mean a borrower who, (I) has received loans from two or more lenders and has an outstanding indebtedness of not less than $5,000 or $7,500 from a single lender; (II) is in the grace period or is in repayment status and is not delinquent by more than 60 days; (III) is not a parent borrower under the Auxiliary Loans to Assist Students (ALAS) with respect to any loan selected for consolidation.

Section 428C(a)(3)(B) terminates an individual's eligibility for a consolidation loan after receiving one, unless after receiving the loan they receive new GSLs, NDSLs or ALAS loans. In this case, the renewed eligibility extends only to the new loans.

Section 428C(b)(1) specifies the access requirements placed on various categories of lenders.

Section 428C(b)(1)(A)(i) specifies that banks must make a consolidation loan to any eligible borrower if the lender holds or insures an outstanding loan of the borrower and the borrower has no other application pending with another lender for a consolidation loan.

Section 428C(b)(1)(A)(ii) specifies that Sallie Mae will make a consolidation loan to any eligible borrower on request of the borrower if the borrower has no other application pending with another lender for a consolidation loan.

Section 428C(b)(2)(E) provides that the certificate will include the reporting requirements of the Secretary on lenders and will identify the office at the Department of Education or of the State or nonprofit private institution or organization which will process claims and perform other related administrative functions.

Section 428C(b)(2)(F) provides that the certificate will provide the alternative payment terms, if any, which will be offered to borrowers by the lender.

Section 428C(b)(2)(G) provides that the certificate will provide that if the lender for which the certificate is issued terminates its program of consolidation loans, that the lender inform the issuer.

Section 428C(b)(2)(H) provides that the certificate will include the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans.

Section 428C(b)(3) provides that a consolidation loan shall be insurable only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan of changes in his or her address.

Section 428C(b)(3)(A) provides that consolidation loans are insurable only if the note provides that the loan is made without security and without a co-signer, unless the borrower is a minor and the note would not be legally enforceable without a co-signer.

Section 428C(b)(3)(B) provides that consolidation loans are insurable only if the note provides for the payment of interest

and repayment of principal in accordance with this section.

Section 428C(b)(3)(C) provides that consolidation loans are insurable only if the note provides that periodic payments need not be paid, but interest will accrue, during any period when (i) the individual is enrolled in school as a full time student pursuant to a graduate fellowship program approved by the Secretary or is in rehabilitation training; (ii) the individual is serving an internship, but not in excess of two years; (iii) the individual is temporarily totally disabled, or is unable to secure employment by reason of the care required by as spouse who is so disabled, but not in excess of three years; or (iv) if the individual is unemployed, but not for more than 12 months.

Section 428C(b)(3)(D) provides that consolidation loans are insurable only if the note entitles the borrower to accelerate repayment without penalty.

Section 428C(b)(3)(E) provides that consolidation loans are insurable only if the note (i) contains a notice of the system of disclosure to credit bureau organizations under section 430(b)(2) and (ii) provides that the lender will provide information on the repayment status of the note to credit bureau organizations on the request of the borrower.

Section 428C(c)(1) specifies that the interest rate on consolidation loans shall be 9 percent, except that consolidation loans including a PLUS/ALAS loan shall have an interest rate of 10 percent.

Section 428C(c)(2) specifies that, to the extent authorized by its certificate of insurance and approved by the issuer of such certificate, the lender of a consolidation loan may establish a variety of repayment terms, including graduate and income-sensitive repayment schedules. The section also provides for maximum repayment periods for consolidation loans as follows: (A) not more than 10 years for loans less than $7,500; (B) not more than 13 years for loans between $7,500 and $10,999; and (C) not more than 15 years for loans of $11,000 or more.

Section 428C(c)(3) provides that repayment will begin within 60 days after all holders of the notes consolidated have discharged the liability of the borrower on the consolidated loans.

Section 428C(c)(4) provides that no origination fee or insurance premium shall be charged to the borrower and that no insurance premium shall be payable by the lender to the insurer.

Section 428C(d) states that authority to make consolidation loans expires on September 30, 1986. The subsection also provides that nothing in this section shall be construed to authorize the Secretary to issue rules or regulations covering the terms or conditions of the agreements and certificates required for the program, except for those required for specifying the reporting requirements applicable to lenders under section 428C(b)(2)(E). The subsection also specifies that loans made under this section will not be considered new loans for purposes of section 424(a), the scope and duration of the federal loan insurance program.

Section 3(a)(1) amends section 423(a), relating to Effects of Adequate Non-Federal Programs, to make a technical and conforming change.

Section 3(a)(2) amends section 427(a), relating to Eligibility of Student Borrowers and Terms of Federally Insured Student Loans, is amended to make a technical and conforming change.

Section 3(a)(3) amends section 430(b)(2)(A), relating to Default of Student Under Federal Loan Insurance Program, to make a technical and conforming change.

Section 3(a)(4)(A) amends section 435(g)(1), relating to Definitions, to make a technical and conforming change.

Section 3(a)(4)(B) amends section 435(g)(1) to make a technical correction and a technical and conforming change.

Section 3(a)(5)(A) amends section 438(b)(5)(A)(ii), relating to Special Allowances, to make a technical and conforming change.

Section 3(a)(5)(B) amends section 438(c)(2) to make a technical and conforming change.

Section 3(a)(6) amends section 439(d)(1)(C), relating to Sallie Mae, to make a technical and conforming change.

Section 3(b) amends section 438(b)(2) by adding a new paragraph 438(b)(2)(B), relating to Special Allowances, to specify that the special allowance on consolidation loans shall be 3.0 percent.

Section 4(a) amends section 439(o) to extend Sallie Mae's authority to consolidate loans under its current agreement for 6 months after the date of enactment of the Act.

Section 4(b) provides that no loan may be made under section 4(a) unless, a) application for the loan was made prior to November 11, 1983; b) the loan bears 9 percent interest; c) the lender receives 3 percent special allowance on the loan; and d) the repayment period is not more than 15 years.

Section 4(c) provides that no holder of the loan shall have a contractual right against the United States to receive a 3.5 percent special allowance on loans.

Section 4(d) amends section 439(o)(5) to allow Sallie Mae to consolidate loans for which a promissory note was signed or sent for signature prior to November 11, 1983 under the provisions of section 439(o). Specifically, interest on the loans will be 7 percent, the special allowance received by the lender will be 3.5 percent; and the maximum repayment period will be 20 years.

Section 5 directs the National Institute of Education to conduct an evaluation of the loan consolidation program and to report to Congress no later than June 30, 1986.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4350.

The legislation before us addresses a serious and growing problem surrounding Federal student loan programs. This problem results directly from the fact that the cost of higher education has risen much faster than the ability of many students and for their families to pay for it. The result has been a literal explosion in the growth of the largest of our Federal student aid programs, guaranteed student loans. And with this growth has come the problem we seek to address here today—over indebtedness.

The concept of a loan consolidation program to assist students with large amounts of GSL, NDSL, and even PLUS loan indebtedness first was developed in 1980. At that time little was known about the amounts of indebtedness many students were acquiring or whether they would have difficulty repaying the debts when they graduated. What was known was what common sense suggested—that somehow the heavily indebted borrowers should be given more time to repay their loans. I think that is the policy that we want to set, to encourage repayment and not default.

As a result of these concerns, the Congress authorized the Student Loan Marketing Association (Sallie Mae) to operate a program of loan consolidation. Sallie Mae's program, marketed under the name Options, began operating about 2 years ago. The average indebtedness of program participants is over $12,000. Some participants have student loan debt portfolios approaching $20,000. Statistics gathered since the program began suggest that the program is achieving its purpose of reducing student loan defaults. The default rate among borrowers who have taken advantage of the program is less than 1 percent.

In addition to learning that student loan consolidation works, we have also learned that it can be expensive. The costs of extending a large GSL with a 10 year repayment period an additional 10 years, as sometimes happened under the Sallie Mae program, were significant. In addition, the development of graduated repayment plans, which are of tremendous benefit to borrowers, resulted in even greater Federal costs. Under graduated repayment plans, a minimum amount of loan principal is retired in the early repayment years. As a result, the amount of principal—and thus special allowance the part that taxpayers pick up—carried into the extended repayment period is increased.

The legislation before us maintains the basic features of the Sallie Mae program while addressing the need to reduce the program's cost to the Federal Government. In addition, H.R. 4350 allows commercial lenders other than Sallie Mae to participate in the program for the first time. I will not review the individual changes made in the loan consolidation program here. Let it suffice to say that I believe the bill creates a viable program which will serve the needs of thousands of borrowers and result directly in a decrease in the default rates for both the GSL and NSSL programs.

Mr. Speaker, I urge my colleagues to vote "aye" on the legislation.

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Mr. SIMON. Mr. Speaker, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN), who has been quite involved with this entire program. On our side of the aisle we always look to him for leadership on the Education and Labor Committee, and I look forward to his remarks.

Mr. ERLENBORN. Mr. Speaker, I rise in strong support of H.R. 4350.

Earlier this session, all of us on the Committee on Education and Labor were here on the floor to consider another student loan consolidation bill, H.R. 3394. This bill, the Student Loan Consolidation and Technical Amendments Act of 1983, sought to make various changes in the loan consolidation program to address concerns of the administration, commercial lenders, and State direct lenders and secondary markets.

As this legislation moved through the Committee on Education and Labor, we all honestly believed that we had developed legislation which addressed these concerns. That legislation raised the interest rate charged to borrowers for loan consolidation to reflect the fact that borrowers receive an additional Government-financed benefit under the program. That legislation expanded participation in the program to include commercial lenders and State agencies to eliminate Sallie Mae's monopoly in loan consolidation. Finally, the legislation permitted State direct lenders and secondary markets to use tax-exempt revenue bonds to secure the financing they needed to participate in loan consolidation.

Unfortunately, as this legislation was developed, the committee paid inadequate attention to what the program would cost. The loan consolidation program envisioned in H.R. 3394 would have allowed borrowers, regardless of how wealthy, to consolidate their student loans for up to 20 years and to pay a set interest rate of 7 percent. In some cases this meant that borrowers consolidating their loans got a double benefit. Not only was the interest rate reduced from 9 to 7 percent, but the repayment period could also be extended a full 10 additional years.

In all of these years, Mr. Speaker, the Federal Government would continue to pay the special allowance on the outstanding balance on these loans. Finally, State direct lenders and secondary markets could have used tax-exempt revenue bonds to finance their loan consolidation programs. This provision meant that the Federal Government would not only pay a special allowance on loans issued by these lenders, but would also not receive any tax income on the bonds sold to raise the revenue.

It is clear that there were serious costs associated with H.R. 3394. Because I agreed with the administration that the committee had not made adequate attempts to reduce these costs, I offered an amendment on the floor to strike the loan consolidation provisions and to extend the existing Sallie Mae program for only 2 additional months. This 2-month extension expired on November 1.

H.R. 4350 is the result of the committee's efforts during this 2-month period to develop a workable loan consolidation program which did not result in large new, uncontrollable student loan costs. We sought to meet the concerns of the administration regarding this legislation as expressed in a letter dated November 2, 1983 to me from OMB Director David Stockman.

Mr. Speaker, I am including that letter at the conclusion of my remarks.

In developing H.R. 4350, we did not meet every objection the administration brought to our attention. Instead, we sought to use our expertise to devise a loan consolidation program which would be workable and attractive to lenders while at the same time achieving the overall savings sought by the administration. I believe we have accomplished this purpose. In this connection, I want to recognize the work of the chairman of the Subcommittee on Postsecondary Education. The gentleman has worked hard to make H.R. 4350 a bill which is likely to be supported by the President. I am happy to have been able to join Chairman SIMON as a cosponsor of this legislation.

Before I discuss some of the improvements made in H.R. 4350, I would like to emphasize that student loan consolidation is our only Federal student aid program that does not directly help students meet their educational costs. Student loan consolidation benefits former students. This is something that I think all of us should keep clearly in mind. To the extent that we legislate a loan consolidation program that is unnecessarily expensive, we undermine our capability of providing more support for loans to students in school.

In H.R. 4350, we have addressed many of the cost problems associated with loan consolidation.

First, we have raised the interest rate on consolidation loans from 7 to 9 percent for most borrowers. If a borrower consolidates a PLUS/ALAS loan, the interest rate is set at 10 percent. This so-called interest penalty will discourage borrowers who do not really need consolidation from participating in the program.

Second, the maximum repayment period offered to borrowers is reduced from 20 to 15 years. This reduction greatly reduces the period of time that the Federal Government pays the special allowance on the consolidation loan. Because the legislation would continue to provide for a graduated repayment plan, borrowers will still be able to benefit from low initial monthly payments.

Third, and perhaps most importantly, the special allowance is reduced on consolidation loans from the average 91-day Treasury bill rate plus 3.5 percent to the Treasury bill rate plus 3 percent. The administrative costs associated with consolidation loans is significantly lower than that for regular GSL's, so this reduction is justified. I should point out that despite this reduction in the special allowance, consolidation loans will remain very profitable to lenders participating in this program.

Fourth, no tax-exempt revenue bonds can be used to finance loan consolidations. This small but important provision addresses the administration's and my top concern regarding loan consolidation.

In closing, I would like to express my hope that this legislation cannot only move quickly through the legislative process, but can also remain substantially unamended from its present form. From my numerous conversations with the Office of Management and Budget regarding this legislation, I have become convinced that our best chance of enacting loan consolidation before adjournment rests with the provisions of H.R. 4350.

I urge support for the bill.

The letter follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 2, 1983.

Hon. JOHN N. ERLENBORN,
U.S. House of Representatives,
Washington, D.C.

DEAR JOHN: We are writing you to convey the Administration's views on the draft student loan consolidation legislation which has been shared with us by your staff. We would like to express our appreciation for the opportunity to work with you and your staff on this highly important, complex and potentially very costly issue. We sincerely hope that, through our joint effort, we will be able to arrive at a mutually acceptable student loan consolidation bill.

This Administration can support the concept of loan consolidation. However, we strongly oppose an extension of current law which permits Sallie Mae to consolidate at 7 percent interest rate. We share your goals of a consolidation program that would not place significant additional burdens on the federal budget, would not substantially increase federal benefits to individuals who have little or no financial need, and would appropriately reduce the substantial subsidies for lending institutions that can result from consolidation.

More specifically: We cannot accept any extension of tax-exempt financing to the loan consolidation program. This Administration is opposed to any expansion of current tax-exempt authority. Student loan bonds are particularly inefficient in that they permit issuers far greater arbitrage profits than other types of private-purpose tax-exempt bonds. The enormous growth of private-purpose tax-exempt has damaged the traditional tax-exempt bond market by exerting an upward pressure on tax-exempt interest. In addition, this extension would increase the real cost of consolidation by reducing federal tax revenues.

Consolidation of student loans increases the return on the lender's investment significantly. This increased profitability, added to the drawbacks listed above, makes the additional federal support provided through the extension of tax-exempt financing to the loan consolidation program especially unjustifiable.

For these reasons, we would also object to extending consolidation authority to state guarantee agencies even if those agencies are barred from using the proceeds of tax-exempt bond issues in making consolidated loans. Allowing state guarantee agencies to consolidate loans would increase pressure for use of tax-exempt financing for consolidation. Secondly, we question whether the restriction concerning the use of tax-exempt bond funds could effectively be enforced, since the state agencies (of the states that create them) could issue tax-exempt bonds to finance projects that they otherwise would finance out of operating revenues and use the operating revenues to finance the consolidation loans. Thus, the proposal would pose very difficult tracing problems. Finally, we question whether an effective sanction would be provided to discourage the use of tax-exempt financing for consolidation loans.

We recommend that the maximum repayment length permitted for any consolidated loan not exceed the longest repayment period allowed under any of the individual loans included in the consolidation. We believe that this will allow students to meet their obligations using one monthly payment that can be lower then the sum on the monthly payments of the component loans. It would also extend the length of repayment period beyond that provided by some banks. Furthermore, where hardship still exists the graduated payment option is available for use. We believe this is a responsible approach to balancing the higher education graduates income earning capacities with his debt obligations, while not vastly expanding federal liabilities.

We strongly recommend a one percentage point reduction in the special allowance paid lenders for regular consolidated loans. We also recommend a one and half percentage point reduction in the special allowance paid lenders for consolidated loans using a graduated repayment. This reduction would be in recognition of the greater profitability of consolidated loans and the lower administrative costs associated with them. We believe that the primary benefit of loan consolidation should accure to the borrower not the lender and that profits in this program are already adequate to encourage and sustain lender participation.

A special allowance based on a rate 3.5 percent above the Treasury bill provides lenders with a present value return on federally guaranteed consolidated loans 4 percent above the return on similar length federal bonds. When four $2,500 7 percent GSLs are consolidated into one 10 year $10,000 9 percent loan this return to the lender increases by 9.2 percent. Reducing the special allowance to a basis of 2.5 percentage points still provides an increase of 5.5 percent above the return on the smaller individual loans.

We support the draft bill's increase to 10 percent in the interest charged the borrower on consolidated loans. This would bring into balance the interest charged on a consolidated loan with the increase in federal benefits that the borrower will receive due to the lengthening of the repayment period.

An alternative approach which we would also support is to set loan consolidation interest rates at 9 percent for consolidations of 7 percent (or less) loans and 10 percent for consolidations with 8 or 9 percent loans would also be acceptable.

We support the requirement that if a student PLUS loan is included, the highest interest rate of any PLUS loan would become the rate of the consolidated loan.

We could support the imposition of a need test at the time the borrower enters repayment status, but only if this test does not impose a significant administrative burden on the lender and is simple, easy to use and understand by the borrower. The details of the draft provisions are neither as simple nor as equitable as we would like. If you feel that a need analysis is required in the legislation, we would be happy to work with you on an alternative.

We support consolidation of regular GSLs and student PLUS loans. We concur in the exclusion of HEAL and any other loans outside the Education Department. We would also much prefer that NDSLs were not included in consolidation.

The inclusion of NDSLs in consolidation would set the highly undesirable precedent of turning loans not requiring federal interest subsidy appropriations into loans which do require such budgetary commitments. Moreover, inclusion of NDSL would mean that school NDSL funds would turn over more rapidly, providing an undesirable mechanism for back-door financing of this program.

We object to provisions which would tie the Secretary's hands with respect to issuing regulations on repayment terms and conditions. As has been noted above, many things which now appear relatively straightforward may, on further reflection, require clarification. Regulations are the best way to obtain that clarification.

A bill similar to the House staff's draft which meets the concerns outlined above would not generate excessive additional costs and would therefore be acceptable. We would welcome the opportunity to work with you to both develop the specific language that could be used to incorporate our concerns and also to clear up any technical problems with the bill.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, this is an appropriate time to note, particularly since our colleague has decided he is not going to continue to be a Member of this House, that one of the architects of the whole Sallie Mae program is my colleague, the gentleman from Illinois (Mr. ERLENBORN), who, along with our colleague, the gentleman from Michigan (Mr. FORD), has contributed immensely to the educational enrichment of this Nation through Sallie Mae. I commend the gentleman, and I am pleased to have him as cosponsor of this legislation.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman for those kind remarks.

I might say that I have claimed to be the father of Sallie Mae, but I have had to carefully explain to my wife that that is an acronym for the Student Loan Marketing Association.

Mr. Speaker, I hope that this bill will be supported by all Members, and that it will pass under suspension.

Mr. SIMON. Mr. Speaker, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of H.R. 4350, the Emergency Student Loan Consolidation Act of 1983.

This bill would extend the authority of the Student Loan Marketing Association (Sallie Mae) to consolidate guaranteed student loans (GSL), national direct student loans (NDSL), and auxiliary loans to assist students (ALAS) into one loan with a longer repayment period and lower monthly payments. While not every student would avail himself of this opportunity to simplify repayment of educational loans, it is a vital mechanism for those who were forced to commit to more than one loan.

Mr. Speaker, this bill merely acts to reinstate authority, which expired on November 1, 1983, in a manner which would reduce Federal expenditures. Cost-saving measures such as an increase in interest rates on consolidated loans, a reduction in the special allowance paid to lenders, and a reduction in the length of the maximum repayment period would be added.

I urge my colleagues to join me in support of this noncontroversial measure and to vote for passage of H.R. 4350.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 5 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I hate to involve myself in what appears to be a family love fest here, but I want to alert people to just what is going on.

I have the reputation of being a pretty nice guy around here, and I do not mind it when I get rolled once; I take it and I smile, and I talk to my brothers and I say: "Hey, will you give me a shot at it the next time?"

Then they all get up and they say: "Jim, we'll take care of you. The next time this bill comes up, let us know what you want, and we will take care of you."

The last time I am talking about, we came down here and I suddenly realized, as I got to the House floor, that the amendments I got on in committee had been totally wiped out. We passed that, and they said: "Don't worry about it. We'll bring it back after the session. We'll come in in the fall, and we'll take this up. We got a call from OMB and they did not like your amendment."

Mr. Speaker, let me tell the Members what we are up to right now. We have a bill here that, unlike any other bill in the last two decades, has not even gone before a subcommittee, has not gone before a full committee, and is extending a program for 3 years.

Now, why am I irritated about that? I want to have kids have consolidated loans. I have been fighting for that for years. I have been fighting for it for

farmers, for students. But what you are doing in this body is you are ruling out the possibility for State agencies, nonprofit agencies, to provide the same kind of treatment for their students.

And why? Do the Members know how this was negotiated? Are we going to negotiate our bills by not even going to committee markups, but by calling David Stockman up and saying: "David, what do you want?" That is what we have done here. We have gone ahead and totally decimated the committee system. We have called OMB and said: "What will you agree to? Tell us, and we will put it on the House floor. We will put it on suspension."

So we are put in the position that if we want to protect our State's right, too bad, we are going to have to wait 3 years.

I tell the Members that I am irritated because I do not like to see our system of committee work put into shambles and see State agencies that want to serve their kids left out in the cold. Yes, I am irritated, and I think I have reason to be.

Will I call for a vote on this? No, because I am not going to deny those kids who have an opportunity to go to profitmaking institutions and banks to be able to consolidate their loans. But I feel sorry for those students who would like to go to their State agencies and get a little bit better break on their rates and have an opportunity to consolidate their loans.

I am sorry for those State agencies that are going to have their large loans creamed off and left with those that are most ready for default. I do not speak just for Vermont, I speak for Kentucky, and I speak for other States, too, that have this problem.

I just want to let the Members know that I am not going to stand for this again. I am not going to ask for a vote now because I do not want to deny kids their opportunity, but I want to ask the chairman of the subcommittee if we are going to go through this same process again.

I want to know whether next year, first, I will get the opportunity to have a hearing, and, second, whether I will have a vehicle to mark up so that I can protect the rights of my kids in my State and the kids of many other States who have been denied that opportunity here today.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. SIMON. First of all, Mr. Speaker, I want to remind the gentleman that we have had 4 days of hearings on this issue. We, among other things, invited the head of the Vermont State agency to come and testify, and that person did not show up.

I want to assure the gentleman, however, that we are in the process of having hearings on the whole reauthorization of the higher education program, and this very question is going to be faced by the subcommittee. We are going to, I hope, permit State agencies to provide consolidation. Whether it is going to be on tax-exempt bonds or non-tax-exempt bonds, I do not know. That is the question that OMB is very much concerned about.

□ 1820

Mr. Speaker, I appreciate the gentleman's attitude in supporting the bill as it is, simply because if we do not move ahead, there is nothing available for these students.

I can assure the gentleman that we did not devise this bill by calling David Stockman, who is a friend of the gentleman and mine, and saying: "What will you accept, and then we will go ahead with it."

We are anxious to save the program and we have tried to devise something that is not going to get a Presidential veto; but I can assure the gentleman that within the next few months we will see some legislation that will touch on this very subject the gentleman is concerned about.

Mr. JEFFORDS. Mr. Speaker, I take the gentleman's word for it; but I just want to make sure that the gentleman understands very clearly how I feel, and I think I have made my point.

I am not going to vote for this bill, but I am not going to ask for a vote on it, either.

I cannot support something which has totally ignored the rights of my State and many States like it.

I have been a good friend of the gentleman for years and I intend to remain so; but I also intend to protect the interests of my State and those people that I represent.

I appreciate the gentleman's statement and I look forward to next year in getting at the problems that the States face, so that all the children of this Nation can have the opportunities that will be provided, most but not all.

Let me continue.

The issue of participation by State agencies is one of concern to me and other Members of this and the other body. At a time when the White House is espousing the philosophy of "New Federalism," the States are barred from offering loan consolidation, even if it is funded by fully taxable money. It is beyond me to understand, but this is just one of many concerns that will not be addressed here.

Frankly, I am at a loss to know why we are permitting Sallie Mae and Chase Manhattan a chance to use student loans to turn a profit, when we seem unable to allow nonprofit agencies the opportunity to consolidate loans on an equal footing. I am not comfortable with the idea of letting Sallie Mae have a monopoly on loan consolidation. Nor were the conferees last year when they agreed to 1 year's authority so that we would come back and examine the issue this year. But now, we are trading a monopoly for an oligopoly. What a bargain.

But let us take a look at the bill anyway. What will it do?

Well, if it works, it will give a handfull of major banks and Sallie Mae a chance to cream the biggest and most lucrative loans out of State agencies' portfolios, putting pressure on the States' ability to serve all students.

But there is some question whether it will work. The repayment period is limited to 10, 13, or 15 years for students. I would note parenthetically that OMB suggested it be limited to the length of the longest loan held by a student, a rather unique suggestion if consolidation is to be of any value to a student. But let us take an example. A student currently has $10,000 in loans at a 7-percent rate of interest, with a repayment period of 10 years. He or she would be paying about $116 a month. If the student chose to consolidate, it would be at 9 percent over 13 years, which would mean a monthly payment of $109. For this $7 reduction in the monthly payment, would a student assume the additional 3 years and $3,000 of debt? Not very likely, unless an aggressive lender could do one heck of a sales job.

I know, I know, consolidation is voluntary. But the more important point is that we can provide a genuine and much-needed service here to students who are in serious trouble and need help in paying off their loans. We all know that default rates are too high. We are embarrassed that some of the students who defaulted now work for the Federal Government.

We could bring those default rates down, and could fulfill a genuine Federal purpose if we were to draft a sound consolidation program. It need not be the one dictated here today. There are plenty of other ideas on how to implement a program that will actually save the Government money and help the lower income students who need consolidation most.

It is unfortunate that we will apparently not have an opportunity to consider those ideas, in subcommittee, full committee, or on the House floor this year. I only hope that we can soon come back to this issue, and give it a more thorough review.

Thank you Mr. Speaker.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I understand the agitation of my colleague, the gentleman from Vermont. I know he feels very strongly about this; but from my standpoint, my

recollection is that I never did participate in any conversations that included the statement, "Jim, next time we take this up, you can have whatever you want."

I think the gentleman knows that I have been opposed to the extension of the right of loan consolidation to the States.

Let it be understood by all that up until this time and at the present time the States have not had and do not have, loan consolidation authority. They were seeking at this time to get this, which would have been a new authority.

I understand why they want it. It is very much like the arguments over the industrial revenue bonds that are now rife with the tax bill out of the Ways and Means Committee.

This is another example of the State and local government wanting to use tax exempt bonds to generate arbitrage and fees that will give a profit to the State or the State agency at the expense of the Federal Treasury.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I want to make clear that we were even denied, though requested, the opportunity to use nontax free, that is, taxed funds for this purpose, and that was denied; so it is not entirely correct to say that all we are looking for is a utilization of tax free bonds to give our young people a little bit better break on interest rates.

Mr. ERLENBORN. Well, the gentleman's recollection on that may be more accurate than mine. My recollection is that it was the use of tax free bonds that was being sought and was included in an earlier version of this bill.

But let me put the record straight. This is not a bill that has never seen the light of day and never was considered by the subcommittee or the full committee. The subcommittee worked long and hard on the predecessor to this bill, which was reported to the full committee, was considered by the full committee and reported to the floor and it was defeated when it was brought out here on the floor.

I helped in engineering that defeat. This is the successor to that bill.

Now, I do not think it is at all unprecendented to redraft legislation and then introduce it with a new number. That does not mean the subcommittee or the committee has not considered it. It means that we have considered it even further beyond the consideration that was given to it earlier. So I do not think there is anything wrong with the procedure here and again I want to say that I understand the gentleman's agitation, but the loss to the Treasury that would be involved in extending this authority to the States is something that would have killed any hope of extending the authority, which is very helpful to the students who have burdens under the current student loan program that can be diminished by the continuation of the consolidation bill.

This bill will actually save money. This bill will save money for the Treasury. It is not a cost to the Treasury. It is a savings.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ERLENBORN. There will be no savings in 1984; but in 1985 there will be $12 million savings.

In 1986, there will be $10 million.

In 1987, there will be $7 million savings.

In 1988, there will be $4 million.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield one more time?

Mr. ERLENBORN. I am glad to yield to the gentleman.

Mr. JEFFORDS. Mr. Speaker, first of all, we all want to save money and the States would like to help in that regard.

I would just point out, so the record is clear, that the bill I was referring to is the extension which came up, which went through the committee with amendments which I was successful getting on. Then when it came to the floor, those amendments were stripped out and it was passed on suspension. That was when I got the commitments that when it came up this fall, I would have the opportunity to have those amendments considered and put on the bill and that opportunity was never given me. I do not think there is any dispute on that part of the record. I want to make that clear.

Mr. ERLENBORN. Mr. Speaker, I thank the gentleman.

Mr. COLEMAN of Missouri. Mr. Speaker, I would like to make a closing comment, and that is, we should not forget exactly what we are trying to do here with this legislation, and that is to assist students to pay back their student loans.

We are talking about three basic classifications of students especially of concern.

First of all, there are those who attend liberal art schools, whose incomes immediately after graduation are generally the lowest and therefore this legislation would help them.

Second, there are those who opt to go to graduate school and professional school and have a larger debt after they get through school. This is to help those students.

Third, there are poor and minority students who want to attend private schools, who traditionally have higher costs of attendance, and therefore they will have a larger debt when they get out.

What we want to say to these three groups of students is that we want to be able to help them go through school and help them pay back their loans, not be defaulters. We want them to pay back these obligations to the Government. That is why we are offering this piece of legislation, notwithstanding some of the differences that have been expressed here on the floor this afternoon.

Mr. Speaker, I yield back the balance of my time.

Mr. SIMON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and pass the bill, H.R. 4350, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EXPRESSING THE SENSE OF THE HOUSE ON EDUCATION OPPORTUNITY

Mr. SIMON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 190) expressing the sense of the House of Representatives with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

The Clerk read as follows:

H. RES. 190

Whereas education is the backbone of American democracy and shapes the minds and spirits of future generations;

Whereas extensive inequities based on sex, such as discrimination in admissions, vocational education, and counseling continue to exist in education communities;

Whereas in a time when the average working woman earns only 59 cents for every dollar that her male counterpart receives, we cannot deny women equal access to education programs, and thus the opportunity for career advancement and economic equity;

Whereas the Congress, in enacting title IX of the Education Amendments of 1972, intended that it be applied comprehensively and in a manner designed to eliminate discrimination on the basis of sex with respect to educational opportunity throughout the American educational system; and

Whereas while many sectors of our society need relief from overly burdensome regulations, corrective action to reduce that burden must not be taken at the expense of women who are, as a result of established guidelines for protection, at long last realizing equal opportunities in education: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that title IX of the Education Amendments of 1972 and regulations issued pursuant to such title should not be amended or altered in any manner which will lessen the comprehensive coverage of such statute in eliminating gender discrimination throughout the American educational system.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. SIMON) will be recognized for 20 minutes and the gentleman from Missouri (Mr. COLEMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have up until recently under Democratic and Republican administrations had a broad body of support for strong enforcement of title IX. Title IX has insured that access to education and educational opportunities be there for young men and for young women and for people of both sexes, no matter what their age.

This resolution simply says it is the sense of the House of Representatives that title IX of the Education Amendments of 1972 and regulations issued pursuant to such title should not be amended or altered in any manner which will lessen the comprehensive coverage of such statute in eliminating gender discrimination throughout the American educational system.

The U.S. Supreme Court shortly is going to be facing a decision on this matter, a decision in which this administration has reversed the tradition and has said basically two things: No. 1, that when a student loan is applied for, the institution to which the student goes does not necessarily have to comply with title IX.

□ 1830

Very interestingly, Secretary Bell, for whom I generally have a high regard—but on this matter, I disagree strongly—in writing to Edwin Meese, said that there will be, and I quote:

An outcry when our Justice Department colleagues appear in the Third Circuit case, and then learn that we have not taken the position they have anticipated.

He further says if they can get by with this, then they will next apply the Pell grants to this kind of a situation.

The second thing that is being attempted is to say that if the physics department, let us say, of the University of Pennsylvania or Southern Illinois University, violates title IX, then the physics department alone is to be penalized rather than the institution as a whole, as we have done in the past.

The gentlewoman from Rhode Island who has sponsored this, and many others who have cosponsored including a majority of the Members of this House—and I am pleased to be one of the cosponsors—that this is a public service in behalf of the women of this country, and in behalf of all of us in this country who want to see opportunity spread as widely as possible.

Mr. Speaker, I rise in support of House Resolution 190, which reaffirms the intention of the House of Representatives that title IX of the Education Amendments of 1972 be considered with the broadest possible interpretation.

Title IX provides that no person on the basis of sex "shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (20 USCA 1681).

Title IX also provides for administrative enforcement of this nondiscriminatory policy by "each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty * * *." (20 USCA 1682).

Finally, title IX provides that "nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty." (20 USCA 1685).

The applicability of the nondiscrimination requirements of title IX is predicated on the receipt of Federal financial assistance by a program or activity.

Title IX regulations define recipient as an institution or individual "to whom Federal financial assistance is extended, directly or through another recipient * * *." (34 CFR part 106.2(b)). "Federal financial assistance includes grants and loans of Federal funds" (34 CFR part 106.2(d)), which include "scholarships, loans, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment in that entity" (34 CFR part 106.2 (g)(1)(ii)).

Under policies established in Education Department regulations, title IX covers any education program or activity receiving or benefitting from Federal financial aid. This includes programs assisted by the tuition and fees paid by students with Federal grants and loans under title IV of the Higher Education Act. It also includes programs aided by funds authorized for other purposes, such as Federal research grants and contracts. The Department of Education may investigate any unassisted program whose discriminatory practices may result in discrimination in-or infect—an assisted program. These policies prevent Federal financial support for discriminatory practices anywhere in an institution, as Congress intended.

Until recently Republican and Democratic administration alike have adhered to the broad interpretation of title IX in their enforcement activities, and Congress has repeatedly rebuffed any attempt to narrow the coverage of title IX. Furthermore, no definitive court ruling has invalidated the basic law or the Department's regulatory interpretations.

The Reagan administration clearly has sought to reverse the accepted interpretation of the breadth of title IX, that program or activity is defined as extending to the entire institution, and is not limited by department or office.

From the beginning, the Reagan administration has singled out title IX as a regulation to be cut back.

Beginning in March 1981 the Bush Commission sought to limit Government regulation, and targeted title IX for change.

On January 11, 1982, in a letter to Edwin Meese III, Education Secretary Terrel Bell acknowledged that Meese, Justice Department officials, and he had agreed to a changed position on title IX in an earlier meeting at the White House. The position stated in the letter is that "institutions that admit only students who are recipients of guaranteed student loans are not recipients of Federal financial assistance and therefore must not meet all the Federal assurances and compliance."

In the letter, Bell anticipated "an outcry when our Justice Department colleagues appear in the third circuit case and they learn that we have not taken the position they have anticipated."

Nevertheless, Secretary Bell goes on to explain his position regarding discrimination practices in colleges;

It is my own conviction that private colleges that receive no Federal money but do admit students who receive student loans on their own initiative * * * ought not be required to meet all our rules and reporting requirements associated with recipients of Federal aid.

This position was confirmed on May 18, 1983, in a hearing on the subject of civil rights in higher education by the Postsecondary Education Subcommittee of the Education and Labor Committee and the Civil and Constitutional Rights Subcommittee of the Judiciary Committee.

Assistant Attorney General W. Bradford Reynolds admitted in questioning

by Representative DON EDWARDS that the administration's position "is one that was not advanced before."

Mr. Reynolds then suggested what Congress could do to change the administration's position. Certainly, if Congress views that interpretation as being narrower than it prefers, then Congress ought to pass another law * * * to treat that problem.

My subcommittee colleagues who heard Mr. Reynolds' testimony were not pleased with his answers. Representative CONYERS finally asked: "Why do you always take the more restricting position in these matters? Why do you take the one that is sure to accomplish the least, create the slowest amount of progress, and constitute what is perceived to be a reversal of * * * practices of many administrations?"

Representative DON EDWARDS summed up his feelings—and the feelings of many Members of the House—in the following statement:

What harm is done by a broad application or coverage of these anti-discrimination prohibitions? You see, you are all alone in saying you're going to have a narrow interpretation. There isn't anybody, except just an occasional person that works for the administration, that comes in here that tells us you're on the right track.

In August the administration followed through on its determination to narrow the scope of title IX protection and reversed the traditional Government position by entering into the case of Grove City College against Bell on the side of Grove City College.

That case is pending before the Supreme Court and is scheduled to be argued on November 29.

The case arose in 1978 when the Department of Health, Education and Welfare asked institutions receiving Federal grants to sign assurances that they would comply with title IX. Grove City College refused on the basis that although its students received Federal grants and loans, the college itself received no Federal money.

HEW warned the college that it would cut off aid to Grove City's students and the college went to court.

The college lost in its two appeals, but the Federal courts have been inconsistent in their rulings. The third circuit court of appeals held, however, that the indirect student assistance to Grove City rendered the entire college subject to title IX: Because the Federal grants made to Grove's students necessarily inure to the benefit of the entire college, the program here must be defined as the entire institution of Grove City College.

The Justice Department's brief argues that receipt of Federal assistance by students does not subject the entire college to the coverage of title IX but only to the college's financial aid program.

Because of this dramatic policy reversal by the Reagan administration, I joined in an amicus curiae brief that represents the beliefs of 50 Members of the House and Senate in the Grove City case.

The amicus brief outlines to the Court the original intent of Congress in establishing title IX and in affirming subsequent congressional consideration of Department regulations on title IX and nullifying attempts to diminish title IX through amendment.

House Resolution 190 allows the entire House of Representatives to reaffirm its intent, and support the Federal Government's traditional broad interpretation of title IX.

House Resolution 190 puts the House on record by saying that we believe that title IX should not be diminished in any way. It is important that the House take its stand now. The Supreme Court argument is scheduled in 2 weeks. Passing this resolution the House can send the Court a signal that we believe that no institution should be allowed to discriminate on the basis of sex if it receives Federal funds.

Because title IX, title VI, and section 504 are so closely linked, House Resolution 190 also signals clearly to the administration that the House also believes that the title VI of the Civil Rights Act of 1964, which restricts discrimination on the basis of race, and section 504 of the Rehabilitation Act of 1973, which prohibits institutions from discriminating against the handicapped also must be extended as broadly as possible.

Mr. Speaker, I am pleased to join more than 225 Members of the House in cosponsoring this bill, and I urge an overwhelming majority of my House colleagues to join me in reaffirming the House's strong position against discrimination on the basis of sex, race, and handicap.

THE SECRETARY,
DEPARTMENT OF EDUCATION,
Washington, D.C., January 11, 1982.

Hon. EDWIN MEESE III,
Counselor to the President, The White House, Washington, D.C.

DEAR ED: Since our meeting in your office with Justice Department officials, I have reviewed the matter of changing the method of disbursement of Pell Grants to college students as a means of strengthening our position in the litigation in the Grove City College and selected cases that we will be facing. I wanted to report to you on this.

There are about 7,000 institutions in the United States that would be affected. To get this massive change to an alternate method of disbursement would require great effort and possibly considerable expenditure. Also, we would be faced with the burden of explaining why the change is being made. For the vast majority of the institutions (both public and private) that have no desire to give up receipt of Federal funds, this proposed change would be resisted because they would not receive any benefit from it and they would lose the administrative allowance but would still have to comply with all Federal rules and reporting requirements.

To make such a change in our procedure to benefit the very few private colleges that want to avoid coming under our civil rights surveillance would not, in my view, be wise at this time. I simply believe that the struggle would be a difficult one at this time when we are working to get legislation passed to dismantle the Department of Education and when we are cutting back drastically on student aid funds as part of our effort to reduce Federal deficits.

This leaves us with the task of pressing ahead in the Grove City litigation to try to win the support of the Third Circuit to come down on our side with respect to our position (arrived at in your office) that institutions that admit only students who are recipients of guaranteed student loans are not recipients of Federal financial assistance and therefore must not meet all the Federal assurances and compliance. We agreed to try to establish this point first.

As I indicated in my previous conversations on this matter, I do not know of any institutions that admit students who are GSL recipients and bar students who receive our Pell Grants. Thus, we will not be meeting the expectations of these institutions. Since they are all aware of the President's statements about this, we must expect an outcry when our Justice Department colleagues appear in the Third Circuit case and they learn that we have not taken the position they have anticipated. I will be hard-pressed on the matter because our friends at Grove City and Hillsdale colleges are all aware of the regulations changes that I approved and sent to Justice for their approval.

It is my own conviction that private colleges that receive no Federal money but do admit students who receive student loans on their own initiative (and not through the college) and who receive the voucher-type Pell Grants from a source not related to the college (as is done in the alternate disbursement system) ought not be required to meet all our rules and reporting requirements associated with recipients of Federal aid. I believe that there is a distinct difference between the private institutions that go after every Federal dollar they can get and those that have made every effort to avoid touching a Federal dollar in any way. Students who pay their tuition to these colleges (that have a strong desire to be totally free of any involvement) are doing so out of their own initiative and under their own private arrangements. I have tried to draw the distinction between campus-based student aid where colleges apply for and receive our funds and then function as our agents in administering our programs and those colleges that have steadfastly refused to get involved in this to the point of sacrificing the financial benefits of Federal aid.

I understand that our strategy is to try to win in the guaranteed student loan matter first—to establish the precedent—and then move from there on the Pell Grant matter. But I am uneasy about the willingness and patience of these private colleges to understand and support our strategy.

I believe that this sensitive matter will ultimately be brought to the attention of the President. I wonder if he needs to be informed of your decision. If he is asked about this issue without being briefed on the details he may respond along the lines of this newspaper column (published prior to November 4, 1980) and then it will appear that

we are not carrying out the President's wishes.

Since Justice functions as our "law firm," I have been reluctant to move contrary to their advice. But I am uneasy about where we have left this matter. I have strong convictions on the side of the private institutions and I hope we can press forward to win the ultimate position that will respect their right to remain free of Federal regulations.

If you need to discuss this further or if you have suggestions for me please don't hesitate to call.

Sincerely,

T. H. BELL.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 190, a resolution reaffirming congressional commitment to the comprehensive nature of title IX of the Education Amendments of 1972.

Over the past decade or so, title IX has resulted in an expansion of opportunity for women and girls at educational institutions receiving Federal funding. Since its passage, we have seen more women athletes, more women entering academic fields traditionally open to men, and more women employed as professors and upper level teachers.

Title IX has played an important role in guaranteeing equality in education to women. Unfortunately, recent lower court cases have resulted in contradictory interpretations of the scope of the law. The Supreme Court is due to review these cases soon. However, it is important to restate congressional intent that title IX is comprehensive in its coverage and seeks to promote equality of both sexes to the fullest extent at educational institutions in receipt of Federal dollars.

I am happy to be a cosponsor of House Resolution 190 and urge my colleagues to join me in supporting equal opportunity for both women and men in education.

Furthermore, I would like to point out that the House Republican Policy Committee is also in very strong support of this resolution.

Mr. SIMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. I thank the gentleman for yielding me this time.

Mr. Speaker, I basically wanted to take the floor to thank the gentleman from Illinois (Mr. SIMON) who has been absolutely marvelous on this issue and a whole variety of issues dealing with equality of education for women.

He and his subcommittee and my subcommittee have had long, long hours dealing with problems with the Women's Educational Equity Act. We have been dealing with all sorts of things on education where the administration has been backsliding. This is one more area where he has grabbed the reins and has now brought this resolution on title IX to the floor. It is very important that we act.

This would be a massive retrenchment if the House does not state what it really meant, when it passed title IX. Inaction would allow continuance of the massive retrenchment by this administration on something so terribly important, and what would that mean? It would mean the phenomenal gains that young women have been able to make will now be in jeopardy. When I think of one of the first legal cases I had, what was it—it was a young woman who was a nurse whose husband was killed in an automobile accident, and she wanted to take her insurance money and go to medical school.

She had top grades, the insurance money, but she was told by that medical school, which was a public medical school, she could not come in because they thought she should stay home and take care of her children. Her announcement was that that decision had already been made. She would have preferred to stay home but had no choice.

We won that case because of title IX and because that medical school had gotten some public money.

I could go on and on with those kinds of situations. I know any number of young women who are qualified professors. Title IX means opportunities for employment for women in education. Many have not been able to find those opportunities for employment in some of the public education facilities, because some are kind of old boys clubs. I remember one of the great universities saying, if they did hire women, they would have to build a faculty women's restroom. Heaven forbid. They would never want to spend the money that way. This way they could buy more volumes for the library. Sure. Title IX was to stop that nonsense.

So, I want to salute the gentleman for his vigor and the committee for their vigor in saying what this Congress meant was vigorous enforcement of title IX and not retrenchment. Women are here to stay on the educational scene, and we do not plan to let the administration play games with us. I thank you, and I really do appreciate the time you have put in.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to House Resolution 190 because I am opposed to Monday morning quarterbacking. The sponsors of this resolution—185 of whom were not even Members of this body at the time title IX of the Education Amendments of 1972 was enacted—ask us now, a decade later, to accept their view of what was the intent of Congress at that time.

I was here and was actively involved in the debates preceding passage of title IX. I can say unequivocally that this resolution is not an accurate reflection of the intent of the Congress that passed that legislation. The resolution represents instead the desires of those who wish the law had been enacted with a broader reach.

Obviously, from the number of cosponsors of this resolution, those of us who oppose it are bucking a tide of sentiment for what is on its face a worthy objective—sex equity in education. That, however, is not the issue. What is at issue, I submit, is the integrity of our laws. Somebody has to put a finger in the dike to prevent the erosion of those laws through subsequent efforts to redefine their meaning, scope, and coverage. Otherwise, the legislative actions we take in this body could be later washed away in a wave of emotion in support of what is viewed as a good cause.

I have no doubt that my colleagues who agreed to join in cosponsoring this resolution did so because they support—just as I do—the concept of equal opportunity in education for women and girls. I urge my colleagues, though, not to try to attain a worthy objective by demeaning our legislative system. Further, I ask my colleagues: Do you want the laws we pass in this Congress to be subjected to second-guessing by the Members of future Congresses?

House Resolution 190 expresses the desire of the Members of the House of Representatives of the 98th Congress that title IX of the Education Amendments of 1972 and its regulations should remain comprehensive in coverage. The resolution states that the Congress, in enacting title IX, "intended that it be applied comprehensively." Those who hold that view have sifted through every word ever uttered during consideration of that legislation, straining to find some support for that position. They have ignored the plain meaning of the words in title IX as they twist and distort its intent to conform to their notion of what they wish the law said.

At the outset, therefore, it is crucial to emphasize that the question of whether the Congress intended that title IX be comprehensively construed or interpreted more narrowly is by no means settled. The courts that have considered the application of title IX to colleges and universities—some of which have made a conscious effort not to become involved with the Federal Government—have decided these cases in an uneven manner—some courts holding one way, other courts holding another way.

For this reason, I find House Resolution 190 to be predicated—in asserting

that the Congress intended comprehensive coverage of title IX—on a faulty premise. The resolution assumes the institutional rather than programmatic interpretation of the operative language of title IX. This erroneous assumption flaws the entire resolution.

Let's take a look at the exact language we are talking about. Title IX begins with this statement:

No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Note the precise reach of the prohibition: "Any education program or activity receiving Federal financial assistance." It does not say: "Any program or activity of any institution receiving Federal financial assistance."

The basic problem with title IX is that the operative language barring sex bias in (and I quote) "any education program or activity receiving Federal financial assistance" was reinterpreted by the Office of Civil Rights as if it read in "any education institution or school system receiving Federal financial assistance."

This was the wording proposed by the administration and by Senator Bayh at that time, but it was specifically rejected by the Congress, which instead chose to track the language of title VI of the Civil Rights Act. The legislative history of that language emphatically supports the view that the thrust is programmatic and does not extend to activities which are not supported by Federal funds. In any event, if the conference managers had wanted title IX to reach to institutions, they could have written the law that way. The fact that they did not speaks eloquently for itself.

The distinction between institutions receiving Federal aid and any program or activity receiving Federal aid is absolutely critical. Virtually all the controversy surrounding title IX would not have occurred if the law had been correctly interpreted. The infirmity lies in the regulations, which numerous courts have held exceeded the scope of the statute. To accept the institutional interpretation, the Department could meddle in everything in American education so long as one penny of Federal aid is going for any reason and in any manner to the institution.

I believe the clear meaning of the operative language of title IX limits the Federal Government's concern to identifiable programs or activities which are federally funded and bars action against whole school systems or institutions with respect to programs or activities which do not receive Federal funds.

I think it is important to reemphasize that a vote against this resolution is not a vote against sex equity in our educational institutions. I believe that women and girls should receive fair and evenhanded treatment in our schools. But both bureaucratic and judicial interpretations of title IX have wandered far from its original intent. It has become a prime example of Federal intervention at its worst and of good intentions gone awry.

As I have pointed out, by the unambiguous language of the statute itself, the interests of the Federal Government in this area flow only as far as its money. There is no justification for regulating education programs or activities which receive no Federal funds.

We ought to have the good sense and fortitude not to aid and abet the great damage being done to the whole process of Government by law by stretching the law beyond its farthest reach in the service of what is viewed as a worthy cause. I repeat: A vote against this resolution is not a vote against sex equity in education. It is a vote for not compounding the egregious excesses that have led to unwarranted interventionism in the affairs of our schools by the Federal Government. It is a vote for faithful administration of the laws as they are written, consistent with express statutory language and congressional intent.

Mr. SIMON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for this legislation and strong support for title IX. Title IX's chief purpose is to provide equal opportunities in education for women. Nothing is more lofty than education in a society. This is why affording educational opportunities to one-half the population is a clear signal that this Congress is committed to equal opportunities for women.

Mr. ACKERMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of House Resolution 190 which reaffirms, at least the majority of this body's commitment to the protection of the civil rights of women. One of the most important equal rights statutes is title IX of the Education Amendments of 1972. This law bars Federal funds from any school that practices sexual discrimination. Title IX has sought, to enable women and men at every level of the educational ladder the opportunity to achieve their full potential. Over the past 11 years, students have been able to broaden their horizons by knocking down arbitrary educational and social stereotypes that society has imposed over the centuries. Gradually, important strides have been made in sexually integrating the traditionally segregated vocational-education system. New opportunities have opened for women in historically male bastions, and men have had access to careers that had been limited to women only.

Although much more progress needs to be made, the Reagan administration, despite its protestations to the contrary, has been determined to widen the gender gap. Too many times, the administration has forsaken our historic ideals of civil rights and equality of educational opportunity, and revealed the administrations feelings. For example, under the cloak of reorganizing the Department of Education, the administration has eliminated the women's Educational Equity Act Program. The President has trampled on the independence of the Civil Rights Commission by firing three of its commissioners—an action for which the House clearly expressed its contempt last week. The administration has designed to enforce title IX at discriminatory schools only for those specific programs actually receiving Federal funds, and has continued to pay for other programs at these same institutions. In the face of all these reactionary actions, it is clear that Congress must reaffirm our commitment to educational equity.

Mr. Speaker, I urge my colleagues to support this crucial resolution. The administration's attitude toward women, which had started out as the Reagan gender gap, has quickly widened to a gender chasm. Congress must take action to bridge this widening gulf.

□ 1840

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of House Resolution 190 which seeks to reaffirm the intent of Congress with regards to equal opportunity in American education.

Education has long been seen as the means by which each and every citizen would have an opportunity to realize his/her potential. Unfortunately, the reality of education in this country has not always lived up to this ideal. This failure was a major reason for the Federal Government's involvement in the educational process. While education is still seen as primarily a State and local responsiblity, the Federal Government has become involved to the extent necessary to insure equal access and opportunity for all Americans.

Title IX of the Educational Amendments of 1972 was a national response to discrimination against women in our educational institutions. In an area I am especially concerned with, vocational education, sex discrimination has kept girls and women from taking full advantage of this opportunity. At no other time in our Nation's

history has education been more important for women. With more women entering the work force and more female-headed families, it is incumbent on us to provide these women the training and education needed to support themselves and their families. The fact that 36 percent of these women are living in poverty underlines the need for equal access to these educational opportunities.

Mr. SIMON. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the chairman and I support this resolution to maintain the effort to enhance and preserve equal opportunity in education.

Title IX has from time to time undergone challenges. Until now all administrations, Democrat as well as Republican, have resisted attempts to alter or limit the intention of title IX.

Now the defense of equal opportunity has changed. The current Justice Department has chosen not to appeal a Federal district court ruling which limits title IX.

Seven months ago the Department announced a new title IX policy saying that only those programs receiving Federal funds need comply with equal opportunity statutes.

Three months ago the Justice Department argued that title IX applied only to the specific programs affected. The administration's Justice Department is now scheduled before the Supreme Court in 2 weeks on the side of limiting title IX.

This resolution moves to maintain this Nation's historic trend toward equal opportunity. The resolution places this House once again in the forefront of maintaining fairness and equity.

We must be sure that the playing field is level for all quarterbacks, Monday morning or Saturday night, men or women, not smoothed and manicured for men while rocky and untended for women; not an easy downhill playing slope for our sons and a difficult uphill grade for our daughters.

I urge my colleagues to support this statement of fairness and equity.

Mr. SIMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. ANDREWS).

Mr. ANDREWS of Texas. Mr. Speaker, I rise today to speak on behalf of Mrs. SCHNEIDER's title IX resolution of which I have been an enthusiastic and now longtime cosponsor. Unfortunately, now in 1983 we are struggling for victories in this country that should have been long recorded in the history books of our children.

The Schneider sense-of-the-House resolution clarifying the intent of title IX of the 1972 education amendments was introduced in reaction to this administration's reversal of past bipartisan policy in the interpretation of this statute. Title IX, enacted in 1974, is designed to guarantee equal access to women in educational institutions that receive Federal funds. Predictably, the administration feels that title IX should be program specific. In other words, the administration does not object to discrimination on the basis of sex if it occurs within a program that does not itself receive Federal funds.

A good education and a fair chance in the workplace are the best insurance against poverty: and we all know that a disproportionate and growing number of America's poor are women. Families headed by single women constituted almost half of all families below the poverty line in 1981; and over half of all female-headed black and Hispanic families were impoverished that year.

The objective of the Schneider resolution is to provide women with a better opportunity to obtain that insurance against poverty. Discrimination in admissions, vocational education, and career counseling persists. At a time of rising female poverty when traditional female jobs, even at full time, do not provide a decent wage for a single mother and her family, we cannot allow our one basic protection against sexual discrimination in education to be eroded. I urge support of House Resolution 190.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of House Resolution 190.

I do so because the resolution would go far in enabling us to translate one of our Nation's fundamental principles into reality.

Equality of opportunity is surely one of the principles on which this Nation was founded. But we all know that we have not yet realized that goal. That is why this body spends a great deal of time debating measures designed to end discrimination—measures ranging from the equal rights amendment to pension reform bills.

So does it not make sense to make sure that the laws we already have on the books are working as effectively as possible? This resolution would do just that.

Title IX was enacted to wipe out a very real problem—sex discrimination by educational institutions. Such discrimination is particularly pernicious because it not only denies a person access to education; it closes the door on many future opportunities.

Title IX has been effective. Women have made great headway because title IX has eliminated barriers to their advancement. So it should be simple commonsense—and common decency—to make sure this existing, needed, and useful law can be used as fully as possible to advance the march toward equality. Any effort to narrow the focus of the law can only impede that march.

One final thought—some proof of just how long this march has been going on and of how basic it is to our country. In a 1778 letter to her husband, Abigail Adams wrote:

> I regret the trifling narrow contracted education of the females of my own country.

Is not the time long past to eliminate the need for such regrets?

I wish to particularly commend the distinguished gentlelady from Rhode Island for her untiring efforts and leadership in supporting this resolution. Her hard work, convincing arguments, and tenaciousness have earned widespread support for this resolution. There is no more effective warrior in the fight for equal opportunity than the distinguished gentlelady.

□ 1850

Mr. SIMON. Mr. Speaker, I yield 3 minutes to another effective warrior in that fight, the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I thank the gentleman from Illinois (Mr. SIMON) for yielding time to me, and I congratulate him for his leadership on this issue.

Mr. Speaker, I join 225 of my colleagues in support of House Resolution 190, a resolution reaffirming our intent that title IX remain comprehensive and not be weakened in any way. It expresses our belief that title IX should continue to prohibit sex discrimination against students and employees in all programs and activities in schools and universities receiving Federal funds.

In 1972, when title IX became law, girls were only 8 percent of students in federally funded vocational programs—programs leading to better paying, more secure jobs.

Thanks to title IX and its commitment to educational equity in federally funded programs that number grew to 28 percent in 1980.

In 1972 women earned only 4 percent of graduate degrees in business and managment. Thanks to title IX, that figure rose to 25 percent in 1981.

In 1972 only 9 percent of medical degrees went to women. Thanks to title IX, 23 percent of new doctors in 1981 were women.

This progress has been achieved primarily through voluntary compliance and grassroots monitoring efforts of individuals and organizations and with an underpinning of Federal support.

Unfortunately, despite, or perhaps because of, the success attributed to title IX, this administration is deliberately seeking to undermine this progress through repeated steps to weaken the scope and coverage of the

law. The Reagan Justice Department has done everything in its power to hamstring Federal efforts to implement and enforce title IX guidelines.

First the administration refused to appeal the Federal district court ruling in University of Richmond against Bell which held that title IX bans sex bias only in educational programs that receive Federal dollars directly. Then the Justice Department broadened this policy and limited mandatory compliance with civil rights statutes only to programs receiving direct Federal funds.

Finally, in the Grove City College against Bell case which is to come before the Supreme Court this month, the administration has filed an amicus curiae brief in support of Grove City's contention that Federal funds in the form of financial aid to students should not require the entire institution to comply with title IX.

It is clear what the administration is trying to do. Bit by bit, it is attempting to take the teeth out of this important legislation.

This is the administration that opposes the equal rights amendment, that says we should pursue equal rights for women through legislative remedies. Well, here we have a comprehensive legislative remedy to women's inequality of opportunity in education, and look what the administration is trying to do to it.

Unfortunately, although the legislative history of title IX is clear that all sex discrimination in federally supported educational institutions should be prohibited, we must again reaffirm this intention to send a signal to the courts and to this hostile administration.

I have also joined over 70 of my colleagues in the House in filing an amicus curiae brief in the Grove City case in opposition to the administration's stance. It is our hope that the Supreme Court will defer to the congressional intent behind this landmark legislation.

Title IX has been one of the success stories to come out of this legislative body, but we are nowhere near our goal of achieving sex equity in education. Without vigorous enforcement of a comprehensive title IX, we will progress no further toward that goal. I urge all my colleagues to vote in favor of House Resolution 190 to send a resounding message that this Congress is even more committed to equality of opportunity for women in education than every Congress before us.

Mr. Speaker, I thank my colleague again for his leadership on this issue.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Speaker, I rise in support of House Resolution 190 on behalf of the House Republican Policy Committee, of which I am chairman.

The committee, Mr. Speaker, has endorsed adoption of this resolution supporting extension of title IX of the Education Act Amendments of 1972, a position with which I enthusiastically agree.

Much of the progress women have made in American society during the past century has come through the leadership of the Republican Party. It was the Republican Party that led the fight to extend the right to vote to women rather than restricting it solely to men. It was under a Republican government that the sufferage fight was won, and that those first votes were cast and counted.

Mr. Speaker, Republican beliefs and efforts toward insuring equality for all in our society continue unabated. It is especially fitting that this measure comes before us now, as we continue to consider the future directions of the debate over sexually differentiating legislation in our society.

This issue—extension of title IX—deserves full consideration and debate independent of these discussions and that vote.

Mr. Speaker, one of the most fundamental rights young people possess in our society is the right to an education. Title IX of the Education Act Amendment of 1972 insures that those rights are kept untrammeled and that all young people have the right to educational opportunity regardless of sex. It is the very least we owe the American tradition, our own principles—and our children.

Title IX takes away no rights; it does not compel the abolition of time-honored practices. Title IX simply insures that if educational opportunity is to be made available to one sex, the other sex is offered opportunities which are as nearly as possible equal.

Title IX recognizes religious beliefs and does not violate them. It honors and protects programs that have done much to help strengthen the fiber of America's young people.

If our society is to meet the challenge of the closing years of this century and beyond, it will need young men and women fully as strong as their parents and the generations that have come before. Our young people will face increasingly complex problems, will need increasingly refined skills and training. They will face steadily stiffening competition in our society, and in the world. They demand ever-sharpened educational opportunities title IX and equality in education are making available.

That is why, Mr. Speaker, the endorsement of the House Republican Policy Committee is as wholehearted as it is. The full text of the House Republican Policy Committee statement follows:

The House Republican Policy Committee supports adoption of H. Res. 190, reaffirming congressional commitment to Title IX of the Education Amendments of 1972.

Strong support for education, equality of opportunity in American society and women's rights have long been basic beliefs of the Republican Party.

Title IX has insured equal opportunity for both men and women in programs benefiting from Federal educational funding.

The House Republican Policy Committee supports this action.

Mr. SIMON. Mr. Speaker, I yield 1 minute to the gentlewoman from Louisiana (Mrs. BOGGS.)

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the resolution.

Mr. Speaker, last spring I attended an Inter-Parliamentary Union meeting in Helsinki, Finland, where a resolution was passed that said that all young women and girls throughout the 91 nations who were attending that meeting should have an equal opportunity for training, retraining, education in math and sciences so that they could be competitive in an equitable manner in the technological and scientific world in which they will be living.

I feel that this type of training, retraining, and education will be available to the young women and girls of the United States of America only when the comprehensive nature of title IX is reasserted, which this resolution certainly intends to do. I urge the acceptance of this resolution.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure now being considered by this body. House Resolution 190, introduced by our distinguished colleague from Rhode Island (Mrs. SCHNEIDER), and the distinguished gentleman from Illinois (Mr. SIMON) the subcommittee chairman expresses the sense of the House of Representatives that title IX of the Education Amendments of 1972, which prohibits sex discrimination under any education program or activity receiving Federal funds, should not be altered so as to reduce that title's comprehensive interpretation. As a cosponsor of this measure, and as one who entered Congress in the year title IX was considered, I well remember the discussions we had when inclusion of this language was initially proposed.

Despite advances made by others in many areas, women have not been able to make the strides so necessary to equality in opportunity and employment. Today, women still receive less compensation than men for the same work. Much of the change in our attitudes over the past decade have been for the better; yet there is still a long way to go, and House Resolution 190 can only reaffirm the need that exists

today. This legislation clearly states that: "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance." Discrimination can best be eliminated by education. Our young men and women have learned many valuable things in their school systems; their awareness has been heightened, and we acknowledge that today's youth is more knowledgeable of the world around them than we were at their age; eliminating the barriers associated with gender are part and parcel of this inculcation of our young. We must continue to emphasize these positive aspects, which can only assist in aiding the young women of our country.

The ramifications of title IX are extensive; in the last decade we have made great strides, but in retrospect, we are not yet at the point where we can sit back and congratulate ourselves on a job well done. The precepts of title IX need to be affirmed today by this body as they were a decade ago, and will need to be reaffirmed again and again, until discrimination based on gender becomes an extinct old dinosaur.

I recall more than a decade ago, in my days in the State Legislature of New York, when I fought to avoid discrimination against women in athletic activities in the State of New York and was pleased that our State government favorably responded by eliminating such discriminatory practices.

Over the years, I have sought to make certain that we do not have any discrimination in our educational institutions.

In light of the recent attempts to erode title IX, I am pleased to support this resolution which expresses the desire of the House to make certain that the regulations in title IX should remain comprehensive and not be lessened or narrowed in any manner by regulation or administrative interpretation.

Accordingly, Mr. Speaker, I urge my colleagues to fully support this measure.

Mr. COLEMAN of Missouri. Mr. Speaker, may I inquire as to what time remains for the gentleman from Illinois and for me?

The SPEAKER pro tempore. The gentleman from Illinois (Mr. SIMON) has 4½ minutes remaining; the gentleman from Missouri (Mr. COLEMAN) has 7 minutes remaining.

Mr. COLEMAN of Missouri. Mr. Speaker, I would also like to commend the gentlewoman from Rhode Island for her leadership on this resolution. It is befitting that she, I think, close the discussion on this side of the aisle.

Mr. Speaker, I yield the entire balance of the time to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, on February 28, 1972, the Honorable Birch Bayh, Senator from Indiana, took to the floor of the Senate to denounce what he termed "a national scandal"—sex discrimination in education. Bayh told his colleagues, "One of the greatest failings of the American educational system is the continuation of corrosive and unjustified discrimination against women. It is clear to me that sex discrimination reaches into all facets of education—admissions, scholarship programs, faculty hiring and promotion, professional staffing, and pay scales."

The remedy Bayh offered to this scandal was a simple amendment—title IX of the Education Act—guaranteeing that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. Bayh's amendment, which involved no quotas or mandatory guidelines, was quickly signed into law by President Nixon, and in the years since has been seen as a landmark in civil rights legislation. To this day, it remains the only Federal law on the books prohibiting sex discrimination.

What has been the effect of title IX? In one fell swoop, the amendment did away with a wealth of anachronistic and discriminatory practices which had developed over the years. No longer could the School of Agriculture at Cornell require women to have SAT scores 40 points higher than those of men. No longer could the Strong Vocational Test, a popular career counseling tool, use a separate classification system for girls and boys. No longer could boys alone be eligible for athletic scholarships to pay for their college education.

Perhaps more important, title IX's symbolic impact ushered in a new era of educational opportunity for women. Since its enactment, the growth in the number of women enrolled in professional and vocational degree programs has been phenomenal. Female enrollment in dental schools has increased by 101 percent, in veterinary schools by 120 percent, in law schools by 337 percent, and in medical schools by 296 percent. Enrollment of women in vocational education has increased by 60 percent, and the number of female doctorates employed in the science and engineering fields has doubled. Through title IX, the Federal Government has taken the lead in promoting educational opportunities for women. Because of this effort, the next generation will take its place with women in leadership roles in politics, education, medicine, and law.

Unfortunately, there is now a move afoot to roll-back the gains of the past 10 years and restrict the application of title IX. The issue is now before the Supreme Court in the case of Grove City College against Bell. The controversy involves the legal interpretation of the phrase "educational program or activity." Since title IX's enactment, the courts and three administrations have interpreted this phrase in a broad manner so that the entire educational institution fell under title IX, even though only certain programs received Federal assistance. Grove City's lawyers dispute this interpretation, arguing that the college is not subject to title IX regulations because it receives only indirect financial assistance—student loans and grants—from the Federal Government.

In its amicus curiae brief recently filed in the Grove City case, the Justice Department takes a third view of title IX's application. Justice argues that Federal financial aid should be considered direct aid for the purpose of title IX coverage, but that title IX's application should involve only that part of the college which directly receives the Federal aid—in this instance, the financial aid office. Through this interpretation, Justice rightfully prohibits sex discrimination in financial aid programs, but turns a blind eye to any discrimination occurring in admissions, housing, counseling, or vocational programs. This interpretation is made more dubious by the fact that scholarship aid, by its very nature, flows through the entire school system. The Federal Government should not subsidize discrimination in any part of education.

This week, the House of Representatives has the opportunity to reinstate Congress's original intent for a broadly applied title IX. By voting in favor of my resolution (H.J. Res. 190), the House will go on record as opposing any alteration which will lessen the comprehensive coverage of the statute.

A national poll released just last week by the Project on Equal Education Rights (PEER) indicated that 88 percent of Americans support the gains in educational equity for women which have been made over the past 10 years and 68 percent support a broadly applied title IX. American women now have the chance to attend the schools of their choice, to develop the skills they desire, and to turn those skills into productive employment. This expansion of opportunity has in turn expanded the future leadership potential and growth of our society. Congress should state loudly that this trend should continue and there will be no turning back on our guarantee of equal opportunity for all citizens. I urge my colleagues to vote yes on House Resolution 190.

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Mr. Speaker, I would also like to add to my argument that there has frequently been repeated the claim that title IX, broadly interpreted, requires an enormous amount of paperwork.

Well, I submit to you, Mr. Speaker, that this single piece of paper with solely the requirement for date, the authorized official's name, name of applicant, recipient, street and address, are the only requirements of paperwork for title IX.

I might also add that the intent of Congress when title IX was first passed falls into five specific examples of how it is to be broadly interpreted.

When Birch Bayh spoke, he said:

The heart of this amendment is a provision banning sex discrimination in educational programs receiving Federal funds. This amendment would cover such crucial aspects as admissions procedures, scholarships, and faculty employment. . . .

In the initial title IX debates, Representative Steiger inquired whether the statute would apply only to a specific department, or whether "the effect of title IX is to, in effect, go across the board in terms of the cutting off of funds to an institution that would discriminate." Representative Green answered: "The purpose of title IX is to end discrimination, yes, across the board."

Another indication of title IX's comprehensive intent was that it was expected to apply to athletic programs. Even though such programs normally receive no Federal financial assistance, they were regarded as an integral part of the offerings of an educational institution; and therefore discriminatory practices in athletic programs were regarded as institutional discrimination which should not be supported by Federal funds.

Congress has also had repeated opportunities to amend title IX to limit its applicability, but it has consistently refused to do so. For example, amendments have been introduced to limit coverage only to institutions which receive Federal funds directly from the Government. These would have exempted indirect aid recipients, such as institutions whose students receive basic education opportunity grants. Congress has refused to restrict application of title IX in this way.

To establish congressional intent, title IX must also be considered in the context of similar civil rights legislation. The language of title IX, which declares that its coverage is extended to "any educational program or activity receiving Federal financial assistance," is modeled on the language of title VI of the Civil Rights Act of 1964. Title VI, prohibiting discrimination in educational institutions on the basis of race, color, or national origin, extends coverage to any "program or activity" receiving Federal aid. The reason for using the phrase "program or activity" rather than "institution" was to reduce the possibility of excessive or unfair fund cut-offs to the intended beneficiaries in the enforcement of title VI.

Last, Secretary Weinberger asserted the close analogy between title VI and title IX in the 1975 HEW hearings on title IX regulations: "If the Federal funds go to an institution which has educational programs, then the institution is covered throughout its activities. That essentially was the ruling with respect to similar language in title VI, and that is why we used this interpretation in title IX." Restricting coverage of title IX would raise the likelihood of similar restrictions on prohibitions on discrimination based on race or physical handicap.

Mr. SIMON. Mr. Speaker, in closing and I shall just take 1 minute, I would, if I may, use a personal illustration.

When we first got involved in title IX in the Education and Labor Committee and I was fighting for title IX, I did not think that in my own family we would see some advantages from it.

My daughter, Sheila, was able to participate in a high school track program, went on to Wittenberg University in Ohio, and was able to travel around the Nation as part of a track team and get the exposure to students in other schools, the self-confidence and all those things that come with that.

Title IX has been a step forward in a great variety of ways for many, many women in this country. And those who want to weaken it—not out of meanness, not out of hardheartedness, but simply out of insensitivity—are doing a great disservice to this country.

What this resolution says is: Let us stand where we have stood for all this time with this administration on title IX. Let us give opportunity to every citizen of this country.

● Mr. BIAGGI. Mr. Speaker, I rise to again lend my support to the principles which are embodied in title IX of the Education Amendments of 1972 and to express my support for this resolution which reaffirms congressional intent about title IX being a comprehensive legislative remedy to try and combat discrimination in education on the basis of sex.

I feel my perspective is perhaps even more valid due to the fact that I was in this House in 1972 and served on the Education and Labor Committee which produced this landmark legislation. Back then as now the intent of the title was clear—that there shall be no discrimination in education programs which receive Federal funds on the basis of sex.

The reason that House Resolution 190 has come before this House is because of separate but seemingly related actions taken by a Federal district court and the U.S. Justice Department. They have determined the title IX should be more limited than expansive in scope and made only to apply to those programs where Federal funds are specifically earmarked.

House Resolution 190 states very clearly that the inequalities based on sex still exist in American education and that title IX as the primary legislative remedy should not be amended in any way as to dilute its effectiveness.

As an original cosponsor of the title IX legislation in 1972 I do not believe for a minute that we should be in any way reshaping its intent. Anything approaching that would constitute a regression if not an outright reneging of our commitment to equality in education for both sexes.

Approval of this resolution will put the House back in the historical position it has enjoyed for the past 11 years in support of equal opportunities in education. The two pronged effort to reduce the effectiveness of title IV must not allowed to stand and a vote for House Resolution 190 will send the proper message.●

● Mr. MITCHELL. Mr. Speaker, I rise in support of House Resolution 190, which expresses the sense of the House with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity. The passage of this measure, introduced by Representative CLAUDINE SCHNEIDER, is imperative if indeed we will continue to dedicate ourselves to equal education opportunities for all.

It is sad that we still continue to witness inequities and discrimination in the education arena based on sex. To allow such a continuance is to nurture a breeding ground for inequities in other areas, namely employment, economic opportunities, and other pursuits which should be equally accessible to all persons, regardless of race or sex.

We do this country a grave disservice when we stifle the opportunities for women to participate fully in the mainstream of our society. The educatory process can be the foundation for either such full participation or unnecessary exclusion. If we do not address inequities during this fundamental pursuit, we cannot expect our society to grow socially, economically, spiritually, or intellectually to its full potential.

I would urge my colleagues to lend overwhelming support to House Resolution 190 and reaffirm its commitment to correcting glaring inequities which continue as a part of our country's system of education.●

● Ms. KAPTUR. Mr. Speaker, I rise in support of House Resolution 190. Title IX of the Education Amendments of 1972 guarantees that—

No person . . . shall, on the basis of sex, be subjected to discrimination under any

education program or activity receiving federal financial assistance.

Today title IX is under attack.

This attack is occurring as a result of this administration's lack of enforcement and restrictive administrative and judicial interpretations of the law. So grave are the administration's actions, that the U.S. Commission of Civil Rights recently warned that:

Current policies, unless promptly reversed, could jeopardize fundamental civil rights protections under Title IX.

Mr. Speaker, this law has enabled women to make great strides in every facet of education. Equal opportunity, however, will be thwarted if the administration proceeds on its present course.

The Supreme Court will soon consider the scope of title IX's coverage. The Department of Justice should defend the broad program coverage of title IX, as Congress intended. At this critical juncture, it is most important that we pass House Resolution 190 which reaffirms Congress commitment to title IX. The Federal Government must not support discrimination.●

● Mr. GREEN. Mr. Speaker, in 1972, Congress passed title IX of the education amendments prohibiting sex discrimination in education programs. Title IX covers virtually all areas of student life: admissions, financial aid, academic programs, health services, extracurricular activities, testing, and counseling. Schools at all levels are covered from preschools to graduate schools. The legislative intent of Congress was to remedy the gender-based disparities in opportunities available to students. It is a law that has made a difference. Prior to 1972, females were reluctant to enter vocational education programs despite the fact that such training led to high-paying jobs. By 1980, the percentage of female students in federally funded agriculture, technical, trade and industrial programs had risen from 8 percent in 1972 to 30 percent. The academic world has also seen significantly increased numbers of women continuing their education and obtaining advanced degrees. In 1980, women earned half of all the masters degrees awarded. ●

Now title IX is being threatened. The scope of its applicability is slowly being reduced and diluted. Though legislation interpreting title IX to mean that compliance can be program specific has not been reintroduced in this Congress, there have been several court rulings narrowing the application of title IX in the same manner. In the past 2 years, two courts have interpreted the Supreme Court decision of 1974 involving title IX to mean that the ban on discrimination applies only to specific programs in universities receiving Federal aid, rather than to the entire institution if any part of it receives Federal aid. The Justice Department decided not to appeal these cases and promptly drew up guidelines for the Education Department reflecting this interpretation.

For that reason, H.R. 190, of which I am a cosponsor, is a most important expression of the intent of Congress that title IX be given a broad interpretation. I urge the adoption of H.R. 190.●

● Mr. CONTE Mr. Speaker, I rise in support of House Resolution 190, a resolution expressing the sense of the House with respect to the need to maintain guidelines that insure equal rights with regard to educational opportunity.

One of the greatest guarantors of our democratic government and quality of life is a free and open educational system. James Madison once said:

Knowledge will forever govern ignorance; people who mean to be their own governors must arm themselves with the power that knowledge gives.

In 1972, the Congress acted forcefully to insure that this power Madison spoke of would not be granted selectively on the basis of sex. Title IX of the Educational Amendments of 1972 prohibits any educational program or activity from discriminating on that basis. The national benefits reaped from this hallmark statute speak for themselves. Since 1972, female enrollment in dental schools has increased by 101 percent, in veterinary schools by 120 percent, in medical schools by 296 percent, and in law schools by 337 percent, to cite but a few examples of previously male-dominated academic domains.

There have been numerous challenges to title IX since its enactment, but Republican and Democratic Administrations alike have defended a comprehensive interpretation of the law. The Congress, likewise, has fought back amendments that would have weakened or restricted its application. The current administration, however, believes that title IX should apply only to those specific programs or activities that receive Federal funding, and not comprehensively to an educational institution that has certain programs receiving Federal money.

Mr. Speaker, the course suggested by this interpretation is a dangerous one, and it seriously undermines the Congress intent in enacting title IX—namely, to provide equality of educational opportunity. House Resolution 190 will clearly state the sense of this House that title IX should be interpreted comprehensively. It will insure that the many gains made by women in education since 1972 will not be forfeited.

The vote on this measure is especially timely, since the Supreme Court is scheduled to hear arguments on November 29 in the case of Grove City College against Bell. At issue in the case is whether title IX is to be applied comprehensively or in a restricted fasion. In addition, given the unfortunate vote earlier this week on the equal rights amendment, it is particularly important that this House give House Resolution 190 its unqualified support. Without an equal rights amendment, we must constantly guard against these attacks on existing laws that were enacted to help bridge the gender gap.

It is through education that the artificial barriers of wealth, race, and sex can be overcome, and it will only be through equal educational opportunity that that ticket for advancement can be provided to all. As a cosponsor of this legislation, it is my sincere hope that House Resolution 190 will meet with the unanimous approval of this body.●

● Ms. SNOWE. Mr. Speaker, I urge my colleagues to join me in support of House Resolution 190, which expresses the sense of the House that those guidelines established in title IX be maintained.

In the 11 years since title IX passed we have seen great changes. Increasingly, and in larger numbers than ever before, women are earning more masters and doctoral-level degrees. Their presence in colleges is now comparable to that of male students. Additionally, women's increased presence in nontraditional job categories will have positive economic effects for the rest of their lives.

Only a comprehensive interpretation of title IX for the past 10 years could have such an effect on the lives and careers of young women. Yet again, we are asked today to reaffirm what we said in 1972.

At issue presently is whether title IX's prohibition on sex discrimination applies only to a program receiving Federal assistance, or extends more broadly to any school receiving Federal assistance. To limit title IX to only those programs receiving direct financial assistance would be an unconscionable retreat on this county's commitment to its young.

This summer, Sally Ride showed America what a young woman of not only extraordinary talent and determination—but one whose education reflected the very principles of equal opportunity—could achieve. If we do not take strong measures to guarantee equal educational opportunities, particularly in the maths and sciences, to young women, what hopes have we for their future?

Title IX is more than an education issue—it is an economic one.

The legislative and judicial history of the past 11 years has made Congress intent in 1972 very clear. I urge my colleagues to continue sending every educational institution in this country the message that discrimina-

tion on the basis of sex is against the law.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and agree to the resolution, House Resolution 190.

The question was taken.

Mr. COLEMAN of Missouri. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution House Resolution 190, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

WHEAT IMPROVEMENT ACT OF 1983

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4072) to provide for an improved program for wheat, as amended.

The clerk read as follows:

H.R. 4072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wheat Improvement Act of 1983".

TARGET PRICES

SEC. 2. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out "$4.45 per bushel for the 1984 crop, and $4.65 per bushel for the 1985 crop" and inserting in lieu thereof "$4.38 per bushel for the 1984 crop, and for the 1985 crop".

1984 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 3. Section 107B(e) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence of paragraph (1)(A) "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.

The Secretary shall permit all or any part of the acreage reduced under the acreage limitation and diversion program to be devoted to hay and grazing.

The closing date for signup in such program shall not be earlier than March 30, 1984.";

(3) adding at the end of paragraph (4) the following: "For the 1984 crop of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat."; and

(4) Inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion rate shall be established by the Secretary at not less than $3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issue by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying our a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversin program required under this paragraph, the Secretary of Agriculture shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program yield.".

ADVANCE PAYMENTS

SEC. 4. Section 107C of the Agricultural Act of 1949 is amended by—

(1) inserting in subsection (b)(1)(B) "(except that for the 1984 crop of wheat, the Secretary shall make available)" after "may make available", and

(2) striking out in subsection (c)(4) "1983 crops of wheat," and inserting in lieu thereof "1983 and 1984 crops of wheat, and the 1983 crops of".

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 20 minutes, and the gentleman from Montana (Mr. MARLENEE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 4072 would modity the program announced by the Secretary for the 1984 crop of wheat so as to encourage producer participation in the acreage reduction program and reduce the carryover stock from the record levels of the past 2 years.

H.R. 4072 would:

Reduce the statutory increase in the target price for the 1984 crop from a level or $4.45 to $4.38 per bushel and for the 1985 crop from a level of $4.65 to $4.38 per bushel.

Require as a condition of eligibility for loans and target price payments on the 1984 wheat crop that producers reduce their planted acreage below their wheat base by 30 percent consisting of a 20-percent reduction under the acreage reduction program and 10 percent under a paid diversion program.

Provide for a payment rate for the 10-percent paid diversion on the 1984 crop of not less than $3 per bushel, except that the rate may be reduced up to 10 percent, if the Secretary determines that the same program objective could be achieved with the lower rate.

Provide for a payment rate on any payment-in-kind diversion program on the 1984 crop of not less than 85 percent of the farm program yield.

Permit haying and grazing on acreage reduced under the acreage limitation program and the paid diversion program just as in 1983.

Authorize summer fallow land on conserving use acreage under the acreage limitation program and the paid diversion program in 1984 just as in 1983.

Provide for advance diversion payments and advance target price deficiency payments to producers participating in the 1984 wheat program just as in 1983.

Extend the final date for signup in the 1984 wheat program from February 24 to March 30, 1984.

H.R. 4072 is needed because the response of the Nation's wheat growers to the announced 1984 program has thus far been very discouraging. Whereas the Department had estimat-

ed that at least 50 percent of wheat producers would cooperate with the announced programs, reports from the areas of production indicate that, at least as far as winter wheat producers are concerned, few have limited their seeding this fall in order to be eligible for the program benefits. Estimates are being made that over 70 million acres of winter wheat have been seeded this fall. That being the case, that would be the largest seeding in history and certainly raises the prospect that given normal weather, next year's wheat crop could easily exceed 3 billion bushels. Such a crop would drive wheat prices even lower than they are this year as we added another 400 to 500 million bushels to our already excessive carryover stocks.

It is apparent from the disappointing response that winter wheat producers are of the view that they just cannot afford to idle 30 percent of their wheat base for the limited benefits being offered under the 1984 program. In substance, these producers would rather take their chances with overproduction and the lower prices expected to result therefrom as opposed to participating in the program.

If H.R. 4072 is adopted, USDA estimates that producer participation would exceed 60 percent. That level of participation, given normal yields, should come much closer to balancing production to demand in 1984 as compared to the announced program. USDA also estimates that since any additional stock build-up would be limited under H.R. 4072, farm prices could average 25 cents per bushel higher than is expected under the announced program.

As regards cost, CBO estimates H.R. 4072 will provide savings in excess of $100 million in outlays in fiscal 1984 and 1985 combined. Finally, while H.R. 4072 may cost more than the announced program in the short term, there can be no question it will cost much less over the long term, due to the reduction in stocks resulting from the paid diversion program.

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Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4072, the Wheat Improvement Act of 1983. I am an original cosponsor of this important legislation because I believe it is absolutely essential that the announced 1984 wheat program be improved. The fact that the program needs to be improved is not disputed. The changes in the wheat program effected by H.R. 4072 improve the program to allow greater participation and survival by wheat producers. It is no secret that participation rates under the program as announced by the Secretary were expected to be very low. It is critically important to have maximum participation in order to prevent further growth of the huge wheat surplus. These huge surpluses threaten to become a cronic and permanent problem which has the effect of depressing prices on the farm.

Mr. Speaker, as ranking Republican on the Wheat, Soybeans, and Feed Grains Subcommittee, I would like to commend the Honorable THOMAS FOLEY, Wheat Subcommittee chairman and vice-chairman of the full Agriculture Committee, for his leadership in this matter. Throughout the subcommittee hearing and the markup process in both subcommittee and full committee, the gentleman from Washington managed this bill consistently, fairly, and adroitly, all the while steering a moderate course and crafting a fine balance between the legitimate interests of the taxpayers and wheat producers. This is just one more instance of why Mr. FOLEY enjoys such high regard from his colleagues on both sides of the aisle.

I would also like to express my appreciation to my very able subcommittee colleagues, the Honorable PAT ROBERTS of Kansas and ARLAN STANGELAND of Minnesota, who have been supportive of our efforts to craft a compromise. I would further like to commend the ranking Republican of the full committee, the distinguished ED MADIGAN from Illinois, who has served as a very able broker in this process. His efforts to promote the final version of this bill were vital to its acceptance by such a bipartisan group and to its ultimate passage.

This bill with the amendments by Chairman FOLEY represents a very substantial accommodation of the administration's concerns about target price levels in 1985, while at the same time offering a program that wheat producers can live with and support. Under the already announced program, the expectation was that, surplus or carryover stocks could grow from its present level of more than 1.5 billion bushels by as much as 300 million bushels in just 1 year. CBO projects that this bill we are offering as amended would not only stop the growth, but would also actually reduce the surplus by more than 70 million bushels. This is an important first step in bringing carryover surplus stocks down to appropriate levels.

Mr. Speaker, this is a fine bipartisan compromise which we expect the other body to accept. I urge my colleagues to accept this important measure.

Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Kansas (Mr. ROBERTS).

Mr. ROBERTS. First off, Mr. Speaker, I would like to thank my colleague and friend from the State of Washington for his leadership in this role and for his rescue operation for the wheat program. We have real problems with the wheat program. As my colleague from Montana has indicated, we face a surplus of 1.6 billion bushels and depressed prices for the fourth year in a row. I am not going to go down the litany of the farm problems we are experiencing, they are well known. Last August the USDA announced a program restrictive so as to force consideration of a target price freeze. However, it is not acceptable in regards to participation in farm country, and so the committee has worked long and hard to reach a compromise. We have been in a stalemate now for 6 months. The wheat crop is already in, and our farmers are wondering why on earth we have a program where they cannot participate.

This is that effort, this is the rescue operation, this is the bill that needs to be passed to allow farmers to have program flexibility and incentives to get the surplus down.

A lot of people are concerned about costs in this bill. Let me emphasize that according to CBO we are saving money. Doubtlessly, others could cite some cost estimates that would be adverse. That is simply not the case, because the bottom line is this: If we do not pass this bill, we are going to have a wheat surplus to the extent that wheat will be coming out of our ears, maybe 2 billion bushels. That down the road will cost Uncle Sam far more than any incentives or flexibility in this bill.

This is a good bill. It should be passed. I rise in strong support of it.

Mr. MARLENEE. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. I thank my colleague for yielding.

Mr. Speaker, I rise in support of this bill. I would like to say that I do not like certain provisions of this bill. I do not like a reduction in target prices or essentially a freeze in target prices which we are getting in this bill. But I think the bill does provide some additional incentive, not great, but some, to provide wheat farmers an option of going into a program to reduce production.

Without this bill we are going to see surpluses that will be mind boggling in the outyears. What we are trying to do is not only to protect the farmers but to protect the price of grain. Without this bill the price of grain will surely go down.

Mr. MARLENEE. Mr. Speaker, I yield 1 additional minute to the gentleman from Kansas (Mr. ROBERTS), who has done so much work on this bill.

Mr. ROBERTS. Mr. Speaker, my friend and colleague from Kansas has raised a good point. This is not the best possible bill. This is not the farm program that he would write or that I

would write or that the gentleman from Washington (Mr. FOLEY) would write or that the gentleman from Montana (Mr. MARLENEE) would write. But this is a rescue operation at the last possible minute to provide some flexibility and some incentives so that at least some of our farmers can pencil out some options. It will be of help to some producers. It is a good bill, from that respect. Certainly not all that we would like to have. I am at least gratified we have been able to include my longstanding summer fallow amendment in this bill.

Mr. GLICKMAN. If my colleague will yield just briefly on that point, I would just say, also, that we have gone the extra mile for John Block, for the administration, by agreeing to the target price freeze they wanted, and I hope that we have shown the good faith which I know the gentleman from Washington (Mr. FOLEY), the gentleman from Kansas (Mr. ROBERTS), the gentleman from Montana (Mr. MARLENEE), and I have tried to work out. If they do not buy this package, they do not want anything, they want no participation, they want low grain prices.

Mr. MARLENEE. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I wonder if I might ask the gentleman from Washington, the sponsor of the bill, a question.

I am told that the Department of Agriculture says that this bill will increase outlays for fiscal year 1984 and fiscal year 1985 by nearly $400 million.

Can the gentleman comment on that criticism and whether this amount is within our budget?

Mr. FOLEY. If the gentleman will yield, I will say that the bill, as compared to the baseline, which, as the gentleman knows, is what we deal with in the budget, will have a savings of over $100 million.

As against the estimated 1984 program, this bill will have a savings of over $100 million.

Mr. FRENZEL. Compared to the announced program?

Mr. FOLEY. That is right. The Department's figures are not related to the budget question of what the baseline is; they are related to the announced program.

Mr. FRENZEL. That is correct.

Mr. FOLEY. And under that analysis, the Department believes that the program will cost $394 million in the short term. They admit that the program could save money over the long term against the announced program, because the announced program, very frankly, will get very poor participation. We will be spending money for no practical purpose because the level of participation in the country will be so low as to make the announced program meaningless.

□ 1920

As a result, the money that is expended will be largely wasted. But judged by the standard that we judge budgets by, which is the existing baseline costs, this bill is certified by the CBO to save over $100 million.

Mr. FRENZEL. I thank the gentleman for that response. The last time we tried a rescue operation, it was 30 days' worth of milk and the bill was vetoed.

Can the gentleman give me his impression of the administration's feeling on this bill?

Mr. FOLEY. If the gentleman will yield further, frankly, I have a very hard time these days, I will say to the gentleman with great sincerity, in knowing what the position of the Department of Agriculture is.

Mr. FRENZEL. I thank the gentleman.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. I thank the gentlemen for yielding this time to me.

Mr. Speaker, with reluctance I supported H.R. 4072, the Wheat Improvement Act of 1983, as it was approved by the Committee on Agriculture. The program for 1984 crop wheat provided in H.R. 4072, as it was approved by the Committee on Agriculture, is somewhat better than the program announced by the Department of Agriculture. According to the Department of Agriculture estimates, the program for 1984 crop wheat announced by Secretary Block would achieve no better than 53-percent participation. As witnesses before the Committee on Agriculture testified and as experience has demonstrated, the most costly program is a program which discourages participation, a program such as the 1984 wheat program announced by the administration.

Specifically, the administration announced program for 1984 crop wheat required a 30-percent acreage reduction program, a significant disincentive to participation, did not provide for a paid diversion, and did not provide for either advance deficiency or diversion payments. In contrast, H.R. 4072, as approved by committee, provided a 20-percent acreage reduction program, a 10-percent paid diversion with a payment rate of $3 per bushel not subject to a 10-percent reduction, and advance deficiency and diversion payments.

These changes in the 1984 wheat program contained in H.R. 4072 as approved by the Committee on Agriculture represented a modest improvement in the 1984 wheat program compared to the program announced by the administration. As a result of unyielding administration insistence on a reduction in the target price for 1984 and 1985 crop wheat, however, H.R. 4072 as approved by committee also established a target price of $4.38 per bushel for 1984 crop wheat and $4.45 per bushel for 1985 crop wheat, reductions from the $4.45 and $4.65 target prices for 1984 and 1985 crop wheat, respectively, as now provided by current law.

As a member of the Wheat, Soybeans, and Feed Grains Subcommittee and the Committee on Agriculture, I opposed the reductions in 1984 and 1985 target prices contained in H.R. 4072 as approved by the committee. The reductions in target prices demanded by the administration are at best penny-wise and pound-foolish policy. More accurately and less charitably, administration demanded reductions in target prices for 1984 and 1985 crop wheat are a serious breach of faith with the Nation's wheat producers. The target prices of $4.45 for 1984 and $4.65 for 1985 mandated by current law are already the product of negotiation and compromise and represent a reduction in target prices. As experience has demonstrated to members of the Committee on Agriculture, for the administration negotiation and compromise do not mean give and take. Negotiation and compromise mean take and take and then take more again. Without assurance the improvements in the 1984 wheat program contained in H.R. 4072 as approved by the committee would be accepted by the administration, the target price reductions would be but another example, not of give and take, but take and take.

The legislation now being considered by the House, unlike the legislation approved by the committee, mandates a further reduction in current law target prices by establishing $4.38 as the target price for both 1984 and 1985 crop wheat. Additionally, as now being considered by the House and unlike as approved by committee, H.R. 4072 also authorizes the Secretary of Agriculture to reduce by 10 percent the payment rate for the 10 percent 1984 paid diversion. These are further examples of take and take by the administration and give and give by our wheat producers without assurance of administration approval of this legislation. I cannot support H.R. 4072 in the form in which it is now being considered by the House.

Mr. MARLENEE. Mr. Speaker, I yield back the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. I thank the gentleman for yielding this time to me.

Mr Speaker a major part of the Wheat Improvement Act of 1983 is not an improvement but a repeat of an expensive and ineffective program called

Payment in Kind. On top of that, part of the program is probably illegal.

No amendments are permitted but there should be one: To cap PIK payments at $50,000. In a study done by the Government Accounting Office, three wheat farms received PIK payments in excess of $1,600,000. This is not helping to save the family farm, this is certainly not to the benefit of the taxpayer. It does help those large farms who need it least. The already rich farmer and corporate farming divisions of conglomerates are the ones who are reaping this harvest. Every other farm program is capped at $50,000 to prevent this type of abuse of taxpayer money.

Second, look at the compensation being offered to get into the PIK program. If you put your land under PIK, with this bill, you will get 85 percent of production. The original bill would have provided 75 percent of production. What is the justification for this increase?

The gentleman will tell you that it is because winter wheat is already being planted, that production costs are being incurred and this is the only way to insure that people will sign up for the program. Yet, it should be pointed out that the Agriculture Department announced this program on August 9 weeks before any significant planting began. This is a repeat of the poor planning that happened this spring, with no lessons learned. The effect is that more wheat than necessary will have to be provided at taxpayer expense.

Mr. Speaker, I support responsible efforts to help the farming community. I was willing to give the PIK program a chance last February. It turned out to be a costly mistake. It was a mistake that did little for the average farmer except buy him another year while continuing to provide the most help to those who do not need it. I see us doing that again in this bill. Unless the committee accepts a cap on PIK payments, I urge my colleagues to reject the bill.

TOTAL PIK PAYMENTS TO THREE LARGEST FARM OPERATORS BY CROP [1]

Crop	Farm	For crop on selected farm	Other crops on selected farm	Operator's other farms	Total
Wheat	Ballantyne Brothers, Box 207, Westhope, ND 58793	$637,146		$32,329	$669,475
	David Glinz, 1521 Skyline Drive, Jamestown, ND 58401	548,100	$8,218	33,188	589,506
	W. T. Waggoner Estate, Drawer 2130; Vernon, TX 76384	421,945		2,079	424,024
Total		1,607,191	8,218	67,596	1,683,005
Sorghum	Flying Diamond Co., Box 69, Van Horn, TX 79855	290,189	435,887	127,998	854,074
	Hughs Livestock Inc., So. Rt., Box 14, Syracuse, KS 67878	250,115	68,076	15,197	333,388
	Higgins Farms Inc., Schyler, NE 68661	241,541	94,915	168,251	504,707
Total		781,845	598,878	311,446	1,692,169
Total for all crops		20,401,368	977,918	1,937,858	23,317,144

[1] The dollar value is calculated by multiplying the PIK quantities from OOC contracts times the weighted average price per unit. The weighted average price is calculated on the basis of PIK needs as of Aug. 29, 1983 (Sept. 9, 1983, for cotton) and the cost of providing the PIK commodities from loans, loan purchases, and OOC inventory.

Mr. FOLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. ENGLISH).

Mr. ENGLISH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I must say I have been in opposition to this bill not because of the fact that I do not admire the efforts of the gentleman from Washington and others in the attempt to bring about a compromise that will improve the participation in the wheat program.

I think those who are from wheat-producing areas are very familiar with the fact that there will be little participation as the program stands today. The reason that I planned to oppose this legislation was the fact that the Department of Agriculture had refused to agree to any compromise, even though the gentleman from Washington has cetainly gone more than half way in his efforts to overcome the concerns the Department says it has, and also due to the fact that it was hoped that the Department could be persuaded to do more.

But this evening I changed my mind. The reason for that is this sheet of paper. It is being delivered to Members' offices. It is a paper that does not carry any indication that it is from the Department of Agriculture, but it is my understanding it is being delivered by Department employees. This particular document, if one chooses to dignify it with that identification lists numerous reasons for the creator's opposition, some of which are enormous, none of which I think are very persuasive. But the very last item is one that is very important to the people in my district, and I think to the people from the southern part of the Great Plains.

The Foley bill contains a provision which would allow haying and grazing. It is a proposal which I offered in the subcommittee, which was retained in the full committee and is in the bill now. It is one that many of our farmers from the southern Great Plains feel is an important tool in the production of livestock. What this USDA sheet says is the allowance of haying and grazing on conserving use acreage will establish an additional source of livestock feed to the long-term detriment of both feed grain and cattle producers.

That is one of the more ridiculous statements that I have seen come out of the Department of Agriculture. So I think it is important, given this type of covert, underhanded attack by USDA, that all of us who are from agriculture areas join together in an effort to stand behind this piece of legislation, modest though it is, in an effort to discourage this kind of juvenile attack in the future.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time.

Mr. FOLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill, H.R. 4072, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 912. An act to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes;

S.J. Res. 199. Joint resolution relating to improving the highway transportation system of the Commonwealth of Virginia.

□ 1930

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in

the order in which that motion was entertained, and then on the motions on which further proceedings were postponed on Tuesday, November 15, 1983.

Votes will be taken in the following order:

H.R. 4325, by the yeas and nays;
H.R. 1264, by the yeas and nays;
H. Res. 190, by the yeas and nays;
H.R. 3922, by the yeas and nays;
H.R. 3622, by the yeas and nays;
H.R. 4278, by the yeas and nays;
H.R. 3960, by the yeas and nays; and
H.R. 3578, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4325, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4325, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 511]

YEAS—422

Ackerman	Brown (CO)	Dicks
Addabbo	Broyhill	Dingell
Akaka	Bryant	Dixon
Albosta	Burton (CA)	Donnelly
Alexander	Burton (IN)	Dorgan
Anderson	Byron	Downey
Andrews (NC)	Campbell	Dreier
Andrews (TX)	Carney	Duncan
Annunzio	Carper	Durbin
Anthony	Carr	Dwyer
Applegate	Chandler	Dymally
Archer	Chappell	Dyson
Aspin	Chappie	Early
AuCoin	Cheney	Eckart
Badham	Clarke	Edgar
Barnard	Clay	Edwards (AL)
Barnes	Clinger	Edwards (CA)
Bartlett	Coats	Edwards (OK)
Bateman	Coelho	Emerson
Bates	Coleman (MO)	English
Bedell	Coleman (TX)	Erdreich
Beilenson	Collins	Erlenborn
Bennett	Conable	Evans (IA)
Bereuter	Conte	Evans (IL)
Berman	Conyers	Fascell
Bethune	Cooper	Fazio
Bevill	Coughlin	Feighan
Biaggi	Courter	Ferraro
Bilirakis	Coyne	Fiedler
Bliley	Craig	Fields
Boehlert	Crane, Daniel	Fish
Boggs	Crane, Philip	Flippo
Boland	Crockett	Florio
Boner	D'Amours	Foglietta
Bonior	Daniel	Foley
Bonker	Dannemeyer	Ford (MI)
Borski	Darden	Ford (TN)
Bosco	Daschle	Forsythe
Boucher	Daub	Fowler
Boxer	Davis	Frank
Breaux	de la Garza	Franklin
Britt	Dellums	Frenzel
Brooks	Derrick	Frost
Broomfield	DeWine	Fuqua
Brown (CA)	Dickinson	Garcia
Gaydos	Mack	Rudd
Gejdenson	Madigan	Russo
Gekas	Markey	Sabo
Gephardt	Marlenee	Savage
Gibbons	Marriott	Schaefer
Gilman	Martin (IL)	Scheuer
Gingrich	Martin (NC)	Schneider
Glickman	Martin (NY)	Schroeder
Gonzalez	Matsui	Schulze
Goodling	Mavroules	Schumer
Gore	Mazzoli	Seiberling
Gradison	McCain	Sensenbrenner
Gramm	McCandless	Shannon
Gray	McCloskey	Sharp
Green	McCollum	Shaw
Gregg	McCurdy	Shelby
Guarini	McDade	Shuster
Gunderson	McEwen	Sikorski
Hall (IN)	McGrath	Siljander
Hall (OH)	McHugh	Simon
Hall, Ralph	McKernan	Sisisky
Hall, Sam	McKinney	Skeen
Hamilton	McNulty	Skelton
Hammerschmidt	Mica	Slattery
Hansen (ID)	Michel	Smith (FL)
Hansen (UT)	Mikulski	Smith (IA)
Harkin	Miller (CA)	Smith (NE)
Harrison	Miller (OH)	Smith (NJ)
Hartnett	Mineta	Smith, Denny
Hatcher	Minish	Smith, Robert
Hawkins	Mitchell	Snowe
Hayes	Moakley	Snyder
Hefner	Molinari	Solomon
Heftel	Mollohan	Spence
Hertel	Montgomery	Spratt
Hightower	Moody	St Germain
Hiler	Moore	Staggers
Hillis	Moorhead	Stangeland
Holt	Morrison (CT)	Stark
Hopkins	Morrison (WA)	Stenholm
Horton	Mrazek	Stokes
Howard	Murphy	Stratton
Hoyer	Murtha	Studds
Hubbard	Myers	Stump
Huckaby	Natcher	Sundquist
Hughes	Neal	Swift
Hunter	Nelson	Synar
Hutto	Nichols	Tallon
Hyde	Nielson	Tauke
Ireland	Nowak	Tauzin
Jacobs	Oakar	Taylor
Jeffords	Oberstar	Thomas (CA)
Jenkins	Obey	Thomas (GA)
Johnson	Olin	Torres
Jones (NC)	Ortiz	Torricelli
Jones (OK)	Ottinger	Towns
Jones (TN)	Owens	Traxler
Kaptur	Oxley	Udall
Kasich	Packard	Valentine
Kastenmeier	Panetta	Vander Jagt
Kazen	Parris	Vandergriff
Kemp	Pashayan	Vento
Kennelly	Patman	Volkmer
Kildee	Patterson	Vucanovich
Kindness	Paul	Walgren
Kogovsek	Pease	Walker
Kolter	Penny	Watkins
Kostmayer	Pepper	Waxman
Kramer	Perkins	Weaver
LaFalce	Petri	Weber
Lagomarsino	Pickle	Weiss
Lantos	Porter	Wheat
Latta	Price	Whitehurst
Leach	Pursell	Whitley
Leath	Quillen	Whittaker
Lehman (CA)	Rahall	Whitten
Lehman (FL)	Ratchford	Williams (MT)
Leland	Ray	Williams (OH)
Lent	Regula	Wilson
Levin	Reid	Winn
Levine	Richardson	Wirth
Levitas	Ridge	Wise
Lewis (FL)	Rinaldo	Wolf
Lipinski	Ritter	Wolpe
Livingston	Roberts	Wortley
Lloyd	Robinson	Wright
Loeffler	Rodino	Wyden
Long (LA)	Roe	Wylie
Long (MD)	Roemer	Yates
Lott	Rogers	Yatron
Lowery (CA)	Rose	Young (AK)
Lowry (WA)	Rostenkowski	Young (FL)
Lujan	Roth	Young (MO)
Luken	Roukema	Zablocki
Lundine	Rowland	Zschau
Lungren	Roybal	

NAYS—0

NOT VOTING—12

Corcoran	MacKay	Rangel
Dowdy	Martinez	Sawyer
Hance	O'Brien	Shumway
Lewis (CA)	Pritchard	Solarz

□ 1940

Mr. STUMP changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1950

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SELECT COMMISSION ON VOLUNTARY SERVICE OPPORTUNITIES ACT OF 1983

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1264, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 1264, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 179, nays 245, not voting 10, as follows:

[Roll No. 512]

YEAS—179

Ackerman	Bryant	Fazio
Addabbo	Burton (CA)	Feighan
Alexander	Byron	Ferraro
Anderson	Clarke	Fish
Andrews (TX)	Clay	Foglietta
Annunzio	Coelho	Ford (MI)
Anthony	Collins	Ford (TN)
Aspin	Conte	Fowler
Barnes	Conyers	Frank
Bateman	Cooper	Frost
Bedell	Coyne	Garcia
Beilenson	Crockett	Gejdenson
Bereuter	Davis	Gilman
Berman	de la Garza	Gonzalez
Biaggi	Dellums	Gore
Boehlert	Derrick	Gradison
Boggs	Dixon	Gray
Boner	Donnelly	Guarini
Bonior	Downey	Gunderson
Bonker	Durbin	Hall (IN)
Borski	Dwyer	Hall (OH)
Bosco	Dymally	Harkin
Boucher	Edgar	Harrison
Boxer	Edwards (CA)	Hatcher
Britt	Evans (IA)	Hawkins
Brooks	Evans (IL)	Hayes
Brown (CA)	Fascell	Hefner

Heftel
Hertel
Howard
Hoyer
Hughes
Jeffords
Kaptur
Kastenmeier
Kennelly
Kildee
Kogovsek
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marriott
Matsui
Mavroules
McCloskey
McHugh
McNulty
Mica
Miller (CA)
Mineta
Moakley
Moody
Morrison (CT)
Murphy
Neal
Nelson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Penny
Perkins
Price
Ratchford
Reid
Richardson
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Savage
Schumer
Seiberling
Sikorski
Simon
Smith (FL)
Smith (IA)
Spratt
St Germain
Staggers
Stokes
Studds
Swift
Tallon
Torres
Torricelli
Towns
Traxler
Udall
Vento
Walgren
Waxman
Weiss
Wheat
Williams (OH)
Wirth
Wise
Wolf
Wolpe
Wright
Yates
Zablocki
Zschau

NAYS—245

Akaka
Albosta
Andrews (NC)
Applegate
Archer
AuCoin
Badham
Barnard
Bartlett
Bates
Bennett
Bethune
Bevill
Bilirakis
Bliley
Boland
Breaux
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Coleman (TX)
Conable
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
DeWine
Dickinson
Dicks
Dingell
Dorgan
Dreier
Duncan
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Florio
Foley
Forsythe
Franklin
Frenzel
Fuqua
Gaydos
Gekas
Gephardt
Gibbons
Gingrich
Glickman
Goodling
Gramm
Green
Gregg
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kazen
Kemp
Kindness
Kolter
Kramer
Lagomarsino
Latta
Leath
Lent
Levitas
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McKernan
McKinney
Michel
Mikulski
Miller (OH)
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nichols
Nielson
Oberstar
Oxley
Packard
Parris
Pashayan
Patman
Paul
Pepper
Petri
Pickle
Porter
Pursell
Quillen
Rahall
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rowland
Rudd
Russo
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stangeland
Stark
Stenholm
Stratton
Stump
Sundquist
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walker
Watkins
Weaver
Weber
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)

NOT VOTING—10

Corcoran
Dowdy
Hance
Lewis (CA)
Martinez
Pritchard
Rangel
Sawyer
Shumway
Solarz

□ 2000

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

EXPRESSING THE SENSE OF THE HOUSE ON EDUCATION OPPORTUNITY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Joint Resolution 190.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and agree to the resolution, House Joint Resolution 190, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 8, not voting 12, as follows:

[Roll No. 513]

YEAS—414

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crockett
D'Amours
Daniel
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ratchford
Regula
Reid
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump

Sundquist	Vento	Wilson
Swift	Volkmer	Winn
Synar	Vucanovich	Wirth
Tallon	Walgren	Wise
Tauke	Walker	Wolf
Tauzin	Watkins	Wolpe
Taylor	Waxman	Wortley
Thomas (CA)	Weaver	Wright
Thomas (GA)	Weber	Wyden
Torres	Weiss	Wylie
Torricelli	Wheat	Yates
Towns	Whitehurst	Yatron
Traxler	Whitley	Young (AK)
Udall	Whittaker	Young (FL)
Valentine	Whitten	Young (MO)
Vander Jagt	Williams (MT)	Zablocki
Vandergriff	Williams (OH)	Zschau

NAYS—8

Crane, Philip	Hansen (ID)	Paul
Dannemeyer	Hansen (UT)	Ridge
Erlenborn	Nielson	

NOT VOTING—12

Conable	Lewis (CA)	Ray
Corcoran	Martinez	Sawyer
Dowdy	Pritchard	Shumway
Hance	Rangel	Solarz

Mr. DANNEMEYER changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2010

POSTAL SAVINGS SYSTEM STATUTE OF LIMITATIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3922, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 3922, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 11, not voting 13, as follows:

[Roll No. 514]

YEAS—410

Ackerman	Biaggi	Carper
Addabbo	Bilirakis	Carr
Akaka	Bliley	Chandler
Albosta	Boehlert	Chappell
Alexander	Boggs	Chappie
Anderson	Boland	Cheney
Andrews (NC)	Boner	Clarke
Andrews (TX)	Bonior	Clay
Annunzio	Bonker	Clinger
Anthony	Borski	Coats
Archer	Bosco	Coelho
Aspin	Boucher	Coleman (MO)
AuCoin	Boxer	Coleman (TX)
Badham	Breaux	Collins
Barnard	Britt	Conable
Barnes	Brooks	Conte
Bartlett	Broomfield	Conyers
Bateman	Brown (CA)	Cooper
Bates	Brown (CO)	Coughlin
Bedell	Broyhill	Courter
Beilenson	Bryant	Coyne
Bennett	Burton (CA)	Craig
Bereuter	Burton (IN)	Crane, Daniel
Berman	Byron	Crane, Philip
Bethune	Campbell	Crockett
Bevill	Carney	D'Amours
Daniel	Huckaby	Nichols
Dannemeyer	Hughes	Nielson
Darden	Hunter	Nowak
Daschle	Hutto	O'Brien
Daub	Hyde	Oakar
Davis	Ireland	Oberstar
de la Garza	Jacobs	Obey
Dellums	Jeffords	Olin
Derrick	Jenkins	Ortiz
DeWine	Johnson	Ottinger
Dickinson	Jones (NC)	Owens
Dicks	Jones (OK)	Oxley
Dingell	Jones (TN)	Packard
Dixon	Kaptur	Panetta
Donnelly	Kasich	Parris
Dorgan	Kastenmeier	Pashayan
Downey	Kazen	Patterson
Dreier	Kemp	Paul
Duncan	Kennelly	Pease
Durbin	Kindness	Penny
Dwyer	Kogovsek	Pepper
Dymally	Kostmayer	Perkins
Dyson	Kramer	Petri
Early	LaFalce	Pickle
Eckart	Lagomarsino	Porter
Edgar	Lantos	Price
Edwards (AL)	Latta	Pursell
Edwards (CA)	Leach	Quillen
Edwards (OK)	Leath	Rahall
Emerson	Lehman (CA)	Ratchford
English	Lehman (FL)	Ray
Erdreich	Leland	Regula
Erlenborn	Lent	Reid
Evans (IA)	Levin	Richardson
Evans (IL)	Levine	Rinaldo
Fascell	Levitas	Ritter
Fazio	Lewis (FL)	Roberts
Feighan	Lipinski	Robinson
Ferraro	Livingston	Rodino
Fiedler	Lloyd	Roe
Fields	Loeffler	Roemer
Fish	Long (LA)	Rogers
Flippo	Long (MD)	Rose
Florio	Lott	Rostenkowski
Foglietta	Lowery (CA)	Roth
Foley	Lujan	Roukema
Ford (MI)	Luken	Rowland
Ford (TN)	Lundine	Roybal
Forsythe	Lungren	Rudd
Fowler	Mack	Russo
Frank	MacKay	Sabo
Franklin	Madigan	Savage
Frenzel	Markey	Schaefer
Frost	Marlenee	Scheuer
Fuqua	Marriott	Schneider
Garcia	Martin (IL)	Schroeder
Gejdenson	Martin (NC)	Schumer
Gekas	Martin (NY)	Seiberling
Gephardt	Matsui	Sensenbrenner
Gibbons	Mavroules	Shannon
Gilman	Mazzoli	Sharp
Gingrich	McCain	Shaw
Glickman	McCandless	Shelby
Gonzalez	McCloskey	Shuster
Goodling	McCollum	Sikorski
Gore	McCurdy	Siljander
Gradison	McDade	Simon
Gramm	McEwen	Sisisky
Gray	McGrath	Skeen
Green	McHugh	Skelton
Guarini	McKernan	Slattery
Gunderson	McKinney	Smith (FL)
Hall (IN)	McNulty	Smith (IA)
Hall (OH)	Mica	Smith (NE)
Hall, Ralph	Michel	Smith (NJ)
Hall, Sam	Mikulski	Smith, Denny
Hamilton	Miller (CA)	Smith, Robert
Hammerschmidt	Miller (OH)	Snowe
Hansen (ID)	Mineta	Snyder
Hansen (UT)	Minish	Solomon
Harkin	Mitchell	Spence
Harrison	Moakley	Spratt
Hartnett	Molinari	St Germain
Hatcher	Mollohan	Staggers
Hayes	Montgomery	Stangeland
Hefner	Moody	Stark
Hertel	Moore	Stenholm
Hightower	Moorhead	Stokes
Hiler	Morrison (CT)	Stratton
Hillis	Morrison (WA)	Studds
Holt	Mrazek	Stump
Hopkins	Murtha	Sundquist
Horton	Myers	Swift
Howard	Natcher	Synar
Hoyer	Neal	Tallon
Hubbard	Nelson	Tauke
Tauzin	Walker	Wise
Taylor	Watkins	Wolf
Thomas (CA)	Waxman	Wolpe
Thomas (GA)	Weaver	Wortley
Torres	Weber	Wright
Torricelli	Weiss	Wyden
Towns	Wheat	Wylie
Traxler	Whitehurst	Yates
Udall	Whitley	Yatron
Valentine	Whittaker	Young (AK)
Vander Jagt	Whitten	Young (FL)
Vandergriff	Williams (OH)	Young (MO)
Volkmer	Wilson	Zablocki
Vucanovich	Winn	Zschau
Walgren	Wirth	

NAYS—11

Applegate	Kolter	Schulze
Gaydos	Lowry (WA)	Vento
Heftel	Murphy	Williams (MT)
Kildee	Patman	

NOT VOTING—13

Corcoran	Lewis (CA)	Sawyer
Dowdy	Martinez	Shumway
Gregg	Pritchard	Solarz
Hance	Rangel	
Hawkins	Ridge	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CREDIT CARD PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3622, as amended.

The Clerk read the title of the bill.

The text of H.R. 3622, as amended, is included herewith as follows, in lieu of the text of the bill which was printed in the RECORD of November 15, 1983.

H.R. 3622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Credit Card Protection Act".

RESTRICTIONS ON DISCLOSURE OF CREDIT CARD OR PAYMENT DEVICE NUMBERS

SEC. 2. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following:

"§ 137. Restrictions on disclosure of credit card or payment device numbers

"(a) No person shall disclose any credit card or payment device number unless—

"(1) such person is disclosing a credit card or payment device number in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, or credit card or payment device recovery that relates to such credit card or payment device number, an account accessed by such credit card or payment account number, or debts or obligations arising, alone or in conjunction with another means of payment, from the use of the credit card or payment device numbers;

"(2) such person is the holder of the credit card or payment device number or is disclosing the credit card or payment device number to the holder or issuer of the credit card or payment device number;

"(3) such disclosure is reasonably necessary in connection—

"(A) with the sale or pledge, or negotiation of the sale or pledge, of all or a portion of a business or the assets of a business;

"(B) with the management, operation, or other activities involving the internal functioning of the business of such person making such disclosure; or

"(C) with the management, operation, or other activities involving disclosures between a corporation and its subsidiaries or controlled affiliates or between such subsidiaries or such controlled affiliates provided that disclosures for marketing purposes shall not be made if the holder of an active credit card or payment device number has notified the issuer in writing at an address specified by the issuer that such use is not permitted. The issuer shall provide holders of active accounts notice of such nondisclosure option and the specified address on a periodic basis at the issuer's discretion provided the time between such notifications does not exceed one year. The issuer shall comply with such elections within 45 days after receipt of the holder's response. The election shall remain in effect until the holder rescinds the election or until there have been no debits or credits to the account for a twelve-month period.

"(4) such person makes the disclosure to a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act; or

"(5) such person makes the disclosure solely under a circumstance specified in section 604 of the Fair Credit Reporting Act regardless of whether such person is a consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act and regardless of whether the disclosure is a consumer report, except that such person shall not furnish any report containing a credit card or payment device number prior to receipt of an individual written, oral, or electronic certification from the requester—

"(A) containing the reason that the credit card or payment device number is required; and

"(B) that the credit card or payment device number—

"(i) cannot be obtained under a circumstance specified in this section; or

"(ii) that such credit card or payment device number is needed for security, or loss or fraud prevention purposes.

"(b) No person shall intentionally obtain any credit card or payment device number except as provided under this section.

"(c) Nothing in this section shall affect the rights or limitations of persons to disclose credit card or payment device numbers to, or at the direction of, governmental entitlies under any other provision of law.

"(d) For purposes of this section—

"(1) the term 'payment device number' means any code, account number, or other means of account access (other than a check, draft, or similar paper instrument) that can be used to obtain money, goods, services, or any thing of value, or for purposes of initiating a transfer of funds, except that such term does not include an encoded or truncated credit card or payment device number; and

"(2) the term 'holder' means any person—

"(A) who was issued a credit card or payment device number;

"(B) who is authorized by such holder to use such credit card or payment device number; or

"(C) who is authorized at the specific request of the holder to receive such credit card or payment device number on behalf of the holder.

"(e) Any person who fails to comply with any requirement imposed under this section shall be a creditor for purposes of section 130.".

(b) The table of sections contained at the beginning of chapter 2 of the Truth in lending Act is amended by adding at the end thereof the following:

"137. Restrictions on disclosure of credit card or payment device numbers.".

FRAUDULENT USE OF A CREDIT CARD

SEC. 3. Section 134 of the Truth in Lending Act (15 U.S.C 1644) is amended—

(1) in subsection (a)—

(A) by striking out "any" the first time it appears and inserting in lieu thereof "one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "credits cards or payment devices";

(2) in subsection (b), by inserting "or payment device" after "credit card";

(3) in subsection (c), by inserting "or payment device" after "credit card";

(4) in subsection (d)—

(A) by striking out "with a" and inserting in lieu thereof "with one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "credit cards or payment devices";

(5) in subsection (e)—

(A) by inserting "or payment devices" after "credit cards"; and

(B) by striking out "or" at the end thereof;

(6) in subsection (f)—

(A) by striking out "any" the second time it appears and inserting in lieu thereof "one or more"; and

(B) by striking out "credit card" and inserting in lieu thereof "credit cards or payment devices";

(7) by inserting before "shall be" the following:

"(g) Whoever, with unlawful or fraudulent intent, possesses five or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards or payment devices that have moved in, been part of, or constituted interstate or foreign commerce—"; and

(8) by adding at the end thereof the following: "For purposes of this section, the term 'payment device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another payment device, to obtain money, goods, services, or any other things of value, or for the purpose of initiating a transfer of funds (other than a transfer originated by check, draft, or other similar paper instrument).".

CONFORMING AMENDMENT

SEC. 4. Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended by striking out "and 134" and inserting in lieu thereof "134, and 137".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect ninety days after the date of enactment of this Act, except that—

(1) section 3 take effect upon the date of enactment of this Act, and

(2) restrictions with respect to the furnishing of credit card or payment device numbers imposed upon consumer reporting agencies under section 137 of the Truth in Lending Act (as added by the amendments made by section 2 of this Act) shall take effect one year from the date of the enactment of this Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill H.R. 3622, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 12, as follows:

[Roll No. 515]

YEAS—422

Ackerman	D'Amours	Hall, Ralph
Addabbo	Daniel	Hall, Sam
Akaka	Dannemeyer	Hamilton
Albosta	Darden	Hammerschmidt
Anderson	Daschle	Hansen (ID)
Andrews (NC)	Daub	Hansen (UT)
Andrews (TX)	Davis	Harkin
Annunzio	de la Garza	Harrison
Anthony	Dellums	Hartnett
Applegate	Derrick	Hatcher
Archer	DeWine	Hayes
Aspin	Dickinson	Hefner
AuCoin	Dicks	Heftel
Badham	Dingell	Hertel
Barnard	Dixon	Hightower
Barnes	Donnelly	Hiler
Bartlett	Dorgan	Hillis
Bateman	Downey	Holt
Bates	Dreier	Hopkins
Bedell	Duncan	Horton
Beilenson	Durbin	Howard
Bennett	Dwyer	Hoyer
Bereuter	Dymally	Hubbard
Berman	Dyson	Huckaby
Bethune	Early	Hughes
Bevill	Eckart	Hunter
Biaggi	Edgar	Hutto
Bilirakis	Edwards (AL)	Hyde
Bliley	Edwards (CA)	Ireland
Boehlert	Edwards (OK)	Jacobs
Boggs	Emerson	Jeffords
Boland	English	Jenkins
Boner	Erdreich	Johnson
Bonior	Erlenborn	Jones (NC)
Bonker	Evans (IA)	Jones (OK)
Borski	Evans (IL)	Jones (TN)
Bosco	Fascell	Kaptur
Boucher	Fazio	Kasich
Boxer	Feighan	Kastenmeier
Breaux	Ferraro	Kazen
Britt	Fiedler	Kemp
Brooks	Fields	Kennelly
Broomfield	Fish	Kildee
Brown (CA)	Flippo	Kindness
Brown (CO)	Florio	Kogovsek
Broyhill	Foglietta	Kolter
Bryant	Foley	Kostmayer
Burton (CA)	Ford (MI)	Kramer
Burton (IN)	Ford (TN)	LaFalce
Byron	Forsythe	Lagomarsino
Campbell	Fowler	Lantos
Carney	Frank	Latta
Carper	Franklin	Leach
Carr	Frenzel	Leath
Chandler	Frost	Lehman (CA)
Chappell	Fuqua	Lehman (FL)
Chappie	Garcia	Leland
Cheney	Gaydos	Lent
Clarke	Gejdenson	Levin
Clay	Gekas	Levine
Clinger	Gephardt	Levitas
Coats	Gibbons	Lewis (FL)
Coelho	Gilman	Lipinski
Coleman (MO)	Gingrich	Livingston
Coleman (TX)	Glickman	Lloyd
Collins	Gonzalez	Loeffler
Conable	Goodling	Long (LA)
Conte	Gore	Long (MD)
Conyers	Gradison	Lott
Cooper	Gramm	Lowery (CA)
Coughlin	Gray	Lowry (WA)
Courter	Green	Lujan
Coyne	Gregg	Luken
Craig	Guarini	Lundine
Crane, Daniel	Gunderson	Lungren
Crane, Philip	Hall (IN)	Mack
Crockett	Hall (OH)	MacKay

Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zschau

NAYS—0

NOT VOTING—12

Alexander
Corcoran
Dowdy
Hance
Hawkins
Lewis (CA)
Martinez
Pritchard
Rangel
Sawyer
Shumway
Solarz

□ 2020

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENDING BAN ON CREDIT CARD SURCHARGES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4278.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 4278, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 73, not voting 12, as follows:

[Roll No. 516]

YEAS—349

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Byron
Carney
Carper
Carr
Chandler
Chappell
Chappie
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
D'Amours
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Harkin
Harrison
Hatcher
Hayes
Hefner
Heftel
Hertel
Hightower
Hillis
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
MacKay
Madigan
Markey
Marlenee
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Rahall
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Shaw
Sikorski
Siljander
Simon
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert
Snowe
Snyder
Spence
St Germain
Staggers
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki

NAYS—73

Archer
Badham
Barnard
Bartlett
Bilirakis
Bliley
Brown (CO)
Broyhill
Burton (IN)
Campbell
Cheney
Conable
Cooper
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
DeWine
Dreier
Edwards (AL)
Erlenborn
Fields
Frank
Franklin
Frenzel
Gramm
Hall, Sam
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Holt
Hopkins
Hunter
Ireland
Kindness
Leath
Livingston
Lott
Lujan
Lungren
Mack
Marriott
Martin (IL)
Martin (NC)
McCain
Michel
Moorhead
Myers
Nielson
Olin
Oxley
Packard
Paul
Quillen
Roemer
Rudd
Schaefer
Shelby
Shuster
Smith, Denny
Solomon
Spratt
Stenholm
Stump
Sundquist
Thomas (CA)
Vucanovich
Walker
Zschau

NOT VOTING—12

Alexander
Corcoran
Dowdy
Hance
Hawkins
Lewis (CA)
Martinez
Pritchard
Rangel
Sawyer
Shumway
Solarz

□ 2030

Mr. HUNTER changed his vote from "yea" to "nay."

Mr. FLIPPO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NORTH CAROLINA WILDERNESS ACT OF 1983

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3960, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3960, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 21, not voting 15, as follows:

[Roll No. 517]

YEAS—398

Addabbo	DeWine	Holt
Akaka	Dicks	Horton
Albosta	Dingell	Howard
Anderson	Dixon	Hoyer
Andrews (NC)	Donnelly	Hubbard
Andrews (TX)	Dorgan	Huckaby
Annunzio	Downey	Hughes
Anthony	Duncan	Hunter
Applegate	Durbin	Hutto
Archer	Dwyer	Hyde
Aspin	Dymally	Ireland
AuCoin	Dyson	Jacobs
Barnard	Early	Jeffords
Barnes	Eckart	Jenkins
Bartlett	Edgar	Johnson
Bateman	Edwards (AL)	Jones (NC)
Bates	Edwards (CA)	Jones (OK)
Bedell	Edwards (OK)	Jones (TN)
Beilenson	Emerson	Kaptur
Bennett	English	Kasich
Bereuter	Erdreich	Kastenmeier
Berman	Erlenborn	Kazen
Bethune	Evans (IA)	Kennelly
Bevill	Evans (IL)	Kildee
Biaggi	Fascell	Kindness
Bilirakis	Fazio	Kogovsek
Bliley	Feighan	Kolter
Boehlert	Ferraro	Kostmayer
Boggs	Fiedler	Kramer
Boland	Fields	LaFalce
Boner	Fish	Lagomarsino
Bonior	Flippo	Lantos
Bonker	Florio	Leach
Borski	Foglietta	Leath
Bosco	Foley	Lehman (CA)
Boucher	Ford (MI)	Lehman (FL)
Boxer	Ford (TN)	Leland
Breaux	Forsythe	Lent
Britt	Fowler	Levin
Brooks	Franklin	Levine
Broomfield	Frenzel	Levitas
Brown (CA)	Frost	Lewis (FL)
Brown (CO)	Fuqua	Lipinski
Broyhill	Garcia	Livingston
Bryant	Gaydos	Lloyd
Burton (CA)	Gejdenson	Long (LA)
Byron	Gekas	Long (MD)
Campbell	Gephardt	Lott
Carney	Gibbons	Lowery (CA)
Carper	Gilman	Lowry (WA)
Carr	Gingrich	Lujan
Chandler	Glickman	Luken
Chappell	Gonzalez	Lundine
Chappie	Goodling	Lungren
Clarke	Gore	Mack
Clay	Gradison	MacKay
Clinger	Gray	Madigan
Coats	Green	Markey
Coelho	Gregg	Marlenee
Coleman (MO)	Guarini	Marriott
Coleman (TX)	Gunderson	Martin (IL)
Collins	Hall (IN)	Martin (NC)
Conable	Hall (OH)	Martin (NY)
Conte	Hall, Ralph	Matsui
Conyers	Hall, Sam	Mavroules
Cooper	Hamilton	Mazzoli
Coughlin	Hammerschmidt	McCain
Courter	Harkin	McCandless
Coyne	Harrison	McCloskey
Crockett	Hartnett	McCollum
D'Amours	Hatcher	McCurdy
Daniel	Hayes	McDade
Darden	Hefner	McEwen
Daschle	Heftel	McGrath
Daub	Hertel	McHugh
de la Garza	Hightower	McKernan
Dellums	Hiler	McKinney
Derrick	Hillis	McNulty
Mica	Richardson	Stokes
Michel	Ridge	Stratton
Mikulski	Rinaldo	Studds
Miller (CA)	Ritter	Sundquist
Miller (OH)	Roberts	Swift
Mineta	Robinson	Synar
Minish	Rodino	Tallon
Mitchell	Roe	Tauke
Moakley	Roemer	Tauzin
Molinari	Rogers	Taylor
Mollohan	Rose	Thomas (CA)
Montgomery	Rostenkowski	Thomas (GA)
Moody	Roth	Torres
Moore	Roukema	Torricelli
Moorhead	Rowland	Towns
Morrison (CT)	Roybal	Traxler
Morrison (WA)	Rudd	Udall
Mrazek	Russo	Valentine
Murphy	Sabo	Vander Jagt
Murtha	Savage	Vandergriff
Natcher	Schaefer	Vento
Neal	Scheuer	Volkmer
Nelson	Schneider	Vucanovich
Nichols	Schroeder	Walgren
Nielson	Schulze	Walker
Nowak	Schumer	Watkins
O'Brien	Seiberling	Waxman
Oakar	Sensenbrenner	Weaver
Oberstar	Shannon	Weber
Obey	Sharp	Weiss
Olin	Shaw	Wheat
Ortiz	Shelby	Whitehurst
Ottinger	Shuster	Whitley
Owens	Sikorski	Whittaker
Oxley	Siljander	Whitten
Packard	Simon	Williams (MT)
Panetta	Sisisky	Williams (OH)
Parris	Skeen	Wilson
Pashayan	Skelton	Winn
Patterson	Slattery	Wirth
Pease	Smith (FL)	Wise
Penny	Smith (IA)	Wolf
Pepper	Smith (NE)	Wolpe
Perkins	Smith (NJ)	Wortley
Petri	Smith, Robert	Wright
Pickle	Snowe	Wyden
Porter	Snyder	Wylie
Price	Solomon	Yates
Pursell	Spence	Yatron
Quillen	Spratt	Young (AK)
Rahall	St Germain	Young (FL)
Ratchford	Staggers	Young (MO)
Ray	Stangeland	Zablocki
Regula	Stark	Zschau
Reid	Stenholm	

NAYS—21

Badham	Davis	Latta
Burton (IN)	Dickinson	Loeffler
Cheney	Dreier	Myers
Craig	Gramm	Patman
Crane, Daniel	Hansen (ID)	Paul
Crane, Philip	Hansen (UT)	Smith, Denny
Dannemeyer	Hopkins	Stump

NOT VOTING—15

Ackerman	Hance	Pritchard
Alexander	Hawkins	Rangel
Corcoran	Kemp	Sawyer
Dowdy	Lewis (CA)	Shumway
Frank	Martinez	Solarz

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WISCONSIN WILDNERNESS ACT OF 1983

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3578.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3578, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 17, not voting 15, as follows:

[Roll No. 518]

YEAS—402

Addabbo	Dorgan	Jeffords
Akaka	Downey	Jenkins
Albosta	Duncan	Johnson
Anderson	Durbin	Jones (NC)
Andrews (NC)	Dwyer	Jones (OK)
Andrews (TX)	Dymally	Jones (TN)
Annunzio	Dyson	Kaptur
Anthony	Early	Kasich
Applegate	Eckart	Kastenmeier
Archer	Edgar	Kazen
Aspin	Edwards (AL)	Kennelly
AuCoin	Edwards (CA)	Kildee
Barnard	Edwards (OK)	Kindness
Barnes	Emerson	Kogovsek
Bartlett	English	Kolter
Bateman	Erdreich	Kostmayer
Bates	Erlenborn	Kramer
Bedell	Evans (IA)	LaFalce
Beilenson	Evans (IL)	Lagomarsino
Bennett	Fascell	Lantos
Bereuter	Fazio	Latta
Berman	Feighan	Leach
Bethune	Ferraro	Leath
Bevill	Fiedler	Lehman (CA)
Biaggi	Fields	Lehman (FL)
Bilirakis	Fish	Leland
Bliley	Flippo	Lent
Boehlert	Florio	Levin
Boggs	Foglietta	Levine
Boland	Foley	Levitas
Boner	Ford (MI)	Lewis (FL)
Bonior	Ford (TN)	Lipinski
Bonker	Forsythe	Livingston
Borski	Fowler	Lloyd
Bosco	Franklin	Long (LA)
Boucher	Frenzel	Long (MD)
Boxer	Frost	Lott
Breaux	Fuqua	Lowery (CA)
Britt	Garcia	Lowry (WA)
Brooks	Gaydos	Lujan
Broomfield	Gejdenson	Luken
Brown (CA)	Gekas	Lundine
Brown (CO)	Gephardt	Lungren
Broyhill	Gibbons	Mack
Bryant	Gilman	MacKay
Burton (CA)	Gingrich	Madigan
Burton (IN)	Glickman	Markey
Byron	Gonzalez	Marlenee
Campbell	Goodling	Marriott
Carney	Gore	Martin (IL)
Carper	Gradison	Martin (NC)
Carr	Gray	Martin (NY)
Chandler	Green	Matsui
Chappell	Gregg	Mavroules
Chappie	Guarini	Mazzoli
Clarke	Gunderson	McCain
Clay	Hall (IN)	McCandless
Clinger	Hall (OH)	McCloskey
Coats	Hall, Ralph	McCollum
Coelho	Hall, Sam	McCurdy
Coleman (MO)	Hamilton	McDade
Coleman (TX)	Harkin	McEwen
Collins	Harrison	McGrath
Conable	Hartnett	McHugh
Conte	Hatcher	McKernan
Conyers	Hayes	McKinney
Cooper	Hefner	McNulty
Coughlin	Heftel	Mica
Courter	Hertel	Michel
Coyne	Hightower	Mikulski
Crockett	Hiler	Miller (CA)
D'Amours	Hillis	Miller (OH)
Daniel	Holt	Mineta
Darden	Hopkins	Minish
Daschle	Horton	Mitchell
Daub	Howard	Moakley
de la Garza	Hoyer	Molinari
Dellums	Hubbard	Mollohan
Derrick	Huckaby	Montgomery
DeWine	Hughes	Moody
Dickinson	Hunter	Moore
Dicks	Hutto	Moorhead
Dingell	Hyde	Morrison (CT)
Dixon	Ireland	Morrison (WA)
Donnelly	Jacobs	Mrazek

Murphy	Rostenkowski	Synar
Murtha	Roth	Tallon
Myers	Roukema	Tauke
Natcher	Rowland	Tauzin
Neal	Roybal	Taylor
Nelson	Rudd	Thomas (CA)
Nichols	Russo	Thomas (GA)
Nielson	Sabo	Torres
Nowak	Savage	Torricelli
O'Brien	Schaefer	Towns
Oakar	Scheuer	Traxler
Oberstar	Schneider	Udall
Obey	Schroeder	Valentine
Olin	Schulze	Vander Jagt
Ortiz	Schumer	Vandergriff
Ottinger	Seiberling	Vento
Owens	Sensenbrenner	Volkmer
Oxley	Shannon	Vucanovich
Packard	Sharp	Walgren
Panetta	Shaw	Walker
Parris	Shelby	Watkins
Pashayan	Shuster	Waxman
Patterson	Sikorski	Weaver
Pease	Siljander	Weber
Penny	Simon	Weiss
Pepper	Sisisky	Wheat
Perkins	Skeen	Whitehurst
Petri	Skelton	Whitley
Pickle	Slattery	Whittaker
Porter	Smith (FL)	Whitten
Price	Smith (IA)	Williams (MT)
Pursell	Smith (NE)	Williams (OH)
Quillen	Smith (NJ)	Wilson
Rahall	Smith, Robert	Winn
Ratchford	Snowe	Wirth
Ray	Snyder	Wise
Regula	Solomon	Wolf
Reid	Spence	Wolpe
Richardson	Spratt	Wortley
Ridge	St Germain	Wright
Rinaldo	Staggers	Wyden
Ritter	Stangeland	Wylie
Roberts	Stark	Yates
Robinson	Stenholm	Yatron
Rodino	Stokes	Young (AK)
Roe	Stratton	Young (FL)
Roemer	Studds	Young (MO)
Rogers	Sundquist	Zablocki
Rose	Swift	Zschau

NAYS—17

Badham	Davis	Loeffler
Cheney	Dreier	Patman
Craig	Gramm	Paul
Crane, Daniel	Hammerschmidt	Smith, Denny
Crane, Philip	Hansen (ID)	Stump
Dannemeyer	Hansen (UT)	

NOT VOTING—15

Ackerman	Hance	Pritchard
Alexander	Hawkins	Rangel
Corcoran	Kemp	Sawyer
Dowdy	Lewis (CA)	Shumway
Frank	Martinez	Solarz

□ 2040

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority whip the program for the balance of this evening and to give us a little insight into what is in store for Members tonight and maybe tomorrow.

Mr. FOLEY. If the distinguished Republican leader will yield to me, I would tell the Members that we intend to take up one additional conference report this evening.

Mr. MICHEL. And that is what?

Mr. FOLEY. The physicians' comparability allowance amendments, H.R. 2077. And then we have three unanimous consent requests.

Mr. MICHEL. Such as?

Mr. FOLEY. We are thinking about one to restore 5 days for the Members to revise and extend their remarks on the ERA bill yesterday.

Mr. MICHEL. Are you limiting the number of words in those extensions?

Mr. FOLEY. Mrs. HALL of Indiana has three unanimous consent requests to make regarding commemorative days.

Tomorrow we shall consider the rule on the Tax Reform Act. Then we will take up H.R. 3435, the education for handicapped bill, with 1 hour of debate and an open rule; H.R. 2755, the Communications Commission authorization; H.R. 2350, the Health Research Extension Act, the completion of NIH authorizations; and H.R. 3323, the Washington Workshop authorization. We would hope to complete that program.

Mr. MICHEL. Might I inquire when we would be taking up that Cyprus resolution?

Mr. FOLEY. Tomorrow, I believe, by unanimous consent.

Mr. MICHEL. And do I understand that tomorrow we would take up only the rule on the tax measure?

Mr. FOLEY. Yes, the gentleman is correct. We will not take up the bill itself. We will take up only the rule. On Friday we would intend to take up the bill.

Mr. MICHEL. And when do we intend to take up the joint resolution on adjournment?

Mr. FOLEY. Immediately.

Mr. MICHEL. Fine.

PROVIDING FOR ADJOURNMENT SINE DIE ON THURSDAY, NOVEMBER 17, 1983, FRIDAY NOVEMBER 18, 1983, OR SATURDAY, NOVEMBER 19, 1983

Mr. FOLEY. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 221) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 221

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, November 17, 1983, on Friday, November 18, 1983, or on Saturday, November 19, 1983, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, and that when the Senate adjourns on Thursday, November 17, 1983, on Friday, November 18, 1983, or on Saturday, November 19, 1983, pursuant to a motion made by the majority leader in accordance with this resolution, they stand adjourned sine die, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House, after consultation with the minority leader of the House, and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

□ 2050

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONVENING OF 2D SESSION OF THE 98TH CONGRESS

Mr. FOLEY. Mr. Speaker, I offer a joint resolution (H.J. Res 421) providing for the convening of the 2d session of the 98th Congress, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resloution, as follows:

H.J. RES. 421

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the second regular session of the Ninety-eighth Congress shall begin at 12 o'clock meridian on Monday, January 23, 1984.

SEC. 2. That prior to the convening of the second regular session of the Ninety-eighth Congress on January 23, 1984, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House, after consultation with the minority leader of the House, and the majority leader of the Senate, after consultation with the minority leader of the Senate, acting jointly, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SECOND ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES COVERING 1983—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the

Committee on Interior and Insular Affairs.

(For message, see proceedings of the Senate of today, Wednesday, November 16, 1983.)

CONFERENCE REPORT ON H.R. 2077, FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE ACT

Mr. FORD of Michigan. Mr. Speaker, I call up the conference report on the bill (H.R. 2077) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

The Clerk read the title of the bill.

There was no objection.

The SPEAKER. Pursuant to the order of the House of November 15, 1983, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 12 (legislative day of November 10), 1983.)

The SPEAKER. The gentleman from Michigan (Mr. FORD) will be recognized for 30 minutes and the gentleman from New York (Mr. GILMAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to explain the conference report on the bill H.R. 2077, to extend the Federal Physicians Comparability Allowance Act of 1978.

The 1978 act authorizes heads of agencies to enter into service agreements with certain Government physicians under which the physicians will ageee to remain with the agencies in return for special allowances. A special allowance may not exceed $7,000 per year in the case of an individual who has served as a Government physician for less that 2 years or $10,000 in the case of a physician who served for more than 2 years. The authority to enter into these agreements expired September 30 of this year.

On September 19 the House, by voice vote, approved a simple 2-year extension of the act. The other body, however, approved a companion measure which provided a 4-year extension, provided special relief for 13 physicians who had received allowances which exceeded the legal limit, and addressed the problem of double coverage of those Federal employees who will be covered by social security beginning next year.

The conference report provisions concerning the 1978 act are straightforward. The House conferees accepted the Senate proposal for a 4-year extension, and the relief provisions were modified to insure relief would also be provided to any additional Government physician situated similarly to the 13 named in the Senate bill. The House conferees also accepted the Senate proposal relating to the double coverage problem, although several very important modifications were included. The provisions dealing with the double coverage problem are rather complicated, and I want to take some time to explain them.

As a result of the Social Security Act amendments enacted earlier this year, two groups of Government workers will come under social security next year. The first group is newly hired employees—those hired on or after January 1, 1984. The second group is certain current employees and includes current Members, the President and Vice President, individuals in Executive Schedule positions—that is, cabinet secretaries, deputy and assistant secretaries, heads and top officials in other agencies, boards, and commissions, and other top officials—White House officials, and political appointees in the Senior Executive Service and the Senior Foreign Service.

Except for Members and congressional employees, participation in the civil service retirement system is mandatory under current law. As a result, beginning next year those employees who become subject to social security will be double covered, that is, they will be required to pay the 7-percent social security tax and the 7 percent civil service retirement contribution. Eventually, a new supplemental retirement plan must be developed for those Federal employees covered by social security. But it is now clear that development of such a plan cannot be completed and the plan enacted until 1985 at the earliest. In the meantime, we must face the double coverage problem.

On August 31 the Comptroller General issued a report discussing the potential effects of double coverage, and on September 20 he appeared before the Committee on Post Office and Civil Service and discussed the report. The Comptroller General concluded that double coverage would be a problem. His report noted:

> The contributions to be required of new employees would place the Government at a competitive disadvantage because of the substantial reduction in take-home pay thus adversely affecting recruitment and retention efforts. Officials in the five departments and agencies we visited told us that the higher retirement contributions would make recruiting more difficult particularly in those occupations where the Government pays special salary rates.

The double coverage problem is not limited to the civil service retirement system. The same problem exists with respect to other Government retirement systems which cover employees who were not covered by social security. Examples of such systems are the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System. The conference report addresses the double coverage problem for each of these systems.

The conference report is founded on three principles that, until a supplemental retirement system is established, there should be: First, continued retirement coverage for newly hired employees; second, no interruption of or reduction in total contributions to the retirement systems involved; and third, equity in overall contribution levels between current and newly hired employees. It provides that newly hired employees will be fully covered under both social security and the appropriate Government retirement system during a 2-year transition period ending no later than January 1, 1986. During this period employees will pay the full social security tax and, in addition, pay 1.3 percent to pay into the applicable Government retirement system. Thus total contributions for newly hired employees will be comparable to those of current employees who generally pay a 7-percent retirement contribution and the 1.3-percent medicare tax. Employing agencies will continue to make their full retirement contributions (normally 7 percent). The difference between the employee's normal contribution and the amount actually contributed will be made up by the Treasury.

Benefits for newly hired employees will be as follows:

Any retirement benefit commencing during the transition period (1984 and 1985) will be offset by the amount of any social security benefit attributable to service during that period.

If by the end of the transition period no new supplemental retirement plan has been established, the full contribution rate again will be applicable, and retirement credit—including credit for disability retirement—for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate—in most cases 7 percent—and the rate actually paid during that period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor will be permitted to make the deposit. There is no social security offset.

Current employees who are being brought under social security are given certain options. Unlike newly hired employees who may elect whether or not to accept Government employment and face the uncertainties of a yet-to-established supplemental retirement program, current employees have no alternative other than to resign (which in many instances would involve resignations from elected offices, lifetime judicial appointments, or Presidentially appointed and

Senate-confirmed positions). Also, unlike most newly hired employees, many in this group have made a substantial investment in, and have earned substantial credits under, their current covered retirement systems. For these individuals, the rules are being changed in the middle of the game. The conferees believe this is unfair, and some flexibilty should be provided for these individuals.

A current employee who is participating in a Government retirement system is given three options. First, he may elect to discontinue participation in the Government retirement system and be covered only by social security. Second, he may elect to continue full participation in the Government retirement system and pay both the full social security tax and the full retirement contribution. Third, he may become subject to the interim system established by the conference agreement including reduced retirement contributions and social security offsets. An election must be made by December 31, 1983. If no election is made, the employee becomes subject to the interim system.

A current employee who is not participating in a Government retirement system is given the same three options. In that case, however, if no election is made, the employee will continue to be subject only to social security coverage.

If a current employee becomes subject to the interim system, benefits will be as follows:

With respect to a retirement benefit commencing during the transition period—1984 and 1985—retirement credit for service during that period will be allowed only if the employee deposits the difference between the normal contribution rate—in most cases 7 percent—and the rate actually paid during that period (1.3 percent). An exception is made for disability and survivor benefits. No deposit is necessary in those cases, but the benefit will be offset by the amount of any social security benefit attributable to service during the transition period.

If by the end of the transition period no new supplemental plan has been established, or such a plan does not apply to current employees, the full contribution rate again will be applicable, and retirement credit for service during the transition period will be allowed only if the employee deposits the difference between the normal contribution rate—in most cases 7 percent—and the rate actually paid during the period (1.3 percent). In the case of an employee who dies without making the necessary deposit, a survivor would be permitted to make the deposit.

The conference report provides a responsible approach to a difficult problem. It is acceptable to the administration, it is supported by employee organizations, and it was endorsed by every member of the conference committee. I urge Members to support it.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR), the chairman of the subcommittee handling this legislation.

Ms. OAKAR. Mr. Speaker, as the sponsor here in the House of H.R. 2077, I am pleased to rise in support of the conference agreement on the bill.

Mr. Speaker, we all want the best and brightest, the most competent and efficient employees staffing our Federal work force. However, we have problems attracting and retaining the best people in Government service, and more serious difficulties loom on the horizon. This bill makes major advances in our recruitment and retention efforts, and I am pleased to have sponsored the original legislation and have been a member of the conference committee.

H.R. 2077 accomplishes two basic purposes. First, it extends the Federal Physicians Comparability Allowance Act of 1978 for 4 additional years. This act authorizes the heads of agencies to enter into special service agreements and pay special bonuses to categories of physicians in which significant recruiting and retention problems exist. The Federal Government employs almost 3,000 physicians, and about 1,300 or 43 percent of these receive comparability allowances.

In addition, the bill addresses the dual coverage problems that new Federal employee will face the beginning of next year. As we are all aware, as of January 1, 1984, new Federal employees will be covered under both the civil service retirement system and social security. This will necessitate a 14-percent employee contribution into both systems. I believe everyone can appreciate the major problems we will face recruiting and retaining the best and brightest employees in Government service if they are forced to pay 14 percent of their salaries into social security and civil service retirement systems. Our committee has embarked on a 2-year effort to design a supplement retirement system for these employees. However, in this interim period, legislation is needed to provide temporary relief to our new employees until a new supplemental retirement system can be implemented. In the legislation before us, I believe we have constructed an equitable solution which will insure the integrity of the civil service retirement system, protect our current employees, and provide some temporary relief to our new employees.

H.R. 2977 has the support of every party directly affected by the legislation. The administration as well as the Federal employee unions and organizations support the bill. The Senate has already agreed to the conference report on a voice vote. All that remains is for this House to add its support, and I urge my colleagues to do so.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the major provisions of this conference report provide for a temporary solution to the problem of double coverage of new Federal employees and under Members of Congress under both the social security and civil service retirement systems.

As a result of the 1983 social security amendments, Federal employees first hired after December 31, 1983, and certain categories of employees hired before that date, will be covered under social security. When the amendments were enacted, it was obvious a new retirement system would have to be established for those employees to supplement the social security benefits they will be earning. It also was recognized that the design of a new supplementary retirement system would be a complicated, protracted undertaking.

The Post Office and Civil Service Committee has begun work on a new supplementary retirement system, but it is highly unlikely a new system will be in place before January 1, 1986.

The conference report, already agreed to by the other body and supported by all of the conferees, provides equitable treatment for all Federal employees until a new supplementary retirement plan is in place. Furthermore, it eliminates a situation where the Federal Government would be at a competitive disadvantage in the recruitment and retention of Federal employees.

This report has the support of the Office of Personnel Management and deserves your endorsement.

□ 2100

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, I would like to know exactly what the deal is here. It is my understanding that new Federal employees and Congressmen as of January 1, 1984, will then have the option. They can either pay their medicare payment and pay nothing on their retirement in which case the Federal Government advances the money, and there is no involvement until such time after 2 years or whatever you finally get a plan, do you then have to decide whether you are going to pay back the money and claim the time, or whether you just operate out of the system for the 2-year period? Is that correct?

Mr. GILMAN. The gentleman is correct.

Mr. CONABLE. What interest are you going to have to pay on the money

the Federal Government has advanced in your behalf?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. The gentleman's question is not correct the way he postulated it.

This legislation comes from the Senate. It is a plan that was worked out on the Senate side with the White House, with the Office of Management and Budget, the Office of Personnel Management.

Mr. CONABLE. I do not care who did it. We ought to understand it.

Mr. FORD of Michigan. Let us tell the Members what is happening. They have three options under the bill. At the present time if you are a member of the Civil Service Retirement System and are a serving Member, you will come under social security in January and pay into both systems, whether you like it or not, and unlike congressional employees who need only go off the payroll for 3 days to terminate coverage, an elected official of the Government or an appointed officer who needs confirmation by the Senate cannot leave the payroll for 3 days for the purpose of terminating their retirement coverage. Some Members might decide now that since they are going to be covered by social security, they would rather not be covered by civil service retirement. Under this legislation they will have the option to do that.

The second option under the bill is to go on as if nothing happened and pay the full amount into both systems.

The third option is particularly valuable to current Members. You can stay in the civil service retirement system and pay 1.3 percent to that system.

Mr. CONABLE. That is the medicare payment.

Mr. FORD of Michigan. No; medicare is in social security. We do not touch social security.

Mr. CONABLE. What is the 1.3?

Mr. FORD. of Michigan. The Senators thought it was an appropriate percentage because it was comparable to the combined percentage that current employees pay to civil service retirement and medicare, that is 8.3 percent.

It does not enhance their take home pay or reduce it, so they came up with that number. We did not want to argue with them about 1.4 of 1.6 or something else. It could be zero. The difference between the 1.3 percent and the normal contribution rate will be paid into the retirement trust fund by the Treasury and then if the person later decides to buy that time, he will have to pay back the difference. When you buy back into the system, thanks to changes we made last year, you will pay whatever the prevailing rate of interest is after 1984. You used to be able to buy back in at 3 percent. Now, after 1984 you must pay the prevailing rate. The prevailing rate now is about 9 percent and whatever the T-bill rate is at the time you exercise the option is what you would pay.

Mr. Stockman tells us it has minimal budgetary impact.

Mr. CONABLE. Obviously, it has a budgetary impact during the 2-year period. How much does the gentleman estimate that to be?

Mr. FORD of Michigan. I take Mr. Stockman at his word. He says there is minimal budgetary impact.

Mr. CONABLE. He says there is no budgetary impact over the period of time that the money is paid back?

Mr. FORD of Michigan. We are talking about 2 years.

Mr. CONABLE. Then there are really three options available to people?

Mr. FORD of Michigan. Correct, and they obviously would not be exercised for the same reasons by everyone. Presently there is no option available to a sitting Member. The sitting Member is now, in effect, blind-sighted by this new status and he has no option available to do what would be in the best interest of himself and his family.

Mr. CONABLE. A new Federal employee if he elects not to contribute to both systems and then elects——

Mr. FORD of Michigan. No, no; new Federal employees will be required to be in both systems, but they will also pay 1.3. I should make it very clear that the new Federal employee will be treated exactly like a new Member of Congress.

Mr. CONABLE. But the new Federal employee, if he does not repay the loan paid by the Government in his behalf for the period of time during which you are working out a new system, if he does not repay it, he will not then get credit for that period of time?

Mr. FORD of Michigan. That is correct, just as a Member. Nobody gets any credit they do not pay for.

Mr. CONABLE. How long will he have to repay that money if he wishes? That will be determined at the time you come up with a new system, is that it?

Mr. FORD of Michigan. Any time between the time he comes back into the system until he gets ready to retire, just as it now works for everybody else.

Mr. CONABLE. I thank the gentleman for the explanation.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield 30 seconds to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman for yielding me this time.

Those of you on the Ways and Means Committee who devised this came up with the concept of having new hires and Members in the social security system. One thing you should know that under no circumstances does the contribution to the social security system trust fund change. That is for the 2-year period definitely a study, and that was apparently the purpose of putting new hires and Members of Congress and other Federal employee types under social security and civil service, so under no circumstances does that change the social security contribution in any way, shape, or form.

You just have to give us 2 years to develop a plan. We have 101 different tyes of plans for Federal employees, and that is not an easy task.

So, what we are asking essentially is that you give us the 2 years and by passing this bill which not only relates to Federal physicians in extending the Comparability Act, you give us the leeway to do what you asked us to do, and that is pretty much what we are asking in this bill.

Mr. PICKLE. Mr. Speaker, will the gentlemen yield?

Mr. FORD or Michigan. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding to me.

Mr. Speaker, I would want to confirm the gentlewoman's observation that the changes being recommended in this bill do not in any way affect the social security agreements that we reached in March.

We did bring in new Federal employees, as well as Members of Congress and other high ranking Federal officials, including judges.

That is not affected, so I do not speak now as a member of the Ways and Means Committee, or as the chairman of the Social Security Subcommittee.

I understand that the Senate did add a provision to this bill for payment of a sum of approximately $385 million for the next 2 years to pay the civil service retirement payments for new Federal employees, and for Congressmen, if they chose to go this route, and other high ranking Federal officials.

What I am concerned about is that I do not know how the money will be repaid. We do not know the plan that comes from the other body—and I do not protest what you are doing in the sense that you are not infringing on our jurisdiction—but it does seem to me that this creates a great deal of uncertainty in the people's minds, not only here on the floor but throughout the Federal system, because we do not know how this money is going to be repaid, and we will never know until a supplemental Federal retirement plan is put into place for those who will have social security coverage after this year.

There is no plan. There may not be a plan for 2 to 3 years and even longer than that.

I just say to the gentleman from Michigan, the urgent need is to get a plan to know how this would work, and to know whether the Federal Government will get its money back.

I am not trying to interfere with the consideration of this measure. I just say, even though there are many Federal plans, there is a great deal of uncertainty that exists because we have not got a plan to supplement social security coverage, and therefore, for the next 2 years the Federal Government is going to pay the civil service retirement system for most of what Federal employees covered under social security otherwise would have paid into civil service retirement.

I think that is a problem.

Mr. FORD of Michigan. You cannot say that.

The Federal Government is not going to pay for anybody's retirement system. Nobody accumulates a single day of entitlement to a pension without paying for that day. They never get it if they never pay for it, so do not say the Government is paying for it and do not tell me that you can get Don Devine of OPM and Dave Stockman to start giving money away at this stage of the game.

They came to us and said we are going to have trouble hiring new people in January, if you people are not going to have a pension system ready for at least a year or so. They plan to hire 400,000 people, over the next 2 years. We went along with them, but here is one thing you have to keep in mind:

All the time you were making guarantees to people about social security, my committee and Senator STEVENS' committee were making guarantees to Federal employees that we were not going to do anything to erode their pension system.

□ 2110

We were not going to give their pension system that they worked for away to somebody else. And the Senate has come up with a proposal here that keeps the trust fund fluid.

You are not going to hear complaints that we are eroding the trust fund and creating an unfunded liability. You have budgetary impact if you put the money in or not. This is up front. We are putting the money in up front and everybody can see where it is.

I can assure the gentleman that it is a very responsible way to handle it and no one acquires eligibility for a pension that they do not pay for.

Mr. PICKLE. I do not know that I question that, I would say to the gentleman from Michigan (Mr. FORD).

I do say, though, at some point the Federal Government has advanced some $385 million and in the meantime——

Mr. FORD of Michigan. I do not know how the gentleman can get the $385 million because if they hire 450,000 people and you figure out the percentage that the agency would have to pay into the fund it does not come close to $350 million. You are only forgiving the employee who would by and large be the low entry level employee, not the high paid employee. It is about 5.7 percent of pay that they are not contributing for 2 years.

Mr. PICKLE. As I understand what is in the bill, for the next 2 years that no one can reap any kind of special benefits because there is some kind of offset. I would assume these penalties would continue in years to come unless they had actually paid the credits or had put money in for these years. So eventually the Government may get this money back. But I do not know whether it would be 1 year, 5 years, or 25 years, if ever.

The uncertainty bothers me, and that is why I am saying to the gentleman I urge you to get us a plan here so that we will know what to expect. Until that happens, everybody is going to be in a state of confusion.

Mr. FORD of Michigan. Mr. Speaker, at this time I would include for the RECORD a letter dated November 8, 1983, which I received from the Office of Personal Management and signed by Donald J. Devine, Director.

The letter referred to follows:

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., November 8, 1983.

Hon. WILLIAM D. FORD,
Chairman, on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that the Congress will soon be considering a proposal to deal with the problem of double coverage of new Federal employees under Social Security and Civil Service Retirement during the transition period while a new supplemental retirement plan for these employees is being developed.

As the Proposal has been presented to us, it essentially provides that Federal employees hired on and after January 1, 1984 (as well as certain current Federal employees) would be fully covered under both Civil Service Retirement and Social Security during the two-year transition period until January 1, 1986, but would contribute only 1.3 percent of pay for their Civil Service Retirement coverage, in lieu of the normal employee contribution. Of course, offering full coverages for CSRS with this low level of contribution is unusual. Since the coverage is only interim, for a two-year period, however, this may be justified.

Employing agencies would continue to make their full contributions, and the missing portion of the employee's share would be made up by the Treasury through amortized payments over 30 years. If, during the two-year transition period, an affected employee became eligible for benefits under the Civil Service Retirement System (other than by reason of disability), he would have to make a deposit equal to the difference between the 1.3 percent contribution he actually made and the normal employee contribution rate. Further, Civil Service Retirement benefits for an employee or survivor would be reduced by an amount equal to that portion of any Social Security benefit that is attributable to their Federal service. At the end of the transition period, these new Federal employees would automatically be transferred from Civil Service Retirement coverage to the new supplemental retirement plan, and would receive credit under that plan for their service during the transition period. The proposal also contains a number of other provisions dealing with certain special groups and contingencies.

Although different approaches could have been taken to this complicated and controversial issue, we believe the proposal outlined above, while not appropriate for an extended period, is not unreasonable for a two-year temporary period while the new supplemental retirement plan is being developed. Since the solution is only for an interim period of two years, OPM does not object to this temporary solution. Indeed, we pledge to work with Congress in the meantime to develop a fair supplemental retirement plan for new Federal employees.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

DONALD J. DEVINE,
Director.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I have one question I would like to ask. I notice in the DSG, and I have had some calls about it, that the conference agreement contains several provisions that were not included in the House bill, one being that the measure relieves physicians who were overpaid during fiscal 1982 of any liability for the overpayment.

Could the gentleman explain to me what that means?

Mr. FORD of Michigan. That is a provision included in the Senate amendment and I believe it was Senator MATHIAS who originally put it in there.

There are some 12 or 13 physicians at the National Institutes of Health who through administrative error were overpaid SES bonuses so that they exceeded the cap on SES compensation. It totals out to something less than $30,000 for all 13 of them.

This forgives those people and any others who were caught in a trap because a Government agency made a mistake, and provides an opportunity for them to be square with the Government without having to payback the money. They thought they were getting a bonus and their agency should not have given them the bonus.

This is not likely to reoccur because one presumes that agency heads learn from their mistakes.

Mr. SAM B. HALL, JR. In other words, about $30,000 is the maximum payment they would not have to repay?

Mr. FORD of Michigan. I understand it is less than $30,000 for all of the 13 cases involved.

Mr. SAM B. HALL, JR. I thank the gentleman.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. REGULA. I have a couple of questions.

As I understand it, a present Federal employee would be subject to both Federal retirement and social security?

Mr. FORD of Michigan. No; let me correct the gentleman. A present Federal employee will not be subject to social security unless he is a Member of Congress or other high-ranking official.

Mr. REGULA. Let us take a Member of Congress that on January 1 will be subject to social security and Federal retirement. Under this conference report, that individual will have an option to pay 1.3 percent on the Federal retirement as well as paying the social security; is that correct?

Mr. FORD of Michigan. That is one of the three options.

Mr. REGULA. If the individual elects to do that, that would, of course, go until January 1 of 1986 or until such time as another plan were adopted by this body; is that correct?

Mr. FORD of Michigan. The gentleman is correct.

Mr. REGULA. If that individual would elect to pay back the difference between 8 percent and 1.3 percent in order to reinstate the 2 years, would there be a requirement for interest to be paid on the amount paid back?

Mr. FORD of Michigan. If they pay back for the 2-year period, there is no interest. If they pay back for time beyond the 2 years, they will pay the prevailing rate of interest at the time they pay it back.

Mr. REGULA. The prevailing rate of interest from the end of the 2-year period until such time as there is a payback; is that correct?

Mr. FORD of Michigan. No interest would be due for the 2-year period.

Mr. REGULA. I thank the gentleman.

Mr. FORD of Michigan. I yield back the balance of my time.

● Mr. FRENZEL. Mr. Speaker, I am obliged to vote on this conference report for a number of reasons, not the least of which is the fact that the House has never seen the Federal employee retirement system provision before. There have been no hearings, no discussion, no debate, and no bill.

The explanation offered is wholly confusing and printed copies of the bill and the report of managers seems to be at a premium. Nobody knows precisely what we are voting for, or at least no one can explain with any clarity what the details of the proposal are. Voting is tough enough when we know the facts. Without them, a no vote is the only safe procedure.

My suspicions are that Congress is giving itself a nice little present. The present is certainly an interest-free loan of pension contributions for 2 years. The present may be worse but I cannot tell at this point.

In addition we are adding to the deficit by reducing pension receipts. That means more red ink and higher Federal deficits.

We do not know much about this bill, but it has feathers and gobbles. Me thinks it may be a turkey.●

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 127, not voting 63, as follows:

[Roll No. 519]

YEAS—244

Addabbo	Coleman (TX)	Gephardt
Akaka	Collins	Gilman
Albosta	Conte	Gonzalez
Andrews (NC)	Cooper	Goodling
Anthony	Coughlin	Gore
Applegate	Courter	Gray
Aspin	Coyne	Green
Barnard	D'Amours	Hall (IN)
Barnes	Darden	Hall (OH)
Bateman	Daschle	Harkin
Bedell	Daub	Harrison
Beilenson	Davis	Hayes
Bennett	de la Garza	Heftel
Bereuter	Dellums	Hightower
Berman	Derrick	Hillis
Bevill	Dickinson	Horton
Biaggi	Dingell	Howard
Bilirakis	Dixon	Hoyer
Bliley	Donnelly	Hubbard
Boehlert	Downey	Hughes
Boggs	Durbin	Hutto
Boland	Early	Hyde
Bonior	Edgar	Johnson
Bonker	Edwards (CA)	Jones (OK)
Borski	Erdreich	Jones (TN)
Boucher	Evans (IL)	Kaptur
Boxer	Fascell	Kastenmeier
Breaux	Ferraro	Kazen
Brooks	Fiedler	Kennelly
Broyhill	Flippo	Kindness
Bryant	Florio	Kolter
Burton (CA)	Foglietta	Kostmayer
Byron	Foley	Lantos
Campbell	Ford (MI)	Latta
Carney	Ford (TN)	Lehman (CA)
Carper	Forsythe	Lehman (FL)
Chandler	Franklin	Leland
Cheney	Frost	Lent
Clinger	Gaydos	Levin
Coelho	Gejdenson	Levine
Coleman (MO)	Gekas	Lewis (FL)
Lipinski	Oakar	Slattery
Livingston	Oberstar	Smith (FL)
Long (LA)	Obey	Smith (IA)
Long (MD)	Olin	Smith (NE)
Lott	Ortiz	Smith (NJ)
Lowery (CA)	Ottinger	Snyder
Lowry (WA)	Owens	Spence
Lundine	Oxley	Spratt
Lungren	Panetta	Staggers
MacKay	Parris	Stokes
Markey	Pease	Stratton
Marlenee	Penny	Studds
Marriott	Pepper	Swift
Matsui	Perkins	Synar
Mavroules	Porter	Tallon
Mazzoli	Price	Taylor
McCloskey	Quillen	Thomas (CA)
McCollum	Rahall	Thomas (GA)
McDade	Ratchford	Torres
McGrath	Reid	Udall
McKernan	Richardson	Valentine
McKinney	Rinaldo	Vento
Mica	Ritter	Walgren
Michel	Roberts	Waxman
Mikulski	Robinson	Weiss
Miller (CA)	Roe	Wheat
Mineta	Rose	Whitley
Mitchell	Roth	Whittaker
Moakley	Rowland	Whitten
Molinari	Roybal	Williams (MT)
Mollohan	Russo	Williams (OH)
Montgomery	Sabo	Winn
Moody	Savage	Wirth
Morrison (CT)	Scheuer	Wise
Morrison (WA)	Schumer	Wolf
Myers	Seiberling	Wolpe
Natcher	Shannon	Yates
Nelson	Sikorski	Yatron
Nichols	Simon	Zablocki
Nowak	Sisisky	
O'Brien	Skeen	

NAYS—127

Anderson	Hartnett	Pursell
Andrews (TX)	Hefner	Ray
Archer	Hertel	Regula
AuCoin	Hiler	Ridge
Bartlett	Holt	Roemer
Britt	Hopkins	Rogers
Brown (CO)	Huckaby	Roukema
Burton (IN)	Hunter	Rudd
Carr	Ireland	Schaefer
Chappie	Jacobs	Schneider
Coats	Jeffords	Schroeder
Conable	Kasich	Schulze
Craig	Kildee	Sensenbrenner
Crane, Daniel	Kogovsek	Sharp
Crane, Philip	Kramer	Shaw
Daniel	Lagomarsino	Shelby
Dannemeyer	Leach	Shuster
DeWine	Levitas	Siljander
Dorgan	Lloyd	Skelton
Dreier	Loeffler	Smith, Denny
Duncan	Lujan	Smith, Robert
Dyson	Mack	Solomon
Eckart	Martin (IL)	Stangeland
Edwards (OK)	Martin (NC)	Stenholm
Emerson	Martin (NY)	Stump
English	McCain	Sundquist
Erlenborn	McCandless	Tauke
Evans (IA)	McEwen	Tauzin
Fields	McNulty	Torricelli
Frenzel	Miller (OH)	Vandergriff
Gibbons	Moore	Volkmer
Gingrich	Moorhead	Vucanovich
Glickman	Mrazek	Walker
Gradison	Murphy	Watkins
Gramm	Neal	Weaver
Gregg	Nielson	Weber
Gunderson	Packard	Wortley
Hall, Ralph	Pashayan	Wyden
Hall, Sam	Patman	Wylie
Hamilton	Patterson	Young (FL)
Hammerschmidt	Paul	Zschau
Hansen (ID)	Petri	
Hansen (UT)	Pickle	

NOT VOTING—63

Ackerman	Bosco	Corcoran
Alexander	Broomfield	Crockett
Annunzio	Brown (CA)	Dicks
Badham	Chappell	Dowdy
Bates	Clarke	Dwyer
Bethune	Clay	Dymally
Boner	Conyers	Edwards (AL)

Fazio	LaFalce	Sawyer
Feighan	Leath	Shumway
Fish	Lewis (CA)	Snowe
Fowler	Luken	Solarz
Frank	Madigan	St Germain
Fuqua	Martinez	Stark
Garcia	McCurdy	Towns
Guarini	McHugh	Traxler
Hance	Minish	Vander Jagt
Hatcher	Murtha	Whitehurst
Hawkins	Pritchard	Wilson
Jenkins	Rangel	Wright
Jones (NC)	Rodino	Young (AK)
Kemp	Rostenkowski	Young (MO)

□ 2130

Mrs. SMITH of Nebraska, Mr. RAY and Mr. GUNDERSON changed their votes from "yea" to "nay."

Mrs. SMITH of Nebraska and Messrs. GREEN, SHANNON, BEREUTER, and STRATTON changed their votes from "nay" to "yea."

Mr. BRYANT changed his vote from "present" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION AUTHORIZING PRINTING OF COLLECTION OF STATEMENTS IN TRIBUTE TO THE LATE REPRESENTATIVE JAMES A. BURKE

Mr. GAYDOS, from the Committee on House Administration, submitted a privileged report (Rept. No. 98-554) on the resolution (H. Res. 356) authorizing the printing of a collection of statements in tribute to the late Representative James A. Burke, which was referred to the House Calendar and ordered to be printed.

INVESTIGATION OF ALLEGATIONS OF IMPROPER ALTERATIONS

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, as you know just over 4 months ago, the House agreed to House Resolution 254, which authorized and directed the Committee on Standards of Official Conduct to investigate all allegations of improper alterations to House documents.

On behalf of the committee, I am pleased to report to you that our investigation has been completed. In short, the investigation discloses that out of 11 allegations of improper alteration, only 1 was substantiated. That case involved the now well-publicized 1982 EPA hearing in which a committee employee admitted to making improper alterations. While, of course, the Committee on Standards of Official Conduct was saddened to verify even one case of improper conduct, I believe some satisfaction can be taken from the committee's findings—that there is absolutely no evidence whatsoever of widespread improper alterations, let alone a "pattern of such conduct as some have suggested.

The investigation and the events precipitating House Resolution 254 have been both a sobering and enlightening experience to all of us who are concerned with the integrity of the process leading up to the official documents of the House. I am pleased that the committee's work established the overall soundness of the present system.

In undertaking the tasks assigned by House Resolution 254, the committee was mindful of the skepticism that some expressed regarding not only how the investigation would be conducted but also whether the results of the investigation would ever be known. I trust that the committee's 432-page report of investigation stands as more than adequate testimony to the intensity of the investigation and to the fact that all relevant information and findings have been made known.

I invite all of my colleagues and other interested individuals to obtain a copy of the committee's report, House Report 98-544, copies of which are available at the committee's offices at 2360 Rayburn House Office Building, phone 225-7103.

COMMUNICATION FROM THE HONORABLE STEWART B. McKINNEY

The SPEAKER pro tempore laid before the House the following communication from the Honorable STEWART B. MCKINNEY:

WASHINGTON, D.C., *November 10, 1983.*

Hon. THOMAS P. O'NEILL, Jr.,
Washington, D.C.

DEAR MR. SPEAKER: On November 4, 1983, I notified you that Joseph McGee, a former employee of mine, had been served with a subpoena issued by the United States District Court for the District of Connecticut. I have consulted with the General Counsel to the Clerk of the House and have determined that compliance with this subpoena is consistent with the right, privileges and precedents of the House of Representatives.

Sincerely,

STEWART B. MCKINNEY,
Member of Congress.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION MARINE FISHERIES PROGRAM AUTHORIZATION ACT

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1099), to consolidate and authorize certain marine fishery programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object and I will not object, I yield to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker. the bill currently before the House, S. 1099, was passed by the other body on June 15, 1983. The purpose of this bill is to consolidate and authorize various programs operated by the National Marine Fisheries Service. During our review of the NMFS budget in the past few years it has become increasingly obvious that the agency has utilized funds dedicated to specific programs to fund other activities which they deem essential, but for which no explicit Federal authorization exists. It is our hope in passing this legislation to get a handle on these various programs and to provide a mechanism for congressional review of the entire NMFS budget.

The amendment that I am offering is a result of delays that we have encountered in trying to resolve differences between the two versions of the so-called maritime regulatory reform legislation that have now passed both bodies. One area of those bills where there is no controversy regards the issue of freight forwarders.

As the Members will recall, during consideration of the 1981 Omnibus Reconciliation Act, we deemed it appropriate to allow freight forwarders to receive compensation from shippers and common carriers utilizing the services of such freight forwarders so long as there was no direct interests held by that forwarder in the shipment involved. The authority contained in the 1981 legislation expires on December 31 of this year. It had been the hope of both the House and the other body to make this authority permanent and such authority has passed both bodies in the regulatory reform bills. It has become apparent, however, that the conference committee on that legislation will not be able to resolve its other differences before the Congress adjourns this session and we, therefore, propose to handle this issue at this time.

Mr. Speaker, my amendment also contains provisions allowing a vessel to be documented as a vessel of the United States and to engage in the coastwise trade. This vessel, the *Protector Alpha*, is a foreign-flag vessel which burned to the water line last year while operating in the Columbia River. The vessel was purchased for $600,000 and pursuant to the provision of the Wrecked Vessel Act, its owners had intended to make necessary repairs in a U.S. shipyard so that the

vessel could qualify for the U.S. coastwise trade.

The normal requirement of the Wrecked Vessel Act is for an expenditure of three times the vessel's value. Unfortunately, we believe that the U.S. Coast Guard placed an unnecessarily high value of over $10 million on the vessel. The resulting requirement to expend over $30 million in shipyard repairs would have thwarted any economic incentive for the owners to conduct such repairs. Our committee and the appropriate committee in the other body have determined that $3 million is a more appropriate requirement for such repairs and have specifically provided for this amount in the amendment. In short, this amendment will provide $3 million of work for U.S. shipyards which they otherwise would not have.

In conclusion, Mr. Speaker, this bill and my amendment are indeed noncontroversial and I urge the amendment's adoption and the bill's passage at this time.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act".

FISHERIES INFORMATION COLLECTION AND ANALYSIS

SEC. 2. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries Information Collection and Analysis duties under law, $26,500,000 for fiscal year 1984. These moneys shall be used to fund those duties relating to fisheries information collection and analysis specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), and the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.), and any other law involving such duties. These duties include, but are not limited to, collection analysis and dissemination of scientific data necessary to manage: marine fishery resources, marine mammals, endangered species, and their habitats.

(b) This authorization shall be in addition to any Fisheries Information Collection Analyis moneys authorized under the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

FISHERIES CONSERVATION AND MANAGEMENT OPERATIONS

SEC. 3. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries /Service to carry out its Fisheries Conservation and Management Operations duites under law, $35,000,000 for fiscal year 1984. These moneys shall be used to fund those duties relating to fisheries conservation and management operations specified by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Act of May 11, 1938 (16 U.S.C. 755), the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), and the Act entitled, "An Act to promote the conservation of wildlife, fish, and game, and for other purposes", approved March 10, 1934 (16 U.S.C. 661 et seq.) and any other law involving such duties. These duties include, but are not limited to, development, implementation, and enforcement of conservation and management measures to achieve continued optimum use of living marine resources; including hatchery operations, fishery management plan activities, habitat conservation, and protected species management.

(b) This authorization shall be in addition to any Fisheries Conservation and Management moneys authorized under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Salmon and Steelhead Conservation Act of 1980 (16 U.S.C. 3301 et seq.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

SEC. 4. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Marine Fisheries Service to carry out its Fisheries State and Industry Assistance program duties under law, $10,000,000 for fiscal year 1984. These moneys shall be used to fund those duties specified by the Fish and Widlife Act of 1956 (16 U.S.C. 742a et seq.), and any other law affecting State and industry fisheries assistance. These duties include, but are not limited to, financial assistance for fishing boats and fish processing plants, market development for fishery products, product quality and grants to States for improving management of interstate fisheries and stimulating fishery development.

(b) This authorization shall be in addition to any Fisheries State and Industry Assistance program moneys authorized under the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.), the Act entitled "An Act to authorize the Secretary of the Interior to initiate with several States a cooperative program for the conservation, development, and enhancement of the Nation's anadromous fish, and for other purposes", approved October 30, 1965 (16 U.S.C. 757a et seq.), the Central, Western, and South Pacific Fishery Development Act (16 U.S.C. 758e), and the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

PAY INCREASE AUTHORIZATIONS

SEC. 5. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its duties indicated under this Act, such additional sums as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX: On page 5, after line 10, add the following new Sections:

FREIGHT FORWARDER AMENDMENTS

SEC. 6. Subsection (c) of section 1608 of the Act of August 13, 1981 (95 Stat. 752) is repealed.

COASTWISE VESSELS

SEC. 7. (a) That, notwithstanding the failure of the vessel named below to meet the requirements contained in 46 U.S.C. 12105, 46 U.S.C. 12106, and 46 U.S.C. 12107, and section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), on the date of this Act, the Secretary of the department in which the Coast Guard is operating shall cause the vessel *Protector Alpha*, Official Number 394610, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, if (1) such vessel complies with all other requirements of law and (2) all repairs and modifications totalling at least $3,000,000 are performed on such vessel in a shipyard in the United States.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Speaker, I would say to the Members of the House that the explanation I just gave to the gentleman from New Jersey (Mr. FORSYTHE) relates to the amendment that has now been reported.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4170, TAX REFORM ACT OF 1983

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 98-555) on the resolution (H. Res. 376) providing for the consideration of the bill (H.R. 4170) to provide for tax reform, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AN ERA THAT CAN BE RATIFIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I appreciate very much this chance to address the House.

My topic tonight is an ERA that can be ratified. I want to explore whether it is possible to draft an equal rights amendment that could be ratified.

Clearly, the world has been changing. Indeed, the world has changed

since the equal rights amendment was first introduced.

The reality is that over the last 50 years we have seen enormous changes in our society. Indeed, over the last 20 years we have seen tremendous changes. In many ways we are a society which is entering a white water river of change, and those changes affect men, they affect women, they affect our children and they affect the process of aging. And, in particular, tonight I want to talk about the dramatic changes that have affected women as they have gone to work in the world at large, as they have acquired professions and as they have entered the business community.

We are committed to a world in which careers are open to everyone, in which all have equal opportunity and equal access, in which it is possible for every American child, boy or girl, to grow up and expect to have a career future that is limited only by their talents, their willingness to work and their persistence.

Many of these change have been difficult, painful, and frightening. But I remember back to the original publication of Betty Friedan's "Feminine Mystique," the dramatic revolution and new awareness it sparked. In the mid-1960's, for an entire generation, her work was a clarion call to the changes that were happening across our land.

The equal rights amendment became a symbol in the late 1960's. However, it was an old idea, going back to the 1870's in concept, and was introduced by Republican Members in 1923. The Republican national platform endorsed an equal rights amendment in 1940; the Democrats endorsed an equal rights amendment in 1944. By 1971, powered by the changes in our society, the equal rights amendment's time had come. An overwhelming majority in the House, 354 to 23, passed an equal rights amendment in 1971, including such conservative Congressmen as Ben Blackburn in my own State of Georgia and PHIL CRANE of Illinois.

In the Senate in 1972, the equal rights amendment passed by a vote of 84 to 9. Staunch conservatives voted for it.

Initially, the equal rights amendment began to sweep through State after State. In the very first year, 30 States ratified the equal rights amendment, only 8 short of the number needed for it to become a part of our Constitution. With Watergate, the collapse of the Nixon administration and the rise of a very liberal Watergate class of 1974, the momentum seemed set in America that the equal rights amendment would certainly be ratified. But the momentum slowed. Serious scholars began to look at the amendment. Lawyers began to question the real meaning of a simple amendment.

Let me read for the record just how simple it is. The equal rights amendment says, under Section 1:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
>
> SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
>
> SEC. 3. This article shall take effect two years after the date of ratification.

Three short, simple sentences. That was their strength; that is their weakness. For it is in a constitutional amendment itself that one has to look for the meaning.

James Madison, one of the authors of the Constitution and one of the authors of the Federalist Papers, wrote:

> As a guide in expounding and applying the provisions of the Constitution, the debates and incidental decisions of the Convention can have no authoritative character. However desirable it be that they should be preserved as a gratification to the laudable curiosity felt by every people to trace the origin or progress of their political institutions, and as a source, perhaps, of some light on the science of government, the legitimate meaning of the instrument must be derived from the text itself.

And as Dr. Walter Burns, of the American Enterprise Institute, said:

> If there is one thing that has become clear during our 10-year consideration of the ERA, it is that there is no way of knowing what its text means.

□ 2150

In other words, we face the very real problem, as Prof. Paul Freund of Harvard warned, that in fact:

> A change so far reaching and influential ought surely not be brought about as the half-hidden implication of a constitutional motto.

Or to say it yet differently, in a quote from Mr. Justice Felix Frankfurter, a liberal Democrat, a scholar of law, former Harvard professor, appointed by Franklin Delano Roosevelt to the court, a man who understood that political symbols are often very bad legal documents, and I quote:

> Only those who are ignorant of the nature of the law and of its enforcement and regardless of the intricacies of American constitutional law or indifferent to the exacting aspects of woman's industrial life will have the naivete or recklessness to sum up woman's whole position in a meaningless and mischievous phrase about equal rights.

Now, what are these gentlemen trying to say? As more and more scholars began to question the ERA's seeming simplicity, they concluded that it was, in fact, simplistic rather than simple; that current simplistic language would turn determination of the equal rights amendment's real meaning over to the U.S. Supreme Court; that by 5-to-4 decisions Justices could decide what it meant and what Congress had meant.

Senator ORRIN HATCH, who is chairman of the subcommittee looking into the Equal Rights Amendment in the Senate, has written a book called "The Equal Rights Amendment—Myths and Realities." He reports on the continuing confusion about the real meaning legally of the ERA, and I want to quote in particular one passage, and I am quoting Senator HATCH:

> The first congressional hearing on the equal rights amendment in more than a decade was conducted on May 26, 1983, following reintroduction of the amendment. The hearing was conducted by the U.S. Senate Subcommittee on the Constitution, on which I serve as chairman. Perhaps more succesfully than any other legislative hearings on this issue, the subcommittee hearings highlighted the difficulties with the equal rights amendment. Most notable was the fact that the principal Senate sponsor of the ERA, in response to questions about the legal impact of the amendment, responded on a dozen occasions that the dissemination of these issues would be "left to the courts." In addition, he either failed to respond or responded that he "did not know" to an additional 17 questions about the real world legislative impact of the amendment.

That performance by the leading proponent of the equal rights amendment in the other body led columnist George Will to write a column entitled "Praise the ERA and Pass the Buck."

In other words, what happened again and again and again was that a leading student and advocate of the equal rights amendment in the other body would have to say the courts would decide what things meant.

The fact is that it is clear that the States would not ratify a simplistic, undefined equal rights amendment after all. After 7 years of effort, only 35 States had ratified the ERA. In 1978, the Congress extended the deadline for 3½ additional years. Not a single State voted to ratify the ERA from 1978 to 1982; indeed, one State joined four earlier States in voting to withdraw their approval of the equal rights amendment. Think of it. Nebraska, Tennessee, Idaho, Kentucky, and South Dakota looked at the simplistic ERA language, worried about a liberal 5-to-4 U.S. Supreme Court majority, and changed their minds.

In other words, the States who had still continued to ratify the ERA in its simplistic version, as of 1982, numbered only 30. It was actually losing ground. Senator HATCH described the situation in his book when he said:

> When the new deadline passed in 1982, a mere 2 States had voted to ratify the amendment in its final 8 years. Not a single State had voted to ratify it in its final 5½ years. This was certainly not for want of trying. The 15 States that had never chosen to ratify the ERA had voted nearly 100 times against the amendment. Never before had any amendment that had ultimately become part of the Constitution taken more than 4½ years to earn to necessary ratification. Yet with the expiration of the ex-

tended ratification deadline, ERA supporters immediately embarked upon a new effort to secure ratification of the amendment, reintroducing it during the 98th Congress in early 1983.

Now think of it. Here we have a period in which for 10 years the supporters of a simplistic equal rights amendment tried their best. For 10 years they climbed up a slippery slope and they failed. Do they learn from that? Do they change? Do they do something different? No; they promptly resubmit the very language which not only had been rejected, but in its final years had had five States withdraw their approval.

In other words, as it slid downhill, its more fanatic supporters said let us go back to the country with exactly the language.

Twelve years ago the House passed simplistic language. Fears built. The movement grew against it. Phyllis Schlafly and others organized an effort that stopped the simplistic ERA in its tracks. The fact is that the original symbolic language was just that. It was a symbol. It talked about a desire, something I believe in, that all Americans should be treated equal; that in fact there should not be discrimination against women in the law; that all women should have the same opportunity.

The point I am driving at is very simple: That for 12 years, from the time the House initially passed the equal rights amendment, the supporters of a symbolic language, a slogan, tried to convince the Nation to amend the Constitution. They have failed. And now we face a new situation. It is no longer 1971. We are no longer children. The time is no longer to have a simple, naive idealism that says, "Gosh, if only people would listen to us."

The reality is that right-to-life, antiabortion forces are far stronger and they fear a simplistic ERA will require Federal payment for abortions, would mandate abortions, and would change the world to their disadvantage. Indeed, right-to-life forces have strong advocates. If I may again quote Senator HATCH, he makes the point very succinctly by quoting Representative HENRY HYDE, who has testified.

The ERA, if it is proposed and ratified without an explicit provision against its use as a pro-abortion device, will in fact be used to sweep away the minimal protection of unborn children that the courts currently allow and also to mandate tax spending for abortions. If sex discrimination were treated like race discrimination, government's refusal to fund abortions would be treated like a refusal to fund medical procedures that affect members of minority races.

Senator HATCH goes on to say:

This fear about the impact of the ERA is not wholly speculative. In fact, precisely these arguments have already been raised in challenges by the pro-abortion community under State equivalents of the ERA. In Hawaii, for example, several physicians represented by an attorney for the Reproductive Rights Project of the ACLU, the American Civil Liberties Union, argued that public funding of abortions was a right under the Hawaii ERA.

And I quote further from Senator HATCH:

The Massachusetts affiliate of the ACLU argued along the same lines in a subsequent case.

And I quote further from Senator HATCH:

Finally, in a 1983 case, the Pennsylvania Civil Liberties Union argued that it was unconstitutional under the Pennsylvania ERA to deny public funds for abortion.

□ 2200

In other words, in three different States the American Civil Liberties Union has argued precisely that an equal rights amendment requires the State to pay for abortions. Now, not only do the right-to-life forces have great concerns, there are many Americans concerned that the simplistic equal rights amendment would require that women be drafted and placed in combat.

I quote again from Senator HATCH:

One area in which the equal rights amendment will likely have a substantial impact is the U.S. military.

As Prof. Thomas Emerson has observed in his Yale Law article:

The equal rights amendment will have a substantial and pervasive impact upon military practices and institutions. As now formulated, the amendment permits no exceptions for the military.

I point out that in fact Professor Emerson is a supporter of the equal rights amendment.

In other words, to interpret his statement, the equal rights amendment would require women to be drafted and would require that women be placed in combat were the Congress forced in wartime to reimpose the draft and to have young men going into combat.

As a secondary element of the equal rights amendment and the military aspects, many veterans organizations have recently come to the conclusion that an unamended simplistic equal rights amendment would kill verterans preferences. In other words, since most vertrans are men, since men therefore would have an advantage because as veterans there will be more preferences for men who are veterans, because there are fewer women veterans, by definition a liberal court might decide that there could be no veterans preferences and whatever preferences veterans had won in World War II or in Korea or in Vietnam would be wiped away. That is why this last week there were a number of veterans' organizations working against a simplistic equal rights amendment on the grounds that it would hurt veterans.

Finally, there are some religious groups who fear that an equal rights amendment would in fact prove to be a tremendous crippling impact on churches, and in particular upon the Catholic church.

Let me quote again from Senator HATCH:

A primary example is in the area of private and parochial schools. In a 1976 decision, the Supreme Court held that purely private schools, including those receiving no public funds whatsoever, were prohibited from discriminating on the basis of race. The principal legal foundation for this far-reaching decision was an 1870 law relating to "equal rights under the law" for black and white citizens. Under the ERA, similarly, it is difficult to see how private institutions which were not coeducational and which did not admit female and male students on an identical basis could long survive. All-girl schools or all-boy schools would not likely be permitted to endure under the ERA with such institutions no doubt subject to "affirmative action" admissions programs by the U.S. Department of Education and other Federal rules, regulations and guidelines relating to curriculums, athletic facilities, extra curricular activities and counseling programs.

Senator HATCH goes on to say:

One pro ERA scholar has written on this issue in the following terms: "The ERA may well render private educational institutions ineligible for government subsidies, tax exempt status or financial assistance for their students if they fail to sexually integrate. After the adoption of the ERA, the privately sponsored college which chooses to adhere to its single sex policy is likely by that choice to render itself ineligible for further governmental subsidies by grant, subsidized loan or other direct contribution. It may jeopardize its eligibility for such indirect government support as tax exemptions and deductibility of contributions and there may be prospective ineligibility of its students to participate in Federal, state or local student support programs for which they would otherwise have been eligible. The effect of the ERA on single sex colleges will be desegregation."

GALLAGHER. The effect of the proposed ERA on single sex colleges.

Senator HATCH goes on to state:

As Professor Grover Reeves of the University of Texas Law School has observed: "If sex discrimination is to be treated like race discrimination, the Catholic church has exactly the same constitutional right to its tax exempt status as the racially discriminatory religious institutions in the Bob Jones case had."

Senator HATCH goes on to say:

Once the policy is accepted that tax exempt status can be restricted in the case of private church-related schools which do not treat boys and girls in accord with the dictates of the ERA, it is not a very long step toward a policy of denying such status to the religious institutions themselves. Those chruches whose doctrine requires differing treatment for men and women in such matters as ordination, attendance at religious services, religious education or other ritual, would find, themselves subject to constitutional challenge under the ERA, either to deny them such public benefits as tax exempt status or to require them to adopt new policies in the treatment of men and women. That all this is not so farfetched as it may seem to some is illustrated by the calls by the National Organization

for Women by the following: (1) that churches and seminaries "stop and repudiate" the propagation of "sexist male supermist doctrine".

(2) That seminaries recruit, enroll, financially aid and promote women theologians on equal basis with men.

(3) That the Equal Employment Opportunity Act be amended so that religious groups no longer have "legal sanction to discriminate on the basis of sex".

(4) That tax exemption be withdrawn from the Catholic church because of its lobbying on abortion.

It is not only private and parochial schools and churches that are likey to become embroiled in litigation upon ratification of the ERA. In addition, private clubs, youth organizations, fraternities and sororities, are likely to be placed in some constitutional jeopardy. Private clubs which limit membership to men or women or which segregate activities of men and women are likely to be challenged under the ERA, either in the context of their tax status or in the context of being organized and operating in violation of the Constitution to the extent that such clubs partake of public benefits that are equated to State action.

Youth organizations, such as Little League baseball or football, the Boy Scouts, the Girl Scouts or 4–H clubs which organize activities for boys or girls would be similarly vulnerable.

The Civil Rights Commission makes clear the ominous nature of these activities in its report on the impact of the ERA, and I quote from Senator HATCH, quoting the Civil Rights Commission:

Six congressionally chartered youth organizations which restrict membership to one sex, furnish educational, financial, social or other assistance to their young members, these include the Boy Scouts, the Girls Scouts, Future Farmers of America, Boy Clubs of America, Big Brothers of America, and the Naval Sea Cadets Corps.

The Boy Scouts and Girls Scouts, while ostensibly providing 'separate but equal benefits to both sexes' perpetuate stereotyped sex roles to the extent that they carry out congressionally mandated purposes. The law defines the purpose of the Boy Scouts as the promotion of the ability of boys to do things for themselves and others, to train them in scoutcraft and to teach them patriotism, courage, self-reliance and kindred virtues.

The purpose of the Girl Scouts, on the other hand, is to promote the qualities of truth, loyalty, helpfulness, friendliness, courtesy, purity, kindness, obedience, cheerfulness, thriftiness and kindred virtues among girls as a preparation for their responsibilities in the home and for service to the community.

Review of the purposes and activities of these clubs should be undertaken to determine whether they perpetuate sex role stereotypes.

In other words, Senator HATCH goes on to say:

The existence of segregated franternities and sororities suffers from the same infirmities as do other private social clubs that are single sex. The ever vigilant Civil Rights Commission recommends that colleges and fraternities and sororities be replaced by equal admission social societies.

In other words, if I can restate what Senator HATCH was saying, in short there is solid evidence by legal scholars and there are statements by the National Organization of Women and there is evidence from the Civil Rights Commission that without an amendment to clarify it, the simplistic equal rights amendment could literally lead to the abolition of the Boy Scouts and the Girl Scouts, to the taking away from the Catholic church and the Mormon church their tax exempt status and to fundamental challenges to any religious organization which in any way has any kind of distinction between men and women. In other words, only unisex churches would legitimately have a chance to be given a tax deduction.

Given all these questions and concerns, it is obvious that a simplistic unamended equal rights amendment will never be ratified.

Let me reemphasize this. Any woman who genuinely wants to have equality guaranteed in the Constitution has to face up to the fact that an unamended equal rights amendment will never be ratified by the States. The current simplistic equal rights amendment is absolutely doomed to fail in the States even if it passes in Washington, and there is evidence, I think, fairly solidly that an unamended equal rights amendment will never pass the Senate. Faced with the absolute certainty of defeat for a simplistic, unamended equal rights amendment that they could not pass in a 10-year effort in a less critical environment, why would the leftwing feminists demand an unamended equal rights amendment?

The only conclusion one can come to is that they do not want change. They want an issue. The leftwing feminists exploit women to get votes for their Democratic allies. The blatant maneuvers of the last 2 weeks make it clear how ruthless, brutal, and manipulative the leftwing Democrats have been.

□ 2210

Several weeks ago, the Democratic leadership decided to move toward bringing up the equal rights amendment. First, the Civil and Constitutional Rights Subcommittee and then the Judiciary Committee held hearings and voted the amendment out to the full House. At that time the Civil and Constitutional Rights Subcommittee chairman, DON EDWARDS of California, promised all the Congressmen involved that there would be an open rule when the ERA came up for a vote. An open rule allows any Member of Congress to offer an amendment to a bill or a proposed constitutional amendment. It allows adequate time for the discussion of the amendment. It protects every Member's right to raise questions about a bill, especially when it is as fundamental as a proposed amendment to the Constitution.

Conservatives were intending to introduce amendment to the equal rights amendment to address serious problems. The leftwing Democrats learned that some in their own party were thinking of voting for some of these clarifying amendments. To prevent the ERA from being amended, the left wingers decided to bring up ERA on a procedure called suspension. Suspension means that the House agrees to suspend the rules that normally govern how a bill can be brought up. Under suspension a bill must be passed with two-thirds of the vote. The problem with suspension is that it only allows 20 minutes for debate on each side, no amendments and only one vote, yes or no. This deprives the opponents of any real time to talk about the issue. It keeps people from offering amendments to improve or change the bill. It stops any motion to recommit which is traditionally the key vote for those opposed to the bill. A motion to recommit allows the opposition to try to send the bill back to the committee that reported it out, so the bill can be revised.

Not only did the leftwing Democrats convince the Speaker to bring up the ERA under unfair rules, but they decided to sneak in the vote in the last day of the session. The day before the vote a rumor started that they were going to bring up the vote with less than 24 hour notice.

The vote was on a Tuesday. On the Monday afternoon before that Tuesday on the House floor I questioned the majority leader, Mr. WRIGHT of Texas, about his plans for ERA. He admitted that the House leadership was going to bring up the ERA right away with almost no notice.

This sneaky plan broke the promise that Congressman EDWARDS had given, to have an open rule which allowed for debate and amendments. Indeed, it violated the argument of Chairman RODINO against discharge petitions for constitutional amendments.

Chairman RODINO always argued that a constitutional amendment should only come up with time for debate and opportunity for amendment. Even those people committed to the ERA were being stampeded into a vote.

The news media understood that the left wing Democrats were risking the defeat of ERA to gain political advantage. The Washington Post reported that—

O'Neill slates vote on ERA in a tiff over parliamentary ploys.

And I quote:

Fearful that Republicans would scuttle the measure with amendments on abortion and the draft, O'Neill said yesterday that he would bring the constitutional amendment

to the House floor under special rules normally used only for minor and noncontroversial bills that permit no amendments and allow opponents only 20 minutes of debate.

His decision was a gamble, because it angered Republicans whose votes are needed if the amendment is to get the two-thirds vote required to send it to the Senate, but in a sense it is a gamble the Democrat leader cannot lose. If angry Republicans defeat the amendment, Democrats will use the vote in next year's campaign to win over female voters and exacerbate the Republican's political "gender gap".

"As I see it," said HAMILTON FISH, JR., in a comment echoed by many Republicans, "the only reason the Speaker is doing it this way is to get a campaign issue."

FISH who has voted for the amendment every time it has come up in his 15 years in Congress said he probably will vote against it today to protest the unusual procedure.

Several other moderate GOP Members who support the ERA said that they too were inclined to vote against it today, but Democratic vote counters said they expected to hold the votes of most Republicans who have backed ERA in the past, thus sending it to the Senate. The Senate would also have to pass it by two-thirds before it could go to the States for ratification.

"There are Republicans who need to vote for this, and they cannot get away saying they voted against a procedure," said Representative GERALDINE A. FERRARO of New York. Now, FERRARO and other Democrats backing O'NEILL's move said the ERA might well have been rejected if the Speaker had used normal procedure, which provide for hours, sometimes days of debate and permit House Members to offer amendments.

The Post story went on to say:

Some Republicans had planned to propose qualifying amendments declaring the amendment inapplicable to such questions as abortion, the draft and combat service for women soldiers. Ferraro said yesterday that at least two of those amendments on abortion and women in combat had the votes to pass on the House floor. But if they had passed, hard core ERA supporters would have voted against the expanded version of the amendment, assuring defeat for the whole passage.

I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

Do I understand that the line of logic the gentleman is developing here is that if democracy had worked, and we on the House floor had made a decision on those amendments, that a majority of the Members evidently wished to have passed, that the bottom line would be that the Democratic liberals would have been voting against ERA, and therefore, they would have defeated it, and so, therefore, the procedure that they used to bring it up was designed for political purposes only and was an end run around the democratic process?

Mr. GINGRICH. The gentleman is exactly right. In fact, I am going to quote the Speaker of the House who himself admitted if the House was asked to vote on women in combat, it would vote to exclude, and if the House was asked to vote on an abortion neutral procedure, so the amendment would not require Federal funding of the abortions, the House would vote for that and the leftwing radicals would then have voted to defeat the amendment, because they want it to mean that women will be in combat, and that the Federal Government has to pay for abortions.

Mr. WALKER. If the gentleman would yield further, I would gather that we could assume that the country would agree with the two amendments that the majority of this House was prepared to vote for and so, therefore, what we were also trying to do was thwart the will of the American people. Is that not a logical assumption?

Mr. GINGRICH. It is clear that 9 out of every 10 Americans do not want their daughters in Beirut or as Rangers invading Grenada, and they do not want their daughters required to be drafted and sent into combat.

The Members of this House who represent the country at large have no desire to vote to send their daughters into combat, and in that sense the Speaker yesterday was deliberately establishing a legislative tyranny to avoid the will of the people having a chance to be heard.

Mr. WALKER. I thank the gentleman.

Mr. PASHAYAN. I want to associate myself with the superb history the gentleman is laying out. I wish to ask the gentleman how much longer he intends to speak?

Mr. GINGRICH. I would hope to be done in probably about 10 to 15 minutes.

I go back to quoting from the Post for a brief moment:

For the Democrats, this GOP strategy posed a problem. It is possible for the leadership to bring a bill to the floor under rules prohibiting amendments—a method called a "closed rule" but many Democrats, including Representative Don Edwards of California, the ERA's chief sponsor, have publicly said that a closed rule is inappropriate for a proposal to change the Constitution.

At a leadership meeting yesterday, O'Neill listened to that argument, but rejected it.

Let me make the point that even the man who had initially introduced the bill thought it should come up under an open rule and be available for amendment; but that the Speaker, under pressure from the left wing radicals, gave in and went for a deliberate effort to steamroller the people of the United States.

This effort was so despicable that the normally liberal, pro-ERA Washington Post wrote a very strong editorial which I quote, entitled "ERA But Not This Way."

Mr. SEIBERLING. If the gentleman would yield, the gentleman has twice now referred to "leftwing radicals." Would the gentleman define what he means by "leftwing radicals"?

Mr. GINGRICH. I would be delighted to define what I mean by leftwing radicals.

A person who believes that women should be sent into combat as a matter of constitutional mandate by the standards of the American culture clearly is a leftwing radical.

Mr. SEIBERLING. I thank the gentleman for his definition.

It does seem to me that perhaps the language is a bit intemperate for characterizing colleagues in the House. I do not know any leftwing radicals on either side of the aisle, but you know, if we are going to start that, the same kind of epithets can be applied on both sides. There are rightwing radicals, and it does not advance understanding very much.

Mr. GINGRICH. Let me say to the gentleman that when the Speaker of this House describes the President of the United States as having ice water in his veins and uses some of the language that the Speaker has used in speaking about the President of the United States, it is hardly becoming for a Member of the Speaker's party to worry about Republicans using a term which I think is perfectly legitimate.

I would say to the gentleman the other day who introduced the impeachment resolution about the Grenada invasion which liberated a country and saved 800 American students from being hostage, I regard that frankly as leftwing radicalism.

□ 2220

I am willing to say there are certain characteristics. Anyone wanting to impeach the President for wanting to save 800 American students is a leftwing radical. Anyone wanting to put American girls into combat I would describe as a leftwing radical. Anyone wanting to risk saying that the Catholic Church should no longer have a tax-exempt status because it is not considered a unisex church is potentially a leftwing radical. I do regard those who hold those views as leftwing radicals.

Mr. SEIBERLING. Some 30 Members of the Republican side voted for the ERA. Are they leftwing radicals?

Mr. GINGRICH. I think that most of them were frightened.

Mr. SEIBERLING. Frightened? Frightened leftwing radicals?

Mr. GINGRICH. No; I think they were frightened by leftwing radicals.

Mr. SEIBERLING. What about the 200-some that voted for it on this side of the aisle; are they leftwing radicals?

Mr. GINGRICH. I will say to the gentleman, and I reclaim my time, that in fact precisely the Speaker said in the RECORD here that a majority of this House, including many, many commonsense Members of the gentleman's majority party, would have voted to amend this simplistic amendment. That is why the Speaker had to strangle us, precisely because there are not enough leftwing radicals to go to an open floor and vote to keep this amendment in a form in which women would go into combat. That is precisely why the Speaker had to gag us, because most of your party Members are commonsense, responsible, middle-of-the-road people who are appalled at the thought that this amendment in its current form is going to go to the country. But they were scared.

Mr. SEIBERLING. Of course, the gentleman has characterized the amendment, in my opinion, incorrectly, that it would require women to go into combat. So that changes the whole character of the debate; does it not?

Mr. GINGRICH. If it would not require them to go into combat, why should one then not be willing to vote for a simple little sentence, a sentence that makes sure that a court in the future could not possibly misunderstand the meaning of this amendment?

Mr. SEIBERLING. Because by the time you put all kinds of simple little qualifying sentences in it you have cluttered up the Constitution with a bunch of specifics that are totally inappropriate.

Suppose someone had done the same thing to the 14th amendment when it was passed and said that it applied "except, except, except, except"? We are writing the Constitution. It is not a contract with all kinds of lawyer-like ifs, ands, or buts.

Mr. GINGRICH. Let me simply say in closing, if the gentleman wishes to trust the Supreme Court of future generations with a large grant of power, that is the gentleman's position. I would not certainly say that on this issue I intended to be name-calling, and I would hope the gentleman would not take the term "left wing radical" wrong.

I do not know the correct pejorative, and I mean it as a pejorative, to describe people who ideologically wish to send women into combat. There are clearly in this country, those people.

I quoted a little while ago a professor who favors women going into combat.

Now, I think that in terms of the traditional American values, that is pretty radical.

Mr. SEIBERLING. That may be, but the gentleman, in effect, has insinuated that a great number of people in the Congress——

Mr. GINGRICH. A large enough number, frightening the Speaker into bringing it up against the wishes of the chief sponsor in a form which violates the Judiciary Committee chairman's general position on amendments.

Yes, I would say there were a significant number deeply opposed to any kind of an amendment for any reason.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman from Ohio mentioned the 14th amendment just a couple of minutes ago. I, among some of the writings I have done, am a biographer of Thaddeus Stevens who was the principal sponsor of the 14th amendment. There is nothing in the history of Thaddeus Stevens that would give us any reason to believe that Thaddeus Stevens ever believed that the 14th amendment would be used in a manner which the courts have used it today.

The courts have used the 14th amendment to transfer much of the first 10 amendments to State application. That was never contemplated by any work that Thaddeus Stevens ever did on the 14th amendment, and so I think that the gentleman's analogy of the 14th amendment is precisely what has some people concerned about the language that might be adopted in an equal rights amendment, that some court at some point in the future could use the language in a way that no one at the present time can contemplate.

But where we can contemplate problems, it may be well to try as best we can to develop language that addresses those particular problems. And I think that is the point the gentleman is making, and I think it is an excellent point.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the genteman from Kansas.

Mr GLICKMAN. I have stayed out of this debate. I do serve on the Judiciary Committee as my colleague from Ohio does. I did not like the procedure by which this came to the floor. I was on the committee and I voted against every amendment because I think that the gentleman is wrong.

I just wanted to state for the record that while in very articulate and advocacy manner the gentleman has talked about how he believes the amendment will affect certain areas of the law; whether it be private schools or whether it be combat, I just want to state for the record that not only do I disagree with the gentleman on the substantive issues, but I think that a substantial majority of the legal opinion in this country disagrees with the gentleman. And that is the purpose of our ability to talk about these issues.

But I did not want to let the impression be spread out through the airwaves of America that the gentleman was giving the gospel according to Chief Justice Burger or Justice Brennan or any of the other Justices of the Supreme Court.

In fact, I do not think he represents the legal opinion that will stand in this country.

Mr. GINGRICH. I think the gentleman raises an excellent point and he, of course, is a very solid colleague who does his homework.

But let me say that when one is amending the Constitution from years to come, I would take the position, intellectually, that it is wise to be cautious. And if there is a substantial minority body of scholarly thought which says this is a danger, that it is worth considering.

Let me quote the gentleman from New York (Mr. FISH) from yesterday's debate. He is a man of great courage who I believe the gentleman is serving with now, and who you know to have a considerable reputation. He is an original sponsor of this bill, a man who voted for it in 1971, who voted for the extension in 1978, and who was the second signatory in reintroducing it. He said:

> Today, however, we face a cynical and partisan decision that undermines the bipartisan support the equal rights amendment has traditionally received. Democrats say that House Joint Resolution 1 had to be brought up either under suspension or under a close rule permitting no amendments. Why? Clearly, any other procedure would allow amendments, amendments which might even pass.
>
> And so we are asked to vote change in our national charter without considering any alternative language. Is this properly discharging our responsibilities?
>
> The language of ERA is not sacrosanct. There have been many different versions adopted by the other body and ourselves dating back to 1923.
>
> Your Judiciary Committee considered no less than eight amendments, all of which raised legitimate and sincere concerns. The House deserves the right to evaluate them on their merits. Committee debate and consideration is not enough. We are but 31 Members. Under this suspension process, 404 Members of this House are being bypassed.
>
> The Constitution was never intended to be amended in such a cavalier fashion. On the contrary, amendments are made difficult, requiring deliberation and consensus and extraordinary involvement requiring a two-thirds vote in both House of the Congress and ratification by three-quarters of the State legislatures. In witness of this propose, we have the history: Since our first 10 amendments to the Constitution were adopted in 1791, only 16 amendments have been adopted in 192 years.
>
> So what then is the purpose of the procedure we are engaged in, this denial of the deliberative role and the contribution of

each one of the people's representatives? Women's groups active for ERA tell us that it was not their initiative. I suggest it is less a commitment to equal rights then it is more of what we have witnessed this fall, partisan politics in search of a campaign issue.

We should refuse to cooperate in this approach. A "no" vote, my colleagues, is not a vote against ERA, but a vote for respect for the U.S. Constitution.

Let me quote the Speaker and then I will yield to the gentleman from Kansas:

The power of the Speaker of the House is the power of scheduling. I take it upon myself that this resolution is here today.

Why is it here today? Because I have been asked by the people who are interested in this, that it not get log-jammed, that it not be subject to amendment, whether it be the abortion amendment and you are for it, or whether it be the draft amendment and you are for or you are opposed to it.

In your hearts you know, those of you who have taken this floor, that there is no way this amendment would pass under an open rule with either one of those amendments.

Let me just ask again if in the judgment of the House of Representatives, meeting as a full body, over 218 Members would amend the simplistic version of the ERA, would say in very simple language that the courts shall not hold that this amendment requires women to be placed in combat, the courts shall not hold that this amendment applies in any way to the issue of abortion, not a proabortion or antiabortion, just abortion neutral, would that really cripple the amendment?

Mr. GLICKMAN. Will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I cannot answer the question. The only thing I can tell the gentleman is one can argue about the judgment in bringing the equal rights amendment under suspension of the rules.

But I do not want the impression to be let out of this place that the Speaker did anything illegal or violative of House rules. He did not.

□ 2030

Mr. GINGRICH. I have not suggested that he did.

Mr. GLICKMAN. OK. I just think that point needs to be made.

And as a matter of fact, by bringing it up under suspension of the rules which requires a two-thirds vote, the same vote required to pass any constitutional amendment, that procedure was fully implemented and the will of the House voted "no" on that amendment.

Mr. GINGRICH. That is right, but let me quote again and I would be delighted to have the gentleman's comment on this.

This evening according to the news service, the Speaker said, and I quote:

House Speaker Thomas O'Neill said Wednesday he will never permit the equal rights amendment to be modified, meaning the House must pass it unchanged or not at all. Despite the outcry against O'Neill's maneuver that brought it up under suspension of the rules, the Speaker said he might bring it up the same way next year. "That would be my intention," said O'Neill without saying definitely that ERA would be resurrected. He added that one Republican's move to bring the amendment to the floor so that it might be amended, the amendment did not stand a chance. O'Neill said he quote "had to doubt the sincerity" of those who say they support Equal Rights but do not want the amendment to apply to abortion or the drafting of women.

Now this is a news story today.

The House has enacted its rule, the House defeated its Speaker, the House said, quote: Give us a chance to amend it. Close quote. And the Speaker's immediate reaction is, and notice the language, he will never permit the equal rights amendment to be modified.

I have great reverence for the concept of the speakership. I find it appalling that one man begins to dictate to the House the terms under which it will consider a constitutional amendment and I would like to quote briefly from the Washington Post's editorial which is sadly still viable.

The Washington Post said on Tuesday morning, "ERA but not this way", and I quote:

The signs are that the House will be asked today to do something unnecessary, potentially risky and loaded with unpredictable political consequences. The leadership has decided to bring the Equal Rights Amendment to the floor under a suspension of the rules.

We have always supported the adoption of the Equal Rights Amendment and continue to do so. But it is certainly one of the most controversial amendments to the Constitution proposed in this century, having been passed by large margins in Congress once but not ratified by the required three-quarters of the states before it expired last year. It is fine that a new start has been made and that both Congress and the state legislatures—bodies that are continually changing—will have another opportunity to consider this important subject. But ramming it through the House using this extraordinary procedure is wrong on a number of counts.

First, a constitutional amendment is serious business. Debate should be encouraged, not stifled. Amendments, including those we have strongly opposed, should be considered and voted upon. A single sentence that alters our nation's basic charter and affects the lives of hundreds of milions of Americans is worth more than a 40-minutes discussion when it is formally considered by one house of Congress.

Second, it is not at all certain that there will be a sufficient number of votes to pass the proposal under these procedural conditions. Many who support the ERA are said to resent the gag rule and to be unable, in conscience, to vote to impose these conditions. If pro-ERA forces lose this vote, they will suffer a serious psychological setback that is completely unnecessary. The votes are there to pass the amendment after full and free debate.

Finally, one wonders how much of a part pure unadulteratd politics plays in this ploy. Some liberal Republicans, supporters of the amendment, believe that those who have devised this tactic care less about getting the ERA through the House than creating a politicial issues so that many who object on procedural grounds of voting without full debate or consideration of amendments can be charged with abandoning the amendment.

A 40-minute shuffle in the hectic closing days of the congressional session is the wrong way to conduct important constitutional business. The amendment should be approved, but not under these extraordinary and unnecessary conditions.

Now that is the Washington Post, one of the most liberal newspapers in the country and tragically today once again the Speaker said he learned nothing, he had heard nothing, and would still try to ram it through without debate and amendment.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think it is important that the point be made that the gentleman in no way implied at any point that anything was done here beyond the scope of the rules of the House of Representatives. But I think what the gentleman does say, as was said in the debate yesterday, that the procedure used is in fact demeaning to the constitutional process and it is that demeaning of the constitutional process which is the question here.

It goes so far as to be a question when you look at the remarks made yeaterday during the debate by the Speaker. The gentleman quoted from the remarks made by the Speaker as they appeared in the RECORD this morning.

In fact, when the Speaker spoke on the floor yesterday his remarks were somewhat different than those that appear in the RECORD. And he said at one point "Why is it here today? Because I have been asked by the women who are interested in this and by the people who are interested in this." In other words, at the point that he made the statement yesterday he even made reference to the fact that it was special interest power that was forcing the action on the floor in the manner in which it was brought.

That was cleaned up by the time it got into the CONGRESSIONAL RECORD. But the tapes of the House of Representatives, when you go back and look at the speech, make it clear that we had special interest power involved in the constitutional process which demeans it even further. And I think that that also is something which the American people have to understand was wrong with the procedure under which we considered the ERA yesterday.

I thank the gentleman for yielding.

Mr. GAYDOS. Will my colleague yield?

Mr. GINGRICH. I am glad to yield to my friend from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I served on the committee with my colleague for many, many years, and I have sincere respect for him. I think we have had no differences.

But I think it is incumbent upon me to stand up and defend my Speaker, my party.

Now I voted against the ERA, I voted against it, having voted for it several years back, 10 years ago roughly and then for the extension.

I did not like the procedure. But my Speaker never got up under any circumstances and even a semblance of ramming the thing through me or my party.

Yes, he asked me to vote for it and said—he asked me very pointedly on the floor right back in the so-called Cherokee Strip, he asked, "Joe, could you support it?" And I said, "No, I can't." And I gave him the reasons and that was the end of it.

But these descriptive adjectives I think are so unfair. I have never heard anybody on this side of the aisle ever get up and use any of that language as far as our colleague from Illinois (Mr. MICHEL) or any other leader over the 15 years that I have been here.

It is nice to press a point. I know my good friend feels enthusiastic in what he is saying. I know he is sincere. But to say the Speaker is so political in ramming things through, I think is grossly unfair and I want the record to show that, me being one of his followers in the party, he is my Speaker and he was fair, he was reasonable, and probably too fair. I have never heard directly or indirectly nor have I seen in my presence or in my surroundings at any time where the Speaker used any type of unethical or forceful conduct.

I think you are so unfair using these terrible terms to describe who I think is a great man, who has done a great job in this House over here and has been fair to the opposition, many many times when the opposition party had no right to expect fairness. He has been very fair.

Mr. GINGRICH. Let me say to my good friend from Pennsylvania, I would like to reclaim my time to finish this up, but I appreciate, I appreciate his comments and I am sure the Speaker will appreciate his comments. But very often a truck looks different to the person being run over by it than it does to the man who is driving it.

We on our side of the aisle learned only Monday afternoon late, and only because we officially asked, that in fact this procedure would be used. We were given no chance to fight on the rule because there is no rule under that procedure.

We were told in the news story today that the Speaker personally will block any effort to amend the equal rights amendment.

All I am suggesting to my friend is from my standpoint as Republicans and conservatives, the truck looms rather larger as it runs over us than it might to the good loyal Democrats who are sitting in the truck as it drives over us.

But I can assure you that if you would like to join us for a few weeks and learn what it is like to deal with your leadership when they have all the power of the rules and they block us over and over again, you will discover that ramming is not too strong a word and indeed is rather mild.

If I might, I would like to yield to the gentleman from California.

Mr. PASHAYAN. I have no wish to prolong this, but I dare say that the Constitution was hardly drafted in 1787 in that hot summer in Philadelphia under a suspension of the rules procedure. I think they debated each and every provision at length. I do not think there should be any less proceeding when we are amending the Constitution.

Mr. GINGRICH. I appreciate the gentleman's remarks. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

I am looking at my distinguished colleague from Pennsylvania. The fact of the matter is you have got to be a dummy not to use the rules both defensively and offensively.

Mr. GINGRICH. Certainly.

Mr. GLICKMAN. At the times you think you must do it.

I said I did not like the procedure the way it was brought here before, but the proponents, the leadership of this House, decided to use the rules aggressively, affirmatively, lawfully. And the gentleman from Pennsylvania and the gentleman from Georgia do their best to use the rules defensively. That is the way the game is played.

□ 2240

Mr. GINGRICH. Let me reclaim my time to finish this statement. But let me say—and I want to be categorical now—I am not accusing the Speaker of violating the rules, I am not accusing the Speaker of doing anything which a wise, tough old machine politician would not do. I think as a machine politician he is a very good one. I think he exploited the rules to their maximum. He tried to ambush the Republicans. He tried to mousetrap us. He tried to set it up so that we either had to give in or be crushed. I think it was a beautiful act. I think if Tammany Hall still existed, there would be an award ceremony.

But I think, nonetheless, he exploited the rules to the maximum possible disadvantage of a reasonable and fair debate. And as the gentleman from California just said, I think very correctly, it is not the way one ought to amend the Constitition. We are not here today playing parliamentary games for fun.

Mr. GAYDOS. Mr. Speaker, would the gentleman yield just one moment.

Mr. GINGRICH. I yield for 30 seconds.

Mr. GAYDOS. I thank the gentleman.

Let me strongly suggest that my good friend, my colleague, would better serve the position that he has taken and his cause that he has now very adroitly set forth on the record, if he would not get into the personalities slander.

Let me close by saying this: If I would have heard the gentleman state on the floor what the gentleman has here today prior to my vote, the gentleman would have convinced me that I should vote with my Speaker. And I would have voted with him. And remember, I did not like the procedure either. But I do not think the gentleman is serving his cause.

Mr. GINGRICH. Several Members have suggested that I used language that is a little strong. I am perfectly willing to negotiate a contract with Messrs. PEPPER and O'NEILL and if we could get a truce on vitriol next year we would find much happier politics in this country.

But I would be delighted to sit down and measure language, in terms of some of your senior leaders, about the President of the United States, anytime. Until we can get a truce that is both ways, I am against unilateral disarmament.

Now, if I might, let me close by saying that we do not have to stay trapped in a fight over a simplistic equal rights amendment. We do not have to remain glued to the simplistic symbols of the 1960's. When we were younger we believed in slogans and magic, but it is time to grow up.

As we have become adults we need some adult policies and some adult politicians.

A real equal rights amendment can be passed that has a good chance to be ratified by State governments. It is possible to pass an adult equal rights amendment that will solve women's legal problems without giving great power to the Supreme Court or forcing us to put women in combat or abolishing tax deductions for the Catholic Church or threatening the Boy Scouts or the Girl Scouts.

Instead of standing and yelling at each other and having the equal rights amendment defeated again in its simplistic form next year, with yet another steamroller effort by the Speaker, would it not be better to work together to make real progress?

A number of us will be reaching out to the feminist movement. We will be asking feminists to choose between blind partisan liberal democratic maneuvers and a committed effort to write a serious adult equal rights amendment that could pass the Congress and be ratified by the States.

And in closing let me say something that I think is important for the record, important for the people watching this and important for the comity of this House. As long as the Speaker feels he has the ethical right to maximally exploit the rules, to come in at the last minute, to gag the minority, to set up a situation in which the committee structure is unfair, the committee staffs are unfair, the rules are unfair, the use of proxy voting is unfair, the system is fundamentally designed to exclude us from procedural decisionmaking, and as long as he also feels he has the right to in vicious and personal ways describe the President, I think we are going to have a difficult time.

We are ending this fall on a very tough tone. I think we will begin January with this tone not having changed unless there is a two-way street. And I will be delighted for any gentleman, who thinks we feel too strongly, to join us for a few weeks and experience what it is like to work where your committees are designed worse than the ratios in the House at large, where you have no impact on the calendar, where you have every maneuver used against you possible.

And then report back to your colleagues what it is like to be in a camp where you are deliberately outmaneuvered.

If we are going to be serious and get anything done in 1984, it will be by working together with an open rule, with a chance for amendments, to improve the equal rights amendment so it can go to the country with a chance to pass.

But the last 2 days' petty patisanship I think has been a very, very bad spectacle and has set back the opportunity for an equal rights amendment. It has not in any way helped it.

And the Speaker's commitment tonight to continue that pattern, I think, is a very grave blow to any chance for us passing an equal rights amendment that could be ratified.

THE ALTERED TRANSCRIPTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I ask unanimous consent that House Resolution 373 be made in order for consideration in the House on Thursday or any day thereafter.

The SPEAKER pro tempore. The Chair cannot recognize for that purpose.

Mr. WALKER. Mr. Speaker, it is a unanimous-consent request.

Mr. SEIBERLING. I object, Mr. Speaker.

The SPEAKER pro tempore. The Chair cannot recognize for that purpose. There is objection nevertheless.

Mr. WALKER. Let it be noted here this evening that the objection to considering the resolution by which we would consider ERA under the rules of the House and with an amendment and in open debate was objected to from the Democratic side of the aisle. Let that be noted.

The SPEAKER pro tempore. The Chair will state there is precedent for denying the unanimous-consent request of the gentleman dating back to May of 1982 and yesterday and furthermore there was objection heard.

Mr. WALKER. Mr. Speaker, I accepted the objection. I simply make the point that the objection came from the Democratic side of the aisle to bringing up the equal rights amendment, under the rules that Mr. FISH has introduced, on tomorrow or any day thereafter.

I think that begins to help make clear, as it did last night, that it is the Democrats who are objecting to bringing ERA up here under another procedure. It was the Chair itself that objected to that request last night. I assume he will continue to hear objections to that request.

Mr. Speaker, my reason for taking this Special Order this evening is to talk a little bit about the report issued today by the Ethics Committee on the matter of the altered transcripts which was described earlier on the floor by the chairman of that committee, Mr. STOKES, who described it from his viewpoint. I take a little different viewpoint after reviewing that transcript.

The gentleman from Ohio, in describing the report, described a large effort undertaken by the Ethics Committee to comply with the House resolution which asked the Ethics Committee to look into the matter of the altered transcript of the EPA hearing in 1982 and any other matters that might be of a similar nature.

The gentleman rightly said the committee conducted a full-scale investigation and came forward with their findings. And, indeed, he described the report as being—I think he said 276 pages thick, some such figure and so on and that should make it clear to the House that everything was done that should have been done.

Well, I have had a chance to review that report and while I would agree that the committee went to great lengths to attempt to resolve some of the issues, I do not think they quite made it.

In the report they finger one former staffer of the House as being someone who altered some of the transcripts, who made some of the alterations. That person is named. And the report makes it clear that they have reason to believe that he was responsible for some of what was done.

The problem is that it is also obvious from the report that he was not responsible for all of what was done. In fact, if you read that gentleman's testimony, as reprinted in the report, it becomes clear with regard to the alterations of remarks that I made that the gentleman says that he was not responsible for altering my remarks. Since he is the only person fingered in this report by the Ethics Committee, my question has to be: Who altered my remarks and why was that person not found? There is no answer to that in the report. That question remains moot.

And yet the report says that they can go no further, that there will be no hearings held on the matter of the EPA record.

□ 2050

The report says that since the gentleman who is fingered has now left the employ of the House, nothing can be done about him.

The report further says that the report on EPA should be reprinted, which I think is very nice to hear, that a doctored report is going to be reprinted by the House. I will say that that is going to cost the taxpayers a considerable amount of money. Already this particular matter has cost the taxpayers tens of thousands of dollars, and yet nothing is going to happen to the person who has been identified as being responsible for at least some of it by this House.

The report also makes a recommendation in which it says that it feels that it should turn over the records that it has to the Department of Justice for its use in its investigation.

However, it adds a caveat to that. The caveat is under conditions that may be laid down essentially by the House leadership.

Now, what that means is that this matter has been put at the door of the Speaker of the House of Representatives. We how have to make a determination whether or not we are going to allow this case to be prosecuted.

Now, we have already heard from the general counsel of the House, who has already in the press made claim to a separation-of-powers issue here. He claims that under the speech and debate clause of the Constitution that the House may be required to protect the gentleman who has been identified as being the culprit in this report. And the logic is that this person was acting in his role as staff, under a Member's

direction, and therefore is protected by speech and debate.

If that is used, it is very close to a Watergate-style defense, because in this particular instance what that means is that a gentleman, a staff member who changed my remarks as a Member of Congress, is protected by the speech and debate clause, and I am not, because it was my speech and debate that was drastically affected, and yet the House will not allow the person to be prosecuted who did that to me, and yet will protect the staffer who did it.

Now, that is wrong. That is a terrible Constitutional argument. And yet that seems to be the direction in which we are proceeding.

Now, it is not unlike what we have had consistently in this investigation, an attempt to try to put a lid on it, not let it go very far, an attempt to quietly talk about it.

In other Ethics Committee reports we have had things like press conferences and at least a considerable period of time in which these things were described to Members of the House. In this particular case, as this report is issued, the gentleman from Ohio comes to the floor late at night for 1 minute and talks about the report. Why so quiet? Why can we not say that this is a very disturbing report that says that in this House of Representatives our official documents were maliciously altered in a way which changes the very content of those reports?

The report goes a little bit further, though. The gentleman from Ohio described this in what I thought was a rather cavalier fashion, where he said that the rest of the things that were brought to the committee's attention through the interrogatories were dismissed as having no basis in fact.

I think we need to look carefully at the way in which the committee arrived at that decision. What was dismissed by the committee was dismissed under a very narrow set of circumstances that they set up. What they said was that the committee would not consider anything where remarks were changed in an unauthorized manner. But then they made a very liberal interpretation of what "authorization" means. "Authorization" means that a Member decides that he will allow his remarks to be changed; and so therefore that becomes an authorized change, not an unauthorized change. It does not matter, and the report is quite clear, that they made no judgment about the fact that the Member may have changed his remarks substantially, as a matter of fact may have done a 180-degree turn in his remarks and thereby caused a situation that should not be, even under the House rules. The committee made no judgment about that, even though that may be an abuse, but simply said, "Because the Member authorized it, it is all right with us."

If a committee chairman authorizes a whole bill to be changed after it leaves his committee, that is OK, too, because he authorized it.

Well, under those circumstances I can understand how the committee arrived at that decision. But I personally am not willing to say that that does not represent a pattern of abuse. And I am personally disturbed about the fact that I see a pattern of abuse developing in the House of Representatives where much of what is reflected in the official documents of the House of Representatives is pure nonsense compared to what we do in actuality in the committees and on the House floor.

We need to have a correction in the way we operate around here. The permission to revise and extend remarks has become a license to lie, and in many instances this has become a situation where Members completely change the context of their remarks through the permission to revise and extend. It has become a way for Members to say nothing and yet appear as though they have contributed mightily to the debate. It has become a way to totally change the legislative interpretation of what has taken place on the House floor.

It is time to adopt a procedure around here where exactly what we say on the floor is what shows up in the CONGRESSIONAL RECORD the next day. It is time to have verbatim transcripts of the proceedings of this floor take place or be put in the CONGRESSIONAL RECORD the next day.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will in just a second.

It is time for verbatim transcripts to be utilized in the committees of this House to reflect precisely what we do in those committees.

I will be very glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I am sure my colleague remembers our colleague, our mutual colleague, Mr. Bolling, and when he would take the well, he always referred to the existing rules of the House, which are there today, and he would ask permission if he were going to read from any prepared item, because the rule of the House still exists and it is enforceable. My colleague could ask for its enforcement from the Chair at any time. And the rule states that there shall only be admitted into the RECORD that which is orally submitted, and that reading from a written statement is improper under existing rules. That is still the rule of this House.

Let me suggest to my good friend—and he is my good friend; we share a mutual interest in both being from Pennsylvania—we have the Ethics Committee. I am sure Mr. STOKES, who made his presentation today in the well, was reflecting what that committee, which is a bipartisan committee, equal amount of Republicans and Democrats, what they suggested.

I do not blame my colleague for being more than perturbed. I would be, too, if someone changed my remarks. But I would submit for my colleague's intelligent and fair consideration that that is not what has occurred around this House on a regular basis as long as I have been here. I think it is unfortunate that my colleague used the descriptive phrase "a license to lie." I have seen many things occur in this House. But, believe me, in good conscience—I can say it anyplace anywhere—I do not think that is the perception or the conception we have among our colleagues that our colleagues are looking for and taking advantage of a license to lie. I have not seen that.

Mr. WALKER. Well, I would say to the gentleman that I use the phrase in the context that we have many instances where the permission to revise and extend is being used in a way to substantially change remarks from the way in which they were delivered on the House floor. And in substantially changing the way the remarks are delivered, not just making grammatical changes, which is what was originally intended by the permission, but by substantially changing the content of those remarks, it ends up being a distortion of the public record.

Now, whether you want to call the distortion a lie, that is perhaps some hyperbole; but, nevertheless, it is a very grave problem in having those public documents then interpreted in the future when they end up being distorted.

This gentleman is talking about distortions which I think are a problem. And I am saying that I believe we would be better served, with all of the problems it entails, by verbatim records than a record which ends up being very distorted.

Let me give you an example. Yesterday there was a 1-minute speech made on the House floor with regard to ERA. It was made by the gentlewoman from California. And in that speech she said, "Mr. Speaker, the Preamble to the Constitution says that all men are created equal," and then went on to make a whole speech from that standpoint, that therefore, we need the ERA which will put women into the Constitution for the first time.

□ 2300

A few moments later I got to my feet and I commented on that, saying that I hoped there was a better understanding of the Constitution than had been reflected in that speech, because that

is what we were going to be amending. My implication, of course, was that there is no such language in the Constitution.

The Constitution is a sex-neutral document. In fact, the very first phrase of the Constitution is "We, the People," and it refers throughout to "persons." But nevertheless, that was the speech that stood. I replied to the speech.

When I got back my remarks, I, as I usually do, did not make any changes in my remarks; not one change in my remarks. However, when I pick up the CONGRESSIONAL RECORD today, the comments of the gentlewoman had been changed to read, "Mr. Speaker, the Declaration of Independence says that all men are created equal," which in fact it does. That is a correct statement. But my statement that follows just after that looks ridiculous in context because I am replying to something that was never said. My statement becomes a non sequitur in the argument.

I am saying that I think that for the RECORD to be utilized in that manner is wrong; that that is a distortion. She may be perfectly within her rights to revise and extend, but it seems to me that a Member has every reason to be a little bit upset when that kind of thing takes place. Debate then cannot take place legitimately on the House floor because one Member has an opportunity to change their remarks, and those of us who are honest enough to stick with our remarks in what we say on the House floor are thereby sullied by those who choose to change their remarks. I say that is wrong.

Under those circumstances, I would much prefer to have the situation where there is a verbatim transcript, where exactly what was said in those 1-minute speeches yesterday is reflected in the RECORD that appears the next day. I think that would be a far better system under which to operate.

Mr. GAYDOS. Mr. Speaker, will my colleague yield?

Mr. WALKER. I would be glad to yield to the gentleman from Pennsylvania.

Mr. GAYDOS. I thank the gentleman for yielding.

Mr. Speaker, nobody in his sane mind or expression of fairness and wanting to do equity in this situation would argue with you because I would probably feel just as perturbed as you and make the same statement, I would presume.

I think what we should do, possibly, when the rules are ready for revision and reconsideration, we can make some pertinent changes such as remarks should not be changed and have a limitation on how the changes occur, and particularly point out, and I think my colleague makes a good point, an area where it does have that adverse effect on remarks that are in response to those remarks. As you so adequately point out, I think that should be prohibited, because it is a RECORD that circulates throughout the whole world, and particularly in our educational institutions, our libraries, on a permanent basis.

So I think you make a good point.

Mr. WALKER. I thank the gentleman, and that is the point I am trying to make. It seems to me that what we need to do is to go to the concept of a verbatim transcript and that would get by many of the problems that I see that are identified in the committee report to which I referred, and yet a solution is not given.

My only comment about the committee record is that it does not seem to me to be exactly as the gentleman from Ohio described it earlier. It seems to me that there are some problems in that report; that it is incomplete in some ways. But the bottom line is that it calls upon this House, I think, to do something which is very important.

The most important paragraph in the report is that which says that the Department of Justice should be able to prosecute the case utilizing the material out of the Ethics Committee. If the House moves ahead and allows that investigation to move ahead, then I think we will have done our duty. If we stand in the way of that investigation, I think that we will be assuring that other people looking at this RECORD in the future will decide that there really is no penalty for changing Members' remarks in a malicious fashion; that they are protected in any case when they do that; that the only thing that may be exacted of them is that they would be forced to resign if caught.

I think that would be the wrong kind of precedent, and I would hope that the House of Representatives, having read the report out of the Ethics Committee, will come to the conclusion that prosecution by the Department of Justice is needed.

THE 65TH ANNIVERSARY OF LATVIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DONNELLY) is recognized for 60 minutes.

● Mr. DONNELLY. Mr. Speaker, it gives me great pride to join my colleagues in commemorating the 65th anniversary of Latvian Independence Day. Today's special order demonstrates that we in Congress have not lost interest in the plight of the oppressed people who live under Soviet domination in the once-free nation of Latvia.

We stand with them, their families and friends who have emigrated to the United States. We are in solidarity with their struggle to be free.

During its 22 years of freedom and independence from 1918 to 1940, Latvia was an internationally recognized member of the League of Nations. Her people knew the feeling of freedom, and the prosperity and vitality it brought to their lives. Independence was brutally stripped from the brave people of Latvia in 1940, a fate that also befell neighboring Baltic States of Lithuania and Estonia. The perpetrator of this horror was the army of the Soviet Union. In June of 1941, a massive deportation of thousands of Latvians, Lithuanians, and Estonians by the Soviets to Siberia resulted in more than 600,000 deaths.

That was not the final chapter in the grisly Soviet campaign to eradicate all traces of the once-independent Baltic States. It continues with full force even today. Any attempt by Latvians to celebrate national culture and traditions are harshly attacked by Soviet occupation forces, and participants are jailed and beaten. In effect, the Latvian people have become captives in their own land. The response of the United States to the illegal invasion and continuing occupation of Latvia by the Soviets is clear. It has not wavered in the 43 years of Soviet domination. We will never accept the Soviet claim to the Baltic States. Our Nation's longstanding official policy on nonrecognition remains in force, as demonstrated by the presence of the three Baltic legations in Washington.

The existence of the ad hoc Congressional Committee on the Baltic States and Ukraine, with current membership at an alltime high of 90 members, is concrete proof of the significance this Chamber, the U.S. House of Representatives, places in our people's commitment to the cause of Baltic freedom. For 2 consecutive years now, legislation designating June 14 as Baltic Freedom Day in the United States has been enacted into law.

Be assured that we will not rest in our effort to bring the just cause of Baltic self-determination to the attention of the world community. The Soviet Union and the Latvian people can be sure of that.●

● Mr. COYNE. Mr. Speaker, this week marks the 65th anniversary of the founding of the Republic of Latvia, a nation whose quest for independence has been thwarted by the Soviet Union.

The Republic of Latvia, founded on November 18, 1918, adopted a Constitution in February 1922. It was recognized by the United States on July 28, 1922.

Less than two decades later, at the beginning of World War II, the Soviet Union invaded Latvia and annexed it. Shortly thereafter, in 1941, the Germans invaded, combining Latvia, Lith-

uania, Estonia, and Byelorussia into a region known as Ostland. Latvia became a part of the Soviet Union once again when the Soviets took the area back from the Germans.

Mr. Speaker, Latvians in this Nation and around the world have long demanded that the Soviet Union respect the Latvian people and their special culture by allowing self-determination in that land. It is fitting that we join in that appeal today by remembering the 65th anniversary of the founding of the Republic of Latvia. Two decades of freedom are not enough. I know I express the feelings of many of my colleagues in saluting the Latvian people for their fortitude and determination in the long quest for these goals.●

● Mr. ECKART. Mr Speaker, as we approach this Thanksgiving season, we often forget just what it is that we are supposed to be thankful for. Too often we take our freedom for granted when, instead, we should be most grateful for this basic, yet most important of human rights. During this holiday time let us think of those around us who have yet to gain their freedom.

Let us especially remember that today is the 65th anniversary of Latvian Independence Day. This once independent state no longer has any freedom to salute on this day because the Soviet Union still controls this small, peaceful nation. Let us be reminded of the constant struggle and determination which it requires to be free. It should be especially encouraging for people all around the world to note the courageous people of Latvia other Balkan nations and all freedom seeking people of Eastern Europe who are still seeking and actively pursuing their cause for freedom. It is indeed inspirational to see that these people realize the rewards and importance of ending subjugation and slavery.

We should also honor the more than 1 million native Latvians who are now American citizens as they relish their newly found freedom but still remember their own who continue to live under the ironhand of repression and servitude.

Let this Thanksgiving season serve to remind us of our commitment to these people and others like them who strive to be free and let it also remind us that freedom is the greatest goal that man could ever pursue.●

● Mr. GILMAN. Mr. Speaker, the brave little country of Latvia is geographically no bigger than the State of West Virginia, yet it represents a major example of the imperialistic and inhumane nature of the Soviet Union. Just after World War I, Latvia was able to enjoy a brief period of independence before the tide of freedom was replaced with a tidalwave of communistic oppression.

As Americans, we all share the heritage of the independence that was declared by our forefathers on July 4, 1776. From that day on, we have been blessed with the opportunity to prosper and enjoy the freedom we hold so dear. Accordingly, as Americans we can deeply empathize with the people of Latvia who share the heritage of independence tarnished by the shackles of communism.

On this—the day designated to commemorate the independence of Latvia, we are all witness to a tragic dichotomy. For, although we applaud the events of November 18, 1918, we abhor the current state of affairs.

The people of Latvia are our natural allies, but the state of Latvia while under the totalitarian control of the Soviet Union, must never be recognized. The people of Latvia belong to an almost extinct group of Baltic peoples and speak a language unlike any other in the region. The cultural integrity of this land is being compromised by the Soviet intruders. Their religion and rich folk music which is famous around the world, is quietly being snuffed out of existence.

I thank my distinguished colleagues, the gentleman from Massachusetts (Mr. DONNELLY) and the gentlman from Pennsylvania (Mr. RITTER) for bringing this special order to the floor of the House of Representatives. I hope and pray that our words today provide a spark to keep the flame of freedom that burns in the heart of all Latvians, alive. Alive to continue the fight for freedom—today, tomorrow and forever. Thank you.●

● Mr. FORD of Michigan. Mr. Speaker, today I join the call for a special order commemorating the 65th anniversary of Latvian Independence Day.

On November 16, 1918, the Latvian people exercised their inalienable right to self-determination and declared to the world their independence. One would, therefore, expect the 65th anniversary of the country's independence to be just cause for celebration. Yet, each year this date marks a solemn occasion for Latvians worldwide. For the people of Latvia have been physically subjugated by the Soviet Union since 1940.

Before Soviet oppression was thrust upon them, Latvia enjoyed more than 21 years of independence. The achievements of the Latvian people during this time are impressive. Latvia had the highest percentage of youths attending high schools and colleges of all the countries in Europe, and was second among all European countries in the number of books published per capita. In 1936, Latvia's Minister of Foreign Affairs, Vilhelms Munters, was elected president of the League of Nations.

At the end of World War II, over 100 new nations were able to exercise their inalienable right to form sovereign legislative, judicial, and administrative bodies. Conspicuously absent from amoung those nations were the Baltic countries of Estonia, Latvia, and Lithunania. While many countries which were once components of the former British, Spanish, and Portugese empires were gaining their independence, the Soviet Union greedily held onto the ill-gotten Baltic nations.

Today, the Soviet takeover of Latvia remains incomplete because of the fierce national pride of the Latvian people. The Soviet policy of Russification, designed to eliminate the unique Latvian culture, has served only to weaken the Soviet position in that nation. While the physical Soviet presence in Latvia remains, that presence must compete with a tireless foe that is embodied in the spirit of the Latvian people.

It is, therefore, in recognition of the struggle of the Latvian people to regain their freedom, and in honor of the supportive role of the Latvian community in this country, that I offer my support to this special order commemorating Latvian Independence Day.●

Ms. FERRARO. Mr. Speaker, as a member of the Ad Hoc Committee on Baltic States and Ukraine, I am pleased to participate in this special order commemorating the 65th anniversary of Latvian Independence Day.

November 18, 1918 represents a crucial and emotional day in Latvian history. After years of being controlled by its powerful neighbors, Latvia became a free and independent nation on that date. Her independence, however, was short lived. The Soviet Union, in a ruthless act of tyranny, invaded Latvia in 1940. Since that time, Latvians have known only exile and persecution and not the freedom and independence that we, as Americans enjoy.

Today, Latvians still seek the independence that they achieved in 1918. Over 40 years of oppression have not crushed the determined spirit of the Latvian people who stubbornly resist the Soviet Union's attempt to obliterate their linguistic, ethnic, and religious identities.

As Americans who possess the freedoms we won in 1776, we support the efforts of the Latvian people to establish their independence. As a compassionate people, we must not forget the Latvian people who have suffered for too long under Soviet domination.

It is my hope that my colleagues will join me in commemorating Latvian Independence Day. Freedom loving Latvian people must not be forgotten.●

● Mrs. JOHNSON. Mr. Speaker, I rise today to commemorate the 65th anniversary of Latvian Independence Day. Sixty-five years ago, Latvia, along with its sister states of Lithuania and Ukrainia, was a free and independent nation. Today, it is a subject state of the Soviet Union, governed not from

its capital of Riga, but from Moscow. Freedom of expression in religion, literature, and art is suppressed, even the use of the native Latvian language is discouraged. Its people face becoming a minority in their own country as the Soviets attempt to dilute their native Latvian population through a policy of encouraging non-Latvians to settle in the country, thereby diffusing the Latvians sense of national identity.

Through my years in the Connecticut State Legislature, and in my position on the Ad Hoc Committee for Baltic States and the Ukraine, I have become familiar with the struggle of the Baltic people. Their continued determination to fight for their freedom and their right to cultural self-expression is a testament to the unquenchable thirst of the human soul for the fundamental right of self-determination.

As Americans, Independence Day is a celebration of many things—our pride in our country, our recognition of the many freedoms that are our birthright as U.S. citizens, and our appreciation for the diverse ethnic backgrounds that have created a distinctive American culture. It should also be a time, however, for somber reflection and for support for those people who are without the basic human rights that we often take for granted in this country. With that in mind, let us commend the courageous spirit of the Latvians and reiterate our support for their battle for independence.●

● Mr. RUSSO. Mr. Speaker, this week Congress has an opportunity to commemorate an important date, the 65th anniversity of Latvian Independence Day. This occasion is one of mixed feelings for those of Latvian heritage. Although it is with justification that on this occasion Latvians celebrate their proud heritage, it is also with great sadness that they consider the present subjugation of the Latvian nation by the Soviet Union.

The venerable history of Latvia combines long traditions of industriousness in trade with artistic achievement. Furthermore, this proud and determined nation first established its political independence in ancient times and maintained it until the middle ages. Thereafter, for five long centuries, the Latvian people struggled to regain their independence from a variety of conquering countries. Their unyielding efforts were finally triumphant and on November 18, 1918 they reasserted their independence as the Latvian Republic.

The newly found freedom of the Latvian people, however, was tragically short lived. During the Second World War, conflict ravaged this small and vulnerable country. First, the Soviet Union invaded and annexed Latvia in 1940, and then Germany invaded in 1941, occupying the country for 3 years. Eventually, the Soviet Union drove the Germans out of Latvia, but then forceably incorporated Latvia into the Soviet Union as one of its republics. The ensuing actions of the Soviet Union constitute one of the most ruthless cases of political suppression in European history. Only hand-picked Soviet Sympathizers were allowed to serve in office. Tens of thousands of native Latvians were deported. A systematic policy of Russian emigration promised to make Latvians a minority in their own country.

Today the sad plight of the Latvians continues: The Soviet Union exploits their industriousness, suppresses their art, and even threatens their native tongue, Lettish, with calculated extinction. It is the purpose of the Soviet Union to raise a nation of Latvians who not only are unable to live freely within their own country, but who also cannot even think or speak the word "freedom" in their own language.

Nonetheless, the Latvian people have bravely resisted these brutal Soviet efforts to suppress their national identity and have steadfastly persisted in the preservation of their cultural integrity. Living in the United States with its blessings of freedom and security, it is easy to forget the plight of others around the world. The struggle for freedom of any people anywhere, however, forms part of the defense of freedom for all. The courage and determination of the Latvian people can neither be measured in words nor forever bound in chains. Their example provides inspiration to freedom seeking people everywhere and reminds us of our duty to honor and support them. May this commemoration honor the inspiration that the Latvians have provided to others by assuring them now, "In your struggle for freedom you are not alone."●

● Ms. OAKAR. Mr. Speaker, today we commemorate the aniversary of Latvian independence. This is an occasion for joy as well as sadness: We commemorate a glorious day when the people of Latvia expressed their will to be free and self-governing. We must also regret the fact that Latvia is now under the domination of a brutal imperialist dictatorship that is implementing a policy of cultural genocide.

Sixty-five years ago, Riga was an exciting city as the streets filled with joyous voices celebrating the end of Tsarist Russian domination and the beginning of a new era for the people of Latvia. Over the course of the next two decades, the people of Latvia demonstrated their ability to organize their own life. Their culture experienced a blossoming under their own government.

All of that, as we know, came to an end in 1940 when Soviet troops imposed an alien system on the three Baltic States, Latvia, Estonia, and Lithuania. During the past two generations, the Kremlin has been implementing its policy of russification, designed to change the basic national identify of Latvia and thus eradicate that nation from the face of the Earth. Latvia and the other Baltic States are particularly vulnerable to russification because of the relatively small size of their population. To the credit of the Latvians, the Soviet efforts to erase their national identity is failing. Young Latvians continue to speak the language of their parents and sing the songs of their ancestors. That does not mean, however, that the situation is not grave.

Latvian Americans have consistently come to the defense of their compatriots under Soviet domination, urging us, their representatives, to speak out in Congress and at international gatherings. I am honored to be able to add my voice to commemorate Latvia on her independence day and to speak out for her rights as a nation. I also urge the administration to implement a policy that would encourage the aspirations of Latvia and all the other captive nations of the Soviet Union. We must differentiate between the Government of the Soviet Union and the people forced to live under its rule. We must not only oppose Soviet hegemony, we must encourage the national identity of nations such as Latvia. At a time when commercial ties between our country and the Soviet Union are stronger than ever with massive grain sales, technology sales, and Soviet access to American markets, it is essential that we pursue policies that also facilitate direct contacts between Americans and ordinary Latvians and others in the Soviet Union. Only through the direct encouragement of family and cultural ties can we help to dilute the pervasive atmosphere of russification.

As we pause to join the Latvian community in commemorating their anniversary, let us also rededicate ourselves to the continued pursuit of human rights throughout the world so that people of all nationalities can enjoy the benefits of freedom and independence. Let us take inspiration from the steadfast patriotism of the Latvian community here and in Latvia to bring about a new era in world affairs where self-government becomes a reality as well as a slogan.●

● Mr. GREEN. Mr. Speaker, I would like to add to the words of my colleagues in commemoration of the 65th anniversary of Latvian Independence Day. It is not a happy occasion, as is our own Independence Day, but one which must be recognized. As free people, it is our responsibility to speak for those whose own voices have been stilled.

The modern history of the people of Latvia, and the other Baltic countries, has been one of occupation and oppression. Since 1940, these countries have been occupied by the Soviet Union in blatant violation of the peoples' will. Their rich cultural and religious traditions have been denied them through imprisonment and attempts at relocation. It is clear, however, that the Soviets' attempts to break the spirit of the Latvians have failed. They are brave people who have resisted the iron fist of totalitarianism.

It is to reaffirm our commitment to these brave, freedom loving people that I, and many of my colleagues, have supported a resolution calling on our President to direct our U.N. Ambassador to bring the question of self-determination before that body. It is in this same spirit that the Members of this House have repeatedly supported the commemoration of June 14 as Baltic Freedom Day.

For those of us fortunate enough to live freely, the plight of those who do not is disturbing. Those who are held against their will are enslaved. We must not forget those who live in the Baltic countries, but must, year after year, bring their plight to the world's attention until that day when they can truly call themselves free citizens of a just state.●

● Mr. FISH. Mr. Speaker, I rise in support of a courageous people. People who, today, live under tryanny and oppression, but have never lost their culture, distinctiveness, or dignity. I come before you today to reaffirm my support for the people of Latvia.

Presently, Latvians, under the hegemony of the Soviet Union, constantly endure Soviet attempts to "russify" their entire population. But the Latvians have fiercely resisted attempts to dilute their proud heritage. They have never accepted the aggressive annexation of their homeland. They still struggle for their freedom and independence. They hope to regain control of their national destiny. Latvians want to freely develop and enjoy their native culture, arts, and literature. Their spirit remains strong.

It is important that the United States and the Congress reaffirm support for Latvia. Let us join together to recognize the 65th anniversary of Latvian independence. It is appropriate on this day to reaffirm our policy of refusing to formally recognize the Soviet incorporation of Latvia, and other Baltic States, into Soviet territory.

Mr. Speaker, the Latvians serve as a reminder of how fortunate we are to live in a country that espouses liberty and self-determination as fundamental rights. We have a duty to speak out on behalf of those who are less fortunate. Latvians harbor a dream that one day they will be able to enjoy man's basic human rights. We must never forget them.●

● Mr. McGRATH. Mr. Speaker, today we are again reminded of Soviet oppression. As we observe the 65th anniversary of Latvian Independence Day, we are acutely aware that Latvians are not permitted to celebrate this historic day. In 1944 the Baltic nation of Latvia was incorporated into the Soviet Union.

The history of the Latvian nation is one of a land divided amongst aggressors and repressors. Latvia has been under the control of Germany, Sweden, and now of course is under Russian rule for the the second time. When the Soviets reconquered the land during World War II, it deported thousands of Latvians to Siberia. In their place loyal Russian colonists were sent to settle. A systematic russification of the people, culture, and land was set in motion. Native Latvians were relegated to the status of second class citizens within their own nation. By 1970 the percentage of Latvians had decreased to 57 percent of all residents.

Yet despite the tragic past, and continued efforts to erase all traces of Latvian heritage, the Latvian people have never abandoned their hope for the return of an independent Latvian nation. The commemoration of national holidays such as November 18, the day of national independence, and participation in ceremonies to honor national heroes, are actions which underscore the commitment to the preservation of a strong and independent identity. Although the Soviet Union discourages exhibitions of nationalistic expression, artists, writers, and composers have joined in demonstrations to protest Soviet domination.

President Reagan has stated that, "As a nation, we remain dedicated to the furtherance and preservation of the fundamental human rights and freedoms of all people". Clearly this reflects the strength of American solidarity with the continuing struggle for Latvian independence. At this time I urge my colleagues to support efforts to reestablish the independent Latvian nation which was absorbed by Communist forces nearly 40 years ago.●

● Mr. GEKAS. Mr. Speaker, this week marks the 65th anniversary of Latvian Independence Day. It is indeed unfortunate that the people of Latvia cannot join us in celebrating this day, but as we all know, the Soviets moved into the Baltic country in 1940 and have done everything possible since then to eradicate all signs of Latvian independence. All of the fundamental freedoms enjoyed by the independent Latvia have been eliminated by the Soviet Government. Among other injustices, the Latvians are not permitted to practice their religion or to speak freely in public. Those of us raised in the United States find it hard to fully comprehend the severity of such restrictions placed on the day-to-day lives of ordinary citizens.

In the belief that Latvia will once again be free, those persons of Latvian heritage in the United States and elsewhere throughout the world continue the struggle which will enable Latvia to one day break away from the U.S.S.R. The hope of freedom is a strong incentive, Mr. Speaker, and it has kept these brave people working constantly over the years toward that goal of renewed Latvian independence. In addition, the thought of freedom keeps the hopes of those persons still in Latvia alive, and helps in part to ease the terrible burdens of living under the harsh rule of the Soviet Government.

Today we are saluting those brave people, and at the same time, we are here to reinforce a position taken by the U.S. Government which is vital if Latvia is to regain its independence. That position is the nonrecognition by the United States of the Latvian incorporation into the U.S.S.R. The United States continues to recognize the legitimate independence of Latvia, and still refuses to accept the Soviet control of the Baltic nation. Congress is supporting today our Government's policy in this regard, and will continue to do so until Latvia is once again free. Knowing the strong spirit of the Latvian people, I do not hesitate to inform the Soviet Union at this time that Latvia will indeed be free once again.●

● Mr. CORCORAN. Mr. Speaker, it is an honor to join in this special order commemorating the 65th anniversary of Latvian Independence Day. It is a tragedy that the people of Latvia cannot celebrate this day in the way they would wish because their independence has been ruthlessly taken from them by the Soviet Union.

The Latvian nation is today a captive nation, a nation that remains under illegal Soviet occupation, an occupation that gives the Latvian people no say whatsoever in the way their country is governed. This is, of course, so typical of the Soviets. The occupation of Latvia and the other Baltic nations is part of the Soviet aim of creating a new Soviet man schooled to believe in the tenets of communism, rejecting the culture of his ancestors. In reality this amounts to a process of crushing the individuality of nations such as Latvia and subjugating them completely to the dominance of the Russian majority.

I believe we must reject such a process of Soviet colonization just as throughout our history we have rejected all other forms of colonization. Our resolute refusal to legitimize the Soviet seizure of Latvia is a fact which gives moral strength to the long-suffering, but brave people of Latvia who continue to fight the efforts of Sovi-

etization. Let our commemoration of the 65th anniversary of Latvian Independence Day be a symbol of hope and a signal that no amount of time will ever shake our commitment to the Latvian struggle for their independence and freedom.●

● Mr. RITTER. Mr. Speaker, I am proud to join with my colleagues in solemn observance of the 65th anniversary of Latvian Independence Day. While we share in this day with Latvians throughout the world, I believe it is important that we also remember those brave men and women who continue to live in Soviet-dominated Latvia today. Their struggle for freedom and basic human rights is the struggle of all freedom-loving people everywhere.

As World War I ended, Latvia declared its independence from the newly formed Soviet regime. Throughout Latvia, men and women began to build a nation that had been torn apart by strife and war. Few nations had such a formidable challenge as the Latvians in transforming a hard-fought independence into a judicious and benevolent government for all the people. After overcoming great obstacles a new nation was formed and a people were united in their independence.

During the interwar years, Latvia enjoyed a prosperous and productive existence. Output in virtually every sector markedly improved. As a member of the League of Nations, Latvia enjoyed good relations in the international family of nations.

However, as the dark clouds of war began to menacingly spread across Europe, small nations such as Latvia, Lithuania, and Estonia became inevitably embroiled in the power struggles being waged in war-planning rooms of Moscow and Berlin. Although neutral, the Soviet Union invaded these countries in mid-1940, unlawfully ending their independence. One year later, the Soviets, anticipating a Nazi takeover of the Baltic countries began a mass deportation of tens of thousands of Baltic people. They were laying the groundwork for a future occupation and the fulfillment of their diabolical plans. Whole families were forever broken apart, others were sent to Siberia to live the rest of their lives literally in slavery, and still others were summarily executed. That week has come to be known as the Baltic Holocaust and it is a wound that not even time will heal.

After the war ended, the horror continued as thousands more were sent to the Gulags. Today, it is no coincidence that a large percentage of people living in these occupied countries are not of Baltic descent. The Soviets have tried repeatedly to russify the Baltic peoples. And they have failed. The culture, religion and traditions of these great peoples is still alive and each new generation continues the hope for a one-day free Latvia.

Latvians are a fiercely proud people who have not yielded to the injustices of their Soviet occupiers. We can never forget their struggle or the struggle of their neighbor countries. I am proud to say that the United States has never recognized the Baltic countries as part of the Soviet Union.

I am currently sponsoring House Concurrent Resolution 192 which expresses the sense of Congress that the President should take all steps necessary to bring the question of self-determination of the Baltic States before the United Nations. Many other Members of Congress have joined as cosponsors and it is my hope that this resolution will be passed before the U.N. Human Rights Session convenes in February. We in Congress have an integral role to play in keeping the hopes of all oppressed peoples before world attention. I invite you to join me on this resolution.

THE 50TH ANNIVERSARY OF UNITED STATES-SOVIET RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Speaker, the hour is late but the subject is quite important, and I am sorry that a number of my colleagues who were supposed to be here tonight and have submitted statements for the RECORD could not stay because of the late hour.

Mr. Speaker, my colleagues and I have called for this evening's special order to reflect on the 50th anniversary of the establishment of formal diplomatic ties between the United States and the Soviet Union. A 50th anniversary is traditionally the golden anniversary: regrettably, the gold in this relationship is badly tarnished.

Since the Soviet invasion of Afghanistan, the imposition of martial law in Poland, and, most recently, the shooting down of Korean air flight 007, United States-Soviet relations have grown progressively worse. Today there is considerably less trade, no cultural exchange and scant bilateral cooperation. Within the last 18 months, four of the eight science cooperation agreements with the Soviets have expired and have not been renewed. Two others are scheduled to run out next year.

A recent article in the New York Times revealed that 10 Russian college students scheduled to take classes at the State University of Albany, N.Y., this fall have not left Moscow, and there is now doubt whether the student exchange will be completed. Although the delay, in part, is attributable to the banning of Aeroflot, the Soviet airline, from landing in the United States or Canada, an official from the State University said that she had received word from American students studying in Moscow that the delay in the departure of the Russians—the only 10 Soviet undergraduate students to see America this year—could also be attributable to the tensions between the two countries.

Political dialog has been largely silenced and diplomatic contacts are severely strained. According to an American, just returned from Moscow, in the Soviet Foreign Ministry there is a new joke that Ambassador Anatoly F. Dobrynin here in Washington has "joined the ranks of the unemployed in America," because there is now so little for him to do here. The few ongoing contacts exist because of arms control negotiations in Geneva and our sales of grain to the Soviets. Recent events in Lebanon and Grenada now present questions about the future of even these relationships.

We cannot close our eyes to the Soviets' international aggression or their censorable internal repression, nor can we stress strongly enough that many of the breaches in United States-Soviet relations are the result of Russian misconduct. I also realize that as long as this Nation and the Soviet Union each remain true to the principles upon which they were founded, rivalry and disagreement will continue. The world's surfeit of sophisticated weaponry, however, makes that rivalry extremely dangerous, and that makes continued diplomatic, cultural, and trade contacts with the Soviet Union absolutely essential to the prevention of nuclear war and to any hope of achieving real peace in any of the world's trouble spots.

We also need to do our best to have access to the formulation of opinions by the Soviet people, particularly to the extent that we can encourage them to share the same frustrations, the same concerns that Americans do about the disastrous consequences of nuclear war. In fact, earlier this week, a disparate group of Members of the Congress attended a meeting also attended by Soviet Ambassador Dobrynin. During that session, our colleague ELLIOTT LEVITAS and I urged the Ambassador to do whatever he could to encourage the showing of the upcoming television program "The Day After" on Soviet television. Having seen a preview of that film, there is no question but that it does

very effectively capture the fears that stir in the hearts of many Americans about the disaster which nuclear war would create. There is a concern by some in this country that that same feeling might not exist in the minds of Soviets because they have been encouraged to believe that such a war is indeed survivable. The ultimate goal of our interrelationships must be to change the minds of the Soviet people, if they do indeed believe that such a war is survivable, and those of their leaders as well. That will then immeasurably increase the likelihood of achieving a much safer world. To do that, we must maintain contacts; otherwise, no minds will be changed.

In a piece for the Washington Post entitled "Now Get Ready for the Real Crisis," Raymond Garthoff, a Russian-speaking retired foreign service officer, reflected on the ominous portendings of the growing chill in United States-Soviet relations. After 2 weeks of speaking with a wide variety of Russian officials and ordinary people, he writes:

This escalating deployment of new weapons is one reflection of the deteriorating relationship between Moscow and Washington. These new deployments don't mean that the Russians will be looking for opportunities to use their weapons, but that is not the only danger.

The principal risk lies not in the possibility that the leadership in Moscow or Washington will intentionally challenge its adversary with bold new initiatives to probe his resolution. This seems unlikely—although it is what both Soviet and American leaders suspect of each other. The greater danger will come from the reactions of both superpowers to unpredictable new situations or crises triggered by events beyond the control of Moscow or Washington. The deterioration of relations has reduced still further the thin margin of restraint that cushions the reactions of both powers in such situations.

So has the door of communication between the United States and the Soviet Union slammed shut? Not quite, but it does appear that the door is coming perilously close to closing. Realizing the importance of keeping that door open, I recently reflected on the question of why and how we must continue to talk to the Russians in an article for the Wichita Eagle-Beacon. I would like to share it with my colleagues at this time:

BETWEEN RUSSIA AND THE UNITED STATES: A CLOSING DOOR

The movie is set in Lawrence, Kansas, and it chronicles a nuclear war. The destruction is mind boggling. The familiar setting brings home clearly the tragedy of a nuclear attack because the setting is home; the setting is Kansas. On November 20, ABC will show that movie "The Day After." Perhaps it will cause others, as it did me, to think about the implications of the arms race, to view in the context of a potential disaster what can happen if the two superpowers do not come to terms with their awesome power and the potential for destroying the human race if we do not learn to live with each other.

In July of this year, Yuri Zhukov, a member of the Supreme Soviet and Chairman of the Soviet Peace Committee, made the comment to me during a congressional trip to the Soviet Union, that "your President is too provincial . . . calling us an evil empire and engaging in nasty, polarizing rhetoric." The irony of that comment made by a man known as "the butcher of Moscow" was not lost around the luncheon table in the Kremlin. I responded to Zhukov that Kremlin leaders, including Yuri Andropov, were guilty of much uglier rhetoric. Zhukov's response was "perhaps you are right, but you Americans do not show us respect." He then described a meeting with Richard Nixon over ten years ago in the same room where we were eating, and where the Test Band Treaty had been signed at the very same time the United States was placing mines in Haiphong Harbor in Vietnam. Zhukov said, "Even at the identical time you were placing our ships at risk in the harbor, Nixon at least showed us courage and particularly the respect by coming here to the Kremlin."

Zhukov's comment was very significant. He was telling me that as a Russian, he didn't necessarily care to be loved, just respected. Later, our Soviet "expects" from the State Department accompanying us on the trip said that I had "discovered" a very significant fact about the way the Soviets view their relationship with the West, particularly the United States. My discovery was nothing more than reaching the knowledge that we must deal with nations as we would with individuals, remembering that simply recognizing the other's point of view is the first step in communicating. And although it may be a cliche, communication is the key to resolving the impending disaster we could be facing. The door that separates the two most powerful countries on earth is open now only a slight crack; if it closes shut, the consequences are unthinkable.

Nuclear war would not in all probability start by reason of an intentional first strike attack by one superpower against the other but a miscalculation based on the misinterpretation of the other side's motives and could end in a holocaust. That miscalculation could literally come from something so simple a perception as not being shown respect.

After forming this realization of the Soviet Union, and deciding to learn a bit more about our major adversary, I have come up with a few suggestions to deal with them, to open up communications with them, and to modify our methods of communications to foster a new era of superpower detente. First, we need to realize that we are dealing with two Russias. There is the old hard line dialogue with the remaining Stalinist leadership like the Andropovs. They have experienced war and want some agreement with us, but they will push us as far as they can and try to get as much as then can. They experienced power and politics in one of the most repressive times of all history and are probably the group most sensitive to not being "respected."

The second Russia is post-war, post-Stalinist. These Russian leaders did not experience the war, at least not in a leadership context. This new generation potentially can move away from the aggressive adventures of Poland and Afghanistan toward an emphasis on their own domestic problems. They did not experience the political purges either and there are signs that this part of the Russian leadership, who will be in charge one day, may be more attuned to cooperation if it means improving their economic problems. The successor generation then, could conceivably be approached to set in motion an opening up of lines of communication beneficial to both of us. For example, the signing of the recent grain agreement should be matched by bilateral cultural and scientific exchanges. And while we must guard against exporting strategic knowledge and secret technology, neither should we refuse to enter such accords in health care, agriculture or energy research simply because they don't work 100% in our favor alone. There are many ways in which we can talk, can cooperate without harming ourselves.

We must then, on the one hand speak in harsh, direct specifics with the old Stalinists who will rule Russia until the end of this decade, realizing that a little common sense understanding of their need for "respect" and a mutual cooling of hot political rhetoric might reduce tensions a bit. At the same time, while keeping a strong military posture, we must search out non-military ways to cooperate with the post-Stalinists whose interests will be more and more focused on a disastrous domestic economy, and whose background is not steeped in warlike tradition and political genocide.

We are, after all, two nations armed with the awesome power to annihilate the world. Each of us knowns so little about the other, its history, its culture and its ideals. But since it is impossible to talk through a closed door, we must work to open that door. In this era of conflict in Lebanon and Grenada, where the superpower tensions between the United States and the Soviet Union underlie almost every brush fire and confrontation that is occuring in the world, there are no miracle answers to prevent the nuclear holocaust portrayed in the ABC movie. There are no absolute solutions to prevent a future "incident," like the shooting down of the Korean airliner, or the invasion of an island nation, from snowballing into the unthinkable. But we must try to find those answers and look for the miracles, to not do so could turn more fiction into fact and actors playing roles of dying Kansans into the real thing.

● Mr. PRITCHARD. Mr. Speaker, one of the great dangers in U.S./Soviet relations today lies, not in Moscow or Leningrad or Vladivostok, but in Washington, D.C. and Seattle and Peoria. That danger is the profound and passionate disagreement in our own country on the nature of the threat posed by Soviet power and purpose, and what America can do to gain agreement with our principal adversary on the pursuit of a humane world agenda.

The consensus on America's relationship with the Soviet Union that sustained the policy of containment from 1949 through the mid-1960s has shattered rather than consensus, what we now experience has been aptly called fragmegration by James Rosenau of the University of Southern California: the broken, fragmented pieces of the old consensus have reintegrated into sharply divided, polar positions. One pole of the debate sees the threat that nuclear war poses to the future of the human adventure as the only relevant question in Ameri-

can policy toward the U.S.S.R. The other pole of the argument sees a totalitarian state, organized on Leninist principles, massively repressing its own people, and armed beyond any reasonable defensive needs. In the aftermath of the KAL 007 incident, this deep division in America was clearly unveiled. There were calls to make the U.S.S.R. a pariah nation: to sequester it, in effect, from the community of nations until it radically changed its behavior in the world. Conversely, other voices talked of the historic "paranoia" of the Soviet Union about the security of its borders, and counselled extreme circumspection so that similar incidents would not lead to the ultimate disaster.

What was tragically missing from that debate, as from the past 15 years of argument over United States-Soviet relations, was a third voice: one which recognized the grave threat posed to American security and Western democratic values by an armed, totalitarian power with world-historical ambitions; one which recognized that merely confirming the Soviet geopolitical agenda would heighten, not minimize, the dangers of war; but one which asked—What can America do to change the present course of Soviet policy and make agreement between our two countries possible on the full range of issues that stand between us: arms reductions leading to mutual and verifiable disarmament, international institutions capable of resolving conflict without the use or threat of mass violence, the protection of basic human rights, the amelioration of the pressing need for social, economic, and political development in the Third World?

The real tragedy of our present domestic division on United States-Soviet relations is not that one pole of the argument is right, and the other wrong. The tragedy is that there are important elements of truth in each polar position, but no third voice to gather them together, create new agreement within our own country, and thus equip us for the long term, difficult, crucial task of coping with Soviet power in ways that enhance the world's prospects for peace and security, for liberty and prosperity.

That third voice could be raised in this Congress. It would be one of the most important contributions we in the Congress could make to both the foreign policy of the United States and the health of American political culture as it debates that policy. What notes would that third voice sound? What policy directions would it suggest are worthy of exploration, by those on both sides of the present debate who wish to work together for a new American consensus on United States-Soviet relations?

That changes in the present course of Soviet policy are absolutely necessary for the world's peace and security is a proposition that should need little more than assertion. But the next, and more important, question, is: Can there be change in the U.S.S.R.? And this leads to the crucial policy question: What can the United States do, in its formal and public diplomacy, and through its nongovernmental organizations, to help make that desirable change possible?

When many Americans look at the Soviet Union today, they see a monolithic society, run by State police terror against its own citizens, and virtually impervious to change. That description of the present Soviet regime is accurate; but the conclusion drawn from it is mistaken. For despite the best efforts of Soviet leaders since 1917, Soviet society is not monolithic. Newman's axiom, that change is the law of life, is just as true of the U.S.S.R. as of any other society. That change will take place is certain; the issue is the direction change will take.

We can be certain of this because there are multiple pressures within Soviet society today that make change inevitable. The Soviet leadership will undergo an important, and perhaps profound, generational change over the next decade. The last of the Stalinist generation will die, and a new generation of leaders—no less committed to the maintenance of their power, but not formed in the crucible of the 1930s purge trials and the seering experiences of World War II—will come to power. This new generation of leaders will have to deal with massive, systemic problems in Soviet society. The agricultural system remains in chronic disarray; a country that was once the world's leading grain exporter is not its leading grain importer. Soviet science and technology lag behind the democratic West in virtually all the frontier fields of applied human intelligence: microbiology, cybernetics, robotics. The Soviet work force is plagued by alcoholism. The inefficiencies of Soviet medical practice and family planning are such that the average Soviet woman can expect to undergo at least six abortions during her fertile years. Contrary to the expectations of Marx and Lenin, religion is not withering away in the communist state, but is enjoying a remarkable renaissance, particularly among the young. Then there are the profound demographic changes that the Soviet Union will experience over the next 20 years. By the turn of the century, the majority population of the world's last empire will no longer be ethnic Russian. Tensions and pressures for change in the traditional pattern of ethnic relationships within the U.S.S.R. are already evident, not only in the southern tier of Soviet Islamic republics, but throughout the Baltic States, the Ukraine, Byelorussia, and Georgia.

The Soviet Union of 2,000 will thus be inevitably different from the Soviet Union of 1983, even as today's Soviet Union is different from the U.S.S.R. of 1938, or 1917. The only question is the direction change will take, and whether it will make agreement between our two countries more or less likely.

For change in the U.S.S.R. to make agreement with the United States more likely, though, the most important change that must take place is in the present Soviet political system. As we face that system, and as it acts in the world, the most important of its characteristics is not its Marxism—the official ideology may still shape Soviet foreign policy, but the old revolutionary fervor is long gone—but its Leninism. According to Leninist doctrine, there can be only one center of power in the state. Through that doctrine, the 14 members of the Politburo of the Soviet Communist Party Central Committee own and operate the U.S.S.R. In light of that doctrine, every attempt is made to break down the distinction between public and private life in the country. A humane genius like Andrei Sakharov, whose scientific work contributed no little to the Soviet Union's present world position, is caught in the web of this Leninist refusal to allow the sphere of the private and the personal any sway in public affairs. Sakharov, and thousands of others, are even denied the right of personal conscience, since it is assumed that any right thinking is totally in accord with the Politburo's line. Dissenting thought is, objectively, insanity; hence the abuse of psychiatry and the gross use of psychiatric drugs on those who dissent.

It is this Leninist character of the U.S.S.R. that must be altered if the Soviet Union is to come into agreement with the United States on a world safe for peace and security, for liberty and prosperity. What kind of change is possible? Solzhenitsyn is most probably correct in his claim that a change in the Soviet Union from Leninism to Western-style democracy is highly unlikely, given Russian cultural and historical factors. But the Soviet Union need not become a parliamentary democracy overnight for it to change its present course in world affairs. What is necessary, as University of California political scientist Aaron Wildavsky has recently written, is a slow process of pluralization in the U.S.S.R.: The development of other centers of power and influence that could be brought to bear on the decisionmaking of the party leadership, speaking for the Soviet people's deep desire for peace, for a much greater degree of material prosperity, for a measure of human freedom. Pluralizing the centers of power in the

U.S.S.R. thus seems an entirely appropriate goal for U.S. policy to encourage and assist, for it is the precondition to the Soviet Government's taking a new, and more desirable, course in the world affairs. For so long as the members of the Politburo are responsible only to each other and to their internal power struggles, for just that long will Soviet policy continue on its present, dangerous course. As other centers of power come into the Kremlin's policy calculations, though, we can hope to see positive change: For such a process of pluralization could lead the U.S.S.R. to concentrate more heavily on its grave domestic problems, and more on approaches to world conflicts that lessen the danger of military confrontation and thus lessen the need for military hardware.

How could the policy of the United States aid in pluralizing the centers of power in the U.S.S.R.? We cannot do this directly; but we may be able to help the process along obliquely. Several possibilities come to mind in the area of our public diplomacy, that is, the U.S. Government's address to the people of the U.S.S.R.

Strengthening our broadcast capabilities into the Soviet Union, through the Voice of America and Radio Liberty, could be an important component of a policy of pluralization. Telling the truth about America—which is the job of the VOA—and telling the truth about news within the Soviet Union—which is the task of Radio Liberty—are essential checks against the complete victory of the Leninist model of governance. The Soviet Union currently spends more on jamming American broadcasts into its country than we spend on all of our international broadcasting to the U.S.S.R.; moreover, we have not been very supportive of our own efforts here, for the VOA is in some cases using transmitters captured from the Germans in 1945. Enhancing this broadcast capability, adding new hours of informational, religious, and cultural programming to our Soviet-language services, helping the Voice of America and Radio Liberty develop the technical capacity to better resist Soviet jamming: All of these are ways in which American policy can help open windows in the closed society of the Soviet Union. Such an effort would also be completely consistent with our rights and responsibilities under the Helsinki Final Act.

Professional, technical, and scholarly exchange programs can also be the occasion to open closed windows in the U.S.S.R. and, even if modestly, help pluralize power in the Soviet Union. These programs have human, academic, and occasionally commercial value in their own right. Could they also become instruments in a policy of pluralization? The Soviet Union needs access to Western knowledge and Western technological capabilities, access often provided through exchange programs. Might we consider altering the rules governing such exchanges so that the Soviets involved are those who actually deserve to participate, rather than only those who are politically acceptable to the Soviet Government? American academic associations have had some modest success in pursuing this goal, for the Soviet need for knowledge can occasionally override the Soviet leadership's concern for Leninist controls. The challenge would be to create such new rules for United States-Soviet exchange in ways that do not jeopardize legitimate scholarly interests, but that also provide some measure of help and relief for Soviet academics and technologists—and, thereby, help pluralize power in the Soviet Union.

American voluntary organizations could also play an important role in efforts to pluralize the U.S.S.R., and in some cases may be more effective than government. The commitment of the American Jewish community to relieving the burdens of Soviet Jewry should be matched by similar commitments and actions by American Christians and American Muslims. The American peace movement could be enormously helpful to the project of pluralization if it would become the international voice of those courageous Soviet peace activitsts who have broken with the official, Party-run peace movement in the U.S.S.R. No one doubts that the people of the U.S.S.R. want peace and peace and security just as badly as do the people of the United States; the difficulty is that the Soviet people, under present conditions, have little if any impact on the policy of their government. Those Americans who wish to channel the common human yearning for peace into meaningful political channels, and who wish to do so by reaching across national borders in human solidarity with the people of the U.S.S.R., are a potentially powerful instrument for not just understanding, but for change—if their actions challenge the present Soviet agenda rather than confirming it, and if their actions give more effective voice within Soviet politics to the people of the U.S.S.R.

Trust will not be the final basis on which United States-Soviet agreement rests; mutual self-interest will be, and should be, our guide, particularly in the field of national security and peace strategy. Fears of a nuclear war by accident or miscalculation are not the private preserve of move producers. There are short-term steps that we could take to lessen this threat, steps that would also enhance the ability of the United States and the Soviet Union to work together for mutually desirable goals. My late colleague from the State of Washington, Senator Henry M. Jackson, took the lead with others in the Senate in proposing a joint United States-Soviet Crisis Consultation Center that would build on the existing hotline arrangements to lessen the danger of war through accident or miscalculation. Such a center is squarely in the interest of both countries. It is in the interest of the world. It would set a model for cooperation that might be replicated over time in other, equally dangerous areas of United States-Soviet conflict. Forthright American leadership toward the development of a Crisis Consultation Center would also demonstrate to the world the priority which the United States gives to effective action that reduces the peril of nuclear war. I would urge the administration to give this concept the most careful study, and then to make its creation and implementation among the highest priorities of American peace and security policy.

I have focused here on the need for change in Soviet policy, and how that change might be conceived so that new consensus, bipartisan consensus, on America's role in the superpower competition might be built. We should also be clear that our own policy requires change, and that our own public debate needs a new injection of reason. We can no longer afford the luxury of oscillation between a too-benign view of Soviet purposes and power, and a view of the Soviet Union so harsh that it precludes the possibility of any agreement between us. We need, in the Congress, a new spirit of bipartisanship, so that proposals from a Republican administration are not automatically rejected by Democrats, and Democratic proposals are not dismissed out of hand by Republicans in the executive and legislative branches. There is no need here to emphasize the stakes of the contest in which we are engaged—and in which we will be engaged for the foreseeable future. There are no quick fixes, psychological or political. There will be costs as well as benefits in the kind of approach to United States-Soviet relations I am suggesting here. I believe the American people are willing, indeed eager, to bear those costs if they believe in the possibility of an enormous benefit: a changed course for Soviet policy, leading to the possibility of meaningful agreement between our two countries on making the world safe for conflict.

The wise management of that conflict is the hardest test ever faced by the American republic: hardest, because of the degree of threat posed by the Soviet Union, because of the immense danger of nuclear holocaust, because of the long-term patience and purposefulness that is required of us. I believe that the American people will meet the challenge of that test if their political leadership shows the ability to break out of today's polarized

debate and define new and better ground on which American policy toward the Soviet Union can be designed and implemented. I hope that the American people demand that much of us. I hope we show ourselves capable of assuming such leadership as they, and the world, deserve.

● Ms. KAPTUR. Mr. Speaker, I join with my colleagues today in marking the 50th anniversary of the establishment of formal diplomatic ties between the United States and the Soviet Union. Because of the importance of maintaining meaningful communication with the Soviets, I feel that it is crucial to reflect upon the past, present and future of United States-Soviet relations.

George Kennan is one of the most knowledgeable experts in this country on our relations with the Soviet Union. Therefore, today I would like to share with my colleagues a recent article by George Kennan which appeared in the New Yorker. The article follows:

BREAKING THE SPELL

Soviet-American relations, in consequence of a process of deterioration that has been going on for several years, are today in what can only be called a dreadful and dangerous condition. Civility and privacy of communication between the two governments seem to have largely broken down. Reactions on each side to statements and actions of the other side have been allowed to become permeated with antagonism, suspicion, and cynicism. Public discussion of the relations between the two countries has become almost totally militarized, at least in this country: militarized to a point where the casual reader or listener is compelled to conclude that some sort of military showdown is the only conceivable dénouement of their various differences—the only one worth considering and discussing. Can anyone mistake, or doubt, the ominous meaning of such a state of affairs? The phenomena just described, occurring in the relations between two highly armed great powers, are the familiar characteristics, the unfailing characteristics, of a march toward war—that, and nothing else. The danger would be intolerable even if the two countries were armed only with what are called conventional weapons. The history of the past century has shown that the damage produced by armed conflict between highly industrialized great powers in the modern age, even without the use of nuclear armaments, is so appalling that it is doubtful whether Western civilization could survive another such castostrophe. But this danger is now increased many times over by the nature of the weapons that the two countries hold in their hands. Either of these two factors—the nature of the weaponry, the state of the political relations—would be a danger in itself. The two in combination present a shadow greater than any that has ever before darkened the face of Western civilization.

Is this state of affairs really necessary? Is it unavoidable from the standpoint of the American policymaker? Is there no way we could hope to cope with it other than by a continuing an intensified weapons race of indefinite duration? The casual reader or listener is led to believe that there is not. If, however, there is something that could be done, what is it? There are those in Washington who would argue that the present situation flows automatically from the nature of the regime that confronts us in Moscow, and is therefore unavoidable. To support their view, they would point to a given image of that regime. Goethe's Mephistopheles observes cynically, in the second part of "Faust," that "in the end we are all dependent on monsters of our own creation." And so it is with the image of the Soviet regime which has come to inform American policy. It is an image of unmitigated darkness, with which we are all familiar: that of a group of men already dominating and misruling a large part of the world and motivated only by a relentless determination to bring still more peoples under their domination. By those who cultivate this image, no rational motivation is suggested for so savage and unquenchable a thirst for power. The men who suffer this thirst, one is allowed to conclude, were simply born with it—the products, presumably, of some sort of negative genetic miracle. In any case, since they were born with it and are unable to help themselves, there is no way—or so we are told—that they could be reasoned with; no basis on which they could usefully be approached; no language they could be expected to understand other than that of intimidation by superior military force. Only by the spectre of such a force—an overwhelmingly superior nuclear force, in particular—could these men be "deterred" from committing all sorts of acts of aggression or intimidation with a view to subjugating other peoples and eventually to conquering the world. There are alleged to be no other inhibitions, no other considerations, no other interests that could be expected to restrain them from such behavior.

Well, if this image had been applied thirty or forty years ago to the regime of Joseph Stalin it might have been nearer to reality (although even then it would have been in some respects wide of the mark). Applied to the Soviet leadership of the year 1983, it is seriously overdrawn: a caricature rather than a reflection of what really exists, and misleading and pernicious as a foundation for national policy. Beyond that, it is deeply and needlessly offensive to the people in question. But how much truth, if any, is there in it?

The Soviet regime has always been marked by a whole series of characteristics that complicated, and were bound to complicate, its relations with the West. Some of these were inherited. Many-sided estrangement from the West was nothing new in Russian history. It was an outstanding feature of the old Grand Duchy of Moscow—pious, xenophobic, eternally suspicious of the heretical foreigner. Two hundred years of Petersburg rule broke down this estrangement only in part, and primarily among the educated classes: the nobility, the gentry, commercial circles, and the liberal intelligentsia. And then the Russian Revolution, occurring in all the agony of the First World War, and marked, as it was, by the return of the capital to Moscow and the political destruction or elimination of precisely the more cosmopolitan elements of the population, intensified the estrangement enormously, substituting a militant ideological antagonism for the onetime religious abhorrence of the West, and discovering a new form of dangerous heresy in the Marxist vision of capitalism. This militancy, to be sure, soon began to fade under the impact with reality; but the rhetoric, in itself an impediment to normal relations, remained. And the years of Stalinist horror were no help. This fearsome Stalinist despotism, a grotesque anomaly in the modern world, could no more stand free association with the Western countries than could the court of old Muscovy in the days of Ivan the Terrible. And the traces of Stalinism, while today much faded and partly obliterated, are still not wholly absent from the Soviet scene.

All in all, then, the Soviet regime never was, and is not today, one with which the United States could expect to have anything other than a complex and often difficult relationship. It is a regime marked by a relatively high sense of insecurity. It has a tendency to overdo in the cultivation of military strength. It is unduly sensitive to the slightest influence or involvement of outside powers in regions just beyond its lengthy borders. It has neurotic passion for secrecy and, as a product of that passion, a positive obsession with espionage, both offensive and defensive—an obsession that has interfered with its relations with the West, and has even damaged the regime's own interests, more often and more seriously, than the regime has until lately brought itself to recognize. The penetration by a Soviet submarine into sensitive Swedish waters and the recent shooting down of the Korean airliner are striking examples of the over-indulgence in this obsession; and one hopes that the Soviet leaders will learn from the world reaction to these events what harm they do themselves when they let military considerations ride roughshod over wider interests.

To continue with this listing of the negative factors: Soviet negotiating techniques often appear, particularly to those not familiar with them, to be stiff, awkward, secretive, and unpredictable. Above all, they are lacking in the useful lubrication that comes from informal personal association and exchanges among negotiators. And there are, too, specific Soviet policies that grate severely on Western sensibilities. The Soviet leaders do indeed make efforts to gain influence and authority among the regimes and peoples of the Third World. While the methods they employ do not seem to differ greatly from those of other major powers, including us, and while their efforts in their direction have not met, generally speaking, with any very alarming measure of success, these practices naturally arouse concern and resentment in large sections of our official community. And then, of course, there is the fact that the Soviet leaders insist on maintaining a monopoly of political power in their own country and proceed harshly against those who appear to challenge or threaten that monoploy; and, beyond that, they unquestionably use their military hegemony to support and to maintain in power in Eastern Europe, insofar as it is possible, regimes similarly inspired and similarly resistant to liberalizing tendencies. All this is obviously a constant thorn in the flesh of much Western opinion.

And, finally, there is the phenomenon, familiar to all foreign representatives and observers in Russia, of the curious dual personality that the Soviet regime presents to the resident foreigner: the facade that is composed of people—often amiable and charming people—authorized to associate and communicate with the outside world; and, behind that facade, never visible but always perceptible, the inner, conspiratorial personality, of whose inscrutable attitudes and intentions the foreigner is never quite

sure, and which for that reason probably incurs more suspicion than it deserves.

Now, these, and others that could be named, are formidable difficulties. Of course they limit the relationship. And of course they have to be taken into consideration by Western policymakers. But there are certain aspects of them that deserve to be kept in mind. First, most of them are not new. Some have been there since the outset of the Soviet-American relationship. All of us who have served in Moscow have had to contend with them. We were taught, in fact, to regard them as the more intractable parts of the problem. General George Marshall, I recall, used to say to us, "Don't fight the problem," by which he meant, I believe, "Don't fight against the problem as a whole, for it includes elements that you cannot hope to change; find out which elements, if any, are susceptible to your influence, and concentrate on them." Second, many of these difficulties are actually less acute today than they were many years ago. This shows that they are not theoretically unsusceptible to change. Perhaps, if they are approached with patience and understanding, they can become even less pronounced in future years. Third, the negative factors are counterbalanced by a number of encouraging ones in both the psychology and the situation of the Soviet leadership.

Of these, the most important consists of the many persuasive indications that that leadership, however complicated its relations with the West may be, does not want a major war—that it has a serious interest in avoiding such a war, and will, given a chance, go quite far together with us to avoid it. The term "interest" does not mean, in this case, an abstract devotion to the principle of peace as a moral ideal. It means a consciousness on the part of these men that certain of the things they most deeply care about would not be served by Russia's involvement in another great war. Anyone who tries to put himself in the position of the Soviet leaders will at once recognize the force of this point. Even if they should be as evilly motivated as they are sometimes seen to be, these men are not free agents, wholly detached from the manifold complexities and contradictions that invariably go with the exercise of vast power. They constitute the government of a great country. They have a direct responsibility for the shaping of its society and its economic life. It is from the successful development of this society and this economy that they derive their strength. They cannot play fast and loose with either. Beyond that, they live and operate in a highly complex international environment. There is no single consideration that would serve to persuade these men that their interests would not be served by opening the Pandora's box of another world war; rather, there are dozens of considerations—and these quite aside from any so-called "military deterrence"—that would dissuade them from such a venture. The view that sees them as supremely independent, wholly on top of all their other problems, and madly riveted to dreams of world conquest to the point where it is exclusively by the interposition of overwhelming opposing military force that they could be dissuaded from striking out in all directions with acts of aggression or intimidation-this view is, if one will forgive my language, simply childish, inexcusably childish, unworthy of people charged with the responsibility of conducting the affairs of a great power in an endangered world. Surely American statesmen can do better than this in penetrating, with their imaginations and their powers of analysis, the true complexity of the forces that come to bear on the decisions of another great government, and in forming a realistic idea of the motivation of that government's conduct. And surely if they were to make this effort what they would then see world be more reassuring than what, in the absence of it, they are led by their fears to assume.

Nor is the area of common interest between the Soviet Union and the United States limited to the need of both countries to see world peace preserved. Both are great industrial powers. As such, they have a growing number of common problems. Prominent among these are the environmental ones. Both countries occupy major portions of the enviornmentally endangered Northern Hemisphere. The Soviet leaders are no less aware than we are of the extent to which this hemishere, if it escapes nuclear disaster, will still be threatened in the most serious way be environmental pollution and deterioration. They know that these problems will not be mastered just by measures taken within any single country—that the solution will require international collaboration, particularly between the two greatest industrial powers of the hemisphere.

And the environmental questions are only examples of the many problems and challenges that all the great industrial societies of this age, including the United States and the Soviet Union, are coming to have in common. There are the truly revolutionary effects, in some ways promising and in some ways terrifying, of the present revolution in communications on education, on the organization of life, on the human spirit and the human fibre. The Soviet Union is no less affected by this revolution than we are. It is such problems that unite—they are the ones on which we and the Soviet Union *can* collaborate. And they are the problems of the future. The others—the ones flowing from the ideological conflicts of the turn of the century which produced the Russian Revolution—are the problems of the past.

Those are some of the pros and cons of the Soviet-American relationship; and if these pros and cons are stacked up against each other what one gets is, naturally, a mixed parttern, embracing serious differences of out-look and interest but also embracing positive possibilities that are not negligible. It is a pattern that, of course, leaves no room for exaggerated hopes, or for fulsome and hypocritical pretenses to a friendship that does not, and cannot, fully exist. The pattern embraces problems that will not be solved by just any summit meeting. But it also affords no jusification for some of the extremes of pessimism we see around us today: no justification for the conclusion that it is only by some ultimate military showdown that the various Soviet-American differences can be resolved: and no justification for the overdrawn image of the Soviet leadership to which reference has here been made. Americans lived for more than a century at peace with the empire of the czars. Despite the addition of several seriously complicating factors during the present century, they have lived for some six and a half decades at peace with the Soviet Union. In the mixed pattern we have just had occasion to note, there is nothing to suggest that these two countries should not be able to continue to live at peace with each other for an indefinite number of decades into the future.

This cnanot, of course, be assured by the state of relations we have before us today. The prospects for a peaceful development of Soviet-American relations are not theoretically hopeless, but they could easily become just that if we are unable to rise above some of the morbid nuclear preoccupations that now seem to possess us—if we are unable to see the positive possibilities behind the negative, military ones, and are unable to give to those positive ones a chance to take shape and to realize themselves. No one questions the fundamental importance of the outstanding questions of arms control. These represent the greatest and most urgent single problem we have before us in our relations with the Soviet Union. Without progress in this respects, there can, of course, be little hope of a peaceful future. But it is vitally important to remember that there are other dimensions to the Soviet-American relationship than the military one; and that not only are these other dimensions of sufficient importance to warrant attention in their own right but unless they, too, can be recognized, and cultivated, and their favorable possibilities taken advantage of, the arms talks themselves are unlikely to have any adequate and enduring success. The two aspects of the relationship are complementary. Progress in the one is indispensable to progress in the other.

What could be done, then, to place this relationship on a sounder, less frightening, and more hopeful basis than it rests on today? One starts, of course, from the recognition that as of this moment things are royally fouled up. Any efforts to straighten them out would unavoidably take time. There are some who believe that nothing that could be undertaken from the American side in the period before the next election could restore the atmosphere necessary to provide prospects for success. Possibly. In any case, to remove all those sources of tension which are theoretically susceptible of removal would certainly be a task of years, not months. But it is never too early to make a beginning; and nothing prevents us from considering what sort of agenda might be necessary if one wanted to embark on that course.

Some of this flows, by implication, from what has already been said. We could try, first of all, to restore the full confidentiality and the civility of communication between the two governments. And we could cease treating the Soviet Union as though we were, out of one pocket, at peace with it and, out of the other, at war. We could lift the heavy dead hand from Soviet American trade and proceed, with the usual, minimal security precautions, to permit that normal and useful branch of human activity to develop in response to its own economic requirements. We have no need to be trying to set back the economy or depress the living standards of any other great people; nor is such an effort in keeping with the American tradition.

We could take a much bolder, more hopeful, and more promising position in matters of arms control. This does not mean embracing in any way the principle of unilateral disarmament. We could acknowledge (and it is high time we did) that the nuclear weapon is a useless one: that it could not conceivably be used without bringing catastrophe upon whatever country initiated its use, along with untold millions of people elsewhere. Acknowledging this, we could reject all dreams of nuclear superiority and see what we could do about reducing existing nuclear arsenals, with a view to their eventual elimination. A number of approaches have been suggested: a freeze,

deep cuts, the so-called "build-down," a comprehensive test-ban treaty, others as well. These are not alternatives. They are complementary. Any or all of them would be useful. But to get on with any of them we would have to learn to treat the problem as a whole in our negotiations with the Russians, not cut it up into a series of fragmentized technical talks; to treat it at the senior political level, where it belongs, not in periodic encounters between politically helpless experts; and to treat it—initially, at least—in an atmosphere of complete confidentiality, not in a series of public posturings before various domestic political constituencies.

And then, while we were working on the more positive and hopeful possibilities, we could set out to take advantage of those areas where the peaceful interests of the two powers do coincide and where possibilities for collaboration do exist. What have we to lose? If my memory is correct, we once had thirteen separate agreements for collaboration and personal exchanges in a whole series of cultural and scientific fields. A number of them proved fruitful; some, we are told, did not. I hold no brief for the retention of the ones that did not. But many of the thirteen, including certain of the useful ones, have been allowed to lapse. These could be restored, and others could be added. There are many possibilities in the scientific field, some of which exist in rudimentary form and all of which could be extended: Possibilities for collaboration on environmental problems, on the study of the Arctic and the Antarctic, on oceanographic research, on public health, on nuclear fusion. The entire great area of the uses of outer space—this vast umbrella that protects every man, woman, and child, on our planet—ought to be not only demilitarized but genuinely internationalized; and these two great countries could well be taking a major collaborative part in that internationalization, rather than each speculating how it might exploit this medium to the detriment of the other party, and perhaps to the detriment of humanity as a whole.

These are those who will say, "Yes, we once had such agreements, but we did not get as much information out of them as the Russians did." The answer to this objection is clear. If the acquisition of military intelligence is the only reason one can see for entering into such agreements with another country, then they had better be omitted. But if one is prepared to place one's hopes on their long-term effects—their effects in bringing people together in a collaborative relationship and helping them to see one another as human beings, not as some species of demon, then many of these arrangements will provide a more hopeful perspective than the most ambitious of our efforts to learn how to destroy each other.

Such collaborative arrangements require, as a rule, formalized agreements. There are some who question whether we can trust the Soviet government to live up to such agreements when it makes them. When I hear this question asked, I am surprised. We now have six and a half decades of experience to go no, and the answer provided by this experience is reasonably clear. You *can* conclude useful agreements with the Soviet side, and they *will* respect them—on condition, however, that the terms be clear and specific, not general; that as little as possible be left to interpretation; that questions of motivation, and particularly professions of noble principle, be left aside; and that the other contracting party show a serious and continued interest in their observance.

Finally, there is the question of "human rights." American sympathies are, of course, engaged in behalf of people who fall afoul of any great political police system. This neither requires nor deserves any concealment. But if what we are talking about is the official interelationship of great governments a choice must be made between the interests of democratization in Russia and the interest of world peace. In the face of this choice, there can be only one answer. Democracy is a matter of tradition, of custom, of what people are used to, of what they understand, and expect. It is not something that can be suddenly grafted onto an unprepared people—particularly not from outside, and particularly not by precept, preaching, and pressure rather than by example. It is not a concept familiar to the mass of the Russian people; and whoever subordinates the interests of world peace to the chimera of an early democratization of the Soviet Union will assuredly sacrifice the first of those values without promoting the second. By the nature of things, democratization not only can but must wait; world peace cannot. If what we want to achieve is a liberalization of the political regime prevailing in the Soviet Union, then it is to example rather than to precept that we must look; and we could start by tackling, with far greater resolution and courage than we have shown to date, some of the glaring deficiencies in our own society.

These, then, are the directions in which we could move, if we wanted to ease the situation. We have, I reiterate, so little to lose. At the end of our present path of unlimited military confrontation lies no visible destination but failure and horror. There are no alternatives to this path which would not be preferable to it. What is needed here is only the will—the courage, the boldness, the affirmation of life—to break the evil spell that the severed atom has cast upon us all; to declare our independence of the nightmares of nuclear danger; to turn our minds and hearts to better things.

The foregoing observations flow from an involvement with Soviet-American relations on this writer's part which goes back over a longer span of years than that of anyone else now in public life on either side, except for that of Averell Harriman. In the course of these years—there are fifty-five of them—I have seen this relationship in some of its better times: particularly at the time of the establishment of diplomatic relations, just a half century ago; and again during our association with the Soviet Union in the waging of the Second World War. I have also seen it in some of the most bitter and disheartening moments it has known—have not only seen it in such moments but felt some of its more painful effects upon my own person. Precisely for this reason, I think I know as much as anyone about the difficulties that the relationship involves. Yet at no time in the course of these fifty-five years have I lost my confidence in its constructive possibilities. For all their historical and ideological differences, these two peoples—the Russians and the Americans—complement each other: they need each other; they can enrich each other; together, granted the requisite insight and restraint, they can do more than any other two powers to assure world peace. The rest of the world needs their forbearance with each other and their peaceful collaboration. Their allies need it. They themselves need it. They can have it if they want it. If only this could be recognized, we could perfectly well go forward to face the challenges that the true situation presents, and to shoulder, soberly but cheerfully, and without all the melodramatics of offended virtue, the burdens it imposes. —George Kennan.●

● Mr. PATTERSON. Mr. Speaker, I want to commend my colleague from Kansas and our other colleagues who encouraged Members to speak today on the 50th anniversary of the establishment of diplomatic ties between the United States and the Soviet Union. It is indeed important to continue to use these diplomatic ties and all of our available means of communication to continue a dialog with the Soviet Union aimed at making our world safer and more just.

My colleagues pointed out the observation of Dr. James Allen Billington, director of the Woodrow Wilson International Center, that a new generation of potential Soviet leaders is waiting in the wings, a post-war, post-Stalinist generation. This successor generation may perhaps offer some hope for a less paranoid, more reasonable, more peaceable Soviet Union. Our survival demands that we at least try to communicate with the upcoming generation of leaders.

We should also keep in mind that there is a growing group of young dissidents coming of age in the Soviet Union. Their existence provides a continual challenge to the rigid Soviet leadership to look inward and face the U.S.S.R.'s pressing domestic problems. Just as it is important to maintain contact with the Soviet leaders, so is it important to maintain relations with the Soviet people—including the courageous dissident minority.

I met just yesterday with a gentleman from my home district, Mr. Kenneth Levin, who told me of his efforts to meet with the family of Lev Elbert, a young refusenik, during a recent visit to Moscow. Despite harassment by Soviet authorities, Mr. Levin and his family persevered. These people-to-people encounters are important and I commend the Levins for their dedication and effort. We must try to live at peace, while at the same time we continue to emphasize the inherent rights of all people to freedom and justice. It is incumbent upon us—our leaders and our citizens alike—to try to keep open all channels of communication with the Soviet Union. I am proud that my constituents have made such an effort to do so.●

● Mr. LEVINE of California. Mr. Speaker, today marks the 50th anniversary of the establishment of formal diplomatic ties between the United States and the Soviet Union. Sadly, this anniversary comes at a time when things are not well between the two superpowers.

Perhaps the words that can best characterize the state of United States-Soviet relations are tense, antagonistic, and suspicious. Clearly, we

are engaged in an unhealthy competition to achieve goals of questionable benefit to humankind.

Relations between our two nations have never been without their considerable problems, but perhaps rarely in our relationship have our problems been so considerable. They are exacerabated by our mutual, unrelenting struggle toward ever-elusive military and nuclear superiority, and our suspicion and fear that the other might be the first to commence a nuclear conflagration the likes of which we have never seen from which it would be impossible to recover.

The sad state of our relationship is evidenced first and most obviously in the tension between the two countries. There are other signs as well. They include an absence of any meaningful dialog between the two countries and strained diplomatic contacts. Today there is reduced trade between the two nations and cultural exchanges and bilateral cooperation have been brought to a near standstill. Accommodations have not been reached on the nuclear arms talks between the two countries and rhetoric flies freely about just whose fault it is.

Anniversaries are often used as a time to reassess the status and direction of things. Perhaps this would be a good time to begin to reassess the relationship between the United States and the Soviet Union. Neither country is without some responsibility for the frayed state of our relationship. Perhaps it is time to begin to look at common interests and common goals toward which we can work together.

Surely the control of nuclear weapons, or at least control over our rivalry for nuclear superiority, is one of those goals. Are not the United States and the Soviet Union afraid enough of each other already? Would not it be to our mutual interest to work together toward that goal?

There are many things for which we have rightly criticized the Soviet Union. For example, their treatment of Soviet Jews and other minorities has given them a deplorable human rights record—one that is in violation of internationally recognized human rights agreements and accords. The Soviets have attempted, through the use of military might, to oppress the people of Afghanistan and Poland. The shooting down of the Korean airliner with 269 men, women, and children aboard was an act of aggression the heinousness of which defies description.

We do not approve of these actions—in fact many, myself included, have strongly condemned them. But, ultimately, we must realize that, like it or not, we are neighbors on a very small planet. Today we have weapons that can destroy each other from across the globe in less time than it takes to walk from the White House to the U.S. Capitol Building. That is a sobering thought.

Given the past history of the relationship between our two countries, it is difficult to be optimistic about readily establishing a harmonious relationship. We might find some hope, however, from the fact that the Soviet Union and the United States have never fought in a war against each other. But instead of engaging in saber rattling and brinksmanship, we ought to be taking steps to insure that we never do. Surely, the time must come when we learn to live with each other peacefully if we are ever to insure that there will be a tomorrow.●

● Mr. WIRTH. Mr. Speaker, today marks the 50th anniversary of the establishment of formal diplomatic ties between the United States and the Soviet Union. It is a telling fact that it took 10 years after the birth of the Soviet Union for diplomatic relations to be fully instituted between our two governments. Since that date, the course of these relations have, for the most part, been far from cordial. There remains between our two countries a profound clash of purpose in international affairs, a lasting difference in our view of what constitutes a stable, just and productive international order, and most significantly, an atmosphere of profound distrust. Recent events—the shooting down of Korean air flight 007 by the Soviet Union and their continued presence in Afghanistan—have only increased the already tense atmosphere between our two nations. No matter what our opinion of the Soviet Union may be, and I share with the vast majority of American citizens an abhorrence of the Soviet system, we must continue in or search for ways to moderate our mutual distrust in the interests of our joint survival.

The survival of our two states is not simply a bilateral matter, but one of international necessity. Together we have the capability to end all life on this planet. This fact alone should be enough for one to realize that a dialog between our two countries must continue. This dialog should be continuous, informal, practical, and nonceremonial. Results will not come quickly, success will not arrive soon, but I believe that through these discussions we will make this world a safer place to live.

The primary objective for achieving peaceful competition should be balanced, mutually verifiable and just arms control agreement. This commitment touches not only the balance of destruction, but the one credible source of Soviet strength in the world: their military power. This power—not economic resources, not solid political alliances, not ideological appeal—is the key to Soviet influence in the affairs of other nations. If we engage in a constructive dialog by lowering the rhetoric and achieving a reduction of armaments, we can deflate the ominous perception of the Soviet Union both to ourselves and the rest of the world community.

We must also renew our cultural and scientific exchanges. Programs such as these allow individuals to gain a human perspective of their counterparts, free of ideological trappings and governmental polemics. At the same time we should attempt to improve trade relations in the Soviet Union. By seeing the Soviet Union enter the international commercial order, accepting its rules, and gaining a stake in its viability, they will become less menacing to Western values and political goals, more committed to evolutionary progress, and less prone to exploit upheaval and subsidize subversion.

This course will not be an easy objective, but its final goal will be worthy of the efforts taken to attain it. On this 50th anniversary of U.S.-U.S.S.R. relations, I call on my colleagues to promote better understanding between our nations.●

● Mr. SEIBERLING. Mr. Speaker, first I would like to commend our colleague from Kansas, DAN GLICKMAN, for his initiatives in developing means for Members of Congress to achieve greater knowledge and understanding concerning the Soviet Union. His approach, which has been done in concert with other Members on both sides of the aisle has been objective, nonpartisan, factual, and nonideological, and for this we owe him and his colleagues in this endeavor a real debt of gratitude.

The hour is late, not only in the day but in our relations with the Soviet Union. We must, however, act on the assumption that it is not too late to reverse the upward spiral of tension and confrontation, not to bring the nuclear arms race under control, nor to negotiate in earnest to end this irrational threat of mutual suicide that hangs over our two nations and, indeed, over the entire world.

Mr. Speaker, as we sit here tonight, the machinery of threat and counterthreat moves steadily forward. More SS-20's are being deployed in Europe by the Soviet Union. New U.S. missiles are on their way to deployment there. The Soviets are threatening to walk out of the INF negotiations and to take countermeasures.

This is a process we have grown familiar with over the last 35 years. But in all this time, as the weapons and their awesome destructive power have multiplied thousands of times and the time for response to nuclear attack has been reduced to a few minutes, the two superpowers have advanced hardly at all in their ability to deal with each other on ways to reduce their mutual danger. At times, it seems as though the leaders of the two

nations are helpless prisoners of forces which neither can control, while the rest of mankind are helpless spectators.

Yet, in fact, we are not helpless, and we are spectators only to the extent that we stay on the sidelines, prisoners only to the extent of our ignorance and lack of understanding.

How many of us in Congress have any knowledge in depth about the Soviet Union? Virtually none of us. Yet, we constantly are required to make decisions—such as the one last week approving the $250 billion Defense budget for 1984—on assumptions about the Soviets that are based on inadequate and even erroneous impressions.

Fortunately, there are ways of becoming better informed, even in the severe time constraints under which we work. Many distinguished Americans have spent years dealing with and studying the Soviets on a daily basis, and many of these experts are accessible if we simply call upon them. The gentleman from Kansas, Mr. GLICKMAN, the gentleman from Oregon, Mr. PRITCHARD, the gentleman from Iowa, Mr. LEACH, and others on both sides of the aisle have already begun the process of setting up discussions between Members of Congress and such experts. I have been privileged to be chairman of a new Congressional Roundtable on United States-Soviet Relations, a planned series of eight informal briefings and discussions open to all Members of Congress and a broad cross-section of some of the very top specialists on the Soviet Union. The first of such discussions was held earlier this month. Such a process can only improve our ability to make wise decisions about U.S.-U.S.S.R. relations.

But in addition to more information and insight, we also need a much greater sense of urgency about bringing the nuclear arms race under control.

On Monday, October 31, I was one of a group of Congressmen and staff who were briefed by Carl Sagan and Paul Ehrlich on the latest scientific studies of the global atmospheric, climatic and biological consequences of a full scale nuclear war. I need not reiterate their findings here, as they have been widely publicized. I will only repeat their bottom line, which in sparse, scientific understatement concludes: "The possibility of human extinction is not excluded."

Later that same day, I attended a private showing of the film "The Day After," scheduled to be broadcast this coming Sunday over the ABC Television Network. It unfolds a highly realistic scenario showing how a breakdown of nuclear deterrence could, in a matter of hours, bring fatal consequences for humanity. The film does not argue that it will happen, but only that it could happen, a conclusion which few who understand history can quarrel with. But, if Sagan and his fellow scientists are correct, the actual consequences of such a breakdown could be far worse than even those shown in the film. The combined effect on me of the film and the Sagan study was a new perspective, a gripping realization that the threat of nuclear destruction makes all other problems seem trivial.

Surely there can be no difference of ideology or national interest between the United States and the Soviet Union that can possibly match our mutual interest in avoiding the destruction of our children and their—indeed all humanity—in a nuclear holocaust. When that inescapable reality sinks in, as it must, it can be the one thing that brings the leaders of the two nations together to work out the terms of survival for their people. In truth, neither nation will survive the nuclear age unless both survive.

That thought bears repeating: neither nation will survive the nuclear age unless both survive.

Mr. Speaker, again the hour is late. I will not say much more. However, I would also like to take this opportunity to commend my colleague from Massachusetts, ED MARKEY, for his initiative in bringing about the special caucus of the Democratic Members of the House yesterday to discuss a resolution calling for a delay of several months in the deployment of U.S. Pershing II and cruise missiles in Europe, to give the INF negotiators a little more time. Clearly that is far preferable to a breakdown in the talks and a further confrontation in an already tense atmosphere. Under the caucus rules, I am only permitted to make public the portion of the record containing my own remarks. Since they have a bearing on tonight's subject, I offer them for inclusion in the RECORD immediately following these remarks.

Mr. Speaker, on September 8, the distinguished journalist, David S. Broder printed in his column a previously unpublished letter written by President Eisenhower 27 years ago. The letter was in response to a demand that he launch another round in the nuclear arms race. The core of Eisenhower's response is worth repeating, as he foresaw the very situation in which we now find ourselves:

War implies a contest: when you get to the point that contest is no longer involved and the outlook comes close to destruction of the enemy and suicide for ourselves—an outlook that neither side can ignore—then arguments as to the exact amount of available strength as compared to somebody's else's are no longer the vital issues.

When we get to the point, as we one day will, that both sides know that in any outbreak of general hostilities, regardless of the element of surprise, destruction will be both reciprocal and complete, possibly we will have sense enough to meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to this truth or die.

Mr. Speaker, I offer the full text of David Broder's column as printed in the Akron Beacon Journal for inclusion in the RECORD following these remarks:

FROM DEBATE IN DEMOCRATIC CAUCUS, NOVEMBER 15, 1983

Mr. SEIBERLING. The somewhat underwhelming attendance today I don't think is a reflection of the Members' lack of concern, but the feeling that there is nothing we can do about this somewhat automation-like march toward confrontation with the Soviets over this issue.

I think it would be helpful if we recalled a little of the history of these negotiations.

Last year we had a walk in the woods between Nitze and Kvitzinsky the two INF negotiators, and they came up with a formula that would have resulted in reduced Soviet SS-20's in Europe and the deployment of U.S. cruise missiles in a reduced form.

The Administration rejected that out of hand, and the Soviets, as soon as they caught wind of that, rejected the proposal too.

Since then, one of our Democratic candidates for President, Mr. Mondale, has said that if he were elected, he would try to revive that proposal. He thinks the Administration ought to do that.

Last January, a group of us headed by Tom Lantos and Larry Winn met with Kvitzinsky and Karpov, the two top Soviet SALT and INF negotiators, in Moscow, and the point they made was that they would be willing to destroy all SS-20 missiles down to the level of the British and French missiles. "Obviously there were some fish hooks there that needed to be worked out, but that seemed like a good starting point which would at least get the numbers down. I have explored that with the Administration, with various experts on arms control and I have nowhere received a satisfactory answer as to why that is not a sensible way to start.

In fact, another of our Democratic candidates for President, John Glenn, has said he thinks we ought to take the French and British missiles into account—and he is a military man who has spent a great deal of time on studying nuclear matters.

So here we have at least two proposals that have been rejected by the Reagan administration even for consideration. And we are now at the point where the mere deployment of these missiles, which ironically was supposed to be to give reassurance to our European allies, is starting to split.

Last week, we had a meeting with the president of the European Parliament. Mr. Pieter Dankert, a Dutch politician, a brilliant young man, and we asked him what is going to happen when our missiles are deployed. He said, well, the Soviets are undoubtedly going to walk out on negotiations. Ironically, the administration's latest theory of deploying these missiles is that it is the only way to compel the Soviets to make a deal. Instead, they are about to walk out of the negotiations.

Dankert said there is going to be an irrevocable split within the German body politic. The Social Democrats are going to oppose deployment, and you are going to have the key country in NATO split wide open politically, and somewhat lesser repercussions in other countries.

So it seems to me that at this point, the gentleman from Massachusetts has made a

real contribution in at least focusing our attention on the desirability of postponing deployment.

Now, there is one other factor here. Andropov has temporarily at least, disappeared. There my be a leadership vacuum in the Soviet Union.

Is this the time to have the lesser Soviet officials, the bureaucrats, particularly the military bureaucrats, making decisions on how they are going to react to such a situation? I suggest that it is not.

I suggest that we retain the power to make this deployment, but that we restrain ourselves for a reasonable period of time to see if we can get some more flexible stances out of the Soviets and, incidentally, out of our own negotiating team.

I might add that there is one ray of light in this whole picture, and that is that if the Soviets do pull out, it might be possible to do what should have been done in the first place; to combine the SALT and the IMF talks into a single negotiation. If that happened, we might get Paul Nitze as the chief negotiator and get rid of our present SALT negotiator, General Rowny, whom the experts tell me is really not suited for that job.

I would just like to close by saying that, on the same day that Carl Sagan and Paul Ehrlich briefed us on their study about the effect of a full-scale nuclear war on the climate, which would mean a winter for the whole world that would last a whole year with temperatures going to 50 below zero for many months. I saw the film, "The Day After," which ABC is scheduled to show on Sunday. I was not able to sleep that night. And yet that film is really an understatement. If this caucus were being held, "The Day After," the showing of that film, you would have a packed house here today, because somehow that puts everything in its proper proportion.

It is one thing to read the statistics and the scientific evidence; it is another thing to see portrayed in a most realistic and low-key fashion what happens to ordinary people in the fallout and the devastation following a full-scale nuclear attack. When you do, you begin to realize that everything we are doing in this body, practically—and I mean everything—is trivial, inconsequential, irrelevant, except what we do to try to end the terrible threat of destruction of all humanity hanging over the people of our planet.

I don't know how many of my colleagues here were present last week when we had the first of a series of round table dinner meetings with experts on the Soviet Union. We had Jim Billington that night and Marshall Shulman, two of the top experts of the kind the gentleman refers to.

We had about 30 members there, and many of the wives with them, and it was a very wonderful two hour discussion.

Billington, whose knowledge of the Soviets is impressive by any standard, said there are three things we need to remember in dealing with the Soviet Union. He said the first thing is that we must always be tough, but we should never be abusive or insulting. He said the Soviet people and the Soviet leaders want respect. They don't want love; they want respect. And so while you should be hard-nosed in negotiating, you must always treat them politely. I suggest that is the opposite of what the President is doing.

The second point he made was that we must build bridges to the people of the Soviet Union, as the gentleman has just suggested. We need more exchanges of students, we need more twinning of cities, more cultural exchanges, we need every possible way of establishing a relationship that looks upon them as human beings and not monsters.

The third point he made was that we must not view the whole world as centering around Soviet-U.S. conflict, that we need a program for dealing with the Third World and the industrial countries which recognizes the complexity of the world and does not attempt to view everything as somehow related to the East-West conflict. This Administration is on the wrong side of all three of those guidelines.

EISENHOWER RECOGNIZED REALITY ABOUT MAN AND WAR

(By David S. Broder)

WASHINGTON.—Something has come into my hands that I think is worth sharing Prof. Fred I. Greenstein of Princeton, author of *The Hidden Hand Presidency*, a study of President Eisenhower, has called my attention to a letter Eisenhower wrote 27 years ago which he says has never been published in full.

With the permission of the President's son, retired Gen. John S. D. Eisenhower, I am giving it circulation through this column. I think it is as important, a statement on nuclear war as I have ever read.

Richard L. Simon, president of the publishing firm of Simon & Schuster, had written Eisenhower in March 28, 1956, calling attention to a column by Joseph and Stewart Alsop on the Soviet military threat, and urging "that a crash program for long-range airpower and missiles" be given the highest priority, as they recommended.

This is the Eisenhower reply of April 4, 1956:

"DEAR DICK: Thank you for your letter, which brings up subjects too vast to be discussed adequately in a letter. Suffice it to say here that I doubt that any columnist—and here I depend upon hearsay as I have no time to read them—is concerning himself with what is the true security problem of the day. That problem is not merely man against man or nation against nation. It is man against war.

"I have spent my life in the study of military strength as a deterrent to war, and in the character of military armaments necessary to win a war. The study of the first of these questions is still profitable, but we are rapidly getting to the point that no war can be won. War implies a contest: when you get to the point that contest is no longer involved and the outlook comes close to destruction of the enemy and suicide for ourselves—an outlook that neither side can ignore—than arguments as to the exact amount of available strength as compared to somebody else's are no longer the vital issues.

"When we get to the point, as we one day will, that both sides know that in any outbreak of general hostilities, regardless of the element of surprise, destruction will be both reciprocal and complete, possibly we will have sense enough to meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to this truth or die.

"The fullness of this potentiality has not yet been attained, and I do not, by any means, decry the need for strength. That strength must spiritual, economic, and military. All three are important and they are not mutually exclusive. They are all part of and the product of the American genius, the American will.

"But already we have come to the point where safety cannot be assumed by arms alone. But I repeat that their usefulness become concentrated more and more in their characteristics as deterrents than in instruments with which to obtain victory over opponents as in 1945. In this regard, today we are further separated from the end of World War II than the beginning of the century was separated from the beginning of the 16th century.

"Naturally, I am not taking the time here to discuss the usefulness of available military strength in putting out 'prairie fires'—spots where American interests are seriously jeopardized by unjustified outbreaks of minor wars. I have contented myself with a few observations on the implications of a major arms race.

"Finally, I do not believe that I shall ever have to defend myself against the charge that I am indifferent to the fate of my countrymen, and I assure you that there are experts, technicians, philosophers and advisers here, who give far more intelligent attention to these matters than do the Alsops.

"With warm regard, sincerely, Dwight D. Eisenhower."

The letter was marked "personal and confidential." But if ever there was a message that echoes across the decades to our own time, it is this one.

In eight short paragraphs, the remarkable man who led the Allied armies to victory over Hitler and served the nation as its last two-term president distilled a lifetime of wisdom.

There is one sentence which deserves to be carved in stone—or better—imprinted on the mind of anyone who occupies the Oval Office. Just read it slowly—clause by clause—and think about it;

"When we get to the point, as we one day will, that both sides know that in any outbreak of general hostilities, regardless of the element of surprise, destruction will be both reciprocal and complete, possibly we will have sense enough to meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to this truth or die."●

□ 2310

BANKRUPTCY: THE CRISIS THAT WON'T GO AWAY—II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 5 minutes.

● Mr. FISH. Mr. Speaker, yesterday, in discussing the crisis in bankruptcy, I warned the House that as of April 1, 1984, there will be no qualified bankruptcy judges available to preside in the U.S. bankruptcy courts. I also reviewed the rehabilitative and other objectives of the bankruptcy code, the enormous volume of pending cases, and some of the policy determinations taken by the Congress in enacting the 1978 Reform Act. The key decision then was to establish an independent bankruptcy court system with unified jurisdiction over all matters arising in bankruptcy or related thereto, presided over by judges appointed by the President for 14-year terms commenc-

ing April 1, 1984. Today I shall address myself to what went wrong.

In January 1980, the Northern Pipeline Construction Co. filed a petition for a chapter 11 reorganization in the U.S. bankruptcy court in Minnesota. Two months later it returned to that court to file a breach of contract suit against Marathon Pipe Line Co. Marathon sought to dismiss the case on the ground that the Bankruptcy Act of 1978 unconstitutionally conferred the judicial power of the United States on judges who lack the life tenure and protection against reduction of salaries required by article III of the Constitution. The bankruptcy court denied the motion, but it was granted on appeal by the district court and a direct appeal to the Supreme Court followed.

On June 28, 1982, the Supreme Court held in Northern Pipeline Construction Co., against Marathon Pipe Line Co., that Congress had indeed exceeded its authority in the 1978 act when it gave broad powers to the bankruptcy court but failed at the same time to confer on its judges the two attributes specified by article III of the Constitution—life tenure during good behavior and a guarantee against reduction of salary while in office. These fundamental requirements insure the independence of Federal judges against the pressures of the political process. In this way the Founding Fathers made certain that we have a strong and unbiased judiciary and public confidence in the rule of law.

The House was well aware of the constitutional mandate and it acted accordingly. The Judiciary Subcommittee on Civil and Constitutional Rights, the full Judiciary Committee, and the House as a whole all concluded in 1978 that article III court status was constitutionally required for the new bankruptcy court system. In conference, however, the Senate insisted that the bankruptcy judges should be appointed to 14-year terms commencing in 1984. Unfortunately, the other body prevailed on this issue. Thus the stage was set for Marathon.

The Supreme Court's order in the Marathon case became effective after the second extension of its stay expired on December 24, 1982. Since then, the bankruptcy courts have been operating under an interim rule promulgated by the Administrative Office of U.S Courts and adopted by the various district courts.

Under the interim rule, all cases arising under title 11—the Bankruptcy Code—and all cases related thereto are referred by the district court to the bankruptcy judges of the district. Orders judgments by the bankruptcy judge in proceedings arising in or under title 11 are final within 10 days of their entry unless an appeal is taken to the district court. Findings, conclusions and a proposed judgment in related proceedings, defined as those which might be brought in a State or Federal district court absent a bankruptcy petition, must be submitted to the district court judge.

The interim rule was invoked in order to keep the bankruptcy courts functioning. However, it has been throughly criticized by judges, practitioners, and creditors for being of extremely dubious constitutionality because, in reality, decisions requiring article III adjudication are still being made by article I or congressionally created judges who lack constitutionally prescribed protections. In Marathon, the Supreme Court had held that all of the grant of authority to the article I court was unconstitutional, without making any distinction between title 11 and related proceedings.

The Department of Justice has openly questioned whether a court can do by rule what the Supreme Court has said Congress cannot do by statute. The constitutionality of the interim rule has also been shaken by a number of adverse lower court decisions and by the ruling by the Ninth Circuit Court of Appeals on August 5, 1983 in Pacemaker against Instromedix. In that case, the Court held that U.S. magistrates, who are in a somewhat analogous position to bankruptcy judges under the interim rule, cannot enter final judgments, even with the consent of the parties, because they lack article III status.

The constitutionality of the principal alternative solutions to the crisis in bankruptcy adjudication will be my subject tomorrow.●

PRECEDENCE OF SPECIAL ORDERS

Mr. SHELBY. Mr. Speaker, I ask unanimous consent that I be allowed to go ahead in order of precedence on special orders before the gentleman from Pennsylvania (Mr. GAYDOS).

The SPEAKER pro tempore. Without objection, the gentleman from Alabama is recognized for 60 minutes.

There was no objection.

INTRODUCTION OF BILL TO CLARIFY THE PROCESS FOR THE RELICENSING OF HYDROELECTRIC PROJECTS

Mr. SHELBY. Mr. Speaker, today I am introducing a bill which will amend sections 7 and 15 of the Federal Power Act. This bill will clarify the procedures under which the Federal Energy Regulatory Commission (FERC) conducts relicensing proceedings for the continued development of hydroelectric power. Mr. Speaker, I am pleased to be joined by my colleagues from around the Nation in cosponsoring this bill: Representatives PASHAYAN, COELHO, MOORHEAD, BEVILL, JACK EDWARDS, DOWDY, WAXMAN, NIELSON, LOTT, SHUMWAY, CARR, BOXER, BOSCO, HAWKINS, MARTINEZ, PANETTA, HARTNETT, CHAPPIE, DREIER, DIXON, VUCANOVICH, BONIOR, FLIPPO, FAZIO, JERRY LEWIS, ROYBAL, CRAIG, DAVIS, DYMALLY, BARNARD, ERDREICH, MEL LEVINE, RICHARD LEHMAN, PATTERSON, ALBOSTA, LAGOMARSINO, REID, BERMAN, BADHAM, ANDERSON, TORRES, LOWERY, TRAXLER, and WILLIAM THOMAS.

This clarification of the Federal Power Act is necessary because of recent conflicting FERC and court rulings involving the issue of whether a municipal preference applies when FERC relicenses hydropower facilities. I introduce this bill, not in reaction to, but in support of FERC's recent interpretation of the Federal Power Act in the Merwin case. This bill should not be viewed by the public or the courts as changing existing law, but as clarifying and affirming the law and Congress original and consistently held intent concerning relicensing. This legislation clarifying relicensing procedures not only benefits electric consumers in Alabama; it is important to consumers throughout the country that our Nation's scarce hydroelectric energy resources be used efficiently for the common good.

Let me briefly describe the background of this problem. In 1920, Congress adopted the Federal Water Power Act—subsequently reenacted as the Federal Water Power Act—which established the Federal Power Commission (FPC), now the Federal Energy Regulatory Commission. The Commission was empowered to issue licenses for construction and operation of hydroelectric projects on the Nation's navigable rivers. These licenses may run for a maximum of 50 years, after which a new license must be obtained for the project. Beginning in the 1920's, numerous hydroelectric projects were licensed and constructed throughout the country. Many of these licenses now have begun to expire. Consequently, FERC has and will continue for years to come to conduct relicensing proceedings in connection with these facilities.

Section 7 of the Federal Power Act specifies that in the granting of initial licenses, States and municipalities will be given a preference over other types of applicants. It was initially viewed both by those associated with the electric utility industry and with the FPC that the preference did not apply against the existing licensee at relicensing. Indeed, in 1968, the Chairman of the FPC testified before Congress that the preference provision did not apply against the existing licensee at the relicensing stage. However, in June 1980, the FERC issued a declaratory opinion that the municipal preference applied against the existing licensee at relicensing, as well as at the initial licensing. That case, generally

referred to as the "City of Bountiful" case, arose in response to a request from the city of Bountiful, Utah, for an interpretation of the act. The request was prompted by the city's interest in obtaining a license for a hydroproject which has been owned and operated for 50 years by Utah Power & Light Co. for the benefit of its customers. This case was consolidated with another request relating to the interest of the municipality of Santa Clara, Calif., in taking over a hydroproject belonging to Pacific Gas & Electric Co.

A number of investor-owned utilities which intervened and participated before FERC in the city of Bountiful case appealed the FERC decision to the 11th Circuit Court of Appeals. On September 17, 1982, that court, citing deference to the agency's interpretation, affirmed the FERC's ruling in *Alabama Power Co., et al.* v. *FERC,* 685 F. 2d 1311 (11th Cir. 1982). On July 6, 1983, the Supreme Court denied petitions for certiorari.

In the first competitive relicensing case involving the preference issue to reach the Commission after its Bountiful decision, FERC weighed competing applications for Pacific Power & Light's Merwin project in Washington State. The Commission voted unanimously, in order 191, issued October 6, 1983, to award the new license to Pacific Power & Light based on the act's public interest considerations reflected in the economic impact upon the utility's customers—in other words the consumers. In the same order, the Commission voted 3 to 2 to overrule the 1980 City of Bountiful decision, holding that under the Federal Power Act the preference clause does not apply against the existing licensee at the relicensing stage.

Mr. Speaker, at this point I want to yield to my colleague and friend, the gentleman from California (Mr. PASHAYAN), who is cosponsoring this legislation with me and who has been very instrumental in this and has been one of the first off the block and has a similar problem on it.

I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Speaker, I appreciate the kind remarks of my friend and colleague, the gentleman from Alabama (Mr. SHELBY). I look forward to continuing to work with him on this very vexing problem.

I just would like to ask my good colleague if he agrees with me that the act is indeed well named. We have named it the Electric Consumers Protection Act of 1983. I would like to ask the gentleman if he agrees with that.

Mr. SHELBY. I think it is in the best interests of the consumer. We are all consumers of electricity and hydropower projects thoughout the country in California, Alabama, Michigan, and you name it. Although they are small in some respects, they do provide some of the most inexpensive power at this time and if these companies are not relicensed, and I hope most of them will be on merit, without a preference, then the consumers in Alabama, in California or Florida or wherever they are, are going to pay more. We are going to rue the day that we did not enact this legislation. That is why I think we are pushing it.

□ 2320

Mr. PASHAYAN. I am sure my colleague would agree with me when I say that this act intends to protect the present consumers who are now receiving their source of power from the privately owned utilities all around the country?

Mr. SHELBY. That is exactly right, and that is the way I interpret it and I know this is a complicated piece of legislation, but I look forward to working with the gentleman on this legislation in the second part of this Congress.

Mr. PASHAYAN. I concur. Indeed, I concur with my good friend that it is a complicated piece of legislation which is why I thought it would be good for both of us to highlight the essence of it, and that is, to protect the present consumer who is now receiving and to try to develop an orderly process whereby the present consumers, when receiving a source of power from a fairly run utility, can continue to receive that, and that is the group of people that we are intending to protect with this piece of legislation.

On August 3 of this year, I did outline the problem on the floor that we are seeking to redress in the Electric Consumers Protection Act of 1983.

The problem is to prevent the transfer of the benefits from a hydroelectric project from existing consumers to new consumers, especially when that transfer can cause existing consumers to bear the economic burden of building new powerplants to meet their demands but I should like to submit the rest of my comments for the Record.

Mr. Speaker, I am pleased to join with my colleague from Alabama (Mr. SHELBY) in calling attention to the introduction of the Electric Consumers Protection Act of 1983.

On August 3 of this year on the floor, I outlined the problem we are seeking to redress in the Electric Consumers Protection Act of 1983. The problem is to prevent the transfer of benefits from a hydroelectric project from existing consumers to new consumers, especially when that transfer can cause existing consumers to bear the economic burden of building new powerplants to meet their demands.

The question hinges on preference in the relicensing of hydroelectric projects. In 1980 the Federal Energy Regulatory Commission said that municipalities enjoyed a preference; in 1983 FERC said that there was no preference. Until 1980, no one else thought a municipality enjoyed a preference. With the confusion raised by FERC itself, it is time for Congress to reassert a basic premise: If an investor-owned utility can demonstrate that it would do a better job of running a plant and is serving the public interest, then it should continue to be allowed to operate that facility without undue interference from municipalities whose interests serve a smaller public.

One of the newspapers in my congressional district in California, in an editorial printed October 21, noted:

> We question, in fact, whether the takeovers even would be beneficial in the long run to the municipalities that are pursuing them. . . . We believe the business is one that is best left in the hands of professionals—and that any takeover that benefits the few at the expense of the many is an action that simply doesn't make sense.

We are today taking the first step. I hope that we can proceed during the second session.

This legislative initiative retains the long-held preference for municipalities and States in seeking original licenses, and moreover, in my view, permits FERC to continue to evaluate relicensing on a case-by-case basis.

When FERC issued its decision on October 6, 1983, on the Merwin project in the State of Washington, it issued the following statement:

> Simply stated, the Commission must select a "new licensee" when the "original licensee" in possession of the project works does not apply for a new license, or is found by the Commission to be out of the running for a new license.

The legislation being introduced today acknowledges that statement.

For the past 80 years investor-owned utilities have been developing hydroelectric dams and transmission lines throughout this country. Those projects have been developed, paid for, operated, and maintained under license from the Federal Power Commission and its predecessor, the Federal Energy Regulatory Commission. Twenty-five percent of this Nation's hydroelectric power has been developed by the investor-owned utilities, the remaining by either the Federal or State government or municipalities.

Further, in the October 6 decision, FERC noted that if the public interest favors the consumers served by a private entity, then the law requires that the license to be issued to that entity to permit its consumers to receive the benefits. That is as it should be, and that is what is addressed in the Electric Consumers Protection Act of 1983.

A third part of this legislation would come into play only in a case where the existing licensee does not seek relicensing or the new license is granted to any entity other than the original licensee. Currently the law provides that the compensation involved will be

sufficient to recover only the original investors' interest in a 50-year-old project. The legislation now pending brings into this part of the issue the phrasing "just compensation in accordance with due process of law." In summary, it would allow FERC to take into account severance damages and the consumers' interest in establishing compensation for new ownership of a hydroelectric facility.

Mr. SHELBY. Mr. Speaker, although the most recent FERC ruling is more firmly grounded in the language of the statute and is a more sensible and equitable result, in my opinion the act must be clarified to prevent future conflicting rulings. Clarification by Congress would insure that the many benefits of these hydroelectric projects would continue to flow to the millions of customers of the present licensees, provided the licensees are willing and able to meet the licensing standards embraced in section 10(a) of the act. Furthermore, clarification would promote predictability in the utilities' long-range electric power supply planning. If Congress does not clarify this issue, hydro relicensing will continue to be fraught with confusion and uncertainty.

Mr. Speaker, I want to be very clear about one question that I know may be on the minds of many here. The preference concept has a long history and is reflected in numerous Federal laws that provide for the marketing of power from Federal hydroelectic projects. And, as I have indicated, the Federal Power Act is acknowledged by all to include a preference that applies at the time the first license is issued authorizing construction and operation of a new project. My bill is not directed at and would not affect any of those preferences.

While some may argue that those preferences are an anachronism today, my bill is confined to a discrete, isolated issue readily distinguishable from those pervasive preference provisions. The forced transfer of a hydroelectric project, which the existing licensee has and will continue to develop, operate and maintain in accordance with the public interest criteria in the act, would not be sound public policy, particularly where millions of electric customers would lose the benefits of the hydroelectric power for the sake of a far fewer number.

At relicensing, under my amendment the existing licensee could not rest on its laurels. It is important to recognize that under this amendment, by referencing section 10(a) of the act, the existing licensee's project would have to be best adapted to a comprehensive plan, or the licensee would have to agree to modifications required by the Commission in order to make it so. Otherwise, the Commission could refuse to issue a new license to the existing licensee. Furthermore, the Commission's present authority, which would continue, to impose such terms and conditions in the new license as are authorized by law would further insure that issuance of a new license to the existing licensee would be in the public interest. It follows that this amendment would not create a perpetual license for existing licensees as some will want to claim. Indeed, my amendment leaves untouched the statutory scheme which provides for license terms of up to 50 years and the requirement for issuance of a new license thereafter.

Unlike the effect of the preference at initial licensing, utility customers have a great deal to lose if the utility is forced to transfer its license to a municipality at the time of relicensing. At relicensing the project has been in operation for up to 50 years and integrated efficiently into the licensee's generating system to the benefit of the utility's customers. At the outset the utility and its investors assumed the risk of building the project and subsequently the utility's customers paid for the development, operation, and maintenance of it through their rates. None of this, of course, has occurred at the time preference comes into play at initial licensing.

Let me be clear, relicensing of hydro projects does not mean that utility investors will receive special benefits. Once a project is fully depreciated, which is likely to be the case at the end of a 50-year license, the project would appear in the utility's rate base under Federal and most State laws at zero cost. Thus, the project would no longer provide return for the utility's investors. However, it would continue to provide low-cost energy to the utility's customers.

Mr. Speaker, I am particularly concerned about the impact on the utility rates of consumers in Alabama and throughout the country if the courts or a subsequent Commission should revert to the interpretation of the act reached in the 1980 City of Bountiful case. These consumers are literally being saved billions of dollars annually in fuel costs by these hydro projects, because no fuel cost is associated with the generation of hydroelectric power. Consequently, if existing hydro projects are transferred to different licensees with a different set of customers, the first group of customers will be harmed irreparably. Depending on the circumstances of the individual utility, the lost power would be replaced by purchasing expensive fossil fuels to burn in less efficient generating units or by purchasing expensive replacement power from another utility. The lost capacity might have to be replaced with new generating plants by some utilities in an earlier timeframe than would otherwise have been necessary to meet load requirements. The customers naturally will have to pay for these consequences through their rates.

The relatively fewer customers of municipalities already receive the benefits from substantial amounts of hydroelectricity. Through their preference at initial licensing, municipalities hold initial licenses for many projects. Power marketing preferences in many Federal laws have enabled municipalities and their customers to benefit from a large share of hydropower generated at Federal projects throughout the country. It is important to note that these Federal projects, as well as State and municipal projects, generated 73.5 percent of the hydroelectricity produced in the country in 1982, whereas the customers of investor-owned utilities benefited from only 26.4 percent of the Nation's hydropower generated by those utilities. Finally, of course, municipalities may be wholesale customers of utilities with hydropower which is reflected in their wholesale purchases.

These facts quite correctly suggest that the relatively fewer customers of municipalities already benefit from a disproportionate share of the hydroelectric power generated in this country. To apply the preference to the relicensing of existing projects would only serve to increase the present disparity in the allocation of hydropower benefits among electric consumers. Such a result cannot be justified by a sound and equitable public policy.

The inequity to existing customers of electric utilities which I have described is reflected further by the present compensation provision applicable to relicensing. My amendment would rectify this problem also. If a municipality were to take over an existing licensee's project, under the present law, it has been argued that the existing licensee would be entitled only to net investment plus severance damages. If the administrative law judge's initial decision in the Merwin case is any guide, the net investment compensation for the 136 megawatt project would have been only $9.4 million, and the judge concluded nothing would be allowed for severance damages. The Commission's own staff concluded that the cost to the utility of having to replace the lost hydroproject with a coal-fired powerplant would be $731,700,000. The net investment standard clearly does nothing to protect the utility and its customers from the financial burdens resulting from the loss of future use of the project.

Curiously, if the tables were turned and a municipality were losing its project to a private licensee, the municipality would be justly compensated under a 1953 amendment to the Federal Power Act. As the Commission stated in the Merwin decision:

. . . A [private] licensee . . . must pay a value-related condemnation price, rather than the cost-related net investment price as enacted in 1920, if it wants to acquire water power properties from a State or municipality. (Opinion 191, p. 45, fn. 48.)

Mr. Speaker, my amendment recognizes that the existing licensee holds title to the project works which have been purchased or constructed subject only to the right of Congress to regulate the use of the affected waterway or waterways under the commerce clause. In order to treat equitably the property rights of the existing licensee, and to assure compliance with constitutional safeguards, the amendment provides that in the event the project is to be licensed to a different licensee, the existing licensee shall be justly compensated by the new licensee in accordance with due process of law. Such compensation would protect the interest of the existing licensee and its customers and offset the burden which would result from the loss of future use of the project. Furthermore, it would result in treating existing municipal and private licensees equally for purposes of compensation, in the case that either was to lose a project at relicensing.

My bill will solve the problems I have just described and clarify the existing law. In doing so, it would provide the basis for consistent FERC rulings in the future and allow for sound long-term energy planning. Let me summarize its provisions. It provides that if the United States does not take over a project pursuant to section 14 of the act, the Commission, upon application, shall issue a new license to the existing licensee with appropriate terms and conditions, unless the Commission determines that the project or projects to be relicensed, described in the application, will not meet the public interest standards prescribed in section 10(a) of the act. The amendment requires the Commission in making such determination to take into account the public benefits provided during the expiring license term. For example, the Commission can and should take into consideration the fact that the project has been devoted to public use and that the rates and charges for power delivered from the project have been subjected to either Federal or State regulation or both. Likewise, the Commission can and should take into account whether the project as applied for comports with flood control, navigation, and recreational benefits as well as other public benefits inherent in the project. The amendment in effect recognizes that in the case of projects operated by electric utilities, whether privately owned or publicly owned, the existing licensee and its investors have assumed the risk of development and the existing licensee and its customers have generally paid for the development, operation and maintenance of the project under terms and conditions consistent with the public interest.

The amendment authorizes the Commission to consider other applications and issue a license to a different licensee if the Commission determines that the project or projects as proposed by the existing licensee do not meet the prescribed standards.

Mr. Speaker, as I have stated, this is a problem which affects electric consumers across the country. The Commission itself, charged with making the public interest determination at relicensing, has recognized the impact of that choice on consumers in its recent Merwin decision:

• • • We believe the focal point of the Part I public interest today is the impact on consumers of choosing between an "original licensee" in possession of project works, and a "new licensee"—without regard to whether the consumers are characterized as domestic, rural, commercial, industrial or in some other manner, because the cost of electricity is reflected not only in the bill paid to the local distributor, but also in the prices paid for goods and services. (Opinion 191, p. 45.)

To illustrate the points I have been making, I ask unanimous consent to place three items in the RECORD; first, a list of hydro projects of investor-owned utilities which will come up for relicensing showing the States in which they are located; second, table 1 showing the 10 to 1 disparity between the customers of existing licensees and those of entities claiming a municipal preference in 11 pending competitive relicensing proceedings, and third, table 2 showing the equivalent fuel cost savings realized by the customers of the existing licensees in those 11 proceedings.

Mr. Speaker, in the interest of clarifying the existing law to provide a more equitable relicensing system which does not discriminate against the customers now being served by existing projects, I request the scheduling of hearings at an early date and urge the speedy passage of this bill. I ask unanimous consent that the text of the bill, a section-by-section analysis, and related newspaper editorials and articles be printed in the RECORD in full.

INVESTOR OWNED UTILITY HYDROELECTRIC PROJECTS

State [1] and company [2]	Project name [3]	License number [4]	License expiration date [5]	State [6]
Alabama: Alabama Power Co.	John H. Bankhead	2165	8/31/2007	AL.
	Coosa River	2146	7/31/2007	
	Holt Lock and Dam	2203	8/31/2015	
	Jordan	618	7/31/2007	
	Martin Dam	349	6/08/2013	
	Mitchell	82	7/31/2007	
	R. L. Harris	2628	11/30/2023	
	Yates	[illegible]	12/31/1993	
	Thurlow	2408	12/31/1993	
Alaska:				
Alaska Electric Light & Power	Salmon Creek and Annex Creek	2307	8/31/1988	AK.
Alaska Power & Telephone Co., Inc.	Skagway Dewey	1051	8/29/2007	AK.
Arkansas: Arkansas Power & Light Co.	Carpenter and Remmel	[7] 271	2/28/2003	AR/MO.
California				
Pacific Gas & Electric Co.	Angels	2699	12/31/1995	CA.
	Balch No. 1 and 2	[8] 175	4/30/2026	
	Bucks Creek	619	10/31/2004	
	Chili Bar	2155	7/31/2007	
	Crane Valley	1354	4/30/1989	
	Rock Creek-Cresta	1962	[9] 9/30/1982	
	De Sabla-Centerville	[10] 803	10/11/2009	
	Drum-Spaulding	2310	4/30/2013	
	El Dorado	184	2/23/2002	
	Mokelumne	137	[11] 11/23/1975	
	Hatcreek No. 1 and 2	2661	9/30/2000	
	Helms Pumped Storage	2735	4/30/2026	
	Kerchoff	96	11/30/2022	
	Kern Canyon	178	4/30/2005	
	Kilarc & Cow Creek	606	3/27/2007	
	Haas-Kings River	1988	3/31/1985	
	McCloud-Pit	2106	7/31/2011	
	Merced Falls	2467	2/28/2014	
	Millseat Creek and Battle Creek	1121	7/31/2026	
	Utica (Murphys)	2019	11/05/1996	
	Narrows	1403	7/31/1991	
	Phoenix	1061	[12] 12/25/1980	
	Pit No. 3,4, and 5	233	10/31/2003	

INVESTOR OWNED UTILITY HYDROELECTRIC PROJECTS—Continued

State [1] and company [2]	Project name [3]	License number [4]	License expiration date [5]	State [6]
	Pit No. 1	2687	12/31/1995	
	Poe	2107	9/30/2003	
	Potter Valley	77	[13] 4/14/1972	
	Stanislaus Spring Gap	2130	12/31/2004	
	Tule River	1333	4/30/1989	
	Upper No. Fork Feather River	2105	10/31/2004	
Pacific Power & Light Co	Klamath	2082	2/28/2006	CA/ID/MT/OR/WA/WY.
Southern California Edison Co	Big Creek No. 1 and 2	2175	2/28/2009	CA.
	Big Creek No. 2A and 8	67	2/28/2009	
	Big Creek No. 3 and 6	120	2/28/2009	
	Big Creek No. 4	2017	2/28/1999	
	Bishop Creek	1394	11/30/1986	
	Borel	382	2/28/2005	
	Kern River No. 1	1930	4/30/1996	
	Kern River No. 3	2290	12/31/1993	
	Keweah	298	[14] 8/06/1974	
	Lake Thomas A. Edison	[15] 2086	8/31/2003	
	Lower Tule	372	6/14/2000	
	Lundy	1390	11/30/1986	
	Lytle Creek	1932	4/30/1996	
	Mammoth Pool	2085	11/30/2007	
	Mill Creek No. 2 and No. 3	1934	4/30/1996	
	Portal	2174	3/31/2005	
	Poole	1388	11/30/1986	
	Rush Creek	1389	11/30/1986	
	San Gorgonio	344	[16] 4/26/1973	
	Santa Ana No. 1 and No. 2	1933	4/30/1996	
	Santa Ana No. 3	2198	4/30/2009	
Colorado: Public Service Co. of Colorado	Boulder Canyon	1005	8/31/2009	CO.
	Cabin Creek	2351	2/28/2014	
	Georgetown	2187	12/31/1993	
	Salida Hydro No. 1 and No. 2	2275	12/31/1993	
Connecticut: The Connecticut Light & Power Co	Housatonic	2576	7/31/2001	CT.
	Scotland	2662	8/31/2012	
	Falls Village	2597	8/30/2001	
Georgia:				
Georgia Power Co	Bartletts Ferry	[17] 485	12/14/2014	GA.
	Chattahochee	2177	12/31/2004	
	Flint River	1218	[18] 9/16/1971	
	Langdale	2341	12/31/1993	
	Lloyd Shoals	2336	12/31/1993	
	Morgan Falls	2237	2/28/2009	
	Riverview	2350	12/31/1993	
	Rocky Mt. P.S.	2725	12/31/2026	
	Sinclair	1951	8/31/1997	
	Tugaloo and Tallulah	2354	12/31/1993	
	Wallace	2413	5/31/2020	
South Carolina Electric & Gas Co	Stevens Creek	2535	12/31/1993	SC.
Idaho:				
Idaho Power Co	American Falls	2736	2/28/2025	ID/NV/OR.
	Bliss	1975	2/28/1998	
	C. J. Strike	2055	11/30/2000	
	Cascade	[19] 2848	1/31/2031	
	Hells Canyon	1971	7/31/2005	
	Lower Salmon	2061	12/23/1997	
	Malad	2726	7/31/2004	
	North Fork Payette River	[20] 2930	5/31/2032	
	Shoshone Falls	2778	5/31/1999	
	Swan Falls	503	[21] 6/30/1970	
	Twin Falls	18	6/10/1984	
	Upper Salmon	2777	5/31/1999	
Utah Power & Light Co	Ashton and St. Anthony	2381	12/31/1987	ID/UT/WY.
	Grace and Cove	2401	10/01/2001	
	Oneida	472	6/30/2000	
	Soda	[22] 20	7/04/2003	
The Washington Water Power Co	Cabinet Gorge	2058	1/09/2001	ID/MT/WA.
Illinois:				
Commonwealth Edison Co	Dixon	2446	12/31/1993	IA.
South Beloit Water, Gas & Electric Co	Rockton	2373	12/31/1993	
Indiana:				
Indiana & Michigan Electric Co	Elkhart	2651	5/31/2000	IN/MI.
	Twin Branch	2579	12/31/1993	
Public Service Co. of Indiana, Inc	Markland	2211	4/30/2011	IN.
Kentucky:				
Kentucky Utilities Co	Lock No. 7	539	[23] 8/18/1976	KY/TN.
Louisville Gas & Electric Co	Ohio Falls	289	11/10/1975	KY.
Maine:				
Bangor Hydro-Electric Co	Ellsworth and Graham	2727	12/31/1987	ME.
	Howland	2721	9/30/2000	
	Medway	2666	3/31/1999	
	Milford	2534	12/31/1990	
	Orono	2710	12/31/1993	
	Stanford	2600	12/31/1987	
	Stillwater	2712	12/31/1993	
	Veazie	2403	12/31/1987	
Central Maine Power Co	Automatic	2555	12/31/1993	ME.
	Bar Mills	2194	6/30/2005	
	Bonny Eagle	2529	12/31/1993	
	Cataract	2528	12/31/1987	
	Deer Rips-Androscoggin-Gulf Island	2283	12/31/1993	
	Flagstaff Res	[24] 2612	12/31/1997	
	Fort Halifax	2552	12/31/1993	
	Harris	2142	12/31/2001	
	Hiram	2530	12/31/1993	
	North Gorham	2519	12/31/1993	
	Oakland	2559	12/31/1993	
	Rice Rips	2557	12/31/1993	
	Shawmut	2322	1/31/2021	
	Skelton	2527	12/31/1993	
	Topsham (Brunswick)	[25] 2284	2/28/2029	
	Union Gas	2556	12/31/1993	
	West Buxton	2531	12/31/1987	
	Weston	2325	12/31/1993	
	Williams	2335	12/31/1987	
	Wyman	2329	12/31/1993	
Maine Public Service Co	Caribou	2367	12/31/1993	ME.

INVESTOR OWNED UTILITY HYDROELECTRIC PROJECTS—Continued

State [1] and company [2]	Project name [3]	License number [4]	License expiration date [5]	State [6]
	Millinocket Lake	2366	6/30/1992	
	Squa Pan	2368	12/31/1990	
Rumford Falls Power Co	Rumford Falls	2333	12/31/1993	ME.
Maryland:				
Pennsylvania Electric Co	Deep Creek	2370	12/31/1993	NY/PA.
Philadelphia Electric Co	Conowingo	[26] 405	9/01/2014	PA.
Massachusetts:				
Holoyoke Water Power Co	Connecticut Canal	2004	8/31/1999	MA.
New England Power Co	Bear Swamp P.S.	2669	3/31/2020	NH/VT/MA.
	Deerfied River	2323	12/31/1993	
Western Massachusetts Electric Co	Gardner Falls	2334	12/31/1993	MA.
	Northfield Mountain	2485	4/30/2018	
	Turners Falls	1889	4/30/2018	
Michigan:				
Alpena Power Co	Hillman	2419	12/31/1993	MI.
	Thunder Bay River	2404	12/31/1993	
Consumers Power Co	Alcona	2447	12/31/1993	MI.
	Calkins Bridge 785	785	4/10/2010	
	Cooke	2450	12/31/1993	
	Croton	2468	12/31/1993	
	Five Channels	2453	12/31/1993	
	Foote	2436	12/31/1993	
	Hardy	2452	12/31/1993	
	Hodenpyl	2599	12/31/1993	
	Loud	2499	12/31/1993	
	Ludington P. S.	[27] 2680	6/30/2019	
	Mio	2448	12/31/1993	
	Rogers	2451	12/31/1993	
	Tippy	2580	12/31/1993	
	Webber	2566	4/01/2001	
Indiana & Michigan Electric Co	Buchanan	2551	12/31/1993	IN/MI.
Lake Superior District Power Co	Saxon Falls	2610	12/31/1989	MI/WI.
	Superior Falls	2587	12/31/1993	
Michigan Power Co	Mottville	401	9/18/2003	MI.
Upper Peninsula Power Co	Prickett	2402	12/31/1993	MI.
	Victoria	[28] 1864	12/31/1988	
Wisconsin Electric Power Co	Big Quinnesec	1980	2/28/1998	WI.
	Brule	2431	12/31/1993	
	Chalk Hill	2394	6/30/1993	
	Hemlock Falls	2074	10/31/2001	
	Kingsford	2131	6/30/2004	
	Lower Paint	2072	12/31/2001	
	Michigamme	1759	12/31/2001	
	Michigamme Falls	2073	10/31/2001	
	Sturgeon River	2471	12/31/1993	
	White Rapids	2357	12/31/1993	
Wisconsin Public Service Corp	Grand Rapids	2433	12/31/1993	MI/WI.
Minnesota:				
Minnesota Power	Blanchard	346	8/24/2003	MN.
	Little Falls	2532	12/31/1993	
	Pillager	2663	511/1997	
	Praire River	2361	12/31/1993	
	St. Louis	2360	12/31/1993	
	Sylvan	2454	12/31/1993	
	Winton	469	10/31/2003	
Northern States Power Co	St. Anthony Falls	2056	12/31/2000	MN/ND/SD.
Missouri:				
The Empire District Electric Co	Ozark Beach	2221	8/31/1993	AR/KS/MO/OK.
Union Electric Co	Osage	459	2/28/2006	IA/IL/MO.
	Taum Sauk	2277	6/30/2010	
Montana:				
Montans Light & Power Co	Lake Creek	2594	11/30/2011	MT.
The Montana Power Co	Flint Creek	1473	6/30/1988	MT/WY.
	Kerr	5	[29] 5/22/1980	
	Milltown	2543	12/31/1993	
	Missouri-Madison	2188	11/30/1998	
	Mystic Lake	2301	12/31/2009	
	Thompson Falls	[30] 1869	12/31/2015	
Pacific Power & Light Co	Big Fork	2652	4/30/1990	CA/ID/MT/OR/WA/WY.
The Washington Water Power Co	Noxon Rapids	2075	4/30/2005	ID/MT/WA.
New Hampshire:				
New England Power Co	Fifteen Miles Falls	2077	7/31/2001	NH/VT/MA.
	Vernon	1904	4/30/2018	
	Wilder	[31] 1892	4/30/2018	
Public Service of New Hampshire	Ayers Island	2456	12/31/1993	NH/VT.
	Eastman Falls	2457	12/31/1987	
	Gorham	2288	12/31/1993	
	J. Brodie Smith	2287	12/31/1993	
	Merrimack River	[32] 1893	12/31/2005	
New Jersey: Jersey Central Power & Light Co	Yards Creek	2309	2/28/2013	NJ.
New York:				
Niagara Mohawk Power Corp	Beaver	2645	12/31/1993	NY.
	Beebee Island	2538	12/31/1993	
	Black River	2569	12/31/1993	
	Carry Falls Reservoir	[33] 2060	1/31/2001	
	E. J. West	2318	12/31/1993	
	Glenn Park	[34] 4796	11/30/2032	
	Granby	[35] 2837	3/31/2020	
	Green Island	13	3/02/2011	
	Hoosic	2616	12/31/1993	
	Hudson	2482	12/31/1993	
	Hydraulic Race	2424	6/30/1991	
	Mechanicville	2500	12/31/1993	
	Oak Orchard	[36] 3452	7/01/2021	
	Oswegatchie	2713	12/31/2012	
	Oswego River	2474	12/31/1993	
	Raquette	2084	1/31/2002	
	Raquette	2320	12/31/1993	
	Raymondville-Norfolk-Norwood	2330	12/31/1993	
	School-St. Cohoes	2539	12/311993	
	Stewarts Bridge	2047	8/31/2000	
	Stuyvesant Falls	2696	8/30/2005	
	Trenton Falls and Prospect	2701	2/28/2023	
New York State Electric & Gas Corp	Keuka	2852	2/28/2003	NY
	Rainbow Falls and Taylor Pond	2835	10/31/2002	
	Saranac	2738	4//12/2006	

INVESTOR OWNED UTILITY HYDROELECTRIC PROJECTS—Continued

State [1] and company [2]	Project name [3]	License number [4]	License expiration date [5]	State [6]
	Upper Mechanicville	2934	3/31/2021	22
	Waterloo and Seneca Falls	2438	12/31/1993	
Rochester Gas & Electric Corp	Station No. 160	2596	12/31/1993	NY.
	Station No. 2	2582	12/31/1993	
	Station No. 26	2584	12/31/1993	
	Station No. 5	2583	12/31/1993	
North Carolina:				
Carolina Power & Light Co	Blewett Falls Lake and Tillery	2206	4/30/2008	NC/SC.
	Walters	432	[37] 11/22/1976	
Duke Power Co	Catwba	2232	8/31/2008	NC/SC.
	Idols	2585	7/31/2000	
	Spencer Mountain	2607	12/31/1993	
Nantahala Power & Light Co	Bryson	2601	7/31/2005	NC.
	Dillsboro	2602	7/31/2005	
	East Fork	2698	2/01/2006	
	Franklin	2603	7/31/2005	
	Mission	2619	8/31/2005	
	Nantahala	2692	2/28/2006	
	Queens Creek	2694	9/30/2001	
	Tuckasegee and Thorpe	2686	1/30/2006	
Virginia Electric & Power Co	Gaston and Roanoke Rapids	2009	1/31/2001	NC/VA/WVA.
Ohio: Ohio Power Co	Racine	[38] 2570	11/30/2023	OH.
Oregon:				
Pacific Power & Light Co	Bend	2643	12/31/1993	CA/ID/MT/OR/WA/WY.
	Klamath	2082	2/28/2006	
	North Umpqua	1927	1/29/1997	
	Powerdale	2659	2/28/2000	
	Prospect No. 3	2337	12/31/1988	
	Prospect No. 1, 2, 4	2630	7/01/2005	
	Wallowa Falls	308	2/28/1986	
Portland General Electric Co	Bull Run	[39] 477	11/16/2004	OR.
	North Fork	2195	8/31/2006	
	Oak Grove	[40] 135	8/31/2006	
	Round Butte and Pelton	2030	12/31/2001	
Idaho Power Co	Hells Canyon	1971	7/31/2005	ID/NV/OR.
Pennsylvania:				
Metropolitan Edison Co	York Haven	1888	9/01/2014	PA.
Pennsylvania Electric Co	Piney	[41] 309	10/12/2002	NY/PA.
	Warrior Ridge	2372	12/31/1993	
	Kinzua P. S.	2280	11/30/2015	
Pennsylvania Power & Light Co	Holtwood	1881	[42] 9/01/2014	PA.
	Wallenpaupack	[43] 487	9/30/2004	
Philadelphia Electric Co	Muddy Run	2355	8/31/2014	PA.
Safe Harbor Water Power Corp.[44]	Safe Harbor	1025	4/22/2030	
South Carolina:				
Duke Power Co	Bad Creek P. S.	2740	7/31/2027	NC/SC.
	Buzzard Roost	1267	2/10/1985	
	Catawba	2232	8/31/2008	
	Gaston Shoals	2332	12/31/1993	
	Holiday Bridge	2465	12/31/1993	
	Keowee and Jocassee	2503	8/31/2016	
	Ninety Nine Islands	2331	12/31/1993	
	Saluda	2406	12/31/1993	
Lockhart Power Co	Lockhart	2620	3/31/2000	SC.
South Carolina Electric & Gas Co	Columbia Hydro	[45] 1895	6/30/2000	SC.
	Neal Shoals	2315	12/31/1993	
	Parr Shoals	1894	6/30/2020	
	Saluda	516	[46] 8/04/1977	
Utah: Utah Power & Light Co	Beaver	814	[47] 8/31/1979	ID/UT/WY.
	Cutler	2420	12/31/1993	
	Olmsted	596	[48] 10/20/1975	
	Pioneer	2722	8/31/2000	
	Stairs	597	6/30/2000	
	American Fork	696	10/31/2000	
	Weber	1744	[49] 6/30/1970	
Vermont:				
Central Vermont Public Service Corp	Arnold Falls	2399	12/31/1993	VT.
	Cavendish	2489	12/31/1993	
	Gage	2397	12/31/1993	
	Lamoille River	2205	12/31/1987	
	Middlebury and Lower	2737	7/01/2000	
	Passumpsic	2400	12/31/1993	
	Pierce Mills	2396	12/31/1993	
	Taftsville	2490	12/31/1993	
Citizens Utilities Co	Clyde	2306	12/31/1993	AR/HI/ID/VT.
Green Mountain Power Corp	Bolton Falls	2879	1/31/2022	VT.
	Essex No. 19	2513	12/31/1993	
	Vergennes No. 9	2674	5/31/1999	
	Waterbury No. 22	2090	8/31/2001	
New England Power Co	Vernon	1904	4/30/2018	NH/VT/MA.
	Wilder	1892	4/30/2018	
	Bellows Falls	1855	4/30/2018	
	Deerfield River	2323	12/31/1993	
Vermont Marble Co	Center Rutland	2445	12/31/1993	VT.
	Otter Creek	2558	3/31/2012	
Virginia:				
Appalachian Power Co	Byllesby and Buck	2514	12/31/1993	VA/WV.
	Claytor	739	[50] 6/30/1981	
	Leesville and Smith Mountain Lakes	2210	3/31/2010	
	Niagara	2466	12/31/1993	
	Reusens	2376	12/31/1993	
The Potomac Edison Co	Warren	2391	12/31/1993	MD/VA/WV.
	Luray and Newport	2425	12/31/1993	
	Shenandoah	2509	12/31/1993	
Virginia Electric & Power Co	Cushaw Reservoir	906	6/16/2008	NC/VA/WV.
	Bath County	[51] 2716	8/31/2026	
Washington:				
Pacific Power & Light Co	Condit	2342	12/31/1993	CA/ID/MT.
	Merwin	935	[52] 12/11/1979	
	Swift No. 1	2111	4/30/2006	
	Yale	2071	4/30/2001	
Puget Sound Power & Light Co	Baker	2150	4/30/2006	WA.
	Snoqualmie Falls	2493	12/31/1993	
The Washington Water Power Co	Meyers Falls	2544	12/31/1993	ID/MT/WA.
	Spokane River	2545	8/01/2007	

INVESTOR OWNED UTILITY HYDROELECTRIC PROJECTS—Continued

State [1] and company [2]	Project name [3]	License number [4]	License expiration date [5]	State [6]
West Virginia:				
Kanawha Valley Power Co.[53]	London-Marmet	1175	1/15/1984	Wholesale.
	Winfield	1290	1/16/1984	
The Potomac Edison Co	Millville	2343	12/31/1987	MD/VA/WVA.
	Dam No. 5	[54] 2517	12/31/2003	
	Dam No. 4	2516	12/31/2003	
	Harpers Ferry	2515	12/31/1993	
West Penn Power Co	Lake Lynn	2459	12/31/1993	PA.
Wisconsin:				
Consolidated Water Power	Biron No. 2	2192	6/30/2000	WI.
	Du Bay	1953	6/30/1991	
	Stevens Point	2110	6/30/2000	
	Wisconsin Rapids	2256	7/31/1993	
	Wisconsin River Division	2590	6/30/1993	
Lake Superior District Power Co	Big Falls	2390	12/31/1993	MI/WI.
	Hayward	2417	12/31/1993	
	Orienta	2564	12/31/1993	
	Thornapple	2475	12/31/1993	
	White River	2444	12/31/1993	
North Central Power Company Inc	Arpin	2684	4/30/2019	WI.
	Winter	2064	11/30/2001	
Northern States Power Co. (Wisconsin)	Cedar Falls	2697	1/30/2001	WI.
	Chippewa Falls	2440	12/31/1993	
	Chippewa Reservoir	108	[58] 8/07/1971	
	Cornell	2639	11/30/2023	
	Dells	[56] 2670	9/20/2000	
	Holcombe	1982	6/30/1998	
	Jim Falls	2491	2/28/2000	
	Menomonie	2181	3/31/2005	
	Trego	2711	3/31/1993	
	Wissota	2567	6/30/2000	
Northwestern Wisconsin Electric Co	Black Brook	2894	12/31/2020	WI.
Wisconsin Electric Power Co	Oconto Falls	2523	12/31/1993	WI.
	Pine	2486	12/31/1993	
	Shawano	710	[57] 7/19/1977	
	Weyauwega	2550	12/31/1993	
Wisconsin Power & Light Co	Beloit	2348	12/31/1993	WI.
	Janesville	2347	12/31/1993	
Wisconsin Public Service Corp	Caldron Falls	2525	12/31/1993	MI/WI.
	Grandfather Falls	1966	12/31/1987	
	Hat Rapids	1968	6/30/1990	
	High Falls	2595	12/31/1993	
	Jersey	2476	12/31/1993	
	Johnson Falls	2522	12/31/1993	
	Merrill	1989	6/30/1990	
	Otter Rapids	1957	6/30/1990	
	Peshtigo	2581	12/31/1993	
	Potato Rapids	2560	12/31/1993	
	Sandstone Rapids	2546	12/31/1993	
	Tomahawk	1940	12/31/1986	
	Wausau	1999	6/30/1996	

[1] State designations represent the state in which the project is located. This may not coincide with the state in which the company has electric customers. "Hydropower Resources of the United States, January 1, 1980," Federal Energy Regulatory Commission, Table 10, pgs. 129–140, (FERC 0070). [2] Investor-owned utilities with hydroelectric projects licensed by the Federal Energy Regulatory Commission. [3] Federal Energy Regulatory Commission. [4] Federal Energy Regulatory Commission. [5] Federal Energy Regulatory Commission. [6] Represents states in which ultimate customers are served by company as of December 31, 1981. "Catalogue of Investor-Owned Electric Utility Companies Operating in the United States," 22nd edition (EEI). [7] Relicensed. [8] Relicensed. [9] Relicense application filed 9/28/1979; competing applications filed by Sacramento P.U.D. and by Northern California Power Agency. [10] Relicensed. [11] Relicense application filed 12/26/1972; competing application filed 4/9/1974 by City of Santa Clara. [12] Relicense application filed 12/21/1979. [13] Relicense application filed. [14] Relicense application filed. [15] Reservoir only. [16] Relicense application filed. [17] Relicensed. [18] Relicense application filed 2/26/1970. [19] Under construction. [20] Not constructed. [21] Relicense application filed. [22] Relicensed. [23] Relicense application filed. [24] Reservoir only. [25] Also known as Project No. 2834. [26] Jointly-owned with Susquehanna Power Company. [27] Jointly-owned with The Detroit Edison Company. [28] Reservoir only. [29] Relicense application filed. Competing application filed by Salish and Kootenai tribes for Project 5 as Project 2776. [30] Relicensed. New license effective 12/1/1979. [31] Relicensed 12/10/1979. [32] Relicensed. [33] Reservoir only. [34] Not constructed. [35] Not constructed. [36] Not constructed. [37] Relicense application filed. [38] Under construction. [39] Relicensed. [40] Relicensed. [41] Jointly-owned with The Cleveland Electric Illuminating Company. [42] According to Pennsylvania Power & Light Company, the original license listed the expiration date as 9/1/2004 in error. [43] Relicensed. [44] Jointly-owned by Baltimore Gas and Electric Company and Pennsylvania Power & Light Company. [45] Relicensed. [46] Relicense application filed. [47] Application to delete filed on 5/13/1976. [48] Relicense application filed. [49] Competing application filed 7/19/1974 by Bountiful. [50] Relicense application filed 6/27/1978. [51] Jointly-owned with Allegheny Generation Company. [52] Relicense application filed 4/26/1976; competing application filed by Clark-Cowlitz Joint Operating Agency. [53] Subsidiary oif Appalachian Power Company. [54] Relicensed 12/7/1976. [55] Relicense applicatioin filed. [56] Jointly-owned with City of Eau Claire. [57] Relicense application filed 11/8/1976.

TABLE 1.—NUMBER OF CUSTOMERS OF INVESTOR-OWNED UTILITIES HAVING PROJECTS CURRENTLY BEING SOUGHT BY MUNICIPALITIES AND NUMBER OF ELECTRIC CUSTOMERS OF COMPETING MUNICIPALITIES

State and utility	Project sought by municipalities	Number of utility customers [1]	Competing municipality	Number of municipal customers [2]
California:				
Pacific Gas & Electric Co	Mokelumne, No. 137	3,515,000	City of Santa Clara	39,980
	Phoenix, No. 1061	3,515,000	Tuolumne Regional Water District	0
	Rock Creek/Cresta No. 1962	3,515,000	Consortium of 18 cities and districts	627,112
	Haas-Kings River No. 1988	3,515,000	Consortium of 18 cities and districts	627,112
Southern California Edison Co	Poole, No. 1388	3,233,000	City of Vernon	2,097
	Rush Creek, No. 1389	3,233,000	June Lake Public Utility District	0
Utah: Utah Power & Light Co	Olmsted, No. 596	460,000	Consortium of 8 cities and districts	37,225
	Weber River, No. 1744	460,000	City of Bountiful	10,289
Washington: Pacific Power & Light Co	Merwin, No. 935	652,000	Clark-Cowlitz Joint Operating Agency	114,879
Montana: Montana Power Co	Kerr, No. 5	229,000	The Confederated Salish and Kootenai Tribes	0
Wisconsin: Wisconsin Power & Light Co	Shawano, No. 710	299,000	Shawano Municipal Utilities	4,014
Total		8,388,000		835,596

[1] Total system customers taken from "Catalogue of Investor-Owned Electric Utility Companies", 22d ed. (EEI).
[2] Directory of Electric Utilities, 1982–1983 (McGraw-Hill).

TABLE 2.—ANNUAL FUEL COSTS FOR EQUIVALENT GENERATION

State and utility	Project	1981 capacity (name plate) (MW)	1981 generation (Kwh) (in millions)	Competitor	Annual fuel costs for equivalent generation [1]
California:					
Pacific Gas & Electric Co	Mokelumne, No. 137	192.8	1,012.3	City of Santa Clara	$68,765,176
	Phoenix, No. 1061	1.6	10.3	Tuolumne Regional Water District	698,955

TABLE 2.—ANNUAL FUEL COSTS FOR EQUIVALENT GENERATION—Continued

State and utility	Project	1981 capacity (name plate) (MW)	1981 generation (Kwh) (in millions)	Competitor	Annual fuel costs for equivalent generation [1]
	Rock Creek/Cresta, No. 1962	180.9	894.2	Consortium of 18 cities and districts	60,748,294
	Haas-Kings River, No. 1988	179.1	403.7	Consortium of 18 cities and districts	27,421,734
Southern California Edison Co	Poole, No. 1388	10.0	23.9	City of Vernon	1,664,088
	Rush Creek, No. 1389	8.4	41.7	June Lake Public District	2,901,727
Utah: Utah Power & Light Co	Olmsted, No. 596	12.7	22.8	Consortium of 8 cities and districts	279,303
	Weber River, No. 1744	2.5	16.6	City of Bountiful	203,668
Montana: Montana Power Co	Kerr, No. 5	180.0	1,113.5	The Confederated Salish and Kootenai Tribes	4,563,795
Washington: Pacific Power & Light Co	Merwin, No. 935	136.0	495.8	Clark-Cowlitz Joint Operating Agency	3,128,535
Wisconsin: Wisconsin Power & Light	Shawano, No. 710	0.7	3.8	Shawano Municipal Utilities	49,605
Total		904.7	4,038.6		$170,424,888

[1] Annual fuel costs for equivalent generation are expressed in 1981 dollars and are determined by using 1981 company prices for replacement fuel; the calculations do not take into account future fuel costs or normalized water conditions. Calculations were made using the formula shown in Appendix A, except that company-specific fuel cost figures as shown in "The Cost and Quality of Fuels for Electric Utility Plant," (DOE/EIA-0191, 1981) are used rather than national averages.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric Consumers Protection Act of 1983".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)) is amended—

(1) by inserting "original" after "hereunder or"; and

(2) by striking out "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 15(a) of the Federal Power Act (16 U.S.C. 808(a)) is amended—

(1) by striking out "is authorized to" and inserting in lieu thereof "shall";

(2) by striking out "original" each place it appears and inserting in lieu thereof "existing";

(3) by striking out "regulations, or" and inserting in lieu thereof "regulations unless the Commission determines, taking into account public benefits provided during the preceding license term, that such licensee's project or projects, as described in its application for a new license, will not meet the licensing standards set forth in section 10(a). If the Commission determines that the project or projects do not meet such standards, it is authorized"; and

(4) by striking out "such amount" and inserting in lieu thereof "just compensation in an amount that the Commission shall determine in accordance with due process of law,"; and by striking the comma after the words "to do".

SECTION-BY-SECTION ANALYSIS

This bill amends the Federal Power Act to provide more protection to electric consumers. Specifically, it amends sections 7(a) and 15(a) of that Act to clarify the process for the issuance of new licenses for hydroelectric projects upon the expiration of an existing license and treats all licensees equally.

Section 1 of this bill provides that the Act may be cited as the "Electric Consumers Protection Act of 1983".

Section 2, clause (1), of the bill amends section 7(a) of the Federal Power Act by inserting "original" after "hereunder or" to make it clear that section 7(a) applies exclusively to the issuance of preliminary permits and original licenses, and not to new licenses issued under section 15 of the Act as amended by section 3 of this bill.

Section 2, clause (2), of the bill also amends section 7(a) of the Act to eliminate any ambiguity which might arise from the existing reference to the issuance of new licenses under section 15 of the Act.

Section 3 of the bill amends section 15(a) of the Federal Power Act. Clause (1) strikes out "is authorized to" and inserts in lieu thereof "shall" to assure that the procedures of section 15 shall be uniform as clarified by this bill. Clause (2) assures that the section will apply in all cases to the existing license and licensee, regardless of whether it is the original license and licensee, or a successor.

Section 3, clause (3), of the bill amends section 15(a) of the Act to clarify the process for the issuance of new licenses upon the expiration of an existing license. It provides that if the United States does not take over a project pursuant to section 14 of the Act, the Commission, upon application, shall issue a new license to the existing licensee with appropriate terms and conditions, unless the Commission determines that the project or projects to be relicensed as applied for will not meet the standards prescribed in section 10(a) of the Act. The amendment requires the Commission in making such determination to take into account the public benefits provided during the expiring license term. For example, the Commission can and should take into consideration the fact that the project has been devoted to public use and that the rates and charges for power delivered from the project have been subjected to either federal or state regulation. Likewise, the Commission can and should take into account whether the project as applied for comports with flood control, navigation and recreational benefits as well as other public benefits inherent in the project. The amendment in effect recognizes that in the case of projects operated by electric utilities, whether privately owned or publicly owned, the existing licensee and its investors have assumed the risk of development and that the existing licensee and its customers have generally paid for the development, operation and maintenance of the project under terms and conditions consistent with the public interest.

The amendment authorizes the Commission to consider other applications and issue a license to a different licensee if the Commission determines that the project or projects as proposed by the existing licensee do not meet the prescribed standards.

Section 3, clause (4), of the bill addresses the matter of compensation to be paid to the existing licensee if a determination is made that a license for the project should be issued to a different licensee. The amendment thus recognizes that the existing licensee holds title to the project works which have been purchased or constructed subject to the right of Congress to regulate the use of the affected waterway or waterways under the commerce clause. In order to treat equitably the property rights of the existing licensee, the amendment provides that in the event the project is to be licensed to a different licensee the existing licensee shall be justly compensated in accordance with due process of law. Such compensation would protect the interest of the existing licensee, its investors and customers and offset the burden upon the licensee, its investors and customers, which results from the loss of future use of the project.

The amendment leaves unchanged the existing provisions of section 15(a) which authorize the Commission to issue from year to year an annual license to the existing licensee until the property is taken over by the United States or until a new license is issued.

The clarification called for by this bill will eliminate the confusion which has arisen from varying interpretations of the relicensing provision by the Commission in recent years and thus provide stability to the process in the public interest particularly in the interest of millions of electric power customers which depend upon the benefits of projects licensed under the Act.

[From the Birmingham News, July 7, 1983]

APC SAYS COURT'S ACTION COULD CAUSE IT PROBLEMS

(By Tom Scarritt)

WASHINGTON.—The U.S. Supreme Court's refusal Wednesday to review a Federal Energy Regulatory Commission rule on the relicensing of hydroelectric generating plants will have no immediate effect on Alabama Power Co., but it could cause problems for the utility in the future, a company spokesman said.

Alabama Power was one of 33 utilities that challenged the FERC rule giving preference to municipal electric utilities in granting new licenses for hydroelectric plants once the original licenses expire.

That preference applies even if the original owner is among the applicants for a new license for a particular plant.

At stake, according to the utility companies are 523 hydroelectric plants in which the companies have invested more than $5 billion. The utilities said that under the existing FERC ruled they could lose those plants if city or state utilities compete with them for the licenses when they come up for renewal.

Federal licensing of hydroelectric plants began in 1920, with licenses granted for up to 50 years. Many of those licenses have expired.

Although two justices said they wanted to hear the case, the majority of the Supreme Court decided not to review a lower court ruling that left the FERC rule intact.

None of Alabama Power's 14 hydroelectric plants is due for license renewal right away. "Right now it has no immediate effect," the company spokesman said. "We really don't know what our options are if the guidelines stand."

Already, FERC has said that the cities of Bountiful, Utah, and Santa Clara, Calif., are entitled to preference over Utah Power and Light and Pacific Gas and Electric in com-

peting for new licenses for hydroelectric plants now operated by those utilities.

The two utilities challenged that rule in separate court cases, and the Supreme Court rejected their petitions along with the one filed by the 33-member group that included Alabama Power.

The court decision came despite a request from the Justice Department that the case be sent back to the federal appeals court for reconsideration.

The members of the federal energy commission no longer view the matter of municipal preference in the same way as they did in 1980, when FERC issued its order in the Bountiful and Santa Clara cases, the Justice Department lawyers argued.

"The court of appeals should itself be given an opportunity to reconsider the case a re-evalutate its own decision in light of these developments," they said.

The utilities argued that the FERC rule could cause their customers to pay higher electric rates by depriving them of the low-cost power generated by hydroelectric plants. "At stake are billions of dollars of investment and future electric charges to millions of electric customers," lawyers for the utilities said.

Although the high court has refused to review the rule, the issue is not necessarily settled.

The current members of FERC could modify the existing rule or Congress could change the law governing hydroelectric plants licenses.

[From the Mobile (Ala.) Press, July 7, 1983]

ALA POWER HIT WITH NEW RULING

WASHINGTON.—Alabama Power Co. officials say they don't know exactly how the utility will be affected by a U.S. Supreme Court action Wednesday ending a legal challenge to federal licensing policies for hydroelectric plants.

"Our reaction is fairly limited right now because we have no projects currently up for relicensing," Alabama Power spokeswoman Loretto Kenney said Wednesday afternoon.

"But it could adversely affect every electric utility that has hydroelectric facilities because they all come up for relicensing some time," added Ms. Kenney.

Alabama Power and some three dozen other private utilities had intervened as friends of the court in a lawsuit brought by Pacific Gas and Electric Co. and Utah Power and Light Co. against the Federal Energy Regulatory Commission.

The Supreme Court declined Wednesday to review an appellate court's decision against the utilities.

The lawsuit maintained that a 1980 FERC ruling could jeopardize the private utilities' investments in hydroelectric facilities and end up costing their customers.

Federal law requires that hydroelectric projects be relicensed after 50 years. At the time a license expires, the government can take over the facility by reimbursing the utility for its "net investment," or it can grant a new license to the private utility or another applicant.

If a different utility wins the license, it also can take over the facility by paying the original owner's net investment.

Responding to cases in California and Utah, three years ago FERC interpreted part of the law as giving preference to municipal utilities when deciding whether to reissue licenses to private utilities for their hydroelectric facilities, all other things being equal.

But the private companies read the law differently, and cite different position statements by FERC's predecessor, the Federal Power Commission.

The utilities also object to the agency's definition of "net investment." Under the current interpretation, the net investment is no more than the project's original cost less depreciation.

After 50 years, according to the arguments filed by the private companies, this means the cost of taking over a hydroelectric plant "may be very small indeed" compared to the facility's fair market value. In one recent case referred to by the utilities, FERC determined the takeover price of one facility as "zero."

This formula makes taking over such plants a "fantastic bargain" for municipal systems, the utilities argued, while it deprives the companies' customers of cheap sources of power for which they paid through their rates over a 50-year period.

"At stake are billions of dollars of investment and future electric charges to millions of electric customers," according to one brief submitted by Alabama Power and other utilities.

The document estimates that in 1980, electric utility companies operated 523 hydroelectric plants nationwide representing a total investment of more than $5 billion.

Ms. Kenney said she did not know when any Alabama Power hydroelectric operations come up for relicensing.

[From the Sacramento (Calif.) Bee, Sept. 17, 1983]

THE COMPETITION FOR POWER PLANTS

The Federal Energy Regulatory Commission (FERC) has reversed itself on the question of renewing the hydropower plant licenses of private utilities. Under FERC's previous decisions, after building a hydropower plant and operating it for 30 years, a private utility (like PG&E) could easily lose it to any publicly owned utility (like SMUD) that made a claim for it. This situation arose because the FERC had determined that, all else being equal, a public utility should always be preferred over a private utility in the granting of licenses.

While this preferential treatment makes a great deal of sense in the granting of original licenses to build new plants on unused sites, it was unfair to extend it to license renewals for existing plants on which the private utilities had been depending for years. Under such an arrangement, customers of a private utility that had done nothing objectionable for 30 years could not only lose the use of a very cheap source of electricity, but in some cases also have to pay the exorbitant costs of building new power plants to replace it. Nor could the results be justified as benefiting the greater number of people, since there are, in most areas, far more private utility customers than public utility customers.

For all these reasons, FERC did the right thing last week when it rescinded its preference policy, leaving the question of who should win the license for an existing hydropower plant to be decided on the merits, case by case.

Unfortunately, it is not clear that that is the course FERC intends to follow. It is under pressure from the Reagan administration to favor private over public enterprises as a general ideological principle. Hence, there is some danger that FERC will carry this principle beyond merely ending an unfair preference for public utilities—that it will now ignore the possibility that a public utility might do a better job of managing a hydropower plant than the private utility that has been running it. Unless it is kept under pressure, FERC could easily end up automatically renewing all private hydropower licenses, instead of using its case-by-case approval power to make sure that the most customers get the most benefit from a resource that belongs to all the people.

Under the circumstances, SMUD must now consider carefully what to do about the private utility hydropower licenses it was bidding for before FERC changed its policy. Ill-advised as FERC's previous rule was, SMUD was clearly acting in the best interests of its own customers by taking full advantage of the situation and trying to obtain the licenses for several very cheap and reliable hydropower projects when they came up for grabs. And it may still be in the best interests of SMUD's customers to try to win them, if SMUD can make a case that it would run these projects more efficiently, make needed new investments more readily or use them more fully than the private utilities that now own them.

It is also in the broader public interest if, in such situations, applications for renewal of hydropower licenses continue to be contested. Without the public power preference, SMUD customers can no longer count on winning hydropower licenses away from equally qualified private utilities. But if SMUD can demonstrate that it would do a better job of running a plant, it deserves to have it. The general public would benefit if both FERC and the private utilities were forced to face that kind of competition.

[From the Woodland (Wash.) Lewis River News, May 19, 1982]

MONEY ISN'T EVERYTHING

Money, area residents seem to be saying, isn't everything.

It appears that having a good neighbor upstream is more important to local officials and residents than lower taxes.

Whether distrustful or indifferent to the PUDs' claim that public ownership of Merwin Dam will lower the electric bills of Clark and Cowlitz county ratepayers, various Woodland groups are flocking to support private power company Pacific Power and Light in the relicensing of Merwin Dam.

First Woodland School board, then the chamber of commerce and finally, the port commission voted to support the owner and operator of Merwin Dam in its attempt to receive a second 50-year license from the federal government to operate the facility. The Woodland City Council appears likely to follow suit.

The reasons for the widespread support of the private company find their source in a recurring sentiment: "We like the way things are, so why change?"

The schools, happy with PP&L's support during construction of the tennis courts and with its involvement in the high school vocational agriculture program, are also worried about a loss in tax revenue if the PUDs gain control.

While the PUDs have promised the schools no adverse affects under public ownership, the schools prefer a more binding commitment. With the current status of all dams under private ownership. Woodland receives a good chunk of revenue from those property taxes.

The chamber of commerce has benefited from PP&L support in the construction of

its information center, and counts among its hardest working members PP&L employees.

The port commissioners cited cooperation from the private company in its own endeavors. The city of Woodland has spoken words of favor for PP&L's attempts to secure a floodplain agreement to lower insurance rates on the east side of Woodland.

PP&L also has expertise to tout—50 years of living and working on the Lewis River has not been without its snags—but PP&L can only have learned from that experience.

Parks, campgrounds and three reservoirs have provided years of free and superior recreational opportunities that Woodlanders don't want compromised.

The stand for private power may seem an unusual one for many—public power has long been considered by most the best and cheapest way to go.

But in Woodland it's a question of who has done more. After years of community involvement, Woodland isn't ready to turn its back on one of its best neighbors.

[From the Kansas City Star, Aug. 16, 1983]

AN OLD LAW COULD END CHEAP POWER

As if light bills weren't going up rapidly enough, a novel interpretation of the 1920 Federal Power Act by an administrative law judge of the Federal Energy Regulatory Commission threatens to add millions of dollars more to bills of the 75 percent of Americans served by investor-owned electric utilities. Congress in 1920, suspicious of private power companies, gave preference to federal, state and municipal power agencies in licensing hydroelectric plants.

That preference had always been considered to apply to original issuance of licenses. But in 1980, when the 50-year license came up for renewal on Pacific Power & Light's Merwin Dam in Washington state, the FERC judge ordered the company to sell the facility to two public utility districts as preference licensees. The price of $9.5 million—Merwin's original cost minus depreciation—is virtually confiscatory in terms of the project's replacement cost value.

Around the country 157 licenses on investor-owned hydro plants come up for renewal in the next 10 years and 11 municipalities already have filed competing applications on 11 of them in four Western states and Wisconsin. The municipal plants involved serve only 836,000 customers; the private power companies 8.4 million, or 10 times more.

Aside from the high-handedness of taking away these hydroelectric plants from their owners of half a century, the rates of those firms' customers would have to go up sharply to pay for replacement coal- or oil-fired generation for the purchase of outside power. Water power, requiring no fuel and little maintenance, is a utility's cheapest source of kilowatts, bringing down the average cost and its rates to customers. The Edison Electric Institute estimates costs would go up $170 million immediately for owners of the 11 plants facing municipal takeovers.

However, the FERC ruling has been upheld by a federal appeals court and the U.S. Supreme Court, so the investor-owned utilities' only recourse now is to get Congress to clarify the Federal Power Act to apply the preference rule to original licenses only. In simple fairness and equity—and for the relief of most utility ratepayers—Congress should do so quickly.

[From the Fresno (Calif.) Bee, July 13, 1983]

UNFAIR HYDRO DECISION

San Joaquin Valley customers of the Pacific Gas & Electric Co. will be the losers in the recent decision of the U.S. Supreme Court to favor city-owned utilities over private utilities in the relicensing of hydroelectric projects.

The ruling means that PG&E may be forced to sell the Haas powerhouse on the Kings River and three other hydro projects in the state to such applicants as the Sacramento Municipal Utility District and the city of Santa Clara.

The decision is a serious mistake. PG&E has more hydroelectric capacity, serving more people, than any other privately owned utility in the country. If it loses part of that capacity, the company will have to replace it, resulting in higher costs to remaining PG&E customers. Fresno County users alone will be asked to pay $2 million more a year, it is estimated.

In its decision, the Supreme Court upheld an administrative ruling by the Federal Energy Regulatory Commission (FERC) which said that in giving municipalities relicensing preference over private utilities it was only interpreting congressional intent in the Federal Power Act.

If that's the congressional intent, Congress was wrong and the law ought to be changed. It may be logical to give municipalities preference in the original licensing of a new project but not in the relicensing of an existing one which PG&E has operated for 50 years or more. To do that allows the municipalities to take over the most efficient units and so destroy an integrated power system.

The valley's congressional delegation should move quickly to correct this legal inequity.

[From the Syracuse Herald American, Aug. 14, 1983]

HYDROPOWER—NIMO'S CHEAP POWER SOURCE MAY DRY UP IF FEDERAL LICENSES AREN'T RENEWED

(By Dale Kasler)

The problem won't hit until at least eight years from now, but Niagara Mohawk Power Corp. is wrestling with the prospect of losing almost half of its hyroelectric stations, the utility company's cheapest source of power.

"We consider it a very serious threat, if you will," said James Cosgrove, a Niagara Mohawk spokesman.

Private utilities across the country have built hydro stations on rivers under 50-year licenses with the federal government. Some leases are beginning to run out, and a recent federal ruling may make it tough for the companies to get the licenses renewed.

The Federal Energy Regulatory Commission recently refused to renew the license for a dam in Washington state owned by Pacific Power & Light Co. The company was ordered to sell the dam to two public utility districts. While Pacific Power is appealing the ruling, private utilities are saying that a precedent has been set that could amount to a wholesale raid on their cheap hydro power.

"We're alarmed over the decision," Cosgrove said. "If we lost the plants . . . that gap (in electricity) would have to be covered somewhere else."

Niagara Mohawk owns or leases 83 hydro stations, 35 of which are up for relicensing through 1993. The first lease, for a station on the Barge Canal, expires June 30, 1991.

"Ten years is a very short itme," Cosgrove said, explaining why Niagara Mohawk officials are studying the situation already. "The concern now is because of the recent interpretation of the law (by the federal commission)."

It is difficult to calculate now what the loss of any of those 35 hydro stations would mean eight to 10 years from now to Niagara Mohawk and its customers. But any lost hydro power would have to be made up with more expensive electricity sources, such as coal, oil and nuclear power. The customers would have to pay the difference.

Hydro power accounts for one-third of Niagara Mohawk's electricity. But much of that is purchased from the state Power Authority. Roughly 9 percent of the Niagara Mohawk electricity is produced by the company's own hydro plants.

The loss of the plants would hurt Niagara Mohawk in many ways. Pacific Power was told to sell its plant for its original investment, less depreciation.

"Obviously, the cost of replacing it is a lot higher," said Cosgrove. For example, one of Niagara Mohawk's big hydro stations, the Varick plant on the Oswego River near Lake Ontario, would have to be sold for $900,000. By comparison, the company's new Granby hydro station, which is somewhat larger than Varick, cost $14.1 million.

Public power advocates support the takeover of private hydro stations because the private companies are profiting off a public resource—the nation's rivers.

"The people should enjoy the benefit (of hydro power) without going through the tollgate of a private utility," said Robert Vaisey, who runs the municipal electric and water system in the village of Fairport, a Rochester suburb.

But, Vaisey said it might be unfair to a private company to take over a hydro station built and paid for by that company's customers.

Jim Buff, superintendent of the Skaneateles Electric Light Co., one of two municipal systems in Onondaga County, said he doesn't think an individual "muni" could put together the financing to buy out a hydro plant. But he and Vaisey, vice presidents in the state's Municipal Electrical Utilities Association, are advocating state legislation that would allow municipals to band together to borrow the money.

Looming over the hydro situation are public and private leases with the state Power Authority that expire in 1985. John Dyson, the authority's chairman, has said he wants to transfer more of the cheap hydro power to the New York City area, where electric rates are much higher than in upstate New York. That would mean higher rates for all upstate customers, public or private.

Private utilities, which are fighting to keep the hydro in upstate, say a takeover of hydro plants by municipals would be extremely unfair to their customers.

Public utility companies in New York state have a total of 200,000 customers, Cosgrove said, Niagara Mohawk alone has 1.3 million electric customers.

The controversy has its roots in the 1920s. Congress passed the Federal Power Act, which gave public utilities preference over private utilities in granting new licenses. But in 1980 the federal commission said the law applies to existing plants whose licenses are up for renewal. Last month the Supreme Court refused to hear an appeal, and

the Public Power case is the first time the new ruling has been applied.

Private utilities are hoping for a congressional rescue. Rep. Charles Pashayan, R-California, has introduced a bill that would wipe out any preference for the government utilities.

● Mr. BEVILL. Mr. Speaker, I am pleased to join with several of my colleagues from around the Nation in cosponsoring legislation which will clarify the procedures under which the Federal Energy Regulatory Commission (FERC) conducts relicensing proceedings for the continued development of hydroelectric power.

I, too, am particularly concerned about the impact on the utility rates of consumers in Alabama and throughout the Nation of it is determined that the municipal preference applies against the existing licensee at relicensing as well as the initial licensing. The relatively fewer customers of municipalities already receive the benefits from substantial amounts of hydroelectricity through their preference at initial licensing. To apply the preference to the relicensing of existing projects would only serve to increase this present disparity in the allocation of hydropower benefits. Our legislation prevents such an inequitable result.

This legislation does not alter the existing preference for municipalities and States in original license applications, nor does it alter the preference applicable to the sale of power from federally built hydroelectric facilities. However, it does provide a basis for sound long-term energy planning.

Mr. Speaker, I urge all of my colleagues to support this legislation in order to provide a more equitable relicensing system which does not discriminate against the customers now being served by existng projects.●

● Mr. LEVINE of California. Mr. Speaker, I join my colleagues today in introducing the Electric Consumers Protection Act of 1983," which would amend the Federal Power Act to prohibit the use of municipal preference in relicensing hydroelectric facilities.

Local communities should be encouraged to acquire their own sources of power. Our laws should promote competition in the electric utility industry by helping smaller public electric systems compete with larger investor-owned utilities. However, this should not be done at the expense of the consumer.

If public utilities are allowed to take over projects that the private utilities have already built and integrated into their own power systems, public utility customers would clearly benefit at the expense of a much larger number of private utility customers. Private utility customers would not only have to pay for the more expensive forms of electricity which would have to replace the hydroelectric power, but in some cases, they would have to pay for construction of new power plants. It would also leave the utilities vulnerable to fuel shortages and price increases.

I urge my colleagues to consider this legislation carefully and join us in protecting consumers by supporting the Electric Consumers Protection Act of 1983."●

TIME TO FISH OR CUT BAIT ON STEEL, TARGETED GOODS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, the Nation is supposed to be in a recovery but unemployment still is 8.8 percent; and, as we are fond of saying around here, the time is rapidly coming to "fish or cut bait" on the question of targeted and subsidized imports; they are a major contributor to unemployment.

As things stand now, if the choice is to continue cutting bait, we have a 73-percent chance of having to use an imported pocket knife, the knife makers say.

If the choice is to fish; we have a 70-percent chance of having to use an imported rod and an imported reel, and about a 45-percent chance of having to use an imported hook, according to a tackle manufacturer.

Just a few years ago the domestic makers of fishing tackle took a section 201 case to the International Trade Commission, and they lost. Some went out of business. Those who survived went offshore for much of what they market. Their workers simply went into the unknown.

The same thing is happening now to the major industries that hold this Nation—and this economy—together, particularly steel.

To clearly highlight the choice, leaders and members of the steel caucus have introducted a bill to set a 15-percent quota on steel imported into the United States.

This step is taken at the request of every major steelmaker in the United States, and it has their united support; and if the bill is not perfect in all regards, it is nevertheless important to consider it, and the broader questions that prompt it. The bill attempts to deal with these questions rather than to continue cutting bait.

This legislation will be titled "The Fair Trade in Steel Act of 1983."

It could just as well be called the "Bet Your Industry" bill because this is what the industry is doing.

Not one chief executive officer is unaware that failure to modernize—which this bill deals with and morally binds them to do—will destroy most of the industry, and erase the credibility of the part that survives.

At times in the recent past both the United Steelworkers of America and steel management have endorsed the concept of quotas—quotas to stabilize a market that is targeted, plundered by subsidy, and dumped on. Stability is necessary for profitability which is necessary for modernization. Both stability and profitability have been lacking for a decade due to targeting, subsidy and dumping.

That labor and management this year have endorsed the concept of quotas, an act they long resisted, is a measure of the situation's increasing gravity. Even now, in the so-called recovery, we have 95,000 steelworkers laid off.

That these business leaders now are willing to make this bet is a measure of the devastation that subsidy and dumping have worked on this most basic of industries.

That they must petition this Congress for this temporary relief—this first aid—is a measure of something else.

It is a measure of the craven unwillingness of the U.S. Government to enforce even weak trade law.

The industry should be commended for what its petition does not seek.

The industry does not ask for up to $35 billion in subsidies, which is a well-documented European solution. The European solution has devastated the wide-open U.S. market.

The industry does not ask for an absolute closing of the market, which is the solution preferred in Asia and the developing nations, where plans for new steel capacity—in a world of over capacity—are being made on the assumption of continued accessibility to this market. It does not ask Government to finance its reconstitution, which is an Asian solution too.

If there are those who would call this legislation the ultimate in protectionism, the House must realize that a 15-percent quota is the most generous protectionist action or legislation in place or being considered in the world that abounds in them.

This "Bet Your Industry" bill gives away, donates, concedes, and grants 15 percent of the biggest market in the world to overseas producers whose industries depend on it, whose industries are based on it.

No other steel producing nation in the world will have anything to do with steel that is not made at home unless it is of a kind they are unable to make at home.

This country is the only country that formally recognizes a market share for foreign producers and gives them formal standing. They look on this share as an entitlement, and their demands are for more.

Even under the false allegation that it is protectionist in the extreme, this bill would maintain this market as

vastly more open than that of any other steel-producing nation in the world. And these are nations that grow fat and plan expansions based on accessibility of this market.

This is part of their industrial policy, and no one in this body should take that term as a code word for Japan in this instance.

The Japanese understand the current crisis. They have applied discipline to their recent use of this market; and the depth of their appreciation is shown by remarks made in a recent formal presentation in Washington by the Japan Iron and Steel Exporters Association.

"Without a stable American steel industry," The Japanese spokesman said, "there can be no foundation to support the free world economy let alone the prosperity of Japanese industry."

Let us examine this expert testimony from Japan, Mr. Speaker, for all of the things it says.

First, the U.S. economy is the very foundation of the free world economy; if is falls, there is no world economy; it is the vaunted world economy;

Second, if the developing nations are to prosper, they will attain prosperity through a strong U.S. economy, not one that is bled dry and cast aside as Count Dracula cast aside his victims; and

Third, the American Steel Industry and American steelworkers, whatever visions and dreams our futurists might spin, are today, and for the reasonable future, the marrow and the bone of the American economy.

Steel also is the bedrock of our ability to defend ourselves and to keep open the trade routes of those who depend so heavily on this economy, Mr. Speaker. It is essential to everything that rolls, sails, flies, or shoots. And we seem to be diligently at work eliminating the higher parts of that capability insofar as steel is concerned.

Yes, the Japanese have a clearer vision of reality on this than do our futurists and dream spinners, I think.

Yet, at the moment, the discipline of the Japanese is being tested by the looting of this market by developing nations, which also is tempting the fidelity of the Europeans to their formal agreement on steel. They begin to itch to reclaim what they gave up.

This process of "trade war" hostilities and "unstable cease fires" has been going on for nearly two decades; and since the time voluntary restraints fell apart in the early 1970's, I have felt that "formal quotas" or "binding all-party agreements" were the only way to settle it!

Subsequent events—cease fires followed by foreign abandonment of good intentions—show a formal framework is needed; "quotas" are a framework that resist fading discipline and tempted fidelity.

We have lost about 200,000 steelworkers jobs since 1977, Mr. Speaker, and this is about a 44 percent reduction in the number we had in the mills then, if you go back to the genesis of the current flare-up.

Capacity has fallen by 13 million tons.

And there have been 176 permanent plant closings.

The foreign steel that buried these jobs, and whole communities, was the result of subsidies, of very low-cost government-directed capital and of government-owned mills; virtually every foreign nation sending steel here uses one or the other.

Meantime, with profitability cut off at the knees by targeted steel, the U.S. industry has been struggling to modernize under adverse conditions.

A study done this year by the Congressional Research Service points out that the U.S. industry gets today out of 129 furnaces the same production it got out of 263 about 20 years ago. This is significant. They have modernized under adverse conditions.

U.S. companies have not been able to attract capital to fully modernize because they did not return enough profit. Profit was kept low as a matter of U.S. anti-inflation policy. And when steel was not the whipping boy for government, profit was kept low by dumped and subsidized foreign goods.

Yet a look at the return on sales during the recent years when American industry should have been modernizing—but could not—shows our workers did a better job than foreign workers.

The return on sales for two of the largest Japanese steel companies during this time was 1.4 percent and 0.07 percent respectively. It was minus 7 percent for the British and minus 9 for the Italians.

The U.S. average was a plus 2.6 percent return on sales.

Nevertheless, the American industry was considered a bad investment. Overseas, they got government directed or supplied capital on far worse returns.

I also have recently compared 1979 performance reports for a large Japanese company and an American company of comparable standing. The net income per share of common stock for the Japanese company was $3.70, if I have done the yen conversion correctly. And earnings per share for the American company were $6.31.

And yet, American steel was considered a bad investment and could not attract investors. But in Japan and Europe, and the developing nations, steel was and is important as a matter of government policy.

The "5-year quotas" in this bill will provide stability and profitability.

Five years is the lead necessary to put new technology in place.

If the more profitable American company I mentioned could have attracted investment in 1979, that new technology would have just come on line. It could have met the vicious discounting allowed by subsidy and government capital and disregard for profit.

But this company did not attract investment, and one result of investment that could not be made in 1979 is the tidal wave of steel in 1981, 1982, and 1983.

This economy—if we do not act—will feel the results of our failure and of modernization not done today—in 1988 and 1989 and beyond.

The capital-starved American steel industry has $7.7 billion in modernization ready to go, but subsidy and dumping have caused price cutting that put profit out of the question. No profit means no investment. Much of the modernization has been shelved or delayed. This industry lost over $3 billion last year, most of it to unfair trade. It needs an estimated $60 billion in capital investment over the next 10 years.

Five years of market stability will allow the first steps of modernization to be done under conditions that will attract investors.

As for the last 5 years, during that time the United States has lost 44 percent of its tax-paying steelworkers and 13 million tons of capacity, meantime, the world is adding capacity, particularly the developing nations, with government contrivance, and they all look to the American market to grow, to get them out of debt, to bring their people prosperity.

And two agreements—one formal, the other voluntary—that were to stabilize this market are in jeopardy because the developing nations want their economies to grow by feeding on this one.

Imported steel still is running at more than 20 percent of this market. Capacity utilization in the United States is 58.6 percent, up from a low of around 30 percent last year. And over 95,000 steelworkers still are on layoffs.

The Europeans had to cut back on what they were sending. They were about to get slapped with countervailing duties for subsidies, and the duties would have shut them out of this market almost completely. They made a formal agreement to avoid these rulings. They secured a market share.

The Japanese cut back voluntarily, the annualized rate of Japanese steel through September of this year is running about 28 percent below what it did last year.

But the stability was incomplete, and the developing nations rushed in to fill the vacuum. And now the pressure is on the others to abandon restraint.

Brazil is an offender, Mr. Speaker. Steel is the government in Brazil. Subsidy findings abound against Brazil. Brazil is about to add a $3.3 billion plant to the world overcapacity with a new mill coming on line in December. The partners in it are the Brazilian Government, a Japanese firm, and an Italian firm.

Where do they plan to direct much of this steel? Mostly to the United States, as usual.

Brazil will send approximately 1.2 million tons of steel to the United States this year, up 98 percent from last year. We help finance the building of Brazil's industry. And to pay off those and other loans, they close their markets to imports and export energetically to tidy up their trade balance.

Our merchandise deficit is expected to be $70 to $80 billion this year.

Taiwan is an offender, Mr. Speaker. Steel is the government on Taiwan. They are planning to expand their capacity to 8 million tons eventually. It is now 3.3 million tons. They will start an expansion to 5.7 million tons in a few months.

And there is only one open steel market in the world—this one. This economy at the present takes about 40 percent of everything that Taiwan exports. Unemployment is 2 percent on Taiwan. Steel imports from Taiwan are up 50 percent this year.

This week's Time magazine, in a survey on the Pacific economy, notes that, "without the U.S. recovery, Taiwan would have been in very bad shape." And Americans who have tried, say that it is very tough to get even fishhooks into Taiwan. They have this policy of holding down imports, you know.

Nevertheless, the finding does support the Japanese view of reality.

South Korea is an offender in this, Mr. Speaker. Posco, the government's integrated mill, recently added 500,000 tons to round out at 9 million tons. They plan soon to start another mill roughly the size of the present one.

And, as the International Iron and Steel Institute found recently, the U.S. market is the only one where there is likely to be growth.

Mr. Speaker, the U.S. market in 1978 took 50 percent of the steel South Korea exported. Steel imports from South Korea this year will be up 51 percent and will round out at about 1.6 million tons.

As Time magazine's economists concluded, and I quote their findings, "the long term outlook for the Pacific economies depends * * * on the length and strength of the American recovery since the United States is the largest western customer for Asian products."

Once again, Mr. Speaker, the fabled world economy largely consists of one-way access to the American economy.

In this hemisphere, U.S. imports of steel from Mexico are up 282 percent this year on an annualized basis. They are up 253 percent from Venezuela; up 28 percent from Canada; up 25 percent from Trinidad and Tobago, from a mill we financed.

Why, imports are even up 66 percent from that traditional exporter, Communist China.

The annualized increase from Malaysia is one of 1,560 percent. In the frenzy to grab dollars, this small nation will go from 2 tons to 3,100 tons. Meantime, Malaysia is cutting down on imports because they have this problem with foreign debt.

Some of these increases are very large in total tons, Mr. Speaker, and others are not. But 10,000 tons here, and 100,000 tons there, and you have wiped out another 5,000 U.S. steelworkers before you know it. And everybody who makes steel is shipping it here as fast as they can. This is the cumulative effect, and it is one this Nation has refused to deal with or recognize.

In defense, we recently lost a maker of armor plate with the closing of an Armco mill, Mr. Speaker. Others who deal with this high technology of defense say they are not far from making similar decisions. Another is in bankruptcy.

But wholesale and routine waivers within the Department of Defense of any requirements to buy from U.S. firms—firms that developed this technology—is sending bread and butter business abroad. It applies from armor and exotic alloy specialty metals on down to work-a-day plate. The explanation these people get is that trade agreements require it. Yet no trading partner has opened up its defense procurement to this degree.

Whether at play, or at work, or in defense, from fishhooks and structural steel through armor plate, the world looks to the economy of the United States. They look to it for the extras that add up to prosperity, and they look to it for subsistence. And they expect to give nothing in return.

This legislation will say the United States is going to look out for the United States as well as the world economy.

Modernization is imperative if the American steelworkers and American steel are to survive. Stability is mandatory if it is to gather the capital to modernize.

I personally favor the strongest modernization requirements that can be written short of giving detailed directions on what, how and when to invest. It is the quid for the quo.

Members of this caucus have sponsored an 11-percent quota bill with a strong modernization clause. They are in support of TRAC legislation and other efforts to strengthen the trade law.

I, for one, will consider with interest any proposal that will keep American steelworkers and industrial workers at work; anything that will give them some way to compete in this trade war of subsidy and industrial policy that foreign governments are waging on this economy.

This bill, which has industrywide support, is one such vehicle, and I urge each member to give it the deepest possible consideration. If there are objectionable features, they can be fixed and compromised in the process.

The important thing is to move.

Steel was about $7 billion of our merchandise deficit last year, Mr. Speaker, and, with an $80 billion deficit expected, it will be higher. This is subsidized foreign steel; this is foreign policy steel; this is steel made by foreign governments who have no need to consider profit.

Another 1983 study by the Congressional Research Service found that 1 billion dollars, worth of steel equals $2.2 billion in economic activity and 52,000 jobs up and down the industry and its support industries.

So, if we had had 15 percent quotas last year, we would have had $13 billion more in economic activity and about 312,000 more jobs.

And even with this, the U.S. market would have been the most open big one in the world. It would have carried a major portion of the world's trade in steel.

It is time, Mr. Speaker, before the dam breaks and there is a tital wave of imports that will sweep away the fish, to quit cutting bait.

It is time to recognize, as the Japanese do, that steel still is the marrow and bone of the American economy; and that the American economy is the sustainer of the world. It must stay strong. It is time for reasonable quotas.

● Mr. MURTHA. Mr. Speaker, this past Thursday, November 10 I joined with 33 Members of the House to introduce H.R. 4352, the Fair Trade in Steel Act of 1983, a bill to reduce unfair trade practices, provide for orderly trade in steel imports and to reduce unemployment.

In introducing this legislation, I believe it is important to stress the earlier decision by Members of the Executive Committee at its Wednesday, November 9 meeting. In that meeting, Members discussed the relative merits of previously introduced trade legislation including H.R. 3728, a companion bill to H.R. 4352 regarding quantitative restraints; H.R. 4124, the "Comprehensive Trade Law Reform Act of 1983; and proposals currently pending before the House Trade Subcommittee regarding trade reform.

Members agreed that the problems of unfair trade practices such as dumping, subsidization, industrial tar-

geting and discriminatory bilateral agreements require approaches on many different levels to assure success. In this regard, we commend the House Trade Subcommittee for its efforts to address the long-term problem by streamlining and strengthening our trade laws; we hope to see many of our recommendations incorporated into the final measure.

However, in the short term, H.R. 3728 and the newly introduced H.R. 4352 are legislative measures which could immediately deal with the serious problems affecting the domestic industry. One key issue for discussion between H.R. 3728 and H.R. 4352 relates to whether import relief should be triggered by evidence of a modernization plan in the industry or modernization investment in the industry are expected to result from market conditions after steel import restraints have been implemented.

I believe these and other issues can be worked out but we must work quickly. The situation is critical when you consider the degree of injury sustained by the industry as demonstrated by a reduction in employment of over 200,000 workers since 1977, a decline in steelmaking capability by 13 million tons during the same period and the permanent closing of 176 plants and individual facilities. In my congressional district alone, unemployment among steelworkers is in the range of 25-30 percent despite the so-called economic recovery.

Therefore, to prevent further decline of this important domestic industry, the Caucus Executive Committee unanimously agreed to introduce various measures as may be necessary in an effort to contribute to the debate and discussion on these critical issues which affect not only steel but all core industrial sectors of our economy.

Therefore, for the information of my colleagues I present the following section-by-section analysis of H.R. 4352 as follows:

H.R. 4352, FAIR TRADE IN STEEL ACT OF 1983— SECTION-BY-SECTION ANALYSIS

Section 2—Findings, Purposes and Policy—Acknowledges that:

The steel industry is critical to the national defense and the industrial base of the United States;

Substantial quantities of unfairly traded steel imports have injured the domestic steel industry and have reduced employment;

The litigation process is inadequate to deal with unfair trade practices.

The bill establishes quantitative restrictions of approximately 15 percent of apparent domestic supply for 5 years.

Section 3—Definitions: Defines the various steel categories.

Section 4—Quantitative Restrictions:

Limits annual imports of steel mill products based on percentages of adjusted average import levels for the years 1979, 1980 and 1981; establishes procedures for forecasting and revising apparent domestic supply figures.

Provides the Secretary of Commerce with the authority to adjust the quantitative restrictions if and when any imports in a product category exceed their limits.

Section 5—Steel Industry Investment:

Requires the Secretary of Commerce to monitor capital investment in steel operations made and announced by the steel industry.

If the Secretary determines that capital investment is substantially less than the cash flow generated by steel operations, the Secretary may, after review and consultations with industry representatives, modify or suspend quantitative limitations.

Section 6—Short Supply:

Establishes a "short supply" provision which allows for increases in specified quotas under strictly defined conditions.

Sets as criteria for determining "short supply" the following: 1) overall domestic steel industry operating rate; 2) current level of domestic shipments for the articles in question; 3) lead times for domestic deliveries as developed by recognized authorities; and 4) other relevant factors.

Section 7—Fabricated Steel Mill Products:

Requires the Administration to monitor imports of fabricated steel mill products to determine allegations of diversion. In the event of diversion, the Administration is authorized to negotiate or impose quotas after consultations with the affected industries.

Section 8—Iron Ore Imports:

Limits annual imports of iron ore to approximately 15% of apparent domestic supply. (Canada would be excluded from the arrangement.)

Section 9—Enforcement and Implementation:

Authorizes the Secretaries of Commerce and Treasury to utilize all actions within their departments to enforce the provisions of the act including the issuance of orders to Customs officers to bar entry to merchandise which exceed the limitations under this Act.

Also authorizes the issuance of such implementing regulations as are necessary to the Act and its enforcement.

Section 10—Termination:

Provides that the bill will terminate in five years from the date of enactment unless the President determines that an extension is required. That extension would be for a period of three additional years.●

LEGISLATION EXTENDING SUPERFUND ACCOUNT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 5 minutes.

● Mr. GREEN. Mr. Speaker, It is my pleasure today to introduce a bill to extend the Superfund account through the fiscal year 1990. As we are all well aware, in the waning days of the 96th Congress legislation was passed which established what is now known as the Superfund account. This $1.6 billion emergency account was designated to clean up toxic contaminants spilled or dumped into the environment, excluding oil spills. The fund was to be created over 5 years, with $1.38 billion or 86 percent of the funds coming from the chemical industry and oil companies that produced chemicals and $220 million or 14 percent of the funds coming from appropriations of general revenue in fiscal years 1981-85.

The original legislation provided that the fees would be collected on 45 specified substances, based initially on the amounts of production by an individual company and adjusted later to reflect the number of incidents in which the fund had to clean up particular substances. It also provided that the fund could pay for the following losses resulting from hazardous chemical releases: 90 percent of the operation and maintenance costs of any remedial action taken at the release site—States would pay the other 10 percent—loss of natural resources and costs of restoring lost resources up to $50 million; and costs of health studies and diagnostic examinations for victim health problems, but not other medical expenses. Furthermore, the bill provided for the expiration of the fund in the year 1985.

My bill would alter several of the account's funding provisions, namely providing for the continued collection of fees and the extension of the account's expiration date. It would extend the existence of the fund until 1990, with phaseout years coming in 1988 and 1989 rather than 1983 and 1984, respectively. In addition, it would eliminate the first "kick-out" provision—the sunset provision of section 303—which states that the account will closeout once the amount of $1,380,000,000 is reached. In order to recognize the possibility of reaching that $1,380,000,000 "kick-out" total before the year 1990, this provision was excluded.

To date, only 15 sites on the National Priorities List issued by EPA have started construction work for cleanup and only 5 sites have actually been completely cleaned up. The tardiness of this operation is shocking. Plainly the inadequacy of the funds available constrained those administering the fund. They could not rush to fund the clean up of existing problem sites when they did not know if they would need the funds to clean up an even more dangerous site. This legislation will effectively double the amount available in the existing account to deal with toxic wastes.

As a ranking minority member of the subcommittee that has jurisdiction over EPA funding, I fought hard to maintain adequate funding for the Superfund account. The final version of the appropriations bill for HUD-independent agencies for 1984 contained $100,000,000 more for Superfund than the administration's original request. By introducing this new bill, I will continue the fight for an appropriate level of funding in the CERCLA account.

It is absolutely imperative that we act now in extending the life of Super-

fund in order to protect our environment and the health of our citizens. Our environmental sins of the past have created vast areas of toxic waste "hotspots" which must be cleaned up as quickly as possible. I, therefore, urge that the House support this legislation which will assist in expediting the elimination of toxic waste dumps.

THE CHADHA RESPONSE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. LOTT) is recognized for 20 minutes.

● Mr. LOTT. Mr. Speaker, today I am adding 29 new cosponsors to H.R. 3939, the Regulatory Oversight and Control Act of 1983, which I first introduced on September 20, 1983, in response to the Supreme Court's decision in I.N.S. against Chadha holding the legislative veto device unconstitutional. The bill now has a total of 74 cosponsors.

Mr. Speaker, H.R. 3939 offers a constitutional alternative to the legislative veto for regulations, one which would require major regulations, approximately 50 a year, to be approved by the enactment of a joint resolution, and permitting nonmajor rules to be disapproved by the same method. In addition, the bill contains important regulatory reform, and House oversight and appropriation limitation amendment reform provisions.

Mr. Speaker, on November 9 and 10, 1983, the House Rules Committee, of which I am a member, began a series of hearings into the impact of the Chadha decision on the Congress and possible institutional responses to the loss of the legislative veto in some 200 laws. On the first of those 2 days I offered testimony in support of the generic legislative veto alternative for regulations as provided for in H.R. 3939. The Rules Committee hearings will continue during the first part of the next session of Congress, and hopefully we will then be reporting some specific recommendations to the House.

At this point in the RECORD, Mr. Speaker, I include the complete list of cosponsors together with a summary of my testimony:

COSPONSORS OF LOTT "REGULATORY OVERSIGHT & CONTROL ACT" (H. R. 3939) (AS OF NOVEMBER 16, 1983)

Hon. Bill Archer, Hon. Robert E. Badham, Hon. Doug Barnard, Jr., Hon. Thomas J. Bliley, Jr., Hon. John B. Breaux, Hon. Wm. S. Broomfield, Hon. Hank Brown, Hon. James T. Broyhill, Hon. Carroll A. Campbell, Jr., Hon. Dick Cheney, Hon. E. Thomas Coleman, Hon. Tom Corcoran.

Hon. Lawrence Coughlin, Hon. Philip M. Crane, Hon. William E. Dannemeyer, Hon. Hal Daub, Hon. Michael DeWine, Hon. David Dreier, Hon. John J. Duncan, Hon. Jack Edwards, Hon. Mickey Edwards, Hon. Bill Emerson, Hon. John N. Erlenborn, Hon. Cooper Evans.

Hon. Hamilton Fish, Jr., Hon. Edwin B. Forsythe, Hon. Newt Gingrich, Hon. James V. Hansen, Hon. Thomas F. Hartnett, Hon. John Hiler, Hon. Marjorie S. Holt, Hon. Henry J. Hyde, Hon. Jack F. Kemp, Hon. Thomas N. Kindness, Hon. Ken Kramer, Hon. Robert J. Lagomarsino.

Hon. Delbert L. Latta, Hon. Elliott H. Levitas, Hon. Jerry Lewis, Hon. Bob Livingston, Hon. Marilyn Lloyd, Hon. Tom Loeffler, Hon. Manuel Lujan, Jr., Hon. Alfred A. McCandless, Hon. Stewart B. McKinney, Hon. David O'B. Martin, Hon. James G. Martin, Hon. Lynn Martin.

Hon. G. V. (Sonny) Montgomery, Hon. W. Henson Moore, Hon. Carlos J. Moorhead, Hon. Stan Parris, Hon. Charles Pashayan, Jr., Hon. James H. Quillen, Hon. William R. Ratchford, Hon. J. Kenneth Robinson, Hon. Eldon Rudd, Hon. Harold S. Sawyer, Hon. Norman D. Shumway, Hon. Mark D. Siljander.

Hon. Denny Smith, Hon. Olympia J. Snowe, Hon. Arlan Stangeland, Hon. Bob Stump, Hon. Thomas J. Tauke, Hon. Gene Taylor, Hon. William M. Thomas, Hon. Guy Vander Jagt, Hon. G. William Whitehurst, Hon. Bob Whittaker, Hon. Larry Winn, Jr., Hon. Frank R. Wolf, Hon. George C. Wortley, Hon. Chalmers P. Wylie.

SUMMARY OF LOTT TESTIMONY BEFORE THE RULES COMMITTEE ON H.R. 3939, NOVEMBER 9, 1983

Mr. Chairman, I ask unanimous consent that my full statement be made a part of the hearing record and that I be allowed to proceed with a summary in order to permit time for questions.

Mr. Chairman, I want to thank you for this opportunity to testify on the impact of the Chadha decision on the Congress and on what responses we might take to the loss of the legislative veto device. I commend you on taking this initiative and on recognizing the importance of this landmark decision for the Congress.

I would like to confine my testimony to the loss of the legislative veto as it applies to regulations and suggest an alternative approach which is embodied in a bill I introduced on September 20th—H.R. 3939, the "Regulatory Oversight and Control Act of 1983."

As my colleagues are aware, there are currently about 20 legislative veto provisions now on the books which apply to regulations. Moreover, there is considerable support in both Houses for a generic congressional check on all regulations. The current chairman of this committee and I were among the 253 House cosponsors in the last Congress of H.R. 1776, the Levitas bill, which provided a one and one-half House veto for all regulations subject to informal rulemaking. And the Senate last year adopted a two-House veto as part of the regulatory reform bill it passed by a vote of 94–0.

The reason this strong sentiment persists for a congressional review mechanism of some sort is not difficult to discern. Members are acutely aware of the tremendous costs and burdens imposed by regulations. They cost the economy in excess of $100 billion annually. We deal with these problems daily in our contacts with constituents and businesses in our districts. And we are often dumbfounded at the lack of resemblance between the laws we pass and the regulations they give rise to. If anything, the Chadha decision has made us even more keenly aware of the ultimate responsibility we bear as the constitutional lawmakers for this quasi-lawmaking activity known as rulemaking.

While some may argue that the logical response to Chadha is to delegate less and legislate with more precision, the fact is that regulations are a modern-day reality and necessity. While we should be more cautious in delegating and precise in legislating, we cannot, for both technical and political reasons, legislate with the precision of regulations. We therefore must find some alternative to the legislative veto for retaining control over the regulation process before the damage is done.

I think H.R. 3939 offers that alternative. Title I of the bill deals with internal agency rulemaking improvements. It is basically the regulatory reform compromise for H.R. 746 developed in the last Congress by the Speaker, the White House, and others. I think it's a good political base to build on, as well as a sound legislative document. In essence it calls on agencies to perform regulatory analyses on major regulations and their alternatives. Unlike the compromise, it requires agencies to choose the most cost-effective alternative unless another is mandated by law. The compromise would simply have allowed agencies to choose another alternative and explain why they had not chosen the most cost-effective approach.

The other departure from the compromise in H.R. 3939 is the "sunset" requirement for all new and existing major regulations. Under both approaches agencies are required to review all major rules at least once every ten years. But, under the compromise an agency could simply extend a major rule in its existing form after the review, without resubmitting it to new rulemaking or to the Congress for possible disapproval. Under H.R. 3939, on the other hand, the major rule would expire on its sunset date unless the agency specifically acts to renew it in the same or modified form by new rulemaking and submission to the Congress for approval. It was our feeling that the compromise provisions provided too much incentive for agencies to renew a rule in its existing form. Like the compromise, H.R. 3939 would permit the President to add regulations to the list of major regulations both for analyses and sunset review purposes, and to adjust the sunset review timetable of an agency. This latter provision should allow for more coordination between related rules from different agencies—something sorely lacking at present.

Title II of H.R. 3939 is the congressional review portion. Whereas the compromise provided only for congressional disapproval of major regulations through the enactment of joint resolutions, H.R. 3939 requires the approval of such regulations by the enactment of joint resolutions, and permits the disapproval of nonmajor rules subject to informal rulemaking by the enactment of joint resolutions. In both instances, the President's signature would be required, and the bill thus meets the Chadha test. The constitutionality of this has been confirmed by the American Law Division of the Library of Congress.

Committees would be required to consider and report approval resolutions for major rules within 45-days or would be discharged. This procedure is taken directly from the Executive Reorganization Act, both in its existing form and as reported by the Government Operations Committee in this Congress. Consideration of nonmajor rules resolutions could be forced in committees by the signature of one-fourth of the membership of either House on a "motion for consider-

ation" within 30-days after the regulation is submitted. This would permit committees time to consider and report by the 45th day or again, they would be discharged.

House rules would be amended to establish a Regulatory Review Calendar to which these resolutions of approval and disapproval would be referred. It would be called on the first and third Mondays and second and forth Tuesdays of each month. This has been established in direct response to leadership concerns about controlling floor scheduling and will avoid the confusion and chaos otherwise associated to such privileged matters. A House majority could still block consideration of resolution by defeating the Nation to proceed to its consideration. But, once a majority votes to consider, major rule resolutions would be subject to two hours of debate and nonmajor rule resolutions to one hour of debate.

I appreciate that there is some opposition on this committee to any kind of expedited procedures. But to my mind they are essential if this is to be a credible and workable system. Obviously you must have a way to bring major rule resolution to the floor for a vote since these require affirmative action by the Congress and President to take effect. And, with respect to nonmajor rule resolutions, there must be a way to force committees to act if one-forth of the membership has requested it. The automatic discharge provisions are really nothing more than a fail-safe or fall-back action-forcing mechanism to insure that committees report resolutions when they are required to by the bill. If committees follow the rules, there should be no need for discharge.

The discharge threat is nevertheless necessary because there are some instances in which committees are too cozy with the agencies they oversee and therefore might be inclined to otherwise bottle-up disapproval resolutions. So, the requirement that committees report when required must be enforceable, and that's why the automatic discharge is necessary. Moreover, for the congressional review mechanism to be credible to the agencies, they must know that they will not necessarily be shielded by their parent committees. And keep in mind that the main benefit of the legislative veto in the past was not in its actual exercise but in the deterrent effect it had in preventing agencies from acting irresponsibly in the first place. If the threat of congressional disapproval of a regulation is real, the agency is more likely to consult with the committee of jurisdiction and accommodate congressional intent and concerns before it even promulgates a final rule.

Expedited procedures are also necessary given the short review period which in turn is essential to permitting a rule to take effect in a reasonable time frame. The normal legislative process for these regulations could otherwise take months. While some may argue that this is a good reason not to involve Congress in the first place, I think expedited consideration is both responsible and workable in the case of regulations for two reasons: first, the Congress will be able to rely heavily on the proceedings and analyses performed by the agencies and therefore won't have to completely duplicate that process; and secondly, the resolutions will not be subject to amendment and therefore will not involve the same complications as other legislation.

Finally, Title III of the bill amends House Rules in three respects. One is the creation of the Regulatory Review Calendar which I have already described. The second is to permit limitation amendments for certain regulations to be offered during the normal amendment stage of appropriations bills rather than being in order only if the motion to rise and report is defeated, as is now the case. Under H.R. 3939, such limitation amendments could be offered up-front to prevent the use of funds for regulations for which resolutions of disapproval have either not been considered by the House or have passed the House but not been enacted during the 90-day congressional review period. The purpose for this proposed change is to allow for the appropriations process to be used as a last resort if things are not satisfactorily addressed by the authorizing committees or if the Senate or President should block the enactment of a disapproval resolution.

Finally, the bill amends House oversight rules to require formal committee adoption of oversight plans at the beginning of a Congress and an accounting for them in a committee's final oversight report at the end of the Congress. The bill would also authorize the Speaker, with House approval, to appoint ad hoc oversight committees for special purposes.

I think these House rules changes help round-out the comprehensive nature of this bill in coordinating a variety of alternatives to the legislative veto for the main purpose of restoring political accountability to the rulemaking process.

In conclusion, Mr. Chairman, I would strongly urge this committee to give serious consideration to a generic alternative to the Legislative veto for Federal regulations as proposed by H.R. 3939. If this committee does not take this responsibility seriously, I fear we will once again witness the proliferation of a variety of veto alternatives on individual bills as they come to the floor. And anyone who bothers to review the appendix to the House Rules Manual containing all the confusing and conflicting variations on the traditional legislative veto cannot help but be struck by the lack of uniformity and predictability which this mish-mash of procedures inflicted on the orderly functioning of this institution.

We will not serve the House well by studying this problem to death or by waiting for the Judiciary Committee to move on some bill sometime next year. If ever a situation cried-out for leadership by this Committee, this is it. Thank you.●

SMALL BUSINESS PENSION RELIEF ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MARRIOTT) is recognized for 15 minutes.

● Mr. MARRIOTT. Mr. Speaker, in scarcely more than 4 weeks, on January 1, 1984, the most unnecessary, complicated and burdensome set of rules ever to be imposed on private pension plans will be in force, unless we stop them. These are the so-called topheavy rules, enacted as part of TEFRA, in 1982, without hearings, empirical studies or public input. I am introducing a bill today that will postpone the effective date of these rules for 1 year, and will direct the Treasury to study and make recommendations to the Congress as to more satisfactory means of achieving adequate pension benefits for employees generally, without unduly burdening small business plans and driving them into extinction.

Let no one be under any delusions about these new topheavy rules. They are directed specifically at small business, for the definition of a topheavy plan is such that it will always apply to the small business, and occasionally apply to a somewhat larger business, but almost never to big business.

The provisions impose heavy new costs on the plans that they impact, both because of extra benefit requirements and also because of costly procedures that will be necessitated. The top-heavy rules mandate minimum benefit and contribution levels and vesting rates for rank-and-file employees, while imposing new constraints on the benefits and contributions of the upper-tier participants.

Even more troublesome, and in some cases more costly, than the expense of providing the topheavy benefit supplements is the expense of first determining the existence of a topheavy plan and then continually redetermining that fact. Because of nonexplicit tests for the so-called key employees, and the requirement that benefits, participation, compensation levels and officer status be taken into account for moving 5-year period, and myriad difficult computational and definitional questions in determining whether a plan reaches the topheavy status, the law compels extensive new accounting procedures for tracking all of these factors, just to determine whether or when a plan has become topheavy. The rules work in such a way that plans can flip-flop from topheavy to nontopheavy and back again, requiring shifting benefit accrual rates and separate accounts just for purposes of the topheavy rule. Consequently, dual participant account records must be maintained. The plan language necessary to be inserted to express all this will be expensive to draft and difficult to comprehend, leading inevitably to massive technical violations and potential audit difficulties. Requalification of every plan will add further to the costliness of the new rules.

These burdens have been deliberately made to fall only on small business, and they fall on all such businesses' plans, irrespective of whether a given plan has displayed any characteristics of discrimination against rank-and-file participants. Small business is, self-evidently, least able to bear the new costs. Can anyone doubt that this will speed the exit of small business from the private pension scene? We have already begun to see commencement of this, as the new plan receipts and termination receipts of IRS for the two fiscal periods ending before and after enactment of TEFRA make very clear:

	New plans	Terminations
Fiscal 1982	86,682	17,190
Fiscal 1983	64,534	20,432

The new plans not adopted is even more significant, since IRS estimated approximately 90,000 new plans for Fiscal 1983, a whopping 40 percent more than actually received.

The losers are not only small business, but their employees, the capital pool their pension plans provide, and the social security system they supplement.

It is difficult enough to support placing such a cross on small business at a time when the mood of the country, the administration and the Congress is to give small business all the encouragement one can. All the more difficult is it to justify provisions which in fact discriminate against small business relative to the rest of the Nation's business community.

Everyone agrees the topheavy rules are seriously flawed. Proposals for changing them have emanated not only from all the major legal, accounting, actuarial, and benefit consulting professional organizations, but also from the Treasury, and from Members of this Congress. It is inevitable that the rules should need fixing. They were enacted wholly without hearings, having first surfaced during the TEFRA conference committee proceedings.

A 1-year delay in their coming into force is a small price to pay for saving the pension community, and especially small business, from a bog from which it may never be able to extricate itself. On January 1, 1984, if the topheavy rules become effective, hundreds of thousands of plans will enter a period during which rights will vest the cost of which the plan sponsors will not know, because the necessary plan amendments will not have been effectuated, and, consequently, actuaries will have been unable to make the necessary calculations. In addition, insurance policies required to fund the resultant death benefits will not have been purchased for the same reason, leaving the plans exposed to liabilities against which they are not protected. Even if the present rules are ultimately withdrawn or their burden ameliorated, they will have done permanent damage. just because of their coming into force, albeit only briefly. In addition to what I have already noted, participant rights will have accrued which cannot be withdrawn. Participant expectations will have risen which cannot be resized. Actuarial, accounting, and legal costs will have been incurred which cannot be recovered.

A temporary stay of the rules until Congress has taken a more deliberate look will save most of this. More than that, my bill will save plans that will otherwise be terminated and new plans that would otherwise not be started.

At the same time, my bill will save the IRS from an enormous chore of having to review and redetermine the qualifications of all the plans in the country—not just small business plans—since the topheavy rules even force big business plans, which can never become topheavy, to adopt provisional language against the eventuality that they will become topheavy. The cost of this IRS effort, not only in manpower, but in the necessary diversion of effort away from the more productive audit activity, will total in the tens of millions of dollars of revenue loss. To that must be added the further cost to business of effectuating the amendments and the requalification, averaging between $500 to $1,000 for perhaps 1 million plans—a staggering $500 million at the lower end of the estimate, and all tax deductible. If, as is almost inevitable, Congress later amends the rules to alleviate the disproportionate burdens, the whole process will begin again.

Perhaps, for a very worthwhile improvement in the pension protection of participants, this might even be seen by some as a tolerable cost. However, the question of the necessity of the top-heavy rules can be determined in better perspective when one realizes that for the 2 score years, between 1942 and 1982, when the pension plans of the country experienced their greatest growth, the pension area was policed by the antidiscrimination rule, which prevented discrimination in favor of the so-called prohibited group—that is, the officers, and shareholders and other highly compensated employees—at the expense of the rank-and-file. Then, in 1974, the extensive additional protections of ERISA, with specific minimum standards for participation, benefits, vesting, and funding, were added on top of the historical antidiscrimination rule. In addition, ERISA and TEFRA added rigid contribution and benefit limitations, and deduction restrictions, designed to prevent the abuse of the revenues.

It is in these very same areas that the topheavy rules would operate, but only against the small plan. If additional provisions are needed in this area, that case remains to be made. Therefore, my bill would direct the Treasury to study this question and to make recommendations on whether further provisions are appropriate, and whether they can be effectuated without unduly burdening the small business community. This Congress will then have an opportunity to hold hearings on the proposals, should we introduce them, and to learn the public's views—which, to this date, we do not have, save for a limited hearing in the Senate after enactment of TEFRA, which elicited widespread objection to the topheavy rules from many sectors.

In the few remaining weeks before the present provisions become effective, we could not hope to fix the present statute. We can only postpone its effective date, at essentially no cost to anyone and great potential gain to almost everyone. That my bill, the Small Business Pension Relief bill, would do. It would also enable the Congress to make a meaningful reassessment of the problems dealt with so summarily in the original topheavy legislation, by directing a study and recommendation by the Secretary of the Treasury.

Mr. Speaker, I include the factsheet describing the bill and the bill in the record:

FACT SHEET ON SMALL BUSINESS PENSION RELIEF ACT OF 1983—DEFERRAL OF TOPHEAVY RULES

SECTION 1. POSTPONEMENT OF TOPHEAVY RULES

This section would defer the effective date of all the provisions of TEFRA that were enacted to deal with top-heavy plans, until January 1, 1985.

SECTION 2. STUDY AND RECOMMENDATION

This section directs the Secretary of the Treasury to study the present top-heavy provisions, consulting with the Secretary of Labor to the extent he deems necessary, and to recommend to the Congress within 180 days after enactment of this bill any changes in the present statute which the Secretary of the Treasury believes necessary or desirable to enhance the coverage and benefits of participants generally, but in such a way as to avoid indiscriminate burdening of small business and discouragement of the initiation and continuance of pension and profit-sharing plans.●

LATVIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, 65 years ago, on November 18, 1918, the courageous people of Latvia gained their independence from Russian domination and proclaimed to the world their right as a nation to stand proudly among free countries, privileged to develop and enrich their social and cultural institutions without the interference of foreign oppressors.

Although the Soviet Union signed a treaty in 1920 which recognized Latvia as a sovereign nation "forever," only 20 years later, in 1940, Stalin broke this agreement and the Red army marched in and began a brutal occupation of this country. This action was accompanied by forced deportations of Latvians to Siberia and other remote parts of the Soviet empire, and the imprisonment and executions of Latvian patriots, cultural and government leaders, and others who would not capitulate to the Communists.

Sadly Latvia today continues to be governed from Moscow, and not from Riga, the country's rightful capital, as the Communists are ruthless in their continuing efforts to destroy the heritage and culture of the Latvian people. It is for this reason I have asked that my name be added as a cosponsor to House Concurrent Resolution 192, a resolution expressing the sense of Congress that the President should take all steps necessary to bring the question of self-determination of Latvia, Lithuania, and Estonia before the United Nations. I urge the strong support of all my collegues in the House of Representatives for this important bill. The text of House Concurrent Resolution 192 follows:

H. CON. RES. 192

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas the United States has adhered to the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and other relevant instruments relating to human rights;

Whereas the United States has supported the Declaration of Granting of Independence to Colonial Countries and Peoples, adopted by the United Nation's General Assembly in Resolution 1514 (XV) of December 14, 1960, and has taken note of the resolution on the question of the Baltic States, adopted by the European Parliament in its session on January 13, 1983, in Strassbourg, France;

Whereas the three Baltic republics, Estonia, Latvia, and Lithuania, did not become member republics of the Soviet Union voluntarily, but rather were occupied militarily and subsequently incorporated by force into the Soviet Union and have since been governed by governments approved by, and subservient to, the Government of the Soviet Union; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent republics of Estonia, Latvia, and Lithuania: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), that it is the sense of the Congress that—

(1) The United States, as a member of the United Nations, should fulfill its obligations, on the basis of the appropriate international instruments, to promote and encourage respect for human rights and fundamental freedoms in Estonia, Latvia, and Lithuania;

(2) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should take all necessary steps to bring the question of self-determination of the Baltic States before all appropriate forums of the United Nations, especially before the next session of the United Nations, Human Rights Commission as a priority topic under agenda item 9 entitled "The Rights of Peoples to Self-Determination and its Application to Peoples Under Colonial or Alien Domination" and to discuss specifically in those forums—

(A)(i) the continued reports of widespread violations of human rights and fundamental freedoms in Estonia, Latvia, and Lithuaninia, including the freedom of expression, the freedom to worship according to the dictates of one's own conscience, the freedom to celebrate one's cultural heritage, and the freedom to choose one's place of residence; and

(ii) the persecution of persons seeking to exercise such rights;

(B) the United States most profound concern that the people of Estonia, Latvia, and Lithuania be granted the right to self-determination, to choose their own form of government, their own economic, political, and social system without any outside intervention, subversion, coercion, or constraint of any kind; and

(C) a political resolution of the situation in Estonia, Latvia, and Lithuania on the basis of—

(i) the withdrawal of Soviet troops from these states,

(ii) respect for the independence, sovereignty, and territorial integrity of Estonia, Latvia, and Lithuania and

(iii) strict observance of the principle of nonintervention by one sovereign state in the interal and external affairs of another sovereign state.

SEC. 2. The Clerk of the house shall transmit a copy of this concurrent resolution to the President.

Mr. Speaker, the Latvians are presently experiencing a renewed wave of severe Soviet political repression, and, at this point in the RECORD, I would like to include an article from the August 31, 1983, edition of the Christian Science Monitor outlining the details of this repression. The article follows:

SOVIETS CRACK DOWN ON DISSENT IN LATVIA

(By Erik Lettlander)

STOCKHOLM.—Soviet Latvia is experiencing the worst wave of political repression in recent memory, according to exile Latvian sources.

Two Latvians were sentenced on political charges in August, and autumn may see the trial of four more religious and political activists. This is the largest known number of trials since eight persons, most of them intellectuals, were sentenced to long prison terms for alleged nationalist conspiracies in the early 1960s.

Gederts Melngailis, a former Lutheran seminary student, was sentenced to three years in a prison camp, Latvian exile sources reported Tuesday. The charges against him apparently stemmed from attempts to renounce Soviet citizenship, his refusal to serve in the Soviet Army, and contacts with Westerners in Moscow and Latvians in the West.

Before he serves his prison terms, Melngailis will undergo psychiatric treatment. Saying it would bring a milder sentence, his defense lawyer persuaded his mother to sign a statement that her son was mentally ill. "All experience with other dissidents shows that this is the worst that could possibly happen," commented Julijs Kadelis, head of the Information Bureau of the World Federation of Free Latvians in Munster, West Germany. Kadelis, who runs a clearinghouse for information on dissent in Latvia, said police and KGB officials had earlier threatened to "change" Melngailis's way of thinking with drug treatment at a mental hospital.

Exile sources in Stockholm said a Sept. 15 trial date has been set for Ints Calitis, who signed appeals for a nuclear free zone in the Baltic states and supported a protest by Balts on the 40th anniversary of the Molotov-Ribbentrop pact of 1939. Secret provisions of the treaty between Stalin's Russia and Hitler's Germany assigned the Baltic states to the Soviet sphere of influence.

A Soviet Latvian court recently sentenced Lidija Lasmamis-Doronina to five years in prison and three years exile, her third stint in a Soviet prison since 1948. She is a Baptist accused or possessing writings from the unofficial Soviet peace movement.

Soviet authorities have also indicated to relatives that they will try Janis Rozkalns, a Baptist, sometime in late September. He was arrested in April and charged with anti-Soviet activity for having quantities of religious literature and copies of the UN Universal Declaration of Human Rights in his home. He may be tried with Janis Rozkalns, and Janis Veveris, a former champion rower arrested in early January.

When the trials of Rozkalns, Calitis, and Ververis end, Kadelis in Munster says it will probably be Gunars Freimanis's turn. The electrician was arrested in late March, apparently for reading and circulating his uncensored poems to friends. He was imprisoned from 1964 to 1969 on similar charges, although a few of his poems on environmental issues appeared in the official Soviet-Latvian literary magazine Karogs in the early 1960s.

The trials are seen as part of an ideological crackdown under Yuri Andropov aimed at the most Western-oriented republics in the Sovert Union. "When the head of the KGB becomes the head of the USSR, it is clear that he wants to put the house in order," said Atis Lejins, a Latvian-born American citizen who edits a journal for the exiled Latvian Social Democratic Party in Stockholm. He also links the crackdown to the campaign for economic and workplace discipline.

Kadelis thinks the crackdown may reflect a need by officials in Latvia to show their power and loyalty to the new men in the Kremlin. "What has happened to the whole KGB apparatus has awakened and is doing things to gain attention and favor now that the former KGB chief has become the top man in the Soviet Union," he says.

Lejins suggests the repression may backfire by putting the Soviet Union in an embarrassing position concerning its promises to respect human rights at the Madrid conference to review the 1975 Helsinki Accords.

From its outset in January, the Latvian crackdown has been an international incident. When Doronina was arrested in January, KGB agents also seized a Latvian-born woman and her teen-age daughter, both Swedish citizens in Latvia as tourists. The incident was widely publicized in Sweden and is often mentioned in reports of the current trials. Both women were expelled from the Soviet Union.

Mr. Speaker, this 65th anniversary of Latvian Independence Day is a most appropriate occasion to renew our commitment to the just aspiration of the Latvian people to overcome the vicious Communist system and to reestablish a free and independent nation. I am proud to join with Americans of Latvian descent in the 11th Congressional District of Illinois which I am honored to represent, and Latvian-Americans all over our Nation, as they observe this anniversary of Latvia's independence and continue their strug-

gle to throw off once again the yoke of their Communist oppressors.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KOSTMAYER) is recognized for 5 minutes.

● Mr. KOSTMAYER. Mr. Speaker, on Friday, November 4, 1983, I was necessarily absent for recorded votes. I was in my congressional district attending the funeral of John F. Muffler, one of the brave young marines killed in Lebanon.

Had I been present, I would have voted:

"Yea" on rollcall 453, approving the Journal;

"Yea" on rollcall 454, the rule for consideration of H.R. 4196, the Dairy Production Stabilization Act;

"Yea" on rollcall 455, on passage of H.R. 2114, the maritime programs authorization; and

"Nay" on rollcall 456, motion to adjourn.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 5 minutes.

● Mr. ANTHONY. Mr. Speaker, I ask that the record reflect how I would have voted on rollcall vote No. 504, the equal rights amendment. Had I been present for the vote on November 15, 1983, I would have voted in favor of the resolution. I am a cosponsor of House Joint Resolution 1, and a longstanding supporter of the equal rights amendment.●

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the special order by the gentleman from Massachusetts (Mr. DONNELLY) today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of the special order by the gentleman from Alabama (Mr. SHELBY) today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET ON STATUS OF THE FISCAL YEAR 1984 CONGRESSIONAL BUDGET

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the procedures of the Committee on the Budget and section 311(b) of the Congressional Budget Act of 1974, I am submitting to the RECORD a letter to the Speaker advising him of the current level of spending and revenues for fiscal year 1984.

The current level of spending for fiscal year 1984 is under the levels set forth in House Concurrent Resolution 91, the first concurrent resolution on the budget for fiscal year 1984, by $18,923 million in budget authority and $7,854 million in outlays. I want all Members to be aware that although at this time the current level of spending is well below the spending ceilings, there are various measures which are moving through Congress this week and which would use much if not all of the room remaining. In addition to these spending measures, Congress usually considers a spring supplemental to cover additional emergency items which cannot be anticipated at this time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., November 15, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Commitee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

Pursuant to Committee Rule, 10, I am herewith transmitting the status report under H. Con. Res. 91, the First Concurrent Resolution on the Budget for Fiscal Year 1984. This report reflects the adjusted resolution of October 25, 1983, and the current CBO estimates of budget authority, outlays, and revenues based on all completed action on spending and revenue measures as of the close of business November 12, 1983.

With best wishes,

Sincerely,

JAMES R. JONES,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1984 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 91

REFLECTING COMPLETED ACTION AS OF NOV. 12, 1983

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	923,809	853,386	679,600
Current level	904,886	845,532	665,354
Amount under ceilings	18,923	7,854	
Amount under floor			14,246

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $18,923 million for fiscal year 1984, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 91 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $7,854 million in outlays for fiscal year 1984, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 91 to be exceeded.

REVENUES

Any measure that would result in a revenue loss for fiscal year 1984, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 91.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 14, 1983.

Hon. JAMES R. JONES,
Chairman, Committee on the Budget, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1984 budget (H. Con. Res. 91). This report for fiscal year 1984 is tabulated as of close of business November 12, 1983 and is based on our estimates of budget authority, outlays, and revenues using the assumptions and estimates consistent with H. Con. Res. 91.

Since my last report Congressional action has been completed on H.J. Res. 413 providing continuing appropriations for 1984.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	589,601	656,442	665,354
2. Entitlement authority and other mandatory items requiring further appropriation action	3,495	3,138	
3. Continuing resolution authority	311,790	185,952	
4. Conference agreements ratified by both Houses			
Current level	904,886	845,532	665,354

[In millions of dollars]

	Budget authority	Outlays	Revenues
Budget resolution, H. Con. Res. 91	923,809	853,386	679,600
Current Level is:			
Over resolution by			
Under resolution by	18,923	7,854	14,246

Sincerely,

RUDOLPH G. PENNER,
Director.

PARLIAMENTARIAN STATUS REPORT, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1984, AS OF CLOSE OF BUSINESS NOV. 12, 1983

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	510,538	488,040
Enacted previous session		154,335
Offsetting receipts	−107,231	−107,231
Enacted this session:		
HUD, Independent Agencies Appropriations, P.L. 98–45	51,223	30,310
Energy Water Development Appropriations, P.L. 98–50	14,449	7,855
Legislative Branch Appropriations, P.L. 98–51	1,473	1,282
1983 Supplemental Appropriations, P.L. 98–63	72	1,038
Transportation Appropriations, P.L. 98–78	10,932	9,738
1983 Jobs Supplemental Appropriations, P.L. 98–8	0	2,080
Social Security Act Amendments, P.L. 98–21	13,780	−3,200
Tobacco Support Level Freeze, P.L. 98–59	0	−132
Caribbean Basin Initiative, P.L. 98–67	10	10
Railroad Retirement Solvency Act, P.L. 98–76	3,444	331
Amendments to the Federal Supplemental Compensation Act, P.L. 98–92	31	31
Continuing Appropriations, 1984, P.L. 98–107	5	4
Military Construction Authorization Act, P.L. 98–115	−4	−4
Military Construction Appropriations, P.L. 98–116	7,104	2,322
District of Columbia Appropriations, P.L. 98–125	601	581
Interior Appropriations, H.R. 3363	8,357	5,880
Labor, HHS, and Education Appropriations, H.R. 3913	71,016	59,318
Extension of Federal Supplemental Compensation Program, H.R. 3929	3,599	3,600
Land Exchange for Certain Mineral Lease Bidding Rights Act, S. 96	4	4
Temporary Supplemental Compensation Extension, P.L. 98–118	197	249
Total enacted this session	186,294	121,98
Total enacted	589,601	656,442
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Child Nutrition	417	222
Department of Defense:		
Civilian Pay Raises	436	422
Military Pay Raises	1,205	1,169
Foreign Service Retirement Fund	3	3
Offsetting Receipts	−3	−3
Range Improvements	2	1
FUBA (TAA extension, P.L. 98–120)	33	33
Medicaid	556	556
Advances to Unemployment:		
Insurance Trust Fund	3,932	3,932
Offsetting Receipts	−3,932	−3,932
Special Benefits, Disabled Coal Miners	20	20
Special Benefits, Federal Employees	12	12
Social Services Block Grants	25	25
Guaranteed Student Loan Program	132	
Payment to Civil Service Retirement Fund	230	230
Offsetting receipt	−230	−230
Payment to Foreign Service Retirement Fund	1	1
Offsetting receipt	−1	−1
Civilian Agency Pay Raises	657	678
Total	3,495	3,138
III. Continuing resolution authority: Continuing Appropriations, 1984, P.L. 98–107	311,790	185,952
IV. Conference agreements ratified by both Houses		
Total, current level as of Nov. 12, 1983	904,886	845,532
Budget Resolution, H. Con. Res. 91	923,809	853,386
Amount remaining:		
Over ceiling		
Under ceiling	18,923	7,854

Note.—Detail may not add due to rounding.

CONFERENCE REPORT ON H.R. 3385

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 3385) to provide equity to cotton producers under the payment-in-kind program:

CONFERENCE REPORT (H. REPT. No. 98-556)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 3385) to provide equity to cotton producers under the payment-in-kind program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Dairy and Tobacco Adjustment Act of 1983".

TITLE I—DAIRY

SHORT TITLE

SEC. 101. This title may be cited as the "Dairy Production Stabilization Act of 1983".

Subtitle A—Dairy Stabilization Program

DAIRY PRODUCTION STABILIZATION

SEC. 102. (a) Section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) is amended to read as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) Effective for the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983 and ending on the last day of the month of enactment of such Act, the price of milk shall be supported at a rate equivalent to $13.10 per hundredweight for milk containing 3.67 per centum milkfat.

"(B) Effective for the period beginning on the first day of the first calendar month following the date of enactment of the Dairy Production Stabilization Act of 1983 and ending on September 30, 1985, the price of milk shall be supported at a rate equivalent to $12.60 per hundredweight for milk containing 3.67 per centum milkfat, except that—

"(i) on April 1, 1985, if the Secretary estimates that for the twelve-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of six billion pounds milk equivalent, the Secretary may reduce the price support rate in effect on such date in the amount of 50 cents per hundredweight; and

"(ii) on July 1, 1985—

"(I) if the Secretary estimates that for the twelve-month period beginning on such date net price support purchases of milk or the products of milk would be in excess of five billion pounds milk equivalent, the Secretary may reduce the price support rate in effect on such date in the amount of 50 cents per hundredweight; or

"(II) if the Secretary estimates that for the twelve-month period beginning on such date net price-support purchases of milk or the products of milk would be five billion pounds milk equivalent or less and if the Secretary determines it necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, the Secretary may increase the price-support rate in effect on such date in an amount not less than 50 cents per hundredweight.

"(C) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2)(A)(i) Effective for the period beginning with the first day of the first calendar month following the date of enactment of the Dairy Production Stabilization Act of 1983 and ending on March 31, 1985, to encourage the adjustment of milk production to levels consistent with the national demand for milk and the products of milk, the Secretary shall provide for a reduction of 50 cents per hundredweight to be made in the price received on all milk produced in the United States and marketed by producers for commercial use.

"(ii) Effective for the period beginning with the date of enactment of the Dairy Production Stabilization Act of 1983 and ending on the last day of the month of enactment of such Act, the provisions of paragraphs (2) through (7) of subsection (d) of this section, as in effect on the day immediately prior to the date of enactment of the Dairy Production Stabilization Act of 1983, shall be applicable to all milk produced in the United States and marketed by producers for commercial use. Enactment of the Dairy Production Stabilization Act of 1983 shall not affect in any manner the collection or enforcement of any deduction from the price of milk previously implemented by the Secretary under this subsection as in effect for any milk marketed for commercial use prior to the effective date of the reduction provided for in this paragraph, as added by section 102(a) of the Dairy Production Stabilization Act of 1983.

"(B) The funds represented by the reduction in the price required to be applied to the marketings of milk by a producer under subparagraph (A) shall be collected and remitted to the Commodity Credit Corporation, at such time and in such manner as prescribed by the Secretary, by each person making payment to a producer for milk purchased from the producer, except that in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to the Corporation by the producer.

"(C) To the extent that funds collected under this paragraph are inadequate to make the payments to producers who reduce marketings under paragraph (3), such payments shall be made using funds otherwise available to the Corporation. The funds remitted to the Corporation under this paragraph shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(3)(A) The Secretary shall, not later than January 1, 1984, provide for a milk diversion program under which the Secretary shall offer to enter into a contract, at any time up to February 1, 1984, with any producer of milk in the United States for the purpose of reducing the quantity of milk marketed by the producer for commercial use during the fifteen-month period beginning on January 1, 1984. Each producer of milk in the United States seeking to enter into a contract for diversion payments under this paragraph shall, prior to entering into such contract, provide the Secretary with a plan that (i) describes the manner in which the producer intends to achieve the reduction in milk marketings that would be

required under such contract, and (ii) includes an estimate by the producer of the amount of such reduction which the producer intends to achieve through increased slaughter of dairy cattle (including the approximate number of dairy cattle that will be sold for slaughter during each month of the contract). In setting the terms and conditions of such contracts, the Secretary shall take into account any adverse impact of the reductions in milk production on beef, pork, and poultry producers in the United States and shall take all feasible steps to minimize such impact.

"(B) Each such contract shall require that—

"(i) the producer shall reduce the quantity of milk marketed for commercial use in an amount equal to a percentage specified by the producer, but not less than 5 per centum and not more than 30 per centum, of the quantity of milk marketed by such producer for commercial use during the marketing history period described in subparagraph (F);

"(ii) any production capacity of a facility that becomes available for use because a producer reduces milk production in order to comply with the contract shall not be used by the producer, or made available by the producer for use by any other person, for the production of milk;

"(iii) any dairy cattle that would or could have been used by the producer for the production of milk if the producer had not entered into and complied with such contract shall not have been sold, leased, or otherwise transferred to another person after November 8, 1983, except as permitted by the Secretary up to the date of enactment of the Dairy Production Stabilization Act of 1983 in order to further the purposes of this Act, or unless such cattle are sold for slaughter or sold or transferred to another producer with respect to whom there is in effect a contract entered into under this subsection, except that the Secretary may, to the extent practicable and to the extent deemed consistent with the goals of the diversion program, permit the sale of registered, purebred cattle for breeding purposes subject to such terms and conditions as the Secretary may prescribe based on a history of such sales by the producer or the sale or transfer of any dairy cattle if the Secretary determines that such sale or transfer does not result in adversely affecting the purpose of the program; and

"(iv) the producer shall repay to the Secretary the entire payment received under this subsection, including simple interest payable at a rate prescribed by the Secretary which shall, to the extent practicable, reflect the cost to the Corporation of its borrowings from the United States Treasury, commencing on the date payment is first received under this paragraph, if the producer fails to comply with such contract.

"(C) Except as provided in subparagraph (D), the Secretary shall pay to a producer who complies with a contract, entered into under this paragraph, an amount equal to the product of $10 per hundredweight and the amount, measured in hundredweights, by which the quantity of milk marketed by such producer for commercial use during the period specified in such contract is less than the quantity of milk marketed by such producer for commercial use during the marketing history period.

"(D) No payment may be made under subparagraph (C) to a producer with respect to—

"(i) any reduction in the quantity of milk marketed by the producer for commercial use that exceeds the lesser of 30 per centum of the aggregate quantity of milk marketed by the producer for commercial use during the producer's marketing history period, or the sum of—

"(I) the reduction in the quantity of milk marketed for commercial use required under the provisions of the contract the producer has entered into under this paragraph, after any adjustment by the Secretary under subparagraph (E); and

"(II) 3 per centum of the quantity of milk marketed by the producer for commercial use during such producer's marketing history period;

"(ii) any reduction in the quantity of milk marketed by the producer for commercial use if such reduction is less than the larger of 5 per centum of the aggregate quantity of milk marketed by the producer for commercial use during the producer's marketing history period, or the difference between—

"(I) the reduction in the quantity of milk marketed for commercial use required under the provisions of the contract the producer has entered into under this paragraph, after any adjustment by the Secretary under subparagraph (E); and

"(II) 3 per centum of the quantity of milk marketed by the producer for commercial use during such producer's marketing history period;

"(iii) except as provided in subparagraph (H), any reduction in the quantity of milk marketed for commercial use by a producer who, as determined by the Secretary, was not actively engaged in the production of milk for commercial use as of the date of enactment of the Dairy Production Stabilization Act of 1983; and

"(iv) any reduction in the quantity of milk marketed for commercial use by a producer who violates any requirement specified in this paragraph.

"(E) The Secretary may, in accordance with such rules or procedures as prescribed by the Secretary, modify contracts entered into under this paragraph if the Secretary determines that, as a result of contracts entered into under this paragraph, (i) there would be an excessive reduction in the level of milk production in the United States, or (ii) there has been a substantial hardship to producers of beef cattle, dairy cattle, hogs, or poultry sold for slaughter. If, under the provisions of clause (ii), the Secretary should specify a reduction in marketings in any quarter that is less than the percentage specified in the contract, such modification shall not be so great as to require the producer to make a reduction in excess of 150 per centum of the reduction required by the contract in any succeeding quarter: Provided, That after making any adjustments in milk marketed for commercial use in any period of the contract, except to the extent required by the foregoing provisions of this sentence, the aggregate reduction in milk marketed for commercial use for the entire diversion period must continue to be at least equal to the total reduction required by the contract. In the event of a modification, under clause (i) of this subparagraph, the Secretary may reduce the required reduction among all contracts on such basis as the Secretary determines will serve to reduce future dairy surpluses. In no event shall any reduction under this paragraph be apportioned on the basis of geographic region or area.

"(F) Any producer of milk in the United States seeking to enter into a contract for diversion payments under this paragraph shall provide the Secretary with evidence of such producer's marketing history. The marketing history shall be the marketings of milk by such producer for commercial use during the calendar year 1982 (with production during the January through March quarter to be counted by the Secretary as corresponding to both the first and the last quarters of the fifteen-month diversion contract) or, at the option of the producer, the average marketings of milk by the producer during calendar years 1981 and 1982 (with production during the January through March quarter of each such year to be counted by the Secretary as corresponding to both the first and last quarters of the fifteen-month diversion contract). The producer's marketing history may be adjusted as the Secretary determines necessary to correct for abnormally low production resulting from a natural disaster or other condition beyond the control of the producer or such other factors as the Secretary determines necessary to provide a fair and equitable marketing history.

"(G) No marketing history shall be assigned to any producer who commenced marketing of milk after December 31, 1982, except as provided in subparagraph (H).

"(H) A producer's marketing history established under this paragraph shall not be transferable to any other person, unless the entire milk production facility used by the producer to produce milk for commercial use during the marketing history period and the producer's entire dairy herd were transferred by reason of the death of the producer, by reason of a gift from the producer, or to a member or members of the family of the producer. The term 'member of the family of the producer' means (i) an ancestor of the producer, (ii) the spouse of the producer, (iii) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer, or (iv) the spouse of any such lineal descendant.

"(I) Eligibility for diversion payments shall be determined on the basis of the marketing history provided for in subparagraph (F).

"(J)(i) Producers eligible for diversion payments shall apply for such payments at the end of each quarter. Payment may be made to any producer who can establish that marketings of milk by such producer for commercial use have been reduced from the level of marketings during the corresponding period of the marketing history period in an amount as specified by the Secretary for each quarter in the contract: Provided, That the aggregate quantity of such reductions for the entire diversion period must be at least equal to the total reduction required by the contract. Prior to approving such payment, the Secretary shall require evidence that such reduction in marketings has taken place. As part of such evidence, the producer shall certify, in a form specified by the Secretary, that such reduction is a net decrease in marketings of milk for commercial use and has not been offset by expansion of production in other production facilities in which the producer has an interest, or by transfer of partial interest in the production facility, or by employment of such other scheme or device to qualify for payment for which such producer would otherwise not be eligible.

"(ii) Payments made under this paragraph during the contract period shall be considered preliminary settlements for reductions in marketings. A final settlement shall be made following the end of the contract period and shall be based on the volume of marketings for the entire contract period. If,

based on total marketings for the contract period, it is determined that preliminary settlements have resulted in overpayments to the producer, the Secretary shall recover such overpayments from such producer.

"(K) Application for payment shall be made by producers through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act.

"(L) A producer may assign a contract entered into under this paragraph only if—

"(i) the producer's interest in the entire milk production facility and the entire dairy herd used by the producer to produce milk for commercial marketings have been transferred as a unit to the person to whom the assignment is to be made;

"(ii) the assignee is a person to whom the producer's marketing history may be transferred under subparagraph (H);

"(iii) the producer and the assignee agree in writing that the assignee shall succeed to all rights and liabilities of the producer under the contract; and

"(iv) a copy of such writing is submitted to the Secretary before the transfer occurs.

"(M) A contract entered into under this paragraph by a producer who by reason of death cannot perform or assign such contract may be performed or assigned, in accordance with subparagraph (L), by the estate of such producer.

"(N) If the provisions for reductions in the price received for milk marketed for commercial use as provided for in paragraph (2) are held to be invalid by any court, or the Secretary is restrained or enjoined by any court from implementing such provisions, the Secretary shall immediately suspend making any diversion payments under this paragraph for the period beginning with the date of such court action and shall resume making such payments only if such court action is overruled, stayed, or terminated.

"(O) If the Secretary determines that there has been a marked deviation in the composition of milk marketed for commercial use by a producer from that of such producer's marketings during the marketing history period, an adjustment as determined appropriate by the Secretary shall be made in the producer's diversion payments to reflect the composition of milk marketed during the marketing history period.

"(4) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony on the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

"(5)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. The Secretary is not required, however, to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Each person (i) as to whom there is a failure to make a reduction in the price of milk received by such person as required by paragraph (2), (ii) who fails to remit to the Corporation the funds required to be collected and remitted by paragraph (2)(B), or (iii) who fails to make the reduction in marketings required by a contract under paragraph (3) shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned. Each person who knowingly violates any other provision of this subsection, or any regulation issued under this subsection, shall be liable for a civil penalty of not more than $1,000 for each such violation. Any penalty provided for under this subparagraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(C) Any person against whom a penalty is assessed under subparagraph (B) may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than thirty days after such penalty is imposed. The Secretary shall promptly file in such court a certified copy of the record upon which the penalty is based. The findings of the Secretary may be set aside only if found to be unsupported by substantial evidence.

"(D) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under subparagraph (B).

"(E) The remedies provided in this paragraph shall be in addition to, and not exclusive of, other remedies that may be available.

"(F) In carrying out this subsection, the Secretary may, as the Secretary deems appropriate—

"(i) use the services of State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act; and

"(ii) enter into agreements to use, on a reimbursable or nonreimbursable basis, the services of administrators of Federal milk marketing orders and State milk marketing programs.

"(6) The term 'United States' as used in paragraphs (2) and (3) of this subsection means the forty-eight contiguous States in the continental United States.".

(b) The Secretary Agriculture shall implement the provisions of section 201(d) of the Agricultural Act of 1949, as amended by subsection (a) of this section, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.

AVOIDANCE OF ADVERSE IMPACT OF DAIRY DIVERSION PROGRAM ON BEEF AND PORK PRODUCERS

SEC. 103. In order to minimize the adverse impact of the dairy diversion program on beef and pork producers in the United States during the period the diversion program is in effect—

(1) the Secretary of Agriculture shall, to the maximum extent practicable, use funds available for the purposes of clause (2) of section 32 of Public Law No. 320, 74th Congress (7 U.S.C. 612c) and other funds available to the Secretary under the commodity distribution and other nutrition programs of the Department of Agriculture to increase the use of beef and pork for such purposes;

(2) the Secretary of Defense and other Federal and State agencies are encouraged to use increased quantities of beef and pork to meet the food needs of the programs which they administer; and

(3) the Secretary of Agriculture shall take appropriate action to encourage the consumption of beef and pork by members of the public.

Subtitle B—Dairy Promotion Program

FINDINGS AND DECLARATION OF POLICY

SEC. 110. (a) Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy, the milk from which dairy products are manufactured is produced by thousands of milk producers, and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products are vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce of dairy products.

(b) It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for financing (through assessments on all milk produced in the United States for commercial use) and carrying out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States. Nothing in this subtitle may be construed to

provide for the control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

SEC. 111. As used in this subtitle—

(a) the term "Board" means the National Dairy Promotion and Research Board established under section 113 of this subtitle;

(b) the term "Department" means the Department of Agriculture;

(c) the term "Secretary" means the Secretary of Agriculture;

(d) the term "milk" means any class of cow's milk produced in the United States;

(e) the term "dairy products" means products manufactured for human consumption which are derived from the processing of milk, and includes fluid milk products;

(f) the term "fluid milk products" means those milk products normally consumed in liquid form as a beverage;

(g) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(h) the term "producer" means any person engaged in the production of milk for commercial use;

(i) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of and demand for dairy products;

(j) the term "research" means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products, and other related efforts to expand demand for milk and dairy products;

(k) the term "nutrition education" means those activities intended to broaden the understanding of sound nutritional principles including the role of milk and dairy products in a balanced diet; and

(l) the term "United States" as used in sections 110 through 117 means the forty-eight contiguous States in the continental United States.

ISSUANCE OF ORDERS

SEC. 112. (a) During the period beginning with the date of enactment of this subtitle and ending thirty days after receipt of a proposal for an initial dairy products promotion and research order, the Secretary shall publish such proposed order and give due notice and opportunity for public comment upon the proposed order. The proposal for an order may be submitted by an organization certified under section 114 of this subtitle or by any interested person affected by the provisions of this subtitle.

(b) After notice and opportunity for public comment are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion and research order. Such order shall become effective not later than ninety days following publication of the proposal.

(c) The Secretary may, from time to time, amend dairy products promotion and research order.

REQUIRED TERMS IN ORDERS

SEC. 113. Any order issued under this subtitle shall contain terms and conditions as follows:

(a) The order shall provide for the establishment and administration of appropriate plans or projects for advertisement and promotion of the sale and consumption of dairy products, for research projects related thereto, for nutrition education projects, and for the disbursement of necessary funds for such purposes. Any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable. No such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product.

(b) The order shall provide for the establishment and appointment by the Secretary of a National Dairy Promotion and Research Board that shall consist of not less than thirty-six members. Members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations certified under section 114 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization, then from nominations made by such milk producers in the manner authorized by the Secretary. In making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be considered as a unit. A region may be represented by more than one director and a region may be made up of more than one State. The term of appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for one-year, two-year, and three-year terms. The Board shall appoint from its members an executive committee whose membership shall equally reflect each of the different regions in the United States in which milk is produced. The executive committee shall have such duties and powers as are conferred upon it by the Board. Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board including a per diem allowance as recommended by the Board and approved by the Secretary.

(c) The order shall define the powers and duties of the Board that shall include only the powers enumerated in this section. These shall include, in addition to the powers set forth elsewhere in this section, the powers to (1) receive and evaluate, or on its own initiative develop, and budget for plans or projects to promote the use of fluid milk and dairy products as well as projects for research and nutrition education and to make recommendations to the Secretary regarding such proposals, (2) administer the order in accordance with its terms and provisions, (3) make rules and regulations to effectuate the terms and provisions of the order, (4) receive, investigate, and report to the Secretary complaints of violations of the order, and (5) recommend to the Secretary amendments to the order. The Board shall solicit, among others, research proposals that would increase the use of fluid milk and dairy products by the military and by persons in developing nations, and that would demonstrate the feasibility of converting surplus nonfat dry milk to casein for domestic and export use.

(d) The order shall provide that the Board shall develop and submit to the Secretary for approval any promotion, research, or nutrition education plan or project and that any such plan or project must be approved by the Secretary before becoming effective.

(e) The order shall require the Board to submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including projected costs of dairy products promotion and research projects.

(f) The order shall provide that the Board, with the approval of the Secretary, may enter into agreements for the development and conduct of the activities authorized under the order as specified in subsection (a) and for the payment of the cost thereof with funds collected through assessments under the order. Any such agreement shall provide that (1) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, (2) the plan or project shall become effective upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Board of activities conducted and such other reports as the Secretary or the Board may require.

(g) The order shall provide that each person making payment to a producer for milk produced in the United States and purchased from the producer shall, in the manner as prescribed by the order, collect an assessment based upon the number of hundredweights of milk for commercial use handled for the account of the producer and remit the assessment to the Board. The assessment shall be used for payment of the expenses in administering the order, with provision for a reasonable reserve, and shall include those administrative costs incurred by the Department after an order has been promulgated under this subtitle. The rate of assessment prescribed by the order shall be 15 cents per hundredweight of milk for commercial use or the equivalent thereof. A milk producer or the producer's cooperative who can establish that the producer is participating in active, ongoing qualified State or regional dairy product promotion or nutrition education programs intended to increase consumption of milk and dairy products generally shall receive credit in determining the assessment due from such producer for contributions to such programs of up to 10 cents per hundredweight of milk marketed or, for the period ending six months after the date of enactment of this Act, up to the aggregate rate in effect on the date of enactment of this Act of such contributions to such programs (but not to exceed 15 cents per hundredweight of milk marketed) if such aggregate rate exceeds 10 cents per hundredweight of milk marketed. Any person marketing milk of that person's own production directly to consumers shall remit the assessment directly to the Board in the manner prescribed by the order.

(h) The order shall require the Board to (1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe, (2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to it.

(i) The order shall provide that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate

of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(j) The order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing governmental policy or action except as provided by subsection (c)(5).

(k) The order shall require that each person receiving milk from farmers for commercial use, and any person marketing milk of that person's own production directly to consumers, maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. Such information shall be made available to the Secretary as is appropriate to the administration or enforcement of this subtitle, or any order or regulation issued under this subtitle. All information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was obtained. Nothing in this subsection may be deemed to prohibit (1) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (2) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement action necessary for the implementation of this subtitle. Any person violating the provisions of this subsection shall, upon conviction, be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(l) The order shall provide terms and conditions, not inconsistent with the provisions of this subtitle, as necessary to effectuate the provisions of the order.

CERTIFICATION OF ORGANIZATIONS

SEC. 114. (a) The eligibility of any organization to represent milk producers, and to participate in the making of nominations under section 113 of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, on a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary, including, but not limited to, the following:

(1) geographic territory covered by the organization's active membership;

(2) nature and size of the organization's active membership including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived;

(5) functions of the organization; and

(6) the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production or processing of fluid milk and dairy products and promotion of the nutritional attributes of fluid milk and dairy products.

REQUIREMENT OF REFERENDUM

SEC. 115. (a) Within the sixty-day period immediately preceding September 30, 1985, the Secretary shall conduct a referendum among producers who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the order then in effect shall be continued. Such order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum, who during a representative period (as determined by the Secretary) have been engaged in the production of milk for commercial use. If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the Secretary determines that such action is favored by a majority of the producers voting in the referendum and shall terminate the order in an orderly manner as soon as practicable after such determination.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this section and section 116, except for the salaries of Government employees.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 116. (a) After September 30, 1985, the Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) After September 30, 1985, the Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use and shall terminate the order in an orderly manner as soon as practicable after such determination.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

SEC. 117. Whenever, under the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any cooperative association of producers, engaged in a bona fide manner in marketing milk or the products thereof, as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers. If a cooperative association of producers elects to vote on behalf of its members, such cooperative association shall provide each producer, on whose behalf the cooperative association is expressing approval or disapproval, a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should the producer so choose within the period of time established by the Secretary for casting ballots. Such notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

SEC. 118. (a) Any person subject to any order issued under this subtitle may file with the Secretary a petition stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and requesting a modification thereof or an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant or carries on business are hereby vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 119. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle shall be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation and in the case of a willful failure to pay, collect, or remit the assessment as required by the order, in addition to the amount due, a penalty equal to the amount of the assessment on the quantity of milk as to which the failure applies. The amount of any such penalty shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, other remedies that may be available.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 120. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this subtitle or of any order, or rule or regulation issued under this subtitle. For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 121. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operated under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATION

SEC. 122. There are hereby authorized to be appropriated such funds as are necessary to carry out the provisions of this subtitle. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of any order issued under the terms of this subtitle.

TITLE II—TOBACCO

SHORT TITLE

SEC. 201. This title may be cited as the "Tobacco Adjustment Act of 1983".

PRICE SUPPORT ADJUSTMENTS

SEC. 202. Effective for the 1984 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding the foregoing provisions of this section—

"(1) For the 1984 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported.

"(2) For the 1985 crop of Flue-cured tobacco, the support level shall be the level in cents per pound at which the 1982 crop was supported, plus or minus, respectively, the amount by which (A) the support level for the 1985 crop, as determined under subsection (b), is greater or less than (B) the support level for the 1984 crop, as determined under subsection (b), as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (A) is greater than the support level under clause (B), except that the support level for the 1985 crop shall be the level in cents per pound at which the 1982 crop was supported if the support level as determined under subsection (b) for the 1985 crop would not be more than 5 per centum greater than the support level as determined under subsection (b) for the 1984 crop.

"(3) For the 1984 crop of any kind of tobacco (other than Flue-cured tobacco) for which marketing quotas are in effect or are not disapproved by producers and for the 1985 crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the Secretary shall establish the support level at such level as will not narrow the normal price-support differential between Flue-cured tobacco and such other kind of tobacco. Before establishing the support level under this paragraph for any such kind of tobacco the Secretary shall publish in the Federal Register a notice of the level the Secretary proposes to establish and give an opportunity for the public to comment on the proposal. In determining the level to be established under this paragraph for a particular kind of tobacco, the Secretary shall take into consideration the cost of producing such kind of tobacco, the supply and demand conditions for such kind of tobacco, the comments received in response to the public notice of the proposal, and such other relevant factors as the Secretary determines appropriate.

"(4) For the 1985 crop of Burley tobacco and for the 1986 and each subsequent crop of any kind of tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported (or if the level for that crop was adjusted under subsection (g) the level at which such crop would have been supported without regard to any adjustment under subsection (g)), plus or minus, respectively, the amount by which (A) the support level for the crop for which the determination is being made, as determined under subsection (b), is greater or less than (B) the support level for the immediately preceding crop, as determined under subsection (b), as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (A) is greater than the support level under clause (B).

"(g) (1) Except as provided in paragraph (2), notwithstanding the provisions of subsections (d) and (f) and section 403, the Secretary, if requested by the board of directors of the association through which price support for Flue-cured tobacco is made available to producers, may (1) designate for any crop certain grades of Flue-cured tobacco that are eligible for price support (but representing in the aggregate not more than 25 per centum of the total quantity of the Flue-cured tobacco crop that the Secretary estimates will be produced) that the Secretary determines are of such quantity or quality as to impair their marketability, and (2) without regard to the weighted average of the support rates for eligible grades of Flue-cured tobacco determined under the proviso to the first sentence of subsection (d), further reduce the support rates for such grades to the extent the Secretary deems necessary to reflect their market value, but in no event by more than 12 per centum of the respective support rates that would otherwise be established under this section.

"(2) Any reduction in the support rates for grades of Flue-cured tobacco under this subsection shall not be considered in determining the support levels for subsequent years.".

ELIMINATION OF DOUBLE ASSESSMENT; USE OF FUND

SEC. 203. Section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)) is amended by—

(1) in paragraph (2), striking out "and subsequent crops" and inserting in lieu thereof "crop only"; and

(2) in paragraph (3), inserting before the semicolon at the end thereof the following: ": Provided, That, notwithstanding any other provision of law, use by the association of moneys in the Fund, including interest and other earnings, for the purposes of reducing the association's outstanding indebtedness to the Corporation associated with 1982 and subsequent crops of quota tobacco and making loan advances to producers is authorized, and use of such moneys for any other purposes that will be mutually beneficial to producers who contribute to the Fund and to the Corporation, shall, if approved by the Secretary, be considered an appropriate use of the Fund".

NO NET COST TOBACCO ACCOUNT—FLUE-CURED TOBACCO

SEC. 204. Section 106B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(a)) is amended by—

(1) in paragraph (1), striking out ", except that the term does not include such an association that has entered into such an agreement to make price support available to producers of Flue-cured tobacco"; and

(2) in paragraph (5), striking out "except Flue-cured tobacco".

LEASE AND TRANSFER OF FLUE-CURED TOBACCO; FORFEITURE OF ALLOTMENT AND QUOTA

SEC. 205. (a) Effective for the 1984 and subsequent crops of tobacco, section 316(a)(1) of the Argicultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)) is amended to read as follows:

"(a)(1) Notwithstanding any other provision of law—

"(A)(i) The Secretary, if the Secretary determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, Flue-cured, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this Act to lease and transfer all or any part of such allotment to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment of the same kind.

"(ii) The Secretary shall, only with respect to the 1984 through 1986 crops of Flue-cured tobacco, permit the owner of a farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act to lease and transfer all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current Flue-cured tobacco acreage allotment or quota except that for the 1985 and 1986 crops such lease and transfer shall be permitted only if (except as otherwise provided in paragraph (2)(A)) the parties to the lease file a copy of the lease agreement with the county committee for the county in which the farms are located, together with a written statement certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any form including a loan by the lessee to the lessor, the endorsement of a note by the lessee for the lessor, or any other similar arrangement which represents the anticipated income for the lease, prior to the marketing of the tobacco produced under the lease and that the lease and transfer is otherwise in compliance with the provisions of this section. Beginning with the 1985 crop, the Secretary shall promulgate regulations establishing, insofar as is reasonably practicable, a similar requirement providing that none of the consideration for the lease of any Flue-cured tobacco acreage allotment and quota may be paid to the lessor prior to the marketing of the tobacco produced under the lease. The Secretary shall promulgate rules which establish a similar requirement for full payment of any rental of Flue-cured tobacco allotment acreage and quota, and further shall require that any seller of a Flue-cured tobacco allotment and quota grant to the buyer an option to make payment therefor in equal annual installments payable each fall for a period not to exceed five years from the year in which the sale is made. With respect to the 1987 and subsequent crops of Flue-cured tobacco, the Secretary shall not permit the lease and transfer of Flue-cured tobacco acreage allotments and quotas.

"(B) If, after notice and opportunity for a hearing, the county committee determines that the lessee or the lessor of a Flue-cured tobacco acreage allotment or quota knowingly made a false statement in the written statement filed under subparagraph (A), (i) in the case of a false statement knowingly made by the lessee, the lease agreement for purposes of the Flue-cured tobacco marketing quota program with respect to the lessee's farm shall be considered null and void as of the date approved by the county committee or (ii) in the case of a false statement knowingly made by the lessor, the Flue-cured tobacco allotment and quota next established for the farm of the lessor shall be reduced by the percentage which the leased allotment or quota was of the total Flue-cured tobacco allotment or quota for the farm. Notice of any determination made by the county committee under the preceding provision shall be mailed as soon as practicable to the lessee or lessor involved. If the lessee or lessor is dissatisfied with such determination, the lessee or lessor may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of this Act.".

(b) Effective for the 1984 and subsequent crops of tobacco, section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by inserting at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of law, any person who, on or after January 1, 1986, owns a farm for which a Flue-cured tobacco acreage allotment or marketing quota is established under this Act shall, subject to paragraph (2) of this subsection, forfeit such allotment or quota after February 15 of any year immediately following the last year of the three-year period immediately preceding the year for which the determination is being made in which Flue-cured tobacco has not been planted or considered planted on such farm during at least two years out of such three-year period.

"(2) The allotment or quota specified in paragraph (1) of this subsection shall be forfeited if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture specified in such paragraph exist. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in section 316(g)(1) of this Act) in the county involved.

"(3) Notice of any determination made by the county committee under paragraph (2) of this subsection shall be mailed, as soon as practicable, to the person involved. If such person is dissatisfied with such determination, such person may request, within fifteen days after notice of such determination is mailed, a review of such determination by a local review committee under section 363 of this Act.".

CONFORMING AMENDMENTS

SEC. 206. (a) Effective for the 1984 and subsequent crops of tobacco, section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended by striking out the second through the sixth sentences.

(b) Effective for the 1987 and subsequent crops of tobacco, section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b), as amended by subsection (a), is further amended by—

(1) in subsection (a), striking out paragraph (2);

(2) in subsection (e)(1), striking out "or, in the case of Flue-cured tobacco," and inserting in lieu thereof "or, in the case of the sale of Flue-cured tobacco acreage allotment or poundage quota,"; and

(3) in subsection (g)(2), striking out the second sentence.

MANDATORY SALE OF ALLOTMENTS AND QUOTAS BY NON-FARMING ENTITIES

SEC. 207. (a) Section 316A(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b-1(a)) is amended by—

(1) inserting after "individual" the following: ", any partnership, any family farm corporation, any trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or any educational institution that uses a Flue-cured acreage allotment or quota for instructional or demonstration purposes"; and

(2) striking out "1983" and inserting in lieu thereof "1984".

(b) Section 316B(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b-2(a)) is amended by—

(1) striking out clause (2) and inserting in lieu thereof "(2) does not use the land on the farm for agricultural purposes, or does not use its Burley marketing quota for educational, instructional, or demonstration purposes;";

(2) striking out "1983" and inserting in lieu thereof "1984"; and

(3) adding at the end thereof the following sentence: "Notwithstanding the foregoing provisions of this subsection, any person to whom this subsection, as in effect prior to the enactment of the Tobacco Adjustment Act of 1983, applies and who—

"(A) is required to sell or forfeit the marketing quota by December 1, 1983, because the person was not significantly involved in the management or use of the land for agricultural purposes, but

"(B) would be eligible to retain the marketing quota under this subsection, as amended by the Tobacco Adjustment Act of 1983,

may, if the person elects to do so, sell such person's marketing quota if a record of the transfer is filed with the county committee by February 1, 1984.".

FLUE-CURED MARKETING QUOTA ANNOUNCEMENT DATE

SEC. 208. Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by striking out "December 1" and "February 1" each time they appear in the first and sixth sentences and inserting in lieu thereof "December 15" and "March 1", respectively.

RESERVE FOR NEW FLUE-CURED TOBACCO GROWERS; FARM YIELD

SEC. 209. (a) The second sentence of section 317(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(e)) is amended by—

(1) striking out "1 per centum" and inserting in lieu thereof "3 per centum"; and

(2) inserting "(except that not less than two-thirds of such reserve shall be for new farms)" immediately before the period at the end thereof.

(b) The last sentence of section 317(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(e)) is amended by striking out the phrase ", and shall not exceed the community average yield".

DETERMINATION OF FLUE-CURED TOBACCO PLANTED ACREAGE

SEC. 210. Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c), as amended by section 205 of this Act, is further amended by adding at the end thereof the following new subsection:

"(l) The Secretary shall determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect under this section.".

LIMIT ON THE LEASE OF BURLEY QUOTA; PROHIBITION AGAINST FALL LEASING

SEC. 211. Effective for the 1984 and subsequent crops of tobacco, section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by striking out the third proviso and inserting in lieu thereof the following new provisos: "Provided further, That not more than fifteen thousand pounds of Burley tobacco quota may be leased and transferred to any farm under this section: Provided further, That a lease and transfer of Burley tobacco quota shall not be effective for any crop year unless a record of the transfer is filed with the county committee not later than July 1 of that crop year:".

COMBINATION OF FARMS WITH BURLEY QUOTA

SEC. 212. (a) Section 318(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(b)) is amended by inserting "except as provided in section 379(b) of this Act," immediately after "(1)".

(b) Section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379) is amended by—

(1) inserting "(a)" immediately after the section designation; and

(2) adding at the end thereof a new subsection as follows:

"(b) In any case in which two or more tracts of land are located in contiguous counties in the same State and are owned by the same person, the Secretary shall permit such tracts to be combined as one farm if (1) a Burley tobacco poundage quota is established for one or more of such tracts, and (2) the relevant county committees determine that such tracts will be operated as a single farming unit.".

IMPORTED TOBACCO

SEC. 213. (a) Notwithstanding any other provision of law—

(1) All tobacco offered for importation into the United States, except tobacco described in paragraph (2), shall be inspected, insofar as practicable, for grade and quality as tobacco marketed through a warehouse in the United States is inspected for grade and quality.

(2) Cigar tobacco and oriental tobacco (both as provided for in Schedule 1, Part 13, Tariff Schedules of the United States) offered for importation into the United States shall be accompanied by a certification by the importer, in such form as the Secretary of Agriculture may prescribe, stating the kind and type of such tobacco, and, in the case of cigar tobacco, that such tobacco will be used solely in the manufacture or production of cigars.

(b) The Secretary of Agriculture shall establish grade and quality standards for the purposes of subsection (a)(1) that are, insofar as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States.

(c) Any tobacco described in subsection (a)(2) that is not accompanied by the certification required by that subsection shall not be permitted entry into the United States. The provisions of section 1001 of title 18, United States Code, shall be applicable with respect to any certification made by an importer under such subsection.

(d) The Secretary of Agriculture shall enforce the provisions of subsection (a) at the point of entry of tobacco offered for importation into the United States. The Secretary shall by regulation fix and collect from the importer fees and charges for inspection under subsection (a)(1) which shall, as nearly as practicable, cover the costs of such services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The fees and charges, when collected, shall be credited to the current appropriation account that incurs the cost and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to providing services under subsection (a)(1).

TITLE III—DAIRY REPORTS AND OTHER PROVISIONS

DAIRY REPORTS

SEC. 301. The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the following reports:

(1) Not later than July 1, 1984, a report on the effect of applying, nationally, standards similar to the current California standards for fluid milk products in their final consumer form, as they would relate to—

(A) consumer acceptance, overall consumer consumption trends, and total per capita consumption;

(B) nutritional augmentation, particularly for young and older Americans;

(C) implementing improved interagency enforcement of minimum standards to prevent consumer fraud and deception;

(D) multiple component pricing for producer milk;

(E) reduced Commodity Credit Corporation purchases;

(F) consistency of product quality throughout the year and between marketing regions of the United States; and

(G) consumer prices.

(2) Not later than December 31, 1984, a report on (A) recommendations for changes in the application of the parity formula to milk so as to make the formula more consistent with modern production methods and with special attention to the cost of producing milk as a result of changes in productivity, and (B) the feasibility of imposing a limitation on the total amount of payments and other assistance a producer of milk may receive during a year under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)).

(3) Not later than April 15, 1985, a report on the effectiveness of the paid diversion program carried out under section 201(d) of the Agricultural Act of 1949.

(4) Not later than July 1, 1985, and July 1 of each year after the date of enactment of this title, an annual report describing activities conducted under the dairy products promotion and research order issued under subtitle B of title I of this Act, and accounting for the receipt and disbursement of all funds received by the National Dairy Promotion and Research Board under such order including an independent analysis of the effectiveness of the program.

BARTER OF DAIRY AND OTHER COMMODITIES

SEC. 302. (a) It is the sense of Congress that the Secretary of Agriculture should exchange or barter, to the maximum extent practicable under the provisions of law specified in subsection (b), commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries.

(b) The provisions of law referred to in subsection (a) are—

(1) section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)),

(2) section 310 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1692), and

(3) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431).

EMERGENCY FEED ASSISTANCE

SEC. 303. (a) As used in this section—

(1) the term "damaged corn" means corn that is classified as U.S. No. 4, U.S. No. 5, or U.S. Sample grade under section 810.353 of title 7 Code of Federal Regulations; and

(2) the term "eligible farmers and ranchers" means farmers and ranchers who are eligible to receive loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961).

(b) To assist eligible farmers and ranchers in areas that have been adversely affected by the drought, hot weather, or related disaster to preserve and maintain foundation herds of livestock and poultry (including their offspring), the Secretary of Agriculture shall make damaged corn held by the Commodity Credit Corporation available to such farmers and ranchers in accordance with section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

(c) In making damaged corn available to such farmers and ranchers under this section, the Secretary shall offer the damaged corn held by the Corporation at a price that is equal to 75 per centum of the current basic county loan rate for such corn in effect under the Agricultural Act of 1949 (or a comparable price if there is no such current basic county loan rate).

(d) The Secretary shall make damaged corn available for sale, as provided under this section, until September 30, 1984, or the date, as determined by the Secretary, on which any emergency created by the drought, hot weather, or related disaster no longer exists.

EGG INDUSTRY MARKETING ORDERS

SEC. 304. The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), re-enacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) striking out in the first sentence of section 8c(2) "poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs)," and inserting in lieu thereof "poultry (but not excepting turkeys and not excepting poultry which produce commercial eggs),"; and

(2) inserting in subsection (I) of section 8c(6) after the word "pecans," and before the word "avocados,", the word "eggs,".

SEPARABILITY

SEC. 305. Except as otherwise provided in this Act, if any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

Amend the title so as to read: "An Act to stabilize the supply and demand for dairy products, to make modifications in the tobacco production adjustment program, to provide emergency livestock feed assistance, and for other purposes.".

And the House agree to the same.

For all matters committed to conference except section 131 of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, Jr.,
CHARLES ROSE,
JIM WEAVER,
TOM HARKIN,
CHARLES WHITLEY,
TONY COELHO,
ROBERT LINDSAY THOMAS,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,
LARRY J. HOPKINS,
JOE SKEEN,

Exclusive conferees for section 131 of the Senate amendment and as additional conferees on section 213 of the Senate amendment:

SAM M. GIBBONS,
JIM JONES,
ED JENKINS,
GUY VANDER JAGT,
BILL FRENZEL,

Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
RUDY BOSCHWITZ,
WALTER D. HUDDLESTON,

PATRICK LEAHY,
EDWARD ZORINSKY,
JOHN MELCHER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 3385) to provide equity to cotton producers under the payment-in-kind program, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text. The House amendment to the Senate amendment struck out all of the Senate amendment and inserted a substitute text. The committee of conference recommends a substitute for both the Senate amendment and the House amendment to the Senate amendment.

Except for clarifying, clerical; and necessary conforming changes, the differences between the two Houses and the substitute agreed to in the conference are noted below:

SHORT TITLE

The *Senate* amendment provides that the Act may be cited as the "Dairy and Tobacco Adjustment Act of 1938".

The *House* amendment provides that the Act may be cited as the "Dairy Stabilization Act of 1983".

The *Conference* substitute adopts the *Senate* provision.

DAIRY STABILIZATION PROGRAM

(1) Dairy price support

The *Senate* amendment provides that, if on the date that is 15 months after the date of the beginning of the paid diversion program, but not later than March 31, 1985, the Secretary of Agriculture estimates that Commodity Credit Corporation net purchases for the next 12-month period will exceed 6 billion pounds milk equivalent, the Secretary may reduce the support price to $12.10 per hundredweight for milk containing 3.67 percent milkfat. (Sec. 102(a))

The *House* amendment provides that the adjustment could be made on April 1, 1985. (Sec. 102(a))

The *Conference* substitute adopts the *House* provision. (Sec. 102(a))

(2) Milk price reduction

The *Senate* amendment provides for a 50-cent per hundredweight reduction in the price received by producers for all milk marketed commercially during the period beginning with the first day of the first month after enactment of the bill and ending on the last day of the paid diversion program established under the bill. (Sec. 102(a))

The *House* amendment is the same except that it provides for the new 50-cent reduction to be effective for the 15-month period beginning on January 1, 1984. (Sec. 102)

The *Conference* substitute adopts the *Senate* provision with an amendment that provides for the 50-cent per hundredweight milk price reduction to terminate on March 31, 1985.

The conferees note that the primary purpose of this provision is regulation; that is, it is intended to reduce overproduction of milk. Further, the conferees firmly believe that this provision is an exercise of the commerce power of the Congress under the United States Constitution. (Sec. 102(a))

(3) Paid diversion program

(a) The *Senate* amendment requires the Secretary to implement a paid diversion program for dairy producers as soon as practicable after enactment of the bill but not later than January 1, 1984. (Sec. 102(a))

The *House* amendment is the same except that it does not require the beginning date for the 15-month milk production reduction period to be not later than January 1, 1984. (Sec. 102)

The *Conference* substitute adopts the *House* provision with an amendment providing that the Secretary shall offer to enter into diversion contracts with producers, at any time up to February 1, 1984, providing for a 15-month milk reduction period to begin on January 1, 1984, for all participating producers. (Sec. 102(a))

(b) The *Senate* amendment provides that, in setting the terms of diversion contracts with producers, the Secretary must take into account any adverse impact the reduction in milk production will have on beef and pork producers and take all feasible steps to minimize that impact. (Sec. 102(a))

The *House* amendment contains provisions that take into account any adverse impact the reduction in milk production may have on beef, pork, and poultry producers, as described in paragraphs (c) and (d) below.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the Secretary must take into account and take all feasible steps to minimize the adverse impact that the reduction in milk production will have on poultry producers, as well as on producers of beef and pork.

In setting the terms and conditions of diversion contracts under this provision, it is the understanding and intent of the conferees that the Secretary is authorized to provide in the contracts for an adjustment to be made in the level of milk production reduction, or for such other feasible steps to be taken, at any time during the 15-month period of the diversion contracts as is found to be necessary to minimize the adverse impact that the milk diversion program may have no beef, pork, and poultry producers. In addition to providing for some adjustment in the level of milk production reduction under the contracts, the Secretary could include in the contracts, among other feasible steps, a limitation on the amount of the milk production reduction that could be achieved through the sale of dairy cattle for slaughter and a requirement that a portion of the reduction be achieved through other means available to producers. (Sec. 102(a))

(c) The *House* amendment requires each producer who desires to participate in the paid diversion program, prior to entering into a diversion contract, to provide the Secretary with a plan that describes the manner in which the producer intends to achieve the required reduction in milk marketings. The plan must include an estimate of the amount of the reduction to be achieved through increased slaughter of dairy cattle (with the estimated number to be sold each month) and the amount to be achieved through other means, including a description of such means. Changes in such plan must be reported to the Secretary.

The *House* amendment also provides that if the Secretary determines, on the basis of information provided in connection with producer plans, that for any period of the diversion program there would be substantial hardship to producers of hogs, beef cattle, or dairy cattle sold for slaughter or to other livestock or poultry producers caused by depressed prices for such commodities resulting from increased slaughter of dairy cattle under the diversion program, the Secretary is required to adjust the required reductions in milk marketings under the diversion contracts to provide for the orderly marketing of dairy cattle for slaughter, or to limit the amount of the reduction that may be achieved through sale of dairy cattle for slaughter and require that the balance of the reduction be achieved through other means. If the Secretary specifies a reduction in marketings in any quarter that is less than the contracted-for percentage, the specified reduction may not be so great as to require the producer to make a reduction in excess of 150 percent of the contracted-for reduction in any succeeding quarter. After making any such adjustments, the aggregate reduction in milk marketed for the entire diversion period must continue to be at least equal to the total reduction required by the contract. (Sec. 102)

The *Senate* amendment contains no comparable provision except as described in paragraph (b) above.

The *Conference* substitute adopts that portion of the *House* provision that requires each producer desiring to enter into a diversion contract to submit to the Secretary a plan that describes how the producer intends to achieve the reduction and includes an estimate of the amount of reduction to be achieved through increased slaughter of dairy cattle, including an estimate of the number of dairy cattle to be sold by the producer for slaughter during each month of the contract.

The conferees note that in addition to the producer plan required under this provision, the Secretary is authorized, under other provisons of the bill, to require that producers keep such records and file reports as the Secretary determines necessary to carry out the program. Under this general authority, the Secretary could require producers, at any time after enactment of the bill, to provide information supplemental to the initial plan, such as information regarding (i) the number of dairy cattle being culled by the producer and any other means being used to accomplish the reduction in production, (ii) the effectiveness of the producer's plan for achieving the reduction, and (iii) any changes in the plan being made by the producer in order to carry out the contract.

The conferees further intend that the Secretary shall identify the number of dairy cattle being slaughtered during the 15-month diversion program and that the slaughter figures be compiled on a weekly basis, and reported regionally before the end of the following week. The Secretary should collect this data at the point of slaughter, through the use of Federal and State meat inspection personnel, meat packers, Agricultural Stabilization and Conservation Service personnel, and such other appropriate personnel as necessary. It is contemplated by the conferees that the Secretary will coordinate the collection and compilation of data on the slaughtering of dairy cattle with similar efforts being carried out by the Secretary in making estimates of cow slaughter numbers in order to comply with the provisions of the Meat Import Act of 1979.

Further, it is the intent of the conferees that following the producer diversion contract sign-up period provided for in the bill, the Secretary shall report to the public, on

the basis of the information received from producers, the anticipated number of dairy cows that will be culled under the diversion program. (Sec. 102(a))

(d) The *Senate* amendment authorizes the Secretary to modify diversion contracts entered into if the Secretary determines that an excessive reduction in milk production would result. If the contracts are so modified, the Secretary may reduce the required reduction among all contracts on such basis as the Secretary determines will reduce future dairy surpluses, except that no such reduction may be apportioned on the basis of geographic region or area. (Sec. 102(a))

The *House* amendment requires the Secretary to modify the required reduction in diversion contracts if the Secretary determines that as a result of such contracts (i) there would be an excessive reduction in milk production, (ii) during a period of 10 consecutive market days there has been a reduction of 10 percent or more in the average price received by producers for beef cattle sold for slaughter at representative locations in the prior 60-day period, or (iii) there has been other substantial hardship to producers of beef cattle, dairy cattle, hogs, or poultry sold for slaughter. The Secretary is authorized to modify the required reduction on a uniform basis among all contracts, or the Secretary may provide for adjustments on such other basic as deemed equitable. (Sec. 102)

The *Conference* substitute adopts the *Senate* provision with an amendment that expands the authority of the Secretary to modify diversion contracts entered into with producers if the Secretary determines there has been a substantial hardship to producers of beef cattle, dairy cattle, hogs, or poultry sold for slaughter. In addition, with respect to any modifications in the diversion contracts under this expanded authority, the amendment provides that (i) if the Secretary specifies a reduction in marketings in any quarter that is less than the contracted-for percentage, such modification may not be so great as to require the producer to make a reduction in excess of 150 percent of the contracted-for reduction in any succeeding quarter, and (ii) after making any such adjustments, except to the extent required under the provisions described in clause (i) above, the aggregate reduction in milk marketed for the entire diversion period must continue to be at least equal to the total reduction required by the contract. (Sec. 102(a))

(e) the *House* amendment provides that in order to minimize the adverse impact of the paid diversion program on beef and pork producers during the period the diversion program is in effect—

(i) the Secretary is to use, to the maximum extent practicable, section 32 funds and other funds available under the commodity distribution and other nutrition programs of the Department of Agriculture to increase the utilization of beef and pork;

(ii) the Secretary of Defense and other Federal and State agencies are encouraged to use increased quantities of beef and pork to meet the food needs of the programs that they administer; and

(iii) the Secretary is to take appropriate action to encourage the consumption of beef and pork by members of the public. (Sec. 103)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. In addition to the measures specified in the provision to increase the use of beef and pork, it is the intention of the conferees that similar efforts should be made by the Secretary and other Federal and State agencies to increase the use of poultry meat in Federal and State food programs and to help encourage increased public consumption of poultry. (Sec. 102(a))

(f) The *Senate* amendment provides that a producer's marketing history (base), for purposes of determining reduced milk production, will be the marketings of milk for commercial use by the producer during the 1981–1982 marketing year (October 1–September 30), or at the producer's option, the average of such marketings during the 1980–1981 and 1981–1982 marketing years. (Sec. 102(a)).

The *House* amendment provides that the base will be, at the producer's election, the producer's marketing of milk for commercial use for the period beginning in 1982 and ending in 1983 that corresponds to the months of the diversion contract, or the average marketings of milk for the period beginning in 1981 and ending in 1982 and the period beginning in 1982 and ending in 1983 that correspond to the months of the diversion contract. (Sec. 102)

The *Conference* substitute adopts the *Senate* provision with an amendment establishing the marketing history, for purposes of the diversion program, as the marketings of milk by a producer during calendar year 1982, or, at the option of the producer, the average marketings of milk during calendar years 1981 and 1982. To conform the 12-month marketing history period to the 15-month diversion contract, the amendment also provides that the producer's production during the January through March quarter of 1982 (or of 1981 and 1982 in the case of a producer who elects to average his production for the 2 years) will be counted by the Secretary as the base period production for both the first and the lst quarters of the contract period. (Sec. 102(a))

(g) The *Senate* amendment provides that to be eligible for the diversion program a producer may not sell, lease, or trnasfer any dairy cattle that could be used for milk production by the producer to any *person* after enactment of the bill, except sales for slaughter, sales or transfers to another producer participating in the diversion program, or, if the Secretary deems it consistent with the goals of the program, sales of purebred, breeding cattle if the producer has a history of such sales. (Sec. 102(a))

The *House* amendment provides that no dairy cattle that could be used by the producer may be sold, leased, or transferred to another *producer* for milk production purposes after the date of enactment of the bill, or such earlier date as determined by the Secretary, except for sales or transfers to a producer participating in the diversion program, or unless the Secretary determines that the sale or transfer does not impair the program. (Sec. 102)

The *Conference* substitute adopts the *Senate* provision with an amendment to establish November 8, 1983, as the date after which it is prohibited to sell, lease, or transfer dairy cattle to any person (other than registered breeding cattle and cattle sold for slaughter), except as permitted by the Secretary up to the date of enactment of the bill in order to further the purposes of the bill, and an amendment to expand the exception to the prohibition against the sale, lease, or transfer of dairy cattle to include sales or transfers that the Secretary determines will not impair the effectiveness of the milk diversion program. (Sec. 102(a))

(h) The *Senate* amendment authorizes the Secretary to use, on a reimbursable basis, Federal or State milk market administrators or State and county ASC committees to carry out the program. (Sec. 102(a))

The *House* amendment is the same except that it also allows the Secretary to use such offices on a nonreimbursable basis. (Sec. 102)

The *Conference* substitute authorizes the Secretary, in carrying out the dairy production stabilization provisions of the bill, to use the services of ASC committees and to enter into agreements, on a reimbursable or nonreimbursable basis, to use the services of Federal and State milk marketing administrators. (Sec. 102(a))

(i) The *Senate* amendment requires the Secretary to implement the dairy price support, price reduction, and paid diversion provisions of the bill without regard to the provisions of the Administrative Procedure Act or any Secretarial memorandum requiring notice and public participation in rulemaking proceedings. (Sec. 102(b))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 102(b))

DAIRY PROMOTION PROGRAM

(4) Executive Committee

The *Senate* amendment requires that a dairy production promotion and research order provide that the National Dairy Promotion and Research Board responsible for administering the order must appoint from its members an executive committee whose membership shall *equally* reflect each of the different regions in the United States in which milk is produced and, to the maximum extent practicable, the membership composition of the Board. (Sec. 113(b))

The *House* amendment is the same except that the executive committee membership is not required to reflect each of the different regions equally. (Sec. 204(b))

The *Conference* substitute adopts the *Senate* provision, with an amendment to delete the requirement that the executive committee, to the maximum extent practicable, reflect the membership composition of the Board. (See. 113(b))

(5) Assessment under the order

The *Senate* amendment requires that the order provide that each person making payment to producers for milk produced in the United States and purchased from the producer must collect an assessment, in the manner as prescribed by the order, at a rate of 15 cents per hundredweight based upon the number of hundredweights of milk for commercial use handled for the account of the producer and remit the assessment to the Board. A milk producer can receive credit of up to 10 cents per hundredweight of milk marketed for proven contributions to active, ongoing qualified State or regional dairy product promotion or nutrition education programs intended to increase consumption of milk and dairy products generally. (Sec. 113(g))

The *House* amendment is the same except that it also authorizes credit against the assessment for any such contributions to a State or regional dairy product promotion or nutrition education program up to the aggregate rate in effect on the date of enactment of the bill (but not to exceed 15 cents per hundredweight of milk marketed) if the aggregate rate exceeds 10 cents per hundredweight of milk marketed. (Sec. 204(g))

The *Conference* substitute adopts the *House* provision with an amendment to terminate 6 months after the date of enactment of the bill the authority to credit against the assessment any contribution to a State or regional dairy product promotion or nutrition education program in excess of 10 cents per hundredweight of milk marketed up to the rate in effect on the date of enactment of the bill (but not to exceed 15 cents per hundredweight). (Sec. 113(g))

(6) Suspension and termination of orders

The *Senate* amendment provides that if in a referendum held after September 30, 1985, a majority of producers vote in support of termination or suspension of the order, the Secretary must suspend or terminate the order and collection of assessments under the order within 6 months. (Sec. 116(b))

The *House* amendment is the same except that it requires that collection of the assessment be terminated or suspended within 6 months after the order is disapproved in a referendum but does not specify the time period thereafter for termination or suspension of the order. (Sec. 207(b))

The *Conference* substitute adopts the *House* provision with an amendment providing for termination of an order in an orderly manner as soon as practicable after the order is disapproved in a referendum. (Sec. 116(b))

TOBACCO ADJUSTMENT ACT OF 1983

(7) Price support adjustments

(a) The *Senate* amendment makes a number of changes in the price support program for certain kinds of tobacco. The amendment would—

(i) Freeze the price support level for the 1984 crop of Flue-cured tobacco at the 1982 support level.

(ii) Freeze the price support level for the 1985 crop of Flue-cured tobacco at the 1982 support level if the 1985 support level would not be more than 5 percent greater than the 1984 support level as determined under the regular formula (without any adjustment). If the 1985 support level would be more than 5 percent greater than the 1984 level, as determined under the regular formula (without any adjustment), the price support level for the 1985 crop would be determined under the current provisions of law. In that case, the actual support level for 1985 would be the level for the 1982 crop, plus or minus the difference between the 1985 and 1984 support levels as determined under current law.

(iii) Require the Secretary of Agriculture for the 1984 and 1985 crops of Burley and other quota tobacco (except Flue-cured tobacco), to establish price support levels for each of such crops at levels that will not narrow the normal price support differential between Flue-cured and such other kind of tobacco. Before establishing such levels the Secretary must give notice of the proposed levels, receive public comment on the notice, and take into consideration the costs of producing such other kind of tobacco, supply and demand conditions, public comments received, and such other relevant factors as the Secretary determines appropriate.

(iv) Provide that for the 1986 and each subsequent crop of quota tobacco, the support level shall be the level for the immediately preceding crop, plus or minus the difference between the level for the year being determined and the immediately preceding year as determined under the regular formula, as may be adjusted by the Secretary under current law. (Sec. 202)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the provision requiring the Secretary of Agriculture for the 1984 and 1985 crops of Burley and other quota tobacco (except Flue-cured tobacco) to establish price support levels for such crops at levels that will not narrow the normal price support differential between Flue-cured tobacco and such other kind of tobacco will only apply to the 1984 crop of Burley tobacco. (Sec. 202).

(b) The *Senate* amendment authorizes the Secretary, if requested by the board of directors of the association through which price support for Flue-cured tobacco is made available to producers, (i) to designate for any crop certain grades of Flue-cured tobacco that are eligible for price support (but representing in the aggregate not more than 25 percent of the total quantity of the Flue-cured crop that the Secretary estimates will be produced) that the Secretary determines are of such quantity or quality as to impair their marketability, and (ii) without regard to maintaining the weighted average of the support rates for eligible grades of Flue-cured tobacco, to reduce further the support rates for such grades to the extent the Secretary deems necessary to reflect their market value, but in no event by more than 12 percent of the respective support rates that would otherwise be established. (Sec. 202)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that any reduction in support rates for grades of Flue-cured tobacco under this provision is not to be cumulative and is not to be considered in determining the support levels for subsequent years. In carrying out this provision, the conferees urge the Secretary to consult with associations through which price support is made available for tobacco other than Flue-cured tobacco and to consider their views before making reductions in support rates under this provision. The conferees also urge the association through which price support is made available to producers of Flue-cured tobacco and the Secretary, as the case maybe, to notify in writing the House and Senate agriculture committees of any request or other determination or decision under this provision as soon as possible after it is made but in any event sufficiently before the effective date of any regulation implementing the request, determination, or decision to give the committees adequate notice.

The conferees expect that the Secretary, in making any reductions under this provision in the support rates for Flue-cured tobacco, will take into consideration the effect of such reduction on the marketing of other kinds of tobacco. (Sec. 202)

(8) Elimination of double assessment; use of fund

(a) The *Senate* amendment deletes, beginning with the 1984 crop, the so-called "double assessment" that requires the lessor (in addition to the lessee) of a Flue-cured tobacco allotment or quota to contribute to the no net cost tobacco fund. (Sec. 203(1))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 203(1))

(b) The *Senate* amendment specifies that use by an association (through which price support is made available to producers) of moneys in the no net cost tobacco fund administered by such association for the purposes of reducing the association's outstanding indebtedness to the Commodity Credit Corporation for 1982 and subsequent crops of tobacco and making loan advances to producers is an authorized use, and use of such moneys for other purposes that would be mutually beneficial to producers and CCC would be considered an appropriate use of such funds if approved by the Secretary. (Sec. 203(2))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 203(2))

(9) No net cost tobacco account—Flue-cured tobacco

The *Senate* amendment permits an association carrying out the price support program for Flue-cured tobacco to request the Secretary to establish a no net cost tobacco *account* in the Commodity Credit Corporation to which producer assessments would be paid to assure a no net cost program in lieu of a no net cost tobacco *fund* in the association.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 204)

(10) Lease and transfer of Flue-cured tobacco allotments and quotas

(a) The *Senate* amendment eliminates, beginning with the 1987 crop, lease and transfer of Flue-cured tobacco allotments and quotas off the farm to which assigned. During the interim period, lease and transfer would be permitted only if both parties to the lease file a copy of the lease and a written statement with the ASC county committee where the farms are located certifying that none of the consideration for the lease has been or will be paid to the lessor, either directly or indirectly in any farm, prior to the marketing of the tobacco produced under the lease. In the case of a knowing false statement in the certification by the lessee, the lease agreement for purposes of the marketing quota program would be considered null and void. In the case of a knowing false statement by the lessor, the Flue-cured tobacco allotment and quota established for the lessor's farm for the next year would be proportionately reduced. (Sec. 205(a))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the restrictions in the provision with regard to lease and transfer shall not be applicable to the 1984 crop of Flue-cured tobacco.

The conferees urge the Secretary to conduct a study of the effects of the termination of the lease and transfer of Flue-cured tobacco allotments and quotas. Such a study should include the effects of such termination on tobacco growers, other segments of the tobacco industry, and regions where the tobacco is produced. The Secretary is urged to complete such a study and provide a report to the House and Senate agriculture committees at least 6 months before the termination of lease and transfer. (Sec. 205(a))

(b) The *Senate* amendment directs the Secretary to issue rules requiring that the consideration for any rental of Flue-cured tobacco acreage allotments and quotas be paid only in the fall. (Sec. 205(a))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing for fall payment of rental of Flue-cured tobacco allotments and quotas insofar as reasonably practicable and making such provision applicable beginning with the 1985 crop of Flue-cured tobacco. (Sec. 205(a))

(c) The *Senate* amendment directs the Secretary to issue rules requiring that any seller of a Flue-cured tobacco allotment and quota must give the buyer an option to make payment in equal annual installments payable each fall for a period not to exceed 5 years from the year in which the sale is made. (Sec. 205(a))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 205(a))

(11) Forfeiture of Flue-cured tobacco allotments and quotas

The *Senate* amendment, beginning January 1, 1986, requires forfeiture of any Flue-cured allotment or quota assigned to a farm on which Flue-cured tobacco has not been planted or considered planted during at least 2 years in the most recent 3-year period. Forfeited allotment or quota would be reallocated by the county ASC committee for use by active Flue-cured tobacco producers in the county involved. (Sec. 205(b))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 205(b))

(12) Mandatory sale of allotments and quotas by nonfarming entities

(a) The *Senate* amendment extends from December 1, 1983, to December 1, 1984, the date by which nonfarming entities must sell their Flue-cured and Burley tobacco allotments and quotas. (Sec. 207)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 207)

(b) The *Senate* amendment also modifies the mandatory sale provisions so that they do not apply to farms where the land is being used for agricultural purposes. (Sec. 207)

The *House* amendment contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision but deletes the provision with respect to Flue-cured tobacco and revises the exemption from the provision in current law to include, in addition to any individual, any partnership, family farm corporation, trust, estate or similar fiduciary account with respect to which the beneficial interest is in one or more individuals, or an educational institution that uses a Flue-cured tobacco acreage allotment or quota for instructional or demonstration purposes. The conferees' action would leave in place the substantive requirements of current law governing mandatory sales of Flue-cured tobacco allotments and quotas, while clarifying the listing of those who would not be subject to the requirements.

The *Conference* substitute also exempts from the provision relating to mandatory sale of Burley tobacco quota any quota used for instructional, educational, or demonstration purposes. The conferees understand that this would include Future Farmers of America chapters that use the quota to grow tobacco for educational, instructional, or demonstration purposes.

The *Conference* substitute also permits a person who owns a Burley tobacco quota and who would have been required to sell or forfeit the quota under the provisions of current law to sell the quota if a record of the transfer is filed with the county committee by February 1, 1984. (Sec. 207(b))

(13) Flue-cured tobacco marketing quota announcement date

The *Senate* amendment changes the date for announcing the national marketing quota and related determinations for Flue-cured tobacco from December 1 to December 15. The announcement date for other kinds of tobacco under an acreage-poundage program would be changed from February 1 to March 1. (Sec. 208)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 208)

(14) Reserve for new Flue-cured tobacco growers; farm yield

(a) The *Senate* amendment increases from 1 percent to 3 percent the portion of the national acreage allotment for Flue-cured tobacco that may be set aside in each marketing year for which acreage-poundage quotas are in effect as a reserve for the purpose of making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms. Not less than two-thirds of such reserve must be for new farms. (Sec. 209(a))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 209(a))

(b) The *Senate* amendment deletes the requirement that the farm yield for any farm for which a new farm acreage allotment is established under section 317 of the Agricultural Adjustment Act of 1938 may not exceed the community average yield. (Sec. 209(b))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 209(b))

(15) Determination of Flue-cured tobacco planted acreage

The *Senate* amendment requires the Secretary to determine the acreage planted to Flue-cured tobacco on each farm whenever an acreage-poundage program for Flue-cured tobacco is in effect. (Sec. 210)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 210)

(16) Limit on the lease of Burley quota; prohibition against fall leasing

(a) The *Senate* amendment reduces from 30,000 pounds to 15,000 pounds the amount of Burley tobacco quota that may be leased and transferred to any farm. (Sec. 211)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 211)

(b) The *Senate* amendment provides that a lease and transfer of Burley tobacco quota will not be effective for any crop year unless a record of the transfer is filed with the county ASC committee not later than July 1 of that crop year. (Sec. 211)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 211)

(17) Combination of farms with Burley quota

The *Senate* amendment modifies the prohibition against the lease and transfer of Burley tobacco quota across county lines so as to permit the Secretary to combine as one farm tracts of land in contiguous counties in the same State that are owned and operated by a producer as a single unit. (Sec. 212)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 212)

(18) Imported tobacco

The *Senate* amendment requires that all imported tobacco (a) be inspected for grade and quality in the same manner as tobacco marketed through a warehouse in the United States and (b) be accompanied by a written certification that no pesticide the registration of which has been canceled or suspended for use on tobacco in the United States under the Federal Insecticide, Fungicide, and Rodenticide Act has been used in the production of the imported tobacco. The Secretary of Agriculture is required to enforce these provisions at the point of entry of the tobacco. The Secretary is also required to establish grade and quality standards for the purposes of this provision that are, insofar as practicable, the same as those applicable to tobacco marketed through a warehouse in the United States and to fix and collect from the importer fees and charges for the grade and quality inspections that will cover the costs of such services. Tobacco not accompanied by the required certification may not be entered, and the false statement provisions of the Federal criminal code (18 U.S.C. 1001) are expressly made applicable to such certifications. (Sec. 213.)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments (i) substituting, with respect to imported cigar and oriental tobacco, for the requirement for inspection for grade and quality, a requirement that such tobacco be accompanied by a certification by the importer stating the kind and type of such tobacco, and in the case of cigar tobacco, that the tobacco will be used solely in the production or manufacture of cigars; (ii) with respect to the inspection of other tobacco, adding that the Secretary's duty to perform the inspection for grade and quality as tobacco marketed in the United States through auction warehouses is inspected shall be "insofar as practicable"; and (iii) deleting the requirement that imported tobacco be accompanied by a certification relating to pesticides.

The conferees note that approximately 95 percent of the tobacco marketed in the United States is inspected for grade and quality. However, the conferees recognize that tobacco offered for importation into the United States may be in a form, or packed in a manner, that differs from that customarily utilized for domestic tobacco marketed through warehouses in the United States. The conferees expect the Secretary to take these differences into account in carrying out his responsibilities under the *Conference* substitute. The inspection of imported tobacco is to be carried out in a manner which is reasonably fashioned to ascertain the grade and quality of the tobacco, but which does not place an undue burden on the inspection service or impede the expeditious movement of the commodity in commerce. The difference referred to above likewise must be taken into consideration in establishing grade and quality standards for imported tobacco. That is why the Conference Report modifies, with the term "inso-

far as practicable", the Secretary's duty to inspect imported tobacco and to establish such standards. In this regard, the conferees emphasize that the Secretary is to use all reasonable means available to him to perform inspection of imported tobacco similar but certainly not identical, to that employed in the United States for domestic tobacco. If, however, the Secretary finds that a physical inspection (that is, for example, opening each hogshead of tobacco) is not practicable in all instances, he might provide for acceptance of certifications from importers stating the amount, kind, and quality of the tobacco so long as a system is developed to verify such certifications. However, the conferees do not intend this to be the primary means of carrying out this provision. While the conferees intend that the Secretary have sufficient flexibility, under the statutory directives, to design a system to accomplish the purposes of this provision in the least burdensome and costly fashion practicable, the conferees make clear that they intend that the system ensure the reliability and accuracy of information on tobacco trade collected for use by the Congress in overseeing the No Net Cost Tobacco Program and for enhancing the effectiveness of customs operations, including the "drawback" provisions, and other government activities relating to tobacco.

DAIRY REPORTS AND OTHER PROVISIONS

(19) Dairy reports

(a) The *Senate* amendment requires the Secretary to submit to the House and Senate agriculture committees not later than July 1, 1984, a report on the impact of applying nationally standards similar to the current California standards for fluid milk products in their final consumer form. This report should include an analysis of such impact relative to: overall consumption trends, total per capita consumption, nutritional augmentation (particularly for young and older Americans), implementing improved interagency enforcement of minimum standards to prevent consumer fraud and deception, multiple component pricing for producer milk, reduced Commodity Credit Corporation purchases, consistency of product quality throughout the year and between marketing regions of the United States, and consumer prices. (Sec. 130)

The *House* amendment is similar except that it provides for the report on applying nationally the California standards for fluid milk to include information only on consumer acceptance, the sales price of the product, and product utilization. (Sec. 301(2))

The *Conference* substitute adopts the *Senate* provision with an amendment adding "consumer acceptance" to the factors to be analyzed in the report. (Sec. 301(1))

(b) The *Senate* amendment provides that not later than December 31, 1984, the Secretary must submit, to the House and Senate agriculture committees, a report on the feasibility of applying a payment limitation on payments to dairy producers under the bill. (Sec. 103(a))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees intend that the Secretary submit the report to the House and Senate agriculture committees as expeditiously as possible. (Sec. 301(2))

(c) The *Senate* amendment provides that within 6 months after enactment of the bill the Secretary must (i) review all milk marketing orders and related regulations that have not been reviewed within the previous 10 years, (ii) revise such orders and regulations as necessary in light of the review, and (iii) report to the House and Senate agriculture committees on this review and any revisions. (Sec. 103(b))

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. The conferees urge the Secretary, however, to submit as expeditiously as possible to the House and Senate agriculture committees the comprehensive dairy program operations report required under section 107 of the Agriculture and Food Act of 1981, which among other things, includes a review of milk marketing orders.

(20) Barter of dairy and other commodities

The *Senate* amendment expresses the sense of Congress that the Secretary of Agriculture should barter, to the maximum extent practicable under existing provisions of law, commodities (especially dairy products) owned by the Commodity Credit Corporation for materials, goods, and equipment produced in foreign countries. The provisions of law referred to in the *Senate* amendment are section 4(h) of the Commodity Credit Corporation Charter Act, section 310 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), and section 416 of the Agricultural Act of 1949. (Sec. 124)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 302)

(21) Meat import act amendment

The *Senate* amendment suspends for 1984 and 1985 the minimum limitation of 1,250,000,000 pounds which may be imposed under the Meat Import Act of 1979 on the aggregate quantity of meat articles entered during any calendar year. (Sec. 131)

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(22) Emergency feed assistance

(a) The *Senate* amendment directs the Secretary of Agriculture to make Commodity Credit Corporation stocks of No. 4, No. 5, or Sample grade corn available to farmers and ranchers who (i) are in areas adversely affected by the drought, (ii) are eligible to receive Farmers Home Administration emergency disaster loans, and (iii) are unable to obtain sufficient feed through normal channels of trade without undue financial hardship. The assistance would be made available to assist farmers and ranchers to preserve and maintain foundation herds of livestock and poultry (including their offspring) and secondary livestock. The corn would be made available at a price equal to 75 percent of the current basic county loan rate (or a comparable price if there is no such rate) until September 30, 1984, or the date the Secretary determines that any drought or related emergency no longer exists. (Sec. 302(a)-(d))

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to delete the application of the provision to secondary livestock. In addition, the conferees urge the Secretary to use his authority under section 813 of the Agricultural Act of 1970 to make the disaster reserve of 75 million bushels of grain available on the same terms and conditions and subject to the same restrictions as specified for the No. 4, No. 5, or sample grade corn made available as emergency feed assistance under the *Conference* substitute. The Secretary is also urged to provide for the furnishing of feed or mixed feed by local feed dealers to farmers or ranchers in accordance with this legislation under an arrangement whereby the feed grains in the feed so furnished would be replaced with feed owned or controlled by Commodity Credit Corporation. This would allow farmers and ranchers, in areas where the Corporation's grain is not readily available, to obtain immediate assistance from the feed dealer who would use his own feed grain inventory, which would be replaced at a later date by government stocks. (Sec. 303)

(b) The *Senate* amendment would amend section 407 of the Agricultural Act of 1949, effective from the date of enactment of the bill through September 30, 1984, to extend the authority under that section for the Corporation to provide emergency feed assistance for purposes of maintaining foundation herds of cattle, sheep, goats, and their offspring to include secondary livestock as well. (Sec. 302(e))

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(23) Egg industry marketing orders

The *Senate* amendment makes eggs, and poultry which produce commercial eggs, eligible for a marketing order under the Agricultural Adjustment Act as amended by the Agricultural Marketing Agreement Act of 1937. (Under the Act, an order for these commodities may (i) limit the marketing in the commodity by grade, size, quality, or quantity, (ii) allot the amount, or grade, size or quality that a handler may purchase from or handle on behalf of producers during any specified period or that a handler may market in commerce, (iii) provide for the control and disposition of any surplus of the commodity or any grade, size, or quality, (iv) establish reserve pools, and (v) require inspection of commodities produced during specified periods and marketed by handlers.) The *Senate* amendment also authorizes issuance of an order to provide for production and marketing research and development projects and for marketing promotion, including paid advertising for eggs. (NOTE: An egg research and promotion order is currently in effect under the Egg Research and Consumer Information Act.) (Sec. 402)

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 304)

For all matters committed to conference except section 131 of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
ED JONES,
GEORGE E. BROWN, JR.,
CHARLES ROSE,
JIM WEAVER,
TOM HARKIN,
CHARLES WHITLEY,
TONY COELHO,
ROBERT LINDSAY THOMAS,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,
LARRY J. HOPKINS,
JOE SKEEN,

Exclusive conferees for section 131 of the Senate amendment and as additional con-

ferees on section 213 of the Senate amendment:

SAM M. GIBBONS,
JIM JONES,
ED JENKINS,
GUY VANDER JAGT,
BILL FRENZEL,
Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
RICHARD G. LUGAR,
THAD COCHRAN,
RUDY BOSCHWITZ,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
EDWARD ZORINSKY,
JOHN MELCHER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today, prior to 3 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. GREEN, for 5 minutes, today.
Mr. LOTT, for 20 minutes, today.
Mr. MARRIOTT, for 15 minutes, today.
Mr. BILIRAKIS, for 60 minutes, on November 17.
Mr. BILIRAKIS, for 60 minutes, on November 18.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. KOSTMAYER, for 5 minutes, today.
Mr. ANTHONY, for 5 minutes, today.
Mr. WEAVER, for 30 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.
Mr. MILLER of California, for 10 minutes, today.

(The following Member (at the request of Mr. GAYDOS) to revise and extend his remarks and include extraneous material:)

Mr. PEPPER, for 60 minutes, on November 17 and 18.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. ROTH.
Mr. GEKAS.
Mr. REGULA.
Mr. PURSELL.
Mr. MARTIN of North Carolina in two instances.
Mr. BROOMFIELD.
Mr. CHENEY.
Mr. PAUL.
Mr. GINGRICH.
Mr. WOLF in two instances.
Mr. DANIEL B. CRANE.
Mr. GILMAN in two instances.
Mr. KEMP.
Mr. CONTE.
Mr. LEWIS of Florida.
Mr. LOWERY of California.
Mr. BOEHLERT.
Mrs. ROUKEMA in two instances.
Mr. MARLENEE.
Mr. GRADISON.
Mr. MICHEL in two instances.
Mr. MCGRATH.
Mr. RITTER.
Mr. LEACH of Iowa.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. D'AMOURS in two instances.
Mr. SMITH of Florida in eight instances.
Mr. JACOBS in two instances.
Mr. WISE.
Mr. ERDREICH.
Mr. LIPINSKI.
Mr. FORD of Michigan.
Mr. STARK in three instances.
Mr. STUDDS.
Mr. IRELAND.
Mr. HAMILTON.
Mr. LANTOS.
Mr. HEFTEL of Hawaii.
Mr. RUSSO.
Mrs. SCHROEDER.
Mr. STOKES.
Mr. FAUNTROY.
Mr. FOWLER.
Mr. SWIFT.
Mr. LEVITAS in two instances.
Ms. KAPTUR.
Mr. MINETA.
Mr. MARTINEZ.
Mr. FLORIO.
Mr. CONYERS in three instances.
Mr. YATRON.
Mr. WIRTH.
Mr. CLAY.
Mr. BERMAN.
Mr. GUARINI.
Mr. FEIGHAN.
Mr. OTTINGER in three instances.
Mr. BROWN of California.
Mr. WAXMAN.
Mr. TORRES.
Mr. TRAXLER.
Mr. SCHUMER.
Mr. ROWLAND.
Mr. MORRISON of Connecticut.
Ms. FERRARO.
Mr. RICHARDSON.
Mr. APPLEGATE.
Mr. ADDABBO.
Mr. WEISS.
Mr. MILLER of California in two instances.
Ms. OAKAR.
Mr. KOGOVSEK.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 338. An act to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes; to the Committee on Armed Services and the Committee on Government Operations.

S. 912. An act to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Public Works and Transportation.

S.J. Res. 199. Joint resolution relating to improving the highway transportation system of the Commonwealth of Virginia; to the Committee on Public Works and Transportation.

S. Con. Res. 70. Concurrent resolution expressing the sense of the Congress regarding actions the President should take to commemorate the anniversary of the Ukrainian famine of 1932-33; to the Committee on Foreign Affairs and the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 376. An act to amend the Debt Collection Act of 1982 to eliminate the requirement that contracts for collection services to recover indebtedness owed the United States be effective only to the extent and in the amount provided in advance appropriations Acts;

S. 807. An act to amend the boundaries of the Cumberland Island National Seashore; and

S. 1168. An act to declare that the United States holds certain lands in trust for the Kaw Tribe of Oklahoma.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 594. An act to amend section 1 of the act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible;

H.R. 726. An act for the relief of James A. Ferguson;

H.R. 3222. An act making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30,1984, and for other purposes; and

H.J. Res. 168. Joint Resolution to designate the week beginning May 27, 1984, as "National Tourism Week."

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 50 minutes p.m.) the House adjourned until tomorrow, Thursday, November 17, 1983, at 10 a.m.

EXECUTIVE COMMUNICIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2144. A letter from the Deputy Assistant Secretary of Defense, transmitting a report on the Selected Reserve recruiting and retention incentives through June 30, 1983, pursuant to 37 U.S.C. 308c(e); to the Committee on Armed Services.

2145. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the Air Force's decision to convert contractor performance the administrative telephone switchboard operations function at Eglin Air Force Base, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

2146. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the Air Force's decision to convert to contractor performance the administrative telephone switchboard operations function at Patrick Air Force Base, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

2147. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations for fiscal year 1984, and for other purposes; to the Committee on Armed Services.

2148. A letter from the Comptroller General of the United States transmitting a report on the progress in improving program and budget information for congressional use (GAO/OACG-84-2; November 8, 1983); to the Committee on Government Operations.

2149. A letter from the Assistant Secretary of the Interior, transmitting the 12th annual report on the operation of the Colorado River for the reservoirs in the Colorado River Basin during water year 1982, and a projected plan of operation of water year 1983, pursuant to section 602(b) of the Public Law 90-537; to the Committee on Interior and Insular Affairs.

2150. A letter from the Attorney General of the United States, transmitting the sixth annual report of the Department of Justice on the implementation of the Parental Kidnaping Prevention Act of 1980, pursuant to section 10(b) of Public Law 96-611; to the Committee on the Judiciary.

2151. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the fourth annual report of the Board's activities covering calendar year 1982, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

2152. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to establish in the Department of Transportation a working group on National Uniform State Regulation of Interstate Motor Carriers, and for other purposes; to the Committee on Public Works and Transportation.

2153. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Cache Creek Basin, Calif., together with other pertinent reports (H. Doc. No. 98-134); to the Committee on Public Works and Transportation and ordered to be printed.

2154. A letter from the Comptroller General of the United States, transmitting a report on the legislative changes needed to financially strengthen the single employer pension plan insurance program; jointly, to the Committee on Government Operations, Education and Labor, and Ways and Means.

H3REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government operations. Report on Postal Service electronic mail: The price *STILL* isn't right (Rept. No. 98-552). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 375. Resolution providing for the consideration of H.R. 555, a bill to amend the Federal Power Act to limit the recovery by public utilities of certain costs of construction work in progress through rate increases. (Rept. No. 98-553). Referred to the House Calendar.

Mr. GAYDOS. Committee on House Administration. House Resolution, 356. Resolution authorizing the printing of a collection of statements in tribute to the late Representative James A. Burke (Rept. No. 98-554). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 376. Resolution providing for the consideration of H.R 4170, a bill to provide for tax reform, and for other purposes (Rept. No. 98-555). Referred to the House Calendar

Mr. DE LA GARZA: Committee of conference. Conference report on H.R. 3385 (Rept. No. 98-556). Ordered to be printed.

H2PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. SHELBY (for himself, Mr. PASHAYAN, Mr. COELHO, Mr. MOORHEAD, Mr. BEVILL, Mr. EDWARDS of Alabama, Mr. DOWDY of Mississippi, Mr. SHUMWAY, Mr. CARR, Mrs. BOXER, Mr. BOSCO, Mr. HAWKINS, Mr. MARTINEZ, Mr. PANETTA, Mr. HARTNETT, Mr. CHAPPIE, Mr. DREIER of California, Mr. DIXON, Mrs. VUCANOVICH, Mr. BONIOR of Michigan, Mr. NIELSON of Utah, Mr. FLIPPO, Mr. FAZIO, Mr. LEWIS of California, Mr. ROYBAL, Mr. CRAIG, Mr. DAVIS, Mr. DYMALLY, Mr. BARNARD, Mr. ERDREICH, Mr. LEVINE of California, Mr. LEHMAN of California, Mr. LOTT, Mr. WAXMAN, Mr. PATTERSON, Mr. ALBOSTA, Mr. LAGOMARSINO, Mr. REID, Mr. BERMAN, Mr. BADHAM, Mr. ANDERSON, Mr. TORRES, Mr. LOWERY of California, Mr. TRAXLER, and Mr. THOMAS of California):

H.R. 4402. A bill to amend the Federal Power Act to provide for more protection to electric consumers; to the Committee on Energy and Commerce.

By Mr. BIAGGI:

H.R. 4403. A bill to name the U.S. Court of International Trade at 1 Federal Plaza, New York, N.Y., the "Paul P. Rao United States Court of International Trade;" to the Committee on Public Works and Transportation.

By Mr. D'AMOURS (for himself, Mr. CONTE, Mr. MARKEY, Mr. BOLAND, Mr. DONNELLY, Mr. EARLY, Mr. FRANK, Mr. GEJDENSON, Mr. GREGG, Mr. JEFFORDS, Mrs. JOHNSON, Mrs. KENNELLY, Mr. MCKERNAN, Mr. MCKINNEY, Mr. MAVROULES, Mr. MOAKLEY, Mr. MORRISON of Connecticut, Mr. RATCHFORD, Mr. ST GERMAIN, Mrs. SCHNEIDER, Mr. SHANNON, and Mr. STUDDS):

H.R. 4404. A bill to amend the Clean Air Act to control certain sources of sulfur dioxides and nitrogen oxides to reduce acid deposition and for other purposes; to the Committee on Energy and Commerce.

By Mr. CARNEY:

H.R. 4405. A bill to require the disposal of certain lands at Montauk Air Force Station, East Hampton Township, N.Y., for park and recreation purposes; to the Committee on Government Operations.

By Mr. D'AMOURS:

H.R. 4406. A bill to amend the Wild and Scenic Rivers Act to designate Wildcat Brook in the State of New Hampshire for potential addition to the national wild and scenic rivers system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. FIEDLER:

H.R. 4407. A bill to enforce the fourteenth article of amendment to the Constitution with respect to certain law enforcement misconduct by providing a substitute remedy for the existing remedy of exclusion of evidence, and for other purposes; to the Committee on the Judicary.

H.R. 4408. A bill to amend title 18 of the United States Code to waive sovereign immunity and create a cause of action with respect to gross negligence in granting Federal parole; to the Committee on the Judiciary.

H.R. 4409. A bill to amend section 2254 to title 28 of the United States Code to limit release of State prisoners by Federal courts pending Federal habeas corpus consideration; to the Committee on the Judiciary.

H.R. 4410. A bill to amend section 2254 of title 28 of the United States Code to provide for conclusive rebuttal of certain allegations made by applicants for Federal habeas corpus if the record of State proceedings contradicts such allegations to the Committee on the Judiciary.

H.R. 4411. A bill to amend section 2254 of title 28 of the United States Code to limit Federal habeas corpus proceedings based on State convictions in certain cases where State courts remedies may not be properly exhausted; to the Committee on the Judiciary.

H.R. 4412. A bill to amend section 1979 of the Revised Statutes of the United States to limit the use of civil actions under that section to review the conditions of imprisonment of State and local prisoners; to the Committee on the Judiciary.

By Mr. FORD of Michigan:

H.R. 4413. A bill to require that migrant education programs and the equity training and technical assistance programs be conducted by offices under the supervision of the Assistant Secretary for Elementary and Secondary Education and that the women's educational equity programs be conducted by an office under the supervision of the Assistant Secretary for Educational Research and Improvement, and for other purposes; to the Committee on Education and Labor.

By Mr. FRANK:

H.R. 4414. A bill to amend the National Housing Act to provide an opportunity for a hearing prior to a determination by the Secretary of Housing and Urban Development to preempt any State or local rent regulation with respect to unsubsidized rental housing insured under such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FUQUA:

H.R. 4415. A bill to establish a program to conduct research and development for improved manufacturing technologies, and for other purposes; to the Committee on Science and Technology.

By Mr. GREEN:

H.R. 4416. A bill to extend the Superfund legislation through the fiscal year 1990, and for other purposes; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Ways and Means.

By Mr. SAM B. HALL, JR.:

H.R. 4417. A bill to amend title 5, United States Code, to allow for the equitable waiver of certain claims against employees in the judicial branch; to the Committee on the Judiciary.

By Mr. LIPINSKI:

H.R. 4418. A bill to amend the Merchant Marine Act of 1936 to provide the Government generated cargoes transported on U.S.-flag or foreign vessels shall be shipped at the lowest cost, and whenever possible at the lowest landed cost, and that the transport of such cargoes shall be subject to a competitive bidding system; to the Committee on Merchant Marine and Fisheries.

By Mr. LOWRY of Washington:

H.R. 4419. A bill to provide for the transmission to the Congress, by the Secretary of Housing and Urban Development, of a report on the housing neighborhood area strategy program; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4420. A bill to provide that utility payments made by tenants in certain lower income housing projects shall be considered, for purposes of determining the status of such tenants under the AFDC program, to be rental payments; to the Committee on Ways and Means.

H.R. 4421. A bill to modify certain reorganization procedures under the Department of Housing and Urban Development Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4422. A bill to amend section 242 of the National Housing Act with respect to mortgage insurance for public hospitals; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4423. A bill to provide that housing assistance paid with respect to certain dwelling units shall be excluded from the income and resources of the occupants of such units for purposes of other Federal assistance programs; to the Committee on Government Operations.

H.R. 4424. A bill to amend section 8 of the United States Housing Act of 1937 to impose limitations on certain tenant rental increases resulting from conversions to assistance under that section; to the Committee on Banking, Finance and Urban Affairs.

By Mr. McEWEN:

H.R. 4425. A bill to provide a temporary extension of time for North Chillicothe, Ohio, to adopt land use and control measures consistent with projected flood elevation determinations of the Director of the Federal Emergency Management Agency; to the Committee on Banking, Finance and Urban Affairs.

Mr. McGRATH:

H.R. 4426. A bill to amend the Internal Revenue Code of 1954 to disregard tax-exempt interest in computing the amount of social security benefits included in income; to the Committee on Ways and Means.

By Mr. MARRIOTT (for himself and Mr. ERLENBORN):

H.R. 4427. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to delay for 1 year the special rules for top-heavy plans, and for other purposes; to the Committee on Way and Means.

By Mr. OBEY (for himself, Mr. LEACH of Iowa, Mr. SYNAR, Mr. FROST, Mr. LONG of Louisiana, Mr. GLICKMAN, Mr. ACKERMAN, Mr. ANTHONY, Mr. BARNES, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BOEHLERT, Mr. BONKER, Mrs. BOXER, Mr. BROWN of California, Mr. CARPER, Mr. CLARKE, Mr. CLAY, Mr. COOPER, Mr. D'AMOURS, Mr. DASCHLE, Mr. DIXON, Mr. DONNELLY, Mr. DORGAN, Mr. DOWNEY of New York, Mr. DYMALLY, Mr. ECKART, Mr. EDGAR, Mr. EDWARDS of California, Mr. EVANS of Illinois, Mr. FASCELL, Mr. FEIGHAN, Ms. FERRARO, Mr. FLORIO, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. FOWLER, Mr. FRANK, Mr. GARCIA, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GUARINI, Mr. HARRISON, Mr. HOYER, Mr. HUGHES, Mr. JACOBS, Mr. JEFFORDS, Ms. KAPTUR, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. LEHMAN of Florida, Mr. LEHMAN of California, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LUKEN, Mr. McCLOSKEY, Mr. McNULTY, Mr. MATSUI, Mr. MAVROULES, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MOAKLEY, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MURTHA, Mr. OBERSTAR, Mr. OTTINGER, Mr. PANETTA, Mr. PEASE, Mr. PENNY, Mr. PEPPER, Mr. PURSELL, Mr. RATCHFORD, Mr. RICHARDSON, Mr. RUSSO, Mr. SABO, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHANNON, Mr. SIKORSKI, Mr. SOLARZ, Mr. STUDDS, Mr. TORRES, Mr. UDALL, Mr. VENTO, Mr. WALGREN, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WIRTH, Mr. WOLPE, Mr. WON PAT, Mr. YATES, and Mr. ZABLOCKI):

H.R. 4428. A bill to amend the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1954 to limit contributions by nonparty multicandidate political committees in election campaigns for the House of Representatives, and for other purposes; jointly, to the Committees on Ways and Means and House Administration.

By Mr. THOMAS of California:

H.R. 4429. A bill to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials; to the Committee on the Judiciary.

By Mr. VALENTINE:

H.R. 4430. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for security devices used to prevent the theft of controlled substances from certain pharmacies; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 4431. A bill to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency; jointly, to the Committees on Government Operations and the Permanent Select Committee on Intelligence.

By Mr. BONKER (for himself, Mr. ALEXANDER, and Mr. GLICKMAN):

H.R. 4432. A bill to establish as an executive department of the U.S. Government a Department of Commerce and Trade, and for other purposes; jointly, to the Committees on Government Operations, Agriculture, Banking, Finance and Urban Affairs, Energy and Commerce, Foreign Affairs, Merchant Marine and Fisheries, Science and Technology and Ways and Means.

By Mr. FOLEY:

H.J. Res. 421. Joint resolution providing for the convening of the second session of the 98th Congress, and for other purposes; considered and passed.

By Mrs. BOXER (for herself, Ms. MIKULSKI, Ms. FERRARO, Ms. KAPTUR, Mrs. JOHNSON, Ms. OAKAR, Mrs. HALL of Indiana, Mrs. KENNELLY, Mrs. COLLINS, Mrs. BOGGS, Mrs. BURTON of California, and Mrs. SCHNEIDER):

H.J. Res. 422. Joint resolution designating the week beginning March 4, 1984, as "Women's History Week;" to the Committee on Post Office and Civil Service.

By Mr. GUARINI:

H.J. Res. 423. Joint resolution designating the month of March 1984 as National Eye Donor Month; to the Committee on Post Office and Civil Service.

By Mr. KOGOVSEK (for himself, Mr. BROWN of Colorado, Mr. UDALL, Mr. LUJAN, Mr. WIRTH, Mr. PASHAYAN, Mr. FAZIO, Mr. SCHAEFER, Mr. SHUMWAY, Mr. LEHMAN of California, Mr. THOMAS of California, Mr. COELHO, Mr. KRAMER, and Mr. CHAPPIE):

H.J. Res. 424. Joint resolution to designate the year 1984 as the "Year of Water;" to the Committee on Post Office and Civil Service.

By Mr. McDADE:

H.J. Res. 425. Joint resolution to designate the week of April 22, 1984, through April 28, 1984, as "National Dance Week;" to the Committee on Post Office and Civil Service.

By Mr. McDADE:

H.J. Res. 426. Joint resolution to establish casein dairy production equity; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. ANDREWS of Texas, Mr. ALBOSTA, Mr. BARNARD, Mr. BEDELL, Mr. BEVILL, Mrs. LLOYD, Mrs. BOXER, Mr. BROWN of Colorado, Mr. COELHO, Mr. COLEMAN of Texas, Mr. DASCHLE, Mr. DORGAN, Mr. ECKART, Mr. ERDREICH, Mr. GEJDENSON, Mr. GLICKMAN, Mr. GORE, Mr. HALL of Ohio, Mr. HARKIN, Mr. HERTEL of Michigan, Mr. HUGHES, Mr. KAZEN, Mr. KOGOVSEK, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. LEVITAS, Mr. LUNDINE, Mr. MACKAY, Mrs. MARTIN of Illinois, Mr. McNULTY, Mr. MAVROULES, Mr. NELSON of Florida, Mr. OLIN, Mr. PATMAN, Mr. PENNY, Mr. RATCHFORD, Mr. REID, Mrs. SCHROEDER, Mr. SEIBERLING, Mr.

SIKORSKI, Mr. SISISKY, Mr. SLATTERY, Mr. SPRATT, Mr. STARK, Mr. STENHOLM, Mr. SYNAR, Mr. TALLON, Mr. UDALL, Mr. VENTO, Mr. WEAVER, Mr. WHITEHURST, Mr. WHITLEY, and Mr. WISE):

H.J. Res. 427. Joint resolution to require the President and the Congress to adopt a "Pay As You Go" budget process; to the Committee on Government Operations.

By Mr. PATTERSON:

H.J. Res. 428. Joint resolution proposing an amendment to the Constitution of the United States to provide that, except in cases of war or other national emergency as determined by the Congress, expenditures of the United States in each fiscal year shall not exceed revenues of the United States for that fiscal year; to the Committee on the Judiciary.

By Mr. REGULA (for himself, Mr. FAZIO, Mr. UDALL, Mr. WEAVER, Mr. HAWKINS, Mr. PATTERSON, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. LELAND, Mr. BROWN of California, Ms. KAPTUR, Mr. HOYER, Mr. SPRATT, Mrs. SCHNEIDER, Mr. VENTO, Mr. MITCHELL, Mr. FASCELL, Mr. WON PAT, Mr. MINETA, Mr. SIMON, Mr. LEVIN of Michigan, Mr. FRENZEL, Mr. WEISS, Mr. BERMAN, Mr. JEFFORDS, Mr. OWENS, Mr. PRITCHARD, and Mr. LAFALCE):

H.J. Res. 429. Joint resolution requesting the President to negotiate the creation of a United States-People's Republic of China Student Exchange for Understanding program; to the Committee on Foreign Affairs.

By Mr. PASHAYAN:

H.J. Res. 430. Joint resolution suggesting an amendment to the Constitution requiring that the equal protection clause of the fourteenth amendment shall apply fully to sex discrimination; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. MCCOLLUM):

H.J. Res. 431. Joint resolution to direct the President to return to Cuba all Cuban nationals from the 1980 Mariel boatlift who are currently incarcerated in the United States; to the Committee on the Judiciary.

By Mr. WAXMAN:

H.J. Res. 432. Joint resolution designating the week of April 8 through 14, 1984, as "Parkinson's Disease Awareness Week;" to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 221. Concurrent resolution providing for the sine die adjournment of the first session of the 98th Congress; considered and agreed to.

By Mr. BROOMFIELD:

H. Con. Res. 222. Concurrent resolution expressing the sense of the Congress that military assistance for the Government of Turkey should be suspended until that nation has taken all necessary and appropriate steps to secure the reversal of the illegal action declaring the independent Turkish Republic of North Cyprus and to promote the full political and economic unity of the Republic of Cyprus; to the Committee on Foreign Affairs.

By Mr. D'AMOURS:

H. Con. Res. 223. Concurrent resolution to express the sense of the Congress that the United States should not recognize the illegitimate Turkish Republic of Northern Cyprus and should call for an immediate U.N. Security Council meeting to press for immediate action to remove the Turkish occupation forces from Northern Cyprus; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself and Mr. GUARINI):

H. Con. Res. 224. Concurrent resolution expressing the sense of Congress that U.S. medical schools should accommodate the American medical students evacuated from Grenada; to the Committee on Education and Labor.

By Mr. LANTOS (for himself, Mr. BROOMFIELD, and Mr. LOTT):

H. Con. Res. 225. Concurrent resolution expressing the sense of the Congress that the President should instruct the U.S. delegation to the United Nations to introduce a resolution in the General Assembly calling for the immediate withdrawal of all Syrian and Syrian-controlled forces from Lebanon; to the Committee on Foreign Affairs.

By Mr. PORTER (for himself, Mr. YATRON, Mr. LANTOS, Mr. LEACH of Iowa, Mr. BARNES, Mr. BATEMAN, Mr. BEILENSON, Mr. BERMAN, Mr. BOUCHER, Mr. BROWN of California, Mr. CORCORAN, Mr. CLARKE, Mr. DANIEL B. CRANE, Mr. DAUB, Mr. DELLUMS, Mr. DEWINE, Mr. DURBIN, Mr. EDGAR, Mr. FAUNTROY, Mr. FAZIO, Mr. FEIGHAN, Mr. FISH, Mr. FRANK, Mr. FROST, Mr. GEJDENSON, Mr. GILMAN, Mr. GOODLING, Mr. GREEN, Mr. HAWKINS, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JEFFORDS, Mrs. JOHNSON, Ms. KAPTUR, Mr. KASICH, Mr. KILDEE, Mr. LAGOMARSINO, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEVIN of Michigan, Mr. MCGRATH, Mr. MATSUI, Mr. MCNULTY, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. OLIN, Mr. OTTINGER, Mr. PATTERSON, Mr. RICHARDSON, Mr. RODINO, Mrs. SCHNEIDER, Mrs. SCHROEDER, Mr. SILJANDER, Mr. SIMON, Mr. SMITH of Florida, Ms. SNOWE, Mr. SOLOMON, Mr. STARK, Mr. TAUKE, Mr. TRAXLER, Mr. VANDERGRIFF, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, and Mr. WOLF):

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran; to the Committee on Foreign Affairs.

Mr. SWIFT (for himself, Mr. THOMAS of California, Mr. ANNUNZIO, Mr. BADHAM, Mr. BATES, Mr. COELHO, Mr. COYNE, Mr. DICKINSON, Mr. FOLEY, Mr. FRENZEL, Mr. GAYDOS, Mr. GINGRICH, Mr. HAWKINS, Mr. JONES of Tennessee, Mr. MINISH, Ms. OAKAR, Mr. ROBERTS, Mr. ROSE, and Mrs. VUCANOVICH):

H. Con. Res. 227. Concurrent resolution expressing the sense of the Congress with respect to the adverse impact of early projections of election results by the news media; to the Committee on House Administration.

By Mr. WISE:

H. Con. Res. 228. Concurrent resolution to express the sense of the Congress disapproving the general postal rate increase proposed on November 10, 1983, by the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. JACOBS (for himself, Mr. STENHOLM, Mr. OTTINGER, Mr. FLIPPO, Mr. LEATH of Texas, Mr. CORRADA, Mr. COELHO, and Mr. WORTLEY).

H. Res. 377. Resolution to enclose the galleries of the House of Representatives with a transparent and substantial material; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

298. By the SPEAKER: Memorial of the House of Representatives of the State of Pennsylvania, relative to committee assignments of Pennsylvania's Senators and Members of the House of Representatives; to the Committee on Agriculture.

299. Also, memorial of the House of Representatives of the State of Pennsylvania, relative to the Korean airliner tragedy; to the Committee on Foreign Affairs.

300. Also, memorial of the House of Representatives of the State of Pennsylvania, relative to proposed sale of a United States Steel plant; to the Committee on Ways and Means.

301. Also, memorial of the House of Representatives of the State of Pennsylvania, relative to mortgage revenue bonds; to the Committee on Ways and Means.

302. Also, memorial of the General Assembly of the State of Pennsylvania, relative to Pennsylvania Garden Week; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DONNELLY:

H.R. 4433. A bill for the relief of the survivors of John Arthur Walsh, Jr.; to the Committee on the Judiciary.

By Mr. KAZEN:

H.R. 4434. A bill for the relief of Arturo Ruiz-Delgado and Martina Anaya de Ruiz; to the Committee on the Judiciary.

By Mr. REID:

H.R. 4435. A bill to allow Frank T. Carr retired pay and veterans' benefits as if he had retired from the U.S. Army; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 4436. A bill to clear impediments to the licensing of the vessel *Wingaway* for employment in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 203: Mr. RITTER.
H.R. 960: Mr. LUNDINE.
H.R. 1400: Mr. HUTTO.
H.R. 1918: Mrs. LLOYD.
H.R. 2168: Mr. REID.
H.R. 2237: Mr. SCHUMER.
H.R. 2262: Mr. CHAPPIE, Mr. DYSON, Mr. JONES of North Carolina, Mr. ORTIZ, and Mr. RUDD.
H.R. 2454: Mr. DUNCAN, Mr. HUNTER, Ms. OAKAR, Mr. BEVILL, Mr. HATCHER, Mr. WILLIAMS of Ohio, Mr. JACOBS, Mr. ECKART, Mr. DYSON, Mr. ADDABBO, Mrs. SCHNEIDER, Mr. BENNETT, Mr. MRAZEK, Mr. CONYERS, Mr. ROE, Ms. FIEDLER, Mr. EVANS of Illinois, Mr. SMITH of New Jersey, and Mr. MCDADE.
H.R. 2817: Mr. HUTTO, Mr. MCEWEN, Mr. RAHALL, Mr. MCNULTY, Mr. DE LUGO, and Mr. DONNELLY.
H.R. 2834: Mr. LANTOS.
H.R. 3271: Mr. PATTERSON.
H.R. 3273: Mr. BEVILL.

H.R. 3554: Mr. McGRATH and Mr. RITTER.
H.R. 3659: Mr. FORSYTHE.
H.R. 3713: Mr. HUNTER, Mr. SKELTON, and Mr. STUMP.
H.R. 3714: Mr. HUNTER, Mr. SKELTON, Mr. NICHOLS, Mr. STUMP, Mr. HORTON, and Mr. CAMPBELL.
H.R. 3715: Mr. HUNTER, Mr. SKELTON, Mr. APPLEGATE, Mr. HANSEN of Utah, Mr. STUMP, and Mr. SUNIA.
H.R. 3716: Mr. HUNTER, Mr. SKELTON, Mr. APPLEGATE, Mr. HANSEN, of Utah, Mr. STUMP, and Mr. SUNIA.
H.R. 3775: Ms. FERRARO, Ms. MIKULSKI, Mr. WAXMAN, Mr. BOLAND, Mr. MICA, Mr. YATES, Mr. YOUNG, of Missouri, and Mrs. COLLINS.
H.R. 3939: Mr. ARCHER, Mr. BADHAM, Mr. BROOMFIELD, Mr. CAMPBELL, Mr. COUGHLIN, Mr. PHILIP M. CRANE, Mr. DANNEMEYER, Mr. DUNCAN, Mr. ERLENBORN, Mr. EVANS of Iowa, Mr. GINGRICH, Mr. HARTNETT, Mr. HILER, Mrs. HOLT, Mr. LIVINGSTON, Mr. LUJAN, Mr. MCKINNEY, Mr. MARTIN of New York, Mr. MOORE, Mr. RUDD, Mr. SHUMWAY, Mr. DENNY SMITH, Ms. SNOWE, Mr. STANGELAND, Mr. STUMP, Mr. WHITEHURST, Mr. WINN, Mr. WOLF, Mr. WORTLEY.
H.R. 4023: Mr. SAM B. HALL, JR., Mr. SABO, Mr. WEAVER, Mr. WORTLEY, Mr. BILIRAKIS, and Mr. LEVIN of Michigan.
H.R. 4074: Mr. SMITH of New Jersey, Mr. REID, Mr. RICHARDSON, Mr. CROCKETT, Mr. RAHALL, Ms. KAPTUR, Mr. LANTOS, Mr. D'AMOURS, Mr. ROE, and Mr. BILIRAKIS.
H.R. 4078: Mr. DORGAN.
H.R. 4105: Mr. MARLENEE and Mr. LEACH of Iowa.
H.R. 4110: Mr. GEJDENSON, Mr. ORTIZ, Mr. STOKES, and Mr. FORD of Tennessee.
H.R. 4126: Mr. ECKART, Mr. EDGAR, Mr. DONNELLY, and Mr. GLICKMAN.
H.R. 4158: Mr. BILIRAKIS, Mr. CORCORAN, Ms. FIELDER, Mrs. LLOYD, Mr. MCEWEN, Mr. MARTIN of New York, and Mr. WEBER.
H.R. 4193: Ms. MIKULSKI, Mrs. HALL of Indiana, Mrs. BOXER, Mr. ACKERMAN, Mr. VENTO, Mr. BARNES, Mr. MATSUI, Mrs. COLLINS, Mr. FISH, Mr. FAZIO, Mr. WIRTH, Mr. SCHEUER, Mr. ECKART, Mr. KOSTMAYER, Mr. GRAY, Mr. EDGAR, Mr. LEVIN of Michigan, Mr. RODINO, and Mr. DIXON.
H.R. 4203: Mr. KILDEE, Mr. DURBIN, Mrs. SCHNEIDER, Mr. NIELSON of Utah, Mr. ECKART, Mrs. MARTIN of Illinois, and Mr. EDGAR.
H.R. 4206: Mr. KOGOVSEK, Mr. MRAZEK, Mr. DURBIN, and Mr. EMERSON.
H.R. 4207: Mr. BRYANT, Mr. LEVIN of Michigan, and Mr. GRAY.
H.R. 4312: Mr. PASHAYAN.
H.J. Res. 200: Ms. FERRARO, Mr. ROBERTS, Mr. HARRISON, Mr. YATRON, Mr. FISH, Mr. ACKERMAN, Mr. SIMON, Mr. VENTO, Mr. DE LA GARZA, Mr. LEVINE of California, and Mr. RAHALL.
H.J. Res. 243: Mr. KRAMER.
H.J. Res. 277: Mr. SIMON.
H.J. Res. 324: Mr. PORTER, Mr. COUGHLIN, and Mr. LAFALCE.
H.J. Res. 336: Mr. HYDE, Mr. OLIN, Mr. BERMAN, Mr. SYNAR, Mr. PATMAN, Mr. QUILLEN, Mr. DORGAN, Mr. NICHOLS, Mr. NIELSON of Utah, Mr. MINETA, Mr. DINGELL, Mr. MARTIN of North Carolina, Mr. MAZZOLI, Mr. FIELDS, Mr. THOMAS of California, Mr. MCKINNEY, Mr. PORTER, Mr. GUARINI, Mr. CAMPBELL, Mr. RODINO, Mr. SAWYER, Mr. DOWNEY of New York, Ms. MIKULSKI, Mr. CROCKETT, Mr. MARTIN of New York, Mr. DONNELLY, Ms. SNOWE, Mr. PANETTA, Mr. WEBER, Mrs. LLOYD, Mr. CARNEY, Mr. DICKINSON, Mr. HUGHES, Mr. SKELTON, Mr. FLIPPO, Mr. KOGOVSEK, Mr. MORRISON of Connecticut, Mr. BOLAND, Mr. BRITT, Mrs. KENNELLY, Mr. HEFTEL of Hawaii, Mr. RUSSO, Mr. HUBBARD, Mr. REID, Mr. ADDABBO, Mr. OWENS, Mr. GREEN, Mr. MURPHY, Mr. KOLTER, Mr. JONES of Tennessee, Mr. BROOKS, Mr. SISISKY, Mr. SWIFT, Mr. RAHALL, Mr. CORRADA, Mr. DE LUGO, Mr. GEJDENSON, Mrs. COLLINS, Mr. SPENCE, Mr. WILLIAMS of Ohio, Mr. ECKART, Mr. LELAND, Mr. CORCORAN, Mr. EMERSON, Mr. LIVINGSTON, Mr. TAUKE, Mr. PICKLE, Mr. D'AMOURS, Mr. BLILEY, Mr. EDWARDS of Alabama, and Mr. MCEWEN.
H.J. Res. 375: Mr. HOWARD.
H. Con. Res. 107: Mr. HILER, Mr. GUARINI, and Mrs. BURTON of California.
H. Con. Res. 152: Mr. NEAL.
H. Con. Res. 173: Mr. MCNULTY, Mr. WAXMAN, Mr. OBERSTAR, Ms. SNOWE, and Mr. EDGAR.
H. Con. Res. 191: Mr. FEIGHAN and Mr. MCHUGH.
H. Con. Res. 208: Mr. HYDE, Mr. FRANK, and Mr. FASCELL.
H. Con. Res. 220: Mr. LONG of Maryland, Mr. FEIGHAN, Mr. DYMALLY, Mrs. BOXER, Mr. BERMAN, Mr. LEVINE of California, Mr. KILDEE, Mr. RUSSO, and Mr. FLORIO.
H. Res. 260: Mr. DIXON.
H. Res. 281: Mr. ROE, Mr. SCHUMER, Mrs. KENNELLY, Mr. STOKES, Mr. MINISH, Mr. BIAGGI, Ms. OAKAR, Mr. BORSKI, Mr. HALL of Ohio, and Mr. LEVINE of California.
H. Res. 337: Mr. STOKES, Mr. OWENS, Mr. MCNULTY, Mr. MARKEY, Mrs. COLLINS, Mr. DIXON, Mr. FAUNTROY, Mr. BARNES, Mr. RICHARDSON, Mr. MORRISON of Connecticut, Mr. FORSYTHE, Mr. EDWARDS of California, Mr. VANDERGRIFF, Mr. FEIGHAN, Mr. WEISS, Mr. BONIOR of Michigan, Mrs. BOXER, Mr. CARPER, Mr. HAWKINS, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. PATTERSON, Mr. LAFALCE, Mr. BATES, Mr. WAXMAN, Mr. REID, Mr. VENTO, Mr. MILLER of California, Mr. FISH, Mr. FORD of Tennessee, Mr. ACKERMAN, Mr. CROCKETT, Mr. KASTENMEIER, Mr. COOPER, Mr. CLARKE, Mr. MINETA, Mr. LONG of Maryland, Mr. PEPPER, Mr. RODINO, Mr. ADDABBO, Mr. JEFFORDS, and Mr. EDGAR.
H. Res. 373: Mr. GOODLING, Mr. ZSCHAU, Mr. CLINGER, Mr. JEFFORDS, Mr. MCKERNAN, Mr. O'BRIEN, Mr. MYERS, Mr. MCGRATH, Mr. HAMMERSCHMIDT, Mr. COURTER, Mr. GRADISON, Mr. LENT, Mr. PETRI, Mr. GILMAN, Mr. LUKEN, Mr. GREGG, Mr. BOEHLERT, and Mr. PASHAYAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

275. By the SPEAKER: Petition of the city of Garden City, Mich., relative to S. 66 and H.R. 4103; to the Committee on Energy and Commerce.

276. Also, petition of the township of Rose Holly, Mich., relative to drug abuse; to the Committee on Energy and Commerce.

277. Also, petition of the city of Niagara Falls, N.Y., relative to diversion of Great Lakes water; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2992

By Mr. STARK:
—Page 107, after line 12, add the following:

LIMITED NUCLEAR TEST BAN TREATY

SEC. 915. For the fiscal years 1984 and 1985, United States foreign assistance may not be provided to any country which is not a party to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (done at Moscow, August 5, 1963).

(b) As used in this section, the term "United States foreign assistance" means under the Foreign Assistance Act of 1961, foreign military sales financing under the Arms Export Control Act, sales and donation programs under the Agricultural Trade Development and Assistance Act of 1954, and programs under the Peace Corps Act.

H.R. 4170

By Mr. FROST:
—Amend title VII by striking all of subtitle B and inserting the following:

Subtitle B—Private Activity Bonds

SEC. 721. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligatons must not be guaranteed or subsidized under an energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(C) such obligation is issued as part of an issue with respect to which a significant portion of the principal or interest required to be paid on the issue is to be insured (directly or indirectly) by a Federal depository insurance agency as a result of the investment of the proceeds of the issue in deposits or accounts in a federally insured financial institution, or

"(D) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States or an agency or instrumentality thereof.

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Farmers Home Administration, the Veterans' Administration, or the Small Business Administration, or

"(ii) any guarantee of student loans, or

"(iii) any housing assistance payments or payments under any annual contributions contract by the Department of Housing and Urban Development.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments related to debt service,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B), or

"(iv) other investments permitted under regulations.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—Any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States; provided, however, that any entity described in clauses (i), (ii), or (iii) of subparagraph (B) shall not be treated as an instrumentality of the United States.

"(B) FEDERALLY INSURED FINANCIAL INSTITUTION.—The term 'federally insured financial institution' means—

"(i) a bank (as defined in section 581),

"(ii) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution, or

(iii) a credit union,

the deposits of accounts in which are insured under Federal law.

(C)—AGENCY OR INSTRUMENTALITY.—The term "agency" or "instrumentality" shall not be construed to include the District of Columbia.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam "generating or alcohol" producing facilities).

SEC. 722. ACQUISITIONS OF CERTAIN FACILITIES NOT PERMITTED.

USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airplane, skybox or other private luxury box, any facility primarily used for gambling or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 723. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part of all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores or residences using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregate issue)."

(c) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a partnership and each of its partners shall be treated as related persons."

(d) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

(e) INCREASE IN AMOUNT OF CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—Subparagraph (I) of section 103(b)(6) (relating to aggregate amount of capital expenditures where there is urban development action grant) is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000", and

(2) by adding at the end thereof the following new sentence: "This subparagraph shall not apply unless the amount of the urban development action grant equals or exceeds 5 percent of the total capital expenditures on the facilities with respect to which the action grant has been made."

(f) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

SEC. 724. EFFECTIVE DATES.

(a) EXPANSION OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by section 723(a) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 723(a) shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 723(a) shall apply only with respect to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 723 shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(b) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Section 103(h)(2)(C) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle shall not apply to obligations with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (a)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(c) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 102(g) of this Act.

(2) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State agency created on June 18, 1973, took formal action before October 19, 1983, to commit development funds for such facility,

(B) such agency issues obligations for such facility before January 1, 1987, and

(C) expenditures have been made for the development of such facility before October 19, 1983.

(d) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

By Mr. GLICKMAN:

(Amendment to the amendment to be offered by Mr. PEASE.)

—Section 1322 of the amendment is amended by deleting from the table in the new subchapter 4001 the line which reads as follows:

"Nonbusiness aircraft ..... 0",

and by striking out Section 4002(c)(3).

By Mr. PEASE:

—TITLE XIII—ADDITIONAL REVENUE MEASURES

TABLE OF CONTENTS

TITLE XIII—ADDITIONAL REVENUE MEASURES

Subtitle A.—Provisions Primarily Affecting Businesses

Sec. 1311. Full-basis adjustment for investment credit.
Sec. 1312. Recovery period for structures increased to 20 years.
Sec. 1313. Alternative minimum tax for corporations.
Sec. 1314. Termination of deferral of income from foreign subsidiaries which produce primarily for markets in the United States or in tax havens.
Sec. 1315. Recognition of gain on transfer of intangible assets to foreign corporations unless reasonable royalty paid to transferor.
Sec. 1316. Foreign tax credit limitation to be applied on per-country basis.
Sec. 1317. Denial of deduction for one third of cost of entertainment-type activities.

Subtitle B—Provisions Primarily Affecting Nonbusiness Taxpayers

Sec. 1321. Limitation on interest deduction.
Sec. 1322. 10 percent excise tax on sales at retail of certain luxury items.
Sec. 1323. Base period for income averaging shortened to 3 years, etc.
Sec. 1324. Elimination of item allocation of partnership income, losses, etc.
Sec. 1325. Publicly-traded partnership taxed as corporations.
Sec. 1326. Amount of deduction for charitable contribution of property limited to adjusted basis unless property held for 3 years.

Subtitle A—Provisions Primarily Affecting Businesses

SEC. 1311. FULL-BASIS ADJUSTMENT FOR INVESTMENT CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out "50 percent of".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 48(q) is amended by striking out "50 percent of".

(2) Subsection (q) of section 48 is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) Clause (ii) of section 48(q)(3)(B) (as redesignated by paragraph (2), is amended by striking out "8 percent" and inserting in lieu thereof "6 percent" and by striking out "4 percent" and inserting in lieu thereof "2 percent".

(4) Paragraph (5) of section 48(d) (relating to certain leased property) is amended—

(A) by striking out "(other than paragraph (4))" in subparagraph (A) and inserting in lieu thereof "(other than paragraph (3))", and

(B) by striking out "50 percent of" in subparagraph (B).

(5)(A) Subsection (a) of section 196 (relating to deduction for certain unused investment credits) is amended by striking out "50 percent of".

(B) Section 196 is amended by striking out subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

SEC. 1312. RECOVERY PERIOD FOR STRUCTURES INCREASED TO 20 YEARS.

(a) IN GENERAL.—Clause (i) of section 168(b)(2)(A) (relating to recovery period for 15-year real property) is amended by striking out "15-year recovery period" and inserting in lieu thereof "20-year recovery period".

(b) TECHNICAL AMENDMENTS.—

(1) Section 168 (relating to accelerated costs recovery system) is amended by striking out "15-year real property" each place it appears and inserting in lieu thereof "20-year real property".

(3) The table contained in subparagraph (A) of section 168(b)(3) is amended by striking out "15" in the item relating to 20-year real property and inserting in lieu thereof "20".

(4) Clause (ii) of section 168(f)(12)(B) is amended by striking out "15 years" and inserting in lieu thereof "20 years".

(5) Paragraph (12) of section 57(a) (relating to items of tax preference) is amended by striking out "15-year real property" each place it appears and inserting in lieu thereof "20-year real property".

(6) Paragraph (3) of section 312(k) (relating to effect of depreciation on earnings and profits) is amended by striking out "15-year real property" each place it appears and inserting in lieu thereof "20-year real property".

(7) Paragraph (7) of section 1245(a) (defining section 1245 recovery property) is amended by striking out "15-year real property" each place it appears and inserting in lieu thereof "20-year real property".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1983, in taxable years ending after such date.

SEC. 1313. ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 56 (relating to corporate minimum tax) is amended to read as follows:

"SEC. 56. ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.

"(a) TAX IMPOSED.—In the case of a C corporation, there is imposed (in addition to any other tax imposed by this chapter) a tax equal to the excess (if any) of—

"(1) an amount equal to 15 percent of so much of the corporate alternative minimum taxable income as exceeds $50,000, over

"(2) the regular tax for the taxable year.

"(b) CORPORATE ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this title, the term 'corporate alternative minimum taxable income' means taxable income (determined without regard to the deduction allowed by section 172) of the corporation for the taxable year increased by the amount of items of tax preference.

"(c) CREDITS.—

"(1) IN GENERAL.—For purposes of determining any credit allowable under subpart B or D of part IV of this subchapter (other than the foreign tax credit allowed under section 27(a))—

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed by section 27(a) shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST CORPORATE ALTERNATIVE MINIMUM TAX.—Rules similar to the rules of section 55(c)(2) shall apply with respect to the tax imposed by subsection (a) of this section.

"(d) REGULAR TAX.—For purposes of this section, the term 'regular tax' means the tax imposed by this chapter (computed without regard to this section) for the taxable year, reduced by the sum of the credits allowable under subparts B and D of part IV of this subchapter. For purposes of the preceding sentence, the amount of the credits allowable under such subparts shall be determined without regard to this section."

(b) CREDIT AGAINST REGULAR TAX FOR EXCESS OF MINIMUM TAX OVER REGULAR TAX FOR PRIOR YEARS.—Subpart B of part IV of subchapter A of chapter 1, as amended by title IV of this Act, is amended by inserting after section 30 the following new section:

"SEC. 30A. CREDIT FOR EXCESS CORPORATE ALTERNATIVE MINIMUM TAX.

"(a) IN GENERAL.—In the case of a C corporation, there shall be allowed as a credit against the regular tax for the taxable year an amount equal to the excess alternative minimum tax credit amount for such year.

"(b) EXCESS ALTERNATIVE MINIMUM TAX CREDIT AMOUNT.—For purposes of this section, the term 'excess alternative minimum tax credit amount' means, for any taxable year—

"(1) the aggregate tax imposed by section 56 for all prior taxable years, reduced by

"(2) the aggregate credit allowed by this section for all prior taxable years.

For purposes of this subsection, only taxable years beginning after December 31, 1983, shall be taken into account.

"(c) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the regular tax for the taxable year.

"(d) REGULAR TAX.—For purposes of this section, the term 'regular tax' has the meaning given such term by section 56(d) but shall be determined without regard to the credit allowable by this section."

(c) AMENDMENTS RELATING TO ITEMS OF TAX PREFERENCE.—

(1) PREFERENCE FOR MINING EXPLORATION AND DEVELOPMENT COSTS APPLICABLE TO ALL CORPORATIONS.—The last sentence of section 57(a) is amended by striking out "(5),".

(2) NO NET INCOME OFFSET IN DETERMINING EXCESS INTANGIBLE DRILLING COSTS; PREFERENCE APPLICABLE TO ALL CORPORATIONS.—

(A) IN GENERAL.—Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(E) NO NET INCOME OFFSET FOR CORPORATIONS.—In the case of a C corporation, the net income referred to in subparagraph (A) shall be treated as being zero."

(B) APPLICATION TO ALL CORPORATIONS.—The last sentence of subsection (a) of section 57 is amended by striking out "(11),".

(3) INTEREST TO CARRY TAX-EXEMPT OBLIGATIONS.—Paragraph (7) of section 57(a) is amended to read as follows:

"(7) BAD DEBT RESERVES AND INTEREST ON DEBT TO CARRY TAX-EXEMPT SECURITIES FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies—

"(A) RESERVES FOR LOSSES ON BAD DEBTS.—The amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable year on the basis of actual experience.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS.—The amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1983, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for the taxable year. For purposes of the preceding sentence, the determination of the indebtedness incurred or continued to purchase or carry tax-exempt obligations shall be in accordance with section 291(e)(1)(B)(ii)."

(4) ADDITIONAL ITEMS OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by inserting after paragraph (12) the following new paragraphs:

"(13) DEFERRED DISC INCOME.—In the case of a C corporation which is a shareholder of a DISC, the amount which would be determined under clause (i) of section 995(b)(1)(F) with respect to such corporation if such clause were applied without regard to 'one-half of'.

"(14) ORIGINAL ISSUE DISCOUNT ON OBLIGATIONS ISSUED BEFORE JULY 2, 1982.—In the case of any bond having an original issue discount and issued before July 2, 1982, by a C corporation, the amount by which the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for the taxable year exceeds the amount which would have been allowable for such portion for such year had such bond been issued after July 1, 1982.

"(15) AMOUNTS DEPOSITED IN CERTAIN CONSTRUCTION FUNDS.—In the case of C corporation, the amount deposited in any capital construction fund established under section 607 of the Merchant Marine Act, 1936 or in any construction reserve fund under section 511 of such Act.

"(16) COMPLETED CONTRACT ACCOUNTING.—In the case of a C corporation, with respect to a long-term contract all of which was not subject to the regulations required by section 229 of the Tax Equity and Fiscal Responsibility Act of 1982, the amount by which the deduction for the taxable year with respect to such contract exceeds the amount which would have been allowable with respect to such contract had such regulations applied to all of such contract.

"(17) MOTOR CARRIER OPERATING RIGHTS.—In the case of a C corporation, the amount by which the amount allowable as a deduction by reason of section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authority) with respect to any authority for the taxable year exceeds the amount which would have been allowable with respect to such authority for such year without regard to such section."

(d) REQUIREMENT OF ESTIMATED TAX PAYMENTS.—Paragraph (1) of section 6655(f) (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

"(1) the sum of—

"(A) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(B) the tax imposed by section 56, over".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (9) of section 57(a) is amended to read as follows:

"(9) CAPITAL GAINS OF INDIVIDUALS, ETC.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account."

(2) Subsection (b) of section 57 is hereby repealed.

(3) Subsection (b) of section 58 (relating to rules for application of part VI) is amended—

(A) by striking out "$10,000" and inserting in lieu thereof "$50,000", and

(B) by striking out "regular tax deductions (within the meaning of section 56(c))" and inserting in lieu thereof "regular taxes (within the meaning of section 56(d))".

(4) Section 58 is amended by striking out subsections (d) and (g).

(5) Paragraph (2) of section 443(d) (relating to adjustment in computing minimum tax for tax preferences) is amended by striking out "the $10,000 amount specified in section 56 (relating to minimum tax for tax preferences)" and inserting in lieu thereof "the $50,000 amount specified in section 56 (relating to corporate alternative minimum tax)".

(6) The table of sections for subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new item:

"Sec. 30A. Credit for excess corporate alternative minimum tax."

(7) The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 56. Alternative minimum tax for corporations."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 1314. TERMINATION OF DEFERRAL OF INCOME FROM FOREIGN SUBSIDIARIES WHICH PRODUCE FOREIGN MARKETS IN THE UNITED STATES OR IN TAX HAVENS.

(a) IN GENERAL.—Paragraph (1) of section 954(d) (defining foreign base company sales income) is amended to read as follows:

"(1) IN GENERAL.—For purposes of subsection (a)(2), the term 'foreign base company sales income' means—

"(A) income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the purchase of personal property from a related person and its sale to any person, the sale of personal property to any person on behalf of a related person, the purchase of personal property from any person and its sale to a related person, or the purchase of personal property from any person on behalf of a related person where—

"(i) the property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted outside the country under the laws of which the controlled foreign corporation is created or organized, and

"(ii) the property is sold for use, consumption, or disposition outside such foreign country, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition outside such foreign country; or

"(B) income derived from the manufacture of property in a foreign country and the sale of such property for use, consumption, or distribution within—

"(i) the United States if such income is not effectively connected with the conduct of a trade or business in the United States and does not otherwise constitute subpart F income under this subsection, or

"(ii) any other country if the tax imposed on such income by the country in which such property was manufactured is less than 10 percent of such income. For purposes of subparagraph (A), personal property does not include agricultural commodities which are not grown in the United States in commercially marketable quantities."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1983, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SEC. 1315. RECOGNITION OF GAIN ON TRANSFER OF INTANGIBLE ASSETS TO FOREIGN CORPORATIONS UNLESS REASONABLE ROYALTY PAID TO TRANSFEROR.

(a) IN GENERAL.—Section 367 (relating to foreign corporations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TRANSFER OF INTANGIBLES WHERE REASONABLE ROYALTY NOT PAID.—If, after October 25, 1983, any United States person transfers, directly or indirectly, any intangible property (within the meaning of section 936(h)(3)(B)) to any foreign corporation, such transfer shall be treated for purposes of subsection (a) as pursuant to a plan having as one of its principal purposes the

avoidance of Federal income taxes unless it is established to the satisfaction of the Secretary that a reasonable royalty will be paid to the United States person in respect of the intangible property transferred."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after October 25, 1983.

SEC. 1316. FOREIGN TAX CREDIT LIMITATION TO BE APPLIED ON PER-COUNTRY BASIS.

(a) IN GENERAL.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"(a) PER-COUNTRY LIMITATION.—The amount of the credit taken under section 901(a) in respect fo tax paid or accrued to any foreign country or possession of the United States shall not exceed the same proportion of the tax against which such credit is taken as the taxpayer's taxable income from sources within such country or possession (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the taxable year."

(b) CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—Subsection (c) of section 904 is amended to read as follows:

"(c) CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—Any amount by which any tax paid or accured to any foreign country or possession of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceeds the limitation under subsection (a) shall be deemed tax paid or accrued to such foreign country or possession of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed tax paid or accrued in a prior taxable year, in an amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the tax paid or accrued to such foreign country or possession for such preceding or succeeding taxable year and the amount of the tax for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemded paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions."

(c) TRANSITIONAL RULES.—Section 904 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(f) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS WITH RESPECT TO YEARS UNDER THE OVERALL LIMITATIONS.—

"(1) CARRYOVERS FROM OVERALL LIMITATION YEARS.—Any carryover from an overall limitation year may be used in a taxable year beginning after December 31, 1983, to the extent provided in subsection (c), but only to the extent of the amount such carryover would have been if the per-country limitation had applied to all overall limitation years.

"(2) CARRYBACKS TO OVERALL LIMITATION YEARS.—Any carryback from a taxable year beginning after December 31, 1983, may be used in an overall limitation year to the extent provided in subsection (c) but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation had applied to all overall limitation years.

"(3) OVERALL LIMITATION YEARS.—For purposes of this subsection, the term 'overall limitation year' means any taxable year beginning after December 31, 1975, and before January 1, 1984.

"(4) APPLICATION OF LIMITATIONS.—The rules of section 904(e)(4) shall apply for purposes of this subsection."

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 904 is amended by striking out paragraph (2) and subparagraph (A) and (B) of paragraph (3) and by inserting in lieu thereof the following:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) CORPORATIONS.—In the case of a corporation—

"(i) the taxable income of such corporation from sources within any foreign country or possession of the United States shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income from sources within such country or possession reduced by the rate differential portion of net capital gain;

"(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain; and

"(iii) for purposes of determining taxable income from sources within any foreign country or possession of the United States any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources within such country or possession to the extent taken into account in determining capital gain net income for the taxable year is reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within such country or possession over a net capital gain.

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources within any foreign country or possession of the United States shall include gain from the sale or exchange of capital assets only to the extent of capital gain net income from such sources.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) PROPORTIONATE REDUCTION WHERE FOREIGN SOURCE CAPITAL GAIN NET INCOME EXCEEDS ENTIRE CAPITAL GAIN NET INCOME.—If the capital gain net income from sources without the United States exceeds capital gain net income, the amount of capital gain net income taken into account under paragraph (2) with respect to any foreign country or possession of the United States shall be reduced by the same proportion of such excess as the capital gain net income from sources within such foreign country or possession bears to capital gain net income from all sources without the United States.

"(B) PROPORTIONATE REDUCTION WHERE FOREIGN SOURCE NET CAPITAL GAIN EXCEEDS ENTIRE CAPITAL GAIN NET INCOME.—If the net capital gain from sources without the United States exceeds net capital gain, the amount of net capital gain taken into account under paragraph (2) with respect to any foreign country or possession of the United States shall be reduced by the same proportion of such excess as the net capital gain from sources within such foreign country or possession bears to net capital gain from all sources without the United States."

(2) Subparagraph (F) of section 904(b)(3) is amended by striking out "foreign source" and by striking out "the United States" and inserting in lieu thereof "any foreign country or possession of the United States".

(3) Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH PER-COUNTRY LIMITATION.—For purposes of this section, the amount of taxalbe income from sources within any foreign country or possession of the United States (determined without regard to this subsection) shall be reduced by an amount which bears the same ratio to the income treated by reason of this subsection as from sources within the United States as such taxable income bears to taxable income from all sources without the United States."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 1317. DENIAL OF DEDUCTION FOR ⅓ OF COST OF ENTERTAINMENT-TYPE ACTIVITIES.

(a) IN GENERAL.—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) DEDUCTION FOR ENTERTAINMENT-TYPE ACTIVITIES REDUCED BY ONE-THIRD.—

"(1) IN GENERAL.—In the case of an item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation and to which subsection (a) applies, the amount of the deduction otherwise allowable under this chapter shall be reduced by one-third of such amount (determined without regard to this paragraph).

"(2) BUSINESS MEALS.—Notwithstanding any other provision of this title, no deduction shall be allowed under this chapter for one-third of the expenses to which, but for this paragraph, paragraph (1) of subsection (e) would apply."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts paid or incurred after December 31, 1983, in taxable years ending after such date.

Subtitle B—Provisions Primarily Affecting Nonbusiness Taxpayers

SEC. 1321. LIMITATION ON INTEREST DEDUCTION.

(a) IN GENERAL.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) LIMITATION ON INTEREST DEDUCTIONS OF INDIVIDUALS.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for nonbusiness interest shall not exceed the sum of—

"(A) $2,000 ($4,000 in the case of a joint return),

"(B) any qualified housing interest, and

"(C) the amount otherwise allowable as a deduction for nonbusiness interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(2) NONBUSINESS INTEREST.—Except as provided in paragraph (4), the term 'nonbusiness interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1))

other than interest which is attributable to a trade or business.

"(3) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED HOUSING INTEREST.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis,

including all structures or other property appurtenant thereto.

"(C) QUALIFIED NET INVESTMENT INCOME.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(D) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) the gross income from interest, dividends, rents, and royalties, but only to the extent such income is not derived from the conduct of a trade or business, and

"(ii) the capital gain net income attributable to the disposition of property held for investment.

"(E) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions (other than for interest) directly connected with the production of qualified investment income.

"(4) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS; PROPERTY SUBJECT TO NET LEASE.—

"(A) CERTAIN INTEREST TREATED AS NONBUSINESS INTEREST.—The term 'nonbusiness interest' includes any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest.

"(B) INCOME TREATED AS QUALIFIED INVESTMENT INCOME.—For purposes of this subsection, any income derived from a limited business interest shall be treated as qualified investment income.

"(C) LIMITED BUSINESS INTEREST.—For purposes of this paragraph, the term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an S corporation if the taxpayer does not actively participate in the management of such corporation.

"(D) PROPERTY SUBJECT TO NET LEASE TREATED AS LIMITED BUSINESS INTEREST.—For purposes of this paragraph, the interest of the lessor in property subject to a lease shall be treated as a limited business interest if—

"(i) for the taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(ii) the lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 1322. 10 PERCENT EXCISE TAX ON SALES AT RETAIL OF CERTAIN LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subchapter A—Imposition of Luxury Tax on Certain Articles

"Sec. 4001. Imposition of tax.
"Sec. 4002. Definitions and special rules.
"Sec. 4003. Additional special rules.

"SEC. 4001. IMPOSITION OF TAX.

There is hereby imposed on the first retail sale of each taxable article a tax equal to 10 percent of the amount by which the price for which so sold exceeds the exemption amount, determined in accordance with the following table:

"Taxable articles:	The exemption amount is:
Automobiles	$20,000
Recreational boats	15,000
Nonbusiness aircraft	0
Jewelry	1,000
Furs	1,000

"SEC. 4002. DEFINITIONS AND SPECIAL RULES.

"(a) FIRST RETAIL SALE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

"(2) LEASES TREATED AS SALES.—Rules similar to the rules of section 4217 shall apply.

"(3) USE TREATED AS SALE.—

"(A) IN GENERAL.—If any person uses an article taxable under section 4001 before the first retail sale of such article, then such person shall be liable for tax under section 4001 in the same manner as if such article were sold at retail by him.

"(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the taxes imposed by this subchapter and section 4064, and

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(C) the price shall be determined without regard to any trade-in.

"(2) SALES AND PURCHASES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) AUTOMOBILES.—The term 'automobile' has the meaning given such term by paragraph (1) of section 4064(b).

"(2) RECREATIONAL BOAT.—The term 'recreational boat' means any boat unless substantially all of the use of which can reasonably be expected to be in a business of transporting persons or property for hire by boat or use in commercial fisheries.

"(3) NONBUSINESS AIRCRAFT.—The term 'nonbusiness aircraft' means any aircraft unless substantially all the use of which can reasonably be expected to be in a trade or business.

"(4) JEWELRY.—The term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, and includes watches and clocks.

"SEC. 4003. OTHER SPECIAL RULES.

"(a) ARTICLES CUSTOMARILY SOLD AS UNIT TREATED AS 1 ARTICLE.—Except to the extent otherwise provided by regulations prescribed by the Secretary, all articles customarily sold as part of a unit shall be treated as 1 article for purposes of applying the exemption amount.

"(b) SEPARATE PURCHASE OF TAXABLE VEHICLE AND PARTS OR ACCESSORIES.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—If—

"(A) the owner, lessee, or operator of any taxable vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date such vehicle was first placed in service,

there is hereby imposed on such installation a tax equal to the greater of 10 percent of the price of such part or accessory and its installation or the increase in the tax imposed by section 4001 which would have resulted had such installation occurred before the first retail sale and the vehicle had sold for its fair market value.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation described in paragraph (1) with respect to any vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulations prescribe).

"(3) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owner of the trade or business installing the part or accessory shall be secondarily liable for the tax imposed by paragraph (1).

"(4) TAXABLE VEHICLE.—For purposes of this subsection, the term 'taxable vehicle' means any automobile, recreational boat, or airplane which is subject to the tax imposed by paragraph (1).

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

"(1) subsections (c) and (d) of section 4216 (relating to partial payments), and

"(2) section 4222 (relating to registration), shall apply for purposes of this subchapter."

(c) CLERICAL AMENDMENT.—The table of subchapters of chapter 31 of such Code is amended to read as follows:

"Subchapter A. Imposition of luxury tax on certain articles.

"Subchapter B. Special fuels.
"Subchapter C. Heavy trucks and trailers."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

SEC. 1323. BASE PERIOD FOR INCOME AVERAGING SHORTENED TO 3 YEARS, ETC.

(a) IN GENERAL.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related definitions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof "⅓".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 1324. ELIMINATION OF ITEM ALLOCATION OF PARTNERSHIP INCOME, LOSSES, ETC.

(a) LIMITATION ON ITEM ALLOCATIONS.—Subsections (a) and (b) of section 704 (relating to partnership's distributive share) are amended to read as follows:

"(a) PARTNER'S DISTRIBUTIVE SHARE OF INCOME, GAINS, LOSSES, DEDUCTIONS, AND CREDITS.—Except as otherwise provided by this chapter, a partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for the taxable year shall be an amount which bears the same relationship to the amount of such item as the partner's distributive share of the taxable income or loss of partnership for such taxable year bears to the amount of such taxable income or loss.

"(b) PARTNER'S DISTRIBUTIVE SHARE OF TAXABLE INCOME OR LOSS.—

"(1) IN GENERAL.—Except as otherwise provided by this chapter, a partner's distributive share of the taxable income or loss of the partnership shall be determined under the partnership agreement.

"(2) DISTRIBUTIVE SHARE UNSTATED OR LACKING SUBSTANTIAL ECONOMIC EFFECT.—A partner's distributive share of the taxable income or loss of the partnership shall be determined in accordance with the partner's interest in the partnership (determined by taking into account all facts and circumstances), if—

"(A) the partnership agreement does not allocate the taxable income or loss of the partnership among the partners, or

"(B) the allocation of taxable income or loss to any partner under the partnership agreement does not have substantial economic effect.".

(b) ALLOCATION OF GAIN, LOSS, DEPRECIATION, AND DEPLETION ON PROPERTY CONTRIBUTED TO A PARTNERSHIP.—Subsection (c) of section 704 (relating to contributed property) is amended—

(1) by striking out paragraph (1),

(2) by striking out "If the partnership agreement so provides, depreciation, depletion, or" in paragraph (2) and inserting in lieu thereof "Depreciation, depletion, and",

(3) by striking out the heading of paragraph (2) and inserting in lieu thereof "(1) IN GENERAL.—",

(4) by striking out "depletion, or" in paragraph (3) and inserting in lieu thereof "depletion, and", and

(5) by redesignating paragraph (3) as paragraph (2).

(c) TAXABLE INCOME OR LOSS.—Section 704 (relating to partnership distributive share) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TAXABLE INCOME OR LOSS.—For purposes of subsections (a) and (b), the taxable income or loss of the partnership shall be determined without regard to any depreciation, depletion, gain, or loss which is allocated under subsection (c) (1).".

(d) CONFORMING AMENDMENTS.—Sections 613A(c)(7)(D) and 743(b) are each amended by striking out "agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account" and inserting in lieu thereof "property contributed to the partnership by a partner, section 704(c)(1) (relating to contributed property) shall apply in determining such share".

(e) EFFECTIVE DATE.—

(1) LIMITATION ON ITEM ALLOCATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1983.

(B) ESTABLISHED PARTNERSHIPS.—In the case of a partner in a partnership which has a written partnership agreement on October 25, 1983, the amendments made by subsections (a) and (c) shall apply to taxable years beginning after October 25, 1984.

(2) CONTRIBUTED PROPERTY.—The amendments made by subsections (b) and (d) shall apply with respect to property contributed to the partnership after October 25, 1983.

SEC. 1325. PUBLICLY TRADED PARTNERSHIPS TAXED AS CORPORATIONS.

(a) IN GENERAL.—Section 701 (relating to partners not partnerships subject to tax) is amended to read as follows:

"SEC. 701. PARTNERSHIPS GENERALLY NOT SUBJECT TO TAX.

"(a) IN GENERAL.—Except as provided in section (b)—

"(1) a partnership shall not be subject to the income tax imposed by this chapter, and

"(2) persons carrying on a business as partners shall be liable for income tax only in their separate or individual capacities.

(b) PUBLICLY-TRADED PARTNERSHIPS TAXED AS CORPORATIONS.—

"(1) IN GENERAL.—A publicly-traded partnership shall be treated for purposes of this title as a C corporation and not as a partnership.

"(2) PUBLICLY-TRADED PARTNERSHIP.—For purposes of this subsection, the term 'publicly-traded partnership' means any partnership if any partnership interest in such partnership may be traded upon an established securities market.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter K of chapter 1 is amended by striking out the item relating to section 701 and inserting in lieu thereof the following:

"SEC. 701. PARTNERSHIPS GENERALLY NOT SUBJECT TO TAX."

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) AMENDMENT APPLIES TO EXISTING PARTNERSHIPS ONLY AFTER 50 PERCENT CHANGE IN OWNERSHIP.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall not apply to any partnership in existence on October 25, 1983.

(B) 50 PERCENT CHANGE IN OWNERSHIP.—

(i) IN GENERAL.—Subparagraph (A) shall cease to apply to any taxable year beginning after the first day on which more than 50 percent of the capital interests or profit interests in the partnership are newly owned.

(ii) NEWLY OWNED INTEREST.—For purposes of clause (i), an interest held by any person on any day shall be treated as newly owned to the extent that—

(I) the percentage interest in such partnership owned by such person on such day, exceeds

(II) the percentage interest in such partnership owned by such person on October 25, 1983.

The preceding sentence shall be applied separately with respect to profits interests and capital interests.

(iii) INTERESTS ACQUIRED BY REASON OF DEATH.—For purposes of clause (ii), if—

(I) a person acquired an interest in a partnership after October 25, 1983, and

(II) such interest was acquired by such person by reason of the death of a person who owned such interest on October 25, 1983,

then such interest shall be treated as held on October 25, 1983, by the person described in subclause (I).

SEC. 1326. AMOUNT OF DEDUCTION FOR CHARITABLE CONTRIBUTION OF PROPERTY LIMITED TO ADJUSTED BASIS UNLESS PROPERTY HELD FOR 3 YEARS.

(2) IN GENERAL.—Section 170 (relating to charitable, etc. contributions and gifts) is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

"(j) DEDUCTION FOR CONTRIBUTIONS OF PROPERTY LIMITED TO ADJUSTED BASIS UNLESS PROPERTY HELD FOR 3 YEARS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, in the case of a contribution of property which has been held by the taxpayer for 3 years or less, the amount of any charitable contribution otherwise taken into account under this section shall be reduced by the amount of gain which would have been recognized if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).

"(2) EXCEPTION FOR CERTAIN SECURITIES.—Paragraph (1) shall not apply to any security for which, on the date of the contribution, there was a market on an established securities market.

"(3) ALLOCATION OF BASIS.—For purposes of paragraph (1), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Secretary.

"(4) DETERMINATION OF HOLDING PERIOD.—For purposes of paragraph (1), the period

the taxpayer held the property shall be determined in accordance with section 1223."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after December 31, 1983, in taxable years ending after such date.

By Mr. ROSTENKOWSKI:

—(1) Page 5, line 14, strike out "any property" and insert in lieu thereof "any tax-exempt use property".

Page 5, line 21, strike out "any property" and inset in lieu thereof "any tangible property".

Page 7, strike out lines 1 through 3 and insert the following:

"(IV) such use occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity).".

Page 9, line 4, strike out "EXCEPTION" and insert in lieu thereof "EXCEPTIONS".

Page 10, strike out lines 18 through 22 and insert the following:

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.".

Page 12, strike out line 24 and all that follows down through line 1 on page 13 and insert the following:

"(II) such use occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or a related entity).".

Page 18 after line 4, insert the following:

"(D) SPECIAL RULES FOR CERTAIN INTERNATIONAL ORGANIZATIONS.—If any domestic corporation which is not a tax exempt entity is a member of the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, or any successor organization of such Consortium or Organization, the term 'tax exempt use property' shall not include such domestic corporation's proportionate share (determined after the application of paragraph (8) to tax exempt entities) of property held by such Consortium, Organization, or successor organization.".

Page 19, line 13, strike out "If" and insert in lieu thereof "For purposes of this subtitle, if".

Page 20, line 3, strike out "Rules" and insert in lieu thereof "For purposes of this subtitle, rules".

Page 20, line 15, strike out "the first sentence" and insert in lieu thereof "the first two sentences".

Page 21, strike out line 1 and insert the following: "shall not be treated as section 38 property. The preceding sentence shall not apply to any property to the extent such property is treated as not being tax exempt use property under section 168(j)(6)(D) (relating to special rule for certain international organizations).".

Page 27, line 12, strike out "in service after" and insert in lieu thereof "in service on or after".

Page 28, line 7 after "facilities)" insert ", as in effect on the day before the date of the enactment of this Act,".

Page 33, line 12, strike out "such net capital gain" and insert in lieu thereof "the net capital gain".

Page 37, strike out lines 15 through 19 and insert in lieu thereof the following:

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.".

Page 45, after line 12, insert the following:

"(4) NO DOUBLE COUNTING OF LOSS.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection so that a loss from operations of any member of a controlled group will reduce the tentative LICTI of such group only once.".

Page 50, strike out line 1 through 3 and insert in lieu thereof the following: "as of the date of the issuance of such contract (whichever is most appropriate).".

Page 51, strike out line 2 through 5 and insert in lieu thereof the following: "laws of at least 26 States. For purposes of the preceding sentence, any limitation on interest rates imposed by the nonforfeiture laws of a State shall not be taken into account.".

Page 55, line 18, strike out "any".

Page 57, line 25, strike out "such risk" and insert in lieu thereof "such risk plus interest".

Page 70, line 6, insert "realized" before "capital gains".

Page 71, line 5, strike out "which are" and insert in lieu thereof "which is".

Page 73, line 2, strike out "adjustment" and insert in lieu thereof "adjustments".

Page 74, line 23, insert a comma before "once made".

Page 98, line 4, after "section 815" insert "(and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4))".

Page 107, strike out lines 8 through 13 and insert in lieu thereof the following: "the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a) (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);".

Page 108, line 3, strike out "or was an organization" and inset in lieu thereof "(or was an organization".

Page 108, line 6, strike out "revenue laws" and insert in lieu thereof "revenue laws)".

Page 111, line 16, strike out "that" and insert in lieu thereof "which".

Page 121, line 22, strike out "amendments made by" and insert in lieu thereof "the amendments made by".

Page 122, strike out lines 19 and 20 and insert in lieu thereof the following:

"(3) REINSURANCE TRANSACTIONS, AND RESERVE STRENGTHENING, AFTER SEPTEMBER 27, 1983.—Paragraph (1) shall".

Page 122, line 25, strike out "September 27, 1983" and insert in lieu thereof "September 27, 1983, and before January 1, 1984".

Page 123, line 1, strike out "reserve strengthening)" and insert in lieu thereof "reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before January 1, 1984)".

Page 123, line 12, insert "(relating to contiguous country branches of domestic life insurance companies)" after "of 1954".

Page 124, line 13, strike out "and 1982" and insert in lieu thereof "1982, and 1983".

Page 124, line 22, strike out "or such" and insert in lieu thereof "(or such".

Page 124, line 24, strike out "such assets," and insert in lieu thereof "such assets),".

Page 126, line 17, strike out "if—" and insert in lieu thereof "if such tables were—".

Page 126, line 18, strike out "such tables were".

Page 126, line 19, strike out "such tables were".

Page 135, line 2, strike out "any".

Page 140, line 15, strike out "such contract" and insert in lieu thereof "such contract (whether or not a flexible premium contract)".

Page 140, strike out lines 20 through 22 and insert in lieu thereof the following: "subsection (a) if '3 percent' were substituted for '4 percent' in subsection (b)(2) of this section.".

Page 143, line 20, strike out "under which" and insert in lieu thereof "to which".

Page 146, strike out lines 1 through 17 and insert in lieu thereof the following:

"(ii) QUALIFIED LIVES.—For purposes of clause (i), the term 'qualified life' means any individual if—

"(I) at some time during the taxable year, the corporation, partnership, proprietorship, or other entity had a policy of life insurance (other then term) on the life of such individual and had outstanding a life insurance loan (as defined in paragraph (4) without regard to subparagraph (C) thereof) with respect to such policy, and

"(II) the face amount of such insurance policy was not less than 10 percent of the highest face amount of any policy of life insurance (other than term) which is carried by such corporation or other entity on the life of any individual and with respect to which there is outstanding a life insurance loan (as defined in paragraph (4) without regard to subparagraph (C) thereof).

Page 155, line 13, strike out "section 4973(c)(2)" and insert in lieu thereof "section 4973(d)(2)".

Page 156, line 12, strike out "section 4973(c)(2)" and insert in lieu thereof "section 4973(d)(2)".

Page 162, line 9, strike out "if" and insert in lieu thereof "to the extent that".

Page 162, lines 13 and 14 and insert in lieu thereof the following: "in such corporation) exceeds 10 percent (in value) of all of the outstanding".

Page 176, line 5, strike out "section 4941" and insert in lieu thereof "section 4941(a)".

Page 176, after the material following line 14, insert the following:

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"Subchapter C. Abatement of first and second tier taxes in certain cases."

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

Page 178, line 26, strike out "which can" and insert in lieu thereof ", and the Secretary determines that such plan can".

Page 182, line 25, strike out "enactment of" and insert in lieu thereof "the enactment of".

Page 186, in the table of contents, strike out the item relating to section 431 and insert in lieu thereof the following:

Sec. 431. Revision of investment credit at-risk rules.

Page 202, line 5, strike out "(1)" and insert in lieu thereof "(1) Repeal of section 72(k).—".

Page 202, line 7, strike out "(2)" and insert in lieu thereof "(2) Repeal of section 101(e).—".

Page 202, line 20, strike out "(4)" and insert in lieu thereof "(4) Term interests.—".

Page 203, line 6, strike out "section 1041(b)" and insert in lieu thereof "section 1041(b)(2)".

Page 207, line 6, strike out "In the case where" and insert in lieu thereof "If".

Page 210, line 15, strike out "equal to" and insert in lieu thereof "equal to the".

Page 210, line 20, strike out "payments" and insert in lieu thereof "payment".

Page 211, strike out lines 14 through 20 and insert the following:

(c) Penalty for Failure To Supply Identifying Number.—Section 6676 (relating to failure to supply identifying number) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following to subsection:

"(c) Penalty for Failure To Supply Identifying.

Page 212, strike out lines 7 through 10.

Page 226, strike out line 14 and insert the following:

SEC. 431. REVISION OF INVESTMENT CREDIT AT-RISK RULES.

Page 244, line 6, strike out "15 of" and insert in lieu thereof "15 percent of".

Page 244, line 12, strike out "the taxpayer" and insert in lieu thereof "of corporate partners of the partnership".

Page 253, strike out line 5 and insert the following: "31, 1983; except that any loss from an activity described in section 465(c)(7)(A) of the Internal Revenue Code of 1954 (as amended by this section) which (but for the amendments made by this section) would have been treated as a deduction for the taxpayer's first taxable year beginning after December 31, 1983, under section 465(a)(2) of such Code shall be allowed as a deduction for such first taxable year notwithstanding such amendments."

Page 260, strike out lines 20 through 24 and insert the following: "enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.".

Page 262, line 20, strike out "section 402" and insert in lieu thereof "section 442".

Page 263, line 4, strike out "on any property" and insert in lieu thereof "of any property".

Page 267, beginning in line 6, strike out "provided in subparagraphs (B) and (C)" and insert in lieu thereof "otherwise provided in this paragraph".

Page 268, line 15, strike out "(b)" and insert in lieu thereof "(B)".

Page 291, line 24, strike out "folloiwng" and insert in lieu thereof "following".

Page 292, line 1, strike out "(8)" and insert in lieu thereof "(7)".

Page 292, line 2, strike out "of" and insert in lieu thereof "on".

Page 292, line 11, strike out "statement" and insert in lieu thereof "document".

Page 292, line 13, strike out "statements" and insert in lieu thereof "documents".

Page 309, line 21, strike out "section 703" and insert in lieu thereof "section 477".

Page 313, in the table of contents, strike out the item relating to section 31 and insert in lieu thereof the following:

"Sec. 31. Tax withheld on wages.

Page 324, line 10, strike out "and".

Page 324, line 14, strike out the period and insert in lieu thereof ", and".

Page 324, after line 14, insert the following: "(7) by striking out "subsection (c)(1)" in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)"."

Page 326, line 14, strike out "in lieu" and insert in lieu thereof "in lieu".

Page 330, line 8, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 330, line 14, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 335, line 9, strike out "section 46(d)(2)(A)(i)" and insert in lieu thereof "subsection (d)(2)(A)(i)".

Page 338, line 17, strike out "section 46(a)" and insert in lieu thereof "subsection (a)".

Page 338, line 22, strike out "section 46(a)" and insert in lieu thereof "subsection (a)".

Page 339, line 2, strike out "section 46(a)" and insert in lieu thereof "subsection (a)".

Page 339, strike out lines 3 through 6 and insert the following:

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

Page 339, strike out lines 10 through 13 and insert the following:

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable tot he organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by sriking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

Page 341, line 10, strike out "381(c)(25)" and insert in lieu thereof "381(c)(26)".

Page 342, line 8, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 342, line 14, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 352, line 25, strike out the period and inset in lieu thereof ", and".

Page 353, line 24, strike out "section 904(d)" and insert in lieu thereof "section 904(c)".

Page 361, line 10, strike out "section 164" and insert in lieu thereof "section 164 (as in effect before its redesignation by the Social Security Amendments of 1983)".

Page 364, strike out lines 1 through 14 and insert the following:

(35) SECTION 6401(b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amendment to read as follows:

"(b) EXCESSIVE CREDITS.—

"(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under suparts A, B, and D of such part IV), the amount of such excess shall be considered an overpayment.

"(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year."

Page 368, line 13, strike out "of such Code".

Page 368, line 19, strike out "of such Code".

Page 368, beginning in line 25, strike out "of such Code".

Page 371, line 7, strike out "of such Code".

Page 371, line 17, strike out "of such Code".

Page 378, strike out line 22 and insert the following: "subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations the partnership described in such subparagraph or to an interest in such partnership."

Page 400, after line 14, insert the following:

(5) TREATMENT OF TAX IMPOSED UNDER SECTION 409(c).—For purposes of section 26(b) of the Internal Revenue Code of 1954 (as amended by this Act), any tax imposed by section 409(c) of such Code (as in effect before its repeal by this section) shall be treated as a tax imposed by section 408(f) of such Code.

Page 402, in the table of contents following line 12, strike out the item relating to section 503 and insert the following:

Sec. 503. Exclusion of certain reductions in tuition from gross income.

Page 402, line 17, strike out "of the Internal Revenue Code of 1954".

Page 403, line 13, strike out "provided to" and insert in lieu thereof "offered for sale to".

Page 413, line 7, strike out "of such Code".

Page 413, line 16, strike out "of such Code".

Page 414, line 4, strike out "of such Code".

Page 414, beginning in line 10, strike out "of such Code".

Page 415, lines 3 through 7, indent the proposed subsection (s) two ems, so that its left margin is aligned with the left margin of lines 8 through 11.

Page 415, line 9, strike out "of such Code".

Page 415, line 18, strike out "of such Code".

Page 416, line 4, strike out "of such Code".

Page 417, strike out lines 6 and 7 and insert the following:

SEC. 503. EXCLUSION OF CERTAIN REDUCTIONS IN TUITION FROM GROSS INCOME.

Page 417, beginning in line 8, strike out "of the Internal Revenue Code of 1954".

Page 417, line 23, strike out "employee" and insert in lieu thereof "employee (or whose use is treated as an employee use)".

Page 427, after line 19, insert the following new subsection:

(g) AMENDMENT RELATED TO SECTION 213.—The table contained in subparagraph (C) of section 936(a)(2) is amended by striking out "The percentage tax is:" and inserting in lieu thereof "The percentage is:".

Page 427, line 20, strike out "(g)" and insert in lieu thereof "(h)".

Page 428, line 3, strike out "(h)" an insert in lieu thereof "(i)".

Page 428, line 14, strike out "(i)" and insert in lieu thereof "(j)".

Page 429, line 5, strike out "(j)" and insert in lieu thereof "(k)".

Page 438, line 12, strike out "(k)" and insert in lieu thereof "(l)".

Page 441, line 21, strike out "(l)" and insert in lieu thereof "(m)".

Page 449, strike out lines 6 through 9 and insert in lieu thereof the following:

(4) Repeal of section 404(a)(9).—

(A) Subsection (a) of section 404 is amended by striking out paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(B) Subparagraph (C) of section 415(c)(6) is amended—

(i) by striking out "paragraph (10) of section 404(a)" and inserting in lieu thereof "paragraph (9) of section 404(a)",

(ii) by striking out "section 404(a)(10)(A)" and inserting in lieu thereof "section 404(a)(9)(A)", and

(iii) by striking out "section 404(a)(1)(B)" and inserting in lieu thereof "section 404(a)(9)(B)".

Page 460, line 5, strike out "219(e)(4)" and insert in lieu thereof "414(d)".

Page 462, after line 15, insert the following new subsection:

(b) AMENDMENT RELATED TO SECTION 281A.—Paragraph (2) of section 281A(b) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

Page 462, line 16, strike out "(b)" and insert in lieu thereof "(c)".

Page 462, after line 20, insert the following new subsections:

(d) AMENDMENT RELATED TO SECTION 314.—Subparagraph (E) of section 6678(3) is amended by striking out "section 6053(c)" and inserting in lieu thereof "section 6053".

(e) AMENDMENTS RELATED TO SECTION 323.—

(1) Subsection (b) of section 5684 is amended—

(A) by striking out "Section 6660" in the heading and inserting in lieu thereof "Section 6662", and

(B) by striking out "Section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)",

(2) Subsection (c) of section 5761 is amended—

(A) by striking out "Section 6660" in the heading and inserting in lieu thereof "Section 6662", and

(B) by striking out "Section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)",

Page 462, line 21, strike out "(c)" and insert in lieu thereof "(f)".

Page 465, line 13, strike out "(d)" and insert in lieu thereof "(g)".

Page 465, line 18, strike out "(e)" and insert in lieu thereof "(h)".

Page 465, line 22, strike out "(f)" and insert in lieu thereof "(i)".

Page 466, after line 2, insert the following:

(j) AMENDMENT RELATED TO SECTION 346.—Subparagraph (B) of section 346(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(B) Subparagaph (A) of section 6601(d)(2) is amended by striking out the last day of' each place it appears and inserting in lieu thereof 'the filing date for'."

Page 466, line 3, strike out "(g)" and insert in lieu thereof "(k)".

Page 468, after the matter preceding line 1, insert the following:

(G) Subsection (h) of section 7422 is amended by striking out "section 6131(a)(3)" and inserting in lieu thereof "section 6231(a)(3)".

Page 477, after line 24, insert the following new paragraph:

(4) Subparagraph (C) of section 6362(d)(2) is amended by striking out "electing small business corporation (within the meaning of section 1371(a))" and inserting in lieu thereof "an S corporation".

Page 480, after line 16, insert the following new paragraph:

(6) Subsection (b) of section 5684 is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

Page 480, line 17, strike out "(6)" and insert in lieu thereof "(7)".

Page 481, line 18, strike out "(relating" and insert in lieu thereof "(relating to".

Page 507, strike out line 6 and insert in lieu thereof the following: "the matter which follows "such affiliate" and precedes "or (C)" and the matter which follows "section 233" and precedes "except", and by inserting in lieu thereof a comma and a semicolon, respectively."

Page 511, strike out lines 4 through 6.

Page 511, line 7, strike out "(g)" and insert in lieu thereof "(f)".

Page 512, line 11, strike out "(h)" and insert in lieu thereof "(g)".

Page 513, line 1, strike out "(i)" and insert in lieu thereof "(h)".

Page 513, lines 3 and 4, strike out "Section 223(f) of such Act is amended to read as follows:" and insert in lieu thereof "Section 223 of such Act is amended by adding at the end thereof the following new subsection:".

Page 513, line 5, strike out "(f)" and insert in lieu thereof "(h)".

Page 513, line 5, strike out "(j)" and insert in lieu thereof "(i)".

Page 528, line 14, strike out "37" and insert in lieu thereof "36".

Page 529, line 1, strike out "(19)(G)," after "(15),".

Page 534, strike out line 5 and insert in lieu thereof the following:

(e)(1) Subparagraphs (C) and (D) of the section 1101(a)(8) of such Act are amended by indenting them 4 ems so as to align their left margin with the left margin of subparagraphs (A) and (B) of such section.

(2) Paragraph (9) of section 1101(a) of such Act is amended by indenting it (including subparagraphs (A) through (D) and clauses (i) and (ii) of subparagraph (C)) 4 additional ems so as to align the left margin at the beginning of such paragraph with the left margin of paragraph (8)(A) of such section.

(2)(A) Section 1107(a) of such Act is amended by

Page 534, line 7, strike out "of 1939".

Page 534, line 11, strike out "(2)" and insert in lieu thereof "(3)".

Page 534, line 19, strike out "(3)" and insert in lieu thereof "(4)".

Page 534, line 24, strike out "(4)" and insert in lieu thereof "(5)".

Page 535, line 1, strike out "(5)" and insert in lieu thereof "(6)".

Page 535, line 9, strike out "(6)" and insert in lieu thereof "(7)".

Page 541, line 13, strike out "subsections (a) and (b)" and insert in lieu thereof "(b)".

Page 542, line 5, strike out "ir" and insert in lieu thereof "In".

Page 542, line 12, strike out "and".

Page 542, line 13, add "and" after the semicolon.

Page 542, after line 13, insert the following new clause:

(v) subsection (d) of section 233;

Page 544, strike out line 4 and insert in lieu thereof the following:

to that term;

but nothing in this subsection shall affect the exercise under section 402(a)(5) of such Act of the functions, powers, and duties relating to the prescription of personnel standards on a merit basis which were transferred from the Secretary of Health, Education, and Welfare by section 208(a)(3)(D) of Public Law 91-648.

Page 551, after line 21, insert the following new paragraph:

(5) The heading of title XI of such Act is amended by striking out "PROFESSIONAL STANDARDS REVIEW" and inserting in lieu thereof "PEER REVIEW".

Page 552, after line 4, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(3) Section 1818(C)(1) of such Act is amended by striking out "Act" and inserting in lieu thereof "section".

(4) Section 1818(d)(2) of such Act is amended by striking out "if midway between multiples of $1" and inserting in lieu thereof ", if a multiple of 50 cents but not a multiple of $1,".

Page 553, amend lines 3 and 4 to read as follows:

(D) by striking out "(1) such hospital" and "(2) the Secretary" and inserting in lieu thereof "(A) such hospital" and "(B) the Secretary", respectively.

Page 553, after line 16, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(14) The seventh sentence of section 1842(b) of such Act is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

Page 556, amend lines 1 through 7 to read as follows:

(35) Section 1866(b) of such Act is amended by moving the alignment of paragraph (3) two ems to the left so as to align its left margin with the left margin of paragraph (4).

Page 556, after line 16, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(39) Section 1876(c)(4)(A)(i) of such Act is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".

Page 556, amend line 21 to read as follows:

out ", (e), and (f)" and inserting in lieu thereof "and (e)".

Page 619, line 9, strike out "subsection (d)(2)" and insert in lieu thereof "paragraph (2) of this subsection".

Page 625, strike out line 21 and insert in lieu thereof the following:

property which offset position taken by shareholders. In applying subsection (e) in respect of offsetting position stock, members of the same affiliated group (as defined in section 1504(a) without regard to subsection (b) thereof) shall be treated as one taxpayer."

Page 626, line 17, strike out "that date" and insert in lieu thereof "such date".

Page 626, line 22, strike out "that date" and insert in lieu thereof "such date".

Page 636, in the italicized matter following line 4, move the new subparagraph (G) four ems to the left, so that its left margin is aligned with the left margin of the two preceding lines.

Page 655, line 17, strike out the quotation marks.

Page 659, move the sentence beginning in line 4 two ems to the left, so that the left margin of such sentence (unparagraphed) is aligned with the left margin of lines 9 through 11.

Page 659, line 8, strike out "307" and insert in lieu thereof "927".

Page 661, strike out the heading in lines 17 through 19 and insert in lieu thereof the following:

SEC. 926. SSI BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT.

Page 661, line 20, strike out "SEC. 306.".

Page 662, strike out the heading in lines 20 through 22 and insert in lieu thereof the following:

SEC. 927. ADDITIONAL FUNCTIONS OF ADVISORY COUNCIL; WORK EVALUATIONS IN CASE OF APPLICANTS FOR AND RECIPIENTS OF SSI BENEFITS BASED ON DISABILITY.

Page 662, line 23, strike out "SEC. 307.".

Page 662, line 25, strike out "304" and insert in lieu thereof "924".

Strike out section 1002 and redesignate the succeeding sections in part A of title X (and conform the table of contents of title X) accordingly.

—(2) Page 627, after line 13, insert the following:

SEC. 808. DELAY OF AMENDMENTS TO SECTION 382.

Subsection (g) of section 806 of the Tax Reform Act of 1976 is amended—

(1) by striking out "January 1, 1984" in paragraphs (2) and (3) and inserting in lieu thereof "November 1, 1984", and

(2) by striking out "June 30, 1984" in paragraph (2) and inserting in lieu thereof "October 31, 1984".

SEC. 809. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) EXTENSION.—

(1) IN GENERAL.—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

"(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

"(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1)."

(2) DEFINITION OF CROP YEAR.—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

"(2) CROP YEAR.—The term '1983 crop year' means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term '1984 crop year' means the crop year for wheat the planting and harvesting period for which occurs during 1984."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)).

(2) INCOME TAX TREATMENT NOT TO APPLY FOR 1984 CROP YEAR TO THE EXTENT PAYMENTS DETERMINED TO BE ILLEGAL.—

(A) IN GENERAL.—If it is determined in a judicial proceeding brought under subparagraph (B) that the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs, section 2(a) of the Payment-in-Kind Treatment Act of 1983 shall apply to commodities received for the 1984 crop year only to the extent that the receipt of such commodities is legal under such determination.

(B) COMPTROLLER GENERAL TO BRING ACTION FOR DECLARATORY JUDGMENT.—

(i) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall (and notwithstanding any other provision of law is hereby authorized to) bring an action in the name of the United States against the Secretary of Agriculture in the United States District Court for the District of Columbia for a declaration with respect to the issue of whether the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs.

(ii) PRIORITY.—To the maximum extent possible, the United States District Court for the District of Columbia shall give priority to the action brought under this subparagraph.

(C) DECLARATION ONLY TO APPLY FOR INCOME TAX TREATMENT FOR 1984 CROP YEAR.—Nothing in any declaration in a proceeding brought under subparagraph (B) shall affect—

(i) the tax treatment under the Payment-in-Kind Tax Treatment Act of 1983 for the 1983 crop year,

(ii) the tax treatment under such Act for the 1984 crop year other than the tax treatment under section 2(a) of such Act, or

(iii) the tax treatment of a cooperative with respect to commodities received on behalf of another person.

SEC. 810. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978."

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 811. INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.

(a) GENERAL RULE.—Section 692 (relating to income taxes of members of the Armed Forces on death) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN MILITARY OR CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.—

"(1) IN GENERAL.—In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury incurred outside the United States in a terroristic or military action, any tax imposed by this subtitle shall not apply—

"(A) with respect to the taxable year in which falls the date of his death, and

"(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

"(2) TERRORISTIC OR MILITARY ACTION.—For purposes of paragraph (1), the term 'terroristic or military action' means—

"(A) any terroristic activity directed against the United States or any of its allies, and

"(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term 'military action' does not include training exercises.

"(3) TREATMENT OF MULTINATIONAL FORCES.—For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to all taxable years (whether beginning before, on, or after the date of the enactment of this Act) of individuals dying after December 31, 1979.

(2) STATUTE OF LIMITATIONS WAIVED.—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) shall not expire before the date 1 year after the date of the enactment of this Act.

SEC. 812. TREATMENT OF TRANSPORTATION EXPENSES INCURRED WITH RESPECT TO EMPLOYMENT AT THE ANTIBALLISTIC MISSILE SITE NEAR NEKOMA, NORTH DAKOTA.

(a) GENERAL RULE.—Employment at the antiballistic missile project near Nekoma, North Dakota, shall be treated for purposes of sections 62 and 162 of the Internal Revenue Code of 1954 as temporary employment with respect to transportation and traveling expenses—

(1) otherwise allowable as a deduction under section 162(a) of such Code,

(2) paid or incurred after 1969 and before 1975, and

(3) claimed on a return filed for any taxable year which includes any portion of the period described in paragraph (2).

(b) WAIVER OF STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of Federal income tax resulting from the application of subsection (a) is prevented at any time before the date one year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the date one year after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending after December 31, 1969.

SEC. 813. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

(a) If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid within one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and

penalties in respect of liability for such Federal income tax.

(b) For purposes of subsection (a), the prize described in this subsection is a residence which—

(1) was won by the taxpayer in a local radio contest,

(2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,

(3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and

(4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

Page 614, insert after the material preceding line 1 the following:

Sec. 808. Delay of amendments to section 382.
Sec. 809. Extension of Payment-in-Kind Tax Treatment Act of 1983 to wheat for 1984 crop year.
Sec. 810. Taxation of unemployment compensation not to apply to compensation paid for weeks of unemployment ending before December 1, 1978.
Sec. 811. Income taxes of certain military and civilian employees of the United States dying as a result of injuries sustained overseas.
Sec. 812. Treatment of transportation expenses incurred with respect to employment at the antiballistic missile site near Nekoma, North Dakota.
Sec. 813. Treatment of home won in local radio contest and specially designed for handicapped foster child.

Page 417, after line 24, insert the following:

Such term also includes the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education at the graduate level at such organization of such employee if such employee is a teaching or research associate or assistant at such organization.

—(3) Strike out title VII of the bill (beginning with line 14 on page 558 and ending with line 18 on page 613) and insert the following:

TITLE VII—TAX-EXEMPT BOND PROVISIONS

SEC. 701. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This title may be cited as the "Tax-Exempt Bond Limitation Act of 1983".

(b) TABLE OF CONTENTS.—

TITLE VII—TAX-EXEMPT BOND PROVISIONS

Sec. 701. Short title; table of contents.

Subtitle A—Mortgage Subsidy Bonds

Sec. 711. Extension of mortgage subsidy bond authority.
Sec. 712. Mortgage credit certificates.

Subtitle B—Private Activity Bonds

Sec. 721. Limitation on aggregate amount of private activity bonds.
Sec. 722. Tax exemption denied for obligation directly or indirectly guaranteed by Federal Government.
Sec. 723. Aggregate limit per taxpayer for small issue exception.
Sec. 724. Limitations on acquisitions of land, existing facilities etc.
Sec. 725. Miscellaneous industrial development bond provisions.
Sec. 726. Effective dates.

Subtitle C—Obligations of Certain Educational Organizations

Sec. 731. Tax-exempt status of obligations of certain educational organizations.

Subtitle A—Mortgage Sudsidy Bonds

SEC. 711. EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) GENERAL RULE.—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out "December 31, 1983" each place it appears and inserting in lieu thereof "December 31, 1988".

(b) REPORTING REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.—

(1) IN GENERAL.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraph:

"(3) INFORMATION REPORTING REQUIREMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued, a statement concerning the issue which contains—

"(i) the name and address of the issuer,

"(ii) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(iii) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section, and

"(iv) such other information as the Secretary may require.

"(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion."

(2) REQUIREMENT TO APPLY TO VETERANS' BONDS.—Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(1)" and inserting in lieu thereof "paragraphs (1) and (3) of subsection (j)".

(c) TREATMENT OF QUALIFIED VETERANS' BONDS.—

(1) TERMINATION OF TREATMENT.—Paragraph (3) of section 103A(c) (defining qualified veterans' mortgage bond) is amended by adding at the end thereof the following new sentence:

"No obligation issued after December 31, 1988, may be treated as a qualified veterans' mortgage bond."

(2) STATE CEILING REDUCED BY AMOUNT OF VETERANS' BONDS.—Paragraph (4) of section 103A(g) (defining State ceiling) is amended to read as follows:

"(4) STATE CEILING.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State ceiling applicable to any State for any calendar year shall be the greater of—

"(i) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located within the jurisdiction of such State, or

"(ii) $200,000,000.

"(B) REDUCTION FOR AMOUNT OF QUALIFIED VETERANS' MORTGAGE BONDS ISSUED DURING PRECEDING CALENDAR YEAR.—The State ceiling applicable to any State for any calendar year shall be reduced by the aggregate amount of qualified veterans' mortgage bonds issued in the State during the preceding calendar year."

(3) SPECIAL RULE FOR CERTAIN BONDS TO FINANCE REAL PROPERTY TAXES.—If a State under a provision of its constitution or statutes in effect on November 16, 1983, in connection with its veterans' mortgage bond program issues obligations having maturity of one year or less for purpose of paying the real property taxes on the principal residences of veterans, only 1/15th of the amount of such obligations shall be taken into account for purposes of subparagraph (B) of section 103A(g)(4) of the Internal Revenue Code of 1954.

(d) TREATMENT OF LIMITED EQUITY COOPERATIVES.—

(1) IN GENERAL.—Section 103A(l) (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(11) TREATMENT OF LIMITED EQUITY COOPERATIVE HOUSING CORPORATIONS.—

"(A) TREATMENT AS RESIDENTIAL RENTAL PROPERTY.—Except as provided in subparagraph (B), for purposes of this section and section 103(b), any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing.

"(B) SUBJECT TO MORTGAGE SUBSIDY BOND CEILING.—

"(i) IN GENERAL.—In the case of any issue a significant portion of the proceeds of which are to be used to finance limited equity cooperative housing—

"(I) subsection (a) of section 103 shall not apply to any obligation issued as a part of such issue unless such issue meets the requirements of subsection of this section, and

"(II) for purposes of subsection (g) of this section, any obligation issued as a part of such issue shall be treated as a qualified mortgage bond.

"(ii) EXCEPTION WHERE FINANCING SUBJECT TO SECTION 103 CAP.—Clause (i) shall not apply to any obligation which was taken into account under section 103(n).

"(C) LIMITED EQUITY COOPERATIVE HOUSING.—For purposes of this paragraph, the term 'limited equity cooperative housing' means any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

"(D) QUALIFIED COOPERATIVE HOUSING CORPORATION.—For purposes of this paragraph, the term 'qualified cooperative housing corporation' means any cooperative housing corporation (as defined by section 216(b)(1)) if—

"(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

"(I) the consideration paid for such stock by the first such stockholder, as adjusted by a cost-of-living adjustment determined by the Secretary,

"(II) payments made by any stockholder for improvements to such house or apartment,

"(III) payments attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements thereto, and

"(IV) contributions attributable to any stockholder to a corporate reserve account to the extent that such account is restricted to the development or acquisition of real property, including improvements thereto;

"(ii) the value of the corporation's assets, to the extent such value exceeds the combined transfer values of the outstanding corporate stock (reduced by any corporate liabilities), shall be used only for public benefit or charitable purposes, or directly to benefit the corporation itself, and shall not be used directly to benefit any stockholder; and

"(iii) such corporation makes an election under this paragraph at such time and in such manner as the Secretary may by regulations prescribe.

"EFFECT OF ELECTION.—If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof).

"(F) CORPORATION MUST CONTINUE TO BE LIMITED EQUITY COOPERATIVE.—Subsection (b)(4)(A) of section 103 shall not apply to any obligation issued as part of an issue a significant portion of the proceeds of which are to be used to finance limited equity cooperative housing unless the cooperative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (within the meaning of section 103(b)(12)(B)).

"(G) ELECTION IRREVOCABLE.—Any election under this paragraph, once made, shall be irrevocable."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to obligations issued after December 31, 1983.

(2) TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.—

(A) IN GENERAL.—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) TERMINATION.—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(3) QUALIFIED VETERANS' MORTGAGE BONDS AUTHORIZED BEFORE OCTOBER 18, 1983, NOT TAKEN INTO ACCOUNT.—For purposes of section 103A(g)(4)(B) of the Internal Revenue Code of 1954 (as amended by this section), any qualified veterans' mortgage bond shall not be taken into account if—

(A) the issuance of such bond was authorized by a State referendum before October 18, 1983, or

(B) the issuance of such bond is authorized pursuant to a State referendum before December 1, 1983, where such referendum was authorized by action of the State legislature before October 18, 1983.

SEC. 712. MORTGAGE CREDIT CERTIFICATES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 25 as section 26 and by inserting after section 24 the following new section:

"SEC. 25. INTEREST ON CERTAIN HOME MORTGAGES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the certificate credit rate, and

"(2) the interest paid or incurred by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

"(b) CERTIFICATE CREDIT RATE; CERTIFIED INDEBTEDNESS AMOUNT.—For purposes of this section—

"(1) CERTIFICATE CREDIT RATE.—The term 'certificate credit rate' means the rate of the credit allowable by this section which is specified in the mortgage credit certificate.

"(2) CERTIFIED INDEBTEDNESS AMOUNT.—The term 'certified indebtedness amount' means the amount of indebtedness which is—

"(A) incurred by the taxpayer—

"(i) to acquire the principal residence of the taxpayer,

"(ii) as a qualified home improvement loan (as defined in section 103A(1)(6)) with respect to such residence, or

"(iii) as a qualified rehabilitation loan (as defined in section 103A(1)(7)) with respect to such residence, and

"(B) specified in the mortgage credit certificate.

"(c) MORTGAGE CREDIT CERTIFICATE; QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—For purposes of this section—

"(1) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued under a qualified mortgage credit certificate program by the State or political subdivision having the authority to issue a qualified mortgage bond to provide financing on the principal residence of the taxpayer,

"(B) is issued to the taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) specifies—

"(i) the certificate credit rate, and

"(ii) the certified indebtedness amount, and

"(D) is in such form as the Secretary may prescribe.

"(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'qualified mortgage credit certificate program' means any program—

"(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue qualified mortgage bonds,

"(ii) under which the issuing authority elects (in such manner and form as the Secretary may prescribe) not to issue an amount of qualified mortgage bonds which it may otherwise issue during such calendar year under section 103A,

"(iii) under which the indebtedness certified by mortgage credit certificates meets the requirements of the following subsections of section 103A (as modified by subparagraph (B) of this paragraph):

"(I) subsection (d) (relating to residence requirements),

"(II) subsection (e) (relating to 3-year requirement),

"(III) subsection (f) (relating to purchase price requirement),

"(IV) subsection (h) (relating to portion of loans required to be placed in target areas), and

"(V) paragraphs (1) and (2) of subsection (j) (relating to other requirements),

"(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a qualified mortgage bond,

"(v) which is not limited to indebtedness incurred from particular lenders, and

"(vi) if the issuing authority allocates a block of mortgage credit certificates for use in connection with a particular development, which requires the developer to furnish to the issuing authority and the homebuyer a certificate that the price for the residence is no higher than it would be without the use of a mortgage credit certificate.

"(B) MODIFICATIONS OF SECTION 103A.—Under regulations prescribed by the Secretary, in applying section 103A for purposes of subclauses (II) and (IV) of subparagraph (A)(iii)—

"(i) each qualified mortgage certificate credit program shall be treated as a separate issue,

"(ii) the product determined by multiplying—

"(I) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(II) the certificate credit rate specified in such certificate,

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue, and

"(iii) paragraph (1) of section 103A(e) shall be applied by substituting '100 percent' for '90 percent or more'.

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 90-percent requirement of section 103A(e)(1) and the Secretary is satisfied that such requirement will be met under such plan.

"(d) DETERMINATION OF CERTIFICATE CREDIT RATE.—For purposes of this section—

"(1) IN GENERAL.—The certificate credit rate specified in any mortgage credit certificate shall not be less than 10 percent or more than 50 percent.

"(2) AGGREGATE LIMIT ON CERTIFICATE CREDIT RATES.—

"(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying—

"(i) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(ii) the certificate credit rate with respect to such certificate,

shall not exceed 15 percent of the nonissued bond amount.

"(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term 'nonissued bond amount' means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds which the issuing authority is otherwise authorized to issue and elects not to issue under subsection (c)(2)(A)(ii).

"(C) AGGREGATE OF NONISSUED BOND AMOUNTS CANNOT EXCEED 9 PERCENT OF MORTGAGES EXECUTED.—The aggregate nonissued bond amount for any calendar year of all issuing authorities in any State shall not exceed the limit determined under section 103A(g)(4)(A)(i) for such State for such calendar year.

"(e) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) CARRYFORWARD OF UNUSED CREDIT.—In the case of any taxpayer, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such year reduced by the sum of the credits allowable under this subpart (other than this section) such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(2) INDEBTEDNESS NOT TREATED AS CERTIFIED WHERE CERTAIN REQUIREMENTS NOT IN FACT MET.—Subsection (a) shall not apply to any indebtedness if all the requirements of subsections (d)(1), (e), (f), and (j) of section 103A were not in fact met with respect to such indebtedness.

"(3) PERIOD FOR WHICH CERTIFICATE IN EFFECT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a mortgage credit certificate shall be treated as in effect with respect to interest attributable to the period—

"(i) beginning on the date such certificate is issued, and

"(ii) ending on the earlier of the date on which—

"(I) the certificate is revoked by the issuing authority, or

"(II) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate relates.

"(B) CERTIFICATE INVALID UNLESS INDEBTEDNESS INCURRED WITHIN CERTAIN PERIOD.—A certificate shall not apply to any indebtedness which is incurred after the close of the calendar year following the calendar year for which the issuing authority made the applicable election under subsection (c)(2)(A)(ii).

"(C) NOTICE TO SECRETARY WHEN CERTIFICATE REVOKED.—Any issuing authority which revokes any mortgage credit certificate shall notify the Secretary of such revocation at such time and in such manner as the Secretary shall prescribe by regulations.

"(4) SPECIAL RULES WHERE MORTGAGE IS ASSUMED.—In the case of a mortgage with respect to which a mortgage credit certificate was issued and which is assumed by a taxpayer—

"(A) the credit certificate rate under such certificate shall not be taken into account under this section to the extent it exceeds 25 percent, and

"(B) such certificate shall be treated as issued to such taxpayer.

"(5) CERTAIN REFINANCING PERMITTED.—In applying subsection (c)(2)(A)(iii), the requirements of section 103A(j)(1) shall be treated as met if a mortgage credit certificate is issued with respect to a mortgage which is used to replace an existing mortgage for which such a certificate has already been issued if, under regulations prescribed by the Secretary, such replacement mortgage does not extend the term, alter amortization schedule, or increase the principal amount of the original mortgage.

"(6) PUBLIC NOTICE THAT CERTIFICATES WILL BE ISSUED.—At least 90 days before any mortgage credit certificate is to be issued under a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

"(A) the eligibility requirements for such certificates,

"(B) the methods by which such certificates are to be issued, and

"(C) such other information as the Secretary may require.

"(7) INTEREST PAID OR ACCRUED TO RELATED PERSONS.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a person who is a related person to the taxpayer (within the meaning of section 103(b)(6)(C)(i)).

"(8) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(9) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

"(A) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(l)(7)(B).

"(B) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(l)(6).

"(10) QUALIFIED MORTGAGE BOND.—The term 'qualified mortgage bond' has the meaning given such term by section 103A(c)(1).

"(f) REDUCTION IN AGGREGATE AMOUNT OF QALIFIED MORTGAGE BONDS WHICH MAY BE ISSUED WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—If for any calendar year any mortgage credit certificate program fails to meet the requirements of—

"(A) clause (iii), (iv), (v), or (vi) of subsection (c)(2)(A), or

"(B) paragraph (2) of subsection (d),

the applicable State ceiling under paragraph (4) of section 103A(g) for the State in which such program operates shall be reduced by twice the correction amount with respect to such failure. Such reduction shall be applied to such State ceiling for the calendar year following the calendar year in which the Secretary determines the correction amount with respect to such failure.

"(2) CORRECTION AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'correction amount' means, in the case of a failure to meet a requirement referred to in—

"(i) paragraph (1)(A), the amount of indebtedness involved, or

"(ii) paragraph (1)(B), the amount equal to the excess credit amount divided by 0.15.

"(B) EXCESS CREDIT AMOUNT.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term 'excess credit amount' means the excess of—

"(I) the credit amount for any mortgage credit certificate program, over

"(II) the amount which would have been the credit amount for such program had such program met the requirements of paragraph (2) of subsection (d).

"(ii) CREDIT AMOUNT.—For purposes of clause (i), the term 'credit amount' means the sum of the products determined under clauses (i) and (ii) of subsection (d)(2)(A).

"(3) SPECIAL RULE FOR STATES HAVING CONSTITUTIONAL HOME RULE CITIES.—In the case of a State having one or more constitutional home rule cities (within the meaning of section 103A(g)(5)(C)), the reduction in the State ceiling by reason of paragraph (1) shall be allocated to the constitutional home rule city, or to the portion of the State not within such city, whichever caused the reduction.

"(g) REPORTING REQUIREMENTS.—Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing—

"(1) the name, address, and social security account number of the individual to which the certificate was issued,

"(2) the certificate's issuer, date of issue, certified indebtedness amount, and certificate credit rate, and

"(3) such other information as the Secretary may require by regulations.

Such report shall be filed at such time and in such manner as the Secretary may require by regulations.

"(h) TERMINATION.—No election may be made under subsection (c)(2)(A)(ii) for any calendar year after 1988."

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(8) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced by the sum of—

"(A) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

"(B) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year."

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST WHERE CREDIT TAKEN.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) REDUCTION OF DEDUCTION WHERE SECTION 25 CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 25 shall be reduced by the amount of the credit allowable with respect to such interest under section 25 (determined without regard to section 26)."

(d) PENALTY FOR FAILURE TO FILE REPORTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"SEC. 6706. FAILURE TO FILE REPORTS ON LOANS COVERED BY MORTGAGE CREDIT CERTIFICATES.

"(a) IN GENERAL.—Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of $200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of any penalty imposed by subsection (a)."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6706. Failure to file reports on loans covered by mortgage credit certificates."

(e) ALLOCATION TO ISSUERS OTHER THAN STATE HOUSING FINANCING AGENCIES DETERMINED ON BASIS OF POPULATION WHERE NO OVERRIDING STATE STATUTE.—Subparagraph (A) of section 103A(g)(3) is amended by striking out all that follows "for such year as—" and inserting in lieu thereof:

"(i) the population of the jurisdiction of such issuing authority, bears to

"(ii) the population for the entire State. For purposes of the preceding sentence, the determination of population shall be made in accordance with section 103(n)(9)."

(f) TECHNICAL AMENDMENTS.—

(1) Sections 28(d)(2), 29(b)(5), 30(g)(1)(A), 38(c)(2), and 901(a), as amended by this act, are each amended by striking out "section 25(b)" and inserting in lieu thereof "section 26(b)".

(2) Section 23(b)(5), as amended by this Act, is amended by striking out "section 25(a)" and inserting in lieu thereof "section 26(a)" and by striking out "(other than this section)" and inserting in lieu thereof "(other than this section and section 25)".

(3) Paragraph (3) of section 55(c) is amended—

(A) by striking out "25" each place it appears and inserting in lieu thereof "26", and

(B) by striking out "section 23, 30, or 38" and inserting in lieu thereof "section 23, 25, 30, or 38".

(4) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(5) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(g) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 25 and inserting in lieu thereof the following:

"Sec. 25. Interest on certain home mortgages.
"Sec. 26. Limitation based on tax liability; definition of tax liability."

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest paid or accrued after December 31, 1983, on indebtedness incurred after December 31, 1983.

(2) ELECTIONS.—The amendments made by this section shall apply to elections under section 25(c)(2)(A)(ii) of the Internal Revenue Code of 1954 (as added by this section) for calendar years after 1983.

(3) SUBSECTION (e).—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1984.

(4) TRANSITIONAL RULE RELATING TO AMOUNT OF CERTIFICATES WHICH MAY BE ISSUED.—

(A) IN GENERAL.—If the aggregate amount of mortgage subsidy bonds issued by any authority during 1983 was less than the applicable limit of such authority under section 103A(g) of the Internal Revenue Code of 1954 for such calendar year, then, for purposes of section 25(d)(2) of such Code, the nonissued bond amount with respect to any qualified mortgage credit certificate program (determined without regard to this paragraph) for calendar year 1984, 1985, 1986, 1987, or 1988 shall be reduced by the excess of the applicable limit of such authority for such calendar year over the amount determined under subparagraph (B) or (C).

(B) 1984.—For calendar year 1984, the sum of—

(i) the aggregate amount of mortgage subsidy bonds issued by the issuing authority during 1983, plus

(ii) 25 percent of the excess of the applicable limit of such authority for 1984 over the amount determined under clause (i).

(C) 1985, 1986, 1987, 1988.—For calendar year 1985, 1986, 1987, or 1988, the sum of—

(i) the amount determined for the preceding calendar year under this subparagraph or subparagraph (B), plus

(ii) 25 percent of the excess of the applicable limit of such authority for the calendar year over the amount determined under clause (i).

Subtitle B—Private Activity Bonds

SEC. 721. LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS.

Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—A private activity bond issued as part of an issue shall be treated as an obligation not described in subsection (a) if the aggregate amount of private activity bonds issued pursuant to such issue, when added to the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year, exceeds such authority's private activity bond limit for such calendar year.

"(2) PRIVATE ACTIVITY BOND LIMIT FOR STATE AGENCIES.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

"(B) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue private activity bonds, all such agencies shall be treated as a single agency.

"(3) PRIVATE ACTIVITY BOND LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

"(i) the population of the jurisdiction of such issuing authority, bears to

"(ii) the population for the entire State.

"(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), the rules of section 103A(g)(3)(B) shall apply.

"(4) STATE CEILING.—For purposes of this subsection—

"(A) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be an amount equal to $150 multiplied by the State's population.

"(B) PHASEIN OF LIMITATION WHERE AMOUNT OF 1983 PRIVATE ACTIVITY BONDS EXCEEDS THE CEILING.—

"(i) IN GENERAL.—In the case of any State which had an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under subparagraph (A) plus 50 percent of the excess bond amount for 1983.

"(ii) EXCESS BOND AMOUNT FOR 1983.—For purposes of clause (i), the excess bond amount for 1983 in any State is the excess (if any) of—

"(I) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by ⅘, over

"(II) the State ceiling determined under subparagraph (A) for calendar year 1984.

"(C) ADJUSTMENT OF CEILING TO REFLECT TERMINATION OF SMALL ISSUE EXEMPTION.—In the case of calendar years after 1986, subparagraph (A) shall be applied by substituting '$100' for '$150'.

"(5) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—In the case of any State with 1 or more constitutional home rule cities (as defined in section 103A(g)(5)(C), the rules of paragraph (5) of section 103A(g) shall apply for purposes of this subsection.

"(6) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—

"(A) IN GENERAL.—A State may, by law enacted after the date of the enactment of this subsection, provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(B) INTERIM AUTHORITY FOR GOVERNOR.—

"(i) IN GENERAL.—The Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(ii) TERMINATION OF AUTHORITY.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the first calendar year after 1983 during which the legislature of the State met in regular session, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of the enactment of this subsection.

"(C) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—The rules of paragraph (6)(C) of section 103A(g) shall apply for purposes of this paragraph.

"(7) PRIVATE ACTIVITY BOND.—For purposes of this subsection.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'private activity bond' means any obligation the interest on which is exempt from tax under subsection (a) and which is—

"(i) an industrial development bond, or

"(ii) a student loan bond.

"(B) EXCEPTION FOR MULTI-FAMILY HOUSING.—The term 'private activity bond' shall not include any obligation described in section 103(b)(4)(A).

"(C) REFUNDING ISSUES.—The term 'private activity bond' shall not include any obligation which is issued to refund another obligation to the extent that the amount of such obligation does not exceed the amount of the refunded obligation. In the case of any student loan bond, the preceding sentence shall apply only if the maturity date of the refunding obligation is not later than the later of—

"(i) the maturity date of the obligation to be refunded, or

"(ii) the date 15 years after the date on which the refunded obligation was issued (or in the case of a series of refundings, the date on which the original obligation was issued).

"(8) STUDENT LOAN BONDS.—For purposes of this subsection, the term 'student loan bond' means an obligation which is issued as

part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses.

"(9) POPULATION.—For purposes of this subsection, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) published by the Bureau of the Census before the beginning of such calendar year.

"(10) ELECTIVE 3-YEAR CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PROJECT.—

"(A) IN GENERAL.—If—

"(i) an issuing authority's private activity bond limit for any calendar year after 1983 exceeds,

"(ii) the aggregate amount of private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward projects.

"(B) ELECTION MUST SPECIFY PROJECT.—In any election under subparagraph (A), the issuing authority shall—

"(i) specify the project (or projects) for which the carryforward is elected, and

"(ii) specify the portion of the excess described in subparagraph (A) which is to be a carryforward for each such project.

"(C) USE OF CARRYFORWARD.—

"(i) IN GENERAL.—If any issuing authority elects a carryforward under subparagraph (A) with respect to any carryforward project, any private activity bonds issued by such authority with respect to such project during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under paragraph (1) to the extent the amount of such bonds do not exceed the amount of the carryforward elected for such project.

"(ii) ORDER IN WHICH CARRYFORWARD USED.—Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose.

"(D) ELECTION.—Any election made under this paragraph shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Any such election (and any specification contained therein), once made, shall be irrevocable.

"(E) CARRYFORWARD PROJECT.—For purposes of this paragraph, the term 'carryforward project' means—

"(i) any project described in paragraph (4) or (5) of subsection (b), and

"(ii) the purpose of issuing student loan bonds."

"(11) TREATMENT OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond (as defined in subsection (e)), such bond shall be treated for purposes of this subsection as issued by a State or local issuing authority (whichever is appropriate)."

SEC. 722. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations must not be guaranteed or subsidized under a energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

"(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

"(C) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part) by the United States (or an agency or instrumentality thereof).

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration or the Veterans' Administration, or

"(ii) any guarantee of student loans.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments of a bona fide debt service fund,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B),

"(iv) investments in obligations issued by the United States Treasury, or

"(v) other investments permitted under regulations.

"(C) EXCEPTION FOR HOUSING PROGRAMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to—

"(I) an obligation described in section 103(b)(4)(A) (determined without regard to whether or not the obligation is an industrial development bond),

"(II) a qualified mortgage bond (as defined in section 103A(c)(1)), or

"(III) a qualified veterans' mortgage bond (as defined in section 103A(c)(3)).

'(ii) EXCEPTION NOT TO APPLY WHERE OBLIGATION INVESTED IN FEDERALLY INSURED DEPOSITS OR ACCOUNTS.—Clause (i) shall not apply to any obligation which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

"(D) LOANS TO, OR GUARANTEES BY, FINANCIAL INSTITUTIONS.—Except as provided in paragraph (2)(B)(ii), an obligation which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of a private activity bond (as defined in subsection (n)(7)), nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

"(B) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—The term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

SEC. 723. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

"(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any beneficiary (when increased by the outstanding tax-exempt IDB's of such beneficiary) exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT IDB'S OF ANY PERSON.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt IDB's of any person who is a beneficiary with respect to such issue is the aggregate face amount of all industrial development bonds the interest on which is exempt from tax under subsection (a)—

"(i) which are allocated to such beneficiary, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds for the later issue).

"(C) ALLOCATION OF AMOUNT OF ISSUE.—

"(i) AMOUNT ALLOCATED TO DEVELOPER, ETC.—The amount of any issue shall be allocated to any person who is a beneficiary by reason of owning the facilities being financed by the issue and renting such facilities to other persons to the extent (and only to the extent) the amount of such issue is not allocated under clause (ii).

"(ii) ALLOCATION TO OTHER BENEFICIARIES.—The amount of any issue shall be allocated among beneficiaries who are not described in clause (i) as follows:

"(I) If one of such beneficiaries uses more than 50 percent of the facilities, the entire amount of the issue shall be allocated to such beneficiary.

"(II) In any case to which subclause (I) does not apply, the amount of such issue

shall be allocated equally among beneficiaries who use at least 25 percent but not more than 50 percent of the facilities; except that no one such person shall be allocated more than 50 percent.

"(D) BENEFICIARY.—For purposes of this paragraph, the term 'beneficiary' means any person who is a user of the facilities being financed by the issue.

"(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person."

SEC. 724. LIMITATIONS ON ACQUISITIONS OF LAND, EXISTING FACILITIES, ETC.

(a) LIMITATION ON USE FOR LAND ACQUISITION.—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

"(16) LIMITATION ON USE FOR LAND ACQUISITION.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply with respect to any obligation issued as part of an issue if—

"(i) any portion of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes, or

"(ii) 25 percent or more of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land not described in clause (i) (or an interest therein).

"(B) EXCEPTION FOR FIRST-TIME FARMERS.—

"(i) IN GENERAL.—If the requirements of clause (ii) are met with respect to any land, subparagraph (A) shall not apply to such land, and paragraph (17) shall not apply to property located thereon, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $250,000.

"(ii) ACQUISITION BY FIRST-TIME FARMERS.—The requirements of this clause are met with respect to any land if—

"(I) such land is to be used for farming purposes, and

"(II) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(iii) FIRST-TIME FARMER.—For purposes of this subparagraph, the term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in land which is part of a farm in the operation of which such individual materially participated. For purposes of this subparagraph, any ownership or material participation by an individual's spouse or minor child shall be treated as ownership and material participation by the individual.

"(iv) FARM.—For purposes of this subparagraph, the term 'farm' has the meaning given such term by section 6420(c)(2)."

(b) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(17) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition.

"(B) EXCEPTION FOR CERTAIN REHABILITATIONS.—Subparagraph (A) shall not apply with respect to any building (and the equipment therefor) if—

"(i) the portion of the proceeds of the issue which is to be used for rehabilitation expenditures with respect to such building, equals or exceeds

"(ii) 15 percent of the cost of acquiring such building (and such equipment).

"(C) REHABILITATION EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'rehabilitation expenditures' means any amount properly chargeable to capital account which is incurred for property (or additions or improvements to property) in connection with the rehabilitation of a building.

"(ii) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'rehabilitation expenditures' does not include any expenditure described in section 48(g)(2)(B) (other than clause (i) thereof)."

(c) USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(18) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 725. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "In the case of an obligation issued after December 31, 1983, such obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), (l), and (n) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State."

(b) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or residences using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue)."

(d) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons."

(e) MORTGAGE SUBSIDY BOND ARBITRAGE RULES EXTENDED TO INDUSTRIAL DEVELOPMENT BONDS AND STUDENT LOAN BONDS.—Subsection (c) section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) EXTENSION OF MORTGAGE SUBSIDY BOND ARBITRAGE RULES TO PRIVATE ACTIVITY BONDS.—

"(A) IN GENERAL.—Under regulations, any obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a)(1) or (2) unless the issue of which such obligation is a part meets requirements similar to those of section 103A(i).

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall apply to any obligation which—

"(I) is an industrial development bond, or

"(II) is a student loan bond (as defined in subsection (n)(8)) issued after December 31, 1985.

"(ii) EXCEPTION FOR MULTI-FAMILY HOUSING.—This paragraph shall not apply to any obligation described in subsection (b)(4)(A) (determined without regard to whether or not the obligation is an industrial development bond).

"(iii) EXCEPTION FOR REFUNDING OF STUDENT LOAN BONDS ISSUED BEFORE JANUARY 1, 1986.—This paragraph shall not apply to any obligation which is issued to refund a student loan bond issued before January 1, 1986, but only to the extent the requirements of subsection (n)(7)(C) are met with respect to the refunding.

"(C) STUDENT LOAN INCENTIVE PAYMENTS NOT TAKEN INTO ACCOUNT.—For purposes of applying section 103A(i) as made applicable to student loan bonds by subparagraph (A), payments described in paragraph (5) shall not be taken into account."

(f) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

(g) INCREASE IN AMOUNT OF CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—Subparagraph (I) of section 103(b)(6) (relating to aggregate amount of capital expenditures where there is urban development action grant) is amended—

(1) by striking out "$10,000,000" and inserting in lieu thereof "$15,000,000", and

(2) by adding at the end thereof the following new sentence: "This subparagraph shall not apply unless the amount of the urban development action grant equals or exceeds 5 percent of the total capital expenditures on the facilities with respect to which the action grant has been made."

(h) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

SEC. 726. EFFECTIVE DATES.

(a) PRIVATE ACTIVITY BOND CAP.—

(12) IN GENERAL.—The amendment made by section 721 shall apply to obligations issued after December 31, 1983.

(2) CERTAIN PROJECTS PRELIMINARILY APPROVED IN 1983 GIVEN PRIORITY.—In the case of a project for which there was an inducement resolution (or other comparable preliminary approval) before October 19, 1983, by any issuing authority, such issuing authority shall allocate its share of the limitation under section 103(n) of such Code (as added by this title) for the calendar year during which the obligations were to be issued pursuant to such resolution (or other approval) first to such project. If such issuing authority fails to give such priority, the limitation under such section 103(n) for the issuing authority for the calendar year following such calendar year shall be reduced by the amount of such obligations.

(b) EXPANSION OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provied in this section, the amendments made by section 725(b) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 725(b) shall not apply with respect to facilities, the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 725(b) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 725(b) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(c) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Clause (ii) of section 103(h)(2)(B) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than section 721) shall not apply to obligations with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (b)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(d) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 102(g) of this Act.

(2) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

(3) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State public authority created pursuant to State legislation which took effect on June 18, 1973, took formal action before October 19, 1983, to commit development funds for such facility,

(B) such authority issues obligations for any such facility before January 1, 1987, and

(C) expenditures have been made for the development of any such facility before October 19, 1983.

(e) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

Subtitle C—Obligations of Certain Educational Organizations

SEC. 731. TAX-EXEMPT STATUS OF OBLIGATIONS OF CERTAIN EDUCATIONAL ORGANIZATIONS.

(a) IN GENERAL.—For purposes of section 103 of the Internal Revenue Code of 1954, a qualified educational organization shall be treated as a State governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(b) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subsection (a), the term "qualified educational organization" means a college or university created on February 22, 1855, by specific act of the legislature of the State within which such college or university is located.

(c) EFFECTIVE DATE.—This section shall apply to obligations issued after December 31, 1953.

—(4) At the end of subpart I of part A of title X, insert the following new section (and insert a corresponding item in the table of contents of title X):

PAYMENT FOR PHYSICIANS' SERVICES FURNISHED TO HOSPITAL INPATIENTS

SEC. 1009. (a) Subsection (b) of section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished to inpatients of a hospital, the Secretary shall not set any level higher than the same level as was set for the period ending June 30, 1983, in the case of that portion of the period ending June 30, 1984, which occurs after December 31, 1983.

"(B) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished to inpatients of a hospital for periods beginning after June 30, 1984, the Secretary shall treat the levels as set under subparagraph (A) as having fully provided for economic changes which would have been taken into account but for the limitations contained in subparagraph (A).".

(b)(1) Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by striking out "Any provider" and inserting in lieu thereof "Subject to paragraph (4), any provider".

(2) Section 1866(a) of such Act is further amended by inserting at the end the following new paragraph:

"(4)(A) A hospital shall be qualified to participate under this title and shall be eligible for payments under this title only if it provides (in the agreement filed with the Secretary under paragraph (1)) that any physician who—

"(i) is on the medical staff of the hospital (courtesy or otherwise) and

"(ii) furnishes services to inpatients in the hospital,

must enter into an agreement described in subparagraph (B) in a manner established by the Secretary.

"(B) A physician's agreement referred to in subparagraph (A) is an agreement by the physician not to impose any charge or receive payment for any services which are furnished to any inpatient in the hospital

for which payment may be made under part B except on the basis of an assignment in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1).".

(3) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (H) that such provider (in the case of a hospital) is not complying with the provisions of the agreement specified in subsection (a)(4)".

(c)(1) The amendments made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1984.

(2) The amendments made by subsection (b) shall only apply to physicians' services furnished during the period beginning on January 1, 1984, and ending six months after the date the Congress receives the report of the Secretary of Health and Human Services under section 603(a)(2)(B) of the Social Security Amendments of 1983 (relating to a report on including payment for physicians' services to hospital inpatients in the DRG-based payment amount to hospitals).

(3) The Secretary of Health and Human Services shall provide for notice to individuals enrolled (or enrolling) under the supplementary medical insurance program under part B of title XVIII of the Social Security Act of the amendments made by subsection (b).

—(5) Add at the end of the bill the following new title:

TITLE XII—DEFERRAL OF CERTAIN TAX REDUCTIONS

SEC. 1201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Tax Freeze Act of 1983".

(b) TABLE OF CONTENTS.—

TITLE XII—DEFERRAL OF CERTAIN TAX REDUCTIONS

Sec. 1201. Short title; table of contents.

Subtitle A—Income Tax Provisions

Sec. 1211. Increase in amount of used property eligible for investment tax credit.
Sec. 1212. Finance lease provisions.
Sec. 1213. Election to expense certain depreciable business assets.
Sec. 1214. Increase in employee stock ownership credit.
Sec. 1215. Cost-of-living adjustments in pension plan limitations.
Sec. 1216. Partial interest exclusion.
Sec. 1217. Foreign earned income of individuals.

Subtitle B—Estate and Gift Tax Rates

Sec. 1221. Reductions in maximum rate.

Subtitle C—Excise Taxes

Sec. 1231. Reduction in tax on newly discovered oil.
Sec. 1232. Period of cigarette tax increase.
Sec. 1233. Excise tax on communications services.

Subtitle A—Income Tax Provisions

SEC. 1211. INCREASE IN AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended—

(1) by striking out "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$125,000 ($125,000 for taxable years beginning after 1986)", and

(2) by striking out "$150,000 (or $125,000" each place it appears and inserting in lieu thereof "$125,000 (or $150,000".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 48(c)(2) is amended by striking out "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$62,500 ($75,000 for taxable years beginning after 1986)".

SEC. 1212. FINANCE LEASE PROVISIONS.

(a) THREE-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1986".

(2) FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1987".

(3) TECHNICAL AMENDMENTS.—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee's property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "1986" and inserting in lieu thereof "1989".

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out "1985" each place it appears and inserting in lieu thereof "1988".

(b) TERMINATION OF SAFE HARBOR LEASING RULES.—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (5) of section 208(d) of such Act.

(c) PROHIBITION OF LEASING REGULATIONS.—The Secretary of the Treasury or his delegate shall not issue any regulations relating to the determination of whether any transaction is a lease during the period beginning on the date of the enactment of this Act and ending on December 31, 1986. The preceding sentence shall not apply to regulations issued to carry out the purposes of title I of this Act.

(d) TRANSITIONAL RULES.—The amendments made by subsection (a) shall not apply with respect to any property if—

(1) a binding contract to acquire or to construct such property was entered into by the lessee before October 25, 1983,

(2) such property was acquired by the lessee, or the construction of such property was begun, by or for the lessee, before October 25, 1983, or

(3) a binding contract to acquire or construct such property was entered into by the lessee before January 1, 1984, and, before October 25, 1983, the lessee publicly announced that the lessee intended to use the finance lease provisions with respect to such property.

SEC. 1213. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, or 1986	$5,000
1987 or 1988	7,500
1989 or thereafter	10,000."

SEC. 1214. INCREASE IN EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by title IV of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:	The applicable percentage is:
1983, 1984, 1985, or 1986	0.5
1987	0.75
1988 or thereafter	0."

SEC. 1215. COST-OF-LIVING ADJUSTMENTS IN PENSION PLAN LIMITATIONS.

(a) GENERAL RULE.—Paragraph (3) of section 415(d) (relating to freeze on adjustment to define contribution and benefit limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1987".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1985".

SEC. 1216. PARTIAL INTEREST EXCLUSION.

Paragraph (1) of section 302(d) of the Economic Recovery Tax Act of 1981 (relating to effective date for partial interest exclusion) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1986".

SEC. 1217. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, or 1986	$80,000
1987	85,000
1988	90,000
1989 and thereafter	95,000."

Subtitle B—Estate and Gift Tax Rates

SEC. 1221. REDUCTIONS IN MAXIMUM RATE.

(a) GENERAL RULE.—Paragraph (2) of section 2001(c) (relating to phase-in of 50 percent maximum rate) is amended—

(1) by striking out "1985" in subparagraph (A) and inserting in lieu thereof "1988",

(2) by striking out "1983" each place it appears in subparagraph (C) and inserting in lieu thereof "1983, 1984, 1985, or 1986", and

(3) by striking out "1984" each place it appears in subparagraph (D) and inserting in lieu thereof "1987".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to the estates of decedents dying after, and gifts made after, December 31, 1983.

Subtitle C—Excise Taxes

SEC. 1231. REDUCTION IN TAX ON NEWLY DISCOVERED OIL.

(a) GENERAL RULE.—Subparagraph (B) of section 4987(b)(3) (relating to rate of tax on newly discovered oil) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For taxable periods beginning in:	The applicable percentage is:
1983, 1984, 1985, or 1986	25
1987	22½
1988	20
1989 and thereafter	15."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable periods beginning after December 31, 1983.

SEC. 1232. PERIOD OF CIGARETTE TAX INCREASE.

Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to period of increase in tax on cigarettes) is amended by striking out "October 1, 1985" and inserting in lieu thereof "January 1, 1987".

SEC. 1233. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"With respect to amounts paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1985, or 1986	3
During 1987 or thereafter	0."

By Mr. Waxman:

—Page 665, strike out line 4 and all that follows through page 696, line 8, and insert in lieu thereof the following:

TITLE X— MEDICARE BUDGET RECONCILIATION AMENDMENTS

SHORT TITLE; TABLE OF CONTENTS

SEC. 1000. This title may be cited as the "Medicare Budget Reconciliation Amendments of 1983".

TABLE OF CONTENTS

PART A—PAYMENT- AND COVERAGE-RELATED CHANGES

Sec. 1001. Payment for outpatient diagnostic laboratory tests.
Sec. 1002. Part B premiums.
Sec. 1003. Coverage of administration of hepatitis B vaccine.
Sec. 1004. Part B payment for services of teaching physicians.
Sec. 1005. Information on physician assignment practices.
Sec. 1006. Study of medicare part B payments.
Sec. 1007. Pacemaker reimbursement review and reform.
Sec. 1008. Payment for debridement of mycotic toenails.
Sec. 1009. Payment for costs of hospital-based mobile intensive care units.

PART B—MISCELLANEOUS ADMINISTRATIVE CHANGES

Sec. 1021. Presidential appointment of and pay level for the administrator of the Health Care Financing Administration.
Sec. 1022. Permitting limited provider representation on peer review organizations.
Sec. 1023. Access to home health services.
Sec. 1024. Repeal of special tuberculosis treatment requirements and requirement of accreditation for psychiatric hospitals.
Sec. 1025. Indirect payment of supplementary medical insurance benefits.
Sec. 1026. Including podiatrists in definition of "physician" for outpatient physican therapy services and including podiatrists and dentists in definition of "physician" for outpatient ambulatory surgery.
Sec. 1027. Establishment by physical therapists of plans for physical therapy.
Sec. 1028. Access to records of subcontractors.
Sec. 1029. Medicare recovery against certain third parties.
Sec. 1030. Use of accrediting organizations for certain entities furnishing services.
Sec. 1031. Confidentiality of accreditation surveys.
Sec. 1032. Thirty-day coverage for services furnished by a home health agency whose agreement has been terminated.
Sec. 1033. Termination of agreements with institutions and entities where owners or certain other individuals have been convicted of certain offenses.
Sec. 1034. Elimination of health insurance benefits advisory council.
Sec. 1035. Open enrollment periods for health maintenance organizations and competitive medical plans.
Sec. 1036. Deadline for report on including payment for physicians' services to hospital inpatients in DRG payment amounts.
Sec. 1037. Flexible sanctions for noncompliance with requirements for end-stage renal disease facilities.
Sec. 1038. Repeal of requirement for end-stage renal disease networks.
Sec. 1039. Removing costs of nurse anesthetists from DRG-based payments.
Sec. 1040. Determination of hospital area wage index.
Sec. 1041. Definition of bona fide emergency services for purposes of limitations on payment for hospital outpatient services.
Sec. 1042. Delay of effective date for single-rate for skilled nursing facilities.

PART A—PAYMENT- AND COVERAGE-RELATED CHANGES

PAYMENT FOR OUTPATIENT DIAGNOSTIC LABORATORY TESTS

SEC. 1001. (a) Subsection (a) of section 1833 of the Social Security Act (42 U.S.C. 13951) is amended—

(1) by amending clause (D) of subsection (a)(1) to read as follows: "(D) with respect to diagnostic laboratory tests for which payment is made under this part, the amounts paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1)) of the lesser of (i) the amount determined under subsection (h), or (ii) the amount of the charges billed for the tests,";

(2) by inserting "or (D)" in paragraph (2)(B) after "subparagraph (C)";

(3) by striking out "and" at the end of paragraph (2)(B);

(4) by inserting "and" at the end of paragraph (2)(C); and

(5) by adding at the end of paragraph (2) the following new subparagraph:

"(D) with respect to diagnostic laboratory tests for which payment is made under this part, 100 percent of the lesser of (i) the amount determined under subsection (h), or (ii) the amount of the charges billed for the tests;".

(b) Subsection (b) of such section is amended—

(1) by striking out "and" at the end of clause (2) of subsection (b); and

(2) by inserting before the period at the end of the first sentence of subsection (b) the following: ", and (4) such deductible shall not apply with respect to diagnostic laboratory tests for which payment is made under this part on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866".

(c) Subsection (h) of such section is amended to read as follows:

"(h)(1) The Secretary shall establish in accordance with this subsection a national fee schedule for diagnostic laboratory tests for which payment is made under this part.

"(2) Except as provided in paragraph (4), the Secretary shall set the fee schedule at 60 percent of the prevailing charges paid under this part for similar diagnostic laboratory tests during the fee screen year beginning July 1, 1983, adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers (U.S. city average) and subject to such other adjustments as the Secretary determines are justified by technological changes.

"(3) In addition to the amounts provided under the fee schedule, the Secretary shall provide for and establish a nominal fee to cover the costs in collecting the sample on a diagnostic laboratory test that was performed and for which payment is made under this part, except that not more than one such fee may be provided under this paragraph with respect to samples collected in the same encounter.

"(4)(A) During the 3-year period beginning March 1, 1984, the Secretary may provide for the fee schedule under this subsection to be established on a regional or statewide basis if the Secretary determines that a national fee schedule is inappropriate at such time because of limitations in the data available to establish such a schedule.

"(B) In establishing a fee schedule under this subsection, the Secretary may provide for an adjustment to take into account, with respect to the portion of the expenses of diagnostic laboratory tests attributable to wages, the relative difference between a region's or local area's wage rates and the wage rate presumed in the data on which the schedule is based.

"(5) in the case of a bill on request for payment for a diagnostic laboratory test for which payment may otherwise be made under this part—

"(A) no payment may be made under this part to a physician with respect to such test unless the physician (or another physician with whom the physician shares his practice) personally performed or supervised the performance of the test, and

"(B) payment for such a test performed by a laboratory which is independent of a physician's office or a rural health clinic may only be made on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866.".

(d) Section 1842(h) of such Act (42 U.S.C. 1395u(h)) is repealed.

(e) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting "and with respect to diagnostic laboratory tests" after "section 1861(s)(10)".

(f)(1) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by inserting "and" at the end of paragraph (42);

(B) by striking out paragraph (43); and

(C) by redesignating paragraph (44) as paragraph (43).

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and

(B) by adding after paragraph (6) the following new paragraph:

"(7) with respect to any amount expended for diagnostic laboratory tests performed by a physician, independent laboratory, or hospital (other than for an inpatient of the hospital), to the extent such amount exceeds the amount payable under section 1833(h) for such tests.".

(g) The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for diagnostic laboratory tests under part B of title XVIII of such Act.

(h)(1) Except as provided in paragraph (2), the amendments and repeal made by this section shall apply to diagnostic laboratory tests furnished on or after March 1, 1984.

(2) The amendments made by subsection (f)(2) shall apply to payments for calendar quarters beginning on or after April 1, 1984.

PART B PREMIUMS

SEC. 1002. (a)(1) Subsection (a) of section 1839 of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) The monthly premium for each individual enrolled under this part for each month after December 1985 shall, except as provided in subsection (b), be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under paragraph (1) and applicable to such month.", and

(B) by striking out the second sentence of paragraph (3).

(2) Such section is further amended—

(A) by striking out "or (e)" in subsection (b), and

(B) by striking out subsection (e).

(3) Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) of such Act (42 U.S.C. 1395w(a)(1)) are each amended by striking out "1839(a)(3) or 1839(e), as the case may be" and inserting in lieu thereof "1839(a)(2)".

(b) The amendments made by subsection (a) apply to premiums for months beginning with January 1986.

COVERAGE OF ADMINISTRATION OF HEPATITIS B VACCINE

SEC. 1003. (a) Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) by inserting "(A)" after "(10)",

(2) by striking out the period at the end and inserting in lieu thereof "; and", and

(3) by adding at the end the following new subparagraph:

"(B) hepatitis B vaccine and its administration, furnished in a hospital or a renal dialysis facility.".

(b) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(k) With respect to services described in section 1861(s)(10)(B), the Secretary may provide, instead of the amount of payment otherwise provided under this part, for payment of such an amount or amounts as reasonably reflects the general cost of efficiently providing such services.".

(c) The amendments made by this section apply to services furnished on or after January 1, 1984.

PART B PAYMENT FOR SERVICES OF TEACHING PHYSICIANS

SEC. 1004. (a) Section 1842(b)(6)(B) of the Social Security Act (42 U.S.C. 1395u(b)(6)(B)) is amended—

(1) by striking out "physician who has a substantial practice outside the teaching setting" in clause (i) and inserting in lieu thereof "physician who is not a teaching physician (as defined by the Secretary)";

(2) by striking out "outside practice" in clause (i) and inserting in lieu thereof "practice outside the teaching setting";

(3) by striking out "In the case of a physician who does not have a practice described in clause (i)" in clause (ii) and inserting in lieu thereof "Except as provided under clause (iii), in case of a teaching physician";

(4) by striking out "greater" in clause (ii) and inserting in lieu thereof "greatest";

(5) by striking out "or" at the end of subclause (I) of clause (ii);

(6) by striking out the period at the end of subclause (II) of clause (ii) and inserting in lieu thereof ", or";

(7) by adding at the end of clause (ii) the following new subclause:

"(III) 75 percent of the prevailing charges paid for similar services in the same locality."; and

(8) by adding at the end thereof the following new clause:

"(iii) If all the teaching physicians in the hospital agree to have payment made for all physicians' services under this part furnished patients in the hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), the carrier shall take into account the amounts otherwise payable under this part with respect to similar services in the same locality.".

(b) The amendments made by subsection (a) shall apply to services furnished on or after July 1, 1984.

INFORMATION ON PHYSICIAN ASSIGNMENT PRACTICES

SEC. 1005. Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsections:

"(i)(1) The Secretary shall compile annually a list of physicians serving individuals enrolled under this part indicating the share (by percentile intervals not to exceed quartiles) of claims which each physician has accepted on an assignment basis (described in subsection (b)(3)(B)(ii)) or has had payment made under the procedure described in section 1870(f)(1) in the preceding year.

"(2) The Secretary shall make available in each office of the Social Security Administration the information compiled under paragraph (1) for the local geographic area served by the office no more than six months after the end of each year and, upon request, by mail from each carrier. The Secretary shall, when such information becomes available, annually notify each individual enrolled under this part of the availability of such information.

"(j)(1) The Secretary shall publish annually a list of all physicians who have agreed in accordance with this subsection to accept payment under this part on the basis of an assignment (described in subsection (b)(3)(B)(ii)) or under the procedure described in section 1870(f)(1) for all services furnished under this part during the following twelve-month period to individuals enrolled under this part.

"(2) To permit the publishing of the list provided under paragraph (1), the Secretary shall annually, before the beginning of the twelve-month period, offer physicians a reasonable opportunity to sign an agreement that they will accept payment under this part on the basis of an assignment (described in subsection (b)(3)(B)(ii)) or under the procedure described in section 1870(f)(1) for all services furnished under this part during the following twelve-month period to individuals enrolled under this part.

"(3) The Secretary shall annually provide to each individual enrolled under this part and residing in a local geographic area notice of the availability of the list of all physicians in that area who have signed such an agreement for the following twelve-month period.".

STUDY OF MEDICARE PART B PAYMENTS

SEC. 1006. (a)(1) The Secretary of Health and Human Services shall study and report to Congress, no later than December 30, 1984, on methods by which payment amounts and other program policies under part B of title XVIII of the Social Security Act may be modified—

(A) to eliminate inequities in the relative amounts paid to physicians by type of service, locality, and specialty, with particular attention to any inequities between cognitive services and medical procedures;

(B) to increase incentives for physicians and other suppliers under such part to accept assignment for medicare services; and

(C) to provide incentives for physicians and other providers not to provide increased or otherwise excessive amounts of hospitals, physician, and other health care services.

(2) In carrying out the study under paragraph (1)(A), the Secretary shall take into account the relative time, compexity, investment in professional training, and overhead expenses necessary to the provision of various medical services and procedures.

(3) The report of the Secretary shall include a description of one or more regional fee schedules for payments under part B of title XVIII of the Social Security Act which are consistent with the findings of the study under this subsection.

(b) In order to carry out the study and facilitate Congressional review, the Secretary shall compile a centralized medicare part B charge data base, utilizing information gathered by the medicare carriers and used by them in making the 1984 reasonable charge updates. Such data shall include information, by procedure, on—

(1) utilization,

(2) assignment rates of physicians and suppliers,

(3) actual, customary, and prevailing charges, and

(4) the differences in charges by physician specialty and locality.

(c) The report of the Secretary shall include recommendations for legislative amendments necessary to implement the

findings and recommendations of the study under this section.

(d) In preparing the report and recommendations, the Secretary shall consult, as appropriate, with national organizations of physicians and other interested associations and individuals.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 1007. (a)(1) The Secretary shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

(2)(A) Except as provided in subparagraph (B), if the guidelines required by paragraph (1) have not been issued and put into effect by February 1, 1984, payment may not be made under part B of title XVIII of the Social Security Act for transtelephonic monitoring procedures (with respect to a single-chamber cardiac pacemaker powered by lithium batteries) conducted more frequently than—

(i) weekly during the first month after implantation,

(ii) once every two months during the period representing 80 percent of the estimated life of the implanted device, and

(iii) monthly thereafter.

(B) Subparagraph (A) shall only apply to the monitoring of single-chamber cardiac pacemaker devices powered by lithium batteries, and shall not apply in cases where the Secretary (or Secretary's agent) determines that special medical factors (including possible evidence of pacemaker malfunction) justify more frequent transtelephonic monitoring procedures.

(b)(1) The Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the current rate of reimbursement under part B of title XVIII of the Social Security Act for physicians' services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the rates for such procedures were first established under such part. In making such review and report, the Secretary shall take into consideration the reduction of such recognized rates by 20 percent.

(2) The Secretary shall complete the review described in this subsection not later than April 1, 1984.

(c) Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary shall, through the Commissioner of the Food and Drug Administration, provide for a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under this title. Such registry shall include the manufacturer, model, serial number, and manufacturer's price of each such device or lead, the name of the recipient of such device or lead, the date and location of the implantation or removal of the device or lead, the name of the physician involved in implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express or implied warranties associated with such device or lead under contract or State law, and such other information as the Secretary deems to be appropriate. Such registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, determining when inspection by the Food and Drug Administration may be necessary under paragraph (2), and carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient). Any person or organization may provide information to the registry with respect to cardiac pacemaker devices and leads other than those for which payment is made under this title.

"(2) In any case where the Secretary has reason to believe, based upon information in the pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under this title is related to the malfunction of a device or lead, the Secretary may require that personnel of the Food and Drug Administration test such device, or be present at the testing of such device by the manufacturer, to determine whether such device was functioning properly.".

PAYMENT FOR DEBRIDEMENT OF MYCOTIC TOENAILS

SEC. 1008. The Secretary shall provide, pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE UNITS

SEC. 1009. (a)(1) In the case of a project or system described in subsection (b), the Secretary shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project or system (on and after January 1, 1983) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project or system (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project or system were not in effect.

(2) Paragraph (1) shall not apply if the State in which the project or system is located notifies the Secretary—

(A) within 30 days of the date of the enactment of this section, in the case of a demonstration project described in subsection (b)(1), or

(B) within a reasonable period (established by the Secretary), in the case of a system described in subsection (b)(2),

that the State does not want paragraph (1) to apply to that project or system.

(b) A project or system referred to in subsection (a) is—

(1) a state-wide demonstration project under section 222(a) of the Social Security Amendments of 1972 (Public Law 92-603), or

(2) a state-wide hospital reimbursement control system approved under section 1886(c) of the Social Security Act,

which project or system provides for payments to hospitals in a State determined on a prospective basis and related to a classification of patients by diagnosis-related groups.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

PART B—MISCELLANEOUS ADMINISTRATIVE CHANGES

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 1021. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

"SEC. 117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration.".

(c) The amendment made by this section shall apply to appointments made after the date of the enactment of this Act.

PERMITTING LIMITED PROVIDER REPRESENTATION ON PEER REVIEW ORGANIZATIONS

SEC. 1022. Section 1153(b)(3) of the Social Security Act (42 U.S.C. 1320c-2(b)(3)) is amended—

(1) by striking out "(3) The Secretary" and inserting in lieu thereof "(3)(A) Except as provide in subparagraph (B), the Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) In the case of a utilization and quality control peer review organization with a governing board composed of—

"(i) not more than 15 members, the Secretary may enter into a contract under this part with the organization if not more than one of the members of its governing board is a member of a governing board, officer, or managing employee of a health care facility, or

"(ii) more than 15 members, the Secretary may enter into a contract under this part with the organization if not more than two of the members of its governing board are members of a governing board, officer, or managing employee of a health care facility.".

ACCESS TO HOME HEALTH SERVICES

SEC. 1023. (a) Sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a), 1395n(a)) are each amended by adding at the end the following new sentence: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency.".

(b) The third sentence of section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) and the fourth sentence of section 1835(a) of such Act (42 U.S.C. 1395n(a)) are

each amended by inserting before the period at the end the following: ", except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)".

(c)(1) The amendments made by subsection (a) shall apply to certifications and plans of care made or established on or after the date of the enactment of this Act.

(2) The Secretary shall provide, not later than 90 days after the date of the enactment of this Act, for such revision of regulations as may be required to reflect the amendments made by subsection (b).

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS AND REQUIREMENT OF ACCREDITATION FOR PSYCHIATRIC HOSPITALS

SEC. 1024. (a) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) by striking out subparagraph (B) of paragraph (2),

(2) by striking out "and inpatient tuberculosis hospital services" in paragraph (3),

(3) by striking out paragraph (5), and

(4) by striking out "(B)," in the sentence that follows paragraph (8).

(b) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by striking out subsections (d) and (g),

(2)(A) by inserting "and" at the end of paragraph (3) of subsection (f),

(B) by striking out "; and" at the end of subsection (f)(4) and inserting in lieu thereof a period,

(C) by striking out paragraph (5) of subsection (f), and

(D) by striking out "if the institution is accredited" and all that follows through "Secretary" in the second sentence of subsection (f);

(3) by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or" in the fifth sentence of subsection (e), and

(4) by striking out "or tuberculosis" in the first sentence of subsection (j) following paragraph (15).

(c) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking out "(g)(4),".

(d) Section 1866 of such Act (42 U.S.C. 1395cc) is amended—

(1) by striking out "tuberculosis hospital services and" in subsection (b)(3), and

(2) by striking out "inpatient tuberculosis hospital services and" in subsection (d).

(e) Section 1902(a)(28) of such Act (42 U.S.C. 1396(a)(28)) is amended by striking out "and tuberculosis".

(f) Section 1903(g)(1) of such Act (42 U.S.C. 1396(g)(1)) is amended by striking out "(including an institution for tuberculosis)" and "(including tuberculosis hospitals)".

(g) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking out "tuberculosis or" each place it appears.

(h) Section 1905(h)(1) of such Act (42 U.S.C. 1396(h)(1)) is amended—

(1) by striking out subparagraph (A), and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 1025. (a) The first sentence of section 1842(b)(5) of the Social Security Act (42 U.S.C 1395u(b)(5)) is amended—

(1) by inserting "(i)" after "(A)",

(2) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(3) by inserting before the period the following: ", or (B) to an entity (i) which provides coverage of the services under a health benefits plan, but only to the extent that payment is not made under this part, (ii) which has paid the person who provided the service an amount (including the amount payable under this part) which that person has accepted as payment in full for the service, and (iii) to which the individual has agreed in writing that payment may be made under this part".

(b) The second sentence of such section is amended by striking out "or (B)".

INCLUDING PODIATRISTS IN DEFINITION OF 'PHYSICIAN' FOR OUTPATIENT PHYSICAL THERAPY SERVICES AND INCLUDING PODIATRISTS AND DENTISTS IN DEFINITION OF 'PHYSICIAN' FOR OUTPATIENT AMBULATORY SURGERY

SEC. 1026. (a) Section 1861(p)(1) of the Social Security Act (42 U.S.C. 1395x(p)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 1861(r)".

(b) Section 1832(a)(2)(F)(ii) of such Act (42 U.S.C. 1395k)(a)(2)(F)(ii)) is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1861(r)".

(c) Section 1861(r)(3) of such Act (42 U.S.C. 1395x(r)(3)) is amended—

(1) by striking out "and(m)" the first place it appears and inserting in lieu thereof ", (m), and (p)(1)", and

(2) by inserting ", 1832(a)(2)(F) (ii)," after "1814(a)" the first place it appears.

(d) The amendments made by this section apply to services furnished on or after the date of the enactment of this Act.

ESTABLISHMENT BY PHYSICAL THERAPISTS OF PLANS FOR PHYSICAL THERAPY

SEC. 1027. (a) Section 1861(p)(2) of the Social Security Act (42 U.S.C. 1395x(p)(2)) is amended by striking out ", and is periodically reviewed, by a physician (as so defined)" and inserting in lieu thereof "by a physician (as so defined) or by a qualified physical therapist and is periodically reviewed by a physician (as so defined)".

(b) Section 1835(a)(2)(C)(ii) of such Act (42 U.S.C. 1395n(a)(2)(C)(ii)) is amended by striking out ", and is periodically reviewed, by a physician" and inserting in lieu thereof "by a physician or by the qualified physical therapist provided such services and is periodically reviewed by a physician".

(c) The amendments made by this section apply to plans of care established on or after the date of the enactment of this Act.

ACCESS TO RECORDS OF SUBCONTRACTORS

SEC. 1028. (a) Section 1861(v)(1)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(I)) is amended by striking out "$10,000" and inserting in lieu thereof "$50,000".

(b) The amendment made by subsection (a) applies to contracts with subcontractors entered into on or after the date of the enactment of this Act.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 1029. (a) Section 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(b)(1)) is amended—

(1) in the first sentence, by inserting "promptly" after "to be made",

(2) in the second sentence, by inserting "or may be" after "has been", and

(3) by inserting after the second sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a law, policy, plan, or insurance (if the entity would be required to make payment if an appropriate claim were pursued, but only to the extent that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a law, policy, plan, or insurance.".

(b) Section 1862(b)(2)(B) of such Act (42 U.S.C. 1395y(b)(2)(B)) is amended—

(1) in the first sentence, by inserting "or may be" after "has been", and

(2) by inserting after the first sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a plan (if the entity would be required to make payment if a appropriate claim were pursued, but only to the extend that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a plan.".

(c) Section 1862(b)(3)(A)(ii) of such Act (42 U.S.C. 1395y(b)(3)(A)(ii)) is amended—

(1) in the first sentence, by inserting "or may be" after "has been", and

(2) by inserting after the first sentence the following new sentence: "The United States may recover the amount of any such payment under this title by bringing an action against the entity responsible for payment under such a plan (if the entity would be required to make payment if an appropriate claim were pursued, but only to the extent that the entity has not already made payment), by bringing an action against the entity to which payment has been so made (if the entity is other than the individual entitled to benefits under this title), or by joining or intervening in any action related to the events that gave rise to the need for the item or service, and shall be subrogated (to the extent of the payment under this title) to any right of the individual or any other entity to payment under such a plan.".

USE OF ACCREDITING ORGANIZATIONS FOR CERTAIN ENTITIES FURNISHING SERVICES

SEC. 1030. The third sentence of section 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a)) is amended—

(1) by striking out "section 1861(e), (j), (o), or (dd)" and inserting in lieu thereof "section 1832(a)(2)(F)(i), 1861(e), 1861(j), 1861(o), or 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), or section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)", and

(2) by striking out "institution or agency" each place it appears and inserting in lieu thereof "entity".

CONFIDENTIALITY OF ACCREDITATION SURVEYS

SEC. 1031. Section 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a)) is amended—

(1) by striking out "(on a confidential basis)" in paragraph (2), and

(2) by adding at the end the following new sentence: "The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Assocation, or any other national accreditation body, of an entity accredited by such body.".

THIRTY-DAY COVERAGE FOR SERVICES FURNISHED BY A HOME HEALTH AGENCY WHOSE AGREEMENT HAS BEEN TERMINATED

SEC. 1032. (a) Section 1866(b)(4)(B) of the Social Security Act (42 U.S.C. 1395cc(b)(4)(B)) is amended by striking out "the calendar year in which" and inserting in lieu thereof "30 days after".

(b) The amendment made by subsection (a) applies with respect to terminations whose effective date falls after 60 days after the date of the enactment of this Act.

TERMINATION OF AGREEMENTS WITH INSTITUTIONS AND ENTITIES WHERE OWNERS OR CERTAIN OTHER INDIVIDUALS HAVE BEEN CONVICTED OF CERTAIN OFFENSES

SEC. 1033. Section 1866(b)(2)(G) of the Social Security Act (42 U.S.C. 1395cc(b)(2)(G)) is amended by inserting before the period the following: ", or that any person who has a direct or indirect ownership or control interest of 5 percent of more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a)(2)".

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 1034. (a) Section 1867 of the Social Security Act (42 U.S.C. 1395dd) is repealed.

(b)(1) The first sentence of section 1863 of such Act (42 U.S.C. 1395z) is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies" and inserting in lieu thereof "appropriate State agencies".

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(4)) is amended by striking out "1867,".

(3) Section 361 of the Social Security Amendments of 1967 (42 U.S.C. 907a) is amended by striking out subsection (i).

HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 1035. (a) Subsection (c)(3)(A) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended—

(1) by inserting "(i)" after "(3)(A)",

(2) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(3) by adding at the end the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased during the 12-month enrollment period for which the individual is enrolling. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section.".

(b) The first sentence of subsection (g)(2) of such section is amended by inserting before the period the following: "and except that an organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary for subsequent annual contract periods to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3)".

(c)(1) Subsection (g)(4)(A) of such section is amended—

(A) by inserting "and other providers of services" after "hospitals",

(B) by inserting "or other appropriate basis for payment established under this title" after "section 1861(v))", and

(C) by striking out "inpatient hospital".

(2) Subsection (h)(2) of such section is amended—

(A) by striking out "skilled nursing facilities" in subparagraph (A) and inserting in lieu thereof "other providers of services",

(B) by striking out "or" after "1861(v))" in subparagraph (A) and in the second sentence and inserting in lieu thereof a comma in each instance,

(C) by inserting "or other appropriate basis for payment established under this title" after "section 1886" in subparagraph (A) and in the second sentence each place it appears, and

(D) by striking out "skilled nursing facility" in the second sentence and inserting in lieu thereof "or other provider of services".

(d) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by subsection (a) to all applicable areas in the United States if the Secretary determines that it is not administrativley feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

DEADLINE FOR REPORT ON INCLUDING PAYMENT FOR PHYSICIANS' SERVICES TO HOSPITAL INPATIENTS IN DRUG PAYMENT AMOUNTS

SEC. 1036. The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "include, in a report to Congress in 1985," and inserting in lieu thereof "submit to Congress, not later than July 1, 1985, a report to Congress which includes".

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END-STAGE RENAL DISEASE FACILITIES

SEC. 1037. Section 1881(c)(3) of the Social Security Act (42 U.S.C. 1395rr(c)(3)) is amended by adding at the end the following new sentence: "Where the Secretary also determines that the facility's or provider's failure to cooperate with the Secretary's plans and goals does not jeopardize patient health or safety or justify termination of certification, the Secretary may, instead of terminating or withholding certification and after reasonable notice to the provider or facility and to the public, impose such other sanctions as may be approporiate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of the notice and graduated reduction in reimbursement for all patients.".

REPEAL OF REQUIREMENT FOR END-STAGE RENAL DISEASE NETWORKS

SEC. 1038. (a)(1) Paragraph (1) of section 1881(c) of the Social Security Act (42 U.S.C. 1395rr(c)) is amended to read as follows:

"(c)(1) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary may establish a national end-stage renal disease medical information system.".

(2) Paragraphs (2), (4), and (5) of such section are repealed.

(3) Paragraph (3) of such section is amended—

(A) by striking out "the data contained in the network's annual report and such other" and inserting in lieu thereof "such",

(B) by striking out "network plans" and inserting in lieu thereof "the Secretary's plans", and

(C) by striking out "network's plans" and inserting in lieu thereof "those plans".

(4) Paragraph (6) of such section is amended—

(A) by striking out "and network" in the second sentence,

(B) by striking out "(6)" and inserting in lieu thereof "(2)", and

(C) by transferring and inserting it after paragraph (1) of such section.

(b) Section 1881(g) of such Act (42 U.S.C. 1395rr(g)) is amended—

(1) by striking out ", nationally and by renal disease network," in paragraph (1),

(2) by adding "and" at the end of paragraph (13),

(3) by striking out paragraph (14), and

(4) by redesignating paragraph (15) as paragraph (14).

(c) The amendments made by this section shall take effect on a date, established and published by the Secretary and not earlier than January 1, 1984, as of which date the Secretary has in operation an alternative means of performing the essential data collection activities performed on the date of the enactment of this Act by renal disease networks.

REMOVING COSTS OF NURSE ANESTHETISTS FROM DRUG-BASED PAYMENTS

SEC. 1039. (a) The second sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting "and costs related to employment or contracts for the professional services of certified registered nurse anesthetists" after "capital-related costs".

(b) The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by inserting "and for services of certified registered nurse anesthetists" after "physicians' services".

(c) The amendment made by subsection (a) shall apply to payments for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1986.

DETERMINATION OF HOSPITAL AREA WAGE INDEX

SEC. 1040. (a) Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following new sentence: "The Secretary shall establish criteria under which, in the case of a hospital that demonstrates to the Secretary in a current fiscal year that the adjustment being made under the previous sentence (or under paragraph (2)(H)) for that hospital's discharges in that fiscal year does not accurately reflect the wage levels in the labor market serving the hospital, the Secretary, to the extent he deems appropriate, shall modify such adjustment for that hospital for discharges in the subsequent fiscal year to take into account a difference in payment amounts in that current fiscal year to the hospital that resulted from such inaccuracy.".

(b) The Secretary of Health and Human Services shall develop, in consultation with the Secretary of Labor and the Commissioner of the Bureau of Labor Statistics, methods of refining and improving the adequacy and equity of the area wages indices used under paragraphs (2)(H) and (3)(E) of section 1886(d) of the Social Security Act. The Secretary shall report to Congress on such developments not later than May 1, 1984.

DEFINITION OF BONA FIDE EMERGENCY SERVICES FOR PURPOSES OF LIMITATIONS ON PAYMENT FOR HOSPITAL OUTPATIENT SERVICES

SEC. 1041. In the administration of section 1861(v)(1)(K) of the Social Security Act (42 U.S.C. 1395x(v)(1)(K)), the Secretary of Health and Human Services shall provide that "bona fide emergency services" shall include services provided in a hospital emergency room after the onset of a medical condition manifesting itself by symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected, by a prudent layperson possessing an average knowledge of health and medicine, to result in—

(1) placing the patient's health in jeopardy,

(2) serious impairment to bodily functions,

(3) serious dysfunction of any bodily organ or part, or

(4) development or continuance of severe pain.

DELAY OF EFFECTIVE DATE FOR SINGLE-RATE FOR SKILLED NURSING FACILITIES

SEC. 1042. Effective September 30, 1983, section 102(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), as amended by section 605 of the Social Security Amendments of 1983 (Public Law 98-21), is amended by striking out "October 1, 1983" and inserting in lieu thereof "April 1, 1984".

—At the end of title X, add the following (and conform the table of contents of title X accordingly):

PART C—MATERNAL AND CHILD HEALTH AMENDMENTS

INCREASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR SERVICES PROVIDED TO CERTAIN PREGNANT WOMEN AND YOUNG CHILDREN

SEC. 1051. (a)(1) Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services furnished with respect to a qualified pregnant woman or child (as defined in subsection (n)).".

(2)(A) Section 1903(s)(1)(A) of such Act (42 U.S.C. 1396b(s)(1)(A)) is amended by inserting "or furnished with respect to a qualified pregnant woman or child (as defined in section 1905(n))" after "Indian Health Service".

(B) Section 1903(s)(2) of such Act (42 U.S.C. 1396b(s)(2)) is amended—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(iii) by adding at the end the following new subparagraph:

"(D) by one-half percentage point if the State provides (and provided as of June 30, 1983) for coverage under the plan, under clauses (i) and (ii)(I) of section 1902(a)(10)(A), of—

"(i) all children described in section 1905(a)(i) and in section 1902(a)(10)(A)(ii)(I);

"(ii) all pregnant women whom the State has the option of deeming to be recipients of aid to families with dependent children for purposes of this title by reason of section 406(g)(2); and

"(iii)(I) individuals receiving aid under a State plan under part A of title IV pursuant to section 407 by virtue of being deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section), or

"(II) all pregnant women who are members of a family which would be eligible to receive aid under a State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid with respect to dependent children deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section).".

(3) Section 1903(t)(1)(A) of such Act (42 U.S.C. 1396b(t)(1)(A)) is amended by inserting "or furnished with respect to a qualified pregnant woman or child (as defined in section 1905(n))" after "Indian Health Service".

(b) Section 1905 of such Act (42 U.S.C. 1396d) is further amended by adding at the end the following new subsection:

"(n) The term 'qualified pregnant woman or child' means—

"(1) a child born on or after January 1, 1983, who is under 5 years of age and who is described in section 1902(a)(10)(A)(ii)(I) and covered under the State plan as an individual described in section 1902(a)(10)(A), or

"(2) a pregnant woman—

"(A) whom the State has the option of deeming to be a recipient of aid to families with dependent children for purposes of this title by reason of section 406(g)(2), or

"(B) who is a member of a family which would be eligible for aid under a State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid with respect to dependent children deprived of parental support or care by reason of the unemployment of a parent who is the principal earner (as described in such section); and

who is not eligible for coverage under the plan, as the plan was in effect on June 30, 1983, as an individual described in section 1902(a)(10)(A).".

(c)(1) Except as provided in paragraph (2), the amendments made by the preceding subsections of this section shall take effect on January 1, 1984, and apply to payments made to providers under State plans on and after that date.

(2) The amendment made by subsection (a)(2)(B) shall apply to payments to States for quarters beginning on or after October 1, 1983.

(3) Notwithstanding any provisions of title XIX of the Social Security Act, a State plan approved under such title which did not make all children described in section 1902(a)(10)(A)(ii)(I) of such Act eligible for coverage under the plan as of June 30, 1983, may limit the eligibility of coverage of such children to those who are qualified children described in section 1905(n)(1) of such title.

(d) Effective for payments made to providers under State plans on or after October 1, 1986, paragraph (2) of section 1905(n) of the Social Security Act (added by subsection (b) of this section) is amended to read as follows:

"(2) a pregnant women who is described in section 1902(a)(10)(A)(ii)(I) and covered under the State plan as an individual described in section 1902(a)(10)(A); and".

PERMITTING ELIMINATION OF "DEEMING" OF INCOME AND RESOURCES WITH RESPECT TO CERTAIN MINOR PREGNANT WOMEN

SEC. 1052. (a) Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended by striking out "and" at the end of clause (C) and by inserting at the end of clause (D) the following: ", and (E) at the option of the State, do not take into account the financial responsibility of any individual for an applicant or recipient who is a pregnant woman under age 21 and who does not have legal custody over other children, unless the applicant or recipient is the individual's spouse, except that a State may limit the application of this clause (E) to applicants and recipients who live in such an individual's household, in a custodial institution for pregnant women, or in either such a household or such an institution".

(b) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1984.

CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 1053. (a) Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the women's household and the woman remains eligible for such assistance.".

(b) The amendment made by subsection (a) shall apply to children born on or after January 1, 1984.

PART D—MISCELLANEOUS MEDICAID CHANGES MEDICALLY NEEDY INCOME LEVELS

SEC. 1061. (a) Section 1903(f)(3) of the Social Security Act (42 U.S.C. 1396b(f)(3)) is amended—

(1) by inserting "(A)" after "(3)", and

(2) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(B), in the case of a family consisting only of two individuals both of whom are adults and at least one of whom is aged, blind, or disabled, the 'highest amount which would ordinarily be paid to a family of the same size' under the State's plan approved under part A of title IV of this Act shall, at the State's option, be the amount determined by the State agency to be the amount of the aid which would ordinarily be payable under such plan to a family which consists of one adult and two children and which is without any income or resources. In the case of a State which has an applicable income limitation under this subsection which is equal to the maximum applicable income limitation permitted consistent with paragraph (1)(B) for families other than those described in the previous sentence, section 1902(a)(10)(C)(i)(III) shall not prevent the State from establishing under the previous sentence an applicable income limitation for families described in that sentence which is greater than the income limitation applicable to other families.".

(b) The amendment made by subsection (a)(2) shall apply to payments to States under section 1903 of the Social Security Act for calendar quarters beginning on or after January 1, 1984.

RECERTIFICATION OF NEED FOR STAYS IN SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 1062. (a) Section 1903(g) of the Social Security Act (42 U.S.C. 1396b(g)) is amended—

(1) by striking out ", skilled nursing facility or intermediate care facility on 60 days" in the matter in paragraph (1) before subparagraph (A) and by inserting in lieu thereof "or intermediate care facility on 60 days, in a skilled nursing facility on 30 days";

(2) by striking out ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days" in the matter in paragraph (1) before subparagraph (A) and inserting in lieu thereof "or intermediate care facility furnished beyond 60 days or skilled nursing facility services furnished beyond 30 days";

(3) by inserting "or, in the case of services that are skilled nursing facility or intermediate care facility services other than in an institution for the mentally retarded, at least as frequently as provided under paragraph (7)," in paragraph (1)(A) after "every 60 days (";

(4) by adding at the end of paragraph (4) the following new subparagraph:

"(C) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirements of subparagraphs (A) and (B) of such paragraph as applicable to a type of facility or institutional services, if the fraction referred to in paragraph (5)(B) with respect to that quarter for that type of services is equal to or less than 3 one-hundredths.";

(5) by striking out "(5) In" in paragraph (5) and inserting in lieu thereof "(5)(A)(i) Except as provided in subparagraph (B), in";

(6) by adding at the end of paragraph (5) the following:

"(ii) As used in clause (i), the term 'showing' does not include a State's showing made with respect to the requirements of subparagraphs (A) and (B) of paragraph (1).

"(B) In the case of a State's unsatisfactory and invalid showing made with respect to the requirements of subparagraphs (A) and (B) of paragraph (1) with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1), in addition to the amount of any per centum reduction under subparagraph (A), is equal to 5 per centum multiplied by a fraction—

"(A) the denominator of which is equal to the total number of patients, receiving that type of services in that quarter under the State plan, whose records were included in sample onsite surveys conducted with respect to such requirements for that quarter under paragraph (2), and

"(B) the numerator of which is equal to the number of such patients receiving such type of services in that quarter whose records were found under such surveys not to comply with such requirements."; and

(7) by adding at the end the following new paragraph:

"(7)(A) With respect to inpatients of—

"(i) skilled nursing facilities, the frequency of recertifications referred to in paragraph (1)(A) is—

"(I) on or before 30, 60, and 90 days after the date of admittance to the facility, and

"(II) each 60 days thereafter; and

"(ii) intermediate care facilities, the frequency of recertifications referred to in paragraph (1)(A) is—

"(I) on or before 60 and 180 days after the date of admittance to the facility,

"(II) on or before 12, 18, and 24 months after the date of admittance to the facility, and

"(III) annually thereafter.

"(B) For purposes of this subsection, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State can demonstrate that there was good cause for the physician's failure to meet the recertification deadline.".

(b) Such section is further amended by adding at the end the following new paragraph:

"(8) It is the duty and responsibility of the Secretary to assure that standards which govern the provision of care in skilled nursing facilities and intermediate care facilities under plans approved under this title, and the enforcement of such standards, are adequate to protect the health and safety of residents and to promote the effective and efficient use of public moneys.".

(c) The amendments made by subsection (a) shall apply to calendar quarters beginning on or after January 1, 1984, except that the amendments made by paragraphs (1), (2), and (3) of subsection (a) and section 1903(g)(7)(A) of the Social Security Act (added by the amendment made by paragraph (7) of subsection (a)) shall not apply to individuals admitted to skilled nursing facilities before January 1, 1984.

WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS

SEC. 1063. Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended by adding at the end the following new subparagraph:

"(E) In the case of a health maintenance organization that—

"(i) is a nonprofit organization with at least 25,000 members,

"(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years,

"(iii) provides basic health services through members of the staff of the organization,

"(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

"(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115,

the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.".

PROHIBITING MEDICAID COPAYMENTS FOR PRESCRIBED DRUGS

SEC. 1064. (a) Sections 1916(a)(2)(D) and 1916(b)(2)(D) of the Social Security Act (42 U.S.C. 1396o(a)(2)(D), 1396o(b)(2)(D)) are each amended by striking out "or" before "services" and by inserting after "is enrolled" the following: ", or prescribed drugs".

(b)(1) The amendments made by subsection (a) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before July 1, 1984.

MAXIMUM AMOUNT OF MEDICAID PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

SEC. 1065. Effective beginning with fiscal year 1984, paragraphs (1) through (5) of section 1108(c) of the Social Security Act (42 U.S.C. 1308(c)) are amended to read as follows:

"(1) Puerto Rico shall not exceed $77,100,000,

"(2) the Virgin Islands shall not exceed $2,600,000,

"(3) Guam shall not exceed $2,400,000,

"(4) the Northern Mariana Islands shall not exceed $600,000, and

"(5) American Samoa shall not exceed $1,300,000.".

PAYMENT FOR PSYCHIATRIC HOSPITAL SERVICES

SEC. 1066. The provisions of section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), in so far as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the 12-month period ending June 30, 1986, and during the 12-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

TECHNICAL CORRECTIONS

"SEC. 1067. (a)(1) Section 503(a) of the Social Security Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503(a) of title 31, United States Code".

(2) Section 506(d)(3) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503(b) of title 31, United States Code".

(b)(1) Section 1902(a)(9) of such Act is amended by indenting subparagraph (C) two additional ems so as to align its left margin with the margin of subparagraph (B).

(2) Section 1902(a)(10) of such Act is amended by indenting subparagraph (A) (and each of its clauses and subclauses) two additional ems so as to align its left margin (before clause (i)) with the left margin of subparagraph (B).

(3) Section 1902(a)(13)(A) of such Act is amended by striking out "(A)" and all that follows through "hospital" the first place it

appears and inserting in lieu thereof "(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital".

(4) Section 1902(a)(20)(B) of such Act is amended by striking out "periodical" and inserting in lieu thereof "periodic".

(5) Section 1902(a)(20)(C) of such Act is amended by striking out ", section 603(a)(1)(A)(i) and (ii),".

(6) Section 1902(a)(26)(B)(ii) of such Act is amended by striking out "homes" and inserting in lieu thereof "facilities".

(7) Section 1902(a)(33)(A) of such Act is amended by striking out "penultimate sentence" and inserting in lieu thereof "second sentence".

(8) Section 1902(a)(42)(B) of such Act is amended by striking out "part" and inserting in lieu thereof "title".

(9) Section 1902(a) of such Act is amended by striking out "For purposes of paragraphs (9)(A)" and all that follows through "do not include" in the last sentence of the third to last paragraph and inserting in lieu thereof "The provisions of paragraphs (9)(A), (26), (31), and (33) and of section 1903(i)(4) shall not apply to".

(10) Section 1902(f) of such Act is amended by striking out "clause (10)(A)" and "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(A)" and "paragraph (10)(C)", respectively, each place each appears.

(11) Section 1903(g)(4)(B) of such Act is amended—

(A) by striking out "paragraph (26)" and inserting in lieu thereof "paragraphs (26)", and

(B) by striking out "deligence" and inserting in lieu thereof "diligence".

(12) Section 1903(m)(2)(B)(i) of such Act is amended—

(A) by striking out "(II)" before "for the period",

(B) by striking out "period" and inserting in lieu thereof "period", and

(C) by striking out "of such section" in subclause (II) and inserting in lieu thereof "of section 1905(a).

(13) Section 1903(m)(2) of such Act is amended by aligning subparagraph (C) flush with the left margin.

(14) Section 1905(a)(17) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse-midwife" each place it appears.

(15) The last sentence of section 1905(a) of such Act is amended by striking out "clauses (vi)" and inserting in lieu thereof "clause (vi)".

(16) The second sentence of section 1905(b) of such Act is amended by striking out everything that follows "the provisions of" and inserting in lieu thereof "section 1101(a)(8)(B).".

(17) Section 1905(d)(1) of such Act is amended by striking out "which meet" and inserting in lieu thereof "the institution meets".

(18) Section 1905(m) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse".

(19) Section 1915(c)(1) of such Act is amended by striking out "under this part" and inserting in lieu thereof "under this title".

PART E—RECOVERY OF HILL-BURTON FUNDS

RECOVERY OF HILL-BURTON FUNDS

SEC. 1071. (a) Section 609 of the Public Health Service Act (42 U.S.C. 291i) is amended to read as follows:

"RECOVERY

"SEC. 609. (a) If any facility with respect to which funds have been paid under section 606 shall, at any time within twenty years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 605, or (B) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) July 1, 1984, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, July 1, 1984,

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall constitute a lien on any facility with respect to which funds have been paid under section 606.".

(b) Section 1622 of such Act (42 U.S.C. 300s-1a) is amended to read as follows:

"RECOVERY

"SEC. 1622. (a) If any facility with respect to which funds have been paid under this title shall, at any time within twenty years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

"(2) cease to be a public health center or public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) July 1, 1984, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, July 1, 1984,

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall constitute a lien on any facility with respect to which funds have been paid under this title.".

(c) Not later than the expiration of the one-hundred and eighty-day period beginning on the date of the enactment of this section, the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section.

EXTENSIONS OF REMARKS

THE GRENADA DIARY OF CONGRESSMAN LOUIS STOKES

HON. WILLIAM (BILL) CLAY
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CLAY. Mr. Speaker, on Friday, November 4, 14 Members of the House of Representatives embarked on a fact finding mission to Grenada on behalf of the United States and our citizens. My distinguished colleague, the gentleman from Ohio, Mr. STOKES was a member of that delegation. Upon his return from Grenada, Congressman STOKES published his diary of the mission in the Cleveland Plain Dealer.

Mr. Speaker, I would like to insert a copy of that diary in the RECORD at this time.

The diary follows:

[From the Cleveland Plain Dealer, Nov. 13, 1983]

A GRENADA DIARY

(By Congressman Louis Stokes)

We arrived in Grenada at about 1:45 p.m. Friday, Nov. 4, at Point Salines, the primary site of the invasion by U.S. troops.

This was the airport and runway President Reagan said was being constructed for military purposes, as a possible staging area for Cubans and Soviets. We were briefed by Maj. Gen. Trobaugh, who commanded the 82d Airborne troops who landed at Point Salines.

Trobaugh explained that at 5 a.m. the day of the invasion eight helicopters containing 82d Airborne troops came into the airport under heavy gunfire from an antiaircraft gun that was adjacent to the Cuban barracks. He said all eight helicopters were hit by antiaircraft fire from this gunner, but none of the troops were hit.

These troops proceeded to clear the airfield, which had barbed wire strung at intervals of every 100 feet around barrels on each side of the runway. He credited the Cuban forces with being well trained and tough.

My first question to him was whether the maps he had been given were adequate. There had been reports in the U.S. media that GIs arrived utilizing tourist maps, which had not been adequate.

Trobaugh said they had three maps—an aerial map, a grid map and a tourist map that had been prepared by the British. He said the maps given him were adequate but that he just did not have enough to give to all of his men.

I then asked him about the advance intelligence information he had been given. He said that what his troops had encountered was roughly what had been expected through intelligence sources, and that while he would have preferred to have had more intelligence, it was adequate.

I was concerned about the purpose of the invasion as it related to the U.S. medical students at True Blue and Grand Anse campuses.

"After you had secured the students who were located at True Blue campus, what did you do with reference to the students who were on the campus at Grant Anse?"

He replied that they had gone to the campus at Grant Anse to liberate the students.

"How many days elapsed between the time of the invasion and the time you went up to release the students at Grand Anse campus?"

He said they went there on the third day after the invasion.

I wanted to know why an invasion of another country for the purpose of evacuating U.S. medical students had resulted in a three-day delay in evacuating one group of students. The explanation was that they were in touch with the students up at the second campus and instructions had been given to them to put mattresses up by their windows, and that the conditions did not necessitate any rush to get to that campus.

Following the briefing, we visited the Cuban compound and prisoner-of-war camp. As we approached the compounds, the prisoners milled around and looked at us, and we looked at them without any comment from either side.

We traveled to the warehouses containing the weapons cache found on the island. I think everyone in the delegation was impressed by the extraordinary amount of ammunition stored there. We were told it totaled more than 5 million rounds of ammunition. Most of the ammunition carried either Soviet or Cuban markings.

The situation lent itself to all types of conjecture: Was the ammunition to be used for the defense of Grenada, or was it to be used by Cubans for distribution elsewhere, or was it to be utilized by Grenadians for the invasion of other islands in the Caribbean?

We received no testimony from anyone that clarified this issue.

Upon leaving the site of the weapons cache, we were taken by bus to the Calabash Hotel.

As soon as we were assigned rooms, we were adivsed that our next meeting would be with the Organization of Eastern Caribbean States commander, a Jamaican in charge of the multinational forces on Grenada. We learned from him that the multinational peace-keeping force he heads in Grenada is composed of soldiers or police provided to the force from the various islands that comprise the OECS. He made it clear that in most cases these people were not well trained or well equipped. Their function on Grenada is limited in terms of being able to provide security. For those reasons, he felt it was going to be necessary to keep U.S. forces in Grenada for an extensive period of time.

He asserted strongly that both a military and an economic presence was necessary from the United States if we intended to provide the security needed until the Grenadians can provide security for their island.

He agreed that U.S. troops should probably be removed when free elections are held on Grenada.

Our next meeting was with Eric Pierre and representatives of the Grenada Trade Union Movement. He spoke of what it was like to live under Maurice Bishop's rule. His grievance with Bishop was mainly over human rights violations and that freedom of speech was not always protected. He told of how thousands of Grenadians had come out to free Bishop—as many as 20,000. He told of how the people were shouting "Communism, no, Coard, no. We want elections!"

He placed the estimate of the dead during the assassination of Bishop in the neighborhood of 200. He was the first Grenadian to make it clear that he believed that U.S. intervention in Grenada was not an invasion, but "a mission of rescue for which your country shall have our everlasting gratitude."

Bishop had visited the United States in June and had tried to meet with President Reagan and other high-level government officials. It appeared that he was trying to make some overtures to the United States. According to Pierre, Bishop's visit to the United States was met with mixed emotions by Grenadians. He said it seemed Bishop had toned down some of his rhetoric against Reagan and he believed Bishop might have been trying to move toward the United States.

He said this may have hurt him with the People's Revolutionary Council, which was then beginning to turn to Bernard Coard.

I was awakened at about 4 a.m. the next day by what sounded like gunshots. I looked out and saw what appeared to be the brightness of day. Actually it was the glow created from flares. About 15 feet from my window was a U.S. soldier with rifle in hand who stood there for about 10 minutes. I continued to watch and he backed up to a position of about three feet from my window.

I continued to hear what sounded like shots. At this point, I wondered if I should get down on the floor. A few minutes later, the soldier walked away from my window and disappeared into the darkness that was settling over the area. Finally, I went to sleep again.

The next morning, I learned that the flares had been sent up in response to the noise made when some coconuts had fallen on the ground.

Saturday, Nov. 5, we met with Gov. Gen. Sir Paul Scoon. He welcomed us and spoke of how happy they were to have Americans in Grenada.

He spoke of Grenada as having been very tense from the time the people knew Bishop was under arrest. After Bishop's assassination, he considered himself the only legal authority on the island. He spoke of the deteriorating conditions that came after the bodies of Bishop and eight others could not be found. He said he contacted the United States and the OECS and requested help. He told us about the controversial airport and the runway Reagan had said was for military purposes. Scoon said it was "essentially a commercial airport."

In fact, everyone whom we talked with on Grenada refuted Reagan's contention. All the evidence we received indicated that the runway was comparable to runways in other Caribbean countries.

It seemed ironic that we were the ones who had turned it into a military airport.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Scoon was not able to give us a precise timetable for elections. He indicated that it could be six, eight or nine months. His preference was that they be held within a year.

Next we visited the Ft. Fredrick mental hospital, which had been bombed by the U.S. Air Force.

This was a depressing experience. Many of the mental patients were yelling and screaming at us from behind the cell bars. Many screamed out, "America's new Vietnam." As we toured the rubble where our military personnel are doing some restoration work, we learned that the hospital had been hit three times within the hour and that 17 mental patients had been killed and more than 30 injured.

Everyone whom we talked with there, including our own military personnel, expressed the hope that America would build a new mental hospital.

We were bused to Point Salines where we were taken in helicopters to the island of Carriacou, part of Grenada. After military briefings, the congressmen sought out constituents to have lunch with. There were no Clevelanders present, but I lunched with Sgt.1.C. Michael Oesch, Mansfield; Cpl. Gene Stoller, Carrolton; and Pvt. Bob Schultz, Chardon.

Besides our search operation for members of the People's Revolutionary Army, I found our military personnel were trying to restore medical care to the populace. This was in lieu of the medical clinic the Cubans had set up. The Cuban doctors had been evacuated. Their absence leaves one Grenadian doctor and two Grenadian dentists, one of whom we were advised travels most of the time.

Later that day we met with U.S. nationals, along with some of the medical school personnel, including Dr. Peter Bourne, vice chancellor of the medical school, and some of the medical students who were still on the island. Bourne said Hudson Austin had called him immediately after Bishop's assassination. Bourne said Austin advised him that the medical students would be safe; that they had no intention of having trouble with the United States; and that if the students would prefer to be evacuated, he would assist in getting them out.

He indicated to Bourne that he wanted to meet with our diplomatic officials in order to give them the same assurances and to work with them in terms of evacuating any students.

Bourne said he had expressed to Austin the fact that they did not have enough food and water at the True Blue campus and he told us that within two hours Austin's security people got water to the campus. Bourne said the students were never in any actual danger and never even saw a soldier.

I asked all present if they could give me the name of any American they were aware of who at any time was harmed, injured or treated as a hostage. No one could name a single person. It was interesting that this entire group was unanimous in their opinion that the Americans should have intervened.

Sunday, Nov. 6, our first meeting was with representatives of the private sector, including Chamber of Commerce, cultural and social leaders. They were unanimous in their praise of the United States for its intervention and urged our continued military presence for as long as a year or more.

Following this, we met with Alester Hughes, a prominent journalist and former political prisoner in Grenada. He was the last known person to speak to Bishop. He estimated the crowd that freed Bishop from house arrest at 10,000 to 15,000.

Hughes told of the enormous popularity of Bishop with Grenadians. He stated that if Bishop had conducted elections he could have won. He admonished the delegation, "Don't smother us with U.S. dollar bills—we don't want to become another St. Thomas."

Our next meeting was with two former members of the Bishop cabinet—George Louison, minister of agriculture, and Atty. Gen. Kenrick Radix. Both were imprisoned by Austin after Bishop's arrest. Both were educated in England. They informed us that Coard was chairman of the Central Committee and had ordered the execution. They said they knew who the execution squad members were.

During our conversations with them, Radix lectured our delegation about U.S. intervention on a poor, underdeveloped nation that had been subject to a history of colonial exploitation. He said the intervention in the internal affairs of a sovereign nation violated the U.N. charter and international law.

He stated that the United States would have resisted and condemned intervention had some foreign nation intervened in our Civil War. He chided the United States for its exploitation of the civil rights of black people and the slaying of Martin Luther King Jr. and thousands of others who professed to love liberty.

Someone from the delegation interrupted to remind Radix that he had been a political prisoner until the invasion. His reply was, "I would prefer to have died rather than to have had the United States violate the sovereign territorial integrity of our country."

He said the medical school and the safety of the U.S. citizens was never under threat. Radix and Louison said Grenada had been under threat of U.S. invasion for 4 to 4½ years. In referring to the cache of arms and ammunition, Radix said, "it was our legal right to prepare ourselves against the United States in the event of an invasion." Both called for the immediate withdrawal of U.S. troops.

Radix described an experience he had with U.S. military forces on his release from the Cuban embassy where he had been given refuge. He said he was menaced and threatened and that guns had been placed at his head. "I was not even treated in that way by the Revolutionary Council."

Monday, Nov. 7, we met with our embassy officials, who had participated in negotiations with the People's Revolutionary Council after Bishop's death. Official Ken Kurze who verified that Bourne had contacted them at Austin's urging and set up the first of several diplomatic meetings. He said Maj. Cornwall of the revolutionary council gave them assurances of the students' safety.

Kurze said he and other embassy officials met with Cornwall over the next four days. During that time they were given access to the students. In addition, Cornwall, representing Austin, had been in touch with diplomatic personnel from the British High Commission and the Canadian and Venezuelan embassies to assure the entire diplomatic community that they were in control of Grenada and that there was no danger to the international community there.

There is no doubt that these types of diplomatic negotiations were going on and in process at the time of the invasion. Several of our consular officials involved in the discussions were caught on Grenada at the time of the invasion and could not get out as a result of our forces.

These officials, while not denying the assurances given them, indicated that they believed the situation was deteriorating and, as a consequence, felt that there was a possibility that the students' safety could have been at risk. They do concede that none was imperiled before the invasion.

After I established that these consular officials were in touch with embassy officials in Washington, I asked if they recommended to Washington that an invasion was necessary. They said they did not.

It was also interesting that these officials conceded that over the entire four-day period, they had never put together any evacuation plans.

Our last meeting of the day was with the heads of the OECS states. This delegation was headed by M. Eugenia Charles, prime minister of Dominica. She praised the United States for its intervention, which came about as a result of their request to Reagan. They gave us extensive briefings on Grenada's history in relation to the OECS and on the threats posed to their countries as a result of the threat or fear of the spread of communism.

During the entire 2½-hour meeting, no mention was made of either the safety of U.S. students or Americans who were on Grenada.

The bottom line appeared to be the threat they perceived to each of their states after Bishop's death. They characterized Bishop as a moderating force with whom they had been willing to work. They were afraid of Coard, who, they said, had co-authored a book describing his plan to attack and take over the other islands. They met and within 20 minutes decided they had to invade Grenada. They based the legality of their action upon their assertion that Grenada, at that point, had no government.

After this meeting, we returned to the airport where it was "wheels up" for Andrews Air Force Base near Washington.

As I assess the invasion, I would have to admit we won this one. Maybe the United States needed the victory.

Somehow I can't rejoice over our military victory over this little island eight miles wide and 16 miles long populated by 110,000 people (about a fifth of the population of my congressional district).

As I looked at this beautiful little island, discovered by Columbus in 1498, inhabited by a population of African descent, invaded and conquered by the French and English and colonized for more than 400 years, I wished we had reached out to Bishop when he reached out to us. Maybe then, we might have saved his life, averted a revolution and avoided an invasion of questionable necessity.●

QUESTIONS DIRECTION OF FOREIGN POLICY LEADERSHIP IN DEMOCRATIC PARTY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. GINGRICH. Mr. Speaker, the instantaneous and critical reaction of so many congressional Democrats 3 weeks ago to the victory for freedom in Grenada raises troublesome questions. These questions have to do with whether the Democratic Party in the 1980's can be a competent, reliable

steward of U.S. interests in a hostile world.

I raise this point in deadly earnest. When I hear my colleagues from the other side of the aisle savaging the President, making quips about a move to restore human rights while our soldiers lay dying, rationalizing for a band of thugs masquerading as the Government of Grenada, and brushing aside the heartfelt statements of our evacuated medical students who said they were worried about a hostage situation well before the United States and its allies went in, I have to worry about the direction of foreign policy leadership in their party.

It is true that the Speaker has endorsed the Grenada operation—after 3 weeks of no comments or vaguely critical remarks. He had to be convinced by the firsthand report of his majority whip, which apparently counted for more than the President's word, the statement of Grenada's Governor-General, pictures of Soviet weaponry stacked to the ceiling, and last week's CBS radio poll of Grenadians showing 91 to 9-percent support for our actions.

The Speaker's support is obviously reluctant and grudging, compelled by overwhelming evidence from all sources and a nation that weeks ago rallied behind the President. Mr. O'Neill's latest comments to the press seem to say: It was good that America went in, but let's hope nothing like this ever happens again. He was even quoted by CBS-TV earlier this week as saying a similar move by President Reagan anywhere else would be "Hell on Earth."

There is only one explanation for the Speaker's overall reaction to freedom's triumph on a small but strategically vital island. He is responding more to his main constituency than he is to any other political force or collection of evidence, and that constituency is the House Democratic Caucus.

The Democratic Caucus seems to be dominated in its private sessions and its media comments by radical Members who believe in a kind of isolationist defeatism. They either do not think Marxist regimes threaten anyone or, if they do, they oppose the only operations which can prevent the extension of those Marxist regimes.

It sometimes seems that, to these Members, the only place in the world where freedom matters is America.

The real question for my colleagues on the other side is: Do you want to continue your trend to becoming an American version of the British Labour Party? If so, there will be tremendously negative consequences for two-party Government in this country. Hopes for any examples of bipartisan foreign policy, which have been rare since Vietnam, will be totally wiped out. America's staying power in the world will be in doubt even when a conservative adminsitration is in charge.

These are deadly serious matters, Mr. Speaker, and I raise them as an individual Member who respects the sincerity of his radical counterparts but deeply doubts the workability of the worldview and assumptions they grow more devoted to in spite of overwhelming contrary evidence.

The House Republican Study Committee's November 7 Bulletin had a cover story on the Granada liberation and the disturbing Democratic reaction to a success that united most Americans and nearly all Grenadians. I commend it to thoughtful observers of the worrisome pattern dominating the national leadership of one of America's two great political parties.

The Bulletin article follows:

THE LIBERATION OF GRENADA; THE ENSLAVEMENT OF THE DEMOCRATS

(By Frank Gregorsky)

There are lots of reasons to be happy about the liberation of Grenada:

1. It marked the real end of the Vietnam Syndrome. The U.S. used force against a brutal group of leftist thugs and in favor of democracy and the safety of its nationals. Unlike the May 1975 Mayaguez incident, America was this time on the offensive. Unlike the April 1980 hostage rescue fiasco, we achieved more than an "incomplete success."

Grenada is in fact the first time the U.S. used military power to advance its foreign policy since December 1972, when President Nixon bombed Hanoi into signing a peace treaty.

2. It was skillfully timed and brilliantly marketed. We replaced a gang on Grenada which hadn't yet consolidated power, and which even Cuba hadn't yet recognized as a government. We were able to meet our own goals while responding to requests for help from democratic countries in the region. And whoever in the White House thought to have Prime Minister Eugenia Charles of Dominica announce the liberation with President Reagan should get an extra week off for political savvy.

3. It was objectively just and relatively painless. How many military and political moves can you say that of? Sixteen American soldiers died; the rest are coming home. They went to save 100,000 of their fellow human beings from totalitarianism. Anyone who trivializes the size of that island (one liberal Member said it was like invading Duluth) trivializes the human rights of the 100,000 people who live there.

4. It brought us together. An ABC News sample the night of the President's October 27 TV appearance showed 64% favoring the move before the speech, and a stunning 86% endorsing it after the speech. A USA Today poll showed Grenada widened Reagan's lead over Walter Mondale from 9 to 27 points. And ABC found 74-24% agreement with the thought, "I feel good about Grenada because it showed that America can use its power to protect our own interests." Americans like to feel good about their country; they even like to find excuses to support their President. Grenada facilitated both.

5. It seemed popular in Grenada itself and with exiled Grenadian leaders. Francis Paul said, "I don't consider the event as an invasion; I consider it a liberating force." (Paul is vice-president of the Grenada Democratic Movement, which opposed the just-ousted Marxist government of the late Maurice Bishop.) The Washington Post's Miami correspondent, Edward Cody, arrived on Grenada the Tuesday the liberation got underway. He told Ted Koppel two days later:

"As you can imagine, the reaction of the Grenadian army was certainly not very enthusiastic. The non-Army people, the civilians who had been cooped up in their houses for a week-and-a-half, showed every sign of being delighted that the Marines had showed up. They walked up to them with smiles on their faces and wanted to shake their hands."

6. We successfully evacuated about 500 American medical students, preventing any chance of another hostage crisis and showing that overseas Americans can once more expect protection from their government. The comments of four of those students are priceless:

"We thought we could be potential hostages. We just wanted to get out, if we could."

"I don't think there's any more beautiful sight than being back in the U.S.—or perhaps seeing the Rangers as they arrived at the campus to save us."

"I tell you, I've been a dove all my life. And I just can't believe how well those Rangers came down and saved us. I don't want anyone to say anything bad about the American military."

"I just can't convey the feelings that we have about our American citizenship, and the way that we were treated. We're just so thankful of being alive."

But there are some groups unhappy about what happened. One is the parents of those dead servicemen. Their sorrow is justified, and we grieve with them. But it is personal, not political.

A second unhappy group is the worldwide Communist movement. Their grief is intensely political. They've lost an ally, an airport, an ammo dump. They have one less friendly island on which to mount their SAMs. Indeed, Jack Anderson said in his November 1 radio column that Fidel Castro was so upset over Grenada's liberation that his terrorists are now out to kill U.S. citizens in Central America—especially Mexico City.

A third unhappy group is our ostensible allies in Western Europe. President Mitterrand has domestic Communists to appease; he can say anything he wants about Grenada as long as he keeps backing the installation of the Cruises and Pershings. Mrs. Thatcher's tut-tutting was a lot harder for American conservatives to take. But she and the other hawks in her nation will ultimately come to see we were right.

Even two days after the Genada operation started, she felt emboldened to point out in Commons: "When the United States went into the Dominican Republic, democracy was restored and it is still there today." She said that twice.

But there's a fourth unhappy group, and their unhappiness seems inexplicable. This group seethes with indignation over freedom's triumph in Grenada. This group might be expected to rejoice with the rest of us. It says it doesn't like Communism; it says it favors freedom.

This group is American. Its leaders are bright and well-read. They have no obvious sympathies to Communism in their backgrounds. The group says it believes in human rights and likes to criticize the Reagan administration for not doing more to promote them.

So far so good. But this group denounced the Grenada liberation. It cavilled and carped, it squawked and whined. It attacked the mission while American Marines lay dying on the ground. It blasted America's commander-in-chief while giving the benefit of the doubt to the anarchistic military elements that rifled power from Maurice Bishop on October 12 and killed him the following week.

As for the safety of U.S. nationals, this group sloughed off the comments of those freed medical students and pooh-poohed any chance of their being held hostage.

No, it wasn't the American press. The American press—even its pesky Washington division—was on the whole more supportive of the Grenada liberation than this other group. This other group is the radical wing of the congressional Democratic Party.

It finds fanciful the notion that the post-Bishop chaos, with several members of the previous regime murdered and a shoot-to-kill curfew still in effect when the Marines and Rangers landed, was a threat to American students and other nationals on Grenada:

"What disturbs me most is that I do not believe that this invasion was necessary. I am fully supportive of protecting the lives of American citizens, one of the expressed purposes of the invasion, but we did not have to send in the Marines to guarantee their safety."

That's Rep. Robert Garcia, on page E5109 of the October 25 RECORD.

It features Stanford University law grads who dig out obscure statutes to tie the President's hands, and feel cleansingly righteous as they declare:

"It is against the law—18 U.S.C. 960, the Neutrality Act, makes it a crime to organize, initiate or begin a hostile expedition against a foreign country with which the United States is at peace. I have written to the Attorney General of the United States pointing out that it is his responsibility to enforce the law."

That's Rep. Don Edwards, on page H8578 of the October 25 RECORD. He makes debater's points as if back in moot court, in effect urging Attorney General French-Smith to arrest Mr. Reagan. That's an example of hard-headed liberal diplomacy.

It features armchair psychologists who prefer to see U.S. foreign policy as a reflection of the President's presumed personality disorders:

"Of course we all know that the President has been itching to try something like this ever since he was elected. He loves to throw American weight around, and where better than on a small island within our own hemisphere. He has to do something with the huge military he has been building up over the last 3 years."

That's Rep. Pete Stark, on page E5103 of the October 25 RECORD.

It features those who see the U.S. as the moral equivalent of the Soviet Union. They favor consistency of position no matter what the cost to consistency of result. Rep. Howard Wolpe said on October 25: "(A)ll of us within this body—indeed all of the American people—are being compromised by the initiatives of this administration in Central America and around the world. In the name of strength we are promoting gunboat diplomacy, in direct contradiction to American ideals, traditions, and interests."

In a comment just preceding that, Rep. Don Bonker cried: "We do not know the extent of U.S. casualties at the moment, but today's actions by the President in committing U.S. troops in Grenada is shocking and flies in the face of the President's condemnation of Soviet interference in other countries."

Radical Democrats make it a point to divide their condemnatory rhetoric equally between their own nation and the Soviet Union. When the latter goes into Afghanistan to prop up brutal thugs, it's just as bad as our going into Grenada to remove brutal thugs. The key is consistency of position—harnague both your own President and the leader of the world's biggest gulag. This implies certain things that the radicals can't say directly, i.e. that there's no difference between the motives, purposes and ideals of the two leaders.

Finally, there's what might be called the George Carlin Caucus within the Radical Democratic bloc. It consists of wiseacres to whom precious little is sacred. The Carlinites are especially well represented in the Massachusetts delegation. When U.S. soldiers are dying they make jokes, quips, and sarcastic taunts. They mix the elitism of the ivory tower with the tone and insolence of the alley.

Rep. Dennis Eckart said in a one-minute October 25: "This is nothing more than supply-side foreign policy: They supply the war. We supply the troops. We supply the arms. We supply the munitions and now we supply the bodies, too."

Rep. James Shannon was quoted in the October 27 Washington Post as paraphrasing Cole Porter: "Tomato, tomahto, Grenada, Grenahda, let's call the whole thing off."

Rep. Ed Markey's one-minute on October 25 wrapped up: "Mr. Speaker, gunboat diplomacy has a new king. Move over, Teddy Roosevelt."

That kind of contemptible snideness, as well as some of the reasoning behind the earlier arguments, would have been enough in an earlier era to defeat these politicians. They would have been associated with words of defeatism and near-treason when American servicemen were laying down their lives for freedom.

Not now. Their kind of talk is business-as-usual. The media presents it as the respectable opposition. Republicans get weary of showing the horrifying implications of it.

In July 1972 George McGovern caused an uproar by suggesting he'd go "on his knees" begging North Vietnam to release American POWs. This remark was held against him by labor leaders and his own party's centrist establishment. Just two weeks ago he said:

"The President here has demonstrated again that he's been seeing too many war movies and not enough about the reality of war itself." The Grenada move was "utterly irresponsible (and) part of a pattern of foreign policy errors—a growing litany of invasions and deaths suffered by Americans."

That's not news. The news is that the 1972 model McGovern is now orthodoxy for up to half the congressional Democratic Party and for most of its presidential candidates. The comments of Markey & Co. may be rash, but the worldview behind them extends to Mondale, Cranston, Hart, Chris Dodd, Tip O'Neill, Jim Wright, and a majority of the Democratic House Members and Senators elected since 1974—to, in other words, those doing the most to set Democratic Party foreign policy.

Just as President Reagan backed by a strong majority of the people and a united GOP has shaken off the Vietnam Syndrome, that same syndrome has come to grip and symbolize the Democratic Party. Judging from rhetoric, votes and policy statements, a majority of House, Senate and presidential candidate Democrats have internalized the "lessons" of Vietnam—namely that:

1. America's allies outside of Western Europe and Japan are worse than any of its avowed enemies. Condemn them or at least cut off all aid.

2. Most Communist leaders are reasonable, or will be when Ronald Reagan stops playing cowboy.

3. The U.S. must never take the military initiative. Everything can be negotiated and it's up to us to make concessions to show sincerity.

4. Uncle Sam is a bungling, oafish clod. Everytime he does or says anything around the world, he only makes things worse. He's a hopeless incompetent.

It's not just Grenada that shows the metamorphosis of the party of Harry Truman, Jack Kennedy and Henry Jackson into an isolationist and semi-pacifist force in American politics. The signs are there on everything associated with foreign policy.

Item: All 7 Democratic presidential hopefuls signed a letter opposing funding for the MX. "If elected to the presidency, none of us will request funds for this purpose," it read.

Item: Sen. Daniel Moynihan, who once lambasted Messrs. Ford and Kissinger, Carter and Young for caving in to "jackals" at the U.N., was one of the first to condemn the move into Grenada October 25 as "an act of war." Moynihan's intellectual directions are about as predictable as the movements of a weathervane, but he's always been a good indicator of the prevailing winds in his party. They are blowing strongly left in the Age of Reagan.

Item: Alan Ehrenhalt wrote in the October 1 Congressional Quarterly:

"When the $187 billion defense authorization bill came to a vote in July, a majority of Democrats from everywhere but the south voted against it . . . . These days it is no longer considered radical or even adventurous for rank-and-file Democrats from Eastern and Midwestern districts to vote against authorizing money for defense. It is *standard practice.*" (Emphasis added.)

And this: "A decade ago, candidates for House Democratic leadership had to be careful not to sound too liberal. Today, they cannot afford to sound too conservative. Otherwise, they risk alienating the generation that will be crucial in party leadership contests in the years ahead. In that climate, Wright's decision this summer to change his mind and oppose the MX was a prudent one."

Prudent for whom?

The liberation of Grenada may or may not be an issue in the 1984 elections., What should be an issue now is the enslavement of a majority of elected national Democrats to a defeatist and radical worldview that renders the party incapable of protecting U.S. interests in a dangerous world.●

THE DOUBLE WHAMMY OF HIGH INTEREST RATES AND FEDERAL ASSISTANCE CUTBACKS

HON. WALTER E. FAUNTROY
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FAUNTROY. Mr. Speaker, the Subcommittee on Domestic Monetary Policy of the Committee on Banking, Finance and Urban Affairs has just returned from Camden, N.J., where it completed the first of six field hearings it is holding around the country to assess credit conditions and the prospects for the recovery and employment.

The subcommittee took testimony from more than a score of witnesses who gave vivid and descriptive examples of how they are seeking to benefit from the recovery. Unfortunately, the subcommittee did not hear one person who could tell us that their plight has improved in the 2 years since Mayor Melvin R. Primas, Jr., of Camden testified before the subcommittee about the double whammy of high interest rates and Federal assistance cutbacks.

Indeed, by the most important indicator of whether the recovery has benefited this city, circumstances have, if anything, become worse. For example, in 1981, citywide unemployment in Camden stood at 12.5 percent; it is now 19.7 percent, which is little if any improvement over the city's unemployment rate in the depths of the recession. Approximately 49,798 people out of the 85,000 people residing in Camden need Government subsidized income maintenance programs to survive. That is more than half of the population, and in my mind that is not what recovery should represent.

Clearly, these people are not now better off than they were 2 years ago; clearly, the recovery has not come to Camden. It will not come unless there is a renewal of the partnership between the Federal Government and the local communities, nor will it come if the recovery is curtailed.

Mayor Primas is one of the most articulate mayors in our country. He has striven to do more with less and done it more successfully than almost anyone I have encountered. Ultimately, however, there is a point beyond which limited resources cannot be stretched. I fear that point may have been reached in Camden, although the mayor refuses to give up hope in what he and the people of Camden can do with a little help.

His testimony is cogent and clear. I commend it to my colleagues; I urge them to read it and to try to fully appreciate what it means for a mayor to have to say the things he does in his statement. For those who doubt his words, I invite them to accompany me on the remaining field hearings to be held in Pittsburgh, Fresno, Birmingham, Shreveport, and Brooklyn.

STATEMENT OF HON. MELVIN R. PRIMAS, JR., MAYOR OF THE CITY OF CAMDEN, N.J.

Mr. Chairman, I first want to extend a warm welcome to you and to fellow members of the House Banking Subcommittee on Domestic Monetary Policy, on behalf of the citizens of Camden, New Jersey. You and other members here today are to be congratulated for holding this Congressional Field Hearing in Camden, in order to see and hear first-hand how "Reaganomics" has impacted us in very real ways.

Over two years ago, you gave me the opportunity to testify before your Subcommittee on the impact that national credit and fiscal policies were having on us at the local level. I pointed-out how the declared goals of "supply-side" Reaganomics—increased private investment and increased employment—were having the opposite effect in Camden—declines in local business investment, increases in unemployment and increases in local tax rates.

I also described the increasing toll that the national credit crisis and fiscal budget cuts were taking on my city—in human, as well as economic and physical terms. I called this impact the "double whammy." Simply stated, the "double whammy" referred to the combined impact of high interest rates—which raise the cost of basic municipal infrastructure, housing and other capital costs—coupled, at the same time, with unprecedented cuts in federal resources to help meet these costs.

THE VICIOUS CYCLE

In addition, I also spoke of the frustrating cycle that threatened—and continues to threaten—Camden and many other central cities, by creating federal budget cuts that work at cross-purposes with the Administration's stated goals of lower tax rates, higher investment and increased employment. Instead, federal budget cuts have been creating exactly the opposite effect in Camden, as shown below:

Federal budget cuts in jobs, job training, housing, health, infrastructure and economic development;

Increased local unemployment and resulting increased social service fiscal burdens on local government;

Shifts away from capital priorities to fund urgent social service costs;

Delays in necessary infrastructure repairs and maintenance schedules

Deterioration of streets, water and sewer lines, mass transit and pollution treatment facilities;

Continued out-migration of private firms from older cities and regions, with inadequate infrastructure;

Decreases in local private investment tax base;

Increases in local tax rates, to support increased municipal and social services costs created by unemployment; and

Further decreases in private investment and employment.

CAMDEN TODAY

Since I addressed the Subcommittee two years ago, I would like to provide an updated picture of Camden, which may serve as the "acid test" for Reaganomics where it counts the most—in terms of tangible results.

Unemployment.—In late 1981, citywide unemployment in Camden was estimated at 12.5-percent. It is now 19.7-percent. Among minorities, which constitute almost three-quarters of the city's population, unemployment has risen to over 30-percent, and is even worse among minority youths (about 40-percent) and minority female youths (over 60-percent);

Housing.—The Administration's cuts in substantial rehabilitation housing incentives for both public housing and assisted private housing has directly affected Camden's residents and housing stock. The number of families on the waiting list for public housing is now limited to 603, since new applications are not even being accepted, due to limited funds for modernization of existing units. Waiting times has increased to 3-4 years.

Another measure of housing performance—the number of single-family homes placed back in the active marketplace—has also suffered, as increased unemployment takes its toll on homeowners as well as renters in Camden. The rate of foreclosures and defaults in Camden has increased dramatically in Camden since 1981. This is especially painful to cities like Camden, where we are trying hard to encourage more young households and first-time homebuyers to move and stay in Camden.

In 1983, the HUD-owned inventory of FHA-foreclosed properties stands at 470, which is a welcome decline from over 700 in 1981. However, the number of FHA properties in default—often a precurser to foreclosure—is 1,098 this year, a large increase from 1981. On a net basis, the change in FHA-owned housing stock in use has worsened since 1981, as the number of new defaults and foreclosures has wiped-out the gains made in putting vacant units back into active use.

Similarly, the city's successful sale of about 300 city-owned vacant housing properties has not been able to keep up with the increasing number of "in rem" tax foreclosures by the City. City foreclosures have totaled about 600 this year to date, or roughly double the housing stock put back in service by the City in the same year.

Overall, the entire housing picture in Camden—both rental and home ownership—appears to have suffered in at least three ways as a direct result of Reaganomics: (1) from housing cuts which have virtually eliminated new construction of affordable multi-family units; (2) from increases in the number of families seeking housing assistance, as unemployment forces more families to seek lower-cost housing; and (3) from increases in default rates among single-family homeowners, many of whom are first-time homebuyers and young heads of households.

There are, of course, welcome exceptions to this general picture, such as the City's success in restoring and recycling housing units in the Berkley Street Historic District of Camden. The City has just received HUD approval of a $523,000,000 UDAG award to assist in rehabilitating these vacant old units to re-use as home ownership units in the central city medical district. It is anticipated that this project will be the first of several stages of housing development to take place in and near the Cooper Medical Complex, where many young medical and nursing students may be convinced to stay and buy homes in the older downtown area.

However, these types of success stories cannot compensate for the overwhelming impact of Administration policies which have halted new housing production and substantial rehabilitation, increased demand for low-cost housing and increased displacement of first-time homeowners.

Infrastructure.—Over 70-percent of the City's sewer lines are over fifty years old, and 64-percent were built in or before 1900, over eighty years ago. Accident rates, ruptures, maintenance costs and repair time are increasing for this older infrastructure, which is critical to retaining and attracting new industry in Camden. However, the capital funding resources for this type of infrastructure is not readily available, due to federal cuts in EPA and DEA public works programs, and an increasing federal deficit which threatens to increase our capital borrowing costs.

Citywide, water pressure is a special problem in Camden, due to outmoded mechanical water pumping systems and an unpredictable peak-load use period by industrial users. Fortunately, we have just received a $1,000,000 grant from the U.S. Economic Development Administration to help construct and install a water tower to provide the City with improved "back-up" water pressure in the industrial area of the City. However, we cannot continue to expect this type of help from EDA in the future, if we are to believe the goals of the Administration in abolishing this agency as a source of infrastructure funding assistance.

Private-sector tax base.—While the City is doing all it can to provide revolving loan fund assistance for new and small businesses in the City, the industrial base of Camden has not improved significantly since I last spoke to you in 1981. We have seen improvement in our "service sector" base, however, as illustrated by our successful attraction of a 120-bed private nursing home facility into Camden, which will generate 75 new permanent jobs and new spending power among medical and service supply companies to the nursing home. In addition, this project is a critical "catalyst" in attracting the private housing activity in the nearby Berkley Street Historic District, which is now proceeding quickly. Without UDAG assistance, however, it is unlikely that either of these projects would have gotten off the drawing boards.

Taxes.—Since 1981, local property tax rates in the City have had to increase to 12.377-percent. Most of this increase was required in order for us to stay afloat as a solvent community, in the midst of drastic cuts in state and federal revenue sources. In many ways, the local tax rate is "where the buck stops" for Reaganomics. As Mayor of the City of Camden, I must be able to absorb the combined fiscal burden of new social service and unemployment costs created by federal budget cuts and, at the same time, continue to supply basic municipal services, such as education, police, fire and capital repairs and replacements. Assuming, as I do, that it is my job to maintain fiscal responsibility in Camden, the practical end-result of this "double whammy"—increased unemployment costs and declining tax base—is higher taxes and increased unemployment, as depicted in my earlier description of the "vicious cycle." This is where the "buck stops"—where myth meets reality, and where "Reaganomics" fails the basic acid test of economic performance.

TRIPLE WHAMMY

When I last spoke before this Subcommittee, I expressed my concern about the "double whammy"—the combined impact of high unemployment and interest costs on local city budgets at the same time that dwindling federal resources to help meet these higher costs were drying-up. Today, I am even more concerned about a third factor—perhaps we should call it the "triple whammy"—whereby the cost/resource squeeze still persists, but with a new problem of public perception.

If there was little that made us happy with federal budgetary policies in 1981, there is even less to be happy about today. For now, we must also contend with the Administration's perception that there is no longer a problem. Nothing could be farther from the truth, as I hope today's hearing will demonstrate.

I do not mean to say that Camden has not made great strides on our own over the last two years—we have had special successes in terms of "show-case" projects that demonstrate the city's commitment to private-sector investment and employment growth, and to a more diversified economic and residential housing base, as witnessed by the Medical Plaza Facility nursing home project and by the Berkley Street Historic District Housing Rehabilitation Project.

However, these successes simply cannot compensate for the overall, larger-scale damage that has been done by Reaganomics—drastic cuts in job training, housing, health, infrastructure and economic development resources, all of which have directly hurt Camden and its residents. I do not mind having to balance my local budget—a responsibility which I do not shirk—even during times of vanishing revenue sources and increasing unemployment and social service costs. But I do mind being asked to "bite the bullet" at the local level, where we are perhaps least equipped to handle budget cuts, while Administration policy continues to cut federal tax revenues, increase defense expenditures and increase the federal deficit—to over $200 billion. Last, but not least, I mind being told that there is no problem with current federal budgetary and monetary policies—because there is.

There is a very real problem when unemployment in my city reaches 20-percent, almost double the citywide rate of two years ago, before Reaganomics had exerted its full impact;

There is a serious problem when Administration policy assumes that the private marketplace, unaided, will respond to our local housing needs, at the same time that families must wait 3–4 years to obtain decent, affordable low-cost housing in Camden;

There is a problem when home mortgage foreclosure and default rates in my City outsweep the successes we have achieved in encouraging new home ownership;

There is a problem when I must raise local taxes and cut local social service costs, in order to balance my local budget, while the unprecedented federal tax cut, combined with large national defense expenditure increases, continue to raise the federal deficit to over $200 billion;

And, perhaps most important, there is a problem when the Administration assumes that these problems do not exist.

It is my hope that what you see and hear in Camden today will convince you that there is a continuing need for a national commitment to urban policy—the willingness to recognize and address the challenge of the central cities in America, not to ignore them, and to inject more fairness and common sense into our overall national economic policy, as it relates to the needs of the poor, elderly, and ill-housed—many of whom live in the central city.

A nation as great as ours cannot afford to ignore its most important national asset—our domestic strength and our quality of life. Perhaps the best measure of national strength is our willingness to commit ourselves to the health and welfare of our citizens, as well as national defense.

Let us all hope that you will leave Camden today with a better sense of national purpose and priorities—toward a national vision that includes the needs of our central cities for employment, housing and health, as well as the needs of national defense. This more balanced commitment may be the truest test of our national strength in the 1980's.

Mr. Chairman, I want to thank-you and the members of this Subcommittee once again for the coming to Camden for this Congressional Field Hearing. Your trip here today demonstrates your serious commitment to the cities, as well as a personal willingness to see and hear our problems on a first-hand basis. You are to be commended for taking this initiative.●

ROBERT FUHRMAN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MINETA. Mr. Speaker, on behalf of Congressmen DON EDWARDS, ED ZSCHAU and myself, I rise to announce that Santa Clara County will be holding its ninth annual distinguished citizen award banquet, and we would like to note that this year's recipient of the award, Mr. Robert Fuhrman, is truly deserving.

Bob Fuhrman is unquestionably an exceptional individual. For more than 20 years, Santa Clara County has benefited from his presence. In 1958, Bob joined the Lockheed Missiles and Space Corp., as technical staff head of Polaris systems development, and since that time, Bob advanced to the very top of Lockheed, one of our Nation's most impressive companies. Bob is now serving as Lockheed Corp.'s missiles, space and electronics systems group president and as the chairman and president of Lockheed Missiles and Space Co., Inc.

Yet, Robert Fuhrman has served as more than an extraordinary executive. Bob is also an extraordinary citizen.

With an unselfish devotion of time and energy, Bob has served on numerous community projects and several charity boards and committees. In 1980, Fuhrman served as chairman of the defense science board task force on industrial responsiveness, and he is a former member of the San Jose management task force executive committee, a committee which worked productively to help the city of San Jose's public officials. Fuhrman has also been chairman of the Stanford area Scout-O-Rama, a member of the board of directors and former chairman of the Santa Clara County manufacturing group, to name only a few of Bob's many contributions.

Mr. Speaker, as you can see, Robert Fuhrman's contributions and achievements are truly exceptional, and both

he and his wife Nan have ample reason to be proud. Today we ask that you and all our colleagues in the House of Representatives honor an outstanding individual, Robert Fuhrman.●

THE CORPORATE TAX: IT'S ALL BUT DISAPPEARED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. STARK. Mr. Speaker, yesterday, the Joint Committee on Taxation released a report to Representatives PEASE and DORGAN describing the effective Federal tax rate on 213 of the Fortune 500 corporations. The report found that:

The corporations included in this study have an average worldwide tax rate of 29.6 percent in 1982, a U.S. tax rate of 16.1 percent, and a foreign tax rate of 55.0 percent.

The worldwide tax rates on worldwide income vary widely among industries from negative 2.5 percent for insurance companies to 59.6 percent for rubber companies. Four industries have effective tax rates of less than 10 percent (aerospace, insurance, telecommunications, and railroads).

Mr. Speaker, as U.S. legislators, we should be worrying about the U.S. tax rate and why this rate is so much lower than the rate that so many U.S. small businesses pay and so many individuals pay.

And, Mr. Speaker, as the full impact of the 1981 tax cuts become felt, the tax rate for the big corporations is likely to fall even further. Today's Washington Post contains an excellent article on this by Mr. Bob McIntyre, director of Federal tax policy for Citizens for Tax Justice.

THE CORPORATE TAX: IT'S ALL BUT DISAPPEARED

(By Robert S. McIntyre

Ask John Glenn what's wrong with Reaganomics and he'll tell you it's the "massive tax cuts for individuals which are the real cause of enormous deficits and resultant high interest rates." Ask the Ohio Senator why he voted against last year's modest effort to raise taxes and reduce those deficits and he'll tell you the 1982 tax bill was too tough on business.

Glenn's views are not uncommon. They may well be in the mainstream among Senate Democrats. But they're wrong.

The real economic damage from President Reagan's 1981 tax program stems not from personal tax cuts but from the breathtaking changes in corporate taxes. Despite last year's successes in narrowing some business loopholes, the corporate income tax as a source of federal revenues has all but disappeared.

In four of the 12 months of the fiscal year recently ended, Treasury actually sent out more in corporate tax refunds than it collected in corporate tax payments Overall in fiscal 1983, corporate income taxes totaled only $35 billion. That's less than 6 percent of federal receipts and a mere 4.4 percent of spending—quite a drop from the 25 percent of federal taxes corporations paid in the 1950's and 1960's, or even from the 15 percent they chipped in during the 1970's.

Why are America's corporations paying so little in taxes? Certainly, the recession has been partly responsible. But, as the Treasury Department dryly noted earlier this year, the eclipse of the corporate tax also reflects "business efforts to make use of improved depreciation schedules approved by Congress in 1981."

Aha! you say, so it's not all bad. At least we're getting some added capital investment in exchange for giving up on collecting corporate taxes. Well, not really. Capital spending is expected to decline in 1983 for the second year in a row—the first time that's happened in the entire postwar era.

Although the explosion in corporate loopholes over the past decade—from $7 billion on the government's official list in 1970 to an expected $83 billion by 1986—has been relentlessly defended by Washington business lobbyists as beneficial to the economy, the actual results have been just the opposite.

Not only have the costly giveaways failed to lead to increased investment, not only have they helped send federal deficits soaring, but they also have seriously distorted business decision-making. Tax sheltering, rather than marketplace forces, has become the driving force behind many investment choices. Bad investments, entered into only for their tax advantages, have crowded out good ones.

What tax loopholes have given us in the way of "investment" is lots and lots of paper shuffling. For example, take the $485 million tax shelter engineered in the fall of 1982, in which 534 wealthy investors bought Metromedia, Inc.'s entire stock of billboards—with the understanding they'd sell them back in five years after milking the tax write-offs. Or the rampant trading in used office buildings currently under way in cities like Chicago, as investors seek "newly acquired property" to get better depreciation deductions. Or the 70 percent jump in syndicated tax shelters in the first three-quarters of this year, involving such highly productive assets as llamas and foreign stamps. Or the record-setting wave of corporate mergers in 1981 and 1982.

But what about personal taxes? Aren't 1981's "massive" individual tax reductions an even more important part of our fiscal problem? No.

To be sure, truly wealthy individuals were treated generously in 1981—to a grave fault, one might add. But most families earning less than $30,000 a year were stuck with net tax increases, after offsetting bracket creep and higher Social Security taxes. Overall, the net change in aggregate individual taxes, says the staff of the congressional Joint Committee on Taxation, is somewhere between a $6 billion increase and an $18 billion cut—a far cry from the $200 billion-a-year cost of the 1981 personal rate reductions that's often cited.

A recent Peter Hart poll shows that the public understands this reality rather precisely. It found that 42 percent of American voters believe their federal taxes have increased since Reagan took office, and 34 percent say their taxes have stayed the same. Only 6 percent felt they had benefited from significant tax reductions.

Ordinary taxpayers, who are left paying the taxes avoided by the politically powerful and who bear the brunt of the economic losses caused by deficits and tax-induced inefficiencies, have a right to be angry. And that anger will likely be a major force in the 1984 elections. It also may be the hidden time bomb in the Democrats' efforts to take full political advantages of the outrageous $200 billion deficits created by Reagan's tax and budget programs.

What do the Democrats propose to do about those deficits? Cut spending? Hardly. The liberal spending agenda is no cheaper than Reagan's conservative one.

That leaves raising taxes, and here there are two choices: taxes can be increased on those who are already paying their fair share, or they can be increased on those who aren't.

If the Democrats come across as favoring big tax hikes for average citizens, Reagan is ready to exploit that to deflect attention from his deficit problem. Walter Mondale's undenied charge that John Glenn has a record of supporting corporate special interests on tax matters suggests that the Ohio senator might well fall into the trap the president has baited.

Mondale, on the other hand, has begun to take on the special interests on tax policy. He's even gone so far as to single out banks, oil companies and "90,000 profitable corporations that pay no taxes at all" as potential targets for taxation.

Raising taxes by closing loopholes isn't just a Democratic issue—as Sen. Bob Dole proved last year. But a Democratic campaign based on tax reform would provide a clear alternative to the big-deficit, unfair tax policies of the Republican who will be running for reelection as president in 1984.●

IS ANY ARMS AGREEMENT BETTER THAN NONE?

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. DANIEL B. CRANE. Mr. Speaker, the Chicago Tribune has performed a valuable public service by exposing the obstacles to lasting peace and the methods of surmounting those obstacles.

The following excerpt from former President Richard Nixon's new book, "Real Peace: A Strategy for the West," notes that "it is dangerous to assume that any arms control agreement is better than none" and goes on to list the six goals for any arms agreement.

The October 4 article is fascinating reading and warrants our full attention.

[From the Chicago Tribune, Oct. 4, 1983]

FOR A HARDHEADED DÉTENTE

(By Richard Nixon)

The door to real peace must be unlocked. Two keys are required. The United States has one; the Soviet Union has the other. Unless the superpowers adopt a live-and-let-live relationship, the world will not see real peace in this century.

The United States wants peace; the Soviet Union wants the world. Our foreign policy respects the freedom of other nations; theirs tries to destroy it. We are interested in peace as an end in itself; they are interested in peace only if it serves their ends.

For the Soviets, peace is a continuation of war by other means.

We will continue to have political differences that will drive us apart. However, we must also recognize that the United States and the Soviet Union have two common interests that can draw us together. As the world's two greatest military powers, we both want to avoid a major war that neither of us would survive. As the world's two major economic powers, we can cooperate in ways that could benefit both of us immensely.

Our differences make a perfect, ideal peace impossible, but our common interests make a pragmatic, real peace achievable. Only if we recognize that we are not going to settle our differences can we avoid going to war over them. The most we can hope to achieve is an agreement establishing peaceful rules of engagement for our continuing conflict.

We must know not only our adversary's strengths, but also his weaknesses.

No man knows the strengths and weaknesses of the Soviet Union better than Yuriy Andropov. For 15 years he was the head of the KGB, the Soviet espionage and police apparatus. There, he received reports from the vast network of Soviet agents at home and abroad and traveled extensively throughout the Eastern bloc. We can be certain that he knows the score, knowns the other team, knows how to play the game.

Andropov knows the strengths of the Soviet Union. He can point to significant achievements over the last decade. Since 1974, more than 100 million people have come under communist domination or have been lost to the West. Most ominously, the Soviets have gained superiority over the West in the most powerful and accurate nuclear weapons, land-based strategic and intermediate-range ballistic missiles.

But Andropov is no fool. He also is aware of the profound weaknesses of the Soviet Union. Its economy is in desperate shape. Its vastly overblown military budget is twice as large as ours in proportion of GNP consumed. This creates an enormous drag on the economy, reducing incentives for individuals to produce goods and limiting potential future growth.

Moreover, the ideology of communism has lost its appeal. The crisis in Poland is only the most visible example of the popular discontent that is heating up just beneath the surface, threatening to boil over throughout Eastern Europe and in the Soviet Union itself.

The costs of Soviet conquests are a huge drain. Andropov must pour huge economic resources into his empire to keep his shaky political investments afloat. Cuba costs $14 million a day. Angola, Ethiopia, Vietnam and Nicaragua cost more than $5 million a day. Afghanistan has cost millions of dollars and thousands of casualties. The resistance Soviet puppet regimes are meeting in Afghanistan, Angola, Mozambique, Ethiopia and Nicaragua proves that the Soviet Union is increasingly unable to digest what it swallows.

Andropov can boast of great gains for the Soviet Union in the Third World, but his position with the world's major powers must give him pause. He faces potential adversaries in Western Europe, Japan, China, Canada and the United States. These countries repesent over 60 percent of the world's economy; they present the Soviet Union with the grim prospect of having to face powerful enemies on two fronts.

When Andropov looks at the balance sheet of Soviet strengths and weaknesses, he cannot be encouraged. He has to be looking for ways to deal with his problems or at least to mitigate them. That fact makes prospects for real peace great. Both sides want peace; the time is ripe for a deal.

To keep the peace and defend our freedom, we need to adopt a policy of hardheaded detente, which is a combination of detente and deterrence. We must make it clear to the Soviets through our strength and our will that when they threaten our interests, they are risking war. If we simultaneously engage them in a process of resolving our differences, where possible, we can turn their attention toward the promise of peace.

Our first goal must be to take the profit out of war. We must remain powerful enough so that potential aggressors will conclude that they stand to lose far more than they could possibly gain from war.

Today the United States no longer has the credible nuclear superiority to deter Soviet aggression. We are still ahead in sea-based and airborne missiles, but in the last 10 years the Soviet Union has acquired decisive superiority in the most powerful and accurate nuclear weapons—land-based missiles. The Soviets have the ability to destroy virtually all of our land-based missiles in a first strike while having enough left over to destroy our cities.

We cannot expect to regain the nuclear superiority we had for 30 years, but the least we must do is deny superiority to the Soviets. The MX missile will help to achieve that goal. It is powerful and accurate enough to take out Soviet land-based missiles. It at least begins to rectify the military balance of power. Equally important, if war comes, the MX missile will give an American president some option other than an attack on Soviet cities.

The issue of arms control cannot be separated from the question of national security. They are intimately intertwined. Realistically conducted, arms control negotiations can contribute to real peace. Naively pursued, they can increase the risk of war.

We should not pursue arms control as an end in itself. It is dangerous to assume that any arms control agreement is better than none. If an agreement is to reduce the risk of war, it must advance six goals.

It must create a true balance between the super powers. It must not allow either superpower to have a credible first-strike capability. It must provide the means for each side to verify the compliance of the other. It must restrict the testing of new missile technology that would destabilize the strategic balance. It must reduce, not just limit, the nuclear arsenals of the superpowers. It should allow for the implementation of the Scowcroft Commission's recommendation to replace fixed, land-based, multiwarhead missiles with mobile, single-warhead ones.

Only when deterrence is assured can détente be effective. If the Soviets realize that aggression will not pay, they will have no choice but to behave with restraint. We can then reinforce the effect of the fear of war by providing them with the rewards of peace.

Our economic power dwarfs theirs because our economic system works and theirs does not. The NATO allies and Japan outproduce the Soviet Union and its Warsaw Pact allies by a ratio of 3 to 1. Trade between our systems can give the Soviets an economic stake in peace and lead to greater Soviet restraint—though trade by itself will not produce peace or prevent war.

Trade should be expanded only in ways that serve our interests. This means we must not sell the Soviets goods and technology that directly contribute to their military capability. It also means our trade must not be at subsidized prices or on easy credit terms.

Beyond this, we should expand our economic contacts. We should sell the Soviets rope, if they want to buy it, but do so in a way that binds their hands and prevents them from reaching out to further their domination. The more we engage the Soviet Union in an intricate network of commercial relations, the more we increase its stake in peace—and also increase its incentive to maintain good relations with us.

Summitry between the leaders of the superpowers is indispensable in the pursuit of real peace. It is at the summit that we bring together the various strands of hardheaded détente. This is a delicate exercise that we should undertake only if progress on resolving substantive issues is assured.

Before we schedule the next summit, personal representatives of Presidents Reagan and Andropov should undertake intensive, absolutely confidential negotiations to explore what progress can be made in reaching agreement on major issues. This would be the most promising forum in which to search accommodation that advances the general interests of both parties by compromising on the specific interests of each.

The summit agenda must include arms control, trade and conduct in areas where our political differences collide, such as the Middle East, Africa and Central America. In these preparatory talks, links should be forged between these issues. For example, the Russians must be made to understand that there is no way Congress could or should approve arms control or trade agreements reached at a summit when Soviet surrogates continue to try to build another beachhead in Central America. The Soviets will loudly object to such linkage, but they will understand it.●

EUROPEAN SUPPORT FOR U.S. LIBERATION OF GRENADA

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MARTIN of North Carolina. Mr. Speaker, a chorus of cheers for our decisive action to liberate Grenada has been rising in Europe these last few weeks. Not surprisingly, it has largely been ignored by our churlish press, which has also deliberately downplayed the joyous greeting given our forces by the Grenadian people.

I wish to insert in the RECORD a recent column from London's Daily Telegraph by one of the most articulate pro-American writers in Britain, John O'Sullivan. I also call to my colleagues' attention an advertisement which appeared in the New York Times on November 13. Paid for by the Committee for the Free World, located in London, it states:

The prospect that the people of Grenada will now have the opportunity after many years to take part in free elections heartens supporters of democratic governments throughout the world.

Indeed, Mr. Speaker, those who have criticized our intervention should heed this growing support for democratic governments throughout the world.

[From the London Daily Telegraph]

LIBERATION OF GRENADA

(By John O'Sullivan)

Why do newspapers and television persist in referring to American intervention in Grenada as "an invasion"? Since it took place in response to a request from the Governor-General, the last faint slur of illegality has been removed from it. And since it has been warmly welcomed by the Grenadian people, whom it has saved from a murderous régime kept in power with Cuban assistance, it is not an invasion in substance. The proper term for it, both in law and in fact, is "liberation."

As such it should have been welcomed and assisted by the British Government. If H M S Antrim had been part of the liberation force, the British Government would have derived several real benefits. It would have shared the credit of saving a former British colony from the modern ideological equivalent of the Barbary pirates. It would have helped to singe Fidel Castro's beard. And a briskly successful joint Anglo-American military operation would have enlisted British patriotism on the side of the Atlantic Alliance rather than in opposition to it.

Instead, the British Government followed a policy of disapproving without opposing. This had the disadvantage of being wrong whatever happened. If the liberation had failed, leading to—say—the massacre of American students, then our mild disapproval would have seemed timid and feeble. Now that it has triumphantly succeeded (and been abundantly justified by the findings of a Cuban military base and the rejoicings of Grenadians), we look guilty of nervousness and bad judgment.

The policy has, secondly, provoked a wave of sour anti-Americanism. Normal patriotic feelings were bound to produce resentment at the United States taking independent action in a former British colony against the advice of a British Prime Minister. Combine this with the media's Leftish snobbery about President Reagan—and the result is a curious high-minded progressive jingoism. The Queen's prerogatives are solemnly invoked to support an illegal and bloodthirsty Marxist junta. And when Russians, Cubans, East Germans, Bulgarians and North Koreans are discovered in little Grenada, Mr. David Steel's reaction is to sneer at President Reagan's simple-minded belief in an international Communist conspiracy.

A third drawback is that Britain must now seem a nagging and unreliable ally in American eyes. This may seem strange to those who are perpetually remembering Suez. But Americans can point to the more recent case of the Falklands War and ask what they have received in return for their generous military assistance then—apart from a rebuff over the Siberian gas pipeline and Mrs. Thatcher's prim disapproval over Grenada. They may be less forthcoming when Argentina next cuts up rough.

Presumably there must be powerful reasons to justify such an ostensibly damaging policy. But it is inherent in a policy of disapproving somewhat that the reasons for disapproval cannot be very precisely spelled out. That is why Sir Geoffrey Howe has cut such a sorry figure in debate. His lips are largely sealed.

We must therefore piece together a possible rationale. Two obvious reasons for British policy—concern for human life and disquiet at a breach of law—have been undermined by events. The dreadful massacres carried out by the Grenadian Marxists show a degree of oppression that amply justifies military intervention. That anyway is the evident opinion of Grenadians who are the best judges in the matter. And the legality of American intervention (in my view, already legal on other grounds) has been settled favourably by the Governor-General.

Newspaper reports suggest that Mrs. Thatcher was angered by President Reagan's failure to consult her adequately. Let us admit the justice of this. It would still not justify her opposition to the *substance* of President Reagan's decision to aid Grenada. And the Prime Minister might bear in mind that President Reagan, remembering the Iranian crisis, had to act with all possible speed in case the 200 American medical students were taken hostage.

And there are various leaks of Foreign Office reasoning. The most sinister is that British support or participation was rejected because it would further alienate Latin American nations already angered over the Falklands. That would be ironic if true, because it was precisely the argument used by Mrs. Jeane Kirkpatrick to oppose American help to Britain during the war. President Reagan rejected it. I would be ashamed if I thought that Mrs. Thatcher had been swayed by it.

The silliest is the Foreign Office's alleged belief that the Grenada airport could only be intended for civilian use since it was being built under the British Government's export credits guarantee scheme. If I were a top F.O. mandarin. I don't think I would draw attention to that.

But there is one final possibility. With a Commonwealth conference due to be held in New Delhi by mid-month, was the decisive question: "But what will Mrs. Gandhi say?"

"We're small and we're poor but we want to be free," said Mrs. Eugenia Charles, the splendidly outspoken Prime Minister of Dominica, in a radio interview last Friday. It was Mrs. Charles whom Mr. Healey had accused of being virtually kidnapped by the Americans—the evidence for this being that she disagreed with him over the decision to liberate Grenada.

Asked about this, Mrs. Charles replied that Mr. Healey would never have made such an insulting remark about the Prime Minister of Canada: "It's only because we're small and black that he's prepared to say that." We must hope that this made Mr. Healey himself feel small, but we should not expect miracles.

[From the New York Times, Nov. 13, 1983]

UNITED STATES ACTION IN GRENADA HEARTENS EUROPEANS

It is characteristic of free societies that, having particular spheres of national concern and being always answerable to their peoples, they do not and cannot act together as a monolithic bloc; in alliance, they move by consulation and not coercion. They are liable to disagree but are able to do so in basic trust and friendship.

Regretting such accidents and errors of diplomacy that may have occurred on all sides and the political uses to which these may be put, we, the undersigned European politicians, academics, trade unionists, writers, and others, nevertheless heartily sympathize with the peoples of the Organization of East Caribbean States and fully recognize their grounds for fear and anxiety in the face of recent events in Grenada.

We welcome the result of the action taken by our American allies and members of the OECS to restore genuine democratic self-government in Grenada. The prospect that the people of Grenada will now have the opportunity after many years to take part in free elections heartens supporters of democratic governments throughout the world.

Mr. Kingsley Amis, CBE.*
Mr. Jack Aspinwall, MP.
Mr. Anthony Beaumont-Dark, MP.
Dr. David Bell.
The Lord Beloff.*
Sir Frederic Bennett, MP.
M. Guy Berger.*
Prof. Alain Besancon.*
Mr. Gino Bianco.*
Sir John Biggs-Davison, MP.
The Rt. Hon. Sir Peter Blaker, MP.
Mr. Lionel Bloch.*
Prof. Jean Bonamour.*
The Rev. Alan Booth, OBE.*
Prof. Raymond Boudon.*
Mr. Gerald Bowden TD, MP.
Antonio Cariglia MEP.
Prof. Jean-Claude Casanova.*
The Rt. Hon. The Lord Chalfont, OBE MC.*
Mr. Frank Chapple.*
Sir William Clark, MP.
The Baroness Cox.*
Prof. Maurice Cranston.*
M. Jean-Marie Daillet (Deputy).
Viscount De L'Isle, VC KG GCMG GCVO.
M. Michel Drancourt.*
Mr. Dennis Duncanson.*
Dr. Iain Eliot.*
M. Francois Fejtö
Prof. S. E. Finer.
Prof. Antony Flew.
The Rt. Hon. Sir Hugh Fraser MGE, MP.
Mr. Gerald Frost.*
Mr. George Gardiner, MP.
The Rt. Hon. The Lord George-Brown.
M. Jerzy Giedoyc.*
Prof. Raoul Girardet.*
Sir James Goldsmith.*
Sir Philip Goodhart, MP.
Mr. Eldon Griffiths, MP.
Mr. John Gorst, MP.
Sir John Hackett, GCB DSO MC.*
Mr. Neil Hamilton, MP.
The Lord Harris of High Cross.*
M. Michel Heller.*
Mr. Alistair Horne.
The Rt. Hon. The Lord Houghton of Sowerby, CH.
Mr. Nigel Howard QC, MP.
Elizabeth Jane Howard.*
The Rt. Hon. David Howell, MP.
Mr. Paul Johnson.*
Mr. Robert B. Jones, MP.
Sir Anthony Kershaw MC, MP.
Dr. Arthur Kriegel.*
Mr. Leopold Labedz.*
Mr. Alain Laurent.*
M. Branko Lazitch.*
Admiral Sir Louis Le Bailly, CB.
Mr. Edward Leigh, MP.
Prof. Franck Lessay.*
Mr. David Levy.
Mr. Ian Lloyd, MP.
Mr. Hugh Lunghi.*
Prof. Donald MacRae.*
Mr. Humfrey Malins, MP.
M. Jacques Mallet.
M. Pierre Manent.*
Herr Golo Mann.*
Mr. Morris McWhirter CBE.
Mr. George Mikes.*
Mr. Michael Morris, MP.
Mr. Tom Normanton TD, MP, MEP.

Mr. John O'Sullivan.*
The Rev. Canon J. R. Porter.
M. Jean Prumyene.*
Mr. David Pryce-Jones.*
The Lord Quinton.*
Prof. David Regan.
The Rt. Hon. Geoffrey Rippon, MP.
Mr. Peter Rost, MP.
Mr. Neville Sandelson.*
Dr. George Schopflin.*
Dr. Roger Scruton.*
Prof. Hugh Seton-Watson.*
Sir Alfred Sherman.*
The Rt. Hon. The Lord Stewart of Fulham, CH.
Mr. Tom Stoppard.*
Mr. Peter Tapsell, MP.
Mr. Dick Taverne QC.*
Mr. Stefan Terlezki, MP.
Mr. Patrick Thompson, MP.
Mr. George Malcom Thomson.
M. Olivier Todd.*
Count Nikolai Tolstoy.*
Mr. John Townend FCA, MP.
Mr. T. E. Utley.
The Lord Vaizey.*
Sir Patrick Wall, MC, VRD, MP.
Mr. Kenneth Warren, MP.
The Lord Weidenfeld.*
Mr. Colin Welch.*
Mr. Jerry Wiggin, MP.
Mr. John Wilkinson, MP.
Mr. Alan Lee Williams.
Mr. Nicholas R. Winterton, MP.
Mr. Peregrine Worsthorne.*
Sir Woodrow Wyatt.

* European members of the Committee for The Free World.

(The Committee for the Free World—U.K. Jacquelin Wheldon Executive Secretary 31 Whitehall London SW1).●

JAPANESE-AMERICAN IMBALANCE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. REGULA. Mr. Speaker, it is past time to confront Japan with regard to the defense and trade imbalances. Shallow Japanese promises and mock concern echo resoundingly amid the din of continued industrial subsidies and unfair defense burden sharing.

Now that the Japanese economy is a world competitor, the United States can no longer afford to unilaterally defend this island nation while their trade practices cause our trade deficit to grow in quantum leaps.

Japan must assume responsibility as a leader in the free world, such responsibility including a substantially increased commitment to defense expenditures and greater strides toward fair trading practices.

I am inserting an article from the November 21, 1983, U.S. News & World Report editor's page which aptly points out the truth in our relations with Japan with regard to Japanese commitment to changing the imbalance. Author Marvin Stone was a foreign correspondent in Japan for 6 years. His observations are pointed, poignant, and unfortunately quite accurate. It is time we heed them.

THE PRESIDENT AND JAPAN: WHY?

(By Marvin Stone)

TOKYO.—A flow of comforting words—and many *kampai*—about "mutual interests" passed the lips of President Reagan and Prime Minister Nakasone here in recent days, but it takes more than a toast to the obvious to make a state visit worthwhile. Since the realities of U.S.-Japanese differences were again glossed over, the President would have been better off to have stayed at home grappling with problems of the Mideast, Euromissiles and Central America.

The realities have to do with Tokyo's stingy contribution to the common defense of Asia and with Japan's protectionist trade practices, which have led to a mountainous surplus in trade with the United States.

Both issues have festered for almost a quarter-century and will linger long after the last hurrahs of the President's visit have been carried away with the wind.

DEFENSE

The essential concern is that, even in the face of Russia's growing air and naval threat in the region, Japan still is unwilling to take on greater responsibility for even its own minimal defenses.

Apologists for Japan insist that the nation, still shocked by defeat in World War II, clings to a pacifist mentality and so, as a result, hides behind a Constitution that renounces war as an instrument of foreign policy. Prime Minister Nakasone, these apologists insist, needs more time to "prepare the nation" to mount a stronger defense effort.

But that is the same alibi used by the past half-dozen Prime Ministers. The fact is, Japan has no intention of diverting additional billions from its industrieal base so long as the U.S. provides it with a nuclear umbrella. Japan devotes barely 1 percent of its gross national product to defense. Its citizens lay out $97 per person each year for their military while Americans fork over $877 apiece. Japan's air Force and Navy are considered to be only about half as large as they should be to provide a credible deterrent.

The U.S. maintains 48,500 American military people in Japan (including Okinawa) and an additional 39,000 across the Sea of Japan in Korea. A Korea in Communist hands would point like a dagger at this island nation, threatening its future. But Japan, it seems, is well satisfied to let the U.S. worry about that.

TRADE

The Japanese tell you that they are eager for "gradual progress" toward opening their markets to more American manufactured goods, certain agricultural products and investments in Japanese companies, and in seeking ways to narrow the trade deficit between the two countries. That deficit in 1983 will probably total 22 billion dollars or more in Tokyo's favor.

Here again, the foot dragging is wearying. Ever since the "Japanese Miracle" began in the early 1950s, spurred by enormous U.S. purchases in Japan with which to wage the war in Korea, Japan has used one excuse after another, first to protect its "infant industries," later to keep the nation's trade advantages intact by imposing unreasonable tariffs, quotas and a wide variety of nontariff barriers. Taken together, these measures have enabled Japan to shelter its domestic firms from American competition, in the meantime doing damage to our own smokestack industries. All this time, U.S. markets have remained open to Japanese traders—and investors.

It was small wonder that many Americans were hoping that the President would get tough with those Japanese who prefer free trade, not fair trade. A forlorn hope.

Such were the realities that were hidden behind the smiles and the empty speeches here in Tokyo. This writer, a foreign correspondent in Japan for six years, predicts with confidence that the defense and trade issues will confront our next President, the one after that, and the one after that, and so on into the far future. Why are we afraid to speak up?●

INTRODUCTION OF SPACE SCIENCE RESOLUTIONS

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FOWLER. Mr. Speaker, yesterday, I introduced two resolutions aimed at insuring a strong, balanced and affordable American space science program.

House Concurrent Resolution 217 endorses the recommendations of NASA's Solar System Exploration Committee for the continued exploration of the solar system by the United States.

House Concurrent Resolution 218 endorses the recommendations of the National Academy of Science's Astronomy Survey Committee for the future course of U.S. programs in astronomy and astrophysics.

At this time I would like to insert in the RECORD the text of these two resolutions.

H. CON. RES. 217

Whereas the United States program for solar system exploration has benefitted humanity greatly in terms of new knowledge about the Earth and its place in the Universe;

Whereas the United States has been the world leader in solar system exploration, sending the first spacecraft to successfully visit Mercury, Venus, Mars, Jupiter, and Saturn, and this preeminence has rewarded the Nation immeasurably in national pride and prestige;

Whereas in the period between 1961 and 1977 the United States launched the Ranger, Surveyor, and Lunar Orbiter missions to the Moon, the Mariner spacecraft series to Mercury, Venus, and Mars, the Pioneer Venus series, Vikings 1 and 2 to Mars, Pioneers 10 and 11 to Jupiter and Saturn, and Voyagers 1 and 2 to Jupiter and Saturn;

Whereas no American solar system exploration spacecraft has been launched since 1977, and only one new mission—the Galileo orbiter and probe of Jupiter—was authorized between 1977 and 1982;

Whereas since the middle of 1970's the declining planetary science budget and the demands for more sophisticated and more expensive missions has led to less frequent planetary mission starts, and the smaller number of new missions has reduced pro-

gram balance, eroded the research base, and increased indivdual mission costs;

Whereas in 1980, to address the problems in the United States planetary exploration program, NASA formed the Solar System Exploration Committee (SSEC) to devise a new approach to the exploration of the solar system which would recognize the root causes of the problems, build upon the science rationale and strategies of the Space Science Board and NASA working groups, and result in specific, prioritized recommendations to NASA; and

Whereas the SSEC has presented a report to the Congress and the American people that seeks to identify an affordable, long-term, balanced mission strategy for the exploration of the solar system: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the members, working groups, and staff of the Solar System Exploration Committee (SSEC) are to be commended for their contribution toward the development of a coherent, affordable, and scientifically valuable program for the continued exploration of the solar system by the United States; and

(2) the recommendations of the SSEC represent a responsible, and affordable, guideline for the conduct of the United States solar system exploration program between now and the year 2000.

SEC. 2. The Congress endorses the following goals for the solar system exploration program, as set forth in the SSEC report:

(1) determination of the present state, origin, and evolution of the solar system;

(2) understanding of the Earth through comparative planetary studies;

(3) understanding of the relationship between the chemical and physical evolution of the solar system and the appearance of life; and

(4) surveying of the resources available in near-Earth space.

SEC. 3. The Congress endorses the following program recommendations for solar system exploration, as set forth in the SSEC report:

(1) a balanced core program of high priority science missions of low to moderate cost should be implemented, with missions to the three areas of the terrestrial planets, the small bodies (comets and asteroids), and the outer planets;

(2) as part of the core program, a Planetary Observer program for low-cost modestly scaled inner solar system missions, the Mariner Mark II modular spacecraft for missions beyond the inner solar system, and a Common Mission Operations System should be developed;

(3) planetary research and analysis programs should be strengthened by restoring them to the fiscal-year-1981 program levels, adjusted for inflation, by 1985;

(4) vigorous efforts should be made to seek mutually beneficial international cooperation in solar system exploration;

(5) the core program should be augmented with technologically and scientifically challenging missions, as budgetary constraints allow; and

(6) these activities should be funded at a sustained annual level of approximately $300,000,000 per year (in fiscal-year-1984 dollars).

SEC. 4. The Congress endorses the following core program projects, as set forth in the SSEC report:

(1) the Venus Radar Mapper (to be authorized in fiscal year 1984 for launch in 1988), which would map the global surface topography of Venus;

(2) the Mars Geoscience/Climatology Orbiter (to be authorized in fiscal year 1985 for a 1990 launch), which would determine the global surface compositon of Mars and the role of water in the Martian climate;

(3) a comet rendezvous/asteriod flyby (to be authorized in fiscal year 1987 for a 1990–1992 launch), which would initiate American exploration of the physically and chemically primitive small bodies of the solar system; and

(4) the Titan probe/radar mapper (to be authorized in fiscal year 1985 for a 1988–1992 launch as either a national or international mission), which would determine the chemical composition of Titan's atmosphere and the nature of its surface.

SEC. 5. The Congress endorses the SSEC's recommendation that subsequent core missions be identified for further study and development. Such missions could include the following:

(1) the Mars Aeronomy Orbiter;
(2) the Venus Atmospheric Probe;
(3) the Lunar Geoscience Orbiter;
(4) the Mars Surface Probe;
(5) the Comet Atomized Sample Return;
(6) the Multiple Mainbelt Asteroid Orbiter/Flyby;
(7) the Earth-approaching Asteroid Rendezvous;
(8) the Saturn Orbiter;
(9) the Saturn Flyby/Probe;
(10) the Uranus Flyby/Probe;
(11) the Neptune Flyby/Probe; and
(12) the Pluto Flyby.

HOUSE CONCURRENT RESOLUTION 218

Whereas the United States program for astronomy and astrophysics has made a significant material, cultural, and intellectual contribution to the quality of life in the United States and worldwide;

Whereas the United States has been at the forefront of astronomy and has been the world leader in this field over the past twenty years, during which time important discoveries have been made which radically changed our concepts of the origin and evolution of stars, galaxies, and the Universe itself;

Whereas in the period since 1960 the United States has played a predominant role in such astronomical discoveries as quasars, the cosmic microwave background radiation, pulsars, neutron star binaries, superluminal expansion of interstellar radio sources, solar coronal holes, anomalous solar neutrino flux, and a gravitational lens;

Whereas astronomy and astrophysics make an essential contribution to the scientific and technological vigor of the United States, and maintaining United States leadership in these areas will be an increasing challenge during the next decade as other nations continue to develop their scientific capabilities;

Whereas recent budgetary constraints on Federal support for astronomy and astrophysics have damaged United States space science capabilities, particularly in the fields of ground-based astronomy, university research, and new technology development;

Whereas in 1978 at the request of the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA), the National Academy of Sciences (NAS) created the Astronomy Survey Committee to develop priorities for a comprehensive program in astronomy and astrophysics for the next decade;

Whereas the two previous decennial studies of astronomy and astrophysics conducted by the NAS helped to identify the major astronomical programs carried out by the United States in the 1960's and 1970's; and

Whereas in 1982 the Astronomy Survey Committee issued it's report, Astronomy and Astrophysics for the 1980's, containing its recommendations for the conduct of the United States astronomy and astrophysics program over the next ten years, and these recommendations have been widely endorsed as representing the consensus viewpoint of the United States astronomical community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the members, working groups, panels, and consultants of the Astronomy Survey Committee are to be commended for their contribution toward the development of a coherent and scientifically valuable program for astronomical and astrophysical exploration and understanding during the coming decade; and

(2) the recommendations of the Astronomy Survey Committee represent a responsible guideline for the conduct of the United States program for astronomy and astrophysics for the next ten years.

SEC. 2. The Congress endorses the following research objectives for the astronomy and astrophysics program, as set forth by the Astronomy Survey Committee:

(1) the large scale structure of the Universe;
(2) the evolution of galaxies;
(3) violent cosmic events;
(4) the formation of stars and planets;
(5) solar and stellar activity;
(6) extra-solar planets and extraterrestrial life and intelligence; and
(7) forces of nature and Grand Unified Theories.

SEC. 3. The Congress endorses the following previously approved and continuing programs, as set forth by the Astronomy Survey Committee:

(1) the Space Telescope and the associated Space Telescope Science Institute;
(2) second-generation Space Telescope instrumentation;
(3) the Gamma Ray Observatory;
(4) NASA level-of-effort observational programs, including research with balloons, aircraft, sounding rockets, Spacelab, and the Explorer Program;
(5) the Solar Optical Telescope and the Shuttle Infrared Telescope Facility for Spacelab;
(6) facilities for the detection of neutrinos from the solar interior;
(7) Federal grants in support of basic astronomical research at United States universities; and
(8) programs at the National Astronomy Centers.

SEC. 4. The Congress endorses the following prerequisites, as set forth by the Astronomy Survey Committee, which are necessary to support the gathering and analysis of data produced by new research initiatives and which should receive additional total funding of up to approximately $190,000,000 (in constant 1980 dollars) over the next ten years:

(1) instrumentation and detectors;
(2) theory and data analysis;
(3) computational facilities;
(4) laboratory astrophysics; and
(5) technical support at ground-based observatories.

SEC. 5. The Congress endorses the following major new programs in order of priority, as set forth by the Astronomy Survey Committee, which are critically important for the rapid and effective progress of astronomical research and which should receive total funding of up to approximately $950,00,000 (in constant 1980 dollars) over the next ten years:

(1) an Advanced X-Ray Astrophysics Facility (AXAF);

(2) a Very-Long-Baseline (VLB) Array of radio telescopes;

(3) a New Technology Telescope (NTT) of the 15-meter class operating from the ground at optical and infrared wavelengths; and

(4) a Large Deployable Reflector (LDR) in space.

SEC. 6. The Congress endorses the following moderate cost new programs in rough order of priority, as set forth by the Astronomy Survey Committee, which should receive total funding of up to approximately $750,000,000 (in constant 1980 dollars) over the next ten years:

(1) an augmentation to the NASA Explorer program;

(2) a far-ultraviolet spectrograph in space;

(3) a space VLB interferometry antenna in low-Earth orbit;

(4) the construction of optical/infrared telescopes in the two-to-five meter class;

(5) an Advanced Solar Observatory in space;

(6) a series of cosmic-ray experiments in space; and

(7) an astronomical Search for Extraterrestrial Intelligence (SETI).

SEC. 7. The Congress endorses the following smaller cost new programs, the first of which is of highest priority, as set forth by the Astronomy Survey Committee, which should receive total funding of up to approximately $20,000,000 (in constant 1980 dollars) over the next ten years:

(1) a ground-based antenna of approximately ten-meter diameter for submillimeter-wave observations;

(2) a spatial interferometer for the mid-infrared region of the spectrum;

(3) a program of high-precision optical astrometry; and

(4) a temporary program to maintain scientific expertise at United States universities during the 1980s through a series of competitive awards to young astronomers.

SEC. 8. The Congress endorses the Astronomy Survey Committee's recommendation to begin study and development of programs that appear to have exceptional promise for the 1990's and beyond. Such programs could include the following:

(1) future x-ray observatories in space;

(2) instruments for the detection of gravitational waves from astronomical objects;

(3) long-duration spaceflights of infrared telescopes cooled to cryogenic temperatures;

(4) a very large telescope in space for optical, ultraviolet, and near-infrared observations;

(5) a program of advanced interferometry in the radio, infrared, and optical spectral regions;

(6) advanced gamma-ray experiments; and

(7) astronomical observatories on the Moon.●

THAT OTHERS MIGHT BE FREE

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ERDREICH. Mr. Speaker, several weeks ago I had the difficult task of extending my condolences to Mrs. Doris Collins, mother of Navy Hospital Corpsman Jimmy Ray Cain. Corpsman Cain, a 20-year-old resident of Gardendale, Ala., was among the U.S. servicemen killed in the terrorist bombing of the Marine compound in Beirut.

The loss of a young man's life is tragic, and when a hometown resident loses his or her life in the line of duty, such a tragedy is brought on a personal level for all community residents, as well as family and friends.

All told, eight young men from Alabama gave their lives to protect U.S. interests during the Beirut bombing and the invasion of Grenada.

While I know there are no words of comfort that I can offer the family and friends of these courageous young men, it is important that they know that the thoughts and prayers of the citizens of Alabama and the Nation are with them.

Following is the text of an editorial that appeared in the Birmingham News in tribute to these young men who gave their lives so "That Others Might Be Free."

THAT OTHERS MIGHT BE FREE

Words are entirely inadequate to express the sadness we feel for the ultimate sacrifice eight Alabamians made in answering our country's call to arms.

Seven of the eight were killed in the murderous bombing of Marine headquarters in Beirut. One died in the invasion of Grenada. All deserve our deepest gratitude for their willingness to put their lives on the line in this country's effort to achieve peace in the Middle East and to prevent the people of Grenada, and ultimately perhaps the people of a large part of the Caribbean, from being enslaved by a communist dictatorship.

The eight with Alabama connections, either born here or with their homes here, acted in the best traditions of the state. Alabamians have always answered the call to arms with alacrity, not because they are attracted by danger and conflict, but because they put a high value on the freedom bequeathed by our ancestors and on loyalty to the nation.

Like our sons whom we now mourn, Alabamians, have traditionally held personal courage and national honor in the highest regard. Over the two centures of our country's existence, they have given sacrificially in every conflict the nation has faced.

While we may look philosophically upon the deaths of those who died for us in earlier conflicts, it is hard to do so in the present. Our sorrow is made tolerable only by the shining example which these dead have presented us.

So for those who have feelings akin to ours we offer again the names of the fallen that we may breathe a prayer for them and their families.

Naval Hospital Corpsman Jimmy Ray Cain, Gardendale.

Marine Lance Cpl. James Christopher Price, Attalla.

Navy Lt. John R. Hudson, native of Montgomery.

Marine Lance Cpl. Ferrandy Henderson, Wetumpka.

Marine Cpl. Leonard Walker, Dothan.

Marine Maj. William Ellis Winter, Athens

Marine Lance Cpl. William Stelpflug, Auburn.

Army Sgt. Gary Epps, Douglas.

May they rest in peace, and may they have an honored place in the hearts of us all.●

SAVE THE BAHA'IS IN IRAN

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. PATTERSON. Mr. Speaker, I join my colleagues today as we expose the Government of Iran in its flagrant violation of internationally recognized human rights. I want to commend the gentleman from California (Mr. LANTOS) and my other colleagues who arranged for the special order this afternoon for again drawing our attention to this important matter.

There are between 300,000 and 400,000 members of the Baha'i faith in Iran today, making it the country's largest minority. The Baha'is have been targets of Shiite hatred ever since the Baha'i faith was founded in the mid-19th century. The current Iranian regime has lost no time in renewing persecution of the members of the Baha'i community. The Government of Iran has killed more than 150 Baha'is in the last 3 years and there is no indication that the executions will stop before all Iranian followers of Baha'i are wiped out.

Mr. Speaker, we protest this practice of government by hatred. We are angered and dismayed at the systematic oppression of these peace-loving people. It seems hard to believe in this modern world that innocent men, women, and children are still being killed solely for their religious beliefs. Yet that is what is happening.

Since the first pilgrims stepped ashore in America, our country has been a refuge for the victims of religious persecution. Today, we continue that tradition by providing homes for thousands of members of the Baha'i faith, many of them in my district in California.

But the problem will not be solved simply by harboring those forced to flee. Until the Shiite regime in Iran is swayed by public outcry the world over, they will continue to deny their countrymen the most basic of human rights. I will continue to lend my voice and efforts to the fight against religious persecution in Iran, and against

the violation of human rights the world over and I again commend my colleagues for joining this battle.●

TO LOSE A SON IN LEBANON

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. PAUL. Mr. Speaker, it is all very well for politicians—safe here in this House—to debate whether more young Americans should be killed in the Lebanese quagmire for who-knows-what purpose. But recently a friend from Alabama sent me a letter to the editor from the Opelika-Auburn News that makes the talk here seem almost irrelevant.

This letter, from a retired Air Force lieutenant colonel who just lost his son in the Beirut terror bombing, makes the case for a rational American policy in Lebanon far more eloquently than I could. This man, who served his country in Vietnam and now has given a son in Lebanon, deserves our respect and our attention.

Given that attention, his persuasive arguments for the withdrawal of U.S. forces from Beirut command assent.

The letter follows:

[From the Opelika-Auburn News, Nov. 2, 1983]

A PARENT QUESTIONS MISSION IN BEIRUT

(By William J. Stelpflug, Lt. Col. (Ret.) USAF)

My son Billy was killed in the Beirut bombing of October 23, 1983, as were some 230 of his comrades. Since their lack of mission and their vulnerability became obvious during the latest fighting between the Lebanese factions in September, his mother and I have contacted the President, senators, and congressmen in an effort to warn of impending disaster if the Marines remained in their present situation.

It is now too late for Billy and his fellow victims but please consider the following and contact your representative in an effect to give the remaining Marines a reasonable chance for survival.

1. The administration has never specifically stated what our vital interest is in Lebanon, which has no oil, strategic location, or tradition of peace and stability.

2. An ancient religious civil war is again in progress among at least six major factions led by feudal warlords seeking power.

3. We have 1,600 Marines in a situation in which they cannot possibly defend themselves and have already taken over 300 casualties, some 20 percent of the force. They have been twice decimated.

4. The Rules of engagement for the Marines are identical to those of Vietnam in which I served as a fighter-pilot. The first rule is not to shoot until shot at. This policy allows any enemy impunity to build bunkers in Beirut, as they did SAM sites in Vietnam, guarantees high American casualties, and insures failure.

5. Three courses of action are now open:

(a) Do nothing and hope this incredible mess will somehow give rise to stability and democracy, while continuing to watch more Marines killed by unknown foes.

(b) Get more deeply involved in a region in which the hatred, complexity, and level of armaments make Vietnam look like a training exercise.

(c) Relocate the Marines and their fellow forces to the ships offshore and get freedom of action.

The marines are now hostages every bit as much as were the hostages in Iran. Who could but choose the last option? To those who say that to exercise the third choice is to reward terrorism, I reply that if it is in our best interest to relocate to the ships and now we will not do so, then, indeed, the terrorists are dictating the policy of the United States.

Blessed are the Peacekeepers.

Semper Fidelis.●

AMERICAN EDUCATION WEEK, 1983

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MURPHY. Mr. Speaker, in honor of the week, November 13–19, which has been designated as American Education Week, 1983, I would like to pay tribute to our Nation's teachers and education personnel for their commitment to our Nation's educational system.

This week has been declared for the purpose of observing and expressing thanks to teachers, parents, students, administrators, counselors, curriculum workers, librarians, cafeteria, and custodial workers, and all other professional staff. The joint effort displayed by these persons has brought about an increase in public support and recognition. This 63d celebration comes at a time of serious evaluation of our Nation's school and review of the Federal role in education. I believe that the commitment of Congress to education should be a priority.

The future of our country depends on America's schoolchildren, most of who are deeply influenced by their parents and teachers. Parents and teachers are forced to play several roles—they must be a disciplinarian, an instructor, and a counselor, to name a few. This daily challenge is essential to the inspiration and formation of the mind during the adolescent years. Because the quality, excellence and achievement of our youth depends on the strength and support given by our educators, I firmly encourage a continual and consistent Federal role in America's educational system. It is, undoubtedly, the responsibility of Congress to insure that our children are prepared to realize their fullest potential in an increasingly complex society. By doing so, we will have reinforced the stability and success of America's future.●

ARGENTINA: CONGRATULATIONS ARE NOT ENOUGH

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mrs. SCHROEDER. Mr. Speaker, I hesitate to interrupt the noisy bravado that passes for foreign policy in the Reagan administration with a pacific request. Argentina has reentered the small but sturdy family of democratic nations. It returns, however, with a foreign debt that can only be described as monstrous. Unfortunately, this is not the sort of monster that can be slain with a sword or routed by paratroopers. Nor can it be liquidated with blustery speeches on prime-time television.

For a sobering discussion of the Argentine foreign debt issue, I refer my colleagues to the November 6 Buenos Aires Herald, "Congratulations Are Not Enough."●

[From the Buenos Aires Herald, November 6, 1983]

CONGRATULATIONS NOT ENOUGH

Argentina's return to democracy, emphasized by the election triumph of Dr. Raul Alfonsin and his fellow Radicals, has been saluted in many parts of the world, but most warmly and convincingly in those parts that are democratic themselves. This, of course, is very gratifying, but in itself it does not mean very much. The chances of Argentina's new government consolidating itself and laying the bases for a completely new and incomparably better period in the country's life will, needless to say, depend chiefly on Argentines themselves. But democrats in other countries can also contribute by making sure that the international environment in which the new government will have to find a place is a favourable to it as possible, especially as far as the monstrous foreign debt is concerned. If Argentina is able to renegotiate this and reach reasonable terms not only will the new government start its term in office with an important success, but it will also find itself with far more room in which to manoeuvre over the coming months and years than would otherwise be the case.

A more flexible attitude by the big industrialized powers and the international agencies they dominate towards the debt problem would represent much more than a gesture of solidarity towards a government that shares their fundamental values. It would also reflect an intelligent concern for their self-interest. If Argentina does manage to become an acceptably stable democracy and overcome its most pressing economic problems it will become a steadily growing asset to the international community and not, as now, a source of alarm. If it fails, however, the danger will return that Argentina will collapse in turmoil and not merely make foreign bankers think it might be on the verge of defaulting, thus upsetting the entire world financial system, but actually do this. The events a few weeks before the elections when a default looked frighteningly plausible should be quite enough to persuade bankers and governments worried by the "debt bomb" that should democracy fail

to take root virtually anything could happen.

So naked self-interest as well as a natural preference for civilized democracy over other forms of rule dictates that the governments of the industrialized countries, and their leading bankers, should go out of their way to give Argentina's new government the break it needs. Unfortunately, it is by no means certain that either the foreign politicians or the bankers will have the necessary vision to see this, preferring to remain as tough as possible even if this does increase the risk of Argentina embarking on some course that, in addition to inflicting great harm on the Argentine people, would also make it most unlikely that the creditors would see any of their money back in their lifetimes and could quite conceivably lead to a major crisis in financial centres everywhere. They had a close escape from this danger during the final weeks before the elections when an enfeebled and erratic military regime found itself utterly incapable of coping with the problems arising from the debt. Now they have an excellent chance of doing themselves as well as Argentina a favour, and it is to be hoped that they have the common sense to seize it.●

RESOLUTION COMMENDING TWO CONSTITUENTS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mrs. BOXER. Mr. Speaker, the following is a resolution of commendation to two outstanding constituents in my district:

Whereas, the citizens of these United States should be made aware of the contributions by the Korean Americans and in particular the two individuals being honored at the November 13 event, and

Whereas, Dr. Sammy Lee has earned the title of the first double Olympic gold medalist in diving and the first Asian ever to win the celebrated James E. Sullivan Award of 1953 and

Whereas, Dr. Lee was inducted into the International Swimming and Diving Hall of Fame in 1967 and

Whereas, Colonel Young Kim, now 64, rose to the position of executive officer as the only Korean officer among America's most highly decorated offensive combat outfits in World War II and

Whereas, Colonel Kim has received two Silver Stars, Bronze Star, three Purple Hearts, two Legions of Merit, three Presidential Unit Citations, the Italian Cross of Valor and the French Croix de Guerre and the Distinguished Service Cross. Therefore,

Be it Resolved, That the Sixth Congressional District salutes Dr. Lee and Colonel Kim and the fine staff of the Korean Community Service Center for their contributions to our community and our nation.●

LOWEST COST CARGO TRANSPORT ACT OF 1983

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LIPINSKI. Mr. Speaker, today I am introducing legislation that will amend the Merchant Marine Act of 1936 to provide that Government generated cargoes transported on U.S.-flag or foreign vessels shall be shipped at the lowest cost, and whenever possible at the lowest landed cost. In addition these Government generated cargoes will be subject to a competitive bidding system.

This legislation requires that under a competitive bidding system, a Federal agency is required to insure that shipping rates are solicited from each of the four seacoasts, and only one final bid can be accepted. Additionally the 3-year waiting period to reflag a foreign vessel owned and operated by a U.S. citizen, would be waived if the foreign vessel had the necessary repairs to bring a vessel into conformity with U.S. maritime standards performed in U.S. shipyards.

Under this legislation all seacoasts whether they have primarily a domestic shipping fleet or foreign would be put on an equal basis to have the right to bid on Government cargo. Under current Federal law, 50 percent of all Government cargo under Public Law 664 must be shipped on U.S.-flag vessels. This type of cargo set aside puts certain areas of the country at a disadvantage. The Great Lakes region, for example, has relatively few American cargo ships that sail out of the seaway to foreign ports. However, there is a substantial number of foreign flag ships that regularly stop at Great Lakes ports. However, this Government cargo is not permitted to be shipped on these vessels. The legislation that I am introducing today will correct this inequity that Great Lakes ports must endure from their own government. Nationwide the amount of traffic that passes through Great Lakes ports is minuscule in comparison to the other seacoasts. We must do all we can to help this region's ports grow and prosper. If the Government is sending out cargo I feel it should be shipped out in the most cost effective manner. The legislation that I am introducing today will institute a competitive bidding system in which all ports and ships may participate. All my legislation seeks to accomplish is that if a Great Lakes port or any other port in the country can ship out Government cargo cheaper on a foreign vessel rather than a domestic ship it should have every right to bid on that shipment.

It is my belief that if this bill is enacted the U.S. merchant marine fleet will increase in size and there will be more domestic ships serving Great Lakes Ports and other ports in the country. Other programs of this nature have consistently demonstrated that cargo shipped by U.S. commercial fleets, determined by an open bidding system saves the U.S. Government and the taxpayers money.

Finally, Mr. Speaker, the American merchant marine has been experiencing a decline since the end of the Second World War. The situation seems to get worse each year. Something must be done. The answer is not to let this industry become less competitive, less cost effective, or less viable. The Federal Government through its policies and actions must provide the needed incentives for the American merchant marine industry to become more competitive and this will lead us to increase the size of our merchant marine fleet. It is my belief that the only way that this can be accomplished is by forcing them to compete with other countries. We must also remember that we have an obligation to the citizens of this country to save money and get our financial house in order. This legislation, while it may be a small step in solving the overall problem, is necessary to help us carry out our goal of a strong merchant marine. This legislation was originally introduced in the other body by my fellow colleagues from Illinois, Senators DIXON and PERCY. I urge my colleagues to join with me in cosponsoring this measure.●

CREDIT IN THE WRONG PLACES

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. PURSELL. Mr. Speaker, Tim Richard, a well-known writer for the Observer newspapers in Michigan recently wrote an interesting article on why the United States is not savings-oriented and who is partially to blame. I think he makes a good point. His column, "Credit in the Wrong Places," is as follows:

CREDIT IN THE WRONG PLACES

(By Tim Richard)

Is your mail running like mine? This fall I've been receiving a lot of missives that begin like this:

"Did you ever notice how Xtra expenses always seem to crop up this time of year * * * for back-to-school items, preparations for fall and winter, and even a little preseason holiday shopping like microwave ovens, or home entertainment units such as stereos, video games and computers?

"Now Michigan Bankard has an Xtra credit line to help handle those Xtra expenses today—and pay for them without using or affecting your regular Visa and/or Mastercard revolving credit line. We call this Xtra credit line 'XTRALINE' and it's

available to you at over 2,500 merchant locations throughout the state of Michigan. * * *"

Or this:

"Now, because of your excellent credit record, you are entitled to the prestigious Citicorp Diners Club Card without completing the long, detailed application usually required.

"In fact, you have already been approved for Citicorp Diners Club membership. Just accurately complete, sign and return the enclosed Membership Form, and meet our minimum income requirement, and your Card will automatically be issued!"

And all along I thought the United States of America had a capital shortage.

I was under the impression the federal government, with the massive debts that even Ronald Reagan is making more massive, was out there soaking up all the capital.

I had the notion, from Prof. David Brophy at the University of Michigan Business School, that venture capital firms were few and far between in this state, and that a lot of effort was needed to put inventors in touch with investors.

I had the feeling, from Jean Paluzzi and the National Association of Women Business Owners, that loans were tough for female entrepreneurs to get unless they had a husband (preferably) or a male accountant (acceptable) along to talk to the bank officer.

I believed the black businessman, testifying before the state Senate Economic Development Committee, that blacks had a tough time getting financial support. I thought I recollected that blacks wanted a share of Gov. James J. Blanchard's Michigan Strategic Fund funneled to black businesses because it was so difficult for them to get loans.

I had the idea Michigan was known as a capital short state, from one of those innumerable studies of the economy, and that NBD stood for "No Big Deals."

Wow, was I ever wrong.

Financial institutions are bombarding me with junk mail to urge me to use credit to buy such consumer items as microwave ovens, home entertainment units, stereos, video games and home computers or blow big wads dining out, buying flight insurance and staying in overpriced motels at airports.

Little do they realize my 11-year-old Magnavox just needs a new needle every 10,000 records, my banjo repairs are cheap, and my idea of a luxurious vacation is camping in a tent in the mountains with a poodle to share my sleeping bag on cold nights.

But apparently there are growing numbers of inventors, potential boutique operators and would-be barbecue restaurateurs who would like some kind of backing from their friendly local financial institutions.

Not to mention scads of young couples who would like to buy a house and call it home, if only the interest rates would come down.

One reaches the inescapable conclusion that there is plenty of capital floating around, but financial institutions are offering it to people who don't need it.

Footnote: After writing this, I heard W. Michael Blumenthal, former Treasury secretary and now board chairman at Burroughs Corp., say that the United States is "the most consumption-oriented and least savings-oriented economy in the free world." He is correct, and I think our financial institutions should share part of the blame.●

H.R. 4325

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CHENEY. Mr. Speaker, the House Republican Policy Committee, of which I am chairman, has called for passage of H.R. 4325, the Child Support Enforcement Amendments of 1983. This legislation is aimed at insuring that parents meet legally mandated child support responsibilities for children being raised in single-parent households.

Mr. Speaker, those child support obligations of absent parents are ignored today more often than they are paid in the United States. It is a problem that touches all Americans—either in their personal lives or through the taxes they pay. For all too often when those child support obligations go unmet, the children are supported at least in part by the local, State, or Federal governments through public assistance.

And again, Mr. Speaker, all too often an absent parent's payment record in meeting those obligations appears totally unrelated to ability to pay. It is a sad fact that in this country, car payments are met with greater regularity than child support payments.

This legislation requires States to provide systems by which they can withhold child support payments from an absent parent's paycheck when arrearages equal to 1 month of child support occur if the State is to remain eligible for Federal assistance in meeting the administrative costs of maintaining such an enforcement system. And the legislation permits strict collection techniques that preserve an absent parent's rights, but insure that those payments will be made.

Mr. Speaker, problems between parents are the province of the courts. They cannot be taken out on children through nonpayment of support. It is time we act for the sake of those children, their parents, American society and the American taxpayer.

Mr. Speaker, the full text of the House Republican Policy Committee statement follows:

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

The House Republican Policy Committee supports passage of H.R. 4325, the Child Support Enforcement Amendments of 1983.

Failure of absent parents to meet child support obligations is damaging the fabric of American society. Half of the children born in the United States this year will live in single parent households before they are adults. Most of these children will depend for at least part of their childhood—often all of it—on the income of one parent alone.

The propensity of absent parents to meet child support obligations often is unrelated to financial ability; automobile payments are met with greater regularity than child support obligations.

H.R. 4325 would require the states to put into effect tough new enforcement techniques and laws, or face becoming ineligible for federal financing of enforcement administrative costs.

The stability of the American home and the risk of hurt to children who do not receive child support payments from absent parents are too important to the future of America to ignore. The House Republican Policy Committee supports adoption of H.R. 4325.●

AMERICAN EDUCATION WEEK

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. SIMON. Mr. Speaker, American Education Week is a time for us to reflect on our Nation's educational system and to begin to formulate an action plan for the future.

Recent studies and reports have focused the attention of policymakers and the public on educational needs and priorities. Our recent examination of the issues have fallen into three main categories: teacher quality, teacher training, and student achievement.

The Education needs of the Nation are not so different from the issues we were facing 18 years ago at the dawn of Federal involvement in aiding education. In a special message to Congress on January 12, 1965, President Lyndon Johnson said:

We must demand that our schools increase not only the quantity but the quality of America's education. For we recognize that nuclear age problems cannot be solved with horse-and-buggy learning. The three R's or our school system must be supported by the three T's—teachers who are superior, techniques of instruction that are modern, and thinking about education which places it first in all our plans and hopes.

We can say that President Johnson's vision has not been fulfilled, and thus indict our American educational system. On the other hand, we can look at the educational system, knowing that it has come a long way in 18 years, yet acknowledge that there is still very much to do in order that tomorrow's reality meets our expectations.

Since 1965, the Federal Government has emphasized access and opportunity in education—quantity. I believe firmly that as access to education has widened, the quality of the Nation's educational enterprise has risen. Nevertheless this should not deter us from our quest for improving the quality of education.

Improving the quality of education can be complicated, frustrating, and slow. But we have a feeling we know where to start. The merit pay task force of the Education and Labor Committee stated that improving the quality of teachers is the quickest and

most direct way to improve the educational system. That view was shared by many in the House when we passed H.R. 1310, the Emergency Mathematics and Science Improvement Act.

The task force recommended several positive steps to improve teacher quality, including raising the base pay of all teachers and increasing the starting salary of beginning teachers while raising standards for new instructors.

The task force recommended that school districts and States experiment with performance-based pay to determine whether a pay incentive program for teachers will improve the quality of the teaching force.

The task force also recommended scholarships for promising student teachers, and expanded opportunities for professional development for teachers.

The task force acknowledged that the current teaching force is the best it has ever been, yet the task force was convinced that it can be even better.

If we draw the best and most talented student into teaching, we must be assured that they are well trained to do their job. The task force on merit pay recommended that schools of education assess their programs, raise their standards, and revise their curricula in order to better challenge students. The task force also recommended that through their schools of education, universities and colleges develop stronger ties with elementary and secondary schools.

The reauthorization of the Higher Education Act, now under way in the Postsecondary Education Subcommittee, will give Congress the opportunity to improve teacher training and offer teachers expanded professional development opportunities.

By improving the quality of the teaching force, we will raise achievement levels of students. We have been chagrined by our lack of progress since 1965, measured by achievement test scores of high school students, and a general feeling that students are less prepared for college and for work than they should be.

Programs to raise achievement levels must start in the home and in the schools, but they must reach out to extend to the industrial economy.

IN SCHOOLS

First, we have the opportunity to improve student achievement in mathematics, science and foreign language by Senate passage of the House's major initiative in these areas. Second, we can prepare students for vocations by developing carefully crafted, innovative vocational programs in the current reauthorization of the Vocational Education Act.

IN THE COMMUNITY

We must also reach out to those in the community who have left school without achieving adequately. We need to concentrate our efforts on programs to wipe out illiteracy. Recent studies have shown that:

As many as 25 million Americans cannot read and write.

As many as 72 million are functionally illiterate, unable to read and write above the fifth-grade level, 47 percent of all black 17-year-olds are functionally illiterate, and by 1990 that figure is estimated to rise to 50 percent, 60 percent of all inmates in correctional institutions are illiterate. It costs $6.6 billion a year to keep them in jail; and 75 percent of all unemployed persons have inadequate reading and writing skills.

Those with less than six grades of education are four times more likely to end up on welfare than those with at least nine years of schooling.

These are frightening figures and they represent an incredible loss of human capital to our Nation.

IN INDUSTRY

Third, we must acknowledge the need for retraining and reeducation of many adults in the work force. Washington Post reporter Jay Mathews' series last week on retraining efforts for unemployed auto workers is an insightful observation of the problems facing workers in shrinking industries, and the intense efforts required to retain workers for others jobs. Retraining programs have not yet begun to make much of a difference, since there are so few programs available, and they are able to help so few workers. We should develop substantial programs that effectively retrain and reeducate displaced workers in industry.

AT HOME

No strategy designed to improve the educational status of minorities and the disadvantaged can succeed, however, if it ignores the central position of the family as the natural transmitter of the motivation, values and the personal desire necessary for each individual to reach his or her full potential. No Government program can deliver those services. Schools, colleges and universities are often asked to cultivate new crops, where few seeds have been sown or little fertilizer spread. The family and the community must stimulate students to pursue broader, more challenging goals and horizons.

Lyndon Johnson, in 1965, called on us to "(think) about education and place it first in all our plans and hopes." We must not only think about education, but act quickly to improve education in our schools, to expand literacy in our communities and to educate workers in business and industry for the future which is soon upon us.●

REORGANIZATION OF THE DEPARTMENT OF EDUCATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FORD of Michigan. Mr. Speaker, in July of this year, the Department of Education began implementing a reduction-in-force and reorganization, which were finalized in mid-September. Concerns were widely voiced that these actions by the Department were inimical to the effective administration of several education programs. In response to this public outcry, joint hearings were held by the Subcommittee on Investigations of the Committee on Post Office and Civil Service, which I chair, and the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor, which is chaired by Mr. PERKINS of Kentucky. At these hearings on August 2, 1983 and September 27, 1983, testimony was heard from representatives of the Department of Education as well as public witnesses closely associated with the programs affected by the reduction-in-force and the reorganization. I found most unpersuasive the Department's case in support of their actions on the grounds of improved efficiency and effectiveness in administering the programs. The public witnesses were unanimous in their view that the reduction-in-force and the reorganization would weaken the administration of the affected programs and undermine effective implementation of the programs thereby frustrating the intent of Congress. In fact, I strongly suspect that this reduction-in-force and reorganization was undertaken in large measure as a means to cripple programs which this administration does not support but which the Congress continues to fund and to believe in.

Three aspects of the reorganization, which were highlighted in the hearings, are particularly troubling to me. First, the reorganization downgraded the migrant education programs from an office reporting directly to the Assistant Secretary for Elementary and Secondary Education to a division within the Office of Compensatory Education.

In addition to signaling a lower priority attached to migrant education, the subordination of the migrant education programs to the chapter 1 compensatory education program is also ill-advised from the point of view of educational policy. The chapter 1 migrant education program is administered at the level of the State education agency. Because of the interstate mobility and special needs of the migrant population this program is na-

tional in scope, and it requires strong Federal leadership to encourage interstate coordination of services to migrant students. In addition to the chapter 1 migrant education program, the Office of Migrant Education also administered the high school equivalency program and the college assistance migrant program, commonly known as HEP/CAMP. These programs also have delivery systems that are designed to meet the unique needs of students from migrant families who are attempting to gain a high school equivalency or begin a college education. In contrast, the chapter 1 compensatory education program is focused at the level of the local educational agency, and it is primarily a flow-through program with a more limited Federal leadership role. Consolidating these two programs administratively is highly inappropriate in light of the different delivery systems and the different needs of the populations served.

The migrant education programs should be handled in the same manner as the programs for education of the handicapped. The chapter 1 programs for handicapped children are administered by the Assistant Secretary for Special Education and Rehabilitation Services. These programs are not in the same unit which administers the chapter 1 compensatory education programs. The chapter 1 programs for migratory children also should not be in the same unit which administers the chapter 1 compensatory education programs. This separate unit would insure the continued existence of a comprehensive education delivery system targeted on migrant youth. This unit should continue to include both the chapter 1 programs for migratory children as well as HEP/CAMP.

In my view, it was clearly the intent of Congress in adopting the Department of Education Organization Act that there be a single office to administer all migrant education programs and that this office not be subordinated to the chapter 1 compensatory education program.

Therefore, the reorganization of the migrant education programs is bad education policy, it ignores the appropriate model provided by the administrative structure for handicapped education and it violates the spirit of the Department of Education Organization Act.

The second area in which the Department of Education reorganization is seriously flawed is its treatment of the Women's Educational Equity Act program. The reorganization downgraded the Women's Educational Equity Act program from an office reporting directly to the Assistant Secretary for Elementary and Secondary Education to a section under the Discretionary Programs Branch under the Division of Educational Support under the Office of State and Local Education Programs under the Assistant Secretary for Elementary and Secondary Education. In short, the WEEA program has been moved four levels down in the Department of Education to the lowest subbasement to which the bureaucratic elevator goes in the Department.

I do not think that it is appropriate for the WEEA program to be subordinated to the chapter 2 block grant since the Congress in 1981 specifically excluded the WEEA program from the chapter 2 block grant and authorized it as a separate categorical program.

In addition, while the administration places a low priority on the WEEA program and has continually attempted to eliminate all funding for the program, the Congress continues to place a high priority on achieving educational equity for women. This congressional interest is clearly illustrated by the exclusion of this program from the chapter 2 block grant and the continuation of funding for 3 years despite the recommendations of the administration to the contrary.

Third, the Department of Education's reorganization seriously jeopardizes the equity training and technical assistance programs which were created under the authority of title IV of the Civil Rights Act of 1964. As is the case with respect to the Women's Educational Equity Act program, the reorganization downgraded the equity training and technical assistance (ETTA) program from an office reporting directly to the Assistant Secretary for Elementary and Secondary Education to a section under the Discretionary Programs Branch under the Division of Education Support under the Office of State and Local Education Programs under the Assistant Secretary for Elementary and Secondary Education.

It is not appropriate for the equity training and technical assistance program to be administered under the chapter 2 block grant since the Congress in 1981 specifically excluded this program from the chapter 2 block grant and authorized it as a separate categorical program.

Since coming into office this administration has proposed that no funds be appropriated for the ETTA programs. Nevertheless, the Congress continues to support training and technical assistance to achieve desegregation of public education, and the Congress has continued to fund these programs and expressly excluded the ETTA programs from the chapter 2 block grant.

To remedy these three most glaring problems created by the recent reorganization of the Department of Education, I am today introducing legislation to restore the migrant education, ETTA and WEEA programs to their appropriate places in the structure of the Department. The bill would create an Office of Migrant Education reporting directly to the Assistant Secretary for Elementary and Secondary Education. The bill would also specify that this office will administer the chapter 1 migrant education program as well as the HEP/CAMP programs. This provision would restore the migrant education programs to the same location and status that they had prior to the reorganization.

The bill establishes an Office of Equity Training and Technical Assistance reporting directly to the Assistant Secretary for Elementary and Secondary Education. This office would administer the programs established by sections 403, 404, 405, and 406 of the Civil Rights Act of 1964. This bill restores the ETTA programs to the same status and location that they had prior to the reorganization.

The bill would create an Office of Women's Educational Equity which is the same status that this program had prior to the reorganization. However, whereas previously this Office reported directly to the Assistant Secretary for Elementary and Secondary Education, the bill provides that the Office of Women's Educational Equity will report directly to the Assistant Secretary for Educational Research and Improvement. This change was made for two reasons. First, the WEEA program is directed at helping to achieve educational equity for women at all levels of education from preschool through postsecondary and adult education. Since the program is not limited to equity concerns in elementary and secondary education, it does not appropriately belong in that office. The Assistant Secretary for Educational Research and Improvement, on the other hand, administers a number of programs such as the National Institute of Education and the library programs which cover the entire spectrum of education. Second, the demonstration, developmental and dissemination activities of the WEEA program are comparable to the activities of other programs within the jurisdiction of the Assistant Secretary for Educational Research and Improvement.

The bill also prohibits the Secretary from undoing by future reorganizations the changes made by this bill with respect to the migrant education, ETTA and WEEA programs.

I look forward to early enactment of this bill.●

PRESERVING THE JACKSON FALLS, JACKSON, N.H.

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. D'AMOURS. Mr. Speaker, today I am introducing legislation which would amend the Wild and Scenic Rivers Act by designating the Wildcat Brook in Jackson, N.H., for study as a national wild and scenic river. The inclusion of the Wildcat Brook for study would insure that the Brook and the Jackson Falls will remain pristine and untouched for the duration of the study.

The Jackson Falls is one of our Nation's most beautiful wild water areas. Jackson entertains many visitors yearly and they are unanimous in their praise of the beauty of the falls and the enjoyment they have derived from visiting the falls. The untouched falls allow many to experience the beauty of nature—wild and awesome and yet inspiring and peaceful.

The town of Jackson has united behind this effort to protect the beauty of Jackson Falls and I am pleased to be working with them on this effort in the House. The passage of this legislation will protect the falls from any development for the period of study—which is 10 years—and will insure that any future development will be based on the conservation and environmental needs of Wildcat Brook and its adjacent land areas and will not be based on the economic gain to be derived from a project along the brook or at the falls.

The preservation of Jackson Falls will also make clear that the resource management of unique natural areas is a priority of this Congress. This environment is far too fragile, as we know too well, to withstand attacks based only on economic gain without regard to the preservation of unique environmental characteristics.

I hope that all of my colleagues will join with me in preserving this unique natural area—Jackson Falls, in Jackson, N.H.—through the passage of this legislation.●

THE BILL OF RIGHTS FOR AMERICAN SMALL BUSINESS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. IRELAND. Mr. Speaker, I am pleased to be able to announce today that the National Small Business Association has released its "Bill of Rights for American Small Business." The National Small Business Association founded in 1937 is a lobbying organization representing small firms in every State of the Union. The association appears regularly before congressional committees and executive branch agencies on behalf of its members.

In releasing the document, Bernard S. Browning, president of General Business Services of Rockville, Md., and chairman of the National Small Business Association (NSB) cited the fact that the small business community accounts for half of all private sector jobs, and nearly half of gross national product (GNP). He also said that the country must look to small business for sustaining the economic recovery, and that adherence to the principles espoused in the bill of rights can help assure a viable small business growth which will be vital to economic recovery for the Nation.

I am pleased to be able to place this historic bill of rights in the RECORD today.

THE BILL OF RIGHTS FOR AMERICAN SMALL BUSINESS

National Small Business Association and its members advocate an environment in which independent business can remain competitive.

Demand revision of the tax laws to bring equity to small firms.

Pursue adoption of sound government fiscal and economic policies, i.e., a balanced budget.

Seek establishment of a fair management labor policy.

Support government policies, actions and activities that encourage and motivate individual initiative and protect our freedom.

Oppose the growth of all unnecessary government regulations, authority, red type and paperwork.

Promote government policies that permit independent business to obtain its fair share of government procurement contracts.

Oppose unfair and noncompetitive monopolistic practices of government, business and labor.

Oppose competition by government with private enterprise.

Support freedom from harassment and intimidation by the bureaucracy.●

HIGH-TECH SOVIET THEFT—BONN SEIZES SOVIET-BOUND COMPUTER FOR UNITED STATES

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ROTH. Mr. Speaker, 7 minutes, that was the margin by which West German Customs officials had barely stopped the shipment and diversion of a highly sophisticated American-made computer to the Soviet Union.

The American manufacturer of the computer was quoted in the New York Times that the computer is a "top-of-the-line system" used for civilian purposes. But the same equipment is also suited for military applications according to a senior official of the Customs Service.

Legislation designed to thwart Soviet acquisition of American and Western high technology may be seriously weakened if Congress enacts an amendment to the Export Administration Act recently approved by the House. This is the legislation that enables the President to license—and thereby restrict—exports of goods and technologies that could significantly enhance Soviet military capabilities.

This October the House voted to eliminate the requirement that U.S. exporters obtain validated export licenses as a condition of exporting to Cocom countries—NATO minus Iceland and Spain, plus Japan. The U.S. Government, in other words, would no longer have the right to review exports of militarily sensitive goods and technologies before they left our shores. The only requirement would be a postshipment notification. This is a dangerous provision, and today's seizure in Bonn illustrates that point.

First, export licensing provided a paper trail to track the computer export from the United States to South Africa and then to West Germany where the computer was to be transshipped to the U.S.S.R. via Sweden.

Second, the provision calling for termination of prior review of export licenses assumes that our allies in Western Europe and Japan will act with all deliberate speed to seize illegal exports. In today's case, it evidently took repeated requests by U.S. officials to German magistrates before the Germans ordered seizure of the American computer. In this case, a margin of 7 minutes before the ship was scheduled to sail is not a satisfactory assurance of the speed and legal authority that foreign customs services possess.

Third, U.S. export licenses directly contributed to tracking down not only this illegal export but also the name of a conspirator who is also wanted in connection with other illegal exports.

Fourth, the provision to eliminate prior licensing review to COCOM countries is based on the assumption that these countries effectively control exports and reexports of U.S. origin goods and related technologies. Not a single study or report supports this assertion. In today's seizure, the information that led to the action by the German authorities was the direct result of U.S.-supplied information—in part derived from export licenses.

Fifth, it points to the fact that there is an ongoing secret struggle with the Soviets, who are attempting to steal and pirate by hook or by crook, militarily sensitive advanced goods and technologies. Today's seizure should reaffirm the need to preserve and improve every possible means of enforce-

ment to prevent high-tech Soviet theft.

Mr. Speaker, I include the article from the New York Times on this seizure in the RECORD.

[From the New York Times, Nov. 15, 1983]

BONN SEIZES SOVIET-BOUND COMPUTER FOR UNITED STATES

(By Leslie Maitland Werner)

WASHINGTON, Nov. 14.—West German authorities seized a highly sophisticated computer made in the United States just seven minutes before it was to leave for the Soviet Union via Sweden, the Treasury Department reported today.

John M. Walker Jr., Assistant Secretary of the Treasury for Enforcement and Operations, said the seizure was made on Friday "in the nick of time."

He said Customs officials stationed in Germany had told West Germany about the planned shipment after receiving word that the complex minicomputer made by the Digital Equipment Corporation would be smuggled into the Soviet Union.

The Commerce Department has banned its shipment to nations of the Eastern bloc to keep them from acquiring high technology equipment that could be used for military purposes. The Soviet Union lacks the technology to manufacture this type of computer, Customs officials maintain.

Joseph Nahil, a spokesman for the manufacturer, said the computer, a VAX 11/782, is a top-of-the-line system sold frequently in this country and used primarily for structural analysis in the construction industry and electromechanical design.

It can also be used "for missile guidance or something like that" and for "keeping track of troops and weapons," said William Green, deputy assistant commissioner of the Customs Service. It is sold to the United States military.

The computer had been shipped by a firm in New York State to an affiliated company in South Africa and from there to Hamburg, West Germany, where it was seized, Mr. Walker said.

He said the computer had been loaded aboard a freighter that was about to leave the pier and sail to Sweden when authorization came from a German court to remove the computer from the ship.

West German customs agents had been waiting on the pier for hours for the authorization. At first, the German courts had denied the American Government's request that the computer be seized. But an appeals court reversed this and granted the authorization just seven minutes before the freighter was to sail.

The United States coordinates export controls with its allies through a committee that includes most of the NATO nations and Japan. But Washington's list of restricted products is significantly more extensive than the schedule of restricted items that guides the allies. United States officials have maintained privately that high technology products, particularly computers, frequently slip through those countries into the Eastern bloc.

The proliferation of microelectronic equipment in recent years, much of it sold through retail or mailorder houses, has hampered efforts to keep the technology in this country. In 1980 the Control Data Corporation obtained a Soviet-made microprocessor—the basic component of many computers and guidance systems—which indicated that the Russians had made tremendous progress in copying the "masks" from chips obtained in the United States, sometimes legally. The masks are like a pattern that guides chip production.

The Treasury Department disclosed the seizure today amid a battle between the Reagan Administration and some House Democrats over the terms of a bill to renew the Government's authority to control the export of goods and technology.

Mr. Walker said he was "extremely critical" of the House bill, which he said would weaken enforcement at a time when obtaining the latest American technology was "the highest priority for Soviet espionage."

Customs officials also said that the name of a fugitive, Richard Mueller, who has been wanted in another case involving illegal exporting of electronic equipment, had been found on some documents pertaining to the computer shipment.

William Von Raab, the Commissioner of Customs, said Mr. Mueller, a West German national, was indicted by a Federal grand jury in California in 1979 in connection with an illegal shipment of semiconductor-manufacturing equipment from the Silicon Valley to the Eastern bloc. "He also had been implicated in several other export investigations," Mr. Von Raab said.

Mr. Walker said Mr. Mueller was connected to a firm in New York State that is a subject of the current investigation. He declined to name the firm, however, on the ground that search warrants were still being executed. Identifying the firm, he said, might result in others fleeing or destroying records if they became aware that the Government was focusing attention on them.●

THE CHANGING FINANCIAL SERVICES INDUSTRY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, November 16, 1983, into the CONGRESSIONAL RECORD:

The report follows:

THE CHANGING FINANCIAL SERVICES INDUSTRY

Most of us are aware of the upheaval in today's financial services industry, but we view it with casual detachment. The creation of "one-stop financial supermarkets" at Sears, the formation of "non-bank banks" outside federal regulations, the expansion of banks across state lines, and the acquisition of discount brokerage houses by banks all are thought to be little more than battles for "turf" or attempts to capture a greater share of the market. However, much is at stake. More change in financial services is expected in the next five years than was seen in the previous fifty. Advocates of this change speak of a new era of customer convenience, while opponents speak of a return to the days of frenzied speculation in banking just before the Great Depression. The financial system that eventually emerges from this period of change will be important for all of us.

Inflation and advances in computer technology during the 1970s lie behind the revolution in financial services. Inflation has compelled depositors to look for alternatives to their low-interest accounts, and advances in computer technology have allowed money managers to provide efficiently a range of alternatives. But Congress has not kept up. Many of the basic laws governing banking have remained largely unchanged since they were enacted some 50 years ago. Typical of these is the Glass-Steagall Act of 1933, which separates banking from risky activities such as securities underwriting. The tidy distinctions in the laws, however, have been blurred lately by the exploitation of loopholes, some relaxation of federal regulations, and new state laws on banking. Various companies have invaded areas once reserved for banks, and banks, in turn, have responded by trying to expand into areas new to them. The Reagan Administration has proposed to accelerate deregulation by allowing companies that own banks or savings and loan associations to deal in new areas, such as municipal revenue bonds, mutual funds, insurance, and real estate sales and development.

Several arguments have been put forward in favor of breaking down the old barriers between banking and other financial services: First, consumers are demanding the "one-stop financial supermarket" and other financial innovations, so the switch to a wider array of services in a wider range of institutions is inevitable. Second, consumers will benefit from the deregulation of financial services because competition leads to lower prices and better services. Third, as financial institutions are allowed to compete more freely in the marketplace, their health, and therefore the stability of the nation's financial system, may be improved.

Opponents are not convinced. They see problems in the deregulation of banking: First, if organizations offering banking services are permitted to underwrite securities and deal in real estate, they will be combining speculative investments and banking. But that is precisely why the Glass-Steagall Act was enacted—to prevent another 1930s-style banking collapse caused by excessive risk-taking. Second, the role of banks is to take deposits and then make loans impartially for the best uses in the community. However, if an organization is involved in stock deals for a particular company or is engaged in particular real estate ventures as well as banking, it will be under pressure to make loans to meet its own particular business needs. Third, the entry of banks into insurance and securities or of other businesses into banking will not create new business, but instead will take old business away from existing firms. Finally, deregulation could result in an unhealthy concentration of economic power as huge national "superbanks" gobble up small local institutions.

So what will happen in Congress? My guess is that Congress will not approve substantial deregulation of banking soon. There is no consensus in the financial community on the direction that deregulation should take. Indeed, each particular sector is fighting hard to protect its own prerogatives. Also, there is no consensus among policymakers. The Federal Reserve wants to slow the pace of deregulation, while the Treasury wants to move ahead. In addition, many legislators are worried about the shaky international loans recently made by banks. The present climate is not the best one in which to argue that banks should have greater power to invest. Finally, the perception on Capitol Hill is that banks are not facing an imminent crisis. Bank profits have grown steadily over the past decade, and banks have held their overall market share despite the attacks of other financial institutions.

Even if substantial deregulation is not likely now, my view is that Congress should not stand by, ignoring uncontrolled experimentation in several directions and a hodgepodge of ingenious attempts to sidestep the law. The public has an interest in the final outcome of change in the financial services industry, and the process of change should not be left solely to random forces. Congress must guide the process, and this guidance can take place short of substantial deregulation. A good example is the step Congress took last year when bank deposits were being lost to money market funds. Congress passed legislation allowing banks to offer their own money market accounts so that they could "compete on a level playing field." Similarly, Congress should ease regulations on financial institutions when it is obvious that the regulations put them at an unfair competitive disadvantage. Also, Congress should move on measures to simplify the oversight of banking, to prevent circumvention of banking law, and to increase public disclosure of banking operations. The idea is that the grant of more freedom of operation should be accompanied by public disclosure so that customers may judge for themselves whether their bank is taking too many risks.

My hunch is that future financial services will bear little resemblance to those of the recent past. However, the public is better served if the transition to those new services is a measure development rather than a chaotic free-for-all.●

VIRGINIA TEACHER OF THE YEAR AWARD

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. WOLF. Mr. Speaker, a special judging committee of the Virginia Department of Education recently chose John Pleacher, a teacher and administrator in the Arlington Public Schools of my district, as Virginia Teacher of the Year for 1984.

It gives me great pleasure to bring this outstanding achievement to the attention of my colleagues in Congress and to congratulate Mr. Pleacher for a superior job in broadening and shaping the minds of hundreds of young people throughout his teaching career.

Mr. Pleacher's dedication to teaching is made more evident by the fact that he choose to return to teaching after serving as principal of several junior high schools for 23 years. "I wanted to return to teaching before I retired," Mr. Pleacher said. "I love the classroom. It's there that a student is inspired to make a change in behavior, to explore a career and improve study habits."

Mr. Pleacher was one of 21 teachers nominated in Virginia and I am honored that he is a part of the Arlington Public School System in the 10th Congressional District of Virginia.●

ERA AND THE STATE EXPERIENCE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BARNES. Mr. Speaker, today the House of Representatives is voting on the equal rights amendment, the cornerstone of the movement to eliminate economic and social discrimination against women. As a representatives from the State of Maryland, and an original cosponsor of the ERA in Congress, I am proud that my State is one of six that have as part of their constitutions equal rights amendments substantially identical to the proposed Federal ERA.

The experience with the equal rights amendment in Maryland and other States quite simply does not bear out the fears of opponents that the ERA will require disastrous changes in our social or cultural life or lead to the disruption of the family. In the case of the obligation of men to support their families, for example, laws requiring husbands to support dependent wives and children have consistently been upheld in the State courts. In fact, the legal standards for support in Maryland now emphasizes the actual needs and capabilities of each family member, not simply the gender of the individuals involved. In this sense, the ERA can be said to recognize factors in modern society that are already changing family life, and to meet the needs caused by these factors, rather than compelling the abandonment of traditional forms of family relationships. In the area of child support, the rights of children to be cared for by both parents have been strengthened by State ERA's.

Other positive effects that have been borne out by State experiences are the equalization of marital property laws and right of a homemaker to establish credit in her own name based on her half-ownership of community assets. In no instances have State ERA's mandated abortion funding or that women be forced to work if they wanted to stay home with their children—two frequently raised concerns. Nor have the courts allowed State ERA's to become a refuge for those who seek to penalize women under the cloak of the ERA. Rather, State ERA's have served as a framework for legislative, judicial and administrative action to eliminate much discrimination against women.

We must now ratify the equal rights amendment to the Constitution of the United States to insure equal rights and opportunities for all Americans.●

EQUAL RIGHTS AMENDMENT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Ms. KAPTUR. Mr. Speaker, today I rise in whole-hearted support for the equal rights amendment. The reasons for supporting the equal rights amendment are as valid and pressing today as they were when it was originally introduced.

Opponents of the ERA argue that countless State and Federal laws already afford women sufficient protection. They argue further that the ERA would only mandate socially undesirable consequences. They could not be more wrong. The equal rights amendment remains critical if the social and economic injustices that women suffer every day are to be eradicated—pay disparity, inequality in pension programs, discrimination in insurance rates, child custody, and property laws are just a few examples. Illustrations of discrimination in current laws abound: A Michigan insurance bureau cites 44 discriminatory practices against women in insurance; widows, but not widowers, pay inheritance taxes on jointly owned property in 42 States; in South Carolina, a wife must have the same legal residence as her husband; in some States only the father is the legal guardian of his children. The list is far too lengthy.

The ERA is necessary to effectively combat discrimination in ways that current laws cannot. The ERA could raise the level of scrutiny that courts apply to laws which are discriminatory on the basis of gender. The burden of proof would shift from those challenging the discrimination law to the defendants. Until guarantees for justice and equality for women are etched into the Constitution, the fundamental rights of women will be vulnerable to political changes and policy shifts and threatened by traditional stereotypes.

It is time to rectify an historic injustice. In fact, the time is long overdue. Women have a right to equality under the law. The amendment reads:

Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

It is shameful that in 1983 we should still be struggling for this inalienable right. Passage of the ERA will insure the social and economic justice for which women have fought for decades.●

ELKS LEADER VISITS CAPITOL HILL

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. TORRICELLI. Mr. Speaker, on November 9, 1983, Kenneth V. Cantoli, grand exalted ruler of the Benevolent and Protective Order of Elks came to Capitol Hill to meet with Members of Congress. The Elks, since their inception in 1867 have played an important part in the growth and livelihood of communities through America. They contribute countless hours and millions of dollars yearly to numerous worthwhile activities such as scholarships for needy students, youth programs, and help for the handicapped and needy. Recently they have embarked on a new and vitally important program of drug awareness education.

I would like to share with all my colleagues the remarks of Mr. Cantoli.

As Members of Congress, you are all well aware of the order's contributions to this country over the past 115 years. In excess of $430 million has been given to worthy causes, agencies and services since the order was founded in 1867. Each year national, State, and local programs conducted by our 1.6 million members in the United States, focus on special projects that need assistance.

The remarks follow:

REMARKS OF KENNETH V. CANTOLI

Last year we were once again among the leaders in educational support with over $1.7 million contributed in scholarships for worthy, needy students.

In that same year, we contributed over $5.6 million to youth programs.

The handicapped and needy received an additional $9.4 million from the Elks last year.

In all, our charitable contributions for 1982 exceeded $25 million dollars, and that does not include the millions of volunteer hours contributed by our members.

This year we are embarking on a new program—one that could prove to be the most important in the history of our order. Last year the Elks conducted a national survey of mayors to determine the greatest areas of need for volunteer help in our nation's communities. In response to the findings of that survey, the Elks are undertaking a national drug awareness education program. We view this program as a long-term commitment in addition to the yearly special projects and other volunteer works of the Order.

Drug awareness chairmen have been named in every state and training seminars are being conducted now for those chairmen. They will duplicate that seminar for all of our 2250 lodges in the country, where members will be responsible for implimenting the drug awareness education program in their local communities.

The Grand Lodge will produce Public Service Announcements that will be distributed to radio and television stations throughout the country. It will also be sponsoring a six-part radio series and a six-part newspaper series on the hazards of drug abuse among our young people. For the first six months, the Elks Foundation has allocated almost one quarter of a milion dollars to begin this program.

We believe drug abuse poses today's greatest threat to our country's most precious resource: its youth. Drug abuse destroys the potentials of tomorrow's leaders before those potentials can develop. If this trend is not reversed our citizens will be severely hampered in their ability to find and elect men and women of your caliber and talents to lead our country in the future.

Our businesses and industries will be restricted in finding and developing teams of executives, managers and employees.

Our educational institutions will suffer—in fact we are seeing the effects already in high schools. Students, suffering from the effects of short term memory loss as a result of getting high on drugs, have literally lost vital portions of their formal education. Facts, figures, insights and experiences are irretrievably gone; pushed out of recall by mind-dulling drugs.

We simply cannot allow this trend to continue. The Elks are committed, leader by leader, lodge by lodge, member by member, to eradicating the use of harmful drugs among our children. We greatly appreciate your support in our efforts to combat this insidious chemical intrusion in our society. The minds and bodies of our young people are at risk. Our moral fiber and national character is at stake. We urge your endorsement and assistance in this national effort.●

TRIBUTE TO EDA MULLER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LANTOS. Mr. Speaker, it is my pleasure today to pay tribute to Mrs. Eda Muller, who this month completed her very successful term as president of the San Mateo County Farm Bureau. Eda is a unique and accomplished young woman from the beautiful coastside town of Half Moon Bay, Calif.

In her role as president of this important agricultural group, Eda initiated several ideas which brought San Mateo County much deserved recognition for its agricultural community, which is far less known than it deserves to be.

Her many accomplishments included: beginning the first "County Agriculture Day," which brought together county officials and agricultural leaders; initiating the annual coloring contest for county school children, bringing a greater agricultural awareness into the schools; and starting the county Farm Bureau showing of the fabulous food machine slide show, a unique educational show, also for the children.

Another responsibility which Eda performed with admirable grace and professionalism was speaking on behalf of the Farm Bureau to many community groups, including both the traditional men's service clubs as well as women's organizations which had previously been neglected.

She also testified at coastal commission hearings, U.S. Surface Transportation Subcommittee field hearings, and served as an executive board member of the coastside coalition for safe highways.

In addition to her many activities with the Farm Bureau, Eda continued her responsibilities as a wife and mother to her husband John and her two beautiful children. She also actively participates in the family farming business and helps out with school, church, and civic activities.

Mr. Speaker, Eda Muller is an outstanding citizen and civic leader, an example to all of us who have worked with her in the community. We in San Mateo County are proud of her, and wish her much luck and success in her future endeavors.●

PERSONAL EXPLANATION

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. WISE. Mr. Speaker, the day before yesterday, I was privileged to have the chance to tour one of our country's finest naval facilities—the Patuxent River Naval Air Station in Maryland. I feel that it is the duty of every Member of Congress to be aware of how the Federal dollars we authorize and appropriate are spent by the Armed Forces, and I learned a great deal from the experience.

Unfortunately, before I was able to return to the floor, two rollcall votes occurred—Nos. 491 and 492. Had I been here, I would have voted "yes" on the first, in favor of H.R. 3635, the Child Protection Act of 1983. On the second, which was a procedural vote to adjourn, I would have voted "no."●

NICARAGUA'S PEACE PLAN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. STUDDS. Mr. Speaker, the Government of Nicaragua recently submitted to the U.S. Department of State a package of four proposed treaties involving the United States, Nicaragua, and other countries in Central and Latin America. These proposals were submitted in accordance with the principles outlined by the so-called "Contadora" group, Mexico, Colombia, Panama and Venezuela, in an effort to bring the violence currently raging in Central America to a peaceful end.

The Nicaraguan proposal calls for four security agreements, to be negoti-

ated and signed as a package. These agreements would consist of a nonaggression pact between the United States and Nicaragua; a nonaggression pact between Honduras and Nicaragua; a general nonaggression pact for all Central American countries; and a draft accord aimed at limiting outside military involvement in El Salvador.

Although the Nicaraguan proposal is far from perfect, it does have some very constructive aspects. Unlike so many negotiating proposals in recent years, this plan contains full draft agreements susceptible to serious and specific counterproposals. The Nicaraguan plan also seeks to resolve an ongoing dispute about whether Central American negotiations should go forward on a bilateral rather than a regionwide basis. The proposed solution, to require both bilateral and regionwide negotiations, is helpful.

The Nicaraguan proposal calls for on-site inspections to verify observance of treaty commitments. This also is an important and constructive step.

More important still, the Nicaraguan Government's draft treaty includes an explicit commitment by Nicaragua to dismantle any command and control facilities that may exist for helping armed groups in opposition to the Government of El Salvador.

The U.S. Congress is not empowered to negotiate international agreements on behalf of the United States. Nor is it in a position to impose a negotiated settlement on Nicaragua, El Salvador or any other country in Central America. Congress does have a role, it seems to me, in encouraging the leadership of the involved countries to pursue all available means of obtaining a peaceful settlement to the conflicts now tearing Central America apart. Nicaragua has come forward with a serious, if imperfect, set of proposals. This plan, despite its flaws, is clearly in keeping with the general principles for political reconciliation outlined earlier this fall by the Contadora countries. I hope very much that my own Government, as well as the other governments in the region, will respond to these proposals in a similarly serious and constructive fashion. Only if this occurs will we be able to test the depth of Nicaraguan desire to restore peace to Central America, and verify, as well, our own.●

DEDICATION OF SENIOR CITIZENS HOUSING IN TENAFLY, N.J.

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. TORRICELLI. Mr. Speaker, I rise today to honor the dedication of the Tenafly Senior Citizen Housing Center in Bergen County, N.J., on November 6. I am paying special tribute to this event not only because of its meaning for my constituents, but as a symbol of our national commitment to serving the needs of older Americans.

This body wisely rejected attempts to undercut the Federal Government's senior housing program. Every new senior citizen apartment represents decency and dedication in our Government. The citizens of Tenafly have planned and worked for 17 years to make this housing center a reality and I am proud that Congress did not let them down.

On this bright moment for all the people of Tenafly, we should pause to reaffirm our purpose to providing adequate housing for all Americans. We must continue to help people to help themselves, as the officials and leaders of Tenafly have shown with great vigor and devotion.

The British historian Arnold Toynbee wrote:

> The best indicator of the quality and durability of a society was the respect and care given to its elderly citizens.

By recognizing the significance of local endeavors such as this and maintaining our national determination, America will always be known for its understanding and compassion.●

PERSONAL EXPLANATION

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. RUSSO. Mr. Speaker, I wanted to take this opportunity to explain my absence for the vote on H.R. 4102, the Universal Service Preservation Act. Unfortunately my presence was required in Chicago on Thursday night, but I wanted to inform both the House of Representatives and my constituents that if I had been here I would have voted in favor of H.R. 4102. I felt that this bill was the best alternative in order to prevent the doubling or tripling of local phone rates. There are many consumers in my district, especially the elderly, who view phone service as a necessity. My constituents voiced their concern that they would be unable to continue this vital service if the rates rose at this alarming rate. The bill is a good compromise between giving the industry adequate funds to provide telephones at a reasonable rate without an undue burden on those least able to handle it.●

THE 95TH ANNIVERSARY OF THE GRACE BAPTIST CHURCH, MOUNT VERNON, N.Y.

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. OTTINGER. Mr. Speaker, November 20 marks a very special occasion. The Grace Baptist Church of Mount Vernon, N.Y., one of the oldest and largest black churches in Westchester County, will celebrate it 95th anniversary. The celebration will bring together two great men who have done much for the quality of life in their communities and in America: Rev. Dr. Theodore Judson Jemison and Rev. W. Franklyn Richardson.

Almost, 30 years ago, Reverend Jemison helped inspire the civil rights movement, when seemingly without hope of gaining anything but further humiliation and isolation, he spoke out and resisted prejudice. His spirit and those of other great black leaders has lifted the hearts of all minorities in America. The Reverend Jemison has always worked for a society where everyone can experience life to its fullest extent without suffering the tragedy of discrimination. Through his service in his pastorates in Louisiana and Virginia, the Reverend Dr. Jemison has demonstrated his commitment to the betterment of others time and time again.

In 1982, the National Baptist Convention, USA, recognized the Reverend Dr. Jemison's commitment and vision, and elected him president of their organization. In this post, Dr. Jemison has established a $100,000 scholarship for Morehouse College; made great strides toward the reunification of the N.B.C.U.S.A. and its two sister organizations, an event that would produce an organization of more than 13 million black Baptists; pushed for extensive involvement of the convention with voter registration drives; provided leadership for the national assault on illiteracy program which helps give black Americans a chance for self-improvement and self-development; and started a $25,000 drive for educating needy youth.

The Reverend Jemison has been invited to speak at the Grace Baptist Church on November 20. His hosts are the pastor, the Reverend Dr. W. Franklyn Richardson and his parishioners. The Reverend Richardson is a man of distinction in his own right. The Reverend Richardson is the president of the United Black Clergy of Mount Vernon, N.Y.; president of the Black Ministers Coalition Council, an interdenominational countywide ministers' group; Commissioner of Housing for the city of Mount Vernon; and a member of the board of directors of

the Westchester County Medical Center. In the 8 years that he has been pastor of the Grace Baptist Church, the Reverend Richardson has almost quadrupled the operating budget. The Reverend Richardson's experience is extensive, a fact that increases his value to the black community and to Mount Vernon. He has traveled to Africa, Latin America, and the Middle East, and he has participated in religious programs nationwide on both radio and television.

Mr. Speaker, I call the work of these great men to the attention of my colleagues and ask that they join me in recognizing the caliber of their important work.●

THE DANGER OF SOVIET-AMERICAN CONFRONTATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CONYERS. Mr. Speaker, communication and contact between the United States and the Soviet Union is at the lowest point in decades. The danger of one or the other of the superpowers taking actions on the basis of misinformation, miscalculation, or misperception of the intentions of the other is acute. For the first time in two decades a sitting President has not personally met with the Soviet leader.

Raymond L. Garthoff argues in a recent article (the Washington Post Outlook, November 6, 1983) entitled, "Now Get Ready for the Real Crisis," that the lack of substantial high-level contact between the two nations poses as great a danger as events in Grenada, Central America, or Lebanon. Garthoff, a retired Russian-speaking Foreign Service officer and former Ambassador to Bulgaria, recently returned from a Soviet visit, and his impressions and experiences, collected in the following article are well worth reading. The article follows:

NOW GET READY FOR THE REAL CRISIS

OUR PROBLEM IS WITH MOSCOW, NOT GRENADA OR LEBANON

(By Raymond L. Garthoff)

Americans are understandably distracted by the crises in Grenada and Lebanon, but another crisis is coming that is potentially much more serious. It is a deepening crisis in Soviet-American relations unlike anything we have seen, probably, since Nikita Khrushchev tried to install Soviet missiles in Cuba 21 years ago. While this one may not be as acute as that crisis, it will last much longer.

I have just returned from a two week visit to the Soviet Union where I talked with a wide variety of officials and ordinary people. I had some frank and revealing exchanges. The impressions I brought home are ominous.

We must soon expect to see off our coasts Soviet submarines and perhaps surface ships armed with new nuclear-tipped cruise missiles—pilotless drones that can strike our territory. The Soviets may also deploy "depressed trajectory" ballistic missiles on submarines based off our coasts that can reach U.S. targets in a few minutes, because they don't fly lower than the normal high trajectory of ballistic missiles that rise out of the atmosphere. There will also be new deployments of Soviet rockets in Europe, probably including ground-launched cruise missiles to match those the United States plans to deploy beginning in December.

This escalating deployment of new weapons is one reflection of the deteriorating relationship between Moscow and Washington. These new deployments don't mean that the Russians will be looking for opportunities to use their weapons, but that is not the only danger.

The principal risk lies not in the possibility that the leadership in Moscow or Washington will intentionally challenge its adversary with bold new initiatives to probe his resolution. This seems unlikely—although it is what both Soviet and American leaders suspect of each other. The greater danger will come from the reactions of both superpowers to unpredictable new situations or crises triggered by events beyond the control of Moscow or Washington. The deterioration of relations has reduced still further the thin margin of restraint that cushions the reactions of both powers in such situations.

The level of anxiety in both Washington and Moscow is remarkably high, and remarkably similar. My recent visit, which included conversations with senior political and military officials, convinced me that, if anything, the Russians are feeling more anxiety than President Reagan and his colleagues.

In part because of the isolation of Soviet society, the decline in Soviet-American relations has a deep resonance among ordinary citizens.

The local Communist Party chief in a remote agricultural region I visited—a man of little knowledge and no experience in international affairs, who told me I was his first Western visitor—offered one vivid example.

After a local meeting organized to discuss the extraordinary Sept. 28 statement on Soviet-U.S. relations by Yuri Andropov, he said, several local women in tears asked him if war with America was inevitable—if their sons would have to die. I heard other indications of such worries.

The downing of Korean Air Lines' Flight 007 has underlined the sharp decline in our relations. On my visit I had many opportunities to see that situation as it appears to the other side—and the difference in perceptions can be illuminating.

A number of Soviet officials, some in high positions, said in private conversation that the entire incident might never even have occurred, or at least might have been handled very differently, if relations had not already been so tense and hostile. This isn't to say they disputed the self-serving official Soviet version of what happened. Virtually all Soviets seem genuinely to believe that the airplane was on an American intelligence mission. But several said the United States might not have been prepared to take the risks involved in such an action were it not for the intensity of the military competition.

They also concede that Soviet air defense personnel might not have been so intent upon demonstrating their "vigilance" against the "imperialist intrigues" about which they are constantly warned.

Americans may find incredible the idea that U.S. authorities would risk innocent civilian lives in an intelligence venture, but to the Soviets that idea is plausible, and it neatly fits their frame of reference—a conviction that the U.S. is bent on gaining military advantage to use against the Soviet Union in its "crusade" against communism.

Many Soviets with whom I spoke privately admitted that the Soviet Union had handled the incident poorly, but all saw it as a legitimate and necessary response to an American challenge. We, of course, have focused on the fact that the Soviets shot down the plane; they have focused on the fact that it overflew sensitive military installations, violating their territorial integrity.

Soviet officials expressed real regret over the loss of life. One Soviet citizen with whom I had a chance encounter expressed the view that "Surely they [the responsible Soviet authorities] should have been able to find a way to deal with the situation without causing that tragic loss of life." But "the situation" was still seen as one for which the Soviet Union was not responsible. And there were other views. One ordinary citizen remarked (without knowing I was an American): "It's about time we showed the Americans that we won't put up with this kind of thing."

Virtually everyone I spoke with agreed that the United States was responsible for the incident; some also charged that it was a deliberate "provocation" intended to put the Soviet Union in a bad light. They cited the quick American accusations of a "barbaric massacre," and use of the incident by the Reagan administration to push through the MX and other military appropriations, as signs of such dark purpose from the outset.

The Korean airplane incident illustrates the profound differences in perception which can and do exist between these two countries. And it demonstrates grimly that both sides are now quick to assume the worst of the other. So they rushed to public accusations, when many facts about the airplane incident remained (some still remain) unclear.

Flight 007 is now history. Still ahead of us is the deployment of new NATO missiles in Europe—set to begin next month—and the Soviet response to that deployment.

From my discussion with senior Soviet officials, I conclude that the Soviet Union will indeed soon abandon the INF (Intermediate-range Nuclear Forces) negotiations in Geneva as a reaction to the actual deployment. Recent Soviet statements have led belatedly to speculation here on a possible Soviet walkout or temporary suspension of the talks, but I believe the Soviet view is that the negotiations will have failed, and that they will not be resumed. Of course, there may be some further diplomatic or propaganda moves by either or both sides, but this outcome is unlikely to be averted.

Indeed, I was told that the Soviet position in the START talks on strategic arms limitation and reduction will be revised to include intermediate-range weapons—the British and French systems, as well as the American Pershings and cruise missiles about to be deployed. While there has been a growing (though not unanimous) sentiment in the West that at some stage the two sets of Geneva negotiations—one on intermediate, the other on long-range weapons—probably should merge, a unilateral "shotgun wedding" of the two by the Soviets will undoubtedly prompt U.S. objections. But it is now likely.

The Soviet leaders understand that they will be criticized for ending the INF talks and will lose some Western public support on that score. But they refuse to continue talking if that means acknowledging, even tacitly, that some new American deployments were justified, or that the West had a right not to take British and French missiles and bombers into account in the negotiations.

Andropov on Oct. 26 offered to reduce Soviet intermediate range missiles facing Europe from some 450 to "about 140" (the precise number they have in mind is 144 modern SS-20s), and also to freeze the current level of Soviet deployment of such systems in Asia—but only if there were no new American deployments in December.

This offer is genuine. Soviet leaders would prefer to reduce their forces in this way rather than see the planned American buildup, but they do not expect the NATO nations to accept it. So they will break off the INF talks, continue to seek a curtailment of the U.S. deployment—and begin new offsetting Soviet deployments vis-a-vis both Western Europe and the United States.

The Soviets have long promised to match any new American deployment. Gen. Nikolai Chervov of the General Staff told me that this will involve "new systems," not merely adding more SS-20s, and will aim to place the United States itself more under the "10-minute threat" which he states the Pershing II missiles will pose to Moscow.

(Though the published American figure for the Pershing II's range is about 1,100 miles, the Soviet General Staff estimates it at about 1,500 miles. The difference is crucial. With a 1,500-mile range, Pershing IIs deployed in West Germany could reach Moscow and the central Soviet military command and control complexes in and around the capital.)

My interlocutors would not specify what those "new systems" would be. But my discussions with Gen. Chervov (whose directorate is responsible, among other things, for all the arms limitation negotiations) and other Soviet and Communist Party officials left me with the strong impression that the Soviet Union will deploy new strategic nuclear cruise missiles on submarines and perhaps on surface ships within range of the United States. Moscow may also deploy shorter flight time depressed-trajectory submarine-launched ballistic missile systems.

In Europe, in addition to probably basing new ballistic missiles in Czechoslovakia and East Germany, they will also probably deploy ground-launched cruise missiles similar to those the United States plans to deploy.

The authoritative Soviet officials I saw did however rule out any attempt to station offensive weapons in Cuba or Nicaragua.

The idea that Soviet promises to match our deployments are just a "war of nerves," or refer only to systems they already planned to deploy anyway, is almost certainly wrong.

So, too, is the view long expressed by the Reagan administration (and reiterated recently by Defense Secretary Caspar Weinberger) that only when American deployment begins will the Soviets be ready to negotiate seriously. In fact, the start of U.S. deployment will mark the end, not the beginning, of the INF negotiations on intermediate-range missile systems. The impending NATO deployment has given us negotiating leverage, but we have squandered it. The contention that actual deployment will force the Soviets to make new concessions, thus futhering a negotiated agreement, is an illusion—either one the administration believes, or one it has propagated to smooth the start of the deployment of the new American weapons.

The political hullabaloo which can be expected to attend the end of the INF negotiations and the start first of American and then of new Soviet deployments will no doubt contribute to the further deterioration of American-Soviet relations, and possibly to American-European relations as well. There seems little doubt that we can expect a period of still higher tensions, in which unexpected crises will be still more dangerous.

One high Soviet diplomatic official with many years experience in dealing with the West, and whom I have known for many years, remarked that we Americans should not count on the Soviet Union always to be cautious in crises, compensating for our lack of prudence with added prudence on their part. This was not said as a threat, and was in fact accompanied by explicit recognition of the vital Soviet interest in preventing any crisis from exploding beyond control. His observation should give us pause.

The Andropov statement of Sept. 28 represented a significant new evaluation by the Soviet leadership of the seriously reduced prospects they see for any improvement in Soviet-American relations so long as an American administration is intent upon a "crusade" against the Soviet Union as the "focus of evil" in the world.

Its key sentence, as several Soviet officials pointed out, was the conclusion that "if anyone had any illusions about the possibility of an evolution for the better in the policy of the present American administration, recent events have dispelled them once and for all." I was told that judgment was finally precipitated by the American government's political exploitation of the Korean airplane tragedy, but was also the consequence of what the Soviet leaders see as a long history of American unwillingness to accept the changing "correlation of forces" in the world. Specifically, the Soviets resent America's unwillingness to recognize a state of general strategic parity with the Soviet Union, or the Soviets' status as a great power with global interests.

Moreover, although Andropov stressed that "we have strong nerves, and we do not build our policy on emotions" the Soviets believe that the United States is now committed to an "adventuristic" policy of confrontation with the Soviet Union. They see an American attempt to achieve military superiority for political intimidation and an American propensity to resort to military force. In their view, Grenada is but the most recent evidence of this commitment.

Soviet officials clearly indicated to me that even before the airplane incident, they had doubted the sincerity of any moves by this administration to improve the superpower relationship. They indicated a wariness of any such American moves in the coming preelection year. They made it clear they did not want to lend themselves to supporting an illusion of American reasonableness that would only help an administration whose real policy was confrontation with the Soviet Union.

In the Soviet Foreign Ministry there is a new joke that Ambassador Anatoly F. Dobrynin in Washington has "joined the ranks of the unemployed in America," because there is now so little for him to do here. Some officials who once favored a meeting, between Andropov and President Reagan now oppose the idea because they fear the Americans would exploit a summit for propaganda purposes but do nothing to actually improve relations.

For different reasons, I share their skepticism. I used to believe a summit could be useful—if only to remind the leaders of the two countries that their adversaries are human beings. But given the depth of current apprehensions and misunderstandings in both capitals, such a meeting might only reinforce prejudices rather than allay them. In any event, the question now seems moot.

The broader problem of changing the current trend of intensification of reciprocal suspicion and hostility remains. Long-standing advocates of detente and improved relations with the United States some of whom I have known for many years, are now on the defensive. In Moscow this is no time to seem to be "soft on the Americans."

A Pravda editor told me that when detente blossomed in the early '70s, quotas were set and then raised for favorable references to the United States. First the quota was 60 percent favorable references; then it went to 80 percent. Today, he said, "it is zero." Indeed, Soviet commentary on U.S. policy is now vitriolic.

Soviet officials do still point out, however, and with pained expression, that they are careful only to criticize the United States government and its policies, not the American people or nation. They are hurt that American official practice is more broadly anti-Soviet and anti-Russian.

Vice President Bush's speech in Vienna in late September was deeply resented for his insinuations that Russia was not a part of Europe. The Soviets were also angered by Bush's open call for greater independence for the communist countries of Eastern Europe. After Solidarity the Soviets feel a new vulnerability, and one that the American administration seems intent upon exploiting.

I have made no effort here to sort out the justice or accuracy of Soviet complaints against the United States, but have tried to convey some first-hand impressions from my recent visit which help illuminate a serious problem; the mutual misperception and misunderstanding which overlays and compounds the real differences which make us adversaries. It is a problem too little recognized that urgently requires attention.●

IMMIGRATION REFORM LEGISLATION

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. McEWEN. Mr. Speaker, I rise today to express my disappointment with the House leadership for blocking the consideration of immigration reform legislation. The United States is witnessing the highest influx of legal immigrants since the wave of European immigration at the turn of the century. In addition, 1 million undocumented aliens are apprehended every year. The Census Bureau estimates that the illegal alien population ranges between 3 to 6 million.

It is apparent that existing immigration laws cannot adequately control the number of aliens entering this country, both legally and illegally. In response, House committees have worked diligently to correct the many problems of current immigration policy. But their work will not result in policy reform because of the act of a single will. Simply declaring that these problems will not be addressed this year is irresponsible and harmful to our own interests.

Whether or not the Members of this body support the Immigration Reform and Control Act of 1983, we should be given the opportunity to debate the merits of this comprehensive piece of legislation. Let Congress, not one man, determine our course of action.●

COMMENDING ODESSA FERGUSION

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. DYMALLY. Mr. Speaker, I rise today with pride and respect to commend and salute a woman of great patriotic spirit—a woman who has served this country and this Congress for the past 32 years. That woman, Mr. Speaker and my colleagues, is Mrs. Odessa Ferguson.

Since 1941, well before most Members of this Congress were seated, Odessa Ferguson has served our constituents, our families, our employees and our leaders in untiring service at the Longworth House Office Building Cafeteria. With never-ending wit and charm Mrs. Ferguson has endured the best and worst of Capitol Hill service. She has endured the days of our country's segregationist policies as they were implemented here in our own front yard of the U.S. Capitol. She has endured the ups and downs of our less-than-perfect personnel practices as they affect service employees. And, she has endured the long, tiring and often thankless hours of preparing our meals as we decide the fate and destiny of our Nation's citizens.

Throughout this time, Mr. Speaker, Odessa Ferguson has prevailed in our hearts of our minds with a gentle smile, an occasional stern word to keep us in order and always a loving spirit with which to grace any given day. As she concludes 32 years of selfless Government service, I am saddened that future Members of Congress will not have the opportunity and honor of serving with her; I am saddened that as our families and friends, staff and administrations go through the lines in Longworth, they will not have a living example of true Government service to witness. More personally, I am saddened that as I begin my days in the future, I will not have the gracious countenance of Odessa Ferguson to warm my heart and temper the day.

Mr. Speaker, as much as I am saddened by her retirement, I am equally pleased that Odessa Ferguson has indeed withstood the true test of time and endurance. I am proud and honored that she has touched the hearts and lives of countless Americans—rich and poor—black and white—outcasts and insiders—as she performed her duties with inimitable, unselfish and dedicated public service.

I commend Odessa Ferguson for being a shining example of outstanding service to our country and its people. I know that those of us who have had the pleasure and good fortune of knowing her will miss her dearly. Odessa Ferguson, thank you for a job well done. We in Congress wish you as much joy in your retired life as you have brought to us in our working days. May God bless you.●

CAPITOL AREA SOAP BOX DERBY WINNERS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. GEKAS. Mr. Speaker, I would like to recognize two young men from central Pennsylvania for their accomplishments in the local All-American Soap Box Derby race held in Harrisburg, Pa., on July 3, 1983.

Doug Roarabaugh is a 13-year-old from Etters, Pa., and William Hamilton, Jr. of Harrisburg, Pa., is 12 years old. Both were first place winners in the local race which qualified them to be the representatives at the world championship in Akron.

Their spirit and dedication in this competition is exemplary of the fine young adults that they have become.●

NEW ENGLAND DELEGATION ACTS ON ACID RAIN

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. D'AMOURS. Mr. Speaker, I am proud to join with my distinguished colleagues, Congressmen CONTE and MARKEY of Massachusetts and the members of the New England delegation, in introducing the first comprehensive acid rain control legislation in the House designed to achieve a 12-million ton reduction in sulfur dioxide emissions by 1993. We believe this legislation reflects the goals and priorities of the New England region and, moreover, represents a good faith offer to all regions of the country by asking each region to pay its fair share of the program's total costs.

Our bill is fair, balanced, and bipartisan. It is aimed at equitably solving one of our Nation's most serious environmental problems. We are asking each region of the country to pay its fair share based on each region's contribution to the acid rain problem. In turn, the States will receive funds to help them pay the costs of meeting the bill's required emissions reductions.

This bipartisan effort within the New England Congressional Caucus to develop a realistic program for achieving a 50-percent reduction in eastern sulfur emissions was driven by the intensity of concern existing within New England over the acid rain problem. This concern was clearly manifested in the results of a regionwide survey conducted by the Caucus Task Force on Acid Rain. The 50-percent/12-million ton reduction goal emerged unchallenged as the region's highest priority. This reduction goal corresponds with the National Academy of Sciences findings that a 50-percent reduction in rainfall acidity is required to protect acid-sensitive areas. Moreover, the New England respondents overwhelmingly indicated a willingness to contribute to the costs of an emissions reduction program.

The goals of the bill are carried out in two phases. The phase I portion of the program would require the 50 largest emitters of sulfur dioxide to install scrubbers to reduce those emissions. States are given the flexibility to substitute plants not among the top 50 if reductions are equivalent, however substitute plants must also install scrubbers. The phase I portion will realize a 6½-million-ton reduction by 1990.

The phase II portion of the program requires States to achieve an additional 5½-million-ton reduction between 1991 and 1993. These reductions will be achieved from a combination of sources including utilities, industrial boilers, and process emitting industries. The manner in which the phase II reductions are to be achieved is left to the discretion of the States.

Funding for this reduction program would be assisted through the imposition of a 1.5 mill per kilowatt hour fee, indexed to inflation, on electricity generated in the 48 contiguous States plus imported electricity from Canada and Mexico. Nuclear and hydropower are exempted. The fee would begin in 1985 and continue through 1995. This financing mechanism will cover 90 percent of the capital costs of the phase I reductions for the top 50 emitters. An acid rain revenue sharing program will be established to assist the States in paying for the costs of achieving the phase II reductions. Any State required to make phase II reductions

will be eligible to receive acid rain revenue sharing funds. Thus while our program adopts a national cost-sharing strategy to protect Midwest consumers from sharp utility rate hikes, it also provides nationwide revenue-sharing benefits.

Considerable attention has been given to the need to minimize the impact of this needed legislation on residential consumers of electricity. One such provision in the bill exempts low income households from the generation fee. Another provision gives eligible States the option to use all or part of their phase II revenue shares to reduce or discontinue the electricity generation fee in order to minimize the burden on consumers. Finally, of the required phase II reductions, 2 million tons will be allocated among industrial sources. Therefore, the costs of achieving those additional reductions will be spread across the Nation and will not fall disproportionately on any single region.

The legislation we are introducing today represents an equitable and reasonable approach to what is a complex and highly emotional problem. Our proposal has withstood extensive technical analysis by the Office of Technology Assessment and the Congressional Research Service. It has received the enthusiastic support and endorsement of the New England Sierra Club.

Inasmuch as our reduction strategy is based upon H.R. 3400, the major House vehicle for acid rain legislation sponsored by Health and Environment Subcommittee Chairman HENRY WAXMAN, we have expressed our strong support for H.R. 3400, and add hope that our efforts to build upon this bill will contribute significantly to the momentum for the passage of strong acid rain control legislation in this Congress. We cannot defer action on the acid rain problem any longer. The time for action is now.●

THANK YOU TO SYLVIA AND BRUCE HAGLER

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. SMITH of Florida. Mr. Speaker, on November 21, in Hollywood, Fla., the gold coast chapter of the National Multiple Sclerosis Society will hold a luncheon/fundraiser.

Sylvia and Bruce Hagler have been instrumental in organizing this event. The Haglers had no choice than to learn about the disease which affects young people. Unfortunately, their only daughter developed the disease.

They have taken their disappointment and turned that energy into positive action. Sylvia Hagler along with the assistance of her friends and husband began to plan a fundraiser with proceeds to go toward research for prevention and cure of the disease.

They had modest expectations. The Haglers convinced executives at Lord & Taylor to assist them in putting together a fashion show. The original 300 expected guests became an astronomical 800. The modest amount the Haglers expected to raise has grown to $100,000.

The efforts of Sylvia and Bruce Hagler are examples of the difference an individual can make. So often we expect someone else to help. Sylvia Hagler did not do that. Her efforts with the assistance of her friends and husband will assist in furthering the research and cure of MS.

We should all take note of this type of positive action on the part of individuals. I am very pleased that this fundraiser is taking place and thank the Haglers for their energy and devotion to this project.●

BAHA'IANS' TRAGEDY

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 1983

● Mr. CORRADA. Mr. Speaker, I wish to join my colleagues in addressing a tragic issue taking place in Iran today, the persecution of those seeking to practice the Baha'i faith.

As a religious minority in a predominantly Islamic country, the Baha'is have suffered for many years from persecution and harassment. However, since the revolution that installed the Ayatollah Khomeini in power in 1979, the Baha'is have been singled out for persecution. The most recent instance took place on August 29, 1983, when the equivalent of our Attorney General issued new laws in Iran against the 300,000 Baha'is. It is now a crime for Baha'is to meet publicly to practice their faith or to attempt to teach or invite others to join in their religion.

The future of the ability of these people to practice their religion in peace is in imminent danger. As of July 1983, a total of 142 Baha'is have been executed in Iran since the start of the Islamic revolution, and countless others are still missing.

I am pleased to have joined with many of my colleagues that are members of the Congressional Human Rights Caucus in introducing a resolution condemning the continued persecution of the Baha'is by the Government of Iran.

It is incumbent upon us, as a country which holds inviolable the basic human right of freedom of religion, to let our outrage and concern be known to those who seek to trample on the rights of others. I urge the Government of Iran to desist in its harassment of its citizens, particularly the 300,000 Baha'is.●

INDIAN POINT NUCLEAR POWER PLANT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. OTTINGER. Mr. Speaker, the Nuclear Regulatory Commission is charged with the responsibility of regulating the commercial nuclear industry in order to protect the health and safety of the American people.

It is clear that the people in the vicinity of the Indian Point nuclear powerplant do not think that NRC is discharging this responsibility.

The following letter appeared on October 26, 1983, in the North County News. I would like to commend it to my colleagues attention because I think it reflects the peoples skepticism toward the NRC of the people in the vicinity of Indian Point.

The letter follows:

[From the North County News, Oct. 26-Nov. 1, 1983]

CONGRATULATIONS TO THE NUCLEAR REGULATORY COMMISSION

TO THE EDITOR: Congratulations to the NRC for voting unanimously to let Indian Point stay open. Even token NRC dissident Gilinsky saw the light. NRC Commissioners come from the nuclear industry, and when tired of government service, hope to return there. Commissioner Gilinsky had the smarts to discard his anti-nuclear industry image, so he could once again return to that industry.

NRC says Indian Point is an acceptable risk. After all, Three Mile Island (30 minutes from meltdown) was only the third worst nuke disaster. The top secret meltdown in Kosley, USSR, destroyed that town in 1958. In 1966, the Fermi I nuclear plant fire almost caused the evacuation of Detroit.

Next time someone tells you "nobody's been killed by nuclear power," they've forgotten McKinley, Burns and Leg. These workers were killed in a 1961 nuclear steam accident in Idaho Falls.

Congratulations to the NRC for telling us we have a workable evacuation plan. A top New York City official has a brilliant plan to evacuate the city. Even numbered license plates would cross the bridges one day, then odd numbered plates the next day. Casualties would be minimized, because the evacuation would be completed in only two weeks. Koch complains because New York City residents run through red lights. But, under the threat of nuclear holocaust, citizens will suddenly become law abiding, and exit the city orderly, according to the official scenario.

Congratulations to the NRC for accepting Con Ed's word that an earthquake in this area couldn't happen for another 3,000 years. Last week's earthquake shook upstate areas down to Dutchess county. If it had reached Indian Point, you would now be

living in an upstate school gymnasium until your property is decontaminated.

It's great to know we have a government agency that so scrupulously protects our interest.

JOE DUBOVY,
Cultural Workers.●

TO REMIND THE WORLD OF THE HOLOCAUST IN ORDER TO PREVENT ITS RECURRENCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LANTOS. Mr. Speaker, during the past several years the children of the survivors of the holocaust have become a powerful moral force in our society. They are providing the essential continuity for their parents' commemorative work of the past 38 years.

The leader of this growing movement is Menachem Rosensaft, a New York attorney who is the founder and chairman of the International Network of Children of Jewish Holocaust Survivors, as well as chairman of the second generation advisory committee to the U.S. Holocaust Memorial Council.

Mr. Rosensaft, who was himself born in the displaced persons camp of Bergen-Belsen in 1948, has a most impressive and unique history. A graduate of the Columbia University Law School, he was the subject of a feature article in the October 1983 Columbia Law Alumni Observer.

I would like to commend this article to the attention of my colleagues:

MENACHEM Z. ROSENSAFT 1979: "TO REMIND THE WORLD OF THE HOLOCAUST IN ORDER TO PREVENT ITS RECURRENCE"

Each year, thousands of students enter law school with high hopes that they can combine their professional lives with special personal interests such as civil rights, public service, environmental protection, or commercial enterprise. Menachem Z. Rosensaft is a striking exception: he became a lawyer precisely in order to separate his personal and his professional interests.

He is now an associate in the litigation department of Kaye, Scholer, Fierman, Hays & Handler in New York. But in 1976, Mr. Rosensaft was well on his way to becoming a professional historian. Born in the Displaced Person camp of Bergen-Belsen to parents who had survived the concentration camps, Mr. Rosensaft was adjunct lecturer in the Department of Jewish Studies at the City College of the City University of New York, specializing in the history of the Holocaust and its consequences. Equipped with a master's degree in creative writing from Johns Hopkins University (where he had been Phi Beta Kappa as an undergraduate) and a master's degree in history from Columbia, he was selecting his dissertation topic when something about his undertaking brought him up short.

"I was teaching about the Holocaust, I was writing about the Holocaust, and it was becoming clear that virtually all of my work was becoming Holocaust-oriented. I knew that my dissertation would be on a topic involving anti-Semitism in Europe—probably the Holocaust. And I was becoming increasingly uneasy about it," he recalled in a recent interview. "Uneasy, because I did not want my livelihood, my career, to be linked with the Holocaust. It was becoming something of a moral issue for me. I could not see myself being paid to talk about my grandparents' death. I could not see having my career depend on whether I gave a lecture on my brother, who was murdered by the Nazis in Auschwitz, or my parents' suffering."

At the same time, Mr. Rosensaft had found himself dealing with legal issues from an historian's perspective. "That element led me to take an increasing interest in law," he said. "In addition, law had been a genuine career possibility from the time I was in high school and college. Finally, around 1975, I decided that I did want to be a lawyer. So I switched gears." In addition, he added, "I am aware of the very dire consequences when the legal system breaks down."

To Mr. Rosensaft, law is a bulwark against abuses of the type perpetrated in Nazi Germany. "There are two aspects of law," he says. "One is procedural, dealing with how papers are filed, going through an appeals process, and so forth. There are volumes and volumes of rules. Then there is the jurisprudential basis for the legal system. In essence, this deals with the difference between right and wrong. This is very simplistic, but, in the end, this is what it comes down to. There are certain values without which society cannot function—or if it does function, it's perverse. If you have a society based on the equality of man, as our society is, then slavery is an abomination, then racial discrimination of any kind is an abomination. When the judicial system becomes perverted, as it did in Germany, to not only allow but in fact to become an integral part of a system of discrimination, of racial hatred, and of mass murder, then the system becomes a tool, if you will, of evil. And the differentiation between right and wrong, which I maintain is essential to a judicial system of the type we know, disintegrates."

After graduation from the Law School, where he was a Stone Scholar for two years and the book review editor for the Journal of Transnational Law, Mr. Rosensaft went on to clerk for U.S. District Court Judge Whitman Knapp of the Southern District of New York. Mr. Rosensaft now works at Kaye, Scholer on matters unrelated to the Holocaust and, on his own, is chairman of the International Network of Children of Jewish Holocaust Survivors. In addition, he serves on the New York City Holocaust Memorial Commission, and he chairs the Second Generation Advisory Committee to the United States Holocaust Memorial Council. "In a sense, my contribution to the commemoration of the Holocaust is my pro bono work," he said. "Around here, that's known, and the firm has been very supportive."

As chairman of the International Network of Children of Jewish Holocaust Survivors and in his other Holocaust-related activities, Mr. Rosensaft sees his goal as "first, to perpetuate the memory of the 6,000,000 Jews who perished and, second, to ensure that nothing like the Holocaust ever happens again, to Jews or to anyone else. That is the task of our generation; it is our obligation to our past, to ourselves, and the future."

In a sense, Mr. Rosensaft continues work begun by his parents. "I grew up in a home where both parents were deeply committed to the memory of the Holocaust. They were among the first—I think my father may well have been the first—to speak about and be actively involved in the commemoration of the Holocaust. For many years, during the '50's and 60's when the topic was totally unfashionable, he was one of the few both in Europe and in the United States who was giving speeches, organizing commemorative projects and sponsoring the publication of books about it." Some years ago, his father, who died in 1975, succeeded in getting the West German government to oppose the wishes of the French government in order to preserve the dignity of the mass graves at Bergen-Belsen; as a law student, Mr. Rosensaft examined the legal aspect of that controversy, which was ultimately resolved against France by an international arbitral tribunal, in a paper later published in Jewish Social Studies.

In addition to the usual pictures of wife and child, Mr. Rosensaft's office is full of reminders of the Holocaust and his family. On one wall is a photograph of his father, Josef, taken in 1947 as he addressed the Central Committee of Jews in the British zone of Germany, of which he was president. On another wall hangs a grainier photograph of an elderly man with a hat and a full beard, Mr. Rosensaft's paternal grandfather. "That photo is almost unique. It was taken in the ghetto of Bendin, Poland, in 1943, several weeks before the ghetto was liquidated; the Germans took a film of the ghetto for the archives, and my grandfather happened to be outside his house at the moment." A family friend found the picture after the war and sent it to Mr. Rosensaft's father. While he was a child, the picture hung in Mr. Rosensaft's bedroom. Equally prominent in the office is a 1900 Vanity Fair print of the man whom Mr. Rosensaft admires most: Winston Churchill. In a bookcase stands the only English-language biography of Moshe Sharett, Israel's first Foreign Minister—written by Mr. Rosensaft, while a high school student.

In addition to his legal and historical writing, Mr. Rosensaft has been a regular contributor of poetry to Midstream, a monthly review, since 1973. He is also the author of a book about the June, 1967 Arab-Israeli "Six Day War," and he has written articles on the present-day legal status of Soviet Jewry and on Austrian anti-Semitism in the late nineteenth century.

Mr. Rosensaft and his wife, Jean (also the child of survivors of the Holocaust), have a five-year-old daughter, Jodi. "She has the makings of a fine lawyer," he comments, "since she has an argument for everything."●

THE RIGHT TO EDUCATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CONYERS. Mr. Speaker, one of the papers included in the Institute for Policy Studies' Federal Budget study, requested by 60 Members of Congress, dealt with the considerable setbacks to Federal aid to education that have occurred during the past 3 years. The paper on education, entitled "The Right to Education" was

written by Dr. Kenneth Tollett, Director of the Institute for the Study of Educational Policy and a professor at Howard University. I want to share with my colleagues at this point in the record excerpts of Dr. Tollett's superb paper:

THE RIGHT TO EDUCATION

Although Reaganism calls for the expansion of the military budget, it proposes the reduction of the federal government's contribution to education. President Reagan requested in fiscal year 1982 15.7 percent less than Congress appropriated in fiscal year 1981; 32.9 percent less in fiscal year 1983 than Congress appropriated in fiscal year 1982. Congress appropriated in fiscal year 1983 52.7 percent more than President Reagan requested. He has recommended the dissolution of the Department of Education. He would replace it with a foundation. Reagan's notions of neo-federalism and getting the government off the people's backs are really grounded in the nostalgic notion that the federal government has a de minimis role, if a role at all, in education.

This is doubly sad because although the role of the federal government in education is small, it is critically important, especially for expanding equality of educational opportunity. After reviewing the history of the role of the federal government in the educational arena, I concluded the following:

"The common defense, commercial wellbeing, and the general welfare have required the U.S. government to play an expanding role in providing educational opportunity. The Reconstruction amendments in the last century and the civil rights movement in this century obligated and committed the federal government to ensure that educational opportunity would be offered and received in conformity with the principle of equality. The neoconservative notion that government can accomplish more by doing less, the neo-federalist notion that a "new beginning" requires returning to the old Articles of Confederation, and the supply-side laissez-faire economic notion that demands minimalistically "in good supplies we trust," are all contrary to my whole-hearted belief that the federal government must recommit and reinforce its role in increasing equality of educational opportunity."

Public policy and constitutional law analysts have in the past mistakenly concluded that, at most, the federal government had only a marginal or very special role in education. Some of these analysts posit that government has no right or authority to operate in the area at all because education falls within the purview of the "police powers" reserved to the states in the Tenth Amendment. The Hegelian principle that what "is" "right" leads many to think that the federal government has only a marginal role in education. This is because the federal government had so little to do with education during the first 73 years of the Republic and only irregular involvements since. Yet, the Morrill Act of 1862 may be the United States' unique contribution to the development of higher education in the world. It emphasized and added public service as an important function of higher education (teaching, research, and public service).

Whatever the proper role and function of the federal government in the educational arena before the Civil War, the adoption of the Reconstruction Amendments (Thirteenth, Fourteenth, and Fifteenth Amendments) reposed in the national government the responsibility to secure, protect and nourish the principle of equality just as the Bill of Rights championed the idea of liberty and individual integrity. The federal government's initial major involvement in education took place in an era of the destruction of slavery, the preservation of the Union, and the promotion of equality.

Thus, it is especially sad that Reaganism supports states' rights or neo-federalism, a principle or political ideology associated with slavery, attempted dissolution of the Union, and racial discrimination. This makes Reaganism inevitably an assault upon, indeed, a counter to the "egalitarian revolution" initiated by the *Brown* v. *Board of Education* School Desegration decision. The sadness is compounded because, concededly, the role of the federal government may be comparatively small in education, but it is extremely important for the principle of equality.

The federal government contributes only a little more than 10 percent of the over-all educational expenditures in the United States. State and local governments contribute about 32 percent each. Private sources contribute the remaining 25 percent. Elementary and secondary private school enrollment and resources have risen to about 11 percent in the last decade. Enrollment and resources at private higher education or postsecondary institutions have declined respectively from about 50 percent in 1950 to about 22 percent and from 50 percent to about 30 percent.

What makes the Reagan proposals even more disturbing is that much of the 11 percent contribution to education by the United States is represented in two sources. The first is Title I in the Elementary and Secondary Education Act of 1965, which funds compensatory education for the poor and educationally disadvantaged. The second is Title IV of the Higher Education Act of 1965, which funds student aid primarily for the poor until the Middle Income Student Assistance Act of 1978 uncapped Guaranteed Student Loan funds and almost wrecked the federal financial student assistance program. Clearly, a major purpose of both of these education acts was to subsidize or assist the poor and needy in our society.

1. Elementary, secondary, and Vocational Education. Drs. June A. O'Neill and Margaret C. Simms have written the following about the federal role in elementary and secondary education:

"Federal funding as a percentage of total elementary and secondary school revenues has increased from 2.9 percent in 1949–1950 to 4.6 percent in 1959–1960 and 9.8 percent in 1980–1981. Federal mandates for state and local provision of special services have also increased, giving the federal government an influence over education that exceeds the proportion of funds provided."

The authors also indicate that the Vocational Education Act of 1963 included provisions which targeted funds for disadvantaged groups. Moreover, later funding during the 1970's provided resources for districts undergoing desegregation and mandated assistance for the handicapped. Thus, Reagan's assault on the Elementary and Secondary Education Act is literally an attack on the federal role in assisting handicapped and disadvantaged children and school districts undergoing desegregation.

The fiscal year 1981 federal budgetary outlays for elementary, secondary, and vocational education were $7.043 billion. The Reagan Administration requested less than $5.6 billion for fiscal year 1982—33 percent less than the fiscal year 1981 level. However, Congress authorized one-half billion dollars more than Reagan requested. For fiscal year 1983, the Reagan Administration requested budget authority for $4.4 billion for elementary and secondary education. This is $2 billion less that the "level" which prevailed after the fiscal year 1982 budget cuts. President Reagan also requested about 36 percent less funds for the program for disadvantaged students than Congress appropriated.

At the same time the Reagan Administration is proposing significant reduction in federal support for elementary and secondary education, it is proposing a program to increase federal support for private education via tax credits. Apart from being a tax expenditure or revenue loss, this shift in policy perspective has no precedent in American history. Thus, the nostalgia here represents returning to a period before most of the states had a public educational system.

Chapter Two of the Education Consolidation and Improvement Act of 1981 covers educational block grants. This provision not only represents a reduction of funds to be shared among the states for the elementary and secondary education programs subsumed under it, but also the first major step toward disengaging the federal government from elementary and secondary education.

After a very careful and meticulous review of the Reagan proposals regarding elementary, secondary, and vocational education, Drs. O'Neill and Simms conclude:

"The Reagan administration has proposed stringent cutbacks in federal funding for public elementary and secondary education. If they are fully implemented fiscal year 1984 funding would be approximately one-half of actual fiscal year 1981 funding levels and one-third of fiscal year 1981 policy levels. . . . The net effect of program modifications (fund reductions, regulatory changes, and conversion to block grants) will mean increased flexibility for states but will probably also mean reduced levels of educational resources available to the disadvantaged, the handicapped, and other groups that the federal government has sought to protect in the past. As a result the federal government would not be providing a significant proportion of funds for elementary and secondary education, nor would it have a clear purpose in its funding. This seems to make sense only if viewed as an interim step on the road to the total elimination of such federal aid."

The authors' conclusion is cautiously and gingerly drawn; it is unquestionably correct. However, President Reagan's proposals for disengagement in the higher educational arena are not as precipitous as they are in elementary and secondary education. They, nevertheless, also clearly indicate an intention to reduce federal involvement substantially.

2. Higher Education. Federal support for postsecondary education through the Department of Education amounts to nearly $8 (7.89) billion. Most of this is for student financial assistance ($6.64 billion). The remaining funds are for higher and continuing education ($.38 billion); higher education facilities; loan and insurance ($.4 billion), with some minimal amounts for college housing loans and some other miscellaneous programs. Research and improvement ($.15 billion) and vocational and adult edu-

cation ($.74 billion) make up most of the remaining funds appropriated for post-secondary education. Another $3 billion go for federal student financial assistance through the GI Bill ($1.6 billion) and social security benefits ($1.6 billion).

If the Reagan Administration's proposals for federal spending on student financial aid for fiscal 1983 were approved, Pell Grants, formerly Basic Educational Opportunity Grants (BEOG), would be reduced from $2.6 billion in 1981 to $1.4 billion in 1983. Campus-Based programs, for example, Supplemental Educational Opportunity Grants (SEOG), College Work Study (CWS), State Student Incentive Grants (SSIG), and National Direct Student Loans (NDSL), would be reduced from nearly a billion dollars to less than $400 million. Since all of these programs focus upon the neediest students in higher education, these proposals are a stark commentary on the Reagan Administration's concern for the welfare of the economically disadvantaged. However, the Administration's modest proposals for reduction of Guaranteed Student Loan (GSL) funds, although sound in recapping this program, its recommendation to take graduate and professional students out of the program would impair educational opportunity for many of these students.

From the perspective of this paper, the Reagan Administration is less Draconian in its approach to research and development. President Reagan requested nearly a million dollars more for the National Institute of Education and the National Center for Education Statistics in 1983 than in 1982, although this request is nearly $12 million less than the appropriation in 1981. The Administration proposes $1 billion in outlays for the National Science Foundation—only $0.1 billion less than in 1982. Thus, the Administration does appear to recognize the importance of basic research.

Although the Administration has not been successful in significantly reducing federal outlays for postsecondary education, it has seriously attempted to do so. The conclusion is inescapable. President Reagan is not sympathetic to federal aid to education. His proposal to abolish the Department of Education is more than symbolic gesture of diminished federal involvement in education. Except for its support for federal involvement in research and development, which incidentally provides a research subsidy for industry, the Administration is unsympathetic to investing in human beings.

CONCLUSION AND RECOMMENDATIONS

Economic and social recovery require a revitalization of human power and the proper allocation and organization of both human and non-human resources. The revitalization of human power entails an expanded investment in human services and institutions which nurture and develop human power. Education is the main institution government has a major responsibility for operating which nurtures and develops human power.

At the elementary and secondary level, state and local governments bear the predominant burden. The national government's role is comparatively small but socially important, for it has focused upon expediting and encouraging special assistance to the poor, disadvantaged, and handicapped and promoting and guaranteeing equal educational opportunity and nondiscriminatory practices.

At the higher educational level, the federal government's responsibility is similar, except its major mechanism for helping the poor and disadvantaged is through financial assistance to students and on a more limited basis to the institutions themselves. At this level it also provides significant funds for research and development.

The greatest asset of the United States, particularly in an emergingly postindustrial society, is a highly skilled, healthy, and knowledgeable populace. Education contributes directly to and develops skill and knowledge and indirectly and significantly to health. Knowledge, skill and health are the three major components of human capital. Therefore, the federal government must encourage and invest in the development of human capital. This can be done by following substantially the Education Amendments of 1980. Educational grants and programs should be funded at the level authorized by those Amendments.

Reagan's educational proposals would have substantially lowered funding for the educational grants and programs at both the elementary and secondary and the post-secondary levels. Fortunately and commendably, Congress has resisted most of the rescissions and reductions in educational funds which the President has requested. It should stay its course in education and strengthen generally its support of human services.

The value and importance of education to society and individuals have transformed it from a privilege to a right. Because the right to education in a postindustrial society is a critical factor for economic productivity, preservative of other rights, and essential for self-fulfillment, it has become a fundamental right. It is one of the unenumerated rights reserved to the people in the Ninth Amendment to the U.S. Constitution.●

INTERIOR WATCH: JUDGE CLARK MUST REVEAL WHAT'S WATT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. OTTINGER. Mr. Speaker, our esteemed colleagues in the Senate have a difficult task before them. They have been asked to confirm the nomination of Judge Clark to be Secretary of the Interior without any assurances from this administration or from Judge Clark that the policies of James Watt will be discontinued.

Congress has repeatedly sent clear instructions to the Department of the Interior as to how it wants the resources of the United States used, protected, and preserved. James Watt refused to acknowledge the right of Congress to set these policies. I applaud our colleagues in the Senate who, absent any assurance from Judge Clark as to his intention to follow the course set by Congress, are attempting to pass a resolution asking Clark to "follow the express will of Congress" in running the Department.

This resolution is sponsored by 40 Members of the Senate who clearly do not want a continuation of the disastrous policies of the past 3 years.

In support of our colleagues in the Senate, and because we believe that constant vigilance must be maintained in order to protect our natural resources, the gentleman from California, Mr. LEVINE and I will introduce a similar resolution in the House tomorrow. I would like to urge all Members who are concerned about the activities of the Department of the Interior under Secretary Watt to cosponsor this resolution.

The Wilderness Society has devoted a great deal of time and effort to monitoring the activities of Watt's Department of the Interior. The following is an outline of some of the activities that they have uncovered which must be stopped. These include:

Issuance of a moratorium on the acquisition of additional parkland. This has led to the loss of critical areas to development, has increased crowding at national parks, and will result in increased costs when these areas are eventually purchased.

Issued new surface mining regulations. These regulations will expand the right of coal companies to develop strip mines on 3.7 million acres of private property within national parks, as well as on 1 million acres of forest lands, including wilderness areas, and on 73,000 acres of wildlife refuges.

Went ahead with the Powder River coal sale after it was discovered that confidential minimum acceptable bids had been leaked to some industry and private individuals prior to the sale.

Offered virtually the entire Outer Continental Shelf for oil and gas leasing over the next 5 years. This exceeds industry's capacity to drill the lands, exposes fragile areas to destruction and results in bargain prices for valuable national assets.

Secretary Watt also:

Imposed reductions of more than 90 percent for the land and water conservation fund.

Opposed the National Park Protection Act.

Abolished the Heritage Conservation and Recreation Service.

Allowed hard-rock mining and other mineral activities in the Lake Mead, Glen Canyon, Ross Lake, and Whiskeytown-Shasta National Recreation Areas.

Scrapped a proposal for preserving scenic vistas within national parks around the country.

Eliminated some 1.5 million acres of wildlands in the West from the Bureau of Land Management's wilderness study program. This was done in defiance of a House Interior Committee resolution.

Ordered the Bureau of Land Management to establish mineral development as the top priority for public lands.

Subverted the National Environmental Policy Act by exempting numerous

mineral activities from any type of environmental impact analysis.

Adopted policies that allow over 80 million acres of public lands to be overgrazed.

Opposed proposals for insuring that grazing permittees pay full fair market value for use of the public range.

Expedited oil and gas development of Alaska's 16 national wildlife refuges, opening fragile refuge lands without any study of environmental impact.

Used administrative means to delay or impede any new listing of endangered species and slashed the funding by 50 percent.

I list these few examples of the policies of James Watt as a reminder that these activities of the Department of the Interior will continue unless and until we get a commitment from Judge Clark to discontinue them. I applaud the efforts of our colleagues in the Senate who are trying to get that assurance and I remind my colleagues here that without that commitment from Judge Clark we must continue our vigilance concerning the activities of the Department of the Interior.●

HISTORY OF THE AIRLINE INDUSTRY

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Ms. FERRARO. Mr. Speaker, it gives me great pleasure to include in the RECORD a speech by Mr. Umberto Nordio, chairman of the board and chief executive officer of Alitalia Airlines, which he gave before students at the Center for Italian Studies, Columbia University, on November 10, 1983, outlining the history of the airline industry to date. As an Italian American, it is heartening to have such fine Italians addressing our students. Regardless of what position one might have on the issue of airline deregulation, Mr. Nordio's speech is of great educational value.

AIRLINE INDUSTRY: THE SHOCK OF REACHING MATURITY

(By Umberto Nordio, Chairman of the Board and Chief Executive Officer, Alitalia Airlines)

I wonder if you happen to recall when the Taft-Hartley Act was passed, or when Princess Elizabeth married Philip of Edinburgh, or when India's independence was proclaimed, or when Henry Ford died. It happened all in the same year. The year was 1947, a year you New Yorkers—or should I say, those New Yorkers who are as young as I am—should remember well because it was on December 17, 1947, that you experienced that famous, record breaking, 28-inch blizzard.

Those were the times the New Look, of the Marshall Plan, of Annie Get Your Gun, of Thor Heyerdahl's crossing from Peru to Polynesia on a raft. Another event also took place in 1947: for the first time in history an aircraft flew at supersonic speeds. It was a U.S. military airplane. Commercial supersonic flights were still a quarter of a century away.

The industry of air transport was then starting to spread its wings. The total number of air passengers flown in 1945, in the whole world, was about 10 million. Today the figure is one billion. Since 1945, while world industrial production increased about five-fold, air transport has grown one hundred-fold.

Throughout the first 20 years after World War II, the pace was phenomenal. Traffic almost doubled every four years or so. While the world gross domestic product moved upwards at an average rate of about 4% per year, the airline business experienced rates of growth in excess of 15% or even 20% per year. Air Transport was moving well ahead of, and seemingly without relation to, all relevant economic indicators.

A most significant year was 1958. If you turn your historical telescope back to that year, you have, depending on your inclinations, a choice of events on which to focus your attention: the birth of the Common Market in Europe, the election of Pope John XXIII, the launching of Explorer I, the spreading of the Beatnik movement, the opening of the Guggenheim Museum, the advent of cha-cha-cha.

In 1958 I was in the steamship business. I remember that at the end of that ominous year my own attention was concentrated upon the fact that for the first time in history the number of people crossing the Atlantic Ocean by air had exceeded the number of those doing so by sea. The era of the Grand-Saloon was over. The majestic steamers with proud names, which had been contenders for the Blue Ribbon, would soon, one after the other, look for employment in the cruising trade, or as dock-side hotels—or just be sold for scrap.

Caviar and champagne had become airborne since the very beginning of the air traffic upsurge in the late forties. On B.O.A.C.'s Strato-cruisers flying from London to New York via Shannon and Gander, impeccable and slightly supercilious stewards, looking like carbon copies of P. J. Wodehouse's Jeeves, would serve pink gin and exquisite canapes before dinner in the lower-deck bar, while your bed—bed, not sleeperette—was being readied upstairs.

The Beautiful People had not been invented yet as an instrument to promote the mass distribution of books on non-caloric calories or sex-flavoured calisthenics. The Beautiful People of that age were less obtrusive, less commercial and above all less numerous. Fittingly, they were at times called the Happy Few, and, as few as they were, they were frequently to be found among the 40 or 50 passengers who then formed an airplane-load. There was glamour in the air. For a while it was the Grand-Saloon all over again.

But by the late fifties even the airborne Grand-Saloon was on its way out. Up to 1952 there had been only one class aloft: First Class. In 1952, Tourist Class was added. In 1958 the airlines introduced the Economy fare and thus, for the first time in history, gained an edge on the steamship lines.

For decades the sea carriers had been designing their products having essentially in mind on one side the leisure class, the happy few, or those that had enough time and income to pretend that they belonged there; and on the other side the emigrants, the once-or twice-in-a-lifetime travelers, the not-so-happy many. As late as the early fifties there were in service, on the Atlantic Ocean, liners built between the two wars, which were fitted with suites on the upper deck larger than a Manhatten apartment of today, and on the lower decks had steerage accommodation which slept up to 120 in the same dormitory. Cabin Class, neither fish nor fowl, catering to the market in between, never was a real starter.

Shortly after the steamship lines had shifted to the two-class concept and had begun redesigning their product to meet the changing structure of demand, the airlines took the wind out of their sails. In 1958 the scale tipped: the new Economy air fare undercut the tourist class sea fares. As air fares kept going down in the following years, both in monetary and in real terms, the economics of the shipping industry, plus the crossing time factor, inexorably pushed shipping out of the ocean passenger market.

In the meantime, air service was conquering the short haul as well, and was becoming a popular choice in the domestic and continental transport systems of the industrialized countries. In the forties, air travelers were a small minority in the United States. In 1960 one American out of three was an airline customer. The figure today is two out of three.

While directing their attention to the middle-income, and later to the low-middle-income layers of the market, the airlines progressively moved away from the Grand-Saloon model. As of 1958, Bertie Wooster had lost his high profile in the minds of airline marketing experts. The stage was almost ready for the noisy entrance of Sir Freddie Laker and his Band.

History has its own capricious way, once in a while, of casting mediocrities into epic roles. Thus a marginal but ambitious operator like Freddie Laker, endowed with a flair for publicity stunts rather than with the virtues traditionally associated with the archetype of the sound entrepreneur, in the seventies came to be regarded by quite a few as an inventive pioneer in the field of low-cost air transport.

The "Skytrain" concept was in reality a belated, and eventually unsuccessful, variation on the theme of the point-to-point, high-load-factor, low-cost service which was introduced in the North Atlantic ten years ahead of Freddie Laker, when the U.S. charter operators were authorised to carry transatlantic passengers.

Following the advent of the jets, in the early sixties both yield and load-factors of the scheduled airlines in the North Atlantic had taken a dip. There was too much capacity offered in the trade, and at the same time the demand for low cost air transportation was increasing. It was quite natural that some of the available capacity should be diverted to charter flights, either by independent operators or by the scheduled airlines themselves.

The same thing was happening in other areas, and especially in Europe, where charter traffic was growing so rapidly that it was eventually to gain a share of the infra-European trade very close to that of the scheduled airlines. In 1973 almost one third of ICAO world traffic was moving by charter planes, at rates considerably lower than the scheduled airlines'.

The problem of over-capacity was made worse when the wide-bodies entered service in the late sixties. Indeed from 1966 to 1973

the number of seats offered increased at a greater rate than traffic. Airline managements had embarked upon a major and premature re-equipment cycle. Airline marketing experts continued to worship at the anachronistic temple of market share and unlimited market growth. Underpriced fares were introduced, to fill—for what was thought to be the short term—the excess capacity generated by the wide-bodies. Public and political pressures had started building up in favour of low fare mass travel on scheduled services at uneconomic prices. The stage was thus set for a vicious circle leading to the need for more capacity to be filled at non-remunerative fares.

All this was happening in a changing environment. Following World War II the economies of the industrial nations had experienced a long, unprecedented period of extraordinary, uninterrupted growth. By the late sixties the conditions of political, monetary, social stability which sustained this growth began to disappear. With the Yom Kippur War of 1973 the era of cheap energy also came to an end.

The oil crisis of 1973-74 dealt the air transport industry a double-barreled blow. The ballooning cost of fuel generated a monstrous gap between costs and revenues which ought to have been covered, but was not, by consistent yield improvements, that is, increases in revenue per seat. On the other hand, the market had almost stopped growing or indeed was shrinking—like it did in the North Atlantic area—as a consequence of the shaky state of the economies of the industrial nations; and in such a market, affected also by pre-existent excess of supply over demand, yield improvements, which means of course higher fares, were very difficult to obtain.

The cataclysmic effects of the first fuel crisis obscured, and swept under the carpet, the fact that the air transport industry was already in trouble before the crisis, and that it was in trouble because of some of its own errors and miscalculations.

The recovery occurred in 1976, and lasted through 1979. Then once again an oil crisis sent the world economy into recession. During the recovery, many airlines just went back to the old delusion that there was no limit to market expansion, that the industry would eventually revert to the traffic growth rates that had characterized the fifties and the sixties. And they planned their fleets accordingly.

Reality provided a different message. From 1975 to 1979, traffic growth, although rebounding from the standstill of the first oil crisis, never reached the levels of the golden age. With the second oil crisis, world air traffic growth again came almost to a stop. Indeed, for the first time in history, in 1980 and 1981 air traffic growth was slower than the world G.N.P.'s.

The industry has reached maturity. This is the hard fact of life. We have gone through the Gompertz curve stages of introduction, transition and rapid growth. We have conquered our share of the consumer's disposable income. We have placed our product on the list of options for business travelers. From now on, we shall move along with the major indicators of the economies of the countries where we operate. We shall no longer lead by 20 or 10 points the G.N.P. of the industrial nations.

Let me be more specific with one example. In our trade, when we talk about disposable income, we talk about pleasure traffic, which is by far the largest segment of our market.

It is quite true that air fares, in general, have gone up slower than inflation. The curve of the consumer price index in industrial countries has risen well above the curve of the average Economy fare. However, the air fare is but one component of the total cost of a pleasure trip, the other two main components being restaurant and hotel expenses. The costs of these two items have increased much faster than air travel costs. The result is that the cost of the package, air ticket plus food plus accommodations, has gone up along with the general consumer price index.

During the fifties and most of the sixties there was a wide gap between the trend of disposable income and the trend of pleasure trip costs. This gap was the main propellent of the dynamic growth of pleasure travel during those two decades. This gap narrowed down at the end of the sixties and, in the case of the U.S. traveler, became negative in the early seventies. Since then, the trends in income and pleasure trip costs are running parallel. Which means that our industry has reached maturity.

In the United States, as of 1978, a further element interacted with the general economic downturn to plunge the airline industry into a deeper turmoil. Air transport deregulation was set in motion, first in the domestic and subsequently in the international field.

There are conflicting views as to the results of domestic air transport deregulation. Some evidence can be presented in either praise or condemnation; and this may be one of those cases where it remains a matter for individual judgment to decide whether the bottle must be considered half empty or half full. I for one am inclined to take the optimistic view, while admitting, however, that better timing and less abrupt approach might have softened some of the negative effects of domestic deregulations, while still preserving the positive ones.

On the other hand, international air transport deregulation was an unmitigated blunder. It stemmed from the unrealistic premise that the deregulation experience in the U.S. market, which is a free market, could automatically be translated into the international air transport market, which is not a free market and is not likely to become one in the foreseeable future. It proceeded through a number of grossly mistaken assumptions as to the reactions of foreign governments, and of airline management, both in the U.S. and abroad. As a grand design, it eventually aborted, but not without leaving some permanent scars.

The presence in the international market of many national operators, the existence of which is in many cases justified—and if need be financially guaranteed—by their respective governments, makes it impossible for free market forces to interplay in the orthodox fashion.

Excess of supply over demand will not by itself cause carriers to restrain the offer of services. The competitive squeeze will not chase all noneconomic operators out of the market. The government-backed operator will be kept alive by subsidies.

The international airline president who, for one reason or another—because his network is vast or because it is streamlined; because his operation enjoys economies of scale or because it is small and neat; because of his lower labour costs or his higher efficiency; because he receives subsidies or because of his favourable geographical position—whatever the reason, if he thinks that because of that reason he has a conclusive edge on his competitors and can use it indefinitely to enlarge his market share at their expense, he'd better think twice. Let him remember that not all of his competitors depend on profit. Let him remember that, in our trade, when you undercut another fellow there will always be a third fellow who undercuts you both. Let him remember that market shares can also be defended by means other than rate wars. Protracted attacks on the market share of a national airline will in the long run generate a revival of protectionism. We all publicly agree that protectionism is a bad thing; we all deep down know that it is a bad thing. But all of us will yield to protectionism when it appears to be the only practical alternative to fend off unbearable competitive pressure.

In our complex and multi-faceted international environment, intelligent self-restraint is required for the very purpose of keeping competition alive. This restraint will in the long run bring home more profit than all-out drives designed to plunder someone else's share of the market. Let all international airline presidents think twice before they adopt such boomerangs as suitable instruments in their battles for better load factors.

Given his record of performance in his forays outside the academic world, first as head of the C.A.B. and then as chief inflation fighter of the Carter Administration, I feel rather worried when I find myself in agreement with a pronouncement by my respected friend, Professor Alfred Kahn.

However, when he says—as he stated in a recent interview—that he could not expect that airline presidents would behave like a bunch of incompetent oligopolists, I must admit to a certain sympathy for his feelings. By and large, in the last few years, the industry did not provide many shining examples of business foresight and cool entrepreneurial judgment.

We failed to perceive that the years of explosive growth were over, that they would not automatically return after the first oil crisis. We had bought too many big planes too soon in the late sixties, and many of us continued to add excessive capacity to our fleets during the short recovery of the late seventies. Today the sickness of overcapacity is still with us and we still seem unable to cope intelligently with the problem. Blind to the abundant evidence of recent case-histories, some of us have developed a Pavlovian reaction whereby empty seats automatically command discounts, irrespective of any sane consideration for profit. The rest of us have little choice but to match an unprofitable fare with another unprofitable fare. The perverse spiral goes on, and so does the count of dead bodies left behind us in our seemingly endless trek—towards what end? The return to sanity, or subsidies for all?

Of course, we also scored a few good marks on the right side of the ledger. Through the machinery of IATA we offered the public the access to a world wide network of air services, with tickets that can be bought almost anywhere in the free world, and can be exchanged for other destinations or other airlines or partially or totally refunded. Also through IATA, we helped and are helping the developing nations to build their own air transport companies and infrastructures. Our safety record is impressive. We steadily increased our productivity. Over the years, we kept passing the benefits of new technology on to the consumer.

New technology will provide us with better, more comfortable and more efficient aircraft, and those improvements will result from our cooperation with the aircraft manufacturing industry. New technology, however, is becoming more and more expensive. When we bought the latest B-747's, we paid a per-seat cost which was, in constant dollars, about 50 percent higher than the cost per-seat of a DC-6 in 1950. New generation airplanes, scheduled to appear in the late eighties or early nineties, will be even more expensive.

To choose the right kind of airplane at the right time will be more important from now on than it was in the past. There will be more room for error, and the consequences of error will no longer be diluted into the mainstream of robust, adolescent industrial growth.

And along our path in the future years, a potential danger will always be lurking on the horizon. More mistakes by too many of us, in combination with more rash, ill conceived actions on the part of governments, may eventually bring air transport into the area of state-assisted welfare services, which would mean the end of the air industry as a free enterprise. Should this happen, there would be little glory for those who acted as catalysts for such an undesirable event while flying the colours of the free market.

I am afraid—please be polite and do not let me hear your sigh of relief—that it is extremely unlikely that I may be back here in the year 2000 to address you on matters pertaining to the subject of air transport industry. But if someone else will, which airlines will your speaker be talking about? Which, I do not know, but my guess is that there will be fewer of them.

And what kind of airplanes will they operate? More supersonic aircraft on the long haul, I would say, and back to the old propeller, with a few more blades, for the very short haul. And what kind of fuel will they burn? Well, kerosene. But it will be so darn expensive that there will be talk, maybe more than just talk, of alternate fuels for the next generation of airplanes. Liquid hydrogen seems a likely bet, atomic power does not. And someone, in the year 2000, will make himself unpopular with the pilot union while talking about pilotless aircraft.

And should your speaker of the year 2000 recall with you the prominent feature in the civil aviation field of 1984, I do hope he will say that 1984 was the year when the air transport industry took stock of the fact that it had reached maturity—and started behaving likewise.●

SOLVING THE NATION'S HEALTH CARE CRISIS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CONYERS. Mr. Speaker, the day of reckoning quickly approaches. The American people simply cannot continue to support a medical care system that consumes over one-twelfth of the gross national income and is growing at an astounding 15 percent a year. A National Health Service, as Sander Kelman suggests, may be the best way to alleviate this crushing burden while allowing quality medical care for all. Mr. Kelman, who is a visiting professor at Cornell University's Department of City and Regional Planning, prepared the following analysis, "Solving the Nation's Health Care Crisis," at the request of 60 House Members for the Institute for Policy Studies' recent budget study.

The Kelman article follows:

I. OVERVIEW

This year we will spend over $300 billion for medical care—10 percent of the nation's GNP—over $1,300 per capita for every man, woman and child in the country. Of this, almost 90 percent is payment for direct personal medical care services, coming to about $280 billion. And of that amount, 86 percent, or $240 billion pays for four major items of personal medical care expenditure: Hospitals, Physicians, Nursing homes and drugs. Federal outlays for Medicare and Medicaid alone will amount to almost $80 billion.

These figures are dramatic enough by themselves but their recent rates of increase are even more striking. During the decade of the 1970's total health care expenditures grew by 3½ times from $60 to over $200 billion. In that same period hospital expenditures grew by almost four times from $22 to $83 billion. In 1982 expenditures for hospital services rose by over 15 percent and medical facility construction expenditures rose by 20 percent over the previous year, when all other non-residential construction rose by less than 5 percent. These trends are not new; they have been steep since the late 1960's and accelerating since the late 1970's. In any other sector of the economy, of course, figures like this would be very welcome, but for medical care they merely represent an insupportable drain on wages, pensions, and taxes.

With the Federal Government facing a budgetary deficit of $200 billion, health care policy is poised at a very critical and potentially treacherous juncture. Aggregate, and particularly the Federal component of, spending for health care must be and ultimately will be brought under control. Fifteen years of regulatory controls have largely failed, and the HMO program has had far more limited results than expected in the early 1970's. More recently the conservative strategy of transforming the medical care sector into a competitive market place has apparently died. Only two approaches remain:

POLICY BY DEFAULT

The is the "policy" currently being followed, in which the basic structure and organization of providers are left in tact. Health care costs continue to rise at more than 12 percent per year, despite a complicated and feeble variety of cost-containment measures. Over time Federal and State governments and private employees refuse to continue paying for the increases through Medicare, Medicaid, and employee health insurance benefits. As a result the aggregate payments for medical care shrink in relation to the increases in costs. Providers—physicians, hospitals, and nursing homes—are caught in an internal struggle over dwindling money for medical care. The survivors of this struggle are those who manage to attract as patients, people with money or health insurance to pay—primarily the middle and upper classes and workers in stable industries.

In the end we would be left with the system which prevailed through 1965, prior to the introduction of Medicare and Medicaid.

FORMATION OF A NATIONAL HEALTH SERVICE

The only remaining alternative to default is for the federal government to capture all the funds currently being spent through Medicare, Medicaid, Blue Cross-Blue Shield, Commercial insurance, Worker's Compensation and out-of-pocket payments, develop a regionally coordinated fixed budgeting system, with which to pay providers for serving all residents in their designated geographic areas free-of-charge. Because the budgeting system would eliminate $50 billion of unnecessary expenditure at the outset and the present pressures for expansion, free, universal coverage could be provided for no more than Americans currently spend for medical care. This proposal is further developed below.

II. ANALYSIS

It is often alleged that the existence of third-party insurance is the fundamental cause of health care inflation. On the contrary, third parties are merely conduits for the money flows or fuel for the inflation; they do not cause the problem. If any single factor lies at the root of the problem, it is that the providers of medical care—400,000 private physicians, 6,000 general hospitals and 25,000 nursing homes—are organized as business enterprises. Like other business enterprises they are largely autonomous—planning and regulatory agencies notwithstanding—and work on a piecework incentive system. While the piecework system may be defensible in some other industries, it is atavistic in the medical care sector for the simple reason that clinical and economic judgments are continually in conflict with each other.

As a result the medical care system has a built-in mechanism for expansion: The more services provided, the more revenue received and the more expansion to be justified and undertaken in the future. The consequences of this are massive. Twenty-five percent of all hospital beds are unoccupied, yet the costs of maintaining even unoccupied beds is ⅔ the cost of occupied beds. Further the unnecessary construction of the past is not tapering off, as the Nation's hospital bed stock continues to climb faster than the population. The cost of this excess capacity is $2 billion annually.

As a result of an overinvestment in hospital capacity, there is a consequent overuse of hospitals in order to amortize the initial capital expenditure. Hospitalization rates for unionized workers holding fee-for-service insurance policies are currently double those for the same workers receiving their health care in most HMO's, or prepaid group practices.

Even more cynical is the practice of weekend admissions for the sole purpose of revenue generation, though no medical care is delivered until Monday. Estimates of this abuse also run to $2 billion annually.

Turning to the specific behavior of doctors the most visible abuse is the provision of apparently unnecessary surgery. When comparing surgical rates by procedure, between fee-for-service and salaried surgeons, the surgical rates for the most important procedures performed by fee-reimbursed surgeons are double those of salaried surgeons. It is well known that the amount of surgery done tends to vary with the number of surgeons: The more surgeons there are in an area, the more surgery that is practiced on its residents. The number of surgeons, in turn, depends on the number of medical

school graduates who want to become surgeons, though there is beginning to be some pressure applied here to curtail that expansion.

IV. THE PROPOSAL

The problem we face is a system of independent providers, receiving fee-for-service payment from multiple sources. So non-controversial is this observation that the previous three Administrations have recognized—at the Secretarial or Assistant Secretarial levels of HEW/HHS—that we will not get on top of the problem of hospital costs until the hospitals of this country are forced to operate from fixed, prospective budgets. Ideology and public statements to the contrary aside, even the present leadership of the Department of Health and Human Services is coming to recognize this harsh truth as well.

A National Health Service would substantially remedy all three of these defects. Providers would be integrated into a coordinated regional and local plan for the provision of needed medical care services to people residing in geographically designated service areas. Payment to providers would be prospective: fixed in advance and unrelated to the volume of services actually provided. Financing of the system would be through a single, Federal tax-based trust fund. As a consequence of these three features all residents of the United States could have entitlement to comprehensive health care coverage, free of charge, for less than what Americans currently spend for health care.

FINANCING AND ENTITLEMENT

All legal residents of the United States would be entitled to receive health and medical services provided through a National Health Service. These services would be free of charge and financed by Federal taxes paid into a separate Trust Fund (to insulate the Service from fluctuations in Congressional tax policy).

While this represents a tripling of Federal spending on health care, it actually represents a significant reduction in American spending on health care. The American people currently pay $300 billion for health care. They pay it out-of-pocket, in insurance premiums, in fringe benefits, in payroll, property and personal income taxes and indirectly in corporate taxes which appear as higher prices, lower wages and dividends. A Health Service would merely consolidate that same money in the form of appropriately set income and business taxes for the purpose of paying the medical care costs of U.S. residents.

Moreover, the formation of a Health Service in the United States is expected to reduce current expenditures on health by a minimum of $50 billion (at current spending rates). The net savings will therefore be substantial, even when account is taken of increased services provided to those currently uncovered by any health insurance.

One of the major savings resulting from the establishment of a National Health Service is the elimination of superfluous work known as claims filing. Under the present fee-for-service system, we spend approximately $20 billion to keep track of which individual patients receive what services from which of the more than 400,000 legally separate providers, and move the designated (billed) amounts of money from the insurance accounts of the patient to the provider. This activity, which consumes the entire overhead budgets of all health insurance companies and financial intermediaries, is one of the necessary, but terribly costly and unproductive expenses of maintaining a fee-for-service system. Under the proposed direct-budgeting system providers would be responsible for providing specific services to a geographically defined population. Because these latter receive services as a matter of residence, free of charge, there is no longer a need to bill, file, and collect for individual services. Nor is there this need in HMO's.

In short, a National Health Service does not universalize health insurance coverage; it eliminates the need for it.

PLANNING AND BUDGETING

In a Health Service fee-for-service payments are replaced by prospective payments—payments made to providers independent of the number and types of services they provide to patients. Prospective payments are usually based on a capitation formula calculated from the number of people served and the expected expenditures per capita. Expected per capita expenditures, in turn, are determined in the planning process, not from the experience in the piecework system.

The best example of a relatively comprehensive, prospectively-paid medical provider is an HMO or prepaid group practice. An HMO, for short, is a health care organization which combines the sale of health insurance with the provision of medical care into a single organization. HMO's employ doctors and other health workers, and, if large enough own their own hospitals. The income of HMO's is fixed in advance by the premium income (per capita payments) collected from subscribers (or their employers). Out of that income the costs of providing medical care to subscribers is paid. There is no billing, no fee-for-service. There is therefore much less incentive to do unnecessary work, or to accumulate unneeded equipment and service units. Less than 10 percent of Americans receive their medical care from HMO's—the Kaiser system in the West being the most prominent example.

We turn now to the manner in which providers, particularly physicians and hospitals are organized and receive payments. A number of different arrangements are possible.

The first and simplest arrangement to describe is that in which all hospitals, health centers and nursing homes and all physicians, nurses and other health care workers become part of a totally Federal system. This is analogous to the U.S. Postal Service and is the model embodied in the Health Service bill prepared and introduced into the House of Representatives by Congressman Ronald Dellums.

The second possibility, while retaining the public sector model, is that in which Health Service properties would be owned by the states, municipalities, or local health service districts and in which health professionals and other workers are employees of those jurisdictions. In this case the analogy is to the American public school system.

While a public sector model might be desirable in some respects, it is certainly not necessary to the creation of a National Health Service. Whatever the organizational arrangement, there would be a free choice of physician by patients and clinical practice would be conducted according to the latest and highest standards of biomedical science.

GOVERNANCE

A national system for the financing and provision of medical care must, of course, have an appropriate policymaking structure. At the national executive end the Health Service would probably be headed by a Cabinet-level Presidential appointee. At the regional and local levels appropriately constituted governing boards, similar or identical to those presently governing health planning agencies, are necessary to assure that local and regional concerns are met and that different groups with different health care needs or interests are adequately represented.

OTHER ISSUES

There are many other technical issues which would need to be addressed. They include the extensiveness of service benefits included in the Health Service (Mental health? Dentistry? Et cetera); the financing of medical education, the planning and placement of medical professionals by specialty and location; the treatment of the drug, medical equipment and supply industries as well as other proprietary interests; and the continued institutionalization of the aged sick in nursing homes.

SOME LIMITATIONS

While a Health Service will go a considerable distance in solving many of the most serious problems confronting our health care today, there are certain problems which inevitably will be created by it. While these problems are not fatal and should not compromise the desirability of a health service, they will prove troublesome and should not be overlooked.

UNDERFUNDING

In the United States the public financing of social services is generally underfinanced particularly where there is a strong redistributive intent. Furthermore the underfunding can result in undercapitalization of the system as in the case of the Nation's "infrastructure".

UNDERPROVISION

Apart from the problem of the level of funding, a prospective payment system may not just eliminate the wasteful incentives of fee-for-service, it may actually reverse them. In other words it is often charged and sometimes observed that when physicians, hospitals, or any public service workers are not paid on a piecework basis, they "have no incentive to produce" and consequently underprovide services.

COEXISTENCE WITH PRIVATE PRACTICE

The question always arises, "Will private medical practice be allowed alongside a National Health Service?" Clearly no one, appropriately credentialed, can be legally prohibited from seeing a patient, charging and receiving a private fee. Beyond the simple legal question, however, the same social attitudes which conduce to the underfunding of public services, can lead growing numbers of (usually affluent) people to turn to private system for their care. This leads to lower budgeting levels and further deterioration in the public system, a situation familiar to those working in public education. If a Health Service is to be erected, some separate private system will probably remain. Its scope should be minimized as much as possible by making the Service as attractive as possible to all residents.

ACCOUNTABILITY

Forming a health service results in a considerable centralization of the financing and allocation of health care resources. (Though the present system is far less centralized, it is hardly, ipso facto, more accountable.) As a result the budget and planning system is encumbered with a representative governing

structure to assure that decisions are responsive to the needs and desires of the people served. While the encumbrances are usually introduced in good faith, fifteen years of experience with community advisory boards suggests that they may or may not result in responsiveness and accountability.

V. SUMMARY AND RECOMMENDATION: ESTABLISHMENT OF A HOUSE SELECT COMMITTEE ON MEDICAL CARE

We are poised at a critical point. Medical costs—totaling 10 percent of GNP—continue to rise at more than 10 percent per year. Meanwhile, declining government revenues, high unemployment, and business retrenchments severely curtail the ability of governments, individuals, and businesses to maintain the levels of health insurance coverage previously held. The regulatory strategy was intended to directly suppress the rate of growth of expenditures, but has largely failed. The procompetition strategy was intended to reduce the growth of expenditures by introducing incentives to efficiency in the marketplace for medical care, but died of lack of political support before it was ever tried.

If the pressure for expansion is not soon extinguished, widespread access to payment for medical care will be lost. Already eligibility and benefits covered are being lost by Medicaid recipients. Copayments are rising sharply for Medicare beneficiaries, and employer contributions to the costs of employee health benefits are declining. An estimated 30–40 million people have no health insurance at all.

The underlying pressure for expansion of medical care spending is fee-for-service. Only a new system which dismantles the fee-for-service payment system can stabilize the financing of medical care. A National Health Service, through a system of prospective budgeting can accomplish this task. To become a reality a National Health Service requires extensive Congressional legislation. Prior to that action there must be careful Congressional study of the present difficulties in the medical care system, a study removed from the pressures of immediate jurisdictional responsibilities and legislative action. The proper vehicle for this type of study is the Select Committee. The proposed study appears to fit the criteria used in forming Select Committees:

1. The system of financing and payment for medical care is a "significant and major issue;"

2. "The present committee system," in part because of divided jurisdictions, "does not address the issue effectively;"

3. The study has a specific objective requiring a definite length of time to accomplish.

There are a number of specific, critical questions for the proposed House Select Committee to investigate:

1. The central role of fee-for-service through multiple payors in generating the rapidly rising costs of health care.

2. The response of medical providers to past attempts to control health care costs. The success of those attempts. Among the responses to be investigated here are attempts on the part of providers to influence: The enactment of statutes, the promulgation of regulations, the appropriations for implementation and the actual implementation itself.

3. The impact of rapidly rising costs on reduced eligibility for and benefits from insurance coverage.

4. The appropriateness of a National Health Service for solving the nation's health care crisis.●

GRENADA: AN INTERNATIONAL DILEMMA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BROWN of California. Mr. Speaker, some time has passed since our Nation awoke to the news that the United States had invaded Grenada. In the interim, we have received several reports of the events, many of them contradictory. I have received criticism questioning my low-key response to this military intervention into another country's affairs; others have urged that I more fully support the invasion. For this reason, I would like to share some of my thoughts on this action.

Let me say at the outset, had I been consulted, I would not have supported the decision to send troops into Grenada. I did not perceive that the American students were in imminent danger of being harmed. I do not feel that alternative avenues to dissolving the possible threat to the visiting Americans were fully explored. The introduction of our forces on the island exacerbated the situation. In essence, the arrival of the troops excalated tensions and the resulting danger to the students. The troops then restored order and safety from what had at that point developed into a very real threat.

I further feel that this type of intervention was avoidable. International pressure, negotiations, and increased relations with the previous regime all should have been explored more fully. Too often, our country will overlook simmering unrest, waiting for a catastrophe to occur before we react. Understandably, the time of crisis is not often the time for soft solutions. In the instance of Grenada, I feel that had we worked more closely with the Bishop regime, this takeover might have been averted.

The President's muscle-flexing reaction to the coup reflects his predisposition to react with military intervention in a lopsided way where a Communist threat is perceived. Similar disruptions of government, resulting in a military dictatorship which the President feels is compatible with our interests, such as the recent coup in Guatemala, have been overlooked. This contradiction in the involvement of the United States has created a disparity which is poor foreign policy and lacks an even-handed approach toward the use of U.S. forces.

One of the more recent rationalizations cited for the U.S. invasion of Grenada was the need to eliminate the increasing Cuban influence there, which the administration feels would have exploited Grenada to export terror to the rest of the Eastern Caribbean States. This has been a mind-set which the President has exhibited throughout his tenure. There is some justification for this view. However, the question is: Does this Cuban influence in Grenada constitute a serious threat to America? I do not perceive it.

I am uncomfortable that the rest of the world has viewed this invasion as a violation of international law, including existing treaties the United States has signed. If we cannot adhere to the agreements we have so strongly supported and helped engineer, we lose our platform for insisting on the cooperation and fulfillment of these guidelines by the rest of the international community. Do we truly feel the United States can denounce the invasion of Afghanistan, when we condone military pressure on our part which is in the U.S. interests? I see many of our international neighbors pointing out this discrepancy.

Yet my reactions today are based on a fait accompli. While the threat to the Americans may have been less than described and could have been avoided through foresight and prudence, the vision of the Iranian hostages has not been totally erased from our minds. The bloody method by which General Austin's Revolutionary Military Council secured control does not instill confidence in the stability and integrity of that government. The reactions and comments of the returned students signify that the perceived threat was a very strong one. I am thankful I have only to comment on these actions and consider future ones, without mourning victims of yet another terrorist attack on our citizens.

Today our mission in Grenada should be nearing completion. We have safely evacuated our citizens. The Organization of Eastern Caribbean States (OECS) has begun to set up an interim government. Our role should soon be over. As the President stated in his announcement of the invasion, we should be withdrawing "as quickly as possible, because * * * our purpose in being there is only * * * (to enable them) to take over their own affairs." I would like to remind the President of his statement and wholheartedly urge the expeditious withdrawal of our forces.

While our troops remain in Grenada, I urge their use to repair the damage caused by their rescue operation. In the future, I would strongly support a program of constructive economic assistance, a program we should have initiated years ago. As careful accounting would reveal, such assistance would have been far cheaper than the economic and political cost of our military intervention.●

A TRIBUTE TO THE FALLEN OF LEBANON AND GRENADA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of my colleagues an event of great significance and sadness to the citizens of the State of New Jersey and the United States, and to those who value freedom and democracy throughout the world. On Saturday, November 19, 1983, civilians and military personnel will assemble at the McGuire Air Force Base in Pemberton, N.J. to honor those members of the armed services from New Jersey who were killed in the service of their country in Lebanon and Grenada. These fine young men, to whom we all pay homage, are heroes in every sense of the word. They lost their lives while defending the peace, freedom, and democracy that they so dearly cherished. Although we mourn their tragic passing, the memories of these men should serve as a source of pride and honor to their parents, to New Jerseyites, and to all Americans. They served their country with courage and bravery; we could ask nothing more of them.

Mr. Speaker, I am sure that my colleagues will join me in expressing my deepest sorrow and regret to the parents, families, and friends of the following New Jersey residents who lost their lives while serving their country in Lebanon and Grenada:

Marine Pfc. William Burley, Linden, N.J.

Marine Lance Cpl. Sean Estler, Kendall Park, N.J.

Marine CWO Paul Innocenti III, Trenton, N.J.

Marine Lance Cpl. James Langon, Lakehurst, N.J.

Navy T1C. Stephen L. Morris, Plainfield, N.J.

Navy Senior Chief Engineer Robert R. Schanberger, Oakland, N.J.

Marine Lance Cpl. Thomas Stowe, Somerville, N.J.

Marine Lance Cpl. Jeffrey Young, Moorestown, N.J.●

IN SUPPORT OF BILL TO CLARIFY THE PROCESS FOR THE RELICENSING OF HYDROELECTRIC PROJECTS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MARTINEZ. Mr. Speaker, I am cosponsoring legislation which could save California consumers from a potential $100 million increase in their electric utility bills. This increase could occur if the current confusion surrounding the relicensing of hydroelectric projects is not settled equitably. Although the problem I address has an immediate effect upon residents of California, I respectfully submit it has adverse implications for electric power consumers throughout the Nation.

In the past 3 years, the Federal Regulatory Commission (FERC) has issued two conflicting hydroelectric relicensing decisions. The first decision recognized a municipal preference at the relicensing stage if the competing applications were equally well-adapted. *City of Bountiful, Utah, et al.,* Opinion No. 88, 11 FERC ¶ 61,337, *reh. den.,* Opinion No. 88-A, 12 FERC ¶ 61,179 (1980). In the second case, FERC reversed this policy and denied a municipal utility a preference in relicensing proceedings. *Pacific Power & Light Co., et al.,* Opinion 191 (October 6, 1983). Although the most recent FERC decision is a more equitable interpretation of the Federal Power Act, legislation is needed to prevent future conflicting rulings. Let me explain this problem.

Hydroelectric projects account for the annual production of 70 billion kilowatt hours of electricity. This is equivalent to 112 million barrels of crude oil and saves ratepayers the equivalent of $3.5 billion in fuel costs. In 1920, Congress recognized the need to prudently develop this inexpensive source of power. That year the Federal Water Power Act became law. Several years later Congress reenacted the legislation as the Federal Power Act.

Under the Federal Power Act, FERC is authorized to issue licenses for the use of navigable waterways in the development of hydroelectric power. These licenses can, and usually do, run for a period of 50 years. Section 7 of the act grants a preference to municipalities over investor-owned utilities in obtaining initial licenses for the hydropower projects.

Many of the licenses to build and operate the hydroplants will be expiring in the 1980's and the 1990's, and FERC will be conducting relicensing proceedings. However, because of the FERC's conflicting rulings, a state of uncertainty exists concerning municipal preference at the relicensing stage. Consequently, the existing licensees and, more importantly, their ratepayers may be deprived of these hydropower facilities.

Under section 7 and section 15 of the Federal Power Act, FERC may be unable to protect the California consumers who depend upon the current operators of our State's hydropower facilities. If a municipality applies for the hydropower license in the relicensing proceeding and the municipality presents an equally well adapted plan, FERC may be forced to exercise a preference in favor of the State or municipality. This tie-breaker factor is important in the initial licensing proceeding and during a relicensing proceeding where the current license holder is found to be unqualified. However, the blind preference concept is an outmoded and unworkable concept in the vast majority of the relicensing cases that will be confronting FERC over the next 10 to 15 years.

The electric utility industry has changed dramatically during the last 50 years. Once unrestrained, investor-owned utilities are now tightly regulated on both the Federal and State level. This regulation has created a highly efficient system of power which is operated in the public interest. For example, the hydro facilities at issue are now an integral part of functioning electric systems in California and around the country. Their loss will have a tremendous adverse effect on systemwide coordination. Moreover, the large number of customers served by investor-owned utilities permits them to distribute the benefits of hydroelectric power among their larger number of customers, thus serving the greater public good.

I am particularly concerned about the impact this uncertainty may have upon the utility rates of California consumers. If the existing projects are relicensed to municipalities, the rates to customers of the investor-owned utilities will dramatically increase since the cost of all fuels used to generate electricity is passed directly through to the ratepayers. Utilities with existing hydro projects are saving their customers billions of dollars annually in fuel costs because there is no fuel associated with the generation of hydroelectric power. Consequently, if existing licenses are not reissued to the present licensee, that licensee's ratepayers will pay significantly higher electric rates because the utility will no longer have the hydro cost component to roll into its rates.

Without these hydro projects, utility rates could skyrocket for everyone who depends upon investor-owned utilities and, there is no doubt that investor-owned utilities serve more customers than municipalities. In fact, investor-owned utilities serve almost 80 percent of all electric customers in the United States.

In addition, the existing ratepayers of the investor-owned utilities will not be equitably compensated by the municipalities. Should it be granted preference in a relicensing proceeding, the municipality will not be required to pay just compensation to the investor-owned utility. Nor will it be required to put the ratepayers in the position in which they would have been had the project been relicensed to the current owner/operator. The bottom line is that electric consumers will pay

dearly because the investor-owned utility will lose low-cost hydro production through no fault of its own.

Finally, municipalities will not pay the substantial taxes that the investor-owned utilities have paid and currently do pay. For this reason, municipalities will turn to other sources of tax revenue. Thus, ratepayers will be stuck with both higher rates and higher taxes.

Mr. Speaker, in the absence of legislative relief, FERC may return to a municipal relicensing preference interpretation of the Federal Power Act. Should this occur, FERC would again act contrary to its goal of protecting the public interest and the consumer. Thus, I feel it is incumbent on Congress to clarify the law.

I am supporting a bill that I believe will address the concerns I have outlined. While I firmly believe that municipalities should be granted preference in initial licensing proceedings, I do not think that the record merits granting a blanket preference to States and municipalities on relicensing.

Mr. Speaker, I hope my colleagues will consider this issue and join with me in sponsoring this legislation to clarify the hydropower relicensing rules at FERC.●

THE NRC'S FAILURE TO PROTECT THE PUBLIC

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. OTTINGER. Mr. Speaker, the Nuclear Regulatory Commission is charged with the responsibility of regulating the commercial nuclear industry in order to protect the health and safety of the American people. It is not the Commission's responsibility to shield the nuclear industry from the consequences of its mistakes.

The American people could certainly perceive this to be the case, because of the Commission having taken over 4 years to pursue allegations of wrongdoing by the operations of Three Mile Island. The NRC did not vigorously discharge its responsibility to investigate the report of criminal mismanagement.

Nonetheless, it is reassuring to note that the Justice Department, on the eve of the expiration of the statute of limitations, has returned indictments against the operators of TMI. This will allow the truth of the allegations to finally come out in a court of law.

The Three Mile Island accident was in 1979. Now, in late 1983 charges have finally been brought against the company in connection with the alleged falsification of vital safety information. This was reported to the NRC at the time of the original investigation—almost 5 years ago. This delay is inexcusable. The American people have the right to be protected from mismanagement within the nuclear industry. It is the NRC's job to see to it that they are.

These points were recently made in an editorial in the Philadelphia Inquirer. I would like to commend this November 9, 1983, article to my colleagues attention:

REGULATORS MUST SHARE IN THE INDICTMENT OF TMI

In March 1980, a year after the accident at Three Mile Island, a control-room operator named Harold Hartman went public. He told a television audience that leak-rate records routinely had been altered or tossed in the trash so the plant would not have to shut down. He called the place a "lemon," a "'59 Rambler." He clearly thought—as he had told investigators a year earlier—that things at TMI were not on the up and up.

Had he not gone public, there is a question whether the agencies charged with protecting the public from nuclear accidents would have acted at all. They resisted actively and passively. "Overdue," finally, is perhaps the most generous assessment of the indictments handed down this week against Metropolitan Edison, the subsidiary that was running TMI when it suffered a crippling accident in 1979.

Presented Mr. Hartman's smoking gun, both the Nuclear Regulatory Commission (whose own staff said it had independently substantiated the charges) and the Justice Department backed off like frightened crabs. For close to four years, the commission and the Justice Department bickered over whose feet were dragging most, over who was finally responsible.

While the enforcers squabbled and demurred, General Public Utilities Corp., the parent of Metropolitan Edison (and its successor, GPU Nuclear Corp.) was up to its usual smoke-blowing and evasion. Told by its own consultants that key elements of Mr. Hartman's allegations checked out, the company kept the information to itself until it slipped out during legal proceedings three years later.

There is more here than the issue—reprehensible as it is—of toying with public safety for corporate profit. There is a regulatory apparatus laid bare in all its self-imposed impotence. There is a corporate style on display that taunts—even as GPU insists it can be trusted to restart the undamaged of the two reactors at TMI—"catch me if you can."

Finally, for those who would champion nuclear power, there is the unwelcome realization that—despite refined technology, despite tough inspection codes—there will be cornercutting, bypassing and plain ordinary cheating as long as mortals are at the controls.

It is disappointing that no individuals are charged with systematically destroying records and hiding information from the NRC. But names will surely surface as the proceedings continue. And in charging the company itself with "criminal conduct," the Justice Department has put GPU's management—not simply "a few bad apples"—on trial.

There are those, NRC Commissioner Victor Gilinsky chief among them, who long ago lost confidence in GPU's top brass. Those officers include William G. Kuhns, GPU chairman of the board; Herman Dieckcamp, company president, and Robert C. Arnold, president of the GPU nuclear subsidiary. At long last, how competently—how honestly—they performed, both before the unprecedented accident and after it, might get a thorough going over in a court of law.

Would that it is a speedy trial. Judgments about whether the corporation can be trusted to oversee the restart and cleanup at TMI will be influenced by the verdict. In the case of the reluctant Justice Department and the buck-passing NRC, of course, there will be no formal proceeding. But they too stand indicted—charged with sleeping at the wheel and, worse, leaving the scene of an accident.●

ACID RAIN CONTROL PROGRAM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. CONTE. Mr. Speaker, I rise today to introduce, along with the gentleman from New Hampshire (Mr. D'AMOURS) and Members from the New England delegation, legislation providing for a comprehensive, national acid rain control program. This legislation is the first introduced in the House of Representatives that calls for a 50-percent reduction in sulfur dioxide emissions in the Eastern 31 States. It addresses a serious nationwide problem that is almost out of control.

Let me put this problem in concrete terms. Acid rain is an environmental timebomb ready to explode. The fuse is long and the timer is silent, but the explosion will be devastating and far-reaching. The result—irreversible damage to the environment.

Already in my own State of Massachusetts, over 70 bodies of water tested in a recent survey were acidified—or what is commonly called "dead." These lakes, streams, and reservoirs experience a severe loss of fish and other aquatic life. The survey also classified over 40 percent of these waterways as endangered or worse. In total, 82 percent of the lakes, reservoirs, and streams tested in Massachusetts were sensitive to acid rain.

The effects, however, are not confined to aquatic damage. Acid rain affects human health conditions, forest and agriculture resources, visibility, and physical structures. The damage is not confined to State boundaries. In the South, many are extremely sensitive to acid rain. In the Midwest, high pollutant concentrations can cause growth reductions in both agricultural crops and forests. In the West, visibility is affected by auto emissions and industrial process emitters.

In other words, acid rain is a national problem requiring a national solution. With this in mind, the New England congressional caucus acid rain

task force—cochaired by me and NORM D'AMOURS along with ED MARKEY—developed a comprehensive, national acid rain control program. Using the basic framework of the Waxman/Sikorski/Gregg bill, we designed this legislation with two basic principles in mind.

First, we mandate a 50-percent reduction in sulfur dioxide emissions, 12 million tons, in the Eastern 31 States. This reduction—recommended by the National Academy of Sciences—was cited overwhelmingly by New Englanders as the highest priority for an acid rain control program. Almost 300 New England environmental groups, major corporations, small businesses, consumer and elderly groups were surveyed by the task force this summer. A copy of the results is included in the press packet.

The second principle reflects our overall approach. As a region, we wanted to make a good faith offer based on regional equity and fairness. Recent congressional inaction has demonstrated that political posturing on acid rain has accomplished nothing. It is time to act in a bipartisan way and on a national level.

I am convinced that we developed a balanced program. We are sensitive to the employment effects in coal producing States. We are aware of the regional costs of reducing sulfur dioxide emissions, and we are concerned about the impact of a cost-sharing program on consumers. At the same time, however, we expect a reduction in emissions significant enough to make a difference.

The research is complete and the problem has been identified. It is time to defuse the acid rain timebomb.●

CENTRAL AMERICA FREEDOM ALLIANCE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BLILEY. Mr. Speaker, on Monday of this week the Central America Freedom Alliance (CAFA) held a rally to coincide with the opening session of the meeting of the Organization of American States. The purpose of the rally was to remind OAS members of the broken promises of the Sandinista government of Nicaragua.

In brief, the Sandinistas promised a free press, freedom of religion, and free elections. On each count they have failed miserably. They censor the press, they arrest priests and heckle the pope, and elections are nowhere in sight.

I had planned to address the CAFA rally but was unable to do so because of scheduling conflicts. I do believe that it is appropriate to bring to the attention of my colleagues the fine work CAFA is doing in pointing out the broken promises of the Sandinistas.

I ask that the remarks I prepared for the rally be printed in the RECORD at this point:

Thank you very much for inviting me here today. The very presence of all of you is the perfect counterpoint to the massive amount of false and misleading information being printed and reported about Central America. In a democracy we can meet to discuss policy and agree or disagree with our government—can they do this in Nicaragua? In a democracy we can read and hear different points of view—can they do this in Nicaragua where the Archbishop has been banned from the radio, or in Cuba? In a democracy we can use our right to vote to throw out our political leaders if we don't agree with them—can they do this in the revolutionary states of Cuba and Nicaragua and the Grenada of three weeks ago?

We are here today not to support Central America or Ronald Reagan or the leaders of El Salvador—we are here today to honor and support freedom, and democracy, and the people of the world who want peace and freedom. I have always been puzzled by the incredible way in which some people have the ability to look three ways at the same time. These people insist that our nation has no right to help people who want to be free and to rule their own future at the same time that they cannot see 24 North Koreans in Grenada or 5,000 Cubans in Nicaragua. These people criticize the progress of reforms by the government of El Salvador which was elected in freedom last year by a vote of 80 percent of the voters while they say that Nicaragua should be excused for rejecting any elections at all after that was one of the Sandanistas' main promises during the revolution. These people say that the United States spending $20 million to give land to 40,000 farmers in El Salvador over the past year is not good enough when in Nicaragua and Cuba the government owns all of the land. These people can see the Bishops of El Salvador criticize wrongdoing in their country, but they cannot see priests being beaten and forced out of the country in Nicaragua while the Pope is taunted and shouted at by the politbureau. I wonder just what kind of eyeglasses I need to be able to see three ways at once like these communist apologists?

The United States is on the right side in Central America. We are supporting the people of El Salvador. We are supporting the people of Nicaragua. We are supporting the people of Grenada. The Soviet Union is supporting the person of Fidel Castro. The Soviet Union is supporting the person of Daniel Ortega. The Soviet Union gave the guns to General Hudson Austin who killed Maurice Bishop. The United States is supporting human rights. These rights include the right to vote, the right to dissent, the right to worship as you want, the right to choose your own politics and most importantly the right to live. I would like to know how the Miskito Indians feel about the human rights policies of the Sandinista council. I would like to know how Maurice Bishop felt about human rights as he stood against the wall looking down the barrels of the Russian guns that killed him. I would like to know how the woman in El Salvador felt about the human rights of the guerrillas as they shot her while she was standing in line to vote on the future of her country. I would like to know all of these things but I'm not sure just where I will be able to read or listen to them.

Freedom is the watchword of America. Freedom needs to be the watchword of American policy. There are 237 Americans who are at peace with God now because they were trying to create freedom for the people of Lebanon. There are 18 Americans dead because they were giving back freedom to the people of Grenada. These Americans knew what freedom is. They knew what they were there for. And now they know what the ultimate loss of freedom means. I believe that these Americans are some of the greatest heros that this nation has ever had because their sacrifice for freedom can lead us to better understand for ourselves what freedom is. These Americans can lead us to remember how we got our freedom in the first place 207 years ago. These Americans can lose their physical freedom because of the bombs and bullets of the enemies of freedom—but their spirit can never die because it is in each one of us. These Americans are the soul of America. They are the soul of freedom. They are the soul of every person in the world who fights against tyranny and totalitarian communism. I will never forget these Americans and I don't think that you will either. Let us honor America by living up to our duty to protect freedom wherever it springs up in the world and let us thank God for giving us the will to help our brothers in peace and in freedom.●

ERA—BUT NOT THIS WAY

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. McGRATH. Mr. Speaker, I strongly support passage of an equal rights amendment. Enactment of the ERA by the Congress and ratification by the States is essential to provide a permanent and comprehensive national standard for redress of sexual discrimination.

The exact language of this amendment was sent to the States in 1972 and after 10 years was not ratified. Those who consider the 1972 language sacrosanct, and not worthy of open debate, are ignoring the very reasons why the amendment failed ratification.

It is considered risky business to vote against key legislation because of the procedure under which it is considered. I am certain that 2 weeks from now—and certainly next year—no one will care that the equal rights amendment was defeated under suspension of the rules. People will only remember that it was defeated, and those who vote against it, this Member included, will be accountable only for the substance of their votes.

But the simple fact of the matter is, that in a democratic society such as ours, procedures are important. Our Constitution is the most sacred document we have, and by considering

amendments to that document, without offering Members the opportunity for full and open debate, we are cheapening the Constitution.

The equal rights amendment, indeed, any proposed constitutional amendment, is serious business. We should encourage debate, not stifle it. A single sentence which could conceivably alter the lives of millions of Americans is worth more than 40 minutes consideration by the House of Representatives.

House Joint Resolution 1 has come to the floor of the House without the benefit of a report by the Committee on the Judiciary. The debate we have heard during the 40 minutes which has been allowed, has not addressed the substance of the concerns of many Members about the language of the proposed amendment. The procedure does not allow time for such discussion. Without a committee report to go on, and without any discussion of some of the troubling questions, which perhaps killed the original ERA in the first place, we are not exactly passing along much of a legislative history with which the courts and others can evaluate our intent.

Questions that deserve debate, include: (A) The impact of ERA on the tax-exempt status of churches and religious schools that differentiate between the sexes on the basis of their religious doctrines; (B) veteran's preference laws; (C) Federal funding for abortion; and (D) the status of women in relation to the draft and combat duty. Without a thorough discussion of these questions to establish a legislative history, I cannot support this proposed amendment to the Constitution.

I question the leadership's decision to address the ERA under suspension of the rules, and can only conclude that they are more interested in making a campaign issue, than in assuring equal rights for women. Clearly, with 12 cosponsors of House Joint Resolution 1 opposing it today, we can be certain that the fundamental question has been set aside.

Under an open rule the first amendment this body could have considered would have effectively separated the abortion issue from the ERA issue. It would simply state that "Nothing in the Article (ERA) shall be construed to grant or secure any right relating to abortion or the funding thereof." This abortion neutral amendment, would assure that no court challenge could declare the Hyde amendment unconstitutional.

Another important question is the status of women with regard to combat duty. An amendment was to be offered that would have prevented the Supreme Court from striking as unconstitutional, current law barring women from assignment to combat duties. It simply states that "This Article (ERA) shall not be construed to require the assignment of women to military combat." Four constitutional experts—Brown, Emerson, Falk, and Freedman—have asserted that the ERA would affect the military and that "women will serve in all kinds of military units and they will be eligible for combat duty."

The protection of the veterans preference is yet another significant issue that is being denied consideration. An amendment to protect veterans' preference from being declared unconstitutional was to be offered, and states that "This Article (ERA) shall not be construed to affect any benefit or preference given by the United States or any State to our veterans." As already stated by the women's defense fund, "veterans preference programs, by which veterans are given strict hiring preference in civil service positions, were in violation of the Constitution because more men than women are veterans." The threat of invalidation of the veteran's preference is therefore established, and the need for clarification in this area, is a paramount interest of our Nation's veterans.

Also of considerable importance is the need to clarify the effect of the ERA on the tax-exempt status of schools, seminaries, and churches which treat men and women differently. Notably, those religious institutions which do not ordain women, face the risk of losing their tax-exempt status for their schools or seminaries. The House is being denied the opportunity to clarify this issue by considering an amendment to state, that "nothing in this article (ERA) shall be construed to relate to private or parochial educational institutions."

In hearings before the Senate Subcommittee on the Constitution, Prof. Jeremy Rabkin, the director of the program on "Public Policy and the Courts" at Cornell University, testified that—

> It seems inescapable that an institution like Yeshiva University, which does not have coeducational programs, must still forfeit its tax exemption if it maintains separate seating for men and women in religious services.

Likewise, a theological school or seminary faces a similar risk on the basis of discrimination.

Mr. Chairman, I would like to reemphasize my support for equal rights for women. My record clearly indicates such. I am dismayed that as a supporter of equal rights, my hands have been tied by the procedures of this body.

Among the major legislative proposals I have cosponsored on behalf of women are:

H.R. 3554—The Women's Economic Parity Act, to correct longstanding inequities in the pension and tax laws affecting women;

H.R. 1527—To eliminate gender-based discrimination in the United States Code;

H.R. 2126—To reform taxes on behalf of female heads of households;

H.R. 2127—To establish a displaced homemakers tax credit;

H.R. 3978—To encourage use of public school facilities before and after school hours for the care of school age children;

H.R. 1991—Tax exempt status for dependent care;

These are actions we can and should take now. We do not have to wait for an equal rights amendment to take steps which will promote the legal and economic parity of women.

In addition, I am a strong supporter of current initiatives which insure equality for women:

First. Title IX which prohibits discrimination in education on the basis of sex.

Second. Title VII which prohibits sex discrimination with regard to hiring, job classification, promotion, compensation, fringe benefits, and discharge.

Third. Equal Pay Act which prohibits discrimination on the basis of sex in the payment of wages for equal work performed.

Fourth. Manpower Act which prohibits sex discrimination on the basis of sex with regard to Federal jobs programs.

Fifth. Revenue Acts which allow the deduction of child care expenses, IRA's for nonworking spouses, and elimination of estate tax for widows.

Sixth. Title VIII which prohibits discrimination on the basis of sex in rentals and home selling.

Seventh. Equal Credit Opportunity Act which forbids sex based discrimination in any aspect of credit transactions.

Eighth. Housing and Community Development Act which prohibits sex-based discrimination in housing and mortgage lending.

Ninth. Pregnancy Disability Act which requires employers to include coverage of maternal benefits within the scope of health insurance programs.

Tenth. Executive Order 11246 which prohibits sex based discrimination on the part of governmental contractors.

As to the future of the ERA itself, I am joining Congressman Fish as a cosponsor of his resolution to bring ERA to the floor, under an open rule. If the ERA as currently drafted enjoys the support of a majority of my colleagues, it will stand a full and free debate. But my point is, that anything less than a full debate, besides being procedurally unfair, is an affront to our Constitution.●

EQUAL RIGHTS AMENDMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. KEMP. Mr. Speaker, the U.S. Constitution was written nearly 200 years ago by our Founding Fathers at a time when men undeniably dominated our economy and culture. It was a superb document, but not without its flaws: The injustice of slavery was permitted; many people, indeed all women, were denied even the basic right to vote. Much has changed since then, and the beauty of our Constitution is that through our democratic process we have been able to strengthen it to reflect the increasing maturity of American democracy and the goal of equal rights and justice for all.

I supported the equal rights amendment in 1972. I will support an equal rights amendment again provided it is modified to insure the protection of the rights of the unborn, the prevention of a mandatory draft for women and the preservation of the fundamental freedoms of religious worship. I believe that women deserve and require the full protection of their rights under the Constitution, as do all people. We must not close our eyes to the reality of discrimination that exists and precludes women from the full protection of the law. We need to change laws and remove inequities.

But the equal rights amendment we have before us today is under suspension of the rules allowing only 40 minutes of debates with no amendments. It was drafted by people very much like those who wrote our original Constitution—men and women whose work we have the responsibility to subject to rigorous debates and scrutiny. The ERA we have before us should be amended, as should our Constitution, to reflect the need to defend life and freedom that is the Jeffersonian ideal.

A provision preventing the Federal funding of abortion has been passed by the democratic institutions of this Nation many times and its status needs to be protected in a way to prevent a judicial interpretation that would invalidate these efforts. I believe that the ERA as it is currently written requires the draft of women for combat positions in the military; an amendment is needed to exempt women from mandatory military service in combat positions. The preference we have provided for our honored veterans in seeking Federal employment needs to be preserved in the ERA. The freedom of religious worship we have revered for so long must not be compromised by an equal rights amendment that makes no provisions for those who, through both doctrinal teaching and tradition, have differentiated between the sexes as an article of faith. The status of the Roman Catholic Church, which does not believe in the ordination of women priests, or the Jewish Orthodox Church, which maintains separate seating for men and women during services must not be compromised or endangered.

I think these clarifications are desired by the American people. What is more, they are imperative to making an amendment guaranteeing equal rights for women a part of our Constitution. Make no mistake about it: The real losers today are the American women, who are being denied an equal rights amendment by those who refuse to allow the issue to be fully debated and amendments to be offered. The integrity of our Constitution and no less than the equal rights of women are at stake. I think my colleagues should reject this denial of the rights of a legislative minority in an attempt to insure passage of House Joint Resolution 1. It should be defeated under the suspension of the rules and brought up again when it can be debated in full and amended to reflect the wishes of the American people and the legislative will of Congress. I have cosponsored legislation introduced by Mr. FISH, a long time supporter of the ERA, that will allow the House to give the ERA the attention it deserves through 4 hours of debate and an open rule. Let us get on with the job of insuring all people equal rights.●

ARE DEMOCRATS LIBERALS?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MICHEL. Mr. Speaker, Ben Wattenburg, coeditor of the magazine, Public Opinion, and a prominent member of the Democratic Party, has written an article outlining the findings of a poll taken among members of the Democratic Party.

Among these findings are the following facts:

Only 29 percent of all Democrats think of themselves as liberal.

Almost as many—26 percent—think of themselves as conservative.

Two-thirds of the Democrats polled favor a balanced budget amendment.

More than 55 percent of Democrats say "we should be more forceful with the Soviet Union even if it increases the risk of war."

That does not sound like the kind of thing we hear every day from a majority of Democrats in the House. Could it be that millions of Democrats are not having their true views represented by those they have elected? Could it be that the ultraliberals and leftwing activists who play such an important role among Democrats in the House do not represent the true wishes of most Democrats?

I do not know the answer to those questions because I am not a Democrat. But if I were a Democrat, I would certainly be asking why so many prominent Democrats in the House—even among the leadership—do not seem to be representing the views of millions and millions of their fellow Democrats.

At this time, I wish to insert in the RECORD, "Illiberal Democrats" by Ben Wattenburg, from the Baltimore Sun, November 16, 1982.

ILLIBERAL DEMOCRATS

WASHINGTON.—A new collection of polling data about Democrats reminds us of things we know about the species—and something we often forget.

Thus, it is in our folk consciousness that Democrats, when compared to Republicans are somewhat less educated; less likely to be Protestants and more likely to be Catholics; more likely to be unskilled workers; less likely to be rich and more likely to be poor. Democrats are, just as it is always said, the "little guys" in America.

What we forget and what is not often said, is that Democrats are not typically "liberals," at least not in the way the word is now used.

The relevant data were gathered from many survey research sources and appear in the new issue of the American Enterprise Institute's Public Opinion magazine, (of which I am co-editor).

Consider political labels first. According to the latest poll taken in 1983 by the National Opinion Research Center, only 29 percent of all Democrats think of themselves as "liberal." Almost as many (26 percent) regard themselves as "conservative." And 45 percent regard themselves as "moderate." Other polls confirm this general apportionment.

It's not only the labels, either. Most Democrats, on most issues, don't think like garden variety liberals. Almost nine out of 10 Democrats (88 percent) believe "courts are not harsh enough with criminals."

About eight in 10 (79 percent) favor voluntary prayer in school.

About seven out of 10 (71 percent) favor the death penalty and 70 percent think the federal income tax is too high.

Two-thirds (66 percent) favor a balanced budget amendment.

And get this one: More than 55 percent of the Democrats say "we should be more forceful with the Soviet Union even if it increases the risk of war."

The picture is not quite so clear on other issues. Democrats, like most Americans, are ambivalent about government. Only one-third (34 percent) of Democrats believe the government "should do more to solve the country's problems," and almost half (43 percent) say "we're spending too much on welfare."

But, at the same time, the majority of Democrats say government should spend more on education (79 percent), more on health (75 percent) and even pay people's medical bills (57 percent).

On some issues, of course, Democrats are quite consistent with the political stereotype: liberal. Nine out of 10 (88 percent) think we should stay in the U.N. and two

thirds (65 percent) favor the Equal Rights Amendment.

All in all, it's an interesting portrait of generally moderate Americans. Democrats are a tad more liberal than average, but only a tad. They want an involved government, but are nervous about it. They want a strong America, but they also want to participate in the peaceful diplomacy of the world.

In these views and most others, they are not very different from the rest of America. On every issue cited above, the Democrats are within 10 percentage points of the national average. The typical variance is only about 5 percent.

Questions: If Democrats are moderates, why do most of their presidential candidates run as liberals? Why are their most pressworthy legislators liberals? Why does the press always regard the Democratic Party as liberal?

There are several possible answers to these quesitons.

The liberals organize. They are the activists. They are believed to dominate the nomination process (although there is an argument about that).

There is some truth to all of that. There is however, another central possibility to consider. Perhaps many Democratic candidates are simply losing touch with their voters. They think Democrats can win by putting together small voting groups—the squeaky wheels of American politics. The press simply is reflecting the views of out-of-touch politicians.

That reason may explain why Democrats have lost the White House and lost the Senate. Until and unless they understand that, they may not be able to regain either one.●

A CONGRESSIONAL SALUTE TO ED DEAL, OUTGOING PRESIDENT OF THE LONG BEACH DISTRICT BOARD OF REALTORS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ANDERSON. Mr. Speaker, on December 9 the Long Beach District Board of Realtors will hold its 79th annual installation dinner dance at the new Hyatt Regency-Long Beach to honor its officers and directors. I take this opportunity to congratulate and commend Ed Deal, 1983 president of the board, on a job well done.

A Georgia native and veteran of the Navy, Ed has been actively involved in the building trades and real estate industries in and around the Long Beach area for many years. During this time, Ed has made the effort to learn more about the city of Long Beach and its residents. Today, he is one of the city's most respected citizens.

Ed's list of achievements is many. In addition to his position as this year's president of the board, Ed has held the following positions: vice president, Long Beach Area Chamber of Commerce (1981); president, Long Beach District Board of Realtors (1981); president, Long Beach District Board of Realtors (1977); president, North Long Beach Real Estate Club (1972); president, Long Beach Traders Club (1975); director, California Association of Realtors (1977-present); director, National Association of Realtors (1982-83); chairman of land use, political affairs, local governmental relations, HUD/VA liaison and condominium committees for the 22d District, California Association of Realtors; member, rent control committee, National Association of Realtors (2 years); member, apartment association arbitration panel, Long Beach area; member, Dr. Malcolm Todd's forward Long Beach group; member, community development advisory commission, city of Long Beach; member, project area committee for redevelopment committee, city of Long Beach; former member, local coastal program advisory committee for LCP; former chairman, committee which defeated transfer tax and sewer tax in Long Beach; former chairman, Rent Control Committee which defeated rent control twice in Long Beach; past president, Toastmasters Club; and, president (5 times), the Barbershop Quartet Society in Long Beach.

Needless to say, Mr. Speaker, Ed has worked diligently over the years in helping to make Long Beach a better place to live and work.

Ed's reputation for honesty, devotion, and long, hard hours of work over the years—particularly during the redevelopment of Long Beach—only served to increase the respect men and women have for him. In short, his involvement in the community and dedication to his country is a model for all to follow.

My wife, Lee, joins me in offering our sincerest congratulations to Ed Deal on his many accomplishments. To Ed and his wife, Thelma, and their children, Gary, Larry, Eddie, Jr., and Nancy, we send our best wishes for continued success, good fortune, and happiness in the future.●

PERSONAL EXPLANATION

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. DURBIN. Mr. Speaker, yesterday I was unavoidably detained and was unable to be present when the yeas and nays were recorded for eight suspensions.

Had I been present, I would have voted "yea" on the following:

H.R. 3635.—Child Protection Act of 1983.

H.R. 3729.—Refugee Assistance Extension Act of 1983.

S. 376.—Debt Collection Act of 1982 Amendment.

H.R. 1095.—369th Veterans' Association.

H.R. 29.—Polish Legion of American Veterans, U.S.A.

H.R. 3249.—National Academy of Public Administration.

H. Con. Res. 190.—Satellite-directed navigational guidance for aircraft.

H. Con. Res. 168.—Transfer of civil meteorological satellites.●

NEW HUMAN AND CIVIL RIGHTS DILEMMA IN GRENADA

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. STOKES. Mr. Speaker, as one of the members of the U.S. congressional delegation which has just returned from a factfinding mission to Grenada, there are some troubling aspects of our continued presence in that nation. In the briefings which our delegation received from American military personnel, we were informed of what is referred to as a mopping up process. In this so-called process, Grenadians are being detained, interrogated, and subjected to illegal search and seizure.

Our Government has contended that our invasion of this country was for the purpose of rescuing the medical students at the True Blue and Grand Anse campuses who were in danger. The invasion occurred on October 25, 1983, and American troops are still occupying this island. I am distressed to learn some of the actions of our Government pursuant to the orders of Governor General, Sir Paul Scoon. If Sir Paul Scoon, under the color of law, and the bayonets of American soldiers is now violating the human and civil rights of Grenadians, Americans should be asking some very hard questions of this administration.

Mr. Speaker, I would like, at this time, to share two newspaper articles which appeared in the Los Angeles Times and the Cleveland Plain Dealer on the situation in Grenada. I ask that the articles be included in the RECORD.

[From the Los Angeles Times, Nov. 13, 1983]

CRITIC OF AMERICAN INVASION DETAINED—U.S. TROOPS ACT ON REQUEST OF GRENADA'S GOVERNOR GENERAL

(By Rone Tempest)

ST. GEORGE'S, GRENADA.—At the request of Sir Paul Scoon, Grenada's governor general, American officers detained an outspoken critic of the U.S. invasion, interrogating and holding him overnight, the commander of U.S. forces on the island said Saturday.

Kendrick Radix was interrogated for several hours Friday evening and was placed overnight in a makeshift cell, constructed from a wooden packing crate, at the American-run prisoner-of-war camp near the

Point Salines Airport, before his release Saturday morning.

Radix was ambassador to the United States and United Nations in the government of Grenadian Prime Minister Maurice Bishop, whose assassination helped trigger the U.S.-led invasion. He, along with Bishop, was also a founding member of the Marxist-oriented New Jewel Movement, which ruled this Caribbean nation since 1979.

SPREADING BAD WILL

The official U.S. explanation for Radix's detention is that he "had been cited by some people in the local populace as an instigator in spreading bad will among the people," Army Capt. George Wright said.

Maj. Gen. Jack Farris, commander of U.S. forces on the island, said it was "the governor general himself who asked that Radix be picked up."

At the same time that Radix was being interrogated, several dozen "internationalists"—foreign workers who came to Grenada to aid its Marxist government—were told to leave the island within 48 hours.

Among those ordered out was Michelle Gibbs, 37, an American teacher and artist from Detroit. Gibbs, a graduate of USC and Brown University, came to Grenada in 1980.

Also ordered out was Dr. Regina Fuchs, a West German physician at the Amfree Medical Clinic in St. George's, which averages 50 patients a day. A Swedish doctor who worked in the same clinic left earlier.

Both were on a computer printout list of *persona non grata* distributed by the combined Caribbean police forces on the island. U.S. mission spokesman James Dandridge said the list was developed, apparently by U.S. intelligence sources, to rid Grenada of "those people who present a threat to the country."

Packing her things at her small St. George's apartment, Gibbs was visibly upset by the order.

"This was my home," she said. "You think they've done the worst thing they can do, and then they do something else.

"I guess one of their first priorities is to clear away the debris," she added, "—not just the shot-down helicopters and the rubble, but those who remind the people of the previous four years."

Radix, who led an Oct. 15 demonstration protesting the house arrest of Bishop by elements of the government attempting to overthrow the prime minister, spoke to a visiting congressional delegation last weekend at the request of Rep. Thomas S. Foley (D-Wash.). He told the 14 congressmen that he opposed the U.S.-Caribbean invasion even though it probably saved his life.

"I may have died, but in the final consequence what is the matter of it?" Radix said. "The vulgar force of the U.S. military-industrial complex was still used. My position has been to deplore in the strongest terms possible the U.S. intervention into the internal affairs of this country."

At the time, Radix admitted that the U.S. invasion had been "well received" by many Grenadians, but he said that was because the citizens were "in a state of trauma" after the killing of Bishop. "Had you come from Mars, you would have been welcomed with open arms," he said.

In an interview Saturday, Radix said he was detained Friday afternoon by an American officer in civilian clothing who took him to a St. George's office building for questioning.

"I was in a little shop to buy cigarettes when a man who said he was a member of the U.S. armed forces asked me to come with him," Radix said. "For two hours, they asked me about my whereabouts between Oct. 12 and Oct. 26. They asked me if I knew anything about Cubans still fighting.

"In an arrogant fashion, a young officer informed me that I had been going around agitating people. The only thing I had done was, at my mother's request, to go down and buy some fresh fish. Some people asked me how I was and told me they were glad to see me."

FORCES SHOULD WITHDRAW

Radix said he told the American officer that "U.S. armed forces should withdraw, the state of belligerancy having ceased."

In the late evening, Radix said, he was taken in an American jeep to the Point Salines prisoner-of-war facility. He said he was processed, given a number and a plastic prisoner's bracelet and placed in one of the wooden packing crates that serve as cells at the makeshift prison camp.

Released the following morning without explanation, Radix said, "All I want now is to take a vacation."

Col. Ken Barnes, the Jamaican leader of the combined Caribbean forces, said the troops are holding approximately 300 prisoners of war. They include former members of Grenada's People's Revolutionary Army and militia, as well as Deputy Prime Minister Bernard Coard and Gen. Hudson Austin, the leaders of the coup that led to Bishop's assassination Oct. 19.

PUBLIC MEETINGS BANNED

Last week, Governor General Scoon imposed tough restrictions on the island, including a ban on public meetings. He also ordered arrests without warrants.

Meanwhile, U.S. mission spokesman Dandridge released casualty figures for Grenadians killed in the U.S. invasion, saying that 21 were killed and 280 wounded on the island. Dandridge said 18 of the 21 Grenadian dead were mental patients killed when a U.S. Navy jet mistakenly bombed a mental hospital near Ft. Frederick.

Dandridge also announced that the bodies of 42 people presumed to be Cubans killed in fighting with U.S. troops were flown to Havana on Saturday for identification and burial.

[From the Plain Dealer, Nov. 13, 1983]

TWENTY-ONE GRENADIANS KILLED IN INVASION

ST. GEORGE'S, GRENADA.—U.S. led forces killed 21 Grenadian civilians and wounded 280 during the invasion of the Caribbean nation, but they killed no Grenadian soldiers, U.S. authorities said yesterday.

Maj. Gen. Jack Farris, who commands the 2,300 U.S. combat troops on Grenada, said 18 civilians perished when U.S. planes accidentially bombed a mental hospital. Three other Grenadian civilians died of battle wounds, Farris said.

The tally showed 18 Americans killed and 113 wounded, and 42 Cubans killed and 57 wounded.

Officials said they detained and questioned Kendrick Radix overnight and released him yesterday. Radix is a former aid of slain Prime Minister Maurice Bishop.

U.S. Army Maj. George Wright said Radix, picked up on orders of Grenadian Gov. Gen Paul Scoon, had been "cited by some people of the local populace as an instigator in spreading bad will among the people" in public places.

Radix called his 20-hour detention, spent in a 10-foot-square wooden box at a makeship prison, standard procedure for occupying forces.

He displayed a green card identifying him as someone who had been questioned by U.S. forces. The card said the individual named should "refrain from participating in anti-government activities."

"It's my freedom of speech, that is what it comes down to," he said.

During an interview with Rep. Louis Stokes, D-21, of Warrensville Heights, Radix, who had been imprisoned by coup leaders, criticized the United States for invading an underdeveloped nation that had been subject to a history of colonial exploitation. He said the intervention in the internal affairs of a sovereign nation violated the United Nations Charter and international law.

(Radix said that on his release from the Cuban embassy, where he had been given refuge, he was menaced and threatened by U.S. military forces, and that guns had been placed at his head.)

U.S. and Caribbean troops, working from a list of names, continued stopping cars in an effort to find individuals for questioning. U.S. spokesman James Dandridge said the list was of those who "constitute a threat to the country," and included former Grenadian soldiers, members of the former government and two Americans—one wanted in the United States for gun-running and another involved in some operations in the country.

U.S. officials have said 233 Grenadians remain in detention but they have not said how many have been picked up for questioning and released.●

WIDOWED PERSONS ASSOCIATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. WOLF. Mr. Speaker, I would like to bring a matter of interest to the attention of my colleagues. Many Members may not realize that in America today, over 12 million people are widowed. Their average age is 56. Fifty percent of women over 65 are widowed. In this country we have support groups, church groups, organizations, and even some Federal programs for drug addicts, family counseling, single and divorced individuals, but little in the way of support for the Nation's widowed person.

I recently talked with a woman in my congressional district who has established an association providing services to recently widowed men and women. The services and consultation provided by her association's volunteers to the grief-stricken newly widowed have proven to be of immeasurable benefit during the first weeks and months of suffering the loss of a loved one.

In my district, many of the residents have relocated to this area. The loneliness and frustration of suddenly becoming widowed is particularly acute for them and further compounded by the lack of nearby family support. During this time of adjustment, the

newly widowed are faced with an unprecedented number of decisions on new topics regarding estate taxes, wills, property, and often confront problems never faced before such as cooking their own meals, cleaning the house, or just dealing with the lack of companionship.

For these reasons, I was interested in the services being offered by this group known as the "Widowed Persons Association. Not only is there a very valid need for this type of service, but I was also encouraged by this group's willingness to volunteer this type of aid to the Nation's widowed. Of particular note they do not seek Federal funding. In fact, the only thing they have requested is assistance in developing chapters throughout the country, assistance in raising funds to cover postage, and publicity that this type of assistance is available.

At a time when more private sector involvement is so important in providing services to the Nation, I believe we should do everything possible to assist those private citizens who are leading that effort. With this statement, I am including an article from a newspaper in my district about Mrs. Audrey Markham who is responsible for leading this group in northern Virginia.

Mrs. Markham's story is particularly interesting. Her first husband died unexpectedly in a plane crash. The nightmare which followed was one which convinced her that someday she would try to help others through the difficulties of readjusting after the loss of a loved one.

If members or organizations and churches in your congressional district are interested in further information on this topic, I would urge you to contact Mrs. Markham at the numbers listed at the end of this article:

[From the Gazette, Oct. 7, 1982]

A FRIEND IN NEED: HELP FOR THE WIDOWED IS ON ITS WAY

(By Virginia Greiner)

"Dinner is the loneliest time," noted the widow on the far side of the room.

"No. The whole weekend hurts," countered the widower beside her.

Heads nodded in agreement at the recent organizational meeting for the first Widowed Persons Service (WPS) in Fairfax County.

"We've got support groups for singles, for divorced, for drug addicts, for teens—why not for the widowed?" asked McLean resident Audrey Markham, the dynamic former widow who is spearheading the drive to organize.

Interested community groups should send representatives to the next meeting Nov. 9 at 2 p.m. at the Fairfax County YWCA in Dunn Loring. Two weeks ago about 30 were on hand for the kickoff meeting at the Y and those included members of the McLean Women's Club, the Great Falls Woman's Club, several local branches of the AAUW and the Business and Professional Women's Club, and other community service organizations—many of which, not coincidentally, were represented by widows. The Y has basically offered headquarters space and mailing help. WPS is a program of the American Association of Retired Persons (AARP) which has started more than 135 branches nationwide. Thus it was Edie J. Smith, a widowed program specialist from the Washington AARP office, who started off the Fairfax meeting with a few sobering statistics.

There are over 12,000,000 widowed persons in America today.

Their average ages is only 56.

Fifty percent of women over 65 are widowed.

Accordingly to one scientific study, being widowed is a 100-point wallop on an emotional stress scale, compared to 60 points for a divorce, Smith said.

"What WPS tries to do is provide one-on-one help—a compassionate volunteer listener who has been in the same situation and survived," she explained.

Help will also come from a telephone service and a directory offering referral information and assistance, and from group sessions centering on mutual problems and solutions.

Volunteeers will be persons who have been widowed at least 18 months, long enough to have completed the grieving process themselves. They will get training in what to say, and how to offer help, Smith explained.

Markham, whose first husband was killed in a plane crash in 1974, said her widowhood made her resolve to someday try to help others living the same nightmare.

"You have to make an unbelievable number of decisions, under stress," she recalled. "The lawyers keep telling you they're doing things because 'you don't understand this,' but I kept on asking . . . I never even got a call from my church. I felt really alone. And I just decided I was *not* going to turn into the lady who (just) plays bridge and has lunch with her friends."

Markham, who married local attorney Donald W. Markham in 1975, has always been a joiner and a doer, and had a long list of organizations to which she belonged that kept her busy. "They were the greatest therapy I had," she said with a broad grin crinkling her deeply tanned face.

The discussion at the Dunn Loring meeting showed a wide range of reactions toward losing a spouse. One man thought men were better treated than women and said he enjoyed the efforts at matchmaking among his friends. Others gave mixed reviews to their clergy, with some reporting a lack of help while others termed their churches "lifesaving."

Most isolated their problems quite succinctly: Grief is mixed with anger as well as guilt.

Organizations interested in helping the project get started may call Markham at 620-4516 or 560-1111 or write Smith at AARP, 1909 K St. N.W., Washington, D.C. 20049.●

MARITIME INDUSTRIALIZATION POLICY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ANDERSON. Mr. Speaker, this country is in great need to develop an industrialization policy. Our traditional industries, like the steel and shipbuilding, are in desperate need of Government promotional programs, yet these needed programs must be designed so that they do not cause our national deficit to increase.

As a member of the Merchant Marine and Fisheries Committee, I have heard about one shipyard after another going out of business. This not only causes massive economic dislocation in the region as well as individual suffering and grief, but degrades our national defense capability should we ever again need to mobilize our shipyards for a defense effort.

After extensive study, our distinguished colleague from New York (Congressman MARIO BIAGGI) introduced H.R. 3399, a bill to establish a Maritime Redevelopment Bank of the United States. This is the type of innovative approach we need to begin examining in order to revitalize our maritime industry. I am proud to be an original cosponsor of H.R. 3399.

This approach may be applicable to other industries that other committees are attempting to help. Therefore, I would like to submit for their possible use the following article written by Mr. BIAGGI that clearly explains the purpose and policy proposed by this legislation:

[From VIA Port of NY-NJ, October 1983]

THE MARITIME REDEVELOPMENT BANK OF THE UNITED STATES

A PROGRAM FOR MARITIME ECONOMIC RECOVERY

(By Hon. Mario Biaggi)

In the midst of the worst global trade and shipping slump in over a half century, one might well question the logic of embarking upon a long-term investment program to stimulate domestic ship construction and fleet modernization and expansion for the U.S. merchant marine. It is estimated that approximately 15 percent of the world commercial fleet—over 100 million tons of shipping—is currently layed up. As much as 15-25 percent of the 50-60 billion dollars in outstanding ship mortgages owed to international banks may be classified as non-performing assests, unable to make principal and interest payments. Freight rates for both liner and bulk cargo frequently do not cover the cost of vessel operations, let alone contribute to capital cost amortization. Vessel supply and demand imbalance in the world commercial fleet may be off by as much as 150 million tons of excess capacity. It may be the late 1980s before equilibrium is restored in the liquid and dry bulk trades, if the current accelerated pace of vessel scrapping continues. At the same time the volume of seaborne commerce, following the trend of international trade, dropped by almost 9 percent in 1982, the second year in a row of overall decline.

Yet, I submit that the global shipping slump represents an historic opportunity to restructure and revitalize the U.S.-flag fleet and commercial shipbuilding industry along world competitive lines. A unique confluence of events occurring both here and in other major maritime nations supports this premise.

For the first time in many years there is evidence that the traditional repetitive cycle of commercial overbuilding of vessels—lead-

ing to chronic overtonnaging—in turn contributing to ocean freight rate instability—and utimately to the necessity for government economic intervention to support ailing shipping lines and commercial shipyards—is breaking down. Japan has voluntarily reduced its shipbuilding capability for the first time since World War II. Britain, France, and West Germany are turning away from massive government assistance to preserve larger shipyard bases than can be justified on economic terms. This is not to say, however, that developinig countries such as South Korea, and even the People's Republic of China, are not opportunistically taking up the slack in the world market by offering vessels for sale at bargain rates and with concessionary financing.

Meanwhile, at home the Reagan Administration has similarly questioned the cost effectiveness and economic viability of traditional maritime subsidy programs in the United States. It has sought to terminate or curtail those that have limited operating flexibility and frequently stifled innovation, productivity, and competitiveness of U.S.-flag operators in foreign commerce. It has unfortunately, however, offered little in the way of encouragement to domestic shipyards to become more efficient and competitive through the exploitation of alternative markets and adaptation of advanced vessel construction techniques and technology to commercial shipbuilding to complement a stepped-up naval shipbuilding program. Yet, at the same time it has properly emphasized the need for overall trade, and in particular, export expansion to reduce a burgeoning balance of payment deficit now extending beyond merchandise trade to the current account, including traditionally favorable offsets in the form of services' receipts and earnings from overseas investments. It has likewise recognized the need to revitalize the physical infrastructure of our nation's port system, upon which seaborne trade depends, by emphasizing its commitment to modernize that system, albeit as part of the general philosophy of reducing discretionary expenditures by the Federal Government.

In this overall context, I have introduced legislation, H.R. 3399, to establish a Maritime Redevelopment Bank of the United States. The bill is intended to fill a policy vacuum by promoting a U.S.-flag merchant marine and preserving a commercial shipbuilding base in this country as a means of stimulating innovative private sector initiatives to industry restructuring and revitalization. This legislation represents a clear-cut alternative to past promotional policies that have largely failed to maintain a competitive presence by U.S.-flag shipping and shipbuilding in global markets. Evidence that past policies are now hopelessly obsolete is abundantly demonstrated by the fact that despite the expenditure of almost five billion dollars in direct subsidies during the 1970s, the average time of delivery and delivered cost of a vessel produced in a domestic shipyard in comparison to a foreign produced vessel actually increased over the period. By the same token the competitiveness of U.S.-flag liner vessels in comparison to their foreign competition computed on a container-mile cost of operation, similarly decreased over the equivalent period.

We are clearly at the crisis stage in the determination of whether a U.S.-flag merchant marine and commercial ship building industry will survive in this country. Several major underlying trends point to the necessity for and likely successful outcome of a targeted maritime economic recovery program that combines first, capital formation assistance to vessel operators to undertake accelerated fleet modernization and expansion (principally in response to market demand while taking into consideration strategic requirements to augment national sealift mobility); and second, comparable incentives for the commercial shipbuilding industry to undertake productivity improvements and capital investment to produce both naval and commercial ships more efficiently and to diversify its interim and end product mix.

The first major trend is evidenced in the changing composition of the world commercial fleet toward larger, specialized, and increasingly expensive vessels operating principally in trades between developed countries and built to take advantage of economies of scale in vessel operations. This type of specialized market is ideally suited to the incorporation of advanced shipbuilding techniques in modernized shipyards which would be capable of achieving significant economies of scale in limited series production of these more sophisticated vessels.

The second major trend is the increasingly critical role played by sophisticated financing in vessel acquisition. This more sophisticated financing is necessary to rise the required equity, facilitate issuance of debt, or permit greater utilization of off-balance sheet lease financing with large international banks frequently playing the central role in syndicated ship financing transactions.

The third major trend is the subordination of the other factors of labor, fuel, insurance, etc., to capital cost in their proportionate contribution to total operating costs. In policy terms, this means that the substitution of larger, more modern vessels will result in the greater utilization of automation and more efficient propulsion systems for commercial reasons without the necessity for government incentive.

The fourth major trend is obvious to anyone who has studied the age composition and distribution of the U.S.-flag fleet. The seagoing portion of our merchant marine is chronologically and technologically obsolete, with the highest median age—18.3 years—and most number of vessels over the age of 20 years—226 out of a fleet of a little more than 500 vessels—than comparable fleets of major maritime nations. Obsolesence, then, is the single driving force compelling accelerated fleetwide modernization and replacement. For example, it has been demonstrated that almost 90 percent of the 176 vessel U.S.-flag liner fleet—the heart of our commercial sealift capability other than the 40-year-old reserve fleet now mothballed—is noncompetitive, given its reliance upon steam propulsion in comparison to the near universal employment of more efficient diesel propulsion by its foreign competition. The same is true of virtually all large bulk vessels built with the aid of government subsidies during the 1970s.

The fifth major trend of significance is the growing recognition by lawmakers, bureaucrats, academics, and industrial planners of the need to maintain a balanced and competitive industrial base as a commercial strategic necessity in order to maintain our preeminence in world markets as well as our capability for industrial mobilization in time of war or national emergency. There is an equally important growing recognition that the United States cannot and should not retrench to a position whereby the Federal Government in its procurement of naval vessels becomes the sole support for a shipbuilding industrial base in this country. Having maintained that industry through a combination of procurement for government accounts, creation of protected markets, and expenditure of direct subsidies, the Federal Government must now play a role in assisting the industry in devising a long-term market strategy that incorporates the production of naval vessels, commercial vessels (where a market niche and technological edge allows domestic shipyards to regain a competitive edge) and (taking a lesson from our foreign competition) in the production of diversified products suitable for construction or fabrication in modernized shipyards.

H.R. 3399 represents a long-term strategy to reorient, redirect, and accelerates the pace of private sector decisions away from a primary dependence on government subsidy in favor of flexible market-oriented decision making designed to exploit business opportunities created by a global trade, shipping, and investment climate now undergoing fundamental restructuring. It is designed to spur capital formation in a structurally depressed industry, which though strategically important to trade and national security, has been chronically under-capitalized because of its historically low rate of return on investment and highly cyclical market nature.

This is how the legislation would work. Structurally, it would establish a wholly-owned government corporation acting in a dual role. First it would act as a financial intermediary between the shipping industry and primary and secondary capital markets. This generic approach of establishing an industrial development bank is similar in many respects to other quasigovernmental entities active and successfully operating in the housing, education, energy and agricultural sectors of the economy.

The Maritime Redevelopment Bank of the United States, as it is called, would exercise restructured guarantee, investment, and insurance authority, originally enacted in the Merchant Marine Act, 1936, operating pursuant to a long-term investment prospectus. In combination, these programs would offer a variety of fixed rate, long-term financing options for vessel construction designed to take maximum advantage of macro-economic tax incentives for investment in capital assets enacted by Congress in recent years. Programs such as guarantee of mortgage pools, issuance of government-backed securities, and non-participating equity investment designed to stimulate private capital investment by increasing liquidity have proven successful in establishing national capital markets and improving liquidity in various market sectors. Coupling targeted government guarantees with sound private sector investment decision making, programs such as these offer an array of incentives for greater innovation, productivity, and competitiveness in the maritime industry.

The bank is designed to become self-financing in its investment and guarantee programs following the original provision of borrowing authority from the Federal Treasury.

The second institutional role the bank could play would be in general partnership with industry and labor in conducting research and development and market analysis designed to identify a spectrum of products, process and production technologies with the potential for stimulating innovation, increased productivity, and competitiveness in the commercial shipbuilding in-

dustry. This general institutional approach has been utilized with great success in the aerospace and defense industries.

Specifically, the legislation authorized the Redevelopment Bank to act as the general partner in establishing an industry-wide research and development limited partnership consortium. Under this arrangement the partnership could perform market analyses of potential new interim and end-product markets for shipyard fabrication and construction, both domestically and for export, as well as undertake process and product-oriented research and development activity through generic vessel design and the operation of a demonstration shipyard or through sponsorship of demonstration projects at individual member shipyards. Thereafter, it would make available newly developed ship construction techniques and innovative technology through cross-licensing arrangements to consortium members and others on an equal access basis. Individual shipyards could thereafter utilize the market information and technology developed in long-term strategic planning, marketing, capital budgeting, and production-oriented decision making. The consortium would operate under permissible antitrust guidelines issued by the Department of Justice. It would take advantage of specific tax incentives incorporated in recent statutes affording extremely favorable tax treatment to capital investment and expenditures for research and development.

The bank could then undertake a commercial build and charter financing program designed to encourage construction in member shipyards of generic vessels designed by the consortium under favorable financing terms designed to facilitate market penetration and demonstration of economies of scale and learning-curve induced cost reduction achieved through limited series construction. Later the bank could offer broadscale financing assistance to encourage further market development of second source construction of generic vessel designs.

Under a sunset provision in the legislation, the bank is self-terminating. The bill provides for liquidating its investment portfolio and dissolving, or reorganizing as a mixed government or private corporation through a public offering of its stock to institutional investors (including union pension and profit sharing funds, banks, export trading companies, and the general public). This should result in a structural surplus representing a significant return on government investment to the Treasury at the end of the tenth year of operation of the bank.

These elements, comprising a contemporary maritime policy adapted to today's shipping, trade, and investment climate, as well as political and fiscal reality, are admittedly not self-executing. They require all sectors of the maritime industry to conduct a critical self-appraisal and examination of the future course of restructuring and revitalization they wish to pursue. The legislation provides at best a beacon that can light the way for an alternative course to steer in national maritime policy. This is predicated upon the provision of economic incentives for individual entrepreneurs to invest in maritime enterprise unencumbered by operating restrictions, free to succeed or fail on the basis of their own business judgment without the safety net of government subsidy, but affording some degree of risk reduction in the form of indirect financial and targeted research and development assistance.

This is akin to the way the French historian Alexis de Tocqueville viewed the American mariner of the 18th century when he referred to him as the "Yankee Trader" in warning his European colleagues of America's ascendancy as a maritime power. An old French adage may similarly apply equally well in describing the potential likelihood of success of an alternative course in our maritime policy under present and future conditions. As the saying goes, the strength of any plan is in the timing. I believe the timing is ripe for the American merchant marine to turn back into the wind of foreign and domestic competition, spurred by the kind of government program that assists rather than impedes its progress, letting it set its own course without deadhand control.●

THE AVOIDABLE BEIRUT TRAGEDY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LEVITAS. Mr. Speaker, now that some time has passed since the tragic bombing of our marine headquarters in Beirut, we take care not to let the significance and implications of that tragedy slip from our memory. It is obvious that the security precautions at the headquarters were inadequate, and that individual officers exercised, at the very least, poor judgment.

I call my colleagues' attention to a column in today's Washington Post by Jeffrey Record. He discusses what happened in Lebanon that day, and what needs to be done to avoid a recurrence of this type of avoidable tragedy. I found Mr. Record's statement to be perceptive and right on target.

THE BEIRUT DISASTER COULD HAVE BEEN AVOIDED

(By Jeffrey Record)

On Oct. 23, Marines in Lebanon suffered one of the worst surprises in American military history at the hands of a lone fanatic armed with a truckload of explosives. Marine Corps spokesmen, including Commandant P. X. Kelley, interviewed on The Post's editorial page Nov. 6, have since argued that surprise is unavoidable in war, that what happened at the Beirut airport was an unavoidable tragedy, that pre-attack security precautions were adequate, that no reasonable person could have anticipated the kind of attack that actually took place, and that there is no sure defense against an enemy willing to commit suicide on behalf of his cause. It also has been asserted that the Marines' mission in Lebanon was that of showing the flag ("presence"), not one of combat.

Such claims are understandable in the wake of an event that rocked the Marine Corps as much as it did the American people. They are not, however, defensible. To argue that surprise is an inseparable companion of war is not to excuse every instance of surprise. What happened at the Beirut airport was a human tragedy; but it was no less a professional military debacle that could have been avoided.

Pre-attack security precautions were by definition inadequate; had they been adequate, the attack would not have succeeded. Nor would there be a need for the corrective measures now being undertaken, such as the simple expedient of placing large armored vehicles and heavy machine guns astride the approaches to the Marine compound in Beirut.

Moreover, to argue that the attack could not have been anticipated because of its novel employment of a five-ton truck rather than the customary car bomb is nothing less than a confession of insufficient professional alertness to the demonstrated ingenuity and determination of the myriad terrorist groups operating in Lebanon. The use of a heavy vehicle should have been anticipated precisely because the barrier defenses around the Marine compound were adequate to stop comparatively light bomb-laden automobiles. It pays to put yourself in the shoes of the enemy and to think through his choices and opportunities. Perhaps the Marines have been in the business of surprising others on the battlefield for so long that they have forgotten how to anticipate being surprised themselves.

Several factors appear to acount for what regrettably must be regarded as a case of professional military incompetence. The first is rooted in the character of the Marine Corps itself: as elite, highly specialized amphibious assault troops with a tradition of unexpected descents on hostile shores, the Marines historically have placed little emphasis on acquiring the engineering and other skills associated with fortification and positional warfare. This comparative indifference to the art of defensive combat has persisted despite the Corps' experience in Vietnam, notably the siege of Khe Sanh.

Second, the Marines' tactical posture in Beirut reflected a failure, despite mounting violence against their presence, either to grasp or to act upon the fact that the mission of "presence" could no longer be sustained without unimpeded preparation for combat. By Oct. 23 Marine sentries with unloaded weapons and one-sandbag-thick barriers were fatal anachronisms, and the commander on the spot seems to have forgotten that the first task of any commander is to take whatever measures are necessary to protect his troops, even at the price of challenging restrictive rules of engagement.

Third, for weeks preceding the bombing the Marines' attention was riveted on dealing with relatively distant and more conventional threats posed by hostile snipers and by artillery and mortar fire from the surrounding high ground. This appears to have deflected attention from other possible threats, including the tried-and-true bomb-on-wheels.

Finally, the Corps, although to a lesser extent than the other services, has for many years relied on a system of professional rewards and punishments that places a higher value on managerial and technical prowess than it does on actual performance in the field. The results have been a failure to punish tactical incompetence, which in turn has encouraged the rise within the corps of tactically incompetent officers, and a refusal or inability, evident in Marine Crops "explanations" of the Beirut bombing, to accept responsibility for professional errors and mistakes.

No less shocking than the Beirut bombing itself is the probability that few if any military heads will roll in its wake.●

H.R. 2350

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 2350 and I am strongly opposed to the Broyhill-Madigan amendment which would eliminate all set-asides for new disease centers and grants for specific research.

H.R. 2350 as reported by the Energy and Commerce Committee would direct NIH to carry out all current activities, as well as award grants in new areas of research as needed. The bill mandates several new and important initiatives that seek to improve the overall health of all Americans.

H.R. 2350 would direct the National Institute on Aging to assess the adequacy of health care personnel, to deal with the growing elderly population. Scientific advancements in health care will enable people to live longer in the future. We took the necessary steps to make longer life possible—we must now begin to take steps to make sure we can take care of the growing elderly population.

The bill also includes important health promotion and prevention initiatives. The National Heart, Lung, and Blood Institute would be directed to make the public more aware of the effects of smoking, dieting, exercise, and weight control on cardiovascular disease. It is certainly humane as well as cost effective to attempt to prevent illness before it ever occurs.

I offered an amendment when H.R. 2350 was before the House Energy and Commerce Committee to add $8 million to supplement Alzheimer's disease research activities. The amendment also provides for the establishment of an interagency task force on Alzheimer's disease which would be composed of scientists from those Federal agencies involved in seeking to discover a cure for this fearsome illness. That amendment was adopted and is now part of the bill before the House.

Mr. Speaker, roughly 500,000 Americans suffer from Alzheimer's disease. It is a vicious, frightening, and relentless illness that often strikes in middle age leading to severe senility and ultimately death. We must intensify our efforts to alleviate the suffering caused by Alzheimer's disease.

There is no known cure or treatment for Alzheimer's disease. We do not yet know how it is caused. What we do know is that Alzheimer's disease is a devastating illness and we must continue to work toward finding a cure. My amendment will provide for a modest and must needed increase in support for Alzheimer's disease research.

Mr. Speaker, I strongly support H.R. 2350, the Health Research Extension Act. Increased funding for Alzheimer's disease is but one of the many important programs this bill addresses. I urge my colleagues to vote in favor of this important bill and against any weakening amendments.●

EQUAL RIGHTS AMENDMENT

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. GRADISON. Mr. Speaker, I have supported the ERA since before I came to the Congress—when I was a member of the Cincinnati City Council. I voted for the ERA this week for the same reason I have always supported it—I believe that only a constitutional amendment can provide women with the same legal rights as men. Currently, women are being discriminated against, intentionally and unintentionally, on the basis of their sex in areas such as job opportunities, wages, pensions, insurance, divorce settlements, and others.

I have supported the ERA because I feel that the rights of American women are incomplete, unclear, and at the mercy of inconsistent court decisions. As an original cosponsor of the ERA, I felt compelled to be consistent with my record and vote "aye," despite the outrageous and unfair rule that was set down for debate.

I deplore the procedure by which the amendment was considered in the House on Tuesday. The importance of an amendment to the Constitution should not be diminished by a gag rule that prohibits any amendments and permits only 40 minutes of debate. This is a travesty of the democratic legislative process and illustrates the danger of Lord Acton's admonition of the "tyranny of the majority."

Since the ERA failed to win the requisite number of State ratifications, I have been pondering the reasons. I would have liked to have had the opportunity to consider amendments which, if added to the ERA, would have enhanced the probability of approval by the States while at the same time clarifying its intent. This opportunity was not provided by the House Democratic leadership. The bottom line comes down to this: Supporters of the ERA must decide whether their primary objective is passage of the ERA or playing politics with so important an issue.

I do not share the view of some who argue that the ERA would sanction abortions or Government funding of abortions. I believe the issues of abortion and the ERA are unrelated. Accordingly, it strikes me that an amendment to the ERA clarifying this would enhance passage of the ERA without in any way diminishing its intent or force. I hope that the House, upon reconsideration of the ERA, will be able to at least consider these kinds of clarifying amendments. I therefore support the bipartisan attempt to permit the House to reconsider the ERA under a procedure permitting 4 hours of debate and amendments. I hope that all people who favor the ERA will support this effort.●

HAPPY 100TH BIRTHDAY, FRED KREUSCHER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ADDABBO. Mr. Speaker, on November 30, 1983 an important figure in the development of Queens County will celebrate an important anniversary. Fred C. Kreuscher will celebrate his 100th birthday.

For a full one-third of all the years that Queens County has been inhabited, Fred Kreuscher has been a part of that saga. The Kreuscher family came to New York in 1820 and in 1855 Fred's grandfather established the Country Inn, which was located in Ridgewood. In that structure at the corner of Cypress and Myrtle Avenues, Fred Kreuscher was born in 1883.

He attended a four-room schoolhouse on Cooper Avenue and by age 15 had become manager of that famous inn established by his grandfather 48 years previously.

As a young man Fred opened the first automobile agency in the area and sold thousands of Ford Model T cars, taking horses in trade for these newfangled contraptions. From 1915 until 1926 he served as president of the Ridgewood Automobile Co. His family established in and around that time the first movie house in Ridgewood.

He was also an aviator of note. He accompanied aviator Clarence Chamberlain on 10-day barnstorming tour, flew a number of times with an up-and-coming pilot named Charles A. Lindbergh, and, finding trains far to slow, made the first cross-country flight to Seattle.

In the 1930's he became associated with the Hussey-Williams Co. and in 3 years became its president. He has served in that post since 1935. Today Hussey-Williams Corp. is one of the leading millwork distributors in America. He is also president of the Kreuscher Holding Co.

Fred has had any number of awards and commendations through his lifetime because of his active involvement in so many community and civic projects. A trustee of the Hamburg Savings Bank in the 1940's, Fred served as a member of the board of trustees of Wyckoff Hospital. He has

throughout his lifetime been active in the Ridgewood Chamber of Commerce, the BPO Elks, Queensborough Lodge 878. He is today the oldest member of that lodge and is a honorary life member.

Throughout these many years Fred has been joined in his many projects by his family. His wife Jean, son Fred, grandchildren, and one great grandchild have all joined in making this family an outstanding participant in Queens County's growth.

It is with great pleasure that I join the many thousands of friends in Queens County and throughout New York State in wishing this outstanding citizen a happy birthday, on November 30.●

MAYOR JOHN LASLO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. APPLEGATE. Mr. Speaker, on December 31, 1983, the final chapter will have been written on the public service tenure of the Honorable John Laslo as mayor of Martins Ferry, Ohio, a small, yet progressive riverfront community in my congressional district in southeastern Ohio. It is on this date that Mayor Laslo will retire from office after serving in that capacity for 24 years. What makes this such a noteworthy occasion is not simply his length of service, which is, in itself, a fete for any elected official, but rather because of the superlative record of accomplishments that Mayor Laslo has compiled.

When first elected as mayor, John Laslo came to grips with the financial dilemma facing the community at that time. In a few short years, he soon had the situation under control and turned deficits into surpluses. In the midsixties, Martins Ferry earned the distinction of "Model City" under the then-existing model cities program of the Department of Housing and Urban Development. Mayor Laslo expanded on this in every way possible throughout his several terms in office. There was not one program, I am sure, that was not explored by the mayor to determine if his community would be eligible and how it might benefit. Project after project was had through the years, and coupled with Mayor Laslo's own insight of prudent city planning, Martins Ferry progressed at a time when many other cities, both large and small, floundered and remained stagnant.

Under Mayor Laslo's leadership, the city of Martins Ferry, Ohio has obtained 220 units of elderly housing and 202 units of family housing. He developed an industrial park that currently has 33 businesses located in it providing over 1,500 people with employment. Since becoming mayor, John Laslo has secured over $45 million in Federal and State grants that have helped Martins Ferry live up to its motto, "Pride of the Valley."

John Laslo's energies were directed in other areas as well. For years, he has been most active with little league baseball organizations on a national scale. He has taken the lead in any number of drives for charitable organizations and has been actively involved with movements of both labor and management that ultimately benefited the people of Martins Ferry. It is because of his untiring efforts that Mayor Laslo has earned the thanks and respect of countless organizations and groups.

In spite of all the accolades heaped upon him, though, John Laslo is still like any other man and wants to remain that way. His most treasured possession is his family, consisting of his wife, Sue, his two sons and one daughter and his nine grandchildren.

Mr. Speaker, Mayor John Laslo has earned his way all along and should certainly be proud of all that he has done. The city of Martins Ferry and its fine residents have benefited from his leadership and insight and will be forever thankful for him.●

IMMIGRATION

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BOEHLERT. Mr. Speaker, the decision to block consideration of the Simpson-Mazzoli bill was a severe blow to American workers.

We need to take action to stem the growing tide of illegal immigrants. To prevent such action is nothing less than irresponsible.

Illegal immigrants take jobs away from our workers—especially our least-skilled workers who already have the toughest time finding a job.

Illegal immigration is also unfair to those waiting to immigrate legally from Nations around the world. Why would they be expected to wait patiently while others stream in across our borders?

The problems posed by illegal immigration are many and obvious, and the Simpson-Mazzoli bill would have given us a fighting chance to reduce illegal entry. The bill, like any complex measure, was not perfect, but it was our best chance.

The bill's authors reasoned that since illegal aliens come here to find work, we could discourage immigration by preventing the aliens from obtaining jobs. That is just common sense. And that is exactly what the bill would have done.

Yet Speaker O'NEILL chose—needlessly—to turn this worthy bill into a partisan issue. It is not one.

The Senate has twice passed the Simpson-Mazzoli bill by comfortable, bipartisan margins. And the bill is that rare piece of legislation that—as the New York Times recently noted—is supported by President Reagan, Senator EDWARD KENNEDY, and AFL-CIO President Lane Kirkland. What combination could be more bipartisan?

Speaker O'NEILL said he blocked the bill, in part, because the President would have used it to turn Hispanic Americans against the Democrats next November. That fear was groundless. The President has publicly supported the bill.

In short, there just is no excuse for the Speaker's single-handed torpedoing of this measure. As a result of his actions, we have lost a golden opportunity to achieve simultaneously many goals—the protection of American workers, the integration of current aliens into the American system, and the reestablishment of a system of immigration that is at once orderly and open to immigrants from around the world.

To block a bill with such potential when we are faced with a grave and growing problem is senseless and irresponsible.

GRENADA: WHAT DID IT TELL US ABOUT OUR MILITARY CAPABILITIES?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MICHEL. Mr. Speaker, there has been much written and said about President Reagan's courageous—and quite correct—decision to use American Armed Forces to rescue Americans in Grenada and to answer to the call of Sir Paul Scoon, Governor General of that island-nation, for help.

But how well did our military forces perform? The New York Times asked this question of Gen. John A. Wickham, Jr., Chief of Staff of the Army. General Wickham's conclusion is that the drive for a new, leaner Army "paid off in Grenada" but that we should not blind ourselves to "serious deficiencies" including a shortage of airlift and sealift capacity to carry our troops to trouble spots.

I commend this article to the attention of our colleagues.

At this time I wish to insert in the RECORD, "General Says Army Plan Paid Off in Grenada" from the New York Times, November 16, 1983.

The article follows:

GENERAL SAYS ARMY PLAN PAID OFF IN GRENADA

(By Drew Middleton)

The drive to professionalize the Army and to modernize its equipment paid off in the Grenada operation, Gen. John A. Wickham Jr., the Chief of Staff, said in an interview yesterday.

But success in the Caribbean, he said should not blind the Army or the public to some "serious deficiencies," including what he called the shortage of airlift and sealift capacity to carry troops to overseas trouble spots.

As an example of the improvement in equipment, General Wickham cited one Blackhawk helicopter that took 45 holes in its airframe, two bullets through the main rotor blade and one through the after blade and other bullets through the avionics section and the fuel cells. The pilot and four other crew members were wounded but the chopper flew on and carried out its mission.

The helicopter's performance, the general indicated, proved the service's point that high technology equipment is required if the Army is to keep pace with new weapons deployed by the Soviet Union.

General Wickham disclosed that less than 5 percent of the soldiers used in Grenada "had ever heard a shot fired in anger," and said he knew of only 11 men in the two Ranger battalions that led the operation who had had previous combat experience.

WHAT THE ARMY CHOSE

The Army, now at 780,000 men and women, is the smallest in 33 years, the general noted, and about 43 percent of its strength serves overseas. The choice, he said, was between a larger army and a small army that was better equipped, better trained and more combat ready. The Army chose the smaller force, he said, and Grenada proved this was "a wise decision."

Service policy is to establish two types of forces. Heavy forces, including the armored and mechanized infantry divisions, are intended for service in Europe or for reinforcement there. Light forces, including Special Forces, the Rangers and nonmechanized infantry divisions, are being prepared for operations in which agility counts more than weight of metal.

Surveying the Army's problems, the general said insufficient airlift and sealift capacity was the most important. The United States is pledged to have 10 divisions in NATO countries of Europe within 10 days in a crisis situation. Those 10 divisions would include the 4 of the Seventh Army that are already stationed in Europe.

MORE TRANSPORT ON THE WAY

The Army does not control that part of the military budget that pays for Air Force and Navy transports, the general pointed out. The Air Force is buying more C-5 giant transports and the Navy has ordered eight SL-7 roll-on-and-roll-off transport ships. But even these will "not be adequate" to take at least six divisions to Europe, General Wickham said.

War supplies stockpiled in Europe can support 5 or 6 divisions, he added, but it will be impossible to carry out the pledge of 10 divisions in 10 days in this decade, he said.

American ability to sustain divisions and air squadrons fighting in Europe, which basically means how long could the United States fight a conventional war, has improved. The general said that war supplies in Europe and South Korea would sustain combat for "close to 60 days."

In Europe, he pointed out, NATO allies are on the average assured of just under 20 days of war stocks.

In this and in other areas, he added, the European allies should do more in the field of conventional forces, both in frontline units and in stockpiles to support operations in the event of war.

Like Gen. Bernard W. Rogers, the Supreme Allied Commander Europe, General Wickham sees high technology for conventional forces as a means of raising the nuclear threshold in Europe.

WHAT NEW MISSILES WILL DO

Within the decade, he says, new families of missiles of high accuracy with ranges of 125 to 250 miles and directed from aircraft will be able to hit moving targets such as tanks and troop formations. This would allow NATO defenders against a Soviet offensive to "interdict the second and third echelons of a Russian attacking force before it reached the firing line," he said.

The assembly and deployment of these weapons by the end of this decade is a major problem for the Department of Defense, he said. Some of them already are operational in the form of the Air Force's remotely piloted munitions and the Army's Lance nonnuclear missile.

The Army, like all the services, the general said, is highly interested in the potential of space wars, which would include the destruction of hostile strategic nuclear missiles in space. All the service chiefs, he said, share this interest.

General Wickham, discussing the Defense Department's ban on reporters in Grenada in the first days of the invasion, said it was not the result of any conscious decision by the Joint Chiefs of Staff. But he emphasized that the service chiefs were deeply concerned about operational security to reduce the loss of life.

"I would not read too much into this," he said, "I don't believe there was any negative approach to cut somebody out, to try and take the Fourth Estate on because we don't like what the Fourth Estate does, that it gets in our way and does an unfortunate job on truth—that was not in the forefront of any discussion.●

A TRIBUTE TO MICHAEL J. STURM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. TRAXLER. Mr. Speaker, today I rise with pleasure to honor and commend a man of many fine attributes, my friend of many years, Michael J. Sturm.

Mike will retire on January 7, 1984, after having served for the past 35 years as the sports editor of the Bay City Times. His many accomplishments in both his professional and personal life have brought him awards of recognition from throughout the community and our State. I am very happy to join in honoring him.

Throughout his professional career Mike established a tradition of excellence which was matched by none. His journalistic achievements are many and they brought him the leadership roles of serving as the president of the Michigan Sports Editors Association, the Bay City Newspaper Guild, the Detroit and Saginaw Valley Press Association of America, the National Sportswriters and Sportscasters Association and the Detroit Lions Alumni Association. He has also served as the officiation member of the American Powerboat Association.

As sports editor he covered the local prep and college sports, including the University of Michigan, Michigan State University, the Detroit Lions, the Detroit Tigers, the Pistons and the Red Wings, for 38 years.

His reporting was an inspiration to all young athletes. So, too, was his personal involvement in community activities where he was active in Bay City amateur sports, served as the manager of the Bay County American Legion Baseball League and director of the Bay County Softball and Basketball Federations.

In addition to these contributions, Mike served as director of the Bay City Central and T. L. Handy High School Sports Clubs and was a member of the Central High School Parent's Advisory Council.

Mike served our country with distinction. For 40 months, from August 1942 to Novembver 1945, during World War II, Mike served in the U.S. Coast Guard. His service was in the Philippines where he also worked as editor of the Samarian, a weekly newspaper. He was honored for his service and awarded the Philippine Liberation Medal, the World War II Victory Ribbon, and the American Service Ribbon.

Mike Sturm was a great and illuminous contributor of the print media. I believe he was also a great articulator of the spoken word. If he has an Achilles heel, it could be traced to an impenetrable blank in his vast storehouse of words. I have heard it said that no matter how often the word may have been uttered in his presence, there was no response. It was soon lost in Mike's ensuing verbal flood. That sacred word of the city room was "deadline." Ray Kuhn says he never made one.

Mr. Speaker, Mike was a rather loquacious fellow and a court of last authority in matters dealing with athletics in the Saginaw Valley. Likewise, he was aware of the eccentricities of his colleagues both in print and broadcast journalism. Mike often told the story of one of his TV contemporaries who signed off each night at 11:25 p.m. with this plea to his viewers, "If you can't play sports, be an athletic supporter!"

My friend Mike does like to converse. I can anticipate the telling of his last day at the Bay City Times:

Michael J. Sturm, Sports Editor of the Bay Times for the past 35 years, on the

afternoon of January 7, 1984, logged off his VDT and in the routine to which he was accustomed, lighted his pipe, turned on his heel, and in his most profuse manner, bid his colleagues in the city room "goodbye".

It was the day of his retirement.

Thirty eight minutes and some ten steps later, he had reached the stairway to the first floor and the street * * *.

Mike's a grand guy, and I will miss him.●

EMPTY RHETORIC WILL NOT SAVE CYPRUS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FLORIO. Mr. Speaker, I call to the attention of my colleagues a most alarming event that occurred on the island of Cyprus. In disregard for all international convention, the leader of the Turkish Cypriots, Rauf Denktash, declared the secession and independence of the Turkish occupied northern half of Cyprus. Effecting a partition of the once peaceful and unified island of Cyprus, Mr. Denktash, encouraged by the Government of Turkey, has diminished the chances of a peaceful solution to the longstanding Cyprus conflict.

The secession of the Turkish-occupied section of Cyprus is detrimental to the peaceful coexistence of Greek and Turkish Cypriots. For the past 9 years, independent Cyprus has been subjected to occupation by an outside intruder—the Turkish army. Though attempts have been made throughout these 9 years to reach a solution acceptable to all the Cypriot people, the intrasingence of the Turkish and the Turkish Cypriot governments has impeded any progress. The infrequent resumptions of the intercommunal talks between the Turkish and Greek Cypriots have proven futile. Cyprus remains divided into two separate communities.

It is in both our strategic interest in the Mediterranean and in our moral commitment to our allies to work diligently and endlessly for nothing less than a unified Cyprus. The declaration of Mr. Denktash and the immediate recognition of this so-called Turkish Republic of Northern Cyprus by the Turkish Government are major obstacles in the long road toward a resolution of a problem that has plagued the small, but no less important, island of Cyprus.

Mr. Speaker, what is most appalling is the Reagan administration's apparent lack of concern and the seeming unwillingness to initiate any attempts to resolve the Cyprus conflict. Only 2 weeks ago, members of the House Foreign Affairs Subcommittee on Europe and the Middle East heard the testimony of Assistant Secretary of State for European Affairs Richard Burt and that of Special Cyprus Coordinator Richard Haass. When Secretary Burt and Mr. Haass were questioned about the circulating rumors that Denktash would declare the independence of Northern Cyprus, their only answer was that the United States had voiced a form of disapproval. Instead of condemning Mr. Denktash for this anticipated action, the representatives would not commit our Government to any action.

The policy of the Reagan administration toward Cyprus has been one of quiet diplomacy which has often been nothing more than silent diplomacy. We have silently looked on and we have ignored our own strategic interests in not doing all that we could to promote an effective and durable solution to the Cyprus conflict.

The administration's position, as expressed in the testimony of Secretary Burt and Mr. Haass, has been misguided and misdirected. The Reagan administration remains unwilling to exert any form of pressure whatsoever on the Turkish Government. To the contrary, the Reagan administration proposed $755 million in foreign assistance to Turkey, greatly disrupting the traditional 7-to-10 ratio of aid to Greece and Turkey. Though the Congress trimmed down this request in the recent supplemental authorization bill maintaining a 7-to-10 ratio, the predisposition of the Reagan administration is evident.

While Cypriots mourn friends and relatives, while countless children have been orphaned by senseless war, while refugees have been robbed of possessions and livelihoods, the administration chooses to be impotent in offering any initiative and is only prepared to support the resumption of intercommunal talks. The importance of maintaining a dialog between the two factions cannot be denied, however, the livelihoods of 170,000 Cypriot refugees cannot depend on intercommunal talks alone.

For this reason, I urge my colleagues and the administration to support a bill that I have introduced, House Joint Resolution 162, which calls for the President to appoint a special envoy of recognized international stature who would seek a negotiated solution to the Cyprus situation. Through this action, our Government will be sending a clear signal to the Turkish Government that we are committed to working toward a solution. Furthermore, in a show of our displeasure with the Turkish Government, this resolution calls for the suspension of all military and economic aid to Turkey within 60 days of enactment to be resumed only when the President can certify that all Turkish military and civilian troops have left the island. As long as our Government continues to give aid to Turkey while Turkey continues to occupy Cyprus, our Government is financing and condoning the Turkish occupation of Cyprus.

The infamous "Green Line" that divides the Greek Cypriot and the Turkish Cypriot people as a Berlin Wall has been a detriment to all the inhabitants of Cyprus. By declaring the independence of Northern Cyprus, Mr. Denktash has attempted to turn this "Green Line" into a permanent barrier. A divided Cyprus is not in the best interests of the free world. This act requires the condemnation of all countries that value human rights and freedoms.●

EQUAL RIGHTS AMENDMENT

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. FEIGHAN. Mr. Speaker, as a member of the House Judiciary Committee, I felt privileged last week to express my strong support and cast my vote in favor of reporting the equal rights amendment to the full House.

Yesterday, the ERA came before the full House for a vote under suspension of the rules and failed to pass by the required two thirds majority by a handful of votes.

This is a loss that both deeply saddens, and gravely concerns me.

Since its original introduction over 50 years ago ERA has been a topic of heated debate and controversy. The substance of the amendment is simply that the women of our Nation—more than half the population—should be entitled to the same opportunities and legal protections enjoyed by men.

After a long struggle, women finally won the right to vote with passage of the 19th amendment. But women still are clearly discriminated against in areas such as obtaining housing and credit, and in educational and employment opportunities.

Furthermore, our courts have consistently failed to extend the protections of the 14th amendment to sex discrimination incidents against women. Statutory changes in some Federal laws have eliminated some of the most serious and flagrant incidents of discrimination against women, but these laws remain subject to change. In my view, only the ERA will provide the constitutional assurance of equality under the law that the women of this country deserve.

It is likely that the ERA will come before the full House for a vote again some time before the end of this 98th Congress, although its opponents were able to defeat its passage, even the ERA's opponents know that it is far too important to too many of our citizens to bury with yesterday's vote.

ERA is not a panacea, but is clearly not the threat to traditional values that its opponents fear. I hope that when the ERA is reconsidered by this House, that my colleagues will have the courage and the sense of fairness to the women of this Nation to pass it—without weakening, superfluous amendments designed to do damage to its meaning and purpose.●

MANDATORY ASSIGNMENT

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. ROWLAND. Mr. Speaker, possibly before the House adjourns, we will consider the Tax Reform Act of 1983. To this act, an amendment will be offered to require that America's doctors accept mandatory assignment of medicare patients.

There have been no hearings held on this proposal, and nothing to base the intent of the legislation on except mere speculation—speculation that somehow mandatory assignment will result in better health care for our Nation's elderly.

Although this is a broad, sweeping proposal, we have not heard from any of those who would be affected by this change in health care reimbursement.

We have not heard from the hospitals who would be required to obtain a signed statement from each and every physician on the hospital staff that they would accept medicare patients on assignment.

We have not heard from the physicians who would make the decision of whether or not to continue treating medicare patients without an option on reimbursement.

And most importantly, we have not heard from the elderly who may very well prefer the convenience of a larger population of doctors who will accept Medicare reimbursement, as total or partial payment.

Yet these are the very people this amendment proports to help.

There are many consequences that will result from the passage of this amendment, many of them having a direct adverse effect on the ailing elderly.

Before the House considers this unnecessary legislation, I encourage each Member who has been deprived of the benefits of committee hearings and reports to read the following statistical information compiled by the American Society of Internal Medicine.

The material follows:

MEDICARE'S INDIVIDUAL ASSIGNMENT OPTION: MYTHS AND FACTS

INTRODUCTION

In recent months, Medicare's individual assignment option has become a topic of increasing debate and controversy. The individual assignment option permits physicians to decide—on a claim-by-claim basis—whether or not to accept Medicare's allowances as "payment in full"—or, alternatively, to "balance bill" the patient for the difference between Medicare's allowable charge and the physician's actual charge. If the physician accepts assignment, the physician sends his bill directly to Medicare, which in turn sends a reimbursement check to the physician. If the physician chooses not to accept Medicare assignment, he bills the patient directly, and the patient collects the allowable reimbursement from the Medicare program.

Critics of Medicare's individual assignment option argue that it hurts Medicare beneficiaries, by making them vulnerable to high out-of-pocket costs in those cases where their physician chooses not to accept assignment. Proponents of the individual assignment option argue that it is the most equitable system available, since it allows the physician and the patient to agree on the billing arrangement that best meets the individual beneficiary needs and wants.

The American Society of Internal Medicine (ASIM), an organization representing physicians across the country who specialize in internal medicine, believes that much of the criticism of Medicare's individual assignment option is based on inaccurate, misleading, or incomplete information.

Specifically, there are several recurring "myths" about the effects of the Medicare individual assignment option that simply are not supported by statistical data from the Health Care Financing Administration (HCFA) as well as several other sources. ASIM believes that it is essential that Congress and other policymakers make decisions based on hard factual data, rather than anecdotal statements that are not supported by the facts. The following comments compare the most common myths about Medicare assignment with the actual data.

Myth: Physician acceptance of assignment has been declining in recent years. Consequently, it is essential that Congress mandate acceptance of assignment.

Fact: Actually, statistics show that physician acceptance of assignment has increased over the last several years. According to HCFA's statistics, in 1979, over 50 percent of all claims were assigned and over 50 percent of the total charges by physicians were on an assigned basis; in 1982, acceptance of assignment had increased to 52.8 percent of all claims and 54.2 percent of total charges. This trend towards increase acceptance of assignment is supported by ASIM's own data base. In 1982, ASIM surveyed its entire membership in order to update its membership data base. Over 10,151 responses were received out of a total membership of 14,500, a response rate of 70 percent. The survey results clearly show that the percentage of ASIM members accepting assignment has increased in recent years. In 1982, 45.9 percent accepted assignment in 10 percent of more of their cases, compared with 38.5 percent in 1977.

Myth: Medicar's indivudual assignment option makes many beneficiaries liable for large out-of-pocket expenses. This particularly hurts poorer and sicker beneficiaries, who can least afford to pay the difference between Medicare's allowances and their physician's actual charge.

Fact: In fact, HCFA data for 1979 shows that unassigned claims resulted in relatively modest out-of-pocket expenses for most beneficiaries, that physicans are more likely to accept assignment in situations where patients have run up large medical care bills, and that acceptance of assignment increases with beneficiary age. Specifically in 1979:

Approximately 65 percent of all beneficiaries who use Part B services incurred total out-of-pocket expenses for the year of less than $150 each. This includes coinsurance and deductible amounts that, by law, must be collected on both assigned and unassigned claims.

The vast majority (83.9 percent) of beneficiaries who use Part B services paid less than $100 out-of-pocket on unassigned claims. Again, this out-of-pocket liability includes coinsurance and deductible requirements.

Physicians were much more likely to accept assignement on claims submitted by patients who incurred large medical care bills. For example, while physicians usually do not accept assignment for patients who incur total annual charges of less than $100 (only 29.5 percent of total charges in this group were assigned), they accepted assignment in a majority of cases (54.3 percent of total charges) for patients that incurred total annual charges of $2,500 or more. This pattern holds true for the entire range of total annual charges per user: as total annual charges per beneficiary increased, acceptance of assignment increases accordingly.

Acceptance of assignment increases with the age of the beneficiary. For example, 44.4 percent of total charges were assigned for patients between the ages of 65 and 69; 51.2 percent of total charges were assigned for patients between the ages of 80 and 84; and approximately 60 percent of total charges were assigned for patients 85 and over. Again, this trend is remarkably consistent—the older the patient is, the more likely the physician is to accept Medicare assignment.

This data clearly indicates that physicians are sensitive to patients' age, health and economic status in deciding whether or not to accept Medicare assignment. ASIM's own informal survey of members supports this conclusion. In 1983, ASIM asked members to share with the Society their views and practices on Medicare assignment. Most of the internists indicated that they generally accepted assignment on poorer beneficiaries and those that had run up large medical care bills; while they often did not accept assignment on wealthier beneficiaries (who are able and willing to pay the full fee) and beneficiaries that had not incurred large expenses. Several also stated that they usually accept assignment on hospitalized patients (who tend to have larger medical care bills), while not accepting assignment on less expensive services provided in their offices. Although this is not a scientifically controlled survey, it was based on the responses of over 1,100 internists. Taken together with the HCFA data, it provides convincing evidence that poorer and sicker beneficiaries in most cases are not adversely affected by the individual assignment option, and in fact may benefit from the current system, since it allows physicians to accept assignment on poorer beneficiaries while continuing to bill wealthier beneficiaries the full charge.

Myth: Very few beneficiaries can afford to pay out-of-pocket the difference between actual charges and Medicare allowances.

Fact: The fact is that many Medicare beneficiaries are able and willing to pay the difference between Medicare allowances and their physician's actual charges. This conclusion is supported by a 1981 study that found a large number of Medicare benefici-

aries are of substantial financial means ("The Burden of Health Expenditures on the Elderly" by Paul Grimaldi, published in Socioeconomic Issues of Health, 1981). The 1980 Census also shows that elderly individuals, on average, have higher incomes than the national norm for all individuals. ASIM's informal survey of 1,100 internists also supported the conclusion that most internists treat large numbers of Medicare beneficiaries with substantial incomes.

Myth: The individual assignment option increases Medicare expenditures.

Fact: Actually, Medicare's individual assignment option does not increase programmatic expenditures—it may even help moderate costs. This is because the amount of Medicare payment is the same regardless of whether or not the physician accepts assignment on a particular case. For example, if the allowable charge for a particular service rendered by a given physician is 30 dollars, it represents the maximum amount that Medicare will pay on both assigned and unassigned claims.

In addition, the individual assignment option may indirectly moderate Medicare expenditures. Non-assigned claims, by requiring additional patient cost-sharing above and beyond deductible and copayment amounts, may reduce non-essential utilization of physician services. A 1980 HCFA study, although not specifically addressing the assignment issue, concluded that Medicare cost-sharing, in the absence of private or public supplementation, reduces medical care utilization and, therefore, costs to the program ("Cost-Sharing, Supplementary Insurance, and Health Services Utilization Among the Medicare Elderly" in Health Care Financing Review, Summer, 1980). A mandatory assignment approach, in contrast, would tend to reduce the average level of patient cost-sharing and thus could be expected to increase programmatic expenditures.

In addition, internists responding to ASIM's informal survey suggested that many physicians might respond to the inability to bill some patients the difference between Medicare's allowances and actual charges by increasing charges for their services. If Congress mandated both assignment and a freeze on Medicare allowable charges, physicians could still be expected to compensate for any loss of practice revenues resulting from this approach by raising charges.

As a result, non-Medicare patients, whose bills would not be subject to mandatory assignment, would end up paying more through higher premiums for private insurance and increased out-of-pocket expenses. Finally, some internists suggested that a few physicians might compensate for reductions in reimbursement resulting from mandatory assignment by increasing the number of services they provide to Medicare beneficiaries.

Myth: An "all or nothing" assignment option would increase average rates of assignment nationwide. (Under an all or nothing approach, physicians would have to decide each year whether to accept all of their claims on assignment, or none of them).

Fact: In reality, a study published by HCFA in Summer, 1983 concluded that introducing an all or nothing requirement would actually have the opposite effect than what was intended; assignment rates nationwide would fall almost 10%, and the supply of assigned visits would also decline, by almost 6%. In other words, approximately 5.4 million assigned visits would be lost per year. For every previously assigned visit that the physician would now decline to accept, the out-of-pocket liability to the patient would increase by some indeterminate amount. The study also concluded that access to specialized medical and surgical services would be reduced considerably for patients seeking physicians that will accept assignment.

The conclusion was supported by ASIM's own informal survey, with over 90% of the responding internists stating that they would choose "no" assignment if faced with an all or nothing choice.

Myth: Most Medicare beneficiaries favor elimination of the individual assignment option and blame physician reluctance to accept assignment for the growing gap between Medicare allowances and actual charges.

Fact: Actually, despite the fact that several groups purporting to represent the elderly have testified in favor of mandatory assignment, there is virtually no hard data on how beneficiaries view the assignment issue—and some evidence that beneficiaries blame the Medicare program, not their physicians, for the gap between Medicare allowances and actual charges. To ASIM's knowledge, there have been no reliable public opinion polls or surveys that address this question. However, a 1980 report by the House Select Committee on Aging concluded that "the single most aggravating part of Medicare to the elderly is the responsiblity to bill Medicare and collect sums that they have paid following the physician's refusal to except assignment." However, the study further stated that "the elderly increasingly feel that they are being cheated—*not by the doctor but by Medicare*" (emphasis added). The Committee stated that "the problem with Part B appears to be that low Medicare fees and the red tape have caused fewer and fewer physicians to be willing to accept assignment." Further, the Committee did not recommend the mandatory assignment approach, but instead recommended the creation of positive incentives for physicians to accept assignment.

Myth: If Congress mandated assignment, very few physicians could afford to drop out of the program and forego all Medicare reimbursement.

Fact: The truth is that no one knows how many physicians would find it impossible to continue to participate in the Medicare program if forced to accept the program's allowances as "payment in full" for all services. While most physicians could be expected to continue to treat Medicare patients, there would be some physicians that may be unable to continue to afford to treat Medicare beneficiaries at the program's low levels of reimbursement. The low level of physician participation in the Medicaid program (which requires physicians to accept the program's allowances as payment in full) provides some evidence that access to care might be reduced under a mandatory assignment scheme. This concern is supported by survey data that indicates considerable physician reluctance to accept assignment on all Medicare claims. Without hard data to predict physician responses to mandatory assignment, it would appear unwise for Congress to enact a policy option that might significantly reduce access to care.

CONCLUSION

ASIM believes that the data cited above provides convincing evidence that (1) most Medicare beneficiaries (particularly the poor) are well served by the existing individual assignment option, (2) physicians are increasingly accepting assignment on Medicare claims (suggesting that a legislative remedy may be unnecessary), (3) there is little or no evidence that beneficiaries favor limitations on assignment, (4) a large number of beneficiaries can afford to pay the physician's full charge, (5) the individual assignment option does not increase programmatic expenditures (and may even moderate costs), (6) "all or nothing assignment would tend to reduce acceptance of assignment nationwide, and (7) little or nothing is known about the likely effects on access of a mandatory assignment approach. In view of this evidence, ASIM believes that Congress should maintain the existing individual assignment option. If Congress believes that it is necessary to increase acceptance of assignment nationwide, then it should consider creating positive incentives (such as more appropriate reimbursement) for physicians to accept assignment.

At the very least, Congress should exercise extreme caution in enacting legislative "solutions" that might, in the long run, simply reduce acceptance of assignment and beneficiaries' access to quality medical care and offer nothing to poorer beneficiaries who are well served by the existing system.●

U.S. DOLLAR SEEN AS UNDERVALUED

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LOWERY of California. Mr. Speaker, recently, the Subcommittee on Domestic Monetary Policy of the House Banking Committee, on which I serve, held a series of hearings on the strength of the U.S. dollar. In addition, further action will be taken on legislation authorizing the IMF quota increase before adjournment this Friday. In regard to both of these issues, I would like to commend to my colleagues attention the following article, an interview with Dr. Heinz Gundlach, who is not only a constituent, but a friend.

The article follows:

U.S. DOLLAR SEEN AS UNDERVALUED

(By Donald C. Bauder)

The conventional wisdom is that the U.S. dollar is headed for a fall—but there is another point of view: "The dollar is not overvalued. It remains undervalued against the major currencies of Europe," said Heinz Gundlach, a Wall Street investment banker who spends much of his time in San Diego.

In New York, Gundlach operates a small investment firm with John L. Loeb, Jr. former ambassador to Denmark. Gundlach and Loeb were once partners of Loeb, Rhoades, which is now part of Shearson/American Express

In San Diego, Gundlach heads Sun Belt Properties, surviving corporate entity of Fed-Mart, the discount retailer which has been liquidated. He once headed Fed-Mart. For many years, he has been investment consultant to Hugo Mann, the German retailer who controlled Fed-Mart.

Despite the demise of Fed-Mart, Gundlach's work for Mann has paid off handsomely. With Gundlach's consultation, Mann put his money into Southern California and Southwest U.S. real estate. Basically, Mann owns the former Fed-Mart stores now leased from him by Target and Ralph's.

What's important is that Mann got his money out of German D-marks and into dollars at just the right time. During the late 1970s, when the dollar was very weak versus the D-mark (and many other currencies), Gundlach was convinced that the D-mark was grossly overvalued.

He steered Mann's capital into the U.S. real estate. Now that the dollar has regained all the ground it lost in the 1970s, Mann is sitting pretty: He was investing in dollar assets when the dollar was weak and the D-mark strong. Now he's sitting on a pile worth plenty.

And Gundlach wants Mann to stay there. Europe has horrendous problems: The dollar is strong because the United States is strong, said Gundlach.

"The interest rate situation (the fact that inflation adjusted interest rates are at an all-time high) is only part of the story," Gundlach said in an interview. "What is hurting the other currencies is political risk; inflation; declining purchasing power and the European outlook, in addition to the high U.S. real (inflation-adjusted) interest rates," he said.

"The U.S. is the only safe place. We have a bright outlook. Europe does not," said Gundlach, just back from a three-month European swing, in which he talked with numerous European bankers.

The U.S. deficits are bad, but as a percentage of our overall economy (our deficit is between 5 and 6 percent of gross national product, or total annual economic output), "our deficit looks good in comparison with the same ratios for European nations," he said.

The decline of the emerging nations hurts European countries much more than it does us, because they depend on them so much for their trade. Also, most world trade is settled in U.S. dollars; that gives us a leg up. "For these European countries, their trade deficit or balance of payment deficit is equally bad or worse than their budget deficit," he said.

"Europe is very, very depressing, The Ruhr Valley, the center of heavy industry, is in such bad shape, and the people ony turn to Uncle Same for help. There is no entrepreneurial spirit, no venture capital; the government says it will keep these old industries going, and therefore there never will be the entrepreneurial spirit.

"The social welfare state has decimated Europe. Sweden was one of the wealthiest nations, and now it's one of the poorer ones. The same thing happened to England, France and Germany. Only Switzerland has escaped socialism. Socialism has made people lazy, it has raised the operating costs so high that a company can't compete—it can't even close plants," he said.

People have little hope—"and their currencies reflect the malaise," he said.

It is time to deal with the bad loans to emerging nations, he said. "In the 1970s these banks took in the petrodollars and then tried to grow fast—they were knocking on these countries' doors, offering loans on the fallacious notion that a country cannot default. That's nonsense. Germany defaulted in the early 1920's and many other nations have defaulted throughout history," he said.

"The bankers have become the lenders to the lesser credits. They lend to the institutions not sound enough to be able to sell commercial paper. I can remember when (New York's) Morgan Guaranty was a blue chip bank. But now more than half its loans are overseas and it is not blue chip—it's a lower quality bank, like Citicorp, which I never considered blue chip," he said.

He opposes the U.S. supporting the International Monetary Fund (IMF) to bail out these banks. The IMF is imposing too-restrictive conditions on the debtor nations, breeding revolution.

Also, the managements of the banks should suffer for their sins. He feels the banks should start writing off the loans now. They should grant the nations 20 or 30 years to pay off the loans at low interest, such as 6 percent. As a result, the banks would be reporting big losses for several years, "but that can be done. The German banks have been reporting no earnings for three years; they wrote off their worthless Polish loans," said Gundlach, who was reared in Karlsruhe in southern Germany, where Mann now lives. Gundlach came to the U.S. in the early 1960s.

He sees little hope for Brazil or Argentina. Brazil lacks the resources. Argentina has resources but hopeless political instability, he said. Mexico and Venezuela are better off because of their oil.

If the banks wrote off the loans, "The Eurodollar market would suffer deeply, but that would be very positive for the world. It was the Eurodollar market creating money excessively with no central bank control that is at the root of world inflation today," said Gundlach, who specialized in Eurodollar activity while at Loeb, Rhoades.

Gundlach's position on the bank loans is quite similar to that of Felix Rohatyn, the fabled investment banker of Wall Street's Lazard Freres.●

EQUAL RIGHTS AMENDMENT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. WEISS. Mr. Speaker, the narrow margin of votes that scuttled the ERA yesterday was neither a reaction to the language of the amendment nor a defeat for the advocates of equal rights.

The amendment is alive and well and will come again to the floor in due time. The vote of 278–147 yesterday was only 6 short of the two-thirds majority that is needed to approve a constitutional amendment. I anticipate that the 12 cosponsors who cast negative votes will hear from the women in their districts. If only one-half of the dissenting cosponsors reverse their votes, the amendment can pass the House the next time it is considered.

The ERA, in its simplicity, offers the best argument for itself: Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex. We cannot allow its essence to be amended, and thus, diluted or confused by other issues that detract from the essential impact of the constitutional principle of equality. Whatever the merits of those other issues, they should be addressed separately, not as part of the ERA.

Public support and understanding of the need for ERA has never been stronger. The increasing feminization of poverty and the disproportionate hardship that poor women and their families suffer from sex discrimination have intensified the activism of women in the struggle for equal rights. And with the striking impact of the highly publicized gender gap, women have emphasized that their concerns must be heard and have proven that their vote has a powerful impact on a wide range of issues.

Opponents of the ERA are still claiming that the amendment is not needed because women can gain equality through Federal laws already on the books and changes in State and local statutes. Recent hearings before the Judiciary Committee and the decade-long battle for ratification by the States have proven the contrary. No statute can provide the all-encompassing protection of a constitutional amendment. Statutes present a piecemeal approach to equality. They can easily be undermined by a shift in the political winds—a lesson we have learned only too well under the Reagan administration. Equal rights for women and men should not be subject to the political whims of the day.

We need the ERA as a guide for gender-discrimination cases in the courts and for passage of implementing legislation in State legislatures. We need the ERA as a signal to this country and to the world that America will not tolerate discrimination on the basis of sex. Finally, we need the ERA to assure that our constitutional guarantees of equal justice for all applies to women as well as to men. A constitutional amendment is the only means of insuring that this fundamental right to equality is protected, not just in theory, but in the reality of our daily lives.●

EQUALITY FOR WOMEN

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LEWIS of Florida. Mr. Speaker, given the short time allowed for debate on the equal rights amendment yesterday, I want to take this opportunity to clarify my position on this important issue.

I firmly believe women have been discriminated against. I came to Congress ready to write specific legislation to address some of the primary economic concerns women face today.

Last July I introduced H.R. 3554, the Women's Economic Parity Act. This was the first major piece of legislation I introduced in the House of Representatives. It changes current pension and tax laws to provide women more equitable treatment and coverage under the law.

While drafting H.R. 3554, I became even more aware of the lack of protection and fairness for women under the law today.

More and more young women are entering the work force but cannot count those early work years toward vesting in a pension plan.

There are 3 million displaced homemakers who, having lost their sole source of financial support, may be forced to choose between relatives or welfare for their sustenance until they can find employment.

Women who rely on their husband's retirement can be left with nothing if their husbands, who are vested in a company pension plan, die before taking retirement.

The number of elderly women living alone and in poverty is staggering.

Yesterday, I voted for the equal rights amendment because it serves as a catalyst to develop the necessary legislation to put women on an equal footing in America. Although the amendment did not pass the House of Representatives, I continue to be concerned with the issue of equality for women, and I will continue to support and work for legislation to give women the equity, fairness, and justice long overdue them.

I would also like to touch upon constitutional amendments in general. The ratification process of an amendment to the U.S. Constitution requires the active participation of the State legislatures. The people have the right, through their elected State representatives, to make the final decision on all constitutional amendments. No matter how often the same amendment comes before Congress, I believe it is our responsibility to send the amendment forward to the people and let them determine its outcome. To deny the people their final voice as to whether we should amend the Constitution is unfair and undemocratic.●

TERRORISM STRIKES AGAIN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BROOMFIELD. Mr. Speaker, it is with great sorrow that I report to my colleagues in the House the death of Capt. George Tsantes, Jr., U.S. Navy, in Greece. As all of you know, this fine American officer was assassinated yesterday in Athens. This senseless act is testimony to the brutality of political terrorism in the world today.

Captain Tsantes, an American of Greek descent, was shot in his car while on the way to work. The gunman and his accomplice were on a motor scooter and sped away from the scene of the tragedy. I was also saddened to learn that Mr. Nikos Voutsos, Captain Tsantes's driver, also died as a result of his wounds.

Captain Tsantes had a distinguished career in the military. He was the chief of the naval section of the Joint U.S. Military Assistance Group (JUSMAG) in Athens. In the past, he had served as an officer aboard a number of U.S. Navy ships, including the U.S.S. *Enterprise*, and had received the Vietnam Service Medal.

A career naval officer, Captain Tsantes graduated from the U.S. Naval Academy in 1955. He was originally from New York City and had a home in Merchantville, N.J.

I share the grief of his wife, three children, and parents, and my heart goes out to the family in this hour of supreme sadness. He died in the service of his country helping Greece, the land of his forefathers.

I was pleased to learn the Greek Prime Minister Andreas Papandreou had "expressed deep grief for the killing." He pledged to "take all necessary steps to find and mete out exemplary punishment on the culprits."

In recent years, an increasing number of Americans serving overseas have fallen victim to blind terrorism which seeks to win objectives by the brute application of fear and force. the horrible loss of 239 young marines in Lebanon and the tragic bombing of the American Embassy in that country are recent sad reminders of the ferocity of terrorist attacks.

The success which terrorist groups have had in taking the lives of both Department of State and U.S. military personnel assigned overseas is of great concern to me. Who can forget about past incidents to include the holding of 52 hostages in Iran for over a year, the hostage taking of the U.S. Ambassador in Colombia, the assassination of the U.S. Ambassador in Afghanistan, the killing of eight Americans in Turkey, and the numerous kidnappings of U.S. executives or bombings of their offices just to mention a few incidents.

U.S. officials are too vulnerable to acts of violence and something must be done about this.

Terrorism, be it criminally inspired or politically motivated, a random act or preplanned, affects the very nature of our society and works to undermine those precepts that serve as the foundation of Western civilization. I believe that the U.S. Government and especially the Congress should again address ourselves to the terrorist challenges that our country will face in the coming decade. We must never forget the need for continued vigilance if we are to successfully combat terrorism on a global basis. Had our personnel been better protected, maybe the horrible incidents in Beirut and yesterday's loss of a fine American would not have happened.

I am certain that all of my colleagues will join me in sending our sincere condolences to the family of Captain Tsantes. He died in the service of America performing an important job in a far-off land. He will not be forgotten. The least we can do is to insure that this does not happen again.●

THE AMERICAN COMMITTEE ON ITALIAN MIGRATION'S SAN REMO HOLIDAY BALL HONORING CONGRESSMAN PETER W. RODINO, JR.

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. GUARINI. Mr. Speaker, on Saturday, December 3, the American Committee on Italian Migration and its friends will gather for its annual San Remo Holiday Ball. On that evening, a special honor will be extended to our dear friend and colleague, New Jersey's esteemed senior Representative and chairman of the House Judiciary Committee, the Honorable PETER RODINO.

The ACIM and Congressman RODINO have worked hand in hand for years for many of the same values and initiatives. The ACIM, now in its 31st year of service, is a private, voluntary, nonprofit agency which offers services to assist immigrants from Italy and dozens of other nations with their problems with immigration, resettlement, and assimilation into American society. The ACIM has been a godsend to many immigrants who faced an uncertain future on our shores.

The ACIM is also an active advocate for fair national immigration policies. Throughout its lifetime, the ACIM has raised its voice to awaken our country's conscience to its human and moral obligation to insure that immigration policies remain generous, humane, and fair. After all, America is truly a nation of immigrants; it is essential that we not forsake our roots. The ACIM has been especially active in cases where the reunification of families is concerned. They have fought diligently for legislation to abolish all forms of racial discrimination. In all these matters, they found a tireless champion in Chairman RODINO.

PETER RODINO has established an outstanding legislative career, with close involvement with civil rights and immigration legislation throughout his 34 years in Congress. In the 1960's, when this Nation grappled with its

constitutional responsibilities of fairness and justice for all Americans, PETER RODINO helped lead the way in this country. He was the leading influence in the passage of all major civil rights bills from that era through today.

His compassion was extended not only to Americans but also to those who yearned for citizenship in this great Nation. Chairman RODINO has always been a stalwart supporter of equitable immigration laws, holding high the value of family togetherness. He was the chief House manager of the immigration reform law of 1965, which eliminated immigrant quotas for individual nations. This quota system had been the foundation of American immigration policy since World War I. Finally, because of Mr. RODINO and the 1965 landmark legislation, family ties became of paramount importance in American immigration policy.

PETER RODINO has consistently upheld the highest values of the Judeo-Christian tradition. Indeed, his integrity, compassion, and dedication to these values has attracted the attention of the Vatican, which has bestowed on the chairman the Pro Ecclesia et Pontifice Award, one of the highest honors that can be given a Catholic layman. This award will be officially extended at the San Remo Holiday Festival.

It is truly appropriate that Mr. RODINO be recognized in this fashion at an American Committee for Italian Migration event. The ACIM has been a community leader in immigration, putting into effect the laws Chairman RODINO has so ably fashioned. Our late former President Lyndon Baines Johnson once said of the group's immigration efforts, "No group has worked harder or with more dedication than the American Committee on Italian Migration." I understand from Father Joseph A. Cogo, the hardworking executive director of the ACIM, that in an average year, some 1,300 people obtain assistance from the ACIM for their problems with immigration and citizenship. ACIM, through radio, television, and the print media, provides a vast and important network of information to millions of people. Furthermore, after the terrible 1980 earthquake which devastated 10,000 square miles of the Italian countryside, the ACIM quickly rallied to offer assistance. I have spoken of this effort here in the House before, but it bears repeating that the combined efforts of many nations and concerned groups such as ACIM truly saved the people of the earthquake-shattered region.

The work of the ACIM has been praised by Pope John Paul II, who met ACIM leaders with these words:

I am happy to have this opportunity to thank you for your active interest in the problems of the people affected by disaster and for the generous donations that you were instrumental in raising for the alleviation of their needs. all of this speaks of worthy aims and practical initiatives.

I know all my colleagues here in the House join me in saluting Chairman PETER RODINO for his excellent work protecting the values of freedom, fairness, and justice. He has given his constituents, and his Nation, only the best of public service. His record of diligence, honesty, and compassion deserves applause from us all. Our heartiest congratulations go out for his well-deserved Vatican honor. And also, to our good friends at the American Committee on Italian Migration, we give our deepest respect for a job well done—we know you will continue to pursue your most worthy aims.●

READING NATIONAL LITTLE LEAGUE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. YATRON. Mr. Speaker, it is with great honor today that I bring to the attention of my colleagues in the U.S. Congress, the remarkable civic achievements of the Reading National Little League, Inc. of Reading, Pa. For so many years, this organization has brought the joy of sports and athletic competition to the community and young people of Reading. Baseball is one of the most American of pastimes and through its pursuit at an early age many of the values we cherish as a Nation are instilled in our young people.

All of the members of the Little League organization are volunteers who give unselfishly of their time and energy to support the activities and obligations of the teams. To all of them, we owe our most sincere thanks and the hope that this tribute will serve as an expression of our unending gratitude. To the following, we offer our deepest appreciation:

BOARD MEMBERS

Lee Maniaci, president; Hank Kline, vice president; Allen Liszcz, treasurer; Donna Maniaci, secretary; Mary Stadelmeyer, player agent; Clayton Taylor, umpire and chief; Francis Lis, finance secretary; Dawn Liszcz, auxiliary chairman; Don Taddei, Sr., Vic McGaughlin, Barry Jackson, vice presidents senior league.

MINOR LEAGUE

Allen Liszcz, manager, Dodgers; Don Ernst, Sr., manager, Ann Maurer, assistant coach, Expos; Hank Kline, manager, Spike Crowther, assistant coach, Phillies; Denny Smith, manager, Louis Torres, assistant coach, Pirates.

MAJOR LEAGUE

Rick Arnold, manager, Cardinals; Barry Jackson, manager, Ed Morrison, assistant coach, Dodgers; Rich Arnold, manager, Larry Dotterer, assistant coach, Norm Fryberger, assistant coach, Expos; Murry Roseman, manager, Jeff Becker, assistant coach, Pirates.

SENIOR LEAGUE

Francis Lis, manager, Sal Lechuga, Sr., assistant manager, A's; Joe Paolella, manager, Gary Williamson, assistant coach, Cardinals; Don Taddei, Sr., manager, Brian Kohlhase, assistant coach, Expos; Eric Swanson, manager, Tigers.

SCHLEGAL PARK CONCESSION

Francis Lis, Don Taddei, Sr., Lee Maniaci, committee; Donna Maniaci, chairman; Mary M. Stitzel, volunteer coordinator.

OAKBROOK CONCESSION

Barbara Dotterer, Larry Dotterer, Susie Roseman.

STAFF

Ann Fryburger, Tess Hartman, Bev Hess, Francis Lis, Allen Liszcz, Dawn Liszcz, Donna Maniaci, Lee Maniaci, Jerry Nally, Dee Taddei, Don Taddei, Sr., Mary Stadelmeyer, Mary M. Stitzel, Rochelle Ulrich.

The Reading National Little League, Inc. is a vitally beneficial part of the fabric of our community and I know my colleagues join me now in extending to all of these fine volunteers our very best wishes for their continued success in making it so.●

THE GREAT AMERICAN SMOKEOUT

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MORRISON of Connecticut. Mr. Speaker, on Thursday, November 17, the American Cancer Society will be hosting its annual "Great American Smokeout." As Connecticut's honorary State chairman of this event, I will be "adopting" a smoker from among my colleagues in Congress who will quit smoking for an entire day. I have already adopted Connecticut's Secretary of State, Julie Tashjian, who has agreed to make this commitment.

The purpose of the nationwide event is to draw attention to friendly, nonthreatening ways to encourage people to quit smoking. On a more serious level, it will serve as a reminder that smoking has been shown to be responsible for more than 75 percent of all cases of lung cancer—the leading cancer killer of men and, by the end of the decade, expected to replace breast cancer as the No. 1 cancer killer among women.

It is time that, as a nation, we take action against this killer, the chief avoidable cause of death in society. I hope that tomorrow's event will provide a good opportunity for many who smoke to join a national effort to kick the habit.●

GOOD NEWS—ONLY A PHONE CALL AWAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BIAGGI. Mr. Speaker, I have always taken great pride in calling to the attention of my colleagues in the House the many worthwhile volunteer projects that go on across the country for the benefit of the elderly. Today as the ranking New York member of the House Select Committee on Aging, it is my personal pleasure to congratulate Mrs. Norma Barrer, executive director of Volunteer Services for the Elderly of Yorkville, Inc., and the program she has initiated called Telefriend, in my home city of New York.

Telefriend, one of the many volunteer calling services that have started in New York in the last 10 years has a clientele who are among some of the loneliest people on Earth. They are the isolated elderly, whose days often go by surrounded by emptiness and depression. Telefriend, which was originally initiated to combat the isolation felt by the elderly, provides a daily phone call to talk to and to make certain all is well. These phone calls have become the lifeline to many elderly people, whose main fear is that they might become ill or even pass away, with no one knowing for weeks.

Telefriend is operated solely by volunteers, some of them senior citizens themselves. These volunteers range in age from 14 to 90 and are people from all walks of life. Every day elderly people in the Yorkville area—eastern Manhattan between 55th and 96th Streets—receive cheery telephone calls from strangers—strangers who do indeed become fast friends. The Yorkville area has the highest concentration of older people than any urban district in the country—40,000 men and women over 65, with thousands at the bottom rung below the poverty level. To some, these telephone calls are the only contact they might have all day with the outside world.

Mrs. Barrer is to be commended for her outstanding leadership in this very worthwhile project—as in the other four services which are offered by the Volunteer Services—escort services, friendly visitors service, the delivery of library books, and weekday meal programs. These services are offered to the elderly regardless of financial means and provide senior citizens with the means to keep in contact and socialize with others.

Last year I was given the honor to place the first telephone call for a similar service in my own district of the Bronx. This telephone reassurance program, which is run by the Visiting Nurse Service of New York, is an offshoot of Telefriend and was organized with the help of Mrs. Barrer. It has been functioning with much success for the past 12 months, and I know will continue to do so.

It is my pleasure at this time to share with you a recent article that was in the New York Times which more vividly describes Telefriend. I take this opportunity to thank Mrs. Barrer and the countless number of volunteers who make this program so successful.

[From the New York Times, Nov. 6, 1983]

VOLUNTEERS' CALLS EASE LONELINESS OF ELDERLY

(By Richard Severo)

Bolton D. Melliss says that despite his 89 years, he still feels "like hopping around" with some frequency, still likes to listen to jazz and classical music as he always has and still likes to visit the friends he has in Manhattan, friends who, he says, treat him "like family."

But with all of his independence and vigor, Mr. Melliss, a retired lawyer, appreciates a short telephone call he gets in his East Side apartment every morning, at about the same time, seven days a week. The call is not from a relative, a close friend or even a neighbor.

Rather, it is from someone he might not even know—a volunteer working many blocks away in a second-floor office in the St. James' Parish House at Madison Avenue and 71st Street. The office is that of Volunteer Services for the Elderly of Yorkville, which offers many programs, including a free library and an escort service.

But the one aimed at Mr. Melliss and several hundred older Yorkville residents is called Telefriend.

Telefriend is one of many volunteer calling services that have started in New York in the last decade, and its special fear, the other reason Telefriend is so active.

"The fear among older people," Mrs. Barrer said, "is that they might become ill or even die, and nobody would know about it for weeks. Some of them have no callers except us."

In Yorkville, many old people of Irish, German and Hungarian extraction remain in what is left of the tenements and walkups that were built long before the Third Avenue El was torn down in the late 50's. It was the razing of the El that triggered much construction and repopulation with younger, more transient residents.

Many of the older buildings have been renovated, but the changes have not always been good for the aged who have lived in them for years.

Mrs. Barrer said the younger people were frequently not in a building long enough so that older residents could get to know them. Sometimes, she said, the young were not particularly interested in knowing the very old.

Carol Robinson, executive director of the Isaac H. Tuttle Fund, which provides some of the money for Volunteer Services, said the bias worked the other way, too, with the elderly afraid of being rejected by the young.

Some of the callers at Volunteer Services, such as Florence Bleendes, who is 75 and blind, receive calls themselves.

The volunteers usually try to limit the length of the calls to a few minutes so they can get through their list. Recently, Ernest Rosenfeld, an octogenarian, spent the morning calling his peers, some of them people who do not enjoy his good health.

Mr. Rosenfeld is always intent on making all the calls assigned to him. Those he calls know he has to call many. And yet, he will occasionally telephone someone who is so lonely that he or she will require a conversation of 10 or 15 minutes. The conversations are mostly small talk and pleasantries.

The small talk is important. Rose Dobrof, director of the Hunter College Brookdale Center on Aging, said that sadly but frequently, the brief exchange of pleasantries about the weather is the only conversation an aged person might have all day with anyone other than his building superintendent.●

EXIT POLLING AND EARLY ELECTION PROJECTIONS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. SWIFT. Mr. Speaker, Mr. BILL THOMAS and I, along with all the other members of the House Administration Committee, are introducing a resolution today calling on broadcasters and other members of the news media to voluntarily refrain from projecting election results before the polls close.

As most of you know, the results of the Presidential election in 1980 were projected by television network news while polls were still open and people were still voting in many parts of the country. One such projection came as early as 5:15 p.m., Pacific standard time, nearly 3 hours before the polls were scheduled to close in most Western States.

Those projections led to widespread reports of people leaving the polls without voting, since they felt that the election was already over. Their failure to vote could well have affected the outcomes of several close local and State elections. Furthermore, even among those who did vote, there was a pervasive feeling that their votes—for President, at least—had been made worthless.

We are deeply concerned about the impact of this situation on our electoral process. The adverse effect such premature projections of election results have on people's willingness to vote, and on their attitudes toward voting—especially at a time when voter turnout is already at historic lows—is profoundly disturbing.

The problem we in Congress are faced with is that hearings we have held have made it clear that devising

an effective legislative solution to this problem is extremely difficult, and much less desirable than having the networks handle this themselves.

The one legislative solution suggested by some network representatives is for us to adopt uniform poll closing times. Unfortunately, when the networks use exit interviews to project election results—as they now do—uniform poll closing times cannot prevent premature projections. With exit interviews, the networks interview people all day long as they leave the polls. As a result, they can often project election results within a matter of hours after the polls have opened—and well before the polls have closed anywhere.

Other possible legislative solutions to the problem would either inhibit the ability of the networks to conduct exit interviews at all—which we prefer not to do. Or, they would require carefully legislating perilously close to the first amendment—which we also do not want to have to do.

As a result, the House Administration Committee came to the conclusion, after our hearings following the 1980 election, that by far the best solution to the problem would be for the networks, other electronic news sources, the news media in general, and various media organizations, to adopt voluntary guidelines restricting the use of exit interview data to project election results prior to poll closings. By unanimous voice vote, the committee adopted a resolution to that effect.

We hoped for some indication in the 1982 election that the networks were listening. Unfortunately, that does not seem to be the case, as is documented by the League of Women Voters' study of election projections around the country. In addition, the testimony we have received from network witnesses as recently as this past summer makes it clear that the networks are so far not responding to our appeal for self-discipline.

We are especially concerned to try to get some control of premature election projections because our belief—and our fear—is that in the long run this problem can only get worse. As the technology of conducting exist interviews and analyzing the results advances, it will be possible to project election results ever earlier.

Already, although this problem is most severe on the west coast, it is certainly not confined to the west coast, or even to the Western States. The task force has received letters, for example, with complaints about hearing the Presidential election results projected in 1980 before the polls were closed, from places as far east as Alabama. And in 1981 and 1982 gubernatorial and senatorial races, election results were projected in a number of States in all parts of the country while polls were still open in those States.

At the same time, we are well aware that Cable News Network, Direct Broadcast Satellite, and other technologies will expand news sources, and that competition to the first will continue to increase the pressure to use exit interviews to project elections prior to any poll closings. That is why it is particularly important, in our view, for organizations of broadcasters, journalists, and others, to adopt guidelines and establish a precedent.

Accordingly, the purpose of the resolution we are introducing today is twofold. First, we want to make it clear that we are seeking every avenue possible to avoid having to consider any form of restriction on election reports. But second, we want the news media, particularly the networks, to know that this is not an issue that will go away.

Especially with another Presidential election on the way, it remains our steadfast hope that the networks can be persuaded to avoid premature election projections, so that legislation will not be necessary. But, as noted at the outset, we are deeply concerned about the effect of these premature projections on the electoral process, and we do intend to do everything in our power to alleviate this problem.●

REPRESENTATIVE GRAY'S REMARKS AT POPULATION INSTITUTE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. WOLPE. Mr. Speaker, on October 28, in Philadelphia, Pa., my colleague, WILLIAM H. GRAY III, a member of the House Appropriations Foreign Operations Subcommittee, was honored by the Population Institute for his advocacy and efforts on behalf of global population assistance to those who lack the access and means to voluntary family planning methods. The Population Action Council, and its parent organization, the Population Institute, comprises the largest grassroots organization in the United States, working to bring population and the Earth's resources into an equitable balance.

Mr. GRAY's remarks follow:

It is with sincere pleasure that I accept the Legislator of the Month Award conferred upon me today by the Population Action Council.

This award is not mine alone. It belongs as well to the people of the Second Congressional District of Pennsylvania, who sent me to the U.S. House of Representatives because they share my profound concerns about upholding human rights and human dignity and improving the human condition.

These concerns extend from Philadelphia across the length and breadth of these United States and beyond—to the world's poor people, hungry people and disadvantaged people, wherever they may live.

It is my firm belief that international humanitarian assistance—such as the funding of programs aimed at stabilizing population—is appropriate and necessary not only because it is just and compassionate, but because it is of vital interest to the future stability and prosperity of the United States.

Nations of the world can no longer exist in isolation. The world economy is changing too rapidly for that. Nations are dependent upon one another for food, raw materials and scientific technology. For instance, developing countries purchase approximately 40 percent of total U.S. exports. They account for one of every 20 U.S. jobs in manufacturing.

On the other hand, United States imports of manufactured goods from the developing world are growing so rapidly that they now account for more than one fourth of our total manufactured imports.

Yet today, much of the developing world is overwhelmed by rapid population growth, which depletes natural resources, exacerbates poverty, hunger and malnutrition, and perpetuates the vicious circle of human misery and deprivation.

Recently, United Nations Secretary-General Javier Perez de Cuellar warned that unchecked rapid population growth could undermine all efforts for economic and social development and could easily lead to widespread depletion of each nation's basic resources.

When a developing country's population is increasing faster than its gross national product is rising, that country cannot possibly hope to fulfill the aspirations of its people for an improved quality of life.

For example, Africa is a continent with a tremendous wealth of untapped resources. But Africa is also the fastest growing continent in the world. With its current population growth rate of 3 percent per year. Africa will double its population in only 23 years. Under these circumstances, the prospects for accelerating the development and prosperity of these young nations are extremely bleak.

There is no question that overpopulation erodes economic development gains. Moreover, there is virtually no hope for a peaceful, secure and harmonious planet unless population growth can be substantially and humanely reduced by universal accessibility and availability of voluntary family planning methods.

The means and the technology exist to alleviate global overpopulation. More than 90 percent of the population growth projected by the end of this century will occur in the developing world. Some 60 developing nations have established policies to limit their demographic growth and that number is increasing. So we have a combination of the technology to combat this tremendous global problem and constantly growing recognition among the countries where overpopulation is most severe that the problem must be alleviated.

Yet the problem remains. The reason for this, I strongly suspect, is that we have diverted our attention to other international issues—primarily the arms race. We spend billions on sophisticated weaponry that could blow away huge portions of this planet, but only a very small fraction of this amount to solve the very problems—such as overpopulation—that lead to the frustrations, anxieties, and political instability that

enhance the possibility that those weapons will be used.

Those of us who fervently support global population assistance share the contention that it makes at least as much sense to concentrate on the preservation of peace as it does to prepare for the possibility of war.

According to the Agency for International Development, the demand for family planning is greater than ever. There are an estimated four hundred million couples in the world who need and want, but lack access to, family planning assistance. If we could reach just one hundred million of these in this decade, world population would stabilize at 8 billion rather than the currently projected 12 or 14 billion. So you ask, why aren't we doing this? The answer is simple: insufficient resources.

At least double the current half billion dollars expended annually for international population assistance is needed. That seems to me a small price to pay when one considers the unnecessary turmoil and human suffering that can be averted by this expenditure. It is no longer a question of whether the world can afford to pay this price; it is a question of whether the world can afford not to pay it.

The award I accept today is especially meaningful because it is being presented by the Population Action Council. So many groups in Washington battle ferociously and tenaciously to protect, promote and enrich themselves that it is truly refreshing to find organizations such as the Population Action Council laboring on behalf of humanitarian concerns, without receiving or asking for one cent in U.S. government funds. I, for one, sincerely appreciate the Population Action Council and its parent organization, the Population Institute, for their diligent and dedicated work toward promoting the stabilization of global population growth and creating an atmosphere conducive to the kind of world we will be proud to turn over to our children and grandchildren. In this effort, they can always count on me as an enthusiastic ally.●

INTERNAL REVENUE SERVICE: INCOMPETENT OF THE MONTH AWARD

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. MARLENEE. Mr. Speaker, every once in awhile our Federal agencies do something that is so astoundingly dimwitted that it must be brought to the attention of this body. In this instance, it is the Internal Revenue Service. It richly deserves my first monthly Incompetent of the Month Award. Reprinted below is a portion of a letter I received from a certified public accountant that illustrates the shortcomings and insensitivity of the IRS toward the taxpayers.

Another example of our problems has to do with communications. I started 1983 off by answering an IRS inquiry regarding two clients who died the year after the return was filed. Their estates were being handled by a trust company, and the notice had been addressed to the trustee. Since our firm had prepared the original return, the trustee asked us to respond. Due to some confusion in the notice, I requested certain additional information. The response from IRS was a hand written note requesting a power of attorney signed by the taxpayers before they would release any information to us. Since we were responding to the IRS notice at the request of the trustee, and the taxpayers were both deceased, the request seemed ridiculous, to say the least.●

TRIBUTE TO HERB BRIN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a rare and unique individual, and a good friend of mine, Mr. Herb Brin. Herb is being honored by the Zionist Organization of America for his loving and dedicated lifetime of work on behalf of the Jewish people and the State of Israel.

Herb Brin is an author, poet, humanitarian, and publisher of the Heritage newspaper in California. He is well known in the Jewish communities of San Diego, Orange County, Los Angeles, and the San Joaquin Valley for his outspoken and steadfast support for Israel and for Jewish causes. Herb makes it his business to confront anti-Semitism, having experienced its cruelty firsthand, and does so with style and determination that those who follow bigotry's ignorant path can never seem to equal. He makes good use of the Heritage, which he built from a tiny Jewish newspaper, for which he mortgaged his home, into the influential and internationally known newspaper it is today.

Herb personifies the kind of work that the Zionist Organization of America performs since its inception at the turn of the century. The ZOA helped to achieve acceptance for the new State of Israel, and its efforts help to defend the Nation today. The work the ZOA does in educating the public and in organizing the Jewish community is vital to Israel's survival.

Mr. Speaker, Herb Brin will be the guest of honor at a Banquet of the Southern Pacific Region of the ZOA on Sunday, November 27. I would like to extend my personal congratulations to him on this happy occasion, and wish him continued success. Mazal tov, Herb!●

TENANT MANAGEMENT OF PUBLIC HOUSING

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mrs. ROUKEMA. Mr. Speaker, it is a pleasure to bring to the attention of the House a genuine success story. It is a story that tells us, first, that there are creative individual Americans all around us; and that they can sometimes accomplish more through their own energies than Government can achieve through its best efforts. It tells us, too, that our public housing can indeed be well run and well maintained. Public housing projects and their residents need not suffer from bureaucratic inefficiency or management neglect.

This success story takes place right here in the Nation's Capitol—in two public housing projects known jointly as Kenilworth/Parkside. Before 1982, they shared the ills we have come to associate with too many such projects: High vacancy rate, nonpayment of rents, poor maintenance, and widespread vandalism and drug use. Few social services were available to residents.

But a Kenilworth resident, Ms. Kimi Gray, took the lead in organizing a Resident Management Corp. training in property management, finance, and accounting were provided with funds from the Department of Housing and Urban Development's community development block grant program. In March, 1982, the corporation was awarded a 2-year management contract for the two projects.

The results have been impressive. Vacancies are low. Rents are paid on time, and a program to collect rents in arrears has been successfully launched. The projects' physical maintenance has been improved. Drug use has declined. Services—health care, a food cooperative, educational programs—have been established.

Just last month, HUD announced the award of $13.2 million in modernization funds to Kenilworth/Parkside. At the time, HUD Under Secretary Philip Abrams acknowledged the Resident Management Corp. accomplishments, and said: "What you have done here is a good example for others for follow." That is a sentiment I share.

The success of this project has been recognized by the Washington-based news media, too. I insert, Mr. Speaker, at this point in the RECORD, the text of articles from the Washington Times of October 7 and the Washington Post of October 13.

[From the Washington, Times, Oct. 7, 1983]

TENANT-RUN PROJECT GETS HUD FUNDS

(By Isaiah J. Poole)

The tenants of two far Northeast public housing projects, who made dramatic changes in their decaying buildings after deciding to manage the projects themselves, were rewarded yesterday with a $13.2 million federal housing rehabilitation grant.

The Kenilworth Management Corp., a tenant-run corporation which manages the Kenilworth Courts and Parkside public housing projects off Kenilworth Avenue NE, received the grant from the Department of Housing and Urban Development.

The money will help the corporation which was formed in March 1982, make sub-

stantial repairs in the combined 464-unit complex.

HUD officials and the Reagan administration were pleased with the success of the tenant management scheme at Kenilworth/Parkside.

When the projects were managed by a private firm under contract with the National Capital Housing Authority, the project began to slip into severe disrepair, crime and vandalism were rampant and rent collection was poor, said James Baugh, a deputy assistant secretary at HUD.

"Once the residents took over the management of those buildings, all those things started to improve dramatically."

Among other things, Baugh said, the number of delinquent rent payments have declined by 50 percent, incidences of vandalism are almost nonexistent, and the project maintains a clean appearance.

In addition, many of the services normally provided by the city government in a public housing project—ranging from minor building repairs to day-care services—are provided by the tenants themselves through their management company. Also provided are high-school equivalency and college preparatory programs.

"That is something HUD feels very strongly is a thing to try in as many situations as possible," said James Coyne, a White House adviser on private-sector initiative issues.

The District has turned over management responsibilities to tenants in the James Creek project in Southwest and in two other smaller complexes, said D.C. Housing Department spokesman Oliver Cromwell. Tenant management of all public housing in the city "is the direction we want to move in," he said.

[From the Washington Post, Oct. 13, 1983]

KENILWORTH GETS FUNDS FOR RENOVATION

(By Caryle Murphy)

Kenilworth Courts, Washington's only resident-run public housing project, has received $13.2 million in federal funds to renovate the 24-year-old Northeast development.

"It's like a reward for us," said Kimi Gray, a Kenilworth tenant and president of the five-member board that has managed the 464-unit housing project since early 1982 in an experiment aimed at improving public housing by involving residents in self-help programs.

"They were doing all kinds of things this administration has been talking about in regard to public housing—to put in some effective management so the operations are improved," said James E. Baugh, chief of public housing at the U.S. Department of Housing and Urban Development.

Baugh joined D.C. Mayor Marion Barry and Jim Coyne, the White House special assistant for private sector enterprise, at a ceremony at Kenilworth last week to announce the grant.

"Actually we are practicing what the president has been preaching: self-help," said the 38-year-old Gray, who is chairman of the citywide public housing tenants advisory board. Gray has been the driving force behind resident management at Kenilworth.

Kenilworth Courts, a sprawling project located between Kenilworth Avenue and the U.S. Aquatic Gardens just south of the city's boundary with Prince George's County, is among about a half-dozen city public housing projects slated for renovation in the coming year.

"Given the fact that the residents have improved the management of these projects significantly, it made good sense to us to put money in a place where it would be put to good use," said Baugh.

A spokesman for the city's housing department said, "The city government sees Kenilworth Courts as a model for public housing communities across the nation. We're excited about it. Effective management by the tenants was the thing which prompted HUD to commit $13.2 million for improvement."

It will probably be about three years before Kenilworth residents get their new kitchens, bathrooms and new plumbing and electrical systems. In the past it has taken city officials that long to begin construction at other large modernization projects.

Kenilworth, an isolated project of barrack-like buildings constructed to house some of the poor families moved out of the Southwest urban renewal area in the late 1950s, is the only one of the city's 52 public housing projects to be operated by the tenants.

The experiment began in March 1982 when a management board, headed by Gray and including four other Kenilworth residents, entered into a two-year contract with the National Capital Housing Authority to manage the project that is home for some 3,000 people.

The volunteer board has a $565,000 annual budget and hires the project's 23-member management staff which ranges from a manager to skilled laborers for on-site repair work. The management staff members, who are also all Kenilworth residents, receive salaries ranging from $8,500 and $17,000. The staff was given a nine-month management course last year, Gray said.

Some residents interviewed said that resident management had improved the atmosphere and services at the project and they cited a reduction in drug dealing as the biggest improvement.

"It's changed for the better, the drugs here now are not that many," said 21-year-old Helena Lee, whose opinion was echoed by her neighbors.

When the board began asking police to crackdown on drug dealing in the project some residents said, "'Oh, they're snitching,'" Gray recalled. But eventually they came to understand that cooperation with the police was essential to improve conditions at Kenilworth, she said.

The new management has also opened day-care centers and founded an on-site health center that is staffed with a doctor from 8 a.m. to 8 p.m. They also plan to hire a job placement counselor soon, Gray said.

"Overall the residents are pleased with the outcome" of tenant management, Gray said, but acknowledged that there had been some problems, which she attributed mainly to people's natural resistance to change.

For example the new management arranged for daily trash pickups to replace weekly collections to combat a rat problem at the project, she said. There were protests because the new daily collections mean that tenants had to set out their trash before 8 a.m. and some complained of having to get up so early, Gray said.

Gray also credits tenant management with a decrease in vandalism.

"Instances of vandalism and tenant irresponsibility are very, very rare," said a housing department spokesman. "The major reason is that there is a lot of pride in that community because people themselves are involved, they feel like they have some control over the situation."

The tenant managers operate a project where 85 percent of the households are headed by women with two or three children. Forty percent of these families receive public assistance, Gray said. The rents at the project average about $115 a month for the apartments that range from two to five bedrooms.

Mr. Speaker, the success of resident management at the Kenilworth/Parkside projects demonstrates the degree to which individual Americans can and should be trusted to make the right decisions about their own lives. It shows us that individual initiative can succeed where Government's larger scaled efforts often fail. I commend Ms. Gray and her fellow resident managers for their leadership. I also commend the District government and the Department of Housing and Urban Development for their recognition of the value and importance of permitting community residents to exercise that right. I urge continued efforts to encourage similar tenant management arrangements, where appropriate leadership exists, in other public housing projects all across the country.●

HONORING THE LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT ON ITS 10TH ANNIVERSARY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. TORRES. Mr. Speaker, on November 14, 1973, Hispanic trade unionists gathered in Washington, D.C. to organize the Labor Council for Latin American Advancement, (LCLAA). This week marks the 10th anniversary of the founding of this organization.

Since its beginning, LCLAA has been committed to strengthening the trade union movement and guaranteeing equal benefits for the working men and women of the United States. As the Hispanic arm of the AFL-CIO, LCLAA works within the union labor movement and with other community organizations to support economic and social policies that help the Hispanic community.

LCLAA is also actively involved in increasing the number of Hispanics registered to vote throughout the country. Recently it joined with other Hispanic groups in a drive to register 1 million Hispanic citizens in the 1984 Presidential election. In short, LCLAA encourages the participation of Hispanic American workers in the political process.

LCLAA has 80 chapters in 24 States and the District of Columbia. Its executive board has a membership of 65 trade unionists representing 45 inter-

national unions. The executive board's leadership branch consists of three national officers, six vice presidents, one past president and an executive director. Its national officers are: Henry L. Lacayo of the United Auto Workers, president; Jack Otero of the Brotherhood of Railway and Airline Clerks, executive vice president and Oscar Sanchez of the International Ladies Garment Workers Union the secretary-treasurer.

The board's six vice presidents are: Maria Portalatin of the American Federation of Teachers, Alfonso Rodriquez of the Carpenters and Joiners Union, Manuel Gonzalez of the International Ladies Garment Workers Union, Rudy Mendoza of the Communications Workers of America, S.Q. (Chano) Merino of the committee on political education, (COPE), AFL-CIO, and J. J. Rodriquez of the United Food and Commercial Workers. Also, Ray Mendoza of the Laborers International Union of North America is the past president and Alfredo Montoya of the United Steelworkers of America is the executive director.

Mr. Speaker, I ask my colleagues to join me in congratulating LCLAA on the occasion of its 10th anniversary and for its untiring efforts to improve the quality of life within the Hispanic community.●

PETER PRESTININZI

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to commend Mr. Peter Prestininzi on the 10th anniversary of his outstanding community service in my district. Community action and service are critical to the betterment of our community and all communities, and Mr. Prestininzi is an outstanding example of how people can get involved in such service. He currently serves as president of the Fraser Civic Association; as vice president of Amersfort Flatlands Development Corp., and as coordinator of the 63d Civilian Crime Prevention Unit (COPP). Mr. Prestininzi previously served for 3 years as president of the K3200 Block Association, and for 2 years as vice president of the Fraser Civic Association.

Mr. Prestininzi has for 20 years been a valuable employee at Manhattan's General Post Office. He resides in the Fraser community with his wife, Mary, and his two daughters, Carla and LeeAnne. I thank him for his service and wish him continued success in his efforts to make Brooklyn a better place to live.●

LET'S AVOID "THE DAY AFTER"

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 1983

● Mr. LEVITAS. Mr. Speaker, the ABC-TV network will soon air the film "The Day After" which graphically and dramatically points out the horrors of nuclear war. As this movie will show, the apocalyptic consequences of a nuclear war are beyond comprehension. Certainly it would be a conflict in which there could be no winners.

Unfortunately this film will only be shown to the American public and the free world. It will not be shown in the Soviet Union. I regret this because the film will not have the effect of adding to mutual understanding and avoidance of nuclear war, but could undermine our support for deterrence, and consequently avoidance, of such a nuclear catastrophe. We all agree that a nuclear war would destroy civilization as we know it. The more important question is: How do we avoid it?

I call my colleagues' attention to an op-ed column in today's Washington Post by David S. Broder. Broder adeptly states the problem when he says;

The single most effective creation of the postwar world has been the system of nuclear deterrence enforced by the United States and the Soviet Union against each other and, implicitly, against all other nuclear powers in the world.

For now, and until we achieve dramatic nuclear arms reductions, we simply must have deterrence in order to avoid a nuclear holocaust, and continue civilization as we know it. And I believe that the showing of this film on both sides of the Iron Curtain would help achieve a worldwide understanding that could lead to a safer, saner world and not simply to one side abandonment of deterrence which has—so far—served us well.

But, in the final analysis, I believe that a nation which at its birth said: "Give me liberty or give me death" will never be one that says: "I'd rather be red than dead."

OR DETERRENCE?

(By David S. Broder)

Here is a snap quiz with a surprise answer. In the years following World War II, the United States joined in a number of arrangements aimed at stabilizing the international scene. Which one has worked best?

Think for a moment. The United Nations was the most ambitious of those undertakings. It has been useful in some cooperative humanitarian and scientific efforts and some (but not all) efforts at mediating conflict. But it has fallen far short of its goal of providing a neutral forum to which nations can turn for the resolution of disputes, while renouncing the use of war.

Most of the regional security pacts have fared no better. Allies have quarreled among themselves or failed to provide effective common measures of defense. The NATO alliance probably has been the most successful, but it was unable to prevent Soviet repression on its borders in Poland, East Germany, Hungary or Czechoslovakia—or even to keep its Greek and Turkish members from battling each other.

Serious problems also have afflicted the international finance system created after the war. While a worldwide depression has been averted and many nations have made spectacular gains, inflation has been endemic; trade and currency imbalances have sent dozens of countries reeling into recession; and the gap between have and have-not nations has grown worse.

Remembering all this, it is accurate to say that the single most effective creation of the postwar world has been the system of nuclear deterrence enforced by the United States and the Soviet Union against each other and, implicitly, against all other nuclear powers in the world.

That system was designed for one purpose only: to prevent the outbreak of nuclear war. As we approach the end of the fourth decade of the nuclear age, a period in which there have been hundreds of other wars, it has worked to perfection. That is a statement that can be made about few other institutions or arrangements.

The point is pertinent now, because it is evident that we are about to go through a period of highly emotional talk about the horrors of nuclear weapons and the terror of nuclear war.

As we near next month's start for the deployment of a new generation of nuclear weapons in Western Europe and the inevitable Soviet decision to retaliate by deploying new weapons of its own, Americans are getting a total-immersion course on dangers in the nuclear age.

In the last few weeks, I have read two hair-raising books on the subject: "S.I.O.P. The Secret U.S. Plan for Nuclear War," a nonfiction account by Peter Pringle and William Arkin, and "Trinity's Child," a novel about nuclear war by my colleague at The Post, William Prochnau.

A couple of weeks ago, a group of scientists held a conference here on "The World After Nuclear War," presenting chilling evidence that a nuclear exchange would "destroy civilization as we know it, at least in the northern hemisphere."

Dramatizations of the tragic consequences of nuclear war can be seen at the movie theaters in the film, "Testament," and on the home screen Sunday night with the much-publicized program, "The Day After."

All of this is designed to produce a spasm of revulsion among Americans at the consequences of nuclear war. It will almost certainly have that effect. Coming at the start of a presidential campaign where the Democratic challengers have been steadily increasing the rhetoric of their commitment to "end the nuclear arms race," the impact on policy decisions—both here and in Moscow—cannot be exaggerated.

So it behooves us now to think clearly and calmly about the most important issue in the world. The potential of death and destruction on an unprecedented, almost unimaginable, scale has been there since we and the Soviets exploded our first nuclear weapons. That is why American presidents of both parties, over a period of more than 30 years, have accepted as an imperative both the maintenance of the nuclear deterrent and the pursuit of nuclear arms control. As Dwight D. Eisenhower said in a letter I was privileged to quote a few months ago, the nuclear weapon forced us

to see that the essential struggle is not nation against nation, but man against war.

The response I received to the publication of that letter testifies that Americans understand we must continue our effort to control the costs and the destabilizing effects of the nuclear arms race. It is equally important that our rightful revulsion at the consequences of nuclear war does not blind us to the fact that the system of mutual deterrence has prevented that war from occurring.

Edward Hume, the scriptwriter of "The Day After," is quoted in The New York Times as saying, "I would like to see people start to question the value of defending this country with a nuclear arsenal." That attitude is dangerously wrong. It can bring on the catastrophe all rational beings want to prevent.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 17, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 18

10:00 a.m.
Finance
To hold hearings on S. 1804, to provide for tax treatment of foreign sales corporations and exports of goods and services.
SD-215

Labor and Human Resources
Family and Human Services Subcommittee
To hold hearings on issues relating to National Family Week and National Adoption Week, November 20-26, 1983.
SD-628

NOVEMBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 141, to provide a special defense to the liability of political subdivision of States under section 1979 of the revised statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights.
SD-226

NOVEMBER 29

9:00 a.m.
*Special on Aging
To hold hearings to evaluate the payment procedures of the social security system.
Room to be announced

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on Senate Joint Resolution 26, proposing a constitutional amendment authorizing the President to disapprove or reduce an item of appropriations.
SD-226

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act (P.L. 94-469).
SD-406

NOVEMBER 30

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Judiciary
To hold hearings on S. 1135, to grant the consent of Congress to the Goose Lake Basin Compact between California and Oregon.
SD-226

DECEMBER 6

10:00 a.m.
Labor and Human Resources
Aging Subcommittee
To hold hearings to review long-term care policy provisions of the Older Americans Act.
SD-430

DECEMBER 7

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the status of the job corp program.
SD-430

10:30 a.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on certain modifications in the copyright law relating to cable TV.
SD-226

DECEMBER 14

9:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations; to be followed by a business meeting, to consider pending calendar business.
SD-430

10:00 a.m.
Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
SD-430

CANCELLATION

NOVEMBER 17

9:30 a.m.
Finance
Energy and Agricultural Taxation Subcommittee and
Taxation and Debt Management Subcommittee
To hold joint hearings on S. 1768, to provide energy tax credits for certain equipment used aboard or installed on fishing vessels, and on miscellaneous tax bills, S. 1332, S. 146, S. 1809, S. 1857, and S. 1758.
SD-215